



Protecting the heritage, resources and economy of the Allegheny-Blue Ridge region

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The Fight Against the Atlantic Coast Pipeline: *A Chronicle*

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A chronicle of significant developments associated with the opposition effort against the Atlantic Coast Pipeline, a natural gas pipeline project first proposed by Dominion Energy in early 2014 and canceled on July 5, 2020.

INTRODUCTION

The Atlantic Coast Pipeline (ACP) was a project first proposed by Dominion Energy in the Spring of 2014. The project, initially called the Southeast Reliability Project, was a proposed pipeline that would have brought natural gas from the Marcellus shale fields in north central West Virginia through Virginia to southeastern North Carolina. This document details the most significant developments that occurred during the more than six-years of the project and the fight against it, from its inception until its announced cancellation on July 5, 2020.

The Fight Against the ACP: A Chronicle is written from the perspective of the coalition that organized to oppose the ACP, the Allegheny-Blue Ridge Alliance (ABRA). Most entries include links to regulatory documents, legal challenges, court decisions, news articles and other material deemed relevant to the effort to oppose the project. Additional background material is available in past issues of *ABRA Update*, the coalition's newsletter: <https://www.abralliance.org/weekly-pipeline-update-archive/>.

This paper is not an analysis of the opposition effort against the ACP, but rather a documentation of significant developments during the fight against the project. It is intended to be a resource for analysis.

The ACP has been canceled, but there remains ongoing attention to the restoration of land along the project's route that was disturbed by construction activity or property rights that were compromised.

The ultimate success of our efforts to prevent the ACP from being built is due to the many hundreds of individuals and organizations who were active in the ABRA coalition. Particular thanks are due to the tireless contributions of the ABRA Board of Directors, the ABRA Steering Committee and the staff and consultants. Acknowledgement and deep gratitude must also be extended to the many individuals, organizations and foundations who provided essential financial support for our efforts, including the following: Agua Fund, Appalachian Stewardship Foundation, Mertz-Gilmore Foundation, New World Foundation, Rockefeller Family Fund, and Sacharuna Foundation.

ABRA continues as an alliance of conservation organizations and individuals concerned with protecting and promoting the long-term ecological integrity of the Central Appalachian Highlands, the mountainous portions of Virginia and West Virginia.

This paper is available at https://www.abralliance.org/ACP_Chronicle.pdf.

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Project planning begins

Early 2014

1. Brittany Moody, manager of engineering projects with Dominion Energy Transmission, Inc., located in Clarksburg, WV, while attending a company training session in Richmond, VA in early 2014, was approached by Leslie Hartz, Dominion Energy's Vice President for Engineering and Construction and asked how long it would take her to route a pipeline. She responded, "I'll have it done in a week."

This account of the initial planning of what became the Atlantic Coast Pipeline project was related by Moody in an interview she and a colleague, Greg Park, did with the *Nelson County Times* in December 2017.

https://newsadvance.com/nelson_county_times/news/pipeline-architects-with-project-since-inception-work-through-obstacles-criticism/article_baf944e0-0682-586d-82e2-794af0cbddce.html

April 2014

2. From the May 5 issue of *Natural Gas Intelligence*:

"Dominion last month launched a nonbinding open season for the Dominion Southeast Reliability Project. If it gains support and approval, the pipeline would extend through Appalachia to markets in Virginia and North Carolina. Service could begin as early as November 2018."

The public learns of the project

May 2014

3. In May 2014, Dominion Energy began contacting county officials in Virginia, West Virginia and North Carolina informing them that the company was "pursuing a natural gas pipeline project, to be known as the Southeast Reliability Project. Our proposed project would deliver some of the abundant natural gas supplies from the Marcellus and Utica shale basins to serve existing and growth markets for energy in the Mid-Atlantic region."

Dominion stated that construction would commence in 2017 and the pipeline would be operational by the end of 2018, with an estimated total cost of \$4 billion. Among the company's talking points in its outreach to local governments was that:

- An adequate supply of natural gas is a key driver in a community's ability to attract economic development. It is the energy equivalent of broadband infrastructure.
- The project will improve gas supply for Mid-Atlantic markets, thereby promoting price stability and enhancing economic opportunity.

- The project “will produce substantial economic benefits, including a substantial number of well-paying construction jobs and additional tax base in communities along the route.”

News of the proposed project prompted the Chairman of the Highland County, VA Board of Supervisors to respond: “Holy cow! What else can you say?” *The Recorder* newspaper, serving Highland and Bath Counties, reported on the news in its May 22, 2014 issue.

<https://www.abralliance.org/wp-content/uploads/2021/05/Proposed-pipeline-would-run-through-Highland-Recorder-5-22-14.pdf>

July 2014

Buckingham County Supervisors vote to support the pipeline

4. The Buckingham County, VA Board of Supervisors became the first county Board to adopt a position on the ACP, passing a resolution in support of the project by a 5-1 vote on July 14. The reasons for supporting the ACP, as cited in the resolution, reflected the talking points that Dominion had articulated in its presentations before county boards along the route.

<https://www.abralliance.org/wp-content/uploads/2021/07/Buckingham-BOS-resolution-supporting-ACP-7-14-14.pdf>

First meeting of organizations concerned about the pipeline

5. A meeting was convened on July 17 at the Staunton, VA library by leaders of the Valley Conservation Council and the Cowpasture River Preservation Association to discuss the threat of the proposed Southeast Reliability Project pipeline proposed by Dominion Energy and what to do about it. The two dozen attendees included representatives of conservation groups throughout Virginia. The meeting produced a decision to form a committee to develop a recommendation of how to move forward in addressing the pipeline project and to report back to the larger group. After several meetings, the committee developed recommendations for consideration by the larger group to form a coalition of organizations to respond to the proposed pipeline.

6. Meanwhile, Dominion was meeting with relevant government agencies to lay groundwork for the project. On July 31, Dominion representatives met with representatives of the U.S. Forest Service and the National Park Service (NPS) to discuss various decisions to be made about the route for the pipeline project, which would tentatively traverse the Monongahela and George Washington National Forests, as well as the Blue Ridge Parkway, the latter being under the supervision of the NPS. Notes of the meeting (linked below) indicate that because of the size of the pipeline, the decision

to grant a right-of-way for the project would be made by the Regional Forester for the affected National Forests. Additional conversations between the company and Forest Service officials took place in 2014.

<https://www.abralliance.org/wp-content/uploads/2021/06/Forest-Service-Dominion-meeting-notes-July-31-2014.pdf>

August 2014

Dominion begins to brief local officials on the pipeline project

7. A team of Dominion representatives began a series of briefings for elected officials in the counties along the route of the proposed pipeline. The presentations were essentially the same in each county, with the principal company spokesperson, Vice President of Communications Chet Wade, presenting an overview of Dominion's corporate philosophy before turning it over to team members to describe the initial details about the pipeline project and how the company would proceed in dealing with affected landowners along the route. The first county briefing was conducted on August 5 for the Highland County Board of Supervisors. The meeting was held before an overflow crowd in the County Court House. In his presentation, Wade described the overall approval process that the proposed pipeline would undergo before the Federal Energy Regulatory Commission (FERC) and other relevant agencies that must issue permits. He also stressed the importance the company placed on its "three Cs":

- Communications – The company will communicate with communities as much as possible, but negotiations with potential customers of the project are confidential.
- Consideration – Dominion will be considerate of people while it looks for the best route.
- Conduct – "You can expect us to treat you with respect."

For more, see the following article from the *Recorder* newspaper on Dominion's Highland County briefing:

<https://www.abralliance.org/wp-content/uploads/2021/06/Pipeline-decision-due-within-60-days-Recorder-8-7-14.pdf>

Additional briefings for Virginia Boards of County Supervisors were held on August 12 in Nelson County and August 13 in Augusta County. Both meetings produced overflow crowds.

8. The Nelson County, VA briefing by Dominion on August 12 was attended by well over 500 persons, filling the high school auditorium. The vast majority of attendees were against the project. The Dominion presentation was similar to that in Highland County. Q&A from the Nelson Supervisors was extensive and substantive. Likewise, those commenting from the public sector were knowledgeable and articulate.

One of the most notable speakers was a gentleman who identified himself as someone in the construction business, building homes. He said that his years in the construction business had taught him three rules: 1) the cost of a project will always be twice as big as originally envisioned; 2) the time to complete the project will be twice as long as predicted, and 3) most projects, particularly one this big, will be “fraught with problems” beyond those originally imagined. As his allotted 3 minutes ran out, he concluded that he thought Dominion, in approaching this project, was “doing everything ass-backward.”

For notes on the Nelson County meeting, see:

<https://www.abralliance.org/wp-content/uploads/2021/06/Notes-on-August-12-2014-Nelson-Country-BOS-meeting-1.pdf>.

9. The August 13 Dominion meeting presentation before the Augusta County Board of Supervisors was prominently covered by the *Staunton News Leader*:

<https://www.abralliance.org/wp-content/uploads/2022/03/Dominion-hears-earful-from-county-crowd-Staunton-News-Leader-8-13-2014.pdf>

10. On August 19, Dominion began briefing West Virginia County Boards of Commissioners with a presentation in Pocahontas County. Allegheny Mountain Radio covered and reported on the meeting:

<https://www.alleghenymountainradio.org/pipeline-questions-answers-at-august-19th-pocahontas-county-commission-meeting/>

The county meetings attracted a good deal of media attention, but a prevailing view among some publications was that little could be done to stop the project. The *Staunton News Leader* editorialized on August 14 with the headline: “Residents all revved up, but unlikely to win.”

<https://www.abralliance.org/wp-content/uploads/2022/03/Residents-all-revved-up-but-unlikely-to-win-Staunton-News-Leader-8-14-2014.pdf>

Conservation organizations meet again and decide to form ABRA

11. Deliberations continued through July about the formation of a coalition to respond to the proposed pipeline project. The recommendations of the committee that was formed at the July 17 meeting at the Staunton Library were presented to a second meeting of the larger group on August 5 in Staunton. The meeting resulted in agreement to accept the recommendations of the organizing committee, as follows:

1. A permanent coalition of organizations concerned about the proposed Dominion Resources Southeast Reliability Project should be formed.
2. The coalition’s purpose will be two-fold: a) information gathering and dissemination; and b) sharing strategies.

3. The coalition will be called the Allegheny-Blue Ridge Alliance
4. A person will be designated as an information gatekeeper to facilitate communications among Alliance members.
5. The Alliance will be governed by a Steering Committee that will be in charge of implementing the recommendations.

Founding members of the Steering Committee, all of whom were involved in the organizing committee, were:

Lewis Freeman, Highlanders for Responsible Development – Chair
Greg Buppert, Southern Environmental Law Center
Faye Cooper, Cooper Conservation Advisors, LLC
Charlotte Rea, Friends of Nelson County
Ernie Reed, Wild Virginia
Bruce Rinker, Valley Conservation Council
Judy Rodd, Friends of Blackwater
Nancy Sorrells, Shenandoah Valley Network
Larry Thomas, Allegheny Highlands Alliance

September 2014

Joint venture of the Atlantic Coast Pipeline is announced

12. On September 2, Dominion Energy CEO Tom Farrell, joined by Virginia Governor Terry McAuliffe, announced that Dominion was entering into a joint venture with Duke Energy, Piedmont Natural Gas and AGL Resources to build the Atlantic Coast Pipeline (ACP), superseding the Southeast Reliability Project that had been announced by Dominion in May. Dominion would own 45% of the venture, with Duke owning 40%, Piedmont 10%, and AGL 5%. At the press conference, Governor McAuliffe called the project a “game changer” for Virginia that would be “an energy superhighway.”



Governor Terry McAuliffe and Dominion CEO Tom Farrell at the press conference announcing the ACP.

The press conference had been preceded by news stories and other rumors that Dominion and Duke might be joining forces.

Governor McAuliffe's remarks:

<https://www.youtube.com/watch?v=FMn16nJx7OU&t=27s>

Tom Farrell's remarks: <https://www.youtube.com/watch?v=ATOjj8UCr5M>

The *Richmond Times-Dispatch* story on the press conference:

<https://www.abralliance.org/wp-content/uploads/2021/06/Dominion-Resources-pipeline-project-a-game-changer-for-Virginias-economy-governor-says-RTD-9-2-2014.pdf>

13. On September 4, Dominion announced its plans to hold a series of informal open houses in West Virginia, Virginia and North Carolina to provide time for landowners with the proposed study corridor for the ACP to meet with members of the pipeline project team. The scheduled open houses were:

- September 4 – Verona, VA (Meeting was rescheduled for Sept. 15 in Fishersville, VA)
- September 16 – Monterey, VA and Lovingston, VA
- September 17 – Buckhannon, WV
- September 18 – Buckingham, VA and Lawrenceville, VA
- September 22 – Pembroke, NC and Nashville, NC
- September 23 – Fayetteville, NC and Weldon, NC
- September 24 – Durbin, WV
- September 25 – Smithfield, NC and Franklin, VA

Formation of the Allegheny-Blue Ridge Alliance is announced

14. On September 8, formation of the Allegheny-Blue Ridge Alliance (ABRA) was announced in a press release. The release, listing 22 founding members, noted that ABRA was formed in response to the proposed ACP, stated that:

“ . . . much of the pipeline’s path, particularly in Highland and Augusta Counties in Virginia, would be built over fragile karst topography, a landscape formed from the dissolution of soluble rocks and characterized by underground drainage systems with sinkholes and caves. The impact on area water supplies of a pipeline built over such unstable geological formations could be significant. It could also present serious safety hazards to the pipeline.”

<https://www.abralliance.org/wp-content/uploads/2021/06/ABRA-press-release-9-8-14.pdf>

Dominion releases economic report justifying the ACP

15. Coincidental with its September 2 press conference formally announcing the Atlantic Coast Pipeline, Dominion Energy released that same week an economic report proclaiming the benefits that would be injected into the economies of the affected states by the ACP. The study was conducted for Dominion by Chmura Economics and Analytics, a Richmond, VA-based firm.

The Economic Impact of the Atlantic Coast Pipeline in West Virginia, Virginia, and North Carolina claimed that:

- One-time construction activity of the Atlantic Coast Pipeline can inject an annual average of \$456.3 million into the economy of the three-state region.
- 2,873 annual jobs will be created in the region from 2014 to 2019.
- When the pipeline is in full operation, the project is estimated to have an annual impact in the three-state region of \$69.2 million that can support 271 regional jobs from 2019 onward.

<https://www.abralliance.org/wp-content/uploads/2021/06/Chmura-Report-on-Atlantic-Coast-Pipeline-September-2014.pdf>

The Chmura report was followed by another report released in February 2015, commissioned by Dominion and conducted by ICF International, a world-wide consulting firm based in Fairfax, VA. *The Economic Impacts of the Atlantic Coast Pipeline* reached the following summary conclusions:

“The ACP project is expected to produce significant benefits to energy consumers in Virginia and North Carolina. Based upon reasoned assumptions, ICF found that net energy cost savings to Virginia and North Carolina consumers could average \$377 million per year during the study period of 2019-2038. The cost savings largely result from ACP’s lowering the costs of natural gas to fuel electric generation – meaning that the economic benefits of new gas

infrastructure will have wide-spread impacts. Each and every energy consumer in Virginia and North Carolina will see the cost savings reflected as a lower natural gas and electric bill.

“ICF further finds that ACP benefits the broader state economies. In all, consumer reinvestments of their energy savings in the economy could generate over 2,200 full-time, well-paying jobs and an additional \$218 million in GSP per year. In total, for the 20-year study period, ACP will generate \$7.5 billion in energy cost savings, create 45,000 job-years, generate \$2.6 billion labor income, and \$4.4 billion gross state product in Virginia and North Carolina.

“Finally, in addition to the measurable economic impacts, ACP will provide additional benefits to the market area:

- Increase supply security by opening up access to a more diversified portfolio of gas supply choices;
- Increase access to natural gas storage facilities proximate to ACP;
- Reduce consumers’ bill volatility by lowering natural gas price volatility in the market region and linking generation cost to low-cost and low-volatility natural gas prices in the Appalachian Basin;
- Enhance regional electricity reliability as power producers will have more avenues to access supply during peak demand or adverse weather which may constrain supply; and
- Support renewable generation as ACP and the associated gas-powered generation assets serve to balance the intermittency of wind and solar generation output.”

<https://www.abralliance.org/wp-content/uploads/2021/06/Economic-Impacts-of-the-ACP-ICFI-study-for-Dominion-2-9-15.pdf>

16. The contentions made by the Chmura and ICF International reports of economic benefits that would result from construction of the ACP were rebutted the following summer by a report commissioned by Southern Environmental Law Center and released July 7, 2015 jointly with ABRA.

<https://www.abralliance.org/wp-content/uploads/2021/06/Synapse-Report-press-release-7-7-15.pdf>

Atlantic Coast Pipeline Benefits Review was prepared by Synapse Energy Economics of Cambridge, MA. Among Synapse’s principal findings were:

- “Both the ICF report and Chmura report...lack the transparency and verifiable data necessary for independent review” and “do not provide the useful, objective

tools necessary to inform a public decision-making process meant to ensure the public good.”

- On the ICF report, “The conclusion that all energy savings to businesses from the ACP will be used to create new jobs is not supported by evidence.” Further, “based on the flaws that were identifiable in the report, it is likely that the results overestimate the benefits of the pipeline.”
- “The Chmura study provides detailed tax revenue benefits for three states, but fails to provide any underlying data or assumptions for these tax revenue calculations.”

The review by Synapse also highlighted several societal and environmental costs of the ACP that were not addressed by either the ICF or Chmura reports. Examples included:

- “Very large, high pressure natural gas transmission pipelines like the one proposed by Dominion pose substantial public safety risks to nearby residents. . . Despite the passage of the Pipeline Safety Improvement Act in 2002, there have been more than 3,000 significant accidents, causing more than 150 fatalities, hundreds of injuries, and billions of dollars in property damage, including four major incidents in North Carolina, Virginia, and West Virginia in the last few years.”
- “The ACP project could have detrimental effects on property values in communities where the pipeline will be located. . . Reduced property values would lead to lower assessed real estate values and, therefore, lower tax revenues.”
- Pipeline construction “could lead to water quality impacts,” “may damage productive farmland and forest land,” “can have detrimental impacts on wildlife through habitat loss and fragmentation,” and “could affect the natural beauty and recreational value of areas like the Blue Ridge Mountains, Monongahela National Forest, and the George Washington National Forest.”

17. The Nelson County, VA Board of Supervisors adopted on September 9 a resolution opposing the ACP, becoming the first local government organization along the route to take a stand against the project. Among the reasons for opposition cited in the resolution were concerns the ACP would have on water quality, property values and the scenic attributes of the county.

<https://www.abralliance.org/wp-content/uploads/2021/06/Nelson-Cty.-BOS-resolution-on-ACP-09-09-14.pdf>

18. Also on September 9, members of the ABRA Steering Committee met in Richmond, VA with the Secretary of Natural Resources, Molly Ward, to voice concerns of the coalition and its member organization about the ACP and Governor McAuliffe’s support for the project. The ABRA delegation was treated cordially, but it was made clear that the Governor’s position in favor of the ACP project was steadfast. The Governor’s support for ACP was reiterated publicly the next day.

<https://www.abralliance.org/wp-content/uploads/2021/06/McAuliffe-defends-pipeline-support-Washington-Post-9-10-14.pdf>

Dominion begins conducting “open houses” about the ACP

19. The open houses that Dominion had announced on September 4 were held through September. The Monterey, VA event on September 16 prompted *The Recorder* newspaper to run an editorial entitled “Trust already gone missing,” that included the following passage:

“As we followed up with those attending the open house, many told us that they weren’t necessarily satisfied with what they heard from Dominion. Many remained skeptical. They were daunted by the scope of the massive construction that could take place on their own land and across their neighbors’ tracts. Some were not confident this project would be good for Highland, and perhaps were overwhelmed by sheer volume of information to absorb and consider.

“Confidence is related to trust — having the feeling one can rely on something or someone in firm trust. And trust is what’s missing here.”

<https://www.abralliance.org/wp-content/uploads/2021/06/Trust-is-already-missing-Recorder-editorial-9-18-21.pdf>

Reporting on the Nelson County, VA open house, held the same night as the Monterey event, *The News & Advance* newspaper reported:

“The event last Tuesday was intended to be a place for a two-way conversation between Dominion representatives and the public prior to the company’s plans to begin survey work in the county in the next few weeks. Landowners who attended could express their concerns and place their fingers on enlarged maps to show exactly where their homes are in relationship to the proposed pipeline route.

“‘As much as they don’t believe us, we understand that they are upset,’ Wade said. ‘And we wish we could find a way to not make them upset, but all we can do is listen to them and use that to make it better.’”

https://newsadvance.com/nelson_county_times/news/pipeline-status-has-moved-past-preliminary-as-surveying-nears/article_ofb558fe-4419-11e4-88af-001a4bcf6878.html

October 2014

Publication of *ABRA Update* begins

20. On October 6, ABRA distributed the first issue of its on-line newsletter, *ABRA Update*. Articles in that maiden issue discussed 1) Dominion seeking permission from the Forest Service to conduct surveys in the Monongahela and George Washington National Forests of the ACP's proposed route and 2) landowners in Nelson County, VA filing a lawsuit challenging the constitutionality of the section of Virginia law that permits natural gas pipelines to survey property without an owner's permission.

https://www.abralliance.org/wp-content/uploads/2015/07/Update_1.pdf

21. Fourteen ABRA member organizations wrote the Supervisor of the George Washington National Forest on October 15, urging him to reject “a proposal from Dominion Transmission and its partners to survey for the Atlantic Coast Pipeline in the George Washington National Forest.” The groups voiced “grave concerns that the proposed route for the pipeline will cause serious permanent damage to the heart of the GW near Signal Corp Knob and Shenandoah Mountain. The mature, undeveloped forests in this area make it fundamentally incompatible with a major infrastructure development project. Furthermore, we believe that the pipeline project fails to meet the screening criteria set forth in the Forest Service's special use regulations.”

<https://www.abralliance.org/wp-content/uploads/2021/06/Letter-to-Supervisor-Speaks-re-the-Atlantic-Coast-Pipeline-10-15-14.pdf>

Staunton, VA City Council votes to oppose ACP

22. The Staunton, VA City Council adopted a resolution in opposition to the ACP on October 23. In the resolution, the Council urged “FERC to withhold approval of the project, on the basis that the natural gas to be transported is not believed to be required to serve the energy needs of Virginia or North Carolina . . . and, therefore, the pipeline will neither serve the public interest nor satisfy the legal standard of ‘public convenience and necessity.’”

<https://www.abralliance.org/wp-content/uploads/2021/06/Staunton-City-Council-Resolution-10-23-14.pdf>

23. Dominion proceeded through October to contact landowners along the proposed ACP route about surveying their land, prompting a wide-spread reaction to the communications posture of the company. The *Staunton News Leader* commented on this on October 28 with an editorial entitled “Dominion needs to talk to gain trust,” observing: “If Dominion wants to be trusted, they'll have to show some restraint on sending out the notices of Intent to Enter Property.”

<https://www.abralliance.org/wp-content/uploads/2021/06/Dominion-needs-to-talk-to-gain-trust-Staunton-News-Leader-10-28-14.pdf>

NEPA review requested for ACP

24. Atlantic Coast Pipeline, LLC (ACP, LLC), the joint venture formed to own the Atlantic Coast Pipeline (#11, above) filed on October 31 with FERC a request that Commission staff initiate a National Environmental Policy Act (NEPA) pre-filing review of the ACP. This filing was the first formal step taken to obtain approval to build the pipeline. In its submission, ACP, LLC set forth the following milestones for the project:

October 2014	Operator files request to use the Commission's pre-filing process
November 2014	FERC issues the Director's Notice and a pre-filing docket number
December 2014	Operator files preliminary draft Resource Report 1 and an alternative summary
April-May 2015	Operator files draft Resource Reports 1 through 12
September 2015	Operator files its Certificate Application
January 2016	Commission staff issues a draft Environmental Impact Statement (EIS)
May 2016	Commission staff issues a final EIS
July 2016	FERC issues Order issuing certificate for the ACP
September 2016	Operator commences construction activities on ACP
November 2018	Operator commences in-service of the ACP

The complete filing of 77-pages: <https://www.abralliance.org/wp-content/uploads/2021/06/ACP-request-to-FERC-for-pre-filing-10-31-14.pdf>

Article on the filing from the *Lynchburg News Advance*:

<https://www.abralliance.org/wp-content/uploads/2022/03/Dominion-pre-files-to-begin-pipeline-review-process-News-Advance-11-5-2014.pdf>

ACP, LLC also filed on the same day with FERC a request for pre-filing for the Supply Header Project, a separate but associated pipeline that would connect the ACP with other pipelines to the north. The November 1 issue of *ABRA Update* urged coalition members and concerned individuals to file comments with FERC about the ACP, LLC request.

November 2014

Augusta County, VA delegation meets with FERC Chair

25. A delegation from Augusta County, VA met on November 6 in Washington with FERC Chair Cheryl LaFleur to express concerns about the ACP. The group was led by Augusta Supervisor Tracy Pyles and Nancy Sorrells, Co-Chair of the Augusta County Alliance, who was also a member of the ABRA Steering Committee. Chair LaFleur indicated that she infrequently sits in on meetings of this type and was only able to do so in this instance because the pre-filing of Dominion on October 31 had not been formally accepted by the agency. The Augusta delegation also met with staff members of U.S. Senators Mark Warner and Tim Kaine of Virginia.

More ACP open houses scheduled for January 2015

26. ACP, LLC announced November 20 in a filing with the Federal Energy Regulatory Commission (FERC) that it would conduct a series of 11 open houses at various locations along the ACP route in January 2015. The open houses, required by FERC as part of its review process, were separate from the informal open houses that were held by the company in September. The company indicated that “scoping meetings” to receive public comments on the proposed pipeline – a formal part of the FERC process of evaluating proposed projects – would be held in April and May 2015.

<https://www.abralliance.org/wp-content/uploads/2021/06/ACP-pre-filing-open-houses-for-Jan.-2015-11-20-14.pdf>

27. Bob Herbst, a former Assistant Secretary for Fish, Wildlife and Parks in the U.S. Department of Interior and a former Acting Secretary of the Department in the Carter Administration, filed comments with the Federal Energy Regulatory Commission (FERC) on November 26 in opposition to the Atlantic Coast Pipeline. Herbst’s letter said: “As an expert in the field, I feel that it is my duty to stress that the negative impacts of the Atlantic Coast Pipeline will far outweigh any positive outcomes. . . In the strongest possible terms, I encourage FERC to seriously consider alternative routes for the Dominion Atlantic Coast Pipeline.”

<https://www.abralliance.org/wp-content/uploads/2021/06/Bob-Herbst-comments-to-FERC-11-26-14.pdf>

December 2014

28. ACP, LLC filed with the Federal Energy Regulatory Commission on December 12 Resource Report 1 and Summary of Alternatives. The report’s discussion of alternative routes included an alternative that would significantly change the impact of the project on certain communities. The *Richmond Times-Dispatch* noted that the company’s preferred route would traverse 35 miles of Nelson County, VA, while a western route would avoid Nelson entirely.

https://elibrary.ferc.gov/eLibrary/filelist?document_id=14279951&accessionnumber=20141212-5074

<https://www.abralliance.org/wp-content/uploads/2022/03/Alternate-route-proposed-for-Dominion-pipeline-Richmond-Times-Dispatch-12-16-14.pdf>

January 2015

Dozens of lawsuits filed in Virginia over surveying for the ACP

29. Negotiations with landowners over the right to survey land along the proposed route was tense by the beginning of 2015. Over 60 lawsuits had been filed against landowners over surveying rights in Virginia alone by January 2015, and more were expected.

