



**SOUTH CAROLINA
ENVIRONMENTAL LAW PROJECT**

Lawyers for the Wild Side

A Win Against Nuclear Pollution | Gadsden Creek Decision

Fighting for Water Resources | Case Updates

WINTER 2025





SOUTH CAROLINA ENVIRONMENTAL LAW PROJECT

Lawyers for the Wild Side

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Offices in Georgetown, Mount Pleasant, Columbia and Greenville

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We use our legal expertise to protect land, water and communities across South Carolina.

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Meet Our New Staff



Tara Stevenson, our new Development Operations Manager, is a lifelong South Carolinian and Clemson graduate with a deep love for the Palmetto State.



Josie Levine and Jaya Wragg

Board of Directors News

As the year winds down, we are sad to say goodbye to our stalwart Board member Walton McLeod. Walt has been serving the State in a variety of capacities for over 50 years – from being the very first lawyer at what is now the Department of Environmental Services, to serving as a US Attorney and later Deputy Attorney General, to serving in the House of Representatives for over two decades. His vast knowledge and experience provided valuable guidance and insights as we embarked on a bold strategic plan. We are incredibly grateful to Walt for his dedication and service!



Emily Poole, Ben Cunningham and Monica Whalen



Jane Przybysz and Tara Stevenson



Director's Note

This fall, South Carolinians in the Upstate and Midlands, as well as our neighbors in North Carolina, experienced firsthand the destruction and devastation that a storm like Helene can have on infrastructure and personal property. This wake-up call solidifies that there truly are no safe havens when it comes to the impacts of a changing climate, and my heart goes out to all who have been impacted by the storm. The devastation from Helene (and Milton, and so many others in recent years) is what pushes us to rethink land use decisions to keep people and structures out of harm's way.

Looking back over the past year, I can see so much progress made in many of our cases and issues and the collaboration it took to make that happen. SCELPA's lawyers have been fierce and unrelenting advocates for South Carolina's land, water and communities in the courtroom, of course, but also in council chambers, at the State House and as part of coalitions with trusted partners. We've been working face to face with citizens from the Newtown community in Greenville all the way to the Gullah/Geechee of St. Helena Island in Beaufort.

We initiated four new cases this year, including fighting the overconcentration of poultry barns in Mountville, a small community in Laurens County. Mountville already has 57 industrial poultry barns within a 4-mile radius, and now the Department of Environmental Services has approved an additional 16 barns in the area – altogether, housing over a million chickens in close quarters and contaminating the already impaired Little River.

There have been victories, too – including in our plutonium pits case, where a federal judge found that the United States Department of Energy and the National Nuclear Security Administration failed to assess the environmental impact of their plutonium pit expansion plan at South Carolina and New Mexico facilities. The ruling results in a mandatory review of pit production at sites across the United States, including the management of radioactive waste.

Unfortunately, we have disappointing news to share as well. In October, we received the South Carolina Supreme Court's decision on our appeal to preserve Gadsden Creek. The Court, while recognizing the deplorable history of the City of Charleston's acts toward the Gadsden Green community, still affirmed the issuance of the critical area permit and state certifications.

Throughout the pages of this newsletter, you'll read updates on these cases and more, as well as stories that highlight the work our attorneys are doing day in and day out and its lasting impact on communities across the state. Your continued support and encouragement are invaluable to our team as we move into a new year, full of new challenges and new legal wins. Thank you for enabling us to continue the fight!

A handwritten signature in black ink, reading "Amy E. Armstrong".

Amy E. Armstrong
Executive Director

On the cover: Photograph of a blue heron at sunset in Beaufort by Craig Bowman, Jr.



Aerial of Savannah River Site with Georgia Power's Plant Vogtle in the background

Case Victory

A Win Against Nuclear Pollution

We are very pleased to report that Judge Mary Geiger Lewis is ruled in favor of our challenge of the National Nuclear Security Administration and Department of Energy's attempt to vastly increase the production of nuclear weapon components throughout the United States. This is particularly important to South Carolina as the plan centered on producing at least fifty plutonium pits per year at the Savannah River Site (SRS) near Aiken for the first time ever. This is an important decision and has made national news because of its far-reaching effects.

