

ORIGINAL



United States Department of the Interior



FISH AND WILDLIFE SERVICE

West Virginia Field Office
694 Beverly Pike
Elkins, West Virginia 26241

Privileged

March 30, 2017

Mr. Nathaniel Davis
Federal Energy Regulatory Commission
888 First Street NE, Room 1A
Washington, DC 20426

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SECRETARY OF THE
COMMISSION
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REGULATORY COMMISSION

Re: Comments on Atlantic Coast and Supply Header Pipeline Project Draft Environmental Impact Statement; Docket Numbers CP15-554-000, CP15-554-001, CP15-555-000

Dear Mr. Davis:

The U.S. Fish and Wildlife Service (Service) appreciates the opportunity to review and comment on the Draft Environmental Impact Statement (DEIS) for Atlantic Coast Pipeline, LLC's (Atlantic) proposed Atlantic Coast Pipeline project. These comments are provided pursuant to the Endangered Species Act (ESA, 87 Stat. 884, as amended; 16 U. S. C. 1531 *et seq.*).

The Service's North Carolina Field Office, Virginia Field Office, and West Virginia Field Office have each reviewed the DEIS and comments from each office are provided in the attached document. For questions, please contact the appropriate field office contact at the following:

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The Service looks forward to continued close coordination with you and the applicant on the proposed Atlantic Coast Pipeline project.

Sincerely,

John E. Schmidt
Field Supervisor

DEIS Comments			
Page Number	Paragraph Number	Comment Author	Comment
ES-4	1	WVFO	It is noted that Virginia karst protection personnel will be consulted, please clarify if this will be done for all karst crossings no matter the state or if this is just for Virginia? It is preferred that the same coordinator work for all karst areas on the line no matter the state.
ES-5	2	VAFO	Explain how you know the potential for ACP and SHP to initiate or be affected by damaging karst conditions would be adequately minimized when Little Valley Bath County hasn't be surveyed? Additionally, VA-DCR wasn't consulted about Cochran's Cave at the time this document was written.
ES-6	5	WVFO, VAFO	Small whorled pogonia will also be adversely affected by the project, as described in the most recent draft of the BA received on January 27, 2017.
ES-6	5	VAFO	We cannot concur at this time the project is a not likely to adversely affect for James spiny mussel. Mussel surveys need to be completed in Cowpasture and Mill Creeks. Also, have sediment analyses been completed for Mill Creek? For Calpasture River, need to provide the status of the habitat assessment or survey for MP 111.4. HDD is not proposed at all of these crossings.
ES-7	1	WVFO, VAFO, NCFO	The Service cannot initiate formal consultation with this DEIS; we still lack sufficient data to form a biological opinion for multiple species due to incomplete survey data.
ES-10	1	WVFO, NCFO	Does "long-term to permanent" refer to the permanent ROW only or to both the permanent and temporary impacts from the clearing of forest for construction? Even the "temporary" disturbance in forested areas will be long-term because these forest stands will take decades to return to their former state on the area of the ROW allowed to return to it's former state.
ES-10	2	WVFO, VAFO, NCFO	The Service fully supports the recommendation of a 50' permanent ROW by FERC.
ES-14	Final bullet	WVFO, VAFO	Completing the consultation process within the ESA prior to construction will mean that all surveys for listed species must be completed and reports reviewed and concurred with in regard to avoidance, minimization, and mitigation measures. The BO cannot be completed without this data at this time.
1-7 and/or 1-10	All	WVFO, NCFO	USFWS WVFO, NCFO should be included here.
2-19	2	WVFO, VAFO	Please, clarify if the additional spoil generated from a wider trench will result in a ROW of 150 feet instead of the 125-foot construction ROW for these areas.
2-29	Table 2.3.1-2	VAFO, NCFO	Table 2.3.1-2 lists the ATWS associated with the HDD of the Little River as being within 28 feet of a wetland. The Little River in this area contains Tar spiny mussel and Dwarf Wedgemussel. Please provide additional information about this ATWS and measures being undertaken to avoid impacting these species. Please verify none of the other ATWS are located adjacent to sensitive waterbodies.
2-35	3	NCFO	If the municipal water has additives such as chlorine/chloramine or if ACP adds algicides to test water, it should not be released into surface waters unless it is safe for sensitive species including amphibians and aquatic invertebrates. Often times testing is done on common species that are often less sensitive.
2-37	2	VAFO	We recommend a 100-foot setback for ATWS from sensitive waterbodies (e.g. with federal listed species or species under evaluation for potential listing)
2-39	HDD construction methods	NCFO	If guidewires are being used in navigable waters, will they be subject to Corps or Coast Guard permits?
2-39	Table 2.3.3-1	VAFO	Please, double check that this table of HDD crossings is up to date. It appears to be missing Mayo Creek, AP-1, 184.5
2-41	3	NCFO	see comment on 2-29
2-48	3	NCFO	The Service has requested that third party Environmental Inspectors familiar with RTE aquatic species be present when work is occurring in sensitive water bodies.
4-13	1	WVFO	"...literature review identified 10 cave entrances within the KRA, but based on topography, none were determined to receive drainage from the 300-foot wide corridor..." Please, provide analysis to support this claim either within the text or within an appendix. Additionally, when surveys are completed on the remaining 17% of areas, the details of those survey efforts should be added to this section.
4-14	Multiple	WVFO, VAFO	Does "high risk" mean a feature connects to underground features/waterways? Define high risk as per the explanation in the GeoConcepts (2016) report.
4-18	Bullets 3 and 9	WVFO, VAFO	Should also contact Federal resource agencies.
4-18	Bullet 9	WVFO, VAFO	Further define "6 inch void"; does this mean 6" wide or deep? 6" wide would be rather large.
4-18	Bullet 10	WVFO	Discharge of hydrostatic water should be avoided in karst areas.

