

## IS NORTH GEORGIA'S CROWN JEWEL IN TROUBLE? WATER QUALITY CONCERNS AT LAKE LANIER



Photo credit: Joe Cook

Since 1957, when the cold, clear waters from the slopes of the north Georgia mountains filled Lake Sidney Lanier for the first time, this crown jewel has reigned at the top of the Apalachicola-Chattahoochee-Flint River Basin – a land area of 19,600 square miles draining three states from the mountains to the sea.

Today, however, Lake Lanier is a source of political tension as divergent interests compete to use the federal reservoir in conflicting ways. Originally authorized by Congress for hydropower, navigation and flood control, the lake now serves a more important, though unofficial, role as a provider of metro Atlanta's drinking water supply and a recreation destination for users throughout the state. These multiple demands on the reservoir have led to many years of study and controversy and a clear need of enforceable water quality standards.

### No Shortage of Controversies

The management of the water in the lake is at the heart of the "water wars" that have been fought by Georgia, Alabama and Florida for almost 20 years. Many questions still remain unanswered: how much of the water, for example, should be allocated for municipal supply, for lake recreation, or for downstream uses? How much for peaking power, for navigation and for other uses?

Complicating these questions, the state issued permits to Gwinnett County and the city of Gainesville several years

ago, allowing the discharge of millions of gallons of treated sewage into Lanier to accommodate growth. The Georgia Supreme Court decided in 2004 that the state needed to strengthen the pollution limits in the Gwinnett discharge permit.

Gainesville's permit was later withdrawn by the state, subsequent to the Court order and pending a decision on another controversial lake issue. *See related story below.*

Then, under pressure from development interests and water utilities, the Georgia Board of Natural Resources (BNR) voted last October to weaken the state's 30-year old "anti-degradation" rule which helped protect water quality



Photo by: WILLIAM BERRY/Atlanta Journal-Constitution

Annually, more than 7.5 million people enjoy a variety of recreational opportunities at Lake Lanier, which pumps \$5.5 billion into the state's economy.

See **Concerns at Lake Lanier**, page 7

## STRONGER GWINNETT SEWAGE PERMIT EXPECTED SOON

In 2004, the Georgia Supreme Court ruled in favor of UCR and others with a landmark interpretation of Georgia's "anti-degradation" provisions, stating that sewage treatment plants are "not allowed to discharge water that is more polluted than it reasonably needs to be". This decision settled key questions in an appeal by UCR, Lake Lanier Association (LLA), and others of a state permit issued to Gwinnett County, which allowed the county to discharge 40 million gallons per day (MGD) of treated sewage into Lake Lanier.

### Permit Delayed to Consider Fisheries

Following the Court's ruling and EPD's issuance of a revised draft discharge permit, UCR and LLA began negotiations with Gwinnett County, ultimately reaching a settlement. The settlement provided for tighter and more protective limits on pollutants, such as phosphorus (responsible for algae blooms) and bacteria. The settlement also established a new discharge location to minimize impacts to recre-



Trout that thrive below Buford Dam could be affected by Gwinnett's discharge into Lake Lanier, if the warm effluent is released too close to the dam.

ation at beaches near the original outfall. Additional modeling information has been required, however, to help ensure that the new discharge location will not adversely affect the trout fishery below Buford Dam; this has

caused a delay in the issuance of the permit, which EPD expects to issue in the near future.

During the course of litigation over the Gwinnett discharge permit, EPD also issued a permit to the city of Gainesville to increase its discharge up to 15 MGD into *already impaired* Flat Creek, before expanding to 18 MGD and moving the discharge into Lake Lanier. The Gainesville permit had nearly identical limits as the challenged Gwinnett permit, so UCR and LLA also challenged the Gainesville permit for failing to meet Georgia's anti-degradation requirements.

Following the Supreme Court's ruling that invalidated the Gwinnett Permit, UCR and LLA petitioned EPD to withdraw and revise the Gainesville permit. Finally, last July, EPD withdrew the permit for the stated purpose of meeting the Supreme Court's ruling in the Gwinnett case and to review the permit in light of proposed, now final, changes to the state's anti-degradation rule. *See above story for related information.*

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Our mission is to advocate and secure the protection and stewardship of the Chattahoochee River, its tributaries and watershed.

# REFLECTIONS

Thanks to the election of a Georgian to the White House thirty years ago, the Chattahoochee River National Recreation Area (CRNRA) was officially born in 1978.

Then-president **Jimmy Carter**, an avid outdoorsman who had paddled the Chattahoochee many times, responded to the heroic efforts of a group called Friends of the River and gave national recognition to a 48-mile stretch of our home river below Buford Dam.



Photo credit: Beig Honorar/  
Atlanta Journal Constitution

That same year, I enrolled in Georgia Tech's graduate program in city and environmental planning. The following summer, as a community outreach intern for the National Park Service (NPS), I found myself helping develop the first general management plan for the CRNRA. Tech's program required graduate students to get some practical experience in the "real world".

## Exploring River Forests

Before the NPS could make recommendations for the management of the river and the land areas (the "pearls on the string" of the river) that would be purchased with available federal funds, we needed to evaluate the resource. With botanists and wildlife experts, we explored tributaries like Level Creek in Gwinnett County, marveling at the diversity in its watershed. We uncovered historic mills, caves used by Native Americans, and other structures hidden by dense vegetation and we researched their significance.

I still remember bush-whacking through forests, many of which have now become subdivisions, because sufficient funds did not arrive quickly enough to save them—others

will be protected as part of our nationally-recognized recreation area.

