



# Metropolitan Water Reclamation District of Greater Chicago

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## Legislation Details (With Text)

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**Title:** Authority to Enter into an "Intergovernmental Agreement for the Evaluation, Allocation, and Sharing of Sewage Flows" with the Flagg Creek Water Reclamation District

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1/7/2010	1	Committee of the Whole	Recommended	Pass
1/7/2010	1	Board of Commissioners	Approved	Pass

### TRANSMITTAL LETTER FOR BOARD MEETING OF JANUARY 7, 2010

#### COMMITTEE ON JUDICIARY

Mr. Richard Lanyon, Executive Director

Authority to Enter into an "Intergovernmental Agreement for the Evaluation, Allocation, and Sharing of Sewage Flows" with the Flagg Creek Water Reclamation District

Dear Sir:

On February 7, 2008, the Board of Commissioners ("Board") authorized the Metropolitan Water Reclamation District of Greater Chicago ("MWRD") to enter into an intergovernmental agreement with the Flagg Creek Water Reclamation District ("FCWRD") for the construction of a pump station and force main to serve an area known as the Westdale Gardens residential subdivision ("Westdale"). At that time, the MWRD reported to the Board that FCWRD and the MWRD intended to enter into a second intergovernmental agreement, which would memorialize a long-standing practice between the two entities of sharing and treating equivalent sewage flows originating within the other entity's jurisdiction. The MWRD is now seeking authority to enter into said flow share agreement with FCWRD.

Part of the sewage flows that FCWRD currently collects and treats originate in certain areas within Cook County that are within the service area jurisdiction of the MWRD. The first area is Westdale, which is located in unincorporated Cook County. The approximate boundaries of Westdale are the Tri-State Tollway (I-294) on the west, Roosevelt Road on the north, Queen of Heaven Cemetery on the east, and Hawthorne Avenue on the south. Upon completion and operation of the new pump station and force main, the new facilities will afford an opportunity for the Westdale flows to be redirected from the FCWRD-owned system to the MWRD system for treatment, and the Westdale flows will no longer be included in the flow share agreement. The second area in Cook County for which FCWRD treats flows is the Hinsdale/Burr Ridge Area, which has approximate boundaries as follows: County Line Road on the west, Ogden Avenue on the north, the Tri-State Tollway (I-294) on the east, and 71st Street on the south (the two areas shall hereinafter be referred to as the

"Cook County Area").

The sewage flows within FCWRD's territory that MWRD currently collects and treats originate in an area within DuPage County, in a portion of the Village of Hinsdale that is within the service area jurisdiction of FCWRD. The approximate boundaries of the area are described as follows: Hickory Lane on the south, County Line Road on the east, Ogden Avenue on the north, and Grant Street on the west (the area shall hereinafter be referred to as the "DuPage County Area").

FCWRD and the MWRD have by mutual agreement treated these flows originating within the service area of the other district for many years. Historically, FCWRD collected and treated the sewage from the residential and commercial users within the Cook County Area and received a fee from MWRD until 1966 because the MWRD did not have intercepting sewers to convey the sewage to its treatment plants. Thereafter, in the late 1960s, the MWRD constructed intercepting sewers capable of accepting the sewage, but never connected the local sewers to the interceptors because the cost to connect the local sewers to those intercepting sewers would have been exorbitant. Both districts believe it is in their best interest to continue the historic practice of sharing the referenced sewage flows as it would be excessively costly, burdensome and disruptive to disconnect and reestablish sewer lines in order that each entity treat and collect only that discharge originating within its own jurisdiction.

While there have in the past been numerous agreements setting forth the above-described flow share arrangement, none has been formalized since construction of the interceptors. Accordingly, the Law Department with the assistance of the Engineering Department has negotiated a comprehensive intergovernmental agreement with FCWRD. Some salient features of the Agreement, entitled an "Intergovernmental Agreement for the Evaluation, Allocation, and Sharing of Sewage Flows" ("Agreement"), include:

- MWRD and FCWRD agree to allow the other district to discharge sewage into its respective collection system and treat said sewage in a manner consistent with state and federal requirements.
- MWRD and FCWRD agree to conduct a flow metering study in five years. The study will compare and analyze the sewage flows collected and treated from the Cook County and DuPage County Areas and will be the basis for agreed upon adjustments to equalize flows if necessary.
- The term of the Agreement is perpetual. The Agreement may only be terminated upon one-year written notice prior to each five-year anniversary of the Agreement.
- The Agreement provides for indemnification of the other district from claims arising out of the collection and treatment of sewage originating within the other entity's jurisdiction.
- MWRD agrees that it will not assess any treatment charges to the DuPage County Area during the term of the Agreement. Similarly, FCWRD agrees that it will not assess any treatment charges to the Hinsdale/Burr Ridge Area during the term of the Agreement, other than pump station maintenance and operation costs and a service availability charge in connection with Westdale.
- Upon execution of the Agreement, FCWRD agrees to dismiss MWRD from an action currently pending before the Illinois Pollution Control Board entitled *Flagg Creek Water Reclamation District v. Village of Hinsdale, et al.*, PCB 06-141, and to provide the appropriate release.

MWRD staff believes that the contemplated Agreement effectively memorializes current practice. The Trustees of the FCWRD have recently approved the terms of the Agreement.

In view of the above, it is recommended that MWRD be authorized to enter into an "Intergovernmental Agreement for the Evaluation, Allocation, and Sharing of Sewage Flows" with FCWRD, and that the Chairman

of the Committee on Finance and the Clerk be authorized to execute said Agreement on behalf of the MWRD, upon approval of the General Counsel as to form and legality.

Requested, Frederick M. Feldman, General Counsel, FMF:RMH:LLD:jvs

Respectfully Submitted, Terrence J. O'Brien, Chairman Committee on Judiciary

Disposition of this agenda item will be documented in the official Regular Board Meeting Minutes of the Board of Commissioners for January 7, 2010