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USFS power over pipeline is sovereign, ranger says

BY JOHN BRUCE • STAFF WRITER

MONTEREY – A George Washington- Jefferson National Forest official told Highland supervisors Tuesday there is no right of eminent domain over national forest lands.

In his routine informational update, District Ranger Pat Sheridan highlighted last year's multi-agency marijuana growing bust and a warning of seriously dangerous wildfires predicted for the months ahead.

But what stood out from the other national forest matters in his prepared statements was Sheridan's report on the forest service's Atlantic Coast Pipeline actions, namely that the forest service has a deciding role in whether Dominion can build its proposed interstate natural gas transmission pipeline through government land. The district ranger reported the forest office received a special use permit proposal from Dominion Sept. 29 to survey a pipeline route on national forest land. In it, Dominion asks permission to survey natural and cultural resources and forest management activities.

Sheridan told supervisors there would be a two-week public comment period if the forest service accepts the proposal, and, if issued, the permit would then be valid for about a year beginning at the end of December 2014.

The Federal Energy Regulatory Commission would serve as the lead agency and perform environmental analysis and public involvement along the entire 550-plus mile route including federal lands. FERC would consult with the U.S. Fish and Wildlife Service and state historic preservation agencies as required by the National Environmental Policy Act, he said.

Public comment with respect to concerns about national forest lands will be submitted directly to FERC, Sheridan said. As a cooperating agency, the forest service will review the environmental analysis and public comment about federal lands.

If FERC issues a certificate of need, then a second forest service special use permit would be required for construction and operation, he said.

"The forest service will make the decision on whether or not to issue a right-of-way special use permit to construct, operate and maintain the pipeline," Sheridan said.

"The basis for our decision to issue this permit will be on FERC's environmental analysis and public comments related to national forest lands. There is no right of eminent domain over National Forest lands."

Sheridan said he would keep the board posted on national forest pipeline activities.

Supervisor Lee Blagg commented that he had never heard before that the national forest decides whether the pipeline could go through.

Pen Goodall asked how the board feels about the pipeline and whether supervisors are for or against it. Goodall and his farm on the pipeline study corridor at the West Virginia border were the subject of an article in The Recorder.

Goodall said he felt some supervisors were for the wind turbine project “because it didn’t go through your back yard.”

Chair Kevin Wagner replied that supervisors have adopted a position on the proposed pipeline project “of guarded neutrality.”

“We understand it will be a big danger and a big mess going through eight mountain ranges,” Wagner said. “There is very little a county of our size can do to fight a project of this size.”

Wagner said wherever the pipeline route goes, it will go through somebody’s farm. “It’s not like Highland County will stop the project. All we can do is mitigate damage where we can.”

Goodall said another concern is if the precedent is made to allow a big company like Dominion to come through, it will open the door to others.

“Maybe a wind turbine?” Goodall asked.

Wagner replied he had no idea.

Goodall went on that he has a lot of concerns. “It goes right through the center of my land,” he said. The project would likely mean there will not be enough pasture to support animals in the future.

Supervisor David Blanchard said it is important for the board to listen to concerns.

“It’s not a done deal,” Katie Gwinn of Monterey said, after explaining the Dominion has begun its pre-filing process with FERC. She said other counties have approved resolutions against the pipeline. “It’s not out of the realm of reasonable action for this board to do the same thing,” she said.

Gwinn said pipelines are being stopped across the U.S., and that she was part of an effort to stop a pipeline project begun by Dominion in the early 2000s. “It can be stopped,” she said.

Wagner said he reviewed the Augusta County anti-pipeline resolution. From that, he said he learned that until Dominion gets a certificate of public need, they remain under a county’s jurisdiction.