Chairman Stephens, Vice Chair Stewart, Ranking Member Weinstein, and Committee Members:

My name is Rebecca Clutter. I am a private property owner in the State of Ohio. While this issue has long needed addressed, I come here today opposed to HB 152 as written.

Not leasing State owned minerals has cost many Ohioans by causing a stranding of minerals without recourse and a devaluing of the mineral estate on adjacent parcels. Additionally, the State of Ohio has missed out on capturing significant revenues. An example of revenues to the State can be seen in the leases obtained by the Muskingum Watershed Conservancy. When Dave Yost was the Auditor, an audit of those parcels was conducted and made public. Those revenues were significant, but only because the Conservancy was able to fairly negotiate those leases. I agree that there needs to be a mechanism to be able to lease the minerals underlying the surface of State lands caused by a rouge Commission's failure to act.

Historically, we are here largely because there was zero oversight or accountability provided for when the "Oil and Gas Leasing Commission" was first written into law without any land or mineral owner participation. OOGA jammed it down everyone's throats. Josh Mandel failed to establish the Treasury Funds required under that piece of legislation. Governor Kasich failed to seat the members of that Commission in a timely fashion. Then Attorney General Mike DeWine refused to answer complaints from private citizens regarding this issue; And Senate President Larry Obhof, even after having the votes to override a Governor's veto, decided to negotiate with the Governor who refused to seat the Commission in the first place.

I would note that in a tiny little paragraph in the budget, you all approved a carve out for some State owned properties to be moved out from under the Auditor and transferred to the DAS related to deed conveyance issues. You should not forget to include those parcels in any final bill that moves through. There should be no reason that those State owned properties shouldn't produce profits of their mineral assets back to the State of Ohio.

However, no mineral owner, private or state, should be subject to laws that force sickening terms and poor compensation onto a long-term lease agreement. I do thank this committee for making certain recent changes, but I do not believe they go far enough.

Most mineral owners in the oil and gas producing areas DESIRE to enter into oil and gas leases. It allows us to basically use or farm one set of assets at the surface (crops, timber, cattle, leisure and landscaping) while simultaneously farming another set of assets below the surface (oil and natural gas); Similar concepts involving different commodities at various levels of property ownership.

Subsurface ownership is real property in the same way that surface ownership is, even if those interests are severed. A government cannot just come in and seize one's home (surface) without due compensation, why should the subsurface be treated differently?

For years, members of this committee have allowed OOGA, a professional and lobbyist organization, to provide testimony on how land and mineral owners 'feel" about certain issues

involving our properties. That authority is not theirs to give. OOGA does NOT represent the private land or mineral owners. So, let me provide you an illustration of the unitization process from a citizen perspective.

- Let's pretend that I own a corporation. I am working on a project but I need the basements (subsurface) of a block of homes for a time; and let's assume that you Legislators on this committee, that the basements of all your private homes constitute 100% of my required pool. With 65% of you, I will ask you to lease your basements to me for an extended period of time. I will negotiate with each of you terms we can both benefit from. Some of you may want protections so that your pets do not enter into the basement, some may want an agreement to be able to use the rest of your home fully, some might want compensation for any damages done at the end of the lease, and others may want a higher rental or lease value. It is a seemingly fair negotiation involving real property.

  But because I have a staff of accountants and attorneys at my disposal, I know that in order to get my 100% of the pool, I really only have to get 65% to negotiate with me. There is nothing that forces me to fairly or even equally negotiate with the rest of you in order to achieve my 100% of the pool. I could have someone document their attempts to contact you 35% leftovers, but no proof of this has to extend beyond my word to a quasi-judicial appointed panel that will hear this. That board doesn't even have to consider the 35 percenter's testimony at the hearing and there isn't a land or mineral owner representative on that panel.

  Nothing in this process puts the 35 percenters on an equal footing with me and I know it. I even get to provide the lease you will have to succumb to if this goes to a hearing and any terms the 35 percenters might bring up are now meaningless as the process to unitize has already been set into motion.. You all in that 35% group might as well just sign this garbage lease that allows me to seize a portion of your home with little compensation and poor terms. I'm going to give you less than half of the profits I gave the others and I don't have to pay you any bonus' like I did the 65% because I can just run you over to an ODNR hearing and take what I want from you. Oh and another advantage I have is to give the 35 percenters an AVERAGE lease percentage that includes old studio apartment leasing instead of current lease values for your basements, because at hearing, ODNR does not make that distinction when calculating average lease pricing. They do NOT compare apples to apples. I win-You lose.

