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To: Ohio Supreme Court Justice's Case # 2013-1770
I am an appellee who agrees with 8 th Circuit Court judgment on case # 2013-1770 -- NEORSD vs. Bath Township et al.

As a resident of Ohio and Cuyahoga County my americus curiae is on behalf of all monetarily affected customers of NEORSD that are currently being charged a fee (as well as me) on the above. I will comment on why the current manner of being charged is incorrect and improper. I offer common sense evidence to support my statements. I don't believe the rationale given by NEORSD for charging customers.

Background: Currently the customers of NEORSD are residents, businesses and churches [residents, et al.]. They are being charged a fee based on the amount of square footage of impervious (hard) surfaces is present on their property. The primary surfaces measured are roof tops, patios, driveways and parking lots made of either shingles/metal/shake, traveled gravel, cement or asphalt. In NEORSD's website (currently down) and brochures the excess storm water run off picks up "fowling" items: debris, fertilizer, oil and brake dust as the water flows over these surfaces. No other specific "polluting" item is ever mentioned nor is debris defined.

From what I have read about this case and what NEORSD mentioned to the public counter-intuitively bothered me since there is a common sense explanation.

1) Run off occurs not only over impervious surfaces but also over land (grass or crops covered) on everyone's' property. Debris collected I believe would be initially light items like leaves and twigs and more than likely more would be found on land than on hard surface. This entire occurrence is caused not by man; rather by Mother Nature. The only man "controlled" aspect is having these hard surfaces and curbs that help direct the run off into roadways culverts and into large sewers under the roadways.

But note residents, et al do not slope the property (contractors do; who follow codes/rules/guidelines set by either state/city or county); neither do residents, et al have a choice in material placed on their roofs, driveways or parking lots (rather they follow codes/rules/guidelines established by state/city or county). While at it residents, et al follow codes for drains -- sewer and roof water. Residents, et al per se do not control the size of the drain, nor the depth nor the slope. They follow codes provided by state/city/town or county.

The initial flow from properties in general is not fast; it builds up as it runs toward driveways and then along the roadways combining with other properties run off and eventually into culverts and into underground pipelines. Residents, et al did not build these places of hard directing surfaces. These are already paid for through revenue bonds and maintained through road taxes, license plate fees, & gasoline taxes.

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If the initial flow from a property is also directed toward a stream with other incoming water the stream becomes larger. The increased flow turns up the nearby earth and makes it turbid or muddy looking. All of this is natural act. Any increased amount and size of debris [limbs/ branches/trees] going downstream is in direct relationship to the availability of this debris on the embankments. Isn't this already being monitored by the city/county/town/state and paid for via residents' taxes? Are we being charged/taxed a second time with this storm water fee?

So in essence, residents, et al are already paying for all this increasing flow via property taxes. And yet with this fee proposal the residents are paying for something they did not build. The blame is on the resident whereas the resident followed codes on hand. If looked at closely we probably are already being taxed/assessed property, and therefore should not be charged, in this case a redundant fee.

2) Run off water doesn't occur daily, yet the fee is monthly. There is weather statistics that would offer which and how many days a year (including melted snow days) that would be more indicative of the number of days per month/year this actually occurs. No one should pay for something on days that run off did not happen.

3) The amount of storm/run off water that occurs on each property is impossible to measure. Yet somehow the square footage of impervious surfaces at a property is made to be equivalent to the amount of water. Surface to run-off water don't correlate at all.

4) Since only driveways and parking lots would accumulate brake dust and oil from vehicles overlooks where the majority of these "pollutants" really does occur. It is on highways, streets, roads, parkways and alleys. More traffic occurs in one day here than all the residents' driveways and parking lots combined. And therefore the most accumulation of brake dust and oil will occur on property owned by either the state/city/town or county. Additional accumulation will be on sidewalks and berms where installed. Just the knowledge that the amount of "pollutants" that occurs at all residents, et al vs. state/city/town or counties hard surfaces is more than likely nominal, makes for charging a fee a farce. An overly exaggerated contribution from residents, et al. This is why the fee is not universal – no one is charging the state/city/town or counties' hard surfaces.

5) Fertilizer pollution that contributes to algae blooms in Lake Erie must be curbed. Ironically man cannot avoid using fertilizer; nothing will become green without it. Yet fertilizer (natural or man-made) is spread over land not hard surfaces. So I cannot imagine how fertilizer is picked up by run off water if the water doesn't flow over land? How can anyone be charged for a "polluted"

[natural or man-made] fertilizer that can only be found on land? Yet the fee is based upon hard surfaces. These premises do not correlate.

6) Meaning of waste water is not the same as storm water even with all the "pollutants" mentioned above by me. And the majority is natural (leaves, grass, branches, etc.) debris.

I will now address briefly what NEORSD and other entities said was the only effective means of managing storm water run off. Really. How about:

A) Providing a fleet of street cleaners running 24/7 over every inch of roadway. Where else can you attack directly where the major "polluting" sites are?

B) Install inside existing huge (man could walk up right in one) sewer drains skimmers to remove debris and oil. These would be placed at major sewer junctions and when skimmers become filled periodically pumped out.

C) Within existing streams/rivers make catch basins/dams to hold back high levels of storm/run off waters. Make the "holding area" right in the river/stream by digging it deeper vs. drilling underground "holding areas." While still providing a section for continued flow of water during "low flow".

D) And are we sure that the only vehicles contribute to "oil" pollution? Since asphalt is made of some type of oil base could this not be cause for its presence? For sure we know that pumps at gas stations are surrounded with cement not asphalt; because gas will dissolve asphalt. Check with experts and see if a better coating can be applied.

E) NEORSD is already charging sewer charges based on the amount of incoming metered water per occupant. They are required to have documentation on how much wastewater was sent to them to treat. Why are you now allowing them to not have the same requirements on run off water? If this is not possible to determine, then any other way will never be fair. It is not as if they will not get revenue. They can; it is called revenue bonds. Projects could have been paid for using bonds not fees.

F) No state/city/town/county building, sidewalk or roadway is being charged fees. Yet these as addressed above are the major contributing sites. Common sense tells me that it is not coming from the individual residents, et al. simple because of the hundreds of vehicles that travel over roadways vs. the nominal number on driveways as an example. Charge where the major "pollutants" are found.

Lastly, ever since this request for fees was established, I believe this also was not done according to proper protocol called voting. The public is affected and should be allowed to vote yes or no via RC 6119.17 and 6118.9. Do not defer

that the citizens' city representative [e.g. mayor] speaks for their citizens. All mayors will be biased as soon as they know that a revenue is coming covering their section of the sewer pipelines.

You need to stop anyone using broad basic terms that could mean anything once the law is passed. Case in point R.C. 6119.09 authorizes storm water fee. Because the charge imposed "for the use or service of a water resource project or any benefit conferred thereby." Again this is why the public needs to vote on this proposal from day one. They need to aware of and know exactly what this entry means.

In conclusion, if you are going to allow charging a fee for natural acts of nature why stop here. Why not include charging a fee for tapping into the sun's solar energy for every square foot of solar panel.

Based on these additional supportive common sense facts, I hope you affirm the 8 th Circuit Courts ruling.

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I certify that I sent copies to at least 8 counsels of record dated 11/12/13 via USA mail with pre-paid postage per clerks instructions. I hope I did not miss anyone as this is new to me.