

May 1, 2003

ACT Allocation Formula Agreement

Alabama - Coosa - Tallapoosa River Basin

State of Alabama

State of Georgia

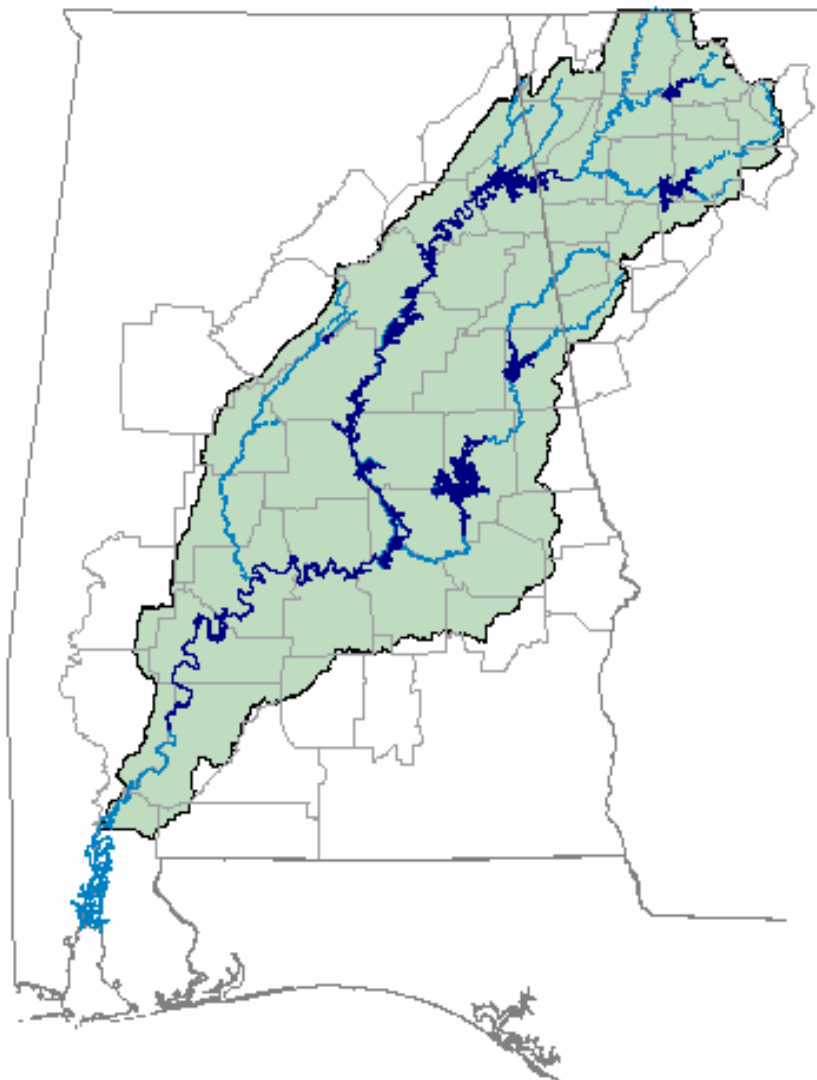


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Preamble

Whereas, this ACT Allocation Formula Agreement (“Agreement”) is authorized by the ACT Compact;

Whereas, the States of Alabama and Georgia and the United States of America entered into the ACT Compact, as indicated in Article I thereof, for the purposes of promoting interstate comity, removing causes of present and future controversies, equitably apportioning the Surface Waters of the ACT Basin, engaging in water planning, and developing and sharing common databases;

Whereas, Article VII of the ACT Compact authorizes the States of Alabama and Georgia to develop an allocation formula for equitably apportioning the Surface Waters of the ACT Basin between the States while protecting the water quality, ecology and biodiversity of the ACT Basin in accordance with applicable federal laws;

Whereas, it is the policy of the States of Georgia and Alabama to use Water Resources prudently for the maximum benefit of their citizens and to maintain an adequate supply of water; and

NOW, THEREFORE, the States of Alabama and Georgia hereby establish an allocation formula that equitably apportions for the term of this Agreement the Surface Waters of the ACT Basin between them as follows:

Section 1 - Miscellaneous Provisions

1.1 - Effective Date

Upon the execution of this Agreement by the Commissioners of the State of Alabama and the State of Georgia (Signatory Parties), this Agreement shall constitute an agreement between the Signatory Parties establishing an Allocation Formula for equitably apportioning for the term of this Agreement the Surface Waters of the ACT Basin pursuant to Article VII (Equitable Apportionment) of the ACT Compact. This Agreement shall become effective and binding upon the Signatory Parties and the United States of America upon the earlier of the following (the Effective Date): (a) receipt by the ACT Basin Commission of a letter of concurrence from the Federal Commissioner or (b) on the 256th day following the execution of this Agreement in the event that the Federal Commissioner does not submit either a letter of concurrence or a letter of nonconcurrence within 255 days of the execution of this Agreement.

1.2 - Performance

Performance under Section 2 of this Agreement shall begin on the date upon which all of the following have occurred: (a) the ACF Basin Commission has received a letter of concurrence from its Federal Commissioner or the Federal Commissioner of the ACF Basin Commission has submitted neither a letter of concurrence nor a letter of nonconcurrence within 255 days of the execution of the ACF Allocation Formula Agreement; (b) no later than ninety (90) days after this Agreement has become effective and condition (a) of this Subsection 1.2 has occurred, Georgia shall cause the introduction of legislation seeking to confer the authorization identified in condition (c) of this Subsection below; (c) the United States Congress has authorized the allocation of storage in Allatoona Reservoir and Carters Reservoir as necessary to provide for the Withdrawals specified in Subsection 3.1 of this Agreement, unless a court of competent jurisdiction has held in a final, unappealable decision that such authorization is not required by law; (d) the COE has allocated storage in Allatoona Reservoir and Carters Reservoir sufficient to provide for the Withdrawals specified in Subsection 3.1 of this Agreement; (e) no later than ninety (90) days after this Agreement has become effective, Georgia shall make a written request to the COE for all contracts identified in condition (f) of this Subsection 1.2; (f) the COE has entered into contracts necessary to provide for the Withdrawals specified in Subsection 3.1 of this Agreement; and (g) no action, suit or proceeding remains pending before any court or administrative body in which relief is sought to restrain or prohibit the COE from meeting its obligations under this Agreement or to declare the authorization, if any, obtained pursuant to condition (c) of this Subsection 1.2 invalid.

1.3 - Expiration Date and Duration

Subject to the suspension rights provided in Section 4 of this Agreement, this Agreement shall remain in effect until December 31, 2033 (Expiration Date), unless or until it is modified in accordance with Article VII (Equitable Apportionment) of the ACT Compact or terminated in accordance with Article VIII (Conditions Resulting in Termination of the Compact) of the ACT

Compact.

1.4 - Negotiations Prior to Expiration Date

Three (3) years prior to the Expiration Date, the Signatory Parties shall commence negotiations to renew or modify this Agreement, but nothing herein is intended to obligate any Signatory Party to reach any particular agreement with respect to any renewal or modification or otherwise to restrict in any way the right of each Signatory Party to exercise its own judgment with respect to its own best interest.

1.5 - Effect After Termination

Neither the fact that the Signatory Parties have executed this Agreement nor the terms of this Agreement shall create any inference or presumption, that such execution or terms would constitute an equitable apportionment of the Surface Waters of the ACT Basin after the expiration or termination of this Agreement.

1.6 - Federal Implementation

As acknowledged in Article VII(b) of the ACT Compact, the Signatory Parties and the United States recognize that the United States operates certain projects within the ACT Basin that may influence the water resources within the ACT Basin and that federal agencies have responsibilities for administering certain federal laws and exercising certain federal powers that may influence the water resources within the ACT Basin. It is further acknowledged in Article VII(b) that it is the intent of the Signatory Parties and the United States to achieve compliance with an allocation formula adopted in accordance with the ACT Compact and that once such an allocation formula is so adopted, each and every officer, agency, and instrumentality of the United States, including the COE, shall have an obligation and duty, to the maximum extent practicable, to exercise their powers, authority, and discretion in a manner consistent with the allocation formula so long as the exercise of such powers, authority, and discretion is not in conflict with federal law.

1.7 - Mutual Support

The Signatory Parties shall support one another and do all things necessary to satisfy the requirements of Subsection 1.2 of this Agreement and to enable the COE to operate the federal reservoirs in the ACT Basin in accordance with Section 2 of this Agreement and to fulfill its other obligations under this Agreement.

The Signatory Parties shall further support one another to obtain Congressional authorization, if necessary, to allow the COE to operate the federal reservoirs in the ACF Basin in accordance with the ACF Allocation Formula Agreement, if such authorization legislation is introduced no later than ninety (90) days after this Agreement has become effective and condition (a) of Subsection 1.2 has occurred.

1.8 Rights Prior to Performance Under Section 2

Between the Effective Date of this Agreement and the date on which performance under Section 2 of this Agreement commences, the Signatory Parties agree that any person who is withdrawing, diverting, or consuming Water Resources of the ACT Basin as of the Effective Date, may continue to withdraw, divert or consume such Water Resources in accordance with the laws of the state where such person resides or does business and in accordance with applicable federal laws. The Signatory Parties further agree that any such person may increase the amount of Water Resources withdrawn, diverted or consumed to satisfy reasonable increases in the demand of such person for water between the Effective Date of this Agreement and the date on which performance under Section 2 of this Agreement commences, as permitted by applicable law. Each of the Signatory Parties further agree to provide written notice to each of the other Signatory Parties in the event any person increases the Withdrawal, diversion or consumption of such Water Resources by more than ten (10) million gallons per day on an average annual daily basis, or in the event that any person, who was not withdrawing, diverting or consuming Water Resources from the ACT Basin as of the Effective Date, seeks to withdraw, divert or consume more than one million gallons per day of such water resources on an average annual daily basis.

