



ROY COOPER

*Governor*

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*Secretary*

LINDA CULPEPPER

*Interim Director*

January 26, 2018

DWR # 20140957 v2  
Northampton, Halifax, Nash,  
Wilson, Johnston, Sampson,  
Cumberland and Robeson Counties

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

**Subject: Approval of Individual 401 Water Quality Certification and Tar-Pamlico/Neuse  
Riparian Buffer Impacts with Additional Conditions**  
Atlantic Coast Pipeline  
USACE Action ID. No. SAW-2014-01558

Dear Ms. Hartz:

Attached hereto is a copy of Certification No. WQC004162 issued to Ms. Leslie Hartz and Atlantic Coast Pipeline, LLC, dated January 26, 2018. Please note that you should get any other applicable federal, state or local permits before proceeding with the subject project, including those required by (but not limited to) Sediment and Erosion Control, Non-Discharge, and Water Supply Watershed regulations.

This approval and its conditions are final and binding unless contested. This Certification 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**.

A petition form may be obtained from the OAH at <http://www.ncoah.com/> or by calling the OAH Clerk's Office at (919) 431-3000 for information. A petition is considered filed when the original and one (1) copy along with any applicable OAH filing fee is received in the OAH during normal office hours (Monday through Friday between 8:00am and 5:00pm, excluding official state holidays).

The petition may be faxed to the OAH at (919) 431-3100, provided the original and one copy of the petition along with any applicable OAH filing fee is received by the OAH within five (5) business days following the faxed transmission.

Mailing address for the OAH:

*If sending via US Postal Service:*  
Office of Administrative Hearings  
6714 Mail Service Center  
Raleigh, NC 27699-6714

*If sending via delivery service (UPS, FedEx, etc):*  
Office of Administrative Hearings  
1711 New Hope Church Road  
Raleigh, NC 27609-6285

One (1) copy of the petition must also be served to Department of Environmental Quality:

William F. Lane, General Counsel  
Department of Environmental Quality  
1601 Mail Service Center  
Raleigh, NC 27699-1601

**Unless such a petition is filed, this Certification shall be final and binding.**

This certification completes the review of the Division of Water Resources under section 401 of the Clean Water Act and 15A NCAC 02H .0500 and under the Neuse and Tar-Pamlico Riparian Buffer Protection Rules (15A NCAC 02B .0233 and .0259). Contact Karen Higgins at 919-807-6360 or [karen.higgins@ncdenr.gov](mailto:karen.higgins@ncdenr.gov) if you have any questions or concerns.

Sincerely,



Linda Culpepper, Interim Director  
Division of Water Resources

Attachment: Appendix C-1: Wetland and Waterbody Crossings for the Atlantic Coast Pipeline within the US Army Corps of Engineers – Wilmington District (Revised 11/3/2017)  
Table 5: North Carolina Riparian Buffer Impacts within the Tar-Pamlico and Neuse Watersheds

cc: Richard Gangle, Dominion Resources Services, Inc. (via richard.b.gangle@dom.com)  
Spencer Trichell, Dominion Resources Services, Inc. (via spencer.trichell@dom.com)  
USACE Raleigh Regulatory Field Office  
USACE Wilmington Regulatory Field Office  
Todd Bowers, EPA (via bowers.todd@epa.gov)  
DWR Raleigh Regional Office  
DWR Fayetteville Regional Office  
DWR 401 & Buffer Permitting Branch file

## NORTH CAROLINA 401 WATER QUALITY CERTIFICATION

**CERTIFICATION** #WQC004162 is issued in conformity with the requirements of Section 401, Public Laws 92-500 and 95-217 of the United States and subject to North Carolina's Regulations in 15 NCAC 02H .0500 and 15A NCAC 02B .0200, to Ms. Leslie Hartz and Atlantic Coast Pipeline, LLC, who have authorization for the impacts listed below, as described within your application received by the N.C. Division of Water Resources (Division) on May 9, 2017; subsequent information received by the Division on July 12, 2017, September 22, 2017, October 2 and 13, 2017, November 4, 15 and 29, 2017, December 8 and 20, 2017 and January 17 and 18, 2018; and by Public Notice issued by the Division on June 16, 17 and 18, 2017 and correction issued on June 19, 20, 21 and 22, 2017.

