

# THE CASE FOR GEORGIA'S WATER

## A SUPREME COURT UPDATE



**COUNCIL**  
for **QUALITY**  
**GROWTH**

Wednesday, March 17  
9:00 a.m - 10:00 a.m  
Virtual Event via Zoom



**Katherine Zitsch**  
Director

Metro North GA Water Planning District



**Gerald Pouncey**  
Chairman

Morris, Manning, & Martin



**R.J. Muraski**  
Assistant Deputy

North Texas Municipal Water District

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MANNING &  
MARTIN, LLP



Gerald Pouncey  
Chairman  
Morris, Manning & Martin





Katherine Zitsch  
Director  
Metro North Georgia Water  
Planning District



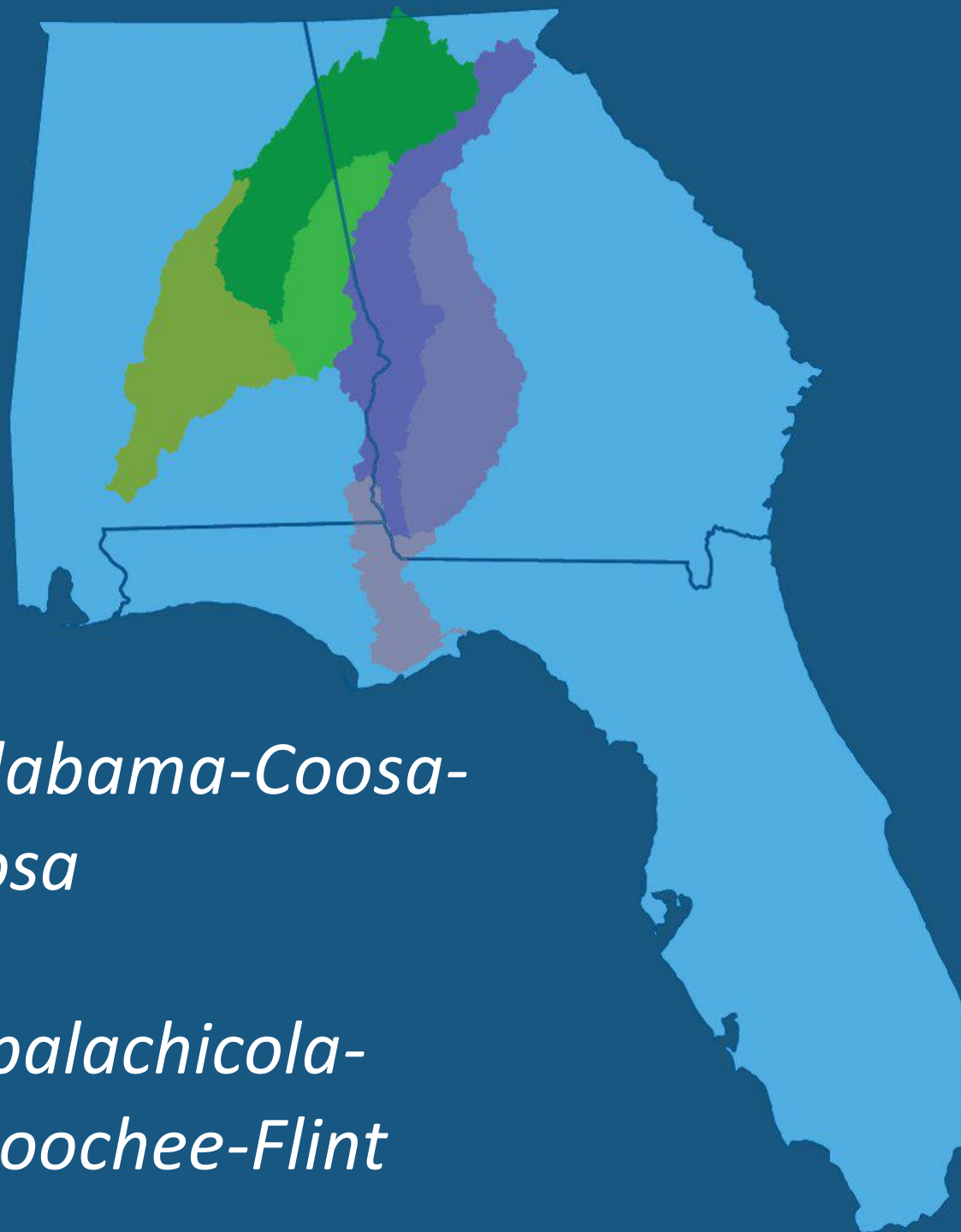
# Water Litigation and Lake Lanier Contract

**Katherine Zitsch**

Natural Resources Division Manager - Atlanta Regional Commission

March 17, 2021





*ACT – Alabama-Coosa-  
Tallapoosa*

*ACF – Apalachicola-  
Chattahoochee-Flint*

# Florida v. Georgia No. 142 Original (US Supreme Court)

- Original Action
- Equitable Apportionment
- Two Special Masters
- Full Court
  - First Heard Case Jan 2018
  - Heard Case Again Feb 22, 2021



# Florida v. Georgia No. 142 Original (US Supreme Court)

- More background:
  - Atlanta Regional Commission Supreme Court
- Oral Argument, Google search to find:
  - C-Span Florida Georgia
  - Supreme Court Florida Georgia Transcript
  - Oyez Florida Georgia



# First Opinion - June 27, 2018

Remanded 5-4

– Breyer, Roberts, Kennedy, Ginsburg,  
Sotomayor

– Dissent: Thomas, Alito, Kagan, Gorsuch

Kavanaugh, Barrett

*Justice Barrett to Florida:*

*Most of your brief and most of your argument has focused on Georgia's agricultural uses. So, are you abandoning any challenge to municipal use?*

