Sierra Club - Arkansas Chapter

Spring 2011 Newsletter

Update on the Turk Coal-Fired Power Plant In Southwest Arkansas

Over the past few months, there have been quite a few twists and turns in the fight against Turk, the 600 MW proposed coal-fired plant in Hempstead County. The Sierra Club, Audubon and the Hempstead County Hunting Club are all plaintiffs in a federal wetlands permit lawsuit against the Southwestern Electric Power Company (SWEPCO) and the United States Corps of Engineers (Corps). The Corps granted a construction permit to fill in or impair eight acres of wetlands and to build a massive water intake structure that would withdraw up to ten percent of the Little River's minimum flow. We contested the permit because the Corps did not give an adequate opportunity for the public to comment.

In September, 2010, there were several days of hearings in Little Rock in front of U.S. District Judge Bill Wilson over the wetlands permit. Judge Wilson concluded that the permit was improperly granted, and ordered an injunction on construction activities concerning the wetlands and river intake structure.

After some give and take between Judge Wilson and the U.S. 8th Circuit, after which Judge Wilson recused himself, the case was heard in front of a three judge U.S. 8th Cirucuit panel in St. Paul, MN on March 15. The panel has not yet given a ruling.

With regards to the Turk air permit, the Sierra Club appealed the Arkansas Pollution Control and Ecology Commission's decision to grant the air permit. In December of last year, the Arkansas State Circuit Court in Hempstead County upheld the air permit. Sierra Club then appealed to the Arkansas Court of Appeals, and oral arguments have not yet been scheduled.

Since SWEPCO is losing in the courts, it decided to get the Arkansas Legislature to help its case. In March, HB 1895, drafted by SWEPCO, was passed, but not after strong opposition by Sierra Club and other public interest groups. As the law stood before HB 1895, the Arkansas Public Service Commission (PSC) was required to conduct one forum where two issues were discussed and approved: 1) the state's "need" for more electric generation and 2) approval of a specific power plant proposal to meet that need. Having both issues discussed in one forum is important because the public is more likely to attend a hearing on the need for more electricity if there is a concrete proposal defining the type of power plant and where it will be located. Unfortunately, if "need" is already approved in the first forum, then when the public shows up to the second forum about a specific coal plant proposed in their community, it will already be too late to dispute the need for the plant in the first place.

...continued on page 4

Inside this issue:

Sierra Club - Arkansas Chapter Leadership

Executive Committee

Rob Leflar
Chair

David Lyon
Vice Chair

Dawn Farver
Newsletter Editor
Secretary, Webmaster

David Orr
Treasurer, OHG Representative

Bill Saunders
CAG Representative

Art Evans

Michele Halsell

Tom McKinney

Committee Chairs

Jay Barth
Legislative Committee Co-Chair

Steve Smith
Legislative Committee Co-Chair
Political Committee Chair

Tom McKinney
Conservation Committee Chair

Sierra Club Staff

Lev Guter
Sierra Club Associate Field Organizer

Glen Hooks
Sierra Club Regional Representative

Fayetteville Shale Play Update

Activity continues on several levels regarding gas drilling in the Fayetteville Shale Play. The following items should give a sense of the scope and variety of players involved. The challenge is for those concerned to participate at a level sufficient to have an impact.

- Chesapeake slows down development after securing leases with wells strategically placed throughout their claims.
- Petrohawk Energy sells holdings of $575 million to XTO Energy, a subsidiary of Exxon Mobil.
- Arkansas Oil and Gas Commission (AOGC) Director, Larry Bengal, places a moratorium on new Class II injection wells after residents demonstrate concern over a rash of earthquakes.
- AOGC makes some improvements to Rule B-19 having to do with fracking chemicals and casings, but ignores public requests for removal of proprietary secrecy and full chemical disclosure.
- The Arkansas Department of Environmental Quality (ADEQ) calls for comment on Regulation 34 having to do with waste pits. The effort is to provide consistency between AOGC and ADEQ regarding pit rules.
- Sheffield Nelson renews his call for a 7% severance tax as the natural gas industry damages highways, roads, and bridges.
- Numerous organizations and individuals join in a conversation about gas development and plan for a summit meeting on January 29 in Little Rock.
- A ministerial delegation from New Brunswick, Canada comes to inspect the Fayetteville Shale play's issues in advance of development in their province.
- Indications are that not only are some wells in the drilling area experiencing contamination, but some that have withstood earlier droughts are going dry.
- Chesapeake Energy is interested in creating a temporary impoundment on the Illinois Bayou for water used in fracking. This is seen as unlikely because of its Extraordinary Resource Water status, but it deserves watching.
- Van Buren County Quorum Court appoints a five member committee to determine what action the county might take in controlling drilling activity and establishing baseline water tests before drilling action impacts streams and wells.

