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Sewage dumping reviewed

12.75 million gallons, partially treated, had gone unnoticed

By MARIE ROHDE
mrohde@journalsentinel.com

Posted: Oct. 25, 2004

The state Department of Natural Resources is investigating the previously undetected of 12.75 million gallons of partially treated sewage at the Jones Island plant on three o since March.

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John Cheslik, the top Milwaukee official with the private firm that runs the sewage system, said the dumpings were discovered during his firm's investigation into allegations made by an anonymous letter writer in August. The probe is not yet complete, but Cheslik said his firm, United Water Service, has not uncovered anything to substantiate the claims that its employees doc sampling records to disguise the amount of waste dumped plant.

"I don't think these three events are related to the letter," said of the mishaps that he blamed on a mechanical failure were not the issues raised in the letter."

Because the dumpings occurred on relatively dry days, th "probably could have been avoided," Cheslik said.

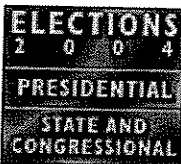
He said he did not know if the undetected dumping would been discovered if it had not been for the investigation in

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anonymous complaint. The diversion point is not visible nothing looked amiss on the plant operator's computer sc

"I don't think anybody would have known it occurred," C said. "It really was invisible. There were four pumps open when there should have been two."

The Milwaukee Metropolitan Sewerage District is allowed partially treated effluent at Jones Island - something officials to call a diversion - but is required to report these incidents to the DNR within 24 hours. The incidents were reported as soon as they were discovered, but that was within the past few weeks, Graffin, MMSD spokesman.

"We cannot comment because it is the subject of a pending investigation," said Amy Smith, a DNR spokeswoman.

Diversions are acceptable at Jones Island during heavy rains as a means of avoiding or lessening the dumping of sewage that is not treated at all.

Effluent from the plant met the water quality standards set by the DNR and the district, Cheslik said at a meeting of the board that oversees the district.

The first event occurred March 28, when 1.4 million gallons of sewage were dumped; the second was on June 19, when 11.3 million gallons were dumped; and the third was June 21, when 50,000 gallons were dumped.

Cheslik said a faulty uninterruptible power source caused the dumping. There is no audible alarm, and the dumping could not be readily detected by operators who monitor the system.

The faulty power source was replaced after the dumpings were discovered, Cheslik said.

John Jankowski, MMSD's contract compliance officer, said he hoped the problem would be fixed by the end of the year with the installation of an audible alarm and a computer program that would allow system operators to monitor the site where the dumping occurred more

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Non-Member Rates

Non-member communities pay less than member communities as the result of a Public Service Commission ruling in 1995 that said MMSD could not charge its non-member communities for flood management projects that do not impact the non-member communities. Based on a formula, the 10 non-member communities each get a credit, or discount, from the District for flood management work conducted within Milwaukee County, only if the work does not impact that individual community.

- Every year, MMSD staff meets with each of the non-member communities to discuss the six-year billing forecast that each non-member community can expect to pay. Thanks to MMSD commission action, 2004 capital charges to non-member communities will be lower than the amount forecasted previously for 2004.
- MMSD does not levy property taxes in the non-member communities.

	<u>Billed Rate/\$1,000 Equalized Value</u>			<u>\$200,000 Home</u>		
	Billed 2002	Billed 2003	Estimate* 2004	Billed 2002	Billed 2003	Estimate* 2004
<u>Non-Member Comm.</u>						
Brookfield	1.18052	0.86518	1.02709	\$236.10	\$173.04	\$205.42
Butler	1.18007	0.80613	0.98980	\$236.01	\$161.23	\$197.96
Caddy Vista	0.88182	0.74840	0.60070	\$176.36	\$149.68	\$120.14
Elm Grove	1.18695	0.86686	1.03482	\$237.39	\$173.37	\$206.96
Germantown	1.16155	0.85065	1.00655	\$232.31	\$170.13	\$201.31
Menomonee Falls	1.16495	0.83148	1.00113	\$232.99	\$166.30	\$200.23
Mequon	1.18020	0.86002	1.01044	\$236.04	\$172.00	\$202.09
Muskego	0.97897	0.91387	0.66488	\$195.79	\$182.77	\$132.98
New Berlin	1.27435	1.03107	1.09913	\$254.87	\$206.21	\$219.83
Thiensville	0.88716	0.74377	0.59698	\$177.43	\$148.75	\$119.40
<u>Member Comm.</u>	1.70000	1.70000	1.59000	\$340.00	\$340.00	\$318.00

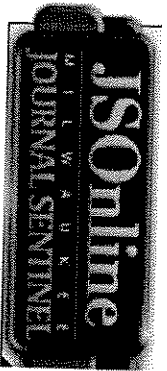
*2004 Capital charge rate for non-member communities will be finalized by early December, following determination of equalized property values for municipalities partially serviced by the District.

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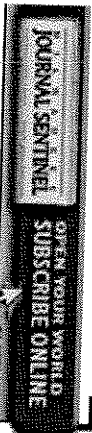
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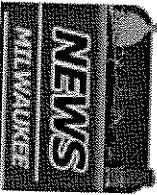
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MMSD wants suit dumped

District takes case to Supreme Court

By MARIE ROHDE
 mrohde@journal Sentinel.com

Posted: Nov. 17, 2004

The sewerage district has racked up nearly \$409,000 in outside lawyer fees to fight a long-standing environmental lawsuit over raw sewage dumping, as the case has taken its slow and torturous journey through the courts.

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Now the Milwaukee Metropolitan Sewerage District is set to ask the U.S. Supreme Court to throw out the case.

Michael McCabe, MMSD director of legal services, said that if the environmentalists are successful, the district could be forced to spend "millions if not tens of millions" of dollars on unnecessary sewer projects. Contesting the lawsuit is a relatively small amount to pay in comparison, he said.

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Karen Schapiro, a lawyer representing the environmentalists, disagreed with the district's contention that its current plans will eliminate illegal dumping and said MMSD was just trying to delay its court case.

"The actions here are just another stalling tactic," she said.

The district has five staff lawyers in addition to McCabe, as well as a paralegal and an administrative assistant. The recently adopted 2005 budget allocates \$456,302 for the department, but that does not include outside legal work.

"They are fully engaged in other work," McCabe said of the district staff attorneys. "This is the kind of case that takes a lot of time. If I were to pull two or three people to handle the case, I'd have to bring in somebody else to do the other work."

The district has hired the Foley & Lardner law firm to handle the case.

The lawsuit began in 2001 when Friends of Milwaukee's Rivers and the Lake Michigan Federation filed a federal lawsuit against the district, contending that it violated the federal Clean Water Act. The federal law allows citizens to bring suits if regulatory agencies - the Wisconsin Department of Natural Resources and the U.S. Environmental Protection Agency - are not diligently enforcing the law.

The case was assigned to U.S. District Judge Charles N. Clevert Jr. in Milwaukee. He dismissed the lawsuit in 2003. The environmentalists appealed to the 7th Circuit U.S. Court of Appeals in Chicago.

In September, a three-judge appeals court panel sent the case back to Clevert, saying in part that the lower court had to determine whether the \$907 million in improvements that the sewerage district and the DNR agreed would be completed would be sufficient to eliminate illegal sewage dumpings.

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MMMSD asked the full panel of nine judges in the appeals court to hear the case, but they refused. McCabe said other districts of the appeals court had issued rulings in similar cases that support the district's position.

Schapiro disagreed, saying this is not the kind of case the nation's top court is likely to hear.

The environmentalists have asked Clevert to order the case to proceed; MMMSD has asked that it be put on hold until the Supreme Court decides. Clevert has not yet ruled on the two requests.

The Supreme Court could reject MMMSD's appeal and the case would have to proceed before Clevert, or it could hear the issues. A rejection would occur within a year, McCabe said, but hearing it could take longer.

If the environmentalists win, MMMSD could be ordered to pay their legal bills, which prompted McCabe to say:

"The only reason that they went to federal court was to be able to recover their costs. They could have intervened and raised the same issues in state court, but they wouldn't have been able to recover their costs."

Schapiro said it was more appropriate to file in federal court: "The permit violations were violations under the federal Clean Water Act, and federal court is the appropriate forum for the case."

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Kevin
Shafer

June 20, 2003

Kevin Shafer
Executive Director
Milwaukee Metropolitan Sewerage District
Milwaukee, Wisconsin

Subject: Performance Review of United Water Services Milwaukee LLC

Dear Mr. Shafer,

I am pleased to present the attached performance review of the Milwaukee Metropolitan Sewerage District (MMSD)/United Water Services (United Water) operation and maintenance functions. This review has been conducted over the past six months with the assistance of a number of outstanding individuals and groups including Dick Sandaas, a consultant with an extensive history in the wastewater industry, Andy Lukas and a number of staff from Brown and Caldwell, John Moser of TN & Associates in Milwaukee, five members of the Metropolitan Water Reclamation District of Greater Chicago (MWRDGC) and four staff members of the King County Wastewater Treatment Division from Seattle, Washington. The review consisted of numerous site visits and document reviews as well as extensive discussions with MMSD executives and staff, United Water Services executives and staff, MMSD's Technical/Environmental Advisory Committee, and representatives from the Wisconsin Department of Natural Resources.

Review Findings

The findings and recommendations of the performance review group are summarized in the executive summary and detailed in the body of the report. To highlight the most important findings, I would observe the following:

- The operation of the treatment system is generally very good, as both plants in the MMSD system have received the highest possible awards for effluent quality from the Association of Metropolitan Sewerage Agencies. However, the recent incidents, which are referenced later in this letter, raise some warning flags which the MMSD would be wise to pay attention to.
- The operation of the conveyance system has generally been good, with some room for improvement. Implementation of the comprehensive Stipulation Agreement, signed by the MMSD and the Wisconsin Department of Natural Resources, will certainly improve system performance and provide more ability to operate the system in a fashion that will minimize any possible environmental damage and public health threat.

