



**Interested Party Testimony of Ohio Environmental Council Action Fund
State Biennial Operating Budget - House Bill 166 (As Introduced)
Presented to the Ohio House Subcommittee on Agriculture, Development, and
Natural Resources
April 4, 2019**

Chairman Hoops, Ranking Member Hicks-Hudson, and Members of the Ohio House Subcommittee on Agriculture, Development, and Natural Resources, thank for the opportunity to testify before this committee today on the Governor's proposed budget for Fiscal Years 2020-2021, introduced as House Bill (HB) 166. My name is Trent Dougherty, General Counsel for the Ohio Environmental Council Action Fund (OECAF).

While this subcommittee has a broad and varied jurisdiction, my remarks today focus on the activities of two of the agencies that we interface with the most: the Ohio EPA and Department of Natural Resources. I will focus on a few important line items related to the Ohio EPA, and the Oil and Gas Resources Management Division of ODNR. My colleague, Nathan Johnson, will separately discuss the ODNR's land-holding Divisions.

From an environmental protection and natural resource conservation perspective, these two departments have a mighty responsibility to ensure the public's safe use and enjoyment of modern life's most basic needs: air, water, land, food, and energy. Over the years and over successive administrations, we have continually supported robust budgets and staffing for the important role each play in the lives of Ohioans. The OECAF has deep respect for Director Mertz, Director Stevenson, and their expert staff who work hard everyday to protect and conserve Ohio's environment and natural resources. We further appreciate the Governor's prioritization and commitment to the natural wonders of Ohio, as recognized in his proposed Operating Budget.

With that backdrop, there are many policy provisions in this bill of great importance to the state's plans to administer essential protections for the environment and health of Ohioans. So, when analyzing and amending the Governor's proposal, we urge this Committee to prioritize four specific areas:

1. Adequate resources to preserve and protect Ohio's most sensitive public lands;
2. Stronger protections for Ohio communities from oil and gas operations;
3. Zero tolerance against lead and emerging contaminants in Ohioans' drinking water;
and
4. Support for the Governor's Flagship Water Quality Initiative—H₂Ohio.

Adequate resources to preserve and protect Ohio's most sensitive public lands

OECAF Public Lands Director, Nathan Johnson, will separately discuss how HB166 helps support the preservation and conservation of Ohio's sensitive public lands.

Stronger protections for Ohio communities from oil and gas operations

Recent major oil and gas incidents have exposed significant problems with Ohio's chemical disclosure laws. In Ohio, the Ohio DNR Division of Oil and Gas Chief **may** receive trade secret chemical information but **may not share it** with anyone, even in an emergency. Recently promulgated ODNR rules have addressed requirements for oil and gas operators to report releases to the chief and other authorities, but to address instances where trade secrets are involved, we must change the law further.

The Executive Budget proposal in 2015 (HB 64) required the disclosure of trade-secret chemical information during emergencies and discharges to the environment; however, that language was not a part of the final bill.

The OEC recommends restoring those provisions within this bill by: 1. requiring the Department of Natural Resources to share trade secret chemical information with first responders (firefighters, EMTs, etc.) and responding state agencies during an emergency, incident, spill or release¹; and 2. permitting the Ohio EPA to share trade secret chemical information with drinking water utilities during an emergency, incident, spill or release where they are called to action.²

On June 28, 2014, a fire broke out on a fracking well pad in Monroe County, Ohio engulfing 20 chemical trucks and triggering some 30 explosions at the site. The fire took nearly a week to extinguish and resulted in a 5-mile-long fish kill, poisoning over 70,000 fish and posing a risk to nearby residents' drinking water supplies.

Because of the chemical reporting loophole, firefighters and the drinking water utility downstream did not have a complete list of chemicals until several days later, long after they began responding to the incident.

In March 2016, a truck hauling drilling wastewater overturned in Belmont County, sending thousands of gallons of brine water laced with chemicals into a nearby creek and contaminating a reservoir used for drinking water in Barnesville, Ohio.

Since the full chemical composition of the spilled wastewater was not made available to first responders and the drinking water utility, Barnesville had to shut off service from the contaminated reservoir while the EPA tested for toxic chemicals. Had there not been two

¹ Amending oil and gas law in section 1509.10J(2)

² Amending drinking water/surface water law in sections 6109.34 and Sec. 6111.05(C)-(F).

other reservoirs available to service the affected area, Barnesville may have been forced to depend on an external source of drinking water.

We told these two stories during the last budget cycle. We're telling them again. And we're adding a third story, too. In February 2018, an XTO Well Pad exploded in Belmont County, close to the Ohio River. Schools and homes evacuated, and the well wasn't capped for weeks. What chemicals leaked into the nearby waters or were released into the air? Emergency responders couldn't have known, because they're not allowed to know.

