



Building Resources Initiatives Developing Growing and Empowerment

Dimension of Community Empowerment

Community Inclusive • Community Influential • Community Organized

November 22, 2020

To:

Vicki Arroyo, Executive Director Georgetown Climate Center
Transportation and Climate Initiative climate@georgetown.edu

Transportation and Climate Initiative
c/o Georgetown Climate Center
Hall of States, Suite 422
444 N. Capitol Street
Washington DC 20001

TCI Leadership Team:

Kathleen Theoharides Secretary
Massachusetts Executive Office of Energy and
Environmental Affairs

R. Earl Lewis, Jr., Deputy Secretary
Maryland Department of Transportation

TCI Executive Policy Committee:

Marty Suuberg
Commissioner
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Roger Cohen,
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Director
Connecticut Department of Energy and
Environmental Protection
Kate Fichter Assistant Secretary, Massachusetts
Department of Transportation

TCI Outreach and Communications
Workgroup: **Chris Bast** Chief Deputy
Virginia Department of Environmental Quality

Re: Policy Design Community Development for an Equitable Clean Transportation Community Participation Processes

Dear TCI decision-makers and Georgetown staff;

In an email dated Fri, October 16, 2020 to Vicky Arroyo, we raised the issues surrounding the naming of the Prince George's County Commission as a model example of public engagement. While we find that TCI is far removed from meaningful engagement and involvement of local community-led grassroots groups being at the table but rather are utilized. and by the big greens in guise of purporting to be grassroots groups are octopusncologist of exploitation and the smothering the local voices of actual groups that work in protection of the communities for which they live.

These special interests, agenda based, for the greater good organizations and nonprofits which fondles millions of dollars in government funds, donations and grant funding then pays its top campaigns, managers, directors, administrator etc., compensation, while simultaneously paying grass-roots communities zero (\$0). Yes, throughout TCI engagements these organizations community engagement processes are outstandingly oppressive. While grassroots groups make massive contributions yet are herded and shepherd like cattle as signatories whom organizations fail to represent one community-based "affected" resident whom are exploited and ideas co-opted.

TCI Community-Driven Engagement Processes

Making Community Engagement Law

The following resources and case studies provide examples of state statutes and municipal ordinances that mandate public participation under law. Legal mandates guarantee opportunities for community members to have a say in the climate adaptation measures proposed by state and local government and related entities.

TCI obviously did not research the facts as it relates to the Prince George's County Ej Commission because this synopsis on its face is a farce additionally misrepresents the facts.

<https://www.georgetownclimate.org/adaptation/toolkits/equitable-adaptation-toolkit/making-community-engagement-law.html>

Prince George's County, Maryland Environmental Justice Commission

In 2018, the Maryland General Assembly enacted the Maryland House Bill 183 (HB183) Environmental Justice Commission to tackle the environmental health concerns in Prince George County (PG County). HB 183 lists the composition of the commission, outlines the missions and duties of the commission, and mandates a findings and recommendations report along with a plan of action within two years and a month. Enacting a commission to facilitate environmental justice in PG County has helped address inequities for low-income and minority residents in the area while also helping the community adapt to climate change. In April 2019 after the commission submitted the first report of February 2019, the General Assembly acknowledged the commission's work and passed HB 1362 replacing HB 183 to extend the termination date of the commission to June 30th, 2020. The final report was submitted on January 10, 2020. Prince George County Environmental Justice Commission exemplifies that through legislation community engagement and equity can be addressed institutionally.

[View Resource](#)

While the sponsor(s) has put forth legislation to enact a "Prince George's County Environmental Justice Commission", based on the fact the State of Maryland has a "Commission on Environmental Justice and Sustainable Communities", under the leadership of Vernice Travis-Miller as Chair (CEJAC). It's preposterous the commission for the past 21 years plus has done NOTHING to improve and/or facilitate any sufficient change for low-income and/or minority communities of color, and furthermore enacted no such policies and/or processes.

Within the framework of the bill one would expect the same outcome in expecting a county and/or agency to regulate themselves. To put themselves in a negative light, while ones still tout that the County is the most affluent taken out of context especially with 285 pollutant heavy industrial industries. Ones based this commission on CEJSC yet, you do not address within this commission the sustainability of communities that is directly related to land-use and part of Ej issues. For now we will not expose the preposterous follow-ups and additional descriptions.

It is a matter of fact the non-governmental community representatives and as commissioners were excluded from any contribution, review, and/or briefing of the submitted report being a significantly adverse action against myself as a commissioner subjected to unfair treatment. Additionally, we as community commission members having no input or participation as a "Commission" of the whole period, rather backdoored by executive agencies in their lack of transparency. The second year was even more arthrosis in its lack of transparency and actual community representation having ones that were only concerned with one's academia agenda. Having NO meaningful change.

