

## Senator Jeff Mullis

121- F, State Capitol  
Atlanta, Ga.

Number: 706-375-5793  
Fax Number: 706-375-5795

Email: [Jeffmullis@comcast.net](mailto:Jeffmullis@comcast.net)

### Fax Transmittal Form

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To: Jud Turner and Jim Usry

From: Sen. Jeff Mullis

Name: DNR

Date Sent: May 4, 2012

Fax: 404-651-5778

Number of Pages: 4

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### Message:

Like to meet with Mr. Turner and Usry on Thursday in my Capitol office.

Please check with my office for the best time for Mr. Turner and Mr. Usry.

Thanks,

Jeff Mullis

**Georgia Department of Natural Resources**

Mountain District Office, 16 Center Road, Cartersville, Georgia 30121

Remit Correspondence to:  
Post Office Box 3250  
Cartersville, Georgia 30120

Mark Williams, Commissioner  
Environmental Protection Division  
Judson H. Turner, Director  
Phone: (770) 387-4900  
Fax: (770) 387-4906

MAY 01 2012

Mr. David Ashburn  
County Coordinator  
Walker County  
91 Industrial Dr.  
Chickamauga, GA 30707

RE: **NOTICE OF VIOLATION**  
Durham Trail Phase 3  
Walker County

Dear Mr. Ashburn:

On August 01, 2008, the General Permit No. GAR100002 entitled "Authorization To Discharge Under the National Pollutant Discharge Elimination System Storm Water Discharges Associated With Construction Activity for Infrastructure Construction Projects" (Permit) was renewed and became effective. This Permit is applicable to all construction-related activities with a disturbed area of one (1) acre or larger.

On March 26 and April 19, 2012, representatives of the Georgia Department of Natural Resources, Environmental Protection Division (EPD), conducted site visits in response to citizen complaints. Based on information obtained during these site visits, and per the Notice of Intent (NOI) dated March 28, 2012, filed by Walker County, it was determined that Walker County is the responsible party for the construction activity. While Walker County's NOI only indicated responsibility for the project on the north side of Durham Road, based on further information EPD obtained during the April 19 site visit, EPD maintains the whole project must be treated as one for permitting purposes, including the construction performed by Walker County on the portion of the project on the south side of Durham Road on lands owned by the State of Georgia as part of Cloudland Canyon State Park.

This letter serves to document that based on the inspections, violations include:

*NOT True*

1) Construction activity and stormwater discharge has occurred without permit coverage, and failure to design and implement an Erosion, Sediment, and Pollution Control Plan and Best Management Practices.

*we are exempt*

2) Construction activity has occurred within the 50-foot stream buffer without first being granted a stream buffer variance by the EPD Director as required.

*NOT True*

3) Construction activity has resulted in significant sediment being deposited into state waters.

*(11)*

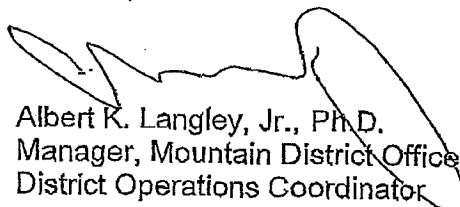
EPD's standard operating procedure considers all of these violations to be major violations, any one of which in and of itself requires an enforcement action. EPD requests a written response within fifteen (15) days of receipt of this letter which includes the following:

- 1) An explanation of how three major violations were allowed to occur given that, per the Erosion and Sedimentation Act 12-7-17(9) actual jurisdiction rests with EPD since the project is a transportation project undertaken by a county, Walker County is a certified Local Issuing Authority for Erosion & Sediment Control, and the project was undertaken after completion of a grant application process by Walker County that included assurances of full environmental compliance.
- 2) A description and timeline of what steps have been or will be taken to bring the project into full compliance.
- 3) A description of what procedures will be implemented to prevent any future storm water control violations on this or any other project undertaken by Walker County.

This Notice of Violation is issued by EPD with intent to document the violations which have occurred at this Site. The EPD is required to take additional enforcement action for the above mentioned permit violations.

We look forward to your response and working with you to resolve this matter. Please contact Mr. Kevin Dallmier at (770) 387-4953 to discuss any questions that you may have.

Sincerely,



Albert K. Langley, Jr., Ph.D.  
Manager, Mountain District Office  
District Operations Coordinator

AKL/kd



**Durham Trail**

Don Oliver

Sent: Friday, May 04, 2012 2:00 PM

To: Don Oliver

Violation 1.

Work we did on the trail on top of the mountain for ourselves. We also did work for the State, and for Lula Lake Land Trust (LLLT), on their separate projects. Langley is trying to make all three projects ours, lump them together, and thus take us over the 1 acre limit requiring a permit. LLLT and the State have been working up there for 17 years, have built 30 miles of trail, and we have helped them on just a short section each. On the State side, they we helped them for 1/2 day, on 100 yards of trail, at the end of their 4 year, 20 mile trial project. Now Langley wants to make it ours!??

Violations 2 & 3:

We cleaned out an existing culvert, which is exempt under the regs on the 50 foot issue, and actually cleaned up sediment on balance. Jill Wyse and Mike Chambers, both of whom have fought us on the trail for 5 years, both of whom are campaigning hard for Shaw, and Chambers is actually on Shaw's payroll, are the ones who complained to EPD. They are going to plaster Bebe with these violations if we don't make this go away.

Langley has never laid eyes on any of this. The EPD inspectors who came to inspect gave us until today to respond with the facts. I had it ready to go. Langley did not wait on the facts, but mailed this Notice of Violation on Monday.

Not only is this Notice itself a huge political issue for Bebe and folks who are connected to her, 3 supposed major violations could amount to hundreds of thousands in fines, which would be political disaster.

If this is not settled by the end of next week, we can't close our grant by the June 30 deadline, and will lose \$100,000 in federal transportation funds, another election disaster for all of us.

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