

NOS. 18-1584 & 18-1587

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*In the*  
**Supreme Court of the United States**

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UNITED STATES FOREST SERVICE, et al.,

*Petitioners,*

v.

COWPASTURE RIVER PRESERVATION ASSOCIATION, et al.,

*Respondents.*

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ATLANTIC COAST PIPELINE, LLC,

*Petitioner,*

v.

COWPASTURE RIVER PRESERVATION ASSOCIATION, et al.,

*Respondents.*

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**On Writs of Certiorari to the  
United States Court of Appeals  
for the Fourth Circuit**

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**JOINT APPENDIX**

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December 2, 2019

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Petitions for Writ of Certiorari Filed June 25, 2019

Petitions for Writ of Certiorari Granted October 4, 2019

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JA 1

**UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT**

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No. 18-1144

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COWPASTURE RIVER PRESERVATION ASSOCIATION;  
HIGHLANDERS FOR RESPONSIBLE DEVELOPMENT;  
SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION;  
SHENANDOAH VALLEY NETWORK; SIERRA CLUB;  
VIRGINIA WILDERNESS COMMITTEE;  
WILD VIRGINIA, INC.,  
*Petitioners,*

v.

FOREST SERVICE, an agency of the U.S. Department of  
the Agriculture; KATHLEEN ATKINSON, in her official  
capacity as Regional Forester of the Eastern Region;  
KEN ARNEY, in his official capacity as Acting Regional  
Forester of the Southern Region,  
*Respondents,*  
ATLANTIC COAST PIPELINE LLC,  
*Intervenor.*

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**DOCKET ENTRIES**

Date Filed	#	Docket Text
02/05/2018	1	Case docketed. Originating case number: n/a. Case manager: CathyHerb. [18-1144] CT [Entered: 02/05/2018 04:00 PM]

## JA 2

Date Filed	#	Docket Text
* * *		
02/05/2018	4	Petition for review of agency order (FRAP 15) filed by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc.[1000235849] [18-1144] CT [Entered: 02/05/2018 04:25 PM]
* * *		
02/09/2018	20	MOTION by Atlantic Coast Pipeline, LLC to intervene. Date and method of service: 02/09/2018 ecf. [1000238866] [18-1144] Andrea Wortzel [Entered: 02/09/2018 02:06 PM]
02/21/2018	21	ORDER filed [1000239280] granting Motion to intervene [20] and to file separate briefs (Local Rule 28(d)) [21]. Intervenor Atlantic Coast Pipeline LLC added. Copies to all parties. [18-1144] CT

Date Filed	#	Docket Text
		[Entered: 02/12/2018 09:08 AM]
* * *		
02/15/2018	25	Joint MOTION by Respondents Ken Arney, Kathleen Atkinson and Forest Service to consolidate case 18-1083, 18-1144 with 18-1082 , to defer appendix filing , for establishing briefing schedule and expediting oral argument. Date and method of service: 02/15/2018 ecf. [1000242148] [18-1144] Avi Kupfer [Entered: 02/15/2018 10:42 AM]
02/15/2018	26	NOTICE ISSUED to counsel for Shenandoah Valley Network, Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation and Virginia Wilderness Committee and Nathan Matthews for Sierra Club and Wild Virginia, Inc. requesting response to Federal Respondents' and Intervenor's opposition to petitioners' scheduling motions and to the Motion to consolidate case (Local Rule 12(b)) [25], Motion



Date Filed	#	Docket Text
		to defer [25], Motion for other relief [25] Response due: 02/20/2018 on or before 10:00 am. [1000242322]. [18-1144]–[Edited 02/15/2018 by CT] CT [Entered: 02/15/2018 12:42PM]
02/20/2018	27	RESPONSE/ANSWER by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. to Motion [25], Motion [25], Motion [25], notice requesting response [26]. Nature of response: in opposition. [18-1144] Austin Gerken [Entered: 02/20/2018 09:51 AM]
* * *		
03/12/2018	29	Letter re: [25] Motion to consolidate case, [25] Motion to defer, [25] Motion for other relief by Respondents Ken Arney, Kathleen Atkinson and Forest Service. [1000256427]

Date Filed	#	Docket Text
		[18-1144] Avi Kupfer [Entered: 03/12/2018 05:01 PM]
03/13/2018	30	COURT ORDER filed [1000256987] granting Motion to accelerate case processing [1000241058-2] in 18-1082, granting Motion to accelerate case processing [1000241060-2] in 18-1083 Is oral argument requested: Yes; granting Motion to proceed with a deferred appendix [1000241058-3] in 18-1082, granting Motion to proceed with a deferred appendix [1000241060-3] in 18-1083; granting Motion to schedule oral argument [1000241058-4] in 18-1082, granting Motion to schedule oral argument [1000241060-4] in 18-1083; granting Motion to consolidate case [1000242142-2] in 18-1082, granting Motion to consolidate case [1000242144-2] in 18-1083; denying Motion to defer [1000242142-3] in 18-1082, denying Motion to defer [1000242144-3] in 18-1083, denying Motion to defer [25] in 18-1144; granting Motion for other relief [1000242142-4] in

Date Filed	#	Docket Text
		18-1082, granting Motion for other relief [1000242144-4] in 18-1083, granting Motion for other relief [25] in 18- 1144.; denying Motion to consolidate case [25] in 18-1144 Copies to all parties.. [18-1082, 18-1083, 18-1144] AW [Entered: 03/13/2018 01:09 PM]
* * *		
03/27/2018	32	MOTION by Respondents Ken Arney, Kathleen Atkinson and Forest Service to proceed with a deferred appendix , amend the briefing schedule, and expedite oral argument. Date and method of service: 03/27/2018 ecf. [1000265346] [18-1144] Avi Kupfer [Entered: 03/27/2018 03:15 PM]
03/27/2018	33	NOTICE ISSUED to Gregory Doran Buppert, Amelia Yvonne Burnette, Jonathan Malcolm Gendzier, Austin Donald Gerken, Jr., James Patrick Hunter, and Nathan Matthews requesting response to Motion to proceed with a deferred appendix [32], and Motion for other relief [32]. Responses due: 04/03/2018.[1000265442]. [18-

Date Filed	#	Docket Text
		1144] CT [Entered: 03/27/2018 04:06 PM]
03/29/2018	34	RESPONSE/ANSWER by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. to notice requesting response [33], Motion [32], Motion [32]. Nature of response: in opposition. [18-1144] Austin Gerken [Entered: 03/29/2018 05:02 PM]
* * *		
04/03/2018	37	ORDER filed [1000269961] granting Motion to proceed with a deferred appendix, set a briefing schedule, and expedite oral argument [32]. Copies to all parties. [18-1144] CT [Entered: 04/03/2018 02:16 PM]
* * *		
05/09/2018	41	Amended petition/motion by Ken Arney, Kathleen Atkinson and Forest Service amending

Date Filed	#	Docket Text
		[38] Motion for other relief. Document: APPELLATE-#364665-v1-ACP_USFS_amended_protective_order_motion.pdf; APPELLATE-#364666-v1-ACP_USFS_amended_proposed_protective_order.pdf. [1000291011] [18-1144] Avi Kupfer [Entered: 05/09/2018 08:31 AM]
05/10/2018	42	COURT ORDER filed [1000292399] granting amended Petition/Motion for protective order [41] Copies to all parties. [18-1144] CT [Entered: 05/10/2018 04:22 PM]
* * *		
06/18/2018	44	CASE TENTATIVELY CALENDARED for oral argument during the 9/25/18 - 9/28/18 argument session. Additional copies due: 06/23/2018. Notify Clerk's Office of any scheduling conflict by: 06/25/2018. [18-1144] JLC [Entered: 06/18/2018 03:52 PM]
06/18/2018	45	FRAP 30(c) PAGE-PROOF OPENING BRIEF by Petitioners Cowpasture River

Date Filed	#	Docket Text
		Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc.. Page-Proof Opening Brief due: 06/18/2018 [18-1144] Austin Gerken [Entered: 06/18/2018 11:50 PM]
06/18/2018	46	MOTION by Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. file addendum/attachment to.. Date and method of service: 06/18/2018 ecf. [1000314254] [18-1144] Austin Gerken [Entered: 06/18/2018 11:53 PM]
06/19/2018	48	ORDER filed [1000314965] granting Motion to file addendum to opening brief [46] Copies to all parties. [18-1144]

Date Filed	#	Docket Text
		CT [Entered: 06/19/2018 01:25 PM]
* * *		
07/20/2018	50	CASE CALENDARED for oral argument. Date: 09/28/2018. Registration Time: 7:45 - 8:00. Daily Arguments Begin: 8:30. Oral argument acknowledgment form due within 10 days. [18-1144] JLC [Entered: 07/20/2018 05:11 PM]
07/25/2018	51	FRAP 30(c) PAGE-PROOF RESPONSE BRIEF by Intervenor Atlantic Coast Pipeline LLC. [18-1144] Andrea Wortzel [Entered: 07/25/2018 01:08 PM]
07/25/2018	52	FRAP 30(c) PAGE-PROOF RESPONSE BRIEF by Respondents Ken Arney, Kathleen Atkinson and Forest Service. Page-Proof Respnsse Brief due: 07/25/2018 [18-1144] Avi Kupfer [Entered: 07/25/2018 05:41 PM]
* * *		
08/07/2018	63	MOTION by Intervenor Atlantic Coast Pipeline LLC file supplemental appendix.. Date and method of service:

Date Filed	#	Docket Text
		08/07/2018 ecf. [1000344368] [18-1144] Andrea Wortzel [Entered: 08/07/2018 10:13 AM]
08/07/2018	64	ORDER filed [1000344653] granting Motion to file supplemental appendix [63] Copies to all parties.. [18-1144] CT [Entered: 08/07/2018 12:52 PM]
08/07/2018	65	Corrected FULL ELECTRONIC APPENDIX and full paper appendix by Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc.. Method of Filing Paper Copies: hand delivery. Date paper copies mailed dispatched or delivered to court: 08/08/2018. [1000344686] [18-1144] Austin Gerken [Entered: 08/07/2018 01:20 PM]
08/07/2018	66	Corrected FULL ELECTRONIC APPENDIX and full paper appendix by



Date Filed	#	Docket Text
		Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc.. Method of Filing Paper Copies: hand delivery. Date paper copies mailed dispatched or delivered to court: 08/08/2018. [1000344691] [18-1144] Austin Gerken [Entered: 08/07/2018 01:28 PM]
08/07/2018	67	Corrected SEALED APPENDIX VOLUME(S) (court access only) by Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. in electronic and paper format. Method of Filing Paper Copies: hand delivery. Date Copies Mailed, Dispatched, or

Date Filed	#	Docket Text
		Delivered to court: 08/08/2018.. Filed Ex parte: N. [18-1144] Austin Gerken [Entered: 08/07/2018 01:32 PM]
08/07/2018	68	CERTIFICATE OF CONFIDENTIALITY (Local Rule 25(c)) by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc.. Sealing Required: No. Description of document referenced by certificate: Sealed Corrected Joint Appendix Volume VIII. [18-1144] Austin Gerken [Entered: 08/07/2018 01:36 PM]
08/07/2018	69	BRIEF by Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness

Date Filed	#	Docket Text
		Committee and Wild Virginia, Inc. in electronic and paper format. Type of Brief: OPENING. Method of Filing Paper Copies: hand delivery. Date Paper Copies Mailed, Dispatched, or Delivered to Court: 08/08/2018. [1000344862] [18-1144] Austin Gerken [Entered: 08/07/2018 03:23 PM]
08/07/2018	70	Addendum/attachment to [69] brief by Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. in electronic and paper format. Method of filing paper copies: Hand Delivery. Date copies mailed, dispatched, or delivered: 08/08/2018 [18-1144] Austin Gerken [Entered: 08/07/2018 04:57 PM]
* * *		
08/08/2018	74	ORDER filed [1000345295] sealing volume 8 of the joint

Date Filed	#	Docket Text
		appendix. Copies to all parties. [18-1144] TW [Entered: 08/08/2018 11:10 AM]
08/08/2018	75	BRIEF by Respondents Forest Service, Kathleen Atkinson and Ken Arney in electronic and paper format. Type of Brief: RESPONSE. Method of Filing Paper Copies: mail. Date Paper Copies Mailed, Dispatched, or Delivered to Court: 08/08/2018. [1000345397] [18-1144] Avi Kupfer [Entered: 08/08/2018 12:28 PM]
08/08/2018	76	Supplemental FULL ELECTRONIC APPENDIX and full paper appendix by Intervenor Atlantic Coast Pipeline LLC. Method of Filing Paper Copies: hand delivery. Date paper copies mailed dispatched or delivered to court: 08/07/2018. [1000345560] [18-1144] Andrea Wortzel [Entered: 08/08/2018 02:40 PM]
* * *		
08/08/2018	78	BRIEF by Intervenor Atlantic Coast Pipeline LLC in electronic and paper format.

Date Filed	#	Docket Text
		Type of Brief: RESPONSE. Method of Filing Paper Copies: hand delivery. Date Paper Copies Mailed, Dispatched, or Delivered to Court: 08/08/2018. [1000345691] [18-1144] Andrea Wortzel [Entered: 08/08/2018 03:47 PM]
08/08/2018	79	BRIEF by Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Wild Virginia, Inc. and Virginia Wilderness Committee in electronic and paper format. Type of Brief: REPLY. Method of Filing Paper Copies: hand delivery. Date Paper Copies Mailed, Dispatched, or Delivered to Court: 08/09/2018. [1000345821] [18-1144] Austin Gerken [Entered: 08/08/2018 09:24 PM]
* * *		
08/09/2018	82	MOTION by Respondents Ken Arney, Kathleen Atkinson and Forest Service file surreply

Date Filed	#	Docket Text
		brief. Date and method of service: 08/09/2018 ecf. [1000346461] [18- 1144] Avi Kupfer [Entered: 08/09/2018 03:35 PM]
08/09/2018	84	NOTICE ISSUED to counsel for petitioners requesting response to Motion to file surreply brief [82] Response due: 08/13/2018.[1000346573]. [18-1144] CT [Entered: 08/09/2018 04:49 PM]
08/09/2018	85	MOTION by Intervenor Atlantic Coast Pipeline LLC file surreply brief. Date and method of service: 08/09/2018 ecf. [1000346578] [18-1144] Andrea Wortzel [Entered: 08/09/2018 04:53 PM]
08/10/2018	86	NOTICE ISSUED to counsel for petitioners requesting response to Intervenor's Motion to file surreply brief [85] Response due: 08/13/2018.[1000346644].. [18-1144] CT [Entered: 08/10/2018 08:15 AM]
08/13/2018	87	SUPPLEMENTAL AUTHORITIES by Respondents Ken Arney, Kathleen Atkinson and Forest

Date Filed	#	Docket Text
		Service. [1000347906]. [18-1144] Avi Kupfer [Entered: 08/13/2018 03:46 PM]
08/13/2018	88	RESPONSE/ANSWER by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. to notice requesting response [86], Motion [85], notice requesting response [84], Motion [82]. Nature of response: in opposition. [18-1144] Amelia Burnette [Entered: 08/13/2018 04:43 PM]
08/16/2018	89	SUPPLEMENTAL AUTHORITIES (FRAP 28(j)) response by Petitioners Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness

Date Filed	#	Docket Text
		Committee and Wild Virginia, Inc.. [1000350125]. [18-1144] James Hunter [Entered: 08/16/2018 12:23 PM]
08/24/2018	90	COURT ORDER filed [1000354773] granting Motion to file surreply brief [85], granting Motion to file surreply brief [82] Copies to all parties. [18-1144] CT [Entered: 08/24/2018 10:22 AM]
08/29/2018	91	BRIEF by Respondents Ken Arney, Kathleen Atkinson and Forest Service in electronic and paper format. Type of Brief: SUPPLEMENTAL REPLY. Method of Filing Paper Copies: mail. Date Paper Copies Mailed, Dispatched, or Delivered to Court: 08/29/2018. [1000357571] [18-1144] Avi Kupfer [Entered: 08/29/2018 11:28 AM]
08/29/2018	92	BRIEF by Intervenor Atlantic Coast Pipeline LLC in electronic and paper format. Type of Brief: SUPPLEMENTAL REPLY. Method of Filing Paper Copies: hand delivery. Date Paper Copies Mailed, Dispatched, or Delivered to Court: 08/29/2018.



Date Filed	#	Docket Text
		[1000358005] [18-1144] Andrea Wortzel [Entered: 08/29/2018 03:53 PM]
* * *		
09/18/2018	95	SUPPLEMENTAL AUTHORITIES by Atlantic Coast Pipeline LLC. [1000369632]. [18-1144] Brooks Smith [Entered: 09/18/2018 05:07 PM]
09/18/2018	96	SUPPLEMENTAL AUTHORITIES by Atlantic Coast Pipeline LLC. [1000369633]. [18-1144] Brooks Smith [Entered: 09/18/2018 05:10 PM]
09/18/2018	97	MOTION by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. for stay pending appeal.. Date and method of service: 09/18/2018 ecf. [1000369662] [18-1144] Amelia Burnette [Entered: 09/18/2018 08:15 PM]

Date Filed	#	Docket Text
09/19/2018	98	NOTICE ISSUED to Atlantic Coast Pipeline LLC and Ken Arney, Kathleen Atkinson and Forest Service requesting response to Motion for stay pending appeal [97]. Response due: 09/21/2018 by noon.[1000370048]. [18-1144] PSC [Entered: 09/19/2018 11:45 AM]
09/21/2018	99	RESPONSE/ANSWER by Atlantic Coast Pipeline LLC to notice requesting response [98], Motion for stay pending appeal [97]. Nature of response: in opposition. [18-1144] Andrea Wortzel [Entered: 09/21/2018 11:55 AM]
09/21/2018	100	RESPONSE/ANSWER by Ken Arney, Kathleen Atkinson and Forest Service to notice requesting response [98], Motion for stay pending appeal [97]. Nature of response: in opposition. [18-1144] Avi Kupfer [Entered: 09/21/2018 11:57 AM]
09/24/2018	101	REPLY by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields

Date Filed	#	Docket Text
		Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. to response [100], response [99], Motion for stay pending appeal [97].. [18-1144] Austin Gerken [Entered: 09/24/2018 09:29 AM]
09/24/2018	102	COURT ORDER filed [1000372713] granting Motion for stay pending appeal [97] Copies to all parties. [18-1144] CT [Entered: 09/24/2018 04:53 PM]
09/28/2018	103	ORAL ARGUMENT heard before the Honorable Roger L. Gregory, James A. Wynn, Jr. and Stephanie D. Thacker. Attorneys arguing case:. Austin Donald Gerken, Jr. for Petitioners Shenandoah Valley Network, Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation and Virginia Wilderness Committee, Avi Kupfer for Respondents Forest Service, Ken Arney and Kathleen Atkinson, and Brooks

Date Filed	#	Docket Text
		Meredith Smith for Intervenor Atlantic Coast Pipeline LLC. Courtroom Deputy: Sarah Carr. [1000375634] [18-1144] SCC [Entered: 09/28/2018 11:38 AM]
12/13/2018	104	PUBLISHED AUTHORED OPINION filed. Motion disposition in opinion. Petition for review granted, vacated and remanded. [1000420308]. [18-1144]--[Edited 12/13/2018 by CT, clarifying disposition] CT [Entered: 12/13/2018 09:19 AM]
12/13/2018	105	OPINION ATTACHMENT. [18-1144] CT [Entered: 12/13/2018 09:20 AM]
12/13/2018	106	JUDGMENT ORDER filed. Decision: Petition granted, vacated and remanded. Entered on Docket Date: 12/13/2018. [1000420343] Copies to all parties and the district court/agency. [18-1144]. CT [Entered: 12/13/2018 09:29 AM]
* * *		
01/14/2019	109	MOTION by Ken Arney, Kathleen Atkinson and Forest Service to extend filing time for

Date Filed	#	Docket Text
		petition for rehearing until February 11, 2019.. Date and method of service: 01/14/2019 ecf. [1000438746] [18-1144] Avi Kupfer [Entered: 01/14/2019 04:32 PM]
* * *		
01/17/2019	111	COURT ORDER filed [1000440879] granting Motion to extend filing time [109]. Number of days granted: 14. Copies to all parties. [18-1144] TW [Entered: 01/17/2019 12:41 PM]
* * *		
01/28/2019	114	PETITION for rehearing en banc by Atlantic Coast Pipeline LLC. [18-1144] Paul Clement [Entered: 01/28/2019 05:51 PM]
01/29/2019	115	Mandate stayed pending ruling on petition for rehearing or rehearing en banc. [18-1144] TW [Entered: 01/29/2019 07:40 AM]
02/04/2019	116	MOTION by Mountain Valley Pipeline, LLC to file amicus curiae brief without consent of all parties on appeal within time allowed by FRAP 29(e).. Date and method of service:

Date Filed	#	Docket Text
		02/04/2019 ecf. [1000451083] [18-1144] George Sibley [Entered: 02/04/2019 08:57 PM]
* * *		
02/04/2019	120	AMICUS BRIEF on Petition for Rehearing by Mountain Valley Pipeline, LLC. Position on petition for rehearing: supporting rehearing petition . [1000451791] [18-1144] CT [Entered: 02/05/2019 01:34 PM]
02/05/2019	117	NOTICE ISSUED to Atlantic Coast Pipeline LLC, Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee, Wild Virginia, Inc. and Ken Arney, Kathleen Atkinson and Forest Service requesting response to Motion to file amicus curiae brief [116] Response due: 02/12/2019.[1000451726]. [18-

