

POWER OF THE LAW QUARTERLY

Fall 2016

Bringing Solar Out of the Shadows

A future of shared prosperity in the Southeast requires real access to the cost-saving, job-creating benefits of solar energy for all Southerners. There is no question that the South is awash in solar potential, but how we convert that potential into advancement for all remains unresolved. To that end, SELC recently released *Solar for All*, a best-practices guide to help utilities and installers extend the benefits of solar to underserved communities. The guide was developed with input from our solar partners across the region.

Solar for All details ways to provide solar to rental homes and apartment buildings and establish payment options that allow families to avoid high upfront costs when going solar. We call on utilities to offer shared community solar arrays and to establish meaningful power-bill credits when solar arrays create extra energy for the grid.

Several companies around the region already use these practices and have demonstrated success. DC Sun in the nation's capital installs community solar for renters in low-income apartments, generating power that can cut a resident's electric bill by up to two-thirds. A Virginia housing complex for seniors on a fixed-income uses solar to even out bill payments over the course of the year, simplifying budgeting for occupants.

Solar power can help shift the equation for so many families, while creating jobs, promoting sustainable communities, and boosting our economy. It's time for solar for all.

As SELC looks to make good on our goal of exponentially growing solar in the Southeast, we believe that making solar accessible to all Southerners couldn't be more important. Our recently released *Stories of Solar* campaign offers video portraits of real people throughout the Southeast who are embracing and advancing solar, often in the face of policy barriers. The website chronicles stories like that of Renee Westmoreland's family, who farms as a second career and pastures their family sheep among solar panels. This eliminates the solar company's need to mow and ensures someone is checking on the site, while providing free pastureland for Renee's family, and a local clean energy source.

Another *Stories of Solar* film highlights Nathaniel Smith, founder of the Partnership for Southern Equity, an organization that is a close partner in our solar work. The group is driven, like SELC, by the knowledge that low-income families spend a disproportionate amount of their income on electricity, so have the most to gain from affordable clean energy. Growing up in Atlanta, Smith remembers the difficult

decisions his family had to make. "As a young man, I grew up in an environment where my family had to choose between paying the light bill and buying groceries. It's personal," said Smith. Solar power can help shift that equation for so many families, while creating jobs, promoting sustainable communities, and boosting our economy. It's time for solar for all.



REGIONAL HIGHLIGHTS

Preventing Seismic Blasting

The removal of the Atlantic from federal oil and gas leasing plans followed months of intense opposition from communities up and down the Atlantic seaboard. But this decision did not mean the end of threats to our coast. Industry applications to conduct seismic blasting throughout waters off the Southeast coast are still pending,

and industry groups have reaffirmed their interest in pursuing them. They are seeking these permits despite coastal communities clearly stating that the Southeast is not the place for offshore drilling, a position that removes the need for seismic blasting and the associated damage to coastal wildlife and businesses, including fisheries.

Seismic surveys are a means of searching for oil and gas deposits under the ocean floor by firing massive air gun blasts from a boat every 15 seconds or so. The blasts can travel hundreds of miles through important ecosystems and can cause significant harm to valuable fish stocks and marine mammals like the highly endangered North Atlantic right whale.

In deciding to remove the Atlantic from the federal oil and gas leasing plan for 2017-2022, Bureau of Ocean Energy Management officials cited a host of issues in addition to community opposition, including the drop in oil prices and the small percentage of U.S. oil estimated to be under the Atlantic shelf.

Widespread seismic blasting is primarily pursued to allow for oil and gas drilling. Given that, locals are reminding the administration that it wasn't just drilling their communities opposed, but the industrialization and other harms that accompany it, including seismic testing.



Gil Rogers Is SELC's New Atlanta Office Director

In late August, Gil Rogers became director of SELC's Atlanta office to oversee our work in Georgia and Alabama. A Birmingham native, Gil is a graduate of Princeton University and Harvard Law School.

His first assignment with us was back in 2000, when he interned at our Headquarters in Charlottesville, Virginia. Gil then re-joined SELC in 2002 to take a one-year associate attorney position in our fledgling Atlanta office. He quickly settled in as a valuable, respected, and well-liked member of our law and policy team, becoming a permanent staff attorney and then senior attorney. Over that time, our Atlanta office grew to include 12 lawyers and a program communications manager, with another four SELC attorneys in Birmingham.

