



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029**

Ms. Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street, NE, Room 1A  
Washington, DC 20426

Subject: Notice of Intent to Prepare an Environmental Impact Statement for the Planned Supply Header Project and Atlantic Coast Pipeline Project, Docket Nos. CP15-15-000 and PF15-6-000.

Dear Secretary Bose:

The U.S. Environmental Protection Agency (EPA) is submitting the attached scoping comments pursuant to the Federal Energy Regulatory Commission's (FERC) February 27, 2015, notice of intent to prepare an environmental impact statement (EIS) for the above proposed actions per requirements of the National Environmental Policy Act (NEPA). The proposed action includes the construction and operation of approximately 554.3 miles of natural gas transmission pipelines and associated aboveground facilities in West Virginia, Virginia, and North Carolina.

EPA has identified a number of issues for FERC's consideration in the preparation of its EIS for the proposed action. This includes study of impacts to air and water quality, public health, environmental justice, biological resources and habitat (see enclosure).

Thank you for the opportunity to provide scoping comments for the proposed action. The proposed project crosses two EPA regions: Region 3 (Pennsylvania, Virginia, and West Virginia) and Region 4 (North Carolina); for this study, Region 3 will be the EPA lead region. For any questions or assistance EPA can provide, please contact Tom Uybareta (uybarreta.thomas@epa.gov, 215-814-2953) for EPA Region 3 and Beth Walls (walls.beth@epa.gov, 404-562-8309) for Region 4.

Sincerely,

Barbara Rudnick  
NEPA Team Leader



Enclosure

cc: Beth Walls, EPA Region 4



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## **Enclosure**

### **EPA Scoping Comments: Notice of Intent (NOI) to Prepare an EIS for the Planned Supply Header Project and Atlantic Coast Pipeline Project, Docket Nos. CP15-15-000 and PF15-6-000.**

The proposed action is the construction and operation of two new mainline pipelines, two new lateral pipelines, and three new compressor and metering stations. The purpose of the project is to create increased access to natural gas production in the Marcellus and Utica basins to the major natural gas markets of the mid-Atlantic region of the United States. Of the new firm transportation capacity of 1.5 billion cubic feet/day proposed by the Atlantic Coast Pipeline (ACP), 1.36 bcf/d is currently fully subscribed pursuant to precedent agreements with six customers.

The proposed action may ultimately disturb 12,971.9 acres of land, including the permanent pipeline right-of-way, temporary construction right-of-way, additional temporary workspace (ATWS), aboveground facility sites, temporary and permanent access roads, and pipe storage and contractor yards. Approximately 22.5 miles (4 percent) of the proposed pipelines are adjacent to existing linear corridor facilities, including pipelines, electric transmission lines, and roads; the remainder (531.8 miles; 96 percent) is greenfield, or new corridor, due to a lack of existing pipeline infrastructure between the proposed natural gas transmission receipt and delivery points. The proposed construction right-of-way widths range from 110 - 125 feet in nonagricultural areas, 135 - 150 feet in agricultural areas, and 75 feet in wetlands. At this time it is unclear how many water body crossings will occur, though five waterbody crossings have been identified as proposed horizontal directional drilling candidates. The proposed action may convert 4,254.5 acres and 205.1 acres, respectively, into a permanent easement for operation of the Atlantic Coast Pipeline and Supply Header Project.

The following are EPA's scoping comments pursuant to FERC's NOI to prepare an EIS. EPA staff sought additional information on FERC's online administrative record system at [www.ferc.gov](http://www.ferc.gov), consistent with the instructions provided in FERC's supplemental NOI. However, staff could only locate two preliminary draft resource reports, no. 1- General Project Description and No. 10 - Alternatives.

#### **Clean Water Act § 404 Process**

EPA shares responsibilities with the US Army Corps of Engineers (COE, Corps) for implementation of Section 404 of the Clean Water Act (CWA). It would be beneficial to engage the Corps and EPA early in FERC's process, sharing CWA-related information particularly wetlands and streams identified in the study area, assessment of the functions and values of resources in the watershed and evaluation of impacts. Recommendations of methodology for assessment of resource functions, values and condition can be discussed with EPA.

EPA recommends FERC's EIS contain a level of information and analysis adequate to document compliance with the CWA § 404(b)(1) Guidelines, including the identification of the least environmentally damaging practicable alternative (LEDPA) and mitigation sequencing:



avoidance, minimization, then lastly compensation for impacts that cannot be avoided or minimized. Direct, indirect, and cumulative impacts should be included. If a mitigation bank is proposed for compensation, details should be included in the EIS.

