

Blue Ridge Environmental Defense League

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November 30, 2018

Mr. Michael Westfall
Inspector General
Office of the State Inspector General
PO Box 1151
Richmond, VA 23218

Dear Mr. Westfall:

On behalf of our members and chapters in Virginia, I write today to ask you to investigate Governor Ralph Northam's actions surrounding his removal of two members of the State Air Pollution Control Board (SAPCB) on November 15, 2018 and his threats to and treatment of his own Advisory Council on Environmental Justice.

For over four years, communities, landowners, concerned citizens and grassroots groups have followed the rules in their efforts to inform the public, as well as elected officials, the Virginia Department of Environmental Quality and Citizen Boards which have the authority to issue or deny permits regarding two proposed pipelines for Virginia, the Mountain Valley and Atlantic Coast Pipelines. Directly-affected communities and their citizens have spent thousands of hours educating themselves to become citizen scientists. Thousands of comments were submitted, hundreds of citizens have attended public information meetings and public hearings. We have played by the rules at each and every point in the process as set forth by the law and bureaucrats. Governor Northam, during his campaign, assured the citizens of Virginia he would ensure all permitting decisions regarding the proposed pipelines would be based on science and the law and that the process would be transparent. At the same time, Governor Northam was saying one thing and doing another by claiming the pipelines are a federal issue, when they are not. The Commonwealth has a major roll to play in the permitting for both pipelines. Recently, the Governor took action to usurp the authority of his own Citizen Board's authority in the air permitting process. In this letter we explain how and why.

During the public hearing process, SAPCB members Sam Bleicher and Rebecca Rubin were asking pointed, direct and difficult questions of not only the VADEQ staff who wrote the draft air permit for the Union Hill Compressor Station, but of Dominion Energy which is their rightful duty and responsibility. We believe because of those questions, Governor Northam attempted to influence the decision of the SAPCB by removing SAPCB members Sam Bleicher and Rebecca Rubin on November 15. The Governor's actions not only broke the public trust,

but were an abuse of power which we believe constitute corrupt actions on behalf of Dominion Energy. The citizens are not the only ones who questioned the Governor's actions. Delegate Mark Keam, a friend of Governor Northam, wrote on his twitter feed, "This could be a disappointing and horrible example of abuse of power by a state official that I would not have expected from my friend, Ralph Northam."

We have included a "tick-tock" of the actions taken by the Governor as reported by the press to provide you with background on the situation as it occurred and as it stands at the moment.

November 8-9

The Virginia SAPCB meets in Richmond for a public hearing on the draft air permit for a proposed 57,000 horsepower compressor station sited for the historical freedmen community of Union Hill in Buckingham County, Virginia. Day one of the hearing offered an opportunity for comment by the public. Day two was dedicated to presentations by VADEQ staff who wrote the draft permit and a 5-minute presentation by the applicant, Dominion Energy, on behalf of the Atlantic Coast Pipeline partnership.

Upon completion of the presentations, SAPCB members asked questions of VADEQ and Dominion Energy staff. Sam Bleicher and Rebecca Rubin were the two members who asked the most direct, pointed questions. It was obvious the staff of VADEQ and Dominion Energy were having difficulty answering the direct questions of Rubin and Bleicher.

Once the question and answer session was over, the SAPCB broke for lunch. Upon their return, SAPCB member Ignacia Moreno, moved to delay the vote until the next meeting of the SAPCB which is scheduled for December 10. Bleicher spoke against delaying the vote, though he did ultimately vote with the other five members to delay the vote until December 10. One of the seven members of the Board has recused himself, leaving the vote to the six remaining members.

November 15, 2018

Delegate Sam Rasoul announced at a press conference he had heard rumors Governor Northam was going to remove Bleicher and Rubin from the SAPCB. That afternoon it was made public Governor Northam had informed Bleicher and Rubin they were being removed from the Board.

