



Virginia State Conference NAACP

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By Electronic Mail

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January 4, 2019

Mr. David Paylor
Director
Virginia Department of Environmental Quality
P.O. Box 1105
Richmond, Virginia 23218

Re: Buckingham Compressor Station, 4949-A Cox Road, Glen Allen, VA 23060

Dear Director Paylor and Members of the Virginia Air Pollution Control Board:

On behalf of the Virginia State Conference of the NAACP (VSC NAACP), we would like to take this opportunity to again reiterate our opposition to the air permit for the compressor station proposed to be built in Union Hill, Virginia. This oversized compressor station will be an industrial emitter in a nonindustrial area and will forever change the character of the community from a scenic and historic setting to industrial. There has been no consideration for maintaining the community's scenic aesthetics, nor pro-active mitigation efforts to prevent substantial degradation to air and water qualities. We ask the Air Pollution Control Board to vote No.

Further, Atlantic Coast Pipeline has not conducted any productive outreach with the owners located immediately adjacent to the site, nor are those owners represented in the newly formed Greater Union Hill Community Development Corporation. A quick review of a sign-in sheet of a past community meeting conducted by the applicant includes interested parties located at least 40 miles away from the site. Residents that are in the area of potential effect in the event of a pipeline incident or the inevitable reduction in their property value due to colocation with a potential hazard, should be given top priority and access to the project team. This did not occur.

We also must note that we are troubled by the decision by the Virginia Department of Environmental Quality ("DEQ) to limit this public comment period to seven working days during the Holiday Season and New Year's Day. This seems to us to be a calculated effort by DEQ to limit public input from across the Commonwealth on this very important issue. Our conclusion is strengthened by the fact that DEQ also has announced that no further public comments will be allowed when the Board meets on January 8, 2019. These decisions by DEQ not only limit public input but send a disturbing message that the environmental justice concerns for this proposed project are not worthy of serious consideration. We urge the Board to direct DEQ to reopen and expand the public comment period to a minimum of 60 days. We further urge the Board to allow the public to speak at the January 8 meeting.

1) Inadequate consideration and documentation of Union Hill's scenic, historic and archeological resources

From the project's conception to where we are today, the applicant had ample time and opportunity to proactively identify, record and mitigate any potential destruction of historical or archaeological resources. However,

as reported in the November 2018 notes of Marc Wagner, tree felling and excavation efforts began BEFORE the completion of historic surveys.

Preservation Virginia, a privately-funded statewide historic preservation organization focused on protecting historic places in Virginia, announced Union Hill as one of Virginia's Most Endangered Historic Places. Sites are chosen based on its potential to strengthen the local community's economy, create opportunities for heritage tourism and offers a glimpse into the unique history of the locality. Under the category, "Natural, Historic and Cultural Resources Threatened by Utility Infrastructure Projects Statewide" Union Hill is listed as a part of the "Post-Emancipation African American settlements and burial sites, like those at Union Hill in Buckingham County, [that] reveal the successes and struggles of generations of African Americans in Virginia."

Union Hill is a community of historic significance. It represents a community settled by freed men and women right after the civil war. It also represents a community building on the American Dream to own property and build equity to pass on to future generations. There are NO long-term offsetting economic benefits, such as employment or increased commerce, that ameliorate the economic harm that Union Hill residents will experience in lost property values. Both adjacent and nonadjacent property owners will experience a reduction in property values, a reduction in scenic values and a reduction in quality of life.

VSC NAACP once again urges the Board to deny the permit based on the record before you.

2) Inadequate consideration and documentation of Union Hill's socio-economic data

We have followed this permitting process closely and we remain deeply troubled by what appears to be a deliberate effort by the applicant, Dominion Energy, to erase the historic African American community of Union Hill from the record of consideration. This is nothing more or less than an effort to erase the relevance of African American's presence, culture, and heritage. We do not use that term lightly. But the record, as discussed below, leads to no other conclusion.

Union Hill was founded 150 years ago by freed slaves. Land for the proposed site was purchased by the applicant from the descendants of owners of the Variety Shades plantation, many of whom do not live in the area. This compressor station would be built in an area that is reported to contain unmarked slave graves. The applicant has made no serious effort to properly survey the land to identify cemetery boundaries or devised plans to protect the sacred grounds.

