



ISSUE 29 : FALL 2025
OPEN RIVERS :
RETHINKING WATER, PLACE & COMMUNITY

GREAT LAKES, PERIL & PROMISE

<https://openrivers.umn.edu>

An interdisciplinary journal of public scholarship rethinking water, place & community
from multiple perspectives within and beyond the academy.

ISSN 2471-190X

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Open Rivers: Rethinking Water, Place & Community is produced by the [University of Minnesota Libraries Publishing Services](https://www.lib.umn.edu/) and the [University of Minnesota Institute for Advanced Study](https://www.umn.edu/iaa/).

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ISSN 2471-190X

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FEATURE

RIGHTS OF NATURE AND THE LAKE ERIE BILL OF RIGHTS

By Sheryl Cunningham

On February 26, 2019, citizens of Toledo, Ohio, passed legislation called the Lake Erie Bill of Rights (LEBOR), which created legal standing for nature in the state of Ohio by giving individual citizens the right to sue on behalf of the Lake Erie ecosystem. The initial motivation for organizing for the LEBOR came from residents who experienced the Toledo Water Crisis, a three-day period in August 2014 when residents could

not drink their tap water due to a harmful algal bloom (HAB) that developed near a water intake station in the Maumee River. Microcystin, a toxin that can affect the liver and nervous system, was detected in the water. The main complaint of Toledoans for Safe Water (TFSW), the community group behind the LEBOR, was that little had been done to improve or protect Lake Erie water quality in the years since the crisis in 2014.



Sunset on Lake Erie at Pebble Beach, Kelleys Island. The island is about 30 nautical miles from the city of Toledo, Ohio and is one of several islands in Lake Erie that have had their surrounding waters affected by algal blooms. Image courtesy of Sheryl Cunningham.

There are different types of pollution mentioned in the LEBOR, but the Ohio Environmental Protection Agency has identified farm runoff as the main source of HAB-creating nutrient pollution—extra phosphorus and nitrogen—in this area of Ohio.[1] HAB development in the watershed is linked to agricultural fertilizer practices and can be further exacerbated by weather conditions, like extreme rain events.[2] While there are many different types of farms in Ohio, the LEBOR specifically mentions large-scale agricultural operations, including “factory hog and chicken farms.”[3] In 2017, for example, there were sixty-four concentrated animal feeding facilities in the Western Lake Erie watershed, with thirty-eight facilities holding chickens and

swine.[4] Despite its focus on pollution from industrial livestock agriculture, the passage of the ballot measure concerned many Ohio farmers. Advocates for farmers, such as the Ohio Farm Bureau (OFB), considered the LEBOR a threat because of its potential to open up all farms, regardless of size or type, to lawsuits targeting nutrient pollution.

John Kasich (R) was governor of Ohio during the Toledo Water Crisis and throughout his second term directed some of his attention toward the problem of HABs in the Lake Erie watershed. Like the TFSW, he was frustrated by inaction on the issue. In July of 2018, he signed a controversial executive order that would have



In 2015, the year following the Toledo Water Crisis, Lake Erie had one of its worst years on record for algal blooms. On July 28, 2015, the Operational Land Imager (OLI) on Landsat 8 captured this image. The large bloom spread beyond the largest Lake Erie island, Pelee Island, which is part of the province of Ontario, Canada. Via NASA Earth Observatory. Image by Joshua Stevens, using Landsat data from the U.S. Geological Survey.

added seven local ecosystems to the state's list of distressed watersheds. He felt that legislators and farmers had had ample time to address the nutrient pollution, yet the problem had persisted and steadily worsened since 2014.[5] Farming practices are largely unregulated in Ohio, with state legislators showing a preference for voluntary compliance with best practices for farm runoff. However, once a watershed is officially declared "distressed," regulations can be put into place. The watersheds that Kasich declared distressed in his 2018 executive order all fed into the Maumee River and eventually into Lake Erie. The executive order was opposed by several different entities and ultimately did not go into effect because of disagreements about the criteria that would place a watershed into the "distressed" category.

