

Agenda Item # 43

DISTRIBUTION  
County Board  
County Administrator  
County Clerk  
Public Works

STATE OF ILLINOIS )  
                                  ) SS  
COUNTY OF LAKE )

COUNTY BOARD, LAKE COUNTY, ILLINOIS

REGULAR ADJOURNED SEPTEMBER A.D., 2007 SESSION

OCTOBER 9, A.D., 2007

MADAM CHAIR AND MEMBERS OF THE COUNTY BOARD:

Your Public Works & Transportation Committee and Financial and Administrative Committee present herewith a Joint Resolution authorizing the execution of a Seventh Amendment to the Agreement for Sewage Disposal with the North Shore Sanitary District (NSSD), and request its adoption.

Respectfully submitted,

<u>Deana O'Kelly</u>	Aye	Nay
CHAIR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Dan G.</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE CHAIR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Donna McCall</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Susan Glavatsky</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

<u>[Signature]</u>	Aye	Nay
CHAIR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
VICE CHAIR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>[Signature]</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<u>Deana O'Kelly</u>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

PUBLIC WORKS AND TRANSPORTATION COMMITTEE

FINANCIAL AND ADMINISTRATIVE COMMITTEE

## RESOLUTION

WHEREAS, the County entered into an Agreement for Sewage Disposal effective March 21, 1994, with the North Shore Sanitary District (NSSD), which Agreement was last amended on March 5, 2004; and

WHEREAS, the 152 acre LaSalle Trust property and the 75 acres located immediately to the north of the LaSalle Trust property are located within the Village of Beach Park, within the Northeast Lake Facilities Planning Area, and adjacent to the NSSD Service Area as defined under the Sewage Disposal Agreement; and

WHEREAS, the County has determined that it cannot readily provide sanitary sewer services to the LaSalle Trust property or the 75 acres; and

WHEREAS, the Village of Beach Park and the owners of the LaSalle Trust property have filed a lawsuit alleging that the County and the North Shore Sanitary District improperly denied or refused to amend the Sewage Disposal Agreement to transfer the LaSalle Trust property and the 75 acres to the NSSD Service Area from the County Service Area into the District Service Area pursuant to the Sewage Disposal Agreement; and

WHEREAS, the County, the Village of Beach Park, and the owners of the LaSalle Trust property have agreed to enter into that certain Settlement Agreement and Release relating to the use and development of the LaSalle Trust property and the extension of sanitary sewer service to the LaSalle Trust property and the 75 acres; and

WHEREAS, in conjunction with and in furtherance of the aforementioned Settlement Agreement and Release and subject to certain additional terms and conditions, the County and the NSSD have determined that it is desirable to transfer the LaSalle Trust property from the County Service Area to the NSSD Service Area and, if certain conditions exist in the future, to transfer the 75 acres from the County Service Area into the NSSD Service Area; and

WHEREAS, the appropriate Seventh Amendment to the Agreement for Sewage Disposal has been prepared; and

WHEREAS, execution of an Amendment must be authorized by Resolution of this County Board.

NOW, THEREFORE, BE IT RESOLVED, by this County Board of Lake County, Illinois, that the Chair of the County Board and the Clerk of said County be and they are hereby authorized and directed to execute the attached Seventh Amendment to the Agreement for Sewage Disposal with the North Shore Sanitary District.

DATED at Waukegan, Lake County, Illinois on this 9<sup>th</sup> day of October A.D. 2007.

Sample Document Not for Signature

SEVENTH AMENDMENT TO AGREEMENT  
FOR SEWAGE DISPOSAL

Entered into this      Day of      , 2007  
by and between the County of Lake and the  
North Shore Sanitary District

SEVENTH AMENDMENT TO AGREEMENT  
FOR SEWAGE DISPOSAL

THIS SEVENTH AMENDMENT TO AGREEMENT FOR SEWAGE DISPOSAL ("*Seventh Amendment*") is made and entered into this \_\_\_ day of \_\_\_\_\_, 2007, between the COUNTY OF LAKE, a body corporate and politic of the State of Illinois ("*County*"), and the NORTH SHORE SANITARY DISTRICT, an Illinois municipal corporation ("*District*").