*Florida's Attorney: We are. Our focus here is on agricultural use and irrigation in the Flint River, Your Honor.*

## *Chief Justice Roberts*

- *Many causes*
- *What if Georgia 20% to blame, 40%?*

## *Justice Breyer*

- *Overharvesting vs. dead oysters*

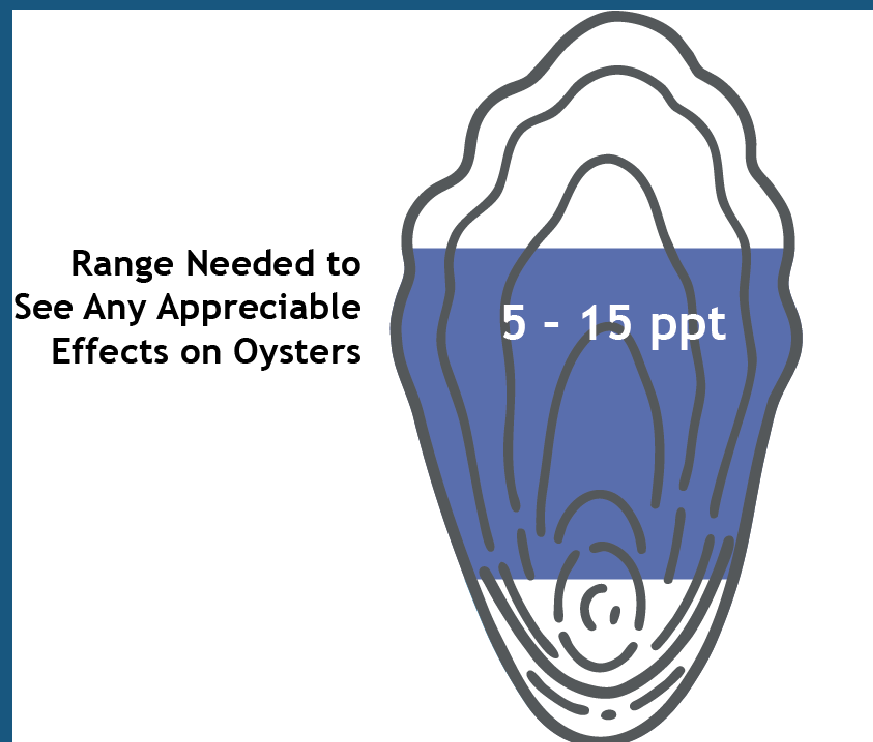
# Justice Sotomayor to Florida's Counsel:

*“Counsel, my biggest problem with your case are three facts, all offered by your experts.”*

