

# Brandywine/TB Southern Region Neighborhood Coalition

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## CONFIDENTIAL MEMORANDUM

### Title VI Complaint 'Informal Resolution' with DOT, PHMSA, EPA, ECROC

**DATE:** February 2, 2021

**TO:** Mr. Devon Dodson, Senior Advisor, Maryland Department of the Environment

cc: Brittany Robinson, External Civil Rights Compliance Office, Office of General Counsel, U.S.  
Environmental Protection Agency

**FROM:** The Brandywine | TB Southern Region Neighborhood Coalition

- **BTB Coalition** Kamita Gray, President– BTB Executive Community Citizen’s Board (ECCB), Chair
- **NAACP Brandywine Working Group**— Kamita Gray, Chair

**Subject:** Title VI Compliant EPA|DOT DOT# 2016-0361, EPA File Nos. 28R- 16-R3,29R-16-R3, and 30R-1 6-R3

The Brandywine | TB Southern Region Neighborhood Coalition was elated to announce that The U.S. Department of Transportation (DOT), Pipeline and Hazard Materials Safety Administration (PHMSA), and the U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECROC) is resolving our complaint based on their internal 'Informal Resolution' process. An agreement was entered into and executed on January 30, 2019 between the Maryland Public Service Commission (“PSC” or “Commission”), Maryland Department of the Environment (“MDE”), Maryland Department of Natural Resources (“DNR”) (together, the “Agencies”), on behalf of the Brandywine TB Southern Region Neighborhood Coalition (“BTB Coalition”), regarding the Title VI complaint (“Standing Complaint”) filed with the U.S. Environmental Protection Agency (“U.S. EPA”) and the U.S. Department of Transportation (“U.S. DOT”) on June 14, 2016. ECRCO accepted the following issues for investigation;

- 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 Brandywine | TB Southern Region Neighborhood Coalition finds it unfortunate that on December 15, 2020, Maryland Department of the Environment (“MDE”), one of the most crucial agencies in ensuring that decisions affecting human health and the environment skirted past a public engagement policy. MDE was salty from the very beginning of the Title VI Administrative Complaint acceptance for which MDE was of the opinion should not have been involved in the complaint to begin with.

MDE declares that “**The Maryland Department of the Environment** (MDE) realizes that environmental decisions can only be made effectively when the public is involved in the decision-making process.

Yet, MDE has not been forthcoming or transparent or responded after many promises were made in the process through the Alternative Dispute Resolution in being responsive to the needs of community and to the complaints. As stated “Months ago, MDE began developing strategies for ‘restoration from the inside out,’ including internal policies for workforce diversity and permitting, funding, enforcement, and public engagement and has not been transparent or responsive in the complaint processes.

Racism is more than individual prejudice based on race. Racism is the power of a dominant group, through its systems and institutions, to enforce the dominant culture's history, values, practices and beliefs. It advantages those in the dominant group and disadvantages those who are not. It results in disparities.

From our many experiences with Mr. Mr. Sacoby Wilson he leads this charge as a self-proclaiming ally in a nonprofit academia oppression of community voices in order to commodify the struggle of utilization having many examples. This leads to the fact that we are excited yet we are saddened in that an MDE a governmental agency would rather engage in marginalized activism with proxy organizations and academia having a self-centered, self-serving with a self-serving agenda for one's tenor to include Nick Sheets along with other cohorts in connecting the dots of these organizations that have shown NO measurable outcomes within our fenceline communities for which we live. These same cohorts complain what has the EPA done, we ask what have these organization and academias accomplished in having measurable outcomes when our communities are still being polluted. Rather we are seen as their commodity parachuting in on communities' challenges for their gain and narcissistic agendas.

When agencies are serious they at least put forth an effort especially when in 2017 at the time of our Title VI ADR negotiations we presented MDE with a fortified plan for which MDE turned a death ear to.

Then the farce of the PgCty Ej Commission in the first and the second term participated in by Mr. Mr. Sacoby Wilson for whom communities refer to as "dim shady" being given a voice when he has DONE NOTHING in following through with any measurable outcomes that have brought about change in any community yet continues the farce that he somehow represents in speaking for and having any such standing. Community self-determination is a foundational concept embedded within environmental justice principles with community-led leadership... respecting this speaks monuments as a governmental allegiance having a duty to serve the people.

These cohorts' accomplices have no standing in our communities with the continued expropriation of our local difficulties such as that they can be transformed into "issues" useful in Environmental Big Greens campaigns. By all involved that DO NOT LIVE or REPRESENT our communities and/or Brandywine in addition community voices are used and abused with the community's voice in letters, fundraising appeals, press releases, victory parties and other methods of subsuming the legitimate voices here in Brandywine and elsewhere.

