



# BLUE RIDGE ENVIRONMENTAL DEFENSE LEAGUE

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## The LEAGUE LINE

SUMMER 2020

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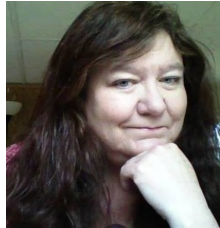
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## Victory!

### Never give up – the Atlantic Coast Pipeline is dead

By *Therese Vick and Sharon Ponton*



On Sunday afternoon, July 5, 2020, we got wonderful news. After 6 years, Dominion and Duke Energy had abandoned their plans for the unneeded, unwanted, and unjust Atlantic Coast Pipeline! First emotions, disbelief, distrust, then pure joy

and jubilation. Tears, screams, dancing, laughter.

BREDL staff called, texted and emailed

*(Continued on page 3)*

#### Marvin Winstead statement on ACP victory

When I received a letter from Dominion's subsidiary in late May 2014 telling me that my property had been identified as possibly being in the corridor of a 36-inch, 1440 PSI natural gas pipeline, I knew immediately that my farm, that's been in my family for several generations, would be ruined by the construction process and damage to the soil. I began to contact environmental organizations. However, information about the project was news to them, and they needed to know more to be of assistance to me to do anything about the pipeline.

I met Therese Vick at the first hearing of the public comment period on the ACP in Lewiston in February 14, 2015. I was not familiar with BREDL at that time. I received much needed help from BREDL in reference to stop the unneeded and unwanted project. I can't say thank you enough to Therese and BREDL.

In the Spring of 2015, Cary Rodgers, an organizer from Anson County, traveled many times to the proposed pipeline corridor that parallels I-95 to help start new

BREDL chapters. He was successful in Halifax, Nash, Wilson, Johnston and Cumberland counties, chartering new chapters to fight the pipeline. These chapters thank you Cary for your tireless efforts.

Sharon Ponton carried the battle flag against the ACP in Virginia and made great inroads to expose corporate propaganda by ACP and no construction took place in Virginia.

The BREDL Board of Directors provided financial assistance to cover the legal expenses to help landowners in the eminent domain procedures in the courts. This was a major factor in stopping the pipeline.

Of course, Lou Zeller, executive director of BREDL, provided wise and sage advice over the six-year battle to stop the ACP. His leadership and years of experience in many campaigns made the difference. The ACP was stopped. Thank you very much.



2020





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### **BREDL: Who and what we are**

In March 1984, fifty citizens of Ashe and Watauga Counties met in the Mission House of Holy Trinity Church in Glendale Springs, North Carolina. Teachers and farmers, home-makers and merchants listened to the report of the Episcopal Church Women on the US Department of Energy's siting search for a high-level nuclear waste dump in the rain-rich east.

Recognizing that the North Carolina mountains were a region at risk, the assembled group organized the Blue Ridge Environmental Defense League (BREDL) to protect their own backyard and those of other threatened communities.

Grassroots organizing was a cornerstone of our early all-volunteer organization. One of our first multi-county boards of directors adopted our credo, which embodies our mission statement:

### **BREDL Credo**

We believe in the practice of earth stewardship, not only by our league members, but by our government and the public as well. To foster stewardship, BREDL encourages government and citizen responsibility in conserving and protecting our natural resources. BREDL advocates grassroots involvement in order to empower whole communities in environmental issues. BREDL functions as a "watchdog" of the environment, monitoring issues and holding government officials accountable for their actions. BREDL networks with citizen groups and agencies, collecting and disseminating accurate, timely information.

BREDL sets standards for environmental quality, and awards individuals and agencies who uphold these standards in practice.

### **Moving into the future**

Since then, the Blue Ridge Environmental Defense League has grown to be a regional community-based, nonprofit environmental organization. Our founding principles - earth stewardship, environmental democracy, social justice and community empowerment - still guide our work for social change. Our staff and volunteers put into practice the ideals of love of community and love of neighbor, which help us to serve the movement for environmental protection and progressive social change in Maryland, Virginia, North Carolina, South Carolina, Georgia, Alabama and Tennessee.

### **Grassroots Campaigns**

Nothing creates hopefulness out of helplessness like a successful grassroots campaign -and our chapters have a history of winning. For over three decades Blue Ridge Environmental Defense League chapters have protected their communities by stopping dangerous facilities and promoting safe alternatives.

In the 1980's and 1990's, BREDL prevented a multi-state ThermalKEM hazardous waste incinerator, a southeastern nuclear waste dump and a national nuclear waste dump. In the 2000's, our coordinated grassroots citizens' campaigns have had further victories. We won a legislative victory with the passage of the NC Solid Waste Act, effectively blocking at least four multi-state mega-dumps. Our Person County chapter convinced their Board of Commissioners to reject expansion of the Republic Services landfill. Our Cascade, Virginia, chapter shut down a huge hazardous waste incinerator. We eliminated mercury waste from the Stericycle incinerator, shut down a tire incinerator in Martinsville, won the landmark environmental justice court decision in Greene County, NC. Further, with our chapters we have protected air quality by blocking scores of asphalt plants, four medical waste incinerators, a PVC plant and a lead smelter, and passage by local governments of eight polluting industries ordinances. Our work on nuclear power and coal plants laid the groundwork for our new Safe Energy Campaign. Victories over twenty-four mega-dumps have resulted in our affirmative Zero Waste Campaign. Guided by the principles of earth stewardship and environmental justice, we have learned that empowering whole communities with effective grassroots campaigns is the most effective strategy for lasting change.

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Marvin Winstead

## Atlantic Coast Pipeline Victory!

(Victory! - Continued from page 1)

each other, we contacted our members who have been fighting on the frontlines, our allies, our families. You may have heard us holler from where you were.

