October 22, 2015

Tinka Hyde Director, Water Division United States Environmental Protection Agency Region 5 77 West Jackson Blvd. Chicago, IL 60604

Subject: Objection to U.S. Environmental Protection Agency Determination regarding Ohio Environmental Protection Agency's 2014 303(d) List

Dear Ms. Hyde,

The problems associated with harmful algal blooms in Lake Erie require strong – and urgent – action from the U.S. Environmental Protection Agency. We therefore find EPA's deferral of a decision to declare the waters of the western basin (watershed) of Lake Erie 'Impaired' from nutrients "whether waters beyond the shoreline of the Western Basin of Lake Erie should be on Ohio's Section 303(d) list" to be improper.

In deciding to defer declaring the western Lake Erie basin 'Impaired' from nutrients --more than one year after the statutory deadline for approving or disapproving the list outright --EPA has failed in its duty to protect Lake Erie and the people and wildlife which depend upon it.

Deferring an 'Impairment' decision while Lake Erie is experiencing one of the largest harmful algal blooms on record is particularly disappointing.

EPA's deferral is inconsistent with its past acknowledgement both of the problem caused by algal blooms and the appropriateness of designating the open waters of the western basin of Lake Erie as 'Impaired'. In a letter sent to the state of Ohio more than one year ago, EPA explained that "the data summarized in Ohio's 2014 IR [List] and other readily available data" indicate that "the open waters of the Western Basin [of Lake Erie] beyond the defined shoreline area should be listed as 'Impaired' for PDWS [public drinking waters supply]" for microcystin levels in drinking water intakes. Harmful algal blooms produce unsafe levels of microcystin, found throughout the western Lake Erie basin, that not only threaten people's drinking water, but also Lake Erie's \$12.9 billion dollar recreation and tourism economy in Ohio. Additionally, microcystin interferes with the lake's ecology while harming game fish and other wildlife.

Waiting yet even longer for the designation of declaring the western basin of Lake Erie 'Impaired' on Ohio's next 303(d) list, as EPA has proposed, is unacceptable. The harmful algal bloom-microcystin threat to public health and the western basin of Lake Erie is clear and present. "Health effects from exposure could include numbness, dizziness, nausea, vomiting, abnormal liver function, skin irritation or rashes. In early August 2014, the City of Toledo advised residents not to use the water for more than two days due to elevated levels of microcystin in the

¹ Letter from Tinka G. Hyde, Director, Water Division, EPA Region 5, to Brian Hall, Assistant Chief, Division of Surface Water, Ohio Environmental Protection Agency, at 1 (Apr. 15, 2014).

treated drinking water." EPA's recommended health advisory values are 0.3 micrograms per liter for microcystin and 0.7 micrograms per liter for cylindrospermopsin for children younger than school age³.

EPA's failure to declare the western Lake Erie basin 'Impaired' from nutrients delays the Total Maximum Daily Load (TMDL) assessment and resultant implementation plan, aggravating the pollution plaguing the western basin of Lake Erie. Adding the open waters of the western basin of Lake Erie to the 303(d) list would trigger actions that would begin to address the problem and lead eventually to a restoration of the water quality to acceptable standards. Moreover, a listing would provide legally enforceable mechanisms that transcend political administrations. We urge US EPA to reconsider its decision, disapprove Ohio EPA's decision not to declare the open waters of the western basin of Lake Erie 'Impaired' from nutrients on the 303(d) list, and develop a TMDL on nutrients for these waters.

Sincerely,

Frank Szollosi Ivan J Hack, Jr.

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Captain Paul Pachowski President Lake Erie Charter Boat Association

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² Ohio EPA, Divisions of Drinking and Ground Waters, Surface Water, and Environmental and Financial Assistance at 1 (Aug. 2014), www.epa.ohio.gov/Portals/47/media/HABfundFSAug14.pdf.

³ U.S. EPA's May 6, 2015 release, "EPA Issues Health Advisories to Protect Americans from Algal Toxins in Drinking Water".

cc:

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