

News From:
Advocates for a Clean Lake Erie

HOLD FOR RELEASE UNTIL JUNE 7



NEWS CONFERENCE WED. JUNE 7, 10:00 AM, OHIO STATEHOUSE, S. Third St. Entrance

POLITICAL CORRUPTION, NOT ALGAE, POISONING LAKE ERIE

Ohio Dept. of Ag's illegal factory farm licenses just one example

COLUMBUS – A Toledo environmental group today charged that the Ohio Department of Agriculture (ODA) lacks legal authority to issue or enforce permits for more than 200 concentrated animal feeding operations (CAFOs or “factory farms”) it has permitted since 2002, and recommended four actions to respond to what it called “an ongoing scandal hidden in plain sight.”

Advocates for a Clean Lake Erie (ACLE) asserts that Ohio Senate Bill 141, signed by former Governor Bob Taft, claimed to transfer authority over CAFOs from the Ohio EPA to the ODA. However, the ODA never received the requisite U.S. EPA approval of this transfer, making all ODA CAFO permits moot.

“We are here today to explain how authority to regulate CAFOs was illegitimately transferred from the Ohio EPA to the ODA, but this is not the fundamental reason Lake Erie and our health are both under siege from factory farms. The fundamental reason is that an undemocratic process, built on political corruption, has created an agricultural model that places profit over health and sustainability at every turn,” said Mike Ferner, coordinator of ACLE.

“The enormity of this problem almost defies belief,” Ferner explained. “If you took Ohio’s five largest cities – Columbus, Cleveland, Cincinnati, Toledo and Akron – doubled their annual output of raw sewage and dumped it, untreated, on farm fields draining into western Lake Erie, you would equal what CAFOs in Northwest Ohio do every year – and just the ones big enough to require a permit. How much additional comes from perhaps hundreds of factory farms just under the size needed to register is anybody’s guess.”

“Without the required U.S. EPA approval, what we have is a rogue State agency, the ODA, running a rogue program with no legal authority, allowing factory farms to proliferate and devastate Lake Erie,” he added. “This arrangement doesn’t just suggest a conflict of interest, it defines it. The ODA’s prime responsibility is to promote agriculture. No wonder Lake Erie is choking on animal waste.”

Since Ohio EPA’s CAFO rules were repealed in SB 141 the agency has fundamentally disbanded its CAFO permitting program. U.S. EPA has done nothing even though Ohio EPA has allowed most of the National

Pollutant Discharge Elimination System (NPDES) permits for CAFOs to expire. ODA is issuing fraudulent permits to CAFOs under State laws that are simply not operative.

ACLE provided the following documentation for its claim that the ODA livestock permitting program has been issuing CAFO permits without legal authority for 15 years:

- 1) 1974 – Ohio EPA was granted authority by U.S. EPA to administer and enforce the National Pollutant Discharge Elimination System (NPDES) program for all point sources, which includes CAFOs.
- 2) 2000 - Senate Bill 141 was signed by then - Governor Taft, although the conditions in this Bill have never been met. SB 141 repealed Ohio Revised Code (ORC) statutes under Section 6111 which authorized the Ohio EPA to administer regulations for CAFOs under the Clean Water Act. However, this transfer of authority to the ODA was based on U.S. EPA approval – something that never happened.
- 3) 2002 - ODA began issuing CAFO permits. ODA claims their CAFO program is operating under the authority of ORC Section 903 - but those Sections are “not operative” until the U.S. EPA approves the ODA’s program.
- 4) 2006 – Governor Taft submitted the ODA’s CAFO program to U.S. EPA. Federal regulations require that states “must notify EPA whenever they propose to transfer all or part of any program from the approved State agency... the new agency is not authorized to administer the program until approved by the [EPA] Administrator...” ([40 CFR 123.62](#))
- 5) April 2007 – EPA Region V sent a letter to ODA regarding numerous areas of non-compliance.
- 6) November 2007 – EPA Region V sent another letter to ODA regarding numerous other questions and concerns before the transfer of authority could be approved.
- 7) 2008 and 2011 - Ohio Republican Congressional Representatives (Bob Latta, Michael Turner, Jim Renacci, Pat Tiberi, Steve Chabot, Bob Gibbs, Jim Jordan) submitted two letters strongly urging U.S. EPA to promptly approve the transfer to ODA.
- 8) 2013 - U.S. EPA letter admitting there is no signed “Memorandum of Agreement” between the U.S. EPA and the ODA as required under [40 CFR 123.24](#) which proves the conditions of SB 141 were never finalized.

(NOTE: [Click here](#) for documentation of 1-8 above)

In 2011, Wood County residents Larry and Vickie Askins and Jack Firsdon, submitted a 200-page petition to the U.S. EPA exposing serious problems with Ohio’s CAFO permitting program and requested the agency withdraw approval of Ohio’s NPDES program for CAFOs.

Region V never responded, so Mr. and Mrs. Askins sued the U.S. EPA, Ohio EPA and ODA in federal district court in Toledo in 2014 but it was dismissed due to a technicality. During oral arguments upon

appeal, the Sixth Circuit questioned the EPA how long they thought they could keep this “scheme” going, but ultimately the Court said it could not rule on the merits of the case and affirmed the dismissal.

Advocates for a Clean Lake Erie calls for:

- 1) Citizens in Ohio to demand democratic control over how the state funds research, development and promotion of agriculture, so we promote health and sustainability instead of profits for an increasingly concentrated industry.
- 2) Investigative reporters to develop this story further and public interest attorneys to consider litigation.
- 3) An investigation by Ohio’s [Inspector General](#) to verify the facts as reported here.
- 4) Legislative hearings by the appropriate committees or any legislators willing to pursue the public interest.

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