

Clean Water for North Carolina Clean Currents Spring 2018

A newsletter of clean water and community environmental justice issues

CWFNC, Tribes, 16 Other Groups Join Legal Challenge to Atlantic Coast Pipeline Approval by Rachel Velez

Clean Water for NC has joined with 16 North Carolina groups and two American Indian tribes, the Lumbee and the Haliwa Saponi, to intervene in a challenge of the federal approval of the Atlantic Coast Pipeline in the US court of Appeals. In late February, Attorney John Runkle of NC WARN filed on behalf of all groups to join Southern Environmental Law Center's motion against the Federal Energy Regulatory Commission (FERC), citing gross negligence in the handling and representation of data during the environmental review.

Builders of the 600-mile long proposed pipeline, Duke and Dominion, touted big economic development, and lower energy costs for customers, none of which is true! As several analyses show, the ACP would be an unneeded, massive investment in fossil fuel dependency in North Carolina, locking our state in as an energy colony for decades to come. Methane leaks during routine operations will further contribute to climate change in a region facing sea level rise.

If construction of the pipeline proceeds, North Carolina will be home to one of the largest federally approved environmental injustices in recent history. The impacts of the Atlantic Coast Pipeline will disproportionately impact our state's most diverse and marginalized communities,

with many census tracts along the pipeline having a higher percentage of low income residents, African American and/or Native American populations than the state as a whole. Risks of exposure to toxic fumes and explosions along the route are significant, but FERC ignored these disproportionate burdens. As attorney Runkle stated, the Commission's "analysis of minority populations is remarkable in its contorted logic used to minimize the relative impact on people of color ... In comparing the current ACP corridor to earlier proposed ACP routes, it is clear that the pipeline has been moved to areas of greater poverty and more people of color."

Clean Water for NC is honored to work with impacted community members, tribes and other public interest groups to fight in court to require a "re-hearing" of the Atlantic Coast Pipeline approval. This challenge is a critical step in securing environmental justice for our state's most vulnerable populations, and requiring FERC to evaluate the actual need for the pipeline and its environmental and human costs. FERC should never have approved the ACP unless it could assure that massive water and climate impacts are prevented—and we know that's not possible!

ACP Compressor Station Permit is More Evidence of "Air of Injustice" for Pipeline

Belinda Joyner, President of Concerned Citizens of Northampton County, responded hotly to news that the ACP, LLC was granted an air permit for the Compressor Station that will push fracked gas 186 miles through the NC. Joyner had gone door to door in the area around the proposed compressor station site with CWFNC staff recently. Nearby residents are mostly African American seniors with limited incomes, unaware of the pipeline or compressor station plans.

"There were thousands of written comments on the air compressor permit and a big hearing turnout," says Joyner. "Most were strongly opposed to the permit and pointed out the environmental injustice of siting a polluter in this area. But DAQ only made very minor changes to the permit! Our tax dollars pay them, but it's clear they aren't working for us!" The facility will release toxic air pollutants such as benzene and formaldehyde, but no monitoring will be required for toxic and hazardous air pollutants.

When Dominion began talking about extending the ACP into South Carolina, pipeline opponents realized that what they suspected all along would probably happen—much of the gas carried by the ACP would go to coastal facilities, and shipped overseas to more lucrative markets.

"With nearly 80% African American residents in the area and a remarkably large public response for a project in a rural area, it's clear that our state's Environmental Equity Policy doesn't amount to a hill of beans," points out CWFNC's Hope Taylor. "Every permit issued for this pipeline spreads the air of injustice for poor residents and communities of color." Residents along the pipeline, disproportionately low income and people of color, will be impacted by disruption and loss of property values, increased risks to health and safety from pipeline and compressor station accidents, and skyrocketing utility bills to pay for the unneeded \$6 B pipeline.

