



**Testimony Before the Ohio House Energy and Natural Resources Committee
House Bill 152 – Interested Party Testimony**

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Michael Faust, President of Golden Eagle Resources

Chairman Stephens, Vice Chair Stewart, Ranking Member Weinstein, and members of the House Energy and Natural Resources Committee, thank you for giving me the opportunity to provide interested party testimony on House Bill 152.

My name is Michael Faust, President of Golden Eagle Resources, LLC. When Golden Eagle Resources and its affiliates (Golden Eagle) began doing business in 2012, I uprooted myself, my wife, and our two young children and moved to Marietta, Ohio where we still reside today. Over the last nine years, my family and I have become integrated and contributing members of the Ohio community – sponsoring/coaching youth sports teams, adding a third daughter who was born here in Ohio, and working the front lines of the COVID-19 epidemic at the Marietta Memorial Hospital.

Golden Eagle has also been just as active as a mineral buyer and partner in Appalachia. Over the last nine years, we have acquired approximately 60,000 net acres in Appalachia with approximately 40,000 of those net acres located in Ohio. These 40,000 net acres are primarily located in what is considered the core development of the Utica Shale, which is considered the highest oil and gas yielding tax revenue area of Ohio. To date, we have paid approximately \$2 million in property and severance/ad valorem taxes to the state of Ohio. In addition, we have invested approximately \$200 million in Ohio, having provided this invested capital to the individuals in some of the more rural areas of Ohio – thus helping stimulate the economic growth of Ohio. In some cases, we purchased a portion of the mineral interests from the individuals, which allowed us to informally act as a liaison in lease negotiations between the potentially inexperienced mineral owners and the more experienced operators – increasing the probability of development and fair compensation for the landowners.

As an Interested Party, we fully support the heart of House Bill 152 and very much appreciate the Committee’s proactive approach to streamlining the unitization process and promoting more efficient development in Ohio. We second the Ohio House of Representatives Sponsor’s testimony that the “overriding goal of House Bill 152 is to establish firm, predictable timelines for ODNR to meet in order to get unitization applications processed and approved in an efficient manner.” As such, the proposed language to require the Chief to (i) hold the hearing not more than sixty days after the date the Chief receives the application and (ii) issue the unit order not later than thirty days after the date of the hearing, are two points that we very much support and believe it will effectively promote an efficient development timeline. We also appreciate the option for applicants to request hearings be held remotely. We welcome this alternative as it modernizes the current statute and has the added benefit of making hearings more accessible to mineral owners across the state who may not always be able to be present at the meetings.

That said, we do believe that there are some areas in which the bill could be improved to better protect mineral owners and operators alike, while still supporting the goal of streamlining unitization and promoting efficient development.