<https://www.abralliance.org/wp-content/uploads/2021/06/Dominion-Sues-To-Survey-Route-Farmville-Herald-1-9-15.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/06/Dominion-sues-Highland-County-landowners-over-survey-access-Recorder-1-8-15.pdf>

The Recorder newspaper, in a January 8 editorial entitled “No relief for landowners,” observed:

“What struck us, right before Christmas, was the unquantifiable time and energy hundreds of affected landowners will have to expend, whether they favor the pipeline or not. People who were minding their own business, with quiet enjoyment of their own property, now suddenly face the prospect of heavy industrial work, legal wrangling, and the frightening, if subtle, tactics of a major corporation with more money and experts at its disposal than any regular citizen.”

<https://www.abralliance.org/wp-content/uploads/2022/03/No-relief-for-landowners-Recorder-editorial-1-8-15.pdf>

30. Over 7,500 comments were sent to the George Washington National Forest (GWNF) in response to its January 9 deadline to receive views of the public concerning a pending application by Atlantic Coast Pipeline, LLC for the route of the ACP to be surveyed in the GWNF. Meanwhile, the Monongahela National Forest (MNF) announced on January 14 its intent to accept public comments on the ACP, LLC request to survey in the MNF. February 13 was set as the deadline for comments.

ACP open houses draw large crowds

31. The series of pre-filing open houses conducted by ACP, LLC in 11 locations along the pipeline’s route in North Carolina, Virginia and West Virginia on January 22 in Weston, WV. Turnout at the events was robust. Below are links to news reports about some of the open houses.

Elkins, WV – <https://www.theintermountain.com/news/local-news/2015/03/pipeline-impact/>

Monterey, VA – <https://www.abralliance.org/wp-content/uploads/2021/06/Issues-vary-at-pipeline-open-house-Recorder-1-22-15.pdf>

Nelson County, VA - https://newsadvance.com/nelson_county_times/news/second-open-house-held-for-pipeline-project-in-nelson-county/article_6637c9ea-9c62-11e4-bcf8-of89418c89a2.html

Augusta County, VA – <https://www.abralliance.org/wp-content/uploads/2022/03/Fishersville-event-draws-pipeline-backers-opponents-News-Leader-1-20-15.pdf>

February 2015

Composer/singer Carole King publicly opposes ACP

32. Renowned singer and composer Carole King filed a letter on February 2 with the Federal Energy Regulatory Commission opposing the Atlantic Coast Pipeline. She noted that she has had a long association with the Satchidanda Ashram-Yogaville in Buckingham County, VA. She wrote that “going ahead with the pipeline and compressor will adversely impact the Ashram’s ability to serve the thousands of visitors who come to Yogaville from around the world” and that “the loss of visitors to the Ashram will have a deleterious effect on the economy in that part of Virginia.”

<https://www.abralliance.org/wp-content/uploads/2022/03/Carole-King-letter-to-FERC-opposing-ACP-2-2-15.pdf>

33. An attempt in the Virginia General Assembly to amend a 2004 law that gave natural gas utilities special rights to survey a property owner’s land without the latter’s permission failed to garner sufficient support. Sen. Emmett Hanger (R- Augusta County) was a prime sponsor of the legislation.

<https://www.abralliance.org/wp-content/uploads/2022/03/Natural-gas-pipeline-bills-die-in-committee-Roanoke-Times-2-9-15.pdf>

U.S. Dept. of Energy predicts fewer gas pipelines will be needed

34. The U.S. Department of Energy released in early February a study of the “potential infrastructure needs of the U.S. interstate natural gas pipeline transmission system under several future natural gas demand scenarios.” The study, conducted by Deloitte MarketPoint, found that:

1. Diverse sources of natural gas supply and demand will reduce the need for additional interstate natural gas pipeline infrastructure.
2. Higher utilization of existing interstate natural gas pipeline infrastructure will reduce the need for new pipelines.

https://www.abralliance.org/wp-content/uploads/2015/06/DOE_Report-Natural_Gas_Infrastructure_2-2015.pdf

35. Public comments to the National Forest Service (NFS) in response to the ACP, LLC's request to survey NFS lands were filed in January for the George Washington National Forest (7,500 comments in all) and by February 13 for the Monongahela National Forest.

https://www.abralliance.org/wp-content/uploads/2015/09/Update_13.pdf

36. A demonstration against the Atlantic Coast Pipeline was held in Richmond, VA on the morning of February 23, causing traffic disruption throughout the downtown area. The action was the first of many such demonstrations over the next few years at sites proximate to Dominion offices or facilities.

<https://www.wtvr.com/2015/02/23/demonstrators-create-blockade-downtown-in-protest-of-atlantic-coast-pipeline/>

FERC announces 10 scoping meetings to elicit public comments

37. The Federal Energy Regulatory Commission (FERC) announced on February 27 it would conduct a series of 10 scoping meetings to elicit public comment as it proceeded with preparing an Environmental Impact Statement for the Atlantic Coast Pipeline. The deadline for accepting written comments was set as April 28. The scheduled meetings at which oral comments would be accepted were:

March 9	Fayetteville, NC	March 17	Farmville, VA
March 10	Wilson, NC	March 18	Lovingsston, VA
March 11	Roanoke Rapids, NC	March 19	Stuarts Draft, VA
March 12	Chesapeake, VA	March 23	Elkins, WV
March 16	Dinwiddie, VA	March 24	Bridgeport, WV

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20150227-3043

March 2015

38. ABRA held its first coalition-wide meeting on March 7 at the Staunton, VA library. Sixty persons representing 30 ABRA member organizations participated. The day-long session produced a number of ideas of how the pipeline issue should be confronted in the months ahead and what strategies should be pursued. The results of the meeting became a road map for future planning by ABRA's Steering Committee.

Dominion unveils prospective ACP route alternatives

39. Dominion began unveiling in late February and early March prospective alternatives to the original pipeline route that had been announced. This raised serious concerns with local governments and, in particular, landowners who were now in the potential crosshairs of the ACP. The prospect of route changes was particularly troublesome given that the scoping meetings announced by FERC to be held in March raised the question of what route or routes people should be subject to public comment.

<https://www.abralliance.org/wp-content/uploads/2022/03/Dominion-identifies-alternative-routes-for-planned-Atlantic-Coast-Pipeline-Nelson-County-Times-2-23-15.pdf>

<https://www.abralliance.org/wp-content/uploads/2022/03/New-pipeline-routes-stir-new-opposition-at-Dominion-meeting-News-Advance-3-18-2015.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/07/New-surveys-scoping-called-coincidence-Recorder-3-12-15.pdf>

Forest Service permits ACP surveying in G.W. National Forest

40. The U.S. Forest Service announced on March 17 that it was issuing a special use permit to ACP, LLC to survey a portion of the George Washington National Forest for the Atlantic Coast Pipeline route.

https://www.abralliance.org/wp-content/uploads/2015/06/Update_20.pdf

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprd3832124.pdf

41. FERC's ten scoping meetings for the ACP concluded in Bridgeport, WV on March 24. There was a concerted effort to persuade FERC to extend the comment period beyond the April 28 deadline, but the agency rejected those requests. The scoping meetings became forums for expressing concerns about the uncertainty of what route was being considered for the pipeline and the impact the project construction would bring to affected areas.

Farmville, March 17 - <https://www.farmvilleherald.com/2015/03/majority-oppose-pipeline-at-ferc-scoping-meeting/>

Stuarts Draft, March 19 - <https://www.abralliance.org/wp-content/uploads/2022/03/FERC-hears-fervent-arguments-for-and-against-pipeline-News-Leader-3-19-15.pdf>

Elkins, March 23 - <https://www.abralliance.org/wp-content/uploads/2021/07/Use-of-existing-corridors-asked-at-scoping-meetings-Recorder-3-26-15.pdf>

April 2015

VA Senators Warner and Kaine voice concerns to FERC about ACP

42. Virginia's two U.S. Senators, Mark Warner and Tim Kaine, began raising questions and concerns with FERC about the scoping process and its fairness to affected landowners and others. In an April 7 letter to the FERC, Kaine wrote:

"A number of Virginians who attended these meetings felt that this opportunity was not sufficiently given, due to a lack of clarity over precisely when citizens were able to sign up to offer verbal comment. According to several accounts, many constituents showed up at the announced start times of these meetings only to discover that all speaking slots had been claimed hours earlier,"

In an April 20 joint letter to FERC, both Senators expressed strong concerns about how the scoping meetings had been managed by the agency, stating: "While we appreciate your intent to review procedures for future scoping meetings, we must request that new scoping meeting be held in Nelson and Augusta Counties."

The Senators were joined in their criticism of the FERC scoping process with a call for an extension of the scoping period by Virginia Congressman Robert Hurt (R), representing the 5th Congressional District, through which several miles of the ACP route ran. Meanwhile, U.S. Senator Shelly Moore Capito wrote FERC to urge the agency to reject requests for extending the period for scoping comments. FERC subsequently rejected calls for more scoping hearings or an extension of the period for filing comments.

<https://www.abralliance.org/wp-content/uploads/2021/07/Senators-question-FERC-over-scoping-protocol-Recorder-4-16-15.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/07/Sen.-Warner-ltr-to-FERC-on-scoping-meetings-3-23-15.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/07/Warner-Kaine-letter-to-FERC-on-scoping-meetings-4-20-15.pdf>

<https://www.abralliance.org/wp-content/uploads/2022/03/Battle-escalates-over-extending-comment-period-on-proposed-pipeline-Richmond-Times-Dispatch-4-22-15.pdf>

42. On April 21, the Consumer Energy Alliance (CEA), a Houston-based organization that proclaimed itself as a grass-roots pro-energy group, announced that it had submitted "more than 20,000 comments to the Federal Energy Regulatory Commission urging for the swift approval of the Atlantic Coast Pipeline." The CEA press release said that 7,600+ comments came from Virginia, 3000+ from West Virginia, and 10,000+ from North Carolina. However, the filing with FERC was actually a one-page letter with 21,860 names and addresses listed. The implication that each of these people had filed their own individual comments was a gross exaggeration. An analysis of the 728 pages of names submitted shows that only 176 persons signing the letter resided in counties whose water, natural resources and economies would be most prominently affected by the ACP.

Monongahela National Forest approves ACP surveying

43. The Supervisor of the Monongahela National Forest (MNF), Clyde Thompson, announced in mid-April his approval for surveying the ACP route in the MNF. In his approval statement, Mr. Thompson added: “It is important to remember that allowing these survey activities does not mean the Forest Service is allowing construction of the pipeline.” Nearly 600 comments had been filed with the MNF in response to its invitation for input on the survey request for the ACP, but most dealt with the merits of the project, rather than the pros and cons of surveying the route.

https://www.wvgazettemail.com/news/forest-service-oks-pipeline-survey-through-mon-forest/article_65b87115-65c7-5ea7-8753-27d09d324cd1.html

44. The Federal Energy Regulatory Commission (FERC) on April 28 instructed the Atlantic Coast Pipeline, LLC to provide greater detail and more explicit explanations about its proposed project. Among the 26 specific information requests, FERC asked the company to provide the following:

- A discussion on the advantages and disadvantages of routing the planned pipeline on ridgetops, across steep terrain and in valley floors;
- A description of the impacts of pipeline construction on karst terrain;
- Present in greater detail about potential route alternatives.

<https://www.abralliance.org/wp-content/uploads/2022/03/FERC-comments-to-ACP-on-Resource-Reports-1-10-4-28-15.pdf>

Conservation groups urge a “programmatic EIS” for ACP

45. Among comments filed with FERC as part of its scoping period for the agency’s development of an Environmental Impact Statement (the comment period ended April 28), the Virginia Department of Conservation and Recreation (VDCR), as well as several conservation groups, requested that more specific steps to be taken to protect the state’s waters and forests if the Atlantic Coast Pipeline is approved. Among the conservation groups making similar filings were Sierra Club, Southern Environmental Law Center and The Nature Conservancy. One of the themes struck by several of the groups was urging FERC to take a regional approach, developing a programmatic Environmental Impact Statement that took into account the combined impact of the several other pipeline projects that were under consideration within the region, including the Mountain Valley Pipeline.

<https://www.abralliance.org/wp-content/uploads/2021/07/Groups-demand-FERC-actions-on-pipeline-Recorder-5-7-15.pdf>

May 2015

Protesters voice ACP opposition at Dominion shareholder meeting

46. Over 150 protesters showed up May 6 in Richmond, VA at the annual shareholder meeting of Dominion Resources to voice strong opposition to the proposed Atlantic Coast Pipeline (ACP). Among the organizations represented were several ABRA members: Augusta County Alliance, Chesapeake Climate Action Network, Friends of Buckingham County, Friends of Nelson County, Virginia Chapter of the Sierra Club, and Wild Virginia.

At the shareholders meeting, Dominion CEO Tom Farrell received sharp questions about the ACP project. In defending the ACP, Farrell said: “Virginia and North Carolina in particular do not have enough gas infrastructure. This is extremely important. (And) it’s going to result in much cleaner air.”



<https://www.abralliance.org/wp-content/uploads/2022/03/Dominion-shareholders-pepper-CEO-with-questions-about-ACP-5-6-2015.pdf>

WV landowners impacted by ACP meet with FERC Chair

47. A delegation of West Virginia homeowners plus a Nature Conservancy scientist met on May 12 with FERC Chairman Norman Bey to express concern that multiple pipelines are being proposed for the Central Allegheny Highlands. They called on the agency to evaluate the projects from a regional perspective. Their message echoed comments filed with FERC as part of the scoping period (#45 above).

<https://www.abralliance.org/wp-content/uploads/2021/07/FERC-hears-from-Nature-Conservancy-homeowners-Recorder-5-28-21-1.pdf>

48. Atlantic Coast Pipeline, LLC on May 12 filed with FERC 5,000+ pages of responses to questions raised during the scoping period for the Atlantic Coast Pipeline, which had closed on April 28. The company’s response comments covered a wide range of issues that had been raised during the scoping period, including impacts on water, karst and the Appalachian Trail.

<https://www.abralliance.org/wp-content/uploads/2022/03/Dominions-5000-page-FERC-response-News-Leader-5-21-15.pdf>

49. Greg Buppert, Senior Attorney for the Southern Environmental Law Center, an ABRA member, testified May 20 before the U.S. House Subcommittee on Energy and Mineral Resources on the significant impacts that natural gas pipelines crossing federal lands would have on the surrounding local communities and private property. Buppert said: “What we need right now in Virginia is a regional plan. First, we need to know whether the demand for natural gas can justify the impacts of new pipeline infrastructure in our state. Any proposed route should be planned with input from the public and provide the greatest protections possible to private property, local communities, and the environment of the entire region.”

<https://www.southernenvironment.org/news-and-press/news-feed/selc-testifies-before-congress-on-the-impact-of-gas-pipelines-on-local-comm>

ABRA members and others meet with Sen. Kaine about ACP

50. A delegation of representatives from Virginia conservation groups, including ABRA and many of its members, met May 28 with U.S. Senator Tim Kaine (D-VA) in Richmond to discuss their concerns about the Atlantic Coast Pipeline (ACP). The meeting, which lasted over an hour, was initiated by Sen. Kaine, who earlier that week also met in Roanoke with opponents of the Mountain Valley Pipeline. The Senator exhibited a keen interest in hearing the views of everyone in attendance and personally took copious notes. In June, Sen. Kaine held constituent meetings in several communities affected by the ACP.

June 2015

Wintergreen Resort announces opposition to ACP

51. Wintergreen Resort officially announced on June 4 its opposition to the Atlantic Coast Pipeline as the result of a meeting in late May attended by more than 550 Wintergreen property owners and members. In announcing the resort’s opposition to the ACP, Wintergreen’s general manager said that “to have a pipeline come through is not consistent” with the natural beauty of the Blue Ridge Mountains.

<https://www.abralliance.org/wp-content/uploads/2022/03/Wintergreen-Resort-announces-opposition-to-pipeline-Daily-Progerss-6-4-15.pdf>

52. The Virginia Department of Natural Resources (DNR) informed FERC on June 8 that biologists have found "a significant natural community" along the proposed ACP route in Nelson County. The natural community occurs on groundwater-saturated flats and low slopes along streams at elevations of 700 to 2900 feet, and DNR recommended that such areas are not suitable for a pipeline.

https://www.abralliance.org/wp-content/uploads/Feds_told_pipeline_threatens_site_Recorder_6-11-15.pdf

ABRA releases policy statement on its opposition to the ACP

53. ABRA released to the media on June 8 a policy statement on the Atlantic Coast Pipeline, setting forth reasons for the coalition's opposition to the project.

<https://www.abralliance.org/wp-content/uploads/2021/07/ABRA-policy-position-on-the-Atlantic-Coast-Pipeline-6-29-15.pdf>

54. On June 25 there was announced the formation of a coalition of businesses, labor organizations and other groups in Virginia, West Virginia and North Carolina. The announcement said that the "EnergySure coalition, with significant stakeholder participation from leading employers and business organizations across the three states, was formed to 'stand up' for reliable energy and demonstrate the broad support for the Atlantic Coast Pipeline, a proposed 550-mile natural gas pipeline designed to meet growing energy needs in Virginia and North Carolina."

<https://www.prnewswire.com/news-releases/businesses-labor-and-industry-groups-form-coalition-demonstrating-strong-support-for-atlantic-coast-pipeline-300104881.html>

July 2015

55. The question of why the Federal Energy Regulatory Commission did not evaluate pipeline proposals on a broader, regional basis was the subject of a thoughtful July 5 editorial in the *Roanoke Times*. The piece concluded: "the question remains, whether you want to stop pipelines or build them: If we have three pipelines starting in about the same place and generally headed in the same direction, shouldn't somebody look at them all together?"

<https://www.abralliance.org/wp-content/uploads/2021/07/The-big-picture-on-pipelines-Roanoke-Times-7-20-21.pdf>

56. The Dominion Pipeline Monitoring Coalition, an ABRA member, released on July 6 a study, "Regulatory Dysfunction: What We Can Do," that described the regulatory requirements that pipeline companies are supposed to be subject to and documents how these requirements were being under-enforced.

<http://pipelineupdate.org/2015/07/06/pipelines-erosion-and-sediment-control-regulatory-dysfunction-what-we-can-do-about-it/>

FERC upbraids Dominion over inadequacy of ACP resource reports

57. In a sometimes sharply worded communication, the Federal Energy Regulatory Commission transmitted July 14 comments to Dominion Transmission, Inc. in response to the Atlantic Coast Pipeline's draft Resource Reports 1 through 10. FERC's letter included 220 specific comments or requests to the ACP, including an instruction that "within 45 days of the issuance of these comments (or at least 45 days prior to filing an application), file with the Secretary of the Commission draft versions of the Karst Monitoring and Mitigation Plan; Spill Prevention, Control, and Countermeasures Plan; Winter Construction Plan; Invasive Plant Species Management Plan; and Blasting Plan."

https://www.abralliance.org/wp-content/uploads/2015/09/Update_37.pdf

58. Demonstrations against the ACP continued when protesters showed up July 22 to greet Governor McAuliffe in Staunton, where he was making a speech.



<https://www.abralliance.org/wp-content/uploads/2022/03/Protestors-call-for-McAuliffe-to-reject-pipeline-News-Virginian-7-22-15.pdf>

59. Dominion Transmission, Inc., on behalf of the Atlantic Coast Pipeline, submitted on July 27 draft versions of several plans requested by the Federal Energy Regulatory Commission. The FERC request was contained in the agency's July 14 letter to Dominion providing staff comments on Resource Reports 1 through 10.

<https://www.abralliance.org/wp-content/uploads/2022/02/FERC-Comments-on-ACP-Resource-Reports-1-10-7-14-15.pdf>

ABRA holds a coalition-wide strategy meeting

60. ABRA held a coalition-wide strategy meeting on July 24 in Staunton, VA. Among the decisions emerging from the meeting was that ABRA should assume a stronger role in advocacy. When the coalition was first organized, its principal role was to be as a communications provider and coordinator.

61. A report surfaced on July 29 that, in the course of developing a draft environmental impact statement for the Mountain Valley Pipeline, consideration was being given by FERC staff to a “one pipe, one right-of-way” alternative, thus combining the routes of the MVP and the ACP. A *Roanoke Times* article noted that such consideration notwithstanding, it seemed unlikely that such an alternative would be agreed to.

<https://www.abralliance.org/wp-content/uploads/2021/07/Natural-gas-pipeline-discussion-considers-combining-routes-Roanoke-Times-7-29-15.pdf>

August 2015

62. The Federal Energy Regulatory Commission (FERC) issued on August 5 a supplemental notice to provide landowners potentially affected by additional pipeline route alternatives along the southern portion of the proposed Atlantic Coast Pipeline an opportunity to comment on impacts associated with these newly identified routes. Counties affected are Brunswick, Greenville, Southampton and Isle of Wright, plus the cities of Franklin and Suffolk.

http://elibrary.FERC.gov/idmws/file_list.asp?accession_num=20150805-3025

Dominion CEO briefs financial analysts on progress of ACP

63. Dominion CEO Thomas Farrell conferred with 8 financial analysts in an August 5 conference call to discuss the company’s 2nd quarter earnings. Regarding the Atlantic Coast Pipeline, Farrell said:

- “We’re continuing to work towards the commencement of construction on the Atlantic Coast Pipeline and the related Supply Header Project.”
- “We began the FERC filing process last November and expect to make the formal filings in September. Surveying is about 80% complete and engineering is about 70% complete. We awarded the large diameter pipe manufacturing contract in January to Dura-Bond Industries of Pennsylvania and expect to award small diameter pipe contract in August.”
- “Construction bids were received in May. And we expect to conclude negotiations by the end of the summer, well ahead of our original project plan. We plan to

begin construction on both projects in the fourth quarter of 2016 and commence operations in November 2018.”

<http://www.utilitydive.com/news/dominion-ceopredicts-gap-in-renewables-development-from-2017-to-2020/403707/>

64. The Bureau of Land Management notified the Federal Energy Regulatory Commission on August 17 that the Atlantic Coast Pipeline had so far failed to provide sufficient information and a Plan of Development for the Atlantic Coast Pipeline, as required by law.

<https://www.abralliance.org/wp-content/uploads/2022/02/Bureau-of-Land-Management-letter-to-FERC-8-17-15.pdf>

<https://www.naturalgasintel.com/delay-in-ferc-timeline-for-atlantic-coast-pipeline-sought-by-blm/>

ABRA members meet with Sen. Warner about ACP

65. A delegation of organizations and citizens opposing the proposed Atlantic Coast Pipeline routes, including representatives of several ABRA members, met August 18 with U.S. Senator Mark Warner (VA-D) in Charlottesville to discuss their concerns. The hour-long session provided each attendee the opportunity to voice their views and provide the Senator and his staff with written materials. Senator Warner, who had not taken a position on the ACP, expressed appreciativeness for the presentations and invited further dialogue on the issue.

66. U.S. Senate Tim Kaine (D-VA) wrote FERC Chairman Norman Bay and the other Commissioners on August 24 to express several concerns about the proposed Atlantic Coast Pipeline, both the agency’s process in considering it and various elements about the project. The Senator’s letter reflected a number of issues raised by ABRA members in a meeting with the Senator on May 28 in Richmond.

https://www.abralliance.org/wp-content/uploads/2015/08/Kaine_letter_to_FERC_on_ACP_8-24-15.pdf

67. AGL Resources, a 5% partner in the Atlantic Coast Pipeline and the owner of Virginia Natural Gas, announced August 24 that it had agreed to be purchased by The Southern Company, which had over 4 million customers in Georgia, Alabama and Mississippi.

[https://www.streetinsider.com/Corporate+News/Southern+Co.+\(SO\)+to+Acquire+AGL+Resource%20es+\(GAS\)+in+~\\$12B+Deal/10837265.html](https://www.streetinsider.com/Corporate+News/Southern+Co.+(SO)+to+Acquire+AGL+Resource%20es+(GAS)+in+~$12B+Deal/10837265.html)

Buckingham County, VA property purchased for ACP compressor station

68. It was reported by the *Richmond Times-Dispatch* on August 26 that Atlantic Coast Pipeline, LLC had purchased 65 acres of land in Buckingham County, VA to construct a compressor station for its ACP pipeline project.

<https://www.abralliance.org/wp-content/uploads/2022/03/Dominion-purchases-land-for-natural-gas-compressor-station-site-in-Buckingham-Richmond-Times-Dispatch-8-26-15.pdf>

September 2015

69. The Federal Energy Regulatory Commission on September 3 responded to a July 27 filing by the Atlantic Coast Pipeline on a series of draft plans required by the agency on: Karst Terrain Assessment, Construction, Monitoring and Mitigation; Spill Prevention, Control and Countermeasures; Blasting; Winter Construction; and Invasive Plant Species Management. The comments made requests for further information or clarifications from ACP, most concerning the draft plan on Invasive Plant Species Management.

https://www.abralliance.org/wp-content/uploads/2015/09/FERC_Comments-ACP_Plan-Karst_Terrain_Assessment_Construction_Monitoring_Mitigation_9-4-15.pdf

70. The Virginia Department of Conservation and Recreation (DCR) wrote FERC on September 4 to comment upon and make recommendations regarding the potential alignment of the Atlantic Coast Pipeline as it could relate to the recreational and environmental programs it administers in the state. Most of the DCR comments related to proposed ACP route alternatives.

http://abralliance.org/wp-content/uploads/2015/09/VA_DCR_comments-ACP_9-4-15.pdf

Army Corps is asked to cover ACP under the Nationwide 12 Permit

71. Atlantic Coast Pipeline, LLC on September 15 asked the U.S. Army Corps of Engineers to cover its proposed Atlantic Coast Pipeline (ACP) project under a “Nationwide Permit,” which ABRA members believed to be insufficient to protect Virginia’s water quality and cannot ensure that Clean Water Act mandates will be met.

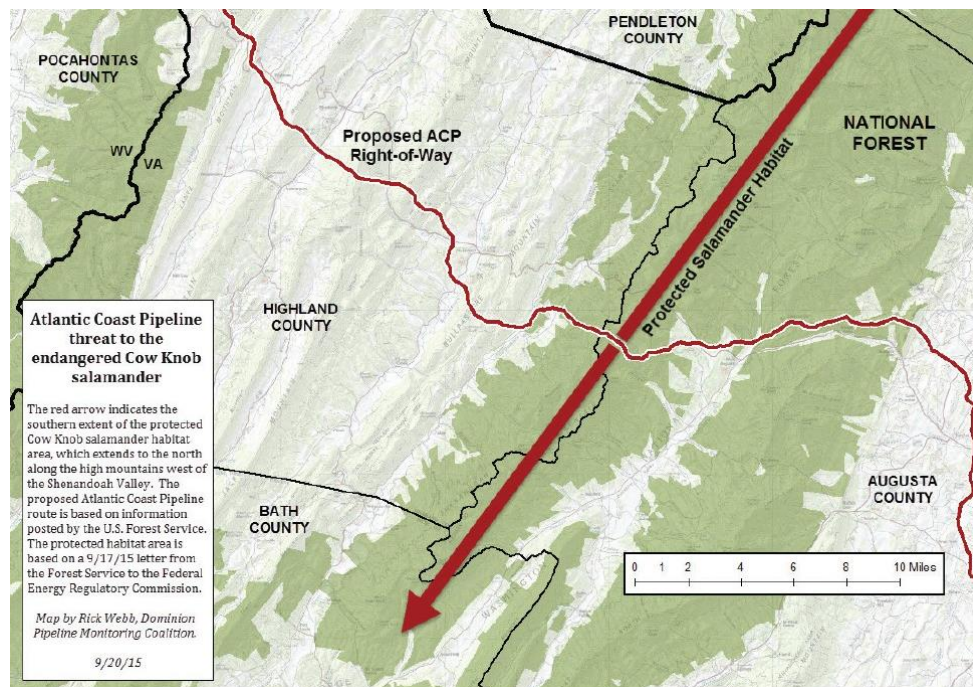
<https://www.abralliance.org/wp-content/uploads/2021/07/Wild-Virginia-press-release-on-Corp-of-Engineers-10-8-15.pdf>

72. The Southern Environmental Law Center and 26 ABRA member organizations wrote the Supervisor of the George Washington and Jefferson National Forests, H. Thomas Speaks, Jr., to urge that the Forest Service “proactively engage in the NEPA process with FERC and request a comprehensive, regional EIS on the Atlantic Coast Pipeline, the Mountain Valley Pipeline, the Appalachian Connector, and the WB Xpress Project. The September 17 letter was also filed with FERC.

