



# ENVIRONMENTAL GUARDIANS

The Southern Environmental Law Center uses the law to conserve clean water, healthy air, wild lands, and livable communities throughout the Southeast.

By John Kelly

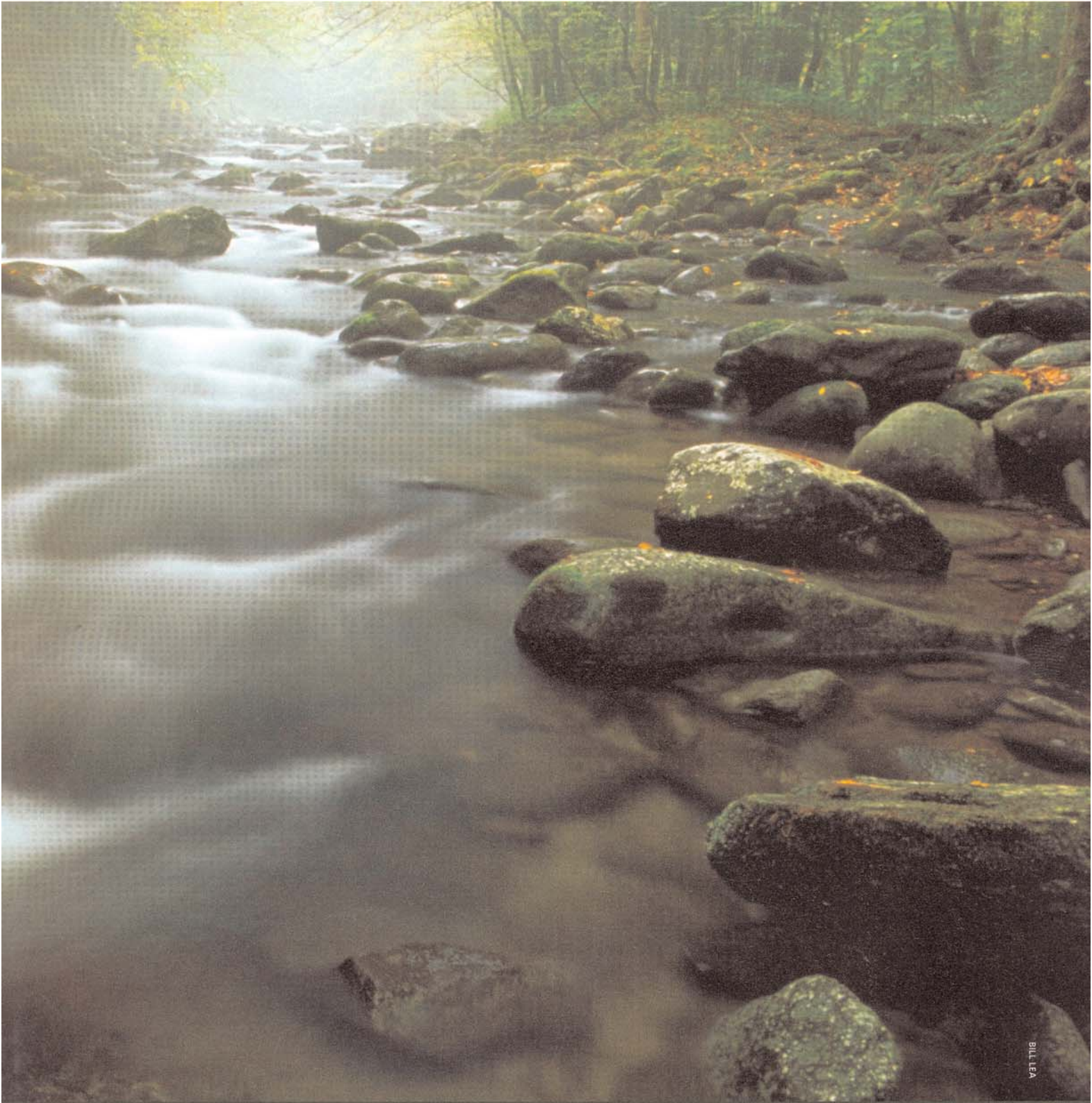
Some organizations shout their successes from the rooftops. Others go about their work more quietly and tend to shun the spotlight. And some organizations sneak up on you, spending 20 years in the trenches of some of the most important battles in their chosen area of expertise before “their time” arrives.