The victory belongs to the thousands of grains of sand thrown into ACP's gears, most of all to the frontline communities that stepped outside their comfort zone to fight for environmental justice. Impacted landowner Valerie Williams, from BREDL chapter Concerned Stewards of Halifax County, is one of those

it is to all landowners that private property is still private property! And now we can breathe fresh air and drink clear water."

Communities like Union Hill threw many of those grains of sand, standing tall throughout this fight to protect the historic community their freedmen ancestors settled after the Civil War. Kathie Mosley, who serves as chair of the BREDL chapter, Concern for the New Generation, said, "Dominion chose to ignore the Union Hill community, but we stood up, never stopped fighting. They tried to divide our

were fighting a giant, a giant that had many more resources than we could ever obtain. We also knew that we serve an unlimited God, a just and righteous God. We knew this project, itself, was destructive to our natural environment. We thank God today...to God be the glory."

Others, like Frank McManus from Nelson County, VA's Protect Our Water chapter spoke eloquently, "I have been part of many victories in my life, but none could be more satisfying than the news that the proposed Atlantic Coast Pipeline has been cancelled. To be a small part of such a 'David defeats Goliath' moment is something that makes the heart swell, for reward is not awarded to a single champion but to everyone, for WE all share in this victory. For so many came together to form one voice, to push back against corporate America, saying, 'Not this time'. It feels really good."

We were ecstatic when we saw the Facebook notification "Atlantic Coast Pipeline Cancelled" pop up in our newsfeed. We immediately started planning how to make Dominion vacate landowner easements and replant the trees they had felled.

So many said that this pipeline was a "done deal." But we didn't give up. BREDL's founder, Janet Marsh, used to say, "We only have to last one day longer than they do."

We did!



Hands Across Our Land Action at James River Bridge at Nelson and Buckingham County Line - August 18, 2015

Photo Credit: Marion Kanour

powerful grains of sand. After learning of the cancellation of the ACP, she declared, "It's been a long and winding road to this victory, but when you have a determined people – with legacy, memory and heritage – we must be committed to never give up. I want to thank all those involved in the project, and especially reinforce how important

community, but we never, ever gave in. It feels good today to know we slayed the giant."

John Laury, a long-time member of Concern for the New Generation and supporter of the pipeline fight, said in response to the cancellation of the ACP, "I am so elated it's hard to put into words. I can say beyond a shadow of a doubt we knew we





## The lone yellow pine that helped stop a giant

By Catherine Cralle Jones, July 12, 2020

*The Law Office of F. Bryan Brice, Jr.*

**O**n July 9, 2020, the Atlantic Coast Pipeline (ACP) dropped its two and a half year legal conquest to condemn land and cut down miles of trees in Halifax, Nash and Wilson Counties, North Carolina, including a lone pine on the Winstead Farm in Nash County. The dismissal of the five lawsuits by ACP comes in the wake of the announcement on July 5th that ACP's partners, Dominion Energy and Duke Energy were pulling the plug on the project to build a 600-mile pipeline to transport natural gas from fracked shale fields in Pennsylvania, through West Virginia, Virginia, and across North Carolina from Northampton County to Robeson County. In its own way, that lone pine in Nash County helped to stop the project that seemed inevitable, especially after the US Supreme Court ruling on June 15th allowed the pipeline to cross the Appalachian Trail.

The lone yellow pine stands watch over the Winstead Farm in Nash County. Protected by Marvin Winstead's mother decades before, the tree in 2018 became the bull's eye target for the Atlantic Coast Pipeline as it sought to cut a more

than 130-foot-wide path diagonally across planted fields and forest of the farm, taking 12 of the 70 acres that had been farmed by the Winstead family for almost 100 years and three generations.

To construct the project, ACP had to acquire by purchase or by condemnation more than 2,000 parcels of privately owned land, including 1,000 homes and farms in North Carolina. ACP told landowners along the 600-mile path that if they did not agree to ACP's contract terms for purchase of the easement, ACP would simply take the land by condemnation for less money than was on the table.

Many landowners believed that the taking of their property was inevitable and simply conceded to the pipeline's demands.

Other landowners refused to bow to the threats. They could not offer their sacred lands for a project that would destroy miles of trees and wetlands and would support the buildout of an infrastructure dedicated to fossil fuel extraction and further speeding climate change.

After receiving authorization from the Federal Energy Regulatory Commission (FERC) to move forward with construction, in

January of 2018, ACP filed 29 federal condemnation lawsuits against North Carolina landowners seeking to take the easements they wanted and requesting to begin cutting down trees. One of those lawsuits took dead aim at the Winstead tree.

The tree did not stand alone to face the giant. Other landowners, environmental advocates, and community groups across West Virginia, Virginia and North Carolina also worked to stop the ACP. Communities organized, spoke out, and formed teams to monitor and help one another

*(Continued on page 5)*



*Painting of the Winstead farm by Nathalie Worthington*

## Atlantic Coast Pipeline Victory!

(lone yellow pine - Continued from page 4)

understand on-going and potential construction impacts. The Blue Ridge Environmental Defense League, The Allegheny Blue-Ridge Alliance, the Sierra Club, Appalachian Voice, Clean Water for N.C., and other groups helped to educate and empower landowners and residents. The Southern Environmental Law Center and other attorneys on behalf of landowners, river keepers and environmental groups, filed legal challenges to the FERC permit itself, and against the weak permits that ACP was able to obtain from federal agencies under the Trump administration. These legal efforts led to permits being vacated, an eventual stop work order from FERC, and a voluntary cessation of construction since December of 2018. Nevertheless, ACP continued to push forward to compel landowners to give up their land rights by force of law.

