



**EJE Advisory Board Special Meeting  
6/11/2020 Virtual Meeting  
Meeting Minutes**

Chairman Johnson Called meeting to order at 2:00 pm. Chairman Johnson read the ethics statement and reminded people they were being recorded. Renee Kramer (DEQ EJ Coordinator) called roll.

**Board Members Present:**

Jeff Anstead  
William Barber, III  
Veronica Carter  
Jamie Cole  
Ranee Haven-O'Donnell  
Dr. James Johnson  
Dr. Marian Johnson-Thompson  
Carolina Fonseca Jimenez  
Dr. Deepak Kumar  
Dr. Danelle Lobdell  
Marilynn Marsh-Robinson  
Rodney Sadler Jr.  
Carlos Velazquez  
Elke Weil

**Board Members Absent**

Susan Jakes  
Naeema Muhammad

***DEQ Permitting Actions: Sheila Holman, DEQ***

Ms. Holman began the meeting by providing updates to the Board on ACP-related permitting actions undertaken by the Department. Ms. Holman covered the various outreach and community engagement efforts the agency undertook as the various permit actions were contemplated. Finally, she briefly covered the evaluation of the letter received from Ms. Donna Chavis and Mr. Mac Edgerton in August 2019 regarding new information that might impact the

401 water quality certification. Ms. Holman emphasized that the lessons learned from the ACP experience would be applied to DEQ's review of MVP-Southgate Extension.

### ***Current Pipeline Status, North Carolina and the Courts: DJ Gerken, SELC***

Mr. Gerken provided the following overview to the Board on the status of the ACP:

-It is less than 6% complete in North Carolina, none of the pipeline is completed in Virginia, and some in West Virginia.

-ACP is missing 7 required permits relating to rights of way:

- One permit for National Parks Service, crossing the Blue Ridge Parkway

- Two permits to cross national forests in Virginia and West Virginia

- Both parks and forest service permits will have to go through public process and comment

- Fish and Wildlife Services Biological Opinion is on remand; currently suspended

- As of now, pipeline is missing its federal Clean Water Act and separate state water quality permits

-Meanwhile underlying basis for this pipeline has been vacated (cannot rely on shortcut process for getting pipeline). This is fairly time consuming and could impact some of the state decisions that have been made.

-Construction stopped December 2018, ACP cannot clear trees except between November and March.

### **Questions and Discussion**

Question from William Barber III: Decision by DEQ that 401 Water Quality Certification should stay in place. What were the factors that led to that decision? What conditions were analyzed?

Answer: Ms. Holman responded that the standard is whether any new information would change the 401 process. All of the information was reviewed. The technical team did not identify new information that would justify changing the decision on the 401.

Question from Ms. Cole: Process for 401 permit/certification: Cumulative impact and questions asked by DEQ, etc. At what level does the consideration of impacted populations in the community impact the decision like the 401 certification.

Answer: Ms. Holman responded that DEQ gathers information in terms of what development might occur and what that development might lead to with respect to water quality. A lot of the information collected in 2017 asked what kind of development projects would impact water quality in the area. The location has been predetermined by actions of local government boards; route was approved by FERC, not by an agency in NC. DEQ understands the communities that live there, and protections needed for the community, for example protecting the water quality in the area. The Community Mapping System puts more information in the hands of local government officials, as well as community leaders and groups to have more informed discussions about what they want their community to look like, what business and industries they want to recruit.

Question from Ms. Carter: 401 Section of Clean Water Act has a responsibility to ensure there is Environmental Justice. At what point do we take into account the impact on the communities? These communities are reaching out to DEQ and asking for protection. At what point, is it decided there has been an adverse impact on the community?

Answer: Ms. Holman replied that part of burden is on the federal agencies. In DEQ's view, the necessary protections are considered in the permitting process, DEQ does everything we can to protect the environmental medium and the community.

Question from Mr. Barber: There have also been several legal actions which directed federal regulators to consider impacts on the energy process. Has that been taken into consideration and discussed by the Department?

