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Objections Reviewing Officer

Glen Casamassa, Associate Deputy Chief

USDA Forest Service, Att: Administrative Reviews 1400 Independence Avenue SW

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Washington DC 20250

Re: George Washington National Forest -Highland, Bath & Augusta Counties, Virginia

Monongahela National Forest - Pocahontas County, West Virginia

Objections to the Draft Record of Decision for the Atlantic Coast Pipeline Special Use Permit & Land and Resource Management Plan Amendments

I. OPENING STATEMENT

A. Our Status as Intervenors

We are both registered intervenors with the Federal Energy Regulatory Commission (the "Commission" or "FERC") with regards to this proposed project. On March 31, 2017 we filed comments with the Commission on the Draft Environmental Impact Statement ("DEIS"). On April 6, 2017 we filed additional comments with the Commission on the DEIS regarding the impacts on the National Forests.

B. We Object to the Draft Record of Decision

As time goes by it becomes more and more apparent that the route selected by Atlantic Coast Pipeline, LLC and Dominion Energy, (referred to hereinafter as "Atlantic") did not take into account anything but getting from point A to point B with their Atlantic Coast Pipeline (the "ACP").

Construction costs and the cost of environmental damage were not a limitation to Atlantic. In fact, there is no impetus to limit construction costs because Atlantic enjoys a guaranteed rate of return of 15% on this project; the more they spend the more they earn. And, there is no need to limit environmental costs because Atlantic does not suffer from them - we do. The fact that they are damaging the most valuable National Forests east of the Mississippi River is not their concern.

We therefore have serious objections to the Draft Record of Decision (Draft ROD) that has been issued by the Forest Service. It represents a pact with the devil, forced upon the Forest Service by politicians under the influence of Dominion Energy - a corporate oligarch.

A brief review of the Draft ROD makes it obvious that the Forest Service fully understands that the damage to the National Forests caused by the Atlantic's proposed pipeline route cannot be avoided. To save face the Draft ROD proposes that the magic of "mitigation" will minimize the real danger of this project, and result in insignificant impacts.

C. Organizations Whose Comments We Adopt and Support

There are many organizations opposing the Atlantic Coast Pipeline. In fact the number of organizations and the absolute detail that they have developed to support their positions leaves us in awe of their capabilities and dedication.

We are particularly thankful to the Dominion Pipeline Monitoring Coalition. We would not understand the truly adverse impacts on the National Forests without the story maps that they prepared.

We therefore support and adopt by reference those objections to the Draft ROD submitted by the following organizations: the Southern Environmental Law Center, Appalachian Mountain Advocates, Friends of Nelson, Wild Virginia, the Dominion Pipeline Monitoring Coalition, the Sierra Club, the Augusta County Alliance, the Allegheny - Blue Ridge Alliance, and Friends of the Central Shenandoah.

II. RESPONSIBILITIES OF THE FOREST SERVICE

A. Forest Plans

Fortunately, the Forest Service has management plans for the George Washington National Forest (GWNF) and the Monongahela National Forest (JVINP). These were created at great expense and with considerable public input. The conditions listed in these plans cannot be simply revoked or watered down by the Commission and by Atlantic simply in the name of expediency.

Both Forest Plans take into account the need to provide space for energy development, communication, water development, and utility corridors - as long as they meet public needs and are consistent with other forest resources and management plans.

B. The Mission of the Forest Service

The Forest Service is responsible for quite a balancing act, since its mission requires it to manage National Forest System lands and resources that will "...best meet the present and future needs of the American people..."

The task of the Forest Service is nothing if not daunting, since as part of its mission it must take into account the sometimes competing needs of future generations for "...renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values..."

C. Forest Service Policy for Management of Special Uses

The Draft ROD proposes to issue a Special Use Permit ("SUP") to Atlantic to construct, operate and maintain the segment of the Atlantic Coast Pipeline crossing the George Washington National Forest and the Monongahela National Forest.

Section 2703.2 of the Forest Service Manual establishes Policy for authorizing special uses of Forest Service System Lands such as is described in the Draft ROD. We believe that the proposed SUP for the Atlantic Coast Pipeline is inconsistent with and a violation of this policy. The essentials of this policy are as follows:

(a) Commercial uses cannot be authorized unless they are consistent with the Forest Service mission as outlined above.

(b) Commercial uses cannot be authorized unless they cannot be reasonably accommodated on non-National Forest System lands.

