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## Corps too slow to act, judge says

### Ruling on metro area's right to Lanier water will make some people 'sad.'

By [Bill Rankin](#)

The Atlanta Journal-Constitution

Tuesday, May 12, 2009

JACKSONVILLE — A federal judge on Monday criticized the U.S. Army Corps of Engineers for taking decades to determine how to allocate water from Lake Lanier.

Senior U.S. District Judge Paul Magnuson said he now must decide the momentous question of whether metro Atlanta is entitled to rely on Lake Lanier as its primary source of drinking water.

“Somewhere, some place, something’s got to come to the attention of people,” Magnuson said at the close of a four-hour hearing, referring to the corps. “We’re dealing with potential major environmental issues. We’re dealing with potential turn-the-lights-off issues. We’re dealing with potential turn-the-water-off issues.”

At the hearing, Georgia staked its claim to water from Lake Lanier, contending water supply for the greater metro area was clearly authorized by legislation enacted by Congress six decades ago. The lake is the source of drinking water for more than 3 million people living in North Georgia and metro Atlanta.

The states of Alabama and Florida countered that there are only three primary purposes for Lake Lanier: flood control, hydropower generation and river navigation. Georgia needs congressional approval before it gets the water it says it needs, Parker Thompson, a lawyer for Florida, said. Water supply for metro Atlanta is only an “incidental” benefit, he added.

There appears to be no simple solution to the high-stakes case that has cost the parties millions of dollars in attorneys fees since it was first filed 19 years ago. Georgia, Alabama and Florida have tried and failed to settle the issue.

Atlanta Mayor Shirley Franklin was among those attending Monday’s hearing. “It’s an important issue for Atlanta, long term,” she said during a break in the proceedings.

Bruce Brown, a lawyer representing Georgia, told Magnuson that Congress always intended Lake Lanier to be a

source of water for metro Atlanta. The corps told that to Congress before and after it passed the River and Harbor Act of 1946, which authorized construction of the Buford Dam, he said.

“It was a primary purpose,” Brown said.

Magnuson reserved most of the few questions he raised during the hearing for lawyers representing Georgia. He noted that the corps once asked Atlanta to pay for what it was getting from the lake, but the city turned the agency down. “How do I deal with that?” he asked.

Atlanta has always been willing to pay its fair share, Brown said.

When Brown noted that in 1992 the corps told Congress that Lake Lanier was intended to be a source of water supply, Magnuson questioned the significance of that. “The corps could write anything to Congress,” he said.

But the corps had good reason to do that, Brown said. “It is right. It’s as right as rain.”

Matt Lembke, a lawyer for Alabama, said metro Atlanta needs congressional approval under the Water Supply Act of 1958 to get the water it needs to meet its demands. A ruling handed down last year by the federal appeals court in Washington supports that conclusion, he said.

Lembke also produced a bombshell of a letter written in 1948 by then-Atlanta Mayor William Hartsfield, who acknowledged that water supply from Lake Lanier was only an “incidental” benefit for the metro area. “We have just laid too much emphasis on the Chattahoochee as a water supply,” Hartsfield wrote to a Georgia congressman six decades ago.

At the close of the hearing, Magnuson lashed out at the corps after its lawyer, Ruth Ann Story, told him the corps will complete its new water control plan for the region in 2012.

Magnuson said the region has been waiting for decades for a new plan.

People all over the country must be asking, “What in blazes are you doing?” Magnuson said, staring down at Story.

“It’s a situation that simply cannot be permitted to continue.”

Magnuson, a St. Paul, Minn., judge assigned to the case, predicted it would take some time before he issues what is certain to be a lengthy ruling. “When the opinion comes out, there’ll be happy people and there’ll be sad people,” he said.

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