

OFFICE OF THE GOVERNOR

**ROBERT BENTLEY**  
GOVERNOR



**STATE OF ALABAMA**

ALABAMA DEPARTMENT OF ECONOMIC  
AND COMMUNITY AFFAIRS

**JIM BYARD, JR.**  
DIRECTOR

UNITED STATES SENATE  
COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

TESTIMONY OF J. BRIAN ATKINS  
DIVISION DIRECTOR  
ALABAMA OFFICE OF WATER RESOURCES  
A DIVISION OF THE  
ALABAMA DEPARTMENT OF ECONOMIC AND COMMUNITY AFFAIRS



JULY 22, 2013

3:00 PM – DIRKSEN SENATE OFFICE BUILDING, ROOM 406

Madam Chairman and Members of the Environment and Public Works Committee, thank you for the opportunity to testify before you today. My name is Brian Atkins and I am the Division Director of the Alabama Office of Water Resources which is a division of the Alabama Department of Economic and Community Affairs.

The State of Alabama believes it is vital for Congress to retain its authority under the Water Supply Act of 1958 to approve any substantial reallocation of federal reservoirs for local water supply uses. Alabama is keenly interested in this issue because it is downstream from major federal reservoirs in the Alabama-Coosa-Tallapoosa River Basin, also known as the ACT Basin, and the Apalachicola-Chattahoochee-Flint River Basin, also known as the ACF Basin. Increasing use of those reservoirs to serve local water-supply needs in the Atlanta area leads to lower downstream flows in both basins. Those lower flows inflict substantial environmental and economic damage on Alabama communities and Alabama citizens.

Lake Allatoona in the ACT Basin and Lake Lanier in the ACF Basin were both constructed in north Georgia in the middle part of the 20<sup>th</sup> Century for three primary purposes—flood control, hydropower generation, and downstream navigation support. These purposes are legislatively mandated in the bills authorizing construction of the reservoirs. However, as the Atlanta metropolitan area has grown, water-supply providers in that region have failed or refused to construct their own water-supply reservoirs, and thus, avoided expending hundreds of millions of dollars in construction costs. Instead, providers in the Atlanta metro area have made massive withdrawals from the federal reservoirs and the Corps has allowed these withdrawals. In doing so, the Corps has bypassed the required Congressional approval.

In the Water Supply Act of 1958, Congress expressly recognized that the obligation to meet local water-supply needs rests primarily with State and local governments. While Congress in that act contemplated some limited use of federal reservoirs for water supply, Congress expressly reserved the right to approve any water-supply usage that would involve major operational changes or cause serious effects to the authorized project purposes.

Rather than go through the appropriate Congressional process to seek permission for water-supply usage at Lake Allatoona and Lake Lanier, Atlanta-area interests have simply taken water without any legal authority to do so. It has been a “take first, seek permission later”

mindset. And much to the dismay of Alabama, the Corps of Engineers has been complicit in this improper water grab by taking no steps to curtail the unauthorized use of federal resources.

But it is even worse than that. Not only has the Corps failed to prevent the massive and illegal water-supply uses of these two federal reservoirs, but the Corps also has taken steps to curtail operation of the projects for their congressionally authorized purposes in order to protect Georgia's water supply usage at the expense of the downstream states, Alabama and Florida. Further, the Corps has given a pass to Atlanta's contractual violation of the water storage agreements, and permitted excess water storage in violation of its agreements and of the Water Supply Act. The results of this course of conduct have imposed serious costs and harm on downstream communities, which were most severe during the 2007 drought. Water quality in Alabama lakes and river segments deteriorated badly. Local Alabama water-supply providers had to incur huge costs to treat the degraded water in order for it to be fit for public consumption. Levels of Alabama reservoirs dropped sharply, inflicting major economic damage on Alabama's recreation industry. Numerous industrial plants were threatened with shutdown because it became more and more difficult for those companies to meet their environmental permit requirements as a result of the degraded water in the rivers. The electric grid in Alabama was also threatened due to those types of environmental permit issues.

What is happening is crystal clear. Georgia wants Alabama to take less water than it has always received historically so Atlanta may take more water in order that Atlanta may expand at the expense of downstream communities and without regard to the taking's ecological effect. If Alabama wants to simply maintain its historical usages and flows, then it will have to spend hundreds of millions of dollars on infrastructure so Atlanta does not have to pay for its own development.

Congress clearly understands that many federal reservoirs sit in basins that cover multiple states. The need for congressional approval of significant water-supply uses of federal reservoirs is vital to ensure that a proper balance is struck. Upstream communities should not be allowed to disrupt settled usages and expectations of downstream communities through unauthorized and improper usage of federal reservoirs built with federal taxpayers' dollars.

Madam Chairman, the Corps and Atlanta have ignored the plain language of the Water Supply Act that would have required congressional approval for the water grab that has taken place. Alabama urges this committee to strengthen the language of the Water Supply Act so that Congress's proper role in controlling local water-supply uses of federal reservoirs is maintained.