

**REPORT OF THE VIRGINIA COUNCIL ON ENVIRONMENTAL
JUSTICE (VCEJ)**

2023 ANNUAL REPORT OF THE VIRGINIA COUNCIL ON ENVIRONMENTAL JUSTICE

**TO THE OFFICE OF GOVERNOR GLENN YOUNGKIN AND THE OFFICE OF THE
SECRETARY OF NATURAL AND HISTORIC RESOURCES**



Dear Governor Youngkin,

I urge you to make environmental justice a top priority for the remainder of your administration. Low-income communities, rural, and communities of color in Virginia continue to disproportionately bear the brunt of environmental hazards and underinvestment, including polluted air and water, proximity to landfills, inadequate infrastructure, and unhealthy exposure to extreme weather from climate change. These are injustices that must be prioritized and addressed.

As Governor, you have the power to implement policies and programs that can quickly begin to remedy these inequities. I call on you to:

- Direct the Department of Environmental Quality to actively engage with frontline communities and consider cumulative impacts when permitting industrial facilities and approving environmental plans. Residents, not just industry representatives, must have a seat at the table.
- Invest in clean-up and remediation projects for neighborhoods that have suffered from decades of pollution. Funding should also be allocated for health screenings and monitoring for communities living near contaminated sites.
- Strengthen enforcement of environmental laws and regulations in overburdened communities. Too often ignored by overstretched agencies, these neighborhoods should be priority areas for inspections and fines for violations.
- Fund local community organizations to conduct their own environmental monitoring and develop neighborhood-led climate resilience plans. The people who live with these realities every day should be empowered to find the right solutions.

Additionally, it is vital that your administration pursues innovative community outreach strategies to inform and engage vulnerable residents. Too often, low-income, rural, and minority communities are left out of the discussion on environmental decisions that directly impact their quality of life. Efforts must be made to connect with them through trusted community centers, places of worship, schools, and events—not just through traditional government channels.

Furthermore, the Department of Environmental Quality’s lack of capacity and bandwidth has hindered the environmental justice issue-focused subcommittee’s ability to fully utilize our role as advisors. This led us to create a progress report analyzing past recommendations in the ranking categories of ‘Incomplete’, ‘Complete’, ‘In Progress’, and ‘Unsure’. Increased staff and resources for DEQ’s environmental justice functions could enable better partnership with the council and its subcommittees, and implementation of recommendations to advance equity.

Proactive communication, community capacity-building, and institutional support for environmental justice efforts will give our most vulnerable residents a voice and enable local solutions. The health and safety of Virginia’s residents depend on everyone having clean air to breathe and safe water to drink. But the reality today is that some communities bear a far greater pollution burden than others. This is why we need strong environmental justice policies – to provide equitable protection and begin to remedy disparities. I urge you to embrace environmental justice and community empowerment as top goals for your time as Governor.

I look forward to seeing bold leadership and action from your administration on this critical issue.

Sincerely,
On behalf of the Virginia Council on Environmental Justice



Karen Campbell
Chair

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2020 SUSTAINABLE FARMING | AGRICULTURE | CLIMATE RESCILIENCY RECOMMENDATIONS

There are three key recommendation areas for policy improvement:

1. **Land Access** – fostering a new generation of culturally diverse farmers through equitable and inclusive practices.
 - a. Create educational and legal/grant assistance programs to address heirs' property issues and loss of black farmland and indigenous land. **Incomplete**
 - b. Appoint a *Land Commission* that includes black, Hispanic, and indigenous members to conduct a periodic statewide land tenure study. This will provide a holistic perspective on the socio-economic, political, and market-based factors limiting equitable access to land and provide policy recommendations to address these inequities (consider state financial tools that go to farmers). **Incomplete**
 - c. Study state own lands that have the potential for agriculture and explore potential state acreage to be converted to community land trusts for farmers and traditionally marginalized and exploited groups. Establish state and federal partnerships for land banks of properties to make available below market rate to new culturally diverse farmer cooperatives under special sustainable agriculture covenants. In addition, explore state owned land to be converted to community land trusts for farmer from traditionally marginalized and exploited groups (*example legislation: California AB936 – REEAL Act of 2019*). **Incomplete**
 - d. Limit land investment by large corporations and lower barriers to entry for new farmers from disadvantaged communities (example legislation: North Dakota Cent. Code § 10-06.1-01 to -25, recently upheld in state court; South Dakota Codified Law 47-9A - Corporate Farming Restrictions). **Incomplete**
 - e. The state offers various resources for those looking to start a farm, but very few grant/loan opportunities. Create state grant and loan guarantee programs to strengthen land access rights for culturally diverse and beginning farmers, as well as help meet marketing challenges faced by small farmers and rural communities. Examples include strengthening/establishing local markets, Community-Supported Agriculture (CSA) networks between producers and consumers, and providing incentives for cooperative business development. **Unsure**
2. **Regenerative and Sustainable Agriculture** – providing training and technical assistance to support culturally diverse farmers.
 - Develop and provide anti-oppression training for state agriculture departments and support existing community education groups that offer culturally diverse approaches. **Incomplete**
 - Create a *Land Commission* that includes black, Hispanic, women, and indigenous members who can work closely with the Virginia Department of Agriculture and Consumer Services and VSU's Small Farm Outreach program, to increase access to federal farm loan and price support programs for beginning farmers, racial and ethnic minority farmers and women producers. This would be designed to increase access to value-added, direct sale, organic, and specialty crop operations, agricultural youth organizations needing financial assistance for income-producing, educational, and agricultural projects, urban farmers and roof-top producers, and operations using alternative farming methods such as hydroponics, aeroponics, vertical farming, and freight container farming. **Incomplete**
 - Increase funding to state conservation programs such as the Virginia Cooperative Extension, the Virginia Department of Conservation and Recreation, and the Agricultural Stewardship program to increase on-ground staff and technical assistance capacity to train in the principles of agroecology targeting disadvantaged farmers. Invest in and adapt from existing programs such as Future Harvest

CASA's Field School (<https://www.futureharvestcasa.org/foodshed-field-school>) and Farm School NYC (<http://www.farmschoolnyc.org/>) for examples of culturally diverse agricultural training. Additional information can be found in *Data for Progress' Regenerative Farming* document.

Incomplete

- Increase funding in upcoming years for Virginia House Bill 1509 (McQuinn) Virginia Food Access and Investment Program and Fund.
 - Incentivize land training
 - Earmark funds for down-payment assistance and financial support grants for new farms practicing sustainable agriculture through the first 10 years of operation. **Incomplete**
3. **Farmer Administration** – promoting racial justice in farm ownership, operation, and income.
- Create an Office of Equity at the Virginia Department of Agriculture and Consumer Services (VDACS) with robust anti-discrimination guidelines to review policy proposals and mandate black, Hispanic, and indigenous participation on agricultural decision-making boards.
 - Design targeted outreach and education programs for minority and/or disenfranchised farmers. **Incomplete**
 - Empower the new office to legally address claims of discrimination in agricultural credit, land credit & markets; conduct oversight of VDACS practices. (Model: National Labor Relations Board) **Incomplete**
 - Examine the role of heirs property in the loss of land for black farmers and Virginia tribal communities, and offer education and technical assistance for families to retain property. **Incomplete**
 - Support comprehensive immigration reform that provides pathways to citizenship. The proposed “blue card” legislation in California provides a template for a bare minimum approach that would protect farm tenants who are currently undocumented.¹ **Incomplete**
 - Identify and repeal any Jim Crow era legislation still on the Virginia books related to farming and land use/rights for farmers and tenant farmers. **Incomplete**
 - Explore and develop decolonizing land programs that return to indigenous sovereignty. **Incomplete**

VIRGINIA TRIBAL RECOMMENDATIONS

1. Re-establish Virginia Council on Indians (2022)
 - a. Provide background information/recommend new charge
 - b. Create Indigenous Environmental Quality Task Force
 - i. Standing subcommittee **Incomplete**
2. Proactive co-management of resources
 - a. Regional DEQ representative to develop relationships with tribal communities
 - b. Meet quarterly to discuss local issues
 - c. Field visits to understand significance of sites (where and when appropriate) **Incomplete**
3. Prior to comment periods, implement processes to dive deeply into potential issues with projects.
 - a. Free, Prior and Informed Consent (FPIC) is a specific right that pertains to indigenous peoples and is recognized in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It allows them to give or withhold consent to a project that may affect them or their territories. Once they have given their consent, they can withdraw it at any stage. Furthermore, FPIC enables them to negotiate the conditions under which the project will be designed, implemented, monitored and evaluated. This is also embedded within the universal right to self-determination.

¹ Meleiza Figueroa and Leah Penniman, Land Access for Beginning and Disadvantaged Farmers, Green New Deal Policy Series: Food and Agriculture, pg.10, March 2020.

- b. Current comment period windows do not provide tribal governments adequate time to digest the information, inform their citizens, and come to a consensus about which direction the tribal body wishes to take.
 - c. Work with companies, infrastructure, and tribal stakeholders to understand the “lay of the land” and what hotspots might exist. **Incomplete**
- 4. EJ Screens don’t cover all our everyone’s history. Census information. Work with native people and state universities to conduct history and treaties (with the Crown and the early colonial government) as well as race laws following the Civil War, Jim Crow and Walter Plecker Eras with land use and the destruction of culture and identity. **Incomplete**
- 5. Provide equitable treatment between federal and state tribes. Each has a different set of internal priorities and legal authorities. Yet, regardless of **what** status tribes have and **when** they gained that status, each tribe needs to be treated with the same amount of care and attention. There are a myriad of reasons why and how tribes achieved their status. One is not above the other. **Incomplete**

POLICIES | PERMITS | PROGRAMS | PROCEDURES

OUTREACH, COMMUNICATIONS, AND PARTNERSHIPS

Recommendation: The development of membership parameters for all Technical Advisory Committees, Regulatory Advisory Panels, and Ad-Hoc workgroups equitable composition of stakeholders. Criteria to include EJ community representation, impacted community representatives, Conservation community, and a cap on the number on vested *stakeholders*. **Incomplete**

Recommendation: Workgroups should be held in the communities impacted whenever possible. **Incomplete**

CREATION OF AN OUTREACH STRATEGY

Recommendation: Agencies should develop a written outreach plan (specific to the capabilities of the community-- taking into account accessibility, communication channels, internet access, and literacy) to be included in documentation initiating actions open to public comment. This would provide agencies with protections and the public with a mechanism for accountability. **Incomplete**

PUBLIC COMMENT

Recommendation: No requirement to have previously submitted comments in order to speak before a board. **Incomplete**

LOCAL GOVERNMENT

Recommendation: Legislation that specifies that any program or activity that is funded directly by the state, or receiving financial assistance from the state will be held to the commonwealth’s definition of Environmental Justice. **Incomplete**

Recommendation: Legislation requiring that comprehensive plans include environmental justice goals, policies, and objectives. Comprehensive plans should identify disadvantaged communities to include mechanisms for communities to engage in the process and communities that have been overburdened by EJ issues. Legislation should also require the environmental justice goals, policies, and objectives be integrated into all comprehensive plan subjects.

Comprehensive plans should identify policies to reduce the unique or compounded health risks in environmental communities, and to identify policies to promote civil engagement in the public decision-making process. **Incomplete**

Recommendation: Reference Governor's EO on climate change/Clean Economy Act Legislation adding climate change to the list of required considerations in the Comprehensive plan process. **Incomplete**

INTERAGENCY TASK FORCE

Recommendation: Environmental Justice Council created in HB1042 and SB883 selects a member to serve as ombudsmen to the interagency task force who reports back to the full council. **Incomplete**

Recommendation: Interagency task force meetings open to the public, draft report shared with EJ Council for an opportunity for the council to offer comments. **Incomplete**

Recommendation: Add the Office of Diversity, Equity, and Inclusion to the Interagency Task Force. **Incomplete**

PUBLIC HEALTH

FOOD DESERTS IN VIRGINIA

Recommendations:

1. Make investments in EJ communities impacted with food deserts. This will allow the community to either grow their own food and/or work with local farmers to acquire food that is subsidized by the investments. **IN PROGRESS ON A LOCAL LEVEL**
 - a. Planning and Zoning Issues
 - b. Work group to explore financial incentives to grocers
 - c. Transportation to reach existing grocery stores
2. Incorporate educational (in person or online) tools that educate the EJ communities about the important role nutrition plays on health. Also educate the community about the role of nutrition on the development of young children. **Incomplete**
 - a. Task the Department of Education (curriculum and activities within schools) & Department of Health
3. Incorporate a train the trainer curriculum program in EJ communities that promotes on-going learning on how food impacts public health. Incorporating teaching good eating habits can either stop or slow down diseases caused by processed food that plagued EJ communities. Doing this may lead to better health and save on health insurance cost. **Incomplete**

ASTHMA IN VIRGINIA

Recommendations:

1. We recommend that asthma data (especially for children) be collected and examined by region of the state and reported to Virginia residents on the Department of Health website. **Unsure**
2. We recommend that that data be analyzed to look at correlations to residence in an area where higher level of particulate matter and ozone have been documented relative to other areas of the state. **Unsure**

LEAD IN VIRGINIA

Recommendations:

1. Explore the variation in EBLs observed to determine if residents of these cities and counties are continuing to be exposed to lead in household dust, soil or contaminated water. **Unsure**
2. Report on blood lead levels to national datasets such as those compiled by the Centers for Disease Control and Prevention, so that we can more effectively compare Virginia to other states. **Unsure**
3. Disaggregate the collected data by ethnicity and income. **Unsure**

DISASTER PLANNING RECOMMENDATIONS

Recommendations:

1. Develop strategic communication plans for select populations such as those with a greater probability for natural disasters due to major storms, climate change or sea level rise, e.g., flooding prone regions. Efforts need to include establishing construction standards and providing recommendations for home, vehicle and personal property insurance minimums. **Unsure**
2. Planning should afford that all voices can be heard adequately. Steps need to be taken for communities such as Buckingham County where there was much controversy over the Compressor Station that ultimately was approved last year (2019), an example where minorities protested based on air quality and related concerns, yet business considerations prevailed initially. The decision to grant the project permit was overturned, a victory for environmental justice. As projects such as these are considered in the future, it is conceivable that public voices are ignored again and the probability for disaster arises. Needless to say, big corporations hold power and put potentially vulnerable communities at risk. **Incomplete**

2018 RECOMMENDATIONS

POLICY

1. We recommend that environmental justice and social equity are incorporated into the development of the “Coastal Resilience Master Plan” as directed by EO #24 and that a robust public participation effort focusing on equitable representation of affected communities and an environmental justice review of the planned adaptation actions be conducted. **Unsure**. DCR is currently working on its Coastal Resilience Master Plan, which involves EJ outreach
1. We recommend a social vulnerability review of the “Know Your Zone” statewide phased evacuation plan with recommendations for local emergency management best practices to assure equitable evacuation and sheltering. **Unsure**
2. We recommend DEQ conduct a full and robust analysis of existing and potential hot spots and environmental justice communities, because of the importance of corrective remediation where there are already problems in existence (e.g., addressing mercury contamination near coal-fired power plants). **Incomplete**
3. We recommend that the state of Virginia move away from fossil fuels and examine the economy, capacity, infrastructure, and resilience of those communities that have been completely coal dependent for 100 years or more and that examination should include input from local communities. **Incomplete**
4. We recommend that the Governor explore hot spots in the state and develop strategies to better identify and address hot spot issues. Statewide data may fail to capture local exposures that contribute to adverse health for Virginia residents. For example, Richmond has been designated one of the asthma capitals of the nation by the Asthma and Allergy Foundation of America. Poor air quality has been linked to asthma in the city of Richmond. Yet asthma prevalence for the state is consistent with national averages. **Incomplete**
5. We recommend for the Buckingham community, as with other communities in Virginia, the Governor’s office examine the role of state agencies to ensure policies with the potential to negatively impact vulnerable

communities take the health of those residents into full and weighted consideration as permits are considered for issuance. **In progress**

6. We recommend the Governor appoint an environmental justice ombudsman to address public questions and concerns which consistent with Executive Order #6. **Incomplete**
7. We recommend the establishment of an interagency council to improve coordination and collaboration within the governor's staff and state agencies on the topic of environmental justice Consistent with other states with advisory councils. **Incomplete, EJ Council is not interagency**
8. We recommend continuation of the environmental justice advisory justice council as we along with community members found this process valuable. **Complete**

STRUCTURAL

- We recommend that the Governor create another Executive Order to continue the work of the Advisory Council on Environmental justice. The existing Council members are recommended to be reappointed, and that the vacant seat to be filled. We have found this process has shown to be valuable to the Commonwealth. **Complete**
- We recommend consultation with the Governor to review the Annual Report and future work. **Incomplete**
- We recommend every state agency have an office/officer initiative that will help to integrate environmental justice concerns. **Incomplete**
- We recommend that the Governor request a designated point of contact and regular participation in Council regular meetings from each of the Secretariats. The Council's original structure included Ex Officio membership from the seven Secretariats mentioned in the Order. **Incomplete**
- We recommend a sustainable resource base be developed to enable participation by members, fund travel to regions of the state and to provide support for staff to assist with identifying issues and providing background materials regarding those issues. Please see attached budget for reference. **Incomplete**
- The Council recommends that we identify and implement mechanisms to improve the process so that environmental justice communities can play a more substantive role in the formation, monitoring and upgrading of policies because of the difficulty environmental justice communities have participating in meetings of the ACEJ. **Incomplete**
- We recommend the diversity of the Council be maintained in the future. The Council has benefitted from having representation from grassroots and academic institutions. There has also been representation from many differing regions of the state. We recommend the Governor increase the representation of grassroots and/or community-based organizations on the Council. **Incomplete – council is diverse, but governor is not engaged with new members**
- We recommend that we continue to be able to respond to environmental justice issues raised by Council members and by members of the public who have provided public comment. **Complete on an ongoing basis**
- Station air permit hearing that “any comments for the air permit that relate to environmental justice will not be read or summarized” for the Air Board, the EJ demographic and health data, the alternate source data, given in public comments were the bases for the lawsuit that overturned the air permit. **Incomplete**
- Nonetheless, recent DEQ's summaries of comments for water permits continue to create unscientific boundaries that do not exist for the impacts of air emissions on water. Or, in setting artificial boundary lines for project operations' toxic pollution sources DEQ deems allowed for Boards' decision-making as ending at building walls or beginning at mega-landfill driveways. **Incomplete**

- DEQ must not rely on locality permit decisions for the Board’s requirements to investigate site- specific data and for EJ review. As was made clear in the 4th Circuit decision in Friends of Buckingham.⁴⁶ **Incomplete**
- “it is improper to rely upon a SUP as a substitute for an independent determination of site suitability under section 10.1–1307(E). See 9 Va. Admin. Code § 5- 80-1230 “[C]ompliance [with zoning ordinances] does not relieve the board of its duty under . . . § 10.1-1307[(JE)] . . . to independently consider relevant facts and circumstances.”(P. 46)
- Whenever an EJ community is identified as the most impacted, DEQ and the Air Board must not simply rely on NAAQS. They should address any disproportionate impacts compared to others living in the same area, rather than comparing to the whole state. We also support the site suitability review process for air permits be also applicable to water permits. **Incomplete**

SECRETARY OF NATURAL RESOURCES AND HISTORIC RESOURCES: DEPARTMENT OF HISTORIC: DEPARTMENT OF HISTORIC RESOURCES (DHR)

DHR should review its outreach and public engagement procedures to ensure that the parameters of being historically significant are clearly communicated to the public and easily accessible. In regards to the permit application process, DHR’s compliance director should review federal and state historical cultural resource surveys and archaeological methods and data recovery to identify “inadequate methods and extent of data recovery” (Kirchner, Wegman’s cultural resource survey, 2021) and to enforce the need for the EJ community expert archaeological site visit to identify historic cultural resources in the Area of Potential Effects well before any federal and state permits are granted.

