



WEST VIRGINIA RIVERS

April 6, 2017

Nathaniel J. Davis, Sr., Deputy Secretary
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

Re: Draft Environmental Impact Statement, Docket No. CP15-554

Dear Deputy Secretary Davis,

West Virginia Rivers Coalition, along with the organizations signed below, respectfully submit the following comments on the Draft Environmental Impact Statement (DEIS) for the Atlantic Coast Pipeline (ACP), Docket No. CP15-554.

We found the DEIS lacking of the critical information needed to fully analyze the significant impacts of the project. Due to the lack of adequate information, we are unable to provide a comprehensive analysis of the DEIS. Because of this deficiency, we request a revised DEIS to be issued for the proposed project with all the necessary information to meet the requirements of the National Environmental Policy Act (NEPA). Specifically, the regulation explains that “NEPA procedures must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.” The ACP DEIS released fails to meet NEPA requirements and a revised DEIS must be issued. A complete DEIS is necessary to provide the planning and analysis required so that agency decision-makers can mitigate or avoid impacts, and can correctly identify the least-impacting alternative.

The gas industry in general, and ACP in particular, consistently display an attitude of arrogance and constantly violate environmental rules and requirements. Even those conditions agreed to by industry go by the wayside when economic conditions encourage, or lax monitoring allow, the company to ignore those requirements. As such, FERC must assume a worst-case scenario as the most probable outcome for any impacts not fully mitigated by enforceable requirements.

Additionally, we request the following to be addressed in the revised DEIS:

1.1 Project Purpose and Need

Page 1-2: The DEIS does not adequately address the need of the project. The only evidence of need for the pipeline is that ACP is contracting with its own affiliates. There does not appear to be any independent analysis of existing pipeline capacity. This leads to expensive overbuilding and needless

environmental impacts. Former Commission Chairman Norman Bay said the commission should also consider whether capacity is needed to ensure deliverability to power generators, reliability benefits and concerns “that anticipated markets may fail to materialize.” This issue must be fully analyzed in a revised DEIS.

4.1.4.2 Slope Stability

Steep Slopes, page 4-28: The DEIS fails to adequately address slope hazards. The DEIS states “Atlantic and DTI have not yet completed the Phase 2 analysis and field surveys at all evaluation sites, and final measures related to slope hazards have not yet been completed for ACP and SHP.” Mitigation designs for steep slopes is critical in evaluating the hazards posed by construction on slip prone areas. The public must be provided access to this information in a revised DEIS. The failure to include complete information on this issue in the DEIS implies that information on steep slopes is not particularly important to decision-making, a conclusion contradicted by both science and common sense, as slope hazards can lead to catastrophic failure of the pipeline. Such a failure could lead to substantial damage to the natural environment, private and public property, and loss of human life, which, according to 40-CFR-1508.27, clearly would be defined as a significant impact, and which therefore, must be addressed in a revised DEIS.

4.1.4.5 Mine Subsidence

Page 4-33: The DEIS fails to address potential impacts associated with underground mines. The DEIS states, “Atlantic and DTI are in the process of evaluating the potential for underground mines to affect the proposed ACP and SHP; however, these evaluations are not yet complete.” ACP would cross 15 abandoned underground coal mines; however, a Mining Area Construction Plan has not been submitted. Construction over underground mines creates a potential safety hazard and threatens the integrity of the pipeline. This issue must be addressed in a revised DEIS. FERC cannot determine that the potential impacts have been avoided and mitigated without additional evaluation and planning by ACP.

4.1.6 Geology on Federal Lands

Monongahela National Forest, page 4-37: The DEIS fails to satisfy the NEPA requirements for construction on public lands. The DEIS states, “Atlantic has not provided the information requested by the FS to access potential project-induced landslide hazards and also the effectiveness of proposed mitigation measures for restoration of steep slopes on MNF lands.” This statement appears to have a typo; “access” should be corrected to say “assess”. The United States Forest Service (USFS) must have detailed information to assess the project’s impacts on public lands. If the USFS has requested this information to adequately assess the impacts and ACP has not provided it, then the DEIS was issued prematurely. The USFS must have all the information requested to make their determination. Failure to provide this information violates NEPA requirements. FERC must issue a revised DEIS with the information requested by the USFS.

