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(Citizen)

Citizens Advisory Council  
Comments on the 4th Act 54 Assessment

Hello, I want to thank the Citizens Advisory Council for traveling to the coalfields to hear from residents directly. I am Veronica Coptis and have lived in Greene County all my life. I grew up outside of Graysville, PA which is just over the hill from the largest coal preparation plant in the country. There are many coal refuse disposal areas and valley fills surrounding the preparation plant as well. I am Deputy Director of the Center for Coalfield Justice, but I am providing comments today as a community member. Over the last ten years I have watched my community change significantly because of environmental and social impacts of coal extraction, particularly longwall mining.

### **Population and Character of Community**

The population in this area is declining, and in turn, the character of communities in southwestern Pennsylvania is being lost where longwall mining occurs. Several of the reasons for these changes are tied to mining because of the way impacts are currently being mitigated. All too often, I hear stories of someone from the community moving because they were undermined. A typical story is after several unsuccessful attempts by the company to replace the water supply, the company offers them a buyout. So, residents sell the property to the coal company and often move outside the community.

One particular community member had their farm bought out by the coal company and actually found another farm in the next community over, only to be approached a few years later for another buyout because this new property was in the permit area for a mine and would be undermined. This example shows that there are very few areas left to move to once your home has been ruined by subsidence, which is why you cannot blame folks for leaving the region altogether. People who want to stay in the area have valid concerns that their new home will be undermined too or struggle to find places for sale, because the homes are either owned by individuals who do not want to sell or a coal company which does not want to sell. All of the buyouts, year after year remove the tight knit community atmosphere and support, that was once so strong in the area, by systematically depopulating the region.

This also means that the coal companies are acquiring a lot of land where they operate and are not repairing homes or water supplies for those homes that people could be living in. Damage to those homes and water supplies are not reported and those homes are not habitable or marketable. Often some of the land is donated to the state or county for public lands and that removes those properties from the tax base.

The report found that companies purchased over 100 properties due to water or structural damage in the five year assessment period. The last United States Census produced data that reveals a decline in population and homeownership in Greene County, where the majority of coal mining takes place. This data was compiled as part of a report on Community Indicators of Environmental Justice, establishing a statewide, county by county baseline of demographic, social, economic and landscape information for comparison to Greene and Washington Counties. Greene County had the 7th highest population loss in the state and the 8th highest decrease in homeownership. In the past ten years, the West Greene School District has lost about 400 students and almost of that district's area has been undermined or is currently undergoing mining.

The Citizen Advisory Council should recommend that:

- DEP require coal companies be responsible for fixing damage to buildings and water supplies, rather than just purchasing the property.
- DEP require companies to report the purchase price of a property when they make an agreement with a homeowner to buy the property after the home has been damaged.
- DEP should facilitate access to these records of purchase prices for other homeowners in the area.

### **Pre-mining Agreements, Private Agreements, Lengthy Battle**

During this Act 54 assessment period, 230 cases of structural damage were determined to be caused by longwall mining. While these numbers may seem low to some people, 230 households is an entire community in western Greene County. The report found that most of the cases were resolved with pre-mining agreements, unspecified agreements, or the company purchasing the property. Seventy-five percent of all reported effects reach a final

resolution within 180 days, while the initial third of these reported effects reach a final resolution within the same day, likely because of a pre-mining agreement.

The report also revealed that there were 855 reported effects on wells, springs, and ponds and 201 of those cases are still unresolved. These numbers are significant populations of people in rural, southwestern Pennsylvania and are unacceptable. When pre-mining agreements or agreements with companies are used to resolve issues with water supplies, the state is notified, but once a settlement or private agreement is made, the DEP has no legal authority to intercede and track the remediation.

All too often, the coal companies encourages land agents to get people to sign pre-mining agreements. A pre-mining agreement is made before mining and provides the landowner a sum of money to cover the predicted damages to their property. In turn, the landowner waives their right to claim damages that are not covered in that settlement. This is the industry's preferred method for addressing issues because issues are resolved on their end before they even begin mining. The Act 54 reports found that for structure and water complaints, there were 66 pre-mining agreements and 313 unspecified agreements. In addition to pre-mining agreements, there are instances where the coal companies offer to buy properties before mining and since the company owns the property, they do not report or repair the damage.

