

# The Recorder

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## **Pipeline permits cannot pass, groups assert**

BY JOHN BRUCE • STAFF WRITER

MONTEREY — The Blue Ridge Environmental Defense League has joined multiple groups calling on the Virginia State Water Control Board to deny the permits needed to construct the proposed Atlantic Coast Pipeline and the Mountain Valley Pipeline, news releases stated.

Citing similar cases in New York where state regulators effectively halted the Constitution and Northern Access pipelines, the league provided expert evidence in support of its request to deny Clean Water Act Section 401 permits.

In comments filed Sunday, the league stated, “There are no adequate measures that could be taken to meet state and federal requirements with integrity considering how much harm would be done by the devastating and disruptive practices of pipeline construction.”

Jeff Walker, a soil scientist and contractor with more than 30 years of experience, said, “This region is subject to particular impact due to the nature of soils in natural conditions and when planned for development.” Walker asserted, “The localities affected by this project rely on review to certify compliance with local and state erosion and sediment ordinances or statutes.”

Mara Robbins, founding member of Preserve Floyd and community organizer with BREDL, agreed, saying, “The water control board is tasked with protecting rivers, wetlands and streams to preserve their beneficial uses and reduce water pollution in Virginia. The Mountain Valley Pipeline and Atlantic Coast Pipeline projects would create serious problems related to erosion and sedimentation.

“The DEQ cannot possibly be able to assure the water quality of runoff from this project,” she said. “Any public data that exists simply proves our point; there is no safe way to construct a 42-inch fracked gas pipeline. DEQ’s Storm Water Management regulations prohibit excavations exceeding 500 feet, and yet it appears the DEQ stands prepared to waive these regulations, which affect every other construction firm in the state. The purpose of these regulations is clear, to prohibit areas of impact which can cause catastrophic loss not only to the easement in question but also to neighboring citizens.

“In the mountainous regions of West Virginia and Virginia, the ACP and MVP paths would traverse many mountain slopes with very steep grades,” Robbins continued. “Specifically, the ACP’s path would traverse 22.8 miles of mountain slopes with grades greater than 35 percent. The first 211.9 miles of the ACP is proposed to travel through 115.6 miles of terrain rated as high incidence with high susceptibility for landslides. An additional 46.7 miles are categorized as moderate incidence with high susceptibility for landslides. A construction practice that lowers mountain ridges by 20 to 25 feet would be used to reach a 125-foot level plane for easier construction.

“This construction practice puts entire communities at risk of major erosion, sedimentation and storm water run-off issues which could result in pollution of streams, as well as recharge areas for community water supplies which are especially vulnerable in karst topography, and the drinking water wells and springs of most residents who live in the affected rural communities; and increased flooding in all communities, but particularly those who have previously suffered catastrophic flooding because of heavy rain on their steep mountain slopes and shallow soils.

“The only way to proceed is not to proceed at all,” Robbins said.

Lou Zeller, BREDL executive director, concluded, “The commonwealth’s actions have been pitifully inadequate and downright dismissive. Virginia now has the opportunity to take action and deny the Section 401 permits. They can, they should, and they better.”

Gregory Buppert of Southern Environmental Law Center, Ben Luckett of Appalachian Mountain Advocates, Tammy Belinsky of Preserve Craig, David Sligh of Wild Virginia and Margaret Sanner of Chesapeake Bay Foundation co-signed a letter to clarify the legal authorities and duties that must govern the State Water Control Board’s decision concerning water quality certification for the Atlantic Coast and Mountain Valley pipeline projects.

“DEQ has improperly relied on Nationwide Permit 12 for pipeline crossings, which deprives the board of the ability to consider the individual and cumulative impacts of those crossings; it has not conducted an assessment of the impacts on water quality standards or an anti-degradation analysis; and it has segregated consideration of critical relevant information from the section 401 certification process. Until the DEQ fixes these deficiencies in its review, the board does not have the information it needs to reach the finding required by the Clean Water Act,” the letter states.

“The purpose of NWP 12 is to streamline the permitting process for utility line crossings of streams and wetlands that will have no more than ‘minimal’ impacts. The scope of the permit is limited to ‘temporary’ water quality degradation and use impairments. The Corps admits that projects covered under NWP 12 will cause significant discharges of sediments and other pollutants during construction in waterbodies and that habitats will be altered and aquatic species harmed. And the Corps’ ‘temporary’ impacts allow changes to aquatic environments to persist for months or even years.

“Finally, the Corps acknowledges that some recreational uses will be eliminated altogether, even if parties comply with NWP 12. In contrast, Virginia water quality standards require that

designated and existing uses be fully protected at all times; temporary impairments of uses are not allowed and, certainly, long-term or permanent denial of uses is never acceptable. Likewise, discharges of pollutants that cause turbidity and other defined conditions in streams are prohibited by the general criteria in Virginia water quality standards.

“The board must be certain that it has ‘reasonable assurance’ that the Atlantic Coast and Mountain Valley pipelines will not violate Virginia’s water quality standards. The draft 401 certifications before the board suffer from critical deficiencies that render it impossible for the board to make the determination that the Clean Water Act requires,” the groups said.