"Gil brings over a decade of experience in Georgia and Alabama to this

position, and a deep knowledge and understanding of environmental issues in both states," said his predecessor, David Pope, who is stepping down after 10 years.

Among other achievements, Gil played a central role in establishing the Georgia Water Coalition (now with more than 235 members), has been a persistent presence in the Georgia

General Assembly since 2003, helped develop Georgia's first-ever water management plan, and is working with SELC colleagues in Birmingham to advance Alabama's first water plan. For this he was named Georgia Water Conservationist of the Year and an Alabama Rivers Alliance River Hero—a lifetime achievement award.



"Gil Rogers is a talented attorney and a respected thought-leader in our community. Gil has played an enormous role in protecting water resources in the Southeastern U.S. The Turner Foundation is excited to continue collaborating with Gil in his new leadership role."

— Judy Adler, President, Turner Foundation

A HEALTHY ENVIRONMENT FOR ALL



SELC believes that everyone in the Southeast deserves to breathe clean air, drink clean water, and live in a healthy environment.

For 30 years, this organization has been a vigilant and staunch environmental champion of our region and its people, using SELC’s region-wide perspective and our law and policy expertise to keep pollution out of our rivers and groundwater, to protect our estuaries and coastal waters, and to ensure that smokestacks and tailpipes do not dirty our air. The Southern Environmental Law Center’s work often helps poor or vulnerable communities that lack the resources either to address environmental problems or to take advantage of environment-friendly opportunities.

Learn more at SouthernEnvironment.org/healthyenvironment

SELC Helps Secure Strict Limits on Gas Drilling in Virginia’s King George County



protects the county in multiple ways. First, the updated comprehensive plan discourages drilling near “significant and sensitive” areas. Second, the county zoning ordinance now includes setbacks between gas wells and public groundwater supply wells, tidal wetlands, and other important waters, as well as occupied buildings and public roads. The result places 91% of the county off-limits to drilling.

This new framework safeguards a locality bordered by two major Chesapeake Bay tributaries, the Potomac and Rappahannock Rivers. SELC and Friends of the Rappahannock started working on this issue in 2013 when we learned that a Texas-based company had rapidly leased rights to drill in over 85,000 acres of the ecologically sensitive Tidewater region. Leases were established in five Virginia counties, including King George, that overlie a shale formation known as the Taylorsville Basin.

After several years of work by SELC and local partners, Virginia’s King George County voted in August to add stringent drilling restrictions to its zoning ordinance, which are the first of their kind in Virginia and make nearly all of the of the county off-limits to gas development.

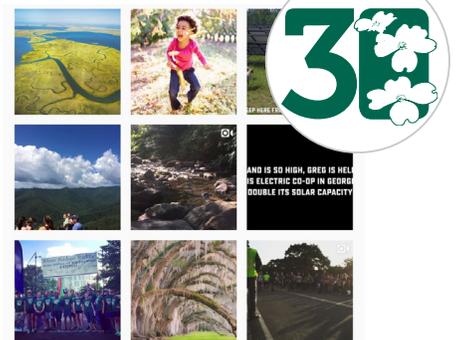
Many hours of research, public comments, and deliberations culminated in the King George County Board of Supervisors’ unanimous vote, which