The federal Bureau of Land Management is scheduled to hold a public forum on gas drilling on public land, in Little Rock on April 22. Debbie Doss, chair of the Arkansas Conservation Coalition and a Sierra Club member, is slated to speak on environmental issues.

The most recent development in this story is the purchase of Chesapeake Energy by BHP Billiton of Australia. This is a big deal because the state does not have adequate protection on the books and there is currently inadequate enforcement of the few regulations that are there. While concerns already exist regarding the dumping of fracking fluid, BHP Billiton of Australia is planning to double the number of drill rigs that Chesapeake had in use. The volume of waste is about to increase a great deal, and along with it, the potential risk to the environment.

There is a great need for people to assist wherever they can by sharing information about gas development and participating with public comments to agency hearings. Interest is building, but much more participation is needed.

-- Joyce Hale, Sierra Club Member

The Saga of the Pine Mountain Dam on Lee Creek

I will never forget the day I received a phone call from George Locke, an old friend of mine, telling me that the River Valley Water District in Crawford County had withdrawn its request to build the Pine Mountain Dam on Lee Creek, one of the premier Extraordinary Resource Waterway (ERW) streams in Arkansas. This was an amazing development for a couple of reasons. First, George and his wife happen to own the stretch of Lee Creek that would have become the dam site if the Pine Mountain Dam had been built. Yes, they would have lost this wonderful piece of property. Secondly, this ends the thirty-two year long struggle that the Sierra Club has waged to kill the Pine Mountain Dam project. That is over half of my life that the Sierra Club has been fighting this dam. It has been a long and torturous story which needs to be told so that we can all understand the commitment it took from so many Sierra Club members stretching across so many years to finally defeat this project.

"THIS ENDS THE THIRTY-TWO YEAR LONG STRUGGLE THAT THE SIERRA CLUB HAS WAGED TO KILL THE PINE MOUNTAIN DAM PROJECT."

It started in 1979 when the U.S. Corps of Engineers released a Draft Environmental Impact Statement for the construction of the Pine Mountain Dam on Lee Creek to serve as a drinking water source for the City of Fort Smith. With a large public input effort by not only the Sierra Club but also many other Arkansas environmental and outdoor groups, and the threat of a lawsuit, the City of Fort Smith abandoned that location as an option for a drinking water source. However, Fort Smith chose to return to a location for a dam that they had earlier rejected - a dam on lower Lee Creek. In 1982 the Sierra Club opposed that dam as well and filed a lawsuit to stop it. However, Fort Smith decided that this would be a privately financed project using no federal funds, which weakened our chance to stop the dam. Another nail was driven into our efforts when Fort Smith applied for a permit to install a tiny hydro-electric generation unit on the dam which would basically, if approved, overrule any legal objections we had against the dam. Though we opposed the permit for the generation unit it was approved by the Federal Electric Regulatory Commission and our lawsuit did not stop the construction of the dam. But we hoped that it would prevent Fort Smith from attempting to build the Pine Mountain Dam anytime in the future.

"FORTUNATELY FOR US, THE ENVIRONMENTAL AND WATER QUALITY LAWS IN THE STATE OF ARKANSAS HAD BEEN STRENGTHENED OVER THE YEARS AND OVER 60 WATER BODIES AND STREAMS HAD BEEN GIVEN EXTRAORDINARY RESOURCE WATERWAY STATUS (ERW) WHICH PREVENTED THEM FROM BEING DAMMED"

In 2000 the City of Fort Smith proposed to expand the existing dam on Lake Fort Smith outside of Mountainburg to combine that lake with Lake Shepherd Springs to produce a lake large enough to provide a drinking water supply for the city for the next 50 years. Even though this project would flood some national forest lands and relocate a state park, the Arkansas Sierra Club saw this as an acceptable alternative to take pressure off of Lee Creek as a possible water supply. Unfortunately a number of communities including Van Buren, Cedarville and Mountainburg did not want to buy their water from Fort smith so they formed their own water district, the River Valley Rural Water District (RVRWD) to build their own water supply separate from that of Fort Smith. The Pine Mountain Dam project was resurrected yet again. Fortunately for us the environmental and water quality laws in the state of Arkansas had been strengthened over the years and over 60 water bodies and streams had been given ERW status which prevented them from being dammed. Though there were attempts by the RVRWD to weaken and get around this ERW designation so they could build Pine Mountain Dam, the project was again abandoned in August of 2010 because the data that documented a water yield for the Lee Creek watershed at 21 million gallons a day (MGD) could not be located, if they ever existed. Updated water yield studies conducted by the RVRWD determined that the 21 MGD level could never be reached. Lacking such a required level of output and the fact that there were at least four viable alternatives to building the Pine Mountain Dam identified by the Arkansas Sierra Club and others, the project was abandoned.

