

Fact sheet on Water Supply Watershed Protection Case

On April 26, 2018, the Ashe County Watershed Review Board issued a water supply watershed permit for a site on the South Fork of the New River. The permit is an egregious example of a quixotic procedure by a local watershed review board and poses risks to the entire state of North Carolina. If allowed to stand, the legal precedent will be there for other county boards to carve loopholes in the law and sidestep water supply watershed protection. This would mean that drinking water supply for people across this state could be put at risk.

The permit is opposed by environmental groups and the Ashe County Board of Commissioners. In fact, the Commissioner's voted unanimously to challenge the permit in court, and a petition has been filed.

We are asking river groups to file friend-of-the-court briefs in order to show the judge that the issue is indeed a statewide one, with many river conservation groups concerned. Why? Because the watershed permit improperly grants the landowner variances from statewide required standards. It disregards local subdivision rules, spill containment requirements, built-upon area standards, and stream buffer requirements.

The outcome of this case is likely to affect all people and entities touched by the issue of clean drinking water.

The Ashe County Watershed Protection Ordinance is similar to the watershed protection ordinances found in all other rural N.C. counties. If this watershed permit is not overturned, watershed protection ordinances across the state will be in jeopardy.

Public health depends on a clean water supply. If allowed to stand, the Ashe County Watershed Review Board's permit would undermine water quality regulations enacted by the North Carolina General Assembly in 1993. The law is vital to the protection of public health and the environment across North Carolina. Simply stated: the order is contrary to state law.

Therefore, we hope that your group will join us by filing a friend-of-the-court brief in support of the petitioner Ashe County Board of Commissioners to overturn the permit. Your statement would focus on the importance of the watershed protection law in your community.

Thank you! Please feel free to contact me.

9/25/18

Louis A. Zeller, Executive Director
Blue Ridge Environmental Defense League, Inc.
Main Office: PO Box 88 Glendale Springs, NC 28629
Phone: 1-336-982-2691
Mobile: 1-336-977-0852
Email: BREDL@skybest.com
Website: www.BREDL.org
Founded in 1984, we have projects and chapters in Alabama, Georgia, Tennessee, South Carolina, North Carolina and Virginia

On the following page I have included the legal caption for the case.

Blue Ridge Environmental Defense League

Fact sheet on Water Supply Watershed Protection Case

STATE OF NORTH CAROLINA
IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

ASHE COUNTY, NORTH CAROLINA AND
ASHE COUNTY WATERSHED
ADMINISTRATOR

Petitioners

v.

ASHE COUNTY WATERSHED REVIEW
BOARD AND APPALACHIAN MATERIALS,
LLC,

Respondents

18 CVS 155
PETITION FOR WRIT
OF CERTIORARE WITH
SUPERDEDEAS AND
FOR JUDICIAL REVIEW

Brief of Amicus Curiae in Support of Petitioner

Question Presented

Shall the Court reverse the Order issued by the Ashe County Watershed Protection Board which is not in compliance with state law.

The Law at Risk

In 1993, the N.C. Legislature enacted the statewide Watershed Protections program. This water supply watershed protection law is based on two principles: 1) protect water quality by limiting density of the built upon area on a given plot, and 2) protect water quality by preserving natural buffers adjacent to streams. NCGS § 143-214.5 Water supply watershed protection. To implement this law, the program requires local governments to adopt ordinances which meet certain minimum state standards for the protection of watersheds within their jurisdiction. And, except for programs for agricultural and silvicultural activities, local governments are free to adopt more stringent protections than those mandated by state law; the local ordinance takes precedence if it is more rigorous than state standards. *Cary Creek Limited Partnership v. Town of Cary*, 203 N.C. App. 99, 690 S.E. 2d 549 (2010), *rev. denied*, 364 N.C. 200 (2010).

Blue Ridge Environmental Defense League