Cleaner Air in the Southeast

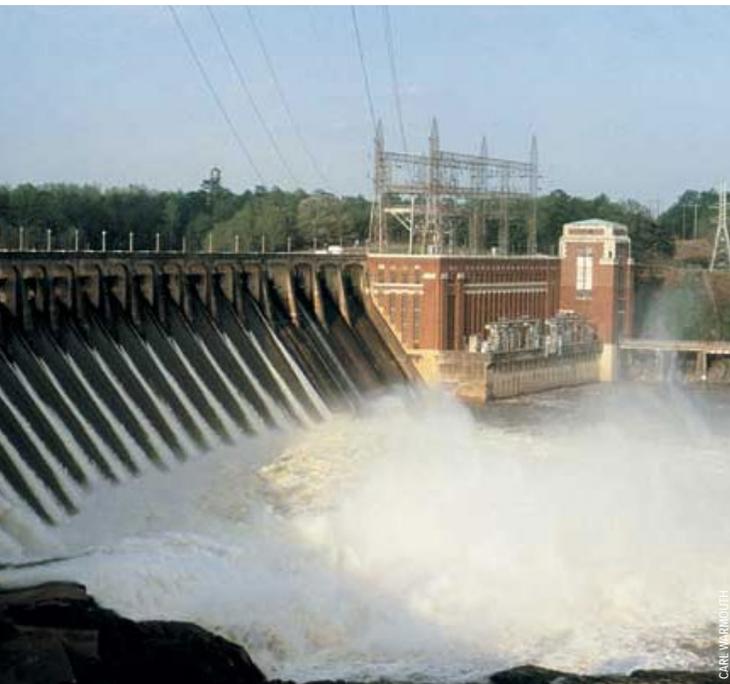
This summer all of the major metro areas in the Southeast reported meeting important health standards for clean air. After persistent challenges in reducing smog, the last Southeastern cities working to meet the 2008 standard—Charlotte, Knoxville, and Atlanta—all achieved it for the first time. SELC’s work to retire dirty coal-fired power plants and reduce sprawl contributed to declines from the two sectors that are responsible for most ozone pollution—power generation and vehicle emissions.

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See more of our beautiful images and stay up to date on SELC’s activities by following us on Instagram [@southernenvironment](https://www.instagram.com/southernenvironment)



WHAT'S HAPPENING IN YOUR STATE?



renewable energy and energy efficiency. The up-to 1.6 gigawatts of new renewable energy resources Georgia Power committed to in its plan are enough to power nearly 1.2 million homes and nearly triple the utility's initial proposal. Additionally, funds are dedicated to energy-saving measures in low-income multi-family housing and creation of a whole-building data access program, which gives commercial and

multi-family building owners better information to manage their properties' energy performance. These are important steps as Georgia continues moving toward a clean energy future.

NORTH CAROLINA

3 Fighting dune destruction.

SELC is challenging a state permit to destroy dunes along Sunset Beach to construct 21 vacation homes. SELC is representing the Sunset Beach Taxpayers Association and North Carolina Coastal Federation, who are concerned about the loss of existing dunes and the impact to Bird Island, a 1,300-acre state preserve. The exist-

ing dunes not only provide protection to Sunset Beach; the area proposed for development has been deemed by the federal government as too precarious to allow connections to public water or sewer services. The permit challenge will next go before the Office of Administrative Hearings.

SOUTH CAROLINA

4 State rebukes repeat violator.

The latest drama in the ongoing saga of Carolina Water Service polluting South Carolina rivers unfolded this past summer. In August, the state denied reissuance of a permit for Carolina Water Service's I-20 facility and reissued its order that the private utility's plant on the Saluda River connect to a larger, municipal treatment plant nearby and eliminate its discharges into the river. The state first required the connection in 1999. When 15 years passed without the required connection, SELC filed suit last year. Testing has shown unsafe levels of *E. coli* and other pollutants at the plant's outfall in the Saluda River, creating a threat to clean water and the people who depend on it. The company caused the closure of a popular swimming spot near Columbia due to poorly treated sewage from a different facility this summer.

ALABAMA

1 Dam permits questioned.

SELC is challenging a license that could dictate dam and reservoir management operations on the Coosa River for the next 30 years. When dams were constructed on the Coosa from the 1920s to 1950s, they wiped out more than 30 freshwater species, one of the biggest extinction events in North America during the 20th century. Decades later, low water flow and decreased oxygen levels continue to contribute to the decline in biodiversity. In 2013, we filed our first challenge of the license for Alabama Power Company's operation of its seven hydroelectric dams, which impound waters along 225 miles of the Coosa River. Most recently, SELC filed an appeal with the D.C. Circuit Court of Appeals requesting the license go through the proper environmental review.