RECITALS

A. The County and the District have entered into an Agreement for Sewage Disposal effective as of March 21, 1994 ("*Agreement*"), which establishes, inter alia, service areas for each of the County and the District within which the other is not to provide sewage services unless otherwise agreed in writing.

B. On November 10, 1994, the County and the District entered into an "Agreement to Modify Sewage Service Area Boundary" with the Village of Gurnee ("*Gurnee Service Boundary Agreement*"). Pursuant to the Gurnee Service Boundary Agreement, the County consented to having the District serve an approximately 560 acre area located outside the NSSD Service Area as defined in the Agreement, subject to certain conditions and limitations.

C. On March 26, 1998, the County, the District, and the Village of Bannockburn entered into an "Agreement to Modify Sewage Service Area Boundary (Bannockburn)" ("*Bannockburn Service Boundary Agreement*"). Pursuant to the Bannockburn Service Boundary Agreement, the County consented to having the District serve an approximately 2.3 acre parcel located outside the NSSD Service Area as defined in the Agreement, subject to certain conditions and limitations.

C. On November 10, 1998, the County and the District entered into a "First Amendment to Agreement for Sewage Disposal" ("*First Amendment*"). The First Amendment modified the NSSD Service Area by (a) formally transferring an approximately 41-acre parcel of land in the City of Waukegan into the NSSD Service Area and (b) amending the service area boundary map attached as Exhibit A to the Agreement.

D. On March 7, 2000, the County and the District entered into a "Second Amendment to Agreement for Sewage Disposal" ("*Second Amendment*"). The Second Amendment modified the NSSD Service Area by (a) formally transferring an area within the City of Zion lying east of Green Bay Road that was already within the District's Facilities Planning Area and (b) amending the service area boundary map attached as Exhibit A to the Agreement, as amended by Exhibit B to the First Amendment.

E. On December 11, 2001, the County and the District entered into a "Third Amendment to Agreement for Sewage Disposal" ("*Third Amendment*"). The Third Amendment modified the NSSD Service Area by (a) formally transferring an approximately 20-acre area within the City of Waukegan from the Northeast Central Lake Facilities Planning Area into the NSSD Service Area and (b) amending the service area boundary map attached as Exhibit A to the Agreement, as amended by Exhibit B to the First Amendment and by Exhibit B to the Second Amendment.

F. On November 12, 2002, the County and the District entered into a "Fourth Amendment to Agreement for Sewage Disposal" ("*Fourth Amendment*"). The Fourth Amendment modified the NSSD Service Area by (a) formally transferring an approximately 70-acre area within the Village of Beach Park from the Northeast Lake Facilities Planning Area into

the NSSD Service Area and (b) amending in its entirety the service area boundary map that was originally attached as Exhibit A to the Agreement, and amended from time-to-time.

G. On July 8, 2003, the County and the District entered into a "Fifth Amendment to Agreement for Sewage Disposal" ("*Fifth Amendment*"). The Fifth Amendment modified the NSSD Service Area by (a) formally transferring an approximately 60-acre area within the City of Waukegan from the Northeast Lake Facilities Planning Area into the NSSD Service Area and (b) amending in its entirety the service area boundary map that was originally attached as Exhibit A to the Agreement, and amended from time-to-time.

H. On March 5, 2004, the County and the District entered into a "Sixth Amendment to Agreement for Sewage Disposal" ("*Sixth Amendment*"). The Sixth Amendment modified the NSSD Service Area by (a) formally transferring an approximately 1,083-acre area within or adjacent to the City of Zion from the Northeast Lake Facilities Planning Area into the NSSD Service Area, and (b) amending in its entirety the service area boundary map that was originally attached as Exhibit A to the Agreement, and amended from time-to-time. (The Agreement, the Gurnee Service Boundary Agreement, the Bannockburn Service Boundary Agreement, the First Amendment, the Second Amendment, the Third Amendment, the Fourth Amendment, the Fifth Amendment, and the Sixth Amendment will hereinafter be collectively referred to as the "*Amended Agreement*").

