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Sewer lawsuit settled

▶ Mobile sewer system to spend \$60 million on repairs, and customers will foot the bill with a 25 percent rate increase over two years

By Bill Finch, Environmental Editor

The Mobile Area Water and Sewer System agreed Thursday to spend \$60 million over five years upgrading its treatment plants and pipes as a result of a lawsuit accusing the system of repeatedly violating federal law through massive sewage spills.

The environment's benefit will be at customers' expense: Sewer system officials say they'll pay for the upgrades with a 25 percent increase in waste water fees, phased in over two years.

The Thursday settlement, a consent decree announced by the U.S. Department of Justice in Washington, came after almost two years of negotiations resulting from a lawsuit brought by a local environmental group, then joined by state and federal agencies.

"This is a major step toward getting sewage out of our Bay, and it will revolutionize how water and sewer systems examine and limit their impact on the environment," said Casi Callaway, director of Mobile Baywatch, the group that commenced legal action in 1999.

Mobile Baywatch filed the initial intent to sue in late 1999, claiming that the sewer service violated the Clean Water Act more than 1,000 times over five years. The Baywatch action was later joined with suits filed separately by the U.S. Environmental Protection Agency and the Alabama Department of Environmental Management.

All parties said they were pleased with the settlement, which basically requires that the sewer system speed up major upgrades to prevent more spills. It also requires much more stringent monitoring and reporting of accidental sewage discharges, and penalties ranging from a few hundred to several thousand dollars for each spill.

Callaway and Malcolm Steeves, the sewer system's director, agreed that the settlement is likely to become a model that EPA will apply to other cities that have outdated systems and repeated problems with sewage overflows.

Steeves said the primary sticking point in the negotiations was "reaching an understanding of how fast" the improvements would be made. Water board officials said they were concerned with forcing current sewage users to pay for improvements that should have been made decades ago, and won't be completed for several years.

But board officials say that the terms of the settlement, which allow the system five years to finish the improvements, along with bond restructuring, should soften the monetary impact on water users.

"People are ready to pay to avoid the spills," Steeves said, noting recent customer surveys indicating that recent media coverage of spills had apparently lowered their tolerance for overflows and increased their willingness to pay for major overhauls.

The initial 15 percent increase will start showing up on water bills in February, and will amount to an additional two to three dollars on the average sewer bill, said Malcolm Steeves, director of the sewer system.

Steeves said Mobile's water and sewer rates will still be moderate compared with those in other Southern cities. For processing 7,840 gallons of sewage, Mobilians would pay \$26.33 this year, Steeves said, compared with \$30 or more in cities like Birmingham and Atlanta.

Steeves acknowledged that sewer systems in some older Southern cities, such as New Orleans, charge only about \$17 for the same service, but Steeves said that EPA is looking closely at inadequate sewer services in some of those cities, and their rates are likely to rise significantly.

Steeves and Callaway noted that the actual penalties involved in the settlement were quite small compared with similar settlements in other cities, and allowed most of the money to return to the community for water quality improvements.

The consent decree called for a little over \$100,000 in upfront penalties, which will be paid directly to state and federal authorities. But after the first year, penalties for individual spills, which can range up to \$6,000 a day for spills greater than 150,00 gallons, will go to local water quality and sewer upgrade programs.

Water board officials pointed out, for example, that the settlement sets up a \$2 million fund to help low-income families repair leaking sewage pipes on private property – a persistent issue for the sewer service. After January of 2003, half of all penalties assessed against the system will add to that fund. The other half will go to local water quality monitoring efforts.

In addition, the sewer service will be required to buy and preserve \$150,000 worth of land in the Dog River watershed, and an additional \$300,000 worth of land elsewhere in Mobile County. Mobile Baywatch will also receive a \$50,000 grant to establish a database for water quality monitoring.

Callaway said that the sewer system will be required to do extensive monitoring of 24 locations where rivers and sewers run together, and use tracer chemicals to ensure that the system doesn't have leaks.

"We're going to push for these settlement requirements to become standard form around Mobile Bay," said Callaway. "Mobile has long been the leader in this, and they should be, because they're the biggest system. But all the systems in Baldwin County, together their impact can be great, so we need to bring them all up to standards."

Last year, the Mobile Area Water and Sewer System reported sewage spills totaling several million gallons – most of that total was blamed on antiquated piping systems that couldn't handle Mobile's frequent torrential rains.

Sewer systems in Baldwin County also reported a number of major spills last year, but won't be covered under the settlement.

If Baldwin systems have violations like they did last summer, we don't want to sue anybody. But we will do what we have to do to get everybody up to speed, and that includes private systems," said Callaway. "Meeting ADEM's minimum standards are no longer acceptable in this community, after this consent decree has raised the bar."

Although faced with a considerable future expense, the Mobile system's fate was relatively mild compared with the outcome of a similar suit in Jefferson County. In that case the water and sewer board in Birmingham was told to spend \$1.2 billion on sewer repairs.