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Organized pipeline foes weigh in

BY JOHN BRUCE • STAFF WRITER

MONTEREY — Citizen groups and Augusta County joined Bath County and others opposed to the Atlantic Coast Pipeline, making their positions known to FERC last week.

Thomas Hadwin of Friends of the Central Shenandoah said Dominion is fast-tracking the pipeline and using unscrupulous business and legal tactics to push the proposal through.

Dominion's rush to gain approval of this pipeline does not allow adequate time for the Virginia Department of Conservation and Recreation to properly analyze potential hazards related to karst, Hadwin said.

He recommended FERC and Dominion to consult with the Virginia Department of Transportation and others who are familiar with dealing with karst. "VDOT retains full-time experts whose job it is to mitigate the effects of karst and its related sinkholes on the highway system throughout the Shenandoah Valley. There is a great deal of knowledge that should be put to use in evaluating this pipeline proposal," he said.

"This change in route is significant and has sufficient new risks that deserve thorough evaluation. FERC should restart the entire application process to allow for proper evaluation of these risks. The normal scoping meeting and public comment process should be made available to the many residents that now face severe alterations in their land and lifestyles as a result of this route change. Affordable aerial survey techniques could be put to use to evaluate the suitability of areas without requiring the expense and intrusion of survey teams.

"Flash flooding in the mountain streams crossed by the pipeline could very easily scour areas adjacent to the normal streambed, where the pipeline is closer to the surface, and undercut the pipeline," he continued. "Emergency services will be severely strained in the remote areas of pipeline construction. Dominion is not paying enough attention to this critical issue."

He added, "Dominion has not properly addressed methods for erosion control. They cannot use the excavated rock as fill and must bring in foreign soils to do the job. How will they keep these soils in place with nothing to adhere to but the rock in the trench? Without following strict

specifications with careful monitoring, this new route could be vulnerable to massive mudslides that could contaminate streams throughout the region.”

Hadwin asserted that Dominion is aware of the unsuitability of the terrain, that existing, lower-cost pipelines are adequate, and that industry insiders say the Marcellus shale field is reaching its production limitations. “With little long-term growth in traditional uses of natural gas, the need for additional gas supply to Virginia and North Carolina is to fuel new gas-fired power plants,” he said.

“Competing proposals for this area say they will serve different customers, but Dominion and Duke are the primary utility operators in these two states and their needs can be satisfied using existing pipelines. A comprehensive approach should be used to evaluate all of the competing proposals for a particular area and avoid wasting public monies and time repeatedly examining the same issue,” Hadwin noted.

“Existing administrative law contains the precedent of the Ashbacker Doctrine, which requires the mandatory consolidation of licensing hearings when at least two parties apply for approval to serve the same need. In this case, the need is currently adequately served, yet several applicants — Atlantic Coast Pipeline, the Mountain Valley Pipeline, and potentially the Appalachian Connector — are all attempting to overbuild capacity and underutilize low-cost existing resources for private gain rather than serving the public interest.”

The Supreme Court ruled that a subsidiary and its parent are “in reality, one unit,” Hadwin said. “For the ACP, the lead developer . . . is Dominion Transmission Inc., a subsidiary of Dominion Resources. The customer for the gas, another Dominion subsidiary, Virginia Power Services, will sell the gas to yet another subsidiary of Dominion Resources, Dominion Virginia Power. A similar relationship exists between the other major owner, Duke Energy, as the pipeline owner selling gas to its electric utility subsidiaries and to its newly acquired subsidiary, Piedmont Natural Gas, another owner of the ACP.

“This is not an indication of a free market choosing the best option for transporting the gas,” he said. “If free to choose, what might an unfettered subsidiary select? In the case of Dominion Virginia Power, they have established a 20-year long-term service agreement with Transco to build a pipeline, completed in September 2015, using the low-cost, underutilized capacity of the Transco corridor to serve two new power plants in Southside Virginia. Dominion has no plans for a plant that might require an additional supply of natural gas until 2022. Yet, the parent company directs the subsidiary to abandon, or place in a secondary position, a new, perfectly functional pipeline, in order to have a customer to support construction of a new pipeline that better serves their investors’ interest.

“Dominion Resources is forcing the customers of its subsidiary, Dominion Virginia Power, to subsidize the ACP without their consent. This occurs by passing through the higher gas transport fees for moving gas via the ACP compared to the existing pipeline using the automatic fuel adjustment feature on DVP customer bills,” Hadwin argued.

