

From: Kelly Finan <kellyefinan@gmail.com>
Sent: Sunday, April 9, 2017 7:37 PM
To: EP, OEJ
Subject: Listening Session in Scranton

Hello!

I'm a resident of northeastern Pennsylvania and I'd love to come to one of your Environmental Justice Listening Sessions but the nearest one (Williamsport, I think) is quite far for me and my neighbors. If you would consider hosting on in Scranton, I would be happy to attend. Our area has quite a few environmental issues that I'd like to discuss.

Thanks!

Kelly

--

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From: Gay Thistle <gaythistle@gmail.com>
Sent: Wednesday, April 12, 2017 10:00 AM
To: EP, OEJ
Cc: veronica@coalfieldjustice.org
Subject: Environmental Justice Concern for SW Pennsylvania: Water

My concerns for this area as far as environmental justice are many. I moved here 18 years ago and have lived in rural areas throughout the United States. I consider this area third world as far as preserving the environment goes. The environmental problems that I am most concerned about have to do with water and water quality and how it is adversely affected by the energy extraction industries in our area.

Specific concerns are:

1. Public drinking water quality and monitoring. We are on a public water system (SW PA Water Authority) which was put through our area of Greene County because of a large mine expansion (Consol Bailey mine). Consol did not pay for the entire project, in fact they paid less than half. The taxpayers of PA paid for this water expansion that benefited a private company. Consol would have had to provide water services to many rural households after they undermined their private water supplies. Anyway, I digress. My main concern is that I regularly get notices that my drinking water has failed tests. The failure has to do with Total Dissolved Solids levels which can be directly related to the gas extraction industries. These notices come to me after they have mediated the problem. As a result, I have stopped drinking my public water which has caused me to spend even more money on water. I would spend more money to ensure clean public water and timely (robocalls) notification if something has gone wrong. I also want more and more rigorous monitoring of my public water supply.

2. I have always been concerned about the quality of our streams and lakes (or lack of because of mining activity). Our stream quality is poor and the mining companies can still get permits to ruin even more of them. Our area holds the headwaters to the Tenmile Creek which drains into the Monongahela River which provides the water supply for many people in SW PA, including some of Pittsburgh. These waters should be held at a higher standard of preservation because of this very fact.

Thank you.

--

Gay Thistle

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Waynesburg, PA 15370

724-499-5190

From: Larry Berardi <l.berardi22@gmail.com>
Sent: Wednesday, April 12, 2017 3:48 PM
To: EP, OEJ
Cc: State Senator Scott Martin; State Senator Scott Martin
Subject: Public Comment, DEP, Clean Air and Water

Hello,

At the Department of Environmental Protection 700+ positions remain open, but hiring is almost frozen). Governor Wolf has proposed a budget equal to last years which was woefully inadequate. The CAC has written the Governor and both houses asking for discussions on the budget. Also, since about 30% of DEP funding comes from Washington, we are likely to see a large cut there as well. A lot of Washington money goes into the clean water program and will not be replaced by our legislature.

Some of the items proposed for cuts in Trump's skinny budget:

Superfund cleanups – reduced to \$0.00!

Radon monitoring and testing – reduced to \$0.00!

Chesapeake Bay clean-up – reduced to \$0.00!

Great Lakes clean-up – reduced to \$0.00!

Environmental Justice – reduced to \$0.00!

Just these cuts alone will be devastating to the environment going forward, not just in Pennsylvania.

Safe Drinking Water

This topic has been in the news a little bit, and always in a bad way. In December 2016, the EPA issued its fourth drinking water violation to Pennsylvania. They are trying to work with the DEP, but there is no possible way for the DEP to comply unless the Legislature steps in.

PA is 6th in the nation in population, 4th in the number of water systems at over 8,500.

2,000 of these are the larger community based systems, like Lancaster.

1,000 are schools, businesses & day-care centers with their own systems.

5,400 are so-called transient. Rest stops, mini-marts, gas stations, etc.

180 are bulk water bottling or bulk sales.

For maximum efficiency, each DEP trained inspector can expect to have 100 or fewer systems to inspect. Municipal systems every 3 years, the rest every 5 years. These are multi-day inspections with dozens of tests carried out on site.

Right now, because of budget cuts, each inspector has an average of 158 systems to inspect. This is an impossible workload, and it's not getting done. DEP continues to stress that they want quality, not quantity. Inspect each system properly and take the time that it deserves, I think that is the proper way to do the inspections. This is what the EPA has cited the state for, not every system is being inspected on time. The EPA can issue fines if they think the state is not trying to comply.

Answers: Right now, the DEP needs 7 inspectors to be trained and put into the field, to complete its budgeted allotment. In order to meet the EPA mandate, we would need to add 33 more! If the 30% cut in the Federal budget is enacted, it would cut 12 inspectors out of the program. As you can see this is unsustainable.

What can you do? We need the public to know what is happening. We must contact the EPA and the White House. We need letters, phone calls and emails. State legislators must act to protect their constituents.

This is a huge public safety issue, and that's before we start talking about lead issues. The DEP needs to add \$7.5 million for inspectors, before the federal budget cuts and if the DEP budget is the same as last year's. Probably more than \$10 million after. Even then, it will take a year to hire, equip and train the inspectors and get them into the field. So, for at least 18 months, some water systems are not being inspected. Is it yours? It's mostly small and rural systems, but that doesn't make it right, they deserve the same quality water as the rest of us. Why does it take so long? By law DEP must have the money in the bank before it can begin the process.

Please support increasing the DEP budget

Regards,

Lawrence Berardi

Lancaster, PA

From: justice smashing <justice4blackbears@gmail.com>
Sent: Wednesday, April 12, 2017 9:57 PM
To: EP, OEJ
Subject: help earth

we need to preserve our environment for future generations to enjoy that means, reduce carbon footprint, eliminate fracking its the only way to save our planet

From: Heather M. Makal <hmakal@gmail.com>
Sent: Thursday, April 20, 2017 9:46 PM
To: EP, OEJ
Subject: Illegal Dumping and Lack of Reclamation for Coal Lands

Good evening,

Tonight my husband and I attended the listening session in Williamsport and had a nice conversation with John Brakeall after the event. I did not take the opportunity to stand and speak at the event because it seemed my issues in Northumberland County were outside the topics of concern for Lycoming County residents. I would like to take this opportunity, however, to share with you some of the issues that impact Northumberland County, and more specifically, Coal Township.

My family and I own a small piece of property located in the village of Big Mountain. The property sits at the end of a 2 mile stretch of dirt road, known as Big Mountain Road. This is located in Coal Township, just outside the city limits of Shamokin. The two biggest issues for this area are illegal dumping activities, and lack of reclamation on the coal lands.

This first issue is one that effected us most directly. A coal operator (Ken Snyder) did some significant excavation and earth moving activities prior to 2013, with no reclamation completed. The changes he made to the landscape caused frequent and significant flooding of the dirt access road to our property. I attempted to approach Mr. Snyder directly to discuss the issue but made little progress. In November 2013 I submitted an official request to the Pottsville DEP office and they initiated an investigation, with inspector Eugene Crossley assigned to the case. Following the investigation, DEP issued Mr. Snyder a violation for failure to re-vegetate the area. There was no fine associated with this violation. (See Inspection ID 2223137 - Ken Snyder operator, Dr. Benjamin Young Mine)

Throughout 2014 I continued to follow up with Inspector Crossley and his manager Gary Latsha, as Mr. Snyder still had not made any attempt to grade the land or re-vegetate. Mr Latsha met with Mr. Snyder on 9/25/2014 to walk the property and advise him on what actions needed to be completed - which included grading and seeding. In April 2015 we had heavy rain storms which caused significant washouts of the dirt road and impeded access to our property. The flooding also caused the drainage channels along the road to become completely blocked with sediment and debris. I once again contacted the DEP office and they followed up with Mr. Snyder. Between April and June, Mr. Snyder did some grading work on the upper portion of the mined area, but no work down by the road and did not reopen the drainage channel. In May 2015 Mr. Latsha again met with Mr. Snyder to review the work that needed to be completed, which included opening the drainage channel, grading down by the road, and re-vegetation. This was the last contact I had with the DEP office. The eFacts website lists this mine site as "RECLAMATION COMPLETE" and the violation issued under Inspection ID 2223137 as CLOSED. However - no additional work has been done in this area, which can easily be verified by looking at the most recent images on Google Earth.

The second issue, at the beginning point of Big Mountain Road, a significant amount of land is owned by Reading Anthracite. The land has not actively been mined for approximately 15 years, but again, no reclamation work has taken place. The area is prone to significant illegal dumping and Reading Anthracite does not take an active role in patrolling or maintaining the land.

I feel a significant amount of frustration over the lack of regulation enforcement. There are very specific requirements regarding reclamation that must take place after mining activities occur, but in Coal Township at least, these requirements are not being met by the coal operators/owners, nor are they being enforced by DEP. I would very much appreciate more attention on this area, and what I feel is a significant ongoing issue.

Thank you for your time,

Heather Makal

hmakal@gmail.com

570-951-7777

From: Jon bogle <boglejon@comcast.net>
Sent: Friday, April 21, 2017 10:17 AM
To: EP, OEJ
Subject: Two paths diverged in Penn's Woods

Comment for Office of Environmental Justice listening tour

We made a large mistake ten years ago and now have the evidence to understand it. We had the choice between protecting a large and growing ecotourism industry which was producing significant job growth, taxes, and economic development or favoring a migratory industry, famous for boom and bust cycles, needing few employees, known for tax avoidance, and a history of environmental degradation. We, of course, chose the latter.

We have to remember that in 2008 the gas industry was going to be “a game changer” “the goose that lays the golden egg” “a generational employment asset”. We were in for a bonanza of jobs and taxes that would stretch for forty years. It was a gold rush and the gas industry entered, feeding the frenzy by spreading around money and lies.

When the gas industry began to ramp up exploration in 2008 and 2009, the state suddenly turned away from developing the PA Wilds. Looking at government studies and materials on the Wilds we find they almost always were created before 2008. I suspect abandoning the PA Wilds was a demand of the gas industry. It was at that time that the director of the Lycoming Visitors Bureau suddenly declared the PA Wilds dead.

Below are excerpts and a link to a 2010 report on the effect of the state’s PA Wilds initiative. The report depicts a sparsely populated region, with little economic opportunities, losing population, particularly among the younger segment of its population.

The bright spot was the enormous asset of the Pa Wilds. Once the Wilds were branded and began to be promoted by the state, there was an almost immediate upswing in the tourist industry.

PENNSYLVANIA WILDS INITIATIVE PROGRAM EVALUATION

Final Report Submitted To:

Pennsylvania Department of Conservation and Natural Resources

http://www.pawildscenter.org/wp-content/uploads/pdf/PA-Wilds-Initiative-Program-Evaluation_3918955573331438795144.pdf

"In 2003, Governor Edward G. Rendell established the Pennsylvania Wilds initiative to coordinate the efforts of various state agencies as well as local jurisdictions, tourism promotion agencies, economic development leaders, and the private sector to conserve the natural resources and energize the economies of the 12 counties located in the north-central region of the Commonwealth of Pennsylvania.

*The Pennsylvania Wilds region is a vast and largely rural section of the Commonwealth that is home to some of the best opportunities for outdoor recreation and wilderness adventure experiences in the eastern US. It represents some 23 percent of the Commonwealth's land area, includes over 1.6 million acres of state forest and game lands, 29 state parks, and the 513,000-acre Allegheny National Forest (see Figure 1.1 and Figure 1.2). About half of the Commonwealth's public land and Class A native trout streams, and two-thirds of state and federal natural and wild areas, are located within the Pennsylvania Wilds region.⁴ **An important objective of the Pennsylvania Wilds initiative is to brand the Pennsylvania Wilds region as a distinct entity and world class destination for outdoor recreation experiences, thus attracting tourists, creating jobs, and sustaining communities.***

*Significantly for local communities, this tourism-fueled increase in activity has led to gains in employment and earnings. **Particularly high growth rates from 2003 to 2005 coincided with the implementation of the Pennsylvania Wilds initiative, suggesting that initiative's positive contribution to tourism employment.***"

Below are two sets of current statistics from the U.S. Department of Labor Statistics. The First is the economic category of Mining and Logging. This category reports on jobs in logging, quarrying, and mining which also includes any petroleum and gas extraction. This has always been the smallest economic category. In 2004, before the fracking industry arrived, there were just 18,000 of these jobs in the state.

By 2007, when these charts start, the number of jobs had risen to 20,700 as the Marcellus industry started to ramp up. By January of 2015 gas employment topped out at 39,000 or a total gain from 2004 of 21,000 jobs which can be attributed to the gas industry. Today the Mining and Logging jobs have fallen to 23,500 or only 5,000 to 6,000 fracking jobs in the state.

Starting in 2009, Timothy Considine produced a series of papers under the seal of Pennsylvania State University which appeared to be scholarly research but were actually paid advocacy for the gas industry. In the 2011 version, Considine claimed that in 2010 gas exploration had already created nearly 140,000 jobs and predicted 216,000 jobs by 2015. This and other wild exaggerations on taxes and economic input corrupted the political process and is likely the reason why the Rendell administration decided to quietly sacrifice the Wilds.

It should be noted that Marcellus shale underlies almost all the area of the Wilds. What wasn't understood at the time is that much of this shale isn't economically viable.

U.S. Department of Labor Statistics

Series Id: SMS42000001000000001

Seasonally Adjusted

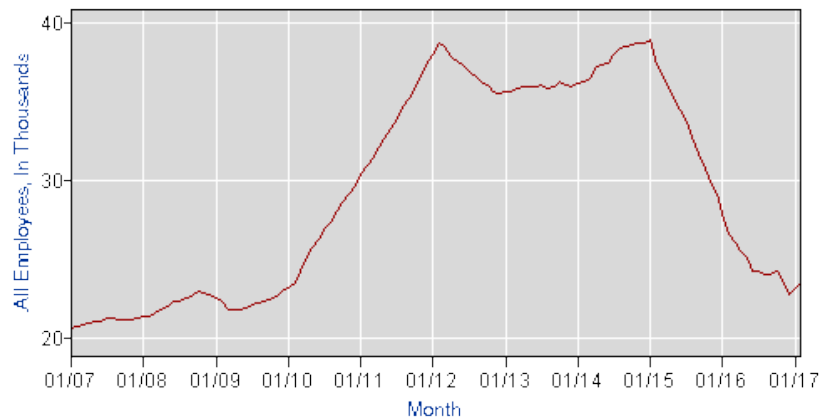
State: Pennsylvania

Area: Statewide

Supersector: Mining and Logging

Industry: Mining and Logging

Data Type: All Employees, In Thousands



Below are the ten year statistics for Leisure and Hospitality which shows a nearly straight line growth over the last seven years since the great recession bottomed out. For every job in the gas industry there are nearly a hundred jobs in Leisure and Hospitality, 571,000 verses 5,000 to 6,000.

The hospitality industry pays substantial taxes to local governments while the gas industry is exempt from paying local taxes.

Series Id: SMS42000007000000001

Seasonally Adjusted

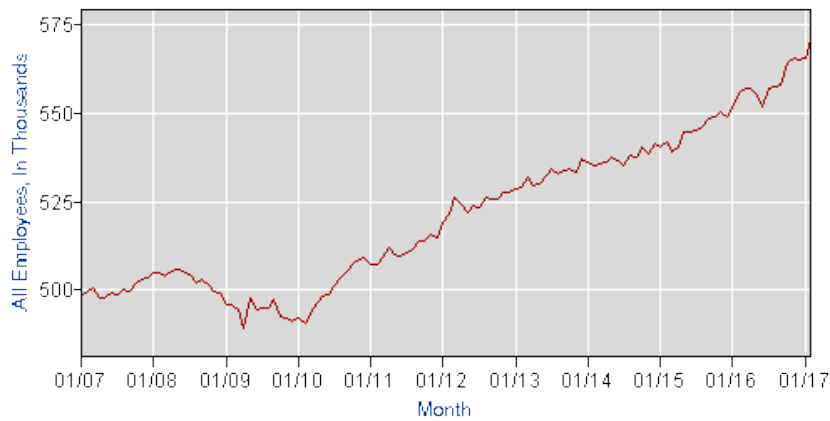
State: Pennsylvania

Area: Statewide

Supersector: Leisure and Hospitality

Industry: Leisure and Hospitality

Data Type: All Employees, In Thousands



We need to reemphasis the PA Wilds and put our region back on a path to environmentally sustainable economic development.

Jon Bogle

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From: semperexcellere@netscape.net
Sent: Friday, April 21, 2017 5:05 PM
To: EP, OEJ
Cc: SemperExcellere@netscape.net; Jones, Carl
Subject: Carl Jones, Jr., Esq. Director, Office of Environmental Justice, PA DEP:
My comments on effects of gas drilling in PA. "The people have a right to clean air, pure water, and to the preservation of the natural, scenic, historic and esthetic values of ...

