

June 8, 2020

To: State Corporation Commission (SCC) Document Control Center Clerk's Office

Mr. Joel H. Peck

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Email: joel.peck@scc.virginia.gov

From: Dr. Mary Finley-Brook – Chesterfield, VA

Memorandum Opposing Case # PUR-2019-00207

Please file this correspondence to the referenced case file - PUR-2019-00207

Natural Gas - For approval and certification of natural gas facilities: the Header Improvement Project and for approval of Rate Schedules and Terms and Conditions for Pipeline Transportation Service

June 8, 2020

Dear Virginia State Corporation Commission,

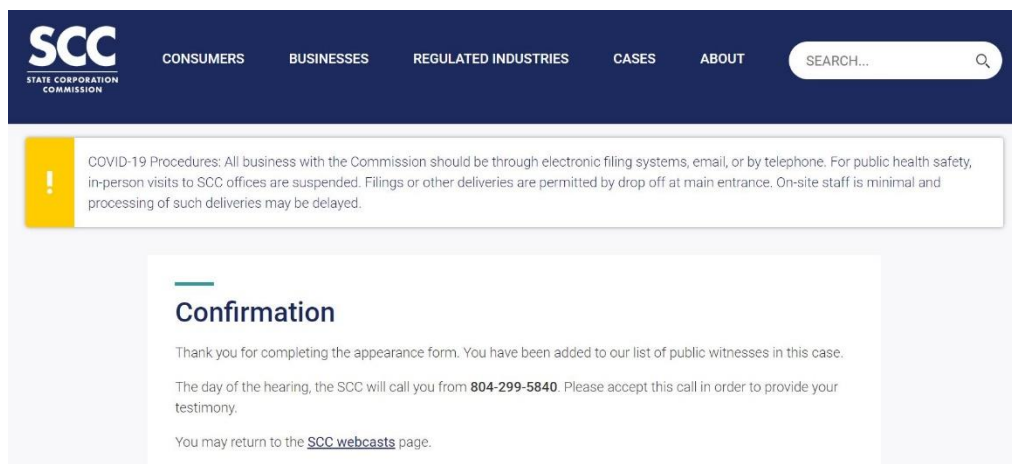
I am an Associate Professor at the University of Richmond in the Department of Geography and the Environment. My research specialty is sustainable energy. After analyzing the Virginia Natural Gas's proposed Header Improvement Project (HIP), I recommend you deny this application based on (1) a public comment and hearing process that violates due process, (2) the lack of demonstrated need for the header project, (3) environmental racism and unfair toxic burden in Charles City and Chesapeake, and (4) the disregard for scientific rigor and climate science on the part of Virginia Natural Gas (VNG).

Violation of Due Process: Public Hearing during COVID-19 Crisis and Recession

Holding hearings during the COVID-19 crisis and the subsequent economic recession violates due process and the civil rights of Commonwealth residents. The phone call-in system on May 12 was an unmitigated disaster. I know of dozens of people, myself included, who spent hours trying to be able to speak. Many were disconnected from the system various times. Some people living close to the pipelines and other infrastructure were not able to participate because they could not take a full day from work and could not access the phone system at times that did not conflict with job commitments.

The hearing on June 8 did not rectify the earlier impediments and added new challenges with an additional step to be able to participate by having to register by 4 days prior. The registration system was simple, but there was only a standardized confirmation generated (**Figure 1**), leaving uncertainty if the process was success, and what to do if it failed. People who registered received notice to look for call from 804-299-5840 and little else. With family and other commitments, and while dealing with an economic recession, many of the people at greatest risk from harm from this header project are unable to sit by the phone waiting for a call at an unspecified time.¹

Figure 1: SCC Public Witness Confirmation



¹ Another impediment, unrelated to COVID-19 but contributing more broadly to lower public participation in SCC hearings, is that some residents feel unable to talk because of employment with the state government or private sector. The SCC makes addresses and names public on all comments submitted, potentially facilitating retaliation.

On May 7, 2020, Virginia's Attorney General Mark Herring joined ten other Attorneys General to request the Federal Energy Regulatory Commission (FERC) place an immediate moratorium on new gas infrastructure projects until the end of the COVID crisis (**Figure 2**). They believed that doing so is necessary to preserve due process rights since interested parties, including many impacted households, are dealing with unprecedented health and economic challenges and thus their ability to participate in hearings and proceedings is constrained.

