

of \$488,300 PR to the PSC in fiscal year 1996-97, including \$50,000 PR for intervenor financing for PSC proceedings relating to the MMSD, and authorizes 5.0 PR permanent positions and 1.0 PR project position at the PSC to enable the PSC to implement its regulatory responsibilities specified in the Substitute Amendment.

**J. EFFECTIVE DATE**

In general, the Substitute Amendment takes effect on the first day of the first month beginning after the PSC issues a final order in the current complaint proceeding, *Investigation of Complaint Concerning the Rates and Practices of the Milwaukee Metropolitan Sewerage District*, Docket No. 9308-SR-102, but not earlier than July 1, 1996, or on January 1, 1997, whichever is earlier.

If you would like any additional information on any of the provisions in Senate Substitute Amendment 1 to 1995 Senate Bill 614, please feel free to contact me at the Legislative Council Staff offices.

JES:ksm:lah;jt;rjl;lah;kja

Attachment

**ATTACHMENT**

**Chapter 196 Sections Amended by Senate Substitute Amendment 1  
to 1995 Senate Bill 614, to Treat a "Regulated District,"  
Including the MMSD, Like a Public Utility**

<b>CHAPTER 196 SECTION AMENDED BY SENATE BILL 614</b>	<b>SECTION TITLE</b>
s. 196.02	Commission's powers.
s. 196.03	Utility charges and service; reasonable and adequate.
s. 196.05	Public utility property; valuation; revaluation.
s. 196.06	Uniform accounting; forms; books; office.
s. 196.07	Balance sheet filed annually.
s. 196.09	Depreciation rates and practices; findings by commission; dividends from reserves; retirements.
s. 196.10	Construction; accounting.
s. 196.11	Profit sharing and sliding scales.
s. 196.12	Report by public utilities; items.
s. 196.13	Commission's report.
s. 196.14	Public record exception.
s. 196.15	Units of product or service.
s. 196.16	Standard measurements; accurate appliances.
s. 196.17	Tests of meters; fees.
s. 196.171	Examination of meters, pipes, fittings, wires and works; entering buildings for.
s. 196.18	Entry upon premises.
s. 196.19	Publish schedules; regulations; files; joint rates.
s. 196.20	Rules on service; changes in rates.
s. 196.21	Publicity of revised schedules.
s. 196.22	Discrimination forbidden.
s. 196.24	Agents of commission; powers.
s. 196.25	Questionnaires.
s. 196.26	Complaint by consumers; hearing; notice; order; costs.
s. 196.28	Summary investigations.
s. 196.30	Utilities may complain.
s. 196.31	Intervenor financing.

<b>CHAPTER 196 SECTION AMENDED BY SENATE BILL 614</b>	<b>SECTION TITLE</b>
s. 196.37	Lawful rates; reasonable service.
s. 196.39	Change, amendment and rescission of orders; reopening cases. <sup>1</sup>
s. 196.44	Law enforcement.
s. 196.49	Authorization from commission before transacting business; extensions and improvements to be approved; enforcement of orders; natural gas.
s. 196.525	Loans to officers or directors and loans to investments in securities of holding companies; penalty.
s. 196.58	Municipality to regulate utilities; appeal.
s. 196.595	Utility advertising. <sup>2</sup>
s. 196.60	Discrimination prohibited; penalty.
s. 196.604	Rebates, concessions and discriminations unlawful.
s. 196.61	Facilities in exchange for compensation prohibited.
s. 196.635	Unbilled utility service.
s. 196.64	Public utilities, liability for treble damages.
s. 196.643	Owner responsibility for service to rental dwelling unit.
s. 196.65	Penalties relating to information and records.
s. 196.66	General forfeiture provisions.
s. 196.68	Municipal officers, malfeasance.
s. 196.69	Interference with commission's equipment.
s. 196.70	Temporary alteration or suspension of rates.
s. 196.72	Accidents; public utility report; investigation.
s. 196.79	Reorganization subject to commission approval.
s. 196.81	Abandonment; commission approval required.
s. 196.85	Payment of commission's expenditures by utilities.

<sup>1</sup> The treatment of s. 196.39 first applies to orders issued on or after the general effective date of the Substitute Amendment.

<sup>2</sup> Current s. 196.595 applies only to electric and gas utilities.

# **SB 614 - PSC Oversight of MMSD**

## ***Fact Sheet***

Senate Bill 614 is the latest attempt by the Legislature to ensure an end to the long-running dispute over sewage rates between the Milwaukee Metropolitan Sewage District (MMSD) and the outlying suburban communities who have formed under the name Fair Liquidation of Waste (FLOW).

Senate Bill 614 does the following:

- 1 Establishes Public Service Commission (PSC) oversight of the MMSD.** Currently, the PSC regulates all major electric, gas, telephone and water utilities in the State. The MMSD is not regulated by the PSC, even though it is the second-largest utility in Wisconsin. Without regulation, disputes on price issues are almost impossible for the consumer to win.
- 2 Directs the PSC to determine whether or not the MMSD has accumulated excessive reserve funds at taxpayer expense.** The MMSD currently has in excess of \$120 million in reserves. The PSC would be instructed to see if this amount of a surplus is reasonable. If \$120 million is found to be excessive, the money would be returned to customer communities based on the percentage they have paid in annual capital charges. For example, if \$100 million were returned, West Allis would receive a rebate check for \$6.94 million.
- 3 Directs the PSC to study privatization of the MMSD.** If the PSC determines that privatizing the MMSD would be in the best interest of taxpayers and customers, then it would be sold and the proceeds would be returned to member communities on a percentage basis, the same as in #2.

Senate Bill 614 does not:

- **Interject the State into the past billing dispute.** While this bill will ensure future "sewer wars" do not erupt by having an impartial regulator, it does not deal with the past debt issue.
- **Punish or provide special deals for anyone.** All communities served by MMSD will benefit from this legislation.

I have included copies of articles written on this legislation, along with example's from one communities experiences with the MMSD as proof of the need of this bill.

# Legislature can end sewer wars by passing newly proposed bill

**Passage of Senate Bill 614 will mean sewerage district can concentrate on providing best possible service**

3/25/96

BY ALBERTA DARLING

A paid advertisement recently appeared in this paper which distorted the truth about an important piece of legislation and personally attacked me. I feel I must respond to the false accusations which have been made and explain why reforming the rate-making process of a non-elected taxing body known as the Milwaukee Metropolitan Sewerage District will be good for taxpayers in Milwaukee County.

Eight suburban communities known as FLOW owe Milwaukee County taxpayers tens of millions of dollars on past due sewer bills. The FLOW communities should pay their debt to the taxpayers in Milwaukee County. I have consistently held to that position. The Legislature should not retroactively set rates or relieve any party of its prior obligations.



Darling

MMSD states that Senate Bill 614 will relieve FLOW's debt to Milwaukee County and drag this dispute out longer. That accusation is absolutely false. A legal opinion from the non-partisan Legislative Reference Bureau states, "I am not aware of any provision in SB 614 or current law which would authorize the PSC (Public Service Commission) to engage in retroactive rule-making with respect to MMSD." Although it was clear the bill would never absolve FLOW's debt, I still insisted that SB 614 include a provision explicitly stating that would never happen.

Since the sewer legislation does not forgive FLOW's debt, what does this new proposal, Senate Bill 614, really do:

**TAXPAYER WATCHDOG IS CREATED**

In Wisconsin, we regulate monopolies to provide consumer protection. MMSD is a monopoly utility provider, no different from Wisconsin Electric Power Co. or any other. Today, we have no regulatory oversight in the rate-setting structure of MMSD. Unlike electric

utilities, where we have Public Service Commission oversight, MMSD is free to charge any rate it wants, with no accountability.

Consumers have benefited in Wisconsin as a result of monopoly regulation. Wisconsin has the third lowest electric rates nationwide and the lowest in the Midwest. The reason is regulatory oversight. By contrast, an article recently appeared in the Milwaukee Journal Sentinel that stated, "A survey of 10 big-city sewerage districts across the U.S. showed that Milwaukee's rates were third highest." Why shouldn't MMSD have to justify future tax increases before your tax bill arrives? SB 614 would apply the same regulatory oversight to the monopoly known as MMSD.

**RETURN RESERVES TO TAXPAYERS**

Not having to justify tax increases has allowed MMSD to assemble a reserve fund of more than \$100 million. Milwaukee County residents have been overcharged for sewer service by this amount over the years. This money should be returned to Milwaukee County taxpayers as soon as possible. If this bill were to pass, Milwaukee County taxpayers would receive more than \$100 person on a per capita basis simply from refunding these reserves.

**FAIRLY DISTRIBUTE PROCEEDS FROM PRIVATIZATION**

Many elected officials, including the mayor of Milwaukee, have agreed that we need to explore privatizing MMSD. SB 614 guarantees that if the MMSD is privatized, Whitefish Bay, Fox Point, Shorewood, Glendale, Brown Deer, and all other Milwaukee County communities will receive their respective share of the sale based on their contributions to the capital costs associated with MMSD's assets.

Pass SB 614 and the sewer wars are over. The PSC will finally be given the authority to permanently settle future disputes between MMSD and FLOW, not simply issue opinions which are endlessly appealed. Settlement of this longstanding dispute will mean the MMSD can finally concentrate on lowering rates, ensuring all residents a clean and safe water supply and providing the best possible service.

We cannot afford another decade of sewer wars.

Sen. Alberta Darling (R-River Hills) represents the 8th District.

# EDITORIAL PAGE

THE MILWAUKEE SENTINEL  
SOLOMON JUNEAU  
FOUNDER 1837

SUNDAY, MARCH 24, 1996

EDITOR: ARV. O. MESSNER  
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DEPUTY MANAGING EDITOR: GERRY HINCKLEY  
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DEPUTY EDITORIAL PAGE EDITOR: SUE RYON

## OUR VIEWS

# PSC role in sewer wars worth exploring

One hears a lot of things in the state Legislature in the closing days of a floor session. One common refrain these days? "Frankly, I am sick to death of the whole thing."

It's Milwaukee's eternal "sewer wars" that legislators are talking about. In the end, that attitude may be why frenzied lawmakers, rushing to finish their work before Thursday, pass a bill granting the Public Service Commission oversight of the Milwaukee Metropolitan Sewerage Commission.

Goodness knows, some day soon a stake must be driven through the heart of the political vampire that is preventing other areawide issues from being addressed while the city-suburban battle over district sewer construction costs lingers on — for more than 12 years. To many people, it's a lot of gobbledegook. The lawyers, lobbyists and bureaucrats for the

Metropolitan Milwaukee Sewerage District and the suburban coalition known as Fair Liquidation of Waste have spent millions seeking a resolution to their dispute. Courts have ruled and re-ruled. Legislators and even the governor have been led to the brink of settlement, only to see hope for agreement on a division of costs for the district's deep tunnel project flushed away at the last minute.

Despite the hackles that the oversight bill raises for MMSD officials, the reality is that it would do no harm to try the PSC approach. That's because the two sides seem to be joined at the hip when it comes to common distrust. Nothing short of statehood for each entity, it seems, will ever bring peace.

FLOW, representing communities that contract with the district, believes that a PSC oversight role would rein in a monopoly that the

coalition calls the state's second largest, behind Wisconsin Electric Power Co. FLOW hopes the move would produce a fair rate structure. MMSD thinks differently. It would cost ratepayers more than \$1 million, officials say, to turn district control over to a state bureaucracy.