For the Charlottesville-based Southern Environmental Law Center, that time is now.

The nonprofit organization, focused on protecting the unique natural resources and preserving the treasured quality of life in the southeast region, is at once a well kept and well known secret. The name SELC might not always ring a bell with those outside the environmental law arena, but for those in the know, it carries significant clout and a reputation for cutting some much larger and much more powerful opponents down to size.

The SELC, the largest organization of its kind to focus on the environmental fu-

ture of the southeast, operates in six states: Virginia, North Carolina, South Carolina, Georgia, Alabama, and Tennessee. Its 28 attorneys boast a cumulative experience base of nearly 1000 years and are nationally recognized as leading experts in environmental issues including air quality, water quality, transportation, public lands, land use, coastal resources, wetlands, national forests, private forests, endangered species, industrial livestock production, mercury, and power plants. Active in all three branches of government, the SELC works to educate and inform key decision makers and influ-



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encers on environmental issues as well as informing, implementing, and enforcing environmental policy and law.

Nearly always on the short end of the David and Goliath match-up, the SELC regularly takes on corporate behemoths and powerful governmental entities. It even boasts a 40 record against the United States Navy. It has repeatedly clashed in cases related to the Navy's plans to build an aircraft carrier practice landing field next to a noted wildlife refuge that is home to as many as 100,000 migratory swans and snow geese each year.

The case is central to the founding principles of the organization. "Our premise is that people care about their quality of life," said Rick Middleton, founder and executive director of the SELC. "They care about the land. They care about the places they are from and that they love and they'll do something to protect the things they love.

"If you bring it home to people and you present them with the facts and you say why it is you care about something you care about, what the law requires, and you make it more tangible, you can win."

This fall, the SELC is putting that premise to its most high profile test when it heads to the U.S. Supreme Court, which will hear its appeal of an air pollution enforcement case against Duke Energy. The case, related to coal-fired power plants, was originally brought by the Environmental Protection Agency in 2000. When the EPA decided not to pursue the case further, the SELC moved ahead on its own. The Court agrees to hear only one percent of the more than 7000 requests for review each year, and this marks only the



third time in 35 years that it has agreed to do so without support from the federal government.

This milestone, which may appear more symbolic than real to some, is very real to Middleton. "It means even more to me because I started working on air pollution matters when I first started doing environmental work back in the seventies."

After receiving his undergraduate degree from UVA, Middleton graduated from Yale Law School in 1971, in the earliest stages of the modern environmental movement. The first Earth Day had come a year earlier. The Clean Air Act had just been passed. The Clean Water Act was mere months in the future.

After spending a couple of years with an Atlanta law firm, Middleton headed back

to his home state of Alabama and worked for the Attorney General, where he says he found his calling. From there it was on to Washington, D.C. and a national environmental organization. Throughout this time, he became acutely aware of where attention on environmental issues was being paid . . . and where it was not.

