

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Atlantic Coast Pipeline, LLC)	Docket Nos.	CP15-554-000
)		CP15-554-001

MOTION TO REJECT APPLICATION, OBJECTIONS TO PROPOSED UTILITY LINE
RIGHT-OF-WAY APPLICATION AND AMENDMENT(S) TO LAND AND RESOURCE
MANAGEMENT PLAN FOR THE GEORGE WASHINGTON NATIONAL
FOREST, AND COMMENTS ON ENVIRONMENTAL ISSUES RELATED TO NEW ROUTE
AND FACILITY MODIFICATIONS
BY
WILD VIRGINIA, HEARTWOOD, DAVID SLIGH, MISTY BOOS, AND
ERNEST Q. REED, JR.,
(JUNE 2, 2016)

Wild Virginia, Heartwood, David Sligh, Misty Boos, and Ernest Q. Reed, Jr., (collectively “Petitioners”) hereby respectfully request that the Federal Energy Regulatory Commission (“FERC” or the “Commission”) reject the application filed under Docket Nos. CP15-554-000 and CP15-554-001, in accordance with FERC’s authority pursuant to 18 CFR § 157.8(c) and with FERC’s duties under the Natural Gas Act (“NGA”) 15 U.S.C. § 717 and the Administrative Procedure Act (“APA”) (5 U.S.C. 500 et seq). In addition, in response to FERC’s Supplemental Notice of Intent (“Notice”) (May 3, 2016), Petitioners object to the application by Atlantic Coast Pipeline, LLC (the “Company”) to the United States Forest Service (“USFS” or “Forest Service”) for a right-of-way to cross the George Washington National Forest (“GWNF” or the “Forest”) and to the proposal to amend the GWNF Land and Resource Management Plan (“Forest Plan”) to designate a utility corridor across the Forest. Finally, we offer comments on environmental issues related to proposed new routes and facility modifications for the Atlantic Coast Pipeline (“ACP”).

THE PETITIONERS

Wild Virginia, Heartwood, David Sligh, Misty Boos and Ernest Q. Reed, Jr. are all intervenors on the subject dockets. The organizations, Wild Virginia and Heartwood, have substantial, long-established and ongoing interests in the proposed project areas, both as organizations and on behalf of their members. Wild Virginia is a 501(c)(3) corporation licensed in Virginia and has worked for more than 20 years to protect and preserve the National Forest lands and associated ecosystems in Virginia. Wild Virginia has over 400 members in Virginia and other states who use and value the lands and waters that would be affected by the proposed project for recreational, educational and scientific purposes. Wild Virginia conducts frequent outings in the forests and mountains that would be affected by this proposal, hosting its members and the public for hiking, camping, bird watching, water quality monitoring, educational outings about forest ecosystems, and involvement in National Forest management and planning processes. Heartwood is a 501(c)(3) corporation incorporated in Indiana whose mission is to protect National Forests in Virginia and in the central and eastern United States. David Sligh, Misty Boos and Ernest Q. Reed, Jr. join this petition as members of the organizations and as individuals. They have used and valued the forests and mountains of Virginia and related ecosystems over many years for recreational, educational, and scientific purposes and intend to continue to do so. The impacts of the proposed pipeline and associated infrastructure would cause serious damage to the interests of all Petitioners.

I. MOTION TO REJECT APPLICATION

A. FERC'S AUTHORITY

The federal regulations state, at 18 CFR § 157.8(c), “[t]he Director of the Office of Energy Projects or the Director of the Office of Energy Market Regulation may . . . reject an application after it has been noticed, at any time, if it is determined that such application does not conform to the

requirements of this part.” As explained below, both procedural and substantive deficiencies in the application and in FERC’s notice of that application constitute violations of the regulations.

