

## **Timeline of Permitting Events re: Atlantic Coast Pipeline**

- February 20, 2017: ACP met with NCDEQ at the NCDEQ office in Raleigh to update the newly appointed Secretary of NCDEQ on the project. From NCDEQ, Secretary Michael Regan, Chief Deputy Director John Nicholson, Assistant Secretary Sheila Holman, Special Advisor Mary Penny Thompson, General Counsel Bill Lane, Director of Water Resources Division Jay Zimmerman, and Director of Energy, Mineral, and Land Resources Division Tracy Davis attended. Bill Holman, North Carolina State Director of the Conservation Fund also attended. From ACP, Bruce McKay and Richard Gangle of Dominion and Mark McIntire of Duke attended. As part of the project overview and update, the 401 certification and permitting process was discussed.
- February 24, 2017: ACP filed a draft application to NCDEQ for a blanket 401 certification.
- February 27, 2017: NCDEQ received the draft application from ACP.
- March 23, 2017: NCDEQ held an “Atlantic Coast Pipeline Stakeholders Meeting” in Raleigh to provide an overview of permitting processes, provide contact information for each Division within NCDEQ, and to receive stakeholders’ comments and concerns about the project. ACP was not invited to and did not attend this meeting.
- March 28, 2017: ACP met with NCDEQ at the NCDEQ office in Raleigh to provide an update on the project, review the draft application, and discuss compensatory mitigation for riparian, wetlands, and waterbody impacts.<sup>1</sup> Jennifer Burdette, 401/Buffer Coordinator for the 401 & Buffer Permitting Branch, attended on behalf of NCDEQ. Spencer Trichell attended on behalf of ACP, along with the following consultants: Linda Morrison (Dawson & Associates); Tony Nardo (Natural Resource Group, prior to acquisition by ERM); and T.J. Mascia and Dan Ingram (RES). For the first time, NCDEQ indicated that it might require an individual 401 certification—a “more exhaustive process” than the blanket 401 certification, according to Trichell. At that time, NCDEQ had not made a final agency decision, but NCDEQ—under the newly-installed Cooper administration—was considering the requirement in response to continued pressure from groups opposed to the pipeline.
- April 4, 2017: Spencer Trichell contacted Jennifer Burdette of NCDEQ by voicemail, asking whether NCDEQ had decided whether it would

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<sup>1</sup> This compensatory mitigation is required by § 401 and is distinct from any mitigation payments negotiated in connection with the MOU.

require ACP to obtain an individual 401 certification. Burdette responded to Trichell by email, indicating that NCDEQ had not yet made its decision.

- April 7, 2017: NCDEQ provided ACP with comments on the draft 401 application. As part of these comments, NCDEQ indicated that it still had not yet decided whether ACP would be required to apply for an individual 401 certification. These comments were sent by email from Jennifer Burdette to Spencer Trichell.
- April 27, 2017: NCDEQ informed ACP that an individual water quality certification would be required.
- May 8, 2017: ACP filed the 401 Application to NCDEQ requesting an Individual Water Quality Certification/Buffer Authorization for the project.
- May 8 or 9, 2017: NCDEQ received the 401 Application from ACP.
- June 16, 2017: NCDEQ's public comment period for the pipeline project began.
- June 27, 2017: NCDEQ requested additional information from ACP. This request sought additional information on various topics, including: right-of-way configuration within riparian buffers; waterbody crossings; the open-cut method; the horizontal directional drill method; wetland restoration; construction minimization; cumulative impacts; and alignment avoidance and minimization in connection with wetland and stream crossings. This request was sent by letter from Karen Higgins (Supervisor of the 401 & Buffer Permitting Branch) of NCDEQ to ACP, to the attention of Leslie Hartz, copying Spencer Trichell and Richard Gangle by email. (First Request)
- July 12, 2017: ACP responded to NCDEQ's request dated June 27, 2017. This response was sent by email from Spencer Trichell to Jennifer Burdette of NCDEQ, copying Richard Gangle and Robert Bisha of Dominion, and Wade Hammer of ERM. (First Response)
- July 18, 2017: NCDEQ held a public hearing to obtain public comment on the 401 water quality certification in Fayetteville, North Carolina.
- July 20, 2017: NCDEQ held a public hearing to obtain public comment on the 401 water quality certification in Rocky Mount, North Carolina.
- August 9, 2017: NCDEQ received public comment on the 401 water quality certification at the Environmental Justice Forum in Hollister, North Carolina.