I. There are two tracts located in the Village of Beach Park along the boundary of the Northeast Lake Facilities Planning Area and the NSSD Service Area. One tract is currently developed with detached single family residences generally on lots of two or more acres (the "*75-Acre Tract*"). The other is an approximately 152-acre tract of vacant land approved for residential development (the "*152-Acre Tract*"). The 75-Acre Tract and 152-Acre Tract are

immediately adjacent to each other and are depicted in **Exhibit A**, which is attached to this Seventh Amendment and, by this reference, made a part of this Seventh Amendment (collectively, the 75-Acre Tract and the 152-Acre Tract are hereinafter referred to as the "**Transfer Area**").

J. The County has determined that it cannot readily provide sanitary sewer services to the Transfer Area. The District has determined that it can readily provide sanitary sewer services to the Transfer Area, subject to available capacity.

K. Pursuant to the terms and conditions below, the County and the District have determined that it is desirable to enter into this Seventh Amendment by further changing the service area boundary map of the Amended Agreement so that the 152-Acre Tract and the 75-Acre Tract will be included in the NSSD Service Area. The current service area boundary map, which depicts the current boundaries of the NSSD Service Area, is set forth in Exhibit B to the Sixth Amendment to the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, it is hereby agreed as follows:

SECTION ONE: Recitals. The foregoing recitals are incorporated herein as if fully set forth.

SECTION TWO: The 152-Acre Tract.

A. Transfer of the 152-Acre Tract. Upon the effective date of this Seventh Amendment, the 152-Acre Tract will be included within the NSSD Service Area for purposes of the Amended Agreement.

B. Substitution of Exhibits. **Exhibit B-1** to this Seventh Amendment hereby replaces Exhibit B to the Sixth Amendment, so that the service area boundary map and the

NSSD Service Area boundary will hereafter be as set forth on Exhibit B-1 hereto.; provided, however, that the District's service to the 152-Acre Tract is and will be subject to the terms and conditions set forth in Sections 2.C of this Seventh Amendment.

C. Required Approvals. The District is responsible for making good faith efforts to secure any required approvals, amendments, or corrections of the applicable facilities planning area maps with respect to the entire 152-Acre Tract. The County agrees to support any such approvals, amendments, or corrections to the applicable facilities planning area maps by writing a letter expressing such support. If the Illinois Environmental Protection Agency ("*IEPA*") does not approve the transfer of any of the 152-Acre Tract into the NSSD Service Area boundary, then the District will be deemed to have satisfied its obligation under this Section 2.C of the Seventh Amendment.

D. Service Limitations. The District is aware that the County, the Village of Beach Park (the "*Village*"), and the owner of the 152-Acre Tract have entered into or will enter into an agreement concerning limitation on the development of the 152-Acre Tract (the "*Village-County-LaSalle Agreement*"). The District has no obligations to enforce the Village-County – LaSalle Agreement nor may the County, Village, or owner of the 152-Acre Tract seek any relief against or from the District in order to enforce the Village-County-LaSalle Agreement. The enforcement of the Village-County-LaSalle Agreement concerning limitations on the development of the 152-Acre Tract shall be between the County, the Village, and the owner of the 152-Acre Tract.

### SECTION THREE: The 75-Acre Tract.

A. Transfer of the 75-Acre Tract. The entire 75-Acre Tract will be included within the NSSD Service Area for purposes of the Amended Agreement upon the occurrence of

all of the following:

- (i) The Village delivers to the County a certified copy of a resolution of the Village Board of Trustees confirming that the owners of record of at least 51 percent of the owners of record of the 44 single-family home lots within the 75-Acre Tract have signed and delivered to the Village a petition requesting that said lots be annexed to the District and that sanitary sewer service be extended to service said lots (the "*Village Resolution*");
- (ii) The County's Director of Public Works delivers to the District a notice of receipt of the Village Resolution. The County's Director of Public Works is required to so notify the District within 15 days after receipt of the Village Resolution without the need for further approval from the County Board or any committee thereof; and
- (iii) The IEPA approves an amendment or correction of the facilities planning area maps to provide for the inclusion of the 75-Acre Tract within the District's facilities planning area.