- The maintenance of the critical equipment by United Water has been consistent with wastewater industry practices and has helped to achieve the good levels of treatment and conveyance operations sited above.
- The maintenance of non-critical equipment and general facilities is not up to industry standards and a number of recommendations are made to improve that situation.
- The MMSD contract compliance office (CCO) is doing a good job. However, there needs to be a better dispute resolution process between the CCO and United Water Service to address issues that have been identified and not been resolved in a timely manner.
- The MMSD, in partnership with United Water Service, is operating the MMSD system at a high level in a manner that compares favorably with similar agencies across the nation, but nevertheless finds itself in a difficult position with regards to public perception. This issue is examined below. It is hoped that the recommendations in this review can help lead to improvements regarding this very complex and unyielding problem.

During the final stage of putting this program review together, two incidents occurred which relate to issues identified in this report. The first and more significant incident was the determination that a limited number of condoms were escaping the treatment system and were observed in the waters near the outfall of the Jones Island Plant. It appears that the problem is caused by the failure of the scum/floatable removal system to work properly. A part of the system was recently replaced and is not operating. An alternative makeshift process for handling this problem consists of removing the scum/floatables on a daily basis from collection boxes near the primary clarifiers using vector trucks. This practice has not proven to adequately prevent the escape of some of this material (condoms) over the weirs. There also is not an adequate manual temporary removal program to capture these condoms further on in the treatment process at the aeration tanks, secondary clarifiers, as well as the chlorine contact tanks.

The second recent operational problem occurred on May 30, 2003. United Water staff performed a primary effluent diversion at the Jones Island WWTP under circumstances that may not have met the conditions of the NPDES permit. United Water reported to the MMSD that the United Water operator who made the diversion did so without supervisor approval. The diversion was stopped once supervisory staff were notified and evaluated the situation. The diversion practice was not in keeping with United Water SOPs, and furthermore the actions taken by the operator would not have ameliorated the problems he or she faced at that time. United Water has now placed supervisor locks on the primary effluent diversion gates to prevent similar events in the future.

Letter to Mr. Kevin Shafer

June 20, 2003

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These two incidents highlight issues covered elsewhere in the report, including:

- United Water must assure adequate maintenance while awaiting capital project completion and start-up.
- MMSD must place a priority on dealing with these types of immediate operational problems in their capital improvements program.
- United Water must work with the MMSD on capital projects to ensure a completed project that performs to design objectives.
- United Water must do a better job of housekeeping to minimize this type of problem
- United Water must provide better documentation on capabilities, training, and certification of lead operators who are responsible for making decisions without supervisor approval.

Other Observations

The opportunity to work on this project has impressed on us the very difficult situation in which the District finds itself. There is a very widespread and deeply held view by the public that the MMSD has not met the goals of the major construction programs that have been in place over the past twenty years (primarily the Deep Tunnel Project). These projects were undertaken to eliminate environmental and public health impacts that the wastewater discharges have had on Lake Michigan and the associated watersheds, such as the Milwaukee, Kinnickinnic, and Menomonee Rivers. The continued public dissatisfaction with the District has its roots in a number of causes, including a basic misunderstanding of what the deep tunnel project was and was not going to accomplish.

The general public believes that the project would eliminate all untreated wastewater discharges to surface waters. This belief persists despite the fact that all MMSD publications and projections showed that that an average of 1.4 overflows per year were to be expected from the combined sewer system. The point that it was designed only to eliminate separate sewer system overflows and not all combined sewer overflows is an important detail that continues to escape public understanding.

The general public doesn't distinguish between combined sewers and separate sewers. In addition, the initial operation of the system was not undertaken in a manner which would eliminate separate sewer overflows. The result was that a number of separate sewer overflows occurred which might have been prevented. There have also been a few instances of overflows that occurred due to breakdowns in the system. These dry weather-related events may also be reduced in the future with better operation and maintenance.

The MMSD situation is further underscored by the following:

- The Deep Tunnel Project is the largest public works project in the history of the State of Wisconsin, and continues to be thought by most to have been designed to solve all water pollution problems identified in area waterways.
- The ultimate receiving water of MMSD discharges is Lake Michigan, which is viewed as one of the most important natural resources in the world and is also the source of drinking water for millions of people in the surrounding states.
- Wisconsin citizens demand a very high level of performance by their public agencies, which often exceeds that of similar agencies in other states.
- According to local health department policy, the beaches in the area are closed with every rain event measuring more than a quarter of an inch, regardless of the presence or absence of a public health threat.
- The metropolitan area experienced a few of the most intense storms in the city's history in the last few years, which simply overwhelmed the system beyond its designed capabilities.
- The use of blending (or "process diversions") at the Jones Island plant, during periods of exceptionally high flows in order to maximize the treatment capacity of the plant while protecting the integrity of the biological treatment system has been mischaracterized by the media as "dumping" and by others as a means of avoiding proper treatment.
- The MMSD contracted out the operations and maintenance of the treatment and conveyance system during this period of major change within the system in a cost reduction effort, which raised concerns that the system was not being operated properly in order to save money.
- Recent incidents, as illustrated by the release of the condoms to the waters near the outfall and the September 2002 dry weather overflow into the Milwaukee River reinforce, the overall negative perceptions.

It would not be fruitful to try to figure out just how the MMSD has come to this point and how it might have changed things in the past. It also has not proven to be useful to be defensive and explain away the overflows on releases as "not significant" or "to be expected." What is needed is a sense of urgency about dealing with controllable issues by both the MMSD and United Water. Audits by the legislature and the Wisconsin DNR show that there are and were actions that could have been taken by the MMSD and United Water that might have improved the situation. Many of these actions are addressed in the Stipulation Agreement that was signed by the MMSD and the Wisconsin DNR. As this stipulation is implemented by the MMSD, the frequency and volumes of overflows will certainly decrease even further from the level currently being experienced. The Stipulation

Letter to Mr. Kevin Shafer

June 20, 2003

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Agreement is very aggressive; however, it is important for everyone to understand that overflows will never be completely eliminated.

Recommendations to the MMSD and United Water

The MMSD must work with United Water on the following recommendations:

1. Bring the number of wet weather separated system overflows to zero; implement an aggressive program with the annual goal of eliminating all dry weather overflows; and minimize the number and volume of wet weather combined sewer overflows to an annual performance goal that is both mutually agreeable and challenging. One technique to accomplish this would be to provide additional incentive clauses in the contract.
2. Implement a stepped process for dealing with disagreements and noncompliance with contract provisions, including a dispute resolution procedure, which would replace what is currently provided for in the contract.
3. Develop an agreement with United Water which establishes an acceptable level of maintenance for capital equipment which is due to be replaced or is operating in an impaired condition.
4. Identify and followup on all noncritical equipment and general maintenance issues that require improvement.
5. Work to ensure that adequately trained staff are available to properly operate the system. This should include review of staff training, the levels of expertise on shift at all times, and general staffing levels.
6. Improve capital project coordination by bringing United Water into capital project design and construction in a more active manner.

In addition, the District should explore all other acceptable methods to deal with the overall water quality problems in the region and to actively assist in solving those problems. This must include a program with the agencies that are responsible for these decisions as well as with other stakeholders in order to deal with the beach closing issue. Real time decision-making regarding the need to close a beach should be undertaken, an aggressive sampling program to determine the causes for beach closings should be implemented, and programs developed to minimize these events.

Until water quality in the region reaches acceptable levels, beach closings substantially reduced and the preventable incidents such as the release of condoms and dry weather overflows are brought under control, the District will simply never be able to completely escape the close scrutiny it is currently subject to, as well as accusations of culpability. The District is too big and their activities too visible to expect that the public will not associate the District with perceived as well as real water quality issues.

Letter to Mr. Kevin Shafer

June 20, 2003


Page 6

The current public and media perception of the MMSD as a poor performer that contributes to significant environmental degradation and public health problems will be extremely difficult to turn around. This misperception does a disservice to MMSD and to the region. It creates a false impression that could have a long-term negative impact on the region. A strong effort is needed by responsible and knowledgeable groups, including the environmental, community, and business interests in the Milwaukee area, the Wisconsin Department of Natural Resources, as well as others to work with MMSD to take the actions needed to turn this situation around.

The Milwaukee Metropolitan Sewerage District is generally well run and, like all organizations of its size, has strengths and weaknesses. We have found that their openness and willingness to examine their current practices and listen to outside opinions is an important strength. It is our hope that a number of our findings and recommendations from this review will help the District and United Water improve the manner in which they work together and, consequently, improve the overall performance of the system.

It has been a privilege to be able to work with the District staff, United Water Services, and everyone else associated with this performance review. Thank you for the opportunity.

Sincerely,



Don Theiler, Division Director
King County Department of Natural Resources and Parks
Wastewater Treatment Division
King Street Center
201 South Jackson Street
Seattle, WA 98104-3855

DT:mb

Original URL: <http://www.jsonline.com/news/editorials/jun03/150058.asp>

Editorial: MMSD's troubled waters

From the Journal Sentinel

Last Updated: June 22, 2003

When hundreds of spent condoms turned up in the Milwaukee harbor recently, it didn't take long for the charges to start flying between officials of the Milwaukee Metropolitan Sewerage District and the private operators of the district's treatment plants.

Normally, such verbal sparring isn't very productive, at least from the public's perspective. In this case, however, the charges and countercharges actually might do some good by helping to focus greater attention on recent breakdowns in the sewage treatment process and the role a private firm, United Water Service, may have played.

