

No. 18-1224 (consolidated with Nos. 18-1280, 18-1308,  
18-1309, 18-1310, 18-1311, 18-1312, 18-1313)

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

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ATLANTIC COAST PIPELINE, LLC, *et al.*,  
*Petitioners,*

LORA BAUM, *et al.*,  
*Petitioner-Intervenors,*

v.

FEDERAL ENERGY REGULATORY  
COMMISSION,  
*Respondent,*

ATLANTIC COAST PIPELINE, LLC, *et al.*,  
*Respondent-Intervenors.*

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On Petition for Review of Orders of the Federal Energy Regulatory Commission

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**SUPPLEMENTAL BRIEF OF INTERVENORS  
LORA BAUM AND VICTOR BAUM**

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## TABLE OF CONTENTS

Table of Contents.....	i
Table of Authorities.....	ii
Glossary of terms.....	iv
Argument.....	1
I.    THERE IS NO ADMINISTRATIVE WORKAROUND OR ALTERNATIVE ROUTE THAT WOULD ALLOW ACP TO PROCEED ON THE SAME CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.....	1
II.   THIS CASE IS RIPE FOR REVIEW – AND FOR A STAY OF ACP’S CERTIFICATE – BECAUSE THERE IS NOTHING SPECULATIVE ABOUT ACP’S AUTHORITY AND INTENT TO CONTINUE WITH CONTINUE WITH MAJOR CONSTRUCTION AS SOON AS POSSIBLE. ....	3
III.  IF THE COURT FINDS THE ISSUES TO BE UNRIPE BECAUSE OF ACP’S LACK OF NECESSARY PERMITS, THE PROPER REMEDY IS TO STAY THE CERTIFICATE AND HOLD THE PETITIONS IN ABEYANCE.....	6
CONCLUSION.....	7
CERTIFICATE OF COMPLIANCE	
EXHIBITS	
CERTIFICATE OF SERVICE	

## TABLE OF AUTHORITIES

### Cases

<i>Allegheny Def. Project v. FERC</i> , 2019 U.S. App. LEXIS 23147 (D.C. Cir. 2019).....	4, 6, 7
<i>Armstrong v. Manzo</i> , 380 U.S. 545 (1965).....	2
<i>Compasture River Preservation Association v. Forest Service</i> , 911 F.3d 150 (4th Cir. 2018).....	1
<i>Defenders v. U.S. Dep’t of the Interior</i> , No. 18-2090 (4th Cir. July 26, 2019).....	1
<i>Devia v. Nuclear Regulatory Commission</i> , 492 F.3d 421 (D.C. Cir. 2007) .....	4, 5
<i>Grannis v. Ordean</i> , 234 U.S. 385, 394 (1914) .....	2
<i>Loretto v. Teleprompter Manhattan CATV Corp.</i> , 458 U.S. 419 (1982) .....	4
<i>McKesson Corp. v. Division of Alcoholic Beverages &amp; Tobacco</i> , 496 U.S. 18 (1990) .....	6
<i>Sierra Club v. U.S. Army Corps of Eng’rs</i> , No. 18-1743 (4th Cir. Jan. 25, 2019).....	1
<i>Sierra Club v. U.S. Dep’t of the Interior</i> , No. 18-2095 (4th Cir. Jan. 23, 2019).....	1
<i>Transcontinental Gas Pipe Line Co.</i> , 2017 U.S. Dist. LEXIS 134851, 2017 WL 3624250.....	7
<i>U.S. Forest Serv. v. Compasture River Pres. Ass’n</i> , No. 18-1584 (U.S. Sept. 12, 2019) .....	3

<i>United States v. James Daniel Good Real Property</i> , 510 U.S. 43 (1993) .....	4
---	---

## **Statutes**

15 U.S.C § 717r(b) .....	7
--------------------------	---

## **Regulations**

18 C.F.R. 157.6(d)(2).....	3
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## **Administrative Materials**

### Federal Energy Regulatory Commission:

Letter from Angela M. Woodard, Dominion Energy Transmission, Inc., to Kimberly D. Bose, FERC, Dkt. Nos. CP15-554-000 et al. (Nov. 21, 2018) (eLibrary No. 20181121-5094) .....	1
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Atlantic Coast Pipeline, Resource Report 10: Alternatives, at 10-62 to 10-64, FERC Dkt. CP15-554-000 (Sept. 2015).....	1, 2
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**GLOSSARY OF TERMS**

ACP	Atlantic Coast Pipeline
Certificate	Certificate of Public Convenience and Necessity
FERC	Federal Energy Regulatory Commission
FOIA	Freedom of Information Act

Pursuant to the Court's September 13, 2019 Order ("Order"), Intervenor Victor and Laura Baum submit this supplemental brief.