The issue of power is not all that stands between the combatants. There is the matter of \$170 million that FLOW owes the district and that the district has quite honorably offered to slash to \$107 million. The issue is before the PSC, and FLOW officials say they will honor the PSC's decision.

MMSD wants more. It wants a guarantee that FLOW won't go back to circuit court on the cost issue.

If FLOW would agree, maybe the PSC legislation would, as one lawmaker put it, "have this thing over with — once and for all."

SATURDAY, MARCH 23, 1996

Send letters to: The Morning Mail, Milwaukee Journal Sentinel, P.O. Box 371, Milwaukee, Wis. 53

# Panel backs control of MMSD

Bill to give state authority over sewage treatment utility set for debate

3/23/96

By STEVEN WALTERS  
of the Journal Sentinel staff

Madison — A bill requiring state regulators to govern Milwaukee's giant sewage treatment utility was approved Friday, setting up a full-blown state Senate fight on the bill in three days.

The bill, pushed by Republican suburban legislators trying to end the "sewer wars" that have raged in the Milwaukee area for 13 years, was recommended, 10-4, by the Legislature's budget committee.

State Senate leaders scheduled the bill for debate Tuesday. It would subject the Milwaukee Metropolitan Sewerage District to regulation by the state Public Service Commission.

"I'm so tired of sewer wars," said Rep. Lofita Schneiders (R-

Menomonee Falls), who voted for the bill. "We should be working together. We are natural allies; we shouldn't be enemies."

But Sen. Peggy Rosenzweig (R-Wauwatosa), who opposed it, predicted it will only "enflame the war" and trigger "son of sewer wars."

"There is no end to this," Rosenzweig said.

Democratic Rep. Spencer Coggs, of Milwaukee, said the bill will hurt City of Milwaukee residents who don't follow the complicated issue.

"War is hell," Coggs said. "This legislation is not going to stop the hell of this war."

Under the bill (S-614), the three-member Public Service Commission would regulate MMSD starting next year, requiring the sewerage district to justify new rates.

Also, most of a \$121 million cash reserve built up by MMSD to hold down future tax rates would be refunded to Milwaukee County residents. The Pub-

lic Service Commission could decide that up to \$30 million of that reserve fund could be transferred to the state clean water fund, which makes loans to local governments.

Before the vote, suburban leaders said MMSD has become a rogue "monopoly" since it was set up in 1961 and has refused to serve some suburban areas late-

ly. It provides sewer service for one out of every four residents statewide and yet is controlled by appointees of Milwaukee's mayor, argued Brookfield Mayor Kathryn Bloomberg.

MMSD "has to have a check and balance," Bloomberg said.

Ralph Hollman, MMSD's executive director, said power now held by the district should not be turned over to state regulators.

"A lot is at stake," said Hollman, who said the bill would "take control away from local officials."

# Sewerage district is up to its old tricks

## THE MORNING

This is in response to the Milwaukee Metropolitan Sewerage District's "propaganda" which appeared in the paper March 17. It was evidence that MMSD is continuing its flurry of lies and terror tactics out of fear of the truth, so here it is:

To begin with, the makeup of the MMSD board is entirely at the will of the mayor of Milwaukee. This gives the Fair Liquidation of Waste communities absolutely no representation on a board, which has unbridled powers to tax these same communities.

Also, charging sewer rates based on property value is totally unfair any way you look at it. Under this plan, a \$500,000

Davidian says:

"Imagine if the state charged

income tax not on what you earn,

but rather on the population of

the county in which you live."

household of four would pay as much for sewer service as a \$500,000 business with dozens of employees and several times more output into the system.

Imagine if the state charged income tax not on what you earn, but rather on the population of the county in which you

live. FLOW, as its name implies, is looking to pay charges based on usage, the fair method, not because its property is more expensive.

Finally, and most importantly, MMSD is using its lies to try and drive a wedge between Milwaukee residents and their suburban neighbors. All other utilities are under Public Service Commission oversight. Why does MMSD fight this? Because it knows that FSC oversight means it will have to operate fairly, honestly, and with regard to all those it serves — not just the politicians.

David Davidian  
Mequon

# WISCONSIN

MILWAUKEE JOURNAL SENTINEL MONDAY, MARCH 25, 1996 5

## Probe is sought of MMSD's lobbying methods

### Legislator questions campaign against Darling

By STEVEN WALTERS  
of the Journal Sentinel staff

**Madison** — A legislative leader will ask the state Elections Board to investigate Milwaukee Metropolitan Sewerage District's lobbying tactics aimed at a state senator.

The sewerage district's lobbying methods against state Sen. Alberta Darling (R-River

Hills) were "totally inappropriate," said state Rep. Ben Brancel (R-Endeavor).

Co-chairman of the Legislature's budget committee, Brancel said he will ask the Elections Board to investigate whether MMSD made an "independent" political expenditure, which would have to be reported, when it took out a full-page ad in last Sunday's Milwaukee Journal Sentinel.

The ad targeted Darling's support for a bill that would require the state to regulate MMSD. Darling's district in-

cludes both Milwaukee, whose leaders oppose the bill, and suburbs whose leaders want the bill.

The bill (SB 614) will be debated Tuesday by the full Senate.

Under sharp questioning by Brancel, MMSD officials said:

■ MMSD board members, a majority of whom are appointed by Milwaukee Mayor John Norquist, were polled by telephone on whether the district should spend public funds to prepare and run the ad.

Brancel said the telephone

poll may have violated the state open meetings law, which requires advance notice of governmental meetings. Brancel said he wants to know whether any required advance notice of the poll of board members was given.

MMSD's board includes two Milwaukee legislators, Sen. Brian Burke and Rep. Shirley Krug, both Democrats.

■ MMSD's public relations campaign included anti-Darling telephone calls.

Trying to get MMSD customers to pressure Darling, "there was some effort in telemarketing, yes," MMSD chief lawyer Michael McCabe told Brancel.

MMSD Executive Director Ralph Hollimon said he could

not remember what the public relations effort aimed at Darling cost the district.

Legislators look turns denouncing MMSD for the anti-Darling newspaper ad.

It was "nothing but a poke in the eye, for political reasons," said Sen. Robert Cowles (R-Green Bay).

Sen. Mary Panzer (R-West Bend), who is pushing the bill for state regulation of MMSD, called the ad "patently unfair," because of what it said and the use of public funds to pay for it.

"I would hope I don't see it again, because to me it's a misuse" of public funds, Panzer added.

Sen. Peggy Rosenzweig (R-Wauwatosa), who is against the bill requiring the Public Service

Commission to regulate MMSD said both Milwaukee and suburban leaders outside Milwaukee County have taken out ads criticizing state and local leaders in the long-running "sewer wars" fight.

"There are no white hats, and both (sides) are smarmy," Rosenzweig said. "Welcome to sewer wars. It stinks."

Cowles added an amendment to the bill being debated Tuesday that, if it became law, would require the PSC to regulate which funds MMSD can use for future ads and public relations campaigns.

That provision would extend current PSC regulation of electric and gas utilities' public relations campaigns to MMSD, officials said.



# BUSINESS

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TUESDAY, MARCH 19, 1996

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SINCE 1907

## PSC has kept utility rates low

**Power over sewage  
fees proposed, too**

By LEE BERGQUIST  
of the Journal Sentinel staff

When lawmakers decide whether to give state regulators more authority over the Milwaukee Metropolitan Sewerage District, they might want to consider this:

Customers of electric, natural gas and telephone utilities — all regulated by the state Public Service Commission — generally enjoy some of the lowest rates in the United States.

And the companies are all strong financially.

By contrast, customers of the sewerage district pay some of the highest rates in the country.

A survey of 10 big-city sewerage districts across the U.S. showed that Milwaukee's rates were the third highest.

Residential customers of the sewerage district paid an average of \$254 in 1993. That compared with a high of \$357 in Boston and a low of \$132 per year in St. Louis, according to the American Metropolitan Sewerage Association.

Yet after decades of regulation, electric prices in Milwaukee are below the national average. At \$38.64 per month on average as of January, customers of Wisconsin Electric Power Co. are paying far less than New York City's \$81.67 per month.

*Please see PSC page 4*

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# PSC/Regulatory body has kept rates low

From page 1

Natural gas prices from selected Wisconsin utilities also are below the national average. Customers of Milwaukee-based Wisconsin Gas Co. paid \$45.60 per month on average for a three-month period ending in September. That's far below the national average of \$58.67 per month.

And the price of local telephone service?

Ameritech customers in Wisconsin pay an average \$17.61 per month. The national average is \$19.84 per month.

Utility analyst Dave Parker of Robert W. Baird & Co. ranks Wisconsin as the best regulatory environment for power companies in the country.

"Past regulatory actions have been consistent and have demonstrated a good balance between investor and rate payer interests," Parker said.

But MMSD spokesman Steve McKay said that Wisconsin utilities' low rates did not mean that the district should embrace the regulation of a "government body that is 78 miles away."

Milwaukee residents are paying high sewerage rates because the district spent \$2.3 billion on its mammoth deep-tunnel project, he said.

"All of the other cities — except Boston — have not undertaken projects like this," McKay said.

An agency that dates back to 1907, the PSC now finds itself being asked to oversee the MMSD. Gov. Tommy G. Thompson backs the measure, which is drawing both praise and criticism around the Capitol.

But what do those regulated by the PSC think of the agency?

Relations can run hot and cold between bureaucrats and the electric, gas, telephone and water utilities they regulate.

When the PSC decided in December to take a go-slow approach to deregulate the state's electric power industry, Wisconsin

Energy Corp. Chairman Richard Abdoos blasted the agency for taking a "Scrooge-like" approach.

But last week, an Abdoos lieutenant called the PSC "one of the best — if not the best — commission in the country."

"They are working hard to be more efficient regulators," said Dale Landgren, director of business planning at Wisconsin Electric Power Co., a unit of Wisconsin Energy.

Yet even Landgren noted that his company feels that the three-member commission, appointed by the governor, has moved in recent rate cases too far in favor of customers and too far away from shareholders.

It is that delicate balance — a fair price vs. financial reward — that the commissioners and their staff must weigh constantly.

The result is that conflict is a natural byproduct of the regulatory process, said Chuck Cummings, director of regulatory affairs for Milwaukee-based Wisconsin Gas Co., a unit of WICOR Inc.

"There is natural tension built into the system, because in many cases there is almost a daily interaction," he said.

Yet Cummings said the experience of his company was that relations had improved between the two sides over the last 10 years.

