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Dominion must pay, county tells FERC

BY JOHN BRUCE • STAFF WRITER

MONTEREY — Highland County leaders had their say about protecting residents and business Monday. When it comes to the proposed Atlantic Coast Pipeline, supervisors want protection.

Have ACP pay to prove how it would avoid harming Highland. Deny Dominion's request for exemption from the 500-foot open trench law. Require the pipeline company to provide its own worker housing and emergency responders. Order Dominion to help upgrade communications facilities.

Those are a few examples of proposals in a 22-page filing to the Federal Energy Regulatory Commission that was quietly crafted at the supervisors' direction by county attorney Melissa Dowd and signed by chair David Blanchard.

There was no vote on the board's comments, but they were circulated, reviewed, and amended by supervisors before they were filed with FERC.

Blanchard's introductory letter described Highland as the least populated county in Virginia with a population of about 2,300.

"Called by many 'Virginia's Switzerland,' Highland is well known for its high mountain valleys, sheep and cattle grazing farms, vast woodlands, pristine scenic beauty, and rural charm," the letter states. "Located in the Allegheny Mountains midway between the eastern border of West Virginia and the western border of the famed Shenandoah Valley, Highland is the headwaters of both the James River and the Potomac River.

"Highland is defined by its natural resources," Blanchard continued. "We rely on tourist dollars year round. Due to the low population and the lack of a significant industrial tax base, there are minimal resources available through the county government. Our rescue squad and fire departments are all volunteer organizations. We only have one building official and the Zoning Administrator position is only part-time. All of which is to say that a major construction project such as the ACP presents unique challenges for our small community. The (county) does not have in-house expertise to address many of the issues we believe this project raises ... (This filing) is our way of identifying the issues we know about, and we hope FERC will put the burden on Dominion and its partners to identify additional issues through the use of experts."

Further, the letter states, "As the local governing body, we are convinced it is our duty to insist that Dominion and its partners mitigate to the fullest extent possible any negative impacts the project may have on Highland."

Listed as the first issue was the fact that more than half the population is made up of part-time residents and that real estate and tourism are key. "There are 2,300 people in Highland County; however, over 51 percent of the 460 square miles of land is owned by non-residents. The county is a second-home, tourist and retirement destination. Our scenic beauty and natural resources are critical elements of our existence."

Geology and soils were also noted. “FERC has already identified that the karst terrain that is found in Highland presents one of the biggest concerns and challenges for the ACP project. Karst terrain is known for being unstable and weak where development should be kept to a minimum,” the letter said. “More importantly, caving is a popular tourist and resident activity here, and the Virginia Speleological Society is headquartered here in Highland. Because of the karst terrain, there are many caves, sinkholes and sinking springs in Highland. These will provide unique challenges to the construction and maintenance of the pipeline.

“The Virginia Cave Protection Act is found in the Virginia Code ... Pursuant to that act any degradation of caves can be misdemeanors,” it continued. “The Virginia Cave Board should be contacted for additional information.”

The filing includes several maps from Highland’s comprehensive plan that identify the karst terrain, steep slope areas, and other important aspects of the county.

The county also suggested means of mitigation. Because Highland has no staff to address the negative impacts of construction on karst terrain, and because construction in areas with caves and sinkholes should be avoided, “it seems logical that construction should be avoided in steep slope areas where erosion, slope degradation, deforestation, and water run-off can damage property beyond the pipeline corridor,” the letter explained. “We request that FERC order the owners of the ACP project to solicit expert information regarding additional mitigation necessary to minimize the danger to people and the environment from heavy construction in fragile soils and adopt additional mitigation policies and procedures as are identified by the experts.”

Land use was identified as an issue. “Highland County is a mix of hardwood forests, mixed and pine forests and grassland. Traditional land use has been agriculture, primarily sheep and cattle grazing farms, and forestry management. Tourists visit Highland to see the agricultural activities. The county is known for its abundance of maple trees and the maple syrup that is made in large quantities each year. The zoning ordinance requires a conditional use permit for oil and gas transmission lines in almost every zoning district,” it continued.