Who We Are

Clean Water for North Carolina

Clean Water for North Carolina is a private, non-profit organization based in Asheville, NC. CWFNC works to ensure that all people have a right to live, work, and play in clean and safe communities. Together, we have the power and responsibility to work for a healthy and sustainable environment. Our staff works with an active and diverse board of directors, as well as members, to increase grassroots involvement in environmental decisions.

CWFNC spearheads action statewide and helps grassroots and environmental groups, individuals, and local governments develop strategies to address threats to the environment.

Our Mission

CWFNC promotes clean, safe water and environments and empowered, just communities for all North Carolinians through organizing, education, advocacy, and technical assistance.

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Rachel Velez, Environmental Justice Organizer/Communications Coordinator, rachel@cwfnc.org

Garysburg

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Belinda Joyner, Northeast Organizer

Welcome Rachel Velez to CWFNC's Durham Office

In January, Rachel Velez joined CWFNC as our new Environmental Justice Organizer/Communications Coordinator. Rachel is originally from Orlando, Florida and holds a master's degree in Sustainable Development Practice from the University of Florida, where she specialized in Water, Sanitation, and



Hygiene program evaluation. Rachel began a teaching internship in Kenya in the Spring of 2014. It was this project that led her to become involved in social justice activism for public health, as many of her students suffered from chronic waterborne illnesses as a result of poor water facilities. Following this experience, Rachel entered graduate school, and conducted her research again in Kenya, this time leading an evaluation of the water sanitation and hygiene program for an NGO located in the world's largest informal settlement – Kibera. Rachel will be using her combined experiences in research, on-

the-ground action, and project evaluation to contribute to CWFNC's effective outreach and communication strategies.

Farewell to Ericka Faircloth!

↑ fter over 3 years of wonderful work with Clean Water for NC, Ericka

Faircloth has decided to move with her husband to Jordan to help care for her ailing mother-in-law. A Lumbee tribe member and student Indigenous leader while studying biology at UNC-Greensboro, Ericka connected us to Native American communities in eastern NC and focused our outreach to vulnerable communities impacted by the Atlantic Coast Pipeline. She was a founder of the grassroots group EcoRobeson, which resists the ACP and other threats, including livestock operations. Ericka coordinated the Pipeline and FrackUpdates emails to over 6,000



readers and helped organize community meetings and People's Hearings to get more folks informed and involved. Ericka, we miss you a lot, and wish you all the best in your new home!

CWFNC Welcomes New Board Member Beth Jezek



Beth Jezek had worked for years with the grassroots Asheville group Save Our Water Western NC to fend off attempts by the state legislature to forcibly regionalize Asheville's public water supply. She got to know Katie Hicks very well during the five year fight to keep Asheville's water system under Asheville control, a struggle that looks like it might be heating up again! Beth lives in south Asheville and has professional experience in writing, editing, management

consulting and public speaking, so we look forward to making good use of those skills. She enjoys writing commentaries on issues she's passionate about, such as affordable health care for all and the Atlantic Coast Pipeline. We are delighted to have you on our Board of Directors, Beth, and welcome you to your first meeting in March!

Drinking Water Justice

Governor Turns Back on Vulnerable Communities, Grants 401 Water Quality Permit for ACP

or months, NC Div. of Water Resources requested more information from ACP, LLC, the builder of the proposed 600 mile fracked gas pipeline from West Virginia to southern Robeson County, NC, raising hopes that the critical "401 Water Quality Certification" would be denied by state regulators before the May deadline. The 401 permit is the strongest regulatory tool that states have to stop an unneeded, damaging pipeline.

Suddenly, in January, word came that Duke Energy had met with the Governor's office, and that the 401 permit would be granted. On Jan. 26th, a dozen FrackFreeNC activists were sitting in at DEQ headquarters when we learned that the 401 had been approved. After big hearing turnouts and thousands of comments that the agency couldn't assure there would not be massive water quality damage, this rapid turnaround left many feeling deeply betrayed by the Governor.