Answer: Watching what is happening with permits and if something needs to be changed because of climate change impact, it could be. However, this is outside the bounds of the Department's 401 certification review.

Questions from Ms. Cole and Ms. Carter: Announcement on supplemental EIS. Please talk about motion for impact statement and what that could mean.

Answer: Mr. Gerken replied that there has been a motion filed due to the new information about alternatives that need to be considered. The National Forest Service issued a *Notice of Intent to Prepare the SEIS*, an announcement that it would go back and look at environmental impacts after failing to consider them before. We feel very strongly the environmental impacts analysis on environmental justice was inadequate. The fundamental need for the pipeline, without considering other alternatives, is currently being litigated in DC Court of Appeals, and expect a briefing in the fall.

So far, the pipeline already has caused damage that needs to be analyzed and addressed.

Question from Ms. Cole: Anything that this Board should consider in terms of EJ concerns, thinking outside of the box?

Answer: Ms. Holman responded that DEQ looks at impacts of projects under the existing requirements. The opportunity to do more mitigation will require legislative authority to look at how to improve an impacted community going forward.

Answer from Secretary Regan: Understand the narrow focus of the role of the state for the 401, and the limitation of only looking at water quality impacts without looking at broader impacts. When looking at other permits, they don't hit at the crux of the questions. We inherited the ACP process in 2017, and realized there were things that the previous administration missed. In a proactive way, Sheila's letter to FERC asked questions relating to location, equity issues, pipeline route for MVP, this administration missed the opportunity to ask these questions about ACP. A lot of this is dealt with at the federal level, the issue is the balance between state, local, and federal jurisdiction.

Question from Ms. Carter: Procedural Injustice needs to be called out. There isn't a lot of procedural oversight that involves community impact and environmental justice at the state level. Is that something people need to be talking to their legislators about?

Answer from Secretary Regan: The answer lies in environmental permitting in general. Equity in how these analyses are performed could be reconciled. There is benefit economically and environmentally for decisions made in a more informed way. The decision of whether something should occur shouldn't be on a permit application DEQ receives 4 or 5 years later.

Question from Mr. Barber: Are there opportunities to coordinate with other aspects of our state government to address glaring omissions in the process at the federal level?

Answer from Secretary Regan: Doesn't know about existing opportunities. We are fighting viciously the federal rollbacks and the impacts on water quality. There are new rule makings in process to further roll back the 401, giving DEQ even less power. While we have understood the complexities, we did look at Atlantic Coast pipeline and determined that it would not impact the goals in 2030 and 2050 from a climate standpoint. We planned for both scenarios, and still feel able to maintain achievement of the aggressive goals for climate change mitigation.

### **Climate Crisis Documents to be Considered**

Mr. William Barber wanted it noted for the record of having submitted a number of electronic documents and academic articles compiled and provided to the Board and that these should be incorporated into decisions. The four documents specifically identified for Board members to review:

- Letter to this body signed by over 30 organizations with concerns about the pipeline
- Handout updated in April 2019 on ACP on several of the same specific concerns
- On issue of Climate: Direct and indirect emissions accelerate greenhouse emissions
- May 22<sup>nd</sup> article cites FERC FEIS stating ACP would emit 30 million tons of CO2 on a yearly basis.

Chairman Johnson created a special subcommittee to focus on drafting an advice letter from the Board to DEQ on the subject of the Atlantic Coast Pipeline due to significant public comments made to the Board over the past several meetings. This Subcommittee was to be co-chaired by Mr. Barber and Rev. Sadler, with remaining members Dr. Kumar, Ms. Cole, and Mr. Anstead. Ms. Kramer was asked to send out a Doodle Poll to schedule a time for the Subcommittee to meet with great haste, and that the final product of this special subcommittee should be submitted to DEQ by June 30, 2020. Ms. Kramer then called roll an additional time. Chairman Johnson adjourned the meeting at 3:02 pm.