

## Lake Waits for People to Wake

by Mike Ferner

A rare, hybrid environmental campaign is underway to save a great lake – in fact, a Great Lake – Erie.

That grand body of water, declared dead in the late 1960's, experienced a textbook turnaround by the mid-80's but is once again in critical condition every summer.

Just as citizens of a previous generation finally held polluters accountable, they're beginning to mobilize once again. That "Second Battle for Lake Erie" in the late '60's and early 70's was necessitated by massive pollution from sewage treatment plants, industrial offal and phosphates in detergents. The current "Third Battle for Lake Erie" is also about eutrophication (premature aging) from excess nutrients, but this time coming nearly 90% from agriculture, particularly hog, poultry and dairy factories.

Using traditional street protests, picketing and public education, people are starting to demand elected officials and the EPA, created in large part because of the last Lake Erie crisis, do their jobs. But it doesn't stop there –



1968 editorial cartoon

hence the hybrid nature of the campaign.

Not trusting that a stripped-down, rotting-from-the-top EPA can or will do the job this time, Toledoans are also showing what the modern democracy movement can do. Envisioned by the Program on Corporations, Law and Democracy (POCLAD) through the 1990's, turned into a grassroots organizing tool by Move to Amend (MTA), and imbued with the goal to protect the rights of nature by the Community Environmental and Legal Defense Fund (CELDF), that movement, judging by recent press accounts, has literally put the world on notice.

Two separate but allied citizen groups coordinate the work in Toledo.

Advocates for a Clean Lake Erie (ACLE) takes a more traditional approach, from street protests and picket lines to suing the U.S. EPA for not doing its job. It has shown its "Third Battle for Lake Erie" presentation to over 40 groups and generated many hundreds of calls and letters to public officials. In its three years of spunky organizing, the group has successfully raised the profile of Lake Erie's ills as well as the corruption of regulatory agencies.

For example, one action saw ACLE members dump water choked with toxic algae and dead fish into the fountain at Toledo's Government Center. And the group wasn't shy about calling out Ohio's EPA deputy director for having worked as a lobbyist for the Ohio Farm Bureau for 19 years.

Toledoans for Safe Water (TSW), composed mostly of younger activists, worked with CELDF to go beyond that approach. Ignoring sunburn and frostbite, they collected 10,000

signatures to place a city charter amendment on Toledo's ballot establishing that Lake Erie has the legal rights of people and placing Toledo at the forefront of an international movement for the rights of nature.

The Lake Erie Bill of Rights (LEBOR) passed on February 26 but not until surmounting multiple challenges by the county board of elections and a cabal of corporate lobbying groups to keep it off the ballot and then funding an unsuccessful \$320,000 effort to defeat it.

Lobby groups included the Affiliated Construction Trades unions, the Ohio Chamber of Commerce, American Petroleum Institute, Ohio Oil and Gas Association, the Farm Bureau, as well as hog, poultry and dairy factory lobbyists. British Petroleum N.A. Inc. contributed the lion's share of the "Vote No" campaign.

Two heartening developments in that campaign are worth noting.

The corporate forces created two dummy groups to promote a truly absurd, over-the-top message that if passed, LEBOR would "raise the cost of food and nearly everything" beyond the reach of consumers, negatively affect "even churches," and used a graphic widely associated with anti-domestic violence programs to indicate how it would frighten children. But a quick look at their dummy facebook page revealed that every comment

accused the sponsors of lying and trying to deceive voters.

The other encouraging point was to hear many people, not just core activists, readily state that "if corporations have the rights of people, why shouldn't Lake Erie?" That observation, won through decades of hard work by the democracy movement, quickly put the lie to any claims that LEBOR was foolishly unconstitutional.

That, of course, is what the corporados immediately tried to prove the very day after the election by enlisting a farmer to be plaintiff in a federal lawsuit challenging LEBOR. The court put a stay on implementing the measure until the suit is settled.

TSW filed a motion to be allowed to intervene in that case. Considering its members were the ones who wrote the initiative and collected the signatures, it seemed like a reasonable request.

Showing exactly how the system maintains itself, U.S. District Judge Jack Zouhary, issued his decision on May 7, saying that the rights of nature are not recognized by federal courts and allowing TSW to intervene would "unduly delay this lawsuit." He did, however, allow the State of Ohio to intervene against LEBOR.

That leaves a host of corporate lobby firms and the Ohio Attorney General to oppose the measure and only the City of Toledo to defend it. Toledo's mayor has made some

supportive statements but an outside law firm with no particular expertise in rights of nature was hired to take the case for the City. Given all the issues confronting Toledo, proponents aren't confident their case will get the attention it needs.

The day after Zouhary's ruling the Ohio House Finance Committee included a last-minute provision in the state's \$69 billion budget bill stating no one can file a lawsuit in state court on behalf of "nature or any ecosystem," effectively nullifying the Lake Erie Bill of Rights.

In stark contrast to the opposition shown by judges and legislators in Ohio, the United Nations invited the lead organizer for TSW, Markie Miller, to speak on Earth Day to the General Assembly about Toledo's success. Reporters from around the globe have called to find out more about the rights of nature.

In April, ACLE promoted a new report issued by the Environmental Working Group and the Environmental Law and Policy Center that showed the number of hog, poultry and dairy factories in the Maumee River Watershed, all upstream from Toledo's location on Lake Erie, has exploded in the last decade, far outnumbering anything state officials have claimed.

The study estimates some 775 of these animal concentration camps now blot the watershed, producing more than twice the

amount of sewage generated by Los Angeles and Chicago combined. That waste, containing antibiotic-resistant bacteria, hormones, viruses and massive amounts of E. coli, is dumped, untreated and often to excess, on fields that drain into the Maumee River.

Providing the proverbial final straw, that report motivated ACLE members to endorse a national campaign to ban factory “farms” organized by Food and Water Watch. Previously, the group concentrated strictly on how these facilities affect Lake Erie water quality. Supporting a ban has broadened the group’s concerns to include inhumane conditions, overuse of antibiotics and the significant reduction in number of traditional family farms that used to include sustainable livestock operations.

Coincidentally, an article in the UK Guardian postulates that a successful strategy for Democratic presidential candidates to win rural votes would be to support a moratorium on these massive operations given their impact on

air and water quality in the immediate areas where they’re sited.

Of course, waiting for significant change to come from the top has disappointed activists time and again, so both TSW and ACLE say Lake Erie’s fate will be determined by whether people become angry enough to wield the power of democracy to defend nature.

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A Publication of the PROGRAM ON CORPORATIONS, LAW & DEMOCRACY

**By What Authority** (ISSN: 524-1106) is published by the Program on Corporations, Law & Democracy. The title is English for *quo warranto*, a legal phrase that questions illegitimate exercise of privilege and power. We the people and our federal and state officials have long been giving giant business corporations illegitimate authority. Today, a minority directing giant corporations and backed by police, courts, and the military, define our culture, govern our nation and plunder the earth. **By What Authority** reflects an unabashed assertion of the right of the sovereign people to govern themselves.

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**BWA** is a tool for democracy proponents to rethink and reframe their work. To that end we encourage readers to engage us with comments, questions and suggestions.

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