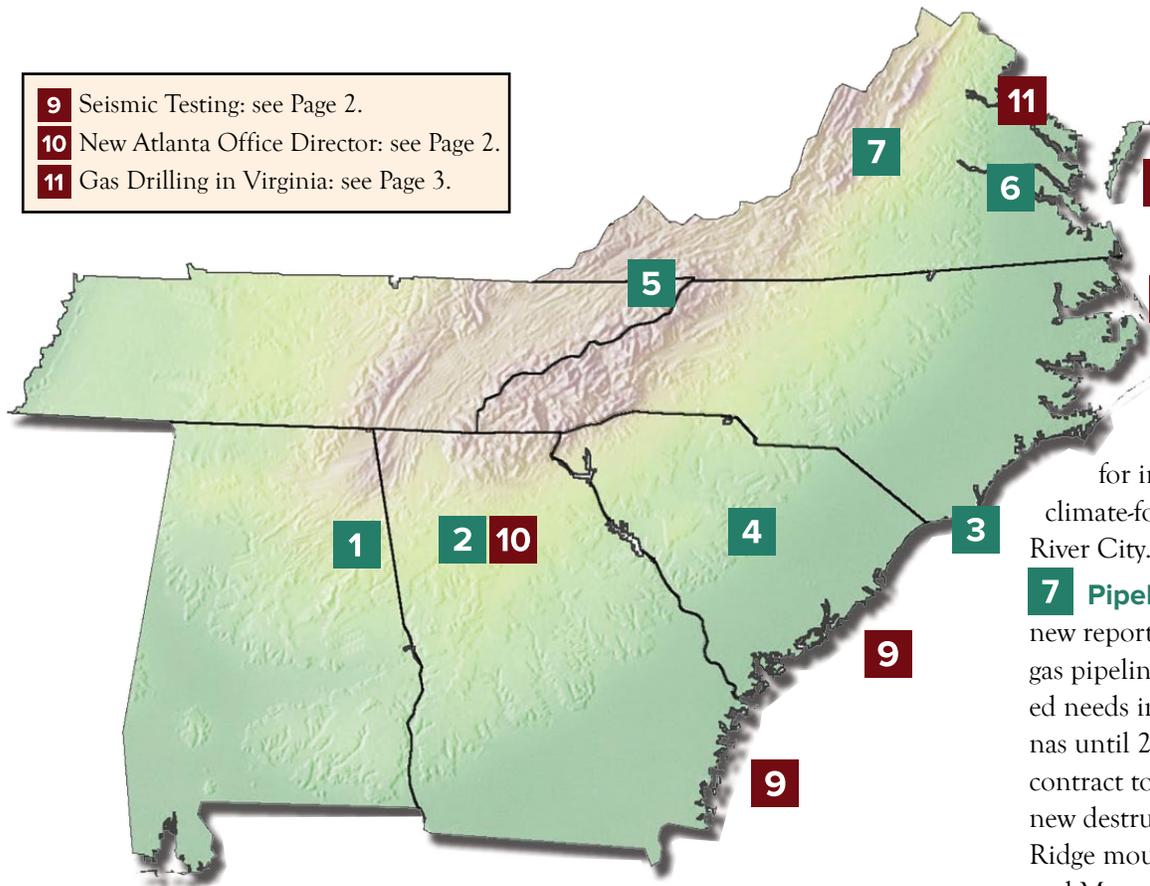
GEORGIA

2 More solar commitments.

Thanks largely to SELC's advocacy, the newly adopted 20-year plan for Georgia Power includes improved goals for



- 9** Seismic Testing: see Page 2.
- 10** New Atlanta Office Director: see Page 2.
- 11** Gas Drilling in Virginia: see Page 3.



9 chairs Richmond's Green Cities Committee, the advisory committee that helped develop the RVAgreen sustainability program recognized by the award. RVAgreen members were responsible for implementing more than 50 climate-focused projects around the River City.

7 Pipeline demand in doubt. A new report shows that existing natural gas pipeline capacity can meet projected needs in Virginia and the Carolinas until 2030. This stands in stark contrast to utilities, which claim two new destructive routes across the Blue Ridge mountains—the Atlantic Coast and Mountain Valley pipelines—are justified by future demand. Now that the demand question has been addressed, many are looking to move beyond discussing only the pipelines' projected paths and instead focus on evaluating whether such massive and disruptive projects are even necessary.