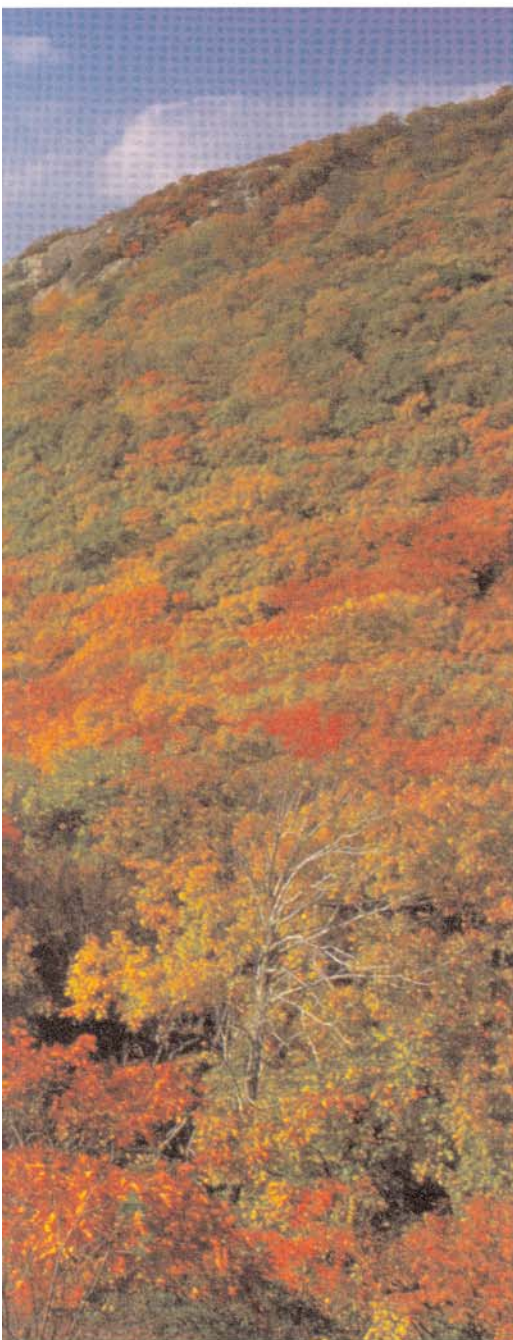
"There was a certain mentality in the environmental movement at the time that had to do with east coast and west coast. Nobody knew anything or really cared much about the south, and that irritated me a little bit."

He founded the organization in 1986 and hired a secretary/office manager who just happened to have been a former secretary to the United States Supreme Court. Next onboard was Charlottesville native

David Carr, who heads up the SELC's Public Lands practice area. Carr is one of nine "original hires" still with the organization today, an important factor in its success.

"That in itself has allowed us to build considerable expertise that others don't have," said Jeff Gleason, SELC deputy director. "So it is really nice that we're able to, on any particular issue that we work on, have in house some of the foremost experts on that issue from an environmental standpoint, certainly in the region and among the national experts and leaders. That is a great starting point for us."

Once upon a time, it might have seemed inconceivable that the south would become a central battleground in the environmental wars. Smog . . . acid rain . . . water contamination . . . these were the things life-



JIM WHITE

style refugees left behind in their former, urban lives, not issues that would plague them here. Now, however, the SELC has dockets upon dockets of evidence to the contrary.

"We are the fastest growing region in the United States right now," said SELC director of development Marie Hawthorne, "and the growth trends for our region are the fastest projected. So our region is where this is going to play out. People are moving into our region, and resources are being extracted from our region. So whatever protections or standards or policies get put into place here are going to have so much of an impact on what happens nationwide."

Not surprisingly, the SELC targets growth as the most important threat to the south's future. "That is the number one



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threat because that impacts everything," said Gleason, a Charlottesville native and one of the SELC's many UVA Law grads.

