

NINETEENTH JUDICIAL DISTRICT COURT
PARISH OF EAST BATON ROUGE

DOCKET NO. 694,029

SECTION 27

RISE ST. JAMES, LOUISIANA BUCKET BRIGADE, SIERRA CLUB,
CENTER FOR BIOLOGICAL DIVERSITY, HEALTHY GULF, EARTHWORKS,
and NO WASTE LOUISIANA

VERSUS

LOUISIANA DEPARTMENT OF ENVIRONMENTAL QUALITY

FILED: _____
DEPUTY CLERK

FG LA LLC'S MOTION FOR SUSPENSIVE APPEAL

NOW INTO COURT, through undersigned counsel, comes Intervenor FG LA LLC ("FG LA"), who respectfully moves for an order granting it a suspensive appeal from the Judgment signed by this Court on September 8, 2022. In support, FG states as follows:

1. The appeal is timely under Code of Civil Procedure article 2123 because it is filed within thirty (30) days of the expiration of the delay for apply for a new trial, no party having filed a timely motion for new trial.

2. FG LA has the right to a suspensive appeal from the Judgment. A party who has the right to appeal has the right to do so suspensively unless a specific statute provides otherwise, so long as the appeal is timely. *See* La. Code. Civ. P. art. 2123(A) ("Except as otherwise provided by law, an appeal that suspends the effect or the execution of an appealable order or judgment may be taken, and the security therefor furnished, only within thirty days...."). No statute deprives FG LA of its right to suspensively appeal the Judgment.

3. FG LA submits that only a *de minimis* bond, not greater than \$5,000, should be required for its suspensive appeal. No security is needed as to any claimed damages from any activity of FG LA pursuant to the permits vacated by the Judgment because **FG LA hereby stipulates that it will not conduct permitted activities during the pendency of Defendant Louisiana Department of Environmental Quality's ("LDEQ") and FG LA's suspensive appeals to the First Circuit Court of Appeal.** No security is needed to assure satisfaction of the judgment because the judgment appealed from is not for a sum of money. No security is needed for costs because FG LA (and/or the other party that has moved to appeal, LDEQ) will be required to prepay estimated appeal costs under Code of Civil Procedure article 2126. Finally, Petitioners and Intervenor Beverly Alexander will not be prejudiced by FG LA's suspensive appeal because

the other aggrieved party, LDEQ, has already moved for (and is entitled to) a suspensive appeal without the necessity of posting a bond, as permitted by Louisiana Revised Statutes 13:4581. Therefore, the amount of the bond need only be sufficient to assure that FG LA will prosecute its appeal. *See* La. Code Civ. P. art. 2124(E).

4. FG LA respectfully suggests that the security for its appeal be set at \$5,000.

WHEREFORE, for the above reasons, FG LA prays that the Court grant it a suspensive appeal from the judgment signed on September 8, 2022. **FG LA specifically requests that this Court set the appeal bond and sign the appeal order immediately so that FG LA may post the appeal bond timely, *i.e.*, on or before October 23, 2022.**

Respectfully submitted:

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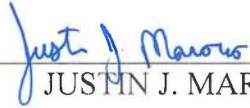

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the above and foregoing has been served on all counsel of record by email and/or by placing the same in the United States Mail, properly addressed and with first class postage prepaid, this 27th day of September, 2022.



JUSTIN J. MAROCCO