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Testimony of the Honorable Sonny Perdue
Governor of Georgia
Before the
Committee on Environment and Public Works
United States Senate

Gainesville, Georgia
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I would like to thank the Senate Environment and Public Works Committee for conducting this field hearing today on this very important issue. I would also like to thank Senator Saxby Chambliss, Senator Johnny Isakson and Congressman Nathan Deal for their leadership on this issue.

The issue of the United States Army Corps of Engineers' (Corps) management of the ACT and ACF river basins is both timely and significant. The rivers that make up these basins are among the State of Georgia's most precious natural resources. Waters arising and flowing in Georgia are waters of the State of Georgia, and the federal reservoirs constructed on them should be operated by the Corps to meet vital needs of Georgia's citizens, including water supply, waste assimilation, recreation and navigation, and support of the biological needs of a wide variety of species.

In March of this year, the Corps announced a new reservoir management plan for the ACF Basin reservoirs called the Interim Operations Plan (the

IOP). The IOP was intended to support the needs of the endangered Gulf sturgeon during its spring spawn and the needs of two species of protected mussels in the summer. While the intention of the IOP may be good, the State of Georgia is concerned that it mandates the release of far more water than is necessary for the protection of these species and depletes the water storage upon which people and wildlife – including the protected species at issue – depend. Unfortunately, the Corps has largely dismissed Georgia's concerns.

- On May 5, 2006, Dr. Carol Couch, Director of Georgia's Environmental Protection Division, wrote a letter to the Corps enclosing hydrologic data showing that the Corps' continued operations could draw down the federal reservoirs in the ACF Basin to their lowest level in 50 years and could effectively empty them.

- On June 1, 2006, Dr. Couch sent a letter to the Corps and the U.S. Fish and Wildlife Service (FWS) requesting specific changes to the IOP.

- On June 2, 2006, I wrote Secretary of the Army Frances Harvey sharing Georgia's concern that "unless the Corps changes its operating protocols, the reservoirs and lakes in the system will be drawn down to their lowest level in recorded history."

- Also on June 2, 2006, Dr. Couch sent a letter to Colonel Peter Taylor and FWS with an attached memorandum providing additional results

of the simulation of the IOP using data and information received from the Corps.

- On June 6, 2006, I personally met with General Michael Walsh and Colonel Taylor again expressing these concerns.

- By June 9, 2006, the State had received no material responses from the Corps in response to its letters. Thus, on June 9, 2006, Dr. Couch wrote the Corps another letter demanding specific revisions to the IOP.

- On June 12, 2006, the Corps responded by letter to Dr. Couch's June 1 and June 2 letters. The Corps challenged what it believed to be certain of the assumptions underlying Georgia's simulations of the IOP, but did not provide data to allow Georgia to assess the validity of the Corps' assertions or to fully evaluate the discrepancies between the Corps' and Georgia's models.

- The Corps repeatedly put off responding to our June 9, 2006 letter that demanded changes to the IOP. After several requests for more time, the Corps finally stated that it would not respond to the June 9, 2006 letter because of unidentified "concerns raised by the other parties to the litigation." In fact, the Corps did not respond to Dr. Couch's June 9 letter until June 21, 2006.

In the midst of all of this, the Corps admitted to releasing more than 22 billion gallons of water from Lake Lanier by mistake – at a time when the

region was approaching what is traditionally the driest time of the year. By this mistake, they essentially created a "man made" drought on top of a natural drought.

The 22.5 billion gallons of water that the Corps mistakenly released corresponds to 6.3% of Lake Lanier's conservation, 22.5% of West Point's, and 28.2% of Walter F. George's (Lake Eufala) storage conservation.

This year, 2006, is one of only two years in Lake Lanier's history when the lake fell during the period of January through May, which is normally a time of refill, even in drought years. The other year when this occurred was during the drought of 1986. Submitted with my testimony is a chart that shows the drop in Lake Lanier levels this year compared to lake levels experienced during the drought of 1999-2001. This chart shows:

- Lake Lanier was able to rise in elevation for the same period (January 1 to June 1) even during the 1991-2001 drought, the most severe drought in history for the ACF Basin.

- For example, Lanier began 2006 more than 5 feet higher than it began 1999, but the Lake is now more than two and a half feet lower than it was on August 3, 1999.

