

## Attorneys Continue Battle Against Longleaf Power Plant

The June 30 Fulton County Superior Court decision by Judge Thelma Wyatt Cummings Moore which found that the Environmental Protection Division (EPD) had not followed the law properly in issuing an air pollution permit for the Longleaf Energy Station in Early County continues to be under consideration at the next judicial level, the Georgia Court of Appeals. Our victory in this case has attracted wide-spread attention because the decision was the first in the country to require limits from industrial sources on carbon dioxide (CO<sub>2</sub>) emissions under the Clean Air Act.

The Longleaf decision has placed Georgia at the forefront of the national debate on how to address the United States' excessive carbon emissions. Organizations across the country, including the Natural Resources Defense Council, the National Parks Conservation Association, and Physicians for Social Responsibility, have submitted amicus curiae briefs urging the Court of Appeals to affirm the decision.

Here at home, environmental, faith-based and social justice organizations have all offered their legal analyses of the decision. Special thanks go to the firms of **Butler Wooten & Fryhofer; Schulten, Ward & Turner; Jackson & Schwartz; Wright & Bridges; The Mathis Law Firm;** and **Lee Biola** for their hard work in support of the Longleaf decision. A complete list of amicus briefs and other information about the case is available on our website.

In related news, in January, Dynegy withdrew from its agreement with New Jersey-based LS Power to build the proposed Longleaf power plant leaving them to attempt to build the plant alone. LS Power has vowed to continue the fight. A ruling from the Court of Appeals is expected by the end of July. GreenLaw continues to need your support to litigate this case. 🌱

## Plant Washington Opposition Ramps Up

An estimated 300 citizens packed the Sandersville Technical College Auditorium on March 5 to participate in a Question & Answer session about the coal-fired power plant proposed for their community. At least 100 attendees wore red to signify their opposition to the plant; many of these citizens have banded together to form Fall-line Alliance for a Clean Environment (FACE). Officials from the Environmental Protection Division (EPD) and the plant's developers, Power4Georgians, made presentations and answered questions.

Many local citizens voiced concern about the 122 pounds of mercury that Plant Washington is projected to emit in the air, which ultimately settles in the water where it is absorbed by fish. The location of the plant, at the head of the Ogeechee River, threatens that river and all others downstream, explained Chandra Brown, Executive Director of the Ogeechee-Canoochee Riverkeeper. "The federal government has said another 19 pounds into the river would make the fish so toxic that no one could eat them," said Brown. "People all over the area, if they care about eating fish, from the river to the coast, need to be opposing this coal plant."

Carbon dioxide (CO<sub>2</sub>) emissions are another pressing concern. The 850 mega-watt plant will emit six to seven million tons of CO<sub>2</sub> annually. Georgia's existing 10 coal-fired power plants are already major contributors to global warming gases, with Plant Scherer just north of Macon usually listed as one of the largest in the nation.

GreenLaw attorneys are preparing for the draft air and water pollution permits that EPD will likely issue within the next two months. Once the drafts are issued, EPD plans to hold a formal hearing in Sandersville. Many citizens have requested that additional hearings be added in coastal areas and Atlanta. As much as 86% of the power from this plant is for suburban Atlanta and the pollution will affect areas well beyond Washington County. EPD has refused all requests to hold additional hearings. We urge you to ask Carol Couch, the Director of EPD, to hold hearings in or near your community. 🌱



Katherine Cummings, President of FACE.

### SEND LETTERS ASKING FOR HEARINGS TO BE HELD AROUND THE STATE TO:

**Dr. Carol Couch, Director**  
**Environmental Protection Division**  
**Department of Natural Resources**  
**Suite 1152, East Floyd Tower**  
**2 Martin Luther King Jr. Drive, SE**  
**Atlanta, Georgia 30334**



Mayor Shirley Franklin, center, was presented our Environmental Hero Award at our Environmental Heroes Celebration on October 7, 2008. With the Mayor are Midge and John Sweet, who received GreenLaw's Lifetime Achievement Award.

## Increasing Protection of Dirt-Clogged Waterways



Barren riverfront in Sandy Springs. Courtesy of Upper Chattahoochee Riverkeeper.


