House Resolution 1310 (AS PASSED HOUSE AND SENATE)

By: Representatives Cole of the 125th and Knight of the 126th

A RESOLUTION

Authorizing the State Properties Commission to enter into appropriate boundary line dispute agreements pertaining to real property in Butts, Lamar, and Monroe Counties, Georgia, and the conveyance of state property for such purposes; to repeal conflicting laws; and for other purposes.

WHEREAS:

(1) The State of Georgia is the owner of approximately 25.40 acres of certain real property located in Butts, Lamar, and Monroe Counties, Georgia, consisting of state owned tracts above the 587.35 foot contour line above mean sea level in the basin of the reservoir impounded by the High Falls Dam on the Towaliga River (hereinafter the 587.35 contour line) adjacent to tracts of property belonging to more than 150 landowners (hereinafter adjacent landowners) in the area designated High Falls State Park (hereinafter High Falls property) and more particularly described as 25.40± acres conveyed in 1961 and 1962 to the State Game and Fish Commission from Northumberland Corporation as follows:

(A) 12.2 acres in Butts County: 1962 Deed (Tr. 2-3) Upper Towaliga, 6 acres; 1962 Deed (Tr. 2-4) Weavers Pasture, 4.2 acres; 1962 Deed (Tr. 2-5) Ridgeway, 2 acres;

(B) 4.50 acres in Lamar County: 1962 Deed (Tr. 2-1) Buck Creek, 4.5 acres; and

(C) 8.7 acres in Monroe County: 1961 Deed (Tr. 1-1) Buck Creek, 2.0 acres; 1962 Deed (Tr. 2-1) Buck Creek, 4.2 acres; 1962 Deed (Tr. 2-2) Watkins Bottom, 2.5 acres;

(2) The High Falls property is more particularly identified on the map entitled "High Falls State Park Boundary Line Agreement Properties" as all those tracts of land designated in a red zone as the boundary line agreement tracts, a copy of which is recorded and maintained in the custody of the State Properties Commission;

(3) The Georgia Department of Natural Resources as the successor in interest to the State Game and Fish Commission has custody and control of the High Falls property herein described;

(4) Due to land-disturbing circumstances both natural and manmade, which circumstances are beyond the control of the parties, the contours and topography of the

High Falls property have changed since the state acquired its interest in said property causing a dispute as to the boundary lines between the High Falls property and property belonging to the adjacent landowners; and

(5) The Georgia Department of Natural Resources, as approved by the Board of Natural Resources, is in agreement with the boundary line proposal and recommends that the State Properties Commission seek authorization to enter into such boundary line dispute agreements with adjacent landowners, subject to certain restrictions placed upon the boundary line agreement areas as herein provided, in order that boundary lines may be positively identified and established for the benefit of the state, as well as the adjacent landowners; and

WHEREAS:

(1) The state owns certain property in the custody and control of the Georgia Department of Natural Resources, located in Butts, Monroe, and Lamar Counties, Georgia, below the 587.35 foot contour line (hereinafter state dam property);

(2) The adjacent homeowner identified as Robert and Gail Beaver (hereinafter adjacent homeowner Beaver) owns a certain tract of land located in Land Lot 76 of the 4th Land District, in Butts County, Georgia, (hereinafter adjacent homeowner Beaver property) and shown on that certain drawing dated January 23, 2006, entitled "Exhibit Drawing for Boundary Line Agreement High Falls Lake Department of Natural Resources Beaver Tract," prepared by Metro Engineering & Surveying Company, Incorporated, more particularly James R. Green, Georgia Registered Land Surveyor No. 2543, a copy of which is recorded and maintained in the custody of the State Properties Commission (herein after the drawing);

(3) The dividing line between the state dam property and the adjacent homeowner Beaver property cannot be established with certainty due to a variety of factors beyond the control of the parties, including wave action, erosion, tree removal, and other land-disturbing natural or manmade activities which have occurred since the state acquired the state dam property;

(4) The Georgia Department of Natural Resources, as approved by the Board of Natural Resources, is in agreement with the boundary line proposal and recommends that the State Properties Commission seek authorization to enter into such boundary line agreement with the adjacent homeowner Beaver in order that a boundary line may be positively identified and established for the benefit of the state, as well as the adjacent homeowner Beaver; and

(5) The adjacent homeowner Beaver and the state desire to enter into a boundary line agreement consistent with the drawing depicting the adjacent homeowner Beaver

property in order that a boundary line may be positively identified and established for the benefit of both parties.