The State of North Carolina certifies that this activity will not violate the applicable portions of Sections 301, 302, 303, 306, 307 of the Public Law 92-500 and Public Law 95-217 if conducted in accordance with the application, the supporting documentation, and conditions hereinafter set forth.

**This approval requires you to follow the conditions listed in the certification below.**

### **Conditions of Certification:**

#### **1. Impacts Approved**

The following impacts are hereby approved provided that all of the conditions of the Certification are met. No other impacts are approved, including incidental impacts. [15A NCAC 02B .0506(b) & (c), 15A NCAC 02B .0233(8) and 15A NCAC 02B .0259(8)]

Type of Impacts	Amount Approved (units) Permanent	Amount Approved (units) Temporary
404 Wetlands	0.80 (acres)	453.45 (acres)
Perennial Stream	160 (linear feet)	15,081 (linear feet)
Non-perennial Stream	606 (linear feet)	21,007 (linear feet)
Open Waters	0 (acres)	0.44 (acres)
<b>Tar-Pamlico Buffer Sub-basin 03020102</b>		
Buffer Zone 1	126,081 (square feet)	0 (square feet)
Buffer Zone 2	83,478 (square feet)	0 (square feet)
<b>Tar-Pamlico Buffer Sub-basin 03020101</b>		
Buffer Zone 1	231,704 (square feet)	0 (square feet)
Buffer Zone 2	152,811 (square feet)	0 (square feet)
<b>Neuse Buffer Sub-basin 03020203</b>		
Buffer Zone 1	145,039 (square feet)	0 (square feet)
Buffer Zone 2	101,403 (square feet)	0 (square feet)
<b>Neuse Buffer Sub-basin 03020201</b>		
Buffer Zone 1	152,785 (square feet)	0 (square feet)
Buffer Zone 2	122,204 (square feet)	0 (square feet)

2. Compensatory Mitigation

Mitigation must be provided for the proposed impacts as specified in the table below. The Division has received an acceptance letter from the NC Division of Mitigation Services (DMS) to meet this mitigation requirement. Until the DMS receives and clears your payment, and proof of payment has been provided to the Division, no impacts specified in this Authorization Certification (Certification) shall occur. For accounting purposes, this Certification authorizes payment to the DMS to meet the following compensatory mitigation requirement [15A NCAC 02H .0506 (b)(6)]:

	Compensatory Mitigation Amount Required	River & Sub-basin Number	
Buffers	301,168 (square feet)	Tar-Pamlico	03020102
	318,868 (square feet)	Tar-Pamlico	03020101
	245,612 (square feet)	Neuse	03020203
	486,344 (square feet)	Neuse	03020201

- Any stream or wetland impacts proposed that are not included in this Certification shall require a modification of the Certification. If total project permanent impacts to perennial streams exceed 300 linear feet, or permanent impacts to wetlands exceed one acre, mitigation at a 1:1 ratio will be required. [15A NCAC 02H .0506 (b)(6)]
- ACP shall seek necessary authorizations from applicable state and federal agencies (e.g. NCDEQ, NCWRC, USACE, USFWS, NCDHR, etc.) and request a variance from FERC to change the crossing of three streams (swio010, swio011, swio012) shown on Figure A-4, page 51, by shifting the alignment east within the study corridor to avoid two of the stream crossings. [15A NCAC 02H .0506(b)(1) and (b)(2)]
- No waste, spoil, solids, or fill of any kind shall occur in wetlands or waters beyond the footprint of the impacts (including temporary impacts) as authorized under this Certification. [15A NCAC 02H .0501 and .0502]
- No removal of vegetation or other impacts of any kind shall occur to state regulated riparian buffers beyond the footprint of impacts approved in a Buffer Authorization or Variance or as listed as an exempt activity in the applicable riparian buffer rules. [15A NCAC 02B .0200]
- All wetlands, streams, surface waters, and riparian buffers located within 50 feet of the construction area on the project site shall be clearly marked (e.g. orange fabric fencing) prior to any land disturbing activities and must be maintained on the property until the project phase is completed. [15A NCAC 02H .0506 (b)(2) and (c)(2) and 15A NCAC 02H .0507 (c)]



