Tribunal Testimony

Anita Puckett

Preserve Montgomery County, Virginia

My testimony emerges from my commitment to serving and working with the people of Coalfield, Central, and Blue Ridge Appalachia both as a resident who can claim a three hundred year family legacy tying me to the region, and as an “academic” who conducts theoretical and applied anthropological research in it. These roles are so closely intertwined that my comments following do not always distinguish between these two motivations for my investment in the region and is people.

I certainly didn’t have to affirm personal obligations to the area that have, in turn, demanded my involvement in citizens’ Mountain Valley Pipeline (MVP) resistance activities. I wasn’t born or reared in Appalachia. As a native Ohioan brought up in Dayton, I *chose* to claim my ties to the southwest Virginia, east Tennessee, and eastern Kentucky Appalachian locale because, as the daughter of an Eastern Kentucky migrant to southwestern Ohio, and as someone fascinated by my older relatives stories about their/our homeplaces, I needed to understand why Appalachia was culturally different. And, on a deeply personal level, to understand why these differences that are often seen as indicators of social stigmatization and disempowerment justify for many the ongoing and seemingly unending bending or outright dismissal of basic human rights for Appalachian residents as stipulated by Articles 12, 13, and 17 of the UN’s Universal Declaration of Human Rights.

These rights are once again being challenged under the building of the proposed MVP, a natural gas transmission line project that will result in the transport of approximately 2.5 billion cubic feet of hydrofracked natural gas and its carcinogenic residues under 1450 lbs./sq. inch pressure for approximately 304 miles through 42” diameter pipe across Appalachian West Virginia and Virginia. It will traverse heavily karsted terrain; a significant seismic zone; steep sloped Allegheny, Appalachian, and Blue Ridge Mountains; eight nationally-recognized historic districts; a wilderness area; multiple conservation easements; the Jefferson National Forest; the Appalachian Trail; and the Blue Ridge Parkway. No local usage is planned, except, as proposed but not necessarily confirmed, in two areas, one in West Virginia and one near Roanoke, Virginia. Local residents, as has been typical of the exploitation of the Appalachian region for 250 years, are currently in situations in which they are a minority: an often elderly and impoverished population enduring human rights violations with little to no protection by law or by federal government regulation.

From first contact of Europeans and those they brought with them (Africans, Conversos, and others) with first peoples (Iroquoian, Algonquian, Siouan, and others), those choosing to stay and settle in the Southern Highlands of what are now called the Appalachians were labeled as different. For those occupying more geographically isolated areas, they might have been identified as convicts, perhaps “mulattos” with esoteric names such as “Melungeons,” “Guineas,” or “Ramps,” or perhaps as half Indian, or perhaps even as the lost tribe of Israel. By the 1820s, reporters such as Anne Newport Royal were dismissing all residents as filthy, ignorant, stupid, and, for the most part, alcoholics.[[1]](#footnote-1) By the post Bellum period, these labels were embedded in short story and novel characters in which Mountain men and women were often symbols for, if not actually labeled as, “barbarians” or “savages.” The targeted audiences were usually urban middle-class publics, and often women, who found the condemnation of these “hill people” self-enhancing and justification for their urban lives based on excess material consumption, accumulation of money, and support for and expansion of industrialization and a particular form of middle class society.

Meanwhile, by the late 1800s and early 1900s, the great grandparents of friends of mine and distant relatives in eastern Kentucky were selling subsurface rights to their coal-rich land for a pittance, as little as a $1 an acre, plus perhaps a sewing machine, a certain amount of commercial whiskey, or other relatively inexpensive goods, and, very commonly did so without knowing it because of slick and untruthful sales pitches from coal company representatives and their own limited reading abilities. Most of these land sales also included clauses in the deeds or easement agreements that stated that they were also selling their *surface* rights to access the minerals beneath them. With these sales came, for most, the burdens of early underground coal mining and coal camp living, which included for many the abrogation of their human and Constitutional rights to assemble in public—and even to have visitors come to their own coal-company owned homes. Also of minimal quality or unavailable in many areas were their rights to have adequate health care and a fair-minded education, to have clear water to drink instead of effluent from nearby streams into which human waste flowed through “straight piping,” to receive a fair wage for their mining labor, to be paid in legal tinder rather than scrip, to be able to shop at non-company stores, and to have as safe a working environment underground as the technology of the times would allow. Instead, miners had expectations of an early death, severe bodily injuries, and black lung (coal miners’ pneumoconiosis). The hazards of underground mining have continued, as indicated by the 2010 mine disaster at Upper Big Branch in West Virginia where 29 miners died because of mine safety violations commonly understood by local citizens to have been deliberately induced to make more profit for A.T. Massey Coal Corporation.

