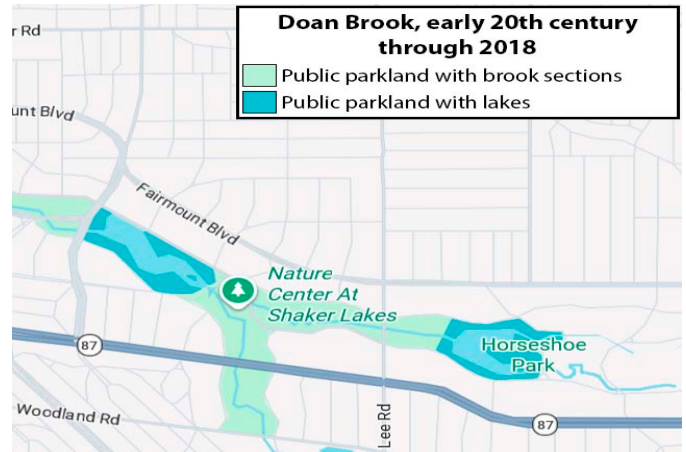


NEORSD Has Failed the Community - Miserably!



The Northeast Ohio Regional Sewer District – NEORSD - has royally botched the Shaker Lakes initiative.

Perhaps we should not be surprised. This is not what they do for a living. They are completely out of their comfort and capability zones. By their own admission, they completely botched their initial calculations which they used to demand the elimination of Horseshoe Lake. And their public communications have reflected either incompetence or intentional deceit.

Horseshoe Lake and Lower Shaker Lake together make up the Shaker Lakes, connected by Doan Brook that flows northwest into University Circle, into Wade Lagoon by the Cleveland Museum of Art, through Rockefeller Park's Cultural Park, before emptying into Lake Erie.

The lakes date back to the 1820s, when the North Union Shakers first dammed the Doan Brook to power a sawmill located just west of what became Lower Shaker Lake, according to the Cleveland Historical Society. The lakes and the park that holds them became beloved resources to the suburbs for 200 years. NEORSD has proven itself to be unable to understand that and respond appropriately.

The Ohio Department of Natural Resources in 2019 determined that the dams at both lakes needed to be replaced – not eliminated - replaced. NEORSD instead recommended removing the dam at Horseshoe Lake and replacing it with a wetlands park, but retaining and repairing the dam at Lower Lake. The cost of repairing the dam was estimated in 2021 to be about \$13 million.

From the *Encyclopedia of Cleveland History*, "In 1913 the Shaker Hts. Land Co. conveyed to the Van Sweringen Co. such reversionary interests as it had in the parklands. In 1947 Cleveland leased the parklands to the cities of Shaker Heights and Cleveland Heights, which agreed to occupy, use, and at its own expense improve and maintain what had become known as Shaker Hts. Park. The lease was last renewed in 1990 for a period of 50 years."

"The Shaker Lakes were threatened in the 1960s by the construction of I-290 (the Clark Freeway), but the highway was never built. In

1974 a symposium was held on the water quality of the Shaker Lakes and Doan Brook, but pollution of the watershed was problematic and in subsequent years, sedimentation also became an issue. By the late 2010s, the state of the dam at Horseshoe Lake had deteriorated to the point where the lake was drained for safety purposes."

"After a great deal of contention between local citizens and the Cleveland Regional Sewer District, it was decided in 2022 that the dam would be removed rather than replaced and the brook above it returned to natural channels."

"The Shaker Lakes, together with the Nature Center at Shaker Lakes at 2600 S. Park Blvd., have been designated a National Environmental Education Landmark."

In the late 2010s, despite past repairs, the Horseshoe Lake and Lower Lake dams were declared by the state to be failing. After promising to retain Lower Lake, NEORSD told residents that they would not pay to repair or replace the dam, and scared the two cities with huge projected replacement costs.

