

# SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 434-977-4090

201 WEST MAIN STREET, SUITE 14  
CHARLOTTESVILLE, VA 22902-5065

Facsimile 434-977-1483

June 2, 2016

*eFiled in FERC Docket Nos. CP15-554 and CP15-554-001*

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

**Re: Scoping Comments for the Proposed New Route of the Atlantic Coast Pipeline, FERC Docket Nos. CP15-554 and CP15-554-001**

Dear Secretary Bose:

Thank you for the opportunity to comment on the proposed new route of the Atlantic Coast Pipeline. The Southern Environmental Law Center submits these comments in response to the Commission's May 3, 2016, Supplemental Notice of Intent to Prepare an Environmental Impact Statement on behalf of Shenandoah Valley Network, Highlanders for Responsible Development, Virginia Wilderness Committee, Shenandoah Valley Battlefields Foundation, Natural Resources Defense Council, Dominion Pipeline Monitoring Coalition, and National Parks Conservation Association.

These organizations, together and individually, have previously submitted scoping comments, protests, and other comments on the proposed pipeline which are incorporated here by reference. Specifically, the organizations incorporate the following filings into these comments:

- Southern Environmental Law Center, Appalachian Mountain Advocates, Center for Biological Diversity, *et al.*, Scoping Comments on the Proposed Atlantic Coast Pipeline (April 28, 2015), eLibrary No. 20150428-5504.
- Dominion Pipeline Monitoring Coalition, Scoping Comments on the Proposed Atlantic Coast Pipeline (April 28, 2015), eLibrary No. 20150428-5308.
- Natural Resources Defense Council, Scoping Comments on the Proposed Atlantic Coast Pipeline (May 1, 2015), eLibrary No. 20150501-5393.

- Letter to Thomas Speaks, Forest Supervisor, George Washington and Jefferson National Forests from Southern Environmental Law Center, *et al.* (Sept. 18, 2015), eLibrary No. 20150918-5081.
- Shenandoah Valley Network, *et al.*, Motion to Intervene and Protest in Dockets CP15-554, 555 (Oct. 23, 2015), eLibrary No. 20151023-5321.
- Shenandoah Valley Network, *et al.*, Motion for Leave to Answer and Answer (Jan. 4, 2016), eLibrary No. 20160104-5497.
- Shenandoah Valley Network, *et al.*, Comments and Answer Opposing Atlantic Coast Pipeline LLC's Request to Expedite Processing of Its Application (April 12, 2016), eLibrary No. 20160412-5333.
- Dominion Pipeline Monitoring Coalition, Scoping Comments for the Proposed New Route of the Atlantic Coast Pipeline, FERC Supplemental Notice dated May 3, 2016 (June 2, 2016), eLibrary No. 20160602-5208.

Moreover, the organizations intend to bring additional information to the Commission's attention as review of the Atlantic Coast Pipeline proceeds. The Commission's project manager, Kevin Bowman, has assured citizens and local organizations that comments submitted after June 2, 2016, would be accepted into the administrative record and considered.<sup>1</sup>

## COMMENTS

In January 2016, the U.S. Forest Service rejected a route for the Atlantic Coast Pipeline that would have cut over Shenandoah Mountain, Cheat Mountain, and Back Allegheny Mountain in the George Washington and Monongahela National Forests.<sup>2</sup> The agency based its decision on its legal obligations to protect imperiled species, including the Cow Knob salamander and the federally threatened Cheat Mountain salamander, and a rare ecosystem, the red spruce forests of West

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<sup>1</sup> See Email from K. Bowman, FERC, to L. Freeman, Allegheny Blue Ridge Alliance.

<sup>2</sup> See Letter from Kathleen Atkinson and Tony Tooke, Reg'l Foresters, U.S. Forest Serv., to Leslie Hartz, Atlantic Coast Pipeline, LLC (Jan. 19, 2016), eLibrary No. 20160121-5029.

Virginia.<sup>3</sup> We strongly support the Forest Service’s decision. Not only will it help safeguard these species and ecosystems consistent with the law, but it will keep large tracts of natural forests intact, protect trout streams and community water supplies, and insure that one of the least developed regions of the eastern U.S. remained untrammelled.

Atlantic Coast Pipeline, LLC, (“Atlantic”) the project developer, hastily responded to the Forest Service’s decision with a revised route, known as GWNF-6, a 95.7 mile horseshoe that cuts south around Cheat, Back Allegheny, and Shenandoah Mountains and then heads north up the Deerfield Valley to rejoin the previous route.<sup>4</sup> Instead of holistically reassessing its project, Atlantic chose an expedient and superficial revision to the hurdles it faced.

