



The People's Tribunal

On Human Rights and Environmental Justice
Impacts of Fracked Gas Infrastructure

Saturday, October 28th 2017 • 11:30am to 7:00pm
City Space • 100 5th Street, NE. Charlottesville, VA

REPORT TO THE PERMANENT PEOPLES' TRIBUNAL SESSION ON HUMAN RIGHTS, FRACKING AND CLIMATE CHANGE

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SUMMARY REPORT OF THE CHARLOTTESVILLE PEOPLE'S TRIBUNAL ON HUMAN RIGHTS AND ENVIRONMENTAL JUSTICE IMPACTS OF FRACKED GAS INFRASTRUCTURE

INTRODUCTION

Why a Charlottesville People's Tribunal on Fracked Gas Impacts?

Charlottesville, Virginia faces no imminent threats from the Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP), the fracked gas pipeline infrastructure projects that are the bases for the testimonies presented at the Charlottesville People's Tribunal on October 28, 2017. In fact, a topographically flatter route for the Atlantic Coast Pipeline (ACP) was very early on moved far from the politically active, powerful adversaries they would have faced in Charlottesville, home of the University of Virginia and surrounded by Albemarle County, one of the wealthiest counties in the nation. Both projects' certificates of convenience were approved by FERC on October 13, 2017, in a rare 2:1 vote. And, while both routes remain under constant revision at key infrastructure sites, what will not change is that ACP and MVP almost entirely impact rural people and their communities -- no matter the mountainous elevations, the poverty and/or African American, Native American, or Appalachian majority involved. Rural routings have enormous cost benefits to pipeline developers, as they may use lower cost thinner pipes, with fewer close-off valves at greater distances apart. More significantly, they proved easier to get through required permit processes after making their social and environmental costs of least political import to Virginia elected officials, state agencies, and even the public who are utility consumers slated to pay the costs of both pipelines through higher rates. The Atlantic Coast Pipeline's near 600-mile route plans to traverse northeast West Virginia, Virginia, and North Carolina. The Mountain Valley Pipeline's 301-mile route plans to traverse from West Virginia drill sites south along an entirely Appalachian route to end in southwest Virginia.

For the past three years, those of us working as fulltime volunteers to stop these two pipeline projects have been surprised at the silence and lack of involvement by Charlottesville people expert in the research topics and evidence gathering that these resource poor places and people so greatly need, all on an intense timeline of deadlines for each stage in the process. Yet, University of Virginia faculty, an active historic preservationist sector, award-winning journalists, and engaged anti-racism and social justice groups in Charlottesville did not get involved. As the years unfolded, we asked ourselves why this was so: was it impacted peoples' remote locations, their lack of access to social media, or down to a simple lack of fluency in producing eloquent media sound bites -- "activist talk" that activates others?

Then, the white supremacist violence of August 11-12 unfolded in Charlottesville. In which members of the grassroots, county-based community groups, social justice and environmental non-profits that became our people's tribunal co-sponsors participated as nonviolent witnesses. Even for life-long social activists involved in Civil Rights marches and Vietnam War protests, the complete inaction by Virginia State Police fully protected by riot gear who stood in tight formation just feet away from the violent melee was unprecedented. Despite our pleas to intervene, to make arrests as each incidence of violence took place, they remained unmoving. That this was a predetermined decision was clear by the absence of any vans where offenders might be isolated, the absence of state police emergency medical personnel, supplies, or vehicles. Shocked observers noted their decision to do nothing to protect people both days gave tacit state approval to premeditated racist violence.

For, local white supremacists organized their "rally" through social media blitzes, the content of which both state and local officials were well informed. Nevertheless, heavily armed white supremacists wearing U.S. army and police riot gear wielded batons, threw tear gas, fired a shot into the crowd, beat to near death DeAndre Harris, and drove a car at high speed at a group of counter protestors, killing Heather Heyer and injuring 19 people. Several of the severely injured were the University of Virginia students of VSEC (Virginia Student Environmental Coalition) who have made the hour trek to Buckingham regularly first to serve on household data gathering teams, then to support everything we do to fight environmental racism and the crossing of the James River in Buckingham County, Virginia.

The United Nations response to the events of Aug 11-12 in Charlottesville encouraged us to hold a people's tribunal and to send our testimonies to this international body as well as to John Knox, Special Rapporteur on Human Rights and the Environment. On August 16, UN experts issued a joint statement:

"Racism and xenophobia are on the rise across the USA, a group of United Nations human rights experts has warned in the wake of the far-right demonstrations and violence in Charlottesville, Virginia. "We are outraged by the violence in Charlottesville and the racial hatred displayed by right-wing extremists, white supremacists and neo-Nazi groups," said the experts in a joint statement. "We view these events as the latest examples of increasing racism, racial discrimination, Afrophobia, racist violence and xenophobia observed in demonstrations across the USA." [UN experts weigh in on Charlottesville violence](#)

Virginians who had decided not to participate in the counter protests in Charlottesville then gathered with those who did to ask themselves: where do I/we stand on the racist heritage of Virginia that the white supremacists claim they were acting to protect? Naming these monuments as monuments to racism is not hyperbole. Both Robert E. Lee and Stonewall Jackson explicitly said they would not condone statues of them as generals fighting against the United States they both had served. As we all now know,

the history of erecting heroic monuments to generals of the South coincided with post-Reconstruction criminalization of the rights gained by Freedmen, known as the Jim Crow laws.

As witnesses to Virginia State Police standing by, doing nothing to stop white supremacists violently enacting “the ugly face of racism” in Virginia, participants couldn’t help but feel a link to slow violence enacted under a “polite face of racism” in Virginia. A centuries’ old legacy of making invisible because familiar the cost benefits of racism to those who profit by sustaining unequal access to political power and voice, unequal protections under the law. Where most local and state elected officials and environmental agencies have done nothing to protect or now even name as environmental injustice disproportionate threats posed by the ACP’ and MVP routes. As a catalyst for strategies undertaken to fight the ACP by Friends of Buckingham, this legacy coalesced around ACP’s decision to locate their only Virginia mega-sized compressor station in the middle of the 85% majority African American community of Union Hill, Buckingham, Virginia. Where the Freedmen descendants of people enslaved nearby still live in a populous neighborhood surrounding the compressor station land purchased in secret from descendants of the former owners of Variety Shade, a slave plantation.

On the day after the violence in Charlottesville, Lakshmi Fjord envisioned a plan for a people’s tribunal to bring the array of fracked gas environmental justice and human rights facts to wider publics before the November election, with its Virginia governor’s race. Fjord has focused on conducting research on long-suppressed former slave and Freedmen history and a door-to-door household demographic, health, and economic study to correct complete omissions of any historic cultural resources and demographic data by ACP and FERC for Union Hill. This, despite NEPA requirements, despite known environmental and social impacts of living close to compressor stations 1/5th the size of the one planned for this populous, rural neighborhood. To do this work, Friends of Buckingham received two successive grassroots organizing grants from Center for Health, Environment, and Justice (CHEJ) overseen by Teresa Mills, from whom we learned about the Permanent Peoples’ Tribunal on Human Rights, Fracking and Climate Change.

Union Hill is but one of the communities targeted to lose their heritage lands and property rights through eminent domain by developers that are not public utility providers. For the MVP and ACP, the majority of landowners targeted to give up their property rights are rural, impoverished Appalachians. Several Native American communities are directly impacted. All lands chosen for the routes of the ACP and MVP were once Woodland American Indian Nations’ lands. No communities on these routes will receive this gas, as both developers’ business plans are to capture the higher-than-utility rates of return – 14% as set by FERC (Federal Energy Regulatory Commission) – to transmit gas from wellheads to international markets as their business plans now reveal.

Expert testimonies included evidence from historians, environmental scientists on fracked gas infrastructure, medical experts on the health impacts of compressor stations and pipelines, economists on the cost benefits of racism and inequality and also the lack of need to build any more fracked gas transmission pipelines in Virginia, West Virginia, and North Carolina. Together they will present Virginians with an incalculable bill for climate change costs.

To honor and acknowledge the fact that all the lands in West Virginia, Virginia, and North Carolina being threatened by the ACP and MVP are indigenous lands, our people's tribunal opened with a poem by a Monacan Indian Nation member, Karenne Wood, followed by the testimony of Andrew Tyler, speaking as representative of the Coalition of Woodland Nations, and our testimonies closed with a testimony by Robie Goins, member of the Lumbee Indian Tribe of Robeson County, North Carolina.

To reflect the specifics of these two pipeline projects, our people's tribunal basis expanded to include the recognition of four categories of environmental justice communities facing disproportionate burdens of toxic pollution, eminent domain seizures of private property, and toll on cultural identities and preservation from the ACP and MVP. These are: Indigenous Peoples, African Americans, Appalachians, and Rural People. As previously noted, nearly all of the people impacted are rural people, with all that implies for limited political voice and power, access to information through internet, greater historic and current forms of discriminatory practices including differences in construction requirements, and limited support by outside environmental groups and resources.

Our watchword was inclusion of every sort after the divisiveness of Charlottesville, after the divisiveness of strategies used by ACP and MVP to "divide to conquer" community activism against their project. We sought to bring together in Charlottesville, now overnight a worldwide symbol of U.S. racism in action, all of the grassroots community groups that up until that point had had to focus on county-based research, organizing, and rapid response efforts, rather than being able to focus on stopping these pipelines altogether. The trauma of being forced to join this "club that no one wants to be part of" hit landowners and communities hard, and the tactic by ACP to locate just one compressor station in each state – and therefore mega-sized ones – created unequal burdens and thus divisions between counties. ACP's was a canny response to the success the Keystone XL pipeline fighters had in creating coalitions across its entire length where compressor stations followed industry standards of every 40-60 miles apart, distributing more evenly the burdens of toxic pollution. Our intention was to create a safe place to make public comments for the first time. This followed from years of making comments at public hearings before hostile local Boards of Supervisors, FERC staff, and VDEQ representatives at every step in the permitting process of these two fracked gas development projects.

We held our people's tribunal in Charlottesville's City Space on the historic Downtown Mall, one block from where Heather Heyer was killed and the VSEC students injured. Because of the security issues that still obtained in Charlottesville post-August 11-12 (targeting of black activists by false 911 domestic violence calls; harassing interracial groups walking; following black drivers and careening wildly down city streets), we had to keep the tribunal under wraps. We did issue a press release, but did not publicize it or have signs outside. The tarps the city used to cover the two contested monuments were being removed at night, replaced, removed again; the court cases against violent offenders identified by social media from videos kept tensions high. Therefore, our tribunal goal to bring Charlottesville scholars and activists into the dialogue about environmental injustice and human rights issues did not come to fruition.

However, in our goal to bring together in one, safe, place, people from Virginia, North Carolina and West Virginia, and from every Virginia county impacted by the MVP and most ACP impacted counties, our people's tribunal succeeded beyond our highest hopes. The design of this tribunal included access by those not testifying and from great distances through livestreaming. We preserved silence throughout testimonies to focus attention on each speaker, while providing an ever-refilled buffet of healthy, inviting food, much of which was donated by local businesses and the Food Not Bombs organization. Privacy concerns were met by limiting videography and photography to our designated tribunal professionals.

Our judges, Lois Gibbs, Adrienne Hollis, and James Igoe generously stayed in the tribunal meeting space for the entire length of testimonies - 12 noon - 7pm, when they retired to an adjacent room to write their statement of findings and recommendations. When our 54 testifiers went over the planned endpoint of 6pm, the judges offered to extend the time needed to allow everyone to testify. The testifiers and audience stayed in the meeting room after our judges left it, in order to participate in preplanned, facilitated Next Steps Organizing by topic groups. This allowed us to make best use of the time, expertise, and preferences of people who'd traveled great distances to be together in one room. Some of these very successful Next Steps Organizing projects may be found in the section of our people's tribunal website of that name. We will continue to update the website on these efforts, in order to fully acknowledge the fruits of holding a people's tribunal, and the organizing impacts of having representative testifiers from such diverse, wide-ranging geographies and communities.

For the Virginia Water Control Board public hearings on 401 water permits that took place for the MVP and ACP one week apart the first week in December 2017, results of coming together across county and pipeline differences were immediately apparent. Folks from both pipelines attended each other's hearings and made comments, provided food, places to stay, and a general sense of in-this-together feelings. At our tribunal, these feelings of emotional relief to share with those who understood their grief, anxiety, fears, and realities were explicated expressed over and over. The sheer

number of people who attended – 177 – and 54 who presented testimonies (with the remainder handed in to judges -- as found in our one pdf of all testimonies, adding up to 63) – and careful attention to speakers, contributed greatly to the sense of being understood, not alone.

Co-sponsoring groups:

Friends of Buckingham, The Madwomen Project, ARTivism Virginia, Virginia Sierra Club, Allegheny Blue Ridge Alliance, Appalachian Voices, Bold Alliance, Protect Our Water Heritage Rights (POWHR), Virginia Student Environmental Coalition, Concern for the New Generation, Yogaville Environmental Solutions, Journey the James, Cville Rising, 350 Central Virginia, Preserve Montgomery, Preserve Franklin, Preserve Giles, Preserve Roanoke, Preserve Bent Mountain, Oil Change International, Rachel Carson Council, Virginia Organizing, Interfaith Power and Light, Cville Indivisible, Friends of Nelson

Update:

As I write this, on March 28, 2018, Virginia Governor Ralph Northam's newly formed Advisory Council on Environmental Justice (ACEJ) met yesterday in Richmond. Representatives from Union Hill and Buckingham generally attended to observe and make public comments. This council is made up of people with experience in environmental justice work and exists to advise the governor and the Virginia Dept. of Environmental Quality (VDEQ) on this topic. For the first time in this process, when residents of Union Hill spoke of the facts of environmental injustice by ACP toward their community, the council listened and took action. They formed a subcommittee to accept our people's tribunal testimonies in full, the evidence collected through historic and demographic research, and set a date for a site visit to Union Hill on May 28, 2018, followed one day later by a community visit by the whole council. This is the first time that environmental justice has been acknowledged by a state level group related to the ACP and MVP fracked gas infrastructure plans in Virginia.

Strong Caveat on Limited Scope of this Summary Report on ACP and MVP

FERC's 2:1 decision to issue certificates of convenience for both MVP and ACP on Oct. 13th, 2017 was followed by the Virginia Water Control Board's decisions to approve the MVP without further provisions and the ACP with limited provisions for further environmental impact studies. This meant that immediately following the tribunal, landowners along the MVP route faced lawsuits for condemnation by MVP forcing easements of their land on eminent domain grounds. Vigilance on the ground became necessary, as with all other fracked gas and oil pipeline development projects. Surveyors trespassed on lands not yet given easement rights. This circumstance and Lakshmi's concussion injuries have led to a resulting summary report that is heavily skewed towards information on the ACP over the MVP, on Virginia ACP impacts over West Virginia and North Carolina. This fills the authors with deep regret. However, we hope that our tribunal testimonies as they stand will provide clear evidence of human

rights and environmental justice issues of importance to the Permanent Peoples' Tribunal Session on Human Rights, Fracking, and Climate Change.

If invited to the participate in the Permanent Peoples' Tribunal in May, we hope to include additional testimonies from people who were not able to contribute in October, 2017 from other communities along these pipeline routes.

OVERVIEW OF ATLANTIC COAST AND MOUNTAIN VALLEY PIPELINES: NEW FRACKED GAS INTERSTATE TRANSMISSION PROJECTS

ATLANTIC COAST PIPELINE (ACP): FACTS IN BRIEF

The Atlantic Coast Pipeline is a proposed interstate fracked gas pipeline that would run over 600 miles from northwestern West Virginia, southeast through Virginia and south across eastern North Carolina. (Although the CEO of Dominion Resources, the principal stakeholder, said at a stockholder meeting that the ACP intends to extend into South Carolina – for which no applications or permitting has taken place.) Atlantic Coast Pipeline, LLC: Joint Venture Partners are: Dominion Resources (48%); Duke Energy (47%) Southern Company (5%) Operator: Dominion Resources Pipeline. All three are major public utility companies, the greater costs for which to utility ratepayers will be discussed below. Dominion is the majority shareholder and also pipeline operator. Contracts for the gas have primarily been signed with subsidiaries of the pipeline owners, with Duke Energy companies booking 59% percent of capacity, while a Dominion subsidiary has booked 20%. However, details remain scarce regarding where the actual demand for the gas will come from. The lack of any true markets for the ACP apart from self-dealing is the reason Cheryl LaFleur, FERC commissioner, voted 1:2 against granting the ACP and MVP certificates of use on Oct. 13, 2018 (see tribunal website, Resources, LaFleur Dissent).

Proposed ACP Pipeline Diameter(s): 42 inch (333 miles); 32 inch (186 miles); 20 inch (83 miles). Pipeline Capacity: 1.5 billion cubic feet per day (cf/d) Project Cost estimate of \$5.5 billion has already been raised to at least 1 billion more. Gas Source: West Virginia and Pennsylvania, Marcellus Formation, Appalachian Basin Pipeline Route: From northwestern West Virginia, southeast through Virginia and south to North Carolina. ACP LLC Estimates of ACP climate change impacts: Total Annual GHG Emissions: 67,591,816 metric tons. Emissions Equivalent: 20 coal plants or 14 million passenger vehicles.

ACP Economics: No need for this pipeline except to profit investors

ACP project investors are public utility companies unlike the MVP project (described below). Therefore the economic of the ACP is a key factor in the environmental justice issues and who bears ACP's true cost inequalities involved with building it -- for Virginians especially. Since higher utility costs harm low-income families to a great proportion of income. Virginia law (written by Dominion) allows public utility rate-payers shoulder the costs of the ACP, no matter the market circumstances or higher costs than current transmission costs on existing pipelines. This is unlike other states that separate for-investor-profit energy development costs from ratepayers costs, if they do not add up to savings (cited by LaFleur in her FERC dissent).

"It can be puzzling to understand why utility holding companies want to build a pipeline if it isn't needed. It seems unlikely that an unregulated, private corporation would invest billions of dollars in a project the market doesn't support. The answer has to do with the way the utility subsidiaries are compensated. Our utilities get paid more when they build more. Today, there is little reason to build new power plants, because demand for electricity is no longer growing nationwide, even though there is growth in our economy and population. Demand for electricity in Virginia is growing only because of new data centers and Dominion's studies show that growth from that source will taper off by 2023.

FERC offers a 50% higher return for gas pipelines than for interstate transmission lines. The holding company executives are making what they see as a prudent decision to chase this extra money, while revenues from their utility subsidiaries are flat, and shift the risk and higher costs to the utility ratepayers.

Dominion Power (as a utility) argues it can't get enough gas from other pipelines, but its actions indicate otherwise. The ACP's FERC application identifies that the Columbia Gas Pipeline can deliver Dominion's full allotment of gas from West Virginia to Virginia for use in power plants. Columbia Gas is adding about 87 percent of the capacity of the ACP to its system in the region. Transco is adding 400 percent of the capacity of the ACP to its corridor moving southbound through Virginia and North Carolina. Dominion says the capacity being added to the Columbia Gas and Transco systems isn't available. Yet Dominion obtained capacity from Transco for use at the Cove Point LNG plant that it claims is "unavailable" for use in power plants. Cabot Oil & Gas Corp., the gas supplier over the Transco Pipeline to Cove Point, plans to increase production by 1.7 Bcf/d (more than the capacity of the ACP) in the next two years. Dan Dinges, Cabot's CEO, says Cabot is getting calls "from various people looking to secure . . . long-term supplies . . . and we are definitely answering those calls." Therefore, the markets ACP might interest are already locking up by existing suppliers.

Gas service to southeast Virginia and to North Carolina could be accomplished with connections to existing pipelines, mostly over existing rights-of-way, at a fraction of the

cost and impacts associated with the ACP. Southeast Virginia could obtain as much, or more, natural gas using a connection to existing pipelines, entirely over existing rights-of-way. The region could have its own source of supply for 80 years for a fraction of the price it would pay for the 20-year contract with the ACP.

North Carolina would receive as much, or more, capacity to supply the same customers in the same locations as proposed by the ACP. A connection to Transco would be made over 105 miles of the Cardinal Pipeline corridor, then connect to the last 90 miles of the ACP right-of-way to serve the same delivery points. This shorter pipeline would meet the same needs but save North Carolina residents billions of dollars compared to the ACP and avoid disruption of West Virginia and Virginia mountains and pristine streams, as well as national forest lands.

Dominion and Duke have been scaling back the number of gas-fired units that require service from the ACP and pushing back the expected dates for initial operation. Just this year, the two companies cut in half the number of large gas-fired power plants needed in the next 15 years. The first unit is not needed until 2025, in Virginia. There is no need to rush through the regulatory process. We have time to do a thorough evaluation of the need, costs and impacts of new pipeline projects

Growth in U.S. natural gas use has slowed markedly further undermining the ACP's need argument and the artificial sense of urgency to gain regulatory approvals. An [industry analyst says](#), "With domestic demand gains slowing across power burn, residential, commercial, and industrial, the North American gas market must find new levers to pull. It is likely that the biggest demand lever for the U.S. gas market over the next five years and beyond will be LNG exports." This statement indicates that the rapid growth in natural gas use is not shaping up as policymakers were led to believe. The industry is looking to greater LNG exports as a way to increase natural gas prices and rescue Wall Street's failing investments in natural gas developers" (Hadwin 2017).

Friends of Buckingham formed after we learned of the secret sale of 68 acres by descendants of former white plantation owners to ACP LLC to site their only Virginia proposed mega-compressor station (to propel fracked gas over 200 miles in each direction) in the middle of Union Hill, Buckingham, VA. Here, the existing 4-pipeline Transco would intersect underground with the new 2-pipeline ACP. Within 150 ft. to 1 mile on every side, 99 households dependent on individual wells are now targeted for the largest per community impact burden in Virginia of fracked gas air emissions, aquifer pollution, loss of present economic uses that require the sustainability of their current clean air, water, and soil and Freedmen heritage land value.

Because of its rural nature, Dominion Power has never found it profitable to build even electric or gas public utility provision infrastructure in Buckingham County. Yet, now, Union Hill is targeted for Dominion's fracked gas emissions where the people most impacted will never benefit from any of the fracked gas that will most deeply impact their community.

ACP Named as Virginia's Entry in Trump's Top 50 Infrastructure Priority List

On Jan. 25, 2017, President Donald Trump's team listed as #20 the Atlantic Coast Pipeline among the White House's top 50 priority infrastructure projects for expedited environmental review processes, a campaign promise. ACP was the only pipeline project named, which surprised many in the business world, who predicted many pipeline projects would make the priority list. But, it was state governors who chose their top state priority.

Transition team documents leaked to the Kansas City Star include an excel spreadsheet from the firm CG/LA Infrastructure tasked by Trump's team to build this priority list: **"part of a solicitation from the National Governors Association to its members** on behalf of the Trump transition team asking for ideas for major infrastructure projects. 'Members of the transition team for President-elect Trump have asked NGA to reach out to governors with a very quick-turn request,' reads a Dec. 16 letter from the National Governors Association to Washington Gov. Jay Inslee's office. 'They seek examples of priority infrastructure projects that might be incorporated into a future infrastructure investment program.'"

<http://www.miamiherald.com/news/politics-government/article128801554.html>

Virginia's then governor, Terry McAuliffe, has strong ties to Dominion Resources, ACP's principal shareholder – which points to why he chose this Virginia project for Trump's list. McAuliffe's efforts to do all he can to support Dominion's for-profit ACP expeditiously in Virginia will be outlined in greater detail below in the section on political influence and its human rights implications.

Trump's transition team also has ties to Duke Energy, a lesser shareholder in the ACP project "or to firms lobbying for [the ACP].

<https://www.globalresearch.ca/trump-team-has-ties-to-atlantic-coast-pipeline-now-being-pushed-by-white-house/5573337>

MOUNTAIN VALLEY PIPELINE: FACTS IN BRIEF

The Mountain Valley Pipeline is a proposed 42-inch interstate natural gas pipeline that would run 301 miles from northwestern West Virginia to south central Virginia. The route of the pipeline crosses the Allegheny Highlands straddling the border between West Virginia and Virginia, threatening pristine forests, headwaters, and steep fragile terrain, as well as many farms, communities and other properties all along its path. The project is facing significant opposition from landowners and citizens along its path. Mountain Valley Pipeline, LLC Joint Venture Partners are a consortium of natural gas

companies led by EQT, which will also be MVP's operator: EQT (45.5%); NextEra (31%) Con Edison (12.5%); WGL (10%) and RGC (1%). EQT is one of the country's top gas producers, producing around 2.5 Bcf/d primarily in the Marcellus Formation in West Virginia and Pennsylvania. MVP Gas Source: West Virginia Marcellus Formation, Appalachian Basin. The MVP is intended to feed into the existing Transco Pipeline (owned by Williams) that runs roughly northeast to southwest through Virginia; therefore it's destination markets are those of the already existing Transco. The Transco pipeline owners plan to expand its functional use of current capacity by making it bidirectional – to deliver gas in a north to south direction in addition to its long history of Texas to New Jersey transmission. MVP Capacity: 2 billion cubic feet per day (cf/d) Project Cost: \$3.5 Billion (this projection is steadily rising).

Financial Bakers: EQT Midstream Partners (EQM) is the driving force behind the project and EQM's financing reveals the clearest links to the banks that will fund the pipeline. Eighteen banks are invested in EQM's two key current financing sources. Six U.S. 'main street' banks – banks that are leading providers of personal banking services in the U.S. – rise to the top. Bank of America leads the pack in providing over \$141 million in financial backing. Wells Fargo, the lead arranger of EQM's credit facility, PNC, SunTrust, Bank of the West (through parent company BNP Paribas), and U.S. Bank are each bankrolling EQM in the range of \$76 to \$86 million" (Oil Change International <http://priceofoil.org>).

Just announced expansion of MVP into North Carolina (April 11, 2018):

PITTSBURGH--([BUSINESS WIRE](#))--Mountain Valley Pipeline, LLC (Mountain Valley) today announced the MVP Southgate project, a proposed interstate natural gas pipeline anchored by a firm capacity commitment from PSNC Energy, a wholly owned subsidiary of SCANA Corporation (NYSE: SCG). Mountain Valley also announced the commencement of a binding open season for MVP Southgate, in order to provide additional market participants an opportunity to subscribe to the project. EQT Midstream Partners, LP (NYSE: EQM) will be the operator of MVP Southgate, which has a targeted in-service date of the fourth quarter 2020.

https://www.businesswire.com/news/home/20180411005678/en/Mountain-Valley-Pipeline-LLC-Announces-MVP-Southgate/?feedref=JjAwJuNHiystnCoBq_hl-d0q77hRjGWvCunvqSsMC5PkKuEqWGdtYcKRejd3o8qMqnKfqP6Z7nZVMLG-WqUNUuIFBOuQU34x9_qUrqn9IFt3G9xeKEyIFKgj2nxZILuWb2_mZzaa2HVGkrPJ34F1Q==

Economics of the MVP: No need yet huge costs to impacted communities

The Appalachian Basin is not producing enough gas to fill all of the pipelines that are currently in front of FERC for approval. The production of natural gas would have to increase by 50 percent in the Marcellus/Utica shale plays to fill the pipelines currently

proposed over the next several years. Rather than reducing the number of pipelines built, [the industry is suggesting](#) that we need to drill for more gas (Hadwin 2017).

A new study by Charlottesville-based Key-Log Economics (“[Economic Costs of the Mountain Valley Pipeline: Effects on Property Value, Ecosystem Services, and Economic Development in Virginia and West Virginia](#)”) estimates the total cost to an eight-county region in southern West Virginia and southwest Virginia to \$8.0 to \$8.9 billion, in present value terms. That includes between \$65.1 and \$135.5 million in the short term as construction strips forest and other productive land bear, and as private property values take a hit due to the dangers and inconvenience of living near the MVP route. It also includes \$119.1 to \$130.8 million each and every year after construction due to permanent changes in land cover, lost property tax revenues, and dampened economic growth in key sectors.

“FERC’s procedures and its track record show a blatant disregard for established economic principles as well as clear evidence that pipelines reduce property values, discourage business development, and diminish the capacity of the natural environment to provide clean water, beautiful scenery, and other valuable services to people,” said the study’s lead author, Dr. Spencer Phillips.

Central findings of the Key-Log Economics report on MVP:

- One-time costs (lost property value and lost ecosystem service value during construction) would total in the range of \$65.1 to \$135.5 million.
- Annual costs (costs that recur year after year) would range from \$119.1 to \$130.8 million.
- Present discounted value of all future annual costs (discounted at 1.5%): \$7.9 to \$8.7 billion.
- One-time costs plus the discounted value of all future annual costs: \$8.0 to \$8.9 billion.
- Purported financial benefits to local governments are based on exaggerated MVP economic benefits claims.
- The need for the Mountain Valley Pipeline is not supported by economic benefits for impacted communities.