Resentment deepened when we learned that the Governor had signed an agreement for a \$57.8 M "mitigation, clean energy and economic development fund" with pipeline builders weeks earlier. While the Governor and DEQ say the Fund was separately negotiated, it's pretty clear that once that was signed, the ACP builder would assume that state regulators would smooth the way for pipeline construction. And they did, granting the 401 certification and other permits, so that ACP could start felling trees and construction activities quickly. Even if the \$58 M fund hadn't been handed to school systems by the NC legislature, it was highly unlikely that the pipeline would create permanent new jobs. Now the ACP is guaranteed to raise rates for energy consumers as well as damaging waterways, air, neighborhoods and farmland... but resistance continues!

CWFNC Supports Communities Trying to Prevent Privatization of Their Water Supply!

Onder Katie Hicks' leadership, our Water Justice Campaign has collected stories of jacked up water rates, and poor service and water quality for customers of privatized systems, particularly those owned by Aqua NC, a subsidiary of Aqua America. Katie set up a web page to share the problems with privatized water and sewer, and we became a clearing house for water activists seeking to keep their water supply in public ownership. We encouraged turnout and strong testimony at NC Utilities Commission rate hearings.

Word gets around! In 2016, a pastor from the poor, majority African American city of Petersburg, VA saw

our web page, and contacted us to help fight off an offer from Aqua to buy their system. Katie drafted a letter to their City Council packed with documentation about how other cities' customers have suffered after allowing privatization of their water systems. After extensive discussion, the Council voted unanimously to reject Aqua's offer! Recently, we've provided similar information to the struggling city of Youngstown, OH, when we learned that Aqua had offered \$50 M for their system. A grateful City Council member wrote us, praising the information we sent and determined to fend off privatizing their water supply.

Problems with Bottled Water by Bill Rubin

In speaking with residents in low income areas,
Clean Water for NC sometimes found homes where
the parents drank tap water, but they bought bottled
water for their kids. They figured that although bottled
water was more expensive, it must also be safer. You
can understand why that family might think so, given
a number of high profile water contamination cases
including the lead contamination crisis in Flint, Michigan.

In reality, that family would likely have been safer sticking to tap water. Why is bottled water less safe? I'll tell you why bottled water is more vulnerable to contamination and how it is tested less frequently.

Water bottlers generally test for fewer contaminants than local water systems do. Storage is a problem, too—plasticizers and antimony from bottles can leach into water during extended storage or when exposed to heat. A variety of bottled products are not even subject to national drinking water standards. This includes water

bottled and sold within the same state, filtered water, and carbonated water.

What about monitoring? The EPA regulates the safety of your local tap water, creating safe water standards for allowable levels of contaminants. The Food and Drug Administration regulates bottled water, in theory applying the EPA's same public water safety standards. But bottlers are required to test their water only once per year for contamination. Most public water is tested daily for large systems and quarterly for smaller systems.

If that low income family was concerned about safety, then bottled water was the wrong choice. Different bottled water brands have been recalled for health reasons dozens of times over the past several decades, but there are not always public notices. Unless your local water authority has issued a specific order about a drinking water problem in your system, it's actually safest to stick to tap water.





Coal Ash

Remembering Jeri Cruz-Segarra



We gratefully remember Jeri Cruz-Segarra, who died December 2, 2017 at the home in Arden where she and husband Ric had lived for 12 years. CWFNC met Jeri in early 2015 during door-to-door outreach around the Asheville power plant. Jeri had worked for many years at the

North Carolina Department of Labor, where she fought against discrimination in the workplace and community.

As a clean water advocate and impacted community member, she worked relentlessly to acquire a permanent water solution for her community, even when state law had originally excluded Jeri and her neighbors because their contaminated wells were separated from the coal ash basins by the French Broad River. Duke Energy had stated publicly that Jeri and her neighbors would not receive a permanent water solution. In response, Jeri arranged meetings with Asheville City Council, Buncombe County Commissioners, and DEQ's Asheville Regional Office to hold Duke Energy accountable for the well water contamination in her community. Duke Energy offered Jeri and her neighbors whole house filtration systems. Determined to get her community hooked up to the municipal water system, Jeri continued to advocate for the permanent water option that she and her neighbors desired. Jeri was a vocal community leader on local and statewide media releases on the coal ash crisis.

