

Blue Ridge Environmental Defense League

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Good afternoon. My name is Sharon Ponton. I am a community organizer with the Blue Ridge Environmental Defense League. I am here today representing BREDL's 11 chapters in Virginia and North Carolina along the paths of the proposed Mountain Valley and Atlantic Coast Pipelines. I live in Nelson County, VA.

The regulatory process has failed local communities and landowners. Developers dangle before poor rural communities the promise of tax dollars to enrich their coffers. Developers dangle the promise of new jobs in front of elected officials...while knowing the majority of those jobs will be filled by technical, skilled workers who will come from Oklahoma, Texas, Ohio. Even the land men and surveyors for both the proposed MVP and ACP came from somewhere else. Developers also pursue non-binding Memorandums of Understanding with local Boards promising taps into their 42" fracked gas transmission lines in an effort to garner approval for their projects. Once approved, they can simply walk away without consequence. Developers make millions of dollars of campaign contributions to elected officials on both sides of the aisle, diminishing the voices of individuals and communities.

The paths of the proposed pipelines clearly focus on rural communities, the majority of which have higher than average poverty rates and higher than average percentages of communities of color. The Pipeline & Hazardous Materials Safety Administration (PHMSA) creates the rules for construction and maintenance of pipelines in the US. The discrimination and unequal protection begins with PHMSA's regulation creating "classes." To determine the classes, the number of "dwelling units" designed for human occupancy are counted along a one-mile length of pipeline.

Class 1: Contains 10 or less dwelling units

Class 2: Contains more than 10, but less than 46 dwelling units

Class 3: 46 and above dwelling units

Class 4: Is a class location unit where four-story above-ground dwelling units are prevalent

All construction and maintenance regulations are based on these classes. A few examples: Class 1 requires 1 shutoff valve every 10 miles from a single point on the pipeline or 20 miles apart. Class 4 requires a shutoff valve every 2.5 miles or 5 miles apart. Other examples include frequency of security checks, frequency of leak detection, the number of welds inspected and tested is all based on PHMSA's Class discrimination system. The class discrimination system even allows the wall thickness of the pipe used to construct the pipeline to be thinner in poor rural communities of color. Class 4 locations require the wall thickness of the pipe to be .675" thick. While class one requires pipe 75% thinner at .375" thick.

While PHMSA has no construction setback requirement protecting existing homes and businesses, after pipeline construction is completed, PHMSA advises localities to create a “consultation planning zone” restricting development of private property along the path of the pipelines for a distance of 660’ on either side of the centerline.

None of these rules are made public by developers. The Federal Energy Regulatory Commission (FERC), nor the Commonwealth of Virginia, nor any locality require developers to notify anyone other than landowners whose properties will host the pipeline. Those landowners will receive compensation based on land value only of the linear easement. They, nor those families placed in blast and evacuation zones are compensated for the jeopardy to their properties, nor the jeopardy to their health, safety and welfare. The Wilson County, NC Board of Commissioners recently passed a resolution saying after attending many meetings regarding the proposed ACP, they were never made aware of the facts as we have shared with you today.

In 2004, Virginia passed what community members refer to as the “survey law,” which purportedly allows “public utilities” to enter private property without landowner permission to determine if those properties are suitable for the projects they propose. Virginia’s General Assembly saw fit to give away this landowner right to developers. There were only 4 No votes cast. For the last three years, communities and landowners have attempted to have the law repealed or amended to no avail.

Two of the three compressor stations for the proposed ACP are sited in communities of color....Buckingham Co., VA (35% minority population) and Northampton County, NC. (58% minority population). I participated the process which occurred in Buckingham. Local regulations include an exception where “metering stations, booster stations for a public utility” could receive a special use permit for those facilities to be built in an A-1 zone. The particular community we are speaking of is a community of color, settled by freed slaves, known as Union Hill. The compressor station site was once a part of a plantation known as Variety Shade. It was purchased from descendants of the plantation by Dominion for \$2.5 million, 10 times the value of property in Buckingham County.

FERC was made aware of the Union Hill community. Yet, its Draft Environmental Impact Statement said there were no historical or cultural concerns in Buckingham County. In the Final Environmental Impact Statement FERC dismisses the many comments filed regarding Union Hill by saying it looked at census blocks within one mile of the proposed compressor site. It states only one of those census blocks was low-income, and none showed any Environmental Justice issues. Clearly FERC chose to ignore that fact that eighty-five percent of adjoining landowners to the proposed compressor station site are African-American, many of whom are descendants of the freedmen who settled the Union Hill Community with surnames Perkins, Laury, Mosley.

The Buckingham Planning Commission and Board of Supervisors also ignored the evidence presented to them proving that the ACP, LLC is not a public utility and

issued the special use permit for the proposed compressor station. There have been two law suits filed challenging their decision.

VADEQ's hearings on the 401 Water Certification process were disjointed and unproductive. They broke the Storm Water Management and Erosion and Sedimentation issues apart from water quality permitting process as if E&S and Storm Water Management have no bearing on water quality. VADEQ also held 40% of those hearings at locations outside of the path of the proposed pipelines

I will end my testimony today with this statement: As a nation, we have marginalized, abused, and murdered the indigenous tribes who were here when the white man settled the US, and those who were enslaved during the colonization of our country. It is a despicable part of our history. Sadly, those same results are still enshrined in our laws in 2017—marginalization, abuse, and yes even death, not by gun or knife, perhaps, but more slowly, more painfully, by toxic pollution—all in the name of the almighty dollar of for-profit corporations.