



ABRA Update #191 – August 3, 2018

Citizen Surveillance Uncovers First ACP Violation

The first Notice of Violation (NOV) for the Atlantic Coast Pipeline (ACP) has been issued by the West Virginia Department of Environmental Protection (DEP). The incident resulted from citizen observers reporting sediment escaping from an ACP construction site in Upshur County, WV. West Virginia Rivers Coalition, an ABRA member organization and a partner in the ABRA Compliance Surveillance Initiative, submitted the complaint to the DEP. A copy of the Upshur NOV is available [here](#).

Court of Appeals Vacates Forest Service Approval of MVP

U.S. Forest Service’s (NFS) decision to permit the Mountain Valley Pipeline (MVP) to cross the Jefferson National Forest was vacated on July 27 by the U.S. Court of Appeals for the 4th Circuit in a strongly worded rebuke of the agency’s process in approving a permit for the project. In its opinion in a case brought by the Sierra Club, the Court stated:

The Forest Service may adopt FERC’s EIS only if it undertakes “an independent review of the [EIS]” and “concludes that its comments and suggestions have been satisfied.” It must also ensure that the EIS is “adequate” under NEPA regulations. Our responsibility is to “determine whether the [agency] has considered the relevant factors and articulated a rational connection between the facts found and the choice made.”

The agency’s decision is arbitrary and capricious if it “entirely failed to consider an important aspect of the problem” or “offered an explanation for its decision that runs counter to the evidence before the agency.”

Pursuant to NEPA, we conclude the Forest Service acted arbitrarily and capriciously in adopting the sedimentation analysis in the EIS. It did not “articulate a rational connection between the facts found and the choice made.”

The Court also granted a petition for review of the U.S. Bureau of Land Management’s (BLM) Rule of Decision to permit the MVP to cross BLM lands and vacated that decision. Both the NFS and BLM decisions were remanded for further proceedings consistent with the Court’s opinion. A copy of the 4th Circuit decision is available [here](#).

<p><i>Volunteer for ABRA’s Pipeline CSI Program</i></p> <p><u>Volunteer</u></p>	<p><i>Submit a report to the Pipeline CSI</i></p> <p><u>Report</u></p>	<p><i>Stay informed, like us on Facebook.</i></p> 	<p><i>Support ABRA financially</i></p> <p><u>GiveNow</u></p>
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ABRA/CSI Pipeline Air Force Reveals Environmental Threats of ACP

[A new report issued July 29 by the Dominion Pipeline Monitoring Coalition](#) (DPMC) highlights the threat to water resources posed by the construction of the Atlantic Coast Pipeline. Based on aerial photos taken by of ACP construction locations in West Virginia by the Pipeline Air Force, a component of ABRA's Pipeline Compliance Surveillance Initiative (CSI), the report provides compelling evidence that citizen oversight of pipeline construction is needed to supplement the regulatory oversight provided by the state and federal agencies. The DPMC report observes:

The agencies are too understaffed for effective inspection and enforcement, too willing to waive basic requirements, and too reluctant to inconvenience pipeline developers. And the developers are in too much of a hurry for diligent adherence to their own approved plans.

The CSI photos of ACP construction reveal that installation of runoff and erosion and sediment controls is occurring after rather than before or concurrent with construction-related earth disturbance. Our studies of previous pipeline projects, along with continuing reports of problems with other pipelines under construction in the region, indicate that delayed installation of runoff and erosion and sediment controls is standard industry practice and a major cause of water resource degradation.

Several photographs among the thousands taken by the Pipeline Air Force in recent weeks over West Virginia are included in the report.

08.04.2018

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In the News:

Local/Atlantic Coast Pipeline

Atlantic Coast Pipeline developers ask for and receive river crossing permit suspension

- WV News – 7/27/18

https://www.wvnews.com/news/wvnews/atlantic-coast-pipeline-developers-ask-for-and-receive-river-crossing/article_3822fd58-20e8-5195-9a2d-580722218778.html

The Army Corps of Engineers, Huntington District, has granted a suspension of its Nationwide 12 permit, giving developers more time to provide plans and additional information with regard to some of the river crossings it covers.

Gas pipeline watchdogs monitor, collect evidence

- The Recorder – 8/1/18

https://www.abralliance.org/wp-content/uploads/2018/08/Gas-pipeline-watchdogs-monitor-Recorder_20180801.pdf

WVDEP: Pipeline developers failed to control erosion, follow water quality rules

- Charleston Gazette-Mail – 7/30/18

https://www.wvgazettemail.com/news/wvdep-pipeline-developers-failed-to-control-erosion-follow-water-quality/article_70da3076-0ec4-531f-b4bd-7d3f2b2c1fbo.html

It's the first finalized Notice of Violation West Virginia state regulators have issued to the Atlantic Coast Pipeline.

