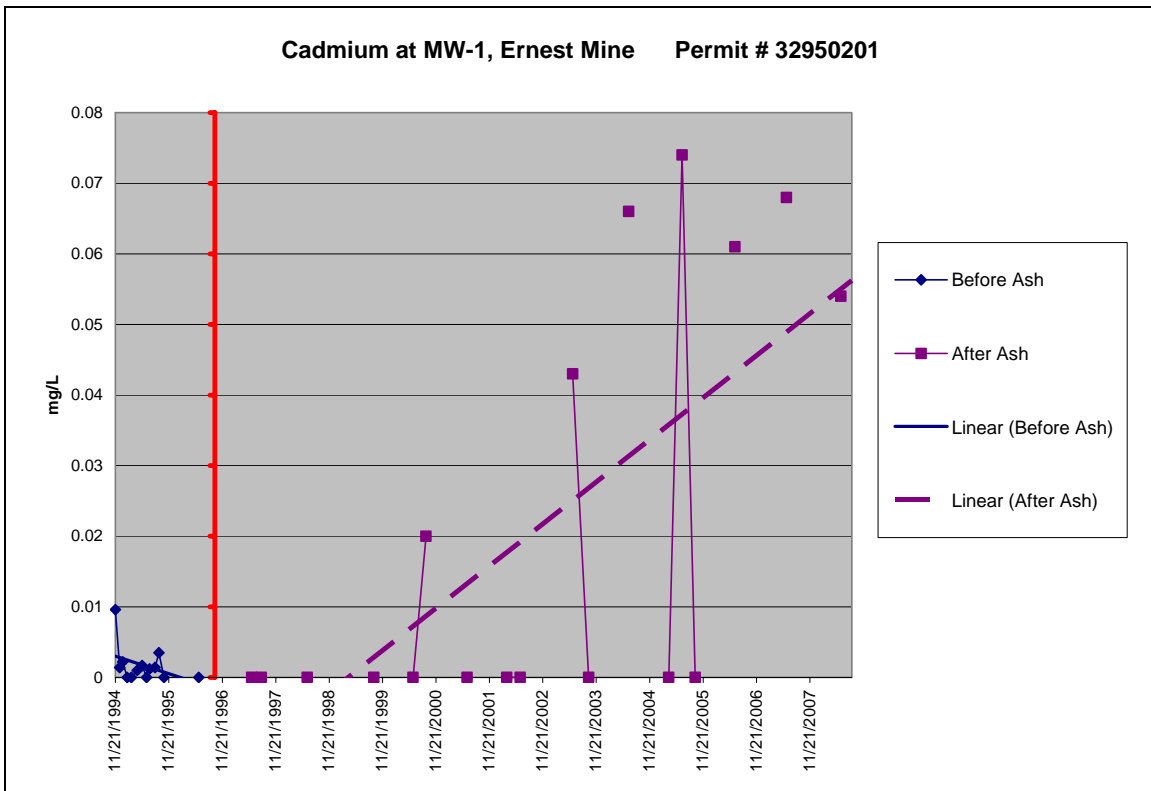


***Mining the Data:
Pizarchik's Decisions Have Been Contrary to Fact, Overturned by Administrative Law
Judges, and Detrimental to Pennsylvania***

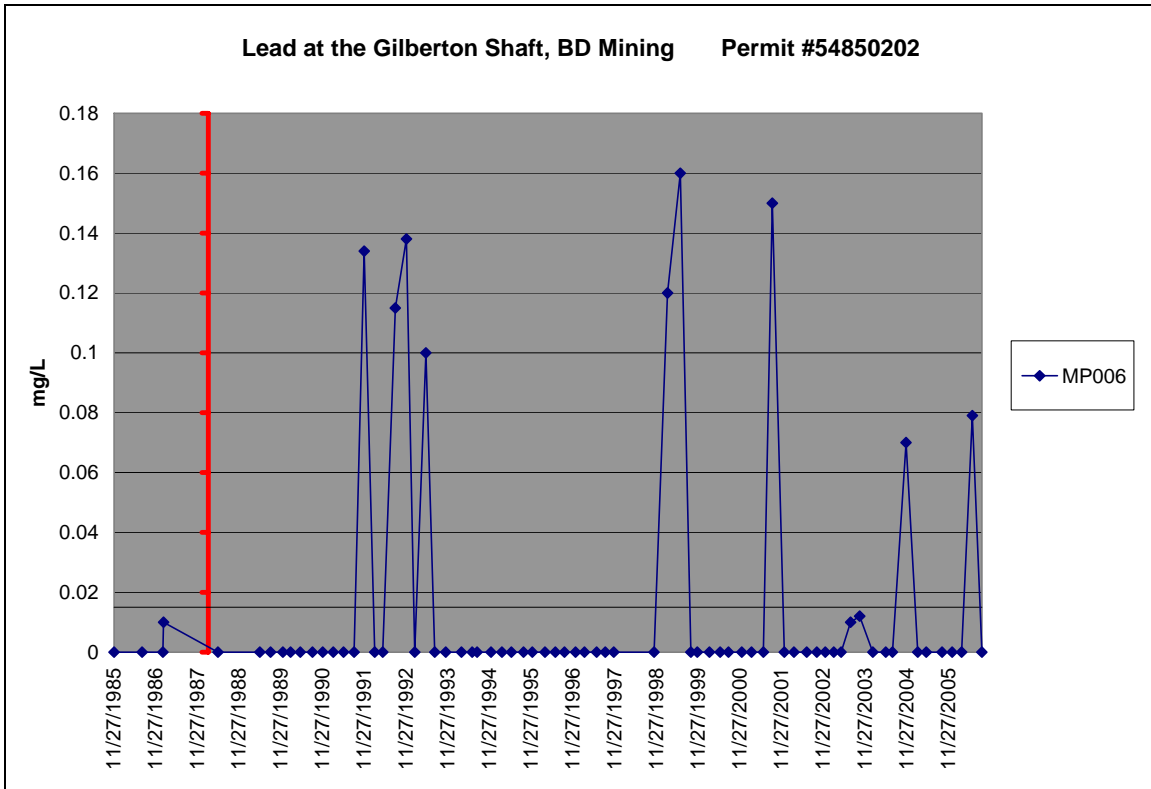
I. Contamination of Groundwater from Placement of Coal Ash in Mines

