

April 19, 2018

Craig Butler, Director  
Ohio EPA

Dear Mr. Butler,

When the Ohio EPA finally placed the open waters of Western Lake Erie on the “impaired watershed” list, many people thought that a real cleanup would finally begin; that decades of failed voluntary measures would finally give way to effective actions and real accountability.

But recent statements from you and Deputy Director Karl Gebhardt, prove you are not interested in doing so, offering conclusive evidence that your agency is a wholly-owned subsidiary of the Farm Bureau and the factory “farm” owners who destroy our lake to increase their profitability.

For over a decade the OEPA has insulated Ohio’s CAFO industry from even a shred of accountability for the harm caused by the mountains of animal waste generated every year. The CAFO industry in the Western Lake Erie basin produces more feces, urine, antibiotic-resistant bacteria and contaminated water than the combined sewage of Chicago and Los Angeles, dumping it untreated on fields that drain into the water supply for millions of people and home for thousands of species of plants and animals.

Only the decision expected from Federal District Judge Carr motivated you to “find” evidence for what any thinking person could see from satellite images – that Lake Erie has been terribly sick for over a decade. Your claim that scientific evidence for an “impaired” designation was lacking would be laughable were the stakes not so high, made more so when you were able to produce that evidence at the final hour before the court’s decision. That decision, telling the U.S. EPA and you to simply do your job relates the sad account of how many ways in which the agencies charged with protecting us dodged their duty year after year.

Ohioans might hope now with a federal court order in place, our taxpayer-funded agencies would finally do their job. We might hope, but the old adage “Fool me once, shame on you. Fool me twice, shame on me” comes to mind.

As proof, we need only look to legislation you are pushing that circumvents the cleanup methods spelled out in the Clean Water Act, now being used successfully in Chesapeake Bay.

The Clean Water Act’s “impaired watershed” provisions you avoided as long as possible are clear and proven to work. Conversely, the “distressed watershed” legislation you hope the Ohio House and Senate fall for is indeed alarming.

Instead of a thorough inventory of pollution sources and amounts throughout the entire watershed and back to the headwaters of what eventually flows into the lake, you propose something less that will leave polluters unnamed and unaccountable once again.

Instead of enforceable pollution limits with Total Maximum Daily Loads (TMDLs) and explicit timetables, you propose more of the failed voluntary methods that have gotten us where we are today.

But yesterday, at the Lake Erie Commission meeting, Mr. Gebhardt uttered what has to be the most conniving and cynical excuse for why you want that legislation: “A TMDL is not necessary for the lake. It would take a considerable amount of time and would generate many lawsuits similar to what happened in the Chesapeake Bay.”

Does Mr. Gebhardt take us for complete fools or just illiterate, unable to read for ourselves what happened in Chesapeake Bay?

Karl Gebhardt, who was a registered lobbyist for the first dairy CAFOs in Northwest Ohio and spent 19 years lobbying for the Ohio Farm Bureau before you hired him to head Ohio’s policy for Lake Erie, warns us that following the Clean Water Act “would generate many lawsuits similar to what happened in Chesapeake Bay” when he knows full well it was THE AMERICAN FARM BUREAU THAT SUED THE USEPA TO STOP THE CHESAPEAKE BAY CLEANUP, joined by the Pennsylvania Farmer’s Bureau, the Fertilizer Institute, National Pork Producer’s Council, National Chicken Council and other Big Ag allies!

After five years of lost appeals in the Federal Court system, the U.S. Supreme Court ultimately refused to hear that suit and upheld the USEPA’s authority under the Clean Water Act to enforce TMDLs. The Farm Bureau failed in federal court to protect the polluters of Chesapeake Bay, but the Bureau’s loyal agents in Ohio are trying again, this time in the legislature.

Your statements tell Ohioans that the OEPA, even after watching Lake Erie deteriorate before its eyes, still sides with Big Ag and CAFO operators who assume our lake is theirs to use as a free public toilet. They tell us factory “farms” can continue to externalize their costs of production by forcing us to bear the growing expense of making our drinking water safe. They tell us the public’s basic life support systems exist for private plunder.

It is way past time to that those who are destroying Lake Erie are held accountable for restoring it to health. That is exactly what Advocates for a Clean Lake Erie will continue to do by educating, organizing and court actions if necessary. At some point we would like to see the Ohio Environmental Protection Agency as a partner in actually protecting the environment, but until then we will do whatever it takes to see that the job is done.

Sincerely,

Mike Ferner, Coordinator

Advocates for a Clean Lake Erie