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Bath & Highland Counties – Virginia

Pipeline project milestones continue through 2018

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MONTEREY — Five years have passed since Dominion Energy publicly proposed a gas transmission pipeline from northwest West Virginia to southern North Carolina, dubbed the Atlantic Coast Pipeline.

The Recorder has published parts one and two of a timeline documenting coverage in Bath and Highland counties of political and environmental challenges the project faces, to look back at how the controversial project has evolved over the last five years. This is part three of the summary, picking up in November 2016.

November 2016

- The U.S. Forest Service decides it will not permit Dominion to excavate more than 500 feet of open trench at a time while building on forest service land, after Dominion says the waiver is key to its construction plans.
- Dominion agrees it will perform geophysical surveys in Little Valley and elsewhere before construction begins. But detailed study results will not be released until after FERC issues a draft Environmental Impact Statement.

December 2016

- Unessential and non-compliant — the Southern Environmental Law Center uses these terms to argue the ACP cannot be built as proposed. SELC tells FERC Virginia law prevents Dominion from building on lands protected by conservation easements held by the Virginia Outdoors Foundation.
- Starting Dec. 30, 2016, those interested have 97 days to digest nearly 2,200 pages of a draft environmental impact statement and appendices and comment to FERC by April 6, 2017.

January 2017

- The Virginia Outdoors Foundation is to decide next month whether Dominion's request to swap easements meets the letter of the law. But the question of whether Dominion's proposed open-space easement conversions are specifically necessary for the "orderly growth and development" of Bath County remains unanswered.
- Dominion faces another potential hurdle. Tyler Bird Paul of Highland County informs FERC of a newly designated endangered species in the path of the proposed pipeline. "It has come to our attention, and we wish to bring it to your attention, that the rusty-patched bumble bee has been added to the endangered species list as of January 11, 2017," Paul tells FERC.
- Confiscation of private property is a complaint of a Bath County landowner. "I am writing you again about the ACP and their somewhat unknown access roads," Ron McLean tells FERC. "I am very concerned about an access road ... This road happens to be my driveway," he says.

February 2017

- The Virginia Outdoors Foundation defers consideration of Dominion's application to swap portions of open-land conservation easements with Hayfields Farm.
- Behind closed doors, dismayed citizens make their concerns known about mountaintop removal, drinking water pollution and disruption of quality of life. A FERC open-house comment session draws comments and concerns about negative environmental and cultural impacts.
- The Virginia Outdoors Foundation receives more than 1,200 pages of messages opposing Dominion's applications to convert open-space conservation easements and clear the way for the ACP. The Recorder obtains a batch of emails and other correspondence through the Freedom of Information Act, most of which were sent in January and early February by landowners and others concerned the proposal would wipe out the tax-dollar funded conservation easement program.

March 2017

- Six mountaintops are planned for flattening on the proposed pipeline route. Four are in Highland, including Big Crooked Ridge, Big Ridge, Little Mountain and Back Creek Mountain. Then, there are Allegheny Mountain in Pocahontas County, W.Va., and Little Mountain in Bath.
- Karst and other wildlife habitat in the pipeline path are potentially subject to degradation, says a draft biological evaluation Dominion issued. But the total impact is unlikely to cause a downward trend in habitat of sensitive species on U.S. Forest Service land, Dominion claims.
- Dominion is dragging its heels on giving specifics about its "best-in-class" steep slope construction methods, a West Virginia University professor tells the U.S. Forest Service. Dr. James Thompson,

professor of pedology (soil science) and land use, laid out a record of teleconferences with the USFS and Dominion.

April 2017

- Permanent ridgetop deforestation. Development on slopes exceeding 25 percent. Both concepts — key to the ACP — contradict the Highland County Comprehensive Plan, Dominion employees are told while pitching the project.
- Highland supervisors voice disappointment to FERC over its draft Environmental Impact Statement. In an April 6 letter to FERC, the board says, “The draft EIS fails to adequately address the board’s ongoing concerns about adverse impacts to groundwater sources in Highland, and fails to specify necessary protections for endangered species like the Indiana Bat.”
- Confirming the sensitivity of Valley Center’s karst topography, the Virginia Department of Environmental Quality recommends the ACP route avoid karst.
- The draft EIS assumes lots of minimal or negligible effects when there’s no data to back up those assumptions, says the U.S. Fish and Wildlife Service. The agency asks: Why does FERC claim the proposed ACP 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?
- “Permanent, irreversible alterations of geologic conditions.” That is FERC’s official assessment of how building the ACP would affect the Appalachian landscape. Dominion and project opponents argue over whether the ACP would require permanent removal of 38 miles of scenic and ecologically sensitive tree-lined mountaintops equally split between Virginia and West Virginia.

