

IN THE COURT OF COMMON PLEAS  
WAYNE COUNTY, OHIO

STATE OF OHIO, *ex rel.*  
MICHAEL DEWINE,  
OHIO ATTORNEY GENERAL,

Plaintiff,

v.

QUASAR ENERGY GROUP, LLC  
Independence Tower  
5755 Granger Road, Suite 320  
Cleveland, Ohio 44131,

QUASAR ENERGY GROUP, LLC  
c/o Steven Smith, Statutory Agent  
6427 Acres Drive  
Independence, Ohio 44131,

and

BUCKEYE BIOGAS, LLC  
2072 Secrest Road  
Wooster, Ohio 44391,

BUCKEYE BIOGAS, LLC  
c/o Deborah Elias, Statutory Agent  
3155 Titan Drive  
North Royalton, Ohio 44133,

and

: CASE NO. 2016 CVC-G 000353

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

:

JUDGE COREY E SPITLER

COMPLAINT FOR  
PRELIMINARY AND  
PERMANENT INJUNCTIVE  
RELIEF AND CIVIL  
PENALTIES AND DAMAGES

**COLLINWOOD BIOENERGY, LLC,** :  
**13550 Aspinwall Avenue** :  
**Cleveland, Ohio 44110,** :

**COLLINWOOD BIOENERGY, LLC,** :  
**c/o FCE, Statutory Agent** :  
**50 Public Square, Suite 1360** :  
**Cleveland, Ohio 44113,** :

**and** :

**THREE CREEK BIOENERGY, LLC,** :  
**2350 Abbe Road** :  
**Sheffield Village, Ohio 44054,** :

**THREE CREEK BIOENERGY, LLC,** :  
**c/o Deborah Elias, Statutory Agent** :  
**3155 Titan Drive** :  
**North Royalton, Ohio 44133,** :

**and** :

**WOOSTER RENEWABLE ENERGY, LLC,** :  
**1123 Old Columbus Road** :  
**Wooster, Ohio 44691,** :

**WOOSTER RENEWABLE ENERGY, LLC,** :  
**c/o FCE, Statutory Agent** :  
**50 Public Square, Suite 1360** :  
**Cleveland, Ohio 44113,** :

**Defendants.** :

## INTRODUCTION

The Defendants maintain a highly disruptive nuisance, exposing the citizens of the Cities of Wooster and Cleveland, and the Village of Sheffield to a steady stream of foul-smelling odors described as a “raw sewage odor” and a “foul smell that is worse than a sewage plant.”

Four related facilities are the sources of these horrible odors, which at times are almost unbearable: the Buckeye Biogas, Collinwood BioEnergy, Three Creek BioEnergy, and Wooster Renewable Energy plants. Quasar Energy Group, LLC and its subsidiaries Buckeye Biogas, LLC, Collinwood BioEnergy, LLC, Three Creek BioEnergy, LLC, and Wooster Renewable Energy, LLC own and operate these facilities. They are biogas production plants whose feedstock has included liquid organic waste, as well as other organic waste from local farms and food processing businesses including food waste, fats, oils grease, grain, animal feed, manure, and other non-traditional feedstock. As it decomposes in anaerobic biodigesters, the processed feedstock produces methane gas as fuel for generators that create electricity.

This gas and electric production process creates solid and liquid waste that must be properly separated, processed, and treated. Based upon over 250 citizens’ complaints and numerous inspections by Ohio EPA and/or its agents of the four facilities, the odors generated by these processes constitute statutory, regulatory, and common law nuisances.

The State’s objective is to contain, control, and abate the nuisances and achieve compliance with Ohio’s air and water pollution control regulatory schemes.

Therefore, Plaintiff, the State of Ohio (“the State”), on relation of its Attorney General Michael DeWine and at the written request of the Director of Environmental Protection (“Director”), hereby institutes this action pursuant to R.C. 3704.06, 3767.03, 3767.04, 6111.07,

and 6111.09, and common law nuisance authority for preliminary and permanent injunctive relief and the assessment of civil penalties and damages.

### **THE DEFENDANTS AND THEIR FACILITIES**

1. Quasar Energy Group, LLC is an Ohio company that is registered with the Ohio Secretary of State, in good standing, as a for-profit, limited liability company. It holds ownership interest in at least seven (7) anaerobic digestion facilities and compressed natural gas (CNG) fueling stations in Ohio including those four at issue here: Buckeye Biogas, LLC, Collinwood BioEnergy, LLC, Three Creek BioEnergy, LLC and Wooster Renewable Energy, LLC. Its offices are located at Independence Tower, 5755 Granger Road, Suite 320, Cleveland, Ohio.

2. Buckeye Biogas, LLC is an Ohio company that is registered with the Ohio Secretary of State, in good standing, as a for-profit, limited liability company. Its Ohio operation is located at 2072 Secrest Road, Wooster, Wayne County, Ohio.

3. Collinwood BioEnergy, LLC is an Ohio company that is registered with the Ohio Secretary of State, in good standing, as a for-profit, limited liability company. Its Ohio operation is located at 13550 Aspinwall Avenue, Cleveland, Cuyahoga County, Ohio.

4. Three Creek BioEnergy, LLC is an Ohio company that is registered with the Ohio Secretary of State, in good standing, as a for-profit, limited liability company. Its Ohio operation is located at 2350 Abbe Road, Sheffield Village, Lorain County, Ohio.

5. Wooster Renewable Energy, LLC is an Ohio company that is registered with the Ohio Secretary of State, in good standing, as a for-profit, limited liability company. Its Ohio operation is located at 1123 Old Columbus Road, Wooster, Ohio.

