



## **Press Advisory**

---

June 11, 2018

### **ACLE ASKS COURT: END OEPA DELAYS, MAKE USEPA ESTABLISH POLLUTION LIMITS** **USEPA “aiding and abetting” OEPA refusal to follow Clean Water Act**

ACLE’s [motion, filed Friday](#), June 8, in Federal Court, intends to once and for all put a FULL STOP to Ohio's pretense that the Great Lakes Water Quality agreement and other voluntary schemes will work; to stop Ohio's decades-long practice of shielding factory ‘farms’ from accountability for poisoning Lake Erie and start following the law of the land, the Clean Water Act, to restore Lake Erie.

\*\*\*\*\*

**Excerpts quoted from [Plaintiff’s First Supplemental Complaint](#) filed 6/8/18 by  
Environmental Law & Policy Center on behalf of Advocates for a Clean Lake Erie**

On May 10, 2018, Defendant the U.S. EPA approved Ohio’s illegal decision not to submit a Total Maximum Daily Load (TMDL) for western Lake Erie. While a TMDL is required by the Clean Water Act, Ohio decided it would not follow the law because it “believes” that a separate process under the Great Lakes Water Quality Agreement — a legally unenforceable international agreement with no binding pollution reduction targets — is more “appropriate.” But this belief is irrelevant. The Clean Water Act is not optional; it provides that a state “shall” prepare a TMDL for an impaired water body, or if the state fails to do so then U.S. EPA “shall” take on that task. Ohio EPA’s position that it may ignore that statutory command in favor of some other preferred approach is both illegal and wrong-headed, serving as an illegitimate roadblock to achieving the unique practical benefits that a TMDL would provide in reducing phosphorus loading into western Lake Erie.

Ohio EPA has flatly stated that it would not move forward with development of a TMDL. It asserts that “the best approach for solving the issues in western Lake Erie is through the collaborative process established under Annex 4 of the Great Lakes Water Quality Agreement and the Domestic Action Plans as they afford a holistic, multijurisdictional perspective that does not exist in a traditional TMDL process.”

The CWA does not allow a state to “opt out” of the statute in favor of an alternative approach.

Ohio raised a similar, equally invalid excuse when it refused to list the Lake Erie waters as impaired in the first place, asserting that it would not follow the CWA because it believed it would be more appropriate for U.S. EPA to carry out the CWA process while Ohio worked under the auspices of the GLWQA. Ohio’s belief that it may choose whether or not to comply with the CWA has not changed and neither has its goal: to avoid developing any TMDL for western Lake Erie. This Court can — and must — put an end to such illegal delaying tactics by ordering the development of the required TMDL.

It is clear that Ohio EPA is not interested in implementing section 303(d) of the Clean Water Act, and that U.S. EPA is aiding and abetting Ohio’s inaction.

**Plaintiffs therefore seek declaratory and injunctive relief requiring U.S. EPA to disapprove Ohio EPA’s submission of no TMDL and to itself establish a TMDL for western Lake Erie.**