

# Stormwater/Citizen Suit Enforcement: Coosa Riverkeeper, Inc., Alleges Violations by Alabama Homebuilder



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The Southern Environmental Law Center on behalf of Coosa Riverkeeper, Inc., (“CRI”) filed a Complaint in the United States District Court (Northern District of Alabama) against Newcastle Homes, Inc. (“Newcastle”) alleging violations of the Clean Water Act associated with stormwater discharges.

The Complaint was filed pursuant to the Clean Water Act Citizen Suit Provisions found in Section 505(a).

The Complaint describes Newcastle as a homebuilder in Shelby and Jefferson Counties, Alabama.

The homebuilding activities are stated to have required Newcastle to obtain a Clean Water Act National Pollution Discharge Elimination System (“NPDES”) permit for discharges associated with construction activity that would result in land disturbance equal to or greater than one acre. Further, the referenced NPDES permit is stated to mandate certain erosion and sediment controls. For example, the Newcastle permit is stated to prohibit:

. . . discharges that cause an increase in the turbidity of the receiving water by more than 50 NTUs above background.

In addition, Part I. C. 9 of the NPDES permit is stated to prohibit:

. . . discharges that “will cause or contribute to a substantial visible contrast with the natural appearance of the receiving water” . . .

The Complaint alleges that in the construction of the Dunnivant Valley Subdivision, Newcastle has discharged sediment into the North Fork of Yellowleaf Creek and Ivy Branch in Shelby County in violation of the Clean Water Act. It further alleges that the violations in the Complaint constitute a pattern of violations, referencing several Alabama Department of Environmental Management (“ADEM”) Notices of Violation and its entering into an Administrative Order with ADEM.

The violations are alleged to have continued at the previously referenced construction site.

The counts in the Complaint alleging violations include:

- NPDES turbidity permit violations
- NPDES visible contrast violations
- Unpermitted discharges

CRI requests relief such as:

- A judgment declaring Newcastle has violated its NPDES permit
- An injunction ordering the immediate cease of all ongoing and continuing Clean Water Act violations

- An order that Newcastle remove pollutants that it has placed in the creeks in a manner that will not harm the creeks
- Modification of Newcastle's Notice of Intent to provide updated discharge points in its permit
- Assessment of a civil penalty of \$56,460 for each and every actionable violation of the Clean Water Act alleged herein that occurred after November 2, 2015
- An award of costs of litigation

A copy of the Complaint can be downloaded [here](#).