

105TH CONGRESS
1ST SESSION

S. J. RES. 33

Granting the consent of Congress to the Alabama-Coosa-Tallapoosa River
Basin Compact.

IN THE SENATE OF THE UNITED STATES

JUNE 27, 1997

Mr. SHELBY (for himself, Mr. SESSIONS, Mr. CLELAND, and Mr. COVERDELL)
introduced the following joint resolution; which was read twice and re-
ferred to the Committee on the Judiciary

JOINT RESOLUTION

Granting the consent of Congress to the Alabama-Coosa-
Tallapoosa River Basin Compact.

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*
3 **SECTION 1. CONGRESSIONAL CONSENT.**

4 Congress consents to the Alabama-Coosa-Tallapoosa
5 River Basin Compact entered into between the States of
6 Alabama and Georgia. The compact is substantially as fol-
7 lows:

8 “ALABAMA-COOSA-TALLAPOOSA RIVER BASIN COMPACT

9 “The States of Alabama and Georgia and the United
10 States of America hereby agree to the following compact

1 which shall become effective upon enactment of concurrent
 2 legislation by each respective State legislature and the
 3 Congress of the United States.

4 “SHORT TITLE

5 “This Act shall be known and may be cited as the
 6 ‘Alabama-Coosa-Tallapoosa River Basin Compact’ and
 7 shall be referred to hereafter in this document as the ‘ACT
 8 Compact’ or ‘Compact.’

9 “ARTICLE—I

10 “COMPACT PURPOSES

11 “This Compact among the States of Alabama and
 12 Georgia and the United States of America has been en-
 13 tered into for the purposes of promoting interstate comity,
 14 removing causes of present and future controversies, equi-
 15 tably apportioning the surface waters of the ACT, engag-
 16 ing in water planning, and developing and sharing com-
 17 mon data bases.

18 “ARTICLE—II

19 “SCOPE OF THE COMPACT

20 “This Compact shall extend to all of the waters aris-
 21 ing within the drainage basin of the ACT in the States
 22 of Alabama and Georgia.

23 “ARTICLE—III

24 “PARTIES

25 “The parties to this Compact are the States of Ala-
 26 bama and Georgia and the United States of America.

1 “ARTICLE—IV

2 “DEFINITIONS

3 “For the purposes of this Compact, the following
4 words, phrases and terms shall have the following mean-
5 ings:

6 “(a) ‘ACT Basin’ or ‘ACT’ means the area of
7 natural drainage into the Alabama River and its
8 tributaries, the Coosa River and its tributaries, and
9 the Tallapoosa River and its tributaries. Any ref-
10 erence to the rivers within this Compact will be des-
11 ignated using the letters ‘ACT’ and when so ref-
12 erenced will mean each of these three rivers and
13 each of the tributaries to each such river.

14 “(b) ‘Allocation formula’ means the methodology, in
15 whatever form, by which the ACT Basin Commission de-
16 termines an equitable apportionment of surface waters
17 within the ACT Basin among the two States. Such for-
18 mula may be represented by a table, chart, mathematical
19 calculation or any other expression of the Commission’s
20 apportionment of waters pursuant to this compact.

21 “(c) ‘Commission’ or ‘ACT Basin Commission’ means
22 the Alabama-Coosa-Tallapoosa River Basin Commission
23 created and established pursuant to this Compact.

1 “(d) ‘Ground waters’ means waters within a satu-
2 rated zone or stratum beneath the surface of land, wheth-
3 er or not flowing through known and definite channels.

4 “(e) ‘Person’ means any individual, firm, association,
5 organization, partnership, business, trust, corporation,
6 public corporation, company, the United States of Amer-
7 ica, any State, and all political subdivisions, regions, dis-
8 tricts, municipalities, and public agencies thereof.

9 “(f) ‘Surface waters’ means waters upon the surface
10 of the earth, whether contained in bounds created natu-
11 rally or artificially or diffused. Water from natural springs
12 shall be considered ‘surface waters’ when it exits from the
13 spring onto the surface of the earth.

14 “(g) ‘United States’ means the executive branch of
15 the government of the United States of America, and any
16 department, agency, bureau or division thereof.

