

## **TRANSMITTAL LETTER FOR BOARD MEETING OF APRIL 17, 2014**

### **COMMITTEE ON STORMWATER MANAGEMENT**

Mr. David St. Pierre, Executive Director

..Title

Authority to adopt an ordinance of the Metropolitan Water Reclamation District of Greater Chicago providing for the repeal of the Sewer Permit Ordinance, as amended July 1999, and the Manual of Procedures for the Administration of the Sewer Permit Ordinance, as amended November 1998, except Article 6-5 of the Manual of Procedures for the Administration of the Sewer Permit Ordinance and any corresponding provisions of the Sewer Permit Ordinance necessary to implement Article 6-5, effective May 1, 2014

..Body

Dear Sir:

The Board of Commissioners adopted the Watershed Management Ordinance (WMO) on October 3, 2013, which will become effective on May 1, 2014. The Engineering Department determined that it was most efficient to merge the regulations in the Sewer Permit Ordinance (SPO) and its companion Ordinance, the Manual of Procedures for the Administration of the Sewer Permit Ordinance (MOP), into the WMO.

There are circumstances where the enactment of a new ordinance automatically repeals the former ordinance, but only if the terms and operation of the earlier ordinance are so repugnant to the terms and operation of a new one that both cannot stand. Such is not the case here. In this case, neither the SPO nor the MOP is repugnant to or in conflict with the WMO. In fact, the SPO and the MOP will be replaced by the WMO, effective May 1, 2014, with the exception of Article 6-5 of the MOP (Correction of Existing Deficiencies in Separate Sewered Areas), which relates to the Sewer Summit Agreement dated September 1985; Article 6-5 will remain in effect until such time that Article 6-5 is replaced by Article 8 (currently reserved) of the WMO.

Therefore, under the law, neither the SPO nor the MOP may be repealed by simply enacting the WMO. The Board of Commissioners must enact an ordinance expressly repealing the SPO and the MOP.

The effect of an express repeal of an ordinance is to eliminate the ordinance and end all proceedings growing out of such ordinance as if it had never been passed, unless saved by a general savings clause or a clause in the repealing ordinance. Without a savings clause, the SPO and MOP will be considered to have never existed, will no longer be effective in the future, and will divest any rights to proceed under them. Therefore, a savings clause will be provided in the repeal ordinance for certain classifications of persons affected by the WMO. Notice regarding the repeal of the SPO and MOP and their savings provisions is set forth in Article 1, §104 of the WMO.

In summary, the repeal ordinance will provide as follows:

- The SPO, as amended July 1999, and the MOP of the SPO, as amended November 1998, except Article 6-5 of the MOP (Correction of Existing Deficiencies in Separate Sewered Areas) and any corresponding provisions of the SPO necessary to implement Article 6-5, will be repealed effective May 1, 2014.

- Permittees and co-permittees that hold Sewerage System Permits issued prior to the effective date of this Ordinance, and the District, will retain all rights, obligations, and liabilities under the SPO and MOP as they existed prior to their repeal.
- Proposed development for which a complete Sewerage System Permit application has been accepted by the District prior to the effective date of the WMO, and the District, will retain all rights, obligations, and liabilities under the SPO and the MOP as they existed prior to their repeal.
- The repeal will take effect on May 1, 2014.

Accordingly, it is respectfully requested that the Executive Director recommend to the Board of Commissioners that it approve and adopt the Ordinance for the Repeal of the Sewer Permit Ordinance, as amended July 1999, and the Manual of Procedures for the Administration of the Sewer Permit Ordinance, as amended November 1998, except Article 6-5 of the Manual of Procedures for the Administration of the Sewer Permit Ordinance and any corresponding provisions of the Sewer Permit Ordinance necessary to implement Article 6-5, effective May 1, 2014.

Requested, Catherine A. O'Connor, Director of Engineering, CAO:RMH:LLD:PS:nm

Recommended, David St. Pierre, Executive Director

Respectfully Submitted, Michael A. Alvarez, Chairman Committee on Stormwater Management

Disposition of this agenda item will be documented in the official Regular Board Meeting

Minutes of the Board of Commissioners for April 17, 2014