

April 1, 2015

Michele Tate, Executive Director
PADEP Citizens Advisory Council
Rachel Carson State Office Building, 13th Floor
400 Market Street
P.O. Box 8459
Harrisburg, PA 17105-8459

By email mtate@pa.gov

In re: Formal Written Comments on the 4th Act 54 Five-Year Assessment

Dear Ms. Tate:

On behalf of the Citizens Coal Council (CCC), I wish to provide the Citizens Advisory Council a copy of our in-depth independent review of the Department's 4th Act 54 Five-Year Assessment. The *Citizens Coal Council* is a national alliance of grassroots groups and individuals from the coalfields across the United States working together to protect communities adversely affected by coal mining.

A link to our report, prepared on our behalf by Schmid & Company, Inc., can be found [here](#). Stephen Kunz, Senior Ecologist with Schmid & Company, provided a summary of this report in his PowerPoint presentation to Council on March 17, 2015. I was unable to attend the meeting that day as I had hoped, but I appreciate Council's willingness to consider the information in his presentation as well as the testimony of the others.

The report, entitled *Undermining the Public Trust: A Review and Analysis of PADEP's Fourth Act 54 Five-Year Assessment Report*, represents the formal written comments of the CCC to Council on this matter. It reviews the numerous problems and many practical recommendations detailed in the Department's Act 54 Assessment. Our report identifies additional concerns with the implementation of Act 54 that must be acknowledged and addressed by the Department. Serious problems have been clearly articulated --- it now is time for the Department to take concrete action to address them or to be in violation of its public trust responsibility. CCC calls on the Citizens Advisory Council to ensure that real and effective changes are adopted to correct these concerns, some of which are summarized below.

- Despite more than 20 years since Act 54 was adopted, the Department still has no systematic process or database in place to accurately identify resources at risk from underground mining and to track impacts and resolution of impacts.
- Damages have been increasing even as the acreage being undermined has been decreasing. Mine-liable water supply impacts increased 40% from 3rd to 4th Assessment period, at the same time acreage undermined decreased by 8%.

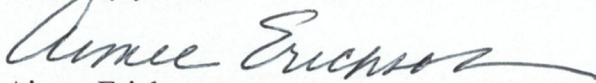
- The overwhelming majority of damages are due to one method of mining - longwall. Of the 46 underground coal mines active during the five-year period, only 7 were longwall mines. Traditional room-and-pillar mining, which continues to be a viable and profitable coal extraction method, is not associated with the same level of damage.
- Longwall mines were responsible for 97% of structure impacts, 89% of land impacts, and 100% of stream impacts during the 4th Assessment period.
- Most damages either are not being predicted or are unable to be predicted.
- Contrary to the intent of Act 54 that all damages be fixed, less than 15% of mine-related damage resolutions have been classified as "repaired" or "restored".
- About two-thirds of damages are "resolved" by purchase of the damaged property by the mine operator or by private agreement whereby the actual outcome is unknown due to nondisclosure provisions.
- Damages are taking a significant amount of time to reach "resolution", often measured in years. 25% of the water supply damages took between 1 and 4.5 years to resolve.
- At least 7 streams have been determined by the Department to have been irreparably damaged by longwall mining.
- Damage to Special Protection streams is not being avoided or minimized in any way.
- Damage to wetlands, groundwater, and other water resources is not being predicted or restored, and damage to the overall hydrologic balance is not being evaluated.

Most damages are being inflicted on resources of the Commonwealth from one method of underground mining, damages which are largely unpredicted and which in some cases cannot be repaired. This is in direct conflict with the Article 1, Section 27 guarantees of the Pennsylvania Constitution.

The bottom line is clear: Act 54 is not working as intended.

Thank you for the opportunity to provide these comments. CCC is willing to assist Council in any way we can to help rectify the problems with Act 54.

Sincerely yours,



Aimee Erickson
Executive Director