

IN THE UNITED STATES COURT OF APPEALS  
FOR THE ELEVENTH CIRCUIT

\_\_\_\_\_  
No. 09-14657-GG  
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FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT

JAN 20 2010

THOMAS K. KAHN  
CLERK

In Re:

MDL-1824 TRI-STATE WATER RIGHTS LITIGATION,

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3:07-cv-00249

STATE OF ALABAMA,  
ALABAMA POWER COMPANY,  
STATE OF FLORIDA,

Plaintiffs-Appellees,

versus

UNITED STATES ARMY CORPS OF ENGINEERS,  
PRESTON M. GEREN, Secretary of the Army,  
JO-ELLEN DARCY, Assistant Secretary of the  
Army(Civil Works),  
LIEUTENANT GENERAL ROBERT L. VAN ANTWERP,  
Chief of Engineers,  
BRIGADIER GENERAL TODD T. SEMONITE,  
Commander, South Atlantic Division,  
COLONEL BYRON G. JORNS, Commander,  
Mobile District,

Defendants-Appellants,

UNITED STATES FISH AND WILDLIFE  
SERVICE,et al.,

Defendants.

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3:07-cv-00252

STATE OF GEORGIA,  
ATLANTA REGIONAL COMMISSION,  
CITY OF ATLANTA, GEORGIA,

FULTON COUNTY,  
DEKALB COUNTY,  
COBB COUNTY-MARIETTA WATER AUTHORITY,  
CITY OF GAINESVILLE, GEORGIA,  
LAKE LANIER ASSOCIATION  
GWINNETT COUNTY, GEORGIA,

Plaintiffs-Appellants  
Cross-Appellees,

versus

UNITED STATES ARMY CORPS OF ENGINEERS,  
PRESTON M. GEREN, in his official  
capacity as Acting Secretary of  
the United States Army,  
JO-ELLEN DARCY, Assistant Secretary of  
the Army (Civil Works),  
LIEUTENANT GENERAL ROBERT L. VAN ANTWERP,  
Chief of Engineers,  
BRIGADIER GENERAL TODD T. SEMONITE,  
Commander, South Atlantic Division,  
COLONEL BYRON G. JORNS, Commander,  
Mobile District,

Defendants-Appellees,  
Cross-Appellants,

JOHN P. WOODLEY, JR., in his official  
capacity as Assistant Secretary  
of the United States Army for Civil Works,  
JOSEPH SCHROEDEL, in his official  
capacity as Division Commander,  
South Atlantic Division,  
PETER F. TAYLOR, JR., in his official  
capacity as District Commander, Mobile  
District, United States Army Corps of Engineers,  
SOUTHEASTERN FEDERAL POWER CUSTOMERS,  
INC.,

Defendants-Appellees.

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3:08-cv-233

CITY OF APALACHICOLA FLORIDA,

Plaintiff-Appellee,

versus

THE UNITED STATES ARMY CORPS OF ENGINEERS,  
PRESTON M. GEREN, Acting Secretary  
United States Army,  
JO-ELLEN DARCY, Assistant Secretary of the  
Army(Civil Works),  
LIEUTENANT GENERAL ROBERT L. VAN ANTWERP,  
Chief of Engineers,  
BRIGADIER GENERAL TODD T. SEMONITE,  
Commander, South Atlantic Division,  
COLONEL BYRON G. JORNS, Commander,  
Mobile District,

Defendants-Appellants,

JOHN PAUL WOODLEY, JR.,  
Assistant Secretary United States Army,  
JOSEPH SCHROEDEL,  
Brig Gen Commander South Atlantic  
Division US Army Corps of Engineers,  
et al.,

Defendants.

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3:08-cv-640

SOUTHEAST FEDERAL POWER  
CUSTOMER, INC.,  
CITY OF APALACHICOLA, FLORIDA,

Plaintiffs-Appellees,

versus

LOUIS CALDERA, in his official capacity  
as Secretary of the Army.,  
JOSEPH E. WESTPHAL, in his official  
capacity as the Assistant Secretary of the Army,  
ROBERT B. FLOWERS, Lt. General in his

official capacity as the commander, United States Army Corps of Engineers,  
PHILLIP R. ANDERSON, Maj. General in his  
official capacity as the South Atlantic Division Commander, United States Army Corps of Engineers,  
JOHN D. NORWOOD, Col. in his official capacity  
as the Mobile District Commander, United States Army Corp of Engineers, et al.

Defendants,

THE UNITED STATES ARMY CORPS OF ENGINEERS,  
PRESTON M. GEREN, Secretary of The Army,  
JO-ELLEN DARCY, Assistant Secretary of the  
Army (Civil Works),  
LIEUTENANT GENERAL ROBERT L. VAN ANTWERP,  
Chief of Engineers,  
BRIGADIER GENERAL TODD T. SEMONITE,  
Commander, South Atlantic Division,  
COLONEL BYRON G. JORNS, Commander  
Mobile District,

Defendants-Appellants.

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Appeal from the United States District Court for the  
Middle District of Florida

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Before TJOFLAT, BLACK, and WILSON, Circuit Judges.

BY THE COURT:

Alabama and Florida's joint motion to dismiss the appeals from the district court's July 17, 2009, order is DENIED. The individual cases consolidated by the Judicial Panel on Multidistrict Litigation under 28 U.S.C. § 1407 were only consolidated for pretrial purposes and retained their individual identities. *See* 28 U.S.C. § 1407(a); *Lexecon Inc. v. Milberg Weiss Bershad Hynes & Lerach*, 523 U.S. 26, 33-34, 118 S.Ct. 956, 961, 140 L.Ed.2d 62 (1998); *Lewis Charters, Inc. v. Huckins Yacht Corp.*, 871 F.2d 1046, 1049-50 (11th Cir. 1989). The district court's July 17th order

constitutes a final judgment in member case number 3:07-cv-00252 because it resolved all non-abandoned issues against the plaintiffs, meaning nothing is left for the district court to do but execute the judgment. *See* 28 U.S.C. § 1291; Fed.R.App.P. 4(a)(7)(B); *Resolution Trust Corp. v. Dunmar Corp.*, 43 F.3d 587, 599 (11th Cir. 1995) (*en banc*); *Road Sprinkler Fitters Local Union No. 669 v. Indep. Sprinkler Corp.*, 10 F.3d 1563, 1568 (11th Cir. 1994); *Pitney Bowes, Inc. v. Mestre*, 701 F.2d 1365, 1368 (11th Cir.1983). Additionally, we accept pendent jurisdiction over the entire July 17th order because all issues raised by the appellants are inextricably intertwined. *See Sierra Club v. Van Antwerp*, 526 F.3d 1353, 1359 (11th Cir. 2008); *Summit Med. Assocs., P.C. v. Pryor*, 180 F.3d 1326, 1335 (11th Cir. 1999).