



November 27, 2007

Dear MMSD Commissioner:

We are writing this letter on behalf of Friends of Milwaukee's Rivers (FMR), Midwest Environmental Advocates (MEA), Sierra Club Great Waters Group, and the Alliance for the Great Lakes to comment on your upcoming vote on December 3<sup>rd</sup> regarding whether or not to grant the Operations and Maintenance Contract for wastewater services to Veolia Water North America or return operating responsibilities to the MMSD (District). We understand that the District initially privatized operations and maintenance to save costs; however, conditions have significantly changed in the last ten years and it is in the interest of the Commission to reevaluate how to provide the best service to ratepayers, while balancing costs and protecting the environment. To that end, we have several concerns about retaining private control of the District's two treatment plants, regional sewers, deep tunnels, and Milorganite production facilities.

**Comment: Do not give contractors monthly bonus incentives for months when there have been sewage overflows; penalize contractors for overflows. Providing incentives based on monthly averages provides a disincentive for adequate treatment during good (dry) months.**

The United Water Services contract allows for a monthly bonus or incentive payment if the contractor meets the agreed upon contract water quality standards based on monthly averages. This is a flawed approach, and leads to the contractor receiving incentive payments even for months when there have been illegal sanitary sewer overflows or dry-weather blending events. The contractor should not be rewarded in months when there have been violations of the District's operating permit.

We believe that this practice of providing incentives based on monthly averages has led to inadequate treatment of wastewater in the past. For example, if the contractor is having a good month as far as reaching water quality standards and it seems assured that they will meet the monthly average needed for the bonus, there is a disincentive created to treat wastewater optimally at the end of the month through practices such as decreasing retention time of sewage in the secondary treatment process, decreasing numbers of equipment in service, and decreasing use of disinfection chemicals. By decreasing the level of treatment at the end of the month, the contractor saves money; however, the sewage is receiving less than optimal treatment and there is concern that such effluent is not adequately treated for pathogens, viruses, bacteria, etc. We

have been told that even after sewage dumping events (where there is clearly not optimal treatment), the contractor may still be meeting contract standards; however, these standards do not include monitoring for viruses and pathogens that can make people sick, and in addition, monitoring can also be manipulated to coincide after dumping events have terminated. For example, we have also been informed that United Water has manipulated testing of treatment plant effluent by not running Deep Tunnel pumps when samples are taken. This temporarily increases treatment retention time, and gives the false impression that water entering the rivers and lake is cleaner than it really is.

This issue will be a continuing concern if the District retains a private company and does not adequately address the incentives and disincentives created by this bonus system as well as continuing to use the monthly average standard. In addition, the current system gives the contractor little to no incentive to exceed the contractual floors and further improve water quality of the treated effluent. If incentives were tied to water quality goals, this would provide more motivation to contractors and employees alike, regardless of whether or not the system is privately run or returned to public control. Ultimately, the current privately managed system is leading to inadequate treatment of sewage, which threatens public health and water quality.

**Comment: Contract incentives currently reward inadequate equipment maintenance.**

The United Water contract includes a provision that if equipment fails and needs to be replaced, that United Water pays the first \$5,000 of those equipment costs and then the District pays the remaining fee. This essentially leads to a situation where the contractor saves money by *not conducting* adequate maintenance of equipment, because when the equipment breaks, it becomes largely a District expense and not an expense for the private company. Practically speaking, this means that there are minimal penalties if the contractor does not provide proper care or maintenance to expensive equipment, ranging in value from tens of thousands to hundreds of thousands to over a million dollars.

We have been told that the new contract will change this scenario to require the private contractor to pay the first \$15,000 dollars towards new equipment purchases; however, this change will not begin to address the inherent disincentive already in place that allows private companies to save money by not conducting proper operations and maintenance of taxpayer-funded facilities. This would not pose a comparable problem if the facilities were to be returned to public management, as there is incentive in a public system to operate facilities to minimize overall costs, which includes both operation and maintenance as well as capital expenses.

**Comment: Cost savings achieved under the United Water Contract are unlikely to continue under a future private contract due to increasing energy costs. The District must reevaluate the costs and benefits of privatization, with consideration of environmental impacts.**

It has been widely reported that the main reason that taxpayers “saved” money during the United Water years is due to an underestimation on their part of energy cost inflation, and that this amounted to somewhere in the \$144 million dollar range over ten years. This oversight is not likely to happen again, and indeed the next contract states that approximately 75-80% of energy

costs will be born by the District. It is also our understanding that approximately 65% of the estimated increased costs for the next private contract pertain to increased energy charges, while 35% of the increase will go directly to the contractor. We've heard estimates that the District will still save approximately \$10-17 million dollars per year with a private contract as opposed to a public contract. However, this doesn't seem to make sense given the high energy cost scenario. It would seem that given increased energy costs and the anticipated contract increase, that the contractor will make money at taxpayer expense.

