

Comments Regarding the Adequacy of Nationwide Permit 12 And the Atlantic Coast Pipeline

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It is my general contention that the requirements of the Corps of Engineers Nationwide Permit 12 are insufficient to protect the waters of the State of Virginia, as required by state and federal law.

The impacts created by construction of a 42-inch diameter pipeline, especially on steep slopes and with long open trenches, are far greater than the current best available practices can mitigate.

In areas where the pipeline crosses a stream multiple times, the effects will be cumulative. Turbidity and sedimentation caused by erosion is not merely a point source issue. Such impacts have cumulative downstream effects and must be addressed as such.

The Corps permit allows such sedimentation to occur for a short time and as long as such discharges are minimized. These impacts conflict with the State Water Quality Standards that say the designated and existing uses of the waters are to be protected *at all times*.

We have recently experienced a prolonged period of steady rain, nothing extreme or out of the ordinary, that caused the approved erosion and sedimentation mitigation measures used for 42' pipeline construction in Virginia to fail. The pipeline contractor claimed that they did everything they were supposed to do, but massive amounts of runoff and sedimentation occurred over wide-open rights-of-way stripped of ground cover. The measures that were deemed "best practices" were inadequate to stem even this moderate occurrence. Virginia is often exposed to much higher rainfall after hurricanes or other severe storms. How can the DEQ continue with a NWP 12 process that has already proved to be inadequate?

The DEQ is charged with ensuring that state Water Quality Standards will not be violated by any activities for which it issues a permit. There are many established uses that the citizens of Virginia expect to continue to enjoy as they have for generations. The DEQ is the authorized guardian of these uses and must protect them as prescribed by law.

Allowing less stringent protection, as allowed by the Corps' nationwide permit, can impair and alter the uses that the DEQ was empowered to protect.

The NWP 12 often requires that uses be protected only "to the maximum extent possible." Imagine that you owned land that had been in your family for generations and now the water that people and livestock rely on has been disrupted by pipeline construction and is no longer usable. Would you accept an explanation from the pipeline company that they used techniques that have been shown to be only 40 percent effective, but they did all that was possible to avoid a problem?

Violations of Water Quality Standards may not be permitted in Virginia just because the pipeline company cannot find a practical solution to avoid them.

Activities that degrade water quality in Virginia may violate the antidegradation standards in state law. The NWP 12 requirements are too vague and cannot ensure that antidegradation requirements are met. All existing uses that have occurred since 1975 are protected by state and federal law, even if they are not specifically identified in water quality standards. So far the DEQ has avoided addressing that issue.

I have spoken to several civil engineers who have worked on public and private projects in the areas of pipeline construction. They are confused about why they must provide more detailed information and are held to more stringent requirements than are the large pipeline projects that have far more potential to damage state waters.

I am disappointed when I hear that "this is the most rigorous permitting activity ever conducted in Virginia." I have worked for electric and gas utilities in two other states. In New York, I led a department that was responsible for obtaining state and federal authorizations for multi-billion dollar utility projects, including 401 water quality permits. The process for issuing water quality permits in Virginia for pipeline projects is far more lax than I have seen applied to projects in other locations.

The NWP 12 process that the DEQ seems willing to rely on allows water quality standards to be lessened when necessary "to accommodate important economic or social development in the area in which the waters are located." If the DEQ is willing to take shortcuts in protecting the waters of the state to allow for some promised economic benefits, the Department should be aware that no such benefits will result from the construction of the ACP.

Nearly 80 percent of the capacity of the ACP was intended to supply new gas-fired power plants. All of its major gas-consuming plants that Dominion said the ACP was essential to serve have been cancelled. And Dominion has announced that it has no plans to build more. Studies show that whatever gas we might need in Virginia can be provided by the ample supplies in the approved expansions of existing pipelines. In information provided

to the State Corporation Commission, Dominion said its long-term contracts with existing pipelines would transport gas up to eight times cheaper than the cost of transporting gas using the ACP.

The study Dominion paid for to show the new pipeline would save on energy costs failed to account for the cost of using the ACP. There will be no savings, it will cost us more. The incorrect results of this study were used to convince politicians and regulators that this project would be good for Virginia. Despite information that the ACP is not needed, Dominion is still pressing forward with a pipeline that will add billions to the cost of energy for families and businesses in Virginia, according to expert testimony to the SCC.

The DEQ should not be misled by the false claims of economic benefits and coerced into taking shortcuts in exercising its responsibility to protect the waters of the state.

Respectfully submitted,

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