



SPECIAL REPORT

This
LAND
was made for
YOU & ME

The environment is one thing that all Ohioans have in common, and Attorney General Dave Yost takes his duty to protect the state's natural resources very seriously. Coinciding with Earth Day on April 22, this **SPECIAL REPORT** highlights some of the many legal successes that Yost and his environmental team have had during his first three years in office. In everyday life, these wins mean a lot. They mean less harm being done to the state's land, water and air; fewer Ohioans facing health and safety risks; and fewer bad actors exploiting our natural resources at will.



DAVE YOST

OHIO ATTORNEY GENERAL

MISSION STATEMENT

THE ATTORNEY GENERAL'S OFFICE PROTECTS OHIO AND ITS FAMILIES.



OUR ACTIONS ARE DRIVEN BY THEIR INTERESTS, GUIDED BY THE RULE OF LAW AND THE RELENTLESS PURSUIT OF JUSTICE.



WE WORK TO CONSTRAIN EVIL AND EMPOWER GOOD, WITHOUT PARTISAN PREFERENCE OR SUBJECTIVE JUDGMENT, AS DEFINED BY THE LAW AND BY THE CONSTITUTIONS OF THE UNITED STATES AND OHIO.

My Fellow Ohioans,

We are blessed to live in a state so rich in wildlife and natural beauty, with temperate weather, abundant natural resources and a location that makes Ohio an agricultural and industrial powerhouse, as well as a hub for national commerce.

Like many of you, I enjoy our Ohio outdoors, biking, kayaking, hiking and sightseeing in the state's many stunning locations, from Cincinnati and Marietta on the Ohio River to Put-in-Bay on South Bass Island in Lake Erie.

All of this adds up to a superior quality of life, and a wonderful place to raise our kids. And, like you, I want to keep it that way.

The Ohio Attorney General's Office is well-known for its consumer protection efforts, the fight to stop the illegal drug trade and human trafficking, high-profile lawsuits against those who fueled the opioid crisis, and the crime-solving expertise of the Bureau of Criminal Investigation.

But many Ohioans probably know little about the major role this office plays in protecting Ohio's environment from those who would poison our air, our water, our homes and communities.

For example, we forced out-of-state drillers to stop toxic leaks from a derelict drilling site. We won millions of dollars in penalties and fees against a landfill that was destroying the quality of life for nearby families with the overpowering stench it created. We took on automotive giant Volkswagen and won a \$3.5 million settlement after the company rigged its cars to underreport emissions. And, sometimes, we put environmental offenders in prison, as we did with Donald Combs, who turned his property into an illegal landfill that flouted environmental regulations and created a serious fire hazard, not to mention a neighborhood eyesore.

To keep us on the cutting edge of environmental issues, I appointed a scientific advisory council made up of academic experts in environmental science, biology, chemistry, engineering and environmental law. The panel members provide early warning about environmental issues arising in Ohio and ensure that environmental policy ideas are informed by science.

The actions detailed in this report should be a warning to those who would abuse Ohio's land, air and water: You will pay for your crimes.

Our aim is to defend, improve and preserve this beautiful place we call home.

Yours,

Dave Yost

Dave Yost Ohio Attorney General



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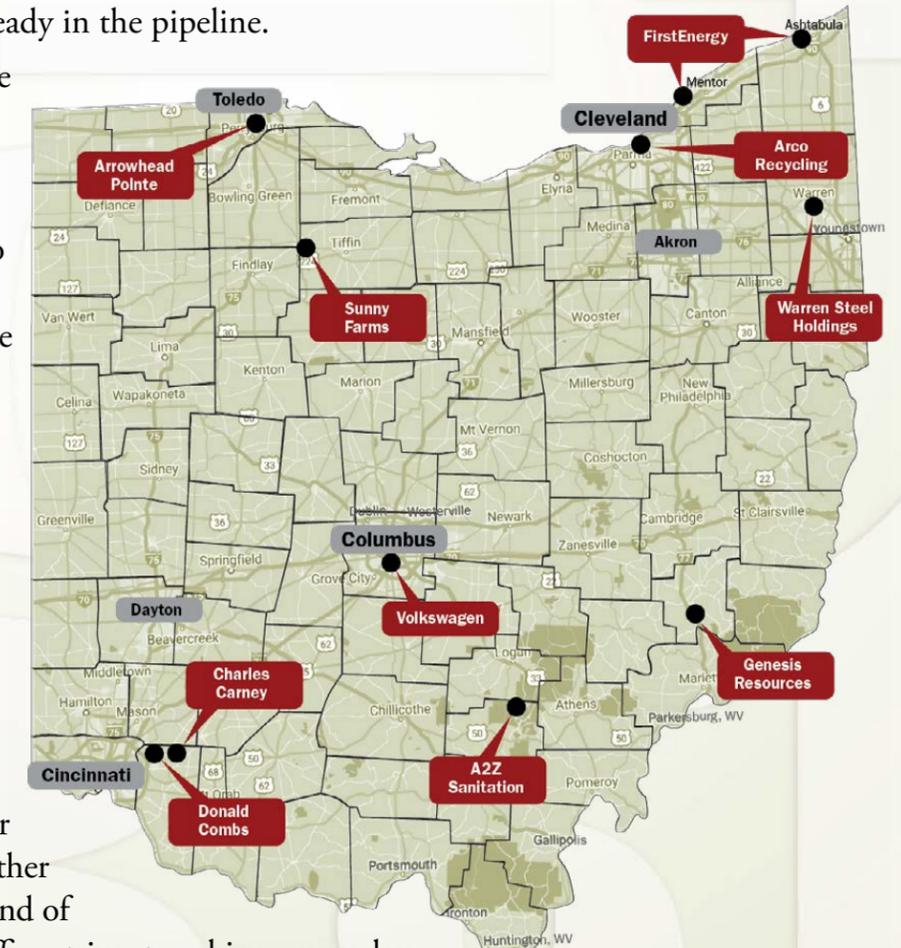
A FORCE FOR NATURE

‘Big Good’ environmental wins represent daily goal for Yost’s team

During the first three years of Dave Yost’s first term, the Ohio Attorney General’s Office initiated more than 100 civil and criminal cases against business owners and other bad actors who were placing personal gain above the well-being of Ohio’s environment and its residents. On top of that, the administration inherited other cases that were already in the pipeline.

The wins recorded by the office — which works collaboratively with the Ohio Environmental Protection Agency, Ohio Department of Natural Resources and other state agencies — have been far-flung in location, notable in effect and, in some cases, distinct in legal significance.

On pages 6-25, we highlight 10 noteworthy environmental victories for Yost and his environmental team, presented in no particular order. These and many other successes represent the kind of “Big Good” the whole office strives to achieve every day.



ARCO RECYCLING | CUYAHOGA COUNTY

AG Yost goes after, wins historic civil penalty

East Cleveland was viewed as nothing more than a dumping ground by Arco Recycling and its owner, George Michael Riley. For years, the company claimed that it was a recycling facility, but that was only a façade.

Instead of recycling materials, Arco operated illegally as a landfill, piling mountains of trash and construction waste on its 9-acre property in the middle of a residential neighborhood. The debris reached 30 to 40 feet high in some places, casting a shadow on nearby homes. Experts estimated that, if placed in an area the size of a football field, the debris would stretch 10 stories skyward.

In 2017, a Cuyahoga County Common Pleas judge ordered Arco to shut down the illegal site and clean it up. The company's recalcitrant owner refused to do so, forcing the Ohio Environmental Protection Agency and Cuyahoga County Health Department to step in and spend more than \$9 million in taxpayer money to remove the debris.

During the cleanup, the compacted construction debris smoldered, threatening to spontaneously combust from the heat generated by decomposing materials. Despite suppression efforts, the debris erupted into a fire that lasted a week and required the help of 13 fire departments to extinguish.

The fire-control efforts used so much water that it compromised water pressure

for several East Cleveland communities and threatened to flood the sewer system with black sooty water that would drain into nearby Lake Erie.

Upon taking office in January 2019, Attorney General Yost heard the details of this case and directed his Environmental Enforcement staff to charge ahead in court and hold Riley more accountable for the disaster he created. The state asked the judge to impose the maximum civil penalty of \$10,000 a day and require Riley to pay full restitution for the cleanup.



BEFORE

When the imposing pile of debris at Arco Recycling caught fire, the 13 fire departments that helped with the environmental emergency needed a week to extinguish it.



AFTER

The state's legal battle with Arco took years, but the site is cleaned up and no longer a significant threat to the neighboring area.

Last year, the court agreed, slapping Riley with a \$21.39 million civil penalty, the highest civil penalty ordered in a single environmental case. It also required him to reimburse the Ohio EPA for its \$9 million in cleanup costs.

"The imposed civil penalties ... reflect the extreme risk of harm to public health and the environment, their blatant recalcitrance to the law, the enormous economic benefit they enjoyed from violating the law, and the state's substantial extraordinary enforcement costs in this case," Judge Shannon Gallagher wrote in her opinion.

The combined \$30 million judgment sends a clear message to regulated entities that they will not get away with flouting the law — that the AGO, the Ohio EPA and local health agencies will do whatever is necessary to protect the public's health and safety and the environment.

"This guy claimed to be a recycler, hoping a loophole would stop us from delivering justice for the people of East Cleveland," Yost said. "News flash: Justice delivered. Now, pay up."

The judge also banned Riley from ever working in the solid-waste industry in Ohio again.

Today, the site is cleaned up and no longer a major threat to residents.

"The imposed civil penalties ... reflect the extreme risk of harm to public health and the environment, their blatant recalcitrance to the law, the enormous economic benefit they enjoyed from violating the law, and the state's substantial extraordinary enforcement costs in this case."

