

Testimony of Rebecca Clutter,  
National Association of Royalty Owners (NARO) Appalachia Chapter,  
Landowners for Energy Access and Safe Exploration (LEASE), and  
Private Property Owner

To the Senate Finance Committee

Good afternoon, Chairman Oelslager and members of the Committee, thank you for the opportunity to testify today. I am here to provide written testimony as an Interested Party regarding HB 49, specifically related to the filling of seats on the Oil and Gas Leasing Commission under Sub H.B. 49, LSC 132 0001-3.

My name is Rebecca Clutter. I am a board member of the National Association of Royalty Owners (NARO) Appalachia Chapter and also the founder of the Landowners for Energy Access and Safe Exploration (LEASE). Both organizations' mission is to represent the interest of our members who are comprised of land, mineral, and royalty owners in Appalachia and to this point, more specifically here in Ohio. NARO and LEASE are the only organizations here that represent solely and without compromise the oil and gas mineral owner's interests. I am also a concerned citizen of Medina County and advocate for private property rights, free market solutions, and domestically produced energy. I am not an expert on this subject, however I feel it is important to voice concerns of the private mineral owners as it relates to this legislation and the impact it could have should this be permanently removed from consideration.

All too often, the voice of the people gets left out of these types of discussions. Did you know, for example, that according to NARO there are more mineral owners than there are NRA members? Through inheritance, mineral deeds have been passed down generationally, some into percentage ownerships. So, as you contemplate the impact of this portion of the bill, understand that while the shale play may be limited to Southeastern Ohio, mineral deed holders likely reside in all of your districts.

I mention this to point out that while the Finance Committee may be looking at this as an Industry vs Environmentalist issue, from our perspective this is a private mineral/land ownership issue as the ramifications of not filling the commission seats for six years now has negatively impacted private residents who live adjacent to these State of Ohio lands. Private citizens are being prevented from leasing and producing their privately held assets. This could potentially decrease the value of their properties significantly.

Six (6) years ago, legislation was passed and signed off by Governor Kasich that should have created an Oil and Gas Leasing Commission to manage the State of Ohio owned lands regarding oil and natural gas, inclusive of ODOT lands, State Parks and Wildlife Areas. This included a directive that the Governor was to appoint 4 members to this commission.

## **1509.71 Statement of policy regarding state-owned oil and natural gas resources.**

(A) It is the policy of the state to provide access to and support the exploration for, development of, and production of oil and natural gas resources owned or controlled by the state in an effort to use the state's natural resources responsibly.

(B) There is hereby created the oil and gas leasing commission consisting of the chief of the division of geological survey and the following four members appointed by the governor:

- (1) Two members from a list of not less than four persons recommended by a statewide organization representing the oil and gas industry;
- (2) One member of the public with expertise in finance or real estate;
- (3) One member representing a statewide environmental or conservation organization.

(C) Initial appointments shall be made to the commission not later than thirty days after the effective date of this section.....

The appointments to this commission were never made. I personally made several calls to the Governor's office on this and was told "No date to fill these seats has been set" and "This is a paper-only commission". Although the Governor's office may believe that they have no responsibility to perform duties covered under ORC, it is interesting to note that the Treasurer's Office did comply by setting up the Treasury funds covered under this same piece of legislation.

Effectively what has happened is very similar to what occurred in the case of the Wayne National Forest (WNF). In that instance, the patchwork nature of the WNF parcels blocked the privately held parcels inside and bordering the WNF from exploration and production. Further, of the parcels where the WNF owned the surface rights, in nearly 60% of those parcels, the mineral rights were privately held. This created a situation where the Federal Government was literally preventing private land and mineral owners from developing their private assets. The WNF parcels barricaded the private assets.

Through the good works of US Congressman Bill Johnson and US Senator Rob Portman, the Bureau of Land Management has finally opened up the WNF to leasing. This comes with surface stipulations that there will be no surface disruption to the WNF. This stipulation is easily attainable due to the deep, long length horizontal laterals that completely bypass those Forest parcels on the surface, and is exactly the reason the Environmental Assessment (EA) was listed as having a "Finding of No Significant Impact".

