

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF GEORGIA  
AUGUSTA DIVISION**

MARTIN MARIETTA MATERIALS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION FILE NO.
	)	CV104-146
UNITED STATES ARMY CORPS OF ENGINEERS,	)	
an agency of the United States,	)	
	)	
Defendant.	)	
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**SAVANNAH RIVERKEEPER, GEORGIA WILDLIFE FEDERATION, NATIONAL  
WILDLIFE FEDERATION, AND NATURAL RESOURCES DEFENSE COUNCIL’S  
MOTION TO INTERVENE AS DEFENDANTS/CROSS-CLAIMANTS**

Pursuant to Rule 24 of the Federal Rules of Civil Procedure, Savannah Riverkeeper, Georgia Wildlife Federation, National Wildlife Federation, and Natural Resources Defense Council (hereinafter collectively referred to as “Applicants”) move to intervene as Defendants-Intervenors/Cross-Claimants in the above captioned action. In support of this motion, Applicants also file the following documents:

1. Proposed Answer and Cross-Claim of Defendants-Intervenors/Cross-Claimants;
2. Memorandum of Law in Support of Savannah Riverkeeper, Georgia Wildlife Federation, National Wildlife Federation, and Natural Resources Defense Council’s Motion to Intervene as Defendants-Intervenors/Cross-Claimants;
3. Affidavit of Sam Booher;
4. Affidavit of Frank Carl;
5. Affidavit of Judith E. Gordon;

6. Affidavit of Jerry McCollum;
7. Affidavit of James Murphy;
8. Affidavit of Julie Sibbing; and
9. Affidavit of Daniel Rosenberg.

As further explained in the accompanying memorandum of law, Applicants are entitled to intervene as a matter of right under Fed. R. Civ. P. 24(a) because their motion is timely; they have a direct, substantial, and legally protectible interest in the subject matter of the action; the disposition of this action may impair Applicants' interests; and Applicants are not adequately represented by any of the existing parties. In the alternative, Applicants move for permissive intervention pursuant to Fed. R. Civ. P. 24(b), for the reasons described in the memorandum of law.

Accordingly, Applicants respectfully request that the Court grant this motion to intervene.

Respectfully Submitted, this 21<sup>st</sup> day of December, 2004.

SMITH, GAMBRELL & RUSSELL, by

*Steve O'Day* (with express permission by cd)

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(Application for admission to S.D. of Georgia pending)

Lead Counsel for Applicants for Intervention

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Savannah Riverkeeper, Georgia Wildlife Federation, National Wildlife Federation, and Natural Resources Defense Council's Motion to Intervene as Defendants-Intervenors/Cross-Claimants was mailed, postage prepaid, to the following on this 21<sup>st</sup> day of December 2004:

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