



NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE BUILDING

RALEIGH 27601

February 12, 2018

Mr. Lee Lilley
Director of Legislative Affairs
Office of the Honorable Roy A. Cooper
Governor of North Carolina
20301 Mail Service Center
Raleigh, N.C. 27699

Dear Mr. Lilley:

Thank you for attending the joint meeting of the House and Senate Appropriations/Base Budget committees this past Thursday on behalf of Gov. Roy Cooper. We understand you just recently started working as his lobbyist and felt you could not immediately answer a number of questions lawmakers had related to the roughly \$58 million he obtained from energy companies within hours prior to his administration's issuance of a major permit to advance the Atlantic Coast Pipeline. However, we are sure you can understand why many North Carolinians are concerned that it appears the governor obtained \$58 million for a personal "slush fund" as "a condition of getting the permit granted" (the latter are the words of Democratic Rep. Pricey Harrison.) This series of events has raised a number of serious ethical and constitutional questions across the political spectrum about potential pay-to-play or pay-for-permit, and deserve prompt answers.

We appreciate the commitment you made to get answers to questions raised by the committee in writing, and below are the ones we believe are most pressing at this time. While you may not personally have knowledge of all of these issues, we trust you will fulfill the responsibilities of your position as the governor's legislative liaison and as a member of his senior staff and obtain answers directly from Gov. Cooper and his general counsel.

1. Please explain how the governor's office came to negotiate and obtain \$57.8 million from the energy companies seeking to build the Atlantic Coast Pipeline?
2. Who specifically in the governor's office and his administration was involved in negotiating the deal? Did Gov. Cooper personally bless the arrangement?
3. When and how did negotiations over what many are referring to as the governor's personal "slush fund" start? Were the negotiated offers made in writing or in person? Are there other drafts you can share?
4. Were other matters beyond the pipeline addressed during negotiations? If so, what matters?
5. How did the governor envision the extra-governmental fund working?

6. How did the governor plan to spend the money? Is he aware that state and federal law already require utilities building the Atlantic Coast Pipeline to meet environmental mitigation requirements before the project can receive approval?
7. Can you clarify your response to this question as it appears to conflict with reports in the *News & Observer*: Will the ratepayers and consumers or shareholders pay for this \$58 million extra-governmental fund?
8. Why does the governor's office call this a "voluntary contribution" when Democratic Rep. Pricey Harrison said it was "a condition of getting the permit granted" and the governor's own spokesman has called the arrangement "negotiations," which by definition are not voluntary?
9. Would the private parties involved in the negotiations agree with the governor's assertion that this was a "voluntary contribution" completely unrelated to the permitting process?
10. Does the governor's office think this type of activity – requesting large contributions from private businesses wanting to do business in our state – encourages economic development in North Carolina?
11. What other companies has the governor obtained "voluntary" \$50 million plus contributions to the state from? Is he currently or has he in the past solicited a similar contributions from other businesses or individuals? Were these companies also seeking environmental permits?
12. Do you think the solicitation and acceptance of this money by the governor erodes the public's trust in the permit approval process?
13. Why does the governor's office compare this agreement to actions taken in Virginia when the Virginia agreement was signed by the Commonwealth's chief environmental regulator and went to specifically designated mitigation projects, while Gov. Cooper's deal gives him unfettered control of an extra-governmental fund outside of the normal appropriations process allowed by the North Carolina constitution?
14. Is this arrangement an illegal and unconstitutional violation of the separation of powers or a violation of due process?
15. Does this arrangement run afoul of state ethics law that prohibits elected officials from using their office and title to solicit funds for personal benefit?

Please send responses to us by 4:00 p.m. on Thursday, February 15. This will have given the governor and his office a full week from the committee meeting to contemplate responses.

Sincerely,



Sen. Bill Rabon
Senate Rules Chairman
Member, Senate Appropriations/Base Budget Committee



Rep. David Lewis
House Rules Chairman
Member, House Appropriations/Base Budget Committee