### Argument

#### **I. THERE IS NO ADMINISTRATIVE WORKAROUND OR ALTERNATIVE ROUTE THAT WOULD ALLOW ACP TO PROCEED ON THE SAME CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.**

In addition to the vacated Forest Service Special Use Permit at issue in *Compasture River Preservation Association v. Forest Service*, 911 F.3d 150 (4th Cir. 2018), six other required federal authorizations for ACP have been vacated or suspended, including four permits from the U.S. Corps of Engineers<sup>1</sup>; and one each from the National Park Service<sup>2</sup> and U.S. Fish and Wildlife Service<sup>3</sup>. It is highly unlikely that ACP will be able to obtain all of these required federal permits to complete construction and commence operation on its proposed route. As any alternative route will differ dramatically from the current one, ACP would need to reapply to FERC for a new Certificate of Public Convenience and Necessity. Exhibit 1, ACP's proposed

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<sup>1</sup> Letter from Angela M. Woodard, Dominion Energy Transmission, Inc., to Kimberly D. Bose, FERC, Dkt. Nos. CP15-554-000 et al. (Nov. 21, 2018) (eLibrary No. 20181121-5094) (suspension of the Nationwide Permit 12 Verification by three separate Districts: Pittsburgh, Norfolk, and Wilmington); and Nationwide Permit 12 Verification, U.S. Army Corps of Engineers' Huntington District vacated by *Sierra Club v. U.S. Army Corps of Eng'rs*, No. 18-1743 (4th Cir. Jan. 25, 2019).

<sup>2</sup> Right-of-Way and Construction Permits, National Park Service: remanded by *Sierra Club v. U.S. Dep't of the Interior*, No. 18-2095 (4th Cir. Jan. 23, 2019); Order (Dkt. 51) to be vacated by Park Service.

<sup>3</sup> Fish and Wildlife Service Biological Opinion and Incidental Take Statement, vacated by *Defenders v. U.S. Dep't of the Interior*, No. 18-2090 (4th Cir. July 26, 2019).

alternative “*Routes that Avoid Lands Administered by the U.S. Forest Service*,” (noting a minimum of 530 acres in difference in land disturbance in between current proposed route and shortest proposed alternative.)

Any application for a new Certificate triggers the same serious constitutional violations at issue in this case, since any alternative route will detrimentally affect a new group of landowners. Given FERC’s ongoing delegation of its landowner notice obligations to Certificate applicants (Intervenor Baums’ Final Brief at 2, 6, Doc. No. 1798689), FERC and ACP cannot be trusted to provide all newly affected landowners with constitutionally adequate notice of the project and of their rights. For example, neither FERC nor ACP ever sent landowner Pauline White any notice of ACP’s intention to take her land, of the FERC proceedings, or of her rights until ACP sent her an offer letter in April of 2019. *See* Exhibit 2, Declaration of Pauline White, ¶ 4. Such a failure obviously has dramatic implications for landowners on any alternative route, including the ability to participate in the administrative process and challenge FERC’s decision. As a result, FERC may fail to ensure that the newly affected landowners will have an “opportunity to be heard,” (*Grannis v. Ordean*, 234 U.S. 385, 394 (1914)), or heard “at a meaningful time and in a meaningful manner.” *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965).