This Subsection 1.8 is not intended to waive or impair any existing rights that any Signatory Party may have independent of this Agreement to pursue any legal remedy for any wrongful Withdrawal, diversion, or consumption of water resources between the Effective Date of Subsection 1.1 of this Agreement and the date on which performance under Section 2 of this Agreement commences. This Subsection 1.8 neither creates nor impairs any rights that may exist independent of this Agreement.

Between the Effective Date of this Agreement and the date on which performance under Section 2 of this Agreement commences, the Signatory Parties and the United States will undertake their best efforts to meet the obligations set forth in this Agreement to the extent such obligations may be met under existing laws, regulations and guidelines; provided, however, that no party may bring an enforcement action or assert a claim against another party based upon alleged violations of this Agreement (except with respect to obligations that expressly arise prior to the date on which performance of Section 2 begins in accordance with Section 1.2) until after performance of Section 2 begins in accordance with Section 1.2.

1.9 - Dismissal of Pending Action

Within ten (10) days after performance under Section 2 of this Agreement commences, the State of Alabama agrees to dismiss its Civil Action No. CV-90-BU-1331-E, which is pending in the United States District Court for the Northern District of Alabama, Eastern Division.

1.10 - Periodic Review

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On or before the tenth and twentieth anniversaries of the Effective Date, the ACT Basin Commission, after receiving such reports and recommendations from the ACT Committee and the Scientific Advisory Panel on such matters as have been referred to them by the Commission, shall publish a report discussing the implementation and effectiveness of this Agreement. Such report shall be made available to the public. At a minimum, the ACT Basin Commission shall conduct at least one public hearing within each of the States of Alabama and Georgia, soliciting public comments on the report and this Agreement. Such public hearings shall be conducted by the ACT Basin Commission or its designated representatives. The ACT Basin Commission shall respond in writing to all relevant comments regarding the report and shall publish a final report, which shall include the written response to all comments, within 120 days of the conclusion of the public hearings. Thereafter, the ACT Basin Commission may publish additional reports and provide the public an opportunity to review and comment upon such reports.

Section 2 - Water Resources

2.1 – State Line Flow Requirements and COE Operations

- A. The COE shall operate Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam in the manner necessary to comply with contracts for Storage to meet the Municipal and Industrial water supply needs specified in Subsection 3.1 of this Agreement.
- B. The COE shall operate Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam in the manner necessary to provide a Flow at USGS Gage # 02397000, Coosa River near Rome, Georgia (Mayo's Bar), that equals or exceeds 1,500 cfs on a Weekly Average basis and 1,000 cfs on a Daily Average basis. The Corps shall only make Releases to provide a Flow at Mayo's Bar that exceeds 1,500 cfs on a Weekly Average basis or 1,000 cfs on a Daily Average basis in accordance with the instructions of Paragraph C of this Subsection 2.1.
- C. In addition to fulfilling the purposes set forth in Paragraphs A and B of this Subsection 2.1, the COE shall operate Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam to fulfill other project purposes. In meeting such other projects purposes, the COE shall operate such Reservoirs in a responsible manner ensuring that excessive Releases are not made that would jeopardize the ability of the COE to meet the Municipal and Industrial water supply needs specified in Subsection 3.1 and the Flow Requirements set forth in Paragraph B of this Subsection 2.1.

The term "responsible manner" as referenced in this Paragraph shall mean:

- 1. When the elevation of Allatoona Reservoir is above the Intermediate Guide Curve, as shown in Figure B-1, the COE shall utilize its discretion to operate Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam to meet the project purposes of such Reservoirs, provided the Corps is meeting the requirements of Paragraphs A and B of this Subsection 2.1.
- 2. When the elevation of Allatoona Reservoir is below the Intermediate Guide Curve, as shown in Figure B-1, the COE shall not make any Releases from Allatoona Reservoir and Dam or Carters Reservoir and Reregulation Dam other than Releases that are necessary to meet the Municipal and Industrial water supply needs specified in Subsection 3.1 of this Agreement and to provide a flow of 1,500 CFS on a Weekly Average basis and 1,000 CFS on a Daily Average basis at Mayo's Bar. Under such circumstances, the COE shall use its best

efforts to refill such Reservoir as quickly as possible. To ensure that the COE is not releasing water in excess of the amounts necessary to meet the Flow Requirements, the COE shall operate Allatoona Dam so that the Weekly Average Releases from Allatoona Dam for the current Week, when added to the Weekly Average Rome Incremental Inflow for the preceding Week, Weekly Average Excess Releases from Allatoona Dam for the preceding Week, and the Weekly Average Releases from Carters Reregulation Dam for the preceding Week, equals 1,500 cfs on a Weekly Average basis and 1,000 cfs on a Daily Average basis. When operating the Federal Reservoirs to meet the Flow Requirements, the COE shall use its discretion to balance the storage utilization between Carters Lake and Lake Allatoona.

- D. The COE may operate Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam as necessary to respond adequately to emergency situations and, to the extent not substantially inconsistent with Paragraphs A-C of this Subsection, the COE may operate Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam to respond to other special circumstances, such as necessary repairs or maintenance that cannot otherwise be accomplished. The COE shall notify the ACT Basin Commission of such situations that would result in a substantial deviation from normal operations, as described in the Water Control Plans.
- E. No language in this agreement shall be construed to alter the At-Site Requirements at both Allatoona Dam and Carters Reregulation Dam, currently set at 240 cfs at each project; provided, however, the ACT Basin Commission may request that the COE alter the At-Site Requirements at Allatoona Dam, Carters Reregulation Dam or both in such situations as the ACT Basin Commission may deem appropriate.
- F. The COE shall develop and adopt a Water Control Plan for the implementation of the terms of this Agreement and for the operation of the federal reservoirs consistent with this Agreement. The Water Control Plan shall include a drought contingency plan, which must be consistent with the Drought Plan developed by the ACT Basin Commission as part of this agreement. The Water Control Plan shall be developed in full consultation with the Signatory Parties and the ACT Basin Commission.
- G. The COE shall modify the conservation pool at Lake Allatoona according to Figure B-1.

2.2 - APCO Operations

The APCO Dams on the Coosa and Tallapoosa Rivers shall be operated in accordance with the Guide Curves shown in Figures B-2 through B-6 to provide a combined Weekly Average Release from Walter Bouldin, Jordan, and Thurlow Dams of not less than 4,640 cfs; provided, however that nothing in this Subsection 2.2, nor any changes in APCO's obligations regarding the operation of its Reservoirs or Dams, shall be construed to impose any additional obligations upon the State of Georgia or the COE; and provided, further, that the Weekly Average Release shall be maintained so long as such reservoirs are above the Lower Guide Curves as shown in Figures B-3 through B-7. The procedures governing any other relief from the 4,640 cfs Weekly Average Release including those situations where the reservoirs shown in Figures B-3 through B-7 are below the Lower Guide Curves shall be agreed to as part of the development of the Drought Plan required pursuant to Section 5.3.B. of this Agreement. This provision shall not be construed to modify or amend requirements, rules or regulations of the Federal Energy Regulatory Commission (or its successor).

2.3 - Other Reservoirs

- A. Outflow Works at any non-federal, publicly-owned, in-stream Dam existing in the Georgia portion of the ACT Basin on the Effective Date may not be modified in any way that will reduce required minimum Releases, if any, from such Dam as of the Effective Date if such modification would prevent any such minimum Releases from reaching the Alabama/Georgia state line.
- B. The following shall apply to New Reservoirs constructed in the ACT Basin:
 1. Each New On-Stream or Off-Stream Reservoir shall Release Daily an amount equal to at least the Monthly 7Q10 Flow (which Monthly 7Q10 shall be calculated at the Dam site at the time that the Reservoir is constructed and shall not include the pumped inflow into an Off-Stream Reservoir), except when actual Inflow is less than the Monthly 7Q10, in which case such Reservoir shall Release an amount equal to the actual Inflow.
 2. Pumping of water to fill a New Off-Stream Reservoir shall only be allowed when the Flow at the site of the pump intake equals or exceeds the Monthly 7Q10 (calculated at the pump intake site at the time that the pump intake is constructed).
 3. Where an application for Withdrawal associated with a New On-Stream or Off-Stream Reservoir was submitted to the necessary State on or before April 1, 2001, such Reservoir shall not be subject to the requirements of Subparagraphs 1 and 2 above, but instead shall be subject to the following requirements: (a) Such Reservoir

shall be required to Release daily an amount equal to at least the Annual 7Q10 Flow (calculated at the Dam site at the time that the Reservoir is constructed and not including the pumped Inflow into an Off-Stream Reservoir), except when actual Inflow into such Reservoir is less than the Annual 7Q10 Flow, in which case such Reservoir shall Release an amount equal to the actual Inflow, and (b) Pumping of water to fill such an Off-Stream Reservoir shall only be allowed when the Flow at the site of the pump intake equals or exceeds the Annual 7Q10 Flow (calculated at the pump intake site at the time that the pump intake is constructed).

