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Black Warrior Riverkeeper Sues EPA to Protect Imperiled Streams

Birmingham, Ala. – Today, Black Warrior Riverkeeper filed a lawsuit against the U.S. Environmental Protection Agency (EPA) in U.S. District Court to ensure two of the Black Warrior River watershed's most vulnerable streams get the protection they deserve from the Alabama Department of Environmental Management (ADEM).

While Alabama has some of the most beautiful rivers and streams in the nation and is #1 in the U.S. for freshwater biodiversity, it also has many polluted waterways. State and federal regulators have recently failed in their duty to provide the necessary protections for two imperiled creeks.

Every two years, the Clean Water Act requires ADEM to identify all of the rivers, streams, lakes and coastlines that are impaired by pollution and submit a list of those waterways to the EPA. Placement on that list, known as the Section 303(d) List, is important because it prioritizes improving those impaired waters. The list's ultimate goal is restoring those waters so they can fully support their designated uses for fish & wildlife, recreation, and drinking water.

Lost Creek and Big Yellow Creek have been on Alabama's Section 303(d) List since 1998, waiting for necessary action to reduce their pollution levels. However, ADEM dropped them from the 2018 Section 303(d) List because the agency stated, without merit, it had new evidence that these streams were no longer impaired. ADEM made these decisions without following their own procedures and without proper evidence that these streams are meeting minimum water quality standards.

Dropping these waters from the list means they are no longer scheduled for the establishment of pollutant limits, called Total Maximum Daily Loads, and will be similarly excluded from the implementation of important pollution control measures needed to improve water quality in these streams. The EPA is supposed to oversee this process, but failed in its duty of requiring Alabama to adequately support its decision to remove Lost Creek and Big Yellow Creek from Alabama's 2018 Section 303(d) List.

Lost Creek, a major tributary to the Mulberry Fork in Walker County, is a scenic gem enjoyed by homeowners, boaters, and fishermen. Lost Creek is home to the endangered Black Warrior waterdog and the threatened flattened musk turtle, which are imperiled by habitat destruction, sedimentation, and water pollution from coal mines, logging operations, and sewage treatment plants.

Big Yellow Creek, a tributary which flows into the Black Warrior River just upstream of Bankhead Lock & Dam, is used for drinking water and swimming by homeowners and is

frequented by boaters and fishermen. Big Yellow Creek is polluted by coal mining, logging operations, and widespread coalbed methane drilling.

“Lost Creek and Big Yellow Creek are important streams which deserve to be fully protected for fishing, swimming, drinking water, recreation, and wildlife habitat,” said Nelson Brooke, Black Warrior Riverkeeper’s staff Riverkeeper. “It is a shame the state of Alabama ignores pollution problems just so a few polluters can make more money.”

Black Warrior Riverkeeper’s lawsuit asks the court to set aside EPA’s approval of the 2018 List and instruct EPA to reject Alabama’s 2018 List and replace it with its own, including the two omitted streams, within 60 days.

“EPA allowed Alabama to remove sensitive waterbodies in the Black Warrior basin from the 2018 List without basic supporting evidence that they are meeting applicable water quality standards,” said Eva Dillard, Black Warrior Riverkeeper’s Staff Attorney. “We want to ensure that agencies like ADEM and EPA follow the Clean Water Act and implement all necessary measures to make these vulnerable streams healthy again.”

To read the complaint, [click here](#).

To view Nelson Brooke’s picture of a bass fisherman on Lost Creek, [click here](#).

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Black Warrior Riverkeeper’s mission is to protect and restore the Black Warrior River and its tributaries. The citizen-based nonprofit organization promotes clean water for improved public health, recreation, and wildlife habitat throughout the Black Warrior River watershed. Learn more at BlackWarriorRiver.org