(c) Commercial uses cannot be authorized solely because it affords the applicant a lower cost or less restrictive location when compared with non-National Forest System lands.

D. The Forest Service Must Comply with NEPA

The FERC was the lead agency in preparing an environmental impact statement in conformance with the National Environmental Policy Act ("NEPA") and the Forest Service was a cooperating agency in that endeavor. Yet, each participant is individually responsible for their agency's compliance with NEPA. In other words, any "papering over" of issues in the Final Environmental Impact Statement ("FEIS") issued by the FERC does not relieve the Forest Service of their responsibility to conform with NEPA regulations. And, consequently a Record of Decision based on an environmental impact statement that violates NEPA will not survive litigation.

III. THE FARCE OF FERC'S ENVIRONMENTAL IMPACT STATEMENT

A. The FEIS is Based Upon a Tilted Playing Field

We have serious issues with the Final Environmental Impact Statement issued by the FERC. The FEIS is essentially a whitewash - prepared to look impressive, and to appear to conform to the Commission's written policy, as well as to the requirements of NEPA.

The FEIS treats all of the resource reports and statements of need submitted on behalf of Atlantic as the gospel truth, while ignoring or dismissing out of hand the carefully prepared arguments and documents submitted by the opponents to this project as not worthy of any consideration. This "thumb on the scale" method allows the FEIS to approve the project, seemingly without reservation. Yet, anyone with a drop of intelligence and common sense can easily see through the smoke and mirrors, and will know this is unjust.

B. The FEIS Did Not Seriously Evaluate Need and Alternatives

The FERC's FEIS discusses alternative routes that did not utilize National Forest lands, and also discusses other alternatives for supplying natural gas to the proposed end users.

We are obviously not experts in the subject of gas transmission facilities, but we do have access to expert advice in this regard and are aware that many viable alternatives were simply dismissed out of hand by the FERC. There was no serious attempt to find alternative routes for the pipeline.

There are alternative pipeline infrastructure projects which have lower costs, and fewer adverse impacts. In addition, they do not require a Special Use Permit in the National Forests. Most importantly - infrastructure already exists to provide natural gas for all of the power plants scheduled for operation in Virginia.

And for North Carolina, the logical start point to satisfy any natural gas needs is from Southside Virginia thus avoiding those areas on the ACP route, including the National Forests, that are most at risk for adverse impacts.

Atlantic also stacked the deck by inflating natural gas needs by 50 percent and basing those requirements on captive affiliates instead of the free market.

Yet by papering them over with self serving text that "refutes" each alternative the FEIS creates the appearance that each one was given serious consideration. In the end, it is no surprise that the FEIS concluded that the route preferred by Atlantic was the best choice. The game was played "On a cloth untrue. With a twisted cue. And elliptical billiard balls".

The adverse consequences of this "game" are nothing less than severe.

C. The FEIS Does Not Consider Cumulative Impacts and Overall Effects

A recent ruling against the FERC in connection with a natural gas pipeline in Florida confirmed that the scope of environmental impact statements as defined by the FERC is flawed. Specifically, the Court of Appeals for the District of Columbia Circuit found that the FERC did not properly analyze the climate impact of the burning of the natural gas that the project would deliver to power plants.

The Court's decision stated that the project's environmental impact statement "should have either given a quantitative estimate of the downstream greenhouse emissions that will result from burning the natural gas that the pipelines will transport or explained more specifically why it could not have done so. As we have noted, greenhouse-gas emissions are an indirect effect of authorizing this project, which FERC could reasonably foresee, and which the agency has legal authority to mitigate."

Needless to say, the FEIS for the Atlantic Coast Pipeline suffers from the same defect. In addition, the FEIS also fails to evaluate the "upstream" impacts at the point of extraction where methane leakage involves a much more serious greenhouse gas that is 30 times more potent than the carbon dioxide associated with burning of natural gas.

The FERC also refused to consider the cumulative effect of the Mountain Valley Pipeline and the Atlantic Coast Pipeline even though there obviously is one. There is no doubt in our minds that litigation in federal court against the FERC's FEIS for the Atlantic Coast Pipeline will include this as part of its complaint.

D. The Draft ROD Cannot Rely on the FERC's Severely Flawed FEIS

The need for a Special Use Permit as well as the need for amendments to the Land and Resource Management Plans is predicated upon the FERC's flawed FEIS. We object to any special use permits and any "amendments" which allow the two National Forests to be permanently damaged, without an impelling reason that undoubtedly serves "...the present and future needs of the American people..."