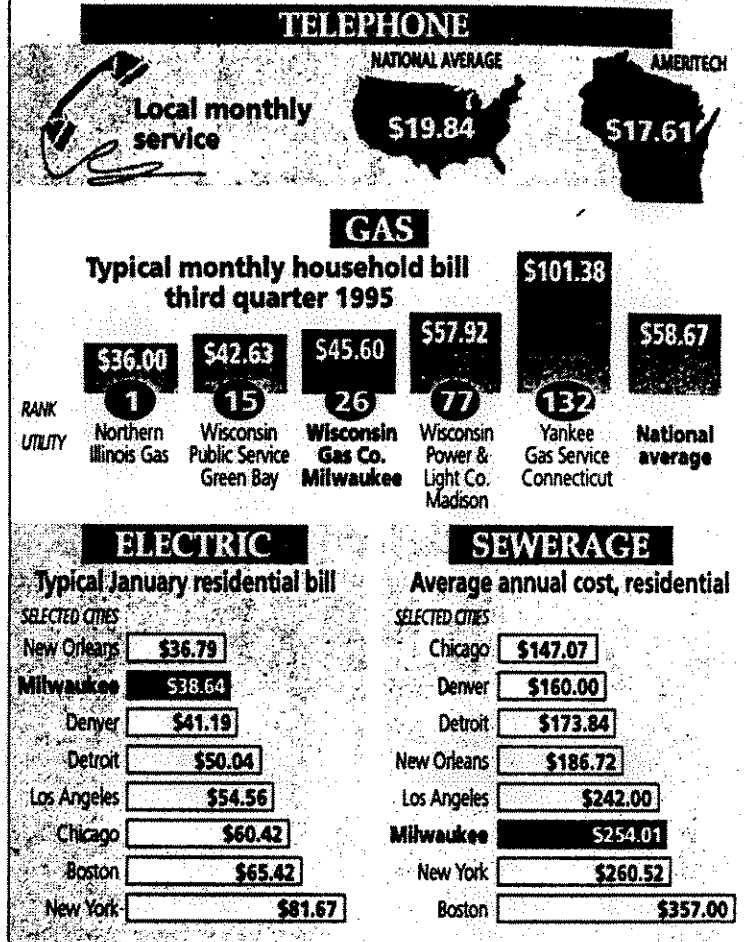
But as some legislators are trying to heap new responsibilities on the PSC, the agency has been working to deregulate utilities — especially electric companies and local phone companies.

The PSC and major phone companies like Ameritech and GTE both lobbied in support of the state's 1994 telecommunications law. Among other things, the new law opened up local markets to competition, though little has occurred yet.

PSC Chairwoman Cheryl Parrino envisions her agency as becoming less involved in industries where market forces come into play.

## State's utility rates rank low

Customers of Wisconsin's electric, natural gas and telephone utilities generally enjoy some of the lowest rates in the United States. All the utilities are regulated by the Public Service Commission. Bills from the Milwaukee Metropolitan Sewerage District, which is not regulated by the PSC, rank among the highest in the country.



Sources: Ameritech; American Gas Association; American Metropolitan Sewerage Association

JOHN PINCHARD/Journal Sentinel

For example, telephone companies will get less oversight, in general. But her agency is likely to pay more attention to customer service.

"In some ways it's been O.K.," said Ray Riordan, executive vice president of the Wisconsin Telephone Association, which represents 85 local phone companies.

"There is a tremendous amount of bureaucracy out there that has created a lot of costs for companies that really seem unnecessary," Riordan said.

He recalled how in the late 1980s, the PSC decided to limit to four the number of cables that could be used in each fiber optic line. The industry wanted 10 because it saw the need for

more high-capacity lines in the future.

"That set back the deployment of fiber in the state for some time," Riordan said.

But it's not the time to thin about less regulation, said David Merritt, executive director of the Citizens' Utility Board.

He pointed to Ameritech's service woes last summer, where thousands of telephone customers lost dial tones for hours some for more than a week.

If the agency deregulates the electric business quickly, he said, there will be similar problems.

"Not having telephone service for a day is one thing. But not having electricity for the same amount of time is that much more serious," he said.

**FLOW**  
**Fair Liquidation Of Waste**

890 Elm Grove Road  
Elm Grove, WI 53122

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**Benefits of Senate Bill 614 to the City of New Berlin**

SB 614 will establish Public Service Commission oversight of the monopoly MMSD. It will treat MMSD just like the electric, gas, telephone and water utility serving the City of New Berlin.

**MMSD has repeatedly abused the City of New Berlin and its' residents.**

1. In the spring and summer of 1995 MMSD arbitrarily held the new Westridge development hostage putting the \$100 million development at risk. The City of New Berlin had spent millions to provide infrastructure for the development . All those city dollars were put at risk.
2. New Berlin West High School was ordered by DNR to stop using its small sewer plant. The City of New Berlin, DNR and SEWRPC wanted to connect the school to the sewer system but MMSD refused to allow the connection. The school is still not connected to the sewer system and has been forced to upgrade the its own sewer plant.
3. In the 1980s the DNR ordered New Berlin to close their municipal wastewater treatment plant and connect to the MMSD system. New Berlin spent \$2 million to construct the Hales Corners interceptor and MMSD refused to connect to the sewer. New Berlin had to obtain a court order to achieve the connection.
4. MMSD has invoked sewer connection moratoriums numerous times in past years ,these moratoriums are usually declared right when new subdivisions have been proposed.
5. New Berlin is a high value / low sewerage flow community. The current billing policy of MMSD attempts a massive income transfer scheme from New Berlin taxpayers.
6. The City of New Berlin has areas that are undeveloped. Will the City have to go to court over and over with MMSD in order to provide sanitary sewerage services to its' growing population?
7. If MMSD is privatized, as the Mayor of Milwaukee proposes to do, SB 614 will provide PSC oversight of sale proceeds to the state and communities in proportion to amounts of capital contributed. From 1985 to 1995 New Berlin contributed 1.9% of MMSD capital.
8. The City of New Berlin does not have the expertise or manpower to evaluate the MMSD rates, rules and practices. Only the PSC can provide those analyses and protection for the City of New Berlin.

No one expects an individual municipality to spend its own resources to fight the rates and rule proposals of Wisconsin Electric or Wisconsin Gas. Why would state policy be such that every customer community of MMSD has no regulatory body to help? SB 614 is good public policy for all customers of MMSD.



3805 S. Casper Drive  
P.O. Box 921  
New Berlin, Wisconsin 53151-0921  
414/786-8610

January 2, 1996

Marc Duff, State Representative  
PO BOX 8952  
Madison WI 53708

Attn.: Marcia

RE: City of New Berlin Authority to Purchase Sewerage Treatment Plant Capacity

Dear Representative Duff:

Approximately two weeks ago, Marcia informed me that your office had received an inquiry concerning the authority used by the City of New Berlin when capacity was purchased in the Brookfield waste water treatment plant. Our City Attorney has indicated that such authority is granted under Section 66.076 of Wisconsin Statutes. That section provides that a municipality may acquire any plant for the correction, transportation, storage, treatment and disposal of sewerage. Payment for this acquisition may be provided from the general funds, taxation, special assessment, sewerage service charges or from proceeds of either municipal obligations, revenue bonds, or from any combination of the methods of financing. There is no requirement that public hearings be prior to such acquisition.

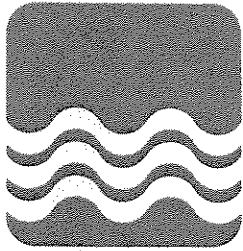
If you have any further questions on this matter, please do not hesitate to call me.

Very truly yours,

CITY OF NEW BERLIN

Mark J. Schmalz, P.E.  
City Engineer

MJS:db  
c: DPW



**Milwaukee Metropolitan Sewerage District**  
260 West Seeboth Street Milwaukee, Wisconsin 53204-1446

Office of the Executive Director  
414-225-2088

November 1, 1995

Representative Marc C. Duff  
District 98  
Post Office Box 8952  
Madison, WI 53708

Dear Representative Duff:

This is written to bring you up to date on our continuing efforts to hold down costs in our Operation and Maintenance (O&M) and Capital Budgets.


I am pleased to report that **MMSD's property tax rate for 1996 capital budget purposes will drop by 12%** - from \$3.00/\$1,000 of equalized value to \$2.65/\$1,000. The tax levy drops from \$87 million in 1995 to \$80.6 million in 1996.

Let me point out that MMSD could have reduced its property tax rate even more if six of the eight FLOW communities had not refused to pay **any** of their sewer bills in 1995. Even if FLOW had continued their unacceptable past practice of paying half of the annual amount they owe, **the 1996 tax rate could have been reduced to \$2.35/\$1,000.** Further, if these FLOW communities were to comply with the court decisions that have ruled they should pay the same way everyone else pays for District capital projects, **we could have reduced the 1996 tax rate to \$1.65/\$1,000.**

In the O&M budget, **total user charges will decline by 3% in 1996.** This means that **the District's average annual residential user charge will decline** from \$91.49 in 1995 to \$85.96 in 1996. This is also the third consecutive year that user charge collections have grown at less than the annual rate of inflation. These savings are the result of the Commission's efforts to contain costs and streamline our agency. The 1996 O&M budget also includes a net reduction of 11 funded positions. **Since 1991, over 89 positions (12% of our workforce) have been eliminated, resulting in the lowest staffing level in 18 years.**

The 1996 Capital and O&M budgets clearly demonstrate the success of our fiscal and environmental stewardship. I hope you find this information useful. If you have any comments or questions, please feel free to contact me.

Sincerely,

  
Ralph Hollmon  
Executive Director

/dlj

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FAX (414) 233-4141



CHARLES E. WILLIAMS  
DAVID J. SCHULTZ  
THOMAS J. KING  
COURT COMMISSIONER  
RAYMOND L. EDELSTEIN

September 19, 1995

GEORGE E. WILLIAMS 1895-1944  
CHARLES H. WILLIAMS 1903-1959  
EUGENE G. WILLIAMS 1926-1985

Carol Owens  
State Representative  
P O Box 8953  
Madison, WI 53708

Dear Representative Owens:

I represent the Algoma Sanitary District #1 which is within your District representation in the assembly. The Sanitary District has difficulty in getting extensions of service due to objections from the City of Oshkosh which are then voted against the District in the Regional Development Committee for East Central Wisconsin Regional Planning Commission. I note that the suburban entities in the Milwaukee area have similar difficulties with the Milwaukee Metropolitan Sewage District. A Milwaukee Journal/Sentinel article from September 15, 1995 indicates that on September 14, 1995 the Assembly Environment Utilities Committee endorsed a bill that would permit anyone denied a request for sewer connection to appeal the denial to the DNR. I want to request from you information whether the language of that bill is broad enough to reach the Algoma Sanitary District #1 difficulties with the City of Oshkosh and East Central Wisconsin Regional Planning Commission. Please send me a copy of the bill and your opinion on whether the Algoma Sanitary District #1 will be protected under that bill.

Sincerely,

A handwritten signature in dark ink, appearing to read 'T. J. King'.

Thomas J. King  
Attorney for Town of Algoma  
Sanitary District #1

xc: Bernie Miller

TJK:vlb

AB434

Re: MMSD Legislation

To: Scott Neitzel at PSCPOB03  
CC: Cheryl Parrino at PSCPOB03  
CC: John Lorence at PSCPOB03  
CC: Steve Schur at PSCPOB03  
CC: Joyce Narveson  
CC: Doug Sorge  
CC: Vishwa Kashyap  
CC: Jackie Reynolds at PSCPOB03  
From: Dave Sheard  
Subject: Re: MMSD Legislation  
08-09-95 12:21 PM

RECEIVED

AUG 29 1995

Commissioners' Office

As I understand the proposal, communities ( the "contract" communities?) could identify their capacity needs and purchase such capacity outright from MMSD. I am not clear as to whether this includes capacity in both the collector system and the treatment plants but either way it could have merit. Presumably the communities could then recover the capital costs of their dedicated (or perhaps owned plant) in any way they elect. By purchasing outright this capacity it would in effect result in a recovery of capital costs from these communities on the basis of volume of flow as opposed to property value.

I would agree with Cheryl's comments relative to the need for contracts that would preserve MMSD's ability to operate on a truly regional basis and which allow for facility planning. As relates to the PSC, I understand our involvement would be limited to valuation issues if price could not be established between parties. We have similar responsibilities under ch. 197, Stats. for municipal acquisition of investor-owned public utilities, and s. 66.03(4) Stats., for reapportioning the value of public utilities subsequent to land division between municipalities, typically a city or village annexation of town properties. While our role as a tribunal of last resort may be similar for the MMSD proposal, the big difference is that in the case of public utilities we have the property records and accounting in place to make this a relatively straight forward task.

