BEFORE THE
DEPARTMENT OF ENVIRONMENTAL PROTECTION
OF
WEST VIRGINIA
PUBLIC COMMENT HEARING
* * * * * * * * *
IN RE: MOUNTAINEER XPRESS PIPELINE
* * * * * * * * *
BEFORE: JACOB GLANCE, Chair

HEARING: Tuesday, December 12, 2017
6:09 p.m.
LOCATION: Ripley High School Library
2 School Street
Ripley, WV 25271
WITNESSES: Cynthia Ellis, Vivian Stockmen, Robin
Blakeman, Mark Connelly, Eve Marcum-Atkinson
Reporter: Caroline Swanson

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**EXHIBITS**
CHAIR JACOB GLANCE: Good evening, everybody. I'm Jake Glance from the Department of Environmental Protection's Public Information office. Welcome to tonight's public hearing on the construction stormwater permit for the Mountaineer Xpress pipeline. The permit number is WVR310872. Also here tonight are Mike Huff with the Public Information office, Dennis Stotlemeyer with the Environmental Advocate, and Rick Adams and John Michael Bosely of the Division of Water and Waste Management.

The purpose of tonight's hearing is to give you the opportunity to share your comments with the DEP about the Mountaineer Xpress pipeline's construction stormwater permit. Tonight's hearing is being recorded by a court reporter so that the comments shared can be part of the public rulemaking record. To ensure that we successfully achieve the purpose of this hearing, we ask that everyone be respectful and considerate of each other by refraining from interrupting others while they're speaking, and keeping your comments on topic so that our time schedule is used efficiently.

For those wishing to speak, when I call
you up to provide your comments, please state your name and say if you are representing any groups or organizations. If you have written comments that you would like to submit in addition to your spoken comments, please hand them to me after you speak or at the conclusion of the hearing.

Please remember that this hearing is not the proper forum for questions and answers. We are here to receive comments on this permit and will respond to each comment when we issue a decision.

If you have questions, please speak with the DEP representative at the conclusion of this hearing.

What I plan to do is as I call your name, you don't have to come behind the podium or Atlas stand or whatever this is. But if you would come to the front and speak loudly and clearly so that the court reporter can hear you so we can accurately record what you say. So if there's any questions about the format of the hearing, we can go ahead and get started.

No questions? Okay.

The first speaker is Cynthia Ellis. After Cynthia is Vivian Stockmen.

Thank you.

**MS. ELLIS:** My name is Cynthia Ellis and I
live in northern Putnam County. The route of the
proposed MXP is about a mile from my home. I understand
that these hearings are intended to center upon aspects
of the stormwater permit for the project. I also
understand that some DEP staff would be pleased if I or
any speaker could present facts and information that
would allow them to deny this permit. I don't believe I
can provide that data, but I appreciate the opportunity
to speak.

On the other hand however, throughout the
permitting process for the MXP, concerned citizens have
felt that the process was hurried, and that information
was hard to secure.

In the main, we feel we've had few
opportunities to make the point that the MXP is not
necessary. The project needs the stormwater permit to
gain its certificate of necessity. But this line is for
overseas export, not for the benefit of our state and
communities and it promises only 29 permanent jobs for
the 14 counties it traverses. It's not needed. We
should have proceeded more slowly.

In North Carolina, concerning a large line
that will cross public land in eastern West Virginia, a
newspaper editorial says of that project, the project's
already more than a year behind schedule and now faces
further delays as it waits for environmental permits.
The project's backers don't like it, but the delays are a
helpful test. If the project is truly needed, time
should make that clearer. If it's not, as many argue,
then time will reveal that as well. We should have held
this project to the test more closely to the test of
time.

We needed more space. That is, we needed
more hearings. A number of groups and individuals did
submit requests that stormwater hearings be held in more
than two locations. It requires little imagination to
think that worried landowners, parents, and other
citizens from the 14 impacted counties would have wanted
to attend such an event and learn more. But for many,
job constrains and other scheduling difficulties no doubt
precluded traveling to Ripley or Doddridge County, the
only two hearing locations.

Those of us who have tried to do a little
homework regarding stormwater concerns have learned that
since the waivers for the 401, there will be more
frequent inspections of the construction, but those will
be done by contracted personnel, not the West Virginia
DEP. However on the positive side, there will be
required inspections after one quarter inch of rain rather than a half an inch. We understand that rain gauges will be installed, but they'll be self-inspecting. We find that there will be wet stream crossings which has the potential for more sediment. Those other two very controversial projects in eastern West Virginia, the ACP and the MVP they call for dry crossings.