Judge Lewis held that the dual-site pit production plan, which involves production at SRS and at the Los Alamos Nuclear Laboratory (LANL) in New Mexico violated NEPA, the National Environmental Policy Act, because the Defendants had changed the purpose of the programs from an earlier analysis without conducting a new one, from consolidation and efficiency to multi-site redundancy, and because the Defendants failed to entertain feasible alternatives, including production at a single site.

These failures precluded the public from weighing in on several aspects of this important issue.

Plutonium pits are fissile materials that act as triggers for nuclear warheads. Plutonium pit production is an especially fraught enterprise that results in the production of large amounts of toxic and radioactive waste, including transuranic waste. If improperly stored, transuranic waste has, in the past, exploded. Also, transuranic waste may only be disposed of at the Waste Isolation Pilot Plant (WIPP) in New Mexico. This facility's storage capacity is quickly diminishing and a recent study concluded that, given the extensive plans for pit production as well as other waste generation and the failure of the MOX plant, WIPP's statutory capacity will be exceeded in the coming decades. But if transuranic waste cannot be shipped to WIPP, where would it go?

The prior plan envisioned that the producing facility would temporarily store the transuranic waste onsite for years in the event WIPP became unavailable. Transuranic waste contains radioactive materials that will remain harmful for thousands of years.

In addition to transuranic waste, pit production also creates low level radioactive waste that is often disposed of on-site or at nearby waste disposal facilities. History paints a concerning picture.

Decades ago, the government produced plutonium pits in Colorado at the Rocky Flats site over many years. That site was raided by the EPA and FBI in 1989 and shut down due to extensive pollution. After the closure of Rocky Flats, plutonium pits have been manufactured in very small numbers only at LANL. Now, there is a call to increase pit production to no less than a total of 80 pits per year. This could result in a concomitant increase in waste production

and disposal that will degrade and threaten the environment. The increase in production of components for nuclear weapons could, if those weapons are used or misused, have devastating consequences for civilization.

With the Court's order in this case, the Defendants will be required to prepare a new programmatic environmental impact statement in which additional alternatives, besides pit production at SRS in South Carolina will be evaluated. The PEIS process will also allow for extensive public comment and participation at various meeting sites throughout the country. We encourage those interested to monitor these developments and, if inclined, to participate in them.

We have been honored to represent our clients, Savannah River Site Watch, the Gullah/Geechee Sea Island Coalition, Nuclear Watch New Mexico, and Tri-Valley CAREs, in this important challenge that has taken several years to come to fruition. We are also grateful to our supporters without whom we could not have been involved in such a long, but rewarding, effort.



Work to safely store legacy nuclear waste – and remediate impacted soil and groundwater – is still ongoing at Savannah River Site



Gadsden Creek, now in extreme danger of being destroyed forever, meanders through the marsh at high tide | Photo by Gately Williams

Court Decision

Gadsden Creek

On June 19, the Supreme Court of South Carolina heard oral arguments for Friends of Gadsden Creek's appeal of an Administrative Law Court ruling that upheld a critical area permit and certifications issued by the Department of Health and Environmental Control, now the Department of Environmental Services, in July of 2021.

Unfortunately, we have a disappointing update to share. In October we received the Court's decision on our appeal to preserve Gadsden Creek. As many of you know, Gadsden Creek is one of the last remaining tidal creeks on the Charleston peninsula and has been very important to the Westside neighborhood since the 1800s. The City of Charleston decided to fill most of the marsh with municipal waste to create buildable land in the 1950s and 1960s. The result was an area plagued by flooding that was only made worse when the City enlarged the culvert through which the creek flows in the 1990s. The Court, while recognizing this deplorable history, still affirmed the issuance of the critical area permit and state certifications.

In our appeal we contended that the issuance of the permit and coastal zone consistency certification violated the critical area regulations and other Coastal Zone Management Program (CMP) policies.

There was no dispute that the project is not water-dependent, as defined by the regulations, and there is also no dispute that the development violates several of the general policies of the Coastal Zone Management Program.

The Order did not address any of these issues.

Instead, the Court was careful to ensure that the Order did not have any precedential value and generally discussed whether there was substantial evidence to support the ALC's decision. To be clear, substantial evidence was not at issue as all the parties agreed that the project was not water-dependent. Despite this disheartening ruling, SCELPA and our client, Friends of Gadsden Creek, are assessing our options to continue to support the community from whom so much has already been taken. We also thank our supporters for allowing us to stand up for this community and its worthy cause.



