

ORIGINAL

BEFORE THE OHIO SUPREME COURT

CASE NO. 2013-1770

CHIEF JUSTICE MAUREEN O'CONNOR

Northeast Ohio Regional Sewer District	)	Addition of Arguments pursuant to
	)	Rule VIII, Section 7 and Memorandum
	)	In Response of Arguments pursuant to
	)	Rule XIV, Section 3(B)(2)(a)(b), and
	)	Rule XIV, Section 6 (C), Rule III, Section
	)	5(B)
	)	Motion for Leave, Instanter, to appear
	)	Amicus Curiae and Brief In Support of
v.	)	The Appellee(s) position and the
	)	Eighth District of Ohio Court of Appeals
Bath Township Ohio, Et. Al.)	

Now appears injured and disabled citizen Eugene P. Holmes and Penny Sisson and moves for leave, instanter, to appear Amicus Curiae pursuant to Rule VIII, Section 7 and Memorandum in Response of Arguments pursuant to Rule XIV, Section 3(B)(2)(a)(b) and Rule XIV, Section 6 (C), Rule III, Section 5 (B), Rule V, Section 6 and Rule IX, Section 6(A) in the above captioned case, pending on appeal and files this memorandum instanter. Both movants requests broadest leeway and consideration pursuant to Section 504 of the Rehabilitation Act and The American with Disabilities Act to appear before this Honorable Ohio Supreme Court to enlighten the Honorable Court Jurists in their consideration efforts of the above captioned case.

The movants' interest is that both are citizens of the State of Ohio and the United States of America and stand to be negatively affected and impacted by the decisions issued in this case, citing double jeopardy and res judicata and this Honorable Supreme Court of Ohio lacks jurisdiction in these matters and must affirm the Ohio Eighth District's Appellate Court Ruling that reversed the original/lower court's original decision in favor of the Northeast Ohio Regional Sewer District and decide that this honorable court lacks jurisdiction to hear these maters, citing the original jurisdiction and funding for the matters directly cited in this action lies solely in the Federal Water Pollution Control Act of 1948 as amended in 1972, 1977 and the Water Quality Act of 1987.

Federal permits are required by States from the United States Army Corp of Engineers (USARCE) as defined under Section 404 for requirements and as defined in Sections 301 and 502 of the Clean Water Act of 1972.

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The enforcement and a cease and desist order and determination must be made by application to the USARCE who have enforcement authority under Title IV of the Acts, including but not limited to only, the Federal Water Pollution Control Act of 1987 regarding the draft science report of Streams and Wetlands to Downstream Waters, Reviews and Synthesis of Scientific Evidence..

The United States Army Corp of Engineers is fully funded by the President's Fiscal 2013 budget for discretionary funding, approved by the United States Congress that includes over \$4,731 billion dollars of already supplied tax payer dollars for Civil Works Programs for targeted investments in the nations infrastructure that fund the development, management, restoration and protections of the Nation's water, wetlands and related resources.

The Army Civil Works budget funds the planning, design, construction, operation and maintenance of projects, and focuses on the highest performing projects, and programs within three main Civil Works mission areas: commercial navigation, flood risk management, and aquatic ecosystem restoration. It also funds programs that contribute to the protection of the nation's waters and wetlands, the generation of low-cost renewable hydropower; the restoration of certain sites contaminated as a result of the nation's early atomic weapons development program and emergency preparedness and training to respond to natural disasters.

Currently, Eugene Holmes' property has been placed within the jurisdiction of the Northeast Ohio Regional Sewer District as part of the settlement agreement under the "Takings Statute" in Lorain County Court of Common Pleas, Case No. 07 CV152082 without any compensation for his property, without his permission, and without an administrative plan for remedy as required by the United States Supreme Court Case, Kelo, et. al., v. City of New London, Connecticut, 545 U.S. (2005). The "Takings Statute" demands an administrative/development plan be put in place to take property/funds for private and/or public use and an administrative plan for remedy which has not been included in the settlement agreement to which Eugene Holmes has noticed the Honorable Judge Burge, Lorain County Court of Common Pleas, and that to this date, no action has been taken, but appears on the docket without movement. Eugene Holmes cited equal protection of the law and that this case would be of **great public interest** as noted on the docket.

We, taxpayers, Eugene Holmes, Penny Sisson, et. al., have already been taxed and provided the President's Fiscal 2013 budget the discretionary funding for the United States Army Corp of Engineers who has sole regulatory authority under Section 404 under the Clean Water Acts, inclusive.

In our opinion, the \$3 billion dollar settlement agreement between the Northeast Ohio Regional Sewer District and the Federal and Ohio State EPAs that was settled before the United States District Court in Cleveland, Ohio before Judge Nugent, Northern District of Ohio, Re: Ref No. DOJ 90-5-1-10-08177/1, Case Number: 1:10-CV-02895DCN that Eugene Holmes attended and attempted to appear amicus curiae in numerous memorandums to the court and informed the court the sewer agreement was a violation of the "Takings Statute" as defined in the New London decision and the matter was never addressed on the merits of the issues.

Judge Nugent sent Eugene Holmes a letter stating that the memorandums were considered by him to be submissions and that Eugene Holmes was not a party even though my property was taken and placed into the Northeast Ohio Regional Sewer District's service area without an administrative plan for full remedy, without compensation and without my permission and violating eminent domain and "Takings Statute" by the seizure of funds/property and causing a financial and or otherwise undue burden, denied the right to redress our government and violating these taxpayers' civil rights, equal protection of the law, freedom of speech, due process, but not limited to only.

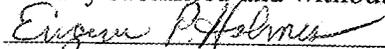
Conclusion:

This honorable court lacks jurisdiction and must affirm the ruling of the Eighth District's Court of Appeals and further rule that funding has already been allocated for the issues presented by the Northeast Ohio Regional Sewer District, et. al. And must further affirm that the Northeast Ohio Regional Sewer District lacks jurisdiction over the waterways, streams, wetlands, et. al., under the Federal Water Pollution Control Act of 1948, et. al.

Certificate of Service

Pursuant to Rule 5 of the Ohio Rules of Civil Procedure, We certify that this instrument was served upon Attorneys for Appellee John Hailer Gibbon at Walter and Haverfield, LLP, Tower of Erieview, Suite 3500, Cleveland, Ohio 44114 (216-781-1212, fax 1-216-916-2347 and Appellant, Andrea Marie Salimbera, McMahan, DeGulis, LLP, 1335 Dublin Road, Suite 216A, Columbus, Ohio 43215 (phone 614-849-0300, fax: 614-485-9108) and NEORSD: Mark Irwin Wallach, Thacker, Martinsiek, 2330 One Cleveland Center, 1375 East Ninth Street, Cleveland, Ohio 44114 (216-456-3840, Fax: 1-216-456-3850) and the Ohio Supreme Court's Clerks' Office (Fax: Chief Justice 614-387-9069, Clerk's Office Marcia J. Mengel 614-387-9539) and Judge Burge/Clerk's Office (Fax: 440-328-2416) by regular mail and/or fax on the 15 day of November, 2013 and in accordance with party determination by the Clerks' Office of the Ohio Supreme Court.

Respectfully submitted and without prejudice,

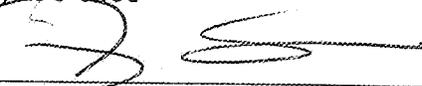
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