



ROBERT LLEWELLYN

ADVOCACY in ACTION

Quarterly Protection Highlights from the Southern Environmental Law Center • SPRING 2011



Exciting News:
SELC
Finishes
Successful
Campaign!
See Page 8
for a note from
Rick Middleton.

They Say Environmental Protection Costs Jobs, Economic Growth. Don't Fall for It.

In the new Congress, we are encountering a backlash against environmental protections unlike anything we have seen in our 25 years as the South's environmental champion. The intensity of the attacks may be new, but the arguments for gutting safeguards are all too familiar: these regulations will choke economic growth, kill jobs, and send costs skyrocketing for consumers and taxpayers.

Don't fall for it. History shows that environmental regulations usually cost far less than claimed and can yield strong returns for our health and our economy.

Protections Under Fire. Working with allies on Capitol Hill, SELC and its legislative affairs team in Washington have been battling proposals that would

- Stop enforcement of existing laws to curb global warming pollution
- Eliminate stream protections that provide one of the few checks on mountaintop removal coal mining
- Prevent the Environmental Protection Agency from implementing its new program to restore the Chesapeake Bay
- Keep EPA from setting much-needed limits on mercury and other toxic pollutants from cement kilns and industrial boilers
- Scuttle tougher regulation of the disposal of coal combustion waste, like the billion gallons of coal ash that spilled from a TVA power plant in 2008.

Dire Predictions. SELC is also countering a new round of gloom-and-doom predictions as the government pursues greenhouse gas controls, health-based ozone limits, and

other pollution-reduction rules. These pronouncements ignore the benefits that have come from four decades of progress under laws such as the Clean Air Act and the Clean Water Act. They also ignore the fact that environmental regulation is typically very cost-effective and often spurs technological innovation, job creation, and economic growth. Here are some examples:

Clean Air Act Amendments of 1990. Before Congress passed this legislation, Ford executives insisted they could not meet the new tailpipe standards, not even with technology "on the horizon." The automaker eventually made the necessary innovations and was soon rolling out vehicles that met the law's requirements.

Healthy Returns. In 2003, the Office of Management and Budget calculated that stronger air regulations during the previous 10 years cost up to \$21 billion in power plant improvements but yielded as much as \$177 billion in benefits from fewer hospital visits, lost workdays, and premature deaths.

Ozone Standards. In 1997, the governor of Georgia said meeting new ozone standards would trigger "enormous economic and jobs consequences" for his state. Over the next 10 years, Georgia's gross domestic product climbed nearly 58 percent.

SELC is educating members of Congress and their staffs about the historic gulf between what industry claims will happen and what actually occurs. Get the facts on our website, and watch our slideshow, *Don't Fall for It*, at SouthernEnvironment.org.

IN THIS ISSUE

Regional Highlights . . . 1-3

What's Happening
in Your State? 4

The Inside Story 6

SELC News 7

Campaign Results 8

REGIONAL HIGHLIGHTS

Air Permit Victory Strikes Another Blow to Georgia Coal Plant



ROBERT LLEWELLYN

SELC and its partners have dealt another setback to a proposed coal-fired power plant that would saddle Georgia with decades of dirty

air. After hearing our arguments in a three-week trial last fall, a judge has rejected the state air pollution permit for the 850-megawatt facility

in Washington County, finding that it failed to set safe limits for dozens of hazardous emissions that cause cancer, birth defects, heart disease, and developmental disorders. The plant would also add an estimated 6 million tons a year to the South's carbon footprint.

The decision comes on the heels of another victory last July, when the judge threw out the plant's water discharge and withdrawal permits based on our legal challenge. State regulators had given the plant the green light to pump an average of 13.5 million gallons of water a day from the Oconee River, adding further stress to a river system that suffers from chronic low flows.

Power4Georgians, the consortium of electrical cooperatives proposing the plant, shows no signs of abandoning its plans. We will continue to challenge the project.

