

**Testimony of David Schaffner**

**before the  
House Energy and Natural Resources Committee**

**Regarding  
House Bill 8**

**March 3, 2015**

Good afternoon. Chairman Landis, Ranking Member O'Brien, Vice Chair Hagan, and members of the committee, thank you for the opportunity to testify today. My name is David Schaffner. I am a member of Green Fields Family Farms in Bowerston, Ohio. I am here today on behalf of myself, my business partner and my neighbors. My partner and I own 138 acres of ground on State Route 151 between Bowerston and Scio. We use the farm for raising hay and beef cattle. We have owned the farm for about 8 years. When we purchased the farm it was run down and had been neglected for many years. A previous tenant of the farm had used portions of it as a dump and he did not practice erosion prevention. We have cleaned up the dump site and dredged out the pond and creeks. We have worked with the USDA to plan and prevent erosion.

In 2010 we leased the mineral rights to Chesapeake. In late 2013, we were notified that our land had been included in a unit (JAMAR south) that would be drilled in mid to late 2014. In early 2014 we were notified by Chesapeake that the unit was on hold because ODOT owned a small portion (3.5%) of the unit and had not leased its minerals. The portion of the unit owned by ODOT is a narrow strip of land that runs parallel to State Route 151. ODOT's ownership is sometimes to the north of 151 and sometimes to the south. It turns out that ODOT acquired these strips that run from Bowerston through Scio in the early 1980's. The alleged purpose for ODOT acquiring the land was its promise/representation that it was going to straighten out State Route 151. This section of 151 is very dangerous with many hair pin turns and some areas have steep drop offs just off the road. I was not involved in the 1980 acquisitions but when talking to neighbors they all were in favor of the plan to straighten out the road. ODOT acquired most of the strips of land through purchase and some of it through eminent domain. For some inexplicable reason, ODOT acquired the land in fee simple (including all minerals) rather than the typical easement.

As of this date, ODOT has not straightened one foot of 151 and has no indicated that it no longer intends to do so.

I have been included on emails between Chesapeake and ODOT representatives regarding the minerals under these strips of land. In response to Chesapeake's requests to either lease or purchase the minerals from ODOT the response has been "ODOT is not in a position to make a decision on whether it will lease its mineral interests". When asked what information ODOT needed to get in a position to make a decision the response remains "ODOT is not in a position to make a decision on whether it will lease its mineral interests".

Since it could get nowhere with ODOT, on April 25, 2014, Chesapeake filed an application to force unitization of the ODOT strips of land into the planned unit. ODOT did not file any opposition to the application. A hearing was held before the ODNR Division of Oil and Gas Management in June of 2014. ODOT did not attend the hearing or file any opposition. As of this date, no action has been taken by ODNR on the application. In January of 2015 a second notice of hearing was sent out due to an amendment in the unit. (Chesapeake has acquired additional acres to the south of 151 and wants to include them in the JAMAR south unit). Again, ODOT did not file any opposition to the application. A hearing was held on February 12, 2015. Again ODOT did not attend the hearing or file any opposition to the application. We are now more than 10 months since the original application was filed and 8 months since the hearing was held on the original application and no action has been taken.

In the interim, Chesapeake has proceeded to drill the 6 wells contained in the JAMAR north unit. This unit utilizes the same well pad site as the JAMAR south unit would have used. The JAMAR north unit has now been completed and nearly ready to go online with production. In order to drill the JAMAR south unit Chesapeake will need to shut down the production of the JAMAR north unit. Obviously this is not a good situation because it will cause an interruption in the royalties being received by the mineral owners in the JAMAR north unit. In addition, Chesapeake has now had to incur the costs of moving the rig off the well pad and will incur additional costs to move it back on at some point in the future. The alternative is that the minerals in the JAMAR south unit become orphaned and not produced because of the costs of accessing them now due to ODOT and ODNR delays.

I have worked with Representative Andy Thompson's office to try to get answers on why ODOT won't lease and why ODNR won't issue a unitization order on the unopposed applications. Mr. Thompson's staff was originally told in August that since there was a well fire in Monroe County in May of 2014, the ODNR staff was too busy and could not address the pending applications. Later in the fall, ODNR representatives told Mr. Thompson's office that they were still busy but would get on the applications in the near future. At the end of the year I was advised by Mr. Thompson's office that they

were getting nowhere and perhaps I should consider filing a mandamus action against ODNR. I have not taken that route because I did not want to cause problems between ODNR and Chesapeake.

I am at a complete loss to understand why ODOT won't lease the minerals under these small strips of land that it is not even using or planning to use. The well pads would not be on its land and the bores will be several thousand feet beneath the surface.

Even more puzzling is the inaction by ODNR on the applications. The unitization statute is very clear and is a mandatory statute. The statute provides that if certain criteria are met (and they all are in this instance) that the division "**shall issue an order**". It does not say "may" or "could" or even "should" but rather uses the mandatory term "shall". Again, we are now approaching one year from the application and no orders have been issued. The delays have cost Chesapeake hundreds of thousands of dollars in rig moves alone and have delayed and even jeopardized the mineral owners' ability to receive royalties.

Sadly, the JAMAR south unit is not the only unit that is being held up by ODOT and ODNR. I understand that there are approximately 30 wells that are being affected by these same issues. This area of Ohio is one of the most economically depressed in the entire state. I personally know of two land owners that are in danger of losing their homes due to financial problems. In addition, I know several of the families in that area that have children in college that are unable to afford it and will need to drop out if they cannot get some financial relief. The school systems that is covered by these wells are financially insolvent and unable to improve let alone maintain their facilities. Production of these minerals would significantly help not only the citizens but also the school system.

I think that a law needs to be put in place that requires ODNR to act appropriately and timely on applications to unitize. In addition, there needs to be clarity that ODOT and other state agencies are not above the law and cannot hold up development of the minerals when they are minority owners in the unit. It is time to stop letting the tail wag the dog on these issues and let mineral owners develop their minerals and receive the financial benefits.

Thank your for your time and considerations. I'm happy to answer any question the committee may have.