The date of the IEPA's formal approval under Section 3.A(iii) of this Seventh Amendment will be deemed the effective date for the transfer of the 75-Acre Tract into the NSSD Service Area under the Amended Agreement, provided that the events described in Sections 3.A(i) and 3.A(ii) above have first occurred. If such IEPA approval is granted before the events of Sections 3.A(i) and 3.A(ii) have occurred, then the effective date for the transfer of the 75-Acre Tract into the NSSD Service Area under the Amended Agreement will be 15 days after the Village delivers the Village Resolution to the County's Director of Public Works.

B. Substitution of Exhibits. **Exhibit B-2** to this Seventh Amendment will replace Exhibit B-1 to this Seventh Amendment upon the effective date of the transfer of the 75-Acre Tract in accordance with Section 3.A of this Seventh Amendment, after which time the service area boundary map and the NSSD Service Area boundary will be as set forth on Exhibit B-2 hereto; provided, however, that the District's service to the 75-Acre Tract will be subject to the terms and conditions set forth in this Section 3 of the Seventh Amendment.

C. Required Approvals. Following the occurrence of the events described in Sections 3.A(i) and 3.A(ii) of this Seventh Amendment, the District is responsible for making good faith efforts to secure any required approvals, amendments, or corrections of the applicable facilities planning area maps with respect to the 75-Acre Tract. The County agrees to support any such approvals, amendments, or corrections to the applicable facilities planning area maps by having its Director of Public Works write a letter expressing such support; the Director is required and directed to provide such letter without the need for further approval from the County Board or any committee thereof. Unless and until the IEPA approves the transfer of the 75-Acre Tract into the NSSD Service Area boundary, then the amendment to the boundary of the NSSD Service Area as provided for in this Section 3 of the Seventh Amendment will be without force or effect.

SECTION FOUR: Continued Effect. Except as expressly provided in this Seventh Amendment, the Amended Agreement remains in full force and effect.

SECTION FIVE: Counterparts. This Seventh Amendment may be executed in multiple identical counterparts, and all of said counterparts will, taken together, constitute the Seventh Amendment.

SECTION SIX: Effective Date. This Seventh Amendment will be in full force and effect and binding on the parties upon its execution by each of the parties, subject to the deferred effective date of the transfer of the 75-Acre Tract as provided in Section Three of this Seventh Amendment.

SECTION SEVEN: Costs. The parties recognize that the costs associated with any modification to the facility planning area boundaries, according to the practice, custom, and policy of the District, are borne by the land owners or developers of the area sought to be

transferred. Nothing in this Seventh Amendment (including the District's obligation to make good faith efforts under Sections 2.C and 3.C of this Seventh Amendment) shall be interpreted to require the District to incur the cost of seeking to modify the facility planning area as contemplated by this Seventh Amendment.

[Signature page to follow.]

IN WITNESS WHEREOF, the parties hereto have caused this Seventh Amendment to be executed as of the date first written above.

**COUNTY OF LAKE**

**NORTH SHORE SANITARY DISTRICT**

\_\_\_\_\_  
Chairman, Lake County Board

\_\_\_\_\_  
President

ATTEST:

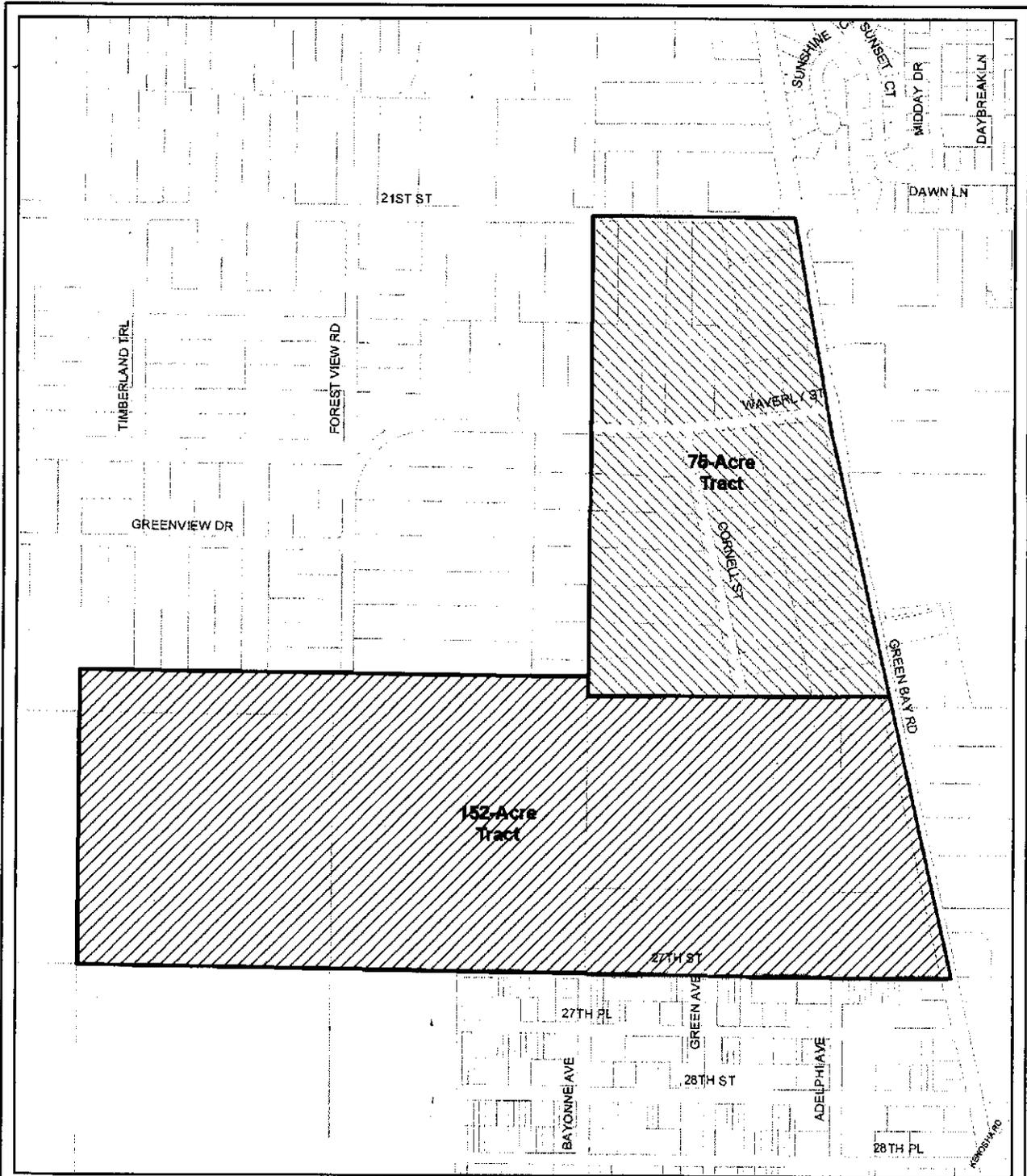
ATTEST:

\_\_\_\_\_  
County Clerk

\_\_\_\_\_  
Secretary

# 4639035\_v9

**EXHIBIT A**



 **LakeCounty**  
Department of Public Works  
650 West Winchester Road  
Libertyville, Illinois 60048  
(847) 377-7500  
(847) 377-7173 FAX

