

ADVOCACY in ACTION

IAN PLANT

Quarterly Protection Highlights from the Southern Environmental Law Center • FALL 2010



SELC Leads Legal Offensive To Prevent More Offshore Drilling Disasters

Just weeks after oil began spewing from BP's well in the Gulf of Mexico, SELC filed the first lawsuit in the nation challenging the inadequate government oversight that had led to the worst oil spill in U.S. history. Since then we have continued to lead legal efforts to prevent industry from dodging controls on offshore drilling.

Our multi-front offensive now involves several lawsuits, vigorous advocacy in Congress, and intense engagement with federal agencies to ensure that nothing like the BP disaster ever happens again. We are focused on five urgent priorities.

Stop Lax Oversight. Our own investigation revealed that federal regulators allowed BP and other companies to engage in risky deepwater drilling without environmental review or a thorough emergency response plan. What's worse, the agency in charge of regulating offshore drilling—then known as the Minerals Management Service—continued to approve permits and leases for deepwater drilling operations as oil gushed from the Gulf floor, all with the same lack of environmental analysis. In May, we filed suit in federal court in Mobile to stop this practice.

Keep the Temporary Drilling Ban. Soon after BP's blowout, the U.S. Department of the Interior imposed a six-month moratorium on deepwater drilling to allow time for

new safeguards to be put in place. With the temporary ban still in effect at press time, SELC is in court to defend it against oil industry interests seeking to overturn it.

Protect Wildlife. After the spill, SELC and Defenders of Wildlife served legal notice to BP and federal wildlife agencies for failing to avoid harm to threatened and endangered species. Our goal is to ensure that damaged habitat in the Gulf is restored and that protections for at-risk wildlife are enforced.



Defend the South Atlantic and Eastern Gulf. SELC is more determined than ever to prevent drilling in the Atlantic and in new areas in the eastern Gulf. Although the government suspended its move to open these waters to drilling, we are demanding a permanent ban. The natural treasures

along our southeastern coasts are simply too valuable to be sacrificed for the meager available oil reserves. At the same time, our Capitol Hill team is aggressively pursuing action in Congress to tighten controls on offshore drilling and to move environmental oversight away from industry-friendly regulators.

Reform Energy Policy. SELC advocates a fundamental shift in energy policy away from dirty fossil fuels and toward cleaner solutions: energy efficiency, renewable energy sources, and transportation investments that reduce oil consumption and the miles we drive.



FanofSELC.org



Twitter.com/SELC_org



SouthernEnvironment.org

IN THIS ISSUE

Regional Highlights . . . 1-3

What's Happening in Your State? 4

The Inside Story 6

SELC News 7-8

REGIONAL HIGHLIGHTS

Tennessee Wilderness Bill Introduced in Senate

In June, SELC and its partners in the Tennessee Wild coalition were elated when U.S. Senators Lamar Alexander and Bob Corker introduced the Tennessee Wilderness Act of 2010. The legislation, when passed, will fulfill our goal of adding nearly 20,000 acres to protected wilderness in the Cherokee National Forest.

The first bill to expand wilderness tracts in the Tennessee mountains in nearly 25 years, the measure would establish the 9,038-acre Upper Bald River Wilderness in Monroe County (an entirely new wilderness area) and would add the following acreage to five existing wilderness areas:

- 348 acres to the Big Frog Wilderness (Polk County)
- 966 acres to the Little Frog Wilderness (Polk County)
- 1,836 acres to the Joyce Kilmer-Slickrock Wilderness (Monroe County)
- 2,922 acres to the Sampson Mountain Wilderness (Washington and Unicoi Counties)
- 4,446 acres to the Big Laurel Branch Wilderness (Carter and Johnson Counties).

All of these public lands would be open to hunting, fishing, hiking, and camping, and off-limits to logging, mining, and road building.



DWIGHT DYKE

Judge Rejects Permits For New Coal-Fired Plant in Georgia

SELC won a key round in its battle against a proposed coal-burning power plant in Washington County, Georgia, that would add an estimated 6 million tons a year to our region's carbon dioxide emissions.

In response to a legal challenge we and our partners filed in May, a judge struck down a state permit that allowed the facility to withdraw an average of 13.5 million gallons a day from the Oconee River and pipe it to the plant site in the Ogeechee River basin—a transfer that would reduce water available for downstream farms and communities. The judge also tossed out the plant's wastewater permit, citing inadequate measures to monitor the discharge of pollutants such as zinc and chromium into the Oconee.