B. BASES FOR MOTION TO REJECT APPLICATION

1. ACP Has Failed to Fully Disclose the Nature and Extent of the Undertaking Proposed, s Required by the Regulations in Either the Original Application or the Amended Application

On September 18, 2015, Atlantic Coast Pipeline, LLC (“ACP”), filed an “abbreviated” application under section 7(c) of the Natural Gas Act and Part 157 of the Commission’s regulations requesting authorization to install, construct, own, operate, and maintain certain natural gas pipeline facilities for its proposed ACP. FERC issued a Notice of Application on October 2, 2015.

The federal regulations set out conditions under which abbreviated permits may be accepted, as follows, in pertinent parts:

When the . . . construction . . . proposed by an application do[es] not require all the data and information specified by this part to disclose fully the nature and extent of the proposed undertaking, an abbreviated application may be filed in the manner prescribed in §385.2011 of this chapter, provided it contains all information and supporting data necessary to explain fully the proposed project, its economic justification, its effect upon applicant’s present and future operations and upon the public proposed to be served, and is otherwise in conformity with the applicable requirements of this part regarding form, manner of presentation, and filing. Such an application shall (1) state that it is an abbreviated application; (2) specify which of the data and information required by this part are omitted; and (3) relate the facts relied upon to justify separately each such omission.

18 CFR §157.7(a).

ACP’s application on September 18, 2015 failed to include all information required by FERC regulations and to describe the proposed project fully, as demonstrated by the information requests from FERC and cooperating resource agencies and by the discussion below in Part IV of this petition. Information submitted by ACP subsequent to the initial application, including that accompanying the amended application, fails to fill the basic requirement to “explain fully the proposed project” and “its effect upon . . . the public proposed to be served.” Id.

The most blatant failure to meet application requirements by ACP was explained by the United States Forest Service (USFS) in a letter to FERC dated November 5, 2015. The USFS provided evidence

to show that ACP or its contractors “misrepresented” facts and concluded by saying: “In summary the Forest Service cannot use the results of these soils surveys to evaluate project effects on NFS lands. Furthermore, the Forest Service recommends the Federal Energy Regulatory Commission (FERC) not utilize data from soils surveys conducted to date on NFS lands in the preparation of the environmental impact statement.” Letter from Clyde Thompson, USFS to Kimberly Bose, FERC, November 5, 2015. The trustworthiness of information and the methods through which that information was obtained are plainly called into question, and one can hardly conclude that the proposal has been explained fully and accurately.

Information requests from the Commission staff in the months after ACP submitted the original application demonstrate that even the most basic information was omitted from that application in many instances. While Petitioners understand that ongoing investigations during the environmental review process will require FERC to clarify and augment the initial application, the nature and extent of information omitted from the application here cannot be justified. Just a few examples of the nature of the information requests from FERC staff are discussed below but these are merely representative of many dozens of questions and demands for information, without which the application cannot claim to “explain fully the proposed project.” In addition, requests for additional information from the USFS have been extensive and show continued failures of ACP to fully outline its plans, the risks related to its proposal, or the ways it would deal with those risks in a sufficiently detailed fashion.

In a request dated December 24, 2015, the Commission asked ACP to “[p]rovide an update on the anticipated schedule of the landslide study to include completion of the desktop analysis, field study, and risk analysis.” Thus, nearly two months after the application was filed by ACP, FERC’s only informational request of ACP was for a schedule for submittal of, among other things, a desktop analysis on landslide hazards. On a topic as important to the safety and health of the communities and environment that would be affected by this pipeline, the Commission staff’s attitude toward the requirements for even the most basic information with the application is astonishing. We assert that the alternatives analysis that was part of the application could not in any way administratively or legally adequate without at least a

“desktop” analysis of landslide potentials along the various routes examined. Further, the public had a right to know of and comment upon this information when the application was initially noticed by FERC. ACP finally supplied part of the information requested in March 2016 and projected a submittal date of July 2016 for the remainder.

