

FILED
U.S. DISTRICT COURT
SAVANNAH DIV.

THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

2007 JAN -8 PM 4:11

CLERK *B. Wald*
SO. DIST. OF GA.

ELIZABETH E. CAIN;)
DAVID KAMINSKY and)
LARRY GIBSON,)

Plaintiffs,)

v.)

U.S. ARMY CORPS OF ENGINEERS;)
GEORGIA STATE DEPARTMENT OF)
NATURAL RESOURCES, COASTAL)
RESOURCES DIVISION; SUSAN)
SHIPMAN; MARK A. DANA and)
FRANCES M. DANA,)

Defendants.)

Case No. ~~07-107~~ - 006

**PLAINTIFFS' MOTION FOR
TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION**

Pursuant to Rule 65 of the Federal Rules of Civil Procedure, Plaintiffs Elizabeth E. Cain, David Kaminsky and Larry Gibson hereby move for a Temporary Restraining Order and Preliminary Injunction staying the authorization granted by Defendants United States Army Corps of Engineers ("The Corps") and the State of Georgia Department of Natural Resources, Coastal Resources Division (DNR/CRD) under State Programmatic General Permit (PGP) No. PG00083, 960009050 to construct a massive dock complex at 1414 Walthour Road, Chatham County, Georgia.

The Corps and DNR/CRD violated the Administrative Procedures Act and the Rivers and Harbors Act of March 3, 1899 by authorizing the destruction of marsh, interference with navigation

and construction of a residential dock complex out of character with others in visual proximity, all in blatant contravention of State Programmatic General Permit (PGP) No. PG00083, 960009050. Additionally, the Corps and the State DNR violated the Georgia Coastal Marshlands Protection Act (CMPA) by utilizing the State PGP instead of the appropriate standards imposed by the CMPA. Defendants reviewed and approved the application in question by applying an exception to the law which, on the face of the application itself, rendered such exception inapplicable. The grounds for this Motion are set forth more fully in the contemporaneously-filed Memorandum in Support of Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction.

WHEREFORE, Plaintiffs move the Court to issue a Temporary Restraining Order and Preliminary Injunction staying the revocable license granted by Defendants Corps and DNR/CRD to construct a massive dock complex at 1414 Walthour Road, Chatham County, Georgia.

Respectfully submitted, this 8th of January, 2007.

STACK & ASSOCIATES, P.C.


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