

Untangling WV DEP'S Role in Gas Pipeline Permitting

By Cindy Rank

In mid-September members of a coalition of groups including West Virginia Highlands Conservancy, West Virginia Rivers Coalition and the Dominion Pipeline Monitoring Coalition released a report they commissioned to be done by the Morgantown, WV consulting firm Downstream Strategies to investigate opportunities for public input related to the onslaught of proposed natural gas pipeline construction projects bombarding the state.

The groups' initial research resulted in a report entitled *Atlantic Coast Pipeline in West Virginia: Opportunities for Public Engagement regarding Erosion and Sedimentation*, and is available at Dominion Pipeline Monitoring Coalition website: <http://pipelineupdate.org/>.

The main focus of the report is the role of the WV Department of Environmental Protection (WVDEP) in permitting the major Atlantic Coast Pipeline (ACP), a 42 inch diameter gas transmission pipeline set to cross a total of 100 water bodies within the state of West Virginia including many high quality streams in the Monongahela National Forest. The pipeline is to begin in Harrison County and pass through Lewis, Upshur, Randolph and Pocahontas before going on into Virginia and North Carolina.

Much has been written in past issues of *the Highlands Voice* about the ACP and pathways for citizens to have input into the Federal Energy Regulatory Commission (FERC) permitting process for ACP. This new Downstream Strategies report looks deeper into the role of the state West Virginia Department of Environmental Protection agency permitting process for this and other gas pipelines.

The objective of this report is to inform groups and individuals wanting to be engaged in permitting processes related to the ACP in West Virginia and Virginia about "opportunities provided by state and federal water-related regulations to effectively participate in and ensure rigorous environmental review and regulatory compliance in West Virginia.

"The report focuses on erosion and sedimentation of surface waters, which can be caused by construction within the pipeline Right of Way (ROW) as well as related roads and infrastructure, including stream and wetland crossings. Pipeline construction can also alter runoff properties of disturbed areas, leading to additional surface water flows that can cause additional erosion and sedimentation. Erosion and sedimentation causes nearby waterways to be unnaturally muddy to the point of impacting stream life and raises serious concerns for water quality.

"In addition, this report considers surface water impacts other than those caused by erosion and sedimentation as well as potential effects on groundwater resources in karst areas. It makes

recommendations for what organized groups and the public at large can do to participate effectively in two permitting processes:

1. the oil and gas construction Stormwater National Pollutant Discharge Elimination System (NPDES) permit issued by WVDEP (Chapter 2) and
2. the dredge and fill ("404") permit issued by the United States Army Corps of Engineers (USACE), including the 401 certification issued by WVDEP (Chapter 3).

"Opportunities exist for concerned citizens to participate in both of these permitting processes to ensure that issued permits protect water resources and that the regulatory agencies appropriately inspect and enforce the permits after issuance."

Whether related to the larger transmission lines like ACP, the Mountain Valley Pipeline, and the up and coming Columbia Gas Mountaineer Xpress from Marshall to Wayne counties, or the "smaller" gathering lines like the Stonewall/ Momentum line from Wetzel through Lewis to Braxton counties which enable production from individual well sites to be collected and sent to nearby compressor stations on its way to the larger transmission lines, WVDEP Storm Water Permits for Oil & Gas as well as its Section 401 authority under the Clean Water Act to certify pipeline construction activities come into play.

Residents along these gathering lines are concerned about the damage they're already seeing to their land and local streams, so we're working to be able to better educate ourselves and others about WVDEP's role in the permitting process.

Pipeline companies promise to comply with regulations and avoid impacts to landowners, but the reality on the ground is quite different. A case study of another Dominion pipeline cited in the Downstream Strategies report and more recent settlement agreement between MarkWest and WVDEP suggest that companies are willing to pay fines they sometimes see as simply the cost of doing business. As we have seen so often with coal mining operations the reality is that while showing very little respect for either people or the environment a company's non-compliance is actually cost effective.

The report lays out points for public participation in decision-making around the Atlantic Coast Pipeline; however it presents as many unanswered questions as answers. The coalition of groups is committed to seeking clarification from the West Virginia Department of Environmental Protection on the state's storm water permitting process for natural gas pipeline construction.

More to come, so stay tuned.

The Atlantic Coast Pipeline in West Virginia: Opportunities for Public Engagement regarding Erosion and Sedimentation



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