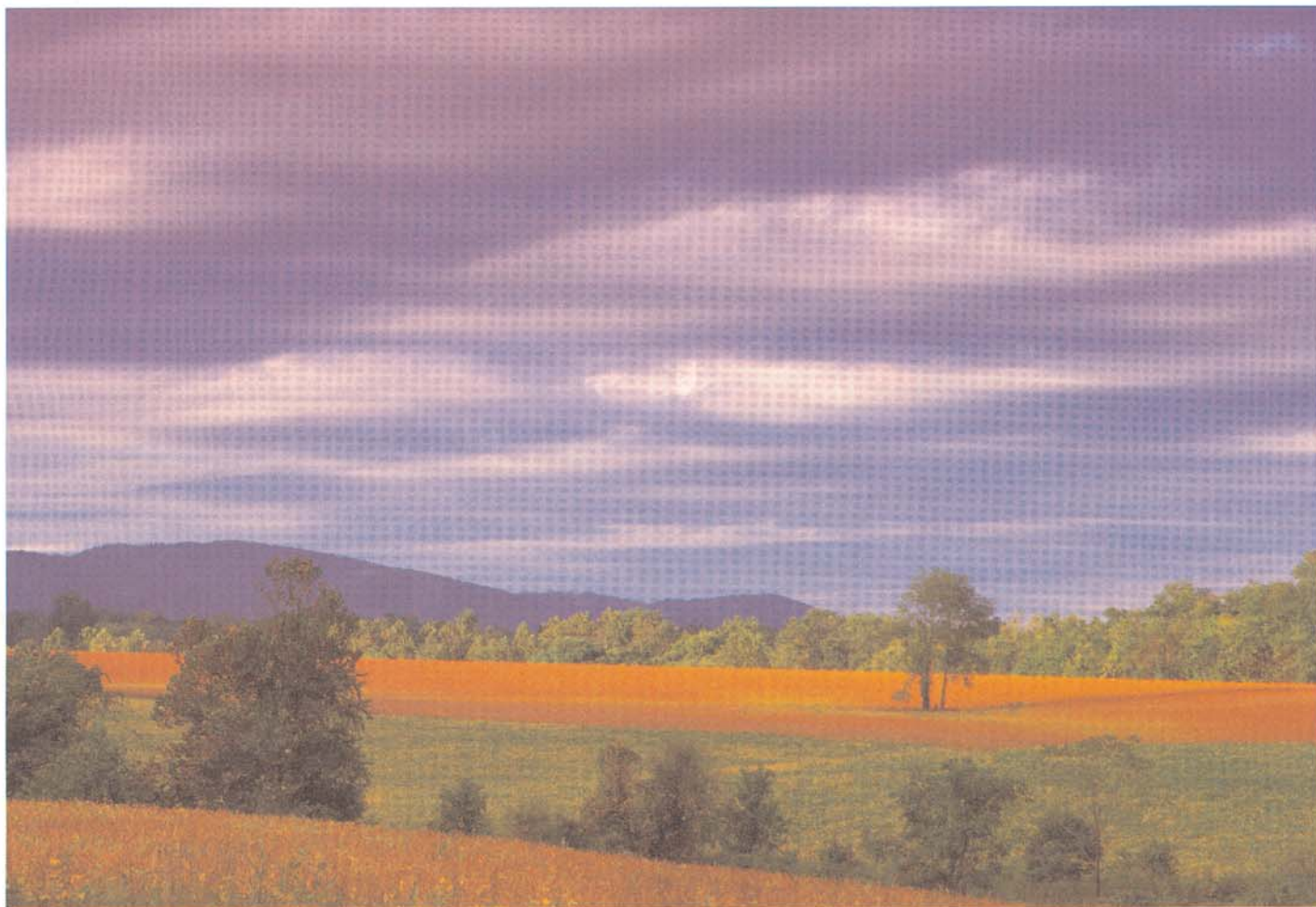
"Even as we get bigger and we talk about the fact that a certain amount of growth is inevitable, the value of our special places is going to be much greater, and much more important to maintaining a livable environment. So protecting these special areas becomes much more important, and they certainly are threatened."

Places like the Shenandoah National Park. "People say, 'it's just the cities, we'll go out into nature,'" Hawthorne said. "They think, 'We'll go up in the mountains where the air is clean.' The Shenandoah and Great Smoky Mountains National Parks are the two most polluted National Parks in the country in terms of air quality."

"There is a significant acid rain problem in the Shenandoah National Park," Middleton said. "Trout streams are more acidic, fish don't live in them. You can't see the mountains on some days because of the summer haze. People who have lived here a long time say 'oh, it's summertime, it's always hazy in the summertime.' I don't know if it's denial or not, but it's not a natural problem. You see it more in the summertime because in the summer, molecules of pollution attach themselves to the water molecules and cause the haze. But the haze is there in the winter too. It just looks different."

