

JUDICIAL RULING FORCES TRI-STATE WATER ISSUE

On July 17, 2009, federal judge Paul Magnuson answered the key question that has loomed over the 20-year tri-state water war among Georgia, Alabama and Florida—how much of the water in Lake Lanier can be used legally for metro Atlanta water supply?

His answer was stunning: none.

In a 97-page order, Magnuson chronicles the history of Lake Lanier from its authorization by Congress in 1945 for hydro-power, flood control and navigation, to Atlanta Mayor Hartsfield's decision in the 1950s against city financial support for the lake project—a miscalculation that has undermined Atlanta's claim that it should be able to use the reservoir for water supply. Magnuson concludes that in allowing Atlanta to withdraw water from Lanier for water supply, the Corps of Engineers acted illegally.

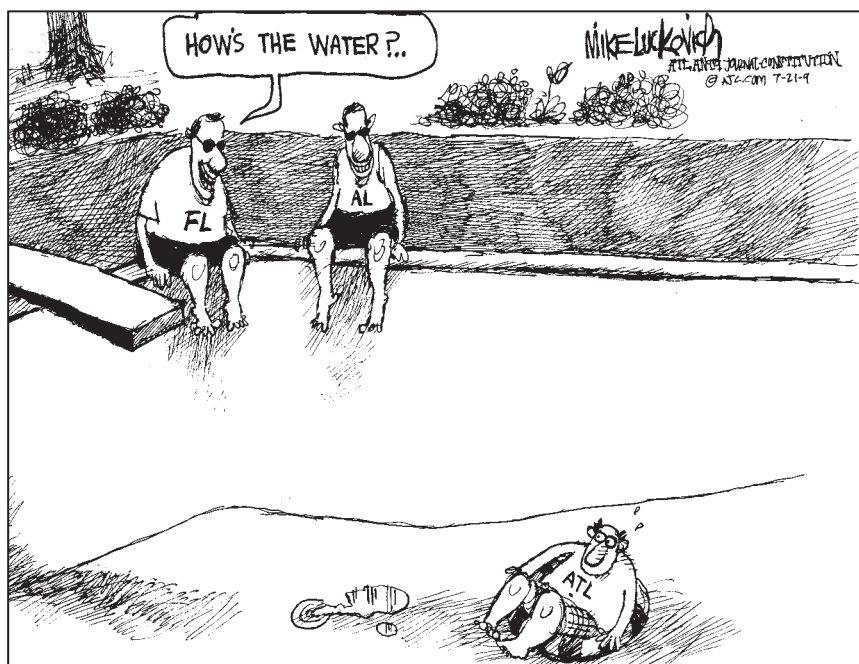
"As we all learned in grade school, the separation of powers is fundamental to our federal government... Congress authorized and paid for Buford Dam and gave the Corps of Engineers the authority to operate the dam. Congress specified, however, that... if the Corps believed that it must operate the project in a manner contrary to Congress' initial authorization of the project, it must so inform Congress and secure Congress' permission to do so... Congressional approval of the reallocation of storage in Lake Lanier is required." (Magnuson order)

Despite the clear need for Georgia to secure Congressional approval to use water from Lake Lanier to supply metro Atlanta, state leaders failed to seek such authorization, even as the region's population exploded in the past two decades. Instead, the state vigorously pursued a doomed legal strategy, with no plan "b".

A Wake-Up Call

Grandstanding and chest-beating by officials in all three states dominated the news in the months following the ruling. This behavior further entrenched old resentments at a time when the states needed to focus instead on solutions to share the water in the Apalachicola-Chattahoochee-Flint (ACF) River Basin.

As draconian as the Magnuson ruling may appear, it has provided an unprecedented opportunity—some might even call it a mandate—to advance sustainable water management strategies in the ACF Basin. To accomplish this goal, Georgia must be willing to deemphasize litigation and, instead, emphasize smart, cost-effective water supply solutions, over long-term, expensive and risky ones.



Cartoon courtesy of Mike Luckovich

The 15-county metro region has had a wake-up call that cannot be ignored. Judge Magnuson gave Georgia (read: metro Atlanta) until July 2012 to resolve its water supply problems; if not, some areas in the region, as well as downstream, will be out of water and others could experience stringent water rationing.

