

COMMONWEALTH OF WEST VIRGINIA

DEPARTMENT OF

ENVIRONMENTAL PROTECTION

\* \* \* \* \*

IN RE: CONSTRUCTION STORMWATER PERMIT  
FOR THE EQT HAMMERHEAD PIPELINE  
PROJECT

PUBLIC COMMENT

\* \* \* \* \*

COPY

BEFORE: JACOB GLANCE, Member  
Rick Adams, Member  
Dennis Stottlemyer, Member

HEARING: Monday, December 3, 2018  
6:08 p.m.

LOCATION: Morgantown City Building  
Council Chambers  
389 Spruce Street  
Morgantown, WV 26505

WITNESSES: Duane Nichols, Paul  
Douglas, Angie Rosser,  
James Kotcon

Reporter: Aliana Vignali

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NONE OFFERED

## P R O C E E D I N G S

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MR. GLANCE: Good evening, everyone. 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 EQT Hammerhead Pipeline Project.

The Registration Application Number is WVR311199. Also here this evening are the DEP'S Rick Adams. He's with the Division of Water and Waste Management, and Dennis Stottlemeyer with the Office of the Environmental Advocate.

The purpose of tonight's hearing is to give you the opportunity to share your comments with the DEP about the Construction Stormwater Permit for the Hammerhead Pipeline Project.

Tonight's hearing is being recorded by a court reporter so that

1 the comments shared can be part of  
2 public rulemaking record.

3 To ensure that we  
4 successfully achieve the purpose of  
5 this hearing, we ask that everyone be  
6 respectful and considerate of each  
7 other by refraining from interrupting  
8 others while they're speaking and  
9 keeping your comments on topic so that  
10 our time together is used efficiently.

11 For those wishing to speak,  
12 when I call you up to provide your  
13 comments, please state your name and  
14 say if you are representing any groups  
15 or organizations.

16 If you have written  
17 comments that you would like to  
18 submit, in addition to your spoken  
19 comments, please hand them to me after  
20 you speak or at the conclusion of the  
21 hearing.

22 Please remember that this  
23 public hearing is not the proper forum  
24 for questions and answers. We are  
25 here to receive comments on this

1 permit and will respond to each  
2 comment when we - when we issue a  
3 decision on the permit.

4 If you have any questions,  
5 please speak with a DEP representative  
6 at the conclusion of the hearing.

7 What we're going to do is,  
8 I have the list of people who signed  
9 in to speak. What we'll do is I'll  
10 just call your name, come on up here  
11 and make sure you kind of turn this  
12 way so the court reporter can hear  
13 what you're saying because we don't  
14 have the PA system. And then whenever  
15 you're done, just be careful of the  
16 wires and make your way back to your  
17 seat.

18 If there's anybody that has  
19 any questions about the format?

20 Yes, sir?

21 MR. NICHOLS: Isn't there  
22 also an opportunity to submit comments  
23 up until some future date?

24 MR. GLANCE: Yeah, the  
25 public comment period ends on December

1 13th.

2 MR. NICHOLS: I didn't hear  
3 you say that.

4 MR. GLANCE: I'm sorry. I  
5 didn't. I was going to say at the end  
6 of the hearing actually. So ---.

7 MR. NICHOLS: Thank you.

8 MR. GLANCE: No problem at  
9 all. Yeah, December 13th by e-mail or  
10 in writing is fine.

11 Any other questions? We'll  
12 get started.

13 Okay.

14 The first speaker was Paul  
15 Douglas. He said yes, but then he  
16 crossed it out?

17 MR. DOUGLAS: Yeah, it  
18 doesn't involve me, but I'm all for  
19 it. Even though it doesn't involve me  
20 or my land, and that's all I got to  
21 really say.

22 MR. GLANCE: Okay.

23 Next on the list is Duane  
24 Nichols. Duane, you can come on up.  
25 I'll get out of your way here.

1                   MR. NICHOLS: Thank you  
2 very much. My name is Duane Nichols,  
3 330 Dreamcatcher Circle, Morgantown  
4 West Virginia. I was born in Tyler  
5 County, and inherited 70 acres in  
6 Tyler County, and we have gas coming  
7 from that property at the present  
8 time.

9                   I want to talk about this  
10 particular situation. I believe that  
11 the main Hammerhead gathering is  
12 misleading because it's not gathering  
13 from wells here in West Virginia. The  
14 same circumstance applied as far as I  
15 know to the Stonewall gathering line,  
16 which it wasn't connected either and  
17 mislead a lot of people.

