

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

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CLERK'S OFFICE

MAR 03 2006

STATE OF ILLINOIS
Pollution Control Board

FLAGG CREEK WATER RECLAMATION)
DISTRICT)

Complainant)

v.)

VILLAGE OF HINSDALE, METROPOLITAN)
WATER RECLAMATION DISTRICT OF)
GREATER CHICAGO, ILLINOIS)
DEPARTMENT OF TRANSPORTATION,)
DUPAGE COUNTY)
Respondents.)

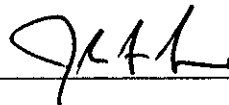
PCB 06-141

NOTICE OF FILING

To: PERSONS ON ATTACHED SERVICE LIST

PLEASE TAKE NOTICE that I have filed today with the Office of the Clerk of the Illinois Pollution Control Board, 100 West Randolph Street, Suite 11-500, Chicago, Illinois, an original and nine copies of an ENTRY OF APPEARANCE OF ROY M. HARSCH and JOHN A. SIMON, a copy of which is herewith served upon you.

Respectfully submitted,



GARDNER CARTON & DOUGLAS LLP

Richard J. Kissel

Roy M. Harsch

John A. Simon

Gardner Carton & Douglas LLP

191 North Wacker Drive, Suite 3700

Chicago, Illinois 60606

Dated: March 3, 2006

THIS FILING IS SUBMITTED ON RECYCLED PAPER

SERVICE LIST

Flagg Creek Water Reclamation District v. Village of Hinsdale, et al.

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Illinois Department of Transportation
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For the Illinois Department of Transportation

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For the DuPage County, Division of Transportation

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with copy to:

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For the Village of Hinsdale

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FLAGG CREEK WATER RECLAMATION)
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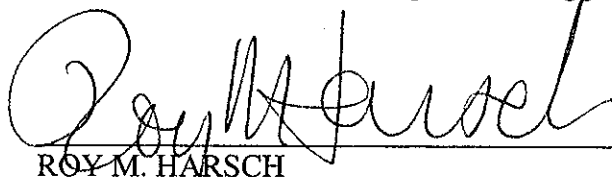
VILLAGE OF HINSDALE, METROPOLITAN)
WATER RECLAMATION DISTRICT OF)
GREATER CHICAGO, ILLINOIS)
DEPARTMENT OF TRANSPORTATION,)
DUPAGE COUNTY)

Respondents.)

PCB 06-141

NOTICE OF APPEARANCE

We hereby file our appearance in this proceeding on behalf of complainant Flagg Creek Water Reclamation District.



ROY M. HARSCH



JOHN A. SIMON

GARDNER CARTON & DOUGLAS LLP
Richard J. Kissel
Roy M. Harsch
John A. Simon
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FLAGG CREEK WATER RECLAMATION
DISTRICT

STATE OF ILLINOIS
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v.

PCB 06- 141

VILLAGE OF HINSDALE, METROPOLITAN
WATER RECLAMATION DISTRICT OF
GREATER CHICAGO, ILLINOIS
DEPARTMENT OF TRANSPORTATION,
DUPAGE COUNTY
Respondents.

Complaint

Jurisdiction

1. Complainant Flagg Creek Water Reclamation District (FCWRD), by and through its counsel Gardner Carton & Douglas LLP, brings this complaint before the Illinois Pollution Control Board ("Board") pursuant to Section 31(d)(1) of the Illinois Environmental Protection Act ("Act"), 415 ILCD 5/31(d), which allows enforcement proceedings to be initiated against any person allegedly violating the Act, any rule or regulation adopted under the Act, any permit or term or condition of a permit, or any Board order.

The Parties

2. FCWRD, formerly known as the Hinsdale Sanitary District, is a municipal government agency organized in 1926 under the Sanitary District Act of 1917, 70 ILCS 2405, et seq. FCWRD is responsible for wastewater treatment within a designated service area of approximately 24 square miles, which includes the Village of Hinsdale, the Village of Clarendon Hills, and the Village of Oak Brook, as well as portions of Burr Ridge, Oak Brook Terrace, Westmont, Villa Park, Lombard, Darien and Willowbrook.

3. The Village of Hinsdale (Hinsdale) is a municipality governed by the Illinois Municipal Code, 65 ILCS 5/1-1-1, et seq. Hinsdale owns and operates a combined sewer system

that conveys wastewater to both the Metropolitan Water Reclamation District of Greater Chicago (MWRD) and the FCWRD.

