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Brightwater payments illegal, lawsuit claims

By Keith Ervin
Seattle Times staff reporter

During negotiations over the planned Brightwater sewage-treatment plant, King County Executive Ron Sims told top Snohomish County officials his county couldn't legally pay for capital projects unrelated to the plant's impacts.

Five months later, in October 2005, he agreed to give Snohomish County \$70 million, primarily for local construction projects, in exchange for permits to build the sewer plant.

The Cedar River and Soos Creek water and sewer districts claimed in a lawsuit filed Wednesday in Pierce County Superior Court that the agreement violated state and county law because it led to the use of sewer-rate proceeds for non-sewer purposes.

The two utility districts, among more than 30 districts and cities that pay King County to treat their customers' wastewater, have been concerned about the rising cost of Brightwater.

Christie True, who managed the Brightwater project before she was promoted to director of King County's Wastewater Treatment Division, said her agency followed standard industry practices and she doesn't believe it broke the law.

The \$1.8 billion plant is under construction on Highway 9 in Snohomish County north of Woodinville. When opened in 2011, it will serve predominantly Snohomish County residents and will take pressure off existing sewage plants in Seattle and Renton.

The utility districts' lawsuit suit contends King County improperly used sewer revenues to:

- Build parks and trails in Snohomish County.
- Pay for educational projects and a water-quality laboratory.
- Support the Metropolitan King County Council and the executive's office.
- Persuade a business displaced by Brightwater to stay in the Puget Sound area.
- Carry treated water from the Brightwater plant to possible water buyers.

The complaint, signed by attorney David Jurca, claims King County agreed in October 2005 to make \$70 million in mitigation payments "simply to win political approval from Snohomish County and to induce it to drop its objections to Brightwater."

That agreement was reached after Sims complained in a May 2005 letter to Snohomish County Executive Aaron Reardon and Snohomish County Council Chairman Gary Nelson that they were seeking millions of dollars for roads "and other capital projects unrelated to Brightwater's actual impacts, as the price for Snohomish County's approval of Brightwater. Use of King County funds for these extraneous purposes is not authorized by law and is not appropriate."

Sims and his office declined to comment on the lawsuit.

Sewer chief True said Snohomish County initially wanted \$800 million to offset environmental impacts associated with the sewer plant. By the time Sims said King County couldn't pay for extraneous projects, Snohomish was seeking \$80 million, according to a letter between attorneys for the two counties.

"We were focused on the Brightwater project and things related to it, to the environment, and we told them that's what we needed to focus on," True said. She said King County used similar off-site "compensatory mitigation" to offset impacts during earlier expansions of the West Point and Renton treatment plants.

The utility districts' lawsuit also said King County has not kept its promise to the State Auditor's Office in 2005 that it would "begin work immediately" to reduce or eliminate the use of sewer revenues to support the Metropolitan King County Council and other central government offices. The auditor said those payments, totaling \$2 million over 20 months, violated state law.

When county officials were asked in 2007 about progress on those payments, Budget Director Bob Cowan told other executive officials in an e-mail "this is a dog that should be left sleeping" unless the County Council raised questions, according to the lawsuit.

Cowan this week declined to comment.

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