

**Testimonies were heard from Good afternoon, Chairman Creech, Vice Chair Klopfenstein, Ranking Member Brent, and the members of the House Agricultural Committee.** My name is Lorie Venable, and I'm a resident of Fairborn and Bath Township. I am honored to be here today to offer testimony on House Bill 193. I am just one voice in a group of Ohio citizens numbering over 5,000 seeking to improve our quality of life and ensure our communities aren't negatively impacted by noxious odors, environmental problems, and industrial traffic on township roads, just to name a few.

I would like the committee to know I'm not against farmers or biodigesters (when they operate correctly) that accept feedstock from the farm the facility sits on. Both of my grandfathers were farmers and I know how hard they worked and their return on investment was extremely tight. HB 193 addresses the question; *will farmers have to abide by the new legislation.* The second paragraph of the bill addresses this concern. We wish only to hold industrial biodigesters accountable for not following current guidelines. The problem didn't occur overnight, and we've attempted to get these industrial operations to at least come to the table and have a conversation. As I'm sure you can guess, they wouldn't so that's why we're here requesting your help.

**So how did we get to this point?** In 1972, the Clean Water Act established the basic structure for regulating discharges of pollutants into the waters of the United States and regulating quality standards for surface waters. While the CWA was attempting to clean up our waterways, it also led to unintended consequences. Industrial facilities could no longer simply release their toxic wastewaters into the nearest waterways, they now had to send this waste to municipal treatment plants or landfills, which were ill-equipped to deal with the increase volume and toxicity.

At first, these plants received extra funding to help them meet these new challenges, but that funding was reduced throughout the 1980s, and by 1990, while demands on municipal treatment plants remained daunting, their funding had, for all intense and purposes, been eliminated.

Per Deborah Davis Jackson, Professor from Earlham College, Indiana in her paper titled "*Fields of Waste: Biosolids, "Sustainability," and Environmental Injustice in Rural America*" she states that over these same decades, a group calling itself Water Environment Federation (WEF) – a lobbying and public relations firm representing treatment plant operators and waste management corporations – had for decades been developing ways of profiting from the increasingly dire crisis of what to do with all the toxic sewage sludge being constantly generated by the municipal treatment process. A crucial part of their strategy was to find and fund researchers – mainly at land-grant universities (and OSU is one of the land-grant universities Dr. Jackson is referring to in her paper) – to produce scientific studies demonstrating the "beneficial uses" of sewage

sludge for growing crops and amending damaged soils, and the contributions such actions make to “environmental sustainability.” At the same time, the group was perfecting strategies for convincing a skeptical public that, “toxic sludge is good for you!,” as described in a book of that title that exposes and critiques industry PR strategies. The main obstacle for this industry was the term “sewage sludge.” A new name was needed, so the WEF invited their membership to participate in a contest to come up with terms for this sludge that sounded “organic” and “scientific.” And the winner was: BIOSOLIDS!

It was in this context that USEPA, Office of Water turned to the research arm of WEF – that is, the Water Environment Research Foundation (WERF) – for assistance in revising their regulations for sewage sludge. The result of that collaboration is the 1993 revised version of the EPA’s 40 Code of Federal Regulations, Part 503, in which the term “biosolids” is used for the first time, and “beneficial uses” are emphasized throughout.

In 2013, USEPA and USDA were issuing grants to entice businesses and large-scale farmers to build anaerobic biodigester. Quasar is the builders of several biodigesters across Ohio. We’ve been told that Quasar received \$1.5 million dollars to build the biodigester in our community, and then turned around and sold it to Renergy.

ORC Chapter 5713, Section 5713.30 | Agricultural land definitions, dictates that 50% of incoming feedstock, be derived from parcels of land under common ownership or leasehold. The CEO of the Dovetail facility admitted that they were only taking in 7% feedstock from the parcels of land under common ownership or leasehold. This industry across Ohio has learned that they would make a bigger profit on tipping fees vs farm manure.

**So, let’s talk numbers, I know your favorite topic.**

There are at least 12 industrial biodigesters in Ohio.

Their total capacity is almost 130,000,00 million-gallons of biosolids per year with another 20,000,000 million-gallons in the pipeline.

These 12 facilities have racked up almost 200 Notice of Violations from OEPA with only 1 fine.

The facility that is still in the construction stage has 6 Notice of Violations already.

Dovetail has received a Notice of Violation from the USEPA. I believe USEPA is still investigating this industry in Ohio. These same facilities racked up over 550 occurrences of Missing or Late Discharge Monitoring Reports via the USEPA, Region 5’s Enforcement and Compliance History Online (ECHO). All of the data provided above

was mailed to every Ohio Senator and Representative that was in office in the spring of 2022 (Legislative Educational Package).

