



Anaerobic Digester Task Force  
Testimony by Christopher Henney  
July 10, 2012

Chairman Hite and members of the Anaerobic Digester Task Force, thank you for inviting me to present testimony today regarding the nature of cooperatives and how this business structure might be used to encourage the construction and use of anaerobic digesters in Ohio. I am Chris Henney, President and CEO of the Ohio AgriBusiness Association (OABA). OABA is a state non-profit trade association representing the wholesale and retail suppliers of plant nutrients and plant protection materials, the grain warehousing industry, the feed industry, the seed industry and other supply-side agribusiness in Ohio. Our membership ranges from small locally owned and operated businesses to large international firms; including both privately owned and cooperative firms.

Many of our cooperative members date back to the early 20<sup>th</sup> century and were often organized originally for the marketing of agricultural commodities, as well as for group purchasing power of agricultural inputs such as fertilizer. Over the last 10 – 15 years we have seen a large amount of consolidation amongst agricultural cooperatives. These mergers occur for the same reasons other business entities consolidate: increased purchasing power, reduced cost of production and a reduction in back office expense, for example.

According to the U.S. Department of Agriculture's Rural Development Agency, agricultural cooperatives have recently been receiving fresh attention as interest in local foods, farmers markets and community-supported agriculture has grown. There have also been experiments with variations on the traditional co-op business model, including new-generation processing co-ops and producer-owned limited liability corporations (LLCs). Renewable energy production, including anaerobic digesters, is an example of this renewed interest.

So what exactly is a cooperative? Don Frederick, Program Leader of the Law, Policy & Governance Cooperative Resources Management Division of USDA, writes that a cooperative is a business owned and democratically controlled by the people who use its services. Any net profits are distributed equitably based upon the members' use of the co-op's services. Compare this to investor-owned businesses, whose net profits are distributed as dividends based on ownership, whether or not the shareholder uses the corporation's products or services. The cooperative provides a mechanism for farmer members to lower their input costs through the cooperative's economies of scale, to get services otherwise not available, to obtain

quality supplies at the right time, to have access to markets or for other mutually beneficial reasons, and to gain bargaining power.

The following legal definition is found in Ohio Revised Code Chapter 1729: Ohio Cooperative Law:

*Chapter 1729.01 Ohio cooperative law definitions*

*As Used in this chapter:*

*(A) "Agricultural cooperative" means a cooperative to which all of the following apply:*

*(1) The cooperative engages in any activity in connection with the propagation, raising, producing, harvesting, storing, drying, handling, processing, or marketing of agricultural products; procuring equipment and supplies or providing services for producers and others; bargaining; and any activity related to the foregoing.*

*(2) Producers or agricultural cooperatives exercise more than fifty per cent of the voting control of the cooperative.*

*(3) The cooperative does at least fifty per cent of its business with producers or agricultural cooperatives.*

"Agricultural Products" is further defined in ORC 1729 (B) to include a number of items including dairy, livestock and poultry, and the "produce or byproducts of any of such products."

As you can see, Ohio cooperative law would most definitely allow farmers to organize for the sake of pooling manure for an anaerobic digester. It is also important to note that the idea of cooperatively pooling manure is not new. One of our cooperative members in the Grand Lake St. Mary's region already brokers manure on behalf of its members. The cooperative purchases poultry manure, samples it and then sells it as an agricultural fertilizer outside of the watershed. This same cooperative has also investigated constructing an anaerobic digester, but found that it is not economically feasible under current circumstances. While poultry manure is dry and easy to haul, swine and dairy manure has a significant amount of liquid making it difficult and expensive to haul very long distances, 5 – 10 miles is about the limit from an economic standpoint. This particular cooperative even looked at creating a pipeline system from one farm to another, but eventually ruled that out as well. There is continued interest though in owning or co-owning an anaerobic digester if it would provide value to their members and be economically feasible.

The main issue at hand here is not whether farmers can organize themselves as a cooperative to pool their manure for an anaerobic digester, but rather if it makes economic sense for them to do so. There are many factors that need consideration, but the ability to organize as a cooperative (or to utilize an existing cooperative) is not one.

Thank you for the opportunity to testify before this task force and thank you for the leadership shown on this issue, in particular by State Representative Jim Buchy amongst others here today. I welcome questions at this time.