In 2021, NEORSD's proposed plan included removal of the dam at Horseshoe Lake, full restoration of Doan Brook and the subsequent replacement of the dam at Lower Lake. The cost for this plan was reported to be \$28.3 million when presented to the communities during the June 2021 joint municipal public meetings. Two years later, the Ohio Department of Natural Resources trashed NEORSD's plan.

NEORSD crews breached Horseshoe's dam - about 30 feet tall and more than 600 feet wide – turning the lake into a marsh. Angry residents formed Friends of Horseshoe Lake and sued for a new dam. But they lost at trial in 2023 and on appeal in 2024, with judges saying they lacked power over the dam.

Horseshoe Lake Park was recently renamed plain Horseshoe Park. In the fall of 2026, NEORSD had planned to start a two-year, \$31 million project at the park's 60 acres to remove that dam, tear down 1000+ trees, add native plants, create trails,

NEORSD Has Failed the Community - Miserably!

and add a nature playground, an outdoor classroom, a pedestrian bridge and other amenities. Shaker Heights expects to contribute \$4.6 million and Cleveland Heights \$2.5 million.

For a few years, officials said that locals who missed Horseshoe Lake could still enjoy Lower Lake, which is far more seen and used. **However, in July 2025, NEORSD reneged on its prior promise and stated its intent to now also raze the Lower Lake's dam, (photos pgs. 27, 30)** 600 feet long and 17 feet tall, because of soaring costs, and their "new calculations" which contradicted their original work which they referenced to promise to retain Lower Lake. NEORSD now claims that the Lower lake dam is not needed for flood control downstream.

NEORSD's Bait and Switch has infuriated residents.

So has the fact that NEORSD has failed to consider any alternatives to draining Lower Lake as the law requires.

So has the fact that NEORSD failed to openly admit to residents that it plans to remove over 1000 trees, and did not even present those facts until **after** public review and comment had been closed and **after** the cities of Cleveland Heights and Shaker Heights had stupidly endorsed a Memo of Understanding to permit NEORSD's plan.

NEORSD's FAILED PROCESS & ITS MONOSEMIC CULTURE:

Shaker Heights resident Chad Anderson has suggested that the Metroparks should take over the Shaker Lakes project, given their success with the transformation of Wendy Park, the restoration of the Garfield Reservation and the restoration of Hinkley Lake. Anderson's idea is a good one. NEORSD – an organization dominated by civil engineers – not landscape architects, has proven themselves completely inept at addressing surface water and landscape issues with any capability or sensitivity. **NEORSD has tried to bully the community and they have withheld information in a most disturbing manner. They have been dishonest.** This is simply intolerable.

NEORSD has no business planning our public parks. They have proven this by their ineptitude. They begin and end with the wrong criteria – the lowest cost of maintenance for the sewer district. NEORSD has failed to comprehend that the Shaker Lakes function also as community assets, natural habitats and recreation areas and they play a meaningful role in defining what 'community' means in Shaker Heights and Cleveland Heights.

In the five years NEORSD has been toying with the lakes, they have produced many drainage studies but **not a single environmental impact study.**

As Anderson pointed out, all residents in the Heights pay Metroparks taxes that mostly gets spent on outer suburb parklands. The shared responsibility for Cleveland Heights and Shaker Heights to maintain the lakes has been an unfortunate stewardship problem. Anderson also points out that with the Garfield Park



project, the Metroparks successfully got NEORSD to contribute to dredging the pond.

NEORSD REALLY pissed off the community with its recent attempt to conceal their extreme plan to remove over 1000 trees from the next phase of work. The fact that this work by NEORSD has been in the work for years, and that they withheld this information until now tells us all we need to know about the appalling lack of integrity at NEORSD.