The state of Virginia and the U.S. Geological Survey are working together to use new high technology methods for stream monitoring. Why not here? Rip Rap. I'm told that DEP does not look favorably on the use of rip rap for post-construction stream edges. I join any others who are requesting that DEP should insist upon natural stream design rather than rip rap.

In 2016 Kellogg Economics made a survey of economic impacts to West Virginia and Virginia counties in jeopardy of the impacts from the ACP and the MVP. Their findings would likely hold for the MXP as well. That survey mentions a term I first heard in recent years from a young professor at Glenville State College, ecosystem services. This relates to the notions of economic costs and value regarding our land, water and air. I had to think of the disruption of construction on
the streams near me when I read these words from that
survey.

Regarding ecosystem services, the
construction and presence of the MVP will alter the flow
of natural benefits people receive from well-functioning,
healthy ecosystems. These natural benefits include
services such as clean water for drinking and for
industrial processes, food grown on cropland, raw
materials, and the aesthetic value of beautiful views
from residential and commercial properties, as well as
from areas used for recreation.

Ecosystems also protect people and
property from extreme events like floods and wildfire,
regulate local and global climate, clean the air, support
food production through natural pest control and
pollination, provide wildlife to hunt, fish to catch, and
spaces for other forms of recreation. The MXP will cause
us to lose those ecosystem services.

Let's look at safety and particularly
post-construction impacts. We who have looked at the
record of Columbia gas see some worrisome figures. Here
are leaks and ruptures in natural gas lines for the years
2010 through 2017 in West Virginia at Columbia lines and
compressor stations. Flattop, compressor station 2017
total cleanup costs $20,619. Lanham compressor station 
2014 total costs $65,218. SM line rupture - the SM line 
rupture - the SM-80 line rupture due to corrosion at 
Sissonville 2012 ignited total costs $4,276,318. 
Smithfield compressor station 2016 total costs $49,816. 
Adaline compressor station 2012 total costs $9,877. Lost 
River compressor station 2015 total costs $15,359. Line 
8223 2015 total costs $3,273. Line 8012 2011 total costs 
$58,331. Smithfield pipeline 2014 total costs $47,422. 
In addition to these clean-up costs totaling $5,498,213, 
these leaks and ruptures have resulted in large methane 
emissions which contribute to climate extremes including 
floods.

This information came from the Interactive 
map prepared with data from the Federal Pipeline and 
Hazardous Materials Safety Administration.

On July 7, 2015 a Columbia pipeline 
construction accident fouled the public water system at 
Peterstown, West Virginia. Service to the community was 
disrupted for two and a half weeks. We do realize that 
Columbia was purchased last year by the TransCanada 
Company, and that company's record is also problematic. 

Some of us are participating in a stream 
monitoring program along the proposed route of MXP.
We've completed training conducted by Trout Unlimited and West Virginia Rivers Coalition. At least once a month we sample and survey a stream that will be crossed by or impacted by this pipeline construction. We log in our data on the CitSci.org website. This is a gratifying action and we're pleased to be able to add to what is currently known about the streams. Alternately, we wish our work with these waters was not prompted by concerns surrounding the streams. We urge DEP to be aware of our data.

Finally, as a birder in West Virginia for 35 years, I must take every opportunity to speak up for the birds. Birds play a vital role in the health of our world as controller of insect populations and as pollinators and dispersers of seeds. Birders value all species, but they rate scant mention in the final EIS, the Environmental Impact Statement for the MXP. It does acknowledge the harm that will come to Cerulean Warblers in the Lewis Wetzel Wildlife Management Area, but it fails to note how construction practices and stream alteration will impact others.

Many of the waterways to be affected by the MXP are an important part of the habitat for our state's breeding and resident bird species. Stormwater
events and constructions mistakes may damage a wide circle of creatures and their habitat. It's regrettable that state and Federal regulations only focus on birds with declining populations or only use the Endangered Species Act or the Migratory Bird Treaty Act as tools. A better approach would be to help all of us be aware of the interconnections and the multiple factors that guarantee the survival of birds and of ourselves.

My friends and I will continue that stream monitoring and I'll be continuing to encourage birders to make surveys around the route of the MXP. If the project proceeds, I'll be among those who will be visiting with cameras and data sheets. The plans for the MXP should have been reviewed more closely and its constructions and operation will require continued scrutiny.

