



Black Warrior RIVERKEEPER®



Court Rules Drummond is Violating the Clean Water Act on Locust Fork

An Alabama federal judge has ruled that Drummond Company is violating the Clean Water Act by continuously discharging acid mine drainage into the Black Warrior River's Locust Fork from the Maxine Mine site. In an order issued May 7, Judge Abdul Kallon rejected Drummond's arguments that the Clean Water Act does not prohibit ongoing pollution originating from a substantial coal mine waste pile left at the site when mining operations ceased.

"We are pleased with the ruling in our lawsuit challenging Drummond's ongoing pollution at its Maxine Mine site, which poses a significant threat to people and wildlife on the Black Warrior River's Locust Fork," said Barry Brock, senior attorney for the Southern Environmental Law Center. "The Court found as a matter of law that Drummond is violating the Clean Water Act by discharging acid mine drainage at the site."

The lawsuit was filed in 2016 by Black Warrior Riverkeeper, represented by the Southern Environmental Law Center and Public Justice. The ruling granted Black Warrior Riverkeeper's motion for summary judgment seeking to hold Drummond liable for discharges of contaminants contained in surface water being channeled from the waste pile to the river. Additional liability claims by Black Warrior Riverkeeper, as well as the determination of an appropriate remedy for the site, will be determined later at trial.

"This case is a prime example of the need to address long-standing, serious water pollution violations in Alabama," said Jim Hecker, co-counsel in the case

and Environmental Enforcement Director for Public Justice. "The Riverkeeper's citizen suit has worked as Congress intended to enforce the law when governmental agencies have not."

The abandoned underground coal mine is located on the banks of the Locust Fork of the Black Warrior River near Praco, Alabama. When mining operations at the Maxine Mine ceased, an enormous pile of mining waste was left at the site, as well as sediment basins full of coal mining waste and contaminated runoff. As a result, mining waste and acid mine drainage have been illegally discharging from the site into the Locust Fork and tributaries through surface water runoff and seeps for years. The mine's waste has also completely filled what was once a flowing tributary of the Locust Fork.

"Drummond's abandoned Maxine Mine has been illegally discharging coal mine waste and toxic water loaded with heavy metals into the lower Locust Fork for decades," said Nelson Brooke, Black Warrior Riverkeeper. "Maxine Mine's discharges are upstream of homes, recreation areas, and drinking water sources. It is about time for this nasty site to be cleaned up."



Polluted water from the Maxine Mine waste pile entering the Black Warrior River's Locust Fork. Photo by Nelson Brooke.

Black Warrior RIVERKEEPER® Publishes New Water Quality Data Map

Our Riverkeeper Patrol Program includes water sampling near major pollution sources in order to identify the nature and magnitude of specific problems before we promote solutions. Although citizens and reporters frequently ask about those investigations we do at specific facilities, one of the questions we receive most often is more general, though no less important: “How is the health of the river?” This question is sometimes followed up with inquiries such as, “Is it cleaner than it used to be, or is it more polluted than ever?”

Because local and state governments in Alabama do not track ambient water quality to the extent of some other states, we rely on anecdotal evidence from long-term residents, most of whom declare that the river is cleaner now than it was decades ago. However, we also hear many stories about particular streams that used to be deep and clear, but have now been filled with sediment and/or run discolored.

In 2017, we launched an Ambient Water Quality Monitoring program to establish a baseline for overall water quality throughout the river system which will provide scientific evidence to address the public’s concerns. Additionally, collecting this data can help inform future decisions to be made by our staff. For instance, knowledge of background water quality can help the staff write more informed public comment letters regarding permits and federal actions/regulations with the potential to affect the watershed.

The data can also help staff identify which streams or river segments are more heavily impacted by polluted discharges, or show how certain conditions may affect water quality, such as periods of drought or heavy rainfall. The program also includes a component to monitor quality in suspected impaired streams over time for the purpose of identifying streams that should be protected with 303(d) status.

All our data is now available on our website for viewing and/or downloading by our members, regulators, or any other interested parties: blackwarriorriver.org/ambient-water-monitoring/ Our homepage blackwarriorriver.org/ also links to the data through this lab icon:



We are so grateful for the program’s top sponsors: Cahaba Brewing Company, Community Foundation of Greater Birmingham, Metabolic Studio, and Milo’s Tea Company. Please contact us if you would like to support this program: info@blackwarriorriver.org.