Date Filed	#	Docket Text
		1144] CT [Entered: 02/05/2019 01:01 PM]
02/05/2019	121	CORRECTED NOTICE ISSUED to parties requesting response to motion to file amicus curiae brief [117] [1000451800]. [18-1144 CT [Entered: 02/05/2019 01:38 PM]
* * *		
02/08/2019	123	RESPONSE/ANSWER by Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. to notice requesting response [121], Motion to file amicus curiae brief [116]. [18-1144] Austin Gerken [Entered: 02/08/2019 03:21 PM]
02/11/2019	124	PETITION for rehearing and rehearing en banc by Ken Arney, Kathleen Atkinson and Forest Service. [18-1144] Avi Kupfer [Entered: 02/11/2019 04:05 PM]

Date Filed	#	Docket Text
02/11/2019	125	Mandate stayed pending ruling on petition for rehearing or rehearing en banc. [18-1144] CT [Entered: 02/11/2019 04:14 PM]
02/12/2019	126	COURT ORDER filed [1000456283] granting Motion to file amicus curiae brief [116]. Disclosure Statement filed (if corporate amicus)? Y. Appearance Form filed? Y. Copies to all parties. [18-1144] CT [Entered: 02/12/2019 01:00 PM]
02/19/2019	127	MOTION by National Association of Manufacturers, The American Fuel & Petrochemical Manufacturers, The American Petroleum Institute, et al. to file amicus curiae brief without consent of all parties on appeal within time allowed by FRAP 29(e).. Date and method of service: 02/19/2019 ecf. [1000460842] [18-1144] David Friedland [Entered: 02/19/2019 07:15 PM]
02/20/2019	128	NOTICE ISSUED to Cowpasture River Preservation Association, Highlanders for Responsible



Date Filed	#	Docket Text
		Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia, Inc. requesting response to Motion to file amicus curiae brief [127]. Response due: 03/04/2019.[1000461068]. [18-1144] TW [Entered: 02/20/2019 11:02 AM]
02/20/2019	129	AMICUS BRIEF on Petition for Rehearing (with appearance of counsel) by National Association of Manufacturers, The American Fuel & Petrochemical Manufacturers, The American Petroleum Institute, et al. (Proposed amici). Position on petition for rehearing: supporting rehearing petition. [1000461730] [18-1144] David Friedland [Entered: 02/20/2019 05:33 PM]
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02/25/2019	131	COURT ORDER filed [1000464323] denying Motion for rehearing and rehearing en banc [124]; denying Motion for rehearing en banc [114] Copies

Date Filed	#	Docket Text
		to all parties. [18-1144] CT [Entered: 02/25/2019 04:00 PM]
02/27/2019	132	COURT ORDER filed [1000466518] granting Motion to file amicus curiae brief [127]. Disclosure Statement filed (if corporate amicus)? Y. Appearance Form filed? Y. Copies to all parties. [18-1144] CT [Entered: 02/27/2019 04:22 PM]
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**Excerpts From Order Issuing Certificates, *In re Atlantic Coast Pipeline, LLC*, 161 FERC ¶ 61,042 (Oct. 13, 2017)**

1. On September 18, 2015, Atlantic Coast Pipeline, LLC (Atlantic) filed an application in Docket No. CP15-554-000, pursuant to section 7(c) of the NGA<sup>1</sup> and Part 157 of the Commission's regulations,<sup>2</sup> for authorization to construct and operate the Atlantic Coast Pipeline Project (ACP Project). On March 11, 2016, Atlantic filed an amendment to its application in Docket No. CP15-554-001. In its amendment, Atlantic proposed several route changes and additional compression at its proposed compressor station in Buckingham County, Virginia. The ACP Project, as amended, consists of approximately 604 miles of new interstate pipeline and related facilities extending from Harrison County, West Virginia, to the eastern portions of Virginia and North Carolina,<sup>3</sup> and 130,345 horsepower (hp) of compression. The ACP Project is designed to provide up to 1.5 million dekatherms per day (Dth/d) of natural gas transportation service. Atlantic also requests approval of its *pro forma* tariff, a blanket certificate under Part 284, Subpart G of the Commission's regulations to provide open-access transportation services, and a blanket certificate under Part 157, Subpart F of the

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<sup>1</sup> 15 U.S.C. § 717f(c) (2012).

<sup>2</sup> 18 C.F.R. pt. 157 (2017).

<sup>3</sup> The ACP Project extends from West Virginia, southeast to Greensville County, Virginia, then splits into two legs; one leg extending east to the City of Chesapeake, Virginia, and the other leg extending southwest into North Carolina.

Commission's regulations to perform certain routine construction activities and operations.

2. On September 18, 2015, Dominion Transmission, Inc. (DETI)<sup>4</sup> filed an application in Docket No. CP15-555-000, under sections 7(b) and 7(c) of the NGA<sup>5</sup> and Part 157 of the Commission's regulations,<sup>6</sup> requesting authorization to construct and operate approximately 38 miles of pipeline looping facilities and other facility upgrades and modifications to DETI's existing system in Pennsylvania and West Virginia (Supply Header Project). The Supply Header Project is designed to provide up to 1,511,335 Dth/d of natural gas transportation service from supply areas on the DETI system to the proposed ACP Project. DETI also requests authorization to abandon two previously-certificated gathering compressor units in Wetzel County, West Virginia.

3. Also, on September 18, 2015, Atlantic and Piedmont Natural Gas Company, Inc. (Piedmont) filed a joint application in Docket No. CP15-556-000, pursuant to section 7(c) of the NGA<sup>7</sup> and Part 157 of the Commission's regulations,<sup>8</sup> for approval of a lease pursuant to which Atlantic will lease 100,000 Dth/d of capacity on Piedmont's system for use by Atlantic in providing service under Atlantic's FERC Gas Tariff (Capacity Lease). Additionally, Piedmont requests a

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<sup>4</sup> On May 12, 2017, Dominion Transmission, Inc. changed its name to Dominion Energy Transmission, Inc.

<sup>5</sup> 15 U.S.C. § 717f(b) and (c) (2012).

<sup>6</sup> 18 C.F.R. pt. 157 (2017).

<sup>7</sup> 15 U.S.C. § 717f(c) (2012).

<sup>8</sup> 18 C.F.R. pt. 157 (2017).

limited jurisdiction certificate to carry out its responsibilities under the lease agreement.

4. As explained herein, we find that the benefits that the ACP Project, Supply Header Project, and Capacity Lease will provide to the market outweigh any adverse effects on existing shippers, other pipelines and their captive customers, and on landowners and surrounding communities. Further, as set forth in the environmental discussion below, we agree with Commission staff's conclusion in the Environmental Impact Statement (EIS) that, if constructed and operated in accordance with applicable laws and regulations and with the implementation of the applications' proposed mitigation and staff's recommendations, now adopted as conditions in the attached Appendix A of this order, the projects will result in some adverse and significant environmental impacts, but that these impacts will be reduced to acceptable levels. Therefore, we grant the requested authorizations, subject to conditions.

## **I. Background**

5. Atlantic, a limited liability company organized and existing under the laws of Delaware, was formed to develop, own, and operate the ACP Project and does not currently own any existing pipeline facilities and is not engaged in any natural gas operations. Atlantic is composed of four ownership interests: Dominion Atlantic Coast Pipeline, LLC, a Delaware limited liability company and subsidiary of Dominion Resources, Inc. (48 percent ownership); Duke Energy ACP, LLC, a Delaware limited liability company and subsidiary of Duke Energy Corporation (40 percent ownership); Piedmont ACP Company, LLC, a North

Carolina limited liability company and subsidiary of Duke Energy Corporation (7 percent ownership);<sup>9</sup> and Maple Enterprise Holdings, Inc., a Georgia corporation and subsidiary of The Southern Company<sup>10</sup> (5 percent ownership).<sup>11</sup> Upon commencing the operations proposed in its application, Atlantic will become a natural gas company within the meaning of section 2(6) of the NGA<sup>12</sup> and will be subject to the Commission's jurisdiction.

6. DETI, a Delaware corporation,<sup>13</sup> is a natural gas company, as defined in section 2(6) of the NGA.<sup>14</sup> DETI provides natural gas transportation and storage services in Ohio, West Virginia, Pennsylvania, New York, Maryland, and Virginia.

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54. The Certificate Policy Statement established a new policy under which the Commission would allow an applicant to rely on a variety of relevant factors to

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<sup>9</sup> On October 3, 2016, Duke Energy Corporation purchased Piedmont Natural Gas Company, Inc. and became the parent company of Piedmont ACP Company, LLC. Effective on October 3, 2016, Piedmont ACP Company, LLC assigned 3 percent of its original 10 percent ownership interest in Atlantic to Dominion Atlantic Coast Pipeline, LLC.

<sup>10</sup> The Southern Company merged with AGL Resources Inc. in a transaction that closed on July 1, 2016.

<sup>11</sup> See Atlantic February 28, 2017 Data Response.

<sup>12</sup> 15 U.S.C. § 717a(6) (2012).

<sup>13</sup> DETI is wholly-owned subsidiary of Dominion Gas Holdings, LLC, which, in turn, is a wholly-owned subsidiary of Dominion Resources, Inc.

<sup>14</sup> 15 U.S.C. § 717a(6) (2012).

demonstrate need, rather than continuing to require that a percentage of the proposed capacity be subscribed under long-term precedent or service agreements.<sup>83</sup> These factors might include, but are not limited to, precedent agreements, demand projections, potential cost savings to consumers, or a comparison of projected demand with the amount of capacity currently serving the market.<sup>84</sup> The Commission stated that it would consider all such evidence submitted by the applicant regarding project need. Nonetheless, the policy statement made clear that, although precedent agreements are no longer required to be submitted, they are still significant evidence of project need or demand.<sup>85</sup> As the court affirmed in *Minisink Residents for Environmental Preservation & Safety v. FERC*, the Commission may reasonably accept the market need reflected by the applicant's existing contracts with shippers.<sup>86</sup> Moreover, it is current Commission policy to not look behind

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<sup>83</sup> Certificate Policy Statement, 88 FERC at 61,747. Prior to the Certificate Policy Statement, the Commission required a new pipeline project to have contractual commitments for at least 25 percent of the proposed project's capacity. *See* Certificate Policy Statement, 88 FERC ¶ 61,227 at 61,743. The ACP Project, at 96 percent subscribed, would have satisfied this prior, more stringent, requirement.

<sup>84</sup> Certificate Policy Statement, 88 FERC at 61,747.

<sup>85</sup> *Id.*

<sup>86</sup> *Minisink Residents for Envtl. Pres. & Safety v. FERC*, 762 F.3d 97, 110 n.10 (D.C. Cir. 2014); *see also* *Sierra Club v. FERC*, 867 F.3d 1357, 1379 (D.C. Cir. 2017) (finding that pipeline project proponent satisfied the Commission's "market need" where 93 percent of the pipeline project's capacity has already been contracted for).

precedent or service agreements to make judgments about the needs of individual shippers.<sup>87</sup>

55. We find that Atlantic has sufficiently demonstrated that there is market demand for the project. Atlantic has entered into long-term, firm precedent agreements with six shippers for 1,440,000 Dth/d of firm transportation service, approximately 96 percent of the system's capacity.<sup>88</sup> Further, Ordering Paragraph (K) of this order requires that Atlantic and DETI file a written statement affirming that they have executed final contracts for service at the levels provided for in their precedent agreements prior to commencing construction. The shippers on the ACP Project supply gas to end users and electric generators, and those shippers have determined that natural gas will be needed and the ACP Project is the preferred means of obtaining that gas. We find that the contracts entered into by those shippers are the best evidence that additional gas will be needed in the markets that the ACP Project intends to serve. We also find that end users will generally benefit from the project because it would develop gas infrastructure that will serve to ensure future domestic energy

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<sup>87</sup> Certificate Policy Statement, 88 FERC at 61,744 (citing *Transcontinental Gas Pipe Line Corp.*, 82 FERC ¶ 61,084, at 61,316 (1998)).

<sup>88</sup> *Constitution Pipeline Company, LLC*, 154 FERC ¶ 61,046, at P 21 (2016) ("Although the Certificate Policy Statement broadened the types of evidence certificate applicants may present to show the public benefits of a project, it did not compel an additional showing ... [and] [n]o market study or other additional evidence is necessary where ... market need is demonstrated by contracts for 100 percent of the project's capacity.").



supplies and enhance the pipeline grid by connecting sources of natural gas to markets in Virginia and North Carolina.<sup>89</sup>

56. We disagree with commenters' assertion that the Commission should examine the need for pipeline infrastructure on a region-wide basis. Commission policy is to examine the merits of individual projects and each project must demonstrate a specific need.<sup>90</sup> While the Certificate Policy Statement permits the applicant to show need in a variety of ways, it does not suggest that the Commission should examine a group of projects together and pick which projects best serve an estimated future regional demand. In fact, projections regarding future demand often change and are influenced by a variety of factors, including economic growth, the cost of natural gas, environmental regulations, and legislative and regulatory decisions by the federal government and individual states. Given the uncertainty associated with long-term demand projections, such as those presented in the Synapse Study and other studies cited by commenters, where an applicant has precedent agreements for long-term firm service, the Commission deems the precedent agreements to be the better evidence of demand. Thus, the Commission evaluates individual projects based on the evidence of

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<sup>89</sup> See *ETC Tiger Pipeline, LLC*, 131 FERC ¶ 61,010, at P 20 (2010).

<sup>90</sup> With respect to comments requesting the Commission to assess the market demand for gas to be transported by other proposed interstate pipeline projects, we note that the Commission will evaluate the proposals in those proceedings in accordance with the criteria established in our Certificate Policy Statement.

need presented in each proceeding. Where, as here, it is demonstrated that specific shippers have entered into precedent agreements for project service, the Commission places substantial reliance on those agreements to find that the project is needed.

57. With respect to the use of existing infrastructure or new renewable generation to meet the project's need, our environmental review considered the potential for energy conservation and renewable energy sources, and the availability of capacity on other pipelines, to serve as alternatives to the ACP Project and concluded that they do not presently serve as practical alternatives to the project.<sup>91</sup> Thus, contrary to commenters' assertions, we are not persuaded that authorization of the ACP Project would lead to the overbuilding of pipeline infrastructure.

58. In addition, we are not persuaded by commenters' contention that there is insufficient supply in the Appalachian Basin to support the pipeline. While we agree, and Atlantic acknowledges, the intended source of supply for the ACP Project will be production in the Appalachian Basin, the ACP Project is also connected to other interstate pipelines, such as DETI<sup>92</sup> and

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<sup>91</sup> See Final EIS at 5-38 (concluding that existing pipelines do not have the capacity to transport the required volumes of gas and that generation of electricity from renewable energy sources or the gains realized from increased energy efficiency and conservation are not transportation alternatives and cannot function as a substitute for the proposed projects).

<sup>92</sup> DETI's Supply Header Project would receive natural gas from two interstate pipelines, Rockies Express Pipeline, LLC and Texas Eastern Transmission, and from regional production at

Transco, which could potentially supply gas to the project from other areas of supply. Additionally, because, as the commenters note, the amount of gas that will be produced from the region is reflective of, among other things, the price of natural gas, projections regarding the amount of gas available for the ACP Project are speculative.

59. Moreover, the fact that five of the six shippers on the ACP Project are affiliated with the project's sponsors does not require the Commission to look behind the precedent agreements to evaluate project need.<sup>93</sup> When considering applications for new certificates, the Commission's primary concern regarding affiliates of the pipeline as shippers is whether there may have been undue discrimination against a non-affiliate shipper.<sup>94</sup> Here, no such allegations have been made, nor have we found that the project sponsors have engaged in any anticompetitive behavior. As discussed above, Atlantic held both a non-binding and binding open season for capacity on the project and all potential shippers had the opportunity to contract for service. Moreover, Atlantic's tariff, as discussed below, ensures that any

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two receipt points. Atlantic's September 18, 2015 Application at Exhibit I.

<sup>93</sup> *Millennium Pipeline Co., L.P.*, 100 FERC ¶ 61,277 at P 57 ("as long as the precedent agreements are long-term and binding, we do not distinguish between pipelines' precedent agreements with affiliates or independent marketers in establishing the market need for a proposed project").

<sup>94</sup> See 18 C.F.R. § 284.7(b) (2017) (requiring transportation service to be provided on a non-discriminatory basis).

future shipper will not be unduly discriminated against.

60. We also do not find merit in the commenters' argument that the proposed project will be subsidized by the affiliated shippers' captive ratepayers. First, to the extent a ratepayer receives a beneficial service, paying for that service does not constitute a "subsidy."<sup>95</sup> Further, as several commenters and the Institute for Energy Economics and Financial Analysis, *Risks Associated with Natural Gas Pipeline Expansion in Appalachia* study (IEEFA study) note, state utility regulators must approve any expenditures by state-regulated utilities. We disagree with commenters who suggest that once the Commission has made a determination in this proceeding, state regulators cannot effectively review the expenditures of utilities that they regulate. In fact, any attempt by the Commission to look behind the precedent agreements in this proceeding might infringe upon the role of state regulators in determining the prudence of expenditures by the utilities that they regulate. Here, the North Carolina Utilities Commission has already approved the precedent agreements between Atlantic and Duke Energy Progress, Duke Energy Carolinas, and Piedmont. With respect to the precedent agreement to supply natural gas to Virginia Electric and Power Company, issues related to the utility's ability to recover costs associated with its decision to subscribe for service on the ACP Project involve matters to be determined by the Virginia State Corporation Commission; those concerns are beyond the scope of

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<sup>95</sup> See Certificate Policy Statement, 90 FERC ¶ at 61,393.

the Commission's jurisdiction. Should they elect to construct the projects before affirmative action by the state regulators, the applicants will be at risk of not being able to recover some, or any, of their costs.

61. Further, we disagree with commenters claim that because Greenville and Brunswick Power Stations are already served by Transco's pipeline, the ACP Project is not needed. The fact that these two generating facilities are already connected to interstate pipelines does not diminish the reliability benefits of having alternative sources of natural gas for those generators in case of a supply disruption. In addition, the ACP Project will be able supply additional existing generation units through interconnections with existing pipelines. For example, Atlantic cited 14 Dominion Virginia Power and 5 Duke Energy Progress facilities that could be served by the ACP Project.<sup>96</sup>

62. Lastly, allegations that the project is not needed because gas may be exported are not persuasive. The Commission does not have jurisdiction to authorize the exportation or importation of natural gas. Such jurisdiction resides with the DOE, which must act on any applications for natural gas export or import authority.<sup>97</sup> Moreover, the ACP Project's shippers are

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<sup>96</sup> Atlantic's December 8, 2016 Data Response at Question 3.

<sup>97</sup> Section 3(a) of the NGA provides, in part, that "no person shall export any natural gas from the United States to a foreign country or import any natural gas from a foreign country without first having secured an order of the Commission authorizing it to do so." 15 U.S.C. § 717b(a) (2012). In 1977, the Department of Energy Organization Act transferred the regulatory functions of section 3 of the NGA to the Secretary of Energy. 42 U.S.C. § 7151(b) (2012). Subsequently, the Secretary of Energy

domestic end users of natural gas and there is no evidence in the record that these end users intend to use their capacity to provide gas to an export terminal.

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#### 4. Environmental Analysis Conclusion

323. We have reviewed the information and analysis contained in the final EIS regarding potential environmental effects of the ACP Project, Supply Header Project, and the Capacity Lease, as well as the other information in the record. We are accepting the environmental recommendations in the final EIS as modified herein, and are including them as conditions in Appendix A to this order.

324. Any state or local permits issued with respect to the jurisdictional facilities authorized herein must be

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delegated to the Commission authority to “[a]pprove or disapprove the construction and operation of particular facilities, the site at which such facilities shall be located, and with respect to natural gas that involves the construction of new domestic facilities, the place of entry for imports or exit for exports.” DOE Delegation Order No. 00-004.00A (effective May 16, 2006). The proposed facilities are not located at a potential site of exit for natural gas exports. Moreover, the Secretary of Energy has not delegated to the Commission any authority to approve or disapprove the import or export of the commodity itself, or to consider whether the exportation or importation of natural gas is consistent with the public interest. *See Corpus Christi Liquefaction, LLC*, 149 FERC ¶ 61,283, at P 20 (2014) (*Corpus Christi*). *See also National Steel Corp.*, 45 FERC ¶ 61,100, at 61,332-33 (1988) (observing that DOE, “pursuant to its exclusive jurisdiction, has approved the importation with respect to every aspect of it except the point of importation” and that the “Commission’s authority in this matter is limited to consideration of the place of importation, which necessarily includes the technical and environmental aspects of any related facilities”).

consistent with the conditions of this order. The Commission encourages cooperation between interstate pipelines and local authorities. However, this does not mean that state and local agencies, through application of state or local laws, may prohibit or unreasonably delay the construction or operation of facilities approved by this Commission.<sup>464</sup>

325. Based on our consideration of this information and the discussion above, we agree with the conclusions presented in the final EIS and find that the projects, if constructed and operated as described in the final EIS, are environmentally acceptable actions. Therefore, for the reasons discuss above, we find that the projects are in the public convenience and necessity.

326. The Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, and exhibits thereto, and all comments and upon consideration of the record,

The Commission orders:

(A) A certificate of public convenience and necessity is issued authorizing Atlantic to construct

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<sup>464</sup> See 15 U.S.C. § 717r(d) (state or federal agency's failure to act on a permit considered to be inconsistent with Federal law); see also *Schneidewind v. ANR Pipeline Co.*, 485 U.S. 293, 310 (1988) (state regulation that interferes with FERC's regulatory authority over the transportation of natural gas is preempted) and *Dominion Transmission, Inc. v. Summers*, 723 F.3d 238, 245 (D.C. Cir. 2013) (noting that state and local regulation is preempted by the NGA to the extent it conflicts with federal regulation, or would delay the construction and operation of facilities approved by the Commission).

and operate the Atlantic Coast Pipeline Project, as described in this order and in the applications in Docket Nos. CP15-554-000 and CP15-554-001.