“The economy can improve but energy use is not growing with it. The only increase in natural gas demand in this region is coming from new natural gas-fired power plants. The DOE notes that this will be a temporary phenomenon over the next 5-10 years. Utilities continually overestimate the growth in demand for electricity. The EIA reports that electricity use in the U.S. declined by 1.1 percent this past year. Electricity use has declined five out of the last eight years, even though GDP has increased in each of those years. There is no long-term need for additional supplies to this area beyond what can be provided by existing pipelines. We request that FERC pursue a complete evaluation of the Atlantic Coast Pipeline, Mountain Valley Pipeline and perhaps the Appalachian Connector project, including evidentiary hearings that would allow for an in-depth evaluation of the impacts and include a thorough assessment of alternatives, including the use of existing pipelines, to determine the outcome that would best serve the ratepayers, the landowners, and the needs of all Virginians,” Hadwin concluded.

Faye Cooper of Cooper Conservation Advisors LLC said the proposed pipeline would impact the George Washington National Forest and hundreds of private properties. “As a recreational user of the George Washington National Forest and a professional conservationist who has worked with many private property owners to conserve their lands through donations of conservation easements, I am intimately familiar with the extraordinary natural and historic resources located along this newly proposed route,” she wrote.

“In addition to impacting sensitive ecological areas in the national forest, this new route also traverses nine conservation easements held by the Virginia Outdoors Foundation. These privately conserved lands host unique natural resources, including headwater streams that support our native eastern brook trout and lands that support other important natural communities. Much of the private land along the new route is productive, working agricultural and forest lands, some of which has been in the same families for generations.

“For all who are familiar with both the high conservation values of the Appalachian Highlands and the construction challenges posed by steep-sloped terrain and karst topography, the idea of a private utility company with no experience in building a 42-inch, high-pressure natural gas pipeline in this region is of enormous concern,” Cooper said, urging FERC to undertake an in-depth analysis of the need for the proposed ACP. “There is a growing body of evidence that natural gas infrastructure in our country is being overbuilt. FERC’s own staff demonstrated an awareness of the trends toward over-build in their presentation to commissioners on March 19, 2015 in which they identified a significant overbuild by 2017 in the capacity of proposed transport pipelines compared to the output of the Marcellus shale field.

“According to FERC’s guidelines for review of pipeline proposals, the commission states that project selection should be based on public need rather than the economic goals of pipeline developers and their investors, and further that projects do not overbuild new capacity; unnecessarily disrupt private property and sensitive environmental, recreational, and historic resources; or implement the taking of private property via eminent domain without a clear public benefit,” Cooper said.

“As part of the need analysis, FERC should undertake a Programmatic Environmental Impact Study that evaluates all four of the proposed pipelines that transect the Appalachian Highlands of

West Virginia and Virginia. The commission possesses the authority to review all of the activities in a specific region allowing it to choose projects that serve the public good, not the applicants' bottom line.

"Secondly," she said, "given that the GWNF-6 is an entirely new route that has not gone through the standard review process, I urge FERC to require a scoping period that allows affected landowners, local governments, and state and federal agencies the time necessary to evaluate adequately the impacted resources and the suitability of the proposed route. This public input process is absolutely essential to ensure the health and economic welfare of these rural communities and their citizens. Meeting the Dominion's construction time line must not be the primary consideration."

Augusta supervisors went on record against the proposed realignment. The county is concerned about the process being undertaken to permit this alternative route, chair Carolyn Bragg said. "The residents in this area had no opportunity to voice their concerns to FERC directly like the property owners along the original pipeline route had, other than to quickly provide written comments," she said. "There have been no FERC public hearings held as part of this process and yet about 20-25 percent more land has been impacted. From the outside looking in, it would appear that the need of the United States Forest Service for a reroute and Atlantic Coast Pipeline's desire for quick approval have taken precedence over the rights of private property owners to participate in this process.

"We would encourage FERC to hold public meetings in the impacted counties of the reroute to allow these citizens the opportunity to voice their opinions, both pro and con," she said. "Finally, the question has to be asked: is the GWNF 6 alternative even what was asked for by FERC? The USFS asked Atlantic Coast Pipeline to protect the habitat of the Cow Knob salamander. FERC asked for a southern route. Atlantic Coast Pipeline submitted a route that simply got around the salamander habitat and quickly rejoined the original route. They didn't really even consider a southern route. The Augusta County Board of Supervisors does not believe that the requirements of FERC to study a southern route have been met. Is a southern route possible? Augusta County would suggest that there are multiple southern routes possible.

