



September 6, 2016

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

RE: **Atlantic Coast Pipeline, LLC**  
**Atlantic Coast Pipeline**  
**Docket No. CP15-554-001**  
**Spruce Creek Route Variation**

Dear Secretary Bose:

The Virginia Outdoors Foundation (VOF), a body politic created by an Act of the Virginia General Assembly in 1966, holds nearly 4,000 easements that represent more than \$1 billion of public investment to ensure conservation of natural and cultural resources as enacted in the Virginia Constitution. We are writing to you in response to FERC's recent decision to conduct a formal scoping of the route alternative called the Spruce Creek Route Variation of the Atlantic Coast Pipeline (ACP) alignment. We have already written to you to express our deep concern that the ACP is currently proposing to cross ten (10) VOF open space easements in Bath, Highland, Augusta and Nelson Counties. If FERC adopts the Spruce Creek Route Variation, the ACP would cross an additional open space easement in Nelson County, known as Elk Hill.

Like the other 10 open space easements, **Elk Hill** has multiple important conservation values protected in perpetuity by the Deed of Easement (DOE). Conservation values of this protected open space easement include historic sites, scenic protection, open farm land, riparian areas, deciduous woodlands and diverse wildlife habitat. The South Fork of the Rockfish River runs along the boundary of the farm, and the Rockfish Valley Foundation also holds a trail easement along the river. Prior to the acceptance of the VOF open-space easement, the property was also subject to a separate conservation easement with the Commonwealth of Virginia for 2.57 miles of stream mitigation along the South Fork of the Rockfish River as mitigation for stream impacts from the US Route 29 Bypass around Madison Heights. Elk Hill, which includes a late 17th c. farmhouse, smoke house, tobacco barn with its original wooden tobacco press, double crib barn, and other out buildings was registered individually with the Virginia Department of Historic Resources on the Virginia Landmarks Registry in 2006. In 2007, it was also added to the National Register of Historic Places. In late June 2016, the Virginia Department of Historic Resources added the South Rockfish River Rural Historic District to the Virginia Landmarks Registry, and Elk Hill is a contributing property.

virginiaoutdoorsfoundation.org

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Although each of the other 10 open space easements have multiple conservation values, I would like to highlight for you a few of the attributes that make each special and worthy of perpetual protection:

**Teague:** This 736.88-acre property is a mix of open fields and forested slopes along the eastern slope of Back Creek Mountain just north of the Bath County line. It is used for pasturing cattle and recreation and contains over 1,700 feet of frontage on U.S. Highway 220, a Virginia Scenic By-way. Stony Run, a perennial tributary of the Jackson River, flows through the property for over 8,000 feet. It contains an intermittent tributary of the Jackson, Peak Run, which meanders back and forth across the property along its northern border. The property is adjacent to the George Washington National Forest along the southern property line.

The land that ACP seeks to convert from open space designation spans 5,053 feet (0.96 mile) and consists of approximately 8.9 acres in Highland County. As the ACP navigates over Back Creek Mountain it soon enters the Teague open-space easement along the property's northeast boundary. It crosses Peak Run, which is protected by a 35' riparian buffer. The ACP is then surveyed to traverse a steep knoll, then across Stony Run. Stony Run is prescribed a 50' riparian buffer in an effort to help protect native brook trout habitat. The ACP then moves across an alluvial deposit before exiting the property near Morris Run.

