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October 23, 2015

## By E-mail and U.S. Mail

Special Master Ralph I. Lancaster  
Pierce Atwood LLP  
Merrill's Wharf  
254 Commercial Street  
Portland, ME 04101  
rlancaster@pierceatwood.com

Re. *Florida v. Georgia*, No. 142, Original

Dear Special Master Lancaster:

Georgia and Florida jointly make this submission to respectfully request a 45-day extension of the January 15, 2015 fact discovery cutoff. The States bring this request reluctantly and are well aware of the Special Master's consistent position regarding the January 15, 2015 fact discovery cutoff. For that reason, the States would not make this request were there not a compelling need and good cause to seek this relief. Depositions began multiple weeks ago, and the States have made substantial progress in scheduling a number of their depositions and resolving other procedural issues. Although the vast majority of document discovery is complete, the deadline for production is not until November 10, 2015. That deadline, in combination with the sheer magnitude of prior and recent productions and anticipated upcoming productions from certain third parties has created a significant challenge. Facts have developed over the last several weeks that have made it clear that keeping the January 15, 2016 deadline will significantly impact preparation for key depositions in this case and create a genuine risk that the Supreme Court will not receive the full record needed to decide this case. The most important factor is ensuring that the Court receives the proper factual record and after an extensive meet-and-confer, the parties agree that this can be accomplished with a modest extension of the deadline to allow appropriate time for review of recently produced documents in advance of upcoming depositions.

The crux of the current issue is the recent production of a large number of documents in advance of the November 10 document production cutoff. Both parties intend to meet that deadline for production, but in the process a significant number of documents that must be reviewed in preparation for depositions have only recently come in. Georgia, for example, has

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received approximately 1.8 million pages of production from Florida since September 9, 2015, with more than half of those produced since October 1. For its part, Florida has been reviewing more than 1.3 million pages from Georgia and Georgia Universities produced since early August 2015 and has more recently received 2.3 terabytes of material relevant to hydrologic modeling and modeling inputs (1.8 terabytes of which was provided in October, as were thousands of pages of other Georgia and Georgia University documents). Additional productions are anticipated from Georgia Universities in the near future. In addition, disputes have very recently been resolved with certain third parties which should now result in production of several hundred thousand more pages of documents that both parties must review prior to depositions. To keep its efforts on track, Georgia has increased its document-review team from 40 to more than 60 contract attorneys, has authorized overtime for all of them, and is attempting to hire more. But even with all that, it will take time to cull through this nearly 2 million or more pages to put Georgia's attorneys in a position to take effective depositions.

The parties are committed to double and even triple-tracking depositions through the end of discovery if necessary. Even with that, the need to review a substantial number of new documents in advance of upcoming depositions has led us to the conclusion that the factual record before the Supreme Court would benefit from allowing the States a modest amount of additional time to process all this information and conduct discovery in a coordinated and effective manner. The parties are not seeking any additional time to complete their document productions; this extension seeks only to push out the fact discovery cutoff by 45 days to allow additional time for review of the large number of recently produced documents and any additional documents that are produced in advance of depositions, some of which have already had to be rescheduled to allow for receipt and review of recently produced documents. The dates for production of expert reports, expert discovery and summary judgment would likewise need to shift out by 45 days, since that work is dependent on the fact discovery currently underway.

The parties are available to discuss this matter at the Special Master's convenience.

Sincerely,

A handwritten signature in blue ink that reads "Craig S. Primis". The signature is written in a cursive, flowing style.

Craig S. Primis, P.C.

cc: Philip J. Perry, Esq.