

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

STATE OF FLORIDA DEPARTMENT
OF ENVIRONMENTAL PROTECTION,

Plaintiff,

vs.

Case No. 2006-CA-1207

LOUISIANA INVESTMENT GROUP, L.L.C.,

Defendant.

_____ /

MOTION TO INTERVENE

Escambia County, through its Board of County Commissioners hereby moves this Court, pursuant to Fla. R. Civ. P. 1.230 for an order to allow intervention by Escambia County in the above-styled matter. As grounds, Escambia County states:

1. Escambia County asserts a significant interest in this pending litigation; an interest appropriate to support intervention and wishes to be included as a plaintiff in the action.
2. Escambia County has in effect regulatory ordinances that apply to Louisiana Investment, L.L.C., and the subject site at issue in this litigation. Escambia County has enacted supplemental regulation of the operation and disposal of construction and demolition debris disposal and recycling facilities in the incorporated and unincorporated areas of Escambia County as it serves a

public purpose and promotes the health, safety and welfare of the citizens of the County.

3. State law provides that the County has the power and obligation to regulate waste collection and disposal and can require disposal of solid waste in a manner consistent with county ordinance, state or federal law. Section 125.01 (1) (k) 1., and 2., Fla. Stat.
4. Escambia County regulates solid waste disposal and construction and demolition debris disposal at Chapter 82 of the Escambia County Code of Ordinances.
5. Pursuant to Section 82-15 of the Escambia County Code, it is unlawful to burn solid waste other than in authorized incinerators. Furthermore, Sections 82-224 through 82-240 set forth a comprehensive regulatory scheme for construction and demolition debris disposal sites that regulates several aspects of such disposal, including aerial and vertical height.
6. Escambia County's interest is of a "direct and immediate character," and is appropriate to support intervention. Morgareidge v. Howey, 75 Fla. 234, 238-39, 78 So. 14, 15 (1918); Union Central Life Insur. Co. v. Carlisle, 593 So. 2d 505, 506 (Fla. 1992). With such requisite interest, it would be well within the sound discretion of the Court to enter an order providing for Escambia County's intervention in this matter. Escambia County asserts that the parameters of such intervention should be to allow Escambia County to participate as a plaintiff with all rights and obligations associated with that party status.

7. If granted leave to intervene, Escambia County will show that the situation at the landfill owned by Defendant has become a public health nuisance by causing the emission of toxins into the air at leaves harmful to humans, and thereby adversely affecting the health of those residing in the vicinity of the landfill.
8. Escambia County will ask this Court to immediately schedule an evidentiary hearing for the purpose of determining the extent of the threat to the public health caused by the existence of this landfill and for the purpose of shortening the time for compliance (April 30, 2007) previously granted by this Court on January 3, 2007.

WHEREFORE, Escambia County moves this Court of an order allowing intervention as a plaintiff/party.

Respectfully submitted,

Janet Lander
County Attorney
Florida Bar No: 305359
221 Palafox Place, Suite 430
Pensacola, Florida 32502
(850) 595-4970
(850) 595-4979 (FAX)
Attorney for
Escambia County, Florida
Board of County Commissioners

By: 

Alison Perdue Rogers
Deputy County Attorney
Florida Bar No.: 0011230

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Karen Bishop, Assistant General Counsel, Department of Environmental Protection, (850) 245-2301 (facsimile), 3900 Commonwealth Blvd., MS35, Tallahassee, Florida 32399-3000 and Steven W. Bowden, Esquire, (850) 456-1518 (facsimile), 4502 Twin Oaks Drive, Pensacola, Florida 32506 by facsimile and regular U. S. Mail this 16th day of February 2007.

A handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Alison Perdue Rogers
Deputy County Attorney