Fracked Gas Pipelines: Not Good Business for Impacted Communities Despite Promises

Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking (March 2018), a summary of the findings from 1,300 research studies and articles also addresses their social and economic costs. “Real-life challenges to the industry’s arguments that fracking and its infrastructure is good business are increasingly apparent. Independent economic analyses show that the promise of local job creation has been greatly exaggerated, with many jobs going to out-of-area workers. Reports show that oil and gas jobs will increasingly be lost to automation. With the

arrival of drilling and fracking operations [and construction man-camps] communities have experienced steep increases in rates of crime, including sex trafficking, rape, assault, drunk driving, drug abuse, and violent victimization – all of which carry public health consequences, especially for women.

Social costs include road damage, failed local businesses, and strains on law enforcement and municipal services. School districts report increased stress. Economic analyses have found that drilling and fracking [and proximity to increasingly larger compressor stations] threaten property values and can diminish tax revenues for local governments. Additionally, drilling and fracking pose an inherent conflict with mortgages and property insurance due to the hazardous materials used and the associated risks” (Compendium, 26).

The World Bank has decided to end its financial support for oil and gas extraction within the next two years in response to the growing threat posed by climate change. In a statement that delighted campaigners opposed to fossil fuels, the Bank used a conference in Paris to announce that it "will no longer finance upstream oil and gas" after 2019 (<https://www.theguardian.com/business/worldbank>)

FERC ACTIONS ON ACP and MVP

FERC issued both MVP and ACP certificates of convenience on October 13, 2018 in a rare 2:1 approval vote. The Virginia Water Control Board issued MVP’s 401 Water permit on December 7, 2017 without conditions.

On December 12, 2017, the Virginia Water Control Board issued ACP’s 401 Water permit with conditions:

This certification shall be effective only following submission, review and final approval as required by law of the Karst Mitigation Plan, Annual Standards and Specifications, and Erosion and Sediment Control Plans and Stormwater Management Plans, and a report to the Board and the public by DEQ on the adequacy of these materials. The Board may consider further actions on the Certification following the review of the DEQ report.

OVERVIEW OF ENVIRONMENTAL JUSTICE COMMUNITIES

Historical Contexts of the Cost Benefits of Inequality

“Inequalities in opportunities to participate in environmental decision-making and uneven impacts of environmental hazards along racial and socioeconomic lines are signature issues of environmental justice. Although not yet fully characterized, emerging evidence reveals that, in several regions where fracking is practiced, well

pads and associated infrastructure are disproportionately sited in non-white and low-income communities” (Compendium, Risks and Harms of Fracking, 28).

Environmental injustices persist now as “expected losses” in the U.S. because of the cost benefits to corporations of locating toxic emitting facilities in places with low income, minority, and marginalized majorities. Root causes of health disparities in the U.S. include race and economic status; another is geography -- where we live in relation to harmful environmental hazards. The inter-relationship between environmental health and being poor, African American and Native American follow a straight line. Poor people are far more likely to work at jobs that expose them to environmental toxins and hazardous waste and to live in homes and places that are less environmentally safe. Living in rural counties along the proposed ACP and MVP routes is a risk factor since they are low regulatory places with poorer populations, targeted by companies seeking to locate toxic polluting industry farther “out of sight”: nuclear waste disposal, toxic waste burning, coal-mining and coal ash dumping, and now 42” fracked gas pipelines and super-sized compressor stations in the middle of rural Appalachian, African American, or Native American majority communities.

FERC’s responsibilities to environmental justice [not met]

As a federal agency, under the National Environmental Policy Act (NEPA), FERC “must consider environmental justice in their activities.” EIS reviews are specifically cited as among these activities, during which agencies must:

- Consider the composition of the affected area to determine whether low-income, minority or tribal populations are present and whether there may be disproportionately high and adverse human health or environmental effects on these populations.
- Consider relevant public health and industry data concerning the potential for multiple exposures or cumulative exposure to human health or environmental hazards in the affected population, as well as historical patterns of exposure to environmental hazards
- Recognize the interrelated cultural, social, occupational, historical, or economic factors that may amplify the natural and physical environmental effects of the proposed action.

The Clean Air Act 309 developed guidance for Environmental Policy Act - EPA reviewers to comment on other Federal agencies’ NEPA-related documents to help ensure that environmental effects on minority and low-income communities have been fully analyzed. These include key steps in the NEPA process, including Environmental Impact Studies (EIS) where analyses of environmental justice concerns should be incorporated.

(<https://www.epa.gov/environmentaljustice/environmental-justice-and-national-environmental-policy-act>, accessed April 5, 2017).

Why Omitted Environmental Justice Reviews For the ACP and MVP Must Be Undertaken Immediately

Inclusionary environmental justice reviews aim “to ensure that all people equally receive the same degree of protection from environmental and health hazards, and equal access to the decision-making process to have a healthy environment in which to live, learn, and work” (<https://www.epa.gov/environmentaljustice>).

Unhealthy Societies: The Afflictions of Inequality (Wilkinson 1996) describes a well-documented equation, in which equal protections for all people within a society (whether at the nation or community level) lead to far better health among all members of that society, rich and poor alike; and, its inverse – the greater the inequalities between rich and poor, the poorer health experienced by all. The National Environmental Policy Act (NEPA) guidelines were not instituted or intended to be “special needs” for “vulnerable people” or “victims,” but as one means to create better more equitably distributed higher qualities of life across our entire nation.

Yet, no full NEPA reviews have taken place for any of environmental justice communities known to be on the routes of the ACP and MVP. In their FEIS for the ACP, FERC referred to the site of the Virginia ACP compressor station as an “environmental justice” community and then declared that there would be “no health impacts” to people from the compressor station site. No scientific basis is cited for this conclusion. Nor is any population study included.

Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP) employ a pattern of consistent omissions of key environmental and socio-cultural information necessary for public information that allows for public participation by landowners and residents targeted by these routes. Key omissions and misinformation are of demographic or historic cultural information that would lead to far greater permitting time and processes, and even to far more expensive construction materials. Despite having been filed and approved by FERC, both pipelines have made significant changes to their routes and site plans even very recently. Recent letters sent by ACP to landowners that their land is now being condemned by eminent domain do not correspond to the ACP route maps and parcel data made public. This makes it impossible for landowners to act to best protect their private property.

Misinformation and omission of information constitute violations of human rights to the public information needed for informed public participation. For Union Hill and the Virginia ACP compressor station application, for an egregious example, such omissions exacerbate what can only be construed as deliberate uses of misinformation about population, race, slave plantation and Freedmen history and current descendants, environmental hazards such as topography, soil composition, seasonal flooding, historic cultural resources, and even a long history of earthquakes.

This misinformation involves the use by ACP in application documents, which are then cited as demographic “facts” by FERC in its FEIS -- of average census data for the whole of Buckingham County or 28.2 persons per square mile -- to describe the VA compressor station site, rather than the actual population of 158 people from just 64% of the households within one mile of this site. This de-populating of the compressor station site allows ACP to disappear the number of people living very close to this 68-acre heavy toxic polluting industrial facility complex. De-populating allows ACP to use far thinner pipes and greater shut off value distances, as cited earlier, as well as to diffuse any concerns about health impacts on a populated community rather than sparse rural district.

Factual information about population, race, health status, cultural heritage or real threats to single source drinking water provide the information needed for decisions about permitting, about construction and engineering details, and mitigation plans. But, all of these are missing from ACP filings and FERC reports.

This is but one example of such omissions. Below, we list the four environmental justice communities we identified as highly threatened by both ACP and MVP.

INDIGENOUS COMMUNITIES

On January 29, 2018, President Trump signed into law a bill granting federal recognition to six Indian tribes in Virginia, a move that formally recognizes their place in U.S. history and makes them eligible for federal funding. The change in status, which has been in the works for nearly two decades, affects the 4,400 members of the Chickahominy, the Eastern Chickahominy, the Upper Mattaponi, the Rappahannock, the Monacan and the Nansemond tribes. In addition to making federal dollars available for housing, education and medical care, the recognition also allows the tribes to repatriate remains of their ancestors stored at the Smithsonian. More importantly, sponsors say, the measure signed into law Monday [corrects a long-standing injustice](https://www.washingtonpost.com/local/virginia-politics/trump-signs-bill-recognizing-virginia-indian-tribes/2018/01/30/8a46b038-05d4-11e8-94e8-e8b8600ade23_story.html?utm_term=.e01488ddad26) for tribes that were among the first to greet English settlers in 1607 (https://www.washingtonpost.com/local/virginia-politics/trump-signs-bill-recognizing-virginia-indian-tribes/2018/01/30/8a46b038-05d4-11e8-94e8-e8b8600ade23_story.html?utm_term=.e01488ddad26).

The Monacan Indian Nation now has 2,300 living members. Monacan oral history (and the diaries of Capt. John Smith who travelled into Monacan territories) report that tens of thousands of Monacan once lived throughout what is the ACP and MVP impact geography. According to *The Virginia Indian Heritage Trail* (Virginia Foundation for the Humanities, 2007), edited by Karenne Wood, Monacan poet and linguistic anthropologist: originally, the tribe’s territory covered more than half the state of Virginia, including most of the Piedmont region and part of the Blue Ridge Mountains (Charlottesville and Albemarle County included). The Bear Mountain Monacan community in Amherst County is then one of the oldest groups of indigenous people

still living on their ancestral land (for at least 10,000 years, now considered an early estimate of indigenous habitation) in the U.S.

Monacan ancestors settled along the James River and spoke a language related to those of the Eastern Siouan tribes, and to the Tutelo, Occaneechi and Saponi peoples nearby in Virginia and in North Carolina. They were also affiliated with the Mannahoac, who occupied Virginia's northern Piedmont region and disappeared from record in the 1720s. Monacans traded with the Powhatans to the east [how John Smith met them] and Iroquois to the north. Unlike their Powhatan neighbors, the Monacan people limited their contact with the English who sold Indians into slavery, murdered them, seized their lands and forced migrations away from ancestral places (see citation above).

Erasures of huge populations of American Indians occurred from first contact with Spaniards (early 1500s) and then English (1607) onward, which brought devastating mortality by infectious diseases not known in this hemisphere. The erasure of huge populations of American Indians coupled with the derogation of American Indian oral history in favor of unreliable, first person accounts such as John Smith's by colonial then U.S. entities, negatively impacted Virginia Indian tribes long battles to sustain their cultural heritage. In Virginia, a "paper genocide" took place from 1912 to 1946, when Registrar of Virginia's Bureau of Vital Statistics, Walter Ashby Plecker, systemically erased American Indian identity from all Virginia birth records. Plecker a white supremacist and eugenics advocate, insisted there were only "white" and "colored" races, and applied the one-drop rule to insist all American Indians were "colored." In 1924, Virginia passed the Racial Integrity Act, which required a "certificate of racial composition" to marry and banned interracial marriage in Virginia. This led large groups of Virginia Indians to move out of state to maintain their cultural identity as American Indians (O'Hare, citing Karenne Wood, *Cville Weekly*, March 7, 2018).

ACP has targeted the Lumbee Indian Tribe in Robeson County, North Carolina to bear the greatest indigenous community burden of infrastructure at their proposed terminus. (Statements to Dominion stockholders and recent purchases by Dominion in South Carolina suggest the ACP's business plans include extending the ACP southward.) Robie Goins testimony before our people's tribunal was an extended one because, as a member of the Lumbee Indian Tribe, and our only speaker from North Carolina, he was asked to cover a wide range of topics related to the ACP. Significantly, he reports, "Thirty thousand Native Americans live within one mile of the proposed route here in North Carolina. In North Carolina's population the Native Americans only make up 1.2 percent, and along this route in North Carolina thirteen percent of that is Native Americans."

A new study on ACP environmental justice issues has been published by RTI since our people's tribunal, "Environmental Justice Concerns and the Proposed Atlantic Coast Pipeline Route in North Carolina," by Sarah Wraight, Julia Hofmann, Justine Allpress,

and Brooks Depro. Indigenous and minority populations are included in this study, whose link is provided below:

<https://www.rti.org/sites/default/files/resources/rti-publication-file-ebb83111-c510-4414-8212-7f6026e93009.pdf>

AFRICAN AMERICAN COMMUNITIES

Virginia legacy of slavery has far greater impact on the everyday lives of the people of the U.S. than is often understood. It is not only the oldest U.S. colony but also its economy built on slave labor provided the means by which George Washington, Thomas Jefferson, James Madison and James Monroe could be present full-time in activities to found our nation. These slaveholders built protection of the slave economy as states rights into the U.S. Constitution and subsequent laws – a reasoning well understood and called out by critics of states rights and critics of slavery at the time (most persuasively, Alexander Hamilton). The horrible irony is that Virginia slaveholders' leadership in building our nation's political and judicial structure was largely due to representation numbers boosted by Virginia's large number of slaves, who counted as 3/5th a person while having no legal personhood.

While slavery's legacy in Virginia is entirely enmeshed in our nation's history, living with an over 250-year unbroken legacy of violence, discrimination, and retaliation for speaking out against these tyrannies in the same place as enslaved ancestors is very rare now. Yet, such is the cultural context of Union Hill, Buckingham, Virginia.

From news articles of the day and from local historian Charles White's 25-year painstakingly researched social history, *The Hidden and Forgotten: Contributions of Buckingham Blacks to U.S. History* (self-published 1988), we learned that terrorizing slaves from fear of uprising by the 2:1 majority slaves continued long after Emancipation. Some plantation owners shot their slaves rather than to free them. Others gave former slaves plots of plantation land. Both were strategies to prevent expected violent retaliation from freed slaves. Buckingham slave owners were leaders in the movement to deport Free Blacks to Africa rather than to risk living as neighbors.

On the night of February 26, 1869, the day the U.S. House of Representatives passed the 15th amendment giving former slaves the right to vote, vigilantes burned the Thomas Jefferson designed Buckingham County courthouse to destroy all records of slavery – the wills and deeds of purchase by Freedmen -- that might be used in evidence to sue former owners for restitution. This loss of legal records of enslavement was preceded by the burning of the prior courthouse in Scottsville, VA by English soldiers during the American Revolution – taken together a total loss of all colonial era to 1869 records of enslavement, Freedmen land records and also the deed to the current Union Hill Baptist Church, built by Freedmen in 1868 as a brush arbor on former plantation lands.

This erasure of former slave and freedmen history was taken advantage of by ACP when it performed no required cultural resource surveys for Union Hill.

For African American impacts of the ACP route in North Carolina, please see the NAACP publication: *Fumes Along the Fenceline: The Health Impacts of Air Pollution from Oil & Gas Facilities on African American Communities*

Link to NAACP site to download:

<http://www.naacp.org/latest/fumes-across-fence-line-naacps-ecj-program-action/>

APPALACHIAN COMMUNITIES

For generations, families have earned a living on jobs provided by the region's primary industry- coal. In its heyday of the 1910s and 20s, more than 700,000 jobs were provided by the coal industry. In Appalachia, that number now hovers around 44,000 – with not much coming in to fill the void.

When the demise of the coal industry began in the 1940s unemployment and poverty hit the region hard. Those with higher education went to other states for better jobs and higher wages- a trend we still see today, especially among young adults. More recently, the outsourcing of jobs overseas has caused soaring unemployment in a number of Appalachian counties.

The outlook for coal is only expected to worsen as federal regulations, the decreasing cost of natural gas and the increasing costs of mining in the region continue. However, people in some of Appalachia's most impoverished counties are coming up with their own ways of building a future without coal. Still, poverty, unemployment, and low-paying wages persist. While communities across the US struggle with poverty, some of the most impoverished- and unnoticed- are in Appalachia. The US poverty rate is 15.6 percent, while the Appalachian region is 19.7 percent. However, in Virginia the poverty rate is 11.5 percent, much lower than the U.S. rate. Yet, when you look at Virginia's Appalachian region's poverty rate, it increases considerably to 18.8 percent (Fahe.org).

Like the other environmental justice communities represented in our people's tribunal, Appalachians have been discriminated against for generations. Stigma and stereotypes have been used to seize their lands by eminent domain. Notably, a huge number of Appalachian people were evicted from what are now the National Parks. In order to justify these forced removals to the general U.S. public, the government sponsored unfavorable depictions of Appalachians, cartoons, and prejudicial labels that stick to this day, including "hillbilly" (see Perdue and Perdue, 1979; also Jean Haskell Spear 1989). One-room mountain cabins were made to seem sites of incest, and cousin

marriage – once a staple of English culture and society – became paths to imbecility in propaganda about Appalachia.

The rich cultural traditions of Appalachia, its arts and music, are now considered cherished examples of U.S. creativity. However, the rich coal, timber resources found in Appalachia brought whole-scale exploitation and environmental devastation for many generations. Now, the Marcellus Shale fracked gas drilling in West Virginia in the Marchellus Shale reserves has brought even more toxic polluting fracked gas drilling, without also bringing local jobs to the region, as coal did for generations of Appalachians. The climate change effects of methane are 86 times higher than the Co2e emissions from coal-fired plants.

RURAL COMMUNITIES

With the growing urbanization of the U.S. and most countries of the world, people who remain in rural settings often become “invisible” to policy-makers, elected officials, state and federal agencies, and the gaze and interest of the general public. Less often are their stories narrated to a wider audience, and less often are their concerns placed at the center of federal and state decision-making.

Building these two new fracked gas pipelines of MVP and ACP along routes that are almost entirely rural in character has distinct advantages mentioned prior for developers who want to ensure the fewest number of people are impacted, and the fewest number will fight against condemnation of their land by eminent domain seizure for forced easements. Yet, rural people will be placed at different sorts of risks from fracked gas infrastructure than urban ones.

For example, in Buckingham County, Virginia, there is one clinic, with a part-time doctor on staff. This is not unusual in low-income, more sparsely populated places. Many of the rural counties on these routes include mountains, steep roads, with greater risks of erosion down steep slopes, loss of single source drinking water sources from their individual wells. In Curdsvilles, Virginia, after the ACP completed tree cutting, well-water already showed signs of turbidity changes, indicating that erosion from lost trees and mud was entering their aquifer.

Construction of these pipelines will close and damage roads for several years if these projects go forward. In rural places, there are no alternative means of transportation, no multiple choices of routes to a given destination.

The quality of life benefits of living in a rural place: greater quiet, clearer night skies, wildlife in close proximity, often pure springs and cleaner air, water, and soil, are placed at risk by toxic polluting fracked gas infrastructure. Grandparents who’ve been charged with raising young children with asthma and other respiratory diseases

because of the clean air of rural places now fear that they cannot offer their grown children that feeling of comfort that a chronically-ill child will thrive in a rural environment that would then be threatened by air emissions, water contamination, and the heightened risks of crime that accompany fracking and the construction of fracked gas pipelines and compressor stations.

HISTORIC PRESERVATION ACT, SECTION 106 VIOLATIONS AND LOSSES OF PROTECTIONS OF CULTURAL IDENTITY

FERC, following the lead of the ACP and MVP cultural resource reports in their applications to FERC, have been highly negligent about complying with the Historic Preservation Act, Section 106 requirements for new, large toxic polluting development projects. Exemplifying worst case scenarios, FERC's refusal to grant Consulting Party status to cultural experts from North Carolina Native American tribes and the majority African American community of Union Hill, Buckingham, Virginia place in jeopardy large populations of non-white people who live in the same place as their ancestors. In these communities, ACP locates arguably the most hazardous of their fracked gas infrastructure.

The consequences of not granting Consulting Party status to historic cultural experts in specific places are simple. If not a Consulting Party, the people who will be impacted do not receive complete and detailed plans about how impacts to historic cultural resources, species habitats, water crossings will be prevented at best or mitigated at worse. How can people prepare or ask questions if key facility location details are kept secret? The only plans available to these individuals and communities are those allowed to the general public, which are full of omissions marked "propriety."

These highly impacted communities neither have any input into mitigation plans and protections based on their detailed knowledge of this place, nor will they know the specifics of these plans for toxic gas infrastructure that lie within as close as 125ft from their homes, schools, churches, water-wells, ponds, farm animals, etc. The notion that these existing individual and community structures are not "proprietary resources" in turn, which must also be protected from those who wish to capitalize on them for profit at their expense, is an extraordinary breach of citizen rights and of the public trust.

As if to prove that there is no need for cultural consultation for these sites with Native American and African American Freedmen descendants, ACP filed not one sentence of historic resource reports for Union Hill, the Freedmen community where ACP plans to site a mega-sized compressor station closely surrounded on all sides by 99 households. This occurs in an ACP application containing hundreds of pages of historic cultural

reports for colonial era to the present white community cultural resource data. The appearance of compliance with Section 106 also extended to granting Consulting Party status to those county historical societies and local governments that applied for it.

This is no reflection on those counties, which must be commended for doing all they can to protect their cultural resources and people. Those hundreds of pages of cultural resources cited by ACP and MVP were copied from already recognized pre-historic and historic cultural resource data found in North Carolina's, Virginia's, and West Virginia's Departments of Historic Resources maps.

These data sets are already known and critiqued for skewing toward records of historic white settlement resources and the paucity of those of indigenous and enslaved people and Freedmen. Especially troubling is that these omissions for ACP and MVP communities often intersect with oldest histories of places in the U.S. where American Indian and African slaves first were exploited for their natural or human resources by English venture capitalists and colonizers. The history of forcible erasure of culturally identifying characteristics and appropriation of their lands and human resources to profit colonizers, plantation owners, and now by forced seizure by fracked gas interstate pipelines is a familiar one in Virginia especially -- a tale often invisible to the public even now because it is so familiar.

To remedy these omissions of cultural identification with places costs money, time, and particular forms of expert knowledge. It is not easy to carry out cultural resource surveys, consult historic records, undertake excavations – and, learn to write in accepted styles and formats – to fill in data needed in the applications for state level historic recognition. In over three years of working to bring historic culture to the fore, we see clearly how social structural inequalities serve to add further layers of discrimination and loss to lower resource populations. These are new forms of old barriers to purported legal remedies for past limited, unequal access.

Not even Jamestown's owner, Preservation Virginia, the oldest statewide historic preservation non-profit, was granted consulting party status by FERC that they applied for to consult on both ACP and MVP. Perhaps this denial follows from their yearly "Most Endangered Historic Place" listings that foreground resources missing from official historic archives. In a jointly filed letter of concerns by their staff and Dr. Fjord, we noted that mid-Atlantic ACP and MVP impact Native American sites are often along rivers that flood destroying artifacts. These losses are coupled with a centuries' long pilfering of artifacts of their settlements by collectors. Altogether, the history of Native American groups who were the first to face colonization has largely been disappeared from the public record.

So persistent and entrenched are these efforts of erasure/omission of indigenous and enslaved peoples histories that even social history data from colonizers are not enough to prove their existence and history. For instance, the Monacan Indian settlement on the James River that is commonly understood to be Monahassanough, is one of the five

Monacan settlements reported by Capt. John Smith in his diaries. And, University of Virginia excavation data noted that this settlement once lay in a pattern of even distribution along both sides of the James River for over a mile in each direction. Yet, in ACP's application to horizontal drill under the James River at this location, there is not one cultural resource sentence about this Monacan history or even its colonial history since the early 1700s for what is now the Buckingham County side of the James. As an impoverished county targeted for both this horizontal drill site and the only Virginia ACP compressor station, there is a strong motivation to continue a history of erasure for indigenous people's cultural history there, which might impede Dominion's enterprise.

Public comments by impacted residents, by historic culture experts, by environmental lawyers about these erasures from the historic record were filed in correct timelines and at public hearings -- all to no avail. Most troubling were erasures of facts about Monacan and Lumbee indigenous peoples and the Freedmen descendants of enslaved people in Buckingham, Virginia all of whom still live in the same places as their ancestors. This denial by FERC of their existences and histories further compounds past attempted annihilations of their distinctive cultures.

These are not minor concerns. The federal oversight agency for the Historic Preservation Act, the Advisory Council on Historic Preservation (ACHP) filed letters with critiques about specific noncompliance to this law during both ACP and MVP Draft Environmental Impact Study (DEIS) comment periods. Usually, ACHP steps in later in the process. However, for these two pipelines, ACHP wrote these letters before FERC approved their certificates of use calling on FERC to comply with the law.

ACHP letter about FERC's noncompliance for ACP dated April 6 2017:

"We are providing the following comments on the DEIS in order to assist FERC in complying with the requirements of Section 106 of the National Historic Preservation Act (NHPA) (54 U.S.C. § 300101 et seq.) and its implementing regulations, "Protection of Historic Properties" (36 C.F.R. part 800). Further, we believe our comments will assist with FERC's coordination of Section 106 and its compliance with the National Environmental Policy Act (NEPA) review.

The ACHP has received numerous expressions of concern from stakeholders regarding FERC's compliance with Section 106 for the referenced undertaking. In response, on December 14, 2016, the ACHP formally entered into the Section 106 consultation to assist FERC, the project proponent, consulting parties, and the public in reviewing the issues communicated to us. The central issue is FERC's apparent failure to identify and to include appropriate consulting parties in the Section 106 review. Stakeholders also expressed concerns about the sufficiency of the effort to identify historic properties that may be affected by the undertaking. Therefore, the ACHP thinks it appropriate to comment on the concerns expressed and provide recommendations to FERC that it

should take into account. In addition, FERC should consider our comments in revising its characterization of the status of the Section 106 review as presented in the (DEIS).

Members of communities along the Right-of-Way (ROW) for the undertaking have contacted us with concerns that FERC has failed to identify and to invite appropriate stakeholders to be consulting parties, and has systematically denied requests for consulting party status from stakeholders that meet the requirements of the Section 106 regulations. Likewise, they have shared complaints about the inadequacy of the effort to identify historic properties that may be affected by the undertaking. They believe that the undertaking has been revised since the initiation of the Section 106 review but the Area of Potential Effects (APE) and the scope of the identification effort for historic properties remain the same. The consulting parties have indicated that FERC and the consultants for the project proponents have not been responsive to information shared about the presence of, and potential effects to, additional properties in the APE. Such historic properties include potential historic districts, cultural landscapes, and traditional cultural properties that may be eligible for inclusion in the National Register of Historic Places.

In FERC letters denying stakeholder requests to be consulting parties in Section 106 and also in Section 4.10.3 of the DEIS, FERC has suggested that the ACHP advises a federal agency may use its existing procedures for coordinating with the public ‘to fulfill its consultation requirements.’ This statement misrepresents the Section 106 regulations and the ACHP’s guidance regarding inclusion of the public in the Section 106 review. The Section 106 regulations state that the federal agency should seek and consider the views of the public which are essential to informed Federal decision making in the Section 106 process (35 C.F.R. § 800.2(d)(1)). The regulations also suggest that **a federal agency may use its established procedures for public involvement under NEPA or other program requirements if they provide adequate opportunities for public involvement** consistent with 36 C.F.R. § 800.3 through § 800.6. However, this principle does not absolve the federal agency’s responsibility to identify and formally recognize appropriate consulting parties to participate throughout the Section 106 review process.

It is regrettable that FERC appears to have failed to engage in active and good faith consultation with stakeholders in general, and consulting parties in particular. This includes representatives of the communities affected by the undertaking who are recognized consulting parties in accordance with C.F.R. §800.2(c) and § 800.3(f)). The inclusion of stakeholders in the formal Section 106 review as consulting parties is foundational to the Section 106 review process because it enables local governments, preservation organizations, and other representatives of communities located along the APE to formally participate in the federal decision making process. **The information that they may share regarding the presence of historic properties in the APE; the nature of the significance of those properties to the communities; concerns about**

how the undertaking may affect such properties; and appropriate ways to resolve adverse effects are critical to the Section 106 review.

Please note that the Section 106 regulations specify that certain individuals and organizations with a demonstrated interest in the undertaking may participate as consulting parties due to the nature of their legal or economic relation to the undertaking or affected properties, or their concern with the undertaking's effects on historic properties (36 C.F.R. § 800.2(c)(5)). Further, the regulations require the agency to consider all written requests of individuals and organizations to participate as consulting parties in consultation with the State Historic Preservation Officer(s) (SHPOs) or Tribal Historic Preservation Officer(s) (THPOs) and any Indian tribe upon whose tribal lands an undertaking occurs or affects historic properties. This process enables the federal agency to determine which parties should be recognized as consulting parties (36 C.F.R. § 800.3(f)(3)).

Consultation is defined in our regulations as a “process of seeking, discussing, and considering the views of other participants, and, where feasible, seeking agreement with them regarding matters arising in the section 106 process” (36 C.F.R. § 800.16(f)). Section 106 consultation is not accomplished by FERC’s procedures for public involvement. As reported to us, the range of stakeholders who have been denied consulting party status includes local governments (who are by-right consulting parties who can’t be refused (36 C.F.R. § 800.2(c)(3))), statewide and local historical societies and preservation organizations, property owners affected by the undertaking, stakeholders who are formal intervenors in the FERC review, and other stakeholders with concerns about the effects of the undertaking.

