

Comments on draft permit  
Facility: Plain City WWTP  
Permit #: 4PB00016\*JD

July 18, 2022

Anthony Sasson  
Darby Creek Association  
8351 Patterson Road  
Hilliard, Ohio 43026

Ohio EPA:

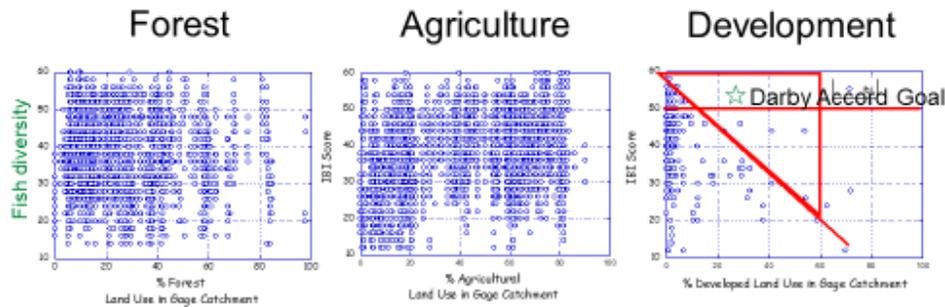
Thank you for holding the public hearing of July 11, 2022, on the draft permit for an expansion of the Plain City Wastewater Treatment Plant. These comments support and supplement the comments I provided on July 11 at that hearing.

We appreciate the opportunity to comment, considering the long-term and ongoing effort to restore and protect Big Darby Creek and the risk this application and related stresses present to the aquatic integrity of the creek.

I am submitting these comments as a member of the Darby Creek Association (DCA). Today is the 50th anniversary of DCA's incorporation. This organization was formed in opposition to two dams proposed on Big Darby Creek downstream of Plain City. These dams were defeated because of public opposition, recognizing Big Darby Creek as the last stream in central Ohio without a major dam. This call for protection was especially successful because of the recognized fish and mussel diversity of Big Darby Creek, which led to National Scenic River status and Outstanding State Waters antidegradation status. One of these dams would have backed up water to near the southern village limits of Plain City, making this permit application a much less likely proposal.

Even though that major dam was never built, we are still seeing less biological diversity in the potentially impacted segment downstream of Plain City. Certain fish are missing and recognized as such in Ohio EPA's 2018 report, as are species of mussels listed by the federal government as endangered. Beyond the wastewater discharge itself, the development and impervious surface allowed by the permit would have impacts that are very unlikely to be overcome or reversed. Negative impacts of development have been well-documented in Ohio, and it does not take much development to have detrimental impacts on stream biodiversity – see the graphs below based on Ohio EPA data comparing forest, agriculture, and development land uses. In addition, note that the rare federally listed mussel species no longer survive in other areas of central Ohio. To restore and protect Big Darby Creek, we continue to urge the Ohio EPA and Plain City to look far beyond compliance with the proposed wastewater permit and basic compliance with the watershed's stormwater permit and accompanying administrative actions. Due to the lack of on-the-ground evidence of success in other comparable situations, we are concerned that this is an experiment without a control. We do not believe that adequate protection has been demonstrated. This is especially concerning because of the relatively high percentage that this WWTP's discharge will be, compared to Big Darby's low flows, and to the proximity of the new development associated with this permit to Big Darby.

**How do agriculture impacts generally compare to development?  
Is natural area effective at counteracting development impacts?**



**Fish Diversity vs. Land Use in Ohio:  
Ag scores far better than urban**

Source: MBI

**Urban impact is additive (not  
mitigated or “cancelled out” by  
natural area);  
Decline is very likely in urban areas**

Figure 1 These graphs show the decline in Ohio stream health related to development as illustrated using Ohio EPA data.

While we appreciate the Ohio EPA Response to Comments of May 2022 provided subsequent to the 2021 public hearing and comment period, DCA members and others continue to remain skeptical of the adequacy of what is proposed in the draft permit and accompanying administrative actions. There is great concern about the long-term, cumulative impacts that this permit, accompanying additional stormwater, and possible subsequent additional wastewater and stormwater from impervious surfaces, will have on the biological diversity of Big Darby Creek. This is especially concerning because of the combination of the direct discharge increase to Big Darby Creek, its dominance during low flows (“82% as effluent under a proposed 1.50 MGD interim design flow”),<sup>1</sup> and the potential for thousands of acres discharging stormwater into and miles of development along Big Darby Creek. We believe that the Agency’s responses did not adequately address the rare species and antidegradation, especially from the combination of stresses present or anticipated.

As background and evidence on the discrepancy between use attainment and protection of rare species, especially mussels, please note that some federally listed rare mussel species, such as the federally endangered northern riffleshell mussel (*Epioblasma rangiana*), were distributed across central Ohio’s Scioto River and tributaries as late as the mid-20<sup>th</sup> century (Price 1940). Despite extensive gains in wastewater treatment, these species are now absent, except for in Big and Little Darby Creeks. In the Little Miami River, Hoggarth (2020) reported that “both federally endangered species found in 1990 in the mainstem have been lost (*V. fabalis*, and *E. triquetra*)” and that the number of extant mussel species has been reduced from 32 in 1990-91 to 22 by 2020 (Hoggarth 2020). Even the numbers of each species he recorded were notably lower. Please keep in mind that Ohio EPA generally considers the Little Miami

<sup>1</sup> “82% as effluent under a proposed 1.50 MGD interim design flow” See page 4: Midwest Biodiversity Institute (MBI). 2022. Ecological Risk Assessment of the Proposed Expanded Effluent Discharge from the Plain City WWTP. Technical Report MBI/2022-7-8. Columbus, OH 43221-0651. 28 pp. + appendices. (“MBI 2022 assessment”)

River mainstem to be attaining Exceptional Warmwater Habitat (Ohio EPA 2010). Use attainment has not been protective of the Little Miami River mussel community.

I encourage the Ohio EPA to modify this proposed permit to better address the adequacy of protection and fully meet the intent of the Clean Water Act's antidegradation component and preserve the factors related to establishment of the Creek's Scenic River designation. Also, please consider the points of other DCA members, MBI and others. This protection must ensure that, beyond meeting the use designation established under the Clean Water Act, the combination of wastewater and stormwater management fully meet the intent of the Act's antidegradation component and support the perpetuation of rare species. Again, we do not believe that has been demonstrated, including in Ohio EPA's May 2022 Response to Comments for the draft permit.

A demonstration that would ensure perpetuation of rare and sensitive species needs to be done now, and not after a permit is issued.

I provide the following comments summary, followed by full comments.

