

In The
Supreme Court of the United States

State of Florida,
Plaintiff,

v.

State of Georgia,
Defendant.

Before the Special Master

Honorable Ralph I. Lancaster

**Motion of Chattahoochee Riverkeeper, Flint Riverkeeper, and Alabama
Rivers Alliance for Leave to File an *Amicus Curiae* Brief**

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INTERESTS OF THE MOVING PARTIES

Chattahoochee Riverkeeper, Flint Riverkeeper, and Alabama Rivers Alliance (the River Groups) respectfully move the Special Master for permission to file an *amicus curiae* brief in the above-captioned proceeding. Collectively, these River Groups work to restore and preserve the ecological health of the Apalachicola-Chattahoochee-Flint River Basin (ACF Basin) for the benefit of current and future generations of people and wildlife. All of these organizations have members and supporters who use and rely on the waters of the ACF Basin for income, recreation, scientific study, support of property values, and protection of their health, food supply, and real property. As the organizations tasked with protecting rivers that will be apportioned in this dispute, the River Groups have a substantial interest in the outcome of the equitable apportionment between Florida and Georgia, and they are uniquely qualified to highlight for the Special Master the economic, ecological, cultural, and aesthetic significance of the ACF Basin to Florida, Georgia, and the Southeast region.

Chattahoochee Riverkeeper is a not-for-profit organization whose mission is to advocate and secure the protection and stewardship of the Chattahoochee River, its tributaries, and watershed, in order to restore and preserve their ecological health for the people and wildlife that depend on the river system. Established in 1994, Chattahoochee Riverkeeper has over 7,000 individual members, and it has had substantial and continuous involvement in the current dispute between Florida and Georgia. As a founding member and Governing Board member of the ACF Stakeholders Group, Chattahoochee Riverkeeper was significantly involved in the preparation of the Sustainable Water Management Plan, and it also prepared comments on the proposed revisions to the U.S. Army Corps of Engineers ACF Water Control Manual. Chattahoochee Riverkeeper is a member of both the Tri-State Conservation Coalition and the Georgia Water

Coalition, two groups that work to protect various environmental and recreational interests throughout Georgia and the ACF Basin. Chattahoochee Riverkeeper advocates for adequate flows in the Chattahoochee to protect water quality and aquatic life and monitors flow at critical places in the river, including Peachtree Creek below metro Atlanta. Through its No Time to Waste Campaign, Chattahoochee Riverkeeper educates businesses, local governments, and communities about cost-effective water saving measures.

Flint Riverkeeper is a not-for-profit organization whose mission is to restore and preserve the habitat, water quality, and flow of the Flint River for the benefit of current and future generations and dependent wildlife. Established in 2008, Flint Riverkeeper has over 650 families, farms, and business members, encompassing over 2,500 individuals. Flint Riverkeeper's work throughout the Flint arm of the ACF is focused on municipal, agricultural, and industrial reductions in consumptive use, and consequently, Flint Riverkeeper has had substantial and continuous involvement in the current dispute between Florida and Georgia. As a founding member and Governing Board member of the ACF Stakeholders Group, Flint Riverkeeper was significantly involved in the preparation of the Sustainable Water Management Plan and also prepared comments on the proposed revisions to the U.S. Army Corps of Engineers ACF Water Control Manual. In addition, Flint Riverkeeper lobbied for improved legislation and rulemaking on water use in the Georgia General Assembly and before the Georgia Department of Natural Resources Board, made legal arguments to the Georgia Environmental Protection Division about endangered species and property rights concerns, and presented on water use to over 10,000 citizens. Flint Riverkeeper is also a member of both the Tri-State Conservation Coalition and the Georgia Water Coalition.

Alabama Rivers Alliance (Alabama Rivers) is a statewide network of over sixty groups that work to protect and restore all of Alabama's water resources through building partnerships, empowering citizens, and advocating for sound water policy and its enforcement. Alabama Rivers has been working to restore and protect the rivers of Alabama for almost twenty years, and it has been significantly involved in the ongoing disputes between Florida, Georgia, and Alabama regarding the use of water in the ACF Basin and the Alabama-Coosa-Tallapoosa (ACT) River Basin. Alabama Rivers participated as a founding member and Governing Board member of the ACF Stakeholders Group, representing the environmental interests of the Middle and Lower Chattahoochee River, and is a member of the Tri-State Conservation Coalition. Alabama Rivers has been actively engaged in the development of a sustainable water management program in Alabama, and it participated as a stakeholder in the development of the U.S. Army Corps of Engineers water control manuals for the ACF and the ACT interstate systems. Most recently, Alabama Rivers members and staff have been appointed to each of the five Focus Area Panels convened by the Governor of the State of Alabama to provide recommendations for a state water management plan.

PURPOSE OF AMICUS BRIEF

The purpose of the River Groups' *amicus* brief will be twofold. First, the brief will provide examples of how consumptive use can be reduced throughout the ACF Basin and highlight the economic, ecological, cultural, and aesthetic benefits that would accrue to both Florida and Georgia if consumptive use reductions occurred. Second, the brief will argue that the Special Master can consider these benefits in his equitable apportionment recommendation, and that he should do so in order to ensure a just and fair allocation. This second part will provide examples from prior equitable apportionment cases, as well as other U.S. and international

environmental laws, to demonstrate that: (1) traditionally non-economic interests may be considered under equitable apportionment doctrine; and (2) equitable apportionment can be used to protect downstream interests from degradation by upstream consumptive use.

CONCLUSION

For the reasons listed above, the River Groups respectfully seek leave to file an *amicus curiae* brief in the current dispute.

Respectfully submitted,

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September 16, 2016

CERTIFICATE OF SERVICE

This is to certify that the Motion by Chattahoochee Riverkeeper, Flint Riverkeeper, and Alabama Rivers Alliance for Leave to File an *Amicus Curiae* Brief has been served on September 16, 2016, in the manner specified below:

| <u>For State of Florida</u> | <u>For State of Georgia</u> |
|---|--|
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