



Ohio Environmental Council

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TO: President Bill Harris and Minority Leader Capri Cafaro, Ohio Senate
Speaker Jon Husted and Minority Leader Joyce Beatty, Ohio House
FROM: Jack Shaner, Deputy Director, Ohio Environmental Council
DATE: Monday, December 8, 2008
SUBJECT: Clean Water Protection Rollbacks – Ohio Senate Bill 386

President Harris, Speaker Husted, and Minority Leaders Cafaro and Beatty:

We want you to know that Senate Bill 386 poses fundamental and far-reaching rollbacks of long-standing Ohio laws that protect surface and ground water and aquatic wildlife. If passed, Senate Bill 386 (As Introduced) will:

1. Repeal a key law that mandates that surface waters and the public's use of them must be maintained and not be degraded. This could allow high-quality headwater streams to be permanently filled, wiping out wildlife habitat and depriving the public from fishing and recreating in these streams. NOTE: This proposed law change applies to all industry permits that require a Federal Clean Water Act Section 401 Certificate, not just coal mining permits.
2. Exempt coal waste disposal from Ohio's entire Water Pollution Control Act, instead of the existing, limited exemption from only three sections of the Act. This potentially could allow coal combustion byproducts—waste material that can be laced with toxics, such as arsenic, mercury, and cadmium—to be disposed of in reclaimed mine land, rather than in landfills with liners that are engineered to protect groundwater from contamination, as is required by current law.
3. Transfer the authority to rule on appeals of water quality permits and related state orders involving coal-mining from the Environmental Review Appeals Commission to the Reclamation Commission. The industry-cozy Reclamation Commission has built a dubious reputation for imbalanced rulings that undercut ODNr mining regulators. In its 2003-2004 Executive Budget, the Taft Administration actually proposed to abolish the Reclamation Commission and replace it with the Environmental Review Appeals Commission.

We are stunned that the General Assembly would consider a rollback of Ohio's clean water laws. Perhaps this is a drafting error. We can only speculate that the vast majority of General Assembly members are not aware of the profound weakening of clean water laws proposed by this legislation. Given that the Senate first held hearings on the bill only last week and the House has yet to hold a hearing on the bill, this is quite possible. We respectfully but vigorously urge you to set aside Senate Bill 386 in its present form.

Sincerely,

Jack Shaner

Footnotes:

- 1 See proposed amendment to O.R.C. Sec. 6111.30, page 82, lines 2533-2535 of Senate Bill 386 (As Introduced).
- 2 See proposed amendment to O.R.C. Sec. 1513.02, page 4, lines 90-91 of Senate Bill 386 (As Introduced).
- 3 See proposed amendments to O.R.C. Sec. 1513.52, page 42, lines 1297-1300; O.R.C. Sec. 1513.53, page 44, lines 1357-1360; and O.R.C. Sec. 1513.55, page 50, lines 1534-1537) of Senate Bill 386 (As Introduced).