

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of the Applications of:

**Atlantic Coast Pipeline, LLC
Dominion Transmission, Inc.**

**Docket Nos. CP15-554-000
CP15-554-001
CP15-555-000**

**MOTION TO REJECT PROPOSED ROUTE THROUGH
CONSERVATION EASEMENTS IN VIRGINIA**
BY
**SHENANDOAH VALLEY NETWORK,
HIGHLANDERS FOR RESPONSIBLE DEVELOPMENT,
SHENANDOAH VALLEY BATTLEFIELDS FOUNDATION, AND
NATURAL RESOURCES DEFENSE COUNCIL**

As authorized by Rule 212 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.212, Shenandoah Valley Network, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, and Natural Resources Defense Council (the Conservation Organizations) respectfully ask that the Commission reject Atlantic Coast Pipeline, LLC and Dominion Transmission, Inc.'s (collectively Dominion) proposed pipeline route through lands protected by conservation easements in Augusta, Bath, Highland, and Nelson Counties in Virginia. We believe that the Commission must reject Dominion's proposed intrusion on these easement lands for the following reasons:

- Dominion has proposed the largest conversion of conservation easement land ever undertaken in Virginia. If allowed, it would

seriously undermine public trust in the state's conservation easement program and jeopardize the continued vitality of this critically important tool for open-space land protection.

- Dominion's proposal is not consistent with Virginia state law, which only allows land designated as open-space land to be "converted to non-conservation purposes when the proposed conversion is both: (i) essential to the orderly growth of the locality where the easement is located and (ii) consistent with the locality's comprehensive plan.
- The Virginia Outdoors Foundation, the state foundation that holds all eleven conservation easements; local governments; easement donors; and land trusts throughout the Commonwealth do not support Dominion's proposal. These easement lands protect important conservation values, and their diminishment would cause irreparable harm to this unique region.

As required by 18 C.F.R. § 385.212, the Conservation Organizations set forth the facts and law supporting their motion in detail below.

INTRODUCTION

In September 2015, Dominion proposed an ill-planned route for the Atlantic Coast Pipeline through the largely undeveloped landscape of the central Appalachian Mountains, a region that includes thousands of acres of public forest lands and private lands protected by conservation easements. Dominion's original route would have cut directly across a large swath of the Monongahela and George Washington National Forests.¹ The U.S. Forest Service rejected that route in

¹ Atlantic Coast Pipeline, LLC, Application for a Certificate of Public Convenience and Necessity (Sept. 18, 2015), <https://www.dom.com/library/domcom/pdfs/gas-transmission/atlantic-coast-pipeline/ferc-filing0915/volume-i-acp-application.pdf?la=en>.

January 2016, and less than a month later Dominion hastily proposed an alternative route that would run south of the rejected route.²

But by changing the route to sidestep one impediment to construction, Dominion has not solved the problems inherent to the Atlantic Coast Pipeline. It has merely shifted the burden imposed by the project to the extraordinary rural landscape south of the original route and to the state entity and landowners who have made legal and financial commitments to preserve that landscape with conservation easements. The Commission should not accept the Cornelian dilemma presented by Dominion's poorly planned route that pits the mountain forests on protected public lands against the same mountain forests on protected private lands. Either choice would be irreparably harmful to this region.

The proposed route includes a segment in Highland, Bath, and Augusta Counties, which Dominion refers to as GWNF 6. This segment is a modified version of an alternative route Dominion rejected in September 2015.³ Discussing the pitfalls of that earlier alternative, Dominion explained in 2015 that "there are several . . . disadvantages and challenges," including "construction safety, slope stability, and right-of-way restoration concerns" due to the presence of steep side slopes.⁴

² Atlantic Coast Pipeline, LLC & Dominion Transmission, Inc., Response to Data Request Dated Dec. 4, 2015 to FERC (Feb. 16, 2016), eLibrary No. 20150918-5212.

³ Atlantic Coast Pipeline, LLC & Dominion Transmission, Inc., Resource Report 10: Alternatives 10-88 (Sept. 2015), eLibrary No. 20150918-5212.

