

IN THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA

South River Watershed Alliance, Inc.

Petitioner,

v.

Jeffrey W. Cown, Director
Georgia Environmental Protection Division,
Georgia Department of Natural Resources

Respondent.

Docket No.: 2404045

2404045-OSAH-BNR-WQC-44-Howells

**AMICI CURIAE BRIEF IN SUPPORT OF THE RESPONDENT’S MOTION TO
DISMISS AND MOTION FOR SUMMARY DETERMINATION**

The Georgia Industry Environmental Coalition, Inc., Georgia Poultry Federation, the Georgia Association of Manufacturers, Associated General Contractors of Georgia, Inc., the Home Builders Association of Georgia, the Metro Atlanta Chamber, the Regional Business Coalition of Metropolitan Atlanta, and the Gwinnett Chamber of Commerce (collectively “Amici Curiae” or “Amici”) are interested in maintaining the integrity of Georgia’s waterways while also allowing for smart and sustainable development through a settled regulatory framework. South River Watershed Alliance’s (“SRWA’s”) challenge to three construction stormwater general permits issued by the Georgia Environmental Protection Division (“EPD”) is contrary to the Amici’s interests because the challenge is baseless, would inflict inestimable damage to Georgia’s economy through a construction moratorium throughout much of the State, and would not achieve countervailing environmental benefits. Consequently, the Amici respectfully submit this brief *Amici Curiae* in support of Respondent Cown’s Motion to Dismiss and Motion for Summary Determination.

INTRODUCTION

SRWA challenges three longstanding general permits for the discharge of stormwater from construction sites that were recently reissued by EPD, referred to herein as the 2023 General Permits.¹ In this challenge, SRWA attempts to use the Clean Water Act to halt development in Georgia for years across a broad swath of the State—specifically within the watersheds of many of the approximately 3,500 miles of Georgia waters that Georgia EPD has determined contain excess sediment from legacy land uses. Of course, there is no bar on development within these “sediment impaired” (also known as “biota-impaired”) watersheds in the Clean Water Act, the Georgia Water Quality Control Act, or either Act’s implementing regulations. Instead, SRWA attempts to conjure this broad and extreme outcome by implication from narrowly focused and long-established regulatory documents known as Total Maximum Daily Loads (“TMDLs”). SRWA’s TMDL-based arguments fail, though, because the arguments are untimely and depend on TMDLs not meaning what they say, TMDL-related permitting regulations not meaning what they say, or both. Consequently, the 2023 General Permits are due to be upheld.

Although the 2023 General Permits require rigorous Best Management Practices (“BMPs”) to control discharges of construction stormwater to or within one-mile upstream of a sediment impaired water, SRWA uses two sediment impaired waters (South River and one of its tributaries, Intrenchment Creek) as examples to argue that the Permits are nevertheless inadequate. EPD established EPA-approved sediment TMDLs for South River in 2007 and Intrenchment Creek in 2017. These TMDLs reflect EPD’s determination of the sediment “load” each water can continue

¹ Specifically, the 2023 General Permits are (1) NPDES General Permit No. GAR100001 (Stormwater Discharges Associated with Construction Activity for Stand Alone Construction Projects), (2) NPDES General Permit No. GAR100002 (Stormwater Discharges Associated with Construction Activity for Infrastructure Construction Projects), and (3) NPDES General Permit No. GAR100003 (Stormwater Discharges Associated with Construction Activity for Common Development Construction Projects), (collectively, the “2023 General Permits”).

to receive while still attaining water quality standards. The TMDL allocates that total load to point source discharges like construction sites through a “wasteload allocation” and to non-point sources, like agricultural runoff, through a “load allocation.”

It is of central importance here that the wasteload allocation in the South River and Intrenchment Creek TMDLs has two components: (1) a numeric allocation to individually permitted dischargers and (2) a non-numeric allocation to construction stormwater projects—requiring their stormwater discharges to “[m]eet requirements of [the] General Storm Water Permit.” 2007 TMDL at 83, A-57; 2017 TMDL at 53, A-2. Because the 2023 General Permits are at least as strict as the general construction stormwater permits in effect at the time these TMDLs were established in 2007 and 2017, the 2023 General Permits easily satisfy the regulatory requirements that permits be consistent with applicable TMDLs.²

Despite this, SRWA argues that there is no allocation in the TMDLs available for construction stormwater discharges permitted under the 2023 General Permits. This argument fails because, as noted above, the TMDLs’ allocation for construction stormwater is express and available: these projects must “[m]eet requirements of [the] General Storm Water Permit.” SRWA also engages in considerable mathematic gymnastics in an attempt to argue that, if there is a derivable numeric to which the TMDLs’ non-numeric construction stormwater allocation correlates, that allocation is inadequate to protect water quality. But this argument is nothing more than an impermissible collateral attack on the TMDLs masquerading as a challenge to the 2023 General Permits: any concerns about whether the TMDLs’ non-numeric wasteload allocations to construction projects are sufficiently protective must have been raised in challenges when the

² See *Truszczynski Aff.*, ¶¶ 18, 21, 24, 40, 44 (reflecting that EPD’s approach to regulating construction stormwater discharges for sediment impaired streams has been consistent and consistently protective across this time period).

TMDLs were promulgated in 2007 and 2017. With the content of the TMDLs having been settled long ago after technical development, notice and comment processes, EPA approval, and the availability of administrative and judicial review, EPD and the regulated community may now rely on the TMDLs and adherence to their express terms for permitting. EPD has done so here, and consequently, the 2023 General Permits are proper.

While the underpinnings of this case may be esoteric, the importance of the outcome to Georgia is not. Because all construction projects, even with properly installed controls, lawfully allow some limited amount of sediment-laden stormwater to leave a construction site, SRWA's Amended Petition amounts to a request for a moratorium on EPD construction permitting in *any* sediment-impaired watershed for which there is a TMDL without a corresponding, express numeric allocation to construction stormwater. Even if individual (as opposed to general) permitting were a potential solution, the likely years of permitting backlog that would occur if thousands of construction projects suddenly required individual permitting before they could begin would severely stagnate significant components of Georgia's economy and threaten public infrastructure (whose construction also depends on the 2023 General Permits) that is vital to both the economy and public safety.

The ramifications if SRWA is successful here are not limited to construction stormwater. If SRWA is allowed to challenge the 2023 General Permits based on a collateral attack on long-established sediment TMDLs, the reliability of the scores of TMDLs for thousands of miles of watershed for various other constituents could also be thrown into doubt for new and existing dischargers of *all* types, which could impact many hundreds of permit holders. EPD and the regulated community would be left in the untenable position of potentially having to litigate on a

permit-by-permit basis both the propriety of established TMDLs and the terms of the permits built on those TMDLs.