When Gov. Kasich's order failed to create meaningful change, the Toledoans for Safe Water placed the Lake Erie Bill of Rights on the local ballot and gained citizen support through the city's election process. Toledo voters passed the legislation on February 26, 2019; however, it was challenged in court the very next day by an Ohio farmer named Mark Drewes. Given that the lawsuit would take time to resolve, lawmakers who opposed the LEBOR also blocked

the legislation at the state level by adding extra language to an upcoming state budget bill. The amended budget stated: "Nature or any ecosystem does not have standing to participate in or bring an action in any court of common pleas," making the law unenforceable while the lawsuit made its way through the courts. [6] Although the LEBOR was a local charter amendment, passed in the city of Toledo, Drewes challenged the law in a federal court because he thought the law violated the U.S. Constitution.

In this article, I first discuss the Rights of Nature legal framework, which served as the basis for the Lake Erie Bill of Rights. Next, I explain the concept of an ecocentric interruption and position the LEBOR as an ecocentric interruption by examining the dominant discourses on farming in Ohio. Finally, I analyze the rhetorical implications of the online communications of two key organizations: the Ohio Farm Bureau, who opposed the LEBOR, and the Toledoans for Safe Water, who spearheaded the legislation. While the LEBOR ultimately failed in the court system, I argue that the ecocentric rhetoric of the ballot measure successfully equipped the general public to think about farms as parts of ecosystems that include human and more-than-human concerns.

The Rights of Nature

Many within the United States can (and do) balk at the idea that a river or ecosystem has recognizable rights. The Rights of Nature movement draws attention to fundamental questions about how humans relate to nonhuman entities, whether corporate or natural. In discussions about the Rights of Nature in law, most scholars point to Christopher Stone's 1972 law review article "Do Trees Have Standing? Toward Legal Rights for Natural Objects." [7] In his article, Stone described the concept of legal personhood and who or what has been characterized as such in the United States

over time. He acknowledged that the idea of advocating for the rights of natural objects while strange to many in the late twentieth century, was possible through the concept of corporate personhood. On this framework, Stone noted, "We have become so accustomed to the idea of a corporation having 'its' own rights, and being a 'person' and 'citizen' for so many statutory and constitutional purposes, that we forget how jarring the notion was to early jurists." [8] To reframe the initial strangeness of the Rights of Nature, advocates today often utilize a version of Stone's question in public dialogue:

“If corporations can be recognized as rights-bearing, why can’t ecosystems?” This question helps make the environment more intelligible and offers one possible route to rethinking human-nature relationships.

The Community Environmental Legal Defense Fund (CELDF), who worked with TFSW to help draft the language of the LEBOR, argues that corporate personhood has created a power imbalance in the United States that endangers healthy ecosystems. For this reason, the CELDF has been involved with the advancement of the Rights of Nature in legal contexts, both in the United States and beyond.[9] With assistance from the CELDF, in 2006 Tamaqua Borough in neighboring Pennsylvania became the first place in the world to legally recognize the Rights of Nature when the municipality banned sewage sludge dumping.[10] The CELDF also advised environmental protection advocates in Ecuador, where recognition of the Rights of Nature has been championed at the national level.[11] In 2008, Ecuador amended its national constitution to recognize the rights of *Pachamama*, the Quechua term for Mother Earth. Bolivia has also amended its constitution to recognize

some aspects of the Rights of Nature.[12] Some countries, such as New Zealand, have established guardianship agreements between government entities and Indigenous groups to protect specific natural resources and water systems.[13] Even those who question whether a rights-based approach is the best way to enact environmental protections agree that the language of rights is widely recognizable across the world.[14]

Unlike Bolivia, Ecuador, and New Zealand, there is no formal recognition of the Rights of Nature at the national level in the United States. Without national recognition of the legal framework, it is not surprising that the Lake Erie Bill of Rights faced intense legal challenges. In 2020, a federal judge declared the ballot initiative unconstitutional. In the ruling, the court noted that because the Lake Erie watershed affected more than just the citizens of Toledo, the ballot initiative overstepped its bounds by impacting people who lived outside of the city. Nonetheless, it is significant that citizens of a major city passed the LEBOR. The fact that elected officials in Toledo were willing to defend it in court suggests that the Rights of Nature language was an ecocentric interruption of business as usual.