...continued on next page

Turk, continued from page 1

HB 1895 will change the law so that those two issues will be separated into two proceedings, which is bad for the public because it will be harder to stop power plants from being built since the need for a certain amount of new megawatts will have been determined before a specific power plant proposal is even put on the table. The Turk power plant was approved by the PSC in this two-step process, a process that the Arkansas Supreme Court deemed illegal under the old law, and thus invalidated Turk's Certificate of Environmental Compatibility and Public Need (CECPN). Under the new law, it may make it easier for SWEPCO to go back to the PSC and get a CECPN. However, SWEPCO's next move remains to be seen, and we will be ready and engaged to oppose whatever step SWEPCO takes next to push Turk.

"THE BATTLE OVER TURK IS FAR FROM OVER, AND WE HAVE BEEN STRENGTHENED IN THE LONG RUN THROUGH OUR MOBILIZATION EFFORTS AGAINST THIS BILL."

SWEPCO and the PSC had been working on a draft of the bill in secret since January, and when the bill was filed, Sierra Club members, friends and volunteers acted quickly and in large numbers to counter the power utility lobby. Even though the bill eventually passed, it was much closer than it would have been, and our voices were heard through hundreds of emails and phone calls to our state representatives. The battle over Turk is far from over, and we have been strengthened in the long run through our mobilization efforts against this bill. This bill was only one battle, and I sincerely thank everyone who helped us take unified action swiftly. We will keep the momentum going with two more calls to action. We have postcards to sign to stop mercury pollution, and we have a petition to stop SWEPCO, in anticipation that Turk goes back to the PSC. If you would like to sign the petition and postcard, please email Lev Guter, lev.guter@sierraclub.org so I can send them to you (I'll cover postage).

-- Lev Guter, Sierra Club Associate Field Organizer

Lee Creek, continued from page 3

But a dam is never really dead until it has been de-authorized by the Corps of Engineers and that is our next step, along with preserving as much of the Lee Creek watershed as we can through both federal and state preservation methods. We must do that or we will be fighting this battle once again when some other group comes up with a scheme to use hundreds of millions of dollars of federal money to destroy Lee Creek.

-- Tom McKinney, Sierra Club Arkansas Chapter Conservation Chair

Arkansas Chapter Executive Committee Elections

The following individuals have been nominated to run for positions on the Sierra Club, Arkansas Chapter Executive Committee. Please read their bios below, fill out the enclosed ballot and return it in the enclosed envelope.

We currently have four open seats on our Executive Committee so you will be voting for up to four individuals. If you vote for more than four individuals, your ballot will not be counted. Each position is for a two-year term starting immediately.

Information on each of the candidates is listed below. Please review their information and vote for your top four (4) candidates using the provided ballot. Ballots must be received by, Friday, May 27 2011 for consideration.

Emily Harris (new nominee)

Considering the larger picture, while paying attention to detail, is a vitally important aspect when assessing our environment. I have served various state agencies as a public health professional since receiving a Master's Degree from Tulane School of Public Health in 1999. As the current program manager for the Arkansas Assessment Initiative, I provide technical assistance to bring about improved access to information. This CDC funded Arkansas Health Department effort connects community members with information concerning their Hometown Environment. Cooperative leveraging of community resources are encouraged through the assessment, situational analysis and prioritization processes. A strong collective voice ensures effective delivery of persuasive evidence in order to bring about desired improvements to our environment. It is through our collective participation as Sierra club members that we support joint prioritization of local, regional and global environmental concerns. As an elected leader I pledge to preserve and sustain the responsibility and benefits of Sierra club membership.

