



Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

April 28, 2015

RE: Harmful impacts to landowners in Nelson County from the Atlantic Coast Pipeline, Docket # PF15-6-000

Ms. Bose,

Friends of Nelson is a grass roots community organization in Nelson County, VA. We have been communicating and coordinating with landowners on the proposed route and other community members since the Atlantic Coast Pipeline was announced, under its original name, in May 2014. In the many months before Dominion made detailed maps publicly available, we identified and reached out to landowners on the proposed route by calling, knocking on doors, writing letters, and sending emails to determine who received “requests” to survey and how they intended to respond. Once Dominion provided maps online, teams of volunteers compared Dominion’s maps with Nelson County’s GIS database to acquire names and addresses. Due to the countless hours of many volunteers and an engaged community, we are the proud owners of a database of landowners that is arguably better than Dominion’s own (given Dominion’s numerous clerical errors and complete reliance on an inaccurate and infrequently updated GIS database).

With our database we can inform you with certainty that the vast majority of landowners in Nelson County have no interest whatsoever in negotiating any easements with the ACP, LLC for the construction of their pipeline. The property owners in our county feel strongly and have made it clear on numerous occasions that they feel the ACP would harm their personal interests and the broader community irredeemably.

As you know, FERC regulations clearly state that the use of the extraordinary power of eminent domain on unwilling landowners is considered an adverse impact in any proposed project. Further, the more eminent domain power is used, the more justification for the project is required:

“The balancing of interests and benefits that will precede the environmental analysis will largely focus on economic interests such as the property rights of landowners”

— PL99-3-000, pg. 27, par. 3

“In most cases it will not be possible to acquire all the necessary right-of-way by negotiation. Under this policy, a few holdout landowners cannot veto a project, as feared by some commenters, if the

applicant provides support for the benefits of its proposal that justifies the issuance of a certificate and the exercise of the corresponding eminent domain rights. The strength of the benefit showing will need to be proportional to the applicant's proposed exercise of eminent domain procedures."

— PL99-3-000, pg. 27, par. 2

Using our database, Friends of Nelson would like to provide FERC with the following information: 129 property owners out of 167 on the original route through Nelson (77%) denied Dominion Transmission Inc. permission to survey their properties. More recently, 94 property owners out of 140 (67%) on the new alternative routes through Nelson have similarly denied permission to survey. Couples, siblings, and all joint ownerships are treated as a single 'owner' for these counts.

While refusing permission to survey is an obvious indicator of a landowner's opposition to negotiating an easement agreement, these denial rates actually provide a large *underestimation* of the degree of opposition to this project among landowners in our county. FERC should not conclude that there is more opposition along the original route than on the newer alternative routes, as the alternatives were just announced in February and there has not been enough time to locate and communicate with all the newly impacted owners. Friends of Nelson is aware of only 11 landowners on the alternate route who have agreed to the survey, and there are 35 owners we have not yet reached.

It is essential to consider the degree of pressure people are under, and the tactics used by ACP, LLC to gain compliance. Landowners are reporting receiving phone calls, even at work, from surveyors telling them that their properties, especially those aspects most precious to them, are at much higher risk if they don't allow surveying. People naturally become fearful under duress and agree to permit the surveying, thus providing an unwitting indication of their willingness to proceed with the project.

Similarly, representatives for ACP, LLC (and previously Dominion Transmission, Inc.) mislead and placate landowners by emphasizing the preliminary nature of surveying, thus suggesting that there is no harm nor cost to having a one's property surveyed. Finally, the unrelenting pressure and implied threats from ACP, LLC just wears down the resolve of some people. This quote from Dominion spokesperson Jim Norvelle from last week demonstrates just how determined a landowner has to be to maintain a stance of opposition, even at this early stage:

"If owners deny access or fail to reply to the [first "request"] notice, another letter [the *first* Intent to Enter] will be sent after 15 days. If there is a second objection or still no reply after another 15 days, the company would then send a third letter notifying landowners that surveyors are legally able to enter the property. "We'd bring a case to court to affirm the law," Norvelle said."

From : [http://www.dailyprogress.com/newsvirginian/news/local/realtors-wintergreen-property-owners-oppose-pipeline/article\\_ae0a4c86-e891-11e4-a9b2-3b2c57882aef.html](http://www.dailyprogress.com/newsvirginian/news/local/realtors-wintergreen-property-owners-oppose-pipeline/article_ae0a4c86-e891-11e4-a9b2-3b2c57882aef.html)

Notice that Norvelle makes it clear that landowners have to object not once, not twice, but three times – and then ACP, LLC will sue to force access. Further, when landowners receive the Intent to Enter Notice, it says "We are coming." It does *not* say, "We are coming if you do not object."

People receive this notice even though they have already explicitly denied entry. It is clear that some recipients of so many foreboding notices end up believing that their denials are pointless and they finally acquiescence out of hopelessness.

When people hear “it’s a done deal” enough times, a defeatist psychological state is created. It is under such circumstances that landowners are pressured to “negotiate” (as though “negotiation” is at all possible when perceived choices are so limited.) In FERC’s own documents, such as the “Notice of Intent to prepare an Environmental Impact Statement” issued on Feb. 27, landowners are told that they *must* “negotiate” or *else*:

“If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the projects, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.”

According to the statement in the FERC notice, it would seem the only choice landowners have is to negotiate with Dominion for compensation or have a judge determine it. Landowners are told, even by FERC, that they do NOT have the choice to refuse the pipeline all together. Yet, ironically FERC will only deem the property owners who forgo “negotiation” in favor of eminent domain proceedings as “harmed.”

In light of the routine pressure, intimidation, and threats against landowners (apparently integral to the pipeline approval process), the strong opposition that Nelson County landowners have shown (and continue to show) is even more striking. Despite their fears, large numbers of Nelson County landowners have consistently shown their conviction that the Atlantic Coast Pipeline would harm their interests. On April 8, the 68 lawsuits filed against Nelson County landowners by Dominion Transmission, Inc. (to force access for surveying) were withdrawn by the ACP, LLC, due to a “clerical errors,”—But last week new notices “requesting” permission to survey were sent out all over again to everyone who denied survey previously along the various routes (this time under the new name, ACP, LLC). Friends of Nelson finds it heroic that the initial 68 landowners who were sued by Dominion held firm in their opposition through months of waiting for a court date. That these impacted citizens and many more, who are targeted only for protecting their properties, are being made to say “No,” yet again could be called harassment.

So, FERC, we ask you – how many “No’s” do you need before you consider an applicant’s use of eminent domain to be adversive?

Sincerely,

Joanna Salidis,  
President, Friends of Nelson