8. No temporary impacts are allowed beyond those included in this Certification. All temporary fill and culverts shall be removed and the impacted area shall be returned to natural conditions within 60 calendar days after the temporary impact is no longer necessary. The impacted areas shall be restored to original grade, including each stream's original cross sectional dimensions, planform pattern, and longitudinal bed profile. All temporarily impacted sites shall be restored and stabilized with native vegetation. [15A NCAC 02H .0506(b)(2) and (c)(2)]
9. Approved temporary pipes, culverts, rip-rap pads, etc. in streams shall be installed as outlined in the most recent edition of the *North Carolina Sediment and Erosion Control Planning and Design Manual* or the *North Carolina Surface Mining Manual* or the *North Carolina Department of Transportation Best Management Practices for Construction and Maintenance Activities* so as not to restrict stream flow or cause dis-equilibrium during use of this Certification. [15A NCAC 02H .0506(b)(2) and (c)(2)]
10. Mixing of topsoil and subsoils within wetlands shall be minimized to the greatest extent practical. During excavation, the soils shall be placed on fabric to minimize impacts whenever possible. Topsoil excavated from trenches should be piled separately from soils and backfilled into the trench only after the subsoils have been placed and compacted. [15A NCAC 02H .0506(c)(2)]
11. Wetland Monitoring  
Upon restoration of temporary impacts to wetlands, all restored areas shall be monitored quarterly for at least three years with photo documentation. Wetland restoration shall be considered successful if all of the following criteria are satisfied:
  - a. the affected wetland satisfies the current federal definition for a wetland (i.e., soils, hydrology, and vegetation);
  - b. vegetation is at least 80 percent of either the cover documented for the wetland prior to construction, or at least 80 percent of the cover in adjacent wetland areas that were not disturbed by construction;
  - c. if natural rather than active revegetation was used, the plant species composition is consistent with early successional wetland plant communities in the affected ecoregion; and
  - d. invasive species and noxious weeds are absent, unless they are abundant in adjacent areas that were not disturbed by construction.

Three years after construction is completed, ACP shall submit a report to the Division identifying the status of the wetland revegetation efforts and documenting success as defined above using the following link: <https://edocs.deq.nc.gov/Forms/Supplemental-Information-Form>. Wetland restoration monitoring may be extended by the Division if the restoration sites have not adequately recovered.

Any temporary impacts to wetlands that do not meet the current federal definition for a wetland, as defined by the 1987 U.S. Army Corps of Engineers Wetland Manual and confirmed by a Corps representative, at the end of monitoring shall be considered permanent impacts and shall require a modification of the Certification. If total project permanent impacts to wetlands exceed one acre, mitigation at a 1:1 ratio will be required. [15A NCAC 02H .0506 (c)(2) and 15A NCAC 02H .0507 (c)]

12. Stream and Riparian Area/Buffer Monitoring

Upon restoration of temporary impacts to stream and riparian area/buffers, all restored areas shall be monitored quarterly for at least three years with photo documentation. Stream and riparian area/buffer restoration shall be considered successful if all of the following criteria are satisfied:

- a. the stream channel is stable and active erosion is not observed;
- b. riparian vegetation is at least 80 percent of either the cover documented for the wetland prior to construction, or at least 80 percent of the cover in adjacent riparian areas that were not disturbed by construction;
- c. if natural rather than active revegetation was used, the plant species composition is consistent with early successional riparian plant communities in the affected ecoregion; and
- d. invasive species and noxious weeds are absent, unless they are abundant in adjacent areas that were not disturbed by construction.

Three years after construction is completed, ACP shall submit a report to the Division identifying the status of the riparian revegetation efforts and documenting success as defined above using the following link: <https://edocs.deq.nc.gov/Forms/Supplemental-Information-Form>. Stream and buffer monitoring may be extended by the Division if the restoration sites have not adequately recovered.

