



ABRA Update #189 – July 18, 2018

Virginia Approval of ACP Challenged in Federal Court

The Fourth Circuit U.S. Court of Appeals in Richmond has been asked to stay the pending finalization of Commonwealth of Virginia’s water quality certification for the Atlantic Coast Pipeline (ACP). The [Motion for a Stay was filed on Monday, July 16](#) by the Southern Environmental Law Center, Appalachian Mountain Advocates and the Chesapeake Bay Foundation on behalf of sixteen petitioners, twelve of whom are ABRA members.

The Virginia State Water Control Board, one of the respondents in the case, along with the Virginia Department of Environmental Quality (DEQ) and the Atlantic Coast Pipeline, LLC, approved in December 2017 a certification, as required by Section 401 the Federal Clean Water Act, that there was “reasonable assurance” that construction of the ACP would not violate Virginia water quality standards. The certification is not to go into effect until the DEQ completes a necessary review of the ACP’s plans for addressing stormwater runoff and erosion and sedimentation control measures. The completion of those reviews by the DEQ, which is necessary before ACP construction can commence in Virginia, has not yet been completed.

The motion contends that:

- The State Water Control Board’s (SWCB) approval decision was explicitly contingent on the adequacy of a U.S. Army Corp of Engineers permit relative to the more than 800 crossings the ACP would make in Virginia of streams and wetlands. Since its December vote, the SWCB decided in April to seek public comment on the sufficiency of the Army Corp’s permit. By initiating that review the SWCB has rendered its own December certification decision “arbitrary and capricious.”
- The SWCB and the DEQ failed to consider the combined effects on water quality likely to result from multiple areas of pipeline construction occurring within individual, smaller-scale watersheds. Noting that the Chesapeake Bay Watershed would be significantly impacted by the ACP project, the motion points to the failure of the agencies to “analyze the combined effects on the watershed and on the Chesapeake Bay Total Maximum Daily Load.
- The state agencies did not conduct antidegradation analysis, as required by the Clean Water Act. Their conclusion that “the construction of the ACP would not result in any lowering of water quality is contradicted by substantial record evidence.” Furthermore, “no amount of best management practices and sediment control measures can eliminate *all* sedimentation discharges from construction activities through steep, highly erodible terrain.”

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- Construction and operation of the ACP over some 70 miles of karst landscapes and underground water flow systems will impair water quality. The company's assurances that water in these regions will be protected are meaningless because underground water resources in these regions are unmapped, and the boundaries of the drainage areas are unknown. Thus, the state agencies do not know what potential sources of contamination might impact a spring or surface water.

The respondents have until next week to respond to motion.

Appointment of a New FERC Commissioner Up in the Air

The resignation of Robert Powelson as a member of the Federal Energy Regulatory Commission (FERC) takes effect August 4 (see [article in ABRA Update of June 29](#)). To date, there has been no announcement from the White House regarding the timing of a nomination to fill the vacancy. This has prompted speculation as to how long FERC might once again be without a full complement of Commissioners. The Atlantic Coast Pipeline and the Mountain Valley Pipeline were both approved in October with only three sitting Commissioners.

Powelson's departure leaves the Commission with two Democrats and two Republicans. On some recent votes, the remaining members have been on opposite sides on pipeline issues, with Democrats Richard Glick and Cheryl LaFleur dissenting on approving several recent natural gas pipeline projects over the issue of greenhouse gas emissions considerations and the question of market need.

In an [interview last week with E&E News](#), Senator Lisa Murkowski (R-AK), Chairwoman of the Senate Energy and Natural Resources Committee, expressed concern that FERC would be deadlocked on several important votes in the future. The interview article further noted that:

The hopes of a speedy Senate confirmation could be complicated for Trump's new FERC nominee by the looming debate over Supreme Court pick Brett Kavanaugh. Murkowski, a moderate pro-abortion-rights Republican, will be under particular pressure as a potential swing vote. Murkowski said she had not yet talked to anyone in the Trump administration about the open FERC job and declined to say who she thought should get the nod.

Relish a Day Hike or Overnight Stay in an Old-Growth Forest in Bath County

The biggest regional land-clearing project since the federal highway program of the 1960s is now underway in Virginia. In order to build the Atlantic Coast and Mountain Valley pipelines, Dominion Energy and EQT are targeting vulnerable communities, destroying precious ecosystems, and threatening the livelihoods of Virginians far and wide.

Enough is enough! Visit Bath County this summer for a continuous peaceful and family-friendly encampment on the property of Bill and Lynn Limpert. The Atlantic Coast Pipeline is slated to go right through their property, destroying hundreds of its jaw-dropping old growth trees, and decapitating an entire ridgeline known locally as "Miracle Ridge." To participate, [sign-up here](#). For more information, check out a recent article in the [Richmond Times-Dispatch](#).



