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Department of Environmental Quality,
Commonwealth of Virginia
1111 East Main Street
Richmond, VA 23218

Dear VA DEQ Director and Staff:

Please accept and make part of the official record, the following comments regarding the Atlantic Coast Pipeline 401 Water Quality Permit.

I am writing the following comments regarding sites from the VA DEQ's Impact Table as follows:

VA AP-110237;

VA AP-19037;

VA AP-19045 – 9048;

VA AP-19051 – 9053;

VA AP-10248;

VA AP-19055;

VA AP-19057;

VA AP-10259;

VA AP-10264;

VA AP-10265; and

additional mileposts that seem missing are 184.4, 184.5. The closest is milepost 183.7, which is VA AP-10279.

In October, 2017, the Atlantic Coast Pipeline submitted floodplain variance requests to Nelson County for the 11 sites above. Although noted in the VA DEQ's impact statement as either

wetlands or perennial crossings, these sites are FEMA designated floodplains. In September, 2017, the Nelson County Board of Supervisors passed an enhanced floodplain ordinance that allows our County to participate in FEMA's National Flood Insurance Program. This program allows county residents to procure flood insurance at reduced rates and, hence, adds value and safety to property throughout our area. In order to remain eligible for these benefits, the county must adhere to restrictions on development in these areas, including critical infrastructure. Why, then, are FEMA designated floodplains not noted as such in the VA DEQ's Impact Table?

On July 1, 2017, Friends of Nelson submitted a Freedom of Information Act Request to the United States Army Corps of Engineers for all records pertaining to work done in Nelson County following the 1969 Camille flood. Local and US Geological Survey records indicate that the USACE was active in Nelson for nearly two years after the August, 1969 flood, concentrating on stream channel work and stream bank reconstruction. Sadly, this request was never responded to, and phone calls and emails to the USACE have been ignored. Requests for USACE officials to meet with residents along the route were also unanswered. More than 200 landslides were recorded in Nelson County at the time of this event, many along the route of the ACP, and yet, the agency issuing a nationwide permit for this project has yet to visit the sites of this route. Nearly 90% of the ACP's route through our county is on sloped terrain and the final recommendations from USGS Report 99-0518¹ was that special ordinances to protect Nelson slopes from development be put in place. How can the VA DEQ consider a nationwide permit sufficient when it's clear the USACE has not done site specific reviews in fragile areas? The US Army Corps of Engineers used the same nationwide permit for Rover Pipeline that accumulated dozens of violations in multiple states over the past year. The Ohio EPA estimates that one drilling mud spill of more than 2 million gallons in an exceptional wetland will take decades to restore. During the time period when this spill and others occurred, the USACE remained silent and uninvolved.

In the 4 years following the proposal of the ACP, Nelson residents near the proposed right-of-ways have submitted concerns and photos to the FERC when frequent flooding occurs along the route. Much of the ACP's construction schedule will leave our slopes disturbed and barren at times of the year when heavy rains and flooding typically occur, and the ACP has cited in their submissions to the FERC that they have "re-vegetation concerns" along 85% of the Nelson sloped route. Due to our thin soil to bedrock, much blasting will be required, further exacerbating the issues. The ACP indicated in final Environmental Impact Statement released by the FERC, that in many of these areas, bedrock will be crushed and used as backfill in pipeline trenches, and water will be piped off the right-of-way, which leads one to wonder about the stability of the slopes in these adjacent areas where vegetation no longer acts as a sponge to absorb and hold back water.

¹ <https://pubs.usgs.gov/of/1999/ofr-99-0518/ofr-99-0518.html>

The Virginia Department of Emergency Management cites our County as “high risk, moderate incidence” for landslides.² This mitigation plan specifically cites energy pipelines as high risk for areas all along the western route of the ACP in Virginia, further suggesting that a critical slope analysis should be done.

In the last weeks of March and early weeks of April, 2015, West Virginia experienced 8 ruptures of pipelines at stream crossings. These pipelines were small and only one incident resulted in an explosion and evacuation of nearby residents, but news sources pointed out that the rains during those weeks were typical for the time of year. In April 2016, an explosion of a Spectra pipeline in Pennsylvania resulted in the flattening of a nearby home and severe injuries to the resident. The report released by Spectra in October 2016 cites “moisture” around the pipeline as a root cause of corrosion of the pipe.³ In this case, the moisture was attributed to the drain tiles used in the property owner’s agricultural fields, but the findings indicate that water makes pipelines quite vulnerable at stream crossings and in floodplain areas.

Having reviewed the VA DEQ’s presentation to the VA State Water Control Board regarding the 401 certification for the Mountain Valley Pipeline, I noticed that for the MVP, the DEQ used a template based on Spread 8. The MVP is approximately 350 miles and the ACP is approximately 600 miles in total. How can a template based on one spread be adequate for projects of this magnitude? And, looking at page 26 of this presentation⁴, I noticed that the post-construction plan includes water bars on the banks of stream crossings. If these crossings are adjoining floodplains, will water not be directed to different areas, or wider areas, perhaps impacting land that was not previously flooded during heavy rain events? Could this re-directed water have a negative impact on surrounding homes and other structures? And, given that floodplains act as natural recharges and filters to surrounding private well water sources, will not changing the natural course of water in these areas have an impact?

Recent social media posts from allies in West Virginia show a stark reality of the impacts of natural gas infrastructure in floodplains to downstream properties. Energy companies are naturally attracted to these floodplains, because the land is “cheap”, but agencies charged with

² <http://www.vaemergency.gov/wp-content/uploads/drupal/Section3-12-Landslide.pdf>

³ <https://www.dropbox.com/s/1r7yay70bno15tc/2016-10-14%20Spectra%20Root%20Cause%20Analysis%20TETCO%20Salem.pdf?dl=0>

⁴ <http://www.deq.virginia.gov/Portals/0/DEQ/Water/Pipelines/DirectorsReport4-12-18.pdf?ver=2018-04-26-140020-827>

oversight of these projects are obligated to ignore the costs to the developer and focus on the impacts to the communities proposed to host them. In West Virginia, lack of sufficient analysis is proving costly to private landowners downstream from these facilities and damage to nearby streams is glaringly obvious.

I chose these 11 sites for comment because the ACP proposes to cross more floodplains in Nelson County than any community along the 600-mile route, and we are a community that suffered the loss of 125 residents in 1969. VA AP-19055 is particularly chilling to me because I know that this area suffered the loss of 19 members of one family in 1969. Despite the ACP's claim that the pipeline will have zero or minimal impacts on these floodplain areas, simple logic forces one to conclude that placing a large solid object in soil that historically drains slowly, and compacting that soil after laying this large, solid object to return the "height" to its previous state, will alter the depth of floodwaters, expand the area, and/or serve as a further barrier to absorption. Eleven floodplain crossings on a 27-mile route either speaks to poor route planning on the part of the Atlantic Coast Pipeline, or it speaks to the topographical challenges of our area. Either answer is compelling evidence for the VA DEQ and the VA State Water Control Board to take a more critical look at this area. My final thought is that clearly if there are obvious issues with the review of the Nelson County route, there are very likely similar deficiencies all along the route of the ACP. Does the VA DEQ intend to use the steep slopes of Nelson and Highland counties as a template? Or, will the karst terrain of Bath and Augusta counties be the template of choice?

Best Regards,

Marilyn Shifflett

Nelson County

cc Commonwealth of Virginia, State Water Control Board
Office of the Governor, Commonwealth of Virginia