Forest Service Accords Will Protect Mountain Streams In Tennessee, Old-Growth Trees in North Carolina

The U.S. Forest Service has wisely changed an earlier decision and will scale down a logging project to protect mountain streams and to keep the Laurel Mountain area intact in Tennessee's Cherokee National Forest. Under an agreement SELC and its partners reached with the agency, the Forest Service will reduce the scope of the Big Creek timber sale to avoid logging on steep, erosion-prone slopes. This will keep sediment pollution out of streams and will spare 120 acres of prime wildlife habitat between the Great Smoky Mountains National Park and the Bald Mountains on the Tennessee-North Carolina border.

In another major victory, the Forest Service has agreed not to cut rare old-growth trees threatened by

the Globe timber sale, a project in North Carolina's Pisgah National Forest that we opposed for more than four years. The old-growth stands we championed contain trees ranging from 130 to more than 300 years old. Under its scaled-back plan, the agency also agreed not to build permanent roads in areas slated for logging, which are in the shadow of Grandfather Mountain. It will also reduce impacts on scenic views from nearby communities.



JERRY GREER

SELC Defends Tough New Limits on Cement Plant Pollution

SELC is in court to defend new federal limits on dangerous air pollutants from cement plants—like the proposed Titan America plant we are opposing in the Wilmington, North Carolina, area.

This past year, the cement industry filed a federal lawsuit seeking to block the EPA controls. In January, SELC attorneys entered the case to uphold the new standards, which each year will keep cement plants from emitting thousands of pounds of toxic mercury and thousands of tons of nitrous oxides, hydrochloric acid, and other pollutants.

The pollution limits would protect communities from the impacts of projects such as the Titan America plant, which would be a major new source of soot, sulfur dioxide, and mercury in the Cape Fear area—a watershed already plagued by mercury contamination. Last year, SELC and its partners prevented the state from fast-tracking approval of the plant without an intensive environmental review, which was required because Titan had been promised public funds for the project. The company has decided to forgo the government grants.

SELC Helps Put the Chesapeake Bay On a New “Pollution Diet” Set by EPA

The Chesapeake Bay needs to go on a diet. The nation’s largest estuary is being overfed with nutrient and sediment pollution from sources throughout its 64,000-square-mile watershed, including sewage treatment plants, runoff from pavement and construction sites, auto and power plant emissions, and farms and live-stock operations.

On December 29, the U.S. Environmental Protection Agency released a new Total Maximum Daily Load for the Chesapeake Bay, a complex calculation of how much pollution the ecosystem can withstand and how much pollution must be reduced from

various sources. SELC water quality experts helped shape this “pollution diet” as it was being developed over the past two years, encouraging EPA to set limits that will succeed in bringing the bay back to health.

If necessary, SELC will use its legal skills to stave off attempts by special interests to impede the bay restoration process. We are also committed to ensuring that Virginia and other states in the Chesapeake watershed live up to their agreements to reach pollution-reduction targets. EPA has set a date of 2025 for the restoration plan to be fully implemented.



ROBERT LLEWELLYN

SELC Continues Court Battle to Prevent Offshore Drilling Disasters

Nearly a year after the explosion that destroyed the *Deepwater Horizon*, SELC continues its legal battle to address the regulatory failures that led to the BP blowout. The findings of the national commission investigating the oil spill, released in January, confirm what SELC discovered soon after the spill began: lax oversight by complacent, industry-friendly regulators was a key factor in the disaster, and the agency

that oversees offshore drilling—then known as the Minerals Management Service—brushed aside the environmental risks of deepwater operations.

SELC’s ongoing federal litigation seeks to end the rubber-stamp approval of offshore oil exploration projects without the rigorous environmental analysis required by law. Our goal is to help bring about the regulatory reforms the commission has deemed essential to preventing

future disasters, especially as oil companies venture into deeper waters.

On a related front, SELC continues to be a leading voice against opening the South Atlantic and new areas in the eastern Gulf of Mexico to offshore drilling. On December 1, the Obama administration announced its decision to keep these waters off-limits to oil exploration and production at least through 2017.

