



**Opponent Testimony of Ohio River Foundation  
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 Rich Cogen, Executive Director with Ohio River Foundation.

In the absence of my personal presence before you at the upcoming hearing, I please ask that my comments be read into the record.

Ohio, as a state, has the authority to cover the two types of waterways that the 2020 federal rule removed protections on by defining what is a "Water of the State" and therefore what has regulator protection in Ohio.

"Waters of the State" under 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;
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 Trump Administration's Navigable Waters Rule.

Even after the Trump administration rollbacks in 2020, Ohio waterways remained covered by regulatory protections to ensure water quality. HB 175 aims to remove ephemeral streams or features, or rain dependent streams or features, from regulatory coverage.

**The Ohio EPA conservatively estimates that we have over 36,000 miles of these ephemeral streams in Ohio.**

Surface water is a source of drinking water for the majority of Ohio communities so this bill would directly harm Ohioans drinking water by allowing pollution into these ephemeral, rain dependent, streams that will inevitably end up downstream. Our drinking water sources are increasingly threatened by the impacts of climate change, outdated and failing infrastructure, and growing pollution from unregulated contaminants and industrial sources.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.

HB 175 makes no scientific, legal, or fiscal sense. The federal did not, and Ohio should not follow an unsupported federal rule with an unsupported state law. Ephemeral streams play a crucial role in keeping our drinking water supplies safe.

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

- Oil spills—such as pipeline breaks—into these streams, features, or wetlands may no longer be considered violations by the Ohio EPA.
- Industrial facilities could discharge chemical waste into unprotected streams or features without fear of OEPA consequences.
- Developers may no longer need to obtain a permit before paving over or damaging an ephemeral stream or feature—leading to a loss of important wildlife habitats and increase in flooding downstream.
- Water treatment plants might be able discharge partially treated sewage into these streams or features without adhering to water quality standards;
- The state of Ohio may no longer be required to clean up polluted streams or features;
- Oil storage facilities near ephemeral streams or features 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.

For the aforementioned and following reasons, Ohio River Foundation seriously objects to HB175 and asks that all committee members rise in opposition to HB175 and vote against its movement out of committee.

- Our sources of drinking water already face incredible stress -- from the impacts of extreme weather, toxic chemicals, plastic waste, and more. We should look for ways to improve protections. Instead, administration proposals will put drinking water across the state at increased risk of pollution by stripping safeguards from small streams and wetlands. Too many communities already face drinking water challenges-- we should not go backwards.
- This is about corporate profits and avoiding accountability for pollution. The industries supporting HB 175 are trying to skirt responsibility for keeping our drinking water clean. No argument they make will convince the public that the health of some of our water bodies should be sacrificed for their profits.
- The laws protecting our water and health should be based on established science -- and should apply to everyone equally. Our laws stop working when we stop following science and create special rules for corporate polluters. The proposal to strip protections from streams and wetlands puts water resources across the state at risk because it ignores science and prioritizes the profits of well-connected industries above our health.
- HB 175 is based on nothing more than talking points from industry and corporate special interests. Even school children understand that water flows downstream- to have healthy lakes and rivers, we must do more to protect the small ephemeral streams that flow into them, not remove protections.

Mr. Chairman and Members of the committee, thank you for considering our perspective and our recommendations. I would be happy to answer any questions.

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