



BLACK WARRIOR RIVERKEEPER, INC. Official Press Release

August 4, 2004

For immediate release:
Birmingham, Alabama

Black Warrior Riverkeeper serves notice of its intent to file suit against Vulcan Materials Company for polluting Fivemile Creek.

Black Warrior Riverkeeper has served statutory notice on Vulcan Materials that it intends to sue the company for the illegal discharge at its Bessemer Quarry of harmful pollutants into Fivemile Creek, a tributary of Valley Creek which, in turn, is a tributary of the Black Warrior River. The notice sets out 465 violations of Vulcan Materials' ADEM-issued discharge permit since February 1, 2000. The permit allows the company to discharge a daily maximum of 45.0 mg/l and a monthly average of 25.0 mg/l (milligrams per liter) of Total Suspended Solids into the creek. The company frequently has violated its permit by discharging greater amounts of the pollutant into the creek, even as much as a daily discharge of 755 mg/l on May 14, 2002! This large discharge was not reported by the company but was discovered by ADEM during a routine inspection. Nevertheless, ADEM has failed to hold the company accountable for its many violations. Therefore, Black Warrior Riverkeeper has initiated this enforcement action against the company.

In addition to the discharge violations, Vulcan Materials has violated its permit by frequently failing to notify ADEM in a timely manner of its excessive discharges. The company is required to notify the agency within five days of any discharge which does not conform to its permit. The company has violated this provision on at least four occasions.

According to the Clean Water Act, Vulcan Materials may be held liable to pay civil penalties to the government in the amount of up to \$32,500.00 per violation. They also may be enjoined from continuing to violate their permit.

The company has blamed its problem on "geologic failures in the local geology" which cause large amounts of groundwater to flow into the quarry sump and pit. They say the water is heavily laden with solids from flowing through clay seams.



BLACK WARRIOR *RIVERKEEPER*®

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Not coincidentally, just upstream of the quarry, the entire flow of Fivemile Creek disappears into a sinkhole leaving a dry creekbed. Local rumors are that Vulcan Materials cut into an underground water channel, draining the aquifer and causing other sinkholes to form in the area. Vulcan Materials workmen were seen by an ADEM inspector near the creek filling in a forty foot deep sinkhole. They stated that they had been filling in the sinkhole for several weeks.

The water that flows into the quarry is pumped back out to the dry creekbed downstream of the quarry. This water is heavily laden with dirt which can be seen in the water for many miles downstream, even after Fivemile Creek's confluence with Valley Creek.

The Code of Federal Regulations, Title 40 Section 230.21 describes the potential impacts on physical and chemical characteristics of the aquatic ecosystem due to suspended particulates or turbidity (total suspended solids) as follows:

"(a) Suspended particulates in the aquatic ecosystem consist of fine-grained mineral particles, usually smaller than silt, and organic particles. Suspended particulates may enter water bodies as a result of land runoff, flooding, vegetative and planktonic breakdown, resuspension of bottom sediments, and man's activities including dredging and filling. Particulates may remain suspended in the water column for variable periods of time as a result of such factors as agitation of the water mass, particulate specific gravity, particle shape, and physical and chemical properties of particle surfaces.

"(b) Possible loss of environmental characteristics and values: The discharge of dredged or fill material can result in greatly elevated levels of suspended particulates in the water column for varying lengths of time. These new levels may reduce light penetration and lower the rate of photosynthesis and the primary productivity of an aquatic area if they last long enough. Sight-dependent species may suffer reduced feeding ability leading to limited growth and lowered resistance to disease if high levels of suspended particulates persist. The biological and the chemical content of the suspended material may react with the dissolved oxygen in the water, which can result in oxygen depletion. Toxic metals and organics, pathogens, and viruses absorbed or adsorbed to fine-grained particulates in the material may become biologically available to organisms either in the water column or on the substrate. Significant increases in suspended particulate levels create turbid plumes which are highly visible and aesthetically displeasing. The extent and persistence of these adverse impacts caused by discharges depend upon the relative increase in suspended particulates above the amount occurring naturally, the duration of the higher levels, the current patterns, water level, and fluctuations present when such discharges occur, the volume, rate, and duration of the discharge, particulate deposition, and the seasonal timing of the discharge."



Black Warrior Riverkeeper is the first and only citizen-based organization devoted to protecting the entire Black Warrior River and its tributaries. The Black Warrior River and its tributaries are a major source of drinking water in Alabama, serving as the primary source of water for Tuscaloosa and supplying over 35% of Birmingham's water. Many people in Alabama fish and recreate on the Black Warrior River and its tributaries, and they deserve to have clean water for these uses. However, the Black Warrior River often is a neglected resource that nevertheless is vital to Alabama's citizens. Many polluters have grown accustomed to lawlessness in the watershed due to lack of enforcement by the Alabama Department of Environmental Management. Black Warrior Riverkeeper is devoted to filling this gap by using the citizen enforcement provisions provided by federal law to bring polluters to justice.

The Black Warrior Riverkeeper program advocates compliance with environmental laws. Our full-time Riverkeeper researches polluters, patrols the watershed, analyzes discharger's permits, and responds to citizen complaints. As a result of our patrols and research, the Black Warrior Riverkeeper organization has become aware of dozens of polluters who we know, or suspect, are breaking the law. When necessary, we enforce federal and state laws to bring polluters to justice by filing civil lawsuits.

Black Warrior Riverkeeper monitors the Black Warrior River and its tributaries. As the Riverkeeper, the organization takes all reasonable steps to curtail illegal pollution. As citizen plaintiffs under the Clean Water Act, this organization acts as private attorneys general to sue illegal polluters when ADEM turns a blind eye, as they so often do.

The successful plaintiff in a Clean Water Act suit may recover its attorney fees and litigation expenses from the defendant. However, any civil penalties levied against the defendant are paid to the government, not to the plaintiff.

Black Warrior Riverkeeper is a 501(c)(3) tax-exempt charitable organization.



FOR MORE INFORMATION:

Please refer to the attached 60-Day Letter of Intent to Sue...

OR Call or E-mail using the contact info below:

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The mission of the Black Warrior RIVERKEEPER is to protect and restore the Black Warrior River and its tributaries