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**Ohio EPA Director Craig Butler**  
**HB 643 Testimony before the House Finance Committee**  
**June 19, 2018**

Good morning Chairman Ryan, Ranking Member Cera, and members of the committee. My name is Craig Butler, and I am the Director of Ohio EPA and Chairman of the Ohio Lake Erie Commission. Thank you for the opportunity to testify on HB 643.

I am grateful to be with you today, and encouraged that the General Assembly continues to recognize the importance of Lake Erie to our environment and economy. As the Governor has said on numerous occasions, Lake Erie is our “Crown Jewel” and we must continue to focus on policy and legislative actions that will make a positive impact in reducing the overabundance of nutrients – from all sources – that are negatively impacting Lake Erie.

Like our other voluntary nutrient reduction programs Ohio has relied upon to date to reduce nutrient loading to Lake Erie, this bill continues to rely on providing additional millions of dollars in funding to support voluntary programs. And while these programs have likely helped, the data collected by Ohio EPA and other credible sources, clearly show that we are not making any significant progress in reaching the target of reducing phosphorous loading to Lake Erie by 40% by 2025.

You may be aware that Ohio EPA recently made the decision in the 2018 Integrated Report to USEPA to designate the open waters of the western basin of Lake Erie as ‘impaired.’ This was a decision we didn’t take lightly and we used a science-based methodology to determine when the lake is impaired and, just as importantly, when it is not impaired. This methodology was created with input from researchers from The Ohio State University Sea Grant College Program, Bowling Green State University, University of Toledo and National Oceanic and Atmospheric Administration.

For Ohio EPA, it was never a question of listing, but always a question of how to do it based on science, how to know when it should come off the list, and what method do we use to make those determinations. We already know the lake has a problem, and we have scientific evidence from different reports that demonstrate that reducing nutrient runoff is needed to address that problem.

Since 2016, Ohio EPA has published the *Nutrient Mass Balance Study for Ohio’s Major Rivers*. The most recent iteration was released on April 16, 2018. This study identifies the contribution of nutrients from various sources based on land use. Unfortunately, the report shows that nonpoint sources contribute 88% of the nutrient load in the Maumee River. When you factor in that agriculture is the predominant land use in the Maumee basin, the correlation between nutrient loading and agricultural land use is easy to make. In addition, when estimates that 80% of the nutrients used in the watershed are from commercial fertilizer, a conclusion can again be made as to the nutrient source.

In addition, the Western Lake Erie Tributary Watershed Monitoring Report has been published each of the last four years by the Ohio Lake Erie Commission. The report is based on water quality monitoring data collected by U.S. Geological Survey and Heidelberg University and shows no progress toward sustainable reductions of nutrient loading in the Maumee, Sandusky Rivers or their primary tributaries over that time period.

It is no secret that the issues impacting Lake Erie, especially the harmful algae, are multi-faceted and of great concern to many. It stands to reason that the solutions to addressing those issues will not be quick or easy. While I am encouraged that the legislature has been engaged in Lake Erie, I am concerned that Ohio is not seeing the progress toward the 40% total phosphorus reduction goal we would have expected to see with all of the voluntary incentives and even regulatory actions taken to date. With all of the actions taken and dollars spent through the Farm Bill, as well as state-directed programs for both point source and nonpoint source nutrient reduction, one would expect to see some positive movement toward our goal – that is not the case.

Some of you may be familiar with the draft legislation that Ohio EPA has been working on this Spring. While the end goal may be the same, the means by which we propose getting there are somewhat different. For instance, Ohio EPA has proposed instituting a statewide phosphorus permit limit of 1 ppm for wastewater treatment plants. This identical limit has been adopted by Michigan, Wisconsin, Indiana, and Minnesota. While contributing far less than nonpoint sources, decreases in nutrients from these point sources will be beneficial and is part of our comprehensive nutrient reduction strategy.

In addition, the administration has proposed modifying the Ohio Revised Code language involving “watershed in distress.” What has been proposed creates a practical tool for the Ohio Department of Agriculture to use in addressing specific agricultural-generated water quality impacts within very specific watersheds. The proposal expands the definition of “agricultural pollution” which currently addresses only manure, residual farm products and sediment with attached substances that impact water quality. The proposal would include fertilizer in that definition and directs the Ohio Department of Agriculture (ODA) to establish rules for farms within these “watersheds in distress” that are mandatory and prescriptive in managing nutrients. It is estimated that 80% of the nutrients used in the Maumee basin alone result from commercial phosphorus and/or nitrogen, and that these nonpoint sources, which are predominately agriculture, are contributing more than 85% of the nutrient loading to Lake Erie.

This approach to address fertilizer-related nutrient loading would be similar to the program at Grand Lake St. Mary's where, after seven years of requiring farmers to develop specific nutrient management plans, we are seeing improvement in water quality entering the lake.

So, in short, voluntary measures, such as are in this bill, will still be a major part of Ohio's action plan and will get us a few steps closer to where we need to be. However, we have clearly shown voluntary programs alone are not providing the required results, and we need to adapt our approach to include regulatory measures, especially in documented high-nutrient contributing sub-watersheds.

Implementing focused regulatory action in addition to voluntary programs, such as in this bill, must be taken appropriately and swiftly to ensure we show meaningful progress in protecting our Crown Jewel.

Thank you again for allowing me to testify today. I am happy to answer any questions you have.

