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Couple battles to save farm

Perspective

By Anne Adams • Staff Writer



This ACP map shows the proposed Dominion access road for the proposed Atlantic Coast Pipeline bisecting the historic entrance to Bath County farm, The Wilderness, in orange. Pink lines show the ACP path before the neighboring property's path was moved. The yellow line shows the path after the neighboring adjustment was made. "The access road completely destroys our access to our property and structures including our home," said landowner Robbie Koontz.

DEERFIELD — You've had successful careers. You and your soul mate retire to the mountains, and dedicate your retirement years to gardening, farming, and investing your savings to fix up an old farm steeped in history going back to America's revolutionary days.

You walk your dogs, watching them swim excitedly in an old pond, fed by a karst spring created deep in the Alleghenies over millennia. You enjoy the peace and pristine environment in a place where people have worked the land for hundreds of years.



There is a large spring and pond next to Mill Creek. The headwaters of Mill Creek is on the Koontz property that provides year-round water. "Many springs only have water part of the year, but due to our many underground karst springs, water is plentiful," Mrs. Koontz said. "The dogs love to swim in this pond. There is apparently a cave entrance on the steep hill to the right of this pond. The cave could then run a great distance from this slope to the other end of our property under the ridge. There are two more ponds on the property — one is karst and near the spring with our water but in front of the house. The other pond is large and across the road by our family cemetery."

Without notice, those peaceful years are upended.

Suddenly, you find yourself battling a billion-dollar corporation with overwhelming power and authority from ruining everything you've worked for.



This is the remains of a spring house on the property. "The pond here, from the karst springs, is wonderful and surrounded by thick vegetation that protects the many ducks who come here. It is very beautiful and quiet," Mrs. Koontz says.

"This is a total outrage."

That's how Robbie Koontz feels. She and her husband, Bob, have endured more than a year of agony, worry, and frustration. Utility giant Dominion Resources and its partners propose to build a 42-inch diameter, interstate gas transmission pipeline and accompanying access roads across their farm. To be more accurate — right up their driveway, next to their 1700s-era house. "It cuts our property in half at the center of everything," Mrs. Koontz said. "It would totally stop our farming operations."

A proposed access road would run over the farm's bridge, and wipe out the one-lane gravel driveway to the house, taking out several trees, a fenced dog yard, and an outdoor patio area. Then it would cross the parking area in front of the historic carriage house, take out some of the back yard, and destroy orchards and fields.

"We would have no way to reach our three equipment barns, garage, storage area," Mrs. Koontz said. "We could no longer safely use the carriage house as a garage. We could not go to the barn and back from the house," she said.

"What a nightmare. And a huge expense, plus years of construction to replace what we have. And in the meantime, we could not live on the property ... We could not maintain the fields. We could not honor the lease we have for making hay."

Since The Recorder last reported on the Koontzes' battle, they have been back and forth with the private corporate giant, with attorneys, to no avail. Thousand of dollars and months and months later, they feel they've hit a brick wall.

"Our new attorney, Isak Howell, finally forced Dominion to meet with us as a condition of our allowing them to do a survey without a court battle, which we would lose anyway," Mrs. Koontz explained. "Four Dominion reps came to our home yesterday. If you have heard that the construction manager of the ACP is an ass, I can confirm that he is indeed an ass," she said.

"We gave them no concessions of any kind. It became clear that they just burned up our money by meeting with Larry Mann, our previous attorney, repeatedly, and would not agree to anything," she said. "We told the Dominion reps that we now have litigation attorneys since it appeared that litigation was our only option to protect our conservation easements and property."

Dominion has conceded nothing, she said. "They just stated what they were going to do — refuse to move the path of the ACP on our property. But they implied we should be grateful that the access road would be moved and give up."

While a Dominion representative acknowledged the access road would be moved, it was only in response to their comments about how terrible the company had been about that issue, "and the torment it caused us for almost a year," she said. "I commented about him repeatedly meeting with Larry with no results. He acted as if this was due to Larry, not him. But he did acknowledge that the access road would not be built as per the published Dominion map," Mrs. Koontz recalled.

"I asked why Dominion was making a secret of what they planned to do with access roads. Bob (her husband) pointed out that Dominion could use Bright Hollow Road, (which) adjoins our property and other easement properties. Bob also noted area options that would minimize the

negative impact on us. Dominion implied the access road issue would be addressed at some point but would commit to nothing.”

At this point, they have no idea where the access road might go.

After the Koontzes’ discussion with Dominion, the reps wanted to see the property.

“We made no progress in the discussion at all with respect to compromise, or even having Dominion acknowledge our concerns,” she said. “At one point, Bob even told them that the property would soon be registered as a Virginia and National Landmark. That did not bother them at all. Bob provided the Dominion reps handouts showing maps of the property and building sites.”

Indeed, the couple is close to having The Wilderness approved for Virginia Historic Landmark status. They have enjoyed strong support from the state’s Department of Historic Resources in the process, and the DHR expects there will be no obstacle to listing The Wilderness and its important, well-documented history. It’s likely to be listed on the National Register as well.

The four Dominion representatives that day, however, were interested in karst areas and sinkholes. “They asked to walk around the property alone to see more of the property,” Mrs. Koontz said. “We agreed, and they walked around for over an hour. They then asked us to come out by their vehicles parked at our carriage house garage. Isak, Bob, and I went outside to talk to them. Very inconsiderate of Dominion, since Bob suffers when breathing cold air and both of us have issues walking especially on the gravel in our driveway.”