Shortly after the first round of BLM lease sales, Commissioner Mick Schumacher of Monroe County called me with a concern that this same scenario might be playing out around the State of Ohio lands. He had started to receive phone calls from some of his residents around the Monroe Lake area questioning why they were being excluded from drilling units.

I called several of the oil and gas operators in the area who all confirmed that this was the case due to a failure to fill the Oil and Gas Leasing Commission seats and their eventual inability to reach some of those privately owned lands because of the jagged nature of many of the State lands.

As more and more permits are issued in areas that bypass the State lands, a greater number of private citizens become negatively impacted. With even more passage of time, there will likely be many private citizens who will get shut-in and donut-holed into a non-producing area within areas containing prolific oil and natural gas reserves they are unable to access. One operator put it this way,

**“You are correct that in some cases, as was the issue raised regarding the Wayne National Forest, adjoining or neighboring privately held lands could be stranded where larger state owned lands cannot be leased for development.”**

It is important to understand that “Leasing” does not mean the presence of a drill pad on any particular surface parcel. In the case of the WNF, the drill pads will be placed on private property and will drill “under” the federal parcels.

There is also a question on who actually owns the minerals under some of these lands. The commission, once the seats are filled, would actually oversee that the proper title searches have been completed to determine proper mineral ownership. The Bureau of Land Management does the same on the federal lands. The last time that I spoke with the Real Estate Division, they had only completed the title searches under the ODOT lands, and “NOT for leasing, but rather forced pooling”.

To simply add the outlying private parcels into an existing unit would dilute the existing pooling unit creating an unfair economic scenario for those already in a drilling unit, and not allowing the private parcels that abut the State lands to produce compromises their correlative rights. These problems can both be solved by filling the seats on the Commission which this Sub Bill under HB 49 would do.

This doesn't just effect the Monroe Lake area. I also found private citizens around Egypt Valley, Barkcamp, Salt Fork, Fernwood, and ODOT lands that are all in the same predicament. Although I haven't looked any further, I would imagine that the same is true on the other State lands. When I last spoke with Senator Hoagland's Office, I was told that they had received multiple calls from residents on this issue. Representative Thompson's Office also received calls and became the author of this amendment.

I imagine that you all likely received push-back on this from environmental activists which is interesting considering that the same bill that created the Oil and Gas Leasing Commission expressly prohibits surface disruption to Wildlife areas in much the same way that the Bureau of Land Management did on the WNF. This is all thoughtfully covered under ORC 1509.73 Leasing formations; exclusion of nature preserves. This would seem to make the environmental arguments irrelevant and should then be removed from consideration on this matter. We have clearly seen on the WNF that surface disruption can not only be mitigated effectively, but avoided altogether thanks to today's deep horizontal drilling technology.

When I became aware that this committee had removed this part from consideration, the first thing that ran through my mind was "Why in the world would a Republican held Senate strip landowner rights away from their constituents?" If citizens are unable to produce their minerals because the State of Ohio is their neighbor, this could actually decrease the value of their property.

I am not being paid for my testimony. I am a volunteer board member for NARO Appalachia. I have no property that borders State lands. I do, however, clearly remember how it felt when the Federal Government was preventing me from developing my private property in the WNF. I remember the conversations I had with my neighbors in the WNF who had lost nearly everything in order to keep their property, which in many cases had been passed down for generations. I remember them praying that being able to develop their minerals could save their family homesteads. The State of Ohio is now doing the same thing to its neighbors. It was wrong for Governor Kasich to refuse to perform his duties under ORC. It would be wrong for this Committee to not try to fix this.

Simply put, the removal of this section from HB 49 negatively impacts private land and mineral owners by preventing them from developing their privately held assets. I respectfully request that you place this back into HB 49 for consideration.

I thank you for your time.