Common Sense Solutions

Upper Chattahoochee Riverkeeper has been involved with the tri-state water issue for 15 years, focusing on the policy, scientific and legal decisions needed to fairly allocate the water in the ACF Basin among competing users, while leaving enough clean water in the rivers to support healthy ecosystems.

Instead of continuing to point fingers at the other states, Georgia officials must admit that metro Atlanta has a serious water problem—due to its small watershed, growing

population, sprawling development, and higher than average use of water and energy (generated at water-consuming power plants).

A package of conservation measures must be adopted by the state legislature in 2010. UCR and other leaders of the Georgia Water Coalition met in late August with Governor Perdue to recommend specific action items that, collectively, will yield significant water savings for the 15-county metro region. Once adopted, this legislation should help assure communities downstream in the ACF Basin that Georgia is serious about making better use of limited water supplies.

Conservation alone will not satisfy all of Atlanta's future water demands. Officials also must evaluate existing water supply sources to determine their maximum yield, including the possibility of raising the pool at Lake Lanier, in addition to reallocating some storage for metro water supply. These actions will require Congressional approval and direction to the Corps regarding its operation of Buford Dam and other federal reservoirs in the system, as well as careful consideration of instream flows needed to support all uses, including water quality, recreation and fishing.

Finally, but essentially, Georgia must take the lead in securing agreement among the states and government agencies on a uniform, basin-wide approach to data collection, measurement and modeling. You cannot responsibly and adaptively manage something that you do not measure and monitor.

These common-sense solutions can be implemented during the final year of the Perdue Administration, if there is sufficient political will.

GLADES RESERVOIR – DECORATION OR WATER SUPPLY?

Water supply was not the original purpose for a proposed new reservoir in Hall County. In 1979, the Goess-Saurau family of Austria purchased 7,500 acres known as Glade Woodland Farms. Two decades later, the county purchased 800 acres of that property, agreeing with the family to build a reservoir with strict limitations on the lake level—for "aesthetic" purposes according to a reservoir consultant.



This stretch of Flat Creek in Hall County would be inundated by the proposed reservoir.

Billed as a new public-private water supply source for Hall County, Glades Reservoir would release water into Lake Lanier for withdrawal by the city of Gainesville. According to the permit application, the dam that would impound Flat Creek, a Lanier tributary, would be built at the edge of Lanier's normal pool level on land owned by the Corps of Engineers.

Project Purpose Called Into Question

Hall County says that Glades Reservoir is essential to meet its needs over the next 50 years, but other factors call into question the project's merit. The project would impound 850 acres and flood 17 miles of streams and 27 acres of wetlands to yield only 6.4 million gallons per day (MGD). Yet, Hall County's existing 143-acre Cedar

Creek Reservoir is expected to yield 9-12 MGD for water supply.

As noted by federal regulatory agencies and others in their comment letters, Glades could yield substantially more water for supply if it were not being operated as an amenity lake for development. In 2008, the county rezoned close to 3,000 acres of the land owned by the Austrian family to a planned community surrounding the lake with 5,031 residences and several million square feet of commercial space.

In early September, Hall County temporarily withdrew the project application, most likely in response to the recent court ruling in the tri-state water wars (see above) which prohibits any additional water withdrawals from Lake Lanier until Congressional authorization is secured. We expect the application to be revised and resubmitted to the Corps.

UCR submitted an extensive comment letter to the Corps in opposition to the project. We will continue to call into question any reservoir proposals that are masquerading as water supply projects when their obvious purpose is to use taxpayer dollars to fuel more development.

Get Out!

Nickajack Creek

A major tributary to the Chattahoochee in southeast Cobb County, **Nickajack Creek** flows near the multi-use Silver Comet Rail Trail. A short distance downstream of the trail, accessible by Oakdale Road, is a 20-acre hidden treasure called Nickajack Park, featuring baseball fields, tennis courts and basketball hoops, as well as a well-maintained playground. Wooded trails lead to two sizeable shelters with tables for picnicking. The fenced open space in the northern section protects Cobb County's only community garden. Use your detective skills to find the Nickajack Creek pedestrian bridge. Hint: check behind the tennis courts.

Thanks to Roberta Cook for this "Get Out!" submission. Do you have a favorite trail or paddle outing to share? Contact Mary O. Harrison at mharrison@ucriverkeeper.org.