The denial of African Americans presence, continued with the use of misleading data that Union Hill is not a majority African American community, as many households were not accounted for in the population data. We conclude the data presented by DEQ is demonstrably false because it is at odds with the historical record as well as the lived experience of the Union Hill community members themselves. Not only CAN this false conclusion be disproven with empirical evidence but it in fact HAS been disproven by the simplest and most accurate of tools – door to door in person interviews with the residents of Union Hill themselves.

VSC NAACP once again urges the Board to deny the permit based on the record before you.

3) Inadequate environmental justice analysis

DEQ relied on the US EPA EJSCREEN to determine the Union Hill Compressor site was not an environmental justice issue. However, the US EPA clearly states, "there is substantial uncertainty in demographic and environmental data, particularly when looking at small geographic areas. EJSCREEN is not intended to provide a risk assessment. Furthermore, ESRI is a user-driven tool which based its projections on the 2010 US Census data. This data is out of date, and thus unreliable."

DEQ did not discuss these limitations in its presentation to the Board nor in its public filings and completely ignored EPA's warning. DEQ presented the EJSCREEN as if it is the end of the environmental justice inquiry. That is not true. Once again, the Board need not take our word for it. The **EPA itself says this tool is just the beginning of the environmental analysis**: "Screening tools should be used for a "screening-level" look. Screening is a useful first step in understanding or highlighting locations that may be candidates for further review. However, it is essential to remember that **screening-level results do not, by themselves, determine the existence or absence of environmental justice concerns in a given location; they do not provide a risk assessment and have other significant limitations.**"

The most appropriate data that should be used to properly determine environmental justice in Union Hill is a grassroots/local assessment. The Board has this, in the form of the "Union Hill Community Household Study Site and Methods Report" which is authored by Dr. Lakshmi Fjord, Ph.D. of the Department of Anthropology, University of Virginia. ("Household Study"). The Household Study is based on door-to-door interviews with Union Hill residents and was conducted from August to December 2016 and then updated from April to September 2018. Using 2 person teams, consisting of a senior resident of Union Hill and a scribe to record the results, members of every household within a 1.1-mile radius of the proposed compressor station were interviewed and asked basic demographic and health questions. The study provides definitive and unrefuted evidence that Union Hill is 83% persons of color and predominantly African American.

The findings of the Household Study were unequivocal. 99 households were surveyed within 1.1 miles of the proposed compressor station, comprising a total of 199 weekday residents. 83% of those were people of color. 62% of the residents are African American and another 14% are mixed African American and Native American. 2% are Native American and another 5% are mixed Native American and White.

Less than 17% of the residents of Union Hill within 1.1 miles of the proposed compressor station are white. In addition, the Household Study revealed that 59% of residents have a pre-existing medical condition, including asthma, allergies, multiple sclerosis, lupus, COPD, chronic bronchitis and pneumonia, congestive heart disease, heart disease and diabetes.

The Household Study also confirmed slave ancestors were buried in a Confederate graveyard near Shelton Store Road and it located a 100 plus unmarked slave burial grounds on property owned by Variety Shades, the descendants of the plantation owners who sold the compressor station site to Dominion.

These conclusions are part of the record before this Board and will be the record that would be considered in any legal challenge. The conclusions are unrefuted.

Finally, DEQ did not give any consideration to the Governor's Advisory Council on Environmental Justice ("ACEJ"), which reported significant environmental justice issues. Established in 2017 by Executive Order 73, the ACEJ was charged with identifying and eliminating environmental justice issues within the Commonwealth. Based on careful deliberation and meetings held in the Union Hill/Buckingham County area, the ACEJ concluded Union Hill "has a significant population fitting the environmental justice criteria." The ACEJ recommended the Governor direct DEQ to suspend the permitting process for the air permit until further review of the station's impact on the health and lives of those living within close proximity. "Union Hill Compressor Station in Buckingham County (ACP CS-2) may have a disproportionate impact on this predominately African American community and could be perceived as exhibiting racism [in] zoning and permitting decisions and public health risk". These findings should have more weight when making decisions than the questionable permit approval by the Buckingham County Board of Supervisors, yet, DEQ failed to include these recommendations as a part of the decision-making process.

VSC NAACP once again urges the Board to deny the permit based on the record before you.

