

confrontations between landowners, boaters, and fishermen.⁴ One landowner, Four Chimneys LLLP, sued and the two parties (Four Chimneys and the State of Georgia) later entered into an agreement where DNR, while not determining navigability, nevertheless concluded: “the landowner holds title to a portion of the riverbed by virtue of valid [s]tate grants issued prior to 1863 to the adjoining upland property, and therefore under Georgia law the landowner and its successors in title hold the exclusive right to fishing on that property to the center of the river.”⁵ As part of the settlement, the landowner did not contest or oppose the public’s ability to float through the section of the river in question. Additional litigation similar to the Four Chimneys case has been filed following this settlement order.⁶

Days after the Four Chimneys court order was announced, the Georgia General Assembly passed Senate Bill 115 relating to public fishing access, stating:

“The General Assembly finds that the state procured ownership of all navigable stream beds within its jurisdiction upon statehood and, as sovereign, is trustee of its peoples’ rights to use and enjoy all navigable streams capable of use for fishing, hunting, passage, navigation, commerce, and transportation, pursuant to the common law public trust doctrine. The state continues to hold title to all such stream beds, except where title in a private party originates from a valid Crown or state grant before 1863. The General Assembly further finds that the public retained the aforementioned rights under such doctrine even where private title to beds originates from a valid grant.”⁷

Testimony was heard at meetings discussing the language of Senate Bill 115 and thoughts on the bill’s impact. Proponents of Senate Bill 115 stated the bill would stave off both a litany of potential litigation facing the state as well as a resulting patchwork of accessibility to anglers and paddlers along navigable rivers, while still preventing trespass along private property. Opponents of Senate Bill 115, in addition to stating legislative procedural concerns, testified to their opinions about it nevertheless being an infringement on private property rights and a potential governmental taking. In the Governor’s signing statement of Senate Bill 115, Governor Kemp noted the legislation “does not affect non-navigable rivers or streams or change the definition of navigability” nor does it “impact the use of water by adjacent landowners in navigable rivers.”⁸ Additionally, the governor noted the establishment of this committee as an appropriate venue for suggesting amendments to the language in this legislation.

⁴ <https://gon.com/news/state-weighs-in-on-flint-river-access-controversy>.

⁵ State of Georgia and Four Chimneys, LLLP Joint Press Release (April 3, 2023): <https://gadnr.org/state-georgia-and-four-chimneys-lllp-joint-press-release>.

⁶ <https://capitol-beat.org/2023/09/georgia-lawmakers-to-tackle-fishing-rights-issue/>.

⁷ Ga. L. 2023, p. 303, § 1/SB 115 (now incorporated as O.C.G.A. §44-8-5(c)).

⁸ <https://gov.georgia.gov/document/2023-vetoed-legislation/sb-115-signing-statement/download>