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**I. THIS CASE IS ONE OF GREAT GENERAL INTEREST BECAUSE THE RULING BELOW IMPACTS THE SUBSTANTIVE AND PROCEDURAL REQUIREMENTS OF OHIO EPA WHEN IT IMPOSES WATER QUALITY-BASED DISCHARGE LIMITS ON OWNERS OF PUBLICLY-OWNED TREATMENT WORKS (POTWs) ACROSS THE STATE OF OHIO.**

Pursuant to S. Ct. Prac. R. 7.06, the Ohio Municipal League (OML) and the County Sanitary Engineers Association of Ohio (CSEAO) respectfully request that the Ohio Supreme Court take jurisdiction of Appellant Fairfield County Board of Commissioners' appeal in this matter (hereinafter "Fairfield County" or "the County").

The ruling below has two general aspects that make up the County's appeal. First, the Environmental Review Appeals Commission (ERAC) held that new discharge limits for phosphorus and total dissolved solids (TDS) imposed by Ohio EPA on a publicly-owned treatment works (POTWs) owned and operated by the County were lawful and supported by valid factual foundations. Second, although Ohio EPA presented evidence to ERAC about the environmental benefits to be gained by imposing the new limits, and the County countered with evidence to negate the alleged benefits and demonstrate the technical and financial infeasibility of meeting the new limits, ERAC declined to rule under Ohio's cost-benefit standard codified at RC 6111.03(J)(3) and remanded the issue back to Ohio EPA. The Tenth Appellate District affirmed both aspects of ERAC's ruling.

Hundreds of POTWs are owned and operated by local governments across the State of Ohio, most of which are members of the OML and CSEAO. The discharge of treated effluent from these POTWs is regulated under permits issued by Ohio EPA, permits which date back as far as the mid 1970s for some local governments, and are renewed typically in 5-year cycles. Generally speaking, renewal permits are a one-way road, rarely, if ever, containing less stringent limits, and frequently containing new and ever-more stringent numeric limits with each renewal.

By any account, billions of dollars have been invested by Ohio's local governments in capital equipment to treat wastewater to meet these limits, and millions more are spent annually in operation and maintenance.

Limits have long existed for POTWs for conventional pollutants, such as bacteria, pH, organic loading, and suspended solids, and for toxic pollutants, such as metals and organic compounds. These pollutants present a clearly-defined cause-effect relationship to demonstrated toxic impacts to human health and aquatic biology. And their sources are generally well-defined and limited, such that imposing discharge limits on POTWs for these pollutants leads to direct and measureable benefits in downstream water quality.

However, phosphorus and TDS are markedly-different pollutants. First, imposing water quality-based discharge limits for them is a recent circumstance for POTWs in Ohio and across the nation, dating back no more than perhaps 5-6 years or so, with less than 10% of Ohio's POTWs having to meet such limits. Second, whereas POTWs equipped with conventional treatment technology remove substantial quantities of a host of conventional and toxic pollutants, such technology does not remove substantial quantities of these two pollutants, requiring significant capital expenditures and annual O&M costs just to treat and remove the two. Third, and perhaps most importantly, there is no clearly-defined cause-effect relationship to demonstrated toxic impacts to human health and aquatic biology from discharges of phosphorus and TDS, but instead only an indirect relationship to the biological health of rivers and streams<sup>1</sup>

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<sup>1</sup> The biological health of a river or stream is impacted not just by the chemical quality of the water, but by a host of independent physical factors, such as canopy/cover that impacts temperature and pH; quality of riparian corridor/degree of urbanization that impacts erosion, sedimentation, and flow regime; and type of substrate that impacts dissolved oxygen and assimilative capacity. When deciding whether to impose discharge limits on POTWs designed to improve biological health, an important question is whether, regardless how much money is

and, with respect to phosphorus, a relationship to the potential for an algal bloom that can limit recreational activity and, if severe enough, cause fish to die from lack of oxygen. Finally, and perhaps just as important, sources of these two pollutants are not limited to “point sources,” such as POTWs, but also to numerous, and at times far greater, “non-point sources,” such as agricultural and stormwater runoff, residential and agricultural application of fertilizers and pesticides, and, with respect to TDS, naturally-occurring minerals that dissolve into water when it rains.