As FERC is aware, the applicant will need to obtain a Section 404 permit from the Corps to authorize the discharge of dredged or fill material into waters of the U.S. The EIS should obtain information that will support the review under the CWA and determination of the LEDPA. The regulations (40 CFR 230.10(a)) presume that there is a less environmentally damaging practicable alternative to any proposal to fill a water of the U.S. The applicant must rebut that presumption unless the basic project purpose is deemed, by the Corps and the EPA, to be “water dependent” (i.e., needs siting in a water of the U.S. to fulfill its basic project purpose).

Any alternative must demonstrate compliance with 40 CFR 230.10 (b) and (c). This includes evaluation of potential violation of State water-quality standards, toxic-effluent standards, endangered- species habitat, or designated marine sanctuaries (40 CFR 230.10(b)); and determining whether the discharge of the fill material into the proposed project wetlands constitutes significant degradation (40 CFR 230.10(c)). If the fill proposal can cause or contribute to the significant degradation of the aquatic ecosystem then the impact could be significant. Significant degradation may include individual or cumulative impacts to human health and welfare; fish and wildlife; ecosystem diversity, productivity and stability; and recreational, aesthetic or economic values.

After impacts have been fully minimized, compensatory mitigation (e.g. aquatic restoration, enhancement, creation, or in certain circumstances, preservation) may be required to offset unavoidable losses. The Corps and the EPA will follow the above sequence when Dominion Transmission applies for the Section 404 permit as per the Section 404(b)(1) Guidelines. Given FERC’s emphasis on compensatory mitigation (step 4) prior to addressing steps 1 – 3, above, EPA wishes to reiterate the required sequence, highlighting need for avoidance and minimization of impacts to aquatic resources.

### **Wetlands Conversion**

EPA suggests FERC’s draft EIS identify how many acres of wetlands will be permanently converted from one type (e.g., forested) to another. Additionally, FERC should identify how its proposed mitigation addresses converted wetlands. This type of wetlands impact requires appropriate mitigation for loss of functions due to conversion. For example, the preferred route impacts the most wetlands, 12.1 miles of freshwater forested/shrub wetlands. These wetlands will be permanently converted due to the pipeline’s right-of-way requirements. EPA considers any wetlands converted to a different type of wetlands as an impacted wetland.

### **Special Resources**

EPA recommends FERC’s draft EIS identify if any affected water resource is a state or federally designated outstanding water, designated wildlife management area, state or federal park, pristine water resource or other similar designation.



The current preliminary draft resource report No. 10 indicates the proposed action will impact the Great Dismal Swamp National Wildlife Refuge. The largest intact remnant of a vast habitat that once covered more than one million acres of southeastern Virginia and northeastern North Carolina. The proposed route will impact the most wetlands within this area including permanently converting forested wetlands for right-of-way purposes. This conversion fragments the swamp, and provides conditions for opportunistic invasive species to take root, and possibly outcompete native species among other functional losses. EPA recommends FERC discuss in its draft EIS the alternative for using horizontal drilling technology to avoid traversing this important aquatic resource. EPA strongly recommends an alternative route be found that avoids this area.

EPA recommends the proposed action avoid high functioning, high quality, and rare systems. The draft EIS should also identify any wetlands identified as being of particular sensitivity (e.g., identified by the state as of particular value, presence of federal and state listed species).

#### **Water Quality Impacts Associated with Acid-Producing Rock**

The draft EIS should indicate whether acid-producing rock will be disturbed/exposed (assessing potential release of acid runoff/drainage). FERC should discuss any water quality impacts associated with existing available treatment methodologies. For example, while passive alkaline treatment (lime) may neutralize acidity it can lead to other water quality problems, e.g., conductivity within the receiving water body. EPA recommends any potential for acid producing rock exposure should be avoided

#### **Drinking Water Supplies, Wellhead Protection Areas, Water Supply Intakes, Springs, and Karst Terrain**

EPA recommends FERC's draft EIS address proposed-action related activities in or near wellhead (drinking water) protection areas, upstream of drinking-water supply intakes, springs regions – including any fault zones and karst areas, and karst terrain. For areas characterized by springs and karst, EPA recommends FERC address the potential for contaminants to be introduced into existing or future sources of public water supplies, including aquifers, downgradient springs, wells, and surface waterbodies. Any sole source aquifers should be identified. Impacts and mitigation measures should be identified in FERC's EIS.