If this scenario had actually impacted any of you personally, I bet some of you in the 35% group wished that cutoff percentage had been higher, and that some guardrails had been put on the process to protect your interests, or been provided a guarantee to get some decent lease terms like the State of WV has. And you 65 percenters, you only think that you got great terms, but how many of you were threatened to take lesser terms or be forced into unitization hearings?

You may think this is a ridiculous illustration, however that is exactly what happens at these hearings which are supposed to be rare and NOT common. Historically, this process has been recognized as a case of last resort and had limited each company to ONLY utilizing this process to a few times a year. This bill basically gives the E&Ps unfettered use of this process.

Have any of you sat through any of these hearings? It is heartbreaking to see property owners testify on their behalf knowing that their voices are only heard and not considered. Many attorneys won't represent clients at these because even they know it is pointless. Once an E&P makes it to those hearings, there is ZERO incentive for them to negotiate anything remotely similar to what the first 65% got. So while one might get an order to negotiate it out or these are the terms you will have to live by, there is NO incentive on the E&P companies to make that negotiation fair. Mediation is not provided for as a remedy.

I once received a call from a gentleman who lived out of state and had just days earlier learned that he was a percent mineral owner and was being taken before a unitization hearing. That guy did not have time to learn about what he owned let alone try to figure out how best to negotiate a contract.

In another instance I attended an ODNR hearing where a woman was pleading her case that despite being currently involved in active negotiations, the E&P simply stopped and filed a request for a unitization hearing. The corporation had already reached their percent threshold. In both of these cases corporate greed won at the expense of property ownership rights in the State of Ohio.

To make matters worse, ODNR has already made it more difficult to publically access information of this process on their website. And when the ODNR's website suffered an attack, around the time of the Deloitte hack, and was shut down for an extended period of time, this created more problems. A lack of transparency of the process cripples the land/mineral owners at these hearings. These are public hearings and the data should NOT be hidden. How else can a private person defend themselves at a hearing?

The E&P's argue that it is costly for them to go through this process. I would argue that the fees spent by them to enter into this process resemble a pay to play system where they pay the state and the state agrees to hand deliver them their desires by stealing the rights of others. I would also argue that their royalty payouts, over time, are likely much less on units that have gone through this process due to the averaging-in of the shallow well payout percentages. Surely the State of Ohio would want better terms than what is currently being offered up by a lobby organization for a specific industry.

I DO understand the need to create a full unit. I DO understand the need to protect against a dysfunctional "Oil and Gas Leasing Commission". I do NOT understand the need for this committee to steam roll over private citizens or putting the State of Ohio at a negotiating disadvantage. This process could be made much more fair to BOTH the lessors and lessees, but only if you try.

- Have you looked at what WV was able to do on this same front? Why are there so many differences on one side of the river vs the other side?

- The percentage is too low. A 1/8th royalty is not remotely current with today's negotiated contracts. These are not the shallow, vertical wells of old. Why are the shallow/vertical well lease prices allowed to be averaged into leasing equations at hearing? Is it possible that raising those rates just may deter a company from abusing this process?

- The terms in these boiler plate E&P leases are NOT on par with today's negotiated contracts. Most negotiated leases today come with dozens of pages of addendums.

- I realize that some concession has been granted on the deductions front, but you need to know this. It's wrong when an E&P takes deductions out of one's checks that are explicitly prohibited in the lease terms, which some E&Ps do. It is worse when one company sells to another and the new company suddenly begins to take new deductions that had not been taken prior, which some E&Ps do. It is also very wrong in my opinion when an E&P takes severance taxes out the lessor's checks despite the lessor in most cases NOT being the severer; which, if I read ORC 5749.01-5749.09 on Severance Tax correctly, should be illegal. But to blanketly force deductions or terms inconsistent with what others are receiving WITHOUT a fair negotiation, is neither just or fair.

- And lastly, I am opposed to a remote hearing based solely on the applicant's request. Why is this all so one sided? ALL parties should have to consent. This is about people and their private property rights. The panel and the applicants should have to meet with and look into the eyes of the people they are about ready to screw.

This bill reads like a list of punishments to the mineral owner and the public taking of private property. I would encourage you to go back and level the playing field for private property owners as well as for the State of Ohio. As currently written, I would urge a no vote on this bill. Thank you for your time.