

October 15, 2014

*Via email and regular U.S. Mail to:*

Thomas Speaks, Forest Supervisor  
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Re: Dominion's proposal to survey for the Atlantic Coast Pipeline in the  
George Washington National Forest

Dear Supervisor Speaks:

We, the organizations listed below, are writing to urge you to reject a proposal from Dominion Transmission and its partners to survey for the Atlantic Coast Pipeline in the George Washington National Forest. We have grave concerns that the proposed route for the pipeline will cause serious permanent damage to the heart of the GW near Signal Corp Knob and Shenandoah Mountain. The mature, undeveloped forests in this area make it fundamentally incompatible with a major infrastructure development project. Furthermore, we believe that the pipeline project fails to meet the screening criteria set forth in the Forest Service's special use regulations, 36 C.F.R. § 251.54(e)(1) and (5).

The survey proposed by Dominion is the critical first step towards the construction of this project through the GW. In light of its numerous public statements, it is highly likely that Dominion will proceed with an application to build the pipeline across the forest after it completes the survey of the potential route, and the Forest Service should consider the impacts of the entire project at this initial stage. We ask that you reject Dominion's proposal before the company makes further investment in a route across the GW.

**1. The proposed route of the pipeline would cause serious permanent damage to the heart of the GW.**

In anticipation of a comment period on Dominion's application, we are working to assemble a complete list of the harm that we would expect to occur on the GW as a result of the pipeline. But we wanted to bring the following critical areas of concern to your attention as you begin to evaluate the company's request for a temporary special use permit to survey the forest. NEPA requires a comprehensive analysis of these impacts and others that will be identified during the scoping process.

The pipeline will permanently fragment the truly special forests around Signal Corps Knob and Shenandoah Mountain. This region contains some of the most intact, late-successional forest habitat in the entire eastern United States and includes wilderness and potential wilderness areas. The area is an important reservoir of biodiversity for rare species like the imperiled Cow Knob salamander and a popular recreation destination for campers, hikers, hunters, and fishermen. It protects valuable headwater streams that supply downstream communities with drinking water. And it also has numerous significant Civil War sites. We are especially concerned that the pipeline would pass near the Georgia Camp, a Civil War encampment which may contain sites that have not been surveyed.

Figure 1. An aerial view of the intact forests near Signal Corps Knob looking northward. Based on Dominion's maps, the pipeline would pass through the foreground of this picture. Photo credit: R. Webb (Sept. 28, 2014).



As you know, over 200 organizations, businesses, and faith groups have endorsed a proposal for the Shenandoah Mountain National Scenic Area, including the George Washington National Forest Stakeholder Group. The current pipeline route would cut across the corner of this proposed national scenic area and put a large, disruptive construction project and a permanently cleared right-of-way along its southern border. The route would also cross a portion of the Bald Ridge area (also known as the Ramseys Draft Potential Wilderness Area) and two Virginia Mountain Treasures, Signal Corp Knob and Hankey Mountain. The affected portion of Hankey Mountain was originally part of the national scenic area proposal; Friends of Shenandoah Mountain and other members of the GW Stakeholder Group agreed to pull the scenic area boundaries away from this tract of forest so it could continue to be actively managed for grouse and other desired wildlife.

The pipeline would require a 200-foot cleared construction right-of-way, a 75-foot cleared permanent right-of-way, and access roads to build and maintain it. We are also concerned that the pipeline may require a compressor station or other supporting infrastructure in this region in the future. Construction and the permanent right-of-way would degrade the exceptional scenic value of the region; offer a direct avenue into this remarkable forest for invasive species and diseases; pass through portions of the forest that are occupied by the Cow Knob salamander around Signal Corps Knob; and impede essential natural processes, such as migration for amphibians and other small wildlife species.