Ongoing Issue

Bramlett

The Bramlett Site in Greenville County, located in the backyard of Mountain View Baptist Church, Legacy Early College Elementary School and Unity Park, is a 35-acre site contaminated with coal tar that has been polluting wetlands and soil for over a century. To make matters worse, the Site also is home to an illegal, unpermitted landfill that operated from 1988 to 1993, where an estimated 150,000 tons of waste was dumped into wetlands.

For far too long, the parties responsible for this toxic contamination—and the government agencies charged with holding those polluters accountable—have refused to take comprehensive action to clean up the Bramlett Site.

After years of coordinated advocacy for a cleanup, the Department of Environmental Services directed Duke Energy to study ways to remediate the Site in 2022. This June, the Department hosted a public meeting presenting its preferred cleanup alternative from Duke's 2023 Feasibility Study and opened a comment period for public input on

the chosen alternative. After all comments are reviewed, the Department will issue a Record of Decision explaining its ultimate selection for remedial action.

This year, SCELPA began formally representing Mountain View Baptist Church so that this community can have a safe and healthy environment moving forward. To prepare for the public comment period, we partnered with an environmental and water resources consulting company, to secure a detailed report of the extent of contamination at the site. We then convened several meetings with our partners to speak with a common voice in advocating for a comprehensive cleanup.

SCELPA hosted multiple public comment workshops and presentations within the Newtown community to make sure that people who live, work, play, and worship adjacent to the Bramlett Site could have their voice heard during the public comment period. As a result, the Department received dozens of comments all advocating for a fully comprehensive cleanup of the Site! We look forward to continuing our advocacy throughout this cleanup process and ensuring that the responsible parties and government agencies fully remediate and restore this Site.

Thank You for Supporting Environmental Protection and Justice!

Contributions received from November 1, 2023 – October 31, 2024.

*includes *Building Up Our Defense* campaign donations

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About the background image: Several times this year, South Carolinians have been treated to colorful views of the Northern Lights as increased solar activity has pushed the auroral zone further south.



Impact and Financial Report

Audited financial statements are available at www.scelp.org.
Revenue and expense charts are on a cash basis.

IMPACT METRICS

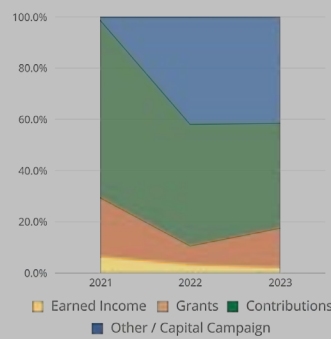


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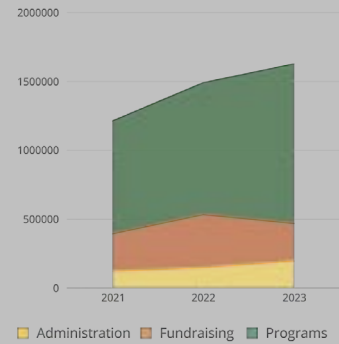
REVENUE OVER EXPENSES



REVENUE COMPOSITION



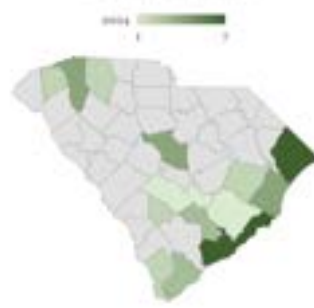
FUNCTIONAL EXPENSES



CASES LITIGATED



OTHER ISSUES



HELP REQUESTS





Runoff from concentrated animal feeding operations has been proven to degrade the quality of nearby water resources

New Case

Mountville Poultry Barns

A group of concerned residents and property owners in Mountville, a small community in Laurens County, enlisted SCELPA to challenge the Development of Environmental Services' (DES) authorization of sixteen new industrial poultry barns in the area. Concentrated animal feeding operations (CAFOs) are known to create and worsen air and water pollution, which is already plaguing the Little River due to 57 existing poultry barns – all located within a 4-mile radius. The new barns would hold 528,000 broiler chickens and result in 3,220 tons of manure annually.

