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June 18, 2015

Dr. Stuart Bell  
President, The University of Alabama  
Box 870100  
Tuscaloosa, AL 35487

Dear Dr. Bell,

Congratulations on becoming The University of Alabama's President. I am sure you face a multitude of letters and suggestions as you transition to this exciting new role. Still, I must take this opportunity to inform you about an issue on which your predecessors, Drs. Witt, Bailey, and Bonner, have received countless inquiries from our organization, tens of thousands of citizens, and numerous media outlets: the proposed **Shepherd Bend Mine**.

Black Warrior Riverkeeper opposes Shepherd Bend Mine, which would discharge polluted water from coal mining out of 29 points into the Black Warrior's Mulberry Fork directly across the river from and upstream of a major drinking water intake for 200,000 daily customers of the Birmingham Water Works Board (BWVB). We are proud to partner with a growing coalition of over 150 businesses, community groups, religious groups, nonprofit organizations, student organizations, government groups, scientists, public health advocates, students, concerned citizens, and drinking water consumers to point out the risks of permitting a coal mine so close to a major Birmingham drinking water source. We urge the UA Board of Trustees to take a strong stance against the mine, helping to ensure this valuable drinking water source is protected for future generations.

Source water protection is widely regarded as a critical and cost-effective way to ensure a clean source of drinking water for future generations. In protecting drinking water sources there are many corollary benefits such as healthy watersheds, good water quality, wildlife habitat, recreational opportunities, and healthy communities. Without a healthy watershed — the land area that drains to a particular body of water — it is impossible to have a clean water source. The two go hand-in-hand, which is why the concept of source water protection has been embraced by states, water providers, agencies, local and national organizations, associations, and communities across the United States. Permitting a coal mine to operate adjacent to a water source flies in the face of existing science and reason. Top American scientists put their reputations on the line to support that assertion in 2014.

Despite widespread opposition, on October 19, 2010 the Alabama Surface Mining Commission (ASMC) issued a permit to Drummond Company-owned Shepherd Bend, LLC to mine 286 acres. The BWVB announced on November 17, 2010 that they were appealing this ASMC permit. The BWVB has offered detailed information as to how the wastewater discharges from the mine will introduce toxic pollutants and sediment into the water, potentially leading to increased treatment costs (paid for by their customers: all Birmingham-area water consumers), decreased water quality, and possible health risks. Rate increases to pay for additional drinking water treatment amount to ratepayers paying the costs of pollution treatment externalized by Drummond Company, whose pursuit of profits trumps their responsibility to adequately treat wastewater leaving the mine site. The BWVB also stated that a mine this close to a major drinking water intake would be "incompatible" and "unprecedented."

Of the 286 acres permitted for mining by ASMC, Shepherd Bend, LLC only has the leases necessary to start mining an initial increment of 38 acres. If Shepherd Bend, LLC chooses to mine beyond that first small increment, they will have to obtain leases from other property owners, including the University of Alabama, the major owner of both land and mineral rights at Shepherd Bend. In 2007, UA actively requested coal mining proposals for this property. In the face of increasing public pressure and media coverage, UA has subsequently retreated to the oft-repeated statement, "The University has not been approached about leasing the land and has no current plans to lease or sell the land." UA is one of the nation's leading public universities, which places an "emphasis on leadership as a primary role of the flagship University of the State of Alabama." We and countless partners have consistently asked UA Trustees to take a leadership position on this pivotal issue, to no avail.

On March 15, 2011, a resolution was passed unanimously by the Birmingham City Council "imploring the University of Alabama System to neither sell nor lease their significant land and mineral holdings to allow coal mining at Shepherd Bend." The resolution was certified by Mayor William Bell's signature. Meanwhile, concerned UA System students began an ongoing Change.org petition to UA leaders that now has over 12,000 signatures. Last but not least,

the UA Community Service Center named Black Warrior Riverkeeper intern Caitlin McClusky its 2012 Volunteer of the Year award winner. Caitlin was specifically recognized for helping oppose Shepherd Bend Mine.

