

DOMINION PIPELINE MONITORING COALITION

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Board of Trustees
Virginia Outdoors Foundation
39 Garrett Street, Suite 200
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comments@vofonline.org

Sent Via Email

Re: Applications to Divert Open-space Conservation Easements for ACP and MVP Projects

Dear Board Members:

I am submitting these comments on behalf of the Dominion Pipeline Monitoring Coalition (DPMC) and Wild Virginia. We strongly urge the Board to deny proposals to divert land from open-space conservation easements as requested by developers of the Atlantic Coast Pipeline (ACP) and the Mountain Valley Pipeline (MVP). These proposals do not meet the conditions enumerated in the Code of Virginia which must be met before these applications may be approved, as discussed below.

Both DPMC and Wild Virginia have members throughout the areas of Virginia that are affected by the protections afforded by the conservation easements at issue here. The protection of these lands is vital to the health of the communities and ecosystems in which they lie. The state statute shows the clear intent that concerns and interests of the wider communities affected by potential diversions is to be a determinative factor in making these decisions. The benefits of these conservation easements, while accruing to individual landowners, are also of great value to all residents of these areas. In the same way, abrogation of the wishes of the landowners who formed the easements also will harm those landowners' neighbors and the localities in which they live.

As you know, the legal standard by which applications for diversion of conservation easements like those proposed by ACP and MVP is defined at Virginia Code 10.1-1704. While we agree with other commenters that the approval by the Board would violate the statute for a number of reasons, we focus on the requirement that, before a diversion may be granted, the action

must be “*essential* to the orderly development and growth of the *locality*.” Virginia Code 10.1-1704.A. (emphasis added).

A finding that something is “essential” requires more than that the thing will have positive impacts or that it provides some benefit. Merriam Webster defines the word “essential,” in the pertinent entry, as “of the utmost importance.” <https://www.merriam-webster.com/dictionary/essential>. In turn, the word “utmost” is defined as “of the greatest or highest degree, quantity, number, or amount.” <https://www.merriam-webster.com/dictionary/utmost>.

We assert that the construction and maintenance of these pipelines will have little or no positive impacts in the localities where these easements lie and surely none that could overcome the significant negative environmental and economic impacts in those areas. However, even if some such positive impacts can be identified, to hold that those effects are “of utmost importance” would be completely unsupported and arbitrary. Neither the documents submitted by the pipeline companies nor the reports from the VOF staff provide any evidence to support the idea that these diversions would be of the “greatest or highest degree” of benefit to these communities.

The statute specifies that diversions must be essential, not just in a general sense or on a statewide or nationwide scale, but in relation to the particular localities where the easements exist. The pipeline companies claim that their projects will provide natural gas in areas of Virginia and North Carolina where additional supplies are needed. Of course, there is abundant evidence that even those claims are untrue or, at best, greatly inflated. However, even those very speculative benefits would generally not accrue to the localities where the easements would be destroyed.

None of the counties in which the ACP proposes to make diversions would receive gas from the pipeline. Therefore, the additional gas supplies, which Dominion claims as the primary purpose and benefit of the project, would not affect any of these localities in any way.

For the MVP, though Roanoke Gas Company has proposed to tap into the line in Montgomery County, there is no evidence in the record that this supply is needed in the Roanoke Gas service area and certainly not that it is “essential.” Given the Federal Energy Regulatory Commission’s refusal to perform credible needs analyses, there is no evidence in the official record to show this Montgomery County tap will fill a true need. The current East Tennessee and Columbia gas pipelines feed the Roanoke Gas service area and there is no analysis to prove this additional supply from MVP is necessary, much less “essential” or “of utmost importance” to the localities served.

Again, we strongly urge the Board to reject both of these applications. It is vitally important that you uphold the statutory conditions cited above and

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that you preserve the integrity of the open-lands conservation system in Virginia. Unless landowners can trust that their wishes will not be overridden except when necessary to meet the greatest needs of their communities, those parties will not choose to conserve the valuable natural features of their properties. Such a result would nullify the good intent the General Assembly demonstrated in adopting the statute and would be to the great detriment of all Virginians, present and future.

Thank you for your careful attention to these matters.

Sincerely,

_____/s/____

David Sligh
Senior Regulatory Systems Investigator

cc: Rick Webb - DPMC
Ernie Reed - Wild Virginia
Misty Boos - Wild Virginia