



CENTER FOR COALFIELD JUSTICE

P.O. Box 4023 • 31 East Chestnut Street • Washington, PA 15301 • 724.229.3550 •

www.centerforcoalfieldjustice.org • info@centerforcoalfieldjustice.org

October 13, 2025

Citizens Advisory Council
Department of Environmental Protection
Rachel Carson State Office Building,
P.O. Box 8459
Harrisburg, PA 17105

Dear Citizens Advisory Council:

On behalf of Center for Coalfield Justice (“CCJ”) and its more than 3,000 members and supporters, please accept these comments on the 2018-2022 Effects of Underground Mining in Pennsylvania 6th Report (“Act 54 Report”).

CCJ is a 501(c)(3) non-profit organization founded in 1994 by individuals organizing against the destruction caused by longwall coal mining. Since then, our mission has expanded to work on issues related to extractive industries generally in Washington and Greene Counties. The organization’s mission is to improve policy and regulations for the oversight of fossil fuel extraction and use; to educate, empower, and organize coalfield residents; and to protect public and environmental health. As such, and on behalf of our members and supporters, we are acutely aware of the subsidence-induced impacts caused by longwall coal mining and the need to address those impacts adequately. North America’s largest underground coal mine complex is located in Greene and Washington Counties.¹ The communities we serve have experienced firsthand the subsidence-induced damage to homes and other structures, water supplies, and streams described in the most recent Act 54 Report.²

Historically, CCJ would begin this comment by analyzing and comparing the previous five reports with the most recent 6th Act 54 Report. However, there has been substantial backsliding in progress here. The first Act 54 Report, released in 1999, was conducted by the Department itself. It was met with disapproval due to the argument that it lacked credibility and was not sufficiently objective. The Department responded appropriately and commissioned the second through the fifth reports to different educational institutions. Though imperfect, these reports were more conclusive and provided much deeper commentary on impacts with richer statistics. However, this most recent Act 54 Report, the 6th report, was again done internally by the Department, retaining many, if not more, of the same criticisms of the 1st report.

¹ Core Natural Resources' Pennsylvania Mining Complex is the largest producing underground coal mining operation in North America. It consists of the Bailey, Enlow Fork, and Harvey mines, along with a central preparation plant and train loadout facility. See <http://www.consolenergy.com/operations/pennsylvania-mining-complex>.

² It is important to note that the 6th report does not explicitly state where the impact happened, but rather the name of the mine where the claim stemmed from (which in some cases can span multiple counties, let alone townships). This is problematic as it does not give a good representation of where the greatest impacts are seen. Yet, per the 5th assessment period, Greene and Washington Counties had the most mining activity. See 2013-2018. Effects of Subsidence Resulting from Underground Bituminous Coal Mining in Pennsylvania Report at E-2, E-3. Found at: [https://files.dep.state.pa.us/Mining/BureauOfMiningPrograms/BMPPortalFiles/Act%2054/Act%2054%20Report%20-%205th%20\(2013-2018\).pdf](https://files.dep.state.pa.us/Mining/BureauOfMiningPrograms/BMPPortalFiles/Act%2054/Act%2054%20Report%20-%205th%20(2013-2018).pdf).

CCJ finds two very concerning examples of this. First, the drafters of the data in this Act 54 Report seem to be confused about exactly how many active mines there are during the reporting period (one account reads 31, while another reads 33). This might seem small, but one mine, let alone two active mines, can change all other metrics throughout the report. Additionally, and even more problematic, is that the 6th Act 54 Report and the 5th Act 54 Report have an eight-month overlap (January 1, 2018, to August 20, 2018). This overlap is not addressed in the Act 54 Report and thus confuses the data. These inconsistencies are severely problematic as they create redundancy, play into regulatory confusion, and blur the record of what is happening vs what is actually reported. Therefore, the statistics in the Act 54 Report must be viewed cautiously.

