

Corps withdraws permit for Cahaba supersewer work

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The Army Corps of Engineers has no jurisdiction over the Cahaba River supersewer and mistakenly issued a permit authorizing the project, the agency said Friday.

The day after environmentalists announced they would sue the Corps to stop the project, the chief of the agency's regulatory branch canceled the permit.

The Corps' abrupt withdrawal left environmentalists scrambling to find a new way to oppose the 12-foot-wide sewer tunnel that would run 17 miles up the Cahaba basin, crossing the river 15 times.

Since there is no other federal involvement in the project, there is no longer any requirement under federal law for a study of endangered species before moving forward, said Carl Couret, acting field biologist for the U.S. Fish and Wildlife Service's Alabama office.

Conservation groups had briefly gained traction from the Fish and Wildlife Service's objections to the plan. Thursday, the Montgomery environmental law firm WildLaw sent a notice of intent to sue the Corps for its failure to study endangered species on the Cahaba before issuing the permit.

WildLaw attorney Ray Vaughan said Friday he had not reviewed the Corps' withdrawal from the project yet.

"It's not usual for a government agency to exercise jurisdiction and then when challenged on it say, 'Oh, we didn't have to do it at all,'" Vaughan said. "That's very bizarre."

Vaughan's legal notice was based on a letter the Fish and Wildlife Service faxed to the Corps on Monday. In the letter, Couret asked the Corps to suspend or revoke the permit authorizing the sewer tunnel until it had complied with a U.S. Endangered Species Act requirement to study affected species.

Tuesday, Corps regulators visited the site of the supersewer to review the project, officials said. They determined it did not affect wetlands or a navigable river — the Corps only two areas of jurisdiction.

Jefferson County Environmental Services Director Jack Swann said his department had maintained from the beginning that the project did not require a Corps permit. However, he said, the Corps issued one anyway.

"They said just to be safe they were going to go ahead and treat it as a permit," Swann said. "But apparently they thought about it further and decided that they agreed with our position that there is no need for any permit here."

A Friday letter from the Corps to the county's engineering firm urges the company to contact the Fish and Wildlife Service with any endangered species concerns.

Swann said he doesn't believe the sewer tunnel will present any trouble for the endangered animals.

"We feel like there will be no impact on endangered species because there will be no impact on the river whatsoever," Swann said.

Endangered mussels, snails, darters and shiners live around the sewer tunnel's planned crossing of the river near U.S. 280, according to Fish and Wildlife. In their Monday letter to the Corps and two other environmental agencies, biologists for the service said the animals would likely be harmed by additional construction on the river and additional sewage to be discharged from the Cahaba Waste Water Treatment Plant.

The \$141 million tunnel would allow the county to extend sewer service along the Interstate 459 corridor as far as Grants Mill Road, ultimately tripling the sewage treated at the Cahaba plant.

The county has committed about \$61 million to the project, which is nearly half complete.