



# Ohio Department of Natural Resources

JOHN R. KASICH, GOVERNOR

JAMES ZEHRINGER, DIRECTOR

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**Senate Finance – Corrections Subcommittee  
Testimony on House Bill 64  
Provided by Ohio Department of Natural Resources Director James Zehringer  
April 30, 2015**

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Good morning Chairman Uecker, Ranking Member Brown and Members of the Senate Finance Corrections Subcommittee. My name is Jim Zehringer and I am the Director of the Ohio Department of Natural Resources (ODNR). Thank you for giving me the opportunity to update you today on the progress that the Department has made since our last budget bill was enacted and how we continue to work to meet the expectations of Governor Kasich, the General Assembly and Ohio's taxpayers. We strive to create ways to be more resourceful with the limited funds appropriated to us while adhering to our core mission, which is *to ensure a balance between wise use and protection of our natural resources for the benefit of all.*

As the largest land-holding agency in state government, ODNR is responsible for more than 714,000 acres of land, including 74 state parks, 21 state forests, 135 state nature preserves and 140 designated state wildlife areas. In addition, the department oversees more than 120,000 acres of inland waters, 7,000 miles of streams, 481 miles of the Ohio River, 2.25 million acres of Lake Erie and is responsible for regulating 1,523 public and private dams. It is our responsibility to provide the people of Ohio with an abundance of recreational opportunities, the conservation of our landscape, and regulatory protections.

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## **PROVIDING AN ABUNDANCE OF RECREATIONAL OPPORTUNITIES**

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### **Division of Parks: Attracting Ohioans and Out of State Visitors**

Each year, Ohio's 74 state parks welcome more than 55 million visitors to camp, hike, boat, fish, golf and take in the beautiful landscape. Governor Kasich understands how important our state parks are to the fabric of Ohio and has recognized that in order to continue attracting more Ohioans and out of state visitors, we must provide a good product. In order to do that, it is imperative that we modernize the infrastructure at our state parks, which were built decades ago. Thanks to the support of Governor Kasich and the Ohio General Assembly, Ohio State Parks received an unprecedented \$88.5 million in the capital budget to invest in park infrastructure around the state. This critical funding will be used to make greatly-needed renovations at our state park facilities for all visitors to enjoy.

To assist in identifying key projects, ODNR launched a website last April to allow the public to submit their ideas for improvements within the Ohio State Parks system. By visiting [parks.ohiodnr.gov/improvements](http://parks.ohiodnr.gov/improvements), anyone can fill out a survey to suggest improvements at their favorite state park. To date, the Department has received more than 7,000 surveys and we hope to hear from many more.

I have spent the past year traveling the state, making announcements at dozens of state parks, located in every corner of Ohio. I had the opportunity to share plans for new bike paths, showerhouses, upgraded campsites, improved trails and replacing pit latrines with flushable restrooms.

We continue to build on these efforts, started by the capital budget through increased funding in the budget. In the FY 15 operating budget, Parks received \$30 million. In FY 16 of the Executive proposed budget, Governor Kasich added an additional \$500,000 and \$1 million in FY 17. However, the House passed version eliminated these increases and restored the funding amount to the current level of \$30 million in both fiscal years. This increase in funding is important to the hundreds of thousands of people who visit our parks each year because it will be used for added security and better cleanliness and upkeep throughout the parks. Those two purposes are critical to improving customer service and allowing Ohio's state parks to be more competitive destination spots. Again, if we want to attract more Ohioans and out of

state visitors to our parks, which could in turn be an economic drivers to nearby businesses, such as restaurants, canoe and kayak liveries, and other tourist spots, it is imperative that we provide a good product to our users. This additional \$1.5 million over the biennium will help us achieve that.

Ohio is proud to be one of only seven states in the nation where admission to state parks is free. By continuing to improve our state parks system, we have the opportunity to showcase our facilities and draw more tourism dollars into Ohio. With this money comes high expectations, and my goal is to make sure we identify the projects that best suit what Ohioans want to help make our Ohio State Parks destinations that everyone wants to visit.

### **Division of Wildlife: Nonresident Deer Hunting**

Ohio is a top 10 destination state for deer hunters, as we sell almost 38,000 hunting licenses and 41,000 deer permits to out-of-state, non-residents. For several years, resident deer hunters have voiced a concern that Ohio is an undervalued state when it comes to charging non-residents to hunt trophy whitetail deer. When compared to other states, while Ohio is a top 10 destination state for deer hunting, in cost comparison ranks 35th in the nation. In HB 64, ODNR is seeking to create a non-resident deer permit for \$99. Currently, there is no differentiation between a resident and a non-resident deer permit, and every person, whether they live in Ohio or anywhere else, currently pays the same permit fee of \$24. Additionally, a hunting license for a non-resident resident will increase from \$124 to \$149.