Each year, we'll tell the same story, and sadly, we'll probably have new ones to share, too. We need to ensure this information is passed to the Ohio first responders so they are safe, and can adequately keep our communities safe.

We urge this Committee to amend the oil and gas and water related emergency chemical reporting law to ensure first responders and drinking water utilities have immediate access to complete chemical information, including trade secret chemicals, whenever emergency environmental releases and spills occur. This law change will minimize negative effects and ensure the public, our drinking water, and first responders are as protected as possible.

However, this state must prioritize more than responses to oil and gas related emergencies. To adequately protect Ohioans, the state must ensure preventable disasters cannot even occur. One of best investments in this regard is identifying and plugging the estimated 20,000 abandoned legacy oil and gas wells that pock Ohio's landscape. These "Orphan Wells" pose a hazard to the environment and to human health and safety. Until they are located and properly plugged, they are pathways to pollution, risking fires, overflows of oil or brine into ecologically sensitive areas like streams, and groundwater contamination. Orphan wells have been found under buildings, houses and streets, and even in lawns and recreation areas in both rural and urban areas. HB 225, last General Assembly, gave ODNR's Division of Oil and Gas clear guidance and funding allocation to speed up the efficient plugging of abandoned and orphaned wells. The Governor's proposed budget makes a significant down payment on HB225's promise. Therefore, **we urge the Committee to support the full \$24.9 M (FY20) and \$28 M (FY21) for ODNR to plug orphan wells, protecting the health and safety of Ohioans who live and work near these wells.**

Support the Governor's Flagship Water Quality Initiative - H₂Ohio

The OECAF supports Governor DeWine's commitment to curb Lake Erie's toxic algae epidemic through actions that significantly cut phosphorus entering the western basin and clean up the state's streams and inland lakes for residential, industrial, and recreational use. Beyond supporting the Ohio EPA's Division of Surface Water Programs and water protection efforts of ODNR, the Governor's proposed biennial budget includes a forward thinking, multi-agency effort to address and mitigate pollution to waters of the state.

Utilizing surplus GRF funding, the Governor proposes to allocate hundreds of millions of dollars over the next decade in

- Water-based restoration by prioritizing and aggressively addressing wastewater and water supply infrastructure - especially in disadvantaged areas throughout Ohio.
- Wetland creation - to create acres of wetlands that can naturally filter out nutrients and sediment from land uses that otherwise would pollute downstream waters;
- Support of the science to ensure that this initiative is a success by investment in water quality monitoring and research of best available pollution control technologies.

With all of the health and economic benefits that Ohio's waters provide each of us, we urge this Committee to support H₂Ohio and the EPA and DNR activities supported in this biennial proposal. Furthermore, we urge the Subcommittee to support the Governor's \$900 million dedication to Ohio's water resources over the next decade.

Zero tolerance against lead and emerging contaminants in Ohioans' drinking water

Flint, Sebring, Dayton, Little Hocking, and Toledo—both far and near, large and small, these municipalities have joined an ever-growing list of drinking water related crises. As time progresses, technology improves societal conditions, and industries become more efficient; however, this development does not occur without the proper processes, systems, and controls in place. We need increased investment in Ohio's water infrastructure; additional research is necessary to ensure we effectively maintain Ohio's drinking water systems, keeping them at the vanguard of protecting existing and emerging waterborne threats.

The most significant of those emerging threats is PFAS. One particular PFAS, PFOA, devastated southeast Ohio last decade, and communities still feel the health impacts to this day. As Attorney General, Governor DeWine stood up for Ohioans, filing a lawsuit citing DuPont's known release of PFOA into the air, water, and land around its Parkersburg plant, resulting in the contamination of the region's water.

However, it takes more than a lawsuit to fully protect Ohioans' drinking water. The state must commit to the necessary research, resources, and regulation to fully equip our public water systems to mitigate the negative impacts of PFOA and all PFAS in our drinking water. These chemicals are everywhere; studies have shown PFAS in 99% of the world's population, whether its PFOA, PFOS, or one of the thousands of PFAS. But without a fully funded Division of Drinking and Groundwater, Ohio cannot take the necessary steps to tackle this growing threat.

The OECAF urges this Committee to fully fund Ohio EPA's Division of Drinking and Groundwater.

In conclusion, Chairman Hoops and Members of the Subcommittee, thank you for considering our perspective and our recommendations. We look forward to working with the Committee during the upcoming weeks to craft a bill that protects Ohio's communities and preserves Ohio's natural treasures for future generations.