17 “(h) ‘Water Resource Facility’ means any facility or
18 project constructed for the impoundment, diversion, reten-
19 tion, control or regulation of waters within the ACT Basin
20 for any purpose.

21 “(i) ‘Water resources,’ or ‘waters’ means all surface
22 waters and ground waters contained or otherwise originat-
23 ing within the ACT Basin.

1 “ARTICLE—V

2 “CONDITIONS PRECEDENT TO LEGAL VIABILITY OF THE
3 COMPACT

4 “This Compact shall not be binding on any party
5 until it has been enacted into law by the legislatures of
6 the States of Alabama and Georgia and by the Congress
7 of the United States of America.

8 “ARTICLE—VI

9 “ACT BASIN COMMISSION CREATED

10 “(a) There is hereby created an interstate adminis-
11 trative agency to be known as the ‘ACT Basin Commis-
12 sion.’ The Commission shall be comprised of one member
13 representing the State of Alabama, one member represent-
14 ing the State of Georgia, and one non-voting member rep-
15 resenting the United States of America. The State mem-
16 bers shall be known as ‘State Commissioners’ and the
17 Federal member shall be known as ‘Federal Commis-
18 sioner.’ The ACT Basin Commission is a body politic and
19 corporate, with succession for the duration of this Com-
20 pact.

21 “(b) The Governor of each of the States shall serve
22 as the State Commissioner for his or her State. Each
23 State Commissioner shall appoint one or more alternate
24 members and one of such alternates as designated by the
25 State Commissioner shall serve in the State Commis-

1 sioner's place and carry out the functions of the State
2 Commissioner, including voting on Commission matters,
3 in the event the State Commissioner is unable to attend
4 a meeting of the Commission. The alternate members
5 from each State shall be knowledgeable in the field of
6 water resources management. Unless otherwise provided
7 by law of the State for which an alternate State Commis-
8 sioner is appointed, each alternate State Commissioner
9 shall serve at the pleasure of the State Commissioner. In
10 the event of a vacancy in the office of an alternate, it shall
11 be filled in the same manner as an original appointment.

12 “(c) The President of the United States of America
13 shall appoint the Federal Commissioner who shall serve
14 as the representative of all Federal agencies with an inter-
15 est in the ACT. The President shall also appoint an alter-
16 nate Federal Commissioner to attend and participate in
17 the meetings of the Commission in the event the Federal
18 Commissioner is unable to attend meetings. When at
19 meetings, the alternate Federal Commissioner shall pos-
20 sess all of the powers of the Federal Commissioner. The
21 Federal Commissioner and alternate appointed by the
22 President shall serve until they resign or their replace-
23 ments are appointed.

24 “(d) Each State shall have one vote on the ACT
25 Basin Commission and the Commission shall make all de-

1 cisions and exercise all powers by unanimous vote of the
2 two State Commissioners. The Federal Commissioner
3 shall not have a vote but shall attend and participate in
4 all meetings of the ACT Basin Commission to the same
5 extent as the State Commissioners.

6 “(e) The ACT Basin Commission shall meet at least
7 once a year at a date set at its initial meeting. Such initial
8 meeting shall take place within ninety days of the ratifica-
9 tion of the Compact by the Congress of the United States
10 and shall be called by the chairman of the Commission.
11 Special meetings of the Commission may be called at the
12 discretion of the chairman of the Commission and shall
13 be called by the chairman of the Commission upon written
14 request of any member of the Commission. All members
15 shall be notified of the time and place designated for any
16 regular or special meeting at least five days prior to such
17 meeting in one of the following ways: by written notice
18 mailed to the last mailing address given to the Commission
19 by each member, by facsimile, telegram or by telephone.
20 The Chairmanship of the Commission shall rotate annu-
21 ally among the voting members of the Commission on an
22 alphabetical basis, with the first chairman to be the State
23 Commissioner representing the State of Alabama.

24 “(f) All meetings of the Commission shall be open
25 to the public.

