

CONFIDENTIAL

IN THE SUPREME COURT OF OHIO

NORTHEAST OHIO REGIONAL SEWER DISTRICT,	:	CASE NO. 2013-1770
	:	
	:	Appeal from Court of Appeals for the
Petitioner,	:	Eighth Appellate District
	:	CASE NO. CA-12-098728
vs.	:	(Consolidated with Case Nos.
	:	CA-12-098729 & CA-12-098739)
BATH TOWNSHIP, OHIO, et al.	:	
	:	Cuyahoga County Court of
Respondent.	:	Common Pleas,
	:	CASE NO. CV-10-714945

BRIEF OF AMICI CURIAE BROOK PARK, BROOKLYN, BROOKLYN HEIGHTS, CUYAHOGA HEIGHTS, HIGHLAND HILLS, MAYFIELD VILLAGE, MIDDLEBURG HEIGHTS, MORELAND HILLS, NEWBURGH HEIGHTS, OLMSTED TOWNSHIP, ORANGE, PARMA, PARMA HEIGHTS, SEVEN HILLS, SHAKER HEIGHTS, SOUTH EUCLID, VALLEY VIEW AND WARRENSVILLE HEIGHTS IN SUPPORT OF APPELLANT NORTHEAST OHIO REGIONAL SEWER DISTRICT

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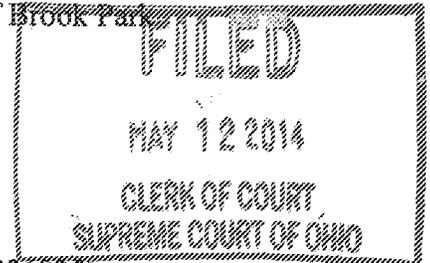
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INTRODUCTION

Amici Curiae communities in Northeast Ohio continue to suffer the devastating effects of stormwater-related problems, which have increased significantly over the past several decades. These stormwater problems include flooded and impassable roads and bridges, basement flooding, streambanks eroding the foundation of homes and roadways, and threats to water quality. Many stormwater problems are regional, emanating from increased development and stormwater volume, streambank erosion, clogged drainage, and polluted runoff beyond an individual community's boundaries. Therefore, the communities of Northeast Ohio depend on the Northeast Ohio Regional Sewer District (the "District") to provide regional, cost-effective solutions. Indeed, addressing such intercommunity problems is exactly why the District's fifty-six cities, villages, and townships (the "Member Communities") joined together to form the District. Unsurprisingly, then, the Regional Stormwater Management Program (the "Program") is precisely the type of regional solution authorized by the plain text of the District's governing documents—its Petition for Establishment (the "Petition") and Plan for the Operation of the District (the "Plan"), which were approved by the Common Pleas Court in accordance with the procedures required by the General Assembly.¹ See R.C. 6119.02-04.

The Eighth Appellate District's decision, by contrast, erroneously blocks the ability of municipalities across Northeast Ohio to address these intensifying stormwater problems on a regional level in accordance with the purposes of the District's Petition and Plan. It held that the District lacks authority with respect to stormwater and hence cannot implement the Program.

Northeast Ohio Regional Sewer Dist. v. Bath Twp., 2013-Ohio-4186, 999 N.E.2d 181, ¶ 68 (8th

¹ For the Court's convenience, the Petition and Plan as approved by the Cuyahoga County Court of Common Pleas in 1979 is attached as Appendix A. References to this Appendix are referenced with "A" and the relevant page number.

Dist.) (“NEORS”). Its decision is flawed in two respects. First, it held that no district created pursuant to Chapter 6119 has authority to implement a stormwater management program. *Id.* at ¶ 58. Second, it held that—even assuming Chapter 6119 permitted such a program—this District could not adopt the Program because its governing documents do not provide that authority. *Id.* at ¶ 60-64. As to the first error, Amici agree with Appellant’s first proposition of law, and hereby adopt the arguments of Appellant and the Coalition of Ohio Regional Districts (“CORD”) demonstrating that districts created under Chapter 6119 have statutory authority to operate regional stormwater management programs.²

Amici write separately with respect to the appeals court’s second error in order to emphasize the Eighth Appellate District’s misinterpretation of the District’s Petition and Plan. As Member Communities, Amici are uniquely qualified to inform the Court as to the interpretation of the Petition and Plan as understood by the consenting communities that formed the District. In this regard, Amici support the Appellant’s second proposition of law.³ The plain language of the Petition and Plan authorize the District to implement the Program and attendant fee. Specifically, the text clearly establishes that “[t]he purpose of the District shall be the establishment of a total wastewater control system”—“wastewater” includes “any storm water”—and, accordingly, the District is charged with constructing “storm water handling facilities,” and with developing a “detailed integrated capital improvement plan for regional

² Proposition of Law No. 1 states in full: “A district formed pursuant to R.C. Chapter 6119 is authorized to manage stormwater which is not combined with sewage, and to impose a charge for that purpose. Such a charge is one “for the use or service of a water resource project or any benefit conferred thereby.”

³ Proposition of Law No. 2 states in full: “When a Petition and Plan of Operations grant a R.C. Chapter 6119 district the authority to operate storm water handling facilities, that District is authorized to create and implement a regional stormwater management program, including imposing appropriate charges to operate that program.”

management of wastewater collection and storm drainage.” A1, ¶ 4; A2, ¶ 5(c)(1); A8, 5(m)(3); R.C. 6119.01.

This textual analysis is critical. No community was forced to be a member of the District; each joined voluntarily to address regionally the goals and purposes as set forth in these documents, and they delegated the responsibility for effectuating such purposes to a Board of Trustees accountable to elected officials. *See* R.C. 6119.02; *Seven Hills v. Cleveland*, 1 Ohio App.3d 84, 90, 439 N.E.2d 895 (8th Dist. 1980) (construing Chapter 6119 as requiring voluntary inclusion). The text of the Plan and Petition that the Member Communities submitted to the Common Pleas Court in forming their District is the best indication of that voluntary commitment.

Additionally, Amici emphasize the catastrophic impact that invalidating the Program will have on their communities. The Eighth Appellate District’s decision thwarts the ability of the District’s fifty-six Member Communities to manage the destruction caused by stormwater runoff that is too grave and too widespread to be addressed by inadequate municipal budgets and within the limited boundaries of any single community. The trial testimony of Shaker Heights Mayor Earl Leiken, as well as examples from several Member Communities, exemplifies these problems. Quite simply, because stormwater is a regional problem, defined by ecology and topography, lower-elevation communities bear the brunt of poor upstream stormwater management and are burdened with problems that transcend their boundaries and budgets. The District was formed over forty years ago to provide regional solutions that are cost-effective and efficiently solve stormwater problems rather than moving these problems to the next downstream community. Thus, this Court should reverse the Eighth Appellate District’s decision and allow

the District to implement the Program in accordance with the mandate set forth in the Petition and Plan.

STATEMENT OF INTEREST

Amici Curiae are eighteen of the District's suburban Member Communities that currently feel the devastating effects of regional stormwater problems. Amici, as individual cities, villages, and townships, do not have the resources or capabilities to resolve all of these problems, in part because of the great economic resources required, and in part because such problems are often caused by development and other activities in neighboring communities that extend beyond their boundaries. Instead, these communities rely on the District, and particularly the Program, to address regional stormwater problems. The District, in their view, is best able to manage stormwater issues from a systematic, regional perspective, and in turn it helps the communities within the District share costs of solutions to regional problems. In order to demonstrate the importance of the Program, Amici have attached an addendum detailing specific regional stormwater problems that they are currently having difficulty resolving on their own and that would be addressed by the District's Program.

Notably, only ten of the fifty-six communities are contesting the validity of the Program. By submitting this brief, Amici emphasize that Appellees do not represent the prevailing view among Member Communities. Rather, the Amici Communities recognize that the District is authorized by the Petition and Plan to engage in regional stormwater management and to charge a fee to fund such operations. The District, governed by a Board of Trustees *accountable* to (and substantially consisting of) elected officials, is charged with addressing intercommunity stormwater issues, and the Board unanimously voted to adopt the Program. Individual "upstream" communities cannot opt out of such shared responsibility. Accordingly, Amici

respectfully request that the Court allow the decision of the Trial Court to stand, and reverse the Eighth Appellate District's decision.

STATEMENT OF CASE AND FACTS

Amici Curiae adopt the statement of the case and facts from the District's brief and therefore do not repeat the full details of the facts and procedural history. Amici, however, separately emphasize the relevant statutory background and detail the particular documents that are relevant to their argument as to the interpretation of the District's Petition and Plan.

I. Statutory Requirements for Establishing a District

Chapter 6119 sets forth the procedure for communities to form a "regional water and sewer district." R.C. 6119.01. First, the "legislative authority" of each community that will be part of a district must give its consent to be part of a district. R.C. 6119.02. Those communities must then file a petition in the court of common pleas. The petition must include the foundational elements that constitute the purpose and structure of the district. Specifically, the statute requires that the petition state: (1) the "necessity for the proposed district," (2) a "general description of [its] purpose," (3) a "general description of the territory to be included," (4) the details of the "manner of selection, the number, the term, and the compensation of the members of the governing body of the district," and (5) the "the plan for financing the cost of the operations of the district until it is in receipt of revenue from its operations or proceeds from the sale of bonds." R.C. 6119.02(A)(3)-(7). So, at the outset, all Member Communities—including the Respondents—voluntarily agreed to the District's decision-making structure.

Upon filing such a petition, the court of common pleas must determine whether the proposed district "probably is necessary and that it probably will be conducive to the public health, safety, convenience, or welfare" of the communities. R.C. 6119.04(B). If it so determines, the district is formed solely for the purpose of appointing trustees and preparing a

plan for the operation of the district. *Id.* The plan of operations is an outline for implementing the purposes detailed in the petition. The statute does not require that such plan include every project, program, fee, initiative, grant, or other action that the district may undertake. It must be a general plan of operation. *See id.* After submitting this plan, the court of common pleas must hold a hearing regarding the creation of the district and entertain objections to its creation. If it “appears that the proposed district is necessary, that it and the plan for the operation of the district are conducive to public health” and otherwise meet the requirements of the statute, then the court “shall declare the district finally and completely organized and to be, or to be empowered to continue as, a political subdivision.” 6119.04(D).

