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**VIA EMAIL ONLY**

TMDL Program  
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**Re: Comments on Ohio EPA's Draft Summary of Findings from the 2020-2021 Aquatic Life and Water Quality Survey of Ohio's Large Rivers**

Dear TMDL Coordinating Team:

The Association of Ohio Metropolitan Wastewater Agencies ("AOMWA") appreciates the opportunity to comment on Ohio EPA's Draft Summary of Findings from the 2020-2021 Aquatic Life and Water Quality Survey of Ohio's Large Rivers ("Draft Report"). AOMWA is a not-for-profit trade association that represents the interests of public wastewater agencies across the state of Ohio, serving more than 4 million Ohioans and successfully treating more than 320 billion gallons of wastewater each year.<sup>1</sup> AOMWA appreciates Ohio EPA's consideration of AOMWA's comments on the Draft Report.

AOMWA requests an opportunity to meet with the Agency to discuss the assessment process used to evaluate whether a river is impaired for nutrients. The Draft Report evaluates rivers using various numeric concentration criteria. It appears that the Agency has used a "weight of the evidence" approach, i.e., the Agency has considered multiple lines of evidence to determine whether a nutrient impairment is present. AOMWA supports a weight of the evidence approach and would like to confer with Ohio EPA to discuss the specific approach being used.

AOMWA has supported Ohio EPA's Nutrient Technical Advisory Group ("TAG") in its development of recommendations for a Stream Nutrient Assessment Procedure ("SNAP") to establish a weight of the evidence approach to nutrient water quality standards. The SNAP approach would (1) protect Ohio's watersheds from nutrient impairment; (2) restore impaired waters to their designated uses; and (3) establish implementation procedures and discharge limits that are effective in abating nutrient impairment as well as reasonable and equitable for regulated

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<sup>1</sup> AOMWA members include cities of Akron, Avon Lake, Bowling Green, Canton, Columbus, Dayton, Euclid, Fairfield, Hamilton, Lancaster, Lima, Lorain, Marysville, Middletown, Newark, Portsmouth, Solon, Springfield, Wadsworth, Warren, and Butler County, Greene County, Hamilton County, Montgomery County, Summit County, the Metropolitan Sewer District of Greater Cincinnati, the Northeast Ohio Regional Sewer District, and the Tri-Cities Regional Wastewater Authority.

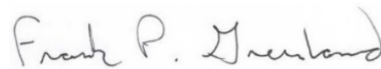
point sources, such as AOMWA's members. The SNAP was developed after an 18-month long stakeholder process and was the product of consensus between stakeholders and Ohio EPA. We believe that a meeting will provide an opportunity for the Agency to provide further details regarding its assessment methodology and an opportunity for improved stakeholder interaction and participation.

We also believe that some of the language within the Draft Report should be clarified to avoid any misinterpretation by third parties. For example, in Figure 4, the Agency explains that it has used a numeric concentration value to determine impairment status: "the red line in the total phosphorus plot is drawn at 0.13 mg/L and denotes excessive concentrations." Similarly, the Draft Report states that "[i]n general, phosphorus concentrations greater than 0.13 mg/L in large rivers are excessive and have the potential to cause over-enrichment." AOMWA's members are concerned that this language may be misinterpreted as setting a threshold concentration level, with water bodies that have total phosphorus concentrations above this threshold automatically considered as impaired and/or excessive, without consideration of additional lines of evidence.

Such a concentration threshold would need to be promulgated as required by Ohio law. In addition to rulemaking obligations set forth in the Ohio Revised Code for TMDLs, Ohio EPA has acknowledged that water quality standards themselves must be promulgated as rules pursuant to R.C. 119.03. *Fairfield Cty. Bd. of Comm'rs v. Nally*, 2015-Ohio-991, ¶ 37, 143 Ohio St. 3d 93, 102, 34 N.E.3d 873, 882. Any new assessment methodology must be promulgated as a rule through a separate comment period before it is used to assess the attainment status of a specific water body. By providing a separate notice and comment opportunity, the public has a meaningful and adequate opportunity to comment.

AOMWA appreciates Ohio EPA's consideration of these comments as it finalizes the Draft Report. Again, we believe it would be beneficial to schedule a meeting with Mr. Miltner and others at Ohio EPA to discuss the report and these questions and concerns. Should you have any questions, please contact Rees Alexander at [rees.alexander@squirepb.com](mailto:rees.alexander@squirepb.com) or (614) 365-2798. Thank you again for your attention to and consideration of these comments.

Sincerely,



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cc: (via email)  
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