In Buckingham's Union Hill, a center of resistance for the Atlantic Coast Pipeline, Dominion brings in a ringer

- Virginia Mercury – 8/2/18

<https://www.virginiamercury.com/2018/08/02/in-buckinghams-union-hill-a-center-of-resistance-for-the-atlantic-coast-pipeline-dominion-brings-in-a-ringer/>

Former Virginia Secretary of Agriculture and Forestry Basil Gooden, whose family has deep roots in the community and who is a member of Wilson's congregation, was kired by Dominion as a "community liaison" to work in Union Hill.

City installs water line as ACP work ramps up

- The Record Delta – 8/1/18

<https://therecorddelta.com/article/city-installs-water-line-as-acp-work-ramps-up>

Earlier this year, the City of Buckhannon entered into an agreement with ACP in which ACP agreed to pay for approximately \$2 million in enhancements to the municipal water system, which it said were necessary to perform hydraulic testing on the natural gas line.

Slow your roll

- The Recorder – 8/1/18

https://www.abralliance.org/wp-content/uploads/2018/08/Slow-your-roll-Recorder_20180801.pdf

The blind curves and steep inclines around here can leave anyone with white knuckles, but there's a new addition to our roads eliciting plenty of fear.

Regional/Mountain Valley Pipeline, other

Appeals court upholds Virginia's review of water quality impact of Mountain Valley Pipeline

- The Roanoke Times – 8/1/18

https://www.roanoke.com/news/local/appeals-court-upholds-virginia-s-review-of-water-quality-impact/article_0a2194a3-d97e-5f30-90c4-ebc604767e3f.html

The ruling applies to approximately 500 waterbody crossings the pipeline will make on its path through Southwest Virginia. As such, it is more sweeping than a decision last week by the same three-judge panel, which reversed the U.S. Forest Service's approval for the 303-mile buried pipeline to burrow through 3.6 miles of the Jefferson National Forest.

Pipeline Construction Stops After Fourth Circuit Ruling

- Courthouse News Service – 7/31/18

<https://www.courthousenews.com/pipeline-construction-stops-after-fourth-circuit-ruling/>

Construction of the Mountain Valley Pipeline has reportedly stopped after a Fourth Circuit panel found two federal agencies acted “arbitrarily and capriciously” during the permitting process.

Virginia lawmakers consider fossil fuel lobbyist for energy regulator seat

- Energy News Network – 7/30/18

<https://energynews.us/2018/07/30/southeast/virginia-lawmakers-consider-fossil-fuel-lobbyist-for-energy-regulator-seat/>

Even as Virginia lawmakers ask the State Corporation Commission to implement the comprehensive energy bill they passed this year, they’re also considering appointing a commissioner with close ties to the oil and gas industry.

Big Picture:

US Federal Energy Regulatory Commission Moves to Limit Downstream Analysis of Pipeline GHG Emissions

- National Law Review – 7/31/18

<https://www.natlawreview.com/article/us-federal-energy-regulatory-commission-moves-to-limit-downstream-analysis-pipeline>

The Federal Energy Regulatory Commission (FERC) issued a statement on May 18, 2018 clarifying that the Agency will only analyze both upstream and downstream environmental effects of pipeline Greenhouse Gas (GHG) emissions when those effects are “sufficiently causally connected to and are reasonably foreseeable effects of the proposed actions.”

Senate GOP Bill Would Clarify Clean Water Act, Prevent Abuse by States

- Natural Gas Intelligence – 8/1/18

<http://www.naturalgasintel.com/articles/115271-senate-gop-bill-would-clarify-clean-water-act-prevent-abuse-by-states>

The oil and natural gas industry hopes the bill will help prevent states from using the law to block or delay infrastructure projects, including interstate oil and gas pipelines.

U.S. utilities balk at expanded carbon-capture subsidy

- Reuters – 8/2/18

<https://www.reuters.com/article/us-usa-carbon-storage-analysis/us-utilities-balk-at-expanded-carbon-capture-subsidy-idUSKBN1KN1HM>

Of course, reducing the amount of carbon burned in the first place might be a better way to spend that money...but that’s not the idea the utilities have.

Retired Schoolteacher Arrested After Sunoco Claims She Violated Court Order in Mariner East Pipeline Dispute

- DeSmog – 8/1/18

<https://www.desmogblog.com/2018/08/01/ellen-gerhart-pennsylvania-arrested-sunoco-mariner-east-pipeline-dispute>

What can you do ... or what *can't* you do on your own land after it has been taken for a given use via eminent domain? It’s as clear as a pipeline stream crossing!

The Problem With The New York Times’ Big Story on Climate Change

- The Atlantic – 8/1/18

<https://www.theatlantic.com/science/archive/2018/08/nyt-mag-nathaniel-rich-climate-change/566525/>

By portraying the early years of climate politics as a tragedy, the magazine lets Republicans and the fossil-fuel industry off the hook.

Renewable energy provides more electricity than nuclear power in over half of U.S. states

- Solar Power World – 8/1/18

<https://www.solarpowerworldonline.com/2018/08/renewable-energy-provides-more-electricity-than-nuclear-power-in-over-half-of-u-s-states/>

In terms of actual “generation,” renewables are now neck-and-neck with nuclear power and may hold a small lead.