2. ACP’s application did not include the information required under items (2) and (3) of 18 CFR §157.7(a).

ACP’s failure to meet the requirements of items (2) and (3) of 18 CFR §157.7(a) is blatant and undeniable, in that the application includes no mention of these requirements and not one word of explanation to fulfill these mandates. The regulation commands that the applicant “specify which of the data and information required by this part are omitted.” 18 CFR §157.7(a)(2). Instead, the application states “[t]o the extent this Application does not contain every submission required by the Commission, Atlantic respectfully requests waiver of the Commission’s regulations.” Application page 37. Thus, ACP blithely attempts to place the burden of supplying the information required under item (2) on the Commission and the public. Likewise, ACP totally ignores its responsibility to “relate the facts relied upon *to justify separately each such omission*,” as stated at 18 CFR §157.7(a)(3) (emphasis added).

The Commission has made no finding that ACP has met the requirements for submittal of an abbreviated application. In fact, the Notice of Application issued by FERC fails even to acknowledge that ACP’s application was submitted as an “abbreviated” application. The omission of the required information from the application and from FERC’s Notice is more than just a technical point. Parties responding to the Notice of Application had a right to know that this “shortcut” in supplying all information required under the standard application procedures was being requested by ACP and had no basis for commenting to the Commission as to the adequacy of the request. The “abbreviated” application must therefore be rejected by FERC and the Commission must require that a new application be submitted and noticed.

II. OBJECTION TO PROPOSED UTILITY LINE RIGHT-OF-WAY APPLICATION

As stated in the Notice, ACP has applied to the USFS to be allowed to cross the George Washington National Forest (“GWNF”). To approve this request, the USFS would “in accordance with the Minerals Leasing Act, . . . issue a right-of-way grant in response to ACP’s application for the project to occupy federal lands. The USFS may submit specific stipulations, including mitigation measures, for inclusion in the right-of-way grant related to lands, facilities, and easements within its jurisdiction.”

Notice at 8.

Petitioners object to the grant of a right-of-way for six primary reasons. First, there continues to be a lack of detailed information about the methods to be used in construction and about the risks posed to various resources. For example, not only must the crossing methods for each and every waterbody crossing be explained, detailed plans must be provided before any approval is granted, not after approval. These detailed plans must respond to the particular habitats and species found at each site and in the context of the watersheds in which these waterbodies lie.

In some cases, the ACP is proposed to cross multiple tributaries as well as the stream that these tributaries feed. Streams affected are sometimes upstream of impoundments that will continue and be affected by pollution from stream crossing and upland work for years. The inevitable damage to stream bottoms, banks, and riparian areas will destroy both aquatic and terrestrial habitats and expose coldwater streams to damaging warming.

Second, ACP has failed to demonstrate that pipeline construction is either necessary for or consistent with the best interests and present and future needs of the public. The explanations by ACP that it prefers to transport natural gas from the fracking fields in West Virginia to southeastern Virginia and North Carolina merely expresses the company’s aspiration and plan to seek profits. It does not in any way justify or explain why similar or the same results for meeting energy needs cannot be met in another way or why these particular goals are preferable at all.

Third, ACP fails to demonstrate that the project serves the American public. Recent research

demonstrates that ACP represents an overbuilding of natural gas pipeline infrastructure and that all domestic needs for natural gas in the near and foreseeable future can be easily met with existing infrastructure (Kunkel and Sanzillo, *Risks Associated With Natural Gas Pipeline Expansion in Appalachia: Proposed Atlantic Coast and Mountain Valley Pipelines Need Greater Scrutiny*, Institute for Energy Economics and Financial Analysis, April, 2016). It is not mere conjecture that the purpose of ACP is to increase the potential supply of natural gas for export at Dominion's Cove Point LNG Natural Gas Export Terminal in Lusby, MD and perhaps other proposed or future export sites, which does not serve the general public in any way. ACP will actually force natural gas prices upwards through foreign competition and Dominion's ability to pass all pipeline costs (at a guaranteed 14% rate of return) on to Virginia ratepayers.