⁴ *Id.* at 10-89.

A fundamental problem with the GWNF 6 segment is that it would require the unprecedented conversion of a block of nine conservation easements protecting private property with unique and valuable resources similar to those protected by the U.S. Forest Service. In fact, most of those easement lands border the George Washington National Forest. The pipeline would also cross one, and possibly two, additional properties protected by conservation easements in Nelson County. The state foundation charged with the preservation of the Commonwealth's open space lands, local governments and land trusts, and landowners all oppose Dominion's proposed crossing of these easement lands.

Landowners in Augusta, Bath, Highland, and Nelson Counties conveyed these easements to the Virginia Outdoors Foundation (VOF or the Foundation), a state entity created by the Virginia General Assembly to "promote the preservation of open-space lands in Virginia."⁵ Like National Forest lands, private lands have significant conservation values in this region, and the Foundation holds more than 70,000 acres of conservation easement land, a key tool for conservation, in these counties. Moreover, according to their specific terms, the easements further governmental initiatives for open-space protection set forth in federal, state, and local laws; executive pronouncements; intergovernmental agreements; and agency policies.⁶

⁵ Va. Code Ann. § 10.1-1800.

⁶ See Easement Deeds, **included as Attachments A-K**.

Approval of this route and conversion of an unprecedented amount of protected easements lands with high conservation values to industrial activity would deeply undermine public confidence in Virginia's conservation easement program—a consequence that would reverberate through the Commonwealth long after installation of the pipeline. Conversion would also violate Virginia law requiring that any conservation easement conversion be essential to the growth and development of the locality and in accordance with that locality's comprehensive plan.⁷ The proposed route fails to meet either requirement. Finally, conversion of these easements threatens the ecological integrity of these currently protected lands. Among other impacts, degradation of these lands threatens to fragment core wildlife habitat for species listed under the Endangered Species Act, violate scenic viewsheds, and reduce essential habitat buffering between the George Washington National Forest and development.

The proposed route of the Atlantic Coast Pipeline would cause irreparable harm to the region and to Virginia's conservation easement program. Rural Virginia cannot be made to pay such a high price for Dominion's poor planning. At the very least, the Commission must require Dominion to alter its proposed route to avoid the unprecedented wholesale conversion of conservation easements in the most remote and traditionally rural areas of the Commonwealth.

⁷ See Va. Code Ann. § 10.1-1704.

ARGUMENT

I. Conversion of Easements at this Scale is Unprecedented and Will Undermine Public Confidence in the Conservation Easement Program.

The Virginia Outdoors Foundation holds nearly 4,000 conservation easements covering more than 750,000 acres across the Commonwealth.⁸ Despite its extensive holdings, the Foundation has approved only thirteen statutory conversions of eased lands to non-conservation purposes since it was established in 1966—an average of approximately one conversion every four years.⁹ Dominion has requested conversion of at least ten, and possibly eleven,¹⁰ conservation easements.¹¹ In total, the affected easement properties comprise more than 4,700 acres of eased land.¹² The pipeline corridor would stretch approximately 8 miles, and convert 71.25 acres, on these properties. Dominion's request is unprecedented in both its scope and purpose.

Should the Commission approve this route and those eleven easements be converted, the total historical number of conversions since the program began in 1966 would nearly double in one fell swoop. And the harm to conservation values

⁸ VA. OUTDOORS FOUND., *Easements and Acres by Locality* (last updated Feb. 4, 2016), <http://www.virginiaoutdoorsfoundation.org/news/stats/easementsacres-by-locality/>.

⁹ Va. Code. Ann. § 10.1-1704; Email from Erika Richardson, Stewardship Manager, Va. Outdoors Found., to Kate Wofford, Exec. Dir., Shenandoah Valley Network (Aug. 12, 2016, 11:39 EST) (on file with author).

¹⁰ In August 2016 the Commission issued a letter to property owners notifying them that the Commission is evaluating a route alternative known as the Spruce Creek Route Variation. This variation would cross an additional conservation easement on Elk Hill Farm in Nelson County.