The first round of valuation in the case of MMSD would be complex if the proposed legislation is envisioned to apportion existing capacity costs to user communities. The complications would stem not only from the adversarial nature that would no doubt prevail but also from the challenge of developing valuation for the massive expenditures that were made under the Water Pollution Abatement Project (WPAP). In discussing this with Joyce, we both believe that the short term impact of this type of undertaking on PSC resources would be parallel to the fiscal estimate that we made on SB 206 which would have the PSC oversight of certain elements of setting MMSD's sewer rates but stopping short of full utility regulation. Long term I would agree with Cheryl that this matter would become less contentious as issues are addressed. Accordingly, there probably would not be the need for the permanent positions we identified with SB 206. (I

send a copy of the fiscal statement in SB 206 up to you.)

If the intent of the legislation is to deal with the next round of MMSD planning and associated capital costs, it would seem much less likely to be a large burden on this agency. It's the going back in time that would present the challenge.

---

Reply Header

Author: Scott Neitzel  
Subject: MMSD Legislation  
08-08-95 04:22 PM

Rep. Duff would like our opinion on legislation that would allow communities to purchase (and force MMSD to sell) capacity from MMSD. My understanding is that if no price could be agreed upon, it would come to the PSC for a binding valuation determination. Any thoughts?



**NEIL PALMER & ASSOCIATES**

*Public Affairs Consultants*

8/18/95

To: Senator Farrow  
Representative Duff

From: Neil Palmer

Re: Letters to Milwaukee County communities

Attached please find copies of letters to Fox Point, Bayside and Wauwatosa in which FLOW asks for the opportunity to appear before their city council or village board. Also enclosed are copies of the informational materials being sent with the letters. There is one community specific "green sheet" and then set of materials that will be common to all mailings.

The purpose of our request to appear before these community boards and our request to appear before the ICC Executive Council (on 8/28) is to describe the proposed legislation and seek their input and support.

If you have any questions about this material or other matters please call on me.

8/17/95

Mr. Mark B. Pollack, President  
Village of Fox Point  
7200 North Santa Monica Blvd.  
Fox Point, Wisconsin 53217

Dear Mr. Pollack,

This fall the Wisconsin Legislature will consider four pieces of legislation that can bring lower and more fair taxation to citizens of your community. Representatives of Fair Liquidation of Waste (FLOW) would like to speak with your village board to outline just how important this legislation is for your community.

Essentially, the proposed legislation -- Senate Bills 206 and 208, and Assembly Bills 374 and 434 - provide more regulatory oversight for a restructured, more responsive Milwaukee Metropolitan Sewage District.

SB 206 gives the Public Service Commission of Wisconsin the power to approve rate changes proposed by MMSD. This proposal allows the PSCW to investigate and hold public hearings on any proposed changes. Currently, the PSCW can step in only when a complaint is filed.

SB 208 restructures the MMSD commission into a more professional, less politicized body. The proposal trims the 11-member commission to five, reducing the number of commissioners appointed by the mayor of Milwaukee from seven to one.

AB 374 prohibits the MMSD from basing capital charges on customer property value. The current MMSD practice of basing capital charges on property value is the heart of the FLOW communities long-running dispute with MMSD. This practice puts a disproportionate tax burden on suburban homeowners and "dry" businesses. AB 374 forces MMSD to calculate charges for capital projects based on location and use, a much more equitable method.

Our most recent analysis shows that your community will be taxed \$1,034,625 more for 1995 capital charges than would be required under a use based charging system.

AB 434 provides the power for Wisconsin Department of Natural Resources to approve sewer connections to areas which are in the sewer service area and which meet all technical criteria. This change will end the MMSD practice of holding jobs and development "hostage" in contract communities.

While the FLOW communities -- Brookfield, Butler, Elm Grove, Germantown, Menomonee Falls, Mequon, New Berlin and Thiensville -- have been acting in their own best interests in these so-called "Sewer Wars," the fruits of our reform efforts will provide benefits to Milwaukee county communities as well.

The proposed legislation deals with the future and **does not affect the dispute over past charges**. That issue must still be settled by the Public Service Commission, the courts or preferably through negotiation. Some parties have criticized the introduction of these bills as legislative interference in a local issue. We do not agree. The MMSD was created by the legislature and derives all of its' powers and duties from the legislature. In addition, the fact that the MMSD has received one-half of the state clean water funds is reason enough for the legislature to be involved in how the district is governed and managed.

For far too long, Milwaukee's suburbs have shouldered an unfair share of the tax burden for MMSD's multi-billion-dollar construction program. For years the FLOW communities have tried to find a solution to the "Sewer Wars". This ongoing conflict stands in the way of much needed cooperation on important regional issues.

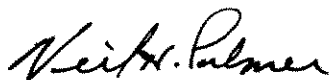
The MMSD has blamed the failure to settle the ongoing dispute on the desire of the FLOW communities to pay less than our fair share of sewer capital charges. This simply is not true. We have proposed a number of fair and equitable settlement offers.

As a matter of fact, since the dispute began the FLOW communities have made payments valued at \$ 91 million. On a dollar per gallon basis the FLOW communities are actually paying more than the Milwaukee county communities. We accept that and actually one of our settlement offers proposes that we pay 150% of what district communities pay on a per gallon basis.

The FLOW communities and your community have common interests in regard to governance and operations of the MMSD. We would like to work together with your community to find a fair and common sense basis for the future of this monopoly wastewater services utility. As MMSD begins to plan for what may be the next major construction program we think it is time for all the customer communities to help design a more conflict free future.

We request the opportunity to discuss these important legislative initiatives with you and your board. If you have any questions about this matter please contact me at 821-5088. I hope to hear from you soon to arrange a time to meet. I have enclosed some background material and copies of the proposed legislation for your review.

Sincerely,



Neil H. Palmer  
FLOW Executive Director &  
Elm Grove Village Trustee

cc: Village Board

8/17/95

Mayor Maricollette Walsh  
City of Wauwatosa  
P.O.Box 13068  
Wauwatosa, Wisconsin 53213-0068

Dear Mayor Walsh,

This fall the Wisconsin Legislature will consider four pieces of legislation that can bring lower and more fair taxation to citizens of your community. Representatives of Fair Liquidation of Waste (FLOW) would like to speak with your city council to outline just how important this legislation is for your community.

Essentially, the proposed legislation -- Senate Bills 206 and 208, and Assembly Bills 374 and 434 - provide more regulatory oversight for a restructured, more responsive Milwaukee Metropolitan Sewage District.

SB 206 gives the Public Service Commission of Wisconsin the power to approve rate changes proposed by MMSD. This proposal allows the PSCW to investigate and hold public hearings on any proposed changes. Currently, the PSCW can step in only when a complaint is filed.

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AB 374 prohibits the MMSD from basing capital charges on customer property value. The current MMSD practice of basing capital charges on property value is the heart of the FLOW communities long-running dispute with MMSD. This practice puts a disproportionate tax burden on suburban homeowners and "dry" businesses. AB 374 forces MMSD to calculate charges for capital projects based on location and use, a much more equitable method.

Our most recent analysis shows that your community will be taxed \$2,963,667 more for 1995 capital charges than would be required under a use based charging system.

AB 434 provides the power for Wisconsin Department of Natural Resources to approve sewer connections to areas which are in the sewer service area and which meet all technical criteria. This change will end the MMSD practice of holding jobs and development "hostage" in contract communities.

While the FLOW communities -- Brookfield, Butler, Elm Grove, Germantown, Menomonee Falls, Mequon, New Berlin and Thiensville -- have been acting in their own best interests in these so-called "Sewer Wars," the fruits of our reform efforts will provide benefits to Milwaukee county communities as well.

The proposed legislation deals with the future and **does not affect the dispute over past charges**. That issue must still be settled by the Public Service Commission, the courts or preferably through negotiation. Some parties have criticized the introduction of these bills as legislative interference in a local issue. We do not agree. The MMSD was created by the legislature and derives all of its' powers and duties from the legislature. In addition, the fact that the MMSD has received one-half of the state clean water funds is reason enough for the legislature to be involved in how the district is governed and managed.

For far too long, Milwaukee's suburbs have shouldered an unfair share of the tax burden for MMSD's multi-billion-dollar construction program. For years the FLOW communities have tried to find a solution to the "Sewer Wars". This ongoing conflict stands in the way of much needed cooperation on important regional issues.

The MMSD has blamed the failure to settle the ongoing dispute on the desire of the FLOW communities to pay less than our fair share of sewer capital charges. This simply is not true. We have proposed a number of fair and equitable settlement offers.

As a matter of fact, since the dispute began the FLOW communities have made payments valued at \$ 91 million. On a dollar per gallon basis the FLOW communities are actually paying more than the Milwaukee county communities. We accept that and actually one of our settlement offers proposes that we pay 150% of what district communities pay on a per gallon basis.

The FLOW communities and your community have common interests in regard to governance and operations of the MMSD. We would like to work together with your community to find a fair and common sense basis for the future of this monopoly wastewater services utility. As MMSD begins to plan for what may be the next major construction program we think it is time for all the customer communities to help design a more conflict free future.

We request the opportunity to discuss these important legislative initiatives with you and your council. If you have any questions about this matter please contact me at 821-5088. I hope to hear from you soon to arrange a time to meet. I have enclosed some background material and copies of the proposed legislation for your review.

Sincerely,



Neil H. Palmer  
FLOW Executive Director &  
Elm Grove Village Trustee

cc: City Council

8/17/95

Mr. Steven Katz, President  
Village of Bayside  
9075 N. Regent Street  
Bayside, Wisconsin 53217

Dear Mr. Katz,

This fall the Wisconsin Legislature will consider four pieces of legislation that can bring lower and more fair taxation to citizens of your community. Representatives of Fair Liquidation of Waste (FLOW) would like to speak with your village board to outline just how important this legislation is for your community.

Essentially, the proposed legislation -- Senate Bills 206 and 208, and Assembly Bills 374 and 434 - provide more regulatory oversight for a restructured, more responsive Milwaukee Metropolitan Sewage District.

SB 206 gives the Public Service Commission of Wisconsin the power to approve rate changes proposed by MMSD. This proposal allows the PSCW to investigate and hold public hearings on any proposed changes. Currently, the PSCW can step in only when a complaint is filed.

SB 208 restructures the MMSD commission into a more professional, less politicized body. The proposal trims the 11-member commission to five, reducing the number of commissioners appointed by the mayor of Milwaukee from seven to one.

AB 374 prohibits the MMSD from basing capital charges on customer property value. The current MMSD practice of basing capital charges on property value is the heart of the FLOW communities long-running dispute with MMSD. This practice puts a disproportionate tax burden on suburban homeowners and "dry" businesses. AB 374 forces MMSD to calculate charges for capital projects based on location and use, a much more equitable method.

Our most recent analysis shows that your community will be taxed \$702,014 more for 1995 capital charges than would be required under a use based charging system.

AB 434 provides the power for Wisconsin Department of Natural Resources to approve sewer connections to areas which are in the sewer service area and which meet all technical criteria. This change will end the MMSD practice of holding jobs and development "hostage" in contract communities.

While the FLOW communities -- Brookfield, Butler, Elm Grove, Germantown, Menomonee Falls, Mequon, New Berlin and Thiensville -- have been acting in their own best interests in these so-called "Sewer Wars," the fruits of our reform efforts will provide benefits to Milwaukee county communities as well.

