Groups across Alabama Demand True Leadership at ADEM and AEMC

Nonprofit environmental organizations across Alabama have called for the resignation or termination of Lance LeFleur, director of the Alabama Department of Environmental Management (ADEM), while urging Governor Ivey to hold the Alabama Environmental Management Commission (AEMC) accountable. Appointed by the governor, the AEMC is the board that selects ADEM’s director and votes on environmental rules for ADEM. The recent bribery and corruption trial *U.S. v. Gilbert, et al* yielded many disturbing revelations, including the failures of leaders at ADEM and the AEMC to avoid conflicts of interest with those whom they regulate.

This summer, Drummond Company Vice President David Roberson and former Balch & Bingham attorney Joel Gilbert were convicted of bribery, conspiracy, and other charges. Roberson and Gilbert bribed state Rep. Oliver Robinson so that he would help them oppose proposals to expedite cleanup of a north Birmingham Superfund site while also opposing expansion of that Superfund designation to a similarly polluted area in Tarrant. Drummond was a potentially responsible party for what would be a very expensive cleanup.

While only one sitting member of the AEMC, Chairman Lanier Brown, testified at the bribery trial, the testimony from the trial and the transcripts of the AEMC meetings suggest that others may have been involved and/or may have been complicit in what developed. Chairman Brown actively advocated against a Superfund designation after meeting with the man who pled guilty to taking the bribe, Oliver Robinson, as well as other trial defendant(s) and/or representatives of regulated industries. Brown argued against any federal action or assistance in the cleanup.

Meanwhile, a sitting member of the Commission at the time, Scott Phillips, contracted directly with the criminal defendants to oppose the Superfund site, yet did not publicly disclose this important fact. While he resigned just prior to the trial, his story suggests an unethical bias within the Commission. Phillips leaked Gasp’s pro-cleanup presentation to the criminal defendants, who then prepared talking points for Commissioners to use against Gasp during its presentation. The AEMC never disclosed that these points were prepared by counsel for the Drummond.

Alabama environmental organizations sent an open letter in August to Governor Ivey demanding the resignation of any Commissioners who participated in the actions identified at trial, and any Commissioner who believes there is nothing wrong with these actions. Further, the groups asked the governor to appoint Commissioners who will be committed to the ideals of transparency and equal access.

Groups signing Alabama Rivers Alliance’s letter include Black Warrior Riverkeeper, Cahaba River Society, Cahaba Riverkeeper, Friends of Hurricane Creek, Friends of the Locust Fork River, Gasp, Tennessee Riverkeeper, and Village Creek Society. For a copy of the August letter, visit: blackwarriorriver.org/letter-urges-governor-to-hold-aemc-accountable/. That letter followed the submission of public comments from eleven environmental groups for ADEM Director Lance LeFleur’s annual job evaluation on July 30.

LeFleur’s testimony during the trial showed that he apparently did not express opposition to EPA’s efforts to clean up toxic pollution at the Superfund Site in North Birmingham until Gilbert, Roberson, and others began to exert pressure on behalf of their clients. When Governor Bentley and the AEMC joined in, the Director succumbed to that pressure and began to publicly and actively oppose EPA’s efforts.

Even worse, LeFleur sent a letter to EPA in his capacity as Director opposing EPA’s cleanup in North Birmingham. The letter he sent was drafted at least in part by Gilbert, whose client, Drummond, had the most to lose if EPA expanded and expedited the cleanup. Gilbert apparently routed the draft letter through Governor Bentley’s office to LeFleur to send with his signature on ADEM’s letter. LeFleur testified that it was not uncommon for lobbyists/consultants to draft letters for him to sign — and that he sees nothing wrong with the practice. Gilbert’s billing records show he was afforded other opportunities to review and edit correspondence that LeFleur sent.

There and in many other instances detailed in Black Warrior Riverkeeper’s July 30 letter, LeFleur has failed to lead the Department in a manner that advances its official mission “to assure for all citizens of the State a safe, healthful and productive environment.” The letter calls for LeFleur’s resignation or termination. Groups signing Black Warrior Riverkeeper’s letter include Alabama Rivers Alliance, Cahaba River Society, Cahaba Riverkeeper, Chocotawatchee Riverkeeper, Environmental Defense Alliance, Friends of Hurricane Creek, Friends of the Locust Fork River, Gasp, Little River Waterkeeper, Tennessee Riverkeeper, and Village Creek Society.