## Fast Forward—Fighting for Diverse Uses and Protected Greenspace

In 2004, the Park Service proposed a new general management plan for the CRNRA that would have eliminated fishing and boating in many areas. Sportsmen, citizens, and environmentalists, including UCR, protested the proposal as undermining traditional uses in a river park that provides important recreational experiences for millions of urban dwellers. A revised and improved management plan is now undergoing public review.

As important as it is to protect diverse recreational uses in the CRNRA, it is also critical that we fight against the efforts of private interests and some government agencies to encroach on the 5,000 acres of forested greenspace that constitute the river's pearls.

This encroachment can take the form of polluted runoff, eroded soil and debris that flows onto park property and into the river from nearby developments. In other instances, it can be a request from private interests to profit by incompatibly using public land. Recently, two cellular companies proposed to build towers within the river park. If approved by the NPS, these cell towers would be the first ever built in any state or federal park in Georgia.

It's time to say NO to these requests to intrude on our park, while saying YES more emphatically to the recreational uses that are important to our individual and community well-being.

*Sally Bethea*

## ANOTHER RUNAWAY SUCCESS WITH HOOKED ON THE OUTDOORS

Chilly morning temperatures in Gwinnett County did not deter close to 600 runners from participating in the *Second Annual Run for the River 5K*. On October 29, runners of all skill levels came out to help raise funds for UCR. *Hooked on the Outdoors Magazine* and *Subaru* were once again the sponsors for the run which nearly doubled the number of participants from the previous year.



Runner take off full speed at the Race start.

When he presented a \$7,800 check to UCR, *Hooked* CEO **Jeff Espy** reiterated the significance of the race to protecting the Chattahoochee: "We've developed a winning recipe all the way around, and have even bigger plans for the *2006 Run for the River*. It is extremely gratifying to give back to a resource that all Atlantans must depend on for their drinking water."

A post-race festival capped a great event, featuring Subaru cars, food from Harry's Farmers Market, a live 96Rock broadcast with DJ Fin, and the awards. The overall female champion was **Donna Garcia** in a time of 17:22. **Simon Gicharu** with a time of 15:06 was the overall male champion. The masters champions were **John Tuttle** (15:21) and **Mary Anne Rogers** (21:13).

## 'SHAKIN' BOOTY' AT X-MAS PARTY 2005

The *Captain Planet Foundation* put on another great event with *X-MAS Party 2005: Disco Power to Save the Planet* on December 9. Superstars **Martha Wash** and **KC & The Sunshine Band** provided the disco beat for more than 1,000 guests at The Tabernacle who came to party and 'shake their booties' while raising funds to benefit six nonprofit groups including UCR.

Honorary event chairs were Barbara Pyle, Nick Boxer, and John Woodruff. UCR co-founders **Laura and Rutherford Seydel** served as event co-chairs along with **Sally and Jeff Seabright**. In addition to disco dancing, the event featured food from Whole Foods Market and Ted's Montana Grill and a live auction. Forty UCR volunteers assisted with the event, and UCR received \$10,000 to benefit our *Waters to the Sea* CD-ROM educational program.



Captain Planet and friends greet Governor Sonny Perdue with Laura Turner Seydel and event Honorary Chair John Woodruff (far right).

## SAVE THE DATE - TENTH ANNUAL RIVER REVIVAL ON MAY 3!

Ten years ago, UCR hosted the first River Revival as a way to thank and involve members and have fun on behalf of the river. Today, the party continues stronger than ever! Plan to attend the *Tenth Anniversary River Revival* on Wednesday, May 3, 2006 at Park Tavern in Atlanta's Piedmont Park (6-10PM). In addition to live

music, local celebrity athletes, and an auction, guests will receive a one-year UCR membership. Look for an invitation or check the UCR website for detailed ticketing information, as the date approaches. *If you are interested in being an event sponsor, contact Magnus Christon at (404) 352-9828 ext. 12.*



## ARE MERCURY CONTROLS ON THE HORIZON?

Mercury pollution is a critical public health issue, annually affecting more than 600,000 babies in this country born with increased risk for lowered IQs, seizures, cerebral palsy, or other neurological damage. New studies show that mercury exposure in adults can result in cardiovascular disease and infertility. **Coal-burning power plants** are the major source of air-borne mercury, particularly in the Southeast; this toxic substance is deposited in rivers and lakes where it can be consumed by fish and ultimately humans. UCR is supporting the **Southern Environmental Law Center** in its campaign for the adoption of a strong mercury regulation in Georgia and fighting the rollback of the new federal standard for power plants. The Georgia EPD convened a stakeholder group last year, whose recommendation is not final. UCR and others are worried that the state will do little more than adopt the weak federal mercury standard. Health experts do not believe these regulations, which include banking and trading of emission credits, will effectively protect people from mercury pollution. In fact, they will, in all likelihood, create toxic "hotspots". Visit [www.SouthernEnvironment.org](http://www.SouthernEnvironment.org).



## COALITION CHALLENGES HYDROPOWER RULES

UCR has joined a coalition led by **American Rivers** to challenge new rules regarding hydropower dam licenses. Represented by **Earthjustice**, the coalition, including Trout Unlimited, American Whitewater, Idaho Rivers United, and Friends of the River, filed suit on December 19. Our legal action focuses on two main aspects of the rules - that they can be applied retroactively and that they were published as final without *any* opportunity for public notice and comment. Despite years of negotiations between states, local governments, tribes, environmental organizations, and federal agencies to establish environmental standards for dam operations, these new rules allow utilities to *retroactively* challenge protection measures designed to safeguard river health and protect fisheries. This means that hydroelectric dam operators have a new legal tool to oppose requirements that they build passage structures to allow fish to move around dams; protect lands on and around rivers; and/or help keep water clean and at natural flow levels. Under the new rules, dam operators can also propose their own preferred protection measures, which federal agencies must accept in most cases.



