

Environmental Justice, Conservation, and the Politics of Pipelines

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Abstract

The United States Federal Energy Regulatory Commission recently approved the construction of a natural gas pipeline through three southern states. Supporters of the pipeline focused on the economic benefits that pipeline construction would bring to communities, while those in opposition questioned the environmental justice and ecological impact of pipeline construction. This paper will explore the politics of the approval and construction process for the pipeline with a focus on the narratives of public and private actors in support of and in opposition to the pipeline. Through an analysis of narratives presented in the media, public hearings, and other sources, interested parties may learn more about how stakeholders highlighted issues related to economics, environmental justice, and conservation to advance their agenda.

In recent months attention has focused on the protests over construction of the Dakota Access Pipeline (DAPL) but, while those protests were happening, a battle was also being waged in the southeastern United States over the construction of the Sabal Trail Pipeline. While there are differences between the pipeline projects, protestors in both locations have expressed similar concerns about issues of environmental justice and the potential harm both pipelines may create for natural resources. This paper will explore the politics of the approval and construction process for the Sabal Trail Pipeline with a focus on the narratives of public and private actors in support of and in opposition to the pipeline. Through an analysis of narratives presented in the media, public hearings, and other sources, interested parties may learn more about how stakeholders used narratives of environmental justice and conservation to advance their agenda.

A Brief Pipeline History

In July 2013, Florida Power and Light awarded a contract to Sabal Trail Transmission, LLC (a "joint venture" of Spectra Energy Partners and NextEra Energy, Inc.), for construction of a 515 mile natural gas pipeline that would start in Alabama, cross through southern Georgia, and end in central Florida (Florida Power and Light 2013). The Sabal Trail pipeline (part of the larger Southeast Market Pipelines Project), estimated to cost over \$3 billion would connect two existing pipelines and import 1.1 billion cubic feet of natural gas daily (Spear 2013). Almost 68 percent of Florida's electricity is produced with natural gas and Sabal Trail Transmission, LLC (Sabal Trail) claimed the "pipeline will bring 'additional affordable, clean natural gas supplies to Florida, while increasing the reliability of the region's energy delivery system'" (Watkins 2013;

Brinkmann 2016). Florida Power and Light (2013), a subsidiary of NextEra Energy, Inc., estimated that the pipeline could save customers approximately \$600 million.

After unanimous approval from the Florida Public Service Commission in October 2013, Sabal Trail began the pre-filing process with the Federal Energy Regulatory Commission (FERC) (Penn 2013). From November 2013 until October 2014, Sabal Trail held 33 open houses and 13 public scoping meetings to provide information about the project and to discuss issues relevant to filing the application for the Certificate of Public Convenience and Necessity with FERC in November 2014 and the preparation of the draft environmental impact statement (EIS) issued in September 2015. Sabal Trail reported receiving over 1000 comment letters and 199 verbal comments from over 600 affected landowners, 24 state officials, six congresspersons, five non-governmental organizations, five federal and seven state agencies, and four Native American tribes during the November 2013 to September 2015 time period (FERC 2015a). After the draft EIS was submitted, Sabal Trail held ten meetings where 154 comments were recorded in regards to the draft EIS, 137 letters were received from 112 interested parties, and a petition with over 3,700 signatures were submitted with issues tied to "karst geology," "socioeconomics," "environmental justice," and "air quality" receiving significant attention from those commenting on the project (FERC 2015b, ES-3).