**100%**



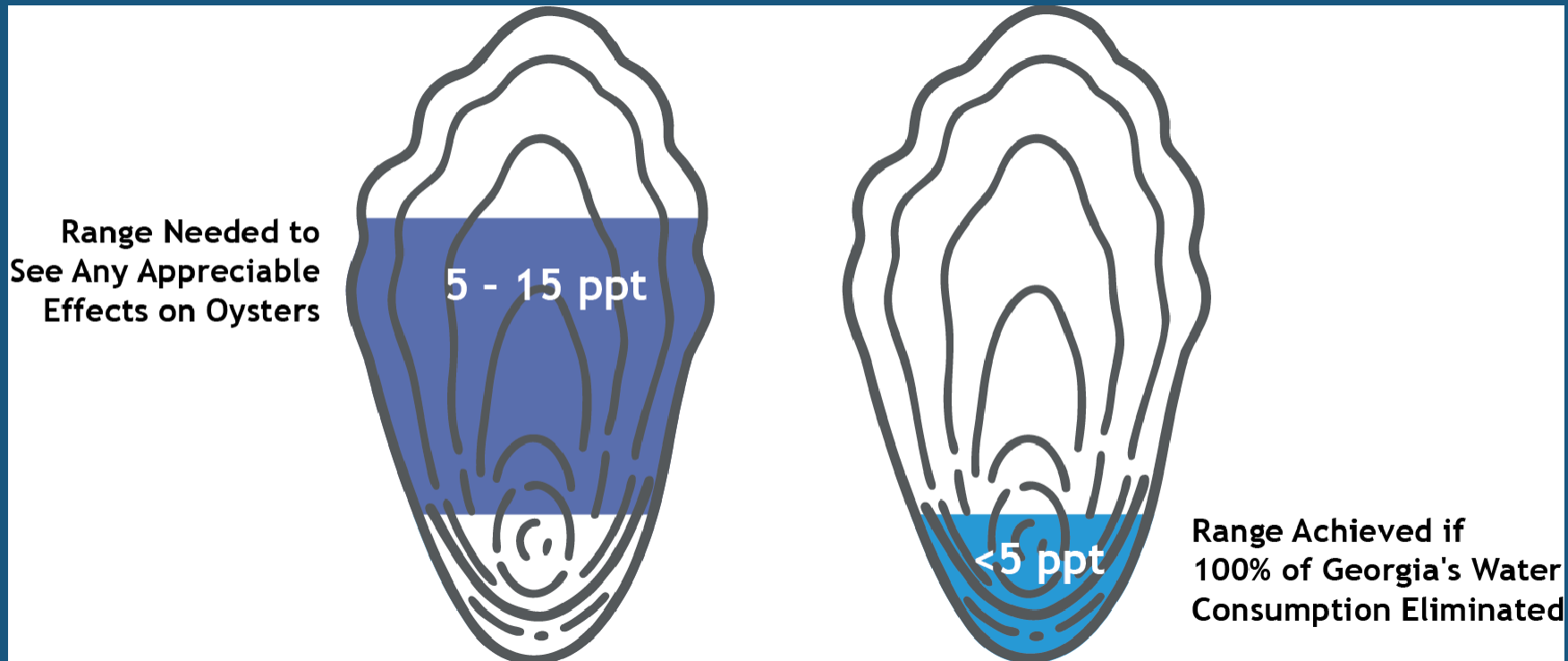
# 1



Salinity in ppt = parts per thousand



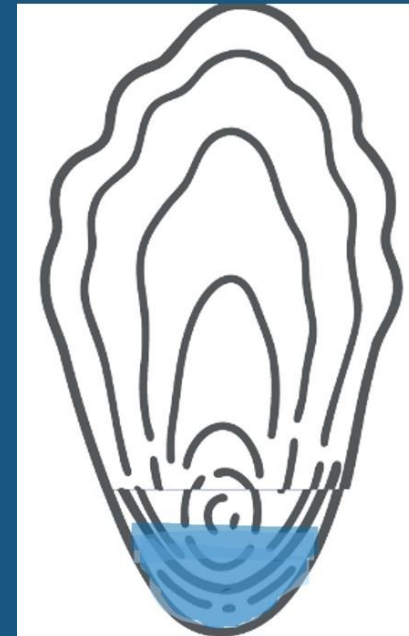
# 2



ppt = parts per thousand

# 3

*7-10% increase in  
oyster biomass if all of  
Georgia's water  
consumption  
eliminated*



*Justice Sotomayor to Florida:*

*I'm doubtful that a 10 percent change is sufficient to be viewed as an invasion of rights of a serious magnitude.*

*How would that justify the use of an equitable remedy?*

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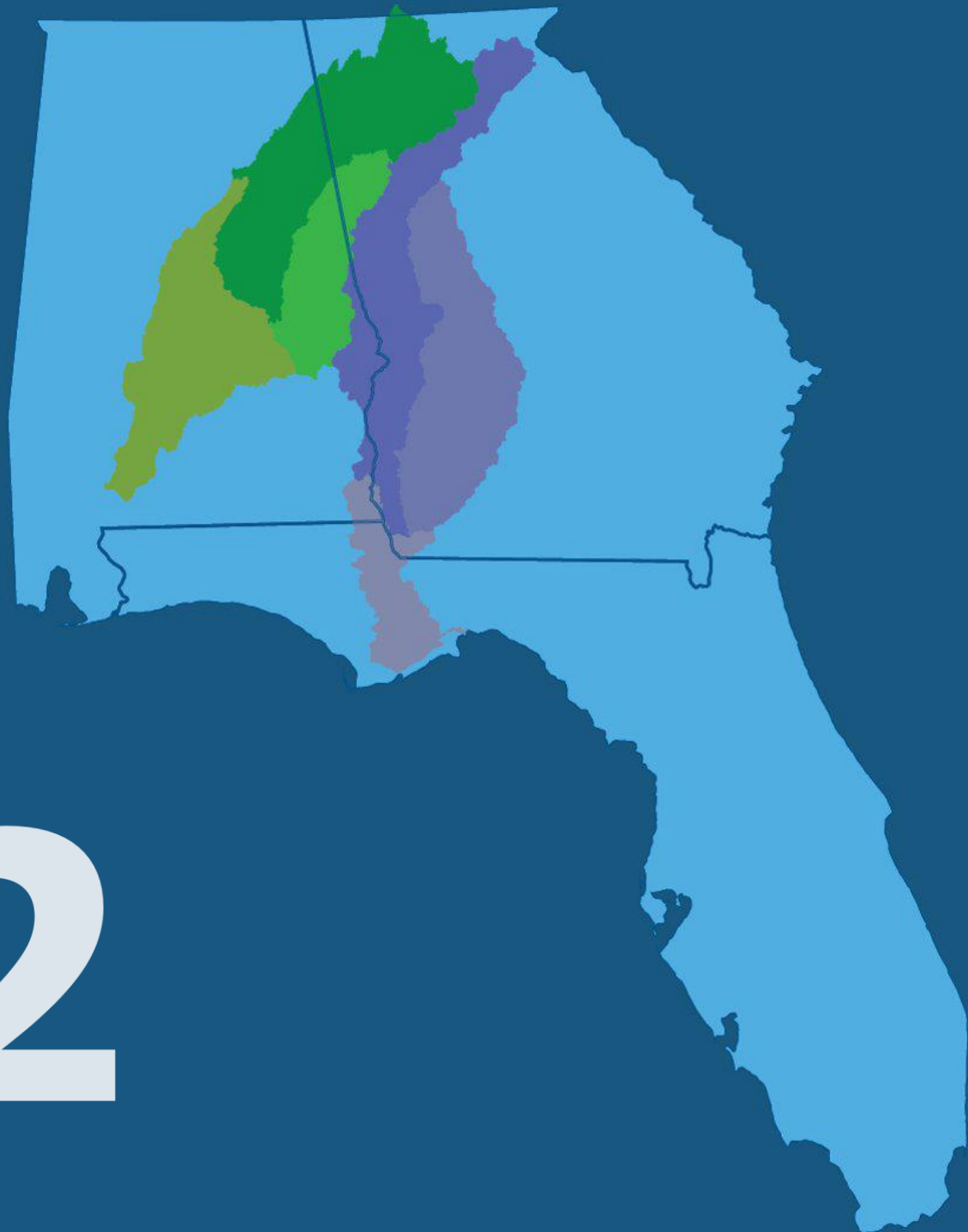
– Dissent: Thomas, Alito, Kagan, Gorsuch