In March 2020, as the COVID-19 pandemic spread, ACP continued to press landowners into mediation and pressed them to allow an out-of-state appraiser to come onto their property and into their homes to prepare its expert

reports on the value of their land. When stay-at-home orders were issued in North Carolina, Virginia, and Maryland (where the appraiser was from), landowners stood firm and denied ACP their request to access their land.

In mid-April, a federal judge in Montana reviewing the Keystone XL Pipeline struck down the Nationwide 12 Permit issued by the U.S. Army Corps of Engineers and relied on by Keystone to cross wetlands and streams from Canada to Texas. The order covered not only the Keystone Pipeline but all pipeline construction that relied on a Nationwide 12 Permit, including the ACP.

At 3 pm on Sunday, July 5, 2020, Dominion Energy and Duke Energy suddenly announced to the world, including its condemnation attorneys, that it was canceling the ACP. The companies noted that the estimated project costs, \$4.5 billion at permitting, had grown to \$8 billion, with a three-and-a-half-year delay and uncertainty remaining. Landowners, communities, and environmental groups began celebrating the unprecedented victory after a long six-year battle.

As a result of their resistance and the abandonment of the ACP, Celena and Robert Bissette will continue to enjoy the wetlands and woodlands on the edge of their Wilson County farm that would have been destroyed under the Nationwide 12 Permit, now under national challenge.

By raising their voices in opposition and refusing to negotiate, Valerie Williams and son, Travis Privott, can enjoy and continue to develop the spiritual sanctuary and retreat, farming operation, and eco-tourism opportunities on the Otto Williams Farm, with their family's Halifax County legacy still intact.

By refusing to back down, Mrs. Normandy Blackman, on behalf of the Solomon Heirs, secured their legacy in the fields and woodlands of the Solomon Farm in Halifax County so that the descendants of freed slave, Artelia Scott Solomon, can now build homes and raise proud Americans.

Because of Marvin Winstead's refusal to sell out his farm in exchange for dirty energy, the lone pine continues to stand watch over the Nash County Winstead farm.

*We are grateful to Catherine Cralle Jones who provided outstanding legal representation to BREDL and the landowners featured in this essay. Raised in San Angelo, Texas, Cathy graduated Magna Cum Laude from Texas Christian University and was also a member of the academic honor society, Phi Beta Kappa. She received a Juris Doctor degree from Vanderbilt Law School as well as a Master of Divinity degree with honors from Vanderbilt Divinity School. In 2001 Cathy represented another BREDL chapter in a landmark environmental justice case: Greene Citizens for Responsible Growth, Inc., et al v. Greene County Board of Commissioners, et al. 143 N.C. App. 702; 547 S.E.2d 480 (N.C. App. 2001). Today she is Senior Litigation Associate with the Law Offices of F. Bryan Bryce, Jr. in Raleigh, NC, who represent individuals, families, businesses, and municipalities, serving as advocates and guides through the often confusing and difficult landscape of environmental law. For more information, go to: [www.attybryanbrice.com](http://www.attybryanbrice.com)*

## Atlantic Coast Pipeline Victory!

### A Virginia landowner's victory

Mrs. Estelle Rose lived on the Gordon property as a child with her mother while her father served in World War II. As a teenager she went back to that same family land and lived with an aunt. The importance of the land to Mrs. Rose lies in the fact that the it was purchased by her grandparents after the Civil War. Her grandfather was one among the first generation of African Americans who purchased land after the Civil War – men and women who worked on plantations like Variety Shade, Perry Hill, Willow Lake, and Wheatland in Buckingham County, VA.

Louis Gordon was born into slavery just before the end of the Civil War

in 1863. His father, Frederick was born in 1825 and lived his life as a slave. Adeline Perkins Gordon, Louis' wife, was born into freedom in 1867. When the deed was written for the 17 acres that Louis and Adeline Gordon purchased from a descendant of the white slave-owning Moseley family, it named not only him and his wife Adeline, but also their children as the owners of the property. Louis & Adeline died without a will and, therefore, their children owned the property together as tenants in common.

For well over 110 years, the family kept the property intact. But then in 2014 came Dominion Energy on behalf of its Atlantic Coast Pipeline, threatening the legacy left by Louis

and Adeline. Mrs. Rose balked when she received notification of the federal lawsuit filed against her and her extended family, but other heirs signed easements. For six long years, neither pressure from her family, nor the federal lawsuits and offers to settle, nor attempts to force mediation convinced Mrs. Rose to settle. "No" was her only reply.

On Sunday, July 5th, Mrs. Rose could not believe Dominion had given up. Her persistent "no" kept Dominion off her family's property and prevented them from cutting a single tree, leaving intact the legacy her grandparents had created.



Rev. Paul Wilson and Rev. Dr. William Barber in Union Hill, VA



Packed gym in Buckingham County, VA to hear Rev. Dr. William Barber, former Vice President Al Gore and members from the community speak out against the ACP and proposed compressor station - Feb. 19, 2019

#### BREDL chapters along the route who fought ACP

**Concerned For The New Generation**  
Buckingham County, VA

**Concerned Stewards of Halifax County**  
Halifax County, NC

**Cumberland County Caring Voices**  
Cumberland County, NC

**Nash Stop The Pipeline**  
Nash County, NC

**No ACP**  
Richmond, VA

**No Pipeline Johnston County**  
Johnston County, NC

**Protect Our Water!**  
Nelson County, VA

**Wilson County No Pipeline**  
Wilson County, NC



## Atlantic Coast Pipeline Victory!



Impromptu "Sit-in" at NC DEQ  
January 26, 2018



BREDL, Our Chapters Concern For The  
New Generation And Protect Our  
Water! along With Richmond Ally  
Virginia Pipeline Resisters  
24-Hour Vigil, Noon March 27 – Noon  
March 28, 2019, Richmond, VA