Cuyahoga County
Common Pleas Judge
Shannon Gallagher

ARROWHEAD POINTE | HENRY COUNTY

Illegal takeover of state land for private boat launch is halted

A month into Dave Yost's tenure, the Attorney General's environmental team won a legal round in its case against trespassers on state land in Henry County who polluted the Maumee River, surrounding wetlands and state-owned canal lands while building an unauthorized private boat ramp for residents of a nearby housing development.

The state discovered the illegal activity 10 months earlier. The defendants — Arrowhead Pointe, Tyler Smith and Jim Palmer Excavating — were unlawfully filling wetlands, discharging stormwater, and disposing of construction and demolition debris from a demolished school along the Maumee River on canal property owned by the Ohio Department of Natural Resources (ODNR).

The work damaged public assets, severing the popular Buckeye Hiking Trail and polluting the Maumee, which was designated an Ohio Scenic River in 1974. It also disrupted the soil at the site, causing erosion.

The Attorney General's Office, ODNR, the Ohio Environmental Protection Agency and the U.S. Army Corps of Engineers each separately ordered the defendants to stop excavating and filling the riverbank.

Each time, they ignored the order.

So the Attorney General's Office took them to court, citing multiple violations of Ohio's environmental laws. The state charged that the defendants had:

- Placed fill material into the Maumee River and a high-quality wetland without first obtaining the proper certification or required permit.
- Initiated construction without obtaining coverage under a general construction stormwater permit.

“The State has proved that the defendants caused a public nuisance by trespassing on State property and causing damage to public assets. (It) is therefore entitled to preliminary injunctive relief.”

— Henry County Common Pleas Court judge, in ruling on a preliminary injunction

- Created a public nuisance by discharging sediment into state-owned waters without obtaining the proper permit.
- Illegally disposed of construction and demolition debris at the site.
- Trespassed on canal lands owned by ODNR without authorization.
- Unlawfully destroyed state property.
- Trespassed on and destroyed state-owned canal lands.

On Feb. 13, 2019, a Henry County Common Pleas Court judge ruled in the state's favor on



LEFT AND BELOW: Without seeking the proper certifications or permits, the defendants in the Arrowhead Pointe case began excavating state-owned property along the Maumee River shoreline to build a private boat ramp for residents of a nearby housing development.

a preliminary injunction, recognizing ODNR's ownership of the Miami & Erie Canal land and noting the serious environmental violations associated with placing fill materials in state waters without permit approval.

“The State has proved that the defendants caused a public nuisance by trespassing on State property and causing damage to public assets,” the judge ruled. “(It) is therefore entitled to preliminary injunctive relief.”

The judge ordered the defendants to:

- Immediately stop trespassing on state land.
- Immediately and completely remove the illegal fill.
- Separate the construction and demolition debris from the clean hard fill and properly dispose of the debris.
- Restore the site and the Buckeye Hiking Trail to their pre-disruption conditions.
- Install erosion controls along the riverbank.



WARREN STEEL HOLDINGS | TRUMBULL COUNTY

Yost holds owner's feet to fire over cleanup of abandoned mill

When Warren Steel Holdings abruptly shut down its steel plant in Warren in 2016, more than 150 Ohioans lost their jobs and Trumbull County inherited a host of environmental challenges. Left behind at the sprawling site were piles of hazardous materials and overflowing wastewater lagoons seeping into the Mahoning River, not to mention a plethora of solid wastes — construction and demolition debris, large piles of scrap metal, plastics, lime, railroad ties and assorted other garbage.

The steel mill had a long-standing history of hazardous-waste, solid-waste and water-pollution violations, and company President Mordechai Korf had no intention of cleaning up the mess.

The state's legal battle with Warren Steel Holdings and Korf began before Attorney General Dave Yost took office, but Yost and his environmental team, working with the Ohio Environmental Protection Agency, committed to seeing that justice was served at all costs.

The commitment paid off on Aug. 20, 2021, when Yost's trial team secured a settlement to force a cleanup at the 300-acre site.

"Turning out the lights and locking the doors don't make the mess you made disappear," the attorney general said. "The wheels of justice are bringing those responsible back to the yard, and I hope they have the proper protective gear."

The job will hardly be easy.

Lime used in the steelmaking process leaks from bags left in the abandoned Warren Steel mill, shown from the outside in the photo at right.



A significant part of the cleanup involves electric arc furnace dust, which contains hexavalent chromium, zinc and lead from the steelmaking process.

Wastewater lagoons created to mitigate waste from the steelmaking process were also overfilled and would seep into the Mahoning River during heavy rains.

There also were multiple fires at the site — which exhausted the resources of first responders.

The settlement with Warren Steel Holdings and its president, Korf, required both to remove the harmful waste and address the issues with the lagoons. The Trumbull County Common Pleas judge who oversaw the case also agreed with the state that Warren Steel Holdings and Korf should pay for the cleanup.

That multimillion-dollar project has finally begun, with an expected completion date of early 2024. The Ohio EPA will make routine visits to the property to ensure that the cleanup meets state standards.

For the environmental harm caused at the site, Warren Steel Holdings and Korf must also pay a civil penalty of \$1.12 million.

"There is no way to wipe away what happened to the workers of Warren Steel, but now it's time for a clean start," Yost said. "I want to thank our partners at Ohio EPA and my environmental enforcement team for getting us to that point."

"There is no way to wipe away what happened to the workers of Warren Steel, but now it's time for a clean start."

— Ohio Attorney General **Dave Yost**

SUNNY FARMS | SENECA COUNTY

'Nuisance' judgment to help Fostoria area breathe easier

For years, Sunny Farms faced complaints about pungent odors — “rotten egg” smells — emanating from the company’s landfill near Fostoria and consuming the surrounding area. On cool summer evenings, families living nearby couldn’t bear to open their windows.

The long-standing community controversy finally came to a head in 2019, when the Attorney General’s Office (AGO) wielded the enforcement hammer.

The AGO filed a complaint in Seneca County Common Pleas Court claiming, among other things, that Sunny Farms had created a public nuisance by repeatedly violating Ohio laws regulating air, solid waste and water pollution and had failed to adhere to multiple state permits.

Within months of the legal action, the AGO and Ohio EPA announced a settlement to bring the landfill into regulatory compliance, with Sunny Farms agreeing to pay \$1.71 million in civil penalties and an additional \$2.01 million for underreported and mischaracterized fees associated with waste entering landfill facilities.

The settlement also included court-mandated benchmarks and stipulations regarding future

landfill operations and required Sunny Farms to institute measures to prevent the odor nuisance, including permanent air-pollution-control technology.

“If just one bad egg can spoil the bunch, imagine the damage one rotten landfill can do,” Attorney General Yost said. “The people of Fostoria don’t have to imagine that stench. They’ve lived through it, and it’s our hope the settlement today will offer the city’s 13,000 residents a breath of much-needed fresh air.”

As part of the settlement, \$600,000 of the civil penalties was placed in a newly created trust to fund projects in the Fostoria area that improve public health and wellness or protect and enhance the air, water, public lands and natural resources.

The second and final round of grants provided by that trust was announced on Dec. 30, 2020. Among the winning applicants were the

“We now have a clear plan moving forward, with the full backing and authority of the court, to ensure that short- and long-term environmental issues at Sunny Farms are effectively addressed.”

— Ohio EPA Director **Laurie A. Stevenson**



Since the state settled its case with Sunny Farms in July 2019, the company has made steady progress in complying with the agreement.

Greater Fostoria Community Foundation, to fund asbestos-removal work; the Seneca County Commission on Aging, to fund the installation of new sidewalks and walkways as well as handicap-accessible doors, to provide senior citizens better access to public health; and the Geary Family YMCA, for start-up funds for youth/student programs that help get children outdoors and participating in the arts and sports.

The overall settlement with Sunny Farms was heralded by Ohio EPA Director Laurie A. Stevenson, who noted, “We now have a clear plan moving forward, with the full backing and authority of the court, to ensure that short- and long-term environmental issues at Sunny Farms are effectively addressed.”

Indeed, in the two-plus years since the settlement was reached, Sunny Farms has made steady progress in its compliance efforts, including:

- Spending more than \$6 million on new technology and equipment to update the facility’s gas collection and treatment capabilities.
- Installing three permanent monitors to test for hydrogen sulfide in the air around the landfill — readings that can be seen on demand by the Ohio EPA and Ohio Health Department.
- Obtaining an Ohio EPA permit to install devices to curb sulfur dioxide emissions from the landfill flare and control more of the hydrogen sulfide emissions, with the latter being mostly responsible for much of the rotten egg smells that fueled the complaints. The pollution-capture system, expected to cost more than \$20 million and take 18 months to install, will reduce hydrogen sulfide emissions by 98%, the Ohio EPA says.

DONALD COMBS | CLERMONT COUNTY

Backyard landfill lands 'recalcitrant' polluter in prison

Donald Combs was looking to make a quick buck by turning his yard in southwestern Ohio into a landfill. Combs marketed himself on social media and Craigslist as a waste hauler who could offer a good deal. But he beat out the competition by illegally dumping debris, breaking environmental laws and putting the health and safety of his family and neighbors in Goshen Township at risk. And now, Combs is in prison.