There is additional proof straight from FERC that what happened to the Baums and Ms. White will continue to happen to new groups of affected landowners. Counsel for the Baums recently submitted a Freedom of Information Act (“FOIA”)

request to FERC for, *inter alia*, “any FERC policies, practices, or procedures in place to ensure that certificate applicant pipeline companies have sent notice to all affected landowners (as defined by 18 CFR 157.6(d)(2)) in a relevant FERC proceeding”; and “any follow-up policies, practices, or procedures that FERC uses when it learns that a landowner has not been sent notice.” Exhibit 3, Niskanen Center’s FOIA Request. FERC’s response was that no such safeguards exist (Exhibit 4, FERC’s Response at 2), confirming that FERC improperly delegates to pipeline companies such as ACP its Constitutional responsibility to provide adequate notice to landowners.<sup>4</sup>

**II. THIS CASE IS RIPE FOR REVIEW – AND FOR A STAY OF ACP’S CERTIFICATE – BECAUSE THERE IS NOTHING SPECULATIVE ABOUT EITHER ACP’S AUTHORITY OR INTENT TO CONTINUE WITH MAJOR CONSTRUCTION AS SOON AS POSSIBLE.**

This matter is ripe for review because landowners are now, and will continue to be, injured by ACP as it proceeds with construction. There is nothing stopping ACP from beginning additional condemnation proceedings and irreversibly destructive construction tomorrow; despite the lack of seven required federal permits, FERC has refused to issue a stop work order (or even respond to repeated requests that it do so.) If this Court does not promptly review the Certificate (and, as discussed below, stay the Certificate in the interim), landowners will be kept in the “seemingly endless

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<sup>4</sup> As noted in the Landowner and Conservation Petitioners’ supplemental brief, any administrative workaround remains purely hypothetical. ACP has submitted no proposal for agency review and the agencies themselves have expressed doubt about the legality of such a proposal. Forest Service Reply Brief at 9, n.4, *U.S. Forest Serv. v. Compasture River Pres. Ass’n*, No. 18-1584 (U.S. Sept. 12, 2019).



[judicial] limbo while [ACP] plow[s] ahead seizing land and constructing the very pipeline that the procedurally handcuffed homeowners seek to stop.” *Allegheny Def. Project v. FERC*, 2019 U.S. App. LEXIS 23147, \*13 (D.C. Cir. 2019)(Millet, J. concurring). FERC’s authorization of ACP’s “physical invasion” of landowners’ property constitutes a “government intrusion of an unusually serious character.” *Id.*, at \*28-29 (citing *Loretto v. Teleprompter Manhattan CATV Corp.*, 458 U.S. 419, 426, 433 (1982). Landowners “suffer[] a special kind of injury when a stranger directly invades and occupies the owner's property.” *Id.* at \*29 (citing *Loretto* at 436); *see also United States v. James Daniel Good Real Property*, 510 U.S. 43, 61 (1993) (An “essential principle” is that “[i]ndividual freedom finds tangible expression in property rights,” particularly where the “privacy of the home and those who take shelter within it” is at stake.).

The Order referenced *Devia v. Nuclear Regulatory Commission*, 492 F.3d 421 (D.C. Cir. 2007), on the question of ripeness. In *Devia*, a petitioner challenged the Nuclear Regulatory Commission’s (NRC) grant of a license to store spent nuclear fuel on land belonging to a Native American tribe. Even though NRC had granted the license, the Bureau of Indian Affairs (BIA) refused to approve the project’s requested land lease, and the Bureau of Land Management (BLM) denied the project’s request for a right of way to transport the spent fuel. *Id.* This Court held that the case was not ripe for review because the BLM and BIA denials “**appear[ed] to block the activity -- construction and operation of the facility** – that petitioners [...] contend will concretely affect them.” *Id.* at 425 (emphasis added).

In stark contrast, ACP's stack of missing permits does not prevent construction activities that "concretely affect" petitioners. ACP has also made clear that it intends to move forward with construction as soon as possible. For example, Dominion Energy, a partial owner of the ACP, stated "We are confident that the U.S. Departments of Interior and Agriculture have the authority to resolve the Appalachian Trail crossing issue administratively . . . in a timeframe consistent with a restart of at least partial construction during the third quarter of 2019."<sup>5</sup> And, in a recent investors call, Dominion represented that they expect the biological opinion to be reissued in time to "recommence construction by year-end and complete critical path tree f[e]lling during the November through March window."<sup>6</sup>

The Petitioners and Intervenors' grievances are thus ripe for review by this Court. The test for ripeness is a twofold evaluation of (1) the fitness for judicial decision and (2) the hardship to the parties of withholding court consideration. *Devia v. NRC*, 492 F.3d at 424. This case is fit for judicial decision as the Certificate is a final agency action that is affecting Petitioners in a very real way. The Baums and other landowners will suffer imminent and considerable harm and hardship if this Court's

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<sup>5</sup> *Dominion Energy Releases Statement Regarding Atlantic Coast Pipeline*, February 26, 2019. Available at: <https://news.dominionenergy.com/2019-02-26-Dominion-Energy-Releases-Statement-Regarding-Atlantic-Coast-Pipeline> (last visited September 17, 2019).

