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July 26, 2012

Dr. Guy Bailey  
President, The University of Alabama  
Box 870100  
Tuscaloosa, AL 35487

Dear Dr. Bailey,

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 and Bonner, have received countless inquiries from our organization, thousands of concerned citizens, and numerous media outlets: the proposed **Shepherd Bend Mine**.

Black Warrior Riverkeeper opposes the Shepherd Bend Mine, which would discharge wastewater from coal mining into the Black Warrior River's Mulberry Fork only 800 feet from a major drinking water intake for 200,000 customers of the Birmingham Water Works Board (BWVB). We are proud to partner with numerous businesses, community groups, religious groups, student organizations, government groups, scientists, and public health advocates to point out the risks of permitting a coal mine so close to a major Birmingham drinking water intake. We are especially thankful for students from UA, UAB, Birmingham Southern, Montevallo, and Samford who have worked hard to educate others and publicize the potential impacts of the Shepherd Bend Mine.

Despite widespread opposition, on October 19, 2010 the Alabama Surface Mining Commission (ASMC) issued a permit to Drummond-owned Shepherd Bend, LLC to mine 286 acres. BWVB announced on November 17, 2010 that they are appealing this permit. BWVB has offered detailed information as to how wastewater discharges from the mine will introduce pollutants and sediment into the water, potentially leading to increased treatment costs (typically passed to customers), decreased water quality, and possible health risks. BWVB stated that a mine this close to a major water intake would be "incompatible" and "unprecedented."

Of the 286 acres permitted for mining by ASMC, Shepherd Bend, LLC has the leases necessary to start mining an initial increment of 34 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 (UA) System, a major owner of both land and mineral rights at 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 at all.

On March 15, 2010, 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. The Student Government Associations of UA and UAB passed similar unanimous resolutions in 2012.

With the Southern Environmental Law Center, Black Warrior Riverkeeper continues an appeal of 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 mining site. 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. Additionally, the ADEM permit would allow Shepherd Bend to discharge wastewater with 10 times the level of iron and 40 times the level of manganese recommended by the Safe Drinking Water Act.

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

Black Warrior Riverkeeper has supplied expert testimony in the ADEM NPDES permit challenge about how the discharge of these pollutants would harm the river and drinking water. Dr. Robert Angus, a professor in the Biology Department at the University of Alabama at Birmingham, 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 Birmingham-area drinking water.

On July 22, 2011, an administrative Hearing Officer gave a favorable recommendation for ADEM's permit. On August 19, 2011, the EMC (Environmental Management Commission: the board overseeing ADEM) rubber-stamped the permit. On September 15, 2011, representing Black Warrior Riverkeeper, the Southern Environmental Law Center filed a Notice of Appeal of the EMC's decision to uphold ADEM's Shepherd Bend Mine wastewater discharge permit. The Notice of Appeal was filed with the Circuit Court of Montgomery County. On January 30, 2012, after receiving briefs from all parties, hearing oral arguments, and receiving proposed orders, the Circuit Court judge signed the Proposed Order submitted by the mining company with no modification. On March 2, 2012, on behalf of Black Warrior Riverkeeper, the Southern Environmental Law Center filed a Notice of Appeal to the Alabama Court of Civil Appeals.

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."

Our partners in this effort include Alabama Environmental Council, Alabama Rivers Alliance, Avondale Brewing Company, Birmingham Audubon Society, Cahaba Brewing Company, Cahaba Riverkeeper, Cahaba River Society, Coalition of Alabama Students for the Environment, Choctawhatchee Riverkeeper, Citizens Opposed to Strip Mining on the Black Warrior River, Coosa Riverkeeper, enAct, Episcopal Diocese of Alabama's Task Force for the Stewardship of Creation, GASP, Glen Iris Neighborhood Association, Greater Birmingham Ministries, Green Initiative at UAB, Good People Brewing Company, Hurricane Creekkeeper, League of Women Voters of Alabama, Metro-Birmingham NAACP, Mobile Baykeeper, Montevallo Environmental Club, Occupy Birmingham, Patriots for Conservation, Restoring Eden at Samford, Southern Environmental Law Center, Tennessee Riverkeeper, UA ECo, UA NAACP, UA Student Government Association, UAB Student Government Association, Waterkeeper Alliance, and Wild South.

**Our opposition will persist until UA announces that it will never lease or sell land or minerals for mining at Shepherd Bend. We would be happy to send you more information and meet with you.** In the meantime, I have enclosed over a hundred letters to you that concerned citizens signed this week. These letters complement over 9,000 signatures on an ongoing Change.org petition, which have been delivered to the UA System Trustees.

Sincerely,

Charles Scribner  
Executive Director