## CARROLL COUNTY REVIEWS MASSIVE DEVELOPMENT RESOURCE TEAM FAILS TO ADDRESS WATER ISSUES

Last year, **Temple-Inland (TI)**, a paper and packaging firm, proposed a massive "live, work, play" development in rural southeast Carroll County with 19,000 residences and 7.9 million square feet of retail/office space on 11,000 acres.

The size of the Wolf Creek project---comparable to Peachtree City---and the county's lack of adequate water, sewer and transportation infrastructure has resulted in animated opposition and strong statements, including those from the Atlanta Regional Commission. As the planning agency for adjacent counties, ARC is concerned about the likely impacts from unplanned growth.

The Chattahoochee-Flint RDC, Carroll's regional planning agency, evaluated the TI proposal and, contrary to the many opponents, concluded that the project is in the best interest of the state; it did recommend, however, that conditions be placed on final approval of the development.

### Developer Impacts Stakeholder Process

Given the magnitude and controversial nature of this development, the state Department of Community Affairs assembled a Quality Growth Resource Team of experts, including UCR staff, to help. This team devoted a week in November to touring the county, working with stakeholders, and meeting with county staff prior to developing recommendations for the Carroll Board of Commissioners.

# On Patrol



## WATER DISTRICT BOARD SET TO ERASE PROTECTIONS

After spending four years and 8.5 million taxpayers' dollars to develop **long-term water plans for metro Atlanta**, the Water District Board is set to weaken them. Amendments to diminish protections in model local ordinances, delay compliance deadlines, and reduce requirements to maintain septic systems are expected to be voted on by the District Board in February. A longtime participant in the process, UCR has submitted comments in opposition to the proposed amendments. More than 1,000 miles of District waterways do not meet state quality standards, largely due to stormwater problems arising from **cut-and-run development**, tree loss, and hard surfaces covering our watersheds at a rate of 28 acres per day. The District's goal was to help the region grow *sustainably*, while guaranteeing enough clean water for current and future generations. The District Board, dominated by local governments, is poised to roll back protections, returning to conditions that caused its initial creation.



## MORGAN FALLS LAKE HARMED BY SEPTIC SYSTEM

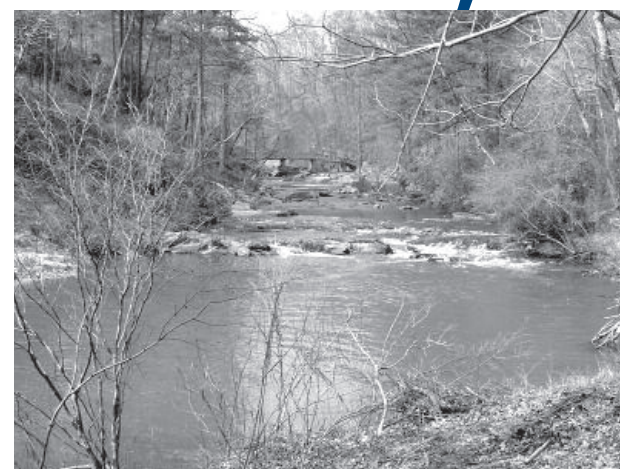
Metro Atlanta has more septic systems handling residential sewage than any other major city in the country. Gwinnett County alone has 94,000 such systems which can cause serious water quality problems in nearby streams when not properly sited and maintained. Last year, **UCR member Anita Padgett** called our HOTLINE to report a problem with a smelly, discolored substance in a storm drain flowing from her neighbor's property in **Huntcliff Subdivision** to Morgan Falls Lake. She and her husband had spent months trying to resolve the problem by contacting local officials, with no results. UCR staff called Fulton County to report the violation of clean water laws. County staff, who had already conducted a preliminary investigation, expedited the process with a letter demanding the property owner fix the problem or reimburse the county for doing so. In October, a new septic system was installed and Anita wrote to us, "Despite a recalcitrant and irresponsible homeowner and an unresponsive bureaucracy, you got results." One down, thousands to go...



While varied interests were included on the Resource Team, TI representatives comprised a large portion of the group and a consensus could not emerge. Also, critical issues such as water supply, wastewater treatment, traffic, schools, and local oversight capacity, were not addressed.

The Resource Team did outline environmental goals for land use planning in southeast Carroll, but failed to consider the fact that existing water sources can only supply Wolf Creek's first phase. UCR recommended that a comprehensive watershed assessment be conducted to determine the county's capacity to supply drinking water, treat wastewater, and control storm runoff for the projected population.

Streams in southeast Carroll flow directly into the Chattahoochee River in an area that is becoming progressively cleaner, thanks to Atlanta's sewer cleanup upstream. If Carroll County does not implement and enforce strong ordinances to control erosion and protect floodplains and stream buffers, the Chattahoochee and West Point Lake will undoubtedly suffer as 11,000 acres of forest and farmland are graded and paved.



Carroll County's Snake Creek in the winter.

## ANGLERS HELP GET THE DIRT OUT OF FISHING WATERS

Since Georgia's anglers are uniquely positioned to help keep watch over our waterways, UCR is working with the **Georgia Wildlife Federation's Camo Coalition** to create a handy pocket guide to use to stop muddy water from harming favorite fishing holes.



