

THE STATE OF OHIO)
(SS.
COUNTY OF CUYAHOGA)

IN THE COURT OF COMMON PLEAS
JUDGE GEORGE J. MC MONAGLE

IN RE: ESTABLISHMENT OF CLEVELAND
REGIONAL SEWER DISTRICT)

Spec. Docket No. 69411

WATER POLLUTION CONTROL BOARD OF OHIO,)

Plaintiff,)

-vs-

(No. 886,594))

CITY OF CLEVELAND,)

Defendant,)

-vs-

BEDFORD HEIGHTS, et al,)

Third Party
Defendants.)

JOURNAL ENTRY

CONSOLIDATED CASE
NO. 886,594

CITY OF BEACHWOOD, et al,)

Plaintiffs,)

-vs-

(No. 892,711))

CITY OF CLEVELAND, et al,)

Defendants.)

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This matter came on to be heard on the Order of the Court heretofore entered herein requiring the parties in the within actions and the Cleveland Regional Sewer District to show cause why:

- (1) The Cleveland Regional Sewer District should not forthwith commence the preparation of detailed plans, contracts, procedures and conditions for the inclusion in the Cleveland Regional Sewer District of the responsibility for the planning, construction, ownership and operation of all local sewers within the District.
- (2) Each of the said political subdivisions and the Cleveland Regional Sewer District should not agree to cooperate, assist and work together in the preparation of the items specified in Paragraph 6 of the Order and the arriving at agreements with respect to the procedures, responsibilities, rights, duties and obligations of the District and each of the members thereof with reference to inclusion of local sewers in the District.

- (3) The Court should not set a date approximately one year from November 21, 1973, when the Cleveland Regional Sewer District should file a petition as described in Paragraph 6 of the Order.

Present at the hearing hereon were members of the Board of Trustees, the staff and counsel of the Cleveland Regional Sewer District together with counsel for and other representatives of communities which constitute the Cleveland Regional Sewer District.

The Court finds that all parties were duly notified of said Order and the hearing thereon by certified mail and that in accordance with said Order response thereto was made, either in open court or by written communication, by some of the parties, and that the -

City of Brooklyn
Village of Brooklyn Heights
Village of Cuyahoga Heights
City of East Cleveland
City of Euclid
City of Highland Heights
Village of Linndale
City of Lyndhurst
City of Mayfield Heights
City of Middleburg Heights
Village of Newburgh Heights
Village of North Randall
City of North Royalton
Village of Oakwood
City of Parma Heights
City of Richmond Heights
Village of Valley View
Warrensville Township
City of Warrensville Heights

did not, either by written response or orally in open court, show or indicate any cause why the aforesaid items (1), (2) and (3) should not be complied with. The Court finds therefor that the said communities do in fact consent to the entry of orders in accordance with the said Order to show cause.

The Court further finds that the balance of said parties so duly summoned herein did respond to said Order to show cause either by written communication or orally in open court or in both manners.

Following is the substance of the responses of those who did report either in writing or orally:

Cleveland Regional Sewer District

responded in writing and orally by Mr. Raymond Kudukis, President of the Board of Trustees of the Cleveland Regional Sewer District. The CRSO

reported that based upon its investigation of other sewer systems, the availability of federal grants and on a logical extension of the regional concept, that responsibility for all local sewer systems, both storm and sanitary, should be under the jurisdiction of the CRSD. That a single planning entity would eliminate duplication of effort and coordinate all aspects of water pollution control; that it is prepared to begin immediately to cooperate with all member communities and the Court in the preparation of plans, contracts, procedures and conditions for the inclusion of local sewers, and to commence negotiations to arrive at agreements thereto with all involved communities. That it is aware of the problems inherent in the transfer of such responsibility to the District but is prepared to accept the responsibility and pledges to work with all concerned parties; that it feels it is possible to develop a detailed plan and arrive at the necessary agreements or bring a petition to the Court within one year.

Attached is a copy of the communication of November 21, 1973 from the Cleveland Regional Sewer District which is marked "Exhibit 1." There is also attached a copy of a communication from the CRSD dated July 11, 1973 when it presented a plan for Integrated Regional Control of Water Pollution and Urban Flooding Relief to the Court. This communication is marked "Exhibit 1-A."

