



Ohio Environmental Council

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### Interested Party Testimony

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Amended Substitute Ohio House Bill 1 (As Passed by the Ohio Senate)

Subject: Biennial Ohio Operating Budget for SFY 2010—SFY 2011

Ohio House Finance and Appropriations Committee

Ohio Statehouse, Columbus, Ohio — Tuesday, July 07, 2009

Chairman Sykes, Vice-Chair Bolon, and Ranking Minority Member Amstutz—

Thank you for this opportunity to testify on Amended Substitute Ohio House Bill 1 (As Passed by the Ohio Senate), the proposed Biennial Ohio Operating Budget for State Fiscal Years (SFY) 2010—2011, and the potential impact of the Senate-passed version of the Budget Bill.

My name is Jack Shaner, and I am Deputy Director and Senior Director of Legislative and Public Affairs for the Ohio Environmental Council. The OEC ([www.theOEC.org](http://www.theOEC.org)) is a network of more than 100 local and several statewide environmental-conservation groups. Our mission is to secure healthy air, land, soil, and water for all who call Ohio home.

#### **40 years of progress for clean air, land, water at risk**

Forty years and fourteen days ago today, a spark from a passing freight train caught some oily debris floating on the surface of the Cuyahoga River on fire. The blaze raged for hours as firefighters struggled to bring it under control. It wasn't the first time the "Burning River" caught fire. But thanks to a flurry of environmental protection legislation, regulation, enforcement, and investment this incident helped stoke, it was the last.

Forty years later, the resulting clean up has been remarkable, especially in Ohio, one of the most populous and industrialized states in America.

Fish that can thrive only in clean, healthy water have returned to the Cuyahoga. People once again flock to our rivers and streams to fish and swim. The young and old are breathing easier, because the air is no longer choked with lead and carbon monoxide and the odor of sulfur. Our Great Lake Erie has made great comeback. Once called "a dying lake," Erie is now known as the "Walleye Capitol of the World." Ohio has protected thousands of acres of natural areas and hundreds of miles of scenic rivers. We even have a national park—the Cuyahoga Valley National Park.

None of this progress happened by accident. It has taken steady investment, vigilant oversight, and continued enforcement and collaboration to protect our air, land, and water resources. And Ohio is a healthier place to live and work and play because of it.

But today, we are in peril of slipping backward. Ohio's dire state budget outlook—and the Senate-passed version of the Budget Bill—could put that steady progress for environmental clean up and natural resource conservation at risk.

The choices that the Ohio House and Ohio Senate ultimately agree to could have a significant impact on how safe the water is to drink, how clean the air is to breathe, how clean the waters are to fish and swim, how effectively rural and urban areas conserve soil and water resources, whether or not Ohio can care for its system of official State Scenic Rivers (let alone ever designating a new Scenic River) and how well Ohio fulfills its public trust responsibility to care for our state parks, nature preserves, and forests.

### **Point of contention: \$1 per ton “tipping” fee increase on Municipal Solid Waste**

As you know, the Ohio House approved but the Ohio Senate rejected a proposed \$1 per ton increase in the state “tipping” fee collected on each ton of municipal solid waste disposed of in a landfill.

The fee increases average out to an additional half-a-cent for every 10 pounds of garbage deposited in a landfill. We believe this is a small price to pay to help keep our drinking water safe to drink, our air clean to breathe, and our rivers and lakes clean enough to fish and swim.

These fee increases also will shift millions of dollars of pressure each year off of the general revenue fund, freeing up precious GRF dollars for schools, health care, and other vital services.

### **Ohio EPA projects harm to clean air, land, and water as well as to economic development with out sufficient revenue**

It is hard to overstate the importance of these fee increases, especially the proposed \$1 per ton fee increase on municipal solid waste.

The Ohio EPA has compiled a series of analyses (attached) that project the impact of the Ohio Senate-passed version of the Budget Bill and, specifically, the Ohio Senate’s rejection of the waste fee. The OEPA documents project deep funding cuts that will take a serious toll on the agency’s ability to safeguard safe drinking water, protect rivers and lakes, and control air pollution as well as a significant slowdown in processing of air and water pollution control permits and a resulting negative impact to economic development.

According to its analyses, without the revenue from the waste fee increase, the Ohio EPA will have to slash funding and eliminate staffing for drinking water protection by \$3.3 Million and by 10 full-time equivalent (FTE) positions, respectively; for clean surface water protection by \$5.4 million and 45 FTE; and for air pollution control by \$10.4 million and 51 FTE.