The proposed legislation deals with the future and **does not affect the dispute over past charges**. That issue must still be settled by the Public Service Commission, the courts or preferably through negotiation. Some parties have criticized the introduction of these bills as legislative interference in a local issue. We do not agree. The MMSD was created by the legislature and derives all of its' powers and duties from the legislature. In addition, the fact that the MMSD has received one-half of the state clean water funds is reason enough for the legislature to be involved in how the district is governed and managed.

For far too long, Milwaukee's suburbs have shouldered an unfair share of the tax burden for MMSD's multi-billion-dollar construction program. For years the FLOW communities have tried to find a solution to the "Sewer Wars". This ongoing conflict stands in the way of much needed cooperation on important regional issues.

The MMSD has blamed the failure to settle the ongoing dispute on the desire of the FLOW communities to pay less than our fair share of sewer capital charges. This simply is not true. We have proposed a number of fair and equitable settlement offers.

As a matter of fact, since the dispute began the FLOW communities have made payments valued at \$ 91 million. On a dollar per gallon basis the FLOW communities are actually paying more than the Milwaukee county communities. We accept that and actually one of our settlement offers proposes that we pay 150% of what district communities pay on a per gallon basis.

The FLOW communities and your community have common interests in regard to governance and operations of the MMSD. We would like to work together with your community to find a fair and common sense basis for the future of this monopoly wastewater services utility. As MMSD begins to plan for what may be the next major construction program we think it is time for all the customer communities to help design a more conflict free future.

We request the opportunity to discuss these important legislative initiatives with you and your board. If you have any questions about this matter please contact me at 821-5088. I hope to hear from you soon to arrange a time to meet. I have enclosed some background material and copies of the proposed legislation for your review.

Sincerely,



Neil H. Palmer  
FLOW Executive Director &  
Elm Grove Village Trustee

cc: Village Board

# FACTS YOU SHOULD KNOW

## ABOUT THE FLOW / MMSD SEWER DISPUTE

### WET INDUSTRY SUBSIDIES

The Milwaukee Metropolitan Sewerage District (MMSD) uses two types of charging methods to recover the costs to build and then operate and maintain their sewerage treatment facilities. MMSD charges users of the system a fee for every 1000 gallons of wastewater they discharge to the system to cover the operation and maintenance of the facilities. MMSD charges for the costs to build the wastewater treatment facilities based on property value. Because of the number of large users connected to the MMSD system and the amount of tax exempt properties, large disparities in what people pay for the treatment of their wastes occur simply because property value is not an appropriate measure of one's use of a sewerage system.

As an example of the disparity, just one wet industry discharges approximately the same number of gallons of wastes as all of the users in the Village of Bayside combined. In addition, the one plant discharges nearly 10 times more pounds of pollutants and 3 times more suspended solids than all the users in the Village of Bayside combined. The amount this wet industry pays for their discharge as compared to Bayside is as follows:

	FLOW (1000 Gal)	BOD (Lbs)	TSS (Lbs)	O&M Charge	Capital Charge
Bayside	126,046	325,879	388,952	\$ 165,139	\$ 1,108,317
Wet Industry (59)	121,216	3,112,243	1,014,183	\$ 345,312	\$ 3,971

As can be seen, while the operation and maintenance costs are in proportion to the use of the system, the capital charges are totally unrelated. This problem is not an isolated case within the MMSD service area. A comparison of the Village of Bayside's users with just one tax exempt user of the MMSD system is as follows:

	FLOW (1000 Gal)	BOD (Lbs)	TSS (Lbs)	O&M Charge	Capital Charge
Bayside	126,046	325,879	388,952	\$ 165,139	\$ 1,108,317
Tax Exempt (4516)	135,110	349,315	416,923	\$ 142,166	- 0 -

Without some change in the MMSD's governance or the addition of PSC regulatory oversight, these inequities will continue.



AUG 04 1995

8/3/95

To: Senator Farrow  
Representative Marc Duff ✓

From: Neil Palmer

Re: FLOW / MMSD Negotiations

Attached please find copies of recent correspondence between Peter Peshek and Mike McCabe. As you can see the purpose of Peter's letter was to summarize the current FLOW settlement offers and to ask the MMSD to state their current offer. McCabe's response appears to be a refusal to define their position in writing.





Capitol Square Office	West Office
Two East Millin Street	First Financial Centre
Suite 800	8000 Excelsior Drive, Suite 401
Madison, WI 53703-2865	Madison, WI 53717-1814
Fax 608-252-9243	Fax 608-831-2108
Tel 608-255-8891	Tel 608-831-2100

July 20, 1995

Capitol Square Office

*VIA FAX AND U.S. MAIL*

Mr. Mike McCabe  
The Milwaukee Metropolitan Sewerage District  
260 West Seeboth St.  
Milwaukee, WI 53204

Re: Status of MMSD Negotiating Position

Dear Mike:

We last met on May 3, 1995. We met at my request.

The Executive Committee of FLOW will meet on July 28, 1995. At that meeting, I would like to provide to them a written statement from you with reference to the status of the current MMSD offer to settle the arrearages dispute between the District and my client. I would hope that the information you provide would be received prior to July 28 and would include all the elements of such a settlement.

Enclosed please find two attachments. They are a December settlement alternative prepared by staff of the FLOW Communities and a January/March 1995 settlement alternative prepared by certain Milwaukee business people. It is my understanding that representatives of the District have had both of these documents for several months. You have, of course, received numerous other alternative settlement documents from us in the past which have contained comprehensive settlement language and were self-contained settlement documents.

We would appreciate receiving from you a similar comprehensive updated alternative which represents the MMSD's current preferred option for settlement of arrearages.

Thank you very much for consideration of this letter.

Sincerely,

DEWITT ROSS & STEVENS L.P.

Peter A. Peshek

PAP:lmb  
Enclosures  
cc: Ralph Hollmon, Executive Director (via U.S. Mail)

**Legal Services Division  
MILWAUKEE METROPOLITAN SEWERAGE DISTRICT**

260 West Seaboth Street  
P.O. BOX 3049  
MILWAUKEE, WI 53201-3049  
FAX Number: 414-225-0167

DATE:

July 27, 1995 TIME: \_\_\_\_\_  
Mr. Peter Perhek

TO:

FAX NUMBER:

608-252-9243

FROM:

M. McCabe Phone

414-225-2101

TOTAL NUMBER of PAGES including cover sheet:

3

FAX ONLY:

HARD COPY BY MAIL:

X

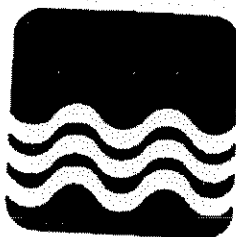
REMARKS:

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**IMPORTANT**

The Information contained in this FAX is confidential and may also be attorney-privileged. The information is intended only for the use of the addressee. If you are not the addressee or agent responsible to deliver it to the addressee, you are hereby notified that any use, dissemination, copying or distribution of this communication is strictly prohibited. If you received this FAX in error, please notify use immediately by telephone, and return it to us at the above address by mail.

For assistance call Esther Gruber, 414-225-2095 or Cora Palmer, 414-225-2191



Milwaukee Metropolitan Sewerage District  
260 West Seeboth Street  
P.O. Box 3049  
Milwaukee, Wisconsin 53201-3049  
(414) 272-5100

July 27, 1995

Mr. Peter Peshek  
DeWitt, Porter, S.C.  
Suite 600  
2 E. Mifflin Street  
Madison, Wisconsin 53703

RE: Questions Concerning Your July 20, 1995 Letter

Dear Peter:

I received your July 20, 1995, letter, its five attachments and your description of them; however, your reason for their inclusion is unstated and, given the current status of our negotiations is unclear.

The first attachment is an offer to settle the MMSD-FLOW dispute. Under the offer, FLOW residents would be allowed to pay less than one-half the rate that District residents pay for the same capital sewer costs.

This is the same offer the District has received from FLOW for many years. The offer has come in different packages, but the financial content of the offer is always the same.

FLOW has received the District's response many times; there is no need to repeat the response here.

What was the purpose of the first attachment?

The second attachment was a revision of a settlement alternative prepared by the Elm Grove/Milwaukee mediator/facilitators.

At our last meeting you told me that the mediator/facilitator proposals were unacceptable with FLOW. I told you that the District felt that the proposals were very innovative and provided a good conceptual basis for compromise. At that time, you declined my suggestion that we pursue the mediator/facilitators' proposal in further negotiations.

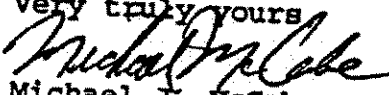
What, now, is your purpose in including the second attachment in your letter? Has FLOW now changed its position on attachment 2? If not, why was it included in your letter?

Mr. Peter Peshek  
July 27, 1995  
Page 2

The District's current position has been explained to FLOW often.

- You and I have talked about it;
- Our principles have talked to your principles about it;
- It has been the subject of numerous discussions between the mediator/facilitator and the parties.

I would appreciate a written response to my questions concerning your attachments. I will be happy to meet at our mutual convenience to continue our settlement discussions.

Very truly yours  
  
Michael J. McCabe  
Director of Legal Services



**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities  
Vice Chair: Urban Education  
Co-Chair: Joint Legislative Council

June 7, 1995

PRESS RELEASE

FOR IMMEDIATE RELEASE

**Rep. Duff requests audit of MMSD Milorganite costs  
Cites interest in looking at more cost-efficient alternatives**

(Madison, WI) - Rep. Marc Duff (R-New Berlin) announced today that he has requested a Joint Committee on Audit review of the production and sale of Milorganite by the Milwaukee Metropolitan Sewerage District (MMSD).

"The costs MMSD incurs in the production of Milorganite and sale to out-state buyers are substantially higher than the unit price it charges to those buyers, and higher than alternative waste disposal costs," Duff said in his letter to Rep. Mary Lazich and Sen. Peggy Rosenzweig, co-chairs of the Audit Committee.

Duff noted that among the entities which purchase Milorganite from MMSD are Florida golf courses. He expressed strong concern that Wisconsin taxpayers should not be in a position of subsidizing the fertilizer needs of Florida resorts that purchase Milorganite from MMSD.

"This mismanagement impacts not only Milwaukee, but taxpayers statewide. Over \$210 million of Wisconsin tax dollars have gone into MMSD since the inception of the clean water program."

The specific questions posed by Duff in his audit request were:

- [1] Considering capital costs, grants, and operations and maintenance expenses, what is MMSD's unit cost of Milorganite production?
- [2] How does MMSD's unit production cost of milorganite compare to traditional waste disposal costs? If the Milorganite production costs are in fact higher than the cost of alternative disposal options, is that difference covered by the unit prices charged by MMSD for Milorganite? If not, how much of a difference is there between the revenue generated through Milorganite sales and actual costs incurred.

-more-

OFFICE: State Capitol  
P.O. Box 8952  
Madison, WI 53708-8952  
608-266-1190  
HOME: 1811 South Elm Grove Road  
New Berlin, WI 53151  
414-782-0763  
TOLL-FREE HOTLINE: 1-800-362-9472  
E-MAIL: USWLSA98@IBMMAIL.COM



Duff/MMSD/pg 2

"I feel strongly that Wisconsin taxpayers should not be asked to subsidize the continued production of milorganite if lower cost waste disposal alternatives exist," Duff said. "I am concerned that MMSD, having invested so much in milorganite production, may not have the objectivity that the Joint Audit Committee would in answering these questions."

