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Judge's ruling on Lake Lanier spares Gainesville, Buford

Atlanta needs OK from Congress to draw more water; Perdue to appeal decision

Saying the use of Lake Sidney Lanier has strayed too far from its original stated purpose, a federal judge has given the city of Atlanta three years to win congressional approval to continue withdrawing drinking water from the lake.

If Congress does not give Atlanta and other municipalities permission to use the lake as a water source, only the cities of Gainesville and Buford would be allowed to continue to use Lake Lanier for drinking water, and that would be at mid-1970s levels.

"The court realizes this is a draconian result," U.S. District Judge Paul Magnuson wrote in a 97-page order issued Friday. "It is, however, the only result that recognizes how far the operation of the Buford project has strayed from the original authorization."

Magnuson, of St. Paul, Minn., was selected to preside over the case in 2007.

The judge wrote that when Buford Dam was built by the U.S. Army Corps of Engineers in 1957, "the Corps consistently described the primary purpose of the project as flood control, navigation and hydropower."

The corps determined in 1975 that Gainesville and Buford were entitled to withdraw 10 million gallons of water a day, as they were congressionally approved to use the water because their previous water intake structures on the Chattahoochee River were inundated by Lake Lanier.

But in the early 1970s, the corps began allowing other municipalities to withdraw water from the lake on what it then characterized as "interim" contracts, the judge wrote.

As recently as the late 1980s, the corps acknowledged "that allowing water-supply withdrawals from the lake was not an authorized purpose of the project and would require Congress' approval," the judge wrote.

Gov. Sonny Perdue said he was "deeply disappointed" in the ruling and would appeal.

Perdue said the judge's conclusions "rely on decades-old assumptions about the construction of federal reservoirs and the role those reservoirs play in providing water supply for growing states such as Georgia."

"Our country has changed substantially since the 1940s, when many of these reservoirs were constructed," Perdue said.

Perdue said he would "urge Congress to address the realities of modern reservoir usage."

As of 2006, some 141 million gallons of drinking water was withdrawn from the lake daily. The corps allows for another 377 million gallons to be withdrawn downstream from the lake every day.

The city of Gainesville alone withdraws on average between 18 and 20 million gallons of water from Lanier daily.

In 2003, Georgia sought an agreement with the corps to increase the state's withdrawals from 13 percent of the lake's capacity to about 22 percent over the next few decades.

The judge rejected Georgia's contention that water supply was a primary reason the lake was created.

"The Corps's decision to support water supply has seriously affected the purpose for which the Buford project was originally authorized," the judge wrote.

Florida and Alabama have been engaged in an 18 year legal struggle with Georgia over the water that flows from Lanier into the Chattahoochee and on to the Flint and Apalachicola rivers.

Friday's ruling was a victory for Florida and Alabama, at least temporarily.

Alabama Gov. Bob Riley called the significance of the ruling "tremendous."

"Atlanta has based its growth on the idea that it could take whatever water it wanted whenever it wanted it, and that the downstream states would simply have to make do with less," Riley said in a statement. "Following the court's ruling today, this massive illegal water grab will be coming to an end."

Florida Gov. Charlie Crist likewise praised the ruling.

"Florida has long maintained that the U.S. Army Corps of Engineers and Georgia cannot allocate the water within Lake Lanier for water supply purposes without congressional approval," Crist said. "Judge Magnuson's ruling reaffirms this position."

Georgia's U.S. senators, Johnny Isakson and Saxby Chambliss, issued a joint statement saying the judge's ruling "places the decision of allocation of water from Lake Lanier solely on the shoulders of Congress."

"We will work tirelessly to reach an agreement that is in the best interest of Georgia while at the same time respecting interests and concerns of Florida and Alabama," the senators said in the statement.

"Today's ruling is an extremely frustrating one for me," Lt. Gov. Casey Cagle, a Hall County native, stated in a news release. "Georgia has grown while being good stewards of our water resources, including Lake Lanier. I am looking forward to working with Georgia's congressional delegation in an effort to resolve this issue."

U.S. Rep. Nathan Deal, a Republican candidate for Georgia governor in the 2010 primary, said he was "disappointed in the ruling and will begin immediately working with my colleagues in the Georgia delegation to resolve the issue."

"At the same time, there is nothing to prohibit the governors of the three states from coming together and reaching a long-term workable solution," Deal said.

Gil Rogers, a senior attorney with the Southern Environmental Law Center, said the ruling was "a resounding wake-up call for metro Atlanta."

"Drought or no drought, this area can no longer take water for granted and should move as quickly as possible to sustainable water management practices that do not involve controversial reservoirs," Rogers said.

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