



OEC [Action Fund]

**Opponent Testimony - Ohio Senate Bill 165 (Dolan, Skindell)
Melanie Houston - Director of Climate Programs
November 15, 2017**

Good afternoon, Chairman Balderson, Vice Chairman Jordan, Ranking Member O'Brien and members of the Senate Energy and Natural Resources Committee; My name is Melanie Houston and I am Director of Climate Programs for the Ohio Environmental Council (OEC) Action Fund. Thank you for the opportunity to testify on Ohio Senate Bill 165 today.

Current Ohio law contains a cradle-to-grave approach in managing brine produced by oil and gas operations; meaning, brine waste products are monitored from point of origin to point of disposal. This approach provides for utmost control and protection of public health and safety in the production, transport and disposal of brine. While we support the goal of recycling or reuse of oil and gas brine in order to move away from full reliance on injection well disposal, we are concerned that the bill doesn't specify clear enough measures in testing protocols to ensure utmost protection of public health and safety and the environment. Without more explicit guidelines for recycling brine into a commodity, the legislation may pose an unnecessary risk to surface and groundwater because it could potentially allow some contaminants to enter the environment that would not otherwise under the current cradle-to-grave system.

In its current form, the legislation does provide for some assurance that treated brine is safe for road and surface application, but the testing standards appear to be set by an industry association (i.e. Pacific Northwest Snowfighters Association) and just one state agency - the Department of Transportation. We think the bill could be strengthened by providing roles and responsibilities for other state agencies that have greater expertise and jurisdiction over ensuring treated brine is safe for road/surface application; in this case, the Ohio Department of Natural Resources (ODNR), and the Ohio Environmental Protection Agency (OEPA). ODNR currently has testing protocols in place, and uses the Ohio EPA certified labs to test treated brine. Perhaps these agencies could work together to establish a testing and verification process that could be informed by the

latest science and research, and to ensure any contaminants in the brine are removed before becoming commercially available.

Additionally, we recommend strengthening the bill in terms of testing frequency to ensure that the regulatory agencies have adequate oversight of the recycled brine products. The bill language as written states that the Chief of the ODNR Division of Oil and Gas “**may** at reasonable times collect samples of the commodity.” The bill also stipulates that the chief shall not collect more than four samples of the treated brine annually. As we understand from publically-available research, every load of brine is different in terms of its chemical makeup. We therefore recommend that ODNR, Division of Oil and Gas and Ohio EPA establish the testing frequency that they deem appropriate to protect public health and safety, and water and soil resources. It seems logical that the testing be conducted by an Ohio-EPA certified lab, as is current practice.

In conclusion, the intended goal of SB 165 is a pragmatic one: to recycle and reuse what is now just considered to be a waste product. However, we believe the bill could be improved by adding provisions that would guarantee that there’s no additional harmful impact to the environment, and would deliver the same level of protection as the current cradle-to-grave approach. Doing so would ensure that the product that makes its way all the way to the consumer contains no heavy metals, semi-heavy metals, and radiologicals (TENORM) which is problematic for soils, and surface and drinking water quality. Such contaminants can accumulate over time and have an adverse impact to water quality and drinking water supplies.

We look forward to working with the bill sponsors on possible approaches that would improve this legislation, and I am happy to answer any questions at this time.