

MINUTES  
NORTHEAST OHIO REGIONAL SEWER DISTRICT  
BOARD OF TRUSTEES MEETING  
OCTOBER 20, 2022

A Regular Meeting of the Board of Trustees of the Northeast Ohio Regional Sewer District (NEORS) was called to order at 12:30 p.m. by Darnell Brown.

I. Roll Call

Present: Darnell Brown  
Timothy DeGeeter  
Ronald Sulik  
Jack Bacci  
Sharon Dumas  
Marjorie Chambers

Absent: Samuel Alai

The Secretary informed the President that a quorum was in attendance.

II. Approval of Minutes

**MOTION** – Mayor Bacci moved, and Ms. Dumas seconded to approve the Minutes of the October 6, 2022 Board Meeting. Without objection, the motion carried unanimously.

III. Public Session

There were no items.

IV. Chief Executive Officer's Report

Kyle Dreyfuss-Wells, Chief Executive Officer, provided an update regarding NEORS's ongoing COVID-19 pandemic response and informed the Board that NEORS staff has no active COVID-19 cases, and no employees with COVID-19-like symptoms. There has been a total of 234 employees with confirmed diagnoses since the beginning of the pandemic, all of whom have recovered and returned to work.

NEORS will end its COVID-19 policies related to case tracking and sick leave, effective November 3, 2022. The vaccine leave time which provides paid time off for obtaining the vaccine and recovering from any potential side effects will remain in place. This is the final report on COVID-19 numbers, however, if there are any significant changes, the Board will be updated accordingly.

The Water Environment Federation held its annual Technical Exhibit and Conference (WEFTEC) in New Orleans from October 8 through October 12. It is the largest convening of clean water professionals in the country, combining exhibits, technical sessions, policy discussions, and the annual Operations Challenge.

NEORSD's Operations Challenge team is the Lake Erie Sludge Dawgs, comprised of team captain Dustin Bellanger, SSMO Systems Utility Maintenance Person; Denario Jones, Southerly Wastewater Plant Operator; team coach John McGinnis, HR - Plant Operations; Benny Sizemore, SSMO Systems Utility Maintenance Person; and Josh Smosarski, Southerly Maintenance Worker

The Operations Challenge brings teams together from across the country to compete in events including collections systems, laboratory, process control, maintenance, and safety. After competing at the Ohio One Water conference in July, the Lake Erie Sludge Dawgs earned the opportunity to go to WEFTEC and received a second-place award in the Maintenance event and a third-place award in the Laboratory event for their division.

President Brown advised that he was present at WEFTEC and was able to watch part of the competition. He has been attending the event since 1988 and values it as an opportunity to learn about the technical side of treating wastewater. President Brown has had opportunities to speak at the event, particularly when NEORSD was negotiating the terms of the Consent Decree. At that time, Kansas City was the only other city that had more than 20 years for its Consent Decree. NEORSD was given kudos for its Green Infrastructure Program, as it was an early adopter of such a program. There is significant value in being involved with WEFTEC, as there is much to learn at the events.

Ms. Dreyfuss-Wells agreed and added that this was the first year that the event was back in full swing since the pandemic, with approximately 20,000 people in attendance.

On October 11, in partnership with the City Club of Cleveland, NEORSD hosted a tour of the Edgewater Outfall. Doug Lopata, Engineering and Construction Program Manager, led the tour of the Edgewater Outfall and explained the Westerly Storage Tunnel and its relationship with the Northwest Interceptor, as well as why Edgewater occasionally discharges during heavy rain events. With training and oversight from NEORSD's Health and Safety team, attendees were able to go into the outfall. As construction at the Westerly WWTP increases, so may the frequency of overflows at the location. It is important to engage the public and provide understanding of the system and its low capacity.

On October 18, NEORSD welcomed U.S. Environmental Protection Agency Administrator Michael Regan and staff, legislators, non-profit leaders, and clean water professionals from across the country to mark the 50<sup>th</sup> anniversary of the Clean Water Act. In his remarks, Administrator Regan highlighted the City of Cleveland's role in this legislation. Mayor Bibb joined the Administrator and discussed the influence and advocacy of the late Carl B. Stokes in the passage of the Act and the

environmental justice movement. Radhika Fox, Assistant Administrator for the EPA Office of Water, led a panel discussion.