And all for naught. The relief sought in SRWA’s Amended Petition, if granted, would not lead to environmental benefit in the State. As noted above and further discussed below, the 2023 General Permits already require rigorous BMPs—the same means used by the U.S. EPA and by almost all other states—for construction stormwater discharge management and are thus protective of Georgia’s waterways. More generally, EPD’s TMDLs, as approved by EPA, are the leading edge of clean water regulation in Georgia. Together, these tools allow smart and sustainable construction to continue in Georgia. Consequently, there is simply no counterbalancing environmental benefit to justify the severity of harm to Georgia’s economy invited by SRWA’s Amended Petition. For these reasons, and as discussed further below, the Amici respectfully suggest that the 2023 General Permits are due to be upheld and EPD’s Motion to Dismiss or in the Alternative Motion for Summary Determination should be granted.

INTERESTS OF AMICI

The eight Amici, more specifically identified below, submit this *Amici Curiae* brief in support of Respondent, Jeffrey W. Cown, Director of the Environmental Protection Division of the Georgia Department of Natural Resources. As representative organizations for a wide swath of Georgia business and industry that rely on the 2023 General Permits, Amici have a strong interest in this case. Specifically, Amici are interested in maintaining the integrity of Georgia’s waterways while also allowing for smart and sustainable development in the State through reliance on a settled, science-based regulatory framework. If the Court were to grant Petitioner’s Motion for Summary Determination, it would upend EPD’s regulatory and permitting programs that have been in place for, in some instances, almost 50 years.

The Georgia Industry Environmental Coalition, Inc. (GIEC) was formed in 1992 as an organization of diverse industries subject to environmental regulation in Georgia. Its mission is to serve as a technically based advocate for Georgia industry by promoting environmental regulations and policies founded on protection of human health and the environment, sound science, and cost/benefit principles. GIEC member companies represent the manufacturing, mining, utilities, transportation, and agriculture industries and some of the largest employers in Georgia.

The Georgia Poultry Federation is a non-profit trade association established in 1951 to represent Georgia's poultry industry at the state, federal and local level. Georgia is the leading producer of broiler chickens in the United States, and poultry accounts for the largest segment of agriculture in the State.

Established in 1900, Georgia Association of Manufactures (GAM) is the statewide trade association that represents all of Georgia's manufacturing businesses in legislative, energy, regulatory, and public affairs matters. GAM also provides seminars, services and guidance to manufacturers on a wide range of issues, including but not limited to human resources, workforce development, public utility rates and energy, safety and health, employee benefits, environmental quality and taxation.

Associated General Contractors of Georgia, Inc., (ACG Georgia) is a statewide trade association for the commercial construction industry. AGC Georgia was founded in 1928 and is one of 89 chapters within the Associated General Contractors of America. Our membership performs the majority of the commercial construction work in Georgia and includes over 600 of the top general contractors, residential/light commercial builders, construction managers, design-builders, municipal-utility contractors, heavy/highway contractors, specialty contractors, suppliers and service providers.

The Home Builders Association of Georgia (HBAG) is a non-profit trade organization founded in 1955 to promote an environment for attainable and sustainable housing in Georgia through advocacy, education and networking opportunities. Currently representing over 3,500 member businesses and 22 local home builder associations, HBAG advocates for pro-housing policies at the state legislature and regulatory agencies for the benefit of its members and the homebuyers of Georgia.

The Metro Atlanta Chamber is an organization representing businesses, colleges and universities, and nonprofits across the 29-county region that makes up the nation's eighth-largest market. Member companies invest in the Metro Atlanta Chamber's work to attract and retain business, ensure a business-friendly climate through public policy efforts and market the region as a great place to live, work and play.

The Regional Business Coalition of Metropolitan Atlanta (RBC) is a nonpartisan organization of 17 local Chambers of Commerce throughout the metro Atlanta region. RBC member chambers represent over 10,000 businesses that collectively employ over 1 million metro Atlanta residents. RBC's primary goal is to represent the interests of RBC chamber members on public policy issues impacting our transportation, water and air quality and to advocate for solutions that improve metro Atlanta's quality of life and economic vitality.

The Gwinnett Chamber of Commerce represents more than 2,200 companies, offering significant member discounts and presenting a unified voice in matters of public policy that affect the business community. In addition, the Gwinnett Chamber provides opportunities for like-minded businesspeople to connect with one another and expand their business network and increase the exposure of their business. It also offers opportunities to learn about issues and best practices related to running a successful business.

Due to the significant impact the Court’s decision could have on Georgia’s business and industry, Amici provide their perspective to assist the Court in resolving this case in favor EPD.

ARGUMENT

The 2023 General Permits that SRWA challenges are EPD’s reissuance of the three general permits that authorize the discharge of stormwater from construction projects. Tens of thousands of construction projects depend on these general construction permits at any given time for authorization to proceed under the Clean Water Act and Georgia Water Quality Control Act. *See* SRWA Amended Petition (“Am. Pet.”), ¶ 3; Affidavit of Anna Truszczynski (“Truszczynski Aff.”) attached to Respondent’s Mot. to Dismiss and Mot. for Summary Determination, ¶ 10. SRWA’s claims in this case turn on the intersection and relationship between the 2023 General Permits and sediment TMDLs in Georgia.

For clarity, Amici focus on the same two sediment TMDLs that SRWA attempts to argue from by example—the 2007 TMDL for Seventy Stream Segments in the Ocmulgee River Basin for Sediment (Biota Impacted) (“2007 TMDL”) and the 2017 TMDL for Eleven Stream Segments in the Ocmulgee River Basin for Sediment (Fish Community Impacted; Macroinvertebrate Community Impacted) (“2017 TMDL”), *see* 2017 TMDL as attached as Ex. 6 to Truszczynski Aff. However, the concepts discussed in this brief apply to all sediment TMDLs throughout the State.

SRWA alleges that EPD cannot allow the 2023 General Permits to authorize construction stormwater discharges into waters with a sediment TMDL if the *numeric* load and wasteload allocation in the applicable TMDL appears fully allocated. SRWA can make this argument only if it ignores clear text in the 2007 and 2017 TMDLs separately providing a *non-numeric* wasteload allocation for future construction projects. The TMDLs are express that the allocation for such projects is met if they “[m]eet requirements of [the] General Storm Water Permit.” *See* 2007 TMDL

at 83, A-57; 2017 TMDL at 53, A-2. EPD expressly factored the wasteload allocation for future construction projects into its determination that the TMDLs are protective of water quality:

The sediment load allocation from future construction sites within the watershed will have to meet the requirements outlined in the Georgia General Storm Water NPDES Permit for Construction Activities. [The General Storm Water Permits for Construction Activities] authorize[] the discharge of storm water associated with construction activity to the waters of the State in accordance with the limitations, monitoring requirements, and other conditions set forth in Parts I through VII of the Georgia Storm Water Permit. The conditions of the permit were established to assure that the storm water runoff from these sites does not cause or contribute sediment to the stream. Georgia's General Storm Water Permit can be considered a water quality-based permit in that the numeric limits in the permit, if met, will not cause a water quality problem.

