

OUR GREAT LAKE ERIE



USDA commissioned Study shows H2Ohio Fails to do what is needed to reduce Dissolved Phosphorus and harmful algae in Lake Erie

November 2023 Portage River Green In area of BB Land Dairy(Texas owned) 5000 dairy cows untreated liquid manure Placed on field tiled land

4 new cattle barns with a total of 2000 total cows in Ohio near Indiana line less than 300' from gravel pits & less 630' from St. Ine's River No

NITRATE RUNOFF FROM MANURE IN DRINKING WATER - HEALTH CONCERNS

Studies show that in areas where untreated manure is land applied, the drinking water has elevated levels of nitrates. In Western Lake Erie this is a concern for people using wells. USEPA is ordering three Minnesota state agencies: Departments of Pollution Control, Health and Agriculture, in one of its strongest orders ever issued to reduce nitrates in groundwater from livestock and crop production that are an "imminent and substantial endangerment to the health of thousands of southeast Minnesota residents exposed to high levels of nitrate contamination in their drinking water. U.S.E.P.A. directed the three Minnesota state agencies to collaborate on a plan of action to immediately reduce the risk of drinking nitrate-contaminated water. USEPA also called on Minnesota to more stringently regulate manure management at large livestock operations, a primary source of the contamination, and to establish two new rules to limit nitrate pollution from large dairy, swine and cattle operations, and to enforce violations: To require livestock operatives to install monitoring wells around their feedlots and in the fields where nitrogen-rich manure is spread; and to strengthen rules for when, where, and how livestock operations spread manure and commercial fertilizer on their land to limit nitrate contamination. And USEPA expects Minnesota to hold sources of nitrate accountable using all available tools to reduce the amount of nitrate they release to groundwater. Nitrates are linked to a range of health problems, including heart and lung problems, and certain cancers. Nitrates are known to be particularly dangerous for babies (Blue Baby Syndrome). Health researchers in Iowa have found mounting evidence that drinking water with elevated levels of nitrate is linked to bladder and doubled the risk of ovarian cancer in women.

OHIO NO NITRATE TESTING FOR DRINKING WATER IN RURAL AREAS WHERE MANURE IS APPLIED & NO GROUNDWATER MONITORING AT LAKE ERIE LIVESTOCK SITES FROM 1.8 MILLION HOGS, 400,000 DAIRY COWS & 24 MILLION CHICKENS IN WEST ERIE

Ohio County Health Departments do no testing for nitrates for drinking water in rural areas where manure is being Applied. Ohio has no ground water monitoring around 'feedlots' (farms with Concentrated Animal Feedlot Operations (CAFO's). Ohio has very weak laws on how and where manure can be spread once the manure leaves the farm where the cows, pigs, and chickens are located, which is known for distribution and utilization. Once it leaves the original farm where the untreated land applied manure is applied is confidential by Ohio law. There is no reporting of where and how much untreated manure is applied. Also, it is estimated that there are 2,500 CAFO's in Western Lake Erie and about 90% have no permits. For the unpermitted facility there is no record of where the untreated manure is applied both on and off site. Note: Addressing nitrates also helps Lake Erie algae problem.

FREE NITRATE TEST STRIPS AVAILABLE - Lake Erie Waterkeeper (LEW) is offering free nitrate test strips for drinking water. The strips are available in a joint effort with the Isaac Walton League. Simply text 419-367-1691 with your name and address and a nitrate test strip will be sent to you.

H2OHIO DOOMED TO FAIL AT REDUCING LAKE ERIE ALGAE

H2Ohio has no measurement for how much phosphorus is or will be reduced with the Best Management Practices(BMP's) Ohio is paying for. A 2022 study by the American Waterworks Association show why H2Ohio will never get enough phosphorus reductions to reduce harmful algae in Lake Erie. The study states that policy reform is needed to make progress in addressing nonpoint commercial fertilizer and manure runoff pollution. Conventional program designs create limited incentives for program managers, technical service providers, or producers to care about whether funding for Best Management Practices(BMP's) provide the expected load reductions. As a result, it is unlikely that significant progress will be made on load reduction without fundamental policy and programmatic change. The biggest change would replace the current program premise that producers decide both whether and how to control their pollution. The need is for a producer or group of producers to be required to limit their pollution with flexibility in deciding how that limit is met. Reform must shift the focus from practices to outcomes with incentives rewarding quantifiable nutrient reductions or observable water quality outcomes, such as pay for performance. Producers should seek out practices that result in the largest reductions. Second, the focus on outcomes requires acceptable practices for quantifying either pollutant reduction or changes in water quality conditions. Third, these changes may require shifting away from the premise of conventional programs that producers decide based on financial or personal adoption benefits, to program designs that obligate producers to limit their pollution. Such mandatory limits must be structured to recognize diversity in agriculture across scales and across production systems. Consider large regional nutrient mass imbalances from concentrations of intensive livestock operations. In vertically integrated production systems, such as poultry and swine, manure ownership/management requirements could be assigned to the integrator, rather than individual producers working under contract with the integrator. The integrator would be responsible for meeting manure disposal requirements and allowed the flexibility and technical expertise to find cost-effective solutions for the treatment, transport, and use of manure. Reform may mean that some agricultural producers accept more responsibilities for delivering pollutant reductions. Reform can mean more funding to existing programs given that funding requests often exceed available program funds, but new funding must be dedicated to paying for outcomes. Reform must mean that water quality managers rely more on measured outcomes, rather than tallying BMPs installed when determining progress. The challenges to making this transition are many and the transition will not come easily. Reform will meet resistance. Acknowledging the need for change is the first step, and that requires accepting that we can- not buy our way out of the problem by spending money on voluntary programs.

