

House Natural Resources Committee
HB 170 Interested Party Testimony
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Chairman Jones, Vice Chair Robb Blasdel, Ranking Member Rogers, and honorable members of the House Natural Resources Committee, thank you for the opportunity to provide interested party testimony on HB 170.

Understanding our members' distinct views on carbon sequestration is crucial. In agriculture, this concept isn't recent; all crops absorb CO₂ from the atmosphere for their growth. Many modern farming practices, like no-till and cover crops, enhance soil carbon sequestration, thereby boosting the organic matter available in the soil for crops to access as nutrients. Though not new technology, the injection of CO₂ into suitable geological formations has gained traction recently, facilitating a balance between economic growth and capturing excess atmospheric carbon. In agriculture, ethanol facilities have implemented this technology to capture the CO₂ generated by their production methods. This legislation could draw new ethanol and biofuels plants to Ohio, creating essential market demand for Ohio's crops amidst one of the most unstable agricultural economies we've experienced. OFBF thoroughly reviews all legislation to align our stance with the policies approved by our grassroots members. Regarding carbon sequestration, our policy seeks to protect landowner rights, minimize environmental and land risks wherever possible, ensure fair compensation, and establish sound regulations that treat all interested parties equitably.

HB 170 will grant the Ohio Department of Natural Resources the authority to permit and regulate Class VI wells, rather than the U.S. EPA. This change would align with the similar processes currently established for other classes of wells, as ODNR already holds this authority over Class II. While OFBF does not take a stance on which level of government or agency should have this authority, we believe that, regardless of who holds it, all rules and regulations would adhere to the policy I mentioned earlier. This bill represents a significant first step toward ensuring a fair and equitable process for geologic carbon sequestration in our state. OFBF respectfully requests that the committee consider the following changes while evaluating this legislation to better protect landowners and our resources.

We urge the committee to amend the bill to include language that requires proper surface use agreements to be in place to protect the private property rights of affected landowners. Given technical requirements for a Class VI injection well, agreements governing the placement of infrastructure in open rural areas will need to simultaneously incorporate language focusing on leasing, surface agreements, and easements. While this may seem like something that should be standard, our members have experienced many instances where their surface property has been damaged or altered by similar activities with no recourse in their contracts to hold service operators accountable. I have included language at the bottom of my testimony that was part of similar legislation passed in Indiana, and we believe it would strengthen the bill in this area.

We also ask the committee to raise the minimum percentage for statutory consolidation (forced pooling) from 70% to 75%. We appreciate that this has been increased from 65% in the previous General Assembly version; however, our policy supports a threshold of 75%. While OFBF strongly opposes any usurpation of private property rights, we recognize the similarities between carbon sequestration and oil and gas leasing, and that unitization may sometimes be necessary to complete a project. Additionally, we request that the committee consider adding language requiring the physical wells to be located only on a *voluntarily participating* landowner's site. If a landowner becomes subject to the statutory consolidation, this would help mitigate further disruption to their property.

Lastly, we request that these projects be subject to similar field drainage system repair and remediation requirements as required by OPSB rules at Ohio Admin. Code 4806-4-08(E) which requires that developers map field drainage systems, determine ways to mitigate or avoid damage to drainage systems, and promptly repair or restore drainage conditions. Unfortunately, drainage repair work can often be forgotten during project development. Field drainage is integral to much of Ohio agriculture, and many farmers have invested significant time and financial resources to maintain proper tile drainage systems. Unfortunately, impacts on neighboring land can often harm or impede drainage systems, and that is why OFBF has advocated for these baseline protections in other areas of energy development.

I would like to thank the committee for the opportunity to testify on this legislation, and I would be happy to answer any questions at this time.