

**IN THE CIRCUIT COURT OF THE FIRST JUDICIAL CIRCUIT
IN AND FOR ESCAMBIA COUNTY, FLORIDA**

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

and ESCAMBIA COUNTY, FLORIDA
BOARD OF COUNTY COMMISSIONERS,

CASE NO.: 2006-CA-1207

Intervenor,

vs.

LOUISIANA INVESTMENT GROUP, L.L.C.,

Defendant.

ORDER IMPOSING CONTEMPT SANCTIONS

This cause came to be heard on May 16, 2007 upon the Court's March 27, 2007 Notice of Hearing and upon the State of Florida Department of Environmental Protection's ("Department") Third Motion for Contempt against Louisiana Investment Group, L.L.C. ("LIG"). Having heard evidence from the parties, and being otherwise advised in the premises, the Court makes the following FINDINGS OF FACT:

1. This Court entered an Order for Contempt on January 3, 2007 requiring LIG to complete the tasks listed in the Saufley Landfill Critical Path Chart by April 30, 2007, and to control odors, hydrogen sulfide gas, and particulate matter by whatever means and methods necessary.
2. This Court entered an Order on April 30, 2007 extending LIG's time to comply with the Contempt Order until May 6, 2007. The January 3, 2007 Order for Contempt and the April 30, 2007 Order extending time are collectively referred to as "Orders."

3. The Department filed a Third Motion for Contempt on May 11, 2007 alleging that LIG had failed to apply two feet of cover to the facility, and had failed to complete the construction of the stormwater management system.

4. The Department's Third Motion for Contempt has been established by the preponderance of evidence.

5. Marshall Seymore is the Solid Waste Section Supervisor at the Department's Northwest District Office. Mr. Seymore inspected the facility on May 7, 2007. He testified that on that date the slopes were generally three-to-one, except at the northwest corner of the facility. Mr. Seymore observed workers at Saufley removing waste from the Otis English property on that date. He estimated that 30% of the east slope was covered, that 90% of the west slope was covered, and that 75% of the south slope was covered. Mr. Seymore also testified that as of May 7, 2007, no stormwater management system had been constructed.

6. Mike Stephen is an Environmental Specialist at the Department. He conducted inspections of the facility on May 15, 2007. He testified that on that date cover was not applied to the northern slope of the facility, or to most of the eastern slope of the facility. Additionally, there was no cover on the top of the facility, with the exception of cells one and two. Mr. Stephen estimated that 45% of the facility had been covered. Photographs taken on that date show those areas of uncovered waste. Mr. Stephen also testified that as of May 15, 2007 the stormwater management system had not been constructed.

7. Brennon Vinet testified that since the last contempt hearing he liquidated his personal assets to hire B&B Fire and Safety Services. Brennon Vinet hired B&B Fire and Safety Services on April 11, 2007; however, the evidence presented demonstrates that LIG could have taken

other actions prior to April 11, 2007 to comply with the Orders, and there is no evidence that B&B Fire and Safety Services was not available last summer to work at the facility.

8. LIG has the ability to comply with the Orders, has had the ability to comply, and has willfully failed to do so.

9. LIG has the ability to pay a punitive fine.

WHEREFORE, IT IS HEREBY ORDERED that:

A. The Department's Third Motion for Contempt is GRANTED.

B. LIG shall pay a progressive punitive fine to the Department commencing on May 7, 2007, starting at \$100.00 per day, and increasing by \$100.00 per day for each day that it fails to cover the facility, until such time as the fine may reach \$10,000.00 per day. Thereafter the fine will remain at \$10,000.00 per day until the work is completed. The fine will stop accruing when the Department certifies that LIG has placed two feet of cover on the facility.

C. The Department will certify to the Court that two feet of cover has been placed on the facility when it receives a certification from LIG, signed and sealed by a Florida licensed professional engineer, that demonstrates the cover has been applied in accordance with this Order.

D. After the facility has been covered in accordance with Paragraph C, LIG shall pay a punitive fine of \$1,000.00 per day for each day that it fails to have the completed stormwater management system in place. The stormwater management system shall be constructed in accordance with the updated closure plan, which was submitted to the Department on February 5, 2007. The closure plan is attached hereto as Exhibit A.

E. The Department will certify to the Court that the stormwater management system has been constructed when it receives a certification from LIG, signed and sealed by a Florida

licensed professional engineer, that demonstrates the stormwater management system has been constructed in accordance with this Order. The Department will apprise the Court of the total amount of penalties due at that time.

F. The Department, upon agreement with the Escambia County Florida Board of County Commissioners, may ~~reduce or amend these fines~~ *forego collection of accrued & determines that* if it feels it is in the best interest of the citizens of this community to encourage and assist the Defendant in more timely and expeditiously completing the closure of this facility.

06/11/07

DONE AND ORDERED in chambers in Pensacola, Escambia County, Florida this

11th day of *June* 2007.


TERRY D. TERRELL
CIRCUIT COURT JUDGE

Copies furnished to:

- ✓ Karen Bishop, for Plaintiff
- ✓ Charles V. Pepler, for Intervenor
- ✓ Steve Bowden, for Defendant

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DEPT OF ENVIRONMENTAL PROTECTION
OFFICE OF GENERAL COUNSEL