
No. _____

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

APPALACHIAN VOICES, CHESAPEAKE CLIMATE ACTION NETWORK,
COWPASTURE RIVER PRESERVATION ASSOCIATION, FRIENDS OF
BUCKINGHAM, HIGHLANDERS FOR RESPONSIBLE DEVELOPMENT,
JACKSON RIVER PRESERVATION ASSOCIATION, POTOMAC
RIVERKEEPER, INC., d/b/a Potomac Riverkeeper Network, SHENANDOAH
RIVERKEEPER, a program of Potomac Riverkeeper Network, SHENANDOAH
VALLEY BATTLEFIELDS FOUNDATION, SHENANDOAH VALLEY
NETWORK, SIERRA CLUB, VIRGINIA WILDERNESS COMMITTEE, and
WILD VIRGINIA,
Petitioners

v.

VIRGINIA STATE WATER CONTROL BOARD, ROBERT DUNN, Chair of
the Virginia State Water Control Board, VIRGINIA DEPARTMENT OF
ENVIRONMENTAL QUALITY, DAVID K. PAYLOR, Director, Virginia
Department of Environmental Quality, and
MELANIE D. DAVENPORT, Director, Water Permitting Division,
Virginia Department of Environmental Quality,
Respondents

JOINT PETITION FOR REVIEW

Gregory Buppert (Va. Bar No. 86676)
Charmayne G. Staloff (Va. Bar No. 91655)
SOUTHERN ENVIRONMENTAL LAW CENTER
201 West Main Street, Suite 14
Charlottesville, VA 22902
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Counsel for Cowpasture River Preservation Association, Friends of Buckingham, Highlanders for Responsible Development, Jackson River Preservation Association, Potomac Riverkeeper, Inc., d/b/a Potomac Riverkeeper Network, Shenandoah Riverkeeper, a program of Potomac Riverkeeper Network, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, and Virginia Wilderness Committee

Benjamin A. Luckett (W.Va. Bar No. 11463)
Joseph M. Lovett (Va. Bar No. 89735)
APPALACHIAN MOUNTAIN ADVOCATES
P.O. Box 507
Lewisburg, WV 24901
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Counsel for Appalachian Voices, Chesapeake Climate Action Network, Sierra Club, and Wild Virginia

Pursuant to Section 19(d)(1) of the Natural Gas Act, 15 U.S.C. § 717r(d)(1), and Rule 15(a) of the Federal Rules of Appellate Procedure, APPALACHIAN VOICES, CHESAPEAKE CLIMATE ACTION NETWORK, COWPASTURE RIVER PRESERVATION ASSOCIATION, FRIENDS OF BUCKINGHAM, HIGHLANDERS FOR RESPONSIBLE DEVELOPMENT, JACKSON RIVER PRESERVATION ASSOCIATION, POTOMAC RIVERKEEPER, INC., d/b/a Potomac Riverkeeper Network, SHENANDOAH RIVERKEEPER, a program of Potomac Riverkeeper Network, SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION, SHENANDOAH VALLEY NETWORK, SIERRA CLUB, VIRGINIA WILDERNESS COMMITTEE, and WILD VIRGINIA jointly petition the United States Court of Appeals for the Fourth Circuit for review of the order of the Virginia State Water Control Board and the Virginia Department of Environmental Quality issuing a Water Quality Certification under Section 401 of the Clean Water Act, 33 U.S.C. § 1341(a), for the Atlantic Coast Pipeline, entered on December 20, 2017. In accordance with Local Rule 15(b), a copy of the Water Quality Certification is attached as **Exhibit A**.

In accordance with Rule 15(c) of the Federal Rules of Appellate Procedure, Petitioners have served parties that may have been admitted to participate in the underlying proceedings with a copy of this Joint Petition for Review. As required by Local Rule 15(b), a list of Respondents specifically identifying the

Respondents' names and addresses is attached. Petitioners have sent copies of the Joint Petition for Review via U.S. first-class certified mail, return receipt requested, to the clerk for service on Respondents as required by Federal Rule of Appellate Procedure 15(c)(3).