Once established, a district is a separate political subdivision with the power to “sue and be sued; to incur debts, liabilities and obligations; to exercise the right of eminent domain and of taxation and assessment as provided in [Chapter 6119]; to issue bonds; and to perform all acts authorized in [Chapter 6119] and to execute and carry out the plan for the operation of the district.” *Id.* *See also* 6119.06 (enumerating powers of districts, including power to sue, acquire property, adopt regulations, enter contracts, “[c]harge, alter, and collect rentals and other charges,” etc., “without obtaining the consent of any other political subdivision”). Once approved, the district may also “amend, modify, change, or alter the plan for its operation as the board of trustees from time to time may deem necessary.” 6119.04(D). Therefore, the board of trustees may pass regulations, raise revenue, and otherwise implement programs that fall within the scope of its approved petition and plan for operations. *See id.*

Anticipating that districts may need to adapt over the years, Chapter 6119 also sets forth specific provisions as to when a district must “petition for modification” or otherwise seek permission of the court of common pleas before changing its structure. For instance,

R.C. 6119.051 states that a district must petition the court of common pleas for modification if it wants to: (1) “[i]ncrease or add to its purposes” that were previously approved by the court; (2) “[a]bandon or surrender any purpose” that was previously approved by the court; or (3) “[a]mend any provision of the petition filed pursuant to [R.C.] 6119.02 [which delineates the elements required for any petition as enumerated above].” The statute does not require court approval for any other changes.⁴

II. The District’s Petition and Plan for Operations

In accordance with the procedures set forth above, the Cuyahoga County Court of Common Pleas (the “Common Pleas Court”) originally approved the District’s Petition and Plan in 1972, creating the District at issue here that encompasses communities in Northeast Ohio. *NEORS*D at ¶ 5. The original Petition and Plan were modified and reapproved by the Common Pleas Court in 1975 and again in 1979; the 1979 Petition and Plan thus govern the limits of the District’s authority. *Id.* at ¶ 7. Here, the Petition and Plan are combined into one document that was attached to the Common Pleas Court’s order as Exhibit A. *See* A1-A11. This document sets forth the elements necessary for a petition, as specified in R.C. 6119.02, and contains a separate section detailing the “Plan for Operation of the District.” A2, A8 ¶ 5.⁵

The Petition and Plan contain several sections that are relevant to the authority of the District to implement the Program. At the outset, the Petition states that the District’s purpose is “the establishment of a total wastewater control system for the collection, treatment and disposal

⁴ Court approval is required for including additional territory in a district *only if* the board of trustees fails to grant approval for adding the territory. *See* R.C. 6119.05.

⁵ The Eighth Appellate District appears to refer to the Petition and Plan as the “Charter.” *NEORS*D at ¶ 7. As the term “Charter” is ambiguous and is not used in Chapter 6119, Amici refer to the 1979 court-approved version of these documents as the “Petition” and “Plan.” The Petition is paragraphs 1-4 and 6-8 of Exhibit A; the Plan for Operation is paragraph 5.

of wastewater within and without the District.” A1, ¶ 4. In this context, the term “wastewater” is the same as the term used in Chapter 6119, which is defined as including “storm water.”

R.C. 6119.011(k). To effectuate this broad purpose, the Plan states that the District shall develop a plan for managing intercommunity stormwater drainage. It states:

“The District shall develop a detailed integrated capital improvement plan for regional management of wastewater collection and storm drainage designed to identify a capital improvement program for the solution of all intercommunity drainage problems (both storm and sanitary) in the District.”

A8, ¶ 5(m)(3). It also states that the District will “plan, finance, construct, operate and control . . . storm water handling facilities.” A2, ¶ 5(c)(1). As for financing, the Plan anticipated that some projects would be eligible for grants from the Ohio Water Development Authority or Federal Government. A4, ¶ 5(e)(2). District projects that do not receive such funding are financed “in such a manner as may be deemed appropriate by the Board of Trustees.” A4, ¶ 5(e)(3); *see also* A11, ¶ 8 (anticipating “receipt of revenue from [the District’s] operations”).

The Petition and Plan demonstrate that the District’s authority is over regional or intercommunity concerns, and is not meant to usurp local authority. Indeed, local communities, such as Amici here, may have local wastewater (storm and sanitary) programs and facilities. The District’s Petition and Plan demonstrate that such local systems remain under the control of the localities unless the local community agrees to give ownership or control to the District. A7, ¶ 5(m). As the Plan states, the District has authority to “plan, finance, . . . and regulate local sewerage collection facilities and systems within the District, including both storm and sanitary sewer systems,” but it cannot construct, own, or operate those local systems without consent from the locality. *Id.* It provides:

“The District shall not assume ownership of any local sewerage collection facilities and systems nor shall the District assume responsibility or incur any liability for the planning, financing,

construction, operation, maintenance, or repair of any local sewerage collection facilities and systems unless the assumption of such ownership, responsibility, or liability is specifically provided for in a written agreement between the District and the respective local community.”

Id. Accordingly, while local communities retain control over their respective systems, the District addresses intercommunity and regional wastewater (storm and sanitary) programs and facilities. *See id.*

The District’s decisions with respect to the creation and implementation of projects within the scope of the Petition and Plan are entrusted to the Board of Trustees, which serves as the District’s “governing body.” A9, ¶ 7. The Board of Trustees consists of seven members who each serve a five-year term. *Id.* Importantly, the trustees are appointed by elected officials who are accountable to voters for the decisions of their appointed members. *See id.* Currently, four of the seven Board Members are themselves elected officials or former elected officials.

Two of the members are appointed by the Mayor of Cleveland; they are Darnell Brown, Chief Operating Officer for the City of Cleveland, and Sharon A. Dumas, Director of Finance for the City of Cleveland. Two members are appointed by the Suburban Council of Governments, which is a body comprised of all municipalities included within a subdistrict of the District’s territory; they are Jack M. Bacci, Mayor of the Village of Cuyahoga Heights, and Robert A. Stefanik, Mayor of the City of North Royalton. One member is appointed by the Cuyahoga County Board of County Commissioners⁶ to represent all municipalities with the Three Rivers Watershed District; he is Timothy DeGeeter, Mayor of the City of Parma. Another member is appointed by the subdistrict having the greatest sewage flow, which is Cleveland; that member is

⁶ Because, starting January 1, 2011, Cuyahoga County switched from a government administered by a Board of County Commissioners to one administered by a County Executive and Council, the County Executive now appoints this member.

now Walter O'Malley, the President of IBEW Local 38. The seventh member is appointed by the subdistrict having the greatest population, which is represented by the Suburban Council of Governments; that member is now Ronald D. Sulik, the former Mayor of Newburg Heights. *See* A9-A10, ¶ 7; <http://www.neorsd.org/board.php> (last visited April 21, 2014).

In January of 2010, after having studied the impact of stormwater in the region for several years, the Board of Trustees approved the Program unanimously. The Board approved adding the Program to its Code of Regulations as Title V in order to manage stormwater problems in the region that are so pervasive and critical that their neglect would have widespread intercommunity effects, and to protect the viability of Northeast Ohio's main water resources, including Lake Erie. It is that Program, described in more detail by the District, which is the subject of the instant challenge.

ARGUMENT

Proposition of Law: When a Petition and Plan of Operations grant a R.C. 6119 district the authority to operate storm water handling facilities, that District is authorized to create and implement a regional stormwater management program, including imposing appropriate charges to operate that program.

The District has the authority, under its Petition and Plan, to implement the Program. As explained herein, not every new initiative and fee implemented by the District requires approval from the Common Pleas Court; only programs that change the purposes of the District or that amend its Petition need court approval. *See* R.C. 6119.051. Here, the Program neither changes the purposes of the District nor amends its Petition. Rather, as evinced by the document's plain text, managing stormwater and implementing a fee to fund such operations falls within the scope of the Petition and Plan that were approved by the Common Pleas Court in 1979. Moreover, recognizing the District's authority to implement the Program does not conflict with the Petition and Plan's protections for local wastewater management facilities. Indeed, without the District's

leadership in managing regional stormwater issues, the Amici Communities will suffer devastating environmental and financial consequences. Accordingly, the Eighth Appellate District's decision should be reversed.

I. The Petition and Plan Give the District Authority to Manage Stormwater and Implement a Fee to Fund Such Operations.

A. Chapter 6119 Districts Have Authority to Implement New Programs that Fall Within the Scope of Their Petition and Plan Without First Seeking Court Approval.

Chapter 6119 establishes a framework whereby districts must seek court approval for new programs that alter the foundational elements set forth in their petitions. However, a district may implement regulations that fall within the bounds of the existing petition and plan without court oversight. This framework is explicit in the text of Chapter 6119.

Section 6119.051, entitled "Petition for modification of district," enumerates three instances where "[a]t any time after [its] creation" the district must "file a petition in the court of common pleas" requesting permission to change its foundational structure and purposes. First, the district must seek court approval if it wants to "[i]ncrease or add to its purposes [previously] approved by the court so long only as its purposes are those described in section 6119.01." R.C. 6119.051(A). Section 6119.01, in turn, enumerates the possible purposes that a district may have. It may exist: "(A) To supply water to users within and without the district" or "(B) To provide for the collection, treatment, and disposal of waste water within and without the district." R.C. 6119.01.⁷ Accordingly, if a district was approved to serve only one purpose, but wants to add the second, it would need to petition the court of common pleas for modification. Second, and conversely, a district needs to seek court approval when it wants to "[a]bandon or surrender

⁷ "Waste water" includes stormwater, as explained in Part I.B, *infra*.

any purpose [previously] approved by the court.” R.C. 6119.051(B). If, for example, a district wanted to stop its water-supply functions and focus only on wastewater management, it would need court approval. *See id.*

Third, and lastly, a district must seek approval from the court of common pleas to “[a]mend any provision of the petition filed pursuant to 6119.02.” As described above, the petition must contain the fundamental organizational elements of a district, including the district’s name, necessity, purpose, governing structure, and manner of selection of its board members. *See* R.C. 6119.02(1)-(7). To change any of those building blocks of the organization, the district must first get approval from the court of common pleas. But it need not seek court approval for implementing new programs or making other changes that are within the scope of the petition already approved.⁸

By ensuring that a district does not deviate from its essential organizational structure, yet allowing it to implement new programs without court supervision, Chapter 6119 establishes a careful balance. If there are structural changes to the district, including alteration of those core elements set forth in the petition (i.e., the composition of the board of trustees), it makes sense that there would need to be approval from the court of common pleas. The General Assembly contemplated a system requiring the court of common pleas to approve the basic elements of a district, including its method of decision-making, and requiring all member communities to consent to that structure. Were that structure to change, approval would therefore be appropriate to protect the judiciary’s oversight of those elements, as required by statute.