In April 2015, the Sierra Club of Florida petitioned to have the Floridan Aquifer designated as a Sole Source Aquifer, an action that would delay pipeline construction (Larson 2015). The Georgia Department of Natural Resources approved the necessary waterway easements in September 2015, but the United States Environmental Protection Agency (EPA) expressed concerns about the EIS (Smith 2015). In an October 2015 letter, the EPA stated

"environmental objections to a significant portion of the proposed pipeline route" and recommended re-routing the pipeline "to avoid environmentally sensitive areas." Additionally, the EPA asked for "additional clarification...for impacts to environmental justice communities" as the information submitted did not "fully inform the public as to the potential direct or indirect impacts to EJ communities" (U.S. EPA 2015a, 1-4). Sabal Trail addressed issues articulated by the EPA and, based on the company's response, the agency backtracked on many of their concerns about the pipeline's impact on wildlife, wetlands, drinking water, and environmental justice communities and approved the EIS in December 2015 (U.S. EPA 2015b). That decision was not without controversy as a Sierra Club member in Florida observed, "This sudden, 180-degree reversal raises the question of whether the pipeline's powerful investors pulled political strings to get EPA to back away from the objections it raised a few months ago" (Ritchie 2015).

With EPA approval and the certificate of public necessity issued by FERC in early 2016, pipeline construction appeared inevitable even though those in opposition were still exhausting all avenues available to stop construction. In 2016, the Georgia General Assembly passed legislation that would refuse easements to drilling under five Georgia rivers and Sabal Trail challenged that legislation in court (Sheinin 2016; Chapman 2016a). The company claimed that it had the right to take land under the Natural Gas Act and filed 160 eminent domain lawsuits to gain access to land necessary for pipeline construction and, in August 2016, Sabal Trail was granted permission to begin drilling under Georgia rivers (Brinkmann 2016). In that same month, environmental groups, including the Gulf Restoration Network, the Flint Riverkeeper, and the Sierra Club filed a lawsuit against the U.S. Army Corps of Engineers for issuing permits

that would allow for pipeline construction. In this lawsuit (one of many throughout the timeline of the pipeline's approval and construction process), the groups stressed that the pipeline would threaten drinking water and construction should be halted (Berman 2016a; Williams 2016). In September 2016, a lawsuit against FERC was filed by the Sierra Club, Flint Riverkeeper, and the Chattahoochee Riverkeeper. This lawsuit challenged the larger Southeast Market Pipeline project that includes the Sabal Trail pipeline and, in this lawsuit, “the groups contend the FERC failed to analyze the climate impacts of the project...and also failed to adequately analyze alternate routes that would have less impacts on the environment and communities of color” (Berman 2016b). Pipeline construction began in September 2016 and, as of February 2017, the pipeline is 78 percent complete with an expected operation date of June 2017 (Hodges 2016; Little 2017).

Narratives of Environmental Justice and Conservation

As Truman (1951) discussed, when individuals are threatened by change they band together in groups to protect their interests. To counter the threats presented by the pipeline, concerned citizens formed SpectraBusters whose members worked to fight pipeline construction through public information campaigns and participation in public hearings. While SpectraBusters was formed directly in response to pipeline construction, the organization counted many previously established groups among its allies, including the WWALS Watershed Coalition/Suwannee Riverkeeper (WWALS), various Riverkeeper and other environmental organizations in the region, as well as the Sierra Club and Food and Water Watch (SpectraBusters n.d.). SpectraBusters and their allied organizations as well as individuals affected by pipeline construction have led the fight against the pipeline since 2013, and have

been actively engaged in litigation, activism, and public comment. In late 2016, more opposition to the pipeline emerged and new groups and individuals joined in protest against the pipeline. As the president of Wiregrass Activists for Clean Energy observed, “the Standing Rock protests have given us a new energy. A lot of people are waking up” (Lipscomb 2017).

At two events in Tallahassee, Florida, in December 2016 - a community meeting and a solidarity protest for Standing Rock - people learned more about the Sabal Trail pipeline and were surprised to learn that it had been in the works for years. When asked about the pipeline one Tallahassee resident stated, "This is similar to the Dakota Access pipeline in that most people had no idea that this was in the public interest to look at until it was already approved" (Schweers 2016). Mass acts of civil disobedience have occurred at construction sites along the pipeline's Florida route, including a January 2017 event at Suwannee River State Park that forced the park to close for the first time in its history due to the number of participants (Pittman 2017; Carver 2017). In February 2017 a Marion County man shot at the pipeline and equipment and, after leading law enforcement on a chase, was killed (Medina and Caplan 2017). As of March 2017, 26 individuals have been arrested at protests and for disrupting pipeline construction, including two protestors that locked themselves together inside the pipeline (Lipscomb 2017; Nelson 2017).