P.O. Box 1356
State College, PA 16804-1356

Carl Jones, Jr., Esq. Director
Office of Environmental Justice
Pennsylvania Dept. of Environmental Protection
P.O. Box 7732

Rachel Carson State Ofce Bldg
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Harrisburg, PA 17101

(484)250-5942

Dear Mr. Jones:

Greetings from our fair Commonwealth of Pennsylvania where it is said that, 300 years ago in Penn's Woods,

"A squirrel could travel the length of the State through the tops of the trees and never touch the ground."

I hope this letter finds you and your family well and enjoying all the sights and smells and sounds of Spring.

Article I Section 27 of the Pennsylvania Constitution states:

"The people have a right to clean air, pure water,
And to the preservation of the natural, scenic, historic and esthetic values of the environment.
Pennsylvania's public natural resources are the common property of all the people,
Including generations yet to come.
As trustee of these resources,
The Commonwealth shall conserve and maintain them for the benefit of all the people."

I am also concerned the the gas industry is targeting rural PA County's with low percentages of college educated people and high rates of poverty in the same way that the chemical industry has already has by placing their chemical manufacturing plants near poor black communities along the Gulf Coast of the U.S. The residents are too poor to defend themselves while the large industries pollute the air, water and soil around them and thereby destroy the health of entire communities. It is the job and purpose of Commonwealth government through the PA DEP to prevent such environmental degradation and destruction for human health by the gas drilling industry on a massive scale.

I believe there should be a moratorium on gas drilling and hydraulic fracturing in the Commonwealth while its impacts on human health are studied until they are fully understood. I have become even more suspicious of the collusion between the gas industry and PA State government since I am no longer hearing of gas drillers being cited and fined for illegally dumping of fracturing and drilling wastes even though I believe it is still going on. In economic terms it is called "externalization of costs." Businesses misuse the natural environment as a dumping ground to save money on proper disposal of the toxic and hazardous wastes they create. The AP article expressing the opinion of the Pennsylvania Medical Society follows:

'Doctors' Group Calls For Moratorium On Fracking In Pennsylvania'

- The Associated Press (AP).

Reported in 'Marcellus Business Central,' November 2016.

"(Pennsylvania's) largest association of doctors has called for a moratorium on new shale gas drilling and hydraulic fracturing, and is urging the state to establish an independent health registry and initiate a study on its impacts on public health.

"The Pennsylvania Medical Society's 300-member House of Delegates unanimously approved a resolution calling for the fracking moratorium, registry and research at its annual meeting on Sunday.

"We do support a moratorium at this point because of questions that have been raised,' said Charles Cutler, a doctor of internal medicine and the newly elected president of the Medical Society. 'Those questions now point to the need for a registry and more science and research to give us a better understanding about whether fracking is safe and what the risk(s) (are).'

"Walter Tsou, also of Montgomery County, the author of the resolution and a nationally known consultant on public health and health care reform, noted that a similar resolution was rejected three years ago, but now, 'growing evidence has shown (fracking's) increasing deleterious effects outweigh any economic benefit.'

"The Medical Society's call for a moratorium came just a day before the release of a new study by the Yale School of Public Health that found numerous carcinogens used in fracking have the potential to contaminate the air and water of nearby communities, and increase the risk of childhood leukemia.

"Published in the journal, 'Science of the Total Environment,' the study examined more than 1,000 chemicals that may be released into the air or water by fracking and found that information on their cancer-causing potential was lacking on 80 percent of the compounds. Of the remaining 119, 55 were identified as confirmed or possible carcinogens, and 20 of those are linked to increased risk for leukemia or lymphoma."

End of AP Article:

The Pennsylvania Medical Society's decisions regarding hydraulic fracturing are consistent with my suspicions that the highly toxic fracturing chemicals have been kept secret because they are a danger to the environment and to human health. And if those toxic chemicals are sent deep into the ground under pressure they MUST come back up with the shale gas (methane). And since the fracturing chemicals are highly volatile that means they will evaporate from flow back holding ponds into the air in the summer heat and be carried on the wind and be inhaled by humans and animals and/or come back down in the rain.

Thank you for your kind and considerate attention to the above matter of no small importance in putting the long term health and safety of Pennsylvanians above short term profits that go mainly to those who do not live near the land they are leasing to gas well drillers.

Sincerely,

Tim Mullen

Timothy J. Mullen

From: Steve Naylor <snaylor@perryco.org>
Sent: Thursday, April 27, 2017 11:54 AM
To: EP, OEJ
Subject: Fw: RE; John Brakeall DEP Office of Environmental Justice email dated 26 April 2017

Comments

I'm a Perry County Commissioner and voting member on Tri County Regional Planning Commission and the HATS Coordinating and Technical Committees. Two years ago I was attempting to help get a small State bridge (Iron Bridge Rd) in western rural Perry County reopened that had been closed for a couple of years. I became aware of the "EJ" issue and thought that I might be able to use it to help the local population which included Amish residents, Amish businesses and an Amish school that were being impacted negatively. The detour caused a major transportation problem obviously due to the Amish mode of travel (horse & buggy). The detour caused motorists an extra fifteen to twenty minutes of travel time and obviously the Amish maybe four times that to get to their destination. I wasn't aware that you needed a study of income and other factors to justify EJ. I felt terrible that the Amish had to suffer the inconvenience and in my mind the discrimination because of their religious beliefs.

I won't be attending your meetings but thought I might pass this type of issue on for your consideration. You'll have my email if you need to reach me.

Thank you,

Steve Naylor Comm./Perry

From: lweimer@hgrg.org

Sent: Friday, April 28, 2017 9:13 AM

To: EP, OEJ

Subject: Listening Tour Comment

I am interested in learning the details of how the PADEP attorneys determine what documents to remove from the Oil and Gas files prior to public review. I have conducted file reviews at the Southwest regional office of Oil and Gas files and during at least one of those file reviews, I was aware that there wasn't any information provided in the file related to correspondence between the Oil and Gas company and PADEP regarding a known blow-out and no documents related to the resolution/remedy. The documents were not provided with redaction, they were just removed from the file. When I asked about the missing files, I wasn't provided any information regarding the system or guidelines utilized by the attorneys to remove these files. Nor was I provided a letter by the attorneys naming the documents removed from the file. Since I knew there was a blow-out before I conducted the file review, I knew I was missing information from the file. This makes me wonder if there are other incidents that have occurred at Oil and Gas sites that were documented but removed prior to my review. Without having a letter from the Oil and Gas attorneys listing documents removed, there is no way for the public to know if they are missing pieces of the puzzle when conducting forensics investigations related to impacts to drinking water resources near oil and gas wells. It's hard to do environmental forensics when you aren't given all the pieces to the puzzle and even worse when you don't know your missing pieces of the puzzle. My comment would be that the guidelines that the attorneys are using to remove files from the Oil and Gas files prior to review need to be provided to the public AND that a letter from the attorneys listing each document removed from the file should be written and provided to the person requesting the files.

My second comment is related to the Class II waste water disposal wells that have recently been permitted in PA, especially the one in Indiana County. If a public drinking water system has the authority to determine what activities can occur within in the area of influence to their wells SO should the landowners who rely on private wells. There should be a hydrogeological investigation conducted that determines the influence area of the private wells and the activities that occur within that area of influence should be allowed to be controlled through the authority of that township. Also, the Townships should be able to protect areas that could be developed in the future that will utilize private wells. If protect drinking water resources near these injection wells is important to the PADEP, why don't they require the companies operating these injection wells to install monitoring wells with data loggers collecting conductivity, temperature and pH AND include in the permit the initial sampling for radioactive constituents (and whenever there is a change). Monitoring for conductivity could alert the PADEP to a release to the drinking water aquifer in time to protect private water supplies. Radioactive constituents are of grave concern because you can't see, smell or taste this type of contamination; but it seems like PADEP has brushed off this concern that the public has related to an accidental release to the surface or subsurface. Instead of balancing the concerns of the public with proactive monitoring by

industry, they relying on the industry to self regulate releases. Reporting requirements for the monitoring wells with continuous collection of data via dataloggers would be a way to balance the needs of industry with the protections needed by private well owners.

Lisa Weimer

Hydro & Geological

Research Group

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From: Tracy Carluccio <tracy@delawareriverkeeper.org>
Sent: Tuesday, May 2, 2017 1:50 PM
To: EP, OEJ
Subject: Comment on PA Environmental Justice Listening Tour
Attachments: PAF_EJ_ltr4.17.pdf

To the Office of Environmental Justice

Re. Pennsylvanian Environmental Justice Listening Tour 2017

Attached please find a comment letter submitted by the steering committee of Pennsylvanians Against Fracking.

Thank you,

Tracy Carluccio

Tracy Carluccio

Deputy Director

Delaware Riverkeeper Network

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Remember the River

*To remind us all to Remember the River in every decision we make;
And to hold our elected officials accountable to do the same.*

The Honorable Patrick McDonnell
Department of Environmental Protection
Rachel Carson Office Building
P.O. Box 2063

Harrisburg, PA 17105-2063

Mr. Carl Jones
Director
DEP Office of Environmental Justice
P.O. Box 7732
Harrisburg, PA 17101

April 24, 2017

Dear Sirs,

We understand that the Department of Environmental Protection's Office of Environmental Justice is currently conducting listening sessions in nine locations across the state. While we commend you for your interest in hearing from Pennsylvanians in Environmental Justice (EJ) communities, we believe that the tour excludes many communities that should be included and are writing to ask that you expand the tour to ensure that issues of environmental justice are well understood and addressed.

At issue is that some areas where environmental and human health hazards are present have not been considered in the Environmental Justice Tour. This may be due to a combination of factors.

First, there may be additional environmental justice areas that are not identified and have not been included in Pennsylvania Department of Environmental Protection's (PADEP) mapped environmental justice areas due to the use of 2010 census block data. It could be that the 2010 data doesn't reflect current the population's racial, ethnic, and income makeup or that the population exposed is smaller than a census block.

Second, the agency's identification of Environmental Justice Areas (EJA) in Pennsylvania, as stated on the current map and PA website is:

"An EJ area is any census tract where 20 percent or more individuals live in poverty, and/or 30 percent or more of the population is minority." [1]

In Pennsylvania's Environmental Justice Work Group (EJWG) Report, however, the definition is broader.

"The EJWG defines environmental justice as the fair treatment and meaningful involvement of all people with respect to the identification of environmental issues, and the development, implementation and enforcement of environmental policies, regulations, and laws. Fair treatment means that no group of people including racial, ethnic, or socioeconomic groups, will bear a disproportionate share of the negative environmental impacts resulting from industrial, municipal, and commercial activities or from the execution of federal, state, and local programs and policies. The attainment of environmental justice requires the DEP's proactive and ongoing review of environmental and administrative programs and policies, identification of inequities, and work to assure equal consideration and protection." [2]

Furthermore, the U.S. Environmental Protection Agency's (EPA) environmental justice program is based on the founding document "Executive Order 12898", which is also referenced by Pennsylvania. The section in the order addressing research that underlies environmental justice identification is clear that human health and environmental research is key to understanding environmental justice issues. As stated:

“Environmental human health research, whenever practicable and appropriate, shall include diverse segments of the population in epidemiological and clinical studies, including segments at high risk from environmental hazards, such as minority populations, low-income populations and workers who may be exposed to substantial environmental hazards.”[3]

“...shall collect, maintain and analyze information on the race, national origin, income level, and other readily accessible and appropriate information for areas surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations, when such facilities or sites become the subject of a substantial Federal environmental administrative or judicial action. Such information shall be made available to the public, unless prohibited by law...”[4]

The Executive Order makes clear that EJ communities can, and should, be identified by working backwards from areas “surrounding facilities or sites expected to have a substantial environmental, human health, or economic effect on the surrounding populations.” Fracking, and fracking-related infrastructure, fall blatantly within these criteria.

Pennsylvanians Against Fracking asks if the environmental research and analysis has been done to locate the areas that are exposed. In terms of natural gas and oil development, there are areas that are now exposed or that have been exposed subsequent to 2010 that may have not been exposed previous to the beginning of the Marcellus Shale gas boom. Similarly, shifts in population related to industrial changes from the unprecedented volume and speed of oil and gas development activity across Pennsylvania in recent years may have shifted the demographic makeup on an area. It could also be that workers “exposed to substantial environmental hazards” were not properly considered in the mapping analysis. Also, private well water contamination, polluting air emissions, and other environmental hazards caused by oil and gas development have occurred in many places in Pennsylvania that meet the PADEP’s definition of an environmental justice area but are not large enough to surface on a census block level analysis. These areas deserve environmental justice action and should be included in the map and the Tour.

An example of an area that has been exposed to water contamination as a result of natural gas development is the Woodlands in Butler County, which is not identified as an EJA on PADEP’s map. Yet the population may very well fit the PADEP’s definition of an environmental justice area based on income or racial/ethnic metrics.

Finally, many communities in Pennsylvania have experienced a piling on of environmental impacts, either over generations of industrial exploitation, a multitude of projects supporting one polluting industry at present, or both. Approaching the issue of environmental justice by considering the demographic data outside of the context of environmental hardship, overlooks the fact that even those hovering above the poverty level may not have the resources to deal with the costs of replacing water, filtering air, and otherwise protecting their health and safety. Such expenses related to environmental issues should be taken into account in conjunction with data such as poverty rate when determining EJA communities.

The shale boom has had profound effects on communities across a state that has already seen more than its share of environmental assaults. Pennsylvanians deserve the most rigorous effort to ensure environmental justice for all. Expanding the listening tour to include areas currently left out will be an important first step toward achieving that end. 4

Respectfully,
Steering Committee of Pennsylvanians Against Fracking
Tracy Carluccio, Delaware Riverkeeper Network
Sam Bernhardt, Food & Water Watch
Diane Sipes, Marcellus Outreach Butler
Bridget Shields, Marcellus Protest
Wanda Guthrie, Thomas Merton Center.

[1]<http://www.dep.pa.gov/PublicParticipation/OfficeofEnvironmentalJustice/Pages/PA-Environmental-Justice-Areas.aspx>

[2]http://files.dep.state.pa.us/PublicParticipation/Office%20of%20Environmental%20Advocacy/EnvAdvocacyPortalFiles/2013/Environmental_Justice_Work_Group_June_2001.pdf , p. 11

[3]<https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf>, Section 3-301(a) *Human Health and Environmental Research and Analysis*.

[4]<https://www.archives.gov/files/federal-register/executive-orders/pdf/12898.pdf> Section 3–302(b) *Human Health and Environmental Data Collection and Analysis*.

From: Robert Hughes <rhughes@epcamr.org>
Sent: Thursday, May 4, 2017 1:42 PM
To: EP, OEJ
Subject: Fwd: Listening Tours to Gather Input on Environmental Justice-Comments from EPCAMR
Attachments: EPCAMRCommentstoPADEPOEJ.pdf

Subject: Listening Tours to Gather Input on Environmental Justice-Comments from EPCAMR

I'd like to submit comments to the Office of Environmental Justice electronically since none of the 9 roundtables are within a close enough proximity for me to attend personally nor are they located in Northeastern PA, where several Environmental Justice communities are located, such as Wilkes-Barre City, the City of Scranton, the City of Nanticoke, or others that are in the coal region. My comments are more directly related to our work and mission of reclaiming abandoned mines and dealing with the polluted mine water in our underserved communities that are often disenfranchised and undoubtedly disproportionately exposed to adverse environmental impacts from past mining impacts.

My comments on behalf of EPCAMR are attached in response to the Specific Questions that the PA DEP is soliciting input on.

Respectfully submitted,

Robert

--

Robert E. Hughes

Executive Director
Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR)
101 S. Main Street
Ashley, PA 18706

570-371-3523 (work)
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My profiles:   

IMPORTANT: The contents of this email and any attachments are confidential. They are intended for the named recipient(s) only. If you have received this email by mistake, please notify the sender immediately and do not disclose the contents to anyone or make copies thereof.

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Eastern PA Coalition for Abandoned Mine Reclamation



Robert E. Hughes
EPCAMR Executive Director

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Ashley, PA 18706

Phone: (570) 371-3523

rhughes@epcamr.org

Website: www.epcamr.org

May 2, 2017

Carl Jones, Director
Office of Environmental Justice

RE: EPCAMR Public Comments and Perspective within the Coalfields as a part of the State-wide Listening Tour to Gather Input on Environmental Justice

On behalf of the Eastern PA Coalition for Abandoned Mine Reclamation (EPCAMR), I would like to submit public comments and our perspective within the coalfields of Northeastern and Northcentral PA, where many of our communities have been historically disenfranchised and to this day still are and don't have access to many opportunities to participate in direct decisions to make improvements to their local environment, rivers, streams, and abandoned mine lands that were previously impacted by abandoned mines. EPCAMR is a 20 year regional non-profit organization, located in the heart of the Northern Anthracite Coalfields, in the Borough of Ashley, an environmental justice community, within the Wyoming Valley. We work with our underserved communities and school districts to provide environmental education programs, events, community cleanup projects, environmental restoration projects, and land and water remediation efforts to improve the community health and well-being of our region that have been underrepresented, underfunded, and not been prioritized strongly enough on the State level to receive the attention these communities deserve.

EPCAMR agrees that environmental justice does embody the principles that coalfield communities should not be disproportionately exposed to adverse environmental impacts, yet, we continue to live in both urban and rural communities that are surrounded by **5,597** miles of streams and **178,537** acres of abandoned mine lands across PA that are impacted by abandoned mine drainage (AMD) that render our watersheds, rivers, and streams that are affected unable to be utilized for what many communities take for granted, such as fishing, boating, swimming, industrial use, and on the water outdoor recreational uses.