See 2007 TMDL at 83, 2017 TMDL at 53.

Thus, at the critical intersection underlying this case, the TMDLs include an express, available wasteload allocation to future construction sites, and that wasteload is achieved when construction stormwater discharges meet the requirements of the 2023 General Permits. *See* 2007 TMDL at 83, A-57; 2017 TMDL at 53, A-2. Consequently, as addressed below in Section II, EPD's issuance of the 2023 General Permits is fully consistent with all Clean Water Act and Georgia Water Quality Control Act water quality-related requirements for permitting discharges to waters subject to sediment TMDLs. Consequently, SRWA's challenge to the 2023 General Permits lacks support in law and fact and should be rejected.

I. SRWA's petition seeks to impose extraordinary costs on Georgia in exchange for insignificant environmental benefits.

Based on a fundamental misunderstanding of EPD's sediment TMDLs and the 2023 General Permits, SRWA's Amended Petition implicitly seeks to impose a moratorium on construction in or near sediment-impaired watersheds in Georgia. If SRWA is successful, this would risk the end of construction in or near over 3,500 stream miles in the State, many of which are concentrated in the metro-Atlanta area. *See* 2022 Surface Water Designated Uses Map, *infra*.

And in exchange for this draconian measure, what corresponding environmental benefit does SRWA hope to achieve? Virtually none. This is because SRWA seeks to halt *current* and *future* construction throughout much of Georgia to address stream impairment created by “*legacy*” sediment (2007 TMDL at v, 2017 TMDL at viii).

According to EPD, legacy sediment “is soil that was eroded from upland areas after the arrival of early settlers and over the centuries of intensive land uses.” Truszczynski Aff., ¶ 36. The legacy sediment will continue to exist until the stream slowly assimilates it over time, which Intrenchment Creek and South River will do if new construction in Georgia complies with the 2023 General Permits. *See* 2007 TMDL at v-vi, 2017 TMDL at viii, Truszczynski Aff., ¶ 36. SRWA’s desire to curb current construction will not affect the legacy sediment assimilation timing.

A. SRWA seeks a long-term construction moratorium in or near streams subject to a sediment TMDL with numeric load and wasteload allocations that appear fully allocated.

SRWA’s Amended Petition alleges that “[t]he general permits must clarify that coverage is not authorized for stormwater discharges into biota-impaired streams with no remaining wasteload allocation for sediment.” Am. Pet., ¶ 54. SRWA’s flawed logic, however, would entail a much broader permitting prohibition: *regardless of permit type*, SRWA’s reasoning would not allow for any sediment to be discharged into a sediment-impaired stream if the TMDL for that stream reflects a fully allocated numeric sediment load and wasteload. All construction projects, even with properly installed BMPs, allow some limited amount of sediment laden stormwater to lawfully leave the site. *See* 40 C.F.R. § 450.21 (requiring BMPs to be used to “*minimize* the discharge of pollutants”). With that fact in mind, SRWA’s Amended Petition must be seen for what it is—a request for an EPD permitting moratorium. Put another way, unless EPD requires a construction

project to guarantee that it will have no off-site stormwater discharges (a virtual impossibility³), SRWA's argument would prohibit EPD from issuing *any* permit (general, individual, or other) for construction in a sediment-impaired watershed with a TMDL for which the numeric load and wasteload allocations appear fully allocated.

SRWA's current and limited focus on the 2023 General Permits is therefore misleading because SRWA's logic leads inexorably to the flawed conclusion that no new construction can occur in or near sediment-impaired streams. As a result, EPD would seemingly be left without the ability to authorize construction in these areas for some indefinite period of time (likely tens, perhaps hundreds of years) until a stream can assimilate the necessary amount of legacy sediment or until EPD completes the time-consuming process of reopening long-established sediment TMDLs to reallocate numeric load and wasteload allocations on a TMDL-by-TMDL basis to provide a numeric wasteload allocation to individual construction projects in the State. Such delay would bring construction, including critically needed infrastructure projects, to a standstill while awaiting permit approvals, which could severely impact Georgia's ability to operate a healthy economy.

³ While certain zero liquid discharge treatment technology exists and has been tested on wastewater (as opposed to stormwater), the treatment systems are somewhat of a misnomer given that they are generally designed to recover approximately 95% of liquid leaving a site. According to SRWA's argument, EPD could not issue a permit to a site with such treatment technology because 5% of sediment containing stormwater would still leave the site. In addition, even assuming that zero liquid discharge could be effective for stormwater—a current unknown—at a vast majority of construction sites in Georgia, zero liquid discharge treatment technology would be cost prohibitive, physically impossible to install, or both.

B. Even if it were a viable option under SRWA’s arguments, a requirement for all construction projects within watersheds with a sediment TMDL to obtain an individual construction stormwater permit would overwhelm EPD and paralyze construction in Georgia.

As discussed above, the logical conclusion of SRWA’s argument is that EPD is seemingly prohibited from permitting discharges into sediment impaired streams with numeric wasteload allocations that appear to be fully allocated to existing dischargers. However, in a recently brought and then voluntarily dismissed similar challenge, SRWA argued that a discharge into a sediment impaired stream with a fully allocated wasteload could be permitted under an individual (instead of a general) construction stormwater permit from EPD.⁴ If SRWA were to argue the same here, such individual project permitting could be considered a solution in name only.

EPD, like EPA and other delegated states, regulates construction stormwater discharges under general permits. Legally, there is no question that EPD has the authority to issue general permits to cover discharges from a storm water point source into waters of the State. *See* O.C.G.A. § 12-5-30(a); Ga. Comp. R. & Regs. 391-3-6-.16(3)(c). And factually, EPD chooses to issue general permits to regulate stormwater discharges from construction sites for several reasons, including “because the construction activities and construction sites are materially similar in both the types of pollutants that may be discharged via stormwater and the management practices that are best suited to control those pollutants.” *See* Truszczynski Aff. at ¶ 10.

