

*ACF Water Allocation
Negotiations & Litigation
(May, 2007)*

Downstream Stakeholder Involvement



Who Are We?



- Apalachicola Bay and Riverkeeper, Inc
- 501c(3) environmental advocacy orgn.
- Members in 22 states; majority are Floridians
- Mission: protect and preserve River and Bay
- Florida ACF Water Allocation Stakeholder
- Member of Waterkeeper Alliance
- Member of the Tri-State Conservation Coalition

The Apalachicola and Florida

- Largest river in Florida in flow volume
- Essentially pristine; but facing development surge
- Estuary critical to \$Billion Gulf Seafood Industry
- Designated National Estuarine Research Reserve
- Six panhandle counties directly border on river
- “Most Endangered” status in March, 2002
- Confronted with four related threats; freshwater flow #1



Apalachicola and Seafood

- **➤ \$100 million Local Seafood Industry, 90% of Florida Oysters, and 10% of US oysters, plus shrimp, crab and finfish.**
- **➤ In 1994, Five Million lbs. of Seafood were produced from the Apalachicola Bay region.**
- **➤ 90% of all harvested species must spend some part of their life cycle inshore on the marsh and seagrass environment, even the grouper caught offshore must rely on this healthy environment.**

Apalachicola Bio-Diversity

- ✦ **50 species of mammals**
- ✦ **1300 species of plants**
- ✦ **40 species of amphibians**
- ✦ **80 species of reptiles**
- ✦ **300 species of birds**

Four Interrelated Threats



- Reduced freshwater flows: ACF depletions
- Increased pollution: CWA violations
- Loss of floodplain habitat: COE dredging
- Unconstrained, unsustainable growth

Its All About Water

Background

- Over a decade of interstate legal disputes
- Past ten years (+) in tri-state negotiations
- ACF Compact provided basis for negotiations
- Criteria for evaluating proposals developed
- Riparian Florida counties endorsed these
- Currently seeking relief in Federal Court

Evaluation Criteria

- Flow Regimes
- Monitoring and Adaptive Management
- Inter-basin Transfers
- Public Involvement
- Consumptive Demand Management
- Enforceability
- Water Conservation Management
- Drought Management



Reduced Freshwater Flows



- Estuarine ecology and biodiversity depend on freshwater flows, periodicity, and “mixing bowl” effect
- Recent drought worst in 10 years
- Up-stream consumption ALSO a cause
- Highest salinity levels in the bay in years
- Red Tide is a salt-water originating event
- Proposed flow regime impact not scientifically verified
- We are seeking monthly flows that mimic history

First Order Magnitude Springs



Jackson Blue Spring

- Critical inputs during low flow conditions;
- Both Flint and Chipola spring-fed;
- Groundwater, springs, and Ag common tri-state concerns;
- Good land-use and Ag practices critical to health of the ACF Basin

Weeki-Wachi: Before and After



Maintenance Dredging

- Congressional authorization: Maintain 9'X100' Navigation Channel
- Continued Dredging “Unsound”:
 - Economically: cost/benefit just not there
 - Environmentally: “death” of habitat
 - Politically: Opposed by Gov. & cabinet
 - Un-necessary: Navigation “season”
 - Un-achievable: Engineering impossibility

“Guiding Principles”

- Negotiation Objectives
 - Equitable share of ACF surface water resources
 - Protect the ecology and productivity of resource
- Process Objectives
 - Update Stakeholders
 - Provide opportunities for Stakeholder participation in development of Water Allocation



Key Questions



- Negotiate or litigate?
- Whose side is time on?
- What scientific assessments of the impact of any proposed flow regime have been made? What do they conclude?
- Will public participation be limited?
- If litigation terminated by any of the states, what are the planned next steps?
- Can the Corps of Engineers let Atlanta continue to withdraw water at 2030(+) rates?

Challenges and Opportunities



- Challenge: Good faith bargaining;
- Challenge: Equitable adjudication;
- Challenge: Effective Stakeholder participation;
- Challenge: Competent scientific assessment;
- Challenge: Public support for equitable, understandable, enforceable agreement.

Thanks for inviting us to speak



We sincerely believe it is better to try to help shape good public policy than just to react to bad public policy after the fact.

www.apalachicolariverkeeper.org