Incomplete

The DHR recommendations for additional site-based historic research, whether archaeological, extant or standing resources, need to be sent to the Army Corps of Engineers, Federal Energy Regulatory Commission (FERC), etc. to be completed before federal permits and Virginia state permits are given public comment periods. This creates a process order that can withstand lawsuits for inadequate site review, giving months to be reviewed by experts in the community and historic preservation. **Unsure**

Project operations that will mitigate harm to the existing uses of historic cultural resources must be part of permit processes. As stated by John Eddins on behalf of the Advisory Council on Historic Preservation in the case of Brown Grove Rural Historic District: **Incorrect**

“The Corps should consider how additional measures to resolve adverse effects could more meaningfully address the visual, audible, atmospheric, and physical intrusions into the setting, feeling and association of the historic district which is inextricably linked with everyday community life. To the extent that the effects to the setting and context of the historic district are not avoided and minimized, it is possible that the living historic district will be degraded to a static one and lose entirely its ability to convey its significance to anyone. Focusing solely on documentation of the resource does not address the potential for degradation of the historic district’s dynamic connection to the community” (P. 4, Sept. 21, 2021).

The State Historic Preservation Officer (SHPO) must not approve Memorandums of Agreement with federal agencies without working closely with the historic experts in these communities who have been designated “consulting parties” under the Historic Preservation Act, Section 106.47 MOAs are agreements by the developer to mitigate the “significant adverse effects” of the project on historic cultural resources and eligible EJ districts. These MOAs follow

⁴⁶ <https://www.ca4.uscourts.gov/opinions/191152.P.pdf>

federal agencies, including FERC, Army Corps of Engineers, and other agencies' permit approvals. The SHPO then would be repairing an injustice in this MOA process that the consulting parties are not required signatories to MOAs. Thus, currently they have no power over the decisions made by agencies or departments without their agreement.

Incomplete

SECRETARY OF NATURAL RESOURCES AND HISTORIC RESOURCES: DEPARTMENT OF CONSERVATION AND RECREATION (DCR)

DCR should pursue grant support to ensure increased outdoor access for all as well as to develop inclusive educational materials. **Unsure**

SECRETARY OF COMMERCE AND TRADE: VIRGINIA ENERGY *FORMERLY DEPARTMENT OF MINES, MINERALS AND ENERGY (DMME)

DMME should articulate specific guidelines outlining how in keeping with the Virginia Clean Economy Act goals it will ensure economically disadvantaged or minority communities are not disproportionately adversely impacted. Oftentimes, EJ communities lack the resources to verify and check information coming from industry making it very difficult for the community themselves to predict potential impacts during permitting. **Incomplete**

SECRETARY OF HEALTH AND HUMAN RESOURCES: VIRGINIA DEPARTMENT OF HEALTH (VDH)

We recommend that VDH integrate the Childhood Lead Poisoning Prevention Program (CLPPP) and the Office of Epidemiology more into its EJ efforts, working more closely with the Office of Environmental Health Services (OEHS) to ensure the tracking of environmental health impacts. OEHS should have dedicated funding to expand its work and ability to investigate disparities. Increased capacity could be used for projects to improve well systems for low-income households, boost maternal health or investigate cancer clusters. **Incomplete**

VDH needs to have additional funding to participate in regulatory permit processes by identifying the site-based environmental health issues to specific site's communities that will be most directly impacted. Because the VDH public health data is based in districts, often rural districts do not have accurate resident-based data because these are medically underserved. That is, most residents receive their medical care from medical providers' offices, hospitals, and skilled nursing facilities outside of the district in which they reside. Their data is then folded into that district's data and not their resident district's. Thus, site-specific health data needed to examine the adverse impacts of toxic pollution at a specific site can be unknown when depending on VDH records. **Incomplete**

The household data used to uncover pre-existing health conditions in Union Hill for the Atlantic Coast Pipeline's air permit became significant to the 4th Circuit's decision. Unfortunately, too many times large data sets are inadequate to provide accurate site-specific community health assessments, which can result in adverse impacts being overlooked.

VDH is an agency that needs more dedicated funding, especially OEHS, to ensure the health impacts to environmental justice communities are studied by experts with site and community fieldwork. Without community-specific health data, largely rural EJ districts are being chosen by developers whose operations will bring disproportionate toxic pollutants to negatively impact the health of communities of color, vulnerable populations such as the elderly and children, and low-income communities. **Incomplete**

⁴⁷ <https://www.achp.gov/sites/default/files/2018-06/nhpa.pdf>

SECRETARY OF TRANSPORTATION: VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)

VDOT is the only agency that has created EJ guidance, which means that it already has much of the expertise to do site-based environmental justice reviews. VDOT should also focus on better enforcing their own EJ guidelines for all permitting decisions as well as agency actions. **Incomplete**

VDOT's portion of the 2020 EJ Interagency Working Group report states, "When completing NEPA documents, the Federal Highways Administration (FHWA) and VDOT must determine if the proposed action results in a disproportionate and adverse impact(s) to minority or low-income populations. If analysis reveals that the project would have a disproportionate and adverse impact to one or more EJ communities, the first step is to evaluate the project to determine whether the project's schedule, implementation, and/or final design can be altered to avoid the disproportionate and adverse impact(s)."

Toxic air emissions from new or expanded transportation projects should be thoroughly analyzed for their health impacts and, if found to disproportionately impact identified EJ communities, alternate sites must be considered. Special attention should be paid to PM_{2.5}, which has historically burdened and continues to burden communities of color no matter their income level.⁴⁸ Furthermore, the 4th Circuit decision for Friends of Buckingham vs. DEQ and Air Control Board cited the plaintiff's finding that "even EPA, when they established the standard back in 2013, state that there's no lower limit for PM 2.5 exposure."

Additionally, VDOT states in the report that "VDOT's Environmental Division works with the EPA on how to assess/identify EJ populations through census data." Yet, the National Environmental Policy Act (NEPA) guidelines caution against using census tract data in EJ reviews, or to use for pre-screening purposes only, because census tract data can conceal smaller population clusters. Using both census tract and census block data can result in undercounting for communities of color, and especially of children. A methodologically more accurate method are site-based community studies. VDOT should urgently implement the finding of the 4th Circuit Court that relying on census tract data by itself is insufficient.

VDOT must consider the possibility of disproportionate impacts in all projects, especially pollution. Thus, the agency should do far better public engagement with community experts and stakeholders and include the findings in environmental justice reviews. **Incomplete**

SECRETARY OF EDUCATION: VIRGINIA DEPARTMENT OF EDUCATION (VDOE)

VDOE should include the concept of EJ in the Earth Science curriculum for Grades 8 and 9. We recommend that VDOE reach out to the VCEJ for input during the next revision of the Standards of Learning. VDOE should also lead a review of all public school buildings throughout the state to ensure that all are in compliance with the latest Virginia Uniform Statewide Building Code as well as have good air quality standards. Through the COVID-19 crisis, we have learned the vital importance of inspections, regular testing, maintenance/repair as well as replacement, and upgrades to improve indoor air quality especially in schools. Some items that should be considered in the review are filters, purifiers, fans as well as the repair or replacement of windows and doors. **Incomplete**

⁴⁸ <https://www.science.org/doi/10.1126/sciadv.abf4491>

STATE CORPORATION COMMISSION (SCC)

Although the SCC is not currently included in the Environmental Justice Interagency Working Group because it is an independent agency and not under the Executive Branch, it should be allowed to join. The impact of its decisions on EJ communities cannot be overstated. **Incomplete**

CONCLUSION

VCEJ has found that Virginia had a lot of work to do for their impacted communities in the Commonwealth. For communities across the Commonwealth, especially those who have been facing disproportionate impacts and environmental burdens for generations, action is urgently needed to relieve burdens, ensure benefits, and repair environmental harm felt by communities. The VCEJ will continue to engage with and encourage communities and advocates to keep monitoring agency actions and stay involved in incorporation EJ actions throughout the Executive Branch.

PUBLIC COMMENT

PUBLIC COMMENT SUMMARY – VCEJ MEETING 08/08/23

The Council took public comment and discussion on the following topics:

- Katie Whitehead (mkwhitehead@yahoo.com) of Pittsylvania County gave comment related to gold mining - public engagement and participation, perhaps through requiring permits for exploratory drilling. She also gave comment related to how the studies related only to gold, but many of the issues brought up in the studies are also issues that could be related to other types of metallic mining.
- Heidi Berthoud (heidi1008@gmail.com) of Buckingham County gave comment related to industrial gold mining and the issues brought up in the NASEM mining report, the Buckingham County Board of Supervisors and Planning Board responses to the report, and pipelines in Buckingham County.
- Jane Branham of Wise County gave comment related to energy development: mountaintop removal mining, coal fired power, gas wells, uranium mining, and SMRs and the inequality of the places like SW VA where resources are extracted vs. where the power is used. She also gave comment about the booming tourism economy, as well as not knowing what the plan is to deal with radioactive waste. She advocated for public engagement.
- Dr. Laura Miller of Wise County gave comment related to SMRs (waste, health concerns), pollution and practices that are damaging SW VA. She emphasized the need for more, and more meaningful, public participation. She mentioned that the VEJC is a stakeholder that is required to be consulted, per the VA Clean Economy Act, and she understands that the Council has not been consulted. She also gave comment related to SW VA being one of the regions that is vulnerable to cumulative risk.
- Akwe Starnes (mistarnes2022@gmail.com) of Big Stone Gap gave comment related to SMRs, mountaintop removal. She expressed objection to not being included in the discussions about SMRs and the effects on the residents.
- Lauren Albrecht of Big Stone Gap gave comment related to SMRs and the perspective of people who are struggling with the health impacts of energy resource extraction in SW VA, including the opioid crisis that has arisen from that. She pointed out the uncertainty and inability for even experts to answer questions about SMRs and waste. She mentioned that solar energy is already making progress and is being pushed aside in the discussions about SMRs.
- Carolyn White (carolynwhite@charter.net) of Pughsville provided a statement, read by Pamela Brandy of Pughsville, giving comment related to drainage and the Clean Water Act. She states that the cities of Chesapeake and Suffolk are not providing answers, sea level rise and property development are adding to the problem, and flood insurance isn't available to them because there is no drainage. She also expressed concern that African American communities not able to access available federal funding.
- Pamela Brandy (pb5016@yahoo.com) of Pughsville gave comment related to drainage problems, that the master drainage plan of the cities of Suffolk and Chesapeake has been voided, allowing development in that area which worsens the flooding problems. She mentioned that small amounts of rain lead to flooding, including preventing people from leaving their homes, and the cities are not correcting these issues.
- Lyndsay Deitrick (Lyndsay@theallianceforappalachia.org) of Franklin County gave comment related to cumulative impacts related to SMR projects, and the environmental impact, health risk, and cost of nuclear power. She mentioned the radioactive waste created throughout the entire process from uranium mining to spent fuel, concerns about groundwater contamination, and the unequal impact on BIPOC communities. She also gave comment about the risk associated with climate change and increased risk of weather events that could impact nuclear power projects and cause environmental and health damage.

- Stephanie Rinaldi (rinaldis10@gmail.com) of Buckingham County gave comment related to gold mining and the NASEM study, including that there was not an economist included in the study, and that the VEJC was not consulted for the study although HB2213 did specify that such consultation should take place. She mentioned that mining industry best practices often lead to regulatory violations and encouraged the Council not to rely only on those, and the threat to drinking water, including the well water that communities like hers use as well as the James River source water.
- Robert Kell (robert@appvoices.org) from Appalachian Voices in Norton, VA gave comment related to concerns that the LENOWISCO Planning District Commission's feasibility study on SMRs detracts from solar energy development in the region. He mentioned concerns about health and environmental risks, the geological risk of siting SMRs on former mining sites, projections of increased volumes of nuclear waste, as well as locations of waste disposal. He gave comment about the inadequacy of public engagement around this issue.
- Chad Oba (chado108@icloud.com) of Buckingham County gave comment related to exploration for gold mining and the local residents who would be impacted by mining (and may have already been impacted by the exploratory drilling). She gave comment about the inadequacy of environmental review and public participation requirements.
- Kelly Hengler (ceh.civicleague@gmail.com) of Suffolk gave comment related to historic issues in EJ communities on the peninsula on the James River, the loss of the fishery that was never addressed and the impact on waterman communities (e.g. food scarcity), the impacted waters in the Nansemond River, coal train traffic impacts, and the problems for subsistence uses. She also gave comment on the accessibility of federal and other funding to address such issues.
- Kenda Hanuman (kendahanuman@gmail.com) of Buckingham County gave comment related to the response of local elected officials to the concerns about gold mining, the need for responses to the gold mining impact study, concern about metals mining in vulnerable low-income communities, and possible health impacts.

COMMENT FROM KATIE WHITEHEAD

Comment to the Virginia Council on Environmental Justice January 24,
2023

Katie Whitehead <mkwhitehead@yahoo.com>
P. O. Box 947, Chatham, VA 24531

Last year the Virginia General Assembly passed HB2213, calling for a study of the impacts of gold mining in Virginia. A combined report by the National Academy of Sciences, Engineering, and Medicine (National Academies) and a Virginia state agency group concluded that Virginia's existing laws and regulatory framework are inadequate to protect against the potential impacts of gold mining. The report found that no state agency responsible for mining has regulations to implement the Virginia Environmental Justice Act and ensure fair treatment and meaningful engagement. There is no "systematic process for agencies to incorporate meaningful involvement of EJ communities in decision making processes" and no "clear guidance for evaluating whether pollution authorized under a permit will cause disproportionate impacts." (page 7,

https://energy.virginia.gov/public/documents/Public%20Meetings/VirginiaEnergy_Potential_Impacts_of_Gold_mining_and_Processing_in_the_Commonwealth_Report20221201.pdf)

The National Academies report states matter-of-factly, "The current requirements for public engagement in Virginia are inadequate and compare unfavorably with other states, the federal government, and

modern best practices." (page 172)

In Virginia, there are insufficient requirements for notifying people about initial mining permit applications:

- Only property owners within 1,000 feet of the permit boundary have to be notified.
- Notifications include few details; and the Virginia Department of Energy does not make the permit application package readily available for public review.
- There is a short deadline of just 10 days for filing objections to a permit or requesting a hearing.

In Virginia, there is no requirement for public notice or opportunity for public input for

- prospecting or exploratory drilling,
- renewal of a mining permit application,
- expansion of a permitted mining project,
- or release of a bond.

As the National Academies report notes, “These permitting actions are critical milestones for the mining operation, and they warrant meaningful engagement with nearby landowners, communities, and other stakeholders.” (page 172)

The current legislature is considering HB1722 to ban the use of cyanide in mineral mining and

processing. Though the bill does not address environmental justice directly, it does protect people from a significant mining risk.

To attain the goals set out in the Environmental Justice Act, Virginia mining laws and regulations need to be amended. If any metal mining is going to be permitted, people need timely notification about potential projects, access to information, and opportunities to contribute to decision making.

COMMENT FROM LYNDSAY TARUS

Hello,

Please accept the following comments in written format, which I shared during the public comment period of the VCEJ meeting last week (August 8th). Please let me know if you prefer a different format. Thank you.

Hello and thank you for the opportunity to provide comment today. My name is Lyndsay Deitrick and I live at 540 Maxson Way in Moneta, VA. That's in Franklin County and on the traditional home of the Tutelo and Saponi indigenous peoples.

I'm joining today with groups from far Southwest Virginia who are facing a proposal for a nuclear reactor in their community, which we will hear about later in the meeting. While the topic of Sharon's presentation will focus on the proposed small modular nuclear reactor, I want to bring attention to the cumulative impacts of a project like that and the ways numerous communities here and far beyond would be impacted.

Nuclear power is not a climate solution: it is too dirty, too dangerous, too expensive and too slow.

The nuclear fuel chain starts with the mining and milling of uranium, which generates immense amount of radiation. It contaminates the air, land and water, and endangers essential sources of life and well-being. Before a single pound of fuel goes into a reactor, it has produced more than 3,500 times as much radioactive waste dumped at mines and mills in the open air, either in piles or ponds.^[1] Uranium is also extracted through a chemical process, which directly and irreversibly pollutes groundwater.

Uranium enrichment plants have a long track record of spills and leaks, causing cancer epidemics and other diseases. These plants are predominantly located in Black, Indigenous and People of Color communities and so these communities are most likely to be adversely impacted.

Radioactive waste is, itself, another global environmental crisis, endangering water and health. There is still no “solution” for radioactive waste, which will remain hazardous for over one million years.^[15] This is an unjust burden on future generations, a danger to ecology and health we have no right to impose.

Let’s not forget about the transportation of this waste between where it’s mined and process, to the reactor site to wherever it ends up.