#### **Complex Geology**

Because of the geology's potential impacts to drinking water supplies, wells, wetlands and surface water bodies, EPA recommends FERC consult with the US Geological Survey's district staff, who are the nation's experts in the geology being traversed by the proposed action. As stated above, karst terrain should be identified. Any avoidance or special conditions/best management practices that would be required on pipeline design on construction associated with complex geology should be identified.

#### **Impaired Waters, CWA § 401 Certification, TMDLs**

For the alternatives considered, FERC's proposed EIS's water resources impacts analysis should, at a minimum, identify designated waterbody use, compliance of the waterbody with applicable



water quality standards, and any CWA § 401 Certification issues. Additionally, FERC's EIS should identify if any affected water resource is listed on the CWA § 303(d) impaired waters list. If listed, then any potential impacts on the affected water resource's Total Maximum Daily Load status should be assessed and disclosed, with mitigation proposed.

### **Waterbody Crossings**

EPA recommends FERC's proposed EIS address for each waterbody to be crossed: the relevant waterbody dimensions at the crossing point and the crossing method to be used. Additionally, the "worst case" scenarios associated with the proposed crossing method should be addressed, how these impacts can/will be avoided/minimized, and their risk/likelihood of occurrence.

According to preliminary draft resource report no. 1, five waterbody crossings were identified to be crossed via the horizontal directional drill (HDD) method. FERC should address whether the HDD method will introduce any contaminants upstream of and affect any drinking water intakes located on these waterbodies.

### **Pipeline Hydrostatic Testing**

The draft resource report no. 1 indicates the pipeline will be hydrostatically tested to ensure it can be properly operated at its design pressure. The water to be used for this testing is to be withdrawn from surface waterbodies "as further described in Resource Report 2 – Water Use and Quality." Again, EPA staff was unable to locate Resource Report 2 for purposes of this scoping review.

EPA recommends FERC's proposed EIS address the potential for introducing contaminants upstream of and affect any drinking water intakes. Additionally, FERC should address whether water used for this testing will be taken from one watershed (aquifer) and discharged into a different one. EPA recommends extracted waters be returned to the same watershed (aquifer). Additionally, FERC should address how the volume of water withdrawn for testing purposes will affect the extracted waterbody's hydrology (particularly stream flow) and aquatic ecosystem, particularly during drought conditions.

### **Biological Resources, Habitat, Wildlife, and Noxious Weeds and Exotic Species.**

EPA recommends FERC's proposed EIS identify baseline conditions for habitats and biological-resource populations that will be impacted. Maintenance of the permanent right-of-way, permanent access roads, and aboveground facilities will permanently impact forested acres and preclude forest reestablishment. Since forests provide several ecosystem services, FERC's proposed mitigation should address those services lost due to the proposed action. The area is known for its wetlands and associated migratory bird habitat. Additionally, the proposed action represents further fragmentation of already fragmented forests and wetlands. EPA recommends FERC use the recommended baseline to determine impacts and appropriate mitigation.

EPA also recommends FERC's proposed EIS identify and that FERC require a vegetative management plan to prevent and control any infestations of noxious weeds and exotic species in a manner minimizing herbicides use. New roads and pipeline right-of-ways are associated with



the spread of these plants. These plants threaten biodiversity by outcompeting native plants. They also threaten any surrounding croplands.

### **USDA Prime Farmland and Habitat Protection Programs**

EPA recommends FERC's proposed environmental impact statement contain sufficient analysis to address the Farmland Protection Policy Act regulations (7 CFR Parts 658 and 675). These regulations require all federal agencies to evaluate federally-funded project impacts to farmlands. Draft Resource Report No. 2 indicates agricultural lands will be impacted. Additionally, FERC should address impacts and propose mitigation for any affected lands/wetlands enrolled in the U.S. Department of Agriculture-managed Conservation Reserve and Wetland Reserve Programs.

### **Recreational Hunting Use**

EPA recommends FERC's proposed EIS address any impacts to recreational hunting in the area.

### **Air Quality, Greenhouse Gases, Climate Change**

Since impacts to air quality can occur from construction and operation of the proposed action, EPA recommends FERC's draft EIS address potential air quality impacts and mitigation proposals. EPA recommends FERC discuss the GHG emissions associated with construction and annual project operation, including those best management practices that will be adopted to reduce methane leakage from the proposed action's operations.<sup>1</sup> Any adaptations in design for future climate conditions should be considered, as applicable.

