

INSIGHT

Dispute over sewer updates flows into court

Feds press for faster plan of action from Northeast Ohio Regional Sewer District

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The federal government has sued the Northeast Ohio Regional Sewer District, a move that escalates a disagreement over how quickly to replace outdated parts of the

district's sewer system.

The suit, filed Jan. 4 in U.S. District Court in Cleveland, is nominally over the sewer district's failure to agree to provide information requested by the U.S. Environmental Protection Agency. But the EPA and sewer district more broadly are at odds over

the pace at which to move forward with the elimination of untreated sewage that flows into Lake Erie and the rivers and streams that feed it following heavy storms.

Federal law requires sewer agencies to end these so-called combined sewer overflows, known as CSOs, which occur when the volume of sanitary waste and stormwater drainage running through a pipe exceeds the capacity of a sewer system to handle it.

Rebuilding parts of the sewer district's system in order to end the overflows is expected to cost \$2 billion, which would be paid through increases in sewer rates. The sewer district is in the midst of approving the first in a series of rate increases that will enable it to begin to issue bonds to pay for the plan.

A vote by the sewer board raising sewer rates by 47% or more, depending on the community, by 2011 is expected this Thursday, Jan. 18.

Sewer district officials want more time than the government is prepared to give to resolve the overflow problem so that the district can spread out the cost of the effort.

"We want to do it, but we want to do it over 30 years," said Erwin Odeal, the sewer district's executive director. "We can't bankrupt the community."

The EPA is pressing the agency to come up with a plan to stop the

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overflows within 20 years. Meeting the EPA timetable would require even higher rate increases.

The federal lawsuit seeks an injunction requiring the sewer district to comply with an EPA request for more information on how frequently its older sewers, which carry both storm water and sewage, send untreated waste into streams or Lake Erie.

"This is a precursor to more significant action," said William Schatz, the sewer district's general counsel. "We've been arguing back and forth for some time."

Cynthia Magnuson, a spokeswoman for the Justice Department in Washington, would not comment on the lawsuit. "The complaint has to speak for itself," she said.

That's one big sewer bill

Since 1994, it has been EPA policy to push municipalities or their sewer districts to develop long-range plans to end these over-

flows in order to meet the standards of the federal Clean Water Act. But while the EPA requires the sewer agencies to come up with and implement a long-term plan, it does not offer any federal money to assist in the cleanup.

As a result, the Northeast Ohio Regional Sewer District is grappling with how to pay for a solution to the combined sewer overflow problem as well as another \$2.6 billion in long-term improvements to its aging system.

The situation here is repeated across the country, mostly in the older cities of the Northeast and Midwest that built combined sewers for about 50 years, beginning in the early 1900s.

About 700 communities have combined sewers.

Last November, a "report card" issued by Sierra Legal, a Canadian nonprofit environmental law group, on the efforts of Lake Erie communities to stem the flow of sewage into the lake gave the

Northeast Ohio agency a "D+" for the overall quality of its sewage treatment and an "F" for the frequency of its CSOs. It said 5.77% of the total flow of wastewater into the system was discharged untreated through overflows.

Alexandra Dunn, general counsel for the National Association of Clean Water Agencies, a Washington, D.C., group whose members operate public wastewater treatment systems, said what is happening in Cleveland is not unusual.

Enforcers apply the pressure

"The federal enforcement authorities, while they are doing their jobs, have a very inflexible view of the requirements," Ms. Dunn said. "While the guidelines are flexible, when enforcement comes in, the nature of that beast is to want to put a model formula on top of every city and say, 'You can do this in 15 years, you can do this in 20.'"

"Federal enforcement has said 20

years is the longest (time period) you can have in the most stressed community out there," she said.

Ms. Dunn said it's common for the EPA to use what she called "a triggering event," such as the dispute over a failure to report information, to begin the legal process that would lead to a negotiated consent order to solve the overflow problem with a sewer district.

Ms. Dunn said while some communities, such as Chicago and Milwaukee, have succeeded in meeting the EPA guidelines, she understands why Cleveland is reluctant to commit to the increases in rates that it would take to meet the federal timeline.

"Northeast Ohio is fighting for time, fighting for a schedule that is fair and the ability to maintain control over their system," she said. "Some cities that signed these decrees have essentially handed the keys over to the enforcement authorities." ■

Realty One's change keeps firm's roots

Realty One Real Living has changed its name to Real Living Realty One to align its name with the Real Living brand of its Columbus-based corporate parent.

Barbara Reynolds, president of Real Living Realty One, said in a statement that the residential brokerage always would keep the Realty One part of its name because it will "always have a warm spot in our agents' hearts" and would honor Realty One's 50-year legacy in Northeast Ohio.

The company said it would change forms and contracts immediately and update its signage as it needs to be replaced. Columbus-based Real Living, then known as HER Realtors, bought Realty One in 2002 from Insignia Financial Group of New York.

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