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October 18, 2016

Ms. Kim Strach
Executive Director
North Carolina State Board of Elections
PO Box 27255
Raleigh, N.C. 27603

Via email to: kim.strach@ncsbe.gov

RE: Follow up on Complaint Relating to North Carolina Environmental Partnership and Associated Entities and Supplemental Complaint Regarding Grants Received from the Attorney General's Office

Dear Ms. Strach,

This letter is intended to inquire regarding the status of the Form 5200 Notice of Complaint regarding the North Carolina Environmental Partnership (hereinafter NCEP), the Natural Resources Defense Council ("NRDC") and associated entities and its (their) Failure to Disclose Television or Radio Campaign Advertising, filed in **September, 2014**. My client, the Civitas Institute, has received no notice of resolution or finding by the State Board of Elections.

Furthermore, today Civitas Institute asserts additional or supplemental violations on the part of NCEP, its associated entity Pamlico-Tar River Foundation and Attorney General Roy Cooper. Specifically, my client asserts that Pamlico-Tar River Foundation is using money obtained in grants from the North Carolina Department of Justice, essentially the Office of the Attorney General, to sponsor or contribute to the sponsorship of advertising supporting Attorney General Cooper in his campaign for Governor. In addition, it appears there is sufficient evidence to conclude that NCEP may be utilizing funds from foreign nationals for campaign ads through the grants from the Attorney General

Attached to this letter is a Form 5200 Notice of Complaint – Failure to Disclose Television or Radio Campaign Advertising. The Complainant is the Civitas Institute, and Mr. Francis DeLuca, its President, is the signatory. This form is and should be considered as supplemental to the Complaint filed in **September 2014**.

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Narrative of Supplemental Complaint

1. The Attorney General's Grant Program

Background

In North Carolina, Attorney General Roy Cooper controls a grant making operation that by 2025 will have given away of \$50 million dollars which, according to the Attorney General's own official state government website, is awarded by Cooper himself ("*Attorney General Roy Cooper awards grants annually...*") (see <http://www.ncdoj.gov/getdoc/c7588fb1-c970-4415-9d80-2dd0d62139eb/2-0-4-2-Environmental-Grants.aspx>). These grants are funded by an agreement entered into by the Attorney General's Office (NCDOJ) and various agri-business entities, sometimes known as the "Smithfield Agreement," made outside of and without the approval of the courts or the North Carolina General Assembly. The supposed purpose is to improve water quality but there is no publicly available information regarding the viability or efficacy of the program and, more importantly, no public information on how the funds are ultimately used, *nor is there publicly available information on oversight or accountability of the funds.*

Under the agreement, the agri-business signatories agreed to pay \$2 million per year for 25 years and the Attorney General may distribute that money as he pleases, without direct oversight of the State Budget Office or the Budget Director. One of the signatories and a significant annual contributor to the fund is Smithfield Foods. In September 2013, Smithfield was purchased by Shuanghui International Holdings, China's largest meat processor. However, the terms of the agreement with the Attorney General have not apparently changed, and Smithfield, now a part of a Chinese corporation, is continuing to fund the Attorney General's privately administered grant fund.

2. Pamlico-Tar River Foundation is a member of NCEP

The NCEP is a membership organization made up of various other groups. One of the members is called "Sound Rivers" which is made up of the Neuse and Pamlico-Tar River Foundations. The Pamlico-Tar River Foundation was created as a North Carolina Non-Profit Corporation, and its North Carolina Secretary of State – registered address is 108 North Gladden Street, Washington, N.C. On February 15, 2015 the Pamlico-Tar River Foundation and the Neuse River Foundation merged.

For reasons that are unclear or unknown but may be part of an effort to hide improper campaign contributions and improper use of grants, the Pamlico-Tar River Foundation also goes by the name "Sound Rivers." *However, a check of the North Carolina Secretary of State records shows that all filings under the name "Sound Rivers" are the same documents filed for Pamlico-Tar River Foundation, and a separate corporation named "Sound Rivers" apparently does not legally exist.* When NCEP says, in their promotional materials and regulatory filings, that its

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members include “Sound Rivers” NCEP is misleading the citizens of North Carolina. According to their Secretary of State filings, “Sound Rivers” is in fact the Pamlico-Tar River Foundation.¹