4-28	2	WVFO	If a slip occurs that impacts or could impact a resource (a stream, wetland, plant, etc.), the appropriate agency(ies) should be notified.
4-53	2	NCFO	Additional measures should be utilized in watersheds containing RTE species.
4-83	4	WVFO	Atlantic and DTI should adhere to their mitigation procedures. "Closely adhere" implies they will deviate or not follow through with the plan.
4-83	Bullet 4	WVFO	Clarify if "opened conduits developed in karst terrain" refers to conduits already existing or opened due to the project's activities.
4-85	Blasting	NCFO, WVFO	In-stream blasting should be done in the dry
4-91	1	NCFO	Please, provide a list of the 13 waterbodies that are within proposed contractor yard sites. With only a 5-foot buffer, extensive stormwater and erosion control measures will be needed in all locations. None of these sites should be allowed in sensitive watersheds.
4-91	Table 4.3.2-3	NCFO	Please provide information regarding why the Neuse River crossing is to be an open cut versus HDD. This waterbody contains several rare species which the Service has been petitioned to list. If listed before or during construction, there will be a need to reinstate Section 7 consultation to determine if there are ways to avoid impacting these species. The best way to avoid impacting them would likely be conducting an HDD at this crossing.
4-101	1	VAFO	"Atlantic and DTI would locate ATWS at least 50 feet from stream banks..." We recommend a 100-foot setback for ATWS from sensitive waterbodies (e.g. with federal listed species or species under evaluation for potential listing)
4-103	Table 4.3.2-7	VAFO	Please, confirm this table is up-to-date. This table does not appear to include all HDD crossing, including Mayo Creek - has an analysis been conducted at this crossing?
4-104	Bullet 1	WVFO, VAFO	Define or clarify what "adequately contained" means.
4-106	2	NCFO	Delete the second sentence. This would be consistent with what is stated on page 5-10 paragraph 5.
4-106	5	NCFO, WVFO	In-stream blasting should be done in the dry
4-108	3	WVFO, NCFO	Water being discharged should occur in a location that guarantees it will return to the source waterbody to prevent spread of invasive species.
4-108	5	WVFO, NCFO	Water withdrawal and discharge location table would be more helpful if it stated the source body and the body of water nearest to the discharge location.
4-108	5	VAFO	In waters with known or potential federally listed or under review species, our standard recommendation is a 1 millimeter screen and intake velocity that does not exceed 0.25 feet per second and that the project will not withdraw more than 10% of instantaneous flow.
4-108	6	NCFO	If the municipal water has additives such as chlorine/chloramine or if ACP adds algicides to test water it should not be released into surface waters unless it is safe for sensitive species including amphibians and aquatic invertebrates. Often times testing is done on common species that are often less sensitive.
4-110	Table 4.3.2-9	VAFO	This table appears to be out-of-date. See table 2.6-1 in draft BA, dated 1/27/17. An important change is the removal of Cowpasture and Nottoway Rivers, which we fully support. Cowpasture River needs further evaluation due to pending mussel assessment. In the 9/29/2016 Mussel Report, access was restricted and an abbreviated survey is planned in 2016/2017. Cowpasture River is in the historic range of <i>James spiny mussel</i> .
4-111	2	VAFO, WVFO	Per 1/27/17 draft BA, Atlantic and DTI will not use water from sensitive waterbodies for HDD, hydrostatic testing, dust control water or for restoration and revegetation activities. We fully support this statement.
4-112	Table 4.3.2-10	VAFO	This table appears to be out-of-date. See table 2.6-2 in draft BA, dated 1/27/17. We recommend TOYR in sensitive waters with listed species or species under evaluation for potential listing.
4-113	2	NCFO	Table 2.3.1-2 mentioned in Section 4.3.2.8 lists an additional work space as being within 28 ft from a wetland for the Little River crossing. Little River contains Dwarf wedgemussel and Tar Spiny mussel. The FERC should provide additional information regarding how close the space will be to the Little River. Furthermore, the FERC should explain how this fits into its affects determination for these two species.
4-161	5	NCFO, WVFO, VAFO	The Service is working with ACP to develop a mitigation plan for impacts to migratory birds.
4-165	bold section	NCFO	When the fragmentation analysis is completed, please forward it to the USFWS field offices and the State agencies for review.
4-171	table 4.6.1-1 NC warmwater	NCFO	Remove Pigfish as it wouldn't be found in the project area.