Officials for United Water say there is no positive proof that the condoms originated at the Jones Island treatment plant. But it's also not beyond reason to assume that they did, since condoms are routinely flushed down toilets and present a particularly tricky problem for most treatment plants, no matter who's in charge.

The district has a system designed to screen out condoms and other "floatables" in sewage. But United Water, which has run the district's two treatment plants and the deep tunnel sewage storage system since 1998, says the district's system to screen out such floatables doesn't work, despite its hefty price tag - \$8.5 million.

This problem goes way beyond condoms floating in the lake, as serious a public health and environmental matter as that is. Last month, an error by a United Water employee was blamed for the release of about 2 million gallons of partially treated sewage into the lake. The district has filed more than a dozen other complaints against United Water since '98. One complaint resulted from an incident last September in which toilet waste was being dumped directly into the Milwaukee River downtown because United Water reportedly had failed to properly inspect equipment, as required in its contract.

District officials are incensed and plan to hold United Water accountable, which they should. Kevin Shafer, the district's executive director, has correctly called for an independent audit of United Water's performance. But Shafer also said United Water already had saved the district \$1 million more than it promised, which was about \$14 million a year for each of the 10 years of its contract with the district. What's more, he acknowledged that United Water, a subsidiary of a French-based international company, had told him it was losing money on the Milwaukee contract.

But in the final analysis, that shouldn't make any difference in the district's standards of performance for United Water. This firm, which has experience running other municipal wastewater treatment plants, presumably knew what it was getting into when it signed the contract with the Milwaukee district. If, for whatever reason, it cannot satisfactorily do the job, the district may need to look elsewhere.

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Editorial: Grading the sewer system

From the Journal Sentinel

Last Updated: June 25, 2003

The Milwaukee area is being served well by United Water Services and the Milwaukee Metropolitan Sewerage District, according to a performance review of the company that operates the sewer system. Is there room for improvement? Of course, and district officials need to keep pushing hard to make sure that United Water Services provides its customers with the best possible service.

But generally speaking, according to the review, MMSD and United Water are operating the system "at a high level in a manner that compares favorably with similar agencies across the nation." That assessment may come as a surprise to some area residents who want to blame every beach closing on the district, but the truth is that water quality in the area has improved markedly over the last several decades. The district deserves at least some credit for that even as it needs to work harder to ensure the health of area waterways.

The review contains a number of suggestions for improving current practices to reduce the number of overflows and to improve maintenance and staffing. Incidents such as the recent appearance of condoms in the Milwaukee harbor and last month's erroneous release of 2 million gallons of partially treated sewage are simply unacceptable.

Those suggestions deserve serious consideration, as do recommendations for a system of financial incentives to encourage better maintenance and decrease the frequency and quantity of sewage released into Lake Michigan. United Water is losing money on the operation right now, and one can't help but wonder how long the company can afford to do so.

The review also addressed the district's poor reputation among the people it serves. In our view, part of that bad rep may be the result of inflated expectations when the Deep Tunnel project was being touted as the way to meet a federal court order to clean up Milwaukee's waterways. And part undoubtedly stems from homeowners' all too vivid memories of major storms that left too many area basements knee-deep in sewage.

But part probably stems from an inability of past leadership at the district to effectively communicate with the public and to be open and honest about mistakes that were being made in operating the system. The tone was too often defensive and combative, and the result showed in such struggles as the so-called sewer wars with the suburbs and in the public's perception of a system that doesn't work.

If district officials want to change that perception, they need first to ensure that area basements stay dry and to minimize the release of even partially treated sewage. But they also need to break from past practices in dealing with the public.

We believe MMSD Executive Director Kevin Shafer is working hard to do that and is sincere in his efforts to provide more information and to communicate effectively both the accomplishments of the district and the challenges it faces.

Again, as with the operation of the system, there is still plenty of room for improvement. But based on the performance review, it does appear that Shafer, the district and United Water are taking steps in the right direction.

From the June 26, 2003 editions of the Milwaukee Journal Sentinel

JUL 02 2003

Roessler

Alberta Darling
Wisconsin State Senator
Co-Chair, Joint Committee on Finance

July 2, 2003

Sen. Carol Roessler, Co-Chair
Joint Legislative Audit Committee
8 South, State Capitol

Rep. Sue Jeskewitz, Co-Chair
Joint Legislative Audit Committee
314 North, State Capitol

HAND-DELIVERED

Dear Co-Chairs Roessler and Jeskewitz,

It is with much concern that I write you today respectfully requesting a follow-up hearing on the recently completed audit of the Milwaukee Metropolitan Sewerage District (MMSD).

As you may know, questions have been raised over an independent engineers study of MMSD's past dumping practices. This study, commissioned and paid for by MMSD, revealed shocking statistics regarding the volume of sewage dumps during three heavy rainstorms in 1998, 1999 and 2000. These figures show the volume of sewage dumped was hundreds of millions of gallons more than MMSD had reported to DNR and to the public.

The audit report completed by the Legislative Audit Bureau in August, 2002 uncovered several facts about DNR's regulatory role, the reasons why MMSD continues to dump sewage into Milwaukee waterways and the lack of accountability shown by certain MMSD officials. Many of these questions and concerns still remain, and it is vital that the citizens served by MMSD see improvement and get answers.

I have sent a letter to Scott Hassett, Secretary of DNR, asking him to ensure his agency becomes actively involved in any potential investigation. I am confident that DNR will not stay on the sidelines and just blindly accept MMSD's reasoning without proper follow-up research. Subsequently, I believe it is in the best interest of all interested parties to have the Joint Legislative Audit Committee, perhaps combined with the Assembly and Senate Environment Committees, convene a public hearing on these recent revelations as they relate to the audit completed last year.

I look forward to hearing back from you regarding a potential date for a follow-up hearing. Please do not hesitate to contact me if you have questions regarding my request.

Sincerely,


ALBERTA DARLING
State Senator

Capitol Office: P.O. Box 7882 □ Madison, Wisconsin 53707-7882 □ Phone: 608-266-5830 □ Fax: 608-267-0588 □ Toll-free: 1-800-863-1113

District Office: N88 W16621 Appleton Avenue □ Menomonee Falls, Wisconsin 53051

Email: Sen.Darling@legis.state.wi.us □ Web page: www.legis.state.wi.us/senate/sen08/news/

Alberta Darling
Wisconsin State Senator
Co-Chair, Joint Committee on Finance

July 2, 2003

Mr. Scott Hassett, Secretary
State Department of Natural Resources
101 S. Webster St.
Madison, WI 53702

Dear Secretary Hassett,

I am sure you share my profound concern with recent news reports that revealed the Milwaukee Metropolitan Sewerage District (MMSD) might have knowingly underreported the volume of three sewage overflows that occurred in August 1998, June 1999 and May 2000.

Today, I sent a letter to the co-chairs of the Joint Legislative Audit Committee asking for a follow-up hearing on the audit released ten months ago by the Legislative Audit Bureau. That audit report, and the subsequent public hearing, revealed that DNR had not been sufficiently penalizing MMSD for dumping sewage. It also detailed how the permit issued to MMSD was outdated and inadequate.

Now it appears top MMSD officials have chosen to not publicly release a study they commissioned and paid for in 2002. This report, from an independent environmental consultant, has produced results they apparently do not approve of and do not accept. As a frequent critic of MMSD dumping any amount of sewage, I am deeply disturbed the community they serve may have been misled. As you know, the district's past dumping practices coupled with their perceived lack of accountability continues to cast a shadow over the organization.

My obvious fear is that MMSD may have deliberately suppressed a poor performance report that showed they understated the volume of dumped sewage. Aside from that, I'm concerned about the continued lack of noted improvement in their dumping practices. You are the head of the state agency that has the most regulatory authority over MMSD. Therefore, I respectfully ask that you direct the proper personnel to become more active participants in a state investigation into the validity of the aforementioned consultant study, and the reasons behind MMSD's decision not to make it public.

I look forward to your agency's cooperation and participation in the process. Please do not hesitate to contact me if you have questions regarding my request.

Sincerely,


ALBERTA DARLING
State Senator



State Senator

Neal J. Kedzie

11th Senate District

July 2, 2003
For Immediate Release

Contact: Sen. Neal Kedzie
(608) 266-2635

Kedzie on MMSD: "We'll Get to the Bottom of This"

Milwaukee Sewerage District may have misreported magnitude of sewage dumping

Madison – "At the very least, MMSD has a serious public relations problem; at the very most, Lake Michigan may have an irreparable pollution problem," said State Senator Neal Kedzie (R-Elkhorn) after learning of a report by an independent engineering firm in Milwaukee that declares sewage dumping numbers may have been gravely misreported by the Milwaukee Metropolitan Sewerage District (MMSD).

Kedzie, Chair of the Senate Environment and Natural Resources Committee, has yet to read the full report, however is very concerned with the long-standing practices of the District pertaining to wastewater treatment and discharge and the multi-billion dollar Deep Tunnel system. Since May, 2000 Kedzie has led a comprehensive investigation and review of those practices as well as the sewer permit granted by the Department of Natural Resources (DNR).

That investigation culminated with a Legislative Audit Bureau report on MMSD, which Kedzie requested in January, 2001. The report concluded that the Deep Tunnel system has failed to meet the expectations when first designed and that water quality outside the combined sewer area has not improved, or has deteriorated, since 1994. Previous reports held that about 13 billion gallons of raw or partially treated sewage has been dumped since 1994. However, the recent report by Triad Engineering, Inc. claims a 72 percent discrepancy exists, which over the last ten years would amount to more than 22 billion gallons.