We believe that health and safety concerns should take priority in the development of projects like this in SWVA. We are particularly concerned that this project makes no provision for waste disposal, no consideration of climate-fueled disasters like flooding, sinkholes, and other risks particular to development on abandoned mine land that exacerbate the risks of disaster. And we think decisions should be made based on deep evaluation of the cumulative impacts of the entire fuel chain for a project like this.

I’ve read that a Canadian company acquired the rights to mine uranium in Pittsylvania County, that’s the neighboring county to where I live. There are generations of injustice on this site already as it’s the site of Coles Hill. The Coles family wealth on their near 6,000 acre property was [built on slavery](#) and now their future fortune relies on further extraction and endangerment to our health and wellbeing. There’s currently a [moratorium on uranium mining](#) in Virginia but I want to urge this council to watch for the lobbying forces trying to lift the ban through the courts and through legislative action.

There’s a new piece of bipartisan federal legislation called the ADVANCE Act, which would further subsidize the nuclear industry by reducing regulatory costs for companies, among other incentives for research and development. I bring this up in particular for this committee because some of our so-called environmental justice champions in Congress are co-signed on this bill.

In sum, the uranium fuel chain and nuclear development make the dangers of climate change worse, and the nuclear industry actively blocks renewable energy and other solutions to end fossil fuels.

Most of my comment is information that I’ve learned from grassroots organizers in the climate and environmental justice movement, particularly through a resource called [Hoodwinked in the Hothouse](#) which was authored by Indigenous Climate Action, Indigenous Environmental Network, Climate Justice Alliance, and other organizations. I would be happy to follow up and provide citations in written format for the committee.

Thank you

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Lyndsay Tarus ([she/her](#))
call or text me for a quicker response at: 717-649-0551

[Schedule a meeting with me](#)

www.theallianceforappalachia.org | www.ilovemountains.org

VCEJ PUBLIC COMMENTS SUBMITTED IN WRITING 10/17/23

Will Payne - Managing Partner, Coalfield Strategies, LLC
P.O. Box 16519 Bristol, VA 24209-6519
Will.Payne@CoalfieldLLC.com

Topic: EJ in SWVA with clean energy projects on reclaimed coal mine properties.

Good afternoon. My name is Will Payne. I live in Bristol, VA. Four years ago, I moved to Southwest Virginia to lead a Tobacco Commission supported self-help initiative called InvestSWWVA because there needed to be a shakeup in economic development. Our focus has developed into clean energy deployment on reclaimed coal mine properties. We incubated Energy DELTA Lab with the help of Dominion Energy and Appalachian Power and launched it last October with the 2022 Virginia Energy Plan. The goal is straight forward: help the Commonwealth of Virginia achieve energy security and reliability while accelerating the commercialization and deployment of innovative energy technologies. The team's strategy involves leveraging the region's topography and its legacy energy industry assets – land, power and water – to develop energy projects at scale with the primary goal of creating new jobs and local tax revenues in addition to attractive career pathways for the region's workforce and new manufacturing opportunities. The byproduct of this work is helping some of the most adversely impacted communities in Virginia see a future for themselves. It's about jobs. It's about workforce training. We've built a broad coalition of those who are in the community everyday focused on those two key areas. In order to be successful, we have to bring in new business. We have to diversify and grow the economy. The DELTA Lab's project portfolio represents a spectrum of technologies and related industrial operations, including solar, wind, hydrogen, energy storage, pumped-storage hydro, energy efficient data centers and other emerging energy technologies – over the next decade that means advanced nuclear. We simply cannot meet Virginia's or the nation's goals without nuclear in the mix. The data doesn't lie. More than a dozen projects under consideration today represent in excess of \$8.25 billion in potential private capital investment, 1,650 new high-paying jobs and nearly 1 gigawatt of new power generation and demand. In addition, the DELTA Lab has led federal grant applications in 2023 for nearly \$600 million that would support its project portfolio. Environmental Justice is a centerpiece of our work. In fact, it is critical to our ability to win federal grants. We take it seriously. And, the impact of this work will be ensuring that young people in the region can build lives and careers right here if they want to with higher-paying jobs. That's how we are going to transform Southwest Virginia. For us, it's personal. If we don't step up and act, no one else will.

Michael Hatfield, Office of County Administrator, County of Wise, VA
206 E Main Street, Suite 223
P.O. Box 570 Wise, Virginia 24293
Hatfield_m@wisecounty.org

My name is Michael Hatfield and I am the County Administrator for Wise County, Virginia 24293. Wise County has been an energy leader in Virginia and the nation for over 100 years. It is our desire to remain an energy leader. Thus, we are evaluating all forms of energy production. We have the first Commercial Scale Solar project on previously coal mined land. We have at least 5 Utility Scale Solar projects on previously coal mined land in the planning stages. We are evaluating Wind, Energy Storage, Blue Hydrogen, Carbon Capture, Green Coal, Nuclear Power and SNF Nuclear Power. Many of these require long lead times and it is very early in the process. In particular, Nuclear projects normally take about 10 years from the time they are announced to completion. There have been no projects announced and there have been no sites selected. But contrary to previous comments that local leaders have not been involved, I have been investigating the possibility of an SMR in Wise county for three years. I am educating myself so that I can make good recommendations to my board and to the local community. It is our opinion that wind and solar play a part

in future of energy production in the US but it is not feasible that they can supply all the future needs. We need to evaluate other forms of energy before the demand exceeds the production capabilities.

Deidre Kee – Pughsville Resident

ddrawhte@gmail.com

Greetings,

In 2019, we contacted VDH (the local Suffolk office as well as the state office in Richmond, VA) to get information about a septic tank or house on the lots next to my parents home (13 & 15) Coltrane Ave (formerly Pearl Street). The local health department stated they had no information on the lots listed. We contacted the City Treasurer's office. They also refused to give information on the listed information. Finally, the treasurer's office came up with tax information and a house listed on the lots up until 2014. The family has built a new home on the property with city sewer hookup. They received a letter (dated 06-01-2023) from the Director of Planning and Community Development to have the private septic tank (that the city said doesn't exist) pumped out or inspected by June 2024.

Question 1: How can the city mandate a hardship on a family when they have indicated that the septic system never existed? The owners of this new home didn't have anything to do with past septic the city now reports. Most of the landowners who pay taxes yearly cannot build on their properties as the city states that the streets must be done by the landowners with drainage, gutters, sidewalks and underground wiring before one house can be built. Yet the developers build on the "paper streets" by turning the frontage of the homes around to face the already streets in the system. This allows them to build on the paper street without building the street as mandated by the city. A lot of residents are losing their land as they do not wish to pay for land they cannot use. If the drainage was addressed here in our neighborhood, residents would be able to build on their properties. The city says they are going to do one main street with drainage and put one sidewalk down Townpoint Road.

Question 2: Doesn't the VDOT ruling have sidewalks on both sides of the street in the Urban VDOT System? Please look into this as the city has Federal and VDOT funding to do all of the streets here. I look forward to hearing back from you soon.

Carolyn White - Pughsville Resident

carolynwhite@carter.net

4216 Coltrane Avenue Suffolk, VA 23435

Question: What and how is the Environmental Justice Department responsible to address the issues of the Pughsville Community? The Pughsville Community is split between two cities with two separate boroughs and Chesapeake at large Council.

Question: With the 2022 election and information gathered from (Nansemond Borough) map we discovered that the 75 page redistricting from Chesapeake done by Registrar Mary Pinkerman refused to tell the Supreme Court and the Chesapeake City Council that Pughsville-Chesapeake is listed in the Suffolk Nansemond Borough. Therefore she has 321 Chesapeake voters going to the polls to vote for Suffolk Candidates. Portions of Chesapeake-Pughsville vote in Chesapeake AT Large and these do not. My question is no one even want to look into this; does the system allow the gerrymandering to continue in the African American neighborhoods? Last October, 2022 when we were on the zoom with you all and the Richmond Health Department workers were in attendance, we spoke of the AOSS System that we didn't even know existed until they were put in our neighborhood by developers who built on paper streets that the city of Suffolk restricts the African Americans to build on their own properties of these streets. The New Planning Commissioner does not know what a paper street is. I emailed him an explanation of a paper street last year when he

discovered Pughsville is the only community that has them. The worker from VDH (Health Department) emailed us the results of the AOSS sewers listed in Richmond for the City of Suffolk. He verified the 3 homes in Pughsville are not listed as reported to Richmond. Suffolk continues to do what they feel and not abide by any rules or regulations that the government has implemented. We are tax payers, and we were mandated by the Federal Government in 2005 to pay storm water fees. We have been paying since the implementation from the government and we have not been given storm water systems, gutters, drainage nor sidewalks as VDOT requested in the 2006 Road Takeover. All the African American Neighborhoods have suffered and continue to do so while the two cities carry on as if nothing is wrong. It is typical of the world we live in. Why do everyone suggest money is available and when we apply, we are turned down? Is everyone in the departments afraid to do the right thing? We have sent documents, pictures, Grace Holmes has walked with us in Pughsville and no one in Suffolk has shown her any respect for her job and title. They have refused to answer calls or email her for an appointment to discuss the reason for their apathy. We are continuing to tell our story; whether its three minutes, five minutes, write a book, speak with lawyers (also afraid) so we will look for all the help we can get. Virginia is coming up on 250 years in existence in the year 2026. We will be telling the story even to the celebration committee as in 250 years we can't be considered a part of the Virginia we helped to build. Thank you for this opportunity. (I won't read this as part of my three minutes). A paper street is a street that existed like all other streets in Pughsville since the African Americans lived here and built these roads. When Suffolk took over the streets in 2006 from VDOT, they had vacant homes on these streets demolished by residents or land owners and allowed the streets to close up with tall grass and trees and failed to maintain them. Almost 25 streets. African Americans are mandated to continue to pay taxes on their properties or else the Special Commissioner since 2001 auctioned off the property. Many refuse to pay taxes on land they are not allowed to use.)

APPENDICES

APPENDIX I. VIRGINIA ADVISORY COUNCIL ON ENVIRONMENTAL JUSTICE REMOTE PARTICIPATION LANGUAGE

1) REMOTE PARTICIPATION AT REGULAR COUNCIL MEETINGS

It is resolved that the Virginia Advisory Council on Environmental Justice shall adopt the following policy on remote participation at Council Meetings.

Notification:

Consistent with the Code of Virginia at § 2.2-3708.3, participation from a remote location via telephone, video, or other electronic communication means requires that the member requesting such participation notify the Chair and the staff of the Council on or before the meeting date, preferably as soon as is feasible, that he or she is unable to attend the meeting in person.

He or she must identify with specificity the nature of the emergency, medical condition of the member or member's family member or personal matter. Members who live more than 60 miles from the meeting location can request to participate remotely.

Such participation by a member is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

Requirements:

Consistent with the Code of Virginia at § 2.2-3708.3, participation from a remote location via telephone, video, or other electronic communication means requires that arrangements be made so that the voice of the member participating remotely can be heard by all persons at the Council's meeting location.

When arrangements have been made for a member to participate in a Council meeting from a remote location via telephone, video, or other electronic communication means that fact shall be noted by the Chair. The Chair will then determine whether the participation will be approved pursuant to this Policy. If a member's participation from a remote location is approved by the Chair, the minutes of the meeting shall record the specific nature of the emergency or personal matter and the remote location from which the member participated.

If a member's participation from a remote location is disapproved by the Chair as inconsistent with a provision of this Policy, such disapproval shall be recorded in the minutes with specificity.

This policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

2) REMOTE PARTICIPATION AT SUBCOMMITTEE MEETINGS

It is resolved that the Virginia Advisory Council on Environmental Justice shall adopt the following policy on remote participation at subcommittee meetings.

Notification:

Consistent with the Code of Virginia at § 2.2-3708.3, participation from a remote location via telephone, video, or other electronic communication means requires that the member requesting such participation

notify the Committee Chairperson and the staff of the Council on or before the meeting date, preferably as soon as is feasible, that he or she is unable to attend the meeting in person.

He or she must identify with specificity the nature of the emergency or personal matter. Such participation by a member is limited each calendar year to two meetings or 25 percent of the Subcommittee meetings held per calendar year rounded up to the next whole number, whichever is greater.

Requirements:

Consistent with the Code of Virginia at § 2.2-3708.3, participation from a remote location via telephone, video, or other electronic communication means requires that arrangements are made so that the voice of the member participating remotely can be heard by all persons at the Council's subcommittee meeting location.

When arrangements have been made for a member to participate in a Council Subcommittee meeting from a remote location via telephone, video, or other electronic communication means that fact shall be noted by the Committee Chairperson. The Committee Chairperson will then determine whether the participation will be approved pursuant to this Policy. If a member's participation from a remote location is approved by the Committee Chairperson, the minutes of the meeting shall record the specific nature of the emergency or personal matter

and the remote location from which the member participated. If a member's participation from a remote location is disapproved by the Committee Chairperson as inconsistent with a provision of this Policy, such disapproval shall be recorded in the minutes with specificity.

This policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

3) VIRTUAL MEETINGS POLICY

Consistent with the Code of Virginia at § 2.2-3708.3 any public body may hold all-virtual public meetings (in situations other than declared states of emergency) provided they have adopted a remote participation policy voted on at a full meeting that shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.

Therefore be it resolved that the Virginia Advisory Council on Environmental Justice shall have the ability to hold an all virtual public meetings for the council or council subcommittees

Decisions to Hold an All Virtual Meeting or Subcommittee Meeting:

The Chairperson will consult with and obtain consent via a simple majority vote from the Full Council at a Council meeting about whether to hold a future meeting or subcommittee meeting as an all virtual meeting

Requirements:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting or subcommittee meeting is included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § [2.2-3707](#);

2. Public access to the all-virtual public meeting is provided via electronic communication means;

3. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting or subcommittee meeting and, when audio-visual technology is available, to see the members of the public body as well;
4. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting or subcommittee meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting or subcommittee meeting, and the public body takes a recess until public access is restored if the transmission fails for the public;
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting or subcommittee meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings or subcommittee meetings when public comment is customarily received;
7. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
8. If a closed session is held during an all-virtual public meeting or subcommittee meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of § [2.2-3712](#);
9. Virtual meetings may not be held for more than two meetings or subcommittee meetings per calendar year or 25 percent of the meetings or subcommittee meetings held per calendar year rounded up to the next whole number, whichever is greater or consecutively with another all-virtual public meeting or subcommittee meeting.

APPENDIX II. VCEJ NOTES – JANUARY 24, 2023

Virginia Council on Environmental Justice (VCEJ) Notes

Virginia DEQ Piedmont Regional Office, 4949A Cox Rd, Glen Allen, VA 23060

Tuesday, January 24th, 2023, 10:00am – 1:00pm

Attendance:

- **Present In-Person Council Members:**

- Taysha DeVaughan, Southern Appalachian Mountain Stewards
- Kendyl Crawford, VA Interfaith Power & Light and Virginia Conservation Network
- Aliya Farooq, VA Interfaith Power & Light (arrived late)
- Harrison Wallace, Climate and Clean Energy Equity Fund
- Meryem Karad, Evergreen Action
- Rev. Dr. Faith Harris, VA Interfaith Power & Light

- **Staff In-Person:**

- Danielle Simms, DEQ
- Grace Holmes, DEQ
- Gwendolin McCrea, DEQ
- Jerome Brooks, DEQ

- **Staff Virtually:**

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- **Excused Absences Council Members:**

- Clarence Tong, Arrival - unable to attend due to work, attended virtually (point of contact Taysha DeVaughan)
- Dr. Janet Phoenix, George Washington University - unable to attend due to work, attended virtually (point of contact Taysha DeVaughan)
- Kathryn MacCormick, Dominion Energy - unable to attend due to work, attended virtually (point of contact Taysha DeVaughan)
- Dr. Theresa L. Burriss, Radford University - unable to attend due to work, attended virtually (point of contact Taysha DeVaughan)

- **Unexcused Absences Council Members:**

- Karen Campblin, ktcPLAN
- Fernando Mercado Violand
- Ronald Howell, Jr., Virginia State University
- Lillian “Ebonie” Alexander, Black Family Land Trust
- John Boyd, National Black Farmers Association
- Rev. Dr. Mike Ellerbrock, Virginia Tech and Minister, Catholic Diocese of Richmond (point of contact Danielle Simms)
- Lydia Lawrence, Fairfax NAACP (point of contact Danielle Simms)
- Andres Alvarez, Acadia Services
- Tom Benevento

DID NOT HAVE QUORUM OF 11

10:25am **Welcome, Chair Taysha DeVaughan**

- The council was welcomed by Jerome Brooks, Piedmont Region DEQ Director
 - Used to work in the office of EJ and became the regional director in piedmont in june of last year

- His introduction to environmental justice (EJ) came in 2000 when there were initial discussion internal in DEQ, he has been a student of EJ for 20 years
- Shared impact of EJ on him personally
- Chair Taysha DeVaughan (5 mins.)
 - Role call
 - Announced that the agenda would be changing and solicited feedback on change from councilmembers, changes were positively received
 - Do not have quorum unable to continue the approval minutes or handle official business

10:28am Discussion of VCEJ Lack of Quorum and Virtual Participation

- The Chair understands frustration of attending members
 - Confusion as to what it means to join virtually, council members are not allowed to participate virtually as council members
 - Law changed in September which means that the council must have adopted bylaws to allow virtual participation, but unfortunately the vote did not carry last May 2022
 - Would like to adopt the communications standard at the next meeting if quorum is achieved
- Taysha reaching out to members who have not been attending meetings to see if they would like to continue participating
- Council members reaching out to the Secretary of the Commonwealth to see how they could help with the process
 - Some members whose terms have expired have applied for reappointment
- Important to expedite because waiting to address soon because waiting until May would mean that almost half the year would be gone
 - Some additional members terms are up in July
- The council is not getting adequate service to be able to function
- Timeline/calendar for 2023 agreed upon at last meeting in the winter 2022
- Suggestion to move the next VCEJ meeting up to March and to have the list of who wants to stay on by the end of January
- Kendyl send list of who has been showing up and not and regional preferences/locations (northern vs southwest issue)
 - Teresa from SW, Taysha SW
- Taysha and Janet sent a letter last fall to the administration about appointments/process and timeline and have not received any answer, they also requested a meeting that didn't happen (never received a response)
 - Concerned about not making new appointments, not letting people know if their turn is over
- Suggestion to make emergency communication to SNHR and the Secretary of the Commonwealth and reach out to env groups like App Voices to weigh in on need for service (appointments, ability to hold meetings/subcommittee meetings, etc)
 - Even though DEQ has been supporting the VCEJ and the VCEJ is appreciative of the time and support staff have put in, there has been a lack of attention paid to the needs of the board by the administration
 - Possible in-person drop-off of communication to the administration, would have to only be 2 people
 - A member hesitates to contact current admin and instead just move forward on our own as the current administration's goals do not align with our objectives
 - We know we cannot count on the admin, may have to set up meetings on our own
 - Admin will probably look at expired terms and want to switch ppl out, we have good people here now
 - Can the vice chair assist with chair's work?
 - Could be worth it to do the extra work