**Summary:**

1. Analyze and establish a capacity threshold - As a condition of this permit, Plain City, with Ohio EPA and public review, need to determine the threshold for the amount and general location of development, combined with wastewater assessment, that would ensure the restoration and permanent protection of Big Darby Creek's rare and sensitive species of fish and mussels.
2. We strongly encourage a Clean Water Act Section 208 plan be done now.
3. Margin of Safety (MOS) – A sufficiently protective, more conservative MOS must be established and emphasized even more because this discharge is to a high quality water with attributes, i.e., species presence, that are not necessarily protected by Water Quality Standards including Exceptional Warmwater Habitat criteria.
4. Include the combination of wastewater and stormwater impacts - The Ohio EPA needs to adequately include and consider the combined impacts of wastewater and stormwater on Big Darby Creek and demonstrate that what is in place and proposed is adequate for restoration and protection needed before a permit is issued.
5. Limited conservation land - Any plan needs to ensure much more land conservation to be effective.
6. Wastewater plant (WWTP) performance and limits - Historically, Plain City's wastewater plant performance has degraded the biota of Big Darby Creek. We remain very concerned about facility aging and the long-term consequences of decline in treatment performance.
7. Ammonia limits based on US EPA recommendations - We ask that Ohio EPA ensure that the ammonia limits in the permit are no less stringent than that recommended by US EPA in 2013.
8. Ammonia monitoring frequency - We request that the draft permit be revised and require increased and adequate ambient monitoring frequency for total ammonia. The proposed permit requires monitoring of ammonia at an inadequate frequency.
9. Permit limit for nitrate - The permit needs to establish a permit limit for nitrate, with adequate monitoring downstream.
10. Instream biological monitoring - The permit should include a requirement for regular instream biological monitoring (fish, macroinvertebrates, and mussels) downstream and upstream of Plain City and the wastewater treatment plant.

11. US EPA, US Fish and Wildlife Service, NPS review and consultation – We are aware that federal agencies, including the US EPA Region 5 office and the US Fish and Wildlife Service, Ohio Field Office, will need to review and make recommendations on this draft permit. We strongly encourage their thorough review, especially concerning the assurance of protection of rare mussel species.
12. MBI 2022 assessment – Along with its comments on this application, the Darby Creek Association recently received an assessment conducted by the Midwest Biodiversity Institute (MBI) (“MBI 2022 assessment”) (MBI 2022). Please see comments submitted by John Tetzloff of the Darby Creek Association for this assessment. We ask that Ohio EPA thoroughly review and consider the recommendations in this assessment.

Sincerely,

A large, bold, handwritten 'X' mark is positioned above a horizontal line that serves as a signature separator.

Anthony Sasson

Anthony Sasson  
Darby Creek Association  
8351 Patterson Road  
Hilliard, Ohio 43026  
614 519-9291

cc:

David Brumbaugh, DSW  
Mike Gallaway, CDO/DSW  
Ashley Ward, DSW  
Jeremy Applegate, US FWS  
Bob Gable, ODNR  
Debbie Baltazar, US EPA  
Stephen Jann, US EPA  
Ed Hammer, US EPA

**Full comments:**

1. **Analyze and establish a capacity threshold** - As a condition of this permit, Plain City, with Ohio EPA and public review, need to determine the threshold for the amount and general location of development, combined with wastewater assessment, that would ensure the restoration and permanent protection of Big Darby Creek's rare and sensitive species of fish and mussels. This does not exist in the application or the Plain City Comprehensive Plan. This would establish a threshold related to development that could be demonstrated, through biological data, modeling and comparisons among subwatersheds and stream segments based on stream biology, to safely meet the goals of restoring and protecting the creek's biodiversity and rare and missing species. The Ohio EPA stormwater permit and Plain City Comprehensive Plan are administrative actions and do not constitute a demonstration of protection. Such a demonstration would ensure perpetuation of rare and sensitive species. A demonstration needs to be done now, and not after a permit is issued. Otherwise, this is an experiment without a control, and undesirable outcomes are a significant risk and are highly unlikely to be reversible.
2. **208 plan** - The permit application received by Ohio EPA, includes reference to a large area referred to as included in a "208 plan," covering an area extending to Franklin County to the south and east and to Price Hilliards Road to the south. While we do not believe this constitutes a Section 208 plan, prior to any expansion, and to avoid irreversible stresses, we strongly encourage a Section 208 plan be done now. Ohio EPA should take the lead on such planning now, before this permit is issued.

We believe the section in the Plain City August 2021 permit application appears to be at least part of a Section 201 Facilities Plan. We strongly encourage Ohio EPA to take responsibility for Section 208/Water Quality Management Plan now for the central Scioto watershed. In its Response to Comments, Ohio EPA stated the Agency "agrees that the 208 Plan would need revised prior to any additional expansions." To avoid irreversible losses related to the draft permit under consideration, we strongly encourage this be done now. Ohio EPA should take the lead on planning now, and not only as an interested party but a leader of such an effort.

Please see my comments on the need for a 208 plan submitted to Ohio EPA on November 15, 2021, concerning the need for a 208 plan (attached), as well of those of Bill Schumacher, dated November 15, 2021, and his July 11, 2022, public hearing comments. Also, see DCA president John Tetzloff's letter of March 10, 2021, to Director Stevenson, and his comments on this topic submitted in response to this draft permit.

To add to the points above, we note that included with the NPDES permit application received by Ohio EPA on August 17, 2021, there is an extensive area proposed to be included in "Figure A - Proposed Facility Planning Area." The area covered generally includes present Plain City and east and south to Franklin County and south to Price Hilliards Road. This includes an area along Big Darby Creek from about River Mile 55 (upstream of US 42) and about eight miles downstream to about River Mile 47 (Price Hilliards Road). This map is in the "Village of Plain City, Ohio Water & Wastewater Feasibility Study Update" (dated August 12, 2021) section of the

August 17, 2021, NPDES permit application. We note that this implies a significant expansion in development and impervious surfaces and also appears it would have to include wastewater treatment capacity well beyond 1.5 mgd. Ohio EPA also received and reviewed the “Village of Plain City, Ohio Wastewater Treatment Plant 208 Facilities Plan” (Plain City 208 plan) dated May 20, 2020. That document showed the same “Facility Planning Area” in Figure 4-1. Our understanding is that Ohio EPA responded to that submittal on May 24, 2021.

3. **Margin of Safety (MOS)** – A sufficiently protective, more conservative MOS must be established and emphasized even more because this discharge is to a high quality water with attributes, i.e., species presence, that are not necessarily protected by Water Quality Standards including Exceptional Warmwater Habitat criteria.

