



June 25, 2020 2:00 PM
Subcommittee Meeting Minutes
Virtual Meeting

Attendees

Jeff Anstead

William Barber III (co-chair of ACP subcommittee)

Jamie Cole

Dr. Deepak Kumar

Rev. Rodney Sadler Jr. (co-chair of ACP subcommittee)

Dr. Marian Johnson-Thompson (Board Vice-Chair)

Dr. James Johnson (Board Chair)

Meeting was called to order by Dr. Johnson at 2:01 pm. He reminded all that meeting would be recorded and reminded all attendees of the ethics statement. Renee Kramer (DEQ EJ Coordinator) called roll.

Mr. Barber asked all subcommittee members to review the agenda. Rev. Sadler made a motion to approve the agenda, Dr. Deepak Kumar seconded. Motion passed.

Mr. Barber asked all to review meeting minutes from last week's meeting. Rev. Sadler commented that the meeting minutes were thorough and that no major changes needed to be made at all. Mr. Barber shared one concern. The concern was that a question he raised was mistakenly credited to Rev. Sadler regarding debate on the NC Administrative Code. Rev. Sadler agreed with Mr. Barber's recollection. Mr. Barber asked Ms. Kramer to make the change needed and Ms. Kramer agreed.

They then moved on to outstanding items for follow-up. Mr. Barber confirmed and thanked Ms. Kramer for updating the NCDEQ website with all resources relevant to the conversation. Mr. Barber confirmed that the relevant EJ excerpt from the Environmental Impact Statement (EIS) completed by FERC had also been uploaded to the website. The third item was the information requested regarding insight into DEQ's denial for the 401 petition to be reviewed again. This is noted to be continued in the discussion.

Rev. Sadler then reviewed three main questions asked at the last meeting. Most attention was focused on whether there was sufficient engagement or consideration of environmental impact on EJ areas along the pipeline. He emphasized that the primary role is to be a conduit between DEQ and FERC, as well as the communities the Board serves. Rev. Sadler asked if there were questions, comments, concerns, or criticisms on the information the subcommittee was reviewing the last few weeks.

Mr. Barber moved on to discuss the 2017 DEQ letter to FERC about indigenous tribes, and wanted DEQ to provide a bit more insight regarding the letter. Dr. Johnson-Thompson noted that she had gone into depth looking at materials and noticed some areas haven't been discussed, such as the addition on heired property, the issue of eminent domain, and communication between the General Assembly and Governor. She continued by saying that the subcommittee needed to go further, and that the Secretary thinks he has addressed everything according to policy, but they have not addressed the issue as it relates to EJ.

Rev. Sadler agreed and wanted to talk about how to investigate impacts more effectively. He noted that many communities are approached about a project very early on in the process with little information and this is the only contact, he asserted that there should be a follow-up in these situations.

Dr. Johnson-Thompson noted that information provided about the Mountain Valley Pipeline, should be considered since it had not been discussed. Mr. Anstead wanted to highlight some statistical information about minorities in one of the documents, and that what is reported in the EIS may not be a full picture for the communities. Mr. Barber emphasized that impact on Native Americans and adequate consultation needs to be investigated due to the points brought up by Mr. Anstead.

Rev. Sadler asked for clarification on the necessary level of consultation; what is the policy and is it being followed? Mr. Anstead responded that there was never proper consultation with tribes. From the tribe's perspective, government-to-government relationships, and rights of the tribe need to be considered more than they are currently. There is a lack of respect and recognition for the tribe's government. Mr. Barber asked for an explanation on why the DEQ letter was submitted on behalf of the indigenous tribes instead of consulting them more. Ms. Kramer spoke on behalf of the DEQ and noted that FERC must consult with federally-recognized tribes, not state-recognized tribes. The letter says that even though it may not be required to confer with state-recognized tribes, the Department urged them to consult with the tribes most impacted by the pipeline.

Rev. Sadler questions why DEQ did not respond to the letter petitioning the denial of the ACP permits. Joy Hicks (DEQ Senior director of Government Affairs and Policy) spoke on behalf of DEQ and responded that the letter was submitted a year and a half after the certification was issued. The letter was reviewed, and the materials contained in it. The review did not observe any changed conditions or incorrect additions that affect the initial certification. Ms. Hicks noted that all related documents have been posted on the DEQ website. Rev. Sadler suggests a formal written response to the letter since there were many people interested in the outcome.

Mr. Barber followed up with a question about FERC's definition of federally-recognized tribes and that pool being limited only to those tribes, and whether that skews the outcome of the EIS that doesn't take into consideration the state-recognized tribes.

Rev. Sadler asked if there are any other questions, comments, or concerns for consideration. Mr. Barber wants to acknowledge two new resources, one about the legal permit and Dominion Energy PowerPoint. On the permits themselves, Barber reviewed eight permits being vacated over the past few years. He also noted that it seems there is information suggesting plans for expansion of the project into South Carolina, and raises a question for FERC: was that analysis included in the original submission, and do they have the correct information currently? Ms. Kramer responded that DEQ will follow up on both of those issues.

Ms. Cole wanted to bring to attention to additional information received having to do with co-owners of pipeline projecting the pipeline would be finished in 2019, and recognized that this is an opportunity for DEQ to make some statements to FERC about the reasoning/cause that needs to be considered in relation to realistic opportunities for DEQ right now.

Rev. Sadler continued by asking what the Subcommittee's statement to the Secretary should look like. Mr. Barber responded that he would like to ask DEQ to reconsider the permits and ask the Secretary to oppose further construction before permit issues are resolved. Mr. Anstead requests Secretary Regan to revoke air and water permits until it is explained why the pipeline will disproportionately be placed on black and minority communities, as well as requests an EIS focusing more on impacts and added burdens to communities because of the project.

Rev. Sadler asked if there is other independent information that talks about disparate impact on minority communities that can be brought to light. Dr. Kumar asked if anything has been done to validate the environmental quality data by the ACP.

Ms. Cole suggested that the letter to the Secretary should clarify why the Board is requesting for DEQ to reconsider 401 certification. She believes that DEQ should respond to communities about EJ issues and meaningful involvement.

Dr. Johnson-Thompson emphasized that the statement should say there isn't support for the ACP and list reasons the Board and community do not support the ACP. Eminent domain and tribal rights should be mentioned as well.

Rev. Sadler recommended that Mr. Barber start a draft of the letter. Mr. Barber requested assistance from Rev. Sadler and Ms. Cole. Dr. Johnson emphasized the importance of including Mr. Anstead's views. Dr. Johnson asked for a date for the draft to be distributed to the Board before the deadline. Mr. Barber recommended Monday afternoon (6/29). This would then be submitted to other board members, giving them 24 hours to give reactions. Then, this would be submitted to DEQ by close of business on Tuesday.

After asking if there are any additional concerns or business before adjourning. Motion to adjourn from Mr. Barber and seconded by more than one board member simultaneously. Adjourned at 3:01 by Sadler.