

Citizen Advisory Council - Public Hearing on Act 54

March 27, 2015 1-3pm

DEP's California District Mining Office

25 Technology Dr.

Coal Center, PA

My name is Barbara Grover. I live at 5526 Wilkins Ave, Pittsburgh 15217. As chair of the Allegheny Group of the Sierra Club I am speaking this afternoon on behalf of our more than 5000 members here in Southwestern Pennsylvania. Thank you for providing this opportunity for citizens to present their concerns and opinions on Act 54 which deals with underground mining regulations. Your mission and that of the Sierra Club - here in Pennsylvania - are well aligned - ensuring that all residents enjoy clean air, pure water and the protection of natural, scenic, historic and esthetic values of the environment. In addition, our similarity extends to the fact that most of the people doing the work of the Sierra Club are volunteers like the members of this Council.

The Act 54 Report on the Impacts of Underground Coal Mining between August 2008 and August 2013 addresses concerns related to damage to homes from subsidence and damage to streams. We are most concerned about the water issues. I will focus on 4 specific concerns: Lost or impaired water supply, Longwall Mining damage to streams, Repair of Damage to streams, and Record keeping.

**1. Lost or impaired water supply** - Only 3 out of 201 reported water supply effects at the end of 2013 are actually having that liability assessed. Because the 51% of these supply effects are related to non-active mines, these effects are outside - the "Rebuttable Zone of Presumption" I had to look up what that meant.

The joys of the Internet allowed me to find a definition from a Legal Dictionary: A Rebuttable Presumption is "A conclusion as to the existence or nonexistence of a fact that a judge or jury must draw when certain evidence has been introduced and admitted as true in a lawsuit but that can be contradicted by evidence to the contrary."  
(from the legal-dictionary.thefreedictionary.com)

My understanding is that DEP's current policy on a company's liability for water supply impact does not apply to a mine that is non-active. Thus, such liability lies outside the "Rebuttable Zone of Presumption". So, we citizen's and the DEP cannot provide evidence to show a negative impact on a water supply of an inactive mine. **DEP's policy must be revised to include non-active mines.** This would allow DEP to begin analyzing liability for that 51%. We in Pennsylvania know only too well the long term impacts of mining. We clearly live with them today at mining sites that have long since been inactive.

In addition, **resolution of such liability should occur in a timely fashion** Quoting from the report: "However, when the mine operator was found liable for water supply impacts, the time to resolution exceeded one year (415 days)" ( Page 2 of the Executive summary of the report). That is unacceptable.

**2. Longwall Mining damage to streams** - According to the report, of the 96 miles of stream that were undermined during this 4<sup>th</sup> assessment period, " ... 39 miles belong to

streams that experienced mining-induced flow loss or pooling somewhere along their channel.” These impacts “constitute adverse effects to the macroinvertebrate community. Declines in water quality, including increases in conductivity and pH, also accompany mining-induced flow loss impacts.” (page 2 of the Executive Summary.” BOTH flow loss AND pooling are critical to the health and well-being of the many fish, insects and vegetation that live in the stream. Proper flow AND pools are essential to maintaining the proper balance between oxygen and carbon dioxide production for a healthy ecosystem.

Apparently current DEP policy applies only to flow-loss impact. **DEP policy for monitoring stream recovery and requiring compensatory damages should apply to unexpected pooling impacts NOT just flow loss impacts.** Both are important. In addition, stream investigation policies should require timely gathering of data and actions. Once again allowing such negative impacts on streams to be unresolved for years does NOT meet the mission of the DEP. It is unacceptable.

**3. Restoration of streams** – It is disheartening to learn that knowledge of best practices to repair damage to streams that have been undermined is apparently lacking. Consequently, The DEP should conduct a serious study of the practices used where stream restoration has been successful. It would also be important to know what conditions make it nearly impossible to restore a stream. **The DEP should convene a task force to conduct such a study immediately. In addition, FULL extraction mining under streams should be prohibited. That would prevent many future problems.**

**4. Data records to repair damage** – I found it quite disturbing to read that data to track stream impacts is in serious disarray and consequently makes it difficult for DEP to gain the understanding it must have to address these issues and enforce the law. This lack of good records was especially disconcerting since the DEP made the valuable decision to increase the requirement for submission of data from mine operators after the 3<sup>rd</sup> assessment. So the DEP is now requiring more data but does not have an adequate system in place to deal with “big data”. The report’s Executive Summary (pages 3-4) indicated that:

Records to track stream impacts lack standardization, are scattered in multiple data sources, and are sometimes in narrative form without organized data reporting. The DEP needs “a modern information system with explicit and enforced standards for data acquisition, submission and management.” (pages 3-4 of Exec Summary)

**The DEP should immediately embark on obtaining such a modern information system.**

On behalf of the Allegheny Group of the Sierra Club, I strongly urge you to make these suggested recommendations for improvement to the Department of Environmental Protection, the Governor, and the PA General Assembly. **PLEASE** protect our precious water supplies and the beauty of our land.

Thank you