The event concluded with NEORSD staff providing a tour of the Easterly WWTP and the Shoreline Storage Tunnel mining site to EPA staff and leadership from NACWA and WRF.

The event brought national attention to Cleveland and the work being performed by NEORSD and City of Cleveland Division of Water to improve water quality in the region. Ms. Dreyfuss-Wells thanked Jean Smith, Director of Administration and External Affairs, and Danielle Giannantonio, Legislative Affairs Manager, for their efforts in organizing the event.

V. Action Items

Authorization to Advertise

Resolution No. 329-22      Authorization to publish notice calling for bids, in accordance with Ohio Revised Code Section 6119.10, for a three-year requirement contract for industrial gases at all District facilities with an anticipated expenditure of \$189,000.00.

**MOTION** – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution No. 329-22. Without objection, the motion carried unanimously.

Authorization to Issue Request for Proposal (RFP)

Resolution No. 330-22      Authorization to issue an RFP, in accordance with Ohio Revised Code Chapter 153, for design and construction administration/resident project representation services for the Kingsbury Asset Renewal project.

**MOTION** – Mayor Bacci moved, and Ms. Dumas seconded to adopt Resolution No. 330-22. Without objection, the motion carried unanimously.

Authorization to Enter Into Agreement

Resolution No. 331-22      Authorization to enter into a project agreement with the Board of Park Commissioners of the Cleveland Metropolitan Park District for the Wolf Creek Stream Restoration project to provide funding toward the restoration of approximately 1,600 feet of Wolf Creek and its adjacent floodplain within the Regional Stormwater System, in an amount not-to-exceed \$500,000.00.

Resolution No. 332-22                      Authorization to enter into a professional services agreement with Sunera Technologies, Inc. for database administration and support in an amount not-to-exceed \$100,000.00.

**MOTION** – Ms. Chambers moved, and Ms. Dumas seconded to adopt Resolution Nos. 331-22 through 332-22. After the following discussion, without objection, the motion carried unanimously.

President Brown asked, regarding Resolution No. 331-22, whether the \$500,000 is local match funds and requested additional information.

Frank Greenland, Director of Watershed Programs, advised that this is a large project led by the Cleveland Metroparks. Wolf Creek is a tributary to Mill Creek and has significant erosion problems and an in-line retention basin. The Metroparks is creating amenities at the Garfield Park Reservation by separating and removing the in-line pond, creating an off-line pond, and restoring Wolf Creek along the Regional Stormwater Network. NEORSD is contributing \$500,000 for the creek restoration, which provides regional stormwater benefit, erosion control, creation of wetlands, and water quality enhancements.

The Master Plan studies indicate that there is not an appreciable stormwater benefit to in-line detention and NEORSD has been consistent in its approach to these situations. President Brown asked if this is the same position taken with Shaker Lakes. Mr. Greenland answered affirmatively.

Authorization to Enter Into Contract

Resolution No. 333-22                      Authorization to enter into six-month requirement contracts with Henderson Contracting Company, LLC for snow removal services at GJM (Bid Group 1) and EMSC (Bid Group 2) in an amount not-to-exceed \$57,416.00, and with Pirc Company Landscaping & Snowplowing, LLC for snow removal services at pump stations and outlying facilities (Bid Group 3) in an amount not-to-exceed \$54,352.72, for a total amount not-to-exceed \$111,768.72 for both contracts.

Resolution No. 334-22                      Authorization to enter into a construction contract with The Great Lakes Construction Co. for the Chippewa Creek Bank Stabilization at Route 21 in Brecksville project in an amount not-to-exceed \$1,589,134.00.

**MOTION** – Mr. Sulik moved, and Ms. Chambers seconded to adopt Resolution Nos. 333-22 through 334-22. Without objection, the motion carried unanimously.