MDE has taken no formal measures in solidifying a plan by which to increase community involvement and to engage citizens. Residents deserve a means by which to voice their opinions on permits and proposed regulations, and other issues bottom up not top down.

For the BTB Coalition it was nothing more than a slap in the face when you stated during the CEJSC meeting on January 28, 2021, that MDE had an Ej Plan in the works for the past 18 months and that it had public comment... from whom and where because the Title VI complaint was still open and MDE during this time when MDE continued to be out-and-out NON-RESPONSIVE to the BTB Coalition many requests to engage. In addition, as the NAACP Workgroup Chair for Brandywine this is inexcusable and distressing. Our Title VI was on "Public Engagement" and MDE has failed to engage the very community with the open Title VI complaint and we see this as nothing more than being wayward. Especially, now in light of the comments made on the last day of ADR as it related to the Title VI complaint.

The PgCty Ej Commission was a complete fabrication of being anything meaningful and/or viable but rather a tool as it relates to Mr. Sacoby Wilson to interject his insignificant procedures that are nothing more than tactics. Furthermore, the first report along was bogus and the second report was a farce in having NO measurable outcomes but rather based on a congenial relationship that furthered a lack of meaningful actions. Adding too this CEJSC for 21 years with Vernice Travis-Miller at the helm produced no measurable outcomes.

Now, MDE comes and intentionally follows these proxies' failures...' it's concerning in the furtherance of ones leveraging their connections for self-gain. These are people with environmental careers. They can't have careers

unless they have funded issues to work on. In effect they plumb communities seeking "issues" they can get funded to work on. They cannot imagine how to obtain "issues" unless they go to where they can be found in exploiting our communities.

Fool me once, shame on you; fool me twice, shame on me... after being tricked once, we should have learned from our mistakes and avoided being tricked in the same way again in the mist of our Title VI resolution. MDE is the ONLY agency that did not keep its word in the ADR agreement and especially as it relates to "public participation". Then to find that MDE is in bed with Mr. Sacoby Wilson warrants even less credibility went you get in bed with dogs you can't help but get fleas. Further in adding a position on CJEJSC for the University of Maryland besides having a history of putting his students on the CEJSC to further toot his horn and this farce of the MD Ej Screen. Really?

Meanwhile, Grumbles stated that he hopes to move towards something like New Jersey's "holy grail" environmental justice bill that was signed into law, which requires the state Department of Environmental Protection to deny permits for power plants, landfills and other energy installations in disadvantaged communities if they pose health and environmental risks. Putting into perspective is inadequate in that Maryland should be the leader and not following behind furthermore MDE had the chance in their resolution with the Title VI Administrative Complaint to solidify in the "Informal Resolution", for which MDE failed measurable.

Within our Title VI processes MDE before "equity" was a philanthropy buzz word MDE was presented with Environments Equity and Environmental Justice Permitting Process using state approved regulations, plans and programs for they MDE adamantly resisted so to now dangle the New Jersey's "holy grail" environmental justice bill when in the last paragraph it states;

- In addition, as a rule of law New Jersey's "holy grail" environmental justice bill ... "Nothing in this section shall be construed to limit the right of an **applicant** to continue facility operations during the process of permit renewal to the extent such right is conveyed by **applicable law, rule, or regulation, including the application shield provisions of the rules and regulations adopted pursuant to the "Air Pollution Control Act (1954),"** P.L.1954, c.212(C.26:2C-1 et seq.).

This MDE initiative should have been a ground up process and not the muffling of fenceline community voices in just having again Mr. Sacoby Wilson and the cohorts of the industrial nonprofit complex advocates, special interest groups and Ej advocacy groups and academies at local universities leading the charge in being what they proclaim ones should not do in speaking for without... As with Cecilia Martinez in a meeting on January 5, 2021, stating that she and these groups are "embedded" in our communities and speak from community perspective as if they are "good allies" when they are seen as nothing more than accomplices.

MDE furtherance of fenceline community's victimization as fetish for the work of the allies in forms of exoticification, manarchism, "splaining, POC exploitation, and this kind of relationship fosters exploitation between both the oppressed and oppressor.

Where public voices and public participation are concerned there has to be a systematic change in how we engage fenceline communities if we are going to foster change for the most "affected". One's don't bake a cake... then tell us to come support in others words eat whatever it is that one is selling as it relates to legislation that is not for us. We are not someone's that you come to "get" the grassroots as if we are objects! Big Environmental Greens and Academia's are NOT facilitators of local communities' civic engagement.