When first introduced, the charge drew strong opposition for its unfair punishment of solar customers and the resulting potential to hamper solar growth. Public participation helped remedy the problem and left many who support solar wishing the Tennessee Valley Authority was held to a similar standard. Last year TVA decided to slash its solar program, a move that was made without the benefit

TENNESSEE

5 A win for Tennessee solar. Solar advocates across the state welcomed approval of a settlement in which Kingsport Power Company agreed to drop proposed discriminatory charges on solar customers. The settlement left in place retail net metering for the utility in northeast Tennessee and marks an important step forward for consumer choice and clean energy markets in the state.

of public input or state regulatory oversight.

VIRGINIA

6 Richmond honored. Virginia's capital city won first place in the Large City category of the national 2016 Mayors' Climate Protection Award for its efforts to expand sustainability initiatives like community gardens and improved transportation options. SELC Senior Attorney Trip Pollard



The Southern Environmental Law Center is celebrating its 30th anniversary reflecting on factors that have led to our success to date—and what will

STAYING

SELC's work, of course, demands law and policy expertise. And it needs multi-state strategy and complementary partnerships with many other groups.

But our kind of advocacy often also requires flexibility, determination, and good old-fashioned staying power. In any particular case or project, it is not uncommon for us to win in one arena—say, in the courts—only to have our opponents switch to the legislature to try to pass a law that would undo our

POWER PLANT CLEANUP

For several decades, utility companies took advantage of a loophole in the Clean Air Act to keep old, dirty power plants on line. EPA finally filed suit against Duke Energy to hold the company accountable—but then stopped pursuing it after a change in presidential administration. SELC shouldered this important case alone, taking it all the way to the United States Supreme Court. In April 2007, all nine justices agreed with us that power

ROADLESS AREAS

In 1999, SELC turned its focus toward protecting the wildest, most valuable areas of our national forests. We and our partners identified more than 700,000 acres in our region for inclusion in the Roadless Area Conservation Rule, which would shield 58 million national forest acres nationwide from road building and commercial logging. Politics put the rule on hold for several years, leaving our forests' future uncertain. SELC made an institutional commitment to guard these treasures, drawing a line in the sand and challenging every project in our region that threatened them. In 2013, we and our allies rejoiced when the Supreme Court allowed the Roadless Rule to stand, effectively protecting these lands for generations to come. Thanks to our determined efforts, not a single roadless acre was lost in the Southern Appalachians over 14 years.

CARBON REDUCTIONS

Ten years ago, there were 246 coal-fired units generating electric power in our region, and nine more huge units were planned. Coal-fired power accounted for the South's outsized contribution to climate change and emitted enormous amounts of soot-forming sulfur dioxide, smog-forming nitrogen dioxide, and nearly 100% of the mercury, arsenic, and selenium found in our waterways. Today, 126 of the existing units—a third of the total coal capacity



After **7** years of legal action, a unanimous win in the U.S. Supreme Court.

progress. SELC's legal team therefore must be nimble, switching among the three branches of government—or from the national to the state level—over time to keep moving the ball forward. Many of our projects play out over five, 10, 15 years or more.

“SELC is fortunate to have loyal supporters who appreciate this—and who respect the combination of grit and sophistication that we bring,” says John Suttles, SELC's director of litigation and regional programs.

companies could no longer continue to extend the lives of old, coal-burning plants in ways that increase yearly emissions without installing modern pollution controls. The ruling catalyzed the largest power plant cleanup in history. This case took more than seven years of sustained effort by SELC.



Not a single acre of national forest roadless area lost in **16** years.



ROBERT LEMELLYN

ZAK GRILLMEIER

MARK VANDYKE

ary. In a series of newsletter features, we're marking this milestone by be required to meet the challenges and opportunities that lie ahead.

POWER



over the past

years, reduced power plant pollution in the South by 29%.

in our six states—are slated for retirement around 2020; most of them are already closed. And seven of the proposed units never got off the ground. SELC has been deeply involved in this revolution, playing an instrumental role in securing plans or legally binding retirement commitments and in turning aside most of the proposed new plans, while ensuring that the two that were built burn as cleanly as possible. As a result, CO₂ emissions from electric power generation in our region declined by 29%—even as our population increased by an estimated 10%.

