

# The Recorder

IN THE COMMUNITY, ABOUT THE COMMUNITY, SINCE 1877.

2017-10-05 / Top News

## Proposed pipeline nears crucial phase

BY JOHN BRUCE • STAFF WRITER



*Charmayne Staloff said a decision from the Federal Energy Regulatory Commission on the Atlantic Coast Pipeline is likely to be made at FERC's Oct. 19 meeting.*

MONTEREY — It's decision time.

Action next Monday, Oct. 16 by the Virginia Outdoors Foundation cannot stop the proposed Atlantic Coast Pipeline, but the agency has the power to protect its easement program.

Charmayne Staloff, an attorney with the Southern Environmental Law Center, told Highlanders for Responsible Development at its annual meeting Saturday, Sept. 30 that VOF has three choices: to grant, defer, or deny Dominion's proposal to swap portions of 10 open-space land easements in Bath and Highland counties for Hayfields Farm between McDowell and Williamsville.

"Denying would defend the integrity of the easement program," Staloff said.

If the Federal Energy Regulatory Commission grants a certificate approving pipeline construction, Dominion would have the power of eminent domain no matter what action VOF takes.



*Lew Freeman told roughly 30 people in attendance there are several agencies making decisions about proposed pipelines soon.*

HRD president Lew Freeman said he learned that landowners should hold out for eminent domain because they almost always get more money if they go to court.

VOF is still accepting public comments, and Staloff encouraged everyone to write the foundation, as well as elected officials, FERC, and the Department of Environmental Quality.

VOF is only one of a number of agencies expected to make related pipeline decisions between now and year's end.

A FERC decision is likely at its Oct. 19 meeting, but it could happen any day, Staloff said. She described the certification as a "checking-the-boxes" exercise and largely a procedural matter. An internal review has to be completed before anyone can take FERC to court, and the pipeline can move forward in the meantime. If a rehearing is denied, then opponents can file lawsuits. Suing is a likely course of action, Staloff said.

SELC and its clients, including HRD, are taking every legal opportunity to prevent or delay construction, she said. An unsatisfactory outcome by the U.S. Forest Service may have a silver lining, for instance.

"On the USFS front, we were hoping the forest service would have been more of an ally than they turned out to be," Staloff said.

The forest service is likely to issue a special use permit agreeable to Dominion and, once issued, SELC can challenge the permit in federal court.

State environmental agencies have veto power to stop the proposed pipeline, Staloff said.

Freeman pointed to New York State Department of Environmental Conservation's denial of water quality certification to the Valley Lateral Pipeline in late August. To support its project-halting denial, the New York DEC explained the Federal Energy Regulatory Commission failed to consider climate change impacts in its environmental review of the pipeline. A federal appeals court upheld the same argument earlier in August against the Sabal Trail Transmission Pipeline in Florida.

If only one of the three environmental agencies in West Virginia, Virginia, or North Carolina make a similar decision, that would be enough to stop the proposed ACP.

“West Virginia has vacated its water quality certificate, which is an extraordinary move,” Staloff said.

The Virginia Department of Environmental Quality and State Water Control Board are expected to meet on the proposed ACP Dec. 11-12. North Carolina has delayed its decision until December. West Virginia has also delayed its decision.

Meanwhile, Dominion wants to begin cutting trees in November and has said not being able to do so would delay construction for a year.

Freeman said there is precedent to cut trees before a certificate is issued. He related the emotional account of a Pennsylvania landowner who asked a pipeline company to postpone removing her maple grove until after sugar water collection was finished. The company denied her request. Guards armed with assault rifles escorted the lumberjacks while they cut the trees.

“These companies have demonstrated they will go to great lengths to further their projects,” Freeman said. “We will be dogging this process every step of the way.”

Freeman said legal assistance would be available to people engaging in civil disobedience. He doubted a final pipeline route would be decided until after a certificate is issued.

For information about SELC’s work on issues surrounding proposed pipelines, access [www.southernenvironment.org](http://www.southernenvironment.org), and click on “Risky and Unnecessary Natural Gas Pipelines Threaten Our Region.”