**Normandy Capital, LLC:** This 793.9-acre property is a mix of upland forest along the western slopes of Tower Hill Mountain nearly all of which is classified by the VDOF as "high priority conservation area." It fronts State Route 609 just south of Burnsville. The land contains approximately 1.3 miles of unnamed streams, half of which flow to Dry Run, designated by the Virginia Department of Game and Inland Fisheries as containing habitat supporting wild trout. The other half of the streams flows north and possibly into an underground aquifer in the Conservation Site. Approximately 360 acres of the property lies within the Burnsville Cove Conservation Site, over 9,200 acres identified by Virginia Department of Conservation and Recreation Division of Natural Heritage, (DCR-DNH), as having important karst resources. The property contains several distinct sinkholes along the western ridgeline. The property lies within the area designated by the Audubon Society as the Alleghany Highlands Important Bird Area, one of several regions in Virginia supporting habitat and species diversity for birds whose survival is at risk. The property shares approximately 1.7 miles of boundary with the George Washington National Forest (GWNF), and is visible from a public trail in the GWNF that runs along the ridge of Tower Mountain and fronts State Route 609 for over 2,800 feet in a region of Bath County that remains rural and completely undeveloped.

The land that ACP seeks to convert from open space designation for the pipeline spans 5,930 feet (1.12 miles) and consists of approximately 10.2 acres in Bath County. An additional area of 0.9 acre is sought by ACP for a permanent access road to the pipeline area. The total permanently impacted acreage is calculated at 11.1 acres. As the ACP enters the property, it moves in a southeast direction immediately through a restricted build area. The route then crosses a field and through a stream protected by a

35' riparian buffer. This portion of the stream is near the lowest point on the property and south of the Burnsville Cove Conservation Site, an area identified by the Virginia Department of Conservation and Recreation Division of Natural Heritage (DCR-DNH) as having significant karst resources including notable caves and sinkholes. The route of the proposed ACP continues to move across the property in a southeast direction eventually cresting the ridgeline of Tower Hill Mountain.

**Rice:** This 297.8-acre property is a mix of upland rolling fields (approximately 60 acres) and forested slopes bordering the George Washington National Forest and other lands protected by open-space easements held by the Grantee. It fronts and straddles Scotchtown Draft Road in a rural area of Bath County. The land borders the Jerk 'em Tight Roadless Area – one of the areas of the GWNF that is eligible for listing as a Wilderness Area. White Sulphur Spring Branch flows parallel to the road through this property for about ½ mile. There is a pond and an unnamed stream flowing to the Branch and on to Stuart Run, part of the Cowpasture River watershed. The property is visible from SR 627, but the land rises quickly on the eastern side of the road. Shenandoah Mountain Trail runs along the ridgeline of Sister Knob approximately 1.5 miles north of this property. Within the Audubon Society's Alleghany Highlands Important Bird Area.

The land ACP seeks to convert from open space designation spans 5,560 feet (1.05 miles) and consists of approximately 9.5 acres in Bath County. An additional area of 1.5 acres is sought by ACP for a permanent access road to the pipeline area. The total permanently impacted acreage is calculated at 11 acres. After circumventing Fort Lewis the proposed ACP GWNF-6 route approaches the Rice easement in a southeast direction somewhat parallel to Scotchtown Draft Road, State Route 627. The ACP enters the property at the north and follows a forested interior ridgeline in a south-southeast direction until it exits the property in the middle of the southeastern boundary. Soon after exiting the Rice easement another VOF easement is encountered and the trajectory of the ACP begins to transition to a northeast orientation. The permanent access road for the pipeline appears situated along an existing farm road which passes very close to a barn.

**Campbell (Chandler):** This 53.3-acre property is almost entirely forested with a small open field along State Route 629. The land shares a boundary with the George Washington National Forest and another property in open-space easement. This property contains over 2,300 feet of frontage on Stuarts Run, over 1,800 feet of frontage on White Sulphur Spring Branch and approximately 600 feet of an unnamed tributary of Stuarts Run. The confluence of these three streams is on this land and there is historical evidence of habitat for an endangered plant on this property. This property is also within the Windy Cove Conservation Site, which includes over 23,000 acres designated by Natural Heritage as containing important Karst Resources, and within 400 yards of the Sister Knob Conservation Site, an area containing over 1,700 acres identified by Natural Heritage as containing shale barrens for numerous endangered plants.

