



ABRA Update #79 – May 12, 2016

Bath County Supervisors Unanimously Vote to Oppose the ACP

The Board of Supervisors of Bath County, VA voted unanimously May 10 to oppose the Atlantic Coast Pipeline (ACP). The Board had voted at its April meeting to adopt a resolution opposing the ACP at its May meeting. However, the proposed action presented to the BOS at its Tuesday meeting was a letter of concern to the Federal Energy Regulatory Commission (FERC), but with no position taken. After strong statements from members of Voices of Bath and the Sierra Club, the Board changed its mind and added a final sentence of opposition to the letter, which is expected to be sent to FERC soon. (Additional story link below)

Judge Rules in Favor of Nelson County Property Owners Denying Dominion Pipeline Survey

A Nelson County Circuit Court Judge has ruled in favor of 37 Nelson County landowners who had denied Dominion the right to survey their properties for construction of the proposed Atlantic Coast Pipeline. The ruling states Atlantic Cast Pipeline LLC had failed to specify a date of entry to perform surveys and, therefore, failed to comply with VC 56-49.01 which allows natural gas companies the right to survey properties only if certain terms are met.

Atlantic Coast Pipeline LLC had sued the 37 defendants for access that the property owners previously and explicitly had refused to grant. The defendants asserted that ACP LLC had failed to comply with VC 56-49.01 by failing to specify the date of entry for the surveys.

Judge Michael T Garrett's May 7th ruling states that "the General Assembly was quite explicit that ... the landowner (was) entitled to notice of date of intended entry." It further states that "certainly landowners have a right to be present upon their own property to observe the process, if they so desire, to insure that the statutory requirements are not violated....to ensure that mechanical equipment is not used..., archeological artifacts not be removed..., and any damage done to the property by the crews documented."

VA Officials Agree to Provide ACP & MVP Review Information

The Virginia Department of Environmental Quality (DEQ) has agreed to provide the Dominion Pipeline Monitoring Coalition (DPMC) information about regulatory reviews of the Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP) proposals. The May 6 decision by DEQ came a day after DPMC notified the agency that the coalition intended to file a [petition](#) to require it to respond to a Freedom of Information Request that had been previously filed relating to State certification that the ACP and MVP pipeline projects will meet water quality protection requirements. A further description of the rationale for the DPMC request is [here](#). (Additional story link below).

For questions about Update items, contact:

Articles – *Lew Freeman, lewfreeman@gmail.com*

In the News – *Dan Shaffer, dshaffer@abralliance.org*

WV Rivers Coalition Invites Sign-on to 401 Comments on MVP

The West Virginia Rivers Coalition (WVRC) is extending an invitation for ABRA member organizations and others to sign on to comments it plans to file on May 17 with the West Virginia Department of Environmental Protection (WVDEP) concerning the Mountain Valley Pipeline's application for Section 401 Water Quality Certification. The comments call for the WVDEP to hold a public hearing on the application and points to the insufficiencies in the application. A draft of the comments is available [here](#). Those wishing to add their organization's name to the comments should contact Autumn Bryson with WVRC at abryson@wvrivers.org or [304-992-6070](tel:304-992-6070) by COB Friday, May 13.

ABRA Members Lead Protest at Dominion Shareholders Meeting



The Chesapeake Climate Action Network and Appalachian Voices, members of ABRA, led a May 11 protest in Columbia, SC at the annual shareholders meeting of Dominion Resources. In the meeting, activist shareholders presented five separate resolutions aimed at forcing the company to change its practices: Items 4,5,7,8 and 9 in the 2016 proxy statement, <https://www.dom.com/library/domcom/pdfs/investors/proxy-2016.pdf?la=en>.