But the unique environment of western Virginia and West Virginia does not end at the boundary of the national forests. Although the proposed new route would involve less public lands than the initial route, it still carves through the scenic and sensitive landscape—what the Forest Service called the “wildland core”—of the central Appalachians.<sup>5</sup> The route would fragment unbroken forest tracts along the mountain ridges, including large tracts of public lands on the West Virginia-Virginia border north of the Paddy Knob special biological area and on private lands on Thorny Mountain, West Virginia, and Back Creek Mountain, Virginia.<sup>6</sup> It is well-established that the effects of forest fragmentation extend beyond disturbed corridors and push edge effects deep into forest interiors.

Atlantic itself recognizes that its proposed new route would carve through a steep, remote backcountry, and it previously rejected three alternatives, MNF 3, 4,

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<sup>3</sup> *See id.*

<sup>4</sup> *See* Atlantic Coast Pipeline, LLC, *et al.*, Response to Data Request Dated December 4, 2015 (Feb. 16, 2016), eLibrary No. 20160216-5311.

<sup>5</sup> *See* Letter from T. Speaks, U.S. Forest Serv., to K. Bose, FERC ¶¶ 299, 332 (July 30, 2015), eLibrary No. 20150730-5223.

<sup>6</sup> *See* Dominion Pipeline Monitoring Coalition, ACP Environmental Mapping System, <https://dpmc-gis.maps.arcgis.com/apps/webappviewer/index.html?id=86d265defe5543c095cc5b8c5ff9d8e6>, *last visited* (May 31, 2016).

and 5, that are very similar to the proposed new route as unsuitable for pipeline construction.<sup>7</sup> Importantly, the company acknowledged that it would have to build a road network for access to its pipeline across public and private lands.<sup>8</sup> Roads are linked to a multitude of detrimental effects for forests and wildlife. In some cases, like near Kumbrabow State Forest, West Virginia, new roads are required on both sides of the pipeline corridor because of the steep terrain, significantly increasing the footprint of the project.<sup>9</sup>

The proposed new route would intersect numerous trout streams, including tributaries of the Elk River in West Virginia, and crosses the Greenbrier River and the Cowpasture River, considered one of the most pristine waterways in Virginia.<sup>10</sup> If Atlantic attempts to bulldoze and trench up and over steep ridges, sediment and landslides would threaten the health of these waterways and the protected species that inhabit them like the federally endangered James spineymussel (*Pleurobema collina*).<sup>11</sup> In some cases, the proposed route would cross the same stream or river multiple times such as Mill Creek in the Deerfield Valley.<sup>12</sup>

The proposed new route would also cross central Appalachian karst valleys in West Virginia and Virginia.<sup>13</sup> These valleys are known for sinking streams that disappear underground and emerge several miles downstream and caves that provide vital habitat for rare species, like the federally endangered Indiana bat

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<sup>7</sup> See Atlantic Coast Pipeline, LLC, Resource Report 10 – Alternatives, at 10-88 to 10-89 (Sept. 18, 2015), eLibrary No. 20150918-5212.

<sup>8</sup> See *id.*

<sup>9</sup> See Dominion Pipeline Monitoring Coalition, ACP Environmental Mapping System, *supra* n. 6.

<sup>10</sup> See *id.*

<sup>11</sup> See Letter to FERC & U.S. Fish & Wildlife Serv., from Freshwater Mollusk Conservation Society (April 26, 2016), eLibrary No. 20160502-5220.

<sup>12</sup> See Dominion Pipeline Monitoring Coalition, ACP Environmental Mapping System, *supra* n. 6.

<sup>13</sup> See *id.*

(*Myotis sodalis*) and Virginia big-eared bat (*Corynorhinus townsendii virginianus*) and the federally threatened northern long-eared bat (*Myotis septentrionalis*).<sup>14</sup> Because of their unique biological and geological features, the National Park Service designated Butler and Breathing Caves in Bath County as National Natural Landmarks.<sup>15</sup> Disruption of the underground karst system could impact springs and streams several miles away and interfere with bat hibernacula.

Within the study corridor for the proposed new route, the Forest Service has recognized unique, fragile features that warrant protection on public lands. In the George Washington National Forest, these include the Jerkentight Roadless Area and special biological areas, like the sinkhole pond at Browns Pond and the central Appalachian shale barrens at Ratcliff Hill, Big Cedar, and Reubens Draft which are habitat for the federally endangered shale barren rock cress (*Boechera serotina*).<sup>16</sup>

Of course, the ecosystems and values at stake extend beyond the ownership boundaries of the forest. The proposed new route will bisect eight conservation easements in Highland, Bath, and Augusta Counties in Virginia where landowners and communities recognize the conservation value of their properties and have taken steps to protect them.<sup>17</sup> Under Virginia law, conservation easements cannot be converted to other uses unless the local government determines that the conversion is “essential to the orderly development and growth of the locality” and is “in accordance with the official comprehensive plan.”<sup>18</sup> At least one locality has

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<sup>14</sup> See Va. Dep’t of Conservation & Recreation, Karst Resources of the Upper James and Upper Roanoke River Basins, <http://www.dcr.virginia.gov/natural-heritage/document/upper-james-roanoke-2008.pdf>, last visited June 2, 2016.