⁸ Here, the District did not seek to amend its Plan. The statute, however, provides that once a district is approved, it may “amend, modify, change, or alter the plan for its operation as the board of trustees from time to time may determine necessary.” R.C. 6119.04.

Following this principle, the Fourth District Court of Appeals held that Chapter 6119 districts must seek approval from the common pleas court before changing the method by which a board of trustees is selected. In *Village of Glouster v. Trimble Township Waste Water Treatment District*, the district's petition stated that board members from each included community were to be appointed by the mayor and approved by the city council of that community. 112 Ohio App.3d 392, 396, 678 N.E.2d 992 (4th Dist. 1996). After a deadlock between the mayor and city council, the board passed a resolution stating that any vacancies not filled within sixty days would be filled by the board, and subsequently appointed a new board member. *Id.* at 394. The court concluded that such action was improper because the board had changed the selection process without amending the district's petition and receiving the requisite court approval. *Id.* at 396. It explained that the petition is "very clear that the power to appoint the board lies with the mayor and the city council, not with the board itself." *Id.* That "appointment procedure was obviously meant to be a check on the district's power by the participating political subdivisions." *Id.* Thus, the court held that the board could not unilaterally change the petition's appointment clause. *See also Kucinich v. Cleveland Regional Sewer Dist.*, 64 Ohio App.2d 6, 16, 410 N.E.2d 795 (8th Dist. 1979) (holding that city council could not change the way the board was appointed without petitioning for a change and seeking approval in court).⁹

⁹ In *Kucinich*, the Eighth Appellate District mentioned that the "established procedure for amending either the petition or plan is by filing a petition with the court requesting an amendment or modification of either the petition or plan." *Kucinich*, 64 Ohio App.2d at 16. But its reference to needing court approval to amend the *plan* is dicta, as that case dealt only with changing the process for choosing members of the board of trustees, an amendment of the *petition*. Court approval is not needed to modify the plan. R.C. 6119.04(D) (district may "amend, modify, change or alter the *plan* for its operation as the board of trustees from time to

By contrast, a district and its board of trustees are empowered to pass regulations and implement their Petition and Plan without first gaining permission from the court of common pleas. *See* R.C. 6119.06-07. As the Tenth District Court of Appeals has recognized: “A distinction must be drawn between the organizational plan of the district, which must be approved by a court of common pleas, and specific plans necessary to implement the broader creating plan.” *In re Appeal of Jefferson Twp. Bd. of Trustees*, 78 Ohio App.3d 493, 498, 605 N.E.2d 435 (10th Dist. 1992) (requiring no court approval when the “organizational plan has not been amended . . . and no specific implementing plan is presently in place that will be compromised” by proposed change). Chapter 6119 does not include any provisions requiring court approval of new programs and fees that solely implement the Petition and Plan. And there are good reasons that the Legislature gave districts authority to implement their purposes without court oversight. A Chapter 6119 district—rather than a court—has particular scientific, technical, and environmental expertise about how to manage wastewater (storm and sanitary). By allowing the district flexibility in creating new programs to achieve its goals, the legislature recognized the expertise of a separate political subdivision.

Even when some member communities (and perhaps the court) disagree with a particular program approved by the board of trustees, it would be improper under the structure of Chapter 6119 to invalidate the program if that program falls within the bounds of the district’s petition and plan. Chapter 6119 does not require a district’s member communities to agree on all major initiatives; the district is a separate political subdivision with its own authority. The

(continued...)

time may deem necessary.” (Emphasis added.)). At any rate, the Board has not amended the Plan here by adopting the Program; it instead is implementing the Plan.

communities have ex ante consented to, and the court has approved, both the purposes and the decision-making structure for district. Indeed, to form the District, all Member Communities voluntarily agreed to the decision-making structure. *See* R.C. 6119.02. They were not forced to join the District or consent to the Board's authority. Accordingly, once a district is formed, the communities and court have already agreed that implementation of the delineated purposes will be carried out in the discretion of a governing body with an agreed-to composition. A court should not, then, second guess the board's decisions—even substantial ones—just when some communities may not agree.

As reflected in the text of Chapter 6119, the General Assembly has not provided oversight for each decision a district makes to implement its petition and plan, including decisions to impose fees. Nor has it required community consensus even for a district's major decisions. It would contradict the balance of authority that the General Assembly established between a district and the court of common pleas for this Court to impose such rules at this juncture. Accordingly, as long as a district is acting within the scope of its petition and plan, Chapter 6119 does not require it to seek approval from the court of common pleas when implementing new programs and attendant fees.

B. The Program and Its Attendant Fee Are Within the Scope of the District's Court-Approved Petition and Plan from 1979.

The Program falls within the scope of the District's court-approved Petition and Plan, and hence was properly implemented without prior court approval. A basic textual analysis reveals that the Program does not constitute an amendment or alteration to the Petition or Plan, but is instead properly characterized as a set of regulations designed to effectuate the District's originating purposes. Specifically, examining the Petition and Plan's stated purpose, references

to stormwater, and guidelines for financing demonstrates that a regional stormwater management program and its attendant fee is authorized by the District's Petition and Plan.

As an initial matter, addressing stormwater is within the overarching purpose delineated in the Petition. Paragraph four states: "The purpose of the District shall be the establishment of a total wastewater control system for the collection, treatment and disposal of wastewater within and without the District." A1, ¶ 4. In this context, the term "wastewater" includes both sewage and stormwater because the Petition borrowed the term "wastewater" from Chapter 6119, where it is defined as both "any storm water" and "any water containing sewage." R.C. 6119.011. It is obvious that the Petition borrowed the term "wastewater" from Chapter 6119. Paragraph four of the Petition parrots the language in Chapter 6119.01 exactly. *See* R.C. 6119.01 (a district may be formed "[t]o provide for the collection treatment, and disposal of waste water within and without the district"). Given that the Petition uses the exact same language as Chapter 6119, the two should be read to have the same meaning. *See State v. Noling*, 2013 Ohio 1764, 136 Ohio St.3d 163, 179, 992 N.E.2d 1095, 1109 (2013) (interpreting the same language in multiple enactments as having "the same meaning"). Indeed, had the communities wanted to form a District for a more limited purpose, they could have limited its scope. But they did not. Accordingly, managing stormwater is within the purpose set forth in the District's Petition and Plan.

The fact that the District was formed to manage stormwater is further evinced by the multiple references to stormwater throughout the Plan; such references would make no sense if the District were limited to managing sewage only. Paragraph five sets forth initial "[p]lanning" goals for the District. A8, ¶ 5(m)(3). It states:

"The District shall develop a detailed integrated capital improvement plan for regional management of wastewater collection and storm drainage designed to identify a capital

improvement program for the solution of all intercommunity drainage problems (both storm and sanitary) in the District.”

Id. By the plain language of this section, the District is charged with designing a “program for the solution of all intercommunity drainage problems” including “storm drainage.” *Id.* There is no requirement that the storm drainage program be limited to protecting the sewage system; rather, “both storm and sanitary” drainage are part of the District’s charge to provide “intercommunity” wastewater solutions. *Id.* The Program seeks to manage intercommunity waterways, control erosion and flooding, and address the damage done by stormwater drainage problems. As such, it fits within the plain language of the Plan.

The provision for developing an “integrated capital improvement plan” to address “storm drainage” would make little sense if the District had no authority to manage stormwater. Yet the Eighth Appellate District failed to interpret this section according to its plain meaning. It reasoned that the District could only address ““storm drainage”” within the confines of its authority to ““plan local sewerage collection facilities and systems.”” *NEORS* at ¶ 60-64 (citation omitted). But, as demonstrated by the language quoted above, the District’s authority to develop “regional management of wastewater collection and storm drainage” is not so limited. The Trial Court, by contrast, noted the importance of this section in holding that the District has authority under its Petition and Plan for addressing stormwater. *See* Case No. CV-10-714945, Apr. 21, 2011 JE & Order, at 4. This Court should not disregard the plain language of the Petition and Plan, which demonstrate the District’s authority to manage stormwater.

Moreover, this reference to stormwater is not an isolated reference, so its significance cannot be misconstrued as suggesting that the District only has authority over stormwater when it would serve its authority to control sewage. For example, in describing the construction responsibilities of the District, the Plan includes facilities relevant to managing stormwater.

Paragraph five states: “The District will plan, finance, construct, operate and control wastewater treatment and disposal facilities, . . . retaining basins, storm water handling facilities, and all other water pollution control facilities of the District.” A2, ¶ 5(c). Again, the Petition and Plan refer broadly to all “wastewater” facilities (which includes stormwater), not just sewage facilities, and it gives the District authority to construct “storm water handling facilities.” *See also* A2, ¶ 4(e) (giving the District “regulatory authority over all wastewater collection facilities and systems within the District”). These provisions demonstrate that managing stormwater has always been part of the District’s authority.