"This is a management problem and it's certain to get worse before it gets better unless we take steps to get to the bottom of this and determine what the numbers really are," said Kedzie. "The \$2.8 billion Deep Tunnel system was sold as the end all solution to Milwaukee's sewer woes and touted as the finest system in the nation; yet, massive amounts of sewage are dumped each year and now those amounts are in question," Kedzie said.

-more-

*Kedzie Release - MMSD Underreported Sewage Discharge
July 2, 2003; page 2 of 2*

“As representatives of the people, we have a responsibility to get to the heart of the matter and disseminate and discuss this information with District officials and DNR personnel,” said Kedzie. “People need to know how their hard-earned dollars are being spent and if they’re getting their money’s worth – and most importantly, what the adverse effects may be on Wisconsin’s largest freshwater source, Lake Michigan.”

Kedzie plans on meeting with those officials as well as members of Triad Engineering and other interested legislators in the near future. Since Kedzie launched his investigation three years ago, a number of measures have been initiated, including a top to bottom DNR review of MMSD, the approval of a full-scale audit by the state's Legislative Audit Bureau, proposals to increase sewage tunnel capacity, a DNR issuance of numerous permit violations by MMSD and a comprehensive agreement between the DNR and MMSD on those violations.

“To date, we’ve logged a tremendous amount of hours on this issue, but it is quite clear more work needs to be done,” concluded Kedzie.

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Original URL: <http://www.jsonline.com/news/metro/jul03/152242.asp>

Dumping may be worse than reported

New study says MMSD understated numbers

 By **STEVE SCHULTZE** and **MARIE ROHDE**
sschultze@journalsentinel.com
Last Updated: July 1, 2003

The Milwaukee sewerage district has grossly underreported the volume of raw sewage it has dumped since completion of the deep tunnel system nearly a decade ago, according to a consultant's study.

During three rainstorms that prompted dumping, the reported volumes were off by an average of 72%, according to the study by Milwaukee-based Triad Engineering Inc. The revised dumping tally for those storms should be nearly 4.9 billion gallons instead of the 2.9 billion gallons that the Milwaukee Metropolitan Sewerage District has reported to the state, the study said.

The new study does not give a corrected dumping figure for the entire decade since the deep tunnel system was completed. The tunnel system was originally touted as the cure for dumping. However, if the district underreported all its overflows by the same 72% margin, the revised overall dumping tally would jump from about 13 billion gallons to more than 22 billion gallons.

That finding could mean a much larger quantity of pollutants has been dumped into Lake Michigan than MMSD has previously acknowledged, said John Hoops, a civil engineering professor at the University of Wisconsin-Madison. Hoops reviewed the Triad study at the request of the Journal Sentinel.

"Based on what Triad did, you are talking 22 billion" gallons of sewage dumped, Hoops said. "That seems pretty significant in terms of the (pollution) loading to the streams and eventually Lake Michigan."

MMSD Commission Chairman Dennis Grzezinski said he hadn't seen the Triad study, but wasn't overly concerned about the findings.

"It doesn't shock me because there isn't any more pollution in it," said Grzezinski, an environmental lawyer. He reasoned that in a big storm, the amount of wastes flushed into combined sewers remains the same, while the amount of storm water increases. That means whether 1.5 billion gallons or 2.4 billion gallons are dumped in a big storm, the pollutant load remains constant, according to Grzezinski.

Looked at combined sewers

The study, commissioned by MMSD, looked at dumping from sewers in older parts of Milwaukee and Shorewood that carry both sanitary waste and storm water. Other parts of the metro area have separate storm and sanitary sewer lines. MMSD Executive Director Kevin Shafer said Tuesday he doubted the accuracy of the Triad study, which included a review of local water pollution and cost about \$500,000.

By The Numbers

4.9 million gallons

New study's figure for sewage dumped during three storms studied.

2.9 million gallons

MMSD's figure for those storms.

72%

Average difference per storm.

Dumping Tally

"Even though that report is final, we haven't accepted the results yet," Shafer said in an interview. A computer expert hired by MMSD to review the Triad study already has found "glitches" in Triad's work, Shafer said.

The formulas used by Triad will be retested using a corrected program to find out if the much larger dumping totals are wrong, he said. If that test still shows massive underreporting by MMSD, the agency will assemble a team of engineers to further review the findings, he said.

"We felt that there were some errors and mistakes in their analysis," Shafer said of the Triad study. Triad's figures were so different from MMSD's dumping numbers that "it raised a red flag," Shafer said.

The Triad study found MMSD's indirect method of estimating sewage dumping, or overflows, was lacking in several respects. Instead of measuring water levels where sewers overflow, MMSD compares water levels in streams before and after receiving dumped sewage, the study said.

Inaccuracies crop up in measuring stream elevations, and gauges sometimes don't work properly, the study said. The report also said the mathematical model MMSD used for calculating sewer overflow rates was outdated.

MMSD has been using a technique to estimate the amount of sewage dumped during a storm that was developed in 1986 before the deep tunnel system was completed.

Although the report examined only three storms when sewage was dumped, it also concluded that MMSD has likely vastly underestimated the amount of sewage dumped since the tunnel system opened in late 1993.

To improve measuring

The study recommended 10 steps for improving the measuring of sewage dumping, including replacing the old mathematical formulas and updating the technique for computing river levels.

Willie Gonwa, the engineer who did most of the work for Triad on the study, said he had not been contacted by MMSD about any concerns with the study. Triad provided a preliminary version of its report to MMSD in January 2002, another draft version in August and its final report in December.

Shafer said he had not given a copy of the study to MMSD commissioners because he didn't consider it done yet.

Gonwa called the project "as complicated as anything I've seen in my career." He said he understood MMSD's interest in ensuring accuracy but declined to comment on Shafer's criticism of the results until he has a chance to see the specific grounds.

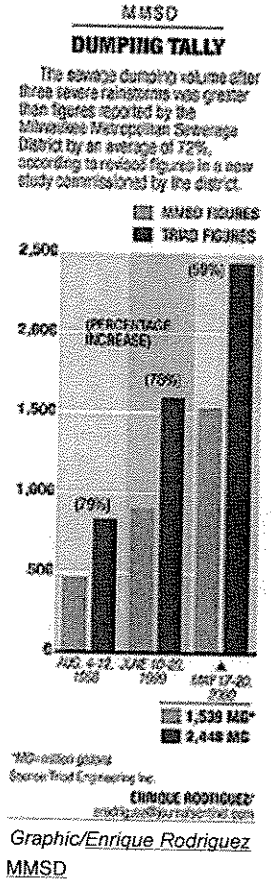
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Warning from Darling

State Sen. Alberta Darling (R-River Hills) said the study was of great concern. If it appears MMSD is avoiding accountability, she said, she will try to prod the state Department of Natural Resources into action or seek a new legislative audit of the district.

"It makes me feel very nervous about having all that dumped into the lake," said Darling, a frequent critic of MMSD. "We can't keep doing this."

The underreporting could be a serious violation of environmental regulations governing MMSD, said Laurel O'Sullivan, a



lawyer for the Lake Michigan Federation, a Chicago-based environmental group that's suing MMSD over past dumping.

She said the Triad report raised questions about whether MMSD has been honestly reporting both sanitary and combined sewer overflows.

Charles Burney, a DNR official who oversees MMSD, said he couldn't comment on the study because he hadn't seen it. MMSD's operating permit issued by the DNR allows it to dump up to six times a year from its combined sewers, without regard to the quantity dumped. Burney said that standard was based on guidelines from the U.S. Environmental Protection Agency.

The deep tunnel system is the cornerstone of a \$2.8 billion court-ordered project that was designed to improve the quality of the waterways. The deep tunnel system - essentially a massive underground storage chamber for rain and sewage - has greatly reduced the frequency of sewage dumping, but its performance still has disappointed some.

From the July 2, 2003 editions of the Milwaukee Journal Sentinel



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sschultze@journal sentinel.com

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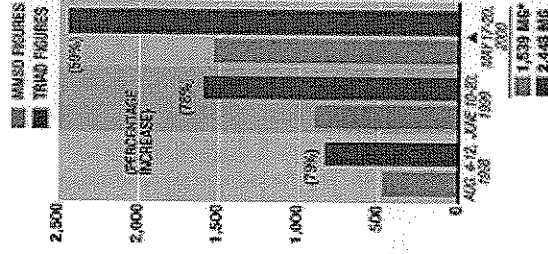
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DUMPING TALLY
MMSD
The sewage dumping volume after these severe rainstorms was greater than figures reported by the Milwaukee Metropolitan Sewerage District by an average of 72%, according to report figures in a new study commissioned by the district.



*MMSD million gallons
Source: Triad Engineering Inc.
ENRIQUE RODRIGUEZ
enrique@triadeng.com
Graphic/Enrique Rodriguez
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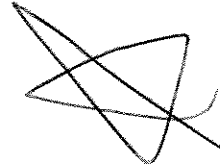
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From the July 2, 2003 editions of the Milwaukee Journal Sentinel

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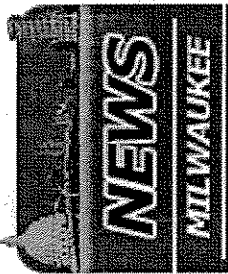
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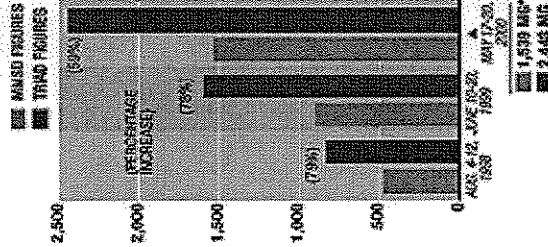
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Milwaukee-based
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Graphic/Enrique Rodriguez
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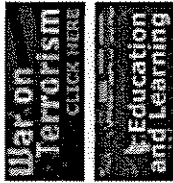
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Looked at combined sewers

The study, commissioned by MMSD, looked at dumping from sewers in older parts of Milwaukee and Shorewood that carry both sanitary waste and storm water. Other parts of the metro area have separate storm and sanitary sewer lines. MMSD Executive Director Kevin Shafer said Tuesday he doubted the accuracy of the Triad study, which included a review of local water pollution and cost about \$500,000.