The recommendations and a portion of testimony of Mr. Andrew T. Ungar, P.E., the District's executive director, is contained hereafter.

The Three Rivers Watershed District

although not a party to the within proceedings filed a written statement which is marked "Exhibit 2." It was also orally presented by Mr. E. J. Odeal on November 21, 1973, and advises -

(1) It feels that the CRSD must have certain well defined minimum authority over local sewer systems to qualify for federal grants under the Federal Water Pollution Act of 1972 (P.L. 92-500); that the CRSD's authority should include authority to survey and inspect all existing systems and to order timely repair, to have authority to perform the repairs if necessary and recover the costs from the municipality.

(2) CRSD should have authority to establish minimum design standards and to require replacement of material to meet CRSD specifications.

(3) CRSD should have authority to control the quantity and quality of industrial wastes.

The Three Rivers Watershed District also states that it will be pleased to assist the Court and all involved parties in all possible respects.

The City of Cleveland

Mr. Richard Hart, Assistant Law Director, represented the City of Cleveland and reported that Cleveland would like to see the Cleveland Regional Sewer District final report and then come back to court; that it has no objection to cooperating but would like to know what the complete overall plan is before agreeing to anything. A verbatim copy of his testimony is attached hereto as "Exhibit 3."

City of Beachwood

reports it has no objection to the proposed orders.

City of Brecksville

feels that it is inevitable that local sewers will become the responsibility of the CRSD but feels that each municipality should be permitted to install local sanitary sewers at a reasonable pace; that the mechanics of financing, engineering, contracting, etc., should be kept by the local subdivisions subject to engineering review by the CRSD to make certain there is conformity to OETA and CRSD standards.

It feels CRSD should assist municipalities by compiling and coordinating master sewer plans from all municipalities; review and approve all detail plans for sewer construction within the district; assist in the financing of local sewers; specifically making use of the borrowing power of the CRSD; assist in the defense of legal actions aimed at slowing or stopping local projects; should inspect; test and accept local projects; should maintain the local sewerage systems.

City of Broadview Heights.

feels CRSD must have control over local sewers as to infiltration and also installation in accordance with approved specifications of the CRSD; each municipality should be permitted to install local sanitary sewers at a reasonable pace; financing, engineering, etc. and assessments against the benefiting properties should be kept by the local subdivisions with engineering

reviewed and approved by CRSD for conformity to OETA standards; that CRSD have responsibility for the sewage treatment, installation of interceptors and control over the amount of flow into the interceptors from local lines; that CRSD does not now have time or finances to install sewers at the local level, and Broadview is desirous of installing its own sewers as rapidly as possible.

City of Brock Park

feels that its treatment plant and sanitary and storm sewers which do not flow into CRSD interceptors and plants should not be included in the CRSD; that its operations are probably higher than that of any other municipality and also higher than CRSD; that it prefers to keep its operators and its very capable and licensed employees under its control; that it is able to and does maintain its sewers and sewage treatment plant at the highest level possible without any sewer service charge; that inclusion with the CRSD would require imposition of an unfair and discriminatory charge; that it has plans for the culverting of open storm ditches and to abate any nuisance therefrom and has finances to do so without additional taxes or bonds; that it is engaged in repairing any existing defects; that inclusion in the CRSD would delay such work; that it has already completed necessary engineering and that any change would constitute delay.

The Board of County Commissioners of Cuyahoga County

Includes in its response the following: (copies of which are attached as "Exhibit 4" to this summary).

- Exhibit A -- Service Area of the Cuyahoga County Department of Sanitary Engineering in the Cleveland Regional Sewer District.
- Exhibit B -- Facilities Owned by the Cuyahoga County Department of Sanitary Engineering in the Cleveland Regional Sewer District.
- Exhibit C -- Outstanding Debt, as of January 1, 1974, on Facilities Owned by the Cuyahoga County Department of Sanitary Engineering.