The permitting of these barns will further exacerbate the odor, air pollution and water pollution associated with these facilities in the surrounding environment and community. The Little River and its tributaries, which run through the same parcel where these new CAFOs are proposed, are extremely susceptible to harm. The threat to this natural treasure is all the more serious considering that this water body is already overburdened with fecal coliform bacteria, which is caused in no small part by the

existing poultry farms. Allowing new industrial poultry facilities along the Little River will further degrade it and further reduce the community's ability to recreate, use and enjoy the natural resources around them.

In mid-July, on behalf of South Carolinians for Responsible Agricultural Practices (SCRAP), SCELPA filed Requests for a Contested Case Hearing with the South Carolina Administrative Law Court, asking the court to reverse the DES decision to issue agricultural animal facility operating permits for these new poultry farms.

Mountville resident and founder of SCRAP, Charles Blackmon, has had family ties and ownership of property in the area since the 1760s. He says that the river now travels through undisturbed woodlands, offering some level of additional protection, and he fears that the new barns will cause irreversible impacts to the land and the river.

“These new facilities have the potential to further reduce

the quality of life in our community and bring further potential risks to the soils, aquifers, waters, and air that are already in jeopardy given the 57 other poultry buildings all located within the watershed of the Little River, impacting the Saluda River, Lake Murray, and points beyond,” says Blackmon.

“Our group hopes to bring awareness to the detrimental impact upon a community’s quality of life and environment when concentrated animal feeding operations of this magnitude are continuously permitted without due consideration given to density within a community or environmental impact to a watershed.”

This is not the first time SCRAP has had to challenge permit applications for poultry barns. A previous challenge involving these same applicants and property led to a 2022 ruling from the South Carolina Court of Appeals on the specific grounds that the environmental agency did not properly consider water quality impacts to the Little River when issuing the permits. However, the Department of Environmental Services is now repeating the same mistakes by authorizing these detrimental CAFO permits despite their non-compliance with the Court of Appeals’ mandates and other applicable law.

Stay tuned for more to come on this case – with your help, we look forward to standing behind the Mountville community and fighting for their right to a clean, healthy environment.



Reddy’s seawall (pictured here under construction) completely blocks access to the public beach at high tide

Brief Updates

New Cases

Isle of Palms Seawall – Charleston County

A property owner on Isle of Palms, Rom Reddy, has continued to construct and landscape a massive, 92-foot-long illegal seawall on the public beach, despite multiple cease and desist orders from the state. Earlier this year we intervened on behalf of Coastal Conservation League in an action filed by the Department of Environmental Services (DES) against Reddy seeking a permanent injunction to remove the wall. We also intervened in Reddy’s challenge to DES’s enforcement order.

Staff Attorney Lauren Megill Milton has been combing through thousands of pages of documents and identifying witnesses in preparation for the Administrative Law Court hearing in February of 2025, with depositions beginning this fall. We look forward to our day in court, and hopefully a court order requiring Reddy to take down the wall.

Rabbit Hill – Aiken County

An astounding nine EPA-designated contaminated sites are located within a four-mile stretch of Aiken County, as well as several existing landfills and dumps. In July, Hilltop C&D LLC secured a permit for a new 293-acre landfill called Rabbit Hill to be sited in the Bath/Burnettown area under the guise of “replacing” a 5-acre landfill. The “replacement” loophole exempts the requirement for demonstrating that the landfill is actually needed in the region. This new landfill would be adjacent to an existing landfill, as well as Jefferson Elementary School.

In August, on behalf of the nonprofit Friends of Horse Creek Valley, we filed a challenge to this permit in the Administrative Law Court. A successful outcome could set an important precedent, protecting communities from permit loopholes that have the potential to negatively affect their health, environment and quality of life.

Cases to Watch

Septic Management – Coastal Counties

In April, on behalf of the Coastal Conservation League and Charleston Waterkeeper, SCELPA filed forty-four appeals in the Administrative Law Court of forty-four individual septic tank permits issued by the Department of Environmental Services (DES) meant for a dense, septic-dependent development on a property known as the White Tract in Awendaw. These permits are for detrimentally-placed septic near our waterways, and were approved without undertaking the required coastal zone consistency review – a key aspect of our other septic case, which asks the Circuit Court to declare that the DES is legally required to review all septic tanks in the coastal zone for consistency with the Coastal Management Program.

We filed cross motions for summary judgment in both cases asking these Courts to declare that DES is required to do so because the law mandates that the agency “review all state and federal permit applications in the coastal zone, and to certify that these do not contravene the management plan.”