<sup>6</sup> Dominion Energy, Inc. (D) Q2 2019 Earnings Call Transcript, for period ending June 30, 2019 (July 31, 2019). Available at: <https://www.fool.com/earnings/call-transcripts/2019/08/02/dominion-energy-inc-d-q2-2019-earnings-conference.aspx> (last visited September 17, 2019).

consideration is withheld: To quote Judge Millett, pipeline construction “is not a tidy intrusion. It requires cutting down the families' trees, digging up their soil, blasting their bedrock, displacing wildlife, and polluting the air.” *Allegheny* Concurrence at \*30. And once construction and condemnation proceedings start, any “meaningful *backward-looking* relief to rectify an[] unconstitutional deprivation is rarely a viable option.” *Allegheny* concurrence at \*30 (citing *McKesson Corp. v. Division of Alcoholic Beverages & Tobacco*, 496 U.S. 18, 31(1990) (emphasis added) (citations omitted)).

### **III. IF THE COURT FINDS THE ISSUES TO BE UNRIPE BECAUSE OF ACP'S LACK OF NECESSARY PERMITS, THE PROPER REMEDY IS TO STAY THE CERTIFICATE AND HOLD THE PETITIONS IN ABEYANCE.**

If ACP's prospects are too speculative for the Court to adjudicate its Certificate, they should be too speculative for ACP to file condemnation actions to take and destroy the Baums' (or any other landowners') property, and to continue construction on land already taken. As Judge Millett noted, “[a] scheme that walls homeowners off from timely judicial review of the Commission's public-use determination, while allowing eminent domain and functionally irreversible construction to go forward, is in substantial tension with statutory text and runs roughshod over basic principles of fair process” *Allegheny* concurrence, at \*19. If the Court decides the petitions to be unripe, but allows the Certificate to stand and for construction to move forward, landowners will be stuck in the very ‘limbo’ described by Judge Millett. *Id.* at 4. As Judge Millett also noted, District Courts involved in

eminent domain proceedings routinely treat FERC certificate orders as final and conclusive evidence that the taking serves a public purpose. *Allegheny* concurrence at \*23; *See Transcontinental Gas Pipe Line Co.*, 2017 U.S. Dist. LEXIS 134851, 2017 WL 3624250 at \*84 (collecting cases).

In short, this Court should not shield the Certificate from judicial scrutiny while allowing it to serve as the basis for taking and destroying landowners' property. If the Court finds that now is not the time to hear Petitioners and Intervenor's urgent concerns then – as a matter of fundamental fairness – in conjunction with an abeyance, the Court should stop ACP from causing irreversible harm by staying the Certificate.<sup>7</sup>

## CONCLUSION

This matter is ripe for judicial review and should not be held in abeyance. And whether it is heard now or not, the Court should stay the Certificate until ACP has obtained all the required federal permits.

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<sup>7</sup> Dismissal is not a proper remedy, as it could foreclose the petitioners from seeking any judicial relief. *See* 15 U.S.C § 717r(b).)

Respectfully submitted,

/s/ Megan C. Gibson

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*Attorneys for Intervenors Victor Baum  
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## CERTIFICATE OF COMPLIANCE

This brief complies with this Court's September 13, 2019 Briefing Order because it contains 1,789 words, excluding the parts of the brief exempted by FRAP 32(a)(f) and D.C. Cir. Rule 32(e)(1). Microsoft Word computed the word count.

This brief complies with the typeface requirements of FRAP 32(a)(5) and the type style requirements of FRAP 32(a)(6) because this brief has been prepared in a proportionally spaced typeface (Garamond) in 14-point font.