In memory of Jeri, a group of neighbors are working tirelessly to hold Duke accountable and getting them hookups to the municipal water system. If you'd like to support the Cruz-Segarra family and Arden community, contact xavier@cwfnc.org.

The NC Division of Water Resources (DWR) has I issued a "Special Order by Consent" (SOC) for three Duke Energy power plants. SOCs are agreements made between DWR and facilities that have been consistently unable to comply with their wastewater discharge permits. In this case, Duke Energy agrees to speed up the timeline for draining water from coal ash basins at three of its power plants Marshall, Allen, and Cliffside. Removing the water from the ponds is a necessary step to close them and should stop some of the ongoing leaking problems.

Many Coal Ash Impacted Households Get Puny Settlement Offer from Duke on **Drinking Water!**

uke Energy and lawyers for many homeowners with wells close to coal ash impoundments have reached a settlement in a class-action lawsuit over permanent water supplies. In many cases, where coal ash will continue leaching out of mountains of coal ash to be capped In place (Roxboro, Mayo, Belews Creek), homeowners were only offered \$5,000 and a filtration system they say they don't trust. Duke's offer was originally even worse. It would have stripped the residents of their right to seek claims for past, present or future liability related to the neighboring coal ash ponds. Residents around Roxboro say they are relieved but disappointed. Residents around other coal ash sites managed to get an agreement to get Duke to connect them to drinking water supplies and 25 years of water bills, but they also would have had to sign a waiver they couldn't accept.

In the original contract, residents and their heirs could not sue Duke if they or family members are later diagnosed with cancer or other diseases caused by exposure to coal ash. The new settlement agreement assures impacted homeowners that these conditions do not apply to their heirs, and they no longer force impacted coal ash neighbors to state that Duke had fully compensated them for harm or loss caused by coal ash.

Under the Coal Ash Management Act and HB630, Duke Energy was required to pay for a "permanent water supply" for households whose wells contain the same contaminants found in coal ash within a half mile radius of the sites. Duke has been making the feeble excuse that state law does not require the company to cover monthly water bills or maintenance of full-house filtration systems.

Well owners can still sue Duke over damages related to air quality and future coal ash spills or breaches, but can no longer make claims related to contaminated groundwater.

Discharge Permits and Special Orders for Cliffside, Marshall, and Allen Plants Allow Continued Pollution!

The SOC also authorizes Duke to pay a one-time penalty of \$84,000 (\$4,000 per seep for 21 seeps) for illegal seeps, which is far from adequate for the harms to water quality downstream of these coal ash basins. Seeps are not legal discharges and simply should not be permitted. These uncontrolled leaks from the coal ash basins into groundwater and surface water resulted in Duke Energy pleading guilty to environmental crimes in 2015 and paying \$102 million in fines.

Last month, DWR held a public hearing on the SOC in Dallas, NC. CWFNC, Appalachian Voices, Catawba Riverkeeper, Cliffside Coalition for Clean Water, and two residents from Lake Norman all provided substantial comments against the accelerated dewatering and the one-time low fine for illegal seeps.

At the same time that the SOC would authorize Duke to expedite the closure of coal ash basins at Marshall, Allen, and Cliffside, a draft modification of the Marshall

Coal Ash

High Radioactivity Found at NC Coal Ash Sites; EPA Rollbacks Would Slash Monitoring Requirements

Inder the U.S. Environmental Protection Agency's U2015 coal combustion residuals (CCR) rule, coalfired power plants are required to post the results of their groundwater monitoring by March 2nd each year. This monitoring is a critical requirement for determining the extent to which coal ash impoundments and landfills are contaminating groundwater. High levels of radioactivity were found at 11 out of the 18 Duke Energy plants with the Asheville Steam Station in Arden the highest, at 38 times the federal radioactivity limit for drinking water. Radioactivity was also elevated around other NC coal ash sites where the ash will NOT be excavated, only capped in place!

