

## Kasich's executive order bows to Big Ag

July 18, 2018

By Mike Ferner

The Ohio Farm Bureau is howling mad, saying Gov. John Kasich left it out of the loop on what it considers his draconian executive order on Lake Erie last week.

But perhaps the lobbying group representing Ohio's biggest industry doth protest too much. Let's take a look behind the curtain to see what all the noise is about.

Public pressure and finally a lawsuit forced the Ohio Environmental Protection Agency to admit that Lake Erie is indeed "impaired" under the terms of the Clean Water Act. In the real world, that's supposed to kick off a procedure, ongoing in Chesapeake Bay, to inventory all pollution sources and amounts and then establish limits and timelines that are legally binding. Those limits are called total maximum daily loads or TMDLs, the regulatory muscle behind the [successful cleanup of the Chesapeake](#), despite a [failed suit by the American Farm Bureau](#) to kill it at the starting gate.

But in Kasichland the Clean Water Act means nothing. Instead, the governor recently signed his order to set up "distressed watersheds" covering less than half of the Western Lake Erie basin, a scheme under state law that has been used once in Ohio to stunning failure at Grand Lake St. Mary's. That Kasich and his lieutenants label GLSM a success is proof they don't think anyone will look behind the curtain.

At Kasich's signing ceremony, Ohio Department of Natural Resources chief James Zehringer claimed a study showed GLSM has seen a "significant reduction since 2011" in nutrient loads. Another look behind the curtain at [the study in question](#) refutes that. Turns out only 25 percent of the Grand Lake St. Mary's watershed was even monitored and that dissolved phosphorus, the driver of toxic algal blooms, was not reduced at all during wet months and only went down in the winter when a ban on manure-spreading was in effect.

Further context reveals that within days of declaring Erie impaired, a deputy director of the Ohio EPA, Karl Gebhardt, who is a former [19-year lobbyist](#) for the Ohio Farm Bureau, said publicly that "[a TMDL for the lake is not necessary](#)," tipping the administration's hand and opening the door to the useless "distressed" status.

Another point hiding behind Kasich's curtain is that the Ohio Administrative Code [section describing distressed watersheds](#) specifically exempts operators of confined animal feeding operations, the giant factory farms that annually dump, untreated, more waste in the lake's watershed than the combined sewage total of Chicago and Los Angeles. For years, Kasich, Gebhardt, et al., have claimed their reluctance to rein in agricultural pollution was to protect Ohio farmers. But traditional family livestock farms behind that bucolic image have long been kicked off the land by factory farms.

But it gets worse.

Kasich's distressed watershed scheme relies almost totally on establishing nutrient management plans to reduce excess nutrient flow into streams feeding Lake Erie. Ohio law says this program will be administered by the state Department of Agriculture, whose mission is to ... [promote agriculture](#). This matters a lot because even the [Ohio EPA acknowledges that 88 percent](#) of excess nutrients going into the western basin of the lake come from agriculture.

The Department of Agriculture director, or his designee, will determine when a watershed is distressed, what remediation methods will be used and when it can be taken off the list. They will help farmers write nutrient management plans, but an NMP is only that — a plan — that is rarely enforced. There will be no comprehensive pollution inventory to determine who is responsible for what, no enforceable limits or deadlines established. Ohioans will waste precious time and lots of money instead of getting Lake Erie healthy.

In the end, the most significant thing behind Kasich's curtain is not something you can see, but something you can smell: corruption. Instead of using the Clean Water Act's enforceable provisions that provide real accountability for polluters, our outgoing governor has sided with powerful private interests over the public good.

*Mike Ferner is coordinator of [Advocates for a Clean Lake Erie](#), plaintiff in a lawsuit in U.S. District Court, urging Judge James Carr to order the U.S. EPA to develop a TMDL for Lake Erie.*