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**Environmental Plaintiffs Disappointed with Appeals Court Decision**

BRUNSWICK, GA. – Wednesday, August 6<sup>th</sup>, 2025 – Plaintiffs, Glynn Environmental Coalition, Center for Sustainable Coast, and Jane Fraser are disappointed by the Eleventh Circuit Court’s decision in the Clean Water Act Citizen Suit against Sea Island Company and will ask for the Court’s reconsideration. This decision comes after oral argument was presented in the U.S. Court of Appeals for the Eleventh Circuit in April 2025 in Atlanta. The appeal was filed in March 2024 after the United States District Court for the Southern District of Georgia dismissed the case by holding that the wetland on Sea Island’s property no longer qualified as a jurisdictional water of the United States after the U.S. Supreme Court’s decision in *Sackett* in May of 2023.

The Plaintiffs filed suit against Sea Island Company in 2019 alleging that the company misled regulators and then violated its permit by filling the wetland with sodding. The plaintiff organizations allege that Sea Island Company knowingly misled regulatory agencies in its application for a Clean Water Act permit that resulted in the unlawful destruction of wetlands at the Inn at Sea Island. Sea Island Company's actions in filling wetlands substantially contradicted the limited purpose set forth in its wetland permit application – the proposed construction of a commercial office building.

“Rogue developers need to be held accountable,” said Rachael Thompson, Executive Director of the Glynn Environmental Coalition. “Sea Island submitted a fraudulent application to the U.S. Army Corps of Engineers and maintains a decades-long ongoing violation to their permit. Federal law allows citizens and their non-profit representatives to file litigation to enforce the Clean Water Act when federal agencies fail to meet their obligation to properly enforce the law.”

Sea Island admitted that its wetland located near Dunbar Creek and adjacent saltwater marshes was a jurisdictional water of the U.S. when it applied for a Clean Water Act permit to fill the wetland. In 2013, Sea Island obtained a Nationwide Permit No. 39 to construct a commercial office building that it has still not constructed (and likely never will construct). The wetland area at issue in the case was a tidally influenced marshland that qualified as a jurisdictional water of the U.S. when it was filled, and Plaintiffs are certain that it continues to qualify as a wetland.

“What Sea Island signed in that circumstance to obtain that permit was a document that stated it would never contest in any federal court the jurisdictional status of the waters in question.” said John Brunini

of Butler Snow, attorney representing plaintiffs during the oral argument on April 24, 2025.

Despite this, the Eleventh Circuit found that the wetland was no longer jurisdictional after a 2023 Supreme Court decision called *Sackett* narrowed the scope of jurisdictional wetlands protected by the Clean Water Act. However, a broader test under a prior Supreme Court decision called *Rapanos* governed jurisdictional determinations at the time that Sea Island permitted and filled the wetland. The Eleventh Circuit's decision to retroactively apply the *Sackett* decision to a wetland that the Corps deemed to be jurisdictional and has already been filled may have significant implications for all wetlands in the United States.

“Coastal wetlands, including the tidal marshes at issue in this case, are essential to the treasured quality of life in coastal Georgia,” declared David Kyler, co-founder and director of the Center for a Sustainable Coast. “Protecting coastal wetlands enables them to provide a range of environmental and economic benefits, including flood control, water purification, wildlife habitat, and nursery areas that support recreational fishing. It is therefore critical that regulatory safeguards for wetlands and waterways are responsibly enforced to prevent threats to the health of coastal ecosystems which endanger our communities and wildlife.”

The Courts' rulings have prohibited Plaintiffs from moving the case forward into fact discovery, and the Plaintiffs intend to petition the Court to reconsider this decision.

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Founded in 1990, the Glynn Environmental Coalition works diligently to assure a clean environment and healthy economy for citizens of coastal Georgia. Glynn Environmental Coalition serves the community through education and outreach; community organizing; preparing technical assistance reports; comment submission; and requesting public hearings.

The Center for a Sustainable Coast was established in 1997 to advance the application of science in protecting coastal Georgia's environment and quality of life. The Center's board and staff are committed to improving the outcome of development decisions by advocating well-founded positions on public policy, regulations, and the law.