May 2017

- Cave authority Rick Lambert surveys the ACP route variation through Valley Center and concludes Dominion needs to avoid the karst topography there altogether. FERC directs Dominion to reroute the study corridor away from Valley Center’s karst formations. The company had identified, but not adopted, a new route. It could cross another equally vulnerable karst formation in Valley Center.
- State regulators contradict their early April statement, saying they will not individually review 189 waters and 43 wetlands the study corridor crosses, many in Bath and Highland counties. They’ll now leave the job to the U.S. Army Corps of Engineers.
- The Highland County Cave Survey files a protest over Dominion’s April 11 Valley Center route variation with FERC. Dominion tells The Recorder earlier the company has not adopted the variation. According to Lambert, the variation threatens a karst system recharging Campbell Spring.

June 2017

- Research nonprofit Public Accountability Initiative reports ACP's backers have a credit cushion of more than \$18 billion, well exceeding the \$6.1 to \$6.5 billion current cost estimate. Thirty-five domestic and foreign banks have credit agreements with Dominion and Duke to lend a combined \$14.8 billion to, in part, develop the ACP.
- Asked his impression of a Dominion safety meeting, Highland emergency director Harley Gardner says, "I feel like Dominion is going to work with us meeting all the needs of safety and responses if there are any incidents. Dominion's safety program is top line. I am confident they will continue to place significant emphasis on that program."
- DEQ director David Paylor says he gained a better understanding of construction challenges during a field visit with Bath and Highland officials to karst areas the pipeline would cross.
- U.S. Rep. Bob Goodlatte asks FERC to respond to a Bath County resident's concerns about access roads.
- The Department of Conservation and Recreation tells FERC the pipeline route needs to avoid Valley Center.
- Dominion hires an environmental firm of the DEQ's choice — at Dominion's expense — for the proposed pipeline. DEQ says the contract was executed according to state law and presents no conflict of interest.
- The Recorder's Freedom of Information request takes 76 days to be filled and reveals the U.S. Fish and Wildlife Service cannot initiate consultation with the draft environmental impact statement due to incomplete survey data.

July 2017

- FERC issues its final environmental impact statement on the pipeline and has 90 days to make a decision on issuing a certificate of approval.
- Dominion says it is company policy to inform landowners of survey dates, but landowner Bill Limpert provides photos of damage to his property by unexpected and unescorted survey crews.
- FERC staff's environmental analysis requires Dominion meet 70 more conditions for the final FERC order, if adopted, before construction can begin.

August 2017

- Blue Ridge Environmental Defense League recommends DEQ postpone the 401 water certification process until all soil and erosion control and stormwater management plans are made public.

- Expert analyses filed with the Virginia State Corporation Commission suggest Dominion customers would pay between \$1.6-\$2.3 billion in unneeded costs if Dominion builds the pipeline, the Southern Environmental Law Center says.
- The Virginia Department of Health Office of Environmental Health Services asks for a sanitary survey of land within at least 1,000 feet on either side of the pipeline centerline. The survey would vastly exceed the range recommended in the project's final environmental report.
- Reflecting a growing sense of urgency among local and state elected officials, Highland County supervisors begin looking into the ACP's water pollution safeguards.

September 2017

- To speed up the regulatory process, Dominion, Duke and Southern ask FERC to approve the proposed ACP this month so tree clearing can start in November.
- The Fourth Circuit U.S. District Court of Appeals on Aug. 22 rules 2-1 that FERC failed to adequately review the environmental impacts of the greenhouse gas emissions.
- The Highland planning commission discusses forthcoming applications by Dominion to secure land for contractor storage yards in Vanderpool and McDowell.