Ecocentric Interruptions of Dominant Discourses

Legal arguments about the Rights of Nature have productive meaning outside of legal contexts if we consider how the language can disrupt the status quo. Ecocentric rhetoric, an expansive term that has “earthly coexistence” as its goal, asks people to consider how humans can continue to inhabit the planet without destroying it or its other inhabitants.[15] Joshua Trey Barnett argues that ecocentric rhetoric offers the possibility of extending human democratic thinking to the nonhuman:

Rethinking democracy entails listening to, and respecting, the requirements, the desires, and the demands of what exceeds

the human. Because plants, animals, habitats, ecosystems, and earth systems do not “speak” in languages that are necessarily intelligible from the perspective of humans, though, more-than-human signals require translation. In conversation with naturalists, ecologists, and earth system scientists, rhetoricians can identify, describe, and translate (that is, render intelligible and meaningful) those signals that arrive in something other than a human voice. By doing so, we will help to bring a more ecocentric rhetoric—and democracy—into existence.[16]

Discourses of rights have thus far been contentious and fundamental to the ongoing experiment of democracy in the United States. The expansion of rights to ecosystems is an act of translation that could help what is more-than-human not only survive but thrive.

Ecocentric rhetoric can have a variety of impacts, but I am most interested in how Rights of Nature language can lead to a “critical interruption” of a dominant discourse. [17] In *Environmental Communication and the Public Sphere*, Robert Cox and Phaedra Pezzullo argue that a discourse is dominant when it “gains a broad or taken-for-granted status in a culture or when its meanings help to legitimize certain practices.” They explain that these “discourses are [often] invisible in the sense that they express naturalized or taken-for-granted assumptions and values about how the world is or should be organized.” [18] In the case of the LEBOR, I begin by analyzing the 2020 version of the Ohio Right to Farm Law because the legislation illustrates what can be considered the dominant discourse as it literally defines the legal meaning of agriculture within the state. The initial bill was passed in 1982 and Ohio lawmakers revised the civil statute in 2020. [19] The most recent version of the law indicates two distinct yet related strands of ideas about agricultural land and land-use practices. First, farms and farmers are in need of protection. Second, farmland is property untethered from nature or the environment.

The sense that farms must be protected is also evident in the Right to Farm law’s establishment of “agricultural districts.” According to the law, a farm can be enrolled as an agricultural district if it has been used for agricultural production for at least the prior three years, is at least 10 acres, and the average yearly gross income during the previous three-year period was at least twenty-five hundred dollars. Once agricultural land is designated an agricultural district by the state, it is protected from nuisance lawsuits, and some eminent domain claims. Farmers can also defer certain types of taxes as long as

the land is kept in agricultural use. Perhaps the most important provision is that farmers whose land is registered as agricultural districts have a “complete defense” against civil action. [20] The basic idea of the law is that farmers should not be sued for doing farm activities. For example, a farmer whose land is registered as an agricultural district would be protected against a lawsuit from a neighbor who sues about the smell of livestock. These protections have developed, in part, because farming is a huge economic driver that contributes more than \$53 billion to Ohio’s economy, as well as twelve percent of all jobs in the state. [21]

Beyond nuisance lawsuits, the eminent domain language in the law reflects concerns that farms are also under threat from development. According to the Ohio Farmland Preservation Office, Ohio lost nearly one-third of its agricultural land between 1950 and 2000, mostly due to residential and commercial development. [22] Joshua Trey Barnett encourages rhetorical analysis that critically considers “content” in order to grapple with both the moments when rhetors explicitly engage ecological concerns as well as the instances when they fail to do so. [23] In the case of Western Lake Erie, there are rhetorical absences that are worth considering given that much of Ohio was once forested. The Western Lake Erie watershed was once part of the massive Great Black Swamp, a swampland “30 to 40 miles wide, [that extended] for 120 miles from the Sandusky River in the east, nearly to Fort Wayne, Indiana, in the west.” [24] Due to the harsh wilderness conditions in and near the swamp, it was also one of the last places in Ohio where indigenous tribes lived in the late 1700s and into the early 1800s. In the nineteenth century, the Great Black Swamp was drained to enable agricultural development and the colonization of the land. [25] However, the Ohio Right to Farm Law does not acknowledge that the state’s farmland has not always been farmland, nor the history of settler colonialism and the native tribes that co-existed with the swamp

for centuries. This is not to say that the Ohio General Assembly or the Farmland Preservation Office should recount the history of the Great Black Swamp, but the erasure of the history of the ecosystem seems to matter. Although there is concern about the threat of development in the Ohio Right to Farm Law, agriculture was also a form of development that drastically transformed the landscape into agricultural property for white newcomers.