These subjugations of human rights experienced by underground miners morphed into the broader impacts of recent mountain top removal mining where extensive surface mining practices have polluted the air and damaged homes from blasting, have poisoned the water supply from slurry pond and mine-site runoff and groundwater seepage, and contaminated the soil from frequent slurry pond overfill and surface flooding because of massive ground cover displacement. Much of the Coalfield lands have become “national sacrifice zones” (labeled so by corporations, local citizens, and academic scholars) in which high incidences of rare cancers, low birth weights and birth deformities, cardio-vascular illness, and respiratory problems top the charts of national data on regional health. With no state or federal investigations of corporations’ practices that may be causing or contributing to these significant public health issues, and with little to no funding for adequate health care for those impacted, who are now often poverty-struck, residents’ life expectancies are lower, often significantly lower, than the national average. For example, the male life expectancy in McDowell County, West Virginia, is 58. As stated by a coal mining engineer in a environmental journalism conference on coal mining that I attended in 2008, it was ok to have a relatively few Appalachian residents die from mountain top removal so that cities in India could have clean-*burning* coal to generate the electricity they desperately needed. He affirmed that it’s a situation in which the few have to give their lives to protect the many. A national sacrifice zone— for both the environment and the people.

The Mountain Valley Pipeline project is continuing these violations human rights and environmental justice through very similar practices:

1. Designing a pipeline corridor that disproportionately impacts the elderly and the infirm and those of very limited income. Anecdotes abound of surveyors accosting older residents, especially women, or those who have disabilities and who cannot comprehend the details of an easement agreement form, and then refusing to come back at a later time when a son or someone with power of attorney could be present to intercede with the surveyors. One elderly woman phoned a Virginia Tech grad student of mine she knew to intercede for her. He arrived when surveyors were at their task, told them to leave since they had not followed due legal process, and was then injured by a surveyor, after a choice exchange of words. He accosted the student with a 2 x 4 that had a nail in it. While minor in its harm to the student, it illustrates the disregard for human rights exercised by the pipeline corporation and its subcontractors.
2. An easement agreement form that is similar in content to the old broad form deeds used to acquire coal-mining land as described above. They are general in scope and grant MVP very broad range of protections over the easements including surface alteration, as it deems necessary. However, as in the early part of the 20th century, many landowners do not seek legal council because they assume the company representative is telling the truth about the commitment of MVP to “make things right” if water or other property elements are damaged.
3. Anecdotal evidence reveals extremely confrontational surveying tactics that are often illegal and aggressive. Broken fences, stolen artifacts and game cameras, presence of bodyguards, surreptitious land entry at unscheduled times, destruction of valued natural property such as cultivated chestnut tree saplings, and intimidating language are the norm rather than the exception. A Virginia statute (Virginia statute 56-49.01), known even by some judges to be poorly written, grants MVP surveyors land access with proper notification; however, “proper notification” has often been ignored and residents have come home from work or a trip only to find their land surveyed and damaged in the process. Multiple court cases by landowners have resulted in better compliance by some surveyors, but minimal assistance from state and county law enforcement to enforce statute requirements remains;
4. Intimidating tactics to get landowners to sign easement agreement forms including lying about landowners’ rights and bringing so-called “body guards” with them whose size and demeanor intimidate landowners, particularly the elderly ones;
5. Inadequate offers of payment for easements;
6. False representation of what will happen to the land in a particular easement in oral and some written communications from indicating no herbicides will be used (false as stipulated in documents submitted to FERC), noise levels, locations of compressor stations, what residents can or cannot do on a given easement, pipeline safety, construction methods including an omission of the impact of hydrostatic testing, what the company will do if water quality is destroyed or sources of income are lost (such as through maple syrup production lost by clear-cutting), forest regeneration, safety compensation in the event of explosion or leaks, when and how stream crossings will impact farmland, (non)mitigation of historical sites or cemeteries, impact on streams and well water due to dry crossing construction methods and sedimentation runoff, and the law itself with respect to their rights of eminent domain.

