

Blue Ridge Environmental Defense League

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February 5, 2020

The Honorable Josh Stein
North Carolina Attorney General
114 West Edenton Street
Raleigh, North Carolina 27603
jstein@ncdoj.gov

RE: Request to file amicus curiae in Cowpasture River Preservation Association et al. vs US Forest Service

Dear Attorney General Stein:

On behalf of the Blue Ridge Environmental Defense League and its members and chapters in North Carolina, I write to request that you intervene on the side of Petitioners as friend-of-the-court in the above captioned matter to protect North Carolina farmers and families as Virginia Attorney General Mark Herring has done in Virginia.

As you know, on January 22, 2020, Mr. Herring filed on behalf of the Commonwealth of Virginia an *amicus curiae* brief before the United States Supreme Court supporting the Fourth Circuit Court of Appeals decision regarding the Atlantic Coast Pipeline in the matter of *Cowpasture River Preservation Association et al. vs Forest Service*.¹ See full caption at footnote 1.

In 2014, residents of eastern North Carolina learned that the Atlantic Coast Pipeline had plans to force its way through eight counties, crossing more than 300 waterways and using eminent domain seize land from farmers and other landowners. Many of these families are members of the Blue Ridge Environmental Defense League which has chapters in seven of North Carolina counties crossed by the ACP. We also have affected chapters in Virginia, including one in Union Hill.

ACP's plans have been resisted at every level: environmental permits have been challenged, landowners are fighting eminent domain, and communities are rising up to oppose the project. In total, eight permits for the project are in limbo.

Most recently, on January 7, 2020, the United States Court of Appeals for the Fourth

¹ COWPASTURE RIVER PRESERVATION ASSOCIATION; HIGHLANDERS FOR RESPONSIBLE DEVELOPMENT; SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION; SHENANDOAH VALLEY NETWORK; SIERRA CLUB; VIRGINIA WILDERNESS COMMITTEE; WILD VIRGINIA, INC., Petitioners,

v.

FOREST SERVICE, an agency of the U.S. Department of the Agriculture; KATHLEEN ATKINSON, in her official capacity as Regional Forester of the Eastern Region; KEN ARNEY, in his official capacity as Acting Regional Forester of the Southern Region, Respondents,

Case No. 18-1144, Decided on December 13, 2018.

Posted at <http://www.ca4.uscourts.gov/opinions/181144.P.pdf>

Circuit struck down the Virginia Department of Environmental Quality's air permit for the proposed Union Hill ACP compressor station. Union Hill is an historic African American community founded by freed slaves. The Court found that, "...the Board failed in its statutory duty to determine the character and degree of injury to the health of the Union Hill residents, and the suitability of the activity to the area."² See *Friends of Buckingham et al vs State Air Pollution Control Board* at 47.

Union Hill is not the only environmental justice community that the Atlantic Coast Pipeline would go through. According to information compiled by the Institute for Southern Studies,³ many North Carolina counties in its path would also be disproportionately impacted by the pipeline:

- Of the eight eastern North Carolina counties the 600-mile-long pipeline would cross, number where the poverty rate exceeds the statewide average: 7 counties.
- Counties where the percentage of the African-American population exceeds the percentage of the state's population that is African-American: 7 counties.
- Percent of the population that is African-American in Northampton County, where the pipeline developers plan to place another air-polluting compressor station: 54.6 %
- Factor by which the percentage of Native American people living within a mile of the pipeline's proposed route through North Carolina exceeds the percentage of the state's population that is Native American: 11 times.
- Percent of the population that is Native American near the current end of the pipeline's official route in Robeson County, North Carolina: 98%.

Research by academia and advocates confirms multiple injustices:

For example, the pipeline threatens sacred sites for Virginia's Monacan Tribe and North Carolina's Tuscarora, Waccamaw, and Lumbee peoples. The terminus for the ACP is in Robeson County, NC, which is home to the densest population of indigenous people on the East Coast. 30,000 of them live within one mile of the proposed route in North Carolina. The Northampton compressor station in North Carolina is in a census block group that is 79% African American and already home to other energy and manufacturing facilities that already have air emissions. Local asthma levels there already are more than state averages.⁴

Attorney General Herring was joined by 13 other state Attorneys General and the District

² *Friends of Buckingham et al vs State Air Pollution Control Board*. 07 January 2020. https://www.southernenvironment.org/uploads/words_docs/Fourth_Circuit_opinion_Friends_of_Buckingham_19-1152.pdf

³ Sturgis, Sue, editorial director, Institute for Southern Studies. "Institute Index: Fighting N.C. Governor Cooper's 'environmental justice atrocity'" *Facing South*, published 31 January 2018. <https://www.facingsouth.org/2018/01/institute-index-fighting-nc-gov-coopers-environmental-justice-atrocity?fbclid=IwAR3uhV5LocgHCneCsd0O4KWJ4lt6LdE7XH305mcGJqiwlkuIXNx2pkpU5fw>

⁴ Allen, Elizabeth. "The Environmental Justice Implications of the Atlantic Coast Pipeline." Duke Nicholas School of the Environment Blog. 05 April 2019. <https://blogs.nicholas.duke.edu/env212/the-environmental-justice-implications-of-the-atlantic-coast-pipeline/>

of Columbia in filing *amici curiae* in support of the 4th Circuit's decision.

Will you act now to protect eastern North Carolina communities in the same way Attorney General Mark Herring has done to protect Virginia communities?

I look forward to your reply.

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
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