4. Any other circumstances that require an exception to the above provisions must be agreed to by both the Alabama and Georgia ACT Basin Commissioners.
- C. If an Off-Stream reservoir is constructed in the Tallapoosa River Basin in Georgia, the pumping of water to fill such Off-Stream Reservoir shall only be allowed from the source stream when the Flow at the site of the pump intake equals or exceeds 25% Average Annual Daily Flow (calculated at the time that the New Off-Stream Reservoir is constructed). Further, the total capacity of all pumps installed to fill the Off-Stream Reservoir shall be limited to no more than two times the yield (demand) of the Reservoir.
 - D. If the West Georgia Regional Reservoir ("WGRR") is constructed in the Tallapoosa River Basin with a full pool volume of 96,700 Acre-Feet and a full pool elevation of 1010 feet above MSL, as proposed in the May 1999 Section 404 Permit Application (hereinafter "May 1999 Permit Application") submitted to the COE pursuant to 33 U.S.C. Section 1344 by the West Georgia Regional Water Authority, such WGRR shall Release a Weekly Average Flow of at least 90 cfs; provided, however, that when the water elevation drops below 997.6 feet above MSL, such WGRR shall immediately Release daily an amount equal to the daily Reservoir Inflow until such time as the daily Reservoir Inflow is greater than 90 cfs.
 - E. If the WGRR is constructed at the same site proposed in the May 1999 Permit Application, but the permitted full pool elevation is greater than or equal to 1005 feet above MSL but less than 1010 feet above MSL, such WGRR shall Release a Weekly Average Flow of at least 82 cfs; provided, however, that when the water elevation drops below the level equal to a loss of 40% of the full pool storage capacity, such WGRR shall immediately Release daily an amount equal to the daily Reservoir Inflow until such time as the daily Reservoir Inflow is greater than 82 cfs.
 - F. If the WGRR is constructed at the same site proposed in the May 1999 Permit Application, but the permitted full pool elevation is greater than or

equal to 1000 feet above MSL but less than 1005 feet above MSL, such WGRR shall Release a Weekly Average Flow of at least 79 cfs; provided, however, that when the water elevation drops below the level equal to a loss of 40% of the full pool storage capacity, such WGRR shall immediately Release daily an amount equal to the daily Reservoir Inflow until such time as the daily Reservoir Inflow is greater than 79 cfs.

- G. If the WGRR is constructed at the same site proposed in the May 1999 Permit Application but the permitted full pool elevation is equal to or less than 1000 feet above MSL, Releases from such Reservoir shall be as specified in Paragraph B of this Subsection 2.3.
- H. No Reservoirs shall be constructed in the Little River Basin.

2.4 - Water Use

A. Permits

1. Each State recognizes the sovereignty and right of the other State to use the Water Resources within the ACT Basin in such State in any manner that it deems appropriate subject only to applicable laws and to the limitations set forth in Sections 2 and 3 of this Agreement. Each State further recognizes the responsibility of the other State to enact appropriate laws and regulations governing the use, conservation, and preservation of Water Resources within the ACT Basin in such State, and the Signatory Parties agree to implement and maintain responsible procedures governing the use, conservation, and preservation of Water Resources within the ACT Basin in such State, including procedures governing the consumption of Water Resources within each State. These procedures shall encourage practices that return water to the surface waters of the ACT Basin. Each State acknowledges that use or consumption of Water Resources of the ACT Basin within such State must be reasonable under the applicable law of such State. The ACT Basin Commission may make recommendations for the management and use of the Water Resources of the ACT Basin for the purposes of, but not limited to, minimizing adverse impacts of floods and droughts and improving water quality, water supply, and conservation as may be deemed necessary by the ACT Basin Commission.
2. After the Effective Date, no Person shall be allowed to make any Withdrawal from any Stream or Reservoir in the ACT Basin without securing the necessary permit or authorization (other than contracts,

which are addressed in Paragraph B of Subsection 3.1) under applicable state and federal laws; provided, however, that any Person making any Withdrawal as of the Effective Date without the necessary permit or authorization shall apply for the necessary permit or authorization within two (2) years after the Effective Date. Nothing herein shall be construed as negating any penalties as provided for by state law for failure to obtain such permits or authorizations.

B. Interbasin Transfer Limitations. Each State acknowledges that it is responsible for managing Interbasin Transfers in a responsible manner as follows:

1. Until January 1, 2010, neither State shall allow Interbasin Transfers from the ACT Basin within each State in excess of 75 MGD on an Annual Average basis; as of January 1, 2010, and until January 1, 2020, neither State shall allow Interbasin Transfers from the ACT Basin within each State in excess of 90 MGD on an Annual Average basis; and as of January 1, 2020, neither State shall allow Interbasin Transfers from the ACT Basin within each State in excess of 100 MGD on an Annual Average basis. Neither State shall allow an Interbasin Transfer for any day to exceed 150% of the applicable Annual Average, nor shall either State allow a Monthly Average Interbasin Transfer to exceed 125% of the applicable Annual Average. Each State shall require any Person in such State who is creating or causing a Withdrawal to be diverted from the ACT Basin to another Basin or a Return to be made to the ACT Basin from another Basin to report to that State, on a Monthly basis, such Withdrawals and Returns, including the monthly average and daily maximum for the applicable month. Each State will provide such reports to the ACT Committee in accordance with Paragraph C.2.f of Subsection 5.3 of this Agreement.
2. The State of Georgia shall not allow transfers of Surface Water between the Coosa River Basin and the Tallapoosa River Basin; provided, however, that, if the WGRR or a Reservoir as described in Paragraph C of this Subsection 2.3 is not built by the West Georgia Regional Water Authority or its successor, an Annual Average transfer of 14 MGD of Surface Water from the Coosa River Basin within the State of Georgia to the Tallapoosa River and Little Tallapoosa River Basins within the State of Georgia shall be allowed. If the WGRR or such substitute Reservoir is built by the West Georgia Regional Water Authority or its successor, the State of Georgia shall not allow transfers of Surface Water from the Reservoir

to any Basin other than the Little Tallapoosa River Basin. Any transfers of Surface Water between the Coosa River Basin and the Tallapoosa River Basin in Alabama shall be counted towards the limits on Interbasin Transfers from the ACT Basin in Alabama pursuant to Paragraph B.1 of Subsection 2.6 of this Agreement. The State of Georgia shall not allow any interbasin transfer of water from the Tallapoosa or Little Tallapoosa River Basin to the Coosa or Chattahoochee River Basin.

3. Water imported into the ACT Basin from any Basin outside the ACT Basin shall not be considered Waters for any purpose under this Agreement, including, but not limited to, the calculation of Inflows, Returns, or Reservoir elevations, except to the extent that the State importing such water elects to have such water so considered, in which case such State shall so notify the ACT Basin Commission.

C. Withdrawal Provisions

1. Each State shall limit the total amount of New or Expanded Withdrawals of Surface Waters from any Reservoir in the ACT Basin to the Reservoir Safe Yield minus the portion of the Reservoir Safe Yield that must be Released to meet applicable Flow Requirements.
2. In all areas of the ACT Basin, Persons with permits or authorizations for Existing Withdrawals shall be allowed to make Withdrawals equal to the quantities of water for which they have Existing Withdrawal permits or authorizations and under whatever conditions existed in those permits or authorizations. New or Expanded Withdrawals, excluding withdrawals made for irrigation purposes where the average annual daily withdrawal is less than 0.5 MGD, shall be subject to the following further conditions: Pumping shall only be allowed from the source stream when the Flow at the site of the pump intake equals or exceeds the Monthly 7Q10 (calculated at the pump intake site at the time that the pump intake is constructed); provided, however, that the State within which the Withdrawal occurs may impose stricter requirements on such Withdrawal.

This Paragraph C.2 of this Subsection 2.4 shall not apply to any Withdrawals from a federal Reservoir pursuant to a contract for Storage nor to any Withdrawal of Water that is released from a federal Reservoir pursuant to a contract for Storage.

Any circumstances that require an exception to this provision must be agreed to by both the Alabama and Georgia ACT Basin Commissioners.

3. In the area of the ACT Basin in the State of Georgia between Mayo's Bar and the Alabama-Georgia state line, no Withdrawals shall be allowed that will reduce the Flow at the Alabama-Georgia state line below the Flow Requirements. In the area of the ACT Basin in the State of Georgia between the WGRR (or a Reservoir as described in Paragraph C of Subsection 2.3), if constructed, and the Alabama-Georgia state line, no Withdrawals shall be allowed that will prevent the Releases from the WGRR or such substitute Reservoir from reaching the Alabama-Georgia state line.

Section 3 - Contracts and Compensation

3.1 - Contracts

- A. Upon the request of the State of Georgia or any Person authorized by law within the State of Georgia, the COE shall execute contracts through the year 2033 for a total Annual Average of 220 MGD of Surface Water from Allatoona Reservoir and a total Annual Average of 60 MGD of Surface Water from Carters Reservoir to meet Municipal and Industrial water supply needs from those Reservoirs, and the COE shall operate Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam in the manner necessary for the COE to meet its obligations under such contracts. Nothing in this Paragraph A shall, during or after the term of this Agreement, prohibit the State of Georgia from seeking, nor the COE from executing, contracts for a longer term and for greater amounts of Surface Water than the COE is required by this Paragraph A to execute; provided, however, the State of Alabama shall maintain its rights to contest as it deems appropriate any contracts in excess of the amounts set forth in this Paragraph A.
- B. After the Effective Date, no Person shall be allowed to make any Withdrawal from any Stream or Reservoir in the ACT Basin without the necessary contract under applicable state and federal laws; provided, however, that any Person making any Withdrawal as of the Effective Date without the necessary contract shall apply for and pursue diligently the necessary contract within two (2) years after the Effective Date.

3.2 - Compensation

The States of Alabama and Georgia acknowledge that the federal government will determine, in consultation with any State or Person that must pay compensation, and in accordance with applicable laws and regulations, any compensation that may be due to the federal government from such State or Person as consideration for providing Storage in, making Releases from, or allowing Withdrawals from a federal Reservoir as provided for in this Agreement. The States of Alabama and Georgia acknowledge that no compensation is due directly to either of them from the other State or any Person in the other State for such Storage, Releases, or Withdrawals. The States of Alabama and Georgia acknowledge that the federal government will determine, in consultation with any State or Person seeking compensation, and in accordance with applicable laws and regulations, any compensation from the federal government that may be due to such State or Person as a result of the Storage, Releases, or Withdrawals provided for in this Agreement. One State shall not seek to influence the federal government in connection with its determination of the monies owed to or by the other State or any Person in the other State.