- August 15-17, 2017: NCDEQ held listening sessions to receive public comment on the 401 water quality certification.
- August 19, 2017: NCDEQ's public comment period for the ACP project ended.
- September 14, 2017: NCDEQ requested additional information based on the public comments received. The information sought in this request included site-specific justification for not working in the dry, a crossing plan for each proposed open-cut crossing, and a determination of whether all wetlands adjacent to stream crossings were actually inundated. This request was sent by letter from Jeff Poupart (Chief of the Water Quality Section) of NCDEQ to ACP, to the attention of Leslie Hartz, copying Spencer Trichell and Richard Gangle by email. (Second Request)
- September 22, 2017: ACP responded to NCDEQ's request dated September 14, 2017. (Second Response)
- September 29, 2017: ACP provided an additional response to NCDEQ's request dated September 14, 2017. (Second Response continued)
- September 29, 2017: NCDEQ and ACP met and discussed the additional information provided by ACP on September 22, 2017. This meeting was attended by Sheila Holman, Karen Higgins, Jennifer Burdette, and Jay Zimmerman of NCDEQ; Spencer Trichell, Richard Gangle, and Colin Olness of Dominion; and Mark McIntire of Duke.
- October 6, 2017: North Carolina Department of Environmental Quality, Division of Mitigation Services ("NC Mitigation Services") issued an acknowledgement to fulfill mitigation need to ACP for compensatory mitigation for impacts associated with the Atlantic Coast Pipeline. This acknowledgement would expire after six months (on April 6, 2018), if Mitigation Services did not receive a copy of the relevant 404 Permit/401 Certification within that timeframe.
- October 13, 2017: ACP provided NCDEQ with additional information requested during the meeting on September 29, 2017. This information was sent by email from Spencer Trichell to Jeff Poupart, copying Jennifer Burdette and Karen Higgins of NCDEQ, Robert Bisha and Richard Gangle of Dominion, and Wade Hammer of ERM. (Second Response continued)
- October 18, 2017: ACP inquired whether NCDEQ regulated tree felling in upland areas under its 401 regulatory program. This inquiry was sent by email from Spencer Trichell to Jennifer Burdette and Karen Higgins

of NCDEQ, copying Richard Gangle (among others not with ACP or NCDEQ).

The same day, Burdette responded by email to Trichell, confirming that tree felling outside of waters of the United States was not regulated by the 401 water quality certification. Burdette also noted, however, that tree felling within certain protected riparian buffers could not commence without buffer authorization—which had not been issued to ACP. Finally, any tree felling in upland, non-buffered areas would be performed at ACP's own risk.

October 26, 2017: NCDEQ requested additional information across eight topics to support the water quality certification review. This request largely followed up on questions from the NCDEQ's request dated September 14, 2017, and ACP's responses dated September 22 and September 29, 2017, respectively. This request was sent by letter from Karen Higgins to ACP, to the attention of Leslie Hartz, copying Spencer Trichell and Richard Gangle by email. (Third Request)

November 4, 2017: ACP responded to NCDEQ's request dated October 26, 2017. This response was sent by email from Spencer Trichell to Jeff Poupart of NCDEQ, copying Jennifer Burdette, Karen Higgins, and Richard Gangle. In this email, ACP also requested "the opportunity to discuss this response with [Poupart] and [his] staff." The response package—consisting of 113 pages—was also mailed in hard copy with a cover letter dated November 3, 2017 from Richard Gangle to Jeff Poupart. (Third Response)

November 7, 2017: NCDEQ requested additional information from ACP to support the water quality certification review. This request was conveyed over the phone from Jennifer Burdette to Spencer Trichell. (Fourth Request)

November 15, 2017: ACP responded to NCDEQ's request from November 7, 2017, by providing a revised ICI Assessment to support the water quality certification review. This ICI Assessment included updated maps where NCDEQ had asked for changes to be made. The revised ICI Assessment was sent by email from Spencer Trichell to Jennifer Burdette, copying Karen Higgins and Richard Gangle. (Fourth Response)

November 28, 2017: NCDEQ requested additional information regarding ACP's analysis of its Indirect and Cumulative Effects Screening. This request was sent by letter from Karen Higgins to ACP, to the attention of Leslie Hartz. (Fifth Request)