A sufficiently protective margin of safety was called for in previous comments. There was not a specific response to this issue in the Ohio EPA May 2022 Response to Comments. A more conservative MOS than what would be applied in general is necessary to protect multiple rare and sensitive species, such as the listed mussels that previously were present downstream of Plain City and sensitive fish species identified in the MBI 2022 assessment. Missing fish species also were identified in Ohio EPA’s 2018 report.<sup>2</sup> A margin of safety must not be under-protective. Because this discharge is to a high quality water with attributes that are not necessarily protected by Water Quality Standards including Exceptional Warmwater Habitat criteria, the margin of safety must be emphasized even more. This is due to uncertainties involved the increase in the volume of wastewater, its dominance during low flows, potential excursions beyond permitted limits, and consequent increases in stormwater runoff and risk to those high quality attributes, which are naturally more sensitive. We understand that Ohio EPA must establish a margin of safety, but the Agency must determine and ensure the margin of safety used in this draft permit will be protective of the rare and sensitive species that distinguish Big Darby Creek. The presence, or expected presence, of these rare species are beyond meeting the EWH use attainment. There is a lack of knowledge about adequate protection, and we refer you to U.S. EPA rules, 40 CFR Section 130.7 (c)(1), and to the “margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality.”

Note that while the July 11 Ohio EPA presentation stated that “mussels have historically been observed,” please be aware their presence is current; clubshell (*Pleurobema clava*), northern riffleshell (*Epioblasma rangiana*) and snuffbox (*Epioblasma triquetra*) (photo below), all federal listed species, are found in Big Darby Creek in Prairie Oaks Metro Park downstream of Plain City (2008-2015 *P. clava* and *E. rangiana* translocation project of The Ohio State University et al.; 2017 survey by G. Thomas Watters, OSU Museum of Biological Diversity). About 10,000 individual *P. clava* and *E. rangiana* were translocated to Big Darby Creek in this project. Also note that two federally listed mussel species, clubshell and rayed bean (*Villosa fabalis*) were recorded by Michael Hoggarth<sup>3</sup> in a survey for ODOT near the US 42 bridge, upstream of Plain

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<sup>2</sup> Ohio EPA. 2018. Biological and Water Quality Study of the Big Darby Creek Watershed, 2014. Logan, Champaign, Union, Madison, Franklin, and Pickaway Counties, Ohio. EAS/2015-06-04.  
[https://epa.ohio.gov/static/Portals/35/documents/BigDarby\\_2014\\_BWQR\\_Final.pdf](https://epa.ohio.gov/static/Portals/35/documents/BigDarby_2014_BWQR_Final.pdf)

<sup>3</sup> Hoggarth, M.A. 2006. Report on a mussel survey and relocation for UNI 42-1.49 (PID 13500), Big Darby Creek. For TranSystems Corporation, Cleveland, Ohio. 12 pp.

City. Watters and Flaute recorded *E. rangiana*, *E. triquetra* and *P. clava* in Big Darby Creek.<sup>4</sup> Among others, additional records are in The Ohio State University Museum of Biological Diversity database.<sup>5</sup>



Figure 2 Snuffbox (*Epioblasma triquetra*), Big Darby Creek RM 42, Prairie Oaks Metro Park, February 2017. This is possibly a lingering victim (along with many others at this and other sites) of the mussel dieoff discovered in October 2016.

4. **Include the combination of wastewater and stormwater impacts** - The Ohio EPA needs to adequately include and consider the combined impacts of wastewater and stormwater on Big Darby Creek and demonstrate that what is in place and proposed is adequate for restoration and protection needed before a permit is issued. We are not aware of stream segments in central Ohio that have demonstrated outstanding biodiversity, especially strong communities of rare and sensitive species, at the level of potential development that this permit's increases will allow. Potential subsequent increases are a further concern. That's especially true for streams of this size, and where effluent will dominate the Creek's flow at low flows, comprising most of the flow.<sup>6</sup> While biodiverse for its size, the Big Darby Creek in this area is a relatively small stream and therefore more readily subject to degradation from multiple stresses. Again, we ask for this comprehensive analysis that must demonstrate adequacy.

We note that in the May 2022 Response to Comments, such as Response 1, 2 and 10, that Ohio EPA is citing the existence of the wastewater permit, stormwater permit and Plain City Comprehensive Plan (among others) as evidence of aquatic resource protection. While these are appreciated, they are not evidence of successful conservation of aquatic resources, especially not assuring or documenting antidegradation and rare species protection. These are administrative indicators, an early step in the environmental indicator hierarchy<sup>7</sup>, not evidence

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<sup>4</sup> Watters, G. T. and C. J. M. Flaute. 2004. Trends in Freshwater Mussel Populations in the Big Darby Creek and Grand River Systems (OH): A GIS Approach. Part 1. The Big Darby Creek System. Department of Evolution, Ecology and Organismal Biology, The Ohio State University.

<sup>5</sup> Collection Databases, Bivalve Collection <https://mbd.osu.edu/collections/mollusk-division/collection-databases>

<sup>6</sup> MBI. 2022.

<sup>7</sup> e.g., see Foreword, "Hierarchy of Indicators, page xi in: Ohio EPA 2004. Biological and Water Quality Study of the Big Darby Creek Watershed, 2001/2002. Logan, Champaign, Union, Madison, Franklin and Pickaway Counties, Ohio. EAS/2004-6-3.

of the biological response and rare aquatic life perpetuation. They might be “careful management,” but not assure adequacy for species protection. They focus on selected parameters and loadings, but we need to much more directly address aquatic life use attainment, species presence and survival, and population viability, and assure antidegradation and rare species protection. Administrative activity measures (permits, rules, ordinances, plans) should not assume biological outcomes and is not a demonstration or evidence of these outcomes. If the administrative activities are adequate and implemented, these measures may lead to a biological response confirming aquatic community and rare and sensitive species restoration and perpetual protection. We do not believe these administrative actions in this case have demonstrated or assured adequacy. Water quality, antidegradation and rare and sensitive species protection need to more directly measured instream, demonstrating attainment and antidegradation, with comparisons to comparable situations where it is shown that attainment, antidegradation and rare and sensitive species protection are all maintained.

Ohio EPA’s Response 15 refers the reader to Response 4, and also states “Because pollutant loadings are being capped resulting in concentration limits being reduced, it is not anticipated that there will be an impact on threatened and endangered mussels.” We do not see a demonstration that because the loadings are capped that rare mussel species are protected. As they have declined and tend not to be present downstream if Plain City’s WWTP (e.g., *P. clava* and *E. rangiana*), such species have not been protected at the present loadings. While pollutant loadings are a step closer to environmental outcomes, they are not a demonstration of such.

Precautionary measures including a comprehensive plan and analysis addressing the combination of stresses and sources, and that demonstrate biological outcome adequacy (including rare species protection), are needed before a permit is issued and irreversible stresses are added.

