



APPALACHIAN MOUNTAIN ADVOCATES

Great Horned Owl © Estate of Roger Tony Peterson

ORIGINAL

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October 30, 2014

Mr. DeVela Clark
Acting Forest Supervisor
Monongahela National Forest
200 Sycamore Street
Elkins, WV 26241
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FILED
SECRETARY OF THE
COMMISSION
2014 NOV 10 P 4: 19
FEDERAL ENERGY
REGULATORY COMMISSION

Dear Mr. Clark:

We, the undersigned organizations, are writing to urge you to reject Dominion's application for a Special Use Authorization, which would permit the company to survey the Monongahela National Forest for the construction of the Atlantic Coast Pipeline. Further, we urge the Forest Service to consider at this stage the entire project and its possible impacts, its consistency with the Monongahela National Forest Land and Resource Management Plan, and the potential indirect effects of the project such as additional development or resource extraction.

The construction of the pipeline and maintenance of the right-of-way will cause serious and permanent impacts. The Monongahela National Forest is one of the most ecologically diverse National Forests in the country, and within its boundaries are the headwaters of six major river systems. In West Virginia, the proposed route would cross eight mountain ridges at elevations of over 3,000 feet. It would cut through the limited remaining habitat associated with these high elevation forests, including remnants of rare red spruce forest. It would cross multiple high-quality trout streams and fragment habitat of the federally listed threatened species, the Cheat Mountain salamander, and other sensitive species. These ecosystems are fundamentally incompatible with a major infrastructure development project.

36 C.F.R. § 251.54(e)(5) requires that an authorized officer reject any proposal for which "(ii) The proposed use would not be in the public interest." The pipeline's construction and operation does not meet the Forest Service's definition of the public interest (§ 251.56(a) "protection of resources and

improvements on National Forest System lands, the allocation of space among potential or existing uses and activities, and public health and safety concerns”), and therefore the application for the special use permit must be rejected. Dominion proposes to build the interstate transmission pipeline to transport natural gas out of West Virginia and to destinations that may include export terminals. The pipeline will not protect or improve the Forest’s land and resources but degrade it; it will preclude other uses of the land under the right-of-way; and it will pose a public health and safety concern given the past record of pipeline- related accidents.


Additionally, we want to emphasize the importance of transparency and public participation during the Forest Service’s decision-making process regarding the pipeline proposal. There are many organizations and individuals concerned about the pipeline’s proposed impacts to the National Forest, and they want to participate to the full extent that the law provides. On behalf of a coalition of organizations, Appalachian Mountain Advocates has submitted Freedom of Information Act requests to Region 9 regarding the Atlantic Coast Pipeline. We expect that these requests will be fulfilled, as the confidentiality provision at 36 C.F.R. § 251.54(e)(4) does not exempt the Forest Service from its obligations under the Freedom of Information Act.

More generally, we are concerned that private discussions between Dominion and the Forest Service are bringing about de facto decisions on the pipeline’s route. Public participation during scoping and comment periods then becomes perfunctory rather than substantive. We remind you of your obligations under 5 U.S.C. §552b, the Open Meetings provision, which requires that “every portion of every meeting of an agency shall be open to public observation,” for all meetings that meet the requirements of the section. We also remind you of your obligations under the National Environmental Policy Act: The Council on Environmental Quality’s (“CEQ”) regulations require a give and take between an agency and members of the public. *See* 40 C.F.R. §§ 1500.1(b) (“public scrutiny [is] essential”), 1500.2(d) (the agency must “encourage and facilitate public involvement”), 1501.4 (the agency must “involve the public, to the extent practicable, in preparing [environmental documents]”), 1506.6 (the agency must “make diligent efforts to involve the public” in preparing environmental documents, give “public notice of ... the availability of environmental documents so as to inform those persons ... who may be interested or affected,” and “solicit appropriate information from the public.”) (2004). The CEQ Regulations require that an agency give environmental information to the public and then provide an opportunity for informed comments to the agency. *See* 40 C.F.R. §§ 1501.4, 1506.6.

We understand that Dominion submitted its application to the Monongahela National Forest office on September 30, 2014, and that the Forest Service is deciding whether or not to accept the application for processing. Given the public participation and disclosure provisions discussed above, we see no reason why active engagement with the public should not already have begun, for instance by providing online a copy of Dominion’s application. The members of our organizations have a deep concern about this issue and are anxious for the information and for the opportunity to participate in these critical decisions.

Thank you for your consideration of these comments.

Sincerely,



Laura Bozzi

Appalachian Mountain Advocates

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