October 2017

- Virginia Outdoors Foundation board approves Dominion's application for 11 land conversions of open-space easements to route the ACP through southern Highland, northern Bath, Augusta and Nelson counties.
- FERC issues certificates of public convenience and necessity for the ACP and the Mountain Valley Pipeline on Friday, Oct. 13. Both are approved on a 2-1 vote. Commissioners said, "We find that the benefits that the ACP project, Supply Header Project, and capacity lease will provide to the market outweigh any adverse effects on existing shippers, other pipelines and their captive customers, and on landowners and surrounding communities."
- Lew Freeman, president and executive director of Allegheny Blue Ridge Alliance, points out FERC improperly favors investor-owned utilities like Dominion over other stakeholders such as private landowners.
- A staging area for pipeline construction is established at Green Bank, W.Va.
- An "appalling" decision by a state agency and Dominion's plans to build construction yards in Highland more than 20 miles from the pipeline route are among concerns in an update to the Highland County Planning Commission.

November 2017

- The Virginia general election outcome suggests a trend toward more lawmakers refusing Dominion lobbying money because of air and water polluting projects such as the proposed pipeline.
- A 14 percent return is too much. Too much, that is, unless you're Dominion Energy. The North Carolina Utilities Commission challenges FERC's approval for Dominion and its partners to earn 14 percent returns for building and operating the pipeline.
- FERC asks the U.S. Fish and Wildlife Service for a "formal conference" to agree the project would probably not harm the candy darter, a small, brilliantly colored fish proposed for federally endangered status.

December 2017

- Land values near the pipeline route dip substantially in anticipation of construction, contrary to a FERC finding the project would not impact land values. On Valley Center Road, Route 604, reassessment records show an average 36 percent decline in land values within a half mile of the proposed pipeline centerline.
- The forest service issues a final record of decision to authorize using National Forest System lands for the project.
- Dominion asks FERC for authorization to begin cutting down trees to build its pipeline.

January 2018

- Dominion announces it will acquire an investor-owned utility serving South Carolina and serve it with gas through the ACP, a strategy it repeatedly denied previously.
- Dominion had secured construction yards in Vanderpool and McDowell at the time of the original route, and did not change the locations closer to the present route. The company does not explain why the yards were left more than 10 miles from the work sites, other than the yards were already chosen and not actually along the existing route.
- Only hours before a partial government shutdown, FERC gives Dominion the go-ahead to begin cutting trees on the pipeline route.
- Citing numerous errors and inadequacies, the Highland County Planning Commission sets one public hearing, but tables two other land-use applications for Dominion to establish construction storage yards.

February 2018

- Asked if Route 678 (Bullpasture River Road) was engineered to handle heavy pipeline construction vehicles, highway department engineer Mike Henry says the road was “certainly not” engineered to the standards of primary highways. The twisting two-lane road, rife with blind spots, would carry heavy construction traffic from western McDowell more than 20 miles to pipeline construction sites in northern Bath County.
- What was described as a \$58 million confidential accord between Dominion and the state of Virginia guaranteeing the ACP regulatory approval raises questions over potential litigation. Dominion and Virginia’s then-outgoing McAuliffe administration closed a little-known deal in late December to relieve Dominion of forest fragmentation and water related liability.
- FERC releases photos of deforestation and reports related to pipeline preconstruction in Virginia and West Virginia.

March 2018

- The Virginia SCC accepts evidence that the cost of building the pipeline would be passed on to Virginia ratepayers instead of cutting electric bills.
- Despite a state-issued notice of violation for alleged improper tree felling on 15 sites in four counties for the pipeline, Dominion seeks a two-month tree-felling extension from federal regulators.
- During a public hearing, opponents to the pipeline route agree it would conflict with the Highland County Comprehensive Plan, despite a consultant’s advice for the planning commission to find the project in compliance because federal authority overrides local control.

April 2018

- Nails and mesh would hold back earth for a massive gas pipeline in place up and down some of the steepest mountainsides in Appalachia. An anti-pipeline citizens group says it has captured these details of previously undisclosed steep slope construction plans.
- Residents looking to profit from the proposed ACP by developing temporary campgrounds for construction laborers could face unexpected obstacles. The Virginia Occupational Safety and Health agency says the Virginia Department of Labor and Industry has jurisdiction over employee safety and health in the workplace and temporary labor camps.
- Rick Lambert of the Virginia Cave Board leads a media contingent up and down hills across the pipeline corridor on the Bird property east of Valley Center Road. He says the route violates the company’s best management practices and contradicts its paid geological engineering consultant’s advice to avoid karst topography.

