

The Recorder

IN THE COMMUNITY, ABOUT THE COMMUNITY, SINCE 1877.

2017-10-19 / Top News

State approves pipeline land swaps

BY JOHN BRUCE • STAFF WRITER



Mountain Valley Pipeline route opponent Grace Terry, whose VOF easement is affected, talked with Atlantic Coast Pipeline opponent Jack Wilson of western Augusta County. (Recorder photo by John Bruce)

RICHMOND — The Virginia Outdoors Foundation board voted this afternoon, Oct. 16, to approve Dominion’s application for 11 land conversions of open-space easements to route the proposed Atlantic Coast Pipeline through southern Highland, northern Bath, Augusta and Nelson counties.

The board also voted in favor of a single swap for the proposed Mountain Valley Pipeline near Roanoke.

The vote followed a day of arguments mostly against the swaps, and chair Stephanie Ridder questioning the arguments. Fifteen of 24 speakers opposed the measures.

The ACP approval is contingent on:

- VOF approval of final right-of-way easements permitting only a permanent 50-ft easement for one 42-inch diameter underground natural gas pipeline and the associated permanent access roads. No above ground structures are permitted within this right of way, except for above ground pipeline markers as required by law;
- Dominion or its designee shall convey to VOF fee-simple title to the Hayfields Farm and the Rockfish River Parcel by December 4, 2017; however, such date may be extended by VOF's Executive Director to facilitate an orderly and timely conveyance of the Substituted Land;
- Dominion shall transfer to VOF \$4 million by October 26, 2017 to serve as a stewardship fund to support VOF with the operation and management of the substituted land, partially offset VOF's unreimbursed costs associated with the project, and be used as necessary and proper, as determined by VOF's Board of Trustees in furtherance of VOF's mission;
- Dominion shall satisfy all conditions of the Certificate that pertain to VOF or the application; and
- Dominion shall satisfy all obligations, conditions and offers contained in the application.

Trustee Elizabeth Obenshain defended the board action by proclaiming no one can realistically expect easements to protect their land from the federal government. The Federal Energy Regulatory Commission issued a certificate conditionally approving the project Friday, Oct. 13.

Chair Stephanie Ridder said she didn't understand why people recommended the VOF have the easements condemned through eminent domain. Doing so would gain little or nothing, she suggested.

"I do think the pipeline will cause harm, especially to the water, and it breaks my heart," Ridder said. The board action in many ways was a clear choice, she added.

"Our easements have never been condemned," VOF spokesman Jason McGarvey said.

During the two-hour closed session preceding the approval, the board grappled with the question of whether VOF can defend the easements through a federal process and whether the land swap proposal was subject to the state law allowing for easement swaps.

In the end, the board found the proposal did not qualify under the section 1704 law permitting the swap but nonetheless ruled FERC's certificate preempts "any authority of VOF to evaluate the project," the substitute land at Hayfields Farm in Highland is of greater value and the swaps will result in a net gain of open space.

Va. House speaker Bill Howell, the first to speak, called the deal “a win-win for the commonwealth,” but most of the 21 people who spoke opposed the swaps.

Ridder asked Rex Linville of the Piedmont Environmental Council where he got the idea VOF would get anything from the federal condemnation process other than the conservation value of 52 acres. “It seems like a lose-lose for everybody,” Ridder said.

Linville replied the council believes if VOF wound up with less, then it would still be making the right decision.

“Do not redefine perpetuity,” former Augusta County supervisor Nancy Sorrells cautioned.

Ernie Reed of Wild Virginia warned VOF “the future of conservation easements nationwide is in your hands.”

Kirk Bowers of the Sierra Club sad existing pipelines have the capacity to serve needs until 2030. The only reason for pursuing the project is investors would reap three times the average rate of return. Fifteen percent of the gas would be shipped overseas.

Morgan Butler of the Southern Environmental Law Center said it all boils down to what is better for the short term versus the long term. The FERC certificates mean the applicants will be able to resort to eminent domain. None of the mountain counties in Virginia have said the proposed pipelines would support their comprehensive plans.

Western Augusta resident and business owner Jack Wilson told the board the issue is stewardship. “Consider the words (on the State Corporation Commission emblem) on the wall behind you: Sic Semper Tyrannis (Thus always to tyrants).

In a prepared statement, Dominion spokesman Aaron Ruby said, “We’re pleased with the VOF’s decision today approving our application. Today’s decision shows that by working together industry and the conservation community can responsibly develop public infrastructure in a way that preserves the environment.

“We commend the board and staff for their thorough consideration and the openness of the process. We appreciate the many thoughtful comments provided by landowners and other members of the public. We’ve always strived to balance the public need for the Atlantic Coast Pipeline with responsible environmental stewardship, and we believe our approach reaches that balance. The 1,100 acres of pristine land we’re donating to the VOF is more than 20 times greater than the 50 acres impacted by our pipeline crossings. We firmly believe this is consistent with the VOF’s mission and will advance the goal of expanding land conservation in Virginia.

“Hayfield Farms and Rockfish River are truly magnificent properties, and they will add tremendous conservation value to the VOF. Most importantly, the public will now be able to enjoy the beauty, ecological integrity and recreational use of these properties for generations to come.”