A previous Legislative Audit Bureau review, conducted in July 1991, found serious problems in MMSD's procurement and spending policies, which, according to the Audit, resulted in higher costs to Wisconsin taxpayers.

Lazich. let



**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities  
Vice Chair: Urban Education  
Co-Chair: Joint Legislative Council

June 1, 1995

Sen. Peggy Rosenzweig & Rep. Mary Lazich, Co-Chairs  
Joint Committee on Audit  
State Capitol  
Madison, Wisconsin 53707

Dear Sen. Rosenzweig & Rep. Lazich:

With this letter, I am formally requesting the Joint Legislative Audit Committee to direct the Audit Bureau to review the production and sale of Milorganite by the Milwaukee Metropolitan Sewerage District (MMSD).

I believe the costs MMSD incurs in the production of Milorganite and sale to out-state buyers are substantially higher than the unit price it charges to those buyers and higher than alternative waste disposal costs. This impacts not only Milwaukee city, county and area taxpayers, but taxpayers statewide. Fifty-three cents of every dollar spent by Wisconsin taxpayers on clean water projects since the start of the clean water program have been spent by MMSD.

The specific questions that I would request that you address are as follows:

- [1] Considering capital costs, grants, and operations and maintenance expenses, what is MMSD's unit cost of Milorganite production?
- [2] How does MMSD's unit production cost of milorganite compare to traditional waste disposal costs? If the Milorganite production costs are in fact higher than the cost of alternative disposal options, is that difference covered by the unit prices charged by MMSD for Milorganite? If not, how much of a difference is there between the revenue generated through Milorganite sales and actual costs incurred.

I appreciate your timely response to this request and feel strongly that Wisconsin taxpayers should not have to subsidize the continued production of milorganite if lower cost waste disposal alternatives exist. I am concerned that MMSD, having invested so much in milorganite production, may not have the objectivity that the Audit Bureau would have in answering these questions.

Sincerely,

Rep. Marc Duff  
98th Assembly District

OFFICE: State Capitol  
PO. Box 8952  
Madison, WI 53708-8952  
608-266-1190

HOME: 1811 South Elm Grove Road  
New Berlin, WI 53151  
414-782-0763

TOLL-FREE HOTLINE: 1-800-362-9472  
E-MAIL: USWLSA98@IBIMMAIL.COM







**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities  
Vice Chair: Urban Education  
Co-Chair: Joint Legislative Council

TO: Rep. Marc Duff  
FROM: Marsha  
DATE: May 25, 1995  
RE: Response to your inquiry on bond ratings of Metro  
Sewerage Districts

This memo addresses the following questions pertaining to metro sewerage districts:

- 1) What is the bond rating?
- 2) Does the district charge for capital costs based on usage?
- 3) Has that affected the bond rating?

A) Madison Metropolitan Sewerage District

- 1) AAA
- 2) Charges based on usage; also recover a small portion from a connection charge. No ad valorem - too much tax-exempt land.
- 3) No. Madison borrows for all capital costs using G.O. bonds. By all typical measurements, Madison is in good shape.

B) Green Bay Metropolitan Sewerage District

- 1) AA-1, long-term; MIG 1, short-term (Moody's)
- 2) Charges through user fees; used for operation/maintenance and plant investment.
- 3) Has direct bearing; strengths affect rates.

C) Kenosha

- 1) A
- 2) Charges based on usage
- 3) No effect; always been the same.

D) Racine

- 1) AA
- 2) Charges based on usage
- 3) No effect

E) LaCrosse (Municipal)

- 1) A-1 : Wastewater utility is city - not a sewerage district. Everything is done by contract.
- 2) Charges based on usage by city on cubic foot rate.

\*\* Contracted areas--negotiations for renewals currently underway--  
hoping to tie to flow-based rates in city.

F) Milwaukee Metropolitan Sewerage District

- 1) Rated AA

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**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities  
Vice Chair: Urban Education  
Co-Chair: Joint Legislative Council

TO: Members, Committee on Environment & Utilities

FROM: Marsha Buchholz *MB* Committee Clerk

DATE: May 26, 1995

RE: Bond ratings of metro sewerage districts

The attached paper shows bond rating and capital cost charge information on metropolitan sewerage districts around the state. Representative Duff thought you might be interested.

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## **WISCONSIN LEGISLATURE**

**Sen. Margaret Farrow, Assistant Majority Leader  
Rep. Marc Duff, Chair Environment and Utilities**

TO: All Legislators

FROM: Sen. Margaret Farrow  
Rep. Marc Duff

DATE: May 5, 1995

RE: LRB 0292/2 (Governing board) and LRB 1516/2 (PSC Oversight)

Fifty-three cents of every Wisconsin Clean Water Fund dollar spent to date has been spent by the Milwaukee Metropolitan Sewerage District (MMSD). Many of you have supported the allocation of dollars to the Clean Water Fund.

You probably know that MMSD and the suburban Milwaukee communities required by the DNR to contract with MMSD for sewerage services have fought a decade long-war over how best to govern the sewerage district (and ultimately manage and account for Wisconsin Clean Water Fund resources). Because of the billions of dollars sent through the Clean Water Fund to MMSD, this dispute is more than a regional matter. It should be of concern to the entire state.

We are introducing two bills to reform the governance and oversight of the MMSD in a manner that promotes cooperation rather than encourage conflict. We are asking for your cosponsorship of these bills. Our legislation would:

- [1] Replace the eleven member MMSD governing board with a five member board that provides a more workable basis for regional representation; and,
- [2] Bring the MMSD under State Public Service Commission oversight.

This legislation does not impact outstanding past charges which are the subject of ongoing negotiation and litigation. Rather, these bills set in place a balanced and workable foundation to prevent future disagreements before they reach the point where armies of lawyers and public relation specialists are needed to resolve them.

Of interest to those concerned with accountability for Clean Water Fund dollars, MMSD will need to adopt basic depreciation schedules and uniform charts of accounts for utilities as a prelude to PSC oversight. Currently, MMSD does not use these basic standards and has fought efforts to release data that provides the DNR and others with the information needed to address capacity and cost questions.

Attached is an analysis of our two proposals, set up as a side-by-side comparison with current law. If you are interested in putting in place a good government solution to this long-festering problem and holding MMSD more accountable for the use of Wisconsin Clean Water Fund dollars, contact Michelle Brey in Sen. Farrow's office (6-9174) or Marsha Buchholz in Rep. Duff's office at (6-1190) by the close of business Friday, May 12, 1995.

Thank you.

LEGISLATIVE SUMMARY: LEGISLATION TO PROMOTE CONSENSUS AND ACCOUNTABILITY IN THE GOVERNANCE OF MMSD  
STATE SEN. MARGARET FARROW (R-ELM GROVE)

PROPOSAL #1: Sen. Farrow's legislation would establish state Public Service Commission (PSC) oversight for ratemaking purposes over the Milwaukee Metropolitan Sewerage District (MMSD).

Current law

MMSD is currently regulated only on the basis of complaint. MMSD does not now maintain the basic continuing property records to develop depreciation records like other regulated entities and it does not follow the uniform system of accounts for utilities.

There is no formal review of MMSD rates (which are among the highest of any large municipality in the nation).

Farrow Proposal

The PSC would require MMSD to conform to basic continuing property records to develop depreciation rates like other regulated entities and to adopt a uniform system of accounts. The PSC would have review authority over MMSD rates.

Rationale for PSC review of MMSD rates: If MMSD were a city, it would have the sixth highest expenditures of any municipality in Wisconsin, behind only the cities of Milwaukee, Madison, Green Bay, Racine and Kenosha. MMSD charges some of the highest sewerage rates in the nation when compared to other major metropolitan areas [see attached chart]. Yet, MMSD refuses to abide by basic continuing property records (for purposes of developing depreciation records) or to follow a uniform chart of accounts for utilities, and is subject to no formal review of its rates other than review forced by the filing of a complaint.

PROPOSAL #2: Sen. Farrow's legislation would replace the current 11 member MMSD governing board with a new 5 member board.

Current law

There are eleven members of the MMSD commission. Seven of the commissioners are appointed by the mayor of Milwaukee and three of those seven must be elected officials. The other four commissioners are appointed by an executive council composed of the elected executive officers of each city, village and town that is wholly or partly within the boundaries of the district, except for Milwaukee.

Farrow Proposal

There are five members of the MMSD commission. One member is appointed by the mayor of Milwaukee, one is appointed by an executive council that consists of the elected executive officers of each city, village or town that is wholly or partly within Milwaukee County, one is appointed by a similar council of elected executive officers of each city, village or town served by the district and outside Milwaukee County, and two are appointed by the governor. No commissioners may be elected officials.

Rationale for new governance structure: The current governing structure is skewed in a way as to almost ensure dispute, rather than foster consensus, among the communities within the district. This fact has been obvious to anyone familiar with MMSD and the litigation and disagreement that has been driven by a divisive governing structure. The proposed new structure treats all communities equally and seeks to promote more regional rather than narrowly parochial and political interests on the commission.

For more information, please contact Mike Eaton in the office of State Sen. Margaret Farrow, at 800/863-8883. Ranking of MMSD rates and charges relative to other large US metropolitan areas from American Metropolitan Sewerage Association. (AMSA) 1993 Financial Survey of its members. Summary of current law and legislative proposals drawn from State of Wisconsin, Legislative Reference Bureau.

# WAUKESHA

Complete  
Milwaukee  
news section  
is inside

FRIDAY, MAY 5, 1995

METRO EDITION

SECTION B INSIDE

THREAT TO WESTRIDGE BUSINESS PARK DEVELOPMENT

## New Berlin mayor cries foul

**Cera says sewerage district is blackmailing city to splinter FLOW**

By JOHN G. SCHUMACHER  
AND LINDA CLAWSON  
of the Journal Sentinel staff

New Berlin — Mayor Mary Claire Cera on Thursday accused the Milwaukee Metropol-

itan Sewerage District of political blackmail for threatening not to approve sewer service for the Westridge Business Park under development in the city.

Cera reacted to a letter from the district on Wednesday that said the 700-acre industrial, commercial and retail project at the intersection of Interstate 43 and Moorland Road is outside the sewer service area. Denial of sewer service would threaten of-

the project.

Sewer lines to the site are being installed. Some business have been approved for construction, but nothing has been built yet.

New Berlin is part of an eight-member coalition of suburbs outside Milwaukee County called FLOW, or Fair Liquidation of Waste, that has been fighting with the sewerage district for more than a decade

over how sewer charges are billed.

In other developments Thursday, Sen. Margaret Farrow (R-Elm Grove) and FLOW attorney Peter Peshek announced that separate legislation would be introduced in the state Assembly and Senate to reorganize the sewerage district's board. Farrow and Peshek were among a number of legislators, district members and FLOW of-

officials attending an update meeting at New Berlin City Hall on the dispute.

The proposals are the first attempts to restructure the sewerage commission and its power since Republicans gained control over both chambers of the Legislature last fall.

In the letter to New Berlin, the district says sewer service

Please see SEWERS page 4

MAY 19 1995

5-17-95

Mayor John Turck  
7525 W. Greenfield  
West Allis, WI 53214

Dear Mayor Turck,

I was really dismayed to read in today's Journal that you continue to support the injustice perpetrated on the suburbs by the Metropolitan Sewerage District. Just because West Allis and other Milwaukee county suburbs are being screwed by the sewerage district, I guess you feel the FLOW communities must share in the agony of being Milwaukee's neighbors.