As indicated in the DEIS, FERC is currently in the process of completing the identification effort, step 2 of the 4-step Section 106 review process. The ACHP recommends that FERC should immediately revisit the requests by stakeholders to be consulting parties, and as appropriate, formally invite them into the consultation. Further, FERC should provide the consulting parties with information about the scope, status, and results of the identification effort, and acknowledge and address the concerns that have been expressed to date. We are concerned that in light of the views expressed by the stakeholders, the summary of the Section 106 review that FERC has characterized in the DEIS is inaccurate. Therefore, we encourage FERC to immediately identify and recognize appropriate consulting parties so to avoid compromising the adequacy of FERC’s Section 106 consultation for this undertaking.

We concur with the comments on the DEIS provided to FERC by the NTHP by letter of April 6, 2017, and by the Virginia State Historic Preservation Officer (SHPO) by a letter of April 5, 2017. The SHPO notes that the project crosses at least three (3) NRHP-listed or -eligible historic districts and five Civil War battlefields in Virginia. Accordingly, FERC should consider the SHPO’s comments on the methodology that the proponent

should employ in considering the importance of, and relationship between, the historic built environment and the rural or agricultural settings to the significance of the historic districts. The SHPO also recommends that FERC should consider effects to contributing properties and significant observation points within the districts that reflect the historic landscape and how residents and visitors experience that landscape. Finally, the SHPO notes that a similar approach should be taken to battlefields and possibly include concepts of military terrain analysis, such as KOCO A.

We would note that many stakeholders have made similar observations and recommendations. The ACHP looks forward to assisting FERC, the SHPOs, consulting parties, including the applicant, and the public in moving forward in the Section 106 review for this undertaking. Should you have any questions or wish to discuss this matter further, please contact John T. Eddins, PhD at 202-517-0211, or by e-mail at jeddings@achp.gov.

Sincerely,
Charlene Dwin Vaughn, AICP
Assistant Director
Federal Permitting, Licensing, and Assistance Section
Office of Federal Agency Programs"

Update on Section 106 legal processes for ACP and MVP

On April 2, 2018, "The 4th Circuit court [of Virginia] denied the All Writs appeal and Petition for Review March 21, 2018 of FERC noncompliance with section 106, Historic Preservation Act law for MVP]. As a result of the denial, we won't be able to file an adjunct appeal for Section 106 at this time. The next opportunity for Section 106 appeal will be when the Rehearing request is heard, if a rehearing is granted."

The "rehearing" referred to above is: the Southern Environmental Law Center and the Appalachian Mountain Advocates jointly filed a petition for rehearing by FERC on its approvals for the MVP and ACP, based on not meeting a need threshold. FERC has ignored this request. Senator Tim Kaine wrote a letter to FERC requesting that it conduct that rehearing, also.

HUMAN RIGHTS, ENVIRONMENTAL JUSTICE AND RIGHTS TO HEALTH, CLEAN AIR AND WATER

For far too long even large U.S. environmental non-profits relied on industry-sponsored research data on fracking and its infrastructure's environmental and climate change

impacts during the public relations campaign that domestic “gas” production would be a “bridge fuel” to not only energy independence but also to renewables. By conflating conventional “natural gas” with unconventional “fracked gas,” the gas industry received support from unlikely environmental allies including the Natural Resources Defense Council (NRDC) – which in 2015 wrote a mea culpa apology for not fully understanding what fracking and its extra toxic cocktail of chemicals used in drilling processes using large quantities of groundwater mixed with methane, mixed with radon from underground sources “does” to places and people, and to hastening climate change. NRDC is now a leader in efforts to stop fracked gas production and pipeline development.

FERC’s complete omission of the latest scientific research about the health impacts of pipelines and compressor stations, especially in environmental justice communities such as Union Hill, is omission now of known health impact data. For, fracking-related health impacts are now well documented and accepted by medical professionals whose patients live near these sites and/or who research fracked gas related public health issues. The Physicians for Social Responsibility (PSR) and New York Concerned Health Professionals have collaborated on research to identify, analyze, and summarize the findings from the most recent non-industry sponsored scientific research on fracked gas drilling sites, transmission pipelines, compressor stations, storage facilities and port facilities for fracked gas export. In March 2018, they published their 5th edition of the *Compendium of Scientific, Medical, and Media Findings Demonstrating Risks and Harms of Fracking (Unconventional Gas and Oil Extraction)* (<http://www.psr.org/resources/fracking-compendium.html>).

The explosion of fracking and its infrastructure in recent years has accelerated independent research related to fracking’s diverse forms of toxic pollution, and their effects on people and the environment -- with an additional focus in the last two years on measuring climate change impacts of fracking. The 5th Edition *Compendium* authors found that “more than 90 percent of these publications have been published since January 2013, with nearly one-quarter of the now more than 1,300 available studies published in 2017 alone. The available peer-reviewed literature reveals both potential and actual harms. Specifically, as demonstrated by PSR’s statistical analysis of the body of scientific literature available from 2009 to 2015, 69 percent of original research studies on water quality found potential for, or actual evidence of, water contamination; 87 percent of original research studies on air quality found significant air pollutant emissions; and 84 percent of original research studies on human health risks found signs of harm or indication of potential harm” (Ibid, 2018, 9-10).

As reported in the PSR report, “Too Dirty, Too Dangerous: Why Health Professionals Reject Natural Gas,” fracking releases toxic substances not only into “the millions of gallons of water pumped underground under high pressure to fracture rock” that releases tiny bubbles of gas or oil (why fracking is not equivalent to conventional “natural gas”), but mixed with a cocktail of proprietary listed chemicals that are known to contain benzene about which no level of exposure is safe as it causes leukemia and other blood cancers; formaldehyde, a known carcinogen; and

many more, including radon released along with the gas or oil that enters the pipeline along with the captured gas.

The particulate matter in these processes that end up in pipelines also -- as seen in ACP's list of toxic chemical emissions in their DEQ air permit application for the proposed Union Hill compressor station -- causes and contributes to COPD and lung cancer, heart attacks and congestive heart failure, and ischemic strokes. Benzene and formaldehyde are VOCs, listed as known projected emissions at this proposed compressor station and known carcinogens, as well as toluene associated with cognitive and psychiatric disabilities and abnormal growth in children, large organ damage, immune and reproductive disorders. Xylene can affect the nervous system, kidneys, and lungs, worsening bronchitis, asthma and emphysema. Radioactive substances including radon released in fracking are well-known causes of lung cancer, released through fracking into pipelines" (PSR: 1) [*Too Dirty, Too Dangerous: Why Health Professionals Reject Natural Gas*](#)

False Equivalence Between Older and New Gas Fracked Gas Pipelines

A significant problem for impacted people, scientists, and doctors who point out health and safety hazards related to fracking is the common use by the gas industry and FERC of false equivalences. Through examples, I will explain how false equivalences are used to forestall critical comments and foreclose public participation and public information processes related to fracking and its infrastructure. Gas industry standard infrastructure building practices for natural gas from the 1940s involved far smaller pipes (16+ inches) with tiny compressor stations at close intervals. The pipe materials used stronger steel, the welds still hold for the most part after all this time. Contrast these with the current rush-to-build huge interstate fracked gas pipelines. Dominion personnel and even FERC staff loudly scoffed at us -- community representatives and landowners who resist corporate seizures of their land by ACP and MVP to cross near our homes, cattle, and farms, rivers and streams, wells, at our public hearings. These paid personnel derogue our concerns based on research of others already deeply impacted by fracking infrastructure saying, we commenters have "safely lived alongside pipelines your whole lives."

However, it is necessary to critically unpack such statements. For, when compared one-to-one, the differences in materials used, quality of welds holding, treacherousness of slopes, bends in route, enormous size of pipes, distance between shut off valves, and most significantly, size and distance between compressor stations, these are not the same beasts with pipelines built in the 1940s - 70s at all.

"September 9, 2015 - New pipelines are failing at a rate on par with gas transmission lines installed before the 1940s, according to an analysis of federal data by the Pipeline Safety Trust, reported by *S&P Global Market Intelligence*. "The gas transmission lines installed in the 2010s had an annual average incident rate of 6.64 per 10,000 miles over the time frame considered, even exceeding that of the pre-1940s pipes. Those installed prior to 1940 or at unknown dates had an incident rate of 6.08 per 10,000 miles." The

director of the National Transportation Safety Board's Office of Railroad, Pipeline and Hazardous Materials Investigations 'agreed that the rapid construction of pipelines in the U.S. is likely a contributing factor'" (*Compendium*, 204-205).

"November 30, 2016 – A CityLab investigation used data from the Pipeline and Hazardous Materials Safety Administration to map all significant U.S. pipeline accidents between 1986 and 2016 and concluded, "Wherever pipelines are extended, deadly accidents will follow." Pipeline accidents over the past 30 years have resulted in 548 deaths, more than 2,500 injuries, and over \$8.5 billion in damages. Accidents are particularly common in Texas and Louisiana" (Ibid, 200).

The people of Buckingham County, Virginia are not inventing their concerns about safety and health impacts made in public comments because, in 2008, in nearby Appomattox County, the Williams Transco pipeline exploded, incinerating two homes and injuring five people. While PHMSA fined its owners \$1 million, none of that money went to homeowners or the injured but to the federal government. Yet Transco let much the same thing happen again in 2011 in Marengo County, Virginia, after which even PHMSA said "Transco has a history of cathodic protection [corrosion] concerns on other segments."

Transco is the existing 4-pipeline corridor that ACP needs to intersect at the Union Hill compressor station to fulfill its business plan to convey gas in 3 cardinal directions from this site.

Union Hill, Virginia's ACP compressor station site exemplifies other false equivalences used 'as if' scientific. [Union Hill is disproportionately represented by factual details in our testimonies and summary report. This is the consequence of the formation of our people's tribunal – created as a response to the white supremacist violence in Charlottesville As our tribunal design grew more inclusive after reach outs to everyone impacted on both pipelines and all states, few could make the trip to Charlottesville and the emphasis on Union Hill remains disproportionately high.]

Maps of Union Hill residences attached to FERC and VDEQ comments reported on both population numbers and close proximity to the compressor station facility on every side. Yet, even the gas industry recognizes the obvious problems with such a location. "Best practices" for siting even small compressors stations 1/7th the size of ACP's proposed Union Hill compressor station were mentioned in a study promoted by FERC in its FEIS, conducted by the National Fuel Gas Supply Corporation. "Identified commonalities" in all seven New York State places with small compressor stations were their sites "on large land parcels and set back from the road; natural and constructed buffers were utilized; and compressor station sites were generally in rural areas removed from higher density development."

At Union Hill's compressor station, 14 gas-fired turbines would be needed to transmit the fracked gas over 200 miles in each direction at this site. This distance is far greater than the industry standard of 40-70 miles between small, single-engine compressor stations. Huge

transmission distances require ACP compressor stations to operate at the highest allowed levels of pressure, increasing the potential for fires and explosions.

Our hypothesis for why ACP is not following industry standards reckons that the ACP owners were well aware when designing the ACP route that the Keystone XL Pipeline was stopped by community groups all along its route joining together to stop it entirely, rather than to change its route away from their own interests alone (before Trump's election). Keystone XL followed industry standard – locating compressor stations every 40-60 miles – distributing more equitably related health and safety hazards. The ACP instead targets African American communities -- Virginia's and North Carolina's sole ACP compressor stations – and, for West Virginia's, a former coal now fracked gas well-drilling county. It remains very difficult to create ACP-wide strategies to stop it entirely, which emphasizes just how savvy a decision it was to far more greatly burden just one county per state, and to have that site where the majority already face systemic discrimination.

ACP and FERC's claims that there are no health impacts from these large compressor stations rely on two premises. One, they de-populate these sites of actual populations. For Union Hill, both ACP and FERC report only the average census data for the whole county – or 28.2 people per square mile projected for 2020. Not the over 500% higher density our household study found in place. Then, they must rely on false equivalences to erase/mask the actual load of toxic pollution this community will face.

They do so by quoting the FERC authored "Health Risk Assessment" for compressor station sites. In the face of community comments about a mega-sized compressor station health risks, Dominion personnel presented this FERC study to the Buckingham County Board of Supervisors as "proof" for why there would be "no health impacts" whatsoever from locating a 54,000hp facility capable of transmitting fracked gas 200 miles in each direction, with 2 underground and one above ground storage tanks, at the intersection of 4 existing Transco pipelines and the new 2-pipeline ACP (repetitively stated for emphasis about false equivalences).

Yet, a critical unpacking of FERC's Health Risk Assessment for compressor stations (as if universally the same) reveals that it fails every basic tenet of scientific credibility used in peer review. Its authors are unnamed "FERC staff," with unknown credentials to design, implement, sample, or analyze scientific data to produce credible outcomes and scientific findings. Second, the data used as evidence is from air emissions tests taken at small single-engine **Dominion Power owned compressor stations by Dominion employees themselves** -- not independent researchers -- as long ago as 2008, most recently, 2012. Third, air emissions levels taken once at the property line from a small-capacity site – the largest of which is a 7,000 hp engine-fired compressor station -- cannot be equated as if equivalent to the health impacts of the 55,000 hp (in cold weather) pressurizing facility to be sited in Union Hill – with nearly 800% more capacity.

Critiques of health risk assessments (using zip codes to find mortality rates from particular conditions) rather than weight-of-evidence studies of actual people reporting new symptoms to their doctors after actual blow-down events or bringing contaminated water supplies to the attention of public health officials – suggest health risk assessment is a “get out of jail” liability-freeing way to appear “scientific” without performing actual scientific research.

Regulatory and Proprietary Interests Create Barriers to Public and Scientific Knowledge and Best Practice of Medicine

Of great concern to health professionals – including the AMA – is that corporate proprietary interests now out-weigh the needs of practicing healthcare professionals. Who need specific information about what chemicals their patients have been exposed to when they show up in clinics and hospitals reporting symptoms related to specific air emissions’ events and/or contaminated drinking water.

“Evidence on instances and pathways of water contamination exist even though scientific inquiry is impeded by industry secrecy and regulatory exemptions. **The 2005 Energy Policy Act exempts hydraulic fracturing from key provisions of the Safe Drinking Water Act. As a result, fracking chemicals have been protected from public scrutiny as “trade secrets.”** The oil and gas sector is the only U.S. industry permitted to inject known hazardous materials near, or directly into, underground drinking water aquifers. At the same time, in most states where fracking occurs, routine monitoring of groundwater aquifers near drilling and fracking operations is not required, nor are companies compelled to fully disclose the identity of chemicals used in fracking fluid, their quantities, or their fate once injected underground. Nevertheless, of the more than 1,000 chemicals that are confirmed ingredients in fracking fluid, an estimated 100 are known endocrine disruptors, acting as reproductive and developmental toxicants. Adding to this mix are heavy metals, radioactive elements, brine, and volatile organic compounds (VOCs), which occur naturally in deep geological formations and which can be carried up from the fracking zone with the flowback fluid. As components of the fracking waste stream, these toxic substances also pose threats to surface water and groundwater.

In many of the communities on the routes of the ACP and MVP, in fact the majority of these, individual wells provide the single source of drinking water.

A 2017 study found that spills of fracking fluids and fracking wastewater are common, documenting 6,678 significant spills occurring over a period of nine years in four states alone. In these states, between 2 and 16 percent of wells report spills each year. About 5 percent of all fracking waste is lost to spills, often during transport. Spills and intentional discharges of fracking waste into surface water have profoundly altered the chemistry and ecology of streams throughout entire watersheds, increasing downstream levels of radioactive elements, heavy metals, endocrine disruptors, toxic

disinfection byproducts, and acidity, and decreasing aquatic biodiversity and populations of sensitive fish species, such as brook trout. New studies documenting changes in the bacterial flora in groundwater following drilling and fracking operations represent an emerging area of concern” (*Compendium*, 48).

Whatever enters the pipes from fracking processes will also be present anywhere the pipes leak, break or -- in the case of compressor stations -- those pipeline risks plus the routine and accidental blow-downs of all contents of a pipeline section without warning into the air all at once. “The Barto Compressor Station in Penn Township, Lycoming County, Pennsylvania is creating pollution concentrations nearly three times (300% higher) the amount allowed under the federal health-based quality standards. Recent modeling results show that the compressor station, which pressurizes natural gas extracted from the Marcellus Shale to achieve the desired flow along pipelines, is on its own causing nitrogen dioxide pollution 278% over the National Ambient Air Quality Standard (NAAQS)” (Jay Duffy, The Clean Air Council, www.cleanair.org). Nitrogen Dioxide (NO₂) reacts in the air to form a suffocating, brownish gas, and forms corrosive nitric acid and toxic organic nitrates. It plays a role in producing ground-level ozone. NO₂ is a factor in acute respiratory distress in children, asthma, lowers resistance to respiratory infections such as flu, and correlates with earlier on average deaths. It is a significant contributor to acid rain, which affects both groundwater and other drinking supplies, and also decreases the amount of oxygen in water destructive to fish and other animal life, plant life and agriculture. [Excerpted from the Environmental Protection Agency website: www.epa.gov] Environmental groups looking at the projected air emissions requested to the VDEQ in the ACP air permit for the Union Hill compressor station point especially to the highest level allowed of NO₂ applied for at this site.

Recent scientific studies of compressor station health impacts summarized in Physicians for Social Responsibility’s (PSR) report, [*Too Dirty, Too Dangerous: Why Health Professionals Reject Natural Gas*](#), also report the dangerous levels of methane leakage from compressor stations. For example, a study in Texas’ Barnett Shale found that methane emissions from compressor stations were substantially higher than emissions from well pads. Separate field studies of processing plants and compressor stations found methane emissions to be 3.2 to 5.8 times higher than estimates that the EPA had issued based on industry self-reporting.

“Fracking infrastructure poses serious potential exposure risks to those living nearby. Drilling and fracking activities are relatively short-term operations, but compressor stations are semi-permanent facilities that pollute the air 24 hours a day as long as gas is flowing through pipelines. Day-to-day emissions from compressor stations are subject to highly episodic variations due to pressure changes and maintenance-related deliberate releases and can create periods of potentially extreme exposures. Pipelines themselves can freeze, corrode, break, and leak. Between January 2010 and November 2017, according to data from the federal Pipeline and Hazardous Materials Safety Administration, pipeline incidents killed 100 people, injured 500, prompted the evacuation of thousands, and leaked more than 17 billion cubic feet of methane.

Low-pressure flow lines alone are responsible for more than 7,000 spills and leaks since 2009.”

“April 22, 2016 – The federal Agency for Toxic Substances and Disease Registry (ATSDR) released a report on air quality near a natural gas compressor station in Brooklyn Township, Susquehanna County, Pennsylvania, finding levels of fine particulate matter (PM_{2.5}) at levels that can damage human health in those with long-term exposure. Evaluating data from an 18-day EPA field air monitoring event, the report found that the average ambient 24-hour PM_{2.5} concentration observed at one residence (19 µg/m³) was higher than the nearest regional National Ambient Air Quality Standards (NAAQS) monitoring station (12.3 µg/m³) in Scranton, PA, over the same period. ATSDR concluded that there was evidence that long-term exposure to PM_{2.5} at the levels found can cause an increase in mortality, respiratory problems, hospitalizations, preterm births, and low birth weight. The agency said that in the short term, exposure could be harmful to sensitive populations, such as those with respiratory problems or heart disease. The agency recommended that sensitive individuals monitor air quality and limit activity accordingly, and that the PA DEP work to reduce other sources of PM and its precursors” (*Compendium*, 22).

Making Real the Health Impacts on Particular Persons

According to ACP's own VA DEQ air permit application for the Union Hill compressor station, the facility would generate yearly emissions of 468,450 combined pounds per year of nitrous oxide, carbon dioxide, volatile organic compounds (VOCs), particulate matter, and hazardous air pollutants (HAPs). In that air permit, the “above normal ambient air quality” reported by Dominion Resources at the CS site currently, led ACP to apply for the highest possible allowed emissions of particular toxic chemicals. Thus, the people of Union Hill are being targeted for greatest emissions because they have been good stewards of their air, water, and soil.

This outcome must be linked then to the disproportionately large number of deemed “vulnerable persons” our household study found in Union Hill – the population skews towards over 65 and under 6 year-olds. This finding follows the cultural artifact of recent generations’ out-migration by young African American adults to more racially equal opportunity urban areas. Many of their young children are living with grandparents *because* they have respiratory illnesses, which benefit by living in a place that currently has pure air and water. And, in-migration back to heritage lands after retirement.

We learned about existing health conditions also through our 63 completed door-to-door interviews which include: enormous numbers of children as well as adults with disabling severe asthma; 2 year-old triplets with severe lung disorders; several cases of COPD; high levels of diabetes and high blood pressure, heart conditions and uses of pacemakers, and several ischemic strokes; individuals with breast or brain cancers; and, several people with immune disorders including MS and lupus.

The physical and emotional toll that Union Hill residents report from having their 200-year old community targeted for the enormous Virginia compressor station in its midst shows up in deep

anxiety and worry, perseveration, sleeplessness, feelings of powerlessness and despair. People living closest to the proposed site receive many phone calls a day asking for Dominion Resources to conduct water tests on their wells by ACP contractors, not independent scientists. Dominion contractor employees regularly go onto their lands without notice or landowner permission to inspect their homes, foundations, and more. These actions are a form of violence perpetrated on individuals who have the great bad fortune to be living where Dominion wants to seize their assets for their private benefit only. These experiences contribute to constant feelings of dread, constant need to look out their windows, listen for trespassers, and together create existential despair -- what I am naming “anticipatory traumatic stress.”

Of great concern, yet most often scoffed at by gas industry personnel at our public hearings are what we now know about low-frequency noise (LPN). Even low-frequency noise (LFN) also created by small compressor stations is already associated with vibroacoustic disease, leading to cardiovascular problems and decreased cognitive skills; eardrum ruptures are a known side-effect, with accompanying loss of hearing, possibility of ongoing infections, and balance disorders.

April 3, 2017 – A University of Maryland team conducted a pilot study of noise pollution at eight homes located less than a half mile (750 meters) from natural gas compressor stations in West Virginia and compared decibel levels to those collected from homes located further away. They found that daytime and nighttime noise levels were higher at properties located closer to a compressor, as measured both inside and outside the homes. Five of six homes that were monitored for a full 24-hour period had combined day-night indoor average noise levels that exceed 60 decibels (dBA), which exceeds both EPA’s recommended limits for chronic noise exposure as well those recommended by the World Health Organization. To date, no federal noise standards exist for oil and gas operations. Noting that noise exposure has been associated in previous studies with sleep disruption, poor academic performance, and hypertension, the authors conclude, “Findings indicate that living near natural gas compressor stations could potentially result in high environmental noise exposures. Larger studies are needed to confirm these findings and evaluate potential health impacts and protections measures (*Compendium*, 126-127).

Underground gas storage facilities

“Fracking infrastructure in the United States also includes 400 underground gas storage facilities in 31 states, with scant federal oversight and aging equipment. The four-month leak at the nation’s fifth largest facility, Aliso Canyon in southern California, between October 2015 and February 2016 resulted in exposures of large suburban population to an uncontrollable array of chemicals. With a release of nearly 100,000 metric tons of methane, it became the worst methane leak in U.S. history.

A major pollution source even before the blow-out, Aliso Canyon exposed residents in the region to benzene spikes, high ongoing odorant releases, hydrogen sulfide at levels far above average urban levels, and many other contaminants of concern. More than

8,000 households were evacuated and relocated, with residents reporting multiple symptoms, including headaches, nosebleeds, eye irritation, and nausea. Contaminated house dust became a contentious issue. Measurement of airborne contaminants during the leak was intermittent and contained major gaps. The Aliso Canyon facility reopened on July 31, 2017. Four months later, a gasket failure led to a methane leak, and at least 15 residents noticed foul odors. As of early 2018, more than two years after the original blow-out, the Aliso Canyon facility operates at only 28 percent of its storage capacity, and the community still awaits the initiation of a mandated health study, which, independent researchers say, must include attention to sub-chronic, cumulative exposure” (*Compendium*, 22).

The Union Hill compressor station facility includes two underground and one above ground storage facility. The former are for gas and ammonia storage. As noted above, no construction details about how these will be built to prevent fires such as occurred at Aliso Canyon are available to those living in the community, because FERC has granted no entity Consulting Party status.

Taken together with the issues related to single source drinking water wells that obtain in all of the compressor station sites, we now know that the hazards to health of living near gas pipelines and compressor stations are socially and economically disastrous to individuals and socially destabilizing to families and groups in close proximity to these hazards: including but not limited to asthma, cancers, poorer quality of life and shorter life-spans generally. The medical hazards of noise pollution, geometrically increased by compressor stations, are described by the World Health Organization as: hypertension and heart disease, hearing impairment, communication problems, sleep disturbance, cognitive deficits, behavioral and mental health issues.

PUBLIC PROCESSES:

HUMAN RIGHTS AND ENVIRONMENTAL JUSTICE ISSUES

Lack of access to public participation

The political situation at the state and local level have greatly impacted democratic processes and public hearings required for the ACP and MVP. When the MVP and ACP made public their fracked gas transmission line development plans and filed these with FERC, FERC held public information hearings in impacted counties. These are intended to inform residents of the county, and elicit public comments about concerns. Buckingham County, Virginia was the only ACP impacted county where FERC did not hold a required public information meeting -- despite being where two key, toxic

polluting infrastructure components would be constructed -- the only Virginia compressor station and the horizontal drill site under the James River.

It was not lost on the residents of Buckingham that the only “information session” held in the county was held by the ACP developer itself, not the federal agency that regulates such development who is charged with eliciting public comments by impacted persons and communities. Instead, the major stockholder in ACP LLC, Dominion Resources, held a public relations event with tables staffed by Dominion employees.

But all was not well in the MVP and ACP counties where FERC held these initial public information meetings. Pro-pipeline commenters from out of county were bused in by Dominion, given dinner, and allowed to sign up to speak earlier than the published time given to local residents. Thus, the developer packed the commenter list with sponsored outside speakers. Directly impacted residents did not have equal access to limited public comment time and many were turned away.

Dominion offered Buckingham County a “community advisory committee,” which was by their invitation, and allowed members to make comments about types of plantings to screen the compressor station and which color to paint the engine houses of the 68-acre facility. There was concern among those who attended that participation would allow Dominion to check off their box of public participation without actually allowing any actual meaningful public participation. And, so it was in the end a public relations, procedural performance without substance or actual public input. When Aaron Ruby, Dominion’s public relations representative, entered the meeting space or left during breaks, he yelled insults at the group of people who stood outside holding signs to protest against the ACP and asked for their home addresses as “proof” that they were actually impacted people. Yet, Dominion had bused outside people to so-called county public information hearings.

When during the FERC DEIS comment period for MVP, which preceded the ACP by some months, FERC radically shifted their prior and customary format. No longer were comments made publicly, but each commenter filled out a form and was taken into a separate room where s/he was videotaped alone speaking to a FERC representative and a transcriber. Thus, FERC public hearings became public hearings no longer, but closer to individual private statements – with no opportunity to hear what others were saying. This made comments more diffuse, inaccessible to others in the ways familiar to county level administrative processes. In order to know what others had said, one had to be able to access the FERC website, had to know who commented, had to be able to open a pdf that has no description of its contents. This gravely disrupts access to information, especially for people who do not have computers and internet, as is most often the case in impoverished households, or in rural places where internet is not available.

At the MVP public comment opportunities, the FERC staff person actually interrupted commenters to argue with their points, derogate their validity, and force young people, couples, the elderly to comment alone, without an accompanying adult or companion. This hostile atmosphere generated great anxiety among MVP commenters, some who had traveled great distances to make statements and hope to gather to listen others' comments and build a sense of shared advocacy.

When FERC announced its ACP DEIS public comment meeting dates and locations, Buckingham County became again the only ACP-impacted Virginia county where FERC did not hold a local public meeting. As with all the grassroots community groups formed in response to the threats to property rights, air, water, and soil, volunteers going door to door led to greater interest in making DEIS comments. Thus, this decision was especially onerous because many of those most impacted in Buckingham (and generally, in the largely rural counties of the MVP and ACP routes) are elderly and very elderly, which made testifying in the neighboring county very difficult. However, despite this seemingly deliberate obstacle, 45 Buckingham County people made FERC DEIS comments in neighboring Prince Edward County.

