

violate condition 10. of Appendix A to the Certificate Order issued by the Commission, which states:

Atlantic and DETI must receive written authorization from the Director of OEP before commencing construction of any project facilities. To obtain such authorization, Atlantic and DETI must file with the Secretary documentation that it has received all applicable authorizations required under federal law (or evidence of waiver thereof).

We assert that construction and improvement of roads, installation of bridges, and installation of timber matting used for parking or staging equipment constitutes “construction,” and that these features qualify as “project facilities,” as described in the above-quoted condition.

As shown by captions in the attached report, the photographs we submit as evidence of possible violations were taken on March 5 and March 11, 2018. Of the specific potential violations we believe this report shows, we refer you to the image on page 9 of the report. This satellite photo, overlain by outlines of features seen in photographs, shows a section of new road in purple leading to the area of timber matting (termed an equipment staging area). Plans submitted by ACP with its Stormwater Pollution Prevention Plan, as shown on page 8 of the report, do not include either the road section or “staging area” that have been constructed.

The construction activities we are reporting will impact the environment and threaten water quality in a number of ways. The State of Virginia has not given final approval of erosion and sediment control plans and stormwater plans for the ACP project, which are conditions of the State’s Clean Water Act section 401 water quality certification and, therefore, conditions of FERC’s Order. We assert that not only has FERC apparently not authorized ACP to begin these construction activities but that FERC may not do so until all conditions of that state certification are met and the certification becomes effective.

Just some of the environmental impacts from these activities by ACP could include: changes in the character and frequency of stormwater runoff from the improved and new road sections and from the areas covered with timber matting; possible disturbance of land surface and riparian areas from the use of heavy equipment and the installation of timber bridges; and rutting, soil disturbance, and sediment discharges due to use of heavy equipment and vehicles on unpaved dirt tracks or roads, such as those shown on pages 5 and 6 of the report submitted with this request.

An ACP spokesperson, Aaron Ruby, was questioned about the activities shown in the report and was quoted in a press interview to say: “What we’re doing on this property in Augusta County is performing geologic surveys. Basically we’re taking core samples of the underlying geology so that we can prepare for construction later this spring or summer.”¹ We believe that at least some of the activities shown are not directly related to or necessary for the core sampling described but in fact constitute construction work. Further, we believe that even activities undertaken as part of that exploratory effort may not be done in a way that causes land disturbance that has not yet been authorized by Virginia or through a FERC notice.

According to the article, Mr. Ruby admitted that gravel was added to access roads but claimed no new bridges had been installed, claiming that in one case the timber bridge visible in the photographs was installed to provide structural support over a culvert installed by the land owner. Mr. Ruby failed to address the other three bridges visible or to explain how the addition of timber decking over the culvert would not qualify as construction and potential land disturbance. Installing and seating of those timbers in each of the four locations have the

¹ *Monitors Mobilize Along ACP Route*, Sandy Hausman, WVTF Radio, <http://wvtf.org/post/monitors-mobilize-along-acp-route-0>

potential to disturb soils and riparian areas, to impinge on any wetlands that may be present, and to constrict and/or divert flows in those drainage ways.

In addition to the activities described above and in the separate report, we believe the failure of ACP to describe this work in the weekly status reports it has submitted in accordance with condition 8, Appendix A of the Order, which requires the company to describe “the construction status of each spread,” may be violations of the Order. This work was not described in any of the reports available in the FERC docket to cover periods between November 1, 2017 and March 4, 2018 in Table B-1 under the columns entitled “current work activities” or “work planned for the next period” nor in Table B-3 which is to describe HDD-related activities.

Also, we note the Environmental Compliance Monitoring Reports submitted by ACP covering the periods between January 15 and March 4, 2018, contain no indication that any inspections were conducted in the area addressed in this request for investigation or, indeed, in any portion of spread 5, in which this area is found. There is a note in the report on communications covering the week February 12 - 18, 2018 that boring equipment in the vicinity of the HDD site was vandalized and hydraulic fluid was spilled but, again, the substantial construction-related work described and shown in the report was not mentioned.

We ask that the Commission undertake an investigation to discover the nature and extent of possible violations of requirements by ACP in the areas addressed here and that the Commission report back to requestors and the public the results of its investigation. Under 18 CFR § 1b.9(a), the Commission has the authority to direct or authorize public disclosure of the investigation and we encourage FERC to do so. These matters are of great public interest and concern and we believe there is no justification for keeping investigative proceedings or findings confidential.

Thank you for considering this request and we hope to receive a response in the near future.

Respectfully Submitted:

/s/ David Sligh
David Sligh

On behalf of David Sligh, Rick Webb, and Alleghany-Blue Ridge Alliance