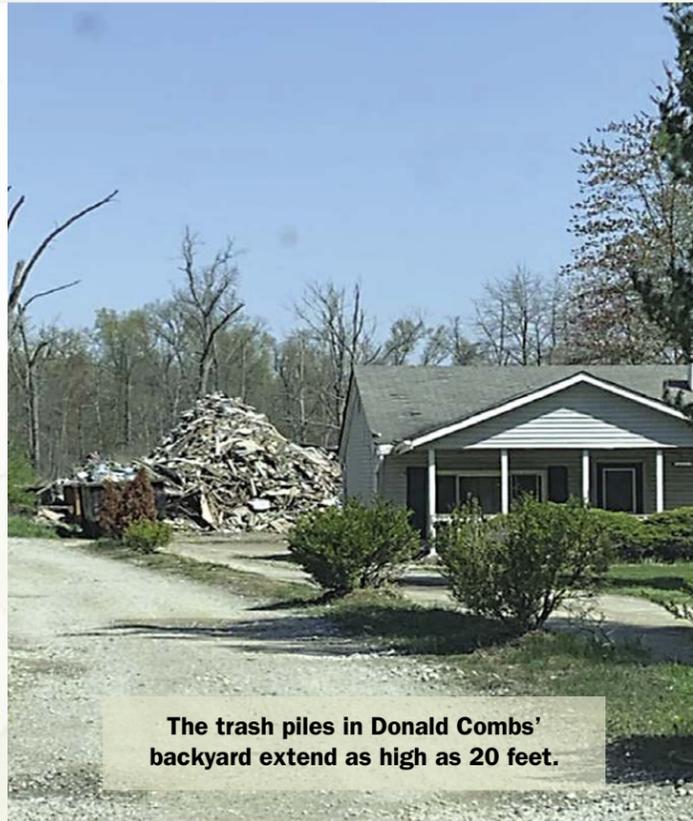


"Your home might be your castle, but your yard is not your landfill," Ohio Attorney General Dave Yost said in July 2021 after a Clermont County Common Pleas Court judge sentenced Combs to four years in prison for illegal open dumping of solid waste and illegal operation of a solid waste facility without a license at both his home and the site of his commercial business. At the latter, Combs also violated Ohio EPA environmental protection orders.

Combs had spent years flouting the Ohio EPA's directives to stop discarding waste illegally. He built trash piles 20 feet high across acres of his land and even started dumping debris on an adjacent property.

His blatant disregard for his neighbors' well-being exposed them to potential disease from rodents and mosquitos and substantially affected their home values.

He thought no one could stop him. But he learned otherwise.



The trash piles in Donald Combs' backyard extend as high as 20 feet.

The Ohio Attorney General's Office worked with the Ohio EPA to file court actions to shut down his illegal operation. At one hearing, Goshen Township Fire Department Chief Steve Pegram testified that the site posed a serious fire hazard.

And, when alerted to fire department and neighborhood reports of Combs' ongoing illegal dumping and solid-waste burning, agents with the Environmental Enforcement Unit from the AG's Bureau of Criminal Investigation executed a search warrant at Combs' residence. Investigators discovered that some of the illegally dumped solid waste had been buried under the ground.

The many findings in the Combs criminal investigation were presented to a Clermont County grand jury, which in December 2020 indicted Combs on multiple felony charges related to his illegal dumping. Seven months later, he was sentenced to the four-year prison term as part of a plea deal in the case.

Not long before the criminal sentencing, the Clermont County judge imposed \$1.49 million in civil penalties against Combs — "one of the most, if not the most, recalcitrant violators" the Ohio EPA has encountered.

The amount, the court said, "reflects the seriousness of the risk of harm to public health and the environment, the unparalleled level of recalcitrance, the economic benefit derived by (Combs) for the violations, and the extraordinary enforcement costs incurred by the State."

Still to be addressed is the mess Combs left behind in southwestern Ohio while he serves his prison sentence.

The cleanup costs are estimated at \$1.3 million. Combs has filed for bankruptcy, but Attorney General Yost and his team are working to do everything possible to ensure that Combs is held financially responsible for the eyesore that he created.



After repeatedly ignoring Ohio EPA orders to stop discarding waste illegally, Combs earned himself a four-year prison sentence for the conspicuous mess he created.

GENESIS RESOURCES | NOBLE COUNTY

Out-of-state well owner can't avoid legal obligation

In the spring of 2020, inspectors for the Ohio Department of Natural Resources (ODNR) discovered that a long-idle oil-and-gas well owned by a West Virginia company was leaking fluid from its burner tube on the 100-barrel tank, which was about half-full.

Soil on the slope had slid onto Jackson Township Road No. 9 below the well site, and the well itself was moving downslope, creating a highly dangerous situation.

Without corrective action, an ODNR engineer determined, the well's owner — Genesis Resources of Parkersburg — would further “risk adverse impacts to the integrity of the well, as well as to the public traveling on Jackson Township Road No. 9.”

Day by day, the earth around the well moved a little more, heightening the public threat and compelling ODNR to order Genesis Resources to properly plug and abandon the well, as required by Ohio law, within 14 days.

The order also required the company to restore the grounds surrounding the well to prevent harm to those traveling in the area and prevent damage to nearby Big Run Stream.

When the deadline came and went with no response from Genesis, the Attorney General's Office, given the emergency nature of the situation, quickly sued Genesis in Noble County Common Pleas Court for failure to properly plug the idle well. The order required the immediate



The idle oil-and-gas well that Genesis Resources left unplugged was found to be leaking and slipping downslope.



plugging of the well and the stabilization of the slope.

Genesis ignored the court's order, but the AGO's environmental team persisted.

On July 23, 2020, a contractor for Genesis plugged the well to comply with the judge's order. Still, Genesis continued to disregard the court's mandate to restore the land near the well and stabilize the adjacent slope.

The AGO returned to court seeking to compel the company to meet that requirement.

On April 14, 2021, the Court ordered Genesis to pay \$50,000 in civil penalties for its delayed response.

The case underscores Attorney General Dave Yost's commitment to holding outside companies accountable when doing business in the Buckeye State.

“We certainly welcome companies from other states to operate within Ohio's borders,” Yost said. “But if they violate our laws and then try to avoid the consequences, we'll come find them to make sure that justice prevails.”

“Making a buck in Ohio means complying with the law first.”

TOP: Soil erosion on the slope near the well

ABOVE: The site of the now-plugged well

VOLKSWAGEN | STATE OF OHIO

Ohio not fooled by vehicle tinkering to sidestep pollution standards

Volkswagen settled with the Ohio Attorney General's Office for \$3.5 million in January 2022 over environmental claims that the auto manufacturer concealed its manipulation of computer software in its vehicles in order to skirt pollution limits.

But getting there wasn't easy.

The case made it all the way to the U.S. Supreme Court in the summer of 2021, with the justices ultimately deciding not to hear Volkswagen's appeal of the Ohio Supreme Court's ruling, which allowed Ohio's case to move forward.

For Attorney General Dave Yost, seeing this case through was as much about making Volkswagen obey the law as it was about fighting for clean air.

"The damage to the environment and consumer trust required us to hold Volkswagen accountable, and this settlement does that," Yost said. "These funds will go toward protecting Ohio from other environmental hazards."

The lawsuit, which originated in 2016 in Franklin County Common Pleas Court, alleged that, Volkswagen, after the sale of its vehicles, would manipulate the software when a consumer would have a vehicle serviced or repaired at the dealership. This allowed the vehicle to be put into "test" mode, which suspended normal driving operations and reduced emissions only during testing.

"The damage to the environment and consumer trust required us to hold Volkswagen accountable, and this settlement does that. These funds will go toward protecting Ohio from other environmental hazards."

— Ohio Attorney General Dave Yost

During normal driving, however, the vehicles emitted higher levels of nitrogen oxides.

The lengthy legal battle required Yost to petition the 10th District Court of Appeals to allow the lawsuit to move forward on the grounds that Volkswagen's actions created environmental harm for Ohioans.

The appeals court ruled that Ohio had legal grounds to sue, and the Ohio Supreme Court upheld that decision.

The lawsuit was the second brought by the Attorney General's Office against Volkswagen related to the scheme. In 2016, Volkswagen agreed to pay Ohio \$13 million to settle a multistate lawsuit filed on behalf of Volkswagen customers alleging that the company equipped vehicles with "defeat device" software.

The suit claimed that Volkswagen sold more than 570,000 vehicles in model years 2009 to 2015 in the United States equipped with the illegal software and that its advertisements falsely represented to consumers that the vehicles were environmentally friendly.

As part of the consumer lawsuit settlement, Volkswagen also agreed to pay restitution of at least \$5,100 directly to each affected Volkswagen owner and either buy back the vehicle or make repairs to the vehicle to reduce emissions.

In Ohio, 13,998 vehicles were eligible for the buyback program.

"Volkswagen in the end made this right," Attorney General Yost said, "but we had to show them the light in open court."



FIRSTENERGY | ASHTABULA, CUYAHOGA COUNTIES

AGO doesn't let debtor escape liabilities in Bankruptcy Court

In 2018, FirstEnergy Solutions and other company subsidiaries filed for bankruptcy in the Northern District of Ohio, prompting the federal government and the states of Ohio and Pennsylvania to join forces to ensure that taxpayers weren't left footing the bill for cleanup costs at FirstEnergy-owned power plants.

In Ohio, FirstEnergy Corp. — even though it did not file for bankruptcy — asked the court to release it from all environmental liability at five FirstEnergy-owned power plants, three coal and two nuclear.

All of the sites, as the court noted, “are subject to wide-ranging environmental and other regulatory monitoring for foreseeable problems, maintenance to forestall environmental emergencies, and the possibility of catastrophic failures.”

Had the court sided with FirstEnergy Corp., the company would have avoided all responsibility for any cleanup at the sites and the state could not have taken enforcement action against it.

The Ohio Attorney General's Office (AGO) fought back with both a written objection and an oral argument, firmly opposing the liability releases for FirstEnergy Corp.

The judge ultimately agreed, calling FirstEnergy Corp.'s plan “patently unconfirmable,” meaning that it wouldn't satisfy federal standards for eliminating the liabilities outlined in the plan.

Through negotiations, the AGO and U.S. Department of Justice finalized an agreement in August 2019 that compels the reorganized parent company, named Energy Harbor Corp., to guarantee that subsidiary Energy Harbor Generation will:

- Demolish the non-operational Ashtabula power plant.