Kavanaugh, Barrett

# Florida v. Georgia No. 142 Original (US Supreme Court)

- Full Court Heard Case February 22<sup>nd</sup>
  - Google search to find:
    - Atlanta Regional Commission Supreme Court
    - C-Span Florida Georgia
    - Supreme Court Florida Georgia Transcript
    - Oyez Florida Georgia
- Next Step is Opinion by June 30<sup>th</sup>

2



# One Other Active ACF Lawsuit

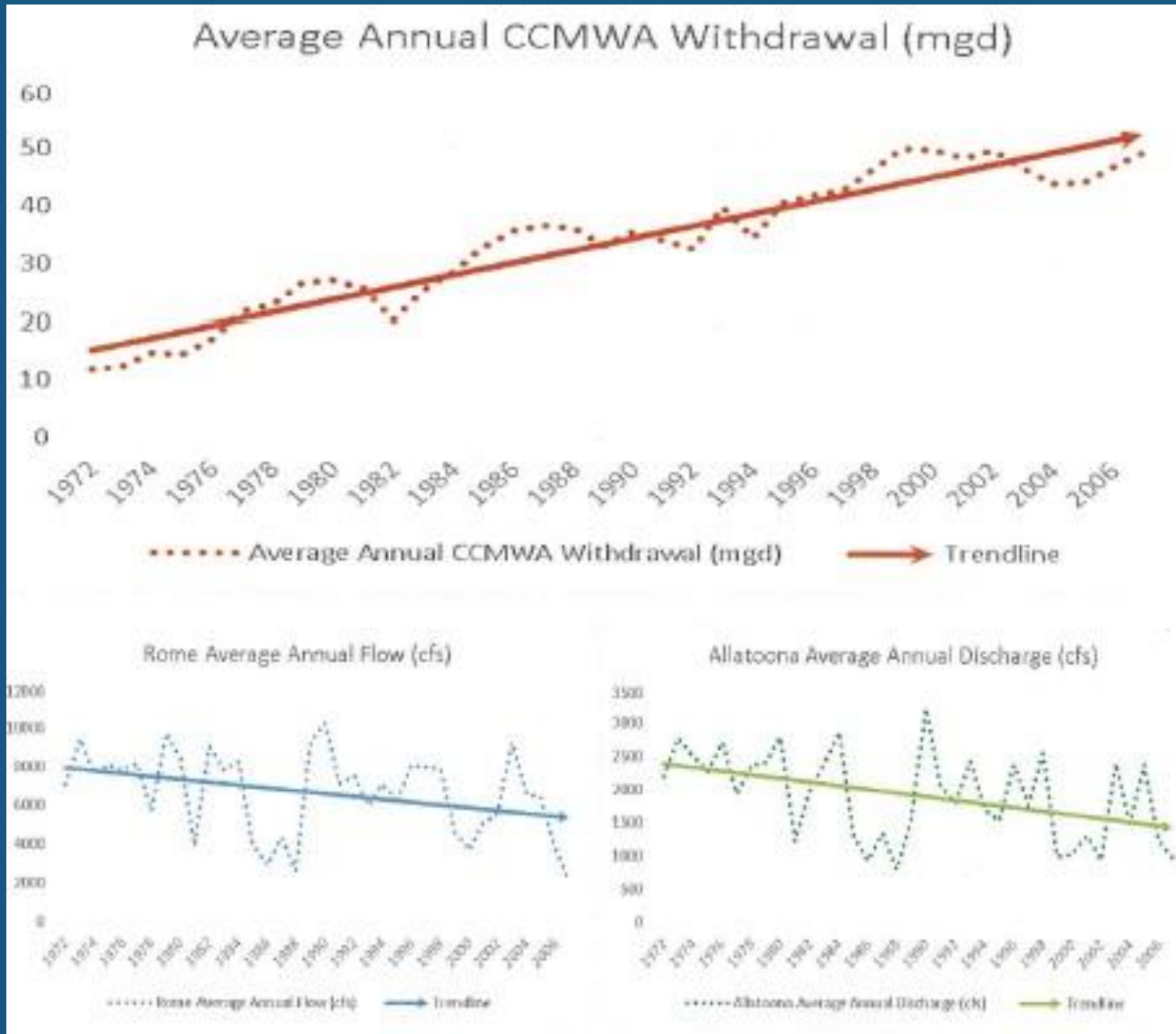
Consolidated - Alabama and National Wildlife Federation v. US Army Corps of Engineers  
(Federal Court, Atlanta, GA)

# One Active ACT Lawsuit

Alabama v. US Army Corps of Engineers  
(Federal Court, Washington DC)