<https://www.abralliance.org/wp-content/uploads/2015/09/SELC-letter-to-Forest-Service-on-a-Comprehensive-Regional-EIS-9-17-15.pdf>

Forest Service tells FERC ACP’s route would threaten salamander habitats

73. The Superintendent of the George Washington National Forest (GWNF) wrote FERC on September 17 that the proposed route for the ACP would have a negative impact on two species, the Cow Knob and Cheat Mountain salamanders, and that their habitat “must be avoided and cannot be mitigated. The Cow Knob salamander is found nowhere else in the world but in the GWNF.”



<https://www.abralliance.org/wp-content/uploads/2021/07/GWNF-letter-on-Cow-Knob-salamanders-9-17-15.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/07/Pipeline-imperils-habitat-Recorder-9-24-15.pdf>

https://www.abralliance.org/wp-content/uploads/2015/09/Whats_Worth_Protecting-Recorder_9-24-15.pdf

Application filed with FERC for ACP to be constructed

74. The Atlantic Coast Pipeline, LCC filed on September 18 with the Federal Energy Regulatory Commission an application for a permit to construct its proposed 564 miles ACP. Only 348 pages of the 30,000-page application were available for public viewing. ABRA released a statement to the media citing widespread opposition to the ACP and the adverse impacts the project would have on affected communities

<https://www.abralliance.org/wp-content/uploads/2021/07/ABRA-press-release-on-ACP-permit-filing-with-FERC-9-18-15.pdf>

https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20150918-5212&optimized=false

75. Norman C. Bay, Chairman of the Federal Energy Regulatory Commission, responded on September 30 to the August 24 letter written to him by U.S. Senator Tim Kaine (See #66, above), in which the Senator raised several concerns and questions about the substance and process of the agency's consideration of the proposed Atlantic Coast Pipeline. Chairman Bay acknowledged problems with the scoping meeting process and the many errors in the transcripts of those meetings. He said staff has established new procedures "to ensure that sign-up times, speaking procedures, and related matters are clearly detailed in our public scoping notices." He also said that transcript errors were being addressed and corrected versions of the scoping meeting transcripts would be posted on the docket once staff is satisfied with their accuracy.

https://www.abralliance.org/wp-content/uploads/2015/10/FERC_Bay_Response_to_Kaine_Letter_20150930.pdf

Federal District Court dismisses challenge to ACP property surveying

74. The U.S. District Court for Western Virginia on September 30 dismissed a lawsuit brought by Nelson County, VA landowner challenging a Virginia law granting a pipeline the right to enter private property to survey.

<https://www.abralliance.org/wp-content/uploads/2021/07/Federal-judge-upholds-state-law-allowing-surveys-of-private-property-for-gas-pipeline-Daily-Progress-10-1-15.pdf>

October 2015

75. The Bureau of Land Management asked the Federal Energy Regulatory Commission on October 6 for more time to review information submitted by the Atlantic Coast Pipeline. The Acting Manager of the BLM Northeastern States District asked that “FERC adjust the schedule to reflect the late submission of data and information by Atlantic and extend adequate time for the Federal agencies to cooperate with Atlantic in identifying and developing comparative environmental resource data for the various alternatives identified through and around the National Forests in Atlantic's Resource Report 10.”

https://www.abralliance.org/wp-content/uploads/2015/10/BLM_ACP_comments-to_FERC-10-6-15.pdf

ABRA and others ask FERC for regional review of pipeline projects

77. Thirty organizations, including ABRA and 11 of its members, wrote the Federal Energy Regulatory Commission October 26 urging the agency “to conduct a single, comprehensive regional review of all four interstate natural gas pipeline projects currently proposed for the central Blue Ridge and Appalachian Mountain region of Virginia and West Virginia.” Continuing, the letter said that FERC should proceed with a programmatic environmental impact statement “that considers all of the cumulative impacts that will arise from these four proposed projects and evaluate all reasonable, less damaging alternatives.”

<https://www.abralliance.org/wp-content/uploads/2015/10/FERC-Pipeline-PEIS-Sign-on-letter-FINAL-10-26-15.pdf>

Route alternatives for ACP filed with FERC

78. The Atlantic Coast Pipeline (ACP) announced on October 30 that it had filed with the Federal Energy Regulatory Commission supplemental information that provides route alternatives “to minimize impacts of the proposed route on several environmental, historic and public land issues.” One of the four route adjustments would affect the ACP as it traverses the George Washington National Forest over Shenandoah Mountain, located along the shared border of Highland and Augusta Counties. The company proposed using “horizontal directional drill (HDD) construction to avoid potential impacts on Cow Knob salamanders and their habitat.” The ACP proposal was in response to U.S. Forest Service concerns about the Cow Knob salamander habitat on Shenandoah Mountain.

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20151030-5363

<https://www.abralliance.org/wp-content/uploads/2021/07/Dominion-chooses-drilling-over-major-route-change-Recorder-11-5-15.pdf>

November 2015

Forest Service slams ACP for violating soil testing protocols

79. The U.S. Forest Service (NFS) sharply criticized the failure of the Atlantic Coast Pipeline (ACP) to follow appropriate procedures in soil testing in the Monongahela and George Washington National Forests. In a November 5 letter filed with the Federal Energy Regulatory Commission, Clyde Thompson, Forest Supervisor for the Monongahela National Forest and speaking on behalf of the entire agency, said that the results of soils surveys conducted by the ACP cannot be used to evaluate the project. Thompson said that communications with ACP on appropriate protocols to be used in soils testing began in February 2015. “ACP was undiligent in following the Forest Service’s protocols and responding to the Forest Service’s requests to review qualifications of field personnel.”

https://elibrary.ferc.gov/eLibrary/filelist?document_id=14396581&optimized=false

https://www.abralliance.org/wp-content/uploads/2015/11/Dominion_jumped_gun_on_proposed_route-Recorder_11-12-15.pdf

https://www.abralliance.org/wp-content/uploads/2015/11/Trust_eroding_even_further-Recorder_11-12-15.pdf

80. Virginia State Senator Creigh Deeds wrote the Federal Energy Regulatory Commission on November 6 urging that the agency conduct a programmatic environmental impact statement (PEIS) on all natural gas pipelines that are pending or expected to be pending before the agency. Sen. Deeds said: “I am concerned that the cumulative impacts of the ACP, the Mountain Valley Pipeline, the WB Express Project, and the Appalachian Connector Pipeline may go overlooked without proper consideration as a whole.”

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20151106-5155

81. The Virginia Association of Counties at its annual meeting on November 8-10 adopted a position in its 2016 legislative program that supported an improvement of Erosion and Sediment Control monitoring and enforcement. The association also called for ensuring that counties are partners in the route selection process for pipelines.

<http://www.vaco.org/LegislativePublications/LegislativeProgram/2016LegislativeProgram.pdf>

82. Trout Unlimited (TU) initiated a Pipeline Monitoring Program with a meeting and training session in Staunton, VA on November 14. The program extended an existing TU stream monitoring program focused on the impact of shale gas drilling in the central Appalachian region. The monitoring effort was designed to establish a baseline of watershed health in advance of pipeline construction activities, promote early detection and reporting of problems that may develop during construction and evaluate long term impacts. Additional training sessions were held in order to include streams in West Virginia and more streams in Virginia.

ABRA urges FERC to reexamine ACP application

83. The Allegheny-Blue Ridge Alliance submitted on November 17 a letter to the Federal Energy Regulatory Commission that called on the agency to reexamine the pending application of the Atlantic Coast Pipeline, LLC and questioned the soil surveys conducted along the entire pipeline route. ABRA's letter was prompted by a letter filed with FERC on November 5 by the Supervisor of the Monongahela National Forest. (#79, above)

https://www.abralliance.org/wp-content/uploads/2015/11/ABRA_Letter_To_FERC_On_ACP_Soils_Surveys_11-17-15-.pdf

84. The Ranking Member of the U.S. House Committee on Natural Resources, Rep. Raul Grijalva (D-AZ, 7th District) on November 23 wrote Chairman Norman Bay of the Federal Energy Regulatory Commission (FERC), calling on the agency to “adjust the schedule for review of the Atlantic Coast Pipeline in order to provide sufficient time for the U.S. Forest Service and other potentially participating agencies to work with the applicant to identify and resolve potential concerns before the Environmental Impact Statement for the project is initiated.”

In related correspondence, U.S. Forest Service also wrote FERC on November 23 stating: “The Forest Service reiterates its previous comments that results of studies and responses to information requests should be utilized in the process of route selection and that project effects across route alternative should (be) the basis of route selection. To date, some studies and information requests are incomplete or inconclusive.”

http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151124-0021

http://elibrary.ferc.gov/idmws/file_list.asp?accession_num=20151123-5341

December 2015

FERC urges alternative route for ACP due to Forest Service concerns

85. The Federal Energy Regulatory Commission (FERC) on December 4 wrote Dominion Transmission, Inc., in its role as manager of the Atlantic Coast Pipeline (ACP) project, requesting significant additions in information be required before further work on an Environmental Impact Statement could proceed. The FERC letter stated:

“ . . . through our consultations with the U.S. Forest Service and our interpretation of the prescriptive-specific goals, objectives, standards, and guidelines listed in the respective Monongahela and George Washington National Forests’ Land and Resource Management Plans, we have determined that alternative routes to the south of the currently proposed ACP route may offer environmental advantages over the currently proposed route. . . The information requested in the enclosure is necessary for us to evaluate the SHP, ACP, and an alternative pipeline route across the National Forests and to continue preparation of the draft EIS for the project.”

<https://www.abralliance.org/wp-content/uploads/2022/03/FERC-request-for-further-info-from-ACP-12-4-15.pdf>

https://www.wvgazettemail.com/business/agency-seeks-alternate-pipeline-route-through-monongahela-national-forest/article_9c7c095c-ce58-58b0-8670-9a2e5661adcb.html

Nature Conservancy comments on FERC request:

https://elibrary.ferc.gov/eLibrary/filelist?document_id=14410283&optimized=false

86. Congressman Bob Goodlatte (VA-6-R)), Chairman of the House Judiciary Committee and two colleagues from the Virginia delegation to the U.S. House of Representatives wrote Federal Regulatory Commission Chairman Norman C. Bay on December 9 asking that the Atlantic Coast Pipeline and the Mountain Valley Pipeline be “collectively considered in the context of existing regional energy infrastructure and projected regional energy needs.”

The letter further said that “failing to consider the totality of the circumstances would be short-sighted.” Also signing the letter were Congressman Robert Hurt (VA-5-R), a member of the House Financial Services Committee, and Congressman Morgan Griffith (VA-9-R), a member of the House Energy and Commerce Committee. The congressmen’s letter also asked “if FERC will consider the potential economic impacts that these proposals may have in the respective communities that could be impacted” and “how FERC considers pipeline proposals on a regional basis and assesses their potential economic impacts.”

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20151211-0026

Forest Service reiterates concerns about ACP route

87. The National Forest Service (NFS) raised serious questions about proposed route changes for the Atlantic Coast Pipeline, saying they were inadequate to address harm to habitats of the Cheat Mountain salamander in the Monongahela National Forest (MNF), Cow Knob salamander in the George Washington National Forest on Shenandoah Mountain and the Northern Flying Squirrel, as well as the NFS's priority restoration of red spruce in the MNF. The December 11 comments filed with the Federal Energy Regulatory Commission, signed by Clyde Thompson, Supervisor of the MNF, observed that "the central Appalachians contain the last relatively unfragmented large forest blocks in the mid-Atlantic states." The NFS comments also suggested that a claim made in an earlier ACP filing, relying upon the analysis of a well-known expert on the Cheat Mountain salamander, was in fact a misrepresentation.

<https://www.abralliance.org/wp-content/uploads/2022/02/Forest-Service-letter-to-FERC-on-ACP-route-variations-12-11-2015.pdf>

88. Dominion Transmission, on behalf of the Atlantic Coast Pipeline, LLC, filed with the Federal Energy Regulatory Commission on December 16 a partial response to the agency's December 4 Environmental Information Request (See #85, above) that asked for an analysis of the ACP's conformity with U.S. Forest Service management plans and to evaluate alternative pipeline routes across the National Forests. The Dominion filing noted that the company had provided FERC on December 15 "a detailed description of avoidance measures designed for the preferred route, as modified, in order for the ACP to be consistent with the Forest Service's Long Range Management Plans." The December 16 Dominion response provided information on "eight previously-filed route alternatives on Forest Service lands to more clearly demonstrate the relative environmental impacts of those routes."

https://www.abralliance.org/wp-content/uploads/2015/12/Update_60.pdf

https://elibrary.ferc.gov/eLibrary/filelist?document_id=14409331&optimized=false

89. Friends of Wintergreen (FoW), an association of property owners at the Wintergreen Resort in Nelson County, VA, submitted on December 29 to the Federal Energy Regulatory Commission (FERC) suggested alternate routes for the proposed Atlantic Coast Pipeline. FoW's expressed intent was for FERC to have additional information in reviewing the 564-mile proposed pipeline that would "minimize or avoid significant environmental and safety impacts, as well as adverse economic consequences in the Wintergreen area, that would result from the Proposed Route,"

<https://www.abralliance.org/wp-content/uploads/2021/07/Wintergreen-group-urges-alternative-routes-for-ACP-Nelson-County-Times-1-14-21.pdf>

https://elibrary.ferc.gov/eLibrary/filelist?document_id=14413070&optimized=false

<https://www.abralliance.org/wp-content/uploads/2021/07/Wintergreen-says-pipeline-threatens-its-revitalization-Daily-Progress-2-7-2016.pdf>

January 2016

Fish and Wildlife Service details concerns over impact of ACP route

90. The West Virginia Field Office of the U.S. Fish and Wildlife Service (WVFO) filed on January 7 with the Federal Energy Regulatory Commission an extensive litany of concerns about the current proposed route of the Atlantic Coast Pipeline. The WVFO letter detailed potential impacts on a variety of species and chided Dominion Transmission for the inadequacies or absence of required survey data. Cited species included the Indiana bat, Cheat Mountain salamander, specified mussels, golden and bald eagles, migratory birds and native trout.

https://www.abralliance.org/wp-content/uploads/2016/01/WV_FW_letter_1-7-2016.pdf

91. Dominion Transmission Inc. (DTI), on behalf of Atlantic Coast Pipeline, LLC, filed with the Federal Energy Regulatory Commission (FERC) on January 13 a further response to the agency's December 4, 2015, request for further information on the Atlantic Coast Pipeline (ACP). The 168 requests from FERC related to the 11 Resource Reports filed by DTI with the September 18, 2014, application to build the ACP. DTI's 397-page response covered a range of issues, including those relating to water, cultural resources, soils and noise issues.

https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20160113-5231&optimized=false

Forest Service rejects proposed ACP route

92. The Forest Service rejected the proposed route for the Atlantic Coast Pipeline on January 19. Its decision letter, signed by the Regional Foresters for the Southern and Eastern Regions, said that the proposed route "does not meet minimum requirements of initial screening criteria" as required by law and that "alternatives must be developed to facilitate further processing of the application," and such alternatives must avoid the habitats of the Cheat Mountain and Cow Knob salamanders and, the West Virginia Northern Flying squirrel and spruce ecosystem restoration areas.

https://www.abralliance.org/wp-content/uploads/2016/01/FS_Permit_Letter_1-19-2016.pdf

<https://www.abralliance.org/wp-content/uploads/2021/07/ABRA-Statement-on-Forest-Service-Rejection-of-ACP-Preferred-Route-1-21-16.pdf>

93. Pipeline opponents demonstrated January 19 in Richmond to urge state lawmakers to repeal a 2004 Virginia surveying law that grants crews access to private property.



<https://www.abralliance.org/wp-content/uploads/2022/03/Pipeline-foes-rally-for-repeal-of-surveying-law-Daily-Progress-1-19-2016.pdf>

FERC Chair restates opposition to a programmatic EIS for ACP and MVP

94. Norman Bay, Chairman of the Federal Energy Regulatory Commission, reiterated the agency's refusal to consider conducting a programmatic Environment Impact Statement for the Atlantic Coast and Mountain Valley Pipelines in a January 20 letter to Virginia Congressman Robert Goodlatte (R-6), Chairman of the House Judiciary Committee, in response to the Congressman's December 9, 2015. Chairman Bay said:

"The Commission does not direct the development of the gas industry's infrastructure, either on a broad regional basis or in the design of specific projects. Nor does the Commission engage in regional planning exercises that would result in the selection of one project over another. Accordingly, Commission staff has determined that it would not be appropriate to prepare a programmatic environmental impact statement for proposed gas infrastructure projects in Virginia."

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20151211-0026

February 2016

ABRA briefs Virginia legislators on ACP concerns

96. ABRA Chair/Executive Director Lewis Freeman addressed the Virginia Environment and Renewable Energy Caucus on February 1 in Richmond about the Alliance's views on the Atlantic Coast Pipeline, particularly as they relate to pending legislation. The caucus membership included 19 Delegates and Senators in the General Assembly, with both Democrats and Republicans represented. A representative from Dominion Energy also addressed the caucus.

https://www.abralliance.org/wp-content/uploads/2016/02/Update_65.pdf

97. A Sunday, February 7 *Washington Post* feature article on the proposed Atlantic Coast Pipeline (ACP) profiled the negative impacts the project would have on many businesses and families along the proposed route. "A Dilemma of Development vs. the Prospect of Losing Peace and Quiet" included interviews with several people active in ABRA member groups in the Shenandoah Valley, as well as quotes from a Dominion Resources spokesman. ABRA responded to the article with a Letter to the Editor that appeared in the February 15 edition of the paper. A letter from a Dominion vice president was also printed.

The ABRA letter said that the article "understated the ecological devastation and economic harm that would result" from the project. Citing specific examples of how the pipeline would harm the environment and raising questions over the economic viability of the ACP, the ABRA letter concludes: "If new pipelines are built, they should be safe and needed. The Atlantic Coast pipeline, as proposed, doesn't meet either test."

<https://www.abralliance.org/wp-content/uploads/2021/07/A-dilemma-of-development-vs.-the-prospect-of-losing-peace-and-quiet-Washington-Post-2-6-2016.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/07/The-effects-of-a-new-natural-gas-pipeline-in-Virginia-LOE-Washington-Post-2-15-2016.pdf>

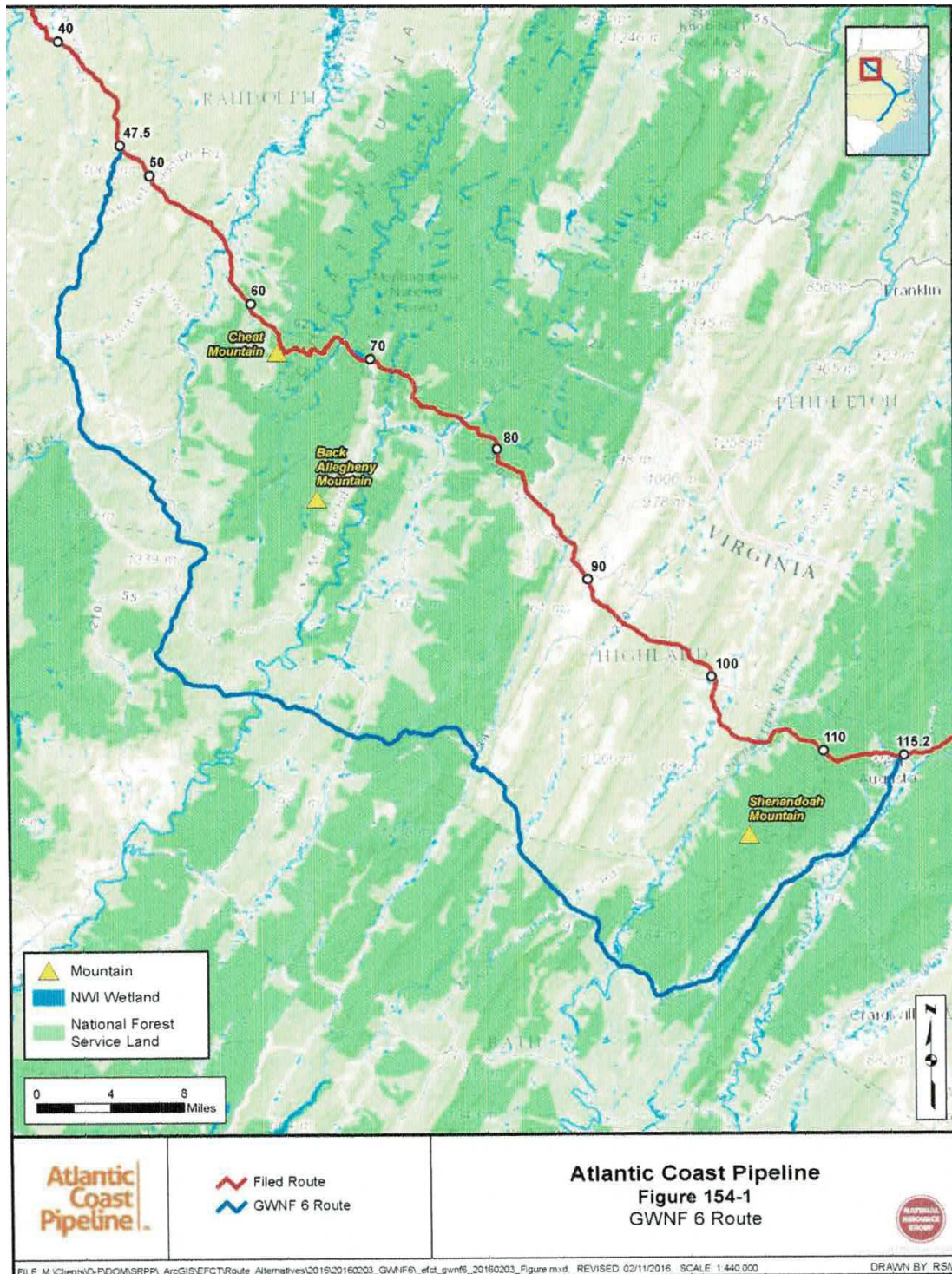
New ACP route announced, through Bath County, VA

98. Atlantic Coast Pipeline, LLC (Atlantic) filed with the Federal Energy Regulatory Commission on February 16 a new route variation (GWNF 6) for the Atlantic Coast Pipeline (ACP). The firm had announced the new route on February 12.

The proposed route was in response to the U.S. Forest Service's January 19 request of Atlantic that it change the route to avoid threatened species on Cheat Mountain in the Monongahela National Forest and on Shenandoah Mountain in the George Washington National Forest. The GWNF 6 route would have departed from the originally proposed ACP route in Pocahontas County and head south, crossing through the southwest corner of Highland County, enter Bath County and continue southeast in Bath until turning north into the Deerfield Valley in Augusta County, and rejoining the original ACP route at West Augusta. Atlantic said in its filing that the new route

segment (blue line on map, below), by avoiding Cheat and Shenandoah Mountains, “addresses the issues identified by the U.S. Forest Service and allows the preparation of the Environmental Impact Statement to continue.”

https://www.abralliance.org/wp-content/uploads/2016/02/Update_67.pdf



ABRA announces on-line mapping system for the ACP

99. The Dominion Pipeline Monitoring Coalition, an ABRA member, announced in mid-February a new interactive mapping system of the Atlantic Coast Pipeline that organizes information on the environmental risks and sensitivities of the pipeline route, including the newly proposed alternative route through Pocahontas, Highland, Bath and Augusta Counties. When completed, information layers provided would include:

- Corridor and infrastructure (including access roads, staging areas and horizontal drilling locations.
- Corridor properties (slope steepness classification, soil erodibility classification)
- Corridor analysis (slope failure potential, runoff and sedimentation potential)
- Streams (crossing locations and method, stream classification, biological impact potential);
- Wetlands and riparian zones.
- Karst (limestone and dolomite distribution, sinkholes and sinking streams and springs).
- Water supply recharge areas.
- Forests (direct and interior forest loss, high-integrity forests).

ABRA releases study on economic impact of ACP on Virginia counties

100. On February 16, ABRA released a new study which concluded that the economic harm to the property owners and affected communities in four Virginia counties (Augusta, Buckingham, Highland and Nelson) by the Atlantic Coast Pipeline would ultimately exceed the cost of building the pipeline and associated compressor station. The study by Key-Log Economics, a Charlottesville-based economics firm, was sponsored by four ABRA members: Highlanders for Responsible Development, Augusta County Alliance, Friends of Nelson, Friends of Buckingham, Virginia, and Yogaville Environmental Solutions. The analysis found that up to \$141 million in lost property value and services, as well as diminished water and air quality, would occur across the four-county study area just during construction. Further, the pipeline would depress area economies, contribute to job loss and reduce quality of life, and lower personal incomes in perpetuity to the tune of up to \$109 million annually.

https://www.abralliance.org/wp-content/uploads/2016/02/ABRA_Press_Release_on_4-County_Economic_Impacts_of_ACP_2-16-16.pdf

<https://www.abralliance.org/wp-content/uploads/2021/07/Atlantic-Coast-Pipeline-opponents-cite-costs-in-report-Roanoke-Times-2-16-2016.pdf>

ABRA holds meetings for affected citizens on ACP route changes

101. ABRA announced on February 17 that it would convene two public to provide information to the public on the route changes for the Atlantic Coast Pipeline. A meeting in Bath County, VA was held February 25 in Hot Springs, and a Pocahontas County, WV meeting was held on March 2 near Snowshoe Resort.



Joe Lovett of Appalachian Mountain Advocates addressing the more than 100 people attending the February 25 ABRA meeting in Hot Springs, VA.



An overflow crowd in Pocahontas County on March 2 learned about the new ACP route.

March 2016

102. The National Forest Service announced on March 2 it was opening a public comment period on the proposed new route for the ACP as it would impact the Monongahela National Forest. The comment deadline was set for March 21.

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd493525.pdf

103. ABRA announced on March 3 that it had commissioned a special study on the challenges to water resources in the Appalachian area posed by pipelines. Downstream Strategies, a Morgantown, WV firm, was contracted to examine the potential implications of pipeline development on private and public water supplies in Appalachian ridge and valley topography, and to provide recommendations for water quality and quantity monitoring for landowners and water providers.

Open houses on ACP route changes are held

102. Dominion Transmission Inc. announced the last week of February that it was scheduling three open houses for property owners and others interested in the new proposed route for the Atlantic Coast Pipeline. The open houses held were: March 8 in Churchill, VA; March 9 in Warm Springs, VA; and March 10 at the Snowshoe Mountain Resort in Pocahontas County, WV.



Nearly 200 persons attended the Churchville, VA open House on March 9.

103. A study was released February 29 by the Interstate Natural Gas Association of America (INGAA) that concluded “the presence of an underground natural gas transmission pipeline does not affect the sales prices or value of residential properties.” The study updated a 2001 study done by the association and echoes the findings of other studies commissioned by industry.

