



SOUTHERN
ENVIRONMENTAL
LAW CENTER

POWER OF THE LAW QUARTERLY

Winter 2016

Gas Pipelines Aim for Profit Over Our Health, Countryside, and Communities

When Bob Koontz needed serenity to recover from cancer treatments, he retreated to the 1,000-acre historic farm he and his wife bought in Bath County, Virginia. And when Renee Alexander needed to help her 11-year-old daughter overcome a serious heart ailment, she sought the fresh air and clear skies of Joelton, Tennessee.

These families live 520 miles apart but are now confronting the same problem: pipeline developers invading their communities to maximize profits.

Bath County and Joelton are emblematic of many areas facing proposals for pipelines and compressor stations designed to move higher volumes of natural gas, and at higher speeds, to take advantage of a surplus of fracked gas from West Virginia and Pennsylvania. The lure is profits from exporting the gas—and a guaranteed return from the federal government for gas companies that make major infrastructure investments. In some cases, power companies profit at both ends of the transaction, seeking to build unnecessary pipelines to supply gas they will burn in their own power plants.

Customers and communities in the paths of these projects both pay the price. “I can’t talk about it without crying,” Alexander said. “This threatens to undo all the strides we have made for our daughter.”

SELC’s legal team has stepped out front on the pipelines issue by questioning which and how many of them are in fact needed to meet future projected demand, and by challenging some of the most destructive proposed routes. But SELC and our clients face an uphill battle. Dominion’s Atlantic Coast Pipeline needs a certificate from the Federal Energy Regulatory Commission, an agency that rarely, if ever, turns down pipeline proposals.

The Koontzes’ farm in scenic and historic Bath County is in the path of the 600-mile-long Atlantic Coast Pipeline. “This property survived the French and Indian War, the Civil War, world wars, all sorts of things,” said Robbie Koontz, Bob’s wife. “And now to see it destroyed by Dominion is really unbelievable.”

To add insult to injury, there are serious doubts that the pipeline is even necessary. SELC recently released a Synapse Energy Economics report showing that, with upgrades and modifications, the pipelines already in the ground have sufficient capacity to meet the needs of Virginia and the Carolinas through at least 2030.

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The Nashville area faces two proposed compressor stations designed to move larger volumes of natural gas faster to the Gulf Coast for export. In Joelton, Kinder Morgan aims to build a 60,000-horsepower compressor station for the Tennessee Gas Pipeline, while Columbia Gas wants another just 24 miles away.

Noisy and smelly, each of these compressors would belch out concerning levels of soot- and smog-forming pollution. What’s more, their pollution impact zones would overlap over high-density downtown and minority neighborhoods, where childhood asthma rates already exceed the state’s average at 11 percent.

“They’re just using us to make a profit,” said Jennifer Mayo, a mother from Joelton. SELC is challenging air permits for these facilities.

Should the developers get what they want, they will effectively lock our region into natural gas for many decades and discourage investment in alternative energy. SELC has a cleaner—and less costly—vision for the South than another 40 or 80 years of fossil fuels.

REGIONAL HIGHLIGHTS

Sarah Francisco Is SELC's New Virginia Office Director

Recruiting and mentoring the next generation of environmental lawyers and leaders are among SELC's core values, and no one embodies this principle more than Sarah Francisco, the new director of our Virginia Office.

A native Virginian who grew up on a Christmas tree farm in the Shenandoah Valley, with degrees from Mary Baldwin College and the University of Richmond School of Law, Sarah has spent her entire professional career at SELC. As a legal intern, associate attorney, staff attorney, and now senior attorney, Sarah has been dedicated to protecting the forests of the Southern Appalachian Mountains.

For the past seven years, she has led our region-wide National Forests and Parks Program. Among her many other accomplishments, she served as a leader of the successful campaign with partners to convince the U.S. Forest Service

not to open Virginia's George Washington National Forest to oil and gas drilling.