- The VCEJ has been put in a vulnerable position
- Seems like the most pressing issue is our inability to make quorum, can we change the definition of our quorum?
 - Need to figure out the easiest path and whether it is removing members
- The VCEJ appreciates the DEQ staff work and assistance thus far!
 - The council work should not be detracting from the DEQ staff other work and responsibilities, to ensure that doesn't happen is another entity's responsibility
- March meeting needs to be before March 20 for Aliya to be able to attend
- It was suggested to the VCEJ to create policies for the group during May 2022 meeting, but virtual policy was never adopted and then law changed in September
- Where we are at now- unfortunately VCEJ is putting stress on DEQ capacity, unable to do our work, and the council has exhausted our work around options
 - People who are willing to participate terms are expired
 - Different interpretations of participation standards have varied over the years from the AGs office, etc.
- What's most important is that we can get to the point of writing the report
- Should be talking about justice instead of constraints on our functioning
- Individual members can write recommendations to sec of commonwealth, etc on who to recommend
- Need to have freedom to do our work and also accountability (from the governor's office and secretaries)
- We are where we are due to lack of quorum (member accountability)
- Kendyl be sure to include the lack of communication from administration's office in minutes
 - Council attempted to schedule a meeting with the administration's office last year

11:42am Lunch Break

12:00pm Public Comment Period and Discussion

Katie Whitehead, Pittsylvania County

- Last year VA GA HB 2213 called for study of impacts of gold mining, the study concluded that existing laws are inadequate protection, report found that no state agency is able to implement the EJ Act and no systematic process to incorporate EJ communities or address impacts
- Currently requirements for public participation are inadequate and compare badly with modern best practices (looking at other states and federal requirements)
 - Only property owners in 1000 ft need to be notified
 - Notifications include fewer details
 - Short deadline of 10 days for filing objections or requesting a hearing
 - No requirement for public notice for prospecting/exploration, renewal or expansion or release of a mine
- A national academic report states that those items are critical milestones and stakeholders need to be involved
- Current legislature is considering HB1722, bill does not address EJ directly but does protect people from significant mining risk
 - If any mining is going to be permitted, people need an opportunity to contribute to decision making
- Thank you
- Link to the report she mentioned is in her written comment

Dr. Janet Phoenix, Council Member

- She appreciates the ability to speak briefly as a member of the public
- Pleased to hear about the action plan in regards to the VCEJ's lack of quorum

- Hope that at the same time we address these issues, hopes subcommittee issues are addressed as well (capacity to be able to meet)
 - Important to clarify subcommittee process too
 - Last year had problem with scheduling a subcommittee meeting as she is part of the council
- This morning discussion fruitful and needed

Edward Strickler

- Will the council consider the environmental injustice of metro areas sending waste to rural areas?
- VCEJ Discussion
 - Issue that the council has included in past reports and will continue to work on
 - Definitely in purview of council and will address the issue in an upcoming meeting
 - In 2021, major portion of EJ council discussion was focused on landfill, waste and recycling, there are many layered concerns and issues, there needs to be some meaningful movement forward on how to better handle waste
 - This is something that the Emerging Issues Subcommittee wanted to move on and invite speakers to come and present on

Sheila Joseph, Fairville Neighborhood in Portsmouth, VA along with Douglas Park

- *Unable to hear her comments, audio unclear*
- *Encouraged her to type a question in chat or send in written form*
- She had questions about public works/utilities
 - Stormwater damage and drains, flooding concerns in her area
- *Encouraged her to email photos*
- Grace following up with her/in her region

Kelly Hengler, Suffolk, VA (lower James)

- Thanked the council
- Deeply concerning items from Hampton Roads
 - Local request was not supported by VA League of Cities to move notices to a more accessible format for public participation
- Trying to improve consistency in broadband in the area
 - Very concerning issue
- For important updates and notices groups on the ground try to share them between each other
 - There's a megaregion between Hampton Roads and Richmond - so many EJ specific impacts in that area
- Wants to pose to notes the need to grow support systems for Suffolk, want to be able to see council's work
- Appreciates DEQ regional work
- Wants to include the issue (of public participation and broadband access?) for all of VA not just in Hampton Roads

Carolyn White,

- *Will send email*

VCEJ Discussion

- Meryem has been attending gold mining meetings, has been working with Clarence with VA Energy on related data
 - Meryem offered to present recap at the next meeting (gold mining)
 - The state agency has finished its work and report was submitted in December, available online

- Subcommittee meetings will be enveloped into the full VCEJ body meeting agenda as of now because of DEQ capacity issues
- Want to encourage public commenters (to the council) to submit written comments but not necessary, don't want to put people in a position where they are not communicating with us for equity issues
 - Not required to send written comments, but if you can please send them as it helps with record keeping
 - Anyone who can give comment, can give comment during the meeting don't need to sign up beforehand
- This is the third or 4th time we have heard from Portsmouth residents, the council should add to full body meeting agenda this year

12:47pm Opportunities for Advancing EJ & Clean Energy through Federal Investments/Inflation Reduction Act, Councilmember Meryem Karad

- The Federal EJ councils have met
 - Meryem will send more detailed email to council, wants to make recommendations to the governor and GA on how VA can take advantage of the opportunity
- Availability of funds
 - Some of the money is match dollars
 - Lots of buckets of money available for different topics, electrification, etc
 - Some of the money is reserved for EJ communities with Justice40 initiative
 - Specifically for EJ communities are EJ Block grants
 - Lots of opportunities to build a new economy, away from inequities
 - \$34 billion
- Hopes to make some concrete recommendations from the council
- Opportunity for bipartisan investments in community
- Curious as to who is going to apply, also wants to get people involved
- Would be a great section of the 2023 VCEJ report
- The council should talk about capacity of smaller counties and cities to apply for grants and think about how we can help communities, put it on the radar of municipal leaders, let them know about partnership opps
- This body of work could fit with the Just Transition Subcommittee, could help to think about how to put pressure on government and provide resources/compile them
- Wants to make sure there is time on next meeting to discuss it
- White House has a really good website on Inflation Reduction Act, has a guidebook, we could point people to
- Would be nice to hear from local organizations working on money to present to council, have them on agenda
 - May include as a standing item, invite one expert person/knowledgeable
 - The VCEJ could hear from regional EPA director at a meeting
- VCEJ should aim to be a resource for community folks, organizations, and localities

12:57pm Update from DEQ, Danielle Simms

- Danielle Simms promoted to be Manager of the DEQ Office of EJ
- EJ Office is hiring two positions, that is why there is a capacity concern for the March meeting
- The office has been briefed on two grant opportunities with EPA (States partner with community based nonprofits, tribes, localities and the grant opportunities focus on health impact assessments, address climate change, build partnerships, strengthen EJ, etc.)
 - DEQ EJ Office is brainstorming on how to apply
 - EPA holding webinars to educate on grant opportunities, one is at 1/26 at 2pm
- EJ Collaborative Problem-Solving (CPS) Cooperative Agreement Program
 - For more info, email Jacob Burney at burney.jacob@epa.gov

- EJ Government-to-Government (EJ2G2G) Program
 - For more info, contact Omari Burrell at burrell.omari@epa.gov
- Danielle willing to give future update on the progress of applications, is working to partner with community groups, and filling out applications

1:05pm Reporting Subcommittee Update, Recommendations for 2023 End-of-Year Report, Subcommittee Chair Kendyl Crawford

- 2021 and 2022 reports submitted to portal on January 11, 2023 copied to Acting SNHR and sent to Sen. Hashmi as well
- Published at the moment on GA website
- Capacity issues (lack of quorum, inability to hold subcommittee meetings, etc) did impact the report, but hopefully with the conversation these items will be addressed moving forward which will increase the quality of the 2023 report

1:15pm Close/Adjourn, Chair Taysha DeV Vaughan

Next Steps:

- DEQ staff sending comments in one document after meeting (including community, issue and ask) to council members
- Taysha reaching out to members who have not been attending meetings to see if they would like to continue participating
 - Taysha following up with inactive council members (ie removal) calls and email first and include form letter on what to submit to resign
- Kendyl send Taysha, Janet and Meryem list of who has been showing up and not and regional preferences/locations (northern vs southwest issue)
- Taysha and Janet to send communication from VCEJ to Secretary of the Commonwealth and Secretary of Natural and Historic Resources (SNHR) by Friday (January 27)
 - Meryem drafting this including write up on requirements and request for march meeting, also making a second request for office meeting/call
- Faith and Harrison ask advocates to support by showing up in March for VCEJ meeting
- Taysha? reach out to sec's office to ask about help/setting up an emergency march meeting?
- Kendyl reach out to Karen (Fredericksburg would work), Janet, Clarence (NOVA), Teresa (SW), Lydia (NOVA) to see what location (Fredericksburg?) would work for them in March
- Kendyl see if we have May 2022 virtual participation language and send to Taysha for her to share
- Taysha and Danielle talking about setting the date and meeting support/the day of needs/determine if we need a government staff to attend
- Individual members can write recommendations to the Sec of Commonwealth, etc on who to recommend to VCEJ
- Kendyl be sure to include the lack of communication from administration's office in minutes

Future Meeting Topics:

- Federal investments (suggested to be a standing item for the timebeing)
- Portsmouth Resident concerns

APPENDIX III. VCEJ NOTES – MAY 9, 2023

Virginia Council on Environmental Justice (VCEJ) Notes

Potomac Community Library, 2201 Opitz Boulevard, Woodbridge, VA 22191

Tuesday, May 9th, 2023, 11:00 am – 3:35 pm

Attendance:

- **Present In-Person Council Members:**

- Dr. Janet Phoenix, George Washington University (Vice Chair)
- Karen Campblin, ktcPLAN (arrived late)
- Meryem Karad, Evergreen Action (arrived late)

- **Absent Council Members:**

- Dr. Theresa L. Burriss, Radford University (attended virtually)
- Taysha DeVaughan, Southern Appalachian Mountain Stewards
- Kendyl Crawford, VA Interfaith Power & Light and Virginia Conservation Network
- Aliya Farooq, VA Interfaith Power & Light
- Harrison Wallace, Climate and Clean Energy Equity Fund
- Rev. Dr. Faith Harris, VA Interfaith Power & Light
- Clarence Tong, Arrival
- Kathryn MacCormick, Dominion Energy
- Fernando Mercado Violand
- Ronald Howell, Jr., Virginia State University
- Lillian “Ebonie” Alexander, Black Family Land Trust
- John Boyd, National Black Farmers Association
- Rev. Dr. Mike Ellerbrock, Virginia Tech and Minister, Catholic Diocese of Richmond
- Lydia Lawrence, Fairfax NAACP
- Andres Alvarez, Acadia Service
- Tom Benevento

- **Staff:**

- Danielle Simms, DEQ
- Grace Holmes, DEQ (attended virtually)
- Gwendolin McCrea, DEQ

DID NOT HAVE QUORUM OF 11

11:10 am – Welcome, Vice Chair Dr. Janet Phoenix

- Dr. Phoenix opened the meeting and invited all those joining online to introduce themselves.
- Discussion of agenda and purpose for public comment period without 3-minute time limit, with an emphasis on people representing EJ communities

11:29 am – Presentation from Department of Environmental Quality, Environmental Justice Program Manager Danielle Simms

- Topic: Overview of [Draft Guidance on Environmental Justice in the Permitting Process](#)
- Procedures to ensure fair treatment and meaningful involvement, permit evaluation process
- Informal public comment period for the draft guidance was open from mid-March until May 1
- None of the procedures in the guidance would supercede or change existing law or regulatory requirements regarding issuance or denial of permits.

11:46 pm – Short break and reconvene at noon 12:00 pm –

Public Comment Period

- The Council took public comment and discussion on the following topics:
 - **Mary Hill** of Hobson Village gave comment related to concerns about underground storage tanks for which there are no records, problems with septic systems and drainage, development projects, and patterns of organizations reaching out to residents of Hobson Village for information and then not following through with assistance.
 - **Sheila Joseph** of Portsmouth gave comment related to EPA/DEQ grant application assistance, stormwater, lead pipes, and interactions with local government.
 - **Renata Harris** of Brown Grove gave comment related to historic district designations, the Brown Grove community plan, the Wegman's distribution center, a landfill in the community, economic zones, and a request to EPA for further environmental impact review. She also gave comment regarding the VA EJ council operations and impacts.
 - **Carolyn White** of Pughsville gave comment about redistricting and the dividing of Pughsville between Chesapeake and Suffolk.
 - **Kelly Hengler** of Suffolk gave comment related to urbanization and development, flooding and septic issues, the need for technical guidance, and the challenges for communities that are historically rural but being annexed into cities and finding barriers to access into local decision-making.
 - **Katie Whitehead** of Pittsylvania County gave comment related to a study on the potential impact of gold mining in Virginia, and whether the Council would have a state agency provide a report to them about it.

- **Pamela Brandy** of Pughsville gave comment about redistricting and confusion about the assignment of districts within the different localities in Pughsville.
- The council discussed concerns raised by Renata Harris, outline above. The council discussed that they have been writing annual reports but that it is unclear what happens to those reports. They are hoping to have a discussion with someone in the administration about the contents of the reports. However, the council will continue doing their due diligence to really try to represent the concerns that we hear during these public comments, in between meetings and the annual report.

1:10 pm – Public Comment Period Ended

1:11 pm – Discussion of Council Function

- In January, a letter was written to the council to lay out some concerns about the Council's ability to function.
 - There cannot be one-on-one conversations about this. So guidance needs to be drafted to that effect.
 - There also needs to be a change in policy regarding the setting, Council has been informed that virtual meeting rules had been changed. Because a policy regarding participation has not been voted on, council members, virtually, they were concerns raised about council members must come and be physically present, to participate in meetings.
- Discussion of a meeting to do some work and help meet needs – what considerations need to be made to make it a public meeting?
 - Want to give council members a little bit more flexibility and freedom for some discussion opportunities.
 - Discussion of possibilities for meeting formats that would meet FOIA/public meeting requirements.
 - OEJ staff have to be present to staff these meetings.
 - Need direction from the administration about further staffing capabilities.
 - Would like to meet with the Secretary's office.
- Next meeting will be held in Charlottesville on Tuesday, August 8th and the Department of Forestry.
 - Kendyl is hoping to be able to disseminate a draft of the annual report.
- Moment of silence for Shawn Soares, who passed away.

2:08 pm – Meeting Adjourned

APPENDIX IV. VCEJ NOTES – AUGUST 8, 2023

Virginia Council on Environmental Justice

Tuesday, August 8th, 2023

10:30am – 3:30pm

Location:

Department of Forestry, 900 Natural Resources Drive, Suite 800 Charlottesville, Virginia, 22903

Attendees

● **Present In-Person Council Members:**

- Dr. Theresa L. Burriss, Emory and Henry, Assistant VP of Community Engagement
- Kendyl Crawford, VA Interfaith Power & Light and Virginia Conservation Network
- Aliya Farooq, VA Interfaith Power & Light
- Rev. Dr. Faith Harris, VA Interfaith Power & Light
- Lydia Lawrence, Conservation Director Nature Forward
- Andres Alvarez, Acadia Services (left early)
- Dr. Janet Phoenix, George Washington University
- Tom Benevento, New Community Project

Did not achieve quorum of 10

● **Staff In-Person:**

- Danielle Simms, DEQ
- Gwendolin McCrea, DEQ
- Kate Miller, DEQ

● **Staff Virtually:**

- Grace Holmes, DEQ

● **Excused Absences Council Members:**

- Taysha DeVaughan, Southern Appalachian Mountain Stewards (family emergency, point of contact Taysha DeVaughan)
- Clarence Tong, Arrival - unable to attend due to work, attended virtually (work obligations, point of contact Taysha DeVaughan)
- Harrison Wallace, Climate and Clean Energy Equity Fund (work obligations, point of contact Janet Phoenix)
- Karen Campblin, ktcPLAN (work obligations, point of contact Janet Phoenix)

● **Unexcused Absences Council Members:**

- Meryem Karad, Evergreen Action
- John Boyd, Jr., National Black Farmers Association
- Fernando Mercado Violand
- Ronald Howell, Jr., Virginia State University
- Lillian “Ebonie” Alexander, Black Family Land Trust

Notes

10:30am **Welcome, Vice Chair Dr. Janet Phoenix**

- Did not achieve quorum

10:45 am **Introduction to Gold Mining Presentation, Katie Whitehead**

- Pittsylvania did exploration there and found copper zinc, lead and potential for silver

- Aston Bay Canadian gold mining company attracted to Buckingham, County because of rising gold prices
- Buckingham County
 - Officials initially unaware that exploration for gold was happening, people voiced their concerns
 - HB 2013 passed, directed SNR and SHHR and SCT to establish a work group to study the impact of gold on the Commonwealth in consultation with the EJ Council and appropriate stakeholders
 - The DOE convened a committee of technical experts and it released a report on Nov 1 2022
 - Second group convened with stakeholders and submitted a combined report submitted to the General Assembly in 2022
- Whitehead did not see involvement of the council and suggested that the council may want to learn more
- The study concluded that VA's current laws are not protective of environment or health
 - The report detailed that there was no systematic process to incorporate meaningful involvement and no clear guidance to see if pollution under permit will cause disproportionate impact
 - Current public engagement is inadequate
- Whitehead is pleased that council organized the presentation today
- Community concerns regarding gold mining include:
 - Concerns about water, that it could mobilize legacy mercury, and expose people and wildlife to toxic chemicals
 - Residents concerned about catastrophic events – like dam failures
 - Disproportionate impacts on the county (impacts on low income people already in economic stress)
 - Concerned that NAS recommendations have not been heeded- laws for mining not updated
 - Urgency to improve regulations
 - Env regulations fail to meet current regulations not just for gold mining but across the spectrum
 - Committee recommendations true for all types of mining
- The community concerned about regulatory inadequacies
 - Notification of communities
 - Robust analysis of potential impacts
 - Regulation of all metal processing facilities
 - Accurate estimation of costs and bonding processes in cases of bankruptcy or abandonment
 - Enforcement capacity to impose fines needed
 - Need for public participation and notification
- Buckingham residents are concerned by county inaction
 - The county has authority to restrict mining activities, it should exercise local authority to protect the community

