Press Release from the Southern Environmental Law Center

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**Conservation Groups and Landowner Challenge Constitutionality of North Carolina Mining and Energy Commission**

*Lawsuit ContendsLegislative Appointments to the Commission Violate Separation of Powers in North Carolina Constitution*

CHAPEL HILL, N.C. *-*A local conservation group and landowner todaychallenged the constitutionality of North Carolina’s Mining and Energy Commission in Wake County Superior Court. Given that a majority of the commission’s members are political appointees by the legislature, the lawsuit charges that the commission violates the separation of powers provision of the North Carolina Constitution.

The North Carolina General Assembly established the MEC in 2012 as an administrative agency in the Department of Environment and Natural Resources, which is part of the executive branch, specifying that its members would be appointed by thestate legislature and the governor. Currently, the governor appoints five members to the MEC and the legislature appoints eight members.The separation of powers provision of the North Carolina Constitution provides that the legislative, executive, and judicial powers of the state government shall be forever separate and distinct from each other.

“This attempt by the North Carolina legislature to expand its legislative power and usurp executive authority violates the separation of powers firmly established in our state constitution,” said Derb Carter, senior attorney and director of the North Carolina offices of the Southern Environmental Law Center, which filed the lawsuit on behalf of the Haw River Assembly and Lee County property owner Keely Wood Puricz.  “As a result, we have a commission making important decisions about the future of North Carolina that is ultimately accountable to no one.”

The Mining and Energy Commission has control over key issues in North Carolina and adopted draft regulations that govern hydraulic fracturing or fracking for gas extraction despite widespread concern among citizens over opening up North Carolina to fracking. Under the current schedule, DENR could issue permits to frack in North Carolina as early as the spring of this year.

Keely Wood Puricz is a landowner in Lee County, NC, a county expected to be directly impacted by fracking.  Her property is next to a one hundred acre tract of land leased for gas extraction.

“If North Carolina decides to allow fracking, we need strong protections to safeguard our communities and water supplies from what can be a risky practice,” said Elaine Chiosso, Haw Riverkeeper and executive director of the Haw River Assembly, which has members who live directly above areas of shale deposits that could be subject to gas extraction by hydraulic fracturing.  “That can only happen through an accountable and representative agency, and the citizens of North Carolina deserve no less.”

In recent years, the General Assembly has enacted laws to require a majority of legislative appointments to several state executive agencies including the MEC, Oil and Gas Commission, North Carolina Mining Commission, and Coal Ash Commission.  On November 13, 2014, Governor McCrory, joined by former Governors Hunt and Martin, filed a lawsuit challenging the legislative appointments to the Coal Ash Commission as an unconstitutional violation of separation of powers in the State Constitution.

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**The Haw River Assembly** is a nonprofit organization founded in 1982 with approximately 1000 members who live and work mostly in the region around the Haw River and Jordan Lake.  The mission of the Assembly is to promote environmental education, foster conservation, and prevent pollution within the Haw River watershed.

**The Southern Environmental Law Center** is a regional nonprofit using the power of the law to protect the health and environment of the Southeast (Virginia, Tennessee, North and South Carolina, Georgia, and Alabama). Founded in 1986, SELC's team of over 60 legal experts represent more than 100 partner groups on issues of climate change and energy, air and water quality, forests, the coast and wetlands, transportation, and land use. [*www.SouthernEnvironment.org*](https://owa2.selcva.org/owa/redir.aspx?C=cq_3FbAyV0KOrklT4iN2q8cZZW-b7dEIV6Z3NfG8304hvGYgOf31kZsAmRRBdJFoWzImg6k1M10.&URL=http%3a%2f%2fwww.southernenvironment.org%2f)