Once drained, the former swampland was bought and sold, and farms eventually became spaces understood as protected property. In the Ohio Right to Farm Law, farmland is bounded and

categorized as “land” and “property” and is recognized as property when organized in “tracts,” “parcels,” “lots,” or “acres.” This language limits thinking about connectedness and systems—there are no ecosystems in the Ohio Right to Farm Law. It is understandable that agricultural land is described in this manner; farms are property and some farms do need protection against certain kinds of development and nuisance lawsuits. However, the complex history of the Western Lake Erie watershed underscores the colonizing relationship with land for the humans who once lived there, those who currently live there, and the more-than-human ecosystem.

Opposing and Supporting the LEBOR

The Opposition of the Ohio Farm Bureau (OFB)

The Ohio Farm Bureau is a 100-year-old nonprofit organization founded in 1919 to advocate for Ohio farmers and farming communities.[26] Today, the OFB is still a powerful lobbying organization for farmers in the state of Ohio. The OFB communicates with members in various ways, but in this article, I look at public communications of the OFB via the blog on its website. In its efforts to defeat the LEBOR, the OFB blog made three distinct arguments: (1) the LEBOR is silly and absurd; (2) the LEBOR violated the Ohio Right to Farm Law and its protections for farms against nuisance lawsuits; and (3) the LEBOR is unconstitutional.

The OFB seized on the idea that farmers could be “sued by Lake Erie” early on in blog posts about the LEBOR. Before the ballot initiative passed, one blog post described the situation this way: “Toledo voters will soon decide whether farmers can be sued by Lake Erie.”[27] Another post explained, “You could be sued by Lake Erie, or more precisely, by any resident of Toledo who wants to speak for the lake and finds fault with the way you’re farming or doing business.



The massive Great Black Swamp spanned most of Northwestern Ohio and into Indiana. By Drdpw, CC BY-SA 2.5, via Wikimedia Commons.

It sounds incredible, but the threat is real enough that [the] Farm Bureau is engaged in the legal maneuvering.”[28] In this blog excerpt, the Farm Bureau presented itself as a reluctant participant, highlighting the tension between the absurdity of a lake being able to sue a person, but simultaneously being a viable threat. This tension is reminiscent of other arguments in which environmental positions are described as ridiculous and trivialized while still being seen as threatening to a specific way of life.[29]

The term nuisance appears repeatedly in OFB discourse and is typically described as farmers getting sued over things like smells or traffic. One post about the LEBOR described the financial penalties farmers endured in other states: “Juries have awarded millions of dollars to rural residents who complained about the smell, flies and increased truck traffic around the farms.”[30] In Ohio, enrollment as an agricultural district is one way that farmers typically protect themselves from nuisance lawsuits. However, the 2019 budget bill that blocked the LEBOR also expanded protections to farmers who did *not* register their farm as an agricultural district. The Farm Bureau blog post claimed that although the budget bill loophole was meant to protect farmers from the LEBOR, it might not be enough for complete protection: “[W]e don’t know for sure that those lawsuits would be considered nuisance and whether this defense would be the slam dunk. But as I always say as a lawyer, I want every farmer to have every tool in the toolbox that they can and so if there’s any chance it would work, we want farmers to be able to use this and have this at their disposal as needed.”[31] Using the budget bill as a way to invalidate the LEBOR indicates concern among farmers and lobbyists about whether nutrient pollution to an ecosystem could be considered a legal nuisance.

OFB blog posts do not explicitly acknowledge the direct harm farmers cause to Lake Erie and its larger ecosystem. The words “nutrient pollution,” for example, never appear, nor does

the word “algae.” However, the OFB did implicitly acknowledge that the LEBOR was about water quality in its commentary about the ballot initiative’s Rights of Nature language: “The rights this measure would grant the lake include, ‘an ability to exist, flourish, be free from pollution’ and other broadly described entitlements.”[32] The LEBOR does not actually use the phrase “free from pollution” in its text, though it does use the words “exist and flourish.” Whether this was a misunderstanding of the LEBOR, or an intentional rhetorical widening of its potential implications is unclear. More importantly, the type of pollution—nutrient pollution—and what it causes—algae blooms—do not appear in these blog posts. Yet in a post from January 29, 2019, the Farm Bureau encouraged members to: “Make sure you’re talking about all the good things you are doing for water quality... and the challenges that we face and how we are taking the bull by the horns and doing our part.”[33] As an advocacy organization for Ohio farmers, it makes sense that the blog posts did not focus on what farmers were doing wrong, but their omission of any discussion of nutrient pollution is an instructive discursive silence.

