

No. 142, Original

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In The  
Supreme Court of the United States

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STATE OF FLORIDA,

*Plaintiff,*

v.

STATE OF GEORGIA,

*Defendant.*

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Before the Special Master

Hon. Ralph I. Lancaster

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**THE STATE OF FLORIDA’S FEBRUARY 6, 2015, PROGRESS REPORT**

Pursuant to Section 4 of the December 3, 2014, Case Management Plan, as subsequently amended, the State of Florida respectfully submits this Progress Report.

**I. Discovery Efforts.**

Florida and Georgia each timely commenced discovery on January 12, 2015. Florida served its First Requests for Production and First Set of Interrogatories, and Georgia served its First Requests for Production and First Set of Interrogatories, on that day. Both parties served timely objections to the respective First Requests for Production on February 2, 2015.

Additionally, to date Florida has served 34 non-party subpoenas seeking information and documents from various regional and local entities within Georgia. Georgia has to date served 10 such non-party subpoenas. A table listing all subpoenas served on non-parties, and the dates

such subpoenas were served on opposing counsel, is included as an attachment to this Report. Florida has been in contact with many of the subpoenaed third parties and has made efforts to streamline the third-parties' production and resolve any outstanding issues.

The discovery propounded to date seeks a broad range of documents and information. Florida began the process of identification and collection of potentially relevant and/or responsive materials before the commencement of formal discovery, and its efforts have continued. Moreover, the Parties have worked together cooperatively since early December, conducting numerous telephonic conferences and engaging in substantive communications in an effort to focus and streamline the discovery process. As part of their efforts to streamline document production, the parties have discussed electronic document collection and production protocols. To date, Florida has gathered more than one million pages of potentially responsive materials and is diligently conducting a review in preparation for substantive discovery responses. The data and document productions in this case will be certainly substantial and time consuming to complete and, as noted in the Parties' January 22, 2015 correspondence, as more is learned about the magnitude of the effort required, more than 120 days may be required for full production. However, as required by Section 6.1.2 of the CMP, as amended, the production of documents will begin by February 11<sup>th</sup>.

Florida anticipates serving timely objections to Georgia's Interrogatories by February 11<sup>th</sup> and serving answers by February 26<sup>th</sup>, as required by Section 6.1.1 of the CMP, as amended.

## **II. Unresolved Disputes.**

At this stage, there are no unresolved disputes.<sup>1</sup> As noted, the parties continue to meet and confer regularly to identify relevant document custodians and streamline the discovery

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<sup>1</sup> As indicated above, there are outstanding objections to party discovery and to third-party discovery. Florida is engaged in productive discussions with Georgia and subpoenaed nonparties to amicably resolve issues related to those objections.

process. The Parties will engage further after review of the recently received objections to the respective First Requests for Production in an effort to reach agreement as to such the objections. Florida has likewise been working with the non-parties upon which it served subpoenas to resolve any objections to such subpoenas and facilitate the document production process.

While communications with non-parties have been productive and useful in facilitating the discovery process, a timing issue has arisen. Under Case Management Order No. 2, Section 6.1.[3], non-parties anticipating a need for additional time to respond to requests for production of documents "shall notify the Special Master within 10 days of service of the subpoena and a telephone conference will be convened to discuss the issue." We have received a verbal request for a 30 day extension, which we do not oppose. We also anticipate that other non-parties will request additional time. Unless directed otherwise, we will instruct non-parties to email requests for additional time to [mclifford@pierceatwood.com](mailto:mclifford@pierceatwood.com), and copy [allen.winsor@myfloridalegal.com](mailto:allen.winsor@myfloridalegal.com); [floridawaterteam@foley.com](mailto:floridawaterteam@foley.com); [craig.primis@kirkland.com](mailto:craig.primis@kirkland.com); [georgiawaterteam@kirkland.com](mailto:georgiawaterteam@kirkland.com); [supremectbriefs@usdoj.gov](mailto:supremectbriefs@usdoj.gov); [michael.gray2@usdoj.gov](mailto:michael.gray2@usdoj.gov); [james.dubois@usdoj.gov](mailto:james.dubois@usdoj.gov). While Florida does not seek to burden the Special Master with such requests, the procedure has been specified.

### **III. Further Discovery Anticipated During the Coming Month.**

As of the date of this Report Florida has not specifically identified any additional discovery requests it intends to serve during the coming month.

### **IV. Changes in the General Status of the Matter.**

The parties continue to meet and confer to best manage the complex discovery process. No substantial changes in the general status of this matter are therefore anticipated.

Respectfully submitted,

Dated: February 6, 2015.

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**CERTIFICATE OF SERVICE**

This is to certify that the foregoing has been served on this 6th day of February 2015, in the manner specified below:

**For State of Florida**

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/s/ Christopher M. Kise

## Attachment to Florida's Progress Report

### List of Non-Party Subpoenas (As of February 6, 2015)

Entity	Propounding Party	Date
Atlanta-Fulton Water Resources Commission	Florida	1.23.2015
Bartow County, Ga.	Florida	1.23.2015
Cherokee County, Ga.	Florida	1.23.2015
Clayton County, Ga.	Florida	1.23.2015
Dawson County, Ga.	Florida	1.23.2015
Douglas County, Ga.	Florida	1.23.2015
Fayette County, Ga.	Florida	1.23.2015
Forsyth County, Ga.	Florida	1.23.2015
Henry County, Ga.	Florida	1.23.2015
Lumpkin County, Ga.	Florida	1.23.2015
Paulding County, Ga.	Florida	1.23.2015
Rockdale County, Ga.	Florida	1.23.2015
Walton County, Ga.	Florida	1.23.2015
White County, Ga.	Florida	1.23.2015
City of Albany Water, Gas & Light Commission*	Florida	1.23.2015
City of Americus, Ga.	Florida	1.23.2015
City of Buford, Ga.	Florida	1.23.2015
City of Cumming, Ga.	Florida	1.23.2015

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\* By letter dated February 5th, the City of Albany requested an extension for their time to respond to the subpoena.

City of Gainesville, Ga.	Florida	1.23.2015
City of La Grange, Ga.	Florida	1.23.2015
City of Newnan, Ga.	Florida	1.23.2015
DeKalb County Department of Watershed Management	Florida	2.2.2015
City of Cordele, Ga.	Florida	2.2.2015
Gwinnett County Department of Water Resources	Florida	2.2.2015
Gwinnet County Department of Water and Sewerage	Florida	2.2.2015
Georgia River Network, Inc.	Florida	2.2.2015
Columbus Water Works	Florida	2.2.2015
Flint River Partnership	Florida	2.2.2015
City of Bainbridge, Ga.	Florida	2.2.2015
Cobb County-Marietta Water Authority	Florida	2.2.2015
City of Atlanta Department of Watershed Management	Florida	2.2.2015
Habersham County	Florida	2.2.2015
ACF Stakeholders, Inc.	Florida	2.2.2015
Chattahoochee Riverkeeper, Inc.	Florida	2.2.2015
Jackson County, Fla.	Georgia	2.3.2015
Calhoun County, Fla.	Georgia	2.3.2015
Franklin County, Fla.	Georgia	2.3.2015
Gulf County, Fla.	Georgia	2.3.2015
Gadsden County, Fla.	Georgia	2.3.2015
Liberty County, Fla.	Georgia	2.3.2015
City of Apalachicola, Fla.	Georgia	2.3.2015

City of Carrabelle, Fla.	Georgia	2.3.2015
Florida Sea Grant	Georgia	2.3.2015
Franklin County Seafood Workers Association	Georgia	2.3.2015