WHAT'S HAPPENING IN YOUR STATE?

ALABAMA

1 Rosa Coal Mine. SELC is turning to the Alabama Court of Appeals to continue its challenge of the 3,255-acre Rosa coal mine northeast of Birmingham. Under a permit issued by the Alabama Department of Environmental Management, the mining operation would be allowed to dump polluted wastewater from more than 60 discharge points into streams that feed the Locust Fork, a branch of the Black Warrior River that already suffers from high levels of pollution. Our goal is to halt ADEM's persistent practice of issuing mine permits that endanger the state's waters.



GEORGIA

2 Savannah Harbor. The Army Corps of Engineers' plan to deepen Savannah Harbor by up to six feet would dig a \$600 million hole in taxpayers' pocketbooks and take a huge toll on wildlife, wetlands, and water quality. But for what purpose? That's the question SELC and its allies are raising in response to the Corps's new draft environmental impact state-

ment, which claims the project has nothing to do with maintaining or attracting business for the port. If that's the case, deepening the Savannah River would waste taxpayer money and needlessly put fragile marshlands, habitat for endangered species, and drinking water supplies at risk of increased saltwater intrusion.

NORTH CAROLINA

3 Beach Driving. On the Cape Hatteras National Seashore, the populations of nesting seabirds, shorebirds, and sea turtles have rebounded significantly—some to record levels—under three years of sensible limits on beach driving secured by SELC and its partners. In accord with a legal agreement we reached with the National Park Service, the agency has just completed a plan for managing off-road vehicles on the seashore and will propose new rules governing beach driving this spring. Although the plan does not implement all the protections scientists have recommended, it goes a long way toward safeguarding sensitive areas while still allowing reasonable vehicle access for surf fishing.

4 Monroe Bypass. With its many stoplights and traffic backups, U.S. 74 east of Charlotte is one of the metro area's worst transportation headaches. But the remedy prescribed by the North Carolina Turnpike Authority—an \$808 million, 20-mile toll road—is the wrong cure. SELC filed suit in November to put the brakes on this project, which would fuel more sprawling development, add to polluted runoff in the Yadkin River basin, and increase tailpipe emissions

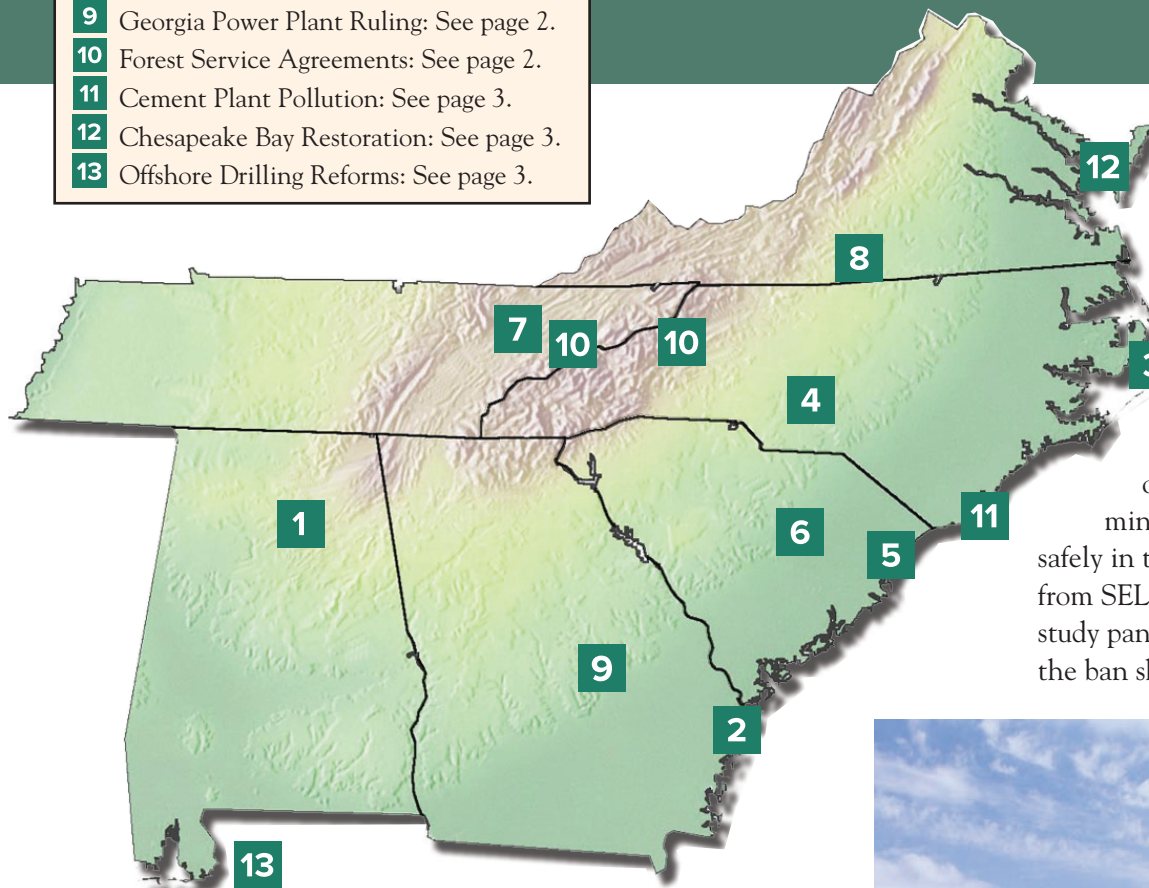
in greater Charlotte, which is already failing to meet federal healthy air standards. Transportation agencies are ignoring more cost-effective alternatives, such as strategies that will improve traffic flow on U.S. 74 and take cars and trucks off the highway.