- Remove the structures on submerged lands leased from the Ohio Department of Natural Resources (ODNR) at the Ashtabula and Lake Shore sites.
- Demolish the power plant and remediate the coal ash ponds at the W.H. Sammis site, if/when that plant is deactivated, in full compliance with Ohio law.

For Ohio, the case is legally noteworthy because of the deal that the Attorney General's Office was able to negotiate.

The state had no authority to mandate that the Energy Harbor companies destroy and clear its coal plants along Ohio waterways, only secure them. Still, the Energy Harbor companies agreed to the cleanup — a significant victory for Ohio consumers and taxpayers.

In February 2021, Energy Harbor Corp. signed a corporate guarantee for the costs of the remedial work totaling an unprecedented \$54 million, officially freeing Ohio taxpayers from the burden of the cleanup costs.

The Ohio Environmental Protection Agency and ODNR are working with the Energy Harbor companies and any potential buyers on demolition and restoration work at the Ashtabula and Lake Shore sites.

The two nuclear plants continue to be regulated by the federal government's Nuclear Regulatory Commission.



For Ohio, the case is legally noteworthy because of the deal that the Attorney General's Office was able to negotiate.

CHARLES CARNEY | CLERMONT COUNTY

'Biohazard' compels quick action to stem stream contamination

When investigators from the Ohio Department of Agriculture (ODA) arrived at Charles Carney's dairy farm in Clermont County last year, they discovered livestock standing in foot-deep manure — their own — and heard about reports of dead fish floating on nearby Moores Fork stream.

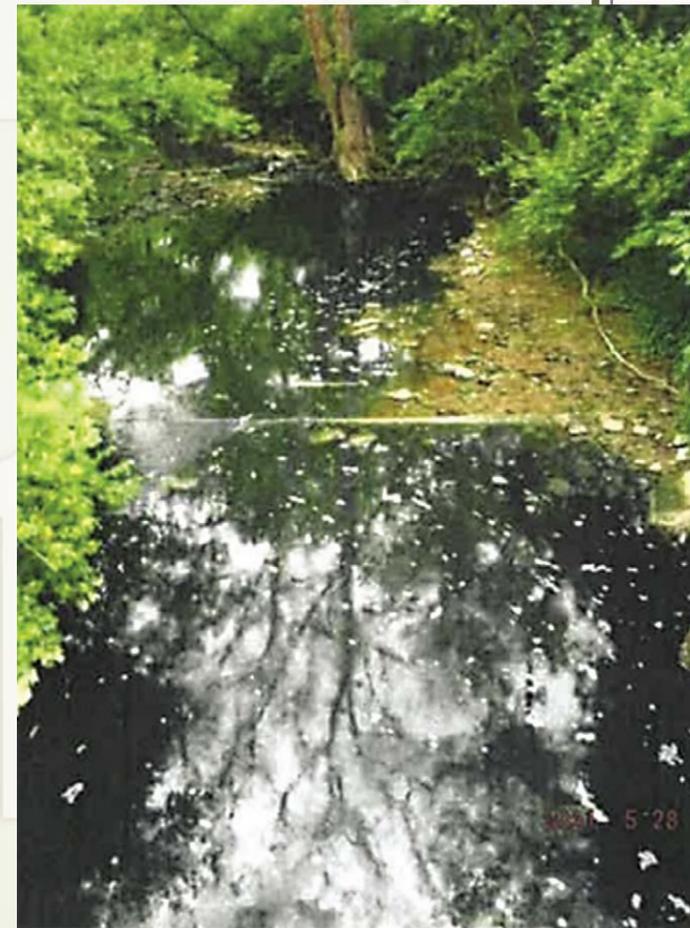
Livestock feed or feed waste on the property had been reduced to liquid waste and was flowing throughout the 62-acre farm, contributing to the contamination.



Livestock on Charles Carney's dairy farm standing in their own manure

"This isn't a farm right now. It's a biohazard that needs to be cleaned up before more harm is done. I am stepping in to start the cleanup process."

— Ohio Attorney General **Dave Yost**



A completely black Moores Fork stream, the result of uncontrolled manure from Carney's farm discharging into the waterway

At his animal-feeding operation, Carney had allowed manure from a storage pit and uncontained manure to overflow, pool and discharge from his farm into Moores Fork and surrounding areas of the county.

The stream was completely black with manure for a mile downstream, and neighbors reported seeing hundreds of dead fish floating in the stream.

The conditions — among the worst that ODA investigators had ever seen — prompted the department to issue an emergency order requiring Carney to clean up the waste on his dairy farm.

When ODA investigators returned to Carney's property in the ensuing days and found that he had not acted, the case was referred to the Attorney General's Office, which wasted little time filing a complaint and a motion for a temporary restraining order in Clermont County Common Pleas Court.

"This isn't a farm right now," Attorney General Dave Yost said in June 2021. "It's a biohazard that needs to be cleaned up before more harm is done. I am stepping in to start the cleanup process."

Ohio's soil and water conservation laws exist to protect the public from discharges of manure to waterways. The motion for the restraining order alleged that Carney violated those laws by allowing manure-contaminated waste to enter Moores Fork.

When Carney violated that order, the court on July 6 entered a preliminary injunction ordering him to lower the manure in his storage pit and clean up all of the uncontained manure.

To date, some manure has been removed from the storage pit and throughout the farm, but the Ohio Department of Agriculture would like to see additional areas cleaned up.

Thus, Carney remains in violation of the preliminary injunction. The case is ongoing.

A2Z SANITATION | VINTON COUNTY

When polluter threatens creek, AGO moves to protect public

In the 12 months leading up to June 2021, A2Z Sanitation had been dumping more than twice the sewage and restaurant grease on the New Plymouth property than its state permit allowed.

The owner of the sanitation company, Todd Zuspan, had also been discarding waste in wooded and overgrown areas of the property — dumping that was not authorized by the Ohio Environmental Protection Agency.

When neighbors began reporting pollution in nearby Raccoon Creek, the Ohio EPA arrived to find the waterway pinkish-red and covered in bacteria and cooking grease for miles downstream.

The agency tried to work with Zuspan to resolve the problems, but EPA investigators learned that he wasn't cleaning up the site as promised and that the contamination was continuing. So the Ohio EPA referred the case to the Attorney General's Office (AGO).



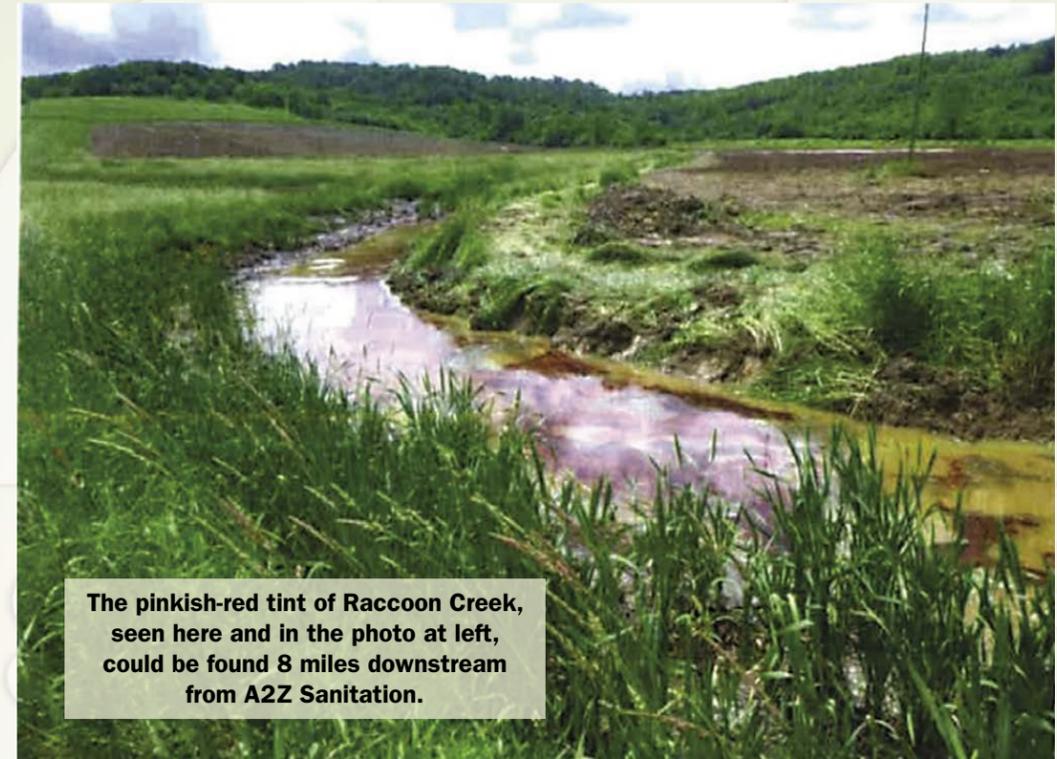
In August 2021, the AGO filed a complaint and sought a temporary restraining order, followed by a preliminary injunction, to stop A2Z from further polluting Raccoon Creek.

"Dumping enough waste to turn the water red is a blatant disregard for your neighbors and the environment," Attorney General Dave Yost said. "This has to stop — and, with the court action, we are trying to stop it now."

The company and its owner's actions pose a direct threat to the public's health and safety, Yost said.

The civil complaint maintained that Zuspan and A2Z had illegally discharged waste, violated its state Land Application Permit, which allows it to spread screened liquids on 50 acres of maintained land; illegally applied waste to the land; and violated Ohio's water-quality standards.

The environmental setback for Raccoon Creek wasn't the first. The state previously spent nearly \$20 million to clean up the waterway after it was severely damaged by acid mine drainage from coal mines in the area.



The pinkish-red tint of Raccoon Creek, seen here and in the photo at left, could be found 8 miles downstream from A2Z Sanitation.

Now, Zuspan's actions were threatening to undo years of conservation of the creek watershed, making a swift response from the state all the more important.