6. The Defendants' feedstock includes waste water treatment plant sewage sludge, off-spec and food grade waste, other food waste, fats, oils, grease, energy crops (i.e., grain, hay, silage, spilled and soiled feed, and stover), manure, and other non-traditional feedstock.

7. These anaerobic digestion facilities are designed to mix available feedstock in large tanks, and pump the material into an anaerobic digester, which then produce methane gas to power industrial-scale generators in order to create electricity.

8. The Biogas Defendants earn tipping fees (which are also known as disposal fees) from accepting the food waste, fats, oils, grease, energy crops (i.e., grain, hay, silage, spilled and soiled feed, and stover), manure, and other non-traditional feedstock authorized by Ohio EPA.

9. The Hydraulic retention time within the anaerobic digesters is approximately 20 to 30 days.

10. The Defendants' wastewater generated from the treatment of the feedstock within the anaerobic digestion process ("digestate") is primarily managed through a beneficial use ("land application") program whereby the digestate is beneficially used on agricultural fields or transferred to another NPDES-permitted facility; however, other digestate-management options are available at some of the facilities, as described in paragraphs 11 through 13.

11. In the case of Buckeye Biogas, LLC, the digestate can be stored within a 64,000-gallon effluent holding tank prior to beneficial use on agricultural fields or transferred to another NPDES permitted facility.

12. In the case of Collinwood BioEnergy, LLC, the digestate can also be managed as an exceptional quality biosolid in accordance with Ohio Adm.Code 3745-40-04, be dewatered utilizing a centrifuge, and managed as a solid material for beneficial use or transferred to another

NPDES permitted facility, or stored onsite as a liquid material within a 230,000-gallon effluent storage tank prior to beneficial use or transfer to another NPDES permitted facility.

13. In the case of Wooster Renewable Energy, LLC, the digestate is stored within two two-million-gallon storage lagoons prior to beneficial use on agricultural fields or transfer to another NPDES permitted facility.

14. Digestate contained in Wooster Renewable Energy's storage lagoons is so highly concentrated with biosolids that it has become anaerobic and is a separate source of noxious odors. The storage lagoons are uncovered and do not have any odor-control measures.

15. Each of the Defendants' anaerobic digestion facilities is a "facility" as defined by Ohio Adm.Code 3745-15-01(O).

16. The Defendants' anaerobic digestion facilities and their components are a "source" of "air pollutants" and/or "air contaminants" as those terms are defined by Ohio Adm.Code 3745-15-01(B) and (W) respectively.

17. Quasar Energy Group, LLC is an "owner or operator" who owns, leases, controls, operates or supervises a facility, an emission source, or air pollution control equipment defined by Ohio Adm.Code 3745-15-01(T) and a "person" as that term is defined by R.C. 1.59, 3767.01(B), and Ohio Adm.Code 3745-15-01(U).

18. Buckeye Biogas, LLC is an "owner or operator" who owns, leases, controls, operates or supervises a facility, an air emission source, or air pollution control equipment defined by Ohio Adm.Code 3745-15-01(T), and is a "person" as that term is defined by R.C.1.59, 3767.01(B), and Ohio Adm.Code 3745-15-01 (U).

19. Collinwood Bioenergy, LLC is an “owner or operator” who owns, leases, controls, operates or supervises a facility, an air emission source, or air pollution control equipment defined by Ohio Adm.Code 3745-15-01(T), and is a “person” as that term is defined by R.C.1.59, 3767.01(B), and Ohio Adm.Code 3745-15-01 (U).

20. Three Creek Bioenergy, LLC is an “owner or operator” who owns, leases, controls, operates or supervises a facility, an air emission source, or air pollution control equipment defined by Ohio Adm.Code 3745-15-01(T), and is a “person” as that term is defined by R.C.1.59, 3767.01(B), and Ohio Adm.Code 3745-15-01 (U).

21. Wooster Renewable Energy, LLC is an “owner or operator” who owns, leases, controls, operates or supervises a facility, an air emission source, or air pollution control equipment defined by Ohio Adm.Code 3745-15-01(T), and is a “person” as that term is defined by R.C.1.59, 3767.01(B), and Ohio Adm.Code 3745-15-01 (U).

#### **THE DEFENDANTS’ AIR PERMITS**

22. Ohio EPA issued Permits-To-Install and Operate (“PTIO”) #P0107071 (Buckeye Biogas); #P0107748 (Collinwood Bioenergy); #P0120127 (Three Creek BioEnergy); and #P0109347 (Wooster Renewable Energy) to the Biogas Defendants on November 2, 2010, September 15, 2011, May 19, 2016 and April 19, 2012, respectively. The PTIOs were issued pursuant to R.C. 3704.03(F) and (G) and Ohio Adm.Code Chapter 3547-31.

23. The Defendants’ PTIOs were for the installation and subsequent operation of anaerobic digestion operations that utilize biogas generated from the systems to power industrial-scale generators.

24. The emission units defined in the Defendants Air PTIOs are each an emissions source as provided under Ohio Adm.Code 3745-15-01(M) and (W).

25. Both the PTIOs and Ohio Adm.Code 3745-15-07 prohibit operation of the air contaminant source(s) regulated under the PTIOs in a manner that causes a nuisance. Under the PTIOs, Ohio EPA can require additional controls or modification of the permit requirements through enforcement orders or judicial enforcement action if, upon investigation, Ohio EPA determines existing operations are causing a nuisance.

### **THE DEFENDANTS' WASTEWATER PERMITS**

26. Ohio's Director of Environmental Protection issued National Pollutant Discharge Elimination System ("NPDES") Permits, No. 3IN00380\*AD (Buckeye Biogas) effective on January 1, 2013; No. 3IN00371\*BD (Collinwood Bioenergy) effective on December 1, 2012; No. 3IN00373\*BD (Three Creek Bioenergy) effective on December 1, 2012; and No. 3IN00375\*BD (Wooster Renewable Energy) effective on December 1, 2012 to the various Defendants.