SOUTH CAROLINA

5 Wetlands Protection. SELC has again prevented a valuable wetland from being written off by the Army Corps of Engineers in South Carolina. In 2009, we went to court to challenge the Corps's determination that a wetland tract targeted for development outside Myrtle Beach was not protected by the Clean Water Act and could be filled without a federal permit. In the face of the extensive evidence we presented, the Corps reconsidered its decision and this past November announced that the wetland is federally protected after all. This follows a victory we won earlier in the year, when the Corps rescinded its determination that nearly 500 acres of wetlands near Charleston could be destroyed without a permit.



- 9 Georgia Power Plant Ruling: See page 2.
- 10 Forest Service Agreements: See page 2.
- 11 Cement Plant Pollution: See page 3.
- 12 Chesapeake Bay Restoration: See page 3.
- 13 Offshore Drilling Reforms: See page 3.



VIRGINIA

8 Uranium Mining.

Amid pressure to lift Virginia's longstanding ban on uranium mining, the state has initiated a study by the National Academy of Sciences to gather data on whether uranium can be mined, milled, and disposed of safely in the Commonwealth. Experts from SELC have appeared before the study panel to focus attention on why the ban should stay in place, including

6 Lake Marion Bridge.

Ending four years of litigation, state and federal transportation agencies have agreed not to go forward with a controversial bridge and causeway over the upper reaches of Lake Marion without conducting a new environmental analysis of the project. SELC and its partners challenged the proposed Briggs-De Laine-Pearson

Connector because it would fail to bring promised economic benefits, do little to improve travel times, and inflict irreparable harm on the Upper Santee Swamp, one of the largest intact ecosystems of its kind. Under a new law that reforms how South Carolina sets its transportation priorities, there is now little chance the \$150 million project will be built. We are urging decision makers to consider ways to revitalize communities in this area that protect natural treasures vital to tourism and outdoor recreation.



TENNESSEE

7 TVA Energy Plan.

The Tennessee Valley Authority, the nation's largest public power provider and one of the Southeast's largest sources of power plant pollution, has come out with a new Integrated Resource Plan that maps out how the utility will meet electricity demand over the next decade or more. This past fall, SELC weighed in with a detailed critique of the draft plan and encouraged TVA to strengthen its commitment to energy efficiency and renewable energy sources. We also urged TVA to factor in the potential costs of complying with new and expected regulations on greenhouse gas emissions to the extent it continues to weigh coal as an alternative. Coal is currently the fuel source for more than half of the electricity TVA produces.