¹¹ See Easement Deeds, **included as Attachments A-K**; Map of Affected Easements, **included as Attachment T**.

¹² *Id.*

would not be limited to the actual acres converted, but would extend to the adjacent ecologically significant private and federal lands. Up until now, conservation easement conversions have been infrequent and small. If the pipeline is allowed to disrupt or destroy the conservation purposes of this much land protected by conservation easements, existing and future easement donors will no longer be able to rely on an expectation that conversions will be few and far between.

Unlike Dominion's proposal, each of the previously approved conservation easement conversions also provided a clear benefit to the locality where the property was located. For instance, in 2006 VOF approved the conversion of 0.4 acres in Fauquier County to provide space for a driveway to a school.¹³ The locality supported the small conversion.¹⁴ Similarly, in Franklin County in 2000 and 2007, VOF approved the conversion of 0.87 acres and 0.24 acres respectively to improve access to public schools.¹⁵ Other approved conversions were made to facilitate construction of a town water tank, expand a county-owned landfill, and to make room for construction of a larger volunteer fire station.¹⁶ These approved conversions, which were very small and almost exclusively expansions of existing rights of way, improved access to schools and allowed for updates to essential services like waste disposal, water supply, and fire protection.

¹³ See Email from Erika Richardson, Va. Outdoors Found., *supra* note 9.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

Understanding the difference in scope and context in which those prior conversions were approved illustrates the vast difference between those conversions and the eleven requested by Dominion. Approval of the proposed pipeline route would require conversion of an unprecedented amount of valuable conservation easement land while providing few, if any, local benefits. Specifically, the Atlantic Coast Pipeline will not deliver natural gas to customers in Highland, Bath, Augusta, or Nelson Counties.¹⁷

The impacts of the requested conversions to make way for the pipeline extend well beyond the adverse effects on particular properties and landowners. Conversion threatens to deeply undermine public confidence in the Commonwealth's conservation easement program as a whole. Studies have shown "that many landowners are willing to donate or sell conservation easements in large part because of their personal attachment to the particular land encumbered by the easement and their desire to see that land permanently preserved."¹⁸ The foundation of Virginia's conservation easement program is the voluntary participation of individual landowners and their desire to protect their properties and landscapes in perpetuity. The integrity of the entire program will be jeopardized if would-be donors perceive conservation easements as vulnerable to conversion. The idea of protecting specific parcels of land "in perpetuity" is

¹⁷ Atlantic Coast Pipeline, LLC & Dominion Transmission, Inc., Resource Report 1: General Project Description 1-11 (Sept. 2015), eLibrary No. 20150918-5212(30892088).

¹⁸ Nancy A. McLaughlin, *Conservation Easements: Perpetuity and Beyond*, 34 Ecology L.Q. 673, 675-76 (2007).

deeply meaningful to easement donors. As one landowner wrote, “The promise of permanent protection of cherished land has been a key selling point for land trusts attempting to convince private landowners to donate or sell conservation easements.”¹⁹

It would be difficult for prospective easement donors to rely on a promise of permanent protection if Dominion’s request were granted and landowners were to conclude that easement donation would not protect their land “in perpetuity,” but only until the next ill-planned energy infrastructure project is proposed. Landowners in the affected counties and land trusts have both expressed precisely this concern. One landowner who donated a conservation easement to the Foundation laments that had he known conservation easements were vulnerable to conversion to make way for a pipeline, he “would have hesitated to put [his property] under easement.”²⁰ And the Nature Conservancy Virginia, which serves as a land trust, has expressed its desire that the final pipeline route avoid all conservation easements, citing “the sacred trust that exists” between easement donors and land trusts.²¹ Federal tax regulations also enhance donors’ expectation that land will be protected forever: landowners who place their property under a

¹⁹ *Id.* at 676. Of easements, The Nature Conservancy says: “Often landowners have no intention of subdividing their properties for development. But a conservation easement is still attractive to them because it reaches beyond their own lifetimes to ensure the conservation purposes are met forever. An easement ... can give peace-of-mind to current landowners worried about the future of a beloved property, whether forest or ranch, stretch of river or family farm.”