The Board of County Commissioners recognizes the value of CRSD for planning, etc., all local sewers; that there is a far greater potential for fiscal equity if badly needed sewer improvements are financed through sewer service charges and made applicable throughout the district; has no objection to the provisions of Section 7 subject to certain conditions:

(a) Issues of fiscal equity be recognized by CRSD by

1. assumption of all outstanding debts for improvements financed through special assessments; or
 2. payment of debt financed from inside millage;
 3. by payment to the County for improvements and facilities financed by all county taxpayers;
 4. establishment of equitable system of financing construction of new sewers in undeveloped areas, in areas outside Cuyahoga County, and the replacement and improvement of sewers in areas in the District where sewers already exist;
 5. establishment of an equitable system of financing by the users in Subdistrict No. 1 and Subdistrict No. 2.
- (b) Assume the personnel of the Cuyahoga County Sanitary Sewer Department.
- (c) Court review of the source and number of the members of the Board of Trustees of the Cleveland Regional Sewer District.
- (d) All political subdivisions enter into a comprehensive agreement as to the transfer of local sewers to CRSD.

City of Cleveland Heights and City of Shaker Heights

Mr. Walter C. Kelley, Jr., Mayor of Shaker Heights, is also Law Director of the City of Independence and of the Village of Bratenahl, and at the hearing stated that he was also speaking for those two communities. They filed a joint answer and agreed that efforts should be made to work out a system of regulation and control of local sewers; that supervision and regulation of local sewers by CRSD is desirable together with the necessity for the fixing and enforcement of standards; that CRSD should have authority to mandate or enforce construction or improvement of local sewers in order to permit improvements or reduce damages in another municipality; that CRSD have authority to require a municipality to correct existing violations under CRSD adopted rules and standards with CRSD having the right to correct such violations and bill the local residents by way of a rate increase; while opposing any assumption by CRSD of the construction, planning, etc., of local sewers because of differences in ages and conditions of sewers. These municipalities generally do not oppose the show cause order and feel that a year is a good goal within which the CRSD should attempt to prepare a petition for change in accordance with Ohio Revised Code section 6119.051. That said communities would object to any attempted takeover of local sewers at this time.

City of Garfield Heights

1. strenuously objects to the existence of CRSD.
2. suggests a voluntary study prior to any order to study or submit proposals for local sewer integration.
3. believes that the mechanics of finance, control, buyout and priority of construction presents early opportunities for disagreement.
4. reports it has embarked on an ambitious self-help program with dramatic results. These include the planning of a giant interceptor to afford relief to the Rybak-E. 139th Street area and a Garfield Boulevard relief sewer which should relieve the problem of flooding in its city.
5. believes it should not participate in any sewer activity without a referendum vote of the people.
6. believes the request for integrated sewer control is politically motivated rather than being engineering or economically feasible, and contends the plan is conceived by the Mayor of the City of Cleveland to compel the acceptance of metro government to the total deterioration of the autonomy of suburbs.
7. that the matter of control of local sewers and pollution is a vested municipal function and is not subject to any court.
8. that outside layers of government only result in stagnation, frustration and buck-passing.

Garfield Heights feels the CRSD should concentrate on developing, improving and expanding old treatment plants and construction of necessary interceptors.

Village of Gates Mills

does approve and, in fact, would welcome the decision of the Court as to Items 1, 2 and 3 of paragraph 7 of the Order.

City of Lakewood

consents to the proposals set forth in Items 1, 2 and 3 of paragraph 7 and agrees to cooperate with CRSD, it being understood that they refer to that portion of the City of Lakewood connected to the Cleveland Westerly Waste Water Plant.

City of Maple Heights

feels that the planning, construction of local sewers, etc., should remain the community responsibility, although it has no objection to an engineering review of those projects by the CRSD or a review of its annual schedule of sewer maintenance.

Village of Mayfield

agrees the regional approach to the treatment of waste water and its collection through interceptor sewers is necessary but that the construction etc., of local sewers should continue to be the responsibility of each municipality with the CRSD acting as a coordinating plant.