5. **Limited conservation land** - We believe that Plain City’s Comprehensive Plan shows or ensures very limited existing or proposed land conservation beyond that required by the Ohio EPA’s Big Darby Creek watershed stormwater permit. This reduces the ecological resiliency value of the stream habitat downstream of Plain City’s WWTP and stormwater impacts from development adjacent to and near the Creek. Therefore, a 208 plan is needed to better examine, plan, and support the need to establish adequately protective wastewater and resultant development measures, including through an analysis that demonstrates biological outcome adequacy (i.e., rare species protection).

Any plan needs to ensure much more land conservation to be effective. Given the immediate development that would be enabled by this permit and its proximity to Big Darby Creek, plus the extensive development that might follow later, we do not believe these limited plans are

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Yoder, C.O. and E.T. Rankin. 1998. The role of biological indicators in a state water quality management process. *Environmental Monitoring and Assessment* 51 (1-2): 61-88.

Yoder, C. O., and DeShon, J. E. 2003. Using biological response signatures within a framework of multiple indicators to assess and diagnose causes and sources of impairments to aquatic assemblages in selected Ohio rivers and streams. *Biological response signatures: indicator patterns using aquatic communities*, T. P. Simon, ed., CRC Press, Boca Raton, FL., 23-81.

Karr, J.R. and C.O. Yoder. 2004. Biological assessment and criteria improve TMDL planning and decision-making. *Journal of Environmental Engineering* 130(6): 594-604.

adequately protective to ensure perpetuation of rare and sensitive species. Variances from ordinances and ineffective mitigation permit standards may be too frequent; we have seen recent Plain City developments with limited or apparently no conservation land along Big Darby Creek. For example, the proposed “The Run at Hofbauer Preserve” has a proposed variance with stormwater management reducing the riparian setback. Related to the assurance of meeting the threshold referred to above, we believe that effective and adequate land conservation is needed significantly beyond that required by the stormwater permit, and that the amount needs to be determined and demonstrated through a biological analysis that is comprehensive and adequate.

We believe the “Planned Land Use” map, such as on page 113 in the 2018 Plain City Comprehensive Plan, overstates the area available for effective conservation land. Please note that much land downstream of Plain City that is within the riparian setback is already “spoken for,” i.e., it is quarried (with levees bordering the creek and creating detrimental hydraulic impacts for the stream channel, streambanks and floodplain) or already privately developed and not available for effective conservation (e.g., see photos below). Beyond these present limitations, everyone also should be aware of economic pressure created by the wastewater treatment capacity expansion that undoubtedly will raise the cost of conservation land and further discourage or limit its acquisition. We are well aware of this in Franklin County in the Big Darby Accord area, where conservation land acquisition has drastically slowed and practically stopped. We are not aware of significant conservation land acquisition in recent years. The exact reasons are unknown but might be due to competition from development buyers with sellers weighing their options.



Figure 3 Big Darby Creek RM 48, downstream of Amity Pike, riparian condition, 2022



Figure 4 Big Darby Creek riparian land downstream of Plain City, 2018. Note lack of tree shading and other positive ecological and stream habitat features of native riparian vegetation.

Given that Plain City is a small local government with limited resources, we believe it will be a challenge to implement such a large conservation and protection program and manage it, at least for the immediate future. We, of course, are not against any such program, but we recognize the massive increase in the scale of a program that would need to acquire such large amounts of conservation land in such a short time. Reliance on developers to set aside land as part of stormwater permits will not be adequate, as, again, this is a very limited amount. It would tend to include areas like floodplain land that cannot be developed, so there would be little net conservation land gain, and limited change from the present condition.

Comment 11 of Ohio EPA's May 2022 Response to Comments referred to levees in this section of Big Darby Creek. Ohio EPA's Response 11 stated: "It is not anticipated that the proposed expansion would result in habitat alterations that would cause a loss of use." This might be true for fish and fish habitat, but that was not the point of the comment. The levees create hydraulic impacts as discussed above, causing impacts such as erosion and continual sediment delivery to the creek. They also create unstable conditions along channels and eliminate more stable floodplains that would otherwise allow for more beneficial habitat for mussels. Response 11 referred to "concerns about flooding." The comments were addressing altered floodplain habitat and its consequent degradation of mussel habitat, not flooding.



Figure 5 Big Darby Creek at Plain City showing recent developments (left) and active quarry (upper right). The quarry levee along Big Darby Creek eliminates a considerable amount of floodplain and consequently forces the Creek's flow to the west (left of photo), where it is bounded by a road and regularly scours the bank. See photo below of bank scouring.



Figure 6 Scouring of west bank of Big Darby Creek near quarry shown in the figure above, at Plain City, 2022. This is across the creek from the quarry's levee.

- 6. Wastewater plant (WWTP) performance and limits** - Historically, Plain City's wastewater plant performance has degraded the biota of Big Darby Creek. Many recent violations have been recorded (see pages 10-11 of the MBI 2022 assessment). We remain very concerned about facility aging and the long-term consequences of decline in treatment performance. Data show that species are missing in this segment of Big Darby. For example, distribution maps for the federal endangered mussel clubshell (*Pleurobema clava*) show that the segment downstream of Plain City has been and is missing this species (Watters et al 2009). We recognize that Madison County now has responsibility for WWTP operations but remain very concerned about facility aging and the long-term consequences of decline in treatment performance, short-term excursions above safe levels that might affect sensitive species, as well as the impacts of unregulated pollutants such as nitrates and contaminants of emerging concern (CECs).

Ohio EPA's May 2022 Response to Comments states: "Ohio EPA has evaluated available literature on pharmaceuticals and personal care products and has determined that those pollutants would likely have a negligible impact on biology." We especially remain concerned about the potential impact on mussels, and are concerned that has not been adequately evaluated, especially given the long-term and recent absence of rare species of mussels downstream of Plain City's WWTP. See references cited related to complex mixtures of contaminants in the MBI 2022 assessment (e.g., pages 8-9) submitted by the Darby Creek Association as part of their comments on this application. Please specify the references Ohio EPA used to determine that these pollutants would not affect mussel reproduction.

In response to Comment 6 of the May 2022 Response to Comments, which stated "Ensure that Big Darby Creek will be restored, such as through a determination that water quality will allow the return to this segment of Big Darby Creek of rare and sensitive species of mussels and fish,"

Ohio EPA responded “A detailed antidegradation analysis was conducted and loadings of regulated pollutants are proposed to be capped, resulting in concentration limits being reduced in the draft NPDES permit to levels lower than what would be calculated using typical modeling procedures.” Specifically, this analysis needs to show and permit limits and other measures (e.g., stormwater control, conservation land) are shown to be protective of rare mussel species.

