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New FloydFest site lacks state permits

By Laurence Hammack

The organizers of FloydFest have built roads and bridges for the music festival's new site without the required permits, which an environmental group says could endanger a federally protected turtle and butterfly.

In a warning letter to Hill Holler LLC dated March 6, the Virginia Department of Environmental Quality wrote that its inspections showed work was proceeding without a state-approved storm water management plan.

The letter — obtained by a citizens group through the Virginia Freedom of Information Act and shared with The Roanoke Times — warns that continued violations could result in fines and a stop work order.

Construction has “bulldozed the habitats” of the threatened bog turtle and the endangered Mitchell's satyr butterfly, according to Will Harlan, a biologist with the Center for Biological Diversity. Harlan has been working with concerned residents of the Check area, where up to 14,000 festival goers are expected to converge in July over five days.

Officials with Hill Holler, an organizational entity of FloydFest, and DEQ could not be reached for comment Monday.

Two DEQ inspections, on Jan. 23 and March 1, found that construction of roads and three bridges that cross Meadow Run and its tributary had commenced without the required permits that govern erosion and sedimentation, according to the warning letter.

Several times over the past six months, DEQ requested additional information to ensure Hill Holler's plans were adequate. “The storm water management plan submitted for the site is not approved,” the March 6 warning letter stated.

In a March 13 response — also obtained through an open records request — the Roanoke law firm of Woods Rogers Vandeventer Black said on Hill Holler's behalf that the work had been approved by an erosion and sediment control permit issued by Floyd County.

“It is Hill Holler's understanding that Floyd County relied in part on communications from DEQ in providing the approval,” the letter from attorney Daniel Summerlin stated.

However, Hill Holler does not intend to do any more work until it obtains DEQ approval, Summerlin wrote at the time.

Last October, the Center for Biological Diversity expressed concerns in a letter to DEQ and other agencies that preparation of the 210-acre site could pose risks for the bog turtle, the satyr butterfly and the wetland ecosystem they occupy.

“The bog turtle is North America’s smallest and rarest turtle species — and its most imperiled,” Harlan wrote.

“Draining, ditching, damming and development threaten most of the bog turtle’s remaining wetland habitats,” the letter stated. “The bog turtle and their unique wetland habitat in Floyd County are especially significant and warrant the highest level of protection offered by federal and state managing agencies.”

Likewise, the Mitchell’s satyr butterfly is threatened, Harlan wrote. Floyd County is the only place in Virginia where the chocolate-brown, medium sized butterfly has been spotted.

The letter to DEQ, the U.S. Army Corps of Engineers and the Virginia Department of Wildlife Resources — and a similar one to Hill Holler — received no response, which Harlan said is “deeply disturbing.”

A group of residents in the Check area have spoken out in the past about the noise, traffic and security impacts of having a crowd close to the size of Floyd County’s population converge on the site.

But environmental concerns — especially for species that are listed as threatened or endangered by the U.S. Fish and Wildlife Service and protected by law — could emerge as the most serious.

“I’m just scared that by July, there won’t be anything left on that property,” said Dan Vest, who lives nearby. “It’s going to be bog turtle genocide over there.”

FloydFest, located since its beginning in 2002 off the Blue Ridge Parkway in Patrick County, announced last year that it was moving to a new site in Check, just off U.S. 221 between Floyd and Roanoke.

In an Oct. 6 letter to John McBroom, chief executive officer of Hill Holler, Harlan wrote that over the years, FloydFest has focused on sustainability and reducing its environmental footprint.

“The Center for Biological Diversity hopes that you will also consider being a leader and champion for the rare and endangered species and their habitat at your new FloydFest venue,” his letter stated.

Harlan said he is a fan of FloydFest, having attended it many times, and does not want to see it canceled.

“I want it to continue to be the amazing festival that it is,” Harlan said Monday. “But I also want to feel good about going there ... I think people who come to FloydFest want to feel good about what they do. They don’t want to think their parking space is wiping out the habitat of an endangered species.”

The Roanoke Times

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Another delay for wind farm

By Laurence Hammack

If giant turbines atop a Botetourt County mountain ever convert wind to electricity, it will not be until late 2025 – a decade after the plan was first announced.

Apex Clean Energy says it hopes to begin major construction of its proposed wind farm next summer or fall, and complete it by the end of the following year. Earlier plans had called for work to begin this summer.

A detailed site plan for how 13 turbines, each 643 feet tall, will be arranged and built along a ridgeline of North Mountain has yet to be approved by Botetourt County's community development department.

"We are still working through the site plan process with the county and expect to conclude that review later this year," Brian O'Shea, a spokesman for Apex, wrote in a recent email.