Living Waters

Reflections

Hurricane Andrew devastated south Florida in the early 1990s; it also sent a young commercial fisherman named **Harlan Trammell** back home to his family in Atlanta to recover from losses in the Florida Keys.

The result was the Chattahoochee's gain.

One summer day in 1995, Harlan walked into Upper Chattahoochee Riverkeeper's office and volunteered to captain our new river patrol boat. He had seen a newspaper story about our efforts to clean up the river and figured that we needed somebody with his skills. We did, even if we didn't fully realize it at the time.



A Man of Many Talents

Harlan grew up with the Gulf of Mexico as his playground, first in coastal Alabama and then Florida's Indian Rocks Beach. It was in these salty waters and tidal rivers that he taught himself the boating and fishing skills that became not only his vocation, but his life-long passion.

Today, Harlan is a master of near-coastal vessels up to 50 gross tons, meaning he can captain these boats on inland waters and up to 200 miles from shore. He can rebuild boat engines and handle fiberglass, wood and electrical work. He's also certified by Honda to repair and maintain their engines, which power all UCR boats.

A geologist by training, Harlan hunts fossils and relics of the coastal plain as a hobby, spending hours on river bottoms, often

in the company of gators. When he's not on or under the water, UCR's long-time boat captain can often be found with his wood-working tools, making everything from dulcimers to display cases for his extensive fossil collection.

Fourteen Years at the Helm

Every waterkeeper organization around the world has a strong on-the-water presence—patrolling, investigating, and taking water samples. Harlan made these important activities possible for UCR for 14 years.

When we created our floating classroom program in 1999, Harlan became a full-time employee, maintaining and operating our new pontoon boat on Lake Lanier. In 2007, he supervised our purchase of a 40-foot catamaran, so we could take this successful education program to the next level, and he configured and set up the boat above and below deck.

Along the way, Harlan discovered dozens of sewer spills and other violations of river protection laws that resulted in clean-ups and enforcement actions. He piloted trips for national and local media and many elected officials. On an infamous boat trip with Mayor Franklin, when she became a whistleblower for violations in the river corridor, Harlan took apart and successfully repaired a clogged engine in 20 minutes.

Harlan never lost his love for the Keys and last summer decided it was time to move back to the islands full-time. We let him go only because he promised to return to the Chattahoochee several times each year to maintain our boats and run a few river trips for old times' sake.

Sally Bethea
Executive Director and Riverkeeper

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

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On Patrol

For further details on these and other UCR investigations and actions, go to www.chattahoochee.org/on-patrol

Construction Activities on the River

Last summer, we received a hotline call about construction activities on the Chattahoochee River in **Forsyth County** at **Deep River Farm**. Our investigation revealed that the property owner had cut a boat ramp into the riverbank and constructed an overlook area and stairs without any of the necessary permits or variances. After UCR filed a complaint, Forsyth County issued a stop-work order and citations that require the restoration of the damaged areas. We will continue to monitor the restoration of this area because buffers along our waterways are critical to protecting water quality and wildlife habitat.

Sewer Rehabilitation in Atlanta

On July 17, UCR joined the city of Atlanta to celebrate another major milestone in sewer repair—the completion of sewer rehabilitation of **Sewer Group 1**. Over 80% of the system, almost 1300 miles of pipelines, has been evaluated and 300 miles of the system with the most chronic pollution problems have been rehabilitated. This work is part of the city's plan to eliminate sanitary sewer overflows, as called for under the federal consent decree that settled UCR's 1995 lawsuit against the city.

Illegal Buffer Encroachment in Douglas County

While giving a staff advisor of **Congressman John Lewis** a tour of the river, we discovered an illegal buffer encroachment on the Chattahoochee in Douglas County where a large area of vegetation had been removed down to the water's edge for an unknown purpose. We plotted the area on our GPS and relayed the coordinates to Douglas County inspectors, who responded immediately. The county issued a stop-work order to the property owner, with a requirement that the disturbed area be restored. We will continue to monitor the restoration of this area.

Coal Combustion Waste at Plant Wansley

Georgia Power Company has applied for a permit to fill streams and wetlands to store coal combustion waste (CCW) from its sulfur dioxide scrubbers at **Plant Wansley** in Heard County. The desulfurization process generates a by-product of gypsum and toxins in wet slurry form. EPA advises that CCWs should not be stored or used in environments where it will come into contact with water. In July, UCR submitted comments to the Corps of Engineers and the Georgia EPD recommending a dry storage method to avoid impacts to wetlands and streams that flow into the Chattahoochee River. We have received no response to date.