As part of a preliminary settlement reached in September, the state and A2Z agreed that Zuspan would:

- Adhere to Ohio's water-pollution-control laws and public nuisance laws.
- Stop accepting additional septage and other wastes for placement in the earthen impoundment or land application on A2Z property until the Ohio EPA permits him to do so.
- Stop land-applying any septage, grease or any other liquids until the Ohio EPA permits him to do so.
- Immediately begin removing and lawfully disposing of 50,000 gallons of liquid waste per week from the earthen impoundment

and provide the Ohio EPA proof of each such removal.

- Maintain at least 3 feet of freeboard in the earthen impoundment, as verified by the Ohio EPA.
- Maintain grease removal in Raccoon Creek, as directed by Ohio EPA.
- Remove and properly dispose of all stormwater, grease and contaminated sediment from all ditches and application fields.
- Ensure that the roadside ditch associated with State Route 328 is protected from erosion.

To date, Zuspan has stopped accepting and applying wastes and has removed hundreds of thousands of gallons of liquid waste from his earthen impoundment.

But the Ohio EPA continues to monitor his progress on the considerable amount of work that remains to be done.

Protecting Ohio's environment

Since taking office as Ohio's attorney general, Dave Yost has welcomed his duty to protect the environment and keep Ohioans safe from environmental hazards.

Environmental protection, after all, is crucial to making the Buckeye State a safe and desirable place to live and preventing violators from trashing the public land that we all depend on.

This graphic summarizes the wide variety of environmental litigation that Attorney General Yost and his Environmental Enforcement Section have filed during Yost's first three years in office.

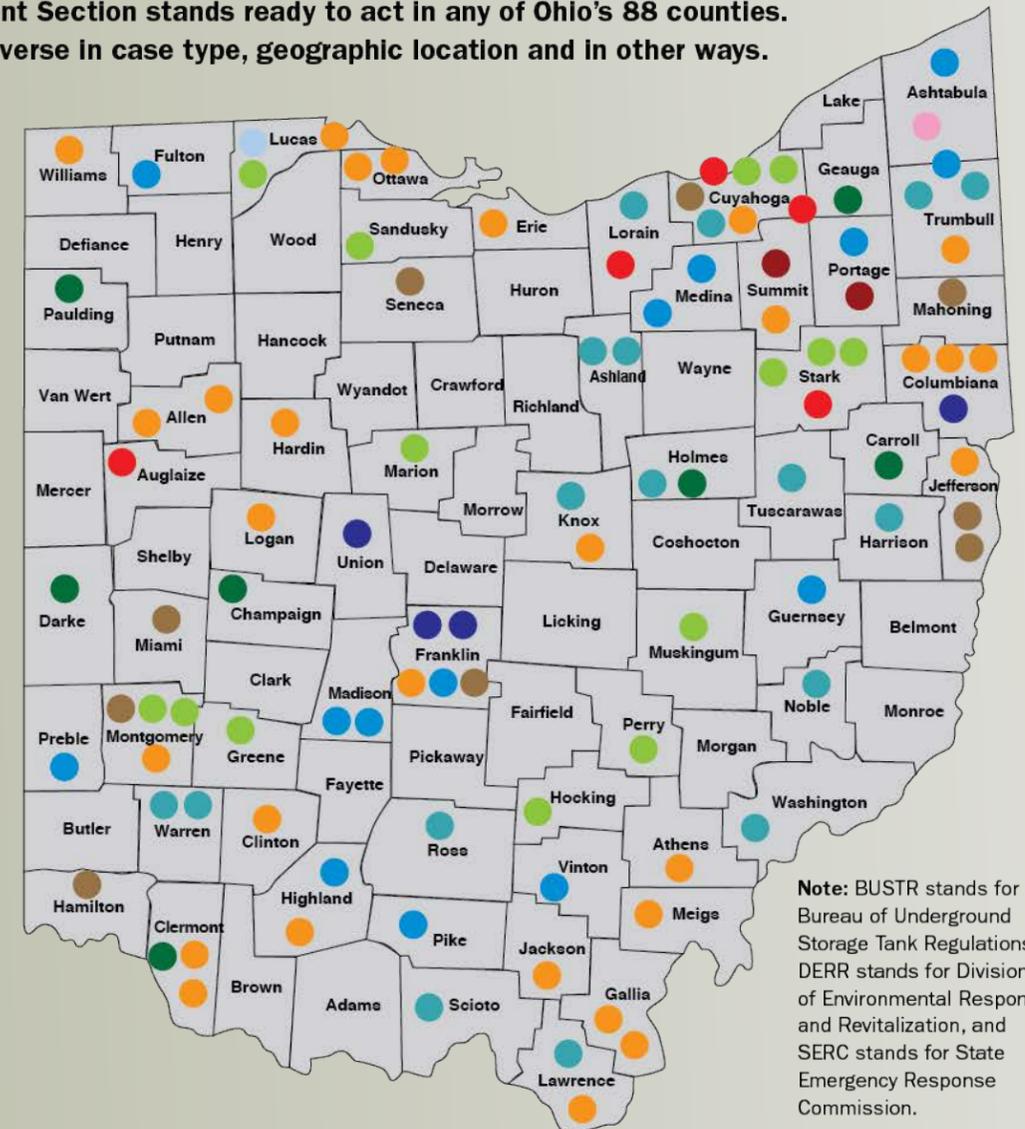
A diverse caseload

The attorney general's Environmental Enforcement Section stands ready to act in any of Ohio's 88 counties. The litigation filed from 2019 through 2021 is diverse in case type, geographic location and in other ways.

TOTAL

103 cases | 60 counties

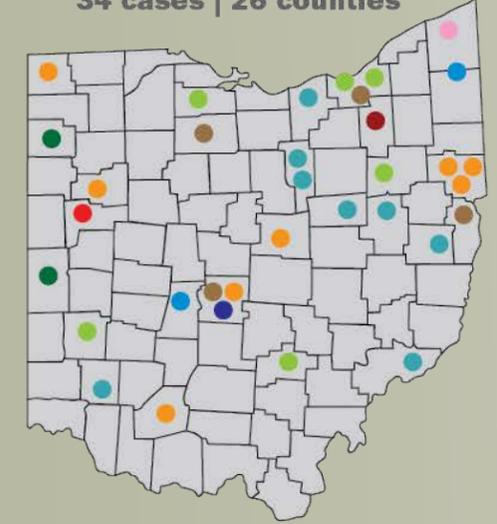
- **Agriculture** (7)
- **Air** (14)
- **BUSTR** (4)
- **Criminal** (29)
- **Drinking H2O** (1)
- **DERR** (2)
- **Hazardous waste** (5)
- **ODNR** (17)
- **SERC** (1)
- **Solid waste** (9)
- **Surface H2O** (14)



Note: BUSTR stands for Bureau of Underground Storage Tank Regulations, DERR stands for Division of Environmental Response and Revitalization, and SERC stands for State Emergency Response Commission.

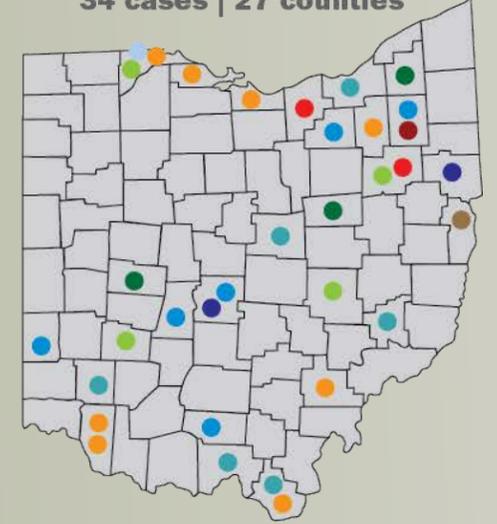
2019

34 cases | 26 counties



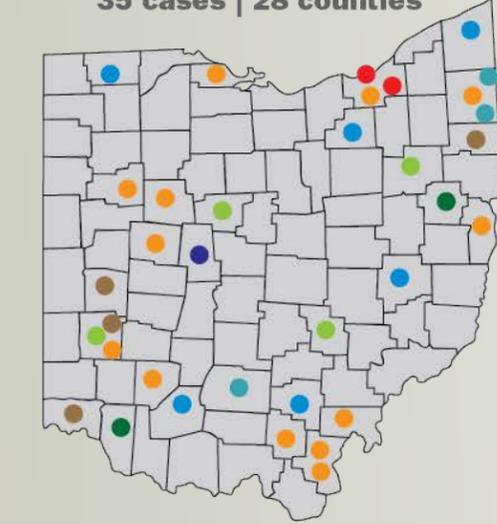
2020

34 cases | 27 counties



2021

35 cases | 28 counties



By the numbers

\$106M

Total value of injunctive relief in environmental cases from 2019 through 2021

\$68.7M

Total in civil penalties and restitution ordered in civil cases 2019-21

\$21.39M

Highest civil penalty ordered in a single Ohio environmental case (Arco Recycling)

\$20M+

Estimated highest injunctive relief in a single case (likely in two pending cases)

60

Defendants in 2019-21 cases who faced criminal charges

VAST AND VARIED

Types of cases requiring AGO expertise run the gamut

In protecting Ohio’s environment, the Ohio Attorney General’s Office works with the Ohio Environmental Protection Agency, the Ohio Department of Natural Resources and other state agencies to go after those who harm the state’s air, land, soil and water or put Ohioans’ health and safety at risk in other ways, too.

The work of the attorney general’s Environmental Enforcement Section (EES) is surprisingly diverse, as underscored by the wide range of cases litigated by EES attorneys during Attorney General Yost’s tenure. These recent environmental legal victories, presented by case type, reflect that broad spectrum.