"Sarah is an extraordinary lawyer," said Rick Middleton, SELC founder and executive director. "Combining insights and knowledge drawn from both her personal background and her professional experience, she brings to her new position a deep understanding of the environmental challenges and opportunities facing Virginia."

SELC has 14 attorneys in Virginia, and offices in Charlottesville and Richmond. As part of her duties, Sarah will



To learn more about Sarah and her deep love for Virginia's forests and farmlands, watch our video at SouthernEnvironment.org/SarahFrancisco.

help coordinate their place-based work with our organization's broader regional strategies.

SELC Takes Action to Clean Up Gasoline Spill in South Carolina



More than 160,000 gallons of gasoline remain in creeks, wetlands, and groundwater nearly two years after a pipeline ruptured in Belton, South Carolina. SELC is

stepping in to force a full cleanup.

Records obtained from the state's Department of Health and Environmental Control show efforts to extract the petroleum and clean up the spill

lagged considerably in 2016. The pipeline operators, Kinder Morgan and the Plantation Pipe Line Company, admitted to collecting no measurable amount of petroleum since early this year. Our own on-site testing found pollution levels around Browns Creek higher than the company had previously reported. So in late October, on behalf of the Savannah Riverkeeper and Upstate Forever, our legal team filed a notice with the company that a Clean Water Act lawsuit was coming.

This is the fourth largest pipeline spill in South Carolina history. About 370,000 gallons of gasoline and petroleum leaked from the pipeline in 2014 after an aging patch failed and contaminated a thick layer of earth. The company, however, did not notice the pipeline was leaking until neighbors found dead plants in the area.

Alabama Suit Targets Wastewater Treatment Plant Pollution

SELC is engaged in legal action to end 25 years of violations at the Oxford wastewater treatment plant on Alabama's Choccolocco Creek, a major tributary of the Coosa River and a popular kayaking and fishing destination.

Sampling results reveal that the facility has continuously discharged extremely high concentrations of E. coli bacteria, some hundreds of times greater than its permit allows. The results also show high levels of chlorine and illegal discharges of formaldehyde. Pollution from the facility often causes foul-smelling and visibly discolored water downstream from the discharge point on Choccolocco

Creek. Floating Fun, a prominent tubing business in the area, has reported turning away customers during what would usually be peak months for business.

Following SELC's earlier notice letter of our intent to sue on behalf of the Coosa Riverkeeper, state authorities filed their own enforcement suit against the Oxford Waterworks and Sewer Board. The court has granted our motion to join the state's suit.



Developers Seek Beach-Hardening Structures

Barrier islands, by their very nature, move. Sand and dunes shift, new inlets open during storms, and beaches widen or dwindle. Developers along the South Atlantic coast are seeking to harden our naturally dynamic beaches with structures that over the long term are a costly, ineffective shield for ocean-front projects.

In North Carolina, SELC is opposing multiple beach-hardening proposals that, in some instances, would cost several times more than the investment properties they are intended to protect. The groins planned for Ocean Isle Beach, Holden Beach, and Figure Eight Island would also harm important wildlife habitat and wipe out beaches that are a public resource.

Members of the Figure Eight Island Homeowners Association recently denied the proposal put forward by its own board, creating an opportunity for the community

to develop a plan that works with nature, rather than against it.

On a narrow section of Georgia's Sea Island, SELC is challenging state approval of a 350-foot rock groin intended to trap sand and build up the beach to make eight luxury building lots more marketable. In the process, it would rob sand from down-drift areas and cause severe erosion on beaches frequented by loggerhead sea turtles, piping plovers, and red knots. SELC and our partners are appealing a judge's ruling that upheld the state permit for the project.