Respectfully submitted,

/s/ Gregory Buppert

Gregory Buppert (Va. Bar No. 86676)

Charmayne G. Staloff (Va. Bar No. 91655)

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/s/ Benjamin A. Luckett

Benjamin A. Luckett (W.Va. Bar No. 11463)

Joseph M. Lovett (Va. Bar No. 89735)

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Counsel for Appalachian Voices, Chesapeake Climate Action Network, Sierra Club, and Wild Virginia

DATED: January 18, 2018

LIST OF RESPONDENTS

As required by Local Rule 15(b), Petitioners provide a list of Respondents below specifically identifying the Respondents' names and the addresses where Respondents and/or their counsel may be served with copies of this Joint Petition for Review.

State Water Control Board
P.O. Box 1105
Richmond, VA 23218
[629 East Main Street
Richmond, VA 23219]

Robert Dunn, Chair
State Water Control Board
c/o Office of Regulatory Affairs
Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218
[629 East Main Street
Richmond, VA 23219]

Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218
[629 East Main Street
Richmond, VA 23219]

David K. Paylor, Director
Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218
[629 East Main Street
Richmond, VA 23219]

Melanie D. Davenport, Director
Water Permitting Division
Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218
[629 East Main Street
Richmond, VA 23219]

Counsel for Respondents
Attorney General Mark R. Herring
202 North Ninth Street
Richmond, VA 23219

CERTIFICATE OF SERVICE

In accordance with Federal Rule of Appellate Procedure 15(c)(1) & (2), the undersigned certifies that, on January 18, 2018, a true copy of this Joint Petition for Review was served via U.S. first-class certified mail, return receipt requested, on the following entities that may have been admitted to participate in agency proceedings:

Atlantic Coast Pipeline, LLC
c/o CT Corporation System
Registered Agent
4701 Cox Road, Suite 285
Glen Allen, VA 23060

Richard B. Gangle
Manager, ACP Environmental
Support
5000 Dominion Boulevard
Glen Allen, VA 23060

*Counsel for Dominion Energy, Inc.,
acting on behalf of Atlantic Coast
Pipeline, LLC*
Brooks M. Smith
Troutman Sanders LLP
1001 Haxall Point, 15th Floor
Richmond, VA 23219

Although not required by the Rule, Petitioners have served the following Respondents via U.S. first-class certified mail, return receipt requested, on January 18, 2018:

State Water Control Board
P.O. Box 1105
Richmond, VA 23218

Robert Dunn, Chair
State Water Control Board
c/o Office of Regulatory Affairs
Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

David K. Paylor, Director
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P.O. Box 1105
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Richmond, VA 23218

Department of Environmental Quality
P.O. Box 1105
Richmond, VA 23218

Attorney General Mark R. Herring
202 North Ninth Street
Richmond, VA 23219

/s/ Gregory Buppert
Gregory Buppert (Va. Bar No. 86676)
SOUTHERN ENVIRONMENTAL LAW CENTER

DATED: January 18, 2018

EXHIBIT A



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

December 20, 2017

Certified Mail

Richard B. Gangle
Manager, ACP Environmental Support
5000 Dominion Boulevard
Glen Allen, Virginia 23060

Re: Issuance 401 Water Quality Certification
No. 17-002

Dear Mr. Gangle:

Enclosed is Section 401 Water Quality Certification No. 17-002 issued to Atlantic Coast Pipeline, LLC (ACP) on December 20, 2017. It should be noted that the decision of the State Water Control Board (Board) on December 12, 2017 to issue 401 Water Quality Certification No. 17-002 included a delayed effective date based on submission and approval of certain information.

Specifically, Section III SCOPE OF CERTIFICATION includes, "This certification shall be effective only following submission, review and final approval as required by law of the Karst Mitigation Plan, Annual Standards and Specifications, and Erosion and Sediment Control Plans and Stormwater Management Plans, and a report to the Board and the public by DEQ [Department of Environmental Quality] on the adequacy of these materials."