It is essential to consider this argument of backsliding in the light of these two statements: First, looking at the mission statement for the Department:

The Department of Environmental Protection's mission is to protect Pennsylvania's air, land, and water from pollution and to provide for the health and safety of its citizens through a cleaner environment. We will work as partners with individuals, organizations, governments, and businesses to prevent pollution and restore our natural resources.³

Second, a quote from our Attorney General's office, originating from the 43rd Statewide Investigation Grand Jury Report:

If we ignore history, we're bound to repeat our mistakes. That is why we are issuing this Report. We've been here before in Pennsylvania. First, we allowed the timber in our Commonwealth to be plundered. Then it was our coal. Now it's shale. Other industries will certainly come our way, for some new natural resource to exploit. This is the time to learn our lesson for the future: who will bear the inevitable risks? We say it should be those who exploit the resources, not those who live among them. That means letting industry pay the price of harm reduction and letting the government take the time to get it right before we hand over the keys. And for the present, let us at least do all we can to catch up.⁴

The tone set by these two statements speaks to the intent and drive that our public servants, elected officials, and the people who hold positions of power all have for this Commonwealth. They create a narrative "north star" to ensure that protections for the residents and environment are in place and enforced. That operators are not placed on a pedestal, and the residents and environment of this Commonwealth are treated as second thoughts. Yet, we know that the smallest act of consideration is worth much more than the grandest intentions. In action, it appears that the comments and suggestions made about past Act 54 reports have fallen on deaf ears. The fact that the Department has moved back to the original, problematic reporting method is evidence of this. Again, historic comments and requests have been made to further the Department's mission statement. Extra steps should be taken, more monitoring and data collection should be made, and those who depend on, live amongst, recreate, and just enjoy our natural resources should be heard to preserve that right as a resident of the Commonwealth.

Structure and Water Supply Impacts

It is critical to note immediately that changes in mining activity influenced the magnitude of subsidence impacts observed during the 6th assessment period. While the number of active mines dropped from 49 to 31, the acres of coal mined have decreased by only 12%.⁵ See Report at 18.

³ Commonwealth of Pennsylvania, About DEP, Mission Statement, found at: <https://www.pa.gov/agencies/dep/about-dep>.

⁴ Report 1 of the Forty-Third Statewide Investigation Grand Jury report, 1-102, at 10. Found at:

<https://www.attorneygeneral.gov/wp-content/uploads/2020/06/FINAL-fracking-report-w-responses-with-page-number-V2.pdf>.

⁵ Again, the Act 54 Report is unclear as to how many active mines exist in the Commonwealth during the reporting timeline.

During the 6th assessment, underground coal mining caused damage to at least 357 structures. Active longwall mines caused 77% (275) of the structural damage. *See* Report at 29. The Act 54 Report notes that the most common resolutions for company liability structure damage were “Agreement (Unspecified).” *See* Report 30-36. Another common resolution reported was that the company purchased the property.

According to the Report, 186 reported water supply impacts were from underground mining, 128 from longwall mining, and 58 from room and pillar mining. *See* Report 58. One of the more common resolutions on these claims was “Agreement (Unspecified).” *See* Report 60-86. Additionally, there were reports of the resolution of “Company Purchased Property.”

Act 54 and the Department’s underground coal mining regulations require that structures and water supplies impacted by underground coal mining be repaired or replaced. *See* 25 Pa. Code §§ 89.143a and 89.145a. But what happens when mine operators purchase properties above their underground coal mining operations to resolve subsidence impacts? In historic Act 54 Reports, there have been acknowledgments that this practice can potentially alter overlying communities adversely.⁶ (“Mine operator purchases of properties above underground mining, including purchases to resolve subsidence impacts, have the potential to adversely alter overlying communities.”) Yet this most recent Report is quiet on this issue. Instead, the Report explicitly states that it “has not focused on ‘company liability,’” an apparent deviation from historic practices.

As coal companies address subsidence impacts by purchasing property before or after mining, more people move out of the area. The homes and water supplies located on those properties may never be repaired or replaced. Again, as the Act 54 Report outlines, several of these mining issues are deemed “resolved” when the company outright purchases the property.