Additionally, the plain language of the Petition and Plan reflect the District’s authority to impose a fee to finance its stormwater operations. Rather than establishing specific fees and sources of financing that the Board could utilize, the Petition and Plan explicitly delegated to the Board the responsibility for determining the most appropriate financing mechanisms. For instance, the Plan “contemplate[s]” that some of the District’s projects will be “eligible for financing under the program of the Ohio Water Development Authority, the State of Ohio or the Federal Government,” and provides that the District should use such funding sources to the “fullest extent [possible].” A4, ¶ 5(e)(2). But the Plan anticipates that not all programs will be so funded. It provides that “[a]ny project” not financed by these grants will be “financed in such a manner as may be deemed appropriate by the Board of Trustees.” A4, ¶ 5(e)(3). This discretion is not restricted to getting grants; there is no such limit in the text. Indeed, the Petition anticipates that such financing may come from “receipt of revenue from its operations” or from “the sale of bonds.” A11, ¶ 8.

Accordingly, the Petition and Plan recognize that the District may need to implement fees to fund its operations—and it leaves that decision to the discretion of the Board of Trustees, who

are appointed by elected officials pursuant to a formula agreed to by all communities. When the Board of Trustees voted unanimously to impose a fee to finance the Program, it was acting within the discretion set forth in the Petition and Plan. The Petition and Plan, therefore, authorize the District to implement the Program and its attendant fees.

C. The Program Does Not Infringe Upon the Protections for Local Control Established in the Plan and Petition.

Nor does the Program conflict with any provisions of the Petition and Plan. Before the Eighth Appellate District, Appellees argued that the Program “directly conflicts” with the provisions of the Petition and Plan that prohibit the District from “assuming ownership, control and/or responsibility for locally-controlled systems without the local community’s consent.” Common Opening Br. of Defendants-Appellants, Case No. CA-12-098728 (filed Nov. 19, 2012) at 32. This argument fails, however, when one analyzes the relevant text of the Petition and Plan. Indeed, neither the Trial Court nor the Eighth Appellate District held that the Program would cause any “local-controlled systems facilities” to be improperly appropriated by the District.

The Petition and Plan provide for local autonomy over locally-owned sewage collection facilities. The Plan states:

“The [Sewer] District shall not assume ownership of any local sewerage collection facilities and systems nor shall the [Sewer] District assume responsibility or incur any liability for the planning, financing, construction, operation, maintenance, or repair of any local sewerage collection facilities and systems unless the assumption of such ownership, responsibility or liability is specifically provided for in a written agreement between the [Sewer] District and the respective local community.”

A7, ¶ 5(m). *See also* A8, ¶ 5(m)(2)-(5). Thus, localities have control over their own sewage collection facilities. Such local control is important to Amici Communities, who have invested greatly in their local systems; but they understand that the Program cannot infringe on that autonomy without their consent.

The Program does not conflict with these provisions because it neither requires nor allows the District to control any “local sewerage collection facilities and systems” without the community’s consent. A7-A8, ¶ 5(m).

Assuaging any concerns on this point, the Program clearly states: “nothing in [the Program] shall be construed to infringe upon or supplant a Member Community’s . . . power.” PI’s Tr. Ex. 2, § 5.0107. The Program is targeted at regional and intercommunity stormwater issues. To that end, the Program defines the scope of its “Regional Stormwater System” as “the entire system of watercourses, stormwater conveyance structures, and Stormwater Control Measures in the District’s service area that are owned and/or operated by the District or over which the District has right of use for the management of stormwater,” which generally receive drainage “from three hundred (300) acres of land or more.” (Emphasis added.) PI’s Tr. Ex. 2, § 5.0218. This definition does not allow the District to take control of any stream, culvert, or other structure that it does not otherwise have a right to control. As the plain language shows, it includes areas “that are owned and/or operated by the District” or areas for which it already has a “right of use.” Hence, the District must request consent to get a “right of use” from local governments, private residents, and business if it wishes to manage stormwater on their property. It is not authorized to, nor purports to, usurp local power.¹⁰ As a result, the Program does not conflict with the terms of the Petition and Plan.

Accordingly, there is no basis for concluding that the Program and associated fees fall outside the bounds of the Petition and Plan. The Program represents a “specific plan[] necessary to implement the broader implementing plan,” not a change to the “organizational plan of the

¹⁰ The District also stipulated that it would not undertake any construction projects on the Regional Stormwater System without the consent of the Member Community where such project would be located. Apr. 2011 JE & O, at 3; Feb. 2012 Op., at 12.

district.” *Jefferson Twp.*, 78 Ohio App.3d at 498, 605 N.E.2d 435. Thus, no new court approval is necessary under Chapter 6119. *Id.* This Court should recognize the District’s authority—per the plain text of the Petition and Plan voluntarily agreed to by all Member Communities—and reverse the Eighth Appellate District’s contrary holding.

II. Invalidating the Program Would Have Catastrophic Consequences for the Ability of Member Communities to Manage Regional Stormwater Problems.

The Eighth Appellate District’s decision to invalidate the Program not only disregards the text of the Petition and Plan, it also results in devastating consequences for Member Communities. First, regional stormwater problems require regional solutions that are beyond the scope (and budget) of any single locality. While individual communities already expend great sums to deal with local stormwater issues, they depend on the District to address intercommunity problems. Yet without the District’s leadership, there is no existing authority that can provide those intercommunity solutions. Second, given the interconnected origins of stormwater problems that span broad areas, it is difficult to apportion financial responsibility. Without the District’s Program, lower-elevation communities that experience the brunt of stormwater issues caused upstream are unfairly saddled with the financial responsibility of resolving problems caused or unaddressed by other communities. The Eighth Appellate District’s decision thwarts sharing financial responsibility among all implicated localities and holds lower elevation communities subject to the whims of higher elevation communities. Stormwater problems have significantly increased in recent decades, so without the Program, the devastation caused by stormwater problems will continue to be exacerbated, causing significant harm to lakes and rivers in Northeast Ohio.

The Eighth District’s decision eliminates the main tool of the communities of Northeast Ohio to address major stormwater issues that affect more than one community. Stormwater

issues are most often regional issues, determined by the natural landscape and ecosystem rather than government-drawn municipal borders. As a natural result of topography, stormwater issues are often not confined to a single municipality or township. Overflowing lakes and streams from one city cause flooding in another. A faulty dam or a lack of containment at one part of a river impacts all communities downstream. Stormwater runoff from a parking lot or roof top in one city may cause problems, including erosion (and resulting structural damage), clogged drainage systems, and polluted runoff, that are felt in a neighboring area. For instance, sediment carried by runoff from various communities washes into sections of the Cuyahoga River, adding to the cost of dredging required to keep the channel open for commercial shipping. Similarly, excessive stormwater volumes flowing into the streamside corridors and floodplains of the celebrated “Emerald Necklace” result in floods, debris blockages, and costly maintenance and repairs in the Cleveland Metroparks. Quite simply, stormwater from communities at higher elevations flows downstream and impacts communities at lower elevations. Accordingly, neglect of stormwater management in one higher-elevated city may result in destruction to bridges, roads, and other essential infrastructure in cities at lower elevations, and downstream communities often do not have the resources to address these problems. In addition, the best solution to many of these problems is often upstream and outside the boundaries of the most impacted communities.

As the experts at trial demonstrated, because of topography and the lake and stream systems throughout Northeast Ohio, the communities within the District are facing flooding, erosion, sediment build-up, and other problems today. And the problems are only getting worse. Increasingly intense storms dump deluges on rooftops and pavement, and because the area lacks an effective stormwater management system, rivers, creeks, streams, and ditches overflow and

flood nearby homes and cause property damage. The result is that stormwater infiltrates old sanitary and combined sewers before backing up into residents' basements or overflowing to area streams; debris and flooding blocks or undermines roads; natural ecosystems are destroyed; and commercial shipping is threatened. Commercial businesses and thousands of Ohio families lose money and time dealing with these problems of increasing severity. These are regional problems that require regional approaches to resolve.

The trial testimony of Shaker Heights's Mayor Earl Leiken exemplifies the problems facing Amici that the Program would address. Mayor Leiken began by explaining that Shaker Heights has "considerable" problems caused by stormwater, including deteriorating culverts, eroding streambanks, and flooding of roads and individual residences. (11/8/2011 Hearing Transcript "Tr." 1211-12, (Cuyahoga C.P. No. CV-10-714945).) In particular, Mayor Leiken focused on the lakes that fall partially within Shaker Heights's purview, explaining that: "[Shaker Heights has] lakes that actually act as retention basins, to sort of keep the water and store the water before it goes farther downstream." (Tr. 1211.) However, given increasing stormwater problems, the "lakes have been posing major problems" because "the lakes are . . . filling in with silt, which makes them shallower, so they [are] becom[ing] less effective in performing that role." (Tr. 1211-12.) Also, the dams that support the lakes are not in compliance with applicable federal environmental standards. (Tr. 1212.) Problems with the lakes lead to flooding, for example, in University Circle. (Tr. 1216.)

These problems, explained Mayor Leiken, are regional problems. The lakes are geographically shared between Shaker Heights and Cleveland Heights and are owned by the City of Cleveland. (Tr. 1213.) And the major tributaries, including Doan Brook, start in the City of Beachwood, run through Shaker Heights, and then continue into other communities. (Tr. 1214.)

He explained: “[T]he problems come from carrying silt and other materials from wherever the brook starts. Certainly from parts of Beachwood, on into the lakes. And then the water is carried down into other communities beyond Shaker.” (Tr. 1215). Indeed, the Mayor has, on a rainy day, actually watched the stormwater flowing down the streets from Beachwood into Shaker Heights. (*Id.*)

Importantly, Mayor Leiken explained that these problems “for one community are overwhelming.” (Tr. 1217). Solutions would cost “millions of dollars,” and “as a practical matter, it’s really impossible for [Shaker Heights] to do it” given its financial circumstances. (Tr. 1217-18.) Accordingly, Mayor Leiken recognized that the District’s Program would be a “tremendous benefit to . . . Shaker Heights, but also a great benefit to the other communities that are impacted by the system” of lakes, rivers, and streams throughout Northeast Ohio. As Mayor Leiken stated, he is not alone in seeing the serious need for the District’s Program. (Tr. 1218-19.)

