

For immediate release: August 11, 2022

Contact:

Barry Brock, Southern Environmental Law Center, 205-745-3060, bbrock@selcal.org

Charles Scribner, Black Warrior Riverkeeper, 205-458-0095, cscribner@blackwarriorriver.org

Jim Hecker, Public Justice, 703-302-0507, jhecker@publicjustice.net

Victory: Approved Consent Decree Requires Cleanup of Drummond's Maxine Mine Site

BIRMINGHAM, Ala. — In a major victory for the health of the lower Locust Fork and the Black Warrior River, a federal judge in Birmingham has [granted](#) the request by Black Warrior Riverkeeper and its attorneys, the Southern Environmental Law Center and Public Justice, to approve a Consent Decree which requires Drummond Company to clean up its abandoned Maxine Mine site.

Following more than five years of litigation to force Drummond to stop discharges of acid mine drainage from a massive six-million-cubic-yard coal mine waste pile, the approved Consent Decree marks the official victory of clean water advocacy groups working to protect the Locust Fork of the Black Warrior River. The site has continued to discharge polluted water and mine waste without a permit since mining operations ceased in the 1980s, harming an invaluable natural resource and popular recreation spot for residents across Alabama.

“People who swim, fish, paddle, and boat in the Locust Fork and the Black Warrior River downstream and all the fish, turtles, mussels, and other wildlife are way overdue for this old coal mine cleanup,” said Nelson Brooke, Black Warrior Riverkeeper. “Drummond now must move forward with significantly reducing their discharges of toxic metals, acidic water, and other pollutants into the lower Locust Fork.”

“The finalized Consent Decree is a victory in fighting the long-lasting legacy of coal mining,” said Jim Hecker, Director of Public Justice’s Environmental Enforcement Project. “Companies like Drummond have a responsibility for cleaning up acid mine drainage and runoff that continue to threaten streams and groundwater in the watershed. Neither Drummond nor government agencies took any action to control the runoff after 1992. The actions required by the decree show why citizen suits are a critical enforcement mechanism when governments fail to enforce the law.”

“The rulings in this case and the Consent Decree have set a precedent for polluters to take responsibility for violating federal law and harming Alabamians’ clean water,” said Barry Brock, Director of SELC’s Alabama Office. “The terms of this finalized Consent Decree will protect the Black Warrior River from harmful legacy impacts of coal mining.”

Under the terms of the Consent Decree, Drummond must remediate the site to eliminate noncompliant discharges of acidic drainage, including sediment, metals such as iron, manganese and aluminum, and other pollutants.

The Consent Decree specifies that Drummond must comply with pollution limits by a specified date, and that the new limits apply even if a less stringent permit is issued by the state. If Drummond fails to meet the final compliance deadline, the Decree imposes penalties of \$1,750

per day. Drummond will also be required to set aside funds to maintain and operate treatment systems for at least 30 years. Finally, Drummond must pay \$2.65 million in litigation costs and \$1 million for a Supplemental Environmental Project to mitigate the effects of its past pollution in the Locust Fork watershed.

Background:

In June 2016, Black Warrior Riverkeeper, represented by the Southern Environmental Law Center and Public Justice, filed a notice of intent to sue Drummond to stop the continuous and unpermitted polluted discharges of acidic runoff and mine drainage into the Locust Fork and its tributaries from the Maxine Mine site. Besides being a continuous source of acid mine drainage, the coal mine waste has completely filled what was once a tributary of the Locust Fork.

As outlined in the notice letter, the groups' claims included violations of the Clean Water Act through illegal, ongoing discharges of pollutants into the Locust Fork and its tributaries; illegal stream filling; and violations of the Resource Conservation and Recovery Act for improper management of solid wastes.

In September 2016, the groups filed a lawsuit in the U.S. District Court for the Northern District of Alabama. In order to address the ongoing pollution and storage of coal mine waste on the Locust Fork, the groups were seeking removal of the mining waste, remediation and/or restoration of contaminated streams, and any other necessary measures by Drummond to stop the illegal discharges at the site.

In May 2019, the U.S. District Court for the Northern District of Alabama ruled that the surface water discharges of acidic water contaminated with metals and other pollutants violated the Clean Water Act.

In January 2022, the Court ruled that contaminated sub-surface discharges from the site into the river constitute illegal discharges of pollutants through groundwater in violation of the Clean Water Act.

In May 2022, the groups filed the proposed Consent Decree for approval after a 45-day comment period by the U.S. Department of Justice.

These rulings set important precedent for similar sites in Alabama and the southeast, affirming the jurisdiction of the Clean Water Act for both surface water and groundwater pollution.

For an interactive map of the Maxine Mine site, [click here](#).

For Nelson Brooke's picture of erosion from the Maxine Mine site filling a tributary and polluting the Locust Fork, [click here](#). Flight by SouthWings.org.

For Nelson Brooke's picture of polluted water from the Maxine Mine site cascading into the Locust Fork after a rain, [click here](#).

For Nelson Brooke's picture of acid mine drainage from the Maxine Mine site polluting the Locust Fork, [click here](#).

For a copy of the finalized consent decree, [click here](#).

###

The Southern Environmental Law Center is one of the nation's most powerful defenders of the environment, rooted in the South. With a long track record, SELC takes on the toughest environmental challenges in court, in government, and in our communities to protect our region's air, water, climate, wildlife, lands, and people. Nonprofit and nonpartisan, the organization has a staff of 170, including 90 attorneys, and is headquartered in Charlottesville, Va., with offices in Asheville, Atlanta, Birmingham, Chapel Hill, Charleston, Nashville, Richmond, and Washington, D.C. southernenvironment.org.

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

Public Justice pursues high impact lawsuits to combat social and economic injustice, protect the Earth's sustainability, and challenge predatory corporate conduct and government abuses. For more information, visit PublicJustice.net.