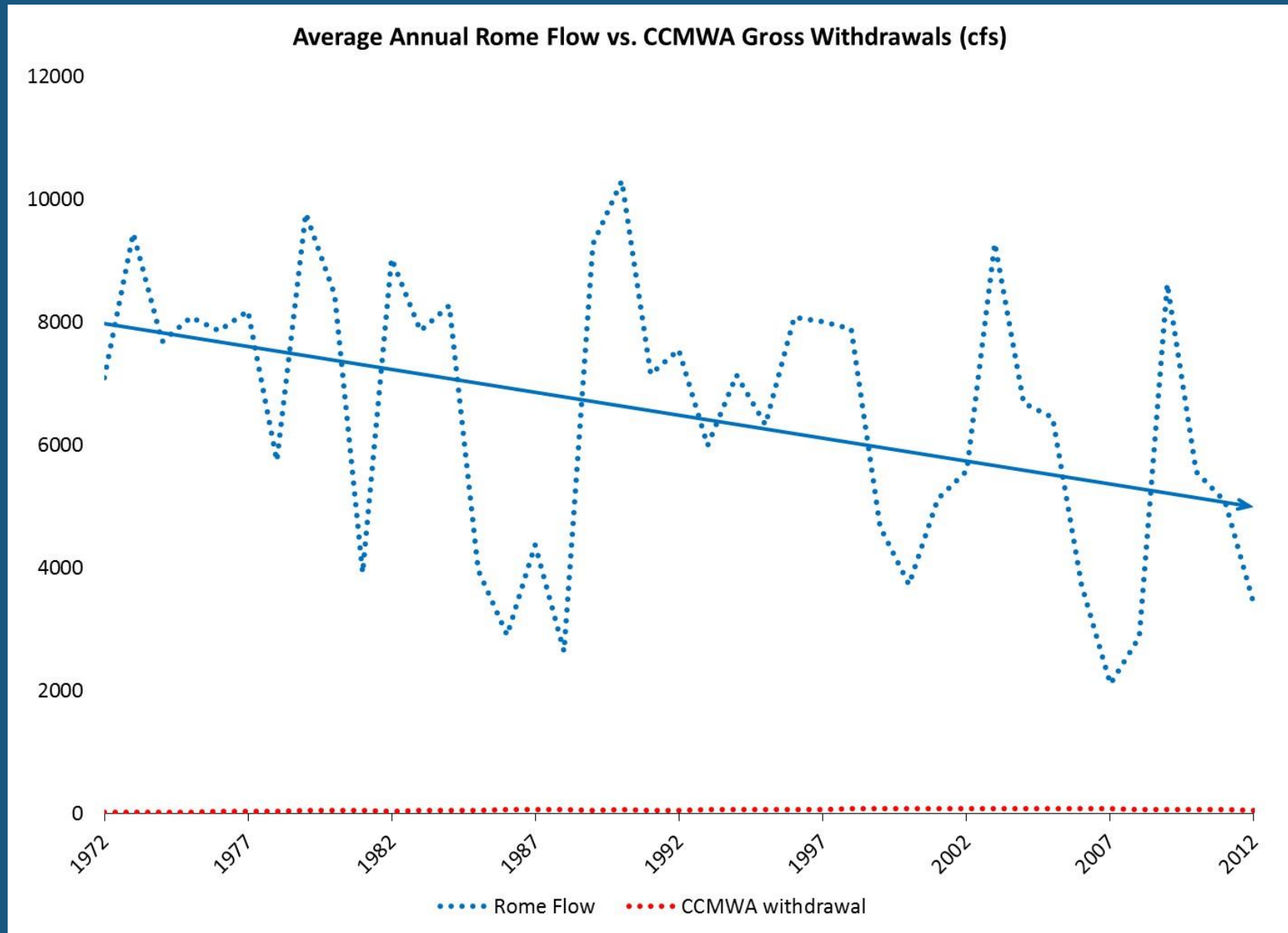


# Alabama Claims About CCMWA Withdrawals



These “three graphs show that where CCMWA withdrawals have steadily increased over time, the Allatoona discharges and Rome flows have steadily decreased over time.”