The sheer volume of construction projects makes a general construction stormwater permit a necessity. At any given time, “there are *tens of thousands* of construction stormwater general permittees in the State of Georgia.” *Truszczynski Aff.*, ¶ 10 (emphasis added). Under the current general permitting scheme, a prospective permittee fills out and submits a Notice of Intent and has a licensed or certified professional prepare and submit an Erosion, Sedimentation and Pollution

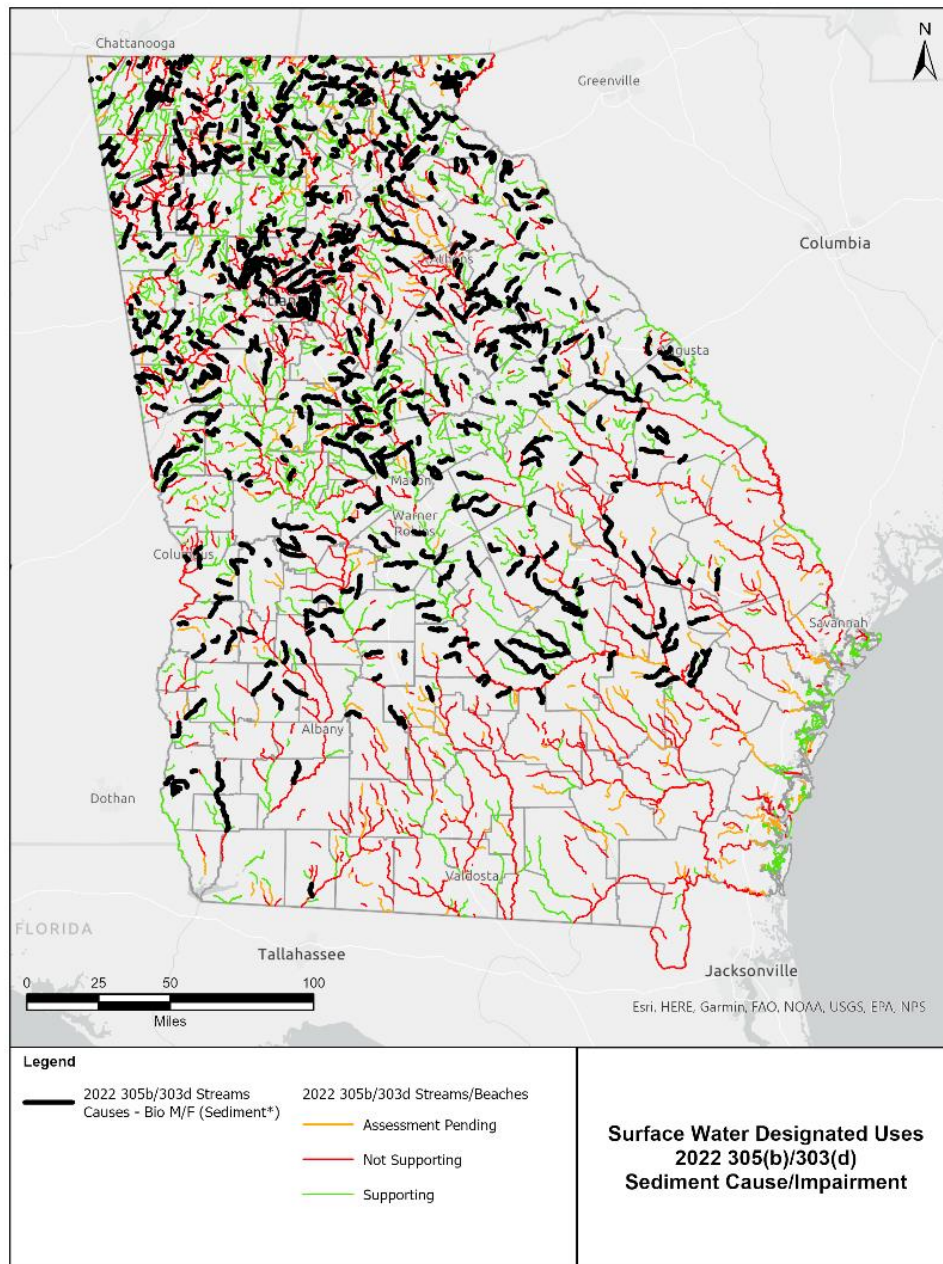
⁴ *See SRWA v. Dunn, et. al.*, 2326288-OSAH-BNR-WQC-44-Howells (Ga. OSAH 2023).

Control Plan (the “Erosion Control Plan”) to EPD. The Erosion Control Plan is customized to each project and to the site’s features to ensure that the project will meet the general permit’s requirements which, in turn, will meet the allocations provided in the 2007 and 2017 TMDLs. After a prescribed 14-day review period expires, a permittee may commence construction activities unless EPD has not notified the permittee otherwise. *See* GAR 100001, Part I(D)2; GAR100002 Part I(D)2; GAR100003 Part I(D)2.

Because of the exacting requirements surrounding the design of the Erosion Control Plan, a considerable portion of the 2023 General Permitting scheme is self-implementing. Both the permittee and the licensed design professional certify under penalty of law that the Erosion Control Plan complies with applicable requirements. EPD’s time and resource investment in the general permitting process where it is managing thousands of permits at a time is therefore considerably less than in other individual permitting contexts.

If EPD was instead required to issue individual permits in cases where the discharge would be to a sediment impaired stream for which the TMDL’s numeric wasteload allocation appears fully allocated, the increase in workload would likely cripple EPD and grind construction in Georgia to a halt. For illustration, the bold black lines on the map below show approximately 3,559 miles of sediment impaired streams in Georgia, many of which are concentrated in developed areas that have the infrastructure necessary to support industry and development.⁵ If EPD were to change its permitting framework for these streams, the consequences would be severe not only to EPD but to Georgia’s economy.

⁵ *See generally*, data derived from <https://epd.georgia.gov/https%3A/epd.georgia.gov/assessment/water-quality-georgia>.



For example, it currently takes the regulated community between a few weeks (for relatively smaller projects) and four to five months (for relatively larger projects) to develop a Notice of Intent and Erosion Control Plan to obtain coverage under a general permit. Once 14 days elapse from the submission of the Notice of Intent, the permittee may commence work,

assuming no comments from EPD. In contrast, based on Amici’s vast involvement with permitting in Georgia, Amici estimate that if EPD were to issue individual construction stormwater permits instead of the 2023 General Permits, the permitting process would take between several months and possibly a year or longer *from the submission of applications to EPD*. And that time estimate assumes that EPD has the staff to process and issue the individual permits, meaning that a requirement that these projects obtain individual permits would result in, at best, untenable project planning (including for critical infrastructure) and unpredictable financing for projects, leading to volatile project viability. At worst, an individual permitting requirement for these projects would result in a potentially *interminable* delay on construction projects in much of the State. Neither the regulated community nor the Georgia economy can withstand potentially endless permitting timelines—as opposed to 14-days—to begin construction.

C. The relief sought in SRWA’s petition will not benefit the environment or the waterways at issue.

SRWA’s Amended Petition alleges that the EPD Director erred in myriad ways related to the reissuance of the 2023 General Permits, but neither the Amended Petition nor SRWA’s briefing proposes how EPD can address the alleged errors in a way that will benefit the environment. This is because the 2023 General Permits—requiring BMPs that are “no less stringent than those practices contained in the ‘Manual for Erosion and Sediment Control in Georgia’” (2023 General Permit at I(B)(1))—contain rigorous requirements for controlling sediment laden stormwater.