1 “(g) The ACT Basin Commission, so long as the ex-
2 ercise of power is consistent with this Compact, shall have
3 the following general powers:

4 “(1) to adopt bylaws and procedures governing
5 its conduct;

6 “(2) to sue and be sued in any court of com-
7 petent jurisdiction;

8 “(3) to retain and discharge professional, tech-
9 nical, clerical and other staff and such consultants
10 as are necessary to accomplish the purposes of this
11 Compact;

12 “(4) to receive funds from any lawful source
13 and expend funds for any lawful purpose;

14 “(5) to enter into agreements or contracts,
15 where appropriate, in order to accomplish the pur-
16 poses of this Compact;

17 “(6) to create committees and delegate respon-
18 sibilities;

19 “(7) to plan, coordinate, monitor, and make
20 recommendations for the water resources of the ACT
21 Basin for the purposes of, but not limited to, mini-
22 mizing adverse impacts of floods and droughts and
23 improving water quality, water supply, and conserva-
24 tion as may be deemed necessary by the Commis-
25 sion;

1 “(8) to participate with other governmental and
2 non-governmental entities in carrying out the pur-
3 poses of this Compact;

4 “(9) to conduct studies, to generate information
5 regarding the water resources of the ACT Basin,
6 and to share this information among the Commis-
7 sion members and with others;

8 “(10) to cooperate with appropriate State, Fed-
9 eral, and local agencies or any other person in the
10 development, ownership, sponsorship, and operation
11 of water resource facilities in the ACT Basin; pro-
12 vided, however, that the Commission shall not own
13 or operate a federally-owned water resource facility
14 unless authorized by the United States Congress;

15 “(11) to acquire, receive, hold and convey such
16 personal and real property as may be necessary for
17 the performance of its duties under the Compact;
18 provided, however, that nothing in this Compact
19 shall be construed as granting the ACT Basin Com-
20 mission authority to issue bonds or to exercise any
21 right of eminent domain or power of condemnation;

22 “(12) to establish and modify an allocation for-
23 mula for apportioning the surface waters of the ACT
24 Basin among the States of Alabama and Georgia;
25 and

1 “(13) to perform all functions required of it by
 2 this Compact and to do all things necessary, proper
 3 or convenient in the performance of its duties here-
 4 under, either independently or in cooperation with
 5 any State or the United States.

6 “ARTICLE—VII

7 “EQUITABLE APPORTIONMENT

8 “(a) It is the intent of the parties to this Compact
 9 to develop an allocation formula for equitably apportioning
 10 the surface waters of the ACT Basin among the States
 11 while protecting the water quality, ecology and biodiversity
 12 of the ACT, as provided in the Clean Water Act, 33 U.S.C.
 13 Sections 1251 et seq., the Endangered Species Act, 16
 14 U.S.C. Sections 1532 et seq., the National Environmental
 15 Policy Act, 42 U.S.C. Sections 4321 et seq., the Rivers
 16 and Harbors Act of 1899, 33 U.S.C. Sections 401 et seq.,
 17 and other applicable Federal laws. For this purpose, all
 18 members of the ACT Basin Commission, including the
 19 Federal Commissioner, shall have full rights to notice of
 20 and participation in all meetings of the ACT Basin Com-
 21 mission and technical committees in which the basis and
 22 terms and conditions of the allocation formula are to be
 23 discussed or negotiated. When an allocation formula is
 24 unanimously approved by the State Commissioners, there
 25 shall be an agreement among the States regarding an allo-

1 cation formula. The allocation formula thus agreed upon
2 shall become effective and binding upon the parties to this
3 Compact upon receipt by the Commission of a letter of
4 concurrence with said formula from the Federal Commis-
5 sioner. If, however, the Federal Commissioner fails to sub-
6 mit a letter of concurrence to the Commission within two
7 hundred ten (210) days after the allocation formula is
8 agreed upon by the State Commissioners, the Federal
9 Commissioner shall within forty-five (45) days thereafter
10 submit to the ACT Basin Commission a letter of non-
11 concurrence with the allocation formula setting forth
12 therein specifically and in detail the reasons for non-
13 concurrence; provided, however, the reasons for non-
14 concurrence as contained in the letter of nonconcurrence
15 shall be based solely upon Federal law. The allocation for-
16 mula shall also become effective and binding upon the par-
17 ties to this Compact if the Federal Commissioner fails to
18 submit to the ACT Basin Commission a letter of non-
19 concurrence in accordance with this Article. Once adopted
20 pursuant to this Article, the allocation formula may only
21 be modified by unanimous decision of the State Commis-
22 sioners and the concurrence by the Federal Commissioner
23 in accordance with the procedures set forth in this Article.