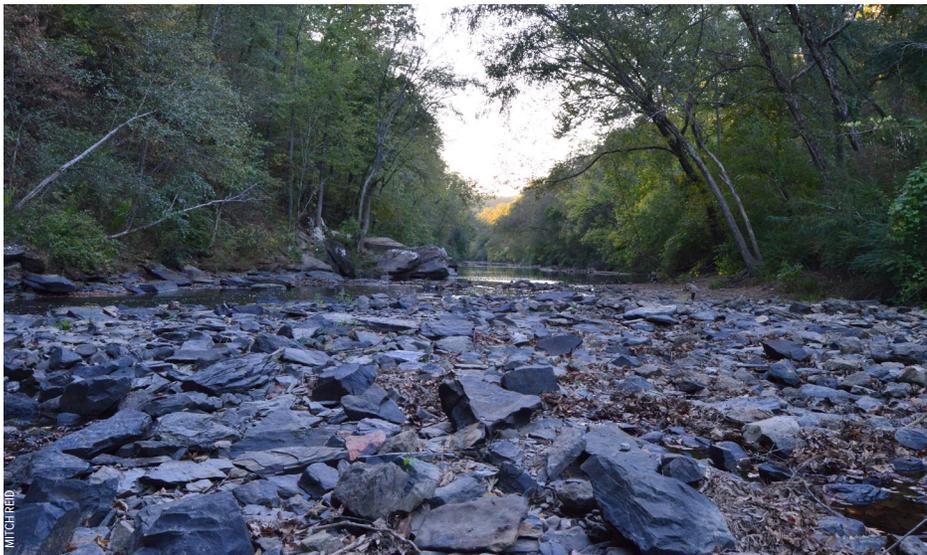
Atlanta and Raleigh Voters Say Yes to Transit Funding

In two metro areas, voters have passed SELC-supported referenda that will provide new funding for transit and other alternatives to getting behind the wheel.

Atlanta residents approved a half-cent sales tax to finance the largest expansion of MARTA since its inception. It will generate \$2.5 billion over the next 40 years for new light-rail and heavy-rail lines, bus rapid transit, enhanced conventional bus service, and other projects that should help reduce the number of cars on clogged roadways. City voters also approved a separate, four-tenths of a percent sales tax increase we endorsed that will pay for road maintenance, sidewalks, bike paths, and the Beltline—the ongoing redevelopment of a 22-mile railroad corridor into multi-use trails and parks and, eventually, new transit routes.

Voters in North Carolina's Wake County approved a half-cent sales tax for major transit upgrades. SELC helped with promotional materials and issued a public resolution in favor of the plan, known as Move Wake County Forward. Projected to produce \$2.3 billion over the next decade, the tax will finance improvements including a new commuter rail line, bus rapid transit lines, and increased bus service.

WHAT'S HAPPENING IN YOUR STATE?



ALABAMA

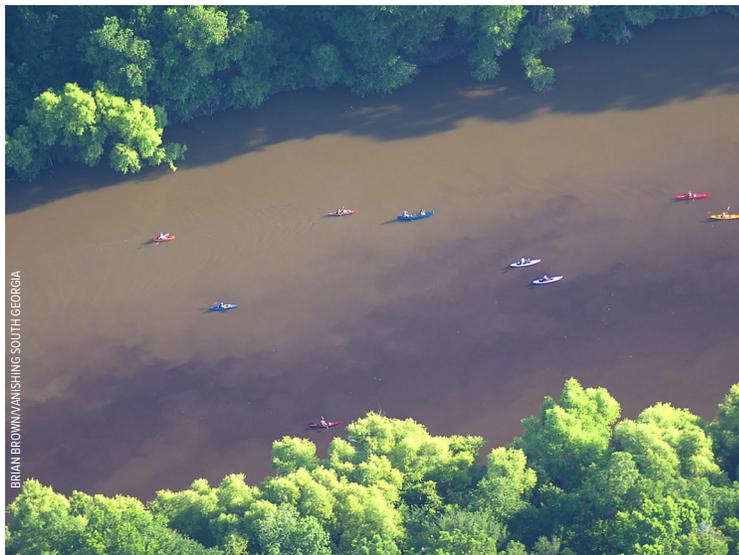
1 Drought heightens need for water plan. With several months of extremely dry weather and above-average temperatures, drought conditions are expected to continue to grip the Southeast into the winter. Alabama remains particularly vulnerable. Governor Bentley has signed a Drought Emergency Declaration, but this designation fails to mandate any changes in water usage. The situation underscores the need for a comprehensive state water plan, which SELC and our partners have advocated for years. We recently played a prominent role in focus panel groups convened by the governor to recommend water planning policies he can take to the legislature. In the meantime, SELC is pushing for stronger regulation and prioritization of water use to mitigate some of the current drought's impacts.

