

COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

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OFFICE OF ENVIRONMENTAL JUSTICE  
LISTENING SESSION

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BEFORE: CARL JONES, JR., ESQUIRE, Director  
PATRICK MCDONNELL, Secretary  
JOHN BRAKEALL, Regional Coordinator  
ROBERT PITCAVAGE, Local Government Liaison  
COLLEEN CONNOLLY, Community Relations  
Coordinator

HEARING: Thursday, May 11, 2017  
5:13 p.m.

LOCATION: Allentown Public Library  
Community Room  
1210 Hamilton Street  
Allentown, PA 18102

**ORIGINAL**

Reporter: Joshua Lee Hess

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MS. CONNOLLY: Can you go to the website address just for a minute?

ATTORNEY JONES: The website address or the email address?

MS. CONNOLLY: Whatever was on the last slide at the bottom that I wanted to write down.

ATTORNEY JONES: The --- the email address is dep.oelj@pa.gov. That is our email address that you can send comments to as well - also on the back of the brochure.

MS. CONNOLLY: I did not know that. My bad.

MR. MCDONNELL: So we'll use the sign-in sheet to go through people that'd like to make verbal testimony. If you did not sign in, you'll also be able to provide verbal testimony if you decide to. We just ask that you wait until we go through the list.

First on the list is Lisa White.

MS. WHITE: That's me.

MR. MCDONNELL: Step on up and here's the microphone.

MS. WHITE: I basically live way out

1 over the mountain and live around gas wells. And  
2 some of our neighbors are - we're just kind of  
3 talking about the concerns with the environment since  
4 we're so close into it, with air emissions and stuff.

5 So I'm just basically here just to get  
6 a general idea of what the safety is and what, you  
7 know, you guys are doing with it.

8 That's pretty much it for right now.

9 MR. MCDONNELL: Next on the list is  
10 Russel Zerbo.

11 MR. ZERBO: Hello. I'm Russell Zerbo.  
12 I live in Philadelphia, Pennsylvania. I work for the  
13 Clean Air Council, which is a public health nonprofit  
14 dedicated to protecting everyone's right to breathe  
15 clean air. I've done - I have met some great people  
16 in this area, Allentown, Northampton - starting to  
17 try and work more in Carbon County and Schuylkill  
18 County is what I'm --- talk a little bit about that.

19 And I want to mention I was at the -  
20 the Chester EJ Advisory Board hearing a couple years  
21 ago and gave testimony not that different from what  
22 I'm about to give now. So I would ask that you sort  
23 of look at that and think about that again. And a  
24 lot of the issues - still the same.

25 And I will start by thanking you all

1 for being here. And to your credit, one of the more  
2 important campaigns that I've ever worked on, trying  
3 to --- Northampton Generating Company a few years ago  
4 applied to increase their lead limit in Northampton,  
5 PA, just north of here. And I found it in the PA  
6 Bulletin. And I emailed some people. And some great  
7 people started responding to me. And we got a public  
8 hearing.

9                   And we found out that a lot of their -  
10 there were a lot of children in this community around  
11 this power plant that were on the autism spectrum.  
12 And we found that lead is actually a possible  
13 contributor for that, especially if you're pregnant  
14 or very, very young, and that was really scary.

15                   And there's a lot of information that  
16 you can find about how particularly these coal waste  
17 power, of which Pennsylvania has 14 out of the  
18 county's 18, every single one of them is in an area  
19 where within three miles at least 20 percent of the  
20 surrounding population lives under the poverty line.  
21 Panther Creek in Nesquehoning, PA, 43 percent of  
22 residents within a three mile radius live under the  
23 poverty line.

24                   And recently I found a petition to  
25 average emissions between Westwood and Panther Creek

1 which is really troubling to me because that could  
2 result in an impoverished area being sort of averaged  
3 out for nitrogen oxide emissions.

4                   And before I wrap up, I brought a list  
5 of --- and seven out of eight of Pennsylvania's coal  
6 plants are in areas that should be designated as EJ,  
7 but because EJ does not --- EJ goes along a census  
8 track rather than a radii of the pollution source.  
9 And I would hazard to say that if you did it - if you  
10 found the worst pollution sources in PA, coal and  
11 waste coal power plants, and you draw radii around  
12 them, that that 800 or so EJ areas would be much  
13 larger --- be much, much larger.