4. The Illinois Department of Transportation (IDOT) is a state agency created by the Department of Transportation Law, 20 ILCS 2705/2705-1 *et seq.* IDOT has responsibility for planning, construction and maintenance of Illinois' extensive transportation network, which encompasses, highways and bridges, airports, public transit, rail freight and rail passenger systems, and includes roadways within the boundaries of FCWRD's service area.

5. DuPage County is a body corporate and politic established by the Illinois Counties Code. The DuPage County Division of Transportation (DDOT) is an agency of DuPage County, and is responsible for the construction and maintenance of the County Highway system which serves the over 900,000 residents of DuPage County. DDOT maintains approximately 220 miles of arterial highway and 50 miles of recreational trails in DuPage County.

6. MWRD is a municipal government agency created by the Illinois Legislature in 1889. MWRD has a combined sewer overflow equivalent of 0.5-million people. The District serves an area of 872 square miles which includes the City of Chicago and 124 suburban communities. MWRD is also the designated stormwater management agency for Cook County.

7. The way in which Hinsdale, IDOT, DDOT, and MWRD, implement their statutory duties contributes excess flow during rainfall events to FCWRD, which has a disproportionate effect on FCWRD's system.

8. As a result of these excess flows, within FCWRD's sewer system, Sanitary Sewer Overflows ("SSO") and Combined Sewer Overflows ("CSO") events occur during both wet weather and dry weather.

The Flagg Creek Water Reclamation District System

9. The FCWRD wastewater treatment plant (WWTP) is located at 6975 Commonwealth Avenue in the Village of Burr Ridge, Illinois. It is designed to take dry weather flow and limited wet weather flow. See Figure 1.

10. The FCWRD has an interceptor system that serves the Village of Clarendon Hills, the Village of Hinsdale, and portions of the Village of Westmont, traveling east along the BNSF railroad from Illinois Route 83 to County Line Road, and then south toward Interstate 294 (I-294), to the FCWRD WWTP. This interceptor is known as the "Mainline Interceptor." See Figure 1.

11. FCWRD also has a 60-inch interceptor ("West 60-Inch Interceptor") that runs south along I-294 and collects flows from three other interceptors: the 55th Street Interceptor, running west along 55th Street; the 59th Street Interceptor, running south along 59th Street; and the 63rd Street Interceptor, running south along 63rd Street. See Figure 1.

12. FCWRD's other main interceptor is the Storm Water Pollution Control ("SWPC") Interceptor which runs from its Spinning Wheel Pumping station south along I-294.

13. Historically, bypasses from the FCWRD sewer system as well as the Hinsdale sewer system overflowed to Flagg Creek. On information and belief, in the 1970s, FCWRD was directed by the Sanitary Water Board to close its CSOs and accept Hinsdale's CSOs until Hinsdale separated its sewers, which Hinsdale was also ordered by the Sanitary Water Board in 1968 to separate by 1978.

14. To comply with the order directed to it, FCWRD constructed the Spinning Wheel Pumping Station and installed a new sixty inch interceptor, the Storm Water Pollution Control Interceptor, along Interstate 294 (SWPC Interceptor). See Figure 1.

15. The Spinning Wheel Pumping Station and SWPC Interceptor were generally intended to serve three purposes: to serve a new northern service area, to catch overflows from the FCWRD's existing forty two inch interceptor, and to temporarily provide relief to Hinsdale's CSOs until Hinsdale could separate its sewers in accordance with the Sanitary Water Board's order.

16. The pumping capacity of the Spinning Wheel Pumping Station is greater than the capacity of the SWPC Interceptor so long as that interceptor receives wastewater from Hinsdale's combined sewer system, so that during rain events, surcharges and overflows occur in the SWPC Interceptor and create hydraulic obstructions and overflows in other interceptors.

17. FCWRD has an NPDES Permit, No. IL0022586, which allows one CSO discharge point for excess flows from its WWTP. Standard Condition Number 26 of the District's NPDES permit prohibits CSOs at any other points.

18. FCWRD's Ordinance, which has been in place since 1931, revised in 1961 and 1980, prohibits combined sewer systems within its service area.

19. The unpermitted CSO events that occur in the FCWRD system do not comply with the CSO Control Policy, issued by the United States Environmental Protection Agency on April 19, 1994 (59 FR 18688), or state regulations governing CSOs found at 35 Il. Adm. Code Part 306, Subpart C.