²⁰ Letter from Buck Burwell, to Laura Thurman, Easement Project Manager, Va. Outdoors Found. (June 2, 2016), **included as Attachment S at 3-4.**

²¹ Letter from Michael L. Lipford, Va. Exec. Dir., The Nature Conservancy Virginia, to Brett Glymph, Exec. Dir., Va. Outdoors Found. (June 8, 2016), **included as Attachment R at 1-2.**

conservation easement are only eligible for a federal tax deduction when the “conservation purpose [is] protected in perpetuity.”²²

Virginia’s conservation easement program relies on a relationship of trust between the easement holder—in this case, VOF—and the donor. Damage to this block of eleven easements will undermine that crucial relationship, not only for these easement holders, but also for future donors. One landowner has written that “[r]evoking conservation easements from property owners would be a blatant betrayal of the trust that they have placed in the Virginia Outdoors Foundation.”²³ Breaking that trust would deeply undermine the integrity of a vital conservation tool in Virginia.

Moreover, allowing Dominion to construct a natural gas pipeline across a block of conservation easements would send a powerful and worrisome message to utility companies nationwide: There is no need to avoid impacts to conservation easements when planning a pipeline route. The Commission can avoid setting such perverse precedent by rejecting Dominion’s most recent haphazard attempt to site the Atlantic Coast Pipeline across conservation easements in the steep, forested mountains of western Virginia.

²² 26 C.F.R. § 1.170A-14.

²³ Letter from William and Lynn Limpert to Brett Glymph, Exec. Dir., Va. Outdoors Found. (June 6, 2016), **included as Attachment S at 11.**

II. Conversion of these Conservation Easements is Contrary to Virginia Law.

The most conspicuous indication that Dominion’s proposed route should be rejected is that its approval would require a clear violation of Virginia law. The Virginia legislature set a high bar for the conversion of land protected by a conservation easement—a reflection of the importance of protecting land *in perpetuity*. State law mandates that no open-space land in Virginia—including land protected by conservation easements—can be converted unless two criteria are satisfied: The proposed conversion must be (1) “essential to the orderly development and growth of the locality”²⁴ and (2) “in accordance with the official comprehensive plan for the locality in effect at the time of conversion.”²⁵ Dominion’s proposed route fails to meet either of these statutory requirements, let alone both of them.

First, unlike the prior thirteen projects for which easement conversions were approved, the Atlantic Coast Pipeline is not “essential” to the orderly growth and development of the localities through which it would run. None of the four affected rural counties need a new interstate pipeline in order to grow and develop. Far from being “essential” to those communities’ growth, the pipeline is likely to harm a region of the Commonwealth that is characterized by and benefits from its rural features.

²⁴ Va. Code Ann. § 10.1-1704.

²⁵ *Id.*

When VOF asked Augusta County whether the proposed conversion of a conservation easement was essential to the county's orderly growth and development or in accordance with its comprehensive plan, the County Board of Supervisors responded "with a resounding no."²⁶ The Board determined that there is "no compelling reason for a gas transmission line to run through this area" and that far from being essential, the conversion of a conservation easement on the Berry Tract would be harmful to the orderly development and growth of the county.²⁷ Other counties have expressed similar concerns.

It its application to VOF for easement conversion, Dominion attempted to justify its unprecedented request by contending that the pipeline "supports the orderly development and growth of *Virginia's localities* by aiding with economic development and provision of natural gas for Virginia citizens."²⁸ And in response to a recent study questioning whether the Atlantic Coast Pipeline is necessary to meet future energy demands, Dominion cited as evidence of an "urgent[] need" for the pipeline the fact that industrial customers need natural gas in Hampton Roads, Virginia—approximately 250 miles southeast of the affected counties.²⁹

²⁶ Letter from Carolyn Bragg, Chair, Augusta Cnty. Bd. of Supervisors, to Martha Little, Deputy Dir., Va. Outdoors Found. 1 (Apr. 27, 2016), **included as Attachment O**.