Any temporary impacts to streams that require permanent impacts for stabilization (e.g. rip rap) shall be considered permanent impacts and shall require a modification of the Certification. If total project permanent impacts to perennial streams exceed 300 linear feet, mitigation at a 1:1 ratio will be required. [15A NCAC 02H .0506 (b)(2) and 15A NCAC 02H .0507 (c)]

13. All moratoriums on construction activities established by the NC Wildlife Resources Commission (WRC), US Fish and Wildlife Service (USFWS), NC Division of Marine Fisheries (DMF), or National Marine Fisheries Service (NMFS) shall be implemented as indicated in Appendix C-1: Wetland and Waterbody Crossings for the Atlantic Coast Pipeline within the US Army Corps of Engineers – Wilmington District (Revised 11/3/2017). Exceptions to this condition require written approval by the resource agency responsible for the given moratorium. A copy of the approval from the resource agency shall be forwarded to the Division using the following link: <https://edocs.deq.nc.gov/Forms/Supplemental-Information-Form>. [15A NCAC 02H .0506(b)(2) and 15A NCAC 04B .0125]

14. All fish and mussel relocations shall comply with the following protocols approved by WRC: *"North Carolina Revised Fish and Other Taxa Collection and Relocation Protocol for Instream Construction Activities"* (September 22, 2017) and *"2017 Study Plan: Revised Freshwater Mussel (*Unionidae*) Relocations for the Proposed Atlantic Coast Pipeline in North Carolina"* (September 22, 2017). Any deviation from these protocols require written approval from WRC. [15A NCAC 02H .0506(b)(2)]

15. All work in or adjacent to streams shall be conducted so that the flowing stream does not come in contact with the disturbed area. Approved best management practices from the most current version of the *NC Sediment and Erosion Control Manual*, or the *NC DOT Construction and Maintenance Activities Manual*, such as sandbags, rock berms, cofferdams, and other diversion structures shall be used to minimize excavation in flowing water. ACP may request site-specific exemptions of this condition where conditions at the time of the crossing are not feasible (e.g., inundated wetland conditions) or conditions are not necessary (e.g., no flow, dry conditions that are anticipated to remain dry throughout completion of pipeline installation and site restoration). To obtain an exemption, ACP must submit the request to Division staff in the appropriate regional office at least 14 calendar days prior to the anticipated start of construction on the crossing and shall not proceed until written approval from the Division is received. [15A NCAC 02H .0506(b)(3) and (c)(3)]

16. Open Cut

Where conditions at the time of the stream crossing are not feasible to be conducted so that the flowing stream does not come into contact with the disturbed area (e.g. inundated wetland conditions) and ACP has received an exemption from the Division pursuant to Condition #15 above, ACP shall comply with the following [15A NCAC 02H .0506 (b)(2)]:

- a. Turbidity curtains shall be installed as shown on the plans provided to the Division on September 29, 2017; and
- b. Water Quality Sampling shall be conducted:
  - i. Sampling shall be located 50 feet above (upstream) and 50 feet below (downstream) the crossing;
  - ii. Sampling shall be conducted for turbidity. Sampling shall also be conducted for total dissolved solids for crossings within a Water Supply Watershed area;
  - iii. Monitoring at both the upstream and downstream locations shall occur at least two (2) times per day when active construction is occurring. The first sampling shall occur thirty (30) minutes prior to the start of instream construction. The second sampling shall occur two (2) to six (6) hours after the start of instream construction;

- iv. If monitoring during active construction shows any exceedances of the turbidity and/or total dissolved solids standard, work shall stop until the source is identified and remediated. Measures and BMPs shall be re-evaluated before moving forward to ensure future exceedances do not occur;
- v. Monitoring at both the upstream and downstream locations shall occur at least one (1) time per day for four (4) consecutive days once the crossing (including restoration) is complete. If any of the post-construction sampling show exceedances of the turbidity and/or total dissolved solids standard, the source shall be identified and remediated. Daily sampling shall continue until samples are below the turbidity and total dissolved solids standards.
- vi. Records of all samples shall be retained by ACP for one year. Records shall be made available to the Division upon request.

#### 17. Culverts

Culverts shall be designed and installed in such a manner that the original stream profiles are not altered and allow for aquatic life movement during low flows. The dimension, pattern, and profile of the stream above and below a pipe or culvert shall not be modified by widening the stream channel or by reducing the depth of the stream in connection with the construction activity. The width, height, and gradient of a proposed culvert shall be such as to pass the average historical low flow and spring flow without adversely altering flow velocity.

Placement of culverts and other structures in streams shall be below the elevation of the streambed by one foot for all culverts with a diameter greater than 48 inches, and 20% of the culvert diameter for culverts having a diameter less than or equal to 48 inches, to allow low flow passage of water and aquatic life.

