Water war shifts to southwest Georgia as Florida takes aim at farmers

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Christopher Worsham's 5,000-acre family farm produces a sweet corn crop twice a year that's sold fresh at grocery stores across the U.S. and

Canada, made possible by southwest Georgia's warm climate and water irrigated from the nearby Flint River basin.

It's the latter that has proven to be one of the biggest constraints on his ambitions—and one of the latest flash points in the three-decade water rights war pitting Florida and Alabama against Georgia.

For the last seven years, under pressure from the litigation, Georgia has placed a moratorium on the permits needed to drill more cost-effective wells that Worsham and his neighbors rely upon in this sandy, drought-prone corner of the state. That's driven up the price of land with well permits and made it harder for farmers to maximize or expand their operations.

"You can't get financed if you don't have irrigation," said the 37-year-old Worsham, a fourth-generation farmer. "You're not going to have a consistent crop and you can't borrow money."

The water wars enter a critical phase Thursday, when a Supreme Court-appointed judge in New Mexico weighs Florida's request to freeze Georgia's water usage at current levels through 2050 and cut it further during droughts. Alabama is watching from the sidelines but supports Florida, which wants more fresh water flowing downstream to aid its oyster industry in Apalachicola Bay after that industry collapsed during a 2012 drought.

Previous rounds of the legal fight focused on metro Atlanta's water usage farther upstream. But lately Florida has shifted its attention to southwest Georgia, targeting a cornerstone of the state's $13.8 billion agriculture industry. If Florida gets its way, Georgia's attorneys estimate the damage to the state's economy would be "severe," costing between $335 million to more than $1 billion to implement and several times more in lost economic output while decimating farms in the Flint basin.

The Florida v. Georgia case will also set a powerful legal precedent in the eastern United States, which has largely been spared the fierce water fights that have become commonplace in the West, as climate change threatens to create even more water battles in the decades to come.

"Water truly is the oil of this century," said Gordon Rogers, head of the Flint Riverkeeper, an Albany-based nonprofit conservation group dedicated to safeguarding the river. "Every time the Supreme Court decides one of these interstate cases, it's building more case law that helps inform management for the next situation and the next one and the next one."

Not far from Hartsfield-Jackson International Airport, a modest collection of creeks joins together to form the Flint.

The river broadens as it meanders south through farm country and feeds into Lake Seminole on the Florida border. It's part of a river basin that includes the Chattahoochee, which originates northeast of Lake Lanier. The Chattahoochee then flows along the Alabama border before converging with the Flint to form the Apalachicola River, which empties into the Gulf of Mexico.

The Apalachicola-Chattahoochee-Flint river basin is the main source of drinking water to more than 4 million people, including roughly 70% of metro Atlanta, according to one estimate. It also supports a broad swath of industries including agriculture, power generation, manufacturing, commercial fishing and recreation.

The current case before the Supreme Court represents just one of several winding their way through the federal courts after the states' political leaders repeatedly failed to strike a deal on their own.

Florida is asking the judge in Albuquerque to enforce conservation

efforts in metro Atlanta and "sensibly limit" future irrigation in farm country. It has zeroed in on agriculture along the Flint, where it characterized water usage as largely unchecked in a January legal brief.

"Georgia's strategy throughout this litigation has been to try to minimize the role that its runaway consumption has played in causing those injuries (to the Apalachicola Bay), while pointing the finger at anyone and anything else it can think of—the climate, Florida's own oyster fisherman, decades-old dredging activities, and so on," Florida argues in the brief.

Florida peppered its legal filings with quotes from the Supreme Court's first expert judge, who in a February 2017 memo chastised Georgia for not doing more to cut down on its agricultural water consumption, even as he recommended the court dismiss the case over a technicality. The justices rejected that first judge's recommendation and appointed a new expert adjudicator last year.

Floridians say they see the impact of the water wars every day. While it was common to see hundreds of oystermen in the Gulf of Mexico's Apalachicola Bay in past years, "you'd be hard-pressed to see anybody out commercially harvesting oysters presently," said Georgia Ackerman, executive director for the Apalachicola Riverkeeper.

"We're not getting (the fresh water that) we used to get, very simply put. The Apalachicola Bay has changed as a result of that, and not for the better," she added.

In a recent legal brief, Georgia argued it accounts for 92% of the population, 99% of the economic production and 96% of the employment in the Apalachicola-Chattahoochee-Flint basin but consumes "only a small portion" of available water. Georgia contends its water usage is "eminently reasonable" and that no cap on its consumption

will get Florida what it wants because it didn't sue the federal Army Corps of Engineers, which regulates the basin's locks and dams.