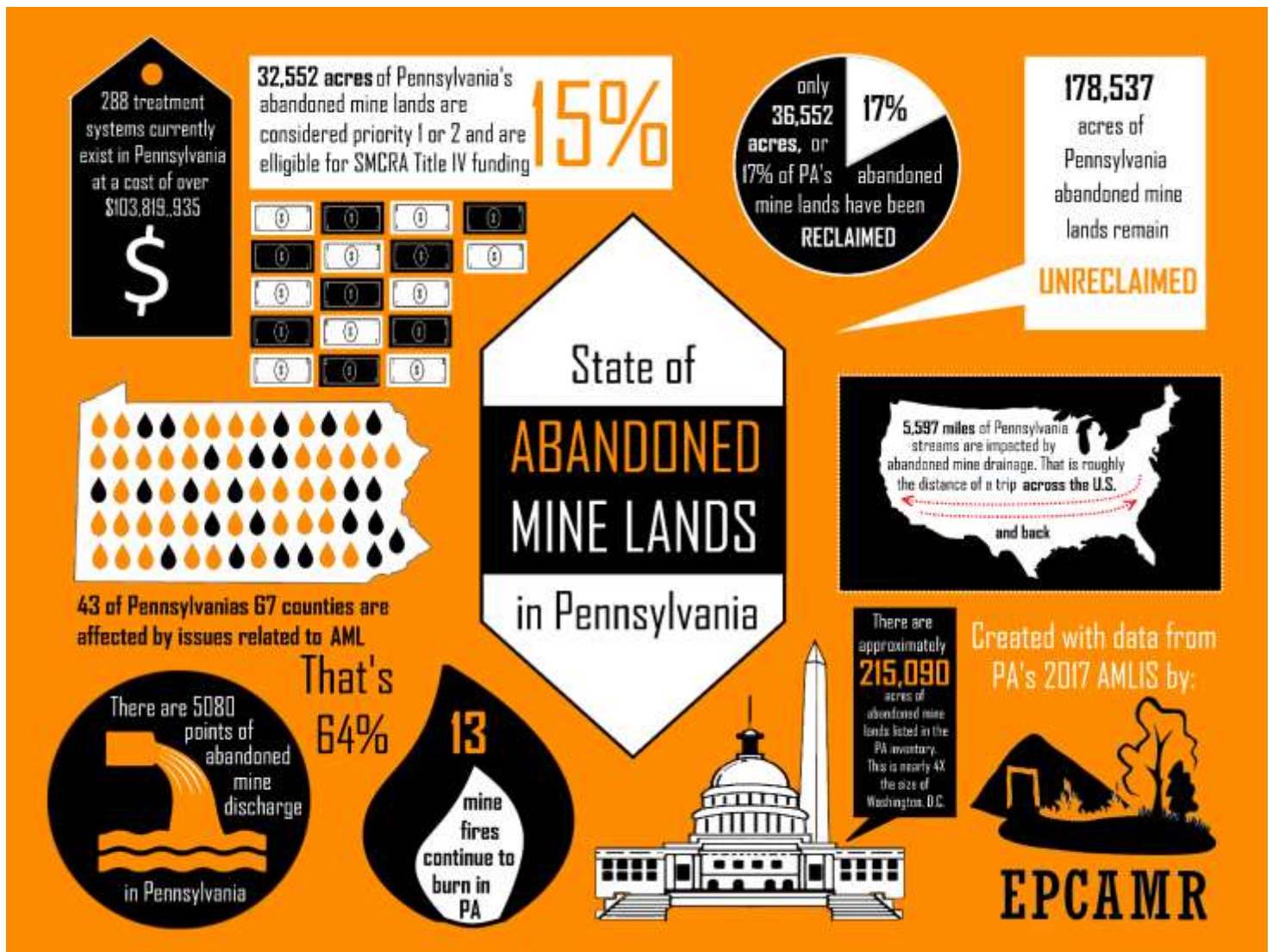
Below are our responses to your specific questions.

Specific Questions

-- *What environmental justice concerns are most pressing in your community?*

The most pressing environmental justice concerns in our community are non-point source pollution from abandoned mine lands in the form of abandoned mine drainage (AMD), the illegal dumping of household hazardous wastes, tires, trash, and drug paraphernalia on lands and along streams within the coalfield communities. Thousands of miles of streams are impacted and polluted by AMD. Thousands more are impacted by abandoned mine lands. Figure 1. was created by EPCAMR using PA's 2017 Abandoned Mine Land Inventory System (AMLIS).

Figure 1. State of Abandoned Mine Lands in PA



There is a lack of prioritization of funding under many of the State Programs for these communities. Many of the communities have designations within them under on the stream segments that on the Federal level and State Level which list them as on Federal List of Impaired Waters, making them eligible for funding, however they are not given priority, in many cases under the State's Growing Greener Grant Program, for example. Many of the stream segments and watersheds throughout NE and NC PA are also not qualified to receive additional Federal funding under the State's Set Aside Program, funded under the Surface Mining Reclamation Control & Reclamation Act's Title IV Abandoned Mine Land Trust Fund yearly allocation because they are not designated as Qualified Hydrologic Units, nor do they have Qualified Hydrologic Unit Plans developed.

Figure 2. below shows that only 5 QHU Plans have been officially developed that EPCAMR is aware of and we understand that a few more are underway in some other coalfield impacted watersheds in the Southern Anthracite Coalfields and in the Eastern Middle Anthracite Region. EPCAMR has offered to provide the technical assistance to develop these plans for approval should funding become available to allow our organization to properly assess the watersheds and stream segments to meet the criteria under the Set Aside Program. We have proposed grants to perform such technical tasks in previous grant rounds and were denied funding for the opportunity to assist the State in the much-needed development of these QHUPs. The denial of funding could have been due to limited funds available under the Program.

Figure 2. Hydrologic Unit Plans Approved Across PA (PA DEP, 2009)

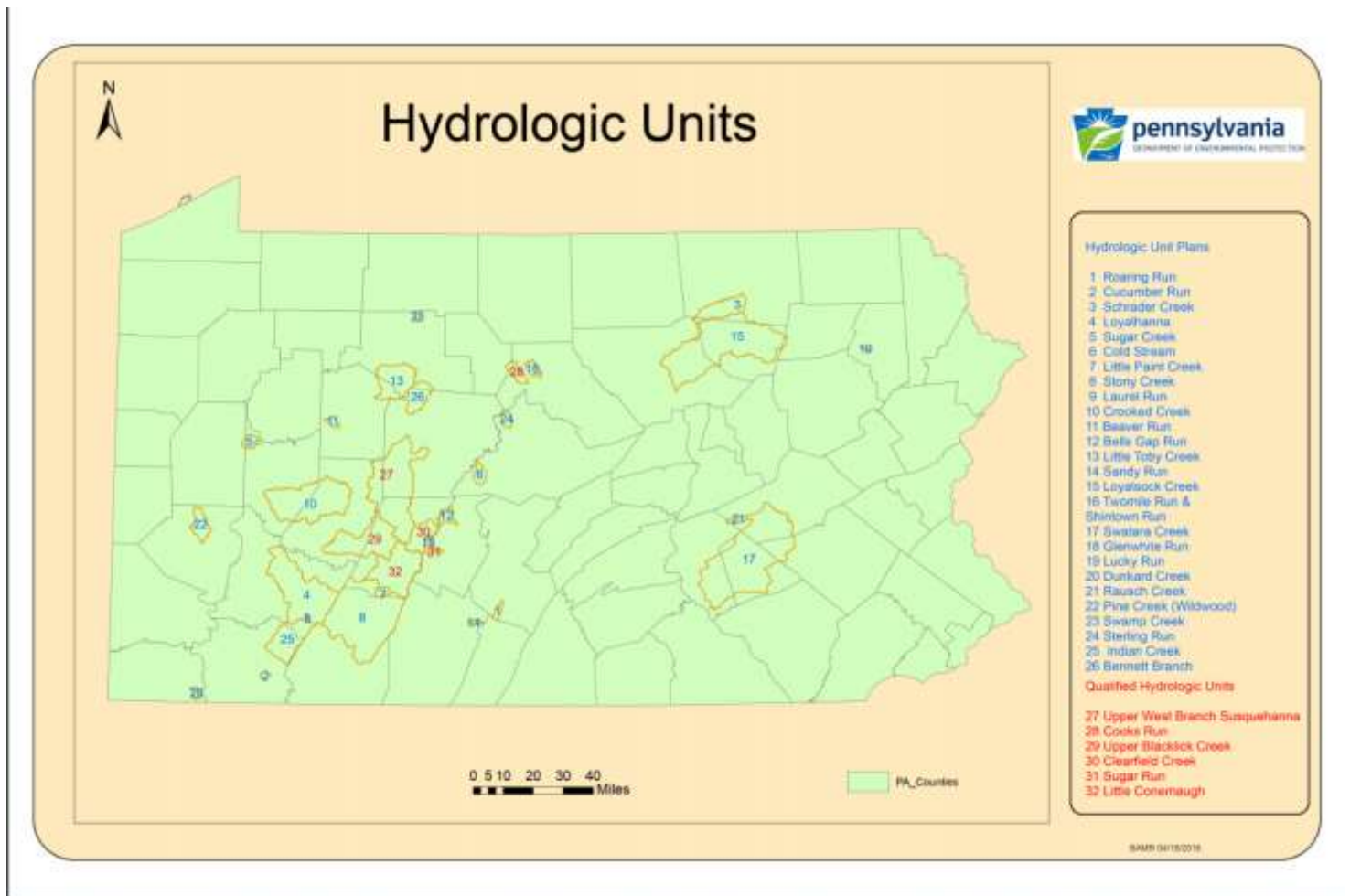


Figure 3. shows the **39** locations that are designated Environmental Justice areas within the **16** County EPCAMR Region, where only **15** political municipal sub-divisions have been designated, within **15** unified places, in **11** School Districts. ~ **19,461.50** acres of land affected within this region. These numbers are grossly underreported and EPCAMR believes that many more communities and tracts need to be added and expanded to include additional coalfield communities throughout the EPCAMR Region. There are entire watersheds that are impacted by AMD that are not included in these areas, which means that they are not getting the attention that they deserve. The impacts of AMD and water pollution do not stop at political boundaries and Census Tracts. It may be more suitable to begin looking at increasing areas of Environmental Justice to watershed boundaries that are more clearly defined and then one can review the statistics to see where the concentration of the pollution problems are located.

One will find that in certain watersheds, the headwater areas will be unimpacted, with less dense populations affected, and then as you follow the streams and tributaries down into the Valley cities and municipalities, they areas become more impacted and areas are highly concentrated with larger populations that experience the environmental justice issues. Non-profit organizations like EPCAMR are always looking to secure funding to work with these communities because often times, there are no professionally staffed environmental organizations within these communities to do the research and are trained to perform the necessary assessments, grant writing, technical reporting, and monitoring that is required to secure funds to improve the overall quality and community health of their watersheds.

Our communities also lack large community foundations and access to funds to cleanup our communities.

Figure 3. Acreage, Poverty % Statistics, County Subdivision, and Unified School Districts in the EPCAMR Region (US Census, 2010)

ACREAGE	POVERTY %	COUNTY SUBDIVISION	UNIFIED SCHOOL DISTRICTS
427.90	22.45	Carbondale city	Carbondale Area School
934.07	21.315	Carbondale city	Carbondale Area School
603.57	22.225	Forest City borough	Forest City Regional School
224.57	20.425	Nanticoke city	Greater Nanticoke Area School
591.60	20.595	Ashley borough	Hanover Area School
1764.27	20.98	Hanover township	Hanover Area School
430.56	22.95	Freeland borough	Hazleton Area School
186.17	23.07	Hazleton City	Hazleton Area School
123.59	21.89	Hazleton City	Hazleton Area School
144.99	21.95	Hazleton City	Hazleton Area School
544.572	21.74	Hazleton city	Hazleton Area School
734.68	29.05	Hazleton city	Hazleton Area School
		West Hazleton	
468.52	21.94	borough	Hazleton Area School
983.66	22.43	Lansford borough	Panther Valley School
360.96	27.58	Pottsville city	Pottsville Area School
611.75	24.71	Pottsville city	Pottsville Area School
175.66	58.52	Scranton city	Scranton School
713.54	21.95	Scranton city	Scranton School
442.79	31.80	Scranton city	Scranton School
395.39	31.54	Scranton city	Scranton School
666.44	39.32	Scranton city	Scranton School
242.65	39.29	Scranton city	Scranton School
1701.51	19.56	Scranton city	Scranton School
127.68	26.93	Scranton city	Scranton School
130.13	31.33	Scranton city	Scranton School
1996.98	24.68	Tamaqua borough	Tamaqua Area School
524.30	45.43	Wilkes-Barre city	Wilkes-Barre Area School
249.17	30.22	Wilkes-Barre city	Wilkes-Barre Area School
245.76	35.50	Wilkes-Barre city	Wilkes-Barre Area School
220.10	40.41	Wilkes-Barre city	Wilkes-Barre Area School
243.88	23.94	Wilkes-Barre city	Wilkes-Barre Area School
148.27	33.61	Wilkes-Barre city	Wilkes-Barre Area School
244.05	25.07	Wilkes-Barre city	Wilkes-Barre Area School
88.99	24.03	Wilkes-Barre city	Wilkes-Barre Area School
247.16	24.90	Wilkes-Barre city	Wilkes-Barre Area School
		Edwardsville	
763.93	24.32	borough	Wyoming Valley West School
266.53	42.25	Plymouth borough	Wyoming Valley West School
232.08	21.78	Plymouth borough	Wyoming Valley West School
259.05	20.30	Plymouth borough	Wyoming Valley West School

-- Do you feel that the current definition of an environmental justice community (20 percent poverty or 30 percent minority, or both) properly represents the needs of your community and the Commonwealth at large?

No. The definition should not define environmental justice solely by the 20% poverty rate or the 30% minority population because minority populations are not the only ones affected by environmental pollution. It should not matter what the percentage is if the pollution problem exists because the polluted lands and water don't discriminate against population segments or Census defined categories of people based on their minority or ethnic backgrounds.

-- Do you feel the Department is engaged with marginalized communities to ensure that they have a voice in the decision-making process? How can the Department be more engaged with these communities?

No. I have not seen the OEJ in our particular region of NE PA. We have many communities that are marginalized in our region and none of the listening sessions are even located in our area. EPCAMR is in an OEJ community and are not aware of any attempts to make the Borough of Ashley or a group such as ours aware of the impacts that certain projects may have on our community. We need to be able to provide easier access to the political process and be sure that our volunteers and members of the communities that we are serving are having their voice heard. We have no Regional Coordinator for the NE Region of PA. The OEJ can make our organization more aware of projects and meetings and then we can let our community groups know about them through our network to encourage more participation and local involvement. Legal ads and public notices are not often seen by the communities that we work in if they are used to notify the public about permits, nor is the Federal Register. EPCAMR is a non-profit that could benefit from the support of industries that are coming into the area that want to have a positive impact on the surrounding communities if they were able to provide donations of services, grants, a volunteer incentive program, or opportunities for partnerships on projects that will improve the environment. Notification should include community centers, electronic notices to regional non-profit groups, and municipalities.

-- What tools have you used to find out information on Department permitting/enforcement actions?

e-Facts (<http://www.ahs.dep.pa.gov/eFACTSWeb/default.aspx>). Review of Surface Mining Permits in the Pottsville or Moshannon District Mining Offices.

-- What ways can the Department be more effective at sharing information with the public?

E-mails to the public who sign up to receive notifications of permitting and enforcement actions or new projects.

-- How can the Department be more effective at receiving public input?

Provide notification to people who sign up through a website portal through the OEJ to receive additional input and notifications on public information for projects, permitting, or enforcement actions. Flyers should go to community centers and municipal buildings in the EJ areas.

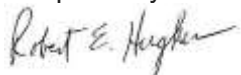
-- What resource is your community lacking that the Department can provide that would assist in efforts to ensure environmental equity?

Funding to be able to conduct outreach to the community members of the EJ areas to build capacity within the communities to allow them to have a voice.

-- What additional steps can be taken by the Department to effectively reach out to these vulnerable communities to ensure that their concerns are taken into consideration?

Provide a Regional Coordinator for the NE Region.

Respectfully submitted,



Robert E. Hughes
EPCAMR Executive Director

From: Sarah Buranskas <szb318@psu.edu>
Sent: Friday, May 5, 2017 4:56 PM
To: EP, OEJ
Cc: Marisa Manheim (marisa@growpittsburgh.org); Jonathan Burgess (jburgess@accdpa.org)
Subject: Environmental Justice Listening Tour Response
Attachments: DEPLetter_PFPC2.pdf

Good afternoon,

The Urban Agriculture Working Group of the Pittsburgh Food Policy Council submits the following comments in response to the DEP Environmental Justice listening tour. We appreciate the opportunity to comment and the hard work that has gone into this effort.

