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Agency argues pipeline statement short on substance

By John Bruce • Staff Writer



The James spiny mussel is a federally endangered small fresh water mussel. (Photo courtesy U.S. Fish and Wildlife Service)

MONTEREY — The draft environmental impact statement (EIS) for the proposed Atlantic Coast Pipeline assumes lots of minimal or negligible effects when there’s no data to back up those assumptions, says the federal agency dedicated to management of fish, wildlife and natural habitats.

Why does the Federal Energy Regulatory Commission claim the proposed Atlantic Coast Pipeline would not affect karst features of Little Valley and the surrounding box canyon in northern Bath County when Dominion has not surveyed the area? How can the agency conclude an endangered species won’t be harmed when species surveys have not been completed?

Those objections were among questioning leveled by the U.S. Fish and Wildlife Service in response to FERC’s draft EIS for the proposed pipeline: “Until recommended presence/absence surveys have been completed, the service cannot concur with a no-effect determination,” the response argued.

“Explain how you know ‘the potential for ACP and (supply header project) to initiate or be affected by damaging karst conditions would be adequately minimized’ when Little Valley Bath County hasn’t (been) surveyed?” USFWS said.

The service pointed out documentation of a potential threatened-and-endangered-species habitat, of the Madison Cave Isopod, to the east, did not involve the Virginia Department of Conservation and Natural Resources: “Additionally, VA-DCR wasn’t consulted about Cochran’s Cave at the time this (draft EIS) document was written,” USFWS said.

“We cannot concur at this time that the project is not likely to adversely affect the James spiny mussel. Mussel surveys in Cowpasture and Mill Creeks have not been completed and this information is necessary to make a not likely to adversely affect determination. Also, have sediment analyses been completed for Mill Creek?”

The James spiny mussel is a federally endangered small fresh water mussel slightly less than three inches in length requiring silt-free water.

The service pointed to a draft EIS section stating, “In addition, the (service) has expressed concern with regard to sedimentladen discharge water, or sedimentation from nearby access roads, that could drain into waterbodies occupied by the mussels. We recommend ... (Dominion) complete an analysis of these potential impacts for all federally protected aquatic species.”

The USFWS added, “Note that this sediment analysis may extend the action area downstream in the waterbody and that mussel habitat assessments/surveys should be conducted in these areas if there are document occurrences of federally listed aquatic species in these waterbodies.”

The service asked FERC to clarify whether Virginia karst protection personnel will be consulted or if this will be done for all karst crossings no matter the state, or if this is just for Virginia. “It is preferred that the same coordinator work for all karst areas on the line no matter the state,” the service said.

“The service continues to recommend surveys be completed prior to initiating formal consultation. However, if surveys are not completed, the analysis can be completed based on the assumption of species presence.

“Additional information regarding pipeline construction, access road improvements, location of communication towers and crossing of smaller streams/tributaries in sensitive watersheds should also be provided,” USFWS said.

Pipeline advocates and public natural resource agencies are split over whether the proposed pipeline would chop up natural habitat. The USFWS contends the effects would be harmful.

In line with other agencies, including the U.S. Forest Service, the West Virginia Department of Natural Resources, and the Virginia Department of Game and Inland Fisheries, the USFWS “is concerned about the forest fragmentation that will result from this project. The increase of edge

habitat and elimination of large core forest areas will impact forest interior species and species that utilize forest habitats as a part of their ecology,” the service said.

The effects of this change in habitat will allow new species to move into the area and fill niches, USFWS explained, and this could:

- Displace threatened and endangered species from habitats and create increased stress on them while they try to find new habitat;
- Create increased competition for food and other valuable resources required by the species; and/or
- Provide pathways for invasive species to be introduced that could out-compete threatened and endangered species and other sensitive core-forest species for resources, among other potential effects.

All damage would be long-term, instead of temporary, on areas surrounding access roads and the pipeline right of way, the service contended. “Does ‘long-term to permanent’ refer to the permanent right of way only, or to both the permanent and temporary impacts from the clearing of forest for construction? Even the ‘temporary’ disturbance in forested areas will be long-term because these forest stands will take decades to return to their former state on the area of the right of way allowed to return to (its) former state.”

The service said small whorled pogonia will be adversely affected by the project, and noted the rusty patched bumble bee has been federally listed as endangered as of March 21.

FERC shouldn’t allow the proposed pipeline builders to depart, even remotely, from mitigation plans, the service added. Dominion “should adhere to their mitigation procedures. ‘Closely adhere’ implies they will deviate or not follow through with the plan,” the service said.

USFWS asked FERC to list the 13 waterbodies within proposed contractor yard sites. With only a five-foot buffer, “extensive stormwater and erosion control measures will be needed in all locations. None of these sites should be allowed in sensitive watersheds.” While FERC said Dominion would locate additional temporary work sites at least 50 feet from stream banks, the USFWS recommended a 100-foot setback for the sites from sensitive waterbodies with federal listed species or species under evaluation for potential listing.

In Highland, a site in McDowell would sit near Crab Run. Another in Vanderpool would be close to the Jackson River.

A rule applying to bat habitat protection

“prohibits the incidental take that occurs within a hibernaculum,” USFWS explained. “This may include disturbing or disrupting hibernating individuals when they are present, as well as the physical or other alteration of the hibernaculum’s entrance or environment when bats are not present if the result of the activity will impair essential behavioral patterns, including sheltering.”

Further, USFWS said, “The service strongly agrees that some long-term cumulative impacts will occur on wetland and upland forested vegetation and associated wildlife habitats. We would also like to add that depending on maintenance of the corridor and control of (off road vehicles), that long-term cumulative impacts could occur to the aquatic ecosystem of waterbodies crossed.

“The service recognizes, as do many of our natural resource partners, there are likely areas along the pipeline where recommended avoidance and minimization measures for a species or resource may conflict with recommendations for another. To facilitate our understanding of where such conflicts may occur, we recommend the applicant create an environmental constraints map that identifies the (measures) that have been recommended for each pipeline segment.

“We recommend that the map be organized by county and be provided to all the natural resource agencies for review. Where there are identified conflicts between recommendations, the natural resource agencies will work together to prioritize the (measures) for each county and provide that information to the applicant and permitting agencies.”

The USFWS comments follow a 70- plus page response by the U.S. Forest Service asking FERC to reconsider merging Dominion’s proposed pipeline with the Mountain Valley Pipeline.