



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

September 27, 2023

*Via electronic mail*

Ms. Cyatharine Alias  
Senior Manager, Community Infrastructure & Resilience  
Center for Neighborhood Technology  
17 North State Street, Suite 1400  
Chicago, Illinois 60602  
calias@cnt.org

*Via electronic mail*

Mr. James Murray, Jr.  
Head Assistant Attorney  
Metropolitan Water Reclamation District of Greater Chicago  
100 East Erie Street  
Chicago, Illinois 60611  
MurrayJ1@mwr.org

RE: FOIA Requests for Review – 2023 PAC 77360; 2023 PAC 77361

Dear Ms. Alias and Mr. Murray:

This determination is issued pursuant to section 9.5(f) of the Freedom of Information Act (FOIA) (5 ILCS 140/9.5(f) (West 2022)). For the reasons that follow, the Public Access Bureau concludes that the response by the Metropolitan Water Reclamation District of Greater Chicago (District) to Ms. Cyatharine Alias' June 27, 2023, and July 6, 2023, FOIA requests did not violate the requirements of FOIA.

On June 27, 2023, Ms. Alias, on behalf of the Center for Neighborhood Technology, submitted a FOIA request to the District seeking "a GIS-friendly file (preferably a shapefile (plus the accompanying files required to make the data viewable on QGIS or Esri ArcMap)) of the Combined Sewer Outfall [CSO] points that MWRD has mapped on" a specified

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District webpage.<sup>1</sup> She specified that "[t]he data file shall contain data to be able to geocode/locate the CSOs on GIS software, owner, location, city, waterway reach, tarp connection, and monitored or unmonitored."<sup>2</sup> On July 5, 2023, the District denied Ms. Alias' request in its entirety pursuant to section 7(1)(x) of FOIA.<sup>3</sup>

On July 6, 2023, Ms. Alias submitted another FOIA request to the District, this time seeking "a csv file with the address locations of the CSOs" the District manages.<sup>4</sup> On July 13, 2023, the District again denied her request in its entirety pursuant to section 7(1)(x) of FOIA. On July 17, 2023, this office received Ms. Alias' Requests for Review challenging the District's denials. She noted that the District has disclosed the requested information on its website, but the manner in which the information is presented online is not downloadable. In a July 19, 2023, e-mail exchange with an Assistant Attorney General (AAG) in the Public Access Bureau, Ms. Alias confirmed that she is seeking a shapefile or csv file of the information posted on the District's webpage, nothing additional.

In a July 21, 2023, telephone call with the AAG, the District explained that disclosing the shapefiles of the CSO points or the exact address of the CSO points would disclose more precise information about those locations than is available online. The District maintained that the requested location information is exempt pursuant to section 7(1)(x) of FOIA.

On July 27, 2023, this office sent a copy of the Requests for Review to the District and asked it provide a written explanation for the factual and legal bases for the District's assertion that the requested information is exempt pursuant to section 7(1)(x) of FOIA. This office asked the District to clarify how the CSO point locations qualify as "generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility" as required by section 7(1)(x). Specifically, this office requested that the District explain what kind of facility the CSO points are and clarify who owns the facilities. On August 8, 2023, the District submitted the requested materials. On August 9, 2023, this office forwarded the District's answer to Ms. Alias; she did not submit a reply.

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<sup>1</sup>FOIA 23-229 (June 27, 2023). The specified website was:  
<https://mwrldg.maps.arcgis.com/apps/SimpleViewer/index.html?appid=89424a32f7304532b47c9017fa0f9fa2>.

<sup>2</sup>FOIA 23-229 (June 27, 2023).

<sup>3</sup>5 ILCS 140/7(1)(x) (West 2022), as amended by Public Act 103-154, effective June 30, 2023.

<sup>4</sup>FOIA 23-241 (July 6, 2023).

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## DETERMINATION

Under FOIA, "[a]ll records in the custody or possession of a public body are presumed to be open to inspection or copying." 5 ILCS 140/1.2 (West 2022); *see also Southern Illinoisan v. Illinois Dep't of Public Health*, 218 Ill. 2d 390, 415 (2006). Any public body that denies a record "has the burden of proving by clear and convincing evidence" that the record is exempt from disclosure. 5 ILCS 140/1.2 (West 2022). The exemptions from disclosure are to be narrowly construed. *Lieber v. Board of Trustees of Southern Illinois University*, 176 Ill. 2d 401, 407 (1997).

Section 7(1)(x) of FOIA exempts from disclosure "[m]aps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency."

In its response to this office, the District explained that the CSO points at issue are "outfalls where stormwater and sanitary sewage are transmitted to a waterway such as the North Shore Channel or North Branch of the Chicago River when the District's intercepting sewers and water reclamation plants reach capacity during heavy rain which allow the local sewers to drain to a waterway to alleviate backups."<sup>5</sup> Further, "[t]he CSO points function as part of the District's wastewater treatment facilities and its infrastructure to treat wastewater and provide stormwater management."<sup>6</sup> The District also confirmed that it is a utility: "The District collects wastewater from municipalities in its service area, which is conveyed to its treatment plants and then discharged to local waterways. The District is also responsible for stormwater management for all of Cook County."<sup>7</sup> The District owns 37 of the 400 CSO points in its territorial boundaries; other municipalities acting as utilities with respect to the operation of their CSO points own the other CSO points.

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<sup>5</sup>Letter from James B. Murray, Jr., FOIA Officer, Metropolitan Water Reclamation District of Greater Chicago, to Laura S. Harter, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General (August 8, 2023), at 2.

<sup>6</sup>Letter from James B. Murray, Jr., FOIA Officer, Metropolitan Water Reclamation District of Greater Chicago, to Laura S. Harter, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General (August 8, 2023), at 2.

<sup>7</sup>Letter from James B. Murray, Jr., FOIA Officer, Metropolitan Water Reclamation District of Greater Chicago, to Laura S. Harter, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General (August 8, 2023), at 2.

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Based on this office's review of the information provided by the District, the responsive CSO point information is within the scope of the section 7(1)(x) exemption. The District has explained that the CSO points are sources of stormwater and sanitary sewage transmission that are related to treatment facilities owned by the District or other utilities. Further, as it previously informed this office, the requested GIS mapping "includes the exact locations of the CSO points as opposed to the general vicinities of the CSO points provided by the online map."<sup>8</sup> Accordingly, this office concludes that the District has sustained its burden of demonstrating that the withheld CSO point locations are exempt from disclosure under section 7(1)(x) of FOIA.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at [laura.harter@ilag.gov](mailto:laura.harter@ilag.gov).

Very truly yours,



LAURA S. HARTER  
Deputy Bureau Chief  
Public Access Bureau

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<sup>8</sup>Letter from James B. Murray, Jr., FOIA Officer, Metropolitan Water Reclamation District of Greater Chicago, to Laura S. Harter, Deputy Bureau Chief, Public Access Bureau, Office of the Attorney General (August 8, 2023), at 2.