11:00 am **Committee Chairperson, National Academies of Science (NAS) (PowerPoint presentation), *William Hopkins***

- Professor William Hopkins – served as Chair of NAS Study Committee
 - Bio: VA Tech Professor of Fish and Wildlife Conservation, his research focuses on habitat loss, human-induced changes and impacts on wildlife, Fralin Life Sciences Institute and Global Change Center at Tech
- The study was mandated by HB2213, sponsored by VA Energy and NAS Arthur L Day Fund
- Report available at: <https://www.nap.edu/catalog/26643>
- The study looked at:
 - Characteristics of gold

- Impacts of gold on health, safety and welfare
 - Summarized the existing regulatory framework
- NAS Committee
 - Composed of 13 people
 - Was not the only committee tasked with addressing gold mining
 - The state agency committee worked independently of the NAS committee
 - Also sought town hall meetings and public comments
- History
 - VA was one of the peak gold states – last era of commercial gold mining happened in the 1940s, peaked in early mid 1800s.
- Geology/Excavation
 - Sulfide bodies can be disturbed during gold mining and can release toxic chemicals
 - Known gold deposits are smaller than other states and regions (the western US, SC), the probability of discovery of big deposits in VA is low
 - Shallow open pit mining is possible, and in deeper deposits – deeper mining possible
- Impacts
 - Remobilization of legacy mercury
 - Mercury widely used in 1800s and large quantities lost, contaminated then and those are persistent in environment
 - If new site is established over an old one, legacy mercury could be released
 - Legacy mercury could cause neurologic and neurodevelopmental impacts
 - Water quality
 - Some metal mining deposits located near drainage water
 - Acid rock drainage (ARD) is toxic due to acidity, specific conductance and metals, ARD causes impacts on the environment and plant, animals and drinking water
 - Can cause eutrophication, which reduces oxygen for aquatic life
 - Cyanide poses acute toxicity
 - Catastrophic events
 - Failures of dams and containment structures for waste (low likelihood but could happen with high consequences)
 - Tailings dam failures
 - Air quality
 - Fugitive dust, release of toxic fine particles and gaseous pollutants
 - Impacts limited because of small scale, which would not significantly degrade air quality with controls
 - Water quantity
 - Could lead to drawdown of water table but magnitude depends
 - Could impact households dependent on well water
 - Need to do modeling to know more
 - Cumulative risk
 - Different hazard types, health outcomes, impacts on poor and minority communities, exacerbates low access to health care
 - The impacts would most likely occur in already vulnerable communities
- Recommendations
 - Only robust and project specific analyses should be taken before permitting
 - There is a lack of metal mining activities, the mining regulations on the books focus more on sand and gravel mining, not for metals
 - Current framework of regs is not adequate for gold mining
 - Review of impacts – VA does not have a NEPA-like review of environmental impacts for private lands
 - Other states like CO have more guidance and data collection and analysis
 - Exemptions – not suitable for gold mining

- Exemption of off-site gold processing facilities (lack of oversight from mineral mine program)
 - Montana requires off site and on-site
- Financial assurance
 - Bonding rates are insufficient for long-term stewardship in cases of abandonment
 - Minerals Reclamation Fund could be greatly depleted or exhausted
 - Model needs to be used to determine bonding rate for VA
- Standards and enforcement
 - Lack of experience in VA regulatory entities in metal mining
 - Key gaps in enforcement
- Public engagement
 - Scarcity of details in permit notifications
 - Limited number of notifications required (tribal communities not specified)
 - Other gold producing states mandate tribal participation at earliest point (Montana)
 - No public notice requirements for exploratory drilling or expansion
- Environmental Justice (EJ)
 - Meet EJ Act- current mining regulations need to be amended
 - Recognize existing env injustice
 - Aim to reduce existing disparities and prevent future disparate impacts
 - Ensure timely notification

11:38pm **Council Discussion of Mining in VA (w/ Margo and Bill)**

- What happens to the carbon or resin?
 - It is recycled or disposed of
 - NAS Committee not concerned about that
- Reception from the General Assembly (GA)?
 - Did a briefing with DOE and DEQ, together with report they gave to GA
 - Did not brief GA directly
 - Katie Whitehead:
 - There was a bill to ban the use of cyanide in processing which had bipartisan support and expected to pass until the day before the vote, failed on party lines because of a misunderstanding (unintended consequences)
 - Larry Corgy (DOE):
 - Bill in this General Assembly- originally also included sulfuric acid,
 - Did not hear why it was pulled in the end (was pulled by committee chair)
 - Stephanie Renaldy:
 - Made it through committee almost unanimously
 - When came up for 2nd reading, something happened in caucus that shut it down
 - The bill had a Republican co-sponsor
 - Was amended to remove sulfuric acid, then passed out of committee
- Reception from State Agencies?
 - Appreciative of information comparisons to other gold-producing states
 - Unsure if and when VA will advance expansion into mining
 - Agencies do not see as urgent as the members of communities do
 - Briefing went well with the agencies
- Examples of NEPA-like Legislation
 - Best examples from western states who have been at this for a long time and have large mines in arid setting
 - Some have statewide NEPA process – Montana (MEPA) and CA

- Had experts from both host states on committee.
 - Chapter 5 of report spells out some examples
 - Colorado and Nevada have regulations similar to NEPA
 - VA is mostly private land vs in the west coast, mining often happens on public lands
- Have there been any unfortunate consequences that serve as cautionary tales?
 - Available in chapter 4 of report
 - Important that they are examined in context of VA's geology (VA has smaller and more isolated deposits) and the environmental context in VA (more prone to higher precipitation events, different plants and animals)
 - Hard to find a direct comparison, even in SC (those sites have different geological settings and there are larger deposits)
- Economics
 - Did not look at economic concerns- cost benefits analysis was beyond scope of their work
 - Study legislated to be statewide, would need to be site specific analysis to answer that question about economics
- Uranium
 - Another academy report examined uranium
- Prospecting
 - Aston Bay continuing to do drilling and exploration in 2023
- What do we do next?
 - How do we get ourselves out of a culture of domination?
 - Importance of updating regulations
 - This is an opportune moment for the council to weigh in as we are in an exploratory phase
 - The council hopes to come back to the next meeting with next steps as to what to do perhaps a letter focusing on this issue
 - The council could add to their report, a letter would also be helpful
 - What is in the council's capacity beyond a letter?
 - A site visit could be possible
 - Potential ad-hoc council group to draft the letter (the council could do it as undersigned individuals)

12:12pm **Working Lunch and Public Comment Period and Discussion**

Katie Whitehead

- Gold Mining
- Suggests council keep in mind the focus on public engagement and participation, one simple step being requiring a permit for exploratory drilling – so people would know where and what
- Studies were strictly limited to gold yet many inadequacies were discovered related to other mining
- Important to think comprehensively, broader than gold and same recommendations are relevant
- There is no requirement to inform the community for exploratory drilling and when there is notification, not many people know, very limited and notification requirements should be expanded

Heidi Dhivya Berthoud, Buckingham County (Friends of Buckingham and Community Rights Network)

- Both organizations are working to get gold mining protections
- VA is vulnerable to gold mining, all metal mining has consequences
- After receiving state report in 2022, the Buckingham Board of Supervisors asked planning commission to define and prohibit metallic mining
 - Planners seemed to be misinformed and confused about their power
 - Organizations asked for local prohibition of metallic mining
 - Now there is a hold up seemingly because local communities are scared of lawsuits
- Three years ago the organization created a community bill of rights

- They also created a petition to gather support – got 1,000 petitions signed out of a population of 15,000
 - Folks were quick to sign up
 - Folks tired of getting dumped on
 - There could be cancer alleys along where gold waste and toxins run
- Buckingham County can't clean up mess we have now, why would we add more?
- The county is an environmental justice community – low-income and there are direct impacts on the lives of vulnerable people
- Urgency to address climate change and the environmental emergency

Jane Brown, Wise County

- Southwest (SW) VA has gotten its power from Kentucky yet been targeted for energy project by the state of VA
- Mountaintop removal activist
- Fought against Hybrid power plant located in the SW but that powers NOVA
- State of VA wants to spend millions of dollars on a nuclear project even though SW told that it is the last for economic infrastructure
- Right now SW VA is booming (tourism, restaurants, folks moving in)
 - Winning tourism awards
- Governor wants to put Small Modular Nuclear Reactors (SMRs) there, which is not clean energy
- There is no plan for SMR waste, community members don't know and have been provided very little information and very little opportunity for people to voice their concerns
 - Public hearings should be held
- Would like the governor and current administration to stop making SW VA their sacrificial zone, put it in his backyard not ours

Dr. Laura Miller, Wise County, Southern Appalachian Mountain Stewards (SAMS)

- UVA Wise faculty and landowner
- 2007 became aware of SAMS, been working with them since then (been fighting mountaintop removal and fighting degrading pollution and practices damaging communities)
- Quote from a friend “per the VCEA there are specific stakeholders that are required to be consulted “, but she sees that the state is already going against the law by not consulting folks that need to have a voice at the table
- Cumulative risks- SW has many (pollution, destruction, degradation)
- We are working together; we are all on the same side
- Thanked for the opportunity to present their perspective
- Health concerns are very important to her as SW VA she feels has been a sacrifice zone
- Previously lived in New Orleans, during Hurricane Katrina, and moved back to SW thinking it would be safe but mountaintop removal, earthquake fault lines are located in Lee County, Scott, and Wise County (Eastern Tennessee seismic zone) – Why would you put a nuclear power plant near a fault line?

Akwe Starnes, Big Stone Gap SW VA

- Lives in Big Stone Gap VA and would be impacted by the SMRs
- In 2018, she saw the mutilated land from mountaintop removal, left a mark on her, you can see the damage done to env and human life
- Involved with SAMS, there are a lot of people in SW VA ready to speak up
- The community was not invited to the table at all, had to learn about the SMR plans on the news
- She wants to be invited to the discussion of what happens to her and the town

Marine Albricht, Big Stone Gap

- Moved to the area 5 years ago
- Wants to emphasize perspective of people who live in coalfields
- Folks struggling with black lung, tired of being exploited, but excited about potential financial impact
- See folks struggling from the opioid crises
- SMRs are complex- the experts pushing it don't seem to be very knowledgeable about what they were talking about
- Researchers say very few studies analyze waste streams (drill holes for waste)
 - Have they researched in karst topography?
- The proposed SMRs would be located on an earthquake faultline
- Don't want Appalachia to be a sacrifice zone, want to keep going with solar which is making progress and is renewable energy

Pamela Brandy, (also speaking for Carolyn White), Kingsville Community (Chesapeake and Suffolk)

- Carolyn White Statement:
 - Need city to work on its drainage
 - President is pushing EVs but there is nowhere to get repairs done
 - FEMA increasing flood insurance, insurance companies have no payout for areas with no drainage
 - Hampton Roads is surrounded by water
 - African American community is being slighted
 - If infrastructure funding has been given to Suffolk and Chesapeake, why aren't the localities looking into the issue?
 - Should African Americans just sit back with interest gaining on funds but nothing visibly happening from the locality on the issue?
 - The community applying for grants and funds on their own has brought them to a halt – the city has the neighborhood listed as not a disadvantaged community (nice homes from developer)
- They have both a flooding and drainage problem
- The city is allowing builders to build to the detriment of previous residents
- Even when just a little rain they are flooded in their neighborhood
- How long will it take for the city to help?
- The Chesapeake side of Pughsville – getting dumped on from the road and other areas
 - Some people cannot get out of their own homes when it rains because of the flooding
- Builders are exacerbating the problem and causing more flooding
- Residents are asking for help and assistance

Lyndsey Dietrich, Franklin County

- Facing proposal of a nuclear reactor in the community
- Want to bring attention to cumulative impacts of a project like that
- Nuclear power is not a climate solution, it contaminates the environment and endangers life and wellbeing
- Uranium is polluting for both groundwater and the environment
- Power plants have a long history of leaks and glitches, with disproportionate impacts on communities of color and indigenous communities
- Transportation of uranium and waste is a concern
- Health and safety should take precedence – it doesn't seem like there has been adequate consideration of flooding or sinkholes especially when developing on abandoned mine lands, which increases the risk of disaster
- Need to look at whole timeline of impacts- cradle to grave
- Currently a moratorium on uranium mining, wants to urge us to watch forces trying to lift the ban and the courts as well

- The advance act (federal) is also an effort
 - Some so-called EJ champions in Congress are co-signed which is bad
- The nuclear reactor would block renewables
- Hoodwinked in the hot house is a good resource
- Happy to follow up with written comments

Stephanie Renaldy, Buckingham County

- She was a member of the state gold mining study, which could have included an economist as economic impacts do impact welfare
- Supports the aforementioned concerns on nuclear
- It does not seem like the requirement to engage the EJ Council on the gold mining issue was met
- Unfortunately, best practices often result in dangers to the community too
- Don't consider climate impacts, need to think about impacts of clean well water
- Effects of mining would expand to include communities downstream on the James River
- Recommends that the council recommend increasing public knowledge and participation on the issue such as writing a letter to DOE or DEQ or GA or writing a report on the impacts of gold mining
- Happy to discuss further and will email comments to Grace

Robert, Kell Appalachian Voices

- The organization is working on just transition
- Concerned that SMR will distract from the solar promise
- Not good for long-term environment and economic health
- Do not believe they should deploy SMR in coal mining sites, subsidence and slope instability – very risky because of the increase in landslides
- SMRs are expected to have advantages over traditional ones, the waste issue still remains
- Lots of waste and no clear prospects for long-term storage solutions
 - Have to assume sites are long-term storage sites for all proposed nuclear sites, which raises the safety standards and is very dependent on geological risk factors
- The community engagement undertaken in the study falls short – the survey was distributed with short notice
- There are expected deep impacts of SMRs on community
- Storage of waste requires extensive community education and outreach
- Appalachian Voices looks forward to engaging with planning districts
- Invites council to hold the county accountable
- They are also working with SAMS and the Clinch Coalition

Chad Oba, Buckingham County, Friends of Buckingham

- Emphasizes that this is the same neighborhood that has to already redig a well because of the exploratory drilling that has already taken place
- Lives down the road from where they want to explore, lives in Buckingham County (recently fought compressor station for the Atlantic Coast Pipeline)
- This is another impact to this neighborhood – largely African American
- Insufficient requirements for notifying citizens
- County granted by right use for the Canadian mining company
- The gold mining is very concerning and could proliferate very quickly
- Exploration needs to be part of the mining process – even if they do offsite processes and should require permitting and community outreach
- One of the big impacts is damage to water quality as the reopening of old mine sites would release mercury
- Recommends that public awareness should be raised about the serious impacts on water

- Invites the council to visit

Kelly Hengler, Suffolk

- Lives on Nansemond River and Chuckatuck Creek
- Has a concentration of EJ communities
- Concerned because of a number of issues facing lower James River
- What does it look like to be an EJ community?
- Fishery impacted in the 70s- shut down (Kepone spill was never addressed, settled into the sediment and created food scarcity)
 - Annihilated watermen's careers
 - Kepone is a carcinogen
- Need to address water quality issues
- Need to take strong look at industrial society and see where the impacts are as they are often on people who don't have power (ignored)
- A lot of government sidestepping has been happening – Nansemond River was not included in any waterway implementation plan
- Coal trains also coming through Suffolk as well
 - Carcinogens in community have left long-standing food scarcity that never existed previously
- Massive sewage spill that happened in James – officials are not concerned because they think it is only used for recreation, but the entirety of their heritage is based off of subsistence fishing
 - People been consuming the fish (don't know about the advisory)
 - People who have been pushed out of other areas (gentrification) and don't know
- Also considered about the Virginia Reliability Project pipeline as the Kepone should not be dug up and dredged up from the sediment as it is a toxic chemical
 - There is also a lack of meaningful public participation – officials don't discuss water testing, residents can't get meetings with state programs, want a framework and opportunity to address prior impacts
- Communities know the impacts and care for each other
- Need resources – need consensus wants to follow Jemez principles
 - Another burden on the community
- After all these years the pollution concerns are still have massive impact (a commerce issue)

Kenda Hanuman, Buckingham County

- Requests copy of the presentation that Professor Hopkins gave
- Mining is a very urgent issue, wants the community to be out ahead of the issue
- Previous speakers covered the gold issue very well
- The study was given half million dollars and to just ignore it is a waste
- Companies are not going to stop at gold mining
- Nearby communities are low income and vulnerable, right next to Union Hill
- Council came to visit during Atlantic Coast Pipeline fight and hoping that council can do something to get the General Assembly to do something at this point

1:46 pm **Nuclear Reactors, Clinch Coalition Presentation, Sharon Fisher (President)** (powerpoint)

- Mostly had been dealing with mountaintop removal and logging then 10 months ago in Oct 2022 found out they had to learn about nuclear power with the announcement of the SMRs
- Working with Alliance for Appalachia, Appalachian Peace Education Center, Southern AMS, Clinch Coalition and Virginia Organizing
- Governor visited Norton last October unannounced (public not invited and at undisclosed site)
 - Community expressed concerns to the SMR announcement
 - Youngkin looking for funding for site development, seems like a web of public and private entanglements, lots of interconnections
- Claims vs. Reality