<sup>15</sup> See Nat’l Park Serv., Butler Cave-Breathing Cave, <http://www.nature.nps.gov/nnl/site.cfm?Site=BUCA-VA>, last visited June 2, 2016.

<sup>16</sup> See Dominion Pipeline Monitoring Coalition, ACP Environmental Mapping System, *supra* n. 6; U.S. Forest Serv., George Washington Nat’l Forest, Forest Plan Management Prescription Allocation Map – South Half (Nov. 2014), [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprd3800549.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3800549.pdf).

<sup>17</sup> See Dominion Pipeline Monitoring Coalition, ACP Environmental Mapping System, *supra* n. 6.

<sup>18</sup> Va. Code Ann. § 10.1-1704.

already determined that the proposed new route for the pipeline does not meet this standard.<sup>19</sup> Pipeline construction and maintenance would significantly impair the conservation value of these easement lands, reduce property values, and impact rural communities and the quality of life in this region.

It is this collection of features—steep slopes; large tracts of intact, natural forests; pristine waterways; karst valleys; and protected species—that characterize the entire region, whether on public or private lands. The Commission must analyze the pipeline’s impact on each of these features, and its cumulative impacts, in the environmental impact statement. An interstate pipeline cannot be sited through this region without significant environmental damage, and a comprehensive NEPA review is necessary for landowners, local communities, and local governments to understand the full scope of impacts from the Atlantic Coast Pipeline. The Forest Service has done an exceptional job of objectively evaluating the impacts of this project on the public lands. But even though Atlantic has sought to minimize the rigorous scrutiny that the Forest Service gave to its initial route, the private lands here are no less valuable.

## **CONCLUSION**

We strongly disagree with Atlantic’s premise that it can solve the problems that it created when it sought to force its project through the wildland core of the central Appalachians with 95.7-mile horseshoe that skirts national forest lands but burdens private lands of equally important conservation value. Challenges in the original route cannot be remedied simply by shifting it from public to private lands, because many of the ecological values at stake exist on both. For the proposed new route, significant environmental impacts are unavoidable because of the character of the landscape—steep slopes; large tracts of intact, natural forests; pristine waterways; karst valleys; and protected species. The Forest Service’s January 2016 decision rejecting the route over Cheat, Back Allegheny, and

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<sup>19</sup> Letter to Martha Little, Virginia Outdoors Found., from Carolyn Bragg, Augusta Cnty. Bd. of Supervisors (April 27, 2016), *available at* [http://www.svnva.org/wp-content/uploads/Augusta-County-Letter-to-VOF-4\\_27\\_2016.pdf](http://www.svnva.org/wp-content/uploads/Augusta-County-Letter-to-VOF-4_27_2016.pdf).

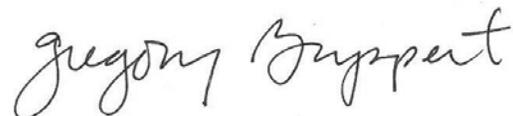
Shenandoah mountains firmly establishes that not all impacts of pipeline construction can be mitigated in this scenic and sensitive region.

We urge the Commission to fully develop and evaluate alternatives that would avoid the impacts of the Atlantic Coast Pipeline to the steep, forested mountain landscape of the central Appalachians for both public and private lands. Under NEPA, the alternatives analysis is the “heart of the environmental impact statement.”<sup>20</sup> Here, the Commission’s evaluation of alternatives to the Atlantic Coast Pipeline must include at a minimum:

1. Alternatives that make efficient use of existing pipeline capacity, by improving scheduling and by requiring flexibility in the frequency, flows, and quantities of natural gas delivery;
2. Alternatives that that rely on reversal of existing pipeline infrastructure, like the proposed reversal of the Transco Mainstem, and other upgrades to existing pipelines to deliver natural gas from the Marcellus region to the Southeast and Mid-Atlantic;
3. Alternatives based on the outcome of a region-wide planning process, such as a programmatic environmental impact statement, that fully considers and evaluates the region’s need for new natural gas infrastructure; and
4. Alternatives that maximize the use of clean energy, including energy efficiency and renewable energy.

Thank you for your consideration of these important issues.

Sincerely,



Gregory Buppert

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<sup>20</sup> 40 C.F.R. § 1502.14.

Southern Environmental Law Center  
201 West Main Street, Suite 14  
Charlottesville, VA 22902  
434.977.4090  
gbuppert@selcva.org

**CERTIFICATE OF SERVICE**

I hereby certify that I have on June 2, 2016, caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.

/s/Gregory Buppert \_\_\_\_\_

Gregory Buppert  
Southern Environmental Law Center