



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF ENVIRONMENTAL QUALITY

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Matthew J. Strickler  
Secretary of Natural Resources

David K. Paylor  
Director

(804) 698-4000  
1-800-592-5482

March 16, 2018

### NOTICE OF VIOLATION

RE: NOV No. 2018-PRO-0002

Richard Gangle  
Atlantic Coast Pipeline, LLC  
120 Tredegar St.  
Richmond VA 23219  
Certificate No. 17-002

Dear Mr. Gangle:

This letter notifies you of information upon which the Department of Environmental Quality (Department or DEQ) may rely in order to institute an administrative or judicial enforcement action. Based on this information, DEQ has reason to believe that Atlantic Coast Pipeline, LLC ("ACP") may be in violation of the State Water Control Law and Regulations involving Spread 6.

This letter addresses conditions involving Spread 6, and also cites compliance requirements of the State Water Control Law and Regulations. Pursuant to Va. Code § 62.1-44.15(8a), this letter is not a case decision under the Virginia Administrative Process Act, Va. Code § 2.2-4000 *et seq.* (APA). DEQ requests that you respond **within 10 days of the date of this letter** to arrange a prompt meeting.

### OBSERVATIONS AND LEGAL REQUIREMENTS

*Observation: On February 21, 2018, a representative of ACP reported that non-mechanized tree felling activities in upland riparian areas exceeded the limit of disturbance when approaching wetlands. On March 9, 2018, documentation submitted by an ACP representative indicated that a combined fifteen exceedances resulted in 0.84 acres of riparian impacts.*

**Legal Requirement: Certification No. 17-002 Part V, Paragraph 2(b) states, "The Construction Limit of Disturbance (LOD) in upland areas approaching waterbody and**

**wetland crossings shall be reduced from 125 feet to 75 feet wide and shall apply 50 feet from each side of the stream or wetland crossing to minimize the extent of riparian buffer disturbance.”**

### **ENFORCEMENT AUTHORITY**

Va. Code § 62.1-44.23 of the State Water Control Law provides for an injunction for any violation of the State Water Control Law, any State Water Control Board rule or regulation, an order, permit condition, standard, or any certificate requirement or provision. Va. Code §§ 62.1-44.15 and 62.1-44.32 provide for a civil penalty up to \$32,500 per day of each violation of the same. In addition, Va. Code § 62.1-44.15 authorizes the State Water Control Board to issue orders to any person to comply with the State Water Control Law and regulations, including the imposition of a civil penalty for violations of up to \$100,000. Va. Code §§ 62.1-44.32(b) and 62.1-44.32(c) provide for other additional penalties.

### **FUTURE ACTIONS**

DEQ staff wishes to discuss all aspects of their observations with you, including any actions needed to ensure compliance with state law and regulations, any relevant or related measures you plan to take or have taken, and a schedule, as needed, for further activities. In addition, please advise us if you dispute any of the observations recited herein or if there is other information of which DEQ should be aware. In order to avoid adversarial enforcement proceedings, ACP may be asked to enter into a Consent Order with the Department to formalize a plan and schedule of corrective action and to settle any outstanding issues regarding this matter, including the assessment of civil charges.

In the event that discussions with staff do not lead to a satisfactory conclusion concerning the contents of this letter, you may elect to participate in DEQ’s Process for Early Dispute Resolution. Also, if informal discussions do not lead to a satisfactory conclusion, you may request in writing that DEQ take all necessary steps to issue a final decision or fact finding under the APA on whether or not a violation has occurred. For further information on the [Process for Early Dispute Resolution](#), please see Agency Policy Statement No. 8-2005 posted on the Department’s website under “Programs,” “Enforcement,” and “Laws, Regulations, & Guidance” (<http://www.deq.virginia.gov/Programs/Enforcement/LawsRegulationsGuidance.aspx>) or ask the DEQ contact listed below.

Please contact Lee Crowell or [Lee.Crowell@DEQ.Virginia.Gov](mailto:Lee.Crowell@DEQ.Virginia.Gov) within 10 days to discuss this matter and arrange a prompt meeting.

Sincerely,

Jerome A. Brooks  
Manager, Office of Water Compliance

/s/

Cc: Pamela F. Faggert