

Atlantic Coast Pipeline Controversy: Background and Summary

November 14, 2018

- To construct the Atlantic Coast Pipeline (ACP), the ACP Partners required a critical environmental permit issued by the N.C. Department of Environmental Quality (DEQ).
- In December 2017, as DEQ continued permit discussions with ACP Partners, Governor Cooper and ACP Partners began negotiating a Memorandum of Understanding (MOU).
- The original MOU provided a \$55 million contribution from ACP Partners to the Wildlife Resources Commission for environmental mitigation, but at the insistence of the Governor's Office, the final MOU instead required ACP Partners to provide a \$57.8 million payment to a slush fund controlled directly by Gov. Cooper.¹
- In a February 15, 2018 letter to Sen. Bill Rabon and Rep. David Lewis, Gov. Cooper's Chief of Staff Kristi Jones wrote, "...Senior Advisor Ken Eudy worked with the ACP partners to establish the fund..."
- Ms. Jones also wrote, "The mitigation fund was established independently of the DEQ permitting process..."
- In a WRAL story, Ken Eudy said, "By mid-December [2017], DEQ's review was wrapping up, and it had become clear the department would **likely issue the needed permit**."²
- On or around January 8, 2018, a draft hearing officer's report was submitted to Linda Culpepper, the Director of the Division of Water Resources, recommending **approval** of the critical environmental permit.
- On January 22, 2018, days before Duke Energy finally agreed to the \$57.8 million slush fund, a draft letter from DEQ addressed to Duke Energy was given to Linda Culpepper. The draft letter informed ACP Partners that DEQ **denied** their required permit.
 - Sheila Holman, an assistant secretary at DEQ, subsequently told the legislature that DEQ "would not be revoking permits because of the MOU or failure to pay the MOU," and that "the permits are not connected to that MOU."³

¹ Travis Fain, WRAL, "How 'North Carolina' got erased from Atlantic Coast Pipeline fund," March 4, 2018.

² Travis Fain, WRAL, "How 'North Carolina' got erased from Atlantic Coast Pipeline fund," March 4, 2018.

³ Laura Leslia, WRAL, "DEQ official: Permit decision separate from pipeline fund," March 6, 2018.

- Representative Pricey Harrison (D-Guilford) publicly stated that “a condition of getting the permit granted was the access to this fund.” The week after making her statement, she retracted it, saying it was a “misunderstanding.”⁴
- On January 25, 2018, Duke Energy announced a “voluntary” \$57.8 million contribution to the slush fund controlled by Governor Cooper.
- On January 26, 2018, DEQ announced approval of the required permit.
- The terms of the final MOU stipulated some of the proceeds would benefit renewable energy projects.⁵ Gov. Cooper and his family have and continue to do business with at least one renewable energy company.⁶
- On January 29, 2018, Duke Energy agreed to make major changes to its technical operations impacting renewable energy companies’ access to the electric grid. The changes will cost Duke Energy customers \$171 million dollars (materially eroding the \$350 million dollars in promised customer savings represented by the parties to House Bill 589), but will generate millions of dollars in profits for renewable energy companies. The N.C. Clean Energy Business Alliance cited Gov. Cooper’s intervention as the cause for the change.⁷

⁴ Laura Leslie, *WRAL*, “Governor's Office: No legislative say over pipeline fund spending,” February 6, 2018.

⁵ Travis Fain, *WRAL*, “How 'North Carolina' got erased from Atlantic Coast Pipeline fund,” March 4, 2018.

⁶ Don Carrington, *Carolina Journal*, “Cooper family solar farm’s shady transactions,” February 19, 2018.

⁷ Travis Fain, *WRAL*, “Duke, solar companies resolve bill disagreement that threatened projects,” February 2, 2018.