Thank you,

Sarah



Sarah Buranskas | Food Access Coordinator
Pittsburgh Food Policy Council
Energy Innovation Center
1435 Bedford Avenue, Suite A
Pittsburgh, PA 15219
T: 412-482-3463



www.pittsburghfoodpolicy.org

[@BurghFoodPolicy](https://www.facebook.com/pittsburghfoodpolicycouncil) | [facebook/pittsburghfoodpolicycouncil](https://www.facebook.com/pittsburghfoodpolicycouncil)



April 27, 2017

RE: WRITTEN TESTIMONY FOR PA DEP ENVIRONMENTAL JUSTICE LISTENING TOUR

2016 MEMBERS

412 Food Rescue
4H of Allegheny County
52nd Street Market
Allegheny County Health Dept (ACHD)
Allegheny County Conservation District
Allegheny Food Network
Allies for Children
Ballpark Farm
Black Urban Gardener's/Farmer's Coop
Borland Green
Borough of Millvale
Braddock Youth Project
Brazen Kitchen
Bridgeway Capital
California University of Pennsylvania
Carnegie Mellon University, Living Waters
Larimer
Chatham University
Children's Hospital Pittsburgh
Churchview Farm, LLC
Citiparks
City of Pittsburgh
City of Pittsburgh, Department of City Planning
Community Human Services Inc
Community Kitchen Pittsburgh
David Berg Center for Ethics and Leadership
Duquesne University
East End Food Coop
Family Farm Creameries
Farm Truck Foods
Five Elements Farm
Focus on Renewal
Friends of the East End Food Coop
Garfield Community Farm
Greater Pittsburgh Community Food Bank
Greater Pittsburgh Literacy Council
Grow Pittsburgh
Hazelwood Farm
Healcrest Urban Farm
Healthy Schools Pennsylvania
Hill District Consensus Group
Hilltop Alliance
Homewood Children's Village
Human Rights City Alliance
Juice Up 412
Junior League of Pittsburgh
Just Harvest
Kiva City Pittsburgh
Let's Move Pittsburgh
M-Powerhouse
Millvale Borough City Council
Oasis Foods
PA Association for Sustainable Ag (PASA)
Penn State Ext. of Allegheny County
Penn's Corner Farm Alliance
Phipps Conservatory Homegrown Program
Pittsburgh Chamber of Cooperatives
Pittsburgh Urban Growers Coop
PPS/Freight Farm
U of Pitt Real Food Challenge
Repair the World Pittsburgh
Reuse Central
Riverside Center for Innovation
Rolling Pepperoni
Sankofa Village Community Garden
Southwestern Pennsylvania Commission
Sto-Rox Neighborhood Health Council
Sustainable Pittsburgh
The Food Trust
Three Rivers Grown
Tobacco Free Allegheny
Trellis Legal, llc
Ujamaa Collective
United Food & Commercial Workers
Union Local 23
United Way of Allegheny County
University of Pittsburgh
Urban Innovation21
UrbanKind Institute
Western Pa Conservancy
Women for a Healthy Environment

To: Secretary Patrick McDonnell

cc: Carl Jones, Jr., Esq., Director of the Office of Environmental Justice

The Pittsburgh Food Policy Council (PFPC) appreciates the time and consideration the Department has taken to conduct a nine-stop 'listening tour' across the state, and welcomes this community-driven process that provides Pittsburgh residents the opportunity to influence decisions that affect their environment. In regards to the questions posed by the Department of Environmental Protection, we propose the following considerations, which address important connections between environmental justice and food system issues, as well as suggest ways to increase transparency in communication between the DEP and the public.

Greater detail is provided below, but to summarize our recommendations there is a need for:

- the recognition of alternative food waste options to lower landfill use;
- the preservation of farmland and review of current energy policy in light of increased industrial/energy development on agriculturally-zoned land;
- Remediation and mitigation of lead-contaminated soil as a neighborhood-level issue;
- the consideration of 'food desert' indicators in determining Environmental Justice (EJ) communities; and
- increased information and opportunities for public input and comment.

Landfills

Landfills in Pennsylvania are unsightly, unsustainable and are significant sources of pollution. Often located in low-income, Environmental Justice (EJ) communities, this affects the immediate proximity of the site and beyond the EJ designated zone.

The EPA estimates that food makes up 21.6% of discarded municipal solid waste nationwide, more than any other single material ¹. Alternatively, diverting those millions of tons of food waste from the waste stream can help feed

communities and reduce the environmental impact of landfills. How can the Office of Environmental Justice (OEJ) insert clear mandates to the Bureau of Waste Management to create these connections? A potential solution for consideration by the DEP is to create programs to encourage waste diversion, prioritizing donation of edible food and creating curbside, municipal and industrial composting. The results would be to increase access to fresh, healthy food for food insecure (EJ) communities, to create composted materials that could be made available for urban farms or gardens that already exist in EJ zones and to help reclaim brownfields and contaminated lands for healthy food production. In promoting such programs the benefit is twofold: fewer landfills produce negative health and environmental effects for surrounding communities, and the residents of EJ communities are provided valuable resources for healthy food production at no or low cost.

Increased investment in capture or composting without a coexisting effort to increase food donation might end up reducing methane emissions and diverting food out of the landfill, but not necessarily removing food from the waste stream. One possible course of action to reduce waste is for the DEP to encourage redirection of food waste to nonprofits working to end hunger. Additionally an increase in tipping fees would discourage dumping not only in Pennsylvania, but by states that bring waste into the state because of the low fees.

The DEP could also consider adopting the food waste pyramid that the EPA uses through its Sustainable Management of Food approach ². It encourages: 1. reducing the amount food waste generated, 2. Redirecting excess food to people (preferably food insecure communities) 3. Redirecting excess food to animals, 4. Using waste oils for fuel, 5. Composting and 5. Landfill/incineration.

Farmland

In Allegheny County, 33% of agriculturally zoned lands are leased for oil and gas development ³, particularly hydraulic fracturing and the related infrastructure. In addition to the documented negative health and environmental impacts of ‘fracking’, industrial development makes unavailable - sometimes permanently - land that could otherwise be used for farming.

Industrialization accounts for 21% of total U.S. greenhouse gas emissions, with leaks from natural gas production a significant contributor to these emissions ⁴. According to the EPA, “greenhouse gases from human activities are the most significant driver of observed climate change since the mid-20th century” ⁵. Climate change-related drought, flooding, and changing weather patterns are creating unpredictability in our globalized food supply with those at the lowest end of the income scale most vulnerable to the resulting price fluctuations. Local food infrastructures are a critical resiliency strategy; however, the irreplaceable loss of farmland to industrial development is imperilling efforts to

create a robust local food system in Southwest PA. A potential solution for consideration by the DEP is to work with municipalities to promote the preservation of farmland and review current policies to ensure that natural gas development (and other industrial development) that occurs on agriculturally zoned land does not inhibit future agricultural use.

Urban Soil Lead Contamination

Poor demolition practices (and the legacy of lead paint) have left behind high soil lead concentrations throughout Pittsburgh and the formerly industrial municipalities of Allegheny County. Other sources of soil lead include aerial deposition from industrial activities and from the burning of leaded gasoline. This is a pressing EJ concern as low-income and historically disenfranchised communities see higher rates of blight, improperly demolished structures, vacant land and older residential housing stock that are associated with elevated exposure risk. Studies indicate that 'resuspended lead-enriched urban soil', essentially dust from soil rich with legacy lead, is a primary contributing factor of high blood lead levels (BLL) for children that live in urban areas. High levels of atmospheric soil (dust) correspond to high levels of atmospheric lead, which is shown to rise significantly with average temperature; this rise parallels seasonal variation in child BLL, particularly among children ages 1-4. An additional social justice consideration is that children of color are about 13 times more likely to have BLL of 20 µg/dL (a BLL of 10 µg/dL was previously deemed 'safe' by the Centers for Disease Control and Prevention)⁷. Essentially, these factors suggest that the threat of elevated BLL is an environmental health issue that should take into consideration contaminated dust and soil at the neighborhood level, rather than solely contaminated paint in individual households.

Additionally, research in Pittsburgh and elsewhere has shown that lead contamination is highly variable across short distances. Gaining an accurate understanding of contamination and exposure risks, which is critical to more accurately directing resources for mitigation efforts, can require significant soil testing costs.

The lead pollution burden disproportionately affects low-income urban neighborhoods, where there is often a need to address employment and food security issues. There are several ways that DEP could assist with addressing this issue, including offering funding through incentives and grants to support community-driven soil testing projects as well as remediation and mitigation efforts using low-cost, yet effective, strategies; issuing specifications on low-cost soil remediation and lead mitigation strategies (mulch, amendments, phytoremediation, compost); providing guidance by clarifying/updating the recommended standards for the demolition of blighted structures and the restoration of abandoned land; and, prioritizing community engagement and

workforce development as components of state-funded remediation efforts.

Food desert areas

Similar to linguistic isolation, which is an indicator that the EPA uses in screening Environmental Justice communities, there are many communities in PA that are experiencing food isolation. The USDA has determined low food access communities, or 'food deserts', as census tracts where 20% of residents living at or below the federal poverty level and 33% of the population lives more than a mile from a supermarket (10 miles in rural areas)⁸. While there is overlap between EJ and food desert definitions, there is still room to incorporate a larger portion of vulnerable populations into the Environmental Justice Community designation by expanding to consider both of the 'food desert' indicators.

If the definition of EJ were to include indicators such as food access, the DEP would be able to provide necessary protections to more communities and would enable affirmative projects that have the dual impact of environmental improvement and increasing food access. One example of such a project is soil remediation, which reduces exposure to toxins and allows for safe neighborhood beautification efforts. Another opportunity is to promote the development of community food gardens, which provide environmental benefits like clean air, stormwater mitigation, reducing the heat island effect, and creating habitats, as well as improving the physical and mental health and well-being of individuals.

Communication with Communities

Based on our experience with directly engaging community members around these and other issues, we suggest that DEP use a 'Community Benefits Approach'. This approach puts the issue at hand in the context of a more immediate need facing a given community. For example, sharing information about soil contamination in the context of creating green jobs, reclaiming and remediating abandoned or contaminated properties, and increasing access to healthy and affordable food.

In sharing EJ concerns with the public, direct mailings have proven to be an effective method of communicating with low-income communities. Alternative options are billboards, particularly at bus stops and along public transit routes in these communities, or a '311'-style app that allows residents to directly send comments, questions and concerns to the DEP. The DEP could also consider connecting to the block watch network as a form of outreach.

These methods would be most effective in tandem with a community meeting structure in which meeting times, locations, and priorities are communicated far in advance. For maximum attendance and to accommodate alternative schedules, meetings should be held in the evening or on weekends, and

childcare should be offered.

Additionally, there is a recognized need for clear communication about the role of DEP (via billboards or mailings) and what specifically falls under its purview so that residents are aware of what circumstances to report. A possible way to relay this information may be providing specific examples of EJ issues that residents should report, and/or sharing stories of how reporting environmental threats resulted in tangible change.

In conclusion, we greatly value the work that DEP's Office of Environmental Justice has done to protect the rights of the most vulnerable Pennsylvanians. We submit these suggestions for consideration as you work to update the policies to continue to serve these communities and we look forward to assisting DEP in this endeavor.

We thank the DEP for the opportunity to share our ideas. Please do not hesitate to contact us with questions regarding these comments.

Sincerely,

Jon Burgess and Marisa Manheim, Co-chairs
Urban Agriculture Working Group
Pittsburgh Food Policy Council

¹“Sustainable Management of Food Basics.” United States Environmental Protection Agency, 8 March 2017, <https://www.epa.gov/sustainable-management-food/sustainable-management-food-basics>. Accessed 17 April 2017.

² “Food Recovery Hierarchy.” United States Environmental Protection Agency, 19 February 2017, <https://www.epa.gov/sustainable-management-food/food-recovery-hierarchy>. Accessed 20 April 2017.

³ “The Allegheny Lease Mapping Project: Analysis and Summaries.” FracTracker Alliance, <https://www.fractracker.org/projects/lease-mapping/analysis/>. Accessed 13 April 2017.

⁴ “Sources of Greenhouse Gas Emissions.” United States Environmental Protection Agency, 14 April 2017, <https://www.epa.gov/ghgemissions/sources-greenhouse-gas-emissions>. Accessed 22 April 2017.

⁵ “Climate Change Indicators: Greenhouse Gases.” United States Environmental Protection Agency, 22 Feb. 2017, <https://www.epa.gov/climate-indicators/greenhouse-gases>. Accessed 22 April 2017.

⁶ Filipelli, Gabriel, Laidlaw, Mark A. S., McElmurry, Shawn, Taylor, Mark and Zahran, Sammy. “Linking Source and Effect: Resuspended Soil Lead, Air Lead and Children’s Blood Lead Levels in Detroit, Michigan.” *Environ. Sci. Technol.*, 2013, 47 (6), pp 2839–2845, <http://pubs.acs.org/doi/full/10.1021/es303854c>. Accessed 26 April 2017.

⁷ Filipelli, Gabriel, and Laidlaw, Mark A.S. “Resuspension of urban soils as a persistent source of lead poisoning in children: A review and new directions”. *Applied Geochemistry*, 2008, 23 (8), pp 2021–2039, <http://www.sciencedirect.com/science/article/pii/S0883292708001832>. Accessed 26 April 2017.

⁸ “Food Desert Locator”. United States Department of Agriculture, 3 Nov. 2016, <https://www.fns.usda.gov/tags/food-desert-locator>. Accessed 17 April 2017

From: R&W Kochan <kochan@ptd.net>
Sent: Sunday, May 14, 2017 8:59 PM
To: EP, OEJ
Subject: Written Environmental Justice Concerns Submitted 5/14/17
Attachments: NYDEC Denial 4 7 17EmpirePipeline.pdf; Heavy Rain Flooding-Kochan-4-6-2017 006 for Army Corps.jpg; DEP Environmental Justice Tour Concerns5-12-17.doc
Importance: High

Hello Mr. Jones,

Attached are our environmental justice concerns in a Word document with attachments as back-up for review.

Thanks for your consideration. We will look forward to receiving the date you will be in the Wilkes-Barre/Scranton area.

Robyn & Walter Kochan
kochan@ptd.net
570-675-2873 (landline; we do not text)

<<...>>

https://www.washingtonpost.com/news/energy-environment/wp/2017/05/10/pipeline-shut-down-after-18-leaks-and-a-2-million-gallon-spill-of-drilling-materials/?utm_term=.9892348df74e#

<<...>>

<<...>>

May 14, 2017

Carl E. Jones, Jr., Esq., Director of Environmental Justice
Department of Environmental Protection
Office of Environmental Justice
2 East Main Street
Norristown PA 19401
DEP-OEJ@pa.gov

Re: PA-DEP Environmental Justice Tour Concerns

Dear Mr. Jones:

Per our few recent conversations, we are submitting our written environmental concerns since we were unable to travel to either Williamsport or Allentown. Since we are impacted landowners in Northeastern Pennsylvania (Dallas Twp.), our concerns focus on natural gas pipelines.

As you know, we think it is a great “injustice” that Northeastern Pennsylvania was not included in the Environmental “Justice” Tour, particularly when:

- It is this very area that is hardest hit by the ill-effects of fracking and natural gas pipelines;
- Dallas Twp., which is slated to become the pipeline hub of the northeast, has 40% of its population age 50+ and 14.6% of them live alone;
- The reasoning is that DEP does not have enough funding, when it can afford an office for you in both Norristown and Harrisburg.

For OEJ’s information, Northeastern Pennsylvania (NEPA) is “...older and less educated than Pennsylvania as a whole.” “Has smaller incomes and more families and children living in poverty.” The most recent census estimates Lackawanna, Luzerne and Wyoming counties have a higher than statewide average of residents aged 65+; the median annual household income in NEPA is 16% lower than the statewide household median; and 11% of families in this region are impoverished, with one in four children living in poverty which is higher than state averages.

Our Concerns about the Office of Environmental Justice (OEJ)

If DEP states “*environmental justice embodies the principles that communities and populations should not be disproportionately exposed to adverse environmental impacts,*” NEPA qualifies. By DEP’s own account, “*...minority and low-income Pennsylvanians have been forced to bear a disproportionate share of adverse environmental impacts.*”

If it is DEP’s “*duty to ensure that all Pennsylvanians, especially those that have typically been disenfranchised, are meaningfully involved in the decisions that affect their environment and that*

all communities are not unjustly and/or disproportionately burdened with adverse environmental impacts,” then NEPA was wrongfully excluded from your Environmental “Justice” Tour. Our region’s history is burdened by coal mines, and now fracking and natural gas pipelines. If you are supposedly ensuring *“that everyone has an equal seat at the table,”* and our own Governor Wolf intentionally excluded landowners from his Pipeline Infrastructure Task Force, choosing instead to stack it with oil & gas industry personnel, how is DEP’s OEJ going to rectify this? Instead of sincerely listening to our concerns and make this natural gas boon beneficial to everyone, it sounds like the OEJ is just another PR stunt that sounds good on paper.