SELC will stay vigilant to counter any attempt to reissue permits that fail to comply with the law. The judge is still considering our challenge of the air pollution permit for the plant, a project proposed by a consortium of electrical cooperatives known as Power4Georgians.

'Fracking' Emerges as a New Threat to Clean Water in the Southeast

The drilling technique known as hydraulic fracturing, or "fracking," is now widely used around the country to extract natural gas from deep shale deposits. In 2005, Congress exempted this process from regulation under the Safe Drinking Water Act, even though it entails pumping millions of gallons of water and numerous chemicals deep underground.

As a result, fracking has fueled a bonanza for energy companies, but at a huge cost to clean water. Fracturing operations in the Northeast and out

West have been linked to health and environmental problems ranging from contaminated well water to polluted rivers and streams to the industrialization of rural lands.

SELC is keeping a vigilant eye on fracking proposals that have begun to surface in the Southeast, including a recently shelved plan to tap a segment of the Marcellus Shale formation west of Virginia's Shenandoah Valley. Our immediate priorities are to protect ground and surface water and to keep fracking out of the nearby George

Washington National Forest, which overlaps with a portion of the Marcellus Shale deposit. The formation runs along the Appalachians from Tennessee to New York.

We are also urging Congress to pass the Fracturing Responsibility and Awareness of Chemicals Act (the FRAC Act), which would lift fracking's exemption from the Safe Drinking Water Act and require drillers to disclose the chemicals they inject underground.

SELC and Allies Save Old-Growth Forest in North Carolina

By the 1930s, loggers had wiped out nearly all of the original forests that covered the eastern United States, but pockets of undisturbed old growth can still be found in the Southern Appalachians. SELC is a stalwart protector of these vestiges of our natural heritage and has succeeded in defending an imperiled old-growth forest in the shadow of North Carolina's Grandfather Mountain.

Our battle began in 2006, when the U.S. Forest Service proposed the Globe timber sale in the Pisgah National Forest. The logging project threatened scenic views from Blowing Rock, backcountry places beloved by hikers and backpackers, and rare stands of old growth. We and our partners conducted our own field survey and confirmed the logging sites contained stands of chestnut oaks and other trees ranging in age from 130 to more than 300 years old.

Providing leadership and legal muscle for conservation groups and community leaders opposed to the



JERRY GREER

project, SELC formally appealed the timber sale and continued to insist that the Forest Service keep chainsaws away from the old-growth tracts. Our efforts paid off this past summer, when the agency agreed to scale back the project dramatically and to preserve

the old-growth stands. As a result, an irreplaceable ecosystem will remain unharmed. SELC and its partners continue to advocate permanently protecting the Globe site as part of the proposed Grandfather National Scenic Area.

SELC Helps Charleston Become a Better Model for Expanding Ports



In the race among East Coast ports to expand facilities and capture more container shipping traffic, Charleston has taken a long stride toward becoming an environmental leader. The South Carolina State Ports Authority has agreed to accommodate rail service at a new shipping terminal in Charleston and will sharply reduce pollution from its aging fleet of trucks.

This result, achieved after nearly four years of

sustained litigation by SELC and the Coastal Conservation League, marks a significant victory for clean air in the South Carolina Lowcountry. As originally proposed, the new terminal at the old Charleston Navy Base would have relied entirely on trucks to move cargo, adding more than 10,000 vehicle trips a day to area roads and pushing ozone and soot pollution to dangerous levels.

In addition to paving the way for freight rail at the new terminal, the Ports Authority will retire older trucks serving all of Charleston's container facilities by the end of 2013, reducing harmful emissions from the port's freight haulers by a third.

WHAT'S HAPPENING IN YOUR STATE?

NELSON BROOKE



ALABAMA

1 Coal Mine Pollution. SELC continues to pursue litigation to compel the Alabama Department of Environmental Management to do its duty to protect the state's rivers, streams, and drinking water supplies from strip mine pollution. We will be in state court this fall to challenge the agency's rubber-stamp approval of the 3,200-acre Rosa coal mine in Blount County, which would discharge pollution from dozens of locations along a branch of the Black Warrior River. We will also ask a judge to throw out ADEM's permit for the Shepherd Bend coal mine, which would release wastewater just upstream from an intake for the Birmingham Water Works.