DRINKING WATER

State ex rel. Yost v. Church of Troy, et al.
Case resolution date: Sept. 30, 2020

The essence: In 2013, the Attorney General’s Office (AGO) sued the Church of Troy in Geauga County for repeatedly failing to comply with Ohio’s monitoring requirements for a public water system.

The AGO argued that the church’s leaders had failed to take state-mandated routine samples of total coliform, failed to notify the public about total coliform violations at the church and failed to monitor the water system for nitrate.

Church of Troy Pastor James Beatty maintained that the church was exempt from the state’s monitoring requirements, even though the law expressly states that churches are not exempt.

State law defines a “public water system” as one in which “at least 25 people have access to the water any 60 days out of the year.” The well water at the Church of Troy was available via faucets and restrooms to about 100 people on Sundays and as many as 70 on Wednesdays.

After years of legal wrangling, a Geauga County Common Pleas judge sided with the AGO, holding Pastor Beatty and his father — James Beatty Sr., the church’s longtime previous pastor — “jointly and severally liable.” He ordered them to bring the water system into compliance and to pay a civil penalty of \$54,000, noting that both had “put the public at risk by operating a water system likely unfit for safe consumption and refusing to post required public notices.”

Pastor Beatty appealed the decision, arguing that the court had erred in determining that he is the “operator” of the church’s water system and that the court and Ohio EPA had no authority over the church because it is a “spiritual entity,” not a legal entity.

The outcome: In September 2020, the Eleventh District Court of Appeals upheld the decision of the lower court, ruling that the trial court did not abuse its discretion in finding Pastor Beatty liable due to his apparent authority over the public water system and his personal participation in the refusal to properly sample water from the system.

The court used a common-sense approach to defining “operator,” which is undefined by the law. The court also rejected the pastor’s argument regarding jurisdiction over the church.



BANKRUPTCY

In re: Westmoreland Coal Co.
Case resolution date: June 5, 2019

The essence: When Westmoreland Coal bought Oxford Mining in 2015, it assumed legal responsibility for the environmental harm that Oxford had caused at 18 of its surface coal-mining operations — now abandoned — in various Ohio counties.

The surface-mining activity was allowed under state-issued permits. Surface mining damages streams and wetlands when it deposits rock, soil, sediment and other debris in them. Although the permits allow some of this, the mining company is legally obligated to restore the impacted waters to their pre-mining ecological function.

Westmoreland, therefore, was required to fix the problems that Oxford had caused but did not remedy at the 18 sites. The legally required restoration, which is highly engineered under very specific environmental and ecologic parameters, is expensive and requires years of monitoring.

Once Westmoreland assumed liability for Oxford’s violations, the company filed for bankruptcy in a U.S. Bankruptcy Court in Texas, with a goal of gaining court approval for a deal that would absolve it of all environmental harm caused in Ohio and allow it to sell off coal-mining assets with no legal repercussions.

The AGO filed claims to require Westmoreland to mitigate nearly \$18 million in damages to Ohio’s waters at the 18 sites. The AGO argued that Westmoreland’s liquidation would cause ongoing environmental harm to Ohio and that Ohio taxpayers would be left to pay for the cost of reversing that harm. They also objected to Westmoreland’s motion to sell mine assets without ensuring full compliance with the environmental obligations.

The outcome: Under the Bankruptcy Court order, the buyer of Westmoreland’s mines assumed all environmental obligations related to their operation, estimated to cost upward of \$22 million. In addition, Westmoreland agreed to an amended Ohio EPA civil penalty claim, through which the state expects a distribution of \$280,000 to \$430,000 when the court resolves all of the claim objections.



SURFACE WATER

State ex rel. Yost v. Dawn Angel
Case resolution date: Nov. 29, 2021

The essence: When Dawn Angel, operator of the Greenwood Mobile Home Park in the village of Genoa, failed to comply with an Ottawa County judge’s 2018 decision involving Greenwood’s wastewater treatment plant, the state took her back to court.

Seeking to have Angel held in contempt, the AGO presented evidence showing that she had neither decommissioned the park’s wastewater treatment plant nor connected to the village’s public sewer, as ordered. Nor had she paid most of the \$50,000 in civil penalties that the judge had assessed in the case.

Angel’s noncompliance only exacerbated her financial burden: She now owed \$4,363.36 in interest on the civil penalties and \$84,200 in additional stipulated penalties for failing to return the park to compliance.

The outcome: The judge in November 2021 agreed with the state, finding Angel in contempt. He required her to comply with the original order by disconnecting Greenwood from its wastewater treatment plant and tying into Genoa’s sewer system by June 1, 2022; paying the balance of her civil penalties and the interest by Oct. 1, 2022; and paying the stipulated penalties and interest by March 1, 2023.

The judge also required Angel to detail her compliance progress in a monthly status report, which she must file with the court until she meets the order. In addition, the judge went beyond the AGO’s request by mandating a 10-day jail sentence for Angel if she fails to meet the court-mandated deadlines for compliance.



HAZARDOUS WASTE

State ex rel. Yost v. Fluorescent Recycling, Inc., et al.
Case resolution date: Feb. 24, 2021

The essence: George Dietrich and his companies, Fluorescent Recycling Inc. and NDHMD Inc., illegally stored and disposed of millions of mercury-containing light bulbs at a warehouse in west Cleveland. The crumbling warehouse, which sits next to a residential neighborhood, was deemed unsecure to anyone who might walk onto the property.

In 2018, while still full of the mercury-containing light bulbs, the warehouse caught fire, raising fears that mercury vapor would contaminate the surrounding neighborhood.

The Ohio and U.S. Environmental Protection Agencies worked together to remove more than 400 tons of fluorescent lamps and debris, but testing still showed that the building itself was contaminated with mercury. The AGO sued George Dietrich and his companies in April 2019 in Cuyahoga County Common Pleas Court.

The outcome: After proving that Dietrich and his companies had broken Ohio’s hazardous-waste laws, the attorney general obtained another court order requiring injunctive relief and a civil penalty.

The court levied a civil penalty of \$284,600 and ordered Fluorescent Recycling to submit and execute a plan for a full cleanup, along with further legal requirements that Dietrich and his companies obtain hazardous waste insurance and financial assurance that they clean up the property. The company was also prohibited from receiving or storing waste at the site.

When Fluorescent Recycling failed to clean up the site — or pay any of the civil penalty — the AGO brought contempt charges against Dietrich and his companies. In February 2021, the judge sentenced Dietrich to 30 days in jail (partially suspended), warning him that continued failure to comply might result in greater penalties.

Dietrich’s abandoned mercury site was so egregious that AG Yost filed felony criminal charges against him in Cuyahoga County Common Pleas Court. Those charges are pending.



AGRICULTURE

State ex rel. Yost v. Fisher
Case resolution date: Feb. 4, 2021

The essence: At the dairy farm operated in Carroll County by Harry Fisher, the Ohio Department of Agriculture (ODA) discovered at least nine large piles of manure ranging in height from 5 to 15 feet.

Fisher was feeding his cows on top of the manure piles. Some of the manure, he told ODA inspectors, had been there for 40 years.

ODA investigated and found runoff from the manure piles as well as silage leachate from the farm’s silage bunker entering a nearby unnamed tributary of Irish Creek. Silage leachate, or liquid that seeps from silage storage structures, is typically very high in nutrients that can harm surface water and groundwater — and is potentially a worse pollutant than manure or sewage.

Fisher repeatedly refused to take corrective actions, so the state in January 2021 filed suit in Carroll County Common Pleas Court to compel him to comply with Ohio’s soil and water conservation laws.

The outcome: Fisher agreed to design, construct, operate and maintain the facility according to state regulations to prevent wastewater runoff, sheet and rill erosion, and pollution to state waters. He also agreed to remove all manure from the surface of his access road, fill in his silage bunker with soil, and spread and reseed all large piles of manure.

ODA sought a civil penalty of \$30,000, but Fisher submitted inability-to-pay documentation. An analysis performed by an AGO forensic accountant supported Fisher’s claim, so the state exercised its discretion to suspend the civil penalty. Fisher has completed all of the court-mandated requirements. Should he commit new violations, the settlement provides injunctive relief to the state.



SOLID WASTE

State ex rel. Yost v. Baumann’s Recycling Center, et al.
Case resolution dates: Jan. 24, 2020, and April 16, 2020

The essence: Instead of recycling the construction debris that it was paid to recycle and the debris that its business produced during demolition projects, Baumann’s Recycling Center in Garfield Heights operated for nearly a decade like an unlicensed landfill.

During that time, the waste on its property extended eight stories high, causing some of the piles to overheat and begin to internally combust.

In January 2019, the Attorney General’s Office (AGO) — representing the Ohio EPA, Cuyahoga County Board of Health and Garfield Heights Fire Department — sued Baumann’s in Cuyahoga County Common Pleas Court.

The business was not only operating illegally, the state argued, but also “endangering the environment and the community by allowing roughly 200,000 cubic yards of construction and demolition debris to be unlawfully disposed” of on company property. The site had become an imminent fire hazard, threatening the health and safety of those in neighboring residences and businesses, a nearby school and hospital as well as trains using a nearby railroad.

The outcome: In June 2019, after a preliminary injunction hearing, the court ordered Baumann’s Recycling to immediately begin cleaning up its 85-foot pile of steaming construction debris. During that work, the company was required to meet weekly removal quotas and provide monitors for fires and air-quality pollution. In addition, Baumann’s was prohibited from accepting any more construction/demolition debris and solid waste at the site without approval from the Ohio EPA.

Baumann’s appealed the preliminary injunction, and the Eighth District Court of Appeals upheld the order. The appeals court also affirmed the findings that the site was a nuisance and that the material had been illegally discarded.

Several months into the cleanup, it was clear that Baumann’s was not meeting the court-ordered deadlines for debris removal. The AGO filed contempt charges against Baumann’s and its owner, Bill Baumann. The court found them both in contempt of the court’s order and gave them two months to remove the rest of the smoking pile.

