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 future 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-
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 40-0 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.”

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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 lifestyle refugees left behind in their former, urban lives, not issues that would plague them here.

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 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
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 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 protection 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.
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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?”