Visible silt or mud flowing into a waterway is most likely a problem resulting from construction activities that do not have proper controls to keep the silt on the site. Our small, waterproof Angler Pocket



Guide, which fits conveniently into a tackle box, describes what action should be taken to stop the pollution. Contact information for the state EPD Districts is listed on the back of the guide along with a map of District offices.

For more information and to get copies of the Angler Pocket Guide, contact Alice Champagne at [achampagne@ucriverkeeper.org](mailto:achampagne@ucriverkeeper.org) or 404-352-9828, ext 16. See [www.camocoalition.com](http://www.camocoalition.com)

## NEGLECT ENDS FOR THE RIVER BELOW ATLANTA

If the participation in Upper Chattahoochee Riverkeeper's October paddle trip from McIntosh Reserve in Carroll County to Franklin is any indication, this beautiful stretch of the Chattahoochee River is finally getting the recognition it deserves.

The largest group ever, some 23 people, participated in the annual two-day paddle which features an overnight stay at Hilly Mill Falls in Heard County. Most of the participants also paddled in the *Paddle Georgia 2005* event—a week-long float from Buford Dam to Franklin.

"Once people see this stretch of river, they want to come back," said Joe Cook who led the October paddle and organized *Paddle Georgia* with April Ingle and Dana Skelton of **Georgia River Network**. "Most people have written off the Chattahoochee below Atlanta for recreational purposes, but the truth is it's a wonderful river even beyond Peachtree Creek."

### Hilly Mill Falls, Bushhead and Daniel Shoals

The 23 paddlers enjoyed two beautiful days of weather, the falls at Hilly Mill and Red Bone Creeks, Bushhead Shoals Islands (the largest island complex on the Upper Chattahoochee) and thrilling rides through Bushhead Shoals and Daniel Shoals. Daniel Shoals is perhaps the



Georgia River Network Director April Ingle paddles through Daniel Shoals.



Upper Chattahoochee Riverkeeper Sally Bethea and others gather trash and souvenirs at the head of Bushhead Shoals Islands.

largest natural rapid on the river between Buford and West Point Dams.

Of course, participants also got a taste of the refuse that floats down from Atlanta as they removed from the river everything from motorcycle helmets, to baby dolls, to 50-gallon barrels.

As always the highlight was the evening spent at Hilly Mill Creek on property owned by the **Glover family of Newnan**, including former UCR board member, Taylor Glover. Taylor's brother Gandy treated the paddlers to smoked venison, and a couple of brave (or foolish) souls, including river adventurer **Richard Grove**, took a late afternoon swim in the bone-chilling waters below the falls.

If you're interested in seeing the best kept secret on the Chattahoochee between Buford and West Point, mark your calendars for late October 2006, when we will be returning to McIntosh Reserve and Hilly Mill for another weekend adventure. *Paddle Georgia* moves from the Chattahoochee to the Etowah River this year and will take place June 24-30, 2006. For more information, visit [www.garivers.org](http://www.garivers.org).



## CORPORATIONS JOIN NATIONAL PARK SERVICE TO IMPROVE WETLANDS

**O**ldcastle Glass, CH2MHill, ENSR, and others are working with the National Park Service in Georgia's first Corporate Wetlands Restoration Program at the **Johnson Ferry South unit** of the Chattahoochee River National Recreation Area near the Johnson Ferry Road Bridge crossing.

The **Corporate Wetlands Restoration Partnership (CWRP)** is a national public-private initiative that brings together all sectors of a community to enhance and restore important wetlands, coasts and waterways. By sharing information, pooling resources, and combining technical skills, the project partners have already begun to rehabilitate the wetlands, streams and terrestrial habitats on 47 acres along the Chattahoochee, and also to protect

cultural resources and enhance education opportunities.

The first phase has been to control exotic species, such as the ubiquitous privet, in order to restore habitat that will benefit small mammals, birds, reptiles, fish, butterflies and wetland plants. Archeological clearances and assessments of flow patterns in the wetland will set the stage for the next phase of restoration. Ultimately, boardwalks and signs will support interpretation and recreational activities.

The Georgia CWRP hopes that additional corporate interest will be generated in order to expand the scope and significance of later phases. For additional information, contact Phil Sacco at [phil.sacco@ch2m.com](mailto:phil.sacco@ch2m.com).



The Georgia DNR stocks 50,000 rainbow and brown trout each year in the Chattahoochee between Highway 41 and Sope Creek to support a "Delayed Harvest" fishing program. Heavy trout stocking takes place in November and December with lesser numbers stocked each month through April.

See the Georgia 2005-2006 Sportfishing Regulations Guide and trout stream maps featured at [www.gofishgeorgia.com](http://www.gofishgeorgia.com), or call 770-535-5498 for more details.

## COME ABOARD FOR LAKE LANIER JEOPARDY!

By Robert D. Webb, *Elachee Nature Science Center*  
"Abbreviations for 40 points." says the Game Show Host. "What are ... CSOs?" Hands shoot up from all the groups, but the first hands up are a group of 8th grade girls.

So the Host puts the question to them, "What are CSOs?" In unison they chant, "Combined Sewer Overflows!"

When the Host responds with "correct!" it unleashes a torrent of high pitched, ear-splitting shrieks of utter delight combined with bouncing up and down.

People on boats at nearby docks may have thought the latest teen-idol had just pulled up and gotten out of his limousine at the picnic shelter. What's going on here--teenaged girls excited about combined sewer overflows?!

### Lake Lanier Jeopardy

These students are playing *Lake Lanier Jeopardy*, part of the Lake Lanier Aquatic Learning Center program hosted by UCR, Elachee Nature Science Center, and Aqualand Marina. The program begins at the top of the boat ramp at Aqualand with an Elachee naturalist saying, "Raise your hand if you live in a watershed." No hands ever go up.