Impacts on cultural resources by MVP are also significant violations of basic human rights and dignity, as well as being issues of environmental justice. Among them are

1. Rights to own property and use it in a manner consistent with one’s cultural values and mores as long as they do not violate law. Landowners exhibiting “cultural attachment” have deep, spiritual bonds with their family land upon which, generally, ancestors are buried and strong cultural meanings are instilled through narratives, ceremonies, rituals and festivals, and the simple act of families living on it for as many as nine generations. Threats to these rights of cultural attachment, which are analogous to the rights of sacred sites on Native American land, have wrecked havoc on the elderly with several debilitating illnesses and at least one death attributed to the basic fear of having portions of that land re-configured to the demands of a permanent pipeline easement. These demands are iterated in most easement agreements to be: no motor vehicles, no trees, no structures, no vehicles, and no mowing or other modification without permission. Some types of crops with shallow roots can be sowed and harvested, but the surface soil, if it can be called that after the disruption of the land through the laying of the pipeline, is not expected to be conducive to successful growing of crops. Herbicides are to be used in many areas to control plant growth. Access to the pipeline easement is open so that company employees can access it any time. The intersections of genealogical, place, and personal meanings given to the land through cultural attachment therefore cannot continue. The adverse effects cannot be mitigated or ameliorated and the integrated sense of family, place, ancestors, and kin cannot continue.
2. Abilities to use the properties in the narrow hollows and valleys found along most of the pipeline and compressor station construction areas will be decimated. Not enough open and relatively flat land will be left. For example, the owner of one horse farm says he will go out of business because he can’t run the horses over what open land he has because of restrictions for crossing the herd over the pipeline easement that will bisect his property; another cattle owner won’t be able to run cattle from one side of their property to the other for similar reasons; another says that his major legacy to his children and grandchildren, which are small plots upon which to build their homes, will be lost; and another will lose their income from maple syrup production because the trees are targeted to be cut as part of the construction process.
3. Water is threatened as greater than 70% of the landowners along the pipeline corridor use well water that they know will be jeopardized by pipeline construction and maintenance. Seismic activity, karst terrain, corrosion, and other factors affecting pipeline integrity are known to landowners not only through valid and substantiated professional reports, but through experiential knowledge gathered and preserved over the generations and their own experience either by themselves or by family members in the older natural gas line areas in the Coalfields nearby. Costs of implementing alternative water systems, such as cistern rain-water capture, will be born by the landowners as, once again, outside help or support is very likely to not be forthcoming to a bunch of “hillbillies.” At least nothing has surfaced at this juncture and trust fund income from the 27.5 million promised to the Commonwealth of Virginia as compensation for environmental degradation is reportedly going to the northern and Richmond areas of the state.
4. Historic resources, including the rich historic community of Newport in Giles County, Virginia, will be adversely impacted and the integrity of the sites and districts will be significantly altered or actually lose their National Historic Register status. For example, the pipeline is slated to come directly through the middle of the village of Newport, within 50 feet of numerous historic buildings and sites, some of which MVP left out of their historic property assessments. These omissions occurred despite repeated submissions by local citizens to MVP and FERC that they must be included.
5. The psychological impact of having private land destroyed and likely loss of economic value with no local benefits from the pipeline are inducing angst, fear, trauma, and other conditions associated with major catastrophes and war. Impacted citizens, whether landowners having the pipeline on their property or abutters and nearby residents who will impacted by the likely air, soil, and water pollution plus noise pollution with compressor stations, are communicating this trauma through crying, anger, expressions of fear, fatigue, and other forms of extreme stress responses, including physical illnesses and reportedly, in a couple of instances, death.
6. Devaluation of property is occurring, not only for the landowners whose land will be crossed by the actual pipeline or its ancillary access roads, lay-down yards, compressor stations, or other permanent pipeline junctions, but also for those living in the surrounding “blast zone” of approximately .75 miles on either side of the pipeline. Should there be an explosion, and the number of explosions of these very large pipelines is increasing each year, the surrounding properties will be seriously impacted, if not actually eradicated from the heat of the explosion. Already, some properties have been devalued or difficult to sell because of the required statement in marketing it that a given property has the pipeline running through it or is land located close to it or because of common knowledge of the pipeline route.