Every year this industry requests additional storage lagoons/ponds for the increase in biosolids they produce. We know this industry has been moving biosolids between locations and we are extremely concerned that much of Ohio is becoming biosolid dumping grounds.

In April 2017, a Final Findings and Orders regarding nuisance odors was issued to Quasar Energy Group and their facilities at Collinwood Bioenergy, Buckeye Biogas and Three Creek Bioenergy. Not even 2 months after the Final Findings and Orders was issued Collinwood was issued Notice of Violation for nuisance odors. No fine, no slap on the wrist. If you or I violated the Ohio Revised Code, we would at the very least receive a fine.

These companies seem to operate in rural and small communities in hopes that their activities won't be noticed, or the number of citizens will be so low they believe the citizens won't put up much of a fight. What they fail to understand is the internet and social media opens lines of communication with other groups suffering from the same industry. There are also unintended consequences that put a financial hardship on small communities.

We have attempted to work with OEPA on our issues for years. Our group had an in-person meeting with OEPA in April 2022 that was negotiated by Governor DeWine's office. At this meeting, OEPA stated the following: "TRUST US," and "we're attempting to bring the company back into compliance." These same companies are still not in compliance after 4-5 years of citizens asking for OEPA's help. This can be avoided if counties and townships have more say in where these facilities are located and more importantly, where they are not. They know our county like the back of their hand. They know where the underground aquifer is located that provides water for over 400,000 Buckeyes. They know that Dovetail was built less than 1.5 miles from a company that uses dynamite for blasting purposes. They know when a township road can't handle industrial truck traffic and school buses at the same time.

OEPA states that they don't have the authority to consider the following: Local zoning, Out-of-state waste, increase in road usage, property values, Noise and Popularity of the site. When asked what ORC/OAC limited OEPA's authority they reported it was an internal OEPA decision. This is where townships and counties can fill the gap.

OEPA issues permits before any of the issues I just mentioned can even be determined by local jurisdictions. The company is free to start building before they even obtain a local zoning permit, or the citizens can file an

appeal through the ERAC process. OEPA has now caused local communities' money because they won't due their due diligence. Where else in Ohio can you build without obtaining a building permit and meet local zoning codes?

It took the OEPA over 6-7 years to believe what we were saying and to really start to investigate. OEPA has failed to enforce the Clean Air Act, the Clean Water Act, Ohio regulations and the very permits they approved. While the USEPA delegated authority to OEPA to oversee environment laws and regulations, it seems as if OEPA has further delegated this authority to certain industries and generally caters to these same industries. Letting a company self-report or self-monitor doesn't work. As a civilian retiree from the Air Force after 33 years I know that if a responsibility is delegated to a subordinate unit and they don't accomplish the job, the work would be re-delegated or pulled back up to a higher organization. I'm sure Ohio does not want to lose jobs and/or revenue so we must ensure that OEPA is fulfilling the mission that USEPA entrusted to them.

Most of our concerns regarding this industry have been brought up to you already, but I'd like to highlight 3 that are extremely close to my heart.

- Residents around one facility challenged their property values due to the horrible smell and won a 25% decrease in their property taxes. Our group thought long and hard about doing the same, but our school system would take a huge hit, over \$2.5 million dollars a year and we knew we couldn't do that to our school system.
- Due to the noxious odors, my husband and another military veteran have suffered flash backs to time spent in Iraq and Afghanistan and the burn pits. Have you experienced a loved one who is suffering a flash back, especially one that already suffers from PTSD? No veteran should have to suffer these effects.
- Due to a lack of response from OEPA, our group started using the "Smell My City," a free app to track odor complaints. It uses GIS to pinpoint your exact location, populates GMT time, uses a 1-5 rating system, allows you to comment on "smell description," "symptoms" and "additional comments." From September 2019 – October 30, 2023, local citizens in Bath Township and the City of Fairborn reported over 9,667 nuisance odors originating from the local facility, with over 2,989 reports since January 2023. We have shared this information with OEPA on numerous occasions, yet the citizens are still dealing with this issue 3 years later.

**So, in closing, there are basically 3 important takeaways regarding HB 193.**

- We deserve to have a seat at the table when decisions are being made that affect us. Industries that have negative impacts on communities are best served by townships and counties which can regulate where biosolid lagoons and digestion facilities can be located through zoning resolutions.
- HB 193 requires the OEPA Director to adopt rules and regulations to ensure a biosolids lagoon always has an industrial strength cover to effectively protect against nuisance odors and other harms to public health.
- HB 193 also closes a loophole that this industry has been using to skirt local and state regulations. They are not a public utility. And if you allow them to continue to carry that designation then can I call myself a public utility if I cover my roof with massive solar panels?

**Ohio citizens have a right for our voices and concerns to be heard and taken into consideration. The citizens of Ohio deserve better.**

Thank You for your time.