27. The NPDES permits govern the treatment, storage, transfer, or disposal of biosolids and the beneficial use of biosolids generated from the anaerobic digestion of the Defendants' sewage sludge, off-spec and food grade waste, other food waste, fats, oils, grease, energy crops (i.e. grain, hay, silage, spilled and soiled feed, and stover), manure, and non-traditional feedstock for the purpose of producing energy from methane generation.

28. The Defendants' NPDES permits prohibit the treatment, storage, transfer, or disposal of biosolids, the beneficial use of biosolids, and the treatment, storage, transfer, or disposal of



approved feedstock that result in nuisance odors. The NPDES permits require all necessary corrective actions to eliminate or minimize the creation of such nuisance odors.

### **GENERAL ALLEGATIONS**

29. The Defendants have caused the release of noxious odors, vapors, mist, fumes, or other odorous substances from various points at their anaerobic digestion facilities that have migrated to local neighborhoods and businesses from at least February 5, 2016 (Buckeye Biogas), June 26, 2012 (Collinwood Bioenergy) June 23, 2013 (Three Creek), June 29, 2013 (Wooster Renewable) and continuing until the present and on other dates yet to be discovered.

30. Local residents have raised numerous complaints about the Biogas Defendants' release of noxious odors.

31. The Defendants' releases of noxious odors have caused harm to the public welfare of the citizens of the Cities of Wooster and Cleveland, as well as the Village of Sheffield.

32. The Defendants' discharges of noxious odors to the ambient air are a nuisance to the citizens of the Cities of Wooster and Cleveland, and the Village of Sheffield.

33. Ohio EPA has confirmed that the Defendants' operations have caused a nuisance.

34. Ohio EPA's Northeast District Office, Division of Air Pollution Control and/or Division of Surface Water has conducted inspections and documented numerous environmental violations committed by Buckeye Biogas, including nuisance odor violations.

35. Ohio EPA's Northeast District Office, Division of Air Pollution Control and/or Division of Surface Water has conducted inspections and documented numerous environmental violations committed by Wooster Renewable Energy, including nuisance odor violations.

36. Ohio EPA's Northeast District Office, Division of Air Pollution Control and/or Division of Surface Water has conducted inspections and documented numerous environmental violations committed by Three Creek BioEnergy, including nuisance odor violations.

37. Cleveland Division of Air Quality on behalf of the Ohio EPA and/or Ohio EPA's Northeast District Office, Division of Surface Water conducted inspections and documented numerous environmental committed by Collinwood Bioenergy, including nuisance odor violations.

38. Ohio's air pollution control laws, codified in R.C. Chapter 3704, are designed to protect and enhance the quality of the State's air resources so as to promote the public health, welfare, economic vitality, and productive capacity of the people of Ohio.

39. It is the purpose of all air pollution rules adopted under Chapter 3704 of the Revised Code to set forth such requirements as shall be necessary to secure and maintain those levels of air quality which are consistent with the protection of health and the prevention of injury to plant, animal life, and property in the State of Ohio, and to provide for the comfortable enjoyment of the natural attractions of the State to the greatest extent practical. All rules of the Director shall be construed in such manner as to effectuate this purpose per Ohio Adm.Code 3745-15-02.

40. As part of their operations, the Defendants utilize equipment, operations, and/or activities that emit or cause the emission of "air pollution," as defined in in R.C. 3704.01(B) and Ohio Adm.Code 3745-15-01(C).

41. "Ambient air" means that portion of the atmosphere outside of buildings and other enclosures, stacks, or ducts that surrounds human, plant, or animal life or property per R.C. 3704.01(E).

42. "Emit" or "emission" means the release into the ambient air of an air contaminant per R.C. 3704.01(H).

43. "Facility" means any building, structure, installation, operation, or combination thereof which contains one or more stationary source of air contaminants per Ohio Adm.Code 3745-15-01(O).

44. As part of their operations, the Defendants utilize equipment, operations, and/or activities that emit or cause the emission of "air contaminants," defined as particulate matter, dust, fumes, gas, mist, radionuclides, smoke, vapor, or odorous substances, or any combination thereof in R.C. 3704.01(B).

45. The equipment, operations, and/or activities referenced in paragraphs in Defendants' PTIOs constitute "air contaminant sources," as defined in R.C. 3704.01(C) and Ohio Adm.Code 3745-31-01(I), and are "emissions units" as that term is defined under Ohio Adm.Code 3745-77-01(O) and 3745-31-01(MM).

46. Revised Code 3704.05(C) prohibits any person from violating the terms and conditions of any permit issued by the Director of Ohio EPA.

47. Revised Code 3704.05(G) prohibits any person from violating any rule adopted by the Director of Ohio EPA pursuant to R.C. Chapter 3704. Ohio Adm.Code Chapters 3745-15 and 3745-31 as cited in the Complaint were adopted by the Director pursuant to R.C. Chapter 3704.

48. Under R.C. 3704.06(B), the Attorney General has authority upon request of the Director to bring an action to enjoin conduct in violation of R.C. 3704.05 and to seek civil penalties of not more than \$25,000.00 for each day of each violation except for violations of R.C. Chapter 3704 regarding the prevention or abatement of odors pursuant to R.C. 3704.06(C).

49. Under R.C. 3767.03, the Attorney General also has authority to bring an action in equity whenever a nuisance exists under R.C. Chapter 3767 and seek a temporary injunction under R.C. 3767.04.

50. Revised Code 6111.07 prohibits any person from violating R.C. 6111.01 to R.C. 6111.08, or any order, rule or term or condition of a permit issued or adopted pursuant to such sections by the Director. Each day of each violation is a separate offense.