If the OEJ *“is to ensure “that the Pennsylvanians most at risk from pollution and other environmental impacts have a voice in the decision-making process,”* how are you going to do that when landowners and communities are repeatedly told we must bear the destructive impacts from private business? Is your office going to fight the illegal abuse of eminent domain, allowing a private company who projects to make \$1million/day profit to steal our land (while we are still required to pay taxes on it)?

Exactly what is your “commitment to justice”? Exactly how are you going to help *“the DEP ensure fair treatment and meaningful involvement of all people with the development, implementation, and enforcement of environmental policies, regulation, and laws, as well as identify environmental issues that affect the most vulnerable communities”*? Excluding NEPA from your Environmental Justice Tour is not a good beginning indicator of there being much truth in the OEJ’s Mission Statement.

OEJ’s Goal to Minimize Adverse Environmental Impacts:

Yes, we are and have been vulnerable to the negative impacts of natural gas pipeline projects, yet what has the DEP done to alleviate our area from being flooded with unnecessary gas lines, our air from being polluted with increased truck traffic and especially after allowing thousands of acres of trees to be cut? Has the DEP notified neighboring landowners of the adverse affects of the natural gas pipelines? Transco/Williams has not. Has the DEP notified the community of the proposed incineration/blast zone that in my area WILL ELIMINATE MY ENTIRE STREET as well as the one and only fire station for our Township? Does the DEP see the seriousness of this issue and the injustices that we are being subjected to?

OEJ’s Goal to Empower Communities:

If OEJ is to *“ensure that all citizens are treated fairly,”* then please mandate that natural gas pipeline companies such as Transco/Williams stop bullying and intimidating landowners and communities, and actually work with them as they continually state in their propaganda. Is the OEJ going to have an effective landowner helpline to facilitate this communication? (FERC’s hotline response is “The landmen lie and we know it but we have no say in how they conduct business. You have to follow company policy which means you can’t speak with a Transco/Williams rep and have to deal with the landmen [even though we know they lie].”)

Our local Senator and Representative do not listen to impacted landowner concerns or do anything to act on our behalf. Is the OEJ going to do that since we *“have the least access to the*

political processes that affect us the most”? Hopefully, you can readily see the injustice for NEPA landowners being bullied, threatened, and our quality lives destroyed --- while no one in government is willing to take a stand for us.

Political Representation

Quite specifically, both Senator Baker and Representative Boback have been unwilling to listen to impacted landowners or to try and work with industry personnel to find better ways of accomplishing their goals while treating landowners fairly. The Representative's view is that everyone loves natural gas which is entirely untrue. Particularly when we are not to benefit, and are being forced to live 24/7 in a blast incineration zone. Hopefully, you have been reading the numerous stories of numerous pipeline leaks throughout the U.S. Hopefully, you are aware that Transco/Williams does not have a good safety record. And hopefully, you are aware of the 3 natural gas explosions in Pennsylvania last year (reportable only due to limiting criteria).

Unbiased Clearinghouse

There is a critical need, and more so for the elderly and those with limited resources for one central, unbiased clearinghouse for information on natural gas pipelines in a community. Currently, the industry stalwarts landowners, and townships either have no information or misinformation. It is egregious that landowners should have to incur unnecessary and exorbitant legal expense to defend their properties. We had to pay \$1,000 in legal costs just to obtain a copy of the planned pipeline route for our property since Transco/Williams repeatedly ignored our requests. Likewise, the OEJ could be instrumental in helping to create a baseline contract that is fair to the landowner and the industry rather than the one-sided contract the industry pushes on the uneducated, elderly, or those who cannot afford legal fees.

Impacted Landowner Assistance

It should not be a full-time job for a landowner to protect his home and land. Landowners need a central resource to assist with information on proper erosion control, maintaining water quality, trees being cut, land reclamation, etc. Our local Conservation Office is understaffed. DEP needs to mandate the oil and gas industry pay for these resources if it is sincere about protecting our environment and ensuring fairness for the disenfranchised.

For instance, for three years Transco/Williams ignored our concerns about constructing their Atlantic Sunrise pipeline (ASP) on our property. We repeatedly asked how they would mitigate damages to our property and buildings when they disrupt the natural springs and streams on our very steep side slope that feed our ponds and which already flood the state roadways in heavy rains. (It's been 2 weeks since the last heavy rains flooded our ponds, front grass and roadways and we are still unable to cut this grass because the water has not completely subsided. Photo attached. It is raining hard again now.) The OEJ should have been able to facilitate us getting a reasonable answer from Transco/Williams.

As with other impacted landowners, we had to choose between paying exorbitant legal and expert fees for eminent domain court or signing an essentially worthless contract (which

Transco/Williams has already breached). Forced into these 2 choices is a complete injustice when our home and property has been our greatest financial investment and we have been good stewards of the land, hoping to live out our lives here. We are seniors being forced to have a pipeline on our land that we do not want and told we must walk up our steep side slope during pipeline construction to ensure it is being handled properly. If you cannot readily see the injustice of this situation then you are in the wrong job.

Relieving Taxpayers from Burdens of the Natural Gas Industry

Fracking and natural gas pipeline companies are overburdening our local schools, hospitals, and emergency services while increasing truck traffic and pollution, and rapidly deteriorating our roads. They have the benefit while taxpayers have the burden. OEJ needs to mandate the industry pay for these extra expenses --- instead of Governor Wolf freely handing over the keys to the industry while taxpayers foot the bill.

Transmission Fees for Landowners

Impacted landowners have the most to lose from the natural gas pipelines. The OEJ could be instrumental in helping to change the law so that the industry would have to pay landowners a transmission fee for the natural gas running through the landowners land, particularly when the industry is profiting at least \$1million/day and the landowner is living 24/7 in a blast/incineration zone. The industry is not going to leave the state and the rich Marcellus Shale behind by having to contribute their fair share and treat landowners fairly. Unfortunately, Governor Wolf's greed helps the industry while raping and robbing impacted landowners.

Project Coordination

DEP could play a major role in making fracking and natural gas pipeline development a win/win or at least not an industry win/landowners and the environment lose situation by requiring that the industry work with DEP, landowners and affected local governments for developing the safest and least intrusive routes.

DEP must not allow extensions of permit applications that contain erroneous or missing information. Natural gas companies must be held accountable and responsible in all areas and this should begin with submitting the necessary paperwork and documentation. If they don't submit complete information by the deadline, then the permit should be denied --- no extension.

Mandated Evacuation Plans

OEJ needs to mandate an Evacuation Plan for each community that has natural gas pipelines running through it. This is probably true of areas with wells being fracked but we are directly impacted by the pipelines so that is where our stance is focused.

Public Information

DEP needs to do a better job of disseminating critical and timely information to the public, and making the best efforts to include the public. An example is contacting DEP-Northeast Regional Office a year ago to request a pipeline hearing and being told that there may be only one hearing in Harrisburg, or held regionally, and that I would have to sign-up (pay for) the PA-Bulletin to determine the location, or sign-up to receive DEP news releases. It shouldn't be that difficult to include a tab for upcoming meetings on the PA-DEP website.

As with the Environmental Justice Tour, DEP needs to be inclusive and not further burden taxpayers with travelling great distances. If cost is a burden to DEP, then DEP should be billing the natural gas industry --- not burdening the taxpayers!

Funding for Sufficient Inspectors

OEJ needs to mandate that the industry that is profiting millions from destroying Pennsylvania's land, water, and quality living, needs to reimburse the state for the salaries of those essentially-needed DEP inspectors. Since the industry has created the problem, they need to pay for our protection.

Addressing FERC

If OEJ is sincere about its goals and missions, then it needs to present Pennsylvania's environmental concerns to FERC such as Pennsylvania not having enough inspectors now to ensure quality drinking water for our citizens (as EPA told DEP December 2016).

OEJ needs to ensure that PA-DEP works with the Environmental Protection agencies of other states to address concerns to FERC, when these agencies are supposed to be protecting the public. FERC should not be approving pipelines to companies with poor safety records or when there are not enough inspectors to monitor existing let alone additional pipelines. An example is the recent 2 million gallons of drilling materials spilled and 18 leaks of the Rover natural gas pipeline in Ohio owned by Energy Transfer Partners. "The Ohio EPA has fined Energy Transfer Partners about \$400,000 and asked FERC for support. Craig Butler, the Ohio EPA director, said the company's response had been "dismissive," "exceptionally disappointing" and unlike any other response he has

seen from a company in his 27 years at the agency." (This is the same treatment impacted landowners and communities have unjustly been receiving from the pipeline companies and must STOP.) https://www.washingtonpost.com/news/energy-environment/wp/2017/05/10/pipeline-shut-down-after-18-leaks-and-a-2-million-gallon-spill-of-drilling-materials/?utm_term=.9892348df74e#

Coordination of Environmental Agencies Nationwide

State environmental protection agencies need to collectively review a U.S map of all existing and proposed pipelines and become more creative in developing better and less intrusive infrastructure.

For instance, the NYDEC truly cared about its citizens and environment by denying the Empire pipeline based on water quality standards, cumulative impacts, water supply, trout and class A wetlands, Class A,B,C streams --- all similar impacts Pennsylvania will endure from the Atlantic Sunrise which is more than twice as long. See the attached PDF NYDEC Denial 4-7-17.

Eminent Domain Abuse

It is a travesty that numerous landowners are losing the land they have cared for, and their peace of mind and quality living, so that a private company can enjoy millions of dollars in profit. The natural gas pipelines are NOT for the public good. They are not highways for "public" use.

When reading these suggestions to alleviate the gross injustices created by the natural gas industry, you may state DEP does not have the funding to accomplish the necessary requirements to keep Pennsylvania beautiful. Well, you can start by having a discussion with the Governor. Pennsylvania is rapidly becoming a very undesirable state in which to reside, largely due to the injustices stated herein.

Sincerely,

Walter & Robyn Kochan

kochan@ptd.net

Dallas, PA 18612

570-675-2873

Attachments (NYDEC Denial, article on Ohio EPA, Photo of our property flooding from heavy rain)

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Environmental Permits

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April 7, 2017

National Fuel Gas Supply Corporation and
Empire Pipeline, Inc.
6363 Main Street
Williamsville, NY 14221
Attn: Ronald Kraemer

RE: Joint Application: NYSDEC Permit Nos.:
9-9909-00123/00004 (Water Quality Certification)
9-9909-00123/00001 (Article 24 - Freshwater Wetlands)
9-9909-00123/00002 (Article 15 – Protection of Waters)
Notice of Denial

Dear Mr. Kraemer:

On April 8, 2016, New York State Department of Environmental Conservation (NYSDEC or Department) received¹ from National Fuel Gas Supply Corporation and Empire Pipeline, Inc. (collectively, NFG or Applicants) a Joint Application (Application) to obtain a Clean Water Act (CWA) Section 401² Water Quality Certification (WQC) for the proposed Project (as defined below) and New York State Environmental Conservation Law (ECL) Article 15, Title 5 (Protection of Waters) and Article 24, Title 23 (Freshwater Wetlands permits).³ Based on a thorough evaluation of the Application as well as supplemental submissions, the Department hereby provides notice to NFG that, in accordance with Title 6 New York Codes Rules and Regulations (NYCRR) Part 621, the Application fails to demonstrate compliance with New York State water quality standards. Accordingly, NFG's Application, including its request for a WQC, is denied.⁴ As required by 6 NYCRR § 621.10, a statement of NYSDEC's basis for denial is provided below.

BACKGROUND

Prior to receiving NFG's application for a certificate of public convenience and necessity for the Project pursuant to sections 7(b) and 7(c) of the Natural Gas Act (which was submitted by

¹ By letter agreement, dated January 20, 2017, the Department's Office of General Counsel and counsel for the Applicants mutually agreed that, for the purposes of review under Section 401 of the CWA, the Joint Application was deemed received by NYSDEC on April 8, 2016, "[t]hereby extending the date the NYSDEC has to make a final determination on the application until April 7, 2017."

² 33 U.S.C. § 1341.

³ NFG's remaining applications for two Air State Facility permit applications; one for the Pendleton and Portersville compressor stations, remain pending before the Department and are not discussed herein.

⁴ By this Notice of Denial, the Department also denies NFG's applications for permits pursuant to ECL Article 15 (stream disturbance) and Article 24 (freshwater wetlands disturbance) for the same reasons stated herein



Department of
Environmental
Conservation

Intent to Prepare an Environmental Assessment for the . . . Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings on October 22, 2014 (EA Notice). The Department responded to the EA Notice by letter to FERC, dated November 21, 2014, asserting, among other issues, that the Project warranted a full Environmental Impact Statement (EIS) rather than an Environmental Assessment (EA) due to its expansive scope and significant impacts to New York's environmental and natural resources.⁵ The Department reiterated this position to FERC in two additional letters on May 29, 2015 (before the issuance of the EA) and August 25, 2016 (after issuance of the EA), respectively.⁶ FERC disregarded the Department's concerns and, on February 3, 2017, issued a certificate approving construction and operation of the Project. This certificate relies upon the EA and is conditioned upon NFG first obtaining all other necessary approvals, including the WQC. Accordingly, along with other necessary approvals from the Department, the Application for a WQC pending with the Department must be approved before construction of the Project may commence. NFG's Application was reviewed by NYSDEC in accordance with ECL Article 70 (Uniform Procedures Act or UPA) and its implementing regulations at 6 NYCRR Part 621, which provide a review process for applications received by NYSDEC.

Project Description and Overview of Impacts

The project primarily consists of a new 97-mile, 24-inch, interstate transmission pipeline that would transport natural gas extracted in Pennsylvania, through Allegany, Cattaraugus and Erie Counties in New York, ultimately delivering natural gas, to New York, the Northeast and Midwest United States and Canada (Project).⁷ Construction and operation of the Project will (i) cross 192 State-regulated streams and (ii) impact a total of 73.377 acres of federal and State wetlands, of which there will be 2.335 acres of permanent impacts to NYSDEC-regulated Class I⁸ and Class II⁹ wetlands. The impacted streams and wetlands are home to a number of significant animal species, including trout (brown and rainbow) and the Eastern Hellbender, which is a State-listed species of concern; these water resources provide the necessary habitat to support their survival and propagation. The Project, as proposed, would necessarily impact these waterbodies and jeopardize their best usages that New York's water quality standards were enacted to protect.

⁵ FERC Docket No. CP15-115-000, Submittal 20141121-5254

⁶ FERC Docket No. CP15-115-000, Submittals 20150529-5329 and 20160826-5189

⁷ The Project also includes; (i) the take up and relay of approximately 4 miles of an existing 16-inch supply pipeline with a 24-inch pipeline in the Towns of Wheatfield and Pendleton in Niagara County, New York; (ii) a pipeline interconnection with Tennessee Gas Pipeline in the Town of Wales, Erie County, New York; (iii) a new 22,214 horsepower compressor station in Town of Pendleton, Niagara County; (iv) the addition of approximately 5,350 horsepower of compression at NFG's existing Porterville Compressor Station in the Town of Elma, Erie County, New York; and (v) a new natural gas dehydration facility in the Town of Wheatfield, Niagara County, New York.

⁸ Class I wetlands provide the most critical of the State's wetland benefits, reduction of which is acceptable only in the most unusual circumstances. A permit shall be issued only if it is determined that the proposed activity satisfies a compelling economic or social need that clearly and substantially outweighs the loss of or detriment to the benefits of the Class I wetland. 6 NYCRR § 663.5(e)(2). A compelling economic need implies that the proposed activity carries with it actual necessity and that the proposed activity is one which must be done and is unavoidable. [6 NYCRR 663.5(f)(4).]

⁹ Class II wetlands provide important wetland benefits, the loss of which is acceptable only in very limited circumstances. A permit shall be issued only if it is determined that the proposed activity satisfies a pressing economic or social need that clearly outweighs the loss of or detriment to the benefits of the Class II wetland. 6 NYCRR § 663.5(e)(2). A pressing economic or social need is one that is urgent and intense, although it does not have to be necessary or unavoidable. [6 NYCRR 663.5(f)(5).]

I. NYSDEC Application Review

The Department received NFG's Application to obtain a WQC pursuant to § 401 of the CWA on April 8, 2016. NFG supplemented the Application a number of times and, on January 25, 2017, the Department published a Notice of Complete Application for public review in the Environmental Notice Bulletin. NFG also had the Notice of Complete Application published in the Buffalo News, the Niagara Gazette, the Lockport Union Sun, the Olean Times, the Salamanca Press and the Wellsville Daily Reporter. This notice commenced a public comment period ending on February 24, 2017. During this time period three legislative hearings were held at different locations along the Project route. Approximately 5,700 public comments, both written and oral, were received during the comment period.

In making its determination to deny NFG's Application for a WQC and permits pursuant to ECL Articles 15 and 24, NYSDEC has reviewed the impacts directly associated with the Project proposal in terms of water body water quality, stream bed and bank disturbances, and wetlands and wetland adjacent area disturbances. The following discusses the nature of those impacts stemming from Project construction and operation. Because of these identified impacts, as well as their cumulative effect of these impacts, the Application does not demonstrate that the Project will comply with the State's water quality standards.