24 “(b) The parties to this Compact recognize that the
25 United States operates certain projects within the ACT

1 Basin that may influence the water resources within the
2 ACT Basin. The parties to this Compact further acknowl-
3 edge and recognize that various agencies of the United
4 States have responsibilities for administering certain Fed-
5 eral laws and exercising certain Federal powers that may
6 influence the water resources within the ACT Basin. It
7 is the intent of the parties to this Compact, including the
8 United States, to achieve compliance with the allocation
9 formula adopted in accordance with this Article. Accord-
10 ingly, once an allocation formula is adopted, each and
11 every officer, agency, and instrumentality of the United
12 States shall have an obligation and duty, to the maximum
13 extent practicable, to exercise their powers, authority, and
14 discretion in a manner consistent with the allocation for-
15 mula so long as the exercise of such powers, authority,
16 and discretion is not in conflict with Federal law.

17 “(c) Between the effective date of this Compact and
18 the approval of the allocation formula under this Article,
19 the signatories to this Compact agree that any person who
20 is withdrawing, diverting, or consuming water resources
21 of the ACT Basin as of the effective date of this Compact,
22 may continue to withdraw, divert or consume such water
23 resources in accordance with the laws of the State where
24 such person resides or does business and in accordance
25 with applicable Federal laws. The parties to this Compact

1 further agree that any such person may increase the
2 amount of water resources withdrawn, diverted or
3 consumed to satisfy reasonable increases in the demand
4 of such person for water between the effective date of this
5 Compact and the date on which an allocation formula is
6 approved by the ACT Basin Commission as permitted by
7 applicable law. Each of the State parties to this Compact
8 further agree to provide written notice to each of the other
9 parties to this Compact in the event any person increases
10 the withdrawal, diversion or consumption of such water
11 resources by more than 10 million gallons per day on an
12 average annual daily basis, or in the event any person,
13 who was not withdrawing, diverting or consuming any
14 water resources from the ACT Basin as of the effective
15 date of this Compact, seeks to withdraw, divert or
16 consume more than one million gallons per day on an aver-
17 age annual daily basis from such resources. This Article
18 shall not be construed as granting any permanent, vested
19 or perpetual rights to the amounts of water used between
20 January 3, 1992 and the date on which the Commission
21 adopts an allocation formula.

22 “(d) As the owner, operator, licensor, permitting au-
23 thority or regulator of a water resource facility under its
24 jurisdiction, each State shall be responsible for using its
25 best efforts to achieve compliance with the allocation for-

1 mula adopted pursuant to this Article. Each such State
 2 agrees to take such actions as may be necessary to achieve
 3 compliance with the allocation formula.

4 “(e) This Compact shall not commit any State to
 5 agree to any data generated by any study or commit any
 6 State to any allocation formula not acceptable to such
 7 State.

8 “ARTICLE—VIII

9 “CONDITIONS RESULTING IN TERMINATION OF THE 10 COMPACT

11 “(a) This Compact shall be terminated and thereby
 12 be void and of no further force and effect if any of the
 13 following events occur:

14 “(1) The legislatures of the States of Alabama
 15 and Georgia each agree by general laws enacted by
 16 each State within any three consecutive years that
 17 this Compact should be terminated.

18 “(2) The United States Congress enacts a law
 19 expressly repealing this Compact.

20 “(3) The States of Alabama and Georgia fail to
 21 agree on an equitable apportionment of the surface
 22 waters of the ACT as provided in Article VII(a) of
 23 this Compact by December 31, 1998, unless the vot-
 24 ing members of the ACT Basin Commission unani-
 25 mously agree to extend this deadline.