Actions to accommodate the recent increased opposition show some similarities to those in the protests against DAPL. Six protest camps (four of which were opened by the Seminole Tribe of North Florida), were established for water protectors and elders of the Lakota Sioux have offered help in organizing and counseling individuals to establish "Standing Rock, Florida" (Stop Sabal Trail Pipeline 2017; Melton 2017). Facebook pages dedicated solely to

pipeline opposition, such as Stop Sabal Trail Pipeline and Sabal Trail Resistance, provided information and helped organize protestors. A Twitter hash tag - #StopSabalTrail - was also created. Some are describing these actions as too little, too late as pipeline construction had already significantly progressed before the increased opposition in early 2017. As the Flint Riverkeeper observed,

Florida is late to the party...Some people protested back then but it's not the kind of response we're seeing now. It would have been nice to have this two years ago. I'm not criticizing people for protesting now, but what's happening is just a travesty. It's absolutely ridiculous. (Cordeiro 2017)

Stakeholders in communities along the pipeline's route expressed serious concerns from the early stages of the project, but Sabal Trail promoted the positives of pipeline construction by focusing on the economic benefits the project could create for landowners and communities in the pipeline's path. Landowners along the pipeline's route (including the author of this paper whose property was in a proposed but not final route) were told that they could "make good money" if they sold to Sabal Trail, but some landowners were frustrated at how the company handled land acquisition. Landowners in Alabama and Georgia stated that the company was harassing and threatening landowners and reported finding appraisers and other officials from Sabal Trail on their land without permission (FERC 2015c). A Georgia family filed a lawsuit against the company for trespassing on their farm and forced the company to use eminent domain, but the judge found in favor of Sabal Trail and the family was ordered to pay the company's legal fees of over \$47,000 (Whitehead 2016). Some landowners were left waiting to receive the full value negotiated for their land while others that reluctantly sold later regretted their decision (Brinkmann 2016). A Florida landowner reported that he initially ignored the \$1,400 offer for land because he was "offended with the offer" and did not want to sell land

that he had used as "ceremonial grounds" for ashes of family members of fellow members of the Seminole Tribe of North Florida. His land was eventually taken and representatives of Sabal Trail claimed that they attempted to work with him to modify the construction area (Keeler 2017).

Private landowners were not the only ones to question how Sabal Trail would acquire and use property. County commissioners in Dougherty County, Georgia, questioned liabilities that could arise during and after construction on land that Sabal Trail was seeking to purchase for an easement. Additionally, the county did not believe that the offer made for the land was reasonable and insisted on more money. While the company eventually increased their offer for the land, commissioners were informed that if they did not accept the final offer the company would pursue eminent domain. Commissioner Harry James stated, "They're, in effect, using eminent domain as a threat to move this process forward, but they're asking us to accept their proposal without supplying us with critical information" (Fletcher 2016).

Sabal Trail claimed pipeline construction could create over 5,000 jobs and over \$200 million in funds during construction and that post-construction there would be 527 permanent construction jobs and more than \$22 million in funds from the jobs created (Sabal Trail Transmission, LLC, Economic Benefits n.d.). The promise of jobs and an influx of new money into local economies could be beneficial to the 25 counties in the pipeline's path as fifteen of those counties fall in the bottom half of per-capita income for their state (U.S. Census Bureau, n.d.). Some county commissioners in Marion and Osceola counties in Florida supported the pipeline because of the economic growth and addition to the tax base it could bring to their counties (FERC 2015c). Robert Ham, county commissioner in Lee County, Alabama reported

that the county experienced a “positive economic impact” from construction (Little 2016). Sabal Trail also created a grant and scholarship program for educational institutions and qualifying non-profit organizations in communities where the pipeline is located (Sabal Trail Transmission, LLC, Community Partnerships n.d.). While the areas affected by pipeline construction might see a positive impact from the economic benefits identified by Sabal Trail, the question is at what cost?