No Pipelines Banner Drop  
May 3, 2018 – Loudoun County, VA



Barbara Exum from our Wilson County  
- No Pipeline chapter at a 2017 march



Tom Clark, John Wagner, Young  
Man, Lib Hutchby at sit-in  
Governor Roy Cooper's Office  
February 2, 2018



Federal Court Day for Nash Stop  
The Pipeline's Marvin Winstead  
March 14, 2018



No Pipeline Johnston County "Hands  
Across Our Land" event August 2015

### A pictorial look back



Press conference at NC Governor's  
Office - March 28, 2018



BREDL Vice President Kathie Moseley  
speaks out at the Department of Justice  
civil rights meeting in Union Hill, VA



Rev. Dr. William Barber and former Vice  
President Al Gore in Union Hill, VA



Sharon Ponton doing final preparations  
for Tri-State Climate Emergency Event  
in Roanoke, VA on Sept. 23, 2019



Lois Gibbs speaking at the "Stop The  
Pipeline - Roll Back Pollution Tour"  
April 2017



Cumberland County Caring Voices starts  
"Stop the Pipeline - Roll Back Pollution  
Tour" April 4, 2017 (Fayetteville, NC)

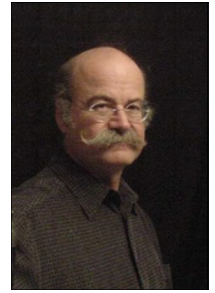


Concern for the New Generation at  
Region 3 EPA on Jan 12, 2017

# LEAGUE LINE DIRECTOR'S REPORT

Louis A. Zeller, Executive Director

July 2020



## The value of life or

## Knowing the price of everything and the value of nothing\*

Note: source info on page 15

There is another global pandemic. Like COVID-19, it is filling hospitals and causing deaths around the world. Although its cause is not a virus, the illness it inflicts on the population can likewise be mitigated and even prevented with available and economical means, if only the necessary steps were taken to put an end to a ghastly calculus.

Pollution. Air, water and soil contamination caused by industrial, commercial and transportation sources are responsible for 9 million deaths per year—triple that of AIDS, tuberculosis and malaria combined, and fifteen times the total of wars and other deadly violence worldwide. \*\*

This toll of human suffering is not solely an environmental issue; it is a public health, humanitarian, social justice and moral problem which demands our attention. The means of reversing and correcting pollution-caused illness have been implemented in nations with the political will to do so. Fifty years ago, a grassroots outcry helped to create the political consensus necessary to enact legislation on air pollution, water pollution, waste management and other controls badly needed in the United States. These measures forced changes, ending business as usual. However,

we took our eye off the ball. Today these sensible measures are in jeopardy. In the legal and technical analysis presented in *Priceless*:\*

“At the start of the 21<sup>st</sup> Century, the clock is starting to run backwards as laws and regulations protecting health, safety and the natural environment...are now under attack. The attackers do not explicitly advocate pollution, illness and natural degradation; instead, they call for more ‘economic analysis.’”

Such economic analyses are designed to favor the bottom lines of corporate persons over the well-being of human persons. People seeking to protect their neighbors and families are confronted with vague claims of economic growth and jobs. The claims are often specious but crudely effective, and environmentalists are framed as being not-in-my-backyard or worse. Never mind that job loss simply cannot be tied to environmental policy or regulations.

According to the US EPA, financial estimates of reductions in death rates are tallied as the “value of a statistical life”; that is, the dollar amount a given number of people would pay to save one life in the group annually. Here is the mathematical formula used to make

annual adjustments in a given group:

$$VSL_T = VSL_0 * P_T/P_0 * (I_T/I_0)^{\epsilon}$$

Where:

O = Original Base Year

T = Updated Base Year

Pt = Price Index in Year t

It = Real Incomes in Year t

ε = Income Elasticity of VSL

Although presented and described as a neutral formula for determining risk, the analysis ignores a fundamental truth. Again, in *Priceless*:\*

“The basic problem with narrow economic analysis of health and environmental protection is that human life, health and nature cannot be described meaningfully in economic terms; they are priceless.”

The reality, the moral dilemma, facing global society is that the so-called statistical person, the one-in-a-million whose life is cut short, is someone’s brother, sister, parent or child. An act of violence which no one would accept as the price to be paid for weed-free lawns, electric lights or paved roads is no less abhorrent because it is calculated and methodical. To know the price of something means little without comprehending its real value to others. It is to know nothing.



# Having a new perspective in a changing world

By Rev. Charles N. Utley, Associate Director



Now is the time for us to consider that our world is not just what we see, but it extends beyond our imagination. The movement across the globe has opened doors and closed doors, making a significant difference in the operation of our daily lives. We are grappling with the idea that things that offend others because of their historic significance may well divide a Nation. To witness the brutal assault against those whose complexion looks different from ours, or to judge an individual because of the community they live in, helps to spread injustice and inequality.

It has become obvious that there is movement taking place in our world today that affects everyone near and far. The spread of COVID-19 has raised issues of the injustice that plagues our world. It has made the point that those who are first responders and service personnel stand the greatest risk of becoming infected with the virus. It has awakened the conscience of the whole world to that injustice, while pointing to the discrimination of environmental injustice in its many

forms. As we continue to strive for justice in the minority communities across the globe, it has become apparent that those who have the least are among the most affected. Those who have the responsibility of being a caretaker are among those most at risk.

Considering how the West Africa Saharan Desert Dust traveled across the Atlantic Ocean should remind us that there is such a thing as the Tradewinds. That is why, if we are to be a country that represents Justice and Equality and Equal Rights, we must have a mindset to change our perspective on all people regardless of where they may live in the world. We as Americans should become a Tradewind of these same principles. Because whatever happens in their world will eventually affect ours also. That is why we must have a change of perspective about our environment, because our neighbors are not the ones we see next door, but those who are across the globe.

