

Circuit court sharply raises fine for Tuscaloosa developer

ADEM didn't adequately punish erosion violations, ruling said

By Jason Morton Staff Write

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A Montgomery County Circuit Court has ruled the Alabama Department of Environmental Management inadequately punished a Tuscaloosa developer for violating erosion control rules.

The ruling, issued Wednesday, increases the penalty against SDW Inc. for its Williamsburg subdivision, a development off Buttermilk Road, from \$20,000 to \$120,500, based on the minimum \$100-per-day fine.

"Although ADEM is not required to impose the penalties recommended by the hearing officer, any finding of violation ... must be assessed at the statutory minimum imposed by the Alabama Code," according to the ruling. "The Order issued by ADEM cited SDW Inc. for three violations ... and these violations continued for a total of 1,205 days."

The suit was brought by the Friends of Hurricane Creek, a watchdog group headed by environmental advocate John Wathen.

"Friends of Hurricane Creek has been collecting evidence for years concerning Tuscaloosa developers who do not comply with the regulations," Wathen said. "This is the first of many successes we expect in the coming years."

He also said it's the first time a state court has found that ADEM has improperly cited a developer for violating Alabama's erosion control rules and ordered the fine increased.

Jerome Hand, spokesman for the state environmental division, declined to comment because of the ongoing litigation.

He did say, however, that ADEM officials had yet to decide whether to appeal the Circuit Court's ruling. Should an appeal be filed, it will go before the Alabama Court of Civil Appeals.

Steven Dale Williams and Joe R. Lindsay Jr. did not return calls seeking comment on behalf of SDW Inc. The Alabama secretary of state's Web site lists them as incorporators of the development company in July 2002.

Williamsburg was one of four housing developments on Buttermilk Road, just upstream from the Woodland Forrest Country Club, that Wathen identified in July 2008 as habitual violators of erosion control laws.

He pointed to an island that was growing from a pond near Hole 16 on the golf course. Wathen said the island grows larger with each heavy rain.



staff file photo

John Wathen, head of environmental watchdog group Friends of Hurricane Creek, stands near a ditch at Abbey Trace in 2008 overlooking the construction of Williamsburg subdivision on Buttermilk Road in Tuscaloosa.

Wathen blamed the runoff on developers, whom he says are not using adequate erosion control measures, and the city of Tuscaloosa, which he said issued permits for the subdivisions but has not properly monitored them.

In September 2008, Wathen and Friends of Hurricane Creek filed suit against SDW Inc. for the Williamsburg subdivision, claiming that the runoff was causing environmental harm to an unnamed tributary of Cottondale and Hurricane creeks.

“We believe ADEM to be fundamentally broken and out of touch with enforcement regulations,” Wathen said after Wednesday’s ruling. “Cottondale Creek along Buttermilk Road is a prime example of such development out of control.”

The judge’s ruling came a day after Tuscaloosa Mayor Walt Maddox informed the City Council that it must find an estimated \$200,000 to \$250,000 to implement new storm drainage regulations.

The regulations are intended to prevent pollutants from washing into the Black Warrior River, Lake Tuscaloosa and other public waters, but they also are an unexpected blow to the city’s budget.

The Alabama Department of Environmental Management is imposing the regulations, which originated with the federal Environmental Protection Agency.

Part of the added responsibility for the city will be the primary enforcement of stormwater runoff regulations at construction sites during and after construction.

Until this mandate, that responsibility belonged to ADEM.

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