Brandywine/TB, Southern Region
Neighborhood Coalition

GENERAL ASSEMBLY

of Maryland

Prince George's County Delegation

ENVIRONMENT AND TRANSPORTATION COMMITTEE

Delegate Kumar P. Barve, Chair

Delegate Dana Stein, Vice Chair

Room 250, House Office Building, Annapolis, MD 21401-1991

(410-841-3990 | 301-858-3990)

HB183

An ACT concerning

Prince Georges County Environmental Justice Commission–

PG 411 18

Brandywine/TB, Southern Region *Neighborhood Coalition*

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Brandywine/TB Southern Region *Neighborhood Coalition*

Hearing Date: March 15, 2018 at 1pm Testimony (opponent)

1.) Kamita Gray

Resident of Brandywine MD, for over 50 years with my parents history dating back in the 1940's for which my mother at times baby-sat now Senator Mike Miller being his parents and mine where friends and commerce associates. This is meant to give history that I know the history of the area for which I live... not to "speak for", as any special interest group purports.

2.) Brandywine/TB Southern Region Neighborhood Coalition (BTB Coalition)

Kamita Gray, **advocate** and the President of the BTB Coalition a citizen's civic engagement group elected since 2007 formally the Danville/Floral Park Road Civic Association in existence since the mid 1960's.

3.) Brandywine MD a 72% minority community

Brandywine has 14 Heavy Industrial pollutant industries 3 are Fossil Fuel Power Plants in Brandywine, MD of the 6 in the State Panda Cedarville, existing, and two approved to come online in 2018/2020, PSEG Keys Energy and Panda Mattawomen.

The BTB Coalition is the only group with "standing" that alone worked with Earthjustice to file the current active Title VI Complaint with the EPA/DOT of the Civil Rights Act 1964, with a honorable mention of the co-complaint that was an add-on. Our Title VI is only the third to be ever have been accepted and the first to enter into ADR as of August 2016 for which I spent as the BTB representative since March 2017, 11 months in negotiations seeking a resolution throughout all state agencies. This on its face is relevant because the subject matter of the Title VI is the Panda Mattawoman Power Plant.

The State of Maryland concludes they should not have been the target of the Title VI Complaint and while we some what agree that Prince George's County should too have been the "recipient" of our current Title VI Complaint it does not preclude us from pursuing this avenue in the very near future with the recent approval of aggregate mining and the coal/fly ash dumpsite. The State of Maryland is was ultimately the action by Public Service Commission – Certificate of Public Convenience and Necessity (CPCN)– process that was disenfranchising and too by not having a Title VI process. Such commission does not bring you into compliance and the fact that you are the recipient of Federal Funds.

Here in lies the RUB with the Term "Environmental Justice"

While the sponsor(s) has put forth legislation to in act a "Prince George's County Environmental Justice Commission", based on the fact the State of Maryland has a "Commission on Environmental Justice and Sustainable Communities" (CEJAC), is preposterous. This commission for the past 21 years has done NOTHING to improve and/or facilitate any sufficient change for low-income and/or minority communities of color, and furthermore enacted no such policies and/or processes. Within the framework of this bill we would expect the same outcome in expecting a county and/or agency to regulate themselves. To put themselves in a negative light, while ones still tout that the County is the most affluent taken out of context especially with 285 land fills. Ones based this commission on CEJSC yet, you do not address within this commission the sustainability of communities that is directly related to land-use and part of Ej issues. The term "Environmental Justice" is a movement and absolutely not decree as to any regulation but rather guiding principles. While this maybe a great idea in theory there are inherent issues within the makeup of such bill:

As to the composition of the Commission members and the meaning of "Environmental Justice":

1. Environmental justice is the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies: **how is this bill accountable to this?**
2. Environmental justice planning seeks to create effective policies that ensure all members of a community can meaningfully participate in any civic decision-making processes. Community engagement, also Known as "civil engagement," must be promoted in a local jurisdiction through the development of objectives and policies that seek to involve members: **Then, why are there only 2 community members?**

The act of "commissioning" what are the outcome to be in facilitating "change" as an end result and coming to a conclusion. For that matter that CEJSC has made none and the Commission on "Cumulative Effect" could not even come to a "consensus", on any issues that matter.