The 2020 Greene County Comprehensive Plan⁷ provides a better understanding of the negative impacts on the local community as previewed in the Act 54 Report. Because the Act 54 Report is so vague as to where the mining impacts are located, again by naming the mine where the impact occurred (pointed out in footnote 2), opposed to the actual Township or county, it is hard to gauge where the impacts happened. Yet, looking at this Report and the conclusions of the last two assessments, it appears that Greene County saw the most underground coal mining activity. The 2020 Greene County Comprehensive Plan recognizes that the County has experienced a decline in the overall population and an increase in the median age. *See* Comprehensive Plan at 19, 22. Greene County has also experienced a dramatic decrease in school enrollment over the last ten (10) years. “Enrollment in the five public school districts has dropped by more than 800 students, from 5,552 in 2008-09 to 4,724 in 2018-19.” *See* Comprehensive Plan at 19. Schools have been forced to close due to decreased enrollment. The Comprehensive Plan further acknowledges that the majority of people working in Greene County do not live in Greene County. Currently, 62 out of every 100 workers commute from outside the County. *See* Comprehensive Plan at 21. The Comprehensive Plan suggests that inadequate housing choice may be to blame. According to the Comprehensive Plan, the natural average annual housing vacancy rate is 6%, representing the supply of units in a given market that are not leased or occupied, allowing for housing turnover. However, the average housing vacancy rate in Greene County is much higher at 14.3%. *See* Comprehensive Plan at 23. The Comprehensive Plan explains that the remaining share of vacant housing (8.3%) is not available for sale or rent but is vacant due to needed repairs, foreclosure, or other reasons. *See* Comprehensive Plan at 23. Many vacant homes have suffered subsidence-induced damage to the dwelling or water supply and are now owned by coal mine operators. Others may be vacant because the post-mining “unspecified agreement” did not provide full compensation for the necessary repairs.⁸ *See* e.g. Act 54 Report at 30-56.

⁶ 2013-2018 Effects of Subsidence Resulting from Underground Bituminous Coal Mining in Pennsylvania Report, at 11-12.

⁷ <https://greencountypa.gov/resources/37409>.

⁸ Landowners and coal operators almost always disagree about the “reasonable cost” of repair or replacement during post-mining negotiations. *See* 25 Pa. Code § 89.143a. Coal operators often underestimate the cost of repair or replacement.

The purpose of Bituminous Mine Subsidence and Land Conservation Act (commonly known as “Act 54”) is “to enhance the value of such lands for taxation, to aid in the preservation of surface water drainage and public and private water supplies, to provide for the restoration or replacement of water supplies affected by underground mining, to provide for the restoration or replacement of or compensation for surface structures damaged by underground mining and generally to improve the use and enjoyment of such lands[.]” 52 P.S. § 1406.2. The Pennsylvania General Assembly acknowledged that the prevention or restoration of damage from mine subsidence is related to Pennsylvania's economic future and well-being. 52 P.S. § 1406.3.

The Act 54 Report covering 2018-2022 reveals that subsidence-induced damage is commonly resolved through unspecified agreements and that a substantial portion of subsidence impacts to structures and water supplies are resolved through the company's purchase of the impacted property. The 2020 Greene County Comprehensive Plan reveals that the County has seen a decline in the overall population, an increase in the median age, a dramatic decrease in school enrollment, and an increase in blighted land properties. The connection between these growing systemic issues in Greene County and the land purchasing practices of subsidence remediation is clear. Considering the Act 54 Report and the 2020 Greene County Comprehensive Plan, we believe the Department can do more to ensure that the goals of Act 54 are met.⁹

Accordingly, we ask that the Citizens Advisory Council recommend that the Department issue enforceable orders for repairing or replacing water supplies and structures when the company is found liable for the impact. At the very least, these orders will help to level the playing field during negotiations between property owners and mine operators. Many landowners do not want to leave their homes or accept a less-than-adequate monetary agreement to perform the repairs themselves. However, when the Department does not get involved until a year or more after subsidence damage occurs, many landowners are exhausted, frustrated, and desperate to return to their lives. Alternatively, we ask that the Citizen Advisory Council recommend that the Department require underground coal mine operators to submit status updates for impacted properties every six months. The Department should use these routine status updates to proactively identify properties where the Department's intervention would help resolve subsidence damage claims promptly and adequately.

Effects of Mining on Streams

During the last assessment period, the Environmental Hearing Board (“Board”) issued an adjudication in the consolidated appeal of Permit Revision Nos. 180 and 189 of CMAP No. 30841316. *Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB 799. These permits allowed Consol Pennsylvania Coal Company¹⁰ to conduct longwall mining in the 1L-5L panels of the Bailey Mine (“Bailey Lower East Expansion”). The Board's adjudication was issued in August 2017. However, after receiving that opinion and having CCJ present this argument to both the Citizens Advisory Council and the Department in our last Act 54 Comments, the Department's implementation of that decision is not fully reflected in the Act 54 report covering 2018-2022. Again, it shows the lack of concern for receiving valid feedback and implementing it to best serve the Commonwealth.