The steep, rugged topography throughout this region of the GW makes it likely that erosion during construction of the pipeline could not be adequately contained. Excessive sediment loads could threaten the integrity of headwater streams that supply much of the water used by the local communities surrounding the forest, including those in the Shenandoah Valley. Sedimentation could also threaten the health of native brook trout streams like Ramsey’s Draft, Laurel Fork, and other exceptional trout waters regarded as some of the best fisheries in the Southeast. Furthermore, we are concerned that the presence of widespread karst terrain in Highland and Augusta counties further increases the likelihood of water contamination or altered water flows from this project.

In its presentations to local boards of supervisors in the GW region, Dominion has touted the pipeline as an opportunity for new industrial development. However, these communities have expressed a strong preference in their comprehensive plans for development that preserves the natural beauty and environment of this area, in part, because it sustains a locally resilient economy based on agriculture, forestry, tourism, recreation, and business. An undeveloped GW helps support this economy with clean water, timber, scenic beauty, and recreation opportunities.

Finally, we are acutely concerned that the presence of the pipeline through the national forest would make these public lands more desirable for natural gas drilling in the future. The pipeline would remove a significant obstacle to development—the transmission of gas to end users—for as long as it is in the ground. Pressure to develop the GW for drilling may not occur this year, or even in the next ten years, but the pipeline would influence decision-making by drilling proponents in this region for decades.

**2. The pipeline fails to meet the screening criteria in 36 C.F.R. § 251.54(e)(1) and (5).**

**a. The pipeline is not consistent with the 1994 Cow Knob salamander conservation agreement or the Endangered Species Act.**

Under 36 § 251.54(e)(1)(i), the proposed use must be “consistent with the laws, regulations, orders, and policies establishing or governing National Forest system land,” and “with other applicable Federal law.”

The pipeline is likely to cause the “take” of Cow Knob salamanders, fragment salamander habitat, and violate the management measures in the 1994 Cow Knob

salamander conservation agreement. According to maps posted on Dominion’s website, the pipeline will pass just south of Route 250 near Signal Corps Knob, an area of the GW that is occupied by the imperiled Cow Knob salamander.<sup>1</sup>

In 1994, the Forest Service and the Fish and Wildlife Service entered into a landmark conservation agreement to stabilize populations of the salamander “so that listing this species as threatened or endangered under the Endangered Species Act will be unnecessary.”<sup>2</sup> The management measures incorporated into the conservation agreement specifically protect the salamander from “take.”<sup>3</sup> Moreover, these measures prohibit road construction and new utility corridors through the Shenandoah Mountain Crest – Special Interest Area because they would destroy and fragment salamander habitat, increase forest edge, and isolate salamander populations.<sup>4</sup> Importantly, the agreement extends these protections to areas around the SMC-SIA where salamanders are present such as the Signal Corps Knob area.<sup>5</sup> The proposed route of the pipeline would be plainly incompatible with these measures.

Moreover, the route would be inconsistent with the requirements of the Endangered Species Act with regard to the Cow Knob salamander. The agencies entered the 1994 conservation agreement specifically to avoid listing this imperiled species under the ESA.<sup>6</sup> The ESA requires listing if a species is threatened or endangered due to “the present or threatened destruction, modification, or curtailment of its habitat or range” or “the inadequacy of existing regulatory mechanisms.”<sup>7</sup> If the pipeline is allowed to override the important protections in the conservation agreement, we believe that the Cow Knob salamander would likely require listing under the ESA because of the direct “take” and habitat destruction and fragmentation that would result.

Furthermore, the proposed route will require formal consultation with the Fish and Wildlife Service under section 7 of the ESA because it is likely to cause the “take” of other species that are already listed or proposed for listing. The endangered Indiana bat

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<sup>1</sup> See Dominion, Atlantic Coast Pipeline, Augusta County, Virginia, *available at* <https://www.dom.com/business/gas-transmission/atlantic-coast-pipeline/pdf/acp-county-map-va-augusta.pdf>.

<sup>2</sup> See U.S. Forest Serv. & U.S. Fish & Wildlife Serv., Conservation Agreement for the Cow Knob Salamander at ¶5 (Jan. 25, 1994) (the “Conservation Agreement”).

