

# The Recorder

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## Historic Bath site rebukes pipeline plans

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The Wilderness farm in Bath County, a historic landmark, is threatened by the construction of the proposed Atlantic Coast Pipeline. Its owners, Robert and Roberta Koontz, have for years fought for plans that would not bring irreparable harm to their beloved homeplace.

(Recorder photo by Anne Adams)

**MONTEREY** — The Wilderness LLC flatly opposes plans Dominion has outlined for the historic property in Northern Bath County and the proposed Atlantic Coast Pipeline.

On the recommendation of landowners Robert and Roberta Koontz, The Recorder asked attorney Izak Howell, who represents The Wilderness, for response to the pipeline company’s mitigation plan filed with the Federal Energy Regulatory Commission in late October.

Howell provided a letter he wrote to Molly Plautz of Dominion addressing revegetation, rerouting, avoidance of historic properties and FERC’s directive for ACP to work with landowners. It states, “I am submitting this letter on behalf of The Wilderness, LLC in response to your letter dated Oct. 19, 2018 requesting comments on the Revegetation Plan for the Wilderness Farm Historic Property,” Howell told Dominion. “Although you requested comments

specifically on the revegetation plan, I also offer comments on the entire revised mitigation plan. We appreciate the opportunity to comment and request that you involve the landowner in any decisions that would affect the property's historic and natural resources.”

Howell continued, “As we highlighted in our comments of February 2018, the purpose of a compliant treatment plan is to avoid, mitigate, or minimize adverse effects, in that order of preference. FERC’s policy guidance states: ‘The FERC prefers that projects avoid historic properties whenever possible.’ Here, avoidance is possible.”

Howell explained to Dominion that pursuant to FERC guidelines, every treatment plan must include “a detailed explanation of why it is not possible or practical to avoid the historic property concerned, indicate if reroutes were examined, and why the reroutes were rejected.” Those guidelines, Howell said, also require examining other measures, including narrowing the right of way, boring under historic properties, and restoring the right of way itself to mitigate adverse effects.

“The revised mitigation plan does not truly investigate and assess feasible options for avoidance,” Howell wrote. “In our comments of February 2018, we highlighted an existing road/path on Forest Service property that generally parallels the Wilderness property line and provides favorable topography for the ACP. I find no depiction or analysis of that potential route in the revised plan.”

He said there are three sentences at page 3 addressing localized adjustments, but no mention of the existing pathway or the topography along that path.

“The table at page 2 includes a column for localized adjustments,” he continued. “There are three noted constraints that are apparently applicable to the eastward reroute: USFS Resource Management Plans (Sensitive Species), Topography, and Virginia Outdoors Foundation Easements. None of those constraints eliminate the localized eastern reroute favored by the Wilderness.”

As to sensitive species, he said, “Surely the same species exist in same forest regardless of the property boundary between the Wilderness and the USFS. Both constraints exist equally on the approved route and the eastward reroute. If anything, the endangered mussel populations on the Wilderness property have not been adequately studied or protected.

Also, he said, topography to the east is not extreme and there is a cleared path with a reasonable topography.

As to VOF easements, Howell told Dominion the localized eastward reroute does not implicate any new lands subject to such an easement. “Instead, the reroute would protect the Wilderness, which is subject to such an easement. Thus, the listed constraints either do not apply at all or apply with equal force to the current route.

“Accordingly, the localized eastern adjustment cannot be eliminated as the chief avoidance option.”

Howell addressed other “shortcomings” of the analysis and process Dominion used to reach its conclusion that a local route adjustment isn’t possible.

“First, although ACP was directed by FERC to work with property owners, The Wilderness has been largely shut out of the process of identifying alternatives and constraints. The Wilderness contacted ACP very early on for an onsite evaluation, but even then a localized eastern reroute seemed to be summarily dismissed, despite the overwhelming advantages,” Howell said.

“Second, ACP’s analysis places too much emphasis on the historic structures. Clearly, such structures are important to the historic resource. However, as DHR concluded, the agricultural setting and feeling are also integral components of the resource. Therefore, avoidance of impacts to the structures and the viewshed from those structures is insufficient. The current route, in conjunction with the mitigation plan, still allows for the destruction of the viewshed as well as the elimination of future building sites. Historic meadows, fields, and trails will be harmed. The analysis should also include an assessment of impact to the setting and feeling documented by DHR,” Howell said.

“Any mitigation plan must include a structural survey of the structures, as well as blasting provisions to protect those structures. Any blasting subjects the Wilderness to unnecessary risks. Structural damage to the historic structures would be exceedingly difficult to remedy. Again, avoidance must be the priority, and avoidance of structural damage is not addressed,” he added.

“While we understand and encourage protection of the historic resource, it appears that ACP has given short shrift to the environmental risks that are intertwined with the structures. For example, the current route is dangerously close to karst springs that have been in use at the farm for two centuries. Avoidance of viewshed impacts is important, but the routing analysis must also include risks to water resources that sustain the farm. A historic farm is irrevocably damaged if reliable water is harmed. That aspect of the resource is apparently not considered as a limitation of the current route,” Howell wrote.

According to the archaeological studies performed, the current route will also destroy archaic sites that are thousands of years old, Howell added. “Such sites are exceedingly rare, and their presence adds another dimension to the rich history of the Wilderness. That resource is given insufficient weight in the routing analysis.”

Howell said The Wilderness owners object to the documentation component of the plan, and insists that be removed.

“The Wilderness will not assist in any such component,” he said. “The Wilderness will not permit ACP to access any part of the property beyond the right of way as defined by FERC if such access is for the purpose of documentation as purported mitigation. The Wilderness objects strenuously to any effort to amplify the role of slavery in the history of the property. Such efforts do not mitigate the effects of the ACP in any way. The Wilderness requests the removal of all documentation components from the mitigation plan. The Wilderness objects strenuously to the notion that ACP, after unilaterally deciding to bisect the property with an unnecessary natural

gas pipeline, would then also unilaterally deem to control the narrative of the property over the objections of the property owners.

“Likewise,” he continued, “the Wilderness objects to the public outreach component of the mitigation plan. Such efforts are likely to further erode the privacy of the farm beyond even what the ACP would create on its own. The public outreach would exacerbate rather than mitigate the adverse effects of the proposed project.”

In addition, he said, the owners consider the revegetation plan inadequate. “There is very little analysis of narrowing the right of way, and no discussion of narrowing the permanent right of way. There is no discussion of reforesting all of the woodlands that would be lost within the temporary right of way, although that would also be feasible. There is evidently no effort to revegetate more than a single row of trees and no effort to revegetate in a manner consistent with the agricultural feel of the property,” Howell explained.

“Upon review of the ACP materials, The Wilderness remains convinced that the only effective mitigation measure is to reroute the pipeline eastward onto the adjoining George Washington National Forest. Such a reroute does not involve any new property owners, does not necessitate a new or revised easement with any private landowner, and involves only modifications of existing agreements with U.S. Forest Service.

“Accordingly, The Wilderness respectfully submits that the revised mitigation plan and revegetation plan are insufficient and not compliant with FERC’s own guidelines for such plans. The Wilderness submits that a complete and thorough analysis of the localized eastward adjustment is required and has yet to be conducted.”