November 16, 2018

The Virginia Chapter of the NAACP issued a statement of great concern regarding the removal of Bleicher and Rubin. Their statement requested the Governor reinstate the two SAPCB members: "We urge the Governor to reinstate Mr. Bleicher and Ms. Rubin immediately so the Board can provide an informed and impartial decision that meets the purpose and

responsibility of the Board to protect Virginia’s residents from unnecessary air polluting hazards”¹

Members of the Blue Ridge Environmental Defense League coordinated with other grassroots groups, in less than 24 hours, a protest held outside the Governor’s office. Over 60 people from across the state attended the protest demanding Rubin and Bleicher be reinstated. While the protest was ongoing, the Governor announced replacements, Kajul Kapur and Gail Bush, for the two present SAPCB members. Particularly interesting is none of the environmentalists across the Commonwealth had any knowledge of these two new appointees’ work or backgrounds.

Notable also is Rubin and Bleicher’s terms ended June 30, 2018. However, Bleicher seemed to believe he was going to be reappointed as indicated by a post to his personal Facebook page on November 17: “I expected to be reappointed, but that isn’t the point. All indications are I was removed because I sounded like I might vote against the Dominion Energy Project...”



Mark Morris Where you term limited, as yours expired in June? Is it appointed or elected? How large a footprint does the compressor leave? The article doesn't seem to address these, nor alternative sites. Keep us posted.

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Sam Bleicher No, the law says I'm to serve 4 years and until replaced. I expected to be re-appointed, but that isn't the point. all indications are that I was removed because I sounded like I might vote against the Dominion Energy permit. If you want to know more about the facts, see <https://www.deq.virginia.gov/.../BuckinghamCompressorStat...>



DEQ.VIRGINIA.GOV
**Buckingham Compressor
Station Air Permit**

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Screenshot credit: Lowell Feld, Blue Virginia

The Governor’s removal of Bleicher and Rubin became even more questionable, when the *Richmond Times Dispatch* reported there were 235 other citizen board members who were

¹ Blue Virginia, “Virginia State Conference NAACP deeply troubled by dismissal of Air Pollution Board Members who Expressed Concern Regarding Environmental Justice,” by Jon Sokolow, November 16, 2018, <http://bluevirginia.us/2018/11/virginia-state-conference-naacp-deeply-troubled-by-dismissal-of-air-pollution-board-members-who-expressed-concern-regarding-environmental-justice>

still sitting on boards across the Commonwealth whose terms had also ended on June 30, 2018.² The Governor singled out, for replacement, SAPCB members who were actively embroiled in the permitting process of the proposed compressor station for the Atlantic Coast Pipeline.

November 21, 2018

An article appeared in *Think Progress* quoting Rebecca Rubin regarding her dismissal from the SACPB: “In an email to ThinkProgress on Tuesday, Rubin discussed her removal from the board. The timing of the dismissals was “very unfortunate,” she said, coming as they did just prior to such a crucial vote.

“Bringing two new board members on board has interrupted “an in-depth review, by an intact board, of the record and two days of hearings,” Rubin explained. The knowledge she and Bleicher obtained over the course of the board’s review of the compressor station project is “both fundamental to a responsible vote and irreplaceable,” she added.”³

Also on November 21, in a Community Idea Stations interview, Kajul Kapur, who had applied for a vacancy on the SAPCB in 2015, said she had first been contacted “just a few days ago” and it was a “delightful surprise” to become a member of the [SAPCB) Board.⁴

Wild Virginia, a conservation organization in Virginia, filed a FOIA request for all information surrounding the removal of the SAPCB members and a visit by Tom Farrell and Diane Leopold of Dominion Energy and David Paylor, VADEQ Director which occurred on Monday, November 19. The Governor has now claimed executive privilege and refused to release the information to the public.

A letter written by the Chairman of the Virginia Chapter of the NAACP, Kevin Chandler, on Thursday, November 21, 2018, and addressed to Governor Northam was made public in a Washington Post story November 29. It seems Dominion Energy had obtained a copy of the letter and was handing out copies at a meeting on Thursday morning. The letter included information that had been made public at the SAPCB hearings on November 8-9 when Dominion announced its “\$5.1 million community impact fund.” A representative of the NAACP spoke against the compressor station because of the environmental racism issue at the SAPCB hearings on November 8. Dominion’s money does not change the fact that the siting of the compressor station in Union Hill is environmental racism. The only way Dominion Energy could have received a copy this letter written to the Governor is through his own office.

