



County of Roanoke **PIPELINE ADVISORY COMMITTEE**

MEETING MINUTES APRIL 25, 2016

Committee Members Present:

Louise Garman (Catawba)
Steve Hanes (Bent Mountain/Preserve Roanoke)
A. J. Phillips (Sencontrology)
Joyce Waugh (Roanoke Regional Chamber)
David C. Perry (Blue Ridge Land Conservancy)
Shawn Day (Designee for Mountain Valley Pipeline)
Gary Robertson (Western Virginia Water Authority)
Deedie Kagey (Vinton)
Sean Horne (Roanoke Regional Home Builders)
Jim Woltz (Planning Commission)
Robert Guiles (Catawba Civic League)
Ann Rogers (Cave Spring)
Roberta Bondurant (Windsor Hills)

Committee Members Absent:

Max Beyer (Hollins)
Dan Miles (Roanoke Valley Resource Authority)
Keith Garman (Bradshaw Citizens Association)

Staff Present:

Richard Caywood, Assistant County Administrator
Ruth Ellen Kuhnel, County Attorney
Amy Whittaker, Public Information Officer
Susan McCoy, Recording Secretary

Guests:

Jennifer Frye, Chief, Western VA Regulatory Section, U.S. Army Corps of Engineers
Todd Miller, WVRS Project Manager, Norfolk District, U.S. Army Corps of Engineers

Call to Order

Mr. Caywood called the meeting to order at 12:05 p.m. He introduced Ms. Jennifer Frye and Todd Miller, United States Army Corps of Engineers (USACE).

Citizen Comments

Mr. David Sligh, Wild Virginia, requested the USACE discuss special aquatic sites and practicable and impracticable alternatives for the protection of the wetlands and protected species.

Committee and Staff Comments

Mr. Caywood discussed the status of recent Mountain Valley Pipeline (MVP) surveying. He stated the County's focus is to keep people safe and free from conflict, noting the courts

will need to resolve the disputes. He stated the County requested that no surveying be done today so citizens could attend the meeting but MVP declined the request. Mr. Day stated MVP's reply to the county included an offer to reschedule with any landowners who wanted to coordinate a more convenient time, and that it was his understanding that no landowners contacted MVP to reschedule survey activities for that day. Ms. Kuhnel stated MVP has hired counsel, Mr. Penn Stuart, Esquire. She stated the County cannot give personal direction to citizens but does appreciate citizen input.

Ms. Garman stated citizens are not being notified of surveying on their property. Ms. Bondurant stated survey issues are an important topic, including the watershed and the parkway. She stated MVP has been disingenuous regarding notifying citizens when they are going to survey properties. She stated MVP is not working with the citizens regarding surveying issues. Mr. Day stated surveys can be rescheduled if the citizen makes the request. Mr. Caywood stated the consistent message from landowners is surveyors are coming onto the property at times other than those listed in the notices. He asked that information be provided to citizens regarding actual times surveyors will be on the property so property owners can be present during at that time.

Mr. Caywood introduced Ms. Jennifer Frye and Mr. Todd Miller, USACE. Ms. Frye discussed the Harbors Act of 1899 regarding safe and free navigation of waters. She discussed definitions, including geographic jurisdiction and activity jurisdiction. She stated according to Congress bodies of water are navigable but not the bridges. She reviewed the Clean Water Act of 1972, noting these regulations are administered by the Environmental Protection Agency (EPA). She reviewed types of permits which are issued by the Secretary of USACE. She reviewed the Endangered Species Act (ESA), Coastal Zone Management Act, National Environmental Policy Act (NEPA), Fish and Wildlife Coordination Act, and National Historic Preservation Act (NHPA). She stated the two types of permits which may be issued are general and individual. Ms. Frye discussed FERC's role as the lead agency, noting they have the primary responsibility for preparing the Environmental Impact Statement (EIS). She stated USACE cannot make a decision until FERC completes the NEPA, ESA and NHPA reports. Mr. Miller stated the USACE report hinges on the reports from other agencies but MVP has to have the USACE permit in order to move forward with the project. He discussed the importance of the surveys in order to check data to determine impacts to include in the required reports. He stated the USACE cannot move forward until the reports are completed. Ms. Kuhnel stated the USACE will be entering properties to verify data which has been submitted in the reports.