CHAIR: Up next is Vivian Stockmen. After Vivian is Robin Blakeman.

MS. STOCKMEN: I agree with Cindy. Oh, Vivian Stockmen. I'm with the Ohio Valley Environmental Coalition which is based in Huntington, West Virginia. I agree with Cindy that this process has been hurried and I would like some more time. I would especially like to request that the written comment period be extended beyond the holidays. We will have some more technical
I really haven't had the time to review the permit as much as I would like at this time. I believe it was a lack of people here. I heard there was in Doddridge, too, a lack of citizens out tonight. And I think one reason that there's a lack of citizens, they're pretty much convinced that the DEP doesn't really hear them and will issue this permit no matter what the citizens say. I think the citizens see Governor Jim Justice and the DEP head Caperton as enablers of the fossil fuel corporations that are applying for these permits and pretty much as hostile to actual protection of human health and well-being.

I would implore DEP to examine the cumulative effects of this permit, not just as a stand-alone permit. The reason I say this is you know, DEP should really step back and develop a way to look at these type of permits in aggregate, because the myriad of wet and dry gas pipelines that are proposed for our area, coupled with all the increased fracking and related activities that would feed these pipelines, those cumulative impacts have a great effect on the land and water and surely are changing the runoff patterns. So I don't think these can be examined as stand-alone. I don't know how DEP could do this, but I wish they would
develop a way to look at the cumulative impacts of these permits they're issuing.

The increased fossil fuel infrastructure and supply build out may well intensify storm events. We're talking about cumulative impacts for stormwater and building of climate change from all these sort of fossil fuel operations that could - the climate change impacts could include more stormwater than stronger stormwater events.

This photo is of one incident. I don't know if it can be entered into the record. I know DEP already has this photo. This is an incident, a stormwater incident from the Rover pipeline. The Rover pipeline did get its - obviously its stormwater permit and it is obviously an inadequate permit. Were it not for citizen monitoring and citizen reporting, this inadequacy in Rover's permit would not have gotten - would have gone unnoticed and would have not been - the Rover pipeline company would not have been punished for this activity.

In light of lessons learned from the multiple events with Rover, I hope that DEP will slow down, revisit the MXP stormwater permit, look at the lessons learned here, see how the permit could be
enhanced based on these lessons that we've learned from Rover. And I would hope that DEP is not depending on citizen watchdogs but rather on inspectors with DEP to provide this data. I don't think it should be on the burden of the citizens, and I'm pretty sure I don't trust the pipeline companies to be providing the inspectors. So I'm hoping that DEP can get funding for more inspectors.

So I think that this particular permit, the wet trench crossing methods proposed for the minor water bodies that DEP has examined how there could be increased sedimentation in some of these streams. One of the streams I'm monitoring in Roane County has a lot of mussels in it. And I think the increased sedimentation could be of great danger. I am not sure yet if DEP has examined the mussels in this particular stream. I need more time to look at the stormwater permit.

I don't think there's any water quality monitoring proposed. There should be some monitors installed at sensitive stream crossings. Again, I'd like to ask for some more time to complete more technical comments. Thank you.

CHAIR: Next is Robin Blackman. After Robin is Mark Connelly.
MS. BLAKEMAN: Okay.

I'm just going to stand because I had to drive two, over two hours to get here from Huntington, West Virginia area because there's not a hearing in our area, even though we are part of the most extensively populated counties that this project will be going through. My name is Robin Blakeman. I work for OHVEC, the same organization that Vivian Stockmen does. I'm also here representing the faith-based organization called West Virginia Interfaith Power and Light who is gravely concerned about all the pipelines that are being developed in West Virginia in terms of the cumulative impact.

So first and foremost, I would like to request an extension of time for written comments for this - on this permit. At the very least until January 2nd, after the holidays, and hopefully longer than that, so that people will have a chance to review the extensive nature of the documents for this project. I would like to request again, even though this request has been denied, myself and several others have made it, that there be at least one public hearing scheduled in Putnam, Cabell, or Wayne Counties.

The extensive nature of the documents for
this massive project, which I've already mentioned, necessitate a lengthier period of time for public analysis of the data and information available. And we simply haven't had enough time to read and analyze this information to date.

The increased population density in the most southerly counties to be impacted by this project is a major reason for my request to hold another hearing in one of the counties - to allow for the increased number of citizens who stand to be impacted by this project.