Environmental justice communities and natural resources in the region appeared to be most threatened by pipeline construction and opponents were vocal about their concerns. The EPA defines environmental justice as "the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income, with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies" (U.S. EPA, n.d.). As part of the permitting process, Sabal Trail was required to report on the pipeline's impact to environmental justice populations (defined as minority populations, low-income populations, or both). Of the 87 census tracts directly within the pipeline's route or within one mile of the route, 26 contained environmental justice populations - four in Alabama, ten in Georgia, and 12 in Florida (Sabal Trail Transmission, LLC 2014). Sabal Trail claimed that "the project will not result in any disproportionately high or adverse environmental and human health effects to low-income and minority populations" (Sabal Trail Transmission, LLC 2014, 5-18), but others disagreed, especially those affected by pipeline construction in Albany and Dougherty County, Georgia, and most of the commentary about environmental justice issues focused on that area.

Albany and Dougherty County are home to a majority African-American population (71.6 percent and 67.1 percent respectively) and approximately 34 percent of Albany and approximately 29 percent of Dougherty County residents fall below the poverty line (U.S. Census Bureau 2010, 2015). Based on those demographics, four of the ten census tracts in Georgia that contained environmental justice populations were in that area. The city of Albany and Dougherty County passed resolutions against the pipeline (as did other cities and counties) and government leaders representing the area were concerned about the impact of the pipeline and compressor station on the environmental justice populations they represented (Chapman 2016). U.S. House Representative Sanford Bishop authored multiple letters calling attention to various issues with pipeline construction, including environmental justice concerns. In an October 2015 letter he co-authored with four members of the Congressional Black Caucus who also represented Georgia, he stated

Sabal Trail's proposed pipeline and compressor station will further burden an already overburdened and disadvantaged African-American community in this area. Sabal Trail's proposed route will go through Albany and Dougherty County and will run through low-income African-American neighborhoods. The proposed industrial compressor station facility would sit right in the middle of an African-American residential neighborhood comprised of two large subdivisions, a mobile home park, schools, recreational facilities, and the 5,000-plus member Mount Zion Baptist Church, a predominantly African-American congregation.

Historically, African-Americans and low-income populations have faced environmental issues in their communities and scholars have identified racial and class biases in "the distribution of environmental hazards" (Bullard 1990; Mohai and Bryant 1995, 16). Albany and Dougherty County have faced their own health and environmental issues and there was concern that the pipeline and compressor station could create more issues. Health and well-

being factors in Dougherty County rank 135 out of 159 counties in Georgia and in south Dougherty County there are "259 hazardous waste facilities, 78 facilities producing and releasing air pollutants, 20 facilities releasing toxic pollutants, and 16 facilities releasing pollutants into the waters" (County Health Rankings and Roadmaps n.d.; Bishop et al. 2015).

Aware of the economic and environmental realities in this House district, Representative Bishop and his colleagues called attention to the additional health risks of noise and air pollution from the pipeline and compressor station "near a disadvantaged African-American neighborhood that has already borne more than its fair share of pollution" (Bishop et al. 2015).

