

HB 193 Address to Legislators

Good afternoon, members of the Ohio Legislature. Thank you for granting my request to address the proposed House/Senate bill which is before this committee.

I am Sarah Fulton and I have worked on this bill with Representative Brian Lampton, who co-sponsored the bill, along with Representative Kevin Miller, and the excellent lawyers in the Legislative Service Commission. I am a wife, a mother of 3 young children and a professional educator. I never quite pictured myself here today, but here I am.

When I married Jake Fulton I became a part of a family that has maintained the farming legacy of Greene County for generations. Jake and I invested our life savings to restore a farmhouse in Fairborn, Ohio, where we could raise our family, only to have an industrial scale digester and 6 million gallon sludge lagoon constructed, and the adjacent land subsequently proposed for an additional 36 million gallon open-air industrial sewage lagoon. A literal lake of sludge about 12 feet deep and the size of about 8 football fields, 300 feet from our back door.

The current digester and lagoon rules are laughably open for industrial-scale abuse. Our town has been plagued by noxious odors, fears of water contamination, and a seemingly endless drain on our personal time, as we the citizens have been forced to plead with OEPA for relief when for over 6 years they were unwilling or unable to enforce. Only recently, OEPA settled multiple related violations so that the current operator has chosen to close the facility. This good news was followed with the clarification that any other operator could buy up the facility and we could be right back where we started.

This plight is not unique to Fairborn. Communities across Ohio are impacted by similar facilities. We have come together and now our coalition of community groups of concerned citizens includes over 5,000 members.

I urge you to support this bill, which will stop the exploitation of loopholes that are harming townships. The bill restores the 'seat at the table' of locally elected trustees and commissioners on this topic which is critical to the quality of life and tax base of these communities. I have several points to make in this regard.

First, we are opposed to the lack of **local input** in the location of industrial biosolids sewage digesters and waste storage lagoons, which have allowed abuse of communities in the name of "green energy" while common sense questions the net benefits considering the numerous documented and undocumented environmental harms being inflicted on our environment.

How could this be? What are biodigesters? From our experience, we bear witness to the fact that human sewage, commercial industrial food waste and other unhealthy and contaminated biosolids are being trucked into and then dumped in our rural counties. What was designed for farms, was co-opted by industry and scaled up to an unmanageable level as a ‘get rich quick’ scheme. A truly paltry amount of electricity is produced by extracting and burning methane, then the waste is dumped in open lagoons. This “class B” waste is eventually spread onto crop lands as ‘free’ fertilizer with tiny yard signs warning residents of the biohazard that has been created in our backyards. The availability of land always lags behind the supply, so farmers’ fields become overburdened with phosphorus and tainted with dangerous PFAS ‘forever chemicals and the like. Accumulation of millions of gallons of waste triggers constant requests to build more lagoons, inflicting more misery on neighbors. Already, lagoons with a capacity of over 120 million gallons have come to be located near schools and homes across Ohio, creating a stench, threatening aquifers, placing a blight on county tax bases, and **upending quality of life for thousands** of Ohio citizens. Just *one* million gallons covers a football field, 3 feet deep. Again, one operator proposed 35 million gallons of sewage in just *one* project! Check my math, but that is more than 8 football fields 12 feet deep. This is not in an extreme rural area, but rather mere feet from homes, & less than a mile from neighborhoods with thousands of residents. Can you imagine how dangerous that is? To make matters worse, it was proposed to be located over an extension of the Greater Miami Aquifer, which the City of Dayton uses to provide drinking water to 400,000 people. The emergency plan was to go in and fix any leaks, but the plan had nowhere to put the sludge! Because of a lack of legislation, this permit was approved by the OEPA, and I have to ask ‘**is your district next?**’

Under laws, OPERATORS ARE EXPLOITING LOOPHOLES AND HARMING TOWNSHIPS.

The operators of these biodigesters and lagoons point to **loopholes in existing laws to avoid local zoning**. They sue Township Trustees and local Zoning Inspectors if they question where the facilities are sited. Ohio EPA claims to lack the authority to consider local issues centered on quality of life or issues of threats to economic vitality. The law must change.

The amendments in the current bill would **restore Trustees’ and Commissioners’ ‘seat at the table’** when it comes to the siting of these facilities.

The amendments would:

1. Eliminate a loophole in the current law exploited by owners and operators of biodigesters and sewage lagoons to claim status as ‘public utilities’, thus enjoying exemption from zoning control. This is a provision intended for legitimate utilities to install power lines and other essential infrastructure.

2. Eliminate a loophole in the definition of ‘exclusively agricultural’ activities exempt from zoning, which currently has nonsensical provisions that allow industrial and food waste to qualify, so that facilities actually use minimal percentages of ACTUAL farm waste. The amendments would affirm Trustees’ and Commissioners’ right to exercise zoning authority.
3. Add a provision, similar to provisions that apply to large scale solar and wind facilities, whereby Commissioners are notified before new permits are granted for biodigesters and waste lagoons, so that they may give input and stop regulators from granting permits, if necessary. These Biodigester facilities and lagoons are arguably much more harmful to communities than solar and wind, which already have similar measures passed.

Local control and community protection granted by Ohio Rules are absolutely necessary.

By any reasonable measure, biodigesters are poorly run. There is no doubt that these biodigesters and lagoons are poorly maintained and dangerous. In one thirty-day period at just one site, there were over 700 odor complaints. The Coalition is finding evidence of **over 170 violations of laws and permits**. An explosion and fire has injured workers. A transfer hose ruptured and thousands of gallons escaped into Ohio waterways. Another such spill into public waters occurred this Christmas Eve. The facilities were cited by Ohio EPA for violating the Clean Air Act due to ammonia emissions. The facilities were cited for operating with dangerous levels of hydrogen sulfide in feedstock. This is a chemical that can cause illness and even death in concentrations found in the feedstock. One site so willfully ignored permits as to force Ohio EPA to sue them for contempt. Ohio EPA and local communities are left with little to no recourse for these harms under current law.

Local voices matter. These amendments are **about local elected officials being heard** so that “green energy” that isn’t green is not crammed down the throats (and noses) of the local residents regardless of the fallout, shifting the cost and quality of life harms of sewage onto communities that did not create it.

An important element you must also understand is that this BILL MAINTAINS FARMERS’ OPERATIONS. These amendments are not anti-farm. The amendments were specifically written to **continue exemptions** from zoning for biodigesters which might capture and use methane to create electricity from a **farmer’s own manure, crop waste and silage**. It applies only when farmers effectively cease to use it for farming and operate facilities that truck in waste from, for example, municipalities and food-rendering plants. Opponents to this bill might say it is no different from a pig farm. I am a part of a farming family that operated a large hog operation for many years. I lived next to the pig barn and I know what it is like. However, the biodigester near my home runs on less than 3% manure from the farmer’s operation. The rest is not manure, it’s semisolid food waste and sewage sludge. The scale is so oversized that if it

was 5% waste that would still be like stacking 20 pig farms in the space intended for one. It's a scourge on our community.

This abuse of the system is what undermines the farming legacy of our rural communities.

THE BOTTOM LINE is that at its core, this bill ***addresses the 'where and how' of legitimate alternative energy, without interfering with the management of farm waste.*** It merely forces operators to find locales where they may operate with the consent of the local community. It will likely require them to operate more responsively, away from neighbors, with covered tanks and incorporating other improvements. Those local officials representing impacted citizens will have a voice. That is what local government is all about.