By the time the program is over not only does everyone know that they live in a watershed, but they also know that everyone lives downstream of someone else. And, importantly, they understand the consequences of upstream activities and land uses on downstream waterways and property.

Half of the 3-hour program is spent on the water aboard the *Chota Princess* pontoon boat learning about Lake Lanier history, conducting two chemical and physical tests of water quality and a biological sampling with the plankton net.

The remainder of the program takes place at a picnic shelter on the lake's shore. Watershed maps are explored.

## PARTNERS FOR CLEAN WATER IN FULL SWING

UCR's *Partners for Clean Water* program, funded by a grant from the U.S. Environmental Protection Agency, is now in full swing. During the program's kick off sessions, more than 75 children and staff from the Boys and Girls Clubs of Hall County were given an overview of the project and viewed UCR's award-winning *Waters to the Sea* CD-ROM.

The students have also participated in a cleanup of Flat Creek, a major tributary to Lake Lanier, and toured the Flat Creek wastewater treatment plant to learn firsthand what happens to sanitary waste once it leaves homes and businesses. The kids in the program look forward to meeting once each month to participate in the hands-on activities and field trips

and are especially excited about the spring trip aboard our floating classroom, the *Chota Princess*, where they will join naturalists from the Elachee Nature Center to learn about Lake Lanier and the importance of keeping the lake clean.



Michael West, Plant Manager for the Flat Creek Water Reclamation Facility, explains the treatment process.

For more information, contact Darcie Holcomb, UCR Headwaters Conservation Director at 770-531-1064 or [dholcomb@ucriverkeeper.org](mailto:dholcomb@ucriverkeeper.org).

The ways that nature can filter and cleanse water are demonstrated and there is a contest to see who can make



Alex Schwartz tests lake water on the *Chota Princess*.

the best drinking water treatment plant. The program at the lake concludes with *Lake Lanier Jeopardy*, which is a fun way to evaluate what the students have learned.

### Macromedia Flash Presentation

But there's more! Every school group also receives the multi-media CD-ROM *Waters to the Sea: The Chattahoochee River*. This macromedia flash presentation includes an easy-to-navigate menu of movies, games, beautiful pictures, sound effects and much more that covers everything from the history of the region, to how one student discovered a serious pollution problem in her own backyard, to the life story of a raindrop as it travels through the water cycle, and much more.

For more information on the Lake Lanier program or to receive a copy of the *Waters to the Sea* CD, call Elachee at 770-535-1976 or UCR at 404-352-9828, ext. 24.

## NORTH HABERSHAM SCHOOL GETS WET AT WATER FESTIVAL

As the result of recognition as Georgia's Project WET School of the Year, North Habersham Middle School students were treated to a day-long Water Festival last fall featuring presentations, workshops, field activities, and entertainment by *Mama Bass and the Mud Sliders*.

North Habersham was selected for the award based on teacher **Brenda Hunt's** work with the school's **Soque River Outdoor Classroom**. Department of Natural Resources representatives and local community members taught fly-casting and presented information on the water cycle, stream sedimentation and other water quality issues.



Project Wet Coordinator/EPA instructor teaches students at an outdoor Amphitheatre.

The purpose of the festival was to promote environmental awareness among the school's seventh and eighth grade students. Students discussed water quality and flooding problems associated with disasters such as Hurricane Katrina. One student read a poem he had written telling of his experience with Hurricane Katrina and students raised \$400 for the hurricane victims, while taking turns soaking their teachers in a dunking booth!

For info on Project WET, visit [www.projectwet.org](http://www.projectwet.org) or contact UCR's Birgit Bolton at [bbolton@ucriverkeeper.org](mailto:bbolton@ucriverkeeper.org) or 404-352-9828, ext 24.

## Save the Hemlock T-Shirts



Buy a T-shirt and help save the Eastern Hemlocks, found beside mountain streams, from destruction by an Asian insect--the Hemlock Woolly Adelgid.

Purchase on line at <http://www.ucriverkeeper.org/getinvolved9.htm> or call 404-352-9828, ext 14. (\$13, includes shipping)

# RELIEF FOR SOUTH FULTON COMMUNITY LAWSUIT AGAINST GEORGIA DEPARTMENT OF CORRECTIONS SETTLES

In the fall of 2004, UCR received a call from **A.J. James**, a resident of **Valley Lakes Subdivision** in south Fulton County near Union City. A.J. told us that she and her neighbors had been fighting an expansion of a state detention facility (Lamore Probation Center) adjacent to their subdivision, and that Georgia Department of Corrections (DOC) was allowing sediment-laden stormwater to flow into downstream wetlands and lakes, causing harm to the environment, quality of life and property values of the Valley Lakes residents.

UCR investigated and found that DOC had stripped a forested hillside, piped a stream without a permit and failed to stop mud and silt from filling the wetlands and lakes in the Valley Lakes community, that eventually drain into the Chattahoochee River. Alice Champagne, UCR's erosion control expert, spent many frustrating months trying to resolve the serious erosion control and wetlands violations by working with the Georgia DOC, its contractors, and regulatory agencies.



Homeowners in Valley Lakes Subdivision honor UCR staff with artwork, gifts and appreciative words for our assistance in resolving water quality problems in their community.

When it became clear that the DOC was not going to satisfactorily correct the problems, and that enforcement agencies were not going to take action, UCR filed a federal lawsuit in April 2005 for violations of the Clean Water Act. Our engineering and wetlands experts confirmed that several feet of sediment had been deposited in the wetlands and impacted the adjacent lakes.

