



**Ohio House Committee on Civil Justice**  
**Opponent Testimony on Substitute House Bill 64**  
**Chris Zeigler, Executive Director, API Ohio**  
**May 23, 2023**

Chairman Hillyer, Vice Chair Mathews, Ranking Member Galonski, and members of the House Committee on Civil Justice - my name is Chris Zeigler, and I am the Executive Director of the Ohio office of the American Petroleum Institute (API), or API Ohio.

API Ohio is the state affiliate office of the American Petroleum Institute. The API is a national trade association that represents all segments of America's natural gas and oil industry, which supports more than 11 million U.S. jobs and is backed by a growing grassroots movement of millions of Americans. Our approximately 600 members produce, process, and distribute most of the nation's energy, and participate in API Energy Excellence®, which is accelerating environmental and safety progress by fostering new technologies and transparent reporting. Established in 1919 as a standards-setting organization, the API has developed more than 800 standards to enhance operational and environmental safety, efficiency, and sustainability.

Thank you for the opportunity to provide opposition testimony to the committee and share our concerns regarding Substitute House Bill 64 (Sub. HB 64), which proposes to modify Ohio's eminent domain laws. Overall, the bill makes the eminent domain process in Ohio excessively favorable to individual landowners, to the detriment of the public good, by increasing the time and cost for critical infrastructure to be built in the state.

Eminent domain helps to ensure that the benefits to the broad public interest outweigh the benefits to the few, a concept upheld by the federal courts and has allowed for the construction of projects such as the Grand Coulee Dam, NASA's Cape Canaveral launch facility and the restoration of the Everglades. The periodic use of eminent domain has been vital in building our nation's extensive pipeline infrastructure network. During the surveying and routing of a project, operators meet with landowners and community stakeholders to discuss the proposed route as well as to hear and, wherever possible, address considerations or concerns. The vast majority of the time, agreements over right-of-way can be reached between the landowner and the pipeline company, with the use of eminent domain authority only as a last resort. However, in the rare instance where an agreement cannot be reached, eminent domain may be applied by a government entity with jurisdiction.

The change from "preponderance of evidence" to "clear and convincing evidence" leaves a lot to interpretation by the ultimate decision makers<sup>1</sup> on what constitutes "clear and convincing." Moreover, the time frames for the process in several sections of the code have been extended and will likely further delay any land acquisitions. Finally, other provisions, including "If the owner demonstrates by a

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<sup>1</sup> <https://codes.ohio.gov/ohio-revised-code/section-163.05>

preponderance of the evidence” (note – not “clear and convincing”) that the agency used coercive actions, including but not limited to those listed in section 163.59 of the Revised Code, is likely to become the default in any takings matter, which will add both time, cost, and uncertainty to a project.

Global petroleum demand is projected to grow over the next few decades, and without policies to help create a hospitable environment for investment in future projects, the U.S.’s energy security could become compromised. In the last several years, 10 major energy infrastructure projects across our country have been canceled or are at risk of cancelation due to delayed and uncertain permitting processes. These projects, which represent \$34 billion in capital investment, were delayed an average of about 7.5 years. In the Appalachia basin alone, four natural gas projects that could support 4.6 billion cubic feet per day of production needed by families and businesses in the region have been delayed or canceled outright. To fully harness the power of American energy, support consumers, and protect the environment, we need permitting reform at the federal level and the certainty that state policies can provide to businesses seeking continued infrastructure investment in our state.

API Ohio appreciated the opportunity to engage with the sponsors and other stakeholders during discussions on the as-introduced version of the bill. During this process, API engaged as an interested party and offered comments for consideration, which were not included in the substitute bill. In general, API is concerned about the inability to revise an offer for acquisition of land that is less than a previous offer, as well as the timing of communications, which could slow any project.

Thank you for allowing API Ohio the opportunity to present our concerns to the committee. At this stage, we respectfully ask for a “no” vote on the bill unless the committee is willing to address the proposed changes as outlined in our testimony.