

Our Fair Share of River Water

An opinion piece by Matt Lembke

People often ask why Alabama is fighting over water in the two river basins that our state shares with Georgia. The answer is simple: While Alabama is willing to pay the costs associated with its own growth, Alabama is not willing to pay the costs of Atlanta's growth. Robust economic development in Atlanta can be good for the region we share, but it is not good for downstream communities, including those in Alabama, if Atlanta is not willing to bear the water infrastructure costs that accompany that economic growth.

“The stakes of the ‘water war’ are enormous.”

Our region is blessed with abundant water resources, but several severe droughts in recent decades have shown that those resources are not unlimited. Communities in Alabama have come to depend on a certain level of flows in the Chattahoochee River Basin and the Coosa/Tallapoosa River Basin, both in dry times and wet times. When we are experiencing plentiful rainfall, those communities know how much river flow they can expect to receive, just as they know how much river flow they can expect in dry times. Economic and environmental expectations and investments in Alabama communities have been based on those historical flow amounts.

As a result of explosive growth, Atlanta-area communities have greater needs for

water. One way to meet those needs is for those communities to invest in reservoirs and other infrastructure to store water in times of heavy rainfall. But Atlanta-area communities have not followed that path. Instead, they have relied almost exclusively on increased use of water from two large federal reservoirs—Lake Lanier and Lake Allatoona—to meet increased water demand. Those reservoirs were built with federal tax dollars and, therefore, do not belong to Georgia. The problem is that Atlanta's increased usage of those reservoirs removes water from the system that would otherwise have flowed to downstream communities.

What has been the result of this over the last 40 years? Atlanta has increasingly taken more water out of the river systems than it ever has before, which means there is now less water available to downstream communities in Alabama. The message to Alabama is clear: If Alabama just wants to stay even with the river flows it has received historically, it will have to spend hundreds of millions of dollars to build reservoirs to store water during periods of heavy rainfall so that Atlanta does not have to build those reservoirs. In other words, Alabama will have to pay for Atlanta's growth.

Not surprisingly, Alabama is not willing to accept that deal. If Alabama needs to use more water than it has historically received, then Alabama is willing to build the reservoirs to make that possible. But Alabama is not willing to take less than its historical flows so that Atlanta can avoid spending money on water-supply infrastructure.

While Alabama welcomes a healthy competition with Georgia

for economic development, it is hardly fair for Georgia to shift the costs of its growth onto its sister state. The stakes of the “water war” are enormous. Not only is a level playing field for economic development at issue, but environmental quality in Alabama rivers also is in play.

Nobody wants to fight with his neighbor. Alabama would like nothing better than to end decades of legal expenses it has incurred in connection with the many court cases involving this controversy. Alabama believes that a fair settlement is possible. But Alabama cannot live with a situation where it is being forced to bear the costs of someone else's growth.

Matt Lembke is an attorney who represents the state of Alabama in the water war litigation. He is a partner in the firm Bradley Arant Boult Cummings, working in the Birmingham office.

