

Un-Clear Horizons: Manure Digester Mess Lingers as Officials Weigh Options

by Jim Eichstadt

Last month's story on the accident-prone Clear Horizons Dane LLC manure digester near Waunakee, Wisconsin exposed major flaws on both sides of the political debate over this expensive and often-flawed approach to manure management. As *The Milkweed* went to press, state and local officials were weighing limited options to fix the digester's violations and untangle the management failures of the private contractor chosen to run the facility.

After spending more than \$3.3 million in taxpayer funds on land and equipment, Dane County Executive Joe Parisi is under heavy pressure to fix management failures at the troubled facility. The Clear Horizons digester has fallen far short of removing the required 60% of the phosphorus from manure piped from three adjoining large dairy farms. Excess nutrient runoff in the Yahara Lakes Watershed continues to foul Madison's lakes with masses of thick, green algae. In northern Dane County, rural residents stuck with digester's mess scoff at the notion that they should bear the cost of clear waters for the enjoyment of downstream urban liberals.

Regulatory wheels are in motion. Following an enforcement conference last month, Wisconsin Department of Natural Resources (DNR) officials are monitoring the operator's next steps to bring Clear Horizons into compliance (see below). The digester's violations have been referred to the Wisconsin Department of Justice, which is mulling **potentially huge fines of up to \$25,000 per violation per day** and possible prosecution options for the long list of violations.

Corporate welfare at its worst

Clear Horizons is a poster child for "corporate welfare" at its worst. Conservative agri-business interests already enjoy lavish favors in the form of tax exemption – and are looking forward to even more-relaxed environmental regulation – in exchange for big campaign contributions to Wisconsin politicians.

Republican Governor Scott Walker, who is engaged in serious fundraising for his 2016 presidential campaign, has blatantly pandered to corporate interests in his new 2015-17 biennial state budget proposal released February 4. Walker proposes to tighten his direct control over the DNR and cut 66 agency positions – including key scientific staff involved in environmental regulation. Critics said Walker's blatant attempt to weaken the power of the independent DNR board and reduce science staffing seriously undermines the agency's ability to protect state air and water quality.

Walker's budget proposal was merely trying to compete with the Republican-controlled Wisconsin Legislature, which in 2014 did a major favor for big agribusiness interests by exempting state biogas digesters from property taxes. These political favors are not isolated incidents. Gov. Walker signed legislation in 2013 that weakened the Wisconsin DNR's authority to delay approval of mining permits. The state law was payback for powerful mining interests seeking to fast-track development of a controversial iron ore mine in an environmentally sensitive area of northern Wisconsin.

The tax-exemption favor to fat cats, however, comes at a high cost to local communities where the Clear Horizon facility is located. "Because of this action by the legislature and our governor, the Town of Vienna lost \$7.1 million dollars of assessed value. In actual tax dollars that meant a loss of \$71,726.23 for the Waunakee School District, \$20,412.53 for the Town of Vienna, \$1,427.67 for the Waunakee Fire Department, \$13,587.17 for Madison College and \$152.22 for the Waunakee EMS District," Town of Vienna Clerk Shawn Haney said in a December 17, 2014 letter to the editor of the *Waunakee Tribune*.

The problem extends far beyond Wisconsin Republican circles, however, to Washington, D.C., where corporate welfare enjoys bipartisan support. The Obama administration has encouraged the construction of potentially thousands of manure digesters across the U.S. through the AgSTAR program launched in 2010. The otherwise-gridlocked

113th Congress, meanwhile, gave the industry a huge Christmas present last December by effectively deregulating Clear Horizons and other biogas digesters nationwide. Language buried on page 790 of the 1,603-page Consolidated and Further Continuing Appropriations Act of 2015 prohibits the use of federal funds to monitor methane and other greenhouse gas emissions.

Gov. Walker's proposed DNR cuts, combined with the new federal ban on greenhouse gas monitoring, could make it much more difficult to prevent future environmental violations by Clear Horizons and other bio-digesters in Wisconsin.

