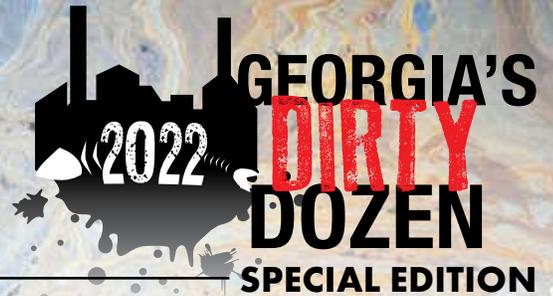


Celebrating the Clean Water Act's Impact on **GEORGIA'S WATER**



CHATTAHOOCHEE RIVERKEEPER V. AMERICAN SEALCOAT MANUFACTURING

Citizen Complaint Identifies Pollution, Prompts Regulators to Strengthen Industrial Stormwater Programs

INTRODUCTION

The video, shot by Chattahoochee Riverkeeper Jason Ulseth in May 2014, and spread far and wide on social media, stirred outrage among Chattahoochee River lovers. It showed a black oily discharge spilling from a pipe and flowing downhill toward the river—less than 1,000 feet away. That investigation ultimately led the Riverkeeper to file a lawsuit against American Sealcoat, a manufacturer of products used for sealing cracks in asphalt, for discharging pollutants without a permit. The verdict in the case—which included a splashy \$10 million fine—was a testament to provisions within the Clean Water Act that allow citizens, and citizen-based organizations, to take legal action to remedy water pollution problems. The litigation was initiated by a citizen seeing a problem and calling Chattahoochee Riverkeeper. What transpired after that call not only eliminated an ongoing pollution problem, but prompted both state and federal regulators to step up their efforts to stop stormwater pollution from industrial sites.

THE WATER BODY

Coursing 435 miles from the Blue Ridge Mountains to the Florida state line in southwest Georgia, the Chattahoochee River is Georgia's longest and most important river. It provides drinking water for more than five million people and carries away the treated wastewater of those same users. The river fills eleven reservoirs of varying size that provide water for drinking, energy generation, irrigation, and recreation. In the Atlanta area, the Chattahoochee River National Recreation Area hosts more than three million visitors annually who float the river's gentle rapids, cast for trout in its cold water and jog, walk and bike on riverside trails. Recently, a coalition of local governments and non-profit organizations has begun investing in plans to develop a linear public park with recreational trails and river access stretching from Atlanta downstream to Coweta County—through the very stretch of property impacted by the American Sealcoat pollution.



Action to stop pollution from the American Sealcoat site in Fulton County helped protect the Chattahoochee River downstream from Atlanta where a coalition of non-profit organizations and local governments are working on plans to develop a linear park, including a boating, or water, trail on the river, from Atlanta to Coweta County.

THE CASE

The discovery of this pollution and the initial \$10 million verdict in the Riverkeeper v. American Sealcoat case was a high-dollar vindication of the power of the Clean Water Act's citizen lawsuit provision, and it illustrated that provision's importance in the face of an anemic response from state and federal environmental regulators.

On the day Chattahoochee Riverkeeper filed its lawsuit, Georgia's Environmental Protection Division (EPD) performed an emergency inspection at the site. EPD would fine American Sealcoat \$2000 and ask the company to develop a plan for fixing their pollution problem. Neither the fine nor the plan was ever forthcoming as the company closed its doors and disappeared, not even bothering to defend itself in federal court.

The company's disappearing act also means it's unlikely the federal government will ever collect on any of the \$10 million fine issued by the district court.

Ultimately because of Riverkeeper's legal action, American Sealcoat's landlord, M&K Warehouses, settled a concurrent lawsuit with the organization, agreeing to spend some \$500,000 to cleanup pollution on the site and designating another \$90,000 to fund environmental projects aimed at protecting the Chattahoochee.

Those funds were used by the Georgia Department of Natural Resources to improve a boat ramp on the river and install security cameras at the location to prevent illegal dumping, a project that has resulted in several prosecutions and reduced litter at the secluded site.

But, the impacts of the case went beyond these on-the-ground improvements.

After the lawsuit, the U.S. Environmental Protection Agency (EPA) strengthened its own industrial stormwater enforcement program, and over the last several years, EPD has expanded its industrial stormwater inspection staff and this year enacted more stringent monitoring requirements for the more than 2,500 permitted industrial facilities across the state. These facilities are required to have stormwater management plans in place to prevent the kind of egregious pollution that occurred at the American Sealcoat site.

"In 1952, you might have expected to see pollution like this, but in 2012, that was something you didn't see every day," said Ulseth. "This case got the attention of the public and the regulators. It exemplified the dangers of industrial stormwater pollution and the need for the regulators to take a more proactive approach."



Before and after: In 2014, responding to a citizen complaint, Chattahoochee Riverkeeper discovered an asphalt sealant company illegally discharging its product to a drainage way that spilled into the Chattahoochee River in Fulton County. The lawsuit that followed forced the property owners to remove the pollution and restore the site. It also prompted federal and state agencies to pay closer attention to stormwater discharges from industrial facilities.

FOR MORE INFORMATION

Jason Ulseth, *Chattahoochee Riverkeeper*,
julseth@chattahoochee.org, 770-312-3855