The reticence to directly discuss nutrient pollution was apparent in an Ohio Farm Bureau blog post about Mark Drewes, the farmer who filed the lawsuit against the LEBOR. The writer described Drewes in February 2019 as “employing a variety of conservation practices, water monitoring systems, water control structures and... [using] variable rate enabled equipment and yet he’s vulnerable to frivolous lawsuits. We are proud that our member has stood up against this overreach, and his efforts will benefit all Farm Bureau members, farmers, and protect jobs in Ohio.”[34] The author positioned Drewes as a responsible steward of conservation and the LEBOR as a case of frivolous overreach, repeating the earlier trivializing language of OFB blog posts, without acknowledging the real problem—nutrient pollution in Ohio waterways from farm runoff.

This rhetoric echoes the dominant discourse of the Ohio Right to Farm Law in its sentiment that farmers and farms need protection from those who would do them harm rather than citizens or ecosystems needing protection from hazardous agricultural practices.

In the same blog post, Mark Drewes’s lawyer, Thomas Fusonie, argued that their lawsuit sought to “protect” the Drewes family’s fifth-generation farm from an “unconstitutional assault.”[35] LEBOR opponents frequently used the term “family farm” and in the case of the Drewes family, it was an accurate description. However, the term also evokes a romanticized version of farming that does not strongly align with the reality of large-scale industrial farming and animal feeding facilities that have expanded over the past two decades.[36] The legal argument about the LEBOR’s unconstitutionality was that municipalities, like Toledo, could not pass such an amendment because the State of Ohio holds constitutional authority over public interests

concerning the lake. According to Fusonie, the LEBOR would have given “Toledoans authority over nearly 5 million Ohioans, thousands of farms, more than 400,000 businesses and every level of government in 35 northern Ohio counties plus parts of Michigan, Indiana, Pennsylvania, New York and Canada.”[37] The argument that Toledo lacked the authority to enforce its amendment was the same reasoning the federal judge used to declare the LEBOR unconstitutional in 2020. LEBOR opponents’ commentary about constitutionality, however, elides the very argument that many Rights of Nature advocates attempted to make: why is the continuous pollution of an ecosystem considered constitutional? In rural areas with extensive farmland and many types of farms, such as those in the Western Lake Erie watershed, nutrient pollution persists—even when farmers adopt conservation practices like building buffer zones and using precise nutrient management plans.

The Support of Toledoans for Safe Water (TFSW)

On its [website](#), Toledoans for Safe Water describes itself as a “grassroots organization in the Toledo area working to establish a Bill of Rights to protect Lake Erie and the communities that rely on its health and viability.”[38] This group began with the specific purpose of organizing around a new legal framework to better support community rights and the Rights of Nature. In both the language of the LEBOR and its public organizing, the TFSW advanced four distinct yet interrelated arguments to advocate for the Lake Erie ecosystem: (1) because government inaction allows pollution to persist legally, communities need more tools to resist this hazardous status quo; (2) responsibility must be assigned for the current condition of the Lake Erie ecosystem; (3) a rhetoric of dependence defines the relationship between humans and the ecosystem; and (4) the Rights of Nature involves

more than personhood, distinguishing TFSW from other environmental advocates.[39]

The home page of the TFSW website places the story of the 2014 Toledo Water Crisis front and center, recounting the water advisory city officials issued following the detection of toxic algae in the Maumee River. The group explains that the LEBOR is a means to legalize “sustainability, community rights, and environmental protections.”[40] This language draws attention to the idea that causing harm to ecosystems is often legally sanctioned, while attempting to stop harm is not:

Taxpayers have endured unsafe drinking waters and toxic shorelines for an unreasonable amount of time. Throughout it all, industrial farming practices remain not only steadfast but are encouraged and

prioritized above the health and rights of the people and environment. This needs to change. Now, in a time that calls for urgent and drastic environmental protections, our charter amendment initiative demands a new political framework built on Rights of Nature and local self-governance.[41]

Local self-governance is permitted under the Ohio Constitution through a concept called home rule. Yet in the case of decades of pollution in Lake Erie and other environmental protection issues, like fracking, home rule has not been effective in helping local municipalities protect themselves from known or potential environmental hazards.[42] On its official website, the TFSW asserts that its organizing involves more than highlighting a person’s right to a healthy environment, and argues that community and natural rights are distinct yet mutually supportive.