Tom McKinney (current ExCom member)

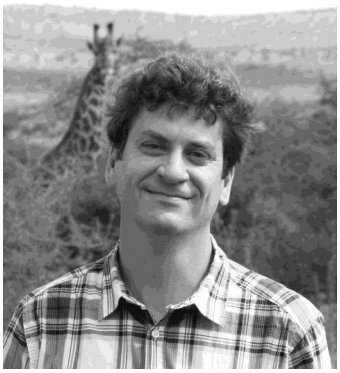
I have been a member of the Sierra Club since 1975 and an active member of the Ozark Headwaters Group and the Arkansas Chapter for thirty-four years. I helped establish the Arkansas Chapter in 1982, have been the Chair and Conservation Chair of both the Ozark Headwaters Group and the Arkansas Chapter and would like to continue my service to the Sierra Club in Arkansas as a member of the Chapter Executive Committee.

I went to Washington DC twice to work on the passage of the Arkansas Wilderness Act, I worked on establishing the Wild and Scenic River system in both our national forests and have been a leading activist in working to protect the Ozark and Ouachita National Forests from harmful logging and burning. I also want to see the Arkansas Chapter address the newest threat to the environment here in our state, the damage caused to our water, air and land by natural gas well drilling and hydraulic fracturing. I want to work to ensure that the Sierra Club stays the most active grassroots environmental group in Arkansas. I would appreciate your vote.

Michele Halsell (current ExCom member)

I currently serve as the Managing Director of the Applied Sustainability Center at the University of Arkansas. I have been a member of the Ozark Headwaters Group Executive Committee for two years, organizing the awards banquet in 2010 and serving as Program Chair in 2011. My focus is on fostering sustainability in communities. I believe that education is essential in accelerating the pace of change toward more sustainable practices in energy generation and consumption, transportation, land-use planning, water conservation, waste reduction and a whole host of environmental issues. I believe that there is more that unites us than divides us, and so I also believe that it is essential to build strong connections and build bridges across and among organizations that share similar goals if we are to succeed in making the transition to more sustainable practices. An example is the Green-Blue Alliance that brings together labor groups, environmental groups, and the faith community to advocate for greenjobs based on renewable energy and sustainable technologies. This is the focus and mindset that I would bring to the Executive Committee of the Arkansas Chapter of the Sierra Club.

Peter Gess (new nominee)



My family and I moved to Little Rock in 2007. When my wife and I were looking for new work, high on the priority list was a clean, healthy environment in which to raise our two children. We immediately fell in love with the beauty of Arkansas, its incredible landscape, and its great people. In the three and a half years we have been here, I remain interested in issues affecting us all, such as climate change, and have become increasing interested in local issues, including sustainable approaches to energy production, improvement of water quality and quantity, and elimination of negative externalities associated with natural gas exploration and drilling. I am watching with keen interest this legislative session to see if there is political will to take on these issues, but I would like to take a more active role.

At Hendrix College I direct international programs, and am a member of both the politics and environmental studies departments. I teach courses in public administration, environmental policy, and public policy analysis; students in my courses tackle real-world situations. I also supervise students in various engaged service and research projects (ranging from involvement with the Governor's commission on global warming to working on habitat restoration at home and abroad). I would like to facilitate greater synergies between the amazing idealism, creativity and commitment of students and the important work of the Club.

I have also worked outside of academia. I served as a national park ranger in Yosemite (where I saw the work of the Sierra Club up close) and in Poland (as a Peace Corps volunteer). While in Athens, Georgia, I was one of the founding members and officers of Clean Air Athens, a nongovernmental organization which successfully stopped manufacturers from increasing toxic air emissions and from using cancer-causing solvents. I consider myself a "pracademic," a practitioner and an academic.

In summary, I believe strongly in the tools of research, public education, public empowerment, and if necessary, litigation. The Sierra Club has a proven record of promoting environmental protection and sustainability in Arkansas and around the country. I am humbled by the chance to contribute through service on the executive committee. And I feel it is time to give back as my family makes our long-term home here in the state.

David Lyon (current ExCom member)

I am a native Arkansan who moved from Fayetteville to Little Rock two years ago to work at a state environmental agency. My knowledge of state and federal environmental regulations will help the Sierra Club Arkansas Chapter advocate for stronger laws to protect our land, air, and water. My education in environmental science has given me a technical understanding of a wide range of issues including forest management, water pollution, and climate change. This past year, I have also served as the chair of the Sierra Club's Central Arkansas Group. I will help my fellow Arkansans understand complex environmental issues so that we can all work together as effective environmental advocates.