Local government officials also shared concerns about environmental justice issues. Dougherty County Commissioner Gloria Gaines and Albany City Commissioner Roger Marietta were vocal critics of the pipeline. When a company representative stated at a meeting that another area considered for the pipeline's route was not chosen because of the "beautiful homes" in that district, Commissioner Gaines asked if the company found "less desirable homes" in her district. "I'd like to make sure that they beauty of the homes is not a consideration when you're making a decision on the route this pipeline will take" (Fletcher 2013). She was also concerned that economically disadvantaged individuals would not be able to protect themselves and their neighborhoods and believed the pipeline and compressor station would "further depress our economy" (FERC 2015c; Fletcher 2014). Commissioner Marietta repeatedly questioned why the concerns of local African-American communities were dismissed and why the needs of the gopher tortoise were of more importance than the needs of the environmental justice populations (FERC 2015c). Greenlaw, an environmental public

interest group in Georgia, also recognized environmental justice issues with pipeline construction in Albany and Dougherty County.

It is well-documented that low-income and people of color are routinely targeted to host facilities with negative environmental impacts, such as landfills, dirty factories, and – as in the case here – gas compressor stations...It is unacceptable that this community must unfairly shoulder the burden of pollution. (Greenlaw 2014)

Residents and representatives of those environmental justice communities also aired their grievances against the pipeline at public hearings, through public comment, and in the local media. At a public hearing in September 2015, one Albany resident told FERC representatives,

This pipeline is an injustice, and I want to let the folks at (Spectra Energy) know that what they're doing is not going to be like taking candy from a baby. It's going to be like trying to take candy from a Flint River 'gator.' (Fletcher 2015)

At that same hearing, a representative for a community near the pipeline route called attention to the fact that the pipeline would be affecting an environmental justice community. He stated,

They're going to be subjected to the horrible sound of the station running, and, it never stops. And, oh, by the way, it may explode one day. These people are going to lose up to 50 percent of the value of their homes, and they can't afford to move. They're going to be stuck there. (Fletcher 2015)

A resident who lived within a mile of the proposed location for the pipeline and compressor station reaffirmed statements made by many other local residents. She observed, "This is a quiet residence, but with this here coming, I'd rather go" but that would not be possible due to her fixed income (Whitehead 2016). Dougherty County Commissioner Harry James (who replaced Gloria Gaines from May 2014 to December 2016) expressed that he felt "powerless" as he worked on behalf of his constituents to stop pipeline construction - "you can resist [pipeline construction], but we're going to anyway" (Whitehead 2016).

In addition to environmental justice issues, stakeholders expressed concerns about natural resource conservation and how pipeline construction could impact wetlands, forests, and wildlife, such as the gopher tortoise (Georgia) and scrub jays (Florida), but the most significant attention appeared to be given to how water resources could be threatened along the pipeline's route. The impact of pipeline construction on the Floridan Aquifer could be devastating because it is the largest aquifer in the southeastern United States, covering approximately 100,000 square miles beneath Florida, Georgia, Alabama, and South Carolina. Estimates show that an average of over three billion gallons of freshwater are withdrawn daily for residential, industrial, and agricultural use and, in Florida, 60 percent of the state's population gets their drinking water from the aquifer. The Floridan is also the primary source of drinking water for southwest Georgia (USGS n.d.; U.S. EPA 2015).

The Sabal Trail Pipeline would cross "one of the most sensitive areas in Georgia" and could threaten the water supply in southwest Georgia, including Albany's public water supply due to the pipeline's proximity to the city's well field (U.S. EPA 2015, p. 5). Sinkholes were of concern all along the pipeline's route because of the karst terrain, earning the pipeline the nickname "Sinkhole Trail Pipeline," but of significant concern was the potential for sinkhole formation in Albany. Since 2003, more than 40 sinkholes formed in the city's well field and additional sinkholes could further threaten the city's water supply (Bishop 2015). Estimates report approximately 235 sinkholes in the 126 mile pipeline segment crossing Georgia and the use of horizontal directional drilling (HDD) to cross the Flint and the Withlacoochee Rivers could allow for additional sinkhole development as well as drilling mud spills (a frac out) (U.S. EPA 2015). While the company was required to comply with standards to protect the environment,

in November 2016 a sinkhole was reported in Lowndes County and drilling mud was discharged in the Withlacoochee River, both events a result of pipeline construction (Teague 2016; Ritchie 2016).