I want to make it clear that this proposal does not seek to increase any fees for the resident hunters of Ohio. By increasing non-resident fees to hunt, we still remain well below the average (\$350) of other high-quality deer hunting states, but would increase revenue by an estimated \$3-3.5 million, assuming an approximate 10 percent decrease in sales the first year.

This increase in funding will help the Division of Wildlife maintain current service levels to hunters, anglers and trappers as well as approach new potential customers through expanded recruitment with a focus on youth, retention and re-activation of sportsmen and women. By acquiring additional lands for the purposes of state hunting areas, we hope to expand interest in those sportsmen and women who have hunted for years. This funding will also provide much needed federal funding match to prove and expand state shooting ranges. Federal funding for fish and wildlife conservation has doubled since 2012 due to an unprecedented increase in firearms and ammunition sales. Without available state funds to capture the federal match, these dollars will go back to the U.S. Fish and Wildlife Service and will not be available for future wildlife conservation in Ohio.

## **REGULATORY PROTECTIONS**

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The mission of ODNR's Division of Mineral Resources Management is to provide for the safe and environmentally sound development and restoration of mineral and fossil fuel extraction sites. Diverse and comprehensive programs address the environmental and safety aspects of the coal and mineral mining industries while maintaining high standards of regulatory effectiveness. The Division also restores abandoned mine land, enforces mining safety laws, and ensures the protection of citizens, land and water resources.

### **Division of Mineral Resources Management: Innovative Funding Solutions**

Funding for Division of Mineral Resources Management programs comes predominantly from severance taxes on coal and industrial minerals, along with federal grants. Over the last several years, the Division has seen a decrease in funding, which has compelled us to find different, creative ways to fund their programs. As the backlog of forfeited industrial minerals mine sites have been extensively reclaimed, and restoration of acid mine drainage projects have been shifted to federal dollars, the expenditures from the Unreclaimed Lands Fund has decreased. Therefore, we have proposed in the budget to allow the Division to request a transfer of funds from the Unreclaimed Lands Fund to both the Coal Fund and the Surface Mining Fund upon approval from the OBM Director. Essentially, this allows for up to \$500,000 of the coal tax revenue credited to the Unreclaimed Lands Fund to the Coal Fund. This proposal assures that the money transferred from the Unreclaimed Lands Fund to the Coal Fund will be from coal tax dollars, not

from industrial minerals tax dollars. Similarly, the industrial minerals portion of the proposal would allow the transfer of up to \$800,000 of the industrial minerals tax revenue credited to the Unreclaimed Lands Fund to the Surface Mining Fund.

Unfortunately, the House removed half of our proposal, no longer allowing the Division to transfer up to \$800,000 of the industrial minerals tax revenue to the Surface Mining Fund. The need for more funding in the Surface Mining Fund is absolutely critical, as it would be used for permitting and administering the Industrial Minerals program as well as for supporting mine safety training for the industrial minerals industry. The Industrial Minerals Program expenditures continue to exceed revenue generated by severance taxes. Further reductions will significantly limit the Division's ability to effectively inspect the 652 industrial minerals permits located in 87 counties, and to effectively advance industrial minerals applications. The Mine Safety Program will expend all available general revenue funds and all available federal grant monies this year. We have already made significant cuts to the Mine Safety program, including the reduction of full time employees from 32 to 20 over the past 5 years through attrition and transfers, delayed or cancelled planned equipment purchases, and further delayed required maintenance to mine rescue equipment for all 11 mine rescue teams. Further reductions to the Mine Safety Programs are not possible without significantly impacting the Program's ability to effectively train and certify Ohio's mining workforce in both the industrial minerals and coal industries.

The Governor understands the importance of miners' safety and that the best way to protect miners and prevent mining accidents is through inspection, mine rescue support, safety training, and knowledge and skills testing. He recognizes the financial difficulties that the Division is currently facing, and while we will continue to think innovatively about funding solutions, this is a good first step towards addressing a larger issue.

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One of the first things I did when appointed to serve as the Director of the Department in 2011 was to reach out to several states already involved in the growing oil and gas discovery to find out their "lessons learned." These states included Texas, Colorado, Pennsylvania, North Dakota, and also the USEPA. From these stakeholders, our Division of Oil and Gas Resources Management learned important information, so the industry knows what is expected of them and second, so ODNR can provide the best support to these companies and local first responders while ensuring the safety of the public and the environment. In addition, we learned the importance of having a good statutory scheme. Over the last 5 years, the Ohio General Assembly has worked with the Department to enact essential revisions to Ohio oil and gas law to ensure the protection of public safety and the environment. Great strides have been made, however additional improvements will further advance necessary protections.