- Sites near neighborhoods and churches
 - Stressful work
 - Unproved tech (no SMR in operation in USA, there's some in Russia, China, India)
 - Don't know what type of jobs, how many?
- SMRs
 - All conventional reactors have been over cost and overtime
 - Small Modular Reactors
 - Up to 40 acres
 - Company called New Scale – only company permitted to design this type, the cost of design and building the first one is \$5-9 billion (which costs more than utility-scale solar or wind)
 - It will be 10 years before it is commercially available
 - Produces radioactive waste – SMRs may produce even more than a conventional plant
- Legislation
 - Passed
 - HB1781 – support energy development projects advanced reactors and nuclear
 - HB1779 – creates nuclear education grant fund
 - Defeated
 - HB1780 – revenue sharing
 - HB2333 – SCC to establish a SMR pilot
 - HB2197 – consider advanced nuclear SMR as renewable energy
- Potential sites identified
 - Lenowisco Planning district released the SMR site feasibility study
 - Near schools- 800 ft away from a Christian school
 - Norton and Wise
 - One of the sites is in a densely populated area and the other is close to a local vineyard
- Petition against the SMRs is available online on the Clinch Coalition website
- Follow the money
 - Billions of dollars flowing and funneled into this from infrastructure act
 - The Delta Lab just set up last fall and got a \$975k grant from federal abandoned mine – will bring companies in to test technology, received money for a feasibility study, infrastructure study money
 - Youngkin wants \$10 million in state funds for energy innovation (half towards SMR)
- Indigenous people
 - Lived here as many as 15k years ago
 - Now we have stripped our land
- Legacy of coalmining
 - Native west Virginia
 - Raised in coal camp
 - Coal devastated community and left them with economic deprivation, disease and opioid epidemic
 - First area targeted by pharmaceutical companies with opioids because coal miners had chronic pain
- Horizon
 - Uranium mining has been banned since 80s, but industry wants to overturn the ban
 - SMRs need uranium
 - Transportation of nuclear wastes along VA mountain roads or railroads increases risk of contamination and accidents
- Alternative Vision
 - Expand solar, housing, childcare

- Reenergize Southwest 2021 recommendations (no mention of nuclear) – recommendations were released 10 months from VA Energy before the current administration
 - Summary
 - SMRs are not reliable, affordable or clean
 - SMRs are not renewable energy
 - Would prefer that this money be invested in what we know – solar and wind and energy battery storage
 - Stop diverting funds to “moonshot” and special interests, instead the commonwealth should truly invest in region’s needs
 - Establish local EJ councils with representation of local people (residents’ voices being left out)
 - Go to clinchcoalition.org to sign the petition and for more info
- 2:22 pm **Council Discussion**
- Why is there a push for nuclear energy?
 - Nuclear industry is powerful and has been successful in marshalling political support including Democrats in Congress.
 - Will Georgia be the last large nuclear reactor to be built?
 - Yes, it seems like it. There were cost overruns and it took years longer to build than estimated.
 - If you increase Lake Anna’s capacity with another reactor in site?
 - Unknown
 - Is there research on SMRs in other places?
 - We heard there was only one in Russia; then we heard India and China may have one. Russia’s may be floating plant outside Siberia. Greenpeace referred to this as a floating Chernobyl. All radioactive waste is to be stored onsite as far as they know. They store in water for a number of years and then bury in barrels. Regular citizens get very little info, but a lot is unknown. One of the things they will not talk about is the waste.
 - Are there other scientists to provide more information to substantiate?
 - VA Tech retired professor is brainchild behind the whole thing – gotten businesses and utilities involved
 - On one recent webinar, talked about breakthrough in fusion
 - Efforts to set up solar?
 - Appalachian Voices is leading on solar work, local schools have systems now,
 - App Voices trying to move panel manufacturing to SW
 - Concerns around waste management?
 - A lot of the waste generated by existing nuclear facilities is being stored in place because of backlog issues
 - We need to stop producing waste
 - We should store energy (wind and solar once it is created)
 - The time that it takes to construct the facility is too long (even if there was not an issue with waste) it doesn’t make sense to invest money in those projects. Is the Clinch Coalition asking for renewables and investment for renewables?
 - Yes, the administration is on a fast-track (our issue is that they are diverting funds away from renewables and true community revitalization). The Clinch Coalition is going to be canvassing, doing publicity campaign, civic engagement – going to be boots on the ground. Clinch Coalition, App Voices and SAMS have been doing listening sessions to see what people were concerned about and wanting nuclear was not a concern raised – so many other issues of concern
 - Nuclear right now is not profitable
 - SMRs raise liability and cost concerns during negotiations with utility companies
 - Need to limit costs for consumers or to do cost shares

2:45 pm **Discussion of Outstanding Issues**

- Proposed Resolutions
 - Janet spent good chunk of weekend working on this
 - The remote participation policy needs to be voted on first before the virtual policy (need in person quorum)
 - The remote participation policy is good but still requires that there is a quorum in person at the meetings to be able to participate remotely (need both policies in place) and can at the most have two virtual meetings
 - Want to have a couple of meetings a year to be able to vote on items, have not been able to do that for more than a year
 - Got some recent resignation letters due to lack of participation
 - There are good reasons why people aren't here – very challenging with work commitments
 - Quorum is now 10 down from 12
 - Perhaps reduce time commitment of meetings? Perhaps have fewer meetings?
 - We need a couple of meetings a year where we can vote
 - Less staff capacity than before from DEQ, unable to have subcommittee meetings
 - Hopeful that we can have quorum for October
 - Attorney General's office contact for council is Katherine Kulbok – kkulbok@oag.state.va.us
 - Janet spoke to her yesterday
 - Tom thought his time had run out so stopped coming, but did not officially submit resignation, but can resign if necessary
 - Tom will not be able to make it in person for October
 - EJ Office is still hiring and down staff
 - 4 people now in EJ Office and 5 is fully staffed
- Final Report Planning
 - Janet suggests slim report – basically just public comments and council response to them
 - Add council letters drafted as an attachment
 - Want to make the report more like a letter
 - Had a committee of folks for writing report
 - Want to include an introductory letter/portion to emphasize council infrastructure concerns (staffing, etc) and “flashbacks” to past work and highlights
 - Aliya mentioned lack of council involvement in nuclear (Meryem was involved) and VCEA, suggested we cover those topics
 - Janet will send out letter for review prior to October meeting
 - Include SMR issue how they would manage the waste the mining process and potential independent study
- Election planning
 - Karen willing to run for Chair this upcoming year
 - We do have folks that are not here- need some fresh folks to pick up the reins
 - Janet willing to continue as Vice if no one else wants to throw hat in the ring and Janet working with Mid-Atlantic EJ coalition been in touch about applying for MATCH grants and through University of Maryland coalition for regranting EJ funds
 - Council has helped to hear from folks, would transition to do more TA and capacity building
 - Has been building nonprofit organization and would like to do work in DC and VA
 - Would vote in October on offices

3:39 pm **Close/adjourn, Vice Chair Janet Phoenix**
Next Steps:

- Theresa, Lydia and Janet working on a letter to address mining issue, will bring back to the full council and send out to a dissemination list
- Council's next meetings should be in Chesapeake in late 2023 or early 2024
- Faith and Janet willing to schedule a site visit and prepare for a meeting in Hampton Roads (Chesapeake and Suffolk)
- Council will have a December meeting, at this point will need to have the meeting to work on this years' report
- Janet will email people immediately to get upcoming meeting dates on council members' calendars
- Janet will make sure can enact policies at Richmond October 17 meeting and will vote on leadership in October
- Janet will ask the Attorney General if a council member is unresponsive, unreachable, and unable to make a meeting what is the process to remove them ourselves
- Janet will send out letter for review prior to October meeting

APPENDIX V. VCEJ MEETING NOTES – OCTOBER 17, 2023

Virginia Council on Environmental Justice

Tuesday, October 17th, 2023

10:00am – 3:00pm

Location:

Department of Environmental Quality (DEQ) Piedmont Regional Office, 4949-A Cox Rd, Glen Allen, VA 23060

Attendees

● **Present In-Person Council Members:**

- Lydia, me, Taysha, Janet Aliya, Karen, Faith (arrived 11:30)
- Kendyl Crawford, VA Interfaith Power & Light and Virginia Conservation Network
- Aliya Farooq, VA Interfaith Power & Light
- Lydia Lawrence, Conservation Director Nature Forward
- Dr. Janet Phoenix, George Washington University
- Taysha DeVaughan, Southern Appalachian Mountain Stewards
- Karen Campblin, ktcPLAN
- Rev. Dr. Faith Harris, VA Interfaith Power & Light (arrived late due to

Did not achieve quorum of 9

● **Staff In-Person:**

- Danielle Simms, DEQ
- Grace Holmes, DEQ
- May Fornairi, DEQ

● **Staff Virtually:**

- Gwendolin McCrea, DEQ
- Kate Miller, DEQ

● **Excused Absences Council Members:**

- Clarence Tong, Arrival - unable to attend due to work, attended virtually (work obligations, point of contact Taysha DeVaughan)
- Harrison Wallace, Climate and Clean Energy Equity Fund (work obligations, point of contact Janet Phoenix)
- Meryem Karad, Evergreen Action (work obligations, point of contact Taysha DeVaughan)
- Dr. Theresa L. Burriss, Emory and Henry, Assistant VP of Community Engagement (work obligations, point of contact Taysha DeVaughan)

● **Unexcused Absences Council Members:**

- Tom Benevento, New Community Project
- John Boyd, Jr., National Black Farmers Association
- Fernando Mercado Violand
- Ronald Howell, Jr., Virginia State University
- Lillian “Ebonie” Alexander, Black Family Land Trust

Notes

10:00 am Welcome, Chair Taysha DeVaughan

10:20 am Emerging Issues on the Suffolk/Chesapeake Communities, Janet Phoenix and Aliya Farooq

- Janet and Aliya visited Hampton Roads (Portsmouth, Suffolk and Chesapeake) yesterday

- They were hosted by Mary Hill, Sheila Joseph and several other members of the community
- The community raised issues about water (flooding, drainage issues)
- They did a brief walking tour, residents currently have to put down a platform to get over flooded alleys/trenches
- They saw a retention pond that abutted several homes (some of the homes looked like they were sinking into the pond)
 - There was also a lack of retention ponds
- They visited the Hobson community where many historic Black oysterman lived, also Black people during the Great Migration settled there
 - The community member they spent the most time with there, Ms. Mary Hill, was concerned about the residents losing access to the water due to kepone issue damaging waterbeds
 - A remediation took place
 - Newly built communities have blocked access to the water (a dam was created without proper permits and now no one wants to take responsibility for it and undo the dam)
 - Community members are also concerned about underground storage tanks
 - People left the community because they couldn't make a living
 - The community has been using a series of artesian wells, and been facing challenges with connecting to city water,
 - Residents also have been having problems with obtaining permits to expand and upgrade homes
 - Some of the older homes do not have access to indoor plumbing
 - The water level in the community varies at times during rain from ankle-level to knee-level
 - On trash collection days when flooding occurs, trash cans float and tip over and trash gets all over the place, the community is then faced with city fees
 - Tow trucks standby when flooding to tow seizing cars for a high fee
 - Council members visited a nearby newer community that doesn't have any of the drainage issues (Hobson ditches were hand dug by initial residents)
 - Some of the military residents in Hobson purchased and they were not aware of the drainage issues in the community
 - One of the residents cannot drink the tap water because it has black sludge in it
 - She is unable to bathe her sick newborn
 - To the residents, it seems like there are separate sets of rules for new people coming into the community versus older members of the community
 - Question of if the homes should have been built on particular lots (some flood in the front yard when it rains)
- They have identified two places to host a council meeting in 2024 with Wi-Fi
- Janet will share the locations with DEQ to enable the March 2024 meeting to potentially be there
- Janet and Aliya talked to many of the local community leaders and received a lot of information yesterday from residents that they can share
- There is also a superfund site in Portsmouth – some of the residents yesterday had been involved with the settlement
- DEQ held an interagency meeting during summer of last year in Hobson
 - Grace will send information from the meeting last year
- Danielle will check with the Attorney General's office to run through legal implications for the upcoming site visit to the Hobson community

10:55 am Gold Mining Letter

- Janet sent around the letter about regulation and public comment concerns
 - Lydia, Teresa and Janet worked on the letter together
- Edit suggestions:

- Add a reference to the EJ language in code
 - Add language highlighting Indigenous communities
- Unable to do a vote because of quorum, council members can indicate their individual willingness to have their names listed
 - Council members willing to individually listed:
 - Lydia, Kendyl, Taysha, Janet, Aliya and Karen
- Taysha will send out a deadline for council members to reply back for the gold mining letter (10/24)

11:06 am Elections of New Officers

- Unfortunately, the council does not have quorum so unable to officially vote
- Taysha put Karen's name forward as the candidate for Co-Chair
- Karen can join the meetings with staff
- Janet would like to stay and help but also okay to step back
- Taysha forms Governance Subcommittee at the discretion of the chair, but will need to work with staff to figure out with the AG's office
 - Governance Subcommittee Members: Karen, Janet and Taysha
- Council must vote on committee once it has quorum
- Secretary role back up (to help take notes if Kendyl cannot make it)
 - Lydia

11:15 am Schedule for Next Year

- Setting four full council body meetings in 2024
 - January 8, Richmond (4949-A Cox Rd., Glen Allen), 10 am -1 pm meeting with 12-1 public comment
 - Preliminary January Agenda:
 - Urgent List of Agenda Items to Do with Quorum:
 - Governance Committee Approval
 - Remote Participation Policy and All Virtual Policy Approval
 - Officer Elections
 - 2023 Report2023
 - Approving All 2023 Minutes and 2022 Minutes (Since May)
 - Finalize April Hampton Roads Site Visit Agenda
 - April, Hampton Roads Site Visit
 - Request for the meeting to be after April 11 to accommodate Aliya
- Addressing Chronically Absent Members
 - Secretary of Commonwealth only has the authority to remove people even if they are chronically absent
 - Members:
 - Fernando Violand
 - John Boyd
 - Lillian "Ebonie" Alexander
 - Ronald Howell, Jr – cannot do Tuesdays
 - If two additional members dropped off, quorum would be 8
 - Taysha will do another cycle to reach out to board members on resigning or participating
 - Council should move meetings to more accommodate members that cannot make it do to standing Tuesday commitments
- Urgent Administrative Issues to Resolve Moving Forward

- Governance Committee will get in touch with Secretary of the Commonwealth on new applications to the VCEJ and removing chronically absent members
- Governance Committee will ask the Attorney General –
 - Does the chair have authority to remove council members?
 - Clarification on site visits
 - Do two council members talking together violate council policy (two council members attending DEQ meetings every other week)?

12:00 pm Public Comment Period and Discussion (60 mins.) 1) Public comment period (45 mins.) - Please see Guidelines on next page 2) Discussion (15 mins.)

- Sheila Joseph, Portsmouth
 - Visited with council members yesterday
 - Spoke about the smoke tests in the community, city has to use the nearest address to where they did the testing
 - If people want to have a more clear understanding, she has information and is willing to share from the community (regarding sewage, drainage problems, gas)
 - Mentioned the problem throughout the city, businesses and casino (old infrastructure and neglecting old places is impacting new construction)
 - City needs to replace old infrastructure and to make investments, they seem to be trying to find out what is cheaper to do
 - Sump pumps cannot do what is needed because they are ineffective in their situation
 - Residents are asking for an updated system
 - Sewage going into drain system and people's homes
 - Has a video of flooding while doing the smoke test, has been documenting
 - Concerned about dumping, sewage and climate change creating additional problems
- Carolyn White, Pughsville (Suffolk)
 - Thanked Grace, Aliya and Janet for boots on the ground yesterday
 - Tiffany was the name of the woman with the baby and the sludge coming out of her indoor faucets
 - The baby was in the hospital 300 days, still dealing with the issues with her child's health
 - Has sent a photo with water around their house to Grace
 - They live in Chesapeake
 - Pughsville a historic community, need women to take a stand
 - City does not know where the boundary line is therefore there is additional confusion about what locality is responsible (Chesapeake or Suffolk)
- Will Payne, [Coalfield Strategies](#), Bristol, VA
 - Leads Invest SW VA – wants to develop renewable energy on old mining land with planning commission, Dominion, and Appalachian Power Company
 - Wants to help citizens achieve clean energy on brownfield properties located throughout SW VA, want to leverage for clean energy (tax revenues, jobs and attractive careers)
 - Helping some of the most impacted communities in VA do the work to diversify the economy
 - Their portfolio expands a number of technologies and emerging technologies (nuclear, hydrogen, solar, etc)
 - Worked closely with DOE on millions of dollars of projects
 - Environmental justice is centerpiece of work, important to help them win grants
 - Working to transform SW VA
 - Advanced nuclear will play a key role in the transformation
- Kelly Hengler, Hobson Civic League, Hampton Roads
 - The built environment and impervious surfaces are an issue that is now flooding out the
 - Being caused by built space vs open space, need to calculate displacement of water in the community

- Need to stop flooding out the community
 - Will be speaking before their city council today to lift up their issues
 - The surrounding community is not included in the initial phases of a newly designed road project
 - Needs VDOT in the 7 cities, and for them to look at roads as regional assets as well as the communities along the roads also viewed as assets
 - Need to do impervious surface calculations
 - Need to rollback impacts and take into consideration impacts on community of road expansions
- Mary Hill, Suffolk, VA
 - Wants to thank council members who came to visit yesterday, they were very patient and saw the impact that the residents are dealing with
 - Trying to find relief with what is happening and with the city
 - Trying to create new infrastructure on top of old infrastructure
 - Old infrastructure is not being maintained
 - Even with new homeowners they are impacted by the flooding and the way the builders have built
 - Site visit yesterday demonstrated some of the problems
 - Currently problems are building on top of one another, need to address, maintain and preserve old infrastructure
 - Looks forward to working with the council
 - EPA Region 3 reached out to her yesterday, a way to build bridges to find answer to problems
- Pamela Brandy, Chesapeake, VA
 - Thanked the council members who visited yesterday
 - Lives in Pughsville on the side of the lady that had sludge coming out of her water
 - Flood water comes from the interstate, Pushsville, James and Clifton Streets
 - When it rains heavily, people cannot get out because the bridge overflows and the residents are trapped
 - On John St. in Suffolk, the city wants to tear up the street and do piping along there
 - Residents have sludge-like smell in the homes, city says that something is wrong with their homes and it is not the city's problem
 - Residents need help because the ones between Pughsville Rd and Clifton – water is coming in from all four sides
 - City says they will do work there (Suffolk and Chesapeake), but it has not helped them (flood with rain on a regular day)
 - Rain floods them out
 - They have not done anything to address residents concerns and issues
- Will Clear, Southwest VA
 - Spent life working in energy
 - Native of SW, VA
 - Helped to write the VA Energy Plan
 - Left the department (VA Energy) in September
 - Evaluates advanced nuclear- VA expecting unprecedented growth in energy demand
 - Commonwealth must meet growing demand
 - Winter peaks are high and consistent
 - Supply chains are not robust enough
 - Would need to do new mining for minerals for batteries (instead now it is coming from foreign countries)
 - Military has deployed small nuclear reactors in ships for several decades successfully
 - Believes industry will figure out small modular reactors (SMRs) technology
 - SMR will be spread out over many communities to meet energy demand
- Duane Miller, [Lenowisco](#)

- He is the Executive Director of Lenowisco Planning Commission (Lee, Wise, Scott and 15 incorporated towns)
- In October of last year (2022) the governor announced the SMRs
- Little Wisco has taken the steps to locate SMR, done a feasibility study and a supply chain study
 - Results were positive
 - Used STAND tool (siting tool for advanced nuclear development) – ranked as high as other suitable areas across the country
- The planning meets the criteria from the Biden Harris plan – puts strong emphasis on abandoned mine land
- Next step will be to partner with gov agency and community groups as well as educational outreach program for extensive public comment
- Open to all types of clean energy in the community, but nuclear is the only way to go to handle the increased demand
 - Unique situation with Biden and Youngkin supporting SMR development
- Michael Hatfield, Wise County County Administrator
 - Wise County wants to remain an energy leader
 - Has several utility scale solar projects, evaluating many options such as wind and energy storage, blue hydrogen and green hydrogen
 - Very early in the process
 - Nuclear projects normally take about 10 years – no sites yet selected
 - They have been looking at the possibility of SMR in Wise
 - The administrator wants to make a good recommendation to his board
 - Not feasible for wind and solar to provide all of future needs
 - Need to evaluate all options to move forward
- Discussion
 - Council planning to come to visit Hampton Roads during second quarter meeting in 2024

12:50 pm Lunch Break

1:30 pm Reports (90 mins.)