GEORGIA

2 Tired Creek. A tributary of the Upper Ochlockonee River in southwest Georgia, Tired Creek runs through a bottomland hardwood ecosystem that supports a wide range of wildlife. SELC is opposing a

plan by Grady County to dam the creek and form a 1,000-acre recreational lake, which would disturb sensitive habitat and threaten downstream water quality. We are also opposing the Corps of Engineers' approval of the lake, which would

set a dangerous precedent for similar projects in our region.

3 St. Marys River. The St. Marys River, which forms the border between Georgia and Florida, is home to a remarkable diversity of aquatic life and a popular fishing and boating destination. Its future health has been put in doubt, however, by a proposal to transfer 30 million gallons of its water per day to another river basin to serve metro Jacksonville and other cities in northeast Florida. SELC has formally weighed

in against the plan, which would weaken the river's ability to withstand pollution and diminish its capacity to provide water for downstream communities.

NORTH CAROLINA

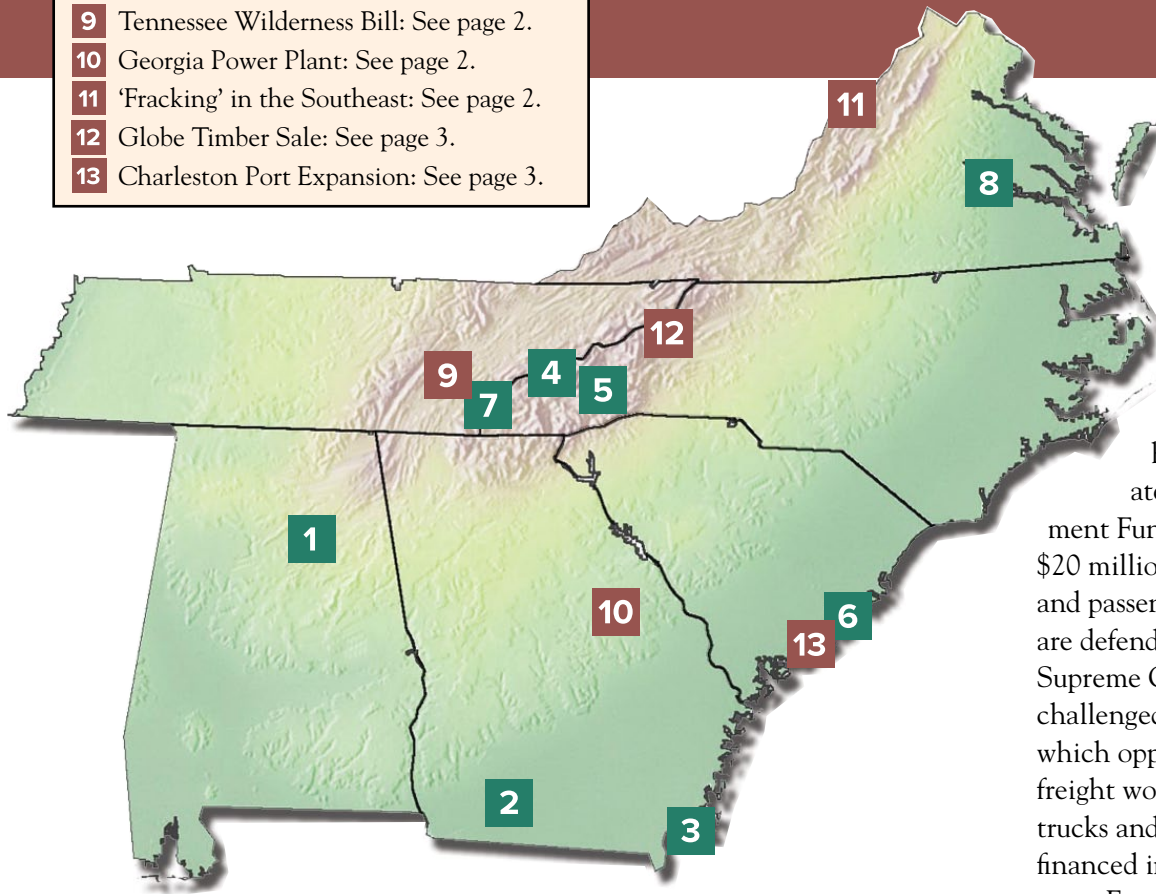
4 Canton Paper Mill. SELC seeks to overturn a state wastewater permit granted to a paper mill in Canton that imperils fish and water quality in the Pigeon River, which flows from the mountains of North Carolina into Tennessee. In the past, temperature fluctuations caused by water discharges from the Blue Ridge Paper Company's mill have caused severe fish kills, claiming 8,000 fish in one day alone in 2007. Although cost-effective technologies are available to address this problem, the permit includes no requirement to employ these measures.