STATEMENT OF REASONS FOR DENIAL

The Department, in accordance with CWA § 401, is required to certify that a project meets State water quality standards if the project requires a federal agency issuing a federal license or permit in conjunction with its proposed operation. An applicant for a water quality certification must demonstrate compliance with the water quality regulations found at 6 NYCRR Section 608.9 (Water Quality Certifications). In order to make this demonstration, an applicant must show compliance with §§ 301, 302, 303, 306 and 307 of the Federal Water Pollution Control Act, as implemented by New York's applicable water quality standards and thermal discharge criteria set forth in 6 NYCRR Parts 701, 702, 703, 704 and 750, as well as other applicable State statutes, regulations, and criteria. Additional State statutes and regulations applicable to the Project activity here include, for example, ECL Article 15, Title 5 and its implementing regulations at 6 NYCRR Part 608, as well as ECL Article 24, Title 23 and its implementing regulation at 6 NYCRR Part 663.

To obtain a WQC, an applicant must demonstrate compliance with the above-referenced State water quality standards. Here, NFG's Application fails to demonstrate that the Project will comply with New York State water quality standards. Specifically, NFG has failed to demonstrate that construction and operation of the Project will comply with the best usages of the impacted waterbodies, as set forth in 6 NYCRR § 701.6, 701.7, 701.8 and 701.25 and NYSDEC's Narrative Water Quality Standards set forth in 6 NYCRR § 703.2. The Department is guided by statute to take into account the cumulative impact upon all relevant resources in making a determination in connection with any license, order, permit or certification, which in this case includes being able to evaluate the cumulative water quality impacts of right-of-way (ROW) construction and operation on the numerous water bodies mentioned in this letter.¹⁰

¹⁰ ECL § 3-0301(1)(b).

In particular, the Project fails to avoid or adequately mitigate adverse impacts to water quality and associated resources. Crossing multiple streams and freshwater wetlands within a watershed or basin, including degrading riparian buffers, causes a negative cumulative effect on water quality to that watershed or basin. If allowed to proceed, the Project would materially interfere with or jeopardize the biological integrity¹¹ and best usages¹² of affected water bodies and wetlands.

Pertinent to the Department's review are the best usages of Class A, B and C streams (being 126 of the 192 streams crossed by the Project). These best usages include fish propagation and survival, and fishing. Class A waters also include usages related to drinking water supply. It is evident that the impacts from the Project, as set forth below, will impede the best usages of many water bodies, particularly those with a trout standard or rare species, by degrading the survival and propagation of balanced, indigenous populations of shellfish, fish and wildlife that rely upon these waters. As it relates to State Narrative Water Quality Standards, 6 NYCRR § 703.2 states that there shall be "no increase [in turbidity] that will cause a substantial contrast to natural conditions." The techniques utilized for construction of the Project will cause numerous violations of the turbidity standard.

The following are the Department's reasons for denial of the Application based on applicable sections of the Federal and New York State environmental laws, regulations or standards related to water quality.

I. Stream Crossings

The Department's review of applications for water quality impacts due to stream disturbances is conducted pursuant to Articles 15 and 17 of the ECL and 6 NYCRR Part 608 (Use and Protection of Waters), including sections 608.8 (Standards) and 608.9 (Water Quality Certifications);¹³ Part 701 (Classifications) and section 703.2 (Narrative Water Quality Standards). As mentioned above, 6 NYCRR § 608.9(a)(6) requires the Department to consider "all state statutes, regulations and criteria" applicable to a given activity in making an ultimate determination regarding a WQC. In its consideration of NFG's Application, and pursuant to § 608.9(a)(6), the Department relied, in part, on the standards set forth in 6 NYCRR § 608.8, which provide the framework within which the Department reviews stream disturbance impacts and other water resource impacts of a given project. Specifically, § 608.8(c) states that a "basis for the issuance

¹¹ 33 U.S.C. § 1251(a).

¹² See generally 6 NYCRR Part 701.

¹³ In order to be obtain a WQC pursuant to 6 NYCRR § 608.9, an applicant must also demonstrate compliance various Federal statutes and State regulations, including: sections 301-303, 306 and 307 of the Federal Water Pollution Control Act, as implemented by the following provisions:

- (1) effluent limitations and water quality-related effluent limitations set forth in Section 754.1 of this Title [now § 750-1.1];
- (2) water quality standards and thermal discharge criteria set forth in Parts 701, 702, 703 and 704 of this Title;
- (3) standards of performance for new sources set forth in section 754.1 of this Title [now § 750-1.1];
- (4) effluent limitations, effluent prohibitions and pretreatment standards set forth in section 754.1 of this Title;
- (5) prohibited discharges set forth in section 751.2 of this Title [now § 750-1.3]; and
- (6) State statutes, regulations and criteria otherwise applicable to such activities.

[will include whether] . . . the proposal is in the public interest, in that . . . the proposal will not cause unreasonable, uncontrolled or unnecessary damage to the natural resources of the State, including soil, forests, water, fish, shellfish, crustaceans and aquatic and land-related environment.”

NFG’s Application, and subsequent submissions, outline the techniques to be used to install the Project pipeline. Considering the permitting standards described above in context with the Application, numerous environmental impacts will occur both during and after Project construction that will violate, or cause or contribute to violation of State water quality standards.

Because of the potential for significant habitat damage, destruction and permanent loss from pipeline construction, the Department recognizes that trenchless pipeline installation techniques, namely horizontal directional drilling (HDD) or conventional boring (CB), would prevent or substantially minimize impacts to regulated aquatic resources by avoiding surficial construction within these habitat areas and the associated water quality impacts. Because such trenchless crossing methods are proven to be a method to generally assure compliance with water quality standards, by avoiding and/or minimizing impacts, the Department has required a trenchless feasibility analysis of streams crossed by the Project’s pipeline. Based on its analysis, NFG has concluded that such methods are not feasible with respect to 184 of the stream crossings. Consequently, impacts and damage to water resources will necessarily occur where trenchless crossing methods are not employed.

Impacts to Streams

During the course of construction, including clearing a 75-foot wide ROW along the entire length of the pipeline in New York (approximately 75 miles), 192 State-regulated streams will be crossed. Of these streams, there are seven Class A waterbodies (including two class A(T) streams); five Class B waterbodies; and 59 Class C waterbodies (including nine C(T) and six C(TS) streams). Cumulatively, construction would impact a total of 15,954 linear feet of streams and result in a combined total of 3.26 acres of temporary stream disturbance impacts. During its review of the Application, NYSDEC directed NFG to demonstrate compliance with State water quality standards¹⁴ by providing site-specific information for each of the streams impacted by the Project. NYSDEC informed NFG that all stream crossings must be evaluated for environmental impacts and, for the reasons stated above, that trenchless technology was the preferred construction method for stream crossing.

Rather than directly clearing and excavating a ROW path and installing a pipe through all regulated areas, trenchless crossing methods, here HDD or CB, would instead ‘drill’ a void under the affected resource through which the pipeline follows thereby avoiding nearly all impacts to regulated aquatic resources. While trenchless crossing methods are the preferred crossing methods for all stream crossings in order to avoid or minimize water quality impacts, the Department recognizes the additional expense that may be associated with such methods. Therefore, the Department focused on more environmentally sensitive or significant waterbodies for purposes of additional analysis. Thus, rather than require the analysis at each of the 192 stream crossings, the Department requested that NFG provide a trenchless feasibility analysis aimed to assess the

¹⁴ 6 NYCRR §§ 608.9 and 703.2

possibility of installing the Project pipeline using trenchless technology at 55 selected crossings. Of those 55 streams, 13 were identified by the Department as having even greater environmental significance and therefore requiring greater consideration for trenchless installation. These 13 priority streams had the following classifications: one Class A; one Class A(T); one Class B; four Class C(T); and six Class C(TS). A three-tiered method of evaluation was performed comprising of sequential reviews encompassing *physical/technical parameters*, then *environmental constraints* and lastly *technical design parameters*. NFG's analysis progressed through these categories until preventative constraints were identified, at which point NFG's analysis ended. Ultimately, even after the Department narrowed the scope of review for trenchless feasibility analysis, NFG concluded it would utilize trenchless methods at only five of the 13 priority streams identified by the Department.

NFG intends that the remaining 184 streams, which includes eight priority streams (*see* Table 1, below), will be crossed using dry crossings, permanent culverts or temporary bridges, all of which will negatively affect water quality. NFG proposes dry crossings of three Class A waterbodies (including one class A(T) stream); five Class B waterbodies; and 57 Class C waterbodies (including eight C(T) and five C(TS) streams). These crossings will permanently impair aquatic habitat and generate turbidity that will impair the best usages¹⁵ of these waterbodies, thereby violating State water quality standards.

Table 1

<u>Stream Name</u>	<u>Classification</u>	<u>Environmental Significance</u>
Five Mile Creek	C(T)	Brown trout
Elton Creek	C(TS)	Brown trout and rainbow trout – wild and stocked
Ischua Creek	C(T)	Brown trout
Cattaraugus Creek	C(T)	Brown trout and rainbow trout – wild and stocked
Unnamed Tributary to Ischua Creek	C(TS)	Brown trout
Dodge Creek	C(T)	Brown trout, hellbender, mussels (creeper, fat mucket, flutedshell, plain pocketbook, spike)
McKinstry Creek	C(TS)	Brown trout and rainbow trout, including trout spawning
Haskell Creek	C(TS)	Brown trout, including trout spawning

The dry crossing of streams designated as trout (T) or trout spawning (TS) will negatively affect riparian and in-stream conditions necessary to provide habitat to support trout presence and

¹⁵ 6 NYCRR Part 701 sets forth the best usages of various waterbodies. The following best usages are applicable here:

- Class A waters are a “source of water supply for drinking, culinary or food processing purposes; primary and secondary contact recreation; and fishing . . . [and] shall be suitable for fish, shellfish, and wildlife propagation and survival”;
- Class B waters are “primary and secondary contact recreation and fishing . . . [that] shall be suitable for fish, shellfish, and wildlife propagation and survival”; and
- Class C waters are for fishing[,] . . . shall be suitable for fish, shellfish and wildlife propagation and survival [and] . . . shall be suitable for primary and secondary contact recreation, although other factors may limit the use for these purposes.

preserve water quality. The loss of and conversion of riparian cover types will increase the input of turbid water (in violation of water quality standards). Construction in the ROW will destabilize stream banks and increase risks for further erosion and bank instability that would compromise water quality, notably turbidity. Excavation across stream beds will remove in-stream habitat forms such as rocks and woody debris that form pools and pockets as habitat for trout and other aquatic organisms. For example, cobble bars and gravel bottoms of streams provide spawning areas for aquatic organisms, and provide benthic invertebrates habitat areas. Furthermore, this will destabilize stream beds and likely make them much more susceptible to erosion, affecting both immediate habitat in the ROW but also downstream water quality and habitat by introducing turbidity and sedimentation. Upstream habitat may also be affected by migrating upstream erosion. These changes will negatively affect the best usages of trout and trout spawning streams by reducing the habitat to support trout and thereby fish survival, spawning and fishing.

NYSDEC's recent experiences with constructing large scale natural gas pipelines across New York State, involving multiple water body crossings in multiple watersheds or basins, point to the fact that, even with stringent water quality protection conditioning, violations of water quality standards at this scale occur causing significant degradation of water quality in stream after stream along a constructed ROW.

More broadly, riparian habitat surrounding streams within the Project ROW will be permanently impacted by construction activities involving excavation and burial of the pipeline and any needed grading of local topography by heavy construction equipment. When crossing streams, installing the pipeline requires excavating a trench a minimum of six feet deep by five feet wide through any stream bed. Currently, NFG does not propose to use HDD or CB for the majority of the stream crossings and instead proposes alternative construction methods, all of which have adverse water quality impacts. Conducting such construction in the wet would lead to far greater water quality impacts than HDD or CB. Furthermore, construction in dewatered conditions will not only physically disturb stream beds via excavation along the centerline of the pipeline, but also dry and desiccate any stream habitat between the excavated centerline and the perimeter of the dewatered ROW. The Department finds that these construction techniques would cause significant damage or destruction to both riparian and in-stream habitat, in turn causing violations of State water quality standards related to turbidity and best usages of the affected waterbodies. This damage or destruction would occur during construction and continue for a period of time post-construction.

Waters of the State are assigned classification and standards of quality and purity.¹⁶ In establishing a waterbody classification, the Department is required to take into consideration the characteristics of surrounding lands in arriving at said classification in order to conserve the value of the water uses.¹⁷ With respect to NFG's Project, several water quality standards will be negatively affected. The narrative standard for *turbidity*¹⁸ will be violated when in-water construction occurs and at certain times during the post-construction phase. These water quality impacts and changes in riparian and stream habitat will degrade the affected waters which will then be unable to support best usages. This is particularly the case with a trout standard or rare

¹⁶ ECL § 17-0301(4) and 6 NYCRR Part 701.

¹⁷ ECL § 17-0301(3)(b)

¹⁸ 6 NYCRR § 703.2.

species designation where the water body impact degrades the water body's capacity to guarantee the survival and propagation of balanced, indigenous populations of shellfish, fish and wildlife that rely upon those waters.

a. Impacts During Construction

Pipeline construction will cause significant impacts to riparian and stream habitat, with resulting adverse impacts to water quality.

i. Riparian Losses

Intact, naturally forested buffers, known as riparian zones, are critical for maintaining and protecting stream corridors and stream water quality. Areas with degraded riparian zones exhibit poorer aquatic habitat and water quality characteristics. NFG's open-dry trench stream crossing method will clear riparian vegetation (established woodland areas, trees and other woody plant material) and fully expose a full 75-foot bare soil ROW on both sides of each stream crossed. Using this area of disturbance, riparian impacts have been assessed as a percentage change in the area of riparian cover 100' x 75' wide on either side of all open-dry trenched streams. The loss of riparian habitat to this extent within the 100-foot buffer of a stream crossing is a negative impact to water quality and stream habitat to the extent that the riparian area contributes unfiltered, sediment laden, turbid water to the water body through bank erosion. This typically happens after construction has been completed, when revegetation measures have yet to adequately take hold, or have been unsuccessful, and therefore do not prevent stream bank erosion.

The Department performed a desktop aerial analysis of all open-dry trench stream crossings which aggregated the area of impacts within the riparian habitat zone. The area of all these crossings was summed and multiplied by one (100% habitat loss) to yield an area of 14 acres of total impact to riparian habitat. This represents the loss of riparian habitat along the entire length of the Project ROW during construction. While NFG proposes to regrade and replant select zones of the impacted riparian areas following construction, fully in-kind vegetation, including mature trees, will not be replanted nor ever be allowed to fully regrow to pre-construction conditions. Riparian habitat values will therefore not return to previous capacity to protect each water body from erosion and resulting sedimentation and turbidity in violation of State water quality standards. In addition, this has the added effect of negatively impacting best usages of the water body by aquatic species that cannot sustain exposure to these impacts.

Upon preparing a stream for dewatering, various construction steps, such as the excavation of intake pits and the placement of barriers, will be conducted within flowing water that will cause a significant visible contrast and exceedance of the turbidity water quality standard. At the completion of construction, work within flowing water will again occur as the materials and fill are removed from stream channels. There are 130 streams categorized as perennial or intermittent that are expected to be subject to these conditions. As proposed, the Project will cause State water quality violations related to turbidity to occur on at least two days at each stream crossing site, totaling at least 260 water quality violations during the course of the Project. The installation and removal of temporary bridges and stream bank stabilization efforts associated with these stream crossings will also cause single event violations of the turbidity water quality standard. There will

be further violations of the turbidity standard within regulated wetlands due to the extent of wetlands disturbance and degradation of wetlands values and benefits, as described above. The Application's inadequate design of mitigation of wetlands impacts will result in further degradation of the water quality benefits that wetlands perform.

ii. In-Stream Losses

All streams with flowing water at the time of construction of open-dry trench stream crossings will be dewatered for a length of 75 feet (being the width of the ROW) to facilitate excavating a trench and installing the pipeline across the stream bed. This will physically disturb the entire portion of stream bed between the up- and downstream limits of construction and the bankfull widths of each stream. Because of dewatering and subsequent drying, any aquatic organisms within this area will be lost. Thus, the disturbed stream bed is considered a 100% loss of stream habitat. This loss will continue for a period of time and only gradually abate under natural conditions when recovery and stabilization of this area occurs following completion of construction and rewatering. As calculated and reported by the applicant (which included only perennial and intermittent streams), the length of disturbed stream channels and their bankfull widths within the disturbed ROW will cause a total of 3.26 acres of in-stream habitat to be lost. Due to the increased turbidity caused during construction, the best usages of these waters for aquatic species and maintenance of these species' habitat will be lost until the affected water bodies recover and stabilize.

b. Post-Construction Impacts

i. Riparian Losses

In the post-construction time frame, regrading and replanting of new vegetation in the fully cleared riparian corridor will only occur within a limited portion of the riparian area disturbed during construction (see above). The re-vegetated area within the permanently maintained ROW in the riparian zone will be routinely mowed; new vegetation will not be allowed to grow higher than 15 feet. Based upon the typical disturbance layout described above (for both sides of a stream), clearing and ROW maintenance for the project will create a permanent loss of 0.11 acres of riparian habitat. Applying the percent cover from the riparian losses calculation to this 0.11 acre area per stream crossing yields a project total of 8.8 acres of permanent riparian habitat loss for all stream crossings. The permanent loss of the native, established riparian vegetation in these locations will have a negative effect on water quality and stream ecological health for the full service life of the pipeline. As described above, the degraded vegetative buffer, including the removal of established treed areas that hold and maintain stream bank structure, will cause bank erosion, resulting in sedimentation and turbidity in the water body. When this occurs, it will also degrade the best uses of the water body for aquatic organisms.

ii. In-Stream Losses

Following construction, disturbed in-stream areas will be rewatered and stabilized as necessary to prevent any obvious sources of erosion or stream degradation. However, the hydro-geomorphology of these streams is extremely complicated and disturbance to the bed and banks

of the streams will result in instability and lead to future vertical or lateral erosion, which will result in additional turbidity and impairment of water quality. Given the increasing frequency of extreme weather and rainfall events, and the recent history of such events in this region of New York,¹⁹ the integrity of streams and adjacent riparian areas will be of increasing importance to maintaining water quality. Only by avoiding physical disturbance to the bed and banks of streams will ongoing extensive and violations of water quality standards (turbidity) prevent along with the prevention of an impairment of designated best usages. The instability and turbidity of concern extends up- and down-stream beyond the project ROW.