3. NCEP Continues to Sponsor Ads Attacking Governor McCrory

According to The Center For Public Integrity (publicintegrity.org), NCEP leads all “independent” groups, as of the summer of 2016, in spending on the North Carolina Governors race. The Center found that NCEP has spent at least \$1.6 Million on TV and other advertising on the race, more than double that of any other outside or independent organization. Incredibly – and that is not too strong a word for the situation – **NCEP has never filed a single disclosure form or report with the State Board of Elections.**

4. Pamlico-Tar River Foundation Has Received State Grants From Attorney General (And Candidate for Governor) Roy Cooper

Pamlico-Tar River Foundation is a regular customer of the Roy Cooper grants. Pamlico-Tar River Foundation has received **\$387,794** in state funds from Roy Cooper since 2004. The most recent grant was also the largest, **\$129,309** in 2014, just as the Cooper’s campaign for Governor started in earnest. To date, there is no publicly available data of either an audit or verification as to what the Pamlico-Tar River Foundation did with the money.

5. Pamlico-Tar River Foundation is a Supporting Member of NCEP and NCEP Sponsors Ads Supporting Cooper’s Campaign

The \$1.6 million that NCEP has spent on the Governor’s race is a significant amount of money, and NCEP does not disclose its donors or other source of funds. According to its website, NCEP is a group formed of other, non-profit, environmental-involved groups, including the Pamlico-Tar River Foundation. Because there is no public disclosure of the source of the funds NCEP uses for the anti-McCrory ads, it is reasonable to conclude that the individual members of NCEP fund its activities, including the very expensive advertising NCEP purchases. The purchase of \$1.6 million in television ads is quite an undertaking for non-profit environmental groups.

Based upon the facts stated above, it is a fact that Attorney General Cooper is sending State environmental grants to a group that is sponsoring ads attacking his opponent in the race for Governor, with no oversight or control.

¹ A search of the NC Secretary of State website for the corporate name “Sound Rivers” results in three documents, all under the name of Pamlico-Tar River Foundation and none bearing the name “Sound Rivers.”

6. The Appearance That Foreign Funds Are Being Spent to Impact a North Carolina Election

Under 2 U.S.C. 441e and 11CFR 110.4(a) candidates and political committees are prohibited from accepting funds from “foreign nationals,” including foreign corporations, with some carefully controlled exceptions regarding U.S. subsidiaries. If the State Board of Elections finds that the funds from the Cooper-controlled grants are being used to fund political ads, the use of such funds also violates the prohibition of foreign national funds in U.S. political campaigns and is a federal crime that should be referred to prosecutors.

7. Ads

The Complaint form references ads that ran between October 26, 2015 and November 23, 2015, then the same or similar ads ran from March 28, 2016 through April 21, 2016 on WRAL Channel 5 in Raleigh, NC. Pursuant to the records available at WRAL, the ads were paid for by NCEP. (Please refer to Paragraph 3, above, for the Center for Public Integrity’s estimate of the amount NCEP spent on campaign ads as of the end of June, 2016).

8. Requested Action

Please consider this a formal Complaint relating to the violation of North Carolina campaign finance laws and a request for an investigation and State Board of Elections hearing and determination, relating to the following:

- (1). Investigate and determine if Attorney General Roy Cooper used his office to direct State-owned grant money to the Pamlico-Tar River Foundation, funds that were then paid to NCEP to sponsor ads benefitting the Attorney General’s campaign for Governor; and
- (2). Investigate and determine if any other State grants administered by the N.C. Department of Justice were given by Attorney General Cooper to organizations that contribute to or sponsor advertisements benefitting Attorney General Cooper; and
- (3). Investigate and determine whether accepting money from Smithfield Foods to fund the grants made to organizations sponsoring ads to benefit Attorney General Roy Cooper’s campaign for office is a violation of Federal Law prohibiting foreign funds or contributions of foreign nationals in United States campaigns or elections and make appropriate referrals; and
- (4). Investigate and determine whether NCEP is in violation of NCGS Section 163-278.9 or other statutes for failing to register with the State Board of Elections and failing to file the proper disclosure reports for contributions from the Pamlico-Tar River Foundation and any other entities receiving grants from Attorney General Roy Cooper and any other donor that contributed to the communications sponsored by NCEP.

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(5). Determine whether any of the above rises to the level of a federal or state criminal violations or a criminal conspiracy requiring the State Board of Elections to refer the parties involved to federal or state law enforcement.

(6). Issue findings with respect to the Complaint filed by Civitas regarding NCEP, NRDC and related entities in **September, 2014**

If I can provide any additional information, please let me know.

Very truly yours,

Roger W. Knight
Attorney for Civitas Institute

DRAFT