20. The actions by Hinsdale, MWRD, IDOT and DDOT that cause stormwater to enter the FCWRD sewer system cause or contribute to the unauthorized CSO events.

21. FCWRD cannot comply with the terms and conditions of its NPDES permit and the CSO policy without the cooperation and corrective actions of Hinsdale, MWRD, IDOT and DDOT in eliminating wet weather flows from the FCWRD system.

Count I: The Village of Hinsdale

22. Hinsdale owns and operates a combined sewer system, and collects fees from certain residents for its ownership and operation of the combined sewer system.

23. Hinsdale's combined sewer system allows stormwater drainage from streets and public and private property during storm events to combine directly with sanitary waste flows.

24. The combined sewer system serving Hinsdale was constructed prior to 1900, and is constructed primarily of brick and clay tile piping. On information and belief, it is in poor repair.

25. The primary flows from Hinsdale to the FCWRD system occur through the Mainline Interceptor at two main locations: County Line Road and Highland Avenue, and Third Avenue and Princeton Road.

26. On information and belief, there is at least one additional unknown sewer connection along FCWRD's Mainline Interceptor from Hinsdale.

27. Hinsdale holds an NPDES permit, No. IL0066818, granted by the Illinois Environmental Protection Agency (Illinois EPA), which authorizes discharges to Flagg Creek from four Combined Sewer Overflow (CSO) points. On September 6, 2005, Illinois EPA issued a public notice proposing to renew that permit.

28. Consistent with the Illinois Pollution Control Board (Board) regulations, Hinsdale's NPDES permit requires first flush and ten times average dry weather flows to be treated before Hinsdale discharges from any of its permitted CSOs.

29. On information and belief, Hinsdale does not utilize its authorized CSO points frequently because of these restrictions, instead diverting a large volume of wet weather flows far in excess of ten times the average dry weather flow to FCWRD.

30. Because the MWRD sewer system has flow restrictors in its junction chambers where flows from Hinsdale are directed to the MWRD's sewer system, FCWRD receives all of the wet weather flows from Hinsdale.

31. The large volume of wet weather flows from Hinsdale, combined with the short travel time, surcharges FCWRD interceptors. The Mainline Interceptor and its SWPC Interceptor are most affected, which in turn results in overflows upstream and downstream of where Hinsdale sewers discharge to the FCWRD's interceptor.

32. The large volume of wet weather flows from Hinsdale cause both Hinsdale and the FCWRD to experience unauthorized CSOs within their respective systems.

33. The large volume of wet weather flows from Hinsdale disrupts the flow to the FCWRD's wastewater treatment facility and interferes with its effective operation.

34. The large volume of wet weather flows from Hinsdale interferes with FCWRD's ability to allow capacity for other municipalities that have separate sewers.

35. On information and belief, Hinsdale has never fully complied with the direction of the Illinois Sanitary Water Board issued in 1968 directing Hinsdale to separate its sewers.

36. Hinsdale is in violation of FCWRD's ordinance prohibiting combined sewers to discharge to the FCWRD sewer system

37. Hinsdale also directs a leaf collection program. On information and belief, the program operates by directing Hinsdale residents to place leaves in the parkway on the day of leaf collection, but Hinsdale does not address those leaves that are not properly placed in the parkway or that are placed in the street and allowed to wash into the street drains.

38. During the times in which the leaf collection program is active, a significant residual leaf load from Hinsdale's leaf collection program enters street drains and is conveyed to FCWRD along with stormwater, plugging its influent screening equipment and compromising the wastewater treatment system.

39. The leaf load is conveyed to FCWRD as a result of leaves and yard waste from Hinsdale's roadways washing into the combined sewer system.

40. By failing to separate its sewers and allowing substantial wet weather flows to enter its combined sewer system and travel to and inundate the FCWRD system, Hinsdale is in violation of the Sanitary Water Board's direction to Hinsdale to separate its sewers, FCWRD's ordinance prohibiting wet weather flows, the Combined Sewer Overflow Control Policy issued by U.S. EPA, and Illinois regulations governing CSOs, found at 35 Il. Adm. Code Part 306, Subpart C.

41. By failing to separate its sewers and sending substantial wet weather flows to the FCWRD system, Hinsdale is violating the Act's prohibition on causing or contributing to water pollution and violating regulations and standards adopted by the Board under the Act, 415 ILCS 5/12(a).