Authorization of Contract Modification

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| Resolution No. 335-22 | Authorization to modify construction Contract No. 22001296 with Tri Mor Corporation for the Big Creek Flood Reduction near Sprague Road project to extend the term of the contract by 365 days, and to increase the general allowance in an additional amount of \$113,000.00, to account for unforeseen site conditions, thereby bringing the total contract amount not-to-exceed \$785,900.70, and authorizing a general allowance in excess of ten percent of the base contract price bid, excluding specific allowances. |
| Resolution No. 336-22 | Authorization to modify construction Contract No. 18002218 with Jay Dee Obayashi Joint Venture for the Westerly Storage Tunnel project to extend the term of the contract by 271 days for completion of the starter tunnel final lining and site restoration, with no change in the total contract amount.   |

**MOTION** – Mayor Bacci moved, and Ms. Dumas seconded to adopt Resolution Nos. 335-22 through 336-22. After the following discussion, without objection, the motion carried unanimously.

President Brown asked what the reason is for the one-year extension to the timeline for the project associated with Resolution No. 335-22. Mr. Greenland explained that a previously unknown water main was encountered in conflict with a proposed culvert installation. Ultimately, the delay is due to supply chain issues as there is significant lead time in the purchase of water piping and appurtenances. There is no increase in the cost of the contract.

President Brown noted that, regarding Resolution No. 336-22, the starter tunnel collapsed two times, and requested an explanation. Devona Marshall, Director of Engineering and Construction, explained that this is a request for a 271-day time extension associated with multiple different site conditions encountered on the Westerly Storage Tunnel.

Ms. Marshall invited Doug Gabriel, Deputy Director of Engineering and Construction, to provide additional information and photographs.

Mr. Gabriel provided a timeline of the Westerly Storage Tunnel, explaining that the contractor mined and installed the initial support system on the starter tunnel from April to August of 2019. The mining of the tunnel was completed in January 2021, followed by the dismantling and removal of the Tunnel Boring Machine (TBM), through June 2021. The first and smaller of the fallouts occurred in July of 2021 and the second occurred in November 2021. Following the second fallout, work was halted to allow for the design and installation of additional roof supports, which were

installed from January to April of 2022, then the final lining of the starter tunnel was completed in June 2022.

Mr. Gabriel provided photographs demonstrating NEORSD's typical starter tunnels, and what was used initially in this project, followed by photographs of the damage from fallouts that occurred on this project. The second fallout was much larger than the first, at approximately 20 feet deep and 15 feet wide. The failure occurred above the supportive system that was in place, likely due to a failure in the rock bedding planes and rock above the bolts.

The rock thickness above the tunnel tapers, with the thinnest section of rock at Shaft 3. There was at least a minimum of one full tunnel diameter above the shaft before the soil lenses above it.

Mr. Gabriel provided additional photographs of the damage from the fallouts and the repairs and strengthening of the tunnel that followed over the next several months.

The final lining is complete as well as the shaft. The project will achieve substantial completion on October 31, 2022.

#### Property Related Transaction

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| Resolution No. 337-22 | Authorization to enter into a right of entry agreement with Chagrin River Watershed Partners, Inc. (CRWP), and Elizabeth J. Budnik and John S. Budnik for access to the property known as PPN 631-12-006, located at 12401 Coit Road, in the Village of Bratenahl, owned by Elizabeth J. Budnik and John S. Budnik, necessary for the construction and maintenance of CRWP's Nine Mile Creek Restoration project with total consideration of \$1.00.   |
| Resolution No. 338-22 | Authorization to enter into a right of entry agreement with Chagrin River Watershed Partners, Inc. (CRWP) and G. Michael Skerritt and Kathy M. Skerritt, Trustees of the Mike and Kathy Skerritt Revocable Living Trust dated June 15, 2021, for access to the property known as PPN 631-12-005, located at 12211 Coit Road, in the Village of Bratenahl, owned by G. Michael Skerritt and Kathy M. Skerritt, Trustees, necessary for the construction and maintenance of CRWP's Nine Mile Creek Restoration project with total consideration of \$1.00. |
| Resolution No. 339-22 | Authorization to enter into an environmental covenant with Chagrin River Watershed Partners, Inc. (CRWP), the Ohio EPA, and John M. Licastro, necessary for conservation purposes at the property known as PPN 631-12-004, located at 12207 Coit Road, in the Village of   |

Bratenahl, owned by John M. Licastro, as required by the Ohio EPA for CRWP's Nine Mile Creek Restoration project.