The City of Parma

objects to the inclusion of the responsibility for the planning, construction and operation of its local sewers for the following reasons:

1. It has not formally joined the Regional Council of Governments;
2. It has not executed a contract with any municipality for the purpose of forming a Regional Council of Governments for the reason that other municipalities would not accept the method of proportional or pro-rata voting in the Council; that without some form of weighted voting the City of Parma will have no influence in the selections or control of the two trustees from subdistrict No. 2;
3. The Court Order determining the number of trustees should be amended to require the selection of trustees on a more equitable basis, taking into account sewage flow and population;
4. It is reluctant to enter into any agreement with the CRSD with reference to the surrendering of its control over local sewers and their inclusion in CRSD because of the manifest inequity in the voting procedures of the Regional Council of Governments of subdivision No. 2;
5. That it was prejudiced against in the prior operation of its sewers by the County and since leaving the County system has achieved a much higher degree of efficiency and effectiveness;
6. That since each municipality has its own special problems, logic would dictate that no action can be taken by the CRSD that will have the same effect or result in the same cost to each and every community;
7. Agrees with the contentions of the City of Garfield Heights that the control of local sewers is one of the sovereign rights of the municipality and can only be relinquished voluntarily by contract.

Parma believes CRSD should not commence preparation of any detailed plans unless and until all political subdivisions agree in writing to the preparation of such plans; that it will not enter into any agreement until such time as it is given an effective voice in the selection of trustees. The City of Parma is content with its present sewer system and is not prepared to surrender any controls.

The City of Pepper Pike

reported that it, the City of Pepper Pike, owns the facilities specified in Exhibit B of the response of the Board of County Commissioners and that such facilities are not owned by Cuyahoga County but are operated, maintained and repaired by the County pursuant to a standard agreement.

City of Seven Hills

reports that since 1959, it has been actively engaged in the construction of local sewers in a systematic manner consistent with County and State Environmental Protection Agency approval.

It does not object to the inclusion of local sewers in the CRSD for those subdivisions that agree to it.

Agrees that each subdivision should cooperate, assist and work together in the preparation of items specified in paragraph 6 of the Court Order.

Does not object to setting a date approximately one year from November 21st, 1973 for the filing of the Petition to Change.

It has assumed the responsibility for the maintenance of its sanitary sewers and desires to continue to assume that responsibility.

City of South Euclid

1. believes that ultimately local sewers will become the responsibility of the CRSD;
2. it should have the prerogative to install its own local sewers;
3. financing, construction, etc., should be maintained by it while adhering to CRSD review and OETA standards;
4. the prime responsibility of CRSD is the installation of treatment and interceptor facilities;
5. states there is substantial flooding and basin backup in many of its areas which are the subject of an inspection program; that any correction program will involve down stream communities and the CRSD should be the coordinating agent.

City of University Heights

Incorporate the answer of the City of Cleveland Heights and the City of Shaker Heights.

Village of Walton Hills

consents to the three enumerated items in paragraph 7 of the Order to Show Cause without it being deemed a waiver in any future proceedings to

assert (a) its right and option to finance the construction of its own local sewers, and (b) that sewage rates or any tax should be so devised that each municipality pay for maintenance of its local sewers.

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Mr. Andrew T. Ungar, P.E., Director of the Cleveland Regional Sewer District, testified at the hearing, (Record 12 of the Transcript of Proceedings), that one of the most important reasons for the inclusion of local sewers in the CRSD was that under the new Federal Water Pollution Control Act of 1972, Public Law 92-500, adopted on October 18, 1972, for the first time local sewers are included for grants; that the law makes them part of the treatment works so that under the terms of this law it is the grantee's responsibility (CRSD) to make sure that all local service meet the infiltration inflow requirements; that on July 1, 1973 all grants were frozen by the Federal Government until an infiltration inflow analysis of the sewers' tributaries to the treatment plants has been performed and approved; that the Federal Government has insisted that this law be enforced to the fullest.

He further testified at (Record 14) that all -

"are aware of where we have flooding in the suburban areas and in the City of Cleveland and some of the problems have not been because of the local community. Sometimes it has been the adjoining communities. There has been this fight between communities as to who should solve the problem and who should not and we feel that the District could establish a long range planning function and following this program determine the capacities of existing sewers from existing zone maps and determine and assign capacities to interceptors from local sewers so we don't have the problem of local flooding and local problems in adjoining areas."