(B) A certificate of public convenience and necessity is issued authorizing DETI to construct and operate the Supply Header Project, as described in this order and in the application in Docket No. CP15-555-000.

(C) A blanket transportation certificate is issued to Atlantic under Subpart G of Part 284 of the Commission's regulations.

(D) A blanket construction certificate is issued to Atlantic under Subpart F of Part 157 of the Commission's regulations.

(E) The certificate authority issued in Ordering Paragraph (A) and (B) shall be conditioned on the following:

- (1) Applicants' completion of the authorized construction of the proposed facilities and making them available for service within three years from the date of this order, pursuant to section 157.20(b) of the Commission's regulations;
- (2) Applicants' compliance with all applicable Commission regulations under the NGA including, but not limited to, Parts 154 and 284, and paragraphs (a), (c), (e), and (f) of section 157.20 of the regulations;
- (3) Applicants' compliance with the environmental conditions listed in Appendix A to this order.



(F) A certificate of public convenience and necessity is issued to Atlantic authorizing it to lease the subject capacity from Piedmont as described herein.

(G) A limited-jurisdiction certificate of public convenience and necessity is issued to Piedmont to operate 100,000 Dth per day of capacity on its North Carolina intrastate pipeline system for Atlantic.

(H) Atlantic shall notify the Commission within 10 days of the date of the acquisition of the capacity leased from Piedmont.

(I) DETI is authorized to abandon Compressor Units 1 and 2 at the Hastings Compressor Station in Wetzel County, West Virginia.

(J) DETI shall notify the Commission within 10 days of the date of the abandonment of the compressor units.

(K) Atlantic and DETI shall file a written statement affirming that they have executed firm contracts for the capacity levels and terms of service represented in signed precedent agreements, prior to commencing construction.

(L) Atlantic's initial rates and tariff are approved, as conditioned and modified above.

(M) Atlantic is required to file actual tariff records reflecting the initial rates and tariff language that comply with the requirements contained in the body of this order not less than 30 days and not more than 60 days prior to the commencement of interstate service consistent with Part 154 of the Commission's regulations.

(N) Atlantic and DETI must file not less than 60 days before the in-service date of the proposed facilities an executed copy of the non-conforming agreements reflecting the non-conforming language and a tariff record identifying these agreements as non-conforming agreements consistent with section 154.112 of the Commission's regulations.

(O) No later than three months after the end of its first three years of actual operation, as discussed herein, Atlantic must make a filing to justify its existing cost-based firm and interruptible recourse rates. Atlantic's cost and revenue study should be filed through the eTariff portal using a Type of Filing Code 580. In addition, Atlantic is advised to include as part of the eFiling description, a reference to Docket No. CP15-554-000 and the cost and revenue study.

(P) DETI's request for authority to charge an incremental reservation rate for the Supply Header Project is approved.

(Q) DETI shall file actual tariff records setting forth its incremental rates at least 30 days, but no more than 60 days, prior to the date the project facilities go into service. That filing should be made as an eTariff compliance filing using type of filing code 580, and will be assigned an RP docket. It will be processed separately from the instant certificate proceeding in Docket No. CP15-555-000.

(R) DETI's request to use its system-wide fuel retention percentage as well as its EPCA and TCRA surcharges is approved.

(S) DETI shall keep separate books and accounting of costs and revenues attributable to the Supply Header Project, as more fully described above.

(T) Atlantic shall adhere to the accounting requirements discussed in the body of this order.

(U) Atlantic and DETI shall notify the Commission's environmental staff by telephone or facsimile of any environmental noncompliance identified by other federal, state, or local agencies on the same day that such agency notifies Atlantic or DETI. The Applicants shall file written confirmation of such notification with the Secretary of the Commission within 24 hours.

(V) The requests for a trial-type hearing are denied. By the Commission. Commissioner LaFleur is dissenting with a separate statement attached.

(S E A L)

Nathaniel J. Davis, Sr.,  
Deputy Secretary.

**Excerpt From Special Use Permit,  
U.S. Department of Agriculture (Jan. 23, 2018)**

**AUTHORITY:**

**MINERAL LEASING ACT, AS AMENDED  
February 25, 1920, FEDERAL LAND  
POLICY AND MGMT ACT, AS AMENDED  
October 21, 1976**

**ATLANTIC COAST PIPELINE, LLC of 707  
EAST MAIN STREET, RICHMOND, VA, 23219** (hereinafter “the holder”) is authorized to use or occupy National Forest System lands in the **Monongahela National Forest** and the **George Washington and Jefferson National Forest** of the National Forest System, subject to the terms and conditions of this special use permit (the permit).

This permit covers **381.78 acres** (GIS) or **36.43 miles** (GIS) in various **US Tracts** in the West Virginia County of Pocahontas, and Virginia Counties of Highland, Bath, and Augusta, (“the permit area”), as shown on the maps attached as **Exhibits A-D** and described in the land list attached as **Exhibit E**. These and any other exhibits to this permit are hereby incorporated into this permit. Alignment sheets and “as built” plans to be provided by the Holder will be the most accurate representation of the pipeline location and will be provided as completed by the Holder upon request by the Authorized Officer or his delegated contact.

This permit is issued for the purpose of:

**Temporary construction, installation, and use of a 42 inch natural gas transmission pipeline right-of-way** (known as Atlantic Coast

Pipeline/ACP), temporary pipeline rights-of-way, temporary additional workspace, new access roads, and widening of existing system roads that are closed to the public within both the Monongahela and George Washington and Jefferson National Forests as shown on attached maps and land list Exhibits A-E.

The authorized width of the long-term pipeline right-of-way shall be 50 feet. The authorized width of temporary pipeline rights-of-way, temporary additional workspace, and roads are shown on Exhibits A-E.

A Construction, Operation and Maintenance **(COM) Plan** is attached to and made part of this permit as **Exhibit F**. The holder shall exercise the privileges granted herein in accordance with the COM Plan. Additional requirements for construction and operation are found in **Exhibit G**. Changes or updates to the COM Plan may be made in accordance with Clause III.C. of this permit. Following construction, all areas used shall be returned to its pre-existing state in accordance with the COM Plan and to the satisfaction of the Forest Service authorized officer as stated in Clause VII.E. of this permit. The exception shall be the pipeline and long-term road rights-of-way authorized in special use permit MAR205002.

As-built surveys, drawings, and maps shall be submitted to the Forest Service upon completion of the construction. These surveys will become part of special use permit MAR205002, issued for the operation and maintenance of the ACP pipeline.

Maps showing threatened endangered species are shown on **Exhibit H** while maps showing sensitive

species are shown on **Exhibit I**. Both maps are privilege information and not for public release.

## **TERMS AND CONDITIONS**

### **I. GENERAL TERMS**

**A. AUTHORITY.** This permit is issued pursuant to the **MINERAL LEASING ACT, AS AMENDED February 25, 1920, FEDERAL LAND POLICY AND MGMT ACT, AS AMENDED October 21, 1976** and 36 CFR Part 251, Subpart B, as amended, and is subject to their provisions.

**B. AUTHORIZED OFFICER.** The authorized officer is the Regional Forester, the Forest or Grassland Supervisor, a District Ranger, or a Station Director with delegated authority pursuant to Forest Service Manual 2700.

**C. TERM.** This permit shall expire at midnight on **12/31/2022, 5 years** from the date of issuance.

**D. CONTINUATION OF USE AND OCCUPANCY.** This permit is not renewable. Prior to expiration of this permit, the holder may apply for a new permit for the use and occupancy authorized by this permit. Applications for a new permit must be submitted at least 6 months prior to expiration of this permit. Issuance of a new permit is at the sole discretion of the authorized officer. At a minimum, before issuing a new permit, the authorized officer shall ensure that (1) the use and occupancy to be authorized by the new permit is consistent with the standards and guidelines in the applicable land management plan; (2) the type of use and occupancy to be authorized by the new permit is the same as the type of use and occupancy authorized by this permit;

and (3) the holder is in compliance with all the terms of this permit. The authorized officer may prescribe new terms and conditions when a new permit is issued.

**E. AMENDMENT.** This permit may be amended in whole or in part by the Forest Service when, at the discretion of the authorized officer, such action is deemed necessary or desirable to incorporate new terms that may be required by law, regulation, directive, the applicable forest land and resource management plan, or projects and activities implementing a land management plan pursuant to 36 CFR Part 215.

**F. COMPLIANCE WITH LAWS, REGULATIONS, AND OTHER LEGAL REQUIREMENTS.** In exercising the rights and privileges granted by this permit, the holder shall comply with all present and future federal laws and regulations and all present and future state, county, and municipal laws, regulations, and other legal requirements that apply to the permit area, to the extent they do not conflict with federal law, regulation, or policy. The Forest Service assumes no responsibility for enforcing laws, regulations, and other legal requirements that fall under the jurisdiction of other governmental entities.

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**Excerpts From FERC, Office of Energy  
Projects, *Atlantic Coast Pipeline & Supply*  
Header Project: *Final Environmental Impact*  
Statement (July 2017)**

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Other regulatory agencies also may include terms and conditions or stipulations as part of their permits or approvals. While there would be jurisdictional differences between the FERC's and other agencies' conditions, Atlantic's and DETI's environmental inspection program for ACP and SHP would address all environmental or construction-related conditions or other permit requirements placed on ACP and SHP by all regulatory agencies.

**1.2.2 Cooperating Agencies**

**1.2.2.1 U.S. Department of Agriculture-Forest Service**

The FS is a civilian federal agency within the USDA, and can trace its roots back to 1876 when Congress assigned the Office of Special Agent within the USDA the responsibility of assessing the quality of forests in the country. With the Forest Reserve Act of 1891, Congress established the process for designating western public domain lands that later became National Forests. In 1905, President Theodore Roosevelt established the FS to provide quality water and timber for the nation's benefit, and transferred the care of the national forests to the new agency. The Weeks Act of 1911 authorized the FS to purchase privately owned lands in the eastern United States for the protection of water supplies and navigable rivers.



The mission of the FS is to sustain the health, diversity, and productivity of the national forests and grasslands to meet the needs of present and future generations. It is the responsibility of the FS to manage the national forests for multiple uses of resources such as water, forage, wildlife, wood, recreation, minerals, and wilderness; and to provide products and benefits to benefit the American people while ensuring the productivity of the land and protecting the quality of the environment. The agency carries out this mission through four main activities: international assistance in forest management, domestic community assistance to help protect and manage non-federal forest lands, forestry research, and the protection and management of National Forest System (NFS) lands. Although the agency manages NFS lands under many laws and regulations, three Acts primarily govern the mission of the FS: the Multiple Use Sustained Yield Act of 1960, NEPA, and the National Forest Management Act of 1976 (NFMA).

Executive Order (EO) 13212, May 18, 2001, directed federal agencies to take appropriate actions, consistent with applicable law, to expedite reviews of authorizations for energy related projects and to take other action necessary to accelerate the completion of such projects while maintaining safety, public health, and environmental protections. To facilitate EO 13212, the Secretaries of Agriculture, Interior, and Energy, and other federal agencies have agreed, through a formal Memorandum of Understanding (MOU), to coordinate their efforts and cooperate in the expeditious processing of authorizations for construction of natural gas pipelines.

In an April 22, 2015 letter to the FERC, the FS agreed to be a cooperating agency in the preparation of this EIS. The FS participated in the NEPA scoping process, prepared environmental analyses related to FS permitting and resource expertise, and contributed to the development of applicable portions of the EIS. The FS will consider adopting this EIS for agency decisions pursuant to 40 CFR 1506.3(c) if, after an independent review of the document, the FS concurs that the analysis provides sufficient evidence to support agency decisions and is satisfied that agency comments and suggestions have been addressed. FS land management planning requirements are established by the NFMA and regulations at 36 CFR 219. These laws and regulations require a national forest-specific, multi-year Land and Resource Management Plan (LRMP). All projects or activities within a national forest must be consistent with the governing LRMP, pursuant to 36 CFR 219.15, and must undergo a NEPA review.

ACP would cross NFS lands of the Monongahela National Forest (MNF) and the George Washington National Forest (GWNF). Pursuant to the Mineral Leasing Act of 1920 and in accordance with federal regulations in 43 CFR 2880, Atlantic must secure a special use permit (SUP) from the FS to cross NFS lands. On November 12, 2015, Atlantic applied to the FS for a SUP to construct and operate its pipeline on the MNF and GWNF, and on June 16, 2016, April 17, 2017, and April 21, 2017, Atlantic submitted revised SUP applications to the FS. The FS is considering issuance of a SUP that would provide terms and conditions for construction and operation of ACP on NFS lands in response to Atlantic's application.

Issuance of the SUP must be in accordance with 36 CFR 251 Subpart B, the Mineral Leasing Act of 1920 (as amended), relevant FS manual and handbook direction, the Forest's LRMPs, and other applicable laws and regulations. In making this decision, the FS will consider several factors including conformance with the MNF LRMP (FS, 2011) and GWNF LRMP (FS, 2014) and impacts on resources and programs. Following adoption of the final EIS, the FS will issue a Record of Decision (ROD) that documents the decision whether to issue the SUP to Atlantic.

The issuance of a SUP by the FS would be in addition to any authorization issued by the FERC for ACP. The pipeline right-of-way, if approved, would be authorized by issuance of a temporary SUP from the FS for the pipeline clearing and construction phase, which would terminate upon completion of construction. A long-term SUP for ongoing pipeline operations and maintenance for up to a 30-year term would then be issued. Once ACP is constructed and in operation, the SUP would be modified to reflect the final location of the project, the associated 50-foot-wide maintenance corridor, and any roads on federal lands or under federal easements that are necessary for project operations. A Road Use permit may be required for commercial hauling on existing roads open to the public and under the FS jurisdiction, often known as NFS roads. Such additional permitting would be issued on an individual basis per road if required due to size, weight, or legal travel restrictions.

In accordance with Forest Service Manual 2700, Special Uses Management (FSM 2700), FS policy in

FSM 2703.2(2) directs the agency to consider the public interest and authorize use of NFS lands only if: a) the proposed use is consistent with the mission of the FS to manage NFS lands and resources in a manner that will best meet the present and future needs of the American people, taking into account the needs of future generations for renewable and nonrenewable resources; and b) the proposed use cannot reasonably be accommodated on non-NFS lands. FSM 2703.2(3) also states to not authorize the use of NFS lands solely because it affords the applicant a lower cost or less restrictive location when compared with non-NFS lands.

The FS will use this EIS to review the project in accordance with applicable regulations, including, but not limited to, FSM 1900 – Planning, Chapter 1920 – Land Management Planning; FSM 2700 – Special Uses Management, Chapter 2720 – Special Uses Administration (2726.31b through 2726.31e, 2726.32, 2726.33, 2726.34, etc.); 36 CFR 251.54; 36 CFR 219.15; and 30 United States Code (U.S.C.) 185.

### **Monongahela National Forest and George Washington National Forest**

Approximately 5 miles of the AP-1 mainline right-of-way would cross the MNF in Pocahontas County, West Virginia; and 16 miles of the AP-1 mainline right-of-way would cross the GWNF in Highland, Bath, and Augusta Counties, Virginia. There are no significant aboveground facilities (such as compressor stations, M&R stations, valves) proposed within the MNF or GWNF, although there would be minor appurtenances that include test stations and line markers, which would be entirely contained within

the operational right-of-way as required by the U.S. Department of Transportation (DOT) – Pipeline and Hazardous Materials Safety Administration (PHMSA) safety regulations. A summary of land requirements on NFS lands is provided in section 2.2. Specific milepost ranges crossed by the AP-1 mainline are provided in section 4.8.9.

During the early planning stages of the project, Atlantic worked to identify a route(s) that avoided NFS lands. However, the linear nature of the pipeline corridor and the boundaries of the MNF and GWNF make it difficult to avoid NFS lands while still meeting the project objective with respect to contracted delivery points. Section 3.3.4 provides our analysis of a potential route alternative that would avoid NFS lands, as well as an alternative route crossing NFS lands.

The topography within the MNF and GWNF also makes it difficult to avoid every circumstance that would be inconsistent with the management direction and standards in the LRMPs. If the FS decides to issue a SUP for crossing the MNF and GWNF, the FS has determined that it would be required to amend the respective LRMPs. The FS intends to also adopt this EIS in its assessment of potential amendments to the LRMPs that could then make ACP a conforming use of the LRMPs (additional detail is in section 4.8.9 of this EIS). One ROD will be issued that will include the decisions for the LRMP amendments and the authorization for the pipeline crossing for both the MNF and GWNF.

One of the many partnerships that the FS participates in for the management of certain NFS

lands is the unique cooperative management system partnership for the Appalachian National Scenic Trail (ANST). The ANST, first envisioned in 1921 and first completed as a footpath through 14 states in 1937, became the first National Scenic Trail in the United States with the passage of the National Trails System Act (NTSA) in 1968. This federal law designates the entire 2,190-mile-long ANST as a National Scenic Trail; designates the National Park Service (NPS) as the lead federal agency for the administration of the entire ANST; recognizes the rights of the other federal and state public land managers whose lands are crossed by the ANST; and requires the consistent cooperative management of the unique ANST resource by the NPS; working formally with the non-profit Appalachian Trail Conservancy (ATC), local ATC-affiliated Trail Clubs, and all the public land managing agencies that the ANST traverses – notably and specifically, the FS. More of the ANST is on NFS lands than any of more than 75 other public land ownerships trail-wide.

Both the NPS and FS have acquired private lands in the name of the U.S. Government specifically for the protection of the ANST, beyond the public lands that they already managed in 1968. Near the proposed ACP route, because of the location of the official proclamation boundary of the GWNF, the NPS and FS have each separately acquired several land parcels since 1978 for the ANST. Under the authority of the NTSA, ongoing management of some of the NPS-acquired parcels has been administratively transferred to the FS through a Memorandum of Agreement (MOA). In the MOA, the NPS retained certain responsibilities over the transferred trail

segments, including any future authorization of oil or gas pipeline crossings. The NPS retains only those specific interests in the lands which were expressly reserved in the MOA. Otherwise, the trail segments transferred to the FS are subject exclusively to FS regulations and management authority under the terms of the MOA and are in all respects NFS lands for the duration of the MOA. The ANST is a unit of the National Park system; however, the lands acquired and administered by the FS for the ANST are NFS lands and subject exclusively to FS regulations and management authority. The currently proposed ACP route does not involve NPS-transferred trail segments; thus, an authorization from the NPS is not required for Atlantic's proposed ANST crossing on NFS lands. This difference between NPS and FS administrative actions on their respective managed lands is a factor in the proposed routing of ACP across FS-acquired ANST parcels rather than NPS-acquired ANST parcels.

#### **1.2.2.2 U.S. Army Corps of Engineers**

ACP and SHP cross areas within the Huntington, Pittsburgh, Norfolk, and Wilmington Districts of the USACE. The USACE has jurisdictional authority pursuant to section 404 of the Clean Water Act (CWA), which governs the discharge of dredged or fill material into waters of the United States; section 10 of the Rivers and Harbors Act (RHA), which regulates any work or structures that potentially affect the navigable capacity of navigable waters of the United States; and section 14 of the RHA, which regulates the temporary occupation of water-related structures constructed by the United States.

\* \* \*

## **2.0 DESCRIPTION OF THE PROPOSED ACTION**

### **2.1 PROPOSED FACILITIES**

ACP and SHP would involve construction and operation of underground natural gas transmission pipeline and associated aboveground facilities in Pennsylvania, West Virginia, Virginia, and North Carolina. ACP and SHP are shown on figures 2.1-1 and 2.1-2, respectively, and are depicted on U.S. Geological Survey (USGS) topographic base maps in appendix B. Atlantic and DETI also provided aerial photographic base maps, referred to as alignment sheets, depicting the proposed pipeline facilities and associated construction and operation rights-of-way. The alignment sheets can be accessed on our website at [www.ferc.gov](http://www.ferc.gov).<sup>1</sup> Additional maps and interactive internet webmaps are available on DETI's website that show the general location of the project route at [www.dom.com/corporate/what-we-do/atlantic-coast-pipeline](http://www.dom.com/corporate/what-we-do/atlantic-coast-pipeline). The exact location data of the project facilities as reviewed by staff is shown on the alignment sheets.

ACP would cross West Virginia, Virginia, and North Carolina and involve the construction and operation of 2 mainline pipeline facilities, 3 pipeline laterals, 3 new compressor stations, 9 M&R stations, 41 valves, and 8 sets of pig launchers/receivers (see figure 2.1-1). ACP would deliver up to 1.5 Bcf/d to

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<sup>1</sup> Atlantic's and DETI's alignment sheets can be found under FERC Accession No. 20160729-5108.