18                   And I'm personally  
19 disappointed that the state isn't  
20 concerned about whether the public is  
21 misled by the companies that come  
22 here.

23                   Second item is the staffing  
24 at DEP. I have heard almost every  
25 time I ask that the various branches



1 at DEP have openings or are  
2 understaffed or need an increasing  
3 salary so that they can attract  
4 personnel. It stands to reason that  
5 to the extent that staff is not  
6 available to monitor gas lines that  
7 they should not be permitted. That's  
8 only a rational perspective,  
9 particular if we want to protect the  
10 state.

11 The third item is a follow  
12 up on that one, because I personally  
13 have inspected some aspects of the  
14 Rover Pipeline, some aspects of the  
15 Stonewall gathering pipeline, some  
16 locations for Mountain Valley Pipeline  
17 and for the Atlantic Coast Pipeline.  
18 And in every case I could see where  
19 there was water permeating through,  
20 flowing under, flowing over. In many  
21 cases soil was being washed and there  
22 were no violations being applied.

23 Four, there is an article  
24 in the Reuter's News Service on  
25 November 28th that said that the Rover

1 Pipeline and the Mariner East Pipeline  
2 had incurred over 800 violations.

3 Now, if that isn't an  
4 embarrassment to the industry, then  
5 you won't find one. And for the DEP  
6 to continue to permit lines and have  
7 these violations or have conditions  
8 prevailing that are not inspected and  
9 to go under the wire, it's an  
10 embarrassment to those of us in the  
11 public.

12 Item five, there's an  
13 article by Terry Etam in a journal  
14 called BOE Report on November the  
15 26th, 2018 entitled Seven Marcellus  
16 Natural Gas Myths.

17 And among other things they  
18 are saying that the industry is  
19 misleading the public and for the  
20 industry to being do so and the state  
21 not being concerned about it is a real  
22 problem.

23 I would like to talk about  
24 West Virginia Energy Policy, but I'll  
25 submit that in writing. I'd like to

1 talk about Nationwide 12th permits,  
2 but I only want to talk to two  
3 sentences about that. Now when the  
4 West Virginia DEP issued nationwide 12  
5 permits to the Atlantic Coast pipeline  
6 and the Mountain Valley Pipeline it  
7 was obvious to the casual observer  
8 that this was out of place.

9 I am over 80 years old, I'm  
10 a chemical engineer with a background  
11 in working in various deals and it was  
12 obvious that this was inappropriate.

13 And now the Courts have  
14 found so, and yet the West Virginia  
15 DEP has not acknowledged that they  
16 were in error, that they --- that it  
17 was inappropriate and that they had  
18 shirked their duty to apply  
19 appropriate procedures to these  
20 pipelines.

21 Thank you.

22 MR. GLANCE: Next to speak  
23 is Angie Rosser.

24 MS. ROSSER: Thank you.  
25 I'm Angie Rosser representing the West

1 Virginia Rivers Coalition, and thank  
2 you for the opportunity to speak. I  
3 think it's really important that the  
4 Agency conduct these public hearings  
5 to hear from impacted community  
6 members and our members who are  
7 concerned about impacts on water.

8           What we've seen in recent  
9 years are widespread systemic issues  
10 related to natural gas pipeline  
11 construction that have caused  
12 sedimentation in streams, cause  
13 landslides. We saw an explosion in  
14 Marshall County that raised a lot of  
15 alarm for the communities where these  
16 pipelines are being constructed  
17 through some pretty tricky terrain.

18           And I'm going to speak some  
19 of the slope issues that we've  
20 noticed, but generally, what we have  
21 noticed is that this stormwater  
22 Construction permit is critical in  
23 making sure that companies develop  
24 plans that are strong enough to keep  
25 pollution from happening in the first

1 place.

2 And that's our goal,  
3 because the cumulative effect of what  
4 we're starting to see and have been  
5 seeing for a few years now of  
6 increased sedimentation in streams  
7 certainly has had an impact.

8 And that some of these  
9 plans that have been approved by the  
10 Agency have not proven affected enough  
11 to prevent that pollution.

12 The first point --- and you  
13 will receive written comments from us  
14 as well. So I'm just hitting on some  
15 high points tonight, but we're  
16 preparing those written comments and  
17 we'll get those to you by the December  
18 13th deadline.

