

The Recorder

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2017-12-21 / Home & Property

Dominion presses for go-ahead to cut trees

BY JOHN BRUCE • STAFF WRITER

MONTEREY — Dominion asked federal regulators on Dec. 15 for “immediate authorization” to begin cutting down trees and making way to build its proposed Atlantic Coast Pipeline.

The felling work, which Dominion said is not a ground-disturbing activity, would start in southern Highland County and other areas planned for construction in 2018.

How soon the work starts largely depends on the timing of a conferencing process with the U.S. Fish and Wildlife Service over the candy darter, a fish proposed for listing as endangered.

Excludes national forest

Dominion “hereby requests written authorization from the director of the office of energy projects (OEP) for a limited notice to proceed for felling of upland trees via non-mechanized methods in the certificated workspace; specifically excluding any certificated workspace located on National Forest Service lands. (Dominion proposes) to fell upland trees and vegetation at or above ground level, using methods that will not rut soils or damage root systems,” director of gas certificates Matthew Bley said in a Dec. 15 letter to Federal Energy Regulatory Commission staff.

“The contractors will not be allowed to use mechanized clearing methods or heavy equipment when tree felling. Trees and vegetation will not be felled within or into delineated wetlands and waterbodies. Mats and bridges will not be used; waterbodies and wetlands will be crossed on foot. Felled trees will be left in place until all applicable permits and approvals and FERC’s issuance of a separate notice to proceed to begin earth-disturbing activities are received,” the letter said.

“The felling of trees will not occur on lands for which easements have not been obtained or for which additional state or local permits are required for such activity. Before this activity can commence, consultation with the U.S. Fish and Wildlife Service, pursuant to Section 7 of the Endangered Species Act, must be completed and a programmatic agreement must be executed to conclude the consultation process required under Section 106 of the National Historic Preservation Act,” Bley continued.

“The USFWS completed the Section 7 process with the issuance of the biological opinion on Oct. 16, 2017 ... Execution of the (agreement) is expected mid-December 2017. In order to comply with the conservation measures outlined in the (opinion) for the Northern long-eared bat, (Dominion) must fell trees located within the workspace required for construction of the proposed projects between Nov. 15 and March 31 in West Virginia and Pennsylvania, and between Nov. 16 and March 31 in Virginia and North Carolina.”

Dominion, he wrote, “will avoid culturally sensitive areas as detailed within the Section 106 (agreement) during the course of performing any activity associated with the projects. Each of these areas, as well as markings depicting ‘no access,’ will be identified. The proposed felling of trees and vegetation at or above the ground surface via non-mechanized methods, which does not substantially disturb the root system, does not require a U.S. Army Corps of Engineers permit... as this activity will not involve substantial earth disturbance or the placement of dredged or fill material in wetlands or water bodies. The (Corps) confirmed that these requested activities are not regulated under (the Clean Water Act), as they do not involve a discharge of dredged and/or fill material.”

Dominion said further that tree felling this way is not regulated by state water quality certifications, and argued other states concur with that conclusion.

Dominion said that in order to comply with time-of-year restrictions and the projects’ schedules, it needs to move forward now. “(Dominion understands) that this Notice to Proceed would be limited to the specific activities listed in this request,” Bley said.

The U.S. Fish and Wildlife Service has not yet made a recommendation other than proposing the candy darter for listing.

“We’ve been in communication with the relevant folks on this but haven’t reached a point where there’s an update to share,” said Meagan Racey, spokeswoman for the USFWS, on Monday. “Per our policy, any recommendations from the USFWS would not go into effect until and if the species is listed. We proposed threatened status for the species in October. We will make a final decision by early October next year,” she said. “We will begin reviewing public comments and any new information that came in during the comment period.”

Thursday, Nov. 9, David Swearingen, chief of the Federal Energy Regulatory Commission Gas Branch 4 Division of Gas Environment and Engineering, made a request concerning the candy darter in a letter to Elizabeth Stout of the USFWS West Virginia ecological services office in Elkins, W.Va.

“Based on the Oct. 4, 2017 proposal to list the candy darter as threatened or endangered under the Endangered Species

Act, we are requesting formal conference with the (USFWS) to confirm our provisional finding (the proposed ACP is) not likely to jeopardize the candy darter,” Swearingen said.

The candy darter, or fine-scale saddled darter, is endemic to the Kanawha River system in Virginia and West Virginia. The fish usually grows to about three inches and feeds on aquatic insect larvae and water mites in rocky riverbeds under clear, unsilted water.