The results reported March 2 also showed that Duke Energy is contaminating groundwater with arsenic, lead, mercury, and other toxic coal ash pollutants. Contamination of groundwater from coal ash continues to be a major threat to public health and the environment of NC. Officials at the NC Division of Water Resources will review the data and compare it with background

levels to determine if the contaminants could be naturally occurring. (Contact Jamie Kritzer, at DEQ, 919-707-8602, Jamie.Kritzer@ncdenr.gov, with questions on the review).

EPA is proposing amendments to roll back the very rule that requires the groundwater sampling and release of this data! On March 1st, the EPA threatened impacted communities when Administrator Scott Pruitt signed a proposal to amend the rule, saying it would save industry between \$32 million and \$100 million per year. EPA is choosing to prioritize industry profits over public health and the environment!

EPA will be accepting written comments on the proposal through Regulations.gov under Docket ID No. EPA-HQ-OLEM-2017-0286 for 45 days after the proposed rule is published—breaking its earlier promise of 90 days. A public hearing is also planned. EPA's proposal must be stopped to protect public knowledge of groundwater contamination affecting communities near coal ash basins or landfills.

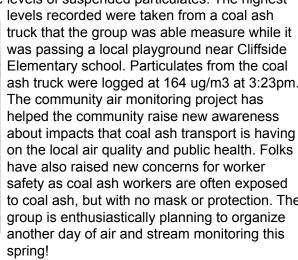
Cliffside Coalition Discovers High Air Particulates Near Elementary School!

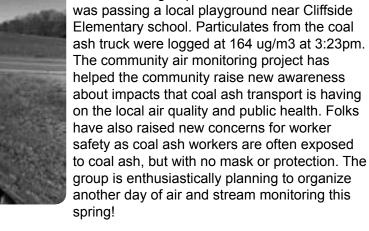
On December 14, the Cliffside Coalition for Clean Water measured air particulate matter along ash

transportation routes to determine the impacts of coal ash being brought in and out of the community. Duke Energy has an onsite landfill at Cliffside that receives coal ash from other cleanups around NC. The company also has plans to close the existing unlined coal ash basin at Cliffside by cap in place. The group continues to advocate for Duke to clean up the Cliffside coal ash basin using the existing onsite landfill.

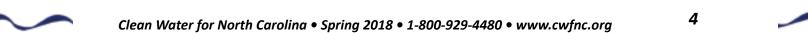
NC Division of Air Quality's standard for total suspended particulates in air is 150 ug/m3. CWFNC helped the

group rent and operate the appropriate equipment to measure levels of suspended particulates. The highest





NPDES permit unjustifiably delays a requirement to install new pollution controls and eliminates a requirement for the large volumes of wastewater to undergo physical/ chemical treatment before the discharges associated with dewatering the basins. DWR should add the requirement for physical/chemical treatment back to safeguard the Catawba River Basin. Similar NPDES permit adjustments are expected for Cliffside and Allen plants, so this is a precedent-setting action with statewide implications!





Polluter Accountability

Trump's Water Infrastructure Plan Will Undermine Public Water Systems and Clean Water

lean Water for NC has focused on working with communities to promote locally-owned and managed, infrastructure, Trump's "New Deal" instead outlines a affordable, public drinking water as the best route to ensure the needs and interests of water customers are respected. Trump's Infrastructure Plan, however, seeks

to undermine this basic principle by selling off our nation's water infrastructure to Wall Street, thus placing private profit before the public interest!

This "profit-over-people" plan would position the private sector to be the solution to our nation's crumbling infrastructure, echoing the aggressive approach of privatizing corporations

like Agua NC that local governments lack the capacity to adequately manage our water and wastewater systems. History shows us that this is NOT the reality, as privatizing our water infrastructure often results in poor service, lack of accountability, and loss of local jobs and expertise. Consumers can also expect rates to skyrocket, as privately owned systems charge an average of 59% more than local, publicly-owned systems.

