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February 22, 2018

**Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426**

Re: Docket #CP15-554 et.al.

Dear Secretary Bose,

The following constitute comments on the proposed Treatment Plans and Mitigation for impacts to cultural and historical resources in Rockfish Historical District and Warminster Historical District from the proposed Atlantic Coast Pipeline from the Nelson County Board of Supervisors, a consulting party in the Section 106 process for the Atlantic Coast Pipeline, Docket# CP15-554 et.al. Our comments include all of the attached comments of the Rockfish Valley Foundation (RVF) and Nelson County Historical Society which are considered privileged. The comments in this letter however are not to be considered privileged and, therefore will be available for public review.

On September 8, 2015 the Nelson County Board of Supervisors adopted Resolution R2015-69, *Resolution Petitioning the Federal Energy Regulatory Commission to Comply Fully with Section 106 of the National Historic Preservation Act of 1966, as Amended, to Ensure that the Atlantic Coast Pipeline Avoids or Minimizes any Adverse Effects to Historic Districts and Other Historic Properties in Nelson County* (attached). This resolution was submitted to the FERC Docket CP15-554 on September 11, 2015.

Nelson County Board of Supervisors, as a consulting party to the Section 106 Process, was presented a Programmatic Agreement which the Board declined to sign. We have been aware of numerous procedural deficiencies in the Section 106 process, including but not limited to:

- **FERC did not invite all counties and localities along the proposed ACP route to apply for consulting party status, as required by Section 106. Only Nelson County has subsequently been granted Consulting Party Status, not because it was offered but**

because FERC was actively petitioned to grant it. Among those denied consulting party status include Preservation Virginia, Buckingham and Augusta Counties, the Rockfish Valley Foundation and the Nelson County Historical Society.

- In an April 8, 2016 letter to Kimberly Bose, FERC Secretary, the Nelson County Historical Society, Rockfish Valley Foundation along with 5 other Nelson County citizen groups requested that FERC conduct a cultural attachment survey of Nelson County. No response was received.
- FERC initially failed to identify any cultural and historical sites that would be impacted by the ACP. 3 have now identified only because of intervention by the Virginia Department of Historical Resources.
- Cultural and historical sites in Wingina and Wintergreen, Virginia have neither been identified or recorded by FERC.
- FERC has failed to consider avoidance to remedy the adverse effects to the Rockfish and Warminster Historical Districts in order to avoid significant impacts to these resources.
- On January 12, 2018 the Commonwealth of Virginia and Atlantic Coast Pipeline, LLC entered into a Memorandum of Agreement the Programmatic Agreement determining amount of mitigation monies available. There was nothing transparent about the process as it was handed to us for comment, signed, sealed and delivered. This was finalized before the comments from Rockfish Valley Foundation, Nelson County Historical Society and Nelson County BoS were submitted, much less considered.
- The process for awarding and dispersal of mitigation fund is unclear and unspecified.

It has been recognized that the construction of the Atlantic Coast Pipeline (ACP) through Nelson County would physically and irreversibly scar and disrupt one of Virginia's most historic and intact cultural landscapes. It will cause irreparable harm to families who have lived and worked on the same land for generations and who are "culturally attached" to their land.

The ACP's threat to cultural attachment in Nelson County is particularly acute given our four-hundred, seventy-one square miles of fertile valleys, sparkling rivers, pastures and orchards and gentle mountains, its predominantly agricultural character, and its documented life ways and traditions of generations of families who lived and grew up here, worked on the farms and industries and spent their lives in sight of the Blue Ridge Mountains and foothills. The attachment is especially felt by the descendants of slaves who struggled after the Civil War to acquire property on which their ancestors lived, worked and died. The ACP would slice through the heart of that relationship of culture to landscape as it would bisect the both the community and the landscape.

These impacts are not limited to the specific architectural resources and viewsheds mentioned in the FERC analysis and treatment plans. FERC seems to assume that plantings, historic documentation, information displays and financial payments are somehow sufficient and make cultural and historical destruction and desecration acceptable.

The scar left by the ACP across the face of our mountains, farms, rivers and streams and historic places would deform a unique and pristine natural environment rich in cultural memory and traditions that bring home the historic and cultural contributions of generations of Nelson families—white, black, red and brown. This unique and vital interplay of historic and natural landscapes is increasingly rare in this country. Qualities and cultural values that have been carefully stewarded on the land in Nelson over many generations would be altered by the ACP.

Moreover, the 29 miles of proposed Atlantic Coast Pipeline (ACP) would bisect Nelson County and destroy the cultural and historical integrity of the entire County in perpetuity.

The significance of the African American Community is not limited to the Warminster and South Rockfish Valley Rural Historic Districts. The analysis and treatment plans do not recognize the borders of designated districts or even county lines. Nor is the evisceration of a historic culture a one-time event. Its impact lasts many lifetimes as has the history that has proceeded it.