Virginia's vulnerability to hurricanes and tropical storms that can overwhelm waste systems and send toxic and radioactive material into water supplies. We also noted that the state's under-funded regulatory agencies lack the capacity to provide adequate oversight. The push to repeal the ban is coming from a Canadian-backed company that wants to mine a large uranium deposit north of Danville in a watershed that provides drinking water for 1.9 million people in Virginia and North Carolina.

Energy Issues Dominate SELC's "Most Endangered" List

Anounced in January, SELC's 2011 list of the *Top Ten Endangered Places in the Southeast* sends a clear message: the South's energy choices will determine the fate of many of the landscapes we all love, whether it's Tennessee's Cumberland Plateau threatened by mountaintop removal coal mining, Alabama's beaches at risk of future oil spills, or Virginia's George Washington National Forest as a potential target for "fracking" to tap natural gas.

"Our region is headed down a path that threatens to overwhelm our mountains, rivers, and coasts," says Jeff Gleason, Deputy Director of SELC. "The key message behind our *Top Ten* list is that there is still time to save these special places—but we need to act now."

Alabama's Coast:

SELC is leading legal efforts to strengthen oversight and regulation of offshore drilling, and to ensure that nothing like the disaster in the Gulf of Mexico is allowed to happen again.

Georgia's Cypress Forests:

Fueled by an increase in demand for cypress mulch, timber companies have been chopping down Georgia's wetland forests faster than they can recover.

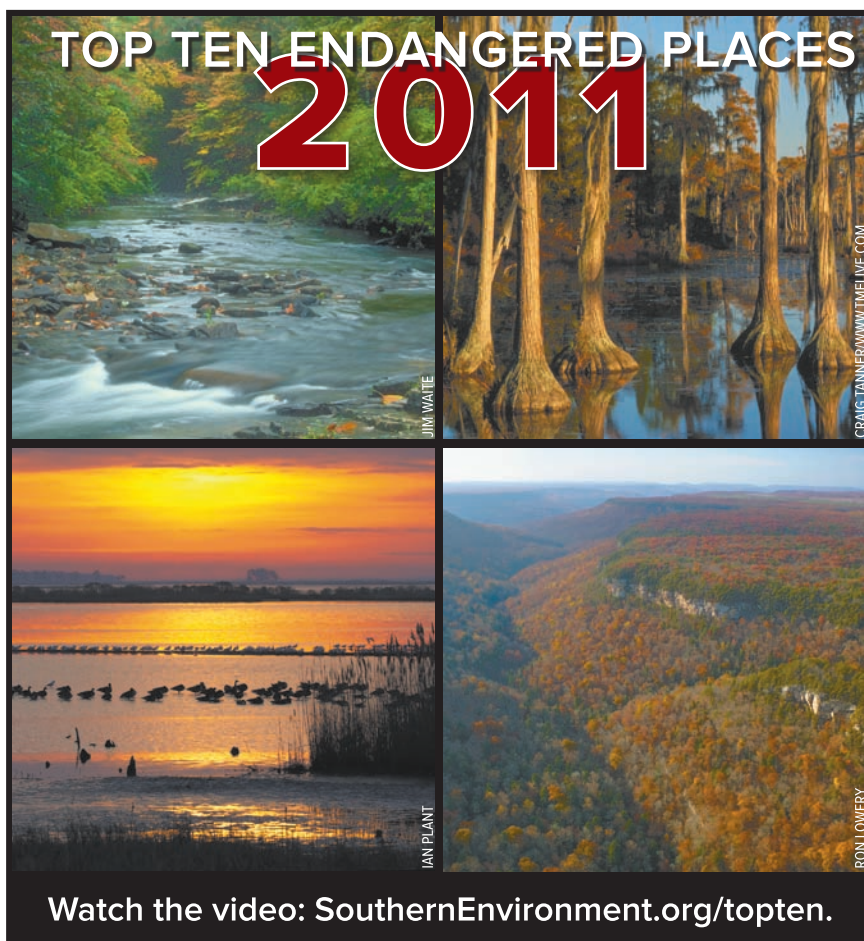
Oconee River, Georgia:

A proposed coal-fired power plant would siphon an average of 13.5 million gallons a day from the Oconee River, robbing water from downstream farms and communities that depend on this resource.