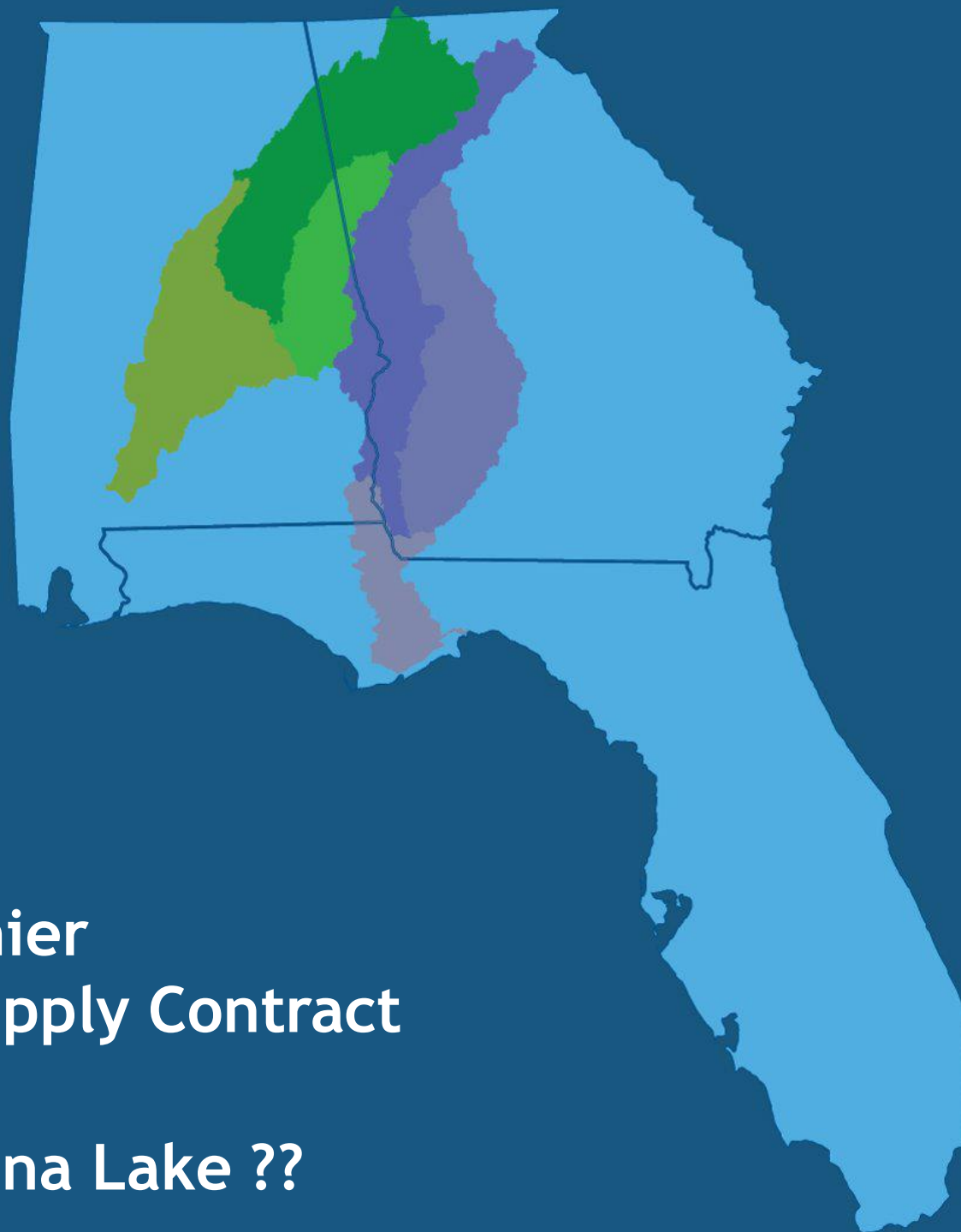
# CCMWA Withdrawals in Context



# Alabama ACT Claims

“The WCM will allow the Corps to operate the Allatoona Project and other ACT River Basin projects in an arbitrary and capricious manner that **will reduce the quantity of flows into Alabama**, change the timing of flows into Alabama, and reduce the quality of water that flows into Alabama. As a direct result, **Alabama will suffer** injury to its citizens, economy, and environment.”

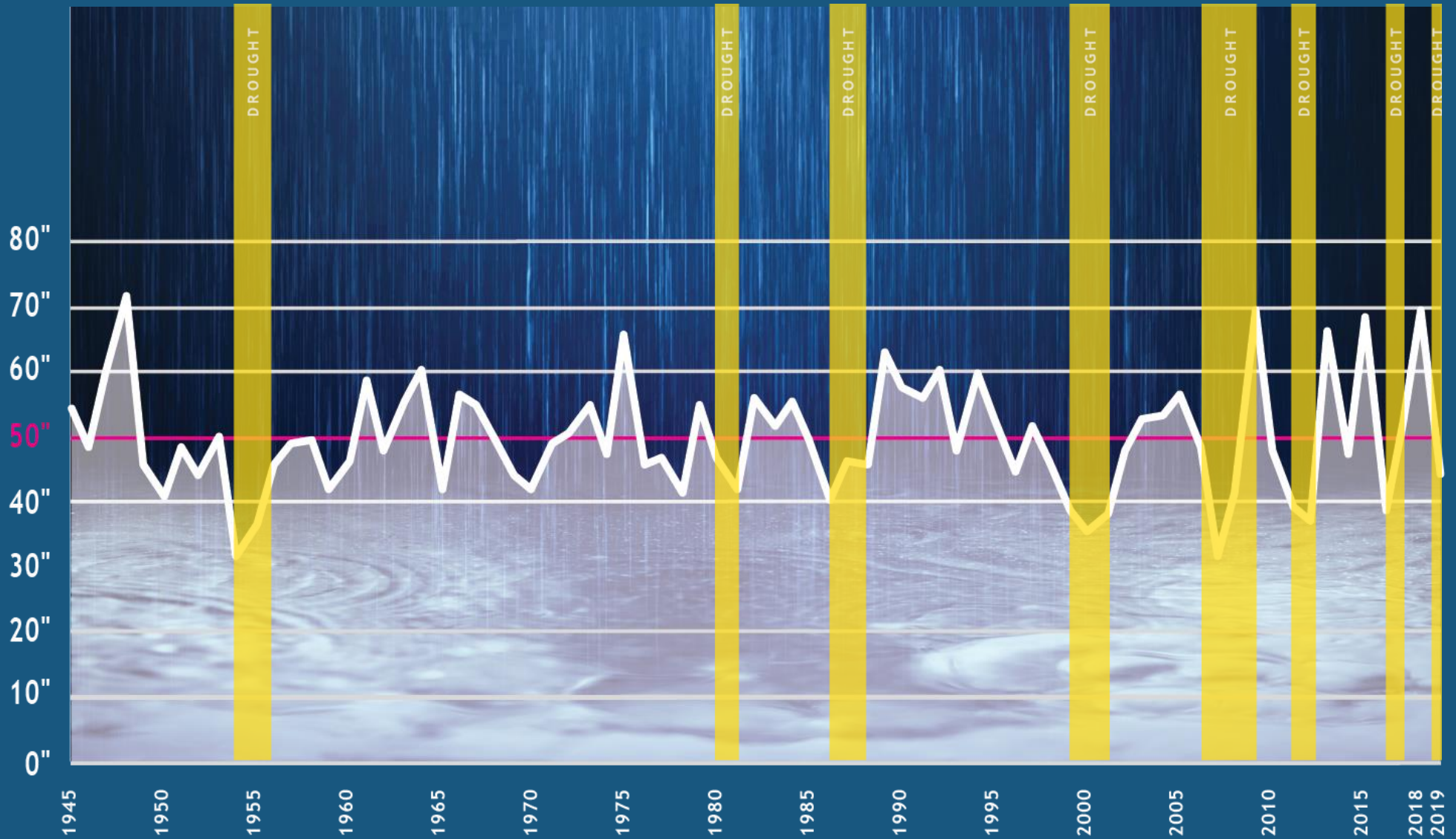
- Alabama Complaint ¶ 35.