This litany of human rights violations also extends across class, race, age, and gender lines such that it doesn’t just impact the impoverished, non-White, aged, or women-only households, but they are also being perpetuated by a number of conditions that create a socio-political context of political disempowerment that encourages MVP to succeed and for local residents to fail:

1. A very large number of landowners have no access to the Internet due to geographical or Internet service provider problems that are often underlain by political issues. Even those who want computer Internet access can’t obtain it. Cell phone access can also be non-existent or spotty. Therefore communications from MVP and FERC, as well as from local assistance groups and government, are less accessible or actually inaccessible, and therefore are often unknown. Legal, financial, and social resources to empower them to resist or redefine MVP demands effectively and in a timely way are not available or are minimally available.
2. A number of landowners have been beaten down by failed previous efforts to resist the various forms of environmental injustice they have encountered through corporate or governmental eminent domain actions, whether they be hydrofracking, railroad construction, powerline construction, or displacement through the creation of historic parkways or parks. They simply acquiesce, saying, “there’s no use in fighting—we’ll loose.”
3. Many landowners and abutters are surviving on modest to low incomes. They do not have the cash to pay lawyers, to buy gas to travel to citizens’ meetings or rallies, to offer financial support for resistance activities. They may also not be able to attend meetings due to work hours or working two or more jobs. Efforts by grassroots resistance groups to convince them that legal aid is free or will be subvened significantly by these groups is met with suspicion or outright rejection for reasons discussed in E. below. The landowners therefore remain unrepresented and powerless to assert the human rights.
4. The number of lawyers involved who are, indeed, working pro bono or at significantly reduced fees are finite; they cannot always serve all of their clients fully. Usually, their fees are based on obtaining a percentage of the final eminent domain settlement. Some financially-strapped clients have observed that those, such as themselves, with lower incomes or whose eminent domain compensation will be small receive less attention than those better off economically or who will receive greater compensation.
5. Many directly impacted by the MVP project are high school graduates who feel they don’t have the skills to offer grassroots resistance groups any help. These attitudes are often deeply rooted in cultural differences in the broad area of the MVP corridor and express long-standing class and culture-based fractionation distinguishing “Appalachians” from others, usually non-locally born and educated professionals and academics.
6. Finally, a very few, usually highly educated academics or professionals, assert their personal skills and claim they need no resistance group assistance because they can represent themselves against MVP and FERC and need no assistance from local grassroots organizations. This group, by their actions and resources, fall outside the purview of this tribunal. Nevertheless, their separation from consolidated action of their neighbors of course means that MVP can, indeed, be more successful by creating factions and fissures in the wall of resistance of citizens whose human rights are being challenged and who are fighting for their very place-based rights to experience environmental justice rather than injustice.

The construction of the permanent MVP mega natural gas pipeline therefore represents an extension of a very long dismissal of coalfield and southern Appalachian residents as an irrelevant human population and as a lesser white population, one that need not be treated as full citizens and whose human rights can often be compromised with impunity. In this case, the political-leaning right can argue that it’s all right to destroy people’s abilities to use their land, undermine long-standing cultural attachment orientations, permanently alter a pristine environment that contributes to this cultural attachment, compromise their water supply, and deny them legal rights to reject surveying and rights of eminent domain because the “market value” of the transported gas is more valuable than they are. Similarly, the political-leaning left can argue, and they have, “They deserve what they get because they voted for Trump.” After all, both sides can and do say, “They’re just a bunch of dumb hillbillies.”

1. Royal, Ann Newport. 1970 (1826). *Sketches of History, Life, and Manners in the United States.* New York: Johnson Reprint Corporation. [↑](#footnote-ref-1)