Recently the city of Sandy Springs violated stream buffer regulations when it cleared non-indigenous species from a riverfront park, stripping the land of the vegetative roots that were holding the soil

in place and cutting a huge gash in the riverbank landscape. While the city has pledged to re-plant the land with native species, this destructive behavior is an example of how careless and illegal actions can cause water pollution.

Stormwater run-off containing dirt and chemicals from improperly maintained construction sites continues to be the NUMBER ONE source of water pollution in Georgia. When our land is disturbed through construction, soil erosion and sedimentation clog our streams, rivers, lakes, and estuaries.

In a pro-active educational initiative, GreenLaw hosted environmental and community groups from around the state for a seminar on December 3, 2008, about how to review and comment effectively on applications to encroach into the state-mandated 25-foot riparian buffer intended to protect our waterways. Dozens of applications are submitted to the Georgia Environmental Protection Division and the U.S. Corps of Engineers each year; GreenLaw is committed to more active oversight of these requests by empowering local groups to monitor and challenge variances in their neighborhoods.

Following an overview of the law and how to obtain public information about proposed buffer variances from the applicable agencies, water quality experts taught participants about the technical review needed to determine whether a buffer variance proposal is adequate. Experts **Jason Ulseth** (Upper Chattahoochee Riverkeeper), **Chuck Rabolli** (CCR Environmental, Inc.), and **Kevin Thames** (Applied Wetlands Consulting, Inc.) used actual buffer applications previously submitted to environmental agencies to teach attendees how to address common problems with buffer variance applications.

For training or information about the Get the Dirt Out program ([www.getthedirtout.org](http://www.getthedirtout.org)), contact Senior Attorney Hutton Brown at [hbrown@green-law.org](mailto:hbrown@green-law.org). 

## Georgia Nation's Largest Consumer of Mountain Top Removal Coal


A data base of coal shipments to utilities between 2002 and 2006 compiled by Appalachian Voices shows that Georgia alone consumes between 10 and 16 million tons of coal from mountain top removal mines every year, making Georgia the nation's largest consumer of this coal. Blasting away mountain tops is ruining forever the landscape of West Virginia and Kentucky and having a dramatic impact on the people and wildlife of these neighboring states.

House Representative **Mary Margaret Oliver** is sponsoring the Appalachian Mountains Preservation Act, House Bill (HB) 276, in an effort to address our state's role in this habitat destruction. The proposed legislation would:

- 1) Gradually phase-out the use of MTR (mountaintop removal) coal from Appalachia over five years beginning in 2011.
- 2) Place a temporary moratorium on issuing permits for coal-fired plants

for five years (until 2014). Permits for proposed plants issued prior to July 2009 would be suspended.

Oliver advocates increased energy efficiency to cut energy load growth in the meantime. Georgia lags behind other states, ranking 36th in 2008 by the American Council for an Energy Efficient Economy, indicating vast room for improvement. "Well-designed energy efficiency programs are saving energy at an average cost of one-half of the typical cost of new power sources...When integrated into a long-term energy resource plan, energy efficiency could help defer investments in new plants and lower the total energy system cost."

Georgia is the eighth largest emitter of carbon dioxide (CO<sub>2</sub>) from coal-burning power plants in the nation; CO<sub>2</sub> emissions from coal total 85.3 million metric tons annually. You can see the source of the coal that is burned to provide your home's electricity (by zip code) at <http://blog.skytruth.org/2007/12/measuring-mountaintop-removal-mining.html>. 

**"We're tearing up the Appalachian Mountains because of our dependence on fossil fuels," Barack Obama said in 2007. "We have to find more environmentally sound ways of mining coal than simply blowing the tops off mountains."**

### Turn Out Your Lights for Earth Hour

**March 28, 8:30 p.m.**

Over 930 cities and towns in 80 countries, across 25 time zones will power down for Earth Hour 2009 by turning off the lights, and all appliances, for one hour. The State Bar of Georgia, our landlord, will be participating. You may want to encourage participation by holding a "party in the dark" at your home to educate your friends about phantom power, EnergyStar appliances, renewable



energy and other ways to conserve energy. You could tell them about GreenLaw's actions to stop air and water pollution from coal-fired power plants.