GEORGIA

2 A victory for water quality. Considered one of the worst polluters in the state, the Rayonier Advanced Materials mill

in Jesup releases wastewater that often causes a dark, foul-smelling plume that extends for miles down the Altamaha River. Anglers have complained that fish downstream of the discharge are inedible. In September, SELC and our partners secured an important victory in a 15-year dispute over the pulp mill's pollution, after a state administrative court invalidated the plant's inadequate discharge permit because it allows violations of state water quality standards for color and odor.

SELC challenged Rayonier's permit after the state Environmental Protection Division renewed it last December. Rayonier and EPD have appealed the decision, and SELC will continue to insist on tougher restrictions on color and odor to protect Georgia's waterways.



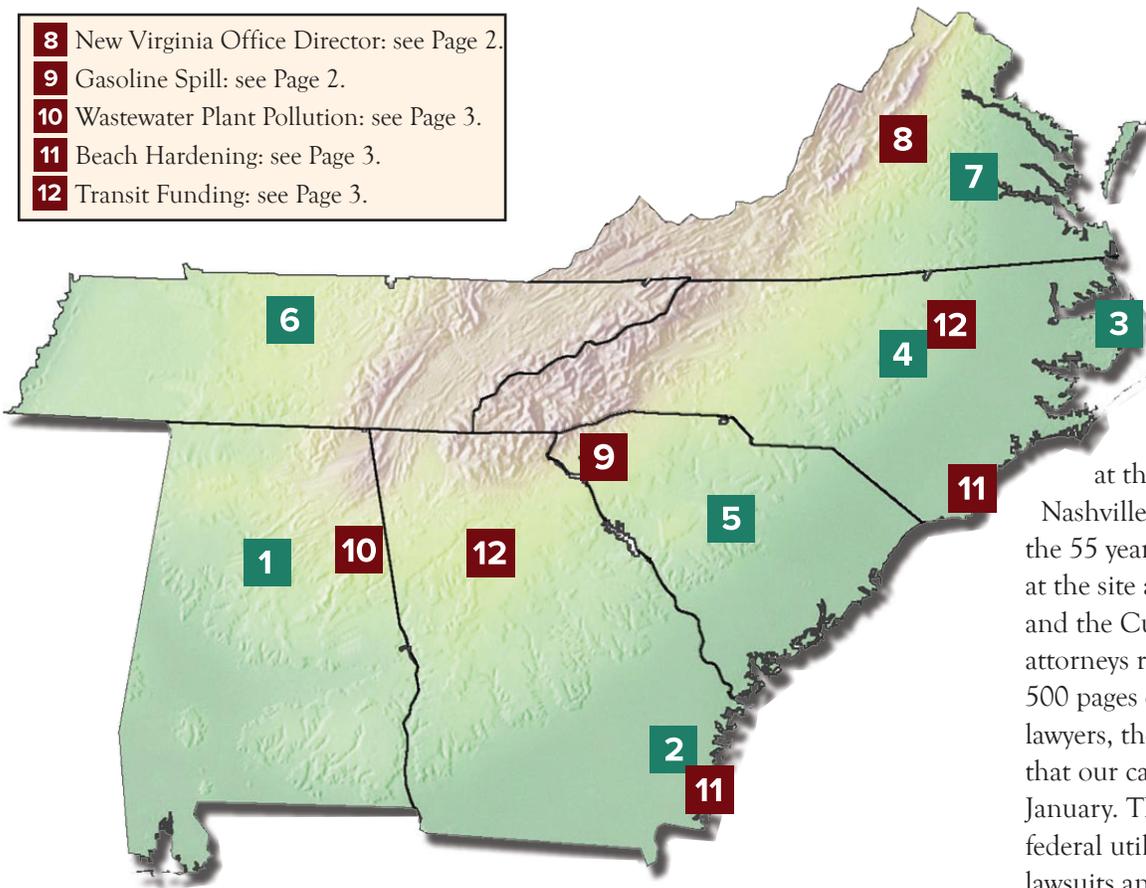
NORTH CAROLINA

3 Ruling protects red wolves in the wild. A federal court has taken the U.S. Fish and Wildlife Service to task for its piece-by-piece dismantling and abandonment of the recovery program for the world's only wild population of red wolves. In late September, SELC secured a preliminary injunction that will protect the remaining animals in eastern North Carolina from significant changes in Fish and Wildlife Service policy that SELC is challenging. The judge banned the agency from capturing or killing—or authorizing private landowners to capture or kill—any wild red wolves unless they threaten public safety, livestock, or pets. This injunction is designed to slow the recent precipitous decline in the red wolves' numbers, from an estimated 100 animals in the five-county recovery area in 2014 to as few as 28 known today.

4 Court hears public records case against governor. On November 1, the North Carolina Court of Appeals heard oral argument in a suit filed by SELC and a coalition of media and public interest organizations seeking to compel the governor and agencies to comply with state public records law. Attorneys for the governor have stalled the case by arguing that North Carolina citizens do not have the legal right to challenge the

executive branch's policies and practices. The coalition brought the lawsuit after facing years of stonewalling on records requests and illegal fees for inspection of documents. We are awaiting the court's opinion on whether the case can continue. Meanwhile, we have filed two new lawsuits against the North Carolina Department of Transportation and the North Carolina Department of Health

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court against the Tennessee Valley Authority and its careless handling of coal ash. This past year, TVA came at us with four separate motions to dismiss a federal lawsuit we filed to