²⁷ *Id.*

²⁸ Application from Dominion Res., Inc., to Va. Outdoors Found. (May 10, 2016), http://www.virginiaoutdoorsfoundation.org/download/board-docs/05-2016/eic/20160526_vof_eic_05_atlantic_coast_pipeline.pdf.

²⁹ Caleb Stewart, *Natural Gas Study Stirs Up Controversy Over Atlantic Coast Pipeline*, WHSV 3 (Sept. 12, 2016, 7:12 PM), <http://www.whsv.com/content/news/new-study-indicates-planned-pipelines-would-be-unnecessary-393134351.html>.

Dominion’s argument ignores the plain language of Va. Code Ann. § 10.1-1704, which requires easement conversions to be essential to the *locality* in which the open-space land is located.³⁰ Under Virginia law, a locality is “a county, city, or town as the context may require.”³¹ It is not a collection of localities, nor is it the entirety of the Commonwealth. The only pertinent question is whether constructing the pipeline across these conservation easements is essential—in other words, absolutely necessary—to the orderly growth and development of Augusta, Bath, Highland, and Nelson Counties. It is not, as the localities themselves have made clear. Dominion’s claims that the pipeline is essential to Virginia as a whole, or to a city 250 miles away, are meritless.

The proposed route also fails to meet the second requirement under Virginia law: It is wholly inconsistent with all four affected counties’ comprehensive plans.³² The General Assembly has placed the authority to plan for the orderly development and growth of the lands within their jurisdiction with localities, so local opposition to the pipeline must not be cast aside lightly.³³ Virginia state courts recognize that localities are in “the most advantageous position to

³⁰ See *Boynton v. Kilgore*, 623 S.E.2d 922, 926 (Va. 2006) (“[C]ourts apply the plain language of a statute unless the terms are ambiguous, or applying the plain language would lead to an absurd result.”) (citations omitted).

³¹ Va. Code Ann. at § 15.2-102.

³² See Va. Code Ann. § 10.1-1704(A)(i)(b).

³³ See Va. Code Ann. § 15.2-223 (requiring local governments to adopt comprehensive plans for development).

determine the proper uses of land within their jurisdiction.”³⁴ Here, the localities that will bear the brunt of the pipeline’s impact—and enjoy few if any of its benefits—have spoken out against the pipeline in no uncertain terms.

The proposed route through properties protected by conservation easements is inconsistent with the comprehensive plans of all four affected counties. The Board of Supervisors in Bath County “opposes any approval of the Atlantic Coast Pipeline.”³⁵ And the Bath County Planning Commission unanimously passed a resolution against the pipeline, contending that “the pipeline would be in direct conflict with, or cost the County significant resources to mitigate[,] 6 of the goals and 20 of the objectives adopted” in the Bath County Comprehensive Plan.³⁶ One of the objectives that would be thwarted by the pipeline is the development and support of initiatives designed to “preserve Bath County’s rural historic character,” including conservation easements.³⁷ If approved, the pipeline would affect eight ecologically important conservation easements across Bath County.³⁸

³⁴ See, e.g., *City of Norfolk v. Tiny House, Inc.*, 281 S.E.2d 836, 841 (Va. 1981) (“The members of a local legislative body are in the most advantageous position to determine the proper uses of land within their jurisdiction.”); *West Bros. Brick Co. v. City of Alexandria*, 192 S.E. 881, 885 (1937) (“The City Council of Alexandria is better acquainted with the necessities of that city than we are.”).

³⁵ Letter from Claire A. Collins, Chair, Bath Cnty. Bd. of Supervisors, to Kimberly D. Bose, Sec’y, FERC (May 11, 2016), **included as Attachment P.**

³⁶ *Id.* Exh. B.