"Even though that report is final, we haven't accepted the results yet," Shafer said in an interview. A computer expert hired by MMSD to review the Triad study already has found "glitches" in Triad's work, Shafer said.

The formulas used by Triad will be retested using a corrected program to find out if the much larger dumping totals are wrong, he said. If that test still shows massive underreporting by MMSD, the agency will assemble a team of engineers to further review the findings, he said.

"We felt that there were some errors and mistakes in their analysis," Shafer said of the Triad study. Triad's figures were so different from MMSD's dumping numbers that "it raised a red flag," Shafer said.

The Triad study found MMSD's indirect method of estimating sewage dumping, or overflows, was lacking in several respects. Instead of measuring water levels where sewers overflow, MMSD compares water levels in streams before and after receiving dumped sewage, the study said.

Inaccuracies crop up in measuring stream elevations, and gauges sometimes don't work properly, the study said. The report also said the mathematical model MMSD used for calculating sewer overflow rates was outdated.

MMSD has been using a technique to estimate the amount of sewage dumped during a storm that was developed in 1986 before the deep tunnel system was completed.

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Although the report examined only three storms when sewage was dumped, it also concluded that MMSD has likely vastly underestimated the amount of sewage dumped since the tunnel system opened in late 1993.

To improve measuring

The study recommended 10 steps for improving the measuring of sewage dumping, including replacing the old mathematical formulas and updating the technique for computing river levels.

Willie Gonwa, the engineer who did most of the work for Triad on the study, said he had not been contacted by MMSD about any concerns with the study. Triad provided a preliminary version of its report to MMSD in January 2002, another draft version in August and its final report in December.

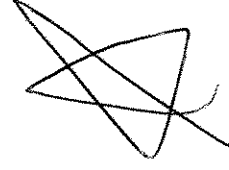
Shafer said he had not given a copy of the study to MMSD commissioners because he didn't consider it done yet.

Gonwa called the project "as complicated as anything I've seen in my career." He said he understood MMSD's interest in ensuring accuracy but declined to comment on Shafer's criticism of the results until he has a chance to see the specific grounds.

"I'd let the district decide which (set of results) they want to stand by," Gonwa said. "If they have some question and they are performing an independent review, I'd defer my opinion until the independent review comes back."

Warning from Darling

State Sen. Alberta Darling (R-River Hills) said the study was of great concern. If it appears MMSD is avoiding accountability, she said, she will try to prod the state Department of Natural Resources into action or seek a new legislative audit of the district.



"It makes me feel very nervous about having all that dumped into the lake," said Darling, a frequent critic of MMSD. "We can't keep doing this."

The underreporting could be a serious violation of environmental regulations governing MMSD, said Laurel O'Sullivan, a lawyer for the Lake Michigan Federation, a Chicago-based environmental group that's suing MMSD over past dumping.

She said the Triad report raised questions about whether MMSD has been honestly reporting both sanitary and combined sewer overflows.

Charles Burney, a DNR official who oversees MMSD, said he couldn't comment on the study because he hadn't seen it. MMSD's operating permit issued by the DNR allows it to dump up to six times a year from its combined sewers, without regard to the quantity dumped. Burney said that standard was based on guidelines from the U.S. Environmental Protection Agency.

The deep tunnel system is the cornerstone of a \$2.8 billion court-ordered project that was designed to improve the quality of the waterways. The deep tunnel system - essentially a massive underground storage chamber for rain and sewage - has greatly reduced the frequency of sewage dumping, but its performance still has disappointed some.

From the July 2, 2003 editions of the Milwaukee Journal Sentinel

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Milwaukee Journal Sentinel July 4, 2003

DNR to look into extent of sewage dumping

Concerns raised over study's finding that MMSD underreported amounts

AT A GLANCE

■ If MMSD underreported all of its dumping in the decade since the deep tunnel system has been in place, it would mean 22 billion gallons of sewage, not 13 billion gallons, have been dumped into local waterways and Lake Michigan.

By STEVE SCHULTZE
sschultze@journal-sentinel.com

The state Department of Natural Resources will investigate whether the Milwaukee sewerage district has been underreporting the volume of raw sewage it has dumped over the past decade, DNR Secretary Scott Hassett said Thursday.

Hassett said he was directing DNR staffers to review findings of a consultant's report, which found the Milwaukee Metropolitan Sewerage District had low-balled by 72% the quantities of sewage dumped after three major rainstorms. The study blamed the discrepancy on faulty methods MMSD has used to measure its sewer overflows.

He gave no time frame for the completion or scope of the DNR review.

"I want to analyze what's going on here," Hassett said.

He agreed to examine the issue after a request by state Sen. Alberta Darling

(R-River Hills), who said the study by Triad Engineering Inc. of Milwaukee had "revealed shocking statistics regarding the volume of sewage dumped during three heavy rainstorms in 1998, 1999 and 2000."

The report found 4.9 billion gallons of sewage were dumped in those storms, instead of the 2.9 billion gallons reported at the time by MMSD.

Darling called on Hassett to join a broader state review of MMSD. She also is seeking a hearing on the MMSD dumping study by the Legislature's Joint Audit Committee, which ordered a state audit of MMSD that was completed last year.

Audit Committee Co-chairwoman Rep. Suzanne Jeskewitz (R-Menomonee Falls) said she thought it likely that the committee would approve a hearing. Sen. Carol Roessler (R-Oshkosh), the

...cont. next page

Milwaukee Journal Sentinel July 4, 2003

...cont. from prev. page

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has been in place by the same factor, that would mean 22 billion gallons of sewage instead of 13 billion gallons have been dumped into local waterways and Lake Michigan.

The Triad report attributed the reporting discrepancy to a variety of factors, including a mathematical model it said was outdated.

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Shafer did not publicly release the study or report the findings to the MMSD Commission. The Journal Sentinel obtained the Triad study through a public records request and first reported on the findings Wednesday.

"If the district's goal were to conceal the real quantity

of sewer overflows, hiring a consultant to analyze the problem would be the last thing we would do," Shafer said in a letter to the Journal Sentinel.

In an interview Thursday, Shafer said it would take two or three weeks to determine the accuracy of the Triad report. He said earlier in the week he didn't share the Triad report with the MMSD commission because he doubted the report's accuracy and didn't consider it complete.

The Triad study was approved by the MMSD Commission in September 2000. The scope and budget of the study were expanded in May 2002. Triad was paid \$500,000 for the work.

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"I just can't understand how something like this could be kept from us for a year and a half," said Brunner, who is president of the River Hills Village Board. "Some extremely poor judgment has been made," he said.

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FRIDAY, JULY 4, 2003

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MILWAUKEE JOURNAL SENTINEL

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Please see **SEWAGE, 2B**

DNR to study extent of dumping

SEWAGE, From 1B

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Racine Journal Times July 6, 2003

OUR PERSPECTIVE

Sewer report demands closer state scrutiny

Racine and the surrounding communities have forged ahead on a cooperative joint sewer deal that is providing the funding for a massive expansion of the wastewater treatment plant on our lakeshore.

That hasn't been an easy journey but it's one that has been essential both to provide room to business and residential growth in our communities and to keep our obligation as stewards to Lake Michigan.

That's why it's particularly distressing when we see reports — as we did last week — that the Milwaukee sewerage district has vastly underreported the volume of raw sewage it has dumped into Lake Michigan since the completion of the deep tunnel system there 10 years ago.

We have voiced criticism of the operations of the Milwaukee Metropolitan Sewerage District in the past when Milwaukee has opened the gates and dumped into the lake due to judgment errors by contracted employees.

But such mistakes almost pale in the light of a spot check by an engineering firm, Triad Engineering, Milwaukee, that studied MMSD dumping after three rainstorms and found that the district had underestimated the volume of raw sewage it had dumped into the lake by 72 percent.

The overflows were closer to 4.9 billion gallons, not the 2.9 billion gallons that had been reported to the state of Wisconsin, according to the study.

MMSD Executive Director Kevin Shafer responded that he doubted the accuracy of the report and said a computer expert had found some problems with the engineering study.

Triad's numbers were so different from MMSD's that they "raised a red flag," he said.

We would hope so.

We think it should raise a red flag as well that the Triad report hadn't even been given to the MMSD commissioners even though a draft was completed in January, 2002 and a final report was completed last December.

Maybe it was headed for the deep tunnel.

State Department of Natural Resources officials didn't comment on the report because they said they hadn't seen it. They should ask for a copy since that's their area of enforcement.

The only bright light in this mess came from state Sen. Alberta Darling, R-River Hills, who said she will try to prod the DNR to investigate or seek a legislative audit of the district.

We would hope she would get some company from Racine area legislators — Sen. Cathy Steppe, Reps. John Lehman, Robert Turner and Bonnie Ladwig.

We hope that the Triad report is indeed flawed because if they're not it means that Milwaukee has been dumping billions upon billions of gallons of untreated or partially treated sewage into the lake.

If that's really the case, our efforts to make our end of the lake cleaner are going for naught despite the costly expenditures for a new sewerage plant and the holding basin at Batten International Airport.

