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March 26, 2008

BY HAND DELIVERY

Mr. Kirby Bowers
County Administrator
Loudoun County Government
1 Harrison Street, SE
Leesburg, VA 20177-7000

RE: Appeal of Disciplinary Action - Notice of Termination dated March 7, 2008

Dear Mr. Bowers:

On March 7, 2008 I was terminated pursuant to Chapter 10.02(E) of the Human Resources Handbook. The reason stated by Julie Pastor in her letter of 7 March is for: *"...knowingly disregarding the internal review process and releasing an environmental report to select members of the Board of Supervisors...."* She further states that this constitutes *"serious misconduct"*. Ms. Pastor opines that *"This willful, intentional noncompliance with standard operating procedure on the part of a senior staff member is egregious."* She cites three paragraphs in Section 10.2.01(B) Serious Misconduct: *(1) Serious or repeated violation of the Loudoun County Code of Conduct; (3) any incident of insubordination: (intentional failure to comply with a County policy or the instructions of a supervisor, manager, or other authorized management representative); (10) Improper use of authority or position;*

The County Code of Conduct states that *"As a basic condition of employment, all employees have an obligation to conduct their official duties in a manner that serves the public interest, upholds the public trust and protects the County's resources. To this end, all employees have a responsibility to: 1) Perform their duties to the very best of their abilities, and in a manner that is efficient, cost-effective, and meets the needs of the public. 2) Demonstrate integrity, honesty, and ethical behavior in the conduct of all County business."*

First, my actions exemplify the County Code of Conduct. The state of Loudoun County's environment is a serious matter of public health and safety, but it had gone largely unaddressed in recent years. This has resulted in a need for urgent action to safeguard public health and safety. Inaction also increases the County's risk of litigation for environmental violations. As the County's Environmental Program Coordinator, I was compelled to make critical information and my professional opinions about Loudoun County's environment available to the County's elected officials and citizens. To this end I drafted the report titled "LOUDOUN COUNTY'S ENVIRONMENT: Challenges and Opportunities, 2008-2012" ("Report"), and distributed it directly to the decision-makers and action-takers, the members of

the Board of Supervisors (“Board”). My actions were intended to protect our elected officials and taxpayers. To delay or suppress this information clearly would not “*meet the needs of the public*”, or “*serve the public interest, uphold the public trust and protect the County’s resources.*”

Not only was it my job to prepare and submit the Report, it was my professional responsibility, which transcends the duties and responsibilities of the position. As a licensed Professional Engineer, it is unethical to be aware of a potential threat to the public’s health, safety or welfare without reporting it to the proper authorities. To ignore or delay would be an ethics violation potentially jeopardizing my good standing as a professional engineer. Both my obligation as County Environmental Program Coordinator and my professional stature required that I deliver the Report into the hands of County leaders.

Second, Virginia law guarantees my right to contact the Board. In punishing me for directly expressing my opinion to the Board about the County’s serious environmental health and safety issues, the County violated a Virginia statute that guarantees the rights of local employees to contact elected officials on matters of public concern:

Nothing in this chapter shall be construed to prohibit or otherwise restrict the right of any local employee to express opinions to state or local elected officials on matters of public concern, nor shall a local employee be subject to acts of retaliation because the employee has expressed such opinions.

For the purposes of this section, “matters of public concern” means those matters of interest to the community as a whole, whether for social, political, or other reasons[.] Va. Code Ann. § 15.2-1512.4

I state at the beginning of the Report that the opinions contained therein are mine (see Report Preface page ii, paragraph I; and Executive Summary page v). The Board consists of local elected officials. And there can be no question that the information and opinions in the report address serious matters of public concern, i.e. Loudoun County environmental health and safety. Thus, the County’s actions in terminating me after I provided the Report to several members of the Board clearly violated the plain and unambiguous language of the statute.

Third, the County’s actions violated my free speech rights under the Virginia Constitution.

Free speech rights in Virginia are sacrosanct: “the freedoms of speech and of the press are among the great bulwarks of liberty, and can never be restrained except by despotic governments; that any citizen may freely speak, write, and publish his sentiments on all subjects, being responsible for the abuse of that right[.]” VA Const. Art. I, § 12. The County fired me for freely expressing my sentiments about the urgent state of the County’s environment, via the Report, to the Board of Supervisors. It was certainly not an abuse of my free speech rights to inform the County’s elected officials about the County’s serious environmental health and safety problems, and to suggest solutions to those problems. Instead of embracing the Report and my efforts as essential first steps towards improving and safeguarding

Loudoun County's environment and public health, the County sought to suppress the Report and gave me my walking papers. In so doing, the County violated my free speech rights.

Fourth, I did not violate any written procedure. The purported reason for my termination is that I did not follow the “*internal review process*” and “*standard operating procedure*.” I am not aware of any written standard operating procedure for a report or white paper. Ms. Pastor referenced the County Style Guide as the source for proper procedure. The Style Guide specifically addresses “Board Items” – content, format, internal review procedures. The Report clearly is not a Board Item and bears no resemblance to a Board Item. The Style Guide does not address reports or white papers. In fact, there is no written procedure for such documents.

Fifth, I have been personally and professionally damaged. When I was placed on Administrative Leave I was ordered to surrender all County property – Blackberry phone, laptop computer, etc. – and then asked to leave the building. While I understand the necessity of returning County property, it left me without my contacts list, email list, phone list, computer files, and calendar. My business contacts were trying to reach me via telephone and email and I was unable to fulfill my scheduled meeting obligations without my calendar and contact information. I was on leave for over six weeks (January 24 to March 7), during which time County staff and my job-related business contacts were not told the truth about what had happened. A large part of my County responsibilities was representing the County on various committees and networking with other environmental professionals. It is humiliating to me personally and professionally that I could not meet my commitments, and this incident has marred my reputation and affected my standing in the environmental and engineering community.

In conclusion, my dismissal was clearly retaliatory and violated my free speech rights and my right to contact the Board about matters of public concern. The entire matter was handled unprofessionally. I did the job that I was hired to do – protect and improve Loudoun County's environment for the good of its citizens. I was repeatedly asked, even encouraged to resign, but I refused to resign for doing the right thing. I was terminated and that has done irreparable harm to me personally and to my professional reputation.

I look forward to the opportunity to present my case to the grievance panel.

Sincerely,

Bruce McGranahan

cc: Adam Draper; Attorney, Public Employees for Environmental Responsibility
Julie Pastor, Director, Department of Planning
Laurie Hunter, Human Resources