4.1.7 Conclusion

Page 4-42: The DEIS does not provide adequate information to determine that impacts from landslides will be minimal. The DEIS states “However, Atlantic and DTI are currently working to provide documentation of the likelihood that their proposed design features and mitigation measures would minimize the risk of landslides in the project area.” Without this information FERC cannot conclude that ACP has minimized the risk of landslides in the project area. A revised DEIS must be issued which includes the deficient information. NEPA specifically requires agencies to “Take a Hard Look” at the impacts of the proposed action, and to allow public review of that information, before making a decision. Asking the public to comment on incomplete information, and assuming that any subsequent documentation filed by ACP will mitigate all hazards, clearly cannot be construed as an objective analysis of impacts.

4.3.1.5 Water Supply Wells and Springs

Page 4-74: The DEIS does not supply sufficient information on water supply wells and springs. The DEIS states “Atlantic should complete the remaining field surveys for wells and springs within 150 feet of the construction workspace, and within 500 feet of the construction workspace in karst terrain, and file the results, including type and location, with the Secretary.” This information is critical in determining the impacts of construction on private drinking water sources. The results of the completed field surveys must be included in a revised DEIS.

4.3.1.7 Groundwater Impacts and Mitigation

Karst Groundwater, page 4-84: The DEIS does not adequately identify mitigation measures in karst terrain. The DEIS states “Atlantic should consult the appropriate state agencies to identify additional mitigation procedures to be implemented in the event construction activities intercept a saturated karst conduit and file with the Secretary the measures that would be implemented to minimize these impacts, for review and written approval by the Director of OEP.” The results of consultations and additional mitigation procedures to avoid impacts in karst terrain is critical to ensure that avoidance and mitigation is adequate. This information must be included in a revised DEIS.

4.3.2.2 Existing Surface Water Resources

Field Survey Summary, page 4-89: Details of crossing plans for major waterbodies are incomplete. The DEIS states, “site-specific construction and restoration measures have not been incorporated into the plans.” This information is vital when assessing the impacts of construction on major waterbodies and must be included in a revised DEIS.

West Virginia Surface Water Classifications, page 4-94: The DEIS does not adequately address Tier 3 stream impacts. The DEIS states, “Use of this existing access road would not likely impact the stream. We acknowledge that various tributaries that flow into Tier 3 streams would be crossed by the projects, some of which may contain trout and cross public lands. By implementing the construction measures

discussed below in section 4.3.2.6, impact on these streams and stream biota would be effectively minimized.” The FERC cannot conclude that construction would not ‘likely’ impact Tier 3 streams without an antidegradation review as required by WV State Code §22-11-7b. *Water quality standards; implementation of antidegradation procedures; procedure to determine compliance with the biologic component of the narrative water quality standard.* An antidegradation review must be performed on any Tier 3 streams potentially impacted by ACP.

Public Drinking Water Sources, page 4-104: The DEIS does not adequately address impacts to public drinking water supplies. The DEIS states “ten surface water intakes are within 3 miles of ACP, and eight source water protection watersheds would be crossed...The remaining waterbody crossings would be conducted using a dry crossing method, which reduces sedimentation and turbidity impacts, as the pipeline trench is isolated from flowing water.” While the DEIS mentions the crossing method reduces sedimentation, it provides no basis for this claim. A turbidity analysis is needed where the pipeline would impact source water protection areas. Excess sediment in source water accelerates the formation of haloacetic acids when chlorine is added for treatment purposes. Haloacetic acids are regulated by EPA under the Safe Drinking Water Act. Excess sediment in source water can cause water utilities to exceed the standards resulting in undue hardships on the water utility and endangering human health.

Hydrostatic Testing and Dust Control Procedures, page 4-111: The DEIS does not identify water sources for dust control. The DEIS states, “Water sources for dust control are still being evaluated by Atlantic and DTI.” Atlantic will use approximately 38.2 million gallons of water for dust control during the driest times and when streams are at their lowest flow. The DEIS must identify the sources of water for dust control and the approximate amount of the withdrawal from each water source. Without this information the DEIS does not satisfy NEPA requirements and a revised DEIS must be issued which contains the deficient information.