JUL 08 2003



State Senator
Neal J. Kedzie

11th Senate District

July 7, 2003

Scott Hassett, Secretary
Wisconsin Department of Natural Resources
101 S. Webster Street, Fifth Floor
Madison, WI 53702

COPY

Dear Secretary Hassett,

As you know, a recent independent study regarding the Milwaukee Metropolitan Sewerage District (MMSD) pertaining to its accuracy of reporting effluent discharge was released last week at the request of the Milwaukee Journal Sentinel.

This study – commissioned by the MMSD and prepared by Triad Engineering, Inc. – had three major components:

1. Develop pollution loadings estimates for the Milwaukee area waterways
2. Improve access to the monitoring data that MMSD collects on a continuous basis
3. Review methods to compute flow from all “primary” monitoring stations that report flow rate. “Primary” monitoring stations include those that are used to operate the system and those used for regulatory reporting purposes. That includes the combined sewer overflow discharge volumes estimates.

The most significant finding of the Triad study is the possible underreporting by the MMSD of effluent discharge, by as much as two billion gallons. It is that finding that has prompted me to formally request a review of this report by the Department of Natural Resources (DNR) and offer any pertinent information of the department’s review to me as soon as it is available.

As Chair of the Senate Environment and Natural Resources Committee and former Chair of the Assembly Environment Committee, the policies and practices of the MMSD as it relates to effluent treatment and discharge have been a major issue for the committee since May, 2000. Thus, in order to have all the facts before the committee on this matter, it is imperative the department assigns priority attention to the MMSD situation so we may make reasoned decisions on any future actions relating to the MMSD.

***MMSD letter to Secy. Hassett
July 7, 2003; page 2 of 2***

Over the last three years, a number of measures have been initiated due to our comprehensive investigation of the MMSD, including a top to bottom DNR review, the approval of a full-scale audit by the state's Legislative Audit Bureau, proposals to increase sewage tunnel capacity, a DNR issuance of numerous permit violations by MMSD and a comprehensive agreement between the DNR and MMSD on those violations. Thus, I am counting on your department to take any steps necessary to review this matter and continue our successful examination of the MMSD.

Thank you for your consideration of my request and if you have any questions, please feel free to contact me at any time.

Sincerely,

/s/

Neal Kedzie
State Senator
11th Senate District

NJK: dj

cc: State Senator Mary Panzer, Senate Majority Leader
State Senator Carol Roessler, Co-Chair – Joint Legislative Audit Committee
State Representative Sue Jeskewitz, Co-Chair – Joint Legislative Audit Committee
State Representative DuWayne Johnsrud, Chair – Assembly Natural Resources
State Senator Alberta Darling, 8th Senate District

Original URL: <http://www.jsonline.com/news/metro/jul03/152672.asp>

DNR to look into extent of sewage dumping

Concerns raised over study's finding that MMSD underreported amounts

By STEVE SCHULTZE
sschultze@journalsentinel.com

Last Updated: July 3, 2003

The state Department of Natural Resources will investigate whether the Milwaukee sewerage district has been underreporting the volume of raw sewage it has dumped over the past decade, DNR Secretary Scott Hassett said Thursday.

Hassett said he was directing DNR staffers to review findings of a consultant's report, which found the Milwaukee Metropolitan Sewerage District had low-balled by 72% the quantities of sewage dumped after three major rainstorms. The study blamed the discrepancy on faulty methods MMSD has used to measure its sewer overflows.

He gave no time frame for the completion or scope of the DNR review.

"I want to analyze what's going on here," Hassett said.

He agreed to examine the issue after a request by state Sen. Alberta Darling (R-River Hills), who said the study by Triad Engineering Inc. of Milwaukee had "revealed shocking statistics regarding the volume of sewage dumped during three heavy rainstorms in 1998, 1999 and 2000."

The report found 4.9 billion gallons of sewage were dumped in those storms, instead of the 2.9 billion gallons reported at the time by MMSD.

Darling called on Hassett to join a broader state review of MMSD. She also is seeking a hearing on the MMSD dumping study by the Legislature's Joint Audit Committee, which ordered a state audit of MMSD that was completed last year.

Audit Committee Co-chairwoman Rep. Suzanne Jeskewitz (R-Menomonee Falls) said she thought it likely that the committee would approve a hearing. Sen. Carol Roessler (R-Oshkosh), the other Audit Committee co-chairwoman, said she wanted to see the DNR investigation findings before calling for an Audit Committee hearing.

Sen. Neal Kedzie (R-Elkhorn), chairman of the Senate Environment and Natural Resources Committee, said the Triad report renewed questions about expensive sewer projects, such as the \$2.8 billion deep tunnel project and other MMSD upgrades.

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In an interview Thursday, Shafer said it would take two or three weeks to determine the accuracy of the Triad report. He said earlier in the

<http://www.jsonline.com/news/metro/jul03/152672.asp?format=print>

7/7/03

week he didn't share the Triad report with the MMSD commission because he doubted the report's accuracy and didn't consider it complete.

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A preliminary report was given to the district in January 2002 and a draft report in August, district records showed. Both earlier versions of the report included references to problems with MMSD greatly underestimating volumes of dumped sewage.

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From the July 4, 2003 editions of the Milwaukee Journal Sentinel

Original URL: <http://www.jsonline.com/news/metro/jul03/155006.asp>

MMSD chief apologizes for report's late release

By STEVE SCHULTZE and MARIE ROHDE
sschultze@journalsentinel.com

Last Updated: July 14, 2003

Stung by criticism over greatly underreported sewage dumping totals, the top Milwaukee sewerage district official apologized Monday for failing to disclose a seven-month-old consultant's report outlining the problem.

Milwaukee Metropolitan Sewerage District Executive Director Kevin Shafer also said he still doubts the results of the report and added that a new set of experts will be hired to go over the study. If they find that the dumping report was wrong, MMSD will seek reimbursement for the extra costs from the original contractor or its insurer, Shafer said.

"I want to apologize to you again for not sharing this with you earlier," Shafer told members of the Milwaukee Metropolitan Sewerage Commission at a committee meeting Monday morning.

Shafer also apologized to Scott Hassett, secretary of the state Department of Natural Resources, in a July 11 letter, for failing to notify the DNR about the dumping report.

Though MMSD got its final report on the revised dumping numbers in December, it was not publicly released until this month, when the Journal Sentinel obtained it.

DNR officials will review MMSD records on the dumping study at the district's headquarters today, said Charles Burney, a DNR official who oversees MMSD.

"Our administration wants to know when did (MMSD officials) know about this and what did they do with it," said Burney.

Though MMSD was not required to disclose the dumping study to the DNR under terms of its state operating permit, DNR officials would have preferred to see it sooner, Burney said. MMSD mailed a copy to the DNR last week, Burney said.

Shafer said new consultants would double-check the math and computer programming used in the \$500,000 sewer overflow study that Milwaukee-based Triad Engineering did for MMSD. He doubts the accuracy of the Triad report, based on some preliminary review by computer experts, Shafer said.

Triad's report said raw sewage dumping after three large rainstorms had been low-balled by MMSD by an average of 72% in the reports it filed with the state. The district dumped 4.9 billion gallons of untreated sewage into local streams and Lake Michigan, not the 2.9 billion gallons that MMSD reported to the state, according to the Triad study.

MMSD Commissioner Bill Christofferson said the district wasn't shopping for more favorable findings by having other experts review the Triad study.

"We are not looking for different results, we are looking to make the program work that we've invested a half-million dollars in," Christofferson said. "Good or bad, we want to know the outcome."

Shafer said computer software produced by Triad to help MMSD better calculate sewage dumping totals didn't work right. In his letter to the DNR's Hassett, Shafer said the program had not been successfully installed or tested by Triad. He also said the new program was in the possession of a Triad subcontractor who no longer was working on the project.

However, Triad engineer Willie Gonwa said the software was installed on a computer server specifically purchased for the project, which was turned over to MMSD with Triad's final report.

Asked about that apparent discrepancy, Shafer acknowledged in an interview Monday that MMSD did have possession of the program after all. But he said MMSD couldn't use the program because of software glitches.

"We still have a product that we have not been able to test or use," said Shafer.

Shafer noted that Triad's assumptions regarding river levels and other measures that are the report's basis for estimating the amount of sewage dumped are dramatically different from those that have been used by MMSD.

Although the Triad assumptions "may well be reasonable," a second opinion is needed, Shafer said. The district will also install gauges to more precisely measure the overflow on 10 of the 130 dumping points as recommended by Triad, he said.

Shafer said he planned to hire a national expert to help fix the program and perhaps others to help MMSD recalculate sewage dumping.

From the July 15, 2003 editions of the Milwaukee Journal Sentinel



State Senator

Neal J. Kedzie

11th Senate District

July 17, 2003
For Immediate Release

Contact: Sen. Neal Kedzie
(608) 266-2635

Kedzie Comments on Sewage Spill at MMSD

Once again, the Milwaukee Metropolitan Sewerage District (MMSD), through the negligence of a private contractor, has experienced another sewage spill into Lincoln Creek. Preliminary estimates put the spill at about 250,000 gallons. While I am troubled by what appears to be an ongoing problem within the District, I am encouraged by the swift action by the Department of Natural Resources (DNR) to address this incident. In addition, I hope the MMSD will take any and all appropriate disciplinary steps for those directly responsible for this spill.

I understand that no sewage treatment facility – especially one the size of the MMSD is perfect. However, the MMSD has had its share of “human error” and it is time for officials to step up and take some responsibility for those errors rather than hiding behind proposals to dig a deeper tunnel. Since May, 2000 I have spearheaded inquiries and investigations into both the MMSD and the DNR permit that allows such activities to perpetuate. Those efforts have been successful to an extent, however it is becoming increasingly apparent that more needs to be done to address this ongoing situation.