- Resolution No. 340-22      Authorization to enter into a right of entry agreement with Chagrin River Watershed Partners, Inc. (CRWP), and John M. Licastro for access to the property known as PPN 631-12-004, located at 12207 Coit Road, in the Village of Bratenahl, owned by John M. Licastro, necessary for the construction and maintenance of CRWP's Nine Mile Creek Restoration project with total consideration of \$1.00.
- Resolution No. 341-22      Authorization to acquire one permanent stormwater easement at the property known as PPN 761-16-107, located at 19815 Longbrook Road, in the City of Warrensville Heights, owned by BTY Investment Group, LLC, necessary for the construction and maintenance of the Mill Creek Restoration near Cricket Lane in Warrensville Heights project with total consideration of \$5,400.00.
- Resolution No. 342-22      Authorization to acquire two parcels in fee simple at the property known as PPNs 281-14-005 and 281-14-015, located at 26800 Bagley Road, in the City of Olmsted Falls, owned by Dana N. Tull, necessary for the construction and maintenance of the Rocky River West Branch Subwatershed Masterplan - WBPA\_05 Bagley Road project, to enter into a lease agreement with Dana N. Tull, and to allow for the entirety of the payment to be disbursed to Northstar Title Services, LLC, with total consideration of \$377,000.00 plus closing costs.
- Resolution No. 343-22      Authorization to acquire one permanent stormwater easement at the property known as PPN 552-11-101, located at 3283 Forest Overlook Drive, in the City of Seven Hills, owned by Christopher Fallon, Trustee of the "Davies-Fallon Preservation Trust, Dated June 10, 2022," necessary for the construction and maintenance of the Hemlock Creek Temporary Bank Stabilization in Seven Hills project with total consideration of \$1.00.
- Resolution No. 344-22      Authorization to convey ownership of the fee simple parcel known as PPN 455-22-002, located at 8081 Pleasant Valley Road, in the City of Parma, to the West Creek Conservancy, contingent upon the CEO's acceptance of a stormwater easement over the entirety of the parcel on behalf of the District with total consideration of \$10.00.

- Resolution No. 345-22      Authorization to acquire a permanent stormwater easement at the property known as PPN 455-24-007, located at 7921 Pleasant Valley Road, in the City of Parma, owned by the West Creek Conservancy, necessary for the construction of the Big Creek Stream Restoration Upstream and Downstream of Ridge Road in Parma project with total consideration of \$1.00.
- Resolution No. 346-22      Authorization to enter into an agreement with the Board of Park Commissioners of the Cleveland Metropolitan Park District for access to the property known as PPN 522-16-002, located on Canal Road, in the Village of Cuyahoga Heights, owned by CDF, Inc., necessary for the installation of a water quality monitoring station with total consideration of \$1.00.
- Resolution No. 347-22      Authorization to enter into an environmental covenant with Chagrin River Watershed Partners, Inc. (CRWP), the Ohio EPA, and Southside Acreage, Ltd. (Southside) necessary for conservation purposes at the property known as PPN 631-12-001, located on Coit Road, in the Village of Bratenahl, owned by Southside, as required by the Ohio EPA for CRWP's Nine Mile Creek Restoration project.
- Resolution No. 348-22      Authorization to acquire one parcel in fee simple at the property known as PPN 489-16-064, located at 4700 Bunker Road, in the City of North Royalton, owned by John and Dawn Spisak, necessary for the construction and maintenance of the Big Creek Flood Mitigation Near Oakridge Drive project, to enter into an Assignment and Assumption Agreement with the Western Reserve Land Conservancy, to enter into a lease agreement with John and Dawn Spisak, and to allow for the entirety of the payment to be disbursed to Ohio Real Title Agency, LLC with total consideration of \$350,000.00 plus closing costs.

**MOTION** – Ms. Chambers moved, and Mayor Bacci seconded to adopt Resolution Nos. 337-22 through 348-22. After the following discussion, without objection, the motion carried unanimously.

President Brown noted that Resolution Nos. 342-22 and 348-22 appear to be related to purchasing properties with homes on them that will need to be demolished because they are in a floodplain and requested additional information.

Mr. Greenland explained that these are two big projects, both of which are in the property assembly phase. They are very similar projects with a series of regional streams containing 90-degree bends.