This background provides the driving force for the OML and CSEAO’s belief that ERAC’s ruling, as affirmed by the Tenth Appellate District, presents issues of great general interest to local governments across the State of Ohio. First, although total maximum daily load (TMDL) reports<sup>2</sup> are iterative planning documents that are not self-executing, and cannot be challenged until converted into proposed permit limits and loading reductions for significant sources of the impairment identified therein,<sup>3</sup> Ohio EPA argued, and ERAC agreed, that due to U.S. EPA’s approval of the TMDL report, Fairfield County’s challenge to the TMDL as the basis for costly proposed phosphorus limits was limited to the distribution of the recommended “pollution diet,” thus denying the County its statutory right to a *de novo* review of the data that

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spent to remove the pollutant, biological health will improve due to these physical factors that are almost always entirely outside the control of the owner/operator of the POTW.

<sup>2</sup> TMDLs are basically “pollution diets” (1) developed for a river, stream segment or watershed, based on Ohio EPA’s determination that a chemical or biological numeric or narrative water quality standard is not being achieved, necessitating a reduction in applicable pollutant loadings from significant contributing sources in the river, stream segment or watershed, sufficient to allow the standard to be achieved over time, and (2) containing recommended pollutant loading reductions for the significant point and non-point sources of the applicable pollutant. See generally <http://epa.ohio.gov/dsw/tmdl/index.aspx> (describing Ohio EPA’s TMDL program). See also OAC Rule 3745-2-12 (establishing procedural and substantive steps for Ohio EPA when developing a TMDL).

<sup>3</sup> See e.g. *Pronsolino v. Nastri*, 201 F. 3d 1123, 1129 (9<sup>th</sup> Cir. 2002); *Sierra Club v. Meiburg*, 296 F. 3d 1021, 1025 (11<sup>th</sup> Cir. 2002); *American Canoe Association v. U.S. EPA*, 289 F. 3d 509, 512 (8<sup>th</sup> Cir. 2002); *City of Arcadia v. U.S. EPA*, 265 S. Supp. 2d 1142, 1144-45 (ND Cal. 2003).

allegedly supported the recommendations and “reasonable assurances” set forth in the TMDL report. Ohio EPA’s also treated the “pollution diet” in the TMDL report as if it were a binding regulation affecting all permit holders located along the applicable stream, yet the Agency did not follow the notice and comment rulemaking procedures in RC Chapter 119 when developing the TMDL.<sup>4</sup> If this ruling is allowed to stand, it creates precedent that can be used to deny owners of POTWs across the State meaningful review of proposed permit limits that will potentially cost tens of millions of dollars to meet, without sufficient data to support imposing the limits, without reasonable assurances that spending the capital will lead to an improvement in stream quality, and all because the proposed limits came from a TMDL report that received U.S. EPA’s approval, a review that is purely procedural.

Second, when, as in the case *sub judice*, Ohio EPA determines that a river, stream segment, or watershed is “impaired” because it has not achieved applicable standards for biological health, and then develops a TMDL report designed to reduce pollutant loadings sufficient to allow the standards to be attained, the TMDL process and resulting report do not, even when approved by U.S. EPA, relieve Ohio EPA of its obligation to demonstrate that (1) a permit holder (here Fairfield County) is a significant cause of the impairment before imposing discharge limits in the applicable permit designed to alleviate the impairment,<sup>5</sup> and (2) imposing the limits is based on a reasonable assurance that the affected waterway will achieve the

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<sup>4</sup> See *e.g. Asarco Incorporated v. State of Idaho Department of Environmental Quality*, 138 Idaho 719, 725; 2003 Ida. LEXIS 74 (2003) (affirming voidance of limits based on TMDL because the recommendations therein were being applied as a rule without first proceeding under Idaho’s APA); *Commissioners of Public Works v. South Carolina Department of Health and Environmental Control*, 371 S.C. 421, 427; 2006 S.C. App. LEXIS 238 (2006) (affirming ruling prohibiting use of TMDL as basis to impose winter load limits because the TMDL was not promulgated as a regulation).

<sup>5</sup> See OAC Rules 3745-2-12(B) & (G)(4) and 3745-2-06(A)(2) (requirement for causation).

applicable standards.<sup>6</sup> Unfortunately Ohio EPA failed to meet these obligations before imposing costly phosphorus discharge limits in the County's permit. The applicable TMDL report failed to demonstrate that the County was a significant source of the impairment of biological standards in the receiving stream, and failed to demonstrate that imposing phosphorus limits was supported by a plan that reflected reasonable assurances that the biological health of the stream would be improved sufficient to achieve attainment. Both ERAC and the Tenth Appellate District upheld the limits based primarily on undue weight they gave to the fact that U.S. EPA approved the TMDL report, an approval that does not even include a review of these two important requirements. If this ruling is allowed to stand, it creates precedent that will impact permit limits for POTWs across Ohio, potentially leading to the imposition of costly capital expenditures and annual O&M expenses.