"In summary, the GWNF 6 alternative submitted addresses the concerns of the USFS, but it does not take into account other environmental impacts. The proposed route is longer and therefore more costly, it impacts more property owners, and impacts many sensitive environmental features. Rather than truly studying an alternative to the route originally proposed, as required by FERC, (Dominion) addressed the concern of the USFS and then quickly rejoined the original route regardless of the environmental impacts of that choice. We respectfully request that Atlantic Coast Pipeline not be granted approval for the GWNF 6 Alternative," Bragg said.

Nancy Sorrells, co-chair of the Augusta County Alliance, suggested all of the new route needs to be thoroughly reviewed and analyzed in order to properly understand the enormous impacts to the property owners' rights, cultural resources, habitats, infrastructure such as roads and water resources.

“Many of these reviews, if done properly, must be done through continuous investigation throughout the year,” she said. “Some flora and fauna species will only be observed during particular times of the year; water in springs, wells, and streams fluctuates from season to season. Something with as much potential for permanent and irreversible impact as the installation and operation of a high-pressure 42-inch pipeline must be examined in a careful and logical manner and not rushed to fit the schedule of a corporation seeking to capitalize on what is for them a profit-making venture.

“Numerous other filings have cited the unique and extremely fragile nature of the karst located along the existing route in Augusta, Highland, Randolph, and Pocahontas counties,” she continued. “And, while some of this has now been avoided in Highland County, the newly proposed route now crosses through areas of karst, particularly in Bath County, that are even more unique and vulnerable. Unfortunately because some of this route was not on the alternative portions examined and rejected by Dominion in its original filing, there is no baseline in order to thoroughly investigate the new karst resources and the potential pipeline impacts.

“Government agencies are being pushed to locate and document those resources but because of pressure from Dominion to truncate the application time line, full documentation and comparison with the other earlier and/ or rejected routes will not be possible unless the EIS time line is substantially expanded,” she explained.

“We feel that the EIS must be extended and a new scoping period opened. Further, the best option would be to do a full comparative EIS with all the pipelines affecting this western region. Further, during this extended period of environmental assessment, Dominion should be required to use LIDAR to examine all portions of the karst areas. This would provide precise and definitive information about the locations of karst formations that could affect the safety of construction and the impacts to sensitive habitats and groundwater resources.

“Dominion is seeking to exploit what it understands is a federal loophole that would avoid the company having to delay its project by requesting Congressional approval to cross the Appalachian Trail. Once Dominion realized that it would have to bow to the U.S. Forest Service’s wishes to avoid Cheat and Shenandoah Mountain, the route planners found themselves well south and west of the only point on the AT that they felt they could cross without delaying their project.

“As a consequence they had to get their route back to the already submitted Augusta County route as quickly as possible,” Sorrells said. “Thus you now have the illogical proposed route that veers north to connect with the existing proposed route through Augusta. Dominion refuses to look at alternatives to this crossing because it has landed upon this fixed point as a place that exploits a federal loophole at Reeds Gap that ACP planners believe avoids the requirement of Congressional approval. The reason is that the Appalachian Trail crosses through U.S. Forest Service lands at this small juncture, and therefore, Dominion’s staff says that the forest service has jurisdiction, not the National Park Service, even though the trail itself is overseen by the NPS. Therefore Dominion continues to propose going under the Blue Ridge Parkway and the Appalachian Trail at Reeds Gap, which is on the Augusta-Nelson county lines. This crossing

would be environmentally devastating because of the steep terrain and potential for severe erosion and slope slippage.

“This has created two issues,” she continued. “One is that it allows Dominion to bypass the safeguards put into place by Congress and, second, it has created a situation where thousands of individual private homes, farms, schools, and businesses are caught in between two federal agencies working hard to protect the lands for which they are charged with caring.

“There is a solution that could help evaluate and resolve this issue. The steep ridges and rural communities of western Virginia are the target of a major expansion of natural gas pipeline infrastructure. It is a serious issue for the public lands held in trust and to private citizens. Since 2014, developers have proposed three new interstate pipelines in the Valley of Virginia alone — the Atlantic Coast Pipeline, the Mountain Valley Pipeline, and the Appalachian Connector — to move gas from the Marcellus shale region in West Virginia to markets in the mid-Atlantic and the Southeast ... Because these projects share common geography, timing, and objectives, FERC should conduct a consolidated environmental review under NEPA. This type of review, called a region-wide or programmatic EIS, is a critical tool to identify and evaluate alternatives that could minimize impacts for the entire region. It is a platform to determine how many, if any, of the proposed projects are needed, and if there is a proven need for new gas transmission pipelines, it would provide an opportunity for careful decision-making about where this infrastructure is located,” Sorrells said.