Mr. Greenland provided images of the area demonstrating where the properties are located and explained the projects will involve reclaiming floodplain in certain areas and realigning streams and culverts to allow them to have a more natural meandering pattern. Both project areas are subject to flooding due to less severe storm events.

Hearing Officer Findings and Recommendations

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| Resolution No. 349-22 | Adopting the findings and recommendations of the Hearing Officer regarding the sewer account of Ann McGinness and Scott Kronstain ending in 5522, Sewer District Hearing No. 22-011, that the customer's request be denied. |
| Resolution No. 350-22 | Adopting the findings and recommendations of the Hearing Officer regarding the sewer account of Michael Gellman ending in 7488, Sewer District Hearing No. 22-014, that the customer's request be denied.                   |
| Resolution No. 351-22 | Adopting the findings and recommendations of the Hearing Officer regarding the sewer account of Jamie Stehlin ending in 5780, Sewer District Hearing No. 22-015, that the customer's request be denied.                     |
| Resolution No. 352-22 | Adopting the findings and recommendations of the Hearing Officer regarding the sewer account of Armando Dilisio ending in 7614, Sewer District Hearing No. 22-016, that the customer's request be denied.                   |

**MOTION** –Mr. Sulik moved, and Ms. Dumas seconded to adopt Resolution Nos. 349-22 through 352-22. Without objection, the motion carried unanimously.

Authorization to Accept Application and Amend Agreements

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| Resolution No. 353-22 | Authorization to accept the application of the Lorain County Board of Commissioners for inclusion of certain unincorporated territory of Lorain County, located in Columbia Township, within the territory of the Northeast Ohio Regional Sewer District, pursuant to Section 6119.05 of the Ohio Revised Code; and further authorization to enter into a Sixth Amendment to the <i>"Service Agreement No. 3162 By and Between the Northeast Ohio Regional Sewer District and Lorain County Board of Commissioners Providing for the Inclusion of Columbia Township into the Northeast Ohio Regional Sewer District;"</i> and further authorization to enter into a Third Amendment to the <i>"Regional</i> |
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*Stormwater Management Program Service Agreement No. 3733 By and Between the Northeast Ohio Regional Sewer District and Columbia Township” to add the same territory to the Stormwater Service Area.*

**MOTION** – Mayor Bacci moved, and Ms. Chambers seconded to adopt Resolution No. 353-22. After the following discussion, without objection, the motion carried unanimously.

President Brown requested an explanation of what Resolution No. 353-22 entails. Mr. Greenland explained that this is the third modification of the Regional Stormwater Management Program (RSMP) Service Agreement with Lorain County and Columbia Township. These additional parcels are currently on septic systems along Route 82. They will be removed from septic and eventually come to NEORSD via the Southwest Interceptor into the Southerly Wastewater Treatment Plant. Although NEORSD has always planned to service Columbia Township, it currently only serves the northeast quadrant. This modification will extend the sanitary service to East River Road and Marks Road and include this area under the RSMP Service Agreement. Once they become sanitary customers, they are automatically included for stormwater service.

Columbia Township was included in the Rocky River Master Plan because those areas flow into Olmsted Falls and Olmsted Township. They are a Phase II stormwater community, meaning that they have their own requirements as well as the six minimum controls for stormwater required by Ohio EPA.

President Brown asked if requirements and attainments are different things. Mr. Greenland answered affirmatively and explained that there are requirements and different levels of attainment. Ohio EPA has six minimum controls for permit compliance under the Phase II Stormwater Program that the county and community hold. NEORSD will continue working with Columbia Township and Lorain County to provide services to help them achieve attainment on four of the six minimum controls.

#### VI. Information Items

Ms. Marshall provided the monthly Capital Improvement Program update for September 2022, beginning with cashflow. The month of September ended the same as the three previous months at 78% of planned, below the Key Performance Indicator (KPI) of 85%. This is due to some projects starting later than planned, projects that closed under the contract amount for unperformed work, and delayed spending because of supply chain issues. Total spending in September was \$14 million, with a year-to-date total of \$139 million.

As for KPIs, the construction contract for the Southerly PLC Replacement Project was awarded within 60 days of planned, meeting that KPI. The average of the three bids received was within 10% of the engineer’s estimate, meeting that KPI. The estimate was \$17 million, and the contract was awarded for \$15.7 million.