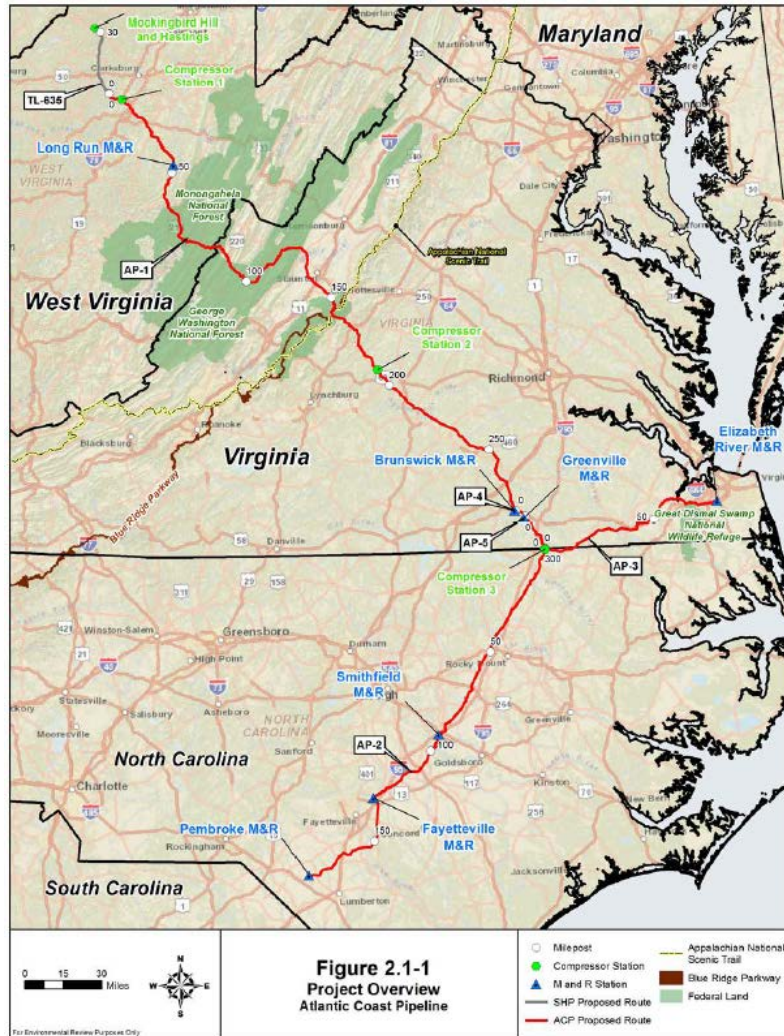
various customers in West Virginia, Virginia, and North Carolina as described in section 1.1.

SHP would cross Pennsylvania and West Virginia and involve the construction and operation of two pipeline loops and modifications to four existing compressor stations that are located along DETI's existing natural gas transmission system (see figure 2.1-2). SHP would deliver up to 1.5 Bcf/d to various customers, including Atlantic. DETI also proposes to abandon in place two existing gathering compressor units (Hasting Compressor Units 1 and 2; see section 2.8) at its existing Hastings Compressor Station in Wetzel County, West Virginia and replace the units with two new compressor units at the existing Mockingbird Hill Compressor Station.

### **2.1.1 Pipeline Facilities**

#### **2.1.1.1 Atlantic Coast Pipeline**

Atlantic would construct and operate 604.5 miles of natural gas transmission pipeline consisting of two mainline pipeline facilities and three pipeline laterals (see table 2.1.1-1). Portions of the AP-1 mainline would cross the MNF (5.2 miles in Pocahontas County, West Virginia) and the GWNF (16.0 miles in Highland, Bath, and Augusta Counties, Virginia). In addition, the AP-1 mainline would cross approximately 0.1 mile of the BRP and ANST using the horizontal directional drill (HDD) method in Augusta and Nelson Counties, Virginia. Each pipeline facility is discussed in further detail below. The land requirements for ACP pipeline facilities are summarized in section 2.2. Section 4.8.9 includes a description of federal lands affected by ACP.



\* \* \*

Numerous commentors, as well as FERC Staff, requested that an alternative route be evaluated that would place a portion of the pipeline route within or adjacent to the U.S. Highway 250 corridor, thereby reducing the need for disturbance in greenfield areas.

The U.S. Highway 250 Route Alternative is 22.2 miles shorter than the proposed route. However, Atlantic has advised that construction along the U.S. Highway 250 route is not feasible due to the steep, mountainous terrain and highway switchback turns that follow contours and cross side-slopes. Atlantic would likely need to make route adjustments that deviate from the highway up and over ridgelines that would increase the length and reduce the benefits of collocation. Because many portions of the road are alongside waterbodies, Atlantic would likely need to construct parallel to the waterbodies (which is not desirable, and indeed is contraindicated by the FERC *Procedures*), or cross waterbodies in numerous locations, which would increase the potential for erosion and sedimentation impacts from water flowing downhill across the construction right-of-way and into the waterbody. This would also make compliance problematic with section V.B.3 of the FERC *Procedures*, which state that the route is to be designed to minimize stream crossings and that the company should maintain at least 15 feet of undisturbed vegetation between the waterbody and construction right-of-way. The alternative is also similar to the former route through the MNF and GWNF; therefore, it would likely cross areas with similar habitats and special protections that led to the FS decision to not approve that route. Finally, U.S. Highway 250 travels through Huttonsville, Durbin, and Bartow, West Virginia; and Monterey, McDowell, Head Waters, West Augusta, Lone Fountain, and Churchville, Virginia. Atlantic would seek to avoid these commercial and residential developments, which would increase the overall length of the alternative. Although commentors have

suggested that collocating with this existing right-of-way would reduce impacts on landowners, it would merely transfer impacts from one set of landowners to another, while increasing the overall length of the route (and therefore the environmental disturbance), adding impacts on residential and commercial areas, and introducing constructability concerns.

Numerous commentors also requested that an alternative route be evaluated that would place a portion of the pipeline route within or adjacent to the Interstate 95 corridor, thereby reducing the need for disturbance in greenfield areas. The Interstate 95 route alternative would be a total of 17.7 miles shorter than the corresponding segments of AP-1 and AP-2 mainlines. A preliminary examination of this route appears to offer the opportunity for significant environmental benefit. However, the Interstate 95 corridor is highly developed in this area as it passes through or near Roanoke Rapids, Rocky Mount, Wilson, Selma, Smithfield, Benson, Dunn, and Fayetteville, North Carolina. About 50 entry/exit ramps are present along this stretch of the highway, and large segments of greenfield corridor would be necessary to avoid these developed areas (gas stations, restaurants, industrial or commercial facilities, etc.), which would increase the length of the pipeline and reduce or eliminate the benefits of collocation. Furthermore, we note that Atlantic's proposed route is already collocated along this stretch of the AP-2 mainline near Fayetteville.

The DOT, Federal Highway Administration (FHA) has historically prohibited installation of utilities within medians and rights-of-way of access-

controlled highways. However, FHA policy has been revised recently that permits states to determine if utility facilities can be placed within these rights-of-way (FHA, 2014). In West Virginia, the West Virginia Department of Transportation (WVDOT) has established a policy for utilities, except for telecommunications facilities, that prohibits the longitudinal installation of utilities within controlled-access highway rights-of-way (WVDOT, 2007). Similarly, the Virginia Department of Transportation has instituted policies that prohibit the longitudinal installation of utilities within controlled access highway rights-of-way except in strictly defined situations that would likely not apply to natural gas pipelines (i.e., parallel installations that do not involve tree removal or severe tree trimming) (Virginia Department of Transportation [VDOT], 2011). We find that these factors, combined with the constructability and human impacts noted above for all highway alternatives, would not provide a significant environmental advantage, and we do not recommend that they be incorporated as part of the project.

### **3.3.4 National Forest Route Alternatives**

#### **3.3.4.1 National Forest Avoidance Route Alternatives**

A significant factor in siting ACP was the location at which the pipeline would cross the ANST. In the general project area, the ANST is located on lands managed by either the NPS or FS. The NPS has indicated that it does not have the authority to authorize a pipeline crossing of the ANST on its lands. Instead, legislation proposed by Congress and signed into law by the President would be necessary to allow

the NPS the authority to review, analyze, and approve a pipeline crossing of the ANST on its lands. Because of this legislative process, Atlantic considered locations where the ANST was located on lands acquired and administered by the FS, which significantly constrained the pipeline route and severely limits opportunities for avoiding and/or minimizing the use of NFS lands.

The proposed crossing of the MNF and GWNF received a considerable amount of comment and criticism from stakeholders, and accordingly, resulted in several evaluated route alternatives and variations. Numerous stakeholders requested that the pipeline be routed to avoid NFS lands altogether. Routing ACP to the south of the MNF and GWNF would increase the pipeline route by about 43 miles. Generally, as the length of a pipeline route is increased, the amount of environmental impacts on various resources are concurrently increased. However, we acknowledge that a shorter pipeline route could conceptually have significantly greater qualitative impacts on sensitive resources than a longer route, which could make the longer route preferable. In this instance, we have not identified or received any information that suggests the shorter pipeline route through the National Forests has significantly greater impacts on sensitive resources than the alternative, but acknowledge that ground resource surveys have not been conducted. Therefore, as currently analyzed, we do not recommend that an alternative south of the National Forests be incorporated as part of the project.

A route alternative to the north of the MNF and GWNF, along with other federal lands such as the

Shenandoah National Park and Canaan Valley National Wildlife Refuge, would be approximately 15 miles longer than the corresponding segments of ACP and SHP. Similar to routing south of the National Forests, we do not find that avoidance of the National Forests would provide a significant environmental advantage when compared to the shorter proposed pipeline route through the National Forests. We also acknowledge that although the route would avoid designated National Forest lands, many of the same forest habitats and waterbodies would be crossed by the alternative, along with similar mountainous terrain. Therefore, we do not recommend that it be incorporated as part of the project.

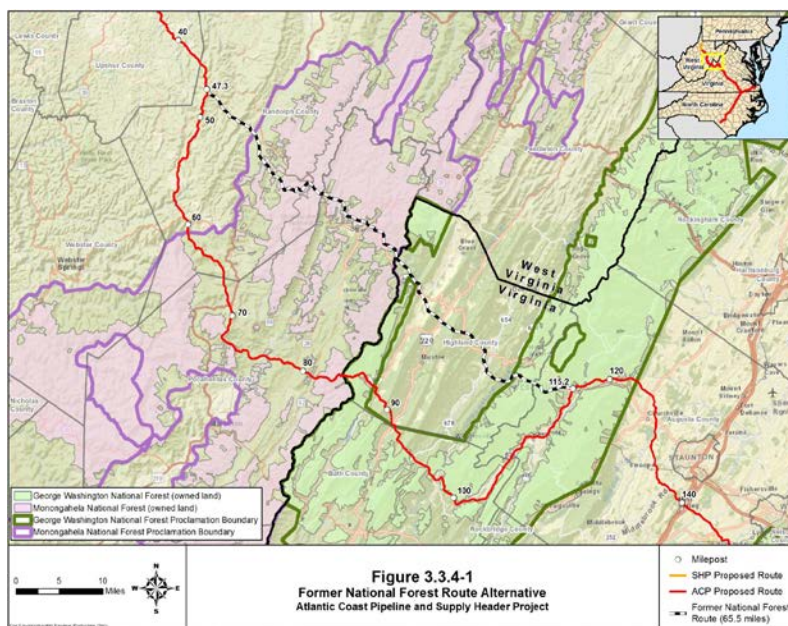
#### **3.3.4.2 Former National Forest Route**

Atlantic has analyzed and adopted numerous route alternative and variations within the National Forests since the pre-filing process was initiated in November 2014. The most notable of these route adoptions occurred in March 2016 when Atlantic filed an amended FERC application and adopted the major route alternative entitled GWNF6. Atlantic adopted the GWNF6 route after the FS stated it would not approve Atlantic's former route through the National Forests. Specifically, the FS issued a letter to Atlantic on January 19, 2016, stating Atlantic's route did not meet the minimum requirements of initial screening criteria found in 36 CFR 251.54(e)(1)(i) and (ii), the route included inconsistencies with Forest Plan direction, and that Atlantic must develop and evaluate system and/or route alternatives that avoid the Cheat, Back Allegheny, and Shenandoah Mountains, and Cow Knob salamander habitat. When compared to

Atlantic's originally proposed route, which included three HDD crossings that were designed to drill under the majority of Cow Knob salamander habitat, the GWNF6 route is generally 15 miles south of its former location through the National Forests (see figure 3.3.4-1).

Atlantic began civil, environmental, and cultural resources surveys of the GWNF6 route in spring and summer 2016. Through these surveys, discussions with private landowners, and continued consultation with the FS, Atlantic made several small modifications to the GWNF6 route to address stakeholder concerns and avoid resources. We have found Atlantic's adoption or rejection of these route modifications acceptable and have identified the adopted modifications in table 3.5-1; the associated environmental impacts of these adopted modifications are included as part of the overall analysis in section 4 of this EIS. Figure 3.3.4-1 depicts Atlantic's current and preferred route through the National Forests in relation to Atlantic's former route through the National Forests.





Because Atlantic adopted the GWNF6 route, we have received several comments suggesting Atlantic's former route through the National Forests is preferable to the currently proposed route. While Atlantic's current route is 31.8 miles longer than the former route, and may inherently have more generalized environmental impacts than the former route (i.e., forest clearing, waterbody crossings, karst topography, steep slope construction, private landowners affected, and air emissions, among other factors), the FS' January 19, 2016 letter indicated that the FS could not approve the former route because of impacts on highly sensitive resources and because the former route would not be consistent with Forest Plan direction. Therefore, we find that Atlantic's originally proposed route through the National Forests would not meet the project objective (essentially resulting in

the no-action alternative), and we do not recommend that it be incorporated as part of the project.

#### **3.3.4.3 Appalachian National Scenic Trail and Blue Ridge Parkway Contingency Crossing**

Atlantic is proposing to cross the BRP and ANST using the HDD crossing method. In this area, the ANST is located on lands acquired and administered by the FS. Figure 3.3.4-2 depicts the location of the proposed HDD and contingent direct pipe workspaces and entry/exit locations. The proposed entry workspace for the HDD is about 2,500 feet south of the BRP and the exit workspace would be about 1,300 feet north of the ANST. These workspaces would be located on private lands; therefore, the HDD method would not result in land disturbances within the GWNF or on land administered by the NPS.

Atlantic and its drilling consultant, J.D. Hair and Associates, have completed a geotechnical subsurface investigation at the HDD crossing location and have determined the proposed drill path would be constructed primarily through granodiorite bedrock and metamorphosed basalt. While completing a 4,639-foot-long HDD through these substrates is time consuming, the ability to maintain structural integrity of the drill hole and complete the drill is increased. However, we acknowledge that there is some inherent risk with the HDD method and unknown factors can cause a HDD to fail, and alluvium at the entry and exit locations could complicate the drilling process. If the proposed HDD fails, Atlantic has identified

contingency crossing options<sup>2</sup> that it would implement to complete the crossing of the BRP and ANST as described below.

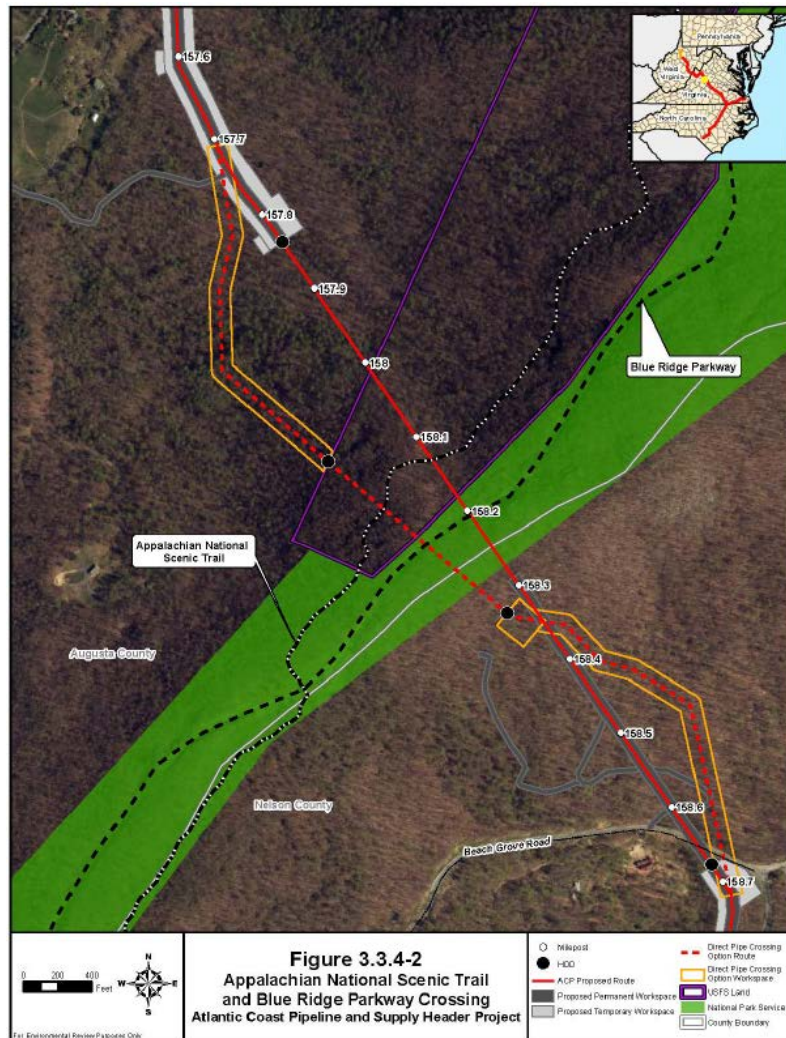
Atlantic's first contingency option is to realign the drill path and attempt a second HDD crossing. Atlantic would use the same entry and exit points to complete the second attempt, or would slightly shift the entry and exit positions to avoid local geologic factors that may have caused the initial drill to fail. Atlantic stated that any such shift in the entry and/or exit points would not require additional workspace or land impacts. We acknowledge that this contingency option would not result in additional significant environmental impacts; however, it would increase the duration for completing the BRP and ANST crossing.

Atlantic's second contingency option is to cross the BRP and ANST using the direct pipe method (see section 2.3.3.2). This option would require about 3,996 feet of the pipeline to be installed by standard upland construction methods up the north and south side of the hillside to the identified direct pipe entry and exit points. Figure 3.3.4-2 depicts the location of the proposed HDD and contingent direct pipe workspaces and entry/exit locations. The entry workspace would be about 600 feet south of the BRP, and the exit workspace would be about 400 feet north of the ANST. These workspaces would be located on private lands;

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<sup>2</sup> Atlantic's *Contingency Plan for the Proposed Crossing of the BRP and ANST* can be found under FERC Accession No. 20160804-5169 at the following website location: [http://elibrary.FERC.gov/idmws/file\\_list.asp?accession\\_num=20160804-5169](http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20160804-5169).

therefore, the direct pipe method would not result in land disturbances within the GWNF or on land administered by the NPS.



When compared to the proposed HDD crossing method, the direct pipe crossing option would result in an additional 3,996 feet (12.3 acres) of cleared pipeline

right-of-way (2,124 feet [6.8 acres] on the entry side (south side) and 1,872 feet [5.5 acres] on the exit side (north side) of the mountain). Atlantic would improve an existing logging/access road off Beech Grove Road to transport equipment and personnel to the entry workspace, which would result in an additional 2 acres of forest impact. Access to the exit side would occur along the proposed pipeline construction right-of-way. Implementing this contingency option would increase the duration of project activities and the resulting air, noise, and traffic impacts from these activities near the ANST, BRP, Wintergreen Resort, and other residences and businesses in the area.

Should the Direct Pipe option be required, the pipeline right-of-way would be visible along select portions of Beach Grove Road, Mt. Torrey Road, Reeds Gap Road; by various residences and business along these roads (i.e., Fenton Inn); by residences along the northern portion of Fortunes Ridge; and from other observation points on adjacent mountain ridges. The workspaces required for the Direct Pipe option would not be visible from the BRP and ANST.

In conclusion, the Direct Pipe option would be implemented if multiple HDD attempts fail. Resulting impacts would include 12.3 acres of forest land impacts, visual impacts associated with a new pipeline right-of-way further up the mountain, and an extension of local air, noise, and traffic impacts associated with completing the Direct Pipe crossing. The Direct Pipe option would not impact NFS lands, the BRP, or the permitting requirements to cross under the BRP and ANST. While several commentators have recommended alternative routes to avoid

crossing the BRP and ANST at this location (described throughout section 3), we find the implementation of the Direct Pipe option would provide a suitable contingency plan should multiple attempts of the HDD fail. The FS indicated that it believes the HDD would be feasible as proposed by Atlantic, and that the Direct Pipe option is a feasible contingency option.

### **3.3.5 Stuarts Draft Route Alternatives**

Several stakeholders, including the Augusta County Board of Supervisors, requested an alternative route that would increase the distance between the proposed route and a three-school complex in Stuarts Draft, Virginia while avoiding source water protection zones in Augusta County. Three alternative routes were analyzed to avoid the three-school complex (see figure 3.3.5-1).

Stuarts Draft Alternative 1 would increase the overall distance of the pipeline from the three schools in Stuarts Draft. However, the alternative would be 5.7 miles longer; would affect more forest land, perennial waterbodies, wetlands, Commonwealth land, and conservation easement; and would cross an additional 3.5 miles of source water protection zone than the proposed route.

Stuarts Draft Alternative 2 would also increase the overall distance of the pipeline from the three schools and would reduce the length of forest land crossed by 0.6 mile. However, the alternative is 2.4 miles longer; would affect more perennial waterbodies, wetlands, Commonwealth land, and conservation easement; and would cross an additional 3.5 miles of source water protection zone than the proposed route.

Stuarts Draft Alternative 3 would increase the overall distance of the pipeline from the three schools. However, the alternative is 1.8 miles longer and would cross an additional 1.4 miles of source water protection zone than the proposed route. The remaining environmental considerations between the two routes are similar.

The proposed AP-1 mainline route is 0.5, 0.7, and 0.9 mile from the three schools in Stuarts Draft. We do not anticipate that construction and operation of the pipeline along the currently proposed route would have a noticeable impact on these schools. Additionally, based on the increased environmental impacts summarized above, we find that the alternative routes would not provide a significant environmental advantage and do not recommend that they be incorporated as part of the project.

\* \* \*

Given the above information from Atlantic, table 4.8.9-10 reflects that the conventional (open-cut) method would be used at trails and roads crossed on the GWNF. However, we note that based on information subsequently provided by Atlantic for revised appendix M, which lists all road and railroad crossings along the projects, trails and roads on the GWNF would be crossed using the bore method. Therefore, **we recommend that:**

- **As part of its Implementation Plan (recommended Environmental Condition No. 6), Atlantic should file with the Secretary a revised trail, road, and railroad. The crossing method at trails and roads on the GWNF should be**

**developed in consultation with GWNF staff.**

Regardless of the crossing method, Atlantic committed to keeping FS trails and roads open to foot or vehicular traffic during most of construction, except during brief periods when it would be necessary to close the road or trail to install the pipeline. An unexcavated area where the trail or road crosses the right-of-way would remain untrenched and open until the pipeline crossing section (about 40 feet long) is ready to be installed, which would be after the pipeline is installed on either side of the road or trail. In addition, construction traffic would need to enter, exit, and/or cross these roads or trails where they intersect the right-of-way, which would result in minor and infrequent traffic disruptions.