McGinnis Ferry Bridge Discharge

In 2008, Forsyth County applied to EPD for permission to discharge 6 million gallons per day of treated sewage into the river upstream of the **McGinnis Ferry Bridge** in pristine trout and recreational waters. Concerned about potentially adverse effects to water quality and increases in water temperature which could harm the reproducing trout fishery, UCR submitted a detailed comment letter. In addition to a discharge permit from EPD, the county must also receive a permit from the Corps of Engineers and the state to construct an outfall pipe. Again, UCR submitted comments. In September, EPD decided to hold its approval for the pipe pending resolution of concerns that the cumulative impacts of all discharges from Buford Dam to Morgan Falls Dam might result in temperature violations harmful to the trout fishery.

Georgia Forestry Commission Grant

The **Georgia Forestry Commission** has awarded a grant to UCR to work with Lumpkin County on a tree protection and water quality initiative in anticipation of growth in the county, half of which drains into Lake Lanier through the **Chestatee River**. UCR will help Lumpkin County draft a comprehensive tree ordinance to promote air and water quality benefits. The grant also includes money for brochures designed to inform developers and foresters of the state's requirements for cutting trees. We will also be working with county officials to share our expertise in areas such as erosion and sediment control and stream buffers.



Have you seen something you think may impact or pollute our waterways? Call UCR's hotline at (404) 352-9828 ext.16 or go to www.chattahoochee.org and click on "Report a Problem." Above, UCR's General Counsel Juliet Cohen visits a construction site for a sewage outfall pipe in response to a hotline call.

THE FLINT GETS A KEEPER

The Flint River begins at the Atlanta Airport, flows past Albany, Georgia, and connects with the Chattahoochee at the Florida line to form the Apalachicola River. In 2009, American Rivers listed the Flint—one of only 40 rivers nationwide that still flow undammed for more than 200 miles—as the second most endangered river in the country. Numerous special plants and animals depend upon the Flint’s waters, including the prized shoal bass, the shoal spider lily and many species of mussels.

As the Apalachicola-Chattahoochee-Flint River Basin continues to be the subject of conflict in the tri-state water wars (see cover story), we welcome a new water-keeper group to the region to help keep the focus where it belongs: on protecting the resource for all who depend upon it. The Flint Riverkeeper’s new license to operate was announced at a fish fry on the Flint in 2008 attended by former President Jimmy Carter who pledged his support to help protect the river.

All in the Family

Effective November 1, 2009, **Gordon Rogers**, who has served as the Satilla Riverkeeper since 2004, will move from one Georgia basin to another and become Flint’s first riverkeeper. Gordon has the experience to move quickly to confront the problems facing the Flint and its communities, which he refers to as a “suite of challenges from Headwaters to ‘Hooch confluence.” One of those problems is proposed projects to impound the river to accommodate the “needs” of metro Atlanta, a growing concern in light of the recent ruling in the tri-state litigation.

The son of a Methodist minister, Rogers is a Georgia native who graduated from high school in Glynn County, attended Oxford College of Emory University and the University



Gordon Rogers with his wife, Gina Leigh, and three children, Quint, Joe and Jamie Leigh.

of Georgia. He worked at Skidaway Institute of Oceanography, spent ten years with Georgia DNR in their Coastal Resources Division, and ran a waste and recycling. He has fished and hunted all of his life. Gordon is married to Gina Leigh Gore, originally of northern Virginia, and together they have three children: Quint, Joe, and Jamie Leigh.

Gordon says he and his family are experiencing a warm welcome to the Flint Watershed. “The fact that the Flint is so lovely and diverse, and that the folks are so engaged and friendly, will make the job a joy,” Gordon says.

Gordon will be joined by Jayme Hill as Director of Development and Mary Newcomb as Administrative Specialist.

Learn more about the Flint Riverkeeper at www.flintriverkeeper.org. To learn more about the vital work of Waterkeeper groups around the world, go to www.waterkeeper.org.

RECORD PARTICIPATION IN SAVE THE HOOCH CAMPAIGN

On August 14, **SweetWater Brewery’s Big Kahuna Freddy Bensch** and **Minister of Propaganda Steve Farace** presented UCR with a check for \$55,420, proceeds raised through SweetWater’s fourth annual Save the Hooch Campaign. This campaign helps keep UCR’s river patrol and water quality monitoring programs afloat—literally.