The BMPs EPD requires by reference to the Sediment Control Manual are not a smattering of cobbled-together window dressings as SRWA would like this Court to believe.⁶ The Sediment

⁶ Both the Sediment Control Manual and the 2023 General Permits require that site-specific BMPs must be prepared by a “design professional licensed by the State of Georgia” or “a person that is a Certified Professional in Erosion and Sedimentation Control.” Erosion Manual at 3-4; general permit at Part 1(B)(9), Part IV. That is, the people tasked with designing site-specific BMPs for

Control Manual was prepared by the Georgia Soil and Water Conservation Commission (the “Commission”) with assistance from both governmental, industry, and environmental groups, and was financed, in part, through a grant from EPA. The 2016 Edition of the Sediment Control Manual was “revised with a *focus on erosion control*” (emphasis added). Sediment Control Manual at v. In addition, the 2016 Edition incorporates “newly researched practices . . . to expand on the traditional erosion and sediment control practices. . . .” *Id.*

The Sediment Control Manual went through public notice and comment, a public meeting was held to discuss the Manual, and the Commission provided a response to comments. In total, the Erosion Manual is 411 pages, and contains state of the art stormwater, sediment, and erosion data, analysis of the same, and requirements on how to choose appropriate BMPs for a site based on the location and characteristics of the site. It is, in all respects, a robust piece of scientific and engineering literature. As a result, the BMPs outlined in the Sediment Control Manual are based on hard science, facts, analyses, and real-world examples compiled by scientific and engineering leaders in the stormwater field.

D. The 2023 General Permits require heightened BMPs for discharges to sediment impaired streams.

SRWA alleges that the EPD Director erred because the 2023 General Permits do not “distinguish between discharges into impaired streams with enough remaining pollutant load allocation . . . and discharges into impaired streams that don’t have remaining pollutant load allocations.” *See* Am. Pet. at ¶ 54. Specifically, SRWA asserts, “[t]he general permits must clarify that coverage is not authorized for stormwater discharges into sediment-impaired streams with no remaining wasteload allocation for sediment.” *See id.* These arguments are baseless for two

construction in Georgia must be certified or licensed by the State and must be well versed in the Sediment Control Manual.

reasons. First, as discussed in Section II, the TMDLs expressly provide available wasteload allocation for the construction stormwater discharges that the 2023 General Permits would authorize. Second, EPD recognizes a precedent distinction between discharges into impaired streams and discharges into non-impaired streams. If a permittee will be discharging into an impaired stream, it is subject to more stringent BMPs regardless of the “remaining pollutant load allocation.”⁷

Put simply, the 2023 General Permits already require more from permittees discharging into *any* impaired streams regardless of TMDL allocation status, a more inclusive grouping than those on which SRWA is focused. If a permittee will be discharging into or “within one mile upstream of and within the same watershed as” a sediment impaired stream, the permittee’s Erosion Control Plan “must” include at least four enhanced BMPs from a list of 21 and these enhanced BMPs include a menu of some of the most effective BMPs designed to further mitigate erosion and sediment transport.⁸ *See* Permit at Part III. Because EPD requires these more stringent BMPs for any discharge into a sediment impaired stream or within one mile upstream of, and within the same watershed as, an impaired stream (even if, according to SRWA’s logic, the TMDL

⁷ As discussed below, there are no sediment TMDLs without a remaining wasteload allocation if a permittee is discharging in compliance with the 2023 General Permits.

⁸ Example BMPs in the 2023 general construction discharge permit (Part III(C)2(a)-(u)) include, but are not limited to, (i) increasing all temporary sediment basins and retrofitted stormwater management basins to provide sediment storage of at least 3600 cubic feet (134 cubic yards) per acre drained; (ii) using mulch filter berms, in addition to a silt fence, on the site perimeter wherever construction stormwater (including sheet flow) may be discharged; (iii) using flocculants or coagulants under a passive dosing method (e.g., flocculant blocks) within all construction stormwater ditches and storm drainages that feed into temporary sediment basins and retrofitted management basins; and (iv) Apply the appropriate compost blankets (minimum depth 1.5 inches) to protect soil surfaces until vegetation is established during the final stabilization phase of the construction activity.

has unallocated, numeric wasteload), EPD is protecting the impaired streams earlier in the process than SRWA's petition demands it should.

II. Because EPD included an express wasteload allocation for future construction projects in the sediment TMDLs, the 2023 General Permits satisfy all applicable permitting requirements for discharges to waters with TMDLs.

As noted above, EPD provided for future construction stormwater discharges in the TMDLs. The TMDLs expressly provide a wasteload allocation for future construction projects—the allocation is to “[m]eet requirements of General Storm Water Permit.” 2007 TMDL at 83, A-57; 2017 TMDL at 53, A-2. Because the terms of the 2023 General Permits SRWA now challenges are at least as strict as the construction stormwater general permits that were in effect at the time the TMDLs were promulgated, the 2023 General Permits are consistent with the TMDLs, and SRWA's arguments that more is required fail. *See* Truszczynski Aff., ¶¶ 18, 21, 24, 40, 44 (reflecting that EPD's approach to regulating construction stormwater discharges for sediment impaired streams has been consistent and consistently protective across this time period).

First, SRWA mistakenly relies on 40 C.F.R. § 122.4(i)'s restriction on discharging a pollutant into a water for which that water has a TMDL “unless ‘there are sufficient remaining pollutant load allocations to allow for the discharge.’” *See* SRWA Mot. for Summary Determination at p. 13. Here, because (1) the wasteload allocation for future construction projects that the TMDLs prescribe is to “meet requirements of [the] General Stormwater Permit” and (2) 2023 General Permits' terms for discharges to sediment impaired waters are at least as strict as the construction stormwater general permits that were in effect at the time the TMDLs were promulgated, the Permits fit *precisely* into the allocation provided for future construction projects.

Second, SRWA mistakenly relies on 40 C.F.R. 122.44's provision that NPDES permit limits be consistent with the “requirements of any available wasteload allocation.” *See* SRWA Mot. for Summary Determination at p. 14 (*citing* 40 C.F.R. § 122.44(d)(1)(vii)(B)). Again because

(1) the wasteload allocation for future construction projects that the TMDLs prescribe is to “meet requirements of [the] General Stormwater Permit” and (2) the terms of the 2023 General Permits for discharges to sediment impaired waters are at least as strict as the construction stormwater general permits that were in effect at the time the TMDLs were promulgated, the Permits are *exactly* “consistent with the . . . requirements of [the] available wasteload allocation.”