Hearing individuals express that what has been an offence to others

never crossed their mind makes all of us wonder how little we are connected to each other. And therefore, we all must have a change of perspective so that what offends you also should offend me. That is the same scenario as those who seek to forcibly invade our communities with facilities known to bring a range of potential life-threatening, long-lasting environmental effects. Let us keep in mind that all lives matter and we all need to be able to “breathe”.

*“It falls on all of us, regardless of our race or situation...to work together to create a new normal in which the legacy of bigotry and unequal treatment no longer infects our institutions and our hearts”*

- Former President Barack Obama

Therefore, the work of BREDL should continue to focus on the empowering of our communities through Environmental Justice as our world is turned upside down.

## BREDL's In Our Backyard Podcast

If you haven't listened to our podcast, you are missing some great interviews and guests! Search for “In Our Backyard Podcast” on your podcast app or click on the link at [www.bredl.org](http://www.bredl.org). Recent podcast guests have included:

**Laura Asherman**, Founder of Forage Films LLC and Director of the film Power Lines, talks about her documentary on the Plant Vogtle Nuclear Power Plant.

**Gustavo Andrade**, Organizing Director with Center for Health, Environment and Justice (CHEJ) discusses the importance of community organizing.

**Kevin Kamps**, a Radioactive Waste Specialist with Beyond Nuclear, talks about Nuclear Myths and Jargon.

**Dr. Andrew George**, a Community Engagement Scientist and professor at UNC Chapel Hill, discusses community engagement in environmental problem-solving, democratic decision-making, environmental justice, and well-water resources.

**Jamie Satterfield**, an investigative reporter with the Knoxville News Sentinel talks about exposing the truth around the Kingston Coal Ash Spill.

# BREDL welcomes Pittsylvania County Preservation League

By Ann Rogers



During the first week of July, residents of Pittsylvania County, VA voted to form a new chapter of BREDL, named Pittsylvania County Preservation League. This chapter was formed for the purpose of stopping the Southgate extension of the Mountain Valley Pipeline, which is planned to connect to the southern terminus of the Mountain Valley Pipeline (MVP) at Transco Village in Chatham, VA, then run parallel to the existing Transco pipeline for 26 miles in Pittsylvania County.

As planned, the Southgate extension consists of approximately 73 miles of new 24-inch and 16-inch-diameter pipeline in Virginia and North Carolina, a new compressor station, and associated facilities. The Southgate is planned to terminate at a delivery point with Public Service Company of North Carolina, Inc. near the City of Graham in Alamance County, NC. The Project is designed to create 375,000 dekatherms per day of new pipeline capacity.

The Southgate received approval from Federal Energy Regulatory Commission (FERC) in the form of a certificate of public convenience and necessity, issued on June 18.

## **Transco vs. Southgate**

The Southgate is the focus of controversy centered on an agreement between Transcontinental Gas Pipeline Company, LLC (Transco) and Southgate developer, MVP, regarding the use of the existing Transco pipeline right-of-way for the construction of the Southgate. In its Motion to Intervene Out-of-Time issued to FERC in January, Transco

states,

MVP has only recently provided Transco with information regarding the precise locations of MVP's proposed new pipeline and workspace. A substantial portion of MVP's proposed Southgate project would be installed adjacent to Transco's existing system of three and four parallel, large-diameter pipelines. The new information MVP has made available to Transco indicates that construction and operation of the Southgate Project as proposed would severely encroach upon Transco's existing pipeline rights-of-way and could jeopardize the safety, integrity, operations, and expandability of Transco's pipeline system.

Transco's Motion to Intervene further describes the dangerous encroachment of the Southgate on its existing pipeline operations, stating, "It simply would be irresponsible to allow a pipeline with zero operating history to have this type of direct overlay on Transco's multi-line mainline system . . . Any failure on MVP's part to properly construct, manage, operate, and coordinate its activities could cause material damage to Transco's pipelines, hindering Transco's ability to provide safe, reliable, and critically important service to its customers. . . . Plainly, in the event of any maintenance or unscheduled activities, MVP's encroachments would present a real risk of leaving

Transco unable to access its pipeline, thereby impeding

Transco's ability to safely operate its system and provide reliable service to its customers."

One cannot help but detect the urgency of Transco's request for help from FERC in managing MVP's facile appropriation of right-of-way needed for safe operation of the existing Transco pipeline system.

On April 6, FERC denied Transco's request for rehearing.