Before you leave work on Friday, March 27, make sure all computers, printers, coffee pots, copiers are turned off. From now on, make every day and every hour an Earth Hour: make energy conservation a way of life!

For more information, including posters, logos, invitations, and letters, go to "<http://www.earthhour.org/downloads/>"

## A People's Law School for Coastal Georgia

GreenLaw and **Georgia Appleseed**, with the help of Liberty County resident **Meredith Devendorf**, are organizing a legal seminar to address the complex issues facing African-American heirs to property in coastal Georgia. Dubbed a "People's Law School," this seminar will familiarize landowners with basic property law and address pressing concerns such as estate planning, title, heirs property, community preservation, zoning, and legal protection from nuisances including facility-siting and neighboring polluters. Knowing their rights and responsibilities will enable the descendants of slaves who were granted land by General Sherman's 1865 Field Order, to defend their property in the face of the onslaught of pressures from complex inheritance laws as well as exploitation by real estate developers and industrial facilities.

Dealing with property that is informally passed down through several generations can be very time and resource intensive, and quite confusing. This property, dubbed "heirs' property," is usually shared by many descendants, several of whom may no longer live in the area; just locating all the heirs can be an enormous challenge. Many people dealing with heirs' property find themselves overwhelmed by all the complexities and legal issues that arise. This seminar will address the common concerns shared by those with heirs' property and connect people with the resources they need to protect and manage one of their most valuable assets.

With initial funding from the **Georgia Civil Justice Foundation**, the seminar has gained the support of the law firm of **DLA Piper**, the **Liberty County NAACP**, **Georgia Legal Services**, **Lawyers' Committee for Civil Rights Under Law**, and other partners. However, GreenLaw is still looking for additional sponsors who will help defray the cost of the meeting site and additional publicity to enhance access. The seminar will take place at the Brewton-Parker College in Liberty County on May 2. Please contact environmental justice staff attorney Ela Orenstein for further information. 🌱

## GREENLAW THANKS OUR 2008 SPONSORS

### CHEROKEE ROSE

Jim Butler  
Butler, Wooten & Fryhofer  
Dofffermyre Shields  
Canfield & Knowles  
John and Midge Sweet

### BROWN THRASHER

Dorothy and Todd Evans  
John A. and Eileen  
Thompson

### TIGER SWALLOWTAIL

Joe, Kay and Theo Beck  
Bell & Brigham  
Cecil and Amy Conlee  
The George E. Crouch  
Foundation of Georgia  
John and Pam Helms  
Richard and Linda Hubert  
Mountain Conservation  
Trust of Georgia  
Greg and Willa Presmanes  
Stack & Associates  
Trinity Presbyterian Church  
David Worley

### HONEY BEE

Advanced Metal  
Components  
Ron and Susan Antinori  
Stephen and Susan  
Apolinsky  
Representative Kathy and  
R. Lawrence Ashe  
Dr. Robert and  
Lucinda Bunnen  
J. Franklin Burns  
Bertis Downs  
Ronald and Jean Ellington  
Martin and Anne Emanuel  
EMSA Fund, Inc.  
Mark and Kathie Gannon  
Lee Garrett  
Georgia Conservation  
Voters Education Fund  
Sam and Robin Harben  
William G. Hasty  
George H.  
Johnson Family Trust  
Katz Financial Group  
Michael E. Kramer and  
Dr. Gerri Goodman  
Charles T. Lester, Jr.  
Mary Brown Fund  
Leigh and Gil May  
Sheryl McCalla  
Bobbie and Rod Paul  
Barbara Pyle  
Foundation Inc.  
R.E.M.  
Amy Totenberg