<sup>3</sup> See Management Measures at ¶ 2, attached to the Conservation Agreement.

<sup>4</sup> See *id.* at ¶11, 14.

<sup>5</sup> See Conservation Agreement at ¶2.

<sup>6</sup> See *id.* at ¶5.

<sup>7</sup> 16 U.S.C §§ 1533(a)(1)(A)-(E); *see also* 50 C.F.R. § 424.11(c).

and the endangered Virginia big-eared bat occur in the GW.<sup>8</sup> The northern long-eared bat, proposed for listing as endangered, is also believed to occur in the GW.<sup>9</sup> The pipeline could eliminate roosting and foraging habitat for these species and potentially modify the microclimates of caves along its route. Excessive sediment loads in streams and rivers during pipeline construction could also harm the endangered James spiny mussel.

**b. The pipeline would not be consistent with the management standards and guidelines or the uses of the forest set forth in the forest plan.**

The National Forest Management Act requires that all permits and contracts for the use and occupancy of national forest lands be consistent with the land management plan.<sup>10</sup> Consistent with this mandate, at the initial step of the screening process under 36 C.F.R. § 251.54(e)(1)(ii), the “proposed use must be consistent . . . with standards and guidelines in the applicable forest land and resources management plan.” Moreover, at the second step of the screening process under § 251.54(e)(5), the Forest Service must reject any proposal if the “proposed use would be inconsistent or incompatible with the purposes for which the lands are managed, or with other uses.” The proposed route of the pipeline could not satisfy either of these criteria.

The 1993 GW forest plan designates the area around Signal Corps Knob as Management Area 14 (“MA 14”), Remote Habitat for Wildlife.<sup>11</sup> The MA 14 designation offers large, contiguous tracts of remote habitat, on its own or often together with adjacent remote areas.<sup>12</sup> Under MA 14, the agency manages the forest to provide mature forest habitat with freedom from disturbance for species like black bear, pileated woodpecker, and bobcat.<sup>13</sup> Public motorized use is restricted, timber management must be carefully planned and scheduled to minimize disturbance, and road density is limited.<sup>14</sup> Notably, only scattered small forest openings are present.<sup>15</sup> Hunting, fishing, wildlife viewing, mountain biking, and hiking are common activities,<sup>16</sup> and we note that the Great Eastern Trail runs north to south over Signal Corp Knob. A cleared right-of-way for the pipeline would fragment contiguous habitat, disrupt the intact visual

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<sup>8</sup> See George Washington Nat’l Forest, Draft Revised Land and Resource Management Plan at 2-14, 2-15 (April 2011) (the “2011 Draft Revised Forest Plan”).

<sup>9</sup> See U.S. Fish & Wildlife Serv., Listing the Northern Long-Eared Bat as an Endangered Species; Proposed Rule, 78 Fed. Reg. 61046 (Oct. 2, 2013).

<sup>10</sup> 16 U.S.C. § 1604(i).

<sup>11</sup> See George Washington Nat’l Forest, Final Revised Land and Resource Management Plan , attached maps (1993) (the “1993 Forest Plan”).

<sup>12</sup> See 1993 Forest Plan at 3-74.

<sup>13</sup> See *id.*

<sup>14</sup> See *id.* at 3-74, 3-75.

<sup>15</sup> See *id.* at 3-74.

<sup>16</sup> See *id.* at 3-74.

appearance of the forest, and likely require regular entry by motorized vehicles to inspect and maintain the pipeline. Thus, it would be incompatible with the management standards and guidelines for the MA-14 designation. It would also be inconsistent with the use of this area of the forest for wildlife and non-motorized recreation.