Finally, despite Ohio EPA's contrary argument, ERAC held, and the Tenth Appellate District affirmed, the Agency's obligation to demonstrate under RC 6111.03(J)(3) that environmental benefits of imposing new water quality-based discharge limits for phosphorus and TDS outweighed the costs required for the County to meet the new limits. Although Ohio EPA argued that it was not required to make such demonstration, the Agency presented evidence to support its belief that environmental benefits would be derived from imposing the new limits. The County responded with evidence to negate the environmental benefits and demonstrate that meeting the new limits would present technical feasibility problems and would be prohibitively expensive. Ohio EPA did not dispute the County's technical and financial evidence. Although the parties presented the necessary evidence, ERAC declined to issue a ruling under the statute, instead remanding the issue to Ohio EPA for reconsideration, thus effectively giving Ohio EPA a

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<sup>6</sup> OAC Rule 3745-2-12(E) (requirement for reasonable assurances in TMDL reports).

second opportunity to bolster its evidence. In a situation where, as here, the necessary evidence is presented by the parties to ERAC, it cannot sidestep its statutory obligation under RC 3745.05 to rule on the issue. If this ruling is allowed to stand, it creates precedent for Ohio EPA to seek a remand from ERAC whenever its actions are not properly supported, causing great expense and uncertainty for permit holders across the State of Ohio as the Agency repeats its actions until it hopefully receives a favorable outcome.

For all of these reasons, the ruling below presents issues of statewide interest that merit the Court taking jurisdiction over Fairfield County's appeal.

## **II. STATEMENT OF INTEREST OF THE OML AND CSEAO.**

The Ohio Municipal League (OML) is a non-profit Ohio corporation composed of a membership of more than 700 Ohio cities and villages. Its webpage is <http://www.omlohio.org/>. As stated in its by-laws, the purpose of the OML is the improvement of municipal government and administration, and the promotion of the general welfare of the cities and villages of this State, by appropriate means, including, but not limited to, maintaining a central bureau of information and research for cities and villages; promoting conferences of municipal officials and short courses for the discussion and study of municipal problems and techniques involved in their solution; publishing and circulating an official magazine and periodic bulletins and reports on issues affecting municipal governments; and formulating and supporting sound municipal policies. Consistent with these principles, the OML engages from time to time in the filing of briefs and other legal memoranda in Ohio's courts to support important issues affecting Ohio's cities and villages.

The County Sanitary Engineers Association of Ohio (CSEAO) is an affiliate association of the County Commissioners' Association of Ohio, a non-profit corporation. The CSEAO's

webpage is <http://www.cseao.org/>. The CSEAO's membership consists of sanitary engineers, utilities directors, superintendents, and other management staff responsible for the delivery of wastewater, stormwater, and drinking water services to all of Ohio's 88 counties. CSEAO's primary goal is to raise the technical and non-technical standards of these services rendered to the general public by establishing a central point for reference and group discussion of mutual problems affecting all of Ohio's counties. Consistent with these principles, the CSEAO engages from time to time in the filing of briefs and other legal memoranda in Ohio's courts to support important issues affecting the delivery of these services in Ohio's 88 counties.

The members of the OML and CSEAO provide valuable public services that protect public health and the environment, and do so ever more often on budgets that are funded almost exclusively by the citizens and businesses in their respective communities. As such, their operating/improvement budgets are constrained by the number of citizens and businesses that utilize these services, what rates those citizens and businesses can afford, and what rate increases elected public officials are able to approve. Rulings that potentially impact the already-strained financial resources of owners of POTWs across Ohio are vitally important to the members of these organizations.

