

**Summary of Federal Court hearing in ELPC and ACLE vs USEPA**  
**Toledo, Ohio**  
**May 23, 2018**

Judge Carr wanted to check on where things stand after the US EPA filing on May 11 and more broadly. With respect to the May 11 filing, we discussed the fact that although the full impairment designation for the western basin is now in place, US EPA is still allowing Ohio EPA to refuse to develop a TMDL and instead pursue its efforts under the Great Lakes Water Quality Agreement and otherwise. He's fine with us submitting a motion to argue that US EPA's acceptance of that approach violates the Clean Water Act, and that Ohio EPA must do a TMDL. We'll need to agree on a schedule for that briefing with US EPA's counsel; I'd like to go ahead as soon as possible so we can keep moving forward and get a decision on the ultimate TMDL issue, hopefully a favorable one.

More generally, Judge Carr had a lot of questions about what the state is doing currently and whether it's working, and what legal options are available. That gave me a good opportunity to provide a short version of the argument that Ohio's current efforts aren't making a difference (he was aware of some of that through press coverage), and that a TMDL is an important step to put pressure on for more effective steps. I'm optimistic about our ability to persuade him that ordering US EPA or Ohio EPA to do a TMDL would be useful, in addition to being required by law.

Madeline Fleisher  
Senior Attorney  
Environmental Law & Policy Center