“(b) If the Compact is terminated in accordance with this Article it shall be of no further force and effect and shall not be the subject of any proceeding for the enforcement thereof in any Federal or State court. Further, if so terminated, no party shall be deemed to have acquired a specific right to any quantity of water because it has become a signatory to this Compact.

19 “ARTICLE—IX
20 “COMPLETION OF STUDIES PENDING ADOPT-
21 TION OF ALLOCATION FORMULA

22 “The ACT Basin Commission, in conjunction with
23 one or more interstate, Federal, State or local agencies,
24 is hereby authorized to participate in any study in process
25 as of the effective date of this Compact, including, without

1 limitation, all or any part of the Alabama-Coosa-
 2 Tallapoosa/ Apalachicola-Chattahoochee-Flint River Basin
 3 Comprehensive Water Resource Study, as may be deter-
 4 mined by the Commission in its sole discretion.

5 “ARTICLE—X

6 “RELATIONSHIP TO OTHER LAWS

7 “(a) It is the intent of the party States and of the
 8 United States Congress by ratifying this Compact, that
 9 all State and Federal officials enforcing, implementing or
 10 administering other State and Federal laws affecting the
 11 ACT Basin shall, to the maximum extent practicable, en-
 12 force, implement or administer those laws in furtherance
 13 of the purposes of this Compact and the allocation formula
 14 adopted by the Commission insofar as such actions are
 15 not in conflict with applicable Federal laws.

16 “(b) Nothing contained in this Compact shall be
 17 deemed to restrict the executive powers of the President
 18 in the event of a national emergency.

19 “(c) Nothing contained in this Compact shall impair
 20 or affect the constitutional authority of the United States
 21 or any of its powers, rights, functions or jurisdiction under
 22 other existing or future laws in and over the area or wa-
 23 ters which are the subject of the Compact, including
 24 projects of the Commission, nor shall any act of the Com-
 25 mission have the effect of repealing, modifying or amend-

1 ing any Federal law. All officers, agencies and instrumen-
2 talities of the United States shall exercise their powers and
3 authority over water resources in the ACT Basin and
4 water resource facilities, and to the maximum extent prac-
5 ticable, shall exercise their discretion in carrying out their
6 responsibilities, powers, and authorities over water re-
7 sources in the ACT Basin and water resource facilities in
8 the ACT Basin in a manner consistent with and that effec-
9 tuates the allocation formula developed pursuant to this
10 Compact or any modification of the allocation formula so
11 long as the actions are not in conflict with any applicable
12 Federal law. The United States Army Corps of Engineers,
13 or its successors, and all other Federal agencies and in-
14 strumentalities shall cooperate with the ACT Basin Com-
15 mission in accomplishing the purposes of the Compact and
16 fulfilling the obligations of each of the parties to the Com-
17 pact regarding the allocation formula.

18 “(d) Once adopted by the two States and ratified by
19 the United States Congress, this Compact shall have the
20 full force and effect of Federal law, and shall supersede
21 State and local laws operating contrary to the provisions
22 herein or the purposes of this Compact; provided, however,
23 nothing contained in this Compact shall be construed as
24 affecting or intending to affect or in any way to interfere
25 with the laws of the respective signatory States relating

1 to water quality, and riparian rights as among persons ex-
 2 clusively within each State.

3 “ARTICLE—XI

4 “PUBLIC PARTICIPATION

5 “All meetings of the Commission shall be open to the
 6 public. The signatory parties recognize the importance and
 7 necessity of public participation in activities of the Com-
 8 mission, including the development and adoption of the
 9 initial allocation formula and any modification thereto.
 10 Prior to the adoption of the initial allocation formula, the
 11 Commission shall adopt procedures ensuring public par-
 12 ticipation in the development, review, and approval of the
 13 initial allocation formula and any subsequent modification
 14 thereto. At a minimum, public notice to interested parties
 15 and a comment period shall be provided. The Commission
 16 shall respond in writing to relevant comments.