## Prison Expansion No Longer Needed

In June, after the expenditure of more than \$1.5 million in site development, Governor Perdue and DOC Commissioner Donald announced that the prison expansion was no longer needed. The neighborhood rejoiced that the expansion had been halted, but also knew that damage had already been done to the community's wet-



Prison inmates in a bucket brigade remove sediment from wetlands.

lands and lakes. So, UCR continued with our lawsuit to correct this damage.

On October 7, 2005, nearly a year after UCR first received A.J.'s call, a successful settlement was reached in our lawsuit and an agreement was signed by the parties. The neighborhood rejoiced again. This settlement included requirements to remove the sediment in the wetlands, restore the area with vegetation, and pursue a conservation easement.

Specifically, the DOC was required to remove, by hand, more than 30 truckloads of sediment from the impacted wetlands. In addition, the agency agreed to plant 225 large trees, thousands of native seedlings and 150 medium-size trees and shrubs in the wetlands and guarantee their viability for a year. Finally, the DOC agreed to pursue a conservation easement to protect approximately nine acres of the site from any future development and to pay a portion of the technical and legal costs incurred by UCR over the past year.

## Substantial Benefits to the Watershed and the Community

UCR's settlement with the Georgia DOC provides substantial benefits for the affected wetlands and lakes, the neighborhood, and the Chattahoochee River watershed. Since the settlement agreement was signed, GDOC has been very proactive and responsive at the site, and has made substantial progress in implementing the terms of the agreement.

Last fall, UCR honored A.J. James with our *River Neighbor Award* at our annual Patron Dinner. The successes that we have on behalf of the Chattahoochee River are made possible because of people like A.J. who believe that every one of us has a right to clean water—in our neighborhoods and in our faucets.



UCR's Boat Captain Harlan Trammell.

## CAPTAIN'S CORNER

### WINTER—A TIME FOR MAINTENANCE AND UPGRADES

While winter is the slow season for passenger trips on the Chattahoochee and its lakes, it is the busy season for maintenance and upgrades.

During the winter, all UCR vessels undergo scheduled maintenance which includes changing oil, gear case fluid, batteries, trailer bearings, lights, and a general inspection to make sure all is well both above and below the waterline. Such maintenance ensures that when duty calls, our vessels can be deployed at any time with no surprises, such as no-starts, flat tires, leaks, or anything else that could impede successful operations.

### New Bench Seating Adds Safety and Class

The *Chota Princess*, our floating classroom on Lake Lanier, will receive its 3-year US Coast Guard subchapter t passenger vessel compliance inspection in February 2006. The seating has just been upgraded to a safer bench-style perimeter seating plan for 40 passengers that is compliant with Coast Guard regulations.

I designed the new bench seats and recently installed them with the assistance of volunteer Orion Hanson of **Orion Hanson Construction**. These seats will take the already ultra-safe *Chota Princess* to the next level of safety, as they have been secured with a fixed, balanced, weight distribution with no possibility of shifting loads due to the bolted seating.

Made from custom-sawn cypress, the new bench seats will also give the *Chota* a look of class with added bright work. Twenty coats of varnish will be applied to the cypress seats when the weather warms. They will provide years of use and will never rot. Thankfully, we will no longer have to deal with the stacking of plastic chairs to clear space for programs and we will no longer be concerned about possible tip-overs in any rough water conditions.

The new system promises to further enhance the school programs on the *Chota Princess*, which we will start back up in March, along with our partner Elachee Nature Science Center. See page 5 for related story.

## CONCERNS AT LAKE LANIER

Continued from page 1

in Lake Lanier and served as the basis for the Supreme Court decision. And if these problems weren't enough for the increasingly burdened reservoir, it now appears that the state has failed to use its own water quality data to conclude that standards have been violated and that Lake Lanier's health may already be declining.

### Lake Standards Set in 2000

In 1990, then-State Senator Roy Barnes spearheaded legislation requiring the Georgia Environmental Protection Division (EPD) to set water quality standards for all of Georgia's large public lakes, to ensure that each lake is safe for fishing, swimming and use as a public water supply. Nutrient water quality standards for Lake Lanier were not adopted until 2000, after years of water quality modeling work and other studies.

As a result of these studies, EPD recommended setting a standard for *chlorophyll a* at five mid-lake locations, in addition to the existing applicable standards (e.g., dissolved oxygen, fecal coliform and temperature). *Chlorophyll a* is an indicator of the presence of the nutrient phosphorus. Too much phosphorus, which comes from fertilizers, wastewater treatment discharges and other sources can result in increased aquatic plant growth and algae blooms; it can also decrease water clarity and dissolved oxygen levels, which can result in fish kills.

Because opinions differed on where and how standards should be established, the BNR spent several months reviewing the matter before final approval. Board members were particularly interested in how violations of standards would be defined, measured and enforced. EPD concluded that if a standard was exceeded at one of the five designated sampling locations, it would "represent noncompliance at that location."

In addition, EPD prepared a 14-page enforcement authority analysis that listed the ways the agency could take action to protect Lanier's water quality standards. The agency also committed to re-visit its monitoring program for the lake after three years of water quality data collection and return to the BNR with recommendations.

### Failure to Meet Standards

Six years later, EPD has still not evaluated the lake data collected, verified

the accuracy of the original lake model predications, or re-visited the standards, as promised. In fact, some water samples collected last year were never even analyzed by EPD due to "lack of resources". Concerned at EPD's inaction, UCR's Headwaters Conservation Director, Darcie Holcomb, reviewed the state's data on Lake Lanier and discovered that the *chlorophyll a* standard has exceeded state-mandated levels at one or more of the sampling locations in three out of five years.