Concerning a related point, attaining a Clean Water Act use designation is not an assurance that the Big Darby Creek’s federally listed mussel species are protected. Ohio EPA’s May 2022 Response 3 states: “Ohio EPA does not anticipate that the expanded discharge of wastewater would have a negative impact on the wildlife or threatened and endangered species in the Big Darby Creek” and “Since the Big Darby Creek is attaining the Exceptional Warmwater Habitat designation under Plain City’s existing pollutant load, capping the load is protective of the aquatic life use designation.” Meeting the use designation is not an assurance that rare species are protected. For example, a use designation, including Exceptional Warmwater Habitat, could be met without protecting any rare mussel species, including those species that have existed in this section of Big Darby Creek.

Concerning Pharmaceuticals and Personal Care Products (PPCPs) of Contaminants of Emerging Concern (CECs), Response 7 of the May 2022 Response to Comments stated, “Ohio EPA has evaluated available literature on pharmaceuticals and personal care products and has determined that those pollutants would likely have a negligible impact on biology.” Please provide the citations to these references that demonstrate “negligible impact” on mussels, including rare species.

7. **Ammonia limits based on US EPA recommendations** - We ask that Ohio EPA ensure that the ammonia limits in the permit are no less stringent than that recommended by US EPA in 2013. If the permit limits are at least this stringent, please explain the limits’ determination for this draft permit. Please provide the design pH and temperatures that were used for the ammonia limits in the draft permit, and explain the ammonia limits’ determinations. Although we do not have a species-specific analysis, we assume this more stringent limit is necessary for the protection of mussel species, and, again, we are concerned about the restoration and protection of the rare species, which can be even more sensitive than species used in analyses such as US EPA’s 2013 recommendations. Please see the MBI assessment document and its recommendations that are being submitted by DCA on this issue and others (e.g., monitoring, nitrates, etc.).
8. **Ammonia monitoring frequency** - We request that the draft permit be revised and require increased and adequate ambient monitoring frequency for total ammonia. The proposed permit requires monitoring of ammonia at an inadequate frequency, likely to miss critical harmful ammonia levels that affect mussels. The Ohio EPA permit should require much more frequent monitoring of ammonia, especially in-stream, and much more than the once per quarter in the draft permit. This monitoring frequency should be set based on low flow levels and temperatures, and be far more frequent than monthly, perhaps daily, at the most critical low flow and temperature conditions. For low flows, we suggest 30 cfs or less at the Darbyville USGS gage. We note the absence of mussels downstream of Plain City’s WWTP, such as recorded in for clubshell, *P. clava*, in Watters et al (2009), Fig. 146, pg. 224.
9. **Permit limit for nitrate** - The permit needs to establish a permit limit for nitrate, with adequate monitoring downstream. The limits should protect against 1) eutrophication and 2) any impacts

on mussels from any type of nitrate stress, such as potentially toxic and reproductive effects on mussels, not only eutrophication. For example, Moore and Bringolf (2018) stated that “Nitrate may adversely affect freshwater mussel populations.”

The Ohio EPA permit should require frequent monitoring, especially in-stream, and much more than the once per quarter such as is in the draft permit for ammonia. As with ammonia, this monitoring frequency should be set based on low flow levels and temperatures, and be far more frequent than monthly, perhaps daily, at the most critical low flow and temperature conditions. For low flows, we suggest 30 cfs or less at the Darbyville USGS gage.

10. **Instream biological monitoring** - The permit should include a requirement for regular instream biological monitoring (fish, macroinvertebrates, and mussels) downstream and upstream of Plain City and the wastewater treatment plant. The permit should include a requirement for instream biological monitoring (fish, macroinvertebrates, and mussels) downstream and upstream of Plain City’s wastewater treatment plant and upstream, within the developed and proposed developed segments and downstream. I recommend that this monitoring be done by an independent party overseen by the Ohio EPA Scenic Rivers Program and Ohio EPA, Division of Surface Water. This monitoring should be: repeated multiple times to determine presence/absence; include quantitative surveys of species population numbers and determine declines or recovery of mussel species; and take place at intervals of no less than three years. We are very concerned that Ohio EPA’s watershed monitoring, given the lack of focus on rare mussel species, the limited frequency watershed monitoring occurs, and the potential reduction of sampling sites under the “Two-Pronged Approach” implemented in 2020, will not be adequate to detect rare species population changes and losses.
11. **US EPA, US Fish and Wildlife Service, NPS review and consultation** – We are aware that federal agencies, including the US EPA Region 5 office and the US Fish and Wildlife Service, Ohio Field Office, will need to review and make recommendations on this draft permit. We strongly encourage their thorough review, especially concerning the assurance of protection of rare mussel species. We ask that this also include the National Park Service (NPS), which is responsible for the National Scenic River status of Big Darby Creek.
12. **MBI 2022 assessment** – Along with its comments on this application, the Darby Creek Association recently received an assessment conducted by the Midwest Biodiversity Institute (MBI) (“MBI 2022 assessment”) (MBI 2022).

Please see comments submitted by John Tetzloff of the Darby Creek Association for this assessment. We ask that Ohio EPA thoroughly review and consider the recommendations in this assessment.

MBI’s assessment (“Ecological Risk Assessment of the Proposed Expanded Effluent Discharge from the Plain City WWTP,” July 8, 2022) calls for reduced ammonia limits, more ammonia monitoring, nitrate limits, rare mussel species protection, protection concerning Contaminants of Emerging Concern (CECs), and, among other points, confirms the missing fish species downstream of Plain City (which was already noted by Ohio EPA in their 2018 report). We ask that Ohio EPA thoroughly review this assessment, including but not limited to the MBI recommendations on pages 6 and 7 of that document.

We are especially concerned about the lowering of water quality proposed and we emphasize the need to ensure antidegradation as it applies to rare and sensitive species in this segment of Big Darby Creek and tributaries. Please note MBI's recommendation on antidegradation on page 22 of their assessment:

“What is missing in Ohio EPA's approach is a more specific and routine consideration of the components used to define these tiers which includes State and Federally endangered and threatened species (i.e., fish, invertebrates and Unionid mussels), declining fish species, intolerant fish and macroinvertebrate species, reaches of high quality habitat (QHEI) and very high biological index scores (IBI, MIwb, ICI). There needs to be a more scientific basis for identifying potential threats to the characteristics of aquatic life that define each high quality antidegradation tier. Without such an analysis, as we have tried to do in this risk assessment, a director's conclusion that a lowering of quality is warranted will not have a rational, coherent, and repeatable scientific basis.”