**EXHIBIT A  
TRANSFER AREA  
(152-ACRE TRACT AND  
75 ACRE TRACT)**



SEPTEMBER 2007

**EXHIBIT B-1**

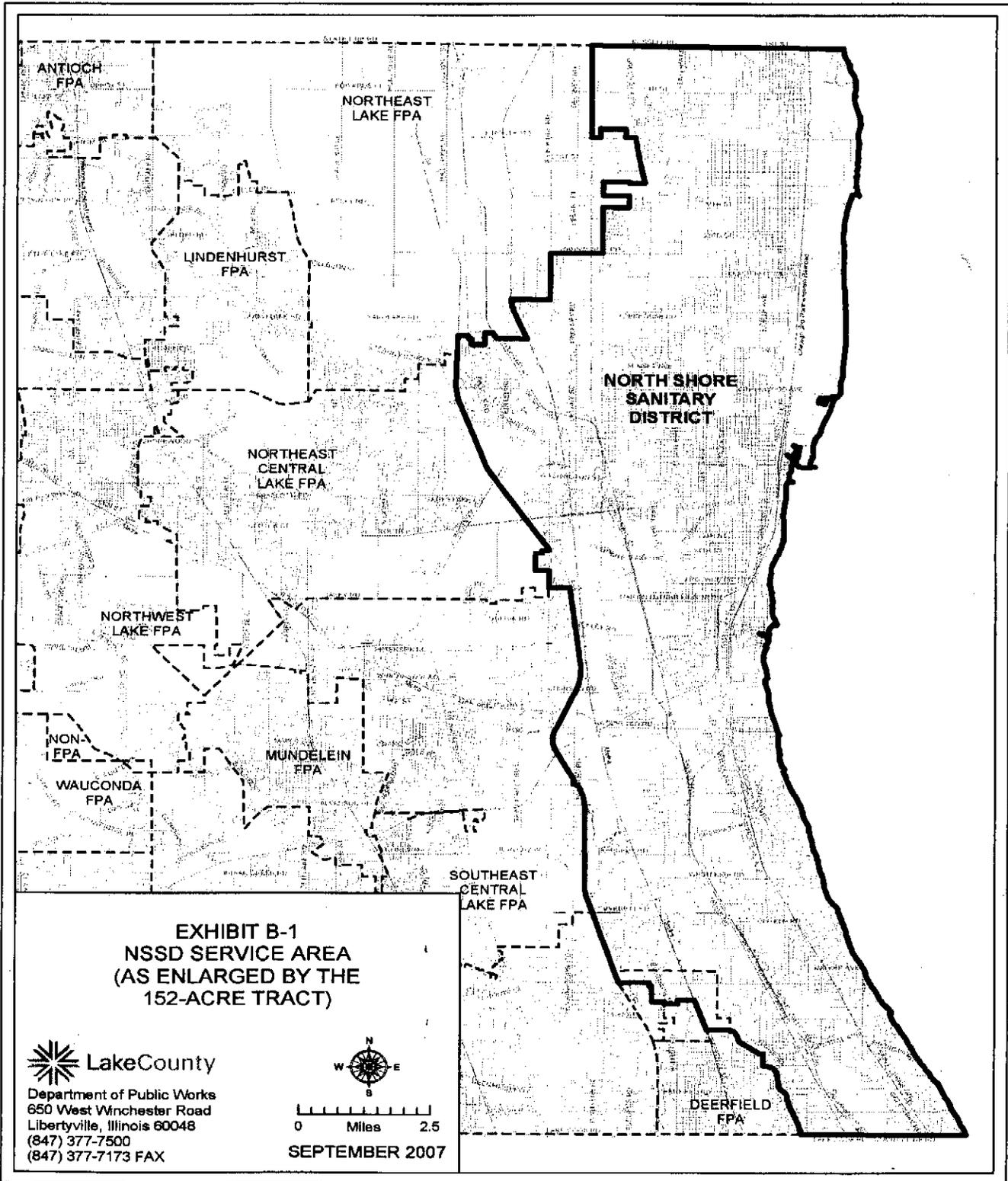


EXHIBIT B-2