Section 4 - Remedies

4.1 - Enforcement and Suspension

- A. Any dispute between the Signatory Parties involving a claim relating to compliance with the terms of this Agreement is subject to and shall be resolved in accordance with Article XIII (Dispute Resolution) of the ACT Compact, which includes resolution through unanimous vote of the ACT Basin Commission, non-binding mediation, and other appropriate remedies, including, but not limited to, judicial remedies. Additionally, any dispute between one or both of the Signatory Parties and the United States shall be resolved in the same manner, and the provisions set forth in paragraph (a), other than subparagraph (a)(4), of Article XIII (Dispute Resolution) of the ACT Compact and made applicable to State parties shall be equally applicable to the United States, its officers, agencies, or instrumentalities, including but not limited to the COE, in any dispute involving the United States, its officers, agencies, or instrumentalities.
- B. The Signatory Parties will cooperate diligently and in good faith to resolve disputes to the satisfaction of the aggrieved Signatory Party by any means practicable, including joint legal action in appropriate cases.
- C. Suspension
 - 1. A Suspension Event shall be deemed to have occurred if:
 - a. Any or all of the obligations and provisions set forth in Sections 2 and 3 of this Agreement are found to be invalid or unenforceable for any reason whatsoever, as determined by a court of competent jurisdiction or by final action of an agency of the United States with the legal power to enforce its action;
 - b. The Computer Model is found to be substantially incorrect or inconsistent with the obligations set forth in Section 2 of this Agreement; or
 - c. Any state believes that the operation of Sections 2 or 3 of this Agreement has caused or will cause a violation by such state of federal law.
 - 2. If either the State of Alabama or the State of Georgia determines that a Suspension Event has occurred, it may give written notice to the

other State, the United States, and the COE of such Event, describing in detail, to the best of its knowledge, the nature and extent of such Event, the harm or injury that may be suffered by the notifying State as a result of such Event, and the actions necessary to cure such Event. If a Suspension Event arises as the result of action or inaction on the part of a federal agency other than the COE, the United States shall forward a copy of the written notice to the appropriate agency official, and if a Suspension Event arises as the result of action or inaction on the part of a State agency, political subdivision, or Person residing within that State, the State shall forward a copy of the written notice to the appropriate agency official, political subdivision official, or Person. In the case of a Suspension Event, the Signatory Parties agree to work together, diligently and in good faith, to seek to resolve all issues arising from the occurrence of such Suspension Event and to cure such Event. If such Event is not cured, for any reason whatsoever, within forty-five (45) days of receipt of notice of such Event pursuant to this subsection, the notifying State shall be entitled, by giving written notice to the ACT Basin Commission, the other State, and the COE, at any time thereafter that such Suspension Event is continuing, to invoke Article XIII (Dispute Resolution) of the ACT Compact and to suspend the operation of Sections 2 and 3 of this Agreement until such time as the Suspension Event has been cured.

3. Nothing in this Paragraph C is intended to supercede the obligation to resolve disputes involving claims relating to compliance with this Agreement as provided in Paragraph A of this Subsection 4.1, but the provisions of this Paragraph C are to be satisfied prior to invoking the remedies provided in Paragraph A of this Subsection 4.1. During any period that the operation of Sections 2 and 3 is suspended, each State may pursue any and all appropriate remedies, including any and all judicial remedies, subject only to the obligation to resolve disputes involving claims relating to compliance with this Agreement in accordance with Paragraph A of this Subsection 4.1.
4. A suspension pursuant to this Paragraph C shall have no effect on contracts executed pursuant to Paragraph A of Subsection 3.1 of this Agreement and no effect on the provisions of Subsections 2.3 or 2.4 of this Agreement.
5. Any notice or other communication allowed or required under this Subsection 4.1 shall be given in writing delivered by certified mail, return receipt requested, with the required postage prepaid, properly

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addressed as follows:

Alabama: Governor of the State of Alabama
Montgomery, Alabama

Georgia: Governor of the State of Georgia
Atlanta, Georgia

ACT Basin Commission: ACT Secretary

United States: Federal Commissioner

COE:

Notice to be provided to the United States shall constitute notice to officers, agencies, or instrumentalities of the United States. Any notice provided in accordance with this Subparagraph C.4 of this Subsection 4.1 shall be effective as of the date mailed. Any State or the United States may by written notice delivered in accordance with this Subparagraph C.4 of this Subsection 4.1 designate a different mailing address or a different person to whom notices shall be sent.

- D. The Signatory Parties acknowledge and agree that because the Water Resources are unique and of such importance to the Signatory Parties and because damages are not available and would not in any event be an adequate remedy for noncompliance with the terms of this Agreement, no adequate remedy at law exists for noncompliance with the terms of this Agreement, and, consistent with Article XIII (Dispute Resolution) of the ACT Compact, the Signatory parties shall therefore be entitled to seek all available equitable remedies, including but not limited to specific performance against the COE, for noncompliance with the terms of this Agreement.
- E. Except as otherwise permitted in this Agreement or in the ACT Compact, the Signatory Parties agree to take no legal action regarding the allocation of the Surface Waters of the ACT Basin affected by this Agreement.

4.2 - No Private Cause of Action

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Only the Signatory Parties and the United States shall have standing to seek enforcement of this Agreement or to obtain remedies for noncompliance with this Agreement.

Section 5 - ACT Committee and Scientific Advisory Panel

5.1 - ACT Basin Commission Oversight

The Signatory Parties acknowledge that there may be circumstances in which the operation of Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam in strict accordance with this Agreement may not be beneficial to any of the Signatory Parties. Therefore, as a condition of this Agreement, the ACT Basin Commission may unanimously vote to suspend, reduce, or postpone the implementation of any of the obligations imposed upon the COE pursuant to this Agreement for such period or periods of time that the ACT Basin Commission deems appropriate. Accordingly, as soon as reasonably practicable, the COE shall notify the ACT Basin Commission if it appears that there may be circumstances in which operation of Allatoona Reservoir and Dam and Carters Reservoir and Reregulation Dam in strict accordance with this Agreement may not be beneficial to any of the Signatory Parties. In the event either Signatory Party believes that the COE's operation of Allatoona Reservoir and Dam, Carters Reservoir and Reregulation Dam or both are inconsistent with or violative of this Agreement, such Party shall, after providing written notice to the COE and the other Signatory Party, be entitled to meet with the COE and the other Signatory Party to discuss such operations. Nothing in this Subsection 5.1 is intended to modify or waive the provisions of Subsection 4.1 of this Agreement and Article XIII (Dispute Resolution) of the ACT Compact.

5.2 - ACT Committee Structure

Upon the Effective Date, an ACT Committee shall be established in accordance with this Subsection 5.2. The ACT Committee shall be composed of voting and non-voting members. The voting members shall consist of one member and one alternate member appointed by the Governor of the State of Alabama, and one member and one alternate member appointed by the Governor of the State of Georgia. Each State shall have one vote. All decisions and actions of the ACT Committee shall require unanimous approval. In a voting member's absence, the alternate member shall be considered the voting member for that State and shall cast the State's vote and shall otherwise exercise the same power and authority as the voting member representing that State.

The non-voting members shall include a representative of the USGS, a representative of the COE, a representative of the APCO, and a representative appointed by the Federal Commissioner. The ACT Committee may, by unanimous vote, select other Persons to meet with the ACT Committee from time to time or on a regular basis, but, the invitation to such Person shall not be intended as a recognition of any asserted interest of that Person and may be withdrawn at any time. No actions taken by the ACT Committee or its

members shall be construed as actions of the ACT Basin Commission under the ACT Compact, except as expressly delegated to the ACT Committee by this Agreement or by future actions of the ACT Basin Commission.

The ACT Committee shall be chaired by the voting member representing the State whose Governor is then serving as the Chair of the ACT Basin Commission, and the term of the Chair of the ACT Committee shall correspond with the term of the Chair of the ACT Basin Commission.

5.3 - ACT Committee Responsibilities

A. Water Quality

On the Effective Date, the Signatory Parties shall provide to the ACT Committee the water use classification of and water quality standards applicable to Surface Waters in the ACT Basin. In the event that either State proposes to change the water use classification of any Surface Waters in the ACT Basin within such State, the State shall provide notice of such proposed change to the ACT Committee.

The States of Alabama and Georgia, and/or the EPA may report to the ACT Committee an alleged violation of applicable water quality standards for Surface Waters in either State. The ACT Committee shall investigate any report made to it, and, if the ACT Committee finds that a violation of applicable water quality standards has occurred, is occurring, or is likely to recur, it shall inform the ACT Basin Commission of such violation and may recommend actions to abate and control sources of violations.

After receiving information regarding an alleged violation of applicable water quality standards from the ACT Committee, the ACT Basin Commission shall inform the State within which the violation has occurred, is occurring, or is likely to recur and may request that said State take such action as may be necessary or appropriate to redress such violation. The State within which the violation has occurred, is occurring, or is likely to recur shall take action, as it deems appropriate, pursuant to applicable state and federal laws to redress such violation and shall report its actions to the ACT Basin Commission.

B. Drought

1. Drought Plan

The ACT Committee shall, within two years of the Effective Date, develop and submit to the ACT Basin Commission for approval a Drought Plan for the ACT Basin. Until a Drought Plan has been approved by the ACT Basin Commission and become effective, the Interim Drought Plan set forth in this Subsection 5.3 shall apply.

The Drought Plan, which may incorporate all or part of the Interim Drought Plan, may include without limitation:

- Procedures for identifying the onset and progression of drought stages, using any appropriate combinations of Flow, rainfall, soil moisture, and Reservoir level indicators;
- A tiered process of notices and mitigating actions; and
- Procedures for identifying the recession and termination of drought stages.

