

Citizens Advisory Council

to the Department of Environmental Protection
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July 24, 2015

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The Honorable John Quigley
Secretary
PA Department of Environmental Protection
Rachel Carson State Office Building
Harrisburg, PA 17105-2063

Dear Secretary Quigley:

The Citizens Advisory Council (CAC) to the Pennsylvania Department of Environmental Protection (DEP) submits the enclosed comments on the report titled, *The Effects of Subsidence Resulting from Underground Bituminous Coal Mining, 2008-2013*, for your consideration. The CAC appreciates DEP's cooperation throughout Council's review of the report, including the assistance of Deputy Secretary for Active and Abandoned Mine Operations John Stefanko and California District Mining Office Manager Joel Koricich in providing relevant information to the CAC. Council, by a majority vote, approved the enclosed comments at its July 21, 2015, public meeting.

As you are aware, Section 18.1 of the Bituminous Mine Subsidence and Land Conservation Act (Act) requires DEP to analyze the effects of deep mining on subsidence of surface structures and water resources, including sources of public and private water supplies, and to report such analysis in five-year intervals to the Governor, the General Assembly and the CAC.

In response to the receipt of the Department's fourth underground mining assessment report in December 2014, the CAC initiated a comprehensive public engagement strategy to ensure the CAC's review of the report was complemented by public dialogue and input from citizens of Pennsylvania. To that end, the CAC held two public hearings - on March 17, 2015, in Harrisburg, and March 27, 2015, in Coal Center - and advertised a written public comment period to solicit public input on the report. In response, the CAC received comments from over 2,000 individuals on the report. Those comments, which are available on the CAC's website, resulted in Council's greater understanding of the effects of underground coal mining subsidence and where opportunities may exist to assure greater prevention of subsidence or the restoration of structures and waters in Pennsylvania impacted by mine subsidence.

In developing and submitting the enclosed comments for your consideration, the CAC recognizes and appreciates the importance of the coal industry in defining and supporting Pennsylvania's economy. Council further recognizes the purpose for which amendments to the Act (Act 54) were enacted by the General Assembly in 1994, namely the establishment of an adequate remedy for the restoration and replacement of water supplies and surface structures affected by underground mining in order to balance the rights of mineral estate owners and surface landowners. However, it is the legislative



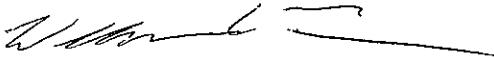
intent of Act 54 and the declaration of Commonwealth policy in the enactment of this important law where Council dedicated its most important scrutiny to ascertain whether the remedies afforded in Act 54 are being properly achieved.

Through the passage of Act 54, the General Assembly clearly articulated that the prevention or restoration of damage from coal mine subsidence is related to the economic future and well-being of Pennsylvania. While it appears that mining companies are able to repair, replace or financially compensate for damages to structures, the ability of these companies to repair damage to waters in our Commonwealth remains largely undetermined. This point is emphasized throughout the fourth assessment report and is indicative to the CAC of the shortcomings of Act 54, including its implementing policies and procedures, and the need for substantive improvements.

With consideration of the proper balance and harmonization Act 54 was intended to create, the CAC believes there are clear deficiencies of the Act and its implementation that deserve attention. In the enclosed comments, the CAC elaborates on specific recommendations to the Act, DEP regulations and permitting procedures, DEP resources, and DEP policies and protocols for public engagement and transparency in order to strengthen the Commonwealth's capacity for preventing and minimizing the impacts of underground coal mining subsidence in Pennsylvania.

The CAC welcomes the opportunity to work with you and other stakeholders in identifying opportunities to strengthen current statutory, regulatory and policy provisions that address the effects of underground coal mining subsidence on surface structures and water resources in the Commonwealth. I look forward to your review of the enclosed comments and working with you in the future to address the efficacy of Act 54, including identifying opportunities to ensure the legislative intent of Act 54 is properly implemented.

Sincerely,



William C. Fink
Chairman

cc: The Honorable Tom Wolf, Governor, Commonwealth of Pennsylvania
The Honorable Mike Turzai, Speaker, Pennsylvania House of Representatives
The Honorable Joseph B. Scarnatti, III, President Pro Tempore, Pennsylvania State Senate
The Honorable Gene Yaw, Chair, Senate Environmental Resources and Energy Committee
The Honorable John T. Yudichak, Minority Chair, Senate Environmental Resources and Energy Committee
The Honorable John Maher, Chair, House Environmental Resources and Energy Committee
The Honorable Greg Vitali, Minority Chair, House Environmental Resources and Energy Committee