Any mandate to limit water usage would have a ripple effect across southwest Georgia, a region still reeling from the wraths of hurricanes Irma and Michael, twin tornadoes in 2017 and President Donald Trump's trade war with China.

"You have a lot of folks that are very worried about it," said Christopher Cohilas, chairman of the Dougherty County Commission, from his office overlooking downtown Albany and the river.

If Florida wins, it could harm Albany. And "if Albany doesn't make it, then turn out the lights for about 30 counties," Cohilas said. Not only is the region a major agricultural hub, he added, but corporations like MillerCoors and Procter & Gamble have built manufacturing facilities in the Albany area "because of the water. Period."

Irrigation has been nothing short of a godsend for the farmers in the counties surrounding Albany. It's reduced one of their biggest risk factors—weather—and increased crop yields in a region that has long been a leading producer of cotton, pecans and peanuts.

John McKissick, a professor emeritus at the University of Georgia's College of Agricultural & Environmental Sciences, credited water as Georgia's "single most important competitive advantage" in farming during a recent state legislative joint budget hearing.

In the past, farmers had largely policed themselves, but recent droughts and pressure from litigation from Florida and Alabama changed that.

The state has maintained its moratorium on new irrigation wells in more than two dozen southwest Georgia counties. (Farmers can drill into

deeper aquifers but some consider it prohibitively expensive.) It's also poured resources into studying, tracking and mapping out agricultural water usage in recent years.

A 2014 law increased water efficiency requirements for widely used crop irrigation technology, standards that local water experts expect the region will largely meet. In metro Atlanta, the state is credited with the widespread replacement of inefficient toilets, limiting daytime outdoor water use and improving a leak detection and repair program.

The University of Georgia's C.M. Stripling Irrigation Research Park in Camilla has helped develop and fine-tune apps that advise farmers on when and how much to water their crops based on weather forecasts and data from soil moisture sensors. The center also developed hardware attachments to irrigation systems that allow growers to control individual sprinklers electronically, which help further cut down on water use.

The sweet corn fields on Worsham's farm in Camilla are watered using low-pressure systems with more efficient drop nozzles that can be controlled with a smartphone. His pecan groves are irrigated via an underground system that's designed to cut down on evaporation by keeping the soil around the trees moist.

"Honestly, a lot of this we do because it saves me money," said Worsham, who is also a board member for the Flint Riverkeeper. "I feel like we were trying to be a little more responsible with the water and show that we understand the value of it."

Casey Cox's Mitchell County farm, which borders the Flint, has also adopted many of the same low-pressure, sensor-based and digital irrigation tools.

The 28-year-old recently began training to take over operations at her

family farm after working for the Flint River Soil and Water Conservation District, a local conservation organization. She worries that water battles could dissuade more young people from going into farming and agriculture.

"There's already a tremendous amount of scrutiny into agricultural practices in a way that I don't think previous generations have really experienced," said Cox, a sixth-generation farmer. "This lawsuit and focus on agricultural water uses brings another microscope into that."

Cruising down a Mitchell County section of the Flint in a boat on a recent sunny afternoon, the legal travails felt downright distant. Kingfishers dove for their lunch. Spanish moss draped over the branches of nearby bald cypress and American sycamore trees fluttered in the light breeze.

Perhaps the most distinct feature of the southern portion of the 350-mile river is its limestone bedrock, which forms shoals that jut out of the water to create small cliffs on either side of the bank. The Flint's limestone aquifer is porous—Rogers, the local riverkeeper, likened it to Swiss cheese—and its connections to the area's streams and creeks allows the water system to restock when it rains after a dry spell.

But that's only if Georgia manages its resources effectively and doesn't draw too much water, especially during droughts, so that more surface water can flow to Florida, according to Rogers.

"We have a flow problem here in Georgia that's caused by Georgians, is perpetrated upon Georgians and it can only be solved by Georgians," he said. "We're not waiting on this court case."

After the case is heard in New Mexico, the expert judge will make a recommendation to the Supreme Court, which can accept his findings,

reject them or opt for another round of arguments. Final resolution is not expected for months, if not upwards of a year, and additional federal cases all but ensure the Southeastern water battles won't end anytime soon.

The Flint and Apalachicola riverkeepers are part of a coalition of 56 stakeholder groups in Georgia, Florida and Alabama that for the last four years has pushed for a more middle-of-the-road water management plan to "equitably apportion" the waters of the disputed river basin. Among their proposed solutions is a tri-state institution to serve as a "data clearinghouse" to help solve conflicts, build consensus, develop water management plans and direct the Army Corps to make adjustments to their water plans.

"We can collectively make ourselves happy... where you're making money—through ag, a paper mill, a paddling outfitter or a quail plantation—and recreating," Rogers said. "We all have to come to the water hole."

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