Some community members say they have felt pressured or bullied by the land agents to sign these pre-mining agreements or told they would not get anything for the damages. Many people have also signed these agreements because they know that the other option of negotiating with the company can be long, drawn out, and extremely stressful for a family. A lot people I talk to who are going to be undermined just want their dealings with the coal company to be done as quickly as possible. Even in the Act 54 review, on average it takes 220 days to resolve impacts to water supplies and 169 days for impacts to homes and buildings. A few of the cases took over 2 ½ years to be resolved. This is a long time to be living in poor conditions and wondering when the company is going to fix the problem or even if the company is going to fix it.

Another factor that must be considered is that often settlements between the company and the individual happen without the involvement of the DEP. I have talked with several folks who

do not even bother to notify DEP because there is a lack of trust in the Department to actually help the situation. The DEP does have to be notified of complaints dealing with water but only when the company fails to restore the water supply or there is a problem with the temporary supply provided by the company. I am not aware of anywhere in the law that requires DEP to be notified when the companies purchase the property before submitting the permit application.

Just with my experience working with community members, I would estimate that there are at least double the amount of impacts in the community than reflected in the Act 54 review because of these pre-buyout offers.

The Citizen Advisory Council should recommend the following:

- Damages to water supplies and/or structures that occur on company owned properties should have to be reported to the state.
- DEP should issue enforceable orders for repair or replacement of structures when the company is found liable for the effect.
- DEP should immediately begin analyzing liability for the remaining 198 water supply effects.
- DEP should issue enforceable orders for repair or replacement of water supplies within 2 years of a company being found liable for the impact.

### **Burden of Proof**

In this review of Act 54, it was revealed that 51% of water supply reports were outside the rebuttal zone of presumption, which means the individual is responsible for proving that the coal company is liable for the effect. In this situation individuals have two options: first, to go to company directly and second, if that does not work out, file a complaint with the DEP. This process may require filing a lawsuit later on, which is costly and can take years to see a resolution. Many people in our community do not have the financial resources or the time to take on these fights.

Ten years ago, the dam at Ryerson Station State Park was critically impaired by subsidence and it was 70 degrees from edge of the mining. The state underwent the process of filing a

complaint, having an investigation completed that found the mining company responsible and then the company appealed that decision to the Environmental Hearing Board. This process took over 7 years, before the state and company reached a settlement. So even if a community member gets a good decision from the state, they still have to prepare for a long and expensive legal fight. In the case of the state park, embarking on this fight was easier because of their access to resources and expertise.

The Citizens Advisory Council needs to recommend that

- DEP policy be reformulated to take into account the finding that a company liable water supply can occur when a mine is in a non-active status and outside the Rebuttable Zone of Presumption.
- DEP should also create a more accessible process for residents to prove that industry is responsible.

### **Economics and Need for Transition**

In Harrisburg you heard how important longwall mining is to the local economy, but I want to offer a different perspective on those benefits. According to CCJ's report on the Community Indicators of Environmental Justice, only 26 percent of the people living in Greene County actually work for the industry. That means that most of the people experiencing these impacts are not people who are working in the industry.

The economics also fail to factor in the costs from mining that are externalized onto communities, of which the latest Act 54 review has plenty of examples that I have mentioned earlier. The report also reveals that if mining continues at the same pace then there is only 37 years of mining left in southwestern Pennsylvania. Being only 28 and planning to start a family soon, that means I will experience the day no one want to admits is going to happen. We are going to run out of coal. I love this region and we are all going to have face that it is about to change whether you like it or not. Now is a time when we can make sure people and workers in the coalfields are not left in the dust when industry leaves.

There are also questions about who will reclaim the of thousands of acres of land that are storing toxic waste from coal mining when industry leaves. Who will be responsible for

resolving unanswered subsidence claims? We only have to look back in history to see how coal companies leave communities when they are done mining or refuse to comply with the laws. Pennsylvania has the most abandoned mine lands in the country and a growing history of environmental degradation.

The Citizens Advisory Council should recommend that retraining programs be instituted for workers and that real conversations about transition begin to happen. There should be recommendations about increasing bonding and making sure resources are available to remediate mine lands that will become abandoned.

Finally, after listening to all the environmental and social impacts of mining, I want to stress the importance of taking a cumulative look at all the elements of mining and what that means for the community. Allowing these mines to be permitted piecemeal is allowing for massive overall destruction of our communities. Again, thank you for your time and please listen carefully and take into consideration these concerns and recommendations.

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