

Chairman Creech, Vice Chair Klopenstein, Ranking Member Brent and members of the House Agricultural Committee, my name is Kassie Lester. I am a trustee for Bath Township, Greene County. Thank you for the opportunity to come before you and give testimony on behalf of HB 193. I stand before you to give you some background on the experiences myself and members of communities surrounding these biodigesters and biosolid lagoons have dealt with.

I'll start with comments regarding allowing local government to have input prior to the OEPA issuing a permit. I'll reference the facility in my local area in Greene County called Dovetail Energy, LLC. All information regarding this facility has been received through the Ohio Public Records Act. This facility began construction in 2013. Reviewing the application from the facility builder, Quasar, numerous errors could be found. In the application, Quasar stated residential properties were .8 to 3 miles away. In fact, there are residential properties within a few hundred yards of this facility. There was no mention of the operational quarry on the neighboring road from the facility that blasts several times a month. There was no mention of the small township road that led into this facility not being able to handle the semi-trucks coming in and out of the facility.

The facility was permitted by the OEPA as an industrial facility, but the zoning certificate obtained from the local township was an agricultural exempt zoning certificate. One OEPA employee questioned the certificate and told them they need to obtain an

industrial zoning certificate. A few names were dropped and magically that issue disappeared. If the local government had a seat at the table, this issue would have been fixed appropriately.

During the application process, several emails were sent back and forth between Quasar representatives and the OEPA. Quasar demanded no public hearing be held and stated that no public hearing was held for Cleveland, Sheffield Village, Wooster, Barberton and Haviland. The National Pollutant Discharge Elimination System (NPDES) Administrative procedures require that the public be notified and allowed to comment on NPDES permit applications. This is the OEPA's regulation to follow and didn't.

The Ohio Environmental Protection Agency did NOT issue any permit to install and operate until 2014. This facility was already in full operational status at that time. The OEPA knew it. The correspondence between OEPA employees and Quasar stated the OEPA would hope the permits got issued before the digester had to empty since there was no NPDES issued.

This facility constructed a 5.5 million gallon lagoon in 2014. Thankfully, the OEPA made the builder make the lagoon out of concrete to protect the sole source aquifer underneath. The only problem is the OEPA still didn't take into consideration the blasting quarry across the way as they never knew it was there. The OEPA seems to be issuing permits based only on the paper they are written on. Not reviewing the site, not checking to see

if local infrastructure could handle this increased traffic and not reviewing the application for correct information. If local government had been involved, most of the issues with this facility could have been corrected from the beginning.

HB193 is NOT against farming. The regulations to apply for a concentrated animal feeding facility (CAFF) through the Ohio Department of Agriculture seem to be even more stringent than those for a biodigester or digestate lagoon permitted by the OEPA. Looking at the CAFF Permit to install application, it states:

If you are submitting a PTI application, you must provide documentation or correspondence that verifies you have notified local officials, including the Board of County Commissioners, the County Engineer, and the Board of Township Trustees (where the facility is, or will be located) to address infrastructure needs and financing of that infrastructure). This notification must include the following information:

1. The anticipated travel routes of motor vehicles to and from the facility;
2. Notwithstanding any exemptions that may be applicable under section 5577.042 of the Revised Code, the anticipated number and weights of motor vehicles traveling to and from the facility with an estimated maximum overall gross weight of vehicles upon the road surface;

3. Operational needs of the proposed facility for access to roads and location of such access; and
4. Operational needs of the proposed facility for access to tiles, culverts, off-site drainage, rights-of-way for manure transport.

The OEPA permits do not state anything regarding the infrastructure surrounding a facility or lagoon. This leaves townships holding the bag to make the needed repairs to the roads caused by the numerous vehicles in and out of the facility. Most township roads, as you know, were just horse and buggy roads years ago. The roads are not very wide and are normally not constructed to handle the weight load of the numerous semi trucks with tankers coming in and out of the facility. A local resident counted over 500 truck passes in one week at our local facility.

I want you to understand how imperative it is to have involvement from local officials in the permitting process of the OEPA. In December 2021, I, along with officials from the Greene County Commissioners office and the City of Fairborn, had a meeting with the OEPA. During this meeting, numerous issues were brought up to the OEPA, namely odors. The officials from the OEPA stated they did not know where the odors were coming from. I believe all the municipality officials told them where the odors came from. Not only do odors come from the open top lagoons permitted by the OEPA but also from the biodigesters off gassing these emissions. It is sad

that the USEPA over filed the OEPA and issued a Notice of Violation against the Renergy facilities, both in Greene and Morrow counties. This notice states the alleged violations include excess emissions from the flare and engine operations, improper operation of the facility engines, improper operation of the facility flares, and the failure to report all parameters required by facility permits. All these violations were determined through reports the facilities had already submitted to the OEPA. The OEPA did nothing with these reports. The OEPA permits these facilities without knowing all the issues they can cause. Through public records, OEPA stated they didn't know the storage lagoons, they permitted, would have any odors. Isn't protecting the environment the main objective of the OEPA?