² Richmond Times Dispatch, “*The Virginia Air Board Members Northam replaced had expired terms. So do 235 other board appointees,*” November 20, 2018, https://www.richmond.com/news/plus/the-virginia-air-board-members-northam-replaced-had-expired-terms/article_ee5723b8-1591-5807-888d-26dd52d40922.html

³ Think Progress, “*Former Virginia Board Member questions logic of replacing her before key pipeline vote,*” November 21, 2018, <https://thinkprogress.org/atlantic-coast-pipeline-3d77b4deaf8e/>

⁴ Community Idea Stations, “*New Air Board Member says appointment was delightful,*” November 21, 2018, <https://ideastations.org/radio/news/new-air-board-member-says-appointment-was-delightful-surprise?fbclid=IwAR3swVQOpqvworK5YOz766o1dxzYwCDB8EKbIgvOyUiH04z7ly3nC5iwA>

One of the most pertinent questions regarding the siting of the compressor station in Union Hill is environmental justice. SAPCB members were openly asking questions and delving into this topic. Carlos Brown, Dominion Energy Vice President and General Counsel, when answering a question of SAPCB members, stated there was “no intent” by Dominion to discriminate in the compressor station’s siting. In our opinion, intent is not the question. The facts point to environmental racism which is not allowed under Virginia’s Energy Policy as outlined in Virginia Administrative Law section 67-101.

In August, the Governor’s Advisory Council on Environmental Justice issued a report clearly stating that all permitting for both the Mountain Valley and Atlantic Coast Pipelines should be paused. The report also made clear that the siting of the compressor station in Union Hill was environmental racism. The Governor ignored the report, with his staff stating it was only a “draft.” The ACEJ was forced to re-confirm its unanimous vote in favor of the report at its August 28 meeting. The report was still ignored by the Governor. Cabinet Secretary Matthew Strickler ultimately issued a one-page terse statement in October. In a Blue Virginia post regarding the statement: “Strickler’s one-page letter all but ignored the Council’s findings, prompting the Virginia State Conference of the NAACP to say that it was “troubled by Strickler’s ‘inadequate’ and summary dismissal of the serious, pressing and legitimate issues raised by the Governor’s own Advisory Council.”⁵ Finally, at its October meeting, the ACEJ was informed by Senior Assistant Attorney General (AG) Paul Kugleman, that the committee didn’t legally exist because these types of Board’s must be reconstituted at the beginning of a new Governor’s term, or at least annually by the date they were formed. This Council was originally created on October 31, 2017 by then Governor Terrence McAuliffe. Governor Northam has allowed the AG’s office to undermine the ACEJ’s existence. The impact of all this is to avoid the well-researched and footnoted report produced by the duly-appointed Governor’s Advisory Committee on Environmental Justice.

Conclusion

We understand Governor Northam has the legal authority to replace Rebecca Rubin and Sam Bleicher, but the timing of their removal is suspect, unethical and corrupt. We believe we have amply illustrated that when the Governor saw a decision being made he didn’t like, he stepped in. First, he sent the AG’s office to threaten the Advisory Council on Environmental Justice after ignoring its report for months. Second, the actions he took to remove Air Board members he believed were about to vote against him and the politically powerful Dominion Energy are blatantly unethical at best, corrupt at worst. A letter from the NAACP written to the Governor mysteriously finds its way to Dominion Energy is suspect and allows Dominion to attempt to create a false narrative surrounding the NAACP’s opposition to the compressor station.

⁵ Blue Virginia, “October Surprise! Governor Ralph Northam, Secretary Matthew Strickler tell Advisory Committee to Go Away, Literally,” by John Sokolow, October 25, 2018. <http://bluevirginia.us/2018/10/october-surprise-governor-ralph-northam-secretary-matt-strickler-tell-governors-advisory-council-on-environmental-justice-to-go-away-literally>

The actions taken by the Governor regarding the State Air Pollution Control Board coupled with his treatment of and threats to his own Advisory Council on Environmental Justice clearly show an abuse of power by Governor Northam. We assert his repeated statements that the process should be governed by transparency, science and the law were nothing more than attempts to confuse the public when he instead chose to put his thumb on the process to ensure Dominion Energy gets the vote they seek to build the Atlantic Coast Pipeline.

We ask you to complete a thorough investigation into the Governor's actions. The Governor abusing his power, corrupting the process, and breaking the public trust are all serious matters.

Sincerely,

Sharon Ponton
Stop the Pipelines Campaign Coordinator
Blue Ridge Environmental Defense League