Less than a month after the contempt ruling, more than 50,000 tons of decomposing debris had been removed from the site. Gone, too, were the fire hazard and the corresponding threat to the Garfield Heights neighborhood.

The AGO is still working with Baumann’s to remove additional materials from the site.



Operating like an unlicensed landfill, Baumann’s Recycling became an imminent fire hazard.



COLLECTIONS

State of Ohio v. Sugar, et al.
Case resolution date: Dec. 4, 2019

The essence: In some environmental cases, a civil penalty judgment against a defendant marks not the end of the case, but only the beginning of the end. When collection on a penalty is hard-won, though, the payoff is especially sweet.

A case in point is the 2013 environmental judgment in Jefferson County against Arthur David Sugar Sr. and his companies Sugar Excavating, Honey Creek Contracting, Excavation Technologies and ADS Leasing. The \$850,000 civil penalty imposed by the judge stemmed from the 2004 demolition of the Weirton Steel facility in Steubenville — during which the defendants illegally released a snowstorm of asbestos at the property.

Immediately after the judgment, the AGO moved to place liens on all of Sugar’s real properties in Jefferson County. At the time, however, the state was unaware that Sugar owned 11 real parcels in Mahoning County — which, shortly after the judgment, he transferred to Vista Canyon Holdings, a newly created limited-liability company wholly owned and controlled by his wife, Shawn Hawkins. Vista Canyon then transferred the properties to Mountain View Development Investment, also owned and controlled by Hawkins. No money exchanged hands in the transfer.

After uncovering evidence that Sugar sold the Mahoning County properties and one property in Arizona to “protect” his assets from the Jefferson County environmental judgment, the AGO sued him and his companies in Ohio and Arizona under each state’s fraudulent transfer law, both of which prohibit debtors from defrauding creditors. In the Mahoning County case, evidence showed that Sugar’s companies paid property taxes on some of the transferred properties and paid the legal costs to establish his wife’s companies.

The outcome: The two fraudulent transfer actions were settled in late 2019 when Sugar paid the state \$375,000 toward the 2013 civil judgment of \$850,000. Additionally, the state had previously received \$188,089.83 on the judgment through a 2015 foreclosure action and sale of real property in Jefferson County owned by Honey Creek Contracting. The total collected from Sugar exceeded \$563,000.



OIL & GAS

State ex rel. Yost v. Pericles Drosos
Case resolution date: Nov. 17, 2020

The essence: For years, Lakewood resident Pericles Drosos had illegally operated an oil-and-gas well from his neighbor’s backyard, supplying gas to himself and his neighbors in the heavily populated suburb west of Cleveland.

Ohio law requires that such wells be registered, bonded and insured, but Drosos’ well was none of these. When a construction crew working in the area came across it, state inspectors found that oil was leaking into the well’s underground vault and that gas was being improperly vented into the atmosphere from a vent line affixed to a tree in the neighbor’s backyard. Drosos, it turned out, had been notified many times of the violations and directed to secure the proper permit, bonding and insurance coverage. Each time, he did nothing.

The danger posed by a leaking gas line in the middle of a residential community speaks for itself, but there was also a concern that explosive gas could be building up in the lines underground, which connected to various properties in the neighborhood.

In April 2020, the AGO sued Drosos in Cuyahoga County Common Pleas Court for improper placement of oil or natural gas; causing a public nuisance; failing to have the well bonded, insured and registered with the state; and failing to file the state-mandated annual reports on the well’s oil, gas and brine production.

The outcome: Under a settlement reached in November 2020, Drosos agreed to plug the well and abandon it, restore the land in the area, and pay a civil penalty of \$2,000. He plugged the well in January 2021. Restoration requirements to remove the well structures and lines were completed in September 2021.



UNDERGROUND STORAGE

State ex rel. Yost v. 514 North Market Realty, et al.
Case resolution date: April 30, 2021

The essence: In 2015, gasoline from a Columbiana County gas station owned or operated by 514 North Market Realty, Abe Sammi LLC, Valley View Food LLC and Ashraf Isaac leaked into the ground and a nearby sewer.

The owners and operators did not discover the leak because they had not, as required by state law, maintained release-detection equipment. Only when nearby residents began smelling gasoline in their homes was petroleum discovered in a catch basin on the property and in a storm sewer.

Local fire departments and emergency responders from the Ohio EPA were called to recover the leaking gasoline. The next day, an inspection revealed 11 violations of the release-prevention rules of the State Fire Marshal’s Bureau of Underground Storage Tank Regulations (BUSTR). BUSTR informed the owners/operators many times that they had to conduct a site check, which tests the soil and groundwater for contamination caused by the released petroleum, known as “free product.”

When the owners/operators repeatedly ignored the violation notices, the Attorney General’s Office in March 2020 filed a complaint in Columbiana County Common Pleas Court seeking compliance.

The outcome: The court ruled that the owners/operators failed to properly investigate and mitigate a petroleum release and ordered them to perform the appropriate testing. After losing a legal challenge to that decision, the owners/operators in April 2021 agreed to complete remediation and pay a \$150,000 civil penalty as well as \$50,000 for the enforcement costs incurred by the AGO.

They have since hired a contractor to test the site for contamination. Drilling and sampling were completed in August 2021. The owners/operators submitted the correct report, and now have until Aug. 31, 2022, to submit the next report, which requires additional testing to determine the extent of contamination to remediate. Additionally, the defendants submitted three consecutive monthly free-product reports showing no free product.



AIR

State ex rel. Yost v. BP Products North America, Inc., et al.
Case resolution date: March 25, 2020

The essence: For far too long and far too often, the Toledo Oil Refinery — located in the Toledo suburb of Oregon — failed to adequately comply with state and federal requirements under the Clean Air Act and other environmental laws, prompting the U.S. Attorney General and the Ohio Attorney General to jointly sue its owners, BP Products North America and BP Husky Refining.

The lawsuit, filed in the U.S. District Court for the Northern District of Ohio, claimed that, at various times between 2006 and 2011 at the refinery, the BP companies failed to properly operate continuous emission-monitoring systems for hydrogen sulfide, sulfur dioxide, carbon monoxide and other air pollutants. The suit also listed numerous other violations spanning various multiyear periods. Without a court order requiring the refinery to follow the laws, the suit maintained, the violations would continue, compounding the risks to the environment and the people living and working around it.

The outcome: Less than two months after the legal filing, the governments had reached a settlement to bring the refinery into compliance. The deal required the BP companies to pay \$1.7 million in civil penalties, with \$1.5 million going to the feds and \$200,000 to Ohio, based on the number and gravity of violations. The refinery owners were also ordered to develop an operation-and-maintenance plan for their continuous emissions monitoring systems at the refinery, test and calibrate those systems, and train their staff to ensure the systems’ proper operation and quality control. The court also directed the BP companies to fund and complete by March 2023 a supplemental environmental project in Ohio — more specifically, to contribute at least \$1.2 million to a project within an 18-mile radius of the refinery to reduce children’s exposure to lead-based paint.

Yost secures long-awaited justice in Monsanto PCB case

As early as 1937, the Monsanto Co. knew that the polychlorinated biphenyls (PCBs) it was manufacturing for its industrial and commercial products were harmful — to humans, wildlife and the environment.

Still, the agricultural-products company continued to manufacture the synthetic organic chemical compounds for 40 more years — until 1977, two years before the federal government would ban the dangerous substances.

It had been a long time coming, but Ohioans finally got relief last month.

On March 24, Attorney General Dave Yost announced an \$80 million agreement with the company, which was sold to the German conglomerate Bayer in 2018. The environmental settlement was among the largest in state history.

“Ohio has been absorbing the health and environmental costs of PCB contamination for decades, and the cleanup will likely continue for even longer,” Yost said. “This settlement not only holds Monsanto accountable for its actions but also provides significant financial resources to assist in environmental cleanup.”

The state, under then-Attorney General Mike DeWine, filed suit against Monsanto in 2018, relying on a little-used authority that allows the attorney general to remedy an injury to the general health and well-being of Ohioans — in this case, based on the AG’s duty to protect the state’s natural resources.

The company, the lawsuit contended, had known for decades that it had created products with harmful levels of PCBs, which leached, leaked and escaped their intended applications, contaminating Lake Erie, the Ohio River and many other rivers, streams and creeks throughout Ohio, as well as groundwater, sediment, soil, plants and wildlife.

Key evidence in the case was an internal company memo dating from 1937 that acknowledged “systemic toxic effects” resulting from prolonged

“Ohio has been absorbing the health and environmental costs of PCB contamination for decades, and the cleanup will likely continue for even longer. This settlement not only holds Monsanto accountable for its actions but also provides significant financial resources to assist in environmental cleanup.”

— Ohio Attorney General Dave Yost

exposure to PCBs, which were used in paints, caulks, inks, dyes, lubricants, sealants, plasticizers, coolants and other products.

The agreement with Monsanto came after extended litigation by Yost’s Environmental Enforcement Section, with the money being placed in Ohio EPA accounts designated to mitigate future environmental hazards.

An environmental advisory board is being established to determine how best to use the money statewide.

Some cases compel criminal charges

Most cases requiring the legal expertise and enforcement authority of the Ohio Attorney General’s Office are civil matters that often result in the offender facing civil penalties, court-mandated site cleanup and/or court-ordered modifications to a business.

Criminal charges are less common but not unheard of. In fact, during Attorney General Dave Yost’s first three years in office, his environmental prosecutors charged 60 defendants with various environmental and natural resources crimes. Here are a few such cases:

ILLEGAL POACHING OF WHITE-TAILED DEER

In October 2021, a Gallia County grand jury indicted eight people on multiple felony charges of poaching white-tailed deer and stealing meat from hunters.