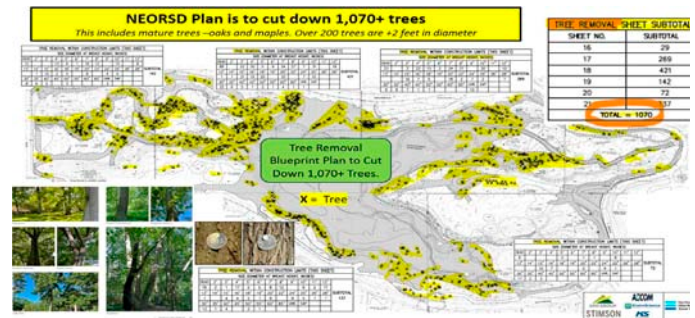
It was not until February 20 that NEORSD quietly posted an "Implementation update FAQ" to the project page which read, "Although some of the approximately 1000 trees are invasive or their health is declined, these trees constitute a minority of the trees being removed." The word 'some' is vague and ambiguous. So without any substantiation, NEORSD implied that many/ most of the trees were invasive species and in poor health. Neither is correct.

NEORSD has not been honest or straightforward with the community. After original promising that after draining Horseshoe Lake, they assured the community that they would maintain the balance of the lakes. Then they came back and asserted that they had erred in their previous drainage calculations and now needed to drain the balance, and that they would contribute zero funding except for their ideas to completely remove the lakes.

NEORSD put forth a multi-year public engagement phase in which the Sewer District consistently heard from the public that the community wanted them to prioritize the preservation of existing trees. During this phase, nothing was ever said by NEORSD about the fact that the project would also require mass tree removal.

After public engagement phase was over and during which the removal plans were completed, permitting began, and Cleveland Heights and Shaker Heights city councils were pushed to approve \$7 million of taxpayer funding for the project, the District then revealed their tree removal plan – albeit in a covert and tardy manner. During this phase, the Sewer District started to talk about - in places not many people would see it - the fact that their plans

NEORSD Has Failed the Community - Miserably!



would remove about 1,000 trees; but the Sewer District made it sound like most of the trees were invasive.

NOW, **after** the cities approved funding for the project, **after** public knowledge of the mass tree removal became widespread, and **after** city officials and Sewer District representatives started to tell people that the Horseshoe plans are a “done deal,” the Sewer District quietly acknowledged that, in fact, **most of the trees are healthy, native trees.**

It is important to note that the plans presented by the Sewer District at the December 2022 park design open house did not require removing hundreds of trees – **it was not even mentioned.** At that presentation/ open house, people said that preserving trees was important, which is feedback that was consistently received during the public engagement process, which NEORSD’s own reports confirm.

The two presentations that occurred about two months apart in 2025 - a March 31 public presentation and early June presentations to the Cleveland Heights and Shaker Heights Planning Commissions - are especially interesting. Both these presentations occurred at the same phase of the planning process - in between 90% and 100% of design completion. The presentations contained most of the same content. In the middle, there was even a sequence of 13 consecutive slides in the Planning Commission presentations that (with minor changes to some slide titles) appeared in the exact same order in the middle of the public presentation. Except one slide was missing from the public presentation; the other 12 were in the same order. What was deliberately left out?

The first time mass tree removal which was accompanied by the Sewer District’s dishonest assertion that “most or about half” of the trees were invasive was during the Planning Commission presentations, which were low visibility events. It is also important to note that these meetings occurred **after public engagement was over**, and at those meetings, the District was merely informing the Planning Commissions of the basically finished plans, not seeking any feedback on the new content.

The following month, a public notice was sent to “project-adjacent property owners” - a small number of people - and also uploaded

to the project web page. Buried in the middle of a complicated document was a mention of the removal of over 1,000 trees. It received almost no attention at the time. The post about it on the web page did not say anything about the number of trees, but instead said:

The Public Notice includes several drawings (Sheets C-016 through C-018) that depict the project’s draft tree-removal plan (above right) which has raised some questions from neighbors. “Select tree removal is necessary to construct the project. The Sewer District’s design team targeted tree clearing in areas dominated by invasive vegetation...”

