

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

In the Matter of the Applications of:

Atlantic Coast Pipeline, LLC
Dominion Transmission, Inc.

Docket Nos. CP15-554-000
CP15-554-001
CP15-555-000

**JOINT COMMENTS OF SOUTHERN ENVIRONMENTAL LAW
CENTER, THE NATURE CONSERVANCY, PIEDMONT
ENVIRONMENTAL COUNCIL, SHENANDOAH VALLEY NETWORK,
HIGHLANDERS FOR RESPONSIBLE DEVELOPMENT, SHENANDOAH
VALLEY BATTLEFIELDS FOUNDATION, AND COWPASTURE RIVER
PRESERVATION ASSOCIATION CONCERNING VIRGINIA
OUTDOORS FOUNDATION OPEN-SPACE EASEMENTS**

We are writing to request that the Commission ensure the Atlantic Coast Pipeline (ACP) and its related disturbances do not traverse any open-space easements in Virginia held by the Virginia Outdoors Foundation (VOF)—the same approach to protecting VOF easements that the Commission has recently taken with the Mountain Valley Pipeline (MVP).¹ We also hope to clarify some apparent confusion regarding recent comments from VOF on the Draft Environmental Impact Statement for the ACP.

Our groups have been closely following and participating in the Commission's review of the proposed ACP. One issue of common and significant

¹ In the Final Environmental Impact Statement for the Mountain Valley Pipeline, the Commission requested a segment-specific construction and operation access plan that would avoid constructing access road MVP-RO-279.01, which would permanently affect a VOF easement in Roanoke County, Virginia. MVP Final EIS at 3-75.

concern is the impact the proposed ACP route would have on ten open-space easements held by VOF and, by extension, the Commonwealth of Virginia's open-space land protection program. The proposed route that Atlantic Coast Pipeline, LLC (Atlantic) is pursuing for the ACP would cross ten VOF open-space easements, permanently impacting 54.6 acres of protected property and damaging another 73.8 acres of these properties with construction access roads and other related disturbances. These are just the direct impacts to these parcels; there would also be substantial and irreversible indirect impacts.

As VOF has made clear, such a major intrusion on VOF open-space easements would not only impair the conservation values of each of the ten affected properties, it could jeopardize the Commonwealth's investments in conservation and result in a loss of public confidence in the effectiveness of open-space easements.² As a result, VOF has repeatedly voiced its position that "the ACP should avoid crossing or intersecting VOF open space easements."³ We urge the Commission to heed that request by recommending that Atlantic alter its

² Letter from Martha Little, Deputy Dir., VOF, to Kimberly D. Bose, Sec'y, FERC (Sept. 6, 2016) ("The Commonwealth's investments in conservation could be jeopardized by the construction, operation and maintenance of a large-scale gas transmission line. The degradation of protected resources may also result in a loss of confidence in the effectiveness of open-space easements by the public.").

³ *Id.* ("VOF would like to assert its previous position, which was clearly stated in our letters to you in June 2014, March 2015 and April 2016 that the ACP should avoid crossing or intersecting VOF open space easements.").

proposal to avoid the easements, as the Commission recently did in the Final Environmental Impact Statement for the Mountain Valley Pipeline.⁴

Based on the Commission’s Environmental Information Request to Atlantic dated April 11, 2017, we are concerned there may be some confusion regarding VOF’s position on the ACP traversing parcels protected by open-space easements it holds. Specifically, the first sentence of Request 96 in that document states that “[t]he Virginia Outdoors Foundation proposes to receive and manage the 1,034-acre Hayfields Farm property as a substitute for acreage affected by the ACP route that is currently part of a conservation easement.”

Significantly, VOF has made no such proposal. Rather, it is Atlantic that has proposed the Hayfields Farm property as potential mitigation for impacts to VOF’s open-space easements, and it has done so as part of its effort to persuade VOF to grant “conversions” of the open-space easements pursuant to a provision of the Virginia Code.⁵ Of note, VOF has not acted on Atlantic’s requests. As set forth in its March 10, 2017 comments to the Commission on the Draft EIS for the ACP, the VOF Board of Trustees has deferred a decision on Atlantic’s ten conversion applications.

Part of the apparent confusion may stem from the portion of VOF’s comments on the Draft EIS in which VOF requested that various conditions—

⁴ MVP Final EIS at 3-75 to 3-76.

⁵ Va. Code Ann. § 10.1-1704.

including fee-simple transfer of the Hayfields Farm Property—be included as conditions in the Certificate of Public Convenience and Necessity **if** the Commission ultimately grants one for the project along the currently proposed route. However, the VOF Board has in no way ratified Atlantic’s mitigation proposal, approved any of Atlantic’s conversion requests, or, to the best of our knowledge, altered its longstanding position and preference that the ACP should not cross or intersect VOF easements.

As such, we urge the Commission to include in the Final EIS for the ACP a recommendation that Atlantic alter its proposal to avoid VOF open-space easements. Such a recommendation would honor the significant commitment that Virginia residents and taxpayers have made, not only to the preservation of these ten unique parcels, but to the integrity of the open-space program that VOF stewards on their behalf.

Respectfully submitted,

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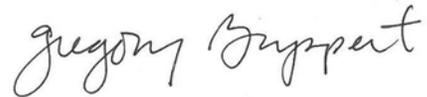
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CERTIFICATE OF SERVICE

I hereby certify that I have on July 14, 2017, caused the foregoing document to be served upon each person designated on the official service list compiled by the Secretary in this proceeding.



Gregory Buppert

Southern Environmental Law Center