Mr. Dave Trible inquired about status of wetlands which have not been delineated by MVP. Ms. Frye and Mr. Miller discussed this issue. Mr. Phillips inquired how to have USACE come onto the property. Ms. Frye discussed this issue, noting a request needs to be submitted by the landowner or landowner's consultant. Mr. Woltz inquired about procedure if consultant and USACE decisions do not agree. Ms. Frye stated a citizen can file an appeal of action. Ms. Bondurant inquired about the timeframe regarding the DEIS. Ms. Frye discussed this issue, noting timing is dependent upon the size of the area and resources are limited. Mr. Miller, Ms. Frye, and the Committee discussed the process to have USACE review findings of their property. Mr. Caywood discussed advantages of allowing USACE to enter property and inspect water features. Mr. Miller stated they

would compare the findings of the independent consultant and MVP and make their own determination, noting they follow the science and data.

Mr. Thom Leedom, Blue Ridge EcoLogical Services, inquired if it is the responsibility of the USACE research findings if they are appealed. Ms. Frye and Mr. Miller affirmed it is the USACE responsibility. Ms. Frye stated USACE cannot make decision of the CWA, noting it can determine if an action affecting wetlands or a waterway is practicable or feasible. She noted they do not regulate bridges. Mr. Caywood discussed water crossings hand how FERC classifies water. Ms. Bondurant inquired about USACE permitting system. Ms. Frye discussed the permitting process, noting it is the responsibility of the applicant to abide by the terms of the permit. She discussed FEIS and NEIS. Mr. Trevano discussed the responsibility of the applicant to document and delineate all wetlands. Ms. Frye discussed compensatory mitigation. Mr. Trevano stated that digging a trench would act as a French drain, noting water would move off in an unnatural way impacting the wetlands. He stated it would cause emergent wetland impact applicable to construction. Ms. Frye stated it is the burden of the applicant to make sure this does not occur, noting including this issue in the proposal would make it a compliance issue.

Ms. Bondurant inquired about possible aquifer issues. Ms. Frye stated the USACE does not handle groundwater issues. Ms. Rogers discussed the EPA Cleanwater Rule and how it may impact the headwaters. Ms. Frye discussed lawsuits regarding this issue. Mr. Phillips discussed that MVP considering directional drilling near railroad and Spring Hollow Reservoir. Mr. Caywood stated this is called Hydraulic Directional Bore (HDB). Mr. Phillips inquired if any project with HDB has been used for a large pipeline project. Ms. Frye stated decisions made in the Court of Appeals would be applied throughout the country. Mr. Guiles inquired about jurisdiction coverage of the USACE. Ms. Frye discussed this issue. Mr. Guiles stated our area could learn from the Dominion project. Ms. Frye reviewed the areas the MVP crosses into other districts and discussed coordination of districts. Mr. Trevano stated he cannot understand the use of nationwide permitting, requesting that the public be kept involved. Ms. Frye reiterated FERC is the lead agency.

Ms. Bondurant discussed the unprecedented nature of this project, including slopes and wetlands. Mr. Woltz inquired about having nationwide permits for non-utilities. Ms. Frye affirmed it is common, noting the definition is broad. Mr. Horne inquired if it is common to deny permits. Ms. Frye discussed normal permitting pathways and project scopes. She discussed the restricted Freedom of Information Act (FOIA) process, construction methods, and post construction requirements. Mr. Miller and the Committee discussed process if USACE flags an area. Mr. Miller and Ms. Frye discussed the FOIA process if information is desired about a certain property. Mr. Phillips expressed concern regarding crossings of waterways and slopes leading to waterways, including Peters Mountain and Poor Mountain. Ms. Rogers noted it will permanently impact tree areas changing them to grassy areas.

Ms. Frye stated additional questions can be forwarded to them through the County Attorney's office. Mr. Caywood stated future questions can be sent to Ms. Kuhnel or to him and they will facilitate presenting the questions to USACE.

Mr. Caywood and the Committee discussed future meetings. The consensus of the Committee was to conduct future Committee meetings as needed.

With no further business or comments, Mr. Caywood adjourned the meeting at 1:41 p.m.

Respectfully Submitted:

Susan McCoy
Recording Secretary, Roanoke County

Richard Caywood
Assistant County Administrator, Roanoke County

David Perry
Chairman, Roanoke County Pipeline Advisory Committee