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Pipeline water crossing permits suspended

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BY JOHN BRUCE • STAFF WRITER

MONTEREY — The Army Corps of Engineers on Nov. 20 temporarily suspended authorizations to do any in-stream or wetland construction anywhere along the proposed Atlantic Coast Pipeline route, resulting in another delay for the controversial project.

Dominion told the Federal Energy Regulatory Commission it voluntarily requested the temporary suspensions.

“Except for any work necessary to stabilize areas for environmental protection, ACP is halting work authorized under Nationwide Permit 12 at all jurisdictional stream and wetland crossings located within these districts,” Dominion said in a Nov. 20 letter to FERC.

Law firm Appalachian Mountain Advocates, representing environmental groups, pointed out it was the one who urged the Army Corps of Engineers to suspend all authorizations after attorneys helped win a federal court ruling against the pipeline’s water permits in West Virginia, according to a written statement the law firm issued Nov. 20.

“Following requests from Appalachian Mountain Advocates attorneys, the Norfolk, Huntington, and Pittsburgh districts of the Army Corps of Engineers have suspended authorization of the Atlantic Coast Pipeline. As a result, ACP lacks authorization to do any in-stream or wetland construction anywhere along its route. Appalachian Mountain Advocates has argued this action was necessary in light of a recent federal court ruling that the Atlantic Coast Pipeline’s reliance on Nationwide Permit (NWP) 12 was improper,” the firm said.

“The NWP was issued by the U.S. Army Corps of Engineers under Section 404 of the Clean Water Act. It allowed contractors to trench through the bottom of streams and rivers. The Corps’ decision has had the effect of forcing the ACP to temporarily suspend water crossings along the entire project until it can obtain a satisfactory permit. Appalachian Mountain Advocates represents the Sierra Club, West Virginia Rivers Coalition, West Virginia Highlands Conservancy, Appalachian Voices, and Chesapeake Climate Action Network in this action,” the law firm added.

Tuesday, pointing to the suspension, Appalachian Mountain Advocates repeated its call for FERC to issue a stop-work order.

“Because those mandatory federal authorizations are now lacking, FERC must not allow pipeline construction to continue, not only in waters ... but anywhere along the pipeline route. For that reason, the undersigned respectfully request that the commission issue a stop-work order to Atlantic as soon as possible. Time is of the essence because we have reason to believe that Atlantic resumed tree-felling activities along the pipeline route when the window for such activity reopened on Nov. 15, 2018,” the law firm said.

“We are thankful indeed that the Corps has at least paused this project so that regulators are compelled to take a closer look at the impacts the pipeline would have on our water resources, and even whether the project is needed at all,” said Lara Mack, Virginia field organizer with Appalachian Voices.

Several of the waterways are in Bath and Highland counties.

“The project impacts ... 889 separate stream and wetland crossings within the Commonwealth of Virginia,” said William Walker of the Army Corps Norfolk District regulatory division, in a suspension notice to Dominion. “These impacts facilitate the (Virginia) installation of a 307-mile natural gas pipeline known as the Atlantic Coast Pipeline. On Nov. 7, 2018, the United States Court of Appeals for the Fourth Circuit stayed the Corps’ verification of ACP’s compliance with the NWP 12 in West Virginia. Because of that order, it is uncertain whether NWP 12 will ultimately be available to authorize work for ACP in West Virginia. Therefore as requested, the Norfolk District finds it appropriate to suspend your authorization and await clarity on this issue.

“Exercising our authority ... we hereby suspend the Feb. 9, 2018, authorization to conduct work under NWP 12. Effective immediately you must stop all activities being done in reliance upon the authorization under the NWP. You may take measures necessary to stabilize any work in progress. This suspension will remain in effect until the authorization is reinstated, modified or revoked,” Walker said.

An investor owned utility, Dominion originally dubbed the proposed pipeline the Southeast Reliability Project more than four years ago, starting out as a \$4 billion, 550-mile undertaking.

The Federal Energy Regulatory Commission conditionally licensed the project after the Virginia Outdoors Foundation approved a conservation easement conversion. The contentious deal allowed Dominion to cut through conservation easements in Bath, Highland and Nelson counties, in clearing one of many project delays.

The pipeline cost estimate has mushroomed 75 percent — to \$7 billion — since its inception in early 2014, largely due to regulatory conflicts. The route distance lengthened 9 percent, to 600 miles, on a circuitous path crossing much more environmentally sensitive, mountainous terrain and generating public protest against eminent domain, mountaintop removal and water pollution.