There is no charge in the "commissioning", obtaining what should be the focus and a primary function of a commission in supporting with the promotion of an environmental policy? Such as;

Brandwine/TB, Southern Region *Neighborhood Coalition*

1. Environmental policy with the commitment of a County, and/or agency adhering to the laws, regulations, and other policy mechanisms concerning environmental issues. Policies concerning energy or regulation of toxic substances including pesticides and many types of industrial waste are part of the topic of environmental policy.
2. Each agency identify and address, as appropriate, “disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations, minority populations, and Indian tribes.
3. An integral component of EJ planning is proactively prioritizing projects and investments that directly benefit DACs. Impacted communities may have specific needs that are distinct from those of the greater community, which may require taking special actions to ensure that existing conditions in a DAC are improved and not exacerbated, such as limits on new developments to compensate for already high pollution burdens. These kinds of programs may not be applicable across an entire city or jurisdiction, but may be needed due to the special circumstances.

I will State for the record that Prince George’s County does not, and is not adhering to Federal Laws for which the County receives Federal funds.

The commission and what should be part of this bill is realization and the achievement of “environmental justice” principles as part of their mission of identifying, addressing and the development of, compliance with, and enforcement of Federal laws, regulations, and policies affecting human health identifying disadvantages communities

1. The requirement of such guidance is intended only to improve the internal management of the commission. It shall be deemed to create a right, benefit, and trust obligation, either substantive or procedural, enforceable by any one agency, its officers, or any other person. Consequently, this Guidance should have a deliberative process or programs resulting from the implementation of this Guidance to be treated as establishing standards or criteria that constitute any basis for review of the actions of the Executive Branch and the County Council. Compliance with this Guidance shall not be justifiable in any proceeding throughout all Agency action(s).
2. **Key Message;**
 - a. The commission should be charged with the development and outcome of policies as it relates to Title VI processes that address disproportionately high and adverse human health effects: otherwise you will end up with the same outcomes as CEJSC, NONE due to personal opinions and agency preferences.

(II) MAKE RECOMMENDATIONS ON MITIGATING OR MANAGING ANY NEGATIVE HEALTH IMPACTS;

To coordinate with, provide guidance to, and serve as a clearinghouse for, each agency as it develops Title VI processes and a environmental justice strategy as required by section I-103, in order to ensure that the administration, interpretation and enforcement of programs, activities and policies are undertaken in a consistent manner compliant with Title VI?

In making yourself heard

Environmental Justice is: the process of working collaboratively with and through groups of people affiliated by geographic proximity, special interest, or similar situations to address issues affecting the well-being of those people It is a powerful vehicle for bringing about environmental and behavioral changes that will improve the health of the community and its members It often involves partnerships and coalitions that help mobilize resources and influence systems, change relationships among partners, and serve as catalysts for changing policies, programs, and practices.

Title VI Policy

The U.S. Environmental Protection Agency (EPA) has made improving its civil rights program a priority and recognizes that its enforcement of Title VI of the Civil Rights Act of 1964 (Title VI) is an important tool in its efforts to protect against discrimination and ensure that recipients of EPA financial assistance do not discriminate in implementing programs and activities.

Thanks for listening, your time and consideration.

Respectfully submitted, BTB Coalition



**U.S. Department of
Transportation**

Office of the Secretary
of Transportation

JUN 14 2016



In Reply Refer To:

DOT# 2016-0361
EPA File Nos. 28R-16-R3,
29R-16-R3, and 30R-16-R3

Neil Gormley
Carter Hall
Earthjustice
1625 Massachusetts Ave, NW
Suite 702
Washington, DC 20036

Christine Ernst
Earthjustice
48 Wall Street
19th Floor
New York, NY 10005

Subject: Notification of Acceptance for Investigation of Administrative Complaint

Dear Messrs. Gormley and Hall and Ms. Ernst:

This is to notify you that the U.S. Department of Transportation (DOT), Departmental Office of Civil Rights (DOCR) with the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), have accepted for investigation the complaint filed by Earthjustice on behalf of the Brandywine TB Coalition and Patuxent Riverkeeper against the Maryland Public Service Commission (PSC), the Maryland Department of the Environment (MDE), and the Maryland Department of Natural Resources (MDNR) (collectively, "recipients"). Your complaint was received on May 11, 2016, and alleges violations of Title VI of the Civil Rights Act of 1964 (Title VI) and its implementing regulations, including Title VI regulations administered by DOT (49 Code of Federal Regulations, Part 21) and EPA (40 Code of Federal Regulations, Part 7).

Pursuant to DOT's and EPA's nondiscrimination regulations, the Offices of Civil Rights conduct preliminary reviews of administrative complaints received for acceptance, rejection, or referral to the appropriate agency. *See* 49 C.F.R. § 21.11(c); *see also* 40 C.F.R. § 7.120(d)(1). Complaints must meet the Agencies' jurisdictional requirements to be accepted for investigation.