For a copy of the July letter, visit: blackwarriorriver.org/11-groups-demand-new-adem-director/. The fight for transparency, accountability, and leadership at ADEM and the AEMC will continue. Please stay tuned for more updates.
Heather Elliott is the Alumni Class of ’36 Professor of Law at the University of Alabama, where she teaches water resources law, land-use law, statutory interpretation, civil procedure, and legal ethics. Her legal scholarship has been published in the Stanford Law Review, the Indiana Law Journal, and the Boston University Law Review, among others.

For the last several years, Heather has been heavily involved in Alabama water law and policy. She was appointed by then-Governor Robert Bentley to the Riparian Focus Area Panel of the (now defunct) Alabama Water Agencies Working Group. In 2014, she won an $80,000 grant from the United States Geological Survey to write the first comprehensive treatise on Alabama water law, which is forthcoming in 2019 from the University of Alabama Press.

Heather is a former law clerk to U.S. Supreme Court Justice Ruth Bader Ginsburg and to Judge Merrick B. Garland of the U.S. Court of Appeals for the D.C. Circuit. She received her J.D. from the University of California, Berkeley School of Law, where she was an articles editor for the Ecology Law Quarterly, earned an Environmental Law Certificate, and was elected to Order of the Coif. She earned M.A. and M.Phil. degrees in political science at Yale University and graduated magna cum laude from Duke University with a B.A. in political science and philosophy.

Anna Claire Toxey, a native of Tuscaloosa, received a grant from the Curtis and Edith Munson Foundation to work with Black Warrior Riverkeeper. A senior at The University of Alabama, Toxey became a public relations intern throughout the group’s service area, the 17-county Black Warrior River watershed.

The Curtis and Edith Munson Foundation provides funds to programs that focus on the conservation of natural resources in North America and the Caribbean Basin, with an emphasis on North America. The foundation’s internship grant to The University of Alabama’s Department of Advertising and Public Relations is the highest award presented to a student in the College of Communication and Information Sciences.

“I am very grateful for this grant and for the opportunity to work with Black Warrior Riverkeeper this summer,” Toxey said. “Being a Tuscaloosa native makes it even more rewarding to partner with an organization whose primary focus is protecting the historic Black Warrior River. I am looking forward to using my public relations knowledge to help support the organization and its mission.”

“Our great state leads the nation in freshwater biodiversity, but we are plagued by pollution and apathy,” said Charles Scribner, executive director of Black Warrior Riverkeeper. “I am so thankful for The University of Alabama’s nationally renowned PR program helping us spread awareness of these urgent facts.”

“By generously providing students with a grant for the internship, the Munson Foundation helps both the conservation organization as well as the student,” said Dr. Joseph Phelps, chairman of the Department of Advertising and Public Relations at The University of Alabama. “It is a wonderful opportunity for students to practice what they are learning in their classes while helping the nonprofit organization meet its objectives.”

Last year, 520 volunteers donated 6,983 hours of service through Black Warrior Riverkeeper. Most of those volunteers were students at The University of Alabama.
Black Warrior Waterdog Gains Federal Protection

On January 2, 2018, U.S. Fish and Wildlife Service listed the Black Warrior waterdog for protection by the Endangered Species Act. Here is our 1/2/18 statement followed by the Service’s news release.

The U.S. Fish and Wildlife Service made our New Year happy today by announcing the listing of the Black Warrior waterdog under the Endangered Species Act. The Black Warrior waterdog (Necturus alabamensis) is a rare aquatic salamander found in the Black Warrior basin and nowhere else in the world. Proposed for listing in October 2016, this action means the Service will work with other agencies to protect the waterdog when federal actions that may affect them are considered or undertaken.

The Service also finalized the designation of critical habitat for the waterdog today. Critical habitat is defined as those specific geographic areas that contain features essential to the conservation of an endangered or threatened species and that may require special management and protection by the Service. When an area is designated as critical habitat, federal agencies are required by law to ensure that any action they fund, authorize or carry out is not likely to result in the destruction or adverse modification of the habitat. Originally, the Service proposed to designate 669 river miles within eleven tributaries of the Black Warrior basin as critical habitat. Unfortunately, the Service’s announcement cuts that habitat by a third.