The members of these two organizations operate hundreds of small, medium and large POTWs in Ohio, spending millions of dollars annually to produce a high quality effluent that has enabled dramatic improvements to occur in both chemical and biological water quality in rivers and streams across the State of Ohio. For example, since the 1980s, the quality of aquatic life in all of Ohio's large rivers has shown a remarkable improvement. In the 1980s, only 21% of the large rivers met chemical and biological water quality standards, increasing to 62% in the 1990s, to 89% today. And rivers and streams not meeting the standards have decreased from 79% in the

1980s to 38% in the 1990s to 11% today.<sup>7</sup> Across Ohio, investment in the treatment of municipal and industrial wastewater, and, to a much lesser extent, improvement in agriculture conservation practices, are credited by Ohio EPA with the turnaround.<sup>8</sup>

Two factors drive the interests of amicus curiae in the outcome of this appeal. First, both U.S. EPA and Ohio EPA agree that non-point sources, such as agricultural and stormwater runoff, and urbanization of watersheds, not point sources such as POTWs, are by far the most significant remaining sources of pollutants entering rivers and streams.<sup>9</sup> Second, requiring Ohio's POTWs to further reduce pollutant loadings is rapidly reaching, if not already crossing, the point of diminishing returns, requiring exponentially increasing investments of capital and annual O&M to remove ever smaller quantities of pollutant loadings, stretching the limits of affordability for minimal improvements in water quality. These factors came to a loggerhead in the ruling entered below in this case by the Environmental Review Appeals Commission (ERAC), a decision that unfortunately was affirmed by the Tenth Appellate District. Because ERAC's decision (1) overlooked important principles of causation codified in Ohio's wastewater permitting program when Ohio EPA imposes discharge limits based on a TMDL report; (2) allowed Ohio EPA to turn a planning document (*i.e.*, TMDL report) into binding permit requirements with restricted opportunity for review and without following proper notice and comment rulemaking procedures and; and (3) failed to rule on evidence presented by both parties under Ohio's cost-benefit statute, *i.e.*, RC 6111.03(J)(3), Fairfield County faces potential capital expenditures of more than \$50 million to meet new limits that, even if attained, will not

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<sup>7</sup> "Ohio Integrated Water Quality Monitoring and Assessment Report for 2012," available at <http://epa.ohio.gov/dsw/tmdl/OhioIntegratedReport.aspx>.

<sup>8</sup> *Id.*

<sup>9</sup> See *e.g.* "What is Non-Point Source Pollution," available at <http://water.epa.gov/polwaste/nps/whatis.cfm>, and "Ohio's Nonpoint Source Program," available at <http://epa.ohio.gov/dsw/nps/index.aspx>.

measurably improve water quality. The OML and CSEAO urge this Court to take up Appellant's appeal due to the statewide ramifications of the lower court's ruling on owners and operators of POTWs across the State of Ohio who are members of the OML and CSEAO.

### III. STATEMENT OF THE CASE AND FACTS.

The OML and CSEAO hereby adopt in its entirety, and incorporate herein by reference, the statement of the case and facts contained in the Jurisdictional Memorandum filed by Fairfield County.

### IV. ARGUMENT IN SUPPORT OF PROPOSITIONS OF LAW.

**A. PROPOSITION OF LAW NO. 1: Ohio EPA's treatment of pollutant loading reductions and discharge limits recommended in a U.S. EPA-approved total daily maximum load (TMDL) report as subject to limited review violated the right to a *de novo* review under RC 3745.05, and the Agency's treatment of the TMDL as binding on all permit holders located in the applicable watershed constituted rulemaking that failed to meet the requirements of RC Chapter 119.**

Under RC 3745.05(A), when no opportunity for an adjudicatory hearing occurs before Ohio EPA takes action, the Agency's actions are subject to a *de novo* review before the ERAC. When Ohio EPA issued the subject TMDL report in draft, invited comments thereon, and then issued it in final form, followed by submittal of the final report to U.S. EPA for its approval, no opportunity existed for the County to seek judicial review of the report, including (1) the adequacy of the data collected to support the report, (2) the support for the conclusions and recommendations contained in the report, and (3) the support for the allocation of the "pollution diet" recommended to enable the stream to reach attainment of applicable biological standards. No review was available because TMDL reports are iterative planning documents that are not self-executing, and cannot be challenged until they are converted into proposed permit limits and

loading reductions for significant sources of the impairment identified therein.<sup>10</sup> Thus, the County was entitled to a *de novo* review of the TMDL report and all underlying data, conclusions and recommendations. Yet ERAC held, and the Tenth Appellate District concurred, that U.S. EPA's approval of the TMDL report limited the County's subsequent challenge to an "adjustment" of the pollution diet recommended in the final U.S. EPA-approved report, with no opportunity to challenge the underlying data that was collected to support the important conclusions and recommendations that led to the recommended "pollution diet."<sup>11</sup> That was reversible error.