51. Under R.C. 6111.07 and 6111.09(A), the Attorney General has authority upon request of the Director to bring an action to enjoin conduct in violation of R.C. 6111.07 and to seek civil penalties of not more than ten thousand dollars for each day of each violation.

52. Venue is proper in this Court pursuant to Civ.R. 3(B)(3), (6), (12), and (E).

53. Pursuant to Civ.R. 8(A), the State informs the Court that the amount sought is in excess of twenty-five thousand dollars (\$25,000.00).

54. The allegations in the preceding paragraphs are incorporated by reference into Counts One through Sixteen of the Complaint as if fully restated therein.

**COUNTS RELATED TO DEFENDANTS QUASAR ENERGY GROUP, LLC AND  
WOOSTER RENEWABLE ENERGY, LLC**

**COUNT ONE  
AIR NUISANCE**

55. Ohio Adm.Code 3745-15-01(B) prohibits, in part, any person from causing a public nuisance by emitting excessive odors from any source or sources that are subject to regulation under Ohio Adm.Code Chapter 3754-31.

56. On June 24, 2016 other dates to be determined, Defendants Quasar Energy Group and Wooster Renewable Energy have emitted excessive odors from its anaerobic digestion facility which is permitted through and regulated by Ohio EPA.

57. The acts alleged in this Count constitute violations of Ohio Adm.Code 3745-15-07(B) and R.C. 3704.05(A) and (G), for which Plaintiff is entitled to injunctive relief pursuant to R.C. 3704.06(B) and for which Defendants Quasar Energy Group and Wooster Renewable Energy are jointly and severally liable.

**COUNT TWO  
CREATION OF A STATUTORY NUISANCE**

58. Revised Code 3767.02(A) provides that “any person, who uses, occupies, establishes, or conducts a nuisance, or aids or abets in the use, occupancy, establishment, or conduct of a nuisance; the owner, agent, or lessee of an interest in any such nuisance; any person who is employed in that nuisance by that owner, agent, or lessee; and any person who is in control of that nuisance is guilty of maintaining a nuisance.”

59. Revised Code 3767.02(A) further provides, in part, that any person who establishes or conducts a nuisance; the owner, agent or lessee of an interest in any such nuisance; and any person who is in control of that nuisance, shall be enjoined as provided in R.C. Chapter 3767.

60. Revised Code 3767.13(B) prohibits any person from causing or allowing offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

61. Pursuant to R.C. 3767.03, the Attorney General may bring an action in equity in the name of the State to abate the nuisance and to perpetually enjoin persons from maintaining the nuisance.

62. On June 24, 2016 other dates to be determined, Defendants Quasar Energy Group and Wooster Renewable Energy have used, occupied, established, and conducted a nuisance, in conjunction with their ownership and operation of the anaerobic digestion facility, because the anaerobic digestion facility is a menace to and injuriously affects the public health, welfare, and safety and constitutes a hazard to the public health, welfare, or safety due to inadequate operation, and maintenance, and works some substantial annoyance, inconvenience, or injury to the public.

63. Defendants Quasar Energy Group and Wooster Renewable Energy have established, have an interest in, and/or control of the anaerobic digestion facility and are thereby maintaining a nuisance as set forth in and prohibited by R.C. 3767.02 and 3767.13.

64. The acts or omissions alleged in this claim for relief constitute violations of R.C. 3767.02 and 3767.13, for which the State is entitled to temporary and perpetual injunctive relief against Defendants Quasar Energy Group and Wooster Renewable Energy and an order to abate such nuisance, pursuant to R.C. 3767.03, 3767.04 and 3767.05.

**COUNT THREE  
COMMON LAW PUBLIC NUISANCE**

65. On June 24, 2016 other dates to be determined, Defendants Quasar Energy Group and Wooster Renewable Energy have engaged in the release of noxious odors from their operations which interfere with the rights, general health, and welfare of the public, thereby constituting an unreasonable use of property to the detriment of the public.

66. By and through the Defendants Quasar Energy Group's and Wooster Renewable Energy's conduct as described in this Complaint, these Defendants have significantly interfered with the public health, the public peace, the public comfort, and/or the public convenience of neighboring businesses and residents.

67. The Defendants Quasar Energy Group and Wooster Renewable Energy knew or had reason to know that the acts alleged in this claim for relief of the Complaint have constituted a threat to or a significant interference with the rights of the public. By reason of Defendants Quasar Energy Group's and Wooster Renewable Energy's continuing nuisance, the public has suffered and continues to suffer damages that are irreparable and cannot be fully compensated by law. These Defendants are responsible for abating this nuisance. The State, through its Attorney General, is entitled to injunctive relief to abate and enjoin this nuisance.

68. As a result of Defendants Quasar Energy Group's and Wooster Renewable Energy's activities described in this Complaint, Plaintiff, including Ohio EPA, has suffered damages.

69. Defendants Quasar Energy Group and Wooster Renewable Energy are liable to the Plaintiff for compensatory damages including, but not limited to, the costs of personnel time for investigating, inspecting, preparing and bringing this action and other costs in addressing the public nuisance caused by these Defendants.

**COUNT FOUR**  
**NPDES PERMIT VIOLATION OF THE NUISANCE PROHIBITION**

70. The Wooster Renewable Energy NPDES permit No. 3IN000375\*BD under Part II.C expressly provides that “[t]he treatment, storage, transfer, or disposal of biosolids, the beneficial use of biosolids, and the treatment, storage, transfer, or disposal of approved feedstock shall not result in the generation of a nuisance odor, as determined by Ohio EPA.”