Black Warrior Riverkeeper's Staff Scientist John Kinney tests water at Mardis Mill Falls on Graves Creek in Blount County. Photo by Nelson Brooke.

Student Earns Scholarship for Black Warrior RIVERKEEPER® Internship

The Curtis and Edith Munson Foundation has awarded Hudson Nuckolls, a rising senior studying public relations at The University of Alabama, a scholarship grant to intern at Black Warrior Riverkeeper for the summer. Two years ago, the Munson Foundation supplied UA's Advertising and Public Relations department with a three-year grant awarding scholarships to Black Warrior Riverkeeper interns in 2017 and 2018.

"Thanks to the generosity of the Munson Foundation, it's the largest scholarship that the APR department awards," said Joseph Phelps, APR department chair.

Nuckolls, a native of Nashville, Tennessee, was chosen by the department to receive the honor in 2019. He also serves as firm director for Capstone Agency, the nation's top student-run communications firm.

"I'm thankful for this unique opportunity to use the communication skills I've learned at UA to help Black Warrior Riverkeeper protect residents and wildlife all over the Black Warrior River's 17-county watershed. As an out of state student, it's important to me that I give back to a community that has made me feel at home during my time at UA," Nuckolls said.

Last year, 485 volunteers donated 4,710 hours of community service through Black Warrior Riverkeeper's projects. The majority were students from The University of Alabama.

"We strive to make the Munson internship an exciting, valuable and well-rounded experience for the intern each summer," said Charles Scribner, executive director of Black Warrior Riverkeeper. "At the same time, we benefit tremendously from new communications tactics we learn from the nationally-ranked UA PR program's top students."



Black Warrior RIVERKEEPER® Board Member Bio: Kirk Mitchell



Kirk Mitchell has been the Director of the Corporate Work Study Program (CWSP) at Holy Family Cristo Rey Catholic High School since 2011. As CWSP Director, he manages all work-study operations including overall policy, strategic planning, logistics, transportation, administration, and budgeting initiatives. In this role, Kirk provides hundreds of high school students with their first job opportunity in corporate environments while also offering coaching, training, and mentoring to enhance their experiences.

Kirk earned a Bachelor of Science degree in Business Administration from Jackson State University. He brings more than 20 years of management and administrative experience with Fortune 500 companies. He has extensive training and expertise in workforce development, employee relations, human resources, asset management/protection, and profit & loss analysis.

In addition to serving on the Board of Directors for Black Warrior Riverkeeper, Kirk is also serving on the National Philanthropist Day Selection Committee for the Association of Fundraising Professionals Alabama Chapter.

A native of Memphis, Kirk has resided in Birmingham for more than 20 years. Kirk and his lovely wife Gaynell have been married for 17 years and he prides himself on being very family oriented. He also coaches the 3rd and 4th grade basketball team at Advent Episcopal School where his son Connor attends. During his free time, Kirk enjoys road cycling, travelling, and attending a variety of sporting events. However, just being "Dad" is his favorite pastime.

Black Warrior RIVERKEEPER® Board Member Bio: Bob Greene

Andrew Robert (Bob) Greene practiced environmental law with Bradley Arant Rose & White in Birmingham from 1991-2008. He retired from full time practice in 2005 to teach law, visiting first at Alabama and then at Cumberland from 2006-2018. Prior to moving to Birmingham in 1991, Bob practiced law in Atlanta. Bob is a former Chair of the Environmental Law Sections of both the Alabama and Georgia state bars and a former Deputy Regional Counsel at the U.S. EPA, Region IV in Atlanta. He received his A.B. from Georgetown University and his J.D. from Catholic University Columbus School of Law.

From 1997 to 1999, Bob was Chair of the Citizen's Advisory Committee for the Greenways SEP (Supplemental Environmental Project) under the Jefferson County sewer settlement. This led to the creation of what is now the Freshwater Land Trust. From 2001 to 2004 Bob was the first President of Friends of the Railroad District (FoRRD). This was the predecessor organization to the Railroad Park Foundation which now operates the Railroad Park.

Bob is an alumnus of Black Warrior Riverkeeper having been on the Board from 2010-2015 (President 2011-2013, Vice-President 2014-2015). Bob is married to Carol Schulz, who is a member of New Horizons. Bob and Carol have three grown children and seven grandchildren.



