**More details on Birmingham Water Works Board watershed protections**

Decades ago, the Birmingham Water Works Board used ratepayer funds to purchase about 7,000 acres of land surrounding Lake Purdy, the Little Cahaba River, and portions of the Cahaba River to protect metro Birmingham’s drinking water and keep treatment costs affordable. In 2001, the Board and the Alabama Attorney General agreed to a settlement to establish conservation easements on the properties to guarantee the land was protected from development that could harm the water supply, but an easement was never placed on the land.

In 2017, the Board took some legal steps to conserve the land, but these steps did not follow Alabama conservation easement law. There was no independent third party involved in protecting the land and the Board and AG’s office could amend the agreement with no oversight. For three years, Cahaba River Society, Cahaba Riverkeeper, and the Southern Environmental Law Center engaged with the Board attempting to find a legal way to conserve the land in the best interest of Birmingham Water Works Board customers.

In 2021, the Southern Environmental Law Center, on behalf of Cahaba Riverkeeper and Cahaba River Society [filed a challenge](https://www.southernenvironment.org/news/groups-ask-court-to-permanently-protect-land-held-by-birmingham-water-works-board/#:~:text=March%208%2C%202021-,Groups%20ask%20court%20to%20permanently%20protect%20land%20held%20by%20Birmingham,source%20of%20Birmingham's%20drinking%20water.) against the Board to enforce the original agreement. Early motions of that lawsuit were heard by Alabama’s Supreme Court in 2022, who [unanimously agreed](https://cahabariversociety.org/alabama-supreme-court-rules-in-favor-of-groups-seeking-protections-for-birmingham-water-works-board-land/) that the Board failed to adequately protect the land as required by the 2001 settlement agreement. In July 2023, the Board voted to agree to a settlement outlining long-term protections for the watershed. That settlement uses two tools to protect the land: restrictive covenants and a consent judgment.

Those covenants will be filed in Jefferson and Shelby County Probate Courts and prohibit urban development on the land for 75 years or until the Board stops using Lake Purdy and the Cahaba River as a water source. Development necessary for providing water service, such as wells, pipelines, and roads to access them, are allowed. Public recreation uses that do not degrade the water source, such as trails, are also allowed.

While the original 2001 settlement agreement was to establish a conservation easement on the land, the groups agreed to instead use restrictive covenants to protect the properties from development because these specific covenants offer more robust legal protection than the proffered easements. Settlement terms include:

* Covenants run with the land, meaning even if the property is sold the new buyers must follow the terms.
* New property acquired by the BWWB for watershed protection will be protected.
* Cahaba Riverkeeper and Cahaba River Society have the power to enforce the agreement and are permitted to inspect the property multiple times a year.
* Any changes to the covenants must be approved by the court.
* After 75 years the groups can petition to extend the terms of the covenant.