5 Trout Water Protections. SELC secured an agreement with the Cliffs at High Carolina, a new mountaintop resort community near Asheville, to sharply reduce impacts on trout streams flowing through the development's golf course. Reflecting a trend we've seen in other mountain resorts, the original design for the course violated state trout water protections by requiring thousands of feet of streams to be piped underground. In another case involving a mountain golf course, the North Carolina Supreme Court recently handed down an unfortunate ruling that severely undercuts trout stream safeguards.



CHARLES SHOFFNER

- 9** Tennessee Wilderness Bill: See page 2.
- 10** Georgia Power Plant: See page 2.
- 11** 'Fracking' in the Southeast: See page 2.
- 12** Globe Timber Sale: See page 3.
- 13** Charleston Port Expansion: See page 3.



ing lanes, and pull-over lanes to improve safety and drivability.

VIRGINIA

8 Rail Enhancement Fund.

In 2005, SELC helped pass the law that created Virginia's Rail Enhancement Fund, which provides more than \$20 million a year to improve freight and passenger rail service. Now we are defending the law in the state's Supreme Court. The statute is being challenged by Montgomery County, which opposes a proposed facility where freight would be transferred between trucks and trains. The facility would be financed in part by the Rail Enhancement Fund. In a "friend of the court" brief filed in July, we are asking the court to uphold the law, the fund, and the benefits they provide by supporting clean and efficient transportation.

SOUTH CAROLINA

6 Charleston's I-526. The South Carolina Department of Transportation has released a draft environmental analysis of the proposed expansion of I-526 around Charleston (the Mark Clark Expressway) that fails to consider more cost-effective and far less destructive alternatives. Reflecting decades-old thinking, the project would chew through wetlands, add pollution to local waterways, and generate even more traffic by promoting sprawl. In the review process, SELC and the Coastal Conservation League will advocate a superior plan that relieves congestion on Savannah Highway (U.S. 17) and other busy roads and brings jobs, shopping, and services closer to area residents.

TENNESSEE

7 Corridor K. When Tennessee transportation officials first began proposing improvements to roadways

along Corridor K, which runs through the mountains between Chattanooga and Asheville, the only options on the table were new interstate-size highways—including one through the Cherokee National Forest near the Ocoee Gorge. But now, as an environmental review of the project gets underway, the Tennessee Department of Transportation is willing to consider low-impact alternatives we have advocated. SELC and the WaysSouth coalition favor upgrades to the existing two-lane highway, U.S. 64, along its current footprint, including new turning lanes, pass-



NYE SIMMONS

Rail Revival a Smart Move for the Southeast

Since the 1950s, southern states have spent most of their transportation dollars on new and expanded highways. But with strong encouragement from SELC's transportation experts, our region is beginning to rediscover the many benefits of rail.

That's because a rail revival is critical for the future of the Southeast. Passenger and freight rail can better link our fast-growing region while enhancing economic opportunities, strengthening communities, and providing a more effective alternative than highway widening for easing congestion in busy corridors. What's more, rail can significantly reduce vehicle pollution and oil consumption. Consider this:

- Passenger trains use half as much energy per passenger-mile as automobiles
- A freight train can move a ton of cargo more than three times farther on a gallon of fuel than a truck can, an average of 436 miles
- Moving a ton of freight a mile by rail instead of by truck can produce two-thirds fewer greenhouse gas emissions.

Passenger Rail on Right Track

Improving passenger rail is an essential element of SELC's vision for sustainable transportation choices and for promoting smarter growth in the Southeast. "We see it as the backbone of a regional network of efficient modes of travel, connecting with metro transit options such as commuter rail, light rail, streetcars, and buses," said David Farren, head of SELC's Transportation Initiative. "This powerful combination can be a

game changer in shaping development patterns and curbing sprawl as our region grows to a size comparable to the Boston-to-Washington corridor in the decades ahead."



VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION



©NORFOLK SOUTHERN

SELC's success in championing funding for passenger service can be seen in projects now rolling forward that will advance high-speed rail in the corridor linking Charlotte, Raleigh, Richmond, and Washington, D.C., propelled by \$620 million in federal economic stimulus awards. As a founding member of the new Southeast High Speed Rail Association, we are fostering more support, better planning, and greater collaboration among our states to develop high-speed rail's potential.