Respectfully submitted,

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# EXHIBIT 1

The alternative route adjacent to I-95 would be 13.5 miles shorter than the corresponding segments of proposed ACP routes and would increase collocation with an existing linear corridor facility. However, the route would be infeasible in most locations along the highway, which is a developed corridor. I-95 passes developed areas in or near Roanoke Rapids, Rocky Mount, Wilson, Selma, Smithfield, Benson, Dunn, and Fayetteville, North Carolina. Substantial segments of greenfield corridor would be necessary to avoid these developed areas, which would increase the length of the pipeline by dozens of miles and reduce or eliminate the benefits of collocation (such as reduced forest fragmentation).

In addition to the developed areas, the I-95 corridor in North Carolina has numerous interchanges and entry/exit ramps, many of which are surrounded by existing developments, such as filling stations, restaurants, and industrial or commercial facilities. The ACP would be required to avoid the developed areas at the interchanges, which would increase the length of the pipeline and reduce or eliminate the benefits of collocation in these areas. With approximately 50 interchanges along the I-95 corridor between the North Carolina/Virginia border and the end of the conceptual alternative route, avoidance of developed areas at the interchanges would likely add a minimum of about 15 miles of new pipeline to the route. Moreover, the route adjacent to I-95 would conflict with future highway expansion and future development along the highway corridor.

For all the reasons described above, a conceptual alternative route adjacent to I-95 is not a viable or feasible alternative to the proposed ACP.

#### **10.7.4 Routes that Avoid Lands Administered by the U.S. Forest Service**

In scoping comments submitted to the FERC on April 27, 2015, the USFS requested an analysis of potential route alternatives that would avoid crossings of USFS lands, and if possible, utilize existing linear corridor facilities to the extent practicable. Direct routes for the AP-1 mainline between the proposed receipt point in Harrison County, West Virginia and the proposed delivery points in Buckingham, Brunswick, and Greensville Counties, and the City of Chesapeake, Virginia, require crossings of Federal lands within the MNF, GWNF, and/or JNF given the trajectory of the ACP relative to the configuration and extent of USFS landholdings in West Virginia and Virginia. Federal lands in the MNF, GWNF, and JNF collectively extend northeast to southwest from points in Frederick County, Virginia, and Hampshire County, West Virginia, to points along the Virginia/Tennessee border in Washington County, Virginia. These landholdings, together with SNP and the Blue Ridge Parkway (administered by the NPS) and Canaan Valley National Wildlife Refuge (administered by the FWS) form near contiguous stretches of Federal lands along the Virginia and West Virginia borders.

To address the request from the USFS, Atlantic and DTI identified two conceptual alternative routes, the Northern USFS Alternative Route and Southern USFS Alternative Route, which avoid Federal lands in the MNF, GWNF, and JNF as well as lands administered by the NPS and the FWS. The Northern USFS Alternative Route passes east of the northernmost extent of Federal lands in the MNF and GWNF. The Southern USFS Alternative Route crosses a narrow gap in Federal lands in the JNF near Narrows in Giles County, Virginia.



Atlantic and DTI additionally identified two conceptual route alternatives that avoid USFS-administered lands, with the exception of a small section of National Forest land where the routes cross the Appalachian National Scenic Trail (Appalachian Trail) south of Wintergreen in Augusta County, Virginia. These two more-local route alternatives, which were identified in an effort to reduce the length of the Northern and Southern USFS Alternative Routes, pass around smaller, isolated segments of USFS-administered lands as opposed to going completely around the National Forests.

The four conceptual route alternatives are depicted on Figure 10.7.4-1 and discussed in the subsections below. A comparison of the length of the proposed route and the four route alternative routes is provided in Table 10.7.4-1.

TABLE 10.7.4-1 U.S. Forest Service Lands Avoidance Approximate Route Lengths for the Atlantic Coast Pipeline and Supply Header Project <sup>a</sup>				
Route Alternative	Proposed Route Length (miles) <sup>b</sup>	Alternative Route Length (miles) <sup>b</sup>	Difference in Length (miles) <sup>c</sup>	Difference in Land Disturbance (acres) <sup>d</sup>
Northern USFS Alternative Route	275	321	46	697
Southern USFS Alternative Route	292	367	75	1,136
Localized USFS Northern Route	131	166	35	530
Localized USFS Southern Route	101	190	89	1,349

<sup>a</sup> The length of the alternatives routes is based on desktop measurements. The routes would likely be longer if field checked for routing and constructability.

