

Protecting Our Constitutional Water Rights



CarrollConcernedCitizens.org

Carroll Concerned Citizens Mission

*Working to protect why we live here
For our families and for our future*



Carroll Concerned Citizens

Goals

- Educate citizens about the long-term impacts of coal mining and processing activities
- Provide a common outlet for citizens to voice concerns
- Work with and via government offices regarding permit reviews and regulator enforcement
- Use all legal means to uphold the rights of Carroll County landowners



Carroll Concerned Citizens Organization

- Formed in late 2009
- Leadership team
 - Paul Feezel, Judge Dominick Olivito, Al Kemerer, Bruce Putnam
- Approx 100 people on mailing lists
- Average meeting attendance 25-35
- Not yet a 501c3
- Funding to-date
 - Private funding for expenses (\$1,250)
 - Submitted SWCD grant for surface water monitoring (\$3,500)



Carroll Concerned Citizens Collaboration

- We work with other organizations that share the view that we should protect:
 - Landowner property rights
 - Landowner property values
 - Our community's quality of life
- Traditional: Sierra Club, OEC, local environmental groups, SWCD
- Non traditional: Property rights activists



Carroll Concerned Citizens

Work To-date

- Mining permit review and public comment
- Geologic, hydrologic and legal research
- Regular public meetings to document concerns
- Public awareness and education presentations
 - Economic and community impacts of becoming an Ohio Coal County
 - Protection of water rights
 - Protection of surface land rights
- Pursuit of collaborative legal strategy across multiple landowners



Public Meetings



Public Events



Website

Carroll Concerned Citizens
*Working to protect why we live here...
 for our families, for our future*

Home Page Shocking Coal Facts News Actions and Resources Contact Us

Dec 4 Press Conference - 50 Citizens Brave 20 Degree Temperatures to Show C

Next Meeting:
 We will not have a meeting in January so that our members may enjoy the holidays with their families.

Our next meeting to be held Thursday Feb 3, 2011 at 7:00pm. The meeting will again be held in the basement meeting room at the **First Presbyterian Church** 200 N. Lisbon St. Free parking is available in the rear of the building.

Topic: Collaborative legal strategies for protecting Ohio landowner water rights.

Meetings are free and open to the public.

Recent News:
Dec 4, 2010 Press Conference -
[WTOV9 TV](#)
[Carrollton Free Press Standard](#)

Press Events

wto9.com 19° Mostly Cloudy 15° 17°

Sunday, January 16, 2011 | 9:15am

Home News Weather Sports Obituaries Classifieds High School

WTOV9.com » News » Story

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Local Landowners Want Water Protected

Posted: 4:35 pm EST December 4, 2010
 Updated: 7:29 pm EST December 4, 2010

CARROLLTON, Ohio -- Local landowner discuss what they believe to be uncons...

A grassroots effort known as Carroll Co looking to protect landowners from min...

Saturday's meeting presented the fact th mineral rights and water rights. However what to do when those two laws overlap case of landowner's groundwater, who's property also has nearby mineral extraction.

"Coal companies or any other mineral extraction company really need to look at that and cannot say that you are going to pump hundreds of thousands of gallons of water out of ; yours.' It can't be yours, you dont own the rights to it," said Paul Feezel of Carroll Concerned Citizens.

Saturday's briefing was held in a landowner's garage in Carrollton. About 30 residents at...

Web Ads

Account Performance	
<p>Account Overview</p> <p>46 Clicks 6,646 Impressions 0.69% Clickthrough Rate \$0.33 Average CPC \$15.16 Total Cost</p>	<p>Keywords with the Most Clicks</p> <p>rosebud mining coal company ohio mining murray energy rosebud</p>
<p>Ad with the Most Clicks</p> <p>Rosebud Mining News Keep up with locals who are concerned about Rosebud carrollconcernedcitizens.org</p> <p>45 Clicks 0.84% Clickthrough Rate</p>	<p>Display Sites with the Most Clicks</p>

Dec 4 Joint Press Event Conference

CCC and OEC

- Two Years of failed policy by ODNR leaves Ohio landowners without water protections afforded by the Ohio Constitution
- 50 attendees
- Messaging
 - Formal ODNR and Ohio Inspector General notification of water takings
 - Intent to pursue landowner legal action regarding
 - ODNR permit approval process
 - ODNR water replacement protocols
- Press coverage: 1 TV, 4 print, 3+ web



Key Components of Argument

- Ohio Supreme Court cases *McNamara v. Rittman and Hensley v. Columbus*
 - Landowners have property interest in groundwater underlying their land.
 - Governmental interference with that right can constitute compensable taking.
- 2008 Great Lakes Compact & Ohio HB 416
- 2008 Ohio Constitutional Amendment 19b
 - Protect private property rights in ground water, lakes and other water courses against governmental takings

Press Conference Response To-Date

- OIG claims no jurisdiction as ODNR permit process and water replacement protocols are procedural not statutory
- ODNR has committed to review of permit process and water replacement protocols in 2011

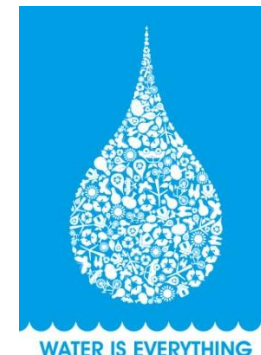


Next Steps



- Retained attorney Steve Edwards (Grove City)
 - 30 years of water law experience
 - 2 successful Ohio Supreme Court water challenges
- Develop legal strategy
 - New water protections change everything
 - Target is ODNR not coal companies
 - ODNR permit approval process
 - ODNR water replacement protocols
- Execute initial legal filings (TBD)

Goals of Legal Challenges



- Test that separation of water from mineral rights supersedes original coal purchase terms
- Expand ODNR hydrology analysis requirements from individual wells to aquifers
- Establish future use value for water access
- Increase setbacks from coal company owned boundaries to protect landowners with all rights
- Eliminate 20 year limit on water replacement
- Establish “pre mining” water condition to include quantity, quality, geographic dispersion and cost

Key Plaintiffs Identified



- Landowners who have already been dewatered by mining activities
- Landowners who retain all their mineral rights but are within or adjacent to mining activity
- Landowners identified in “Probably Hydrologic Consequences” section of permits
- Municipal well fields targeted for mining, but identified as backup source for dewatered landowners
- Potential for broad application throughout Ohio
 - Not limited to Carroll County
 - Not limited to coal mining (though probably best place to start)

Initial Funding Goal \$25,000



- \$5,000 to be raised from private donations
- \$5,000 through 1:1 matching from the Portage Trail Group
- \$10,000 through 2:1 matching from the Ohio Chapter
- \$5,000 grants from other sources, e.g., Beyond Coal mini-grant for the non-legal activities such as research and outreach

Use of Funds

\$5,000 Develop the best legal strategies

\$5,000 File the necessary lawsuits, injunctions, etc.

\$10,000 Work lawsuits through the lower courts (which we expect to get pushed upward very quickly)

\$5,000 Develop statewide recognition of the lawsuits and build a stage 2 fundraising effort

Motion



Provide Chapter matching funds in a 2:1 ratio up to \$10,000 on those funds raised by the Carroll Concerned Citizens organization. The funds will be used to develop and execute a legal strategy to protect Ohio landowner water rights as affirmed by the Ohio Constitutional amendment and Ohio Supreme Court. The Ohio Chapter Executive Committee will be kept abreast of legal strategies and progress at each of its regularly scheduled meetings.

Questions and Discussion