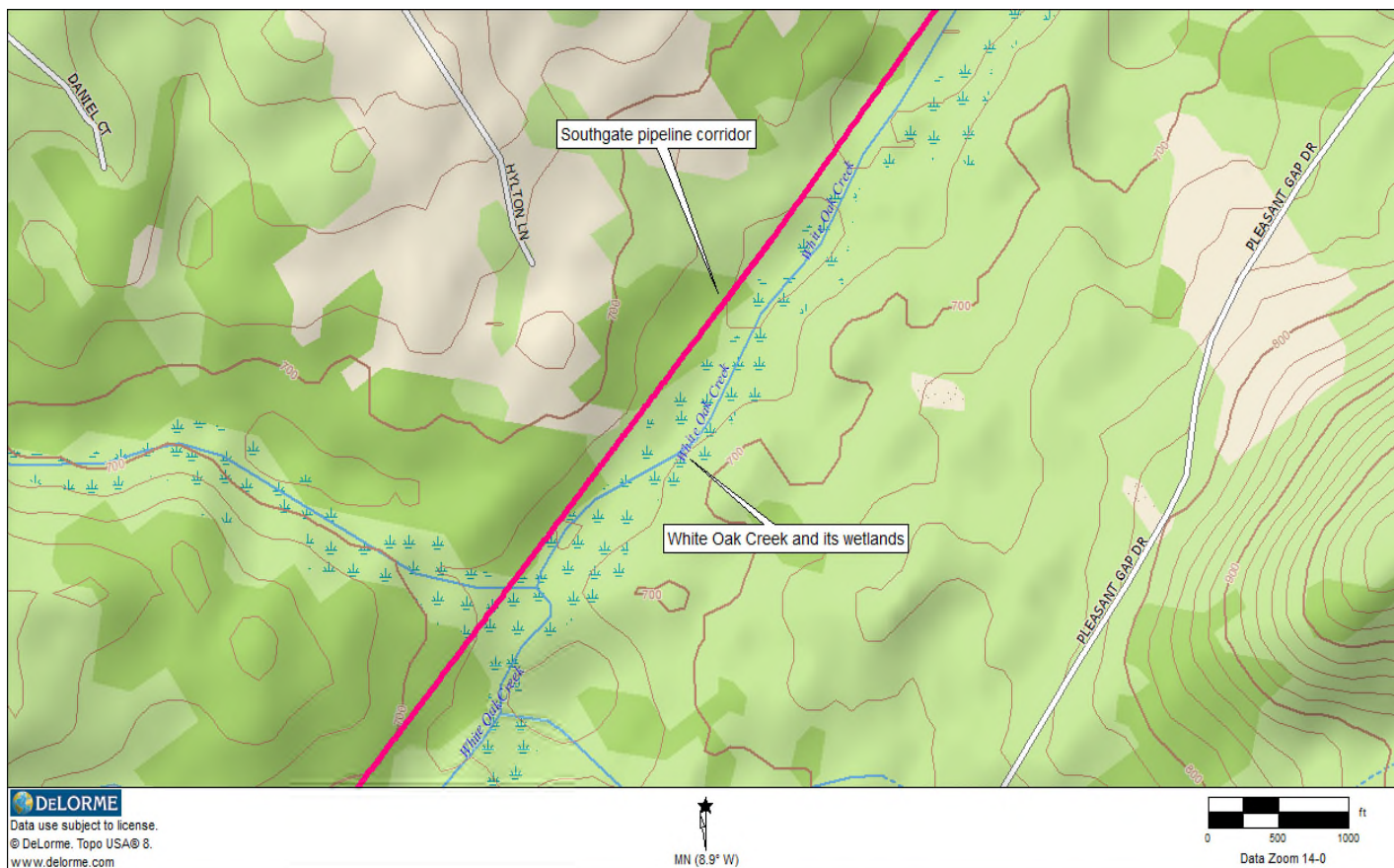
## ***Our main concern – impacts to aquatic resources***

The members of Pittsylvania County Preservation League have expressed an interest in the chapter's participation as a party in administrative and legal proceedings challenging the Southgate as undertaken by Appalachian Mountain Advocates, a public interest law firm headquartered in Lewisburg, WV. In this context, it is anticipated that Pittsylvania County Preservation League will participate as a party in Appalachian Mountain Advocates' Request for Rehearing challenging the Southgate.

David Nimer, employed by BREDL as a research consultant this summer prior to his entry into law school in August, is working with Appalachian Mountain Advocates in developing the factual basis for the Request for Rehearing, with a filing deadline of July 17.

Among the issues that David is focusing on is the Southgate's

*(Continued on page 11)*



### Pittsylvania County water bodies crossed by the Southgate project

Little Cherrystone Creek

Cherrystone Creek

Bannister River

White Oak Creek – twice

1.5 miles of wetlands associated with White Oak Creek

Sandy Creek

Pine Lake feeder stream

Trayner Branch

Sandy River

Trotters Creek

at least 8 unnamed perennial streams

at least 2 unnamed intermittent streams

an unknown number of unmapped/  
unnamed perennial and/or intermittent  
streams

(Southgate—Continued from page 10)

gargantuan impact to freshwater resources. In its 26-mile traverse of Pittsylvania County, the Southgate crosses several water bodies.

Please see map of the Southgate's path across 1.5 miles of wetlands associated with White Oak Creek, in Pittsylvania County.

The Southgate's path through an area dense with freshwater streams and rivers raises concern over impairment to those water bodies, including sedimentation, warming of streams through suppression of tree cover on streambanks for the duration of the commercial life of the pipeline, dynamic runoff from tree-free areas during rain events along the entire length of the

pipeline, and the planned use of herbicides to control invasive plant species along the pipeline corridor during the first two years after construction. Additionally, the sediment flowing downstream from the Southgate water body crossings will flow into and further damage the Dan River, which has already suffered critical impairment to water quality as a result of the coal ash spill of 2014.

### ***Kudos to PCPL!***

BREDL is exceedingly pleased to welcome Pittsylvania County Preservation League as our newest chapter. We look forward to working with these protectors of Virginia's water-rich Piedmont.



# Welcome BREDL Summer 2020 interns



Hi! My name is **Addyson Rowe**. I grew up in Nashville, Tennessee, and am now entering my senior year at Duke University. I have always had a passion for the environment and social justice, so I decided to focus my undergrad studies on environmental justice! I'm also studying education and Spanish alongside this. I'm hoping to pursue a career in environmental law so I can hold the government and companies accountable for their mistreatment of marginalized communities. I love spreading awareness for these issues through art, music, and educational curriculum, and I am excited for the opportunity to work on it in a new way with BREDL this summer!



Originally from Chapel Hill, NC, **Anne Crabill** is a rising junior at Duke University majoring in public policy. Outside of her coursework, Anne is an Alice M. Baldwin scholar and plays defense for the varsity lacrosse team. Anne is a lifelong North Carolinian and honored to work with BREDL to investigate the incidence of COVID-19 in environmental justice communities.



