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Ray L. Watts, MD
UAB Office of the President
1530 Third Ave. South
Birmingham, AL 35294

Dear Dr. Watts,

Congratulations on becoming UAB'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 fellow UA System leaders have received countless inquiries from our organization, thousands of concerned citizens, and numerous media outlets: the proposed **Shepherd Bend Mine**.

Our nonprofit organization, Black Warrior Riverkeeper, opposes the Shepherd Bend Mine, which would discharge wastewater from coal mining into the Black Warrior'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 Cordova community leaders as well as 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. The BWVB announced on November 17, 2010 that they are 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 (typically passed on to customers), decreased water quality, and possible health risks. The BWVB also 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. In 2007, UA was actively requesting 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."

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. The Student Government Associations of UA and UAB passed similar unanimous resolutions in 2012. Meanwhile, concerned UA System students began an ongoing Change.org petition to UA leaders that has over 10,000 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 Black Warrior Riverkeeper and UA ECo oppose the Shepherd Bend Mine.

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.

We have 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."

Businesses and organizations opposed to the Shepherd Bend Mine include: Alabama Chapter of the Sierra Club, Alabama Environmental Council, Alabama Rivers Alliance, American Rivers, Athens Imports, Avondale Brewing Company, Avondale Bricks Gallery, Beth Maynor Young Conservation Photography, Big Blue Bagel (Auburn), Big Blue Bagel (Birmingham), Birmingham Audubon Society, Birmingham City Council, Birmingham Free Press, Birmingham Weekly, Black Warrior Riverkeeper, Blue Horizon Enterprises, Boehm Realty, 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, Crestwood Cafe, Environmental Awareness Organization at Auburn University, EnAct at Birmingham-Southern College, Episcopal Diocese of Alabama's Task Force for the Stewardship of Creation, Forest Park / South Avondale Neighborhood Association, Friends of the Locust Fork River, GASP, Glen Iris Neighborhood Association, Greater Birmingham Ministries, **Green Initiative at UAB**, Good People Brewing Company, Hurricane Creekkeeper, The J. Clyde, John S. Bivona DMD Family Dentistry, League of Women Voters of Alabama, Little River Waterkeeper, Metro-Birmingham NAACP, Mobile Baykeeper, Montevallo Environmental Club, Neighborhood Hops and Vine, New Merkel Consulting Group, Occupy Birmingham, Patriots for Conservation, Restoring Eden at Samford University, Shindigs Catering, Southeast Green, Southern Environmental Law Center, Stewart Perry Construction, Tennessee Riverkeeper, T.K. Thorne, Tot World Inc Early Learning Centers, UA ECo, UA NAACP, UA Student Government Association, **UAB Graduate Student Association**, **UAB Student Government Association**, UAH Green Club, University of Montevallo Student Government Association, Waterkeeper Alliance, WildSouth, WW Game Birds.

Our opposition will persist until the UA System announces that they will never lease or sell land or minerals for mining at Shepherd Bend. UA needs to take a stand against 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. I would be happy to send you more information. Please let me know your thoughts on this issue.

Sincerely,

Charles Scribner
Executive Director