Figure 2: Letter from Attorneys General

May 7, 2020

The Honorable Neil Chatterjee
Chairman
U.S. Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

RE: State Attorneys General Request for an Immediate Moratorium on Gas and LNG Infrastructure Projects

Dear Chairman Chatterjee:

The attorneys general of Maryland, Massachusetts, Connecticut, Delaware, Illinois, Minnesota, New Mexico, Oregon, Rhode Island, Virginia, and the District of Columbia (State Attorneys General) respectfully request that the Federal Energy Regulatory Commission (Commission) declare an immediate moratorium on approvals of all new and pending natural gas pipelines, liquefied natural gas (LNG) export facilities, and related fossil-fuel infrastructure projects until the end of the COVID-19 crisis.¹ Doing so is necessary to preserve the due process rights of interested parties, many of whom are dealing with unprecedented challenges to their health and economic wellbeing from the COVID-19 crisis and whose ability to participate in hearings and proceedings may be accordingly constrained.²

The Attorneys' request for a moratorium on new permits for gas infrastructure was appropriate as they cited the weight of decisions involving topics like air emissions and eminent domain property takings. The subsequent dismissal of their request by FERC, an agency widely criticized for pro-industry bias and weak commitment to listen to impacted populations,² was not a surprise. However, Virginia's SCC, I believe, should and can aspire to more rigorous and fairer procedures than FERC. Many state hearings near the time of SCC's May hearing were cancelled, as shown in Town Hall listings (**Figure 3**).³ Yet SCC continued to hold their May hearing.

Figure 3: Sample of Virginian Town Hall Listings in May

May-05 2020 (Tue)	9:00 am	Board for Contractors CANCELED	Board for Contractors
May-05 2020 (Tue)	9:00 am	Board of Coal Mining Examiners CANCELED	Department of Mines, Minerals and Energy
May-06 2020 (Wed)	9:00 am	Special Conference Committee (Agenda) CANCELED	Board of Medicine
May-06 2020 (Wed)	10:00 am	Professional Engineers & Land Surveyors Section Meeting CANCELED	Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers, and Landscape Architects
May-06 2020 (Wed)	1:00 pm	Financial Assistance Review Committee (FARC) CANCELED	State Board of Health
May-06 2020 (Wed)	2:00 pm	Real Estate Board Education Committee CANCELED	Real Estate Board
May-06 2020 (Wed)	3:00 pm	Rules and Regulations Committee CANCELED	State Board of Health
May-06 2020 (Wed)	3:00 pm	EMS for Children CANCELED	State Board of Health
May-06 2020 (Wed)	5:00 pm	EMS Advisory Board Executive Committee CANCELED	State Board of Health
May-07 2020 (Thu)	9:00 am	Board of Veterinary Medicine - Informal Conferences CANCELED	Board of Veterinary Medicine
May-07 2020 (Thu)	9:30 am	Emergency Management Committee CANCELED	State Board of Health
May-07 2020 (Thu)	9:30 am	Real Estate Fair Housing Sub-Committee CANCELED	Real Estate Board

² Finley-Brook, M., T. Williams, J. A. Sheppard, and M. K. Jaromin. 2018. "Critical Energy Justice in US Natural Gas Infrastructuring." *Energy Research and Social Science*. 41: 176-190.

<https://doi.org/10.1016/j.erss.2018.04.019>.

³ <https://townhall.virginia.gov/>

SCC must consider how uneven access to public comment hearings and other case proceedings may worsen disparities with negative impacts for underserved groups, such as people of color, people with disabilities, bilingual and non-native English speakers, populations experiencing poverty and homelessness, and people who belong to other protected classes, such as the hearing impaired. The on-line and Skype hearings were not successful in protecting vulnerable Virginians. Additional action from the SCC is necessary to avoid discrimination, and the potential likelihood of lawsuits, stemming from the unfairness of these procedures. As I detail below, a large number of impacted populations are low-income, part of minority racial or ethnic groups, or otherwise receive protection under long-standing civil rights codes.

There are several additional reasons why holding a hearing now is discriminatory. Many impacted households remain unaware of the HIP project – particularly now that there has been a near total lockdown on all news coverage that is not directly related to the pandemic or to street protests. Moreover, an issue that I am acutely aware of is the fact that the evidence below is only a small portion of the materials that I would normally submit for a hearing such as this: my preparation was restricted due to COVID-19 related challenges, including limitations to travel and public gatherings. Resulting from the multiple crises communities in Virginia are currently facing, I have lost considerable time that I needed to detail and document the extent of unfair treatment.