³⁷ *Id.*

³⁸ See Bath County Easement Deeds, **included as Attachments B-H.**

The pipeline is similarly incompatible with Augusta County’s comprehensive plan. The Berry property³⁹ is located in an Agricultural Conservation Area, in which any development must “be sensitive to the context of the surrounding agricultural areas as well as the surrounding natural features.”⁴⁰ Areas so designated are “planned to remain in predominantly agricultural and forestal uses” with even little residential development—let alone large-scale industrial activity—contemplated.⁴¹ The County Board of Supervisors has found that construction of a pipeline through the area “certainly doesn’t meet that objective.”⁴²

In September 2014, the Nelson County Board of Supervisors adopted a resolution opposing construction and operation of the pipeline because it would disturb scenic, undeveloped lands, damage waterways, harm tourism and property values, burden the local government, and fail to provide benefits to the locality.⁴³ In this resolution, the County referred to the Saunders conservation easement⁴⁴ as being designated in its comprehensive plan as a “Rural Area – Rural and Farming,” a designation that is “least compatible with intensive development activity, industrial uses, large new infrastructure projects, etc.”⁴⁵ In other words,

³⁹ See Berry Easement Deed, **included as Attachment I.**

⁴⁰ COUNTY OF AUGUSTA, COMPREHENSIVE PLAN VOLUME 1, at 47 (2007), ftp://www.co.augusta.va.us/Economic%20Development/@%20CompPlan_Volume1%20Amended_1.28.09.pdf.

⁴¹ *Id.*

⁴² Bragg, *supra* note 26.

⁴³ See Comments from Nelson County, **included as Attachment Q.**

⁴⁴ See Saunders Easement Deed, **included as Attachment J.**

⁴⁵ Comments from Nelson County, *supra* note 43 at 1.

siting the pipeline through this easement would fundamentally conflict with the county's comprehensive plan.

Finally, the pipeline is incompatible with Highland County's comprehensive plan. In recognition of the importance of preserving the county's unique rural character, Highland's comprehensive plan acknowledges that "[d]esignated areas for development should be encouraged in lieu of random and scattered growth."⁴⁶ The land protected by the conservation easement for which Dominion requests conversion is not located in an area designated for development, and therefore conversion is incompatible with the county's plan. The objectives of Highland's land use plan would also be undermined by the proposed route. The objective to "[m]aintain and promote Highland's special rural character"⁴⁷ would be undermined by the construction of a large industrial pipeline across lands protected for their rural value.⁴⁸ Further, Highland's efforts to "[e]nsure that effective land use planning is kept in balance with the freedom and rights of individual landowners"⁴⁹ would be undermined by conversion of land that has been deliberately set aside for conservation.

There is no doubt that approval of the proposed pipeline route would conflict with Virginia's conservation easement law, which intentionally set a very high bar

⁴⁶ HIGHLAND COUNTY, COMPREHENSIVE PLAN: LAND USE (2011), <http://www.highlandcova.org/Compplan/Landverb.htm>.

⁴⁷ HIGHLAND COUNTY, COMPREHENSIVE PLAN: LAND USE GOALS AND OBJECTIVES (2011), <http://www.highlandcova.org/Compplan/Landuse.htm>.

⁴⁸ *Id.*

⁴⁹ *Id.*

for conversion of land protected by conservation easements.⁵⁰ This statutory limitation on conversions is fundamental to Virginia’s robust and successful conservation easement program. To ensure the continued integrity of this important conservation tool, we request that the Commission reject Dominion’s proposed crossing of conservation easements in Highland, Bath, Augusta, and Nelson Counties.

III. The Proposed Route is Opposed by the Virginia Outdoors Foundation and Threatens the Ecological Value of Conservation Easement Lands.

Not only have local governments and landowners opposed the wholesale conversion of the conservation easements requested by Dominion, but the Virginia Outdoors Foundation has also expressed “extreme[] concern[]” about Dominion’s request in three letters to the Commission.⁵¹ In addition to discussing the serious threats the pipeline poses to Virginia’s “investments in conservation,” the Foundation has emphasized the ecological importance of the threatened easements.⁵² In its most recent letter, filed in September 2016, the Foundation reiterated its “deep concern” with the pipeline’s proposed route and its position that the pipeline “should avoid crossing or intersecting VOF open space

⁵⁰ See Va. Code Ann. 10.1-1704.