Section 86.37(a)(3) – No Presumptive Evidence of Potential Pollution

To receive a permit, an underground mine operator has the burden to demonstrate, inter alia, that there is “no presumptive evidence of potential pollution of the waters of the Commonwealth.” 25 Pa. Code § 86.37(a)(3). Prior to the Board's decision in *Center for Coalfield Justice and Sierra Club v. DEP*, the Department believed that “temporary” subsidence-induced impacts to streams were acceptable so long as the operator submitted a post-mining mitigation plan.¹¹ The

⁹ We are not suggesting that underground coal mining is solely responsible for these community impacts. However, it certainly plays a substantial role.

¹⁰ Now known as CORE Natural Resources.

¹¹ See e.g. 2014-072-B Tr. 506:18-21 (Department interprets “maintain the existing and designated uses” as maintain the uses post-restoration; 519:13-520:3 (“it was anticipated that there would be impacts to the streams”); 588:14 – 589:13 (timing of subsidence

Department read the surface water protection regulations in an unprecedented narrow manner to only preclude the permanent elimination of a stream. As a practical matter, the difference between “temporary” and “permanent” impact was subjective at best. Streams to the west of the Bailey Lower East Expansion were undermined in 2004-2005 by the 1L – 4L panels of the Bailey Mine. In December 2012, the Department sent a letter stating that the undermined streams had not recovered from the effects of underground mining activities at the Bailey Mine and that the Department was unaware of any additional efforts Consol could be required to take to remediate the affected streams. The Department later said that its December 2012 letter was (still) not a final determination.

Regardless, such an interpretation ignores the plain language of the Department’s water quality and mining regulations and the objective of the Clean Streams Law, which is to protect stream uses from impairment.¹² Unfortunately, the Department issued underground coal mining permits based on the belief that a mitigation plan authorized predicted subsidence-induced flow loss that necessitated disruptive post-mining stream remediation. A promise to perform repairs is not enough. *See e.g. Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB 799, 845-846, 865; *UMCO*, 2006 EHB at 570 (“UMCO places great weight on the fact that its mitigation plan is adequate...If it is known in advance that things will go bad, the permit cannot be issued in the first place. The fact that the Department requires deep mining permit applicants to describe how they will repair streams if they are damaged does not mean it is acceptable to damage streams. Stream mitigation plans are designed to address unanticipated damage, not to excuse or approve damage in advance.”).¹³

The Board ruled that the Department must evaluate the “scope and duration” of the anticipated impacts to the streams, which includes any impact resulting from the proposed post-mining stream mitigation measures. *Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB at 845-846, 865. “Pollution, as that term is used in 25 Pa. Code § 86.37(a)(3), is properly thought of as a question of impairment.” *Id.* at 844. To determine whether the proposed underground longwall mining will comply with Section 86.37(a)(3), the Department must examine whether the anticipated impacts will “result in impermissible impairment of the streams because of the impacts, either as a result of the scope of the impacts, the duration of the impacts or some combination of those two, rise to a level that the streams cannot meet their designated use.” *Id.* at 845-846. If, during the permit review, the Department concludes that a coal operator’s mining activity will impair overlying streams, then the Department should deny the requested permit because the operator will have failed to demonstrate that there is “no presumptive evidence of potential pollution” as required by the regulation. *Id.* at 844-845.

Article I, Section 27

Article I, Section 27 of the Pennsylvania Constitution, otherwise known as the Environmental Rights Amendment, grants the people of the Commonwealth two distinct rights. *Pa. Env’tl. Def. Found. v. Commonwealth*, 161 A.3d 911, 931 (Pa. 2017) (“PEDF”). The first “inherent and indefeasible” right guarantees “clean air, pure water, and the preservation of the natural scenic, historic and esthetic values of the environment.” *Id.* The second grants common ownership to “all the people” of “Pennsylvania’s public natural resources.” *Id.* The final clause of the Environmental Rights Amendment creates a trust designating the Commonwealth and all of its subdivisions as the trustee, the natural resources of the Commonwealth composing the trust res, and all the people and future generations as the beneficiaries. *Id.*

induced stream impacts does not matter and mitigation is most important); 1008:3-25; 1435:6 – 1436:12; 1437:19 – 1438:4; 1446:3- 14; 1550:6-20 (“effects can be predicted or expected; however, the necessary stream mitigation plans must be in place to ensure that the stream does return to its existing uses or previous, pre-mining uses”); 1636:2 – 1637:17.

