

N O N L N G

December 4, 2017

Governor Gina Raimondo
82 Smith St.
Providence, RI 02909

Cc: Grover Fugate, Executive Director
Coastal Resources Management Council
Stedman Government Center, Suite 116
4808 Tower Hill Rd.
Wakefield, RI 02879

Cc: Senator Susan Sosnowski
Chair, Senate Committee on Environment and Agriculture

Dear Governor Raimondo:

We are calling for the immediate resignation of Jennifer Cervenka from the Coastal Resources Management Council (CRMC). Ms. Cervenka's actions related to the proceedings for the NATIONAL GRID LNG, LLC (NGLNG) application for a variance, assent, and federal consistency for Fields Point Liquefaction Project in Providence (CRMC File Number 2016-10-099) have been filled with bias, undisclosed conflicts of interest, and violations of free speech and due process. Ms. Cervenka has lost personal credibility and damaged CRMC's reputation as an agency. The proceedings have been corrupted to the point that her removal from this position is the only remaining option to restore public faith in an unbiased outcome and in CRMC's ability to protect Rhode Island's coastal areas from climate change.

Ms. Cervenka's history as a lawyer representing oil and chemical companies against government regulatory bodies is a bias in favor of polluters and against regulatory enforcement actions. Her position as Chair of the Rhode Island Chamber of Commerce Coalition (2014 to August 2017) was an undisclosed conflict of interest with major impact on CRMC proceedings. Under Ms. Cervenka's tenure as the chamber coalition chair representing statewide business interests for members such as National Grid, the coalition's coordinating body (Northern RI

Chamber of Commerce) submitted comments to federal regulators in favor of National Grid LNG. Once appointed CRMC Chairperson, Ms. Cervenka then presided over testimony from coalition members in support for CRMC approval of National Grid's application. Ms. Cervenka's bio on her legal firm's website listed her as presently chairing the coalition until November 30th when she was questioned about conflict of interest and changed her bio to list an end-date of August 2017. Ms. Cervenka was still serving as Chair of the RI Chamber of Commerce Coalition during her first meeting as CRMC Chairperson in July 2017. National Grid's application has been before CRMC since October 2016, but Ms. Cervenka never disclosed a conflict of interest and did not recuse herself.

Ms. Cervenka's bias in favor of National Grid and failure to disclose her conflict of interest has influenced the proceedings and violated due process, making her unfit to continue serving. On November 14, 2017, during the first hearing Ms. Cervenka interrupted and attempted to prematurely end the testimony of an individual speaking about environmental racism, claiming it was not relevant. During the second hearing on November 28, 2017, Ms. Cervenka similarly interrupted a resident of the neighborhood where the facility would be sited, attempting to cut her off mid testimony and well before the end of allotted time. On this occasion, Ms. Cervenka pounded a gavel and told the resident "No, you can sit down. You're done. No. You can sit down. I'm taking a break." Ms. Cervenka then got up from her seat and left the table, bringing the majority of the Council with her, while Capitol Police surrounded and menaced the speaker, taking away her microphone while she was still speaking.

Having convened a public hearing, Ms. Cervenka's responsibility as a member and Chair of the Council is to listen to testimony from the public, which is part of the legal record of the proceedings. The fact that both of the speakers whose testimony she attempted to terminate were people of color, while white members of the public spoke with equal vehemence without being silenced, suggests an additional racial bias that makes her unfit to assess a case involving environmental racism. The facility's proposed site is in an Environmental Justice Focus Area: 80% of the almost 20,000 people who live within one mile are people of color, and 64% are low income. Ms. Cervenka has shown active contempt for and hostility towards members of the public in this community, and has allowed another member of the council to speak to people testifying in demeaning and offensive ways. The disrespect and policing of public testimony in these proceedings stand in strong contrast to CRMC's interactions with predominantly white and affluent communities elsewhere along the coast.

