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Be ready to fight, Bath County told

BY MIKE BOLLINGER • STAFF WRITER

HOT SPRINGS — Representatives of the Allegheny- Blue Ridge Alliance told Bath County residents last Thursday the fight over the Atlantic Coast Pipeline is going to be hard, and it's going to be long.

“It's going to affect the whole county,” said John Cowden, owner of Fort Lewis Lodge in the Williamsville area and one of the affected property owners. “It's going to have significant impact on the mountain environment, the people, and the economy, so it's important to all of us. Bath is being called to come up to speed, and they're (ABRA) here to help us do that.”

In order to comply with a U.S. Forest Service directive to avoid habitats on Cheat Mountain in West Virginia and Shenandoah Mountain in Highland County, Dominion Resources announced plans about two weeks ago to move the pipeline route to the south. Because of that move, the route now includes northern Bath County.

Lew Freeman of Monterey, chair and executive director of the ABRA, said the organization was started when the project was first proposed in 2014. At that time, there were 22 participating groups, and that number is now up to 45, he said.

Freeman said Dominion has been asked whether any of the natural gas to be extracted from Marcellus Shale fields in West Virginia and transported through the pipeline to Virginia and North Carolina would be exported, and said the utility has said it would not. He doubted that



Local cave expert Rick Lambert discussed the potential dangers to groundwater if the Atlantic Coast Pipeline is constructed. (Recorder photo by Mike Bollinger)

claim, saying Dominion would sell the gas where it was needed. “Natural gas is a commodity. It works on demand,” he said.

Virginia Gov. Terry McAuliffe has endorsed the pipeline project, and one of the reasons for that endorsement is anticipated job creation. Freeman claimed no local jobs would be created once construction is complete. “Jobs will be lost and the economy endangered. I don’t think people will be coming to Bath County to see the pipeline,” he said.

ABRA has commissioned an economic impact study that hopefully will be completed in March. The studies completed so far, related to Augusta, Buckingham, Highland and Nelson counties, indicate the cost to the economies of those four counties would exceed the cost of the entire pipeline, he added.

There are two basic issues related to the project, Freeman said — ecology and economics. Ecology is what brought the alliance together. He said changes to the topography as a result of the project would have effects on the water and lifestyle in the area that could not be mitigated.

“You can’t give somebody money to forget the viewshed they’ve enjoyed is gone. You can’t give somebody money if their water is damaged because of the karst topography that water moves underneath,” Freeman said.

ABRA also questions the long-term viability of the shale fields, Freeman said, noting the Mountain Valley Pipeline project is also being proposed. “How long can the Marcellus Shale fields be pumping gas? We have begun to communicate with (the Federal Energy Regulatory Commission) about that,” he said.

Local cave and karst expert Rick Lambert of Highland County, president of the Virginia Speleological Survey and a member of the Virginia Cave Board, said FERC should be aware people in Bath and Highland are largely opposed to the pipeline due to the number of protests submitted to the agency. He said FERC needs to understand the effects the project would have on the viewshed and the safety of families.

“We don’t want to risk the quality of our groundwater so Dominion can make rolls of money,” he said.

In Bath and Highland, Lambert said, there are seven bands of karst topography the pipeline is proposed to cross. He noted there are organisms that are only found in those underground karst areas that would be endangered. He said the proposed route is narrowly missing the Burnsville Significant Karst Area, where many of those organisms are found.

Lambert also cautioned residents that more shifts in the route would likely be coming. “They will go around caves. The route you see now will not be the final route,” he said.

In Highland, the shift in the route carries it through the Valley Center area. “There is more karst in that area than there was in the entire preferred route through Highland County. I don’t think

it's possible (for Dominion) to mitigate their way through Valley Center. I believe it (the route) will move south," Lambert said.

A significant threat to Bath and Highland, Lambert said, would be sedimentation. He said if there were two to three years of unusually dry weather during construction, damage to water could be minimized, but he noted that's unlikely.

"Dominion can't clean up an aquifer. They will pay a fine as the cost of doing business, and you will have to live with the result," Lambert said. "You need to document your groundwater resources now so you can use it in claims later on."

In Valley Center, Lambert said, the route now passes over at least 10 sinking springs. Dominion said the route would stay 300 feet away from sinkholes, caves, springs and karst features, but there is no way to do that and pass through this area, he said.

Landowners are not required to allow Dominion to survey their property. Those who choose to allow a survey should arrange for a karst expert to walk their property, he said. Lambert said he would walk properties in some areas. He also said Dominion would have a karst expert, and landowners should ask for that person's qualifications. That person, he said, should be a licensed professional geologist with at least 10 years of experience dealing with karst.

