

US EPA ARCHIVE DOCUMENT

To: US EPA Region V

From: Robert Shockley (rshockley82@gmail.com)

Date: February 10, 2013

Re: Lower Mill Creek Sewer Overflow Proposed Remedy Public Comment

I have reviewed the meeting minutes from the four public hearings held by the Hamilton County Commissioners on September 26, October 3, October 8 and October 10, 2012 and it appears there is significant concern pertaining to the selected "Green" alternative. My comments and questions primarily concern the technical data, differences in professional opinions and how the Agency addresses these inconsistencies in a justifiable manner. It would be unacceptable that the County be subjected to additional improvements and their related costs should the plan currently under consideration not achieve the 2.0 billion gallon removal performance criteria. In short, I believe that if the US EPA accepts non-standard methods and models as justification for a project to achieve compliance, the Agency needs to take some level of ownership as a result of their decisions. Otherwise, an alternative with an acceptable level of confidence in the data should be required.

My comments and questions are as follows:

At the September 26th meeting, MSD's Director Tony Parrott and Blake Roe, representing the county monitor, discussed modeling data and made the following comments:

Mr. Parrott: "And the Regulators have indicated that they have no significant -- see no significant red flags relative to our technical approach on modeling or our costing approach on the alternatives."

Mr. Roe: "The County requested that we generate in very concise lists of risks related to potential SI heavily-weighted approach. So I'm going to pass that out now. There's a lack of empirical local data related to the crucial assumption of the effectiveness of the CSO approach at mitigating CSO overflows. The data that does exist was originally intended to be a key source to support that assumption, but at the current time, it's been found to be fairly inconsistent with that, with the assumption.....the relative risk remains in that there is no test case for this type of project at this scale in the local watershed."

Comment #1: Has the US EPA reviewed the document to which Mr. Roe refers, related to the data being heavily weighted toward the SI approach? If so, what is the Agency's position on this document?

Comment #2: Did the US EPA inform MSD that they saw no red flags concerning modeling and cost data as Mr. Parrott indicates?

Comment #3: There seems to be a difference of opinions regarding the adequacy of the data to support the assumptions made by MSD and that there is no test case for this type of project. It further appears from the minutes that the data MSD prefers to use was developed with the desired outcome driving the results. Is the US EPA willing to accept and to also have Hamilton County accept the risks associated with modeling results for which the data and calculations have not been performed in accordance with accepted methodology or been subjected to peer reviewed?

At the September 26th meeting Mr. Roe also noted that “Item 2 relates to the fact that recently the EPA suggested in writing that, you know, the issues of field data quality has left MSD with a less than desirable model calibration for the electronic model.”

Then on October 8th Mr. Parrott said that “So when you talk about the risk relative to the flow monitoring data that we have so far, we believe we've collected a plethora, or a wealth, of local data that has been data that is sophisticated and used by current modeling technology that is very sophisticated. And one of the things that's clear is that the Regulators have indicated that the model that we're using, there are no red flags.”

Comment #4: Evidently there again is a difference of professional opinion between MSD and the County Monitors. In acting on the submitted plan, does the US EPA believe there is less than desirable data for model calibration or is there a “plethora of local data” to ensure confidence in the proposed solution? Did the Agency indicate to MSD that there were no “red flags” regarding their model?

Mr. Roe on September 26th said: “And then the last two items, you'll see, relate to concepts to be considered, given that the SI approach itself dramatically changes the current conditions of the landscape. These unintended consequences could result from these alterations, and those consequences could be expensive to remedy, if they occur. They would primarily relate to potential for new flooding routes, effects of the new peak flows on Mill Creek and the tributaries.”

Mr. Parrott in response on October 3rd presented the following: “One major issue that came up was the concern about flooding. This kind of shows you existing conditions under surface flooding, what happens now in that corridor, based upon a 100-year storm event. After the sustainable approach with the grading that is proposed there, you can kind of see on this slide that within the red boundary in the corridor there, there is a one-foot free board that would keep all of that water inside the corridor under a 100-year flood event. So you're going from existing conditions to proposed conditions in terms of a flooding issue. And this kind of shows it

differently in terms of the existing conditions in terms of a 100-year flood water depth in the corridor.”

Comment #5: It appears that Mr. Roe’s comments were based on data and calculations utilizing currently accepted methodology; whereas, Mr. Parrott presented renderings without referring to the methodology used to develop his exhibits. Assuming his exhibits were based on some sort of analyses, did MSD utilize the same approach as Mr. Roe or was it developed using non-peer reviewed methods? Has the Agency reviewed the data to which Mr. Roe referred and gave to the commissioners on September 26th regarding this issue? If so, how will the US EPA determine the appropriate method when approving or rejecting MSD’s proposed plan? If not, will the Agency review Mr. Roe’s information and make a determination as to which approach is valid?

On October 10th Mr. Ewing with the Cincinnati USA Regional Chamber commented that “the sustainable alternative appears to require many partnerships with agencies under the purview of the City of Cincinnati. We think that those legal and regulatory – the formality of those partnerships needs to be more fully developed and presented, and their legal standing needs to be more transparent.”

Comment #6: I believe Mr. Ewing makes a valid point. If this is not properly addressed in the approved plan, the County may be setting itself up for additional regulatory action and/or penalties. Has the US EPA considered Mr. Ewing’s concern and how will it be addressed in the Agency’s final requirements?

In conclusion, my sentiments to the US EPA are the same as Green Township Trustee Linnenberg’s to the Commissioners at the October 3, 2012 meeting: “Green Township has not taken an official position on whether we support a tunnel or the alternative that is being proposed in South Fairmount, nor do I feel we should take a position. What we know is that both options are hundreds of millions of dollars. We ask that you do what works best at the lower cost -- the lowest cost, and make sure that whatever you approve fixes the problem.”

Thank you for reviewing my concerns and accepting my comments.

Sincerely,

Robert Shockley