



Jefferson County cities want more muscle for Storm Water Management Authority

Published: Thursday, September 30, 2010, 9:15 AM



Thomas Spencer -- The Birmingham News



Trussville Mayor Gene Melton is chairman of the Storm Water Management Authority.

The Jefferson County Storm Water Management Authority on Wednesday approved sending a plan to the U.S. Environmental Protection Agency that calls for strengthening local governments' enforcement of the Clean Water Act.

The proposal, approved by a council of mayors representing SWMA's 21 member cities, is in response to an EPA audit issued in July that found numerous deficiencies in the way local governments were carrying out their responsibilities to keep pollution from running into local waterways.

Underlying EPA's criticism was that local governments were relying on the Alabama Department of Environmental Management to carry out much of their stormwater enforcement and inspection activity. The EPA audit made clear it expects cities to police all sources of stormwater pollution in their jurisdictions.

"They want us to have the enforcement capabilities that are not in place now," said Trussville Mayor Gene Melton, who chairs SWMA.

If the cities fail to fix their system, they could face sanction from EPA. The cities have an Oct. 15 deadline to respond to the audit.

SWMA's membership does not include Jefferson County and the cities of Birmingham, Bessemer, Hoover, Fultondale and Adamsville, which operate their own stormwater programs and are dealing with EPA independently.

Cities hold permits to operate systems that control and collect rain water and send it into waterways. The permit requires that cities work to prevent pollution from flowing into the rivers. That includes pollution from industry, from muddy sediment running off construction sites, and from sanitary sewer leaks

Historically, ADEM claimed jurisdiction over construction sites of more than 1 acre and over all businesses and industries that hold permits to discharge into creeks and streams.

That stance was backed by business interests, which wanted to deal with a single authority over stormwater regulation.

But environmentalists have long complained that ADEM was understaffed and wasn't adequately policing sites. Cities, they argued, were required under the Clean Water Act to control erosion and pollution problems within their boundaries.

Despite EPA's instructions to beef up pollution prevention, Joel Gilbert, an attorney representing the coalition of developers called the Business Alliance for Responsible Development, told the SWMA mayors that they need not accept EPA's critiques of the stormwater program as legal requirements.

"They are trying to push down a lot of things that are not required by law," Gilbert said. "Just because EPA is saying they want it, that doesn't mean it is required."

Melton said the changes SWMA is proposing will go through a rule-making process that will include public hearings.

Aside from creating a system for municipal enforcement and fines for addressing pollution problems, changes to local stormwater ordinances will be required to meet EPA's standards.

After a model ordinance is created, municipalities will have to individually adopt the ordinances.

According to EPA, the new ordinances will need to include post-construction plans to ensure that development projects don't increase the volume and velocity of water running onto neighboring properties and into the storm sewer system.

SWMA proposed to EPA that the new ordinances will be in place by next summer. Melton said he was confident the agency will be satisfied with SWMA's response.

"I think it is obvious from the audit that they are not going to drop the hammer and fine us," Melton said.
"They want to right the ship. Forget ADEM. EPA is telling you that the Clean Water Act is our responsibility."

With those additional responsibilities will come increased costs.

SWMA gets about \$650,000 a year, generated from a \$5 stormwater fee paid by residential property owners and a \$15 annual assessment of business properties.

It no longer operates an independent agency but contracts with the Jefferson County Department of Public Health to carry out stormwater mapping and water quality monitoring. SWMA will pay the Health Department \$684,000 in the coming year, which will be paid from stormwater fees with a supplement from the agency's reserves.

Melton said the arrangement with the Health Department already has addressed many of the concerns raised in the EPA audit, which was based on how SWMA operated in 2008.

The Health Department is compiling standard operating procedures for cities to follow so each will better understand its responsibilities. It is developing an online system for reporting and tracking stormwater-related activities. The department is mapping storm sewer systems and water quality sampling sites, which will lead to a system that can track improvement in stream conditions and detect problems.

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