Bob Allen (new nominee)

I am a Chemistry Professor at Arkansas Tech University. My personal and and professional life has focused on resource conservation and sustainable energy. Some of my environmental activities include, over 20 years on the board of directors, Arkansas Canoe Club, with 10 years as director of the Canoe School. I founded the Campus Environmental Coalition at ATU. Using a grant from WalMart, I opened and operated the first drop-off recycling center in Russellville. Governor Clinton appointed and Gov. Tucker reappointed me to the the Arkansas Alternative Fuels Commission. I created and team teach an environmental seminar at ATU. I conduct occasional public workshops on biodiesel production. I write a biweekly column on Energy Matters for the Russellville Courier. My wife Susan and I live just south of the Ozark National Forest. Our home is powered by a grid-tied 5.4 kW photovoltaic system. The system produces about 30% more energy than we use hence we are net power producers. I would like a chance to contribute my time and expertise to the activities of the Sierra Club.

Gas Drilling Bills Sent Back for Study

A package of seven Sierra-supported bills to strengthen environmental and property owner protections related to natural gas drilling in the Fayetteville Shale formation was sent by the Arkansas General Assembly to an interim study committee.

The seven bills, developed by a coalition of environmental groups and backed by the Arkansas Citizens First Congress and the Arkansas Public Policy Panel, were modeled on the best practices prevailing in other states. Had they been adopted, they would have placed Arkansas at the forefront of states regulating gas drilling activities in responsible fashion. The gas companies turned out hundreds of their employees to oppose the bills, blocking the Capitol corridors.

"THE GAS COMPANIES TURNED OUT HUNDREDS OF THEIR EMPLOYEES TO OPPOSE THE BILLS, BLOCKING THE CAPITOL CORRIDORS."

Here are the bills, with legislative sponsors in parentheses:

- HB 1394, to protect water quality in areas affected by gas drilling operations (Rep. Homer Lenderman, Brookland)
- HB 1395, to protect air quality in areas affected by gas drilling operations (Rep. Greg Leding, Fayetteville)
- HB 1396, to require full disclosure of chemicals injected into drilling wells (Rep. Kathy Webb, Little Rock)
- HB 1393, to require bonding for gas well cleanups if drillers go bankrupt (Rep. Webb)
- HB 1399, to reduce drilling noise to protect residents next to drilling sites (Rep. Bobby Joe Pierce, Sheridan)
- HB 1392, for annual inspection of gas wells (Rep. Leding)
- SB 314, to improve surface owners' rights relating to mineral development under their property (Sen. Mary Ann Salmon, N. Little Rock)

The water and air quality bills would give the Arkansas Department of Environmental Quality (ADEQ) responsibility to hold gas companies to the same standards as other industries under the state's clean water and clean air laws. Well casing standards would be strengthened to prevent groundwater pollution, and ADEQ would monitor air quality at homes near gas well concentrations.

"THE 'RURAL GOOD NEIGHBOR ACT' WOULD REQUIRE GAS COMPANIES TO REDUCE NOISE TO BELOW 55 DB AT 1000 YARDS FROM A RESIDENCE DURING THE DAY, AND 45 DB AT NIGHT. "

The chemical disclosure bill would require gas companies to inform the public about the chemicals used in the drilling process, the volume of water and chemicals, and disposal methods for drilling and fracturing fluids. The bonding-for-cleanups bill would make sure drilling companies that fail to meet their obligations would not be sticking Arkansas taxpayers for cleanup costs after the wells close.

The "Rural Good Neighbor Act" would require gas companies to reduce noise to below 55 db at 1000 yards from a residence during the day, and 45 db at night. The inspection bill would require inspections of wells annually, more often during drilling or fracturing, and would require the Arkansas Oil & Gas Commission and ADEQ to make annual reports on the performance of their inspection and enforcement operations. The surface owners' rights bill would require compensation of property owners for damaged crops, water supplies, personal property, and diminution of value as a result of inability to use or access their land due to drilling operations.

-- Rob Leflar, Arkansas Sierra Club Chapter Chair

Streamside Protection Passes - Fayetteville Takes the Lead in a Collective Effort

"THE STREAMSIDE PROTECTION ORDINANCE IS PART OF A SYSTEM OF STRATEGIES THAT HELP TO MINIMIZE BANK EROSION, SEDIMENTATION, NUTRIENT INPUTS, AND ALGAL GROWTH WITHIN OUR STREAMS AND RESERVOIRS."