Black Warrior RIVERKEEPER® Patrol Notes

Here are some recent field activities of our Riverkeeper, Nelson Brooke. To report pollution anywhere in the Black Warrior River basin, call Nelson at (205) 458-0095, email him at reportpollution@blackwarriorriver.org or visit our “Report Pollution” webpage where you can upload photos, always a helpful aspect of pollution tips: blackwarriorriver.org/report-pollution. You may remain anonymous if you wish.

Patrolled lower Blackburn Fork and Locust Fork with Sam Howell (Friends of the Locust Fork River) and Jason Throneberry (The Nature Conservancy).

Spoke at ADEM’s public hearing about Big Sky Environmental’s permit, which allowed “Poop Trains” from New York to bring human sewage sludge to the landfill. A big win resulted: ADEM rescinded their allowance of the sludge, forcing Big Sky to stop the flow of Poop Trains.

Responded to a complaint in West Tuscaloosa to look at flooding and trash issues.

Responded to a complaint about a stream flowing orange into Valley Creek in Birmingham. Documented orange water in stream and found evidence of it coming from a nearby Schnitzer Southeast metal recycling scrapyard.

Responded to a complaint from a fisherman about orange water flowing out of Rock Creek into Valley Creek. Traced the orange water back to the wastewater discharge of an underground coal mine, Oak Grove Mine, which was violating its permit.

Responded to a complaint about trash and sewage from a Dollar General store fouling Gurley Creek. Checked on an asphalt dumping site near the Locust Fork, an orange stream in Fairfield, and a Jefferson County manhole in Hueytown that regularly overflows sewage.

Canoe patrolled the upper Locust Fork from Murphree Valley Rd. through Nelson’s Gap to Pearman Rd. with Jason Throneberry of the Nature Conservancy. I documented pollution issues while he documented bank erosion hazard index (BEHI) issues.

Canoeed the Locust Fork with Jim Godwin and others to collect water samples. Samples will be utilized to run eDNA analysis for the presence of rare endemic critters: Black Warrior waterdog (*Necturus alabamensis*) [endangered], flattened musk turtle (*Sternotherus depressus*) [threatened].



Sumiton Lagoon’s wastewater discharge has caused many odor complaints. Photo by Nelson Brooke.

Documented a sewage spill in downtown Birmingham on 5th Ave. N after receiving a complaint. Reported the spill to Jefferson County Environmental Services’ 24-hour hotline: (205) 942-0681.

Patrolled Lake Nicol in Tuscaloosa with intern Anna Claire Toxey. We were run off by a thunderstorm.

Patrolled the Mulberry Fork in the patrol boat with Alabama Rivers Alliance’s Southern Exposure Film Fellows to get footage of Alabama Power’s Gorgas Steam Plant for the “Ashes to Ashes” film about coal ash waste.

Joined biologist and mussel expert Mike Gangloff on a Locust Fork mussel survey in North Jefferson County. We surveyed a stretch of the river the features designated Critical Habitat for 6 species of rare mussels.



ADEM hearing on Big Sky Environmental’s “Poop Train” landfill permit. Photo by Nelson Brooke.



Orange water flowing in a tributary of Valley Creek in Birmingham. Photo by Nelson Brooke.



Pollutants from Oak Grove Mine contaminate this tributary to Rock Creek. Photo by Nelson Brooke.



Jim Godwin collects Locust Fork water for eDNA analysis to find rare species. Photo by Nelson Brooke.

Black Warrior RIVERKEEPER® Patrol Notes (Continued)



Alabama students monitor coal mine-polluted water entering Daniel Creek. Photo by Nelson Brooke.



Riverkeeper staff inspect Donaldson Correctional Facility's wastewater clarifier. Photo by Nelson Brooke.



A large gar floats lifeless after a spill at Alabama Power's Gorgas Steam Plant. Photo by Nelson Brooke.



Camp Branch has been polluted for decades by coal mines and U.S. Steel. Photo by Nelson Brooke.

Took a UAB Sustainability group on the patrol boat to see the Birmingham Water Works' Mulberry Fork drinking water intake and Alabama Power's Gorgas Steam Plant.

Participated in the Walker County Smith Lake Cleanup by filling the patrol boat with trash.