42. By failing to separate its sewers and sending substantial wet weather flows to the FCWRD system, Hinsdale is in violation of the conditions of its NPDES Permit from Illinois EPA, and in violation of Act, 415 ILCS 5/12(b).

43. By failing to separate its sewers and sending substantial wet weather flows to the FCWRD system, Hinsdale is in violation of the Board rule at 35 Il. Adm. Code 307.1101, prohibiting any person from introducing pollutants that interfere with the operation and performance of FCWRD.

44. By failing to separate its sewers and sending substantial wet weather flows to the FCWRD system, Hinsdale is interfering with FCWRD's fulfillment of its statutory duty to provide capacity for sanitary flows from existing and new residents within its service area.

45. By failing to operate its leaf collection program to prevent leaves and stormwater from entering the FCWRD system, Hinsdale is in violation of the nine minimum controls required by the U.S. EPA's Combined Sewer Overflow Policy, and the FCWRD's ordinance.

46. By failing to operate its leaf collection program to prevent leaves from entering the FCWRD system, Hinsdale is in violation of the Act's prohibition on causing or contributing to water pollution and violating regulations and standards adopted by the Board under the Act, 415 ILCS 5/12(a).

47. By failing to operate its leaf collection program to prevent leaves from entering the FCWRD system, the Combined Sewer Overflow Control Policy issued by U.S. EPA, and Illinois regulations governing CSOs, found at 35 Il. Adm. Code Part 306, Subpart C.

48. By failing to operate its leaf collection program to prevent leaves from entering the FCWRD system, Hinsdale is in violation of the conditions of its NPDES Permit from Illinois EPA, and in violation of the Act, 415 ILCS 5/12(b).

49. By failing to operate its leaf collection program to prevent leaves from entering the FCWRD system, Hinsdale is in violation of the Board rule at 35 Il. Adm. Code 307.1101, prohibiting any person from introducing pollutants that interfere with the operation and performance of FCWRD.

Count II: Metropolitan Water Reclamation District

50. FCWRD has historically served an area in Cook County that was placed under the jurisdiction of the MWRD in the 1970s.

51. Service to these areas in Cook County continues to be provided by FCWRD ("FCWRD-served area").

52. FCWRD has a draft agreement with MWRD that has not been executed, which requires MWRD to provide service to a roughly equivalent area in DuPage County that is within the FCWRD's statutory authority ("MWRD-served area").

53. FCWRD's sewer system accepts the dry weather and wet weather flows from the FCWRD-served area.

54. The MWRD sewer system has flow restrictors in its junction chambers where flows from Hinsdale are directed to the MWRD's sewer system.

55. On information and belief, the diversion structures cause a substantial amount of flow from the MWRD-served area to be blocked from entering the MWRD's sewer system.

56. On information and belief, those flows then make their way to the FCWRD sewer system.

57. On information and belief, the MWRD interceptor that receives the flows from the MWRD-served area has capacity that is not being used.

58. MWRD's diversion of flows from the MWRD-served area, combined with wet weather flows from the FCWRD-served area, cause or contribute to unauthorized CSOs within FCWRD's system, in violation of MWRD's NPDES permit, FCWRD's ordinance prohibiting wet weather flows, the Combined Sewer Overflow Control Policy issued by U.S. EPA, and Illinois regulations governing CSOs, found at 35 Il. Adm. Code Part 306, Subpart C.

59. By diverting flows from the MWRD-served area to FCWRD, MWRD is in violation of the Act's prohibition on causing or contributing to water pollution, and violating regulations and standards adopted by the Board under the Act, 415 ILCS 5/12(a).

60. By diverting flows from the MWRD-served area to FCWRD, MWRD is in violation of the Board rule at 35 Il. Adm. Code 307.1101, prohibiting any person from introducing pollutants that interfere with the operation and performance of FCWRD.

61. MWRD's diversion of flows from the MWRD-served area, combined with wet weather flows from the FCWRD-served area, interfere with FCWRD's fulfillment of its statutory duty to provide capacity for sanitary flows from existing and new residents within its service area.

62. MWRD is also authorized by statute to regulate stormwater within Cook County.

63. Pursuant to that authority, MWRD levies taxes on residents within Cook County, including residents within FCWRD, to ensure stormwater is appropriately managed and does not obstruct sewers and streams.

64. Stormwater that flows into Flagg Creek is obstructed by dead trees and other detritus and does not flow downstream.

65. During high flow events, the stormwater backs up into FCWRD's polishing pond, interfering with the pond's ability to polish the effluent from FCWRD and acting as a pollutant to FCWRD's pond.