Fourth, ACP has failed to adequately respond to the Forest Service's requirement that the company explain the reasons that no alternative that avoids any National Forest crossing is possible. It has also failed to explain why the option of co-location in existing corridors is not feasible.

Forest Service Manual 2700, Special Uses Management (FSM 2700), §2703.02 describes Forest Service policy relating to the use of NFS lands. §2703.2(2) states that USFS can authorize use of NS lands only if, a) the proposed use is consistent with the mission of the Forest Service to manage NFS lands and resources in a manner that will best meet the present and future needs of the American people, and b) the proposed use cannot reasonably be accommodated on non-NFS lands. §2703.2(3) further directs the USFS not to authorize the use of NFS lands solely because it affords the applicant a lower cost or less restrictive location when compared to non-NFS lands.

Because ACP, LLC has failed to provide such information, ACP's application for a right-of-way and special use permit for construction of the Atlantic Coast Pipeline, its request for a Forest Plan amendment to allow construction in areas where energy corridors are currently not allowed and its application to FERC for the issuance of a Certificate of Convenience and Necessity for construction of the ACP should be denied.

Fifth, ACP has failed to consider and analyze the full impacts of the project at its origin and its endpoint. The connections between the extractive operations “upstream” of the pipeline and the burning of the gas “downstream” of the pipeline are links that the Forest Service must investigate, even if FERC fails to do so. The global warming implications of these operations, the incentive to continue these operations far into the future if this infrastructure is built, and the incentive to begin fracking in the GWNF are all important issues to consider and, cumulatively, should demand denial of the right-of-way permission.

FERC’s ACP analysis should be included in a FERC authorized programmatic environmental impact statement that would include all proposed projects and those currently under analysis by FERC. It should include all natural gas infrastructure projects linked by purpose and need—including all extraction of natural gas from Marcellus Shale formations in West Virginia, Ohio and Pennsylvania, related natural gas transportation infrastructure, and LNG liquification and export facilities. This would include any and all projects which would increase supply to the Williams Transco distribution line that fuels the majority of the eastern states. The environmental impacts from source to end-point-combustion should all be given due consideration, including additional carbon loads to air and related effects on climate.

Lastly, a right-of-way allows extreme damage to Forest resources. The difficulty of building and maintaining a large pipeline, such as the one ACP proposes, in the steep mountains in the GWNF poses technical and environmental problems the company cannot adequately solve without taking extraordinary measures and likely not even then. Standard erosion and sediment controls will not reduce runoff pollution to acceptable levels in these areas and the hydrologic cycles will inevitably be altered forever, especially in areas where soil zones are very shallow. Lands in these areas are highly prone to slides, even when there has been little or no human disturbance, and occurrences must be expected to increase during and after construction. Flows from these steep slopes, even if sediments and/or other pollutants are adequately removed, will be warmer and flows will have more drastic responses to changes in weather. These flows from the mountains drain onto unstable fractured karst formations in the valleys, thus

affecting the groundwater and springs through subsidence in losing streams and transport underground.

III. AMENDMENT(S) TO LAND AND RESOURCE MANAGEMENT PLAN FOR THE GEORGE WASHINGTON NATIONAL FOREST

Petitioners object to amendment(s) to the George Washington National Forest Land and Resource Management Plan (“Forest Plan”). The National Forest planning process is designed to look at entire Forest areas and their ecosystems and make a broad range of analyses and prescriptions to meet statutory and regulatory mandates and to best restore and preserve environmental quality and human uses. To accomplish these aims, the Forest Service conducts an extended public process every ten to fifteen years and looks to set policies and practices that are preferable and sustainable for the long-term management of the lands and waters under their protection.