This project, which serves corporate profit, does not meet that requirement.

IV. OBJECTIONS TO THE PROPOSED AMENDMENTS

A. The Forest Service is Compromising

The FEIS makes it clear that the Forest Service must compromise its Forest Plans in order to approve the project.

Forest fragmentation is a given if the project is approved. The result will be negative effects on flora and fauna including creating a pathway for invasive species which can crowd out native plants.

There is no doubt that pipeline construction will negatively impact the many pristine streams that it crosses. The only solution in the FEIS seems to be for the Forest Service to accept the degradation.

Steep slopes will be an ever present problem if this pipeline is approved. Yet the FEIS assumes that somehow, steep slopes can be dealt with in an environmentally responsible manner. Supposedly the "BIC Team" and the "SAIPR" will magically cancel the laws of nature.

The presence of karst geology is a major concern, yet the FEIS assumes that it can be managed and that adverse effects can be mitigated. No proof is supplied.

Finally, one must consider reality. Dominion Energy via its many affiliates has clearly demonstrated its lack of respect for the environment. There is no reason to trust them.

B. The Forest Plan Amendments Allow Adverse Effects

The word "amendments" sounds benign but there is no doubt that it means the Forest Service is accepting adverse environmental effects. These include compromising regulations regarding: (a) retaining soil; (b) protecting water quality;

(c) harvesting old growth timber; (d) crossing the Appalachian Trail; (e) constructing roads in a Scenic River Corridor, and (f) maintaining scenic Integrity.

This would be grudgingly acceptable if there was a real public need, and then only if there was no other option where the pipeline could be accommodated off the National Forest. This is simply not the case.

C. Forest Fragmentation

The ACP would create a permanent linear opening through some of the largest tracts of unfragmented forest in the eastern United States. There will be a core loss of 2400 acres between construction corridors and access roads. It is not just the construction corridor that is a worry. Loss of core forest extends almost 300 feet on either side of the corridor. Forest fragmentation is one effect of the ACP that cannot be mitigated.

According to the Virginia Department of Conservation and recreation:

One of the greatest threats to our forests is not wildfires, insects, or diseases, but the conversion of forest lands to other uses... Forest fragmentation is on the rise... It threatens those wildlife species needing a sizeable habitat

free of constant disturbance and human competition. Fragmentation also threatens the vitality of Virginia's natural landscape the backbone of the tourism industry.

And the Dominion Pipeline Monitoring Coalition adds:

The Southern Appalachians have been identified as one of six biodiversity hotspots in the United States by The Nature Conservancy. Biodiversity is particularly high in the mostly unfragmented forests on the Monongahela and George Washington & Jefferson National Forests and on undeveloped private lands. The ACP would bisect this biodiversity hotspot, leaving a permanent 75-foot wide corridor.

They go on to explain in more detail:

When forests are fragmented by pipelines, roads and other human disturbances, edges are created with a whole host of negative effects on native flora and fauna. Edge-dwelling species like Raccoon, Opossum, Red fox, Striped skunk, American crow and Blue jay move in and prey on the nests of interior forest songbirds. Harmful edge effects can extend 100 meters into interior forest.

Forest fragmentation creates a pathway for non-native invasive plants, like kudzu, garlic mustard, and ailanthus. Encroachment by invasives can have a devastating effect on interior forests that so many species depend on. Invasives crowd out and outcompete native plants and alter habitat that interior forest animals require.

Is it worth allowing this for no valid public purpose? We doubt it.

D. Degradation of Pristine Streams

The Atlantic Coast Pipeline and its access roads will cross almost sixty pristine mountain streams. This includes over twenty five trout streams which will be affected by construction siltation.

Is it worth allowing this for no valid public purpose? We doubt it.

E. Steep Slope Hazard Areas

The route of the Atlantic Coast Pipeline crosses about 10 miles of lands with a high incidence and high susceptibility to landslides in the George Washington National Forest and about 7 miles of lands with a moderate incidence of and high susceptibility to landslides. What makes anyone believe they can mitigate such hazardous construction terrain?

The FEIS refers to Atlantic's Best in Class Steep Slope Management Team ("BIC Team") and also a Slip Avoidance, Identification, Prevention, and Remediation - Policy and Procedure ("SAIPR") which are supposed to magically solve every steep slope problem no matter how steep or how bad the condition. This truly seems more like advertising than engineering.