As provided by Rule 2A:2 of the Supreme Court of Virginia, you have thirty days from date of service (the date you actually received this decision or the date it was mailed to you, whichever occurred first) within which to appeal this decision by filing a notice of appeal in accordance with the Rules of the Supreme Court with the Director, Department of Environmental Quality. In the event that this decision is served on you by mail, three days are added to that period.

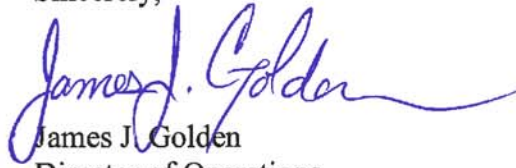
ACP 401 Certification No. 17-002

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Alternatively, any owner aggrieved by any action of the State Water Control Board taken without a formal hearing, or by inaction of the Board, may petition in writing for a formal hearing of such owner's grievance, provided a petition requesting such hearing is filed with the Board. Said petition must meet the requirements set forth in 9VAC25-230-130 (Procedural Rule No. 1 – Petition for formal hearing). In cases involving actions of the Board, such petition must be filed within thirty days after notice of such action is mailed to such owner by certified mail.

If you have any questions about this Certification, please contact Melanie Davenport at (804) 698-4038 or Melanie.Davenport@deq.virginia.gov.

Sincerely,

A handwritten signature in blue ink that reads "James J. Golden". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

James J. Golden
Director of Operations

Enclosure 401 Certification No, 17-002



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 629 East Main Street, Richmond, Virginia 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Molly Joseph Ward
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

CERTIFICATION No. 17-002

401 Water Quality Certification Issued To

Atlantic Coast Pipeline, LLC
5000 Dominion Boulevard
Glen Allen, VA 23060

Pursuant to Guidance Memo No. GM17-2003

Interstate Natural Gas Infrastructure Projects -

Procedures for Evaluating and Developing Additional Conditions for Section 401 Water Quality Certification Pursuant to 33 USC § 1341 ("401" Certification)

I. CERTIFICATION

The State Water Control Board finds that, subject to the additional conditions set out in Section V below, there is reasonable assurance that the Atlantic Coast Pipeline, LLC activities covered by this Certification will be conducted in a manner that will not violate applicable Water Quality Standards in 9 VAC 25-260-5, *et seq.*, and will comply with the applicable provisions of 33 U.S.C. §§ 1311, 1312, 1313, 1316, and 1317.

II. DEFINITIONS

The following terms as used in this Certification shall have the following meaning:

"Annual Standards and Specifications" means the program for linear utility projects implementing the requirements of the Stormwater Management Act (Va. Code § 62.1-44.15:24, *et seq.*) and Erosion and Sediment Control Law (Va. Code § 62.1-44.15:51, *et seq.*).

"Board" means State Water Control Board.

"Certification" means Clean Water Act Section 401 Water Quality Certification developed in accordance with Guidance Memo No. GM17-2003, Interstate Natural Gas Infrastructure Projects

– Procedures for Evaluating and Developing Additional Conditions for Section 401 Water Quality Certification Pursuant to 33 USC § 1341 (“401” Certification).

“Construction material or waste material” means solid waste as defined in the Solid Waste Management Regulations (9 VAC 20-81-95).

“Corps” means U.S. Army Corps of Engineers.

“Department” means the Virginia Department of Environmental Quality.

“Environmental Impact Statement” or “EIS” means the Final Environmental Impact Statement (FEIS) issued by FERC on July 21, 2017.

“FERC” means the Federal Energy Regulatory Commission.

“Guidance” means Guidance Memo No. GM17-2003, Interstate Natural Gas Infrastructure Projects - Procedures for Evaluating and Developing Additional Conditions for Section 401 Water Quality Certification Pursuant to 33 USC § 1341 (“401” Certification) dated May 19, 2017.

“Karst feature” means any sinkhole, sinkhole lineament, cave, cavern, swallet, spring, or similar feature found in an area identified as an area of karst geology characterized by the presence of soluble bedrock such as limestone, dolomite, marble or gypsum. Karst features shall include all such features identified in Appendix L of the EIS and any subsequently identified features in areas of karst geology.