Then, she said, Dominion’s representative said the company would make adjustments to avoid the sinkhole, which required little effort, Mrs. Koontz said, but would not move the pipeline path to the edge of the property, or farther from the house.

“They refused to make any changes as we requested,” she said. “Isak was polite but firm that the current path caused us significant harm. (Dominion) said that we should be grateful they were moving the access road. I told him that not moving the access road would have resulted in immediate litigation, and that I believed we would easily win that argument for many reasons. It was at that point that I became quite combative. I think (he) enjoyed that.”

Bob and Robbie told the Dominion reps they were giving the couple no choice but to go to court.

“We said we would never agree to the path they planned that destroyed the most valuable part of our property for building sites, endangered our water and the environment, and left us living in the blast zone,” she said. “(He) then repeated a previous comment that was essentially, ‘If the area is karst as you claim, then you could not have people building on the ridge, so we will proceed to build that ACP on the ridge.’”

“What a brilliant statement — houses are bad on karst but we can build a gas pipeline through it,” she said. “I have been in many negotiation meetings, and this was probably the worst.”

The attorney informed Dominion representatives they would not allow any motorized vehicles on the property, and they could only survey by foot. That survey was under way on March 21 by

noon, and the couple was told the process would require access to the property for a week or longer.

“Dominion really had no choice but to move their access road because we told them we would litigate and I do not think they could possibly win,” Mrs. Koontz added. “And although Dominion apparently has unlimited assets, it would cost them a fortune to build two bridges and compensate us for all of our losses — our bridges were \$40,000 each and are the ugliest bridges in Bath County. So, they said the access road would be moved but we have no idea where,” Mrs. Koontz said.

She had reminded the representative Dominion knew about the access road issue since April 2016. “I asked why he would torture us for almost a year by leaving it an open issue when he obviously knew that Dominion would probably be stopped from building the access road; he had no comment. I told him it looks like Dominion cared nothing for landowners and were deliberately bullying us,” she said.

“His comment was that they never really got a look at our driveway until yesterday — it was done by maps.”

The couple has provided ample evidence of the underlying karst on the property where the ACP is planned to go, including directly on top of their largest sinkhole. “Due to this, Dominion has made a very tiny adjustment, but refused to move the ACP toward the back of our property where it has the least impact,” Mrs. Koontz said. The company rep claimed Dominion must use the best possible route, and that is across their prime property, she said.

“That is how we do it,” she was told.

The couple enlisted the help of a karst expert, who told them maps used by Dominion are incorrect. “The same problem as on Little Valley,” Mrs. Koontz said. “Our expert is trying to involve others to help with further karst analysis and reporting, including the Virginia state geologist who he knows quite well. Our expert is very convinced that karst, sinkholes and caves are a big issue for us, where Dominion plans the ACP and in other areas of the property not investigated as yet — which is almost everything.” (See sidebar).

“Dominion still plans to run the ACP close enough to our home to kill us outright with an explosion,” she added. “They will still destroy all the building sites on two parcels we want to sell — a value of about \$800,000. The ACP route is right through the entire park-like ridge on the top of the mountain behind our home that we keep bush-hogged and use for dog walking and friends’ hiking. And it will be close to our fragile karst ponds and streams, and the James River Spineymussel (an endangered species).

“I told Dominion that I was well aware that Dominion had ignored the Spineymussel in the past on other properties. I told them that several Department of Game and Inland Fisheries biologists confirmed we have their habitat in Mill Creek. I told them I had filed our documentation from VGDIF with FERC. No response at all,” Mrs. Koontz said.

“One of them said that it was too cold to conduct a test for the spiny-mussel now, alluding to the fact they would conduct some test in the future. I doubt that they will. And if they do, they

will conclude that we have none of them. Bob mentioned that we believe there are other endangered species including the bumblebee and bats. They ignored us.”

Meanwhile, the couple has spent countless hours documenting their concerns for the Federal Energy Regulatory Commission. “It is important that we have many filings in FERC that provide a hook for our attorneys to sue on every issue. So I am trying to address every possible issue and there are many ... A number of my filings are right out of The Recorder. The reporting has been a huge help to me in stating the issues and providing details. They also validate the issues to a great extent. We thank you and your staff so much.”

In addition, she said, other organizations have discussed legal strategies the couple might use. They want to help the Koontzes and others who have conservation easements owned by the Virginia Outdoors Foundation. “The further Dominion goes, the less chance there is that a judge will do anything to stop the ACP, according to our legal advisors,” Mrs. Koontz said.

As of this week, the foundation expects to make a decision in June on Dominion’s application to convert easements like the two held by the Koontzes, in order to make way for the pipeline. VOF sent landowners a letter this month explaining its position (see sidebar).

The couple is excited about getting The Wilderness listed on the state and national registers, but the stress of the impending pipeline project has taken its toll on their health and finances. When applications for state designation come through, the Koontzes plan to install a landmark marker on the road near the farm. It would cost another \$2,000, Mrs. Koontz estimates, but it’s “a very nice thing to do even without the ACP issues. We have financial issues now that we cannot sell property and will probably never sell it for anywhere near the value. And so do others in Bath impacted by the ACP, not just us.”