If multiple pipes or barrels are required, they shall be designed to mimic the existing stream cross section as closely as possible including pipes or barrels at flood plain elevation and/or sills where appropriate. Widening the stream channel shall be avoided.

If bedrock is discovered during construction, then the Division Regional Office (Raleigh or Fayetteville) shall be notified by phone or email within 24 hours of discovery.

Installation of culverts in wetlands shall ensure continuity of water movement and be designed to adequately accommodate high water or flood conditions. When roadways, causeways, or other fill projects are constructed across FEMA-designated floodways or wetlands, openings such as culverts or bridges shall be provided to maintain the natural hydrology of the system as well as prevent constriction of the floodway that may result in destabilization of streams or wetlands.

The establishment of native woody vegetation and other soft stream bank stabilization techniques shall be used where practicable instead of rip-rap or other bank hardening methods. [15A NCAC 02H .0506(b)(2) and (c)(2)]



**18. Rip-Rap**

Any rip-rap required for proper culvert placement, stream stabilization, or restoration of temporarily disturbed areas shall be restricted to the area directly impacted by the approved construction activity. All rip-rap shall be placed such that the original stream elevation and streambank contours are restored and maintained. Placement of rip-rap or other approved materials shall not result in de-stabilization of the stream bed or banks upstream or downstream of the area or in a manner that precludes aquatic life passage.

Any rip-rap used for stream or shoreline stabilization shall be of a size and density to prevent movement by wave, current action, or stream flows and shall consist of clean rock or masonry material free of debris or toxic pollutants. Rip-rap shall not be installed in the streambed except in specific areas required for velocity control and approved as a permanent impact area by this Certification. [15A NCAC 02H .0506(b)(2)]

19. No hardened stabilization (e.g. rip-rap, geogrid, etc.) techniques shall be placed below the ordinary high water mark for bank stabilization purposes. If monitoring of completed stream crossings indicates hardened stabilization is necessary, a modification of this Certification will be required to authorize additional impacts. [15A NCAC 02H .0506(b)(2)]
20. Heavy equipment working in wetlands shall be placed on mats or other measures shall be taken to minimize soil disturbance. [15A NCAC 02H .0506(b)(3) and (c)(3)]
21. Application of fertilizer to establish planted/seeded vegetation within disturbed riparian areas and/or wetlands shall be conducted at agronomic rates and shall comply with all other Federal, State and Local regulations. Fertilizer application shall be accomplished in a manner that minimizes the risk of contact between the fertilizer and surface waters. [15A NCAC 02B .0200 and 15A NCAC 02B .0231]
22. If concrete is used during construction, then all necessary measures shall be taken to prevent direct contact between uncured or curing concrete and waters of the state. Water that inadvertently contacts uncured concrete shall not be discharged to waters of the state. [15A NCAC 02B .0200]
23. All mechanized equipment operated near surface waters or wetlands shall be regularly inspected and maintained to prevent contamination of waters and wetlands from fuels, lubricants, hydraulic fluids or other potential toxic chemicals. Construction shall be staged in order to minimize the exposure of equipment to surface waters to the maximum extent practicable. Fueling, lubrication and general equipment maintenance shall not take place within 100 feet of a waterbody or wetlands to prevent contamination by fuels and oils except as follows: in situations where equipment must continue to operate during fueling activities such as dewatering pumps near surface waters, secondary containment structures will be used to prevent any spillage from reaching the surface waters. Fuel shall not be stored within 100 feet of a waterbody or wetland.

In accordance with 143-215.85(b), any petroleum spill of 25 gallons or more, any spill regardless of amount that causes a sheen on surface waters, any petroleum spill regardless of amount occurring within 100 feet of surface waters, and/or any petroleum spill less than 25 gallons that cannot be cleaned up within 24 hours shall be reported to the Division. Contact the Raleigh Regional Office at **919-791-4200** between the hours of 8 am to 5 pm or Fayetteville Regional Office at **910-433-3300**, depending on the region in which the spill occurs, or after hours and on weekends call **(800) 858-0368**. Management of such spills shall comply with provisions of the North Carolina Oil Pollution and Hazardous Substances Control Act. [15A NCAC 02H .0506 (b)(3) and (c)(3), 15A NCAC 02B .0200 (3)(f), and GS 143 Article 21A]

#### 24. Horizontal Directional Drilling

Documentation of the composition and properties of drilling fluids and additives, including manufacturer's literature and Safety Data Sheets for each horizontal directional drilling crossing must be submitted to the Division no less than 30 calendar days prior to commencement of the particular crossing using the following link: <https://edocs.deq.nc.gov/Forms/Supplemental-Information-Form>.