⁵¹ See Letter from Martha Little, Dir. of Stewardship, Va. Outdoors Found., to Kimberly D. Bose, Sec’y, FERC (Aug. 13, 2015), **included as Attachment L**; Letter from Martha Little, Deputy Dir. of Stewardship, to Kimberly D. Bose, Sec’y, FERC (Apr. 7, 2016), **included as Attachment M**; Letter from Martha Little, Deputy Dir., Va. Outdoors Found., to Kimberly D. Bose, Sec’y, FERC (Sept. 6, 2016), **included as Attachment N**.

⁵² Sept. 6, 2016 VOF letter, *supra* note 51.

easements.”⁵³ The Foundation is concerned that if the proposed route were to be approved, these easements would suffer permanent impairment of conservation values.⁵⁴ Further, VOF recently noted that “[t]he degradation of protected resources may also result in a loss of confidence in the effectiveness of open-space easements by the public.”⁵⁵

In general, these conservation easement lands include a mix of upland forests and open fields that contain headwater streams for the Jackson and Cowpasture Rivers, two of the most pristine rivers in Virginia. They also include important karst formations and caves that provide habitat for protected bats and other species. Further, these lands border the George Washington National Forest and are contiguous to roadless areas and other protected areas within the forest. The lands currently protected by conservation easements are no less critical to conservation in this region than the federal lands they border. A holistic approach is required to adequately protect this extraordinary region, and the conservation value of private lands cannot be underestimated.

The Foundation’s recent letter to the Commission highlights specific attributes of each conservation easement property that demonstrate the property’s high conservation value.⁵⁶ The easements that would be affected protect pasture land, important streams and riparian buffers that protect wild trout habitat, forestland,

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ *Id.*

⁵⁶ *Id.*

karst resources, and shale barrens for endangered plants. They safeguard an Audubon Important Bird Area, USDA-designated Prime Agricultural soils, important recreation areas, and unique historical sites.⁵⁷

The Foundation is the public body responsible for the protection of the conservation easement lands threatened by the pipeline, and the state therefore has an interest in ensuring that these lands remain protected. The Commission should not ignore the Foundation's strong opposition to these conversions.

CONCLUSION AND REQUEST FOR RELIEF

The route Dominion has proposed for the Atlantic Coast Pipeline has been ill-conceived from the project's inception. Dominion's first proposed route would have interfered with protected forests and important habitat on federal lands; the current route would interfere with protected forests and important habitat on adjacent private lands. This is simply another harmful proposed route. This most recent threat to the unique rural communities of Highland, Bath, Augusta, and Nelson Counties serves to further demonstrate that constructing a large natural gas pipeline through the steep, forested mountains of the central Appalachians will cause irreparable harm to this region regardless of its route.

The Virginia Outdoors Foundation, local governments, land trusts, and affected landowners have all expressed opposition to Dominion's new proposed route—and for good reason. The Commission must not approve a route that would require

⁵⁷ *Id.*

an unprecedented conversion of conservation easements and threaten the integrity of the state's conservation easement program; that runs contrary to Virginia law; and that undermines the conservation values that the state, localities, and property owners have made such a strong commitment to protect.

In light of the above, we respectfully request that the Commission reject Dominion's proposed route through private lands in Highland, Bath, Augusta, and Nelson Counties protected by conservation easements held by the Virginia Outdoors Foundation.

Respectfully submitted,



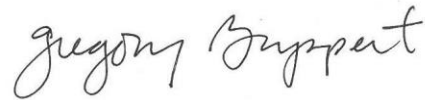
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October 13, 2016

CERTIFICATE OF SERVICE

I hereby certify that I have on October 13, 2016, caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.



Gregory Buppert

Counsel for the Conservation Organizations