SPECIAL PLACES

When the Titan America cement plant came up at a county commissioner's meeting, it was presented as an all-but-done deal. Concerned about potentially devastating air and water pollution in the Northeast Cape Fear River watershed, local groups and residents turned to SELC for legal

expertise. It took almost eight years of coordinated opposition, but the company dropped its plans for the new plant earlier this year.

In 2013, the Virginia General Assembly once again rejected an attempt to lift the state's 31-year ban on uranium

mining. For the previous six years, a private company had pushed hard to repeal the prohibition so it could access a large uranium deposit in

Southside Virginia. Throughout this hard-fought period, SELC and its allies repeatedly cited serious threats to the drinking water of 1.1 million people—and potentially catastrophic harm to a rural area whose recovering economy depends on recreation, tourism, technology, and education. Anticipating a renewed effort by uranium proponents, our team continues to monitor and remain ready.



Dozens of special places protected over the past

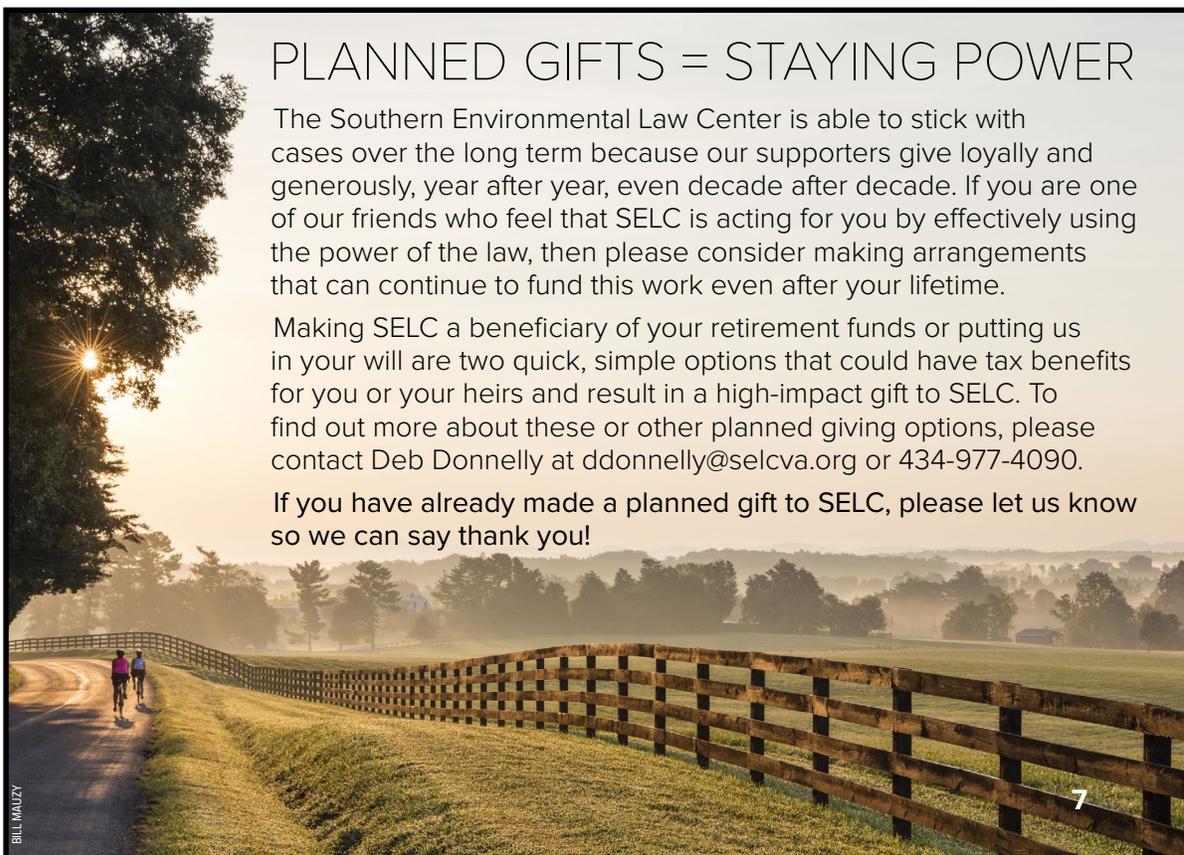
years.