In addition, Ohio EPA argued, and ERAC and the Tenth Appellate District agreed, that U.S. EPA's requirement under 40 CFR § 130.7 that permit limits be set "consistent" with an "approved" wasteload allocation (*i.e.*, "pollution diet") prohibited the County from challenging the data supporting the "pollution diet," and limited the County to nothing more than an opportunity to seek an adjustment in how the allocation would be distributed among all alleged sources of phosphorus along the stream.<sup>12</sup> U.S. EPA's procedural approval of the TMDL report under federal law does not trump the right of Ohio's regulated community to a *de novo* review of the TMDL report under Ohio law. This ruling effectively turned the wasteload allocation or "pollution diet" developed for the receiving stream into a binding, unchallengeable regulation applicable to all alleged sources of phosphorus, both point and non-point, located along the stream. When an agency takes actions that create binding standards of general and uniform

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<sup>10</sup> See n. 3, *supra*, and cases cited therein.

<sup>11</sup> See APPX. 001 to Appellant's Jurisdictional Memorandum (Tenth Appellate Decision) at pp. 16, 20-21.

<sup>12</sup> *Id.* at pp. 19-22.

applicability, such actions constitute rulemaking subject to all requirements of RC Chapter 119.<sup>13</sup>

Because the “pollution diet” established for phosphorus in the TMDL report was held to be a binding standard applicable to all affected sources along the stream, ERAC and the Tenth Appellate District committed reversible error by not declaring the allocation null and void.<sup>14</sup>

**B. PROPOSITION OF LAW NO. 2: Ohio EPA must demonstrate that a permit holder is a substantial direct or contributing cause of an actual or potential violation of applicable water quality standards before imposing discharge limits on the permit holder, and cannot support limits based solely on generalized conclusions and recommendations set forth in a TMDL report that has been approved by U.S EPA.**

Ohio EPA cannot impose water quality-based discharge limits derived from a TMDL unless the affected permit holder is a significant source of the impairment found in the applicable stream,<sup>15</sup> and only if the Agency finds sufficient causation, *i.e.*, that the discharge from the permit holder has the reasonable potential to cause or contribute to a violation of water quality standards leading to the impairment.<sup>16</sup> These requirements protect POTWs across Ohio from being hit with costly new discharge limits that, even if achieved, will not lead to a measurable improvement in water quality. At the hearing before ERAC, the County presented uncontested evidence that its discharge of phosphorus was at most an insignificant source of phosphorus in the receiving stream, that immediately downstream of its discharge the stream was in full attainment of all applicable biological standards, and that numerous other sources of phosphorus further downstream were most likely the significant cause of the failure of those downstream

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<sup>13</sup> See RC 119.01(C) (definition of “rule”); see *e.g.* *Ohio Nurses Association, Inc. v. Ohio State Board of Nursing Education & Registration*, 44 Ohio St. 3d 73 (1989); *Livisay v. Ohio Board of Dietetics*, 73 Ohio App. 3d 288 (10<sup>th</sup> App. Dist. 1989) (voiding actions constituting rulemaking without meeting the requirements of Chapter 119).

<sup>14</sup> See n. 4, *supra*, and cases cited therein (holding in other states that treating allocations in TMDL reports as binding standards required proper notice and comment rulemaking procedures).

<sup>15</sup> OAC Rule 3745-2-12(B).

<sup>16</sup> OAC Rule 3745-2-12(G)(4) & OAC Rule 3745-2-06(A)(2).

segments of the stream not achieving the standards.<sup>17</sup> Yet ERAC upheld the proposed phosphorus limits based largely on the fact that U.S. EPA “approved” the TMDL report that recommended the limits, even though the approval is a procedural act, not a substantive review,<sup>18</sup> and also based on a series of vague conclusions and unsupported opinions provided by Ohio EPA’s permit writers.<sup>19</sup> In doing so, ERAC gave U.S. EPA’s approval far more weight than it deserved, and failed to make Ohio EPA meet its regulatory burden to demonstrate with valid factual foundations that the County was a significant source of phosphorus whose discharge had the reasonable potential to cause or contribute to the downstream non-attainment of biological standards. Once again ERAC committed reversible error, and the Tenth Appellate District should have reversed ERAC’s ruling.