For example, the proposed James River horizontal drill site in historic Warminster District lies on both sides of the James River as did the original King's grant, as was the settlement pattern for Monahassanough, the Monacan village mentioned in John Smith's diary and excavated at Wingina by UVA archaeologists.

Therefore, Nelson County's agricultural, historical, cultural and archeological significance must be treated as a whole by any Treatment Plan mitigating these damages: ie. damage to the parts of the County must be addressed as damage to the whole county.

These realities are reflected by comments submitted to FERC by individuals whose history and culture would be indelibly destroyed by the ACP.

"I strongly believe that a decision to use this Wingina community on the ACP proposed route a target practice of racial discrimination. I write to increase the awareness, as it goes underreported by ACP's lacking narrative."-- Rhamonia Woodson, Wingina

"My family is 'this community' of African Americans, related by slavery. All family names in this area of Wingina are the 'same names' given to us by the Cabell family. We continue to live here; since the days of slavery. We've built this community 'then' and continue to thrive here today. We are of this land and the land is of us. We have sacrificed for this community and worked hard to keep our land in the family. I believe that is pipeline route is racially-motivated, because all of the proposed routes have affected my family in Wingina, and all have impacted long-standing African American families, most with smaller lots."—Gloria Woodson, Wingina

“Now, we have another mountain to climb, much higher than any we've ever known in this community. Our ancestors have slaved for many, and fought many wars, for us to be here today. Now, it seems, it's our turn to climb the mountain for our family rights to own land, have a home, and live with peace and tranquility...this proposed route will negatively affect our right to live in peace and tranquility, our very right to own land that we can pass on to our future generations. The construction will negatively affect our water sources, our air and our ability to provide land for building homes for our heirs. We are a small community and our small parcels of land are all we have to pass on to our children.”—Hilda Rose, Wingina

These impacts cannot be mitigated. FERC and Atlantic have incorrectly confused promises to *mitigate* cultural and historical impacts, with legal requirements that pipelines *avoid* recognized culturally and historically sensitive areas.

It also is of note that on December 28, 2017, the Virginia DEQ and Atlantic entered into a Memorandum of Agreement for Mitigation of Virginia Forest Fragmentation Impacts of the Atlantic Coast Pipeline. The agreement allocates \$57.85m to mitigate forest fragmentation impacts “to otherwise benefit natural resources in Virginia.” Money is allocated to the Virginia Outdoors Foundation (\$24.65m), the US Endowment for Forestry and Communities (\$9m), the Charlottesville Area Community Foundation (CACF) (\$5m), the Virginia Association of Soil and Water Conservation Districts (\$11.5m), the Virginia Environmental Endowment (\$7m) and the US Geological Survey (\$.7m).

Areas not directly impacted by the proposed ACP will benefit from these mitigation dollars; for instance, the \$5m CACF funds are targeted to be spent totally in Albemarle County at Biscuit Run State Park. Not a single inch of the ACP will be located in Albemarle County.

It is noteworthy that not a single penny of these allocated mitigation funds for fragmentation impacts has been allocated to benefit Nelson County.

This is significant because of the importance of Nelson County's forests and forestland to the cultural and historical values of the county. These are the forests that the people of Nelson County have known for generations. 80% of Nelson County is covered by forest. Nelson County has more high-quality core forests than most counties in VA and boasts perhaps the most intact forested areas in the Piedmont. The Sugarloaf Forest Conservation Area, incorporating the adjacent Shields Gap Forest, is the largest of the unfragmented Piedmont forests identified by the Nature Conservancy, lies almost entirely within Nelson County and would be bisected by the ACP.

ACP will destroy nearly a mile of mature hardwood forest located in the Dutch Creek Agricultural and Forestal District an entity established in 2003 under Virginia Code § 15.2-4307 - legislation passed for the “primary purposes of conserving and protecting agricultural and forestal lands.” Rather than mitigation for these egregious violations, the MOA provides funds designated for “forest fragmentation” specifically to build parking lots, roads, bathrooms, etc. at Biscuit Run Park, as previously mentioned, in Albemarle County.

Nelson County forests are scheduled to be totally bisected by a 125' clearcut for a total of 29 miles. Including clearing for new access roads, nearly 440 acres of Nelson County's forests will be destroyed. This should be considered a significant part of the Section 106 analysis.

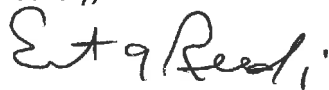
In conclusion, the Nelson County Board of Supervisors wants to highlight the procedural deficiencies in the SEC. 106 process and Treatment Plan analysis. We recognize and support the comments and proposals put forth by the Rockfish Valley Foundation and the Nelson County Historical Society on the Treatment and Mitigation Plans for the Rockfish Valley and Warminster Historical Districts. These are, however, totally insufficient to remedy the destruction to cultural and historical sites and culture and forests throughout Nelson County which money cannot mitigate.