NOW, THEREFORE, BE IT RESOLVED AND ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

That the State of Georgia is the owner of the above-described real properties located in Butts, Lamar, and Monroe Counties, Georgia, and that in all matters relating to the conveyance of the real property the State of Georgia is acting by and through its State Properties Commission.

SECTION 2.

That portion of the High Falls property above the 587.35 foot contour elevation, excluding property below the high-water mark as identified by a survey conducted by the Department of Natural Resources, may be conveyed by a boundary line agreement or appropriate deed instrument to the adjacent landowners, as herein provided, for a consideration of $1.00 and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia, for the purpose of agreeing to established boundary lines; provided, however, that the conveyance of the High Falls property shall also be subject by expression in the boundary line agreement or deed instrument to the following restrictions and such other restrictions as deemed necessary and appropriate by the Department of Natural Resources:

(1) There shall be a 25.0' buffer area in which no vegetation may be disturbed or removed and no structures, fences, bulkheads, or impervious surfaces shall be constructed or placed, with the exceptions of items (2), (5), and (6) below; provided, further, that improvements already existing as of January 1, 2008, may continue unless such improvements are on wetland property. The continuation of such improvements shall include repairs but shall not include modifications thereto;

(2) All docks must comply with applicable rules of the Georgia Department of Natural Resources, provided, further, that no walkway to the dock or bulkhead for the dock shall exceed 8.0' in width;

(3) There shall be no use of fertilizers, herbicides, or pesticides within the 25.0' buffer area;

(4) There shall be no planting, releasing, or broadcasting of any vegetation listed by the Georgia Exotic Plant Pest Council, or similar organization, as nonnative invasive plants in Georgia within the 25.0' buffer area;

(5) If the Georgia Department of Natural Resources (department) determines that there is an exotic plant problem within the 25.0' buffer area, then the department shall be authorized to take any necessary restoration actions to remove the exotic plants and to assure the overall health of the lake and buffer area;

(6) If the department determines that there is an erosion problem affecting the health of the lake and buffer area, then the department may take or allow the landowner to take any restoration actions to address the erosion problem, so long as these activities have a minimal impact on the 25.0' buffer area and follow all applicable state and local laws. Any restoration activity undertaken by the landowner shall be subject to all statutory and regulatory requirements as otherwise provided by law; and

(7) The exceptions set forth in paragraph (2) of this section shall not apply to any wetlands and there shall be no filling, ditching, or placing of docks or similar structures within any wetland. All wetland property, whether within or outside the 25.0' buffer area described in paragraph (1) of this section, shall continue to be subject to state and federal restrictions as set forth by applicable law or regulation pertaining to wetlands and which restrictions may be enforced by the department or any other authorized agency.

The restrictions shall be recorded in any boundary line agreement or deed instrument conveying a property interest pursuant to the authority granted by this resolution as covenants running with the land and shall be enforceable against current or subsequent owners or holders of the property.

SECTION 3.

That portion of the state dam property below the 587.35 foot contour line and above the boundary line set forth in the drawing may be conveyed by a boundary line agreement or deed instrument to the adjacent homeowner Beaver, as herein provided, for a consideration of $1.00 and such further consideration and provisions as the State Properties Commission shall in its discretion determine to be in the best interest of the State of Georgia, for the purpose of establishing a boundary line.

SECTION 4.

That the State Properties Commission is further authorized to accept on behalf of the state any properties conveyed by a boundary line agreement or deed instrument from adjacent landowners and the adjacent homeowner Beaver in settlement of the property line disputes and in consideration for a conveyance from this state.

SECTION 5.

That the authorization in this resolution to convey the above-described property to the adjacent landowners and the adjacent homeowner Beaver shall expire five years after the date that this resolution becomes effective.

SECTION 6.

That the State Properties Commission is authorized and empowered to do all acts and things necessary and proper to effect such conveyances and enter into boundary line agreements or deed instruments consistent with the authority granted to the commission in Code Section 50-16-34 of the Official Code of Georgia Annotated. The State Properties Commission is authorized to use a more accurate description of the specific properties authorized herein above to be conveyed and to conduct surveys for individual conveyances, as needed.

SECTION 7.

All boundary line agreements and deeds instruments shall be recorded by the State Properties Commission in the Superior Court of the county where such property is located. The commission shall also record and maintain a copy of any boundary line agreement or deed instrument executed by the state and an adjacent landowner or the adjacent homeowner Beaver.

SECTION 8.

That custody of the above-described property shall remain in the Department of Natural Resources until the property is conveyed to an adjacent landowner or the adjacent homeowner Beaver.

SECTION 9.

All laws and parts of laws in conflict with this resolution are repealed.