



Citizens Coal Council

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October 15, 2013

To: Citizens Advisory Council (CAC), PA DEP

Re: Citizens Coal Council Public Comments on Act 54

Council Members,

I would like to thank you for allowing me to speak. My name is Aimee Erickson and I am the Executive Director of the Citizens Coal Council, a national network of individuals and groups that advocate for the full enforcement of the federal Surface Mining Control and Reclamation Act and its delegated state programs. The mission of the Citizens Coal Council is to inform, empower and work for and with communities affected by the mining, processing and use of coal.

On October 9, 1990 the Pennsylvania Coal Association (PCA) gave testimony to the PA House of Representatives' Conservation Committee regarding H.B. 2514 referred to as the Deep Mine Mediation Bill. The PCA starts off by stating that the goal of the Deep Mine Mediation Project was to determine whether a consensus could be reached between industry and non-industry groups to ease restrictions on coal mining and to improve the law on surface impacts. The Association further explains that the bill cannot be classified as an industry proposal, because it enhances surface owner protection.

The product of the Deep Mining Mediation Project was H.B. 2514, which supposedly offer a so-called "balanced" and equitable solution to both the need for unimpeded coal extraction and surface protection.

The objective of H.B. 2514 was to leave the surface in a condition comparable to or better than pre-mining conditions by requiring operators to either repair damages or to compensate the owner for damages. The PCA touts that under the bill's provisions impacts to land, structures and water can be fairly and successfully addressed. The Association also claims that H.B. 2514 does not give underground coal operators the right to mine beneath anything and everything in their path. Further, claims are made that as a matter of corporate and community responsibility, the PCA members do not operate in disregard of the surface owner.

The Deep Mine Mediation Project participants determined that prevention of subsidence damage was a structural damage standard, not an environmental protection one, and that the hydrologic balance requirements under state and federal law may be adequate to ensure protection of water resources, if **properly implemented**.

To alleviate concerns regarding water resources and to gain necessary knowledge on the long-term impacts of underground mining on water resources, the participants mandated that the Department of Natural Resources (PADEP) collect and analyze data generated by mining activity.

Now, let's fast forward to the age of reality.

***Mission:** To inform, empower and work for and with communities affected by the mining, processing and use of coal.*

***Purpose:** The Citizens Coal Council is a national network that advocates for full enforcement of the federal Surface Mining Control and Reclamation Act (SMCRA) and its delegated state programs.*

When the 1st Act 54 five-year report was released the CAC questioned whether Act 54 properly balanced surface owner rights against the mineral owner rights.

Concerns brought up by the CAC after reviewing the 2nd Act 54 five-year Report was that the lack of adequate baseline information prevents any meaningful analysis of impacts. Noted concern was the lack of information on the cumulative regional impacts.

Again, the CAC brought up concerns with the 3rd five-year Act 54 Report and the lack of assessing the cumulative impacts and trends, particularly the lack of assessment of the cumulative hydrological impacts related to deep mining.

The Citizens Coal Council (CCC) commissioned Schmid & Co. to do an analysis of the 3rd five-year Act 54 Report and what they found was that longwall mining was disproportionately responsible for impacts to:

100% of the streams, 95% of the land, and 94% of the structures.

CCC is aware of at least six streams that have been permanently dewatered and an additional 30 streams that have been severely impacted from longwall mining activity.

I can guess that if you ask the PADEP how many miles of streams have been materially damaged from longwall mining activity in southwestern Pennsylvania, they could not answer the question. Wasn't assessing impacts to our water resources the key purpose of the five-year Act 54 reports?

It has been the coal industry's position that because they contracted agreements with some previous owners of property generations ago, they have a constitutionally protected legal right to conduct mining operations in a way that will destroy homes, properties and more importantly our water resources.

Pennsylvania should have a strong public interest in preventing this type of environmental harm.

Virtually every provision of Act 54 has shown to raise serious questions of interpretation, and critical value and legal issues. The problems with Act 54 are so extensive that it serves no purpose to use the current bill as a basis for reform.

Citizens Coal Council and our Pennsylvania members thank the CAC for listing Act 54 as a priority for the last two years and we are requesting that it remain a priority until a law is implemented that will not allow the "break it now and fix it later" mentality to continue while our water resources are permanently destroyed.

Kind regards,

Aimee Erickson
Executive Director