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Environmental
Law Center

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Press Release

Catherine Wannamaker, SELC Attorney, 650-793-3372 (cell)

Representing:

Black Warrior Riverkeeper – Nelson Brooke, 205-458-0095
205-438-5337 (cell)

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ADEM sued for permitting coal mine that poses risk to Birmingham drinking water

Birmingham – Conservationists have filed a lawsuit challenging the Alabama Department of Environmental Management's issuance of a permit for a proposed strip coal mine, which would discharge pollutants into the Mulberry Fork of the Black Warrior River, less than a quarter mile from an intake for one of Birmingham's major sources of drinking water.

The Southern Environmental Law Center filed the lawsuit challenging the Shepherd Bend Mine permit late yesterday in the Circuit Court of Montgomery County on behalf of Black Warrior Riverkeeper. The groups say ADEM violated state law and its own rules by issuing the wastewater discharge permit without notifying the public. Also in violation of state law, the permit lacks a plan to prevent or mitigate pollution, according to the suit.

"ADEM should have reviewed this permit very carefully, given that the drinking water of thousands of people is at risk. Instead, ADEM went badly astray in granting this permit without ensuring that an adequate plan to prevent pollution was in place," said SELC attorney Catherine Wannamaker.

In December 2007, Shepherd Bend, LLC, applied to ADEM for a permit to discharge wastewater from the proposed 1,773-acre mine on Mulberry Fork in Walker County. Black Warrior Riverkeeper and others, including the Birmingham Water Works Board, submitted comments pointing out deficiencies in the application and their concerns about the impact to the city's drinking water. The discharge would be just 800 feet upstream from the water works intake pipe, and would contain, among other toxins, iron, aluminum, manganese, chlorides, and sulfates. The water works board, noting that the proximity of the proposed mine to the drinking water source was, to its knowledge, "unprecedented," said the cost to clean the water would likely increase.

ADEM issued the permit July 21 without notifying the public, despite continued inquiries by Riverkeeper and others. When recently asked by the news media about the failure to follow the required procedures, an ADEM spokesman said the agency did "what's best for the state."

"This was not a mix-up. The permit was deliberately issued without notifying the public of ADEM's decision to allow more pollution in our drinking water supply," said Nelson Brooke, Executive Director of Black Warrior Riverkeeper. "ADEM can't be allowed to get away with this. With more than 90 coal mines in the Black Warrior watershed, we must have strong regulatory oversight to ensure the river stays healthy for both human use and aquatic habitat."

"It's inconceivable that the agency ok'd this permit, first without telling anyone, second without any plan to prevent pollution of the Black Warrior watershed, and third with very weak limits for toxic metals," Wannamaker said.

The groups also filed on Monday an administrative appeal of the permit pursuant to state requirements for challenging environmental permits. The legal actions seek revocation of the permit and an injunction preventing any activities that purport to be authorized by the permit.

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Founded in 1986, SELC is the only non-profit regional organization dedicated to protecting the native forests, wetlands, air and water quality, wildlife habitat and rural landscapes in Alabama, Georgia, North Carolina, South Carolina, Tennessee and Virginia. SELC works in partnership with more than 100 diverse groups on legal advocacy, policy reform and public education to achieve lasting environmental protections.