

## Citizens Advisory Council Meeting of 21 January 2015

Public Comments of Stephen P. Kunz  
(on behalf of the Citizens Coal Council)

Good Morning. Some of you know me: my name is Steve Kunz and I am a Senior Ecologist with Schmid & Company, a consulting firm in Media, Delaware County.

Schmid & Company has been hired by the Citizens Coal Council to conduct a thorough review of the 4th Act 54 Assessment, which was prepared by the University of Pittsburgh on behalf of the Department, and just released a few weeks ago. We are well into that review now, and hope to be finished in the next 2 weeks or so. Once it's complete, I will of course provide a copy of our report to Council. And then I would like to make a formal presentation to Council of our conclusions and recommendations going forward, at either your February or March meeting.

For today, I just want to provide a few quick facts from the 4th Assessment (which covered the period from August 2008 to August 2013):

During the 4th Period there were **46 active underground coal mines**, which was down by 4 (from 50) from the 3rd period. Most of them were room-and-pillar mines; only 7 were longwall mines.

The **total acreage** undermined during the 4th period **decreased by 18%** from the 3rd period, while at the same time the **total reported effects increased by 8%**. Most of the mine-related impacts -- **63%** -- were **due to longwall mining**.

These were similar trends that we saw from the 2nd to the 3rd Assessment periods: total acreage undermined decreased, total reported effects increased, most of the mine-related impacts were due to longwall mining.

And although the total undermined acreage decreased by 18% most recently, the **acreage undermined by longwall mines decreased even more, by 31%**, while the **acreage of room-and-pillar mines actually increased by 7%**.

And yet, longwall mining was overwhelmingly responsible for the impacts:

Longwall mines were responsible for

- 98% of the mining-liable structure impacts (230 of 235),
- 93% of reported land impacts (94 of 101), and
- 100% of the mining-liable stream impacts.

One of the good things about this 4th Assessment is that it provided a lot of excellent and quite practical suggestions and recommendations. If you don't get a chance to read the entire 470-page report, you at least should read Section X "Recommendations": Pitt does a very nice job of summarizing each of the problems and issues as they see them and then providing their suggestions or recommendations.

The major problem as I see it, unfortunately, is that **the Pitt recommendations don't go far enough**. Their recommendations amount to fiddling around the edges of a broken regulatory system.

Even if most of their recommendations could be implemented immediately -- today -- it's not going to do much more than help **count and track the impacts more clearly** - like putting on a pair of glasses.

But we don't need more accurate bean-counting. Recording and tracking the damages carefully is really just a very small part of the problem. **The real problem is the damage itself** - and the fact that it keeps happening in increasing numbers and severity. To address that requires a much more fundamental change.

The real problem is with Act 54 itself. 20 years ago when Act 54 amended the 1966 Law, it turned the whole concept of environmental protection on its head. No longer did you have to try to avoid and minimize impacts from mining --- under Act 54 you were **allowed** to cause damage, as long as you fixed or compensated for it. But it's **now** clear that that hasn't been working, and things have gotten worse, not better.

Because the plain truth is, even if you **prohibit** damage, you're still going to get *some* impacts. This 4th Assessment and the previous ones show that **if you allow damage you will definitely get damage**, including some damage that you didn't expect, some that the Department isn't set up to evaluate, and some damages that can't be fixed, ever. During this 4th Assessment period, for the first time ever, the Department determined that 7 streams had been irreparably damaged by longwall mining. And they still aren't fixed. One of them some of you will remember having visited a few years ago -- it was Kim Jones' stream -- that stream still hasn't recovered and it's been about 11 years now since it first went dry.

The Citizens Coal Council is going to be working hard in the upcoming year to push for changes to Act 54. And we are hopeful that Council will be an ally in that effort to ensure that the law is fixed so that underground coal mining is conducted in a way that doesn't destroy resources on the surface and in a way that complies with the rights guaranteed by Article 1, Section 27 of the PA Constitution.

Thank you.