First-order Streams: The DEIS fails to address cumulative impacts on headwater streams. First-order or headwater streams are vitally important to the health of the watershed. The overall health of a watershed is dependent on its network of tributaries. Further analysis is needed to understand the impacts to headwater streams. A project of this magnitude that impacts multiple watersheds must be assessed at a regional scale. The DEIS must contain an analysis on the projects total impacts within each watershed to determine the overall impacts of the project. ACP must provide an analysis for each watershed including information on the number of headwater stream crossings by watershed and the number of stream crossings on each stream if waterbodies are crossed multiple times. At the landscape level, impacts from the ROW are exacerbated by the cumulative impacts of the proposed access roads. There is a negative correlation between road miles within a watershed and water quality. An analysis of the pre-construction vs. post-construction ratio of roads within a basin must be included in the DEIS to adequately assess the impacts from the proposed project.

Stream Bank Cover: The DEIS fails to address loss of stream bank cover due to stream crossings. The DEIS should include an analysis of the loss of stream bank cover on a watershed scale to determine the

% loss of stream bank cover by watershed to provide a better understanding of the potential impacts of the project.

4.3.3.8 Wetland Mitigation

Page 4-125: The Wetlands Mitigation plan is not included within the DEIS. The DEIS states “construction and operation of ACP would temporarily and permanently impact 783.4 and 247.5 acres of wetlands, respectively.” However, the wetlands mitigation plan is not included in the DEIS and FERC recommends submitting it prior to construction. This plan is critical in assessing whether the impacts to wetlands have been mitigated properly. Allowing the plan to be submitted prior to construction prevents the public from reviewing and commenting on the wetland mitigation plan, undermining the public’s participation and failing to meet the requirements of NEPA. The Wetland Mitigation Plan must be included in a revised DEIS.

Wetland Impacts: The DEIS fails to address the project’s impact on wetland functions regarding water storage for flood prevention. The DEIS must provide an analysis of the disruption of water storage for flood control. The analysis must include watershed-based wetland impacts with details on the acres of impacted wetlands by watershed to determine whether flooding within the watershed has the potential to significantly increase as a result of the loss of wetland functions during construction and operation of the pipeline.

4.3.3.10 Conclusion

Page 4-125: The DEIS prematurely concludes that the project would not significantly impact wetlands. The DEIS states “Based on Atlantic’s and DTI’s measures to avoid, minimize, and mitigate wetlands, along with adherence to their construction and restoration plans; the FERC *Procedures*; and federal, state, and local permit requirements, we have determined that ACP and SHP would not significantly impact wetlands.” The mitigation plan has not been completed and the wetland permits have not been issued; therefor, FERC is premature in concluding that the project will not significantly impact wetlands. FERC must have all the pertinent information before drawing that conclusion.

4.5.2.4 Karst, Cave, and Subterranean Habitat

Page 4-157: The DEIS does not adequately address impacts to subterranean habitat. The DEIS states “Atlantic should file with the Secretary, and provide to the FWS, FS, WVDNR, and VDGIF, a revised *Karst Mitigation Plan*” Conservation measures to address potential impacts to subterranean obligate species have not been identified. The DEIS must include this critical information to adequately assess the potential impacts.

4.5.6 Habitat Fragmentation and Edge Effects

Page 4-165: The DEIS analysis on forest fragmentation is incomplete. The DEIS states “Several agencies, including the FS and WVDNR, have expressed concerns regarding forest fragmentation and the impacts on interior forest and their associated wildlife species.” FERC recommends several additional items be submitted prior to the close of the DEIS comment period to address the deficiency. The additional

information should have been included in the DEIS. A revised DEIS must be issued containing this critical information.

4.6.2.1 West Virginia Threatened and Endangered Resources

Brook Trout, page 4-176: The DEIS does not adequately address impacts to brook trout. The DEIS states “the FWS encouraged Atlantic and DTI to avoid and minimize impacts on streams that contain brook trout habitat through coordination with appropriate resource agencies.... The WVDNR has expressed concern with Atlantic’s proposed construction activities at Big Spring Fork.” Evaluations of potential impacts to Big Spring Fork have not been completed. This information is critical to assessing the impacts on brook trout populations and must be included in the DEIS.