Scoping Meetings on May 20 and 21 Need Strong Participation

The scoping meetings scheduled next week for Marlinton, WV (Friday, May 20, Marlinton Community Wellness Center, 320 9th Street, 10 am to 7 pm,) and Hot Springs, VA (Saturday, May 21, Bath County High School, 464 Charger Lane, 10 am to 7 pm,) are an important opportunity for people concerned about the Atlantic Coast Pipeline (ACP) to express their views on the new proposed route GWNF-6 and other route modifications that have been proposed for the ACP. To assure that the Federal Energy Regulatory Commission (FERC) staff that is present appreciates the degree of concern of affected communities, it is crucial that each of the meetings has a large turnout of speakers.

As reported in last week's Update, the FERC [Notice](#) states:

Verbal comments will be recorded by a court reporter and transcripts will be placed into the docket for the project and made available for public viewing on FERC's e-Library. It is important to note that verbal comments hold the same weight as written or electronically submitted comments. If a significant number of people are interested in providing verbal comments, a time limit of 3 to 5 minutes may be implemented for each commenter to ensure all those wishing to comment have the opportunity to do so within the designated meeting time. Time limits will be strictly enforced if they are implemented.

The Notice further states that the agency is “specifically seeking comments on the new pipeline route and facility modifications to help the Commission staff determine what issues need to be evaluated in the Environmental Impact Statement (EIS). Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts from the new route and proposed modifications.”

On May 7 a separate communication was sent to the ABRA Update mailing list informing recipients that the format for the forthcoming scoping meetings would be different than the scoping meetings held in the Spring of 2015 for the original proposed route. In answer to an inquiry that ABRA posed to FERC, the following response was received:

The format of the May 20 and 21 meetings will be a bit different than those held by FERC staff during pre-filing. They will be more similar to an open-house, and less like a town-hall meeting. We will provide designated areas for individuals to provide comments to a court reporter(s), and also engage with and talk with FERC staff. We have also asked the applicant to be present with project maps and project staff and we will provide a designated area for them as well. If there is a wait for attendees to speak they are welcome to talk and discuss with FERC staff. Please note that the meetings will not be held in an auditorium as we are hoping to focus on obtaining constructive comments and meaning discussions rather than providing a spectator event.

Interested parties are welcome to attend at any time, and do not gain any benefit by showing up early or late. We recommend coming when it is convenient, but of course, some hours are more certainly likely to be less busy than others. And as always – comments already on the record do not need to be resubmitted, nor do comments provided at the meetings carry any additional weight than electronic/paper comments.

Additional consultations about the scoping meetings have occurred in the ensuing week. Based on that input, here are some further points and suggestions to keep in mind in preparing verbal comments for the May 20 or 21 meetings:

- The new format appears to have been developed in response to criticism the agency received after last year's scoping meetings, particularly from Virginia's U.S. Senators Warner and Kaine, and other officials who heard from constituents. While this format has its drawbacks, on the whole it appears to be well-intended. We'll see how it works.
- The use of a court-reporter was used in the 2015 scoping meetings. It does not mean that the absence of a town-hall setting will diminish the relevance of the comments. The agency staff who will be ultimately evaluating the comments will be doing so after the hearing. Presenting a written version of your comments is always helpful.
- The scoping meeting is a FERC-sponsored event and agency staff will be available to answer questions. Take advantage of that! While Dominion will also have representatives present, there is no obligation for attendees to engage in dialogue with those representatives.
- It is our understanding that representatives of the Forest Service will also be present to observe and perhaps be available to answer questions from affected landowners and other concerned citizens. The FERC [Notice](#) (page 9) states that:

With this notice, the USFS is requesting public comments on the issuance of the Right of Way Grant that would allow the ACP to occupy federal land. The USFS is also requesting public comments on the potential amendments of USFS LRMPs to make provision for the ACP right-of-way on the Monongahela and George Washington National Forests.

Comments on actions by the USFS should be submitted through the FERC comment process and within the timeline described. The submission of timely and specific comments can affect a reviewer's ability to participate in subsequent administrative or judicial review of USFS decisions. Comments concerning USFS actions submitted anonymously will be accepted and considered; however, such anonymous submittals will not provide the commenters with standing to participate in administrative or judicial review of USFS decisions.