Potential impacts of this proposal, along with the potential future expansion, are too great to be ignored now. Comment 25 in the May 2022 Response to Comments states: “We believe that the Madison County jurisdictions must make a determination of the carrying capacity of the watershed to absorb the impacts of new development, and then must develop a land use map showing where development should occur so that this threshold is not exceeded.” Ohio EPA, Plain City, and the public must comprehensively (stormwater, wastewater, habitat, conservation land) and adequately address stresses to the Creek's rare and sensitive species now through adequate treatment, planning and restoration and protection measures. In Response 25, Ohio EPA states: It is advisable for management agencies and stakeholders within the watershed to cooperatively hold larger discussions and Ohio EPA looks forward to being a part of that conversation.” Now, before the permit is issued, is the time for Ohio EPA to start that conversation, planning and analysis, rather than wait.

Thank you for the attention to these comments.

## References

Midwest Biodiversity Institute (MBI). 2022. Ecological Risk Assessment of the Proposed Expanded Effluent Discharge from the Plain City WWTP. Technical Report MBI/2022-7-8. Columbus, OH 43221-0651. 28 pp. + appendices.

Moore, A.P. and R.B. Bringolf. 2018. Effects of nitrate on freshwater mussel glochidia attachment and metamorphosis success to the juvenile stage. *Environmental Pollution* 242, Part A, pp. 807-813.  
<https://doi.org/10.1016/j.envpol.2018.07.047>

Ohio EPA. 2010. Total Maximum Daily Loads for the Lower Little Miami River Watershed. Final Report. 130 pp.  
[https://epa.ohio.gov/static/Portals/35/tmdl/Lower%20LMR\\_TMDL%20Report\\_FINAL\\_FINAL\\_Nov11.pdf](https://epa.ohio.gov/static/Portals/35/tmdl/Lower%20LMR_TMDL%20Report_FINAL_FINAL_Nov11.pdf)

Price, A.E. 1940. A check list of the Unionidae of the streams of Franklin County, Ohio. Master's thesis. The Ohio State University, Columbus. 28 pp.

[https://etd.ohiolink.edu/apexprod/rws\\_etd/send\\_file/send?accession=osu1211909232&disposition=inline](https://etd.ohiolink.edu/apexprod/rws_etd/send_file/send?accession=osu1211909232&disposition=inline)

Watters, G.T., M.A. Hoggarth and D.H. Stansbery. 2009. The Freshwater Mussels of Ohio. The Ohio State University Press, Columbus. 421 pp.

Attachments:

Sasson letter and comments of 11/15/21, to Ohio EPA "Additional comments on the need for a 208 plan prior to Village of Plain City NPDES permit approval"

**From:** asasson@aol.com,

**To:** epa.dswcomments@epa.ohio.gov,

**Cc:** Patrice\_Ashfield@fws.gov, pfeifer.david@epa.gov, baltazar.debbie@epa.gov, jann.stephen@epa.gov, Robert.Gable@dnr.ohio.gov, jftetzloff@aol.com, ashley.ward@epa.ohio.gov, michael.gallaway@epa.ohio.gov,

**Subject:** Re: Comments on the Proposed Plain City wastewater treatment permit and plant expansion (#4PB00016)

**Date:** Mon, Nov 15, 2021 9:07 pm

**Attachments:** Hoggarth 2020 Report on a second reexamination of the mussels of the Little Miami River system.pdf (2785K),  
20211115Sasson Additional comments on the need for 208 plan for Madison County.pdf (605K),  
20211115Sasson Additional comments on the need for 208 plan for Madison County.docx (26K)

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Dear Ohio EPA:

Attached are additional comments addressing the need for a 208 plan prior to Village of Plain City NPDES permit approval (#4PB00016). Please see Bill Schumacher's comments submitted earlier today, and those of the Darby Creek Association submitted by John Tetzloff on October 26, both of which I concur with,

The attached comments supplement those I submitted to Ohio EPA on October 26, 2021, regarding the proposed Plain City wastewater treatment permit and plant expansion (#4PB00016).

Ohio EPA should not approve an expansion of the Plain City Wastewater Treatment Plant application without establishing that there first is an approved Clean Water Act Section 208 plan for the area that complies with ORC 6111.03(J). Such a plan should ensure that not only antidegradation is met, but also that the Big Darby Creek's rare and sensitive species of aquatic life, including mussels, are permanently protected, with a strong margin of safety.

Sincerely,

Anthony Sasson  
asasson@aol.com  
614 519-9291

-----Original Message-----

From: asasson@aol.com

To: epa.dswcomments@epa.ohio.gov <epa.dswcomments@epa.ohio.gov>

Cc: Patrice\_Ashfield@fws.gov <Patrice\_Ashfield@fws.gov>; pfeifer.david@epa.gov <pfeifer.david@epa.gov>; baltazar.debbie@epa.gov <baltazar.debbie@epa.gov>;

jann.stephen@epa.gov <jann.stephen@epa.gov>; Robert.Gable@dnr.ohio.gov <Robert.Gable@dnr.ohio.gov>; jftetzloff@aol.com <jftetzloff@aol.com>

Sent: Tue, Oct 26, 2021 11:50 am

Subject: Comments on the Proposed Plain City wastewater treatment permit and plant expansion (#4PB00016)

Dear Ohio EPA:

The attached comments supplement those I provided on October 19, 2021, at the Ohio EPA Public Hearing at Jonathan Alder High School concerning the proposed Plain City wastewater treatment permit and plant expansion (#4PB00016) .

Thank you for your consideration.

Sincerely,

Anthony Sasson  
8351 Patterson Road  
Hilliard, Ohio 43026  
asasson@aol.com

**Additional comments on the need for a 208 plan prior to Village of Plain City NPDES permit approval (#4PB00016)**

Anthony Sasson  
11/15/2021

The following comments supplement those submitted to Ohio EPA by Anthony Sasson on October 26, 2021, regarding the proposed Plain City wastewater treatment permit and plant expansion (#4PB00016).

Ohio EPA should not approve an expansion of the Plain City Wastewater Treatment Plant application without establishing that there first is an approved Clean Water Act Section 208 plan for the area that complies with ORC 6111.03(J). Such a plan should ensure that not only antidegradation is met, but also that the Big Darby Creek's rare and sensitive species of aquatic life, including mussels, are permanently protected, with a strong margin of safety.

Ohio EPA is aware that the facility would serve an expanded unincorporated area, and an approval would be a conflict with the State of Ohio's 2006 Section 208 plan. To our knowledge, there is no approved Section 208 plan for this area addressing the expansion of the wastewater treatment plant and its service area, including into unincorporated areas of the county.