The Service designated 420 river miles of critical habitat, comprised of five tributaries within the Black Warrior basin; Sipsey Fork (Lawrence and Winston counties); Locust Fork (Blount, Etowah, Jefferson, and Marshall counties); Blackwater Creek (Walker and Winston counties); and Yellow Creek (Tuscaloosa County). While we are disappointed that the waterdog’s habitat was not fully protected as first proposed, we are pleased with the listing of the waterdog as Endangered and the designation of critical habitat for this imperiled species. We are proud that our Riverkeeper, Nelson Brooke, was entrusted with Peer Reviewer status for both the Black Warrior waterdog’s proposed listing as well as the proposed critical habitat designation.

Alabama “Mudpuppy” to Receive Federal Protection

The Black Warrior waterdog, a large aquatic salamander found only in Alabama’s Black Warrior basin, is now a federally protected species. The U.S. Fish and Wildlife Service listed the salamander as an endangered species under the Endangered Species Act, meaning it is in danger of extinction throughout all or a significant portion of its range. A rigorous review of the best available science has found low and declining population numbers due to loss and fragmentation of its habitat and poor water quality in the Black Warrior basin. The highly permeable skin and external gills of the waterdog make it particularly sensitive to declines in water quality and oxygen concentration.

The Service is also finalizing critical habitat for the Black Warrior waterdog. We are designating 420 river miles of critical habitat in four units, including 127 miles of habitat already designated for other federally protected fish, mussels and salamanders. The designation includes only areas currently occupied by the species and will protect more than 50 percent of the waterdog’s historical habitat. The designation is comprised of five tributaries within the Black Warrior basin; Sipsey Fork (Lawrence and Winston Counties); Locust Fork (Blount, Etowah, Jefferson, and Marshall Counties); Blackwater Creek (Walker and Winston Counties); and Yellow Creek (Tuscaloosa County).

The critical habitat designation should have minimal or no impact on the forestry and coal mining community. Since there are already critical habitat designations for other species in this area, very little additional regulatory action will be necessary for the waterdog. The designation will also have no impact on private landowners taking actions on their land that do not require federal funding or permits. Establishing critical habitat will raise awareness of the needs of the waterdog and other imperiled species and focus the efforts of our conservation partners. It also alerts federal agencies that they are required to make special conservation efforts when they work, fund or permit activities in those areas.

The Black Warrior waterdog, known by its nickname, the Alabama mudpuppy, is a large, night-loving salamander that maintains its larval characteristics, including retention of external gills, throughout its life. It is found in streams within the main channel of the Black Warrior River and parts of the North River, Locust Fork, Mulberry Fork and Sipsey Fork. Sources of pollution in the Black Warrior basin include runoff from industrial plants, landfills, sewage treatment plants, construction, and the historical impacts of surface mining.

The Black Warrior waterdog is recognized as a Priority 2/High Conservation Concern by Alabama, meaning the state has been actively engaged with local and federal partners in understanding and addressing the impacts to the waterdog and other imperiled wildlife that share its habitat. There are 26 federally protected animals found in the Black Warrior basin, 15 of which are aquatic, including the flattened musk turtle. Consideration of the status of the waterdog was required under a court-approved litigation settlement agreement with two environmental groups. Learn more about the waterdog here: fws.gov/southeast/wildlife/amphibians/black-warrior-waterdog/.
Invasive aquatic species are a major problem for the Black Warrior basin especially on the river, reservoir areas, and backwater sloughs. These non-native, exotic plants should not be here. Once established, they tend to out-compete native plant species, covering sloughs, creek mouths, and riverbanks. The result is altered wildlife habitat, and a hindrance to access, navigation, and recreation. These invasive aquatic plants aggressively expand their territory and are very hard to control. Chemical application is a bad solution, as it does not get rid of these plants and the chemicals can build up in riverbottom sediments. The best solution is to prevention.