Facts like this drive the organization every day, Hawthorne said. "For Southerners, our mountain forests are part of our heritage. We can't let that be lost or else our kids are not going to be the same kind of people we are. I think that is something that is sort of woven into the fabric of this our organization, that the southern environment is an essential element of making us who we are as a people and as a culture."

The SELC today includes 28 attorneys and 65 overall employees, spread between the Charlottesville headquarters and offices in Atlanta, Chapel Hill and Asheville in North Carolina, and Sewanee, Tennessee. It's a far cry from the



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days when Middleton and Carr worked out of two offices at the front of what are now two floors of sprawling and natural light-drenched office space.

Twenty years later, the SELC is all grown up, boasting the size, experience, and expertise that make it one of the most influential environmental advocacy organizations in the nation. “We’ve hit a size that enables us to not simply take on litigation, but to build on that litigation to address the policy issues that we are really trying to get at and change.”

“We’re big by many standards,” Middleton said, “but we are incredibly small when you consider the forces arrayed against us. But we are good at leveraging our resources and picking the right thing to make a huge difference.”

To Middleton, it is not necessarily about the number of people at SELC, but about the quality of people it brings in, and keeps. “The people here are my largest source of pride. They are great professionals. They’re the best in the business, and they are wonderful, well rounded, and genuine people, which has always been an emphasis in this organization.”

One thing is clear: attorneys of this caliber are certainly leaving plenty of money on the table by plying their trade for the cause they believe in. The SELC does not

take a dime in legal fees and exists completely thanks to support from foundations, and mainly, to support from individuals and families.

Middleton is equally proud of the SELC’s reputation, even among some of its strongest adversaries. “So far in my 20 years, I haven’t heard one occasion where someone has ever said we weren’t professional, reasonable, and approachable. We work with people. We have an open mind.”

Middleton paused. “Now, having said that, we believe what we believe and we are strong advocates for what we believe.”

For proof of this, one needs only to look at the scoreboard. The SELC is known for bringing Tiger Woods-style focus to its work and boasts a record not unlike that of the golf great.

In the early 90s, they took on Weyerhaeuser in an effort to protect the last remnant of the East Dismal Swamp that once blanketed coastal Virginia and North Carolina. Paper companies, according to Gleason, were exploiting a loophole in the Clean Water Act to “ditch and drain” the swamp in order to harvest timber and plant pine plantations. After four years of battling a legal team of up to five attorneys working full time on the case, the SELC succeeded in closing the loophole. The victory, Hawthorne said, resulted in the establishment of broad pro-

tection of 8 million acres of wetlands in the region, at a cost of 5 cents per acre.

In another major case, Gleason explained, they took on air quality issues in Atlanta, filing five lawsuits over a period of six years related to complex aspects of the Clean Air and Transportation Acts. In the end, he said, this victory forced the state of Georgia to adhere to existing environmental protection laws it had effectively ignored for 20 years.

Given their size, the SELC can hardly hope to meet the needs of all the organizations that seek to leverage its experience and breadth of knowledge. “We work with well over one hundred groups in the region, groups that are doing yeoman’s work on the ground. They are fighting to protect special places, fighting to protect issues like air quality. They come to us with requests, and there’s just no way we can take all of that on.”

For this reason, Gleason said, they look specifically for those cases through which they can export litigation to other areas and have the broadest impact possible on the overall region, like the Weyerhaeuser case. He also explains that the SELC regularly plays a consulting role to organizations seeking their help, providing advice, support, and networking resources to help them in their efforts.

Lawsuits are hardly the only tool at the SELC's disposal. "Litigation is an important aspect of what we do," Gleason said, "and you can, in many cases, make substantial gains from it. But long-term gains are what are at risk. So to achieve long-term gains you've got to have understanding of the issue, you've got to in essence get the policy changes, and that is what you've really got to achieve."

"We work in court with the environmental agencies," Middleton said, "with Congress, with state legislators, so we're fitting all that together and using the tool that is most appropriate and can get the results at any given time. There's no other organization that connects all those things and brings the strategies out of all that informed involvement."

