

# Olson Ag Law Update

Allen H. Olson, Attorney at Law

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Allen H. Olson, Attorney at Law  
517 West Broad Ave., Suite 101,  
P.O. Box 1745, Albany, Georgia 31702  
229-436-8707  
allen@olsonaglaw.com  
www.olsonaglaw.com

**Inside the Fall Issue of Olson Ag Law Update: Beware of the new FSA Computer Generated 902 Farm Plan Forms; EPD Imposes Water Withdrawal Moratorium, and Farm Bill Developments (or lack thereof).**



## **Beware FSA Computer Generated 902 Forms**

The USDA Farm Service Agency County Offices are demanding that farmers sign new computer generated 902 (Farm Plan) forms before they can receive 2012 farm program payments. These forms are being prepared by County Office staff using old 902s that farmers have submitted in prior years and other information.

Unfortunately many of the forms being sent to farmers are incorrect. The computer program that generates the forms has many bugs in it, and FSA employees are struggling to make it work. Also, the program asks some questions that are worded differently from the parallel questions on the paper forms making it quite difficult to know how to answer them. Furthermore, some FSA employees are not transcribing the information from the new forms correctly.

**Do not** sign these forms until you have read them and determined that the answers on the forms are correct in every respect. If the forms are not correct, **do not** sign them until they have been corrected. **Signing a form with incorrect information on it could jeopardize your payment eligibility.** Contact your FSA office immediately when you discover an error and insist that they correct it.

If FSA refuses to correct the computer generated form, then you should submit a signed 2012 paper 902E and demand that the office accept it in lieu of the computer form. Some County Offices may try to tell you that they can't accept the paper forms. This is incorrect. The FSA Payment Limitations Handbook, 4-PL, provides for paper forms as well as the computerized version.

If you have already signed and filed a computer generated 902 with FSA and think it may be incorrect, get a copy from FSA, review it now and insist that mistakes be corrected and that you be allowed to sign the corrected version.

## **Water Withdrawal Moratorium**

The Georgia Environmental Protection Division has, effective July 30, 2012, imposed a moratorium on the issuance of agricultural water withdrawal permits in portions of the Lower Flint and Chattahoochee River Basins in Southwest Georgia. The moratorium applies to both surface and groundwater withdrawals. The area affected by the moratorium is shown on the attached memorandum from EPD Director, Judson Turner. The moratorium will be evaluated annually beginning in November of next year. EPD will not consider either applications for new permits or applications for permit modifications while the moratorium is in effect.

## **Farm Bill Developments**

It appears increasingly unlikely that Congress will pass a new Farm Bill this year. A one year extension of the current Farm Bill is looking more likely, but even this is not guaranteed. The farm program titles of the Farm Bill expire on September 30. However, other titles such as those covering Food Stamps and conservation programs do not expire until next year or later

making passage of a new Farm Bill this year urgent for fewer people. There is some chance that Congress may pass separate drought relief legislation before it addresses the Farm Bill as a whole.

### **OLSON AG LAW PRACTICE AREAS**

**Most of you know that I do a lot of work on farm program matters including payment limitations planning, USDA administrative appeals and federal litigation. You may not know that my practice also includes the following:**

- **Water Law**
- **Crop insurance arbitration and litigation.**
- **Conservation easement planning and drafting.**
- **Perishable Agricultural Commodities Act litigation.**
- **Farm finance planning and litigation.**
- **Chapter 12 farm bankruptcies.**
- **Farm transition (estate) planning.**
- **Representation of farmers in commercial disputes including landlord tenant matters.**
- **Advice and representation on other specialized areas of agricultural law.**

**Please give me a call if you think I may be able to help you with any of these matters.**

**Disclaimer: All of the information provided in this Update is of a general nature and may not be applicable to your farming operation, transaction or dispute. This information should not be substituted for advice from a competent attorney who is familiar with the specific facts of your case, transaction or situation.**

**Announcement**

To: Interested Parties

From: Judson H. Turner



Date: July 30, 2012

Re: Suspension of Consideration of Agricultural Withdrawal Permits in portions of the Lower Flint and Chattahoochee River Basins

As of this date, I am suspending consideration of applications for agricultural water withdrawal permits in portions of Southwest Georgia. The suspension will affect the following:

- Applications for new permits for withdrawals from the Floridan aquifer or from surface waters in the area known as Subarea 4, where surface water and groundwater are closely interconnected;
- Applications for permit modifications that would increase pump capacity or irrigated acreage associated with withdrawals from the Floridan aquifer or surface waters in Subarea 4;
- Applications for new permits to withdraw surface waters in the Spring Creek, Ichawaynochaway Creek, and Kinchafoonee-Muckalee Creek sub-basins in the Flint River basin; and
- Applications for permit modifications that would increase pump capacity or irrigated acreage associated with withdrawals of surface water in the Spring Creek, Ichawaynochaway Creek, and Kinchafoonee-Muckalee Creek sub-basins in the Flint River basin.

A map of the area affected by the suspension is attached. For more information on specific locations affected by the suspension, contact the Agricultural Permitting Unit in Tifton at 229-391-2400.

Permitting in other parts of the Flint and Chattahoochee River Basins will continue to be conducted following applicable rules and guidance, including the 2006 Flint River Basin Plan and the 2011 Regional Water Plans.