4-175	4	NCFO	The second paragraph mentions 3 additional waterbodies are within property boundaries of a temporary contractor or pipe storage yard three waterbodies would be associated with the installation of cathodic protection ground beds and one would be within boundaries of an above ground facility. Please identify these waterbodies. Also p 4-92 only mentions 1 cathodic ground bed so please make them consistent.
4-181	1	VAFO	The most recent Freshwater Mussel Guidelines developed by FWS and VDGIF was last updated on 6/22/2015
4-201	Table 4.7.1-1	VAFO	We cannot concur on a no effect determination if surveys are not completed.
4-201	Table 4.7.1-1	VAFO	In addition to comment above, draft BA, dated 1/27/17 indicates likely to adversely affect for small whorled pogonia. For James spiny mussel, we cannot concur on a not likely to adversely affect due to incomplete surveys in the Cowpasture and Calfpasture Rivers and Mill Creek. These crossings are not HDD.
4-201	Table 4.7.1-1	VAFO	Rusty patched bumble bee has been federally listed endangered as of March 21, 2017.
4-204	4	WVFO	Will the project follow burning regulations for states? Burning during dry months could be in conflict.
4-207	3	WVFO	Indiana bats are known to occur in Wetzel County, West Virginia. They have been positively detected in multiple acoustic surveys in recent years following the original capture of a pregnant female in 2011.
4-209	Table 4.7.1-5	VAFO	This table appears to be out-of-date. See table 5.4.2-1 in draft BA, dated 1/27/17. There are known Indiana bat hibernacula within 5 miles of the ACP.
4-212	2	WVFO	Citations for the "numerous examples" of Indiana bat roosts near disturbance would be beneficial here.
4-214	5	WVFO	NLEB were captured at one site and acoustically detected at 3 other sites, not one other site.
4-215	2	VAFO	In addition to the two bulleted items listed, the 4(d) rule also prohibits the incidental take that occurs within a hibernaculum. This may include disturbing or disrupting hibernating individuals when they are present as well as the physical or other alteration of the hibernaculum's entrance or environment when bats are not present if the result of the activity will impair essential behavioral patterns, including sheltering.
4-218	6	NCFO	The Service recommends that Longleaf Pine be replanted in areas where it is removed.
4-222	2	NCFO	Be sure this is the proper approach/wording to use for all of the petitioned species which are in the project area.
4-233	6	WVFO	Why is Hackers Creek not mentioned here? A population of clubshell exists in Hackers Creek in Lewis County, West Virginia and access roads for the project will exist within the vicinity of Hackers Creek. Please revise.
4-235	2	WVFO	The snuffbox is known in McElroy Creek, not clubshell.
4-236	4	WVFO	Green floater is known throughout the Greenbrier watershed and may occur in other high quality streams that are not solely the Greenbrier river. Please revise to note watersheds.
4-237	5	VAFO	"In addition, the FWS has expressed concern with regard to sediment-laden discharge water, or sedimentation from nearby access roads, that could drain into waterbodies occupied by the mussels. We recommend in section 4.7.1 that Atlantic complete an analysis of these potential impacts for all federally protected aquatic species." Note that this sediment analysis may extend the action area downstream in the waterbody and that mussel habitat assessments/surveys should be conducted in these areas if there are document occurrences of federally listed aquatic species in these waterbodies.
4-238	1	WVFO, NCFO, VAFO	"If Atlantic and DTI document federally listed mussels in the waterbody, avoid using the access road if in-stream activities cannot be avoided." Crossing a waterbody with an access road necessitates in-stream activity unless a bridge is already present. Please, revise this sentence.
4-247	Multiple	WVFO, VAFO	As written, this section leads the reader to believe that not all surveys have been completed for plants? Please clarify. Additionally, small whorled pogonia should be a likely to adversely affect not a not likely to adversely affect.
4-293	bullet 1	NCFO	In streams containing T&E species and their tributaries, no grubbing should occur within 50 feet of the stream from Nov 15-April 1. These 12 digit HUCs were provided to ACP on December 1, 2016.
4-328	table 4.8.5-3	NCFO	Change Fishing River to Fishing Creek
4-337&4-328	tables	NCFO	Crossing methods should be consistent.
4-342	communication towers	NCFO	Communication towers should utilize bird friendly lighting and avoid using guy wires.

