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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PROCEDINGS

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 email address is dep.oej@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
over the mountain and live around gas wells. And some of our neighbors are - we're just kind of talking about the concerns with the environment since we're so close into it, with air emissions and stuff. So I'm just basically here just to get a general idea of what the safety is and what, you know, you guys are doing with it.

That's pretty much it for right now.

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

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

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

And I will start by thanking you all
for being here. And to your credit, one of the more important campaigns that I've ever worked on, trying to --- Northampton Generating Company a few years ago applied to increase their lead limit in Northampton, PA, just north of here. And I found it in the PA Bulletin. And I emailed some people. And some great people started responding to me. And we got a public hearing.

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

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

And recently I found a petition to average emissions between Westwood and Panther Creek
which is really troubling to me because that could result in an impoverished area being sort of averaged out for nitrogen oxide emissions.

And before I wrap up, I brought a list of --- and seven out of eight of Pennsylvania's coal plants are in areas that should be designated as EJ, but because EJ does not --- EJ goes along a census track rather than a radii of the pollution source.

And I would hazard to say that if you did it - if you found the worst pollution sources in PA, coal and waste coal power plants, and you draw radii around them, that that 800 or so EJ areas would be much larger --- be much, much larger.

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

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

Coal waste power plants also emit carbon dioxide at higher rates than normal coal power
plants which are kind of seen as the most carbon
intensive sources. Coal waste power plants are much
higher than that because it's mostly dirt that you're
burning. And that drives extreme weather that
results in exorbitant electric bills as well as the
costs recovering from floods. And just having flood
insurance in general is increasingly becoming a major
cost for people.

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

But I thank you for being here and
above all I would urge you to try to expand beyond
the census track model. Because all a census track
is is a place where 8,000 people are. If you look at
the federal definition of it, it's not like a voting
district where you're trying to have a representative
amount of people that’s admitted by the Census Bureau as being sort of arbitrary.

Thank you.

MR. MCDONNELL: Thank you.

Next on the list is Jim Birdsall.

MR. BIRDSALL: Thank you.

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

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

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

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

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

Getting back to the areas of my concern for this evening, the permitting process for improvements along the trail or maintenance along the trail is very complicated because it involves waterways, a canal. It involves historic structures,
the canal structures. It involves sometimes flood
plain encroachment into the flood borders of the
Delaware or the Lehigh.

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

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

I’ll step down, but I’ll ask to come
back later. Thank you.
MR. MCDONNELL: Absolutely. Thank you.

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

Could you please say your name?

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

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

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

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

But the one issue I thought it might be helpful to address, as I was sitting here, was that while we often talk about environmental justice in the context of permitting new facilities or modified facilities, one of my interests has always been the other areas of environmental justice, whether it's enforcement or funding, or grants, or some of those other areas.
And in that regard, one of the big developments that happened recently in Pennsylvania was that there was a very large settlement with Volkswagen regarding their fraudulent use of defeat devices and emission controls. And my understanding is there's a large trust that exists that Pennsylvania is administering where those monies could go to retrofit diesel engines and other air pollution sources in communities. And I think that money should be directed towards environmental justice communities that tend to bear the impacts of diesel pollution.

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

Thank you.

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

Okay.

Anybody that would like to speak additionally out of the people that did speak? I
know you mentioned you'd like to come back.

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

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

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

But in particular, you've opened up your ears to the citizens that live nearby to a potential major pollution source. And whether that's - fits in the category of environmental justice or not, I'm not sure whether Steel City is in that ring or Freemansburg is in that ring.
But these are folks that don't
necessarily have the ability to speak for themselves,
and they look to the township and they look to the
DEP to stand up for some of the concerns that they
have. And it's been very much appreciated.

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

And in many cases, now that sewers are
providing most of the highly dense public areas, the
areas that are left to be served by public sewer in
high density areas are also low income. And those
folks can't afford the user rates that you would
really need to provide the - the service that's
necessary.
So I know we need to follow regulations but when we get to that stage, and if DEP can see that a project is not financially feasible, if there can be delays or waivers or grants of extensions of time until funding can be set up - sometimes these take many, many years.

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

Thank you.

MR. MCDONNELL: Thank you.

Is there anybody else that would like to speak?

Would you like to speak? Yeah.

MR. ZERBO: Thank you, sir.

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

There is a ten million dollar a year coal refuse tax credit that was recently put in the PA budget. So where the same people that are damaged
by the heavy metal pollution and carbon dioxide and
the - that come out of these plants are also
subsidizing them literally with their Pennsylvania
taxes. And that was just a recent development.

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

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

But all right. Thank you.

MR. MCDONNELL: Thank you.

Anybody else?

ATTORNEY JONES: So as I said at the
introduction of remarks, I would at the end put up
our contact information. Again, if there are
additional comments that people would have for us, please email us, dep-oej@pa.gov. Send in your comments to us in writing.

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

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

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

So just thank you for your time and attention tonight.

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SESSION CONCLUDED AT 5:43 P.M.

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CERTIFICATE

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.

Joshua Lee Hess

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