

## **ADDITIONAL INFORMATION FOR AFFECTED LANDOWNERS**

**\*\*\*NOTE\*\*\*** *The information provided here is not legal advice. Consult your attorney for specific assistance. This is consumer education for landowners seeking restoration of losses incurred because of ACP construction and release of the easement held by ACP.*

Dear ACP-impacted Landowner,

By now you may have heard that the Atlantic Coast Pipeline (ACP) has been cancelled.

Based on a review of easements filed in Nelson County, almost none address the situation we now face. In fact, this is such an unusual occurrence that, as far as we know, the Federal Energy Regulatory Commission (FERC) does not have established procedures for how to move forward, much less to do so in a way that takes landowner needs into account.

First, be assured that ACP has publicly stated that it will not seek that landowners return the money paid for the easements. However, beyond that assurance, we are on a mostly uncharted path.

ACP has asked FERC to extend its authority to build the pipeline for one year so that it may complete required restoration after the October 13, 2020 deadline to complete the project. On July 17, FERC opened a 14-day public comment period.

Thus, landowners now have a brief opportunity to tell FERC and ACP what is important to them. FERC requests comment on: a) a one-year extension of the FERC certificate for the and b) a two-year extension of the FERC certificate for the Supply Header Project (located in West Virginia). Comments can be submitted on either or both issues. The deadline is 5:00pm on Friday, August 3. Issues landowners may want to raise:

### **Release of the easements for pipeline installation and/or access roads**

At this point, ACP owns easements across many landowners' property. Unless they are released, the company can access those lands at any time and technically, the landowners are held to the limitations in use of their land as specified in the easement. Generally, that means we cannot build anything on the permanent easement, cannot plant trees or shrubs on the easement, cannot park equipment on the easement, cannot place a tent on the easement, etc. ACP owns the easement and could hold it for potential future projects or sell it to another entity. It could also release the easement, which would return control of the land to the landowners. This could be done by ACP filing a simple release in your County Clerk's Office. In cases where ACP obtained our easements via action of the federal court (to our knowledge, none of these were in Nelson County), it may be necessary to petition the court to obtain release of the easement. Landowners may want to band together to work on this as a group if such a petition is needed.

### **Reimbursement for landowner costs caused by the ACP**

Many landowners incurred a variety of costs addressing ACP's demand for an easement across their land. These include costs such as attorney fees, property assessments, other expert assistance, and meeting/court attendance. Landowners may desire to seek reimbursement for some or all of these costs incurred dealing with a project they did not initiate. If some affected landowners can quantify these costs, it will help FERC and others understand the real costs that citizens incur.

### **Restoration of disturbed land**

Tree cutting is the primary activity that has occurred in certain ACP construction areas in Virginia – although to our knowledge, ACP-implemented cutting occurred on only one property in Nelson. Additionally, there are a few properties where individual landowners cut trees expecting that construction would commence soon thereafter and assumed that ACP would eventually perform any needed restoration. Restoration needs vary from site to site. Erosion and sedimentation caused by ACP construction must be corrected for the sake of land stability and water quality. And while it is impossible to immediately replace mature trees, disturbed areas could be replanted. If landowners want ACP to restore disturbed land, they should tell FERC, and to the extent possible, specify what needs to be done.

### **COMMENT TO FERC**

The FERC request for comments provides the perfect opportunity to tell FERC what it should require of ACP in relation to landowner losses. It is more likely that remediation will occur if FERC or a court direct ACP to take action. If FERC hears from a large number of landowners, it may also signal a need for FERC to develop procedures for project cancellation that will help others in the future.

Below is a template landowners can use to create their letter. Be sure to include the docket number **CP15-554-000, et. al** and request: a) immediate release from the easement, b) restoration needs including issues specific to the property such as felled-tree removal and replanting, c) reasonable compensation for costs incurred including attorney fees, assessment costs, etc., d) anything else that's the landowner thinks is important.

### **HOW to COMMENT to FERC:**

**Include docket number CP15-554-000, et. al.** Comments must be RECEIVED by FERC by 5:00pm on Monday, August 3, 2020.

E-filing: FERC strongly prefers that we use the e-filing link on its website ([www.ferc.gov](http://www.ferc.gov)). This can be frustrating and take some time but we can help you through the process. You can also make an E-comment (<https://ferconline.ferc.gov/QuickComment.aspx>), which is a little easier, but limits your comment to 6000 characters.

Paper copy: You may submit a paper copy. Submissions sent via the U.S. Postal Service must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First

Street NE, Room 1A, Washington, D.C. 20426. If you select any other delivery service (e.g. UPS or FedX) they must be must be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 12225 Wilkins Avenue, Rockville, Md. 20852. Again, comments must be received by 5 p.m. on Monday, August 3.

### **QUESTIONS?/ NEED HELP?**

Attorney. Landowners should consult their attorney about specific concerns around their property and easement.

Friends of Nelson: Joyce Burton is our landowner liaison. She cannot give legal advice, but may be able to help if you have further questions. If you don't have her phone number already, please send an e-mail to: [info@friendsofnelson.com](mailto:info@friendsofnelson.com) and include a phone number so she can call you back.

E-filing. Contact FERC at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or call toll-free, (886) 208-3676 or TYY, (202) 502- 8659.

Other local organizations that may be able to help you submit comments or connect you with other help are:

Friends of Buckingham – Connect via [www.friendsofbuckinghamva.org](http://www.friendsofbuckinghamva.org)

Concern for the New Generation – Contact Sharon Ponton at [ponton913@msn.com](mailto:ponton913@msn.com)

## Template for a Comment to FERC

Kimberly Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE  
Washington, DC 20426

Re: Atlantic Coast Pipeline, LLC CP15-554-000, et.al. Modified Extension of Time Request

*[Insert DATE]*

Dear Secretary Bose:

ACP, LLC currently holds an easement on my property for the now cancelled Atlantic Coast Pipeline. As you consider modification of the time extension requested by ACP, I ask that you address the following items related to my property.

- 1) Release of the Easement: *(Insert something like – Please direct ACP, LLC to file a release of the easement in the jurisdiction in which it was originally filed, and to pay for any*

*reasonable attorney's fees I may incur in reviewing and negotiating changes to that release.)*

2) *Required Restoration: (Here insert information about the work you want done to return your property to its original condition. Specify if trees must be removed, fences repaired, grass sown, trees replanted, etc. as appropriate for your property. Consider describing damage incurred (so it's in the record) even if you do not request restoration.)*

3) *Reimbursement for Costs: (If you want to request this, insert something like – In the course of this project, I incurred the following costs for which I request reimbursement:*

<i>a. Attorney fees</i>	<i>\$ X,XXX</i>
<i>b. Assessment costs</i>	<i>X,XXX</i>
<i>c. Travel (x miles @\$ .58/mi)</i>	<i>X,XXX</i>
<i>d. Preparation of documents</i>	<i>X,XXX</i>
<i>e. Court transcripts</i>	<i>X,XXX</i>
<i>f. Expert assistance</i>	<i>X,XXX</i>
<i>g. Court fees</i>	<i>X,XXX</i>
<i>TOTAL</i>	<i>\$XX,XXX</i>

As you rule on ACP, LLC's request for modified time extension, please also address these landowner requests.

Sincerely,

*[First/ Last Name*

*Address*

*Address*

*Phone*

*Email address (if applicable)*