To amend the Forest Plan for the narrow purpose of accommodating the ACP, without looking at this change in the context of the whole GWNF and without balancing the costs and benefits of this action against all of the others the USFS must address would be irresponsible. Both the construction of the ACP and the maintenance of the right-of-way will directly conflict with other values the Forest is obligated to provide the public. During construction very large areas will be off-limits to people wanting and having a right to recreate there. Views from within the Forest and from vantage points beyond its borders will be destroyed by the disruption during building and the strips of denuded rights-of-way that will last throughout the ACP’s existence or beyond. The Forest will be fragmented and its value as wildlife habitat and as a wildlife corridor in these areas will be destroyed. Edge effects including proliferation of invasive plant and animal species will be significant and will result in dire and long-lasting environmental consequences.

IV. COMMENTS ON ENVIRONMENTAL ISSUES RELATED TO NEW ROUTE AND FACILITY MODIFICATIONS

FERC's Notice was "issued to seek comments on the new pipeline route and facility modifications . . . and for interested parties to file comments on environmental issues specific to these modifications." Notice at pg. 1. However, Petitioners assert that FERC must consider comments offered at this time that address all aspects of the ACP. The first basis for this assertion is that members of the public who did not perceive that their interests were affected by the initial ACP proposal but who now have interests that will be affected and who intervene or comment at this invitation by FERC will have been deprived of their due process rights if the scope of comments FERC considers is narrowed as the Notice specifies.

The second basis is that federal regulations require that alternative routes be assessed for the proposal and the ACP's currently-preferred route must be compared "as a whole" to other possible entire routes. To simply compare the proposed new section to the section it replaces would be arbitrary and capricious and would defeat the purpose of the alternatives analysis required under the National Environmental Policy Act ("NEPA") and FERC regulations. Therefore, Petitioners supply environmental information related to ACP's amended application and the original application and identify major deficiencies in both.

Third, major deficiencies in the original application, as discussed below, are in many cases still uncorrected for the portions of the preferred route not addressed through the proposed modification. Extensive comments from regulatory agencies have highlighted issues about which citizens have interests and rights to comment and many changes which ACP terms "variations" and "adjustments" to the route have been proposed. And while these changes generally involve relative small movements of the proposed ACP route, they may have major consequences for property owners, ecosystems, and others who use the areas in question.

FERC regulations require information about specific topics, supplementing and strengthening the requirements in NEPA and associated regulations adopted by the Council on Environmental Quality ("CEQ") (40 CFR Parts 1500 - 1508). At 18 CFR § 380.12, the regulations make general demands for

environmental information and analyses and require separate “resource reports” for specific areas of concern.

General Requirements

An overarching requirement of the regulation is that “[t]he detail of each resource report must be commensurate with the complexity of the proposal and its potential for environmental impact.” 18 CFR § 380.12(2) (emphasis added). Based on this principle alone, the ACP application is woefully incomplete in that it treats subjects that must be studied in detail in an almost cursory fashion. In many cases, the public is assured by the Company that proper methods of construction and pollution control will be used but given few or no specifics on a site-specific basis with which to judge those claims.

The proposal for ACP is enormously complex, because the terrain it would cross is enormously complex. The enormous risks the pipeline poses to human health and the environment could, at their most serious, lead to catastrophic results that have demonstratively occurred elsewhere. The possibility for such results are currently impossible to predict with any reasonable degree of confidence, because valid predictions require a much more thorough data collection effort and much more searching analyses. What is certain is that serious and very damaging impacts would occur; they are simply unavoidable, given the landscape—particularly the unstable nature of the region’s karst geography—and the scope of land disturbance that would be required to carry out the proposal. But despite these certainties, we cannot know the full extent of these damages either, unless FERC and other regulatory agencies require a much more thorough study than has been offered as sufficient by the applicant.

Crossing six physiographic regions, the ACP would affect an extreme range of environments, each of which pose different challenges for construction projects and risks of environmental damage. These geographic regions include the Alleghany Plateau, Alleghany Highlands, Valley and Ridge, Blue Ridge, Piedmont, and Coastal Plain. Vast differences in soil types, geologic structures and rock types, climatic and weather patterns, hydrologic conditions, aquatic and terrestrial species of plants and animals, and many other factors would make the task of properly building this pipeline extraordinarily complex,

demanding a wide range of approaches and techniques rather than the one-size-fits-all uniformity that the Company has proposed thus far.