Not only has EPD failed to take any specific actions based on this data, it also denies that this noncompliance with lake standards constitutes an "impairment" under federal law, which could trigger a cleanup plan and restrict any new permits into the lake during the cleanup period. The U.S. EPA is still trying to decide the question of whether the lake is "impaired" under federal law.

Lake Lanier is the most important reservoir in Georgia. Its health is critical to the well-being of millions of current and future Georgians and the communities where they live and work. The lake must be protected against pollution.



Hundreds of islands dot Lake Lanier's 38,000 liquid acres.

Photo by: DAVID TULLIS/Atlanta Journal-Constitution



## PROPERTY "RIGHTS" LEGISLATION IN AN ELECTION YEAR

By Neill Herring, *Lobbyist*

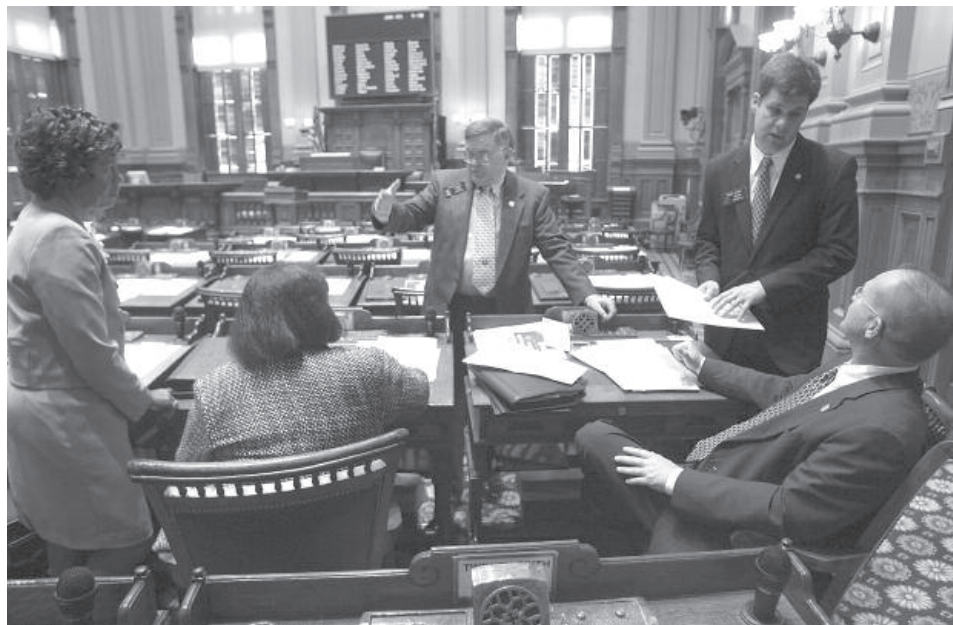
The Georgia General Assembly started its 2006 session on January 9. Facing re-election in November, the members are hoping for a quick session so they can return home to raise funds and campaign for office. Legislators are prohibited from fundraising during legislative sessions, so business is expected to be brisk.

No landmark environmental legislation is anticipated in 2006, although a state Senate study committee has expressed interest in reducing protections for forested greenspace (buffers) along streams. The complaint about stream buffers comes primarily from north Georgia senators led by freshman member **Senator Chip Pearson** of Lumpkin County, who tried to assert anti-regulation "property rights" claims in the 2005 session.

### Claiming Compensation for Regulatory Takings

Pearson believes that any regulation affecting property that restricts the use of that land is a "taking"—a condemnation of the property for which the landowner should be financially compensated. Pearson initially sought compensation for "inverse condemnation", but that concept has apparently been shelved in favor of an approach that deals only with stream buffers.

Property case law is not friendly to Pearson's ideas. Courts have consistently held that regulations, like zoning, which protect the value of adjacent property, are not takings. What Pearson is proposing is, in fact, a new property "right" for landowners who are upstream of others—an arrangement that will provide what amounts to two types of property: those at higher



As the 2006 legislative session begins, state representatives discuss their bills.

Photo by: Ben Gray/Atlanta Journal-Constitution

elevations and everyone else. Pearson wants to be paid to obey laws that everyone downstream from him would be required to obey without compensation. This is a legislative fantasy project that should, and will, fail.

### Fighting Against Drinking Water Source Protections

Sen. Pearson and his allies are unhappy with 16-year old state regulations that protect drinking water sources, such as Lumpkin's **Yahoola Creek Reservoir** near Dahlonega. A locally owned and funded project, this reservoir is still a work in progress without a

state permit to withdraw water, due to the failure of lake builders to comply with federal clean water permits.

Protective rules for drinking water supply reservoirs require wider buffers along upstream tributaries than those mandated by state law for all streams. These rules appear to be the reason that some legislators, including Sen. Pearson, want to compensate landowners, who are complaining that they are losing the use of their lands.

Stream buffer regulation is comparable to speed limits and rules of the road for highways, in that all vehicle owners are obligated to obey common rules to protect the interests of all users of roads. Stream buffers protect water quality and reduce damage downstream from stormwater and flooding; they protect a common resource and neighboring property values. No owner of a fast car expects to be paid to obey the speed limit. No property owner should expect to be paid to respect the forested buffers that protect these waters for all of us.



