



Backcountry Hunters & Anglers

“The sportsmen’s voice for our wild public lands, waters and wildlife”

www.backcountryhunters.org

28 March 2022

Subject: Comment on Ohio H. B. No. 175

To whom it may concern:

The Ohio Backcountry Hunters and Anglers is writing out of concern for the latest version of H.B. 175 (I-134_1042-2) proposed for the Ohio Revised Code regarding ephemeral waters protections. We maintain our broad position of opposition as expressed in previous testimony – simply put, stripping EPA protections and removing water quality standards from ephemeral waterways is a mistake. Pretending that keeping protections in place for *all* the ephemeral waterways regulated by the U.S. Army Corps of Engineers is a sufficient compromise is disingenuous and frankly an insult. Additionally, restricting what the Director of Environmental Protection Agency can require of any activity related to any form of the environment is short-sighted; it is a disguised but nevertheless rank form of bridge burning.

A basic grasp of the water cycle and elementary understanding of hydrology highlights the short-sightedness of ignoring ephemeral and intermittent waterways within watersheds. Virtually all the water that pools in or flows through a permanent waterway originates upstream in ephemeral topography that funnels downstream to join progressively more water within the watershed. Upstream degradation, pollution, and alteration impacts downstream systems – always. Many stressors have minute effects, a few – catastrophic. The worst form of policy and management frustration is attempting to resolve symptoms of issues (e.g., harmful algal blooms) while ignoring the root causes further upstream in a watershed. Put another way, stripping ephemeral stream protections and only protecting permanent and semi-permanent waters promotes the foolish idea that we are willing to protect Ohio’s waterways from severe injury, but we are willing to stand by and let the system bleed out “by a thousand cuts.” We must maintain EPA protections and accompanying standards on ephemeral waters if water quality in Ohio is a priority for Ohioans.

That said, we always want to acknowledge a few revisions as having merit and offering our contingent support on those particular items.

- *A restoration or enhancement project that will result in a net improvement of water quality when the person demonstrates as part of the mitigation proposal that the project will result in that net improvement ; Wetland enhancement or expansion projects that improve the site-level function and ecosystem services but alter, damage, or impair the function of previous smaller in situ wetlands should be able to proceed without mitigation penalties exacted. It makes no sense to penalize someone wanting to expand and improve wetland functionality if the means to that end is altering or impacting a smaller wetland that already exists. I have personally seen this bureaucratic headache inflicted on state agencies seeking to build a 20-acre wetland complex, but the ½ acre existing wetland holds up progress ultimately threatening the viability of the overall project. Streamlining requirements where net benefit is demonstrable is encouraged.*
- *A dredge and fill project that impacts 3/100 of an acre or less of streambed (specifying that if culvert maintenance or replacement is involved, only an impact that goes beyond the existing culvert structure must be included in the impacted streambed acreage calculation) (R.C. 6111.316(A) and (B)). ; providing we understand this correctly – that existing culverts needing maintenance or repair ought to receive their due attention free from bureaucratic burden, we support this revision as proposed. A damaged culvert can result in more erosion and water quality degradation than a site with no culvert at all. And*

the best culvert is a culvert sized appropriately to the site. If reducing red tape and paperwork is holding up culvert repair (during which time more damage to the site is occurring – i.e., more soil being carved out and washed downstream), streamlining the process sounds like a good improvement with a net benefit to water quality across the state.

By transmittal of this letter, we – the Ohio Chapter of Backcountry Hunters & Anglers – are adopting a formal position of opposition to H.B. 175, *excepting the notable points made in the preceding bullets*. There is room for reducing bureaucratic oversight and burden from landowners, agencies, and producers; however, stripping the ephemeral water protections outright (or at least very nearly) has no place. We implore you, on behalf of all Ohioans, to practice sound stewardship of Ohio's water resources by retaining a broad definition and functional understanding of hydrologic features.

Please reach out with questions as we would like to engage further on this issue if that would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read "Gabriel R. Karns". The signature is written in a cursive, flowing style.

Ohio Chapter of Backcountry Hunters & Anglers
Gabriel R. Karns
Policy and Legislative Co-Chair