



NORTH CAROLINA  
Environmental Quality

ROY COOPER  
Governor

DIONNE DELLI-GATTI  
Secretary

April 16, 2021

Docket No. CP15-554-009  
Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, D.C. 20426

These comments are submitted pursuant to the Notice of Amendments of Certificates and Opening of Scoping Period published in the *Federal Register* on March 8, 2021,<sup>1</sup> wherein the Federal Energy Regulatory Commission (FERC or the Commission) requests input from the public and interested agencies regarding the proposed restoration activities associated with the disposition of the Atlantic Coast Pipeline (ACP) and public comments on the scope of issues to address in the environmental document. The North Carolina Department of Environmental Quality (NCDEQ) provides the following comments for the Commission's consideration in its review of the proposed restoration activities associated with the disposition of the ACP. It is NCDEQ's understanding that following the cancellation of the pipeline, ACP submitted its Disposition and Restoration Plans to FERC on January 4, 2021. The Plans included proposed restoration activities that would modify the original authorization to the extent such that it is appropriate to treat this Plan as an amendment to the Certificate of Public Convenience and Necessity FERC issued for the project in October 2017.

It is in this context that NCDEQ submits the following comments in order to ensure ACP conducts its proposed restoration and disposition activities expediently and in a manner that protects North Carolina's waters and land resources.

#### I. Compliance with North Carolina Sedimentation Pollution Control Act of 1973 (SPCA).<sup>2</sup>

NCDEQ expects that ACP will maintain full compliance with the North Carolina SPCA and applicable regulations in Chapter 04 of Title 15A of the North Carolina Administrative Code (NCAC)<sup>3</sup> for all land-disturbing activities, including:

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<sup>1</sup> *Federal Register*. (2021, March 8). Vol. 86, No. 43. Notices. Retrieved from <https://www.govinfo.gov/content/pkg/FR-2021-03-08/pdf/2021-04746.pdf>

<sup>2</sup> Article 4 of N.C.G.S §113A. Sedimentation Pollution Control Act of 1973. Retrieved from [https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter\\_113A/Article\\_4.pdf](https://www.ncleg.gov/EnactedLegislation/Statutes/PDF/ByArticle/Chapter_113A/Article_4.pdf)

<sup>3</sup> 15A NCAC Chapter 04. Sedimentation Control. Retrieved from <http://reports.oah.state.nc.us/ncac.asp?folderName=1Title%2015A%20-%20Environmental%20Quality\Chapter%2004%20-%20Sedimentation%20Control>



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- Compliance with the NPDES NCG010000 (NCG01) Construction Storm Water General Permit,<sup>4</sup> which includes, but is not limited to: (1) adherence to the approved sediment and erosion control plan, (2) proper installation and maintenance of sediment control measures, and (3) weekly self-inspections conducted by qualified staff.
- Provision of ground cover on all exposed areas within the required statutory and regulatory time frames:
  - Ground cover requirements at project completion are found at both N.C.G.S. §113A-57(3) and 15A NCAC 04B .0107(b).
  - Ground cover requirements for exposed slopes are found at N.C.G.S. §113A-57 (2).
  - Ground cover requirements for the NCG01 Construction Storm Water General Permit are included in Part II, Section E.

Should changes to the approved sediment and erosion control plan for proper closeout be necessary including, but not limited to, changes to the limits of disturbance and/or final graded slopes, ACP must submit a revised sediment and erosion control plan to the appropriate NCDEQ regional office for approval.<sup>5</sup> The permitted projects will remain open and subject to compliance with the SPCA and accompanying rules and permit conditions until final stabilization is achieved. All projects (linear work, laydown yards, etc.) will be closed once each entire permitted project is stabilized and suitable for closure based on confirmation by NCDEQ Division of Energy, Minerals, and Land Resources (DEMLR). Vegetative stabilization requires a minimum of one growing season (year) in order to be considered “permanent.” The potential exists to reopen each project for up to three years from the date of the closure inspection if DEMLR receives complaints or discovers issues with the project.

Should questions arise during restoration and disposition that involve land-disturbing activities or stabilization of the project areas, ACP should contact Bill Denton, P.E. and Tim LaBounty, P.E., Regional Engineers for the Raleigh Regional Office and Fayetteville Regional Office, respectively. Their contact information is as follows: [bill.denton@ncdenr.gov](mailto:bill.denton@ncdenr.gov), 919-791-4206 and [tim.labounty@ncdenr.gov](mailto:tim.labounty@ncdenr.gov), 910-433-3391.

## II. Compliance with North Carolina State 401 Water Quality Certification and Buffer Authorization (WQC No. WQC004162 and DWR# 20140957v2).

NCDEQ expects that ACP will continue to fully comply with the conditions set forth in its 401 Water Quality Certification and all Riparian Buffer authorization issued January 26, 2018. Furthermore, no new or additional impacts to wetlands, waters, and riparian areas should occur without written authorization from the NCDEQ.

These expectations apply to the entire ACP project footprint in North Carolina (linear work areas, laydown yards, etc.). With respect to permitting process, it is NCDEQ's expectation that ACP modify the 401 Water Quality Certification and Riparian Buffer Authorization to encompass the new scope of work for the restoration, and NCDEQ stands prepared to review and process such a modification request. NCDEQ requires that care be taken during restoration and disposition activities to ensure that the work conducted, or that the activities at equipment storage or staging areas, do not result in new or unintentional impacts to wetlands, streams, or

<sup>4</sup> NCG01 Retrieved from [https://files.nc.gov/ncdeq/Energy%20Mineral%20and%20Land%20Resources/Stormwater/NCG010000\\_Final\\_Permit\\_2019\\_04\\_01.pdf](https://files.nc.gov/ncdeq/Energy%20Mineral%20and%20Land%20Resources/Stormwater/NCG010000_Final_Permit_2019_04_01.pdf)

<sup>5</sup> NCDEQ Regional Offices. Retrieved from <https://deq.nc.gov/contact/regional-offices>



streamside areas. Once restoration construction is completed, quarterly monitoring and documentation of restoration efforts will be required for a minimum of three years.<sup>6</sup> As restoration efforts proceed, should modifications to the 401 Water Quality Certification or to riparian buffer authorization be necessary, or if ACP has questions regarding restoration approvals and activities, monitoring timelines, or reporting, ACP should contact NCDEQ's 401 & Buffer Permitting Branch Supervisor, Paul Wojoski ([Paul.Wojoski@ncdenr.gov](mailto:Paul.Wojoski@ncdenr.gov) or 919-703-6371).

Thank you for the opportunity to provide comments on the proposed restoration activities associated with what NCDEQ hopes will be the expedient and thorough disposition of the ACP. I trust that these comments will be considered as the Commission develops the scope of issues to address in the environmental document. If you have any questions regarding our comments, please contact either my colleagues listed above or me at 919-707-8700, [Sushma.Masemore@ncdenr.gov](mailto:Sushma.Masemore@ncdenr.gov).

Sincerely,



Sushma Masemore, P.E.,  
Acting Assistant Secretary  
North Carolina Department of Environmental Quality

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<sup>6</sup> Per Condition #12 of Certification/Buffer Authorization issued January 26, 2018, 15A NCAC 02H .0506(b)(2), and 15A NCAC 02H .0507(c)