Called Rocky Forge Wind, the renewable energy project has been slowed by permitting delays, legal action from opponents, design changes, the COVID-19 pandemic, and a lengthy search for a buyer of the power it will produce.

When Apex first announced its plans in 2015, the Charlottesville-based company said the turbine blades would be spinning by late 2017 – making Rocky Forge the first onshore wind farm in Virginia.

It's not uncommon for such projects to be delayed for years, often by a slow-moving approval process, according to the American Clean Power Association.

"A permitting system that was designed to protect against harm has paradoxically become the greatest obstacle to modernizing our energy infrastructure and achieving our environmental goals," the association's CEO, Jason Grumet, wrote in a recent opinion piece for Utility Dive, a news source for the energy and utility industry.

O'Shea said discussions with Botetourt County officials about the Rocky Forge site plan have included "adjustments and refinements along the way, so the timing isn't unusual from our experience."

The county recently received resubmitted plans from the company and is currently reviewing the material, according Nicole Pendleton, director of community development.

Headwinds confronting Apex are not limited to permitting issues.

In January 2016, the Botetourt County Board of Supervisors granted a special exception permit for Rocky Forge. Final approval came in March 2017 from the Virginia Department of Environmental Quality.

Construction never started, as Apex spent the next two and a half years looking for a utility or other purchaser of the 75 megawatts of electricity the wind farm would produce at peak capacity.

A deal was finally struck in October 2019, with Dominion Energy agreeing to purchase the power and then sell it to the Commonwealth of Virginia as part of the state's plan to fight climate change by using more wind and solar energy.

By then, changes in wind technology prompted Apex to reduce the number of turbines; current plans are for 13 instead of 25 as originally proposed. But they will be taller – at the 643 feet per turbine, about twice the height of the Wells Fargo tower in downtown Roanoke – than the earlier maximum of 550 feet. Those changes required a new round of permit applications, which have since been approved.

Then the pandemic hit, delaying construction again. The contract between Apex, Dominion and the state expired at the end of 2021 and was not renewed.

At the time, Apex said it was confident a new buyer would be found in the next few months. A year and a half later, the company is still looking. Discussions with potential customers are ongoing, O'Shea said.

Meanwhile, the company and DEQ have faced lawsuits from opponents who say the turbines will mar the scenic landscape of northern Botetourt County, kill birds and bats that fly into their rotating blades, cause other environmental damage, and produce low-frequency noise and shadow flicker.

A group of about a dozen Botetourt County and Rockbridge County residents have three cases pending. They are asking the Virginia Court of Appeals to reverse a decision by a Botetourt County judge upholding DEQ's second approval of the wind farm.

And in the county's circuit court, they are seeking to overturn two decisions from the Botetourt County Board of Zoning Appeals: a finding that Apex was entitled to an extension of a site plan deadline because of the pandemic, and an approval for a concrete-making facility near the construction site.

The plant would be temporary, existing only long enough to produce concrete needed for the bases of the turbines. Opponents say it would nonetheless pollute a nearby creek and cause other damage to the surrounding forestland.

In their court filings, opponents have outlined what they call "Rocky Forge's laissez-faire attitude toward both regulatory compliance and environmental conservatism."

On the other side of the debate, clean energy advocates say fast action is needed to address a growing climate change crisis.

Dan Crawford, chair of the Sierra Club's Roanoke Group, said the continuing delays "are confusing, at best."

The International Energy Agency ranks wind as second only to hydropower as the world's most productive source of renewable energy, said Crawford, whose group has endorsed Rocky Forge.

"It is no surprise that all neighboring states except Kentucky have wind farms," he wrote in an email. "We're running out of time, and the disturbing uptick in extreme weather globally due to rapid climate change is making more believers by the millions."

Although there have been other proposals to build wind farms in the mountains of Virginia, none has advanced as far as Rocky Forge. Apex is the sole developer so far to seek a permit from DEQ, said Irina Calos, a spokeswoman for the agency.

Only nine states in the country currently have no land-based wind farms, according to the American Clean Power Association. All are in the Southeastern region, where wind strength and duration is relatively low.

Off the coast of Virginia, Dominion Energy is planning a major, 176-turbine wind farm in the Atlantic Ocean, about 25 miles east of Virginia Beach.

Efforts to test the wind in Botetourt County date back to at least 2009. BP, a multinational oil and gas company that is expanding to renewable energy, placed a meteorological tower in the northern part of the county to gauge the wind power. Nothing ever came from that.

"We're in a marginal area for wind power to be efficient," said Steve Clinton, who was on the county's Board of Supervisors at the time and has since rejoined the governmental body.

That may be why the only offer to date for the electricity to come off North Mountain has been from the state government. "Maybe," Clinton said, "they can't find a buyer without the commonwealth subsidizing the cost."