66. MWRD has a duty by statute and its collection of taxes within the FCWRD service area to maintain Flagg Creek so that stormwater is not obstructed in the Creek.

67. MWRD has breached its statutory duty.

68. MWRD's breach of its statutory duty is a violation of the Act's prohibition on causing or contributing to water pollution, and violating regulations and standards adopted by the Board under the Act, 415 ILCS 5/12(a).

69. MWRD's breach of its statutory duty is in violation of the Board rule at 35 Il. Adm. Code 307.1101, prohibiting any person from introducing pollutants that interfere with the operation and performance of FCWRD.

70. MWRD's breach of its statutory duty interferes with FCWRD's fulfillment of its statutory duty to provide capacity for sanitary flows from existing and new residents within its service area.

Count III: Illinois Department of Transportation

71. The Illinois Department of Transportation (IDOT) has jurisdiction over a part of 55th Street east of County Line Road, and is responsible for its operation, repair and maintenance.

72. 55th Street was originally constructed as a two-lane roadway, but IDOT expanded 55th Street east of County Line Road to a four-lane roadway and added curbs.

73. By expanding 55th Street and adding curbs, IDOT has substantially increased the amount of stormwater that is conveyed to the FCWRD.

74. The wet weather flows from 55th Street contribute to the unauthorized CSOs within FCWRD's system.

75. The wet weather flows from 55th Street interfere with the effective operation of FCWRD's wastewater treatment facility.

76. The wet weather flows from 55th Street interfere with FCWRD's ability to allow capacity for wastewater from existing and new residents within its service area.

77. By failing to provide for wet weather flows from 55th Street, IDOT is causing or contributing to unauthorized CSOs within FCWRD's system, in violation of FCWRD's ordinance prohibiting wet weather flows and Illinois regulations governing CSOs, found at 35 Il. Adm. Code Part 306, Subpart C.

78. By failing to provide for wet weather flows from 55th Street, IDOT is in violation of the Act's prohibition on causing or contributing to water pollution and violating regulations and standards adopted by the Board under the Act 415 ILCS 5/12(a).

79. By failing to provide for wet weather flows from 55th Street, IDOT is in violation of the Board rule at 35 Il. Adm. Code 307.1101, prohibiting any person from introducing pollutants that interfere with the operation and performance of FCWRD.

80. IDOT's wet weather flows from 55th Street interfere with FCWRD's fulfillment of its statutory duty to provide capacity for sanitary flows from existing and new residents within its service area.

Count IV: DuPage Department of Transportation

81. DDOT has jurisdiction over part of 55th Street west of County Line Road, and is responsible for its operation, repair and maintenance.

82. 55th Street was originally constructed as a two-lane roadway, but DDOT expanded 55th Street west of County Line Road to a four-lane roadway and added curbs.

83. DDOT has installed storm sewers on certain segments of 55th Street, but has not installed storm sewers to accept the runoff from all of 55th Street

84. In segments of 55th Street where no storm sewers are present, stormwater runoff enters the FCWRD's system through the 55th Street Interceptor.

85. The wet weather flows from 55th Street contribute to the unauthorized CSOs within FCWRD's system.

86. The wet weather flows from 55th Street interfere with the effective operation of FCWRD's wastewater treatment facility.

87. The wet weather flows from 55th Street interfere with FCWRD's ability to allow capacity for wastewater from existing and new residents within its service area.

88. By failing to provide for wet weather flows from 55th Street, DDOT is causing or contributing to unauthorized CSOs within FCWRD's system, in violation of FCWRD's ordinance prohibiting wet weather flows and Illinois regulations governing CSOs, found at 35 Il. Adm. Code Part 306, Subpart C.

89. By failing to provide for wet weather flows from 55th Street, DDOT is causing or contributing to unauthorized CSOs within FCWRD's system, in violation of the Act's prohibition on causing or contributing to water pollution and violating regulations and standards adopted by the Board under the Act 415 ILCS 5/12(a).

90. By failing to provide for wet weather flows from 55th Street, DDOT is in violation of the Board rule at 35 Il. Adm. Code 307.1101, prohibiting any person from introducing pollutants that interfere with the operation and performance of FCWRD.

91. DDOT's wet weather flows from 55th Street interfere with FCWRD's fulfillment of its statutory duty to provide capacity for sanitary flows from existing and new residents within its service area.

