

EPA Stormwater Settlements Hit Home



The Morlyn Hills subdivision in Winchester is one of the sites for which builder Richmond American Homes has been fined by the EPA for stormwater runoff violations. Alan Lehman/Daily (Purchase photo)

Builders fined for runoff violations at area subdivision

By James Heffernan -- Northern Virginia Daily Staff Writer

A dozen area subdivisions are included in the settlements announced this week between the Environmental Protection Agency and four national homebuilders for alleged violations of the Clean Water Act.

Dallas-based Centex Homes; MDC Holdings Inc. of Denver, the parent company of Richmond American Homes; KB Home of Los Angeles; and Pulte Homes, based in Bloomfield Hills, Mich., have agreed to pay a total of \$4.3 million in fines for failing to control stormwater runoff at more than 2,200 construction sites between 2001 and 2005.

The settlements cover 34 states and the District of Columbia. A total of 116 sites are named in Virginia, including 12 in Frederick, Warren and Clarke counties.

The Clean Water Act requires that construction sites have controls in place, such as silt fences, phased site grading and sediment basins, to minimize runoff from rain. The companies named in the government complaints allegedly either failed to obtain permits before clearing land for subdivisions, or, if they had a permit, failed to prevent or minimize the discharge of pollutants at the job site, the EPA said.

Neither Frederick, which was home to nine of the alleged violations, nor Warren, which had two infractions, does permitting for stormwater, according to local officials. That responsibility falls on the state Department of Conservation and Recreation.

"It's up to the individual contractors to apply for a permit through DCR," Frederick County Director of Public Works Harvey "Ed" Strawsnyder said. "If they fail to submit a permit, we know nothing about that."

Frederick does not currently have a stormwater ordinance, though it may become necessary to adopt one in the future, Strawsnyder said.

However, both counties require that erosion and sediment controls be in place before construction can begin on a site, and those controls are monitored regularly.

"Once you disturb more than one acre at a time, it requires that pollution prevention planning kick in," Warren County Deputy Building Official Lowrie Tucker said.

"I'd be surprised if those were not in place" regarding the alleged violations, Strawsnyder said.

As part of the settlements, the companies also have agreed to take steps beyond what is required by law to keep 1.2 billion pounds of sediment out of the nation's waterways.

"Sediment runoff from irresponsible development impairs waterways, destroys aquatic life, and threatens the health of the Chesapeake Bay," EPA regional administrator Donald S. Welsh says in a press release, adding that the settlements mark "a huge step toward corporate accountability in the home building industry."

The states with the most sites covered by the settlements are California, Florida, Texas, Arizona and Nevada.

Centex agreed to pay the largest fine, at \$1.485 million. KB Home was penalized \$1.185 million. Pulte Homes Inc., along with a \$877,000 fine, will complete a \$608,000 project to reduce the amount of sediment entering a northern California stream. Federal prosecutors levied a \$795,000 fine on MDC. Holdings.

Seven states that joined in the settlements — Colorado, Maryland, Virginia, Missouri, Nevada, Tennessee and Utah — will receive a portion of the penalties.

The agreements filed Wednesday must be approved by a federal court and undergo a 30-day public comment period before becoming final.

The four companies, in a joint statement, said they were pleased with the agreements. Together, they build 100,000 homes every year, federal officials said.

"As leaders in the homebuilding industry, we share the government's goal of protecting and preserving clean waterways," the statement said

The problem is not confined to residential building.

In February, the EPA fined Home Depot Inc. \$1.3 million to resolve alleged violations at 30 construction sites for its big-box stores in 28 states. But the largest settlement to date was with Wal-Mart Stores Inc., which in May 2004 agreed to pay \$3.1 million for violations at construction sites across the country.

Locally, Orange Partners LLC, the development firm initially behind Kernstown Commons, was cited by the state Department of Environmental Quality for site work that affected a nearby tributary of Opequon Creek. The company later paid \$15,600 to settle the alleged violations, and agreed to meet a list of requirements toward the cleanup.

The Associated Press contributed to this story

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