Conventional passenger rail is picking up speed as well. In Virginia, for example, SELC and other proponents

have helped persuade state officials to fund new passenger service in key corridors, including a daily Amtrak train from Lynchburg to Washington that began last fall. This pilot project exceeded its estimated yearly ridership in less than six months. (See page 5 for details on how SELC is defending rail funding in the Virginia Supreme Court.)

Freight: From Roads to Rails

Growing truck volume on our interstate highways has increased congestion, made driving more hazardous, and generated pressure to spend billions on more asphalt, including new tollways in the Charlotte area and a push to add up to four lanes to the entire 325-mile route of I-81 in Virginia. "A better alternative would be to move much of this freight off of our highways and onto rail lines that follow similar routes," said Trip Pollard, head of SELC's Land and Community Program.

For instance, three-fourths of the more than 9,000 long-haul trucks that travel I-81 in Virginia each day could potentially be diverted to trains—an option that became even more viable this year when Norfolk Southern snared a \$105 million federal stimulus grant to improve its Crescent Corridor freight rail network, which parallels southern highways such as I-85, I-40, and I-81.

Better rail links to our region's ports are also vital. In South Carolina, the State Ports Authority recently agreed to accommodate rail at a new container terminal in Charleston rather than rely solely on trucks to move cargo (see Regional Highlights, Page 3).



JIM WAITE

SELN Senior Attorney Kay Slaughter Retires



SELN bids a fond farewell to senior attorney Kay Slaughter, who retires this year after nearly a quarter-century of dedicated advocacy for the southern environment. Based in our office in Charlottesville, Virginia, where she served as mayor, Kay earned her law degree at the University of Virginia and was one of the first two attorneys to join SELN's legal team in 1986. Through public education, litigation, and work with lawmakers, Kay has helped rid southern roads of billboards, secured two hard-won legal opinions as well as a Virginia law to clear a roadblock to citizens bringing environmental challenges, and helped maintain the state's ban on uranium mining, among many other achievements.

SELN's Chandra Taylor Takes Part In Environmental Justice Exchange

SELN senior attorney Chandra Taylor recently returned from three weeks in China as one of 18 American and Chinese professionals chosen to take part in the Environmental Justice Young Fellows Exchange. Sponsored by Vermont Law School with funding from the U.S. State Department, the program also included three weeks of activities in Burlington, Vermont, and Washington, D.C., all examining the disproportionate impacts of pollution and climate change on minority and low-income populations.



Attorney Blan Holman Receives Liberty Fellowship



Blan Holman, a senior attorney in SELN's Charleston office, has been awarded a prestigious Liberty Fellowship, a two-year program aimed at developing rising young leaders in South Carolina. A graduate of the University of Virginia School of Law, Blan is a South Carolina native who joined SELN in 1998. He was one of the lead attorneys in SELN's 2007 victory against Duke Energy in the U.S. Supreme Court and more recently has been involved in such major cases as the agreement to reduce diesel air pollution in the Port of Charleston (see Regional Highlights, Page 3).



Conserving the South's wild places, clean air, clean water, and livable communities for future generations

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

David W. Carr
General Counsel

For a complete staff list, see SouthernEnvironment.org.

BOARD OF TRUSTEES

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



Southern
Environmental
Law Center

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

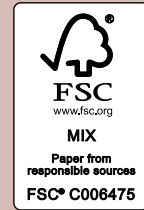
200 West Franklin St., Suite 330
Chapel Hill, NC 27516
(919) 967-1450

GA/AL Office

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

SouthernEnvironment.org

Printed on recycled paper using soy-based inks



Tennessee Honors Jean Nelson for a Lifetime of Environmental Stewardship

Jean Nelson, chair of SELC's Board of Trustees, has received Tennessee's Robert Sparks Walker Lifetime Achievement Award for her 30 years as a leader in environmental stewardship. Jean is founding president and executive director of the Nashville-based Land Trust for Tennessee, which has conserved more than 52,000 acres across the state.

Jean became a member of SELC's board soon after the organization was founded in 1986 and has served as chief deputy attorney general for Tennessee and as general counsel for the U.S. Environmental Protection Agency. In 2008, Jean received SELC's James S. Dockery, Jr., Southern Environmental Leadership Award.

PHOTO BY DANIEL DUBOIS © VANDERBILT UNIVERSITY