Major findings included:

- There is no measurable impact on the sales price of properties located along or in proximity to a natural gas pipeline versus properties which are not located along or in proximity to the same pipeline.
- There is no impact on demand for properties located along natural gas pipeline easements nor is development in areas with natural gas pipelines hindered.
- Natural gas pipelines do not affect the property value of any particular type of residence any more or less than another type of residence.

A critique of the INGAA property values study was subsequently released by Key-Log Economics of Charlottesville on March 11, which took issue with the premises and conclusions of the INGAA study.

<https://www.ingaa.org/PropertyValues.aspx>

https://www.abralliance.org/wp-content/uploads/2016/03/INGAA_study_on_property_values_critiqued_by_Key-Log-3-11-1.pdf

104. Details about changes to the Atlantic Coast Pipeline (ACP) announced by Dominion in February, accompanied by several route modifications, were filed with FERC on March 11. The filing, which was an amendment to the original September 18, 2015, application for a permit to build the ACP, included more specific descriptions of the route alternatives that the company proposed. It included variations to the route maps announced in February that re-directed the project into central-Pocahontas County, WV, Bath County, VA and the Deerfield Valley portion of Augusta County, VA. Dominion described the new route as a “minor change,” though it amounted to nearly 100 miles of new route to the project. In addition to the previously announced route changes, the filing included route modifications in Pocahontas, Bath and Nelson Counties and announced that the size of the Buckingham County compressor station would be increased from 40,715 to 53,515 horsepower. The filing also claimed that all surveying for the new route would be completed by April 15, 2016.

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20160314-5035

<https://www.abralliance.org/wp-content/uploads/2022/03/Dominion-prepares-for-pipeline-construction-but-review-of-new-route-still-pending-Richmond-Times-Distach-3-22-2016.pdf>

105. A March 11 letter from 33 members of the Hampton Roads Caucus, a group of legislators in the Virginia General Assembly representing districts in southeastern Virginia, to U.S. Senators Mark Warner and Tim Kaine, stated that the need for the Atlantic Coast Pipeline was “urgent.” Continuing, the legislators said: “Without new infrastructure, there is no way to meet our region’s rising demand for natural gas. And without new infrastructure, the abundant, economical supplies of natural gas being produced just a few hundred miles away will remain virtually inaccessible for our communities, crippling our prospects for economic growth.”

ABRA responded to the Hampton Roads Caucus letter with a March 29 letter to Senators Warner and Kaine from Tom Hadwin of Friends of Shenandoah, a former utility executive and a ABRA Steering Committee member. Hadwin pointed out that “natural gas can be supplied to the Hampton Roads region more quickly, at lower costs, and without disrupting public and private land in Virginia, by using existing pipelines.”

https://www.abralliance.org/wp-content/uploads/2016/03/Hampton_Roads_Caucus_letter_to_KaineWarner-3-11-16.pdf

<https://www.abralliance.org/wp-content/uploads/2022/03/Letter-to-Senators-Warner-and-Kaine-from-Tom-Hadwin-3-29-16.pdf>

106. The staff of the Federal Energy Regulatory Commission (FERC) presented to the agency’s Commissioners on March 17 the annual State of the Markets Report for 2015. The report noted that natural gas “production and storage reached record levels, while demand rose modestly, tempered by the El Niño warm weather during the 2015-2016 winter.” Among highlights in the staff presentation:

- “The outlook for 2016 continues to point to low prices because of continued strong production and high storage.”
- “The North American natural gas market will likely remain oversupplied and prices low in the near term, pushing high-cost producers out of the market.”
- “Long term demand growth for U.S. natural gas will likely come from increased gas-fired electric generation, particularly in the Southeast, growing industrial demand, LNG exports, and pipeline exports to Mexico.”

https://www.abralliance.org/wp-content/uploads/2016/03/State_of_the_Markets-FERC_staff_3-19-16.pdf

April 2016

107. The Virginia Outdoors Foundation (VOF) expressed deep concern over the new route of the Atlantic Coast Pipeline in an April 7 letter to the Federal Energy Regulatory Commission. Martha Little, Deputy Director of Stewardship of the VOF, noted that “the route segment referred to as GWNF-6, proposed by ACP to avoid Forest Service lands and certain wildlife species has resulted in significant potential impacts to VOF open-space lands. This route change would result in the pipeline crossing 9 protected open-space easements in Highland, Bath and Augusta Counties.”

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20160407-5182

108. Five ABRA members (Shenandoah Valley Network, Highlanders for Responsible Development, Virginia Wilderness Committee, Shenandoah Valley Battlefields Foundation and the Natural Resources Defense Council) filed comments with the Federal Energy Regulatory Commission on April 12 requesting that the agency 1) reject the recent request by Atlantic Coast Pipeline, LLC (Atlantic) for an expedited processing of its application and 2) to set a schedule for environmental review that provides at a minimum, one year before the release of a draft Environmental Impact Statement (EIS). The comments were prepared and filed by the Southern Environmental Law Center, also an ABRA member.

[https://www.abralliance.org/wp-content/uploads/2016/04/Motion to delay EIS from SELC clients 4-12-16-.pdf](https://www.abralliance.org/wp-content/uploads/2016/04/Motion_to_delay_EIS_from_SEL_Clients_4-12-16-.pdf)

Two Virginia County Boards oppose new ACP route

110. Two Virginia Boards of Supervisors expressed opposition to the new proposed ACP route, GWNF-6. On April 12 the Bath County Board of Supervisors voted unanimously to have a resolution prepared in opposition to the pipeline, which was recently rerouted through the county.

The Augusta County Board of Supervisors filed a letter with the Federal Energy Regulatory Commission (FERC) on April 12 that voiced several concerns with the GWNF-6 route, particularly the adverse impact it would have on the Deerfield Valley community in the western side of the county. The letter argued that the Virginia Code section that permits natural gas companies to survey land without a property owner’s permission “places an affirmative obligation on the part of Atlantic Coast Pipeline to find the most advantageous route. We are concerned that the most recent alternative route is not the most advantageous route.” Concluding, the Supervisors’ letter said that GWNF-6 “does not take into account other environmental impacts” and requested that FERC not grant approval for the GWNF-6 alternative route.

[https://www.abralliance.org/wp-content/uploads/2016/04/Augusta BOS FERC 4-12-2016.pdf](https://www.abralliance.org/wp-content/uploads/2016/04/Augusta_BOS_FERC_4-12-2016.pdf)

Forest Service approves permits for surveying for ACP route

111. The National Forest Service (NFS) issued new temporary special use permits for surveying on forest lands for the new proposed route of the Atlantic Coast Pipeline (GWNF-6). The April 14 announcement provided for a one-year permit for site surveys and testing activities in a 300-foot-wide corridor along 5.4 miles of the Monongahela National Forest and 14.3 miles of the George Washington National Forest. Several ABRA members had urged the NFS to delay issuing the permits until further analysis of the GWNF-6 impacts could be assessed. The permitted surveys would include evaluations of wetlands, water, soil, sensitive species, soils, geology and other features, according to the NFS news release.

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd498015.pdf

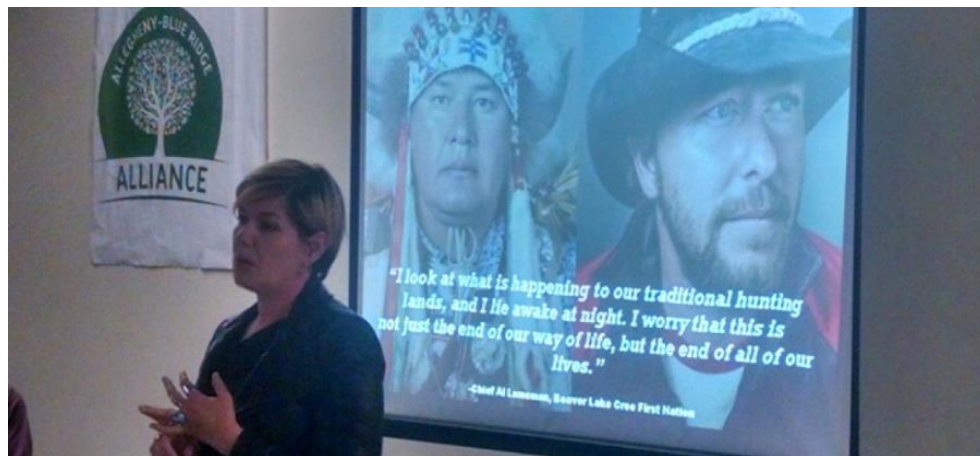
112. Dominion Transmission, Inc., managing partner for the Atlantic Coast Pipeline, submitted on April 15 to the Federal Energy Regulatory Commission (FERC) “responses to a fifth and final subset” to questions previously posed to it by FERC staff on December 4, 24 and January 5. The filing exceeded 7,000 pages.

https://www.abralliance.org/wp-content/uploads/2016/04/Dominion_Pushes_Back_Pipeline_Plan-Recorder_4-21-16.pdf

113. The water quality training program sponsored by the West Virginia Rivers Coalition and Trout Unlimited and supported by ABRA and the Dominion Pipeline Monitoring Coalition, scheduled two additional sessions in Monroe County - Greenville, April 30, and Nicholas County - Summersville, May 7. The intent of the program was to train volunteers on how to effectively monitor water quality along proposed pipeline routes before, during and after potential pipeline construction.

ABRA holds Pipeline Summit on efforts against ACP and MVP

114. ABRA held a Pipeline Summit on April 23 attended by over 100 persons at the Weyers Cave (VA) Community Center. It featured a full day of presentations and discussion groups on economics associated with the proposed Atlantic Coast (ACP) and Mountain Valley (MVP) pipelines, grass roots experiences, new tools to assess pipeline impacts, the need for a programmatic environmental impact statement for the ACP and MVP, and the importance of improving effectiveness in dialogue with public officials. The event was jointly sponsored by ABRA and the Protect Our Heritage, Water, Rights, the coalition leading the fight against the Mountain Valley Pipeline.

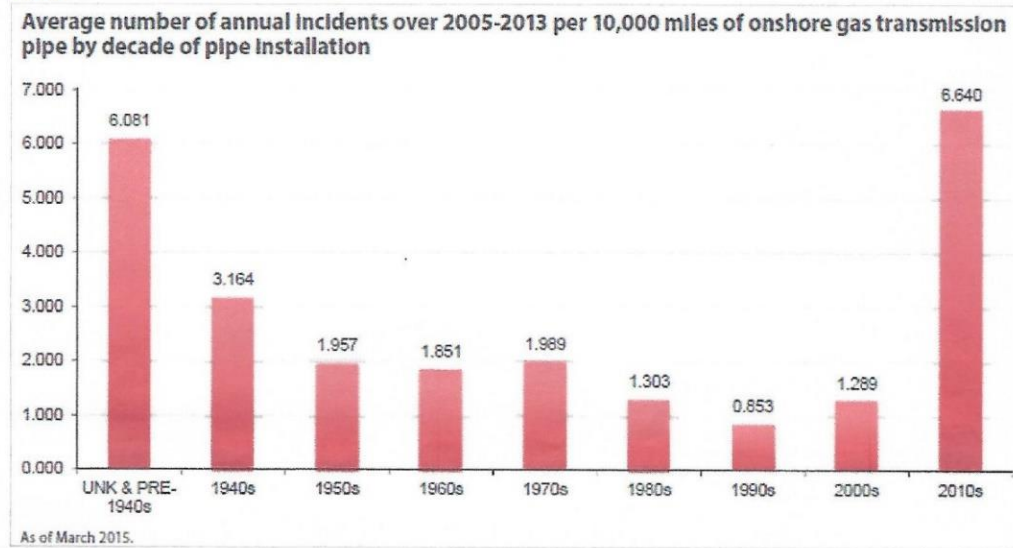


Jane Kleeb, Founder of Bold Nebraska, the citizens group that led the fight against the Keystone XL Pipeline, was a featured speaker.

New study highlights the risks of more pipelines in Appalachia

115. A new study was released April 27 that concluded the proposed Atlantic Coast and Mountain Valley pipelines are indicative of a rush toward industry overbuilding and pose risks to ratepayers, communities and investors. “Risks Associated with Natural Gas Pipeline Expansion in Appalachia” was published by the Institute for Energy Economics and Financial Analysis (IEEFA), a Cleveland, OH-based organization that conducts research and analyses on financial and economic issues related to energy and the environment.

Figure 5. Pipeline incidents on newly installed pipelines are comparable to those installed pre-1940.



Source: U.S. Pipeline and Hazardous Materials Safety Administration, Pipeline Safety Trust

<https://ieefa.org/wp-content/uploads/2016/04/Risks-Associated-With-Natural-Gas-Pipeline-Expansion-in-Appalachia-April-2016.pdf>

May 2016

FERC announces scoping meetings for ACP route changes

116. The Federal Energy Regulatory Commission (FERC) announced on May 3 a scoping comment period for the new alternative route of the Atlantic Coast Pipeline (GWNF 6) that would affect Pocahontas, Bath and Augusta Counties, as well as other modifications elsewhere in the route. The deadline for comments was set for Thursday, June 2, with two public scoping meetings scheduled: May 20 in Marlinton, WV and May 21 in Hot Springs, VA. ABRA wrote FERC on May 5 asking that the agency extend the scoping deadline of June 2 for an additional 30 days.

https://www.abralliance.org/wp-content/uploads/2016/05/FERC_Sec_Bose_letter_urging_scoping_period_extenstion_5-5-16.pdf

https://www.abralliance.org/wp-content/uploads/2016/05/Residents_tell_FERC_reps_about_pipeline_worries-Recorder_5-26-16.pdf

<https://www.abralliance.org/wp-content/uploads/2021/08/Dont-let-ACPs-Hail-Mary-reach-endzone-Recorder-5-5-2016.pdf>

117. The Bath County, VA Board of Supervisors voted unanimously on 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.

https://www.abralliance.org/wp-content/uploads/2016/05/Bath_County_board_officially_opposes_pipeline-Recorder_5-12-16.pdf

<http://augustafreepress.com/bath-county-bos-approves-letter-opposing-proposed-pipeline/>

118. A Nelson County, VA Circuit Court Judge ruled on May 7 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 stated that Atlantic Coast Pipeline LLC had failed to specify a date of entry to perform surveys and, therefore, failed to comply with Virginia Code 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 to survey their property, which the owners previously and explicitly had refused to grant.

<https://www.abralliance.org/wp-content/uploads/2022/03/Judge-finds-pipelines-survey-notices-legally-insufficient-RTD-5-11-16.pdf>

119. 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.



120. Friends of Wintergreen (FoW) on May 13 submitted to the Federal Energy Regulatory Commission (FERC) four alternative routes for the Atlantic Coast Pipeline (ACP). The organization argued that compared to the route proposed by Dominion, these alternatives are less damaging to Virginia's environment, economy, communities, and public safety. FoW said that the ACP's impact on the Wintergreen area would cause the loss of \$75 million in new investment, over 250 new tourism jobs, and a 20% decline in tourism business and property values to Nelson County's largest employer and taxpayer.

https://elibrary.ferc.gov/eLibrary/filelist?document_id=14459553&optimized=false

121. ABRA's "Pipeline Air Force" made an appearance over the May 22 Riverrock Concert in Richmond on Saturday, May 22. The event was sponsored by Dominion Energy.



Augusta County Board opposes surveys of new ACP route

122. The Augusta County, VA Board of Supervisors voted unanimously on May 25 to oppose surveys along the proposed route of the Atlantic Coast Pipeline through the county. The Supervisors concluded that ACP's plans did not comply with Virginia law 56-49.01 (that allows natural gas companies to survey property without landowners' permission) because it is NOT the "most advantageous route."

June 2016

Virginia expresses concern over ACP impact on wildlife species

123. The Virginia Department of Game and Inland Fisheries expressed concerns about how the ACP would impact wildlife species and other resources under the agency's jurisdiction in a June 1 letter to Dominion: "We urge the applicant to consider these long-term impacts and to minimize them to the greatest extent possible by collocating the pipeline within already-disturbed utility corridors and early successional habitats."

<https://www.abralliance.org/wp-content/uploads/2021/08/VA-Game-and-Inland-Fisheries-letter-to-Dominion-6-1-16.pdf>

Dominion seeks deal for ACP to cross conservation easements

124. It was revealed on June 2 that Dominion Energy had proposed to the Virginia Outdoor Federation (VOF) that it agree to permit the Atlantic Coast Pipeline to cross several properties on the pipeline's proposed route for which VOF held conservation easements in exchange for donating Hayfield Farm, a 1,200-acre property in Highland County, VA, that would provide VOF with "lands of greater conservation value. The VOF called the proposal "unprecedented" and said its Board would consider the matter at its June 30 meeting.

https://www.abralliance.org/wp-content/uploads/2016/06/Easement_trades-Recorder-20160602.pdf

125. The Highland County (VA) Cave Survey filed a paper with FERC on how subterranean features, aquifers, bats and invertebrates could face irreparable harm from Dominion's pipeline construction on the proposed route through Highland and Bath counties. The paper said: "The magnitude of the size of this proposed construction project and the race to be the first to be completed is a prescription for disaster for the karst systems along the GWNF 6 route. Not only is our national forest system threatened, but the most significant karst area in Virginia."

https://elibrary.ferc.gov/eLibrary/filelist?document_id=f728c60a-d5cf-c503-b01e-6b6c8f600001&optimized=false

https://www.abralliance.org/wp-content/uploads/2016/06/Pipeline_route_prescription_for_disaster_Recorder_6-9-16.pdf

126. The President of the Affiliated Construction Trades of West Virginia in a June 7 interview said he was hopeful that ACP construction would lead to local hiring in the state and that potential economic benefits outweigh any environmental concerns.

<https://wvmetronews.com/2016/06/07/with-environmental-opposition-looming-pro-labor-group-remains-ardently-supportive-of-atlantic-coast-pipeline/>

127. Dominion Energy on June 10 asked the Virginia Outdoors Foundation (VOF) to defer until the VOF Board’s September meeting consideration of its proposal to the Virginia to purchase the Hayfield Farm in eastern Highland County, VA and place it under a conservation easement in exchange for the ACP being permitted to cross other existing VOF-held conservation easement properties. (See, #124, above)

<https://www.abralliance.org/wp-content/uploads/2021/08/Foundation-tables-Hayfields-easement-plan-Recorder-6-16-21.pdf>

128. An alliance of some 60 groups and leaders released on June 15 an open letter to Virginia Governor Terry McAuliffe challenging him to stop supporting fossil fuel projects that worsen climate change and harm communities. ABRA and several of its member organizations signed the letter. The Governor was asked to join the fight for “energy justice, democratic renewal, and healthy communities” in Virginia.

<https://www.abralliance.org/wp-content/uploads/2016/06/Energy Justice Letter to Gov McAuliffe 6-15-16.pdf>

129. The CEO of Dominion Energy Infrastructure, David Christian, wrote a letter to the editor of *The Recorder* newspaper, published June 23, to express his view that the ACP would be built with care, noting that he was a native of Augusta County and that his family had deep roots in the western portion of Virginia.

“Along with other members of Dominion’s experienced executive team, I will be responsible for the construction of the new Atlantic Coast Pipeline. I offer my personal assurance that every care will be taken to ensure the safety of the residents of this community and the protection of our precious environment and natural resources before, during and after construction.”

<https://www.abralliance.org/wp-content/uploads/2016/06/Dominion CEO-Pipeline will be built with care-Recorder 6-23-16.pdf>

July 2016

130. Dominion Transportation, Inc., managing entity for the Atlantic Coast Pipeline project, filed on July 1 a response to a June 13 request from the Federal Energy Regulatory Commission for responses to 180 specific questions about the project. The Dominion filing responded to less than one-third of FERC’s questions, some of which dated back to December 2015, and many of the answers provided stretched the meaning of credibility.

<https://www.abralliance.org/wp-content/uploads/2016/07/ABRA Update 87.pdf>

131. The Federal Energy Regulatory Commission on July 6 wrote to landowners whose property has recently been targeted by route changes in the Atlantic Coast Pipeline (ACP) inviting them to comment on the impact of the ACP on their property. August 5 was set as the deadline for such comments to be filed.

https://www.abralliance.org/wp-content/uploads/2016/07/FERC_letter_to_newly_affected_landowners_7-6-16.pdf

132. Dominion conducted a special briefing on July 19 for Bath County, VA local officials on how it would address safety issues related to building the Atlantic Coast Pipeline. The briefing was conducted at the direction of the Federal Energy Regulatory Commission because Bath officials had been unsuccessful in having safety questions answered by the company.



Harold King, left, co-chair of the Bath County Local Emergency Planning Committee (LEZPC), talked with Dominion external affairs manager Emmett Toms following the LEPC meeting at which Dominion briefed the group on how it planned to work with county emergency services regarding the proposed Atlantic Coast Pipeline project.

https://www.abralliance.org/wp-content/uploads/2016/07/Dominion-outlines_emergency_safety_plans-Recorder_7-21-16.pdf

133. A report released on July 22 concluded that the currently planned gas production expansion in Appalachia would make meeting climate change goals impossible. The report, “A Bridge Too Far: How Appalachian Basin Gas Pipelines Expansion Will Undermine U.S. Climate Goals,” was produced by Oil Change International, a Washington, DC-based research/advocacy organization.

http://priceofoil.org/content/uploads/2016/07/bridge_too_far_report_05_web_Finalv2.pdf

Over 600 persons march in Richmond against the ACP

134. More than 600 people from throughout Virginia descended on Richmond July 23 to voice their disappointment with Governor McAuliffe's policy positions and actions on natural gas pipelines, water quality, energy justice and several other environmental issues. The crowd was undeterred by the 101-degree heat of the day. The event, organized by ABRA member Chesapeake Climate Action Alliance, began with a rally on Brown's Island and concluded with a march through downtown Richmond to the Governor's Mansion.



<http://bluevirginia.us/2016/07/600-virginians-join-march-mansion-tell-gov-mcauliffe-put-people-polluters-pipelines-coal-ash-climate-action>

August 2016

FERC announces schedule for ACP environmental review

135. A schedule for the Environmental Impact Statement review for the Atlantic Coast Pipeline (ACP) was released August 12 by the Federal Energy Regulatory Commission (FERC). The Notice identified the FERC staff's planned schedule for completion of the final Environmental Impact Statement (EIS) for the ACP based upon the issuance of the draft EIS in December 2016.

- Issuance of Notice of Availability of the final EIS – June 30, 2017
- 90-day Federal Authorization Decision Deadline – September 28, 2017

https://elibrary.ferc.gov/eLibrary/filelist?document_id=14f95fe8-f1d5-c86b-b03c-6b6d12800001&optimized=false

136. Responding to the schedule announced August 12 by the Federal Energy Regulatory Commission (FERC) for its consideration of the Atlantic Coast Pipeline's application for a permit to construct the proposed pipeline, Dominion Energy indicated its intention to speed up the project's construction schedule after it received FERC's approval. FERC's announced schedule projected the issuance of a Draft Environmental Impact Statement (EIS) in December, with a final EIS out in June 2017 (following a public comment period) and a decision on the permit application by or before September 2017. Dominion had originally projected receiving a permit toward the end of 2016.

https://www.abralliance.org/wp-content/uploads/2016/08/Dominion_seeks_to_address_delays_on_ACP-Recorder_8-18-16.pdf

137. An August 23 filing with the Federal Energy Regulatory Commission by Dominion Transmission, Inc., in response to FERC questions for further information on the Atlantic Coast Pipeline (ACP), highlighted the degree of potential disruption and harm within the George Washington and Monongahela National Forests that could occur.

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?document_id=14488697

138. A preliminary draft Construction, Operation and Maintenance Plan for the Atlantic Coast Pipeline (ACP) was filed August 24 with the Federal Energy Regulatory Commission (FERC) and sent to the U.S. Forest Service. In the cover letter to the respective Forest Service Supervisors – Clyde Thompson of the Monongahela, and Joby Timm of the George Washington and Jefferson – it was noted that the draft plan was developed prior to FERC's issuance of a Notice of Schedule on August 12, thus requiring refinements to be made to the plan that reflect anticipated milestone dates. The letter also noted that there have not yet been discussions with Forest staff on the draft plan.

https://www.abralliance.org/wp-content/uploads/2016/08/ABRA_Update_94.pdf

Forest Service once again calls ACP soil survey data inadequate

139. In an August 28 letter to FERC, the U.S. Forest Service (NFS) called critical soil survey data submitted for the Atlantic Coast Pipeline (ACP) incomplete and said the agency could not complete its review of the ACP permit request to route the pipeline through the Monongahela and George Washington National Forests until necessary information was provided in accordance with NFS protocols. It was the second time in less than a year that the NFS has criticized the Atlantic Coast Pipeline, LLC for inadequacies in soil survey data submitted. (See #79, above)

<https://www.abralliance.org/wp-content/uploads/2016/09/Forest-Service-ACP-conference-call-on-soil-surveys-8-28-16.pdf>

140. The Virginia Outdoor Foundation (VOF) announced August 30 a further delay in its consideration of the proposal submitted in May by Dominion Transmission, Inc. (DTI), managing partner for the Atlantic Coast Pipeline (ACP). The DTI proposal was initially to have been considered by the VOF Board at its June 30 meeting, but at the company's request, consideration was deferred until the September 29 VOF Board meeting. Dominion decided to again defer consideration of the proposal.

In the meantime, it was also announced on August 30 that the Conservation Fund, a Maryland-based non-profit, had, at the request of Dominion, purchased Hayfield Farm and that the proposal on conservation easements along the ACP route remained pending before the VOF Board.

https://www.abralliance.org/wp-content/uploads/2016/09/This_deal_stinks-Recorder_9-8-16.pdf

September 2016

141. The Virginia Outdoors Foundation (VOF) asked the Federal Energy Regulatory Commission (FERC) in a September 6 letter to not approve the latest proposed route change in Nelson County, VA for the Atlantic Coast Pipeline. VOF's letter said that the proposed new route through Nelson County would have significant impacts on VOF open-space lands.

https://www.abralliance.org/wp-content/uploads/2016/09/VOF_letter_to_FERC_on_Spruce_Creek_Route_Variation_9-6-16.pdf

New study calls ACP and MVP unnecessary

142. A new study on the mid-Atlantic region's demand for natural gas was released September 12. It concluded that the Atlantic Coast and Mountain Valley Pipelines were not needed and that the existing natural gas transmission infrastructure could supply more than enough fuel to power the region through 2030. The study – *Are the Atlantic Coast Pipeline and Mountain Valley Pipeline Necessary?* – was conducted by Synapse Energy Economics of Cambridge, Massachusetts and commissioned by the Southern Environmental Law Center and Appalachian Mountain Advocates, two member organizations of ABRA. Among major points in the study were:

- The Mid-Atlantic region's projected demand for energy can be met by the existing network of pipelines with some modest upgrades.
- Additional interstate natural gas pipelines, like the Atlantic Coast and Mountain Valley projects, are not needed to keep the lights on, homes and businesses heated, and existing and new industrial facilities in production.
- The proposed projects would be financially beneficial to utility companies and investors but would burden customers with higher utility bills to cover the costs of construction.

<https://www.abralliance.org/wp-content/uploads/2021/08/Synapse-Report-9-12-16.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/08/Study-concludes-Atlantic-Coast-Pipeline-unnecessary-News-Leader-9-13-2016.pdf>

Statewide poll in Virginia shows 2-1 opposition to ACP and MVP

143. A new statewide public opinion poll released September 12 by the Chesapeake Climate Action Network, an ABRA member, showed that Virginians opposed construction of the Atlantic Coast Pipeline and Mountain Valley Pipeline by a 2-1 margin. According to the poll, 55% of respondents said they were opposed while 28% said they supported the new pipelines; 17% had no opinion.

