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May 23, 2016

Assistant Attorney General  
U.S. DOJ – ENRD  
P.O. Box 7611  
Washington, D.C. 20044-7611

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

Assistant Attorney General:

This letter serves as Friends of the Crooked River support of the First Amendment to Consent Decree (First Amendment) with the United States District Court lodged on May 2, 2016.

FOCR, a non-profit 501(c)(3) organization, is dedicated to preserving and restoring the benefits of the Cuyahoga River. FOCR's mission is to increase public awareness of the vast recreational, cultural, historic and environmental resources of the Cuyahoga River; to expand general understanding of the policies and practices which degrade water quality and wildlife habitat in the watershed; and to promote responsible use of the river's resources.

Since FOCR was established in 1989, we have been recognized as a staunch advocate for water quality, both within the Cuyahoga River watershed and throughout the state of Ohio. We have played a critical role towards improving the water quality in the Cuyahoga River. In 2005, we developed a strategic plan to better integrate our efforts with the growing number of watershed-focused groups in the Cuyahoga basin. At that time, with the enthusiastic support of those groups, we decided to focus our efforts on the fishable, swimmable goals of the Clean Water Act as it relates to the Cuyahoga River. Much of our educational efforts since then have been associated with removing dams, eliminating the impacts of Combined Sewer Overflows, leading a multi-stakeholder group to establish a water trail and supporting public policies that advance the physical, chemical and biological integrity of the river.

Since 1998, FOCR has been a city-appointed member to advisory groups for every phase of the City of Akron's endeavors to correct the enormous impacts of the CSO problem. We have been thoroughly engaged in the process. Every step of the way, we sought clarification, challenged assertions and suggested alternatives. FOCR believes the health of the Cuyahoga River is dependent on the City's ability to develop and implement a CSO strategy that is protective of water quality and human health. As participants in the Integrated Stakeholder Group, we have been very positively impressed with the process. We have asked tough questions and received reasonable and comprehensive answers.

We are thoroughly satisfied that the Amendments offered here have been carefully evaluated by the City, its governing bodies and the Integrated Stakeholder Advisory Group. The Amendments follow a sequencing of actions already approved and in place. They provide as much or more environmental benefit as the original plan. And they are less expensive to rate payers who bear the burden of the enormous costs.

### Main Outfall Interceptor

We are very relieved that the City of Akron has found a way to convey the necessary 280 MGD to Akron's Water Reclamation Facility (WPCS) without building a parallel tunnel. The construction of such a tunnel would have further impacted the riparian corridor on the west bank of the river. Indeed, there is so little remaining space on the current interceptor's course that it is not immediately apparent where it could fit without very serious disruption to road, parks, trails, neighborhoods and businesses! As for river impact, such a parallel tunnel would have totally eliminated riparian forestation in some areas and require significant bank hardening in others.

Scientists practicing in all areas of stream study have long acknowledged the necessary role that in-stream and riparian habitat play in sustaining healthy aquatic communities. A second parallel tunnel would have functionally channelized our river in places, challenging the very water quality its construction was meant to correct.

In addition to the habitat benefits of eliminating the second tunnel, the proposed Amendment will have significant recreational benefits.

First, had the second tunnel been constructed, it would have required significant realignment to the Towpath Trail, a multipurpose trail enjoyed by our members and millions of other visitors to Cuyahoga Valley National Park (CVNP) and surrounding areas. About 40 of the trail's 100 miles travel along the Cuyahoga River. Twenty-two of those miles are in CVNP. The main outfall interceptor parallels about ten miles just upstream of CVNP. This section of the Towpath is managed by Summit Metro Parks. Had a second tunnel been built, the restructured interceptor would have dominated the Towpath experience for Summit Metro Parks users. And it would have provided a less-than-welcoming entrance to CVNP for visitors arriving from the south.

Parks other than CVNP will be affected. There are many parks, managed by Summit Metro Parks and the City of Akron, along the existing tunnel. The landscapes of these parks would be extensively harmed by a second tunnel's construction. Over the last several decades, Summit Metro Parks and the City of Akron have worked diligently to protect the habitats along the Little Cuyahoga River and the main stem of the Cuyahoga by expanding and beautifying parks there. Citizens, as well as wildlife have benefited from this effort. In addition to trails, which offer needed health benefits in this era of obesity and other inactivity-related diseases, these parks provide a peaceful relief from the urban environment and an opportunity for citizens to connect to their cultural and natural heritage. Had a second tunnel been necessary, damage to these parks would have been substantial and unnecessary investment would have been required to remedy the injury.

With the improvement of water quality, the numbers of people who paddle the Cuyahoga River have exploded. FOCR has supported this wonderful growth by chairing an effort to establish a 100-mile water trail along the Cuyahoga. We are 50% completed. A team of twenty-five stakeholders is involved. The deletion of the second tunnel advances the goals of the Cuyahoga River Water Trail by preserving riparian protection and aesthetics.

A second tunnel would have lessened the aesthetic enjoyment to paddlers as well as Towpath users. In addition, the Amendment lessens the construction calendar. Therefore, recreationalists using the Towpath and paddling the river will experience less disruption to their adventures.

Parks provide important protection to rivers. Park users provide river champions. This Amendment supports both the parks and their users that currently coexist with the interceptor.

Water Reclamation Facility (WPCS)

We support the Amendment to modify the sequencing and expansion of secondary treatment at the Water Reclamation Facility (WPCS). This modification expands the existing biological secondary treatment capacity from 130 MGD to 220 MGD, and provides much greater environmental protection than the original plan, which proposed a final biological secondary treatment capacity of 170 MGD.

The re-sequencing of this project will eliminate bypasses as of 2019 instead of 2021 as defined in the original Consent Decree. This Amendment will significantly improve water quality downstream of the treatment a full two years and 8 months ahead of the original plan, providing the River, its wildlife and recreational users a cleaner, healthier environment.

This gives particular benefit to CVNP. Currently, the Park is implementing a 5-year strategic plan that focuses on the Cuyahoga River and its water recreation.

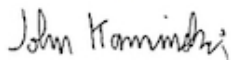
Since 2006 when the City of Akron built the Cuyahoga Street Storage Facility which captured 35% of all CSO discharges within Akron's sewer-shed, water quality has improved to the point that paddlers are more confident in water quality and the numbers of them using the Cuyahoga River have swelled.

After years of study, in 2009, CVNP in conjunction with USGS established a statistical model that could forecast real-time bacteria levels. Information is published on NOW Cast <http://www.ohionowcast.info> a website that provides information on bacteria levels. Paddlers and other users can use this site when deciding if they wish to enter the water under existing conditions. The data shows that the river meets primary contact recreational use designation the vast majority of time during the recreational season. This is good news for the park's strategic plan.

This Amendment is even better news to the plan. By eliminating secondary bypasses nearly three full years ahead of schedule, fish and fowl and folks alike will enjoy a cleaner, healthier river.

In summary, we believe the proposed Amendments are more protective of the river's habitat and water quality. They better accommodate recreational use of the River and its associated parks. They are less costly. We wholeheartedly support them. We encourage all parties to agree to the Amendments submitted by the City of Akron. We pray that the court will sign it in a timely manner so that construction can begin according to the 2017 schedule.

Sincerely,



John Kaminski,  
President



Elaine Marsh  
Conservation Chairman / Member of the  
IP Stakeholder Advisory Group