



*Protecting the heritage, resources and economy of the Allegheny-Blue Ridge region*

P.O. Box 96 - Monterey, VA 24465 | (703) 298 - 8107 | LEWFREEMAN@GMAIL.COM | WWW.ABRALLIANCE.ORG

April 1, 2020

David Paylor  
Director  
Virginia Department of Environmental Quality  
[david.paylor@deq.virginia.gov](mailto:david.paylor@deq.virginia.gov)

Submitted via email

Dear Mr. Paylor:

Some time ago, Rick Webb, the chair of the Allegheny-Blue Ridge Alliance's Compliance Surveillance Initiative Committee, spoke to Ben Leach of your Department about plan reviews for certain land-disturbing activities by companies associated with natural gas pipelines. Rick's understanding from that conversation is that erosion and sediment control plans and stormwater plans for some Atlantic Coast Pipeline (ACP) sites removed from the actual pipeline construction areas, such as storage yards, may be handled by the agency in the same manner or in combination with those for the actual pipeline work. We believe such an approach is legally and logically improper, if that is indeed DEQ's practice or intent. Could you clarify the Department of Environmental Quality's (DEQ) position on this issue?

As you know, certain construction projects are regulated as "linear projects," and are required to submit annual standards and specifications (AS&S). Under the Code of Virginia, the ACP falls under that definition, as it involves "[c]onstruction, installation, or maintenance of" a natural gas pipeline. Va. Code § 62.1-44.15:31.B.1.

There are, however, significant land-disturbing activities proposed by Dominion that, while they may have some relation to the ACP project, are not "construction, installation, or maintenance" of a pipeline. Equipment yards and other types of facilities that are not directly connected to or adjacent to the actual right of way for the pipeline are not parts of the linear project and must not be regulated as such. Rather, such activities must be addressed in the same manner as any normal land-disturbing project by Dominion or any other party.

There are possible consequences of treating these separate and distinct sites as part of the linear project that should be avoided.

First, we are concerned that, if DEQ attempts to improperly cover these additional sites under the same review process used for the actual ACP operations, the Department will allow Dominion to forego preparation of detailed stormwater management plans (SWMPs), as it has for the pipeline sites. The DEQ has ruled that detailed SWMPs need

not be submitted or approved for the ACP, based on an assumption that the runoff characteristics for finished pipeline rights of way would be unchanged from the pre-development conditions.

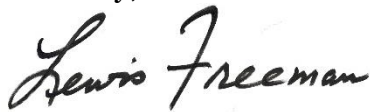
As we have repeatedly asserted, this assumption is not supported by technical analysis and is simply nonsensical. However, it has apparently been applied in DEQ's approval of Dominion's AS&S and of detailed plans for the ACP. For Dominion's activities that are not part of the linear project though, full SWMPs must be required.

Second, projects covered under the AS&S requirements are reviewed by the DEQ and local governments are excluded from their normal roles for projects in their jurisdictions. As the kinds of separate sites we address here are not parts of linear projects and therefore ineligible for AS&S treatment, local governments that have the authority to conduct their own erosion and sediment control (ESC) and stormwater management programs must be the primary reviewers in these cases.

We ask that you ensure that both ESC plans and SWMPs be submitted and properly reviewed for any Dominion land-disturbing activity that is not part of the linear project and that local authorities are able to play their rightful roles. Please inform us of your determination on these matters.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Lewis Freeman". The signature is written in a cursive, flowing style.

Lewis Freeman  
Executive Director

cc: Ben Leach, DEQ