17 “ARTICLE—XII

18 “FUNDING AND EXPENSES OF THE COMMISSION

19 “Commissioners shall serve without compensation
 20 from the ACT Basin Commission. All general operational
 21 funding required by the Commission and agreed to by the
 22 voting members shall obligate each State to pay an equal
 23 share of such agreed upon funding. Funds remitted to the
 24 Commission by a State in payment of such obligation shall
 25 not lapse; provided, however, that if any State fails to

1 remit payment within 90 days after payment is due, such
 2 obligation shall terminate and any State which has made
 3 payment may have such payment returned. Costs of at-
 4 tendance and participation at meetings of the Commission
 5 by the Federal Commissioner shall be paid by the United
 6 States.

7 “ARTICLE—XIII

8 “DISPUTE RESOLUTION

9 “(a) In the event of a dispute between the voting
 10 members of this Compact involving a claim relating to
 11 compliance with the allocation formula adopted by the
 12 Commission under this Compact, the following procedures
 13 shall govern:

14 “(1) Notice of claim shall be filed with the
 15 Commission by a voting member of this Compact
 16 and served upon each member of the Commission.
 17 The notice shall provide a written statement of the
 18 claim, including a brief narrative of the relevant
 19 matters supporting the claimant’s position.

20 “(2) Within twenty (20) days of the Commis-
 21 sion’s receipt of a written statement of a claim, the
 22 party or parties to the Compact against whom the
 23 complaint is made may prepare a brief narrative of
 24 the relevant matters and file it with the Commission
 25 and serve it upon each member of the Commission.

1 “(3) Upon receipt of a claim and any response
2 or responses thereto, the Commission shall convene
3 as soon as reasonably practicable, but in no event
4 later than twenty (20) days from receipt of any re-
5 sponse to the claim, and shall determine if a resolu-
6 tion of the dispute is possible.

7 “(4) A resolution of a dispute under this Article
8 through unanimous vote of the State Commissioners
9 shall be binding upon the State parties and any
10 State party determined to be in violation of the allo-
11 cation formula shall correct such violation without
12 delay.

13 “(5) If the Commission is unable to resolve the
14 dispute within 10 days from the date of the meeting
15 convened pursuant to subparagraph (a)(3) of this
16 Article, the Commission shall select, by unanimous
17 decision of the voting members of the Commission,
18 an independent mediator to conduct a non-binding
19 mediation of the dispute. The mediator shall not be
20 a resident or domiciliary of any member State, shall
21 not be an employee or agent of any member of the
22 Commission, shall be a person knowledgeable in
23 water resource management issues, and shall dis-
24 close any and all current or prior contractual or
25 other relations to any member of the Commission.

1 The expenses of the mediator shall be paid by the
2 Commission. If the mediator becomes unwilling or
3 unable to serve, the Commission by unanimous deci-
4 sion of the voting members of the Commission, shall
5 appoint another independent mediator.

6 “(6) If the Commission fails to appoint an inde-
7 pendent mediator to conduct a non-binding medi-
8 ation of the dispute within seventy-five (75) days of
9 the filing of the original claim or within thirty (30)
10 days of the date on which the Commission learns
11 that a mediator is unwilling or unable to serve, the
12 party submitting the claim shall have no further ob-
13 ligation to bring the claim before the Commission
14 and may proceed by pursuing any appropriate rem-
15 edies, including any and all judicial remedies.

16 “(7) If an independent mediator is selected, the
17 mediator shall establish the time and location for the
18 mediation session or sessions and may request that
19 each party to the Compact submit, in writing, to the
20 mediator a statement of its position regarding the
21 issue or issues in dispute. Such statements shall not
22 be exchanged by the parties except upon the unani-
23 mous agreement of the parties to the mediation.

24 “(8) The mediator shall not divulge confidential
25 information disclosed to the mediator by the parties

1 or by witnesses, if any, in the course of the medi-
2 ation. All records, reports, or other documents re-
3 ceived by a mediator while serving as a mediator
4 shall be considered confidential. The mediator shall
5 not be compelled in any adversary proceeding or ju-
6 dicial forum to divulge the contents of such docu-
7 ments or the fact that such documents exist or to
8 testify in regard to the mediation.