Given what is now known, it is curious how this was written by the District. Saying “targeted tree clearing in areas dominated by invasive vegetation” insinuates that most of the trees are invasive. But in fact, because there are all types of non-tree invasive vegetation, it does not directly state anything about whether the trees are invasive. The updated implementation FAQ also talks about new tree plantings. “Trees: 1,106 (1”, 2” & 4” caliper).” Those are miniscule! Given that the number of trees slated for removal in the 100% design plan is 1,070, this number seems very deliberate. About one new tree for every removed tree. But there is a very big problem here.

1. Replacing a very large, mature tree with a sapling is a poor substitution. More than 200 of the trees marked for removal are at least two feet in diameter, some much larger than that.
2. The new trees are being counted with a different counting system than the removed trees.

Trees that are one or two inches in diameter were not even included in the tree survey. There are hundreds of such trees that are in the way of the project and would be removed along with the nearly 1,100 larger trees. So if the trees being removed were being counted in the same way as the trees being planted, the number of trees being removed would actually be much larger. Replacing a very large, mature tree with a sapling is a poor substitution. More than 200 of the trees marked for removal are at least two feet in diameter, some much larger than that.

NEORSD Has Failed the Community - Miserably!

The bait-and-switch taking of our beautiful lakes: Bert Stratton

Published: Aug. 17, 2025, 5:31 a.m.



Wholesale Ru



NEORSD has claimed that we must gut the Shaker Lakes because the Sewer District and the Ohio Department of Natural Resources need to prevent flooding downstream in University Circle. The District says that lives are in danger in the Circle. But no one has died in more than 100 years, making the District's fear mongering irresponsible and dishonest.

When the District came aiming to do away with Horseshoe Lake, the Friends of Horseshoe Lake was formed. FHL hired an engineering firm whose analysis said that Horseshoe Lake could be saved. NEORSD refused, but promised that Lower Lake would be saved. But in July 2025, the District came back and said that Lower Lake also had to go.

Bad Faith

In the late 2010s, despite past repairs, the Horseshoe Lake and Lower Lake dams were declared by the state to be failing. Crews breached Horseshoe's dam, 30 feet tall and more than 600 feet wide, making the lake a marsh. Angry residents formed Friends of Horseshoe Lake and sued for a new dam. But they lost at trial in 2023 and on appeal in 2024.

Horseshoe Lake Park was recently renamed plain Horseshoe Park. In the fall of 2026, NEORSD had planned to start a two-year, \$31 million project at the park's 60 acres to remove that dam, tear down 1000+ trees, add native plants, create trails, and add a nature playground, an outdoor classroom, a pedestrian bridge and other amenities.

NEORSD now claims that the Lower Lake dam is not needed for flood control downstream. NEORSD's Bait and Switch has infuriated residents.

Again, NEORSD has failed to consider any alternatives to draining Lower Lake as the law requires.

NEORSD failed to openly admit to residents that it plans to remove over 1000 trees, and did not even present those facts until **after** public review and comment had been closed and **after** the cities of Cleveland Heights and Shaker Heights had stupidly en-

dorsed a Memo of Understanding to permit NEORSD's plan.

Critics accuse NEORSD of bad faith on previous discussions of Lower Lake's fate as well as their proposed destruction of the existing trees and ecosystem. "They've been deceiving the public for a long time," says Jeff Rusnak of the Friends of Horseshoe Lake. Chris Quinn, editor of cleveland.com and *The Plain Dealer*, has called for dumping NEORSD's director and trustees, the latter composed mostly of local mayors and their appointees. "You make a promise, you stand by it."

Matt Scharver, NEORSD's watershed programs director, denies the District has been deceptive. He says the district really meant to rebuild Lower Lake's dam. Studies had shown it is necessary to prevent floods downstream in University Circle, the Cleveland Cultural Gardens and elsewhere along the Doan's path to Lake Erie. NEORSD would have funded the project as part of its mission to protect water quantity and quality.

So NEORSD spent \$1.7 million for a preliminary design. But the proposed structures looked obtrusive, with a second spillway 400 feet long and concrete floodwalls up to eight feet tall. Then, according to Scharver, new technology showed the proposed second dam would not block a crucial amount of water. Yet the aging structure's failure could release too much water all at once.