71. The NPDES permit under Part II.C further provides, “[s]hould a nuisance odor be generated at an offsite storage facility or beneficial use site, [Defendants Quasar Energy Group and Wooster Renewable Energy] shall implement all necessary corrective actions to eliminate or minimize the creation of such nuisance odors.”

72. On June 24, 2016 other dates to be determined, Defendants Quasar Energy Group and Wooster Renewable Energy have generated and maintained nuisance odors, as determined by Ohio EPA, arising out of their treatment, storage, transfer, or disposal of biosolids and feedstock and the beneficial use of biosolids.

73. The acts or omissions alleged in this Count constitute violations of R.C. 6111.07(A) and the NPDES permit, for which the State is entitled to injunctive relief pursuant to R.C. 6111.07(B), and for which Defendants Quasar Energy Group and Wooster Renewable Energy are jointly and severally liable to pay a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 6111.09, including each day of violation after the filing of this Complaint.

**COUNTS RELATED TO DEFENDANTS QUASAR ENERGY GROUP, LLC AND  
BUCKEYE BIOGAS, LLC**

**COUNT FIVE  
AIR NUISANCE**



74. Ohio Adm.Code 3745-15-07(B) prohibits, in part, any person from causing a public nuisance by emitting excessive odors from any source or sources that are subject to regulation under Ohio Adm.Code Chapter 3754-31.

75. On June 24, 2016 and other dates to be determined, Defendants Quasar Energy Group and Buckeye Biogas have emitted excessive odors from its Secrest Road Facility, which is permitted through and regulated by Ohio EPA.

76. The acts alleged in this Count constitute violations of Ohio Adm.Code 3745-15-07(B) and R.C. 3704.05(A) and (G), for which Plaintiff is entitled to injunctive relief pursuant to R.C. 3704.06(B) and for which each of Defendants Quasar Energy Group and Buckeye Biogas are jointly and severally liable.

**COUNT SIX  
CREATION OF A STATUTORY NUISANCE**

77. Revised Code 3767.02(A) provides that “any person, who uses, occupies, establishes, or conducts a nuisance, or aids or abets in the use, occupancy, establishment, or conduct of a nuisance; the owner, agent, or lessee of an interest in any such nuisance; any person who is employed in that nuisance by that owner, agent, or lessee; and any person who is in control of that nuisance is guilty of maintaining a nuisance.”

78. Revised Code 3767.02(A) further provides, in part, that any person who establishes or conducts a nuisance; the owner, agent or lessee of an interest in any such nuisance; and any person who is in control of that nuisance, shall be enjoined as provided in R.C. Chapter 3767.

79. Revised Code 3767.13(B) prohibits any person from causing or allowing offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

80. Pursuant to R.C. 3767.03, the Attorney General may bring an action in equity in the name of the State to abate the nuisance and to perpetually enjoin persons from maintaining the nuisance.

81. On June 24, 2016 and other dates to be determined, Defendants Quasar Energy Group and Buckeye Biogas have used, occupied, established, and conducted a nuisance, in conjunction with their ownership and operation of the anaerobic digestion facility, because the anaerobic digestion facility is a menace to and injuriously affects the public health, welfare, and safety and constitutes a hazard to the public health, welfare, or safety due to inadequate operation, and maintenance, and works some substantial annoyance, inconvenience, or injury to the public.

82. Defendants Quasar Energy Group and Buckeye Biogas have established, have an interest in, and/or control of the anaerobic digestion facility and are thereby maintaining a nuisance as set forth in and prohibited by R.C. 3767.02 and 3767.13.

83. The acts or omissions alleged in this claim for relief constitute violations of R.C. 3767.02 and 3767.13, for which the State is entitled to temporary and perpetual injunctive relief against Defendants Quasar Energy Group and Buckeye Biogas and an order to abate such nuisance, pursuant to R.C. 3767.03, 3767.04 and 3767.05.

**COUNT SEVEN  
COMMON LAW PUBLIC NUISANCE**

84. On June 24, 2016 and other dates to be determined, Defendants Quasar Energy Group and Buckeye Biogas have engaged in the release of noxious odors from their operations which interfere with the rights, general health, and welfare of the public, thereby constituting an unreasonable use of property to the detriment of the public.

85. By and through Defendants Quasar Energy Group's and Buckeye Biogas' conduct as described in this Complaint, these Defendants have significantly interfered with the public health, the public peace, the public comfort, and/or the public convenience of neighboring businesses and residents.

86. Defendants Quasar Energy Group and Buckeye Biogas knew or had reason to know that the acts alleged in this claim for relief of the Complaint have constituted a threat to or a significant interference with the rights of the public. By reason of these Defendants' continuing nuisance, the public has suffered and continues to suffer damages that are irreparable and cannot be fully compensated by law. Defendants Quasar Energy Group and Buckeye Biogas are responsible for abating this nuisance. The State, through its Attorney General, is entitled to injunctive relief to abate and enjoin this nuisance.

87. As a result of Defendants Quasar Energy Group's and Buckeye Biogas' activities described in this Complaint, Plaintiff, including Ohio EPA, has suffered damages.

88. Defendants Quasar Energy Group and Buckeye Biogas are liable to the Plaintiff for compensatory damages including, but not limited to, the costs of personnel time for investigating, inspecting, preparing and bringing this action and other costs in addressing the public nuisance caused by these Defendants.

**COUNT EIGHT**  
**NPDES PERMIT VIOLATION OF THE NUISANCE PROHIBITION**

89. The NPDES permit No. 3IN00380\*AD, under Part II.C expressly provides that "[t]he treatment, storage, transfer, or disposal of biosolids, the beneficial use of biosolids, and the treatment, storage, transfer, or disposal of approved feedstock shall not result in the generation of a nuisance odor, as determined by Ohio EPA."