The inability of professional volunteers to be able to do this work during a pandemic is even more problematic because of the resource differentials with impacted poor communities and energy companies. Resource-restrained households find out about projects like this with sparse time to prepare, when larger corporations with large budgets have more time as well as more money to prepare materials to protect their community. A deeply frustrating element for people such as myself who have done work with numerous minority communities is that we have considerable evidence of racial and cultural harm, but the historical system of white supremacy in Virginia means Black and Brown histories have been ignored, buried, and erased, meaning we have to work much harder to provide documentation. Speaking with impacted Virginians, we see credible evidence of discrimination and harm, but with such extensive bias and continued inequality in the Commonwealths political and economic systems, particularly in the siting of fossil fuel energy projects, local voices may never make into the formal record or be heard by decision-makers. With so many unjust cases, like Buckingham, Chesapeake, and Charles City, professionals such as myself who serve Virginia's environmental justice communities,⁴ must move mountains to record complex information in a very short time – using volunteers and struggling to work with insufficient financial resources.⁵ My frustration with state agencies grows constantly since much of the unpaid weekly work that I do [at an exhausting pace] would simply not be unnecessary if government institutions and staff were as committed to “all Virginians” and to the broader public good as their institutional mission statements imply.

Virginia's long-standing racial and economic inequality cannot erase the validity of historic claims – and, in fact, it makes this work even more important. Profit-driven companies appear to rush controversial cases like this forward, perhaps seeking to circumvent the rights of

⁴ I serve on the Steering Committee of the Virginia Environmental Justice Collaborative as a liaison to academia.

⁵ Given ‘strings’ that come with financial support, including the possibility that foundations and donors could exploit or tokenize impacted communities, professional allies who commit to serve marginalized groups often have to carry out their work without external sources of funding.

marginalized groups with constrained financial and political resources. In light of the racial and economic disparity accentuated by COVID-19, these unfair practices need to halt.

The SCC mission states “The State Corporation Commission strives to apply law and regulation to balance the interests of citizens, businesses, and customers in regulating Virginia's business and economic concerns and works continually to improve the regulatory and administrative processes.” If there was true commitment to balance the interests of consumers and ratepayers with those of business, or to improve regulatory processes, I believe these hearings would have been placed on hold. However, a reasonable justification to move forward now, even under these conditions, is that the VNG application is so flagrantly insufficient - lacking financial safeguards or security along with essential information - it can be denied without wasting additional state resources, even though the SCC was not adequately able to hear from vulnerable groups.

Lack of Demonstrated Necessity and Lack of Public Benefit

Documents on the SCC docket PUR-2019-00207 provide evidence that the Header Project is unnecessary and construction will unduly burden and place at risk ratepayers in the Commonwealth.⁶ There has been excessive regional buildout of gas pipelines in recent years and the alleged need for this project is speculative at best. There is evidence on the docket from VNG and from SCC demonstrating serious holes in this current application, suggesting the need to reduce the request unless C4GT can confirm participation, or start over (**Figure 4**).

Figure 4: Statement from SCC Staff

Summary of the Supplemental Testimony of Allison F. Samuel

- 1 My supplemental testimony changes Staff's recommendation to the following:
- 2 1. Staff recommends that the Commission suspend any approval of the Project absent
- 3 written and certain confirmation by C4GT that financial close is imminent, that
- 4 expenditures on C4GT components of the Project may proceed, and that all aspects of the
- 5 precedent agreement remain in full force and effect.
- 6 2. In the alternative, if C4GT is no longer participating in the Project, this application
- 7 should be rejected. A smaller scoped Project should be the subject of an entirely separate
- 8 application.

This weakness represents the core justification to deny or delay this approval; yet also, what is missing from the record requires rectification before approval. In particular, the assessment of vulnerability among impacted populations was entirely insufficient.

Environmental Racism and Unfair Toxic Burden

I focus on Charles City County, the site where the header project is supposed to feed gas plants, and Chesapeake, the site of one of the new compressor stations for the Header Project, because there is extremely unfair toxic burden on majority-minority sections of these localities. Nevertheless, there are other locations requiring attention when the company gets around to completing the environmental justice assessment that it should have already performed. Of note, VNG representatives justify the use of existing infrastructure corridors, but this is part of the problem. Siting dangerous and toxic facilities in places where it previously exists extends historical racism because of the already unfair burden in these locations. I remind you that most

⁶ <https://scc.virginia.gov/docketsearch/DOCS/4mm%2301!.PDF>.

of these historic energy infrastructure sites were exempt from review at their initial placement – so any assumption that such considerations were previously evaluated is false. It is unjust to blindly add more harm now. SCC risks falling into racist ruts that contribute to the upheaval we are currently experiencing. Energy firms have targeted Black and Brown communities across history; this cannot continue. Please pay attention to lessons from COVID-19 about higher fatalities in Black, Native and Latino communities, in part because of pre-existing health conditions rooted in unfair siting and higher exposure to air pollution from facilities like compressor stations and energy plants. Virginia has new Environmental Justice regulations going into effect that make our obligations to vulnerable groups clearer. Nevertheless, Virginia’s Energy Plan already prohibited disproportionate harm from energy projects.