Pea Island National Wildlife Refuge, North Carolina:

A bridge replacement plan would compromise the integrity of the refuge by requiring constant road maintenance due to storm overwash and the need to provide a safe evacuation route for drivers.

Snowbird Mountains, North Carolina: An outdated highway expansion plan from the 1960s would cut four lanes of asphalt through stunning mountain terrain and would expose trout streams to acid-laden pollution.



Watch the video: SouthernEnvironment.org/topten.

Cape Fear Basin, North Carolina:

A proposed cement plant near Wilmington would destroy 1,000 acres of wetlands and further pollute the Northeast Cape Fear River, which already suffers from mercury levels harmful to people and wildlife.

Santee River Basin, South Carolina:

Despite available remedies, an old system of hydroelectric dams could be allowed to perpetuate decades of degradation to wetlands and wildlife habitat.

Cumberland Plateau, Tennessee:

Mountaintop removal and other destructive coal mining practices threaten an ecosystem that is world renowned for its rich biological diversity and rare species.

George Washington National Forest, Virginia:

"Fracking," a method of natural gas extraction linked to the contamination of water supplies, could be on its way to the Southeast's largest public forest.

The Chesapeake Bay: SELC is assisting in overseeing the state and federal agencies charged with developing and implementing restoration plans for the bay, which continues to suffer from pollution from air, land, and water.

Why I Do What I Do: Trip Pollard Shaping Growth in the Southeast

I have always spent much of my time outdoors—catching lizards and collecting rocks and leaves as a child, and hiking, canoeing, and camping with my own children today. I have lived in the South all my life, enjoying our incredible natural, historic, and scenic resources, as well as our wonderful communities, yet I am often troubled by our failure to cherish and protect these special places.

While I was in law school at the University of Virginia, Rick Middleton held a reception to announce the opening of SELC. I was impressed with Rick and captivated by the idea of an environmental law center devoted to the South. I knew this was what our region needed. I became one of SELC's earliest law clerks, and I was delighted when I had the opportunity years later to work for SELC full time.

My work focuses mainly on the complex factors shaping growth in the Southeast, which has the dubious distinction of sprawling faster than any other part of the country. I direct SELC's Land and Community Program, and our goal is to strengthen our communities, give people and businesses cleaner transportation choices, and conserve open spaces by reforming public policies that for decades have promoted paving, pollution, and sprawl.

Although I'm a lawyer, I also see myself as an educator. Part of my job is to help people see the economic and environmental benefits of smarter growth and the opportunities they have for making their communities healthier, more vibrant, and more sustainable.



Based in our Richmond office, senior attorney Trip Pollard has been with SELC since 1992. In 2008 he served on the Governor of Virginia's Commission on Climate Change.



Protecting the South's environment through the power of the law

Frederick S. Middleton III
Executive Director

Jeffrey M. Gleason
Deputy Director & Director of Regional Programs

Derb S. Carter, Jr.
Director, NC/SC Office

David H. Pope
Director, GA/AL Office

Holly L. Hueston
Director of Finance & Administration

E. Marie Hawthorne
Director of Development & Marketing

**For a complete staff list, see
SouthernEnvironment.org.**

BOARD OF TRUSTEES

Jean C. Nelson, *Chair*

Joel B. Adams, Jr.	Nimrod W.E. Long III
Marcia A. Angle	Allen L. McCallie
Paul K. Brock, Jr.	Frederick S. Middleton III
Dell S. Brooke	Edward M. Miller
Cathy S. Brown	Deaderick C. Montague
Marion A. Cowell, Jr.	Susan S. Mullin
Dennis M. Crumpler	Stephen E. O'Day
Melvin T. Davis	William H. Schlesinger
J. Stephen Dockery III	J. Rutherford Seydel II
James G. Hanes III	Kathryn S. Smith
Matthew E. Hapgood	Thomas F. Taft, Sr.
Elizabeth H. Haskell	William L. Want
Anna Kate Hipp	Nancy Hanes White
Mark B. Logan	Lynnette W. Young