**CLEAN** off visible aquatic plants, animals, and mud from all equipment before leaving boat launches.
- Rinse equipment and boat hulls (with high pressure, hot water when possible)
- Rinse interior compartments of boats with low pressure, hot water (120°F)
- Flush motor with hot water (120°F) for 2 minutes (or according to owner’s manual)

**DRAIN** motor, bilge, livewell, and other water containing devices before leaving boat launches.

**DRY** boat, trailer, bilge, & livewells for at least five days OR wipe with a towel before reuse.

**DISPOSE** of unwanted fishing line, bait, and fish parts in the trash. When keeping live bait, drain bait container and replace with spring or dechlorinated tap water. Never dump live fish or other organisms from one waterbody into another.
- Cleaning will remove visible large-bodied organisms attached to or in watercraft or recreational equipment. Rinsing with water removes organisms, while hot water often *kills them*. Water at least 120°F is recommended; be sure to avoid contact with skin and check manufacturers’ recommendations to ensure equipment can withstand high temperatures. If hot water is not available or may cause damage, rinsing with tap water and completely drying will help prevent spread of aquatic invasive species.
- Draining removes small and nearly invisible organisms such as zebra mussel larvae potentially entrained in water containing devices.
- Drying is necessary as many organisms can survive in standing water.

Social Media Campaign Helped Defeat Anti-Forever Wild Bill

On February 9, 2018, Black Warrior Riverkeeper published the following action alert through our website, email list, and social media:

Rep. Mark Tuggle’s shortsighted HB 362 just passed out of committee and will go to the Alabama House for a vote. If it passes that vote, it will go to the Alabama Senate for a vote which would imperil Forever Wild’s future.

HB 362 proposes a constitutional amendment that would require the Forever Wild Land Trust to pay counties for any lost property taxes on lands purchased through the program. Just like last year, HB 362 starts the clock on the end of future Forever Wild purchases. With each additional acquisition, more taxes are owed, and less funding is available to purchase additional lands for public hunting, fishing and recreation.

Black Warrior Riverkeeper is grateful for the work Forever Wild has done to secure public lands for outdoor recreation, fishing, and hunting, the ecological integrity of Alabama’s landscape, and the flow of outdoor recreation and tourism dollars to communities. Forever Wild properties in the Black Warrior basin include the Turkey Creek Tract (462 acres), Turkey Creek-Thomas Tract (48 acres), Ruffner Mountain Addition Tract (227 acres), Mulberry Fork Wildlife Management Area (33,280 acres), and M. Barnett Lawley Forever Wild Field Trial Area (3,342 acres).

In 2012, Alabama’s Forever Wild Land Trust program was renewed for another 20 years by an overwhelming majority of Alabama citizens: 75% of the vote. Forever Wild purchases and maintains public lands so that all Alabamians can hunt, hike, and enjoy the pristine, undeveloped natural beauty of our state. A recent study by the Trust for Public Land shows that for every $1 invested to purchase lands, $5 is returned to the state.

There is a misconception that Forever Wild has a special provision exempting it from ad valorem taxes. Forever Wild is not alone. In fact, all state-owned lands are exempt from ad valorem taxes – from the Governor’s Mansion and State House to lands in the state-owned university system.

With your help last year, we defeated a bill that attempted to dismantle Forever Wild. Now legislators have resurrected that bill despite the clear message we sent that Forever Wild must remain protected.

The voters have spoken – Alabamians support public lands for hunting, fishing, and recreation. How many times do we have to tell our elected officials to keep Alabama Forever Wild? Please click here to tell them again.

Thankfully, the story had a happy ending. On February 28, 2018, Pat Byington wrote the following article for Bham Now, “Social media campaign helped defeat anti-Forever Wild bill.” It is shared here with permission from the publisher. To view the original story and pictures of the unusual Twitter activity it cites, visit bhamnow.com/2018/02/28/social-media/.

For the fourth time since it was renewed by a 75% vote of Alabamians in 2012, Forever Wild, one of Alabama’s most successful conservation programs in our state’s history withstood a legislative attack to change the constitutional amendment. This time, Forever Wild proponents found some unlikely supporters on social media, including a prominent meteorologist, sportswriter, WWE World Champion wrestler and Grammy-winning Alabama based bands.

