

HOW DO STAKEHOLDERS GET A VOICE...

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REFERENCE: *Proceedings of the 2011 Georgia Water Resources Conference*, held April 11–13, 2011, at the University of Georgia.

Abstract. For 20 years the states of Georgia, Florida and Alabama have been arguing through the courts and direct contact over how the waters of the Apalachicola-Chattahoochee-Flint (ACF) watershed will be used. In 2003 there was actually an agreement reached among all three state Governors with signatures on the dotted line. Then someone decided it was not fair to them and convinced the Florida Governor to withdraw support from the agreement. So it was back to the courts...

When 6 or 7 law suits were consolidated into a single Multiple District Litigation (MDL) court and a federal judge with prior water resolution experience assigned to the case, there was a sense that some movement would be made in reaching some kind of settlement. Although it was well known that finally there would be winners and losers no one knew who would be which.

Judge Magnuson reviewed all of the cases and decided that there were really two key issues; 1) arguments over water supply usage by upstream municipalities and industries and 2) rights to augmented flows to protect the endangered species in the lower reaches of the watershed. His decision to take the water supply issue first resulted in his ‘draconian’ decision’ (his words) that Lake Lanier was not authorized for water supply purposes and that the Corps of Engineers had overstepped its authority under the ‘incidental usages’ provisions of their authority to allocate the waters in Lake Lanier for water supply purposes.

His subsequent ruling however was that the waters of the ACF watershed could not be used to augment the flows into Apalachicola River beyond what was already established as being sufficient by the Fish and Wildlife Service in their Biological Opinion supporting the Corps of Engineers operating rules for the reservoirs on the ACF watershed.

Given this history and frustration over numerous aspects, a small group of ACF stakeholders met in August 2008. This meeting of representatives from all three states and from numerous water interests resulted from one person calling another person and posing a question. Attendees included representatives from the Atlanta Regional Commission, City of LaGrange, Southern Nuclear, Lake Lanier Association, Apalachicola Riverkeeper, and the Tri Rivers Waterway Development

Association. The central question at the meeting was: “Can the stakeholders achieve something that the political structures of the three states have not achieved, i.e. agree to an equitable sharing of the waters of the ACF watershed”?

From this first meeting a process evolved that not only involved the original 7 stakeholders who met in August but expanded to become a dynamic organization of over 100 members representing large corporations, cities, counties, advocacy groups, agriculture interests, and environmental organizations. But getting to that stage was not an easy task.

The steps along the way were measured and carefully taken.

First, it was recognized that due to the history of conversations about the issues separating the states, a professional facilitator would be required to managing the dialogue among the stakeholders. And the facilitator could not have a mailing address that ended in GA, FL or AL. As circumstances played out, representatives of the Environmental Conflict Resolution (ECR) organization from the Morris K Udall Institute (now U. S. Institute) were in the Atlanta area and a preliminary meeting was held with them. Being located in Arizona, they met the criteria.

ECR acknowledged that the federal government had a vital interest in a settlement to the water dispute so they agreed to provide pro bono services to the fledgling organization. Under their meeting and process facilitation services, a series of workshops were held throughout the ACF watershed from the Metro Atlanta area to the Apalachicola area. The intent was to put forward the concept of a stakeholders group and solicit participation in a Steering Committee.

With a core group of 30 stakeholders who met 4 times in meetings up and down the watershed and facilitated by ECR, various organizational issues were developed, culminating in a Charter and Bylaws document that established a far reaching governance structure.

The results of the process in summary are:

- 14 different water interest categories were defined and include:
 - Water supply
 - Water quality
 - Environmental and conservation
 - Thermal Power

- Hydro Power
- Recreation
- Navigation
- Farm and urban agriculture
- Local government
- Seafood industry
- Business and/or economic development
- Historic and cultural
- Industry and manufacturing
- Other
- Four sub-basins were defined as:
 - Upper Chattahoochee
 - Lower/Middle Chattahoochee
 - Flint
 - Apalachicola
- An Executive Committee was created with one representative from each sub-basin.
- A consensus decision making process for substantive issues was adopted

During the organizational development process, the litmus test for any governance decision was “balance and diversity”. If a decision took us away from those criteria, it was rejected. If it contributed to those criteria then it was evaluated for its merits. The conviction was that if the organization was to have clout then it must represent a paradigm different than the paradigm that had existed for the previous 20 years, i.e. everyone fights for their own parochial interests. There had to be a willingness for each stakeholder to agree that other stakeholders had a right to the waters of the ACF watershed. The ‘holy grail’ was equitable sharing and a sustainable resource.