Investigators from the Ohio Department of Natural Resources (ODNR) and AG Yost’s environmental prosecutors had found that a deer-meat processing operation known as A&E Deer Processing poached 30 Ohio white-tailed deer and skimmed more than 700 pounds of meat from deer that hunters paid to have processed by the business. A&E then sold the stolen meat for a profit.

“Deer hunting is a deep-rooted tradition in Ohio, with generations having been taught the values of conservation, responsibility and discipline,” Yost said. “This level of corruption violates those tenets, and protecting and preserving this part of our heritage are important to all sportsmen and -women.”

The eight charged in the case face a combined 91 criminal counts, including jacklighting, possession of untagged deer and turkey parts, theft, engaging in a pattern of corrupt activity, illegal sale of deer parts, money laundering and conspiracy to commit telecommunications fraud. Those charged were:

- Aaron L. Jones, 32, of Thurman
- Brittney E. Marcum, 31, of Thurman
- Randy L. Jones Jr., 64, of Thurman
- Charlotte F. Jones, 63, of Thurman
- James E. Copley, 58, of Thurman
- Justin M. Wells, 36, of Thurman
- William C. Gilbert, 27, of Thurman
- Justin F. Butterfield, 23, of Brice

All eight were arraigned in Gallia County Common Pleas Court. More recently, four of the cases were resolved:

- **Copley** pleaded guilty to attempting to engage in a pattern of



corrupt activity, a third-degree felony, and four misdemeanors: theft, possession of untagged deer parts, aiding a wildlife offender and hunting with an illegal hunting implement. Copley was an A&E employee who helped process deer meat. He agreed to be a state's witness against A&E's owner/operators in their pending felony cases and forfeited deer parts and a rifle with a homemade suppressor to ODNR, which he used to poach deer. The court sentenced Copley to three years of community control and 100 hours of community service, suspended his hunting license for six years, fined him \$1,500 and ordered him to pay \$8,723.14 in restitution to the Division of Wildlife to compensate for the poached deer. He is also prohibited from participating in deer processing for one year.

- **Wells** pleaded guilty to six wildlife rules violations, third- and fourth-degree misdemeanors. Wells poached several deer and agreed to be a state's witness against A&E's owner/operators in their pending felony cases. He forfeited a 20-gauge shotgun, an eight-point buck deer head and a partial turkey fan and beard to ODNR. The court fined Wells \$500, ordered him to pay \$2,000 in restitution to the

Division of Wildlife to compensate for the poached deer, and suspended his hunting license for six years.

- **Gilbert** pleaded guilty to multiple misdemeanors: tampering with records, theft, possession of untagged deer parts, possession of untagged deer meat, two counts of jacklighting, two counts of hunting deer with an illegal hunting implement and two counts of failure to game check a deer. Gilbert, who poached several deer, agreed to forfeit deer parts and a firearm to ODNR, which he used to poach deer. The court fined Gilbert \$2,000, ordered him to pay \$20,000 in restitution to the Division of Wildlife for illegally hunting deer and suspended his hunting license for nine years.
- **Butterfield** pleaded guilty to petty theft and failure to game-check a deer, both misdemeanors. The court sentenced him to a combined 210 days in jail (and then suspended the jail time) and ordered him to pay \$1,000 in restitution to the Division of Wildlife, a \$500 fine and court costs. The court also required Butterfield to maintain employment and complete a hunter-education course through ODNR within one year. His hunting license was suspended for six years.

UNAUTHORIZED TRANSPORTATION, DUMPING OF WASTE

In December 2020, Wellsville resident Timothy Patrick was sentenced to two years in prison for illegally transporting and dumping waste from the septic business where he worked in Columbiana County. He was also ordered to pay \$7,200 in restitution.

"There's a stiff price for treating our environment like a dumping ground," Attorney General Yost said.

Patrick dumped more than 30 55-gallon drums, including three containing hazardous waste, down an embankment and into a ravine in Yellow Creek Township. At least one of the drums burst and leaked hydraulic oil into a stream that leads to Yellow Creek, which feeds into the Ohio River.

Emergency response teams from the state and federal Environmental Protection Agencies contained the spill before it reached the river, but Yellow Creek was not spared — damage that the U.S. Environmental Protection Agency had to clean up.

The owner of the company for which Patrick worked paid for most of the cleanup costs, but Patrick was personally required to reimburse more than \$5,200 of those costs (the bulk of his \$7,200 in restitution).

A second person involved with Patrick, Wellsville resident Christopher Joy, previously pleaded guilty to one count of complicity to illegal open dumping of solid waste and agreed to help the state in its case against Patrick. Joy was sentenced to three years of community control and required to complete a four- to six-month program in a community-based correctional facility.

UNLAWFUL DUMPING OF SCRAP TIRES

In October 2019, Hillsboro resident Ronald Ison was sentenced to four years in prison after pleading no contest to illegally dumping more than 200 scrap tires at sites in Highland County, including the Paint Creek Lake Wildlife Area.

Ison also paid \$730 in restitution to the local Solid Waste District for scrap-tire disposal fees.

"This guy created a public safety hazard, trashed the public's land and then forced the public to foot the bill to clean up his mess," Yost said at the time of Ison's sentencing. "This is where the rubber meets the road."

The case was jointly investigated by the Ohio Department of Natural Resources' Division of Wildlife and the Environmental Enforcement Unit of the Attorney General's Bureau of Criminal Investigation (BCI). Attorneys from Yost's Environmental

Enforcement Section prosecuted the case.

Investigators discovered that Ison had obtained the tires from a local junkyard that agreed to pay him for their disposal — work he did in 2017. He dumped the tires in two Highland County townships, including a site in the 5,090-acre wildlife area adjacent to Paint Creek State Park, which features scenic woodlands and a lake area known for dove hunting, fishing and wildlife watching.

A school bus encountered another of Ison's dump sites on the open road. The scrap tires lodged underneath the bus, disabling it and leaving the children stranded until assistance arrived.

After serving almost 10 months in prison, Ison was granted judicial release, in part due to the COVID-19 pandemic. The conditions of his release require him to spend four to six months in a community-based correctional facility, perform 400 hours of community service and serve three years under community control.



Some of the 200+ scrap tires that Ronald Ison dumped illegally

Proactive dam-safety efforts earn AGO, ODNR national recognition

The Ohio Dam Safety Program, a collaborative enforcement effort between the Ohio Department of Natural Resources (ODNR) and the Ohio Attorney General's Office (AGO), has earned national recognition for its heightened efforts in recent years to improve dam safety statewide.

The nonprofit Association of State Dam Safety Officials honored the program with its 2021 Midwest Regional Award of Merit, noting its proactive efforts to hold owners of dangerous dams accountable and compel them to correct problems before the dams endanger Ohioans.

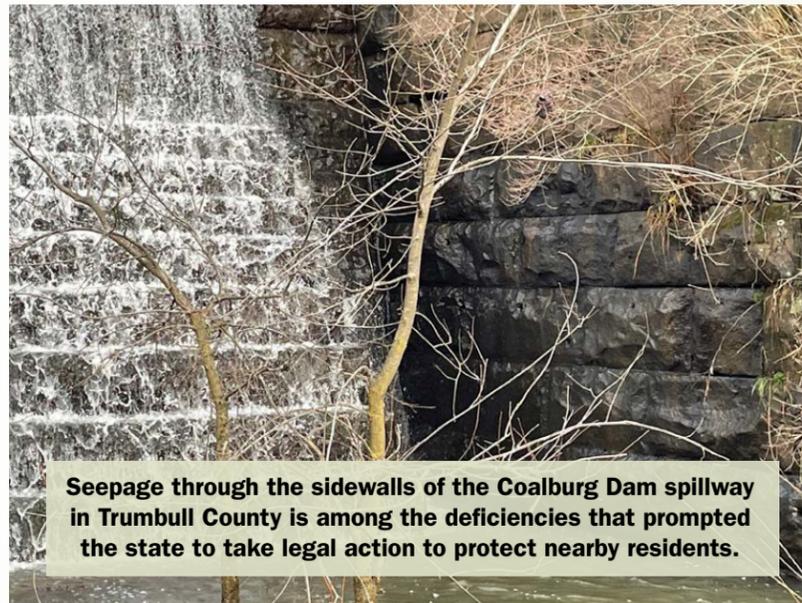
"This award is a testament to the great teamwork between ODNR and the AGO dam-safety team," Attorney General Yost said. "The division's engineering expertise and our section's

legal experience combine to achieve great results that help keep Ohio residents safe."

ODNR and the AGO use the enforcement and legal processes to compel dam owners to comply with state dam laws, take responsibility for the risks that the dams pose to the people and properties downstream, and help prevent emergencies.

Enhanced enforcement efforts during the past three years have led to the successful repair, breach or modification of at least six dams throughout Ohio:

- Athens Fish and Game Club in Athens County
- Bucyrus Reservoir #2 in Crawford County
- Sleepy Hollow Lake Dam in Tuscarawas County



Seepage through the sidewalls of the Coalburg Dam spillway in Trumbull County is among the deficiencies that prompted the state to take legal action to protect nearby residents.

- Spring Lake Dam in Montgomery County
- Village of Wellsville Dam in Columbiana County
- Woodside Lake Dam in Mahoning County

Several dam owners complied through the enforcement process; others are involved in ongoing litigation.

As recently as February 2022, the Attorney General's Office obtained a preliminary injunction requiring the Class 1 Coalburg Dam in Trumbull County to comply with interim safety measures and begin a partial draw-down of water in the lake to protect nearby residents from a catastrophic failure.

"The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly; who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows the great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat."

— Theodore Roosevelt | April 23, 1910

Recognizing the men and women in the arena

Attorney General Dave Yost would like to thank and recognize his environmental team, whose unwavering dedication and tireless efforts have ensured our many successes of the past three years.

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|---|---|
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