



**CHESAPEAKE BAY FOUNDATION**  
*Saving a National Treasure*

June 2, 2016

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

Re: Scoping Comments: Atlantic Coast Pipeline Project, Docket No. CP15-554-000

Dear Secretary Bose:

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On behalf of the Chesapeake Bay Foundation, Inc. ("CBF"), I submit the following comments regarding the Atlantic Coast Pipeline Project, Docket No. CP15-554-000, with specific reference to the environmental issues relating to the route changes and other modifications identified in the Supplemental Notice of Intent to Prepare an Environmental Impact Statement and Proposed Land and Resource Plan Amendments for the Proposed Atlantic Coast Pipeline, Request for Comments on Environmental Issues Related to the New Route and Facility Modifications, and Notice of Public Scoping Meetings ("Supplemental NOI"). These comments add to (but do not replace) the CBF scoping comments previously for this project,<sup>1</sup> which are incorporated herein by reference.

**BACKGROUND**

CBF is a nonprofit organization headquartered in Maryland with offices throughout the Chesapeake Bay watershed. With over 216,139 members in the watershed (more than 69,000 in Virginia), CBF is the largest regional organization dedicated solely to saving the Chesapeake Bay, and it carries out its mission through restoration, advocacy, education and litigation. In Virginia, CBF has offices in Richmond and Virginia Beach and grassroots staff in Nelson and Accomack Counties. It conducts restoration activities along Chesapeake Bay tributaries in Augusta County and other locations in the Shenandoah Valley, Fairfax County along the Potomac River, Charles City County on the James River, and at its oyster restoration center in Gloucester County, which serves as a base for restoration operations throughout the Commonwealth's tidal waters. CBF also operates award-winning on-the-water education programs for students, teachers and administrators from its island centers in the Chesapeake Bay and through boat-centered programs on the James and Cowpasture Rivers and other waterways.

CBF's mission-driven work of restoring the Chesapeake Bay, its tributaries and watershed is focused on supporting full implementation of the Chesapeake Bay

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<sup>1</sup> CBF scoping comments, filed April 27, 2015, at FERC Docket Nos. PF15-6-000

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Total Maximum Daily Load for Nitrogen, Phosphorus and Sediment and the corresponding watershed implementation plans of the 7 major watershed jurisdictions (collectively, the “Blueprint”).<sup>2</sup> In its earlier comments, CBF expressed broad concerns about impacts to Blueprint compliance anticipated to arise from construction and operation of the ACP. Specifically, CBF identified project-caused impacts to surface water resources, including springs, seeps, wetlands, streams, rivers and the Chesapeake Bay; impacts to forest areas and other vegetation; impacts to recreational areas, including national forest and other protected lands; and impacts to air quality due to construction and operations.

#### CHANGES IDENTIFIED IN THE SUPPLEMENTAL NOI

The Supplemental NOI proposes a “major route change” through the Monongahela National Forest (MNF) and the George Washington National Forest (GWNF) that would affect Augusta, Highland, and Bath Counties in Virginia. Other changes would affect Nelson and Dinwiddie Counties. According to ACP, the changes would increase the total length of the pipeline by about 44 miles and would increase the size of the compressor station in Buckingham County. Overall, the modifications appear to have some anticipated benefits and detriments.<sup>3</sup> These environmental issues are more specifically addressed below.

#### SIGNIFICANT ENVIRONMENTAL ISSUES: MODIFIED PROJECT

A. Impacts of the Modified Route on Surface Waters Resources, including springs, seeps, wetlands, streams, rivers and the Chesapeake Bay

CBF’s earlier-filed comments regarding anticipated impacts of the ACP project to Virginia’s (and the watershed’s) surface water resources remain highly germane, notwithstanding the route changes proposed in the Supplemental NOI.

The modified route will slightly reduce the number of Virginia stream crossings (i.e., Beaver Pond Creek; potentially, the Spruce Creek Tributary) and may also slightly reduce impacted wetlands. Such reductions are certainly desirable. However, the total number of water bodies slated to be crossed (more than 300 in Virginia) and wetland acres to be

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<sup>2</sup> See generally Chesapeake Bay Total Maximum Load for Nitrogen, Phosphorus and Sediment (“Bay TMDL”), U.S. Environmental Protection Agency, December 29, 2010, available at <http://www.epa.gov/reg3wapd/tmdl/ChesapeakeBay/tmdlexec.html>; see also Virginia’s Chesapeake Bay TMDL Phase I Watershed Implementation Plan (“Phase I WIP”), November 29, 2010, available at <http://www.deq.virginia.gov/Portals/0/DEQ/Water/TMDL/Baywip/vatmdlwipphase1.pdf>.

<sup>3</sup> See Supplemental NOI, at 4-6.

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impacted by the modified route remain concerning. More generally, we recognize that the modified route may “avoid sensitive habitats and land uses”<sup>4</sup> and “avoid an area of high slip potential”<sup>5</sup>; however, the modifications do not in any way minimize concerns, identified in CBF’s earlier-filed comments, about the increases in deleterious sediment and nutrient loads that will reach local and Bay waters during construction and post-construction operation. These concerns are exacerbated by (1) the project’s large-scale land disturbing activities in sensitive and riparian areas and in areas of steep and unstable slopes, narrow valleys and karst terrain, and by (2) the danger of inadequate erosion and sediment regulatory controls during construction and stormwater management following the end of construction.<sup>6</sup>

For all of these reasons, the project, even as modified, will almost certainly impact the ability of Virginia to meet its commitments to restore the Chesapeake Bay and tributaries streams pursuant to the Blueprint.