Another example of the catastrophic consequences that will result from invalidation of the Program is from Cuyahoga Heights. The Program would protect the Southerly Wastewater Treatment Center (“Southerly WWTC”) during extreme wet-weather events. The Southerly WWTC discharges treated wastewater to the Cuyahoga River. Southerly WWTC serves over 530,000 people in thirty-eight Member Communities. During dry-weather conditions, the treated flows average approximately 100-120 million gallons per day. During rainfall events, however, flows arriving at Southerly WWTC increase dramatically. For example, on February 28, 2011, significant rainfall coupled with snow melt caused the flows arriving at the Southerly WWTC to increase to approximately 1.2 billion gallons per day, causing widespread flooding and over \$1.8 million in property damage. The high flows were caused by stormwater entering sanitary and combined sewers across the Southerly WWTC service area due to area-wide stormwater flooding.

When the Cuyahoga River levels are high, the ability of the Southerly WWTC to discharge treated flows is also compromised. High river levels restrict the amount of flow that can be discharged safely. A U.S. Geologic Survey gage on the Cuyahoga River indicates that this potential for flooding during high river levels has significantly risen in the past decade. The Southerly WWTC's operation is crucial to protecting the water quality in the Cuyahoga River, and hence all of Lake Erie. Yet without the Program, the Southerly WWTC will continue to be threatened by stormwater flooding, resulting in catastrophic water quality problems. These costly problems will only worsen.

These examples from Shaker Heights and Cuyahoga Heights are but two of many examples of the severe consequences that will befall Member Communities without the Program. Further examples from Amici Communities are included in the Addendum.

Crucially, the District's Member Communities do not have independent authority to resolve these intercommunity problems effectively. Without the District having this authority, Member Communities can only attempt to mitigate stormwater problems with repeated stop-gap fixes; they cannot systematically address the originating sources of those problems that lie in municipalities beyond their jurisdiction. As a matter of law, cities, villages and townships—including Amici Curiae here—do not have the sole authority to effectively resolve stormwater problems in neighboring communities that are caused by development and other activities outside of their municipal boundaries. Member communities may only act within the bounds of their jurisdiction. For downstream communities, they cannot control the actions (or inaction) of upstream municipalities that may have direct and devastating effects on their communities.

The fifty-six Member Communities have not been able to effectively collaborate to resolve these regional stormwater problems through coordinated action in the absence of the

District's authority. Individual Member Communities are not equipped to implement the type of holistic solutions necessary to cost-effectively solve regional problems. Some municipalities—for example, the “upstream” communities—have little incentive to address stormwater issues if the effects are only felt beyond their own city lines. If the Eighth District's decision stands, Member Communities are left with the impossible task of mitigating stormwater problems that originate in other municipalities or that are simply too big for any one community to handle on its own.

Furthermore, given the interconnectedness of stormwater issues between communities throughout Northeast Ohio, it is difficult to apportion financial responsibility and it is unfair to saddle certain communities with the full responsibility of addressing stormwater concerns. For instance, even though a particular dam may lie within one municipality, the effects of its disrepair may be felt by many other communities. The financial burden is logically and equitably a shared responsibility, and only through a regional approach may it be treated as such. The Program requires significant costs that no city individually, or even a few combined, have the resources to finance. Among others, it includes a \$3.5 million dam rehabilitation at Horseshoe and Green Lakes in the cities of Cleveland Heights and Shaker Heights, a \$2.5 million dredging of Green Lake in the City of Shaker Heights, and a \$2.3 million new retention basin along the Chevy Branch of Big Creek in the City of Parma. Such large costs necessitate shared effort, and given the widespread impact of stormwater issues across the region, an equitable distribution of costs is appropriate. Elimination of the District's authority to implement the Program threatens this region-wide cost sharing.

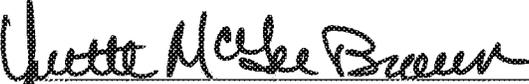
When the District was formed, its Petition and Plan afforded the Board of Trustees the power to implement holistic, watershed-based solutions. That authority is manifest in the text of

the Petition and Plan. In light of Northeast Ohio's mounting stormwater problems, the Board unanimously exercised its discretion to implement the Program. The Court should recognize that authority and allow these communities to manage stormwater collectively.

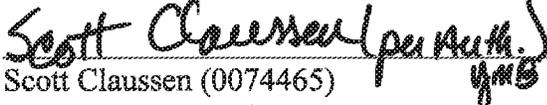
CONCLUSION

For the reasons stated above, Amici Curiae respectfully request that the Court reverse the decision of the Eighth Appellate District.

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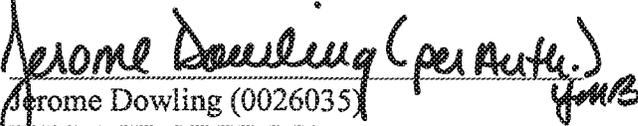
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CERTIFICATE OF SERVICE

I hereby certify that on this 12 day of May, 2014, a true copy of the foregoing amicus brief was served by regular, U.S. Mail, postage prepaid, upon the following:

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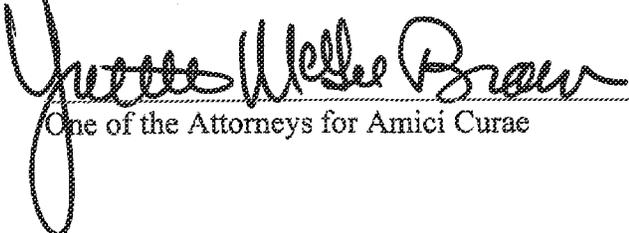
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ADDENDUM

Amici Curiae municipalities have regional stormwater problems that they are currently having difficulty resolving on their own, including flooding, erosion, and water quality problems. These issues would be addressed by the District's Program. The following is just a sampling from each of the Amici Curiae Communities.

Brook Park. The City of Brook Park contains 13.3 miles of regional waterways that were to be inspected, maintained, and operated by the District, including Abram Creek, the East and Main Branches of the Rocky River, and Big Creek, a Cuyahoga River tributary. The City has flooding, erosion, and water quality problems across these waterways that they will have difficulty addressing without the Program. The District planned to address these problems through master planning:

- Stormwater Master Plan Pilot Study for the Abram Creek Watershed—This \$1,041,639 master plan was nearly completed for the Abram Creek watershed. This study would have detailed additional construction and operation and maintenance projects along Abram Creek within the City of Brook Park to cost-effectively manage stormwater throughout the Abram Creek watershed.
- The City of Brook Park is located within both the Rocky River and Cuyahoga River Watersheds and would have benefitted from both Stormwater Master Plans. The Stormwater Master Plan for the northern portion of the Cuyahoga River watershed was to begin in 2015 at an estimated cost of \$4,000,000. The Rocky River Stormwater Master Plan was also to begin in 2014 at an estimated cost of \$2,600,000. These Master Plans would have detailed construction and operation and maintenance projects to cost-effectively manage stormwater throughout the City of Brook Park.

In addition the District was investigating the installation of a debris rack along Big Creek to trap debris before entering a culverted section of the creek that runs under Smith Road. This culvert requires regular maintenance for proper functionality. The installation of a debris rack would allow for easier, faster, and less expensive debris removal.

Brooklyn. The City of Brooklyn contains 7.0 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Big Creek watershed, a

tributary to the Cuyahoga River. Specifically, in the City of Brooklyn there are a series of severe debris blockages, streambank erosion, and infrastructure in poor or failing conditions that the

Program would have addressed, including:

- Four locations along Big Creek where the stream channel is 50% to 100% blocked with woody material or other debris.
- Nine areas on Big Creek with severe streambank erosion that either jeopardizes the stability of buildings and infrastructure, or will endanger these structures in the near future.
- Eight areas along Big Creek where road crossings, outfalls, or structural streambank protection is in severe disrepair and in danger of failure.

Brooklyn Heights. The Village of Brooklyn Heights contains 4.0 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Cuyahoga River and West Creek watersheds. The Village has flooding, erosion, and water quality problems within these streams that it will have difficulty addressing without the Program.

District projects planned to address these problems include:

- West Creek Erosion along Resource Drive—Project to stabilize eroding streambanks within a Village industrial park, with an estimated construction cost of \$2,000,000.
- West Creek Concrete Streambank Stabilization—Project to stabilize eroding streambanks along Interstate 480 within the Village, with estimated construction cost of \$2,000,000.

Cuyahoga Heights. The Village of Cuyahoga Heights contains 7.7 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Cuyahoga River, Burke Brook and Mill Creek watersheds. The Program would have implemented two key projects benefitting Cuyahoga Heights:

- In April 2013, the District completed a \$242,320 emergency streambank repair project to protect Warner Road and utilities in the public right-of-way and to prevent the migration of streambank erosion downstream to the Village of Cuyahoga Heights. Although this project was not located in the Village, the

restoration of Mill Creek at this location alleviated an intercommunity drainage issue and prevented costly problems for the Village going forward. However, further restoration of Mill Creek has been discontinued.

- Improvements to the Southerly WWTC, as described in Part II, *supra*.

Highland Hills. The Village of Highland Hills contains 1.8 miles of regional waterways in the Mill Creek watershed that were to be inspected, maintained, and operated by the District. The Village has flooding, erosion, and water quality problems within the Mill Creek watershed that they will have difficulty addressing without the Program. From January to September 2013, the District completed 19 stream inspections at specific points along Mill Creek in the Village to assess conveyance and erosion problems. Specifically, fifty cubic yards of large woody debris were removed from Mill Creek upstream of Northfield Road to prevent flooding of private properties adjacent to Mill Creek. Without the District's program, this preventive maintenance will halt

Mayfield Village. Mayfield Village contains 7.4 miles of regional waterways that were to be inspected, maintained, and operated by the District, including Euclid Creek and the Chagrin River tributaries of Beechers Brook and Foster's Run. For example there are three locations along Beechers Brook where the stream channel is 50% to 100% blocked with woody material or other debris that could result in property flooding or streambank erosion. District projects planned to address stormwater problems in the Village include:

- Beechers Brook Streambank Erosion Project—This project would have protected homes and property from eroding streambank, at an estimated cost of \$2,000,000.
- Beechers Brook: Worton Park Drive and North Woodlane Drive—This project would have protected homes and property from the eroding streambank. The District planned preventive maintenance inspections every six months to evaluate the rate of erosion. The District will no longer monitor this erosion.