- Janet is looking for 2019 report recommendations and sent around a list of previous recommendations
- Increase Footprint and Reach
 - Could use social media to expand platform of the council
 - Should use organizations of council members to amplify the recommendations
- Reporting
 - Council members dividing each recommendation out by:
 - Completed
 - In Progress
 - Not Completed
- Progress on Items:
 - DEQ EJ Office
 - VA EJ Act
 - Codifying the Council
 - Stopping the MVP
 - Interagency EJ Working Group and its Report (2021)
- Council members divided out and evaluated past recommendations
- Agreed that Taysha will compile a summary of recommendations
- Editors will forward new recommendations and annotated recommendations to Taysha
- Timeline
 - Taysha will send 2023 recommendations draft to the Council by December 1st

- Council members must sign on to recommendations draft by December 20

3:00 pm Close/adjourn, Chair Taysha DeV Vaughan

Next Steps

- Grace will send additional information pertaining to the comment period
- Grace will send information from the interagency Hobson meeting last year
- Danielle will check with the Attorney General's office to run through legal implications for the upcoming site visit to the Hobson community
- Taysha will send out a deadline for council members to reply back for the gold mining letter (10/24)
- Governance subcommittee members Taysha, Karen and Janet will work with Danielle to figure out meeting schedule (looping in AG's office)
- Taysha will do another cycle to reach out to board members on resigning or participating
- Council should move meetings to more accommodate members that cannot make it do to standing Tuesday commitments
- Governance Committee will get in touch with Secretary of the Commonwealth on new applications to the VCEJ and removing chronically absent members
- Governance Committee will ask the Attorney General –
 - Does the chair have authority to remove council members?
 - Clarification on site visits
 - Do two council members talking together violate council policy (two council members attending DEQ meetings every other week)?
- Taysha will send 2023 recommendations draft to the Council by December 1
- Council members must sign on to recommendations draft by December 20

APPENDIX VI. THE CLINCH COALITION VCEJ PRESENTATION





GOVERNOR YOUNGKIN'S VISIT TO NORTON

Clandestined

**Undisclosed Site for
Announcement**

Invitation Only



Appalachian Voices
Appalachian Citizens Law Center
Southern Appalachian Mountain Stewards
The Clinch Coalition

Press Release

Local citizen groups express concerns about
nuclear development

As Gov. Youngkin pushes forward nuclear energy, he has a responsibility to
engage local community members and landowners

← Posted October 14, 2022 at 11:35 am



"What's been happening behind the scenes is a number of organizations have already been thinking about the future of nuclear energy, particularly in Virginia, and that includes the Virginia Nuclear Association, and it includes a collaboration of efforts in order to bring up funding for site development."

-Governor Youngkin



YOUNGKIN'S PARTNERS

- VA Nuclear Energy Consortium Authority - 2013
- GO Virginia - 2015
- SWVA Energy Research and Development Authority 2019
- InvestSWVA - 2019
- Coalfield Strategies LLC - 2019
- DELTA, Discovery, Education, Learning and Technology Accelerator - 2022
- VA Nuclear Innovation Hub - 2021/2022
- Virginia Department of Energy
- LENOWISCO Planning District



The infographic is divided into two main sections. The top section, titled 'CLAIMS' and 'REALITY', compares common assertions about SMRs with actual facts. The bottom section, titled 'WHAT ARE SMRS?', provides a visual comparison between large conventional reactors and small modular reactors.

CLAIMS

- SMRs going to be isolated, not near anybody's backyard
- Miners are capable of doing this work, are being trained as an energy workforce.
- SMRs are safe
- SMRs will create jobs

REALITY

- Potential SMR sites are near neighborhoods, churches, schools, and businesses.
- "Nuclear-trained sailors, considered the Navy's 'best and brightest,' face mental health challenges" - NBC News
- Unproven, no basis for these promises
- How many? What types? Unknown

WHAT ARE SMRS?

The infographic shows two types of reactors side-by-side. On the left is a 'LARGE, CONVENTIONAL REACTOR' with two large cooling towers and a power output of '700+ MW(e)'. On the right is a 'SMALL MODULAR REACTOR' with three smaller, stacked cylindrical modules and a power output of 'Up to 300 MW(e)'. The background of the bottom section is dark green with a white tree logo in the top left corner.

COURTESY OF U.S. DEPARTMENT OF ENERGY



WHAT ARE THE FACTS?

- NO SMRS EXIST IN THE U.S. 10+ YEARS BEFORE COMMERCIALY AVAILABLE
- NUSCALE – ONLY COMPANY GIVEN DESIGN PERMIT BY THE NRC – ESTIMATED COST HAS GONE FROM \$5.3 BILLION TO \$9.3 BILLION
- NUCLEAR POWER IS SEVERAL TIMES MORE EXPENSIVE THAN UTILITY-SCALE SOLAR OR ONSHORE WIND – POWER PLANTS ARE OVER COST AND OVER SCHEDULE
- NUCLEAR ENERGY DOES NOT EMIT CARBON, BUT PRODUCES RADIOACTIVE WASTE; SMRS MAY PRODUCE A DISPROPORTIONALLY LARGER AMOUNT OF NUCLEAR WASTE



LEGISLATION IN 2023 GENERAL ASSEMBLY

- **Passed - HB 1781** Tasks Southwest Virginia Energy Research and Development Authority to support energy development projects. To include pump storage hydropower, energy storage, hydrogen production and uses, carbon capture and storage, geothermal energy, advanced wind and solar energy, and **advanced reactors and advanced nuclear technologies**, among others.
- **Passed - HB 1779** Creates a **Nuclear Education Grant Fund** and Program to award institutions of higher education that seeks to establish or expand a nuclear education program.



LEGISLATION IN 2023 GENERAL ASSEMBLY

- **Defeated – HB 1780** The counties of Buchanan, Dickenson, Lee, Russell, Scott, Tazewell and Wise and the City of Norton would be required to enter into a perpetual **revenue-sharing agreement** regarding a certain **small modular reactor plant or facility** to be located in one of these localities.
- **Defeated - HB 2333** Electric utilities; SCC to establish a **small modular nuclear reactors pilot program**.
- **Defeated - HB2197**, Which defined **advanced nuclear [SMnR]** technology as renewable energy.



POTENTIAL SMR SITES IDENTIFIED



IN MAY, THE LENOWISCO PLANNING DISTRICT RELEASED THE SMR SITE FEASIBILITY STUDY FOR LENOWISCO WHICH IDENTIFIED 7 POTENTIAL SITES FOR SMRS WITHIN POPULATED AREAS WITH SEVERAL WITHIN FEET OF SCHOOLS, CHURCHES, BUSINESSES, AND RESIDENTIAL NEIGHBORHOODS.

Mapping SWVA's Proposed Nuclear Reactor Sites



FOLLOW THE MONEY



- **THE DELTA LAB - A \$975,000 grant from the federal abandoned mine land economic revitalization program**
- **\$150,000 for Site Feasibility study came from Go Virginia and the VA Department of Energy**
- **\$200,000 in federal funds are going for an “infrastructure” study**
- **Governor Youngkin wants \$10 Million in state funds for energy innovation with \$5 Million directed to SMR development in Southwest Virginia**





LEGACY OF COAL MINING



- **Economic Deprivation**
- **Black Lung & Silicosis Diseases**
- **Mountaintop removal**
- **Air, Soil & Water Pollution**
- **Abandoned & Unreclaimed mine lands**
- **Higher susceptibility to Flooding**
- **Opioid Epidemic**
- **Decreased Biodiversity**



SWVA IS ONLY EVER A MEANS TO AN END.

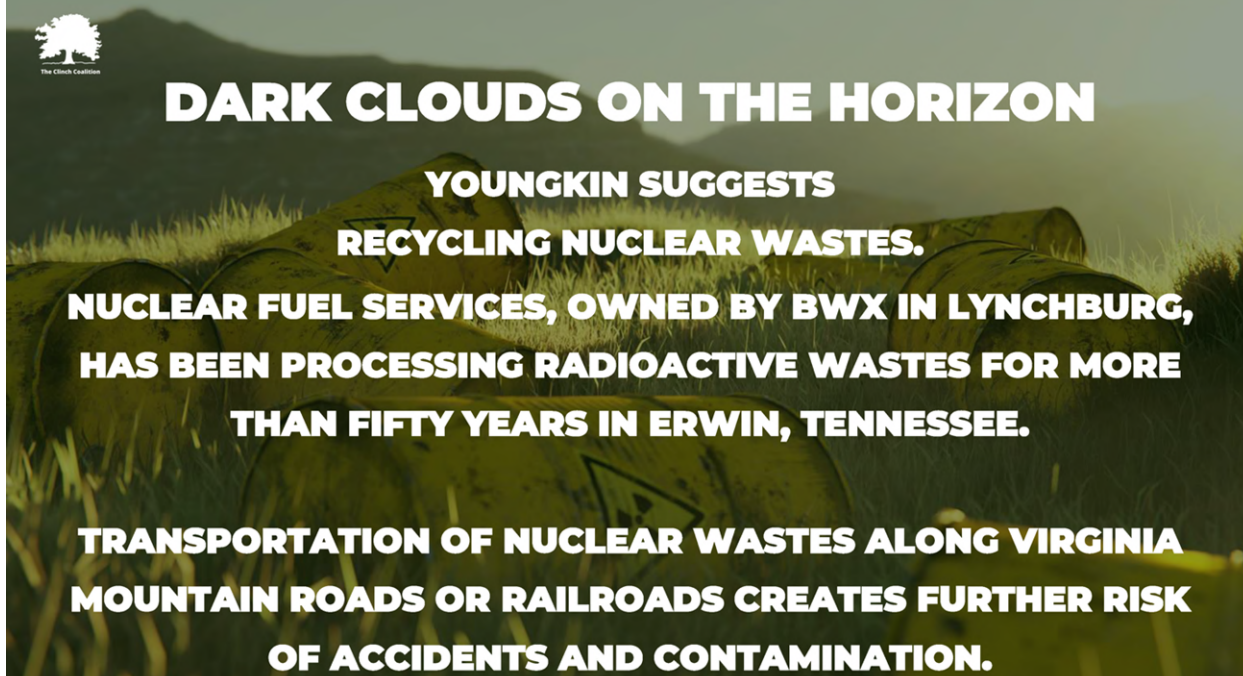
**WHY SHOULD SWVA BE FORCED TO ENDURE A NEW
BURDEN OF RISKY AND MORE COSTLY ELECTRIC
ENERGY, SUBSIDIZED BY TAXPAYER DOLLARS TO
BENEFIT POWERFUL CORPORATIONS WHICH SEEK TO
EXPLOIT OUR REGION AND ITS PEOPLE?**



DARK CLOUDS ON THE HORIZON

SMRS NEED URANIUM. THE LARGEST UNDEVELOPED DEPOSIT OF URANIUM IN THE US IS IN VIRGINIA AT COLES HILL. URANIUM MINING HAS BEEN BANNED IN VIRGINIA SINCE THE 1980S.

"...WE HAVE CONFIDENCE THAT THE MORATORIUM ON DEVELOPING URANIUM PROJECTS IN THE STATE MAY ULTIMATELY BE OVERCOME."



DARK CLOUDS ON THE HORIZON

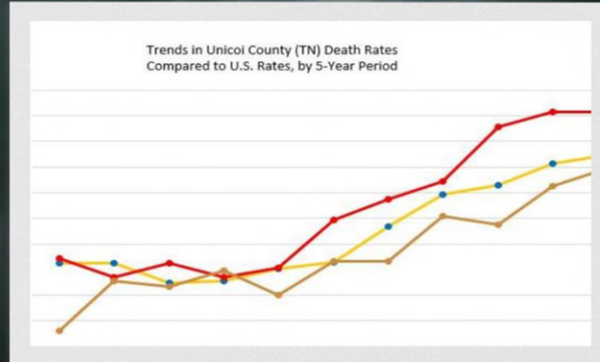
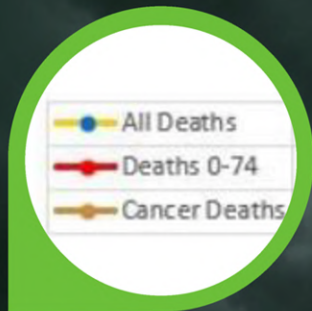
YOUNGKIN SUGGESTS RECYCLING NUCLEAR WASTES.

NUCLEAR FUEL SERVICES, OWNED BY BWX IN LYNCHBURG, HAS BEEN PROCESSING RADIOACTIVE WASTES FOR MORE THAN FIFTY YEARS IN ERWIN, TENNESSEE.

TRANSPORTATION OF NUCLEAR WASTES ALONG VIRGINIA MOUNTAIN ROADS OR RAILROADS CREATES FURTHER RISK OF ACCIDENTS AND CONTAMINATION.



DARK CLOUDS ON THE HORIZON



A RECENT STUDY BY THE RADIATION AND PUBLIC HEALTH PROJECT SHOWS PRELIMINARY FINDINGS OF UNICOI COUNTY (WHERE NUCLEAR FUEL SERVICES RESIDES) MORTALITY RATE RISING TO BE 44% ABOVE THE U.S. RATE.



REENERGIZE SOUTHWEST 2021

"A new vision for Southwest Virginia must include more than jobs" and "...must demonstrate that resources for downtown and community revitalization, site development, availability of goods and services, housing stock and childcare are vital to regional redevelopment efforts."

- The report recommended expanding solar energy.
- This report made no mention of nuclear energy.



SMRs ARE NOT RENEWABLE ENERGY

- SMRs can't be reliable - they cannot be built and brought on line in a predictable and timely fashion to affect climate warming.
- SMRs can't be affordable - nuclear power is close to the costliest of all forms of electric power generation.
- SMRs can't be clean - they produce extremely toxic high and low-level nuclear waste, which has no safe storage or disposal solution.

*Someday, child, this
will all be yours. And
your children and
their children's for
generations to
come.*

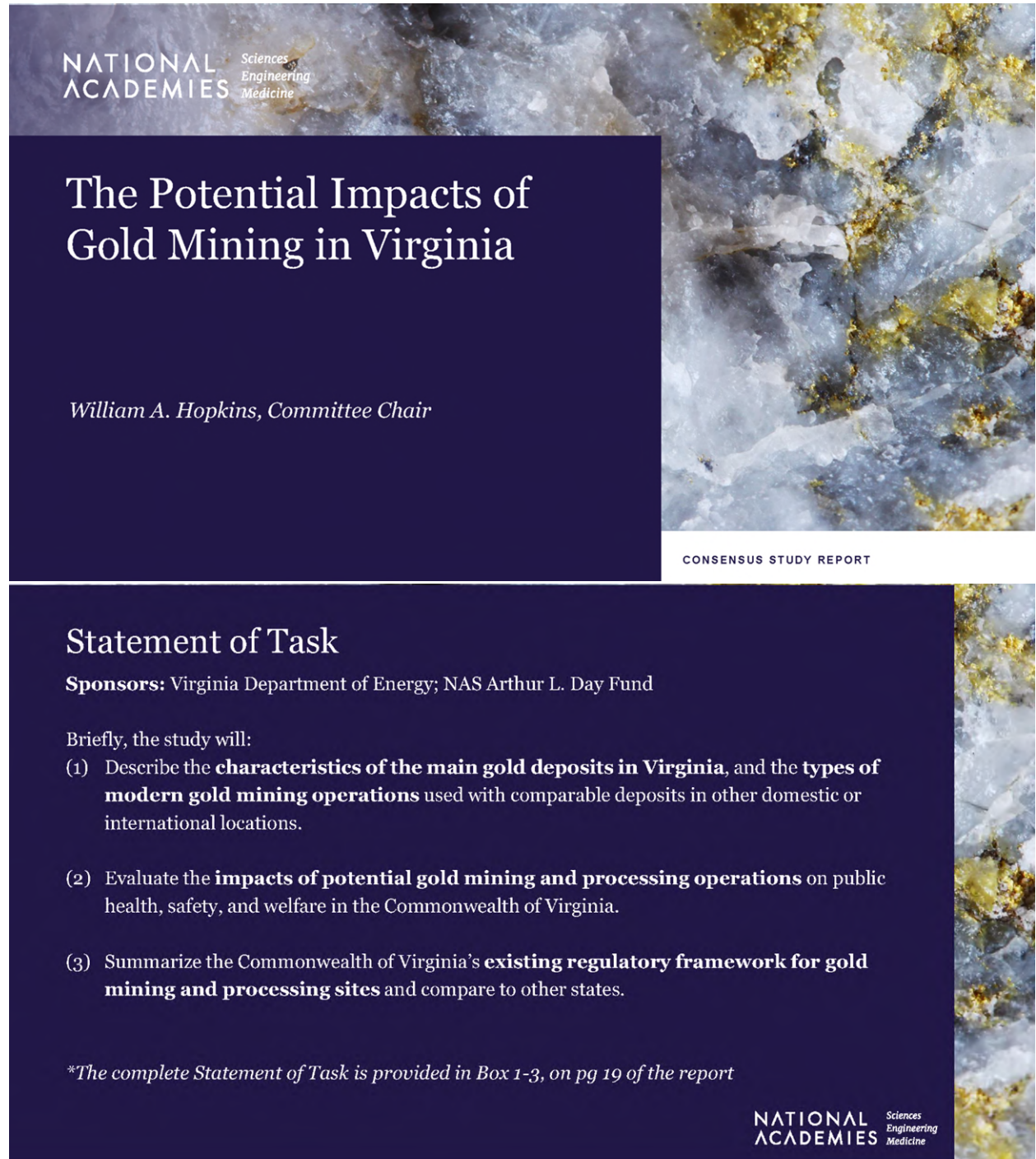


HEAR OUR VOICES

- Be transparent. Acknowledge radioactive waste creation, storage and safety issues, the Cons along with the purported Pros of SMRs
- Invest in renewable energies such as solar and wind; new technologies such as energy battery storage
- Stop diverting taxpayer funds to this “moonshot” and special interests; truly invest in the region’s needs
- Establish local environmental justice councils with true representation of the people



APPENDIX VII. NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, MEDICINE:
GOLD MINING BRIEFING



NATIONAL ACADEMIES Sciences Engineering Medicine

The Potential Impacts of Gold Mining in Virginia

William A. Hopkins, Committee Chair

CONSENSUS STUDY REPORT

Statement of Task

Sponsors: Virginia Department of Energy; NAS Arthur L. Day Fund

Briefly, the study will:

- (1) Describe the **characteristics of the main gold deposits in Virginia**, and the **types of modern gold mining operations** used with comparable deposits in other domestic or international locations.
- (2) Evaluate the **impacts of potential gold mining and processing operations** on public health, safety, and welfare in the Commonwealth of Virginia.
- (3) Summarize the Commonwealth of Virginia's **existing regulatory framework for gold mining and processing sites** and compare to other states.

