

Memo to: Buckingham Virginia Landowners with Atlantic Coast Pipeline Easements
From: Irene Ellis Leech, Ph.D., Buckingham landowner with ACP Easement
4220 North Fork Rd.; Elliston, VA 24087; 540-268-5373; ileech@vt.edu

DATE: July 21, 2020

*****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.*

By now you may have heard that the Atlantic Coast Pipeline (ACP) has been cancelled. I obtained your contact information from the publicly available easement ACP filed in the Buckingham Clerk's Office. Based on my review of easements filed in Buckingham County, almost none address the situation we now face. In fact, this is such an unusual occurrence that the Federal Energy Regulatory Commission (FERC) does not have established procedures.

First, ACP has clearly stated that it will not seek that landowners return the money paid for our easements. 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, we have an opportunity to tell FERC and ACP what is important to us. FERC requests comment on: a) extension of the FERC certificate for the ACP to October 13, 2021 (CP15-554-000) and b) extension of the FERC certificate for the Supply Header Project (located in West Virginia) for two years. Comments can be submitted on either or both issues. The deadline is 5:00pm on Friday, August 3. Issues landowners may want to address:

Restoration of disturbed land

Tree cutting is the primary activity that has occurred in most of the ACP construction areas in Virginia. Restoration needs vary from landowner to landowner. While it is impossible to immediately replace mature trees, disturbed areas could be replanted. Erosion and sedimentation caused by ACP construction must be corrected. If you want ACP to restore disturbed land, you should tell FERC and to the extent possible, specify what needs to be done.

Release of the easements for pipeline installation and/or access roads to landowners

At this point, ACP owns easements across our property. Unless they are released, the company can access our land at any time and technically, we are held to the limitations in use of our 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 us. It can file a release in the Clerk's Office,

like it did the easement itself. In cases where ACP obtained our easements via action of the federal court, it may be necessary to petition the court to obtain release of the easement. We may want to work together on this if we have to do it this way.

Reimbursement for landowner costs caused by the ACP

Many of us incurred a variety of costs addressing ACP's demand for an easement across our 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 we did not initiate. If some of us can quantify these costs, it will help FERC and others understand the real costs citizens incur.

COMMENT TO FERC

The FERC request for comments gives us the perfect opportunity to tell FERC what it should require of ACP in relation to our losses. We are more likely to get action that FERC or a court direct ACP to take. If FERC hears from a large portion of landowners, it may also signal a need for FERC procedures for project cancellation that will help others in the future.

A template you can use to create your letter is included on the next page. Include the *docket number CP15-554-000, et. al* and request: a) restoration of property including items specific to your property such as tree removal and replanting, b) immediate release of your easement, c) reasonable compensation for costs incurred including attorney fees, assessment costs, etc., d) anything else that's important to you.

HOW to COMMENT to FERC:

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

E-filing: FERC strongly prefers that we use the e-filing link on its website (www.ferc.gov). This can be frustrating and take some time but we can help you through the process.

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 FedEx) 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 August 3.

QUESTIONS?/ NEED HELP?

Attorney. Consult your attorney about specific concerns around your property and easement.

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

Local organizations that can help you submit comments or connect you with other help are:

Friends of Buckingham – Connect via www.friendsofbuckinghamva.org

Concern for the New Generation – Contact Sharon Ponton at 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) 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.)*
- 2) Release of the Easement: *(Insert something like – Please direct ACP, LLC to file a release of the easement with the original easement.)*
- 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 appropriate)]

<https://www.viriniamercury.com/2020/07/29/the-atlantic-coast-pipeline-was-canceled-what-happens-to-all-the-land-acquired-for-it/> Va Mercury Article