

PENNSYLVANIA CAMPAIGN FOR CLEAN WATER

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Michele Tate, Executive Director
PADEP Citizens Advisory Council
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400 Market Street
P.O. Box 8459
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By email mtate@pa.gov

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

Dear Ms. Tate:

On behalf of the Exceptional Value workgroup of the Pennsylvania Campaign for Clean Water, a coalition of over 180 environmental, conservation, sporting, and religious groups from all corners of the state, we submit the following comments to the Citizens Advisory Council regarding the Department's 4th Act 54 Five-Year Assessment. The Exceptional Value workgroup concentrates its efforts on the protection of the Commonwealth's most valuable and pristine waterways.

One of the primary concerns we have, based on the information in this 4th Assessment, is the adverse impact that underground coal mining is having on streams and other waters of the Commonwealth. It appears that virtually all of the impacts that have occurred to streams, not only during this latest Assessment period but during previous ones as well, have been the result of one method of coal extraction, namely longwall mining. The Department of Environmental Protection has an obligation to protect streams and we strongly urge the Department to stop permitting this destructive method of mining beneath streams.

According to this 4th Assessment, at least six streams have been determined by the Department to have been irreparably damaged by longwall mining. The loss of flow that those streams suffered from longwall mine subsidence had not been predicted, and the streams could not be restored to their premining condition even after the mine operator responsible for the damage had spent many years trying multiple restoration or remediation techniques. It is our understanding that that same mine operator, and others using similar longwall mining methods in the same area, have been allowed to expand their mines beneath new streams, even after those six streams were found to be irreparably damaged. This is a complete failure on behalf of the DEP. DEP cannot continue to approve permits for longwall mining when the flow loss damages to streams cannot be accurately predicted or effectively repaired and when past evidence clearly demonstrates the harm longwall mining inflicts on waters of the Commonwealth.

This 4th Assessment does not list the Chapter 93-designated or existing use of any of the streams that were determined to have been irreparably damaged. [We have learned subsequently that some of them were "Special Protection" waters, *i.e.*, one that has been designated either Exceptional Value (EV) or High Quality (HQ).] This points to another regulatory problem and violation of the Clean Water Act in the way the Department's Mining Program is operating and the way these Act 54

Assessments are being prepared. Special Protection waters are supposed to be afforded special consideration in regulatory and permitting matters because they represent the very best waterways in the Commonwealth. If, however, Special Protection waters are not being specifically identified in the review and permitting of underground mining, they cannot be adequately protected. The failure of this Act 54 Assessment, like its predecessors, to discuss the extent of mining and mining impacts (especially hydrologic impacts) in terms of Special Protection waters and their watersheds is a major oversight that has led to irreparable harm to Commonwealth streams. This must be corrected.

There are many small and headwater streams in Greene and Washington Counties which have not been assessed in the field. Because they are largely wooded and undisturbed by industrial and agricultural activities, those streams are likely attaining uses better than their designated uses. Unless their attained (existing) uses are determined during premining surveys, the Department cannot properly evaluate how to afford them the level of protection they are required to have in accordance with existing mining regulations and water quality regulations.

It is our understanding that most of the longwall coal mining that has occurred to date has not been beneath designated Special Protection waters (the major exceptions being Mine 84 and High Quality Mine in Washington County). However, according to the 4th Assessment there are only about 308,000 acres remaining unmined in Washington and Greene Counties in the Pittsburgh Coalfield, which is preferred by longwall mine operators. At recent rates of production, the Assessment estimates that the coal there will be exhausted in 37 years. The Department should be aware that of those 308,000 acres, EV and HQ watersheds overlie about 155,800 acres (51%). Thus, those Special Protection watersheds increasingly will be subject to longwall mining pressure during the next three decades. Indeed, such pressures already have begun. The recently proposed (but now withdrawn) application for a new longwall mine (Foundation Mine; Alpha Natural Resources) was sited almost entirely within the HQ/EV watersheds of a section of South Fork Tenmile Creek in Greene County. Recent expansions of the Bailey Mine (CONSOL), which has been renamed as BMX Mine (*a.k.a.*, Harvey Mine), have been approved in about 4,000 acres of the HQ Browns Creek watershed in Greene County, and additional expansions in that same HQ watershed are pending approval. Restoration of flow losses anticipated in those HQ waterways may turn out to be as futile as they were in those six irreparably damaged streams nearby and allowing that practice would be a clear violation of the Clean Water Act.

This latest Act 54 Assessment raises serious concerns about the ability of longwall mine operators and the Department to protect our precious water resources from this extreme method of underground coal extraction. Knowing what we now do about the effects of one method of coal extraction on the hydrologic balance, the failure of the Department to protect and preserve our streams and other water resources for future generations would be contrary to Article 1, Section 27, of the Pennsylvania Constitution. We urge the CAC to do everything in its power to ensure their protection.

Thank you for the opportunity to provide these comments.

Sincerely,



Faith Zerbe
Co-Chair



Krissy Kasserman
Co-Chair