90. The NPDES permit under Part II.C further provides, “[s]hould a nuisance odor be generated at an offsite storage facility or beneficial use site, the [Defendants Quasar Energy Group and Buckeye Biogas] shall implement all necessary corrective actions to eliminate or minimize the creation of such nuisance odors.”

91. On June 24, 2016 and other dates to be determined, Defendants Quasar Energy Group and Buckeye Biogas have generated and maintained nuisance odors, as determined by Ohio EPA, arising out of their treatment, storage, transfer, or disposal of biosolids, and feedstock and the beneficial use of biosolids.

92. The acts or omissions alleged in this Count constitute violations of R.C. 6111.07(A) and the NPDES permit, for which the State is entitled to injunctive relief pursuant to R.C. 6111.07(B), and for which Defendants Quasar Energy Group and Buckeye Biogas are jointly and severally liable to pay a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 6111.09, including each day of violation after the filing of this Complaint.

**COUNTS RELATED TO DEFENDANTS QUASAR ENERGY GROUP, LLC AND  
THREE CREEK BIOENERGY, LLC**

**COUNT NINE  
AIR NUISANCE**

93. Ohio Adm.Code 3745-15-07(B) prohibits, in part, any person from causing a public nuisance by emitting excessive odors from any source or sources that are subject to regulation under Ohio Adm.Code Chapter 3754-31.

94. On June 17, 2016, July 1, 2016, and other dates to be determined, Defendants Quasar Energy Group and Three Creek BioEnergy have emitted excessive odors from its anaerobic digestion facility which is permitted through and regulated by Ohio EPA.

95. The acts alleged in this Count constitute violations of Ohio Adm.Code 3745-15-07(B) and R.C. 3704.05(A) and (G), for which Plaintiff is entitled to injunctive relief pursuant to R.C. 3704.06(B) and for which each Defendants Quasar Energy Group and Three Creek BioEnergy are jointly and severally liable.

**COUNT TEN  
CREATION OF A STATUTORY NUISANCE**

96. Revised Code 3767.02(A) provides that “any person, who uses, occupies, establishes, or conducts a nuisance, or aids or abets in the use, occupancy, establishment, or conduct of a nuisance; the owner, agent, or lessee of an interest in any such nuisance; any person who is employed in that nuisance by that owner, agent, or lessee; and any person who is in control of that nuisance is guilty of maintaining a nuisance.”

97. Revised Code 3767.02(A) further provides, in part, that any person who establishes or conducts a nuisance; the owner, agent or lessee of an interest in any such nuisance; and any person who is in control of that nuisance, shall be enjoined as provided in R.C. Chapter 3767.

98. Revised Code 3767.13(B) prohibits any person from causing or allowing offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

99. Pursuant to R.C. 3767.03, the Attorney General may bring an action in equity in the name of the State to abate the nuisance and to perpetually enjoin persons from maintaining the nuisance.

100. On June 17, 2016, July 1, 2016, and other dates to be determined, Defendants Quasar Energy Group and Three Creek BioEnergy have used, occupied, established, and conducted a nuisance, in conjunction with their ownership and operation of the anaerobic digestion facility, because the anaerobic digestion facility is a menace to and injuriously affects the public health, welfare, and safety and constitutes a hazard to the public health, welfare, or safety due to inadequate operation, and maintenance, and works some substantial annoyance, inconvenience, or injury to the public.

101. Defendants Quasar Energy Group and Three Creek BioEnergy have established, have an interest in, and/or control of the biogas production plant and are thereby maintaining a nuisance as set forth in and prohibited by R.C. 3767.02 and 3767.13.

102. The acts or omissions alleged in this claim for relief constitute violations of R.C. 3767.02 and 3767.13, for which the State is entitled to temporary and perpetual injunctive relief against Defendants Quasar Energy Group and Three Creek BioEnergy and an order to abate such nuisance, pursuant to R.C. 3767.03, 3767.04 and 3767.05.

**COUNT ELEVEN  
COMMON LAW PUBLIC NUISANCE**

103. On June 17, 2016, July 1, 2016, and other dates to be determined, Defendants Quasar Energy Group and Three Creek BioEnergy have engaged in the release of noxious odors from their operations which interfere with the rights, general health, and welfare of the public, thereby constituting an unreasonable use of property to the detriment of the public.

104. By and through Defendants Quasar Energy Group's and Three Creek BioEnergy's conduct as described in this Complaint, the Defendants have significantly interfered with the

public health, the public peace, the public comfort, and/or the public convenience of neighboring businesses and residents.

105. Defendants Quasar Energy Group and Three Creek BioEnergy knew or had reason to know that the acts alleged in this claim for relief of the Complaint have constituted a threat to or a significant interference with the rights of the public. By reason of Defendants Quasar Energy Group's and Three Creek BioEnergy's continuing nuisance, the public has suffered and continues to suffer damages that are irreparable and cannot be fully compensated by law. Defendants Quasar Energy Group and Three Creek BioEnergy are responsible for abating this nuisance. The State, through its Attorney General, is entitled to injunctive relief to abate and enjoin this nuisance.

106. As a result of Defendants Quasar Energy Group's and Three Creek BioEnergy's activities described in this Complaint, Plaintiff, including Ohio EPA, has suffered damages.

107. Defendants Quasar Energy Group and Three Creek BioEnergy are liable to the Plaintiff for compensatory damages including, but not limited to, the costs of personnel time for investigating, inspecting, preparing and bringing this action and other costs in addressing the public nuisance caused by these Defendants.