Petitioners focus on four main areas: 1) the lack of critical detail in the analysis of karst terrain and prevention of both environmental and structural damage, 2) lack of detail detailing the potential impacts to the Burnsville Cove complex of caves, 3) the potential impacts to federally listed bat and mussel populations in and in the vicinity of the GWNF, 4) impacts to volatile shale barrens, and 5) other specific resources on and around the (GWNF) that must be addressed.

Karst

Some of the most challenging areas along the ACP's proposed route are underlain by karst geology, terrain in which construction is notoriously difficult. Echoing many hundreds of scientific sources, the authors of one paper state: "[k]arst has an infinitely variable and complex three-dimensional suite of fissures and voids cut into the surface and rock mass of the limestone" and "[t]he extreme local variability of karst ground means that there are limits to how successfully karst can be classified."¹¹ To meet the challenges posed by such complexity, the ACP application, as described below, offers simplistic, general descriptions of the terrain and useless assurances that proper methods will be used and will prevent any significant harm.

Discussion of ACP's study and proposals for protection of humans and the environment in karst areas is extremely simplistic and incomplete, leaving crucial data gathering and decision-making to some future time *after* the public and regulatory agencies can effectively comment on and impact the choices to be made. Resource Report 6 states:

Atlantic and DTI have conducted studies to identify sinkholes and other karst features along the proposed pipeline routes between the mile-posted areas discussed above. The study included a desktop assessment to identify known karst features along and near the proposed pipeline routes and a field survey where access has been granted to locate and delineate . . . surface karst features . . . and areas that could affect the integrity of the pipeline. . . .

¹ Waltham, A.C. and P.G. Fookes, Engineering classification of karst ground conditions, Speleogenesis and Evolution of Karst Aquifers, 2005, 3 (1), p.2.

This analysis fundamentally fails to address the true nature of karst and kinds of studies that are mandatory to reduce threats of construction in these regions to an acceptable level. Karst formations, even when no surface features are present or apparent can be just as vulnerable to pollution from activities at the land surface and excavation of the land, as can areas with abundant sinkholes or surface outcroppings of bedrock. The depth of soils over karst can vary laterally within a matter of feet. Sinkholes, which can be quite large, can appear suddenly with little or no warning from surface signs. A much more detailed assessment of the corridor study areas and those areas downslope from all land disturbance areas should be required as a necessary component of the application.

The initial application did not take into account the multitude of species that live in the epikarst, the zone between the soil and the limestone bedrock, or in channels and caves below, including the Madison Cave Isopod (*Antrolana lira*). These unique organisms are suited to constant temperatures and dependent on clean, cold water for their existence. The effects of physical disturbance to the significant depths required to bury such large pipes and of blasting through bedrock, even at some distance from the karst zone, are very difficult to predict and usually impossible to remediate after they occur. These changes can alter flow paths, decreasing or eliminating yields of private and public water supply wells, and significantly alter the temperature range of caves, sinkholes and underwater streams. Given the federal and state legal status of several species that would be impacted by the ACP, it is inevitable that statutes such as the exacting and stringent Endangered Species Act will come into play, demanding a great deal of time and costly research to determine potential impacts on listed species.

Changes to the chemical makeup of the water that enters the karst environment may also have very dire but unpredictable impacts. The extent and shape of groundwater “drainage basins” in karst areas may be very different from the watershed area above ground and, unlike surface waters, the direction of flow in karst may change with the season and with weather pattern changes. It is well recognized that water entering karst formations, whether through sinkholes or directly into the epikarst, may be carried

miles away, to emerge in a spring and affect the stream it feeds or in a well. Only by methods of dye tracing flowing water combined with other intricate scientific procedures can the flow paths be determined with any reasonable degrees of certainty. Pollutants already on the land, such as phosphorus, which saturates many agricultural soils in the Shenandoah Valley, can be released to the groundwater, either attached to sediments or in soluble form. Heavy metals and organic chemicals applied on the land through pesticides and herbicide use, through application of sewage sludge, and the discharge of poultry water are all found in the Shenandoah Valley, some in very high concentrations. In particular, arsenic and lead residues from the enormous amounts of pesticides applied to orchards in the Valley during the early to mid 1900s remain a substantial threat. In fact, parts of the pipeline route fall within or near the boundaries of these historically poisoned orchards.