Further exacerbating the barriers placed to impacted resident public participation, the ACP and MVP are changing their routes, impacting new landowners or prior landowners differently. On April 11, 2018, the ACP, landowners who had already agreed to an ACP easement, reported the following to us: "She got a call this morning from a rep for Dominion saying they had changed the route and although still on her land it would be in an area where there are a lot of small streams and wetlands. They offered to pay her more (of course). She had already made [farming] plans for the area they NOW want to cross and she is very concerned for how these waters will be impacted." The landowner might have decided differently about accepting the easement or might have made public comments to the Virginia Water Control Board. They are now without any recourse except to the Virginia Department of Environmental Quality, which has decided not to review each stream crossing.

That we are reporting on a general problem with the systemic lack of accountability, inclusion and equitable distribution of access to our governors, elected representatives, to FERC, to agencies intended to protect us, such as DEQ is illustrated below.

The *Compendium* reports include those on FERC and its unfair relationship with fracked gas industry:

"July 17, 2017 – A comprehensive investigation of the pipeline approval process by the Center for Public Integrity, *StateImpact Pennsylvania*, and National Public Radio found that the Federal Energy Regulatory Commission (FERC), which is charged with ensuring the public's interest, routinely assesses need based on company filings and functions as an agency captured by industry interests, concluding, "at every turn, the agency's process favors the pipeline companies." The result, according to this analysis of more than 500 pipeline cases, is that the financial interests of the gas industry, and

not market demand or public necessity, is driving the ongoing pipeline build-out. In some cases, utility companies have complex financial ties to the pipeline companies that service them.⁸¹⁸ Continuing this investigation, *InsideClimate News* then reviewed several large, new pipeline proposals in the Marcellus and Utica Shale regions, focusing on joint ventures and interlocking financial relationships between customers (state-regulated utilities) and suppliers (pipeline companies). Affiliate agreements that allow parent companies of utilities to seek federal certificates for interstate pipelines – which typically allow a 14 percent return on equity – contribute to the ongoing frenzy of pipeline construction even when natural gas demand is flat. Existing pipelines, the investigation noted, run at only slightly more than half capacity” (Compendium 2018, 199).

LANDOWNER AND COMMUNITY LOSSES OF RIGHTS: CURRENT ECONOMIC USES AND UNFAIR SEIZURES BY EMINENT DOMAIN

What is shocking to private landowners is to receive a letter from a pipeline company announcing that their land will be crossed by once-proposed, now approved Atlantic Coast Pipeline and Mountain Valley pipeline, regardless that this is private property. Property rights have been a core (and also contested) part of citizenship rights in the U.S. since our nation’s founding. When property owners learn for the first time that they in fact do not have complete rights to decide uses of their land, this is always a shock, and many impacted landowners are engaged in legal strategies to protect their rights in court. The example above of a new change to an easement agreement follows a pattern where the developer is allowed to make changes at any time, yet, as Irene Leech notes about her heritage farm – where ACP has decided to bisect key farm operations and refuses to negotiate with them for a path through their farm that is less economically destructive because “it is too late.”

Even if one’s property or community is not directly crossed by these pipeline routes, near proximity to a corridor of 42” pipelines brings many known hazards to water sources from routine leaks, far too often than industry reported breaks, and even explosions, and to loss of property values -- also not acknowledged by the industry. At the few -- and therefore non-industry standard, far too large -- compressor stations planned for ACP and MVP, proximal hazards include those of pipelines and, additionally, the 24/7 air emissions, routine and accidental blow-downs of pipeline contents on-site, multiple underground and above ground tanks of the gas or ammonia, and metering stations where the toxic contents become pressurized to highest allowed levels.

FERC has rubber-stamped fracked gas pipeline development in what amounts to a Fracked Gas Gold Rush by the gas industry capitalizing on misconceptions about gas as

a “clean energy bridge to renewables” within a discourse about routes to U.S. “energy independence.” For those unfortunate enough to be targeted by pipeline developers, FERC rubber-stamping involves commissioners paying no attention to impacts on current uses of their land by landowners and communities that in some cases will render their private property entirely unusable. At the place where ACP proposes to cross under the historic James River, their route bisects the parcel in half leaving no space for a dwelling on either side. Many impacted landowners are farmers, raising crops or dairy or beef cattle, goats, have orchards that will be bisected by ACP and MVP route choices. Long-standing intentional communities, privately owned tourist sites, and farming currently provide individuals and communities with sustainable, clean energy-related jobs and income. These rely on current clean air, water, and soil. Yet, neither FERC nor the state agencies where these pipelines cross ever have acknowledged the net loss of income and jobs from the ACP and MVP.

In fact, we already know that the local job claims that have been a major carrot for unions in these states to endorse the ACP and MVP have to date been completely false. For example, in Buckingham County, which has an extraction-based economy – kyanite mine, slate quarry, clear-cut timber cutting, and two prisons – the only public comments in favor of building the huge compressor station were two young men hoping to get one of the 8 promised jobs being promised by ACP at these hearings. Yet, of those 8 jobs, only one is a full-time highly skilled manager job, one shift per weekday. The rest are for jobs done by employees tasked to cover Dominion’s entire pipeline infrastructure throughout the state of Virginia.

On the morning after the night that FERC approved the start of tree felling for the ACP and MVP, over 20 pickup trucks owned by Dominion sub-contracted tree cutters and surveyors blocked a road bumper to bumper to keep people from access to their land. Every license was out-of-state, most from far western states, including Utah, Wyoming, Texas, with the closest from West Virginia. Not one local tree cutter was hired from a overall poor Virginia county replete with tree-cutters and local knowledge of trees, soil, and terrain.

Another legitimate concern of landowners and communities is loss in property value. The economic reports, such as Synapse Report or Key-Log’s reports mentioned above note losses to property value and current uses of their lands in the millions of dollars for each pipeline. We already know at the Union Hill compressor station neighborhood that the only property sold since it became publicly known that 68 acres was purchased in secrecy for this huge toxic polluting industrial facility -- was sold for a fraction of its value, and it was bought by people Freedmen ancestors built Union Hill.

The law requires that when property is taken through eminent domain the owner will be compensated for its fair market value. Yet, the companies are fighting in court any acknowledgement that their enterprise based on profiting from landowners’ private property will directly lead to economic losses of property value in perpetuity because of proximity to fracked gas infrastructure below and above ground. Thus, these

now have to be fought on a case-by-case basis by people with the economic wherewithal to hire lawyers and take the company to court.

Easements and Eminent Domain Issues

The ACP and MVP began the process of gaining voluntary easements on property along their designed routes soon after they submitted their applications for these two interstate gas pipelines to FERC in 2015. When FERC awards a certificate, it also grants the company use of the power of eminent domain. The easements a company is able to obtain prior to FERC approval of a certificate of use are the evidence it uses to prove to FERC that there is substantial public support for the project. However, when company land agents initially approached all of our landowners, they informed them that if they did not agree, the company would use eminent domain to gain access to their property - even though they did not have the authority to do so until October 13, 2017, the date FERC approved both.

Land agents of the ACP and MVP made many promises that landowners later found were not supported in writing and not legally enforceable. Legal documents were pressed on often-unsophisticated landowners who were encouraged by land agents to not work with attorneys. Land agents hounded landowners with daily calls and visits, waiting for them in their driveway when they arrived home from work on a Friday evening, insisting that immediate action was required, falsely claiming that neighbors had already signed -- even if they had not -- and denying that FERC would view signing as support for the pipelines. Many people signed easements to end the pressure and without seeking assistance from anyone, including lawyers.

Generally, the easement sought by the pipeline company awards the company permanent use of a 50-foot right of way and temporary (5 years) use of a 125-foot right of way for construction. Companies also obtained easements for existing access roads so that it can get from public roads to their pipeline -- even if not all landowners whose sole road this is had not signed.

Everything in the legal language of these easements prioritize the company's "use and enjoyment" of the property, while making restrictions on landowner uses. Landowners are solely allowed to use the land in ways that do not interfere with or endanger the company's use. No trees, buildings (including temporary ones), ponds, or other obstructions are allowed on the right-of-way. Before digging, the landowner must get the route of the pipeline marked so it can be avoided. Generally, the pipeline is placed three to four feet below the surface, deeper in land used for agriculture, under waterways and highways, etc. Pipelines are marked with hollow plastic posts. Landowners continue to pay property taxes on the land in the easement even if it now completely devalues their land and restricts key uses such as for agriculture. If the landowner doesn't cut grass, bush, in the right-of-way, the company does so about once every three years in rural areas. The company is allowed 24/7 access to the property,

with no requirement to notify the landowner of plans so there is no surprise when workers appear.

Industry representatives and officials of the government agencies responsible for pipeline safety (PHMSA), emergency responses (FEMA) created the Pipelines and Informed Planning Alliance (PIPA) to establish voluntary guidelines and avoid government regulation. No landowners were included. The report released in 2015 recommends for local zoning:

“Absent site-specific information, a standard consultation zone distance, of 660 feet on either side of the pipeline centerline, should be used for natural gas transmission pipelines, and a range from 660 to 1,000 feet should be considered for hazardous liquid pipelines” (PIPA Guidelines:59).

Essentially, this means that while pipeline companies compensate landowners with a one-time easement payment for perpetual use of 50-feet of land, landowners would be required to reserve a minimum of a 1,320 foot corridor to ensure safety. Landowners would not be compensated for loss of use of this land because the company did not “take” it; local zoning is done for safety of all and limitations placed on land are considered in the public interest and not compensated.

The situation is made even worse because Congress directed the safety agency (PHMSA) to prioritize the safety and security of highly populated areas to avoid the cost of giving the funds needed to employ more safety and compliance staff. These decisions have resulted in a series of reductions in safety protections for rural people that seems to be unending. For rural people, the lack of federal oversight and concern for their protection as a class of person adds insult to injury when these losses of rights are heritage agricultural lands where urban areas are being fed by their enterprises for generations.

Lack of Proven Public Benefit or Need for ACP and MVP: Why Eminent Domain?

Eminent domain was intended to be a rare incursion into private property rights, when there is a proven public benefit and where there is no other option. Many citizens question the need for these high-pressure 42-inch pipelines. FERC routinely accepts a company’s declaration that it has contracts for the majority of the product as justification of need for the project. It does not question the situation when the parent company claims the majority of the product with no verified and specific new or increased demand for gas. FERC’s vote to approve certificates of use for both the ACP and MVP was 2:1 for approval, with a rare dissent by Commissioner Cheryl LaFleur, on the basis of no proven need for either. Department of Energy analyses indicate that there is no need for more gas transmission lines until at least 2030, as existing infrastructure can meet these needs.

Eminent domain as a legal strategy to take private property for public use is based on a concept of public benefit. Because public utility providers operate under the state-

mandated obligation to serve all, and access to public utilities is considered a basic necessity, utility providers have gained wide powers to claim easement rights in the name of utility provision. Most significantly, the MVP owners are not a public utility provider, but a group of gas developers, and ACP LLC is a group of parent companies that have subsidiaries that are utility providers in these states. But, there is no part of either ACP or MVP's business plans to provide gas to public utility consumers from these pipelines.

Perhaps the most objectionable part of both the ACP and MVP business plans and their rural routing, is as stated in the introduction, that none of the underserved, rural, people will receive any benefit whatsoever from losing their rights to their land and their current present enjoyments and enterprises.

Thus, we have the horrible irony of Union Hill – where Dominion Power (the utility monopoly in Virginia and subsidiary of Dominion Resources) long ago decided that it is not profitable to build public utility infrastructure for rural Buckingham County, with 28.2 people per square mile. Yet, Union Hill, whose actual population is 500% higher than that, will never have access to the gas whose most toxic infrastructure would lie at its center, polluting its current “higher than normal” ambient air, water, and soil.

Among their responsibilities in the marketplace, the ACP's parent companies have the obligation to provide electricity to consumers in their states. However, the ACP itself is a limited liability company with no obligation to serve. ACP signed a memorandum with Buckingham County that would allow the county to purchase a tap on the pipeline if sufficient need materializes. However, this is not a firm promise and the county and businesses will pay the required fees to obtain access (Fjord). The only known expanded demand for gas for Dominion Energy is the new LNG export facility at Cove Point, MD, which already is served by the existing Transco transmission system. The MVP's parent companies do not have the obligation to serve consumers in West Virginia and Virginia, except for the 1% share owned by Roanoke Gas. MVP plans taps to serve local goals in Montgomery (for Roanoke Gas) and Franklin (for a new industrial park) counties.

People's Tribunal testifiers do not believe that infrastructure for gas that will not be used domestically meets the criteria for public benefit and that it is unconstitutional to invoke eminent domain for gas that will be exported. Exported gas only benefits company stockholders, an advantaged subset of the public, not the utility's customers or the public. A number of landowners are involved in a lawsuit challenging the constitutionality of the use of eminent domain for these pipelines; however, that lawsuit will not be decided quickly. Between the slowness of the court process and the fact that FERC has failed to respond to legal challenges asking for a rehearing of the decision to awards certificates of use for the ACP and MVP, remedies for lack of public participation in decisions negatively impact landowners and proximal communities.

Instead, FERC issued a tolling order for MVP, which allows pipeline companies to build the pipelines a step at a time. Landowners cannot appeal to a higher court until FERC has ruled, so FERC's actions effectively delay landowner lawsuits until after the pipelines are completed.

After the MVP and ACP certificates were issued by FERC, the companies filed with federal courts for quick access to the land along their routes for which they did not have easements. They said that unusually quick court action was required because they had to cut trees along the routes prior to March 15, 2018 deadlines that protect birds and bats, so the cases were expedited. Landowners found processes such as discovery exceptionally truncated. One after another, the courts ruled in favor of the companies, citing each other as precedent, and trees were quickly cut. In this case, FERC decided that neither ACP nor MVP could fell trees after the deadline – although they continued to cut trees from March 15 – March 28, the date FERC denied ACP's request.

Although there are no FERC rules that allow or require it and the companies to continue to file route changes with FERC, the companies now claim that they can no longer make any changes requested by landowners. For example, the Ellis family (along the ACP) has been requesting a route change within their property since 2014 -- before the ACP had even applied to FERC – to apply for a reliability corridor. ACP has this documentation as well as multiple requests at every stage of the FERC process. None of the easement offers extended to the family addressed this, their stated most important issue, and the company now says it is too late to make the change. Other families along both pipelines have also requested changes that have been ignored in the FERC process and continue to be ignored.

Landowners were further frustrated to learn that the Virginia, North Carolina and West Virginia governors inked agreements with the pipeline companies to limit company costs of mitigation for damages to the environment. In late December 2017, then Governor Terry McAuliffe secretly signed agreements with each of the pipeline companies. The funding appears to have been distributed to statewide entities, not targeted to needs within the communities where the damage will occur because they are crossed by the pipelines. North Carolina's Governor publicly signed a similar agreement with the ACP, and the use of that funding is currently being argued in the North Carolina legislature and courts.

As a result, a number of landowners along both pipelines question the legality of the use of eminent domain for these pipelines. They believe their private property rights shield them from having their property taken by a private company that totally ignores their needs and concerns, and that their plans and dreams for their property supersedes any rights of a private business. If a citizen cannot depend upon protection of property rights from encroachment from others, they reason, how can anyone justify investing in any property or business? The American Dream is founded on the ability of anyone

who works hard and follows the rules to succeed and build their dreams. If property rights do not exist, this cannot happen.

POLITICAL INFLUENCE IMPACTS ON HUMAN RIGHTS, ENVIRONMENTAL JUSTICE AND ENVIRONMENTAL PROTECTIONS

FEDERAL LEVEL

In their introduction to the 5th *Compendium* the scientists of New York Concerned Health Professionals and Physicians for Social Responsibility who compiled it outline the new political threats now imposed at the federal level to former regulations designed to limit climate change and lessen impacts of toxic pollution from fracking infrastructure (drilling, storage, and transmission).

“The many federal environmental rules rolled back in the United States in 2017 include those that govern drilling and fracking operations. A 2016 rule that would have increased the royalties that gas and oil companies must pay to drill on public lands was repealed. The Bureau of Land Management’s Waste Prevention Rule, which requires companies drilling on public and tribal lands to reduce methane leaks and cut back on flaring and venting, was suspended. In April, the EPA canceled its Oil and Gas Methane Information Collection Request (ICR), which asked operators of existing oil and gas facilities to identify and report methane leaks. In 2016, the ICR had been the agency’s first step toward regulating methane leaks from existing oil and gas sites.

Similarly, in June, the EPA delayed implementation of the Oil and Gas 111b Methane Rule, which limits methane emissions from new oil and gas drilling sites. After the D.C. Circuit Court vacated that decision, Congress defunded the rule. In October, the EPA recommended the total repeal of the Clean Power Plan, which calls for a 32 percent decrease in carbon emissions from power plants by 2030 and creates incentives for states to invest in renewable energy. In December, the U.S. Department of the Interior rescinded a 2015 rule that would have regulated fracking on public lands by requiring disclosure of chemicals in fracking fluid and tightening standards for well construction and wastewater disposal. Also in 2017, parts of the Arctic National Wildlife Refuge were opened to oil and gas drilling, and the White House revoked policies that had prevented the construction of the Dakota Access Pipeline, which now carries fracked oil from the Bakken Shale basin to an oil storage hub in Illinois. In January 2018, the U.S. Department of the Interior directed its field officers to expedite the sale of federal leases to the oil and gas industry by dismantling environmental protections for public lands. Plans for many recent federal environmental repeals are being contested in the courts” (2018, 9).

VIRGINIA STATE LEVEL: Dominion's Power's Political Reach

This set of articles and paraphrases below illustrates just how inequitable is the access to democratic process between large corporate utilities and the landowners and communities they target to give up their present pure natural resources of clean air, water, and soil, the peaceful, quiet enjoyment of their properties, their sustainable economic activities on those lands. Dominion's power is to date insurmountable in Virginia. And, the first article about a one-time payment by Dominion to then governor Terry McAuliffe unveils that rather than pay the costs to follow regulatory processes required by NEPA or the Clean Air Act, Dominion is willing to pay direct one-time payments to states to bypass these processes.

As reported by Jon Sokolow in Blue Virginia, in late December, then-outgoing Virginia Governor, Terry McAuliffe, "a longtime cheerleader for the ACP, committed the state to a [secret Memorandum of Understanding](#) with Dominion and its pipeline partners. This agreement, *apparently never before reported in Virginia*, let Dominion buy its way out of paying for damages to Virginia's forests and water quality caused by construction of, and possibly by operation of, the ACP. And McAuliffe did this before the ACP has completed key air permit and sediment and erosion control plans, much less having been built. . . .

"And because this secret agreement has now been exposed, we know exactly what Virginia's forests and water were worth to Terry McAuliffe. It turns out not much. McAuliffe sold Virginia's forests for \$38,650,000 and he sold our water for half that – \$19,200,000. That's a total of \$57,850,000.

Even worse, it appears that this is not just another raw deal for taxpayers, not just another episode of taxpayer funded corporate welfare. In fact, the agreement looks very much like a pay-to-play scheme like the one Dominion just signed with North Carolina – even the amount paid is almost exactly the same (\$57,800,000) – right before that state approved the ACP. At least one newspaper in North Carolina is describing that deal as a "pay-to-play scheme or a quid pro quo," one that environmentalists and free market advocates agree is both unethical and vulnerable to a court challenge. Even supporters of the pipeline in North Carolina admit that deal is corrupt: "[it sure looks like they're buying the permit, by paying up this slush fund.](#)"

Many grave concerns come together in this MOU. First, this one-time payment "fully satisfies any and all mitigation responsibilities related to and otherwise fully offsets the direct or indirect forest-related impacts of the Project in Virginia." It is a "full release for any damage to water quality," and in fact reflects payment for the "full extent of natural resources-related mitigation measures and investments contemplated for the Project by the Parties." However, none of these payments go directly to any entity, landowner or

person directly impacted. It is merely part of the state coffers. Nor does it specify where in its construction costs Dominion Resources will itemize these state payments. Will ratepayers also pay for these, becomes a question in Virginia, which allows these pass throughs of costs to utility consumers.

The MOU contains a caveat that reveals this payment is the tie that binds an already agreed upon outcome by discussing how “Dominion will get its money back *“in the unanticipated event that the Project fails to obtain and maintain State Approvals.”* Wording that suggests Dominion was not just capping its liability but rather trading \$58 million for a commitment from McAuliffe that the pipeline would be approved – a commitment that rejection would be, in the words of the agreement, an “unanticipated event” (<http://bluevirginia.us/2018/02/secret-sellout-or-pay-to-play-terry-mcauliffes-parting-gift-to-dominion-energy-and-the-atlantic-coast-pipeline>)

The Washington Post reported that, “after just a few weeks of consideration, Virginia state lawmakers approved a complicated measure – largely written by the utility – that will set up Dominion with a reliable stream of money for new projects for the next decade and protect it from having to reduce electric rates. ... There’s an old line in Richmond that Dominion writes everything but the law of gravity. In fact, the company was so instrumental in shaping the utility legislation that its top lobbyist, the former delegate Jack Rust, testified during a hearing alongside the patron of the bill instead of during the time set aside for supporters and opponents.

To say that Dominion is Virginia’s top corporate campaign donor understates the company’s [deep influence](#). Yes, it gave money to all the legislators who sponsored the utility legislation. It also gave money to many of the delegates and senators who voted against it. It funds charities and sponsors community events; its revolving door features not only former lawmakers but lawyers from top Richmond firms. The company isn’t so much a backroom operator as an open participant in state government.”
https://www.washingtonpost.com/local/virginia-politics/2018/02/28/14773b9e-1730-11e8-8b08-027a6ccb38eb_story.html

“Dominion Energy is already known as the largest corporate contributor in Virginia politics. But outside of the company's giving, individual executives and employees bundle donations to state lawmakers from their own pockets in an artful display of power ... Gov. Terry McAuliffe’s PAC, Common Good VA, has received \$95,000 from Dominion, and the company has contributed this year to the campaigns of the two major-party nominees to be the next governor: Democrat Ralph Northam and Republican Ed Gillespie. ... Earlier this year, 75 candidates for Virginia House of Delegates signed a pledge from a group called Activate Virginia not to take money from Dominion or Appalachian Power; 13 of these were elected. So far none of the bills they’ve advanced to control the reach of Dominion have left committee in a still Republican-dominated Virginia House of Delegates and Senate.

[\(http://www.richmond.com/news/special-report/dominion/dominion-executives-bundle-donations-to-virginia-lawmakers-campaign-accounts/\)](http://www.richmond.com/news/special-report/dominion/dominion-executives-bundle-donations-to-virginia-lawmakers-campaign-accounts/)

On November 3rd, The Roanoke Times reported that the decision to share pipeline comments with the governor's office before making them public was one outcome of an Oct. 28 meeting in Richmond that included representatives from 13 state agencies involved in the permitting process or mitigation efforts for the proposed pipelines [ACP and MVP]. The Times reported the purpose of coordinating with the Governor's office was to "ensure that state agencies will speak about the pipeline projects in the same way."

There's only two possible reasons the Governor would want state agencies to 'coordinate' their comments – one is to control those comments and the other is to vet them through his contacts with Dominion," says Joanna Salidis, President of Friends of Nelson. Many federal and state agencies have responded to Dominion's filing for permits with feedback that their application is too incomplete to process, including the Bureau of Land Management, the United States Army Corps of Engineers, and the West Virginia Department of Environmental Protection.

"This is a gag order, pure and simple," said Ernie Reed of Friends of Nelson. "Many Virginia residents and groups communicate directly with state agencies including the Department of Natural Heritage, the Department of Natural Resources, the Department of Conservation and Recreation, the Department of Game and Inland Fisheries and the Department of Environmental Quality. Our governor has a relationship with Dominion and won't speak with us. This makes clear whose interests he is serving."

[\(http://friendsofnelson.com/press-release-governor-issues-gag-order-to-state-agencies-over-natural-gas-pipeline/\)](http://friendsofnelson.com/press-release-governor-issues-gag-order-to-state-agencies-over-natural-gas-pipeline/).

Virginia's new governor, Ralph Northam, has been criticized for failing to disclose that several members of his 85-person transition advisory team have ties to Dominion - a company that has given extensively to Virginia politicians of both parties, and in which Northam owns stock. Dominion and its executives gave Northam's campaign more than \$87,000 this year, according to the nonpartisan Virginia Public Access Project [\(https://www.washingtonpost.com/local/virginia-politics/campaign-to-elect-a-pipeline-vas-most-powerful-company-runs-multi-front-fight/\)](https://www.washingtonpost.com/local/virginia-politics/campaign-to-elect-a-pipeline-vas-most-powerful-company-runs-multi-front-fight/)

A ray of hope has emerged from Gov. Northam's newly appointed governors' advisory council on environmental justice, which met recently and responded to citizen concerns about Union Hill's environmental justice issues. On April 20th, a subcommittee of that body will meet with community representatives to plan a site visit to the planned ACP Virginia compressor station neighborhood.

HUMAN RIGHTS AND CLIMATE CHANGE

Threats to the climate system

The projected additional impacts to climate change related to the ACP and MVP are located above in the Facts in Brief for each project. FERC's FEIS used ACP data estimates that the Union Hill compressor station's climate change contribution will be 293,688 metric tons per year. These estimates made by the developers themselves must be considered at the very least as low ones.

The *Compendium on Fracking* concludes that, "Natural gas is not a climate-friendly fuel. Methane, which leaks from all parts of the natural gas extraction and distribution system, is a powerful greenhouse gas that traps 86 times more heat than carbon dioxide over a 20-year time frame. According to the best available evidence, fuel-switching that replaces coal with natural gas to generate electricity offers, at best, no clear climate benefits and may well represent a step backwards. As is now documented in many studies, fugitive methane emissions from U.S. drilling and fracking operations, storage, and ancillary infrastructure are higher than previously supposed. A significant proportion of these leaks are not preventable through engineering fixes. Total methane emissions increased by more than 30 percent between 2002 and 2014. All together, these studies disprove the claim that natural gas is a transitional "bridge" fuel that can lower greenhouse gas emissions while renewable energy solutions are developed.

As both satellite and ground measurements reveal, U.S. methane emissions are responsible for 30-60 percent of the recent upsurge in global atmospheric methane concentrations. Most of this excess methane represents fugitive emissions from U.S. oil and gas operations. Many lines of evidence point to the important role of unconventional oil and gas extraction in driving greenhouse gas emissions upward. These include the atmospheric pattern of increased methane concentrations directly over intensively fracked areas of the United States; sharp upticks in global methane and co-occurring ethane levels that correspond to the advent of the U.S. fracking boom; and documentation of large pulses of methane released from storage facilities and other "super-emitting" sites" (171-172).

As noted earlier, super-emitting sites with comparable levels of air emissions that contribute to climate change are well sites and compressor stations. Because the compressor stations planned for the ACP and MVP also include underground storage facilities, with the hazards of leakage and flares also noted above, the satellite and ground measurements of fugitive emissions measured above compressor stations that cause long-term health impacts for the people living there, but also contribute to the air quality in every direction for hundreds of miles.

A new survey out from Gallup today finds Americans do not prioritize an increase in U.S. oil, gas and coal supplies. Gallup found 34 percent of Americans say the U.S. should place a higher

priority on increasing energy supplies than to protecting the environment, while 59 percent say the reverse. And by a nearly 2-to-1 margin, Americans would rather focus on conservation and development of alternative energy than on producing more traditional forms of fuel, the survey found.

Specifically, the poll found 73 percent prefer a focus on developing alternative energy sources like solar and wind power, while 21 percent favor one that targets more oil, gas and coal production. While Republicans still prefer a focus on alternative energy to traditional energy sources, the gap is 10 points: 51 percent to 41 percent. Democrats, meanwhile, favor alternative energy by 88 percent to 9 percent. The poll was conducted March 1-8 among a random sample of 1,041 adults (April 3, 2018, Read the poll details [here](#)).

Not only does the vast majority of voters in Virginia, North Carolina, and West Virginia want our nation to focus on renewable energy and not use our taxes as subsidies for fossil fuel that is accelerating climate change, but also the stockholders of these energy companies do, too. For example, Dominion Energy Inc. will issue a report by late fall 2018 on its climate risks, following pressure from major investors. The New York State Comptrollers Office, which manages that state's massive pension fund, has withdrawn its shareholder proposal for the utility to assess and disclose its long-term risks and opportunities associated with implementing the Paris Agreement on climate change. Before it agreed to issue the report, **Dominion was facing a vote on the comptroller's proposal for a second time after the measure garnered 47.8% shareholder support in 2017** (Whieldon, March 28, 2018)

In a March 23 Annual Proxy Meeting Statement, Dominion Resources said that in addition to issuing the climate risk report, it will begin participating in the CDP climate survey in 2018 and increase the scope of its sustainability and corporate responsibility disclosures. Frazier said the company also has updated its methane emissions report.