The Streamside Protection Ordinance began as an idea that came out of the Green Infrastructure Group from the 2009 Fayetteville Forward Summit. The citizens in this group encouraged the City to follow through with the recommendation that came out of the Nutrient Management Plan developed in 2007 which was intended to help identify ways for the City of Fayetteville to minimize nutrient inputs into the White River Watershed. The citizens who took part in this effort reached out to the University of Arkansas Extension office and the Environmental Action Committee of the City of Fayetteville (EAC) (a citizen group utilized as an advisory committee to the City Council). The UA Extension office assisted with education and communication with stakeholders, while the Environmental Action Committee focused on helping staff identify existing scientific literature and ordinances in place in other cities around the country.

In addition to reaching out to and inspiring other organizations, the Fayetteville Forward Economic Development Council, formed after the aforementioned summit, encouraged the City Council to place a riparian zone ordinance on the staff's priority list for the upcoming year. The City Council responded by doing just that. With this guidance, the Mayor and the City staff created a staff project team to collect information needed for developing language that would embody the complex systems around riparian zones, and also fit within the City's existing code system. The project committee worked closely with the EAC and the UA Extension to identify research and provide educational meetings for citizens. The City staff developed an eloquent method for identifying the streamside protection areas using GIS and sent out letters to property holders within those areas to help them better understand the process and have opportunities to contribute.

During the public meeting process for the Streamside Protection Ordinance we heard from many citizens via email, phone, letters, and in person. Fayetteville has a very engaged public and this is one reason it is exciting to be a Council Member. We heard from both proponents and opponents of this initiative. The Sierra Club went above and beyond and sent out mailers to remind people to contact their Council Members. This made a huge difference and provided specific information to help people understand how they could contribute to the discussion and how to help the Council Members understand the importance of this effort.

"AS A RESULT OF THE SENSITIVE LANDSCAPES ALONG STREAMS, THE STREAMSIDE PROTECTION ORDINANCE PROVIDES GUIDANCE TO CITY STAFF WHEN NEW DEVELOPMENT OR BUILDING PLANS ARE PRESENTED."

Like with zoning, the Streamside Protection Ordinance is a legislative action that designates certain land uses within certain areas of the City. As a result of the sensitive landscapes along streams, the Streamside Protection Ordinance provides guidance to City Staff when new development or building plans are presented. The Streamside Protection Ordinance is also accompanied by a Best Management Practices Manual that helps to educate people about land use practices that minimize impacts to streams and water systems. Fayetteville has set itself apart as a leader in watershed scale water quality protection as a result of passing this and other stormwater management policies. The Streamside Protection Ordinance is part of a system of strategies that help to minimize bank erosion, sedimentation, nutrient inputs, and algal growth within our streams and reservoirs. It helps preserve the natural beauty of our community while also taking advantage of the ecosystem services provided by vegetation since the roots of vegetation hold soil in place, take up pollutants, provide habitat for birds and aquatic species, and add aesthetic value to the landscape.

An ongoing process of education and outreach needs to continue. The EAC and the Tree and Landscape Committees of the City of Fayetteville have committed to helping provide

...continued on next page

educational opportunities to the public. The University of Arkansas Extension office continues its work in providing workshops related to stormwater management. The Illinois River Watershed Partnership has an aggressive educational outreach program that the City helps to fund through its stormwater permitting requirements. Finally, the City staff have developed a project team that is working on outreach methods for the public. It is a pleasure to be a part of this process from the start and I look forward to the many educational outreach opportunities to come.

-- *Sarah E. Lewis, PhD, Fayetteville City Council Member*

Lake Maumelle Water Quality Update

Lake Maumelle provides water for almost 400,000 Central Arkansans. The primary threat to its almost pristine water quality is residential development of the forest land around the lake. Efforts to protect the lake's water quality have now entered a new phase in the form of Land Use Planning by Pulaski County government. Land use planning refers to that branch of public policy which orders and regulates the efficient and ethical long term use of land. At its simplest, land use planning often involves zoning and transport infrastructure planning. While land use planning I commonly the backbone for any city in the nation, Arkansas county governments rarely use it because, they say, the sparse rural populations under their jurisdiction do not require it.