According to the analyses, these deep cuts will negatively impact the ability of the Ohio EPA to safeguard safe drinking water, protect rivers and lakes, and control air pollution, causing:

- reduced oversight of public drinking water systems, potentially resulting in the loss of primary enforcement authority for the federal Safe Drinking Water Act;
- slowed ability to ensure safe streams, lakes, and drinking water, such as the Ohio EPA ‘s recent microcystin toxin advisory in Grand lake St. Mary’s in western Ohio;
- the elimination of Ohio’s fish consumption advisory program, which provides information on wild-caught fish that may be contaminated with toxins, such as mercury;
- the scuttling and return to the USEPA of a permitting program (NPDES) designed to protect human health, recreation, and drinking water from bacteria and pollutants;
- a backlog in the timely processing of water and air pollution control permits, delaying new construction and development;
- fewer inspections of industrial facilities for air pollution;
- elimination of the ability to conduct specialized monitoring studies, such as studies to evaluate airborne toxics and potential impacts to human health;
- elimination of state oversight of federal Superfund sites and federal lead cleanups;
- far fewer criminal investigations of potential hazardous waste violations

Included in the Ohio EPA analyses is this specific projection:

“Ohio EPA will not be able to ensure compliance with drinking water regulations and more drinking water systems will face enforcement, many of which will have to be referred to U.S. EPA for enforcement. Ohioans will not have the same assurances of receiving safe drinking water.”

NOTE: The Ohio Environmental Council also strongly supports the proposed fee increase on state “tipping” fees for construction and demolition debris (CD&D) to help fund Ohio EPA’s air pollution control program as well as ODNR soil and water conservation efforts.

### **State Scenic Rivers program at risk of circling the drain**

For the ODNR State Scenic Rivers program, the choice is equally stark.

As you know, the Ohio House approved a proposal by the Ohio Department of Natural Resources, which calls for canoe and kayak owners and livery owners to pick up the bulk of the program’s \$550,000 annual cost through increased registration fees on non-motorized boats. The Ohio Senate rejected the plan, leaving the program with only an estimated \$78,000 per year in revenue from the sale of Scenic River license plates.

The ODNR proposal calls for transferring the program from the General Revenue Fund to boat registration fees paid by paddlers. Under the plan, canoe and kayak owners would pay an additional \$5 every three years (\$1.67/year) in registration fees; livery owners would pay \$1.50 more per boat, per year. This equate to less than the cost of a gallon of gas per boat. ODNR estimates the fee increase would generate \$165,000 in state fiscal year 2010 (July 1, 2010 – June 30, 2011).

The projected fee income together with other revenue sources, including a projected \$365,000 in existing registration fees on non-motorized boats, are expected to total \$787,000 for FY 2010—more than enough to cover the \$550,000 annual funding request budget. (See Slide 26 of the power point presentation posted at <http://ohiodnr.com/watercraft/Current%20Events/tabid/3164/Default.aspx>.) The \$550,000 annual program cost would amount to less than 3% of total annual expenditures by the Ohio Division of Watercraft—on a program that would directly benefit canoe and kayak owners, which account for almost 20% of all registered watercraft in the state.

By rejecting the fees proposal, the Ohio Senate’s version of the new state budget would leave the Scenic Rivers program with insufficient revenue to fund the its seven full-time river managers and five part-time stream quality monitors. Ohio DNR officials have warned that losing the Scenic Rivers program could mean the loss of:

- river access;
- public areas along these rivers;
- protection of the state’s most pristine river systems that feed many of the state’s most popular boating lakes and reservoirs; and
- an opportunity to support paddle-sports, the fastest-growing boating activity.

Approval of the funding proposal is all the more urgent in the wake of Gov. Ted Strickland's modified budget proposal, announced last Friday. The Governor called for deep cuts to GRF-dependent agencies, including the ODNR, to balance the new two-year state operating budget. In his original budget unveiled in February, the Governor requested \$236 million in GRF for ODNR in the new two-year budget. Last Friday, he called for \$34 million less in GRF, a 15% cut. The Scenic Rivers program currently is in ODNR's Division of Natural Areas and Preserves. The Governor's new budget proposal calls for reducing GRF funding for DNAP by 26% in the first year and by 100% in the second year of the new biennium.