Dominion is the latest in a string of publicly traded companies to respond to pressure from investors with respect to climate issues. A number of utilities face the prospect of votes on climate disclosures in 2018 after similar proposals came within a few percentage points of garnering majority support the previous year. One of those companies, Duke Energy Corp., already issued a report finding that the company may have to stop using coal-fired generation by 2050 under an emissions-constrained future in line with the goals of the Paris climate accord.

Although Dominion may have appeased investors on climate resolutions for now, its shareholders will vote at the annual meeting May 9, 2018 on a proposal sponsored by As You Sow for the company to issue a more extensive report on how it handles and plans to curb methane emissions from its natural gas storage assets. Nearly 24% of Dominion's shareholders in 2017 backed a similar proposal by Arjuna Capital, according to Ceres.

Latest science debunks claims that fracking is clean energy in comparison to coal:

The latest edition of the *Compendium* also contains considerable weight of evidence from new studies that directly measure key factors related to climate change, with almost all conducted in 2016 and 2017. Their summary conclusion is that, “the widely touted claim that the **U.S. fracking boom has contributed to recent declines in carbon dioxide emissions in the United States has been overturned by research** showing that almost all of the reductions in CO₂ emissions between 2007 and 2009 were the result of economic recession rather than coal-to-gas fuel switching. Other lines of research show that expanded use of natural gas impedes rather than encourages investments in, and deployment of, renewable energy infrastructure. In sum, fracking, as a major driver of rising methane emissions, is incompatible with climate stability and the goal of rapid decarbonization that it requires.”

April 15, 2016 – In its 21st annual greenhouse gas inventory, which includes 2014 data, the EPA increased its leakage assessment from oil and gas operations by 34 percent. For oil production alone, the EPA more than doubled its estimates of methane emissions. Further, in an admission that the agency had been historically underestimating methane leaks, the EPA also retroactively increased estimates of past emissions from the fossil fuel sector as expressed in prior inventories. In an accompanying news release, the agency said, “Data on oil and gas show that methane emissions from the sector are higher than previously estimated. The oil and gas sector is the largest emitting-sector for methane and accounts for a third of total U.S. methane emissions.” (for the specific studies that measure the climate impacts of fracked gas drilling and infrastructure, see *Compendium*, 172 – 193).

January 29, 2016 – Working in the Marcellus Shale Basin, a Carnegie Mellon research team compared methane emissions from older conventional gas wells (those that were vertically drilled) and newer, unconventional gas wells (those that combined fracking with horizontal drilling). Measured by facility, the mean emission rate for unconventional wells was 23 times higher than that of conventional wells. This difference, in part, was attributed to the larger size of unconventional well pads, which, typically, have multiple wells per pad, more ancillary equipment, and produce more gas. When corrected for production, the conventional wells leaked more – that is to say, they lost a comparably larger fraction of methane per unit of production – likely due to “unresolved equipment maintenance issues.” All together, the authors concluded, these new emissions data show that the recently instituted Pennsylvania Department of Environmental Protection’s (PA DEP) methane emissions inventory substantially underestimates facility-level methane emissions. Five unconventional well sites included in this study leaked 10-37 times more methane than estimated in the state inventory (Ibid, 180).

Respectfully submitted,
Lakshmi Fjord

SIX HUMAN RIGHTS AND ENVIRONMENTAL JUSTICE TESTIMONY BASES AS QUESTIONS

International Human Right Law and Its Relationship to Hydraulic Fracturing

This people's tribunal seeks to collect evidence of the impact of hydraulic fracturing and its infrastructure. The following 6 thematic areas are included: the rights to health, water, food, housing/built environment, public participation & information, and social costs, including preservation of culture. Please consider these human rights in relation to environmental justice i.e. impacts on minority and low-income communities, as identified in the U.S. in the National Environmental Policy Act – NEPA.

EPA principles for environmental justice analyses

Environmental Justice Review evidence that should be included in all FERC Environmental Impact Studies - EIS:

Executive Order 12898 includes “six principles for environmental justice analyses to determine any disproportionately high and adverse human health or environmental effects to low-income, minority, and tribal populations.”

Please consider these questions in relation to hydraulic fracturing infrastructure that includes wells and drilling, compressor stations, pipelines, below ground and above ground storage, waste treatment facilities, waste water disposal, LNG terminals, etc.

Question 1: Health

Is there evidence to indicate unconventional gas infrastructure poses potential risks of adverse impacts on human physical and mental health leading to the impact on human rights to health dimension?

If any citizens consider that injury or threat of injury from exposure to contaminants resulting from fracking practices will require them to move out of the area, particularly if that would result in documentable economic loss, that would be an encroachment on this right

Question 2: Water

Is there evidence that indicates that the activities of unconventional oil and gas have impacted:

- environment,
- ecosystems,
- hydrology
- seismology

- air
- surface water
- groundwater

leading to impacts on human rights to: a “healthy natural environment” including,

- an adequate supply of safe and potable water ... [and to:]
- increases to the population’s exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly, impacts on human health
- impacts on food production whether agricultural/economic or domestic food

Question 3:

Is there evidence of impacts on human rights from the fuels infrastructure: exploration, drilling, fracking, extraction and delivery processes as well as of the infrastructure needed for transport, storage and export of product and waste (e.g., pipelines, compressor stations, storage facilities, waste treatment facilities, waste water disposal, LNG terminals, etc). This considers infrastructure effect on already-built and future infrastructure:

- Is there evidence of impacts to housing?
- Impacts to other built resources, including schools, churches, businesses etc?

Question 4:

Is there evidence of climate impacts on human rights for present and future generations caused by this industry, including government-subsidized pursuit of fossil fuels.

Question 5:

Is there evidence of impact on the human rights aspect of the lack of public participation and public information in decision making/ policy-making about unconventional oil and gas exploration, extraction, approval and operation of infrastructure?

- This concerns lack of access to public process, county or state agencies and elected office holders.
- Is there evidence of lack of access to public information? Such, rural areas where there is no cell or internet coverage?

Question 6:

Is there evidence of social costs relating to the human rights- and environmental justice-related social and cultural impacts on individuals, families and communities?

- As associated with each of the previous 5 human rights questions above?
- Additionally in the following areas:
 - ❖ Community identity in place i.e. 'cultural attachment'
 - ❖ Historic preservation of cultural resources – cemeteries, historic buildings & landscapes; heritage lands
 - ❖ Present community activities
 - ❖ Practices of religion
 - ❖ Economic uses of land
 - ❖ Rights to private property

**SUMMARY OF TESTIMONIES ON HUMAN RIGHTS
AND ENVIRONMENTAL JUSTICE
IMPACTS OF FRACKED GAS INFRASTRUCTURE IN
VIRGINIA, WEST VIRGINIA, AND NORTH CAROLINA**

Question 1: Health

Is there evidence to indicate unconventional gas infrastructure poses potential risks of adverse impacts on human physical and mental health leading to the impact on human rights to health dimension?

If any citizens consider that injury or threat of injury from exposure to contaminants resulting from fracking practices will require them to move out of the area, particularly if that would result in documentable economic loss, that would be an encroachment on this right.

Citizens are very concerned about the health impacts of the gas infrastructure. Maury Johnson, of Monroe County, WVA said:

I believe that our very health and lives are threatened by leaking methane, destroyed and polluted water resources, our diminished sense of security in our homes along the corridor, and the other environmental and public health problems brought about by these pipelines and the industrialization of what were once pristine rural areas.

Retired psychiatric nurse, Susan Hastings reported that through the over three years of this struggle, she has observed “people who have poured their resources, physical, emotional, spiritual and financial, into their home & land are now facing the likelihood of having that land taken and destroyed for corporate greed.”

Marie Gillespie, a resident of Union Hill in Buckingham, VA, provided other specific information about the ways that affected landowners and communities are reacting, saying:

Neighbors are experiencing sleepless nights, headaches, elevated blood pressure and depression. One neighbor has even been hesitant about leaving her home for a long period of time for fear that when she returned construction or destruction of her property will be taking place.

Gillespie is especially concerned about the quality of life of the significant number of residents, mostly African-American and low-income, which make up the Union Hill community, and which would be greatly compromised.

Exposure to chemicals

There is very little real identification and measurement of potentially dangerous to health materials used in fracking and released throughout the pipeline infrastructure. In fact, since the Trump Administration took over in Washington, DC, many important regulations have been delayed or removed. The American Medical Association has called for Comprehensive Health Impact Assessments on the health risks of natural gas pipelines.

Physicians for Social Responsibility recommend that until fracked natural gas is proven safe, it should not be used.

It has become even harder for citizens to get information about the chemicals used in fracking that will thus be in the gas that is transported through our communities. The industry describes them as “industry secrets” and will not even alert emergency medical practitioners to the chemicals patients they may see could be exposed. Clearly this is done in total disregard of citizens’ human right for health. Not only are citizens exposed to dangerous chemicals that they cannot avoid but if they must seek medical care as a result, their caregivers must play a guessing game to determine the source of the problem.

Barb Gottlieb, national director for environment and health for Physicians for Social Responsibility, a national organization working on threats to human health and survival, listed some of the substances that are released along with methane in natural gas: volatile organic compounds (VOC’s), radon (radioactive), and particulates that can end up in lungs and even the blood stream. Methane traps 86 times more heat in the atmosphere than does carbon dioxide for the first 20 years it is in the atmosphere. This leads to climate warming and more frequent and intense storms that result in floods, sewage contamination, and dissemination of disease carriers like mosquitoes.

The Buckingham, VA Compressor Station is of great concern. The community knows of no benefit that it will get from it, just risks and pollution. Peter Pairo noted:

Another thing that we’ve discovered in the applications that have been submitted is that there are three tanks with volatile material in them that could potentially put the whole community in danger with the very smallest explosion.

Physical health

Pramilla Malik lives with a pipeline in New York. She and her neighbors have experienced many health problems. “Since it’s become operational we’ve had frequent odor events after which children in our community experience nosebleeds, breathing problems, headaches, abdominal cramps, and rashes,” she said. Malik herself has woken in the night with breathing issues, explained when testing showed that many chemicals are released into the air by the nearby compression station in the middle of the night. One neighbor lost four large animals within a year. People cannot sell their houses so some have simply walked away from their single largest financial asset to find a healthier place to live. Others cannot afford to do this and have been forced to stay and deal with the health problems.

Heidi Berthoud said that she attributes her battle with Lyme’s Disease to the stress of fighting for clean air, water, and land. Oba, and many others who have been active fighters of the proposed pipeline infrastructure, has experienced more frequent and more severe physical health challenges over the years of this process. Almost everyone involved in the struggle against this infrastructure has encountered health problems of one form or another. Those with existing problems, especially respiratory issues, have experienced more severity and additional problems.

The companies repeatedly assure everyone that the facilities will be operated to best in class standards (Oba). However, these are not the highest standards, they allow significant exposure to pollution and the companies manipulate the rules to limit the requirements. For example, ACP is only required to meet the standards for a minor pollution source for its compressor station in Virginia since it only considers the contributions of that single location, not the emissions of the entire infrastructure system. Buckingham County, VA already has a major pollution source, Dominion's natural gas generation facilities, but the baseline ambient quality is rated as good. Officials have told worried residents that they can "afford" the additional pollution of the pipeline infrastructure, including the compressor station (Fjord; Oba). The current regulations are woefully inadequate for those near compressor stations.

This does not ensure us that the air we breath every day will be free of pollutants that cause illness, make existing conditions worse or shorten our lives. They might meet the emission standards but our air will still be saturated with dangerous chemicals with more added each and every day of our lives. (Oba)

Those living in areas where the fracking wells are located, especially those living in the immediate area of wells, are experiencing many health problems. The industry accepts escape of a significant quantity (although unmeasured) of gas as routine and harmless. However, those living in the shadow of the wells report numerous problems; problems the industry forces them, at great expense and time, to prove it caused before it will even consider doing anything about them. Many can do nothing to make their situation better.

Robert and Ann McClain of Pennsylvania are convinced that the blood cancer that killed their daughter at age 33, leaving four children ages 2-8, was caused by drinking well water contaminated by fracking. They described a black discharge from their farm animals' noses, noise that keeps them from sleeping at night, and ruined home, cars, and buildings from toxic fumes and black soot from the compressor station 1,000 feet from their property.

Donald Jones, from Giles County, VA said:

My dad, he was fighting this thing up to the point of him having a stroke. And so now it's kind of on my shoulders to continue to fight.

Health complaints are common among those affected by the proposed pipelines. Several people along both the MVP and the ACP have had heart attacks and even died. Bob Moore's daughter describes living through eminent domain when a sewer line went through their property as a "nightmare" and an "invasion." Her father had a major stroke soon after. She has no medical proof that the eminent domain caused it, but she "witnessed the daily stress and agony he went through and can only imagine how this pipeline is going to affect him."

Peter Montgomery of Montgomery County, VA described his experience when MVP took him to court to obtain access to his land. Montgomery said:

The day before the trial I was at doctor for ankle and doctor ran my blood sugar numbers. That day I was about 280 full diabetic totally from stress related trauma. The trial was in vain as the pipe doesn't even go on my land. So they won't even survey it & took me

to court for total harassment. The whole event was stressful and I think it made an impact on the fight in a positive way. But it also took a toll on my personal health. To the extent if they build it will I survive the stress? Neighbor across the street where pipeline will go; sold and moved. It's a life-threatening problem, period.

Pennsylvanian Craig Stevens told his story:

The health impacts: our own Department of Health was called by me. My water started to taste like metal in March of 2013 and about two weeks into it I got spontaneous nosebleeds. I had over eight of them over two weeks - literally blood shooting out of my face until it clotted, that took about a half an hour. That was exciting. I'm 57 years old, in great shape. I boxed and played and did martial arts. I know how to get a bloody nose from getting hit or kicked but I didn't know you get to stand at your faucet in the morning, have blood shoot out of your face like a faucet; and so when I called the Department of Health they said they were very concerned. They took my name and number and they said they'd have somebody call me back.

Weeks and eight phone calls later, Stevens realized that if a person said "fracking" or "water contamination" the complaint was not recorded, hiding hundreds of reported issues.

Mental health

Physical health isn't the only problem, mental health is affected as well. Chad Oba, a mental health provider, explained: "Stress is the body's reaction to harmful situations – whether they're real or perceived." Chemical reactions occur in the body and responses include increased heart rate, quickened breathing, tightened muscles and rising blood pressure. Symptoms range from emotional to physical to cognitive. It is important that stress is reduced and/or that people develop strong coping skills and self care routines to protect health. Oba said:

Considerable stress has been placed upon the lives of those whose lives are being threatened by their land and all future plans for it being taken, air and water being poisoned, health threatened and the ongoing stress of dealing with the sadly inadequate public regulatory process that we all have been jumping through these last three plus years.

Fjord's developed a research project that she is leading in Buckingham County, VA along the ACP in the area where the compressor station is planned. Among her findings:

Most express a persistent deep anxiety and worry, perseveration, sleeplessness, feelings of powerlessness and despair. People living closest to the proposed site receive many phone calls a day asking for Dominion's subcontractors to conduct water tests on their wells, not independent scientists. Dominion subcontractors regularly trespass on private property with no granted easements to inspect their homes and foundations. These actions are a form of slow violence perpetrated on people who have the great misfortune of living where Dominion wants to capitalize on the high rates of return FERC sets for interstate fracked gas transmission.

Those dealing with the MVP have reported similar things and as a group, have fought even harder to keep surveyors off their properties.

Susan Hastings, of Nelson County, VA said:

In comments I submitted, I asked that FERC include in its EIS a study of the impact of the chronic stress created by this proposed project on the mental health of the residents of Nelson County. As a psychiatric nurse, I shared that I have seen many of my friends and acquaintances develop symptoms of serious mental illness, including depression, anxiety disorder, insomnia, night terrors, explosive disorder, substance abuse and addiction relapse. I have watched concerns related to the pipeline proposal become obsessional with severe consequences on peoples' ability to function at home and at their work. After searching through the DEIS, I saw no evidence of addressing this aspect of the impact of the project.

How can an environmental impact statement completely ignore the psychological and emotional impacts of the human inhabitants of the affected areas?

Anita Puckett described the situation along the MVP this way:

Impacted citizens, whether landowners having the pipeline on their property or abutters and nearby residents who will be 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.

Beasley noted that those with mental health problems are often veterans, unemployed, and poor (Goins). As a result, they lack self-determination, self-esteem, and emotional/mental stability. Goins concludes:

Community, family and individual health depends on maintaining strong connections to healthful and intact ancestral lands and environment. Tribes like the Lumbee can be a leader on issues of government consultation and sustainable development, but the road will be more difficult if regulators issue permits without meaningful tribal engagement.

Natural disaster

Both the MVP and the ACP plan to build across areas of Virginia that are vulnerable to earthquakes. Giles county, through which the MVP will cross, and Buckingham County, where the ACP is planned, both have records of earthquakes ranging from over a hundred years ago to today. Although citizens have raised this concern with both groups of pipeline companies, neither they nor FERC has recognized the risk (Berthoud; Johnson).

Nelson County, VA has a history of devastating flooding. Vicki Wheaton said:

Nelson suffered extreme losses in 1969 during Hurricane Camille. 124 people died along with many domestic & wild animals, the loss of 133 bridges, 120 miles of roads, 25,000 acres of crops.

The ACP plans to site its pipeline through the land most damaged by flooding. It is seeking to change FEMA limitations on use of some flood plain land so it can build there. Citizens are concerned about the risk to which they will be exposed by this action.

Both the ACP and MVP expect to build through the West Virginia and Virginia mountains, where pipelines have not been placed in the past. They will use steep slopes and remove dirt and rocks on mountain tops to create a wide enough ridge area to insert pipes. Landowners and others are concerned about the erosion and sedimentation that will occur, especially since the best kinds of plants to prevent erosion will not be allowed on the pipeline right of way. Even normal rain storms are known to result in landslides and erosion in such terrain and pipeline builders have not convinced most that they will be able to prevent them after the pipeline is put in the land. Bill Limpert, of Bath County, VA, said of the ACP:

It would traverse slopes of 60%, and come within several hundred feet of a number of large landslides that occurred on our property, and nearby properties just two years ago. The largest of these is landslides is 500 feet long, 37 feet wide, and 7 feet deep. It carried large trees down the mountain when it slid. Another landslide completely blocked our access driveway. Landslides could explode the pipeline.

Explosions

Safety from explosions is a concern of many who testified. Nancy Maxson shared her poem titled, *Imperiled*, in which she considers what someone would take if they had to quickly evacuate their home. What items would matter? She believes we'd be sure to help each other get out safely and that the members of FERC will have the heaviest burden due to what they imposed on people with their decisions.

Georgianne Stinnett of Buckingham, VA pointed to the 2008 explosion of a 20-inch Transco pipeline in adjoining Appomattox County due to corrosion of poorly maintained pipe. The official report said:

The failure resulted in the release of an undetermined amount of gas which ignited producing a large fireball and resulting in a 37-foot wide, 15-foot deep crater and a bum zone approximately 1125 feet in diameter. Emergency responders including the Appomattox Fire Department, Virginia State Police, and Appomattox County Sheriff responded to the scene and evacuated approximately 23 families and closed nearby roads including Route 26 and Route 460. Five individuals were injured requiring hospitalization and two houses were destroyed in the fire.

Noise

Sam Johnston noted that the DEIS did not contain any information about the impact of low frequency noise (LFN). It can cause Vibroacoustic Disease (VAD). Because LFN is below the A- scale used by FERC to measure noise it is not recognized or measured. Johnston reported:

VAD in turn can lead to serious conditions from cardiovascular symptoms to decreased cognitive skills to ruptured ear drums. VAD has been described as a whole-body, systemic pathology marked by depressions, increased irritability and aggressiveness, a tendency for isolation, and decreased cognitive skills, among other symptoms.

VAD has also been associated in serious cases with rage reactions, epilepsy and suicide. Other effects of LFN include sleep deprivation, constriction of blood vessels, enlarged aorta, heart attacks, sexual dysfunction, head pain, nausea, and balance disorders ranging from dizziness to vertigo.

Johnston reported that Charles Morgan, a civil engineer and military veteran who has experienced LFN and conducted much research, told him that the LFN of the planned compressor station at Union Hill in Buckingham, VA will affect even those who live five miles away.

Ella Rose lives in the house that will be the closest to the proposed compressor station in Buckingham, VA. She is concerned that the noise will frighten away wildlife she enjoys seeing. She also worries that the noise and air pollution will harm her health, particularly as she ages, saying: "I would be forced to live with this, and there's nothing that I can do to prevent my health from deteriorating."

After touring the Leesburg Dominion compressor station, Jeeva Abbatte described the low level vibration he experienced: "It comes from the seat of your pants and when we brought it up, of course they ignored that."

Violence

Vanessa Bolin described the violence she and others experienced during her roughly six month stay in Standing Rock, North Dakota. A Native American, Bolin, was taken out of Standing Rock at gunpoint. She spoke of the violence wrought on the water protectors by the state-sponsored and private police. Among their tools were rubber bullets shot from guns, beanbags, water sprayed from water cannons in 27 degree weather, and shrapnel from concussion grenades.

She also pointed to the dangers of the "man camps with their drugs and their alcohol and their abuse." Bolin said:

Today I wear red in honor of the missing and murdered indigenous women from the Dakotas, Canada, and across the country, as there are these big influxes of man-camps coming in. Violent crime increases, sex trafficking happens, women are killed. The most marginalized, the prostitutes, the LGBT community, children, vulnerable populations of people disappear and are never found, or are found dead. You are about to face that because these man-camps are coming unless this pipeline is stopped.

Research released on March 30, 2018 documents the need for communities with man camps to be aware of the higher rates of sexually transmitted diseases in such areas. Because workers are often away from home for extended times, have money, and free time, they often seek sexual relations.

Bill Limpert spoke for many affected landowners and community members when he said:

This has been a 24/7 nightmare for Lynn and I. I have worked on stopping the pipeline each and every day, some days all day. I am waking up in the middle of the night to work on it, for over 20 months now to defend our property from this pipeline. I'm working full time again with no pay, no weekends off, no holidays, and no benefits. In fact, we have spent over \$10,000 dollars in defense of our home and property. I've never been so angry and so stressed for so long.

At the same time, I've never been so motivated to fight a great injustice, and I've never been so uplifted by others, who would not be impacted by the pipeline, but have stood up to fight shoulder to shoulder with us. We will not relent in protecting our property by any and all non-violent means, even though a great violence is being perpetrated against us."

Minority, rural and poor areas are targeted

These pipelines target rural areas, which, despite the claims made by FERC in the FEIS reports, contain chronically lower income people, pockets of minority communities, and citizens who often are less organized and more isolated. Sharon Ponton said:

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."

Research reported by Cherry Beasley (Goins) reveals that Native Americans in North Carolina have poorer physical health, poorer mental health and more disability than any racial group in the state. The leading causes of death are cancer and heart disease, which are generally of environmental origin. Another important cause of death is chronic lung disease. Stress is another issue that causes health problems. Emotional health is influenced by the connection to and commitment to the place they were born. Even those living on their ancestors' land are losing knowledge about traditional plants and farming, and are losing active relationships with the land.

Fjord's research team in the Union Hill area of Buckingham, VA documented:

For 63 households or 64% of the total, we found 158 residents. With less than two-thirds canvassed, Union Hill's population is 5.6 times higher than reported by ACP's and FERC in public filings. This visibly suburban level of habitation was masked by ACP's decision to use the census data averaged for the whole county -- or 28.2 people per square mile. Of the actual 158 residents counted, 85% identify as African American/Black or bi-racial.

Specifically, Fjord reported:

The compressor station planned for Union Hill is not industry standard, as described by FERC. "Best practices" for siting even small compressors stations 1/7th the size of the one ACP would build in Union Hill were mentioned in a study promoted by FERC in its FEIS, and conducted by the National Fuel Gas Supply Corporation. "Identified commonalities" in all seven New York State places with small compressor stations were their sites "on large land parcels and set back from the road; natural and constructed buffers were utilized; and compressor station sites were generally in rural areas removed from higher density development." None of these are true for Union Hill.

Linking the recent racially motivated killings in Charlottesville, VA with Virginia's long history of racism, Jeff Ananda Kamen noted:

While there are no Neo-Nazis parading through our streets in Charlottesville today, white supremacy is very much at work in the offices of Dominion energy and its partners whose lust for profits overwhelms morality and common decency, callously hurting black people in the name of corporate profit.

Of the majority of citizens from the mountainous areas of Virginia that both pipelines will cross, Anita Puckett, said:

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.

Puckett further recognized:

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.

Government protection

Government agencies are not protecting our health. They are more focused on helping industry thrive; many consider them all captured by industry. Heidi Berthoud summarized the problem saying:

Permits for air, water, etc. are supposed to give us the illusion that the regulatory agencies are there to protect us, but we have come to understand that regulators are captured by the industry. PHMSA was created in 2004 and is underfunded, understaffed and toothless. In 2013 the PHMSA safety chief was quoted saying that the regulatory process is “kind of dying”. There are over 2.6 million miles of pipes in the US, many miles of which have never been inspected, some pipelines over 100 years old... On pipeline standards: “This isn't like the fox guarding the hen house, it's like the fox designing the hen house,” said Carl Weimer, executive director of the Pipeline Safety Trust, a public charity that promotes fuel transportation safety.

Congress has directed PHMSA to prioritize populated areas (Berthoud; Fjord; Leech; Ponton). The only criteria for the four class system is number of dwellings. Likelihood of earthquakes, presence of karst soil, weather issues, proximity to a compressor station, proximity of homes and other structures to the pipe itself, etc. are not considered. As a result, rural areas are designated as Class 1. These areas get pipe that is only 75% as thick as populated areas; only 10% of welds are tested vs testing almost all of them; cut off valves 20 miles apart instead of 5 miles apart; security and transmission leakage surveys every 15 months instead of 4.5 months. This means that rural people get less safety than those in populated areas.

A retired 36-year oil and gas worker, Lee McCaslin, described the emphasis on safety in the extractive industry workplace and lamented that it is not emphasized for landowners and communities where the infrastructure and activities are located. Seven years ago he realized that many people in his community could no longer use their water. It was contaminated. Water buffalos had been brought in to store water. McCaslin questions why the citizens, the affected landowners, are not granted the same safety that is emphasized in the workplace.

Jeeva Abbatte reported that there are an average of 30 serious pipeline accidents and about 20 deaths each year in the United States. He showed pictures of the results of explosions of pipes no larger than 20-inches in diameter. The proposed pipelines will be 42-inches in diameter in West Virginia and Virginia and 36-inches in North Carolina. After the Durham Woods explosion, he said,

A hundred people were rendered homeless and had to run into the woods with their children with blankets around them because there was no evacuation plan. And guess what - there is no evacuation plan currently provided (by the ACP). Although such plans are required, landowners in other states that have natural gas pipelines have reported that there is no enforcement of the requirement.

Most pipeline infrastructure is remotely monitored hundreds of miles away. Initial plans for the ACP included monitoring using state-of-the-art fiber broadband. However, this was replaced with last century point-to-point microwave. In addition to not providing immediate information about escaping gas, the microwave system will only identify the 5 to 20 mile segment of infrastructure where the problem is located, not the exact location of the problem. The local presence and availability of pipeline staff to quickly get to the problem location and mechanically engage the cut off valves if something goes wrong will be varied. However, it is not unreasonable to expect that it could take hours for someone to reach a breach. Meanwhile the people, animals, and property in the immediate area will suffer.

Terrorism

Since terrorism has become so pervasive globally, it has become a safety concern for those forced to live near pipeline infrastructure (Khnoopp). However, government officials and industry representatives insist that this infrastructure will not be a magnet for terrorists. If the ACP crosses the existing Transco lines as planned in Buckingham, it will be easy to disrupt gas supply along the east coast, Buckingham residents will have an unrecognized by officials, but very real high risk of damage due to terrorism (Leech).

Ponton sums up the situation saying:

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.

Question 2: Water

Is there evidence that indicate that the activities of unconventional oil and gas have impacted:

- o environment,*
- o ecosystems,*
- o hydrology*
- o seismology*
- o air*
- o surface water*
- o groundwater*

leading to impacts on human rights to:

- a “healthy natural environment” including,*
- o an adequate supply of safe and potable water ... [and to:]*
- o increases to the population’s exposure to harmful substances such as radiation and harmful chemicals or other detrimental environmental conditions that directly or indirectly, impacts on human health*
- o impacts on food production whether agricultural/economic or domestic food*

The owners of the proposed ACP and MVP expect to build their infrastructure across the watersheds of six major rivers and will cut across, through or under over 2,600 waterbodies (and counting!) in Virginia, explained Virginia River Healer Thomas Burkett. He said:

A total of 14.4 million people live within these 6 river basins and rely on them as a primary and daily source of water...Both Dominion and EQT have a track record of spills and undermining state agencies that work to protect state water and their citizens. These actors have shown that they will exploit contracts at the cost of our water security.