If an inadvertent return enters a surface water, wetland or protected riparian buffer, ACP will notify the Raleigh or Fayetteville Regional Office, as appropriate, within 24 hours of detection (see phone numbers above). [15A NCAC 02H .0506 (b)(3) and (c)(3), 15A NCAC 02B .0200 (3)(f), and GS 143 Article 21A]

#### 25. Well Testing

Private wells identified within 150 feet of the limit of disturbance or within 500 feet from blasting areas shall be sampled and tested *prior* to construction to establish a baseline of groundwater quality and quantity against which to measure any construction-related impacts.

Testing shall include the following parameters: pH, total suspended solids, total dissolved solids, conductivity, alkalinity, acidity, sulfates, oil/grease, phenolic, iron, manganese, aluminum, fecal coliform, copper, lead, nickel, silver, thallium, zinc, chromium, arsenic, mercury, selenium, cyanide, calcium magnesium, hardness, chlorides, antimony, cadmium, and beryllium, along with well yields.

An independent, qualified groundwater specialist shall complete post-construction sampling and testing to determine whether an impact has occurred within 6 months of project construction completion. Should post-construction testing indicate that a well has been impacted by the construction, ACP shall provide temporary water supplies, and/or a new water treatment system or well. [15A NCAC 02H .0507(b)(3) and (c)(3)]

**26. Stormwater Management and Diffuse Flow Plans**

ACP shall not increase the capacity of existing access road ditches or change the characteristics of these ditches within state protected riparian buffers other than measures required to minimize the sediment, nutrients and other pollution that convey to waterbodies.

For sites within a state-approved local government stormwater program (e.g. Phase II, Water Supply, NSW, USMP) that require a stormwater management plan, you must obtain approval from the appropriate local government(s) before work commences on these sites. Once approved, the stormwater management plan(s) may not be modified without written authorization from the appropriate local government(s).

For sites within Nash and Cumberland County that require a stormwater management plan from the Division of Energy, Mineral and Land Resources (DEMLR), you must obtain approval from DEMLR before work commences on these sites. Once approved, the stormwater management plan(s) may not be modified without written authorization from DEMLR. [15A NCAC 02B .0233(5) and 15A NCAC 02B .0259(5)]

**27. Sediment and Erosion Control**

All construction activities shall be performed and maintained in full compliance with G.S. Chapter 113A Article 4 (Sediment and Pollution Control Act of 1973). Specifically, the portion of the project within Cumberland, Robeson, and Sampson Counties must be in full compliance with the Certificate of Plan Approval No. Cumbe-2018-036, issued by DEMLR, Fayetteville Regional Office. Prior to commencement of construction of the project within Northampton, Halifax, Nash, Wilson and Johnston Counties, a sedimentation and erosion control Certificate of Plan Approval issued by DEMLR, Raleigh Regional Office, must be obtained and submitted to the Division using the following link: <https://edocs.deq.nc.gov/Forms/Supplemental-Information-Form>. [15A NCAC 02H .0501 and .0502]

Sediment and erosion control measures shall not be placed in wetlands or waters except within the footprint of temporary or permanent impacts authorized under this Certification. [15A NCAC 02H .0501 and .0502]

Erosion control matting that incorporates plastic mesh and/or plastic twine shall not be used along streambanks or within wetlands. [15A NCAC 02B .0201]

**28. ACP indicated their intent to seek coverage of and meet the requirements of North Carolina's NPDES Construction Stormwater Permit (NCG010000) Section II.B for the entire construction corridor in North Carolina during the application process. Full compliance with NCG010000 Permit Section II.B conditions is required. [15A NCAC 02H .0506(b)(3) and (c)(3)]**