**Gabrielle James** was born and raised in Pembroke, NC. In 2019, she received her B.A. in Political Science and American Indian and Indigenous Studies with a minor in Social and Economic Justice. Gabrielle is a double Tarheel, currently entering her second year of law school at the University of North Carolina School of law. Gabrielle is a member of the Broun National Trial Team, the Pro-Bono Board, and a Dean's Fellow. Gabrielle has always dreamed of attending law school and looks forward to one day using her J.D. as a tool for social change. Gabrielle is currently working with BREDL and at the Law Offices of F. Bryan Brice, Jr. as a summer clerk aiding in our work against the Atlantic Coast Pipeline. Gabrielle is also serving as the Community Legal Project coordinator at the Compass Center for Women and Families. In her free time, Gabrielle enjoys baking for her friends and family and spending time with her rescued cat, Hamilton.



**George Jones 3rd** is from Augusta, GA and is attending Paine College. He recently completed his undergrad as a history major at Paine College. His future endeavors involve furthering his education to obtain a Master of Arts in Education as he begins his teaching career in August, 2020. His interests involve learning the relationship between the aboriginal people and the European colonizers and how their relationship shapes today's society. In 2019, he worked as a BREDL intern with The Reverend Charles Utley to bring community awareness to the problem of heired property and how it is being "stolen" by major companies. His focus during the 2020 BREDL internship with his advisor The Reverend Charles Utley is getting the community and youth involved in Zero Waste and bringing awareness about recycling. His hobbies involve working with youth, sports, and spending time with family.



As a master's student at Duke University, **Nandagopal Suresh** is currently pursuing his graduate studies in Engineering Management from the Pratt School of Engineering. Hailing from the tranquil and naturistic southern state of Kerala, part of the world's second most populous country – India, with a population of over a billion people, Nandagopal is an international student who comes with a wealth of experience both professionally and personally. As a data analyst, he is currently studying the impacts of fine particulate matter – 2.5 on the health of people in the states that come under BREDL's service area. Working in a grass roots organization like BREDL to help create value and draw insights aligns perfectly well with his career goals and aspirations. An ardent humanitarian, an avid sports fan, a technology enthusiast and a nature-lover at heart, he believes in the principle of loving, giving and serving. He hopes to make this world a better place to live.

# Chapter update: Sustainable Madison

By Emily Sontag

Sustainable Madison has spent the better part of two years working to try to stop an asphalt plant from being installed in our county. The reason we have been working tirelessly to fight this particular plant is that the proposed location sits less than 1500 feet from the French Broad River. The closest homes sit 1400 feet from the site, on a ridge just above the top of the smokestacks. These homes will quite literally have the emissions from the smokestacks billowing in their front doors.

Also, the location is within 1/2 mile of the Madison County Childhood Center (which serves children from birth to age 5 and whose licensing rules mandate regular play outdoors); the Elderberry nursing home; and Madison County senior center.

Madison Asphalt applied for a conditional use permit to operate this asphalt plant on a parcel of land in McCrary Stoneworks in

2018. Madison County zoning law tasks the county's Board of Adjustment to grant a conditional use permit only if it is proven by the applicant that the permitted use meets the following three criteria:

- \* Will not adversely affect the health or safety of persons residing or working in the neighborhood of the proposed use
- \* Will not be detrimental to the public welfare
- \* Will not be injurious to property or public improvements in the neighborhood

The board of Sustainable Madison spent months finding experts willing to testify at this hearing and compiling evidence to prove just how detrimental this plant would be for our community.

The Board of Adjustment heard over 36 hours of expert testimony from both sides before voting unanimously, 5 to 0, to deny the permit. The board voted that the applicant failed to meet their burden of proof on each of

the three conditions.

However, just two weeks ago we were blindsided by back-door dealings. The Madison County Commissioners voted 3-2 to accept a consent agreement to issue a



Sustainable Madison members outside Board of Commissioners meeting

permit to Madison Asphalt. They negotiated the terms of the settlement offer behind closed doors, without consulting the Board of Adjustment members, and without public knowledge or input.

The fight is not over, but we do need an immense outpouring of support from the larger community to see this through. Sustainable Madison will keep pouring our hearts and minds into this effort to protect our community from this polluting industry.

**Sustainable Madison website**  
<https://sustainablemadison.org>



Sustainable Madison members outside Board of Commissioners meeting

# Mountain Valley Pipeline: Where does it stand?

By Mark Barker



On June 18, the Federal Energy Regulatory Commission (FERC) approved the 73-mile Southgate extension of the 303-mile Mountain Valley Pipeline (MVP). However, in its Order, FERC directed the Office of Energy Projects not to issue any notice to proceed with construction, including tree felling, until the MVP mainline project receives the necessary federal permits and the MVP stop-work order has been lifted.

The Lambert Compressor Station, as part of the Southgate extension, is proposed to be built near Chatham, VA. As of this writing, the Draft Air Permit for the Lambert has not been released for public review and comment.

As far as the MVP mainline, it is still under a stop-work order. Work has been stopped along the entire route – minus areas FERC deems necessary for stabilization – since October 15, 2019 and has been stopped on national forestland since August 29, 2018. On July 27, 2018 the U.S. Court of Appeals - 4th Circuit (Richmond) ruled that the U.S. Forest Service did not adequately assess sedimentation impacts, and the Bureau of Land Management (BLM) did not address various alternative routes. The court opinion vacated both the Forest Service and BLM approvals. Both agencies have not yet resolved these issues.