PRESIDENT'S COUNCIL

Victor H. Ashe	Terence Y. Sieg
Martin S. Brown	James Gustave Speth
Robert L.V. French	Alice M. Stanback
Terry E. Grant	Bradford G. Stanback
Hugh C. Lane, Jr.	Fred Stanback, Jr.
Hunter Lewis	Jennifer T. Stanley
William Martin	Cameron M. Vowell
Michael Morency	John B. Wilson, Jr.
George L. Ohrstrom II	Bradford W. Wyche
Ginna McGee Richards	

New Chapel Hill Office a Model of Green Design

SELC's North Carolina/South Carolina team in Chapel Hill has moved into new offices at Greenbridge, one of the most environmentally sustainable developments in the country. Expected to receive the U.S. Green Building Council's LEED (Leadership in Energy and Environmental Design) Gold certification, the mixed-use project was designed by William McDonough & Partners, one of the world's leading green architects. The facility makes optimum use of natural light and solar energy, roof plantings to capture runoff, water-saving plumbing systems, and safe and recycled materials. Our Chapel Hill office is home to 24 members of SELC's 88-member staff.



Nonprofit
Organization
U.S. Postage
PAID
Charlottesville, VA
Permit No. 449

VA/TN Office (Headquarters)
201 West Main St., Suite 14
Charlottesville, VA 22902
(434) 977-4090

NC/SC Office
601 West Rosemary St.
Suite 220
Chapel Hill, NC 27516
(919) 967-1450

GA/AL Office
127 Peachtree St.
Candler Building, Suite 605
Atlanta, GA 30303
(404) 521-9900

SouthernEnvironment.org

Printed on recycled paper using soy-based inks

ADDRESS SERVICE REQUESTED

SELC Wraps Up Successful Three-Year Campaign on Schedule and Over Goal

Dear Friends,

As this newsletter was going to the printer, I added this brief note to begin spreading the news to SELC's friends that we successfully wrapped up our three-year *Power of the Law Campaign* on schedule—exceeding our \$45 million goal for a total of \$46.8 million in gifts and pledges! On behalf of SELC's board and staff, I want to thank the foundations, families, and individual donors who kept environmental protection a top priority and who gave so generously, even during difficult economic times.

But I want to make the point that our campaign results reach way beyond the numbers. Our vision was to build on SELC's proven institutional model by expanding our reach and capacity, and the campaign has made this a reality. Funding from leading national foundations is enabling SELC to reduce the South's disproportionate carbon emissions from coal-burning power plants and tailpipes. Regional funders helped us open new offices in Washington, D.C.; Richmond; Charleston; and Birmingham—giving SELC a strong voice in Congress and a firm presence throughout our six states to better champion the special places we all love. Hundreds of individuals and families chose to give generous general support gifts, which have made us a stronger and more nimble organization able to act quickly and decisively when new threats—such as offshore drilling—emerge in the Southeast. To all of you who helped bring the Southern Environmental Law Center this far, I thank you—and hope you are as proud as we are.

I look forward to sharing more stories about the continuing impacts of SELC's campaign in the coming months. To all of our readers, I invite you to partner with us as we sustain SELC's momentum and the more powerful organization that we've built together. By making our mission your mission, you inspire our law and policy team to work even harder in championing this special region.



Rick Middleton
SELC Founder and Executive Director

Sincerely,

A handwritten signature in black ink that reads "Rick Middleton".