Former CRMC Council Member Tony Affigne stated to Uprise RI that there was "an appalling display of environmental racism, contempt for low income people, and disregard for health and safety risks, which were apparent [at CRMC's] two National Grid hearings." Affigne continued that if he were still on the council he "might have cautioned the new chair to show the same respect for people on the South Side, that CRMC routinely shows for people who live in the state's more affluent seaside communities. [He] would have objected, strenuously, to any attempts to use police power, [or] to control what testimony appears in the official record. Neighborhood residents were right to point out that not a single member of the Council lives

near hazardous petroleum or chemical facilities.” While CRMC was willing to take the ferry to Block Island to hold public hearings on issues that impacted residents there, Ms. Cervenka has refused to hold a hearing in South Providence where the proposed facility and numerous other hazardous facilities pose a direct danger to residents, schools, and healthcare facilities. Multiple community members in the neighborhood have reported trying to attend the hearing but being unable to find it due to its obscure location. This results in suppression of testimony from members of the public who stand to be injured and negatively impacted by the outcome of this decision.

There are multiple counts against Ms. Cervenka’s ability to act without bias in these proceedings, and grave concerns about CRMC’s ability to uphold its mandate for environmentally safe management of Rhode Island’s coastal resources under Ms. Cervenka’s leadership.

- While Ms. Cervenka was previously employed at Holland & Knight LLP, National Grid LNG’s lawyer Robin Main was a partner at the firm with oversight over Ms. Cervenka;
- While at Partridge Snow & Hahn LLP, Ms. Cervenka represented polluting companies against enforcement action by DEM and EPA including in a case of a Getty oil spill in a coastal area of East Providence that resulted in a lawsuit against DEM;
- Ms. Cervenka’s new firm Cervenka Green Ducharme Antonelli, LLC (CGDA) took a case from Hinckley Allen (which represents National Grid LNG through Robin Main) in a suit against the EPA to halt the cleanup of the Centredale Manor superfund site in North Providence and suspend a \$40 million fine against the company that CGDA represents.
- Ms. Cervenka has ties to National Grid through her leadership position at the RI Chamber of Commerce Coalition, a position that she held concurrently with her position on the council;
- Ms. Cervenka displayed blatant bias against members of the public who are directly affected by the Council’s decision, resulting in a loss of public faith for an unbiased outcome.

Rhode Island needs strong leadership for coastal resilience to climate change, not a pro-polluter corporate lawyer who undercuts the enforcement authority of environmental regulatory agencies. If Ms. Cervenka does not voluntarily resign from the Coastal Resources Management Council, for which she has shown herself to be unfit, and in which she has demonstrated bias and ignored due process, we call on you, Governor Raimondo, to remove her from that position.

Sincerely,
Monica Huertas
NoLNGinPVD Campaign Coordinator

Media references:

Governor Replaces Environmental Advocates on CRMC (EcoRI, 8/2/17)

<https://www.ecori.org/government/2017/7/31/governor-replaces-environmental-advocates-on-crmc>

Community members label National Grid's Port of Providence plans environmental racism at CRMC hearing (Uprise RI, 11/15/17) <https://upriseri.com/news/2017-11-15-crmc-nolnginpvd/>

Opponents of LNG facility in Providence say look to the future (Providence Journal, 11/28/17)

<http://www.providencejournal.com/news/20171128/opponents-of-lng-facility-in-providence-say-look-to-future>

CRMC Hearing consumed by public testimony against National Grid's port project (Uprise RI, 11/29/17) <https://upriseri.com/news/2017-11-29-crmc-national-grid/>

Opponents Bring Passion, Scrutiny to LNG Hearing (EcoRI, 11/30/17)

<https://www.ecori.org/renewable-energy/2017/11/30/opponents-bring-passion-scrutiny-to-lng-hearing>

The apparent conflict of interest between National Grid and CRMC Chair Jennifer Cervenka (Uprise RI, 11/30/17) <https://upriseri.com/news/energy/2017-11-30-cervenka-crmc/>

Former CRMC member Tony Affigne on environmental racism and the use of police power at CRMC meetings (Uprise RI, 12/1/17) <https://upriseri.com/news/energy/2017-12-01-tony-affigne-crmc/>