4-502	Multiple	WVFO, VAFO, NCFO	A table summing the species impacted by the project and specific effects to those species from the project would be beneficial here instead of solely text.
5-6	5	NCFO	In areas where variances are needed in regards to typical wetland construction, did FERC verify that no RTE species are present in any adjacent streams.
5-6	7	WVFO, NCFO	"While about 160 acres of open vegetation types"... this is confusing. Does this mean that the open is the maintained strip following construction? If so, it will likely be significantly more than 160 acres I would think. Double check what is meant here and have it revised to be more clear.
5-7	4	NCFO	In areas where Longleaf Pine is removed, it should be replanted.
5-9	4	WVFO, NCFO, VAFO	In line with other agencies, including the USFS, the WVDNR, and the VDGIF, the USFWS is also greatly concerned about the forest fragmentation that will result from this project. The increase of edge habitat and elimination of large core forest areas will have many impacts on forest interior species and species that utilize forest habitats as a part of their ecology. The effects of this change in habitat will allow for new and different species to move into the area and fill niches. This could: displace T&E species from habitats and create increased stress on them while they try to find new habitat; create increased competition for food and other valuable resources required by the species; and/or provide pathways for invasive species to be introduced that could out-compete T&E species and other sensitive core forest species for critical resources, among other potential effects.
5-13	1	WVFO, VAFO	SWP should be added to the species that will be likely to be adversely affected by the project.
5-26	2	NCFO	The Service strongly agrees that some longterm cumulative impacts will occur on wetland and upland forested vegetation and associated wildlife habitats. We would also like to add that depending on maintenance of the corridor and control of ORVs that longterm cumulative impacts could occur to the aquatic ecosystem of waterbodies crossed.
5-29	4	NCFO	Item 6.c - The Service continues to recommend that third party Environmental Inspectors be utilized in waterbodies with sensitive species.
General	n/a	VAFO, WVFO	We recognize, as do many of our natural resource partners, there are likely areas along the pipeline where recommended avoidance and minimization measures (AMMs) for a species or resource may conflict with recommendations for another. To facilitate our understanding of where such conflicts may occur, we recommend the applicant create an environmental constraints map that identifies the AMMs that have been recommended for each pipeline segment. We recommend that the map be organized by county and be provided to all the natural resource agencies for review. Where there are identified conflicts between recommendations, the natural resource agencies will work together to prioritize the AMMs for each County and provide that information to the applicant and permitting agencies.
Global		NCFO, WVFO	The latest draft BA from January 27, 2017, includes many changes and thus is very inconsistent with the information in the DEIS. Comments were not given in regards to every change that has been made as ACP and FWS are still working through drafts of it.