The primary users of State Scenic Rivers are canoeists and kayakers. Paddlers represent the fastest growing group of boaters in Ohio. The number of registered canoes and kayaks in Ohio increased from 60,065 in 2003 to 80,640 in 2008—a 34% increase. Almost one of every five of the 416,942 registered boats in Ohio is a canoe or kayak.

According to a study of the Little Miami River sponsored by Rivers Unlimited, commerce attributable to anglers and paddlers, including traffic through canoe liveries along the river, add an estimated \$8 million to the local economy.

Simply put, without the registration fees, the State Scenic Rivers program will literally be homeless and all but penniless.

We believe that the proposed fee increase (\$1.67 a year for individual canoe and kayak owners and by \$1.50 a year for livery owners) is a small price to pay to help keep Ohio's Scenic Rivers Program going. Bottom line: Without the canoe and kayak fee increase, there will be no more Scenic Rivers program. Period.

### **Coal Extraction Fee will better enable ODNR to keep watch on coal mining**

Today's stricter laws require that coal operators successfully return mined areas to their pre-mining land uses or better land uses. But staffing levels for Ohio DNR regulatory oversight of coal mining have not kept pace with the significant expansion of regulatory responsibilities from recent legislation, including House Bill 443 (126<sup>th</sup> G.A.).

The Ohio House approved but the Ohio Senate rejected a proposed new fee of \$0.08 fee per ton of coal production. According to ODNR, the fee would replace GRF funding and would cover additional staff and other administrative costs for coal enforcement operations that formerly were funded through the GRF. The Office of Budget and Management estimates that the coal extraction fee would generate approximately \$1.2 million in revenue that previously would have been provided through the GRF.

Consider the following fact: The total value of 22 million tons of coal mined in Ohio in 2007 was \$655 million. The proposed Operating Budget for the next biennium asks the coal industry to pick up an additional \$1.2 million in each of the next two fiscal years for regulatory oversight. This represents less than 2/10ths of one percent (0.0018) of the coal production value for 2007. The Ohio EPA has moved almost complete off of the GRF. With the exception of E-Check (which, in the current biennium, is funded by the GRF), the Ohio EPA draws no funds from the GRF; it is entirely supported by fees and federal funds. It is appropriate to ask other regulated industries to shoulder more of the financial burden of the cost of regulatory oversight of their impacts to air, land, and water resources.

The coal industry profits from mining coal in Ohio. The coal industry can and should bear a greater share of the cost of regulatory oversight by the ODNR. The OEC strongly supports the ODNR's call for the mining industry to bear a greater share of these costs.

### **Governor's June 19, 2009 proposal makes fee revenue all the more urgent**

As you know, Governor Strickland proposed a modified budget proposal for the new biennium on June 19, 2009 that calls for deep cuts to GRF-dependent agencies, including the Ohio Department of Natural Resources, to balance the new two-year state operating budget.

In his original budget unveiled in February, the Governor requested \$236.1 million in GRF for ODNR in the new two-year budget. On June 19, the Governor called for \$34 million less in GRF for ODNR, a 15% overall cut, including:

- 26% cut in FY 2010 and 100% in FY 2011 for the Division of Natural Areas and Preserves;
- 29% cut in FY 2010 and 100% in FY 2011 for Division of Geological Survey;
- 26% cut over the biennium in Soil and Water Districts;
- 18% cut for Division of Soil and Water Conservation;
- 18% cut for Division of Forestry; and
- 11% cut for Division of Parks and Recreation.

We are deeply concerned about the impacts that these proposed cuts will have on state and local soil and water conservation efforts and on ODNR's ability to fulfill its public trust responsibility to care for our state parks, nature preserves, and forests. (See the attached draft documents from ODNR that were prepared before the Governor's June 19, 2009 announcement.) The proposed fee increases and the resultant revenue they will make available for environmental protection, the Scenic Rivers Program, and coal mining oversight along with the increased pressure that is building on the General Revenue Fund are, obviously, all the more urgent.

### **Conclusion**

We respectfully urge the Ohio House of Representatives to hold firm in its approval of the proposed fee increases on landfill waste, canoe and kayak registrations, and coal extraction. Without the revenue from these fee increases, protection of the air, land, and soil and water resources will be compromised, Ohio's Scenic Rivers program will all but dry up, and oversight of coal mining will be hobbled. Thank you for considering our perspective.