



Ohio Environmental Council [Action Fund]

**Opponent Testimony - Written Only
Substitute House Bill 152 - Unit Operation
Ohio House Energy and Natural Resources Committee
June 24, 2021**

Chairman Stephens, Vice Chair Stewart, Ranking Member Weinstein and Members of the Ohio House Energy and Natural Resources Committee, thank you for the opportunity to submit testimony on Substitute House Bill 152 (Sub. HB 152) governing unit operation. My name is Nathan Johnson, Public Lands Director for the Ohio Environmental Council Action Fund (OECAF).

The OECAF has serious concerns about the application of Sub. HB 152 to state and local public lands. The OECAF opposes Sub. HB 152 as amended because of the impacts it will allow to public lands and public health, and because of its lack of appropriate public participation provisions.

The OECAF appreciates the explicit exemption of state nature preserves from unitization, and also appreciates being invited to provide input during the stakeholder process on this bill conducted by the bill's co-sponsors. However, we feel that this explicit exemption should be expanded to include other public lands such as state and local parks, forests and wildlife areas. As under current law, this bill renders local parks and all other state public lands subject to mandatory pooling. Public lands provide numerous public benefits and are owned in common by the residents they serve. State and local public recreation lands should be protected from involuntary oil and gas leasing and development because of their special community ownership and benefit status.

When public lands are involved in unitization, the process goes from one with a limited number of stakeholders to one involving literally millions of stakeholders. The public deserves to have robust notice and comment if and when the land the public owns and recreates on is subject to forced pooling proceedings. Not only does Sub. HB 152 not include any additional notice and comment provisions for public lands, but the bill eliminates the 30-day minimum time period before the hearing may be held. Allowing for decisional hearings immediately after receipt of application or under 30 days thereof is an egregiously short process, whether public land is involved or not.

Lastly, people recreating on public land in the vicinity of oil and gas operations can be subject to air pollution impacts as well as negative audio and visual impacts. The air-based human health impacts from oil and gas development are significant and well established. (See

memorandum in the following appendix). Air pollution impacts to the users of our outdoor public spaces is a problem, and while not entirely specific to this legislation, the bill provides an opportunity to protect Ohioans health further.

It is for these reasons that we respectfully request the following amendments to HB 152 to address the aforementioned concerns:

1. Expressly exempt state and local public recreation lands (parks, forests, wildlife areas) from unitization.
2. For any public lands that remain subject to unitization, require at least two forms of online notification administered by the applicable Division within the Ohio Department of Natural Resources (Division of Oil and Gas Resources Management), consisting of:
 - a. Timely (at least 30 days) and conspicuous notice on Division/Agency website(s) with instructions for public comment submission, including applicable deadlines; and,
 - b. An email notification list that provides timely (at least 30 days) notice, and enables members of the public to join the notification list at their request.
3. Public health and safety setbacks of 2 miles (10,560 feet) from public recreation land boundaries.

Thank you again for the opportunity to submit testimony on Sub. HB 152.

APPENDIX

Memorandum

To: Ohio Representative Tim Ginter & Ohio Representative Brian Stewart
Fr: Trish Demeter, Chief of Staff, Nathan Johnson, Director of Public Lands, Callia Téllez,
Policy Fellow
RE: **HB 152 (Unitization) and Public Lands**
Date: May 26, 2021

Background and Concerns:

Thank you for requesting science-based evidence to inform the protection of Ohioans from air pollution hazards associated with oil and gas development. The following summary supports our recommendation to expressly exempt state and local public recreation lands from unitization. In addition, based on the scientific literature and applying the precautionary principle, the **OEC Action Fund recommends an oil and gas infrastructure minimum setback of 2 miles (10,560 feet) from public park and public recreation land boundaries.**

Oil and gas operations release toxic air pollutants at the well and from associated transportation, storage, and pipeline infrastructure. **Hydrogen sulfide**, produced at the well, is a toxic gas damaging to the central nervous system. Operations release **Benzene, toluene, ethylbenzene, and xylene (BTEX)**, lead to aggravated respiratory conditions, blood disorders, reproductive system effects, immune system-related diseases, and cancer. Other released ozone-forming **nitrogen oxides and volatile organic compounds (VOCs)** are associated with respiratory and cardiovascular effects. **Respirable silica** used in injection, can cause lung cancer and silicosis when inhaled. Additionally, **diesel emissions** from on-site machinery contain fine soot particles that damage the lungs and lead to respiratory disease, adverse birth outcomes, and premature death ([Srebotnjak & Rotkin-Ellman, 2014, pp. 3-4](#)). Given the sensitivity of the developing brain and central nervous system, young children and infants are at particular risk for chronic neurological diseases and endocrine disrupting effects from these toxic air pollutants ([Webb et al., 2017, pp. 3](#)).

Recommendation:

We respectfully request that HB 152 exempt state and local public recreation lands from unitization and implement **science-based surface setbacks**. Furthermore, we recommend the use of science-based surface setbacks to protect people in proximal public parks and public recreation lands (including local and state parks, state forests, and state wildlife areas). Consider the scientific findings:

- Within 500 feet from oil and gas development, studies have shown cancer risk estimates exceeding the U.S EPA upper threshold for acceptable risk ([McKenzie et al., 2018, pp. 4520](#); [McMullin et al. 2018, pp. 12](#)).

- Experts have determined that at minimum however, setbacks of 1,300 ft or less are not adequate and greater than 1,300 ft should be recommended for vulnerable groups ([Lewis et al.](#), 2018, pp.11; [Haley et al.](#), 2016, pp. 1330).
- A 2018 study in eastern Ohio found that higher polycyclic aromatic hydrocarbons (increased cancer risk, developmental effects, respiratory effects) concentrations in ambient air within 2,461 feet from active wells ([Paulik et al.](#), 2018, pp. 402)
- Within 3,281 feet from active well drilling, physicians recorded respiratory, fatigue, and nausea issues and one study recorded low birthweight babies ([Weinberger et al.](#), 2017, pp. 114; [Currie et al.](#), 2017, pp. 6).
- Observations of congenital heart defects were higher within 5,280 ft of natural gas wells compared to those with 0 wells within 10 miles ([McKenzie et al.](#), 2014, pp. 414).
- Increased low birth weight and decreased term birth weight was observed within 8,202 feet of drilled wells ([Hill](#), 2018, pp. 15).
- The Environmental Health Project of Southwest Pennsylvania (2020, pp.1) **recommends greater than 6,600 ft setback** from any shale gas facility to protect vulnerable populations from health impacts.

Because air modeling indicates air exposures to the 2-mile range (See [Lewis et al.](#), 2018, p. 11), the OEC Action Fund utilizes the precautionary principle and recommends a **minimum setback of 2 miles (10,560 feet)** from public park and public recreation land boundaries.

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