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Federation Asks to Help Defend Landfill Lawsuit

OCEAN – The N.C. Coastal Federation wants to join the state in defending the constitutionality of a landmark state law that is the most important overhaul of solid-waste regulations in more than 20 years and provides needed environmental safeguards from massive landfills.

The federation, along with the N.C. Sierra Club, last week asked Wake County Superior Court that it be added as a defendant in the lawsuit that Waste Industries USA Inc. and one of its subsidiaries brought against the state. The court hasn't yet set a date to hear the motion. The Southern Environmental Law Center in Chapel Hill is handling the case for the two groups.

"This law enables North Carolina to effectively protect the environment when it sites new landfills," said Todd Miller, executive director of the federation. "If the companies' lawsuit is successful, we would be back in the dark ages in solid waste management."

The federation was among the coalition of environmental organizations and grassroots groups that actively lobbied in 2007 for the Solid Waste Management Act to curb the unbridled development of mega-landfills in North Carolina. Black Bear Disposal LLC, a subsidiary of Waste Industries, was among the companies that were planning three massive landfills in sensitive coastal areas in Camden, Hyde and Columbus counties.

Passed that summer by the N.C. General Assembly, the law contains numerous provisions to protect the state's natural resources, including buffers between landfills and perennial streams and wetlands, a prohibition against building landfills in the 100-year floodplain and environmental review for proposed public and private landfills. The bill also requires that landfills be built at least five miles from national wildlife refuges, two miles from state parks and one mile from state game lands.

Those provisions in the bill, which applied retroactively to pending applications, effectively killed the three proposed landfills, including a 490-acre dump that Black Bear Disposal had applied to build near

the Dismal Swamp State Park and the Great Dismal Swamp National Wildlife Refuge in Camden County.

Black Bear and its parent company sued the state in Wake Superior Court in November 2007. They claim in the complaint that the five-mile restriction is arbitrary and capricious, that it unfairly targeted the companies' proposed landfill and deprived them of property without due process or just compensation. They want the court to declare the bill unconstitutional.

Forested wetlands, state parks, national wildlife refuges and state game lands shouldn't be subjected to the threats that accompany mega-landfills, said Chandra Taylor of the Southern Environmental Law Center. Potentially dangerous contaminants can leach from landfills and migrate to groundwater or to streams, she said.

"While we recognize the need to dispose of waste, there are ways to accommodate that need without introducing multiple risks of harm into such sensitive natural areas," she said.

Taylor also noted that the economic downturn has decreased the amount of waste generated and has lessened the need for additional landfill space.

The N.C. State Conference of the NAACP has already joined in the lawsuit as a defendant solely on environmental justice grounds and was granted intervention over the opposition of Waste Industries and Black Bear.