The only change made to the initial governance provisions is that the Executive Committee has been expanded to 8 members, with 2 from each sub-basin, and the Executive Committee has been given greater authority over the administrative affairs of the organization. The principle that the Chair position will rotate among the 4 sub-basins on an annual basis has been retained. The Charter defined several Standing Committees and these committees were launched with a charge as defined in the Charter. A key committee was the Issues Committee which would have the challenge to vet issues as they came up and to organize them into a process including allocation of resources, goals, tasks, etc. Their job was not to resolve the issue but only to organize it for decision making by the Governing Board. Another unique committee to the stakeholder initiative is the Inter-Governmental Affairs Committee. This committee has the responsibility to focus on relationships with the various state and federal agencies that are involved in managing and setting policies for the waters of the ACF Basin.

Now to the hard part - It was generally believed that this structure would enable the organization to get into substantive issues such as how can we best share the waters of the ACF Basin. Some initial projects were:

Defining stakeholder water needs – A useful exercise was to solicit input from each of the water interest categories in each sub-basin as to what their water needs (versus wants) are. This resulted in a 140 page document compiled from throughout the ACF Basin. Some water interest were able to state definitive metrics for their water needs. Others expressed theirs in more general terms. There was no evaluation of the needs expressions, but rather the document served as a framework for later actions.

Defining data modeling resources – A work group was formed to document the sources of data modeling throughout the ACF Basin. A document was produced that highlighted the various types of modeling resources, the data used by those models.

Sustainability definitions – Recognizing that the ultimate goal of the organization was a water management plan that was sustainable, a work group was formed to evolve a definition of sustainability that would receive a consensus approval. This was one of the first major efforts at achieving a substantive consensus agreement.

These three work groups produced significant results and at the next Governing Board meeting held at Lake Lanier Islands, their reports were given. It was recognized that these three topics needed to be integrated so a Data-Needs-Sustainability work group was formed to pull together those results and to move forward with a comprehensive modeling effort. This has resulted in the production of a Request for Qualifications and a Statement of Work that has been sent to qualified technical consulting firms to produce water management scenarios that will recognize the water needs of the diverse stakeholders with the goal of equitable sharing of the waters of the ACF Basin.

Do Better with What We Got – A work group was formed to investigate and document how the waters of the ACF Basin could be utilized more efficiently, i.e. with less consumptive loss. The ideas brought forward in an online survey and in brainstorming sessions were far reaching and comprehensive. The focus was on how each water user, from businesses to agricultural interests and water supply agencies could accomplish their needs for water more efficiently and will less loss.

It should be noted that these efforts are the first time ever that the scope of the projects have been undertaken by representatives from each of the 3 states with water

professionals, businesses, agriculture and advocacy groups participating.

During the course of Governing Board meetings to arrive at this position, it was recognized that the “800 lb gorilla” in the room was the environmental instream flow requirements. A workshop dedicated to technical exploration of this critical topic was held at the Jones Ecological Center in Southwest Georgia. While not ending in a definitive agreement as to the needs, the workshop provide insight into the complexities of the issue and the scope of approaches that could be taken to better understand it. The results of the workshop have been incorporated into the Scope of Work.

Facilitation Services - From the beginning it was recognized that this diverse group that had previously only met in the court room needed a professional facilitator in order to have focused and progressive discussions. It was believed that the facilitator could not have an address in either of the 3 states if they were to be perceived as neutral parties. A stated earlier, the ECR served this role admirably, however it was recognized that their role would come to an end and the organization would have to become more self-reliant.

On an interim basis, the Fanning Institute at the University of Georgia, in collaboration with the University of Florida and Auburn University, provided facilitation services.

In a search for facilitation services, the Resolve Group in Washington, DC was contracted to provide meeting and process facilitation services.

Status - The ACF Stakeholders has survived the first year of being an organization. It has gone through a transition of officers and change in the Governing Board composition. It has made alterations to the Charter and Bylaws reflective of the experiences of the first year. It has obtain IRS 501 c 3 status.

Equally important it has evolved a sense of trust among the diverse stakeholders that is enabling the discussion of controversial issues. There is a growing awareness of the needs of other water interest categories in the Basin and the recognition that in order for a solution to the water conflict to be long lasting it has to recognize the needs of all stakeholders in the group.

Reminiscent of the Do Better work group effort, at the last Governing Board meeting a discussion was held to solicit ideas from the each of the Governing Board members as to decisions that would contribute to improved water management for the Basin. Significantly, representatives of each sub-basin identified actions that could take place within their own sub-basin to result in more water for others or for a less need for water on their part. This was significant in that it included ideas for

restoration of their own sub-basin to remove factors that increased the need for water.

With this approach and with the significant Statement of Work focused on a sustainable water management system, the organization is on the way to achieving its overall Mission of changing the way the ACF watershed is managed.



Figure 1. The governance provisions are illustrated in this diagram.