Most road or trail crossings would be completed in less than a day, and recreationalists would be prevented from using the trail or road crossing during this time. As such, Atlantic committed to continue consultations with the GWNF to develop trail or road crossing plans. These plans have not yet been completed. Therefore, **we recommend that:**

- **As part of its Implementation Plan (recommended Environmental Condition No. 6), Atlantic should, if a bore or HDD crossing is not feasible, file with the Secretary, for review and written approval by the Director of OEP, site-specific crossing plans that identify the location(s) of a detour, public notification, signage, and consideration of avoiding days of peak usage for each**



**trail and road affected by ACP on the GWNF. The crossing plans should be developed in consultation with GWNF staff.**

Based on Atlantic's mitigation measures discussed throughout sections 2.3, 4.4, 4.5, 4.6, 4.7, 4.8.1, and 4.8.1.1, implementation of its various construction, restoration, and operation plans, and our recommendations, impacts on special interest areas on the GWNF would be minimized to the extent practicable and would not be significant or adverse.

*Appalachian National Scenic Trail*

The AP-1 mainline would cross the ANST (FS Trail 1) at AP-1 MP 158.1 where it is located on NFS land associated with the GWNF. The ANST is a continuous, over 2,190-mile-long footpath that runs from central Maine to northern Georgia, traversing 14 states and the Appalachian Mountain chain (NPS, 2008; NPS, 2016g). The trail is the longest hiking-only footpath in the world, crossing lands administered by 8 National Forests, 6 National Parks, and 1 NWR, and over 60 state game lands, forest, or park areas (NPS, 2008). The trail was conceived in 1921 and first completed in 1937, primarily by citizen volunteers, and volunteers from local trail clubs perform most of the maintenance on the ANST today. The ANST became the nation's first national scenic trail with the signing of the National Trails System Act (Public Law 90-543; 16 U.S.C. 1241-1251) in 1968. The trail offers backcountry recreation and hiking opportunities and protects natural and cultural resources within its corridor. Over 2.5 million people visit some portion of the trail every year (NPS, 2016h).

Under the authority of the National Trails System Act (1968) and its amendments (1978), the Secretary of the Interior (represented by the NPS) has been given responsibility for administration of the entire ANST in consultation with the Secretary of Agriculture (represented by the FS) (NPS, 1981). The Secretary of Interior may delegate to states or private organizations or individuals the responsibility to operate, develop, or maintain portions of the ANST. Overall cooperative trail management is conducted by the ATC, 31 ATC-affiliated Local ANST Clubs, FS, and the NPS' Appalachian Trail Park Office along with other organizations, trail clubs, agencies, and cooperators (NPS, 2008; NPS, 2016g; ATC, 2016).

Stewardship, management, development, administration, and use of the ANST are guided by several documents, including but not limited to the following:

- Comprehensive Plan for the Protection, Management, Development and Use of the Appalachian National Scenic Trail (NPS, 1981; abridged version 1987);
- Appalachian Trail Statement of Significance (2000);
- Appalachian Trail Design, Construction, and Maintenance (Stewardship Manual) (Birchard and Proudman, 2000);
- Appalachian Trail Resource Management Plan (NPS, 2008);
- ATC's Local Management Planning Guide (ATC, 2009);
- ATC Strategic Plan (ATC, 2014);

- ATC Policy on Pipeline Crossings of the Appalachian Trail (ATC, 2015); and
- LRMPs on NFS lands.

ATC's policy is to oppose pipeline crossings of ANST corridor lands, conservation easements that it manages, or adjacent lands that could have an adverse impact on ANST resources, unless they meet certain criteria, which are summarized as follows (ATC, 2015):

1. The proposed pipeline is demonstrated to be the only prudent and feasible alternative to meet an overriding public need.
2. The proposed pipeline crosses the ANST landscape at a point already subject to significant impact, such as an existing pipeline, road, or power-line crossing.
3. The pipeline proposal includes use of best practices to minimize its impact on the ANST (e.g., using construction techniques that minimize disturbance to ANST landscapes such as the HDD method; eliminating or minimizing the width of cleared area for the pipeline; narrowing the cleared area after installation; minimizing landscape fragmentation).
4. The proposed pipeline does not cross an area unsuitable for such development (e.g., Wilderness Areas and wilderness study areas, National Recreation Areas, National Natural Landmarks, Wild and Scenic Rivers, cultural resource sites, old growth forests, rare species habitat).
5. Pipeline authorizations include mitigation for any loss of the natural, cultural, scenic, and recreational values of the ANST.

6. Pipeline authorizations include using best practices to reduce the impacts of maintenance on the aesthetic values of the ANST.
7. Pipeline authorizations clearly acknowledge the pipeline owner and operator's affirmative duty to protect the environment and ensure the health and safety of ANST users and the communities near the trail.
8. All pipeline authorizations include best practices for minimizing methane emission that can contribute to climate change.

Atlantic would cross the ANST (along with the BRP) using the HDD method. The current location of the ANST in this area has been determined to also be the optimal permanent location for this trail. While some minor hand cutting of brush to lay a guide wire for an HDD may typically be required between the HDD entry and HDD exit points, Atlantic would use a gyroscopic guidance system at the ANST and BRP crossing that does not require a guide wire or associated brush clearing. The HDD entry and exit points would be located about 1,400 feet and 3,400 feet, respectively, away from the ANST footpath, on private lands. A temporarily closure or detour around the construction area for ANST recreationalists would not be needed, nor would the removal of vegetation and trees between the HDD entry and exit points. HDD activities at the entry and exit points would last about 12 to 14 months and would likely be heard by users of the ANST. The increase above the ambient sound level at two noise sensitive areas (NSAs) located 600 feet and 1,300 feet from the HDD entry site would be about 0.1 to 0.2 decibels. Section 4.11.2.2 provide additional discussion of noise impacts associated with

the HDD method at this location. During construction, activities and their associated noise would be ongoing continuously for 24 hours per day. Lights used for construction at night would interfere with and diminish the ability to engage in star gazing and viewing astronomical events such as meteor showers. These impacts would be temporary. There would be no vegetation manipulation or surface ground disturbance on either FS or NPS lands adjacent to the ANST or within the defined ANST Corridor during either the construction or operation of this proposal. There would be no significant long-term or permanent loss of the natural, cultural, scenic, and recreational values of the ANST within the Rx 4A area. A site-specific crossing plan for the ANST is included in appendix H.

The proposed pipeline crossing of the ANST is on lands acquired and administered by the NFS on the GWNF and subject to both Forestwide and Rx 4A Standards and Guidelines. Rx 4A consists of those lands mapped as the foreground area visible from the ANST footpath and as designated on a case-by-case basis (FS, 2014). This prescription area also includes all NFS lands acquired by the NPS for the ANST and administratively transferred to the FS by the NPS under a MOA (FS, 2014). Specific to linear utilities and rights-of-way, GWNF Standard 4A-025, Lands and Special Uses, directs: “Locate new public utilities and rights-of-way in areas of this Rx area where major impacts already exist. Limit linear utilities and rights-of-way to a single crossing of the prescription area, per project” (FS, 2014).

We analyzed an alternative crossing method at the ANST and BRP in section 3.3.4.3 in the event the HDD method is unsuccessful. The crossing method, referred to as the direct pipe, would still avoid direct surface impacts on the ANST and BRP, although the ATWS associated with the crossing would be closer to the trail and parkway. Regardless, there would be no significant long-term or permanent loss of the natural, cultural, scenic, and recreational values of the ANST should the alternative direct pipe crossing method be adopted. As with the HDD crossing, if the Direct Pipe Second Contingency Option (as discussed in section 3.3.4.3) is utilized, there would be no vegetative manipulation or surface ground disturbance on either FS or NPS lands adjacent to the ANST or within the defined ANST Corridor during either the construction or operation of this proposal.

We reviewed Atlantic's site-specific HDD crossing plan and alternative direct pipe crossing plan for the ANST and BRP and find it acceptable. Also, in a letter dated April 4, 2017, the FS stated it believes the HDD would be feasible as proposed by Atlantic and the direct pipe option would be a feasible contingency option, and that it has no further questions or requests for information regarding the crossing methods. However, comments from the NPS have not yet been received. Therefore, **we recommend that:**

- **As part of its Implementation Plan (recommended Environmental Condition No. 6), Atlantic should file with the Secretary, for review and written approval by the Director of OEP, a final site-specific HDD crossing plan and an**

**alternative direct pipe crossing plan for the BRP. Provide documentation that Atlantic has consulted with the NPS regarding both of these plans and adopted or addressed any substantive comments from the NPS into these plans.**

*Inventoried Roadless Areas and Wilderness Areas (Potential, Recommended, and Designated)*

Based on a review of the GWNF LRMP, the criteria described above, and consultations with the GWNF, Atlantic's proposed AP-1 mainline would not cross lands designated by the FS as Inventoried Roadless Areas, Potential Wilderness Areas, Recommended Wilderness Areas, or Wilderness. For the GWNF, areas called Potential Wilderness Areas (PWAs) were identified during the LRMP revision process. These were areas identified that met certain inventory characteristics of wilderness and were then evaluated during the plan revision to determine which areas might be recommended for wilderness study in the revised LRMP. The GWNF LRMP states that activities proposed within these PWAs should be evaluated for their effects on the wilderness characteristics. Atlantic does not propose any activities within any Inventoried Roadless Areas, designated Wilderness, Recommended Wilderness Study Areas, or PWAs on the GWNF.

### **Visual Resources**

The responsibility for protecting visual resources on federal lands was established by the Federal Land Policy and Management Act, which places emphasis on the protection of scenic resources on public land, and the Forestland and Rangeland Renewable

Resources Planning Act, which empowers the FS to manage scenery resources. The MNF LRMP and GWNF LRMP guide natural resource management activities on lands administered by the MNF and GWNF. Visual resources on NFS lands are assessed using the Scenery Management System (SMS).

The existing condition of the MNF and GWNF along the proposed ACP is mountainous terrain predominantly forested with mixed hardwoods. At the large physiographic scale (viewed aerially or in the background distance), the landscape is characterized by series of long, roughly parallel ridges with stream and river valleys separating them. There are individual peaks and knobs along these linear ridges, and deep drainages create numerous smaller side ridges, typically perpendicular to the main ridge at the top and then often curving as they descend, converging in the stream valleys. These landforms steepen in places and level out in others offering scenery comprised of complex and interesting shapes and forms. On the MNF and GWNF, these landforms are predominantly covered in forests.

When viewed at a closer distance, rock outcrops and boulders, water features, and mixed vegetation provide textures, patterns, and seasonally changing colors. Water also offers sound, movement, and reflections.

Most of this landscape on and adjacent to NFS lands along the ACP pipeline route is natural appearing. However, there is evidence of human alterations such as gravel and native surface FS roads, native surface trails, and existing utility rights-of-way, primarily overhead transmission lines and



underground gas transmission lines. There is a patchwork of ownership including the NFS lands, Virginia DOT road rights-of way, and private lands. The boundaries between land ownership are not always evident to the public. Some private lands viewed from FS roads, trails, and general forest area include land uses that are not natural appearing such as roads, utility corridors, residences, agricultural lands (pastures, farms), and commercial businesses. These altered settings are primarily located at the lower elevations in the stream valleys and lower toe-slopes. The higher elevations, including mountain ridges and peaks, are predominantly natural appearing on NFS and private lands.

\* \* \*

#### *Sherando Lake Recreation Area*

Comments received on the draft EIS stated that the potential impacts on the entry route to Sherando Lake Recreation Area (Sherando) need to be assessed. One mile of the proposed AP-1 mainline is located on the GWNF in this vicinity. It is in the valley about 1.5 miles northeast of the entrance into the Sherando Lake Recreation Area. The pipeline on and off the national forest would run roughly parallel to State Route 664, the road used to access Sherando. In this valley, there is a patchwork of land uses, including forested areas (such as the GWNF ownership), pastoral, agricultural, commercial buildings, and residential buildings. For most who travel this road, the transition between private and public land is not evident. The landscape character is rural, and the recreation opportunity class is roaded natural.

The proposed pipeline corridor would be visible where it crosses SR 664 about 0.6 mile northwest of the GWNF tract, and it may be visible in other locations along the route. The majority of this would be on private land, not on the GWNF. The point of the proposed pipeline centerline on the GWNF closest to SR 664 is about 860 feet and the furthest point is about 2,600 feet. The construction activities and portions of the construction corridor would be noticeable to recreationists heading to and from Sherando. The contrasts of color, texture, pattern, and possibly line introduced by the construction corridor would not meet the Moderate SIO. The mitigation measures described above would significantly reduce the appearance of these contrasts and enable the project to meet the Moderate SIO within 5 years of construction.

#### Visual Resources Conclusion

Atlantic would cross the ANST using the HDD method. The HDD entry and exit points would be located about 1,400 feet and 3,400 feet, respectively, away from the ANST footpath, on private lands. These entry and exit points would not be visible to ANST users due to intervening vegetation and terrain. The High SIO would be achieved for the Rx 4A-ANST.

The ACP construction right-of-way would not be consistent with the Moderate SIO where the existing landscape character is the forested land use type that currently appears intact. The conversion of forest to a construction zone would introduce contrasts of color, texture, line, and pattern, and possibly of form where the pipeline would crest ridges and knobs. The construction right-of-way would not borrow from

elements in the existing and desired landscape character. To reduce the impacts on the scenic resource, Atlantic would reduce its mowing to a 10-foot-wide strip centered over the pipeline, and reduce its trimming or selective cutting of trees to a 30-foot-wide strip centered over pipeline, per FERC *Plan*. Outside the 10-foot-wide strip, the remainder of the construction and long-term right-of-way would be revegetated using acceptable seed mixes, pollinator plants, shrubs, and trees in accordance with FERC *Plan* and as described in the draft *COM Plan*, which is being revised.

With these mitigation measures, within 5 years the long-term right-of-way would meet the Moderate SIO for all KOPs viewing the pipeline corridor on the GWNF, except for the Shenandoah Mountain Trail (FST 447) where the pipeline would cross that trail. For all other KOPs viewing the GWNF where there is a Moderate SIO, the long-term right-of-way may be noticeable to the casual observer, but it would not dominate the characteristic landscape.

#### **4.8.9.2 National Park Service**

##### **Land Use and Ownership**

Management of the BRP is one primary component of the mission of the NPS, an agency of the U.S. Department of the Interior. The NPS manages over 408 areas encompassing over 84 million acres, which includes national parks, monuments, battlefields, military parks, historical parks, historic sites, lakeshores, seashores, recreation areas, scenic rivers and trails (including some national scenic trails, national historic trails, and national recreation trails), and the White House (NPS, 2016i). As listed in table

4.8.9-1, ACP would cross 0.1 mile of NPS land associated with the BRP at AP-1 MP 158.1, which equates to BRP mile marker 13.7. NPS-administered land, specifically the BRP, would comprise less than 0.1 percent of all federal land crossed by ACP.

In addition to the BRP, the NPS is also the lead federal agency for the administration of the entire ANST; and the ANST, like BRP, is a “unit” of the national park system. On the ground, the 2,190-mile-long ANST transverses portions of more than 75 federal and state public agency land ownerships in 14 states. In the vicinity of ACP, the ANST is located on the GWNF and discussions of the ANST crossing are located in section 4.8.9.1 of this document.

Atlantic would avoid direct impacts on the BRP by using the HDD method to cross the feature. The BRP crossing would be included with the ANST crossing, discussed previously. While some minor hand cutting of brush to lay a guide wire for an HDD may be required between the two HDD entry points, Atlantic would use a gyroscopic guidance system at the ANST and BRP crossing that does not require a guide wire or associated brush clearing. The two HDD entry points would be located about 1,600 feet and 3,100 feet away from the trail. A temporary closure or detour around the trail for recreationalists would not be needed, nor would the removal of vegetation and trees between the HDD entry and exit points. HDD activities at the entry points would last about 12 months and would likely be heard to users of the trail. This impact would be temporary. There would be no significant long-term or permanent loss of the natural, cultural, scenic, and recreational values of the ANST.

A site-specific crossing plan for the ANST is included in appendix H.

No access roads would be located on NPS lands, and no aboveground facilities or contractor yards would be located on any federal lands. However, there would be minor appurtenances that include test stations and line markers, which would be entirely contained within the operational right-of-way as required by the DOT's PHMSA code.

We also analyzed an alternative crossing method at the ANST and BRP in section 3.3.4.3 in the event the HDD method is unsuccessful. The crossing method, referred to as the direct pipe, would still avoid direct impacts on the ANST and BRP, although the ATWS associated with the crossing would be closer to the trail and parkway. Regardless, there would be no significant long-term or permanent loss of the natural, cultural, scenic, and recreational values of the ANST should the alternative direct pipe crossing method be adopted.

As also discussed previously (see section 4.8.9.1, GWNF discussion), we have recommended that Atlantic file a final site-specific crossing plan and alternative direct pipe crossing plan for the ANST and BRP prior to construction and provide documentation that both plans have been reviewed by the GWNF and NPS.

### **Blue Ridge Parkway Management**

The purposes of the BRP are to:

- connect Shenandoah and Great Smoky Mountains national parks by way of a “national rural parkway”—a destination and recreational

road that passes through a variety of scenic ridge, mountainside, and pastoral farm landscapes;

- conserve the scenery and preserve the natural and cultural resources of the parkway's designed and natural areas;
- provide for public enjoyment and understanding of the natural resources and cultural heritage of the central and southern Appalachian Mountains; and
- provide opportunities for high-quality scenic and recreational experiences along the parkway and in the corridor through which it passes.

Per 16 U.S.C. 460a-3, the Secretary of the Interior may issue permits for rights-of-way over, across, and upon parkway lands for uses determined to be consistent with parkway purposes. As noted in the *BRP Environmental Assessment Information Guide for Right-of-Ways* (BRP, 2003):

BRP has the legal authority under 16 USC 5 and 16 USC 79, as delegated, to grant an easement for a right-of-way to cross BRP administered lands for a period not exceeding 50 years provided that the right-of-way is not inconsistent with the use of such lands for BRP purposes.

In accordance with the NPS' "Application Procedure for Right-of-Way Permits (NPS, 2012):"

All rights-of-way must be issued under legislative authority. Specific authorities exist for most utilities. Issuance of a revocable permit is discretionary based on NPS findings

that the proposed use is not incompatible with natural, cultural, or visual resources, the public interest, or park policies.

Specific to management of the BRP is the *BRP, Virginia and North Carolina, Final General Management Plan (GMP)/EIS* (NPS, 2013). Management of the parkway is directed by zones established along the route. The management zones define “specific resource conditions, visitor experiences, appropriate recreational activities, and levels and types of development to be achieved and maintained in different areas of the parkway”. Of the eight designated management zones established for the BRP, two would be crossed by ACP: the Scenic Character management zone and the Historic Parkway management zone (NPS, 2013). The definition of each management zone represents the general desired characteristics of the particular area.

- Historic Parkway: This zone represents areas that would emphasize protection and interpretation of the historic parkway corridor, which includes the road prism and its original supporting structures and constructed landforms.
- Scenic Character: This zone represents areas of the parkway that would emphasize protection and viewing opportunities of the scenic landscapes and natural and cultural settings of the central and southern Appalachian highlands.

The NPS’ GMP/EIS (2013) further describes the desired conditions for resources within each zone.

As mentioned above, rights-of-way are discretionary based on a finding that the proposed use is not incompatible with natural, cultural, or visual resources, the public interest, or park policies. The Secretary of the Interior would evaluate the compatibility of the proposed Project against these criteria specific to the BRP crossing proposed by Atlantic. As of the issuance of this EIS, Atlantic has submitted its “Application Procedure for Right-of-Way Permits” request to the NPS (September 17, 2015; supplement April 27, 2016). A permit has not yet been issued by the NPS.

\* \* \*

Commenters expressed concern with construction noise impacts on construction workers and wildlife. Atlantic, DETI, and their contractors would adhere to the OSHA’s laws and regulations to ensure a safe working environment. Construction-related safety and health regulations can be found at 29 CFR 1926. Section 1926.52, Occupational Noise Exposure, specifically addresses construction-related noise. During construction, mobile wildlife species would likely relocate away from the construction area to avoid the noise. Immobile species would be impacted; however, noise at any given location would be localized and temporary. Once construction is complete, noise levels would return to preconstruction levels. Additional noise impacts on wildlife are discussed in section 4.5.8.

#### HDD Operations

The ACP pipeline route includes 20 locations where Atlantic proposes to use the HDD construction method. HDD operations would generate noise at drill



entry and exit points. HDD activities in any one area could last from several weeks to several months depending on the length of the drill and the hardness of the substrate being drilled. Atlantic estimates that the HDDs would take about 3 to 6 weeks at each location, except for the James River/Mayo Creek HDD (3 to 4 months) and the BRP/ANST HDD (12 to 14 months).

Typical equipment used at HDD entry sites includes:

- drilling rig and engine-driven hydraulic power unit;
- two triplex centrifugal main mud pumps and two engine-driven generator sets;
- mud mixing/cleaning equipment with five ditch pumps and three mud tank pumps;
- fluid system shale shaker;
- mobile equipment including a crane, backhoe, front loader, and boom truck; and
- five engine-driven light plants.

Noise associated with HDD exit sites could result from use of the following equipment:

- one triplex centrifugal main mud pump;
- mud tank with three pumps;
- backhoe and/or truck(s);
- welding;
- one electric-driven generator set; and
- five engine-driven light plants.

