

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*

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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.

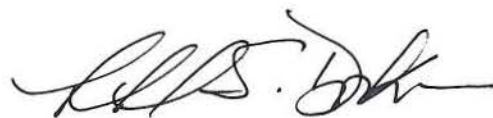
No one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 49 C.F.R. § 21.11(e); *see also* 40 C.F.R. § 7.100. 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



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



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