<https://chesapeakeclimate.org/poll-virginia-voters-oppose-governor-mcauliffe-on-fracked-gas-pipelines-coal-ash-disposal/>

144. Dominion Transmission, Inc. filed with the Federal Energy Regulatory on September 17 an updated construction schedule for the Atlantic Coast Pipeline (ACP). Under the new plan, construction would begin in November 2017 and be completed in the 4th Quarter of 2019. The new schedule represented a one-year delay from the plans announced by Dominion when it proposed the project in 2014.

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20160921-5103

Buckingham compressor station hearing draws strong opposition

145. A standing room crowd attended a public hearing before the Buckingham County Planning Commission on September 26 to present testimony regarding a special use permit application for a compressor station in the county to serve the Atlantic Coast Pipeline. Because the property that has been purchased for the compressor station was zoned agricultural, a special use permit is required. Slightly over half of the 54 persons signing up to speak were able to be heard.



In a September 19 letter to the Buckingham County Zoning and Planning Administrator, Appalachian Mountain Advocates challenged the legitimacy of the ACP permit application.

[https://www.abralliance.org/wp-content/uploads/2016/09/Appalmad Compressor SUP Comments 20160919.pdf](https://www.abralliance.org/wp-content/uploads/2016/09/Appalmad%20Compressor%20SUP%20Comments%2020160919.pdf)

146. Gov. Terry McAuliffe said he couldn't stop the planned Atlantic Coast Pipeline even if he wanted to. His comments were made during a September 28 radio appearance on WTOP radio.

<https://www.abralliance.org/2016/10/06/mcauliffe-reiterates-i-dont-have-the-authority-about-the-acp/>

Forest Service criticizes ACP's latest biological and geohazard analyses

147. Shortcomings in the biological evaluation (BE) and geohazard analyses for the Atlantic Coast Pipeline (ACP) done by Dominion were expressed in filings by the National Forest Service (NFS) with the Federal Energy Regulatory Commission on September 30. Examples of the concerns expressed by NFS were:

- The ACP filing about landslides “mischaracterized the hazard of shallow landslides and underestimates the threat to the pipeline.”
- The potential impact for the pipeline and project facilities, including access roads, on slope instability was not addressed.
- The purpose of a BE is to assess the potential impacts of a project on Regional Forester’s Sensitive Species. This document contained a great deal of extraneous material not relevant to a BE.
- Finally, the NSF admonished Dominion to “Spellcheck the entire document.”

https://www.abralliance.org/wp-content/uploads/2016/10/NFA_comments_on_geohazard_analysis_for_ACP-20160903.pdf

https://www.abralliance.org/wp-content/uploads/2016/10/NFS_comments_on_draft_biological_evaluation_for_ACP-20160930.pdf

October 2016

148. The Chesapeake Climate Action Alliance led three days of demonstrations in Richmond on October 3-5 regarding Governor McAuliffe’s policies on pipelines, toxic coal ash, and rising sea levels driven by global warming.



149. The Federal Energy Regulatory Commission (FERC) “should not accept the Cornelian dilemma presented by Dominion’s poorly planned route that pits mountain forests on protected lands against the same mountain forests on protected lands,” stated a motion filed with the agency on October 13. The motion was filed by the Southern Environmental Law Center on behalf of the Shenandoah Valley Network, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation and Natural Resources Defense Council. The issue arose out of a proposal by Atlantic Coast Pipeline, LLC, to cross eleven properties in Virginia with conservation easements held by the Virginia Outdoors Foundation.

https://www.abralliance.org/wp-content/uploads/2016/10/Motion_to_Reject_Route_Thru_ConservationEasements_SVN_20161013.pdf

<https://www.southernenvironment.org/news-and-press/news-feed/selc-challenges-atlantic-coast-pipeline-route>

150. ABRA member Voices from Bath posted in October on its Facebook page a vivid look at how the Atlantic Coast Pipeline would devastatingly impact the terrain of its county. Dominion had told FERC that there will be “no visual impact” from the pipeline on Little Mountain in Bath County, VA.

Looking east at Little Mountain from U.S. 220



Dominion releases poll claiming “likely” Virginia voters support ACP

151. Dominion Energy released the results of a poll on October 19 that claimed 55 percent of “likely” Virginia voters support the proposed Atlantic Coast Pipeline project.

<https://www.abralliance.org/wp-content/uploads/2021/08/Dominion-touts-new-poll-results-News-Leader-10-19-2016.pdf>

152. Nearly 70 landowners in northern Bath County, VA expressed deep concerns about the threat that the Atlantic Coast Pipeline (ACP) would present to their water supplies. In an October 31 letter filed with the Federal Energy Regulatory Commission and sent to Dominion Resources, the landowners stated: “We believe that the 500-foot testing limit proposed by The Atlantic Coast Pipeline for assessing damages to wells and springs from construction and maintenance of the pipeline, access roads, and supporting structures in karst bedrock is unrealistic, and not based on sound scientific evidence.” The letter also demanded that the ACP develop a mitigation plan for each affected locality should a private well or spring become polluted.

https://www.abralliance.org/wp-content/uploads/2016/11/Well_and_Spring_Testing_in_Karst_Terrain_letter_to_FERC_Dom_20161031.pdf

November 2016

Over 160 attend second Pipeline Summit

153. The second Pipeline Summit, co-sponsored by the Allegheny-Blue Ridge Alliance and the Protect Our Water, Heritage, Rights coalition (POWHR), drew 165 attendees to the Natural Bridge Hotel on Saturday, November 12, from Virginia, West Virginia and North Carolina. The energy, enthusiasm and commitment shown at the Summit to continue the fight against the Atlantic Coast Pipeline and the Mountain Valley Pipeline was outstanding.

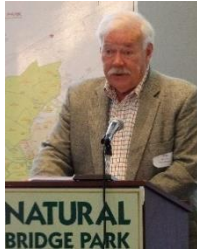


Among the featured speakers were:

- Jane Kleeb, Bold Alliance
- Chase Iron Eyes, Standing Rock Reservation in North Dakota
- Michael Dunn, Washington-based political consultant
- Larry Shapiro, Rockefeller Family Fund



Iron Eyes



Dunn



Kleeb



Shapiro

[https://www.abralliance.org/wp-content/uploads/2016/11/Pipeline Summit Agenda 20161112.pdf](https://www.abralliance.org/wp-content/uploads/2016/11/Pipeline_Summit_Agenda_20161112.pdf)

Forest Service disagrees with FERC timetable for ACP permitting process

154. The National Forest Service (NFS) told the Federal Energy Regulatory Commission (FERC) on November 18 that it “does not concur with the permitting timetable” for the Atlantic Coast Pipeline (ACP) that FERC had previously published. The NFS comments pointed out that the agency has “its own administrative review process which must occur before the Forest Service makes a decision on the special use permit” that has been requested for the ACP, and that the procedures and associated schedule that NFS must follow are clearly established by Federal law. The comments also pointed out that the NFS cannot complete its review process until outstanding data and analyses from the ACP have been satisfied.

155. Friends of Wintergreen on November 22 requested that the Federal Energy Regulatory Commission (FERC) require the Atlantic Coast Pipeline, LLC to perform the same analysis of the undue risk of resource damage along the pipeline route in Nelson County, VA (where Wintergreen is located) as the U.S. Forest Service had requested of the company for its proposed route through the George Washington and Monongahela National Forests.

<https://www.abralliance.org/wp-content/uploads/2021/08/Wintergreen-letter-to-FERC-11-22-16.pdf>

December 2016

156. Anticipating the release by FERC in December of the Draft Environmental Impact Statement for the Atlantic Coast Pipeline, *The Recorder* newspaper sharply commented in a blistering December 1 editorial, “Let’s get this right,” observing that:

“... there are so many unanswered directives and questions for Dominion, which is spearheading the pipeline’s construction, that it seems impossible to finish an EIS anytime soon. Either FERC is willing for the draft statement to be left incomplete, or the folks at Dominion are putting in some pretty long hours right now to wrap up the details FERC requires. The federal regulators should take a step back and rethink the schedule for this project. This has happened before, pushing Dominion’s construction plans back a full year, but given the number of concerns and specifics Dominion has yet to explain, it should happen again.

“The recently issued documents from the U.S. Forest Service should be enough to give us all pause — a list of more than 450 items the USFS found deficient or poorly explained in Dominion’s plans. Granted, many of those are easy to address. Forestry officials, God bless ‘em, went as far as calling attention even to typographical errors. But other points will require much more time to explain, like reroutes around sensitive ecological features and evidence that drilling under streams will not cause irreparable damage.”

Meanwhile, the *Farmville Herald* had editorialized quite differently on November 29:

“We do not see any need to backtrack on our opinion that the good outweighs the bad when it comes to the Atlantic Coast Pipeline (ACP). News of a proposed tap for local industry – current and future – makes it a no-brainer in our minds.

“We commend the Buckingham Planning Commission for recommending approval for a special use permit for a proposed compressor station as a part of the ACP project.”

https://www.abralliance.org/wp-content/uploads/2016/11/Lets_get_this_right-Recorder_20161201.pdf

<https://www.farmvilleherald.com/2016/11/acp-is-a-no-brainer/>

ABRA members ask FERC to reject proposed ACP route changes

157. Thirteen conservation groups (10 of them ABRA members) on December 13 asked the Federal Energy Regulatory Commission to reject the route proposal for the Atlantic Coast Pipeline to cross through eleven properties meant to be protected by conservation easements, saying that it would do untold harm to the conservation values of the region.

https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20161213-5282&optimized=false

FERC releases Draft Environmental Impact Statement for ACP

158. The Federal Energy Regulatory Commission released on December 30 the long-awaited Draft Environmental Impact Statement (DEIS) for the Atlantic Coast Pipeline. The 3-volume, 2,375-page document was prepared pursuant to requirements under the National Environmental Policy Act. April 6, 2017, was set as the deadline for written comments. The DEIS was strongly condemned by ABRA member groups who said that FERC had “failed to honestly assess these impacts and disregarded evidence that the project would lock consumers into decades more reliance on dirty fossil fuels.”

<https://www.abralliance.org/2017/01/06/deis-for-the-atlantic-coast-pipeline-sorry-shallow-and-incomplete/>

https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20161230-4000&optimized=false

<https://appvoices.org/2016/12/30/groups-blast-ferc-findings-on-fracked-gas-atlantic-coast-pipeline/>

https://www.abralliance.org/wp-content/uploads/2017/01/Groups_denounce_agencys_draft_statement_on_proposed_pipeline-Recorder_20170112.pdf

<https://wvmetronews.com/2017/01/02/where-and-how-the-atlantic-coast-pipeline-could-affect-whats-along-its-route/>

January 2017

159. Dominion Transmission Inc. (DTI) filed with the Federal Energy Regulatory Commission (FERC) on January 10 supplemental information on several aspects of the Atlantic Coast Pipeline (ACP), including: 1) revised site specific design drawings on geohazard mitigation, 2) an update on forest fragmentation analysis, 3) reports on aboveground cultural resource and historic architectural structures, 4) updated restoration and rehabilitation plans (relating to post-construction activities relating to such matters as addressing erosion control, reseeding, etc.), 5) a design report on horizontal directional drilling (HDD) and 6) correspondence the firm has had over the past 60 days with various federal and state agencies concerning the ACP. DTI also filed revised compressor station plot plans and certain archaeological survey reports, but that information was deemed by the company as containing privileged information and therefore not available for public viewing.

https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20170110-5142

FERC announces public comment period for ACP draft EIS

160. The Federal Energy Regulatory Commission announced during the third week of January that it would hold a series of ten public comment sessions from February 13 to March 2 to provide opportunities for interested parties to offer verbal comments on their views about the Draft Environmental Impact Statement for the Atlantic Coast Pipeline (ACP). The announcement said that verbal comments would be received and recorded by a court reporter and transcripts placed in the FERC docket for the ACP.

<https://www.abralliance.org/2017/02/06/public-comment-sessions-for-acp-scheduled/>

February 2017

ABRA holds briefings on the ACP draft Environmental Impact Statement

161. ABRA began conducting in-depth briefings for members groups on the details of the Draft Environmental Impact Statement for the Atlantic Coast Pipeline. The first of these was on February 1 and was sponsored by Voices from Bath and Highlanders for Responsible Development at the Bolar Ruritan Building in Highland County, VA.



Greg Buppert, Southern Environmental Law Center, addresses Bolar meeting

162. Aaron Ruby, principal spokesperson for Atlantic Coast Pipeline, LLC on matters for the project, was interviewed February 7 by Allegheny Mountain Radio (serving Pocahontas, Bath and Highland Counties) about the Draft Environmental Impact Statement. Among his comments:

“The conclusions of the report were very favorable – essentially, what the agency concluded is that all of the environmental measures, and the safety protections that we have put in place for the project would significantly reduce the impacts, and that the project will be built in a safe and environmentally responsible manner.”

https://www.abralliance.org/wp-content/uploads/2017/02/Dominions_Aaron_Ruby_interview_Allegheny-Mountain_Radio_20170207.pdf

163. The Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP) were called “climate disasters,” by new studies released February 15 by Oil Change International (OCI). The studies concluded that the ACP and MVP “would together contribute as much greenhouse gas pollution as 45 coal-fired power plants – some 158 million metric tons a year.” OCI pointed out that the methodology used in the past by the Federal Energy Regulatory Commission (FERC) to measure climate impacts was “out of date” and failed “to protect communities and citizens around the country.”

<http://priceofoil.org/2017/02/15/new-analysis-mountain-valley-and-atlantic-coast-pipelines-are-climate-disasters/>

ABRA releases 16-page overview of the 2300+ page ACP DEIS

164. ABRA released on February 16 a new overview of the Draft Environmental Impact Statement (DEIS) for the ACP. *DEIS: What is it? What's in it? What you can do!* was a 16-page overview of the DEIS process and featured highlights and excerpts of the 2300+ page document plus a discussion of how concerned citizens can comment on the document.

<https://www.abralliance.org/wp-content/uploads/2017/02/DEIS-What-is-it-whats-in-it-what-you-can-do-20170201.pdf>

165. The public comment sessions conducted by the Federal Energy Regulatory Commission on the Draft Environment Impact Statement for the Atlantic Coast Pipeline (ACP) began on February 13 in North Carolina and concluded in Staunton, VA on February 23. The February 21 session in Farmville, VA drew nearly 60 persons. Over 160 persons attended the February 22 in Lovingson, VA and more than 130 persons participated in the Staunton session. The preponderance of those commenting at all three locations opposed the ACP.

<https://www.abralliance.org/wp-content/uploads/2017/03/Pipeline-worries-are-many-at-agencys-open-house-Recorder-20170302.pdf>

<http://pulse.ncpolicywatch.org/2017/02/15/wilson-media-shut-ferc-public-listening-session-atlantic-coast-pipeline/#sthash.gQ9TJu8b.MzfKDqpY.dpbs>

<https://www.abralliance.org/2017/03/03/environmental-journalists-object-to-ferc-deis-comment-procedures/>

Forest Service calls out Dominion/ACP's lack of transparency

166. “Dominion/ACP's lack of transparency and responsiveness in providing requested information to the Forest Service” was cited in a report by a consultant to the U.S. Forest Service who has been contracted to assist in the agency's evaluation of the proposed Atlantic Coast Pipeline (ACP). Dr. James A. Thompson, Professor of Pedology

and Land Use at West Virginia University, in a February 22 letter to Monongahela National Forest Supervisor Clyde N. Thompson (no relation), said:

“The Forest Service has made repeated requests for information to Dominion/ACP over the course of several teleconferences and in-person meetings; however, Dominion/ACP has not yet adequately responded to these requests. The conference call on February 17, 2017, is just the latest example of what I conclude to be Dominion/ACP’s unwillingness to respond to what I consider to be reasonable requests and, more generally, an inability to work collaboratively with the Forest Service to ensure that this review process progresses in an efficient and effective manner.”

Dr. Thompson’s letter concluded: “If Dominion/ACP cannot provide materials in a timely manner prior to these critical discussions, then I suggest that they request that the meetings be postponed to ensure that when we do meet that we can have productive discussions that move this process forward.”

https://www.abralliance.org/wp-content/uploads/2017/03/Jim_Thompson_letter_to_Clyde_Thompson_20170222.pdf

March 2017

167. “FERC’s Draft Environmental Impact Statement (DEIS) for the Atlantic Coast Pipeline provides inaccurate, incomplete, and incorrect information about impacts on our core forested areas, streams, wildlife, and recreation as it cuts a 21-mile permanent swath over rugged mountains and valleys in our National Forests,” so stated a study posted March 2 by the Dominion Pipeline Monitoring Coalition.

ACP in the National Forests: 7 Problems said that the “DEIS does not provide adequate information for a thorough, informed analysis of impacts that would serve as a sound basis for responsible decisions by the Forest Service.”

<http://pipelineupdate.org/2017/03/02/the-acp-in-the-national-forests-7-problems/>

168. The Draft Environmental Impact Statement for the proposed Atlantic Coast Pipeline should be “rescinded and revised, and that the current public comment period be extended or suspended,” so stated a motion filed March 9 with the Federal Energy Regulatory Commission by Friends of Nelson and Wild Virginia, two ABRA member organizations, along with Heartwood, a regional network of citizens concerned with protecting forest lands.

https://www.abralliance.org/wp-content/uploads/2017/03/PR-Motion_to_Rescind_ACP_DEIS-20170309pdf.pdf

Study flags potential slope failures and landslides caused by ACP

169. A study released March 14 of the potential for slope failures and landslides in Nelson County from the proposed Atlantic Coast Pipeline (ACP), coupled with a review of Dominion's in-house analysis, concluded that "Dominion has not adequately identified those soils and landforms that are prone to debris flows (and) landslides." The study also stated that "the potential for debris flows in the very steep mountainous portions of Nelson County is underestimated by the reports submitted to the Federal Energy Regulatory Commission (FERC) by Dominion." The study was a joint project of Friends of Nelson, Friends of Wintergreen and Wintergreen Property Owners, Inc.

<http://friendsofnelson.com/wp-content/uploads/2017/03/Final-Steep-Slope-Report-March-2017.pdf>

170. The many deficiencies of the Draft Environmental Impact Statement (DEIS) for the Atlantic Coast Pipeline were strongly criticized in a March 28 letter to Cheryl A. LaFleur, Acting Chairman of the Federal Energy Regulatory Commission, by the Augusta County, VA Board of Supervisors. Board Chairman Tracy Pyles said: "After our review of the DEIS, we are concerned with the document's continual acceptance of Atlantic submitted plans and procedures as sufficient in mitigating adverse impacts. We believe that the DEIS is essentially a summarization of Atlantic's claims, figures, and numbers rather than a critical analysis in which these claims are thoroughly vetted for their comprehensiveness, evaluated independently and verified for accuracy."

https://www.abralliance.org/wp-content/uploads/2017/03/FERC_Letter_Tracy_Pyles_20170328.pdf

171. The struggle, turmoil and stress confronting so many landowners in the path of the Atlantic Coasts Pipeline was vividly captured in a March 30 article in *The Recorder* newspaper that profiled a historic Bath County property, the Wilderness Farm, which was established in the 18th Century.

https://www.abralliance.org/wp-content/uploads/2017/03/Couple_battles_to_save_farm_20170330.pdf

172. ABRA wrote members of the Virginia and West Virginia General Assemblies on March 30 in response to Dominion Energy's overt efforts to convince members of both legislative bodies to endorse the Atlantic Coast Pipeline. ABRA's letters argued: the ACP is not needed to assure adequate gas supplies for targeted customers; the claims of new jobs that would be created by the ACP are grossly exaggerated; and permanent harm to the natural resources of each state would result from the ACP.

https://www.abralliance.org/wp-content/uploads/2017/03/Virginia_General_Assembly_letter_20170330.pdf

https://www.abralliance.org/wp-content/uploads/2017/03/West_Virginia_Legislature_letter_20170330.pdf

April 2017

173. Coincidental with the April 6 deadline for comments to be submitted to the Federal Energy Regulatory Commission on the Draft Environmental Impact Statement (DEIS) for the Atlantic Coast Pipeline, ABRA on April 5 released a statement to media contacts in Virginia and West Virginia saying that the DEIS failed both the environment it purports to protect as well as the citizens of the state whose property the pipeline would traverse.

<https://www.abralliance.org/wp-content/uploads/2021/08/ABRA-press-release-on-the-ACP-DEIS-4-5-17.pdf>

Virginia DEQ says it will require state water certification for the ACP

174. The Virginia Department of Environmental Quality (DEQ) announced April 6 that it would require separate certifications for the Atlantic Coast Pipeline and the Mountain Valley Pipeline, in accordance with Section 401 of the Clean Water Act (CWA). Under provisions of the CWA, DEQ could have waived the right to issue the permits, ceding the authority to the U.S. Environmental Protection Agency.

175. On April 11, five days after the comment deadline on the Draft Environmental Impact Statement for the Atlantic Coast Pipeline, the Federal Energy Regulatory Commission wrote Dominion Transmission, Inc. making 111 specific requests for supplemental information, requesting that the company submit its responses by May 1.

https://www.abralliance.org/wp-content/uploads/2017/04/FERC_request_for_additional_ACP_info-20170411.pdf

<https://www.abralliance.org/2017/04/14/diverse-deis-comments-raise-serious-questions-about-acp/>

Dangers highlighted about proposed ridgetop removal for ACP

176. ABRA and several of its members released to the media on April 27 a fact sheet highlighting the serious problem of ridgetop removal that would be necessary should the Atlantic Coast Pipeline be built as planned. The document revealed that between 10 and 60 feet of the tops of mountain ridges would be “reduced” along 38 miles of the proposed pipeline route in West Virginia and Virginia. Dominion Energy responded to the research by calling the data “exaggerated.”

https://www.abralliance.org/wp-content/uploads/2017/04/Fact-sheet-Mountaintop-Removal-to-Build-ACP_20170427.pdf

https://www.abralliance.org/wp-content/uploads/2017/05/Mountaintop_removal_argued_in_pipeline_plan-Recorder_20170504.pdf

<https://wset.com/news/local/research-atlantic-coast-pipeline-would-require-extensive-mountaintop-removal>

May 2017

177. The Sierra Club petitioned the Virginia State Corporation Commission (SCC) May 8, asking that the agency examine the appropriateness of the internal agreement by Dominion Virginia Power to purchase gas from the Atlantic Coast Pipeline. The petition, filed for its client by Appalachian Mountain Advocates, was based on requirements of the Virginia's Affiliates Act, which was established to ensure that all business deals between utilities and their corporate affiliates are in the public's interest. Should a utility seek to conduct business with any subsidiary or corporate affiliate, it must first file an application with the SCC.

https://www.abralliance.org/wp-content/uploads/2017/05/Sierra_Club_Declaratory_Judgment_filing_with_SCC_20170508.pdf

FERC announces a final EIS for ACP is to be issued July 21

178. The Federal Energy Regulatory Commission (FERC) issued on May 12 a new schedule for its environmental review of the Atlantic Coast Pipeline. The agency announced it planned to issue a final Environmental Impact Statement (FEIS) on July 21, 2017 (three weeks later than the originally announced date for issuing the FEIS), with a decision deadline on the project of October 19, 2017.

<https://s3.amazonaws.com/public-inspection.federalregister.gov/2017-10122.pdf>

179. Staff of the Virginia Department of Environmental Quality (DEQ) indicated in mid-May, in a conversation with an ABRA member, that it would individually review only those aspects of pipeline proposals not covered by the U.S. Army Corp of Engineers review of the projects under Section 404 of the Clean Water Act. This information was contrary to a DEQ announcement on April 6 that it would “look at each wetland, stream crossing, etc. separately to determine specific requirements that would be necessary.” The DEQ attributed its earlier statement to an internal “lack of communication and coordination.” Dominion Pipeline Monitoring Coalition, an ABRA member, promptly wrote to Governor McAuliffe on May 24 to voice concern over the abrupt change in DEQ policy.

https://www.abralliance.org/wp-content/uploads/2017/05/DPMC_Letter_Gov_McAuliffe_20170524.pdf

<https://www.abralliance.org/wp-content/uploads/2022/03/Virginia-DEQ-waited-seven-weeks-to-correct-inaccurate-pipeline-statement-7-21-17.pdf>

June 2017

180. The tactics used by Dominion Energy in its efforts to obtain approval of the Atlantic Coast Pipeline (ACP) were detailed in a report released June 1 by the Public Accountability Initiative. *The Power Behind the Pipelines: Atlantic Coast Pipeline* was the third in a series of reports the organization produced on controversial pipeline projects in the United States. The report examined corporate influence, political donations, revolving door lobbyists, regulatory conflicts and the banks behind the ACP.

<https://s3.documentcloud.org/documents/3762551/AtlanticCoastPipelineReport.pdf>

Virginia DEQ Director visits ACP route in Bath and Highland Counties

181. David Paylor, Director of the Virginia Department of Environmental Quality, and Steve Gibson of the Norfolk, VA district office of the U.S. Army Corp of Engineers visited the proposed route of the Atlantic Coast Pipeline in Bath and Highland Counties, VA on June 6 to see first-hand the water quality challenges presented by the project.



Ryan Hodges, Co-Chair of Voices from Bath, showed David Paylor (r) of the VA DEQ where the ACP would cross the Jackson River.

https://www.abralliance.org/wp-content/uploads/2017/06/DEQ_director_visits_area_in_pipeline_path-Recorder_20170608.pdf

182. U.S. Senators Tim Kaine and Mark Warner introduced legislation on June 7 to strengthen the public's ability to evaluate the impacts of natural gas pipelines being considered by the Federal Energy Regulatory Commission (FERC). U.S. Representative Morgan Griffith introduced similar legislation in the House of Representatives.

<https://www.warner.senate.gov/public/index.cfm/pressreleases?ID=2FC4E7B2-67BA-4DDB-B120-FAF1488840B1>

SELC asks FERC to examine natural gas demand claims for ACP

183. The Southern Environmental Law Center, on behalf of several ABRA member organizations, filed on June 21 a motion with the Federal Energy Regulatory Commission (FERC) asking that the Commission hold a hearing on the legitimacy of Dominion and Duke Energy’s natural gas demand claims as a basis for building the Atlantic Coast Pipeline. The motion requested FERC to hold a hearing to ensure consumers and landowners are protected from an unnecessary pipeline and resolve the following disputed issues:

- Agreements between Atlantic Coast Pipeline, LLC and its own affiliates are insufficient evidence that there is a growing demand for natural gas.
- New forecasts from the Energy Information Administration and the regional grid manager show no growth in demand for natural gas needs in Virginia and North Carolina through 2030.
- Already existing and planned pipeline capacity in the region is adequate to meet any demand that does exist.

https://www.abralliance.org/wp-content/uploads/2017/06/Motion_for_Evidentiary_Hearing_by_SVN_et-al_20170621.pdf

<https://www.abralliance.org/wp-content/uploads/2022/03/Justification-for-Dominions-Atlantic-Coast-Pipeline-has-eroded-Richmond-Times-Dispatch-6-21-17.pdf>

184. Virginia state officials were asked to use the full scope of the Commonwealth’s authority in assessing the impacts of the Mountain Valley and Atlantic Coast pipelines in a June 29 letter from 86 conservation and environment organizations to Governor McAuliffe and David Paylor, Director of the Department of Environmental Quality (DEQ). The groups urged that:

- Individual water certification review for wetland and stream crossings be used, rather than relying on the Army Corp of Engineers’ nationwide permit system.
- Public hearings on certifying water quality of the projects under Section 401 of the Clean Water Act – a state responsibility – be deferred “until the pipeline developers have provided all information for thorough DEQ review, and the public has had an opportunity to examine that information.”
- The 401 review should not be rushed, as “protection of Virginia’s streams, rivers and wetlands is too important to place at risk.”

https://www.abralliance.org/wp-content/uploads/2017/06/Virginia_DEQ_401_Certification_Sign-On_Letter_FINAL.pdf

185. A “lack of sufficient data” about the biological impacts of the Atlantic Coast Pipeline (ACP) was cited as a major concern by the U.S. Fish and Wildlife Service (FWS) in comments to the Federal Energy Regulatory Commission that were shielded from public view until June 29. The March 30 letter from John Schmidt, Field Supervisor for the West Virginia FWS office, had been classified as “Privileged” but was obtained under the Freedom of Information Act by *The Recorder* newspaper. The letter was written as part of comments on the Draft Environmental Impact Statement for the ACP on behalf of FWS field offices in North Carolina, Virginia, and West Virginia.

https://www.abralliance.org/wp-content/uploads/2017/06/FWS_letter_to_FERC_20170330.pdf

VA DEQ announces hearings on ACP application for water certification

186. The Virginia Department of Environmental Quality (DEQ) announced on June 30 the dates for hearings and comment periods for considering applications for the Atlantic Coast Pipeline (ACP) to be certified under the requirements of Section 401 of the Clean Water Act. The announcement from DEQ called for an overall comment period from July 3 to August 22 for draft water quality certifications for the ACP and three public hearings: August 7 in Harrisonburg, August 10 in Farmville and August 14 in Dinwiddie.