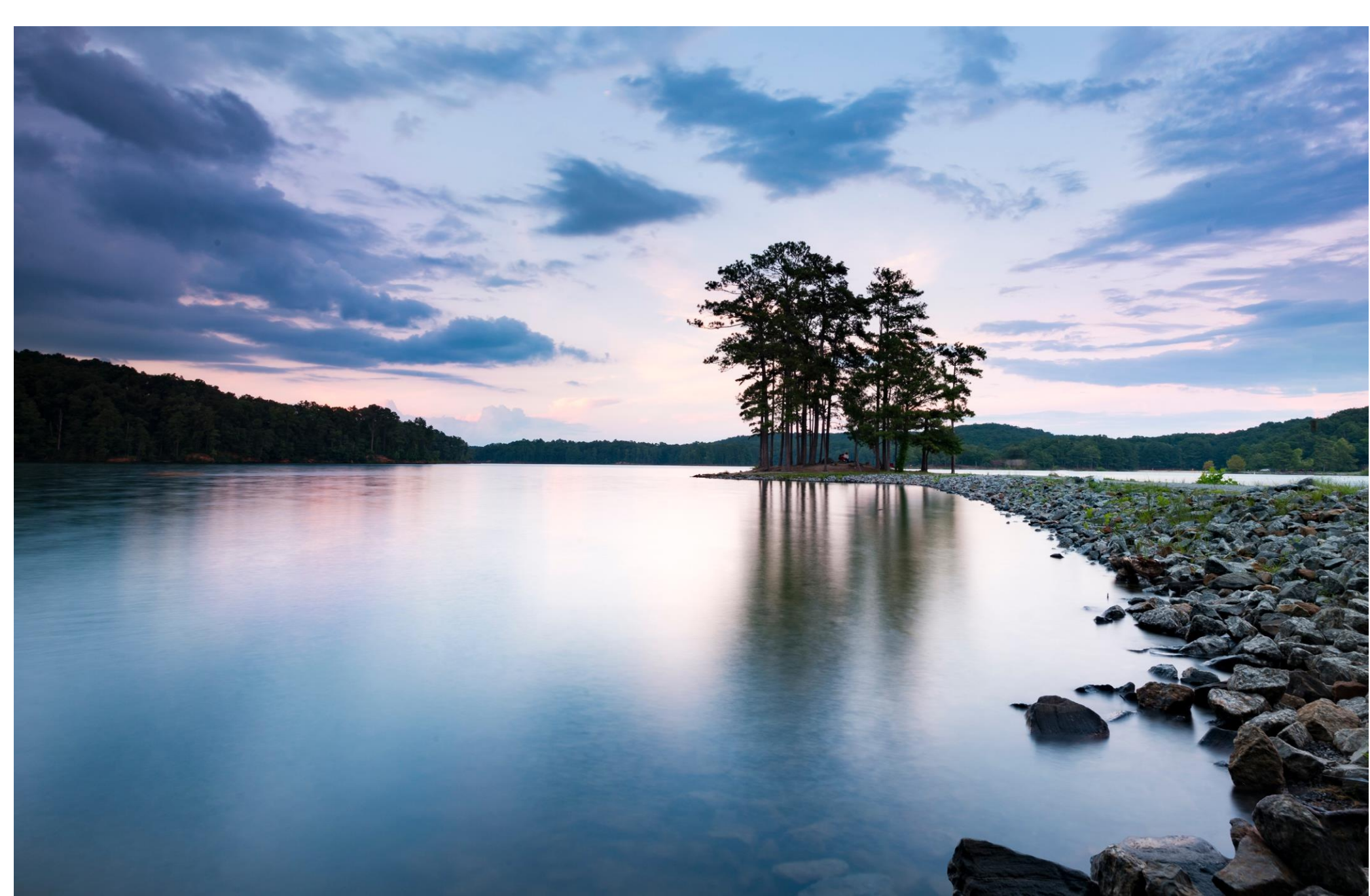
Lake Lanier  
Water Supply Contract

+ Allatoona Lake ??

Average Annual Rainfall = 50 inches



While we receive abundant rain most years, multi-year droughts stress our water supply and have become more frequent.



# Allatoona at Sunset

Courtesy: Audrey Andersen



R.J. Muraski  
Assistant Deputy  
North Texas Municipal  
Water District





Regional Service Through Unity... Meeting our Region's Needs Today and Tomorrow



## TEXAS INFRASTRUCTURE - APPROACH TO CERTAINTY

R.J. Muraski, Assistant Deputy Planning/CIP

Council for Quality Growth, March 17, 2021





NORTH TEXAS MUNICIPAL WATER DISTRICT



# REGIONAL PROVIDER: WATER, WASTEWATER, SOLID WASTE



NORTH TEXAS MUNICIPAL WATER DISTRICT

## BY THE NUMBERS



SERVE up to **80** COMMUNITIES

Service area of 2,200 square miles in 10 counties

Serving 1.8 million people in one of the fastest-growing regions in the country



**18**

MAJOR RAW & TREATED WATER PUMP STATIONS

**6**

WATER TREATMENT PLANTS  
876 MGD Capacity  
(million gallons/day)