None of the factors described above, which make the situation enormously complex and the risks of land and water disturbance dire, are addressed in any depth or detail in ACP's initial application, in supplemental reports to FERC, or in ACP's amended application. As stated in Part I. of these comments, these deficiencies justify rejection of the application and requirements from FERC for a much more thorough analysis before any approvals may be legally granted. To fail to do so would constitute an extremely arbitrary and reckless approach by the Commission. It is certain that, even with prolonged and extensive study in the karst region, new discoveries and the need for alterations in plans would be required if the pipeline were approved. However, a level of analysis, including highly erodible soils and "legacy sediment" in areas of historic farming and orchards, at the beginning is absolutely necessary and would likely exclude pipeline construction in many of these areas altogether.²

Burnsville Cove Cave Complex

Data from the USGS indicates that the GWNF Route 6 crosses 26.8 miles of karst topography. These crossings include Elk, Middle, and Cloverlick Mountains in Randolph and Pocahontas Counties,

² https://cenrep.ncsu.edu/cenrep/wp-content/uploads/2015/08/wegmann_2015_ReNeWS.pdf

West Virginia; Michael Mountain in Pocahontas County, West Virginia; Little and Back Creek Mountains in Highland County, Virginia; Tower Hill Mountain in Bath County, Virginia; Chestnut Ridge in Bath County, Virginia; and Walker Mountain in Bath and Augusta Counties, Virginia.

The Burnsville Cove complex is one of America's greatest cave systems. Indeed, since its 1958 discovery, more than a mile of virgin cave on average has been mapped per year. 74 miles of charted cave have been discovered to lie underneath Bath County's Burnsville Cove, with an unknown total yet to be comprehensively mapped.

Butler and Breathing Caves were designated in 1973 as National Natural Landmarks (NNL) by the National Park Service (NPS). NEPA requires that Federal agencies must consider the existence and location of designated National Natural Landmarks and of areas found to meet the criteria for national significance in assessing the effects of their activities on the environment under section 102 (2)(c). (42 U.S.C. 4321). The NPS is responsible for providing requested information about the NNL Program for these assessments.

If the NPS determines that an entire or partial National Natural landmark may be irreparably lost or destroyed by mining activity, including exploration for or removal or production of minerals or materials, NPS notifies the person that is conducting the activity and prepares a report that identifies the basis of the finding that the activity may cause irreparable loss or destruction. The NPS also notifies the owner(s) of the NNL in writing of its finding. The NPS then submits to the Advisory Council of Historic Preservation the report and request for advice about alternative measures that may be taken by the United States to mitigate or abate the activity. The authority for this action is contained in Section 9 of the Mining in the Parks Act of 1976 (16 U.S.C. 1908).

Although survey crews are set to begin a survey across Burnsville Cove to bulldoze, level, and construct an access road—crossing directly above significant portions of Butler Cave—to facilitate the

future excavation and construction of the ACP, the National Park Service has yet to be informed that Butler and Breathing Caves, and indeed the entire Burnsville Cove complex, would potentially be significantly impacted. The public has thus far been deprived of any submissions or information submitted by the NPS or ACP regarding this situation. It is impossible to submit substantive comments on ACP as mandated by law in the absence of such information.

Bat and Mussel Populations

The Indiana Bat (*Myotis sodalis*) and the Virginia Big-Eared Bat (*Plecotus virginianus*) are federally listed endangered species and the newly proposed pipeline route in Bath and Augusta Counties includes their habitat.