Dec. 16 enforcement conference findings

Wisconsin DNR officials met with Clear Horizons at a December 16, 2014 enforcement conference in Fitchburg, Wisconsin to address the long list of problems cited in a November 16 Notice of Violation (NOV). Joining four DNR officials at the conference were two Clear Horizons officials Jim Ditter (CEO of parent company PPC Partners) and COO Norm Doll and their attorney, Todd Palmer of Michael Best & Friedrich LLP (a Madison law firm that specializes in representing large livestock operations on environmental and zoning issues). Dave Merritt represented the Dane County Executive's office.

The DNR provided a copy of the January 16, 2015 enforcement conference summary at *The Milkweed's* request. The summary notes that Clear Horizons frequently cited "staff neglect and changes in their management team" as excuses for failing to comply. The report said Clear Horizons is unable to meet hydrogen sulfide emission limits of 300 parts per million. The agency's enforcement measures will be based on actions taken by Clear Horizons to address the violations.

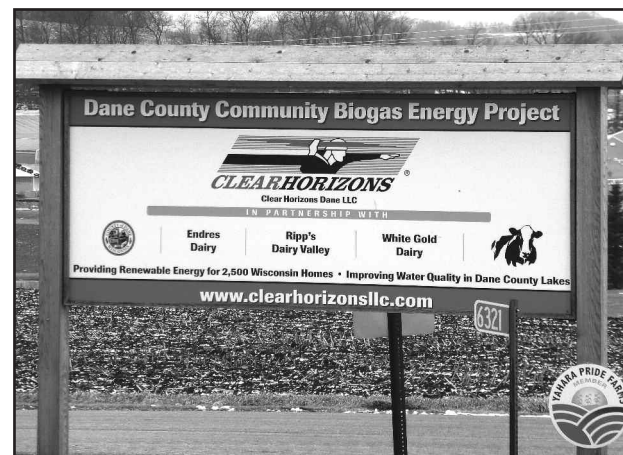
Gov. Walker's proposed DNR cuts, combined with the new federal ban on greenhouse gas monitoring, could make it much more difficult to prevent future environmental violations by Clear Horizons and other biogas digesters in Wisconsin.

The Milkweed's report on the Clear Horizons fiasco received media attention after the story broke last month. Reporter Mike Ivey of Madison's *Capital Times* wrote an article on *The Milkweed's* story in the paper's online and print editions. When grilled by local TV news reports the next day, County Executive Joe Parisi defended the concept of the manure digester, but conceded problems exist with the current operator. A follow-up story published January 29 by Milwaukee's *Journal-Sentinel* revealed that Clear Horizons officials were more candid than the Dane County Executive's office in recognizing the plant's many problems. "Company not sure if it wants to stick with Dane County project," the story's subheadline said. "Despite the subsidy, Clear Horizons said that it had lost \$2.8 million since the start of the project in late 2010," the story said.

Good money after bad? County Exec. responds

Evidence of Dane County's continuing state of denial can be seen in spokesman Dave Merritt's response to *The Milkweed's* January 28 questions about the county's two taxpayer-subsidized manure digesters. The second digester, located west of Middleton, Wisconsin in the Town of Springfield, has been in operation for about one year using newer technology and a different operator.

Merritt, who is the County Executive's Director of Policy & Program, said the Clear Horizons digester has provided "net environmental benefits" despite the ongoing problems. Dane County may invest even more taxpayer funds in new nutrient concentration technology at Clear Horizons if trials at the newer Springfield digester are successful, he said. Following are key points in Merritt's February 5 emailed response:



The above sign stands at the entrance to Clear Horizons Dane LLC's manure digester located north of Waunakee Wisconsin. The taxpayer-subsidized facility has been plagued by a long history of mismanagement, manure spills, and numerous other environmental violations.

Photo credit: Jim Eichstadt

Question: What action(s) have the Dane County Executive, DOJ, or other government officials taken to resolve problems at the Clear Horizons facility?

Merritt: "A year ago the County Executive called for Clear Horizons to take all necessary actions to ensure the safe and efficient operation of the facility in the Town of Vienna, **including the step of putting in place a new company to operate and manage the plant. That appeal to the company has been and will continue to be the focus of our work in order for all the important on-going benefits of the digester project to continue.** (Bold emphasis added.)

