

**18-1587 ATLANTIC COAST PIPELINE, LLC V. COWPASTURE RIVER ASSN.**

DECISION BELOW: 911 F.3d 150

LOWER COURT CASE NUMBER: 18-1144

QUESTION PRESENTED:

The Mineral Leasing Act ("MLA") authorizes federal agencies to grant pipeline rights-of-way over federal lands within their jurisdiction. Exercising that authority, the U.S. Forest Service granted Atlantic Coast Pipeline a right-of-way to cross small portions of the George Washington National Forest, including a 0.1-mile stretch that is approximately 700 feet beneath, and without surface impacts to, the Appalachian National Scenic Trail. While more than 50 pipelines presently cross under that footpath pursuant to similar rights-of-way, the Fourth Circuit concluded in the decision below that the Forest Service-indeed, *every* federal agency-lacks the power to grant rights-of-way to cross beneath the Trail pursuant to the MLA, rendering the footpath a 2,200-mile barrier separating resource-rich areas to its west from consumers to its east. The court reached that result by deeming more than 1,000 miles of land traversed by the Trail under the control of various federal, state and private entities instead to be considered lands in the National Park System, which, unlike other federal lands, are not subject to rights-of-way under the MLA. In doing so, the court not only rejected the federal government's long- settled views, but has called into question dozens of existing rights-of-way under the Trail and upset petitioner's massive investments in a pipeline designed to get natural gas to Virginia and North Carolina for the benefit of millions of people.

The question presented is:

Whether the Forest Service has the authority under the MLA and National Trails System Act to grant rights-of-way through national forest lands that the Appalachian Trail traverses.

CONSOLIDATED WITH 18-1584 FOR ONE HOUR ORAL ARGUMENT.

CERT. GRANTED 10/4/2019