At (Record 15) -

"Another benefit is mass use of the sewer system. We can, through the district be able to determine, to determine flows, sewage flows and regulate sewage flows and make sure the sewer systems are used to the fullest through regulations, through control systems and we now have rainfall gauges all through the City and we are taking data on them and we can control the amount of sewage coming to one area to another and maximize the use of our sewer systems.

"Another benefit is the evaluation and correction of the infiltration and inflow problem. This is a very serious problem that as engineers we have kind of always overlooked when we always seemed to build a bigger and bigger treatment plant and rather than correcting the existing sewers"

At (Record 16) -

"Another benefit to the community would be the regional funding of improvements which would not be included into the suburban communities fund indebtedness.

"I know communities always have trouble raising money for the necessary projects in the communities. The sewer programs would be out of revenues and would relieve the financial obligations of the communities.

"I think probably the most important one is the overall pollution reduction and the improvement and plan operations that follow in the coordination of the local sewers. I think that is what -- you know, the district is really formed for and it is our duty and goal to make sure the pollution is controlled and that the job is done in an excellent manner."

Mr. Ungar testified as to the procedure to be followed in order to assemble the necessary material for the petition referred to in the show cause order and the concluding of necessary agreements. At (Record 17) -

"We felt it would take probably one man a week to investigate and to sit down with the officials in a particular community, and arrive at the necessary data that we would need, that is, basic information, and then it would take us maybe about ten weeks to compile this data and then submit some rough, general plan that we can sit down and talk with the suburban people about and to get their comments."

At (Record 18) -

"Then, as the comments come in, I think you could then enter into a series of negotiations to see how this program could be implemented."

He stated that the District could start these procedures very shortly, that it would be done by employees paid by the district, with the proffered help of The Three Rivers Watershed District.

At (Record 20), he stated that under Public Law 92-500 that it would be possible to get the local grants by contract between the municipalities and the sewer system. "I don't think there is a firm policy saying the District has to take over the local sewers" before grants can be processed.

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Upon due consideration of the record, responses and testimony produced at the hearing hereon, the Court finds that with two exceptions the political entities, which constitute the CRSD generally, approve of the regional concept of responsibility for sewage control, including sewage treatment and disposal plants, and all local storm and sanitary sewers; that the ultimate inclusion of

local storm and sanitary sewers as the responsibility of the CRSO is reasonable, feasible and practical; that the CRSO is ready, willing and able to instigate and implement the required planning, negotiating and concluding of agreements between it and the various subdivisions for the inclusion of local sewers in the CRSO; that due consideration must be given -

- (a) to the claims as to priority asserted by various communities, and
- (b) the conditions for assumption of staffs and employees of local communities by CRSO.

The Court further finds that each of the communities in the Cleveland Regional Sewer District should proceed as expeditiously as possible with any sewer planning or construction which the community feels is necessary and that such procedure should be done uninfluenced by any possible future arrangements that may be concluded for the inclusion of local sewers as a responsibility of the CRSO.

The CRSO was created under the provisions of Chapter 1119 of the Revised Code partially in recognition of the fact that it need not be confined to Cuyahoga County, Ohio but, may, subject to the provisions of the Revised Code and court procedures- have its jurisdiction extended to adjoining counties, if and when the public needs may require it.

Time is of the essence in fighting pollution, and its dangers to the public health and welfare. It is necessary that there be a continuing, on-going expansion and improvement of services and facility to accomplish the "clean waters" standards that must be achieved. The court has no desire to now overburden the CRSO with new obligations which might interfere with the efficient dispatch of its present duties, but has determined that the time schedule contained herein can be followed consistent with the efficient conduct by CRSO of its present duties and, at the same time, participate as a leader in planning for the future.

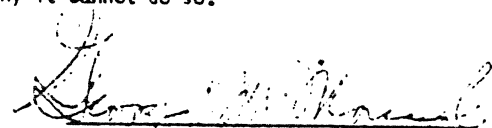
IT IS THEREFORE HEREBY ORDERED THAT

(1) The Cleveland Regional Sewer District should forthwith commence the preparation of plans, contracts, procedures and conditions for the inclusion in the CRSU of the responsibility for the planning, construction, ownership and operation of all local sewers within the District;

(2) Each of the said political subdivisions herein referred to, and the CRSU, shall cooperate, assist and work together in the preparation of all proposed detailed plans, and contracts and procedures, for fixing the responsibilities, rights, duties and obligations of the CRSU and each of the political subdivisions with respect to the planning, construction, ownership, operation and maintenance by the CRSU of local sewers.