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Past pollution a present problem

By Laurence Hammack and Molly Hunter

It was known as the pit, a steel cylindrical tank that extended 7 feet into the ground and could hold 1,900 gallons of toxic chemicals.

From roughly 1985 to 2007, a chemical company stored its hazardous waste there. The pit is gone now, removed as environmental regulators began an investigation that led to Chemsolv Inc. being cited in 2014 for improperly storing volatile organic compounds.

But concerns about contamination at the southeast Roanoke site remain today — and could create complications for Riverdale, an ambitious commercial and residential development that is being planned just across the street.

The Virginia Department of Environmental Quality suspects there may be an underground plume of volatile organic compounds extending at least to Chemsolv's eastern boundary, which is next to property that developer Ed Walker plans to purchase.

DEQ provided a written response to questions from The Roanoke Times about how the site's past might impact Walker's plans for what he calls a "dream come true" project. Walker wants to transform a largely forgotten brownfield, once home to the American Viscose rayon factory, into a vibrant cluster of new homes, businesses and cultural attractions.

"Due to the long industrial history of the area ... any potential developer would be encouraged to perform environmental due diligence to evaluate potential recognized environmental conditions," DEQ said.

An underground plume could cause vapor intrusion — when gasses from contaminated groundwater migrate to the basements and foundations of nearby buildings. That in turn could endanger construction workers and future tenants.

Vapor intrusion is a possible risk for Chemsolv and other "offsite receptors," DEQ said.

Regulators are evaluating tests of soil and water before making a decision on a DEQ consent order that governs the cleanup and closure of the pit and surrounding area. Final action is expected by year's end.

In an emailed response to questions, Walker said he and his consulting firm have already started the due diligence suggested by DEQ.

The process will evaluate the entire Roanoke Industrial Center off Ninth Street Southeast, which includes the time-worn brick buildings from the long-closed Viscose plant, still distinguishable for its tall, dormant smokestacks.

"The property is a large former manufacturing site which presents its own unique set of challenges," Walker wrote.

As the developer of other historic buildings and closed-down industries over the past 20 years, Walker said his team is "well prepared to bring the strengths necessary to assess and remedy Riverdale."

“We believe it is important to address the environmental conditions in a manner protective of human health and the environment,” the statement from the Riverdale Environment Team read.

As for concerns about vapor intrusion from what may be an underground plume, the plan is to assess any risks that might be posed to construction workers or occupants of future buildings.

“This is a common issue on brownfield sites that is addressed through proper health and safety plans,” Walker said, referring to systems that remove radon from buildings through a venting process.

Meanwhile, Chemsolv has been working with DEQ to evaluate and address any risks that may be posed from the past operation of the pit, according to Charlie Williams, a Roanoke attorney who represents the company.

“All of the preliminary information, which is extensive, indicates there is no risk of any off-site migration of chemicals that would affect the development of the industrial center,” Williams said.

A pit of problems

Chemsolv is in the business of selling and distributing chemicals used for a variety of industrial purposes, including in coal mining and shipbuilding and as a cleaning agent in the manufacture of consumer products.

At its primary location in the Roanoke Industrial Center, a pit was built around 1985 to hold water used to rinse equipment and blend chemicals. Tainted water drained into the so-called pit, where it was held until it could be disposed of, either in a sanitary sewer or by having it hauled to a regulated dump.

After a lengthy investigation, the Environmental Protection Agency found in 2014 that Chemsolv improperly stored hazardous waste. The company was fined \$612,339.

An administrative law judge determined that water and sludge in the pit contained more than 20 types of volatile organic compounds. Included in the mix were chloroform, trichloroethylene, a possible carcinogen, and tetrachloroethylene, which according to the EPA may cause liver, kidney and central nervous system complications at high exposure levels.

The judge’s opinion, which described the pit as 6 feet in diameter with an open top like a swimming pool, said it held such a high concentration of chemicals that they could not be fully absorbed by sludge at its bottom.

“Phrased more colloquially, the pit contained so much tetrachloroethylene that the other material in the pit had soaked up as much of the chemical as it could, but was still swimming in tetrachloroethylene,” Judge Susan Biro wrote.

Before the investigation was complete, Chemsolv removed the tank. In doing so, inspectors said, the company “failed to perform any investigation to determine whether hazardous waste leaked and contaminated the area surrounding the tank and/or its underlying soils.”

Citing the company’s “cavalier” approach to waste management, Biro wrote that “a small or slow leak might escape notice as liquid was flowing into or out of the pit during the normal course of its operation.”

Following the judge’s finding, Chemsolv negotiated with DEQ a plan to officially close the pit and clean up the surrounding area. A consent order initiated in 2019 states that “an improper release of waste material has occurred at the facility.”

As part of a plan to “abate threats to human health and the environment,” Chemsolv agreed to conduct soil and groundwater tests and take whatever corrective action was needed.