The amount of acreage to be disturbed by this project gives me pause. From the final E&S narrative statistics, I calculated that a total of 2,721.5 acres will be disturbed by this pipeline. 128.5 for above ground facilities, 301.9 for access roads, and 496 for staging areas and contractor yards. This is a total of 3,647.9 acres.

With the massive disturbance of West Virginia soils underway for not only this pipeline, but a multitude of others proliferating across the state, we would strongly encourage a cumulative impact study on the runoff contamination potential of this project prior to its approval.

When paired with the cumulative impact
potential from many other projects, we believe the waterways of West Virginia are endangered. Water is our most precious resource in this state, and the absolute best practices and regulatory enforcement levels are necessary to protect it at this point in time. Therefore, I want to make sure the following points are addressed prior to the approval of this project.

First, due to the steep terrain of this project that is proposed to traverse, traditional means of erosion control such as silt fences and socks have largely proven inadequate on multiple other similar projects like the Rover which Vivian mentioned a little while ago. And I have additional pictures from the Rover project where we have erosion issues going on as we speak on that project. Here we have some erosion control methods failing. And I'll enter these into the record with my comments.

I also have some examples from Cabell County where right now we have renovation projects underway on the SM-80 line, which is the tie-in line for the Mountaineer Xpress Pipeline. And if SM-80 sounds at all familiar to anyone here who's from the Sissonville area, it is the pipeline that exploded several years ago.

First of all, this is in the SM-80
territory near Davis Creek Elementary. They have a silt fence failing. It's been there for a long while. This is a - actually a completed site where they did a small section there, but it is failing, and the creek is - it's extensively eroding. This is something that I've already reported to DEP officials in the Cabell County area.

There's a picture of the stream erosion that has occurred behind Davis Creek Elementary because of this project. And on Grapevine branch, we have another example of silt fence failure recently. These pictures were all taken last week. So this is not in any way dated material. This is - this is very current pictures and material.

So with all the failures that are possible with the erosion control methods that are traditionally used, I request that the DEP embark on water testing in all streams that this project is proposed to traverse. I want this implemented prior to initial construction on the project, so that there can be baseline water sampling data obtained and periodic, at least monthly, water tests to be implemented at those sites during the duration of construction and initial startup phases of this project.

And I request that this be done at cost to the construction and/or pipeline operating corporations.
and that water quality analytical means include testing for heavy metals such as lead, arsenic, and selenium.

I request that the test results be made available to the public in a timely manner, within two weeks of official receipt of the test result data. I request that there be at least monthly site visits from DEP on all active construction locations for this project. And that members of the public citizens of West Virginia may be allowed to accompany DEP officials on these visits upon request.

I'm well aware that the DEP is - is way understaffed and therefore some additional funding for the DEP would be part of my request, either at industry cost or through state funding means. I'm aware that there are endangered mussel species in some streams that this project is proposed to traverse. Therefore, I would request that there be a full analysis of species to be impacted in all these streams prior to any consideration of approval of this permit and ongoing monitoring.

In the end I am opposed to approval of this permit, but I hope that these - these considerations will be taken under advisement. Thank you.

CHAIR: Next is Mark Connelly. And after Mark is Eve Marcum-Atkinson.
MR. CONNELLY: I'm Mark Connelly. I'm with Ohio Valley Environmental Coalition. I also represent Fourpole Creek Watershed Association. Both are located in Huntington, West Virginia. I just had to travel two hours - or over two hours to get to this meeting, so I am requesting we have another meeting in a more populated area that would be affected by this project, either in Cabell, Wayne or Putnam Counties. I've prepared a statement I'm going to read. I don't speak as well as some of these people, so I'll just read off these papers.

When the health and lives of citizens is superseded by the profits and greed of corporations and stockholders, then we have a major ethical problem in our region, state and country. The process of obtaining and transporting our resources is an old concern of this area. Our resources have caused us many social and health problems through the years. The permitting of this pipeline or this permit, WVR301A72, will allow another attack upon our people.

Five years ago a leaking natural gas pipeline owned by Columbia Gas exploded near Sissonville, West Virginia melting four lanes of Interstate 77, flattening four homes, and damaging five other homes.
Only by the grace of God were lives spared when this happened.

As I see it, pipelines are good for two things. Traveling resources through them and leaking. So when pipelines leak, particularly under pressure, fireballs can happen, interstates can melt, and people can expire.