19 First, we think it prudent  
20 to put in place the - this permit of  
21 what we anticipate will be the  
22 reissued general Wheeling Gas  
23 Stormwater construction permit. And  
24 we're waiting for - to hear from the  
25 Agency of when that reissuance

1 happens. It seems imminent, and that  
2 because construction of this pipeline  
3 will not occur until November 2019, it  
4 makes sense to make sure that the  
5 conditions of this permit align with  
6 the enhanced best management practices  
7 and the increased frequency of  
8 inspections that we hope will be  
9 included in that reissued permit.

10 Because we noticed and have  
11 surmised that if there were increased  
12 inspections in some of these pipelines  
13 we've seen that have been in  
14 violation, that possible pollution  
15 could have been prevented. So that's  
16 a very key piece.

17 The other thing we want to  
18 bring your attention to is that this  
19 Hammerhead Pipeline impacts two public  
20 source water protection areas for  
21 public drinking water supplies that's  
22 in Pine Grove and also Sistersville.

23 And for obviously reasons  
24 we want to be even more careful within  
25 those source water protection areas to

1 use enhanced controls to prevent  
2 pollution from happening and that we  
3 would strongly recommend a requirement  
4 in this permit that if a spill occurs  
5 that the company is required to report  
6 that to the downstream public water  
7 utility.

8                   Second, what we think is  
9 lacking here are detailed construction  
10 plans for individual stream crossings.  
11 What we've seen in other permits - or  
12 I'm sorry, other pipelines in the  
13 state is we've learned that one size  
14 does not fit all when it comes to  
15 stream crossing. We're talking about  
16 approximately 128 streams and wetlands  
17 being impacted by this pipeline. And  
18 the one size fits all has proven not  
19 to be affective.

20                   So we would urge the Agency  
21 to make sure the Company has thought  
22 through detailed plans for each of  
23 these individual stream crossings.

24                   And there are other lessons  
25 we can learn from other pipelines.

1 And these are cited in the DEP's  
2 inspection reports and notices of  
3 violations, where they've seen that we  
4 need better protection at the outlets  
5 of water bars, and this plan or this  
6 application talks about having 18-inch  
7 filter socks at those outlets. And  
8 we've seen on numerous occasions where  
9 that had been enough with other  
10 pipelines, especially on these steep  
11 slopes that we're talking about. So  
12 that needs enhanced clearly.

13 On the steep slopes, this  
14 pipeline, 40 percent of it is being  
15 constructed on slopes that are greater  
16 than 35 percent. So it brings  
17 increased concerns about erosion and  
18 landslides.

19 We would recommend that a  
20 geologic study be done that looks at  
21 the orientation of bedrock up against  
22 the topographic slope along these  
23 stream crossings and plan accordingly.

24 That if the bedrock is  
25 oriented in a way that aligns with the



1 slope, we have a better chance of  
2 landslides. And landslides, what  
3 we're hearing from and seeing from  
4 communities, that's one of the biggest  
5 concerns.

6 It's one of the most  
7 catastrophic things that can happen to  
8 a pipeline because we saw in near  
9 Moundsville an explosion and initial  
10 investigation points to land  
11 subsidence as a cause of that.

12 So we urge the Agency to  
13 require the company to take a close  
14 look of where these steep slopes  
15 occur, what the geology looks like.

16 And something else we think  
17 is lacking is the landslide mitigation  
18 plan. It's very vague. We would like  
19 --- we need to see much more  
20 definition and specificity when it  
21 comes to that land slide mitigation  
22 plan.

23 And this is something that  
24 EQT as a company should be familiar  
25 with. They're building other major

1 pipelines on steep slopes and we would  
2 expect to see a lot more specificity  
3 about how they're prepared.

4 And that's I think what the  
5 community wants to see, is knowing  
6 that this company has thought through  
7 a catastrophic scenario and is  
8 equipped and prepared to prevent that  
9 and if ~~---~~ in the worst case scenario  
10 prepared to mitigate the effects of  
11 that.

12 Another lesson learned is  
13 that sediment traps would be  
14 beneficial on these steep slopes.  
15 There's an absence of that in other  
16 pipelines and think that it could be  
17 another enhanced control or measure to  
18 keep.

19 If sediment is eroding off  
20 the construction site that it's caught  
21 in these pounds before it gets in a  
22 water body or drinking water source.

23 Another recommendation we  
24 have, a lesson learned from other  
25 pipelines, is to put in this permit a

1 restriction around the length of the  
2 right-of-way that is exposed or under  
3 construction at any given time.

4 And what we would recommend  
5 is that the construction site they're  
6 working on --- that stretch they're  
7 working on is restored before starting  
8 another spread. So that's covered up,  
9 that's stabilized before exposing  
10 soils and disturbing earth on another  
11 spread.