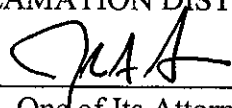
Relief Requested

WHEREFORE, for all of the foregoing reasons, FRCWRD requests that the Illinois Pollution Control Board:

- A. Issue an order directing Hinsdale to comply with the direction of the Sanitary Water Board requiring Hinsdale to separate its combined sewer;
- B. Issue an order directing Hinsdale to comply with the FCWRD's ordinance prohibiting combined sewers;
- C. Issue an order directing Hinsdale to comply with the Act, Board regulations and the CSO Control Policy, and stop the storm water flows and large leaf load from entering FCWRD's sewers;
- D. Issue an order directing Hinsdale, MWRD, IDOT and DDOT to address their wet weather flows, and stop the storm water flows from entering FCWRD's sewers; and
- E. Grant any other additional relief which fully and completely rectifies the violations complained of herein.

FLAGG CREEK WATER
RECLAMATION DISTRICT

By: _____


One of Its Attorneys

Dated: March 3, 2006

GARDNER CARTON & DOUGLAS LLP

Richard J. Kissel

Roy M. Harsch

John A. Simon

Gardner Carton & Douglas LLP

191 North Wacker Drive

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CH02/ 22408025.1

Exhibit 1

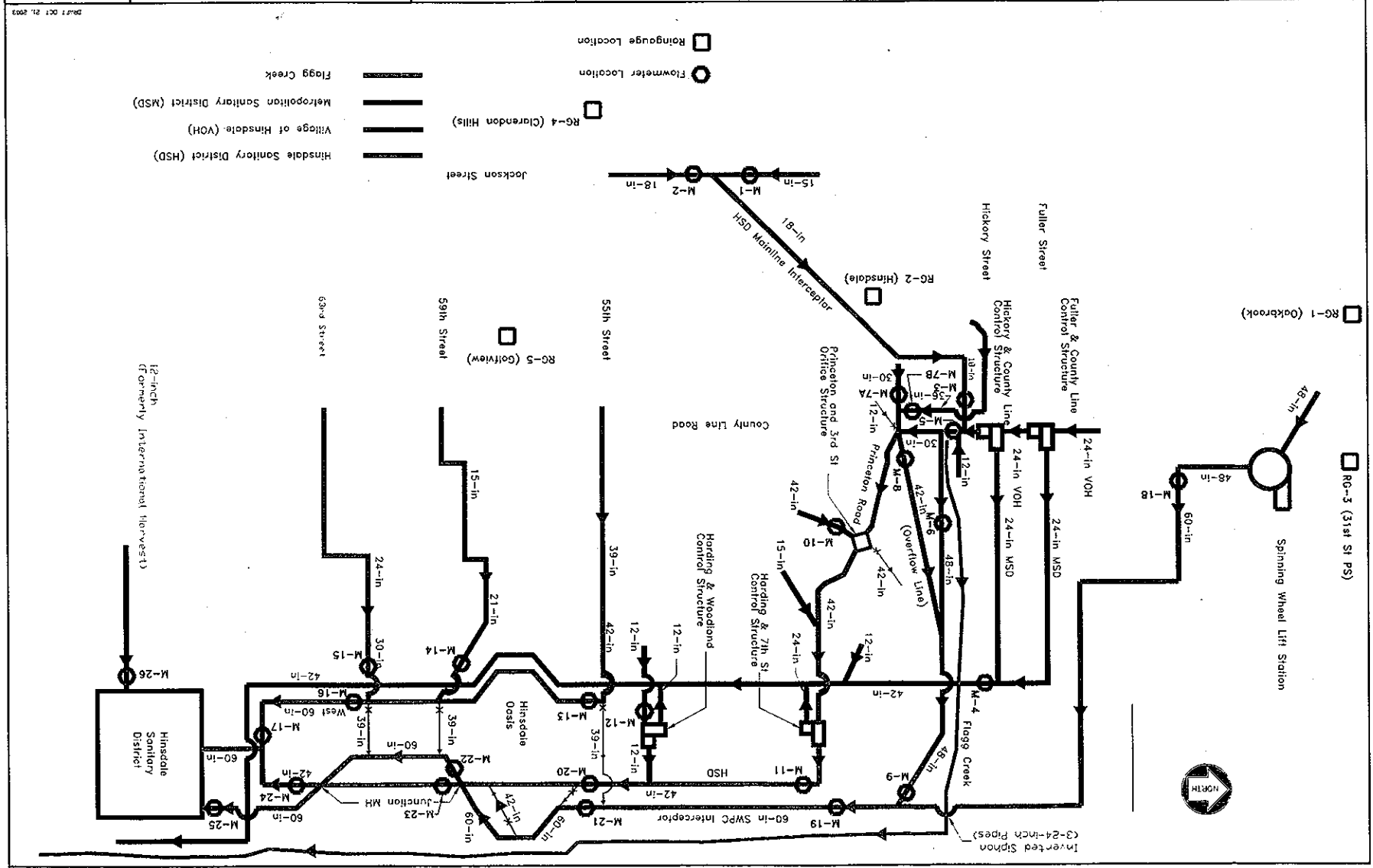
NO.	DATE	BY	CHKD	REVISIONS
1	08/20/00	D.M.		
2	08/20/00	K.L.		
3	08/20/00	D.Z.		