We are again reminded the extent to which Dominion, our Commonwealth, and federal government have failed to strive for a just compensation of the cultural damages to our communities and people. No individual, government, much less a corporation should be allowed immunity to the damages and liability that may be caused by this pipeline in a single lump-sum payment.

Nothing in these comments shall be construed as precluding or otherwise barring the County of Nelson from recovering damages or equitable remedies from Atlantic for spills or leaks or damages stemming from the construction or operation of the ACP or from legal challenges for Sec. 106 procedural or substantive violations.

Thank you for this opportunity to comment.

Sincerely,



Ernie Reed

Nelson County Board of Supervisors

Attachments: Nelson County Board of Supervisors Resolution R2015-69
Rockfish Valley Foundation, Cover Letter
Rockfish Valley Foundation, Comments on Mitigation and Treatment Plan
Rockfish Valley Foundation, Attachment 1a
Nelson County Historical Society, Cover Letter
Nelson County Historical Society, Comments on Mitigation and Treatment Plan

cc: Mr. Roger Kirchen, Virginia Department of Historic Resources

Mr. John T. Eddins, Advisory Council on Historic Preservation
Mr. Justin Sarafin, Preservation Virginia
Ms. Molly Plautz, Dominion Energy
Mr. Richard B. Gangle, Dominion Energy Services, Inc.
The Honorable Tim Kaine
The Honorable Mark Warner
The Honorable Tom Garrett

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Mr. Richard B. Gangle
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Dominion Energy Services, Inc.
5000 Dominion Boulevard
Glen Allen, VA 23060

The Honorable Tim Kaine
231 Russell Senate Office Building
Washington, D.C. 20510

The Honorable Mark Warner
703 Hart Senate Office Building
Washington, DC 20510

The Honorable Tom Garrett

415 Cannon House Office Building
Washington, DC 20515



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11 September, 2015

STEPHEN A. CARTER
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Administrative Assistant/
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DEBRA K. MCANN
Director of Finance and
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Hon. Norman C. Bay and Commissioners
C/o Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 1st Street, N.E.
Washington, D.C. 20426

Re: Nelson County, Virginia – Atlantic Coast Pipeline Project (Resolution R2015-69)

Dear. Chairman Bay, Honorable Commissioners and Secretary Bose:

Please find enclosed from the local government of Nelson County, Virginia, Resolution R2015-69 (“Resolution Petitioning The Federal Energy Regulatory Commission To Comply Fully With Section 106 Of The National Historic Preservation Act Of 1966, To Ensure That The Atlantic Coast Pipeline Avoids Or Minimizes Any Adverse Effects To Historic Districts And Other Historic Properties In Nelson County”), which was approved by the Nelson County Board of Supervisors in regular session conducted on September 8, 2015.

It is requested that the Board of Supervisors’ resolution become a part of the public record on the proposed Atlantic Coast Pipeline Project and that the Commission and FERC staff give close and careful attention to the provisions of R2015-69, which petitions the Commission not only to insure the ACP Project fully complies with Section 106 of the National Historic Preservation Act of 1966, as amended, but also provides a concise narrative of the importance and value of cultural and historic resources, tourism and (the) natural beauty of Nelson County to its local government and its citizens.

Nelson County relies upon you and the staff of FERC to insure every aspect of the proposed Atlantic Coast Pipeline Project in its efforts to secure approval of the project from the Commission fully complies with federal law and regulation.

Please do not hesitate to contact the below signed should additional information be required pertinent to the enclosed resolution from Nelson County.

Respectfully,

A handwritten signature in black ink that reads "Stephen A. Carter". The signature is written in a cursive style.

Stephen A. Carter
County Administrator

Cc: Board of Supervisors, Nelson County
Mr. Bill Scarpinato, Jr. Manager, Environmental, Atlantic Coast Pipeline
Hon. Terrence R. McAuliffe, Governor of Virginia
Hon. Molly Ward, Secretary of Natural Resources, Virginia
Hon. Robert Hurt, U.S. House of Representatives
Hon. Mark R. Warner, U.S. Senate
Hon. Tim Kaine, U.S. Senate
Hon. R. Creigh Deeds, Senate of Virginia
Hon. Richard Bell, Virginia House of Delegates
Hon. Matthew Farris, Virginia House of Delegates
Mr. Tim Padalino, Director of Planning and Zoning, Nelson County
Ms. Susan A. King, Dominion Resources, Inc.