14                   And just to really quick wrap up with  
15 a few statistics, the bottom 20 percent of workers  
16 spend roughly 10 percent of their income on energy.  
17 And the Census Bureau found that 11.2 million  
18 Americans are driven into poverty annually by medical  
19 expenses.

20                   And I would say that the lead,  
21 mercury, and other heavy metals emitted by coal waste  
22 power plants have real health effects like autism  
23 that have real monetary price tags.

24                   Coal waste power plants also emit  
25 carbon dioxide at higher rates than normal coal power

1 plants which are kind of seen as the most carbon  
2 intensive sources. Coal waste power plants are much  
3 higher than that because it's mostly dirt that you're  
4 burning. And that drives extreme weather that  
5 results in exorbitant electric bills as well as the  
6 costs recovering from floods. And just having flood  
7 insurance in general is increasingly becoming a major  
8 cost for people.

9                   So I just want to highlight that these  
10 coal plants, coal waste power plants, are not sources  
11 of wealth in Pennsylvania if you live around one.  
12 And Pennsylvania exports a third of the electricity  
13 that it generates. And these power plants produce a  
14 miniscule amount of electricity, far less than that  
15 one-third that Pennsylvania exports. So to say that  
16 these power plants are necessary or keeping the  
17 lights on I think is completely wrong. And if you  
18 just look at the economics of people living around  
19 these plants, it's not - it's not good.

20                   But I thank you for being here and  
21 above all I would urge you to try to expand beyond  
22 the census track model. Because all a census track  
23 is is a place where 8,000 people are. If you look at  
24 the federal definition of it, it's not like a voting  
25 district where you're trying to have a representative

1 amount of people that's admitted by the Census Bureau  
2 as being sort of arbitrary.

3 Thank you.

4 MR. MCDONNELL: Thank you.

5 Next on the list is Jim Birdsall.

6 MR. BIRDSALL: Thank you.

7 Not knowing exactly what to expect  
8 this evening, I'd like to first say that I'm here on  
9 behalf of myself as a citizen. I have not been  
10 authorized by Lehigh National Heritage Corridor to  
11 appear on their behalf. But as a Board member with  
12 the D&L, I have been exposed to different things over  
13 the last three years with regard to permitting  
14 processing. And then maybe later on if there's  
15 another opportunity, I'd like back on and raise some  
16 of the issues that I have identified over my career  
17 as a civil engineer in Lehigh County, Pennsylvania.

18 But focusing first on the Delaware and  
19 Lehigh recent history, the Delaware and Lehigh  
20 National Heritage Corridor is a nonprofit group that  
21 helps communities maintain and identify problems  
22 along the Delaware Canal and the Lehigh Canal, and  
23 also extending a trail up to the Wilkes Barre area so  
24 that there is one continuous corridor of recreational  
25 opportunities for the residents of this part of

1 Pennsylvania.

2                   The important part about the meeting  
3 today is that a lot of that trail goes through urban  
4 area, areas of low income, areas of adverse race  
5 ethnicity. And it's one of the few recreation and  
6 open space opportunities that are very, very close to  
7 those individuals within walking distance or within  
8 biking distance.

9                   And our D&L Board has and is setting  
10 additional goals to be more inclusive with regard to  
11 our outreach to low income and diverse race  
12 individuals to attract them not only to be  
13 participating in the use of the facility, but also  
14 maintenance.

15                   Through the landscaping program, I'm  
16 sure you're aware that there's a great outreach for  
17 gardening and planting and vegetables and education  
18 of the younger folks in the urban communities and  
19 outside of urban communities with regard to planting  
20 and vegetation and raising your own food.

21                   Getting back to the areas of my  
22 concern for this evening, the permitting process for  
23 improvements along the trail or maintenance along the  
24 trail is very complicated because it involves  
25 waterways, a canal. It involves historic structures,

1 the canal structures. It involves sometimes flood  
2 plain encroachment into the flood borders of the  
3 Delaware or the Lehigh.

4                   And one regulation upon another, in  
5 addition to soil erosion control, obligations that we  
6 have create a kind of a pyramid of permitting and  
7 engineering work that has to be done even for some of  
8 the smallest projects. And we certainly all  
9 understand that the larger projects need to be  
10 identified and treated with very high level of care.  
11 But the smaller projects, if they fit into a certain  
12 mold, it would be good to better identify small  
13 projects that can be handled locally on a  
14 standardized permit.