clean up coal ash pollution at the Gallatin plant northeast of Nashville. Toxic contaminants from the 55 years of accumulated ash stored at the site are seeping into groundwater and the Cumberland River. After SELC attorneys responded to more than 500 pages of arguments from TVA's lawyers, the judge ruled in September that our case can proceed to trial in January. The judge also agreed that the federal utility is not immune from such lawsuits and can face civil penalties.

and Human Services for their failures to respond to requests for public records necessary for our work.

SOUTH CAROLINA

5 Utilities roll out solar programs. Under a landmark solar law SELC championed in 2014 and subsequent settlement agreements we secured in state Public Service Commission proceedings, Duke Energy and South Carolina Electric and Gas Company are following through with their commitments to develop both utility- and customer-scale solar projects. Businesses and households across the state are signing up for these programs, taking advantage of millions of dollars of incentives to invest in clean energy. The utilities are also beginning to fulfill their promise to make solar available to low- and moderate-income customers. Duke, for example, recently

secured regulatory approval of a new community solar program that waives application and subscription costs for households at or below 200 percent of the federal poverty line.



TENNESSEE

6 Gallatin ash case set for trial. Despite efforts to overwhelm us with legal maneuvers, we will get our day in

VIRGINIA

7 Governor signs fracking regulations. New protections are in place to safeguard Virginia's drinking water and communities from fracking and gas development. Governor McAuliffe signed regulations following a three-year stakeholder process that included SELC and our partner groups, a process that resulted in much-needed improvements by requiring baseline water testing and monitoring, as well as spill prevention and response planning. Yet the oil and gas industry is already trying to undermine the newly inked protections by pushing legislation to shield fracking chemicals from public disclosure, without any consideration

of risks to public health or the environment. We are preparing to fight off this attempt and continue our work to make sure these protections are strengthened, not weakened.

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

THE POWER OF PLA

You care about *your* beach, river, mountain, or rural area—and SELC does, too. With offices in seven southern communities (plus DC), we keep a finger on the pulse of what is happening throughout our six states and can jump quickly on new issues as they arise. Over 30 years, our strong local presence and partnerships have resulted in big local impacts. Make a gift to support the work of your local SELC office at SouthernEnvironment.org/Donate.