¹² *See* 35 P.S. §§ 691.1, 691.4, 691.401, 691.402, 691.601, 691.611; 52 P.S. § 1406.9a(d); *Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB 799; *P.U.S.H. v. DEP*, 789 A.2d 319 (Pa. Cmwlth 2004); *UMCO v. DEP*, 2006 EHB 557-58; *Oley Township v. DEP*, 1996 EHB 1098; *Crum Creek Neighbors v. DEP*, 2009 EHB 566-567.

¹³ By way of analogy, the Department will not permit a mine when it is predicted in advance that such activities will cause acid mine discharges. “The mine does not become permittable because an operator promises in advance to treat the discharges[.]” *UMCO*, 2006 EHB at 570; *P.U.S.H. v. DEP*, 1999 EHB at 559 (applying 25 Pa. Code § 86.37(a)(3) to analysis of deep mining discharges).

The Commonwealth's duties as a trustee require the conservation and maintenance of the corpus of the trust—the public natural resources of the Commonwealth. *Id.* at 932 (quoting *Robinson Twp. v. Commonwealth*, 83 A.3d 901, 956–57 (Pa. 2013)). Notably, the trust corpus includes the streams overlying underground coal mining operations. *Friends of Lackawanna v. DEP*, 2017 EHB 1123, 1162. “The plain meaning of the terms conserve and maintain implicates a duty to prevent and remedy the degradation, diminution, or depletion of our public natural resources.” *PEDF*, 161 A.3d at 932. The Commonwealth has a further duty to “act toward the corpus of the trust . . . with prudence, loyalty, and impartiality.” *Id.* Put more simply, the Commonwealth must act to conserve and maintain public natural resources in a prudent, loyal, and impartial manner. The Board has explicitly adopted the holding and reasoning in *PDEF*. See *Friends of Lackawanna*, 2017 EHB at 1160–61; *Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB 799, 854–56.

Private trust principles, not the public trust doctrine, govern the fiduciary duties imposed on the Commonwealth as trustee. *Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB at 933 n. 26. “Under Pennsylvania trust law, the duty of prudence requires a trustee to exercise such care and skill as a man of ordinary prudence would exercise in dealing with his own property.” *Id.* at 932 (quoting *In re Mendenhall*, 398 A.2d 951, 953 (Pa. 1979)). But “if the trustee has greater skill than that of a man of ordinary prudence, he is under a duty to exercise such skill as he has.” *Mendenhall*, 398 A.2d at 953 n. 1 (quoting Restatement (Second) of Trusts § 174 (1959)).

The trust created by the Environmental Rights Amendment imposes on the Department the duty to act with prudence in exercising its expert discretion to maintain and conserve the corpus of the trust for the benefit of all people and future generations. The Department cannot discharge its fiduciary duties by ensuring bare compliance with environmental statutes and regulations. *Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB at 860. It certainly cannot meet its duty of prudence, where its decisions are based on speculative and incomplete information.

Groundwater and Surface Water Connection

The maintenance of the groundwater and surface water connection has important implications not only for stream hydrology but also for stream biology. Stream macroinvertebrates need moist respiratory surfaces to breathe. Without such moisture, they will experience a rapid death—within 24 hours. In a natural system, they can take refuge in pools or in the hyporheic zone. However, if mining causes even these stream portions to dry up, there will be no place for them to survive.

Complete drying is rare in a natural stream system, even during low or “no flow” periods. Water can typically still be found in pools and in the sediments or the hyporheic zone. This is because in a natural system, groundwater in the underground aquifer holds water throughout the year, gradually discharging water to the stream, and providing base flow. In mined streams, however, the situation is different. Fracturing and the creation of increased pore space cause the aquifer to become depleted more quickly. The stream or stream segment can soon become completely dry because of a disruption between the groundwater recharge system and the stream. The Act 54 Report notes numerous instances of “fish kills” and pooling events which result in a “loss of oxygen, a general warming of the water ... and can prevent fish and other organisms from freely navigating the stream”. See Report at 96 and generally.