WHILE INDIANA LOCAL GOVERNMENT DENIES AN 8000 CATTLE PERMIT OHIO ALLOWS SAME OPERATION OF NEARLY 2000 CATTLE WITH NO PERMIT

Indiana law requires a permit for all medium and large Concentrated Animal Feeding Operations, Ohio only requires permits for large operations. And Indiana law allows local siting decision making, Ohio preempts local laws. In the summer of 2023 Schmuker applied for a permit for 8000 cattle permit. Steubon County officials denied the request. Soon after barns started appearing in Ohio on the Indiana border. There is a 78-acre parcel in Ohio that was recently divided amongst family members that now house nearly 2000 cattle in four barns and there is no permit. JBS, the world's largest beef producer, is moving operations from the south to the Midwest. Western Lake Erie has had few cattle Concentrated Animal Feedlot Operations until now.

UNTREATED LIQUID MANURE FROM 5000 DAIRY IN WOOD COUNTY NEAR PORTAGE RIVER

BB Land Dairy located in Wayne, Ohio near Bowling Green got a permit, without public notice to many, received a permit to increase from 2000 dairy cows to 5000 dairy cows in early 2022. A public notice in the Bowling Green Sentinel did not state there was a dairy operation and no notice of numbers and increases. BB Land applied untreated liquid manure on nearby fields in 2023 in the spring, in the summer after the hay was harvested, and in the fall when the corn and beans were harvested. Trucks hauling manure to the fields turned paved roads to gravel. Untreated liquid manure applied on tiled lands close to the Portage River turned the river green. Complaints to the Ohio Department of Agriculture and Ohio EPA received responses that all is permitted and ok. To address complaints BB Land put a 14' device over the road and ran a large hose down the Portage River to transport the manure to other fields to reduce truck use on the roads. There are reports of BB Land personnel getting on local boards.

LAKE ERIE WATER LEVELS (Information Army Corps of Engineers)

Projected November 10th water levels for all the Great Lakes are below their levels of a month ago, ranging from 1 to 7 inches. In addition, forecasted November 10th water levels for Lakes Superior and Michigan-Huron are 6 and 2 inches below last year's levels, respectively. Lakes St. Clair, Erie and Ontario are 2, 4, and 6 inches, respectively, above last year's levels. Lakes Michigan-Huron, St. Clair, and Erie are above their November average levels, while Lake Superior is with an inch of its long-term monthly average and Lake Ontario is near its long-term monthly average. Over the next 30 days, all lakes are expected to fall 2 to 3 inches. Lake Superior's outflow into the St. Mary's River is expected to be near normal for November. Lake Michigan-Huron outflow through the St. Clair River and Lake St. Clair's outflow into the Detroit River are projected to be above average for November. Lake Erie outflow through the Niagara River, and Lake Ontario outflow through the St. Lawrence River are projected to be above average in November.

WALLEYE HATCH 2023 SUPERB (ODNR)

By all accounts, it appears that the 2023 spring walleye hatch on Lake Erie was again superb. Of course, the official report won't come out until December when all of the interagency data comes in from Ontario. But rumblings are that the hatch was again an exceptional one in Lake Erie's waters. Based on 2023 trawling surveys that the Ohio DNR Division of Wildlife conducts in Ohio waters, the hatch appears to have been another ultra-successful one.

USEPA REGION V APPROVES OHIO EPA TOTAL MAXIMUM DAILY LOAD IGNORING OBJECTIONS FROM ENVIRONMENTAL GROUPS AND LOCAL GOVERNMENTS

USEPA Region V approved the failed Ohio Total Maximum Daily Load (TMDL) that does not have goals for Dissolved Reactive Phosphorus (DRP) which scientists say is needed to reduce harmful algae in Lake Erie. And the TMDL does not address manure runoff from an estimated 2500 Concentrated Animal Feeding Operations (CAFO's) manure runoff. This in spite of the mounting evidence documented in this newsletter of untreated manure CAFO problems in the watershed and nationwide. A very disappointing ruling from USEPA Region V that should be appealed.