Furthermore, the proposed route for the pipeline is not consistent with the protections for the Cow Knob salamander incorporated into the 2011 draft revised forest plan for the GW. Echoing the 1994 conservation agreement, the draft revised forest plan prohibits the construction of new roads and utility corridors in the Shenandoah Mountain Crest management prescription area to protect this species and other rare species.<sup>17</sup> Management emphasizes an intact, late-successional forest free from permanent, long-term fragmentation that offers abundant opportunities for low-impact recreation.<sup>18</sup> Importantly, these protections apply to lands outside the Shenandoah Mountain Crest area where the salamanders are found such as the area around Signal Corps Knob.<sup>19</sup>

**c. Dominion cannot demonstrate that the pipeline could not reasonably be accommodated on lands outside of the GW.**

Under FSM 2703.2, the Forest Service can authorize use of the GW “only if . . . the proposed use cannot reasonably be accommodated on non-National Forest System lands.” These instructions further specify that the agency should not authorize the use of the GW “solely because it affords the applicant a lower cost or less restrictive location” when compared to private lands.<sup>20</sup> Similar requirements are contained in the 1993 forest plan and the 2011 draft revised forest plan. The 1993 forest plan specifies that special use permits, including special use permits for utility corridors, are granted only “when the use cannot be reasonably accommodated on lands other than National Forest lands.”<sup>21</sup> And the 2011 draft revised forest plan limits new special use authorizations “to needs that cannot be reasonably met on non-[National Forest System] lands.”<sup>22</sup>

Here, Dominion has proposed a pipeline from Harrison County, West Virginia, to Robeson County, North Carolina. The company cannot reasonably claim that the route must go through the GW in order to deliver gas from West Virginia to the end users two states away in North Carolina. In fact, we are aware that proponents of other new pipeline projects that propose to move gas in the same general direction from West Virginia to the Southeast are pursuing routes that do not cross the GW.<sup>23</sup> We believe that Dominion

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<sup>17</sup> See 2011 Draft Revised Forest Plan at 4-108.

<sup>18</sup> See *id.* at 4-105, 106.

<sup>19</sup> See *id.* at 4-4.

<sup>20</sup> FSM 2703.2(3).

<sup>21</sup> 1993 Forest Plan, at E-3.

<sup>22</sup> 2011 Draft Revised Forest Plan at 4-24.

<sup>23</sup> See, e.g., The Mountain Valley Pipeline *available at* <http://mountainvalleypipeline.info>.

prefers a route through the GW and the neighboring Monongahela National Forest because it offers a lower cost and the convenience of dealing with a single large landowner, but that cannot justify the use of some of the region's best remaining forest habitat on these public lands.

### **3. Conclusion.**

In conclusion, we believe that this route would cause permanent damage to the GW, and we urge the Forest Service to deny the survey permit before the company makes further investment in this route. If the pipeline is built, the national forest and the surrounding communities will bear the full brunt of environmental costs—damage to remote, intact forests; the harm to hunting, fishing, and outdoor recreation; and the disruption of the rural character of western Virginia—while sharing in few, if any, of the purported benefits. We encourage Dominion to fully explore and develop alternatives to the proposed project.

We also want to bring to your attention the widespread concern about and opposition to the proposed route in the GW region. In early September, groups formed a regional coalition to express grave concerns about the pipeline's impacts on the national forest, regional water supplies, and rural character and economies of the Allegheny-Blue Ridge Region. This coalition—now with twenty-five member organizations—is called the Allegheny-Blue Ridge Alliance, and more information about the Alliance can be found on its website: <http://www.abralliance.org>. Furthermore, community members in Highland, Augusta, and Nelson counties have sent numerous comment letters with concerns about the pipeline to FERC, the Governor, and other decision makers, and the project is the regular subject of reporting and letters to the editor in local papers. We will be glad to provide you with a compendium of these materials to illustrate the scope of the concerns about the proposed route.

We strongly urge the Forest Service to reject the proposal from Dominion to survey for the Atlantic Coast Pipeline across these important public lands. Should the Forest Service continue to process this proposal, we ask that the agency keep us informed so that we may comment further.

Sincerely,



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