David Sligh of Wild Virginia described the situation:

In cutting a swath as wide as an interstate highway across the landscape and through our precious forests and waterbodies, each pipeline would leave a trail of destruction whose true magnitude we cannot yet know.

The ACP and MVP projects would cause widespread disruption and even destruction of aquatic and terrestrial habitats, the discharge of pollution to waterbodies, the fragmentation of valuable forests, and the impairment or elimination of human uses from streams, groundwater, and our lands - whether those properties are publicly or privately owned.

The pipeline companies want to cross through thousands of streams and wetlands and to disrupt the ecological health of watersheds. Cumulative impacts will affect major river basins, including the Shenandoah and Potomac Rivers, the James River, and the Roanoke River.

Both the ACP and MVP plan to build extensively through karst soils. These soils result in caves and large underground passageways. They are not stagnant but change over time.

Most of the exact paths through the karst have never been mapped. Kimberly Dilts of Pochahantas, WV explained:

Our underground terrain is essentially limestone karst so once you get a methane leak in a pipeline and it's spitting out a little bit of methane, colorless, odorless, really difficult to detect, it's essentially just weaving through the Swiss cheese of limestone karst and it can show up anywhere. It can show up 20 miles away from where the pipeline is. I mean there's no way of knowing this labyrinth of underground limestone karst that we have. There's no way of knowing where the gas would go.

Dye tests are often used to attempt to learn more about how water moves through karst areas. Construction in such areas can result in wells going dry or water supply being ruined for human and animal consumption (Sligh). As of March 2018, neither pipeline has conducted such tests. Karst means that the private water systems miles from a disturbed area can be damaged.

Heidi Berthoud noted that the pipelines will cross the headwaters of water used in Washington, DC, Richmond, VA and "all the communities near and far from the pathway of this pipeline as it would traverse many many streams, rivers, wetlands, and karst." Her home is only 1.5 miles downstream from the proposed crossing of the James River by the ACP and she is concerned that it will interfere with boating, floating, and swimming on the river. She said: "We thrill when we occasionally encounter the bald eagles, osprey, otter, bear, bobcats, mountain lion and recently, coyote. I do this work for them, the voiceless, innocent and vulnerable."

The MVP is proposed to cross tier-three streams in Roanoke County, VA. Bottom Creek, which is part of the Nature Conservancy's Bottom Creek Gorge Preserve will be crossed. Roberta Bondurant shared that although DEQ was prepared to fine people for offenses to that stream, it is now ignoring them.

Cletus Bohon said:

The springs that feed my stream flow downhill directly into the Roanoke River 1 mile away. Not only will sediment clog my stream flowing to the river, but the clearing of trees and compaction of soil occurring during the construction of the pipeline and access roads on the surrounding mountainous terrain as the pipeline goes directly up Poor Mountain will also be flowing into the Roanoke River. This is all within a few miles of the Spring Hollow Reservoir intake, an auxiliary water supply for Roanoke, Virginia, a city of thousands.

Many affected landowners are concerned that their drinking water supplies will be damaged by the pipelines.

David Sligh stated that some of the damage to water supplies cannot be avoided if these pipelines are built. "It is our beloved home of 38 years, and professional art studio/classroom space. It has been our heaven on earth until now. We have nowhere else to go if our water or home is destroyed" said Ann and Steve Bernard of Boones Mill, VA who would be impacted by the MVP. This is the concern of many citizens along the pipeline routes.

Tess Amarusso, whose water supply in the Norfolk/ Hampton Roads/ and Tidewater area of Virginia is threatened, reported:

Dominion wants this proposed fracked gas pipeline to cross existing easements now owned by the City of Norfolk that were, of course, originally stolen from Native Americans. These easements include areas of both the Lake Prince and Western Branch reservoirs that contain drinking water pipelines. By their own admission, Norfolk's utility Department has only been able to assess the potential environmental risks to these important reservoirs using data provided directly by Dominion and problematic data provided by FERC. They simply do not have the staff and budget to do more research. As a resident of Norfolk and as a mother I am not satisfied what this means of assessment.

Also, by their own admission, the City of Norfolk and other regulators agree that boring pipelines under our priceless reservoirs cannot be assessed as completely safe, only as "low risk."

For Norfolk, it gets even worse. Amarusso said:

At this time Virginia Natural Gas is planning to bore under the Elizabeth River to put the unwanted Southside connective distribution line, which is our very own spur of the ACP, under it. How can it be safe to bore under our river in a brownfield area? How can we accept that it is "low risk" to our priceless, beautiful Elizabeth River which we as a community and region have spent decades cleaning? How can we accept the risk of drilling under a river in an area that has absorbed toxic pollution from hundreds of years of industrial use? Why are we ignoring the input of hundreds of impacted property owners again in primarily minority neighborhoods including our own Norfolk neighborhood of Berkley who do not want this pipeline and its associated risks?

Fjord's research in the Union Hill revealed:

The sole drinking water source for 100% of Union Hill households is from individual residential wells, as it is in Buckingham County generally. These wells in Union Hill are as close as 500 feet from the already existing Transco underground corridor of 4 pipelines, which passes through a large wetlands area mapped on ACP's facility documents. It is within that wetlands area that ACP plans to connect their pipelines with Transco's.

Farmer John Laury retired to his family property in Buckingham after a 35 year career in California, bringing his Southern California wife with him. He raises cattle and also has donkeys and wildlife. He is worried about the effect of the compressor station that will be half a mile away on the streams, wells, and springs on his property. He is also worried about the chemicals that will contaminate the air. His wife, Ruby, testified that she understands why John wanted to come back to Buckingham. "Buckingham is a beautiful place. One of the most quiet, no pollution, lots of clean air" said Ruby.

These things will be taken from them by the compressor station. They will receive no compensation. In local meetings, residents have been told that the air is so clean that everyone can afford the increase in air pollution. However, trees are being cut for the

compressor station and pipeline even though the state has not yet released required the air permit. Citizens cannot get an answer from state officials about the permit (Oba).

Ruby Laury also testified:

The plans to protect our water and soil from the ACP do not provide enough information for me to feel comfortable that our water will be protected. One of the things that I did find out is that the pipelines in the rural area, such as where we live, are very thin compared to the ones in the more populated areas; there's something wrong with this picture. I've seen what happened to Flint Michigan. Will we be another Flint Michigan? Are we going to be another sacrificial plan for these big companies?

The Buckingham compressor station will require destruction of one wetland and major disruption of another (Pairo). Wetlands are important pieces of the ecosystem. "This community should not be required to absorb their loss," he said.

Rural people depend upon private wells or springs and very little public water supply is available, due to economic as well as geographic challenges. People in the town of Newport, VA worry that the MVP will destroy their water supplies. When they asked what they will do for water, MVP officials indicated that it will be the peoples' problem. They'll have to find another source.

Answers such as this from the MVP and ACP, coupled with knowledge that others whose water sources have been destroyed by fracking related activities and infrastructure have not been afforded temporary or permanent replacement, makes citizens very concerned. Existing law, regulation, and custom of the natural gas industry do not guarantee replacement of destroyed water. Duane Benton, a Longwood University faculty member, called for more safeguards for water.

At every stage, landowners learn of ways their land is being destroyed and their daily lives made more difficult by a pipeline. Here is a March 27, 2018 Facebook post from a landowner along the MVP who had just seen the Virginia DEQ approved plan for MVP. "Looking at this pisses me off. Now they are filling in a corner of my pond, going through wetlands, laying timber mats all along the ONLY gravel road going in. My wife's car will drag...."

Water testing

While pipeline owners may conduct some baseline water tests, citizens have learned that to protect ourselves, we must invest in our own water tests (Berthoud). She said:

We quickly realized that we were on our own as private citizens; but also the public health departments are at the mercy of their chain of command; the Department of Environmental Quality [DEQ] is pointed to as the agency in charge.

Since frackers are allowed to hide the lists and quantities of chemicals they use, many with no safe level of exposure, no one can be confident that their water is safe. It is prohibitively expensive to get an accredited private laboratory to do the kind of testing that would be required in court after problems appear. Ray Kemble and testified about the real risk of

damage to drinking water by describing what he and his neighbors are experiencing. Along the proposed pipelines, citizens are organizing to fund and conduct necessary water testing.

Harmful substances

Since uncontrolled and unmeasured release of methane throughout pipeline infrastructure systems is normal, the people and animals who live and work nearby will be exposed to unknown chemicals and risks. Other chemicals used in fracking may also be released.

Compressor stations are particularly dangerous, spewing a wide array of pollutants, emitting noise 24/7, and night time light. The citizens in the most direct danger are those living immediately around the compressor station. Many of them are elderly and dealing with typical respiratory, circulatory, and other challenges of aging. Some are concerned that the compressor station's pollution will make it too dangerous for their young grandchildren to visit. If the parents decide that it is too risky for the children to visit, these citizens will lose important family ties and support, as well as their health.

The planned Buckingham, VA compressor station will be placed in an agricultural area. It is actually a community with more residents than is typical for land used primarily for agriculture. Many of the residents have gardens, raise cattle, dairy, and trees, but it is more like an unincorporated community than a farm. Peter Pairo said: "I have failed to find out any compressor station in this large proposed scale that is existing, and that is as close as less than 500 feet away to a residential community." The majority of these landowners will not receive any compensation since the compressor station property only abuts theirs, the infrastructure doesn't cross it.

Food production

Food is raised on many of the properties crossed by the pipeline. A number of them raise cattle and other animals, and produce. Carolyn Reilly's family raises meat and produce that they sell to people in the community. How will the methane affect the animals and produce raised on farms regularly doused with methane from compressor stations and/or leaking pipes? No one knows for sure. These huge 42- inch high pressure pipelines are relatively new. Little data exists. Comparisons that are made depend upon data on much smaller and lower pressure pipes.

The Ellis family has been especially frustrated by the lack of specific information and coordination so that their 116 year-old business can continue through the construction process. As of March 2018, they continue to ask the ACP to move the pipeline location within their property so that it will be less disruptive to the Angus cattle seed stock business (Leech). While the company continues to insist that construction will begin very soon, it has not discussed the fencing necessary to keep 400 head of cattle from the ten foot deep ditch that will bisect the land the cattle use for a mile, how the farm will get the cattle moved to the main barn for regular care during construction, or how a field that will be cut off from its cattle water supply by the pipeline will be addressed. The owners are left to wonder if they will have to sell animals and lose the bloodline they've developed over

generations because they will be unable to provide pasture and water during pipeline construction.

The Laury and Ellis families raise beef and will be very near the ACP's Virginia compressor station. What will be the impact of the noise and pollution from the compressor station, in addition to the impact of the pipeline, on their herds? As Ruby Laury said:
Without our clean water we cannot live. Our livestock and domestic animals cannot live. What about the wildlife who also depend on clean water; are they willing to sacrifice these precious animals? Our community will be negatively affected, causing health problems among young children and the elderly.

Question 3: Other built infrastructure

Is there evidence of impacts on human rights from the fuels infrastructure: exploration, drilling, fracking, extraction and delivery processes as well as of the infrastructure needed for transport, storage and export of product and waste (e.g., pipelines, compressor stations, storage facilities, waste treatment facilities, waste water disposal, LNG terminals, etc.) This considers infrastructure effect on already-built and future infrastructure:

- o Is there evidence of impacts to housing*
- o Impacts to other built resources, including schools, churches, businesses etc.*

Housing

Financial experts often note that the single largest financial asset owned by most people is property – land, buildings, homes. This is especially true in rural areas. Thus, when property is taken or endangered, rural people suffer most significant financial loss. Bob Moore's daughter said: "Their wealth is in their home and farm." Her husband built the home they now feel they must leave. They invested more in their home than it would appraise for, expecting, until the ACP came through, to live there the rest of their lives. The process used to appropriate private land for use by pipeline companies essentially transfers the wealth of the affected landowners to the pipeline company. The one-time compensation granted landowners is insignificant, especially when you consider that the infrastructure will be in place for thirty to fifty years and the landowner will continue to be responsible for paying property taxes.

Bill Limpert of Bath County, VA said of the ACP:

It would lower our property value by at least 50%, or \$300,000. No one would want to buy our property with the pipeline coming through it. We would be better off if our house burned down or was destroyed in a storm than to have the pipeline come through.

Some landowners are faced with having to live with the pipeline within feet of their home or their barn. Bob and Mary Moore, ages 85 and 91, cannot believe that it is legal to place the 42-inch high pressure ACP only 150 feet from their home since they have been told that once the pipeline is there, they will not be able to build within 600 feet of it. Their daughter said: "At their age, each year is precious. Their wealth is in their home and farm. Even if

they could afford to move, it would not be possible physically or mentally possible at their age to start over.” She worries that she and her husband, who have also lived on the property for 44 years will not be able to stay there for the rest of their lives as they planned.

One MVP landowner couple has a 1.5-acre lot with a house on it and will have the 42-inch pipeline coming through on one side of the house and an access road on the other side. The company declined to buy the entire property, but the elderly landowners will not be able to live in the house for two years.

“Having a pipeline directly under your land (beside your house) means that you are in a blast zone from which you may not escape” said Mary Ann Jacobs of North Carolina (Goins). She explained that the existing pipeline needed repairs while her elderly parents were still living there. Her father had to deal with land men and multiple work crews doing different tasks. “Trees had to be cut down, flowers and a grapevine had to be moved, pine saplings that had just been planted were dug up and could not be replaced.”

Other structures

A pipeline built in your property changes your use of your property forever. When the company returns and expands or changes the infrastructure, your life changes. You have no influence or control. You are lucky if you can be present at the right time to preserve things that matter to you, like flowers, and there may be no way to save big things like trees. Information about scheduling, etc. is often too generalized to be really useful and companies do not make it easy to be present when actions are taken. Retirees have felt confined as they have forced themselves to stay at home to watch for any surveyors, or tree cutters, or other workers since they do not have a good idea when they will come. On Bent Mountain in Roanoke County, VA neighborhood watches are still being conducted to keep any eye on the things MVP contractors do. When strangers descend on your property without real notice, it is disconcerting to landowners who feel that their property, their space, has been invaded but they are helpless to stop it.

In Giles County, VA the village of Newport faces almost sure destruction from the MVP. It is routed between houses, a historic church, the school. The historic community has done everything possible to get the pipeline rerouted so that so many historic structures and so many people are not endangered. The pipeline is planned to be placed within a few feet of one of the last remaining historic wooden covered bridges in Giles County, too. The absence of guidelines or rules to force industry to route pipelines that they avoid closeness to structures, especially in an area that is generally very rural, is keenly felt by this community and all who care about it.

Question 4: Climate impacts

Is there evidence of climate impacts on human rights for present and future generations caused by this industry, including government-subsidized pursuit of fossil fuels.

Retired from a long career with the Sierra Club, Glen Besa tackled the climate impact saying:

The FERC actually did estimate and the carbon impacts associated with these pipelines and the Mountain Valley Pipeline was about 48 million tons per year. The Atlantic Coast pipeline about 30 million tons per year. Just to put that in perspective because they found that that was insignificant.

Currently Dominion generates by their own admission 40 million tons per year and the pipeline would add 30 million tons. That's a 75% increase in their total emissions. They don't plan to decrease their emissions. Obviously that's a real serious problem when you're talking about climate change. I don't think that that would be considered insignificant, but that's what FERC did.

Besa also noted that FERC did not do an analysis on the cumulative impact of these pipelines. According to Oil Change International there are 19 projects proposed in Appalachia alone. This impact on the environment would be negative and massive. Virginia's Hampton Roads (coastal) area is at risk of sea level rise while other areas of the state experience frequent drought. Across the ocean, millions of people are trying to leave their countries, in part because of severe drought associated with climate change.

Besa concluded:

We call upon the people of the world, we call upon the United Nations, to condemn these actions of the Federal Energy Regulatory Commission and the Trump administration that will increase U.S. greenhouse gas emissions in contravention of the Paris Climate Accord and the United States' obligations under that agreement. Finally, justice cannot reach back in time to levy reparations on those of us today whose devotion to fossil fuel could consign future generations to poverty and insecurity. It is our responsibility - it is our moral obligation - to address climate change today by resisting and defeating senseless fossil fuel infrastructure projects driven only by greed and willful ignorance.

Sam Johnston noted that although natural gas is often referred to as a "bridge fuel" it is not. Methane is an aggressive greenhouse gas. Johnston is very concerned about the air quality deterioration around the compressor station, especially, caused by escaping gas.

Yogaville residents take daily action to protect the environment, limit their use of fossil fuels, and reduce greenhouse gas. They do not believe that expanding fossil fuel infrastructure will be good for the environment and are concerned that builders have found ways to segment, minimize, and inaccurately report climate impacts of this infrastructure. Yogaville was built in a remote rural area, chosen for its beauty, clean air, water and land, quiet and tranquility, and dark skies that show stars and planets at night.

The location of the pipeline and compressor station put all of this in danger. The community's school will be in the pipeline's blast zone and the entire community will be in the evacuation zone. The pipeline will cross under the James River on land owned by Yogaville community members who oppose the pipeline, the danger it will bring to the community, and damage it will cause to the climate.

In his testimony about his Native American community, Goins noted that ACP "is a 60-80 year (3 generation) commitment to continued CO2 emissions." Further, he noted that Robeson county, NC can expect that the average July temperature will be about 6 degrees higher in the 2060's than it was in the 1990's. This will place increased pressure on water resources for irrigating crops during longer drought periods.

At a time when moving to cleaner fuels is imperative, West Virginia, Virginia and North Carolina are adding additional fossil fuel infrastructure and releasing more methane. In Virginia, it the pipeline's methane releases will be enough to effectively add five new coal generation facilities. Investing in this infrastructure now means that these states will be chained to dirty fossil fuel for up to another century, dragging down our climate with it.

Question 5: Public Information/ Participation

Is there evidence of impact on the human rights aspect of the lack of public participation and public information in decision making/ policy-making about unconventional oil and gas exploration, extraction, approval and operation of infrastructure?

This concerns lack of access to public process, county or state agencies and elected office holders.

Is there evidence of lack of access to public information? Such, rural areas where there is no cell or internet coverage?

Participation issues

Landowners and community members have been extremely frustrated with the public information and participation aspects of this process. Many of the affected landowners had never before had the need to gather information to defend their property, to attend and speak at public meetings and to the media, or write submissions to the FERC record or letters to the editor. Most do not routinely turn to attorneys and many were unaware of the need for competent legal representation or felt that they could not afford it. Kimberly Dilts of Pocahontas County, WVA said: "I think the scariest part of this is that people feel like they don't have the power to fight it."

Anita Puckett said this about the MVP, but it is also true of people along the ACP:

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.”

Although he is extremely active in the non-violent battle against the MVP, Maury Johnson of Monroe County, WVA is frustrated “(T)that nothing I could do would allow me to object to the environmental destruction, including the almost certain destruction to the water resources on my property or the region in general.”

Intervenors. The process, for example, requires that interested parties sign up as interveners in the initial stages of the process. While FERC can, and in some cases has, approved late applicants, it can also deny intervenor status. Local governments or landowners that only realized late in the process that they needed to apply have been largely denied. Native Americans in North Carolina are among those denied.

Failure to consult with Native Americans. The Lumbee Native Americans of North Carolina say that the applicant has not consulted with their community as required. The applicant says that it tried to consult with them. What does tried mean? Was it a good faith effort? When did it occur?

Scheduling considerations. Meetings and hearings were not scheduled so that everyone could participate. Buckingham, VA landowners repeatedly requested a DEIS meeting in the county itself. Marie Gillispie said:

FERC’s Scoping failed to schedule meetings in Buckingham County, but the county with a large amount of pipeline is scheduled to be, as well as a proposed compressor station. It’s been a hardship for us to drive to Nelson and further. Many of the affected landowners are elderly and rarely drive at night; they are especially unlikely to drive to Farmville, where the meeting was held, at night on March 17, 2015. The initial Open House in Buckingham was held at the same time as the local historical society’s annual meeting and stew. A coincidence? Not likely. The only other meeting held in Buckingham was for the compressor station, itself. It was held on Monday, February 15, 2016. The worst snow storm of that winter came February 14-15; schools in Buckingham were closed on the 15th. Several affected parties contacted Dominion asking that the evening meeting be rescheduled. However, Dominion refused and few people were able to attend.

The most basic step that should have been taken to consider the needs of the low income, minority, and elderly landowners affected by the pipelines was to have the meeting convenient to them. Those being burdened with the compressor station, in particular, deserved this consideration. Instead, many were faced with the challenge of needing to drive an hour or more to another county to participate in the process. Many working people could not manage attendance at a public meeting that would not end until 10:00 pm with an hour of more drive home after that, and showing up for work on time the next morning. Bridget Kelley-Dearing spoke for her blue-collar working brother, Sean Kelly, who lives along the MVP saying:

I was going to present his story as an Appalachian or rural Virginian. I want people like Sean’s stories to be heard: blue-collar workers who find themselves unable to resist the

pipelines because they're working way too many hours so they can live and retire on the land they love.

Anita Puckett noted that many landowners do not have the income available to pay attorneys or even to travel distances to meetings. She also finds that work schedules and multiple jobs keep landowners from participating and the result is "(T)he landowners therefore remain unrepresented and powerless to assert the human rights."

Not representative.

Examples of the government and the industry failing to include landowners in decision-making processes are plentiful. In 2015, the Department of Transportation's Pipeline and Hazardous Materials Safety Administration, the U.S. Department of Homeland Security, and the Federal Emergency Management Administration released guidelines for mitigation of pipeline risks. They worked with a broad based group of industry representatives but failed to include affected landowners. Their recommendations to local zoning officials are designed to protect the pipelines. While most standard rights of way for pipelines are 50 feet for permanent easements and 125 feet for temporary easements during building, this Pipelines and Informed Planning Alliance recommends that no development be allowed in a zone 660 feet on either side of the 50-foot easement.

The pipelines only pay landowners temporary rent for the 125 feet, and a one-time easement payment calculated on 50 feet. However, they see no problem with asking local government to effectively take away from landowners most use of another 1,320 feet for which landowners will be paid nothing. The extent to which landowners are asked to "give for the common good" is extraordinary. Since land and buildings on it compose the largest asset of the majority of these landowners, the financial sacrifice required is unacceptable.

No contact.

Ella Rose, who lives in Buckingham, VA next to the property on which the compressor station is anticipated to be, discovered that her home will be the closest one to the compressor station. She said:

Dominion has never contacted me about this this, and it makes me wonder what kind of neighbor they really are. I value the quiet that I presently experience when my windows are open, and while sitting outdoors. I value seeing the wildlife that passes through my backyard.

Information problems

Affected landowners have example after example of things on which ACP either changed after making promises, refused to honor, failed to explain, or misled them. Landowners along the MVP have had similar experiences. One was taken to court by mistake while others who should have been there had not been served.

The process used to propose and approve this pipeline infrastructure is designed to allow the industry to provide some information and start the approval process before all information is made public. It allows the applicant to strategically withhold information, releasing it when it chooses, and not giving the public a real opportunity to respond. Inherently, this disadvantages the public. FERC works closely with the applicant while

keeping affected landowners and communities at a distance. Critical information may be filed under the privileged heading. In March 2018, the developers of both the ACP and the MVP filed route change information in this way. Landowners have no certainty about the rules of the game and FERC and the industry have the ability to ignore and manipulate landowners.

Representing the Virginia River Healers, Thomas Burkett, criticized Virginia's approval of state water permits.

These two fracked gas infrastructure projects require state water permits issued by the Virginia Department of Environmental Quality's State Water Control Board. During this process the state agency has failed to provide the public with Dominion Energy's and EQT Corp's plans on how they will construct these fracked gas pipelines without compromising the health of our waterways. Section 303(d) of the Clean Water Act, requires states to identify waters where current pollution control technologies alone cannot meet the water quality standards set for that waterbody. By failing to provide the public with needed information the agency is allowing gas industries to operate at the cost of human security. This is unacceptable because of two reasons. The first being the severity of what is at risk-our water. And the second being that both primary partners, Dominion Energy and EQT Corp, have proven to be bad actors in the past.

Dominion, in particular, spent a lot of money on a large public relations campaign. It included full-page newspaper advertisements, television advertisements, a social media effort and more. It says it gave \$2 million in grants of \$5,000 to \$10,000 to affected communities. This was not welcomed in all communities. In fact, when the community center where the Friends of Nelson regularly met in Virginia accepted a Dominion grant, the group raised and replaced that funding, not wanting their community to take the company's money. The public relations campaign was viewed by those opposed to the pipelines as sharing incomplete information and partial truths to give an inaccurate perception to those who were not knowledgeable about the projects.

Few real changes were made in FERC's Draft Environmental Impact Statement (DEIS) in response to citizen input. Errors in the DEIS were not corrected in the Final Environmental Impact Statement (FEIS). Concerns raised by citizens in written submissions and verbal presentations were not addressed in the FEIS. Scientific testimony presented on behalf of citizens concerned about the plans to scale steep mountains and traverse karst terrain was ignored or discounted.

Speaking for the Appalachian Trail, Andrew Downs listed multiple uncorrected problems that although the Appalachian Trail Conservancy accepted without complaint the ACP, it found the threat to the AT along the MVP so significant that "we must oppose this project to our greatest ability." While FERC dismissed the concerns saying that the MVP will not have visual impact on the MVP, the AT and US Forest Service found as many "as 19 prominent vistas that may be impacted."

Cletus Bohon said:

The FEIS is deficient and inadequate in that it does not mention any waterbodies on my property. My well and septic system are only 300 yards down the hill from the centerline of the pipeline, well within the 1000 foot distance recommended for sanitary surveys by the Virginia Department of Health before construction of the pipeline... Until VDEQ identifies my springs, how can there be reasonable assurance that water quality standards will be maintained for my stream?

Duane Benton was even more direct:

I have reviewed the DEIS and EIS. This final Atlantic Coast Pipeline report is a sham. It ignores the public comments of hundreds of citizens and hands over property rights to corporate interests.

The DEIS and FEIS for both pipelines used data at such a high level that they concluded that there was no disparate impact on social and environmental justice communities. Emanuel describes the real impact on the indigenous peoples in North Carolina. Nearly 30,000 Native Americans live within 1.6km of the pipeline. Although only 1.2% of North Carolina's total population, they make up 13.2% of the affected population in North Carolina.

Fjord (2016) noted that the community where the Buckingham compressor station is planned to be placed is actually 85% African American and that the immediate area is much more densely populated than the county level information used by the company to describe it reveals. Although the MVP officially plans no compressor station in Virginia, it has attempted to purchase land for one in the Lafayette, VA area, one of the less prosperous areas of Montgomery county. It clearly did not anticipate that the targeted landowner would seek legal representation because when it was informed of that fact, it withdrew.

FERC also failed to disclose the history of the impacted community. The ACP Virginia compressor station will be placed on land purchased at an extremely high price for the community from absentee descendants of the original plantation owner. However, the properties that surround it are largely owned by direct descendants of the original freed slave property owners (Ponton). They are in the greatest danger from the noise and other pollution and disruption of the compressor station. Many are elderly or very young with respiratory issues, making them vulnerable to the danger. However, these landowners do not even get an easement payment. The damage to their property values, their daily risks, and their added stress, are all ignored. As Jeff Kamen put it:

Today, half a century later, it looks to me like nothing has changed when it comes to black Americans and the way they are routinely abused by the corporate elite who routinely buy the loyalty of our lawmakers...Money rules. African-Americans suffer. It is an old story of power and heartlessness. It is plantation politics. It is rooted in white supremacy. Plain and simple. Of course, Dominion's leadership is not made up of identified Neo-Nazis. But by the way they are treating my black neighbors in Union Hill, you'd never know that.

Pastor Paul Wilson, pastor of Union Hill and Union Grove Baptist Churches in Buckingham, VA for the last 19 years, described the situation his parishioners face:

We today fail to believe big business and I could go down through the list of what big business has done in this country and their failures and their shortcomings and they really cannot be trusted. Dominion for example has a very poor record. The statistics are available - all you have to do is do a little research. You can't believe everything that they tell you. They're lying. From the courthouse to the capital house in Washington DC we've been lied to repeatedly. And so you just don't know what to believe. We've been lied to even by preachers you know and I'm a preacher but I'm glad to tell you that I'm not a liar because I speak truth and to all kinds of injustices.

Access to decision makers/ the process

Citizens have been disappointed in the level of support received from federal, state, and local politicians. Ruby Laury said: "They don't care about us." Georgianne Stinnett also raised the issue of lack of trust in the company or politicians saying: "Our former Governor and our new Governor, who could stop the pipeline under the Clean Water Act both accepted huge campaign contributions from Dominion and put the corporation's profits over our environment, safety, health and lives."