2. Interim Drought Plan

The ACT Committee shall meet in the early spring, again in the summer, and whenever requested by any voting member. The ACT Committee shall determine when and where drought conditions are occurring within the ACT Basin and shall report all drought conditions to the ACT Basin Commission. In the event drought conditions outside the scope of the hydrologic conditions considered during the development of this agreement exist or are anticipated, the ACT Committee shall, at the request of either Signatory Party, convene within ten (10) days to discuss whether to make recommendations to the ACT Basin Commission in response to such conditions.

Specific drought response actions, such as water conservation, are the responsibility of the States of Alabama and Georgia through their regulatory agencies, local governments, and utilities, and each voting member of the ACT Committee will be responsible for meeting regularly with his/her regulatory agencies, local governments, and utilities.

If it is anticipated by the States of Alabama and Georgia or the COE that the current operations and hydrologic conditions will result in (a) the elevation at Lake Allatoona falling below 820 feet above MSL, (b) the flow at USGS Gage # 02397000, Coosa River near Rome, Georgia (Mayo's Bar) remaining at 1,500 cfs (or less) for four (4) consecutive weeks or (c) any other hydrologic conditions that are more severe than those considered in evaluating this Agreement, the

ACT Committee will meet upon the written request of Alabama, Georgia or the COE to discuss possible modifications to the water use and management of water resources within the ACT Basin.

If the elevation at Lake Allatoona falls below 818 feet above MSL or the flow at USGS Gage # 02397000, Coosa River near Rome, Georgia (Mayo's Bar) remains at 1,500 cfs (or less) for four (4) consecutive weeks, the ACT Committee will meet within ten (10) days of any such event to discuss and potentially recommend changes to the water use and management of the ACT Basin. Potential changes to the water use and management may include modifications to the reservoir operations, reductions to the minimum flow requirements and reductions in the water withdrawals.

If the observed bi-weekly flow, measured at USGS Gage # 02397000, Coosa River near Rome, Georgia (Mayo's Bar), falls below 1,850 cfs at any time during the period from April 1 to November 30, the APCO, with the concurrence of the Alabama ACT Basin Commissioner, may reduce the Weekly Average Release from Walter Bouldin, Jordan, and Thurlow Dams from 4,640 cfs to 3,200 cfs during the period from September 15 to November 30.

C. Monitoring and Reporting

1. As of the Effective Date, the ACT Committee shall create an electronic database that shall be accessible by the public. The electronic database may include data obtained by the ACT Committee pursuant to Paragraph C.2 of this Subsection 5.3.
2. As of the Effective Date, the ACT Committee shall, to the extent reasonable and practicable, monitor and report the following:
 - a. Meteorology data obtained from a qualified agency, such as the NWS.
 - b. Flow data obtained from a qualified agency, such as the USGS.
 - c. Water quality data obtained from qualified agencies, such as the EPA, the USGS, or appropriate state agencies.

Given sufficient federal funding, continuous water quality monitoring stations shall be installed and maintained at or

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near the Alabama-Georgia state line at the following locations, which will be referred to as the "State Line Water Quality Stations":

- USGS Gage # 02397000, Coosa River near Rome, Georgia (Mayo's Bar)
- USGS Gage # 02398037, Chattooga River at Chattoogaville, Georgia
- USGS Gage # 02411930, Tallapoosa River below Tallapoosa, Georgia
- USGS Gage # 02413210, Little Tallapoosa River below Bowdon, Georgia

At these State Line Water Quality Stations, the following water quality parameters shall be monitored: 1) temperature; 2) conductivity; 3) pH, and 4) dissolved oxygen (DO), unless otherwise specified by the ACT Committee. The data may be posted in the electronic database as provisional until such time as necessary adjustments are made by the appropriate agency.

As a part of the regular water quality monitoring program, unless otherwise specified by the ACT Basin Commission, nitrogen (measured with NO_2 and NO_3 analyzed together) and phosphorous shall be monitored monthly at the State Line Water Quality Stations. If the ACT Basin Commission declares a drought, nitrogen and phosphorous will be monitored as specified by the ACT Basin Commission.

- d. Flow and water quality information obtained from a network of gages maintained or provided to monitor compliance with this Agreement.
- e. Reservoir data and Release data obtained from the COE, APCO, and any other entity operating a Reservoir in the ACT Basin.
- f. Withdrawal and Return data obtained from each State.

Each State shall provide to the ACT Committee information regarding all Surface Water Withdrawals and Returns within

the ACT Basin and all Interbasin Transfers from the ACT Basin to another Basin in accordance with the following schedule, unless otherwise specified by the ACT Basin Commission:

- Quarterly reporting of all Withdrawals and Returns within, and Interbasin Transfers from, the ACT Basin that are equal to or greater than 20 MGD.
- Annual reporting of all other Withdrawals and Returns within the ACT Basin and Interbasin Transfers from the ACT Basin.

Additionally, each State shall provide to the ACT Basin Commission the location (defined by latitude and longitude) of each Withdrawal and Return and shall update this information as necessary. In the event the ACT Basin Commission determines that drought conditions exist anywhere within the ACT Basin, the ACT Basin Commission may require that the States provide the information described in this Paragraph C.2.f of this Subsection 5.3 on a more frequent basis.

- g. Available wildlife and biota data that may be obtained from the USFWS or from any other federal or State wildlife or environmental agency to provide information on species and habitats within the ACT Basin and establish long-term trend information on the natural resources of the system.

D. Other Responsibilities

The ACT Committee, in coordination with the ACT Basin Commission, shall facilitate efforts to obtain the necessary funding to support the efforts outlined above. The ACT Committee shall also undertake any other responsibilities delegated by the ACT Basin Commission.

5.4 - ACT Committee Operations

Within 180 days after the Effective Date, or as otherwise specified by the ACT Basin Commission, the ACT Committee shall develop its own written operating procedures, provided such procedures are not inconsistent with the ACT Compact or the directives of the ACT Basin Commission; and provided, further, such procedures provide for public notice of meetings of the ACT Committee and ensure that meetings of the ACT Committee are open to the public.

5.5 - Scientific Advisory Panel

A Scientific Advisory Panel shall be formed and shall consist of nine experts in the fields of hydrology, water quality, and biology. Three Panel members shall be experts in hydrology, three in water quality, and three in biology. Each member will serve a three-year term. The Governors of the States of Alabama and Georgia and the Federal Commissioner will each select three Panel members, one from each field of expertise. A Chairperson will be elected by the Panel members each year. Panel members will not be entitled to compensation by the ACT Basin Commission.

The Scientific Advisory Panel shall review, consider, study, and make recommendations to the ACT Committee on such matters as are referred to the Scientific Advisory Panel by the ACT Basin Commission. Such matters may include:

- Developing a list of ACT Basin performance indicators;
- Reviewing data, reports, and status of ACT Basin performance indicators;
- Recommending to the ACT Committee modifications to monitoring and reporting requirements; and
- Preparing and submitting to the ACT Committee an annual report summarizing the foregoing.

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Section 6 - State Approvals and Federal Concurrence

IN WITNESS WHEREOF the undersigned, being duly authorized by Article VI(g)(12) of the Alabama - Coosa - Tallapoosa River Basin Compact, have executed this Agreement this ___ day of _____ 2003.

State of Alabama

Bob Riley, Governor

State of Georgia

Sonny Perdue, Governor

In accordance with the letter attached hereto as Appendix C, the Federal Commissioner has concurred with the Allocation Formula set forth in this Agreement.

Appendix A - Definitions and Acronyms

1.1 - Definitions

As used in this Agreement, the following words, phrases, and terms shall have the following meanings:

ACF Allocation Formula Agreement means an Agreement entered into among the States of Alabama, Florida, and Georgia, for the purpose of equitably apportioning for the term of that Agreement the Surface Waters of the ACF Basin pursuant to the ACF Compact.

ACF Basin or **ACF** means the area of natural drainage into the Apalachicola River and its Tributaries, the Chattahoochee River and its Tributaries, and the Flint River and its Tributaries.

ACF Compact means the Apalachicola-Chattahoochee-Flint River Basin Compact as adopted by: Alabama Acts 1997, No. 97-67, § 1, Ala. Code § 33-19-1, signed by the Governor of Alabama on February 25, 1997; 1997 Fla. Laws ch. 97-25, § 1, Fla. Stat. § 373.71, signed by the Governor of Florida on February 25, 1997; Ga. L. 1997, p. 29, § 1, O.C.G.A. § 12-10-100, signed by the Governor of Georgia on February 25, 1997; and Public Law No. 105-104, 111 Stat. 2219, signed by the President of the United States on November 20, 1997.

ACT Basin or **ACT** means the area of natural drainage into the Alabama River and its Tributaries, the Coosa River and its Tributaries, and the Tallapoosa River and its Tributaries.

ACT Basin Commission means the Alabama-Coosa-Tallapoosa River Basin Commission established pursuant to the ACT Compact.

ACT Committee means the Alabama-Coosa-Tallapoosa Committee established pursuant to this Agreement.

ACT Compact means the Alabama-Coosa-Tallapoosa River Basin Compact as adopted by: Alabama Acts 1997, No. 97-66, § 1, Ala. Code § 33-18-1, signed by the Governor of Alabama on February 25, 1997; Ga. L. 1997, p. 15, § 1, O.C.G.A. § 12-10-110, signed by the Governor of Georgia on February 25, 1997; and Public Law No. 105-105, 111 Stat. 2223, passed by the United States Congress on November 7, 1997, and signed by the President of the United States on November 20, 1997.

Acre Foot means the volume of water that will cover an area of one acre to a depth of one foot and is equal to 43,560 cubic feet or 325,853 gallons of water. Acre Feet is the plural of Acre Foot.