CHARLOTTESVILLE, 14 ATTORNEYS

Rick Middleton chose this as our hometown when he founded the Southern Environmental Law Center 30 years ago because Charlottesville and the surrounding counties embody many things this organization strives to preserve: rugged natural areas, working farms and rural countryside, a strong sense of place and authentic community character.

Today our Virginia-based attorneys are working on timely issues across the state—from transportation and land use to forest protection, from fracking regulations and proposed natural gas pipelines to coal ash. At the same time, our Virginia office is the epicenter of SELC's institution-wide initiative to move the Southeast away from its overdependence on coal and toward cleaner alternatives, such as solar and offshore wind.

NASHVILLE, 4 ATTORNEYS

For more than 20 years, SELC did good work in Tennessee from other offices around the region, but when we opened an office in Nashville in 2012, it was, in the words of a local partner, “a total game changer.” Tennessee groups now have a strong, professional advocate capable of going head to head with government agencies, municipalities, and corporations to ensure that environmental and health safeguards are upheld and enforced. Over the past year, for instance, SELC reached a settlement that will stop excessive wastewater and sewage dumping into the Harpeth River and implement a recovery plan that could serve as a model for river systems statewide.

Headed by former Nashville First Lady Anne Davis, our litigators will



SELC's Nashville team: Anne Passino, Beth Alexander, Anne Davis, Amanda Garcia

go to trial in January to force the Tennessee Valley Authority to finally deal with 55 years of accumulated toxic coal ash at the Gallatin power plant.



SELC's Birmingham team: Gil Rogers (Atlanta-based director of our AL/GA Offices), Christina Andreen, Sarah Stokes, Keith Johnston, Barry Brock (not pictured)

BIRMINGHAM, 4 ATTORNEYS

Alabama has an astonishing diversity of ecosystems and species, including those found in 100,000 miles of rivers and streams. Unfortunately, the state has a lax history of protecting these resources. SELC opened its Alabama office in 2010 to be a counterbalance to these prevailing anti-environmental forces.

Healthy air and clean water are among our top priorities here. SELC is a major stakeholder in a state water management planning process, and we have launched a water quality enforcement campaign aimed at stopping pollution from municipal wastewater facilities. SELC is also tackling systemic problems related to Alabama's legacy of coal mining, including toxics seeping from old abandoned mines.

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

FACE-BASED ACTION

ATLANTA, 12 ATTORNEYS

SELC's ability to envision and sustain long-term initiatives is one of this organization's defining characteristics, and the work of our Atlanta office offers prime examples.

In the early 1990s, a series of high-profile SELC lawsuits in Atlanta set important precedents for road-building, air quality, and land use planning. These efforts continue today as we press for more transit options and better community design in this rapidly growing metropolitan area.

A decade ago, SELC launched an intensive campaign to protect the still largely intact Georgia coast, which has led to a robust partnership with the new, Brunswick-based organization One Hundred Miles. Our region-wide solar initiative is also led from this office and has helped make Georgia one of the fastest-growing solar markets in the nation.

ASHEVILLE, 5 ATTORNEYS

Stretching from Virginia to Alabama, some 5 million acres of the Southern Appalachians have been set aside as national forest. Managing these public lands for wildlife habitat, water quality,

scenic beauty, and recreation has always been one of SELC's top priorities. In fact, a national forest matter was one of our first cases when we hung out our shingle 30 years ago.

Asheville is right in the heart of the Southern Appalachians, so we think of this office as our Mountain Forest Office. True, SELC's Asheville attorneys spend much of their time focused on North Carolina's Nantahala and Pisgah National Forests—e.g. working to improve forest management practices, to safeguard critical areas such as old-growth stands, and to prevent damaging logging and road building. But because highways, pipelines, and other landscape-scale threats cross state lines, DJ Gerken and his Asheville team collaborate closely with SELC's other offices on cases that affect the entire mountain zone.

