



**OHIO ENVIRONMENTAL COUNCIL
INTERESTED PARTY TESTIMONY
REGARDING LAKE ERIE HEALTH AND RESTORATION**

**HEARING OF THE OHIO HOUSE AGRICULTURE AND NATURAL RESOURCES COMMITTEES
DECEMBER 9, 2011 – PT. CLINTON, OHIO**

Chairman Hall, Ranking Minority Member Fedor, Committee Members, and Honored Guests-

My name is Joe Logan, and I am Director of Agricultural Programs for the Ohio Environmental Council. We are honored to have the opportunity to present comments on the important and timely issue of the health and welfare of Lake Erie.

We wish to express our sincere appreciation to the Committee Members and other legislative leaders in the region, to Ohio Department of Natural Resources Director James Zehringer and Ohio EPA Director Scott Nally, to Ohio Sea Grant Director Dr. Jeff Reutter and other esteemed scientists who have dedicated their career to better understanding the natural systems of Lake Erie, and to the legions of committed advocates who have been unwavering in their reminders to us, that Lake Erie is not only an incredibly valuable resource, but one that is vulnerable to many stressors, including excessive nutrients and sediment run off, that are often associated with agriculture.

Governor Kasich and his administration are making Lake Erie protection a priority, and we thank the Governor for that. He has appropriately characterized Lake Erie as a “jewel”, and a resource that must be protected. Directors Zehringer and Nally have reinforced the importance of this issue by contributing their focused attention to their “Agricultural Nutrients and Water Quality Working Group”. We are also very appreciative of Director Zehringer’s pledge of \$50,000 to kick-start the educational effort around Ag Nutrient issues. The challenges confronting Lake Erie long preceded the current administration and we appreciate Governor Kasich’s commitment to its restoration.

But despite the best efforts of these and other leaders along with many of their predecessors, this jewel of a resource is increasingly threatened.

At a recent conference on the state of the Great Lakes ecosystems, Dr. Reutter characterized the status of Lake Erie as “in need of restoration”. This diplomatic phrasing captures the sense of vulnerability that many scientists, environmental advocates, charter boat captains, sport fishermen, and business owners who rely upon Lake Erie for their livelihood have been sensing for several years.

Some of us may recall an earlier time (1960s and 70s), when the Lake was even more deeply stressed. It is important to understand, as Dr. Reutter often points out, that Lake Erie is perhaps the world's best example of a major ecosystem's capacity for recovery, in response to restoration initiatives.

It is in this context of an imperiled, but resilient resource that we welcome the focus of the Kasich administration and Ohio's legislative leadership, and specifically, the focus of this Committee.

As you know, the Maumee River is Lake Erie's largest tributary, draining some 4.5 million acres of land in northwestern Ohio, northeastern Indiana and southeastern Michigan. The vast majority of that landscape (nearly 80% in the western basin) is agricultural. Many stressors, including city sewage treatment systems, and their Combined Sewer Overflows (CSOs) are contributing to Lake Erie's problems, but according to the Ohio Phosphorus Taskforce, agricultural nutrients (phosphorus and nitrogen) and sediment are among the most important.

Recently, Governor Kasich called upon his agency directors at the Ohio Department of Agriculture, the Ohio Department of Natural Resources, and the Ohio Environmental Protection Agency, to convene a working group to consider this issue, and to provide recommendations to the Governor and the General Assembly. They invited stakeholders groups, including The Ohio State University, Heidelberg University, and federal agencies, as well as agriculture groups and environmental groups.

This working group currently is in the process of developing and refining recommendations.

Although I will not try to anticipate the final results of that process, I believe that it is safe to expect that task force recommendations likely will include:

- 1.) A recommendation for additional research, to more fully understand the transport of dissolved phosphorus (especially from agricultural land).
- 2.) A commitment to educating farmers about recent research about the instability of nutrients in the soil.
- 3.) A commitment to promote and implement an array of voluntary conservation practices throughout Ohio's watersheds.

These are good and necessary components of any comprehensive nutrient management program. We fully support these initiatives, and will work with state agencies and other stakeholders to implement them effectively.

Although these are necessary components, they may not be sufficient to achieve the major reductions that scientists have judged to be essential to for ecosystem recovery. Many believe that additional measures will be necessary, based on the magnitude of the need for nutrient reduction, and based upon some structural factors, associated with modern, large-scale agriculture.

Those structural factors relate to the size and scope of many of today's large agricultural businesses, and are related to farmers and agricultural supply companies, needing to prepare thousands of acres of land

for planting within narrow windows of time. They are NOT a reflection of farmers or business, who are simply acting irresponsibly. More accurately, they reflect people having to make sub-optimal decisions about timing, rates, and placement of nutrients, based on the need to maintain the productivity of a large, demanding and complex food production system.

With the health of Lake Erie in the balance--including a \$10 billion sporting, travel and tourism sector, Ohio may well need to incorporate additional measures to overcome the impact of these structural factors.

We respectfully recommend the following additional measures:

- 1.) The development of a required certification system for those who apply fertilizers.
 - a. Such a system could assure that all farmers and supply companies have adequate education regarding proper source, timing, rate, and methods for nutrient applications.
- 2.) The development and implementation of a fee for the application of fertilizer
 - a. Such a fee could be configured in such a way as to be most aggressively applied for those modes of application that are most risky, including manure and fertilizer applications that are:
 - made onto the soil's surface, without incorporation;
 - made outside the growing season, or
 - made onto bare earth.

The fee could be credited to become minimal for low-risk application practices, including applications that are :

- made during the growing season;
- incorporated into the soil, or;
- applied to fields with cover crops or residue cover).

The nutrient application fee could provide a user fee-based revenue source to support agency nutrient management activities.

- 3.) The establishment of a uniform statewide, web-based nutrient recording system.
 - a. Such a system could be an extremely useful tool for achieving accurate, uniform nutrient record keeping. The system could be configured to automatically upload data from modern GIS-guided application systems and could be made available for individual farmers to use for their own, identity-protected, record-keeping systems.

4.) Perhaps the most dramatic alternative might be to implement a “distressed watershed” designation in major river systems like the Maumee or Sandusky River watersheds.

- a. Such a designation could require nutrient planning by all farmers and compliance by nutrient supply companies, with best management practices, including proper timing rates and methods for nutrient applications.

Any of the above additional measures would require legislative action if they are to be effectively implemented. The legislative actions need not be dramatic. They could be as minimal as to insert the term “use” in Section 905.40 of the ORC, regarding the Department of Agriculture’s rule making authority. This simple change could empower the Department to implement a nutrient applicator’s certification system, or a web-based reporting system, as mentioned above.

Another modest legislative change in section 905.36 of the ORC, could authorize an increased or reconfigured nutrient application fee, as described above.

Another might be to modify section 1501:15 to allow ODNR to include chemical fertilizer in its distressed watershed rules, or to allow the Department of Agriculture to regulate “non-manipulated” manure on livestock farms below the CAFO permitting level.

We recognize that lawmakers prefer to focus initially on voluntary and educational measures. But the General Assembly may need to consider some targeted, incremental legislative changes in order to achieve the magnitude of nutrient controls necessary to save this jewel of a resource, Lake Erie.

We look forward to working with you on these issues in coming years. We thank you for the opportunity to testify today, and are open to any questions from members and guests.

Thank you.

Respectfully submitted,

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