“Owner” means Atlantic Coast Pipeline, LLC (Atlantic) a company formed by four major U.S. energy companies including Dominion Resources, Inc. (Dominion); Duke Energy Corporation; Piedmont Natural Gas Co., Inc.; and Southern Company Gas, Inc. Dominion Energy Transmission, Inc. has been contracted by Atlantic to construct and operate the project.

“Project” means an interstate natural gas transmission pipeline approximately 605 miles in length to transport up to 1.5 MMDth/d of natural gas from supply areas in the Appalachian region of West Virginia to demand areas in Virginia and North Carolina. In Virginia, the 42-inch pipeline will cross Highland, Bath, Augusta, Nelson, Buckingham, Cumberland, Prince Edward, Nottoway, Dinwiddie, Brunswick, and Greenville Counties, and include a compressor station and interconnection with existing pipelines in Buckingham County. A 20-inch lateral will run from a compressor station in Northampton County, North Carolina through Greenville and Southampton Counties and the Cities of Suffolk and Chesapeake, Virginia. Two short 16-inch laterals will serve electric generating facilities in Brunswick and Greenville Counties. Approximately 307 miles of pipeline traverse the Commonwealth of Virginia.

“Riparian buffer” means a vegetated area near a stream, usually forested, which helps shade and partially protect a stream from the impact of adjacent land uses.

III. SCOPE OF CERTIFICATION

This Certification addresses Project activities in upland areas outside of the Corps jurisdictional areas under 33 U.S.C. § 1344 and water withdrawal activities that are exempt from coverage under the Virginia Water Protection Permit Program Regulation (9 VAC 25-210-10, *et seq.*). In the manner and to the extent described herein, this includes all proposed upland activities associated with the construction, operation, maintenance, and repair of the pipeline, any components thereof or appurtenances thereto, and related access roads and rights-of-way as well as certain project-related surface water withdrawals. This Certification covers all relevant upland Project activities within the route identified in the Environmental Impact Statement.

As this Certification and the conditions contained in Section V are intended to address Project activities that are outside the jurisdictional scope of the Virginia Water Protection Permit Program Regulation, this Certification shall not be interpreted as limiting or otherwise relieving the Owner of any conditions for any portion of the Project that are imposed pursuant to the Virginia Water Protection Permit Program Regulation, to any permit issued by the Corps or Virginia Marine Resources Commission in response to the September 16, 2015 joint permit application, or to any other separate state or federal permit, license, or approval required for the Project.

This certification shall be effective only following submission, review and final approval as required by law of the Karst Mitigation Plan, Annual Standards and Specifications, and Erosion and Sediment Control Plans and Stormwater Management Plans, and a report to the Board and the public by DEQ on the adequacy of these materials. The Board may consider further actions on the Certification following the review of the DEQ report.

Pursuant to 33 U.S.C. § 1341 (a)(3), the Board reserves the right to impose further conditions if any existing plans and/or mitigation measures are amended by the Owner and/or FERC that may materially reduce the water quality protection provided thereunder.

IV. INFORMATION EXAMINED

In developing this Certification and the additional conditions imposed herein, the Board and Department have considered the record relevant to water quality considerations associated with the Project, including but not limited to:

1. All applicable FERC documents, including Draft and Final Environmental Impact Statements issued by FERC and the associated docket materials including all Appendices, and the FERC order granting a Certificate of Public Convenience and Necessity (Certificate) on October 13, 2017;
2. The Department's initial Request for Information (RFI) dated May 19, 2017 in accordance with the Guidance, the Department's subsequent June 15, 2017 RFI and the Owner's June 1, 2017, June 23, 2017 and June 27, 2017 responses including but not limited to requested supplemental responses dated November 1, 2017 and November 6, 2017;

3. Proceedings of the multi-agency technical work session held June 6-7, 2017 (Lexington, Virginia);
4. Documents submitted for approval by the Department pursuant to requirements of the Stormwater Management Act (Va. Code § 62.1-44.15:24, *et seq.*) and Erosion and Sediment Control Law (Va. Code § 62.1-44.15:51, *et seq.*);
5. Corps Nationwide Permit 12 and Norfolk District Regional Conditions;
6. Guidance Memo No. GM17-2003, Interstate Natural Gas Infrastructure Projects- Procedures for Evaluating and Developing Additional Conditions for Section 401 Water Quality Certification Pursuant to 33 USC § 1341 (“401” Certification); and,
7. Public comments submitted during the public comment period, including both written (electronic or paper copy) and oral comments provided during the August 7, 10 and 14, 2017 public hearings.