The results of Atlantic's HDD noise assessment are summarized in table 4.11.2-3. Additional NSAs are also present, in most cases farther from the noise-generating sources at the HDD entry/exit sites. In some instances, noise may be greater at NSAs slightly

farther than the closest NSA due to topography, local vegetation patterns, proximity to both the entry and exit sites, and ACP's mitigation measures. The locations (NSAs) with the greatest estimated noise increase are presented below. There are no NSAs within 0.5 mile of the Roanoke River crossing and the exit sites for the South Branch Elizabeth River and Fishing Creek crossings. At the Roanoke River crossing, the nearest NSA to the entry point is 6,000 feet northwest, and the nearest NSA to the exit point is 6,100 feet west. To ensure that no NSAs would be impacted by the two new proposed HDDs, **we recommend that:**

- **As part of its Implementation Plan, Atlantic should file with the Secretary aerial photographs depicting the entry and exit sites for the proposed Interstate 79 and Route 58 HDDs. The aerials should identify any NSAs within 0.5 mile of the entry/exit sites for each HDD or clearly demonstrate that there are no NSAs within 0.5 mile of the entry/exit sites.**

\* \* \*

April 7, 2017

Honorable Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission

\* \* \*

The National Park Service (NPS) has reviewed the Federal Energy Regulatory Commission's (FERC)<sup>1</sup> Draft Environmental Impact Statement (DEIS) for the proposed Atlantic Coast Pipeline Project (ACP) and Supply Header Project (SHP) as proposed by Atlantic Coast Pipeline, LLC (Atlantic) and Dominion Transmission, Inc. (DTI). Atlantic and DTI request authorization to construct and operate a total of 641.3 miles of natural gas transmission pipeline and associated facilities, three new natural gas-fired compressor stations, and modify four existing compressor stations. The projects would provide approximately 1.44 billion cubic feet per day of natural gas to electric generation, distribution, and end use markets in Virginia and North Carolina. The NPS previously filed scoping comments on the ACP Project in April 2015.

The NPS has worked with the applicant from the very beginning of the FERC pre-filing process to understand the project details and potential impacts to NPS units and program lands. We greatly appreciate the efforts of the applicant to respond to

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<sup>1</sup> The cooperating agencies for the Atlantic Coast Pipeline Project (ACP) and Supply Header Project (SHP) are the U.S.D.A. Forest Service, the U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, the U.S. Fish and Wildlife Service—Great Dismal Swamp National Wildlife Refuge, the West Virginia Department of Environmental Protection and the West Virginia Division of Natural Resources.

our requests quickly and efficiently, and their willingness to engage in discussions of potential changes in project details. We believe it has resulted in a better project, and has certainly enhanced our ability to review the proposal. The following are NPS observations on items the Final EIS could address or clarify. Overall, as we detail below, our main focus is with the effect Forest Service Land and Resource Management Plan amendments may have long-term to the Appalachian National Scenic Trail (ANST, or Trail). We look forward to continued discussion with all stakeholders.

The NPS is not a cooperating agency to the FERC DEIS, and is completing required compliance activities separately for the proposed crossing of the Blue Ridge Parkway. The NPS anticipates all agency processes will meet the FERC schedule, and notes our completion date on the FAST-41 federal dashboard is well ahead of other federal agencies.

The NPS also requests consulting party status under the National Historic Preservation Act (NHPA), as we discuss in more detail below. The NPS offers the following comments on the DEIS.

#### **I. The Appalachian National Scenic Trail**

The Appalachian National Scenic Trail (ANST, or Trail) is a 2,190-mile continuous footpath that traverses scenic, wooded, pastoral, wild, and culturally resonant lands of the Appalachian Mountains between Katahdin in Maine and Springer Mountain in Georgia. It was conceived in 1921, built by a consortium of agencies and private citizens, and opened as a continuous trail in 1937.

Congress designated the Appalachian Trail a National Scenic Trail in 1968 as one of two initial components of the National Trails System. The NPS is charged under the National Trails System Act (16 U.S.C. 1241, 1244(a)) with administration of the ANST as a unit of the NPS. The NPS utilizes authorities applicable to both the national park system and national trails system in carrying out its administrative and management responsibilities for the Trail. In addition to recognition of the ANST as a nationally significant recreational resource, the NPS has found the Trail eligible for listing in the National Register of Historic Places (NRHP) and is in the process of evaluating the ANST for formal listing in the NRHP.

The Trail is protected along more than 99% of its course by federal or state ownership of the land or by rights-of-way. This protected corridor is managed under a Cooperative Management System as set forth in the 1981 Comprehensive Plan for the Protection, Management, Development, and Use of the Appalachian National Scenic Trail. This plan is supplemented by Appalachian Trail club local management plans and agreements between the cooperative management partners including the NPS, the U.S. Forest Service, the Appalachian Trail Conservancy (ATC), 14 states, and 31 maintaining clubs. The success of the cooperative management system in managing and protecting the ANST relies heavily on the assistance of numerous volunteers.

***Unit of the National Park Service***

FA7-1	A description of this unique cooperative management system for the ANST is
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included in the introduction on page 1-9 of the DEIS. Recognizing that this partnership system is complex, we note that the statement that, “FS-acquired lands, even those acquired specifically for the protection of the ANST under the authority of the NTSA are not considered to be a part of the ANST as a unit of the National Park system,” is not accurate. The ANST is one of three national trails administered by the NPS that are considered to be units of the National Park System. The 250,000 acres of the ANST’s protected corridor (a swath of land averaging about 1,000 feet in width around the 2,190-mile-long Trail treadway) makes it one of the largest units of the National Park System in the eastern United States. This protected corridor is the direct result of the 30-plus-year land acquisition and protection program of the NPS, USDA Forest Service (FS), Appalachian Trail Conservancy (ATC), and a number of states, supported primarily by federal Land and Water Conservation Fund (LWCF) appropriations. The NPS administers the entire ANST and as such considers the entire Trail corridor to be a part of the ANST park unit.

FA7-1 Section 1.2.2.1 has been revised to clarify the management of the ANST.

***Proposed Crossing of the ANST***

FA7-2

As proposed, the pipeline will cross the ANST in Augusta and Nelson County, Virginia. At this location, the Trail footpath is located on U.S. Forest Service lands and the ANST protected corridor spans both the George Washington National Forest (GWNF) and Blue Ridge Parkway. The proposed method of construction uses the horizontal directional drill (HDD) method with the entry/exit points on private land approximately 2,800 feet south of and 1,300 feet north of the ANST footpath. In the event the HDD crossing fails after a second attempt, the use of the direct pipe method is proposed as a contingency for crossing the Trail. The contingency entry/exit points are approximately 1,000 feet south of and 400 feet north of the ANST footpath. Both points are on private land, but the direct pipe exit workspace is on/near the FS boundary.

It is our understanding that these two proposed methods for crossing the ANST (HDD and direct pipe) would not require any motorized access across or on the Trail or any rerouting of hikers during construction. If this is incorrect, please clarify and consult with NPS, ATC and the Old Dominion Appalachian Trail Club to further outline a plan to address hiker safety for any proposed crossing of the

ANST. Even though the proposed HDD and contingency entry/exit

FA7-2 The commentor's assessment regarding the HDD and direct pipe methods is correct

FA7-3

points are physically separated from the Trail footpath, the noise associated with either operation could attract Trail hikers. NPS would also like to discuss measures to ensure hikers cannot access the job site, risking their, and/or worker safety.

FA7-3 FERC encourages the NPS to provide comments directly to Atlantic regarding Atlantic's proposed crossing methods and site-specific crossing plans. Please also note that we have recommended that, prior to construction, Atlantic file with the Secretary a final site-specific crossing plan and alternative direct pipe crossing plan for the ANST and BRP that have been reviewed and approved by the GWNF and NPS.

### ***Crossing Methods and Construction Sequence***

As noted above, ACP proposes a HDD crossing well under the ANST and the Blue Ridge Parkway, with multiple attempts at constructing the pipeline via the HDD method should the first attempt fail. A direct pipe contingency plan is also proposed and evaluated as a fallback alternative should HDD



FA7-4

construction fail. Another alternative and accompanying analysis would be needed if the HDD and contingency failed. Should this happen, the NPS supports the Forest Service position that no construction would take place on National Forest System (NFS) lands until the HDD or contingency crossing is successful. "Note that the FS would not allow any construction activities to occur on its lands until the HDD or contingency crossing of the BRP [Blue Ridge Parkway] and ANST is completed." DEIS at ES-5. "The FS has informed us that should a SUP be issued for ACP, the authorization would include a provision that states no construction activities would be allowed to commence on NFS lands until the proposed HDD crossing or contingency crossing of the BRP and ANST is successfully completed." DEIS at 2-47.

This course of action, should the evaluated alternatives fail, would provide for examination of a full range of alternatives to complete the crossing of the Blue Ridge Parkway and the ANST in another location than is currently proposed. If construction proceeded ahead of the HDD or contingency construction, the most likely alternative to be proposed would include open trench construction, possible blasting, and/or auger and bore construction in the current pathway. As noted above, additional NEPA analysis would be required by FERC, the

cooperating agencies and the Blue Ridge Parkway. The project as currently proposed would be approved under a Categorical Exclusion on the Blue Ridge Parkway; different construction methods might necessitate preparation of an Environmental Assessment by the Parkway and the potential for delay in the project timeline.

FA7-4 Comments noted. We also note that in a letter dated April 4, 2017 (see comment letter FA11), the FS stated that Atlantic has filed adequate documentation for the FS to assess the feasibility of the BRP/ANST HDD and contingency proposals, and the FS would not prohibit concurrent construction at other spreads on NFS lands before the completion of the BRP/ANST crossing.

### ***Visual Impact Assessment***

The NSP has been pleased with the efforts of the applicant to respond to our requests for analysis of visual impacts, in particular the addition of a number of Key Observations Points (KOPs), especially after the major route change and the need to evaluate impacts to additional areas. Overall, the NPS agrees with most of the conclusions in the visual impact assessment. The NPS offers the following comments on the visual impact assessment portion of the DEIS.

FA7-5

The DEIS states that Atlantic would avoid effects on the ANST by using the HDD method for construction (DEIS at 4-419: Linear Resources; and DEIS at 4-421: Table 4.10.1-2). While this is true to a large extent, the ACP Project could result in some long-term effects to the Trail setting due to the visibility of the cleared right-of-way on the landscape as viewed from the Trail. Based on our review of the draft EIS and revised Visual Impact Assessment (VIA), it appears that the ACP cleared right-of-way could result in visual impacts at several key vistas on the ANST. These are described in more detail below. Some standard mitigation measures are proposed in the draft EIS such as a Restoration and Rehabilitation Plan, but clearing in intact forested areas will still result in substantial visual impacts from certain vantage points. The NPS requests consideration of additional avoidance, minimization, and mitigation measures to further reduce visual impacts from the three viewpoints on the ANST discussed below to help ensure protection of this nationally significant resource for this and future generations.

The revised VIA at 111-112 states that the ACP corridor would be clearly visible from KOPs ANST 05 (Cedar Cliffs), ANST 06 (Little Ravens Roost), ANST 8a and 8b (Three Ridges Overlook). At Cedar Cliffs and Little Ravens Roost, the right-of-way

would be clearly visible and project-related changes in color, line, texture, and other characteristics considered in the SMS would be apparent to the viewer, as indicated in the assessment. While these changes would not dominate the view (also indicated in the assessment), the visual impact here could be more substantial than most of the other ANST KOPs. At both Cedar Cliffs and Little Ravens Roost, but particularly at Little Ravens Roost, project-related changes could draw attention and act as a focal point in the view, along with the mountain ridge and greater valley view (the other two predominant focal points in the view).

FA7-5 Section 4.8.9.2 has been revised to state the NPS' request for consideration of additional avoidance, minimization, and mitigation measures to further reduce visual impacts from the three viewpoints on the ANST to help ensure protection of the ANST for future generations.

Section 4.8.9.2 provides a description of each KOP at the ANST, and visual impacts.

***U.S. Forest Service Land and Resource Management Plan Amendments***

The DEIS is intended to fulfill the National Environmental Policy Act (NEPA) requirements for

FERC and for each of the cooperating agencies, and is therefore the Forest Service's EIS for this proposed project. The NPS provides the following comments on the Forest Service's proposed Land and Resource Management Plan (Forest Plan) amendments.

The DEIS states, "the National Forest Management Act of 1976 requires that proposed projects, including third-party proposals subject to permits or rights-of-way, be consistent with the LRMPs of the administrative unit where the project would occur. Because of the continuous linear nature of the pipeline route, it was not possible to be fully consistent with the LRMPs in all locations across federal lands. The FS determined that if the Special Use Permit (SUP) would be approved for the proposed route crossing the MNF and GWNF, the LRMPs would require amendments. On the MNF, the type of amendment would be a "project-specific amendment," which would apply only to the construction and operation of this pipeline. On the GWNF, project-specific amendments would also be required along with a "plan level amendment," which would change land allocations. If the FS determines to issue a SUP to Atlantic for ACP, the GWNF LRMP would be amended to reallocate land to the Management Prescription 5C—Designated Utility Corridors from several existing management prescriptions. These amendments would not change FS requirements for other projects or authorize any other actions." DEIS at ES-5. This passage provides the framework to understanding potential impacts to the ANST.

One proposed amendment on the George Washington National Forest (GWNF) would impact the ANST.

Proposed Amendment 3 states, “the GWNF Forest Plan is amended to allow ACP to cross the ANST in Augusta County, Virginia.” DEIS at 4-360, Table 4.8.9-10. This table also lists Standard 4A-025: “Locate new public utilities and rights-of-way in areas of this Rx area where major impacts already exist. Limit linear utilities and rights-of-way to a single crossing of the Rx area per project.” As this is not a plan level amendment, the NPS interprets it as a one-time approval for the ACP to cross in this location.

The DEIS also states, “for Proposed Amendment 3, there are no direct effects evidenced by ground disturbance associated with the pipeline crossing the ANST. However, there could be indirect effects associated with the issuance of a special use permit that involves the ANST. These could include impacts from future maintenance needs. There may be additional project-specific amendments needed, depending on pending survey results and additional information requests.” DEIS at 4-361.

FA7-6	There are likely no direct effects as long as the HDD or contingency construction methods prove successful. The NPS requests additional information regarding the nature and scope of expected future maintenance needs in the vicinity of the ANST, as well as proposed methods to avoid or mitigate them. The NPS also requests
FA7-7	more information on the additional project specific amendments that might be needed.

FA7-6 FS response: There are no anticipated maintenance needs that would affect ground disturbance within the ANST corridor on NFS lands since the pipeline would be underground.

FA7-7 FS response: There are no additional project specific amendments to the LRMP associated with the ANST.

The DEIS discusses the Construction, Operation and Maintenance (COM) Plan that the Forest Service is reviewing with the possibility of additional required

FA7-8 measures to promote conformance with the respective Forest Plans. The NPS requests the opportunity to review and comment on the Forest Service-revised COM Plan as it appears it may be a vehicle to address some the NPS concerns about the impacts of the proposed and potential Forest Plan amendments. The NPS is interested in further discussions with the applicant and the Forest Service to explore standards or potential amendments that might reduce the likelihood of adverse impacts to the ANST.

FA7-8 FS response: The comment is noted. The FS intends to engage the NPS as the COM Plan is refined.

***Cumulative Impacts***

The DEIS addresses cumulative impacts to the ANST as follows, “The greatest visual impact of ACP and SHP, combined with the other projects listed in table W-1 in appendix W, would be primarily from the conversion of forest land to scrub-shrub or herbaceous vegetation types. Permanent visual impacts would also be present where permanent structures (e.g., compressor stations, houses, buildings, guardrails) would remain. Whereas these permanent visual impacts may be locally noticed, generally they would not be inconsistent with the existing visual character of the area. **However, in selected areas such as views from the ANST to the pipeline right-of-way and at the ANST crossing in the GWNF, the potential for visual impact is elevated** and thus may be mitigated further by the appropriate regulatory agency.” DEIS at 4-504 (emphasis added).

The DEIS continues, “Users of the trail may be more sensitive to the impacts associated with the projects given its management as a remote area that is relatively unencumbered by manmade features. However, use of the HDD method (ACP) and bore method (MVP) would not significantly change the foreground views experienced by hikers at the ANST crossings. Following construction, views of the new pipeline corridors would be visible to hikers along the ANST at multiple locations as discussed in the Visual Impacts Analysis conducted for each project. Limiting the permanent right-of-way to 53.5 feet and adhering to the restoration and right-of-way maintenance measures outlined in Atlantic’s and DTI’s Plan, Procedures, Restoration and Rehabilitation Plan, and



COM Plan on federal lands would reduce the impacts associated with the projects.” DEIS at 4-504.

The NPS agrees that the potential for cumulative visual impacts from ACP and other projects is elevated for the ANST. This is due to various factors: 1) the geographic scope of influence that could contribute to cumulative visual impacts on the Trail would be larger compared to the scope described in the DEIS given the Trail viewshed; and 2) the timeframe that could result in cumulative impacts on the ANST is no longer than the 18 months used in the DEIS for ACP, given

FA7-9

the forest clearing and ongoing maintenance required within the Trail viewshed. As such, and given the national significance of the Trail, and as a distinct unit of the National Park System, the NPS believes treating the ANST as a separate resource when analyzing cumulative impacts is warranted. The NPS agrees that many of the restoration and right-of-way maintenance measures would help to reduce impacts. As we detail elsewhere in these comments, we look forward to further discussion with the Forest Service (the “appropriate regulatory agency”) and the applicant.

FA7-9 See the response to comment FA6-17.

***Cultural Resources and Consultation under National Historic Preservation Act Section 106***

The NPS has not been consulted under Section 106 on potential effects of this undertaking on the ANST. Given our responsibility as administrator of

the ANST, the NPS has a demonstrated interest in undertakings that may impact the Trail. This interest includes undertakings that occur on or near areas of the ANST owned or managed by other agencies such as the Forest Service. Views, vistas, and viewpoints are directly associated with the ANST's significance as a recreational resource, reflecting both its original design intent as a skyline trail and contributing to the visitor experience by providing some of the most satisfying and exhilarating moments of a hike. The setting surrounding the Trail corridor is vital to an ANST segment's ability to convey its historical associations under National Register Criterion A in the areas of Recreation and Conservation.

FA7-10

The NPS formally requests consulting party status under Section 106 of the NHPA on the ACP project. Specifically, we are interested in discussing potential ways to further minimize or mitigate impacts such as utilizing a narrowed or feathered edge right-of-way corridor or other vegetation management approaches that could lessen the visual impacts and loss of natural character on the Trail. We also encourage FERC to invite the NPS to consult on future proposed undertakings that may impact the ANST so the NPS can have early input on avoiding effects to the Trail and its setting or character. The NPS looks forward to continued discussion of required Section 106 compliance.

FA7-10 Section 4.10.3 has been revised to accept the NPS'

request to be a consulting party for ACP.

## II. Land and Water Conservation Fund (LWCF) Sites

The Land and Water Conservation Fund (LWCF) State and Local Assistance Program is managed by the NPS. This is a partnership program that provides matching grants to States, and through States to local governments and tribes to plan, acquire, or develop public outdoor recreation areas and facilities. The purpose of the LWCF Act (54 U.S.C. 200305 *et seq.*) was to preserve and develop an outdoor recreation estate with high quality and quantity of outdoor recreation opportunities for public use and enjoyment in perpetuity. This protection extends to the entire park or recreation area benefitting from the grant, not just the footprint of the developed or acquired area. If outdoor recreational needs change the act provides a means to convert property to non-recreational purposes with approval from the Secretary of the Interior (delegated to NPS) as long as certain criteria are met. The Atlantic Coast Pipeline alignment crosses over two sites in West Virginia that received

FA7-11

LWCF assistance: Seneca State Forest and Lewis Wetzel Wildlife Management Area. The responsibility for compliance with the provisions of the Act rests with the State. The State in turn consults with the NPS for guidance and to sort out details of the proposal; therefore, the NPS concurrence is needed for both Seneca State Forest and the Lewis Wetzel Wildlife Management Area. This is

incorrectly stated in the DEIS and the NPS asks that this be revised in the Final EIS (FEIS). DEIS at 1-12.

FA7-11 Section 1.2.2.6 has been revised to clarify the management of the Seneca State Forest and Lewis Wetzel WMA.

***Seneca State Forest***

FA7-12

Based on the information provided in various communications from July 2016, December 2016 (DEIS), and March 2017 for Seneca State Forest, the NPS concurs with the State of West Virginia that the implementation of the project will not result in a permanent loss of recreational use and opportunity at Seneca State Forest. If the license agreement does not convey control or tenure to Dominion, then a conversion is not triggered (see March 2017 communication). Please address LWCF in the license as outlined in the 2008 LWCF State Assistance Program Manual Chapter 8.D.

The materials submitted have demonstrated that despite the change in appearance, public outdoor recreation can still occur within the pipeline alignment. The NPS will continue to work closely with the State of West Virginia to maintain the quality recreational experiences existing currently in Seneca State Forest.

Further, the removal of LWCF protections along the pipeline alignment would establish a non-recreation corridor that bisects the park, potentially opening the possibility for greater threats to outdoor recreational resources and opportunities at Seneca State Forest in the future.

For the Seneca State Forest, the DEIS indicates that a LWCF conversion will be triggered because the project results in permanent changes to recreation, namely the Allegheny Trail and the park viewshed. DEIS at 4-316. However, based on our understanding of the proposal, we do not concur with this finding and suggest revising this text in the Final EIS.