Approving the plant expansion with knowledge that the facility will serve presently unincorporated areas of Madison County amounts to a conflict with the approved 2006 Section 208 plan. Therefore, we ask that Ohio EPA proceed accordingly with the Clean Water Act's Section 208 plan procedure that is established under Ohio Revised Code (ORC) Section 6111.03(J):

(2) An application for a permit or renewal thereof shall be denied if any of the following applies:

...

(b) The director determines that the proposed discharge or source would conflict with an areawide waste treatment management plan adopted in accordance with section 208 of the Federal Water Pollution Control Act;

The procedure and content of a Section 208 plan must be established. This must be adequately protective of Big Darby Creek and tributaries. It should ensure that not only antidegradation is met, but also that the Big Darby Creek's rare and sensitive species of aquatic life, including mussels, are permanently protected, with a strong margin of safety. This needs to be addressed in a comprehensive manner that covers both point and nonpoint (including stormwater) sources of pollution and other stresses and sources of degradation. For tributaries such as Sugar Run (and others), it should ensure that tributaries can at least attain their use designations based on whatever level of development is shown to be protective of these designations.

The following are relevant references and excerpts that support the above.

The relevant effective Section 208 plan is that certified by Governor Taft on September 1, 2006, ([https://www.epa.ohio.gov/portals/35/mgmtplans/208\\_TaftCert\\_sep06.pdf](https://www.epa.ohio.gov/portals/35/mgmtplans/208_TaftCert_sep06.pdf)) and approved by US EPA November 14, 2006 ([https://www.epa.ohio.gov/portals/35/mgmtplans/208TraubApprov\\_nov06.pdf](https://www.epa.ohio.gov/portals/35/mgmtplans/208TraubApprov_nov06.pdf)). As that plan does not address a Plain City WWTP and service area expansion as proposed and under

review by Ohio EPA, an approval of the proposed Plain City WWTP expansion would not be consistent with the 2006 208 plan. As cited above, the last 208 plan applicable to Madison County was established in 2006: <https://www.epa.ohio.gov/dsw/mgmtplans/208index#157704653-2006-wqm-plan>

The following excerpts from Ohio EPA's website are relevant to this issue:

<https://www.epa.ohio.gov/dsw/mgmtplans/208index#157705393-2021-certification-update>

and

<https://www.epa.ohio.gov/dsw/mgmtplans/208index#la-157718893-government--private-entities-providing-centralized-sewage-collection-and-treatment-under-ohio-law>

“Water Quality Management Plans (CWA Sections 208 and 303)  
Water Quality Management (208) plans describe and promote efficient and comprehensive programs for controlling water pollution from point and nonpoint sources in a defined geographic area. Ohio EPA reviews and updates, as necessary, the state's 208 Plan.

Areawide Councils of Governments act as the lead planning agencies in 24 Ohio counties (those with large urban populations). These Areawide Agencies prepare and approve the 208 Plan in their counties. The State of Ohio prepares and maintains the 208 Plan applicable in the remaining 64 counties. The Governor then certifies the entire 208 Plan via submission to U.S. EPA for their approval.”

<https://www.epa.ohio.gov/dsw/mgmtplans/208index#157718890-government-entities-responsible-for-208-planning-in-ohio>

“The 208 plans, or areawide waste management treatment plans, can only be prepared by the State of Ohio or one of the six areawide planning agencies listed below.”

In the case of Madison County and Plain City, to our knowledge there is no designated areawide planning agency. Therefore, we maintain the 208 plan of 2006 referred to above is the effective plan and still applies. The State of Ohio must establish a new 208 plan covering the area proposed for expansion. It is unclear whether the Statewide Water Quality Management Plan Update (March 2021 <https://www.epa.ohio.gov/Portals/35/mgmtplans/SWQP-Update.pdf>) will address this issue, but we assume it will need to.

The 208 plan of 2006 was approved by US EPA and included prescriptions based upon countywide wastewater planning prepared in 2005. These were approved by the Madison County Commissioners (see Appendix 9-1, page 75 of Appendix 9-1. Management Agencies and Prescriptions for Sewage Collection and Treatment in 42 Ohio Counties [http://www.epa.ohio.gov/portals/35/mgmtplans/Final2006Plan/Final208\\_Aug06\\_Append\\_9-1\\_fullRx.pdf](http://www.epa.ohio.gov/portals/35/mgmtplans/Final2006Plan/Final208_Aug06_Append_9-1_fullRx.pdf)).

We are concerned that the proposed expansion of WWTP capacity in this application amounts to a de facto expansion of the service area and is not consistent with the 2006 208 plan. We are concerned that an NPDES permit approval by Ohio EPA would amount to an approval of this service area. This would not follow the procedure for 208 planning as described in Ohio EPA's website referred to above. We are aware that the Comments section in Appendix 9-1 states: "The County Commissioners have prepared and voted to accept the County-wide sewer master plan that states there will be no development on central sewers in areas outside the defined facility planning areas." While the Village of Plain City might have submitted some relevant planning material to Ohio EPA, which would be, to our knowledge, under review, the Agency has not completed review. Such review is among the steps needed to address ORC 6111.03(J)(2)(b).

Other relevant material for 208 plans in Ohio include:

<https://www.epa.ohio.gov/dsw/mgmtplans/208index#157718893-government--private-entities-providing-centralized-sewage-collection-and-treatment-under-ohio-law>

#### Background

2021 Certification Update 2021 Plan Update

[Government & Private Entities Providing Centralized Sewage Collection and Treatment Under Ohio Law](#)

- Cities and Villages are empowered, pursuant to [Ohio Constitution XVIII Sec. 4](#), to provide and plan for utility service to its inhabitants.
- County Sewer Districts - [Ohio Revised Code Chapter 6117](#)
- Limited Home Rule Townships - [Ohio Revised Code Chapter 504](#)
- Sanitary Districts - [Ohio Revised Code Chapter 6115](#)
- Regional Sewer Districts - [Ohio Revised Code Chapter 6119](#)
- PUCO Regulated Utilities - [Ohio Revised Code Chapter 4933](#)

All these entities must obtain permits from Ohio EPA to discharge or land apply treated sewage; such permits must comply with all applicable [state water quality standards, including antidegradation](#), and *must not conflict with an approved 208 plan*.

We note above that Ohio EPA has stated they are in the process of 208 plan revision relevant to this area. In the March 2021 fact sheet, "Statewide Water Quality Management Plan Update," the eight steps in the "Water Quality Management Plan Update Process" and the four phases to update the plan (<https://www.epa.ohio.gov/Portals/35/mgmtplans/SWQP-Update.pdf>) :

"What are the phases?"

Ohio EPA will update the Plan in phases. The first four phases are detailed below, and Figure 1 displays a map of the counties with the different phases in different colors.

