



## For Immediate Release October 19, 2010



### Contact:

Charles Scribner, Executive Director, Black Warrior Riverkeeper: 205-458-0095  
Eva Dillard, Staff Attorney, Black Warrior Riverkeeper: 205-458-0095

### Shepherd Bend Receives Mining Permit but Opposition Continues

Birmingham – Today, the Alabama Surface Mining Commission (“ASMC”) issued a permit to Shepherd Bend, LLC (“Shepherd Bend”) to begin mining the first increment of Shepherd Bend Mine. Black Warrior Riverkeeper is disappointed by that decision, which we believe is not in the public interest.

According to information furnished in the application to the ASMC, that initial increment is approximately 34 acres of land wholly owned or leased by Shepherd Bend. Assuming Shepherd Bend chooses to mine that first small increment, Shepherd Bend then will have to obtain leases from other property owners, including the University of Alabama System.

In a letter emailed and mailed today to the UA System’s representatives, Black Warrior Riverkeeper reiterated an earlier request that the UA System’s Board of Trustees carefully consider any decision to lease land or mineral rights to Shepherd Bend. As a practical matter, without the consent and full participation of the UA System, it may not be cost effective to mine Shepherd Bend. From the application, the University appears to own approximately 4/5 of the land proposed for the mine, including a portion of the next segment to be mined after the initial 34 acres. **Black Warrior Riverkeeper encourages citizens to continue sharing their views about the Shepherd Bend Mine proposal with the UA System’s Tuscaloosa Office: (205) 348-5861.**

Together with the Southern Environmental Law Center, Black Warrior Riverkeeper continues an appeal of the National Pollutant Discharge Elimination System (“NPDES”) wastewater discharge permit previously issued to Shepherd Bend by the Alabama Department of Environmental Management (“ADEM”). While several of the issues of that appeal are purely legal or technical in nature, an important point of contention in that dispute is very relevant to any decision by the UA System: that the NPDES permit issued by ADEM by its own terms is in violation of federal and Alabama regulations prohibiting the issuance of an NPDES permit if the discharges under that permit will cause or contribute to a violation of water quality criteria. Put another way, even if Shepherd Bend strictly adheres to the terms of its ADEM-issued NPDES permit, that permit allows the mine to discharge a variety of pollutants—iron, manganese, total suspended solids, total dissolved solids, sulfates and chlorides—into Birmingham-area drinking water.

Black Warrior Riverkeeper has supplied expert testimony in our ongoing ADEM NPDES permit challenge about how the discharge of these pollutants would harm drinking water. Moreover, the Birmingham Water Works Board (“BWVB”) has offered detailed information as to how the allowed discharge from the mine will introduce toxic pollutants and sediment into the source water, leading to increased treatment costs (typically passed on to customers) and possible health risks.

As stated by the BWVB and as Black Warrior Riverkeeper mentioned in a previous letter to UA System representatives, the location of a mine this close to a drinking water intake facility is “unprecedented.” The permit issued by ADEM in the application conclusively demonstrates that the water being discharged from the Shepherd Bend Mine is allowed to have 10 times the level of iron and 40 times the level of manganese recommended by the Environmental Protection Agency for safe drinking water. The mine has the ability to discharge the equivalent of 81 dump truck loads of sediment into the Mulberry Fork during one 10 year, 24 hour rain event, and that discharge is only from four sediment basins draining the initial 355 acres of the mine (a fraction of the entire 1,773 acre site covered by ADEM’s NPDES permit). Excessive siltation from uncontrolled erosion at a mine site can be as destructive to the aquatic ecosystem of a stream or wetland as acid mine drainage. Siltation similarly affects

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drinking water quality and treatment costs. While such a discharge might meet the legal requirements of ADEM's NPDES permit, it will nonetheless do great harm to the river and Birmingham-area drinking water. Black Warrior Riverkeeper hopes that the UA System will not simply rely on ADEM; the surface mining NPDES permits currently issued by ADEM are not sufficiently protective of water quality. For a nationally noted academic and research university not to perform due diligence and not to look at the facts independently would be unfortunate. There is enough credible, factual information available today for the UA System to make a reasonable and informed choice not to lease the land. However, at the absolute minimum, Black Warrior Riverkeeper hopes that the UA System will await the conclusion of the NPDES permit litigation, since it addresses the very issue with which we are all concerned.

Black Warrior Riverkeeper is just one stakeholder group among the many who oppose this mine. We have been proud to partner with the BWWB, the community of Cordova, and numerous public health advocates to point out just some of the problems associated with permitting a coal mine so close to our drinking water intake. We have been so impressed by the student leaders from UA and UAB who have worked hard to educate others and publicize the potential impacts of the Shepherd Bend Mine. If the intelligence, drive and commitment to public service exhibited by these students is at all indicative of the students that UA and UAB educate, the UA System is doing an excellent job of providing our state with leaders for tomorrow.

As Black Warrior Riverkeeper's Executive Director, Charles Scribner points out, "Despite the ASMC's issuance of a mining permit for Shepherd Bend, we remain hopeful that the UA System will not lease their land for mining so close to a major Birmingham drinking water intake. This mine would pose far too much of a threat to the river and the drinking water supply for 200,000 people. Black Warrior Riverkeeper and the Southern Environmental Law Center continue our appeal of ADEM's wastewater discharge permit for the Shepherd Bend Mine."

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Black Warrior Riverkeeper ([www.blackwarriorriver.org](http://www.blackwarriorriver.org)) is a citizen-based nonprofit environmental advocacy organization whose mission is to protect and restore the Black Warrior River and its tributaries. A proud member of Waterkeeper Alliance, Black Warrior Riverkeeper was the Alabama Environmental Council's 2007 Conservation Organization of the Year and the American Canoe Association's 2008 Green Paddle Award winner. Our staff Riverkeeper, Nelson Brooke, won the Alabama Rivers Alliance's 2010 River Hero Award. For more information contact Charles Scribner, Executive Director or Eva Dillard, Staff Attorney, at (205) 458-0095