

# Group enlists lawyers to help battle Titan cement plant

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Opponents of the Carolinas Cement plant are enlisting environmental lawyers in their fight to stop the company from building a factory in Castle Hayne.

Penderwatch & Conservancy, an all-volunteer environmental advocacy group formed in 1986, has acquired the help of the Environmental Law and Policy Clinic at Duke University to assist during the permitting process and to take legal action if necessary.

“Ultimately, if the permits are issued and the proposal goes forward, we will be evaluating the legal options available,” said Michelle Nowlin, a law professor at Duke and supervising attorney for the law clinic.

Penderwatch, one of a number of local environmental groups opposing the cement plant, is not alone in seeking legal help. The Southern Environmental Law Center, a nonprofit advocacy group that represents environmental organizations, has signed on to help the N.C. Coastal Federation during the permitting process.

“It’s pretty evident the project has a potential to have some serious adverse impacts on air quality, water quality and wetlands,” said Derb Carter, director of the center’s Chapel Hill office. “We’re going to be working with the Coastal Federation to make sure those laws and regulations are applied fully.”

Local groups say they have active rosters of volunteers and have sought advice from other environmental groups, but they don’t have the resources and expertise to keep up with the manpower and money of a global cement company. The Duke clinic and Southern Environmental Law Center do not charge for their services.

“We just recognized we need more help,” said Marge Ciardella, second vice-president of Penderwatch. “We don’t have millions like the corporations.”

Other groups, such as Cape Fear River Watch and the local chapter of the Sierra Club, have asked for help from their national organizations.

Carolinas Cement Co., a subsidiary of Titan America, wants to build one of the nation's largest cement plants in Castle Hayne off Holly Shelter Road. While the plant would bring 160 jobs and millions of dollars worth of infrastructure investment and tax revenues, opponents are concerned about air pollutants the plant will emit, including mercury.

The company's current plans call for a quarry on land near the Northeast Cape Fear River and Island Creek, which includes about 600 acres of wetlands. Local opponents and a number of government environmental agencies have expressed concerns about how Titan's proposal would affect the local ecosystem.

Titan officials say emissions will be within permitted limits, and the company is paying for a study to determine the risk of mercury emissions from its plant. As for wetland impacts, they said they will avoid the most sensitive areas and minimize harm to wetlands. Unavoidable impacts will be mitigated, officials say.

The proposal is at the beginning of an environmental review that could take 18 to 24 months. That review, spearheaded by the Army Corps of Engineers, forces the company to disclose how its plans would affect the environment and to explore other alternatives, including other sites. The company must also receive a permit from the N.C. Division of Air Quality for its air emissions.

Duke's clinic, a joint enterprise of the law school and the university's Nicholas School of the Environment and Earth Sciences, engages law students to work on active environmental cases to gain practical experience. Two law students will assist Nowlin with the cement plant issue.

The Southern Environmental Law Center operates in six states in the Southeastern United States. In North Carolina, the group is involved in a host of issues, including opposition of the PCS Phosphate mine expansion in Beaufort County and an ongoing lawsuit to stop Duke Energy from building a coal-fueled power generator in Rutherford County.

Nowlin, a veteran environmental attorney who used to work for the Southern Environmental Law Center and has worked on issues ranging from hog waste disposal to protection of wildlife refuges, said Titan's plans present concerns about mercury emissions, loss of wetlands and others that need to be scrutinized as the permitting process moves forward.

"I think this is very problematic proposal for the community and for North Carolina as a whole," Nowlin said. "It's something we will be paying close attention to."

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