PLANNED GIFTS = STAYING POWER

The Southern Environmental Law Center is able to stick with cases over the long term because our supporters give loyally and generously, year after year, even decade after decade. If you are one of our friends who feel that SELC is acting for you by effectively using the power of the law, then please consider making arrangements that can continue to fund this work even after your lifetime.

Making SELC a beneficiary of your retirement funds or putting us in your will are two quick, simple options that could have tax benefits for you or your heirs and result in a high-impact gift to SELC. To find out more about these or other planned giving options, please contact Deb Donnelly at ddonnelly@selcva.org or 434-977-4090.

If you have already made a planned gift to SELC, please let us know so we can say thank you!



BILL MAUZY

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POWER OF THE LAW QUARTERLY

CELEBRATING 30 YEARS OF RESULTS

SECRETS TO SELC'S SUCCESS: **STAYING POWER**

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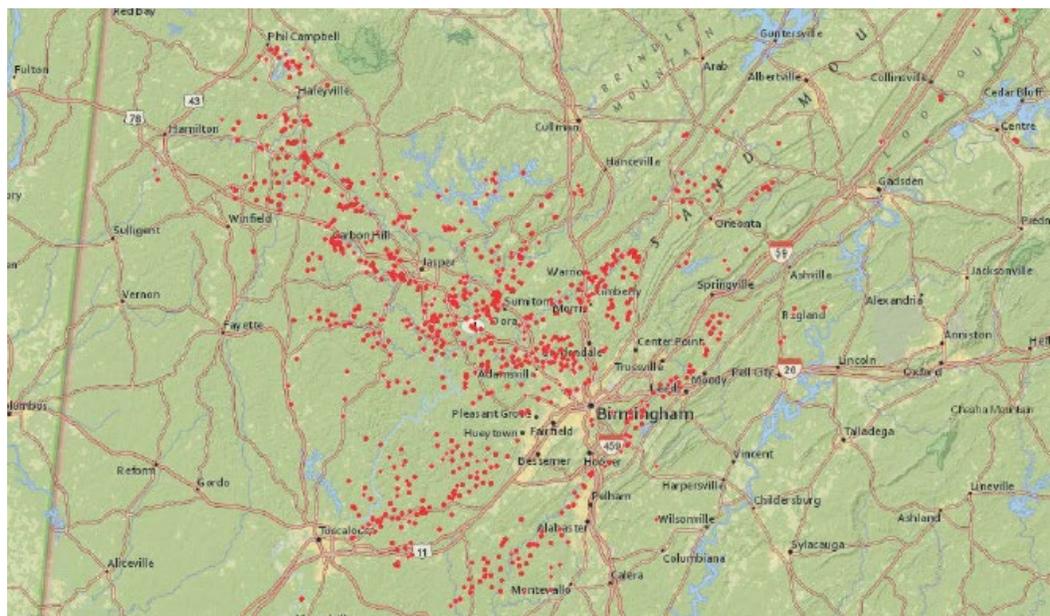
Tackling Abandoned Coal Mine Contamination

Though mining at Drummond Company's Maxine Mine ceased in the 1980s, acid mine drainage has been illegally discharging from the site into Alabama's Locust Fork of the Black Warrior River for years. Adding to the orange-stained pollution streaming from the mine site are piles of mining waste sitting behind precarious, poorly constructed dams and leaking acidic runoff into nearby waterways. In one spot, the mining waste has completely filled in what was once a flowing tributary of the Locust Fork.

In light of this ongoing pollution, SELC filed suit earlier this month on behalf of the Black Warrior Riverkeeper and Public Justice. The aim of our suit is to remove the mining waste, remediate streams, and put an immediate end to all illegal discharges.

The Locust Fork is a primary tributary of the Black Warrior River and a popular area for fishing and boating. The entire Black Warrior River basin is plagued with hundreds

of abandoned mines, with Maxine being one of the worst sites. These vestiges from a time when coal was king pose a continuous threat to water quality that SELC is eager to resolve.



Alabama has approximately 900 abandoned coal mines.