Both the ALC in the Awendaw case and the Circuit Court in the declaratory judgment case recently heard motions. We hope that the Courts will rule expeditiously because of the serious implications of high-density septic systems adjacent to sensitive coastal areas, and look forward to keeping you informed on the results.

Ten Mile – Charleston County

Over the past year, SCELPA has opposed subdivision developments that are chipping away at the character of Ten Mile, a historic African-American settlement community. We also pushed back against proposed amendments to the Historic Preservation Ordinance that would have resulted in fewer protections for these historic districts. Ultimately, the Historic Preservation Commission retained the ability to review and recommend whether proposed new subdivisions in historic districts meet the Cultural Resources protection goals of the Comprehensive Plan.

Unfortunately, the Planning Commission recently approved two new proposals within Ten Mile despite the Historic Preservation Commission’s unanimous recommendation to deny them because of inconsistencies with the Comprehensive Plan. We have challenged the decisions and will continue advocating for Charleston County’s accountability on cultural and natural resources protection.

Pine Island – Beaufort County

Since 2022, a developer has sought to get around the protections of Beaufort County’s Cultural Protection Overlay (CPO) and build a gated golf course resort on St. Helena Island despite an explicit prohibition on these uses. In early October, we were granted intervention on behalf of the Gullah/Geechee Sea Island Coalition in a federal takings case filed by the developer. This intervention allows the Coalition to further protect its interests in preserving the CPO, which was created in 1999 to protect the Gullah/Geechee people, culture and resources on St. Helena Island.

In September, Beaufort County Council held a special session to hear from attorneys on both sides of our state court case in an attempt to determine whether the Council should accept or reject an offer made by the developer during a mediation. Our own Leslie Lenhardt spoke on behalf of the Gullah-Geechee Sea Island Coalition, applauding the Council for following the law when it comes to the Cultural Protection Overlay (CPO) and encouraging them to continue to do so.

Thanks to the community’s relentless dedication, Beaufort County Council once again rejected plans for a gated golf resort at Pine Island with an 8-3 vote, standing firmly behind their decision to uphold the CPO. Now, the developer’s lawsuits against the County will continue in the courts, where they belong!



Dense septic development threatens Cape Romain National Wildlife Refuge



Guests listen to featured speaker Dr. Rob Young on the lawn of the historic Kaminski House

Celebration Recap

15th Annual Wild Side

It was such a pleasure to see so many new and familiar faces under the sparkling oaks of Kaminski House at the 15th anniversary of our Wild Side event! Guests were treated with great weather and a wonderful night of fun. Pop-folk duo Prettier Than Matt entertained while guests dined on delicious cuisine from Root and bid on fabulous items in the online auction.

Our featured speaker this year, Dr. Rob Young, Director of the Program for the Study of Developed Shorelines at Western Carolina University, spoke about beachfront management practices in South Carolina and across the Atlantic coast, offering wise advice about better ways to handle erosion and rising sea levels than seawalls and beach renourishment projects.

Executive Director Amy Armstrong followed Dr. Young's remarks, emphasizing the importance of the public trust doctrine as a tool for SCEL P's work, and the need to ensure that state legislators don't weaken the Beachfront Management Act in response to pressure from individuals seeking to protect private property. As she said in her speech, "Literal and figurative lines in the sand must be drawn, and they must be enforced so that land and life have a chance to adapt to rising sea levels, extreme weather and other climate impacts."

We're thrilled to announce that we raised over \$132,000 at this year's event! Every ticket purchased, auction item won and donation made helps us continue our mission in a bolder way - deploying more resources into communities across the state and protecting the irreplaceable natural spaces that are a large part of the reason we hold South Carolina so dear.

The generosity of guests extended beyond SCEL P, as many attendees also brought donations for food banks in Western North Carolina in the wake of the devastating impacts of Helene.

SCEL P wants to thank our presenting sponsor, Biohabitats, as well as all of the event sponsors and generous businesses whose in-kind donations helped make the event so successful. You can see a full list on the back of this newsletter.

The 15th anniversary of Wild Side was a wonderful and meaningful occasion, and we are so grateful to the many businesses, organizations, volunteers, friends and family who have made this event possible and more successful year after year since 2010.

South Carolina Environmental Law Project
P.O. Box 1380
Pawleys Island, SC 29585

We are grateful for our 2024 Wild Side sponsors and supporters!

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