



June 7, 2016

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Submitted via email to [pubcomment-ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov)

Re: *United States v. City of Akron, Ohio, et al., D.J. Ref. No. 90-5-1-1-3144/2*

The National Association of Clean Water Agencies (NACWA) is pleased to provide these comments in support of the First Amendment to Consent Decree (First Amendment) lodged on May 2, 2016 in *United States v. City of Akron* (N.D. Ohio, Civ. No. 5:09-cv-00272). NACWA is a national advocacy organization working on behalf of the nation's publicly owned wastewater and stormwater utilities, with nearly 300 municipal member agencies nationwide including the City of Akron. NACWA's members are true environmental leaders, working on the front lines every day to protect the environment and public health, improve water quality, and serve their communities.

NACWA commends Akron, the U.S. Department of Justice (DOJ), the U.S. Environmental Protection Agency (EPA), the State of Ohio, and Ohio EPA for negotiating a First Amendment that maximizes public health and environmental benefits and achieves compliance with the Clean Water Act (CWA) while also being responsive to the needs of Akron's citizens and ratepayers. The proposed Amendment provides a rational and responsible path forward that will allow Akron to make appropriate infrastructure investments while also ensuring the county's ratepayers receive meaningful water quality improvements in return. NACWA strongly encourages the District Court to approve the proposed First Amendment as presented by the parties that negotiated it.

Municipal wet weather consent decrees are complex agreements that take significant time, diligence and expertise to draft and implement. They are also very costly, often resulting in billions of dollars of infrastructure investment. These agreements are painstakingly negotiated, over a period of months or years, by federal and state government officials with knowledge in sewer overflow reduction, along with skilled local municipal representatives with detailed understanding of

their unique sewer system and overflow issues as well as their community's specific financial capability and economic concerns. Given the significant environmental and economic stakes involved in consent decree negotiations, it is critical that the resulting document appropriately balance needed environmental and public health improvements without requiring unnecessary expenditures of limited local ratepayer dollars. Given the ever changing landscape of technology, affordability, and sewer system understanding, the parties must also be given the necessary flexibility to modify provisions as appropriate to better achieve the goals of the decree.

Highly technical issues are tackled by the various government entities involved in consent decree negotiations, including complex engineering projects necessary to address overflow issues and the financial capability assessments required to evaluate implementation and timing of required overflow controls and infrastructure investments. The federal, state, and local experts involved in decree negotiations are best placed to address these challenging issues in the context of consent decree requirements. Federal District Courts have routinely acknowledged and deferred to the expertise involved in the negotiation process when approving proposed decrees. Indeed, nearly 100 of NACWA's public utility members around the country are under some form of consent decree related to sewer overflows, the vast majority of which have been approved by courts without significant change from the proposed agreement as negotiated by federal, state, and local officials.

NACWA supports Akron's commitment to the current Consent Decree, until the point that more cost-effective solutions are identified that provide equal or greater environmental benefit while providing local jobs and overall improved community value. The MOI and WPCS modification requests demonstrate a solid approach and application of cost-effective technical solutions that also provide environmental benefits equal to or better than the original Consent Decree projects. As a steward of its ratepayer dollars, the City is obligated to undertake the re-assessment of environmental and community benefits, and re-prioritization of project costs, and these modifications are consistent with that obligation and commitment. The overall impact to the community and the environment needs to be considered when evaluating Akron's investment in its environmental future, and the modification requests have less negative impact on the community and provide greater environmental benefit sooner than the original Consent Decree alternatives. These two modification requests demonstrate Akron's commitment to meeting its current obligations, at a significant cost savings for the community.

NACWA appreciates the opportunity to provide these comments on the proposed decree, and encourages its approval by the court as quickly as possible. If you have any questions about these comments or would like to discuss them further, please do not hesitate to contact me at <mailto:awaters@nacwa.org> or 202-833-9106.

Re: United States v. City of Akron, Ohio, et al., D.J. Ref. No. 90-5-1-1-3144/2

June 1, 2016

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Sincerely,

A handwritten signature in black ink, appearing to read 'Amanda J. Waters', with a long horizontal flourish extending to the right.

Amanda J. Waters  
General Counsel

c: Patrick Gsellman, AWR Program Manager, City of Akron, 166 S. High St., Room 701,  
Akron, OH 44308