

Opponent Testimony of Carol Culbertson
House Bill 175
Presented to the Ohio Agricultural and Conservation Committee
May 19, 2021

Chairman Koehler, Vice Chair Creech, Ranking Member Brent and Members of the Ohio House Agriculture and Conservation Committee, thank you for the opportunity to testify before this committee today on House Bill 175.

My name is Carol Culbertson. I live in Clark County, just outside of Yellow Springs. Awhile back I purchased a beautiful piece of property with a creek running along the back of the lot. As an added bonus, a category 3 wetland fen was discovered on the property. For those unfamiliar with fens, they are special wetlands sustained by underground water through seeps and springs.

My creek and the fen have provided countless hours of entertainment watching the fish, frogs and salamanders not to mention the amazing spring time show of hundreds of marsh marigolds in full bloom each April. The creek forever flows past my house on its way to the Mud Run and eventually the Mad River and I am very protective of this little creek. However, in the past 15 years, I have learned that its protection is difficult and not always possible due to the actions of others living upstream.

And that is why I am here to testify against House Bill 175. Just like my creek, the quality of Ohio's water is dependent upon the actions of those who control the upstream portions of Ohio's waterways including its ephemeral streams and vernal pools.

My reasons for opposing House Bill 175 are numerous and varied. The Ohio Environmental Protection Agency (OEPA) emphasizes the importance of these ephemeral water features. OEPA states, "It is estimated that there are more than 36,000 miles of ephemeral streams throughout Ohio. While they do not flow continuously, these streams are important to aquatic ecosystems because they help control run-off and erosion, reduce flooding potential and help filter pollutants."

At a time when millions of dollars are being spent to improve Ohio's water quality through the H2Ohio program, it is mystifying why a bill promoting "the deregulation of certain ephemeral water features" would be introduced by State Representative Brett Hillyer.

The proponents to this bill would have one believe the current regulations are too heavy handed and require too much financially from those they represent, be it the Ohio Aggregates and Industrial Minerals Association, the Ohio Home Builders Association, the Consumer Energy Alliance-Midwest, the Ohio Oil & Gas Association, Ohio Chamber of Commerce, the Associated General Contractors of Ohio and Farmers. These industry groups would have one believe the regulations regarding ephemeral water features only apply to "erosion gullies, ruts, and possibly puddles that are extensive throughout the landscape." (As stated in the testimony of Pat Jacome, Executive Director of the Ohio Aggregates & Industrial Minerals Association) The words chosen, gullies, ruts and puddles to describe the ephemeral water features which may fall under the EPA's regulatory authority are intentional, deceptive and misleading. The OEPA clarifies this misconception and states, "Channel-like features on the land surface created by water erosion that are not tributaries, such as agricultural ditches, roadside ditches and grass swale waterways would not meet the definition of ephemeral streams."

So, while these industry giants attempt to keep the public's focus on insignificant puddles, little is said concerning their new found ability to spoil Ohio's waterways if this Bill becomes law. According to the H.B. 175 Bill Analysis, the OEPA will no longer be required to issue permits for impacts to ephemeral features. Discharging sewage or other pollutants into an ephemeral stream will no longer be prohibited. These big businesses will be allowed to foul the water resources and walk away without any restitution to the community or mitigation of the damages caused.

Mažeika Sullivan, director of the Schiermeier Olentangy River Wetland Research Park states, "This is absolutely not the time to be removing protections." He explains that ephemeral waters are not always flowing, but that they have a significant impact on watershed. They move water, nutrients and sediment and provide habitats for wildlife. Sullivan reminds one that ephemeral waters are active only when needed. "It doesn't mean it's not important because it only happens occasionally," he said. "Not protecting them is highly problematic."

I ask you NOT to support this legislation. Wetlands and flowing streams are a community resource well known to improve water quality and serve as filters for future drinking water. Please vote no on House Bill 175 to protect the quality of Ohio's water, its diverse wetlands and the flora and fauna which depend on the ephemeral waters of Ohio.

Sincerely,
Carol Culbertson
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