**COUNT TWELVE**  
**NPDES PERMIT VIOLATION OF THE NUISANCE PROHIBITION**

108. The NPDES permit No. 3IN00373\*BD under Part II.C expressly provides that “[t]he treatment, storage, transfer, or disposal of biosolids, the beneficial use of biosolids, and the treatment, storage, transfer, or disposal of approved feedstock shall not result in the generation of a nuisance odor, as determined by Ohio EPA.”

109. The NPDES permit under Part II.C further provides, “[s]hould a nuisance odor be generated at an offsite storage facility or beneficial use site, the [Defendants Quasar Energy Group and Three Creek BioEnergy] shall implement all necessary corrective actions to eliminate or minimize the creation of such nuisance odors.”

110. On June 17, 2016, July 1, 2016, and other dates to be determined, Defendants Quasar Energy Group and Three Creek BioEnergy have generated and maintained nuisance odors, as determined by Ohio EPA, arising out of their treatment, storage, transfer, or disposal of biosolids and feedstock and the beneficial use of biosolids.

111. The acts or omissions alleged in this Count constitute violations of R.C. 6111.07(A) and the NPDES permit, for which the State is entitled to injunctive relief pursuant to R.C. 6111.07(B), and for which Defendants Quasar Energy Group and Three Creek BioEnergy are jointly and severally liable to pay a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 6111.09, including each day of violation after the filing of this Complaint.

**COUNTS RELATED TO DEFENDANTS QUASAR ENERGY GROUP, LLC AND  
COLLINWOOD BIOENERGY, LLC**

**COUNT THIRTEEN  
AIR NUISANCE**

112. Ohio Adm.Code 3745-15-07(B) prohibits, in part, any person from causing a public nuisance by emitting excessive odors from any source or sources that are subject to regulation under Ohio Adm.Code Chapter 3754-31.



113. On June 2, 2016, and other dates to be determined, Defendants Quasar Energy Group and Collinwood BioEnergy have emitted excessive odors from its anaerobic digestion facility which is permitted through and regulated by Ohio EPA.

114. The acts alleged in this Count constitute violations of Ohio Adm.Code 3745-15-07(B) and R.C. 3704.05(A) and (G), for which Plaintiff is entitled to injunctive relief pursuant to R.C. 3704.06(B) and for which each Defendants Quasar Energy Group and Collinwood BioEnergy are jointly and severally liable.

**COUNT FOURTEEN  
CREATION OF A STATUTORY NUISANCE**

115. Revised Code 3767.02(A) provides that “any person, who uses, occupies, establishes, or conducts a nuisance, or aids or abets in the use, occupancy, establishment, or conduct of a nuisance; the owner, agent, or lessee of an interest in any such nuisance; any person who is employed in that nuisance by that owner, agent, or lessee; and any person who is in control of that nuisance is guilty of maintaining a nuisance.”

116. Revised Code 3767.02(A) further provides, in part, that any person who establishes or conducts a nuisance; the owner, agent or lessee of an interest in any such nuisance; and any person who is in control of that nuisance, shall be enjoined as provided in R.C. Chapter 3767.

117. Revised Code 3767.13(B) prohibits any person from causing or allowing offal, filth, or noisome substances to be collected or remain in any place to the damage or prejudice of others or of the public.

118. Pursuant to R.C. 3767.03, the Attorney General may bring an action in equity in the name of the State to abate the nuisance and to perpetually enjoin persons from maintaining the nuisance.

119. On June 2, 2016, and other dates to be determined, Defendants Quasar Energy Group and Collinwood BioEnergy have used, occupied, established, and conducted a nuisance, in conjunction with their ownership and operation of the anaerobic digestion facility, because the anaerobic digestion facility is a menace to and injuriously affects the public health, welfare, and safety and constitutes a hazard to the public health, welfare, or safety due to inadequate operation, maintenance, dilapidation, obsolescence, and works some substantial annoyance, inconvenience, or injury to the public.

120. Defendants Quasar Energy Group and Collinwood BioEnergy have established, have an interest in, and/or control of the anaerobic digestion facility and are thereby maintaining a nuisance as set forth in and prohibited by R.C. 3767.02 and 3767.13.

121. The acts or omissions alleged in this claim for relief constitute violations of R.C. 3767.02 and 3767.13, for which the State is entitled to temporary and perpetual injunctive relief against Defendants Quasar Energy Group and Collinwood BioEnergy and an order to abate such nuisance, pursuant to R.C. 3767.03, 3767.04 and 3767.05.

**COUNT FIFTEEN  
COMMON LAW PUBLIC NUISANCE**

122. On June 2, 2016, and other dates to be determined, Defendants Quasar Energy Group and Collinwood BioEnergy have engaged in the release of noxious odors from their operations which interfere with the rights, general health, and welfare of the public, thereby constituting an unreasonable use of property to the detriment of the public.

123. By and through Defendants Quasar Energy Group's and Collinwood BioEnergy's conduct as described in this Complaint, they have significantly interfered with the public health, the public peace, the public comfort, and/or the public convenience of neighboring businesses and residents.

124. Defendants Quasar Energy Group and Collinwood BioEnergy knew or had reason to know that the acts alleged in this claim for relief of the Complaint have constituted a threat to or a significant interference with the rights of the public. By reason of Defendants Quasar Energy Group's and Collinwood BioEnergy's continuing nuisance, the public has suffered and continues to suffer damages that are irreparable and cannot be fully compensated by law. These Defendants are responsible for abating this nuisance. The State, through its Attorney General, is entitled to injunctive relief to abate and enjoin this nuisance.

125. As a result of Defendants Quasar Energy Group's and Collinwood BioEnergy's activities described in this Complaint, Plaintiff, including Ohio EPA, has suffered damages.

126. Defendants Quasar Energy Group and Collinwood BioEnergy are liable to the Plaintiff for compensatory damages including, but not limited to, the costs of personnel time for investigating, inspecting, preparing and bringing this action and other costs in addressing the public nuisance caused by these Defendants.

