



ALLIANCE *for the*  
**GREAT LAKES**

**Opponent Testimony of Crystal Davis**  
**House Bill 175**  
**Presented to the Ohio Agricultural and Conservation Committee**  
**May 17, 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 (HB 175). My name is Crystal Davis, Vice President of Policy & Strategic Engagement for the Alliance for the Great Lakes.

The Alliance for the Great Lakes appreciates the opportunity to submit comments regarding the draft House Bill 175 deregulating protections for ephemeral water features. We strongly oppose House Bill 175 in its entirety as it seeks to remove protections for ephemeral streams which are small rain dependent streams that flow downstream to larger rivers, lakes and wetlands. These streams play a critical role in protecting source water ensuring clean drinking water for rural, suburban and downstream communities.

The Alliance for the Great Lakes is a nonpartisan nonprofit working across the region to protect our most precious resource: the fresh, clean, and natural waters of the Great Lakes. The Alliance for the Great Lakes connects and empowers people to advocate, give back, and take action to protect the lakes. Nutrient pollution negatively impacts the lives of people and wildlife across the Great Lakes Basin and especially in Ohio. It is a priority issue for the Alliance.

Ohioans depend on clean water every day, whether it is to drink, to run their businesses, for tourism, or for the simple act of enjoying a local waterway in their own community. Water is interconnected and the integrity of these smaller streams predicts the quality of the downstream waterways. As such, there is no body of water that would be safe to pollute.

Even after the previous presidential administration went against science and rolled back key portions of the Clean Water Act in 2020, Ohio waterways remained covered. The State of Ohio used its legal authority to continue regulatory protections for ephemeral streams to ensure drinking water quality was protected for all Ohioans. HB 175 aims to remove ephemeral streams from regulatory coverage and opening up to pollution and degradation.

Ohio as a state has the authority to cover the two types of waterways that the federal rule removed protections on by defining what is a “Water of the State” and therefore what has regulator protection in Ohio restricting pollution and degradation. “Waters of the State” under current Ohio Revised Code 6111.01 includes:

1. “all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs...” (Ohio EPA takes the position that “all streams” includes ephemeral streams that only receive water when it rains);
2. irrigation systems and drainage systems; and
3. underground waters (i.e. groundwater).

Based on this definition of “waters of the state” more waterways, including groundwater, are protected under state law versus the Clean Water Act as defined in the previous presidential administration’s Navigable Waters Rule. Unfortunately however, HB 175 would undo that protection while lacking any scientific, legal, or fiscal case for doing so.

**If these ephemeral streams lost state regulatory protections, the consequences could be dire. For example:**

- Industrial facilities could discharge chemical waste into unprotected streams without fear of OEPA consequences causing additional water treatment downstream to protect drinking water.
- Developers may no longer need to obtain a permit before paving over or damaging an ephemeral stream—leading to a loss of important wildlife habitats and increase in flooding downstream.
- Wastewater treatment plants might be able discharge partially treated sewage into streams without adhering to water quality standards. This would directly undermine the work the state is doing through investing taxpayer dollars to reduce nutrient pollution in our waterways;
- The state of Ohio may no longer be required to clean up polluted ephemeral streams.
- Oil storage facilities near ephemeral streams may no longer have to develop oil spill prevention and response plans.
- When agencies fail to enforce the law against polluters of these waterways, the public could no longer hold polluters accountable through citizens’ suits under HB 175.

Ephemeral streams play a crucial role in keeping our drinking water supplies safe. **According to the [US EPA, 6,978 miles, or 60% of all streams that provide drinking water are intermittent, ephemeral, or headwater streams and over 5.2 million Ohioans receive their drinking water from systems that rely on those water features.](#)**

This bill will further stress our drinking water systems. Our drinking water sources are increasingly threatened by the impacts of climate change, outdated and failing infrastructure, and growing pollution from unregulated contaminants and industrial sources. This bill will weaken protections for drinking water sources at the time when we need to do all we can to increase and strengthen enforcement of safeguards. As we speak, the H2Ohio program is proposed to invest

hundreds of millions more through the budget bill to improve drinking water quality across the state. In order to see a return on that significant investment and ensure cost-effective use of taxpayer money, this bill should not become law.

Healthy, safe and clean water provides dividends for Ohioans. Lake Erie provides [\\$15.1 billion in tourism-related economic impact](#) for Ohio's economy. Countless rivers and lakes across the state provide recreational and boating opportunities as well as an outdoor playground for our children. In southwest Ohio, the Ohio River, long a forgotten jewel, is now fostering redevelopment and growing recreational opportunities. In northwest Ohio, the H2Ohio program is investing in large scale cropland conservation practices linked with wetland restoration to ultimately provide a one-two punch to the harmful algal blooms plaguing much of the western Lake Erie shoreline. These ephemeral streams are a critical part of that natural water infrastructure that preserves our waterways and the health of the communities they flow through. Removing their protections now is wasting Ohioans money.

This bill fails to protect the ecological qualities of ephemeral streams, as well as the drinking water of millions of Ohioans. The proposed rule purposely ignores the science in favor of an interpretation that benefits polluters. On behalf of our members and supporters, our organizations oppose this "Dirty Water Legislation" and would rather strengthen protections for our waterways to ensure safe drinking water for all Ohioans.

In conclusion, Chairman and Members of the committee, thank you for considering our perspective and the Alliance for the Great Lake's recommendations. I would be happy to answer any questions if you have them.

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