Eastern Hellbender: The DEIS fails to address the project’s impacts on Eastern Hellbenders. The hellbender (*Cryptobranchus alleganiensis*), also known as the hellbender salamander, is a species of aquatic giant salamander endemic to eastern North America. This is a species of special concern in WV. Hellbender populations have drastically declined throughout their range, mainly because of declining stream quality. Hellbenders are sensitive to sedimentation issues because sediment smothers the hellbender’s habitat. Impacted streams must be assessed for potential impacts on the hellbenders.

4.6.5 Aquatic Resources on Federal Lands

Monongahela National Forest, page 4-195: Aquatic Surveys are not complete. The Forest Service requested additional surveys for sensitive aquatic species including the candy darter (*Etheostoma osburni*), New River shiner (*Notropis scabriceps*), Appalachia darter (*Percina gymnocephala*), and Kanawha minnow (*Phenacobius teretulus*), in addition to the elktoe mussel (*Alasmidonta marginata*) and green floater mussel (*Lasmigona subviridis*). The results of the surveys had not been provided to FERC by the release of the DEIS. These results are imperative in assessing the impacts of the project on aquatic resources and must be included in a revised DEIS. Additionally, surveys for these species must be conducted in all streams having suitable habitat.

4.7.1 Endangered Species Act-Protected Species

Page 4-199: The DEIS fails to adequately address impacts on Threatened and Endangered Species. The DEIS states “Atlantic and DTI have not provided conservation measures to address potential impacts to these species in all cases.” All potential impacts and conservation measures to avoid and minimize impacts must be included in a revised DEIS.

Page 4-199: Section 7 consultations with the USFWS are not complete. The DEIS must contain the results of the Section 7 consultations under the Endangered Species Act. Failure to include the results of Section 7 consultations with USFWS in the DEIS does not satisfy the NEPA requirements. Section 7 consultations must be included in a revised DEIS.

Page 4-202: The DEIS is lacking information on the impacts of water withdrawals on threatened and endangered species. The DEIS states “FWS is concerned that discharged water and stormwater run-off from proposed access roads adjacent to waterbodies could introduce increased sedimentation and/or

contaminants, degrading habitat quality for ESA-listed or under review species.” These are serious concerns and they have not been addressed in the DEIS. The proposed conservation measures to address these concerns must be included in a revised DEIS.

Freshwater Mussels Impact Assessment, Conservation Measures, and Determination, page 4-238:

Conservation measures to avoid or mitigate impacts to threatened and endangered mussel species have not been identified.

The DEIS states “FERC and FWS will re-evaluate this determination upon receipt of pending survey results and proposed conservation measures.” If FERC and FWS have not made a final determination on the impacts to threatened and endangered mussel species than the DEIS was released prematurely. A revised DEIS must be issued when the determination of impacts has been made.

4.7.3.4 U.S. Forest Service Managed Species Conclusions

Page 4-253 to 4-255: The Biological Evaluation, Locally Rare Species Report and Management Indicator Species Report have not been finalized.

The DEIS states “Due to pending survey results, pending conservation measures, and consultations with the MNF, GWNF, and other appropriate federal and state agencies detailed above, our determination regarding the overall impacts on FS managed species is pending.” The fact that the DEIS fails to provide enough information for the agencies to make a determination on impacted species is yet another glaring example of the inadequacies of the DEIS. A revised DEIS must be issued when this information becomes available.

4.7.4 State-Sensitive Species

4.7.4.1 West Virginia

Freshwater Mussels, page 4-257: The DEIS fails to adequately address impacts to freshwater mussel species.

Surveys have not been completed and conservation measures have yet to be identified for two locations in WV with the potential to impact freshwater mussel species. A revised DEIS must be issued to address this deficiency.