Recommendation. The EIS should (1) quantify expected changes in pollution loading rates to local waters and the Bay under all land use proposals, (2) describe how all new nutrient and sediment loads will be offset as required by the Blueprint and local TMDLs, (3) quantify expected changes in pollution loading rates to impaired streams without TMDLs and prepare to mitigate those loads. The EIS should consider local conditions, including steep and karst terrain that may weaken or defeat the effectiveness of pollution requirements and evaluate alternative strategies and new regulatory measures tailored to local conditions.

#### B. Impacts of the Modified Route on Forested Areas and other vegetation

CBF’s earlier-filed comments regarding anticipated impacts of the ACP project to Virginia’s (and the watershed’s) forested areas and other vegetation remain highly germane, notwithstanding the route changes proposed in the Supplemental NOI.

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<sup>4</sup> See Supplemental NOI, at 4 (referring to GWRN Route Modifications).

<sup>5</sup> See Supplemental NOI, at 5 (referring to Highway 290 Route Adjustment).

<sup>6</sup> See CBF’s earlier filed comments at 3-4; see also Virginia Phase I Watershed Implementation Plan, at 86.

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According to the Supplemental NOI and related materials, the new proposed route will add almost 40 miles to the total length of the pipeline.<sup>7</sup> It appears that this increase is due, at least in part, to laudable efforts to avoid sensitive and protected lands. Nonetheless, the overall impacts to forested areas and other vegetation that the project, as modified, will cause are substantial.<sup>8</sup> For these reasons and those set out in CBF's earlier-filed comments, CBF recommends as follows:

Recommendation. The EIS should identify and recommend final adoption of routes that avoid large forest blocks, follow existing disturbed or cleared areas such as utility or similar easements, minimize forest fragmentation and forest losses especially in riparian areas, and provide for rapid revegetation of all disturbed corridors.

C. Impacts of the Modified Route on Recreational Areas, including National Forest Land

CBF's earlier-filed comments regarding anticipated impacts of the ACP project to Virginia's (and the watershed's) recreational areas, including national forest lands, remain highly germane, notwithstanding the route changes proposed in the Supplemental NOI.

We recognize and appreciate that the modified route as described in the Supplemental NOI would reduce the impacts to some important public and private protected resources. Thus, for the Virginia region, the Supplemental NOI describes the GWNF 6 Route Modification as designed to reduce potential impacts on the Cheat Mountain salamander, West Virginia Northern flying squirrel and Cow Knob salamander and to avoid sensitive habitats and land uses. It explains the Singleton Route Modification as avoiding an open-space conservation easement held by Virginia Outdoors Foundation, the Horizons Village 2 Route Modification as avoiding crossing the Spruce Creek Tributary Conservation Site, the Highway 29 Route Adjustment as avoiding an area of high slip potential and optimize the amount of agricultural and open land crossed, and the Beaver Pond Creek Route Adjustment as reduce the number of crossings of Beaver Pond Creek. To the extent that these changes will minimize impacts to public and private sensitive and protected lands, they are positive.

However, even as modified, the proposed pipeline will still traverse and impact both the George Washington and Monongahela National Forests and will do so without following

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<sup>7</sup> Supplemental NOI, at 3-4.

<sup>8</sup> See CBF's earlier-filed comments, at 4-6.

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the designated utility corridor within the George Washington National Forest.<sup>9</sup>

Recommendation. The EIS must realize and quantify any reduction in use or enjoyment, educational value or public access under all proposed and alternative pipeline routes and prepare to require compensation for such losses.

D. Impacts on Air Quality due to Construction and Operation

CBF restates and incorporates herein its earlier-filed comments regarding anticipated impacts of the ACP project to Virginia's (and the watershed's) air quality; these comments remain unchanged as a result of the route changes proposed in the Supplemental NOI.

CONCLUSION: CUMULATIVE IMPACTS TO BE CONSIDERED

CBF appreciates ACP's efforts to date in response to concerns about the project's likely impacts, including those reflected in the proposed route modifications. It is clear that myriad concerns remain for the ACP project alone. These concerns are exacerbated when account is taken of other pipeline infrastructure in Pennsylvania and West Virginia that is associated with the directly related Supply Header Project, Docket PF15-6-000, and with the broad drilling, extraction, processing and transportation of natural gas in the Marcellus Shale Basin in the western Chesapeake Bay watershed. CBF urges the FERC, therefore, to consider the cumulative impacts associated with all of these projects as directed by the D.C. Circuit Court of Appeals in *Delaware Riverkeeper Network, et al. v. FERC*, 753 F. 3d 1304 (2014).

We appreciate the opportunity to provide these comments.

Sincerely,



Margaret L. (Peggy) Sanner  
CBF Virginia Assistant Director and Senior Attorney

cc. Rebecca LePrell – CBF Virginia Executive Director  
Chris Moore – CBF Virginia Senior Scientist  
Joseph Wood – CBF Virginia Staff Scientist

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<sup>9</sup> See Supplemental NOI, at 8.



Document Content(s)

ACP supp scoping 6 2 2016 fnl.DOCX.....1-6