### **NAAQS, Hazardous Air Pollutants**

EPA recommends FERC's proposed EIS address and disclose any potential construction and operation impacts to all criteria pollutants under the National Ambient Air Quality Standards (NAAQS), any significant concentration of hazardous air pollutants, and the protection of public health. Additionally, corresponding mitigation measures should be identified in FERC's proposed EIS. EPA also encourages FERC to identify opportunities for the use of clean diesel equipment, vehicles, and fuels during construction of the proposed action.

### **State Air Permits**

EPA recommends FERC's proposed EIS identify the state agencies and relevant contact information for air permits that may be required for all facilities associated with the proposed action.

### **Secondary and Cumulative Impacts**

The Council on Environmental Quality in 40 CFR 1508.8 defines secondary effects as "caused by an action and are later in time or farther removed in distance but are still reasonably foreseeable". Examples of these could be the environmental effects of multiple pipeline projects, and infrastructure to support the projects, in a concentrated area. Since there are a multitude of environmental effects and portions of the project that will affect different natural and human

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<sup>1</sup> EPA has compiled information on technologies and practices to facilitate methane reductions from natural gas systems that FERC may find useful, see:

[http://www.epa.gov/gasstar/methaneemissions/onshore\\_transmission\\_storage.html](http://www.epa.gov/gasstar/methaneemissions/onshore_transmission_storage.html)



communities, a thorough secondary impacts review is important to the draft EIS. Landscape analysis of impacts should be robust.

The Council on Environmental Quality in 40 CFR 1508.7 implementing NEPA defines cumulative impacts as “impacts on the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions.” The cumulative impacts analysis should consider the environmental impacts of the project as a whole and as one of a number of the other proposed and/or approved actions in the area that would have the potential to impact the same resources, including natural and community resources such as wetlands, air quality and EJ communities. This should include information on proposed and reasonably foreseeable projects in the study area, documenting location, distance from the proposed project and description of potential cumulative impacts. These should include, but not be limited to: FERC jurisdictional projects, intrastate pipelines and compression, gathering pipelines, gas processing facilities and projects such as industrial or commercial facilities and other developments regardless of whether these actions are energy related or not, or whether or not FERC has jurisdiction over them.

We recommend focusing on resources or communities of concern, or resources “at risk” which could be cumulatively impacted by all of the above actions. Please refer to the Council on Environmental Quality (CEQ) guidance on “Considering Cumulative Effects Under the National Environmental Policy Act”, and EPA’s “Consideration of Cumulative Impacts in EPA Review of NEPA Documents” for further assistance in identifying appropriate spatial and temporal boundaries for this analysis.

### **Environmental Justice and Sensitive Receptors**

FERC’s proposed EIS should identify environmental justice (EJ) communities and locations. If applicable and relevant, then evaluate the potential impacts on them associated with the proposed action including mitigation opportunities. For example, any risk of hazardous/ toxics material exposure, air quality or noise impacts.

In the EIS, FERC should provide data and maps for unconsolidated tracts and/or block groups in an effort to identify areas with high minority and low-income populations. It should also identify the existence of any pockets along the proposed action's corridor. Areas within the proposed action having high minority and low-income populations should be readily identifiable in the data provided, and targeted for meaningful public involvement and outreach. Additionally, the EIS should include the methodology used to conduct EJ assessment and the potential direct, indirect and cumulative impacts (i.e., air, noise, water quality, aesthetics, social, economic, health, and subsistence activities) to EJ populations. Public comments on EJ issues and FERC's corresponding responses should be summarized, including efforts made to avoid, minimize, and mitigate impacts.

Executive Order 13045, “Protection of Children from Environmental Health Risks and Safety Risks,” requires each federal agency to identify and assess environmental health and safety risks





to children. The draft EIS should provide appropriate unconsolidated tract or block group data for children under the age of 17 that resided along/within the proposed corridor. For example, receptors within industry-accepted blast radius of a 36-inch natural gas pipeline and associated compressor stations should be clearly identified, and then additional buffer distances can be added to the appropriate scale maps of the project area to identify any potential risk of impacts to children. Additionally, the children's health section should discuss the potential direct, indirect and cumulative impacts (i.e., air, noise, water quality, aesthetics, and health) to children in the vicinity of the project area be discussed. Additionally, efforts to avoid, minimize and mitigate impacts, should also be identified. EPA also recommends FERC provide readable and comprehensible maps and figures, and clearly describe all potential impacts with the proposed action upon children's health. For example, maps of schools, day-care facilities, multifamily housing, and hospitals should have different legend colors and be created at scales providing appropriate information, i.e., proximity of sensitive receptors to the navigation and transportation corridors.