After careful consideration, DOT and EPA have determined that the complaint meets the jurisdictional requirements of both agencies, and therefore the complaint will be jointly investigated.

Accordingly, the investigation will focus on:

1. Whether the process and decision to issue a Certificate of Public Convenience and Necessity (CPCN) to Mattawoman Energy, LLC for the construction of a natural gas-

fired power plant in Brandywine, Maryland discriminated on the basis of race, color, or national origin, in violation of Title VI; and

2. Whether the public engagement process prior to the decision to issue a CPCN discriminated on the basis of race, color, or national origin, in violation of Title VI.

The investigation will be conducted in accordance with the DOT's *External Civil Rights Complaint Processing Manual*, and EPA OCR's *Interim Case Resolution Manual*.

The decision to investigate the issues above does not constitute a decision on the merits of the complaint. DOT and EPA will begin a joint process to gather the relevant information, discuss the matter further with you and the recipients, if appropriate, and determine next steps utilizing their internal procedures. Both DOT's and EPA's nondiscrimination regulations provide that Offices of Civil Rights will attempt to resolve complaints informally whenever possible. 49 C.F.R. § 21.11(d); 40 C.F.R. § 7.120(d)(2). Accordingly, DOT and EPA are willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, offer alternative dispute resolution (ADR) as described at <http://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi>. We will be contacting both you and representatives of the recipients in the future to discuss potential interest in pursuing ADR, as well as the recipients' interest in entering into informal resolution discussions.

No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. See 49 C.F.R. § 21.11(e); see also 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with DOT and/or EPA. Any questions or concerns that you have regarding the investigative process and your rights can be discussed with the investigators.

Please do not hesitate to contact Ryan Fitzpatrick, Lead Civil Rights Analyst in DOT's Departmental Office of Civil Rights, or Brittany Martinez, Case Manager in EPA's Office of Civil Rights, with any questions about the investigation. Mr. Fitzpatrick can be reached at (202) 366-1979, or ryan.fitzpatrick@dot.gov. Ms. Martinez can be reached at (202) 564-0727, or martinez.brittany@epa.gov.

Sincerely,



Yvette Rivera
Associate Director
Department Office of Civil Rights
U.S. Department of Transportation



Rosanne Goodwill
Director
Office of Civil Rights
Pipeline and Hazardous Materials Safety Administration



Lilian S. Dorka
Deputy Director, Interim Director
Office of Civil Rights
U.S. Environmental Protection Agency

Brandywine/TB, Southern Region Neighborhood Coalition

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DATE: March 29, 2019

Brandywine | TB Southern Region Neighborhood Coalition (BTBCoalition)
8787 Branch Avenue, Suite 17
Clinton MD 20735

The Honorable Thomas V. Mike Miller, Jr.,
President
Senate of Maryland, State House H-107
Annapolis, MD 21401
Thomas.V.Mike.Miller@Senate.State.Md.Us

The Honorable Michael Erin Busch,
Speaker of House of Delegates
Senate of Maryland, State House H-101
Annapolis, MD 21401
michael.busch@house.state.md.us

Re: Report required by the State Government Article § 2-1246 (MSAR #11623) Environmental Justice Commission
Report required by (Hb-183-2018)

Dear Gentlemen:

The letter is to inform you that in your acceptance of the report submitted on February 22, 2019 by Gary E. Cunningham Deputy Director of Prince George's Department of Permitting, Inspections and Enforcement on behalf of the Prince George's County Environmental Commission (herein after "Commission"), was not submitted by the Commission of the whole having a consensus according to HB-183 2018, requiring the "Commission" to study and make recommendations regarding... requiring the "Commission" to report it's findings and recommendations to the Prince George's County House Delegation".

It is a matter of fact the non-governmental community representatives and myself were excluded from any contribution, review, and/or briefing of the submitted report being a significantly adverse action against myself as a commissioner subjected to unfair treatment. Additionally, we as community commission members having no input or participation as a "Commission" of the whole **period**, rather backdoored by executive agencies in their lack of transparency.

As an authentic community advocate Commissioner member representative of the public we loath being named party to such an inexpert report as subject matter experts secondly a Title VI is not a case study likewise the many other inaccurate analogies.