(3) The CRSU shall prepare a petition, in accordance with Ohio Revised Code section 6119.051, requesting the permission, authorization and direction of the Court for inclusion in the CRSU of the responsibility for the planning, construction, ownership, operation and maintenance by Cleveland Regional Sewer District of all local sewers within the District, and that it file the same petition with the Court on or before February 15, 1975, or show cause to this Court on or before February 1, 1975 why it cannot do so.

January 21, 1974


GEORGE J. MCLAUGHLIN, JUDGE

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A copy of the within Journal Entry was served by certified mail as of Monday, January 21, 1974, upon the Cleveland Regional Sewer District, all of the members of the Cleveland Regional Sewer District and their counsel.

CLEVELAND REGIONAL SEWER DISTRICT

November 21, 1973

Honorable George J. McMonagle
Cuyahoga County Court of Common
Pleas
1 Lakeside Avenue
Cleveland, Ohio 44114

Dear Judge McMonagle:

In the year since the creation of the Cleveland Regional Sewer District, the Board of Trustees has given considerable thought to that portion of the Court's order regarding the inclusion of local sewer systems within the responsibilities of the District.

"Although consideration has been given to the inclusion of the responsibility for the planning, construction and operation of the local sewers as a function of the District, determination thereof has been deferred until one year from the date hereof. Within that period of time, the Board of Trustees of the District shall conduct a study on the advisability of including such responsibilities with reference to local sewers in functions of the District and shall submit a report and recommendation thereon to this Court."

The Board has discussed at length the various arguments pro and con which have been presented in the past regarding the inclusion of local sewers in the District's responsibilities. We realize that to include local sewers within the District's jurisdiction will not be a simple procedure and the rights of all parties must be protected. We feel, however, that based upon our investigation of other sewer systems, on the availability of federal grants and on a logical extension of the regional concept, the responsibility for all local sewer systems, both storm and sanitary, should be under the jurisdiction of the Regional Sewer District. A single planning entity with responsibility for the total water pollution control system will eliminate duplication of effort and would be able to coordinate all aspects of water pollution control in the greater Cleveland area.

The Board of Trustees therefore, in response to the Order To Show Cause Issued by the Court, is prepared to begin immediately in cooperation with the Court and all member communities of the District to commence the preparation of detailed plans, contracts, procedures and conditions for the inclusion within the functions of the District the responsibility for the planning, construction, ownership and operation of all local sewers within the District. The Board of Trustees

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further is prepared to begin immediately in cooperation with the Court and all member communities of the District to commence negotiations to arrive at agreements with respect to the procedures, responsibilities, rights, duties and obligations of the District and each of its members communities which will allow the implementation of the detailed plan regarding inclusion of the responsibility for local sewers within the functions of the District.

The Board is well aware of the problems inherent in the transfer of such responsibility to the District but is prepared to accept this responsibility and work with the Court, the communities within the District and with any disinterested third parties who may be appointed by the Court or who may wish to participate voluntarily to solve those problems. We are also well aware that such transfer cannot occur overnight and we are in agreement with the Court's indication as contained in its Order To Show Cause that the parties be given at least one year to develop a detailed plan and to arrive at the agreements necessary to implement such a plan.

Very truly yours,

Raymond Kudukis, President
Board of Trustees

RK/LCR:sw

CLEVELAND REGIONAL SEWER DISTRICT

July 11, 1973

Honorable George J. McMonagle
Court of Common Pleas
County of Cuyahoga
1 Lakeside Avenue
Cleveland, Ohio 44113

Re: Cuyahoga County Court of Common
Pleas, Case No. SD 69411

Dear Judge McMonagle:

In the year since the creation of the Cleveland Regional Sewer District, the Board of Trustees has given considerable thought to that portion of the Court's order regarding the inclusion of local sewer systems within the responsibilities of the District, to-wit:

"Although consideration has been given to the inclusion of the responsibility for the planning, construction and operation of the local sewers as a function of the District, determination thereof has been deferred until one year from the date hereof. Within that period of time, the Board of Trustees of the District shall conduct a study on the advisability of including such responsibilities with reference to local sewers in functions of the District and shall submit a report and recommendation thereon to this Court."

