Atlanta case raises questions about water supply

By Ben Evans
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WASHINGTON — Sixty years ago, the late Atlanta Mayor William Hartsfield resisted helping to pay for Lake Lanier, a new federal reservoir being built north of town. Atlanta had plenty of water, he wrote Congress. Thanks, but no thanks.

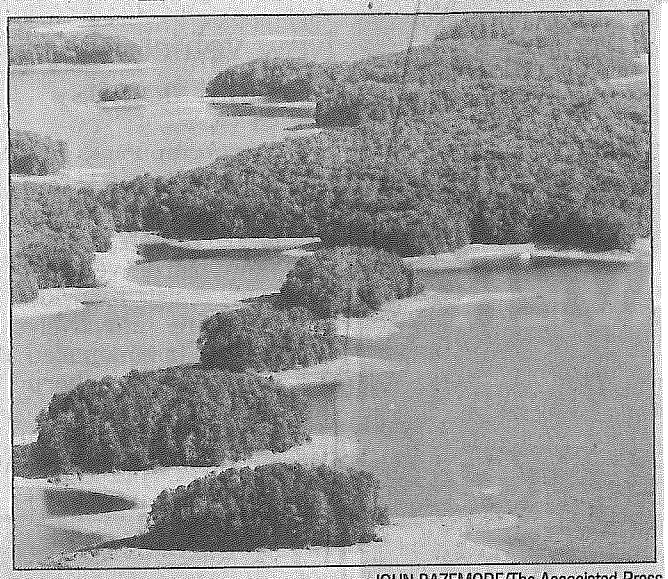
Those words came back to haunt Atlanta last year. A federal judge ruled that the city has been illegally tapping Lanier for years as its primary water source. Unless Congress reclassifies the lake as a water supply, the judge ruled, Atlanta will be cut off by 2012.

The question now is how many other cities might be in the same boat, according to experts interviewed by The Associated Press. The Army Corps of Engineers, which sells water from 135 federal reservoirs around the country, recently gave Congress a preliminary list of 40 projects in 14 states that were not initially authorized for supplying water but are being used for that purpose.

Georgia leaders are trying to rally other states as allies in pursuing new classification from Congress for all the corps' lakes. But the effort isn't gaining much traction. Many city leaders have a hard time envisioning water shortages — just as Hartsfield did in 1948.

"I think the people around here would come unglued if the government came in and said we don't have an authorization to use Lake Winnebago after we've been using it for close to 40 years," said Mayor Tim Hanna of Appleton, Wis.

At least 500,000 people in various eastern Wisconsin communities rely on Winnebago for water, even though the corps has said that its use is not authorized.



JOHN BAZEMORE/The Associated Press

A federal judge has ruled that Atlanta has been illegally tapping Lake Lanier as its primary water source.

In southern Kentucky, tens of thousands of people rely on water from Laurel River Lake, which was originally built for hydropower and recreation.

"We don't have any contingency plans," said Randy Bingham, the superintendent of the London Utility Commission, which supplies water from the lake to about 12,000 people.

The Atlanta case, which was brought by Florida and Alabama in a 20-year feud over river rights, highlights a long-simmering struggle to reconcile the original intent of the reservoirs with modern demands for water. With water supply traditionally a local responsibility, the federal lakes were mostly built after World War II to generate hydropower or ease river navigation, often with private companies picking up much of the construction costs.

Only after population growth has the corps turned more to water supply. The shift has often come on shaky legal ground, as U.S. District Judge Paul Magnuson found with Lake Lanier.

In his ruling, Magnuson noted Congress listed water supply as an "incidental" use of the lake, thanks largely to resistance from Hartsfield and other Atlanta leaders. As a result, he found, the corps is breaking the law by selling nearly a quarter of the lake's capacity to Atlanta.

Lanier now serves about 3 million people, but Magnuson said the spigot will be mostly cut off in three years if Georgia can't push a settlement through Congress — a daunting task given fierce resistance from Florida and Alabama, which rely on strong river flows downstream for their own industries.

"The court recognizes that this is a draconian result," the ruling said. "It is, however, the only result that recognizes how far the operation of (the project) has strayed from the original authorization."

It's unclear just how many reservoirs have similarly strayed. The corps, which maintains that it is operating the lakes legally, has authority to divert excess capacity in a reservoir even when water supply wasn't an initial purpose. The question is whether the corps is stretching the law to satisfy all the demands — as Magnuson found in the Lanier case.