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**RESOLUTION R2015-69
NELSON COUNTY BOARD OF SUPERVISORS
RESOLUTION PETITIONING THE FEDERAL ENERGY REGULATORY COMMISSION
TO COMPLY FULLY WITH SECTION 106 OF THE NATIONAL HISTORIC
PRESERVATION ACT OF 1966, AS AMENDED, TO ENSURE THAT THE ATLANTIC
COAST PIPELINE AVOIDS OR MINIMIZES ANY ADVERSE EFFECTS TO HISTORIC
DISTRICTS AND OTHER HISTORIC PROPERTIES IN NELSON COUNTY**

WHEREAS, Nelson County is safeguard to an outstanding Virginia legacy of historic places that are listed on the Virginia Landmarks Register and National Register of Historic Places or have been determined to be eligible for listing on the state and national registers, and

WHEREAS, Nelson's historic places are authentic historic sites where important local, state and national events took place; where historic personages of great renown lived; where exist historic plantation seats and their farmlands which have been farmed intensively for over three centuries; where every period and style of architecture is displayed in living outdoor classrooms; and where significant prehistoric and historic archaeological sites like the Monacan sites on the James or the burials of enslaved people near old Warminster evince a continuum of human settlement by Native Americans, Europeans and African-Americans in Nelson over thousands of years, and

WHEREAS, Nelson's historic places tell unique Nelson stories and recall the historic and cultural contributions of Nelson families, and bring our heritage home to our children and fellow citizens, and

WHEREAS, Nelson's historic places have high value to a broad spectrum of Virginians and visitors who are drawn to the authenticity and richness of our historic places,

WHEREAS, Nelson's rural economy with its reliance on a local tourism industry is fundamentally reliant upon an intact authentic rural landscape, unspoiled Blue Ridge Mountain scenery and high quality public landscapes managed for outdoor recreation, scenic value and environmental health, and

WHEREAS, it is the policy and goal of Nelson County to preserve and protect the historic character and features of Nelson County and a stated principle under that goal is to recognize and honor the stewardship of historic properties and sites through Historic Designation programs; and

WHEREAS, it is the policy and goal of Nelson County to encourage and establish historic districts in Nelson in support of the County's tourism program and to protect their historic, architectural and cultural significance, and

WHEREAS, it is the policy and stated goal of Nelson County to support and encourage tourism as a viable means to diversify Nelson's economy, and to promote historic sites that are accessible to the public and to promote local greenways and other recreational opportunities, and

WHEREAS, the designation of Nelson's rural historic districts recognizes the historic importance and continuing vitality of Nelson's agricultural economy; and

WHEREAS, proposed routes and alternative routes for the Atlantic Coast Pipeline directly intersect and threaten to affect adversely rural historic districts and other historic properties that are on or eligible for listing in the National Register of Historic Places; and

WHEREAS, open and transparent project planning and coordination among governmental agencies as well as sound resource-based planning and decision making are vital to the preservation of Nelson's historic places.

NOW THEREFORE BE IT RESOLVED, the Nelson County Board of Supervisors petitions the Federal Energy Regulatory Commission to comply fully with Section 106 of the National Historic Preservation Act of 1966, as amended, to ensure that the Atlantic Coast Pipeline avoids or minimizes any adverse effects to historic districts as well as to other historic properties in Nelson County; to seek and consider the public's views of the Atlantic Coast Pipeline at every stage of the federal review process including the views of designated representatives of Nelson County, the Nelson County Historical Society, the Rockfish Valley Foundation and the Monacan Indian Nation as consulting parties; to consult closely with every federal agency and state agency that has stewardship responsibility for some aspect of the historic, cultural and natural resources affected by this project; to consider the impacts of this project on historic buildings, historic structures, historic districts and archaeological sites, historic cemeteries, burial grounds, cultural landscapes and view sheds that could be directly or indirectly impacted adversely by this project; to employ state of the art elevation modelling and photo simulation to show the visual impact of the project on the cultural landscape of Nelson County; and to take account of those visual and all other impacts in evaluating preferred responsible routes for the Atlantic Coast Pipeline in Nelson County; .

AND BE IT FURTHER RESOLVED that the Nelson County Board of Supervisors directs the Clerk of the Nelson County Board of Supervisors to send a copy of this resolution to the Federal Energy Regulatory Commission, Governor of Virginia Terry McAuliffe, Secretary of Natural Resources Molly Ward, Director of the Virginia Department of Historic Resources Julie V. Langan, Virginia Senator Creigh Deeds, Virginia Delegate Richard Bell, Virginia Delegate Matthew Fariss, Chairman of the President's Advisory Council on Historic Preservation Milford Wayne Donaldson, U. S. Senator Mark Warner, U.S. Senator Tim Kaine, U.S. Congressman Robert Hurt, Atlantic Coast Pipeline LLC, and Dominion Transmission, Inc.

Adopted September 8, 2015

Attest:  Clerk
Nelson County Board of Supervisors

Document Content(s)

FERC Letter and Resolution-Public.PDF.....1-11