15                   We already are aware, of course, of  
16 the national general permits and the Pennsylvania  
17 general permits that we have available to us. But  
18 even those take quite a bit of paperwork. And some  
19 of the experience we've had over the years in  
20 Freemansburg with a blowout along the flood plain,  
21 the cost of the permitting and the time consumption  
22 of the permitting, it approaches a pretty significant  
23 portion of the overall cost.

24                   I'll step down, but I'll ask to come  
25 back later. Thank you.

1                   MR. MCDONNELL: Absolutely. Thank  
2 you.

3                   Does that include everyone on our  
4 list? Is there anybody else that'd like to speak at  
5 this time?

6                   Could you please say your name?

7                   MR. BRILL: Sure. Am I supposed to  
8 use this or - my name is Eli Brill. I'm actually a  
9 member of the -.

10                  COURT REPORTER: What was the last  
11 name? Can you spell it?

12                  MR. BRILL: Brill. B as in boy,  
13 R-I-L-L.

14                  And I'm a current member of the  
15 Environmental Justice Advisory Board, so I apologize.  
16 I already get a voice with DEP, and I apologize for  
17 taking up time.

18                  But the one issue I thought it might  
19 be helpful to address, as I was sitting here, was  
20 that while we often talk about environmental justice  
21 in the context of permitting new facilities or  
22 modified facilities, one of my interests has always  
23 been the other areas of environmental justice,  
24 whether it's enforcement or funding, or grants, or  
25 some of those other areas.

1                   And in that regard, one of the big  
2 developments that happened recently in Pennsylvania  
3 was that there was a very large settlement with  
4 Volkswagen regarding their fraudulent use of defeat  
5 devices and emission controls. And my understanding  
6 is there's a large trust that exists that  
7 Pennsylvania is administering where those monies  
8 could go to retrofit diesel engines and other air  
9 pollution sources in communities. And I think that  
10 money should be directed towards environmental  
11 justice communities that tend to bear the impacts of  
12 diesel pollution.

13                   A lot of time - this money is use it  
14 or lose it, and it would be great if - I don't know  
15 if DEP is allowed to do it - but it would be great if  
16 DEP could help facilitate, you know, communities of  
17 color and low income communities to help them apply  
18 for the money and get the grants where it could do  
19 the most good.

20                   Thank you.

21                   MR. MCDONNELL: Is there anybody else  
22 that'd like to speak?

23                   Okay.

24                   Anybody that would like to speak  
25 additionally out of the people that did speak? I

1 know you mentioned you'd like to come back.

2 MR. BIRDSALL: I pretty much  
3 summarized already what I was trying to say. I do  
4 have some material to hand in that summarizes what I  
5 mentioned, but also attaches some standard permit  
6 ideas that were discussed back in 1990 - in 2004.

7 Switching gears altogether, with my  
8 experience as someone living in Pennsylvania for the  
9 last 40 years, first of all, I'd like to thank the  
10 DEP especially with recognizing such areas here. And  
11 the overall approach the DEP has taken to public  
12 outreach, I think you've done a fantastic job. We,  
13 over the years, have representing Lower Saucon  
14 Township and still do where we are post municipal  
15 township engineers for the landfill in lower Saucon  
16 Township outside of the city of Bethlehem.

17 The response to post community  
18 concerns has been wonderful and continues to be.  
19 There's another meeting coming up later this month.

20 But in particular, you've opened up  
21 your ears to the citizens that live nearby to a  
22 potential major pollution source. And whether that's  
23 - fits in the category of environmental justice or  
24 not, I'm not sure whether Steel City is in that ring  
25 or Freemansburg is in that ring.

1                   But these are folks that don't  
2 necessarily have the ability to speak for themselves,  
3 and they look to the township and they look to the  
4 DEP to stand up for some of the concerns that they  
5 have. And it's been very much appreciated.