To their credit, the MMSD has initiated a number of measures to address sewer overflows and I recognize the significant investments made over the last three years. But problems still exist and throwing more money at it may not necessarily make those problems go away. To that end, I will continue to examine options and alternatives to the oversight, governance, monitoring and reporting of the activities of the MMSD. Hopefully, my efforts coupled with those of the many individuals and elected officials involved in this matter will result in more accountability of the District and improved water quality in the Milwaukee area.

###

- **Concerned** about what I have read in the MJS articles this week. 100's of used condoms turning up is a concerning health and environmental concern.
- **Continue to monitor the situation.**
- **I am aware of the recent study. I haven't read the report or seen it yet.**
- **Aware of the audit report and hearing completed last year.** (This would be a follow-up)
- **Alberta Darling requested a follow-up hearing on the MMSD audit**



P.O. Box 7857
Madison, WI 53707-7857
www.doj.state.wi.us

PEG LAUTENSCHLAGER
ATTORNEY GENERAL

NEWS RELEASE

For Immediate Release
September 17, 2004

For More Information Contact:
Deirdre Morgan 608/266-7876

LAUTENSCHLAGER ANNOUNCES STATE TO FILE ENVIRONMENTAL LAWSUIT AGAINST MILWAUKEE METROPOLITAN SEWERAGE DISTRICT (MMSD) AND TWENTY-NINE "SATELLITE" COMMUNITIES FOR SEWER OVERFLOWS DURING 2004

MADISON - Attorney General Peg Lautenschlager announced today that her office intends to file a civil environmental lawsuit in Milwaukee County against the Milwaukee Metropolitan Sewerage District (MMSD) and 31 defendants and 29 municipalities which discharge their sewage into MMSD's collection system for the 4.6 billion gallons of sewage overflows which occurred during a period of wet weather this spring.

"The lawsuit will charge MMSD and most of the contributing communities with violating their state water pollution control permits by causing approximately 500,000,000 gallons of sanitary sewer overflows (SSOs) into Milwaukee County streams, rivers and Lake Michigan," Lautenschlager said.

The lawsuit also alleges that those SSOs and the 4.1 billion gallons of combined sewer overflows (CSOs) which occurred in the City of Milwaukee and the Village of Shorewood during the same period constitute a public nuisance. The lawsuit will seek a court order requiring the defendants to take steps to eliminate all SSOs and to take reasonably practical measures to minimize CSOs.

Lautenschlager said that the SSOs, the large scale CSOs and the flooding of basements with sewage which will be referred to in the lawsuit have raised widespread public concerns, not only about public health, but also about the general welfare and economy of the area in terms of protecting municipal, recreational, industrial and agricultural water uses.

Lautenschlager intends to file the lawsuit later this year, after certain required waiting periods expire. State statutes gives municipalities 120 days after receiving formal notices that they have violated their wastewater permits to either settle the matter or issue a disallowance of the claimed violation. Ordinarily the state may not sue until such a disallowance is issued or the 120-day waiting period has expired, Lautenschlager said. The DNR served such notices of claims on many of the municipalities in early August, she said, and none of the potential defendants have yet settled with the state.

The complaint in the lawsuit will also reserve the right to request civil penalties for the defendants' violations of their wastewater permits, but Lautenschlager emphasized that penalties will not be her primary objective in the case. She hopes the lawsuit will provide a means for bringing the parties together to identify solutions and to commit to undertaking measures necessary to eliminate SSOs and minimize CSOs.

Lautenschlager also emphasized, in response to the publicized concerns expressed by some municipal leaders that they have been wrongly selected for prosecution, that both she and the DNR recognize that the record of performance of each one of these communities is different. Some certainly have done more than others, she said, but all need to do at least something more if the problem of sewer overflows in the Milwaukee area is going to be solved.

In developing the state's position as to what each community should be required to do in the future, and what if any penalties it should pay for past violations, she will take that history into consideration, just as she expects a court would do if the matter ever goes to trial.

"We intend to be fair to the communities, but we will insist on significant improvements to their sewage systems," Lautenschlager said. "All the communities and MMSD will need to work together if this problem is going to be solved."

To that end, Lautenschlager invited all of the defendants to contact her office if they wish to discuss the possibility of an agreed-upon settlement before the lawsuit is filed.

"It is my hope that all parties will sit down and work out a plan for taking the necessary actions," Lautenschlager said.

The Attorney General said any such agreement would require court approval. If an agreement is not reached before the case is filed, the state will proceed with litigation and ask the courts for appropriate relief, she said.

The Department of Justice brings the case at the request of the DNR. Assistant Attorney General Tom Dosch will represent the state.

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Original URL: <http://www.jsonline.com/news/metro/jul03/155621.asp>

State wants to prosecute MMSD

Repair work led to raw sewage dumping

By MARIE ROHDE
mrohde@journalsentinel.com

Last Updated: July 17, 2003

The state Department of Natural Resources will attempt to prosecute the sewerage district because of a contractor's error that resulted in 250,000 gallons of untreated sewage being dumped into the Lincoln Creek this week.

"The secretary (Scott Hassett) has directed us to put together a referral package for prosecution," said Charles Burney, a DNR official who oversees the Milwaukee Metropolitan Sewerage District. "This should not have occurred. MMSD is responsible for the actions of its contractors."

This was the second time within a little more than two months that sewage was dumped into Lincoln Creek because of an error made by the contractor, Michels Pipe Line Construction, according to Bill Graffin, an MMSD spokesman.

A spokesman for Michels was unavailable for comment, according to a man who answered the company's office telephone.

"We are cooperating fully with the DNR's investigation," Graffin said.

While accidental dumpings have occurred fairly often, this is the first time the DNR has decided to take the district to court. The other recent incident did prompt the DNR to cite the district for violating its operating permit, also an unusual action.

The incident that prompted the prosecution order began around 2 p.m. Tuesday and ended at about 9:30 a.m. Wednesday near N. 31st St. and W. Hampton Ave., according to Graffin. He estimated that 250,000 gallons of untreated sewage was dumped.

Graffin said a Michels crew was cleaning a large sewer. Workers were unable to completely close a gate and stop sewage from entering the work area. The workers placed a large balloon in the sewer after the gate failed to close. That was supposed to force the sewage to drop into the deep tunnel system, the large underground storage facility primarily used to store sewage and rainwater during storms to avoid dumping. Instead, the sewage backed up into a smaller sewer and then was dumped into the creek when the sewer overflowed.

The dumping was discovered by workers from United Water Service, the private contractor that operates the sewerage system. They were making routine examinations of sewer gates along the creek.

Work on the sewer was halted. The air bag deflated, and a vacuum truck attempted to clean up as much of the overflow as possible, Graffin said.

Earlier incident

The other recent incident involving Michels workers also involved the cleaning of a large sewer. That happened May 6, but Graffin did not have details of what happened or how much sewage was dumped.

"We're extremely disappointed, and we're investigating what happened," Graffin said. "We will take appropriate action."

Work on the project has halted until the investigation is complete, Graffin said.

The dumping occurred during dry weather from what is known as a sanitary sewer. Sanitary sewers are located in most of the suburbs and part of Milwaukee. They are designed to carry only wastewater. Other sewers carry storm water and snowmelt.

<http://www.jsonline.com/news/metro/jul03/155621.asp?format=print>

Sewage Dumped

What: 250,000 gallons of untreated sewage was dumped into Lincoln Creek.

Where: Near N. 31st St. and W. Hampton Ave.

When: Started about 2 p.m. Tuesday and ended at about 9:30 a.m. Wednesday.

Dumping from separated sewers, according to federal and state regulations, is supposed to occur only during the heaviest rainstorms, because the sewage is concentrated.

MMSD could face fines of up to \$10,000 a day for each violation.

Last fall, River Hills, Bayside, Whitefish Bay and Wauwatosa were cited for dumping.

During a June 3, 2002, storm, Bayside dumped 168,000 gallons of sewage at two locations; Whitefish Bay dumped 4,000 gallons; and River Hills dumped 48,750 gallons. Wauwatosa dumped 3.74 million gallons over three months during dry weather because of a mechanical problem.

Last year, MMSD entered into a court-sanctioned agreement to spend nearly \$1 billion on sewer system upgrades to avoid prosecution for dumping of sewage since 1993, when the deep tunnel system, the cornerstone of a \$2.8 billion sewer upgrade, was completed.

Another lawsuit brought in federal court by environmental groups is pending. That suit claims that the agreement reached between the DNR and MMSD does not go far enough to prevent pollution.

From the July 17, 2003 editions of the Milwaukee Journal Sentinel

Original URL: <http://www.jsonline.com/news/Metro/jul03/156154.asp>

Firms suspended for role in sewage dumping

By MARIE ROHDE
mrohde@journalsentinel.com

Last Updated: July 18, 2003

The Milwaukee Metropolitan Sewerage District has suspended two firms responsible for dumping 250,000 gallons of raw sewage into Lincoln Creek earlier this week.

Kevin Shafer, MMSD executive director, said Friday that the district's legal staff would seek to recover damages from the contractors in the amount of any fine levied as a result of the Department of Natural Resources' decision to seek prosecution for the mishap.

The dumping began about 2 p.m. Tuesday and ended about 9:30 a.m. Wednesday. Michels Pipeline Construction was cleaning a large interceptor sewer and inflated a large balloon in the sewer after workers could not close a gate to cut off sewage to the area where the job was being done.