Chesapeake

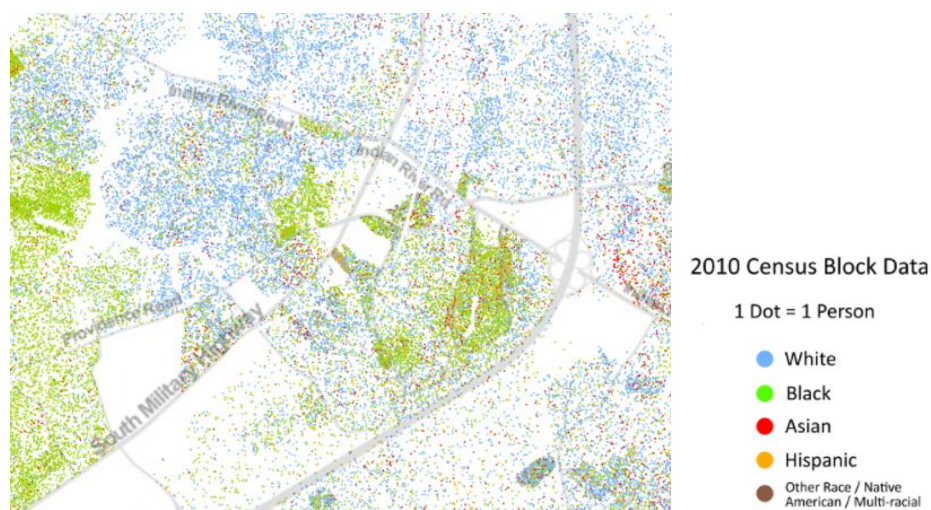
The proposed Gidley Compressor Station in Chesapeake is located downstream from C4GT gas plant and is poorly justified for this header project. It is especially alarming for VNG to propose placement at this site with a high concentration of minority residents as well as high levels of legacy contamination. Before any new emissions occur in this neighborhood, which is made up of residents who are 65% people of color in a 1-mile radius around the proposed compressor (**Figure 5**), there needs to be full Environmental Justice review.⁷

Figure 5: Minority Populations Residing Within 1 Mile of Gidley Compressor Station⁸

Geography	Total Population	Minority %	Low Income %
Virginia	8308701	37.4	25.2
1 Mile Proximity - Gidley CS	6597	65.4	30.8

Use of the racial dot map from the Weldon Cooper Center⁹ in the Gidley Compressor Station area (**Figure 6**) shows clear clustering of African American populations.

Figure 6: Racial Dot Map Near Proposed Gidley Compressor Station



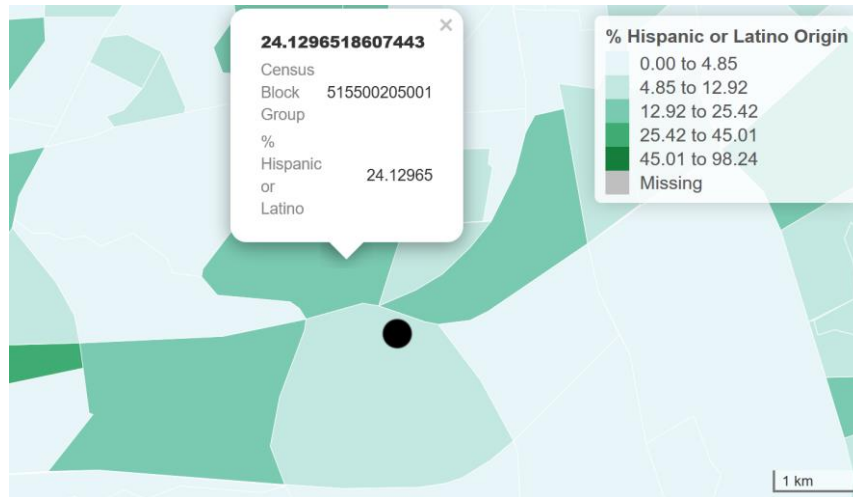
⁷ For additional details, please read the public comment from an impacted local resident, Lynn Godfrey, entered into the SCC docket on June 8 <https://scc.virginia.gov/docketsearch/DOCS/4nd301!.PDF>.