**COUNT SIXTEEN**  
**NPDES PERMIT VIOLATION OF THE NUISANCE PROHIBITION**

127. The NPDES permit No. 3IN00371\*BD under Part II.C expressly provides that “[t]he treatment, storage, transfer, or disposal of biosolids, the beneficial use of biosolids, and the treatment, storage, transfer, or disposal of approved feedstock shall not result in the generation of a nuisance odor, as determined by Ohio EPA.”

128. The NPDES permit under Part II.C further provides, “[s]hould a nuisance odor be generated at an offsite storage facility or beneficial use site, the [Defendants Quasar Energy Group and Collinwood BioEnergy] shall implement all necessary corrective actions to eliminate or minimize the creation of such nuisance odors.”

129. On June 2, 2016, and other dates to be determined, Defendants Quasar Energy Group and Collinwood BioEnergy have generated and maintained nuisance odors, as determined by Ohio EPA, arising out of their treatment, storage, transfer, or disposal of biosolids and feedstock and the beneficial use of feedstock.

130. The acts or omissions alleged in this Count constitute violations of R.C. 6111.07(A) and the NPDES permit, for which the State is entitled to injunctive relief pursuant to R.C. 6111.07(B), and for which Defendants Quasar Energy Group and Collinwood BioEnergy are jointly and severally liable to pay a civil penalty of up to ten thousand dollars (\$10,000.00) for each day of each violation, pursuant to R.C. 6111.09, including each day of violation after the filing of this Complaint.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, the State respectfully requests that this Court preliminarily and permanently enjoin Defendants Quasar Energy Group, LLC; Buckeye Biogas, LLC; Wooster Renewable Energy, LLC; Three Creek BioEnergy, LLC; and Collinwood BioEnergy, LLC (collectively “Defendants”) each from causing a public nuisance via their emission of nuisance odors into the ambient air, and to comply with Ohio’s air pollution control and water pollution control laws, rules, and permits at their respective facilities (“Facility”). The State requests that the Court **Order** the following relief:

- A. Issue an injunction preliminarily and permanently enjoining the Defendants from violating R.C. Chapter 3704, the rules adopted thereunder, and the terms and conditions of all permits and orders issued by Ohio EPA.
- B. Issue an injunction preliminarily and permanently enjoining the Defendants from violating R.C. Chapter 6111, the rules adopted thereunder, and the terms and conditions of all permits and orders issued by Ohio EPA.
- C. Issue an injunction preliminarily and permanently enjoining the Defendants from violating R.C. Chapter 3767, to abate the nuisances complained of herein, and order the Defendants each to pay a tax of three hundred dollars (\$300.00) pursuant to R.C. Chapter 3767.
- D. Issue an injunction preliminarily and permanently enjoining the Defendants from causing and maintaining a common law nuisance, to abate the nuisances complained of herein, and order Defendants each to pay compensatory damages as a result of sustaining a common law nuisance.
- E. Order Defendants to comply with all terms and conditions of their Permits to Install And Operate (“PTIO”) #P0107071 (Buckeye Biogas); #P0107748 (Collinwood Bioenergy); #P0120127 (Three Creek BioEnergy); #P0109347 (Wooster Renewable Energy)
- F. Order Defendants to comply with all terms and conditions of their National Pollutant Discharge Elimination System (“NPDES”) Permits: No. 3IN00380\*AD (Buckeye Biogas); No. 3IN00371\*BD (Collinwood Bioenergy); No. 3IN00373\*BD (Three

Creek Bioenergy); No. 3IN00375\*BD (Wooster Renewable Energy); and any renewals thereof.

- G. Order Defendants, jointly and severally, pursuant to R.C. 6111.09 to pay a civil penalty for violations of R.C. Chapter 6111 as described in this Complaint in the amount of up to and including \$10,000.00 for each day of each violation, including each day of violation subsequent to the filing of this Complaint.
- H. Order Defendants to pay all court costs for this action.
- I. Order Defendants to pay all remaining costs and fees for this action, including extraordinary enforcement costs incurred by the State of Ohio and attorney fees incurred by the Ohio Attorney General's Office.
- J. Retain jurisdiction of this suit for the purpose of making any order or decree that this Court may deem necessary at any time to carry out its judgment.
- K. Award such other relief as this Court deems proper and just.

Respectfully submitted,

**MICHAEL DEWINE**  
**OHIO ATTORNEY GENERAL**

/s/ Cameron F. Simmons  
**CAMERON F. SIMMONS (0073904 )**  
Assistant Attorney General

Environmental Enforcement Section  
Cleveland Regional Office  
615 W. Superior Avenue, 11<sup>th</sup> Floor  
Cleveland, Ohio  
Telephone: (216) 787-3030  
Facsimile: (216) 787-3480  
cameron.simmons@ohioattorneygeneral.gov

**WEDNESDAY M. SZOLLOSI (0075655)**  
Assistant Attorney General  
Environmental Enforcement Section  
Toledo Regional Office  
One Government Center, Suite 1240  
Toledo, Ohio 43604-2261  
Telephone: (419) 327-4494  
Facsimile: (877) 626-9316  
wednesday.szollosi@ohioattorneygeneral.gov

**SCOTT HELKOWSKI (0068622)**  
**AMY FACTOR (0093611)**  
Assistant Attorneys General  
Environmental Enforcement Section  
30 East Broad Street, 25th Floor  
Columbus, Ohio 43215  
Telephone: (614) 644-2766  
Facsimile: (614) 644-1926  
scotthelkowski@ohioattorneygeneral.gov  
amyfactor@ohioattorneygeneral.gov

*Attorneys for Plaintiff, the State of Ohio*