

# Blue Ridge Environmental Defense League

www.BREDL.org PO Box 88 Glendale Springs, North Carolina 28629 BREDL@skybest.com (336) 982-2691

June 23, 2021

SC Department of Health and Environmental Control  
Division of Water Quality  
Attn: Rusty Wenerick  
2600 Bull St  
Columbia SC 29201-1708  
weneriwr@dhec.sc.gov

## **RE: Riverneck-Kingsburg Pipeline Project, Public Notice No. SAC 2019-01427**

Dear Mr. Wenerick:

On behalf of the Blue Ridge Environmental Defense League and its members in South Carolina, I write to provide comments on Dominion Energy's proposed Riverneck-Kingsburg pipeline project, PN # SAC-2019-01427. These remarks will supplement the comments filed today on our behalf by the South Carolina Environmental Law Project ("SCELP").

In sum, we oppose the granting of the nationwide permit, NWP-12, for this project. Also, we hereby request that an extension of the comment period be granted and that a public hearing be held on this matter.

### Background

The South Carolina Department of Health and Environmental Control has received an application from Dominion Energy South Carolina for an individual State Water Quality Certification of a Department of the Army Corps of Engineers (ACOE) Nationwide Permit under Section 401 of the Clean Water Act. The application is for an intrastate pipeline designated Riverneck-Kingsburg to be constructed near the Great Pee Dee River in the Florence County community of Pamplico. The CWA gives states the authority to grant, deny, or waive certification of proposed federal licenses or permits that may discharge into waters of the United States.<sup>1</sup>

### Pamplico Petition Opposes Pipeline

Since March 2020, BREDL community organizers have worked with residents and landowners in the Pamplico community who had raised concerns about the proposed intrastate pipeline. Because of COVID-19 restrictions and the poor internet service in this rural community, we met almost entirely by telephone conference. The lack of adequate service and broadband made virtual presence platforms—Microsoft Team, Skype, Zoom, etc.—useless for our purposes. Nevertheless, residents and landowners gathered signatures on paper petitions, going from house-to-house and meeting with fishermen by the river. As a result, one hundred and eighteen people (118) with property

---

<sup>1</sup> 33 U.S.C. 1341

interests in the Pamplico community signing a statement which declares “Pamplico Stop the Pipeline Petition.” See SCELPA Exhibit C, pages 5–13. This action, done despite the risk of a deadly virus, is testament to the level of opposition to the proposed pipeline by those who would be directly affected.

### Enforcement of Executive Order 13990

On March 20, 2020, the Pipeline and Hazardous Materials Safety Administration (PHMSA) issued an official notice “...helping hazardous material transporters and pipeline operators prepare for the spread of Covid-19 by easing staff training and qualifications requirements.”<sup>2</sup> Specifically, the PHMSA directive relaxed Operator Qualifications (OQ), Control Room Management (CRM) and random drug testing pursuant to 49 C.F.R. §§ 199. PHMSA Associate Administrator Mayberry’s notice states:<sup>3</sup>

This Notice advises operators affected by the National Emergency that PHMSA does not intend to take any enforcement action with regard to OQ and CRM requirements, and will consider exercising its enforcement discretion with regard to Part 199 drug testing requirements.

Further,

For intrastate operators regulated by State authorities, PHMSA will not object to waivers, special permits, stays of enforcement or similar measures granted by State authorities to pipeline operators for noncompliance due to COVID-19 with State regulations equivalent to the Federal regulations.

(Emphasis added.)

PHMSA, the principal oversight agency responsible for safe operation of pipelines, was reducing training and enforcement and sanctioning state agencies to suspend equivalent rules. This was a flagrant disregard of public safety and a callous exploitation of a genuine public health threat.

Therefore, we request that DHEC and the ACOE take immediate steps to rescind the PHMSA Notice pursuant to President Biden’s Executive Order 13990 which states:

The heads of all agencies shall immediately review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (agency actions) promulgated, issued, or adopted between January 20, 2017, and

---

<sup>2</sup> “Virus Leads Pipeline Agency to Ease Job Qualification Rules.” Bloomberg Environment. 23 March 2020. <https://news.bloombergenvironment.com/environment-and-energy/virus-leads-pipeline-agency-to-ease-some-operator-requirements>

<sup>3</sup> Alan K. Mayberry, Associate Administrator for Pipeline Safety, PHMSA, 20 March 2020, Re: Notice of Stay of Enforcement and Notice of Enforcement Discretion to Operators Affected by the Coronavirus (COVID-19) Outbreak, accessed most recently on 6/23/2021 at <https://www.phmsa.dot.gov/sites/phmsa.dot.gov/files/2020-03/PHMSA%20Notice%20on%20Enforcement.pdf>

January 20, 2021, that are or may be inconsistent with, or present obstacles to, the policy set forth in section 1 of this order.<sup>4</sup>

Section 1 of EO 13990 states its purpose, *inter alia*, “to improve public health and protect our environment; to ensure access to clean air and water; to limit exposure to dangerous chemicals and pesticides; to hold polluters accountable, including those who disproportionately harm communities of color and low-income communities;”

South Carolina’s Environmental Justice Advisory Committee concludes:

Environmental Justice is defined within South Carolina as the fair treatment and meaningful involvement of people of all races, cultures and income with respect to the development, adoption, implementation and enforcement of environmental laws, regulations and policies in working toward increasing prosperity of all South Carolinians.<sup>5</sup>

DHEC and the ACOE are obligated to ensure that no waivers, special permits, stays of enforcement or similar measures were or will be granted to pipeline operators.

#### Conclusion

For the reasons outlined *supra* and others detailed in the comments filed today on our behalf by South Carolina Environmental Law Project, we call upon DHEC to deny the permit for the Riverneck-Kingsburg pipeline project requested by Dominion Energy.

Respectfully,

A handwritten signature in black ink that reads "Louis A. Zeller". The signature is written in a cursive style and is followed by a horizontal line.

Louis A. Zeller  
Executive Director

CC: Tommy Fennel, tommy.e.fennel@usace.army.mil

---

<sup>4</sup> Executive Order 13990 § 2(a) “Immediate Review of Agency Actions Taken Between January 20, 2017, and January 20, 2021” issued January 20, 2021 by President Biden, accessed at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-protecting-public-health-and-environment-and-restoring-science-to-tackle-climate-crisis/>

<sup>5</sup> South Carolina Environmental Justice Advisory Committee Final Report, December 2009, p.1