⁸ https://spatial-analysis-findings.s3.us-east-2.amazonaws.com/VNG_Gidley.ej.spatial.analysis.findings.pdf

⁹ <https://demographics.virginia.edu/DotMap/>

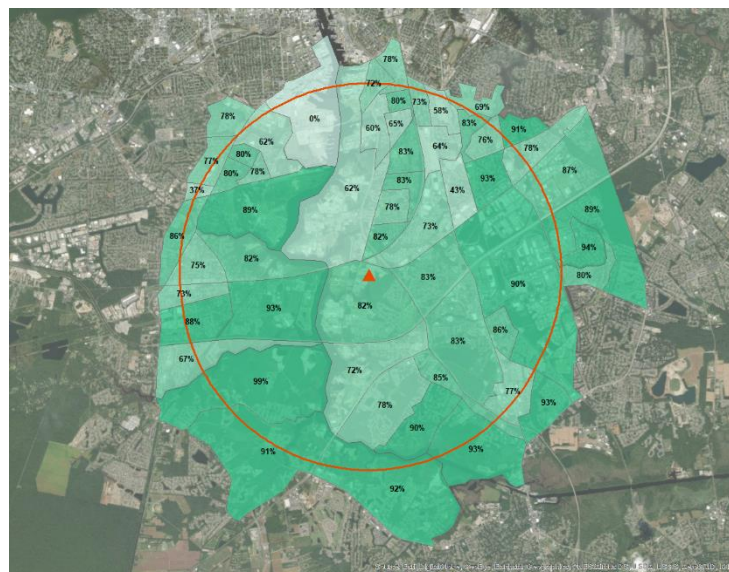
Figure 7 highlights the percentage of Hispanic/Latino households near to the proposed Gidley site, putting this in one of the highest percentiles for the state. With many non-native English speakers, materials need to be translated into Spanish to assure access to information.

Figure 7: Hispanic Populations in Vicinity of the Gidley Compressor Station Site¹⁰



There is too dense of a population in this area for siting any compressor station: there are more than 6,500 people living within 1 mile, including three mobile home parks - Sturbridge, Midway and Homecrest. Other dense neighborhoods nearby include Fairfield/Parkwood, Eva Gardens, Crestwood Manor, and Belvin Heights. While many people live in the vicinity, internet coverage is uneven. Mean coverage of internet in Virginia is 78.27%. In some parts of the coverage area, coverage is on par with state levels. This is not true for all areas (**Figure 8**). In these zones, other forms of outreach are necessary, including distributing information at gathering places, such as churches, schools, and community centers.

Figure 8: Internet Coverage in a 5 mi Radius of the Proposed Compressor Station¹¹



¹⁰ This data is from the American Community Survey.

¹¹ This data is from the American Community Survey.

There is significant legacy pollution in this zone. The Environmental Protection Agency's (EPA) EJSCREEN provides preliminary evidence of these hazardous materials (**Figure 9**) and Superfund Proximity (**Figure 10**) in relation to minority populations.