**605+**  
MILES

WATER TRANSMISSION PIPELINES



**226+**  
MILES

LARGE-DIAMETER WASTEWATER PIPELINES

**13**

WASTEWATER TREATMENT PLANTS

**163+**  
MGD

WASTEWATER TREATMENT CAPACITY  
MGD (million gallons/day)



**3** TRANSFER STATIONS

up to 3,295 tons of solid waste/day

around **1 million**

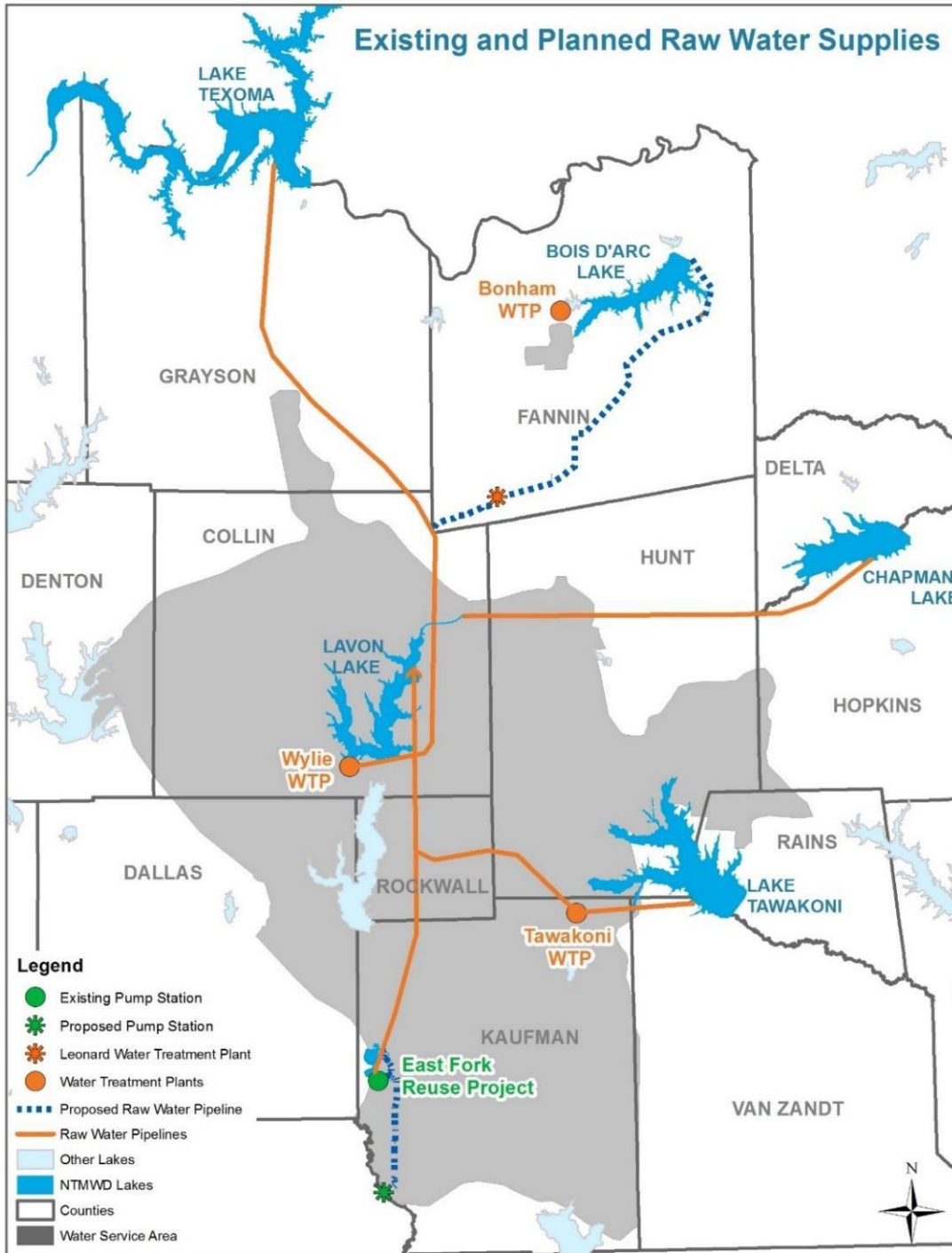
tons/year accepted at landfill



Rev. Dec. 2020



# EXISTING & PLANNED RAW WATER SUPPLIES



## Existing:

- Lavon Lake
- Lake Texoma
- Lake Tawakoni
- Chapman Lake
- Reuse/Wetland

## In Progress:

- Bois d'Arc Lake



## FEBRUARY 2021 WINTER STORM EVENT

- **Normal February temperatures North Texas (50s - 30s)**
  - 2 of 14 coldest days since 1886; State wide: 254 counties impacted
  - Certainty of water during extreme weather
- **Infrastructure not designed for extreme cold temps**
  - Maintenance crews challenged making repairs due to icy conditions
- **Planned maintenance during winter and lower demands**
  - Portion of system was offline, limiting capacity
  - Main breaks, frozen/broken pipes, dripping faucets resulted in double normal seasonal demands (~ 250 - 500 MGD)
- **Water and wastewater utilities require reliable power**
  - ERCOT (TX power grid manager) forced outages to prevent system-wide blackout
  - Backup generation required
  - District power strategy - helped cushion \$ impact





## LESSONS LEARNED – PLANNING CONSIDERATIONS

- **Back-up power generation critical**
- **Understanding between energy/water utilities in advance of crisis situations**
- **Evaluate key equipment for further protection measures**
- **Mutual aid partnerships**
- **Involve emergency responders in planning**
- **Infrastructure resiliency requires investment**
- **Events like Texas storm present opportunity to increase public awareness of infrastructure funding needs**



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