Robert G. Wellon  
Mark Woodall

### BOBWHITE QUAIL

Albert Anderson  
N. William and Linda Bath  
Tom and Connie Bell  
Sam Booher  
John V. Burch  
William Buzbee and  
Lisa Chang  
Michael Carvalho  
Anne Harper and  
Greg Nobles  
Kelly Jordan  
Henry Kahn and  
Mickey Gilmor-Kahn  
John Kalil  
Kilpatrick Stockton LLP  
Paul V. Kilpatrick, Jr.  
Linda Klein and  
Mike Neuren  
Senator Nan Orock  
Alan F. Rothschild  
Andrew M. Scherffius  
Schulten, Ward & Turner  
Sierra Club,  
Georgia Chapter  
David and  
Charlotte Walbert  
Michael and Lyle  
Warshauer

### AZALEA

Jim Abbot and  
Jeanne LaSala  
Miles Alexander  
Altamaha Riverkeeper  
Randy Beebe and  
Stacy Reynolds  
Charles and Nancy Belin  
Jeffrey O. Bramlett  
Neal and Angelyn Chandler  
Steve Clay  
Susan Cofer  
Coosa River Basin Initiative  
Charles M. Cork, III  
Reynolds and Sally Couch  
Michael Dailey  
Cree and Frazer Durrett, Jr.  
John and  
Francesca Ferguson  
Edward T. M. and  
Judy Garland  
Drs. Anne H. and  
J. Harper Gaston  
Georgia River Network  
William and Frannie Graves  
Bruce Hagen  
William Hazleton and  
Holly Sullivan  
David Herrigel

Ben and Sharon Hill  
Leah Horton  
George L. Howell  
Tom Ingram  
Carol Jackson and Art Bone  
Howard Kaplan and  
Julie Edelson  
Gary Kazin  
Nicolas and Kalin Kory  
Cynthia J. Kuhlman  
Robert and Nancy Leitch  
Dennis Gary Lovell  
Hollie Manheimer  
Jim and Joan Martin  
Margaret N. Mermin  
Sandra Michaels  
Richard Mitchell  
Stephen and Fran O'Day  
Ogeechee-Canoochee  
Riverkeeper  
Albert M. Pearson, III  
Robert B. Remar  
George and  
Kendall Richards  
Satilla Riverkeeper  
Barney Simms  
Scott Slappey  
Robert G. Smiles  
South Dekalb  
Neighborhoods  
Coalition (SDNC)  
Southeast Energy  
Efficiency Alliance  
Brian and Ellen Spears  
Joan and Abraham Walker  
Thomas and Beth Warren  
Aaron Watson  
Christie Woodfin

### FRIEND

Sandy Bair  
Elizabeth and Steve  
Baldwin  
Steve Bancroft  
Carol and Harwood Bartlett  
Lisa J. Bauer  
The Honorable Dorothy  
Beasley  
Lee B. Becker  
Anne Beidler  
Donald and Judy Bender  
Terry C. Bird  
Julie and Wade Boggs  
Jim Callison  
G. Franklin Carl  
Roddy and Sara Clark  
Matthew E. Cook  
Lazann Beth Cope  
Patrick Cowan  
Amanda Crowell and  
Robert Woodrum  
Chris Cuomo  
Larry Empting  
Al Endel  
Danny and Lori  
Feig-Sandoval  
Diane Fowlkes  
Alysa B. Freeman  
Christiane, Ephraim  
and Emma French  
Jack and Sarah Frierson  
Paul Fryer  
Frank and Karen Fuerst  
Newton M. Galloway  
Stephen Glassgow

Kelley Gray  
Harriet and Ed Griffith  
Glynn Groszmann  
Carolyn Hall  
Nancy Hall  
Eleanor Hand  
Harriet P. Harper  
Melanie Harrington  
Bruce Harvey  
Jonathan Hawkins  
Phyllis J. Holmen  
Foy Horne  
Dana Troy Hustins  
Nicole G. Iannarone  
John and Mary Izard  
Milton Jones  
Martha Kent  
Adele Kushner  
Steven and Sheri Labovitz  
Nolan Leake  
Eleanor Lee  
Erin Lockett  
Gary and Maria Ludi  
Jerry and Elaine  
Luxemburger  
Anne Mahle  
Joshua D. Marks  
Martin Brothers, PC  
Julie Mayfield  
Tamara McClelland  
Susan E. McNally  
Doug Miller  
Cynthia Mitts  
Gail Murphy  
Lawrence and Sandra  
Neville  
James Nobles  
One Consulting Group  
Wycliff and Lynn Orr  
Richard Ossoff  
Parker & Lundy  
Frank Peterman  
Jill Anne Pryor  
Christopher Robert Reeves  
Carol Richard  
Megan L. Richards  
Jamie Roskie  
Howard Russell  
The Saylor Law Firm  
Jon Schwartz  
Thomas T. Shoup  
Norman J. Slawsky  
Curtis H. Smith  
Susan Burnett Stebbins  
Sandy Stewart  
James and Esther Stokes  
David G. Sweet  
Brian Thomas  
Susan and Ivan Varlamoff  
Shaunta L. Vincent  
Mary Lillian Walker  
Rebecca Christina Wall  
Sally Wylde  
Jonathan Zimring