Middleburg Heights. The City of Middleburg Heights contains 9.6 miles of regional waterways that were to be inspected, maintained, and operated by the District, including the Rocky River tributaries of Abram Creek and Baldwin Creek. Before the Program was halted, a total of sixty cubic yards of large woody debris were removed throughout the City at a cost of \$4,965.00. Without the District's program, this preventive maintenance will not occur. Further District projects planned to address the City's stormwater problems include:

- Abram Creek Streambank Erosion project near Ken Mack Metals—This project would have protected a commercial parking lot that is collapsing into Abram Creek from eroding streambank and minimized future downstream problems, at an estimated cost of \$300,000.
- Stormwater Master Plan Pilot Study for the Abram Creek Watershed—This \$1,041,639 master plan was nearly completed for the Abram Creek watershed. This study would have detailed additional construction and operation and maintenance projects along Abram Creek within the City of Middleburg Heights to cost-effectively manage stormwater throughout the Abram Creek watershed.

Moreland Hills. The Village of Moreland Hills contains 7.1 miles of regional waterways that were to be inspected, maintained, and operated by the District including Willey Creek, a tributary of the Chagrin River. From January to September 2013, the District performed 69 stream inspections at specific points along regional waterways in the Village. Without the District's program, this preventive inspection and maintenance will not occur. In addition, the Stormwater Master Plan for the Chagrin River watershed was to begin in 2016. This \$2,500,000 master plan would have detailed construction and operation and maintenance projects to cost-effectively manage stormwater throughout the Chagrin River watershed.

Newburgh Heights. The Village of Newburgh Heights contains 0.8 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Burke Brook watershed. From January to September 2013, the District inspected Burke Brook for

conveyance problems. Without the District's program, this preventive maintenance will not occur. Newburgh Heights will also benefit from the master planning for the Cuyahoga River watershed.

Olmsted Township. Olmsted Township contains 6.3 miles of regional waterways that were to be inspected, maintained, and operated by the District, including the Rocky River tributaries of Plum Creek and Minnie Creek (including Schady Ditch). The Township has flooding, erosion, and water quality problems and will have difficulty addressing them without the Program. These problems are so bad that flooding often prevents residents from accessing their houses, and children from going to school. The Rocky River watershed problems include:

- Severe, reoccurring flooding along Schady Road resulting in road and property flooding. This would have been addressed through the Rocky River Stormwater Master Plan (a \$2,600,000 plan) in which long-term solutions would have been determined through advanced computer modeling.
- Severe, reoccurring flooding along Bagley Road in front of the Olmsted Falls Middle School which results in road closures, resident loss of ingress and egress to homes, and disrupting school activities. This problem would have also been addressed through the Rocky River Stormwater Master Plan that has been abandoned.

Orange. Orange Village contains 1.4 miles of regional waterways that were to be inspected, maintained, and operated by the District, including Tinkers Creek, a tributary to the Cuyahoga River. In the brief time that the Program was in operation, District Stream Inspection and Inventory crews identified six locations along Tinkers Creek where the stream channel is 50% to 100% blocked with woody material or other debris that could result in property flooding or streambank erosion. These locations will not be evaluated or inspected further to develop a solution.

Parma. The City of Parma contains 19.9 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Baldwin Creek, a Rocky River

tributary, and Big Creek and West Creek watersheds, both tributaries to the Cuyahoga River. In the brief time that the District's Program was in operation, District Stream Inspection and Inventory crews identified numerous instances of severe debris blockages, streambank erosion, and infrastructure in poor or failing condition in the City, including eight locations along Big Creek and six locations on West Creek where the stream channel is 50% to 100% blocked with debris that could result in property flooding. District projects planned include:

- Flooding and Property Damage along Chevrolet Branch of Big Creek—The District completed the \$117,932 Chevrolet Stormwater Basin Study. This study detailed specific alternatives to address the chronic residential flooding along Chevrolet Boulevard. The design and construction costs of these solutions are estimated at \$2,300,000. This will no longer take place and these chronic problems will not be addressed.
- Baldwin Creek Streambank Stabilization—Erosion of Baldwin Creek threatens infrastructure and utilities along East Linden Lane. The estimated construction cost to fix these problems is \$600,000.

Parma Heights. The City of Parma Heights contains 6.8 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Big Creek watershed. The City has flooding, erosion, and water quality problems across this watershed that they will have difficulty addressing without the Program. In addition from January to September 2013, the District removed sixty cubic yards of large woody debris and eighty cubic yards of sediment from streams throughout the City at a cost of \$6,344.00. The Stormwater Master Plan for the northern portion of the Cuyahoga River watershed was to begin in 2015. This \$4,000,000 master plan would have detailed construction and operation and maintenance projects to cost-effectively manage stormwater throughout the Big Creek watershed.

Seven Hills. The City of Seven Hills contains 1.7 miles of regional waterways that were to be inspected, maintained, and operated by the District within the West Creek and Hemlock Creek watersheds, tributaries to the Cuyahoga River. The City has flooding, erosion, and water

quality problems across these watersheds that they will have difficulty addressing without the Program. Specifically, the District had taken over maintenance of the Forrest Overlook Basin, a large regional basin in need of on-going maintenance and repair. From January to September 2013, the District removed twenty-six cubic yards of large woody debris from the Forest Overlook basin located on Hemlock Creek at a cost of \$1,638.00. Without the District's Program, the District will no longer provide operation and maintenance of this regional stormwater basin.

Shaker Heights. The City of Shaker Heights contains 6.8 miles of regional waterways that were to be inspected, maintained, and operated by the District, including Doan Brook and tributaries to the Cuyahoga River. The City has flooding, erosion, and water quality problems across these streams that they will have difficulty addressing without the Program. District projects planned to address these problems include:

- The Program would have addressed multiple areas of streambank erosion and slope failure along Doan Brook are threatening property and infrastructure and require attention in order prevent further degradation and increase the cost of any solution.
- Shaker Lakes Dam Rehabilitation Project on Green Lake and Horseshoe Lake— Repair of dams to bring into compliance with the Ohio Department of Natural Resources (“ODNR”) regulations. The estimated cost is \$3,500,000. Specifically, Horseshoe Lake Dam is classified as a Class 1 Dam, “High Hazard Dam”, by ODNR and requires an upgrade to the dam spillway capacity to pass the required design flood. Additionally, Green Lake Dam is classified as a Class 2 Dam, “Moderate Hazard Dam,” by ODNR and requires a repair to the dam in order for it to safely pass the required design flood without erosion failure concern during overtopping.
- Green Lake Dredging Project—Project to remove sediment in Green Lake. Increasing the Lake depth will reduce algae and duckweed blooms, which when dead, reduce the oxygen levels in the Lake.

South Euclid. The City of South Euclid contains 9.1 miles of regional waterways that were to be inspected, maintained and operated by the District within the Euclid Creek and Nine

Mile Creek watersheds, both direct tributaries to Lake Erie. Before the Program halted, the District removed sixty-three cubic yards of large woody debris from streams in South Euclid to improve conveyance along the regional system and to reduce flooding and erosion. Without the Program, this operation and maintenance work will no longer be available.

Valley View. The Village of Valley View contains 17.0 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Cuyahoga River, Sagamore Creek and Tinkers Creek watersheds. The Village has flooding, erosion, and water quality problems across these streams that they will have difficulty addressing without the Program. The District had a \$650,000 riverbank stabilization project planned for the Cuyahoga Riverbank along the Ohio and Erie Canal Towpath Trail. Without the Program, the District cannot complete that project. Moreover, in the brief time that the District's Program was in operation District Stream Inspection and Inventory crews identified numerous instances of severe debris blockages, streambank erosion, and infrastructure in poor or failing condition in the Village. These locations will not be evaluated or inspected further to develop solutions and the flooding and erosion risks they pose will not be addressed:

- Five locations along Tinkers Creek and three locations along a tributary to the Cuyahoga River south of Schreiber Road, where the stream channel is 50% to 100% blocked with woody material or other debris that could result in property flooding.
- Two areas on Tinkers Creek with severe streambank erosion that either jeopardizes the stability of buildings and infrastructure, or will endanger these structures in the near future.
- Two instances along the Ohio & Erie Canal where road crossings, outfalls, or structural bank protection is in severe disrepair and in danger of failure.

Warrensville Heights. The City of Warrensville Heights contains 3.7 miles of regional waterways that were to be inspected, maintained, and operated by the District within the Mill Creek and Tinkers Creek watersheds. From January to September 2013, the District removed

sixty-seven cubic yards of large woody debris from streams throughout the City at a cost of \$28,066.25. Without the District's Program, this preventive maintenance will not occur, and there are several other areas that pose flooding and erosion risks, including:

- Three locations along Tinkers Creek where the stream channel is 50% to 100% blocked with woody material or other debris that could result in property flooding.
- Two areas on Bear Creek with severe streambank erosion that either jeopardizes the stability of buildings and infrastructure, or will endanger these structures in the near future.
- Two sections along Tinkers Creek where failing/collapsing gabion baskets east of Renaissance Parkway jeopardize property and infrastructure.

APPENDIX

EXHIBIT "A"
THE NORTHEAST OHIO REGIONAL SEWER DISTRICT

1. Name - The name of the District shall be "The Northeast Ohio Regional Sewer District".

2. Place - The principal office of the District shall be located at 801 Rockwell Avenue, Cleveland, Ohio 44114, or such other location within the District as the Board of Trustees may from time to time determine.