Third, SRWA suggests that two Clean Water Act statutory provisions stand for the proposition that “NPDES permits must include terms to ensure the discharge won’t cause or contribute to violating the applicable water standards.” *See* SRWA Mot. for Summary Determination at p. 15 (*citing* 33 U.S.C. §§ 1311(b)(1)(C), 1342(a)(2)). Section 1311(b)(1)(C) provides that, at this point in time, “limitations . . . to meet water quality standards . . . or required to implement any applicable water quality standard . . .” “shall be achieved.” And Section 1342(a)(2) provides that permits are to require and ensure compliance with those limitations. To implement these requirements, a Clean Water Act regulation on which SRWA purports to rely provides that “[n]o permit may be issued . . . to a new source or a new discharger if the discharge from its construction . . . will cause or contribute to the violation of water quality standards” “*unless* there are ‘sufficient remaining pollutant load allocations’” *See* 40 C.F.R. § 122.4(i) (emphasis added); SRWA Mot. for Summary Determination at pp. 13-14.⁹ As noted above, the 2023 General Permits fit *precisely* into the allocation provided for future construction projects.

⁹ In a case cited by SRWA, the Ninth Circuit notes that 40 C.F.R. § 122.4(i) provides an exception to the prohibition on new discharges causing or contributing to a violation of water quality where “there are sufficient remaining pollutant load allocations” *See Friends of Pinto Creek v. EPA*, 504 F.3d 1007, 1012 (9th Cir. 2007) (“The regulation provides for an exception where a TMDL has been performed”). The other criterion for the exception is that existing dischargers be “subject to compliance schedules to bring the segment into compliance with applicable water quality standards. 40 C.F.R. § 122.4(i)(2). That criterion is not relevant here, including because the South River and Intrenchment Creek TMDLs that SRWA uses as the basis of its argument do not require reductions from existing dischargers.

Fourth and finally, nothing about SRWA’s citations to the Georgia Water Quality Control Act or its implementing regulations is to the contrary. Like the Clean Water Act’s statutory language, the Georgia Water Quality Control Act provides that EPD “may . . . issue a permit which authorizes . . . [a] discharge, upon condition that such discharge meets or will meet . . . all water quality standards, effluent limitations, and all other requirements established” *See* O.C.G.A. 12-5-30(a). Accordingly, Ga. Comp. R. & Regs. 391-3-6-.16(8)(a)(6) provides that no stormwater permit will be issued “to a facility . . . if the discharge from the construction . . . of the facility will cause or contribute to the violation of water quality standards, *except in accordance with Federal Regulations, 40 C.F.R. § 122.4(i)*” (emphasis added). As discussed above, 40 C.F.R. § 122.4(i) allows discharges where—as here—there are sufficient allocations available under a TMDL. Thus, the 2023 General Permits satisfy all statutory and regulatory provisions on which SRWA attempts to rely.

In an attempt to avoid this clear result, SRWA twists itself into knots trying to derive a number that corresponds to the non-numeric wasteload allocation EPD established for construction stormwater—the requirement to “meet requirements of [the] General Stormwater Permit.” *See, e.g.*, SRWA Mot. for Summary Determination at pp. 8-11, 13; SRWA Resp. to EPD Mot. at pp. 4-7. SRWA then attempts to argue that, whatever that corresponding number is, the 2023 General Permits are unlawful because the sediment in the discharges that the Permits would authorize exceed that number. *See, e.g.*, SRWA Mot. for Summary Determination at pp. 15-18.

But even if SRWA’s math is accurate, it is entirely irrelevant because EPD permissibly established a *non-numeric* wasteload allocation for future construction projects. *See* Protocol for Developing Sediment TMDLs, U.S. EPA, 1st Ed. At 7-1 (Oct. 1999) (“[S]ediment TMDLs should clearly provide for allocations by source of maximum allowance loads, needed load reductions,

or, in some cases source control actions . . .”) (emphasis added); *id.* at 7-4 (“A related allocation approach identified in detail the practices to be implemented to address specific sources of concern The rationale could be based on the professional judgment of resource experts involved in TMDL and implementation planning [or] . . . literature and agency guidance that provides estimates of *BMP* and restoration effectiveness in sediment control.”) (emphasis added). The appropriateness of EPD’s non-numeric wasteload allocations for construct projects is underscored by the fact that, in accordance with law, limitations imposed on construction project stormwater discharges are primarily BMPs, i.e., *non-numeric* source control practices. *See* Respondent’s Mot. to Dismiss and Mot. for Summary Determination at 7-8; Truszczynski Aff., ¶ 22.

Therefore, any SRWA arguments (math-based or otherwise) concerning the protectiveness of the TMDLs’ non-numeric wasteload allocation to construction stormwater discharges cannot be understood to be arguments directed at the 2023 General Permits.¹⁰ Instead, these arguments are an impermissibly late collateral attack on EPD’s long-established and EPA-approved TMDLs. Thus, SRWA’s arguments are irrelevant and do not detract from the fact that the 2023 General Permits are entirely consistent with and supported by the TMDLs and satisfy all applicable requirements for permits authorizing discharges into waters for which a TMDL has been promulgated.

III. SRWA’s Amended Petition is an impermissible, untimely collateral attack on the 2007 and 2017 TMDLs that would inject uncertainty and instability to Georgia’s environmental protection strategy.

Although SRWA makes a variety of assertions, SRWA’s fundamental argument seems to be that—even though the construction activities allowed by the 2023 General Permits are

¹⁰ As Responded EPD’s briefing establishes, the TMDLs and 2023 General Permits are protective of water quality.

consistent with and provided for in the 2007 and 2017 TMDLs (2007 TMDL at 83, 2017 TMDL at 53)—the 2023 General Permits and, by extension, the 2007 and 2017 TMDLs do not protect Georgia’s waters in the way that SRWA would like. To be successful in that argument, SRWA must convince this Court that EPD erred in promulgating all past sediment TMDLs, including the 2007 and 2017 TMDLs, that explicitly account for construction projects that discharge stormwater to impaired streams in accordance with applicable general permits. More to the point: SRWA’s current attack on the 2023 General Permits is, in truth, a thinly veiled collateral attack on EPD’s established sediment TMDLs.

A. SRWA’s collateral attacks on previously promulgated TMDLs are precluded as matter of law.

SWRA’s collateral attack fails due to both untimeliness and a failure to meet the prerequisites of Georgia’s Administrative Procedure Act. As to timeliness, O.C.G.A. § 12-2-2(c)(2) provides, in relevant part, that any person who is “aggrieved or adversely affected” by an order or action of the director “shall, upon petition *within 30 days* after the issuance of such order or the taking of such action,” have a right to a hearing before an administrative law judge. *See also* O.C.G.A. § 50-13-19(b) (“Proceedings for review are instituted by filing a petition *within 30 days* after the service of the final decision of the agency or, if a rehearing is requested, within 30 days after the decision thereon.”). “A failure to file within the thirty days allowed by [O.C.G.A. § 12-2-2(c)(2)] is a jurisdictional bar to any such review.” *In Re: Brenau Lake Dam*, DNR-EPD-DS-AH 1-92, 1992 WL 170512, at *1 (July 1, 1992).

