

# THE ACP: AN UNPERMITTED PIPELINE

Despite the Atlantic Coast Pipeline's (ACP) highly uncertain future, its developers—Dominion Energy and Duke Energy—have seized private property through eminent domain, felled swaths of forest, and spent \$3.6 billion on this unnecessary boondoggle. ***The project is missing eight required permits***, and should not receive permission to cut more trees or to clear land and install pipe in Virginia.

## VACATED

### U.S. FISH & WILDLIFE SERVICE PERMIT

To harm or kill endangered species

Vacated by the U.S. 4th Circuit Court of Appeals in July 2019 as arbitrary and capricious, the Court found the permit “runs counter to available evidence” for specific endangered species. An initial legal stay of the biological opinion and incidental take statement in December 2018 stopped ACP construction along the entire proposed route. Construction remains halted over one year later.

## VACATED

### U.S. FOREST SERVICE SPECIAL USE PERMIT

To cross the Monongahela and George Washington National Forests

Vacated by the U.S. 4th Circuit Court of Appeals in December 2018 for violating multiple federal laws, including the National Environmental Policy Act. A narrow portion of the decision, related to the Forest Service's authority to permit ACP to cross the Appalachian Trail, was overturned by the U.S. Supreme Court in June 2020. Regardless, additional critical defects in the permit must be resolved before it can be reissued.

## VACATED

### VIRGINIA AIR POLLUTION CONTROL BOARD PERMIT

To allow air pollution at the Buckingham Compressor Station

Vacated by the U.S. 4th Circuit Court of Appeals in January 2020, for not considering less polluting electric turbines as an alternative to gas turbines and for a failure to assess the disproportionate impact on the African American community in Union Hill, Virginia. ACP will need to reapply to the Virginia State Air Pollution Control Board for a new permit.

## VACATED

### U.S. NATIONAL PARK SERVICE PERMIT

To cross the Blue Ridge Parkway

At the National Park Service's request, the U.S. 4th Circuit Court of Appeals remanded this permit to cross the Blue Ridge Parkway back to the agency, which then withdrew and vacated the permit in January 2019. The 4th Circuit had already overturned the permit once in August 2018, noting that the Service failed to explain how the approval was consistent with its mission, as required by law. ACP must reapply for this permit.

## VACATED

### FOUR U.S. ARMY CORPS OF ENGINEERS PERMITS

To construct across streams

ACP sought to use Nationwide Permit 12 (NWP 12) to cross 1,400 streams along the proposed pipeline pathway. Approval in the Army Corps' Huntington District was vacated by the U.S. 4th Circuit Court of Appeals because the Corps unlawfully ignored ACP's inability to satisfy several West Virginia-specific conditions of its permit. The other three approvals in the Pittsburgh, Norfolk and Wilmington Districts were suspended in November 2018 because the defects in the Huntington District made the entire project ineligible for NWP 12. Since then, a federal court in Montana vacated NWP 12 nationwide for oil and gas pipelines because the Corps did not adequately consider the harm to endangered species. At present, NWP 12 is not available for the ACP.

**MILES OF ACP PIPELINE LAID IN VIRGINIA: ZERO**