The Cleveland Museum of Art is currently making plans to redo its campus, which lies above the culverted Doan Creek. That should give the District an opportunity to run a second culvert there, carrying more water.

Scharver and many other experts consider natural marshes much better for the environment than manmade lakes. They slow down floodwater and filter pollutants. They do not host every species that lakes do, but host other native species.

Whether the dam is rebuilt or removed, Scharver says the work will reduce floods on Coventry and North Park. If the dam goes, NEORSD will probably add a pedestrian bridge and other amenities to the 17-acre marsh. Either way, current amenities should survive, including trails and the "Liberty Oaks," which honor victims of

NEORSD Has Failed the Community - Miserably!



World War I.

Lawsuit Filed to Stop Cleveland's Shaker Lakes Project:

Local resident and attorney Erin Flanagan has filed a federal lawsuit (Erin R. Flanagan v. United States Army Corps of Engineers et al., case number 1:26-cv-00789, in the U.S. District Court for the Northern District of Ohio), alleging that the NEORSD's plan to erase Lower Lake will unlawfully alter an open-water habitat and water management system created by a 19th century Shaker community.

Erin Flanagan said in her complaint in Ohio federal court that historical and environmental reviews for the Northeast Ohio Regional Sewer District's ongoing Doan Brook restoration project were conducted with an improper assessment of the baseline condition of the Shaker Lakes Parklands, a site listed on the National Register of Historic Places.

"At its core, this case concerns whether federal agencies may authorize the transformation of a historic lake system into a constructed stream corridor **without first conducting the environmental and historic-preservation review required by federal law,**" Flanagan stated in her complaint.

As part of the multimillion-dollar restoration project, the sewer district in 2020 drained Horseshoe Lake, one of the bodies of water created by the North Union Shaker Community's dams in the 1820s. But Flanagan's complaint alleges that in the U.S. Army Corps of Engineers' reviews for permits under the Clean Water Act and National Historic Preservation Act, the project's impacts were assessed relative to a condition in which the lake is already drained, rather than the status quo ante.

"Courts have repeatedly held that agencies must assess impacts relative to the historic or natural condition of a resource rather than conditions created by the project itself or by prior unreviewed disturbances," Flanagan wrote. And **NEORSD failed to do that.**

Named as defendants in the suit are the U.S. Army Corps of Engineers and its Buffalo district commander, the sewer district, and the cities of Cleveland, Cleveland Heights and Shaker Heights, which

each have authority over parts of the Shaker Lakes Parklands.

"The filing seeks to preserve the status quo and prevent irreversible changes to the Shaker Lakes Parklands pending completion of required federal review," Flanagan said in an email to Law360.

"The case focuses on ensuring that established legal processes are followed before actions are taken that would alter a historic landscape."

Flanagan also alleged that the defendants violated the National Environmental Protection Act by segmenting what was in fact a single undertaking into multiple projects for the purpose of environmental review. "The alterations to Horseshoe Lake, the proposed work affecting Lower Shaker Lake, and the broader Doan Brook channel modifications are interdependent components of a single watershed-scale undertaking," Flanagan wrote in her complaint. "Evaluating those actions separately obscures their cumulative impacts on the Shaker Lakes historic landscape."

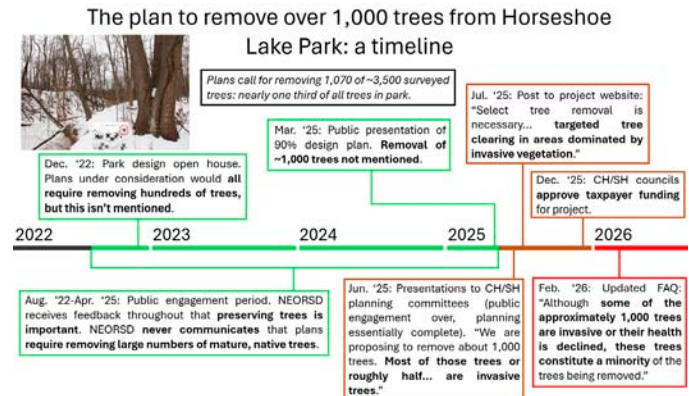
In a separate emergency motion filed Thursday, Flanagan asked the court to issue a temporary restraining order halting construction on the project until the Army Corps review process is concluded. Representatives for the Army Corps, Cleveland and the Northeast Ohio Regional Sewer District were not immediately available for comment Thursday.