## 4TH ANNUAL BACK TO THE CHATTAHOOCHEE RACE & FESTIVAL SIGN UP NOW AND COME BACK TO THE RIVER ON JUNE 10!

The city of Roswell, the National Park Service and Upper Chattahoochee Riverkeeper (UCR) are doing it again! We invite you to participate in the 4th Annual River Race & Festival on June 10. We offer a scenic, fairly easy, 8-mile paddle for "recreational" racers of all ages and a more challenging 10-mile sprint for the "open" more competitive participants. The race begins at Garrard Landing Park at Holcomb Bridge and ends at Riverside Park, site of the Festival.



Photo by Kent Ruby

Open racers may earn points toward awards in the Georgia Flatwater Canoe/Kayak Race Series. The Chattahoochee Race is final in the series including:

- **Lula Bridge Trophy Race** March 18, 2006  
[www.lckc.org/index.shtml](http://www.lckc.org/index.shtml)
- **Canoochee River Race** April 8, 2006  
[www.canoocheeriverkeeper.org](http://www.canoocheeriverkeeper.org)
- **Oostanaula Race** May 6, 2006  
[www.coosa.org](http://www.coosa.org)

Spectators may view the Race from National Park Service

trails at Island Ford, Don White Park (Riverside Drive under GA 400 bridge), and the pedestrian bridge at Riverside Park (Finish Line). The Festival begins as soon as the Race ends.

Come enjoy the Festival food and music! The **Swallows Restaurant** in Roswell is bringing its great BBQ and veggie sandwiches along with Nashville music by Lyle Lovett back-up vocalist and guitarist **Ray**

**Herndon**. Enjoy environmental exhibits and a **Boat Sale and Gear Swap** sponsored by High Country Outfitters.

The 4th Annual Race & Festival is sponsored by **Chevron, The Coca-Cola Company, Harry's Farmers Market, High Country Outfitters, WAGA Fox 5** with support from many exhibitors and racers like yourself.

Beginning February 1, you may register on-line at [www.chattahoochee.org](http://www.chattahoochee.org), fax the registration form below to 404-352-8676 or mail it to UCR, 3 Puritan Mill, 916 Joseph Lowery Blvd, Atlanta, GA, 30318.

### Back To The Chattahoochee River Race & Festival - Registration Form

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone (H): \_\_\_\_\_ (W): \_\_\_\_\_

E-Mail: \_\_\_\_\_

T-Shirt Size: YL S M L XL XXL Meal: Meat Veggie

Method of Payment: (circle one) Check VISA MC AMEX

Card Number: \_\_\_\_\_ Exp. Date: \_\_\_\_\_

Doubles Partner Name: \_\_\_\_\_

T-Shirt Size: YL S M L XL XXL Meal: Meat Veggie

Register online at [www.chattahoochee.org](http://www.chattahoochee.org) Fees: Solo \$35, Tandem \$50

Or FAX registration form to: 404-352-8676, Attention: Bill Crawford

Or mail registration form to: Upper Chattahoochee Riverkeeper, 3 Puritan Mill, 916 Joseph Lowery Blvd., Atlanta, GA 30318

Fees include BBQ or Veggie Lunch starting at 11AM and One Year Membership in Upper Chattahoochee Riverkeeper



Keeping Watch Over Our Waters

3 Puritan Mill  
916 Joseph Lowery Blvd. Atlanta, Georgia 30318  
404 352-9828



a member of Earth Share OF GEORGIA

Circle one in each category:

**Skill:**  
open recreational

**Number:**  
solo tandem

**Boat:**  
canoe kayak

**Gender:**  
women men co-ed

**Special:**  
fledgling master parent-child

Non-Profit Organization  
US Postage Paid  
Permit No. 3363  
Atlanta, Georgia

Address Service Requested

## River Matters

**Georgia River Network Annual Conference 2006** February 10-12  
State University in Milledgeville  
Contact Dana Skelton at 706-549-4508 or <http://www.garivers.org>

**Hiking at Buck Shoals State Park** March 4  
Call Gary Gaines at 770-654-5501 or Birgit Bolton at [bbolton@ucriverkeeper.org](mailto:bbolton@ucriverkeeper.org)

**Southeastern Lake and Watershed Management Conference** March 8-10  
Columbus, GA  
<http://science.kennesaw.edu/%7Ejdirnber/SELM2005/Conference.htm>

**River Challenger Series** March 9-11  
One Tough River Trip - Be Tough or Stay Home!  
Contact Richard Grove at [regroveat@adelphia.net](mailto:regroveat@adelphia.net)

**Environmental Education Alliance of Georgia Conference** March 17-19  
Simpsonwood Conference and Retreat Center on the River  
Contact Kim Morris-Zarneke at [kzarneke@georgiaaquarium.org](mailto:kzarneke@georgiaaquarium.org)

**10th Annual River Revival!** May 3  
Park Tavern 6-10PM  
Contact Magnus Christon at [mchriston@ucriverkeeper.org](mailto:mchriston@ucriverkeeper.org) or 404-352.9828 ext. 12.

**River Challenger Series - The Moonlight Paddle** May 13  
Contact Richard Grove at [regroveat@adelphia.net](mailto:regroveat@adelphia.net)

**River Challenger Series - The 17-Mile Paddle** May 27  
Contact Richard Grove at [regroveat@adelphia.net](mailto:regroveat@adelphia.net)

**4th Annual Back to the River Race & Festival** June 10  
Contact Bill Crawford at [bcrawford@ucriverkeeper.org](mailto:bcrawford@ucriverkeeper.org) or 404-352-9828 ext 14 for race information and Birgit Bolton at [bbolton@ucriverkeeper.org](mailto:bbolton@ucriverkeeper.org) or 404-352-9828 ext. 24 for festival information.

**Paddle Georgia 2006 on the Etowah** June 24-30  
<http://www.garivers.org/paddegeorgia/pghome.html>