Florida also faced a significant environmental threat as 3,750 known or potential karst features were identified within .25 miles of the pipeline route. The pipeline was planned to pass near the Cody Scarp which has many documented springs, some of which are first magnitude springs that, on average, discharge approximately 64 million gallons of water daily (U.S. EPA 2015). Pipeline construction could also further threaten groundwater supplies through disturbing the Green Swamp area, which is designated as an "area of special concern," as it the "pressure head for the [Floridan] aquifer" (Southwest Florida Water Management District n.d.) As in Georgia, the use of HDD to cross the Suwannee, Santa Fe, and Withlacoochee rivers could also create sinkholes and in December 2016 sinkholes were discovered near pipeline construction in Suwannee and Osceola counties (Schweers 2016; Doornbos 2016).

While stakeholders in Alabama and Georgia were concerned about protecting natural resources, more attention appeared to be focused on the threat the pipeline posed to natural resources, specifically water, in Florida than the other states as Florida would host the longest stretch of pipeline – 268 miles – that would cross through environmentally sensitive areas (Sabal Trail Transmission LLC, Florida, n.d.). A Florida property owner called attention to existing challenges facing local rivers and the Floridan aquifer and stressed that the pipeline could create more issues. She commented on the natural beauty of the area and how it is just as important to protect the natural resources in northern Florida as resources in other states.

You don't see pipelines going through Yosemite. Well we are just as fabulous as Yosemite. We do not want this pipeline going through this area because just the fact that we are here discussing an environmental impact study shows you that there are impacts to our environment. (FERC 2015a)

Another Floridian stated that she wanted to "stand up for the earth and for clean water" as the pipeline would be passing through the "Springs Heartland" which is "the area where our Floridan aquifer is considered to be most vulnerable to contamination" (FERC 2015a). The potential for contamination was also of significant concern to other residents, "You're going to put explosive gas under the river. It's not going to work. It's inevitable. We're going to have a leak. It's just a matter of time. Who's going to replace our water...It's just not worth the risk" (FERC 2015a).

Some groups, such as the Local 673 Operating Engineers and the Laborers International Union of North America, stressed that pipeline construction would be completed in a safe manner to protect natural resources (FERC 2015a), but others focused on the threat to natural resources in their narratives. The pipeline was labeled as "an undue hazard to the environment and natural resources" (WWALS 2015) and organizations opposed to the pipeline consistently presented a narrative focusing on the negative impact that pipeline construction would create for the springs, rivers, and the Floridan aquifer. Numerous groups expressed opposition to the pipeline, but SpectraBusters, Greenlaw (representing the Kiokee-Flint Group, the Sierra Club, and the Flint and Chattahoochee Riverkeepers), and WWALS emerged as some of the most vocal opposition. Through litigation, communication with governmental agencies and officials, and participation in protest events, these organizations along with others in the region, repeatedly expressed that it was "dangerous" and "reckless" to put pipeline through karst with sinkholes because of the threat to drinking water and they did not believe that appropriate

geologic surveys were completed (FERC 2015c; FERC2015a). As the pipeline was laid in these environmentally sensitive areas, groups monitored construction activity and reported violations (WWALS n.d.).

The opponents of this project were not successful in preventing construction but some modifications were made, perhaps based on environmental justice and conservation concerns expressed by stakeholders. Important lessons about messaging, timing, and organizing opposition may also be learned from this experience because it is unlikely to be the last battle between environmentalists and corporations that will pursue similar projects in order to meet the future demands for affordable and accessible energy resources. As other scholars have found that environmental activists have used social media (specifically Twitter) to organize activism around issues related to climate change and the Keystone XL pipeline (Segeberg and Bennett 2011; Hodges and Stocking 2016), a deeper exploration of this project may also consider the use of social media and the narratives presented through that medium to help organize opposition efforts.

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