Joseph Pizarchik, Director of the Bureau of Mining and Reclamation in the Pennsylvania Department of Environmental Protection (PADEP) has been nominated to be Director of the U.S. Office of Surface Mining Reclamation and Enforcement (OSM). Mr. Pizarchik has championed a program to dump coal ash into Pennsylvania coal mines as “a beneficial use” despite the fact that it waives safeguards such as liners, leachate collection, and cleanup standards that scientists believe are necessary to protect groundwater and surface water from contamination by the ash. At his Senate confirmation hearing, Mr. Pizarchik categorically denied that this practice endangers water supplies, stating: “we have not had any evidence of pollution of groundwater caused by the use of coal ash at these mine sites.”

In fact a three-year study, *Impacts on Water Quality from Placement of Coal Combustion Waste in Pennsylvania Coal Mines (2007)*, researchers and groundwater scientists for the Clean Air Task Force concluded that PADEP’s monitoring data indicates the ash is contaminating nearby water supplies in ten of fifteen mines studied with toxic metals and other contaminants exceeding safe standards often by orders of magnitude. Below are examples of increases in concentrations of toxic ash metals repeatedly documented in waters draining ash sites in Pennsylvania Mines in the 2007 Report:



Pizarchik claims other samples at this monitoring point contained lower levels of cadmium, but those lower concentrations are still far beyond the drinking water standard and far higher than the concentrations of cadmium measured at this monitoring point before ash was dumped at the site in western Pennsylvania.



A two year investigation of metals contamination at the BD Mining ash site has been underway by USEPA’s Region III Superfund staff. Pizarchik states that higher lead concentrations have occurred at other monitoring points upgradient of the ash, but those monitoring points (MP007 and MP008) are actually downgradient of the ash and much closer to it than this monitoring point (MP006). Their data reinforces concern that ash is contaminating the water at this site in eastern Pennsylvania.

II. Failure to Monitor Migration of Pollutants Off-Site

Under Pizarchik, PADEP’s ash permits have not monitored waters draining ash sites beyond mine boundaries. Federal and state administrative law judges have ruled this illegal under SMCRA. In *Robert Gadinski*, 177 I.B.L.A. 373 (2009), the U.S. Department of Interior’s Board of Land Appeals (IBLA) agreed with a complaint by a former PADEP groundwater scientist that public drinking water wells used in Tremont, PA are potentially threatened by PADEP’s failure to sufficiently monitor groundwater flows from a nearby ash minefill. The IBLA remanded OSM’s dismissal of the complaint, finding:

PADEP's report, which, in large measure, provides the basis for the Regional Director's decision, lacks basic information that is indispensable to an analysis of a surface coal mining site, beginning with the terms of the permit itself. (pgs. 394–395)

Similarly, in *Citizen Advocates United to Safeguard the Environment, Inc. v. PADEP*, EHB Docket No. 2006-005-L (consolidated with 2005-329-L) (issued Nov. 2, 2007), a state administrative law judge found a monitoring system approved for a mine site in Hazelton, PA that would “beneficially use” 10 million cubic yards of a river dredge-coal ash mixture, was not capable of detecting offsite groundwater contamination:

If the Project results in groundwater pollution, no one will know it. The monitoring plan merely creates the illusion of protection, which is arguably worse than no monitoring at all. This is truly unacceptable, and the Department acted unreasonably and in violation of the law in concluding otherwise. (pg. 61)

A panel of scientists and legal experts from the National Research Council reached a consensus that the safeguards enforced by PADEP and other states for ash minefilling were not adequate and that a national regulation was needed to set minimum enforceable standards for all states to follow (see *Managing Coal Combustion Residues in Mines*, NRC, 2006). In June, 2009, Pizarchik proposed a regulation (Chapter 290 to Pennsylvania's residual waste regulations) that includes loopholes to allow PADEP to continue ignoring key recommendations of the NRC to isolate ash from water in mines and monitor it sufficiently.