#### **Division of Oil and Gas: Unitization Updates and Clarifications**

The current unitization statute was originally enacted in 1965. Until the last couple of years, ODNR had previously issued only two orders for unitization. Both orders were issued many years earlier. Parts of the language of the unitization statute are vague and ambiguous. Today's unitization application and processes are much different than those of the past and the statute needs updating and clarification to reflect the changes. The revisions proposed in the As Introduced version of the budget bill sought to clarify and update the unitization statute to reflect current practices and provide more certainty to the process. I would respectfully ask that these changes be reinserted.

#### **Division of Oil and Gas: Registration of New Entities**

While the majority of oil and gas companies in our state hold a high regard for Ohio's laws and regulations, ODNR and the people of Ohio have been faced with instances where a company or its employee made a conscious decision to violate the law. For example, you might recall an incident that had occurred in January of 2013, which led to the Department permanently revoking the operating permits of D&L Energy and Hardrock Excavating.

As a result of these instances, the Administration proposed legislative changes to give the Division of Oil and Gas the ability to take into consideration the operating history of any operator who is new to Ohio

wishing to do business regulated by the Division prior to issuing a permit, registration certificate, or order. However, the As Passed by the House version of the budget bill does not include this language, and we would ask that it be reinserted by the Senate. The As Introduced language would require an entity to disclose all felony convictions or felony guilty pleas within the previous 25 years to any of the following:

1. Knowing violations of the federal Clean Water Act;
2. Purposeful violations of Ohio law implementing the federal Clean Water Act;
3. Purposeful violations of other states' laws that are no more stringent than the federal Clean Water Act.

Our intent is that if an operator has a questionable history, that history should be considered as part of a review before being able to operate in Ohio. If an operator chooses to egregiously violate the federal Clean Water Act, ODNR should be aware of the violation and have the ability to take that information into account before allowing operation to commence in Ohio.

As you may recall, this provision was part of HB 490 during the last General Assembly, where the As Passed by the House version reduced the timeframe down to 3 years. It is our firm belief that 3 years is not a sufficient amount of time to make a proper assessment of that entity's operating history. To illustrate our point, I'd like to provide an example.

In the case of Ben Lupo, the U.S. Attorney sought the maximum sentence, which is 3 years in prison and a \$250,000 fine, to deter others from similar conduct. Mr. Lupo was ultimately sentenced to 28 months in federal prison. By applying the 3 years that was considered under HB 490, if an oil and gas-related operator new to Ohio had put himself in a similar situation as Lupo and sentenced to 28 months in prison, were to establish his business in Ohio once released from prison, the 3 year disclosure requirement would barely cover the time in which the egregious violation had occurred. Furthermore, this new operator would only have to wait an additional eight months from the time of his release and he could then register with the Division without having to disclose the violation at all.

The purpose of our proposal is simple: with so many companies who are not in operation in Ohio, for which we have a limited comprehension of their operating history throughout the United States, we should have the ability to know their specific felony history in other states and take it into consideration before allowing them to do business here. The health and safety of the people of Ohio and our landscape deserve it.

#### **Division of Oil and Gas: Insurance and Bonding of Facilities**

One of the significant changes brought about by recent shale resource exploration and development is the volume of associated waste including cuttings, drilling fluids, and brine. In 2013, the Ohio General Assembly passed HB 59, establishing the framework for new facilities that would store, recycle, treat, and process brine and other waste substances. However, revised code section 1509.22(c) that authorizes the Division to permit these new facilities did not establish bonding or insurance requirements. Under current law, if a facility goes bankrupt, the state would be left to complete any remediation work associated with that facility without assistance from the responsible party. In an attempt to strengthen Ohio's law, the As Introduced version of the budget bill included a provision requiring an applicant to file with ODNR a surety bond in an amount not to exceed \$2 million, and obtain liability insurance coverage in an amount not to exceed \$12 million. It's our belief that these amounts are commensurate with the risk associated with some of the larger facilities. Without adequate bond or insurance, the Division could be forced to divert monies from our orphan well fund or our operational budget to restore or remediate abandoned facilities. We respectfully request that the As Introduced version of this language be reinserted.

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Mr. Chairman and members of the Subcommittee, thank you again for giving me the opportunity to share with you the many important goals and objectives that ODNR is committed to achieving during FY 16-17. Ohio is a beautiful state, and every region has a different resource that is vital to our unique identity. Your support of smart regulatory policies and reasonable budget proposals helps promote Ohio and furthers

ODNR's goal of being the best agency in the nation in regulating the oil and gas industry; addressing water quality issues; and updating, managing and promoting our state parks.

Thank you for your time and I would be happy to take any questions you may have about any of the provisions of impact to ODNR contained in HB 64.