In the LEBOR, the TFSW utilized a rhetoric of “emergency” to describe the state of the lake and its ecosystem, and to express care and concern for both human and more-than-human beings:

We the people of the City of Toledo declare that Lake Erie and the Lake Erie watershed comprise an ecosystem upon which millions of people and countless species depend for health, drinking water and survival. We further declare that this ecosystem, which has suffered for more than a century under continuous assault and ruin due to industrialization, is in imminent danger of irreversible devastation due to continued abuse by people and corporations enabled by reckless government policies, permitting and licensing of activities that unremittingly create cumulative harm, and lack of protective intervention. Continued abuse consisting of direct dumping of industrial wastes, runoff of noxious substances from large scale agricultural practices, including factory hog and chicken farms, combined

with the effects of global climate change, constitute an immediate emergency.[43]

People, countless species, and the ecosystem itself have been harmed. The TFSW is clear about how this harm has occurred, as they identify the entities responsible for the current condition of the ecosystem as a whole: industrial waste, farm runoff, and government policies that allow for abuse. The litany of harms is coupled with a rhetoric of urgency: for TFSW, the state of the lake is one of imminent and potentially irreversible danger.

In the dominant legal discourse about agriculture in Ohio, farmers are understood to own discrete parcels of productive land, each bounded and largely disconnected from the others. Property lines are what matter in terms of how people are supposed to relate to land. In the LEBOR, however, there is no farmland or industrial land—there are ecosystems and watersheds that not only exist, but possess rights: “Lake Erie, and the Lake Erie watershed, possess the right to exist, flourish, and naturally evolve. The Lake Erie Ecosystem shall include all natural water features, communities of organisms, soil as well as terrestrial and aquatic sub ecosystems that are part of Lake Erie and its watershed.”[44] This rhetoric prioritizes natural systems rather than parcels of property. The LEBOR does not attempt to get rid of the concept of property, but encourages thinking about the environmental consequences of humans conceptualizing land *only* as property. The TFSW articulates a different relationship with land for humans: “We the people of the City of Toledo find that laws ostensibly enacted to protect us, and to foster our health, prosperity, and fundamental rights do neither; and that the very air, land, and water – on which our lives and happiness depend – are threatened.”[45] There is recognition of dependence rather than ownership, where humans and the more-than-human depend upon ecosystems for survival.[46]

In many articulations of the Rights of Nature, the language emphasizes the concept of personhood. [47] The TFSW, however, note that their vision of Rights of Nature is more complex than the idea of personhood, mirroring the praxis of the CELDF, which helped the group draft the legislation. According to CELDF, “One common misconception—including within elements of the Rights of Nature movement—is that organizers are advancing legal personhood for ecosystems. The truth is more complex.” [48] In an opinion piece in *The Guardian* by two members of TFSW, Markie Miller and Crystal Jankowski, explained, “In fact, we were careful to distinguish between human rights (‘personhood’) and ecosystem rights. For humans, the LEBOR recognises rights ‘to a clean and healthy environment’ and to a system of government that protects ‘human, civil, and collective rights.’ But for the lake, it recognises different rights: to ‘exist, flourish and naturally evolve’—it does not establish ‘personhood.’” [49] There are, of course, different ways that nature can be framed in legal discourses, including: (1) normative reflection of human rights, (2) common heritage

of humanity, (3) constitutional objective to protect the environment, (4) human right to a favorable environment and (5) nature as a legal subject and person. [50] The LEBOR organizers are attempting to do both four and five, but they would likely argue that nature should be a subject with legal standing, but *not* articulated as a person.

Miller and Jankowski’s concerns about personhood focus on how corporations utilize the concept: “Personhood protections for ecosystems can quickly be co-opted. We must not advance a movement where ecosystem rights come in conflict with the human rights of poor people. Instead, the LEBOR treats city residents and the natural world as allies in a fight against corporate greed by elevating both human and ecosystem rights above the property privileges of corporations.” [51] The members of TFSW recognize these limitations in their arguments about personhood and instead pursue a more ecocentric framing of an ecosystem’s rights to “exist, flourish, and naturally evolve.”

Can a legal failure be a rhetorical success?

It is difficult to disrupt, let alone reverse, ecologically damaging practices that have become the status quo over time. The LEBOR is an ecocentric interruption because it challenges the dominant discourse about who and what needs protection, and why. The dominant discourse, written into law, prioritizes the need to protect agricultural property from development and nuisance lawsuits, while the LEBOR positions farms, especially large-scale industrial livestock farming, as sources of ecological damage. The LEBOR recognizes property rights but questions why the rights of corporations are privileged above the rights of humans and ecosystems. As a result, it disrupts the narrative of property—not to get rid of it, but to remind the public that farmland is connected to waterways and

ecosystems. When humans conceptualize land solely as property, it sets ecosystems and the species that depend on them on a perilous path.