In section six of this application, there's a satellite photo that shows this pipeline very close to residential dwellings. If this pipeline ruptures, how many people will be lost to the huge fireball that may occur? Only by the grace of God did we not lose people the last time this happened.

With nearly 4,000 acres being disturbed, a pipeline close to a home, a church, and developments both existing and developments that will be made in the future, then and will be destroyed. Deaths from these explosions are inevitable.

I have looked over this application, WVR301A72 and have many questions. Section three does not list the name of any information about any contractor who will be contracted to build this pipeline. I see that 60 days before the start date, a site registration application and erosion and sediment control plan and a
stormwater pollution and prevention plan needed to be submitted before 2/21/17. That is February 21st, 2017. There's no mention that these - these criteria have been met in the application.

In section four, the preparer of this form is Emma Suberniak of Arcadis, which I assume is a company in Highlands, Colorado. Her contact phone number is a 304 number, which is the area code for West Virginia which is very inconsistent with her Highlands, excuse, me, Highlands Ranch, Colorado. Why is this the area code of this preparer?

Section five shows a fee of 1,750. It does not say dollars. I'm assuming it is dollars. This was - this was levied, but there's no mention whether this fee was paid or whether it just goes unpaid.

Now we know the Transcanada Company built the Dakota pipeline that recently spilled 2,110 gallons of tar sands oil, the dirtiest oil known. This could have a very toxic effect on groundwater. Are we supposed to trust our future to Columbia Gas or Transcanada? I for one do not think so. Thank you very much.

CHAIR: Up next is Eve Marcum-Atkinson. Eve is the last person to have signed up to speak. If you came in and you said you did not want to speak, but
now you do, that's okay. Just come up here and I can mark off no and put yes. But Eve, you're up.

MS. MARCUM-ATKINSON: Good evening. My name is Eve Marcum-Atkinson. I'm with West Virginia Rivers and what I want to say is going to reiterate some of the things others have already stated. But in the end I'm just going to make a concise list of some of the issues that West Virginia Rivers has found with this permit application. And if there are this many issues, we are hoping the DEP will consider not accepting the application and asking for these issues to be resolved prior to reapplying.

The applicant has not demonstrated that impacts to water quality has been minimized. Trench, what trench crossing methods are proposed for minor water bodies causing increased sedimentation in streams. Impaired streams crossed by what trench methods will exceed water quality standards and be unable to meet the total maximum daily load pollution prevention requirements. The use of rip rap is proposed for stream restoration instead of West Virginia DEP's preferred method of restoration using natural stream channel design techniques. The engineering calculations for the sizing of culverts are not included in the application. The
site specific spacing distances for trench line barriers are not included in the application. And no water quality monitoring is proposed.

Monitors should be installed at sensitive stream crossings similar to the efforts being conducted along the proposed pipeline routes in Virginia. We have an example that we could follow for that. It's a simple request, but we do at least what Virginia is doing in this case. Because of this and many of the other issues that we have stated today, I do not believe that the MXP's application - I don't believe that it meets the requirements for the West Virginia DEP oil and gas construction stormwater general permit. Thank you.

CHAIR: Okay. Eve was the last person to sign up to speak, but if there's anybody else who wants to speak? What we're going to do, I think since we only had one, two, three, four, five. What we normally do at this point would take about a 15-minute break in case people were late getting here to give more people a chance to arrive. So we're going to kind of take a 15 minute timeout and we will rejoin in about 15 minutes.

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(WHEREUPON, A PAUSE IN THE RECORD WAS HELD.)

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CHAIR: Okay everyone. We've waited 15 minutes. And is there anybody else who wishes to speak tonight? If not, that concludes this public hearing on the Mountaineer Xpress pipeline's construction stormwater permit. The comment period ends on December 22nd. If you wish to receive a copy of the comments and responses, please make sure your e-mail address is on this sign-in sheet and that you've written legibly. Thank you for your participation. Have a safe drive home.

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HEARING CONCLUDED AT 7:02 P.M.

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CERTIFICATE

I hereby certify, as the stenographic reporter, that the foregoing proceedings were taken stenographically by me, and thereafter reduced to typewriting by me or under my direction; and that this transcript is a true and accurate record to the best of my ability.

I certify that the attached transcript meets the requirements set forth within article twenty-seven, chapter forty-seven of the West Virginia Code.

Caroline Swanson,
Court Reporter