In addition, in the context of a multibillion dollar contract, the cost savings seem to be far outweighed by the disincentives created with any private contract. These disincentives have led to inadequate operations and maintenance in the past, which have caused, either directly or indirectly, discharges of untreated sewage to our rivers and Lake Michigan. The District cost-benefit analysis that looks at public versus private control of facilities must include consideration of the environmental costs of inadequate operations and maintenance—namely sanitary sewer overflows to our rivers and Lake.

**Comment: The current private contract provides little to no transparency or accountability to taxpayers.**

With any private wastewater contract, there is less direct accountability to the public. Often when problems have occurred in the past, there has been blame and conjecture and finger pointing on the part of the District and United Water alike. At past Commission meetings, there has been intense talk about the difficulty of making all of the District's contractors more accountable, whether those be private consulting firms or United Water, as often the District is uninformed or under-informed about a variety of issues ranging from environmental violations to cost overruns. In fact, it has often been perceived that the District likes to be kept in the dark by their contractors so they can maintain "deniability" when the public comes looking for accountability for incidences such as sanitary sewer overflows.

There have also been several dry weather blending incidents (December 2005 and early 2007) where lack of coordination and communication of work to be done between MMSD contractors (working on capital projects) and United Water led to several dry-weather blending incidents that could have been avoided had plant operators known what was going on. Ultimately, returning the operations and maintenance to the public realm leads to more transparency and less conflict and less communication problems, whether perceived or real.

In addition, it seems that the MMSD contract compliance office is not doing a good job of enforcing the current private contract and forcing United Water to be accountable when sanitary sewer overflows occur or other dry weather blending events. Indeed, as previously mentioned, the Contractor is not penalized for these events, and can receive incentives if they have not violated their total suspended solids, ammonia limits, etc. The Journal Sentinel reported on November 19, 2007 that United Water has received 20 notices of contract noncompliance in the last ten years, but these notices provide little incentive or accountability if there are no financial penalties attached. In addition, John Cheslik, general manager for United Water was quoted in the Journal Sentinel Article as stating that his company "outperformed the District's past record in operating the facilities". This seems a ridiculous statement, as the District's system prior to

the United Water contract was vastly different in terms of facilities and capacity. Comparing management of the public system with “pre-tunnel” facilities to the United Water system with “post-tunnel” facilities and plant upgrades, is like comparing apples to oranges.

**Comment: Local Unions and AFSCME support returning operations and management to a public system, and their position should be afforded deference and respect.**

FMR and MEA have been able to meet with many United Water employees, and our perception is that the current private contract has led to much frustration, problems with morale, and safety and health issues for employees during the past ten years. The same disincentives that the contract has created for lack of good operations and maintenance has led to working conditions on many occasions that are unsafe for the employees. In addition, it is very frustrating for employees when overflows occur, given their knowledge that these overflows would have been fully preventable if they had been allowed by their bosses to conduct adequate operations and maintenance necessary to run the equipment as required.

We’ve heard many stories over the years of such scenarios, where requests to fix equipment were denied or work orders closed without critical maintenance conducted to important machinery. Furthermore, the reduction in workforce is beyond the point that would be considered prudent by most staff that we have spoken to, and lack of on-site United Water supervisors or management personnel on duty after hours during the weeks and weekends has led to several preventable overflow and blending events, which has frustrated union and non-union staff alike, who are often blamed for such events. Most staff feel that they do not have the level of responsibility necessary to adequately maintain equipment and that there is little recourse for them if their requests to conduct maintenance are denied or ignored.

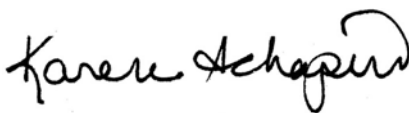
In short, we have significant concerns with continued privatization of wastewater treatment services at MMSD, and encourage the Commission to seriously consider returning operation and maintenance to a public system. If the Commission decides to award the next contract to Veolia Water North America, than we urge you to consider these comments and strengthen both the next contract and the tools available to enforce this contract. Ultimately, we all benefit both environmentally and economically by cleaner water.

Please feel free to call Cheryl Nenn at (414) 287-0207 ext. 29 or Karen Schapiro at (608) 251-5047 with any questions or concerns.

Respectfully,



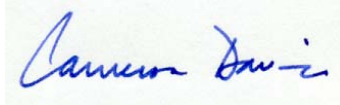
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