- Some have questioned whether there is significance in the Notice language (p. 2) suggesting that the Land and Resource Management Plans for the George Washington and Monongahela National Forests might have to be changed should the ACP receive approval from FERC. Similar language appeared in last year's scoping notice. It does therefore not mean that the Forest Service has made a decision on the project.
- The scoping meeting is an opportunity to tell FERC what issues you are concerned about and what types of analysis the agency needs to consider to include in the EIS. For affected property owners, in particular, it is an opportunity to relate those specific issues (like karst, water, endangered species, graveyards, other cultural artifacts) to their own property. Maps and photos would be helpful too.
- The FERC Notice indicates that a time limit of perhaps 5 minutes or less will be enforced for verbal comments. Given that, make sure your presentation is succinct and focused on the issues that relate specifically to the GWNF-6 alternative route and its impact on you and your property. It would also be helpful if your remarks ask FERC to conduct a Programmatic Environmental Impact Statement for the ACP and the other proposed pipeline projects in the VA and WV region. If you have 25 points you would like to make, pick the 4 or 5 most important ones and describe them fully. Additional points that time does not permit you to include can be filed as written comments.
- Finally, show courtesy at all times to FERC staff.

As noted in last week's Update, ABRA has requested an extension of the June 2 deadline for written scoping comments. We thank the many of you who have also made such a request. At this writing there has been no response from FERC to our request.

More Route Variations Published for ACP

Five more route variations and adjustments were filed May 6 by Atlantic Coast Pipeline, LLC affecting the GWNF-6 alternative route that is subject of the scoping meetings on May 20 and 21. The named variations are:

- Mingo Route Alternative
- Jackson River Route Variation
- Fort Lewis Route Variation
- Armstrong Route Variation
- Deerfield Route Variations

A copy of the Notice, including maps and other specifics is available [here](#).

Yogaville/FoB Fundraising Concert on May 22

Yogaville Environmental Solutions and Friends of Buckingham will hold a fundraising concert on Sunday, May 22, 7:30 pm in Sivananda Hall, Yogaville. Featured performers will be Stephen Siva Longfellow Fiske and Adrienne Ramsey. More details [here](#).

New Hampshire Town Bills Pipeline Company!

The Town of Brookline has billed the Kinder Morgan Company for \$30,151 for expenses incurred by the town relative to the company's proposed Northeast Energy Direct pipeline project. The \$3 billion project was abandoned by Kinder Morgan in April after failing to sign-up enough customers.

In its May 11 [letter](#) accompanying the invoice, the Town Administrator said:

We appreciate that Kinder Morgan has come to realize the project's level of long-term contracts do not support the required investment by your shareholders. In a similar vein, we are not comfortable having our taxpayers bear the burden of Kinder Morgan's exploratory efforts to build a pipeline through our town.

In the News:

Local/Atlantic Coast Pipeline

Bath County board officially opposes pipeline

- The Recorder – 5/12/16

http://www.abralliance.org/wp-content/uploads/2016/05/Bath_County_board_officially_opposes_pipeline-Recorder_5-12-16.pdf
BOS urged to explicitly oppose pipeline in letter to FERC...does so

In victory for landowners, judge finds pipeline's survey notices 'legally insufficient'

- Richmond Times-Dispatch – 5/11/16

http://www.richmond.com/article_5b9f9b99-5397-52e8-a250-8ec843ad2887.html
Vague notice of entry not sufficient for landowners' protection

Protest Greets Dominion Ceo At Annual Meeting In South Carolina

- Chesapeake Climate Action Network – 5/11/16

<http://chesapeakeclimate.org/press-releases/protest-greets-dominion-ceo-at-annual-meeting-in-south-carolina/>
Citizens from four states press Dominion to change its practices in shareholder meeting

Virginia Officials Agree to Demands from Advocacy Group about Pipeline Deliberations