Because EPD’s promulgation of the 2007 and 2017 TMDLs was “an order or action of the Director,” SRWA’s attempt to challenge the substance of the TMDLs, and specifically the non-numeric wasteload allocated to future construction projects, in this 2023 action is approximately six and sixteen years past the statutory 30-day deadline. *See* O.C.G.A. §§ 12-2-2 and 50-13-19.

Accordingly, because SRWA cannot collaterally attack the TMDLs in this case, SWRA's claims should be dismissed. *See In Re: Brenau Lake Dam*, DNR-EPD-DS-AH 1-92, 1992 WL 170512, at *2 (July 1, 1992) ("As the petition for review in this matter was filed more than thirty days after the Director's reclassification of Brenau Lake Dam, an ALJ has no authority to review the reclassification."); *Sierra Club v. Georgia Power Co.*, 443 F.3d 1346, 1356, n.15 (11th Cir. 2006) ("At the time the Plant Wansley permit was considered, Georgia Power had the opportunity to object to the SSM condition in the permit through the Georgia administrative process. . . Georgia Power can no longer attack the permit for being too strict. Thus, Sierra Club is correct that Georgia Power may not collaterally attack its permit in this lawsuit.") (citations omitted).

Even if SRWA's collateral attack on the TMDLs was not untimely, this attack would still be barred because SWRA failed to exhaust its administrative remedies to challenge the 2007 and 2017 TMDLs. Georgia's Administrative Procedure Act restricts the persons who can challenge a final agency action to "[a]ny person who has exhausted all administrative remedies available within the agency." *See* O.C.G.A. § 50-13-19 (a) and (b). "Challenges to a [final agency action] must be made in the administrative process resulting in the [action]." *See Sierra Club v. Ga. Power Co.*, 365 F. Supp. 2d 1287, 1291 (N.D. Ga. 2004). Thus, it is longstanding Georgia law that the failure to administratively challenge an agency action directly generally precludes review of the agency action in subsequent contexts. *See Dunn et. al. v. City of Stonecrest et. al.* 890 S.E.2d 781 (2023) (holding that a party "was required to exhaust its administrative remedies before bringing this declaratory judgment action against EPD and Dunn. Its failure to do so deprived the trial court of jurisdiction over the claim.").¹¹

¹¹ *Ga. Dep't of Cmty. Health v. Ga. Soc'y of Ambulatory Surgery Ctrs.*, 290 Ga. 628, 629 (2012) ("Long-standing Georgia law requires that a party aggrieved by a state agency's decision must raise all issues before that agency and exhaust available administrative remedies before seeking

Here, EPD issued the TMDLs after a lengthy and thorough process, including EPD's development of the TMDLs (frequently through water quality modeling to establish allowable pollutant loadings); issuance of a draft TMDL for public comment; EPD's review and response to public comments; submittal of a final TMDL for EPA review and approval; and issuance of an EPA approval letter. *See* 40 CFR § 130.7.¹² Both the 2007 and 2017 TMDLs were developed following this demanding process and were then approved by EPA. *See* *Truszczynski Aff.* ¶ 28. SRWA did not participate in the public comment period for either the 2007 or the 2017 TMDL, nor did SRWA challenge either TMDL within the relevant prescribed period.¹³ Thus, SRWA's failure to exhaust the administrative challenge opportunity at the time of the final action promulgating the 2007 and 2017 TMDLs precludes SWRA from collaterally attacking the TMDLs in this action. Therefore, SRWA's claims should be dismissed.

B. SRWA's untimely attacks on EPD's TMDLs would inject uncertainty into established final actions of EPD.

Georgia prides itself on having an unmatched business environment known for its quality of life and access to global markets. On account of this, Georgia is home to eighteen headquarters

any judicial review of the agency's decision.”); *Ga. Power Co. v. Cazier*, 303 Ga. 820, 823 (2018) (“Indeed, exhaustion is the usual rule whenever one aggrieved by an administrative decision seeks judicial relief of any sort from that decision, whether under the [Administrative Procedure Act] or in the form of an equitable remedy, an extraordinary remedy, or a declaratory judgment[.]”) (citations and punctuation omitted); *Sierra Club*, 365 F. Supp. 2d at 1291 (citing *Palumbo v. Waste Techs., Indus.*, 989 F.2d 156 (4th Cir. 1993) (holding that plaintiff cannot collaterally attack an agency decision when it failed to appeal the decision through administrative procedures)).

¹² *See also* <https://epd.georgia.gov/watershed-protection-branch/watershed-planning-and-monitoring-program/total-maximum-daily-loadings>.

¹³ In the timeframe since the 2007 TMDL was issued, the General Permits were re-issued three times: in 2008, 2013, and 2018. While all three historical iterations of the General Permits incorporated the TMDLs, SRWA challenged none of these General Permit issuances.

for Fortune 500 companies and 32 headquarters for Fortune 1000 companies.¹⁴ Georgia's thriving economy, of which Amici are essential components, provides income and stability to Georgia's citizens.

The State's successful economy is built, in part, on a foundation of established, dependable, and transparent environmental regulations that protect Georgia's natural resources. Specifically, Amici rely on Georgia's environmental regulations for consistency and to govern construction and operational activities. These practical realities underscore why Georgia law bars untimely challenges to final agency actions. SRWA is attempting to unravel a vetted, noticed, and verified process under which the TMDLs were developed years prior to this challenge. Here, the Amici regularly use the 2018 General Permits for construction projects across Georgia, and Amici anticipate relying on the 2023 General Permit for future development. The General Permit provides consistency and regularity to industry, which aids in compliance and ensures EPD's environmental protectiveness standards are met.

Should SRWA be allowed to reach back in time in this permit challenge to attack TMDLs issued years ago, reliance on historical EPD actions would be upended. The resulting precedent would encourage other potential litigants to pursue challenges to reopen decades old decisions of EPD that various stakeholders and regulators rely on. Petitioners like SRWA might then be able to routinely circumvent the requirements of Georgia's Administrative Procedure Act intended to limit the time and manner in which a final agency action may be challenged. *See* O.C.G.A. § 50-13-19(a). Allowing such uncertainty to percolate into EPD's decision making and permitting would undermine the reliability of the Agency's decisions and would significantly undercut the statutory protections provided by the Administrative Procedure Act. Just to begin with, such precedent could

¹⁴ Georgia Industry: Headquarters: <https://www.georgia.org/industries/headquarters>

extend far beyond sediment TMDLs and construction stormwater permitting, potentially opening the door for challengers to all manner of individual permits to assert collateral attacks against longstanding TMDLs on which those permits would otherwise be based.

Notably, Georgia’s boarder states—Alabama, South Carolina, Florida, North Carolina, and Tennessee—all offer environmental laws providing protection, predictability, and reliability, including general stormwater construction permits for projects on impaired streams.¹⁵ If SRWA’s petition is successful, business and industry may choose to relocate projects out of Georgia and into neighboring states that do offer a general permit for construction in or near impaired streams. Additionally, while infrastructure projects cannot seek refuge in a neighboring state, Georgia’s infrastructure could fall behind its sister states where the permitting process and associated uncertainties cause significant delays.