The Act 54 Report reveals that the groundwater data is severely lacking:

The current Cumulative Hydrologic Impact Assessment (CHIA) format (5600-FM-MR0017 Rev. 9/2009) does not provide an adequate assessment/reporting of potential hydrologic impacts. The Department is aware of this flaw and is working towards developing a revised CHIA template that will be more thorough and require additional consideration and reporting of potential hydrologic impacts. The new CHIA template is still under development, with a schedule of finalizing and implementing by 2025.”

Report at 125. The Department cannot evaluate the scope and duration of stream impacts without an adequate understanding of how groundwater contributes to surface water flow pre-mining and how subsidence will impact the groundwater aquifers. *See Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB at 845-846, 860. Yet, the Department continues to use a system that has not been approved by the Department Bureau of District Mining Operations and Mining Programs. *See* Report at 59. Accordingly, we ask that the Citizens Advisory Council recommend that the Department require underground coal mine operators to sample HMR groundwater monitoring points for groundwater elevation at a frequency that is at least consistent with the pre-mining and post-mining sampling of surface water. The Department must also require the replacement of groundwater monitoring equipment that is damaged or destroyed during undermining. We request that the Department use the best available technology to capture this data so it can make well-informed decisions about the work it is authorizing.

Stream Flow Sampling

The Department's pre-mining and post-mining surface flow monitoring requirements are also problematic. The flow monitoring data collected on a weekly or monthly basis will miss the quick recharge events and show a longer dry period than what occurred. Conversely, it could be taken during a recharge event and miss a significant drying period. In short, the flow data currently collected is inadequate for understanding the frequency and duration of low flow or dry periods, which prevents the Department from making informed decisions about the environmental impacts of mining on overlying streams. *See Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB at 845-846, 865. Average or median data does not tell you much about the behavior of a stream during the drier months of the year. Without any specific analysis of overlying streams to assess frequency or duration of low-flow or no-flow periods, the Department does not know when or how long stream segments experience low or no flow pre-mining. As a result, the Department cannot determine how long a dry period would be problematic post-mining. *Id.* The Department appears to make permitting decisions and stream recovery determinations based on the assumption that if there were no flow periods in the pre-mining data, any length or frequency of dry periods is acceptable post-mining because it is within the range of flow seen in the background data. This standard is untenable, does not reflect the biological or hydrological reality of streams, and presents a clear breach in the duties of the Department.

The Department cannot make an informed decision regarding the environmental effects of its actions if it does not have an adequate understanding of what those effects are or will be. *Friends of Lackawanna v. DEP*, 2017 EHB 1159-60. Likewise, the Department cannot be said to have acted with prudence when it acts on speculative or incomplete information. *Center for Coalfield Justice and Sierra Club v. DEP*, 2017 EHB at 860.

Accordingly, we ask the Citizens Advisory Council to recommend that the Department revise its pre-mining and post-mining flow monitoring requirements specified in the Stream Protection Technical Guidance Document.

Conclusion

CCJ would be willing to meet with members of the Citizens Advisory Council and the Department to discuss what more can be done to ensure coalfield communities and public natural resources are properly protected. At a minimum, the Citizens Advisory Council should recommend the following:

- The Department returns to its previous practice of commissioning Act 54 Reports to outside entities that provide more detailed and non-subjective reporting, including overlaying or duplicating reporting dates.
- The Department issues enforceable orders for repairing or replacing water supplies and structures when the company is found liable for the impact. Alternatively, the Department should require underground coal mine operators to submit status updates for impacted properties every six months. The Department should use these routine status updates to proactively identify properties where the Department's intervention would help resolve subsidence damage claims promptly and adequately.

· The Department requires underground coal mine operators to sample HMR groundwater monitoring points for groundwater elevation at a frequency that is at least consistent with the pre-mining and post-mining sampling of surface water. The Department must also require the replacement of groundwater monitoring equipment that is damaged or destroyed during undermining.

· The Department revises its pre-mining and post-mining flow monitoring requirements specified in the Stream Protection Technical Guidance Document. The flow data currently collected is inadequate for making informed decisions about the environmental impacts of mining on overlying streams.

Thank you for your consideration. If you have any questions, please contact me anytime.

Respectfully,

Ethan Story, Esq.

Advocacy Director

Center for Coalfield Justice

ethan@centerforcoalfieldjustice.org