Last night, the Alabama House of Representatives defeated HB 362 which would have gutted financially the Forever Wild program. Before the vote, several conservation groups – the Black Warrior Riverkeeper, Tennessee Riverkeeper and Conservation Alabama garnered and enlisted an eclectic list of supporters on social media in support of Forever Wild [including] WVTM NBC 13’s Harmony Mendoza and longtime Tuscaloosa News Sportswriter Cecil Hurt.

According to Black Warrior Riverkeeper their pro-Forever Wild tweets were also retweeted by former WWE World Champion Wrestler Debra McMichael. Tennessee Riverkeeper tweets were retweeted by Drive-By Truckers and Alabama Shakes.

With HB 362 demise last night, Forever Wild supporters are calling for the Alabama legislature to put an end to attacks on a constitutional amendment that was supported by an overwhelming majority of Alabamians at the ballot box.

“Black Warrior Riverkeeper fiercely supports Alabama’s Forever Wild program,” said Charles Scribner, Executive Director of Black Warrior Riverkeeper. “Our great state’s environment and economy benefit tremendously from Forever Wild. Alabama voters know that fact, and they have spoken, so it is time for politicians to leave Forever Wild alone — forever.”

One of the hallmarks of Forever Wild over the past 26 years has been its diverse coalition of supporters. Hunters, environmentalists and business have been nearly unanimous in their support. That is also true with social media.

It is good to see the Alabama legislature got the message.
On Thursday, June 21 from 6-9 P.M., Black Warrior Riverkeeper and Hurricane Creekkeeper shared a fundraiser on the Black Warrior River. The sunset cruise featured live music, dinner and a local beer sampling on the Bama Belle Riverboat, which docks by the Tuscaloosa Riverwalk at 1 Greensboro Ave.

The public event celebrated the 15th Anniversary of Hurricane Creekkeeper, the Friends of Hurricane Creek’s environmental enforcement program led by John Wathen. Hurricane Creek is a major tributary of the Black Warrior River in Tuscaloosa County. Proceeds supported both Waterkeeper Alliance organizations’ work to promote swimmable, fishable, and drinkable water.

“John Wathen is a world famous defender of water,” said Charles Scribner, Executive Director of Black Warrior Riverkeeper. “Alabama is blessed to have John as its Hurricane Creekkeeper, and Black Warrior Riverkeeper is grateful to have the Friends of Hurricane Creek as a partner.”

“The Friends of Hurricane Creek was founded to preserve, restore and protect the Hurricane Creek watershed. This year we celebrated the 15th anniversary of our Hurricane Creekkeeper program by collaborating with the group who inspired us to become Waterkeeper Alliance members, Black Warrior Riverkeeper. It has been our honor and pleasure to be associated with such a powerful family of water advocates as Waterkeeper Alliance,” added John Wathen, Hurricane Creekkeeper.

All one hundred of the event’s $40 tickets sold out quickly. Admission included dinner (with meat, seafood, and vegetarian options) catered by The Levee, and a complimentary sampling of local beers by Druid City Brewing.

A talented band from Tuscaloosa called the NoJoes entertained a joyful crowd throughout the event. The NoJoes consists of five friends embodying the best parts of blues and southern rock music, with a new twist.

Both organizations plan to make the collaborative cruise an annual event. While Black Warrior Riverkeeper and Hurricane Creekkeeper look forward to seeing old and new supporters on shared cruises each year, they also enjoy promoting the Bama Belle in general. Not only is the boat a crucial part of Tuscaloosa’s growing tourism economy, but it is an beloved symbol of the city and the river.

The Waterkeepers believe that as more people enjoy unique fellowship and scenic views along the Black Warrior, they will become more interested in protecting this vital waterway and its tributaries. The only true paddlewheel passenger vessel in Alabama, the Bama Belle offers both public cruises and private events, and is even open sometimes as a docked bar. Please visit bamabelle.org/, follow them at facebook.com/bamabelleriverboat/ or call 205-275-0560 or visit to learn the schedule and plan your experience.

The Bama Belle is locally owned and operated by Craig Dodson. Craig has been a fan of paddlewheel riverboats his entire life. When the opportunity came for him to purchase the Bama Belle in 2015, he sold his excavating equipment and took a chance with it.