CHARLESTON, 5 ATTORNEYS

The 2007 opening of our Charleston office built upon decades of successful collaboration with South Carolina partners, including the Coastal Conservation League—one of the premiere conservation groups in the South. From blocking offshore drilling to protecting Lowcountry wetlands, forest, and islands from unplanned sprawl, we have built a strong record of coordinated coastal accomplishment.

Now SELC's scope extends statewide. We helped draft the law making South Carolina a national solar energy hotspot. Our landmark litigation prompted all of the state's utilities to



SELC's Charleston team: Chris DeScherer, Catherine Wannamaker, Blan Holman (Liz Jones and Daniel Timmons not pictured)

remove their toxic coal ash from unlined dumps. And we are championing South Carolina's rivers by advancing rules to ensure that they never run dry in a drought, and through active cases to keep pollution out of the Reedy, Savannah, and Saluda.

CHAPEL HILL, 21 ATTORNEYS

In the face of concerted efforts to weaken enforcement and dismantle fundamental safeguards, SELC is playing the role of North Carolina's environmental champion. From opposing beach-hardening on the coast to ensuring healthy drinking water for all communities in the state, we are taking on an array of urgent issues—and winning. Examples include commitments from Duke Energy to clean up leaking, unlined coal ash pits at eight sites—with more to come. Stopping destructive road projects and opening the way for more transit. Halting a proposed cement kiln near Wilmington. Saving the last remaining red wolves in the wild. And playing a central role in persuading the Obama Administration to keep the South Atlantic free of offshore drilling.



SELC's Asheville team: Thomas Lodwick, DJ Gerken, Sam Evans, Patrick Hunter, Amelia Burnette (not pictured)

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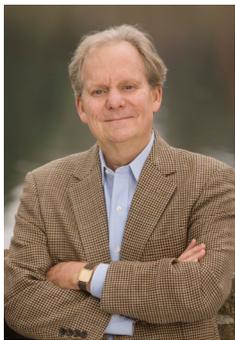
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POWER OF THE LAW QUARTERLY

CELEBRATING 30 YEARS OF RESULTS

SECRETS TO SELC'S SUCCESS: PLACE-BASED ACTION



In Challenging Times, You Can Count on Us

One of the benefits of being a 30-year-old organization is big-picture perspective. Looking at current events, I wish we had a president-elect who acknowledges global warming and shares our environmental values, but we don't. There is plenty to be concerned about, and we have serious challenges ahead. But I want to say loud and clear to all of SELC's friends, we have been here before, and we know what to do.

This organization is better situated than most to play the hand we were dealt by this year's election. Using the law and the courts will be essential in responding to anti-environmental policies and bad site-specific decisions. And SELC's place-based approach has always been able to achieve meaningful results regardless of the political climate.

I often say that SELC is like a very big and impressive Swiss Army Knife. We have a wide array of law and policy tools, so we can choose what works best for each situation. If federal agencies are not going to be on our side, we will work around that. Many of SELC's most important achievements occurred during anti-environmental administrations. They happened despite a deadlocked Congress. We have a long track record of winning against extremely powerful and determined opponents.

What we do on behalf of the people and places we protect is needed more than ever. SELC will have to be smarter, more strategic, and more successful in our legal work than ever. To this end, our lawyers have begun to survey the new political landscape and to develop new strategies and priorities to ensure the strongest possible short-term defense coupled with long-term vision.

As I look back over the past 30 years, I can say with confidence that we are not going to just fight—we are going to win. You can count on us.

CHARITY NAVIGATOR GIVES SELC A PERFECT SCORE

The leading nonprofit evaluator's ratings "show givers how efficiently we believe a charity will use their support today, how well it has sustained its programs and services over time, and the level of commitment to good governance, best practices, and openness with information." Having had their highest four-star rating for the past decade, SELC is proud to have now achieved a 100% score from Charity Navigator.