9 “(9) Each party to the mediation shall maintain
10 the confidentiality of the information received during
11 the mediation and shall not rely on or introduce in
12 any judicial proceeding as evidence:

13 “(a) Views expressed or suggestions made
14 by another party regarding a settlement of the
15 dispute;

16 “(b) Proposals made or views expressed by
17 the mediator; or

18 “(c) The fact that another party to the
19 hearing had or had not indicated a willingness
20 to accept a proposal for settlement of the dis-
21 pute.

22 “(10) The mediator may terminate the non-
23 binding mediation session or sessions whenever, in
24 the judgment of the mediator, further efforts to re-
25 solve the dispute would not lead to a resolution of

1 the dispute between or among the parties. Any party
2 to the dispute may terminate the mediation process
3 at any time by giving written notification to the me-
4 diator and the Commission. If terminated prior to
5 reaching a resolution, the party submitting the origi-
6 nal claim to the Commission shall have no further
7 obligation to bring its claim before the Commission
8 and may proceed by pursuing any appropriate rem-
9 edies, including any and all judicial remedies.

10 “(11) The mediator shall have no authority to
11 require the parties to enter into a settlement of any
12 dispute regarding the Compact. The mediator may
13 simply attempt to assist the parties in reaching a
14 mutually acceptable resolution of their dispute. The
15 mediator is authorized to conduct joint and separate
16 meetings with the parties to the mediation and to
17 make oral or written recommendations for a settle-
18 ment of the dispute.

19 “(12) At any time during the mediation proc-
20 ess, the Commission is encouraged to take whatever
21 steps it deems necessary to assist the mediator or
22 the parties to resolve the dispute.

23 “(13) In the event of a proceeding seeking en-
24 forcement of the allocation formula, this Compact
25 creates a cause of action solely for equitable relief.

1 No action for money damages may be maintained.

2 The party or parties alleging a violation of the Com-
3 pact shall have the burden of proof.

4 “(b) In the event of a dispute between any voting
5 member and the United States relating to a State’s non-
6 compliance with the allocation formula as a result of ac-
7 tions or a refusal to act by officers, agencies or instrumen-
8 talities of the United States, the provisions set forth in
9 paragraph (a) of this Article (other than the provisions
10 of subparagraph (a)(4)) shall apply.

11 “(c) The United States may initiate dispute resolu-
12 tion under paragraph (a) in the same manner as other
13 parties to this Compact.

14 “(d) Any signatory party who is affected by any ac-
15 tion of the Commission, other than the adoption or en-
16 forcement of or compliance with the allocation formula,
17 may file a complaint before the ACT Basin Commission
18 seeking to enforce any provision of this Compact.

19 “(1) The Commission shall refer the dispute to
20 an independent hearing officer or mediator, to con-
21 duct a hearing or mediation of the dispute. If the
22 parties are unable to settle their dispute through
23 mediation, a hearing shall be held by the Commis-
24 sion or its designated hearing officer. Following a
25 hearing conducted by a hearing officer, the hearing

1 officer shall submit a report to the Commission set-
2 ting forth findings of fact and conclusions of law,
3 and making recommendations to the Commission for
4 the resolution of the dispute.

5 “(2) The Commission may adopt or modify the
6 recommendations of the hearing officer within 60
7 days of submittal of the report. If the Commission
8 is unable to reach unanimous agreement on the reso-
9 lution of the dispute within 60 days of submittal of
10 the report with the concurrence of the Federal Com-
11 missioner in disputes involving or affecting Federal
12 interests, the affected party may file an action in
13 any court of competent jurisdiction to enforce the
14 provisions of this Compact. The hearing officer’s re-
15 port shall be of no force and effect and shall not be
16 admissible as evidence in any further proceedings.

17 “(e) All actions under this Article shall be subject to
18 the following provisions:

19 “(1) The Commission shall adopt guidelines
20 and procedures for the appointment of hearing offi-
21 cers or independent mediators to conduct all hear-
22 ings and mediations required under this Article. The
23 hearing officer or mediator appointed under this Ar-
24 ticle shall be compensated by the Commission.