3. NECESSITY FOR THE PROPOSED DISTRICT - The increase in the amount of wastewater in the Metropolitan Cleveland area resulting from the increase in population and the expansion of industry in the many political subdivisions outside of the City of Cleveland without the existence of a single governmental agency with authority to control, plan, finance, establish rates, maintain, operate, adopt, establish and enforce rules and regulations for the purpose of uniform construction procedure, materials, inspection and controls of discharge into the system, has caused recurring litigation, has caused, in part, the necessity for the issuance of injunctive orders which have had the effect of practically eliminating new construction in Cleveland and most of Cuyahoga County, Ohio, has contributed to the polluted state of Lake Erie and the waters tributary to it and has endangered the public health and safety.

The establishment of a Regional Sewer District under the provisions of Chapter 6119 of the Ohio Revised Code is necessary and the establishment of said District will be conducive to the public health, safety, convenience and welfare.

4. The purpose of the District shall be the establishment of a total wastewater control system for the collection, treatment and disposal of wastewater within and without the District:

- (a) Serving the Metropolitan Cleveland Area;
- (b) With uniform metropolitan rates;
- (c) With control, administration and financing by a Board of Trustees;

(d) Capable of being expanded in the future to include additional areas;

(e) With regulatory authority over all wastewater collection facilities and systems within the District.

5. Plan for Operation of the District

(a) The District shall be operated by the Board of Trustees; it shall appoint a general manager who will administer the District and employ the personnel required to implement the District's program; the operation of the District shall be in accordance with Chapter 6119 of the Ohio Revised Code and subject to and in accordance with the terms and conditions hereinafter contained.

(b) The sewage treatment and disposal facilities of the City of Cleveland shall be transferred to the District in accordance with the order of the Cuyahoga County Common Pleas Court in Case No. 886,594 (Consolidated), and the Board of Trustees shall commence the operation of the District upon their appointment and qualification as members, and the election of a president and secretary of said Board.

(c) Construction of Facilities

1. The District will plan, finance, construct, operate and control wastewater treatment and disposal facilities, major interceptor sewers, all sewer regulator systems and devices, weirs, retaining basins, storm water handling facilities, and all other water pollution control facilities of the District. All construction and expansion of sewage treatment facilities, not including presently planned interceptors, after May 1, 1972, will be the responsibility of the District and the costs shall be borne by all users of the District.

2. In order to avoid any delay in the construction of presently planned facilities upon their approval by the State, the District shall employ the City of Cleveland to continue detailed planning of such facilities for the first four years of the District's existence or such period of time deemed practicable by the Board of Trustees of the District in order that the District assume its planning operations in an orderly

fashion; such planning procedure includes the sewer regulator program presently planned by Cleveland and which program shall become a District program with the cost thereof borne by all District users.

3. Except as otherwise provided in Chapter 6119 and paragraph 5(a) hereof, the construction and financing of local sewerage collection systems will be the responsibility of the individual municipalities or political subdivisions; provided, however, that the District may participate in the financing of trunk sewers constituting a part of such collection systems through a rotary fund which would be reimbursed from tap-in charges and/or sewer surcharges collected from users in the subdistrict served by such trunk sewers.

(d) Operation of Facilities

The District has heretofore entered into operating agreements with the City of Cleveland to assure the orderly transfer of treatment facilities. The District may continue to employ the City for such services as may be mutually agreeable; provided, however, that the City shall provide for collection, billing, and distribution of sewage charges upon mutually agreeable terms.

(e) Financing

1. As an interim requirement, the Cleveland Subdistrict (Subdistrict No. 1), will pay for presently planned interceptor sewer facilities that serve Cleveland users and the Suburban Subdistrict (Subdistrict No. 2) will pay for presently planned interceptor sewer facilities that serve suburban users. The presently planned interceptor sewer facilities to serve Cleveland users are the Northwest Interceptor and other wastewater handling facilities in Cleveland's westerly district and the presently planned interceptor sewer facilities to serve suburban users are the Southwest Interceptor, Cuyahoga Valley Interceptor, Broadway (Southeast) Interceptor, Heights Interceptor (including branch to serve Richmond Heights and Highland Heights) and improvements to the pumping stations and comminutor on the Wilson Mills (Hilltop) Interceptor.

2. It is contemplated that the major interceptor sewer, wastewater treatment facilities and the other water pollution control facilities will be eligible for financing under the programs of the Ohio Water Development Authority, the State of Ohio or the Federal Government. The District shall endeavor to utilize said programs to the fullest extent feasible, particularly where local contributions can be thereby minimized.

3. Other financing of District projects. Any projects not financed through the Ohio Water Development Authority, State of Ohio or Federal Government would be financed in such a manner as may be deemed appropriate by the Board of Trustees.

(f) Sewer Rates

The rates for sewage treatment and disposal shall be determined by the Board of Trustees and shall be in accordance with the following:

1. Regional Sewer Rate - the Regional Sewer Rate will include increments for the following factors:

(a) Planning expenses for the Regional Sewer District facilities to the extent such expenses are not included in construction costs.

(b) Operation and maintenance expenses for the Regional Sewer District facilities.

(c) Payment of new capital costs incurred by the District, including debt service charges on bonds and payments to the Ohio Water Development Authority, for the three wastewater treatment plants and other water pollution control facilities of the Regional Sewer District handling wastewaters of Cleveland and the suburbs, and for facilities of the Regional Sewer District beyond those presently planned.

(d) A rotary fund account to be used to assist in the financing of trunk sewers.

2. Cleveland (Subdistrict No. 1) Rate:

The Cleveland Subdistrict rate will include increments for debt service charges on Cleveland's outstanding Bonds which are presently being paid from sewer revenues; payments to the Ohio Water Development Authority incurred by Cleveland for improvements which have been installed at the

three wastewater treatment plants; debt service charges for the Northwest Interceptor and other wastewater handling facilities in Cleveland's westerly district.

3. The Suburban (Subdistrict No. 2) Rate will include:

(a) Debt service charges for the presently planned Southwest, Southeast (Broadway), Cuyahoga Valley and Heights Express Interceptors, including the branch of the Heights Express to serve Richmond Heights and Highland Heights, and improvements to the pumping stations and comminutor on the Wilson Mills (Hilltop) Interceptor.

(b) An increment for the Equitable Equalization and reimbursement of design costs payable to the City of Cleveland in accordance with the Order of the Cuyahoga County Common Pleas Court, Case No. 886,594 (Consolidated).

4. Interim Sewer Rates:

(a) It is anticipated that the Equitable Equalization ordered by the Court in Cuyahoga County Common Pleas Court, Case No. 886,594 (Consolidated) will be paid to Cleveland by the issuance of notes in anticipation of bonds. For so long as notes are outstanding in lieu of bonds, the existing sewerage service rates established by ordinance of the Cleveland City Council will be maintained by the Board of Trustees with the following modifications:

1. Added to the suburban (Subdistrict No. 2) rate will be an increment for interest on the notes outstanding.

2. The Board of Trustees may from time to time add specific increments to either or both subdistrict rates for:

(a) increased costs of operations and maintenance.

(b) financing of new construction of specific water pollution control facilities not otherwise provided for herein.

(b) At such time as the Board issues bonds to retire all or a substantial portion of the notes, the Board shall re-establish rates according to any method it may deem fair and equitable but shall include

therein the increments delineated in subparagraph (f) 1, 2 and 3 above. These re-established rates, however, shall include a credit in the suburban (Subdistrict No. 2) rate and an overcharge in the Cleveland (Subdistrict No. 1) rate for the purpose of repaying to the suburbs any amounts paid by them under subparagraph (f) 4(a) above as a return on Cleveland's invested capital, plus interest on the total amount to be credited at a rate equal to the average rate of interest on the bonds, such credit to be repaid over the average maturity life of the bonds.

5. The allocation of the entire cost of amortizing the Northwest Interceptor to Cleveland and the entire cost of amortizing the aforementioned suburban interceptors to the suburbs is predicated on the assumption that these interceptors will be used exclusively for either Cleveland or suburban wastewaters. Should it develop that a substantial amount of wastewater (over 5%) is being discharged into these Interceptors by the other party, an adjustment in the subdistrict rates will be made to reflect such use.

6. Nothing herein contained shall be deemed to preclude the Board of Trustees from establishing industrial sewerage service rates in accordance with Cleveland's presently planned industrial rate program.

(g) Existing sewer service agreements between the City of Cleveland and certain suburban municipalities which will be assigned to the District will necessitate adjustments in the rates to those municipalities.

(h) The Cleveland Regional Sewer District shall assume all duties and obligations under the contract dated July 29, 1965 between the City of Cleveland and the City of Lakewood.

(i) Assumption by the District of the ownership of any existing interceptors, treatment plants, or other facilities other than those of the City of Cleveland which is provided for in the Judgment Entry herein shall be accomplished in accordance with Chapter 6119 of the Ohio Revised Code.

(j) Ownership of facilities. The District will own all facilities transferred to it and all facilities it purchases in the future.

(k) Individual suburban communities will retain ownership of

all local suburban facilities, subject to the provisions of subsection "a" below.

(1) All non-self supporting municipal functions of the City of Cleveland shall continue to receive sewage service free of charge and the Board of Trustees shall afford the same treatment to similar non-self supporting municipal functions of the suburban municipalities as soon as possible after it commences operation of the system.

(a) Local Sewerage Collection Facilities and Systems

The District shall have authority pursuant to Chapter 6119 of the Ohio Revised Code to plan, finance, construct, maintain, operate, and regulate local sewerage collection facilities and systems within the District, including both storm and sanitary sewer systems. The District shall not assume ownership of any local sewerage collection facilities and systems nor shall the District assume responsibility or incur any liability for the planning, financing, construction, operation, maintenance, or repair of any local sewerage collection facilities and systems unless the assumption of such ownership, responsibility, or liability is specifically provided for in a written agreement between the District and the respective local community.

