

Mobile Area Water & Sewer System (MAWSS)

News Advisory

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Judge Enters Final Order Granting Plains Southcap Right of Condemnation

The Board of Mobile Area Water and Sewer System (MAWSS) has agreed to a negotiated settlement with Plains Southcap, Inc. that resolves the condemnation issue between the two parties. Pursuant to the agreement, MAWSS will not appeal the Court's Final Order to the Alabama Supreme Court.

Plains sought to condemn an easement on property owned by MAWSS near Big Creek Lake to complete a crude oil pipeline from the Ten Mile Terminal in Eight Mile to the Pascagoula Plant. MAWSS vigorously opposed condemnation, citing the land's use to protect the community's drinking water supply. In December 2013, Circuit Court Judge Robert Smith ruled in Plains favor, saying that the Federal Pipeline Safety Act pre-empted any state or local objections and that the pipeline will not interfere with MAWSS' use of the property. A subsequent order issued January 9, ruled that MAWSS must allow Plains to take possession of the land. Judge Smith's final order includes the following decrees:

- The Court in its Final Order prohibits Plains or any other entity from transporting raw bitumen, which is the technical term for tar sands, through this pipeline. The Court also ordered that this pipeline will not be heated or insulated. This prohibition makes it impossible for Plains, or anyone, from transporting bituminous sands, also known as tar sand oil, by pipeline through the watershed.
- The Court also ordered that Plains must construct the pipeline on MAWSS' property by horizontal directional drilling.

MAWSS and Plains Southcap reached agreement on the following:

- Plains will pay MAWSS a total of \$2.7 million. MAWSS will use the funds towards capital projects to protect the water supply.
- Plains agrees to add MAWSS as an additional insured to its existing pollution insurance policies for the lifetime of the pipeline.
- Plains will put only one pipeline in the easement.

MAWSS Chair Maynard Odom admits the settlement was not the outcome MAWSS wanted, but is the best under the circumstances.

“Despite our hard fought opposition, the Court ruled in favor of Plains Southcap and allowed the condemnation of our land. Our attorneys advise that an appeal to the State Supreme Court of this ruling would be expensive and have little chance of success,” said Odom. “It was a difficult decision but our Board believes this settlement is in the best interest of our customers as it provides resources that can be used on capital projects to protect the watershed.”

Odom says MAWSS will shift its focus to changing the federal law that gave Plains its authority.

“MAWSS wants to thank the citizens for their support and asks their help in working with elected officials in Washington to amend the Federal Pipeline Safety Act to protect critical resources like Big Creek Lake which supplies drinking water to the region,” he said.

MAWSS supplies drinking water for an estimated 225,000 people in Mobile, Semmes, Prichard, Chickasaw, Mobile County and Spanish Fort in Baldwin County.

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