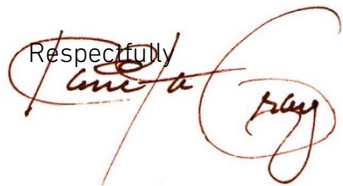
Community participation is understood as the participation of the individuals in various types of local tasks and activities that are not only geared towards benefitting themselves but also promoting well-being of the local community. Public participation is an important part of agencies regulatory and oversight responsibilities. There are many ways that the public can have a role in the decision-making processes and MDE has failed to do that.

We ask MDE where is Environmental Legislative Regulatory Process... Public Engagement and Citizen Involvement being they are not one in the same as it relates to outreach. We not only deserve to be in the room but at our own table in addressing real issues and the impacts of climate issues, pollution and environmental injustice; agroecology, food sovereignty, and rebuilding of local farms; energy democracy; water protection and access; promotion of solidarity economies; advancing women's leadership with education programs; legislative policy work; and movement civic empowerment building toward long-term systemic change.

Community self-determination is a necessary foundational concept. In being at the table and not one that has already been set by granted "agendas" of the nonprofit complex. We don't need outreach as public engagement but one---on---one basic building block of community influencing, "Without the fence---line community, there can be no liberation", in what you do for us without us is not for us! We expect that MDE to satisfy the public engagement process, as it relates to our complaint as it relates to our Title VI Administrative Complaint.

We are raising our concerns requesting a respond in exploring how we might find a resolution that "affected" communities voices are heard and at the table not one already set for us. With sincere respect for the MDE Administration, we seek positive and measurable results where we live, walk, work, and die. We have come to understand that while one's understands the underlying problems and issues surrounding parachute environmentalisms, it is the systemic system one's works within that creates the chaos and conflicts the Ej advocacy groups values.

We hope MDE fully considers building off of the Jemez Principles for Democratic Organizing, including the inherit right for "affected" communities to participate as equal partners at every level of decision-making. "Affected" community's participation engagement needs to be greatly expanded with a proven method giving the opportunity to participate in the decisions at the beginning of the conversations not just listening sessions.

Respectfully  


DRAFT Agreement – August 3, 2017

## B. Maryland Department of Environment

- i. Environmental Justice Policy. MDE will complete development of a statewide Environmental Justice Policy within 18 months of the effective date of this agreement ~~and will complete any necessary regulatory changes required under the plan by XXX. (See Exhibit 5 for an outline of the elements of the Environmental Justice Policy).~~ [SP8] The MDE Environmental Justice Policy will include, but not be limited to:
  - a. Environmental Justice Screen. MDE will require the internal use of appropriate environmental justice screening tools for certain permit applications (See Exhibit 3 for Illustrative List of Permit Applications Subject to MDE Environmental Justice Policy).
    1. MDE will initially use the U.S. EPA EJSCREEN environmental justice screening tool.
    2. MDE may evaluate multiple environmental justice screening tools to determine if there is a need to use other environmental justice screening tool components in conjunction with or instead of U.S. EPA EJSCREEN.
    3. The appropriate environmental justice screening tool selected will be used by MDE to determine if a proposed project is within an environmental justice community, as determined by MDE in its environmental justice policy.
    4. If upon a run of the environmental justice screening tool, a proposed project is determined to be within an area that contains an environmental justice community, then it will be subject to the MDE Environmental Justice Policy, which at a minimum, will provide for enhanced public notification and engagement as part of the permit review process.
  - b. Public Participation Guidelines. MDE, with input from the BTB Coalition and Patuxent Riverkeeper, will prepare guidelines for conducting meaningful and effective public engagement. The guidelines will outline opportunities for meaningful public engagement, including activities such as dialogue, work groups, and public hearings. (See Exhibit 4 for the outline of the Public Participation Guidelines) [SP9] [SP10].
  - c. Enhanced Oversight. MDE will consider enhanced oversight of facilities in environmental justice communities pursuant to its environmental justice policy.
  - d. Partner with County Governments. MDE will seek to work with the applicable county governments to coordinate inspection activities and enforcement matters where warranted.
- ii. Environmental Justice Policy Stakeholder Process. MDE will provide the BTB Coalition, the Patuxent Riverkeeper, and other stakeholders with an opportunity to comment on its Environmental Justice Policy.
- iii. Public Information. MDE will add to its website, pages that will provide information on public participation opportunities for permitting activities and grant, loan, and technical assistance opportunities for environmental justice communities. [SP11]
- iv. Monitoring. MDE will assist BTB coalition with citizen monitoring. ~~This needs to be better defined.~~ [SP12]
- v. MDE and Maryland Department of Health will make every effort to meet regularly to discuss environmental justice issues.

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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](mailto: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](mailto: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

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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