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Bath & Highland Counties – Virginia

Conservation groups ask to supplement pipeline report

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BY JOHN BRUCE • STAFF WRITER

MONTEREY — Conservation groups including Highlanders for Responsible Development filed a request Monday to the Federal Energy Regulatory Commission to supplement the environmental impact statement for the proposed Atlantic Coast Pipeline with new information.

‘Different picture’

“New information arising since the commission issued its EIS for the ACP in July 2017 presents a seriously different picture of the project’s available alternatives and environmental impacts than the one considered by the commission,” the more than 4,000-page procedural motion states. They include:

- Alternatives — “The region’s energy future has undergone a dramatic shift away from gas-fired power generation while the ACP’s projected cost has ballooned and its timeline has been pushed back, compelling the commission to revisit its consideration of alternatives.”
- Vulnerable species — “Surveys have documented multiple new occurrences of the endangered rusty-patched bumble bee along the ACP route, and the U.S. Fish and Wildlife Service has proposed critical habitat for the newly listed candy darter (endangered) and yellow lance (threatened) in streams the pipeline would cross.”
- Water quality — “Well-documented landslides and sedimentation problems along the ACP’s steep terrain, combined with the rollback of federal water protections relied on by the commission, indicate the project’s impacts to water quality would be more substantial than previously analyzed.”

- Environmental justice — “The Commonwealth of Virginia and Atlantic Coast Pipeline LLC have now recognized the existence of a minority environmental justice population in Union Hill, Va., neighboring the ACP’s proposed Buckingham Compressor Station.”
- Climate change — “Scientific understanding about the anticipated impacts of climate change, both globally and in the area of the ACP, has expanded dramatically since the publication of the EIS.”
- Cumulative impacts — “The majority of the ACP’s construction is now anticipated to occur between 2020 and 2021 alongside newly proposed area projects whose cumulative impacts the commission never considered.”

The groups said that in light of substantial new information, FERC’s prior environmental review of the ACP is “stale and fails to address significant effects of the project.”

The ACP is far from complete, they pointed out — less than 6 percent of the 604-mile pipeline has been installed — “and cannot be completed without further action by the commission, including a decision whether to extend the ACP’s construction and in-service deadline of October 2020.”

As such, they said, the National Environmental Policy Act requires FERC to analyze new information and disclose its analysis for public review. The conservation groups requested that FERC supplement the EIS to address the new information, circulate the supplemental EIS for public comment, and stay its certificate of public convenience and necessity for the ACP pending finalization of the supplemental EIS.

“The commission’s NEPA obligations do not end with issuance of an EIS, preventing the commission from putting on blinders to adverse environmental effects,” they said. “So long as there is ‘remaining government action (that) would be environmentally significant’ and the commission still has ‘a meaningful opportunity to weigh the benefits of the project versus the detrimental effects on the environment,’ the commission has a continuing duty to supplement its environmental analysis. Unmistakably there is remaining action by the commission that would be environmentally significant.”

Pipeline construction has been halted since December 2018 and multiple agency approvals remain outstanding, they pointed out. “Even if Atlantic secures these missing permits, the commission must issue orders authorizing construction before Atlantic can resume building the pipeline.”

Because the ACP’s developers have indicated construction will last until at least the end of 2021, FERC must also decide whether to extend the Oct. 13, 2020 deadline it imposed on the ACP to complete construction and place the pipeline into service, the groups noted. “And even after issuing such orders, the commission would retain stop-work authority over the project for the duration of construction.”

Authorizing construction along nearly 570 miles of the proposed route, extending the duration of construction, and retaining stop-work authority, all constitute “government action that would be environmentally significant,” they argued.

“Further, with only 35 miles of the pipeline in the ground, almost 570 miles of the project must still be constructed, requiring tree-felling, trenching, blasting through mountaintops, and installing pipe,” they continued. “Over 365 miles of the proposed route are still in approximately the same condition as the day the commission issued the EIS nearly three years ago. The commission’s opportunity to weigh the purported benefits of the project against the adverse environmental impacts is as meaningful now as it was when the commission issued the EIS three years ago.”

The groups also argue that for an environmental impact statement to serve its two main functions — informing agency decision-making and disclosing environmental impacts to the public — its analysis “must be based on accurate, up-to-date information.” As a result, they said, “an agency must supplement its environmental impact statement where there are significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts.”

Ballooning costs

“Since the July 2017 issuance of the EIS, the energy landscape of the region the ACP would serve has transformed dramatically, while the costs of the project have ballooned and its timeline has been pushed back,” they continued. “Meanwhile, significant new information has arisen regarding the project’s impacts on endangered and threatened species, water quality, environmental justice communities, and climate change, presenting ‘a seriously different picture of the environmental impact of the proposed project from what was previously envisioned,’” the filing states.

Southern Environmental Law Center filed the motion on behalf of Counsel for Alliance for the Shenandoah Valley, Cowpasture River Preservation Association, Friends of Buckingham, Friends of Nelson, Highlanders for Responsible Development, Piedmont Environmental Council, Shenandoah Valley Battlefields Foundation, Sound Rivers Inc., Virginia Wilderness Committee, and Winyah Rivers Foundation.

Counsel for Appalachian Voices filed on behalf of Chesapeake Climate Action Network, Sierra Club, and Wild Virginia Inc.

Jon Mueller filed on behalf of the Chesapeake Bay Foundation.