After a very long public lobbying campaign spearheaded by Central Arkansas Water, the public water utility that owns and maintains the lake, Pulaski County government contracted the firm Wallace Roberts & Todd (WRT) of Philadelphia to develop a land use plan. Public input was a part of the most recent stage of WRT's plan development process, and closed on January 31, 2011. Members of the Central Arkansas Group of the Arkansas Sierra Club (CAG) have closely monitored this process for several years, and we strongly believe that the Lake Maumelle Land Use Plan (LMLUP) must call for at least 40% undisturbed land around the lake. The analysis is not yet completed, but CAG is concerned that the LMLUP will fall below the 40% minimum. CAG will circulate more information when the final analysis is available so anyone interested can send Pulaski County their comments. Be aware that even after the LMLUP is completed, the Pulaski County Quorum Court still needs to enact it. Ironically, the political process leading up to this vote may weaken those parts of the plan designed to protect water quality. This is because the Quorum Court has historically passionately defended minimum government regulation and supported personal property rights (i.e. development) over the common good.

To keep appraised of any updates, please go to the Arkansas Chapter site at www.arkansas.sierraclub.org and click on CAG at the top to access their website. More information about the plan and how to provide input about the LMLUP is located at www.co.pulaski.ar.us.

-- *Kate Althoff, Arkansas Sierra Club CAG Treasurer*

"MEMBERS OF THE CENTRAL ARKANSAS GROUP OF THE ARKANSAS SIERRA CLUB (CAG) HAVE CLOSELY MONITORED THIS PROCESS FOR SEVERAL YEARS, AND WE STRONGLY BELIEVE THAT THE LAKE MAUMELLE LAND USE PLAN (LMLUP) MUST CALL FOR AT LEAST 40% UNDISTURBED LAND AROUND THE LAKE."

Arkansas Citizens First Congress Environmental Priorities Meet Resistance in 2011 Legislative Session

"EFFORTS TO DEVELOP AND FUND A NEW STATE WATER PLAN THAT WILL FOCUS ON PRESERVING BOTH THE QUALITY AND QUANTITY OF ARKANSAS'S NATURAL WATER RESOURCES PASSED WITH STRONG SUPPORT FROM LEGISLATIVE LEADERS"

Editor's note: Patty Barker is the lobbyist for the Arkansas Sierra Club and the other public interest organizations making up the Arkansas Citizens First Congress.

Measures supported by the Arkansas Citizens First Congress (CFC) to improve state energy policies and to require the natural gas industry to follow best management practices met with only limited success during the 2011 legislative session. However, efforts to develop and fund a new state water plan that will focus on preserving both the quality and quantity of Arkansas' natural water resources passed with strong support from legislative leaders. CFC leaders were also able to mount a defense against a proposal to establish a carbon capture program in the state, but were less successful in opposing a measure favorable to Southwestern Electric Power Company (SWEPCO) that will change the energy plant permitting process at the AR Public Service Commission (PSC).

Here's a summary of the major environmental bills followed by the CFC during the 2011 session:

Promoting Fair Energy Policy

We supported:
SB 721 (Madison), the Arkansas Clean Energy Act, to create jobs and encourage development and investment in renewable energy resources, was recommended for interim study by the Insurance and Commerce Committee. Following a year's worth of study by the Alternative Energy Commission, sponsors were still unable to find a compromise that could be supported by the energy industry and agency leaders.

"THIS SWEPCO-DRAFTED BILL [HB 1895] WAS DESIGNED TO CIRCUMVENT THE COURTS AND RETROACTIVELY PUSH THROUGH THE TURK COAL PLANT PROPOSAL."

SB 516 (D. Johnson), to authorize the establishment of a Property Assessed Clean Energy (PACE) program allowing energy improvement districts to fund loans for energy efficiency improvements and clean renewable energy projects, passed the Senate 35-0 but ran into concerns on the House side about local-level implementation of the program through county assessors' offices. In a valiant effort to garner enough votes for passage on the last day of the session, the bill still failed by three votes. The legislative Task Force on Sustainable Building Design and Practices will continue to support the program.

We opposed:
HB1450 (Barnett) would have created a carbon capture and sequestration program in Arkansas. Although climate change requires a well-planned process for reducing carbon emissions, this bill was the wrong way to do it, putting too much liability on the state and doing very little to protect the public. CFC leaders and other opponents worked to remove many objectionable provisions and essentially gutted the bill, but continued to question the effect remaining language would have on landowners. The measure failed in the Senate and has been referred to interim study.

HB 1895 (Powers), amends the Utility Facility Environmental and Economic Protection Act to limit public input in certificate of need proceedings before the PSC. This SWEPCO-drafted bill was designed to circumvent the courts and retroactively push through the Turk coal plant proposal.

continued on next page...