DATE: AUG. 2003
 CHECKED: DZ
 DRAWN: K.L.
 DESIGNED: D.M.

SCALE: NOT TO SCALE

HINSDALE SANITARY DISTRICT
 CONSULTING ENGINEERS, INC.

INTERCEPTOR SCHEMATIC
 SHEET 1 OF 1
 PROJECT NO. 40651



PLANT OCT 21, 2003

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DUPAGE COUNTY
Respondents.

PCB 06- 141

NOTICE TO RESPONDENT

TO: See Service list attached hereto

INFORMATION FOR RESPONDENT RECEIVING FORMAL COMPLAINT

Please take notice that today I filed with the Clerk of the Illinois Pollution Control Board (Board) a formal complaint, a copy of which is served on you along with this notice. You may be required to attend a hearing on a date set by the Board.

Information about the formal complaint process before the Board is found in the Environmental Protection Act (Act) (415 ILCS 5/1 *et seq.*) and the Board's procedural rules (35 Ill. Adm. Code 101 and 103). These can be accessed at the Board's Web site (www.ipcb.state.il.us). The following is a summary of some of the most important points in the Act and the Board's procedural rules. It is provided for general informational purposes only and does not constitute legal advice or substitute for the provisions of any statute, rule, or regulation:

Board Accepting Formal Complaint for Hearing; Motions

The Board will not accept this formal complaint for hearing if the Board finds that it is either "duplicative" or "frivolous" within the meaning of Section 31(d) of the Act (415 ILCS 5/31(d)) and Section 101.202 of the Board's procedural rules (35 Ill. Adm. Code 101.202). "Duplicative" means that an identical or substantially similar case is already pending before the Board or in court. *See* 35 Ill. Adm. Code 103.212(a) and item 10 of the formal complaint.

"Frivolous" means that the formal complaint seeks relief that the Board does not have the authority to grant, or fails to state a cause of action upon which the Board can grant relief. For example, the Board has the authority to order a respondent to stop polluting and pay a civil penalty, to implement pollution abatement measures, or to perform a cleanup or reimburse cleanup costs. The Board does not have the authority, however, to award attorney fees to a citizen complainant. See 35 Ill. Adm. Code 103.212(a) and items 5 and 9 of the formal complaint.

If you believe that this formal complaint is duplicative or frivolous, you may file a motion with the Board, within 30 days after the date you were served with the complaint, requesting that the Board not accept the complaint for hearing. The motion must state the facts supporting your belief that the complaint is duplicative or frivolous. Memoranda, affidavits, and any other relevant documents may accompany the motion. If you need more time than 30 days to file a motion alleging that the complaint is duplicative or frivolous, you must file a motion for an extension of time within 30 days after service of the complaint. A motion for an extension of time must state why you need more time and the amount of additional time you need. Timely filing a motion alleging that the complaint is duplicative or frivolous will stay the 60-day period for filing an answer to the complaint. See 35 Ill. Adm. Code 103.204, 103.212(b).

All motions filed with the Board's Clerk must include an original, nine copies, and proof of service on the other parties. Service may be made in person, by U.S. mail, or by messenger service. Mail service is presumed complete four days after mailing. See 35 Ill. Adm. Code 101.300(c), 101.302, 101.304.

If you do not respond to the Board within 30 days after the date on which the complaint was served on you, the Board may find that the complaint is not duplicative or frivolous and accept the case for hearing. The Board will then assign a hearing officer who will contact you to schedule times for telephone status conferences and for hearing. See 35 Ill. Adm. Code 103.212(a).