**C. PROPOSITION OF LAW NO. 3: When Ohio EPA introduces evidence of the alleged environmental benefits of imposing new discharge limits (despite arguing that the Agency is not required to make such demonstration), and the permit holder introduces evidence to negate those benefits and demonstrate the high costs of meeting such limits, the ERAC must rule under the cost-benefit standard in RC 6111.03(J)(3), and cannot avoid ruling by remanding the issue to Ohio EPA.**

Ohio EPA argued unsuccessfully at ERAC and in the Court of Appeals that the Agency was not required to demonstrate that its proposed water quality-based discharge limits for phosphorus and TDS for Fairfield County would produce environmental benefits that outweighed any issues of technical feasibility or financial reasonableness for the County to have to meet the limits, as required under RC 6111.03(J)(3). Despite this argument, the Agency presented evidence at ERAC to support its position that imposing these costly limits on the

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<sup>17</sup> APPX. 001 at p. 17; APPX 002 (ERAC decision) at pp. 8-12.

<sup>18</sup> See e.g. <http://water.epa.gov/lawsregs/lawsguidance/cwa/tmdl/final52002.cfm> (U.S. EPA’s guidance to all Regional offices for reviewing TMDL submittals by states).

<sup>19</sup> APPX. 002 at pp. 7, 17-18.

County would produce environmental benefits for the stream.<sup>20</sup> Fairfield County then presented evidence indicating that there would not be any environmental benefits because it was not the source of the impairment, and demonstrating that meeting the limits would be technically infeasible and economically unreasonable.<sup>21</sup> Despite both parties expending considerable resources to submit the necessary evidence for ERAC to issue a ruling under RC 6111.03(J)(3), ERAC sidestepped a ruling by remanding the issue to Ohio EPA, effectively giving the Agency an improper “second bite at the apple.”<sup>22</sup> While ERAC has authority under RC 3745.05 to remand an issue to Ohio EPA when insufficient evidence is presented for ERAC to rule on the issue,<sup>23</sup> it does not have such authority when both sides present the necessary evidence to decide the issue.<sup>24</sup> Notwithstanding Ohio EPA’s assertion below that it was not required to present evidence under RC 6111.03(J)(3) to support the proposed phosphorus and TDS limits, it did so, and Fairfield countered with overwhelming evidence to the contrary, thus putting the issue squarely before the ERAC for a decision. ERAC must comply with its statutory mandate and make the necessary ruling. Once again, ERAC committed reversible error, and the Tenth Appellate District should have reversed and remanded ERAC’s ruling with instructions for the tribunal to fulfill its statutory duty.

## V. CONCLUSION.

For the foregoing reasons, the Ohio Municipal League and the County Sanitary Engineers Association of Ohio respectfully urge this Court to take jurisdiction of the Appellant’s appeal

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<sup>20</sup> *Id.* at pp. 9-13.

<sup>21</sup> *Id.* at pp. 4, 6-7, 10-12, 14-15.

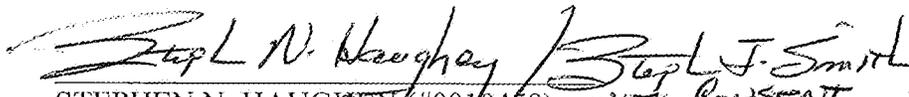
<sup>22</sup> *Id.* at p. 21.

<sup>23</sup> See e.g. *CECOS International, Inc. v. Schregardus*, 87 Ohio App. 3d 653; 1993 Ohio App. LEXIS 2540 (10<sup>th</sup> App. Dist. 1993).

<sup>24</sup> See RC 3745.05(F) (Limiting ERAC’s authority at the conclusion of a hearing to affirming the Agency’s action, or declaring it unlawful and unreasonable and issuing an order vacating or modifying the action accordingly).

and decide the important issues that impact their members across the State of Ohio.

Respectfully submitted,

  
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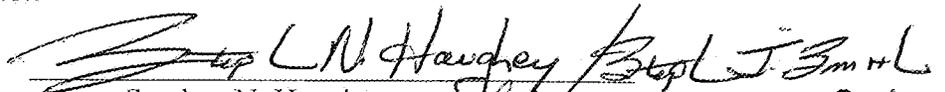
### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Memorandum of Amicus Curiae Ohio Municipal League and Ohio Sanitary Engineers Association of Ohio in Support of Jurisdiction of Appellant* was sent via regular U.S. Mail on the 7<sup>th</sup> day of July, 2013 to the following:

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