12 Specific to this pipeline,  
13 it crosses over quite a bit of mine  
14 pools, coal mining pools and that's an  
15 added concern especially around  
16 blasting. So we would want the Agency  
17 and the company to take a much more  
18 careful look around the possible  
19 impacts of blasting through those mine  
20 pools that exist along the route.

21 Just a few more things to  
22 mention. You know, we're concerned  
23 about erosion that occurs while  
24 construction is underway, but what  
25 we're seeing a lack of here are

1 specific stream restoration plans.  
2 And we think that's very important to  
3 preventing chronic and avoiding  
4 chronic erosion. So we'd like to see  
5 that added to this permit is specific  
6 plans around stream restoration.

7 We'd like to - we think  
8 it's important to include an invasive  
9 species plan. So when reclamation  
10 occurs that that is considered and  
11 would urge that the permit be enhanced  
12 to conform with Section Four of DEP's  
13 erosion and sediment control field  
14 manual.

15 And finally, you know, one  
16 thing we've given a lot of thought to  
17 of how to keep an eye on what's  
18 happening in stream downslope from  
19 these pipelines. And we have a water  
20 quality standard around turbidity and  
21 think it would behoove the Agency's  
22 efforts, citizen monitoring efforts,  
23 prevention to understand what's  
24 happening with turbidity in the  
25 stream. And think it's appropriate

1 that the company be responsible for  
2 monitoring turbidity at a frequent  
3 basis at these crossings.

4 So that hits the high  
5 points, and you'll hear more from us  
6 in writing.

7 Thank you.

8 MR. GLANCE: Angie was the  
9 last person to sign up to speak.  
10 There's some other - there some people  
11 who came in. I don't know if you guys  
12 want to speak or not, but if you  
13 would, sign in.

14 It's right outside the door  
15 here. Yeah.

16 We still have some time to  
17 be here, so what we we're going to do  
18 if there's nobody else who wishes to  
19 speak right now, we'll just push  
20 pause. And then we will rejoin if  
21 more people come to submit comments.

22 In the meantime, we can  
23 answer questions. We have the maps  
24 here you guys can look at. And Rick  
25 and Dennis can also answer questions

1 for you.

2

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

5

6 MR. GLANCE: If you would  
7 just say your name. Right there.

8 MR. KOTCON: My name is  
9 James Kotcon, K-O-T-C-O-N. I'm with  
10 the Energy Committee of the West  
11 Virginia Chapter of Sierra Club.

12 We are opposed to any  
13 additional investment in fossil fuel  
14 infrastructure, and in particular,  
15 this pipeline appears to have been  
16 sprung on us with very little notice  
17 and very little understanding of the  
18 ramifications of that.

19 We would, therefore, like  
20 to request an extension of the comment  
21 period for at least an additional 30  
22 day so that we would have time to  
23 review the implications of this  
24 facility.

25 Secondly, from what I've

1       been able to determine, a high  
2       percentage of the pipeline crosses  
3       areas with slopes of greater than 35  
4       or 40 percent. As DEP is well aware,  
5       it is extremely difficult to assure  
6       protection of water quality when  
7       disturbing slopes of that size,  
8       especially over the miles of terrain  
9       that this facility will cross.

10               We, therefore, would  
11       recommend that the permit prohibit any  
12       slopes greater than 35 percent and  
13       that they reroute the pipeline to  
14       avoid those areas. It is the only way  
15       that we can assure that they there  
16       will not be massive soil erosion and  
17       land slippage associated with this  
18       into the waters of the United States.

19               There is a wide variety of  
20       other issues that we will be raising  
21       in our comments, but at this time, we  
22       would simply say that we'd really like  
23       to see some additional opportunities  
24       and extension of the comment period as  
25       well as some consideration of changing

1 the route to avoid the most hazardous  
2 areas.

3 Thank you.

4 MR. GLANCE: Is there  
5 anyone else who wishes to speak  
6 tonight? If not, this concludes the  
7 public hearing on the Hammerhead  
8 Pipeline Project. The comment period  
9 ends on December 13th, 2018.

10 If you wish to receive a  
11 copy of the comments and responses,  
12 please make sure your e-mail address  
13 is on the sign-in sheet. Thank you  
14 for your participation. Have a nice  
15 evening and a safe drive home.

16 \* \* \* \* \*

17 HEARING CONCLUDED AT 7:40 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.



Aliana Vignali,

Court Reporter