“When considering a conditional use permit, the governing body shall consider the effect of the proposed use on existing and projected traffic volumes in the neighborhood; the current and future need for the proposed use ... and the character of the existing neighborhood and the effect of the proposed use or special exception on existing property values.

“Because of the diminishing population, mountainous terrain and remote nature of the county, it is unlikely that large industries will locate here. Therefore, the existing land use patterns are likely to continue in the future. About one-third of the county is public land, either national forest or state game commission land.”

Historically, development has occurred around the Monterey, Blue Grass and McDowell. This is likely to continue, the letter states.

The board suggested that because farmers cannot afford major disruptions, Dominion will need to compensate them for loss of hay and be sensitive to sheep and cattle reproductive cycles so farmers can expect the same number of live births throughout the project.

Dominion should be held to the requirement that no more than 500 feet of trench can be open at any given time, the board also said. "Allowing any larger open ditch could prevent a farmer from raising stock for an entire year. Dominion should be ordered to use local loggers to the extent possible for the removal of trees in the pipeline corridor. Logging is a primary occupation in Highland, and local loggers have expertise in cutting and hauling on steep slopes," the letter states.

The county also pointed out its concerns about water quality. "Highland is known for its spring water, although there are also many private wells in the county as well," the letter states. Two public water systems in the county, one in the Monterey and one in McDowell both draw water from wells.

"We have great concern that construction of the pipeline will have a negative impact on the aquifer recharge area for both systems, either temporarily or permanently. The impact needs to be determined by experts so that construction and maintenance of the ACP will not degrade these public water sources in any way.

"Many Highlanders bought their homes specifically because they are served by spring water sources. Expert advice needs to be sought to determine what setback is necessary to protect these water sources. Highland rivers and streams are also known for the abundance of native trout. The trout habitat must not be adversely affected by pipeline construction and maintenance."

The county suggested diverting the proposed pipeline away from both the Monterey and McDowell aquifers. "This is the only way to assure no damage or degradation to the public water supplies. FERC should order Dominion to seek out and follow expert advice on the appropriate setback from existing wells and spring water sources.

"This is particularly important in Highland because of the karst terrain where the limestone springs surface and sink with regularity," the board told FERC. "Dominion should redirect the pipeline to avoid any disturbance of the headwaters locations of the James River and the Potomac River."

Yet another concern related to cultural resources. "Evidence of ancient Native American activity has been found in Highland by archeologists. The Civil War Battle of McDowell location draws many re-enactors and Civil War history devotees each year. Highland's Maple Festival draws over 10,000 visitors to the county to celebrate the tapping of the maple trees and syrup making. This festival is held the second and third weekends of every March.

"The chamber of commerce and the county sponsor other festivals throughout the year, including a Fall Foliage Festival, Wintertide, a Blue Grass festival, and the Mountain Mama road bike challenge of up to 100 miles of riding in Highland and Pendleton County, W.Va. The county also holds the county fair every year over Labor Day weekend," the letter explained. "These festivals and community activities are important to our tourist industry and boost the local economy."

Furthermore, the board said, “FERC should also be aware that as a remote mountain farm community, there are unmarked and marked graves located all over the county. Just recently, an upgrade to an electric transformer station west of Monterey was temporarily delayed because of the presence of at least three unmarked graves on the construction site. If there is any possibility that gravesites exist on any property, Dominion should be obligated to test the ground for potential graves before construction begins. The pipeline should be redirected if grave sites are found,” the board said.

The board’s letter addressed transportation as another concern, citing the county’s three major roads — U.S. 250, U.S. 220, and Route 84.

“Because of the mountainous terrain, these are the regularly used roads in and out of the county. Many Highlanders work outside of the county and rely on these roads staying passable. Because of the few miles of roads, the county’s remoteness, and the small population, Highland road projects can take years to complete.

The Virginia Department of Transportation simply doesn’t have enough money to maintain the rural roads as it does the urban roads,” the board told FERC. “The ACP will place a great burden on our few roads. If traffic is disrupted during any of our festivals or other cultural activities, the county and its residents will suffer an immediate economic setback. Highland will not have the money to repair damage to its roads caused by increased construction traffic.

“Like many rural counties, Highland does not maintain any county roads and relies almost exclusively on state funding for road repair. Therefore, Dominion should be expected to repair any roads damaged by the project and to coordinate with Highland officials to avoid road crossings during festival activities,” the letter states.