The DEIS indicates that narrowed right-of-way locations will be identified through Seneca State Forest. DEIS at 4-317. Please advise the NPS if those have been identified and where we can find these new alignment widths. It would be beneficial to know what factors help determine if a narrower construction corridor can be used. DEIS at 4-310. The DEIS also mentions that a site-specific relocation plan will be created for the Allegheny Trail. DEIS at 4-317 and DEIS at 5-51. Please provide this plan to NPS headquarters for review.

FA7-12 Section 4.8.5.1, Seneca State Forest, has been updated to

include the NPS' comments regarding conversion. Note that discussions regarding potentially reducing the construction workspace on the Seneca State Forest are still ongoing between Atlantic and the Forest. We have recommended in the final EIS that Atlantic identify these locations prior to construction.

Regarding the Allegheny Trail crossing, refer to the supplemental information filing provided by Atlantic to FERC on March 23, 2017, and appendix J of the final EIS. FERC encourages the NPS to provide comments directly to Atlantic regarding the Allegheny Trail crossing.

***Lewis Wetzel Wildlife Management Area***

FA7-13	<p>When the DEIS was released for public comment, the document was not clear about the LWCF implications at the Lewis Wetzel Wildlife Management Area (Lewis Wetzel WMA). As with Seneca State Forest, the impacts to recreation are again the focus for LWCF. Once the NPS clearly understands the SHP impacts and the steps that will be taken to maintain quality or recreation, the NPS can advise</p>
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the State of West Virginia the options available to move forward while complying with the requirements of the Act. The DEIS provides insufficient information about the following:

- if there are any above-ground infrastructure components proposed for the Supply Header Project (SHP), such as measurement and regulation stations, mainline valves, above ground pipe, compressor stations, etc., that could permanently impact recreation by removing areas from public access through the use of fencing or other access control structures;
- the legal instrument Dominion will use to construct and maintain the SHP; and
- the time frame associated with work through the Lewis Wetzel WMA.

FA7-13 Section 4.8.5.1, Lewis Wetzel WMA, has been revised to clarify that no permanent aboveground facilities associated with SHP would be installed on the WMA. Atlantic and DETI would use the authority granted to it by the FERC and other applicable federal, state, and local permits and authorizations, should the project be approved.

As listed in table 2.4-1, construction across the Lewis Wetzel WMA is proposed to occur between April 2018 and the fourth quarter of 2019. However, because construction cannot proceed without FERC and other applicable federal, state, and local permits, this schedule is subject to change.

FERC encourages the NPS to provide comments directly to DETI regarding the Lewis Wetzel WMA crossing.

***DEIS Page Specific Comments***

FA7-14	<p><b>DEIS at 4-316:</b> Please avoid suggesting Seneca State Forest is “administered” by the NPS. We recommend the following text: ‘Based on correspondence with the WVDNR, ACP would cross Seneca State Forest lands managed by the West Virginia Department of Forestry. In 1966, West Virginia accepted a federal grant from the Land and Water Conservation Fund (LWCF) to assist with the purchase of a portion of Seneca State Forest. As the recipient of the federal LWCF grant, the State of West Virginia is obligated by contract under the LWCF grant agreement to ensure that the State Forest</p>
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would remain in public outdoor recreation use in perpetuity unless otherwise approved by the Secretary of the Interior (delegated to the National Park Service); only if he/she finds it to be in accord with an existing Statewide Comprehensive Outdoor Recreation Plans; and as necessary to assure the substitution of other recreation properties of at least equal fair market value of reasonably equivalent usefulness and location (36 CFR 59) (LWCF, 2008).'

FA7-14 Section 4.8.5.1, Seneca State Forest, has been revised to reflect the recommended edits.

We appreciate efforts to consider and address NPS concerns regarding the proposed pipeline. Thank you for the opportunity to provide comments. If you have any questions or need additional information, please contact Bert Frost, NPS Acting Deputy Director at [bert\\_frost@nps.gov](mailto:bert_frost@nps.gov) or (202) 208-3818.

Sincerely,  
[handwritten: signature]  
Lindy Nelson  
Regional Environmental  
Officer

cc: NPS, Mary Krueger and Alexa Veits  
SOL, Ann Navaro

**Excerpt From Section 1.2.2.1 of FERC, Office of  
Energy Projects, *Atlantic Coast Pipeline &  
Supply Header Project: Draft Environmental  
Impact Statement* (December 2016)**

\* \* \*

**Monongahela National Forest and George  
Washington National Forest**

Approximately 5 miles of the AP-1 mainline right-of-way would cross the MNF in Pocahontas County, West Virginia; and 16 miles of the AP-1 mainline right-of-way would cross the GWNF in Highland, Bath, and Augusta Counties, Virginia. There are no significant aboveground facilities (such as compressor stations, M&R stations, valves) proposed within the MNF or GWNF, although there would be minor appurtenances that include test stations and line markers, which would be entirely contained within the operational right-of-way as required by the U.S. Department of Transportation (DOT)–Pipeline and Hazardous Materials Safety Administration (PHMSA) safety regulations. A summary of land requirements on NFS lands is provided in section 2.2. Specific milepost ranges crossed by the AP-1 mainline are provided in section 4.8.9.

During the early planning stages of the project, Atlantic worked to identify a route(s) that avoided NSF lands. However, the linear nature of the pipeline corridor and the boundaries of the MNF and GWNF make it difficult to avoid NSF lands while still meeting the project objective with respect to contracted delivery points. Section 3.3.4 provides our analysis of a potential route alternative that would avoid NSF

lands, as well as an alternative route crossing NFS lands.

The topography within the MNF and GWNF also makes it difficult to avoid every circumstance that would be inconsistent with the management direction and standards in the LRMPs. If the FS decides to issue a SUP for crossing the MNF and GWNF, the FS has determined that it would be required to amend the respective LRMPs. The FS intends to also adopt this EIS in its assessment of potential amendments to the LRMPs that could then make ACP a conforming use of the LRMPs (additional detail is in section 4.8 of this EIS). Each National Forest would issue its own ROD for the amendments to its governing LRMP. This would be a separate decision from the issuance of the ROD for the SUP issued by the FS for crossing the National Forests.

One of the many partnerships that the FS participates in for the management of certain NFS lands is the unique cooperative management system partnership for the Appalachian National Scenic Trail (ANST). The ANST, first envisioned in 1921 and first completed as a footpath through 14 states in 1937, became the first National Scenic Trail in the United States with the passage of the National Trails System Act (NTSA) in 1968. This federal law designates the entire 2,190-mile-long ANST as a National Scenic Trail; designates the National Park Service (NPS) as the lead federal agency for the administration of the entire ANST; recognizes the rights of the other federal and state public land managers whose lands are crossed by the ANST; and requires the consistent cooperative management of the unique ANST resource

by the NPS; working formally with the non-profit Appalachian Trail Conservancy (ATC), and all the public land managing agencies that the ANST traverses—notably and specifically, the FS. More of the ANST is on NFS lands than any of more than 75 other public land ownerships trail-wide.

Both the NPS and FS have acquired private lands in the name of the U.S. Government specifically for the protection of the ANST, beyond the public lands that they already managed in 1968. In the vicinity of the proposed ACP route, because of the location of the official proclamation boundary of the GWNF, the NPS and FS have each separately acquired several land parcels since 1978. Under the authority of the NTSA, ongoing management of the NPS-acquired parcels in this area has been administratively transferred to the FS. However, the NPS retains several specific rights and responsibilities for these NPS-acquired transfer lands, and these lands, along with all other NPS-acquired ANST lands, are specifically considered to be a part of the ANST as a unit of the National Park system. However, FS-acquired lands, even those acquired specifically for the protection of the ANST under the authority of the NTSA, are not considered to be a part of the ANST as a unit of the National Park system. This difference is a factor in the proposed routing of ACP across lands that are generally depicted entirely as “NFS lands” on most maps.

\* \* \*

**Excerpts From U.S. Forest Service Scoping  
Comments on FERC Notice of Intent to Prepare  
an Environmental Impact Statement for the  
Atlantic Coast Pipeline Project, FERC Docket  
No. PF15-6-000 (Apr. 27, 2015)**

April 27, 2015

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission

\* \* \*

Dear Ms. Bose,

The George Washington and Jefferson National Forests and the Monongahela National Forest (Forests) received the Federal Energy Regulatory Commission's Notice of Intent to prepare an Environmental Impact Statement (EIS) for the Atlantic Coast Pipeline Project. As a cooperating agency, the Forest Service appreciates the opportunity to review and provide comments on the proposed Atlantic Coast Pipeline Project.

Pursuant to NEPA regulations (40 CFR § 1501.6(b)), we have identified scoping issues for your consideration in the preparation of the EIS. We have also provided comments and concerns relating to the assessment of project effects on National Forest System lands. Our detailed discussions of scoping issues, comments, and concerns are attached.

For questions, please contact Jennifer Adams, Special Project Coordinator, at (540) 265-5114 or by email at [jenniferpadams@fs.fed.us](mailto:jenniferpadams@fs.fed.us).

Sincerely,  
[handwritten:signature]

H. Thomas Speaks, Jr.

**COMMENTS OF THE MONONGAHELA  
NATIONAL FOREST AND GEORGE  
WASHINGTON AND JEFFERSON  
NATIONAL FORESTS ON THE  
ATLANTIC COAST PIPELINE PROJECT  
(DOCKET NO. PF15-6-000)**

**GENERAL COMMENTS**

**Environmental Impact Statement**

The environmental impact statement (EIS) for the proposed Atlantic Coast Pipeline (ACP) Project should analyze and discuss all potential effects of the proposed pipeline to the Monongahela National Forest (MNF) and George Washington National Forest (GWNF). The EIS should include analyses of temporary and permanent disturbances, and direct and indirect project effects, caused by the construction, operation, and maintenance of the pipeline corridor, access roads, staging areas, disposal areas, and any associated facilities. In addition to the rights-of-way (ROW) clearing and construction, operation, and maintenance of the aforementioned facilities, the EIS should identify and assess impacts associated with any meters, compressor stations, mainline valves, project-related electricity transmission lines, communication towers, access roads, contractor yards horizontal directional drill and inspection tools (e.g., smart pigs), and launching/receiving facility locations that are needed for construction and/or operation of the proposed pipeline.

The EIS should identify and map any project feature or facility that would not be in compliance with the MNF 2006 Land and Resource Management Plan

(MNF Forest Plan or Forest Plan) and the GWNF 2014 Revised Land and Resource Management Plan (GWNF Forest Plan or Forest Plan). If a project feature or facility is not in compliance with a Forest Plan, proposals for making the project feature or facility compliant with the plan should be identified and evaluated. Otherwise, the impacts of amending the Forest Plan should be identified and evaluated for all affected resources, including implications to Wilderness Areas and Special Biological Areas.

The Notice of Intent (NOI) issued by the Federal Energy Regulatory Commission details four main pipeline facilities components for the proposed project, including 4 sizes of pipeline varying from 16" diameter to 42" diameter and totaling 555 miles. The NOI states on page 4 that a variety of "metering stations, valves, pig launcher/receiver sites, and associated appurtenances" will be constructed and maintained along the pipeline system, in addition to the actual pipeline. Access roads are not mentioned here. It is important that the Forest Service know the specifics of all pipelines, pipeline facilities, associated appurtenances and access roads on and near National Forest System (NFS) lands as soon as practicable during this process; all specifics should be disclosed in order for any entity to adequately analyze potential impacts. For example, the items listed on page 7 of the NOI as requiring National Historic Preservation Act (NHPA) consultation (i.e., the locations of the construction ROW, contractor/pipe storage yards, compressor stations, and access roads) are needed for all analyses contained in the EIS, not just the NHPA analysis.

### **Project Safety**

The locations and characteristics of proposed valve sites and other above-ground features on NFS lands need to be disclosed. The analysis should clearly describe any risks to the public and Forest Service employees associated with these facilities, as well as restrictions on administrative and public use of the land in the vicinity of these facilities.

\* \* \*

- Braley Pond Dam, which is owned by the Forest Service but maintained by Headwaters Conservation District. We are concerned about the integrity of the dam and the potential effects of construction, particularly blasting.

### **ILLEGAL ATV USE**

The EIS should address illegal use of all-terrain vehicles (ATV) on NFS lands. Corridors such as the proposed pipeline route provide access or otherwise become trespass routes for illegal ATV use. Effects of illegal ATV use, such as resource damage, erosion, loss of vegetative cover, improved access to protected areas, illegal hunting and other user conflicts, should be analyzed and discussed. Measures to prevent illegal ATV use on NFS lands should be incorporated into the design of the project and analyzed and discussed in the EIS.

#### Comments Specific to the George Washington National Forest

We are particularly concerned about illegal ATV use in the following areas:

- Inch Branch, FSR1823, a seasonally open road; and



- MA#12D, a Remote Backcountry Recreation area

## **SCENERY AND RECREATION**

We recommend including sections in the EIS on scenery, recreation (dispersed recreation, trails and developed recreation), and Recreation Opportunity Spectrum (ROS)<sup>1</sup> due to the intrinsic values of these resources which contribute to improved mental, emotional and spiritual health, and physical health. In addition, the extensiveness of potential effects of the proposed pipeline on these resources justifies the need for analyzing project effects on these resources in the EIS.

### **Scenery**

The Forest Plan provides that Scenic Integrity Objectives<sup>2</sup> (SIOs) be met within every management area. The analysis should include visual simulations for all route alternatives on NFS lands as they would be seen from a variety of viewpoints on and off of NFS lands, including roads, trails, observation points, residential areas, scenic trails and roads, railways that carry passenger trains, and rivers used for canoeing and kayaking. The EIS should analyze the project impacts to national forest scenery in terms of achieving the SIOs contained in the Forest Plan. It is critically important that the visual impacts analysis

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<sup>1</sup> See the “1986 ROS Book”, ROS inventory, and guidance in the Forest Plan.

<sup>2</sup> See Agriculture Handbook Number 701, “Landscape Aesthetics, A Handbook for Scenery Management” and guidance for scenery and Scenic Integrity Objectives in the Forest Plan.

conducted meet the standards and use the definitions of the Forest Service's Scenery Management System.

Comments Specific to the Monongahela National Forest

The proposed study corridor crosses the Shaver's Fork River, which is an eligible Wild and Scenic River (Recreational classification). If the proposed pipeline would impact the values that make the river eligible, a suitability study would be required.

The study corridor lies in the general vicinity of a remote backcountry area, the Gaudineer Scenic Area, two civil war battlefields, and multiple recreation sites. Although a pipeline through the current proposed study corridor would not directly impact these sites, the analysis will need to consider the potential for any indirect impacts (e.g., impacts to scenery/viewsheds).

Potential impacts to critical protected lands must be identified and analyzed in the EIS, even if the proposed routes occur outside the boundaries of these areas. Thus Wilderness and Wilderness Study Areas, particularly Roadless Area Conservation Rule Areas, should be evaluated for effects of the proposed pipeline, regardless of whether the proposed pipeline avoids these areas.

Comments Specific to the George Washington National Forest

The Appalachian National Scenic Trail (A.T., Forest Trail #1) is of particular concern due to its national status and Congressional designation. Of particular note, the specific location of the A.T. with respect to the original proposed ACP Project route

should be verified, as it may not be correctly shown on current project maps. It may be further east of the Blue Ridge Parkway on lands specifically acquired by the National Park Service (NPS) for the A.T. and administered directly by NPS Appalachian Trail Park Office (NPS-APPA). It is worth noting that the NPS-APPA is the lead federal administrator agency for the entire A.T., regardless of land ownership; and management of the A.T. is accomplished through the A.T. Cooperative Management System, including cooperation and coordination among NPS-APPA, the U.S. Forest Service, the Appalachian Trail Conservancy, and Local A.T. Clubs (including 7 Clubs on the GWJNF).

Potential impacts to critical protected lands must be identified and analyzed in the EIS, even if the proposed routes occur outside the boundaries of these areas. Therefore, although the currently proposed pipeline routes appear to avoid some of the critical protected lands on the GWJNF lands, such as Wilderness (MA #1A), Recommended Wilderness Study Area (MA #1B), National Scenic Area (MA #4F), and Proposed National Scenic Area (MA #4FA), the EIS should contain analyses of project effects on these areas.

Other areas of particular concern include the Three Ridges Wilderness Area, Blue Ridge Parkway overlooks, and Torry Ridge Trail (FT #507).

### **Recreation**

Project effects on recreation settings should be included in the EIS. In the Forest Service, recreation settings are inventoried and categorized on a spectrum from primitive to urban. This inventory is

called the Recreation Opportunity Spectrum (ROS). Potential changes to the inventoried ROS should be evaluated in the EIS for each action alternative.

An analysis of potential project effects on developed recreation sites and/or visitor experience should be included in the EIS. The analysis should include the primary egress and ingress routes to the developed recreation area and the potential impacts to their experience during project implementation and operations. The analysis should utilize current Forest Service GIS data and other available data on trails and roads locations.

The EIS should consider the impacts of construction, operation, and maintenance of the proposed pipeline facilities across National Forest System lands on recreationists using the NFS lands, both in terms of safety and disruptions to developed and dispersed recreation. NFS lands are open to and used by a significant number of recreationists, including those visiting developed recreation sites and official Forest Service system trails (existing and planned). As important are those hunting, fishing, bushwhacking, and a nearly limitless list of other dispersed recreation activities which are allowed, managed for, and welcomed on NFS lands. These many types of dispersed recreation activities occur throughout the general forest area, and most are not confined to specific management areas or managements prescriptions. Recognizing and planning for the temporary disruptions to popular trails, roads (both open and closed), and other access routes is critical. Proposed restrictions on the timing of proposed project activities to avoid conflict with

seasonal recreation activities, for example hunting seasons, should be identified. Closures must be minimized.

\* \* \*

**Excerpt From National Park Service Comments  
on FERC Notice of Intent to Prepare an  
Environmental Impact Statement for the  
Atlantic Coast Pipeline Project, FERC Docket  
No. PF15-6-000 (Apr. 28, 2015) (JA3673-77)**

Apr. 28, 2015

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission

\* \* \*

Dear Secretary Bose,

The National Park Service (NPS) is pleased to provide comments on the Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) for the Supply Header Project (SHP) and the Atlantic Coast Pipeline Project (ACP Project). SHP would involve construction and operation of facilities by Dominion Transmission, Inc. (Dominion), in Pennsylvania and West Virginia. The SHP would involve the construction and operation of approximately 38.7 miles of pipeline loop and the modification of existing compression facilities in Pennsylvania and West Virginia.

The ACP Project would involve construction and operation of 554 miles of variable diameter natural gas pipeline and related facilities by Atlantic Coast Pipeline, LLC (Atlantic), in West Virginia, Virginia and North Carolina. More specifically, the ACP Project would consist of the construction of approximately 295.6 miles of new 42-inch diameter pipeline in Harrison, Lewis, Upshur, Randolph and Pocahontas Counties, West Virginia; Highland, Augusta, Nelson, Buckingham, Cumberland, Prince

Edward, Nottoway, Dinwiddie, Brunswick and Greensville Counties, Virginia; and Northampton County, North Carolina; approximately 179.9 miles of 36-inch-diameter pipeline in Northampton, Halifax, Nash, Wilson, Johnston, Sampson, Cumberland, and Robeson Counties, North Carolina; approximately 75.7 miles of 20-inch-diameter lateral pipeline in Northampton County, North Carolina; and Greensville, Southampton, Suffolk, and Chesapeake Counties, Virginia; approximately 3.1 miles of 16-inch-diameter natural gas lateral pipeline in Brunswick County, Virginia; and construction and operation of three new compressor stations totaling 108,275 horsepower of compression. These compressor stations would be located in Lewis County, West Virginia; Buckingham County, Virginia; and Northampton County, North Carolina. Atlantic would also install metering stations, valves, pig launcher/receiver sites, and associated appurtenances along the planned pipeline system.

The NPS has concerns regarding potential impacts to the Appalachian National Scenic Trail, Shenandoah National Park and the Blue Ridge Parkway, units of the National Park System; and the Captain John Smith Chesapeake National Historic Trail, administered by the NPS.

We also have concerns regarding three National Natural Landmarks (NNLs) which may be directly impacted by the proposed pipeline. While NPS has an administrative and advocacy role for the NNL program, we are not the land managers for the three units in question. We provide more information below, including contact information, for these three units.

**The Appalachian National Scenic Trail**

The Appalachian National Scenic Trail (Trail) is a 2,189-mile footpath that traverses through the scenic, wooded, pastoral, wild, and culturally resonant lands of the Appalachian Mountains across fourteen of the eastern United States, from Katahdin in Maine to Springer Mountain in northern Georgia. Conceived in 1921 and completed in 1937, the Trail was built and is still maintained by volunteers, giving rise to its nickname, “the people’s trail” and is enjoyed by an estimated 2 to 3 million people each year. The Trail was designated as the first National Scenic Trail by the National Trails System Act of 1968 and it is arguably the most famous hiking path in the world. The Trail offers opportunities for viewing spectacular scenery and opportunities for a variety of recreational activities, and lies within a day’s drive of two-thirds of the American population. Furthermore, the Trail is eligible for listing in the National Register of Historic Places (NRHP), and the NPS has prepared documentation to formally list it on the NRHP.