V. CONDITIONS

In consideration of the recommendations of the Department, the Board finds that there are additional reasonable and prudent conditions that will provide the Commonwealth with an increased degree of assurance that upland Project activities which may result in a discharge to surface waters will be conducted in a manner that will not violate applicable water quality standards. This Certification is only valid provided the Owner complies with the following conditions, limitations, and/or requirements:

1. The Owner shall follow the measures detailed in its June 1, 2017, June 23, 2017 and June 27, 2017 responses to the Department’s May 19, 2017 and June 15, 2017 Requests for Information including but not limited to requested supplemental responses dated November 1, 2017 and November 6, 2017.
2. Riparian Buffer Requirements
 - a. Removal of riparian buffers not directly associated with the Project’s construction activities is prohibited. Disturbance and removal of riparian buffers from Project-related upland land disturbing activities that would occur within 50 feet of any perennial, intermittent, or ephemeral surface waters shall be avoided where possible, and minimized to the maximum extent practicable if 50 feet is not possible. The Owner shall notify the Department of any and all instances in which it believes 50 feet is not possible and shall proceed only where the Department concurs with the Owner’s use of less than 50 feet of buffer. Removal of riparian buffers not associated with crossings shall not be allowed where stream bank stability under normal flow conditions would be compromised.
 - b. The construction limit of disturbance (LOD) in upland areas approaching waterbody and wetland crossings shall be reduced from 125 feet to 75 feet wide and shall apply 50 feet from each side of the stream or wetland crossing to minimize the extent of riparian buffer disturbance. For any upland area approaching a waterbody or wetland

crossing where this reduced LOD is not possible, a written justification shall be provided to the Department for review and approval prior to initiating land disturbing activity in that area.

- c. No refueling, hazardous materials storage, equipment maintenance, or equipment parking will take place within 100-feet of the waterbody or wetland crossing, except as allowed by the approved Annual Standards and Specifications.

3. Karst Terrain Requirements

- a. An addendum to the Karst Survey Report (February 21, 2017), and any subsequent revisions or addenda to the same approved by FERC, will be provided to the Department upon completion of field survey activities and final pipeline alignments, and prior to land disturbing activities, that address those properties in Virginia where the Owner could not previously conduct karst surveys due to land access restrictions.
- b. The Owner shall follow the measures as detailed in the Karst Terrain Assessment, Construction, Monitoring and Mitigation Plan (January 20, 2017), and any subsequent revisions or addenda to the same approved by FERC.
- c. To further evaluate flow paths for karst features in the vicinity of the project, the Owner shall develop a Supplemental Karst Evaluation Plan to be submitted to the Department for review and concurrence prior to initiation of land disturbing activities in karst terrain. The Department, with assistance from the Virginia Department of Conservation and Recreation (DCR) identified areas of concern in Attachment B of the Department's June 15, 2017 request letter. The Owner will conduct contingency planning in accordance with the findings and conclusions of the Supplemental Plan, as appropriate, in order to monitor and mitigate a potential accidental release or spill during construction in Virginia's karst terrain.
- d. The Owner shall: (1) conduct a survey to identify wells, cisterns, springs, and other surface waters within 1,000 feet of the project centerline in areas known to have karst topography; and, (2) conduct one water quality sampling event to evaluate wells and springs used for human consumption and located between 500 feet to 1000 feet from the project centerline. The sampling shall include the parameters identified in Resource Report 2, Section 2.1.6, and any subsequent revisions or addenda to the same approved by FERC. The survey and/or water quality sampling event shall be conducted by the Owner at the request of a property owner and only if the property owner provides permission for access. This survey and/or water quality sampling event shall be conducted before the pipeline is placed into operation. The Owner must complete any survey and water quality evaluation requests received at least 30 days prior to placing the project in service.
- e. The Owner shall provide a financial responsibility demonstration to the Department in the amount of five million dollars (\$5,000,000), to support the Complaint Resolution Process contained in Resource Report 2, Section 2.1.6 in the event of

private water supply used for human consumption is impacted from project construction activities.