<sup>b</sup> This is the length of the proposed route relative to the corresponding segment of the alternative route.

<sup>c</sup> This is the difference in length between the proposed route and the corresponding segment of the alternative route.

<sup>d</sup> This is the difference in land disturbed by construction between the proposed route and the corresponding segment of the alternative route.

#### 10.7.4.1 Routing Constraints within the National Forest Study Area

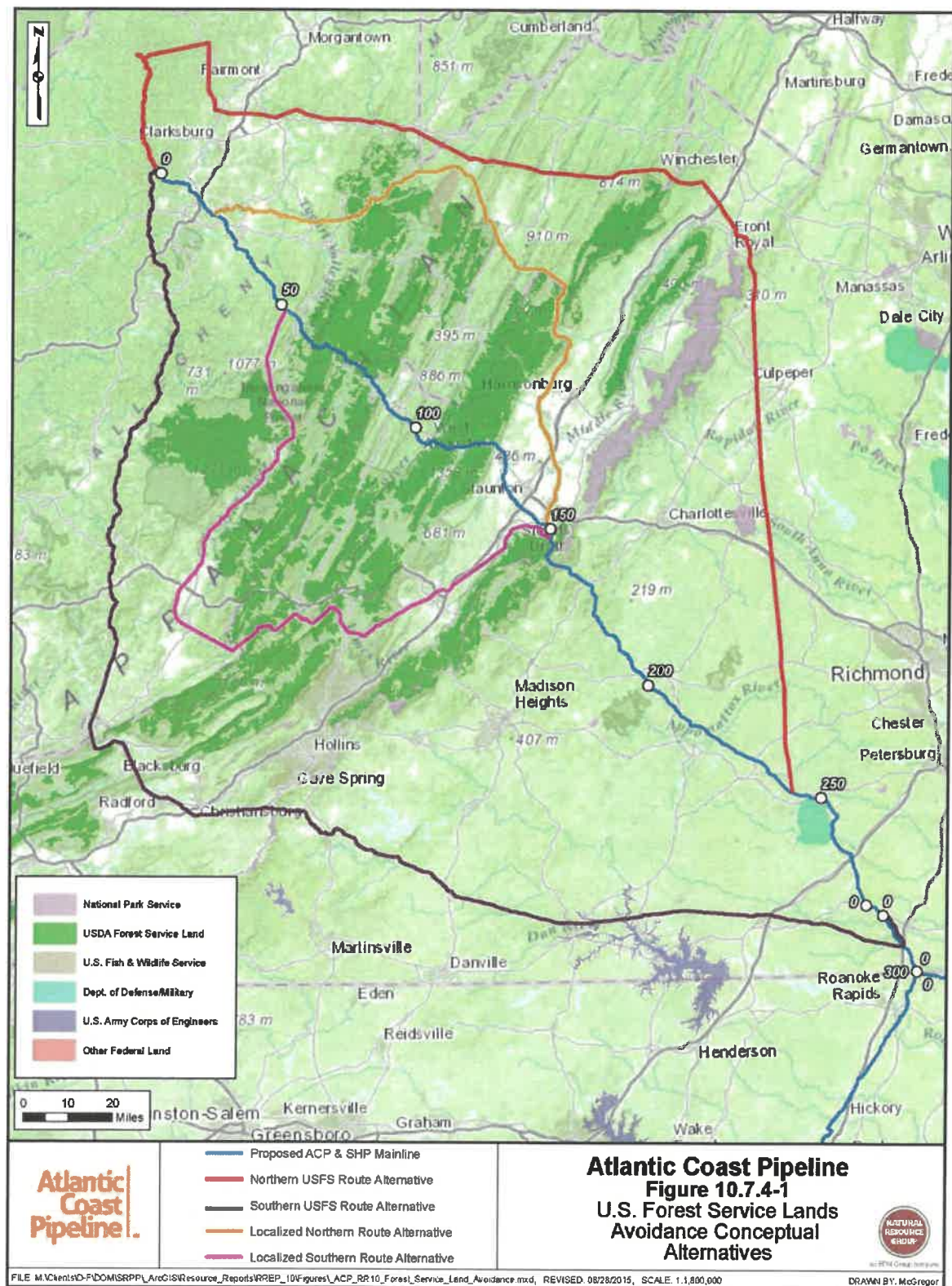
Several significant routing constraints must be overcome when identifying useable routes to avoid USFS lands in this large a geographic area. These include:

- Federal land ownership and control, including areas with special designations;
- mountainous terrain and limitations associated with available workspace, steep slopes, and side-slopes during construction; and
- required receipt and delivery points on the ACP system.