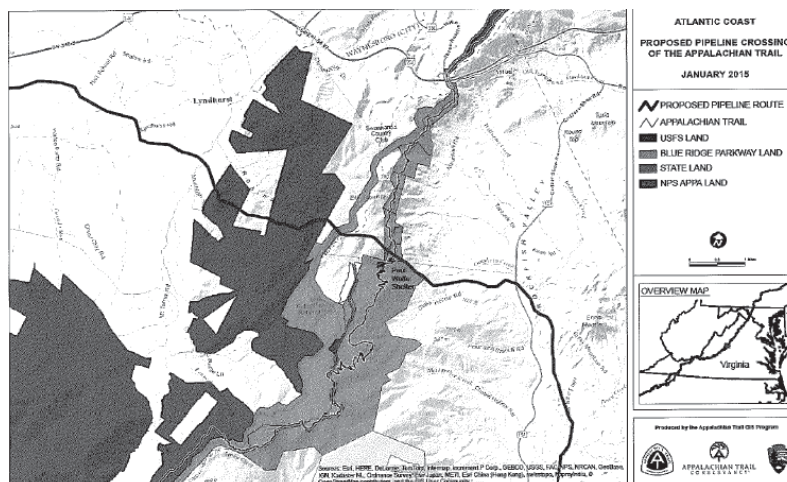
The Trail is a unit of the NPS and is currently protected along more than 99 percent of its course by federal or state ownership of the land or by rights-of-way. As shown in the most recent pipeline data from Dominion, the proposed route would cross the Trail within Nelson County, VA. The proposed pipeline would cross the Trail within the Blue Ridge Parkway (see Figure 1).

Title 30 of the United States Code (U.S.C.) Section 185, Rights of Way for Pipelines through Federal Lands, specifically excludes units of the national park system and many other specifically protected federal



properties from the Secretarial authority to issue rights-of-ways for petroleum product pipelines and associated facilities. The legislative history of the 1973 amendments to the Mineral Leasing Act demonstrate that Congress clearly intended that National Park System units be exempt from a general grant of authority to issue oil and gas pipeline rights-of-way. The authorities for the National Park System to issue rights-of-way permits, Title 16 U.S.C. Sections 5 and 79, also do not include petroleum product pipelines as a utility to which a right-of-way permit may be issued. Therefore, NPS has no authority to permit the proposed pipeline crossing. Dominion has shared with NPS staff an alternative that would cross the Trail on non-NPS lands in the vicinity of the Wintergreen Resort. We recommend further assessment of this alternative.

The NPS, Appalachian National Scenic Trail representative and lead contact is Wendy Janssen, Superintendent, at [Wendy\\_Janssen@nps.gov](mailto:Wendy_Janssen@nps.gov) or (304) 535-6279.



**Figure 1:** The ACP proposed pipeline route shown crossing the Appalachian National Scenic Trail and the Blue Ridge Parkway with federal ownership indicated, Nelson County, VA.

### **Blue Ridge Parkway**

Congress allocated funds for the initial construction of the Blue Ridge Parkway in 1933 and authorized the National Park Service to administer and manage the parkway in 1936. The parkway is in Virginia and North Carolina in the central and southern Appalachian Mountains. It is 469 miles long and connects Shenandoah National Park to the north with Great Smoky Mountains National Park to the south. Created as a national rural roadway with limited access, the parkway was designed for pleasant motoring, a form of recreational driving free from commercial traffic. The Blue Ridge Parkway travels the crests, ridges, and valleys of five major mountain ranges, encompassing several geographic and vegetative zones ranging from 600 to over 6,000 feet above sea level. It provides visitors with many varied

vistas of scenic Appalachian landscapes ranging from forested ridge tops and mountain slopes to rural farm lands to urban areas. The parkway offers a “ride-a-while, stop-a-while” experience that includes scenic pullouts, recreation areas, historic sites, and visitor contact stations. It is known nationally and internationally for its designed landscape as a scenic motorway.

Unlike all but one other unit of the NPS, the Blue Ridge Parkway enabling legislation specifically allows the Secretary of the Interior to “issue revocable licenses or permits for rights-of-way over, across, and upon parkway lands ...” (16 U.S.C. § 460a-3). An authorization from the Parkway would be needed for the ACP Project. It is important to note that for those Appalachian Trail lands transferred to the Blue Ridge Parkway, the prohibitions of 30 U.S.C. 185 still hold. This includes the lands in the current ACP Project proposed route.

We have concerns about the potential impacts of this proposed pipeline on views from key Parkway vistas. As we also detail below, we recommend the EIS include a visual analysis to determine potential impacts. NPS staff can assist in determining key locations and other elements of such an assessment.

The NPS, Blue Ridge Parkway representative and lead contact is Mark H. Woods, Superintendent, at [mark\\_woods@nps.gov](mailto:mark_woods@nps.gov) or (828) 348-3405.

### **Shenandoah National Park**

Shenandoah National Park in Virginia includes 200,000 acres of protected lands that are haven to deer, songbirds, the night sky and a variety of recreational experiences. The cascading waterfalls,

spectacular vistas and quiet wooded hollows of the park are located just 75 miles from Washington, DC. Shenandoah National Park also includes the Skyline Drive National Historic District. NPS staff are ready to provide assistance in the assessment of potential impacts to these resources. We also recommend that FERC and the project proponent contact the State Historic Preservation Officer at the Virginia Department of Historic Resources (<http://www.dhr.virginia.gov/>) to ensure that they are aware of the project.

\* \* \*

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**Atlantic Coast Pipeline Project Overview Map**

(See foldout next page)





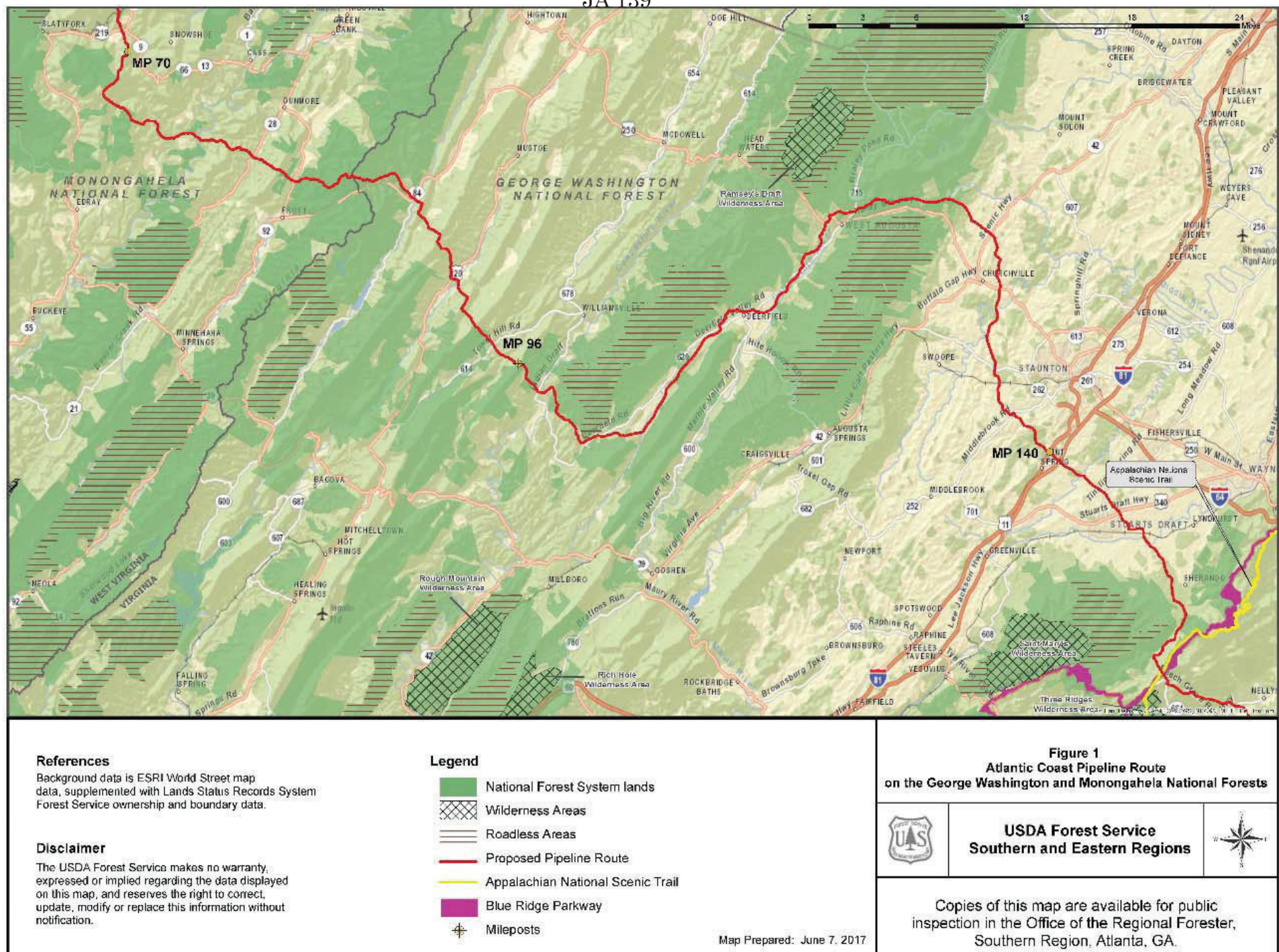
**Figure 2.1-1**  
Project Overview  
Atlantic Coast Pipeline

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**Atlantic Coast Pipeline Route on the George  
Washington and Monongahela National Forests**

(See foldout next page)





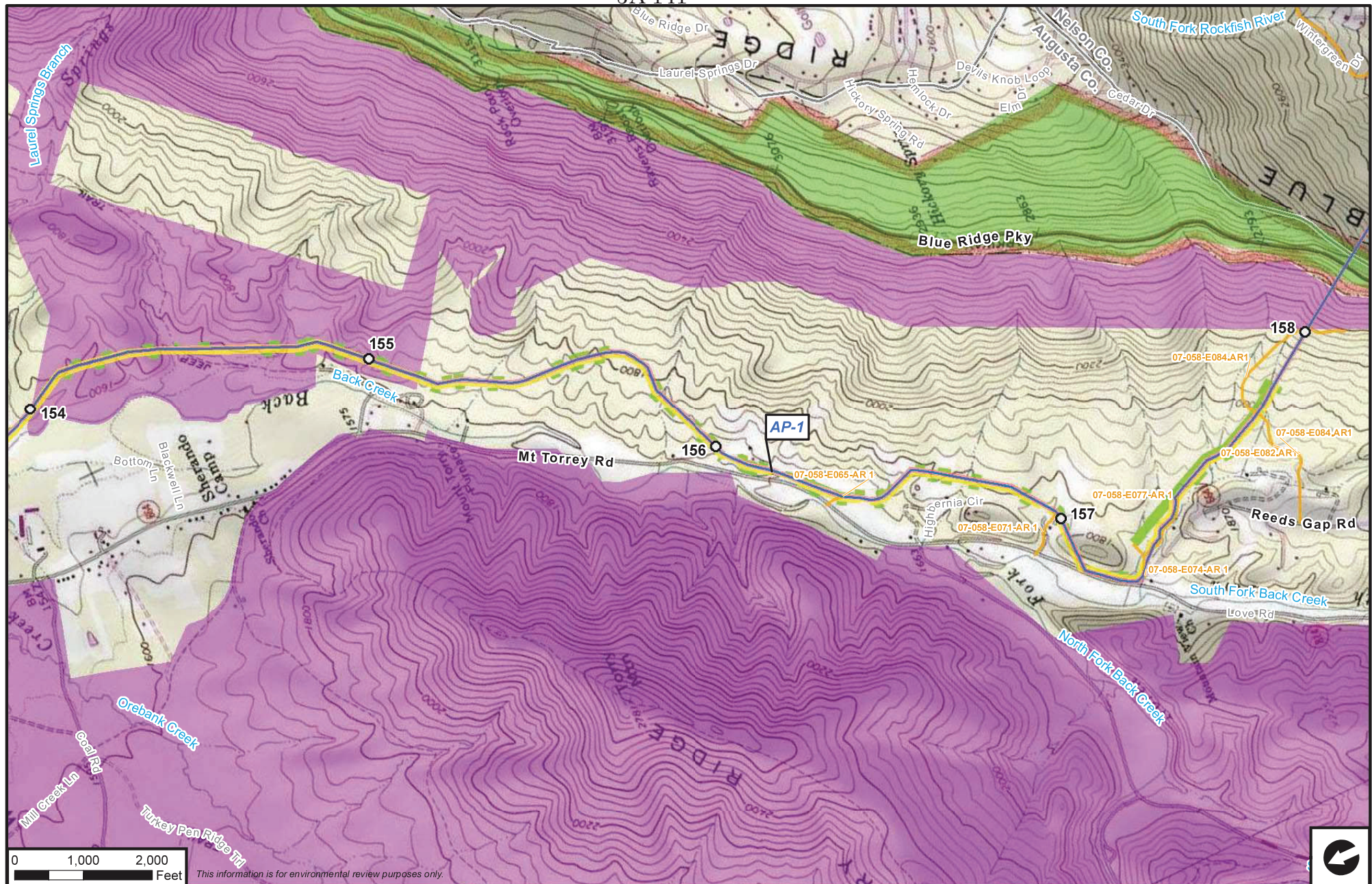
**Figure 1 – Atlantic Coast Pipeline Route on the MNF and GWNF.**



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**Atlantic Coast Pipeline Project Facility Map,  
Augusta County, Virginia  
(West of Appalachian Trail)**  
(See foldout next page)





**Atlantic Coast Pipeline**

- Atlantic Coast Pipeline**
- Mainline
  - Lateral
- Workspace**
- Permanent ROW
  - Temporary ROW
  - ATWS

**M&R Station**



**L&R Site**



**Valve Site**



**Compressor Station Layout**



**Permanent**



**Temporary**



**Access Road**



**Federal Ownership**



**U.S. Forest Service**



**National Park Service**



**U.S. Fish & Wildlife Service**



**National Guard**

# Atlantic Coast Pipeline

## Appendix B

### Project Facility Map

#### Augusta County, Virginia

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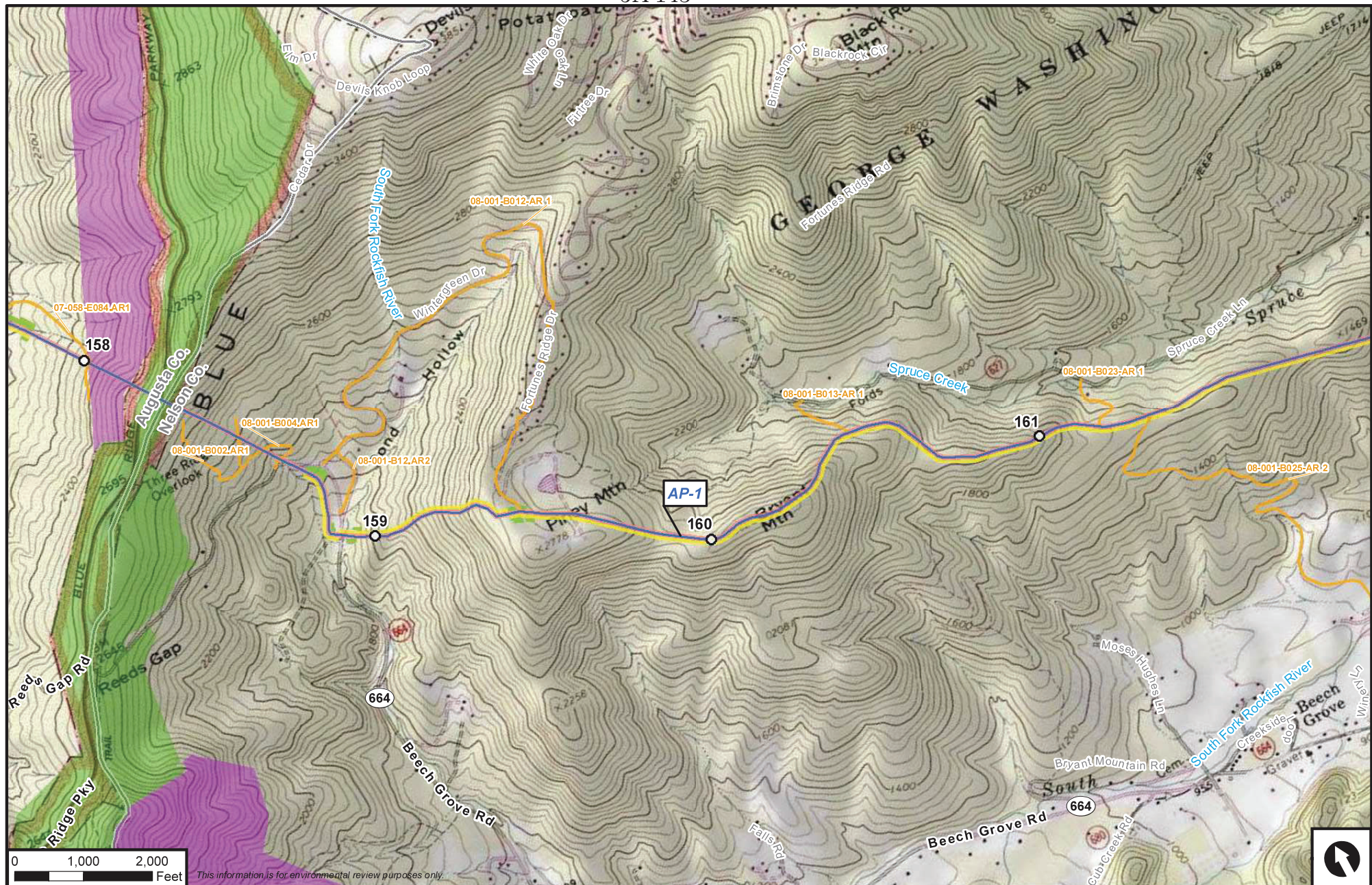




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**Atlantic Coast Pipeline Project Facility Map,  
Nelson County, Virginia  
(East of Appalachian Trail)**  
(See foldout next page)





**Atlantic Coast Pipeline**

<b>Atlantic Coast Pipeline</b>	M&R Station	Access Road
Mainline	L&R Site	<b>Federal Ownership</b>
Lateral	Valve Site	U.S. Forest Service
<b>Workspace</b>	<b>Compressor Station Layout</b>	National Park Service
Permanent ROW	Permanent	U.S. Fish & Wildlife Service
Temporary ROW	Temporary	National Guard
ATWS		

## Atlantic Coast Pipeline Appendix B Project Facility Map Nelson County, Virginia

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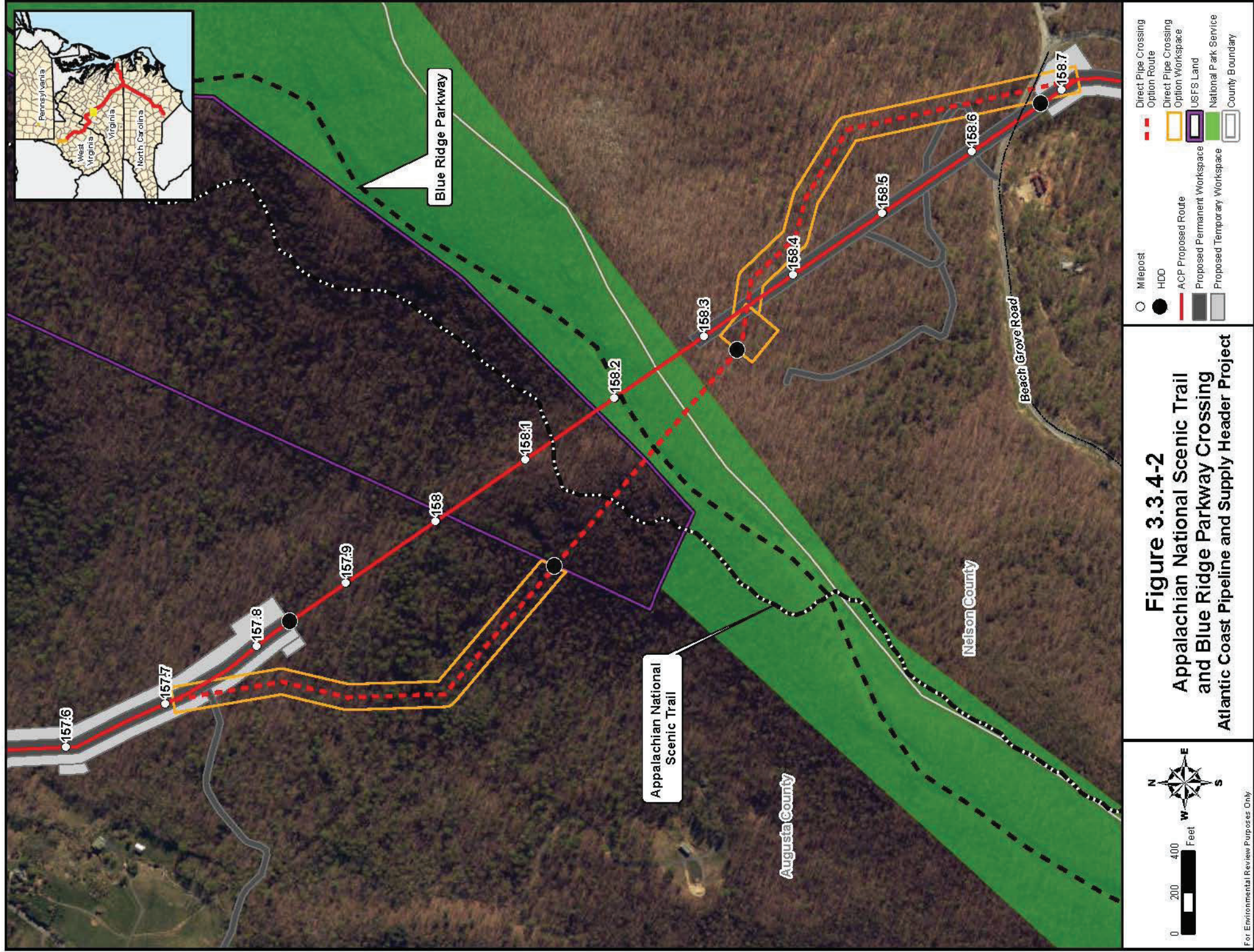




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**Appalachian National Scenic Trail and  
Blue Ridge Parkway Crossing**

(See foldout next page)



JA 146

**Cross-Section Diagram of Appalachian  
Trail Crossing**

(See foldout next page)



