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BREAKING

Atlantic Coast Pipeline gets violation notice from state over tree cutting

By ROBERT ZULLO Richmond Times-Dispatch
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A worker watched as a tree fell in Wintergreen on March 6 during clearing of an area for the Atlantic Coast Pipeline. Photo by Jay Westcott/The News & Advance

Full construction of the contentious natural gas project has yet to begin, but Virginia's environmental agency has already issued a violation notice for Dominion Energy's



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Atlantic Coast Pipeline after workers cut down trees at 15 spots along the route that were supposed to be off-limits.

The Department of Environmental Quality said in a statement Friday that pipeline workers violated regulations that barred work in “riparian” areas, vegetative buffers along waterways.

“These limits forbid work within buffer zones to protect stream and wetland crossings during pipeline development, and are instrumental to the protection of Virginia’s environment and natural resources,” the agency said. The violations took place in Buckingham, Cumberland, Nottoway and Prince Edward counties, the DEQ said.

“DEQ is watching pipeline activities closely and expects full compliance with all conditions,” DEQ Director David K. Paylor said in a statement. “We will not hesitate to initiate enforcement actions like this to make sure the project complies with good environmental standards.”

However, according to the violation notice, it was “a representative of ACP” who on Feb. 21 first reported to the DEQ that the tree felling — which is being done with chain saws along various segments of the 600-mile route through West Virginia, Virginia and North Carolina — had “exceeded the limit of disturbance when approaching wetlands.” On March 9, the company said 15 such violations had resulted in 0.84 acres of tree clearing near wetlands.

The agency did not halt tree cutting along the pipeline’s route in Virginia in response, nor does the DEQ have inspectors monitoring the tree clearing, said Ann Regn, an agency spokeswoman.

“We have no authority over them cutting trees per se,” Regn said. “It’s when they impact the riparian zone.”

In a statement, Dominion spokesman Aaron Ruby said the company stopped work on the project for three days to figure out what went wrong and to “reinforce environmental compliance with all of our crews,” including a review of state and federal permit requirements and mandatory training sessions for workers.

The company also reviewed all sites where trees are being cut to ensure the right of way is properly marked.

“We are committed to building this project to the highest environmental standards,” Ruby said. “We accept responsibility for falling short of that commitment, and we’ve taken serious steps to prevent it from happening again. We will have zero tolerance for regulatory noncompliance, and we have reinforced this policy with all employees and contractors associated with the project.”

A day before the enforcement action was announced, Atlantic filed a request with the Federal Energy Regulatory Commission for an extension of time-of-year tree-felling restrictions intended to protect migratory birds and endangered and threatened bats.

The pipeline developers say they will be unable to complete the scheduled tree felling before those restrictions go into effect and want permission to continue cutting trees until May 15, except on U.S. Forest Service lands and in areas where bats are present or are known to shelter.

That would extend the tree-cutting window in Virginia by two months.

“We’ve made a lot of progress, but we haven’t completed all of the work we need to do this year,” Ruby said. “We’ll take additional precautions to protect the wildlife. Biological monitors will survey all work sites before we begin any tree felling. If we find any bird nests, we’ll place a protective buffer around them. All of the work will be closely monitored by state and federal inspectors.”

The pipeline, which has been fiercely opposed by environmental groups and some affected landowners, has yet to receive approval of its erosion, sediment and stormwater plans from the DEQ or get a final “notice to proceed” from FERC.

“On one hand, Dominion is seeking permission to evade protections for migratory birds and bats. On the other hand, they’re already blatantly violating the rules that allowed them to prematurely start their destructive activities,” said David Sligh, an environmental attorney, former DEQ engineer, conservation director for Wild Virginia and investigator for the Dominion Pipeline Monitoring Coalition.

Sligh urged Gov. Ralph Northam and the State Water Control Board to revisit approvals for the project. The water board was the scene of lengthy arguments late last year over whether the Atlantic Coast Pipeline and the Mountain Valley Pipeline, another project moving toward construction in Southwest Virginia, could be built without degrading streams and wetlands with sediment and other pollution. Opponents also contend, citing a dissent from a FERC commissioner, that the pipeline companies have not proved that the gas they propose to deliver is needed.

“It is not too late for the state of Virginia to stop these bad projects, not just document and respond to the damages after they are

inflicted on Virginians and our resources,”
Sligh said.

Environmental groups opposed to the pipeline took the DEQ’s violation notice as a promising sign from an agency that many of them have previously criticized as overly accommodating of Dominion’s pipeline construction schedule and too lenient in its water quality review.

“Only days into preliminary construction, this unnecessary and destructive pipeline is already on the wrong side of state laws designed to safeguard our water resources,” said Lee Francis, a spokesman for the Virginia League of Conservation Voters, which gave major financial backing to Northam’s campaign. “We are grateful Governor Northam is standing up for Virginians’ clean water and urge his administration to continue the strongest possible oversight of this project to protect clean water for citizens in its path as well as those who live downstream.”

The violation notice was announced about an hour and a half after Northam’s office heralded the passage of legislation earlier this month that ensures the DEQ has the authority to issue stop-work orders for pipeline construction if the agency “determines those activities have caused, or will imminently cause, a substantial adverse impact to water quality.”

In its final day before adjourning last week, the General Assembly accepted Northam’s amendment adding an emergency clause to the pair of bills, both carried by Sen. Creigh Deeds, D-Bath, meaning they are currently in effect.

“I would argue that DEQ had that authority before. This removes any question of their authority,” said Greg Buppert, an attorney with the Southern Environmental Law Center in Charlottesville. “Our position has been all along that the ACP is unnecessary. If, however, Dominion is going to continue to force the project onto Virginia landowners, then the state needs enforcement tools to make sure water quality is protected.”

Also Friday, the Virginia Marine Resources Commission, over the objection of pipeline opponents, voted to grant Atlantic Coast Pipeline’s request to install the pipeline under the bed of 48 nontidal streams and rivers and three tidal streams, the second-to-last state approval needed for the project. All that remains is the DEQ’s pending approval of stormwater, erosion and sediment control plans and a report to the State Water Control Board.

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