The first tests detected contaminants above acceptable levels, according to DEQ. Chemsolv told the agency that later tests showed in January 2022 that there were no longer risks to offsite industrial workers, construction workers or occupants of nearby buildings.

However, DEQ has yet to concur, and asked for additional tests. Another report from the company is expected by October.

The rebirth of Riverdale

In mid-January, the city of Roanoke announced an agreement with Walker and the city’s economic development authority to support redevelopment of 75-plus acres of land that will make up Riverdale.

That land currently belongs to the Industrial Development and Investment Co. and is overseen by the Roanoke Industrial Center (RIC) management team. The team makes decisions for the center and leases or rents space in the center to various tenants.

Chemsolv is part of the Roanoke Industrial Center area, but it is not an RIC tenant, and none of the land owned by Chemsolv is part of the Riverdale redevelopment plan, although it is directly adjacent.

The city’s economic development authority has agreed to award Walker a \$10 million “forgivable performance loan,” funded by the city, to acquire the property from the RIC and remove debris from the site. The same agreement requires Walker to invest at least \$50 million in redevelopment.

Walker has led a number of other redevelopment projects in and around Roanoke and has indicated that Riverdale will be the final project of his career.

At a city council meeting earlier this month, city attorney Tim Spencer said closing on the property is scheduled to occur March 30.

A Jan. 17 city press release envisioned the completed Riverdale project — still years, if not a couple decades, away — as a “mixed-use district featuring industrial spaces, residences, commercial uses, artist studios, maker space and manufacturing.”

Exactly where Walker hopes to locate certain amenities on the property may be more clear after a master plan development process, which is expected to last throughout 2023.

Will Trinkle, a member of the RIC management team, said most of the current tenants are planning to stick around after Walker closes the real estate deal.

In a statement Friday, city environmental manager Christopher Blakeman acknowledged the area’s industrial past.

“The location in question is a very old industrial park with a decades long history of haz-mat and haz-waste use, generation, storage, and handling. As such, it’s undoubtedly seen its share of spills, leaks, fires, and more.”

Dealing with the remnants

In its heyday, the American Viscose plant was the largest factory in Roanoke, employing more than 5,000 people in a sprawling complex along the river at the foot of Mill Mountain.

The company closed in 1958, as demand for its rayon yarn used to make cloth faded with the development of nylon and polyesters.

Environmental regulation in those days was far less stringent, and little attention was paid then to the factory’s waste — which included acetone, disulfide and zinc — that had been dumped into lagoons on the west bank of the Roanoke River.

It would not be until 2001 that the Environmental Protection Agency evaluated the site to see if it qualified for a Superfund cleanup. By then, the lagoons and a nearby acid pond had been filled with dirt and rubble.

Sampling detected “a release of contaminants to ground and surface water, but not at a level that would pose a significant risk to human health,” an EPA spokesman said in February. Thus, the site did not qualify for additional assessment under Superfund.

An industrial park had grown up around the old Viscose factory, and in 2004 its owners enrolled a 16-acre parcel in DEQ's Voluntary Remediation Program, which is designed to clean up environmentally suspect areas that are not under state or federal remediation orders.

Some sites were identified for testing, but the process moved slowly. In 2012, Riverdale Development LLC informed DEQ by letter that it was withdrawing from the program because, "at this time, it is fiscally impossible."

"Should the economy recover and our client realizes the capital to invest in the appropriate kind of remediation, at that time they may exercise their right to re-enroll into the VRP," a consultant wrote on behalf of Riverdale.

That time may have come.

Walker said that once the land transaction with the Roanoke Industrial Center is completed, he plans to apply to DEQ to place the entire site into the remediation program once again.

One part of the center, an approximately 1,400-square-foot area that had previously housed an underground storage tank, completed the DEQ voluntary cleanup in 2001.

After a risk assessment, a deed restriction that covered the entire industrial center was imposed to prevent residential development and groundwater use as part of the Voluntary Remediation Program certification, according to Roanoke Circuit Court records.

An amendment later removed that restriction for the 1,400-square-foot area. Walker plans to work with DEQ to lift the residential ban on other portions of the property that are found to be suitable for apartments or condominiums.

The groundwater use restriction is moot, as the industrial center is served by public water.

A park for the public

Walker has had his eye on Riverdale for years.

Although the site's industrial legacy might have discouraged some investors, for Walker it was an opportunity to turn privately owned land with historical significance into a cleaner, more modern place that could serve as a public park.

Trinkle remembers the topic coming up when the two were having a drink in downtown Roanoke.

"He says: 'why don't we make it a park?' Trinkle recalled. "And I said: 'Why don't you make it a park?' ... This was five years ago ... it took a few years, but now he can do it."