These constraints are described below.

## Resource Report 10

## Alternatives



# EXHIBIT 2

**DECLARATION OF PAULINE C. WHITE**

I, Pauline C. White, state and affirm as follows:

1. I am competent to give this declaration, and all information herein is based on my own personal knowledge, unless otherwise indicated.

**(A) My Property**

2. My home address is 89 Dillards Lane, Wingina, VA 24599; the parcel number of my home is Nelson County # 81 2 C, ACP # 08-214-B001.1 (“my property”).

3. My property has been in my family for several generations.

**(B) No Communication or Information from FERC or ACP prior to April 2019**

4. Prior to April of 2019, the only formal correspondence I received from either FERC or Atlantic Coast Pipeline (“ACP”) was for a survey in February of 2017. I never received any communication that ACP had any intention of taking any part of my land.

5. In approximately late April of 2019, I received two voicemails from an ACP land agent, Mr. Fitzpatrick, stating that he wanted to meet with me to discuss an easement across my property.

6. On May 24, 2019, I received a large packet from ACP, which was dated May 22, 2019. The packet included several documents, including an easement agreement and an offer calculation sheet for about an acre of my property. The documents were very confusing to me.

7. I received two additional phone calls from Mr. Fitzpatrick, one on May 29, 2019, and another on June 4, 2019. He also left a card in my door on May 31, 2019.

8. Because this was the first time that I was informed that ACP wanted to take part of my property for its pipeline, it is my understanding that it is now far too late for me to formally participate as a party in the FERC proceedings on the pipeline.



9. If I had been properly and timely informed of my rights to participate in the FERC proceedings that would give ACP permission to take my property, I most certainly would have asserted my rights and formally participated as a party in those proceedings.

I declare under penalty of perjury that the foregoing is true and correct (see 28 U.S.C. § 1746).

Executed on 6/14/19.  
(Date)

Pauline C. White  
PAULINE C. WHITE

# EXHIBIT 3

# NISKANEN

## C E N T E R

July 23, 2019

*Sent via e-mail and FERC's electronic privacy act request form*

Toyia Johnson

FOIA Public Liaison

Office of External Affairs

Federal Energy Regulatory Commission

888 First Street, NE

Washington, DC 20426

*foia-ceii@ferc.gov*

Re: Freedom of Information Act Request – General Request & Relative to Docket  
Nos. CP17-494 and CP17-495

Dear Ms. Johnson:

Please accept this as a Freedom of Information Act Request (“FOIA”) to the Federal Energy Regulatory Commission (“FERC”) from the Niskanen Center, individually, and on behalf of the following affected landowners: Deb Evans, Ron Schaaf, Sharon Gow, Bill Gow, Stacey McLaughlin, Craig McLaughlin, Twyla Brown, Richard Brown, Clarence Adams, and Stephany Adams. Please produce:

- any and all records and information in FERC’s possession or control in relation to general policies, practices, or procedures relative to FERC verifying the accuracy of private landowner lists that are submitted by pipeline companies for proposed projects to FERC pursuant to 18 CFR 157.6(d);
- any and all records and information in FERC’s possession or control in relation to policies, practices, or procedures relative to FERC verifying the accuracy of private landowner lists that were submitted to FERC pursuant to 18 CFR 157.6(d), specifically as to the landowner lists submitted by the Pacific Connector Gas Pipeline, LP, in Docket Nos. CP17-494 and CP17-495;
- any FERC policies, practices, or procedures in place to ensure that certificate applicant pipeline companies have sent notice to all affected landowners (as defined by 18 CFR 157.6(d)(2)) in a relevant FERC proceeding;

- any FERC policies, practices, or procedures in place used to ensure that the Pacific Connector Gas Pipeline in Docket Nos. CP17-494 and CP17-405 has sent notice to all affected landowners (as defined by 18 CFR 157.6(d)(2)); and
- any follow-up policies, practices, or procedures that FERC uses when it learns that a landowner has not been sent notice.