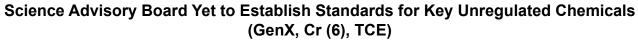
With no actual increase in federal funding for our nation's reshuffling of once-restricted public funds into the hands of the private sector. Through sucking dry already thinlyspread federal resources, rural, low-income communities

> that suffer the most from chronically poor federal infrastructure investment will now be forced to prop up their systems up as money-making schemes for corporations.

Privatization of our country's water infrastructure would force economically vulnerable households to decide between paying their rent or their water bill. It allows for corporations to save

money by cutting corners, putting the public health of water customers at risk. And above all, it hands over the autonomy of community-led water to unaccountable, unregulated Wall Street investors.

What America needs is an injection of federal funding into already exiting public funds and public policy that prioritizes the affordability of clean water for everyone.



Last year, as the GenX crisis was unfolding, Gov. Roy Cooper announced the expansion of the existing Science and other unregulated contaminants. Annual monitoring Advisory Board (SAB) and its role. The SAB was given the responsibility to set regulatory standards for many unregulated contaminants including GenX, TCE, and those associated with coal ash, including Chromium-6. After 4 meetings, the SAB has not set regulatory standards for any of the unregulated contaminants of interest. Meanwhile, scientists have continued to find unregulated contaminants like GenX in groundwater, surface water, and precipitation. Coal ash contamination also still awaits the attention of the SAB. Coal ash neighbors have been relying on bottled water for more than 1100 days in NC, and there are many wells near the

sites that are contaminated with hexavalent chromium reports recently uncovered extremely high levels of radioactivity at coal ash sites across the state. All 16 members of the Board are appointed by the DEQ and DHHS secretaries, from academic institutions, public sectors, and private sectors.

The public is in urgent need of action from the SAB! SAB meeting are open to the public. The upcoming meeting schedule, members, notes, and agendas for the SAB can be found by searching on line for NC Science Advisory Board. Meetings in the Archdale Building, Raleigh are coming up April 30 and June 18.

Special thanks to members of our Recurring Gift Program:

Anna Baucom, Valerie Blanchette, Mary Bolstad, Henry Bruns, T. Butler*, Stan Coleman, Ericka Faircloth, Deborah Graham, Theresa Lanning*, Deborah Long, Robin Olmes, Jane Richardson, Janet Smith, Gayle Tuch, Lee Welper

M onthly or quarterly donations from these individuals make a huge difference in sustaining our work with onthly or quarterly uonations from those mannesses meaning to the first communities. It's easy to set up a recurring donation at <u>donatenow.networkforgood.org/CWFNC</u>.

*Supporters of the Frack Free NC Alliance (Clean Water for NC is the "fiscal agent" for this Alliance).

Clean Water for North Carolina

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"Robeson Rises" Documentary Coming to a Showing Near You!

When mega-utilities Dominion and Duke announced plans to build the Atlantic Coast Pipeline (ACP) from West Virginia through North Carolina, residents of Robeson County became determined to stop it. Located in southeastern North Carolina, Robeson County is home to the largest indigenous population east of the Mississippi. It is the most diverse rural county in the U.S., and one of the poorest. If built, the ACP would lock the region into a fossil fuel dependent future that threatens the safety, water, land, and livelihoods of local residents.

"Robeson Rises" chronicles the efforts of Robeson County residents — Native, Black, brown, and white — uniting against the pipeline and advocating for a renewable future. The film premiered in Lumberton, and CWFNC and other groups will be showing it around the state. To help the film come to your town, call 919-401-9600 or visit http://www.workingfilms.org/connect/. Pictured are 3 key young Robeson County leaders in resisting the ACP (clockwise from top left): Jordan Revels, Robie Goines, and Adrienne Kennedy.