In the News:

Local/Atlantic Coast Pipeline

Dominion Remains in Extremist ALEC as ExxonMobil Joins “exodus of firms from lobbying group”

- Blue Virginia – 7/13/18

<https://bluevirginia.us/2018/07/dominion-remains-in-extremist-alec-as-exxonmobil-joins-exodus-of-firms-from-lobbying-group>

Pipeline sites moving forward

- The Inter-Mountain – 7/14/18

<http://www.theintermountain.com/news/local-news/2018/07/pipeline-sites-moving-forward/>

Report: Dominion aims to sell pair of gas-fired plants for \$1.5B

- Utility Dive – 7/17/18

<https://www.utilitydive.com/news/report-dominion-aims-to-sell-pair-of-gas-fired-plants-for-15b/527971/>

By selling the two power plants, Dominion hopes to “improve its balance sheet” ...likely so that it can better attract financing for 8 new gas plants it wants to build in its “regulated markets” ...read as *Virginia!*

Regional/Mountain Valley Pipeline, other

Environmental watchdog launches MVP map

- The Register-Herald – 7/15/18

http://www.register-herald.com/news/environmental-watchdog-launches-mvp-map/article_081260ce-057f-5c95-8389-a9b4b99aacee.html

As of Friday, the site shows over 150 alleged incidents with the majority of the volunteer reporting coming in Virginia.

More complaints against pipeline as construction continues

- NBC 10 News – 7/17/18

<https://www.wsls.com/news/virginia/franklin/more-complaints-against-pipeline-as-construction-continues>

Army Corps Wants Stay Lifted on MVP Water Permit

- Natural Gas Intelligence – 7/13/18

<http://www.naturalgasintel.com/articles/115056-army-corps-wants-stay-lifted-on-mvp-water-permit>

Earlier this month, the Army Corps completed an administrative review, issued a reconsideration letter covering the original verifications and lifted suspension of the NWP 12 at the four river crossings in West Virginia. The agency also imposed additional environmental protections for construction.

TransCanada says blast-damaged Leach natural gas pipe back in service on July 15

- Reuters – 7/13/18

<https://www.reuters.com/article/us-transcanada-pipeline-blast/transcanada-says-blast-damaged-leach-natural-gas-pipe-back-in-service-on-july-15-idUSKBN1K3227>

Columbia has identified six other points along the pipeline that PHMSA said are “areas of concern” based on soil conditions and steep slopes or indications of slips.

Big Picture:

The Trump administration scrubs climate change info from websites. These two have survived.

- NBC News – 7/17/18

<https://www.nbcnews.com/news/us-news/two-government-websites-climate-change-survive-trump-era-n8q1806>

Experts said the two websites have succeeded because they are administered outside of the Trump administration's most politicized agencies, they post heavily vetted scientific information and they offer a ready resource to teachers, who increasingly are being ordered by state and local officials to expand global warming education.

LaFleur: FERC unlikely to act on pipeline review before Powelson exit

- Utility Dive – 7/18/18

<https://www.utilitydive.com/news/lafeur-ferc-unlikely-to-act-on-pipeline-review-before-powelson-exit/527995/>

With Powelson resigning from FERC in mid-August, the energy regulator will be down to four members, potentially deadlocking the commission on controversial votes.

Former FERC Chair Kelliher questions need for more New England pipelines

- Utility Dive – 7/13/18

<https://www.utilitydive.com/news/former-ferc-chair-kelliher-questions-need-for-more-new-england-pipelines/527756/>

Former Republican Chair Joe Kelliher, now executive vice president at NextEra Energy, said that New England's pipeline system is adequate for "all but 12 days of the year," and that the failure of projects like the Northeast Direct pipeline is due to insufficient market demand for new pipeline capacity.

State opposition to pipeline construction angers Trump's supporters in Washington

- Think Progress – 7/13/18

<https://thinkprogress.org/trumps-supporters-in-congress-want-to-stamp-out-pipeline-resistance-at-the-state-level-9efadd56fa7/>

For decades, the natural gas industry has had federal energy regulators in their back pocket. Now they have their sights set on stamping out any resistance at the state level to ensure the development of new pipelines can run as smoothly as possible.

Shale gas export projects said to face U.S. permit delays

- World Oil – 7/12/18

<http://www.worldoil.com/news/2018/7/12/shale-gas-export-projects-said-to-face-us-permit-delays>

Government approval of projects intended to export rising supplies of shale gas could be delayed by 18 months as the top energy regulator struggles with a backlog of permit requests.

Renewable energy brings California emissions below 1990 levels

- PV Magazine – 7/18/18

<https://www.pv-magazine.com/2018/07/18/renewable-energy-brings-california-emissions-below-1990-levels/>

The U.S. state's latest report shows that it has beat its 2020 target for emissions reductions four years early, mostly thanks to more renewable energy.