Bob Shields, Ogden Doremus Award winner;  
Justine Thompson; Greg Presmanes, Board Chair.

GREENLAW THANKS  
**DAILY  
REPORT**  
ALM  
OUR MEDIA SPONSOR

**STAFF**

Justine Thompson, *Executive Director*  
 Hutton Brown, *Senior Attorney*  
 George Hays, *Senior Attorney*  
 Ela Orenstein, *Staff Attorney*  
 Anne Harper, *Development Director*  
 Scott Sykes, *Office Manager*

**BOARD OF DIRECTORS**

N. William Bath, *Counselor at Law*  
 John Bell, *Bell & Bringham*  
 John A. Helms, *Counselor at Law*  
 Michael Kramer, *Clements & Sweet*  
 Charles T. Lester, Jr., *Sutherland*  
 Leigh Martin May, *Butler, Wooten & Fryhofer*  
 Sheryl McCalla, *Doffermire Shields  
 Canfield & Knowles*  
 Gregory T. Presmanes, *Bovis, Kyle & Burch*  
 John Sweet, *Clements & Sweet*  
 David Walbert, *Parks, Chesin & Walbert*  
 Joan C. Walker, *Reeves & Associates Consulting*  
 Robert G. Wellon, *Attorney at Law*  
 David Worley, *Page Perry*

**ADVISORY BOARD**

Anne Emanuel, *Professor of Law, Georgia State  
 College of Law*  
 Paul V. Kilpatrick, Jr., *Pope, McGlamry, Kilpatrick,  
 Morrison & Norwood*  
 Josh Marks, *Lawson, Davis, Pickeren & Seydel*  
 Nicholas Moraitakis, *Moraitakis, Kushel,  
 Pearson & Gardner*  
 Bobbie Paul, *WAND*  
 Barbara Pyle, *Environmental Filmmaker*  
 Amy Totenberg, *Law Office of Amy Totenberg*

## ACCEPTING NOMINATIONS FOR *The Ogden Doremus Award for Excellence in Environmental Law*

Please submit your nomination for The Ogden Doremus Award for Excellence in Environmental Law. This award recognizes the critical role that lawyers play in protecting Georgia's natural resources. The award will be presented to the recipient at the Environmental Heroes Celebration in October 2009 hosted by GreenLaw.

**CRITERIA:**

- *Long-standing commitment to protecting Georgia's natural resources in either his/her professional or personal life;*
- *Skill in using the law in an ethical and professional manner to achieve the goal of protecting Georgia's natural resources;*
- *Excellent results on behalf of his/her clients or assisting other lawyers in creating a significant impact on preserving or restoring our natural resources;*
- *Regular assistance to other environmental lawyers to improve their practice of environmental law;*
- *A role model and inspiration for attorneys and aspiring attorneys.*

Nominations should be submitted to Justine Thompson either via U.S. Postal Service or email no later than March 31, 2009, and should include a brief explanation of how the nominee meets the aforementioned criteria.

**Justine Thompson, Executive Director, [jthompson@green-law.org](mailto:jthompson@green-law.org)  
 GreenLaw, 104 Marietta Street, Suite 430, Atlanta, Georgia 30303**

**The Honorable Ogden Doremus, a pioneer in environmental law in Georgia who died in 2007, was a co-founder of the Georgia Center for Law in the Public Interest, now GreenLaw.**