The sewage was supposed to drop into the deep tunnel, where it could be held until it could be transported to the treatment plant, but the balloon was placed in the wrong location, forcing the sewage into a smaller sewer. The smaller sewer surcharged, dumping the waste into the creek at about N. 31st St. and W. Hampton Ave.


A similar accident also involving Michels occurred May 6 at N. 31st St. and Capitol Drive. The DNR had issued the sewerage district a citation July 9 for that incident. The citation, a notice of non-compliance, usually precedes a court action.

Earth Tech, one of the city's largest engineering firms, was overseeing Michels' work on the \$1.54 million project. That company also has been suspended pending a full investigation, according to Shafer.

DNR Secretary Scott Hassett had taken note of the May 6 event and announced he would seek prosecution after learning of the second incident. MMSD faces fines of up to \$10,000 a day for each violation.

From the July 19, 2003 editions of the Milwaukee Journal Sentinel

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Editorial: MMSD's credibility gap

From the Journal Sentinel

Last Updated: July 19, 2003

Milwaukee Metropolitan Sewerage District Commissioner Bill Christofferson says district officials are not shopping around for experts to contradict a study that claims the district has been severely underreporting the volume of raw sewage that has been dumped into area waterways. By seeking to review the findings, officials are just "looking to make the program work" and make sure the study's results are accurate.

Maybe, but the public could be forgiven for thinking this is a duck since it sure walks and quacks like one. District officials will need to do a lot more work to convince the public otherwise.

According to the district-financed study by Milwaukee-based Triad Engineering, MMSD, in reports filed with the state, underestimated by 72% the amount of raw sewage dumped after three large storms. District officials received the final report in December, but its contents did not become public until the Journal Sentinel obtained a copy this month. Even district commissioners were kept out of the loop.

Executive Director Kevin Shafer has apologized for not disclosing the study earlier, but his apologies have raised other questions. In a letter apologizing to the state Department of Natural Resources, for example, Shafer said critical computer software had not been successfully installed or tested by Triad. He also said the new program was in the possession of a Triad subcontractor who no longer was working on the project.

But a Triad engineer told the Journal Sentinel's Marie Rohde and Steve Schultze that the software had in fact been turned over to MMSD. Asked about the contradiction, Shafer admitted that the district had the software but that it wasn't working properly because of "glitches" and that he still thinks the Triad study findings are suspect. Maybe Shafer is right, but the way the district has been handling these issues doesn't exactly instill confidence.

About a month ago, another report essentially said that, while there was room for improvement, the district was in good hands and that water quality has improved markedly since the deep tunnel project was completed. One of the biggest problems, that report said, was the district's poor image among the public.

Well, when the results of a major study are withheld, apparently because officials aren't happy with them, the resulting image is bound to be a bit tarnished. Nor does it help when the DNR announces it will try to prosecute MMSD over the dumping last week of 250,000 gallons of untreated sewage into Lincoln Creek, although MMSD deserves credit for quickly terminating the contract of the firm responsible for the dumping.

Secrets, obfuscation and state investigations tend to result in poor perceptions. Improving those perceptions is actually quite simple, and it doesn't require spending a lot of money on public relations firms. Just reduce the overflow of untreated and partially treated sewage - and be upfront with the public even when the news isn't good.

From the July 20, 2003 editions of the Milwaukee Journal Sentinel

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Firm says MMSD pushed blame

Michels Corp. denies responsibility for raw sewage dumping

By MARIE ROHDE
mrohde@journalsentinel.com

Last Updated: July 23, 2003

An executive with the firm blamed for dumping raw sewage into Lincoln Creek says the sewerage district is attempting to make his company "the fall guy" for an exaggerated problem that it didn't cause.

"I'm adamant that we have to get all the players to the table and determine exactly what happened," said Brian Johnson, an executive vice president for the firm, Michels Corp. "There is a potential lawsuit if we get saddled with the blame for something we are not responsible for."

Johnson said the Milwaukee Metropolitan Sewerage District has not met with his firm, although sewage district spokesman Bill Graffin said the district and the firm had discussed the matter soon after it was learned that up to 250,000 gallons of undiluted sewage was dumped into the creek last week.

The state Department of Natural Resources said it intends to prosecute the district because of the event and another dumping that took place May 6. The district could be fined up to \$10,000 a day for each event. MMSD said it will try to recover any costs from Michels Corp. and Earth Tech, an engineering firm on the job.

Graffin remained firm that the contractors were responsible for the mishap. But Johnson said he has seen no evidence that more than 5 gallons of untreated effluent were removed. He also asserted that the root cause of the problem was permanent gates in the sewer system that failed to work and noted that employees from MMSD and United Water were directing the work.

Michels and the district agree that the flow of sewage was supposed to be diverted to the deep tunnel, the vast underground cavern usually used to store rainwater and sewage that surcharge the regular system during heavy rains. The gate to the deep tunnel did not open, and that caused the sewage to back up into a smaller sewer and overflow into the creek.

While the maintenance of both sewer gates that failed to operate properly is the responsibility of United Water, Graffin pointed out that anything that goes wrong during the completion of the contracted project is the contractor's responsibility.

"We're out there to make sure that they were out there," Graffin said. "We're not out there to do their job."

Johnson said he didn't expect MMSD to do Michels' job.

"Their contracts call for a complete indemnification of the district," Johnson said. "They completely transfer responsibility for everything to us, even things that are clearly their responsibility. Many states don't even allow that."

The DNR's decision to prosecute MMSD for the incident was partially based on a similar incident that reportedly occurred on May 6. Johnson said he knew nothing of the incident until recently, and Graffin said the district is now not sure that it actually occurred.

From the July 24, 2003 editions of the Milwaukee Journal Sentinel



Preserving The Environment •
Improving Water Quality

Memorandum

TO: MMSD Commissioners

FROM: Kevin L. Shafer, P.E.
Executive Director

DATE: July 28, 2003

SUBJECT: Three Point Agenda for Accountability

We, as a District, have a critical role in this community. Our customers rely on us to protect our most valuable natural resource, the public health and the economic vitality of this region.

While I am convinced the 232 employees of MMSD have the best of intentions and work hard every day, it is time that we, as a District, work harder as a team and raise our level of commitment to our customers. We must increase the sense of urgency in identifying and solving problems.

Recent events have convinced me that in order to meet the level of service our customers expect and demand, we need to take some immediate actions.

1. An independent performance audit of the operation and maintenance of our treatment plants, the sewer system, and United Water Services suggested that we re-open our contract with United Water and strive to create incentives for better performance and improve accountability.

I am asking for your support to sit down at the table with our partner, United Water, and develop the best possible plan for protecting and improving water quality. Five years ago, it was a huge step for this community to enter into this agreement. Now, at the midway point in the contract, it is appropriate to make some adjustments based on our experience.

The audit highlighted how we can improve the contract, and today, we can initiate that process. I would like to develop a more meaningful and achievable system of incentives for improved performance.

At the same time, we also need to create a reasonable, graduated system of penalties to hold United Water accountable for mistakes or inadequate performance.

Please give this your immediate thought and consideration and at your earliest convenience, let me know if and how you would like me to proceed.

2. With such a huge and complex system, it is inevitable that problems will occasionally arise. Our customers rightfully expect an immediate and effective response. We need to improve in this area.

That is why I am announcing today, plans to form a Rapid Response & Resolution Team. This team will be dispatched to the scene of any incident that poses a potential threat to the environment or public health, to assess the situation, and take immediate action.

Upon first arrival, members will gather as much information as possible and report back to headquarters within 15 minutes. That will allow us to more quickly determine the appropriate response and mobilize additional resources if needed. They will then report back every hour until the problem is corrected.

However, establishing this team is not enough. I want to take it a step further. Everyone who gets a paycheck from MMSD should feel obligated and empowered to sound the alert when they see something that could negatively impact water quality or the level of service to our customers.

Think of this as our internal 911 system. Every MMSD employee will be able to alert the Rapid Response & Resolution Team to any situation that may need attention. We have some work to do to make this process as effective as it can be. But I believe when we are done, we will be equipped to provide a higher level of service to our community.

3. Successful organizations learn from their mistakes and continuously look for ways to improve. That is why I am accelerating and placing greater emphasis on our Six Sigma program, a customer-focused program that strives for zero defects. While no organization can guarantee flawless performance, it is imperative that everyone who works here makes the goal of zero defects--the core of everything they do.

Six Sigma, quite simply, is a quality improvement process that identifies defects and drives them out of the organization. Major corporations like Motorola, GE, and American Express have successfully used Six Sigma to radically reduce defects and improve customer service.

To complement our Rapid Response & Resolution Team, I am establishing an Evaluation & Improvement team that will review every incident that is investigated. The Evaluation & Improvement team will use the tools of Six Sigma to identify the cause of the problem and identify long-term solutions. We need to focus our time and attention on the continuous improvement of our operations.

I am raising the bar for every District employee. We need greater urgency and effectiveness responding to problems.

We must closely examine ways to reward United Water for outstanding performance while holding them accountable for poor performance.

Most importantly, we need every individual in this organization to believe in and work toward my goal of zero defects.

Asbjornson, Karen

From: Rohrer, Daniel
Sent: Monday, July 28, 2003 11:38 AM
To: Asbjornson, Karen
Subject: FW: MMSD accountability memo
CR inbox...

-----Original Message-----

From: eCommunications [mailto:eCommunications@mmsd.com]
Sent: Monday, July 28, 2003 11:16 AM
Subject: MMSD accountability memo

MMSD Executive Director Kevin Shafer announced the following items this morning in the commission meeting.
<<3Pt Agenda for Acctability-Jul03.doc>>

Know someone who would like to receive MMSD news or environmental updates? To subscribe or unsubscribe, send a message to:
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