



December 19, 2017

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

**Re: Atlantic Coast Pipeline, LLC & Dominion Energy Transmission, Inc.
Atlantic Coast Pipeline & Supply Header Project
Docket Nos. CP15-554-000, CP15-554-001, and CP15-555-000
Request for Limited Notice to Proceed**

Dear Ms. Bose,

On December 14th and 15th, the Atlantic Coast Pipeline submitted a *Request to Proceed* and a *Request for Limited Notice to Proceed* to the Federal Energy Regulatory Commission (attached). The ACP is requesting that the FERC allow them to begin tree clearing along the proposed route of the ACP based on the following:

- Confirmation that the US Army Corps of Engineers, the West Virginia Department of Environmental Protection, the Virginia Department of Environmental Quality, the Virginia Marine Resources Commission, and the North Carolina Department of Environmental Quality do not regulate tree clearing;
- “Atlantic and DETI will avoid culturally sensitive areas as detailed within the Section 106 PA during the course of performing any activity associated with the Projects. Each of these areas, as well as markings depicting “no access”, will be identified”, since the Section 106 permit has not been issued; and

- “The North Carolina Department of Environmental Quality has not yet issued its 401 WQC but confirmed that these requested activities are not regulated under Section 401 of the CWA. This confirmation is also provided in Attachment A. While not applicable to this activity, the Pennsylvania Department of Environmental Protection issued its 401 WQC on November 21, 2017, the West Virginia Department of Environmental Protection waived its 401 WQC requirements on December 6, 2017. The Virginia State Water Control Board approved its final 401 WQC on December 12, 2017, which certification will become effective upon the satisfaction of certain conditions specified therein, and confirmed in writing that the requested activities are not regulated under Section 401 of the CWA.”


A similar situation arose with the Constitution Pipeline in 2016. The New York 401 permit was still outstanding but approved by the Commonwealth of Pennsylvania. The FERC approved limited right-of-way clearing (hand cutting of trees) in Pennsylvania to allow the company to proceed during the window of time allowed for such activities. In one particular case, a landowner who had not reached an easement agreement with Constitution, but had been sued under eminent domain, was forced to allow Constitution to clear their trees. These trees were the bulk of the Holleran family’s maple trees that were already tapped for that year’s harvest and were taken down in spite of multiple requests to Constitution to wait until after the harvest. The New York Department of Environmental Quality ultimately denied the 401 Water Quality Certification and work on the project was halted. The Holleran family is now working through the court system seeking damages, and it’s important to note that Constitution did not offer compensation and has never returned to their property to clean up the felled trees, but simply left them rotting on this private property. This has resulted in significant costs to the landowners in legal fees and lost income from these maples.

The ACP is attempting to adhere to their current construction schedule by pushing the FERC to allow this hand clearing of right-of-ways without all of the permits required to do so, and, we contend, is exaggerating the status of the Virginia 401 to the FERC by stating that the VA State Water Control Board has issued a “final” 401 Water Quality Certification. The issuance of the permit is dependent on critical reports (karst, steep slopes, erosion and sediment control,

and storm water/run off) that must be submitted, reviewed by the VA DEQ, approved, and presented to the SWCB for final approval. It's imperative that the FERC consider that such review could result in possible denial of the final permit, changes in the proposed route, or further conditions placed on the Atlantic Coast Pipeline. In addition, the Section 106 permits are still outstanding, and while ACP intends to avoid these areas, adjacent properties could potentially be impacted and there is a possibility of minor or significant route changes.

We respectfully request that the Federal Energy Regulatory Commission deny approval of the ACP's Request to Proceed at this time, pending the necessary reviews and issuance of all the required permits.

Sincerely,

A handwritten signature in black ink that reads "Ernie Reed". The signature is written in a cursive, slightly slanted style.

Ernie Reed, President
Friends of Nelson