

Statement of concerns re: the insufficiency of the Army Corps of Engineers' Nationwide Permit 12 to protect the water quality of Satchidananda Ashram-Yogaville from the construction of the Atlantic Coast Pipeline

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Introduction

This statement of concerns will note where the requirements applicable to the Corps permit will not sufficiently uphold our Water Quality Standards (WQS) in specific places related to the ongoing operations of Satchidananda Ashram-Yogaville (Yogaville). Since the Corps permit does not specifically address the impact of this crossing, then Virginia's Clean Water Act (CWA) section 401 Water Quality Certification (WQC) for the crossing adjacent to Yogaville is not legally valid. The State of Virginia must "ensure" that state Water Quality Standards (WQS) will not be violated by the activities covered.

Yogaville Concerns

Yogaville is a 600-acre site, located on the banks of the James River, developed since 1979 into a cooperative community, spiritual center, and Yoga academy. The Atlantic Coast Pipeline (ACP) and the HDD drill

site (on the close by Max property site) where the pipeline is proposed to come up from under the James River, is within 1,000 to 1600 ft. from our property line, within 1600 ft. of our community school, and within 1800 ft. of our numerous homes and buildings on our property, and within 3000 ft. of our LOTUS Temple, Lotus Lake, and other spiritual sites.

Our ongoing operations involve serving thousands of guests, students, and staff with programs and training. Pure water and pure air quality are requisites for our healthy yoga lifestyle. We grow organic food on our farm located on land running right down to the James River, less than one mile from the proposed HDD drill site.

We offer programs and recreation involving use of the James River for travel and recreation, including kayaking and swimming. Our community's numerous wells, our Lotus Lake, and our organic farm are dependent on water from aquifers fed from springs and creeks on land impacted by the ACP proposed placement and construction.

- The ACP is planning to drill under the James River from Nelson County utilizing Horizontal Directional Drilling and come up on to land in Buckingham County on land owned by the Max family adjacent to Yogaville. Yogaville is downstream from the drill site. A key underground spring filling a pond on that property feeds the LOTUS lake and other creeks and water bodies on our land, thus construction and potential leaks could impact the River, our farm, and our water purity, and our livelihood. The Corps. Permit does not address these potential impacts.
- The ACP has proposed no mitigation to prevent adverse impacts to the Max property water supply or the connected Yogaville water quality during construction or to ensure that water quality is maintained into the future. The Corps. Permit does not address the impact to the specific water bodies that could pollute Yogaville water.
- We are concerned that the Corps. Permit fails to include consideration of the ACP HDD drilling lubricants potential to pollute our water in the construction of the pipeline crossing

under the James River. These chemical lubricants could pollute the upstream sources for Yogaville community water, could pollute the James River (which provides recreational use for our many residents and guests), and could pollute our water supply for our drinking and our organic farm.

- We are concerned that DEQ has structured its water quality review, utilizing the Corps. permit, to meet Dominion's aggressive timeline, rather than allow the state to do a thorough review of water impacts with a meaningful opportunity for public input. DEQ is neglecting to include the site-specific erosion and sediment control and stormwater management plans in their consideration to issue a 401 certification under the Clean Water Act for construction of the ACP. The public has not had time to review these plans.

Designated or Existing Uses

All state waters have designated uses for aquatic life support, recreation, support wildlife, and production of edible or marketable resources such as support for our organic farm production.

The WQS names swimming and boating as examples of recreational uses, but this category includes any recreational use, including wading and simply aesthetic enjoyment. Also, note that many of these uses also qualify as "existing uses," even if Virginia has failed to list them as designated uses.

The Corps permit will not uphold our Water Quality Standards (WQS) in specific places where the James River provides designated uses for recreation and natural clear water uses for our community.

As previously noted, the HDD drill site will impact upstream areas including the pond/stream that supplies our LOTUS Lake. Yogaville has established existing uses for the water that supplies our LOTUS Lake surrounding our LOTUS Temple. The Lake provides a significant iconic setting for our LOTUS sacred site. The Lake also provides a safe and clean swimming area with sand access for our community swimming activities in the spring and summer.

Sediment

Sediments that will be released during crossing construction activities and after will affect the appearance and viability of using the streams impacted and the downstream use of Yogaville water. The Corps permit assumes that as long as the sediment in the waters only persists for a short time in the area directly in and around the construction site and that any discharges are minimized, this pollution need not be counted as an impairment of uses. Sediments in the water would also interfere with the health of the LOTUS Lake, impacting the organisms and plant life that sustain the Lake and provide a natural and healthy setting for its enjoyment. This directly conflicts with WQS, which require that uses be protected at all times.