6                   On the other side, and I won't mention  
7 any municipalities as I don't want to get anybody in  
8 trouble, but we've worked with Act 537 plans over the  
9 years. And sometimes we've reached a point in an Act  
10 537 plan where the - the implementation of what would  
11 normally be a highly desirable improvement with  
12 regard to pollution control and public safety becomes  
13 so overburdened with expense now that grants and  
14 loans and low interest loans have been cut back and  
15 back and back, it's very difficult for a community  
16 and a township to get to a point where their plan  
17 feasibility, financial feasibility, is impossible to  
18 meet.

19                   And in many cases, now that sewers are  
20 providing most of the highly dense public areas, the  
21 areas that are left to be served by public sewer in  
22 high density areas are also low income. And those  
23 folks can't afford the user rates that you would  
24 really need to provide the - the service that's  
25 necessary.

1                   So I know we need to follow  
2 regulations but when we get to that stage, and if DEP  
3 can see that a project is not financially feasible,  
4 if there can be delays or waivers or grants of  
5 extensions of time until funding can be set up -  
6 sometimes these take many, many years.

7                   And DEP needs to work with these low  
8 income communities to recognize that just fining them  
9 or penalizing them or having them before the  
10 Environmental Hearing Board is not helpful.

11                   Thank you.

12                   MR. MCDONNELL: Thank you.

13                   Is there anybody else that would like  
14 to speak?

15                   Would you like to speak? Yeah.

16                   MR. ZERBO: Thank you, sir.

17                   I appreciate all the leniency and  
18 openness here. And I hesitate to even bring this up  
19 because it is a legislative issue that is outside of  
20 your purview, but there are two Pennsylvania policies  
21 that institutionalize environmental injustice. And  
22 one of them is very recent.

23                   There is a ten million dollar a year  
24 coal refuse tax credit that was recently put in the  
25 PA budget. So where the same people that are damaged

1 by the heavy metal pollution and carbon dioxide and  
2 the - that come out of these plants are also  
3 subsidizing them literally with their Pennsylvania  
4 taxes. And that was just a recent development.

5 For, I guess, almost the past two  
6 decades, Pennsylvania's alternative energy portfolio  
7 standard - other states have a renewable portfolio  
8 standard. Pennsylvania has an alternative energy  
9 portfolio standard. It incentivizes and you could  
10 say requires trash and coal waste incineration. You  
11 put burning municipal waste and burning coal waste on  
12 the same - it's essentially not on the same tier  
13 because it's tier two.

14 Renewable energy, actual renewable  
15 energy is tier one. But PA's tier two requirement is  
16 larger than the tier one in that alternative energy  
17 portfolio standard. Coal waste and trash burning is  
18 prioritized over wind and solar. And it's just kind  
19 of mind boggling to me.

20 But all right. Thank you.

21 MR. MCDONNELL: Thank you.

22 Anybody else?

23 ATTORNEY JONES: So as I said at the  
24 introduction of remarks, I would at the end put up  
25 our contact information. Again, if there are

1 additional comments that people would have for us,  
2 please email us, dep-oej@pa.gov. Send in your  
3 comments to us in writing.

4 I'm going to turn it back over to  
5 Secretary McDonnell to give us remarks. But thank  
6 you again for coming out this afternoon.

7 MR. MCDONNELL: Just thank you again.  
8 And I just want to reiterate one more time. For me  
9 this is the start of a process, a process that will  
10 continue to continue to make sure that we're engaged,  
11 we're interacting, we're focused on getting all of  
12 the perspective that we can into the decision-making  
13 processes at DEP. So truly, truly appreciate your  
14 time and attention tonight.

15 And as Carl said at the beginning, if  
16 you have additional comments that you want to submit  
17 through the website - treat that all exactly the same  
18 in terms of the way we're evaluating, reviewing. And  
19 expect us to be back out as we're evaluating and  
20 looking at these issues on an ongoing basis.

21 So just thank you for your time and  
22 attention tonight.

23 \* \* \* \* \*

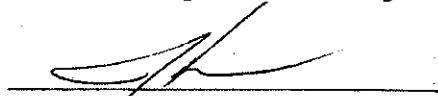
24 SESSION CONCLUDED AT 5:43 P.M.

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CERTIFICATE

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I hereby certify that the foregoing proceedings, hearing held before Director Jones was reported by me on 5/11/2017 and that I, Joshua Lee Hess, read this transcript, and that I attest that this transcript is a true and accurate record of the proceeding.



Court Reporter

Joshua Lee Hess