<https://www.abralliance.org/wp-content/uploads/2021/08/DEQ-Press-Release-on-Water-Quality-Comment-Period-6-30-17.pdf>

https://www.abralliance.org/wp-content/uploads/2017/07/State_agency_to_accept_pipeline_comments-Recorder_20170706.pdf

July 2017

WV & NC announce comment period for ACP water certification

187. The West Virginia DEP published on July 1 in local newspapers its notice of a comment period for Section 401 certification for the Atlantic Coast Pipeline (ACP). The announced comment period deadline was August 4, with two public hearings scheduled: July 31 in Buckhannon and August 1 in Dunmore.

The North Carolina Department of Water Resources had previously announced two public hearings on that state’s Section 401 certification for the ACP: July 18 in Fayetteville and July 20 in Rocky Mount.

https://www.abralliance.org/wp-content/uploads/2017/07/WV_DEP_notice_on_401-hearings.png

188. The Virginia Supreme Court ruled on July 13 in two cases that challenged the right of the Atlantic Coast Pipeline, LLC (ACP, LLC) to survey private property under the provisions of state law.

In a case brought by a group of Buckingham County landowners, the court ruled that pipeline surveyors had not provided adequate notice before entering the plaintiffs' property. The decision favored the landowners, ruling that the ACP had not given appropriate notice under the requirements of the statute.

The second case, brought by an Augusta County landowner, challenged the right of an out-of-state corporation (ACP, LLC was chartered in Delaware) to enter property for surveys or to seize property under eminent domain. The court ruled that state law permits the survey work but said the plaintiffs had waited too late in the legal process to raise the issue of eminent domain, or property seizure.

<https://www.abralliance.org/wp-content/uploads/2021/08/Supreme-Court-of-Virginia-hands-pipeline-foes-small-victory-but-project-rolls-on-Washington-Post-7-13-2017.pdf>

Final Environmental Impact Statement for ACP released by FERC

189. The Federal Energy Regulatory Commission on July 21 released the Final Environmental Impact Statement for the Atlantic Coast Pipeline. The document was received by wide-spread negative reaction from ABRA and its member organizations. In a press release issued shortly after the FEIS became public, ABRA stated that the document “utterly fails to independently assess whether the project is even needed.”

https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20170721-4000&optimized=false

https://www.abralliance.org/wp-content/uploads/2017/07/ABRA_Press_Release_on_FEIS_20170721.pdf

Forest Service releases Draft Record of Decision on ACP

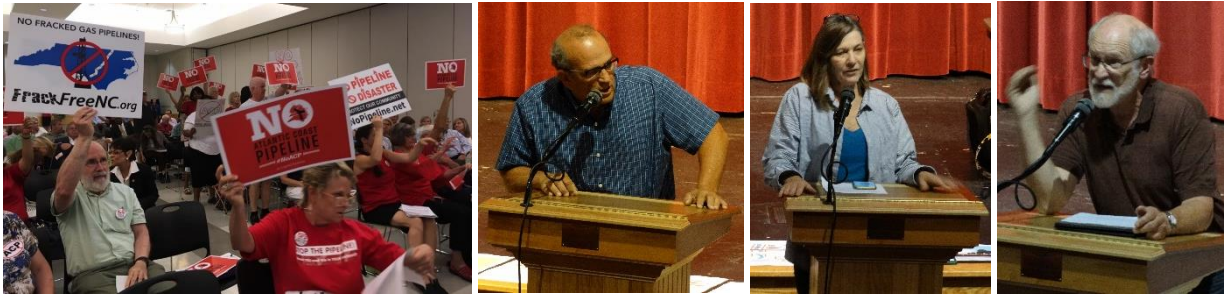
190. The U.S. Forest Service (NFS) released on July 21 a Draft Record of Decision regarding the proposed route of the Atlantic Coast Pipeline (ACP) through the Monongahela National Forest (MNF) and the George Washington National Forest (GWNF). The document set forth proposed amendments to the current Forest Plans for the MNF and GWNF and concluded:

“Based on our review of the FEIS (Final Environmental Impact Statement issued July 21 by the Federal Energy Regulatory Commission) and project record, we have decided to authorize Atlantic to use and occupy NFS land to construct, operate, maintain, and eventually decommission a natural gas pipeline on NFS lands administered by the MNF and GWNF.”

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd551283.pdf

Strong opposition to ACP water certification at hearings in NC and WV

191. Large crowds showed up in late July and early August at hearings in North Carolina and West Virginia to voice their views – the large majority of which were negative – about whether the Atlantic Coast Pipeline (ACP) should be granted by each state’s environmental regulatory agency a water quality certificate under Section 401 of the Clean Water Act.



Crowd at the NC DEQ hearing in Rocky Mount on July 20 (far left). Speakers at the WV DEP hearing in Dunmore, WV on August 1, included from left to right: Gil Willis, Elk River Inn & Restaurant; Deni Elliott, Greenbrier River Watershed Association; Allen Johnson, Eight-Rivers Council.

<http://www.ncpolicywatch.com/2017/07/31/even-revisions-atlantic-coast-pipeline-plan-still-threatens-nc-rivers-drinking-water/>

August 2017

192. A hearing on whether a water quality certificate should be issued for the Atlantic Coast Pipeline by the Virginia Department of Environmental Quality was held August 7 in Harrisonburg, VA, drawing over 500 persons.



<http://bluevirginia.us/2017/08/science-clear-mountain-stream-500-show-atlantic-coast-pipeline-demand-deq-job>

193. Four state legislators from western Virginia called on Gov. Terry McAuliffe and the Virginia Department of Environmental Quality to slow down, correct its process and ensure that water resources are protected from the impacts of the two major gas pipelines proposed through the region. State Senators Emmett Hanger (R-Mount Solon) and Creigh Deeds (D-Hot Springs) and Delegates Dickie Bell (R-Staunton) and Sam Rasoul (D-Roanoke) sent on August 7 a joint letter to the Governor, DEQ Director David Paylor and Virginia's State Water Control Board, asking to slow up the review process for the proposed Atlantic Coast and Mountain Valley pipelines, and to use the state's full authority to protect their constituents' water. The legislators noted that "Both pipelines pose some of the most significant threats to Virginia's water quality and aquatic environment in decades."

https://www.abralliance.org/wp-content/uploads/2017/08/Letter_re_ACP_and_MVP_20170807.pdf

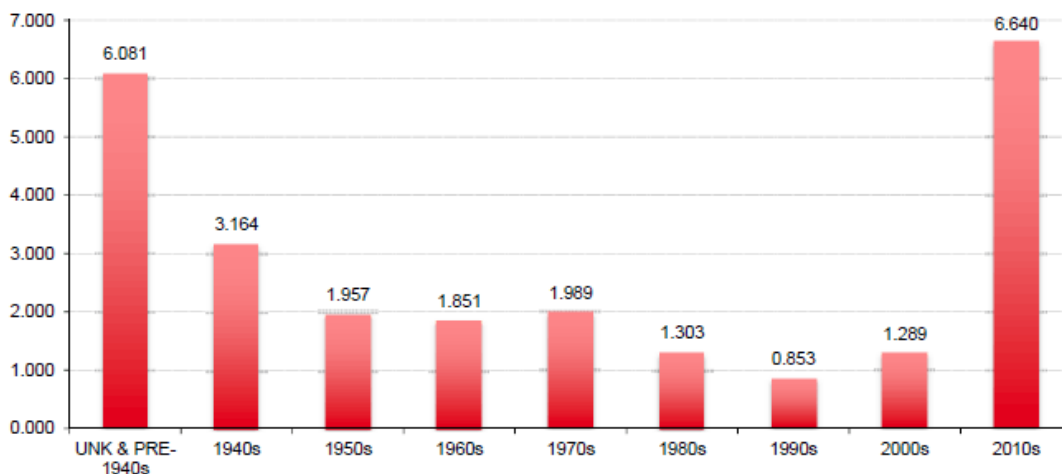
194. Expert analyses filed August 11 with the Virginia State Corporation Commission by the Southern Environmental Law Center (SELC) suggested that Dominion Energy customers would pay between \$1.6-\$2.3 billion in unneeded costs if the Atlantic Coast Pipeline was built. SELC presented the analyses in its testimonies on Dominion Energy's Integrated Resource Plan filed at the SCC.

https://www.abralliance.org/wp-content/uploads/2017/08/State_county_await_pipeline_showdown-Recorder_20170817.pdf

Risk of ACP blast zones underscored in new report

195. Clean Water for North Carolina (CWNC) has released August 21 a report on the areas in the state that would be at a high safety risk should the Atlantic Coast Pipeline be built. The report, *High Consequence Areas, Blast Zones and Public Safety Along the Atlantic Coast Pipeline*, noted the alarming increase in pipeline safety incidents for those projects constructed since 2010.

Average number of annual incidents over 2005-2013 per 10,000 miles of onshore gas transmission pipe by decade of pipe installation



As of March 2015.
Sources: U.S. Pipeline and Hazardous Materials Safety Administration, Pipeline Safety Trust

The CWNC report also pointed out that “seven of the eight counties in North Carolina through which the ACP would pass have populations of color (African-American or Native American, predominantly) with percentages significantly above the state’s average, and the majority of them also have higher percent poverty rates. This means that the pipeline represents a significant Environmental Justice threat of disproportionate impact on populations of color and low income, for any disturbances, impacts to air, land and water.”

<https://www.abralliance.org/wp-content/uploads/2022/03/High-Consequence-Areas-Blast-Zones-Public-Safety-along-the-ACP-CWNC-August-2017.pdf>

Strong concerns expressed about ACP water certification process

196. Hundreds of substantive comments were filed by August 22 with the Virginia Department of Environmental Quality (DEQ) regarding whether the agency should issue water quality certificates for the Atlantic Coast Pipeline (ACP). A review of the comments revealed a prominent theme: DEQ’s draft decisions approving certification for the ACP represented a rush to judgment in the absence of sufficient evidence to justify that conclusion.

Comments filed by the Virginia Department of Conservation and Recreation and the Virginia Department of Health also raised concerns about the impact of the proposed route of the pipeline.

https://www.abralliance.org/wp-content/uploads/2017/08/ABRA_Update_144_20170824.pdf

https://www.abralliance.org/wp-content/uploads/2017/08/VA_DCR_letter_to_FERC-20170821.pdf

https://www.abralliance.org/wp-content/uploads/2017/08/VA_Dept_of_Health_comments_to_FERC_on_ACP_FEIS-20170817.pdf

https://www.abralliance.org/wp-content/uploads/2017/08/Agencies_favor_pipeline_path_change-ecorder_20170831.pdf

September 2017

197. Strong objections from numerous commenters were filed by September 5 in response to the U.S. Forest Service’s draft Record of Decision (ROD) to amend the Forest Plans of the Monongahela National Forest (MFN) and George Washington National Forest (GWNF) to accommodate the proposed route of the Atlantic Coast Pipeline (ACP) received strong objections from numerous commenters. (See #207, above)

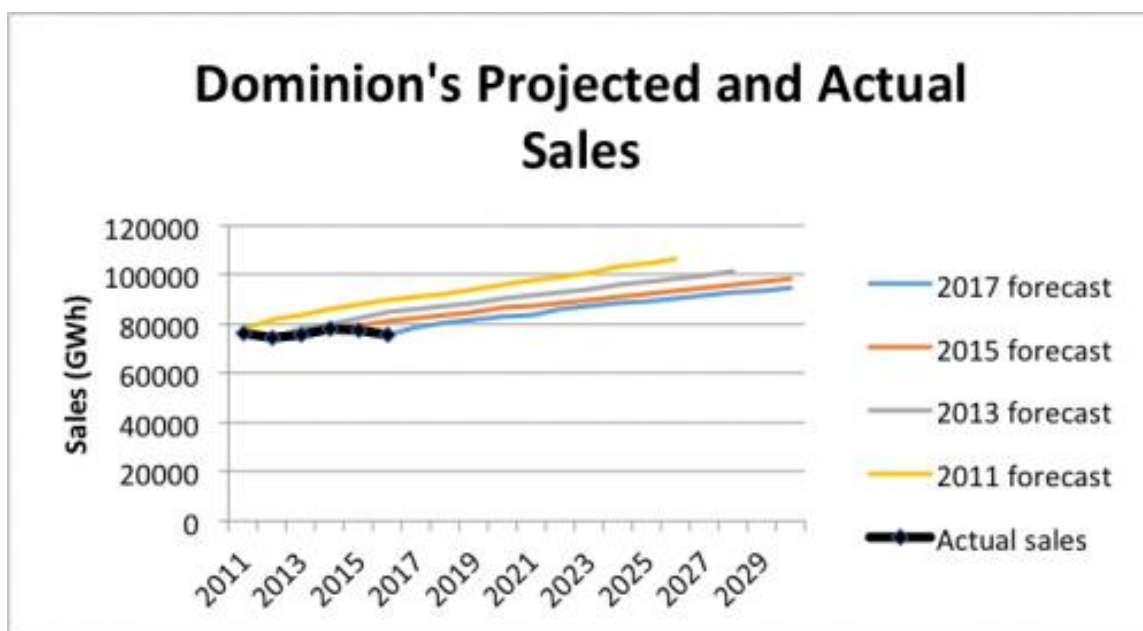
<https://www.abralliance.org/2017/09/13/objections-voiced-to-forest-service-about-amending-forest-plans-for-acp/>

Lawsuit challenges constitutionality of FERC granting eminent domain

198. A lawsuit was filed September 5 in the Federal District Court for the District of Columbia challenging the constitutionality of the granting of eminent domain powers by the Federal Energy Regulatory Commission to interstate natural gas pipelines. The plaintiffs were Bold Alliance, Friends of Nelson and fifty-seven landowners who would be affected by the Atlantic Coast Pipeline or the Mountain Valley Pipeline. The lawsuit further points out that “Congress did not delegate the power of eminent domain to private entities that have failed to obtain the necessary state and federal approvals for the construction of natural-gas pipelines.”

<https://www.scribd.com/document/358098979/Landowners-vs-FERC>

199. “For both Dominion and Duke, actual electricity consumption has been essentially flat for the past few years, leading the utilities recently to be less optimistic about growth,” stated a September 8 report from the Institute for Energy Economics and Financial Analysis. The pronouncement was based on recent revised growth forecasts from both Dominion Energy and Duke Energy, principal partners for the Atlantic Coast Pipeline.



<https://ieefa.org/ieefa-update-atlantic-coast-pipeline-risk-borne-not-dominion-duke-customers/>

200. A new study was released September 11 by the Rachel Carson Council (RCC) that called the proposed Atlantic Coast Pipeline (ACP) “unnecessary, unsafe and unjust.” *Blast Zone* explored the economic and political forces driving the proposed pipeline. It also examined the “bridge fuel” myth about natural gas, the growing importance of energy efficiency and renewable energy sources to meet future needs and the economic motivations behind the ACP project.

The RCC study followed the release on September 5 of a study by Tom Hadwin, a former utility executive and a member of ABRA’s Steering Committee, that outlined the financial considerations behind the ACP. Mr. Hadwin’s study observed:

“A choice that is good for the shareholders but bad for the ratepayers is not one that we should encourage. A company cannot be successful in the long run setting the interests of its owners against the interests of its customers.”

https://www.abralliance.org/wp-content/uploads/2017/09/Blast_Zone-Rachel_Carson_Council.pdf

<https://powerforthepeopleva.com/2017/09/05/to-understand-pipeline-economics-follow-the-money/>

201. A strong turnout of demonstrators showed up September 13 at offices of the Virginia Department of Environmental Quality to express concerns about the manner in which the agency was conducting its water quality certification review of the Atlantic Coast Pipeline and Mountain Valley Pipeline. The photos below show the demonstrations that occurred in Woodbridge, VA (l) and Roanoke, VA (r).



202. A report issued the week of September 18 by Oil Change International, in collaboration with Public Citizen and the Sierra Club, charged “that regulators are asleep at the wheel when it comes to assessing whether new gas pipelines are in consumers’ best interest.” The report addressed the question of whether new natural gas pipeline could be justified, particularly when “ratepayers could end up shouldering long-term costs for pipeline capacity they don’t need, while losing out on opportunities to take advantage of increasingly cheaper, cleaner choices.”

<http://priceofoil.org/2017/09/19/how-gas-pipelines-fleece-ratepayers/>

Goldman Sachs says Appalachian pipeline capacity outpaces future demand

203. A Goldman Sachs analysis released in late September said that pipeline capacity originating in Appalachia would outpace demand in coming years, even as the U.S. energy market and overseas buyers consume more gas produced in the Northeast. The analysis said that in the short term, electric power plants would balance the market as they continue switching from coal to natural gas. Goldman researchers predicted that rising gas demand simply as a function of fuel-switching tails off in time, as efficient combined-cycle power plants, wind power, solar panels and a declining number of coal retirements cut into the rise in gas demand.

Meanwhile, at a September 27 conference in Pittsburgh of shale gas producers, a quite different view was expressed, with industry the producers calling for a faster pace of pipeline construction to bolster Appalachia’s energy industry.

https://www.abralliance.org/wp-content/uploads/2017/09/Appalachian_pipeline_capacity_to_outpace_demand_20170926.pdf

<https://www.abralliance.org/wp-content/uploads/2022/03/More-pipelines-needed-in-Appalachia-fast-Pittsburgh-Business-Times-9-27-2017.pdf>

Dominion exec says ACP will likely be extended into South Carolina

204. A Dominion Energy executive said the proposed Atlantic Coast Pipeline was likely destined for South Carolina, according to a September 29 Associated Press story. The AP acquired a recording of Dominion’s vice president and general manager of southern pipeline operations, Dan Weekley, telling attendees at an energy industry conference that “everybody knows” the pipeline will not terminate in southern North Carolina.

https://www.abralliance.org/wp-content/uploads/2017/10/National_news_crank_up_pipeline_coverage-Recorder_20171005.pdf

October 2017

205. The Virginia Department of Environmental Quality announced in the first week of October that the State Water Control Board would delay consideration of a water quality certificate (under Section 401 of the Clean Water Act) until December 11.

<https://www.abralliance.org/2017/10/06/virginia-state-water-board-delays-401-decisions-until-december/>

FERC approves construction of ACP by a 2-1 vote

206. The Federal Energy Regulatory Commission (FERC) late on Friday, October 13 announced that it had approved, by a 2-1 vote, a certificate for the Atlantic Coast Pipeline to be constructed. On the same day, FERC also approved construction of the Mountain Valley Pipeline. ABRA issued that evening the following statement to the media:

"The Allegheny-Blue Ridge Alliance, a coalition of 52 organizations in Virginia and West Virginia, is appalled at the action tonight by the Federal Energy Regulatory Commission in approving the construction of the Atlantic Coast Pipeline. The Commission's judgment has been made in advance of necessary and required decisions by the U.S. Forest Service, the U.S. Army Corp of Engineers and the state environmental authorities in the affected states of Virginia, West Virginia and North Carolina on critical environmental issues. We concur with the thoughtful dissent of Commissioner LeFleur's, who has served on the Commission for 7 years, raising serious questions about the basis of need for both the ACP and the Mountain Valley Pipeline, and expressing concerns about environmental impacts that both projects present. The majority decision does not reflect an understanding of the issues at hand and is clearly not in the public interest. It calls into serious question the agency's regulatory credibility."

https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20171013-4003&optimized=false

https://www.abralliance.org/wp-content/uploads/2017/10/ABRA_Update_152_20171019.pdf

https://www.abralliance.org/wp-content/uploads/2017/10/Feds_approve_pipelines-Recorder_20171019.pdf

207. The North Carolina Division of Air Quality on October 10 announced a public comment period for a draft air quality permit for the proposed Northampton Compressor Station, which would serve the Atlantic Coast Pipeline in the state. The agency also announced that it would hold a public hearing on the draft permit November 15 in Garysburg, N.C.

<https://deq.nc.gov/news/press-releases/2017/10/10/state-seeks-public-comments-sets-hearing-air-permit-atlantic-coast>

VOF approves ACP crossing over its open-space easements

208. The Virginia Outdoors Foundation board voted October 16 to approve Dominion Energy’s application for 11 land conversions of open-space easements to route the proposed Atlantic Coast Pipeline through southern Highland, northern Bath, Augusta and Nelson counties.

In the resolution approving the application, the VOF trustees said that “while the developers failed to demonstrate the projects are ‘essential to the orderly development and growth of the locality’ under section 1704 of the Virginia Open-space Land Act, this requirement is superseded and preempted by the federal Natural Gas Act that authorizes FERC’s certificate process. The Natural Gas Act does not, however, strip VOF’s authority to review the projects and require substitute land of greater conservation value under Virginia law.”

https://www.abralliance.org/wp-content/uploads/2017/10/State_approves_pipeline_land_swaps-Recorder_20171019.pdf

ACP threat to endangered species deemed “not likely” by FWS

209. The U.S. Fish and Wildlife Service (FWS) completed its review of the potential impact on certain endangered species by the Atlantic Coast Pipeline and concluded that the project “is not likely to jeopardize the continued existence” of any of the species. The October 16 FWS report was done in accordance with requirements of the Endangered Species Act. The species studied in the FWS report were the Indiana bat, rusty patched bumble bee, small whorled pogonia, Running Buffalo clover, Roanoke loggerhead, Madson Cave isopod and the Northern long-eared bat.

https://www.abralliance.org/wp-content/uploads/2017/11/USFWS_opinion_on_ESA_species_affected_by_ACP_20171016.pdf

FERC Chair says agency can’t question claims of pipeline need

210. Neil Chatterjee, Chairman of the Federal Energy Regulatory Commission (FERC), in an October 17 address before the Federal Energy Bar in Washington, DC, stated he did not believe it was the agency’s responsibility or capability to question an applicant company’s claim that it needs to build a new pipeline. Among his points were:

“The Commission has historically prioritized precedent agreements in its analysis because those are clear, unequivocal statements of economic need by the market itself. The companies who are willing to enter into contracts to pay for transportation on the service on a pipeline have a much clearer understanding of the market need for the gas than we could develop through studies here in DC.”

“The regulatory uncertainty created by burdensome delays in the project review process are problematic for numerous reasons for those on both sides of the issue.”

211. Eighty-four Members of the U.S. House of Representatives sent a letter to Attorney General Jeff Sessions on October 23 questioning whether the U.S. Department of Justice was properly equipped to respond to “recent attempts to disrupt the transmission of oil and natural gas through interstate and international pipeline infrastructure.” Specifically, the congressmen – 80 Republicans and 4 Democrats (all 4 from Texas) – posted several questions in their letter, including whether existing federal statutes “adequately arm the DOJ to prosecute criminal activity against energy infrastructure at the federal level?”

https://buck.house.gov/sites/buck.house.gov/files/wysiwyg_uploaded/Protecting%20Energy%20Infrastructure.pdf

212. Atlantic Coast Pipeline, LLC filed the week of October 23 an Implementation Plan for the Atlantic Coast Pipeline. The 827-page document included project plans and schedules for how the pipeline is to be built, addressing such topics as migratory birds, karst mitigation and timber removal.

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?document_id=14610652

213. In a comprehensive, strongly-worded letter sent October 25 to members of the Virginia State Water Control Board (SWCB), lawyers from several conservation and environment groups stated that the Board “must be certain that it has ‘reasonable assurance’ that the Atlantic Coast and Mountain Valley pipelines will not violate Virginia’s water quality standards” or it must “deny the applications and reconsider certification for these projects only after the problems identified here are fixed.” The letter highlighted the key legal issues confronting the SWCB in reviewing the proposed pipeline projects.

<https://www.abralliance.org/wp-content/uploads/2017/10/20171025-Letter-to-Members-of-the-Virginia-SWCB.pdf>

214. In an October 27 letter to sixty-nine objectors who took issue with the proposed amending of the Forest Plan for the George Washington and Monongahela National Forests to accommodate the Atlantic Coast Pipeline, Glenn Casamassa, Associate Deputy Chief of the USFS, concluded that the previously issued Draft Record of Decision (See #190) met statutory requirements and rejected all filed objections. Among highlights in the letter were:

- “The Forest Service, as a cooperating agency, must make a decision whether to issue a Special Use Permit and amend the Forest Plans for the project. The Forest Service may, and has, adopted the FERC’s EIS as the environmental analysis to make our decision.”
- “. . . the Forest Service is not responsible for determining the entire pipeline’s overall purpose and need, nor the appropriate range of alternatives for its route. The Forest Service’s consideration of effects must

be adequate for deciding whether to authorize the pipeline across NFS lands; not the effects of the entire pipeline.”

- “The Forest Service accepts the overall purpose and need stated in the EIS. . . the Forest Service gave ‘due deference’ to the FERC’s finding of the purpose and need for the pipeline.”

https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/fseprd563255.pdf

<https://www.abralliance.org/2017/09/13/objections-voiced-to-forest-service-about-amending-forest-plans-for-acp/>

215. Dominion Energy CEO Tom Farrell on October 30 during a conference call with investment analysts said that the company expected to have all of its necessary state approvals by December, noting that it already had all other needed approvals from federal agencies.

<https://www.naturalgasintel.com/atlantic-coast-pipeline-to-have-all-state-permits-by-mid-december-dominion-says/>

November 2017

216. Virginia Governor Terry McAuliffe, appearing in Bath County on November 1 at the dedication of a new solar energy facility at a local school, reiterated his strong support for the Atlantic Coast Pipeline, which would cross a significant portion of the county. In responding to a reporter’s question, he said “as I’ve always said, first off, it’s not the governor’s office, it’s a FERC (Federal Energy Regulatory Commission) permit, and there are several permits it would go through the state. But that’s determined by the General Assembly on the regulations and how they’re defined.”

https://www.abralliance.org/wp-content/uploads/2017/11/Governor_responds_to_pipeline_questions-Recorder_20171102.pdf

https://www.abralliance.org/wp-content/uploads/2017/11/Shameful-Recorder_editorial_20171102.pdf

FERC asked to reconsider decision approving ACP

217. On November 13, a motion was filed with the Federal Energy Regulatory Commission requesting a rehearing of the Commission's order issuing a certificate for the Atlantic Coast Pipeline. The petition was filed by Southern Environmental Law Center and Appalachian Mountain Advocates on behalf of their clients, twenty-two organizations and ten individuals. Among the specific requests in the filing were:

- Grant Intervenor's request for a rehearing.
- Grant Intervenor's motion for a stay and immediately stay applicants and their contractors from taking any action authorized by the Certificate Order including, but not limited to, construction of the projects (including tree clearing) and any attempt to use the power of eminent domain pending final action on the request for rehearing.
- Before making any new certificate ruling, conduct an analysis of whether the projects are required by the public convenience and necessity, as required under the NGA, that complies with the Commission's Certificate Policy Statement.

