



# Delaware County

## Regional Sewer District

**Director/Sanitary Engineer**  
Tiffany M. Maag, P.E.

In response to the Ohio EPA's Public Notice on the Proposed Update to State Water Quality Management Plan and Section 208 Plan, the Delaware County Commissioners and Delaware County Regional Sewer District ("DCRSD") offer the following comments.

DCRSD has a proven track record of excellence in wastewater treatment and collection while also managing rapid growth. Our office continues to responsibly plan regionalized sewer infrastructure by maintaining financial and capacity models to ensure that our infrastructure is operated, upgraded and expanded as necessary. Delaware County opposes the proposed updates to the Section 208 Plan and Facility Planning Area (FPA) maps to the extent the updates limit DCRSD's authority within unincorporated areas of Delaware County, except as may already be subject to established sewer service agreements.

The proposed updates to the FPA maps fail to recognize Delaware County's express statutory authority to provide sanitary sewer service to any unincorporated area within Delaware County, except those where we already have a sewer service agreement in place. Pursuant to R.C. 6117.01(B)(1), a board of county commissioners may lay out, establish, consolidate, or otherwise modify the boundaries of, and maintain, one or more sewer districts within the county and outside municipal corporations. Pursuant to R.C. 6117.05, when a board of county commissioners has established one or more county sewer districts and any portion of a sewer district is incorporated as, or annexed to, a municipal corporation, the area so incorporated or annexed shall remain under the jurisdiction of the board of county commissioners until all planned improvements are completed or until the board has abandoned the improvements. Therefore, in Delaware County, DCRSD should be the Primary DMA (designated management agency) and its boundaries should be the primary FPA, except as the Delaware County Board of Commissioners may otherwise agree in writing. Delaware County's position is that the 208 boundaries should follow the current municipal corporation boundaries in the absence of a formal sewer service agreement between the county and the municipal corporation. If a municipal corporation annexes territory prior to any county improvements in an area, then the boundary could be changed through a minor change process. Prior to annexation, a municipal corporation could also initiate the modification process if it wishes to expand into the county's FPA. This would ensure that all criteria for modification have been met before the municipal corporation's FPA is expanded, which we are not satisfied is the case in the proposed updates. In the alternative, overlaps should be permitted with the county sewer district being the primary DMA in any unincorporated area and the other DMA being secondary.

The proposed updates also come with unintended consequences impacting private property rights, particularly as relates to the development of private property. In a recent public meeting, representatives of the Ohio EPA stated that the FPA boundaries have no impact on annexation. That position is naïve in that it fails to recognize the practical impacts of sewer service boundaries. It is likely

that areas outside of current municipal boundaries will be required to annex to receive access to utilities or, at a minimum, pay increased rates as a non-resident user. A municipal corporation with an FPA that includes unincorporated areas could also prohibit DCRSD from providing service if desired by the landowner, and the modification process allows a municipal DMA to effectively halt development in an unincorporated area that could reasonably and economically be served by DCRSD. Owners of properties that are capable of being served by DCRSD, both in terms of technical feasibility and economic efficiency, could be forced to annex into a municipal corporation in order to receive sanitary sewer service or else suffer the consequence of an effective development moratorium. Private property owners should be free to choose whether to annex or remain in an unincorporated area without such coercion.

Upon review of the proposed FPA maps, Delaware County also questions the process by which overlapping planning efforts have been resolved. DCRSD has already performed planning efforts in areas outside of the EPA's proposed Delaware County FPA, including:

- The area north of the City of Delaware as outlined in the Delaware County Regional Sewer District 2017 Sanitary Sewer Master Plan (see attached) "Central Olentangy" area.
- The area west of the Village of Galena and east of Rome Corners Road. The County is currently designing a 21" trunk sewer to extend gravity service to the area east of the proposed FPA boundary.

Prior to this 208 Plan update, local wastewater planning in Delaware County has worked well without having inflexible, arbitrary boundaries defined on a map. Rather, the appropriate DMAs have engaged in discussion when development pressure necessitates agreements in overlap areas, as evident in areas adjacent to the Cities of Columbus, Delaware, and Sunbury. This has allowed an organic expansion of municipal boundaries into the DCRSD territory where property owners are able to choose annexation without townships being threatened. Furthermore, DCRSD is committed to timely letters of support or other documentation necessary to support FPA modification where municipalities are willing and able to provide wastewater treatment and management and where the underlying property owner and the community approves.

In summary, Delaware County opposes the proposed FPA maps to the extent they are inconsistent with Delaware County's statutory authority pursuant to Chapter 6117 of the Revised Code. In Delaware County, DCRSD should be the Primary DMA and its boundaries should be the primary FPA, except as the Delaware County Board of Commissioners may otherwise agree in writing. The FPA boundaries should follow the current municipal corporation boundaries in the absence of a formal sewer service agreement between the county and the municipal corporation. In the alternative, overlaps should be permitted with the county sewer district being the primary DMA in any unincorporated area and the other DMA being secondary.

We appreciate the opportunity to provide these comments and look forward to working with the Agency on any appropriate revisions.

Sincerely,

Tiffany Maag, P.E.

Sanitary Engineer