

STATE OF OHIO )  
COUNTY OF CUYAHOGA )  
CITY OF CLEVELAND )

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Legal Department

N. E. O.

IN THE COURT OF COMMON PLEAS

CASE NO. 127712

Plaintiff )

vs. )

NORTHEAST OHIO REGIONAL SEWER )  
DISTRICT (NEORSO) )

Defendant )

FINDINGS OF FACT AND  
CONCLUSIONS OF LAW

George J. McMonagle, J:

The Court hereby makes the following Findings of Fact and  
Conclusions of Law:

FINDINGS OF FACT

1. As part of its pollution control program, the Sewer District is currently constructing three major interceptor sewers.
2. The Southwest Interceptor Sewer (Defendant's Exhibit AA) was planned in 1972, and is specifically referenced in the Sewer District's Plan of Operation (Joint Exhibit 2A). It will remove wastewater from the Cleveland combined sewer system and transport it directly to the Southerly Wastewater Treatment Plant for treatment, and it will have additional capacity to provide for future expansion of the Sewer District's current service area.
3. The Heights Interceptor Sewer (Defendant's Exhibit T) was planned in 1972, and is specifically referenced in the Sewer District's Plan of Operation (Joint Exhibit 2A). It will remove wastewater from the Cleveland combined sewer system and transport it directly to the Easterly Wastewater Treatment Plan for treatment, and it will have additional capacity to provide for future expansion of the Sewer District's current service area.

4. The Hilltop Interceptor Sewer (Defendant's Exhibit T) was added to the Heights Interceptor Sewer as a result of the planning process conducted in the late 1970's. It will remove wastewater from the Cleveland combined sewer system and transport it directly to the Easterly Wastewater Treatment Plant for treatment. It will have additional capacity to provide for future expansion of the District's service area.

5. Each of these projects is eligible for, and is currently receiving, funding pursuant to grants from the United States Environmental Protection Agency.

6. In order to remain eligible for federal grant funding, the District was required to perform numerous planning studies in the areas to be served by these sewers. These studies were conducted during the late 1970's and early 1980's, and identified numerous sources of pollution in the service area which are known as separate sanitary sewer overflows.

7. In order to eliminate these separate sanitary sewer overflows, the Sewer District has initiated a relief sewer program. This program has been separated into two parts. The construction of Community Relief Sewers by local communities is designed to eliminate problems that arise in one community. The construction of Intercommunity Relief Sewers by the Sewer District is designed to eliminate problems which arise in multiple communities.

8. The Intercommunity Relief Sewer Program was not presently planned in 1972, is multi-community in scope and regional in nature, and pursuant to the Plan of Operation must be financed by users in both Sub-districts.

9. By the adoption of Resolution No. 83-87 on February 18, 1987,

the Board of Trustees of the Sewer District determined the design and construction of the Intercommunity Relief Sewer Program was a regional sewer project, and as such would be financed by adding an increment to the regional sewer rate (Joint Exhibit 1).

10. The Intercommunity Relief Sewer Program is properly construed as a regional project, it will:

(a) enhance collection, transportation, treatment and disposal of wastewater and stormwater throughout the entire District service area, and therefore is properly construed as a regional project.

(b) It will be planned, designed, constructed, owned, operated and maintained by the Sewer District.

(c) It is similar in nature to the Sewer District's Combined Sewer Overflow Control Program, which is being financed by an increment on the regional sewer rate.

(d) It is a sewer improvement program which will benefit multiple communities.

(e) It would be extremely difficult to allocate the benefits of the construction of the Intercommunity Relief Sewer Program among one or more communities, or one or both Subdistricts.

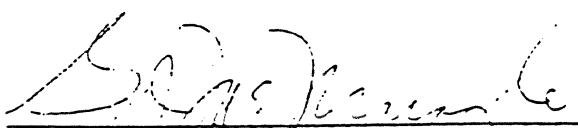
(f) It will provide benefits to both Subdistrict 1 and Subdistrict 2.

#### CONCLUSIONS OF LAW

1. Pursuant to the Plan of Operation of the Sewer District, the proposed Intercommunity Relief Sewer Program should be financed by adding an increment to the regional sewer rate.

2. Resolution No. 83-87 is not contrary to law, but is in accordance with the Sewer District's Plan of Operation, and is therefore valid, legal and enforceable.

DATE: 3/24/88  
4/4/88

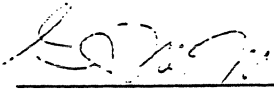
  
GEORGE J. McMONAGLE, JUDGE

NOTICE OF SERVICE

Copies of the within Findings of Fact and Conclusions of Law were  
sent by regular United States Mail on the 5 day of April, 1988 to:

William B. Schatz, Esq.  
Paul T. Murphy, Esq.  
3826 Euclid Avenue  
Cleveland, Ohio 44115

Malcolm C. Douglas, Esq.  
Paul A. Janis, Esq.  
Room 106 - City Hall  
601 Lakeside Avenue  
Cleveland, Ohio 44114

  
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GEORGE J. McMONAGLE, JUDGE