Where does this disruption lead? The ecocentric interruption of the Lake Erie Bill of Rights has led to a more systems-level approach to thinking about farms as parts of ecosystems at the state level. The LEBOR advocates galvanized new initiatives where citizens and politicians had failed in the past. In 2019, while the LEBOR was being contested in court, the administration of Ohio Governor Mike DeWine created a new program, H2Ohio, to address water quality problems like nutrient pollution in Ohio. The program includes partnerships with three state agencies—the Ohio Environmental Protection

Agency, the Ohio Department of Agriculture, and the Ohio Department of Natural Resources—as well as with nonprofit organizations like the Ohio Farm Bureau and The Nature Conservancy. The initiative focuses on various water quality issues, such as septic infrastructure, lead contamination, algal blooms, and nutrient pollution. The latter two are of particular interest because they represent a new approach to addressing nutrient pollution, its effect on algal blooms, and the health of Lake Erie and other Ohio waterways.

The H2Ohio [website](#) directly connects algal blooms to farm runoff. The water quality initiative states that it is “working to strategically address serious water issues that have been building in Ohio for decades. Such problems include harmful algal blooms on Lake Erie caused by phosphorus runoff from farm fertilizer.”^[52] The explicit identification of the cause of algal blooms departs from the rhetoric of the Ohio Farm Bureau, which omitted such

connections. The H2Ohio site also includes both the human and the more-than-human within its aegis, explaining, “Algal blooms in Ohio’s lakes, rivers, and streams can threaten drinking water and impact the health of people and animals.”^[53] The admission that the state’s approach to water quality was flawed and had been so for quite some time, gently echoes the discourse of the TFSW. In some regards, the rhetoric of this new initiative is less forceful than that of the LEBOR; it does not claim that nature should have rights. Nonetheless, H2Ohio openly identifies the problem and is working toward two environmental goals: reducing the amount of phosphorus that infiltrates waterways and cultivating wetlands on agricultural land. The growth of wetlands will naturally filter agricultural runoff and return parts of the Western Lake Erie watershed’s ecosystem closer to its environmental state prior to intensive agricultural development.^[54] The rhetoric of the website also repeatedly stresses that these



*Sunrise over Lake Erie from Kelleys Island State Park.
Image courtesy of Sheryl Cunningham.*

approaches will not create change quickly: “Ohio’s water quality issues took time to develop, and it will take time to reverse course,” which suggests that the state government is acknowledging the need for ongoing, comprehensive action to protect Ohio ecosystems and all who depend on them.[55]

Organizing around the Lake Erie Bill of Rights in Toledo is not solely responsible for the creation of the H2Ohio program. Nonetheless, it is difficult to ignore how Ohio policymakers’ urgency about addressing nutrient pollution increased in the legal aftermath of the failed Toledo ballot measure. Additionally, there are some rhetorical parallels between the LEBOR and the H2Ohio initiative in how they identify the lake’s importance for humans and the more-than-human and acknowledge the perennially inadequate protection of water resources. These outcomes suggest that ecocentric interruptions, like legal arguments for the Rights of Nature, can be generative outside of

the legal system for which they are created. Using Rights of Nature language helps reframe humans’ relationship with nature and the environment, and allows people to ask simple yet compelling questions about rights and the way they are applied. The Rights of Nature language has the capacity to be particularly productive in agricultural contexts because it aligns with what many farmers already know—dependence on the land. This shared condition of dependence and connection is true for humans, animals, plants, and the land itself. Regular use of more ecocentric language will not change environmental conditions on the ground or in the water overnight, but it is a start. Normalizing an ecological understanding of connectedness and thinking about ecosystems in a country like the United States—where property and property rights are prioritized—is essential for reframing approaches to complex problems such as nutrient pollution.

Footnotes

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Recommended Citation

Cunningham, Sheryl. 2025. “Rights of Nature and the Lake Erie Bill of Rights” *Open Rivers: Rethinking Water, Place & Community*, no. 29. <https://doi.org/10.24926/2471190X.12846>.

DOI: <https://doi.org/10.24926/2471190X.12846>

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