4) Inadequate justification for the purpose and need of this project

In December 2018, the VA State Corporation Commission expressed “considerable doubt regarding the accuracy and reasonableness of the Company’s load forecast for use to predict future energy and peak load requirements”. This conclusion further confirms that a project of this size and magnitude is not warranted. As expressed in the December 18th joint letter with CCAN and others to Director Paylor, we again ask this question. If the ACP is unnecessary based on lack of future energy demand, as indicated by the recent SCC Order, shouldn’t the Union Hill Compressor Station also be considered unnecessary?

5) Inadequate Health Assessment

During the December 2018 Public Hearing, Director Paylor indicated a Health Assessment can be conducted but it would take several years to complete. The VSC NAACP again urges this study to be conducted prior to the approval of the air permit. We strongly feel this assessment can be conducted within a shorter period of time. The House Survey described earlier provides the necessary information needed to begin the assessment.

VSC NAACP once again urges the Board to deny the permit based on the record before you.

6) VSC NAACP’s Consistent Opposition to the Union Hill Compressor Station and the Atlantic Coast Pipeline

We also take this opportunity to inform the Board, in no uncertain terms, that DEQ has misled you when it comes to the position of our organization on the proposed compressor station. This is deeply disturbing.

As you may or may not be aware, the VSC NAACP has repeatedly and consistently opposed both issuance of a permit for the Union Hill Compressor Station as well as a construction of the Atlantic Coast Pipeline overall. Our record on this is clear.

- On May 30, 2018, we submitted comments to DEQ Director David Paylor noting our view that the use of Nationwide Permit 12 for the ACP and the Mountain Valley Pipeline “is inadequate and grossly neglects the magnitude of both projects and the massive disruptions to surrounding communities and the environment that will result.” We further noted the lack of “socio-economic data” and called for a complete halt in construction for both projects. We directly addressed the proposed Union Hill Compressor Station, noting that Union Hill is a “predominantly African American community that “relies on a single source aquifer for their drinking water” and that “there is no consideration for pipeline ruptures which could pollute the single source aquifer which feeds the wells of Union Hill and most of Buckingham County.” We requested that all construction activities for both pipelines “cease immediately until all legal and regulatory challenges are resolved.”
- On September 30, 2018, we once again wrote Director Paylor “to express our opposition to the granting of an air permit” to the Union Hill Compressor Station and to “implore you to deny the air permit for the compressor station.” We stated unequivocally that “the demographic and cultural and historic data used by the applicant is not accurate.” We further noted “the air modelling used by the applicant is not adequate” and “there has not been a qualitative risk assessment and Comprehensive health risk assessment completed by the applicant.” We addressed the issue of site suitability in great detail, noting that despite the fact that “federal and state laws mandate data used to determine the feasibility and safety of any project, particularly one that poses significant adverse impacts, should accurately reflect the composition and character of the surrounding community...the data submitted by the applicant does not.” We stated in particular that the “portion of Union Hill” that Dominion omitted “is predominantly African American and consists of approximately 99 unreported homes, and several historic sites, including two black churches and cemeteries.” We also noted that Union Hill was “established by freed enslaved families after the Civil War”

and that “the Union Hill/Woods Corner Rural Historic district was listed as a ‘Most Endangered Historic Place in Virginia by Preservation VA in 2016.”

