Surface Water/Common Law Action: Pulaski County, Arkansas Circuit Court Lawsuit Filed Alleging Damages Due to White County Subdivision Development

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McElyea Properties, LLC ("MP") filed a March 4th Complaint in the Circuit Court of Pulaski County, Arkansas against Midark Houses, LLC ("Midark") alleging damages associated with the development of a subdivision. See 60CV-26-2944.

The damages are alleged to have occurred because Midark's activities developing the subdivision caused stormwater, sediment, mud, and silt to runoff directly into or around MP's property.

MP is stated to own a residence in real property in White County, Arkansas. Midark is alleged to have cleared and graded land required for the development of a subdivision and removed trees, natural soils, and plant life. It is alleged that Midark failed to control or contain the runoff of water, sediment, silt and mud caused by the development of the Subdivision and failed to maintain a silt fence or other erosion control measures. This is stated to have flooded MP's property with water, mud, silt and various contaminants. The development of the subdivision is alleged to have been performed in a way that changes the volume and course of the surface waters from its natural flow.

The Arkansas Department of Energy and Environment – Division of Environmental Quality ("ADEQ") is alleged to have conducted an evaluation of the subdivision and cited Midark for performing the development activities without the required permits and for placing the waste on MP's property. The state agency is stated to have directed Midark to obtain a construction stormwater, sediment, mud, and silt permit, establish and maintain a silt fence and other erosion control measures and cease and eliminate the discharge of waste and pollutants from the subdivision.

The Complaint alleges the following causes of action:

- Negligence.
- Private nuisance.

The Complaint alleges that MP has incurred costs in the amount of $33,660.40 to repair and remediate damages to its property.

A copy of the Complaint can be found here.