This demonstration requirement may be satisfied by any of the financial assurance mechanisms that are set forth in 9 VAC 25-650-90 through 9 VAC 25-650-130. The mechanism or combination of mechanisms shall not be accessible by third parties and shall be used by the Department to implement the Complaint Resolution Process contained in Resource Report 2, Section 2.1.6 when necessary due to the Owner's failure to do the same.

The mechanism or combination of mechanisms shall be submitted to the Department for review and approval and must contain such wording and terms as specified by the Department to satisfy this condition.

The demonstration, having been approved by the Department, shall be made available prior to initiation of land disturbing activities in karst terrain and shall be maintained until 180 days after all land disturbing activity associated with the construction of the pipeline, and related access roads and rights-of-way have achieved final stabilization as required by the Erosion and Sediment Control Law (Va. Code § 62.1-44.15:51, *et seq.*). The Department will notify the Owner when the conditions to release the financial demonstration have been met.

4. Surface Water Withdrawals

- a. Any surface water withdrawals for the purposes of hydrostatic testing shall not violate applicable Water Quality Standards and shall be managed so that no more than 10% of the instantaneous flow rate from the channel is removed; the intake screens shall be designed so that screen openings are not larger than 1 millimeter and the screen face intake velocities are not greater than 0.25 feet per second.
- b. Any surface water withdrawals for the purposes of horizontal directional drilling or dust control that do not exceed 10,000 gallons per day from non-tidal waters or two million gallons per day from tidal waters shall not violate applicable Water Quality Standards and shall be managed so that no more than 10% of the instantaneous flow rate from the channel is removed and the intake screens shall be designed so that screen openings are not larger than 1 millimeter and the screen face intake velocities are not greater than 0.25 feet per second.
- c. Daily withdrawals from horizontal directional drilling or dust control activities that exceed 10,000 gallons per day from non-tidal waters and two million gallons per day from tidal waters must comply with the requirements of the Virginia Water Protection Permit Program Regulation. The Owner shall record and track the daily volumes of water withdrawn for horizontal directional drilling or dust control activities and make such records available during inspection or upon request by the Department.

- d. Hydrostatic test water shall be released to upland areas through energy dissipating dewatering devices. The energy dissipating dewatering devices must be sized to accommodate the rate and volume of release and be monitored and regulated to prevent erosion and over pumping of the energy dissipating dewatering devices. There shall be no direct point source discharge or intentional indirect discharge of hydrostatic test water to surface waters. The upland discharge of hydrostatic test waters shall be monitored in accordance with the General Virginia Pollutant Discharge Elimination System (VPDES) Permit Regulation for Discharges from Petroleum Contaminated Sites, Groundwater Remediation and Hydrostatic Tests (9 VAC 25-120-10, *et seq.*) ("VPDES General Permit"). The Owner shall record and track the daily volumes of water withdrawn for hydrostatic testing activities and make such records available during inspection or upon request by the Department. In the event of an inadvertent indirect discharge to surface waters, the Owner shall be responsible for ensuring that such discharge complies with all requirements of the VPDES General Permit, including the requirement to notify the Department within 14 days.
5. The Owner shall implement water quality monitoring in accordance with the Virginia Water Quality Monitoring Plan (June 2017 and additional information submitted June 23, 2017 and June 27, 2017).
6. The Owner shall implement the measures identified in the Spill Prevention, Control, and Countermeasure (SPCC) Plan Rev 2 (June 21, 2017), and any subsequent revisions or addenda to the same approved by FERC.
7. All construction and installation associated with the Project, except as permitted by the Corps, shall be accomplished in such a manner that construction material or waste material shall not be placed into any perennial, intermittent, or ephemeral surface waters or karst features.
8. The Owner shall implement the measures intended to minimize the potential for discharges of soil or rock as detailed in the Blasting Plan Rev 3 (November 1, 2016) and the Best in Class Steep Slope Management Program (June 23, 2017 and June 27, 2017), and any subsequent revisions or addenda to the same approved by FERC. The Owner shall notify the Department immediately, but no later than 24 hours after discovery, if blasting or landslide activity results in unpermitted discharges of soil or rock to any perennial, intermittent, or ephemeral surface waters. Any potential impacts to karst features will be addressed in accordance with the Karst Terrain Assessment, Construction, Monitoring and Mitigation Plan (January 20, 2017).
9. The Owner shall follow the measures intended to minimize the potential for impacts as detailed in the Plan to Protect Water Quality from Acid Forming Materials (June 23, 2017 and June 27, 2017), and any subsequent revisions or addenda to the same approved by FERC.