Sampled the Sumiton Lagoon's permitted wastewater (treated sewage) discharge where it cascades down a bluff into the Mulberry Fork, just downstream of the boat launch at the confluence of the Sipsey and Mulberry forks.

Patrolled Five Mile Creek in Tarrant by canoe with Cahaba Riverkeeper David Butler. Found one of ABC Coke's pipes' discharge turning the crystal clear creek a muddy brown.

Patrolled the river's Oliver Pool in Tuscaloosa with legal intern Kayla Frederick's UA Environmental Law group. We found two large paddlefish struggling on the surface with injuries, likely from the Holt dam, lock, or hydroelectric plant just upriver.

Took Carla Atkinson's UA class on the patrol boat to Daniel Creek, which flows into the river's Holt Lake in Tuscaloosa County, to see acid mine drainage from the Kellerman area.

Inspected Donaldson Correctional Facility's wastewater treatment plant with coworkers Eva Dillard and John Kinney to see the second clarifier's condition prior to its rehabilitation, which was required by our lawsuit's successful settlement.

Patrolled the river's Holt Lake by patrol boat and kept an eye on a coal barge loading operation near the mouth of Daniel creek.

Helped biologist and fish expert Bernie Kuhajda survey Pinson's Cunningham Creek for darters. We saw many darters and salamanders. I reported sanitary sewer manhole issues.

Patrolled the Maxine Mine site on the lower Locust Fork and documented acid mine drainage flowing into the river from a tributary at the old abandoned underground mine's coal waste storage site.

Patrolled the Mulberry Fork by patrol boat after receiving a complaint from fisherman James Bramlett about a large fish kill in Baker Creek at Gorgas Steam Plant. Alabama Power spilled 700 gallons of fire suppressant chemicals into the creek, which are toxic to aquatic life.

Documented the ongoing contaminated state of Camp Branch at the Hwy 269 bridge, just upstream of where it flows into Bayview Lake on Village Creek.

Flew over Alabama Power's Greene County Steam Plant to document dewatering operations at their unlined coal ash storage pond next to the river.

Patrolled the Mulberry Fork to document thousands of dead fish from Tyson's Hanceville rendering plant's wastewater spill. Documented dead fish and nasty water over 45 miles downstream of the spill site and provided pictures to concerned citizens and the media.

Checked on a problematic sanitary sewer manhole in Hueytown next to Allison-Bonnett Memorial Drive. It was evident a sewage overflow into Little Creek had taken place recently.



Tyson's spill at its Hanceville facility caused a massive Mulberry Fork fish kill. Photo by Nelson Brooke.

Black Warrior RIVERKEEPER® Sues EPA to Protect Imperiled Streams

Black Warrior Riverkeeper has 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 coastlines, rivers, lakes, and streams that are impaired by pollution and submit that list of 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 our state'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 as 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 meet 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."



While fishing for bass, a Riverkeeper member laments multiple pollution problems on Lost Creek. Photo by Nelson Brooke.

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)

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☐ 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 but vulnerable 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 (Staff Scientist), 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.

Waterkeepers Alabama enjoyed its annual retreat in the Black Warrior River basin.

Photo by Nelson Brooke.



Black Warrior **RIVERKEEPER**[®]

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Black Warrior **RIVERKEEPER**[®] Interns

AJ Brown is a recent UAB graduate who majored in public health. AJ performed public health research, assisted our Ambient Water Quality Monitoring program in the field, and helped enhance our longstanding partnership with Mercedes-Benz U.S. International, Inc.

Michael Comas an environmental studies major at The University of Alabama. Michael created interactive maps of pollution sources throughout the Black Warrior River basin, helped our Staff Scientist test water quality, and monitored polluters' discharge monitoring reports.

Ansley Platt is a recent graduate of the University of Georgia School of Law. Ansley helped our Staff Attorney with research toward finding solutions to pollution problems, joined our Riverkeeper on Black Warrior River watershed patrol, and accompanied our staff in court.

Anna Claire Toxey is a recent graduate of The University of Alabama who majored in public relations. Anna Claire won the Curtis and Edith Munson Foundation's prestigious scholarship for PR interns. She helped us organized events and outreach throughout the watershed.

We have a wide range of projects for volunteers of all ages. Please call (205) 458-0095 or email info@blackwarriorriver.org to help.



Holy Family Cristo Rey Catholic High School presented their Corporate Internship Supervisor of the Year Award to Black Warrior Riverkeeper.