Substantial completion was achieved on three projects, two of which were not within the KPI of 90 days of planned. Of note is the Dille Avenue Barberton Creek Pump Stations Upgrades Project, which was delayed due to supply chain issues.

The construction contract for the Miscellaneous CSO Improvements Project closed in September. The final dollar amount was \$2.6 million, not within 95% of the original contract amount and therefore missing the KPI. The KPI for the Business Opportunity Program (BOP) goal of 15% MBE/WBE and 5% SBE was exceeded with projected actuals of 29.79% MBE/WBE and 35.59% SBE. The work orders by change categories as a percent of construction on this project, came in at 17.84%, which equates to \$458,000, and is the reason the KPI of 95% was not met, the majority of which was due to differing or unforeseen site conditions.

For the past year, there have been increasing supply chain issues for equipment and materials, including electrical gear and equipment where we have already seen significant impacts; instrumentation and controls; fabricated pipe and valves including ductile iron pipe; pumps; building materials such as roofing; and cement. NEORSD is keeping a close watch on cement, as significant amounts of ready-mix concrete are used on tunnels and deep shafts.

Lead times for products are increasing substantially not only for items that would typically have 8-to-12-week lead times, but also for off-the-shelf items and materials. Some lead times are now in excess of one year. Potential impacts include extended construction schedules, which can impact cashflow; increase capital costs; missed Consent Decree milestones; and missed project level and program level KPIs.

Mitigation efforts include non-compensable time extensions. NEORSD is evaluating the potential for early procurement of materials, working closely with contractors to complete reviews and approvals to move forward with purchasing equipment and materials as early as possible. As new contracts are being issued, longer duration construction schedules are being considered which will also allow for a more accurate projection of cashflow. Within the Consent Decree, there are *force majeure* provisions, which may be invoked if necessary. A more creative alternative would be for NEORSD to borrow its own inventory for projects then restock when the projects' orders are received.

The Westerly Tunnel Dewatering Pump Station Project is a Consent Decree project with a \$27.2 million construction contract. The scope of this project includes a 215-foot deep, 36 million gallon per day submersible pump station, along with a 9,550 square foot building with electrical, hydraulic, and HVAC rooms and equipment. As awarded, the substantial completion date on this project is May of 2023. The supply chain issue that has the greatest impact on this project is extended lead times with electrical equipment, specifically a low voltage switch. The typical lead time for such equipment is 16 weeks and the current lead time is 50 weeks. Unless the equipment is received sooner, this will impact the construction schedule and the project will not meet the

substantial completion date of May of 2023. NEORS is evaluating potential mitigation options such as a temporary fix in order to keep the project on schedule. Ms. Marshall further explained that, at this time, there is no impact to the critical milestones of the Consent Decree. The project is currently ahead of schedule for Achievement of Full Operation.

The Pearl Road and Jennings Road Storage Tank Project is a Consent Decree project with a \$21.7 million construction contract. The project scope includes a 1.1 million-gallon CSO storage tank and the rehabilitation of the Jennings Road Pump Station and force main. As awarded, this project is scheduled to achieve substantial completion in October of 2023. The primary supply chain issue on this project is on electrical equipment, specifically a motor control center. The normal lead time for the item is 8-to-12 weeks and the current lead time is 58 weeks. This delay will impact NEORS's ability to meet the Achievement of Full Operation critical milestone for Control Measure 23 under the Consent Decree. NEORS has notified the EPA and may invoke the *force majeure* provision, if necessary. Additionally, resequencing opportunities are being evaluated so that when the equipment arrives, the project is as close as possible to substantial completion.

VII. Open Session

There were no items.

VIII. Public Session (any subject matter)

There were no items.

IX. Executive Session

There were no items.

X. Approval of Items from Executive Session

There were no items.

XI. Adjournment

**MOTION** – President Brown stated business having been concluded, he would entertain a motion to adjourn. Mayor Bacci moved, and Ms. Dumas seconded the motion to adjourn at 1:29 p.m. Without objection, the motion carried unanimously.



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Timothy J. DeGeeter, Secretary  
Board of Trustees  
Northeast Ohio Regional Sewer District



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Darnell Brown, President  
Board of Trustees  
Northeast Ohio Regional Sewer District