

COASTAL COURIER

Letter to the editor: Environmental groups challenge Sea Island

Published: Feb 16, 2022, 8:50 AM

Today, the Glynn Environmental Coalition, The Center for a Sustainable Coast, and Jane Fraser, through counsel John Brunini of the Butler Snow law firm, presented oral argument to a panel of judges in the U.S. Court of Appeals for the Eleventh Circuit, which covers cases in Georgia, Alabama, and Florida. The Honorable Chief Judge William H. Pryor Jr., Honorable Judge Adalberto Jordan, and the Honorable District Court Judge Michael L. Brown, sitting by designation, heard arguments on whether citizens of Glynn County have constitutional standing to challenge alleged illegal fills of wetlands on St. Simons Island by a Sea Island Company related entity.

The Glynn Environmental Coalition, The Center for a Sustainable Coast, and Ms. Fraser have actively sought to remedy Sea Island's illegal fill of wetlands located at the Inn at Sea Island on Saint Simons Island and affecting the Dunbar Creek and Twitty Park areas.

"Coastal Georgia residents adamantly oppose attempts to illegally sod, develop, and destroy their marshes and wetlands," said Karen Grainey, Co-Director, Center for a Sustainable Coast. "The ongoing appeal aims to assure organizations like the Center for a Sustainable Coast and the Glynn Environmental Coalition have standing to take action when violations of the Clean Water Act are identified."

In 2019, the Environmental Plaintiffs commenced a lawsuit seeking to have Sea Island restore the filled wetland and to recover civil penalties under the Clean Water Act. Sea Island vehemently opposed the lawsuit. It argued that ordinary citizens cannot challenge the fill of wetlands on private property, despite wetlands being public trust property of the State of Georgia. In January of 2021, Chief Judge Randall Hall granted Sea Island's motion to dismiss based on alleged lack of standing. The Environmental Plaintiffs appealed and, today, made their case to the panel of 11th Circuit judges.

The Environmental Plaintiffs' arguments were well-received by the panel of judges, who emphasized that persons like Ms. Fraser and the environmental organizations are persons aggrieved with standing under the Clean Water Act. The Environmental Plaintiffs, as localized persons with aesthetic interests in jurisdictional wetlands on St. Simons Island, are entitled to bring suit under the Clean Water Act for an alleged violation. The judges cited the Environmental Plaintiffs' recreational and environmental uses of the Dunbar Creek and Twitty Park areas and noted the long-standing localized interests of each of the plaintiffs, especially Ms. Fraser.

Indeed, the Environmental Plaintiffs' argument was so well-received that Sea Island's counsel conceded his argument and a rebuttal argument was not needed. The Environmental Plaintiffs expect the District's Court dismissal to be reversed and remanded by the 11th Circuit Court of Appeals. If successful on appeal, the case will proceed on the merits so that a final judgment can determine whether Sea Island illegally filled the subject wetland by obtaining its permit by fraud. Sea Island employed Mr. Vassa Cate to acquire the challenged permit from the United States Corps of Army Engineers and fill the wetland at issue.

David Kyler, Co-Director of the Center for a Sustainable Coast, outlined the four main objectives their organizations' hope to achieve if the appeal is successful and our suit moves forward: (1) Correcting the

violation by restoring the degraded wetlands and their ecosystem functions; (2) raising public awareness about illegal development activities that threaten St. Simon's character, quality of life, and natural resources; (3) discouraging developers from neglecting well-founded safeguards on future projects; and (4) Assuring that our members continue to enjoy the aesthetic and recreational benefits of wetlands on St. Simon's Island.

Rachael Thompson, Executive Director of the Glynn Environmental Coalition, stated, "Our joint appeal emphasizes that we are strong advocates for environmental organizations having the standing to pursue enforcement regarding ongoing violations of the Clean Water Act on behalf of our members, local citizens who live adjacent to, enjoy, and recreate in our wetlands." She continued, "The Glynn Environmental Coalition functions as a watchdog organization since our founding in 1990 and we are committed to our mission of assuring a clean environment and healthy economy for citizens of coastal Georgia."

Steve Willis, President of the Center for a Sustainable Coast's Board of Directors summed up the Environmental Plaintiffs sentiment, observing that "Saint Simons Island is highly valued for its beautiful natural ambiance, which must be protected against threats caused by development activities. He concluded, "Developers should not be allowed to circumvent environmental safeguards and the permitting process to the detriment of local citizens who have special and public interests in those same resources."

The 11th Circuit Court of Appeals has made a recording of the hearing available online at <https://www.ca11.uscourts.gov/oral-argument-recordings>. All persons who value Coastal Georgia's natural resources are encouraged to listen to the argument.

David Kyler

Co-Director Center for a Sustainable Coast