Vegetation and wildlife were separate concerns.

“Most of Highland is either grassland or forested, with sheep and cattle farms and forestry as primary occupations. Highland is known as a desirable hunting and fishing location. Deer, bear and turkey abound on land and native trout fill the streams and rivers.

“The board defers to the expertise of the Virginia Game and Inland Fisheries Commission for comments on the wildlife and interaction with the pipeline. Additional resources are the Southern Environmental Law Center, Highlanders for Responsible Development, and the Virginia Extension Service,” the board stated.

The county proposed that negative impact to wildlife habitat must be mitigated by returning the land to its condition before pipeline construction. If stands of trees and large areas of vegetation are altered or destroyed, Dominion should replant the areas in natural species to the extent possible.

Of air quality and noise, the board noted Highland “is known for its dark skies where you can see nature as well as hear it. Any degradation of these qualities will have a lasting negative effect on the quality of life for residents and tourists of the county.”

The supervisors suggested FERC order Dominion to use the minimum necessary lighting during construction. “All lighting should be downward-directed to the extent possible. Construction noise should be present only during daylight hours.”

For the issue of endangered and threatened species, the Virginia Department of Conservation and Recreation maintains the list of threatened and endangered species in Highland, the letter states.

“It is well known that Highland provides good habitat for both bald eagles and golden eagles. Highland is one of the few places in the (state) where the golden-winged warbler lives. Birders frequent the county throughout the year because of the abundance and variety of bird species that live here.” The board proposed mitigation by requiring Dominion to identify all endangered and threatened species in Highland, and redirect the pipeline to protect habitat for any of these species.”

Socio-economics is also at risk, the county said. “This project has the potential to negatively effect all of the tourist-driven dollars in the county,” the letter states, adding, “If hunting land is disturbed by construction, some hunters will not come to Highland. If the roads are one lane during the Maple Festival, tourists may not come back the next year. If the minimal lodging available in the county is full of construction workers, there will be no housing for tourists.”

Further, it states, “There are only a few restaurants in the county. These facilities should not have to choose between tourists and pipeline workers. Existing housing is simply not going to be sufficient to handle the immigration of construction workers. As mentioned previously, there are limited government resources here in Highland.” The board proposed Dominion should be responsible for locating and developing a site for housing temporary workers.

And, it noted, “If the pipeline project will require specialized inspections by the locality, there is no one available to do those inspections.”

“This site (for temporary workers) should include potable water and sewage disposal. Any such development could be donated to the county at the end of construction. Dominion should be responsible for paying the costs of any additional inspectors hired by the county to ensure erosion and sediment control compliance and any other compliance necessary to monitor the project for health and safety.”

Public safety is still another issue the board identified. “The ACP will definitely place an unrealistic burden on the sheriff’s office, volunteer fire departments and rescue squad, and the volunteer Local Emergency Planning Committee, unless adequate mitigation occurs,” it said. “Highland is a remote and mountainous community. There are still areas of radio silence here. The closest hospitals are Bath Community Hospital, Augusta Health, and Rockingham Memorial. Bath is between a 20-minute to an hour’s drive away, depending on where you are in the county, and both Augusta Health and Rockingham Memorial are over an hour’s drive from just about anywhere in the county.

“The volunteer organizations are constantly trying to upgrade radio communications with their limited funds. A serious construction accident could draw all of our trained emergency responders at one time, leaving county residents and visitors without emergency medical service,” the letter explained.

To mitigate the public safety issues, supervisors said Dominion should be responsible for training local emergency responders on safety and emergency measures unique to pipeline construction and Dominion should provide its own emergency responder staff.

“Because of the limited vehicles and equipment maintained by the local volunteer agencies, Dominion should be expected to provide its own emergency vehicle during construction,” the county continued. “Because of the communications challenges in Highland, Dominion should be ordered to work with the county to upgrade or locate tower facilities to ensure as much communication between construction sites and the county as possible.

“Because of the additional burden the project will place on Highland emergency services, we hope that Dominion will consider donating any equipment it purchases for emergency services while in Highland to the local organizations,” the filing contends.

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