**The complete Statement of Task is provided in Box 1-3, on pg 19 of the report*

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Committee Roster

Bill Hopkins, Chair
Virginia Tech

Kwame Awuah-Offei
Missouri University of Science and Technology

Joel Blum
University of Michigan

Robert Bodnar
Virginia Tech

Thomas Crafford
U.S. Geological Survey (Retired)

Fiona M Doyle
University of California, Berkeley

Jami Dwyer
Barr Engineering Company (Retired)

Elizabeth Holley
Colorado School of Mines

Paul Locke
Johns Hopkins University

Scott Olson
University of Illinois at Urbana-Champaign

Brian Schwartz
Johns Hopkins University

Garrett Smith
Montana Department of Environmental Quality

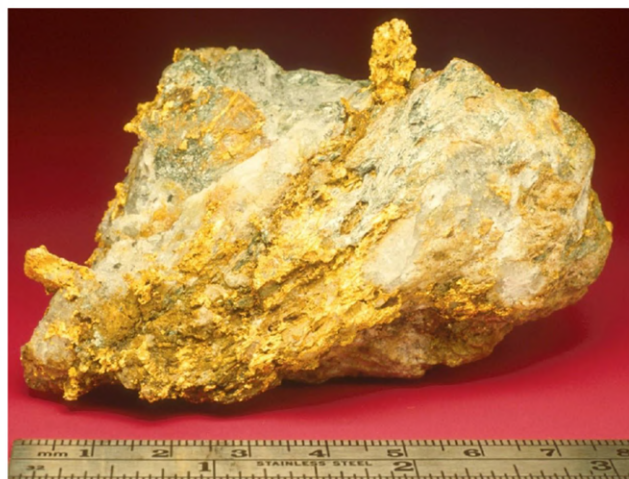
Shiliang Wu
Michigan Technological University

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The Committee's Approach

- Over the last year, held 6 virtual information gathering sessions
- Site visits and tours
- Two town hall meetings
- Scientific literature, agency and industry documents, site visits, case studies, and written comments

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Gold with quartz from Virginia, United States
Image from Smithsonian

Historical gold mining in Virginia

- One of the first major gold-producing states in the nation
- Only intermittent exploration activity and small operations have occurred in the past 70 years

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The surface expression of a shaft used to access underground ore
Photo by Bob Bodnar

Geology of gold deposits

- Gold deposits occur mostly in the Piedmont, with some in the Blue Ridge
- Gold is found in steeply dipping, low-sulfide quartz veins (1 to 5 % pyrite)
- Massive sulfide bodies can occur in close proximity
- *Known* gold deposits are smaller than many deposits in other gold-producing states (e.g., western U.S. and nearby states like SC)

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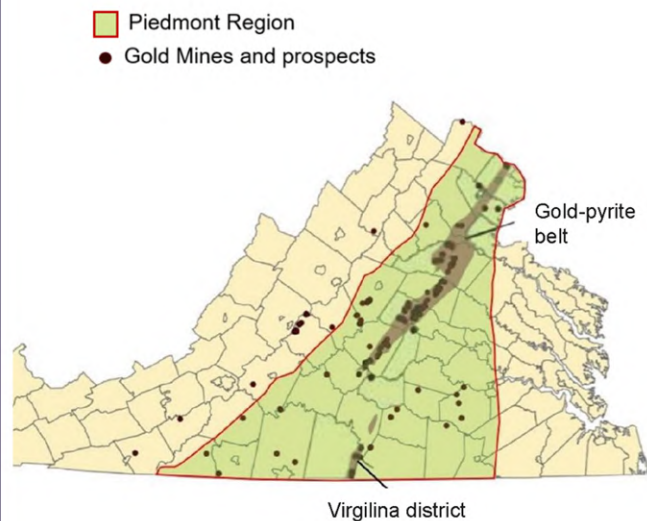


Image: Sweet (2007)

Modern engineering and best practices

- Best practices indicate that a mine should be designed for closure and reclamation from the beginning
- Modern engineering methods and best practices can significantly reduce impacts to air and water quality
- Nevertheless, impacts cannot be completely eliminated

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Image modified from Minerals Council of Australia (2014).

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Excavation methods

- Shallow open pit mining is possible for the near-surface oxidized ores. Operators might develop multiple, smaller pits with shared infrastructure

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Touquoy Gold Mine in Moose River, Nova Scotia; Photo by Simon Ryder-Burbidge.

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Excavation methods

- Shallow open pit mining is possible for the near-surface oxidized ores. Operators might develop multiple, smaller pits with shared infrastructure
- Underground mining is possible for deeper deposits. Methods would include those suitable for vein-type deposits (e.g., sublevel stoping, cut and fill, shrinkage stoping)



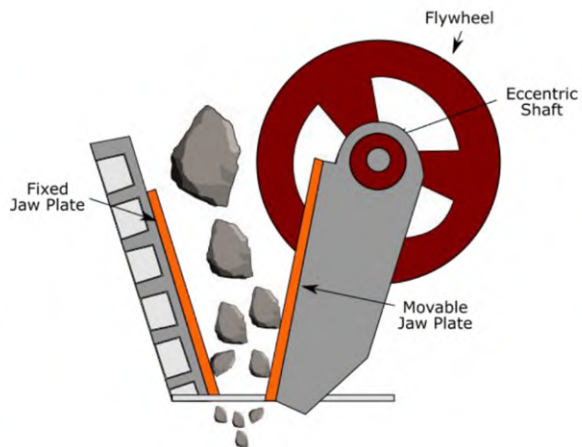
Image: PJSC Gaysky GOK (2017)

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Processing methods: comminution/concentration

- Initial processing may include crushing, grinding, and flotation
- It may be more economical to ship ore or pyrite concentrates off-site for subsequent stages of processing



A schematic of a jaw crusher

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Processing methods: leaching and absorption

- Both heap leaching and tank leaching are possible cyanidation methods
- Heap leaching is more common in arid regions
- Carbon or resin is then used to absorb and concentrate gold from the solution



Gold processing tank

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Processing methods: gold recovery

- Gold is then precipitated out of solution by electrolysis or Merrill-Crowe Processing
- The impure gold is then smelted to remove impurities



Image of gold-rich metal being poured from a refining furnace from Schoemaker (2022)

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Waste management

- Tailings can be stored in above-ground facilities, engineered pits, or as backfill in underground mines
- Thickened tailings increase operating costs, but can also increase geotechnical stability
- Above-ground construction methods can provide safe storage, as long as there is high-quality engineering and maintenance



Conventional vs. filtered tailings
Images from M. Janosik; Vargas and Campomanes (2022)

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The Potential Impacts of Gold Mining in Virginia

The committee focused on the following potential impacts:

1. Remobilization of Legacy Mercury
2. Impacts to Water Quality
3. Rare but Catastrophic Events
4. Impacts to Air Quality
5. Impacts to Water Quantity
6. Cumulative Risk

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#1: Remobilization of legacy mercury

- Previously mined sites are likely contaminated with legacy mercury from historic gold mining operations dating back to the 1800s
- Legacy mercury could be remobilized, unless appropriate extraction and processing circuits are implemented
- Exposure can lead to neurologic and neurodevelopmental effects

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Image: Paul Busch

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#2: Impacts to water quality

- If massive sulfides are disturbed, acid rock drainage (ARD) could be produced. ARD can be toxic due to acidity, high specific conductance, and high levels of metals.
- Nitrates from explosives can cause eutrophication in nearby aquatic habitats
- Open cyanide impoundments pose acute toxicity risks to wildlife unless best practices are followed.

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Image: Brewer Gold Mine Superfund Site

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#3: Rare but catastrophic events

- Catastrophic failures of impoundments are low-likelihood/high-consequence events
- If impoundments are not designed to accommodate high-precipitation and flooding events, then these failures will increase due to climate change.



Mount Polley tailings dam failure. Image courtesy: Jonathan Hayward

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#4: Impacts to air quality

- Gold mining can result in the production of fugitive dust, and the release of toxic fine particles and gaseous pollutants from fuel combustion and processing.
- Given the likely size of Virginia operations, gold mining may not significantly degrade air quality if appropriate engineering controls are in place



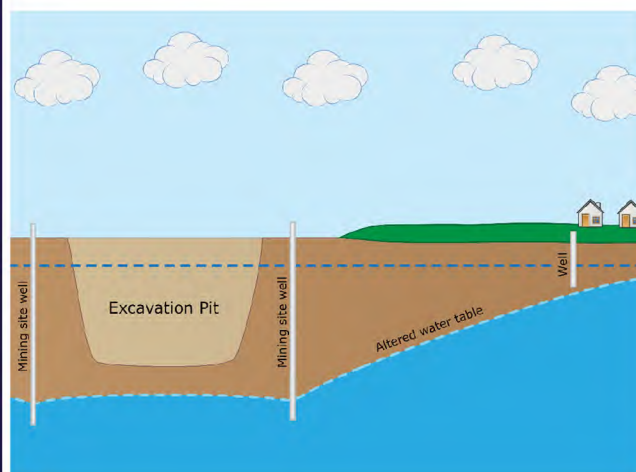
Image: Calistemon

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#5: Impacts to water quantity

- Dewatering of an open pit or underground mine could lead to drawdown of the water table
- Rigorous site characterization and modeling are needed to estimate groundwater impacts



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#6: Cumulative Risk

- Different hazard types can interact to affect human health in complex ways.
- These multiple stressors can lead to asymmetric impacts within and between communities.
- Historically underresourced and underrepresented populations are often most affected.

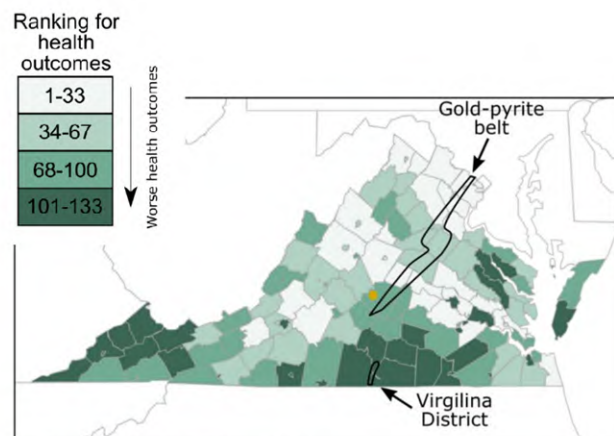


Image: County Health Rankings (2022)

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Recommendation on site- and project-specific analyses

Only robust site- and project-specific analyses can assess the potential impacts of a particular project on human and ecological health.

RECOMMENDATION: To minimize impacts to human health and the environment, the Virginia General Assembly and state agencies should ensure that robust site- and project-specific analyses of impacts are completed prior to the permitting of a gold mining project.

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Virginia's Regulatory Framework

The present regulatory framework appears geared toward projects such as sand and gravel mining and not gold mining.

The committee identified the following areas in which Virginia's regulatory framework could be strengthened:

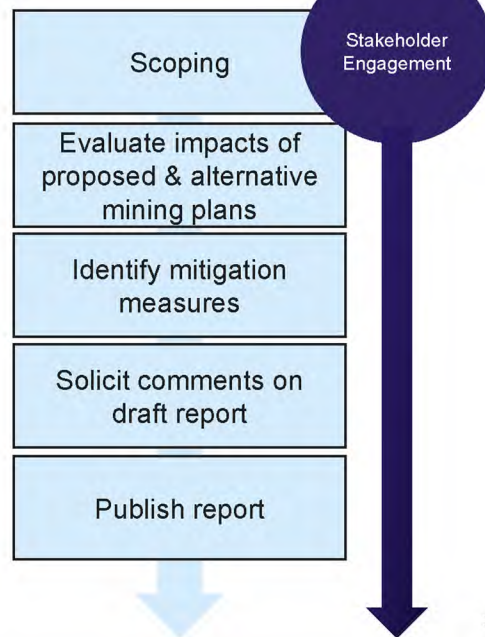
1. Review of Impacts
2. Exemptions
3. Financial Assurance
4. Standards and their Enforcement
5. Public Engagement
6. Environmental Justice

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#1: Review of Impacts

- Virginia does not require a NEPA-like review of environmental impacts for private lands.
- This means there may be limited collection of baseline information and no formal documentation of the regulatory program's decision making

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#2: Exemptions

- Exemption of off-site gold processing facilities is not commensurate with their potential impacts.
- Exemption of exploratory drilling for mineral resources does not support community participation starting at the earliest appropriate stage.

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Image: USGS

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#3: Financial Assurance

- Bonding rates are insufficient to cover the costs of reclamation and long-term stewardship of gold mines.
- Complex reclamation at gold mines could greatly deplete or potentially exhaust the Minerals Reclamation Fund.
- A better model would be to use verifiable engineering estimates



Reclaimed pit at the Zortman-Landusky mine in Montana
Image: Wayne Jepson

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#4: Standards and Enforcement

- Standards and guidance for baseline monitoring, geochemical characterization, and water and tailings management could be improved.
- Limited capacity to regulate based on lack of experience with gold mining
- There are key gaps in enforcement; for example, the inability to directly issue penalties without lengthy adjudication.

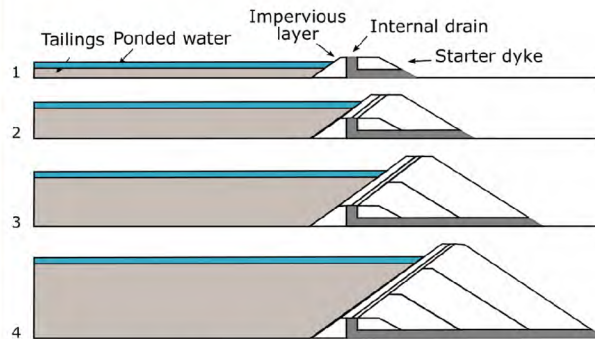


Image: Adapted from Engels (2021).

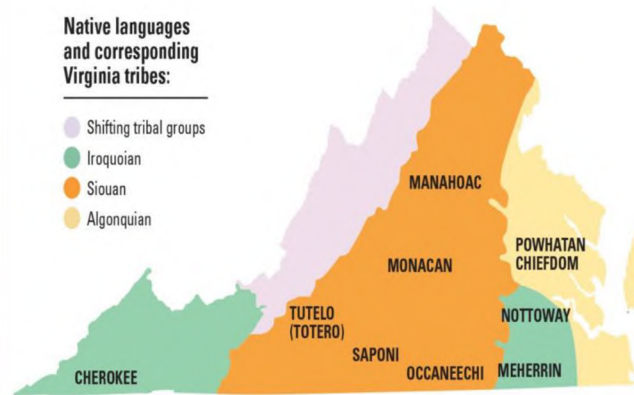
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#5: Public Engagement

- Limited numbers of residents are required to be notified of new permits, with no specific inclusion of tribal communities.
- There is a scarcity of details in the permit notifications
- There are no public notice requirements for exploratory drilling, expansion and renewal of a project, or bond release.

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Traditional tribal territories and languages in Virginia.
Image from University of Virginia (2022)

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#6: Environmental Justice

- Mineral mining regulations that meet the goals set in the Virginia Environmental Justice Act would:
 - Recognize existing environmental injustice
 - Aim to reduce existing disparities and prevent future disparate impacts
 - Ensure timely notification of communities about new permits
 - Ensure communities are able to contribute to decision making

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Traditional tribal territories and languages in Virginia.
Image from University of Virginia (2022)

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Recommendation on Virginia's Regulatory Framework

“Virginia’s present regulatory structure is not adequate to protect against the potential environmental degradations that could accompany gold mining activities.”

RECOMMENDATION: To protect against the potential impacts of gold mining, the General Assembly and state agencies should update Virginia’s laws and its regulatory framework.”

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Summary

- Gold mining raises a number of environmental and public health issues that are very different than other types of mining. Best practices can minimize risk, but not completely eliminate risk of potential impacts.
- The current regulatory framework is not adequate to address the potential impacts from commercial gold mining. The current regulatory framework lacks:
 - an adequate financial assurance system
 - opportunities for a diverse public to be engaged in permitting processes
 - a modern system for review of environmental impacts
 - adequate standards, capacity to regulate, and enforcement
- The current regulatory framework will need to be amended to reach the goals set out in the Virginia Environmental Justice Act.

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