

**In The
Supreme Court of the United States**

STATE OF FLORIDA,

Plaintiff,

v.

STATE OF GEORGIA,

Defendant.

Before the Special Master

Hon. Ralph I. Lancaster

**STATUS REPORT OF THE STATE OF GEORGIA
AUGUST 5, 2016**

This report constitutes the nineteenth monthly status report filed by the State of Georgia pursuant to Section 4 of the Case Management Plan.

I. MEDIATION

The parties are scheduling a fourth mediation session and remain in contact with the mediator in an effort to make progress between sessions. Georgia has devoted, and will continue to devote, resources to attempting to find ways to amicably resolve this dispute. Georgia continues to receive input from senior Georgia officials, including officials from the Attorney General's office, the Governor's office, and the Environmental Protection Division, in connection with its mediation efforts.

II. EXPERT DISCOVERY

Over the last month, the parties have continued to schedule and take expert depositions, leading up to the close of expert discovery on August 5, 2016. In compliance with Case Management Order No. 18, Georgia has completed its depositions of Florida's 20 experts with one exception. Dr. David Langseth, Florida's groundwater expert, disclosed new expert opinion and analysis the night before his final day of deposition, and Florida has agreed to allow Georgia an additional day in August to question Dr. Langseth on this latest disclosure. In addition to taking and defending expert depositions, Georgia has also timely responded to Florida's requests for additional information related to expert reports.

Florida's recent submissions present new opinions that were not disclosed by the deadlines set forth in the CMP. *See* Case Management Order No. 13. As mentioned in the last two status reports, Florida has now served multiple rebuttal expert reports since May 20, 2016 without a showing of "good cause." For example, Florida has disclosed two untimely memoranda authored by Dr. David Langseth—one on June 29, 2016 and the other the day before Dr. Langseth's deposition on July 20, 2016. These materials include new opinions and materials unrelated to any opinion disclosed in Florida's expert reports, and the timing of the disclosures made them difficult to review prior to Dr. Langseth's deposition and necessitate yet another day of deposition.

Florida's disclosures provided new opinions that were not disclosed by the appropriate deadlines. By contrast, of Georgia's four recent submissions, two were simply responses to Florida's untimely disclosures and the other two were supplemental expert disclosures that provide additional bases and materials to support opinions that were previously disclosed by the appropriate deadlines as required by Rule 26 of the Federal Rules of Civil Procedure and the Case Management Plan. These disclosures were submitted by Drs. Sorab Panday, Phillip

Bedient, and Suat Irmak. Georgia disclosed all materials relied upon or considered by Drs. Bedient, Irmak, and Panday in their respective supplemental disclosures.

For example, prior to the deposition of Dr. Irmak, Georgia disclosed Dr. Irmak's additional bases for his opinion and additional material that Dr. Irmak relied upon or considered as required by the CMP and the Federal Rules. Included in those materials was Georgia's wetted acreage database. In recent correspondence, Florida appears to claim that Georgia first produced the wetted acreage database last week and demands production of additional documents related to this database. This latest correspondence misstates the record. Multiple iterations of this database were produced during the course of fact discovery, including an updated version of the database completed in December 2015 which was produced in January 2016 (GA02419105 - GA02419106, GA02419488 - GA02419495, GA02419508 - GA0219509, GA02419512 - GA02419514, GA02420618, GA02421195, GA02422999) and another updated version of the database that was completed in February 2016 which was produced that same month (GA02474080). Georgia identified the database in its responses to Florida's Interrogatory No. 7 and directed Florida's attention to the database and related files by BATES number. During fact discovery, Florida also spent three days in January and February 2016 deposing Mark Masters, a professor from Albany State University who maintains the wetted acreage database—and much of the deposition consisted of questions related to that database. Florida had more than a year of fact discovery to depose individuals who worked to compile the database and, if necessary to make requests for additional documents related to the database. Florida's eleventh hour request for additional fact discovery during the last week of expert discovery—five months after fact discovery closed—is untimely and inappropriate.

Georgia aims to resolve these issues through an additional day of deposition testimony from Dr. Langseth, and will separately raise with the Special Master any further concerns about Florida's impermissible expert rebuttal reports.

Dated: August 5, 2016

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CERTIFICATE OF SERVICE

This is to certify that the AUGUST 5, 2016 STATUS REPORT OF THE STATE OF GEORGIA has been served on this 5th day of August 2016, in the manner specified below:

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