Accordingly, allowing SRWA’s claims to proceed now would be contrary to established Georgia law, inject uncertainty into Georgia’s other permitting schemes by opening final decisions

¹⁵ Alabama Permitting Guidance located at <https://adem.alabama.gov/programs/water/constructionstormwater.cnt>, accessed on October 16, 2023 (advising of procedures to submit a Notice of Intent or NOI to obtain coverage under Alabama’s general stormwater construction permit for discharges to impaired streams); South Carolina general construction stormwater permit located at https://scdhec.gov/sites/default/files/media/document/BOW_NPDESStormwaterDischargesGP_01292021_0.pdf, accessed on October 16, 2023 (Section 3.2.12.B, advising that stormwater discharges into impaired streams cannot cause or contribute to exceedances of the state water quality standards); Florida general construction stormwater permit located at https://floridadep.gov/sites/default/files/Construction_Generic_Permit_0.pdf (Section 1.5.1 authorizing discharges that do not “cause or contribute to a violation of surface water quality standards.”); North Carolina general construction stormwater permit located at https://files.nc.gov/ncdeq/Energy%20Mineral%20and%20Land%20Resources/Stormwater/NCG010000_Final_Permit_2019_04_01.pdf (Section C, Table 6 advising that if the receiving stream is impaired, then the permittee may need to apply “more stringent practices” to meet applicable federal or state standards); Tennessee general construction stormwater permit located at: <https://tnepsc.org/tnr100000.pdf> (Section 5.4.1. Allowing discharges into impaired streams if BMPs are installed).

to retroactive challenges, and otherwise upend the interests of Georgia's vital industries. Accordingly, Amici support EPD in requesting that this Court dismiss or in the alternative, summarily deny SRWA's claims.

CONCLUSION

For the foregoing reasons, Amici respectfully request that this Court dismiss, or in the alternative, summarily deny SRWA's claims.

Respectfully submitted this 20th day of October 2023,

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CERTIFICATE OF SERVICE

I hereby certify that I have on this day electronically filed and served a true and correct copy of AMICI CURIAE BRIEF IN SUPPORT OF THE RESPONDENT’S MOTION TO DISMISS AND MOTION FOR SUMMARY DETERMINATION by delivering a true and correct copy of same by U.S. mail and electronic mail as follows:

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Cited authority as required by Ga Comp. R. & Regs. r. 616-1-2-.05

1992 WL 170512 (Ga.Bd.Nat.Res.)

Board of Natural Resources

State of Georgia

IN RE: BRENAU LAKE DAM

Record No. DNR-EPD-DS-AH 1-92

July 1, 1992

FINAL DECISION

ORDER ON MOTION TO DISMISS

I.

Summary of Decision

*1 This matter involves a request to review the Director's reclassification of Brenau Lake Dam from Category II to Category I. Having received a notice of the reclassification dated February 24, 1992, Pearce Associates, Ltd., (Pearce) an entity the Director alleges either owns or operates the dam, filed a petition for administrative review of the reclassification on April 13, 1992. Alleging that Pearce failed to file its petition for hearing within the 30 day time period allowed by [O.C.G.A. § 12-2-2\(c\)\(2\)](#) (Section 2(c)(2)),¹ the Director has moved to dismiss this matter. For the reasons stated below, the motion is GRANTED.

Section 2(c)(2) provides, in relevant part, that:

“Any person who is aggrieved or adversely affected by an order or action of the director shall, upon petition within 30 days after the issuance of such order or the taking of such action, have a right to a hearing before an administrative law judge appointed by the Board of Natural Resources....”

Thus, when the Director takes an action such as the reclassification of a dam, persons aggrieved or adversely affected by that action have thirty days to file a petition for administrative review. Moreover, a failure to file within the thirty days allowed by Section 2(c)(2) is a jurisdictional bar to any such review. In re: Warchak, DNR-EPD-SW-AH 1-87 (Final Decision, July 23, 1987). See [Jordan v. Caldwell](#), 229 Ga. 343, 344 (1972); [White v. White](#), 188 Ga.App. 556 (1988). Since Pearce failed to file its petition for review within the thirty day period provided by Section 2(c)(2), I have no authority to review the Director's action and this matter must be dismissed.

II.

Findings of Fact

1.

The Director's reclassification notice for Brenau Lake Dam was issued and mailed to Pearce by certified mail on February 24, 1992, and received by Pearce on February 27, 1992. Fiegle Aff. at ¶¶ 3 and 4; Reheis Aff. at ¶ 3.

2.

Pearce's petition for review was dated April 13, 1992, postmarked April 14, 1992, and received by the Administrative Hearing Clerk on April 16, 1992.

3.

While in late February or early March the Director may have told counsel for Pearce that Pearce had “plenty of time” to request review, Lawson Aff. at ¶s 2 and 4, the Director did not agree, promise or otherwise indicate that Section 2(c)(2)'s thirty day time limit would be extended. Reheis Aff. at ¶ 4.²

III.

Conclusions of Law

1.

Any petition for administrative review of the Director's reclassification of Brenau Lake Dam must be filed within thirty days of the reclassification. [O.C.G.A. § 12-2-2\(c\)\(2\)](#). See [O.C.G.A. § 12-5-380](#).

2.

Pearce's petition for review was not filed within thirty days of the Director's reclassification of Brenau Lake Dam.

3.

A Board of Natural Resource's Administrative Law Judge (ALJ) is without authority to review an action of the Director if the petition for review is not filed within the thirty day time period allowed by Section 2(c)(2). In re: Warchak, DNR-EPD-SW-AH 1-87 (Final Decision, July 23, 1987). See [Jordan v. Caldwell](#), 229 Ga. 343, 344 (1972); [White v. White](#), 188 Ga.App. 556 (1988).

4.

*2 As the petition for review in this matter was filed more than thirty days after the Director's reclassification of Brenau Lake Dam, an ALJ has no authority to review the reclassification. Id.

5.

[O.C.G.A. § 9-10-150](#), which provides for continuances of judicial matters under certain circumstances, has no applicability to a failure to file for administrative review within the thirty day filing period provided by Section 2(c)(2).

IV.

Conclusion

As an ALJ has no authority to hear this matter, the Director's motion to dismiss is GRANTED and this matter is DISMISSED.

This 1st day of July, 1992.

MARK A. DICKERSON
Administrative Law Judge

Footnotes

- 1 The Director's motion also relies on [O.C.G.A. § 12-5-380](#). This Code Section incorporates the provisions of Section 2(c)(2) by reference.
- 2 While this issue need not now be decided, it is not apparent that the Director has any authority to extend Section 2(c)(2)'s thirty day filing period.

1992 WL 170512 (Ga.Bd.Nat.Res.)

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