

Dear Air Board members,

I thank you for your service to your fellow Virginia citizens, and I urge you to take extremely seriously your responsibility to protect our air and health, and to stand for fairness and for due process, in considering the air permit for the proposed Buckingham compressor station.

Citizen boards, and each of their members, play a key role in our democracy on the state level. Their mandate is to keep a perspective informed by expertise and unbiased by financial gain, to take a broad and long-term view vis a vis the ramifications of their decisions, deliberate in public, and to look out for – and listen closely to - the interests of the public at large.

As you know, 10.1 - 1307 of the Virginia Code delineates board authorities, and its specific authority to make determinations with respect to permits and regulations. Virginia's citizen environmental boards pre-date the DEQ by decades, and these boards are empowered to make regulations and approve variances. DEQ staff are supposed to serve the boards, rather than maneuver and coerce the boards and their members by providing limited and at times inaccurate information. Board members appear not to understand the degree of power, and therefore responsibility, mandated to them. It seems that DEQ and Dominion - with the unfortunate support of politicians financially supported by Dominion, and in the context of a political system wherein Dominion has created legislation to protect its interests – have, over time, at least partly convinced Air Board members, and perhaps the Board as a whole, that the Board must follow the lead of the DEQ, rather than take the lead as our citizen Boards are actually mandated to do. This erodes confidence among the public, as it should, in the integrity of citizen Boards and in our state-level democracy as a whole.

This current vote presents a valuable opportunity for the Air Board to assert its mandated power and responsibility by considering the vital question of suitability – whether Union Hill is a suitable site for a major, and untested, compressor station. Given the fact that the DEQ and Dominion are using wildly inaccurate data to characterize Union Hill demographics, and the fact that Paylor hid the Dept. of Health's offer to conduct needed a health assessment now to help predict health effects on Union Hill citizens, the Air Board and its members must take upon themselves the vital responsibility of seeking, and basing their permit decision on, an accurate demographic assessment and an accurate health assessment, among other suitability factors.

At the November 2018 Air Board meeting, the DEQ power point presentation erroneously asserted that no action has ever been taken by the Air Board to make an unsuitability determination for factors other than air. In fact, the Air Board has indeed denied a permit base on unsuitability, in 1979, when it denied a company called Dano a permit to operate a sewage sludge operation, basing its decision largely on the Board's assessment that the site was unsuitable.

And in 1981, the Air Board asked assistant AG (at the time) Chaffe for advice in the case of a quarry that the Board had determined was unsuitable. With the caveat that the Board must not put itself in the position of looking arbitrary and capricious, he said that it was his opinion that it was legitimate for the Board to deny a permit even though the permit complied with air and zoning regulations, because the Board thought that other factors (i.e. “social or economic threat”) made the proposed permit unsuitable.

In 1987, according to a Richmond Times article titled “Board limits its inquiry to air issues” – the Board decided to limit its authority, by constructing a policy saying the Board would determine suitability only on the basis of air and health considerations.

21 years later, in 2008, Board members brought this limited idea of suitability up again, saying that this limitation on the Board’s decision-making power was illegal. Some Board members at that time wanted to revise the suitability policy to be able to deny a permit even if was granted by local zoning authorities. This was an important assertion of the power of the Air Board, especially cogent in a state in which the Dillon Rule supports the state in not ceding authority to local governments.

It appears that, over all those years, a full discussion of the suitability policy never made it onto the Air Board’s agenda, in large part because the DEQ so strongly controls that agenda.

I believe this permit application gives the Air Board a very important opportunity to consider and articulate, in an updated way and using its full authority, what role suitability should play in the permitting process. To recap: the Air Board has indeed denied a permit before, on the basis of suitability; there has been discussion over the years about what suitability means, but no clear articulation; there are major suitability concerns in this current permit application.

One important element of suitability is the demographic makeup, health risks specific to the community in question, and the cultural and historical characteristics, of Union Hill. It is very concerning that Dominion and DEQ are using inaccurate demographic data based on inapplicable census figures, and highly disturbing that Paylor obfuscated the fact that the Va. Dept. of Health offered to do a health assessment of citizens within the area most affected by the proposed compressor station. In the latter case, the Board was thereby not only misled by the DEQ, but deprived by DEQ of important information. Without the health study, the Board cannot properly assess potential health impacts.

Environmental justice factors should be given great weight in determining suitability, especially given the poignant fact that the very land upon which the compressor station is proposed to be built is a former plantation on which the ancestors of many Union Hill citizens labored as enslaved people. Today, these

citizens' property values have significantly decreased in the shadow of the proposed compressor station.

If the Air Board denies the permit, it will have strong, important, and defensible rationales for doing so. The Board can rightly assert that the demographic information provided to it by DEQ and Dominion is patently false, that Paylor withheld important information about the Health Department's capacity to do a health risk assessment, and that there are strong environmental justice concerns that have not been sufficiently considered.

I think it is clear that the Board should assert its authority and deny the permit. Short of that, Virginia law would seem to allow a new 90 day period for the Board to deliberate, since a new public comment period just ended. A Board member could ask for this. This may give time for a health assessment to be conducted, for the Board to hear Dr. Lakshmi Fjord's report on her carefully conducted on-the-ground demographic study that portrays a dramatically different picture from Dominion and DEQ's inaccurate one, and more questions could be asked and answered about the social, and economic effects on the citizens of Union Hill. And, an overarching environmental justice lens should be brought to bear in the Board's deliberations, as an important aspect of the question of suitability.

Thank you very much for your service, and for your consideration of these concerns.

Warmly,  
Mary Stewart  
Crozet, Virginia