[https://www.abralliance.org/wp-content/uploads/2017/11/Petition for Rehearing to FERC 20171113.pdf](https://www.abralliance.org/wp-content/uploads/2017/11/Petition_for_Rehearing_to_FERC_20171113.pdf)

Forest Service issues final approval for ACP

218. The U.S. Forest Service (USFS) on November 17 released a final Record of Decision (ROD) approving amendments to the Forest Plans for the Monongahela National Forest and the George Washington National Forest to accommodate the Atlantic Coast Pipeline (ACP). The action had been anticipated since the USFS's rejection in October of objections to the draft ROD (See #214). The decision provided the basis of the USFS issuing a Special Use Permit for the ACP. ABRA issued the following statement to the media:

“We firmly disagree with the decision announced today by the U.S. Forest Service to allow construction of the Atlantic Coast Pipeline through publicly owned forest lands – valued by millions of visitors and the source of drinking water for thousands of people. We believe this decision is based on seriously deficient and incorrect information. The action imperils some of the nation's most treasured natural resources and reflects a rush to judgment that is contrary to the standards of deliberation that we have a right to expect from the Forest Service. The decision should be strongly challenged.”

<https://www.abralliance.org/wp-content/uploads/2021/08/Forest-Service-ROD-on-ACP-11-17-17.pdf>

219. Friends of Wintergreen announced on November 20 that nearly 1,000 of its property owner members planned to sue the Atlantic Coast Pipeline for damages to their property if the pipeline company seizes land used by the Wintergreen community.

<https://www.prdistribution.com/nbherard.com/nearly-1000-wintergreen-property-owners-plan-to-sue-the-atlantic-coast-pipeline>

Property values reported to have shrunk due to ACP

220. “Land values near Dominion’s proposed Atlantic Coast Pipeline have shrunk substantially in anticipation of construction next year,” according to an examination of Highland County, VA land assessment records conducted by *The Recorder* newspaper that was published November 23. The article noted that its research was “contrary to a finding by the Federal Energy Regulatory Commission.” Continuing, the article said:

“In its certificate licensing Dominion’s proposed Atlantic Coast Pipeline, FERC maintained the project would not impact land values. But that is not the case on Valley Center Road, Route 604. Highland County Reassessment Office records show an average 36 percent decline in land values along Valley Center Road within a half mile of the proposed pipeline centerline. Twelve tax parcels showed decreases ranging from 10 to 67 percent, with deeper devaluations closer to the centerline. Six of the parcels fell 29 percent or more. That’s nearly triple the land value plunge forecast in a 2016 citizens’ group pipeline economic impact study titled *Economic Costs of the Atlantic Coast Pipeline: Effects on Property Value, Ecosystem Services, and Economic Development in Western and Central Virginia.*” (See #100, above)

https://www.abralliance.org/wp-content/uploads/2017/11/Land_values_sag_near_pipeline_route-Recorder_20171122.pdf

North Carolina asks for 4th time for more info on ACP water quality issues

221. North Carolina’s Department of Environmental Quality (NCDEQ) asked the Atlantic Coast Pipeline (ACP) on November 28 – for the fourth time – to provide additional information before the agency could continue its consideration of whether to issue a certification for the pipeline under the requirements of Section 401 of the Clean Water Act. The NCDEQ’s letter said the ACP has failed to provide adequate analysis and explanation of the project’s claim to stimulate economic development and the pipeline’s potential effect to water quality. The letter also asked for more details about an earlier statement by the pipeline company to state authorities that “there is no commitment to potential customers or reasonably foreseeable plans to extend the ACP beyond the current terminus.”

<https://files.nc.gov/ncdeq/Energy%20Mineral%20and%20Land%20Resources/DEMLR/Atlantic-Coast-Pipeline/DWR%20401%20Add%20Info%20Ltr%20112817.pdf>

222. A November 29 *Washington Post* story revealed how Dominion Energy's behind-the-scenes political efforts sought to influence approval of the Atlantic Coast Pipeline

"The state's most powerful corporation, along with partner companies and the American Gas Association, poured resources into online groups called EnergySure and Your Energy Virginia to whip up what it called a grassroots "campaign to elect a pipeline."

<https://www.abralliance.org/wp-content/uploads/2021/08/Campaign-to-elect-a-pipeline-Washington-Post-11-29-2017.pdf>

December 2017

VA Water Control Board approves ACP water quality certificate

223. The Virginia State Water Control Board conditionally approved on December 12 a water quality certificate for the Atlantic Coast Pipeline. The Board agreed by a 4-3 vote to approve certifying the ACP under Section 401 of the Clean Water Act, subject to the completion of several outstanding plans yet to be submitted in final form by the applicant. In the Board's motion of adoption, it said:

"This certificate shall be effective only following submission, review, and final approval as required by law of the Karst Mitigation Plan, Annual Standards and Specifications, Stormwater Plans, and Erosion and Sediment Control Plans, and a report to the Board and the public by DEQ on the adequacy of these materials. The Board may consider further actions on the Certification following the review of the DEQ report."

The 401 certificate was subsequently issued for ACP on December 20.

https://townhall.virginia.gov/l/GetFile.cfm?File=Meeting\103\26649\Minutes_DEQ_26649_v2.pdf

<https://www.abralliance.org/wp-content/uploads/2021/09/Virginia-agency-takes-unexpected-step-that-could-delay-ACP-Washington-Post^J-12-12-2017.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/09/App-Voices-statement-SWCB-approves-ACP-Dec12-2017.pdf>

https://www.abralliance.org/wp-content/uploads/2017/12/VA_DEQ_401_certification_for_ACP_20171220.pdf

ACP asks FERC for permission to begin felling trees along pipeline route

224. A December 15 filing with the Federal Energy Regulatory Commission (FERC) by the owners of the Atlantic Coast Pipeline (ACP), requesting permission to begin felling trees along the pipeline's path, was challenged by thirteen conservation groups, most of which were ABRA members. The December 21 filing was made on behalf of the groups by the Southern Environmental Law Center. Several member groups of the Allegheny-Blue Ridge Alliance. Friends of Nelson (FoN) separately filed on December 19 a request with FERC to deny the ACP's tree-felling request.

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20171218-5008

https://www.abralliance.org/wp-content/uploads/2017/12/Dominion_presses_for_go-ahead_to_cut_trees-Recorder_20171221.pdf

https://www.abralliance.org/wp-content/uploads/2017/12/SELC_Answer_Atlantic_Req_Notice_Proceed_with_tree_cutting_20171221.pdf

https://www.abralliance.org/wp-content/uploads/2017/12/FoN_to_FERC-Treeclearing_20171219.pdf

225. A December 20 article in *The Robesonian*, the newspaper in Lumberton, NC, quoted Dominion Energy officials as expressing strong confidence that the Atlantic Coast Pipeline was close to receiving necessary permits to begin construction in early 2018.

“We’ve received most of our state and federal approvals over the last few months. Only a few approvals remain, which we expect to receive by early next year,” said Aaron Ruby, Dominion Energy’s Media Relations manager.

<https://www.robsonian.com/news/105971/acp-owners-confident>

January 2018

Sen. Kaine asks FERC to re-hear ACP and MVP approvals

226. Virginia Sen. Tim Kaine on January 5 wrote Kevin McIntyre, Chairman of the Federal Energy Regulatory Commission, asking that the agency grant re-hearings on the Mountain Valley Pipeline and the Atlantic Coast Pipeline. Kaine’s letter noted that the 2-1 votes on granting permits for the two projects “were most unusual – 98% of FERC orders in 2016 were unanimous. Given that the Commission has a full complement of five members, there is a real concern about whether the divided rulings by a partial Commission fairly reflect the FERC position.”

<https://www.abralliance.org/wp-content/uploads/2021/09/Kaine-call-to-FERC-asking-for-rehearing-on-ACP-MVP-decisions-1-5-18.pdf>

<https://www.abralliance.org/wp-content/uploads/2022/03/Sen.-Kaine-calls-for-rehearing-of-decision-approving-Mountain-Valley-Pipeline-Roanoke-Times-1-5-18.pdf>

227. The Virginia Department of Environmental Quality proclaimed on January 12 in a posting on the agency’s website that there was to be no further input from the public in the final stages of water quality for the Atlantic Coast Pipeline. The posting also purported to limit the further role of the State Water Control Board in the process. The posting stated:

“The certification approved by the Board and reviewed by our attorneys is in place and becomes effective upon the issuance of the Department’s report to the Board and the public. By law the Erosion, Sediment and Stormwater approvals upon which the effective date is conditioned are approved by certified staff and those approvals are not under the State Water Control Board’s purview. No additional information is being accepted from the public.”

<https://www.abralliance.org/2018/01/19/virginia-deq-shuts-down-public-input-curbs-water-board-in-401-process/>

VA Water Control Board approval for ACP challenged in court

228. A coalition of environmental and conservation organizations, including 12 members of ABRA, filed on January 18 a legal challenge to the Virginia State Water Control Board’s December 12 approval of a water quality certification for the Atlantic Coast Pipeline (ACP). The suit, filed with the Fourth Circuit Federal Court of Appeals by the Southern Environmental Law Center (SELC) and Appalachian Mountain Advocates on behalf of the client group, charged that the Board’s decision failed to consider the impacts of the project on water quality in Virginia sufficiently to meet the requirements of the Clean Water Act.

<https://www.abralliance.org/wp-content/uploads/2021/09/Lawsuit-against-Virginia-DEQ-SWCB-Jan-19-2018-Final-Press-Release.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/09/Joint-Petition-for-Review-Appalachian-Voices-et-al.-v.-Virginia-State-Water-Control-Board-1-18-18.pdf>

ABRA announces CSI monitoring program for ACP construction

229. A citizen initiative to monitor construction activities of the Atlantic Coast Pipeline (ACP) was publicly announced by ABRA on January 22. The announced objective of the Pipeline Compliance Surveillance Initiative (Pipeline CSI) was to ensure strict application of environmental laws and regulations for the ACP.

The Pipeline CSI would gather in-depth data and assess the landscape the ACP had proposed to cross to fill in information gaps in official records. The program would initially concentrate on the most mountainous portions of the ACP route, where major watersheds were potentially impacted. Hundreds of volunteer observers in Virginia and West Virginia were to be recruited, plus several partnering organizations that had existing programs with which CSI would coordinate and supplement. Aerial surveillance was to be a significant part of the program.

<https://www.abralliance.org/2018/01/26/citizen-surveillance-program-for-the-acp-is-announced-by-abra/>

West Virginia issues water permit for ACP

230. A general water pollution control permit for the discharge of stormwater associated with construction of the Atlantic Coast Pipeline was issued on January 25 by the West Virginia Department of Environmental protection (DEP). The agency's letter stated:

"The erosion control measures approved by this agency for this project shall be maintained in proper condition to individually and collectively perform the functions for which they were designed. In order to ensure the efficiency and proper maintenance of these measures, the permittee shall make sufficiently frequent, periodic inspections to detect any impairment of the designed stability, capacity or environmental requirements of the approved measures. The permittee shall take immediate steps to correct any such impairment found to exist."

<http://dep.wv.gov/WWE/Programs/stormwater/csw/Documents/WVR310820%20Approval.pdf>

FERC's certificate for ACP challenged in 4th Circuit by ABRA members

231. Appalachian Mountain Advocates and Southern Environmental Law Center filed on January 29 with the Fourth Circuit Court of Appeals a challenge to the Federal Energy Regulatory Commission's October 13, 2017, decision to permit the Atlantic Coast Pipeline to be built. FERC's decision to give the pipeline the go ahead was accompanied by a strong dissent from Commissioner Cheryl LaFleur, who critiqued her own agency for failing to look behind agreements put forth by utilities meant to skew demand needs and justify unneeded projects. The action was filed on behalf of 11 conservation groups, 9 of whom were ABRA members.

https://www.abralliance.org/wp-content/uploads/2018/01/JointPetition_for_review_in_FERC_challenge-case_18-1114_20180129.pdf

February 2018

Two Virginia counties table approval of pipeline storage yards for ACP

232. On February 1, the Augusta County, VA Board of Zoning voted to table consideration of a proposal for a contractor's storage yard to be located north of Churchville on U.S. 42 due to concerns over traffic and the impact on neighboring properties. It was the second time the Augusta board has deferred action on the ACP application for the storage yard.

The previous week, on January 25, the Highland County, VA Planning Commission, citing numerous errors and inadequacies, tabled two land-use applications for proposed ACP construction storage yards. one in McDowell and the other south of Monterey.

<https://www.abralliance.org/wp-content/uploads/2022/03/Augusta-zoning-board-tables-Dominion-discussion-again-News-Leader-2-1-2018.pdf>

<https://www.abralliance.org/wp-content/uploads/2018/02/Planners-slam-pipeline-permit-applications-Recorder-1-31-18.pdf>

NC approves ACP erosion and sediment control plan

233. North Carolina Department of Environmental Quality (DEQ) approved on February 1 an erosion and sediment (E&S) control plan for the Atlantic Coast Pipeline. DEQ also issued a general stormwater permit in conjunction with its approval of the E&S plan.

https://files.nc.gov/ncdeq/Energy%20Mineral%20and%20Land%20Resources/DEMLR/Atlantic-Coast-Pipeline/DEMLR%20NORTH-2018-004_LOA_20180201.pdf

<https://files.nc.gov/ncdeq/Energy%20Mineral%20and%20Land%20Resources/DEMLR/Atlantic-Coast-Pipeline/NCGO1%20Const%20SW%20General%20Permit.pdf>

ABRA members file lawsuit over Forest Service permit for the ACP

234. The U.S. Forest Service announced on February 1 that it had granted on January 23 a Special Use Permit for the Atlantic Coast Pipeline (ACP) to cross 36+ miles of forest lands in the Monongahela and George Washington National Forests.

On February 5, a coalition of seven ABRA member organizations filed suit on February 5 in the U.S. District Court of Appeals for the Fourth District challenging the granting of the permit. In its press release announcing the legal action, the coalition stated:

“The Forest Service repeatedly requested additional information from developers yet moved ahead and approved this risky project with its questions unanswered. The pipeline is slated to cut through miles of steep, rugged mountainous regions of national forest land in West Virginia and Virginia. Much of this land provides habitat for rare and endangered species and is land that is regularly used by hikers and campers.”

<https://www.abralliance.org/wp-content/uploads/2018/02/Jt.-Petition-vs.-USFS-2-5-18-1.pdf>

Nelson County Supervisors deny right of ACP to cross floodplains

235. On February 5, the Nelson County, VA Board of Zoning Appeals dismissed “for lack of standing” applications for variances from the Atlantic Coast Pipeline (ACP) to cross seven properties in floodplain areas in the county. Seven of the 11 total variance applications submitted by the ACP were dismissed because the ACP has not obtained easement agreements yet for those properties.

<https://www.abralliance.org/wp-content/uploads/2021/09/Nelson-board-dismisses-seven-pipeline-permitting-requests-Daily-Progress-2-6-2018.pdf>

Army Corps issues stream crossing permit in WV for ACP

236. A Nationwide Permit was issued on February 7 by the Pittsburgh District of the U.S. Corp of Engineers for the Atlantic Coast Pipeline’s (ACP) proposed route in West Virginia. The Corp’s letter of approval indicated that 187 stream crossings and wetlands would be involved in the four West Virginia counties affected: Harrison, Lewis, Upshur and Randolph. The Corps set forth several special conditions that must be met, including a restoration of stream crossings and timing of when construction involving stream crossings could and could not be performed. Approvals by other Corps’ districts for stream crossings by the ACP in Virginia and North Carolina had not yet been announced.

<https://www.abralliance.org/wp-content/uploads/2018/02/U.S.-Corp-of-Engineers-Approval-of-ACP-in-WV-2-7-18.pdf>

237. *The Richmond Times-Dispatch* featured an article on February 18 about agreements that had been reached in Virginia and North Carolina between state governments and Atlantic Coast Pipeline, LLC that were designed to mitigate the damage that construction of the Atlantic Coast Pipeline might cause to forests, waterways and other natural resources. The agreement in North Carolina became politically contentious, but a similar agreement in Virginia made by Governor McAuliffe’s administration was not known until after McAuliffe left office.

<https://www.abralliance.org/wp-content/uploads/2021/09/Pipeline-mitigation-agreements-draw-fire-Richmond-Times-Dispatch-2-18-2018.pdf>

Duke Energy CEO acknowledges ACP cost will be 30% higher

238. Duke Energy CEO Lynn Good disclosed during a February 20 quarterly earnings call with financial analysts that the projected cost of the Atlantic Coast Pipeline would likely be \$6.5 billion, 30% more than the \$5 billion projected cost when the project was announced in September 2014. The projected cost of the predecessor project – the Southeast Reliability Project – when it was announced by Dominion Energy in May 2014 was \$4 billion.

<https://www.bizjournals.com/charlotte/news/2018/02/20/atlantic-coast-pipeline-price-tag-could-hit-6-5b.html>

NRDC issues report on impact of water crossings by ACP and MVP

239. The Natural Resources Defense Council (NRDC) on February 21 released a report about the impact on Virginia waterbodies that would result from the construction and operation of the Atlantic Coast Pipeline and the Mountain Valley Pipeline. Noting that the two projects would cross rivers and streams in the state over 1,000 times, the study focused specifically on erosion and sedimentation threats, as well as threats to drinking water supplies for cities like Norfolk and Roanoke, trout streams, minority communities like Emporia and Franklin, the Chesapeake Bay, and wetlands like the Great Dismal Swamp. The study, *Threats to Water Quality from Mountain Valley Pipeline and Atlantic Coast Pipeline Water Crossings in Virginia*, was conducted for NRDC by Downstream Strategies, a consulting firm in Morgantown, WV.

https://www.nrdc.org/sites/default/files/threats-to-water-quality-from-mountain-valley-pipeline-and-atlantic-coast-pipeline-water-crossings-in-virginia_2018-02-26.pdf

240. Congressman Don Beyer (D-VA, 8th District) on February 26 asked the Federal Energy Regulatory Commission to grant a rehearing for both the Atlantic Coast Pipeline and the Mountain Valley Pipeline. Sen. Tim Kaine (D-VA) made a similar request on January 5 (See #226).

https://beyer.house.gov/uploadedfiles/beyer_ltr_to_ferc_pipeline_rehearing.pdf

Federal District Court rules against landowners in eminent domain cases

241. The Federal District Court for the Western District of Virginia on February 28 ruled on pending eminent domain cases against landowners and in favor of the Atlantic Coast Pipeline, LLC (ACP, LLC). The twenty-seven cases before the Court were in response to ACP, LLC's motions for partial summary judgment and for a preliminary injunction granting the company immediate possession of the properties. ACP, LLC claimed it needed immediate possession by March 1 to complete tree felling before that activity is foreclosed in mid-March by the Migratory Bird Act. Otherwise, pipeline construction would be delayed. In his 44-page ruling, U.S. District Judge Norman K. Moon said that "ACP has demonstrated a concrete economic harm that it would suffer if the Court did not grant it injunctive relief."

<https://www.abralliance.org/wp-content/uploads/2018/03/ACP-eminent-domain-court-decision-Federal-District-Court-Lynchburg-2-28-18.pdf>

March 2018

ACP storage yard rejected by Augusta County

242. A proposed storage yard for the Atlantic Coast Pipeline in Augusta County, VA, to be located on U.S. 42 north of Churchville, was denied a permit from the Augusta County Board of Zoning Appeals on March 1. The action capped three months of consideration by the Board, which voted 4-1 to deny the request on the basis that it was incompatible with the neighborhood and there was a potential for traffic hazards and damage to water quality. In neighboring Highland County, the local Planning Commission agreed to delay its consideration of two ACP storage yards – one in McDowell, the other near Monterey – until after a public hearing March 29.

<https://www.abralliance.org/wp-content/uploads/2022/03/Zoning-board-nixes-permit-request-for-Dominion-storage-yard-News-Leader-3-1-2018.pdf>

Forest Service grants permission for ACP tree felling

243. Permission for contractors of the Atlantic Coast Pipeline (ACP) to begin felling trees within the George Washington and Monongahela National Forests was granted by the U.S. Forest Service (USFS) on March 2. ABRA was informed of the decision during the course of a meeting with USFS officials to discuss the ABRA CSI program. The USFS had issued a Special Use Permit for the ACP in late January, but trees could not be felled until an additional permission was approved. Tree removal and other ground-disturbing activities were not authorized by the USFS decision on tree felling.

On Monday, March 5, the Federal Energy Regulatory Commission (FERC) expanded its permission for tree felling in Virginia to within the 50-foot setback from wetlands and waterbodies that had been set forth in FERC's original authorization for cutting trees, issued on February 16, which required a 50-foot setback. The amended permission was granted by FERC in response to a request from Dominion Transmission, Inc., the managing partner for the ACP.

<https://www.abralliance.org/wp-content/uploads/2018/03/FERC-tree-felling-permission-for-ACP-with-50-foot-setback-from-water-2-16-18.pdf>

<https://www.abralliance.org/wp-content/uploads/2018/03/FERC-permission-for-tree-felling-for-ACP-within-50-feet-of-water-3-5-18.pdf>

ABRA holds seminar on CSI monitoring program

244. A near overflow crowd of 150 people gathered at the Staunton, VA Holiday Inn on March 3 to hear details about ABRA's new Pipeline Compliance Initiative (CSI). The program was designed to support citizen efforts to ensure strict application of environmental laws and regulations in the construction and operation of the Atlantic Coast Pipeline (ACP). CSI's initial focus is to be the 200-mile section of the proposed ACP route extending from Harrison County in West Virginia to Buckingham County in Virginia. It was explained to the briefing attendees that the extreme earth disturbance required for construction of the ACP in this area of steep mountain sides, high quality streams, and karst valleys presents an unacceptable risk to water resources.



Attendees at the March 3 seminar on ABRA's Compliance Surveillance Initiative program.

245. The Southern Environmental Law Center (SELC) and Appalachian Mountain Advocates filed a petition on March 8 with the Fourth Circuit U.S. Court of Appeals asking for a halt of construction by Atlantic Coast Pipeline (ACP) developers until the Court decides whether the Federal Energy Regulatory Commission's (FERC) permit was valid. The petition, filed on behalf of client conservation and environmental groups, explained the issue to be resolved:

“The Natural Gas Act requires FERC to rule on rehearing requests within thirty days, but FERC indefinitely postponed a ruling on Petitioner’s Rehearing Request for the ACP. In the meantime, pipeline construction has begun and will irreparably harm Petitioners’ property and environmental interests. Can this Court issue a writ pursuant to the All Writs Act staying construction of the ACP to preserve the status quo and its prospective jurisdiction under the Natural Gas Act?”

<https://www.abralliance.org/wp-content/uploads/2018/03/Petition-for-a-Writ-Staying-the-FERC-Order-3-8-18.pdf>

https://www.abralliance.org/wp-content/uploads/2018/03/Coalition_files_requests_to_stop_pipeline-Recorder_20180316.pdf

ABRA briefs Virginia DEQ staff on CSI program

246. On March 14, ABRA representatives met in Richmond with David Paylor, Director of the Virginia Department of Environmental Quality, and key member of his staff to brief them on ABRA’s new Compliance Surveillance Initiative program (CSI). Similar meetings were held in Elkins, WV on March 7 with National Forest Service officials, and on January 24 with officials of the West Virginia Department of Environmental protection. The purpose of all the meetings was to explain the CSI program and explore how ABRA’s program could work constructively with each of the agencies.

247. On March 17, the Southern Environmental Law Center and Appalachian Mountain Advocates, on behalf of their clients (most being ABRA members) with pending rehearing requests before Federal Energy Regulatory Commission, filed a letter of opposition to Dominion’s request to the agency for permission to begin felling trees. The letter requested that “the Commission deny the request to modify time-of-year restrictions on tree felling or, in the alternative, before issuing a decision, develop and issue for public notice and comment” a draft Supplemental Environmental Impact Statement as required under federal regulations and reinstate consultation with U.S. Fish and Wildlife Service.

<https://www.abralliance.org/wp-content/uploads/2018/03/SELC-Appalmad-to-FERC-Opposing-Tree-Cutting-Restrictions-for-ACP-3-17-18.pdf>

248. The U.S. Court of Appeals for the Fourth Circuit on March 21 dismissed the legal challenges to the certificate issued by the Federal Energy Regulatory Commission in October 2017 for the Atlantic Coast Pipeline that was brought by several ABRA members. The Court said it did not have jurisdiction to hear the case until FERC issues an order on a pending rehearing request.

https://www.abralliance.org/wp-content/uploads/2018/03/ABRA_Update_173_20180322.pdf

CSI program produces evidence of ACP violation, FERC responds

249. A request was filed March 22 on behalf of ABRA with the Federal Energy Regulatory Commission (FERC) to investigate potential violations by Atlantic Coast Pipeline, LLC (ACP, LLC) of the Commission's Certificate and Virginia's water quality certification. Aerial photographs taken earlier in March by ABRA's Compliance Surveillance Initiative showed what appeared to be substantial construction work in an area of Augusta County, near the site from which ACP, LLC proposes to bore under the Appalachian Trail. The photographs showed new and improved roads, new bridges, and what appear to be equipment parking and staging areas. The activities did not appear to have been authorized under any of the limited Notices to Proceed FERC had issued for the ACP. The ABRA request explained that the actions would impact water quality and that, since the State of Virginia has not approved for the ACP erosion and sediment control and stormwater plans, the project's water quality certification was not in effect.

<https://www.abralliance.org/wp-content/uploads/2018/03/ABRA-request-to-FERC-for-investigation-of-potential-noncompliance-of-ACP-3-22-18.pdf>

250. An ABRA request for an investigation by the Federal Energy Regulatory Commission (FERC) of an incidence of non-compliance by the Atlantic Coast Pipeline, LLC, filed on March 22, received attention from the agency the following day. The request had been based on an incident report – the first under ABRA's new Compliance Surveillance Initiative (CSI) – spotted by the CSI Pipeline Air Force of unauthorized equipment and ground disturbance at a Augusta County, VA location adjacent to where the company intends to conduct a horizontal directional drilling operation under the Blue Ridge Parkway.



Apparent equipment staging area and new or reconstructed road and bridges observed during a Pipeline Air Force surveillance flight on March 11.

251. A request by Dominion Transportation, Inc. (DETI) and Atlantic Coast Pipeline, LLC to extend the deadline for tree felling until May 15 was denied by the Federal Energy Regulatory Commission (FERC) on March 28. Responding to a March 15 request for an extension of the tree felling deadline (March 15 for Virginia; March 31 for North Carolina and West Virginia), FERC stated:

“As part of your applications, Atlantic and DETI committed to minimizing impacts on both migratory bird species and threatened and endangered species by adhering to time-of-year tree felling restrictions. Accordingly, this mitigation measure is one of many that the Commission considered in its Order when granting Certificates to Atlantic and DETI. After a thorough review of your request, we find that it would not offer an equal or greater level of protection, and deny Atlantic and DETI’s request to modify the time-of-year restrictions established during project review.”

https://www.abralliance.org/wp-content/uploads/2018/03/FERC_ACP_Denial_tiemrestrection_request-3-28-18-1.pdf

<https://www.abralliance.org/wp-content/uploads/2021/09/Feds-reject-Atlantic-Coast-Pipeline-bid-to-continue-cutting-trees-Richmand-Times-Dispatch-3-28-2018.pdf>

April 2018

252. The Virginia State Water Control Board (SWCB) voted on April 12 to open a new 30-day comment period regarding stream crossing plans for the Atlantic Coast Pipeline. The Department of Environmental Quality provided ABRA with the following statement about the Water Board’s vote:

“Additional information on the public comment period and the SWCB’s meeting will be available in the near future. The State Water Control Board authorized receiving written, public comments on water crossings and wetlands that are covered under the Army Corps of Engineers Nationwide 12 Permit. We are gathering the details to let people know when the comment period will be, how to access the NW 12 plans, what types of technical information will be beneficial, and how to submit comments to the Board.”