In 2013, the national American Rivers organization selected the Black Warrior River among its annual top 10 list of America's Most Endangered Rivers. The Black Warrior was chosen for the list specifically because of the Shepherd Bend Mine threat. The University of Alabama System Trustees are now under a national spotlight to stop this proposed mine from threatening the river, tap water in the greater Birmingham area, and the UA System's good reputation. The local and national media coverage of this story, and the subsequent local and national outcry from concerned citizens, has been diverse and immense.

Black Warrior Riverkeeper opposes the National Pollutant Discharge Elimination System (NPDES) wastewater discharge permit issued to Shepherd Bend, LLC by the Alabama Department of Environmental Management (ADEM) on July 21, 2008 for the full 1,773 acre coal mine site. We believe this permit issued by ADEM in its own terms is in violation of federal and state law. The issuance of a NPDES permit is prohibited if the discharges allowed by that permit will cause or contribute to a violation of water quality criteria, which the BWVB concludes will occur if the mine is allowed to operate so close to a drinking water source. Additionally, the ADEM permit allows Shepherd Bend, LLC to discharge wastewater containing 10 times the level of iron and 40 times the level of manganese recommended by the Safe Drinking Water Act. The NPDES permit expired in July 2013 and Black Warrior Riverkeeper plans to work to ensure that any future permit addresses the serious and demonstrated risks to this important drinking water source.

This permit is inadequate for protection of the river and drinking water, and we believe the coal mine operator is not up to the task of meeting permit limits. We have documented many violations at Drummond coal mines in recent years. Should permit violations occur at this mine, we are confident ADEM will not take effective enforcement action to hold Drummond accountable to the law and deter future violations.

In opposition to the ADEM NPDES permit, Black Warrior Riverkeeper has supplied expert testimony about how this mine's pollution discharges would harm the river and drinking water. Dr. Robert Angus, a UAB biology professor testified, "ADEM's exemption of iron, manganese, and TSS from almost all precipitation events, and failure to include limits on TDS, sulfate, chlorides, aluminum and other heavy metals at all, will cause a violation of Alabama's water quality standards because of its harm to fish and wildlife in the Mulberry Fork and its tributaries."

According to the Expert Report of Warner Golden, P.E., a Senior Engineer and Partner with environmental consulting firm NewFields, "The entire [1,773 acre] site will discharge approximately 3,187 tons of sediment into downstream wetlands and the Mulberry Fork. This is the equivalent of 160 dump trucks of sediment resulting from one storm event." While such a discharge might meet the legal requirements of ADEM's NPDES permit, it will nonetheless do great harm to the river and greater Birmingham-area drinking water.

Black Warrior Riverkeeper has asked the UA System not to rely on ADEM's and ASMC's judgment; the permits they issued are not sufficiently protective of water quality. Dr. Arthur Benke, UA Professor of Biological Sciences, remarked in a Crimson White article, "it is fortunate that The University of Alabama owns much of this land and has the opportunity to demonstrate the importance of long-term stewardship rather than short term profit. I hope the University will see the wisdom in putting a stop to the proposed activity."

Shepherd Bend is a large bend in the Mulberry Fork of the Black Warrior River. This area of the river is forested with native trees, home to many forms of wildlife, has been hunted by generations of locals, and is frequented here by fishermen, boaters, recreators, swimmers, and wildlife watchers. A much better use for this bend in the river than a strip mine is to leave it as it is. Shepherd Bend is an incredibly scenic and special place and it deserves to stay that way. As a piece of public/private property, Shepherd Bend can continue to perform multiple valuable functions – allowing nature to thrive, locals to relax, and visitors access to enjoy a natural slice of Walker County.

Our opposition will persist until UA System Trustees announce they will never lease or sell land and mineral rights for coal mining at Shepherd Bend. We are asking UA Trustees to oppose the mine now. UA's oft-repeated response, "The university has not been approached about leasing the land and has no current plans to lease or sell the land," with emphasis on the word "current," is an inadequate response on such a pivotal issue. UA's inaction also bears opportunity costs for the University and its students. The media continues to highlight UA's evasiveness, while many alumni retract support. There is no good reason for the UA System to wait on taking a stand any longer.

We would be happy to provide additional information and updates. **Please let me know when we could arrange a meeting once you are settled in to your exciting new role.** Thank you for your consideration and service.

Sincerely,

Charles Scribner  
Executive Director

Cc. Dr. Robert E. Witt, Chancellor, UA System