In referencing a county resident but rather an "affected community resident"; left out of the drafting to The Prince George's County Delegation HB 1362 (Prince George's County Environmental Justice Commission – Alterations and Extension, PG 421-19). We are concerned with the only change being added was the position of the Prince George's County State's Attorney the sponsor of PG 416-13 | HB 1145 2013, The Report of The Task Force to Study Energy Generation in Prince George's County to the Maryland General Assembly and Prince George's Delegate Aisha N. Braveboy, District 25, being one in the same gives the presumption of a conflict of interest.

Where's the authentic representation to responsible complete any tasks necessary to protect public health and welfare (no adding of the Health Department). White Washing of environmental justice disproportionate and disparate impacts has consequences WHEN IT COMES TO THE ENVIRONMENT, and MINORITY COMMUNITIES in not addressing health risks.

It was for this very reason initially we testified against this bill due to the improprieties of such commissions are unaccountable and without measurable meaningful outcomes leaving environmental justice communities to only further morph into long-term consequences as it relates to our community's public health.

Why was the Commission not commenced until November 21, 2018?; being the first meeting and the second on December 11, 2018, when clearly there was activity by DoE in July 2018 haven been documented. At no time were we as community commission members informed or ever made aware that Mr. Gary Cunningham was the appointed chairman. At no time "ever" did Mr. Gary Cunningham chair a Commission meeting of the whole or that community commission members were party too. Yet, the report states that Mr. Gary Cunningham was the appointed chairman as of October 3, 2019. At both meetings community commission

Brandywine / TB Southern Region Neighborhood Coalition

The BTB Page 2 of 2

members present where given the impression that we had no chairman being talks at both meetings verbally expressed with Dr. Sacoby Wilson and by email in reference to him being and/or becoming the chairman of the Commission.

November 21, 2018

- a) Present
- Angel and Legislative Aid
- Calvin
- Dawn
- Akosua
- Kamita
- No Dept Reps(?)

December 11, 2018

- a) Present
- Angel
- Gary Cunningham
- Dawn
- Akosua
- Kamita
- Dr. Sacoby, with Vernice, Denise & Ramon

On March 8, 2019 a FOIA request was submitted to Prince George's County DoE in seeking information that should have been forthcoming. On March 27, 2019 in a condescending fear-provoking email Dawn Hawkins-Nixon Sustainable Initiatives Division Acting Associate Director stated "Per House Bill 183, this document has been transmitted to the Prince George's County House Delegation according to State guidelines"; attaching the submitted report "after the fact". Additionally, having no knowledge a new bill had been proposed in that we expressed at both meetings the need for critical revisions as to new additional Commission members.

In conference the BTB Coalition discussions concerning the Title VI Complaint against the State of Maryland being investigated according the law reaching an informal resolution with the State of Maryland agencies on January 30, 2019. As the complainant the BTB Coalition or myself shall not be subject to deliberate actions used to send a clear message that complaining is unwelcome and risky for which we reasonably and in good faith believe that these acts are discriminatory.

As well, public concerns about state delegates representation being unintentional or intentional improper influence that the General Assembly exercises oversight in doing business with regard to local governmental commission having a lack of public disclosure and transparency in there's and others actions in turning a blind eye to inappropriate unethical conduct regarding the application of the law.

The State of Maryland General Assembly enacted this Commission. Therefore to instill fear and intimidation that myself might not consider complaining or not making a complaint or the fear of my continued involvement as a Commissioner, as related to the Prince George's County Environmental Justice Commission, as a commissioner and the Title VI being regarded to as a "troublemaker.", in retaliation, and/or subject to the fear of retaliation, being used as a weapon to maintain the power structure within the institutions maybe subject to a complaint. In addition it is my understanding in speaking with the Ethics Counsel., being of the opinion that that the U.S. Department of Justice has no such authority in an allegation(s) of wrong doing over the State of Maryland according to 49 C.F.R. § 21.11(e); or also 40 C.F.R. § 7.100 for which they enforce.

Furthermore, the BTB Coalition was one of the organizations of Concerned Citizen's on the Power Plants meeting with Senator, Thomas V. Mike Miller, Jr., August 6, 2015, were at that time we expressed the severity of the situation as it relates to public health and welfare.

Respectfully yours,


BTB Coalition In solidarity, Kamita Gray, President
Brandywine/TB Southern Region Neighborhood Coalition, Executive Community Citizen's Board (ECCB)

Attachments

- cc: Supervising Title VI Compliance Officers
- Official BTB Coalition Representatives
- Gary E. Cunningham Deputy Director of Prince George's Department of Permitting, Inspections and Enforcement
- Dawn Hawkins-Nixon, Acting Associate Director Sustainable Initiatives Division
- Delegate Michael A. Jackson, District 27B, Prince George's County House Delegation, Chairman
- Delegate Andrea Fletcher Harrison, District 24