Indiana Bat hibernacula include four caves on or near the GWNF: Starr Chapel Cave, Mt. Grove Cave, Clarks Cave and Hupman's Saltpetre Cave. The Virginia Big-Eared Bat hibernacula include Highland, Rockingham and Bath Counties. Limiting factors for both include suitable temperature regimes and "declines appear to be primarily related to human disturbance and loss of cave habitat quality" (Environmental Impact Statement for the Revised Land and Resource Management Plan for the George Washington National Forest, November 2014, 3-152-167).

Construction and maintenance of the proposed ACP will directly and indirectly affect bat populations. Bat hibernacula are connected via extensive and intricate underground karst geological formations. Construction will cause disruption of these formations, causing changes in flow amounts, flow patterns, and temperature and changes in air flow, direction and temperature. Increases in temperatures via the karst geological karst network will negatively impact populations throughout the aforementioned counties and threaten their already precarious existence.

Many American bat species are already suffering extraordinary population declines due to a exotic disease called white-nose syndrome, which is likely to result in the upgrading of bats affected by the ACP to higher levels of protection under the ESA which would result in further restrictions on land use in bat habitat.

The James River Spiny mussel (*Pleurobema collina*) historical habitat includes the Calfpasture River and its headwaters in Bath, Augusta and Allegheny Counties and Potts Creek in Allegheny County. Human activities including logging and road construction often create excessively heavy silt loads that can have severe effects on mussel populations and quality habitat. Activities connected with access roads and pipeline construction will undoubtedly create siltation of streams and headwaters and have negative impacts.

Shale Barrens

Three Special Biological Areas in the George Washington National Forest are shale barren ecosystems, which are rare biomes that include populations of Shale barren rock cress (*Boechera serotina*) and the Appalachian grizzled skipper (*Pyrgus centaureae wyandot*), which feeds upon the rock cress. These are: Ratcliff Hill SBA (31 acres, located along the Cowpasture River on the east end of the 678 Bridge), Big Cedar Shale Barren SBA (43 acres, located near the intersection of Scotchtown Draft and Deerfield Rd.) and Reubens Draft Shale Barren (39 acres located along Deerfield Rd. south of West Augusta). All of the Big Cedar Shale Barren and Reubens Draft Shale Barren are in the ACP study area.

The Shale barren rock cress is one of only five federally endangered plant species on the GWNF. According to the U.S Fish & Wildlife Service, this plant's main threats include destruction of habitat by road construction or other human activities. Construction and maintenance of the proposed project will impact populations and habitat significantly.

Other Special Environmental Resources

A number of other very high quality Special Biological Areas (FS class 4D) are threatened by the latest ACP route. These include Brown's Pond SBA and Big Levels Macrosite SBA. Brown's Pond is a 117-acre montane depression wetland characterized by a sinkhole pond in a dry sinkhole complex in karst

topography. Big Levels is another montane depression wetland, covering 17,793 acres. Montane depressions are rare habitats for plant species found nowhere else.

CONCLUSION

Based on the information and arguments presented, the Petitioners request that:

1. FERC reject ACP's application for a Certificate of Necessity and Convenience to construct and operate the Atlantic Coast Pipeline,
2. The USFS and FERC reject ACP's application for a right-of-passage across National Forest Lands for construction of the Atlantic Coast Pipeline,
3. The USFS not amend the Land and Resource Management Plan for the George Washington National Forest to allow changes to management areas that currently do not allow pipeline infrastructure across USFS, and
4. Accept our additional comments in the analysis for the creation of an environmental impact statement for the Atlantic Coast Pipeline.

Thank you for this opportunity to comment.

Respectfully submitted:

/s/ David Sligh
David Sligh

/s/ Misty Boos
Misty Boos

/s/ Ernest Q. Reed, Jr.
Ernest Q. Reed, Jr.