Annual Average means an average calculated over a calendar year.

Annual 7Q10 means the lowest consecutive seven-day streamflow within a given year that occurs on average once every ten years.

At-Site Requirements means a minimum Release requirement of 240 cfs imposed at the Carters Reregulation Dam site and a minimum Release requirement of 240 cfs imposed at the Allatoona Dam site, as may be modified from time to time in accordance with applicable federal laws, plus Releases needed to satisfy the requirements of applicable downstream water supply contracts.

Average Annual Daily Flow or AADF means the average annual amount on a daily basis, expressed in CFS, of surface water flowing past any point along a Stream. For the purposes of this Agreement, the AADF will be calculated from either Gage data encompassing the period of record of at least twenty years ending with the most current Water Year or, in the absence of Gage data at a site, a drainage area ratio calculation based upon the nearest Gage with a continuous period of daily flow data of at least twenty years ending with the most current Water Year, unless otherwise specified by the ACT Committee. Where the period of record exceeds twenty years, the entire period of record shall be used.

Basin means the area of natural Surface Water drainage associated with any River or Stream, or combinations of Rivers and Streams.

CFS or Cubic Foot Per Second means a flow rate equal to one cubic foot of water passing a defined point in one second. Converted to MGD, 1.5472 cfs flowing for 24 hours equals 1.0 MGD.

Chattahoochee River Basin means the area of natural drainage into the Chattahoochee River and its Tributaries.

Computer Model means the HEC-5 computer model and input data sets, including Flow data, sets relied upon as the basis for evaluating the obligations imposed in Sections 2 and 3 of this Agreement as of the execution of this Agreement by the Signatory Parties.

Conservation Storage means, within a Reservoir, the Storage capacity dedicated to operating purposes other than exclusively for flood control.

Coosa River Basin means the area of natural drainage into the Coosa River and its Tributaries.

Daily Average means an average calculated over a calendar day that begins at 12.00 a.m. and ends at 11:59 p.m. on the same calendar day.

Dam means any artificial barrier, including appurtenant works, that is twenty five (25) feet or more in height from the natural bed of the Stream or water course, measured from the downstream toe or the lowest elevation of the outside limit of the barrier (whichever is lower) to the maximum water Storage elevation and has an impounding capacity at maximum water Storage elevation of one hundred (100) acre-feet or more.

Effective Date means the date as defined in Subsection 1.1 of this Agreement.

Excess Releases means Releases from Allatoona Dam or Carters Reregulation Dam for any Week made by the COE in excess of Releases necessary to meet Flow Requirements of Subsection 2.1 of this Agreement for that Week, including but not limited to Releases for hydropower production or in emergency situations.

Existing means, with regard to a Withdrawal, a Withdrawal for which a permit or authorization was issued on or before the Effective Date. A Withdrawal for which a permit or authorization was issued prior to the Effective Date but is renewed after the Effective Date shall remain an Existing Withdrawal.

Expanded means, with regard to Reservoir, a physical modification that results in an increase in the Storage capacity, for which modification a permit or authorization is issued after the Effective Date, and means, with regard to a Withdrawal, an increase in the authorized amount of the Withdrawal, for which a permit or authorization is issued after the Effective Date. The renewal of a permit or authorization issued prior to the Effective Date is not an Expanded permit or authorization, except to the extent that the renewed permit or authorization increases the Storage capacity of a Reservoir or the authorized amount of a Withdrawal.

Expiration Date means the date as defined in Subsection 1.3 of this Agreement.

Federal Commissioner means the Person appointed by the President of the United States to serve as nonvoting member of the ACT Basin Commission and to represent all federal agencies with an interest in the ACT Basin.

Flow means a quantity of Surface Water that passes a defined reference point over a defined period of time expressed in CFS or MGD.

Flow Requirement means the Flow Requirements set forth in Paragraph B of Subsection 2.1 of this Agreement.

Inflow means water that enters a River or Stream, including water that enters as Returns and Releases, except as provided in Paragraph B.3 of Subsection 2.6 of this Agreement.

Interbasin Transfer means, with respect to the ACT Basin in Georgia, the sum of all Withdrawals from the ACT Basin that are diverted to other Basins, less the sum of all Returns to the ACT Basin from other Basins and, with respect to Alabama, the sum of all Withdrawals from the ACT Basin in Alabama that are diverted to other Basins, less the sum of all Returns to the ACT Basin in Alabama.

Little River Basin means the area of natural drainage into the Little River and its Tributaries (located within Hydrologic Unit Code 03150105).

Little Tallapoosa River Basin means the area of natural drainage into the Little Tallapoosa River and its Tributaries.

Mayo's Bar means USGS Gage Number 02397000, Coosa River near Rome, Georgia.

Million Gallons Per Day or MGD means a volume of water equal to one million gallons of water passing a defined point during a 24-hour period. Converted to CFS, 1.0 MGD equals 1.5472 CFS flowing for 24 hours.

Monthly Average means a daily average calculated over a calendar month.

Monthly 7Q10 means the lowest consecutive seven-day streamflow that occurs within a given month on average once every ten years.

MSL means mean sea level.

Municipal and Industrial means water that is used for residential, commercial, governmental/institutional, industrial/manufacturing, and/or electric utilities, including unaccounted water use, and is either publicly supplied, privately supplied, or self-supplied.

New means, with regard to a Reservoir, a Reservoir constructed for a water Withdrawals, for which Reservoir a permit or authorization is issued after the Effective Date and means, with regard to a Withdrawal, a Withdrawal for which a permit or authorization is issued after the Effective Date. The renewal of a permit or authorization that was issued prior to the Effective Date is not a New permit or authorization.

Off-Stream Reservoir or Off-Stream Storage means a body of water held, collected, and/or stored for any use where a portion of Inflow for the body of water is from pumping or otherwise diverting flow from a Stream, River or Tributary within the ACT Basin.

On-Stream Reservoir or Mainstem Reservoir means a body of water held, collected, and/or stored for any use where the Inflow is not supplemented by pumping or otherwise diverting flow from a Stream, River or Tributary within the ACT Basin.

Other Suspension Event means an event as defined in Subsection 4.1 of this Agreement.

Outflow Works means Flow control devices, such as, but not limited to, gates, spillways, sluice gates, and weirs.

Person means any individual, firm, association, organization, partnership, business, trust, corporation, public corporation, company, the United States of America, any state, and all political subdivisions, regions, districts, municipalities, and public agencies thereof.

Release means, when used as a verb in connection with a Dam, the action or process of allowing water to flow through a turbine or from or over the spillway of such Dam or under the structure of the Dam as leakage and, when used as a noun, the water allowed to flow through a turbine or from or over the spillway of a Dam or under the structure of the Dam as leakage.

Reservoir means the body of water impounded by a Dam and held, collected, and/or stored for any use.

Reservoir Inflow means the quantity of water entering a Reservoir over a period of time as determined by gaging Tributaries entering the Reservoir that represent at least 75% of the total quantity of water entering the Reservoir and extrapolating the ungaged quantity of water entering the Reservoir.

Reservoir Safe Yield means the minimum expected quantity of water available at a specified location on a daily basis based upon the gaged hydrologic period of record, calculated using the hydrologic Flow data from the nearest Gage operated by the USGS and assuming maximum use of Conservation Storage combined with Reservoir Inflow.

Return means water that is discharged to the Surface Waters of the ACT Basin after being withdrawn from Surface Waters, natural springs, or other ground waters of the ACT Basin or from Surface Waters, natural springs, or other ground waters of another Basin, except as provided in Paragraph B.3. of Subsection 2.6 of this Agreement. For the

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purposes of this Agreement the term return shall be limited to those returns meeting the requirements of the respective states' permitting, authorizing or certifying programs.

River means a large natural Stream of water emptying into an ocean, a lake, or another body of water and usually fed along its course by converging Tributaries.

Rome Incremental Inflow means the amount of Water that enters the Coosa River from the portion of the Coosa River Basin that is upstream from USGS Gage # 02397000, Coosa River near Rome, Georgia (Mayo=s Bar) and downstream from Allatoona Dam and Carters Reregulation Dam but does not include Releases from such Dams. Rome Incremental Inflow is calculated by subtracting the Weekly Average Releases from Allatoona Dam and Carters Reregulation Dam for the preceding Week from the actual Weekly Average Flow in the Coosa River at Mayo=s Bar for the preceding Week.

Signatory Parties means the States of Alabama and Georgia.

Storage means the impoundment capacity of a Reservoir.

Stream means a Flow of water along a channel open to the atmosphere but does not include a Reservoir.

Surface Waters means waters upon the surface of the earth, whether contained in bounds created naturally or artificially or diffused. Water from natural springs shall be considered Surface Waters when it exits from the spring onto the surface of the earth.

Suspension Event means an event as defined in Subsection 4.1 of this Agreement.

Tallapoosa River Basin means the area of natural drainage into the Tallapoosa River and its Tributaries.

Tributary means a Stream that Flows into a larger Stream or other body of water.

Water Resources or **Waters** mean all Surface Waters and ground waters contained or otherwise originating within the ACT Basin.

Water Year means a continuous 12-month period from October 1 through September 30 identified by the calendar year in which it ends.

Week or **Weekly** means a calendar week that begins at 12.00 a.m. on Sunday and ends at 11:59 p.m. the following Saturday.

Weekly Average means an average calculated over a calendar week that begins at 12.00 a.m. on Sunday and ends at 11:59 p.m. the following Saturday.

West Georgia Regional Reservoir means the Reservoir proposed to be constructed in the Tallapoosa River Basin as proposed in the May 1999 Section 404 Permit application submitted pursuant to 33 U.S.C. Section 1344 by the West Georgia Regional Water Authority or its successor.