Significantly, at least one of the streams proposed to be dry crossed by NFG (Dodge Creek, classified as a C(T) waterbody) is habitat occupied by the Eastern Hellbender, a listed New York State Species of Special Concern pursuant to ECL § 11-0535 and 6 NYCRR § 182.4. Eastern Hellbenders require clear streams and rivers to sustain their habitat and spawning. Accordingly, the impacts to Dodge Creek caused by Project construction, including changes in water quality (including turbidity) and flow, constitute a threat to the Eastern Hellbender and violate the best usage of the waterbody pursuant to 6 NYCRR § 701.8 and standards set forth in 6 NYCRR § 608.8(c).

II. Wetlands

Freshwater wetlands are an invaluable resource for flood protection, the protection and preservation of water resources and wildlife habitat. In addition to preserving water quality through their hydrologic absorption and storage capacity, wetlands protect subsurface water resources, recharge groundwater, and cleanse surface runoff to water bodies.²⁰ A permit pursuant to Article 24 of the ECL is required for any disturbance which will impair any of the functions and benefits of a NYSDEC regulated wetland and its associated adjacent areas.²¹ Because 6 NYCRR § 608.9(a)(6) provides that an applicant for a WQC must also demonstrate compliance with “State statutes, regulations and criteria otherwise applicable to such activities,” NFG must demonstrate that disturbances to a NYSDEC regulated wetland and its adjacent area will not violate applicable water quality standards, including those related to turbidity.²²

¹⁹ Szabo, C.O., Coon, W.F., and Niziol, T.A., 2010, Flash floods of August 10, 2009, in the Villages of Gowanda and Silver Creek, New York: U.S. Geological Survey Scientific Investigations Report 2010-5259, 23 p.

²⁰ As pertinent to the Department’s review here, ECL § 24-0105(7) defines the following wetland benefits:

1. flood and storm control;
2. wildlife habitat;
3. protection of subsurface water resources; . . .
5. pollution treatment;
6. erosion control; . . . and
9. sources of nutrients in freshwater food cycles and nursery grounds for freshwater fish.

²¹ Adjacent area is defined as areas of land and water that are outside a wetland and within 100 feet, measured horizontally, of the boundary of the wetland. [6 NYCRR § 663.2(b).]

²² See ECL 24-0701(2); 6 NYCRR §§ 608.9 and 703.2.

The freshwater wetlands permit issuance standards provide that a proposed activity must:

- be compatible with the public health and welfare, be the only practicable alternative that could accomplish the applicant's objectives and have no practicable alternative on a site that is not a freshwater wetland or adjacent area; and
- minimize degradation to, or loss of, any part of the wetland or its adjacent area and must minimize any adverse impacts on the functions and benefits that the wetland provides.²³

In the event that there are impacts that cannot be avoided and minimized, the applicant should provide a mitigation proposal to enhance the existing benefits provided by a wetland or create and maintain new wetland benefits. The purpose of mitigation is to offset those benefits lost by construction and operation of the Project and increase the likelihood that the proposed activity will meet permit issuance standards.²⁴

Impacts to Wetlands

NFG has estimated that the Project will disturb a total of 73.377 acres of federal and State wetlands. Of that total, there are 2.335 acres of permanent, and 17.262 acres of temporary, impacts to NYSDEC-regulated Class I and Class II wetlands. In addition, 21.461 acres of the associated adjacent area would be impacted by the Project.

Disturbances to these wetlands due to construction and ROW maintenance will have permanent and temporary negative impacts on New York's surface and subsurface water quality by decreasing wetland functions and benefits directly associated with protecting and preserving the integrity of water chemistry and biology. For example, a change in vegetative cover type due to construction and ROW maintenance will change evapotranspiration rates, altering the capacity of a wetland to hold and release flood and storm water. Changing the type and species of vegetation in the wetland will permanently change ecological community dynamics and the types and composition of wildlife using that wetland. NFG's wetlands disturbances will not only cause permanent changes to surface water, those Project activities will cause soil compaction and alter the soil profile. These activities will also cause at least temporary, and possibly permanent, changes to soil dynamics from the altered soil characteristics, including complete removal and "replacement" of the pre-existing soil layers. Infiltration rates of water and the flow of water through the soil will also be impacted, which will affect local subsurface water quality. In addition to these persistent impacts described above, construction will temporarily remove or degrade all vegetation from some work areas. NFG's activities – particularly removing and changing vegetation – will alter the wetlands abilities to hold and release flood waters, and will change the ability of those disturbed areas to provide pollution treatment and water quality benefits.

As discussed below, NFG has failed to demonstrate that the Project disturbances adequately avoid or minimize impacts to wetland benefits as they relate to State water quality standards, or, alternatively, satisfactorily mitigate such impacts.

²³ 6 NYCRR § 663.5(e)(2).

²⁴ 6 NYCRR § 663.5(g).

a. Avoidance and Minimization

NFG has not demonstrated that there are no practicable alternatives to avoid all disturbance to wetlands impacts due to construction of the Project, and post-construction ROW maintenance, thereby avoiding State water quality impacts. 6 NYCRR § 663.5(e)(2). In at least one situation (Dodge Creek), impacts to regulated wetlands and associated streams could have been entirely avoided, thereby avoiding State water quality impacts. 6 NYCRR § 663.5(e)(2).

NFG has also not demonstrated that it will adequately minimize disturbances to wetlands so as to assure that there will be no adverse impacts to wetlands themselves or to State water quality. NFG is not proposing to replace woody plants located in and near forested and shrub wetlands that its Project will impact. Nor does NFG propose to reduce impacts on wetlands functions and benefits by replacing the preexisting wetland and reestablishing a fully functional habitat and riparian areas adjacent to those wetlands. NFG's Application does not offer minimization of wetland impacts, which means NFG does not assure that water quality standards will be met in water bodies associated with these impacted wetlands.

b. Mitigation

Mitigation of impacts to regulated wetlands associated with this Project do not meet the regulatory provisions of 6 NYCRR § 663.5(g)(1), requiring that proposed mitigation be "in the immediate vicinity of the site of the proposed project" and be regulated by ECL Article 24. Permanent impacts to Article 24 regulated freshwater wetlands, and the associated adjacent areas, occur across several subwatersheds and two different basins. The area proposed by NFG to mitigate these collective impacts is not in the same basin as that containing the majority of these impacts, much less in the same subwatershed where most of the impacts occur, contrary to § 663.5(g)(1)(i). Furthermore, the mitigation is not proposed on or adjacent to a wetland regulated by Article 24 and therefore cannot be considered mitigation for the wetland benefits that will be degraded or lost through the proposed activity.

III. Basis for Denial of the WQC and ECL Articles 15 and 24 Permits

As stated above, in order for the Department to grant its request for a WQC, NFG must demonstrate the Project's compliance with §§ 301, 302, 303, 306 and 307 of the Federal Water Pollution Control Act, as implemented by applicable State water quality standards criteria set forth in 6 NYCRR Parts 701, 702, 703, 704 and 750, and State statutes, regulations and criteria otherwise applicable to such activities.²⁵ NFG has failed to demonstrate compliance with (i) §§ 303 and 306 of the Federal Water Pollution Control Act, as implemented; (ii) 6 NYCRR Parts 701, 703 and 750;²⁶ and (iii) 6 NYCRR Parts 608 and 663, which are State regulations applicable to the Project.

²⁵ 6 NYCRR § 608.9.

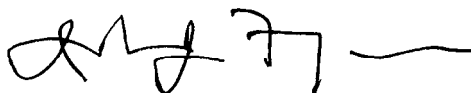
²⁶ Part II.B of the State Pollutant Discharge Elimination System ("SPDES") General Permit for Stormwater Discharges from Construction Activities (GP-0-15-002) states that an owner or operator (here, NFG) cannot commence construction activity until its authorization to discharge goes into effect. Effectiveness does not occur at least until the owner or operator has obtained "all necessary [NYSDEC] permits subject to the UPA (*see* 6 NYCRR Part 621)," which includes WQCs as well as ECL Articles 15 and 24 permits.

It is evident that the impacts from the Project, as set forth above, will cause turbidity in such a manner to that impedes the best usages of many waterbodies, particularly those with a trout standard or rare species, by degrading the survival and propagation of balanced, indigenous populations of shellfish, fish and wildlife that rely upon these waters.

NYSDEC Denial

For the reasons articulated above, the Department hereby denies NFG's Application for a water quality certification, as well as for an ECL Article 15 (stream disturbance) permit and an ECL Article 24 (freshwater wetlands disturbance) permit, because it fails to demonstrate compliance with State water quality standards and other applicable State statutes and regulations. This notice of denial is the Department's final determination. Should NFG wish to address the above deficiencies, a new joint application must be submitted pursuant to 6 NYCRR § 608.9 and 6 NYCRR Part 621. UPA, 6 NYCRR § 621.10 provide that that an applicant has a right to a public hearing on the denial of a permit, including a § 401 WQC. A request for hearing must be made in writing to me within 30 days of the date of this notice.

Sincerely,

A handwritten signature in black ink, appearing to read 'John Ferguson', followed by a horizontal line.

John Ferguson
Chief Permit Administrator

Cc: B. Clark
J. Kittka
K. Webster
S. Lare
S. Russo
R. Rosenthal
T. Berkman
P. Casper
W. Little
J. Binder
S. Crounse
D. Whitehead
C. Hogan
M. Higgins

natural springs from the steep side slope near Mr. Jackloski's property overflowing our ponds 4-7-17. Atlantic Sunrise is proposed on this steep slope



From: Lucy Carroll <lucycarroll1@comcast.net>
Sent: Monday, May 15, 2017 11:17 AM
To: EP, OEJ
Subject: Please don't loosen environmental regulations

Please our children and their children will be very negatively impacted by loosen environmental regulations. We plead with you to let them be.

Lucy Carroll

From: Katherine Holden <hkrholden@gmail.com>
Sent: Monday, May 15, 2017 8:00 PM
To: EP, OEJ
Subject: Chill

Delay any EPA restrictions until we all know how this administration is going to land.

From: Paige Wolf <paige@paigewolf.com>
Sent: Monday, May 22, 2017 5:22 PM
To: EP, OEJ
Cc: Russell Zerbo
Subject: PHILADELPHIA ENVIRONMENTAL JUSTICE LISTENING SESSION

To whom it may concern:

As you know, the PA Dept of Environmental Protection [issued an Orange Alert for Air Quality last week \(May 17\)](#). As the parent of an asthmatic child, I grow increasingly concerned that we're not placing enough emphasis on air quality in the region. Case in point: a 20% jump in methane emissions in Pennsylvania.

Anyone who has ever watched their child gasp for breath has all the motivation they need to learn what's up. Methane emissions from the natural gas industry, combined with volatile organic compounds (VOCs) including benzene, a carcinogen, lead to increased ozone smog that is so harmful to developing lungs. Children and senior citizens struggle most with this compromised air quality.

Leaks can be plugged, and a halt put to venting and flaring of natural gas. So, why are we even dealing with this problem? Perhaps industry doesn't care – but parents do.

May is National Allergy and Asthma Awareness Month but every month is a good time to remind the state that Gov. Wolf made a commitment to cut methane emissions. That was in January 2016. These clean air protections need to be acted upon immediately.

Sincerely,

Paige Wolf
Philadelphia

Paige Wolf Paige Wolf Media & Public Relations

Mobile: 215-407-8832

Email: paige@paigewolf.com

Website: www.paigewolf.com

Website: www.spitthatoutthebook.com

Address: 419 S. 12th Street, Philadelphia, PA 19147

Author of: Spit That Out: The Overly Informed Parent's Guide to Raising Healthy Kids in the Age of Environmental Guilt



The latest on Spit That Out: [Giveaway: Let's Give Nasty Chemicals the Bird this Summer](#)

Get your own  email signature

From: Paula Kline <kline.paula@gmail.com>
Sent: Thursday, May 25, 2017 4:14 PM
To: EP, OEJ
Subject: comments for the Office of Environmental Justice

To whom it may concern,

PA is not an exception in having placed fossil fuel energy extraction and processing plants in low income areas. But they should certainly be held accountable for putting those least able to manage the costs involved in an even more vulnerable position. I recommend the report on the effects of PA power plants as a reference for your work.

Our Air: The Health and Equity Impacts of Burning Coal and Natural Gas in Pennsylvania and Ohio <https://nextgenamerica.org/news-reports/our-air-pa/>

I quote here: "Pollution from Pennsylvania coal and natural gas power plants is responsible for thousands of premature deaths a year – as many as 2,300 premature deaths from particulate pollution alone. This pollution also causes tens of thousands of asthma attacks and other dangerous health effects. These harms are most pronounced near and downwind of coal-burning power plants, and in major population centers such as Philadelphia and Pittsburgh.⁵ "

"² Pennsylvania power plants are located disproportionately in low-income communities, and natural gas combined cycle (NGCC) plants are heavily concentrated in low-income minority communities. Populations living near many of these plants are also more burdened by multiple socioeconomic, health and environmental stressors than the Pennsylvania state median."

It is time for us to be faithful in our commitment to protect ALL our citizens and make every effort to transition to clean and renewable energy and end this very damaging practice of burning fossil fuels and putting us all, and especially the most vulnerable, at risk.

Sincerely,

Paula Kline

From: Andrew Goodman <agoodman@nkcddc.org>
Sent: Thursday, May 25, 2017 4:55 PM
To: EP, OEJ
Subject: Environmental Justice Alert

Dear DEP,

I saw this posting on a local blog requesting input:
<http://www.greenphillyblog.com/news/environmental-justice-alert-pa-dep-wants-input-tomorrow/>. While I appreciate the notice, it is somewhat laughable as someone who works every day to try to assist residents living in untenable situations who have received no state assistance previously.

I speak particularly of the challenge brought by unenforced scrap metal yards that are allowed to cause a series of environmental hazards without recourse:
<http://planphilly.com/articles/2017/01/06/kensington-community-living-with-scrap-yards-wants-a-future-without-these-operations-nextdoor>.

We have done our best to guide residents through the maze of different governmental enforcement agencies, of which PA DEP is one for air quality and contamination issues. We would be happy to speak with any DEP officials interested in making a commitment to tangibly assist on this very real environmental *injustice* issue. Thanks for reading.

-Andrew



Andrew Goodman | Community Engagement Director | NKCDC

2515 Frankford Avenue | Philadelphia PA | 19125

tel 215.427.0350 x122 | fax 215.427.1302

agoodman@nkcddc.org | www.nkcddc.org



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From: Emily Davis <emilylambertdavis@gmail.com>
Sent: Friday, May 26, 2017 11:49 AM
To: EP, OEJ
Subject: Comment

My name is Emily Davis. I live in Philadelphia and row on the Schuylkill River, once one of the dirtiest rivers in the US and reclaimed 20 years before the first earth day with aggressive work by our state government. Be aggressive again!

I believe access to clean water is an environmental justice issue. While Philadelphia's water department does an excellent job of providing all citizens of Philadelphia with clean, safe drinking water, this job is becoming more difficult.

I am worried about the degradation of water quality in Pennsylvania, both the surface water and the groundwater which are, of course linked. Water is one of our most important resources. Not only is it necessary to life, in Pennsylvania it is an important economic resource. The outdoor industry supports more than 200,000 jobs in PA and more than 1.5 billion in state and local taxes. So the protection of our water resources is very important. Of course, access to clean water is also important to our health. My personal drinking water comes from the Schuylkill River, but more that 3 million Pennsylvanians depend on ground water and some of them cannot drink or cook with the water that comes from their wells.

I would like the DEP to do more to monitor and protect this resource. Here is a list some things I'd like to see – some small, some big.

>>>Require industries fouling water to be responsible for cleaning it to drinkable quality – they know what they put in it – they know best how to get it out.

>>>Do not permit any extractive industry within 100 meters of a wet land – still or flowing.

>>>Outlaw use of fracking waste as road de-icer, eliminating regular salt would be good too – saltmarshes belong near the ocean - not in Penn's Woods.