The land ACP seeks to convert from open space designation spans 850 feet (0.16 mile) and consists of approximately 1.5 acres in Bath County. The ACP descends a modest ridgeline before entering the middle of this open-space easement now owned by

Campbell. The ACP moves in an eastward direction, through forest, before crossing two streams, White Sulphur Springs Branch then Stuarts Run, both of which are protected by 50-foot riparian buffers. After exiting the property, the ACP turns northeast and proceeds through Armstrong Valley.

**Revercomb:** This 701-acre property is split by State Route 629 and runs from Walker Mountain on the east to Sister Knob on the west. The property borders the George Washington National Forest on its east and western boundaries and shares its northern boundary with a large VOF easement. Mill Creek runs through this land for approximately one mile at the base of Walker Mountain. Approximately one mile of Stuart Run and its tributaries flow through the property west of the road. A portion of the easement lies within the Windy Cove Conservation Site, an area noted for its karst topography and shale barrens. There is a sinkhole on the property but it is east of the road and not within the conservation site. The road allows the traveling public a view from Walker Mountain to Sister Knob, both of these mountains have public trails on the ridges. The land is used to raise cattle, hay and crop and the owner actively manages the timber. Approximately 50 percent of the soils are of statewide importance and 10 percent are USDA-designated Prime Agricultural soils.

Based on VOF field calculations the land ACP seeks to convert from open space designation spans 4,924 feet (0.93 mile) and consists of nearly 8.4 acres in Bath County. As the ACP moves northeast through Armstrong Valley it intersects the Revercomb easement at a point south of Mill Creek. The ACP then traverses the western flank of Walker Mountain near an approximate and consistent elevation of 2,000-feet. The flagged ACP line crosses five intermittent streams through an entirely forested section of the property before exiting on the northeast boundary between another VOF open-space easement and the George Washington National Forest.

**Koontz:** This 273.8-acre property consists of 492 acres, which has been subdivided into two properties along the boundary of State Route 629. The portion intersected by the proposed ACP route is owned by The Wilderness, LLC and contains 273.87 acres, tax map 36-1, on the east side of State Route 629. Mill Creek runs through this portion of the easement for more than 3,500 feet, which is located at the base of Walker Mountain. This property is surrounded by the George Washington National Forest to the east and west and VOF open-space easements to the north and south.

Based on VOF calculations the land ACP seeks to convert from open space designation spans 3,600 feet (0.68 mile), and consists of nearly 6.1 acres in Bath County. As the ACP continues northeast it enters this easement at a point in very close proximity to the George Washington National Forest. Similar to the route on the Revercomb easement, the ACP is on the eastern side of Mill Creek as it traverses the western flank of Walker Mountain near an approximate elevation of 2,000-feet. The ACP line works its way through a forested section of the property then into an orchard and open field before continuing into the next property, which is also in VOF open-space easement and also owned by the Wilderness, LLC.

**The Wilderness, LLC:** This 729.3-acre property consists of open rolling fields and forested slopes that border the George Washington National Forest for nearly two miles. The property contains approximately one mile of frontage on Mill Creek including eight unnamed tributaries and three man-made ponds. State Route 629 bisects the property, providing scenic enjoyment to the driving public. Portions of the bank of Mill Creek are in recovery through the NRCS CREP program and more than 50 acres of the property have been planted with warm-season grasses through the NRCS WHIP program. The primary dwelling on the property is historic, dating to 1797, and the property is adjacent to another VOF open-space easement to the southwest.

Based on VOF calculations, using the Armstrong Route Variation - Exhibit A2, the land ACP seeks to convert from open space designation for the pipeline spans 5,505 feet. With a right-of-way of 75-feet the pipeline would permanently occupy an approximate area of 9.5 acres. The inferred access road would cross 2,980 feet, and with an assumed width of 30-feet the approximate area of this permanent road would roughly near 2.05 acres. Therefore, the total revised acreage to be converted from open space designation consists of approximately 11.55 acres, not 10.5 acres. The Armstrong Route Variation of the ACP continues northeast into this easement for approximately 1,600 feet before crossing Mill Creek, a waterway protected by a riparian buffer. The ACP then climbs the south end of Brushy Ridge and continues along the ridgeline for nearly 3,000 feet before exiting the property and entering the George Washington National Forest. The route of the permanent access road for the ACP appears to be the landowner's driveway to their historic 1797 dwelling, the road then transitions into a farm road.