Answer to Complaint

You have the right to file an answer to this formal complaint within 60 days after you receive the complaint. If you timely file a motion alleging that the complaint is duplicative or frivolous, or a motion to strike, dismiss, or challenge the sufficiency of the complaint, then you may file an answer within 60 days after the Board rules on your motion. See 35 Ill. Adm. Code 101.506, 103.204(d), (e), 103.212(b).

The Board's procedural rules require the complainant to tell you as respondent that:

Failure to file an answer to this complaint within 60 days may have severe consequences. Failure to answer will mean that all allegations in the complaint will be taken as if admitted for purposes of this proceeding. If you have any questions about this procedure, you should contact the hearing officer assigned to this proceeding, the Clerk's Office or an attorney. 35 Ill. Adm. Code 103.204(f).

Necessity of an Attorney

Under Illinois law, an association, citizens group, unit of local government, or corporation must be represented before the Board by an attorney. In addition, an individual who is not an attorney cannot represent another individual or other individuals before the Board. However, even if an individual is not an attorney, he or she is allowed to represent (1) himself or herself as an individual or (2) his or her unincorporated sole proprietorship. *See* 35 Ill. Adm. Code 101.400(a). Such an individual may nevertheless wish to have an attorney prepare an answer and any motions or briefs, and present a defense at hearing.

Costs

In defending against this formal complaint, you are responsible for your attorney fees, duplicating charges, travel expenses, witness fees, and any other costs that you or your attorney may incur. The Board requires no filing fee to file your answer or any other document with the Board. The Board will pay any hearing costs (*e.g.*, hearing room rental, court reporting fees, hearing officer expenses).

If you have any questions, please contact the Clerk's Office at (312) 814-3629.

SERVICE LIST

Flagg Creek Water Reclamation District v. Village of Hinsdale, et al.

Tim Martin, Director
Illinois Department of Transportation
2300 S. Dirksen Parkway
Springfield, IL 62764
(217) 782-7820

with copy to:

Richard Christopher, Esq.
Office of the Chief Counsel
Illinois Department of Transportation
310 S. Michigan Avenue, Suite 1607
Chicago, IL 60604
(312) 793-4837

For the Illinois Department of Transportation

Robert J. Schillerstrom
DuPage County Board Chairman
Jack T. Knuefer Administration Building
421 N. County Farm Road
Wheaton, IL 60187
(630) 407-6060

with copy to:

Joseph E. Birkett
DuPage County States Attorney
503 N. County Farm Road
Wheaton, IL 60187
(630) 407-8000

For the DuPage County, Division of Transportation

CERTIFICATE OF SERVICE

I, John A. Simon, an attorney, certify that I sent a copy of the Complaint and Notice to Respondent, to be served to the attorneys at the addresses indicated below this 3rd day of March, 2006:

Tim Martin, Director
Illinois Department of Transportation
2300 S. Dirksen Parkway
Springfield, IL 62764
(217) 782-7820

Via Overnight Delivery

with copy to:

Richard Christopher, Esq.
Office of the Chief Counsel
Illinois Department of Transportation
310 S. Michigan Avenue, Suite 1607
Chicago, IL 60604
(312) 793-4837

Via Messenger Delivery

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with copy to:

Joseph E. Birkett
DuPage County States Attorney
503 N. County Farm Road
Wheaton, IL 60187
(630) 407-8000

Via Overnight Delivery

For the DuPage County, Division of Transportation

John C. Farnan, P.E.
General Superintendent
Metropolitan Water Reclamation District of Greater Chicago
100 East Erie Street
Chicago, IL 60611-3154
(312) 751-5600

Via Messenger Delivery

with copy to:

Frederick Feldman, Esq.
Chief Legal Counsel
Metropolitan Water Reclamation District of Greater Chicago
100 East Erie Street
Chicago, IL 60611-3154
(312) 751-6566

Via Messenger Delivery

For the Metropolitan Water Reclamation District of Greater Chicago

Michael D. Woerner
President
Village of Hinsdale
19 E. Chicago Avenue
Hinsdale, IL 60521-3489
(630) 789-7011

Via Overnight Delivery

with copy to:

Mark Steger, Esq.
Holland & Knight, LLC
131 S. Dearborn Street, 30th Floor
Chicago, IL 60603
(312) 578-6557

Via Messenger Delivery

For the Village of Hinsdale



John A. Simon