There is absolutely no justification in charging for public services based on property values when usage is easily measurable unless your motivation is to be unfair. The City of Milwaukee loves to spread it's problems on the suburbs via County tax levy and the sewerage district levy. The suburbs have less than 40% of the County's population and yet pay over 50% of the County tax levy and a similar percentage of sewerage district charges. If you look at who's citizens benefit the most from County tax levy, the disparity becomes more alarming.

All these taxing districts and authorities that are popping up lately are creations of Milwaukee legislators so that they can keep property taxes lower in the city proper and zap the suburbanites.

You are being duped by the City of Milwaukee. It's time for everyone being served by the sewerage district to pay based on usage, including Milwaukeeans! West Allis residents might end up paying more but it's the fairest method. For sure Milwaukeeans will pay more and that scares them to death.

I need and expect your support of AB374! It's the fair and right thing to do.

Sincerely yours,

Guy M. Stuller  
2144 S. 60th St  
West Allis, WI 53219

cc R. Glowacki, D. Voith, D. Richards, J. Gormley, R. Hayward, M. Schulte, F. Pascarella, K. Bloomberg, M. C. Cera, J. Greco, J. Moriarty, D. Sargeant, M. Duff, J. Bell, P. Rosenzweig

PROPERTY VALUE VS. USE

# Sewer fee plan divides suburbs

**Milwaukee County line splits those testifying before Assembly panel**

By AMY RINARD  
of the Journal Sentinel staff

Madison — Suburban Milwaukee mayors opened a new front Tuesday in the decade-long "sewer war" in testimony before an Assembly committee, taking sides on legislation that would change the Milwaukee Metropolitan Sewerage District's method of charging municipalities for capital costs.

"This bill is bad public policy," said Wauwatosa Mayor Maricolette Walsh, who also is a MMSD commissioner.

"The time is right for this Legislature to remove sewers from the property tax and require they fund their budgets through user fees," said Brookfield Mayor Kate Bloomberg, who also is chairman of a coalition of municipalities known as FLOW, for Fair Liquidation of Waste.

The bill (AB 374), introduced by Rep. Marc Duff (R-New Berlin), would change the sewerage

district's billing system from the current one based on property values to one based on actual use of the district's sewerage system.

That issue is at the heart of the long-standing battle between the sewerage district and FLOW that has been litigated,

**Brookfield Mayor  
Kate Bloomberg:**

"The time is right for this

Legislature to remove sewers from

the property tax and require they

fund their budgets through user

fees."

legislated, negotiated and ruled on by state agencies for more than 10 years — but never has been resolved.

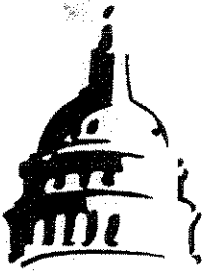
Currently, the eight FLOW communities owe the sewerage \$157 million in back payments for the district's capital expenses, most of which are related to construction of the \$2.1 billion deep tunnel project.

Duff emphasized that his bill would not wipe out the debt owed the district, and that the change in the district's method of charging for capital costs would not be retroactive.

Support for Duff's bill broke down along predictable lines, with Milwaukee County suburbs opposing the measure and non-Milwaukee County suburbs — many of them members of the FLOW coalition — supporting it.

Testifying against the bill in addition to Walsh were West Allis Mayor John Turck; Cudahy Mayor Raymond Glowacki; Glendale Mayor Donald Voith; Oak Creek Mayor Dale Richards; Whitefish Bay Village President James Gormley; West Milwaukee Village President Ron Hayward; Shorewood Village President Mike Schulte; and Greendale Village Manager Frank Pascarella.

Testifying in favor of the bill in addition to Bloomberg were New Berlin Mayor Mary Claire Cera; Menomonee Falls Village President Joe Greco; Mequon Mayor Jim Moriarty; and Germantown Village Attorney Dan Sargeant.



**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities  
Vice Chair: Urban Education  
Co-Chair: Joint Legislative Council

June 7, 1995

PRESS RELEASE

FOR IMMEDIATE RELEASE

**Rep. Duff requests audit of MMSD Milorganite costs  
Cites interest in looking at more cost-efficient alternatives**

(Madison, WI) - Rep. Marc Duff (R-New Berlin) announced today that he has requested a Joint Committee on Audit review of the production and sale of Milorganite by the Milwaukee Metropolitan Sewerage District (MMSD).

"The costs MMSD incurs in the production of Milorganite and sale to out-state buyers are substantially higher than the unit price it charges to those buyers, and higher than alternative waste disposal costs," Duff said in his letter to Rep. Mary Lazich and Sen. Peggy Rosenzweig, co-chairs of the Audit Committee.

Duff noted that among the entities which purchase Milorganite from MMSD are Florida golf courses. He expressed strong concern that Wisconsin taxpayers should not be in a position of subsidizing the fertilizer needs of Florida resorts that purchase Milorganite from MMSD.

"This mismanagement impacts not only Milwaukee, but taxpayers statewide. Over \$210 million of Wisconsin tax dollars have gone into MMSD since the inception of the clean water program."

The specific questions posed by Duff in his audit request were:

- [1] Considering capital costs, grants, and operations and maintenance expenses, what is MMSD's unit cost of Milorganite production?
- [2] How does MMSD's unit production cost of milorganite compare to traditional waste disposal costs? If the Milorganite production costs are in fact higher than the cost of alternative disposal options, is that difference covered by the unit prices charged by MMSD for Milorganite? If not, how much of a difference is there between the revenue generated through Milorganite sales and actual costs incurred.

-more-

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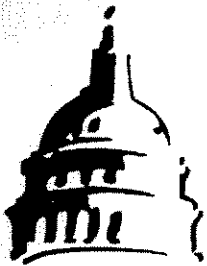




Duff/MMSD/pg 2

"I feel strongly that Wisconsin taxpayers should not be asked to subsidize the continued production of milorganite if lower cost waste disposal alternatives exist," Duff said. "I am concerned that MMSD, having invested so much in milorganite production, may not have the objectivity that the Joint Audit Committee would in answering these questions."

A previous Legislative Audit Bureau review, conducted in July 1991, found serious problems in MMSD's procurement and spending policies, which, according to the Audit, resulted in higher costs to Wisconsin taxpayers.



**MARC  
DUFF**

STATE REPRESENTATIVE

Chair: Environment & Utilities  
Vice Chair: Urban Education  
Co-Chair: Joint Legislative Council

June 1, 1995

Sen. Peggy Rosenzweig & Rep. Mary Lazich, Co-Chairs  
Joint Committee on Audit  
State Capitol  
Madison, Wisconsin 53707

Dear Sen. Rosenzweig & Rep. Lazich:

With this letter, I am formally requesting the Joint Legislative Audit Committee to direct the Audit Bureau to review the production and sale of Milorganite by the Milwaukee Metropolitan Sewerage District (MMSD).

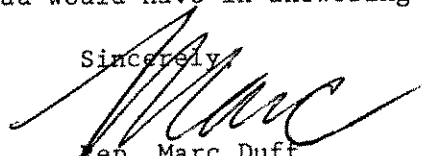
I believe the costs MMSD incurs in the production of Milorganite and sale to out-state buyers are substantially higher than the unit price it charges to those buyers and higher than alternative waste disposal costs. This impacts not only Milwaukee city, county and area taxpayers, but taxpayers statewide. Fifty-three cents of every dollar spent by Wisconsin taxpayers on clean water projects since the start of the clean water program have been spent by MMSD.

The specific questions that I would request that you address are as follows:

- [1] Considering capital costs, grants, and operations and maintenance expenses, what is MMSD's unit cost of Milorganite production?
- [2] How does MMSD's unit production cost of milorganite compare to traditional waste disposal costs? If the Milorganite production costs are in fact higher than the cost of alternative disposal options, is that difference covered by the unit prices charged by MMSD for Milorganite? If not, how much of a difference is there between the revenue generated through Milorganite sales and actual costs incurred.

I appreciate your timely response to this request and feel strongly that Wisconsin taxpayers should not have to subsidize the continued production of milorganite if lower cost waste disposal alternatives exist. I am concerned that MMSD, having invested so much in milorganite production, may not have the objectivity that the Audit Bureau would have in answering these questions.

Sincerely,



Rep. Marc Duff  
98th Assembly District

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## MEMORANDUM

**To:** All Legislators and Staff

**From:** Representative Marc Duff, Chair  
Assembly Environment & Utilities Committee

**Date:** May 10, 1995

**Re:** Broydrick & Associates Memorandum-May 9, 1995

Broydrick & Associates and Jim Tenuta issued a memorandum relative to LRB-3721\1 (MMSD authority for capital cost changes) which is misleading and absolutely and deliberately inaccurate. Three simple points should be kept in mind.

First, the proposed legislation in no way impacts on the past costs owed by the FLOW communities to MMSD. The Legislature cannot address this issue. LRB-3721\1 does not address this issue. I have no intention of making the past costs any part of the legislation.

Second, there is massive cost-shifting occurring because of the way MMSD currently levies its property taxes. Attached please find a one page chart which shows the property tax shifting which occurred in 1994. Almost all the communities referenced in the Broydrick memorandum are big losers because of the capricious property tax program of the MMSD.

Finally, the MMSD is a special use district whose powers are limited to those which are granted by the Legislature. The Legislature has a responsibility to clarify or rewrite those delegated powers to this special use district when we observe patterns of abuse and substantial economic inefficiency. LRB-3721/1 does exactly that.

If any of you have any questions, please feel free to stop by at my office and talk to me and my staff regarding these issues.

BROYDRICK  
AND  
ASSOCIATES

Public Affairs

DATE: May 9, 1995  
TO: All Legislators and Staff  
FROM: Broydrick & Associates and Jim Tenuta

We urge you not to cosponsor LRB-3721\1 (MMSD authority for capital cost changes) which seeks to impact the local dispute between the Milwaukee Metropolitan Sewerage District and the FLOW communities for the following reasons:

- (1) The proposed legislation seeks to shift over \$300 million in past, present and future costs owed by the FLOW communities to the taxpayers of Wauwatosa, West Allis, Cudahy, Whitefish Bay, Milwaukee, Bayside, Brown Deer, Greendale, Hales Corners, Shorewood, West Milwaukee, Franklin, Glendale, Fox Point, Greenfield, River Hills, Oak Creek and St. Francis.
- (2) The bill would force Milwaukee County taxpayers to continue to subsidize the FLOW communities' insistence that their residents should pay half of what everyone else pays for the same service.
- (3) The bill would require Milwaukee County taxpayers to pay 100 percent of the costs associated with flood control, even though a majority of the flood water volume originates outside of Milwaukee County -- upstream in the FLOW communities.
- (4) LRB-3721\1 would overturn decisions by the Public Service Commission and the Wisconsin Supreme Court that found MMSD's current method of billing to be fair and reasonable. The PSC decision further found that FLOW's proposed method of billing was unreasonable, because there is no correlation between FLOW's method of billing and the original need for the sewer expenditures.
- (5) The proposed legislation would deny Milwaukee County citizens the right to raise money for sewer expenditures through the property tax -- the method the PSC found to be the lowest cost alternative for bonding for sewer expenditures.

BROYDRICK  
AND  
ASSOCIATES

Public Affairs

TO: All Republican Legislators  
FROM: Broydrick & Associates  
DATE: May 8, 1995  
RE: Co-sponsorship of LRB-3721 (MMSD authority for capital cost charges)

Late last week, you were sent a letter by the author of LRB 3721/1 asking you to co-sponsor it. The provisions in this draft affect sewerage districts in first class cities. Because Milwaukee is the only first class city in the state, the bill's impact would be limited to those municipalities that receive services from the Milwaukee Metropolitan Sewerage District (MMSD).