1. **Unleased Mineral Owner should be modified to include the text “who owns less than 10,000 Net acres in the state of Ohio.”** One of the main purposes of the unitization hearing is to allow the applicant to move forward with the development plans when the operator is (i) unable to locate a mineral owner or (ii) unable to come to agreement with a mineral owner on lease terms. As one of the largest private mineral owners in Ohio, we have relationships with the operators with established “form” leases – so we are both able to be located and able to come to agreement with operators. In addition, mineral owners with 10,000 net acres or more are aligned with operators in having a responsibility to generate a return for their investors, and thus knowing one cannot generate a return without development.
2. **The Royalty and Lease Bonus should be modified to the weighted average of the existing leased mineral owners.** We believe that mineral owners should be paid at “current market rates” on both the royalty and lease bonus. We recognize that “current market rates” may fluctuate based on location and timing, and to protect both the unleased mineral owner and the applicant, we would propose staying silent on these numbers in the bill and thus allowing the Chief to decide. However, if the Committee believes numbers need to be stated to streamline the process, then the following language should be added to the bill to define the current market rate: The “current market rate” means the weighted-average royalty and lease bonus, respectively, of the executed leases by the applicant within the last twenty-four [24] months, of the at least sixty-five per cent of the acres within the proposed unit area at the time the application is made or the date of the Chief’s motion, as applicable.” Two points to mention:
 - a. *Delay in drilling:* If the royalty rate and lease bonus stay unchanged at 12.5% and 50% of the current market rate, respectively, then this provides an adverse effect to the operator to actually delay drilling in the core areas. Over the last two years (including the year of COVID-19), we have leased approximately 1,700 net mineral acres to operators at an average of 20% gross royalty and a lease bonus of approximately \$6,500 per net acre; and since 2017, we have leased almost 6,000 net acres at the same average 20% gross royalty rate (with an average 5-year term). Given operators’ fiduciary responsibility to their investors, operators thus would be incentivized to wait until our leases expire (hindering development and thus tax revenue to the state of Ohio) to pay approximately 40% less on the royalty for only a modest additional lease bonus payment to the mineral owners – as this would generate 7% more cash for the operators’ investors (when factoring in the additional lease bonuses paid to the mineral owners).
 - b. *Penalize mineral owners.* The purpose of the unitization hearing is to also provide the mineral owners a “just and reasonable” royalty rate and lease bonus. Providing anything less than the average of the current market rate would thus penalize the mineral owners. For example, a mineral owner should not receive less (or more) than the other mineral owners in the unit just because that mineral owner cannot be located. In addition, the unitization hearing should not be utilized as tool that allows the operator or the mineral owner to force the other into a non-market lease. For these reasons, other states such as North Dakota and Wyoming have also accepted this language – to provide the weighted average for the royalty and lease bonus.

3. The bill should not include provisions that (i) increase the expected time to production or (ii) decrease the expected production (and thus expected tax revenue to the state of Ohio).

To stay consistent with the purpose of this bill, which is to streamline efficient development of Ohio's oil and gas assets, there are two areas within the bill that should be modified:

- a. *Operational changes:* The following language should be added to the end of the definition of Operational changes: "...provided however, that such changes do not decrease the expected amount of production or increase the timing of the expected production." Said differently, an order of amendment shall be required by the Chief if the applicant's operational changes are expected to result in less revenue taxes to the state or push out the time of when the state would receive the revenue taxes.
 - b. *Commence operations.* The last sentence of provision F.(8) should be deleted. This sentence which states "extension of these times by not less than twelve months" provides an open-ended amount of time for the commencement of operations, and thus could potentially delay royalties to the mineral owners and revenue taxes to the state indefinitely. Alternatively, we would propose the sentence to be modified with "The unit order also shall include provisions authorizing the extension of these times by no more than twelve months in the event of a Force Majeure and specifying the manner and circumstances under which an extension may be obtained without requiring an additional hearing."
- 4. Protected Information should be limited to "Trade Secrets" and be allowed in any court proceedings referencing the unitization hearing.** Trade Secrets is already defined in the Ohio Revised Code so this change would be consistent with existing legislation. In addition, language should be added to allow for this information to be utilized in any court proceedings. For example, as mentioned, we have leased almost 6,000 net acres to operators since 2017 and have only been unitized as an unleased mineral owner three times. In each of these three cases, after the unitization hearing, the operator decided to cancel or amend the unit once we provided the operator with information from the hearing and displayed that the resource was not being efficiently developed. Without this information after the unitization hearing, we could not have acted as the appropriate connection between the operator and the mineral owners.

In conclusion, Golden Eagle Resources supports the heart of House Bill 152. We agree with Ohio Oil and Gas Association's (OOGA) proponent testimony that "a process that is streamlined and provides certainty will benefit producers and landowners." As a member of both OOGA and National Association of Royalty Owners (NARO), I have had the opportunity to become a liaison between the large-scale operators and the individual land/mineral owners. I personally believe "unitization is a process that allows for efficient development of natural gas and oil", but as House Bill 152 is currently written, it does not "protect the correlative rights of the landowners" as it both (i) penalizes the unleased mineral owners and (ii) contains provisions that allow for the operators to delay and/or decrease the royalties to the landowners, and thus the revenue taxes to the state of Ohio. As an Interested Party, I would be happy to discuss in more detail how the bill could be improved to better protect mineral owners and operators alike, while still supporting the goal of streamlining unitization and promoting efficient development.