Figure 9: EJSCREEN Hazardous Waste Percentiles¹²

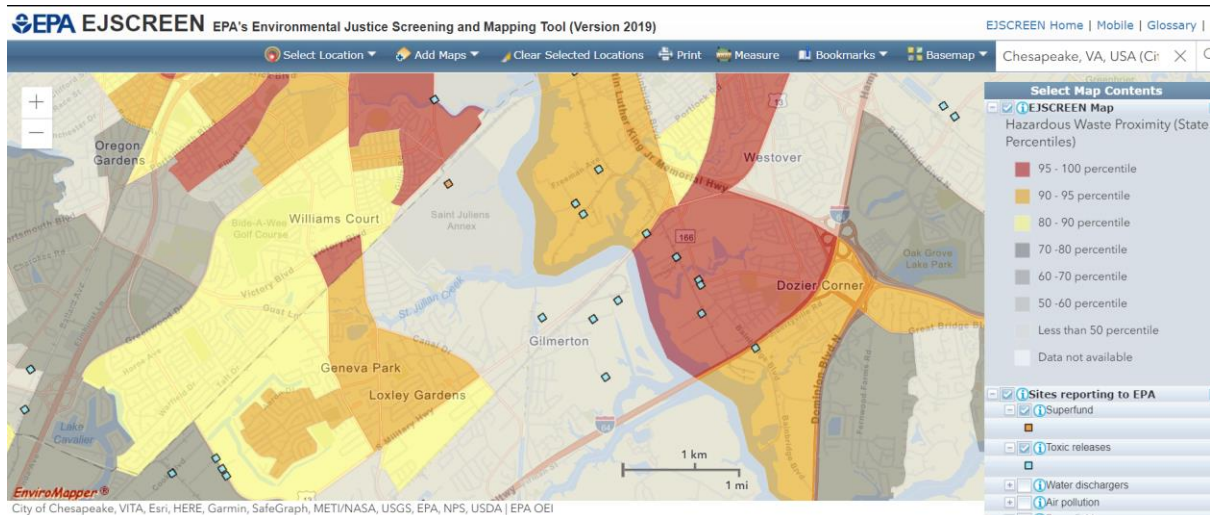
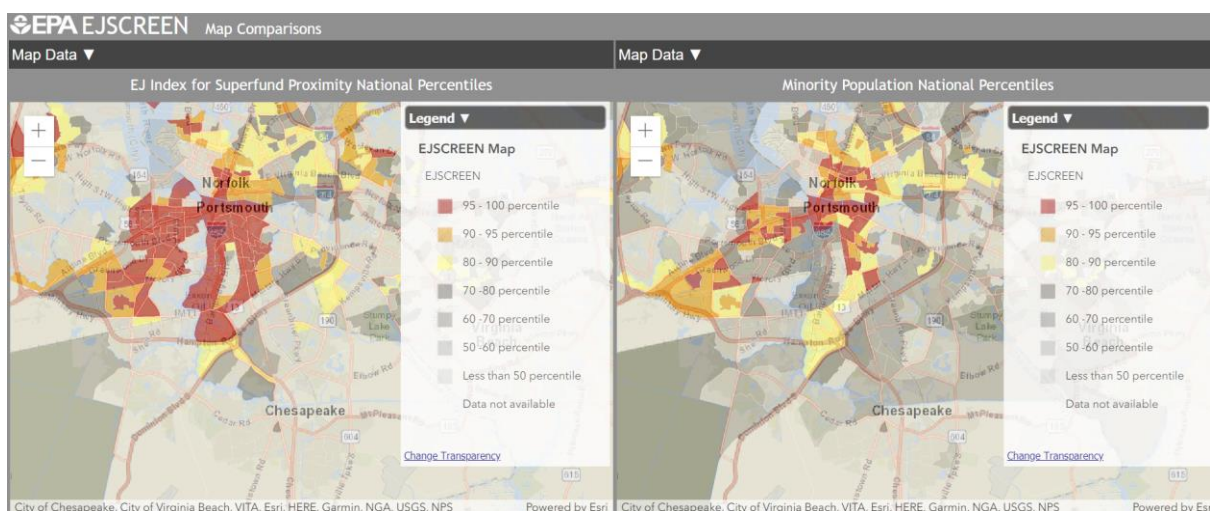