In addition to discussions by the Board revolving around general policy matters, the District's staff has looked into other sewer districts and sewer authorities to determine what other areas of the country have done in regard to local sewer systems. We have found that most metropolitan sewer authorities have some form of control over local sewer systems. Sewer districts or sewer authorities which include more than one political subdivision (counties, municipalities, townships) and have some form of control over the local sewer systems of the political subdivisions within their jurisdiction exist in Cincinnati, St. Louis, Denver, Los Angeles, Washington D. C. and Detroit. Each of these districts has approached the problems differently but have some form of control over at least sanitary sewers and in some cases, both sanitary and storm sewers.

Honorable George J. McMonagle

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The District's executive director, Andrew T. Ungar, travelled to Detroit recently to make a detailed study of the Detroit Metropolitan Sewer Authority. Mr. Ungar points out that the Detroit Sewer Authority has control over all sanitary sewers within its jurisdiction through contracts with municipalities or counties. This method was adopted because of the size of the district which includes some six (6) counties and many townships. After discussing the Cleveland Regional Sewer District with the Detroit officials, Mr. Ungar feels that to efficiently operate the District, the Control of local sewers, both storm and sanitary, should be the responsibility of the District.

We have also considered the ramifications of the 1972 amendments to the Federal Water Pollution Control Act which have become effective since the creation of the District and which emphasize regional planning for water pollution control. At the time of the creation of the District, federal grant monies were not available for local collection systems, but the 1972 amendments provide that federal grant monies can be obtained for total water pollution control facilities including local collection systems. These amendments have a significant bearing on the question of including local sewers within the responsibilities of the District, since funding is now available in the form of federal grants. We have been in contact with federal officials and find that, although no formal position has been taken, the federal government, in keeping with the spirit of the Act, will tend to make grants more readily available to regional water pollution control systems rather than to individual municipalities. This is not to say that individual municipalities could not obtain federal grant money but rather that regional sewer districts with a regional pollution control system will have a better chance of obtaining federal grant monies. In this regard, the District staff has prepared a preliminary study of the Southerly Sewage Treatment District which presents the entire treatment district as an integrated system including all local sewers. This report, which is submitted herewith, also makes reference to specific sections of the federal act which are pertinent to the local sewer question. We feel that this integrated planning is the type of plan which the federal government will require and, if adopted by the District, will enhance the District's chances of obtaining federal grants for a total integrated water pollution control system including local sewers.

The Board has discussed at length the various arguments pro and con which have been presented in the past regarding the inclusion of local sewers in the District's responsibilities. We realize that to include local sewers within the District's jurisdiction will not be a simple procedure and that some elements of the community will oppose it. We feel, however, that based upon our investigations of other sewer

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July 11, 1973

systems, on the availability of federal grants and on a logical extension of the regional concept, the responsibility for all local sewer systems, both storm and sanitary, should be under the jurisdiction of the Regional Sewer District. A single planning entity with responsibility for the total water pollution control system will eliminate duplication of effort and would be able to coordinate all aspects of water pollution control in the greater Cleveland area.

An excellent example of the benefits of regional control of local sewers is presented by a recent case which involved the City of Parma (Cuyahoga County Court of Common Pleas Case No. 861287). In this case the City of Parma was held liable for damages to a property owner for damage caused by overflow of a sanitary sewer. Although Parma argued that the overflow in its sewer system was caused by problems existing in the sewer systems of downstream communities (Brooklyn and Cleveland), the Court held that Parma owed its citizens a duty to keep its sewers in repair and to avoid flooding conditions. It has long been known that an overload condition exists in the sewer system tributary to the Southerly Treatment Plant and the Southerly Plant is currently being redesigned to accommodate the increased flows. The expansion of the plant and the interceptor systems tributary to it has not kept pace with development in the communities which it serves. Had a regional entity been in control of the local sewer system, the treatment plant and the interceptor system, planning and expansion could have kept pace with development. Planning for a new major interceptor sewer to relieve overloaded conditions in the Southerly district has been underway for several years. However, disagreement between suburbs and City over rates necessary to finance such construction and various other jurisdictional matters were among the reasons for which the Cleveland Regional Sewer District was created. If the Cleveland Regional Sewer District is truly to solve the problems which led to its creation, its authority must logically be extended to include control over all aspects of those problems including local sewer systems, both storm and sanitary.

