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Albany, Bainbridge, and Damascus, GA – Late last week, Flint Riverkeeper, Don Lambert, and Ted Lee continued their legal opposition to the illegal “extension” of a construction permit to build the proposed “Longleaf” coal-fired power generation facility in Early County near Hilton. The appeal was filed in Fulton County Superior Court in Atlanta, challenging the earlier decision of an Administrative Law Judge, also in Atlanta.

This legal action challenges the finding of the Administrative Law Judge who opined that Georgia EPD did not illegally grant the construction permit extension to the plant’s developer, LS Power of New Jersey. Under federal law, permits have a shelf life of 18 months, precisely because pollution control and conservation technology changes over time. The most achievable and best available technologies of today are not required in the challenged permit. Flint Riverkeeper’s, Lambert’s, and Lee’s appeal to the higher court questions the basis in law of the lower court’s decision, and asserts that Georgia EPD must reanalyze the permit.

“This permit would allow construction of a plant that would employ vastly outdated technology. The plant would inefficiently use the water of the Apalachicola/Chattahoochee/Flint (ACF) system, would spew thousands of tons of pollutants annually into our air in Southwest Georgia, would further poison our fish, and would foreclose many of our economic activities and opportunities”, said Gordon Rogers, Flint Riverkeeper. “Better technology is available. The lower court got it wrong, and the law must be applied equally. Fishermen, foresters, plantation owners, and any users of the ACF’s waters are threatened by this action”.

“The extension of the Longleaf permit is illegal precisely because better technology is readily available, and the law is clear. We are prepared to prove to the higher court that it should remand this permit to the lower court”, said Chris Reeves of the Finley Firm in Atlanta, counsel to Flint Riverkeeper and two of its members. “Georgia EPD cannot blithely ignore the law concerning how they are required to issue permits; there are consequences for wrong actions”.

The permit, originally issued in May 2007, then again in April of 2010, was contested by other citizen protection groups and ran through a series of appeals and remands leading up through late 2009. The current permit extension violates Georgia administrative law because Georgia EPD’s own permitting rules require upgraded technology and/or a new permit application after the original expires. The procedure that EPD has used did not follow this requirement.

“In addition to being illegal, the entire process that Georgia EPD has followed insults the citizens of Georgia. Over 1,000 comments were made during the process, and only 3 of them were in favor of this plant. Many of the comments pointed out technical and legal flaws in the process; others were simply those of citizens concerned about their families and businesses. Georgia EPD’s process is broken”, said Don Lambert of Damascus, co-appellant with Flint Riverkeeper.

The Longleaf permit allows 88 pounds of mercury, 3261 tons of soot, 5647 tons of sulfurous compounds, and 2689 tons of nitrogen oxides to be expelled from the proposed plant each year. According to Georgia EPD documents, 23 million gallons of water per day would be needed for the plant’s operations. Less than 25% of this water would be returned to the river, with almost 89% of withdrawn water evaporated to the sky, completely interrupted on its flow south to Lake Seminole and on to Apalachicola Bay.

“It insults common sense that those intent on building a coal burning plant would name it after a Southern icon and the native ecosystem it will negatively impact... ‘ Longleaf ‘ ”, said Glenn Dowling, Flint Riverkeeper Board member. “It should be named after what it will produce, for instance, ‘ Plant Mercury ‘. This plant threatens the longleaf pine ecosystem and other prescribed fire-dependent landscapes in all of Southwest Georgia, southeast Alabama, and northwest Florida by consuming airshed space that we need for our existing users and forestry economy. As bad air quality currently prevents the use of prescribed fire in other parts of Georgia, pollutant discharges from this plant can threaten existing businesses, wildlife managers, timber growers and hunting operations from performing prescription burns that are critical to forest health and forest products production. Prescribed fire supports a myriad of wildlife, the ecologic service of clean water, and the hunting economy of shooting preserves and plantations. Once we, as South Georgians, allow a New Jersey based investment group to outsource their environmental damage for their profits, we will never put the genie back in the bottle. From Wall Street bailouts to the Gulf of Mexico blowout, the economic and ecological damages just keep spilling out our wallets and into our backyards.”

“The fish in the Flint River are already heavily contaminated with mercury, from way upstream where coal plants feeding Atlanta already rain poison down on our watershed, to way

down south in Muckalee, Kinchafoonee, Ichauway, and Spring Creeks”;, said Mark Redden, Flint Riverkeeper Board member and President of the Shoal Bass Alliance. “We can’t stand any more; we need to ratchet pollution down, not up, and this is nothing more than outsourcing urban pollution, because they can’t build plants in their sprawl areas any more. We have the constitutional right to hunt and fish in Georgia, and we should have a reasonable expectation of being able to eat what we harvest without having to worry about being dosed with mercury”;

“I have investments all across Southwest Georgia”;, said Ted Lee, member of Flint Riverkeeper, resident of Lake Seminole, and co-appellant. “Farm, timber, residential and commercial ventures would all be limited by a single large source of pollution that hogs our water and airshed, not to mention a giant pile of coal ash sitting on the banks of the river, poised to spread downstream when their so-called protection systems fail. If Atlanta and other metro areas in the south need power, they need to find a more efficient way to get it. Destroying our culture, our recreation, our economy is a very unfair way forward, and we will fight to keep it from happening”;

“Flint Riverkeeper cares about the people of Southwest Georgia. Riverkeeping is about people as much as it is about rivers”;, said Charles Stripling, Flint Riverkeeper Board member and Mitchell County landowner. Stripling is also involved directly in work aiming toward settling the tri-state issues affecting the Apalachicola/Chattahoochee/Flint river system, and adds, “The massive, consumptive losses from this plant, taking water from the Chattahoochee, would do nothing but put more pressure on the Flint and the users that depend upon Flint, pressure to provide even more water down in Florida”;

“Pollution is about maximizing one investor’s profits at the expense of many, many others. We will not allow an illegal act by Georgia EPD, an agency that is supposed to protect us, to endanger our families, farms, businesses, recreation, and river, permanently changing our way of life in Southwest Georgia”;, said Rogers. “Today, we again stand in the breach for our culture and our economy”;

The Flint Riverkeeper's (FRK's) sole purpose is to serve as a steward for this valued waterway and to ensure the future life and health of the river and its tributaries remains certain during these uncertain times. FRK is a non-profit 501(c)3 corporation with the goal of protecting the Flint River in its most natural state for future generations to enjoy. Flint Riverkeeper ® is a fully licensed member of the Waterkeeper ® Alliance. Visit us at www.flintriverkeeper.org .