As you consider whether to co-sponsor (or to support) this proposal, please consider what your reaction to this draft would be if it were to affect sewerage districts throughout the state.

- Would you require municipalities to assess capital project costs in a manner that would increase the interest rate for financing the borrowing?
- Would you agree to preclude municipalities from reaching an intergovernmental agreement on how to handle and how to pay for storm water improvements?

If your answer is "NO," please do not co-sponsor this proposal.

*This bill makes changes that will increase the costs of infrastructure improvements that are made by the MMSD.*

This draft proposes to repeal MMSD's ability to assess capital costs on a property value basis, and to require that these costs be assessed on a user basis. The Public Service Commission has found that MMSD's bond costs were actually lower because the capital costs were assessed on a property value basis. Thus, this proposal could result in an increase in the cost of borrowing for capital projects.

*The bill makes changes that could adversely impact the ability to assure clean rivers and waterways in southeastern Wisconsin.*

Under the bill, MMSD could not assess the costs of capital projects to all municipalities that benefit from the projects. Instead, MMSD would be required to assess only the municipality in which the improvements were made. MMSD would be prohibited from assessing other municipalities for river and stream alterations and storm water management projects, even if other municipalities contributed to the problems or benefited from improvements in the situation.

The problem with this proposal is apparent on its face. Consider storm water runoff: a retention pond or detention pond might serve a huge drainage area with multiple municipalities; but (under this proposal), if it were built exclusively in one municipality that community would bear the entire cost of the project. This proposal will reduce the incentive for a community to plan and implement storm water management systems; it will encourage more municipalities to ignore the storm water runoff problems that development can cause. After all, once the water flows downstream, it's somebody else's problem.

We urge you NOT to sign on to this proposal.

BROYDRICK  
AND  
ASSOCIATES

Public Affairs

TO: Senate Republicans  
FROM: Broydrick & Associates and James Tenuta  
DATE: May 3, 1995  
RE: Milwaukee Metropolitan Sewerage District Governance Structure

As you consider proposals to alter the governance structure of the Milwaukee Metropolitan Sewerage District's (MMSD), we thought it might be helpful for you to have some information about the *current* structure of the commission.

MMSD is governed by an 11 member commission known as the Metropolitan Sewerage Commission [S. 66.882(2), WI Stats]. The seats on the commission are apportioned on the basis of one person, one vote [S.66.884(7), WI Stats]. The so-called FLOW municipalities have the right to equal representation on the Metropolitan Sewerage Commission [SS. 66.882(2) (b) & 66.888(1) (d)], but thus far have declined to exercise that right.

A majority of the commissioners (6 of the 11) must be elected officials. Seven commissioners are appointed by the mayor of the City of Milwaukee; each of these must be a resident of the City; and three must be elected officials, drawn from a statutorily established list of six eligible categories [S. 66.882(2) (a)]. The other four commissioners are appointed by an executive council composed of the mayors and village presidents of each municipality wholly or partly within the District's boundary; three must be elected officials; all of these must be MMSD residents, but may not be Milwaukee residents [S. 66.882(2) (b)].

The legislative objective of the current organization structure is to require consensus between suburban and city representatives for all important capital and operational decisions. Because a two-thirds majority vote is required for major financial decisions, neither the Milwaukee delegation nor the non-Milwaukee delegation can take a unilateral action on operation, maintenance, or capital program obligations. An affirmative vote of eight commissioners is needed to levy any tax, to authorize use of revenue bonds, to borrow by use of general obligation bonds, to borrow by use of promissory notes, to assess service charges (including capital cost recovery service charges), to borrow against taxes to be paid, and to borrow state trust funds. And three-fourths of all commissioners (9 members), must vote to approve borrowing in anticipation of clean water fund loans.

The current governance of MMSD was revised in 1982 to compel consensus on important urban-suburban financing issues. A majority of the members are elected officials. Representation is on the basis of one person, one vote. Any proposal to change the governance should be measured against this standard.

AS THE AUTHOR OF AB 374, I THOUGHT I WOULD PROVIDE YOU WITH A GENERAL EXPLANATION OF THE PROPOSAL. I WOULD LIKE TO POINT OUT THAT THE POLICIES IN THIS BILL WERE DRAFTED BY THE FLOW COMMUNITIES AND THEY WILL GO INTO MORE DETAIL AS TO WHY IT WAS IMPORTANT TO INCLUDE THESE IN THE BILL.

AB 374 ACCOMPLISHED SEVERAL MAJOR GOALS:

1) REQUIRES MMSD TO CALCULATE THEIR CAPITAL COST CHARGES BASED ON HOW MUCH A COMMUNITY'S SEWERAGE DISCHARGES CONTRIBUTE TO CAPITAL COSTS. THE BILL ALSO ABOLISHES MMSD'S AUTHORITY TO RECOVER CAPITAL COSTS THROUGH A PROPERTY TAX OR PROPERTY VALUE BASIS.

THIS PROVISION ALLOWS EACH COMMUNITY TO DECIDE HOW THEY WILL RECOVER THE BILL ASSESSED TO THEM BY MMSD. THEY CAN STILL LEVY A PROPERTY TAX...HOWEVER THE BILL FROM MMSD MAY NOT BE BASED ON PROPERTY VALUES. I WOULD LIKE TO POINT OUT THAT THERE IS SOME FLEXIBILITY IN CALCULATING WHAT USER CHARGES WOULD BE.

I WOULD ALSO LIKE TO POINT OUT THAT THIS BILL MAKES ALL USERS WITHIN MMSD SERVICE AREA PAY THE SAME. THEREFORE, THE RHETORIC THAT FLOW COMMUNITIES WANT TO PAY HALF OF WHAT MILWAUKEE COUNTY PAYS IS FALSE BECAUSE ALL WOULD PAY BASED ON A USE BASIS UNDER THE BILL. GRANTED THERE WOULD BE A SHIFT IN WHO PAYS, AND I HAVE SENT AROUND A FISCAL BUREAU PRINT OUT ON WHICH COMMUNITIES BENEFIT AND WHICH LOSE.

2) THE BILL PROHIBITS THE COMMISSION FROM SPENDING FUNDS ON PARK LANDS, WATER SUPPLY, FIRE PROTECTION, AND HARBOR IMPROVEMENTS. MANY OF US BELIEVE THIS IS NOT A FUNCTION OF A SEWERAGE DISTRICT AND SHOULD BE PAID FOR BY THE APPROPRIATE MUNICIPAL BODY.

3) THE BILL REQUIRES THAT MMSD MAY ONLY RECOVER CAPITAL COSTS FOR RIVER AND STREAM ALTERATIONS, WATER DIVERSION, SHORELINE PROTECTION, STORMWATER MANAGEMENT, COMBINED SEWER SYSTEM REPAIRS AND SEPARATING COMBINED SEWERS BY ASSESSING THE COST TO THE MUNICIPALITY IN WHICH THE PROJECT IS LOCATED. WHILE I BELIEVE IN THE INTENT OF THIS PROVISION, WE MAY NEED TO MODIFY THIS SECTION OF THE BILL SINCE IT MAY BE TOO RESTRICTIVE.

4) THE BILL ALLOWS FLOW COMMUNITIES TO ACCESS A \$120 MILLION LOAN FROM THE CLEAN WATER FUND TO PAY FOR CAPITAL COSTS IF MMSD ACCEPTS PAYMENT OR IF THEY ARE COURT ORDERED TO PAY AN AMOUNT TO MMSD. CURRENTLY FLOW CAN ONLY OBTAIN THE LOAN IF AN AGREEMENT IS REACHED WITH MMSD.

5) FINALLY, THE BILL ASKS DNR TO EVALUATE WHETHER WASTE WATER TREATMENT WOULD BE IMPROVED BY ALLOWING OTHER ENTITIES TO PROVIDE SEWER SERVICE IN THE MMSD AREA. TO BE HONEST WITH YOU, I CAN ALREADY GUESS WHAT THE DNR'S RESPONSE WILL BE... THEREFORE, I'M PLANNING TO ASK JCRAR TO REVIEW THE ADMINISTRATIVE CODE IN THIS AREA AND CONSIDER SUSPENDING RULES WHERE IT MAY MAKE SENSE.

NOW I LIKE TO CONSIDER MYSELF A REASONABLE PERSON... I THINK MY RECORD SHOWS I HAVE BEEN ABLE TO PUT ASIDE THE SEWER WARS ON MANY ISSUES TO WORK FOR A BETTER MILWAUKEE METRO AREA. IT HAS ALWAYS BEEN MY HOPE THAT A NEGOTIATED SETTLEMENT COULD BE REACHED...I HOPE YOU WILL AGREE WITH SUBSEQUENT TESTIMONY THAT FLOW HAS MADE GOOD FAITH OFFERS, WHILE MMSD HAS STONEWALLED.

THERE NEEDS TO BE A TWO WAY STREET... <WESTRIDGE> ...



**I WOULD ALSO LIKE YOU TO COMPARE WHAT THIS BILL DOES COMPARED TO WHAT MMSD PURSUED THROUGH LEGISLATION THROUGH 1989 SENATE BILL 65. THAT BILL WAS RETROACTIVE, SET THE METHOD OF COLLECTING CAPITAL COSTS TO PROPERTY TAX BASIS, ALLOWED MMSD TO DIRECTLY TAX COMMUNITIES FOR UNPAID BILLS, ALLOWED UNILATERAL ANNEXATION OF TERRITORY TO MMSD, PROHIBITED CONTRACT COMMUNITIES FROM FILING A COMPLAINT WITH THE PSC OR UNREASONABLE OR DISCRIMINATORY SEWER CHARGES UNTIL ALL BILLS WERE PAID.**

**I WOULD ALSO LIKE TO CLEAR UP TO INFORMATION THAT WAS CIRCULATED ABOUT AB 374 THAT I BELIEVE IS FALSE OR MISLEADING...**

**#1 - THIS BILL IS NOT RETROACTIVE**

**#2 - THIS BILL DOES NOT HAVE FLOW COMMUNITIES PAY HALF OF WHAT MILWAUKEE PAYS**

**#3 - THE PSC HAS NOT ENDORSED THEIR METHOD OF CHARGING FOR CAPITAL COSTS**

**#4 - THIS WILL NOT AFFECT THEIR BOND RATING**

**#5 - NO PROMISES HAVE BEEN MADE BY THE GOVERNOR TO VETO THIS BILL**

**I WELCOME QUESTIONS, BUT I WOULD SUGGEST THAT MORE KNOWLEDGEABLE PEOPLE ARE AVAILABLE TO ANSWER THEM.**



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OFFICE OF THE MAYOR  
*James J. Moriarty*

APR 27 1994

April 21, 1994

The Honorable Marc Duff  
P.O. Box 8952  
Madison, WI 53708

Dear Representative Duff:

Enclosed is the beginning of a series of informational newspaper articles that pertain to the City of Mequon and other communities' fight with the Milwaukee Metropolitan Sewerage District (MMSD). The City believes that since MMSD was created by the State legislature, the Senators and Representatives have an obligation to settle this lengthy dispute.

Please watch for future news articles that Mequon will mail you. Contact me at City Hall if you need any additional data on this subject.

Respectfully yours,

Mayor James J. Moriarty

jjm/mc  
Enclosure