Craig, being mechanically minded, cruised all the way to Mobile and completed repairs needed to the boat. He is a registered Captain and you will see him on every cruise, either driving the boat or mingling with his customers. Craig has been a great steward of this Black Warrior River icon and a great friend to Black Warrior Riverkeeper.
Black Warrior RIVERKEEPER® Membership / Donation Form

Please complete and mail form to: Black Warrior Riverkeeper, 712 37th Street South, Birmingham, AL 35222.

Black Warrior Riverkeeper is a 501(c)(3) tax-exempt charitable organization. Contributions are tax deductible to the extent allowed by law.

Name(s)______________________________________________________________________________________________________________________

Address:____________________________________________________________________________________________________________________

City, State, Zip:____________________________________________________________________________________________________________

Phone(s):__________________________________________________________________________________________________________________

Email(s):_________________________________________________________________________________________________________________

Signature:___________________________________________________Date:___________________________________________________________

If you enjoy the Black Warrior River, its tributaries, or its Sipsey, Mulberry, or Locust Forks, please tell us how and where:
_________________________________________________________________________________

Payment Method: □ Check enclosed / □ American Express / □ MasterCard / □ Visa / □ Discover / □ Non-monetary Contribution (Volunteer or In-Kind)

Credit Card number and expiration date (mm/yy):______________________________________________________________________________

□ Monetary donation: $_________ (If you prefer to donate stock, please call Charles Scribner at 205-458-0095 for easy instructions).

□ In-kind donation (List donated goods or professional services):

□ Volunteer time (List hours and type of volunteering):

(Any gift above) In Memory of: ______________________________________________________________________________________________

(Any gift above) In Honor of: ________________________________________________________________________________________________

Name & address to notify of memorial or honorarium gift: _______________________________________________________________________

About Black Warrior RIVERKEEPER®

Our mission is to protect and restore the Black Warrior River and its tributaries. We are a citizen-based nonprofit organization dedicated to improving water quality, wildlife habitat, recreation, and public health in our patrol area, the Black Warrior River watershed. This vital basin is contained entirely in Alabama, America’s leading state for freshwater biodiversity.

Our staff includes Nelson Brooke (Riverkeeper), Eva Dillard (Staff Attorney), John Kinney (Enforcement Coordinator), and Charles Scribner (Executive Director). To report pollution or to discuss how you can help protect your water, email info@blackwarriorriver.org, visit BlackWarriorRiver.org, or call us at (205) 458-0095.

We are members of the Alabama Rivers Alliance, River Network, Waterkeeper Alliance, and Waterkeepers Alabama, whose other members are Cahaba Riverkeeper, Choctawhatchee Riverkeeper, Coosa Riverkeeper, Hurricane Creekkeeper, Little River Waterkeeper, Mobile Baykeeper, and Tennessee Riverkeeper.

John Wathen, your Hurricane Creekkeeper, joins a Black Warrior Riverkeeper patrol.

Photo by Nelson Brooke.
Black Warrior RIVERKEEPER® Interns

Emily Bridge is a recent Samford graduate who majored in biology. She patrolled the watershed, engaged scientists on our Advisory Council, researched pollution problems, and represented us at educational gatherings.

Ja’Querius Byner is a student at Holy Family Cristo Rey Catholic High School who joined us from their corporate work-study program. He mapped pollution sources, documented violations, and met with Mayor Woodfin!

Elliott Martin is a student at Montevallo who majors in environmental studies. He reviewed polluters’ discharge reports, assisted with outreach, and helped at fundraising events.

We have a wide range of projects for folks of all ages. Please call (205) 458-0095 to help.

Sign up for Black Warrior RIVERKEEPER® Action Alerts

One way you can help Black Warrior Riverkeeper promote cleaner water is through our action alerts. We do not want to overwhelm our general email list with action alerts, so we made a “Black Warrior Riverkeeper Action Alerts” group via Action Network. Please sign up for this group if you want to receive online opportunities to take action for clean water, such as by signing Black Warrior Riverkeeper’s petitions:

actionnetwork.org/forms/signup-form-for-black-warrior-riverkeeper-action-alerts