



Serious Unanswered Questions

RAISED FROM THE ACP PERMIT FILE

Draft Denial Letter



ROY COOPER

MICHAEL S. RIGAN

LINDA COLEBURNER

January XX, 2018

DWR # 14-0957 v2
Northampton, Halifax, Nash,
Wilson, Johnston, Sampson,
Cumberland and Robeson Counties

**CERTIFIED MAIL: XXXX XXXX XXXX XXXX XXXX
RETURN RECEIPT REQUESTED**

Atlantic Coast Pipeline, LLC
Attn: Ms. Leslie Hartz
707 E. Main Street, 19th Floor
Richmond, VA 23219

DRAFT

**Subject: DENIAL OF 401 WATER QUALITY CERTIFICATION AND TAR-PAMLICO/NEUSE RIPARIAN
BUFFER AUTHORIZATION CERTIFICATES**
Atlantic Coast Pipeline
USACE Action ID. No. SAW-2014-01558

Dear Ms. Hartz:

On May 9, 2017, the Division of Water Resources (Division) received your application requesting a 401 Water Quality Certification and Tar-Pamlico and Neuse Riparian Buffer Authorization Certificates from the Division for the subject project. Pursuant to 15A NCAC 02H .0506, a certification shall be issued when the Director determines that water quality standards are met. Pursuant to 15A NCAC 02B .0233 (8) and .0259 (8), a Buffer Authorization Certificate shall be granted when the Division determines there is no practical alternative. The project has not met the following requirements:

- **Rule Citation**
"Rule text..."
Explanation...

In accordance with 15A NCAC 02H .0507(e), 15A NCAC 02B .0233(8), and 15A NCAC 02B .0259(8), your application for a 401 Water Quality Certification and Buffer Authorization Certificates are hereby denied.

This decision can be contested as provided in General Statute 150B by filing a written petition for an administrative hearing to the Office of Administrative Hearings (hereby known as OAH) **within sixty (60) calendar days**.

Screen Shot from ACP Permit File

The screenshot shows a web browser window with the URL <https://edocs.deq.nc.gov/WaterResources/Search.aspx>. The search term 'higgins' is entered in the search bar. The search results are displayed in a table with columns for Name, Hits, and Current Status. Two entries are circled in green:

- 20140957 Ver 2 - DraftsGivenToLinda01-22-18_140957v2AtlanticCoastPipeline(Multi)_401_IC_NRB_TAR_DENIAL - 1/22/2018
- 20140957 Ver 2 - 01_2018 draft denial of 401 WQ cert. and Tar-Pamlico..... - 1/1/2018

Name	Hits	Current Status
20140957 Ver 2 - DraftsGivenToLinda01-22-18_140957v2AtlanticCoastPipeline(Multi)_401_IC_NRB_TAR_DENIAL - 1/22/2018	1	Project in Review
20140957 Ver 2 - DEQ Press Release - 1/26/2018	1	Project in Review
20140957 Ver 2 - 01_2018 draft denial of 401 WQ cert. and Tar-Pamlico..... - 1/1/2018	1	Project in Review
20140957 Ver 2 - Updated DMS Letter - 11/29/2017	1	Project in Review
20140957 Ver 2 - Mail 2017 08 21 NC East Alliance ACP Letter - 8/22/2017	1	Project in Review
20140957 Ver 2 - Progress Energy Alt Clarification - 6/27/2017	1	Project in Review
20140957 Ver 2 - More Info Requested - 9/14/2017	1	Project in Review
20140957 Ver 2 - NCDEMLR_RRO_ReqForAddInfo_09-15-17 - 9/15/2017	1	Project in Review
20140957 Ver 2 - More Info Requested - 10/26/2017	1	Project in Review
20140957 Ver 2 - Mail 2017 08 14 Governor Cooper_Atlantic Coast Pipeline Letter - 8/14/2017	1	Project in Review
20140957 Ver 2 - Meeting Notes and Handouts - 3/23/2017	1	Project in Review
20140957 Ver 2 - ACP 401 Water Quality Certification Permit Comments - 8/14/2017	1	Project in Review
20140957 Ver 2 - Against Letters - 8/22/2017	1	Project in Review
20140957 Ver 1 - Approval Letter - 1/26/2018	1	
20140957 Ver 2 - 401_IC_NRB_TAR_bw edits - 1/19/2017	1	Project in Review

Metadata Thumbnails Annotations

Fields

Template: Non-DOT Projects

Reviewing Office
Central Office

ID #
20140957

Version
2

Document Date
1/22/2018

Facility/Project Name
Atlantic Coast Pipeline (ACP)

County
Multi

Current Status
Project in Review

1 / 2 Go PDF PDF Hand Magnifying Glass + - [Icons] View plain text 8.5 in x 11 in

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Dear Ms. Hartz:

