APPALACHIAN
MINERAL PARTNERS

225 Ross Street, Suite 301 | Pittsburgh, PA 15219 | P: 412-231-2300 | F: 412-774-2700

June 24, 2021

Via Email

The Ohio House of Representatives
134th General Assembly
Energy and Natural Resources Committee

In Re: **Opposition to HB-152 as Written, and Support for Gateway Royalty's Proposed Changes**

Dear Esteemed Committee Members,

Appalachian Mineral Partners is an Ohio mineral owner and stands in opposition to HB-152 as it is written. We have reviewed the current form of the bill as well as the proposed changes to the bill written by Gateway Royalty, LLC and agree with their proposed changes to HB-152. We understand and agree that forced pooling is necessary to fully develop the natural resources in Ohio and do not stand in opposition to the development of oil and gas. However, if forced pooled, Ohio mineral owners deserve fair leases terms at fair market rates. We believe HB-152, as proposed by this committee, does not achieve this.

In practice, we have seen oil and gas companies threaten forced unitization under the current law, which can drive offers down to a fraction of market rates. We support Gateway's proposition that 85% of the unit must be leased prior to force pooling, rather than the currently proposed 65% threshold. This will allow for good faith lease negotiations between the oil and gas operators and the mineral owners.

HB-152 also couples the bare minimum royalty rate of 12.5% which is more reflective of Ohio in 1860 when the first well was drilled, rather than the 16%-20% which we believe is common in 2021. The royalty percentage for forced pooled mineral owners should be the average of the leases in the unit. In addition to the averaged royalty, we believe and agree with Gateway that the bonus payment to forced pooled mineral owners should be calculated by an average of the unit, while excluding properties that are held by production prior to the creation of the proposed unit.

With HB-152 written as is, forced pooled mineral owners may receive only a fraction of the 12.5% royalty as prescribed in the bill. Oil and gas operators have crafted ways to bypass "gross proceeds," such as selling to affiliates. We agree with Gateway edits stating "gross proceeds paid by the first unaffiliated third-party buyer in an arm's length transaction with no deductions of any kind" must be articulated clearly in this bill to ensure deductions and marketing tricks are not factored into any price received by the forced pooled mineral owner.

Appalachian Mineral Partners stands with Gateway Royalty, LLC against HB-152 as written. Gateway's proposed changes ensures fairness for forced pooled mineral owners, while still allowing Ohio to maximize the production of its natural resources. Operators have used Ohio's forced pooling laws as a sword to stymy mineral owners from standing up for fair market lease terms. HB-152 as written would only serve to make it easier for oil and gas producers to take advantage of mineral owners. Lastly, we believe Gateway's proposed changes do not make it unduly burdensome for oil and gas producers and puts Ohio's laws on par with other states practices in the Utica and Marcellus region such as the cotenancy statute in West Virginia[1].

Sincerely,

Appalachian Mineral Partners

[1] W. Va. Code §37B-1-1 <https://www.wvlegislature.gov/wvcode/code.cfm?chap=37B&art=1>