"As exhibited by the successful operation of the second digester project in the Town of Springfield, digester technology is a key tool in the toolbox to cleaning up our lakes. While being a first-of-its-kind facility in the state does not explain and is no excuse for the permit violations, the plant continues to produce net environmental benefits.

"By the end of the year, the County will purchase a nutrient concentration system (NCS) for the Springfield digester that will remove up to 100% of the phosphorus and turn much of the manure into clean potable water. We are currently reviewing four proposals from NCS technology companies. We are hopeful the NCS technology once demonstrated can be added to the Waunakee digester." (Bold emphasis added.)

Question: What is the operational status of the Clear Horizons digester unit damaged by the Aug. 6, 2014 explosion and fire?

Merritt: "According to the latest update from Clear Horizons, the company planned to start refilling digester tank #1 this week or next."

Question: How was Clear Horizons plant's capacity affected while the one silo was out of operation?

Merritt: "According to the latest update from Clear Horizons, manure from the Ripp farm is being routed to the lagoon."

Question: Has the option of bankruptcy been raised in Dane County's discussions with Clear Horizons LLC or PPC Partners of Milwaukee?

Merritt: "**No, never as a viable option.**" (Bold emphasis added.)

Question: What financial assistance, if any, has Dane County provided or considered providing to local units of government (town, school district, fire/ems, etc.) to offset the loss of property tax revenues from the Clear Horizons and Springfield manure digesters?

Merritt: "**None.**" (Bold emphasis added.)

Negotiations with Town

The Town of Vienna went out of its way to make to widen and reinforce Cuba Valley Road to handle the large volume of heavy truck traffic servicing Clear Horizons. Town Clerk Shawn Haney said large volumes of fats, oils, and grease are trucked in to increase the digester's efficiency. Clear Horizon's contract with Dane County requires all the site's solid waste to be trucked out for disposal outside the Yahara Lakes watershed, he noted.

Clear Horizons has steadfastly refused to pay for its share of the Cuba Valley Road improvements,

Continued on page 7

Un-Clear Horizons —

Continued from page 6

which total \$54,894, according to the *Waunakee Tribune*. Clear Horizons has pleaded poverty in refusing to make Payments in Lieu of Taxes (PILOT) to the Town. As reported in last month's issue of *The Milkweed*, minutes of the Town's December 15, 2014 board meeting state that "Norm Doll from Clear Horizons called on Friday December 12th. He stated that Clear Horizons was bankrupt and would not be signing the PILOT agreement."

That quote about bankruptcy – and two top Clear Horizons officials' vehement "no comment" when contacted by *The Milkweed* on January 12 – apparently caused a major stir both inside the company and at the Dane County Executive's office. After many months of stonewalling, Clear Horizons is now negotiating with the Town of Vienna over payment of road improvements.

Draft minutes of the Town board's February 2, 2015 meeting note the following development: "Clear Horizons – Atty. Mitby has been in contact with Clear Horizons Atty. David Crass. They made

an offer to settle the issue over payment for Cuba Valley Road." Town officials were not at liberty to discuss specifics of the negotiations as *The Milkweed* went to press on February 9.

Notably, Clear Horizon's attorney in negotiations with the Town of Vienna is David Crass of Michael Best & Friedrich LLP. Crass is notorious in environmental circles for aggressively defending the worst agri-business offenders charged with air and water quality violations. Crass is closely involved with the Dairy Business Association, a group representing big, industrial-scale dairy operations in Wisconsin, and served on the DBA's board of directors from 2002-2008.

Correction: Last month's story incorrectly stated that Clear Horizons is located in Dane County District 25 Supervisor Tim Kiefer's district. The digester is just outside District 25, two miles north of Waunakee.

Jim Eichstadt, a dairy consultant from DeForest, Wis., served 18+ years in communications and senior management positions at a large Midwest dairy bargaining co-op. He also represented U.S. dairy farmers at World Trade Organization negotiations in Singapore, Geneva, and Seattle.