1. Regulation

The District shall have regulatory authority over all local sewerage collection facilities and systems in the District, including both storm and sanitary sewer systems. This authority shall be exercised by the District through rules and regulations adopted by the Board of Trustees pursuant to Chapter 6119 of the Ohio Revised Code. Such rules and regulations may include, without limitation, rules and regulations governing planning, construction, inspection, operation, maintenance, and repair of local sewerage collection facilities and systems and governing connections to, discharges into, and infiltration/inflow into such facilities and systems. All rules and regulations shall be implemented and enforced by the District in accordance with Chapter 6119 of the Ohio Revised Code. Whenever the Board of Trustees shall propose to adopt or amend any such rule or regulation, it shall first

notify all communities within the District of the nature and content of the proposed rule, regulation, or amendment.

2. Operation, Maintenance, and Repair

The District shall have authority to operate, maintain, and repair local sewerage collection facilities and systems pursuant to Chapter 6119 of the Ohio Revised Code. The District may assume the responsibility for operating, maintaining, and repairing local sewerage collection facilities when requested to do so by a local community and upon mutually agreeable terms.

3. Planning

The District shall have authority to plan local sewerage collection facilities and systems pursuant to Chapter 6119 of the Ohio Revised Code. The District shall develop a detailed integrated capital improvement plan for regional management of wastewater collection and storm drainage designed to identify a capital improvement program for the solution of all intercommunity drainage problems (both storm and sanitary) in the District.

4. Construction

The District shall have authority to construct local sewerage collection facilities and systems pursuant to Chapter 6119 of the Ohio Revised Code. The District may construct local sewerage collection facilities and systems when requested to do so by a local community and upon mutually agreeable terms.

5. Financing

The District shall have authority to finance the planning, construction, operation, maintenance, and repair of local sewerage collection facilities and systems as provided for in Chapter 6119 of the Ohio Revised Code and in this Order. The method of financing particular projects shall be agreed to between the District and the respective local communities at the time the project is undertaken by the District.

6. GENERAL DESCRIPTION OF THE TERRITORIES TO BE INCLUDED.

(a) The District will initially include all political subdivisions in Cuyahoga County, Ohio, presently served by Cleveland's wastewater treatment facilities and those presently planned to be served, i.e. the municipalities to be served by the Cuyahoga Valley Interceptor and the branch of the Heights Express Interceptor to serve Richmond Heights and Highland Heights. A more detailed description of such area is attached hereto and made a part hereof and marked Exhibit "A" (1).

(b) The District will initially be composed of two subdistricts, one consisting of the City of Cleveland (Subdistrict No. 1), and the other consisting of the areas outside of the City of Cleveland in Cuyahoga County, Ohio, (Subdistrict No. 2). Other subdistricts may be created at the Board's discretion.

7. BOARD OF TRUSTEES

The governing body of the District shall be called the Board of Trustees.

(a) The Board of Trustees shall consist of seven persons whose regular term shall be for a period of five years each.

Two of the members shall be appointed by the Mayor of the City of Cleveland who shall at all times be the Appointing Authority for members of the Board of Trustees allocable to Subdistrict No. 1.

Two members shall be appointed by a Council of Governments comprised of all municipalities included within Subdistrict No. 2, which Council shall at all times be the Appointing Authority for members of the Board of Trustees allocable to Subdistrict No. 2. The Council of Governments shall be established pursuant to Chapter 167 of the Ohio Revised Code no later than June 26, 1972.

One member shall be appointed by the Cuyahoga County Board of County Commissioners, which member shall be representative of all municipalities within the Three Rivers Watershed District.

One member shall be designated as a member appointed on the basis of sewage flow. The initial appointment, therefore, shall be made by the Appointing Authority of Subdistrict No. 1 and thereafter such appointment shall be made by the Appointing Authority of the subdistrict

having the greatest sewage flow as determined at the end of each five-year term. This member shall not be a municipal employee.

One member shall be designated as a member appointed upon the basis of population. The initial appointment, therefore, shall be made by the Appointing Authority of Subdistrict No. 1 and thereafter such appointment shall be made by the Appointing Authority of the Subdistrict having the greatest population as determined on the basis of the United States Decennial Census next preceding the end of each five-year term. This member shall not be a municipal employee.

(b) Each member appointed by the Mayor of the City of Cleveland shall be a resident of the State of Ohio and shall have been a qualified elector of Cuyahoga County, Ohio, for a period of at least three years next preceding his appointment. Each member appointed by the Suburban Council of Governments shall be a resident of the State of Ohio and shall have been a qualified elector of his county of residence for a period of at least three years next preceding his appointment. The member appointed by the Board of County Commissioners of Cuyahoga County, Ohio, shall have been a resident and qualified elector of the State of Ohio for a period of at least three years next preceding his appointment.

(c) The members first appointed by the Mayor of Cleveland shall have terms expiring on March 1, 1974, and March 1, 1975; the members first appointed by the Suburban Council of Governments shall have terms expiring March 1, 1974 and March 1, 1975; the member first appointed by the Board of County Commissioners shall have a term expiring March 1, 1977; the member first appointed on the basis of sewage flow shall have a term expiring March 1, 1977; the member first appointed on the basis of population shall have a term expiring March 1, 1977.

(d) The successor of each such member shall be appointed for a term of five years, except that any person appointed to fill a vacancy shall be appointed to serve only for the unexpired term. A member of the Board of Trustees is eligible for reappointment. Each appointed member before entering upon his duties shall take an oath as provided by Section 7 of Article XV Ohio Constitution.

(e) The Board shall elect one of its members as President, shall elect another as Vice President, and shall elect a third member as Secretary. Four members of the Board shall constitute a quorum and the affirmative vote of four members shall be necessary for any action by vote of the Board. No vacancy in the membership shall impair the rights of a quorum to exercise all the rights and perform all the duties of the Board of Trustees.

(f) The annual compensation for the President of the Board shall be \$9,600 plus expenses.

(g) The annual compensation for the Vice President of the Board shall be \$3,000 plus expenses.

(h) The annual compensation for the Secretary of the Board shall be \$8,600 plus expenses.

(i) The annual compensation for its members shall be \$8,000 plus expenses.

3. PRELIMINARY FINANCING

The financing of the cost of the operations of the District, until it is in receipt of revenue from its operations or proceeds from the sale of bonds, shall consist of such sums of money as are advanced to it by the City of Cleveland, pursuant to an Agreement between the District and the City providing for the repayment of such sums in accordance with Revised Code Section 6119.04(D).

"EXHIBIT A (1)"

The territory to be included in the Northeast Ohio Regional Sewer District shall include all the territory located within the boundaries outlined on the attached map, which territory is that portion of Cuyahoga County presently served, or mainly capable of being served by gravity, by sewers leading to the three wastewater treatment plants of the City of Cleveland plus the territory in Cuyahoga County to be served initially by the proposed Cuyahoga Valley Interceptor Sewer. The political subdivisions to be included in whole or in part in the Northeast Ohio Regional Sewer District are the following:

Beachwood, City of (all)

Bratenshl, Village of (all)

Brecksville, City of (all)

Broadview Heights, City of (all except that portion located south of the Ohio Turnpike)

Brook Park, City of (only that portion north of Five Points Road between the Berea Freeway and Interstate Route 71; north of Holland Road between Interstate Route 71 and Smith Road; and north of the southerly corporation line between Smith Road and West 130th Street)

Brooklyn, City of (all)

Brooklyn Heights, Village of (all)

Cleveland, City of (all except that portion in the extreme northeast part of the City which is served by sewers connected to the Euclid Wastewater Treatment Plant and except that portion in the western part of the City which is served by sewers connected to the Lakewood Wastewater Treatment Plant)

Cleveland Heights, City of (all)

Cuyahoga Heights, Village of (all)

East Cleveland, City of (all)

Euclid, City of (only that portion in the western part of the City served by sewers connected to the Cleveland Easterly Wastewater Treatment Plant)

Garfield Heights, City of (all)

Gates Mills, Village of (only that portion on the east side of S.O.M. Center Road south of Mayfield Road)

Highland Heights, City of (all)

Independence, City of (all)

Lakewood, City of (only that portion on the northwest side of Berea Road served by sewers connected to the Cleveland Westerly Wastewater Treatment Plant)

Lindale, Village of (all)

Lyndhurst, City of (all)

Maple Heights, City of (all)

Mayfield, Village of (all)

Mayfield Heights, City of (all)

Middleburg Heights, City of (only that portion in the northeastern part of the City served by sewers connected to the Cleveland Southerly Wastewater Treatment Plant)

Newburgh Heights, Village of (all)

North Randall, Village of (all)

North Royalton, City of (only that portion in the northeastern part of the City served by sewers connected to the Cleveland Southerly Wastewater Treatment Plant)

Oakwood, Village of (all except that portion of the Village located north of Forbes Road)

Parma, City of (all except that portion in the extreme southwest corner of the City which is served by sewers connected to the North Royalton Wastewater Treatment Plant)

Parma Heights, City of (all)

Richmond Heights, City of (all except that portion in the western part of the City served by sewers connected to the Euclid Wastewater Treatment Plant)

Riveredge Township (all)

Seven Hills, City of (all)

Shaker Heights, City of (all)

South Euclid, City of (all except that portion in the north central part of the City served by sewers connected to the Euclid Wastewater Treatment Plant)

University Heights, City of (all)

Valley View, Village of (all)

Walton Hills, Village of (all)

Warrensville Township (all)

Warrensville Heights, City of (all)

Northfield, Village of (all) (per Cleveland Regional Sewer District Resolution No. 22-75 adopted March 7, 1975 and the Village of Northfield Ordinance No. 1975-18 passed February 12, 1975)

Macedonia (all) (per Cleveland Regional Sewer District Resolution No. 150-77, adopted May 5, 1977, and City of Macedonia Ordinance No. 15-1977, passed April 14, 1977)

Sagamore Hills Township (all) (per Cleveland Regional Sewer District Resolution No. 359-76, adopted November 4, 1976, and Sagamore Hills Township Resolution No. 34-76, passed October 4, 1976)

Strongsville (all) (per Cleveland Regional Sewer District Resolution No. 255-76, adopted August 5, 1976, and City of Strongsville Ordinance No. 1976-176, passed July 6, 1976)