It is our understanding that the BIC Team and the SAIPR are still works in progress. This means that this is a difficult to impossible situation. If the final ROD permits this work and the mitigation attempts by Atlantic are failures then the Forest Service will have no other choice than to grade Atlantic on a ""curve". At that point it will be too late to reverse course.

The most responsible way to deal with steep slopes is simply to avoid them, and find a better route with fewer adverse impacts. Atlantic has failed to do so and the National Forests will pay the price, not Atlantic.

F. Crossing the Appalachian Trail -An Atlantic Maybe

Atlantic has proposed that it will cross underneath the Appalachian Trail using almost a mile long tunnel created with Horizontal Directional Drilling. They are not confident at all that this will work and in fact there is a substantial risk of failure. If they do fail, then they propose to fall back on open trenching with Direct Pipe Installation which also involves risk of failure. If both of these fail then there is no doubt that Atlantic will push for an open cut crossing of the Appalachian Trail.

G. Pipeline Contractors Take Short Cuts

In 2013 Public Citizen issued a report¹ documenting shoddy construction practices in connection with the southern portion of the Keystone XL Pipeline. The title page, which summarizes their results is instructive:

This report presents evidence documenting numerous construction problems and apparent code violations that raise questions not only about the chances of a spill on the southern segment of the Keystone XL pipeline, but also about the quality of TransCanada's construction and in-house inspection system, as well as the ability of the federal government to oversee the process.

Problems included: peeled field patches; sags or bends in the pipes; dents; improper pipe support; improper back filling; and failure to separate topsoil from underlying substrate.

The rush to install pipelines from the Marcellus formation leaves very little doubt that the same problems will arise, including the lack of careful oversight by the various federal agencies, among them the understaffed Pipeline and Hazardous Materials Safety Administration.

H. The Real Dangers Inherent in Karst Areas

1. The Danger of Blasting in Karst Areas

The following information from the Virginia Cave Boar d2 warns about the dangers of blasting:

Water in karst aquifers primarily moves along solution channels; therefore, flow is highly dependent upon the direction and characteristics of these conduits.

This is also true for fracture flow aquifers in non-karst settings. The impact from blasting can alter and disrupt these solution channels, thereby causing the water to flow along different conduits. This creates situations in which the water flows in different directions, or that water quality and quantity is altered. If these water quality or hydrologic changes occur, it is highly improbable that the previous groundwater conditions can be restored.

Blasting may affect localized depth to groundwater, recharge characteristics and water quality. Many of these potential effects are similar for karst versus non-karst settings. It should however be noted that since karst groundwater flow is highly dependent upon localized structural characteristics, any disturbance, such as blasting, that can affect localized structural characteristics have therefore a greater chance of altering groundwater flow in surficial karst aquifers. If these impacts do not directly affect deeper wells, they may still affect the well's recharge characteristics.

In addition, the Virginia Cave Boar d3 discusses groundwater contamination that may occur due to blasting:

Depending upon the explosive charge used, blasting can release a wide variety of soluble chemicals, such as nitrates, nitrites, perchlorates, and semi-volatile organic compounds, to name a few. These products can enter the local surface waters or groundwater and therefore contribute to water pollution.

Other potential complications with blasting include the incomplete combustion of explosive material, improper selection of explosive product, the "leaking" of chemical charges into surrounding cracks and fractures prior to detonation, increased turbidity within wells and karst conduits, geochemical reactions caused by the exposure of fresh geologic surfaces, airborne gas and particles, and improper transportation and storage.

These all can be minimized by a properly written and implemented blasting plan.

2. The Danger of Any Construction in Karst Areas

The Virginia Cave Board⁴ also stated that with regard to construction of pipelines in karst using trenching methods:

It should be noted that just because a trench did not intersect any existing conduits, does not mean that the karst groundwater flow characteristics have not been altered.

While trenching has the potential to create less impact to natural water flow through karst systems than blasting, trenching still can create karst impacts and these are not easily predicted. Ground disturbance of any kind in karst terrain can lead to complications, and trenching involves a lot of ground disturbance.

I. In Closing

A Record of Decision which allows construction of a huge pipeline under a Special Use Permit, and which allows adverse impacts within the National Forests via Forest Plan Amendments, is irrevocable, and will have everlasting consequences.

Our National Forests are a treasure. They cannot be degraded for corporate profit when there is no real reason involving our national welfare to do so. If the Forest Service continues with this folly, then some day, in the very near future, the staff of the Forest Service will look at each other and wonder "Why did we stain our own reputations for this, and who did we think we were fooling?" Do not let this happen.

Respectfully submitted,

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