10. The Temporary Construction Site (CY GWNF-6 Spr 04-A) located near the Town of Deerfield above the losing portion of Hamilton Branch shall maintain a vegetative buffer of 400 feet from Rt. 629 and follow the procedures for a Restricted Refueling Area as detailed in the SPCC Plan Section 5.0.
11. The Project, including all relevant records, is subject to inspection at reasonable hours and intervals by the Department or any authorized representative of the Department to determine compliance with this Certification.
12. The Owner shall provide the Department with written or electronic notification at least 10 business days prior to any planned Construction Spread pre-construction conferences.
13. The Owner shall immediately notify the Department of any modification of this Project and shall demonstrate in a written statement that said modifications will not violate any conditions listed in this Certification. If such demonstration cannot be made, the Owner shall apply for a modification of this Certification.
14. The Owner shall comply with the requirements of the Stormwater Management Act (Va. Code § 62.1-44.15:24, *et seq.*) and Erosion and Sediment Control Law (Va. Code § 62.1-44.15:51, *et seq.*) and the Virginia Water Protection Permit Program Regulations (9 VAC 25-210-10, *et seq.*). The enforceability under this Certification is in addition to the independent enforcement authority of each individual program and/or permit.
15. This Certification is subject to revocation for failure to comply with the above conditions after a proper hearing. Any unpermitted or unauthorized direct or indirect discharge to State waters shall be subject to enforcement under the State Water Control Law.
16. The terms and conditions of this Certificate shall remain in effect until 180 days after all land disturbing activity associated with the construction, operation, maintenance, and repair of the pipeline, and related access roads and rights-of-way have achieved final stabilization as required by the Erosion and Sediment Control Law (Va. Code § 62.1-44.15:51, *et seq.*).
17. This Certification is binding on the Owner and any successors in interest, designees and assigns, jointly and severally.

VI. CONCLUSION

The additional conditions contained in Section V of this Certification along with the requirements imposed by the VWP regulation, the Corps Section 404 permitting requirements, and prior regulatory actions associated with the approval and requirements of the July 2017 Annual Standards and Specifications, and the April 7, 2017 Section 401 Water Quality Certification of the Corps Nationwide Permit 12 provide reasonable assurance that water quality standards will not be violated. The conditions included in this Certification for upland areas are

in addition to any other federal or state permit or regulatory requirements with which the Project must comply, including federal resource agency requirements embodied in the FERC certificate.

This Certification constitutes the Commonwealth's final decision on the upland activities associated with the construction, operation, maintenance, and repair of the Project under the requirement of Clean Water Act § 401. The provisions of this Certification are severable and should any provision(s) of this Certification be declared invalid or unenforceable, the remainder of the Certification, including without limitation any additional conditions imposed hereunder, shall continue in full force and effect. The Commonwealth reserves its right to review this certification decision and take any appropriate action in accordance with 33 U.S.C. § 1341(a)(3). This Certification applies solely to upland activities authorized by FERC and shall not waive or otherwise impair or affect the authority of the Board to require additional certification under state or federal law.

By: Melanie H. Daneyport

Date: December 20, 2017

