



LAKE HARTWELL ASSOCIATION. INC

**RECOMMENDATION
For
A SAVANNAH RIVER BASIN WATER AGREEMENT
BETWEEN GEORGIA and SOUTH CAROLINA**

**A Position Paper of the Lake Hartwell Association
November 16, 2004**

The Lake Hartwell Association (LHA) highly recommends and supports the concept that the States of Georgia and South Carolina, and including the Federal Government, should enter into an agreement concerning the management and operation of the water resources in the Savannah River Basin (SRB)*. It would be in the interest of all states to support this proposal. LHA also suggests that the time to undertake this activity is now before any water disputes occur which may result in long-term litigation and potentially negative consequences to one or more parties.

The Savannah River forms the boundary between South Carolina and Georgia for nearly 200 miles. Because the Federal Government, in the form of the U.S. Army Corps of Engineers (USACE), is such an important presence in the Basin, the States cannot address any of the issues associated with the Basin by themselves. In fact, the tendency to do so would only exacerbate the long term problems. A binding agreement, negotiated among the States and the Federal Government, is a highly desirable method to deal with otherwise foreseeable serious conflicts between the States and which, if done properly, will assure that all parties are equitably treated regarding SRB's resources. The agreement would create a mechanism whereby the States, working together with the USACE, can maximize the benefit of the SRB to all parties.

Ideally, if the negotiations among the parties were successful, an agreement would take the form of a Savannah River Basin Compact. A Compact is a specific form of interstate arrangement, provided for in the U.S. Constitution and used to create binding, enforceable agreements between states. A Compact is created when the legislatures of the respective states and the Congress of the United States all enact identical Bills that encompass the agreement and those Bills are signed into law by the respective Governors and the President.

A Compact provides the additional benefit of including the Federal Government and its many agencies as a Party. While there is occasionally reasonable opposition to including the Federal Government in any such agreement between the parties, the Federal Government is so pervasive a force and presence in the Savannah River Basin, no action of the States that materially affects the water resources can easily be accomplished without Federal permission and cooperation. The recent drought (2001 – 2003) made it clear, for example, that the interests of the States in the management of various reservoirs in the Savannah River Basin are not necessarily the same as those of the USACE. Therefore, LHA takes the position that the USACE should be part of any agreement in order for it to be effective.

The Savannah River situation is different and somewhat unique. Because the River, and its tributaries, headwaters and reservoirs, forms the entire boundary between South Carolina and Georgia, both states are interested in and affected by everything that occurs for its entire length.

Water supply, wastewater disposal, flood control, economic development, and recreation all have the potential to create conflict between the States at any point on the River. Therefore the Compact that South Carolina and Georgia should seek to negotiate must recognize this fact and establish procedures and mechanisms to address conflicts as they arise.

The following topics should be included for consideration among the involved parties during any studies or discussions organized for the purpose of developing an agreement/compact concerning the management and operation of the water resources in the Savannah River Basin (SRB):

- a. The allocation of the usable water supply in the river;
- b. Interbasin Transfers;
- c. The allocation of the pollutant assimilative capacity;
- d. Similar state protocols to manage the river basin;
- e. Common management in the basin during a drought;
- f. A bi-state strategy concerning future FERC relicensing;
- g. A clear and specific dispute resolution process for administration of the compact;
- h. The economic impact to the area within the Savannah River Basin due to residential and business growth and including the influence of the SRB waters on tourism and recreational use.

* There is a small portion of North Carolina that resides in the northern Savannah River Basin. Negotiations for this Agreement/Compact should include considerations for North Carolina where appropriate.

Note: The Lake Hartwell Association wishes to acknowledge the work and recommendations of the South Carolina “**Governor’s Water Law Review Committee**”. Excerpts from their “*Water Law Report - January 2004*”, which the Lake Hartwell Association provided significant comment to, were used to help formulate this position.

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