Buckingham County has presented a particularly difficult challenge to landowners seeking government support. When the pipeline was announced, a 35-year Dominion employee was chair of the board of supervisors. With his guidance, the board passed a resolution of support for the pipeline and compressor station before citizens were aware of them. When citizens asked that the resolution be retracted, the board refused (Hanuman; Leech; Oba). Thus, from the start the relationship was contentious. The Dominion employee only stopped voting on matters related to the pipeline in the last year of the approval process, and then only reluctantly. He did not view his votes as a conflict of interest. The local Commonwealth's Attorney refused to even meet with citizens about pipeline issues, a stance not taken in other counties.

Time after time citizens arrived for meetings to be kept standing outside the building where they could see staff and Dominion personnel inside together while there were locked out. Dominion's close relationship with the county was farther revealed when it was disclosed that a supervisor received a letter written by Dominion supporting the conversion of conservation easements from one property to another so the pipeline could be placed through the conserved property. He followed instructions to print it on county letterhead and give it to a Dominion employee who would hand-deliver it to the decision-making agency.

Virginia residents along both the ACP and the MVP asked FERC to conduct a comprehensive analysis of the total impacts of the two pipelines. They were denied. Kirk Bowers also noted:

We are further concerned that a concession was agreed to that FERC tasked the EIS contractor to perform Cultural Attachment studies only on lands within the US Forest boundaries. But no one lives within Forest Service boundaries.

Many people asked FERC to review the combined impact on West Virginia and Virginia of the MVP and ACP. However, it refused, insisting on viewing each in a vacuum. Unfortunately, Virginia's Department of Environmental Quality (DEQ) used the same

approach, segmenting even the impact of a single pipeline within the single state. Bridget Kelley-Dearing said this:

DEQ is not considering cumulative effects of all the pollution sources. The DEQ conducts cumulative impact analyses for all other individual reviews of regulated polluting activities. Why would they not do the same for the pipelines? It is the cumulative effects of all sources that will determine whether standards can be met and you cannot ignore other factors even if they are not explicitly covered in this review.

In federal court on February 26, ACP attorneys and staff said under oath they could not ask for an extension to cut trees beyond March 14 to protect migratory birds and bats; they had to have immediate access to all properties to meet this unchangeable deadline. They claimed insurmountable costs if they did not meet the deadline. However, after winning that court case, the company filed for an extension of the tree cutting deadline to May 15. On March 19, 2018 many became aware of this request and sought to contact FERC to ask that it deny ACP's request. A Facebook post from Virginia Pipeline Resisters says:

The fact that FERC would not take phone calls, and told those who received error messages even faxes were not allowed and that they could just mail a letter, speaks volumes to the lack of accessibility given to the public for projects that would cause public harm, and how our regulatory agencies would rather be accountable to corporations than to the people they are supposed to be protecting.

Of course, a decision will be made by FERC before mail from the US Postal Service could arrive. Sadly, FERC is charged with approving pipelines for the industry, not with protecting citizens or the environment. (FERC denied the request of the ACP on March 27, 2018).

Problems related to public meetings

Some participants felt intimidated by the environment at public meetings. Security was often excessive and oppressive. Information provided in mailings, presentations, and on the project websites has been very general and limited. Only landowners whose land will contain an easement have been contacted. Public information sessions have been avoided. Procedures at the required federal, state and local hearings were managed in ways that intimidated speakers, constrained the information the public could share, and limited the involvement of the public. Some participants felt intimidated by the environment at public meetings. Security was often excessive and oppressive.

There were numerous instances where industry convinced the on-site management that they should expect disrespectful and violent meeting participants. This set up an adversarial situation and an unproductive atmosphere before the meetings even began. Speaking time was severely limited; speakers were cut off mid-word when the buzzer sounded. Police removed speakers who attempted to finish speaking, barring them from returning to the auditorium. Testifiers were forbidden to share their testimony via poetry or song. Attempts also resulted in being removed from the auditorium and barred from return.

Throughout the process, at meetings sponsored by local government and those managed by FERC, citizens arrived early to locked doors even in cold weather. Often, ACP officials were

inside the building with government officials, sometimes with food and beverage they provided their supporters after the building opened to the public. Rural communities added rules and time limitations to citizen statements at public meetings to better control and limit the information flow. Buckingham County even instituted new security checks and only allowing citizens to bring bags smaller than a computer or briefcase into the county building for a hearing.

When landowners arrived for the Nelson County, VA Scoping Meeting, they discovered that although they had been told that no one could sign up before 6:00pm, ACP had signed up its speakers in advance. This meant that the first hour of the hearing was devoted to supporters of the project. After a break, they left without hearing the concerns of those opposed. One opposition speaker identified herself as a Dominion stockholder who had been offered help and rewards if she was willing to speak in favor of the project.

The FERC manager leading Virginia's MVP scoping meetings repeatedly yelled at the audience, threatening to close the hearing and accept no testimony if participants did not act as he wanted. He repeatedly forced those standing at the back of the auditorium to move to seats, then stopped the hearing to berate and force the next group of people who collected there to move.

At the FEIS public meetings a new process was unveiled. Instead of speaking to the audience, testifiers had to speak to a court stenographer with a FERC employee present in a private room. At the MVP meeting In Roanoke, VA a mother was not even allowed to go in with her 12-year old! This system allowed even fewer people to speak during the time allocated for hearings and kept speakers from hearing and learning from each other. When transcripts were posted, there were many errors and no way to get them fixed. While some speakers provided written text, most did not.

At the FEIS meeting, in Pittsylvania County, VA, audience members saw young people who had apparently been recruited by MVP being handed something that looked like Walmart cards as they returned from speaking at the podium. Those same young people had been holding signs in support of the pipeline prior to the meeting. Yet numerous people accused those opposing the pipeline of being paid protesters when none were.

Philip Khnopp decried the regulatory failures of the pipeline approval process and the conflicts of interest of key decision makers. He also said:

Recently (in my own experience), I attempted to attend a "Public Hearing" (at FERC Headquarters in Washington D.C. on September 20th, 2017) but before I arrived, my fellow protesters had been forcefully expelled from the hearings for having attempted to express their concerns about ACP and MVP. This really did happen to me and I ask you, do you think that these projects are being appropriately regulated for the public interest?

Virginia's Water Board Hearings in December 2017 were the most extreme. Sharon Ponton said:

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.

The response periods and the hearings were held before all of the information was available. Thomas Burket said: "By failing to provide the public with needed information the agency is allowing gas industries to operate at the cost of human security."

Armed police in riot gear, dogs, remote operations centers, and specific, closely enforced rules met citizens. The auditorium had a balcony on three sides; multiple police were stationed throughout. Speakers who arrived before daylight to get on the list of speakers early in the process saw police with dogs sweep the meeting location inside and out before allowing anyone inside. The MVP meetings were held first and the security escalated before the ACP meetings even though there had been no problems. During the ACP meetings participants were forbidden from standing against the walls, even to use an electric plug. Speakers discovered that instead of calling speakers in the order in which they arrived and signed up, as advertised, organizers alternated pro and con speakers (each had to identify their position before being allowed to sign up to speak).

In late March 2018, the Associated Press revealed that through Freedom of Information Requests it had discovered that \$50,000 of Virginia's public funding was used for the Water Board Hearings. Over \$35,000 was used to purchase equipment. Although the police presence was over-the-top, and riot equipment was seen, citizens who attended and spoke at the hearings could determine how so much money was spent for security. There was certainly no need for such a high level of security.

Unfair tactics

Exporting gas? Goins also noted that representatives of ACP developer Dominion revealed that the company is already seeking to extend the ACP into South Carolina where it seeks to purchase a bankrupt utility. This would justify the gas Dominion is reserving as the majority owner of the ACP since there are no publicly identified new uses for natural gas in Virginia. It would also provide an easy path to an anticipated LNG facility along the South Carolina coast. The company insists that the gas will be used domestically, but provides no verification of planned uses. When the pipeline is built and new uses have not materialized, the company will suddenly change course, just like it did on the Virginia tree cutting deadline.

Load serving or LLC serving

The Natural Gas Act, which governs the processes related to these pipelines has not been updated in close to a century. In that time, utilities have become more de-regulated, competitive markets have replaced only regulated monopoly service in many states. Yet, utilities prefer to have the guarantees provided to them in the Natural Gas Act as it exists. In fact, the entities building the ACP and MVP are not load serving utilities. They are limited liability companies, set up so that if they have financial or other problems, it will not affect the parent company that is the load serving entity (Khopp).

Thus, when it suits the purposes of the companies they claim their load serving status to get the authority to use eminent domain, but when it doesn't, when it would protect landowners and communities, they don't. If a horrible accident resulted in huge costs to the company, it could simply go bankrupt. The landowners would not get compensated. The parent utility would not have to pay. This imbalance results in loss of rights of the landowners and communities. Landowners do not share in the ongoing income from the infrastructure they are forced to host and could be forced to absorb all the costs of a disaster.

Some Buckingham residents believe that the special use permit issued by the Buckingham Board of Supervisors is illegal because ACP is a for-profit limited liability company, not a utility. Georgianne Stinnett complained that ACP "had the audacity to apply and the BOS had the lack of fortitude to overlook this critical detail." She also noted that "Dominion has given us no reason to believe any of their promises." As an example, she reported how Dominion told Loudoun County it would not expand a compressor station but sought a permit to do so a few months later. Lisa Lefferts, of Nelson County, VA, was among those who believe that there is an unhealthy and unfair relationship between government and the industry.

Easement issues.

Prior to obtaining the certificate of public necessity and convenience from FERC, applicants do not have the right to use the process of eminent domain. However, from the first letter received by landowners, the threat of eminent domain is used. Further, the process is set up so that FERC considers the fact that landowners willingly sign easement agreements prior to certification as a sign of landowner support for the project.

Easement offers made by both ACP and MVP are, as Anita Puckett described so clearly, reminiscent of those that cheated Appalachians of their rights for negligible payment in Coal Country historically. They protect the rights of the companies, but not those of the landowners. For example, pipeline employees have access to the property 24/7 and are not required to notify the landowner in advance of or as they access the property. Only a small portion of the landowners appeared to have consulted their own attorneys, the majority signed the standard company offered contracts (Leech). The compensation many receive for the easement is less than \$1,000, making legal assistance unaffordable for people without other resources.

Landowners have experienced challenges obtaining the necessary information to make decisions about easement offers and as Anita Puckett describes along the MVP, have often faced much pressure:

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.

On one hand, applicants say “these are voluntary, supportive agreements,” not acknowledging that land agents called landowners daily, were waiting in their driveway when they arrived home from work on a Friday afternoon, and just generally hassled them. More than one landowner along both the ACP and MVP accepted the easement to “get the land man off our back.”

Bill Limpert of Bath County, VA described their experience:

We have been harassed and suffered significant property damage from a pipeline survey crew who snuck onto our property. They took us to court in a harassment lawsuit that the judge stated was unnecessary.

After receiving the certificate, applicants are allowed to invoke eminent domain. Courts accept the standard of the applicant verifying that they attempted to get agreement, not that they negotiated in good faith. Throughout the process, the applicant withholds information and is not required to honestly attempt to work out a mutually beneficial result with landowners.

Many have noted that the pipeline companies and their agents regularly and repeatedly give landowners and communities false information. Typically verbal conversations and promises are not backed up by written documents. Farmers have been told that the pipe will be buried five feet deep in active farm land and received easement offers that specify only three to four feet. Pastor Paul Wilson, Union Grove and Union Hill Baptist Churches, which are located across a road from the compressor station, noted: “We’ve been lied to repeatedly. And so you just don’t know what to believe.”

Craig Stevens explained that when he moved to his family property in January 2010 and checked to ensure that his name was on the deed, he discovered that there was a gas lease on it. He said:

It was executed ten weeks after my father, who would never sign a gas lease, died. They signed my ninety five and a half year old grandmother to a ten year gas lease at a nursing home. That's who you're dealing with folks.

Hidden information.

The FERC directed process for approving pipelines allows applicants to submit partial sets of information to begin the process, and does not require that all information be submitted by any specific date or stage in the process. Some information required of the ACP and MP is not due for months after construction is scheduled to get underway. Clearly, there is no intention of stopping a pipeline based on information unavailable until after construction begins.

FERC's process also allows applicants to hide information from the public by labeling it "privileged." Both the ACP and MVP have used the process to hide critical information. As Fjord said:

These strategic omissions have served ACP well by providing enormous cost benefits. ACP omissions successfully foreclosed public access to information necessary to decision making by FERC commissioners, Virginia Department of Environmental Quality (VDEQ) staff, local and state elected officials, and the public.

While the pipeline companies can make changes at any time, they also have the power to decline to make changes requested by landowners. The public relations campaign that the ACP blanketed the affected states with claimed that ACP worked with landowners and made hundreds of changes at their requests. However, the Moore family in West Virginia and the Ellis family in Virginia testified that the ACP claimed it was too late to make the changes they requested, even when they would not affect any other property.

Tolling orders. After FERC awards a certificate of public necessity and convenience, landowners and others can appeal the decision within 30 days. FERC is supposed to respond within 30 days but frequently fails to do so. Instead, FERC typically releases a series of "tolling orders" that allow the applicant to take specific actions. Often, the pipeline is completed using tolling orders before FERC allows the court challenge to move forward. In short, the appeal is not heard until it is already too late to stop construction and operation of the pipeline.

Misleading/fake actions.

Sharon Ponton works with landowners who live along both the ACP and the MVP. She said:

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" tracked 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.

Fjord recounted the MOU situation, too. She noted that the deal to allow the county to purchase a tap from the pipeline if they get enough new users to create a new industrial park was made the day before the vote. No one believes it will ever materialize but the possibility of obtaining it was enough to make the Board of Supervisors approve a compressor station for which very few details were available.

Threatening actions.

Pennsylvanians who live in fracking country testified of their situations. One, Ray Kemble, shared video documentation about what has happened and the damage to water and air. He held up a bottle of discolored water and the documents that describe the contaminants in it to prove that his water has been damaged. His message was that this is the kind of problem those along the MVP and ACP can expect to encounter. His concluding statements were:

Now they're suing me for five million dollars and they want a permanent gag order to shut me up. Well you ain't gonna shut me up. I'm here to talk about it. You all need to know what's going on. These are consent orders signed between DEP and the gas company, stating they contaminated the water and the air and everything in Susquehanna County and they still are permitted to do business in our state. People, we have a problem. This industry needs to be stopped.

Two testifiers were present at Standing Rock in North Dakota. Vanessa Bolin, a Native American, was there between August and February 23 when she was taken out at gunpoint. She spoke of the violence wrought on the water protectors by the state-sponsored and private police. Among their tools were rubber bullets shot from guns, beanbags, water sprayed from water cannons in 27 degree weather, and shrapnel from concussion grenades. Russell Chisholm, a veteran, described his mission to defend the people downstream who need the water that flows through his mountain community and is threatened by the Mountain Valley Pipeline.

Access to communications infrastructure

In the mostly very rural areas through which the pipelines cross, many of the residents lack dependable and affordable basic communication. Cellular service tends to be spotty in rural areas, and even worse in mountainous areas. Many have no access to the internet, a severe impediment when so much information is shared electronically. FERC filings are made electronically. However, FERC does not have a good track record of keeping its website operational. Janet Barrow, who lives along the Sabal Trail Pipeline in Florida regularly reports that it is not working.

This statement from Phyllis Young, a member of the Standing Rock Sioux Tribe, at a September 2014 Tribal Council Meeting is an appropriate summary of the experiences of all affected by these pipelines:

We understand the forked tongue that our grandfathers told us about. We know about talking out of both sides of your mouth, smiling with one side of your face. We know all the tricks of the Wasicu world. Our young people have mastered it... I also have the collective memory of the damaged that occurred to my people. (Goins)

Neither the applicants nor government have listened to the people affected by the pipelines, but the people continue to work together, seeking to protect lives, property, and the environment. Laws need to be changed.

Question 6: Social, cultural, historical impacts

Is there evidence of social costs relating to the human rights- and environmental justice-related social and cultural impacts on individuals, families and communities?

- o As associated with each of the previous 5 human rights questions above?*
- o Additionally in the following areas:*
 - o Community identity in place i.e. 'cultural attachment'*
 - o Historic preservation of cultural resources – cemeteries, historic buildings & landscapes; heritage lands*
 - o Present community activities*
 - o Practices of religion*
 - o Economic uses of land*
 - o Rights to private property*

Social costs

Health. When people have poor health, they are not able to contribute to society or take care of themselves. Impacts of fracked gas related issues on health ultimately costs the society as a whole. This is a dollar cost as well as an opportunity cost. The society cannot grow and flourish.

Water. Water is life. Without it there is no life, human, animal, or vegetation. One of the most basic elements required, water must be cared for, kept clean, and made available if a society is to advance.

Other infrastructure. People need places to live, buildings to work in and to store things. Schools, libraries, hospitals, religious sites, places to grow food are all needed for a sustainable society. We cannot afford to allow fracked gas infrastructure to damage other critical infrastructure.

Climate change. Fracking gas, processing it, and transporting it all result in significant quantities of lost gas – and that's before it is even burned for energy. The damage that methane, especially, will cause to our environment, makes it important to stop releasing or using it.

Information/Participation. Roberta Bondurant said it well when she said: "We're citizens, we're not serfs, and unless we stand up and message that to our government and to our courts, and to require our local governments and our state governments and our federal government to serve us, and require our courts to serve justice then we're not going to get it." Processes and practices that deprive citizens of decision making for ourselves cost society. They result in less than engaged and less than productive citizens.

Cultural Attachment

As she opened the Tribunal, Lakshmi Fjord acknowledged the racial violence and environmental racism in the US and Virginia, historically, and today.

What direct relationship is there between the extremist racist violence perpetrated in the name of preserving Virginia's heritage in Civil War monuments these Confederate generals explicitly didn't want -- and the slow violence of locating the Atlantic Coast Pipeline's only enormous, highly toxic polluting Virginia compressor station in an 85% African American, historic Freedmen community of Union Hill, Buckingham, Virginia? What are the cost benefits of racism specifically and environmental injustice more broadly?

We begin and end with testimonies from Native Americans – for all lands we now cherish including those on these pipeline routes were once part of that diverse set of nations. Where their ancestors faced colonizers’ appropriations and displacements of families and communities -- the impacts of which are still felt in discriminations that include environmental racism. (Fjord, Opening Statement)

Also offered as part of the opening was Karenne Wood’s poem, *What It Is*. She describes our relationship with our land, and that we cannot forgive ourselves for losing it, even though it was taken from us. We cannot let go of the land.

Witnesses from the Native American and African American communities provided specific examples of the problems and the lack of respect for their human rights. The origins of the disrespect shown to these communities were generations before those living today but too often they persist. A descendant of the original people of this continent, Andrew Tyler is a member of the Coalition of Woodland Nations. In his testimony he noted that 500 years ago his:

Ancestors watched as the first boat people, the first undocumented aliens, the settlers, the colonist invaders, arrived on our lands...They looked upon our homes and claimed eminent domain, and they began to take and take and take. (Tyler, 2017)

Now, Tyler, told the audience

The dominant culture still looks upon our homes and claims eminent domain. Only now, they’re not only looking at native people, but non-native people as well; people with homes and farms and businesses.

Black History expert Charles White of Buckingham, VA noted that the pipeline will come through some of his neighbors’ yards, right by new homes. Some of these people moved from places like New York and California to be in the clean, quiet environment around Union Hill and Union Grove. The pipeline will take that away. They are concerned about water, land, and property values.

His neighbor Marie Gillespie said:

In addition to the concerns for our health, we’re also worried about the economic devaluation of our homes because of its proximity to the planned compressor stations and pipeline. This is a major minority community with limited resources, and with a limited voice, and a heritage that is being denied.

Pastor Paul Wilson, who serves the historic (1868-1869) African American churches was more blunt. Because the churches are across the road from the planned Buckingham Compressor Station, he describes their location as Ground Zero. He also noted:

This is social injustice, environmental injustice. There’s a financial injustice, every kind of injustice that you want to claim. We are the poster child at Union Hill and Union Grove. We’re 85 percent African American. We are all in danger and we really need to take a good look at where we’re going.

Appalachia's history is of people who have deep ties to their land but whose land has been exploited for generations by logging and the coal industry. Most of the profits have been taken away from the area and the land and the people have been left destitute. Bowers, Johnson, Puckett and Shingles were among those who lamented plans to continue the exploitation with two fracked gas pipelines. Both the ACP and the MVP claim mountainous Appalachian land, both privately and publicly owned. Forested areas that have been thus far saved as unharvested wilderness being invaded by a 125-foot corridor that will never again be forested. The paths of these pipelines can be seen for miles. Future generations will not have the opportunity to experience these areas covered in trees without breaks for miles. They will only know them as fragmented areas. West Virginian Dilts said:

If you look at a map of pipelines you will find that Appalachia is of the places that doesn't have pipelines running through and there are reasons for that. It's really difficult to build a pipeline here. You can't do it without huge environmental impacts and it's heartbreaking to see that we have fallen into a feeling that we cannot fight this because it's completely worth fighting but we definitely need help from the outside. There's just not enough of us. We don't have enough pull and we don't have enough economic pull to stand up to this Goliath which is the gas company.

Bowers defined cultural attachment as:

"The cumulative effect over time of a collection of traditions, attitudes, practices, and stories that ties a person to the land, to physical place, and to kinship patterns.

In a culturally attached area, land is not valued as a commodity or an investment. Where people are culturally attached to specific land or to a specific place, normal mitigation of the loss is not possible. Its loss cannot be mitigated through monetization, or by the receipt of comparable land.

Goins explained the cultural attachment of the Native Americans in his community in this way:

Working the land and having the land passed down within our family was extremely important to my grandfather, his sons and my siblings. How do we protect our children and our children's children so that they understand the importance of our lands to our people. We need to be planning for our future, one that will not include a pipe that may fail and/or corrode in the future.

In another example of cultural attachment, the Moore family said:

What this does to our future is not about money, but about an end to a family's dreams and plans for the future. It is unbelievable that it is legal for a corporation to override human rights for something that is not crucial and for corporate gain... I am terrified of living this close to the pipeline and cannot imagine living here anymore, so we are in the process of selling our residential rental property and making arrangements to move from here.

One of their sons has already bought other land and will build a house away from the farm instead of on it as they had already planned so he does not have to live so close to a pipeline. In the past, she turned down jobs that would have substantially increased her income because they wanted to be near family in West Virginia.

Donald Apgar, 87, a resident of Lafayette, VA who is threatened by the MVP said:

I have loved my wife and my life and worked hard to protect and treasure the opportunity that I have had to live a life always next to my river and my land. I built these cabins myself and hope that I will be able to pass on the Riches of my life to the next generation intact.

Maury Johnson of Monroe County, WVA, whose farm is also in the path of the MVP, said, "the land is as important as a family member."

Witness after witness – including Apgar, Goins, Johnson, Jones, Leech, Raines, Shingles, and Stinnett - identified their property as a third, or eighth generation legacy. The fact that the pipelines cut through such rural areas means that many people still live in the same place generation after generation and they plan for future generations to do the same. The sixth generation is growing up on Jacobs' family land.

Rural areas are increasingly being treated as dumping grounds of society and rural people are not afforded the same basic utilities, safety and protections as urban people (Leech; Shingles; Sligh). Pipeline rules are based on risk analyses that increase safety requirements in areas with large numbers of people per mile. Rural areas are granted the most delayed access to new technology, lowest safety and the least oversight. Thus, the individual risk to each rural person and property is much greater because they are rural. There is no accepted means of quantifying or monetizing that risk and the industry denies that insertion of its pipeline and other infrastructure into the land reduces the property value. Use of the 42 and 36-inch pipe and extremely high pressure is a recent enough development that there is little documentation, especially since rural lands tend to be sold with much less frequency than urban property. The industry uses data from much smaller pipelines under significantly less pressure, claiming the situations are similar. They are not.

Shingles noted that rural people are often isolated and without political support. Negative stereotypes are used to marginalize them. As a result, the larger society does not respect their cultural attachments, sense of community, or identity with the land and often categorizes them as inconsequential. Leech added that many in populated areas have lost their connections with land and rural areas. This means they neither understand nor value rural people. Shingles said: "Typically it's part of a calculated strategy to route infrastructure projects through paths of least political resistance."

Congress set the stage for rural areas to be valued less than urban areas when instead of providing the Pipeline Hazardous Materials Safety Administration with adequate funding to meet its mandates it directed the agency to prioritize populated areas. As a result, there are two levels of safety and two levels of inspection oversight for pipeline infrastructure. Rural people are disadvantaged.

There are no requirements that the applicant attempt, as much as possible, to disrupt the property as little as possible or to consider the needs of existing businesses on the property. Numerous landowners along both the ACP and the MVP complain that the

pipeline is routed through the middle of their property (Johnson; Leech; Limpert; Shingles; White).

Bill Limpert said:

It would cut through the center of our old growth forest. This forest has recently been designated a conservation area by the Virginia Department of Conservation and Recreation, with a large part of it rare, never been cut virgin forest, and one of the finest oak-hickory forests that they have ever seen in Virginia.

Historic Preservation of Cultural Assets

Charles White, noted African American historian of Buckingham County, told of the slave cemeteries with “row upon row of sunken graves only marked by a small stone.” He believes that the ACP will disturb such cemeteries in the Union Hill neighborhood, permanently erasing heritage of his ancestors that few are willing to acknowledge. Since the ACP compressor station is planned for the site of the former Variety Shade plantation house and direct descendants of original freed slave landowners now own and inhabit the lands immediately around that property, the African American community will experience yet another unfair, racist taking. Its residents will be subjected to the largest risk if the compression station explodes, unrelenting daily noise, and untold pollution of air, water, and land. Any existing history will be pushed farther under the rug.

Fjord and Justin Sarafin, representing Preservation Virginia, pointed out that FERC and ACP denied the existence of the history and cultural attachment of the 85% African American people of the Union Hill community. As a result of Fjord’s work, the Union Hill area was nominated for and received in May of 2016 the designation “Most Endangered Historic Place in Virginia” from Preservation Virginia, the oldest statewide, historic preservation organization in the U.S. (which owns Jamestown). Sarafin noted that Preservation Virginia listed the Section 106 Review Process (of the 1966 National Historic Preservation Act, as most endangered in 2017.

Fjord reported she:

“discovered that ACP purchased the 68-acre CS 2 site in secrecy from white descendants of former Variety Shade plantation owners. Nearby but not part of that purchase, is Variety Shade’s slave burial site, with more than 100 graves, and the plantation family’s existing cemetery.

Sarafin explained that the National Register of Historic Places has fewer recognized properties in predominantly African American communities like former plantations Union Hill and Variety Shade in Buckingham, VA. He noted that a landowner there said, “The majority of families’ grandparents were slaves in this area.” However, the ACP and FERC fail to even recognize the historical and cultural significance to African Americans of the area where the compressor station will be placed. Further, many of the landowners whose land is immediately adjacent to that land are direct descendants of the original freed slave landowners. They are now dealing with the anticipated imposition of a noisy, polluting, industrial site in the middle of their relatively populated community.

Witness Robie Goins described how the process has not respected ACHP Guidance for working with non-federally recognized tribes in the Section 106 Process. This is a critically important step from the perspective of the American Indians. The tribes were forced to seek intervenor status after the deadline and FERC refused to add them late.

Another American Indian, Dhyani “Blue Star” Simonini, said that for citizens, “the culture and the inheritance ranks equally if not more with the economic and the prosperity and the money grabbing in the empty hearts and the brutal fists.” She noted that the James River, recognized as a major artery for Native Americans since well before colonists arrived, is designated by the Virginia General Assembly as a cultural Treasure and is to be preserved. Six native cities, canals, and many artifacts are known to be below the James River. However, in the push to build the ACP, this is being ignored.

Even Preservation Virginia, was denied, for the first time in its history, Consulting Party status for the Section 106 review process. The Advisory Council of Historic Preservation (ACHP) rebuked FERC for this and failure to communicate adequately.

Sonja Ingram of Preservation Virginia said the Section 106 process is flawed for both the ACP and the MVP. Rural historic districts like the Newport Rural Historic District in Giles County, VA and Union Hill in Buckingham County will experience “considerable negative impacts” said Ingram. She noted that:

An in-depth review of all of the archaeological surveys completed to date in floodplains along the proposed Mountain Valley Pipeline and Atlantic Coast Pipeline’s path need to be completed to determine if further investigations are needed.

