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Dear Attorney-General Yost and Prosecutors Blackburn, O'Malley, Tyack, Bates, Gains, Thompson, Vigluicci, Zartman and Dobson:

We are writing to demand prosecutorial action against the criminal use of brine from oil and gas extraction operations ("O&G brine") as a road deicer and dust suppressant. O&G brine has been sprayed for years on Ohio's roads under a patchwork of supposed legal authorities that ignore the profound radioactivity of such drilling wastes. Typically O&G brine in Ohio contains elevated levels of Radium-226, Radium-228 and Thorium-232, as well as their decay products. Radioisotopes exist in brine from both vertical, as well as horizontal drilling activities and in all extraction waste fluids.

Presently, House Bill 282 and Senate Bill 171 are pending in the General Assembly, entitled "To enact section 1509.228 of the Revised Code to establish conditions and requirements for the sale of brine from oil or gas operations as a commodity and to exempt that commodity from requirements otherwise applicable to brine." (Copy attached). The bill is refreshingly candid in that it proposes to classify radioactive O&G brine as a "commodity" and would authorize concentrations of up to 20,000 picocuries/liter of Radium-226 ("Ra-226"), and up to 2,500 picocuries/liter of Radium-228 ("Ra-228") to be sold and sprayed onto Ohio's public thoroughfares.

These concentrations of Ra-228 and Ra-226 are dangerous. Once oil and gas brine is applied to roadways, it will ultimately be washed into every surface water source in the state. The decay of Ra-226 to safe levels will take more than 11,000 years. Radium is very mobile in water and will come to pervade the water table everywhere throughout Ohio. It is misidentified by our bodies as calcium, and so would be deposited in bones and teeth, from whence it would bombard and mutate surrounding cells into cancers. Radium also binds well to clay soil and could easily be inhaled into the lungs from dust particles once the brine has dried on the roads.

Even without HB 282 and SB 171, the ongoing use by the State of Ohio and private companies of radioactive brine sprayed on the highways completes the crime of poisoning under Ohio law, which is a first-degree felony. O.R.C. § 2927.24 (B)(1) makes it a crime to “knowingly place a . . . radioactive substance . . . in a spring, well, reservoir, or public water supply, if the person knows or has reason to know that the . . . water may be ingested or used by another person.” It is inevitable that road deicer will make its way into “public water supplies” like Lake Erie and the Ohio River and many lesser surface and underground water sources, either directly through road and storm drains or indirectly through soil migration into major drinking water sources.

Revised Code § 2927.24(B)(2) makes it a crime to “knowingly leave in any public place, or knowingly expose one or more persons to any . . . radioactive substance with the intent to cause, or create a risk of, death or serious physical harm to any person.” “Public place” surely includes public roadways. Section 2927.24(B)(3)(c) defines “radioactive substance” as “[a]ny substance or item that releases or is designed to release radiation or radioactivity at a level dangerous to human life.” O.R.C. § 2927.24(E)(1) makes this first-degree felony punishable by 3 to 11 years’ imprisonment. If, however, the contamination offense involves enough radioactive substance sufficient to cause death if ingested or used by a person, or to cause serious physical harm, the violator “shall be imprisoned for life with parole eligibility after serving fifteen years of imprisonment.”

There is no “commodity” or “beneficial use” exception to this criminal statute. The knowing, reckless spraying of radioactive O&G brine on the roads that contains hundreds or thousands of times background levels of some radioisotopes, which is sure to contaminate surface waters everywhere, *is* poisoning. Brine spraying is a series of unprosecuted crimes.

And so the undersigned citizens of Ohio demand that you, as law enforcement officers of Ohio, take immediate steps to convene grand juries both for purposes of investigating the past and present use of oil and gas brine, and to explore whether there should be prosecution of those who are engaged in its production, distribution, sale and application as roadway deicers and dust suppressants on Ohio’s public roads.

Thank you.

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