



**Meeting Notes: Allegheny-Blue Ridge Alliance and the
Virginia Department of Environmental Quality regarding the
Pipeline Compliance Surveillance Initiative
March 14, 2018**

PARTICIPANTS

ABRA:

Rick Webb, Committee Chair, Pipeline Compliance Surveillance Initiative (CSI)
Lew Freeman, Executive Director, ABRA
Dave Sligh, Conservation Director, Wild Virginia
Dick Brooks, President, Cowpasture River Preservation Association
Malcolm Cameron, ABRA/CSI geologist

DEQ:

David Paylor, Director
Jeff Reynolds, Director, Division of Enforcement
Ann Regn, Director, Information and Outreach
Trieste Lockwood, Office of Director Paylor
Sandy Mueller, Water Monitoring and Assessment Program Manager

1. After self-introductions, Rick Webb made a slide presentation about the CSI program. It was well received by the DEQ personnel. David Paylor said he applauds the CSI program for its rigor.
2. Director Paylor then discussed how DEQ intended to proceed with its inspection of the ACP. Among relevant points of information imparted during the discussion were:
 - Paylor stated that DEQ is doing “all it can to assure that the E&S and stormwater plans are “precise” and that he believes what DEQ is requiring is “unprecedented.”

- Paylor said early in the discussion that he had no projection of when the department's review of E&S and stormwater plans would be done. He returned to that point later in the discussion by stressing (without being prompted by a question) that "approval of the ACP plans is not imminent." Approval of MVP plans will occur sooner.
- DEQ's legal advice is that the Water Control Board "has no authority over E&S plans" and that DEQ has final approval.
- E&S plans are "fungible" and can be altered "in the field."
- DEQ is interviewing contractors to provide additional inspection capability. Anticipate having 2 contractor inspectors working in each ACP construction spread. They may be equipped with drones. Paylor said "if we don't have eyes on the site all the time, there will be problems." There will also be DEQ staff on site "some of the time."
- There are fiscal limits to our enforcement authority, but that will not be a deterrent to our efforts.
- DEQ, with more explicit authority to issue stop work orders from legislation sponsored by Sen. Deeds (S. 698 on E&S, S. 699 on stormwater), will be ready to issue stop work orders when necessary. However, Paylor anticipates that many problems will be resolved before the issuance of a stop work order by the very threat of them being issued. A stop work order would only be issued when the threat of a problem was "imminent." Jeff Reynolds termed the approach "adaptive compliance." (This comment was, in part, in response to a question as to whether VA DEQ was prepared to provide the level of inspection and action exhibited last week by the WV DEP in issuing a cease and desist order against the Rover Pipeline.
- DEQ met last week with WV DEP and FERC in Lexington. Another meeting with FERC was to take place the afternoon of 3/14. Specifics on topics of meetings were not shared. Further dialogue with WV DEP is anticipated.
- Paylor expressed a keen interest in continuing further communication between ABRA/CSI and DEQ. There was agreement that specific points of contact on each side should be identified. Follow-up meetings with Jeff Reynolds and Jerome Brooks (Office of Water Compliance) should be pursued soon.
- The need to share information was discussed, to the extent possible without resorting to our having to file FOIA requests. We made clear that our information will be online and urged a similar approach by DEQ.

- In answer to a question, Paylor said the mitigation agreement between ACP and Gov. McAuliffe was not viewed by DEQ as “confining its enforcement authority.”
 - In answer to a question about the status of construction plans and the “level of detail” DEQ is insisting upon, Paylor said “talk to James Golden.”
 - In answer to question about a report that DEQ might reconsider examining individual stream crossings in certain instances, Paylor said that would be considered in instances where NW12 was shown to be “insufficient.” Definition of “insufficient” and criteria for determining same was not spelled out, but comment suggests an invitation for recommendations to be submitted for certain streams to be submitted to DEQ. However, Army Corps would have to agree, a hearing would be required, and FERC could overrule by issuing a waiver.
 - In answer to a question concerning DEQ approval of construction plans and whether approvals might be granted in segments, Paylor said that the project approvals would apply to the entire project rather than to individual spreads.
3. The March 13th CSI Incident Report was addressed during the slide presentation and during the follow-up discussions.
- A copy of the report was provided for DEQ staff. A copy will also be submitted to FERC.
 - In answer to a general question concerning DEQ Erosion and Sediment Control and Stormwater Management requirements for equipment staging areas and pipe storage yards, Paylor indicated that the rules for all such construction apply.
 - In answer to a question, environmental compliance requirements for such ancillary facilities as storage yards would be the same as for any similar project, pipeline related or not.