Drilling Lubricants

The potential polluting impact of drilling lubricants was highlighted in February of this year, when an Energy Transfer crew working on the Ohio Rover Pipeline was using horizontal directional drilling (HDD)—a technique intended to cause less landscape disruption than traditional trenching—to burrow underneath the Tuscarawas River and adjacent wetlands. But as the drill bit cut through earth under high pressure, cracks formed and an estimated two million gallons of drilling fluid escaped to the surface. The diesel-tainted mud coated half a million square feet of the protected Stark County wetland, asphyxiating an untold number of plants, amphibians, and other aquatic life.

Details on the lubricant spill from the Rover Pipeline HDD are referenced here:

<https://www.nrdc.org/stories/following-spills-ohio-wants-reroute-rover-pipeline-lacks-muscle>

A recent Downstream Strategies report illustrates why general permits issued by federal agencies, such as the Army Corps of Engineers, are insufficient. Given that the Virginia Water Board and Department of Environmental Quality are required by law to protect groundwater as

well as surface waters from contamination, this new report provides multiple reasons for the Water Board to require individual permits for water crossings. Individual permits are the best way to fully know the threats to water along the proposed pipeline routes.

The report shows that pipeline construction can harm groundwater in various ways, including construction methods including HDD that can result in surface spills of drilling lubricants and petrochemicals from construction and drilling. These spills can leach down into groundwater. Blasting, trenching, sinkhole filling, drilling and soil management also present significant risks to underground sources of drinking water. The Corps. Permit does not identify such potential impacts to our Yogaville water supply and the ACP does not provide adequate mitigation plans for such impacts.

The Downstream Strategies report may be referenced here:

https://assets.nrdc.org/sites/default/files/downstream-strategies-threats-to-groundwater-from-the-mountain-valley-pipeline-atlantic-coast-pipeline-in-virginia_2018-05-25.pdf

Recommendations

- 1) Include thorough assessment of E&S and Stormwater Management plans as part of the 401 certification—not as a separate regulatory process.
- 2) Virginia’s authority over pipeline approval is limited, except with regard to impacts of water resources. The DEQ should use its authority delegated to states by the Clean Water Act to the maximum extent.
- 3) The Army Corps Nationwide 12 blanket permit is overly broad and not site-specific. Projects of this magnitude, cutting across very steep slopes and across sensitive waterways, need a thorough review by the DEQ. For example, the Rover pipeline in West Virginia was approved under Nationwide 12. The images and information from the cease and desist order, including photos, illustrate the risks very well. The Water Board can help

prevent irreparable harm to Virginia waters by doing things right now instead of trying to remediate harm in the future.

- 4) Revise DEQ's proposed process so that individual 401 certifications include a review of individual water body crossings instead of relying on NWP 12.
- 5) Postpone the 401 Water Certification Process for the proposed ACP until all soil and erosion and stormwater management plans have been made public.

Final Note:

From "Guidance Memo No. GM17- 2003, Interstate Natural Gas Infrastructure Projects Procedures for Evaluating and Developing Additional Conditions for Section 401 Water Quality Certification Pursuant to 33 USC § 1341 ("401" Certification)":

In such appropriate cases, DEQ may request additional information from the project owner and conduct a separate supplemental review of the project with respect to upland impacts that may indirectly affect state waters. If warranted, the Department may make a recommendation to the Board for additional conditions on upland activities. The following procedures will be utilized for projects regulated by the FERC where the Department has reviewed available information and determines that additional information and determines that additional conditions may be necessary to protect water quality water beyond the conditions required by, or that can be imposed through, the Virginia Water Protection Permit Program, Corps' permits, including any applicable Nationwide Permits, or conditions otherwise imposed by the FERC. In determining whether to impose additional conditions, the Department will consider a number of factors including but not limited to: Length of project/amount of construction related land disturbance Diameter of pipeline Geographic, hydrologic and topographic considerations: steep slopes, karst geology, proximity To sensitive streams/wetlands, seasonally high water tables, sink - holes/underground springs, water impoundment structures/reservoirs, areas with highly credible soils, low pH and acid sulfate soils.

Obviously the ACP meets all the conditions stated to qualify for the careful review and possible imposition of additional conditions for approval.

Thank you,

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for Satchidananda Ashram-Yogaville