Figure 10: Superfund Proximity and Minority Populations near Gidley Site

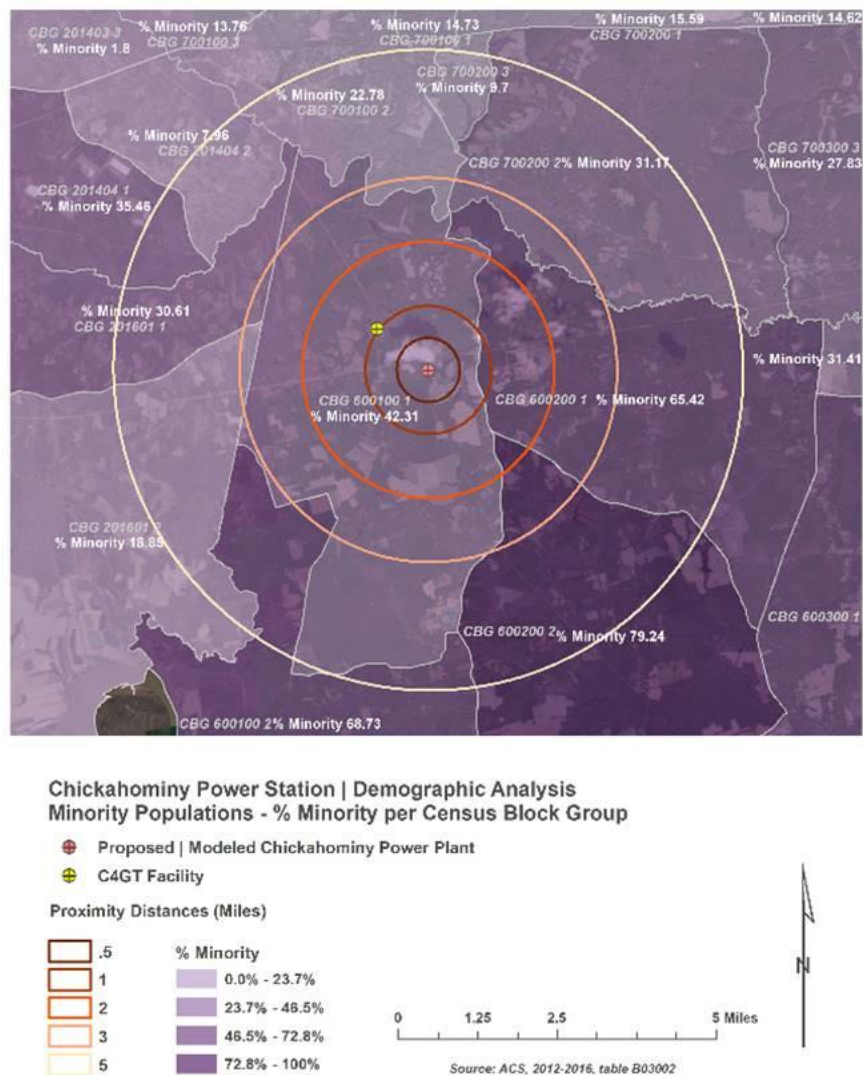


¹² <https://ejscreen.epa.gov/mapper/>

Charles City County

There has been lack of effective public notification about the gas plants this header project will supposedly supply. The two proposed power plants (C4GT and Chickahominy) are being sited in a minority-majority area (**Figure 11**) already experiencing air, water and soil contamination from an industrial corridor, a landfill, and other energy infrastructure.

Figure 11: Minority Populations in the Location of the Charles City Gas Plants¹³

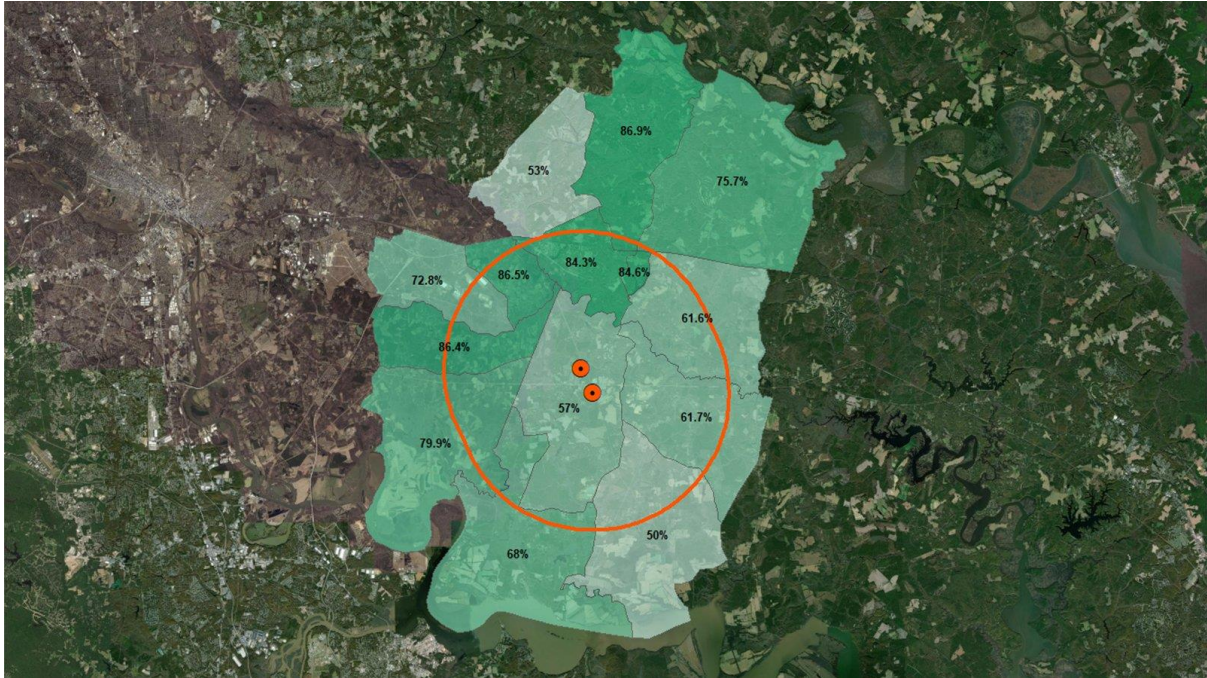


Local residents have been ignored at local and state levels as they query the risks from explosions and fires due to their concerns about inadequate emergency services in their low-income rural area. With disproportionate risks such as this that are potentially fatal, it is unfair that county residents also do not have widespread access to internet to receive pertinent information, like the notice of SCC hearings. Internet coverage is limited (**Figure 12**) around the two proposed gas plants. In some areas, only half of the population is covered by internet at all, and this does not communicate additional access constraints as many households have limitations on internet speed or affordability, especially now during the recession. Furthermore, many low-income households only have access to the web on their cell phones, and have limitations to their amount of data they can use. The May and June SCC hearings with all their

¹³ <https://gist.github.com/VzPI/96d56d480fe1ca84820d53919a87058f>

various programs and technology requirements would not have been accessible to many of these residents.