- On October 19, 2018, we issued a statement once again noting that the VSC NAACP was opposed to the ACP, the Union Hill Compressor Station and the Mountain Valley Pipeline. In particular, we stated that we are “gravely concerned over the lack of fair and appropriate response to environmental injustices perpetrated by the approval and construction of these projects.” Our comments were made in the context of the refusal of Secretary of Natural Resources Mathew Strickler to follow recommendations from the Governor’s own Advisory Council on Environmental Justice. We said at that time that “VSC NAACP is troubled by Secretary Strickler’s summary dismissal of the serious, pressing and legitimate issues raised” by the ACEJ. We noted that “thousands of people who live along the route of the MVP and ACP are being negatively impacted daily by construction issues that already have done damage to Virginia’s precious water and natural resources.” We noted that these projects have been characterized by “a rushed and slipshod regulatory process” and that “state and federal law allow Virginia to both revoke the previous certifications granted for these pipelines under Section 401 of the Clean Water Act and to deny an air permit for the Buckingham compressor station.” We directly asked that “the Governor direct DEQ to not recommend approval of the permit and that the Air Pollution Control Board deny the permit and request that the applicant to conduct a more comprehensive socio-economic analysis of the surrounding community, as well as completing a qualitative risk assessment and comprehensive Health Impact Assessment.”
- On November 16, 2018, we issued a public statement noting that we were “deeply troubled” by the Governor’s decision to abruptly dismiss former Board members Samuel Bleicher and Rebecca Rubin. We noted that Board members had expressed legitimate concerns regarding the “environmental injustices presented by the siting of the oversized compressor station in the historic African-American community of Union Hill.” We noted that “Union Hill was established by former slaves freed after the civil war” and that “direct descendants still call the Union Hill community home.” And we pointed out that the majority of public comments filed in this matter were in opposition to the proposed air permit.
- On November 30, 2018, we re-stated our opposition to both the Union Hill Compressor Station and the ACP. We noted that news reports regarding an earlier November 21 letter from our President, Kevin Chandler, incorrectly suggested that VSC NAACP had modified its longstanding and unequivocal opposition to both the Union Hill Compressor Station and the ACP. We noted that the November 21 letter did not address the great danger that the proposed compressor station posed to “Union Hill’s air, water, cultural resources and quality of life” but rather was limited to specific safety concerns, if and only if the project was constructed. President Chandler further noted his displeasure that the November 21 letter had been used by Dominion to treat NAACP as a “political pawn.” As with our previous statements, this letter reiterated that Dominion had failed to provide “accurate demographic, cultural and historic data” and we demanded that all construction cease until that has been done.

We are attaching copies of these five prior statements opposing issuance of an air permit or the construction of the ACP, dated May 30, September 30, October 19, November 16 and November 30, 2018, for the Board’s consideration. We urge the Board to direct DEQ to post them on the webpage dedicated to this permit application.

We are appalled, however, that while none of these five prior and official statements from VSC NAACP are posted on the DEQ website, the November 21, 2018 letter, which addressed only one aspect of this project, was listed. Who is trying to mislead this Board into what the position of our organization is? And why are they doing so? And why are taxpayer dollars being used to erase the position of the NAACP, this nation’s oldest and most respected civil rights organization?

DEQ's decision to omit the consistent stance of VSC NAACP against the permit for the Union Hill Compressor Station does a disservice to the public and to the Board. It is yet another example of what appears to be an effort to erase from the record of this matter facts which former Vice President Al Gore, who himself has joined hundreds of prominent individuals across the United States to speak out against the proposed permit in this case, might call inconvenient facts.

We also call your attention to the "An Open Letter Regarding the Threat of Environmental Racism and the Proposed Atlantic Coast Pipeline" signed by Karena Gore and hundreds of prominent individuals here in the Commonwealth of Virginia and across the United States. As you will note, the signatories include Kevin Chandler, President of VSC NAACP and Karen Campblin, Chair, Environment and Climate Justice Committee of VSC NAACP. The letter can be found here: <http://www.friendsofbuckinghamva.org/friends/letter-of-support-for-justice-for-union-hill-with-support-from-karena-gore-and-others-12-8-18/>

This is an opportunity for Virginia to take a stand against creating more 'fence-line' communities that are overburdened with health impacts, and loss of land equity. As reported in NAACP 'Fumes Across the Fence-Line: The Health Impacts of Air Pollution from Oil and Gas Facilities on African American Communities'. Fence-Line communities are communities that are next to a facility that emits noxious fumes, noise, odor or toxic chemicals. Most fence-line communities in the United States are low-income, or communities of color. "It is not a coincidence that so many African Americans live near oil and gas development." We need to change that and develop policies that balances progress, societal needs and community health. We need to take better care and concern for all residents of the Commonwealth. For more information on fence-line communities go to: https://www.naacp.org/wp-content/uploads/2017/11/Fumes-Across-the-Fence-Line_NAACP-and-CATF-Study.pdf

Thank you for the opportunity to comment on this matter. We urge the Board to deny the permit.

Sincerely,

Thank you for your consideration.

Sincerely,

Kevin Chandler

Rev. Kevin Chandler
VSC NAACP
President

Karen Campblin

Karen Campblin
VSC NAACP
Environment & Climate Justice Committee, Chair

cc: Offices of Governor Northam, Lt. Governor Fairfax, and Attorney General Herring

Attachments:

Statements from VSC NAACP dated May 30, September 30, October 19, November 16 and November 30, 2018
– and joint letter with CCAN, December 2018