On October 2, 2018 the U.S. Court of Appeals - 4th Circuit (Richmond) vacated the Clean Water Act Section 404 permit (stream and wetland crossings) issued by the Huntington District of the U.S. Army Corps of Engineers. This affected approximately 160 miles in West Virginia. A few days later on October 5, 2018 the U.S. Army Corps of Engineers suspended the Nationwide 12 Permit which allowed MVP to cross more than 500 streams and wetlands in Southwest Virginia. Uncertainty about the process led the Army Corps to suspend the permit after the October 2, 2018 court decision. Meanwhile, on April 15, 2020, the U.S. District Court for the District of Montana struck down the Army Corps of Engineers' Nationwide 12 Permit for the Keystone XL pipeline. The judge used his authority to enjoin the ruling nationwide. However, on July 6 the U.S. Supreme Court ruled that the decision only applies to the Keystone XL pipeline. Despite the Supreme Court ruling, the MVP Section 404 permit is still in limbo.

On October 11, 2019 the U.S. Court of Appeals - 4th Circuit (Richmond) ordered a stay to a permit from the U.S. Fish and Wildlife Service (FWS), pending its review of a lawsuit brought by environmental groups, including BREDL chapter, Preserve Bent Mountain, headed by the Sierra Club. The Biological Opinion (BO) and Incidental Take Statement

(ITS) were stayed by the court until the agency can revise and reissue the BO and ITS involving endangered and threatened species. On October 15, 2019, FERC ordered a work stoppage on the entire MVP route while FWS approval is being reviewed. On July 9, 2020 FWS concurred with the FERC determination that MVP “may affect, likely to adversely affect” five endangered or threatened species. These species are the Candy darter, Roanoke logperch, Indiana bat, Northern long-eared bat and Virginia spiraea. These five will be included in the upcoming BO which, after several extensions, the FWS has yet to issue.

Also on October 11, 2019 Virginia Attorney General Mark Herring announced a \$2.15 million settlement with MVP over violations of Clean Water Act Section 401 and state environmental laws between June and mid-November 2018, mostly related to improper erosion control and stormwater management. Although work has been stopped, MVP is continuing to violate environmental regulations. VA DEQ announced at the end of June that it is seeking an additional \$86,000 fine from MVP for violations that occurred from Sept. 19, 2019 to March 10, 2020. The Roanoke Times has reported that MVP will pay \$8,000 of the

*(Continued on page 15)*



## ***Georgia nuclear plant sinking***

The Vogtle nuclear power plant under construction in Waynesboro, Georgia, is sinking. BREDL and Concerned Citizens of Shell Bluff have called on regulators to revoke the plant's license.

In February, Southern Nuclear Operating Company requested a license amendment from the Nuclear Regulatory Commission, seeking to reduce safety margins by narrowing what it called the "seismic gap" between Vogtle's Unit 3 nuclear island and adjacent concrete structures.

BREDL filed a petition to the quasi-judicial Atomic Safety and Licensing Board, and oral arguments were held on July 1. We contend that, under the guise of a construction change in the walls of the reactor, Southern Company has admitted to a much more serious problem, the "dishing" of the nuclear plant's concrete foundation, creating

instability.

"Vogtle has finally admitted that the sheer weight of the nuclear island building is causing it to sink into the red Georgia clay," said Arnold Gundersen, a former nuclear plant operator who is BREDL's expert witness.

Charles Utley, BREDL's Associate Director, said that questionable actions by the company had brought it to this point: "Both the seismic gap and the information gap have the capability of causing catastrophic destruction. Therefore, it should not be allowed to operate."

Louis Zeller, BREDL's *pro se* legal representative in the case, said that the dishing issue had forced his hand. Zeller said, "The cake is baked. Using icing to cover the baker's errors is unacceptable."

Local chapter Concerned Citizens

of Shell Bluff supported the legal action with necessary affidavits of support. Richard Colclough said, "I want my voice to be heard concerning the safety of Plant Vogtle." Colclough is a well-known environmentalist and former county commissioner who lives in Hephzibah, about twenty miles from plant Vogtle. The Rev. Claude Howard said, "I live less than five miles from Plant Vogtle and my concern is that the foundation moved. This is more than technical because the surrounding neighborhood that it's built in includes me and many other concerned residents." Melvin Stewart of Augusta also supplied an affidavit.

The Board's decision is expected in August.



*(MVP—Continued from page 14)*

fine and is in negotiations with VA DEQ on the remaining. After the \$8000 payment, VA DEQ says it will reduce the fine to an additional \$58,500, plus interest.

In the three spreads located in Virginia, according to MVP reports filed with FERC, trenching has only been completed on the last spread terminating at Chatham. The other two spreads are at 19.48% and 63.53%

completion. Final restoration has only been completed on 12.62%, 18.10% and 13.50% of the three Virginia spreads. In Virginia, MVP has completed about 65% trenching, welding, coating and wrapping, 70% stringing, 54% backfilling and tying-in, and 15% final restoration. They still have around 20% of clearing remaining and 16% of right-of-way preparation.

Stay informed as the MVP status seems to be ever-changing.



### **Sources - Director's Report, Page 8:**

\**Priceless: On Knowing the Price of Everything and the Value of Nothing*, Frank Ackerman and Lisa Heinzerling, The New Press, 7/15/2005, ISBN-1565849817

\*\*British medical journal, *The Lancet*, Commission on Pollution and Health, 2018;391: 462-512

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**Contact BREDL to help organize your community and  
plan events to educate others about your issue and  
expand your membership so you can win!**

**BREDL** is a regional, community-based non-profit environmental organization founded in 1984. BREDL encourages government agencies and citizens to take responsibility for conserving and protecting our natural resources. BREDL advocates grassroots involvement in environmental issues. Protecting children's health from environmental poisons, empowering whole communities to engage in crucial decision making, and changing the balance of power to prevent injustice are key components of our work.

**Visit [www.bredl.org](http://www.bredl.org) to view our interactive timeline that spans 35 years of  
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