Despite the economic downturn, we saw a rise this year in participation among local business, with over 100 participating accounts in metro Atlanta. The single largest fundraiser for the campaign was **Taco Mac**, whose stores brought in just over \$28,000.

According to Farace, “The passionate response from retailers such as Taco Mac, Marietta Pizza, Williamson Brothers BBQ, Wild Wing, our wholesaler United Distributors and many others is a fantastic statement that the importance of protecting our water supply is vital to everyone in town”.



Photo credit: Shane Durrance

Freddy Bensch, Sally Bethea and Steve Farace at the Save the Hooch check presentation event at SweetWater Brewery.

The Save the Hooch Campaign runs from Memorial Day through July 4th each year.

Learn more at www.savethehooch.com. To learn more about UCR’s water monitoring programs and how to help, go to www.chattahoochee.org/water-monitoring.php.

A PARTNERSHIP THAT DELIVERS RESULTS - 20,000 STUDENTS IN TEN YEARS!

The only floating ecology education classroom in Georgia just celebrated a birthday - a decade of providing an unforgettable learning experience for close to 20,000 students and teachers from metro Atlanta and north Georgia.

Since 2000, UCR and **Elachee Nature Science Center** have operated the Lake Lanier Aquatic Learning Center (LLALC) through a successful partnership that was highlighted at our recent Patron Dinner where Elachee received our River Educator Award (see page four).

A Relevant and Enriching Experience

On board our 40-foot catamaran, students test for dissolved oxygen, turbidity, temperature, and pH as indicators of Lake Lanier’s health.

Through these experiments, watershed mapping, and other activities, students learn how the Chattahoochee and its lakes function as a natural, living system that sustains millions of people and wildlife. They begin to understand how pollution sources can affect the lake and the river and how they and their families can take actions to protect



David Yenerall of Elachee with students on the Chota Princess II.

Photo courtesy of Elachee Nature Science Center

our waterways. (Not to mention the chance to see herons, osprey, beavers, and other animals in their natural environment.)

After ten years, the floating classroom remains a relevant and enriching experience for kids. “The LLALC provides hands-on opportunities for students to see how their drinking water at home is directly related to the water in the Chattahoochee River system,” said Janice Jones, of Elachee. “This is especially critical when so many of these young people think the source of their drinking water is the faucet in their kitchen. This belief is largely because they are not connected to the natural environment in any way. The LLALC aims to cross this barrier.”

It has been an exciting ten years watching the floating classroom grow, and we are looking forward to another great ten years. We would like to thank the incredible team at Elachee, as well as our boat captains: Harlan Trammell, Rick Marton and Dick Boyd. If you would like more details about our work with the floating classroom, contact Becca Klein, Development Director, at (404) 352-9828 ext. 19.

River Matters

For more information about these and many other river-related events, visit www.chattahoochee.org/calendar

October 24

Soque River Ramble
Batesville

October 30 – November 1

McIntosh Camping and Paddle Trip

November 6-8

Hemlock Fest

November 8

UCR Member Celebration
Chattahoochee Nature Center

November 21

Owl Prowl
Chattahoochee River National Recreation Area

December 11

Captain Planet’s Xmas Party for the Planet
The Tabernacle, Atlanta

Give the gift of clean water this holiday!

As the holiday season draws near, give your loved ones something meaningful — an Upper Chattahoochee Riverkeeper membership. Let us represent your concerns about access to plentiful, clean drinking water, safe recreation opportunities, and protecting wildlife. One year individual gift memberships are \$25. For more information, contact Becca Klein at 404-352-9828 or bklein@ucriverkeeper.org.

THAT’S A LOT OF TRASH! â



This year, UCR and our fleet of 300+ volunteers dressed in our grubbier clothes and jumped into creeks, streams, lakes and the river to complete 20 trash cleanups. From January thru October, we estimate 80 tons of trash were removed from our watershed!