These types of facilities will try to find any way to skirt the laws, from zoning to environmental. The Dovetail facility used an agricultural exemption to begin their facility. Once questioned regarding the operations, they quickly changed it to become a public utility. After a lengthy legal battle, the courts determined these facilities were public utilities. According to PUCO representatives, these facilities are nothing more than a neighbor having solar panels on their roof. Since PUCO doesn't recognize them as a public utility, they are not regulated as one. These facilities might generate some electricity to the power grid but not enough to be considered a public utility. Even the Power Siting Board requires local input from local jurisdictions around a new proposed installation. Why shouldn't

this type of industry have the same requirements? Biodigesters and storage lagoons have similar impacts on area residents. Concerns about possible contamination of water sources and the possible pollution of agricultural land are concerns from both of them. Biodigesters and storage lagoons have far more impact on residents, from nuisance odors and air pollution to health issues, to infrastructure destruction.

I mentioned the OEPA didn't believe storage lagoons would have odors. In 2016, the Ohio Attorney General, Mike Dewine, sued Quasar, in Wayne County Common Pleas Court over nuisance odors at four of its facilities, Buckeye Biogas in Wooster, Collinwood BioEnergy in Cleveland, Wooster Renewable Energy in Wooster and Three Creek BioEnergy in Sheffield Village. This action turned into a settlement agreement between the parties that was supposed to fix the issues. If you ask residents around these facilities, this agreement did NOT fix the odor issues. Within 4 months, Notices of Violations were being issued again. The OEPA needs to be proactive when permitting these types of facilities and storage lagoons to ensure local residents do not have to deal with air quality issues. They need to have covers on all lagoons associated with this industry.

The Attorney General's office filed suit against Renergy, Dovetail Energy, in Greene County Common Pleas Court in April 2022 regarding violations to the Clean Air Act. The parties agreed to a consent order. The consent order required the

facility to obtain air sample testing and a Best Available Technology (BAT) Report. After multiple reports on the air sample testing and BAT, the OEPA stated that due to the nuisance odors emitted from the facility, two (2) new lagoons with airtight covers with piping to the generator and flare would be required. The facility and OEPA reached a settlement in September 2023 closing of the facility as of January 31, 2024.

Another legal case in Morrow County against the same company, Renergy and its subsidiaries still exists to this day over odor issues as well as other violations of the clean water act.

After watching the introduction of this bill and the follow-up questions and comments, I have a few answers and comments. A comment was made regarding a welcome sign. I'll paraphrase the statement. "The sign stated Welcome To Our Community. It's an ag community. There's smells, there's sounds, there's dust. Just know that before you move here. People are moving out to these areas expecting them to change." I believe people around these facilities would love to go back to the days of only farm smells. The odors my constituents deal with come from the facility and lagoon and do not smell anything like a farm. The odors have no rhyme or reason when they occur. No activity would be going on at the facility and the odors would be unbearable. I have heard it described as an unemptied porta-potty on 100 degree day. A chemical smell or a vomit smell but never as shampoo. The

product produced by our facility in no way smells like shampoo. I believe the gentleman that spoke about the shampoo smell was close to the Haviland facility. The Haviland Facility is operated by Quasar. Quasar receives feedstocks such as off-spec products from Proctor and Gamble. Maybe that's why it would smell like shampoo. Most biosolid beneficial use fields around Bath Township have been removed from the program due to them being already included in a manure management plan or the phosphorus levels were at multi year highs.

A gentleman spoke about the prevailing winds and the odors. The prevailing winds have no basis on the hydrogen sulfide created by these facilities and lagoons. I live about a mile from Dovetail Energy. Technically, the prevailing winds should bring the odors my direction. I live higher than the facility thankfully and the odors are not as often as other areas. Two large neighborhoods are not in the prevailing wind zone but experience the worst odors. These neighborhoods sit in the lowest topography and that's where the hydrogen sulfide goes. These neighborhoods were there way before the facility was built. These people didn't expect to have to deal with odors like these as technically, they live in the city so they shouldn't have to.

In closing, I would like to stress this is still a new industry with little to no legislation. We, as elected officials, need to make sure we provide the best possible environment for everyone in the state of Ohio. Currently, Ohio seems to be a dumping



ground for everyone's waste. We need to put legislation in place that controls these actions.