The case has been assigned to U.S. District Judge J. Philip Calabrese.

Additionally, resident James Nemastil has pointed out that NEORSD's conduct represents a misrepresentation that enables both cities to void the MOA without penalty for a number of reasons:

The fact that NEORSD failed to provide any alternative analyses - a requirement - to the cities about Horseshoe Lake, which is a requirement, resulted in the cities endorsing the MOA, unaware that a required task had not been performed and provided. This constitutes misrepresentation by omission due to the nondisclosure of a material fact.

NEORSD Has Failed the Community - Miserably!



that a required task had not been performed and provided. This constitutes misrepresentation by omission due to the nondisclosure of a material fact.

A contract is voidable when one party fails to disclose a material fact they had a duty to disclose. **NEORSD had a legal duty to perform and disclose an alternatives analysis for a major project.** Failing to disclose that such analysis was required — and failing to provide it — is misrepresentation by omission.

Consequently, NEORSD's MOA is illegal for it is a contract based on an unlawful or noncompliant process. **NEORSD entered the MOA without performing legally required environmental review steps, so the agreement rests on an unlawful foundation.** Contracts based on unlawful processes are void or voidable. This is especially relevant because alternatives analysis is not optional — it is a regulatory requirement for major water resource projects.

This results in the failure of a condition precedent. If the City's consent was conditioned on NEORSD complying with required regulatory steps, and NEORSD did not complete those steps, then a condition precedent to the agreement was never satisfied. A contract with an unmet condition precedent is not enforceable. Summary:

Considerable time and money has been invested to producing NEORSD's plans, correcting for their errors and trying again. But the results are simply defective and ignorant due to their incompetence and their irresponsible and monosemic approach to a matter with issues that involve much more than drainage.

Clearly, the area's ecosystem and vegetation, wildlife, resident use and the aesthetic/inspirational qualities have not only not been weighted as relevant criteria for decision-making by NEORSD, they have been ignored altogether. This represents a defective effort by NEORSD that must be rejected and a responsible process initiated with responsible professionals engaged to address the Shaker Lakes and storm runoff in a responsible and comprehensive manner.

Resident James Nemastil: "We must demand our cities to pull out of the NEORSD plan for Horseshoe Lake because residents were never given a fair process or honest numbers. There was no real alterna-

tives analysis, no side-by-side cost comparison, and now we're being told to swallow millions in local spending for a project that was rammed down our throats. It was a hack job using sewer rate payer money. Our communities shouldn't be treated like a rubber stamp. Before a single tree is cut or a single dollar is committed, we demand transparency, accountability, and a full review of the lower cost options and more environmentally sound ones that were pushed aside." Go to the next council meeting and demand action before "The Eighth Wonder of the Cleveland Follies" moves forward."

Dealing with community lakes with historic designation and protection is not what NEORSD is capable of doing. The facts prove it as demonstrated by the timeline of communications, incomplete examination of alternatives, faulty calculations, deliberate misrepresentations to the community and the cultural bias of an organization that is not equipped to factor in the value of a community's visual, historical, cultural and recreational asset into its narrow focus.

Consequently, their thinking and analysis has been limited and flawed and must be rejected and the issues addressed anew by capable representatives who also have accountability to the community. James Nemastil's suggestion that the project instead be turned over to the Metroparks warrants exploration while there is still time.

Then we can leave NEORSD to their \$3 billion underground sewerage tunnels.