**Bright:** This 339.7-acre property is located in Bath County and is a mix of open fields used to raise cattle and to grow hay, and upland hardwood forests that are selectively timbered. The property shares three borders with the George Washington National Forest (GWNF) and is located at the end of a VDOT road in a valley called "Bright's Hollow." This family has owned this property for at least 100 years, there is a small house on the farm and several barns. A public hiking trail within the GWNF runs parallel to the property's southern boundary. The creek on the property is called Back Draft and it is a tributary of Mill Creek.

The land that ACP seeks to convert from open space designation spans approximately 2,100 feet and consists of approximately 3.6 acres in Bath County. The ACP enters this property from the George Washington National Forest and continues in northeast direction along the top of Brushy Ridge. The pipeline follows the northwestern boundary of the property before returning into the George Washington National Forest.

**Berry:** This 339.7-acre property straddles Augusta and Bath Counties and is a mix of open fields and forested areas bisected by State Route 629 in Deerfield Valley. The property shares 3,700 feet of boundary with the George Washington National Forest. The "Jerk 'em Tight" Hunter Access Road, which allows public access to the GWNF, is within 100 feet of the property boundary. The area is dotted with small farms and hunt camps and remains rural and relatively undeveloped. The land that ACP seeks to convert from open space designation spans 1,460 feet and consists of approximately 2.5 acres in

Bath and Augusta Counties. The ACP enters this property from the south after leaving the George Washington National Forest and continues in northeast direction along the top of Brushy Ridge. Along this forested and rocky ridgeline the pipeline exits Bath County and enters Augusta County. After leaving this property the ACP begins its descent into Deerfield Valley.

**Saunders:** This 356.3-acre property is located in the Rockfish River watershed in southeastern Nelson County, near an area known as “Wheeler Cove.” It is comprised of mostly mountainous terrain on the slopes of Willoughby and Bailey Mountains, along and above the Norfolk-Southern Railroad. Portions of the property drain to Falls Run and to Dutch Creek, which is listed by DEQ as “fully supporting” wildlife habitat and recreational uses. The higher elevations of the property are visible from SR 840, SR 639 and SR 617 (Rockfish River Road), which is a designated State Scenic Byway.

The land that ACP seeks to convert from open space designation spans 1,800 feet (0.34 mile) and consists of approximately 6.6 acres in Nelson County. A portion of this alignment runs through a clearing near the top of Willoughby Mountain, and then down the ridgeline toward Bailey Mountain, through previously-timbered hardwood forestland, paralleling an existing ATV trail. The installation of the ACP will require clearing and grading of a portion of previously-timbered hardwood forest area along the ridgeline in the northwestern portion of the easement property. This area was timbered approximately 25 years ago, and has been allowed to naturally regenerate. This portion of the property is within the designated “No Build” area above the 1000’ USGS contour line. The edge of the potential 125’ temporary construction easement may come within 100’ of the edge of the 35’ stream buffer on an unnamed tributary of Falls Run. Portions of this area of the property are somewhat visible from SR 639 (Laurel Road), but the specific alignment will not be visible from SR 639 due to existing vegetation and topography along the road.

VOF would like to assert its previous position, which was clearly stated in our letters to you in June 2014, March 2015 and April 2016 that the ACP should avoid crossing or intersecting VOF open space easements. An open-space easement is a legal interest in real property that creates a relationship between the holders of the easement and the property owner. By means of the easement, VOF — and by extension, the Commonwealth of Virginia — has an interest in specific conservation values of the property and a legal obligation to protect these values. In general, VOF easements provide important public benefits by protecting in perpetuity significant tracts of mostly undeveloped land that contribute to the protection of water quality, productive soils, natural heritage resources, historic resources, and scenic viewsheds. The Commonwealth’s investments in conservation could be jeopardized by the construction, operation and maintenance of a large-scale gas transmission line. The degradation of protected resources may also result in a loss of confidence in the effectiveness of open-space easements by the public.