Instead of determining the need, type and location for new owner generation in one proceeding before the PSC, this new law allows those issues to be heard in separate proceedings, thus limiting public input on the overall project and taking away protections for property rights and public health. Despite strong objections from attorneys in committee and on the Senate floor questioning its impact on ongoing court proceedings, the bill passed and is now Act 910.

"OVER THE LAST YEAR THE CFC HAS WORKED WITH ENVIRONMENTAL LEADERS TO DEVELOP LEGISLATIVE PROPOSALS THAT WOULD PROTECT ARKANSANS' PROPERTY RIGHTS AND ENVIRONMENT FROM THE THREATS OF NATURAL GAS DEVELOPMENT."

Develop Natural Gas Responsibly

Over the last year the CFC has worked with environmental leaders to develop legislative proposals that would protect Arkansans' property rights and environment from the threats of natural gas development. We produced two reports, "Arkansas in the Balance: Managing the Risks of Shale Gas Development in the Natural State" to detail the effects of this new industry in the state, and "Model Oil and Gas Laws, Regulations and Ordinances" to guide leaders in creating environmentally sound natural gas policy in Arkansas. We worked with legislators to craft 7 bills to require the industry to follow best management practices and address key gas development concerns:

SB 314 (Salmon)/HB1400 (Pierce) - The Landowners Bill of Rights
HB1394 (Lenderman) – to provide water quality protections
HB 1395 (Leding) – to provide air quality protections
HB1396 (Webb) – to require disclosure of chemicals and water amounts used in the process
HB 1392 (Leding) – to improve drilling inspections and enforcement
HB1393 (Webb) – to increase assurance bond amounts to protect Arkansans
HB1399 (Pierce) – to establish noise abatement requirements

In light of overwhelming opposition by the natural gas industry to any measure that would place limits on gas development in Arkansas, and despite supportive testimony of landowners and business owners from shale-drilling parts of Arkansas (many of whom were not given the opportunity to testify), the measures failed to receive sufficient support in the House or Senate. However, all the measures have been referred to interim study by the Agriculture Committee and legislators have already received indications from industry and oversight agencies that some of the proposed changes are supported and can be accomplished through rulemaking before the next legislative session.

"THE CFC, ALONG WITH OUR ARKANSAS WATER FUTURES COALITION MEMBERS – AUDUBON ARKANSAS AND THE NATURE CONSERVANCY (AR FIELD OFFICE) – HAS WORKED OVER THE LAST 4 YEARS TO BUILD SUPPORT FOR A NEW STATE WATER PLAN."

Develop a New State Water Plan

The CFC, along with our Arkansas Water Futures coalition members – Audubon Arkansas and The Nature Conservancy (AR Field Office) – has worked over the last 4 years to build support for a new state water plan. After gaining the support of the Arkansas Water Quality Task Force during the interim and with Speaker of the House Robert Moore naming the issue one of his top priorities for the session, HB1903 (Moore, Edwards) was passed with strong support from both the House and Senate. It calls for an update of the 20 year-old state water plan that will focus on both water quality and quantity, ensure that in-stream flows are measured and protected and that public and stakeholder input in the review process is guaranteed. Now Act 749, the measure is paired with initial funding through the AR Natural Resources Commission to get the process started.

-- Patty Barker, Policy Director, Arkansas Public Policy Panel

Explore, enjoy and protect the planet

SIERRA CLUB—ARKANSAS CHAPTER

Sierra Club
1308 W. 2nd Street
Little Rock AR 72201

e-mail: sierraclubinfo@gmail.com
website: www.arkansas.sierraclub.org

BALLOT ENCLOSED
PLEASE RESPOND - TIME SENSITIVE

BALLOT ENCLOSED
Please postmark by MAY 20, 2011

Inside this issue:

VOTE NOW
- OUR FUTURE LEADERS: Ballot statements for nominees to the Arkansas Chapter of the Sierra Club Executive Committee

Gas Fracking
- What you need to know about gas fracking and the Fayetteville Shale Play
- Updates on gas drilling bills in the Arkansas Legislature

No More Coal Campaign, Arkansas
- Update on the status of the Turk Coal-Fired Power Plant in Hempstead County

Waterway Protection
- Development of a land use plan for the Lake Maumelle watershed to protect drinking water
- Fayetteville's Streamside Protection Ordinance: a collective effort

Environmental Priorities in the Arkansas Legislature
- How bills related to the environmental priorities of the Citizen's First Congress fared
- Updates on bills in the Arkansas Legislature that impact the gas drilling industry in Arkansas