The Niskanen Center requests a fee waiver for the above FOIA request. We are a 501c(3) nonprofit think tank that operates in the public interest.

Please call my office with any questions or concerns. It is vital that we obtain this information as soon as possible. Thank you.

Respectfully submitted,

/s/ Megan C. Gibson

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Staff Attorney  
Niskanen Center  
820 First Street, NE  
Suite 675  
Washington, DC 20002



# EXHIBIT 4

## FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

AUG 21 2019

Re: FOIA No. FY19-97,  
Response Letter**ELECTRONIC AND REGULAR MAIL**

Megan Gibson  
Niskanen Center  
820 First St., NE, Suite 675  
Washington, D.C. 20002  
mgibson@niskanencenter.org

Dear Ms. Gibson:

This is a response to your correspondence received on July 24, 2019, in which you requested information pursuant to the Freedom of Information Act (FOIA),<sup>1</sup> and the Federal Energy Regulatory Commission's (Commission) FOIA regulations, 18 C.F.R. § 388.108 (2019). Specifically, you requested the following:

- any and all records and information in FERC's possession or control in relation to general policies, practices, or procedures relative to FERC verifying the accuracy of private landowner lists that are submitted by pipeline companies for proposed projects to FERC pursuant to 18 CFR 157.6(d);
- any and all records and information in FERC's possession or control in relation to policies, practices, or procedures relative to FERC verifying the accuracy of private landowner lists that were submitted to FERC pursuant to 18 CFR 157.6(d), specifically as to the landowner lists submitted by the Pacific Connector Gas Pipeline, LP, in Docket Nos. CP17-494 and CP17-495;
- any FERC policies, practices, or procedures in place to ensure that certificate applicant pipeline companies have sent notice to all affected landowners (as defined by 18 CFR 157.6(d)(2)) in a relevant FERC proceeding;
- any FERC policies, practices, or procedures in place used to ensure that the Pacific Connector Gas Pipeline in Docket Nos. CP17-494 and CP17-405 has sent notice to all affected landowners (as defined by 18 CFR 157.6(d)(2)); and
- any follow-up policies, practices, or procedures that FERC uses when it learns that a landowner has not been sent notice.

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<sup>1</sup> 5 U.S.C. § 552, as amended by the FOIA Improvement Act of 2016, Pub. L. No. 114-185, 130 Stat. 538 (2016).

FOIA No. FY19-97

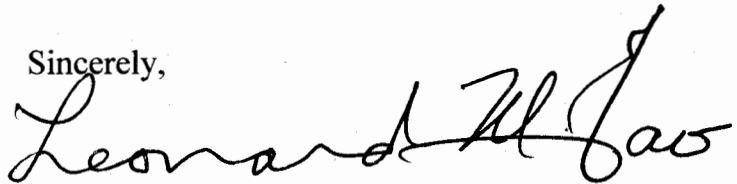
- 2 -

A search of the Commission's non-public files identified no documents responsive to this request.

As provided by FOIA and 18 C.F.R. § 388.110(a)(1) of the Commission's regulations, any appeal from this determination must be filed within ninety (90) days of the date of this letter. The appeal must be in writing, addressed to James P. Danly, General Counsel, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, and clearly marked "Freedom of Information Act Appeal." Please include a copy to Charles A. Beamon, Associate General Counsel, General and Administrative Law, at the same address.

You also have the right to seek dispute resolution services from the FOIA Public Liaison of the agency or the Office of Government Information Services (OGIS). Using OGIS services does not affect your right to pursue your appeal. You may contact OGIS by mail at Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, MD 20740-6001; email at [ogis@nara.gov](mailto:ogis@nara.gov); telephone at 301-837-1996; facsimile at 301-837-0348; or toll-free at 1-877-684-6448.

Sincerely,

A handwritten signature in black ink, appearing to read "Leonard M. Tao". The signature is fluid and cursive, with the first name "Leonard" being the most prominent part.

Leonard M. Tao  
Director  
Office of External Affairs

**CERTIFICATE OF SERVICE**

I hereby certify that on this 20<sup>th</sup> day of September 2019, I have served the foregoing document upon all counsel registered to receive service through the Court's CM/ECF system via electronic filing.

Respectfully submitted,

/s/ Megan C. Gibson

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