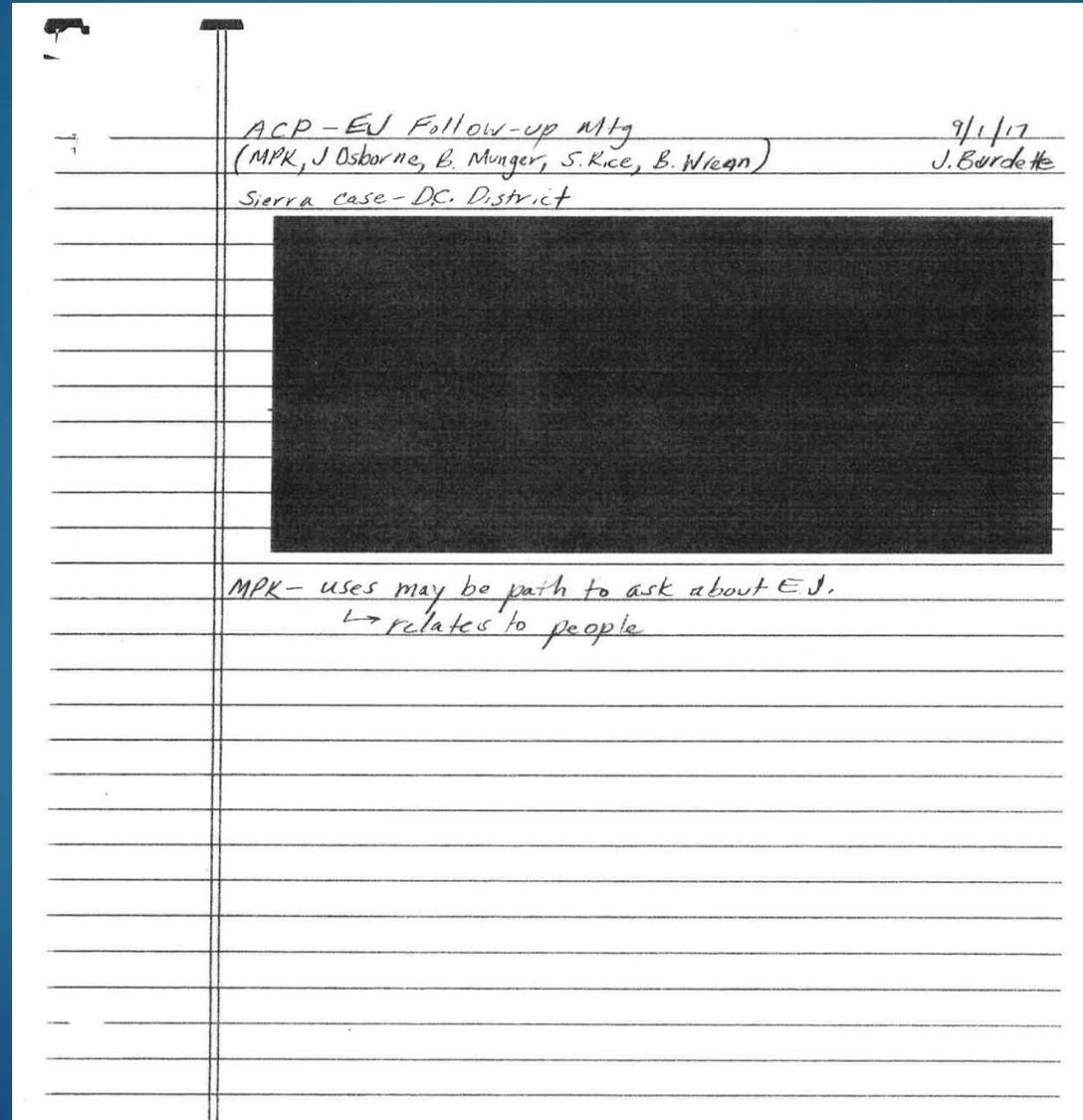
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Quote from WRAL Article posted on March 4, 2018

- ▶ **“By mid-December, DEQ's review was wrapping up, and it had become clear the department would likely issue the needed permit, Eudy said. He recalled Regan saying that, if the consortium answered the department's final questions to satisfaction, there would be "no choice" under the law but to give approval.”**

Redacted Documents



Who is Doug?

1-3 ACP Call

- update on Air
- " " 401
- update on EISC → still questions about access roads → sending a disapproval and other little things
- stormwater → general & individual notice → notice + maybe hearing?

1-4

- give HO Report / Draft decisions to Linda on Monday
- Bridget will talk w/ Doug about news release of decision

1-5 Mtg. w/ JIB

- double check impact #'s + buffer mit ✓
 - ↳ send to Spencer for review ✓
 - ↳ need open water impacts ✓
- WRC - relocation plans ✓
- - check NCGOI throughout □
- inundated wetlands - add curtains + monitoring ✓
- check all add info ^{meeting notes} for other conditions ✓
- - request variance from FERC to adjust route → see email
 - ↳ add info? □
- add date recd for OW impacts to letter ✓
- - CR for ... □

Website Inconsistencies

- ▶ Documents and notes obtained from DEQ website
- ▶ Letter sent to Governor on Sept 7
- ▶ Beginning Sept 10 documents could not be accessed
- ▶ Documents reappear on Sept 24 with some new info

Current Concerns

- ▶ Legal authority for discretionary fund
- ▶ Potential coercion of permit applicant
- ▶ Troubling lack of transparency
- ▶ Policy implications for job creation/economic development

Recommendation

- ▶ Hire outside investigatory assistance
- ▶ Obtain relevant documents and other evidence