The more documentation of property and groundwater features a landowner can present to FERC, the better, Lambert said. "A 50-page letter with photographs is going to make an impression. If you don't document your case, no one else will," he said. "You need to start monitoring and documenting the quality of your groundwater resources now."

Lambert also encouraged landowners and others to become interveners in the case. He said there are more than 1,000 interveners in the Atlantic Coast Pipeline case now. A person can intervene on the FERC web site, www.ferc.gov, or by mail. The docket number for the ACP case is CP15-554.

FERC encourages electronic submission of motions to intervene using the eFiling link on the web site. There are document attachment and document-less options. Motions to intervene must also be served on the applicant. Contact information for parties can be found on the service list at the eService link on the web site. Service can be via e-mail with a link to the document.

Those unable to file electronically should send an original and three copies of the motion to intervene by overnight services to Kimberly D. Bose, secretary; Nathaniel J. Davis Sr., deputy secretary; Federal Energy Regulatory Commission, 888 First Street, N.E.; Washington, D.C. 20426.

While the time period for intervening has passed, those wishing to intervene should file a "motion to intervene out of time" and include reasons they should be considered. If a landowner does not intervene, he or she cannot appeal FERC's decision.

Joe Lovett, executive director of Appalachian Mountain Advocates, a non-profit law and policy center with offices in Charlottesville and Lewisburg, W.Va., said FERC would determine whether the pipeline was necessary. “It’s astounding to think they could tell landowners to give their private land to a private company so the company can make a profit,” he said.

The first step in the process, Lovett said, is a request from Dominion to survey property. In Virginia, every court that has heard cases has ruled in Dominion’s favor thus far, he said. He said surveys have taken as much as 10 days in some places. “Circuit courts have determined Dominion has the right to do this,” he said.

Lovett said AMA has asked the Virginia Supreme Court to consider appeals of these cases, and an answer is expected soon. “If you’re in a county where a court has ruled, you need to let Dominion on your property in the interim. In Bath, there have been no court cases, and we don’t feel you have to allow it,” he said. “If you don’t allow a survey, they will probably take you to court.”

If a landowner wants to intervene, they need to do a detailed study of their property, Lovett added. “If you get your water from a spring or a well, you have something to worry about. It’s important to have documentation of the quality and quantity of your groundwater. You want to have this to send to FERC,” he said.

Those who can afford it should hire someone to survey their property the way Dominion will do it, Lovett said. He said those surveys can show where springs are, and where any historical or cultural artifacts are.

If FERC grants a certificate and the pipeline is built, people need to make sure they have recourse against Dominion for lost water, Lovett said. “If FERC permits it, the eminent domain process will allow Dominion to take your property. You can’t stop it. There will be a 125-foot construction easement and a 75-foot permanent easement. Dominion has to pay fair market value for your property,” he said.

In addition, Lovett said, the law says Dominion must include the loss of value of usable property in that amount. If a landowner doesn’t take Dominion’s initial offer, there is no negotiation. A federal court would then determine the value of the property, he said. “You’re in for a fight. They’re not going to offer you enough for your land,” he said.

The major goal of the AMA and ABRA, Lovett said, is to stop the pipeline from being built. “You need to intervene and give good documents to FERC. The documents are still useful in case you end up suing FERC,” he said.

Freeman said landowners and others in Bath should demand FERC hold a scoping meeting in Bath now that the route has been changed. They should do this, he said, in order to have the same rights those in other areas have had.

Rick Webb of Monterey, environmental resources committee chair of the Dominion Pipeline Monitoring Coalition, cautioned residents that the Virginia Department of Environmental

Quality is not monitoring pipeline projects. Webb said DEQ says it doesn't have adequate staff to do so.

He said DEQ is allowing contractors such as Dominion to review their own erosion and sediment control plans using their own paid people. "DEQ does not inspect unless there is a citizen complaint, and they are not issuing notices of violation," Webb said.

In addition, Webb said, regulations state a trench cannot be open for more than 500 feet at a time. He said companies are applying for variances to this rule with DEQ, and all have been granted.

Dominion is holding an open house Wednesday from 5-7:30 p.m. at Bath County High School, and residents were encouraged to attend. "You need to go to that meeting and pepper them with questions. They will interpret low turnout as the county not being concerned," said Nancy Sorrells of the Augusta County Alliance.

Freeman said he would be working on a group that would be formed in Bath to oppose the pipeline. For more information about the Allegheny-Blue Ridge Alliance and its opposition to the pipeline, contact Freeman at (540) 468-2769 or at lewfreeman@gmail.com.