29. ACP shall schedule and conduct a pre-construction meeting with the construction contractors, ACP staff, and Division and DEMLR staff to review the conditions and requirements of the respective certifications and permits for clarity and understanding before *any* impacts authorized in this Certification occur. [15A NCAC 02H .0502(e) and .0507(c)]
30. ACP shall schedule and conduct monthly ride-through inspections with appropriate Division and DEMLR staff to assess compliance with the respective certifications and permits. [15A NCAC 02H .0502(e) and .0507(c)]
31. Ms. Leslie Hartz and Atlantic Coast Pipeline, LLC shall conduct construction activities in a manner consistent with State water quality standards (including any requirements resulting from compliance with section 303(d) of the Clean Water Act) and any other appropriate requirements of State and Federal law. [15A NCAC 02B .0200] If the Division determines that such standards or laws are not being met (including the failure to sustain a designated or achieved use) or that State or federal law is being violated, or that further conditions are necessary to assure compliance, the Division may reevaluate and modify this Certification. Before modifying the Certification, the Division shall notify Ms. Leslie Hartz and Atlantic Coast Pipeline, LLC and the U.S. Army Corps of Engineers, provide public notice in accordance with 15A NCAC 02H .0503 and provide opportunity for public hearing in accordance with 15A NCAC 02H .0504. Any new or revised conditions shall be provided to Ms. Leslie Hartz and Atlantic Coast Pipeline, LLC in writing, shall be provided to the U.S. Army Corps of Engineers for reference in any Permit issued pursuant to Section 404 of the Clean Water Act, and shall also become conditions of the 404 Permit for the project.
32. Upon completion of all permitted impacts included within the approval and any subsequent modifications, the applicant shall be required to return a Certificate of Completion (available on the Division website <https://edocs.deq.nc.gov/Forms/Certificate-of-Completion>). [15A NCAC 02H .0502(f)]
33. This approval is for the purpose and design described in your application and as described in the Public Notice. The plans and specifications for this project are incorporated by reference and are an enforceable part of the Certification. Any modifications to the project require notification to the Division and may require an application submittal to the Division with the appropriate fee. [15A NCAC 02H .0501 and .0502]
34. ACP shall require its contractors and/or agents to comply with the terms and conditions of this Certification in the construction and maintenance of this project. ACP shall also provide each of its contractors and/or agents associated with the construction or maintenance of this project with a copy of this Certification. A copy of this Certification shall be available at the project site during the construction and maintenance of this project. [15A NCAC 02H .0507(c) and 15A NCAC 02H .0506 (b)(2) and (c)(2)]



35. If the property or project is sold or transferred, the new Permittee shall be given a copy of this Certification and is responsible for complying with all conditions. [15A NCAC 02H .0501 and .0502]
36. This Certification neither grants nor affirms any property right, license, or privilege in any waters, or any right of use in any waters. This Certification does not authorize any person to interfere with the riparian rights, littoral rights, or water use rights of any other person and this Certification does not create any prescriptive right or any right of priority regarding any usage of water. This Certification shall not be interposed as a defense in any action respecting the determination of riparian or littoral rights or other rights to water use. No consumptive user is deemed by virtue of this Certification to possess any prescriptive or other right of priority with respect to any other consumptive user regardless of the quantity of the withdrawal or the date on which the withdrawal was initiated or expanded. [15A NCAC 02H .0507(c)]
37. This Certification does not relieve the applicant of the responsibility to obtain all other required Federal, State, or Local approvals before proceeding with the project, including those required by, but not limited to Sediment and Erosion Control, Non-Discharge, Water Supply Watershed, and Trout Buffer regulations. [15A NCAC 02H .0507(c)]
38. This certification grants permission to the director, an authorized representative of the Director, or Division staff, upon the presentation of proper credentials, to enter the property during normal business hours. [15A NCAC 02H .0502(e)]
39. Non-compliance with or violation of the conditions herein set forth by a specific project may result in revocation of this Certification for the project and/or may result in criminal and/or civil penalties. [15A NCAC 02H .0507(d) and G.S. 143-215.6A and 143-215.6B]

This approval to proceed with your proposed impacts or to conduct impacts to waters as depicted in your application shall expire upon expiration of the 404 Permit. The conditions in effect on the date of issuance shall remain in effect for the life of the project, regardless of the expiration date of this Certification. [15A NCAC 02H .0507(d)(2) and 15A NCAC 02H .0506]

This the 26<sup>th</sup> day of January 2018



Linda Culpepper, Interim Director  
Division of Water Resources

LC/kah/jab

WQC004162