This was made possible with the support and partnership of **Chattahoochee River National Recreational Area, West Atlanta Watershed Alliance, English Avenue/Vine City, Rivers Alive, Earthshare of Georgia, Rockledge, Collegiate Licensing Company, Wildwood Outfitters, Turner Broadcasting Inc., Mableton Improvement Coalition, LexisNexis and OUR VOLUNTEERS.**

Georgia has over 70,000 miles of streams and rivers—and they need your help! If your organization is looking to host a service project for your employees—help us by volunteering. Contact Tammy Bates for more information at (404) 352-9828 ext.12 or tbates@ucriverkeeper.org.

RIVER STRUGGLES TO RECOVER FROM EPIC FLOODS, POLLUTION

Neighborhoods were devastated and lives lost in late September when record-setting rainfall caused the Chattahoochee and its tributaries to flood homes and roads—proving metro flood maps outdated and highly inaccurate.

Near Canoe Restaurant in Vinings, the river peaked at 28.1 feet, close to the 29-foot record measured at that location in 1919 before Buford Dam was built with flood control as one of its Congressionally authorized purposes (see cover story).

Sewage Discharges, Trash and Industrial Waste

The city of Atlanta's R.M. Clayton sewage treatment plant was submerged after the river topped a berm on September 21, rendering the facility inoperable; millions of gallons of raw sewage flowed into the Chattahoochee. Working around the clock, city employees were able to restore function to about 70% of the treatment system in a day and expected to have full treatment within several weeks.

Pollution also flowed into the river from other malfunctioning sewage plants in the metro area, as well as broken sewer lines, septic systems, and runoff from construction and industrial sites.

As soon as it was safe, teams from the U.S. Geological Survey were in the field to restore function to monitoring equipment and assess the impact. "The USGS can reliably say just how bad these floods were. They were epic," said Brian McCallum, Assistant Director for the USGS Water Science Center in Georgia.

UCR and a media team surveyed the damage in our patrol boat, shortly after the flood. We found mounds of trash—some perched on top of railroad trestles high above our heads; severely eroded riverbanks and highly turbid water; kayaks and furniture hanging from trees; and foul odors everywhere.

In the coming months, UCR will be organizing and supporting cleanup events from Helen to West Point Lake, where one is scheduled for early November. See www.chattahoochee.org for details.



Atlanta's R.M. Clayton Plant flooded during September storm.

Photo credit: David Tullis/www.davidtullis.com

UCR HONORS MAYOR SHIRLEY FRANKLIN AT PATRON DINNER

Wednesday, September 23, more than 300 UCR members, guests and sponsors gathered at our Annual Patron Appreciation Dinner to celebrate 15 years of protecting the Chattahoochee River. We honored **Mayor Shirley Franklin** with our prestigious **River Guardian Award** for her determined approach to overhauling the city's aging sewer system, the wisdom she showed in tackling the city's drinking water system, and the launching of Sustainable Atlanta.

In presenting Mayor Franklin's award, **LaGrange Mayor Jeff Lukken** noted how remarkable it was to have a downstream mayor praising Atlanta's mayor for water quality. In attendance were several gubernatorial candidates - former **Governor Roy Barnes**, **Senator Jeff Chapman**, and **Rep. Dubose Porter**—along with former **Lieutenant Governor Mark Taylor** and several other officials and public servants.

Other highlights of the evening included award presentations to **The Coca-Cola Company**, former AJC reporter **Stacy Shelton**, and **Elachee Nature Science Center**, as well as the presentation of a **\$75,000 Leadership Grant** to UCR from **RBC Bank** and **RBC Blue Water Project**.



Mayor Shirley Franklin and Mayor Jeff Lukken

Photo credit: Kent Ruby

Through the support of our sponsors and proceeds from our auction the night of the event, UCR raised \$160,000 to help us continue our mission to protect and restore the Chattahoochee River, its lakes and tributaries for the people, fish and wildlife that depend on the river system. For more information on this event and the awards presented, go to www.chattahoochee.org/patron-appreciation-dinner.php.



Photo credit: David Greenberg

Silent Auction winners celebrate a new acquisition from Soque ArtWorks.

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If you prefer to receive RiverCHAT electronically, contact Mary Harrison at mharrison@ucriverkeeper.org

UCR's Member Celebration, November 8!

What: Celebrate UCR's accomplishments, party, mix and mingle, honor our volunteers and learn more about our work.

Where: Chattahoochee Nature Center's new LEED-certified pavillion in Roswell

When: Sunday, November 8 from 5:00pm to 7:30pm

For details and to register go to www.chattahoochee.org/membership-meeting.php