The SELC's "Roadless Area" project is a good example of this strategy.

"We are fortunate in Virginia to have a fair bit of public lands," said David Carr. "We've got the Shenandoah National Park, and that's about 200,000 acres, and we've got about 1.7 million acres of National Forest Land."

The areas have increasing recreational demands, Carr said. "We are working hard to ensure that those areas are managed, primarily for wildlife habitat and recreational use, and to move away from the past heavy emphasis on extractive industries such as logging, mining, and the road-building that goes along with that."

Carr has spearheaded an effort since 1997 to protect 58 million acres of roadless areas, including three quarters of a million acres in the southeast region. The issue has been a sort of political football, passed, punted, and kicked through a series of laws and regulations that have resulted in the states now being responsible to petition for the areas' protection. With the help of the SELC, the first three governors to sign on board and petition for the protection represented the states of Virginia, North Carolina, and South Carolina.

"With David's longevity, there is this historical knowledge that goes through all these different administrations and twists and turns, and you develop a certain maturity of knowing how to handle it," said Kay Slaughter, a former Charlottesville Mayor and a leading expert in state and local politics.

Political twists and turns come with the territory for SELC. Despite the common perception of environmental issues coming from the left side of the political aisle, SELC prides itself as being non-partisan.

"The thing we've learned is it's not a Democrat or Republican thing," Slaughter said. "On our board, the people we've worked with in all of our states, there are very active Republicans as well as Democrats and outstanding conservationists. So it's always



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puzzled me that for some people it is seen that way or that you can't have business and the environment. Our board members and our contributors and lots of people are very successful business people who understand how having a healthy environment is good for their business and for the economy."

There are few places where the kinds of growth issues the SELC regularly tackles are as relevant as right in the organization's backyard. That is the reason behind one of its newest initiatives.

The Charlottesville/Albemarle Initiative, headed by attorney Morgan Butler, allows the SELC to focus on making a difference in managing the rapid and massive growth and sprawl happening locally every day.

"I see it this way," Middleton said. "People need to realize the importance of the issue and the threat. Ask yourself what is important to you. What do you want this community to look like in 20 years?"

The project represents a new approach for the SELC. "It's something of an experiment for us," he said, "because we have tended to be the professional arms' length organization and here we are going to be involved on a day-to-day basis and engage with many people at all times. Our role is to be the professionals who crystallize and clarify the issues, who make the different choices more clear, who advocate, hopefully in a balanced and professional way, a reasoned position saying what why we believe what we believe and why we think it's the right path."

Slaughter sees the new program as an exciting opportunity for her and her colleagues to have a positive impact in their own community. "You have these shared goals. And at least the people in this office, we all live here, we are concerned about the issues here and have all been involved in different ways in the community here outside of work. So to be able to bring the work that we do here to bear on these issues is really exciting."

"I think the reality of it is you are never going to make things the way they were, but there is always a way to improve it and make it better," Hawthorne said.

With growth issues dominating conversation and the front pages these days, it is becoming more and more common for local residents to assume the environmental battles in the region have been lost. "Even when there will be a specific project and you say, 'well, it's going to go through anyway' and you say yes," Slaughter said. "But if you raise the issue, even if it doesn't go through, it can change the course of that particular project, and you can raise issues that will affect the next project or the next series of projects, and you will get people thinking about how to resolve the issues."

From the backyard to the Supreme Court, the SELC at 20 is older, wiser, bigger, and anything but complacent. They are near the end of a strategic planning process designed to allow them to have the resources to be more flexible in significantly addressing needs that come up too quickly to have been on any radar screens. New offices are in the planning stages that will increase the organization's presence in Washington and in other regional locales that will allow it to better address issues throughout its six-state coverage area.

"When you add all that up, I think that what we are going to be known for—what we hope we will be known for—is that we will be viewed as the organization situated to act when something really big is coming down. We're the ones that will do something about it.

"I hope that in 20 years people will be saying, in all six of our states and more locally, 'boy this organization really helped us. This organization really knew what it was doing in our community and our state.'" *a*