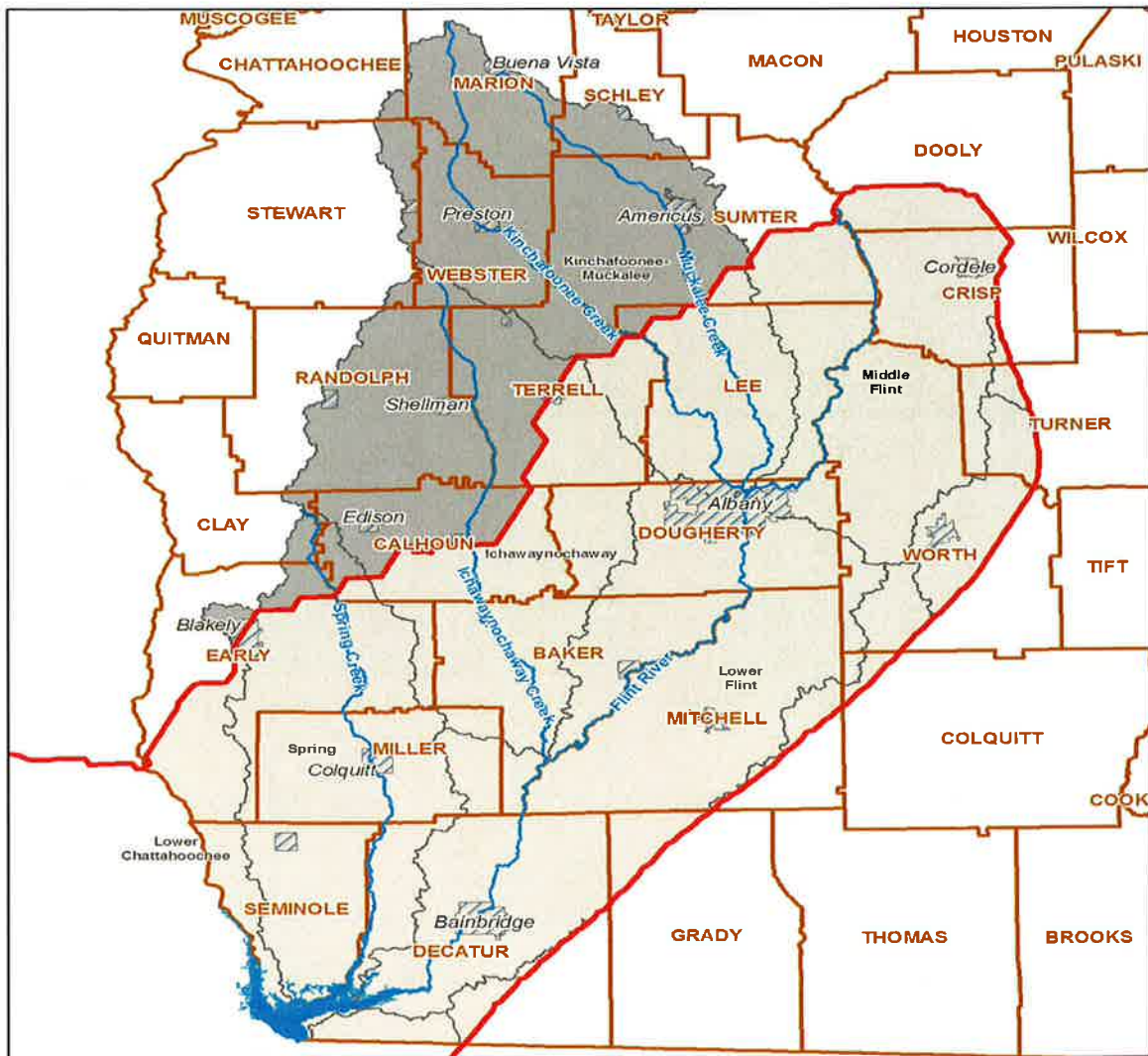
The suspension does not apply to applications already received as of this date. All applications for withdrawals in the affected area received on or before today will be processed following applicable permitting procedures.

I am taking this action under the authority provided by the statutes that regulate water withdrawal permitting in Georgia (O.C.G.A. §§12-5-31, 12-5-96, and 12-5-97).







The water resources affected by the suspension are significant sources of water for irrigation. A continued increase in withdrawals from these resources may ultimately lead to unacceptable impacts to existing users or compromise the sustainable capacities of these resources. Suspending consideration of permit applications in this area will allow time to update the tools used to assess the condition of water resources in the region and evaluate the impacts of increased water use.

The suspension will be re-evaluated annually starting in November 2013. Lifting of the suspension will be dependent on progress in updating of assessment tools and evaluation of the condition of the affected water resources.

I recommend that applications for withdrawals not be filed while the suspension is in effect. A \$250 application fee is required for each withdrawal application in the Flint River Basin and those funds cannot be held during the suspension. In addition, the assessment process may well result in changes to the permit application. Consequently, it would be best to wait to file any applications for withdrawals in the affected area until the suspension is lifted.



dbetts 7/26/2012

-  Subarea 4
-  Lake Seminole
-  Counties
-  Cities
-  SW Suspended
-  GW and SW Suspended