The Board of Trustees of the Cleveland Regional Sewer District, therefore, recommends, pursuant to the Court's order, that the Court include within the responsibilities of the Cleveland Regional Sewer District responsibility for planning, construction and operation of all local sewers, both storm and sanitary, in the communities within the District. The Board is well aware of the problems inherent in the transfer of such responsibility to the District but we are prepared to accept this responsibility and to work with the Court to solve those problems and provide for a smooth transfer. We are also well aware that such a transfer cannot occur overnight and we suggest that the Court adopt a plan calling for a gradual transfer.

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The Board suggests that the Court, if it adopts the concept of regionalizing local sewers, order the necessary parties to present a reasonable plan for implementing such a regional concept. We feel that with the regionalization of local sewers, a truly regional district will have been created to deal with the water pollution control problems of the greater Cleveland area.

Very truly yours,

BOARD OF TRUSTEE, CLEVELAND
REGIONAL SEWER DISTRICT

Raymond Kudukis, President
Raymond Kudukis, President

Louis J. Bacci
Honorable Louis Bacci, Vice
President

Mary J. Coleman
Mary J. Coleman, Secretary

David B. Bailey
David Bailey

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Jackie Presser
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Jack A. Hruby
Honorable Jack Hruby

THREE RIVERS WATERSHED DISTRICT

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STATEMENT TO THE CUYAHOGA COUNTY COURT OF COMMON PLEAS
CONCERNING EXTENSION OF THE AUTHORITY OF THE
CLEVELAND REGIONAL SEWER DISTRICT
OVER LOCAL SANITARY SEWERS

We appreciate this opportunity to present our comments to the Court on the important issue of whether or not the Cleveland Regional Sewer District's authority and responsibility should be broadened in the area of local sanitary sewage collection systems, pump stations, and trunk sewers.

Strong arguments can, and we are sure will, be made for both positions - maintaining control of local sewerage systems in local hands or placing the responsibility for local sewerage systems with the Cleveland Regional Sewer District. It is our feeling, however, that the Cleveland Regional Sewer District must have at least certain well defined minimum authority over local sanitary sewerage systems if the area is to qualify for Federal Grants under regulations promulgated in accordance with the Federal Water Pollution Act of 1972 (P.L. 92-500).

In our judgement these include:

- 1.) Authority to survey and inspect existing sewerage systems to determine their condition, capacity, and if they are afflicted with "excessive" infiltration and/or inflow. If such problems exist, the District should have authority to order their timely repair whether they are in local public sewerage systems or in lateral connections on private property. If the repairs are not completed in a timely manner, the District should be authorized to perform the repairs on its own and recover the cost from the municipality or private discharger.
- 2.) Authority to establish minimum design standards for local sanitary

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sewerage systems, to inspect all new local sewers and lateral connections, and to require replacement of any materials or construction methods not meeting District specifications.

- 3.) Authority to control the quantity and quality of industrial wastes discharged into the sanitary sewerage system, to inspect and sample such discharges at any time.

We recognize that this problem of local sewers is a difficult one. Beyond the three minimum requirements we have stated above, we have not studied the issues enough to have recommendation at this time on the financing, construction, and maintenance of local sewers.

The Three Rivers Watershed District may, however, under Section 6105.12 (B) of the Ohio Revised Code: "Recommend appropriate means to resolve water conflicts among water user interests and between geographical areas within the territorial boundaries of the district." In accordance with this authority, we would be pleased to assist the Court and the involved Parties to establish the basic policy upon which detail problems can be worked out. Perhaps our involvement in the discussions and negotiations prior to the order of the Court last June creating the Cleveland Regional Sewer District may have given us an insight that might be helpful to the Court and the affected Parties. Again, we thank the Court for this opportunity to comment, and would be pleased to answer any questions that the Court or involved Parties may have.

E. J. Odeal
November 21, 1973