- For example, on January 1, 2006 Lanier elevation was 13 feet higher than the January 1, 2001 level, yet last night's elevation was less than one and a half feet higher than at the same time in 2001.

- This unprecedented loss of storage, with the perspective of what happened in the past droughts, is clearly the result of the IOP (which was not a part of the past reservoir operations), in particular the magnitude of flow it calls for during the spawning season (March through May).

The unfortunate actions by the Corps and the Corps' repeated lack of response to our concerns left Georgia with no alternative but to take legal action to protect our water resources. As you are aware, the State of Georgia filed a complaint in the Northern District of Georgia to stop the Corps' continued operation according to the Interim Operations Plan. This case is pending.

Litigation is never how I choose to deal with issues. As I explained earlier, we have tried to impress our concerns upon the Corps. The Corps has been largely non-responsive. The threat to the State of Georgia is urgent and the situation demands immediate action.

We have challenged the IOP because the Corps must allow the lakes to refill and recover the lost stored water. Common sense tells us that you cannot manage a system of reservoirs if you never store any water. The Corps' Interim Operations Plan was adopted without any prior notice, without any public participation, without analysis of its impact on authorized purposes for which the federal reservoirs were constructed, without consideration of its impact on the water supply security for the millions of people who rely on the Chattahoochee reservoir system for water supply, without consideration of its long-term sustainability or its long-term impact on

federally protected species, and without consideration of alternatives. The result is an unbalanced plan that poses a severe risk of substantial harm to the State of Georgia.

In fact, the Interim Operations Plan is essentially a water control plan. A water control plan that was adopted without any public comment or notice and taking only one factor into consideration – endangered species. Georgia has long advocated that the Corps should update its master control plan for both the ACF and ACT basins – which it has not done in over 50 years. As a result, the Corps is operating these complex systems without reliable and predictable operating rules tailored to current demands and conditions within the Basins. Indeed, the Corps' own regulations provide that water control plans should be updated periodically in light of changing demands and other conditions. And there is no question that over the last 50 years the ACF and ACT Basins in Georgia have changed dramatically.

The Federal government itself recognized the need for current plans. The Federal Emergency Management Agency (FEMA) is investing millions of dollars in updating floodplain maps. This is a response to growth in Georgia and Alabama that has altered the flood characteristics of watersheds. The Corps needs to incorporate these altered flood characteristics into updated operation manuals to ensure protection of life and property in both states.

Further, inefficient, inaccurate, or unpredictable operation of the ACF and ACT systems results in growing uncertainty about the supply of water for more than half of Georgia's citizens and for facilities such as the Farley nuclear plant and other power plants. The water control plans also should be

updated as part of implementing the 2003 settlement reached by the Corps, Georgia, and other parties that will help ensure that metropolitan north Georgia's water needs for the next decade will be met.

The failure of the Corps to update the water control plan is also affecting a stated purpose of lakes in the basin—recreation. West Point officials have asked the Corps to raise the level of the lake by two feet in the winter when water is plentiful to accommodate recreational needs that have a significant impact on the region's economy. But Corps officials have said that they have to adhere to the elevation levels in the IOP.

What does all of this mean? The Corps is providing flows for endangered sturgeon and mussels under an IOP that was developed without studying its full effects and without properly updating the Corps' grossly outdated water control plans. The Corps' performance under the IOP this year demonstrates that it is not a sustainable plan. With a continuation of this dry year, Lake Lanier, Lake Eufala (Walter F. George), West Point and Seminole will all drop to levels that will put at risk water supply, water quality, endangered species and other wildlife, and will be devastating to recreational boating and fishing that support the local economies.

In closing I would like to say that I cannot believe Congress passed the Endangered Species Act with the intention of providing substantially more protection for the species than for human beings. The Corps can provide for both the needs of the endangered species and the needs of humans upstream if it operates wisely and is guided by sound science and good planning. For example, I do not believe that Congress intended that the Corps provide the

species with more water than even the natural environment would support, particularly when it comes at such a great cost upstream. Even at a flow of 5000 cubic feet per second, which the Corps IOP calls for, and under which we operate today, mussels are getting more water now than they would if no dam had been built and no reservoirs created.

It is time for common sense to prevail on this issue. That is what we want from the Corps when asking that they update 50 year old water control plans. That is what we seek through our request to stop the release of water greater than nature would provide. And that's the approach I will take when I sit down with Governor Riley on August 14th.

Thank you again for this opportunity.