December 8, 2017: ACP responded to NCDEQ's request dated November 28, 2017, by providing a revised version of the ICI Assessment. This response was sent by email from Spencer Trichell to Jeff Poupart, copying Karen Higgins, Jennifer Burdette, and Richard Gangle. The revised package was also sent by mail. (Fifth Response)

December 14, 2017: NCDEQ requested additional information regarding the growth stimulating effects of the Atlantic Coast Pipeline in Robeson County and their impact on water quality. This request required further revision to the ICI Assessment. This request was sent by email from Jennifer Burdette to Spencer Trichell. (Sixth Request)

December 14, 2017: NCDEQ and ACP discussed by phone increasing the capacity of existing ditches in subject buffer areas. Spencer Trichell and Jennifer Burdette participated in this call.

December 18, 2017: Spencer Trichell circulated a redline, revised version of the ICI Assessment by email to Jennifer Burdette and Karen Higgins of NCDEQ, Richard Gangle of Dominion, Jeremy Baksh and James McRacken of Duke, and various environmental consultants from ERM and Perennial Environmental Services.

That same day, ACP discussed the revisions to the ICI Assessment with NCDEQ.

December 20, 2017: ACP responded to NCDEQ's request dated December 14, 2017, by submitting a revised ICI Assessment and incorporating additional research conducted in Robeson County. Regarding NCDEQ's December 14, 2017 inquiry by phone about ditches, ACP responded that it was not proposing to increase the capacity or change the existing drainage characteristics of the ditches. This information was submitted by email from Spencer Trichell to Jennifer Burdette, copying Karen Higgins and Richard Gangle. A hard copy of this revised package was also sent by mail from Richard Gangle to Jeff Poupart. (Sixth Response)

January 16, 2018: NCDEQ requested that ACP confirm the numbers for impact and buffer mitigation. This request was sent by email from Karen Higgins to Spencer Trichell.<sup>2</sup> (Seventh Request)

January 17, 2018: ACP responded to NCDEQ's request dated January 16, 2018, by providing the updated impact and buffer mitigation numbers requested. This response was sent by email from Spencer Trichell to Karen Higgins, copying Richard Gangle. (Seventh Response)

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<sup>2</sup> It is ACP's understanding that Jennifer Burdette left NCDEQ in early January 2018.

January 18, 2018: Karen Higgins called and emailed Spencer Trichell with questions about the impact numbers that ACP had provided on January 17, 2018. (Eighth Request)

That same day, ACP responded to NCDEQ's questions raised by phone and email, providing clarification to the impact numbers. This clarification was sent by email from Trichell to Higgins, copying Gangle. (Eighth Response)

January 22, 2018: The Hearing Officer's Report and Recommendation regarding the 401 water quality certification and buffer authorization certificates for the ACP were given to NCDEQ. This Report and Recommendation was issued from Brian Wrenn, Ecosystems Branch Supervisor, Division of Water Resources, Water Sciences Section, to Linda Culpepper, Interim Director of NCDEQ, Division of Water Resources.

January 26, 2018: NCDEQ issued Certification No. WQC004162 to Leslie Hartz and ACP, along with an accompanying letter titled "Approval of Individual 401 Water Quality Certification and Tar-Pamlico/Neuse Riparian Buffer Impacts with Additional Conditions." This letter and certification were sent from Linda Culpepper of NCDEQ to ACP, to the attention of Leslie Hartz, copying Richard Gangle and Spencer Trichell (as well as various government entities).

January 29, 2018: NC Mitigation Services sent ACP an invoice for the compensatory mitigation requirements of the 401 Certification. This invoice was sent by email from Kelly Williams of NC Mitigation Services to Stephanie Collins of RES, copying Karen Higgins and Sheri Montalvo of NCDEQ. Again, these compensatory mitigation requirements are distinct from any mitigation payments agreed to in the MOU.

February 9, 2018: NC Mitigation Services sent Leslie Hartz (on behalf of ACP) a receipt for payment of the invoice dated January 29, 2018, for the riparian buffer compensatory mitigation requirements of the 401 Certification. This receipt was sent by letter from Tim Baumgartner, Director of the NCDEQ Mitigation Services Division. Spencer Trichell attached a copy of this receipt in a confirmation email to Karen Higgins. Trichell noted that this payment satisfied Condition #2 of the 401/Riparian Buffer Authorization.

February 26, 2018: NCDEQ sent ACP a supplement to its January 26, 2018 transmittal letter, providing additional information regarding judicial review of the 401 Certification.