OVER DECADE BATTLE FOR USEPA TO APPROVE CLEAN WATER ACT CAFO WATER PERMIT TRANSFER FROM OHIO EPA TO THE OHIO DEPARTMENT OF AGRICULTURE

In 2002 the Ohio legislature and governor passed legislation to transfer authorization of Clean Water Act National Pollution Elimination Discharge Permits (NPDES) for CAFO's from the Ohio EPA to the Ohio Department of Agriculture (ODA). After decades of wrangling between USEPA and ODA, Ohio has decided to drop the effort and continue to have Ohio EPA do the permitting. At the time of the legislation, there were over 200 CAFO NPDES permits, but that number has since dwindled to less than 30 because of lawsuits allowing CAFO's to simply state on the CAFO permit application that there will be no discharge to water!

NEW YORK ATTORNEY GENERAL SUES PEPSI TO REDUCE SINGLE USE PLASTIC WASTE ON THE BUFFALO NIAGARA RIVER USING DATA FROM BUFFALO NIAGARA RIVERKEEPER

New York Attorney General Tish James is testing a new legal strategy to fight plastic pollution in what could be a model to force companies to reduce single-use packaging. James has filed a lawsuit against PepsiCo, the largest food and beverage company in North America, in Buffalo. The company is responsible for much of the plastic trash picked up by volunteers along waterways in Buffalo. This is a first of its kind lawsuit as states across the country struggle with how to tackle the growing amount of plastic packaging ending up in landfills. It could provide a pathway to force companies to take on more responsibility for the waste they generate and the impact that plastics have on the environment. California's attorney general last year announced an investigation of oil companies over their role in plastic pollution, but hasn't filed any lawsuits from that. A nonprofit has sued Coca Cola for allegedly deceptive marketing on sustainability while being the largest plastic polluter in the world. "This is steps ahead," said Judith Enck, a former EPA Region 2 administrator and founder of Beyond Plastics, about James' lawsuit. "Having the gravitas of a state government behind this is important. "The lawsuit contends that PepsiCo causes public harm from plastic pollution along the Buffalo River and failed to warn customers about the health and environmental risks of its packaging. Buffalo Niagara Waterkeeper worked with the New York AG to provide much of the data for the lawsuit.

LAKE ERIE WATERKEEPER 2023 and AHEAD FOR 2024

2023 PROGRESS AND SETBACKS

- In previous years Lake Erie has commented on CAFO permits and appealed some of the permits. While it is always good to put comments on the record, the comments resulted in few to no permit changes and the appeals were not successful, In 2023 Lake Erie Waterkeeper hired an experienced CAFO consultant, Kathy Martin (who is an engineer and has done CAFO work in 28 states) to comment on two new manure industrial biodigesters

ers and a permit to expand a poultry operations from 2.2 million to 3.7 million laying chickens. Her expertise resulted in permit changes and the uncovering of missing permit information. Lake Erie Waterkeeper plans on having Ms. Martin review some CAFO permits in 2024, depending on resources, that will continue to document permitting problems and make permit changes.

- In 2023 Lake Erie Waterkeeper continued efforts to work home owners and farmers in rural Northwest Ohio. Thanks to the folks that are taking pictures and providing information on manure application problems etc. This helps in the ongoing needed efforts to get untreated manure runoff addressed.
- Ohio approved permits for two dairy liquid manure industrial digesters which will take manure from over a dozen CAFO's and used a single CAFO permit to do this, as though an industrial facility is the same as a single CAFO. There are many problems with Ohio's permitting of these industrial CAFO's including saying manure from the digester is the same as manure from the lagoons when the digested manure is more bioavailable than the lagoon manure. Also for neighbors, there is no air permit when there should be one.
- USEPA's approval of Ohio's TMDL was a clear setback. Thanks to all that signed post cards and sent in comments.

2024 OUTLOOK

- Should be a challenge to the USEPA TMDL approval
- The nitrate health issue being addressed by USEPA in Minnesota should help to get untreated CAFO manure runoff addressed in Western Lake Erie
- USEPA DC is doing a review of CAFO's that will take about a year that should help
- Lake Erie Waterkeeper will continue to document, comment on and report problems to have the evidence needed to get the Dissolved Reactive Phosphorus and untreated manure runoff reductions Lake Erie needs

<p style="text-align: center;">LAKE ERIE WATERKEEPER (LEW)</p> <p>Advocates for fishable, swimmable, & drinkable water through advocacy, education, litigation, and technology. LEW, founded in 2004 is licensed by the International Waterkeeper Alliance. LEW works for water quality and habitat in the entire Lake Erie watershed. For more information go to lakeeriewaterkeeper.org.</p>	<p style="text-align: center;">LAKE ERIE WATERKEEPER UPDATES</p> <p><i>If you live near a CAFO and the trucks are spreading manure, please take a picture and text Sandy at 419-367-1691 Likewise if you can test manure area ditches after heavy rains.</i></p> <ul style="list-style-type: none"> • December 14 Lake Erie Waterkeeper Holiday Dinner Gathering – Discuss 2023 and Looking at 2024- Information and Registration on Lake Erie Waterkeeper website • Virtual monthly meetings the first Thursday of each month at 7 pm (Except January): January 11, February 1, March 7 Speakers to be announced • In person and virtual meetings first Thursday of the month at 7 pm Toledo Yacht Club and virtual, except April • May 2024 Lake Erie Waterkeeper Conference – details to be announced
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