- 1) Chapters 1-6, Delaware County, Licking County, and generic prescription updates for 22 southeast counties
- 2) Appendix 9-3, Union County, Madison County, and Franklin County
- 3) Morrow County and Logan County
- 4) Pickaway County and Fairfield County"

We note that this lists Madison County, as well as four other counties in the Big Darby Creek watershed (Franklin, Logan, Pickaway and Union). As these phases have not been accomplished to our knowledge, we maintain the 2006 208 plan is still in effect.

As stated above, Ohio EPA should not approve an expansion of the Plain City Wastewater Treatment Plant application without establishing that there first must be an approved 208 plan for the area, and that this 208 plan is approved through standard procedure under the Clean Water Act and Ohio Revised Code.

Also as stated above, any plan should ensure that not only antidegradation is met, but also that the Big Darby Creek's rare and sensitive species of aquatic life, including mussels, are permanently protected. For tributaries such as Sugar Run (and others), it should ensure that tributaries can at least attain their use designations based on whatever level of development is shown to be protective of these designations and the downstream quality of Big Darby Creek as noted above.

Attainment of stream use designations does not appear to be adequate to protect resident mussel species, especially those that are rare and sensitive. Some evidence of this can be seen in the Little Miami River, where use designations are met, but mussel species and populations have plummeted, with fewer listed species recorded in the most recent survey.<sup>1</sup>

In addition, please refer to my additional comments of October 26, 2021, and those from Bill Schumacher, and from John Tetzloff of the Darby Creek Association.

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<sup>1</sup> Hoggarth, M.A. 2020. Report on a second reexamination of the mussels of the Little Miami River system Final Report. (Report to ODNR, Scenic Rivers Program, attached)

## Appendix

Relevant excerpts from the 2006 Water Quality Management Plan (208 Plan):

<https://www.epa.ohio.gov/dsw/mgmtplans/208index#157704653-2006-wqm-plan>

State WQM Plan - Appendix 9-1 Final 2006

Page 75:

Madison County

Management Agencies Responsible for Sewage Collection and Treatment (includes prescriptions for sewage treatment options)

The Agency's review of water quality conditions and present wastewater facility needs indicates that large scale regional planning of sewer and treatment capacity is appropriate and necessary at this time in central Ohio counties (see Chapter 8). The existing Management Agencies responsible for Publicly Owned Treatment Works in Madison County are listed below. Specific prescriptions regarding wastewater collection and treatment responsibilities are listed where recent facility planning work was available to the Agency and it met the criteria listed in Chapter 9. In other situations generic prescriptions regarding wastewater collection and treatment responsibilities are provided that reflect existing legal authorities and responsibilities under State laws and regulations (generic prescriptions found on page 3). Local communities may be asked to update facility planning information as a means to create specific prescriptions in subsequent State 208 Plan updates. Refer to the Introduction on page 1 for more information on the Table's content. County government officials in Madison County have prepared master sewer plans for their County. It covers all communities within the county, including municipalities. A steering committee composed of utility personnel and other community members worked with a consultant to prepare a draft plan that all parties agreed to. This plan was made available for general public review and comment in April 2005. A final plan was prepared and accepted by the Madison County Commissioners in June 2005. Technical problems with the original submission of mapped information have been solved. The County and six municipal entities are established in this State 208 Plan as appropriate management agencies for sewer and wastewater planning and providing this service within Madison County. However, the inclusion of the specifically defined facility planning areas for the six municipal community systems will require a formal resolutions or letters of support from each municipal government.

Page 76:  
Comments

49-C1 - The County Commissioners have prepared and voted to accept the County-wide sewer master plan that states there will be no development on central sewers in areas outside the defined facility planning areas. (*emphasis added*) Therefore generic prescriptions number 9 is not included as a wastewater option for the unincorporated areas of the County.

See also Appendix 9-3, 208 Plan Prescriptions for Water Quality Protection within the Big Darby Creek Watershed.

State WQM Plan - Appendix 9-1 Final 2006  
Page 3:

#### Generic Prescriptions for Wastewater Treatment

1 All discharging systems shall meet effluent limits designed to attain the more stringent of: a) all applicable water quality standards, including antidegradation requirements; and b) where applicable, best available demonstrated control technology for new sources discharging sanitary wastewater, best available technology, or secondary treatment.

2 All municipal management agencies with home rule powers are responsible for sewage collection and treatment within their respective corporate boundaries. Such service may be provided by the management agency or through contracting for such services. Sewer service may be extended to annexed land, and to areas beyond the corporate boundaries, provided the management agency has the capacity to adequately collect and treat all wastewater under the terms of its NPDES permit. When the proposed extension is beyond the corporate boundaries and within a sewer district established under ORC 6119 or 6117, and the land is not annexed, the extension of sewer service will be evaluated on a case by case basis.

3 The construction of new, or the replacement of existing, sewage treatment systems or non-discharging on-lot sewage treatment systems for semi-public, private, or industrial entities shall not be permitted where a public sewer is available. Such facilities may be permitted where sewers are not available, on the condition that they will be required to tap in when public sewers become available.

4 New or replacement home sewage treatment systems (HSTS) shall not be permitted where a public sewer is available. Where sewers are not available new or replacement HSTS may be permitted if applicable sanitary codes administered by the County health department or local health department are followed, on the condition that the HSTS will be required to tap in when public sewers become available.

5 The County Commissioners (or a sewer district under ORC 6119) are responsible for sewage collection and treatment in unincorporated communities. Where sewers are not available, approval of individual home sewage treatment systems (HSTS) is the responsibility of the County health department or local health department and shall follow applicable sanitary codes.

6 Where sewers are not available, on-lot sewage treatment systems for semi-public, private, or industrial entities may be installed if permitted by Ohio EPA or, if the board of

health of a city, county, or general health district has permitting authority for small systems (less than 1,000 gallons per day), permitted by the county health department. General health district means a health district of the combined townships and villages in each county.

7 The County Commissioners under ORC 6117 have authority for central sewers and sewage treatment in all unincorporated areas; when unsanitary conditions exist Ohio EPA may require that the County Commissioners fix the problem.

8 Where a sewer district has been organized under ORC 6119, Ohio EPA may require said sewer district to eliminate unsanitary conditions.

9 Ohio EPA will only approve the installation of new wastewater collection and treatment systems to serve a new or existing housing developments provided the applicant has submitted an acceptable plan documenting how the system will be managed, maintained and operated. An acceptable plan could include the choice to turn management, maintenance and operation over to an existing management agency listed in this 208 Plan, or the choice of contracting with a competent private professional wastewater services company. An unacceptable plan might include the choice to have an inexperienced or poorly qualified entity, individual, or homeowners' association