>>>To monitor trucks transporting used fracking fluid so drivers cannot dump their tanks along the side of a rural road as I understand is not uncommon.

>>>A decrease in impervious surfaces – for example, requiring all ground level parking lots to be made of permeable surfaces on building of a certain size to have green rooves.

>>>For riparian buffers to be required along streams, particularly in agricultural areas and along roadways

>>>Outlaw use of pesticides, herbicides and fertilizers near bodies of water.

>>>Eliminate flushing of waste drugs into our water

>>>Eliminate construction in the 100 year flood plain

I know this is just a small bit of what we need to do to be good stewards of our water resource so this finite resource is usable for coming generations.

Emily L. Davis, Philadelphia

My name is Sarah Everett and I am a resident of Erie, PA but I grew up in a little town in Susquehanna County called Kingsley. I moved away before the fracking boom started, but, as you at the DEP are no doubt aware, Susquehanna County has been extensively fracked.

When I visit my family in Kingsley, I am continuously and unhappily reminded of the impact fracking has had on this community. I see trucks hauling water and natural gas barreling down the narrow country roads. I drive past the enormous and ironically named 'Rain For Rent' fracking supply site. I see new frack sites put in, and old ones sitting- I have yet to see land that has been 'reclaimed' or 'returned'- if there is such a thing, to pre-frack conditions. Although the natural gas industry is touted as an economic savior, I do not see this happening.

Rather, I see fracking as a way for families to lose their land and water, with very limited resources to fight back or to protect themselves from an industry that, I think it is fair to say, the DEP does not regulate adequately. There was a leak at an incorrectly sealed well around a mile from my parents home. Stalter Pad D was responsible for polluting the water aquifer under my family's and my neighbor's houses. As it happens, and despite the fact that four houses stand in a line on the same aquifer, the Cabot Company responsible for the frack well were only held accountable for compensating or offering corrective water supplies to two of the houses. My parents and my aunt, sitting in the middle, use spring water rather than well water. Their water supply, while not advisable to drink, was not as polluted as the wells next door. So we shouldn't drink our water, but we can't drill and expect clean water, either. There are so many loopholes and protections for these enormously wealthy corporations that they can skirt responsibility. There are not many protections for citizens.

I have seen wells flaring on the horizon at night, both at my parents house in the country and when I have visited my elderly aunt in the town of New Milford. To me, it feels like the homeland of my childhood is being turned into a dumping ground. Now, there is a Price Gregory Pipeline to be constructed- but- I have difficulty even finding mention of it on the internet. My family owns two properties that are about 7 miles apart. The pipeline that is being constructed will be within less than a mile from both of our properties. At a certain point, you feel like your property- your assets- are- really not assets anymore. Like many of the fracking

companies that have impacted rural Susquehanna County Pennsylvania, the Price Gregory Corporation is headquartered in Texas.

I don't know if I would have considered moving back to Susquehanna County without the natural gas industry's encroachment, but I do know that I don't really consider it now. It seems to me that once fracking is allowed to take place, the bar falls even lower. A hazardous waste incinerator with an uncertain fate has been proposed about seven miles from my family's home.

I will say that if I were there, I would be fighting all of this. I do what I can remotely. I feel a bit guilty, like I've stepped out of a place that I remember from my childhood as beautiful and minimally industrialized, and now, I have very little faith in it. People have mobilized around fighting the Hazardous waste incinerator, but it is tough battle. Rural communities should be protected for their abundant natural resources, not turned over to out of state industries for maximum exploitation. This should be part of the DEP's mandate. In fact, I think it IS the DEP's mandate.

Do I feel that the DEP is engaged with marginalized communities to ensure they have a voice in the decision making process? I attended an 'Unconventional Gas Development and Water Quality' presentation here at the Tom Ridge Center last night, and I think not. Given the backlash and documented cases of pollution and illness caused by the Natural Gas industry- if you, as the DEP can produce and endorse the ridiculous five minute film on fracking that I saw last night, you are not listening. That film is an insult and an abomination to a department that is tasked with protecting Pennsylvanians. It is sterile, sickeningly whitewashed and misrepresents fracking as a safe, easily controlled and regulated industry. In fact, I would say that the film endorses and encourages fracking. Department of Environmental Protection- You are tasked with protecting the citizens of Pennsylvania, not promoting fracking for the natural gas industry.

I do not believe fracking is safe. I do not believe that we know enough about it to spread this technology and infrastructure all over the country, potentially destroying water supplies and land, not to mention our health. This will cost all of us far more than the short term profits of a few.

Dear Carl,

Thank you for hosting the public meeting on Environmental Justice here in Erie County. I believe people had an opportunity to make good comments about what is going on in the city. I hope to hear the Department's remarks following your listening tour.

I have a couple of comments of my own that I was able to formulate following the public hearing. Please add them to the public comments that were made on April 27th:

1. One of the framing questions was - Do you feel the DEP is engaged with marginalized communities to ensure that they have a voice in the decision making process? How can the DEP be more engaged with these communities? I believe DEP is doing the best it can with the resources it has, but in the case of the Erie County communities, I sense that DEP is not engaged. It is my understanding that DEP has one dedicated staffer for the entire western region of Pennsylvania. DEP can be more engaged with marginalized communities by having more staff to execute EJ programs. At least having 1-2 staff members located in each of the regional offices. Of course, these resources and programs come at a price, and with the current budget situation in Harrisburg, the House wants to cut DEP's allocation by 15%. If this budget passes as is, DEP is left trying to implement current programs with even less staff.
2. A public speaker at the meeting made a comment about how DEP and Secretary McDonnell should contact legislators to ask for increased funding for EJ programs. The general public is unaware that PA legislators do not always listen to members of the Departments of the Commonwealth, they listen to their constituents. Public and community advocacy groups need to coordinate their efforts and speak to their legislators directly for any future action to occur in EJ.

Thank you for your time.

Sincerely,
Tom McClure

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From: Renee Reber <RReber@cbf.org>
Sent: Thursday, May 25, 2017 2:06 PM
To: EP, OEJ
Cc: Shakelya Flores
Subject: Written Comments from EJ Listening Sessions
Attachments: DEP_OEJ Comments on EJ listening sessions.docx

Thanks for the opportunity to submit comments regarding the recent listening sessions.

Renee Reber

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CHESAPEAKE BAY FOUNDATION
Saving a National Treasure

May 25, 2017

Carl Jones, Jr., Esq.
Office of Environmental Justice
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Harrisburg, PA 17101

Dear Director Jones,

I am writing to thank the Office of Environmental Justice (OEJ) for facilitating the Department of Environmental Protection (DEP or Department) Environmental Justice Listening Session in Lancaster on Monday, May 15, 2017. It is wonderful to know that the OEJ is willing to listen to public comments and thoughts. I hope that meaningful input was gathered from the individuals who spoke and that the OEJ will use their resources effectively to respond to relevant environmental justice (EJ) concerns that were brought up.

At the session, you presented a series of listening tour focus areas that you requested feedback about¹. Specifically, I was interested in the DEP's current definition of an environmental justice community. The definition clearly defines an EJ community as "any census tract where 20 percent or more individuals live in poverty, and/or 30 percent or more of the population is minority, based on the most current census tract data from the U.S. Census Bureau and the federal guidelines for poverty." To begin with, I must acknowledge the use of 'minority' as an appropriate word choice because it incorporates differences in color, race, ethnicity, national origin, socioeconomic status, etc. Nonetheless, there are a few recommendations I have for a revised DEP EJ definition. The current definition is narrowly focused, and to an extent exclusive. The Environmental Protection Agency says that, "Environmental justice is the fair treatment and meaningful involvement of all people...Fair treatment means no group of people should bear a disproportionate share of the negative environmental consequences resulting from industrial, governmental and commercial operations or policies."² The DEP should consider adopting the EPA's broader understanding of an EJ community which incorporates anyone and everyone, not just a proportion of people.

¹ Pennsylvania Department of Environmental Protection. March 2017. Office of Environmental Justice Homepage and Brochure. <http://www.dep.pa.gov/PublicParticipation/OfficeofEnvironmentalJustice/Pages/PA-Environmental-Justice-Areas.aspx>

² United States Environmental Protection Agency. January 2017. Environmental Justice Webpage. <https://www.epa.gov/environmentaljustice/learn-about-environmental-justice>

Often times, EJ definitions define a community as made up of “predominantly” low-income individuals and minorities. I was concerned that such a definition would only refer to those communities with a majority of low-income and minority residents, rather than also represent communities where minorities and/or low income people are not the majority. For that reason, I am grateful for the DEP’s definition which recognizes the latter. While the DEP definition does take into account those communities that are not only mostly made up of minorities or low-income individuals, I still believe that the specified percentages place a restriction on the types of underrepresented communities that need attention. It may be helpful to ask how the OEJ will deal with communities that have slightly lower percentages of minorities and low income people, with respect to the definition. These smaller groups also deserve representation and justice. Even though the statistics are important for guiding the selection of EJ communities, it may be helpful to consider the EPA’s broad and all-encompassing definition. Maybe even consider the words from the Department of Environmental and Occupational Health Sciences at the University of Washington’s School of Public Health: *the EJ definition is based in place, time, and perspective*³. Despite the fact that EJ communities are those with 20% or more people living in poverty and/or 30% or more minorities, there may still be instances where such a definition would prevent the DEP from assisting a community that, for instance, lies right under that requirement. Such communities may still need attention, representation, and ultimately, environmental justice. Thus, considering a community through a holistic rather than numerical perspective may be beneficial.

Moreover, data collected from the U.S. Census Bureau, although most recent, continues to have certain limitations. I would agree with Lois M. Quinn from University of Wisconsin-Milwaukee Employment and Training Institute, when she says that the Census provides a narrow perspective on how people identify their race. In her *Assumptions and Limitations of the Census Bureau Methodology Ranking Racial and Ethnic Residential Segregation in Cities and Metro Areas*, Quinn reveals how there is an overall misconstrual of racial and ethnic populations⁴. I would highly recommend referring to her work for specific examples. I would also be happy to discuss this in further detail.

I advise the DEP to recognize the data limitations of the U.S. Census Bureau and, if necessary changes cannot occur soon, it should be noted in the EJ definition that the Census is one of the most convenient and effective resources for identifying EJ communities, at this time. This notice is important because EJ communities are being identified based upon a somewhat limited source of information. I would hope that best efforts are being put forth and improvements may ensue over time.

On another note, we would highly recommend the Department consider reviewing its public participation policy to ensure the citizens of the Commonwealth be given an appropriate amount

³ University of Washington School of Public Health, Department of Environmental and Occupational Health Sciences. Environmental Justice Webpage. <http://deohs.washington.edu/environmental-justice>

⁴ Quinn, Lois M. 2004. Assumptions and Limitations of the Census Bureau Methodology Ranking Racial and Ethnic Residential Segregation in Cities and Metro Areas. <https://www.census.gov/hhes/www/housing/resseseg/pdf/quinn.pdf>.

of time to provide comment in the future. We agree with the testimony provided at the Lancaster Listening Session, that as a professional it can be difficult to provide written comment within a 30-day time period, when you take into account the additional time it takes to conduct a file review. For a citizen, this limited time could create barriers to engaging in public participation with the Department's permits, regulations, and other policies. We also agree, the Department needs to consider the time public meetings are held and their location as another barrier to participation.

Thank you for your consideration of our comments. Once again, we appreciate the Department providing a platform for city residents and the surrounding community and updating your environmental justice guiding policies. We hope that the Department will incorporate environmental justice into all aspects of your work. Please let us know if you have any questions about the above commentary.

Respectfully,

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4/21/17

At the Williamsport OET meeting, several individuals spoke about the need to look at the future in our decision-making processes. (We Americans are notorious in looking short-term.)

As my wife & I left the meeting, I mentioned to you if you were familiar with the Iroquois perspective of Seven Generation stewardship and sustainability.

Attached are a couple of articles regarding this philosophy of decision making and looking into the future. This philosophy might serve as a guide or at least provide a different perspective as the PADEP makes some difficult decisions about PA's natural resources.

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Seven generation sustainability

From Wikipedia, the free encyclopedia

Seven generation stewardship is a concept that urges the current generation of humans to live and work for the benefit of the seventh generation into the future. It originated with the Iroquois - Great Law of the Iroquois - which holds appropriate to think seven generations ahead (about 140 years into the future) and decide whether the decisions they make today would benefit their children seven generations into the future. It is frequently associated with the modern, popular concept of environmental stewardship or 'sustainability' but it is much broader in context (see the quotation below relative to "in ALL your deliberations ...").

"In every deliberation, we must consider the impact on the seventh generation... even if it requires having skin as thick as the bark of a pine." This is an often repeated saying, and most who use it claim that it comes from "The Constitution of the Iroquois Nations: The Great Binding Law." (<http://www.indigenouspeople.net/iroqcon.htm>)

In fact, the original language is as follows: "In all of your deliberations in the Confederate Council, in your efforts at law making, in all your official acts, self-interest shall be cast into oblivion. Cast not over your shoulder behind you the warnings of the nephews and nieces should they chide you for any error or wrong you may do, but return to the way of the Great Law which is just and right. Look and listen for the welfare of the whole people and have always in view not only the present but also the coming generations, even those whose faces are yet beneath the surface of the ground – the unborn of the future Nation."

Oren Lyons, Chief of the Onondaga Nation, writes: "We are looking ahead, as is one of the first mandates given us as chiefs, to make sure and to make every decision that we make relate to the welfare and well-being of the seventh generation to come. ... What about the seventh generation? Where are you taking them? What will they have?" ^[1]

References

1. An Iroquois Perspective. Pp. 173, 174 in American Indian Environments: Ecological Issues in Native American History. Vecsey C, Venables RW (Editors). Syracuse University Press, New York.

Retrieved from "https://en.wikipedia.org/w/index.php?title=Seven_generation_sustainability&oldid=712561589"

Categories: Sustainability | Iroquois culture

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Ely Parker 1844-1865

Seven Generations - the Role of Chief

"If you ask me what is the most important thing that I have learned about being a Haudenosaunee, it's the idea that we are connected to a community, but a community that transcends time.

We're connected to the first Indians who walked on this earth, the very first ones, however long ago that was. But we're also connected to those Indians who aren't even born yet, who are going to walk this earth. And our job in the middle is to bridge that gap. You take the inheritance from the past, you add to it, your ideas and your thinking, and you bundle it up and shoot it to the future. And there is a different kind of responsibility. That is not just about me, my pride and my ego, it's about all that other stuff. We inherit a duty, we inherit a responsibility. And that's pretty well drummed into our heads. Don't just come here expecting to benefit. You come here to work hard so that the future can enjoy that benefit."

Rick Hill Sr. (Tuscarora)

Chair, Haudenosaunee Stabbing Committee on NAGPRA

The Seventh Generation philosophy is integral to Haudenosaunee life. It intensifies the bond of community, promotes stability, and provides concrete values with which each person can test his or her everyday actions. Although the Haudenosaunee practice ancient traditions, their culture is not frozen in the past. Their ability to adapt to dramatic change and survive on their own terms is historically proven, but they are equally focused on the security of future generations.

"The Peacemaker taught us about the Seven Generations. He said, when you sit in council for the welfare of the people, you must not think of yourself or of your family, not even of your generation. He said, make

your decisions on behalf of the seven generations coming, so that they may enjoy what you have today."

Oren Lyons (Seneca)
Faithkeeper, Onondaga Nation

"We really do see ourselves as part of a community, the immediate community, the Native American community, but part of your nation and the Confederacy. And if you have been given responsibilities within that structure, you must really attend to those responsibilities. You start to think in terms of the people who come after me. Those faces that are coming from beneath the earth that are yet unborn, is the way we refer to that. They are going to need the same things that we have found here, they would like the earth to be as it is now, or a little better.

Everything that we have now is the result of our ancestors who handed forth to us our language, the preservation of the land, our way of life and the songs and dances. So now we will maintain those and carry those on for future generations."

G. Peter Jemison
Faithkeeper, Cattaraugus Reservation
Seneca Nation

The Haudenosaunee say that their chiefs "hold the law, the people and the religion in the palm of their hand, and it is their sacred trust and duty to assure the safety of all that for the generations to come."

In American society, the term "chief" is evocative of the concepts of "executive," "power," and perhaps "control," but that is not true within Haudenosaunee culture. Their chiefs are called "Hoyaneh" meaning "Caretakers of the Peace." Traditionally they are male leaders chosen to be the "voice" of their clan in council meetings. Each nation and each clan within the Confederacy may have a different number of chiefs, but all of the Hoyaneh have the same power and authority. Despite long-standing misconceptions, there is no

such thing as a "head" chief or "head" Sachem in Haudenosaunee culture.

A Haudenosaunee chief is still condoled or installed in ancient tradition, and must accept his duties for the rest of his life. Those responsibilities have not changed since Ely Parker received his instructions in 1851: "The thickness of your skin shall be seven spans - which is to say that you shall be proof against anger, offensive actions and criticism. Your heart shall be filled with peace and good will and your mind filled with a yearning for the welfare of the people of the Confederacy. With endless patience you shall carry out your duty and your firmness shall be tempered with tenderness for your people. Neither anger nor fury shall find lodgment in your mind and all your actions and words shall be marked with calm deliberation."