- The Highland County Planning Commission votes 3-1 to find Dominion's proposed pipeline in accord with the county comprehensive plan.

May 2018

- Roaring applause ensues when Highland County supervisors vote 2-1 to deny an application to rezone the Jack Mountain Village property near Monterey to allow a contractor storage yard for the pipeline.
- Construction stops after the U.S. Fourth Circuit Court of Appeals throws out the U.S. Fish and Wildlife Service's Incidental Take Statement because its limits are so indeterminate that they undermine the statement's enforcement and monitoring function under the Endangered Species Act. The court order shuts down pipeline construction, but Dominion continues to build outside the habitats in question.

June 2018

- State officials led by Secretary of Natural Resources Matt Strickler and Dominion Energy representatives, meet at the northern Bath County home of Bill and Lynn Limpert. They discuss how to prevent the ACP from harming the Limperts' old-growth forest.
- U.S. Fish and Wildlife Service must finish surveys of project impact on vulnerable species including Indiana bat, rusty patched bumble bee, Madison Cave isopod, clubshell and yellow lance mussels.

July 2018

- Chris Little of McDowell worries Route 678 road will be frightening with heavy pipeline construction traffic. Blind curves, nonexistent shoulders, failing road banks and rock cliff embankments — all undetectable from a road map — are everyday challenges for those who live on and near a 21-mile stretch of Bullpasture River Road between McDowell and Fort Lewis Lodge.
- Rick Webb of the Pipeline Compliance Surveillance Initiative tells about 30 local landowners Dominion Energy is moving forward with construction in West Virginia.

August 2018

- In what pipeline opponents declare a significant victory, a Fourth District U.S. Court of Appeals opinion reiterates an order to eliminate key federal permits needed to build the pipeline. The court finds permits concerning endangered and threatened species and drilling under the Blue Ridge Parkway are faulty.
- FERC issues a stop-work order on the ACP and, on the same night, rejects petitions to rehear its Oct. 13, 2017 decision to license the project.
- Dominion confirms the industrialzoned McCray property on Davis Run Road is secured for use as a contractor yard.

- Southern Environmental Law Center and Appalachian Mountain Advocates sue FERC for unjust refusal to examine Dominion's exaggerations of why the pipeline might be needed.

September 2018

- FERC lifts the stop-work order on the pipeline issued a month ago.
- For the third time in 2018, a federal appeals court grants a stay to stop construction. The Fourth Circuit Court of Appeals grants a stay of the National Forest Service decisions allowing pipeline construction.

October 2018

- Virginia Outdoors Foundation hears from Highland residents about the future of Hayfields Farm. VOF took ownership of the 1,100-acre property as compensation for converting multiple open-land conservation easements.
- Dominion and other investor-owned utilities say they hope to gain double-digit dividends for delivering shale gas to the Carolinas and overseas markets.
- ACP seeks federal permission to begin construction in Virginia, shortly after the state Department of Environmental Quality approved its water quality plans.

November 2018

- The Army Corps of Engineers temporarily suspends authorization to do any in-stream or wetland construction anywhere along the proposed pipeline route, resulting in another delay. Dominion tells FERC it voluntarily requested the suspension.
- An attorney for The Wilderness, a registered historical site in northern Bath County, says, "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."

December 2018

- Following a Dec. 7 court order, Dominion files notice with FERC and suspends construction along the entirety of the 600-mile route, except as needed for safety and to prevent environmental damage. The company stops work on the project and files a motion for emergency clarification on the scope of the court's decision.
- The Southern Environmental Law Center petitions FERC to revoke licensing and issue a stop-work order.

- The Fourth Circuit Court of Appeals rejects Dominion's request to move up oral arguments from March to January. A March briefing, Dominion argues, could delay the project up to a year, cost \$20 million a week in idled construction expenses, and force the release of nearly 3,000 workers.

Next week: The timeline concludes with events surrounding the project in 2019.