- Appalachian Chronicle – 5/9/16

<https://appalachianchronicle.com/2016/05/09/virginia-officials-agree-to-demands-from-advocacy-group-about-pipeline-deliberations/>

VA agencies have been slow to respond to Freedom of Information Requests related to the proposed ACP

Regional/Mountain Valley Pipeline, other

13 Billion Reasons McAuliffe Should Disregard Dominion's Gold-plated Electricity Boondoggle

- NRDC – 5/5/16

<https://www.nrdc.org/experts/walton-shepherd/13-billion-reasons-mcauliffe-should-disregard-dominions-gold-plated>

Dominion treating Clean Power Plan as a Christmas Wish List for long-term profits

Related:

<http://www.businesswire.com/news/home/20160510006345/en/Shareholders-Challenge-Dominion-Resources-Readiness-Thrive-Carbon>

Limpert: Pipelines are one snake with two heads

- Roanoke Times – 5/12/16

http://www.roanoke.com/opinion/letters/limpert-pipelines-are-one-snake-with-two-heads/article_3ea29553-064e-5bd2-978e-8586bf2a8af4.html

Brief rebuttal of pipelines' PR campaigns

Judge denies MVP request for injunction against Bent Mountain property owner

- Roanoke Times – 5/6/16

http://www.roanoke.com/business/news/roanoke_county/judge-denies-mvp-request-for-injunction-against-bent-mountain-property/article_7e25b84e-442d-5900-ae8d-6647ab6f08fe.html

The letter of the law matters...and is sometimes your only protection

Big Picture:

Range Resources exec's well-site remarks drawing sharp criticism

- Pittsburg Post-Gazette – 4/18/16

<http://powersource.post-gazette.com/powersource/latest-oil-and-gas/2016/04/18/Executive-s-remark-about-shale-gas-well-sites-prompts-sharp-criticism-calls-for-review/stories/201604180027>

Slip of the tongue confirms suspected industry practice

Judge rules for Kinder Morgan in Berkshire County pipeline case

- MassLive.com – 5/9/16

http://www.masslive.com/news/index.ssf/2016/05/judge_rules_for_kinder_morgan.html

State's constitutional protections do not trump energy company profits

Atlantic Sunrise pipeline gets a green light from FERC and a lawsuit from enviros

- StateImpact Pennsylvania – 5/5/16

<https://stateimpact.npr.org/pennsylvania/2016/05/05/atlantic-sunrise-pipeline-gets-a-green-light-from-ferc-and-a-lawsuit-from-enviros/>

Pa. pipeline opponents file suit, threatening project's momentum

- PennLive.com – 5/11/16

http://www.pennlive.com/news/2016/05/post_39.html

FERC extends Jordan Cove decision deadline

- The World – 5/11/16

http://theworldlink.com/news/local/govt-and-politics/ferc-extends-jordan-cove-decision-deadline/article_8badd858-a9d3-537a-a0ca-2661e263848b.html

FERC throws Veresen a bone, essentially granting it more time to sell plant capacity before potential rehearing

Amid shouts, FERC chairman driven from stage at Desmond conference

- Times Union – 5/12/16

<http://blog.timesunion.com/green/amid-shouts-ferc-chairman-driven-from-stage-at-desmond-conference/4785/>

Commissioner Norman Bay drawing fire for...pretty much everything

The real cost of gas pipeline safety features

- WhaTech.com – 5/12/16

<https://www.whatech.com/infrastructure-protection/news/158401-pel616-the-real-cost-of-gas-pipeline-safety-features>

Automatic shut-off valves could save billions of dollars and hundreds of lives...but energy companies don't want to pay for them...even at a 5:1 ROE

NJ could ask Feds to rethink policies on siting interstate pipelines

- NJ Spotlight – 5/9/16

<http://www.njspotlight.com/stories/16/05/08/nj-could-ask-feds-to-rethink-policies-on-siting-interstate-pipelines/>

State legislator pushing for a reevaluation of natural gas infrastructure siting and approval process