The GWNF-6 route change to avoid U.S. Forest Service lands resulted in significant potential impacts to VOF open-space lands. If this additional route change (Spruce Creek Route Variation) is adopted, a total of 11 open-space easements in Highland, Bath and Augusta and

Nelson Counties would suffer permanent impairment of conservation values. These properties include areas of high ecological integrity, high priority conservation area forests, critical karst resources, scenic protected areas, pristine trout streams and important historic resources. As stated in our previous letters, VOF open-space easements represent the fulfillment of state policy and as real property interests of the Commonwealth are not subject to condemnation. If an encroachment into a VOF easement of this nature is proposed, an application for a conversion or diversion of open space land as provided for in VA Code §10.1-1704 is required. Due to the proposed timing of the ACP project, VOF requests that ACP complete and submit an application as soon as possible for the proposed crossing of the Elk Hill open space easement, just as the company has done for the other 10 easements.

Section 10.1-1704 of the Virginia Open-Space Land Act states:

*A. No open-space land, the title to or interest or right in which has been acquired under this chapter and which has been designated as open-space land under the authority of this chapter, shall be converted or diverted from open-space land use unless (i) the conversion or diversion is determined by the public body to be (a) essential to the orderly development and growth of the locality and (b) in accordance with the official comprehensive plan for the locality in effect at the time of conversion or diversion and (ii) there is substituted other real property which is (a) of at least equal fair market value, (b) of greater value as permanent open-space land than the land converted or diverted and (c) of as nearly as feasible equivalent usefulness and location for use as permanent open-space land as is the land converted or diverted. The public body shall assure that the property substituted will be subject to the provisions of this chapter.*

*B. A public body may convey or lease any real property it has acquired and which has been designated for the purposes of this chapter. The conveyance or lease shall be subject to contractual arrangements that will preserve the property as open-space land, unless the property is to be converted or diverted from open-space land use in accordance with the provisions of subsection A of this section.*

The VOF Board of Trustees is the public body that makes these determinations, including the satisfaction of the substitute land requirement. Previous 1704 cases demonstrate that the substitute real property must represent greater conservation value than the land converted or diverted. This results in properties with significant natural and cultural resources and public benefit and much larger undeveloped tracts of protected land. VOF requires site specific mitigation measures as well for utility rights-of-way crossing easements such as limiting the approval to the specific request. If the ACP project were to move forward, we would limit the approval to one 42-inch diameter underground natural gas pipeline. We would also require re-forestation of the impacted areas outside of the permanent right-of-way and other site specific mitigation measures relevant to each open-space easement.

**As FERC is specifically responsible for preventing and minimizing environmental impacts from natural gas projects, we urge you to reject the Spruce Creek Route alternative as a viable option and not include it in the DRAFT EIS. We would also implore you to reconsider the primary route that will cross 10 other VOF open-space easements.**

It is our hope that full consideration will be given to the importance of these easement properties that provide critical public benefits by protecting in perpetuity lands with significant and extensive conservation values. Please contact me at 804-577-3337 or via email at [mlittle@vofonline.org](mailto:mlittle@vofonline.org) with any questions, comments or concerns.

Respectfully,



Martha Little  
*Deputy Director, VOF*

CC [EMAIL ONLY]:

- Robert Bisha, Director – Environmental Business Support, Dominion Resources Services, Inc.
- Robert P. Hale, Sr. Manager, Environmental, Dominion Resources Services, Inc.
- Kevin Bowman, Environmental Protection Specialist (OEP), FERC
- David Swearingen, Gas Branch Chief 4, Division of Gas Environment & Engineering, FERC
- Brett Glymph, Executive Director, VOF