Withdrawal means the taking away of Surface Water from its natural course but does not include an impoundment of Surface Water in an in-stream Reservoir. For the purposes of this Agreement the term "Withdrawal" shall be limited to those withdrawals that are subject to permitting, authorizing or certifying program requirements of the state in which such withdrawal occurs.

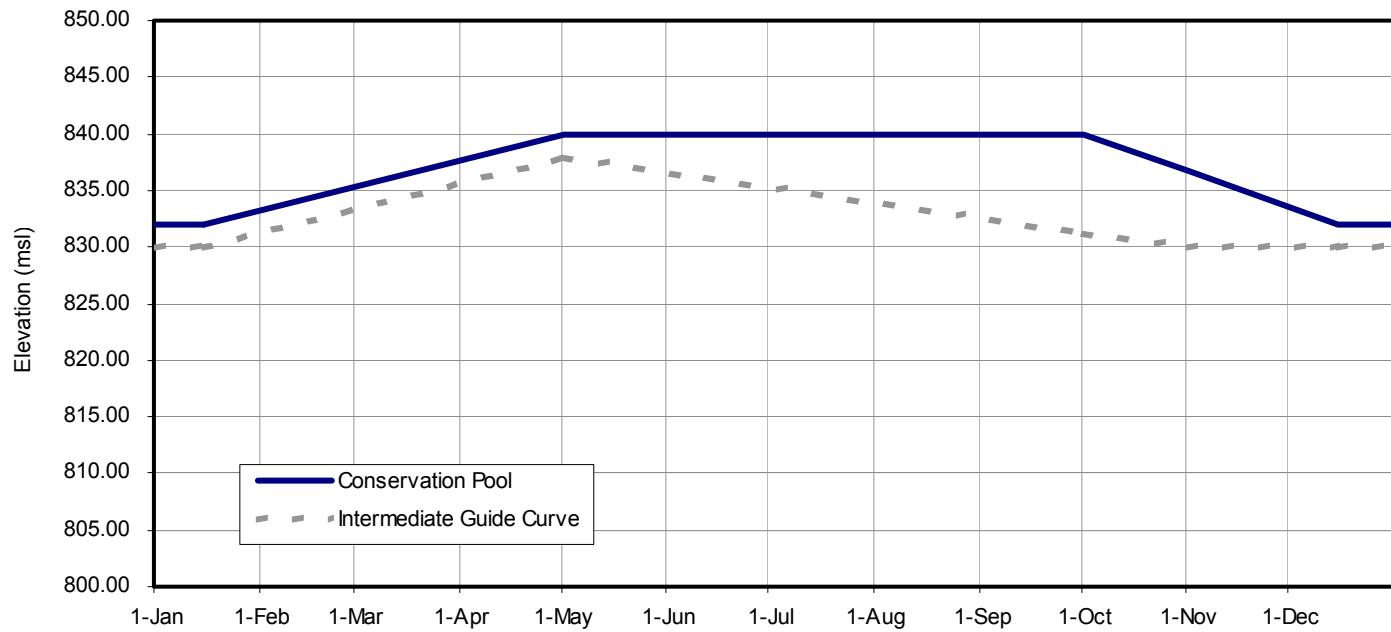
1.2 - Acronyms

As used in this Agreement, these acronyms shall represent the following:

APCO	Alabama Power Company, or its successor
COE	United States Army Corps of Engineers, or its successor
EPA	United States Environmental Protection Agency, or its successor
HUC	Hydrologic Unit Code
MSL	Mean Sea Level
NPDES	National Pollutant Discharge Elimination System
NRCS	Natural Resources Conservation Service, United States Department of Agriculture, (formerly SCS), or its successor
NWS	National Weather Service, United States Department of Commerce, or its successor
SCS	Soil Conservation Service, United States Department of Agriculture, (now NRCS)
USFWS	United States Fish and Wildlife Service, or its successor
USGS	United States Geological Survey, United States Department of Interior, or its successor.

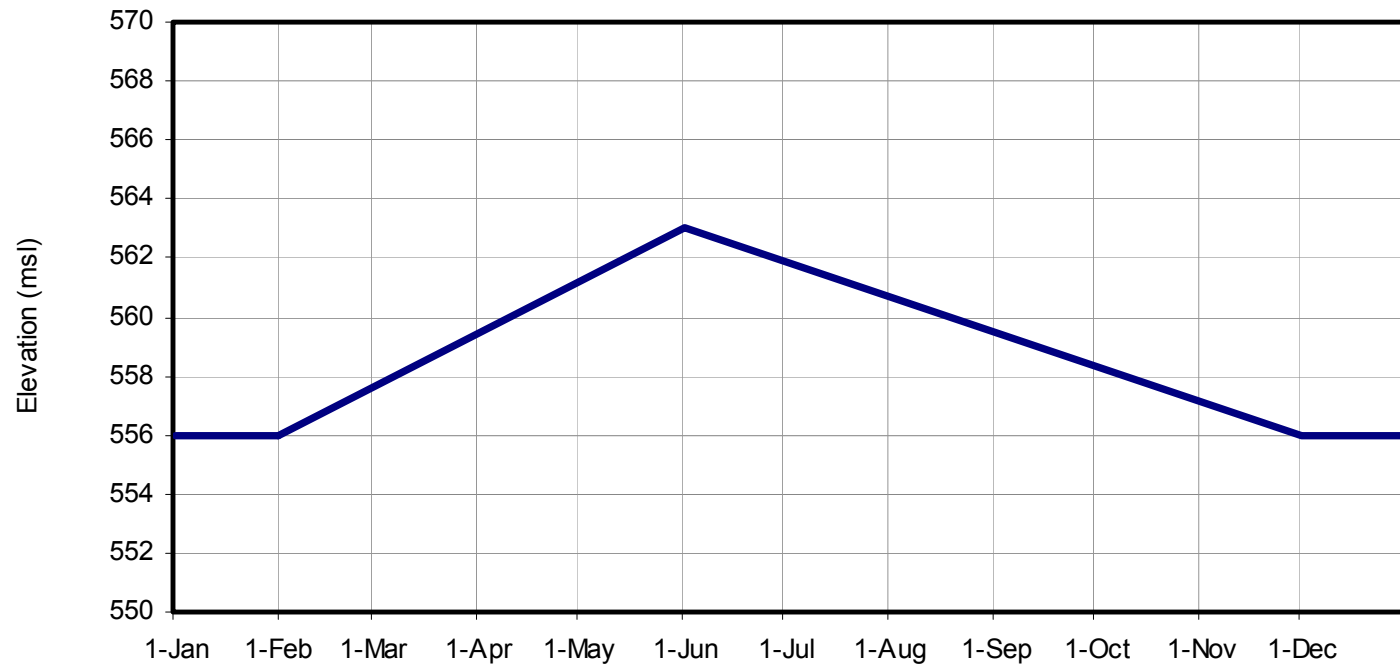
Appendix B - Figures

Figure B-1
Allatoona Conservation Storage Level



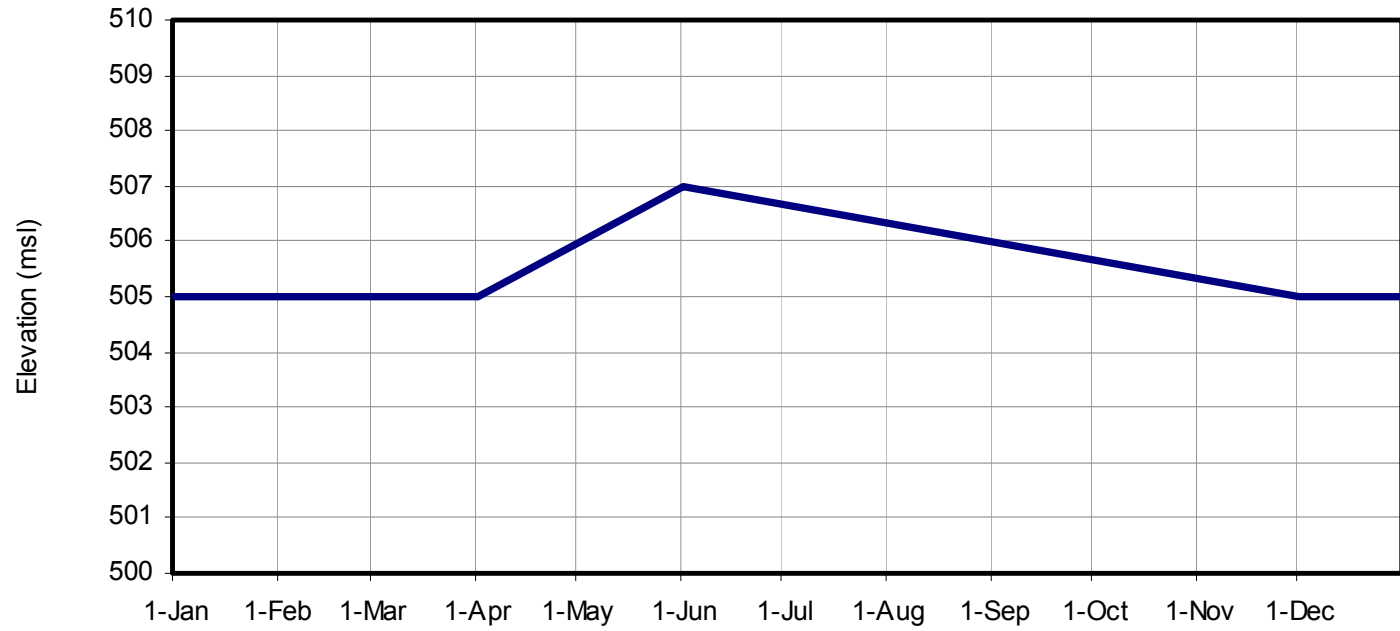
	1-Jan	15-Jan	1-May	1-Oct	1-Nov	15-Dec	31-Dec
Conservation Pool	832.00	832.00	840.00	840.00	836.70	832.00	832.00
Intermediate Guide Curve	830.00	830.00	838.00	831.35	830.00	830.00	830.00

