To: The U.S. Army Corps of Engineers  
From: Protect Our Aquifer and others  
Date: 16 November 2020  
RE: Byhalia Pipeline

Protect Our Aquifer, a nonprofit advocacy group dedicated to the protection and preservation of the Memphis Sand Aquifer (MSA), opposes the proposed Byhalia Pipeline (BP) for two main reasons:

• A thorough environmental study along the proposed route has not been conducted, and
• The proposed route through Tennessee (TN) and Mississippi (MS) trades local public and private property resources for distant, corporate private gain—harming those who live along the route.

These lapses in judgement and lack of due diligence endanger Shelby County’s most critical and valuable natural resource—the Memphis Sand Aquifer—putting it at risk of severe contamination. POA’s position is that the Army Corps of Engineers should deny the Nationwide Permit (NWP) necessary for the completion of this proposed pipeline.

A thorough study
Just as Tennessee’s ARAP process (Aquatic Resource Alteration Permit) ignored groundwater and the MSA, the Corps also ignores the connectivity of resources and the potential of disaster to these most valuable resources. Lack of such due diligence ignores the letter and spirit of the NEPA (National Environmental Policy Act) and the CWA (Clean Water Act). We here at POA ask: who speaks for the water? Who will ensure more than a million people in metro Memphis that their drinking water is safe, their industrial pure water needs are met, and the current quality of useable water will be safeguarded for future generations?

NEPA is grounded in two fundamental prescriptions: To explore the significant environmental effect of all proposed actions and to include the public’s participation in those explorations. So far, the corporation and the agencies that regulate these changes have failed to do so. This ruling must account for the coverage mandated by NEPA. This includes a “No-action” alternative, such as using existing infrastructure, and other alternatives, such as avoiding TN and MS altogether. These options have not been thoroughly explored or considered—or shared with the public.

According to NEPA, a complete range of environmental impacts must be examined. This includes secondary and indirect effects (human mistakes, construction effects, ruptures, spills, earthquakes, floods), jurisdictional and all adjoining areas (including watershed drainage, groundwater, aquifers, forests, wildlife, and most importantly—adjacent communities). The same goes for cumulative impacts that are compounded by the connectivity of streams, forests, wetlands, habitats, and other streams up to and including the Mississippi River.
NEPA requires federal agencies to prepare an Environmental Impact Statement (EIS) on any “major Federal action significantly affecting the quality of the human environment.” For residents who live along this proposed route and resources that lie below the route, this is a major federal action. The law is clear, and an EIS should be mandatory.

The Clean Water Act (CWA) was created to protect, restore and maintain the nation’s waters. And NWPs are to be issued only for projects with minimal impacts to the environment. Given the range of wetlands, streams, rivers, ground waters and aquifers at risk in this project, the protections and effects of this proposed pipeline are large, costly, and in the case of an emergency, irreversible. Adherence to the CWA requires a complete environmental evaluation.

*Trading public resources for private gain*

The route chosen for this pipeline runs its entire length in Shelby County in one of the poorest zip codes in Shelby County (or the state). It runs through the community known generally as Boxtown, one of the most historically neglected and underdeveloped areas in all of Memphis or Shelby County. This area has in fact, endured 80 years of coal ash pollution from the nearby decommissioned Allen Coal Plant and over 40 years of odors from the adjacent Maxson Wastewater Treatment Plant, one of only two in Shelby County. This pipeline project adds to the neglect and callous treatment that this community has experienced for its entire history.

Much is at stake for the residents of Shelby County. The MSA is arguably the most valuable natural resource in the County. This is put at risk by running an oil pipeline over the top of it—all the way to the recharge area at its connection point near Byhalia where pipeline spills and blow back chemicals will go directly into the MSA.

As this pipeline route traverses this low income community, the Boxtown area bears the brunt of the first seven miles of this project. Research proves their properties will lose value, sales and development harmed, and in the case of an emergency, their health and lives will even be at stake.

In conclusion, it is obvious to us at POA that no one is taking responsibility for the environmental and human effects of this project. The most valuable natural resource in west TN and northern MS is at risk—and no one seems able or willing to predict the effects of construction, intrusion, loss, and potential calamities that may occur with this pipeline. The citizens of the Boxtown area—ignored and abused by a steady stream of public projects that would never be sited or tolerated in more affluent areas—are once again crying foul and wondering who in the public sector will protect their interests, their properties, and their quality of life.

At this point, given that owners are now being hauled into court and as a private company demands easements and property through eminent domain, the Corps is the only public agency that can make a difference. Residents near Boxtown and the people of Shelby County say “no” to this project that
brings only private profit by risking natural resources and by once more harming local owners and families who have invested their lives and fortunes in this corner of Tennessee.

We urge the Corps to consider people first and natural resources second. Private, corporate, pipeline interests should be considered in a distant third place. For if people are harmed or resources destroyed, these third-place interests will not pay for or replace them or even care about the situation. We live here. We know what makes our home valuable and sustainable—and it is not by burying an oil pipeline in our backyard atop our pristine drinking water aquifer.

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