Figure 12: Charles City County Internet Coverage near Two Proposed Gas Plants¹⁴



¹⁴ This is a 5-mile radius using data from the American Community Survey.

Concern over VGN's Scientific Integrity

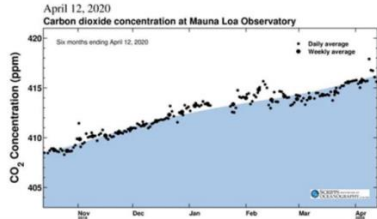
Many portions of Virginia have high vulnerability to sea level rise and climate disruption. Climate change denialism is based in ignorance and public officials should never engage in such dangerous misinformation. Samples below of social media from Ken Yagelski, a lead testifier for VNG, reduces the credibility of this energy firm. Star witnesses who spread scientific mistruth can demean state institutions, who rely on the forthrightness and verifiability of experts. These controversial posts (**Figure 13**) occurred over years and continue to recently.

Figure 13: Examples of VGN's Ken Yagelski's Climate Denialism on Social Media

Ken Yagelski
April 20 at 9:58 AM · 🌐

Interesting. Fewer cars, trucks, factories, planes, ships, and businesses using fossil fuels, resulting in human-produced CO₂ well below any previous target, but CO₂ continues to increase. It certainly makes you wonder about the validity of human impact on anthropogenic global warming.

April 12, 2020
Carbon dioxide concentration at Mauna Loa Observatory



CO₂ Concentration (ppm)

29 7 Comments 11 Shares

Like Share

Ken Yagelski
August 31, 2019 · 🌐

Climate change is settled science, right?

It was only forty years ago that climate scientists were pessimistic politicians would "take action" to stop global cooling. They wanted to spread soot on the Arctic to melt the polar ice cap to help heat the cooling world.


SCIENCE

The Cooling World

Climatologists are pessimistic that political leaders will take any positive action to compensate for the climatic change, or even to allay its effects. They concede that some of the more spectacular solutions proposed, such as melting the arctic ice cap by covering it with black soot or diverting arctic rivers, might create problems far greater than those they solve. But the scientists see few signs that government leaders anywhere are even prepared to take the simple measures of stockpiling food or of introducing the variables of climatic uncertainty into economic projections of future food supplies. The longer the

Ken Yagelski
January 29, 2019 · 🌐

Hey, CNN! Please remember to publish the same story when temperatures are high and people are concerned about the heat, because "weather is not climate" applies at both extremes. [ow.ly/OPAN3Onveq0](https://www.youtube.com/watch?v=OPAN3Onveq0) #weather #climate #coldmageddon



CNN.COM

Here's your answer when someone asks 'How can it be so cold if there's global warming?'


12 2 Comments

Like Share

Ken Yagelski
December 23, 2017 · 🌐

Once again... people hear what they want to believe.

As It Happens aired an interview with Nunavut-based polar bear monitor Leo Ikakhik. Ikakhik was skeptical of the implicit link between the bear's condition and climate change. "These things happen," he said, also suggesting that the bear was likely sick or injured. "I wouldn't really blame the climate change."



OUTSIDEONLINE.COM

Did Climate Change Kill a Polar Bear?

Probably not this time. Eva Holland looks at how a disturbing wildlife

4 2 Shares

Like Share

Ken Yagelski
September 16, 2017 · 🌐

"One does not need global warming to explain extreme weather-- sometimes the factors come together to produce an unusual event... think of it as a meteorological royal flush."

Los Angeles Times

LOCAL SPORTS POLITICS ENTERTAINMENT OPINION MOST POPULAR PLACE AN AD

Global Warming and Hurricane Harvey

CLIFFMASS.BLOGSPOT.COM

This blog provides updated forecasts and comments on current weather

6

Like Share

This VGN application needs to uphold the highest technical and legal standards for the SCC to move forward. With the First Court decision this past week about the Weymouth Compressor Station, there is legal precedent for economic review of Best Available Control Technology, BACT, particularly in terms of electric motors, which Southern Company stated they were considering in the May 13th hearing. As much as 20% of compressor motors in the US are now electric. These numbers are increasing rapidly because pollution controls are better, thus reducing deadly particulate matter. Electric motors must be incorporated into air modeling and budgeting for the Gidley site.

It would be irresponsible for SCC to rush to permit this project given the incomplete information on finance and the lack of attention to protect those negatively impacted, particularly those who are economically and politically marginalized. Given evidence of high risk to vulnerable Virginians, VNG needs terminate this HIP project or to return to SCC with a new application using rigorous economic, social and ecological review.

Please deny this current application.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mary Brook'.

Mary Finley-Brook, PhD
Associate Professor of Geography and the
Environment
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