1 “(2) All hearings or mediations conducted
2 under this article may be conducted utilizing the
3 Federal Administrative Procedures Act, the Federal
4 Rules of Civil Procedure, and the Federal Rules of
5 Evidence. The Commission may also choose to adopt
6 some or all of its own procedural and evidentiary
7 rules for the conduct of hearings or mediations
8 under this Compact.

9 “(3) Any action brought under this Article shall
10 be limited to equitable relief only. This Compact
11 shall not give rise to a cause of action for money
12 damages.

13 “(4) Any signatory party bringing an action be-
14 fore the Commission under this Article shall have
15 the burdens of proof and persuasion.

16 “ARTICLE—XIV

17 “ENFORCEMENT

18 “The Commission may, upon unanimous decision,
19 bring an action against any person to enforce any provi-
20 sion of this Compact, other than the adoption or enforce-
21 ment of or compliance with the allocation formula, in any
22 court of competent jurisdiction.

1 “ARTICLE—XV

2 “IMPACTS ON OTHER STREAM SYSTEMS

3 “This Compact shall not be construed as establishing
4 any general principle or precedent applicable to any other
5 interstate streams.

6 “ARTICLE—XVI

7 “IMPACT OF COMPACT ON USE OF WATER WITHIN THE
8 BOUNDARIES OF THE COMPACTING STATES

9 “The provisions of this Compact shall not interfere
10 with the right or power of any State to regulate the use
11 and control of water within the boundaries of the State,
12 providing such State action is not inconsistent with the
13 allocation formula.

14 “ARTICLE—XVII

15 “AGREEMENT REGARDING WATER QUALITY

16 “(a) The States of Alabama and Georgia mutually
17 agree to the principle of individual State efforts to control
18 man-made water pollution from sources located and oper-
19 ating within each State and to the continuing support of
20 each State in active water pollution control programs.

21 “(b) The States of Alabama and Georgia agree to co-
22 operate, through their appropriate State agencies, in the
23 investigation, abatement, and control of sources of alleged
24 interstate pollution within the ACT River Basin whenever

1 such sources are called to their attention by the Commis-
 2 sion.

3 “(c) The States of Alabama and Georgia agree to co-
 4 operate in maintaining the quality of the waters of the
 5 ACT River Basin.

6 “(d) The States of Alabama and Georgia agree that
 7 no State may require another State to provide water for
 8 the purpose of water quality control as a substitute for
 9 or in lieu of adequate waste treatment.

10 “ARTICLE—XVIII

11 “EFFECT OF OVER OR UNDER DELIVERIES UNDER THE 12 COMPACT

13 “No State shall acquire any right or expectation to
 14 the use of water because of any other State’s failure to
 15 use the full amount of water allocated to it under this
 16 Compact.

17 “ARTICLE—XIX

18 “SEVERABILITY

19 “If any portion of this Compact is held invalid for
 20 any reason, the remaining portions, to the fullest extent
 21 possible, shall be severed from the void portion and given
 22 the fullest possible force, effect, and application.

1 “ARTICLE—XX

2 “NOTICE AND FORMS OF SIGNATURE

3 “Notice of ratification of this Compact by the legisla-
 4 ture of each State shall promptly be given by the Governor
 5 of the ratifying State to the Governor of the other partici-
 6 pating State. When the two State legislatures have ratified
 7 the Compact, notice of their mutual ratification shall be
 8 forwarded to the Congressional delegation of the signatory
 9 States for submission to the Congress of the United States
 10 for ratification. When the Compact is ratified by the Con-
 11 gress of the United States, the President, upon signing
 12 the Federal ratification legislation, shall promptly notify
 13 the Governors of the participating States and appoint the
 14 Federal Commissioner. The Compact shall be signed by
 15 all three Commissioners as their first order of business
 16 at their first meeting and shall be filed of record in the
 17 party States.”.

18 **SEC. 2. INCONSISTENCY OF LANGUAGE.**

19 The validity of the compacts consented to by this Act
 20 shall not be affected by any insubstantial difference in
 21 their form or language as adopted by the States.

22 **SEC. 3. RIGHT TO ALTER, AMEND, OR REPEAL.**

23 The right to alter, amend, or repeal this joint resolu-
 24 tion is hereby expressly reserved.

○