Surveys for cultural and historic artifacts were quick and perfunctory. An archeologist who once worked on such a crew ultimately quit because she was being pressured to avoid deep analysis. Requirements for respecting historic assets remain unmet along both the ACP and the MVP. The companies expect to mitigate anything they cannot ignore or deny. The pipeline companies and FERC are “sidestepping federal laws in order to push through a pipeline that has yet to be shown if it is publicly necessary” said Ingram. Instead of avoiding the historic village of Newport, VA, the MVP proposed developing a permanent billboard to preserve pictures of the village for future generations. The MVP is routed within a few feet of one of the last original covered bridges in Giles County, VA and may cut through prehistoric sites in Franklin County and other archaeological sites, especially along rivers and in flood plains.

Pipelines are planned so close to some buildings that their foundations may be damaged if rock must be broken up to clear a place to put the pipe. However, unlike coal mining areas, no funding is available to help landowners pay for inspections to document conditions of foundations and other features before construction begins. In some places, such as Newport, VA on the MVP, pipe will be laid extremely close to houses. Charles White noted that some of his African American neighbors along the ACP are facing pipe laid close to their homes and buildings. In these rural areas, the thinnest pipe is used and the cut off valves are 20 miles apart. No extra safety precautions are taken to balance the additional risk of those forced to live too close to the pipeline.

Andrew Downs, representing the Appalachian Trail, a National Treasure, noted:

The FEIS identifies numerous places where the Forest Plan must be amended if this proposed project were to be permitted. These amendments would not only be unprecedented, but would significantly erode the value of the Appalachian Trail which the public has spent millions to protect. Amending the plan in the ways proposed would negatively impact prescription areas protecting the Appalachian Trail, Wilderness, Old Growth Forest, Inventoried Roadless areas and fragile successional habitats. Further, it would require the establishment of a new 5c utility corridor directly adjacent to Federally Designated Wilderness, leading up to the AT's doorstep in a location that is currently wild and pristine. Unfortunately, the US Forest Service ultimately capitulated and made the changes necessary to site the MVP as proposed.

Present Activities

As she presented the anticipated economic losses and benefits of the pipeline to Buckingham County, VA, Kenda Hanuman listed some of the losses "as an attractive place to visit, reside, and do business." The Dominion economic study only considered potential benefits. The Key-Log Economics report included costs as well, and predicts millions of dollars of loss.

Likewise, Jeeva Abbatte, described how Yogaville was created 30 years ago as a place of peace, quiet and health. Each year, its programs draw thousands of visitors from all over the globe to learn classical yoga involving prayer and meditation. Community members are concerned that with the compressor station nearby, noise and chemical pollution will invade their property and their views will be damaged by the trail of the pipeline. Their Lotus Temple, school, and homes are within the pipeline's blast zone or evacuation zone.

This community faces the loss of income if people no longer find peace, quiet, clean air and water there, and loss of life if the pipeline explodes. The FEIS contains the inaccurate statement that Yogaville is miles from the pipeline; the excuse FERC uses to ignore the community's concerns.

The treeless pipeline route will be visible from numerous points in the Yogaville community. Compressor station noise will erase the quiet and tranquility. Its lights will challenge the stars. Swami Dayanamda summarized saying: "Our life will be changed forever and we will not be able to provide the same service as before to those who come to retreat. Our very purpose of existing is compromised."

Jeeva Abbatte noted that the Yogaville community is proud of the way that their community and the Baptists have come together to fight the pipeline. That is a good thing about this battle, "so we have friends in the Baptist community we couldn't have dreamed of. And we joined in this fight with all of you, as well."

Marie Gillespie, of Union Hill in Buckingham, VA said:

We relocated here from a metropolis 20 years ago after vacationing and visiting relatives here over the years, and we were drawn by the pristine environment, the relaxing atmosphere, clean air and the refreshing water. I have a daughter and a granddaughter who

both suffer with respiratory ailments, so it has been fortunate that they are able to come here and have some relief for a few days because of the quality of air that we presently are enjoying.

Farmers have been told that after the pipeline is in place they will not know it is there and they will be able to do almost everything that they could ever do on their land. However, the easement documents specify that the landowner's rights are subject to the rights granted to the pipeline company. The landowner cannot place permanent or temporary structures or obstructions of any kind within the Permanent Easement. No buildings, garages, sheds, pools, mobile homes, trees, poles or towers are allowed. No construction equipment or vehicles of any kind can be stored, even overnight, on the easement. Heavy machinery is not allowed on the easement. Before digging, removing earth, or filling earth on the easement, written permission of the pipeline is required. The landowner is expected to always comply with "one call" requirements before doing anything on or near that easement. If something goes wrong and the pipeline company determines that the landowner or another party caused it by negligence or willful conduct, the landowner will be held responsible.

Among those concerned about the impact of the pipelines on the Appalachian Trail, which stretches the east coast from Georgia to Maine, Maury Johnson of Monroe County, WVA said:

The MVP project is therefore committing basic human rights crime against every citizen of the world that visits or plans to visit the trail or relies on the trail for business, tourism or other human needs. It also threatens every trail across the US, if it is allowed to progress as proposed. The same is true of the two Wilderness Areas, the Peters Mountain and Brush Mountain Wilderness, to the Old Growth Forest in the JNF (Jefferson National Forest) as well as to the IRA (Inventoried Roadless Areas) within the JNF (Jefferson National Forest) that will be destroyed and/or compromised. These are just a few examples of the Crimes Against Nature that this pipeline would wreck on the citizens of the area, the US and the World.

Practice of Religion

Spiritual life is central to the lives of America Indians. Clear, unpolluted skies both day and night are especially important. Rural people often chose to live in areas where they can see the stars and night and have clear, unpolluted views during the day. The pollution – by both light and chemicals – of pipeline infrastructure, especially compressor stations, takes this from them. ACP plans compressor stations in historically and still predominantly African American Union Hill, and in predominantly American Indian Robeson County, NC, targeting and disproportionately affecting in negative ways these social justice communities.

As already explained, Yogaville is a spiritual community. Swami Priyaanda told of the beautiful LOTUS – Light Of Truth Universal Shrine – an interfaith temple offering a place of prayer and meditation for people of all faiths. On the upper level of the shrine are beautifully, hand-carved, wooden altars to each of the 10 major faiths of the world. In addition, there is an altar to lesser known – or less populated – faiths. And finally there is

even an altar for faiths yet to come. So in this shrine, whatever your religious, spiritual or philosophical beliefs, you can feel at home.

Union Hill Baptist Church dates from 1868. A later church, Union Grove Missionary Baptist was build in the early 20th century was built in Union Hill, established by Freedmen who when given the opportunity, bought land that was sometimes part of plantations on which they had been enslaved. As Pastor Paul Wilson pointed out, “this location is where the people’s roots are. The compressor station puts them in danger. This is social injustice, environmental injustice. There’s a financial injustice, every kind of injustice that you want to claim,” said Pastor Paul.

Maury Johnson, whose farm will be bisected by the MVP said spoke of the natural areas of his community as unique cultural resources that cannot be replaced. He said:

They are among the last unspoiled places to be found in our area. Many people, including myself, consider these places to be spiritual in many ways and a symbol of our heritage.

The Rev. Marion Kanour, an Episcopal priest and rector in Nelson County, VA, focused on what religion says about the obligation to be stewards of creation. She said:

My own perspective focuses on environmental justice and our obligations as stewards of the earth. This perspective isn't new to our consciousness. In fact, the Hebrew book of Genesis in its English translation proclaims humans have dominion over the earth. Not the kind of “dominion” Dominion Resources advocates. Instead, we're asked to hold a caregiver’s reverence for the creation - a reverence uncompromised by greed or profit motive... More than ever, we need leaders with courage, integrity and a moral compass to insist on safeguarding the creation and to take the long view regarding sustainability.

Economic Impacts

A sixth generation West Virginian, Justin Raines, described the situation many families have experienced.

I saw what those boom and busts meant to communities increasingly dependent on fracked oil and gas work. Every time a family would, through man-killing labor, build itself up, get a mortgage, a vehicle, a home, the bottom would drop out from under them. Bankruptcies, unemployment, and economic devastation locks the counties dependent on extraction in a never- ending cycle of poverty they just can't get ahead of.

Raines worries that the current iteration of the extractive industry “coming to grind our state and our people beneath its boot” will sell its propaganda, hiding its brutal and exploitative nature. He said:

I'm terrified that we'll buy this line, that we'll spend tens of billions of dollars building toxic infrastructure that is going to be obsolete in a few decades, and that the industry behind this will abuse us for those intervening years, then laugh when the entire thing goes belly-up as coal is now, as they trot out the door from a state that will be poorer, sicker, and deeper in debt than ever.

Likewise, Kimberly Dilts of Pocahontas County, West Virginia, described the economic impact of natural gas fracking:

We get very little tax dollars off of it. We get zero jobs. The pipeline itself will be built by contracted laborers who will come in from the outside. They're presently building man camps or clearing spaces to put up RVs so their workers can live in them. In the next town over Dominion has already rented lots of land to fill up with their end loaders and their buses to carry their workers to and from the work site and from the work site to where they're staying.

Other communities are finding similar results. Although Buckingham County, Virginia has a long history as one of the top logging counties and has many experienced loggers, they have not been hired. The license plates on trucks parked by workers are mostly from far away: Utah, Colorado, Texas, Washington. The natural gas industry has trained workers who travel from site to site. Even the agreement ACP made with Virginia unions only promised that five percent of new hires would come from the area, and there is no clarity on how they define the area. Both workers and materials are being shipped into the area. Local workers and vendors are not getting new business.

Dilts also noted that young people who grow up in these communities do not find jobs. She said:

That's why when the kids graduate from high school they move away for opportunities out in the rest of the world because there aren't that many opportunities here.

Swami Priyaananda spoke the thoughts of many when she said:

"if there was a great need, and no other means of providing power in this country, many of us would be willing to make some sacrifices. However, as others have /will soon show, these pipelines are not motivated by need, but instead by greed.

Thomas Hadwin demonstrated that there is no verified need for either the ACP or the MVP. The existing pipeline infrastructure is not fully utilized. The U. S. Department of Energy concluded that additional pipeline capacity is not needed. The needs that have been identified for Virginia and North Carolina could be met by building less than 200 miles of pipeline in North Carolina to expand existing pipelines. This would be far less expensive and intrusive than building the proposed 900 miles of new pipeline through three states.

Robie Goins, speaking for his North Carolina Native American community said:

"North Carolina doesn't need the ACP, and Robeson County doesn't need the ACP, because we have an infrastructure already there with gas."

Tess Amarusio said:

The argument that more fracked gas is needed in our region is a specious one. Most of the gas that would be produced with this pipeline will go out of state, most likely overseas. If more energy is needed here, then let Norfolk take the lead in bringing safe, clean, renewable energy to our region now such as localized solar farms.

However, the incentives for pipeline owners to build are extremely enticing and far better than those for other energy sources. There are few other ways currently to lock in 14% return for 30 or more years. FERC's guaranteed rate of return rewards stockholders and harms ratepayers and landowners. Neither the ACP nor the MVP have documented new uses for the additional pipeline capacity they want to build. It appears that while they adamantly deny it, they plan to export most of the gas.

Dominion even claims that the ACP will save money. However, its analysis fails to include the billions it will cost families and businesses to use it. Using industry data provided to state and federal regulators, Hadwin and others have calculated much higher costs if the new pipelines are used instead of existing ones. Since low-income people pay a larger portion of their income on energy, they will be disproportionately affected by the higher costs imposed by the ACP. Those low-income landowners whose property will be taken for use by the ACP will also suffer disproportionate loss of net worth. FERC does not look at this information. It simply accepts the company statement that it has contracts for the gas and does not care that the majority of the gas is spoken for by affiliates of the pipeline owners with no verified need.

The pipeline development system is set up so that owners only pay landowners a one-time fee for the easement. Generally, they only claim about 50 feet of land after construction, but the construction easement and work area can be the equivalent of ten interstate highway lanes. The landowner continues to pay property taxes on the land, even though its use is limited because the pipeline owner's "use and enjoyment" of the land takes precedence. It's also not safe to forget that the pipeline is in the ground. The gas it transports is colorless, tasteless, and odorless. There is no way for a person to readily tell when it is escaping or pooling. Farmers are told to not even park equipment on the right of way overnight.

Landowners have better options if they want to lease their land to others. Solar developers offer over \$1,000 per acre per year and don't require landowners to live with daily risk of explosion (Goins). Pipeline builders can extract 14% return on investment per year for up to 30 years from utility rate payers forced to pay for the infrastructure. They can also make money from selling natural gas to others. However, from the time the pipeline plans are announced, the landowner experiences nothing but loss and limitations on use of their land.

Private Property Rights

Increasingly, US landowners are concerned about the loss of property rights. Richard Averitt's testimony addressed this issue. He described how the concept of eminent domain evolved from being originally considered only for unassailable public need for the benefit of the public. Corporations have persuaded government to expand eminent domain so that now almost any use can be deemed "better" than the owner's. Today eminent domain "is essentially Robin Hood in reverse: taking from the poor to give to the wealthy, politically connected developers." These losses fall disproportionately on poor communities. Averitt closed his testimony saying:

When the laws of the land promote violence, and repression, and degradation of our rights and our land and our fellow man – in clear conflict with our constitution and the UN Declaration on Human Rights, then the laws are wrong. (Averitt)

Landowners put their land in conservation easements to protect it. However, they have found the conservation easements to be of no use because the ACP purchased other land and exchanged their land for it, moving the conservation easement. Just as locality after locality made zoning variances for the pipeline infrastructure, landowners found that there truly is no way to protect property from industrial infrastructure.

Averitt also noted that “Our economic and human freedom is founded on individual property rights; government should never be permitted to take those away.” The plans his family has for its Nelson county land are being disrupted by the taking of their land for the pipeline. Instead of building a business that would draw tourists and create local jobs, the pipeline will be placed among the family dwellings. The Moore family would agree with him, since the “invasion” of their property in West Virginia by the ACP is making them give up their home, a financial and emotional loss, to live somewhere they will feel safer.

Robie Goins described the differing ways that Native American people view the available alternatives compared with the industry. They want to preserve and restore nature; industry wants to extract and contaminate. They want local, tribal business ownership; industry wants absent national or international ownership. They want renewable energy; industry wants fossil fuels. Clearly there is a clash of goals and values.

A number of people spoke to the issue of private property rights and the expectation that landowners can make their own decisions. Khnopp questions allowing private corporations to build huge industrial infrastructure across West Virginia, Virginia and North Carolina. He asked:

Would the concept of high profit-yields for a very few corporate investors, justify such potential human tragedy, be proper motivation for allowing these projects to be built? Government must not be allowed to force the will of big business upon the people. I believe in the rights of the citizens to self-determination. This is fundamental to a government that serves the people. Stand Up and speak these things loudly.

Living in Horizons Village in Nelson County, VA, Lisa Lefferts is another who spoke for private property rights and landowner decisions. She said:

We are an eco-community with protective environmental covenants that were established to run with the land in perpetuity. The covenants state that their purpose includes, among other things, to encourage a sense of community environmental values. Dominion would violate those covenants and environmental values and shatter our identity as an eco-community. Shouldn't we have a right to be an eco-community and express and maintain our environmental values?

Philip Khnopp of Augusta County, VA said:

Government must not be allowed to force the will of big business upon the people. I believe in the rights of the citizens to self-determination. This is fundamental to a government that serves the people. Stand Up and speak these things loudly.

Likewise, Donald Jones of Giles County, VA said of the MVP:

"It's not fair that the U.S. isn't standing up and fighting for our property rights. This shouldn't be allowed to happen. You can kind of visualize the Mountain Valley Pipeline is an interstate with no exits. There's no benefit for us.

Roberta Bondurant added:

We're citizens, we're not serfs, and unless we stand up and message that to our government and to our courts, and to require our local governments and our state governments and our federal government to serve us, and require our courts to serve justice then we're not going to get it.

Jeeva Abbatte concluded his remarks saying:

We're asking for protection from these issues, for environmental justice. We're not getting it from Dominion. We're not getting it from FERC. So we're going to have to seek this ourselves.

Ruby Laury said: "In our church we have a banner that states 'stand up for what is right even if you're standing alone.'"

In conclusion, Tom Hadwin said:

It's time for us to say yes to being free from pipelines. This will avoid the environmental issues. It will avoid the injustice. It will save us billions of dollars. This is what we're here to do today, and when we do, when we're free of these new pipeline projects, we can actually design the kind of energy system, the modern energy system, that will serve this region, that will be good for both the companies and the customers.

And finally, Andrew Tyler said:

We as native people are taught to make decisions with the future generations in mind. My ancestors thought seven generations ahead, and I'm looking seven generations into the future... Long ago we tried to teach to those settlers to live in harmony with the land. They would not listen. Listen to me now! We can live without the Atlantic Coast pipeline. We can live without the Mountain Valley pipeline. We cannot live without clean water. We cannot live without clean air and clean land to grow food on. In closing, I give thanks for the honor and privilege of being able to stand before you today. I give you many blessings.

Respectfully submitted,
Irene Leech

CONCLUSIONS AND RECOMMENDATIONS FROM OUR JUDGES

Charlottesville, Virginia

October 28, 2017

WHEREAS Indigenous Peoples, People of Color, Descendants of Freedmen Communities, Appalachian Communities and Vulnerable Populations have been blatantly targeted and will most certainly be, and in some cases already are, negatively impacted by the Atlantic Coast Pipeline and Mountain Valley Pipelines, as evidenced throughout the Tribunal Testimonies; and

WHEREAS numerous and diverse examples of cultural attachment and historic preservation atrocities exist, violations of religious and cultural practices and beliefs exist and capricious use of eminent domain to deprive people of property and heritage, including such activities as destruction of historical records, and intimidation tactics; and

WHEREAS there was a consistent and pervasive lack of public participation, lack of opportunities for public input and access to information, such as the denial of access to the wireless tower planned by the pipeline, and the denial of consultancy status to Preservation Virginia, under §106 of the National Historic Preservation Act; and

WHEREAS there are numerous threats to the built environment, including places of faith, roads, highways, driveways and homes, many of which are located within the blast zone, and have existed for generations; and

WHEREAS water is put at grave risk because of the continuous criss-crossing of the proposed pipelines through rivers, streams, groundwater and wetlands, and that under current regulations, pipes in rural areas are dramatically thinner, putting our water at tremendous risk; and

WHEREAS many witnesses testified to the release of greenhouse gases from pipelines and compressor stations, adding to climate change and therefore harming the environment and adding to the burden, both locally and globally; and

WHEREAS all of these insults negatively impact the health of humans and all living things, especially the most vulnerable - women of childbearing age, pregnant women, children, the elderly and the infirm;

THIS TRIBUNAL strongly recommends that the states of West Virginia, Virginia and

North Carolina, along with all environmental agencies, should

(1) Suspend all actions,

(2) Undertake necessary, thorough investigations, such as environmental, cultural and health impacts assessments, with real voice and real vote from the community,

(3) Immediately Cease and Desist eminent domain actions.

In addition, we strongly recommend that the United Nations Human Rights Council should put the United States on trial for crimes against human rights.

Lois Marie Gibbs

Founder, Center for Health, Environment & Justice

Adrienne Hollis

Director of Federal Policy

WE ACT for Environmental Justice

James Igoe

Associate Professor, Department of Anthropology

University of Virginia

Press Release after People's Tribunal Event
November 7, 2017

Atlantic Coast and Mountain Valley Pipelines Disproportionately Target Minority and Low-Income Rural Communities, Say Tribunal Witnesses

People's Tribunal Judges Call for Immediate Suspension of Action on Pipelines

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Charlottesville, VA -- Low-income rural communities – particularly those with significant African-American, Native-American, and Appalachian populations – will bear disproportionately the environmental, health, and economic costs of the Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP), according to testimony at a People's Tribunal recently held in Charlottesville, Virginia.

People impacted by one or both of the projects, scientists, and economic experts cited specific violations of laws and policies intended to protect property rights, clean air, water and agricultural lands, indigenous and former slave heritage communities, and violations of rights to participation in decisions about proximity to environmental risks and hazards.

“We are being made the sacrifice zones for corporate profit,” said Pastor Paul Wilson, the minister of Union Hill Baptist Church built in 1868 by Freedmen on former slave plantation lands. Union Hill in Buckingham County, in central Virginia, is where ACP proposed to build its only ‘mega-compressor station’ for Virginia. The facility would be much larger than industry standard size to allow it to propel 1.5 billion cubic feet per day of volatile fracked gas hundreds of miles in each direction where the ACP would intersect with the four pipelines of the existing Transco pipeline.

At the People's Tribunal on Human Rights and Environmental Justice Impacts of Fracked Gas Infrastructure held on October 28, more than 170 participants heard testimony from 58 witnesses. The organizers convened this people's tribunal in Charlottesville because for three years, these violations by the ACP and MVP have been brought to the attention of Virginia Governor Terry McAuliffe, to federal and state elected officials, and local boards of supervisors – without adequate response or remedy.

Based on the relevance of testimony to six principal human rights signed by the U.S. in agreements to protect its people, the environmental justice experts presiding as judges over the Charlottesville tribunal “strongly recommend that the states of West Virginia, Virginia, and North Carolina and their environmental agencies 1) suspend all actions

[to proceed with the ACP and MVP pipelines]; 2) immediately cease and desist eminent domain actions; and 3) thoroughly investigate the environmental, cultural, and health impacts [of the pipelines and infrastructure] with real voice and real vote from the community.” The judges also strongly recommended that the United Nations Human Rights Council put the United States on trial for crimes against human rights – as the U.S. has recommended for other countries in violation of their agreements.

- [Final findings and recommendations of the People’s Tribunal judges.](#)
- [Vimeo clips of individual citizens giving testimony.](#)
- [YouTube clip of Lumbee Indian Tribe member from North Carolina](#)
- [Pastor Paul Wilson “ACP Hotline” video](#)

Serving as people’s tribunal judges:

- Lois Gibbs, founder of Center for Health, Environment, and Justice, Nobel Peace Prize nominee, and recipient of the Goldman Environmental Prize, ad hoc advisor to the Environmental Protection Agency on Superfund sites;
- Dr. Adrienne Hollis, environmental toxicologist and lawyer, Director of Federal Policy at WE ACT For Environmental Justice and member of the U.S. EPA’s Clean Air Act Environmental Justice Advisory Committee; and,
- Dr. James Igoe, Associate Professor of Anthropology at the University of Virginia, expert in international human rights and environmental justice participatory actions by communities facing toxic development.

On Oct. 31, Gov. McAuliffe announced the creation of Virginia’s first Advisory Council on Environmental Justice to provide advice and recommendations on ways to avoid disproportionately negative environmental impacts on “environmental justice” communities. These are exactly the kinds of communities that were represented at the tribunal. But the timing of the governor’s announcement comes *after* the Federal Energy Regulatory Commission (FERC) approved certificates for both ACP and MVP on Oct. 13, and *after* the environmental justice experts presiding as judges at the People’s Tribunal found substantive human rights abuses related to these Virginia pipeline projects. The question becomes: what does the state of Virginia plan to do to protect these now imminently endangered environmental justice communities?

Union Hill Compressor Station: Hazards to African American Freedmen community

Key testimony at the people’s tribunal focused on the location of ACP’s Virginia compressor station in Union Hill, an 85% African American community where 99 households are 500 feet to 1 mile on every side. The population is 500% higher than reported by ACP in its application. The neighborhood is predominantly elderly and very young, as young African-Americans leave for more equal opportunity work in urban centers, leaving young children with grandparents in this “beautiful place, one of

most quiet, no pollution, lots of clean air,” said resident Ruby Laury. “One-third are known descendants of Freedmen once enslaved on or near ACP’s 68-acre former plantation site,” testified Dr. Lakshmi Fjord, who [oversaw Union Hill’s household study](#) to correct ACP and FERC omissions of actual population and all historic cultural resources, including rows of hundreds of unmarked slave burials, Confederate and plantation cemeteries.

Health and safety hazards are documented among those living near compressor stations that are one-fifth the size of ACP’s for Union Hill. Highly toxic gas emissions and airborne particulate matter, especially from blow-downs without warning, cause severe respiratory, circulatory, neurological, and developmental issues most impactful to the elderly, pregnant women and young children, testified Barb Gottlieb, Director of Environment & Health for Physicians for Social Responsibility. Residents living near existing compressor stations and studies of the constant low-frequency noise and vibration find these cause cognitive deficits, depression and anxiety, reported Sam Johnston.

Commonly occurring pipeline leaks where six pipelines intersect underground in a large wetlands in Union Hill informed testimonies about human rights to their clean water. Hazards to single source drinking water from individual wells next to this site also include underground storage tanks of methane gas and ammonia. “Dominion Energy representatives gave no assurance that the pipes would not leak,” said John W. Laury, a cattle farmer and Freedmen descendant.

Prospect, North Carolina: ACP terminus poses hazards to Lumbee Indian Tribe community and North Carolina Native Americans

Robie Goins, a member of the Lumbee Indian Tribe from Robeson County, North Carolina testimony: “In Prospect, we already have the Transco Pipeline and a compressor station. We don’t need any more gas lines in Prospect or in North Carolina,” Goins said. He reports on two incidents of fires already. He states that landowners receive far higher reimbursements from solar leases of acreage every year than one-time easement payments to gas transmission lines. A disproportionate number of Native-Americans live along the proposed ACP route, Goins said. “Thirteen percent of North Carolinians living within one mile of the ACP are Native Americans. This is 25% of all Native Americans in North Carolina, where Native Americans only represent 1.2% of the total population. This is not justice for our people.”

Hazards to Appalachian people and primary US water sources

Richard Shingles, who lives in historic Newport Village in Giles County, testified at the tribunal: “With the notable exceptions of the city of Roanoke and Blacksburg, the population [along the proposed MVP route] is largely white and disproportionately poor. The counties in southwest Virginia are some of the poorest in the U.S. This fits the

image Americans have of *Appalachia*. This is part of a calculated strategy to route infrastructure projects through the path of least political resistance.” Many testifiers linked losses of human rights to cultural identity, historic resources, and cultural attachment to land where their families have resided for generations.

These private properties are being taken by eminent domain “not for the public good, nor for the public need, but for a rich and powerful private company that would profit from our loss and the losses of tens of thousands of people on and near the line,” said Bill Limpert, of Bath County, a Virginia landowner whose property, including scenic Miracle Ridge, would be bisected by the ACP. “Miracle Ridge would have to be blasted an average of 30 feet deep through bedrock, for 3,000 feet through our property, 150 feet wide,” he explained.

Donald Apgar, a farmer from Lafayette, Virginia, described the impact of the potential construction of the MVP on his land. “I live on land overlooking the Roanoke River and can see, hear, and taste it every day. I will be an unwilling witness to its destruction right in front of me as the semi-trucks, bulldozers, and blasting invade my river, my solitude, and my home.” The sedimentation from the construction “will suffocate my river; it will no longer be a living entity. [MVP] would cross under the Roanoke River 1 ½ miles from the Spring Hollow Reservoir intake for the auxiliary water supply for Roanoke City.”

Many witnesses at the tribunal amplified concerns about hazards to clean water supply that are basic human rights with evidence from specific locations. The construction of the two pipelines would impact six river basins in Virginia that comprise the majority of Virginia’s fresh water and are a primary source of water for 14.4 million people, explained Tom Burkett of Virginia River Healers. Particularly vulnerable are rural communities that rely solely on well water for drinking and farming.

No need for either ACP or MVP – yet utility ratepayers will pay for construction at their own cost

FERC Commissioner Cheryl LaFleur, in a rare dissent to the vote to certify both ACP and MVP by the two other commissioners, noted that there is no need for either pipeline. At the Charlottesville tribunal, former gas and oil utility executive, Tom Hadwin, unpacked the ACP and MVP business plan: “New pipelines are unnecessary for us to have all the energy we need. Rate-payers will pay billions of dollars more. Low-income families pay a higher proportion of their income for energy bills and will bear a greater burden from the high costs of new pipeline projects. Higher costs from new pipelines will result in fewer jobs not more.”

All testimonies and video will be sent as evidence to the Permanent People’s Tribunal on the Human Rights Impacts of Fracking; the United Nations Conventions on the

Elimination of Racism and Racial Discrimination and on the Rights of Indigenous Peoples; Special Rapporteur on Human Rights and the Environment.

Co-sponsors of the People's Tribunal

Friends of Buckingham, The Madwomen Project, ARTivism Virginia, Virginia Sierra Club, Allegheny Blue Ridge Alliance, Concern for the New Generation, Virginia Student Environmental Coalition, Appalachian Voices, Bold Alliance, Protect Our Water Heritage Rights (POWHR), Yogaville Environmental Solutions, Journey the James, Cville Rising, 350 Central Virginia, Preserve Montgomery, Preserve Franklin, Preserve Giles, Preserve Roanoke, Preserve Bent Mountain, Oil Change International, Rachel Carson Council, Virginia Organizing, Interfaith Power and Light, Cville Indivisible, Friends of Nelson