

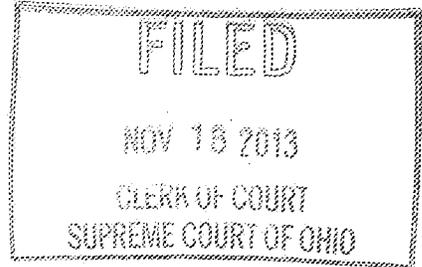
ORIGINAL

IN THE SUPREME COURT OF OHIO

Board of Commissioners of Fairfield County,	:	
	:	CASE NO. 2013-1085
	:	
Plaintiff-Appellant,	:	On Appeal from the Franklin County Court of Appeals
	:	Tenth Appellate District
v.	:	
	:	
[Scott J. Nally], Director of Environmental Protection,	:	Court of Appeals Case No. 11AP-508
	:	ERAC Case No. 235929
	:	
Defendant-Appellant.	:	

MEMORANDUM OF AMICUS CURIAE THE OHIO MANUFACTURERS' ASSOCIATION IN SUPPORT OF APPELLANT'S MOTION FOR RECONSIDERATION OF DECISION NOT TO ACCEPT DISCRETIONARY APPEAL ON PROPOSITIONS OF LAW II AND III

Frank L. Merrill (0039381)
 Bricker & Eckler LLP
 100 South Third Street
 Columbus, Ohio 43215
 T: (614)-227-8871
 F: (614)-227-2390
fmerrill@bricker.com



Counsel for Amicus Curiae the Ohio Manufacturers' Association

Stephen P. Samuels (0007979)
 Joseph M. Reidy (0030346)
 Nicole Woods (0084865)
 Ice Miller, LLP
 250 West Street
 Columbus, Ohio 43215
 T: (614) 462-5021
 F: (614) 222-3489
Stephen.samuels@icemiller.com
Joseph.reidy@icemiller.com
Nicole.woods@icemiller.com
Counsel for Board of Commissioners of Fairfield County

L. Scott Helkowski (0068622)
 Alana Shockey (0085234)
 Assistant Attorneys General
 Environmental Protection Section
 30 East Broad Street, 25th Floor
 Columbus, Ohio 43215
 T: (614) 466-2766
 F: (614) 644-1926
Lawrence.helkowski@ohioattorneygeneral.gov
Alana.shockey@ohioattorneygeneral.gov
Counsel for State of Ohio

I. INTRODUCTION.

Pursuant to S.Ct.Prac.R. 18.02(C), Amicus Curiae the Ohio Manufacturers' Association ("OMA") respectfully requests that the Ohio Supreme Court grant Appellant Fairfield County Board of Commissioners' ("Fairfield County") November 18, 2013 Motion for Reconsideration and accept Proposition of Law Nos. II and III for review together with Proposition of Law No. I.

II. SUMMARY OF BASIS FOR OMA'S INTEREST AND SUPPORT OF FAIRFIELD COUNTY'S MOTION FOR RECONSIDERATION.

The OMA is a statewide association of approximately 1,600 manufacturing companies, which collectively employ the majority of the 610,000 men and women who work in manufacturing in the state of Ohio and account for almost 17 percent of Ohio's gross domestic product. Member companies are engaged in various businesses or industries in Ohio and are incorporated and/or conduct substantial business operations in the state. Member companies also hold NPDES permits for discharges to the waters of the state, similar to the permit at issue in this appeal. The impact of Ohio EPA's use of total maximum daily pollutant loadings (TMDLs) in issuing such permits is of significant concern for OMA and its member companies.

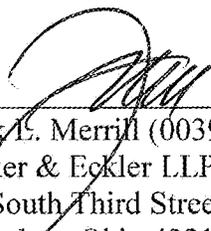
Because of the important interests raised in this case, the OMA offers this amicus memorandum in support of jurisdiction. The OMA has an interest in protecting its members from unnecessary costs and overreaching regulations.

For the sake of brevity, OMA hereby joins in and incorporates the arguments of Appellant Board of Commissioners of Fairfield County in its Motion for Consideration and the arguments of Amicus Curiae the Ohio Chamber of Commerce in its Memorandum of Support of Appellants' Motion for Reconsideration.

III. CONCLUSION.

Proposition of Law Nos. II and III are not fact-specific arguments affecting only Appellant Fairfield County. In actuality, the lower court's decision resonates state-wide by impacting every Ohio business that holds an NPDES permit to discharge into a watershed subject to a TMDL. The OMA respectfully requests that the Court grant Appellant Fairfield County's Motion for Reconsideration, and accept jurisdiction of the two additional related propositions of law.

Respectfully submitted,



Frank L. Merrill (0039381)
Bricker & Eckler LLP
100 South Third Street
Columbus, Ohio 43215
T: (614)-227-8871
F: (614)-227-2390
fmerrill@bricker.com
*Counsel for Amicus Curiae the Ohio
Manufacturers' Association*

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing was served upon the following persons this 18th day of November, 2013 via regular U.S. Mail, postage prepaid:

Stephen P. Samuels
Joseph M. Reidy
Nicole Woods
Ice Miller, LLP
250 West Street
Columbus, Ohio 43215
*Counsel for Board of Commissioners
of Fairfield County*

L. Scott Helkowski
Alana Shockey
Assistant Attorneys General
Environmental Protection Section
30 East Broad Street, 25th Floor
Columbus, Ohio 43215
*Counsel for Scott J. Nally, Director of
Ohio Environmental Protection Agency*



Frank L. Merrill