Figure B-2
Weiss Lower Guide Curve



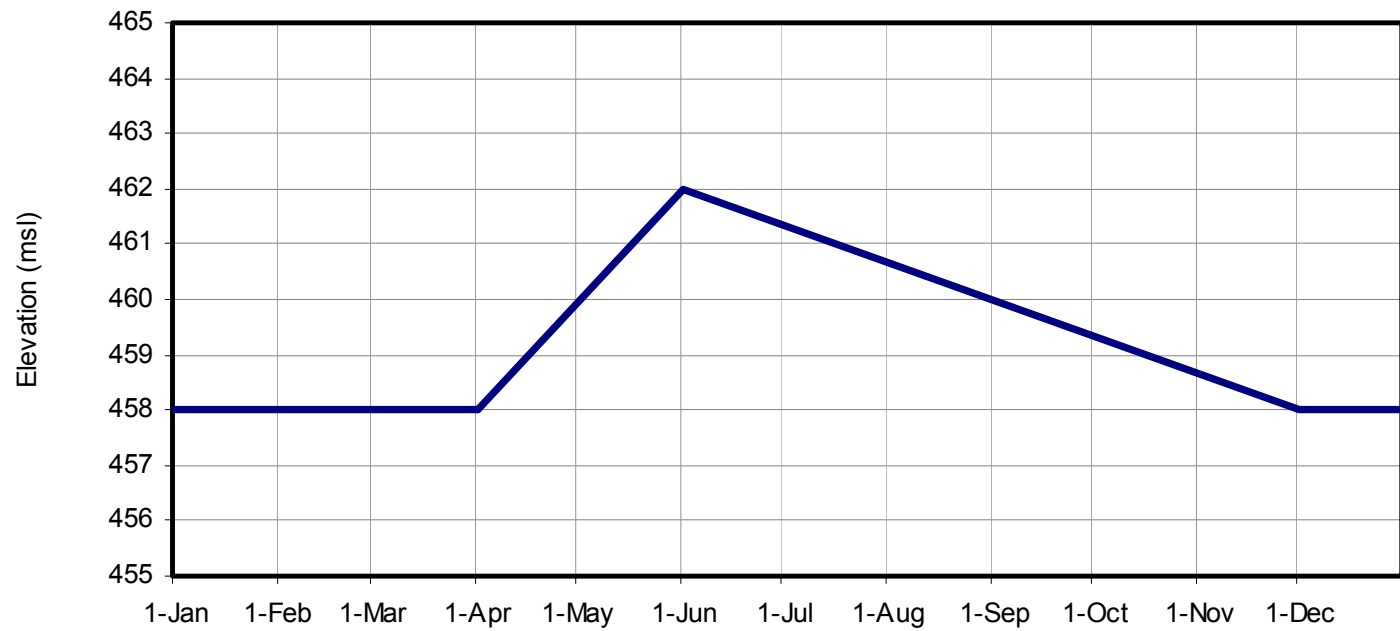
	1-Jan	1-Feb	1-Jun	1-Dec	31-Dec
Lower Guide Curve	556	556	563	556	556

Figure B-3
H. N. Henry Lower Guide Curve



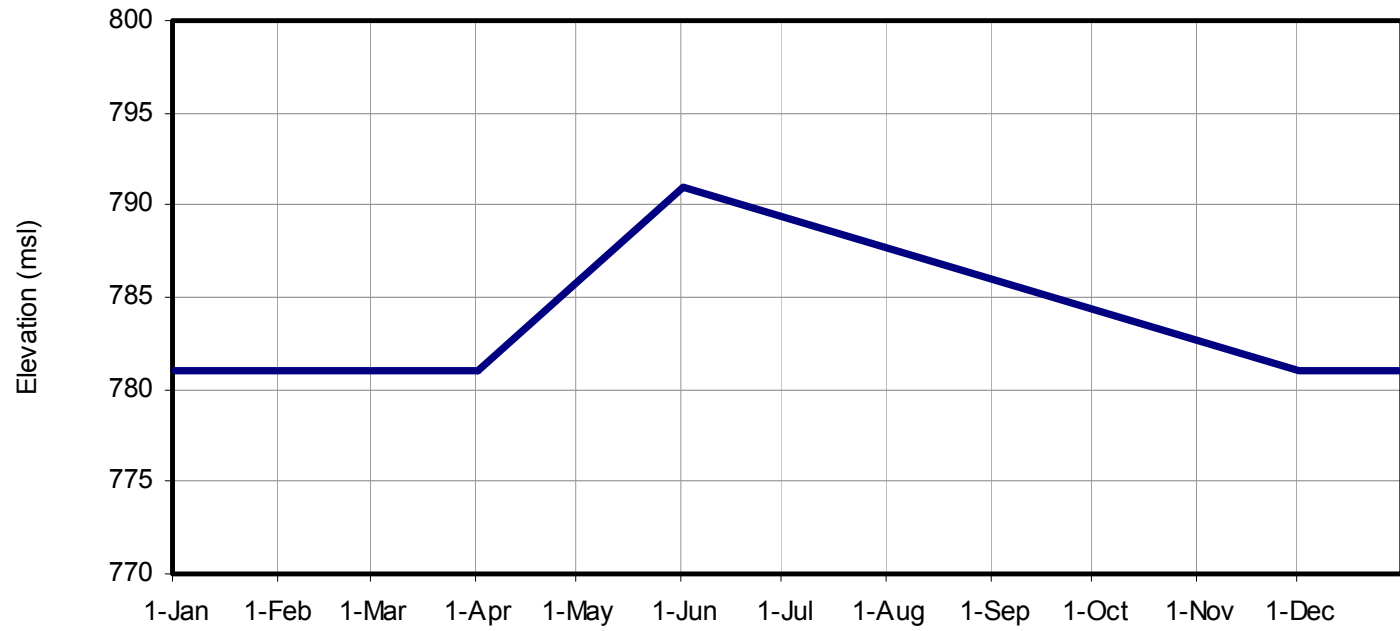
	1-Jan	1-Apr	1-Jun	1-Dec	31-Dec
Lower Guide Curve	505	505	507	505	505

Figure B-4
Logan Martin Lower Guide Curve



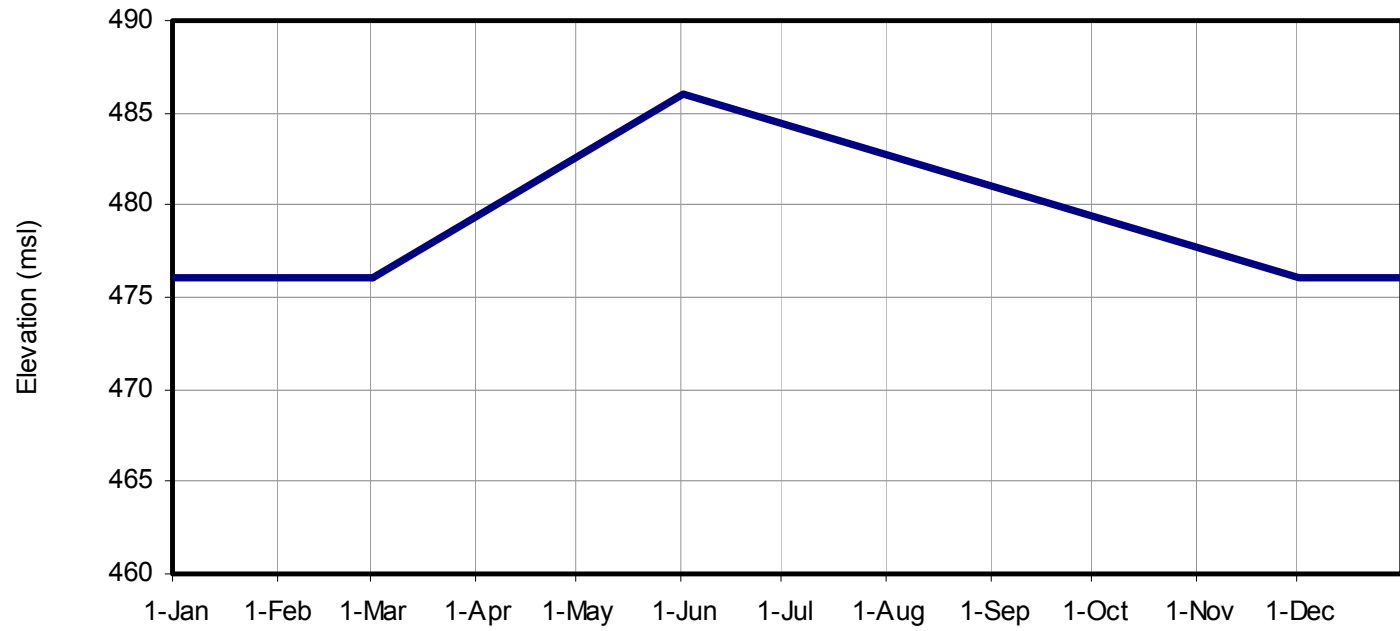
	1-Jan	1-Apr	1-Jun	1-Dec	15-Dec	31-Dec
Lower Guide Curve	458	458	462	458	458	458

Figure B-5
Harris Lower Guide Curve



	1-Jan	1-Apr	1-Jun	1-Dec	31-Dec
Lower Guide Curve	781	781	791	781	781

Figure B-6
Martin Lower Guide Curve



	1-Jan	1-Mar	1-Jun	1-Dec	31-Dec
Lower Guide Curve	476	476	486	476	476

April 21, 2003

Appendix C – Letter of Federal Concurrence

[To be attached]