4.7.4.6 State Sensitive Species Conclusions

Page 4-267: The DEIS fails to address impacts on sensitive species. The DEIS states, “Due to pending survey results, pending conservation measures, and consultations with the appropriate federal and state agencies, in particular with regard to bat species and bat hibernacula, subterranean obligate species, and aquatic species, our determination regarding the overall impacts on statelisted and sensitive species is pending.” This lack of information in the DEIS blatantly disregards the entire purpose of NEPA. A revised DEIS must be issued that contains adequate information for the public to fully understand the impacts of this project.

4.9.8 Economy and Tax Revenues

Page 4-410: The ACP DEIS fails to analyze economic impacts to West Virginia gas users. Almost certainly, the ACP would result in significant increases in price of gas in WV, which will adversely affect

current users. The DEIS needs to analyze these impacts on the economy, and completely fails to do so. Former Commission Chairman Norman Bay has previously stated “Overbuilding may subject ratepayers to increased costs of shipping gas on legacy systems. If a new pipeline takes customers from a legacy system, the remaining captive customers on the system may pay higher rates.” This issue must be addressed in a revised DEIS.

4.11.1.3 Air Emission Impacts and Mitigation

Page 4-455: The DEIS fails to adequately address greenhouse gas emissions. While this DEIS does provide some information on greenhouse gases, it does not include a detailed analysis of methane emissions. Additionally, it does not address the basic question of whether cumulative emissions will increase or decrease, whether the CO2 emissions of end users of the gas from the ACP pipeline displace, or add to, emissions from existing coal-fired power plants, or the impacts of "upstream" emissions from additional gas drilling, pipelines and compressor stations. Former Commission Chairman Norman Bay called on the commission to “analyze the environmental effects of increased regional gas production from the Marcellus and Utica” and consider “the downstream impacts of the use of natural gas and ... a life-cycle greenhouse gas emissions study.” The revised DEIS must address these issues.

4.11.3.2 Noise

Page 4-471: The DEIS does not adequately address noise impacts. The DEIS states “There would be no noise impacts due to operation of the pipeline.” However, gas pipelines create a phenomenon of low and extra-low frequency soundwaves that occur in the communities they transverse caused by the operations of high pressure natural gas transmission systems. These noises are known as “flutter” and “hum.” The DEIS must address these noise occurrences and their impact on nearby residents in a revised DEIS.

5.1.8 Land Use, Recreation, Special Interest Areas, and Visual Resources

Page 5-17: The DEIS fails to adequately address impacts on recreation and special interest areas. The DEIS states “Site-specific crossing plans are pending for these features, including the Greenbrier River-Trail, Allegheny Trail, North Bend Rail-Trail, and Forest Trails Loop Trail.” Without this information, one cannot adequately address how construction will impact recreation and tourism in these areas. This information must be included in a revised DEIS.

In conclusion, for the reasons outlined above, we request a revised DEIS to be issued with complete and accurate information in order to comply with the NEPA requirements. A complete DEIS is necessary to provide the planning and analysis needed so that the agency decision-makers can mitigate or avoid impacts, and can correctly identify the least-impacting alternative. We appreciate the opportunity to submit these comments and look forward to further participation in this proceeding.

Respectfully Submitted,

Angie Rosser & Autumn Crowe
West Virginia Rivers Coalition

Brent Walls
Upper Potomac Riverkeeper
Potomac Riverkeeper Network

George Santucci
New River Conservancy

Elizabeth Nicholas
Waterkeepers Chesapeake

Matt Wasson
Appalachian Voices

Natalie Thompson
Ohio Valley Environmental Coalition

Allen Johnson
Christians for the Mountains

Beth Little
Eight Rivers Council

Cindy Ellis & Cindy Rank
West Virginia Highlands Conservancy

Jennifer Baker
Greenbrier River Watershed Association

Nancy Novak & Helen Gibbins
League of Women Voters of WV

Justin Raines
Glennville Environmental Organization

Chris Chanlett
Summers County Residents Against the Pipeline

Carolyn Reilly
Bold Alliance

Lakshmi Fjord
Friends of Buckingham County Virginia

Chris Hale
Friends of Water

April Keating
Sierra Club, West Virginia Chapter

Kevin Campbell
Mountain Lakes Preservation Alliance

Becky Park
Citizens' Climate Lobby of Southern West Virginia