<https://www.abralliance.org/wp-content/uploads/2021/09/Regulatory-board-cracks-open-door-for-more-review-of-pipeline-projects-RTD-4-12-2018.pdf>

253. Authority to commence construction of contractor storage yards in Upshur County, WV and Halifax County, NC for the Atlantic Coast Pipeline (ACP) was granted April 12 by the Federal Energy Regulatory Commission (FERC). The request to proceed with the storage yard construction, which had been filed by Dominion Energy Transmission, Inc. on March 27, also included a request to begin construction on a storage yard in Cumberland County, NC. FERC declined at this time to authorize construction of the Cumberland facility until the company “resolves discrepancies related to the crossing method” for a waterbody at the entrance of the proposed yard.

<https://www.abralliance.org/wp-content/uploads/2018/04/FERC-approval-to-proceed-for-ACP-contractor-yards-in-WV-NC-4-12-18.pdf>



A pipeline storage yard in north central West Virginia.

254. A torrential rain on Monday, April 16, in the Valley Center area of Highland County, VA, produced severe flooding along the proposed route of the Atlantic Coast Pipeline (ACP). The flag markers for the ACP route are prominently shown in the photo on the right.



255. An opening brief was filed on April 17 in the lawsuit that several ABRA member organizations brought challenging the December 12 decision of the Virginia State Water Control Board to conditionally approve issuing a water quality certificate (under Section 401 of the Clean Water Act) for the Atlantic Coast Pipeline. The suit was filed January 18 and the case was expected to be argued in September. (See #223)

Among the arguments set forth in the brief were:

- The Virginia Department of Environmental Quality's failure to consider the combined effects of multiple areas of construction within individual watersheds is arbitrary and capricious.
- Construction of the pipeline in areas of karst geology will impair water quality.

<https://www.abralliance.org/wp-content/uploads/2018/04/SWCB-DEQ-law-suit-opening-brief-4-17-18.pdf>

256. A report issued April 18 by Oil Change International revealed that Bank of America and JP Morgan Chase were among the leading financial institutions providing funding for the Atlantic Coast Pipeline.

<http://priceofoil.org/2018/04/18/bank-of-america-leads-finance-for-atlantic-coast-pipeline/>

ABRA conducts tour of ACP route for media

257. ABRA conducted a tour for media representatives on April 27 of sites along the route of the Atlantic Coast Pipeline in Highland and Bath Counties, Virginia.



Left, above, CSI Committee Chair Rick Webb discussed with Mike Soraghan of E&E News (hat) how the ACP would cross the Jackson River in northern Bath County. Right, Robert Zullo, then with the *Richmond Times-Dispatch* (c), walks with David Sligh of Wild Virginia (l) and Richard Brooks (r) of the Cowpasture River Preservation Association on property in southwestern Highland County where the ACP would cross land characterized by karst topography and laden with sinkholes.

May 2018

258. A coalition of 14 conservation organizations, 12 of them members of ABRA, requested on May 8 that the Virginia State Water Control Board stay the effective date of the Section 401 Water Quality Certification for the Atlantic Coast Pipeline that had been approved by the Board on December 12. The groups' letter noted that the Board's recent opening of a new 30-day comment period on the adequacy of the U.S. Army Corps of Engineers' Nationwide Permit 12 "raises significant uncertainty for the prior certification determination that there was 'reasonable assurance' that the pipeline will comply with Virginia water quality standards."

<https://www.abralliance.org/wp-content/uploads/2018/05/SWCB-letter-from-SEL-Appal-mad-CBF-5-8-18.pdf>

259. Support for the denial by the Federal Energy Regulatory Commission (FERC) of a request to extend tree felling for the Atlantic Coast Pipeline was voiced by the Virginia Society of Ornithology (VSO) in a May 8 letter to FERC. VSO said:

"We cannot justify any scenario of extended tree felling that would provide equal or greater security for migratory birds or other protected species which are dependent on these forested habitats, in comparison with the original March 15 deadline. Extending tree felling into the heart of the breeding season for many of our most imperiled breeding species runs counter to Dominion Energy's stated commitment to minimizing environmental impacts. Please continue to support the original intent of the mitigation plan."

<https://www.abralliance.org/wp-content/uploads/2018/05/Virginia-Society-of-Ornithology-to-FERC-supporting-tree-felling-restrictions-for-ACP-5-8-18.pdf>

260. Opponents of the Atlantic Coast Pipeline demonstrated on May 9 at the annual shareholders meeting of Dominion Energy, with one attendee asking CEO Tom Farrell: "Mr. Farrell, do you feel Dominion's profits are more important than people's lives and the planet?" Mr. Farrell responded: "Obviously, I don't," but said he disagreed with the premise of the attendee's question.

<https://www.abralliance.org/wp-content/uploads/2021/09/ACP-opponents-protest-at-Dominon-shareholders-meeting-RTD^J-5-9-2018.pdf>

FERC grants authority for ACP construction to begin in West Virginia

261. The Federal Energy Regulatory Commission (FERC) on May 11 granted authority for the Atlantic Coast Pipeline "to commence full construction in the certificated workspace and select areas with changes, for the 2018 construction spreads in West Virginia." Continuing, the FERC notice stated that "this authorization grants approval to proceed on properties where tree felling has occurred or for which there are no trees, excluding any workspace located on U.S. National Forest Service lands."

<https://www.abralliance.org/wp-content/uploads/2018/05/FERC-Notice-to-proceed-with-ACP-construction-in-WV-5-11-18.pdf>

Endangered species permit for ACP vacated by 4th Circuit

262. The Fourth Circuit Court of Appeals on May 15 issued an order vacating the incidental take statement (part of the Biological Opinion issued by the U.S. Fish and Wildlife Service) that would have allowed threatened and endangered species to be harmed while building the Atlantic Coast Pipeline (ACP). The effect was that all on-the-ground activities for the ACP in North Carolina, Virginia, and West Virginia were stopped indefinitely. The Court's order stated:

"Petitioners seek review of the U.S. Fish and Wildlife Service's Incidental Take Statement, which authorized the Atlantic Coast Pipeline project to take certain threatened or endangered species. As to five of the affected species, Petitioners argue that the agency failed to set clear limits on take as required by the Endangered Species Act.

"Exercising jurisdiction pursuant to 15 U.S.C. § 717r(d)(1), we conclude, for reasons to be more fully explained in a forthcoming opinion, that the limits set by the agency are so indeterminate that they undermine the Incidental Take Statement's enforcement and monitoring function under the Endangered Species Act. Accordingly, we VACATE the Fish and Wildlife Service's Incidental Take Statement. See 5 U.S.C. § 706(2). We reserve judgment on the parties' remaining disputes until our forthcoming opinion."

The order resulted from a challenge filed by the Southern Environmental Law Center filed on behalf of the Defenders of Wildlife, Sierra Club and the Virginia Wilderness Committee. The case had been argued on May 10.

The Southern Environmental Law Center filed on May 15 with the Federal Energy Regulatory Commission (FERC) a letter stating that construction activity on the ACP must be halted. Dominion Energy responded to the Court's order with a statement on May 16:

"We remain confident in the project approvals and the Atlantic Coast Pipeline will continue to move forward with construction as scheduled. This decision only impacts activities directly covered by the Incidental Take Statement in certain defined areas along the route. We will fully comply as required while we continue to construct the project. Although we disagree with the outcome of the

court's decision, and are evaluating our options, we are committed to working with the agency to address the concerns raised by the court's order.”

Late on May 16, FERC posted on its docket a letter to Dominion Energy Transmission, Inc., managing partner for the ACP project, regarding the Fourth Circuit decision:

“The Court indicated it would more fully explain its reasoning in a forthcoming opinion. As a result, Atlantic Coast Pipeline, LLC (Atlantic) has informed Commission staff that it will not proceed with construction in any areas where such activities may affect listed species covered by the FWS’ Incidental Take Statement for the project. Atlantic should, within 5 days, file documentation that specifically identifies by milepost/stationing the habitat areas that will be avoided with respect to each of the listed species and confirms the company’s commitment to avoid construction in these areas.”

<https://www.abralliance.org/wp-content/uploads/2021/09/4th-Circuit-Order-Vacating-Biological-Opinion-for-Atlantic-Coast-Pipeline-5-15-18.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/09/SELC-letter-to-FERC-on-4th-Circuit-decision-5-15-18.pdf>

<https://www.abralliance.org/wp-content/uploads/2021/09/FERC-letter-to-Dominion-on-4th-Circuit-decision-5-16-18.pdf>

https://www.abralliance.org/wp-content/uploads/2018/05/Federal-court-suspends-pipeline-construction-Recorder_20180517.pdf

ABRA members ask FERC to disallow ACP construction

263. On May 21, the Southern Environmental Law Center and Appalachian Mountain Advocates filed with the Federal Energy Regulatory Commission (FERC), on behalf of its respective client groups (most were ABRA members), a letter setting forth the reasons why the agency should not allow construction of the Atlantic Coast Pipeline to proceed. Noting that the Fourth Circuit had yet to issue an opinion explaining the parameters of its May 15 decision to vacate the permit that had been issued for the project by the U.S. Fish and Wildlife Service (FWS), the letter stated:

"FERC also should not assume that it knows what remedy the court will order, nor FWS's response to it. For instance, FERC cannot know if FWS will have to consider additional habitat areas not assessed in the original biological opinion and incidental take statement in order to comply with the court's opinion. FERC puts itself at considerable risk by assuming it or Atlantic can predict what the court will order and how that will play out on the ground.

"Allowing pipeline construction to proceed outside areas Atlantic identified as used by endangered species could dangerously lock FERC and Atlantic into a pipeline route that FWS's analysis may require it to change.”

<https://www.abralliance.org/wp-content/uploads/2018/05/Letter-to-FERC-re-Vacatur-of-Incidental-Take-Statement-5-21-18.pdf>

<https://www.ecowatch.com/atlantic-coast-pipeline-endangered-species-2571382531-2571382531.html>

https://www.abralliance.org/wp-content/uploads/2018/05/Pipeline-developer-opponents-stake-out-positions-Recorder_20180523.pdf

264. “Numerous environmental risks associated with pipeline construction and operation present direct threats to groundwater resources,” according to a study released May 23 by the Natural Resources Defense Council. The study, *Threats to Groundwater from the Mountain Valley Pipeline and Atlantic Coast Pipeline in Virginia*, was conducted by Downstream Strategies of Morgantown, WV. The study assessed the impact the two pipeline projects would have on private drinking water wells and springs in Virginia.

Among the study’s findings and recommendations were:

- Pipeline construction and operation present serious threats to underground sources of drinking water via soil compaction and excavation, surface spills of diesel and other petrochemicals, blasting and trenching, alterations of topography, exposed geology, hydrostatic testing, sinkhole filling and development, and drilling.
- Baseline testing plans for both water quantity and quality, are inadequate to protect drinking water sources, and do not match best management practices.

<https://www.abralliance.org/wp-content/uploads/2018/06/Threats-to-groundwater-from-the-MVP-and-ACP-Downstream-Strategies-5-23-18.pdf>

June 2018

Army Corps is asked by ABRA members to suspend permit for ACP

265. Several ABRA member groups and others requested on June 1 of the U.S. Army Corps of Engineers that it “immediately notify Atlantic Coast Pipeline, LLC (‘Atlantic’) that authorization of construction of river, stream, and wetland crossings for the Atlantic Coast Pipeline under the Corps’ Nationwide Permit 12 is suspended pending the re-initiation and completion of Section 7 consultation under the Endangered Species Act.” The group’s views were expressed in a letter to the Corps sent by Southern Environmental Law Center, Appalachian Mountain Advocates and the Chesapeake Bay Foundation on behalf of their respective clients. It noted that because of the Fourth Circuit Court of Appeals’ May 15 decision vacating the U.S. Fish and Wildlife Service’s Incidental Take Statement for the Atlantic Coast Pipeline, the “Corps’ consultation obligations for the project under Section 7

of the Endangered Species Act are incomplete, and construction must not proceed until the defects of the Incidental Take Statement are resolved.”

<https://www.abralliance.org/wp-content/uploads/2018/06/Letter-to-the-Corps-of-Engineers-re-Vacatur-of-the-Incidental-Take-Statement-6-1-18.pdf>

266. A report released June 7 by the Dominion Pipeline Monitoring Coalition (DPMC), an ABRA member, described the responses from the Virginia Department of Environmental Quality (DEQ) to a series of record requests DPMC had filed in the previous two months that sought to discover what evidence DEQ had to support its claims that a Corps of Engineers permit would protect Virginia waters where the Atlantic Coast Pipeline and the Mountain Valley Pipeline proposed to dig and blast through streams and wetlands. The report, *The Agency is Missing*, noted that in nearly every case, DEQ had been forced to admit it had no such records.

<http://pipelineupdate.org/2018/06/07/the-science-is-missing/>

267. A Dominion Energy spokeswoman said on June 9 that a federal appeals court ruling that vacated a key permit for the Atlantic Coast Pipeline is not halting the project’s construction:

“We have committed from the very beginning to stand by our environmental practices as setting a best-in-class example. Dominion Energy, as the chief operator for ACP, has from the very beginning identified some of these sensitive areas, so we have already analyzed many of the habitats and the species that are coming into question with this court ruling.”

<https://wvmetronews.com/2018/06/09/dominion-energy-predicts-little-impacts-from-federal-appeals-court-ruling/>

FERC asked to revoke construction permit for ACP

268. A motion was filed June 11 with the Federal Energy Regulatory Commission (FERC) requesting that the agency immediately revoke its May 11 authorization for construction to proceed in West Virginia for the Atlantic Coast Pipeline. The action, filed by the Southern Environmental Law Center on behalf of Defenders of Wildlife, Sierra Club and Virginia Wilderness Committee, was prompted by evidence gathered by ABRA's Compliance Surveillance Initiative (CSI) of construction activity occurring south of Buckhannon, West Virginia (in Upshur County). The construction work was subsequently verified by photographic evidence produced by the ABRA/CSI Pipeline Air Force (see below).



In the motion filed with FERC said:

“Petitioners request that the Commission grant rehearing, immediately revoke the West Virginia Notice to Proceed, and stay all pipeline construction authorized by the Notice. On May 15, 2018, the Fourth Circuit Court of Appeals vacated the Fish and Wildlife Service’s Incidental Take Statement for the Atlantic Coast Pipeline. Therefore, Atlantic and Dominion are not in compliance with two mandatory conditions of the project’s Certificate Order: Environmental Condition 54 and Environmental Condition 10. Both of these conditions require a valid incidental take statement before pipeline construction proceeds.”

<https://www.abralliance.org/wp-content/uploads/2018/06/Defenders-of-Wildlife-et-al.-Request-for-Rehearing-re-May-11-2018-Notice-to-Proceed-6-11-18.pdf>

269. Over 13,000 opinions were submitted to the Virginia State Water Control Board by the June 15 comment deadline about the sufficiency of the U.S. Army Corps NWP 12 permit program for stream crossings of the Mountain Valley Pipeline (MVP) and the Atlantic Coast Pipeline (ACP). There were 7,100 emails on the ACP, 2,600 emails on the MVP and 3,500 letters and cards related to the ACP and MVP.

<https://www.abralliance.org/2018/06/22/13000-comment-on-adequacy-of-the-nwp-12-program-for-the-acp-mvp/>

<https://www.abralliance.org/resources/comments-on-u-s-army-corps-of-engineers-nationwide-permit-12/>

<https://www.abralliance.org/wp-content/uploads/2018/06/Water-board-to-weigh-pipeline-comments-Recorder-6-28-18.pdf>

<https://bluevirginia.us/2018/06/virginia-state-legislators-file-comments-urging-state-water-control-board-to-conduct-stream-by-stream-analysis-of-gas-pipelines-impacts-on-water-quality>

<https://wildvirginia.org/wp-content/uploads/2018/08/Summary-of-Public-Comments-NWP-12-Sufficiency.pdf?eType=EmailBlastContent&eId=2747b50d-f913-48do-a0d9-a53d57216fd6>

270. Appalachian Mountain Advocates on June 22 requested the U.S. Army Corps of Engineers to suspend and revoke the permit the agency issued for the Atlantic Coast Pipeline in February under the Nationwide Permit 12 program because of the inability of the applicant to comply with West Virginia requirements that limit stream crossings construction for a duration of 72 hours. The request was made on behalf of five ABRA members: the Sierra Club, West Virginia Rivers Coalition, West Virginia Highlands Conservancy, Appalachian Voices and the Chesapeake Climate Action Network.

<https://www.abralliance.org/wp-content/uploads/2018/06/Appalmad-request-to-Army-Corps-to-revoke-NWP-12-for-ACP-6-21-18.pdf>

271. The Virginia Department of Game and Inland Fisheries (VDGIF), in the closing days of the McAuliffe administration (which ended January 13, 2018), rolled back restrictions on construction in streams to help Dominion and Atlantic Coast Pipeline developers move the project along faster. The revelation was announced June 28 by the Southern Environmental Law Center, which obtained documents through the Virginia Freedom of Information Act. The modifications granted, which were pursuant to a September 2017 request from Dominion Energy, would have effectively weakened protections for Virginia water and wildlife, were made without public input or notice from Virginia to the public, despite widespread opposition to the project.

<https://www.abralliance.org/wp-content/uploads/2018/06/SELC-ltr-to-Sec.-Strikler-on-time-of-year-waivers-6-22-18.pdf>

July 2018

Fourth Circuit asked to halt ACP construction over lack of FWS permit

272. A motion was filed July 5 with the U.S. Court of Appeals, Fourth Circuit, asking that construction activity on the Atlantic Coast Pipeline (ACP) be halted until the Fish and Wildlife Service (FWS) complies with the Court's May 15 order vacating the FWS's Incidental Take Statement for the ACP. The motion was filed by the Southern Environmental Law Center (SELC) on behalf of the Defenders of Wildlife, Sierra Club and Virginia Wildlife Committee.

The SELC motion argued that notwithstanding the May 15 Fourth Circuit Order, ACP "is racing ahead with construction, including within habitat of endangered species. An injunction is necessary to stop the potential take of species and to prevent foreclosure of reasonable and prudent alternatives that FWS may require to satisfy its ESA obligations, following the Court's opinion. An injunction will ensure FWS can appropriately respond to this Court's instructions and will prevent unnecessary, imminent, and irreparable harm." One of the pieces of evidence submitted to the Court with the SELC motion was an incident report filed by the West Virginia Rivers Coalition based in part on surveillance by the ABRA/CSI Pipeline Air Force.

<https://www.abralliance.org/wp-content/uploads/2018/07/Motion-for-Injunction-4th-Circuit-on-ESA-issue-7-5-18.pdf>

VA Supreme Court upholds pipeline survey law

273.. A challenge to Virginia's statute authorizing natural gas pipeline companies to survey a landowner's property without that owner's permission was rebuffed on July 5 by the Virginia Supreme Court. The 6-1 decision upheld a lower court decision in a case brought by a Nelson County, VA landowner, Barr vs. Atlantic Coast Pipeline, LLC.

<https://www.abralliance.org/wp-content/uploads/2021/09/Virginia-Supreme-Court-upholds-pipeline-survey-law-RTD^J-7-5-18.pdf>

Fourth Circuit is asked to stay VA water quality certificate for ACP

274. The Fourth Circuit U.S. Court of Appeals in Richmond was asked on July 16 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 by the Southern Environmental Law Center, Appalachian Mountain Advocates and the Chesapeake Bay Foundation on behalf of sixteen petitioners, twelve of whom were ABRA members.

The motion contended 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.
- 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."

<https://www.abralliance.org/wp-content/uploads/2018/07/Motion-for-stay-in-VA-401-certification-7-16-18.pdf>

FERC asked to rehear June decision to authorize ACP construction in WV

275. The Federal Energy Regulatory Commission (FERC) was asked on July 24 to rehear its June decision to authorize construction in West Virginia of the Atlantic Coast Pipeline. The motion was filed by the Southern Environmental Law Center on behalf of Sierra Club, Defenders of Wildlife and the Virginia Wilderness Committee, FERC was requested to grant a rehearing and to immediately revoke the West Virginia Notice to Proceed.

<https://www.abralliance.org/wp-content/uploads/2018/07/SELC-rehearing-request-of-FERC-ACP-construction-authorization-of-6-25-18-7-24-18.pdf>

FERC authorizes ACP construction in North Carolina

276. Construction activity in North Carolina for the Atlantic Coast Pipeline was formally authorized by the Federal Energy Regulatory Commission on July 24. The action gave permission for construction activity on those construction spreads in the state that had previously been scheduled to occur in 2018.

https://elibrary.ferc.gov/eLibrary/filelist?accession_number=20180724-3057

277. A dozen members of the Virginia House of Delegates and two state Senators wrote Governor Northam on July 26 urging him “to direct the Virginia Department of Environmental Quality to revoke and decertify the 401 certifications for both upland areas and for the Army Corps of Engineers’ Nationwide Permit 12, which would trigger a comprehensive stream-by-stream analysis under Clean Water Act Section 401” for the Atlantic Coast Pipeline and the Mountain Valley Pipeline. Continuing, the letter asked that “all construction activities for these two projects until those analyses are complete. Stream-by-stream analyses is a commonsense solution that environmental experts agree is the appropriate process for these circumstances.”

<https://www.abralliance.org/wp-content/uploads/2018/07/Legislators-letter-to-Gov-Northam-on-pipelines-July-26-2018.pdf>

<https://www.utilitydive.com/news/ferc-clears-atlantic-coast-pipeline-for-construction-in-north-carolina/528620/>

278. A new collaborative study intended to provide guidance “in setting the highest practicable standards” for constructing natural gas pipelines through steep slopes was released in July. The study, *Improving Steep-Slope Pipeline Construction to Reduce Impacts to Natural Resources*, was facilitated by The Nature Conservancy and involved the participation of eight natural gas industry companies, including Dominion Energy and EQT Midstream Partners.

<https://www.abralliance.org/wp-content/uploads/2018/07/Improving-Steep-Slope-Pipeline-Construction-Nature-Conservancy.pdf>

279. The U.S. Army Corps of Engineers, Huntington District, on July 27 granted the Atlantic Coast Pipeline a temporary suspension from requirements of the Nationwide 12 program, giving project developers more time to provide plans and additional information with regard to some of the river crossings covered under the permit. The action was in response to a request by Atlantic Coast Pipeline, LLC.

<https://www.abralliance.org/wp-content/uploads/2021/09/Army-Corps-suspension-of-NWP12-requirement-for-ACP-7-12-18.pdf>

280. The first Notice of Violation (NOV) for the Atlantic Coast Pipeline (ACP) was issued June 28 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 and a partner in the ABRA Compliance Surveillance Initiative, submitted the complaint to the DEP.

<https://www.abralliance.org/wp-content/uploads/2018/07/WV-DEP-NOV-Upshur-Co-6-28-18.pdf>

281. A new report issued July 29 by the Dominion Pipeline Monitoring Coalition highlighted 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 ABRA's Pipeline Air Force, a component of ABRA's Pipeline Compliance Surveillance Initiative (CSI), the report provided compelling evidence that citizen monitoring of pipeline construction is needed to supplement the regulatory oversight provided by the state and federal agencies.

<http://pipelineupdate.org/2018/07/29/industry-standard-noncompliance/>

<https://www.abralliance.org/wp-content/uploads/2022/03/Gas-pipeline-watchdogs-monitor-collect-evidence-Recorder-8-2-18.pdf>

August 2018

Park Service permit for ACP vacated by 4th Circuit

282. A key permit for the Atlantic Coast Pipeline (ACP) was vacated on August 6 by the U.S. Court of Appeals, Fourth Circuit in a unanimous decision (3-0). The Court declared that the National Park Service's (NPS) permit authorizing the ACP to cross under the Blue Ridge Parkway (BRP) and Appalachian National Trail (AT) was arrived at with improper justification and should be deemed invalid. In the same opinion, the Court explained the reasons for its May 15 decision to vacate the Fish and Wildlife Service's biological opinion on threats to endangered species. As with the NPS decision, the Court faulted the NPS for not providing valid reasons why the ACP's crossing of the BRP and AT were consistent with the agency's own standards. The ruling was on a case brought by the Southern Environmental Law Center (SELC) on behalf of Defenders of Wildlife, Sierra Club and Virginia Wilderness Committee.

https://www.abralliance.org/wp-content/uploads/2018/08/4th-Circuit-opinion-on-its-May-15-Order-vacating-FWS-permit-for-ACP_20180806.pdf

<https://www.virginiamercury.com/2018/08/06/fourth-circuit-strikes-again-atlantic-coast-pipeline-permit-vacated/>

<https://www.southernenvironment.org/press-release/federal-court-throws-out-another-key-acp-permit/>

<https://www.robesonian.com/news/114117/court-ruling-wont-stop-acp-work>

FERC issues stop work order for ACP

283. On August 10, the Federal Energy Regulatory Commission (FERC) issued a stop work order for the Atlantic Coast Pipeline. The action was prompted by the August 6 Fourth Circuit Court of Appeals decision to vacate two key permits for the pipeline from the U.S. Fish and Wildlife Service and the National Park Service.

<https://www.abralliance.org/wp-content/uploads/2018/08/FERC-stop-work-order-for-ACP-8-10-18.pdf>

<https://www.abralliance.org/wp-content/uploads/2018/08/Dominion-to-FERC-on-4th-Circuit-decision-on-FWS-8-7-18-1.pdf>

<https://www.abralliance.org/wp-content/uploads/2018/08/SELC-Appalmad-to-FERC-response-to-ACP-construction-request-8-15-18.pdf>

ABRA members sue FERC for overlooking ACP's inflated claims of need

284. A group of 13 conservation groups – 10 of whom being ABRA members – filed suit in the Fourth Circuit Court of Appeals on August 16 against the Federal Energy Regulatory Commission (FERC) challenging the Commission's October 2017 approval of the Atlantic Coast Pipeline (ACP) and, in the groups view, its wrongful refusal to look behind the inflated claims of Dominion Energy, principal partner in the project, that the pipeline is needed in Virginia and North Carolina markets. The suit was filed on behalf of the petitioners by the Southern Environmental Law Center (SELC) and Appalachian Mountain Advocates. It followed the August 6 decision by the Fourth Circuit to vacate two key permits for the ACP and by an August 10 stop work order issued by FERC for the project.

The legal action was taken as the result of the rejection by FERC on August 10 of an earlier request by conservation groups to reconsider its approval of the ACP. The action occurred on a 2-1 vote, with Commissioner Cheryl LaFleur dissenting. Under FERC's policy of "tolling orders," whereby decisions on pending appeals can be extensively delayed, the lawsuit could not be filed until FERC had acted on the earlier rehearing request for its October 2017 decision to grant the ACP a certificate.

<https://www.abralliance.org/wp-content/uploads/2018/08/Joint-Pet-for-Rev-ACP-FERC-Cert-and-Rehg-Order-8-16-18.pdf>

<https://www.abralliance.org/2018/08/17/abra-members-sue-ferc-over-original-approval-of-acp/>

285. The Federal Energy Regulatory Commission (FERC) granted on August 17 permission for the Atlantic Coast Pipeline, LLC to implement plans to conduct interim work on the Atlantic Coast Pipeline (ACP) during the period of the stop work order on the project. FERC had requested the plan as part of its August 10 stop work order for the project, which had been prompted by an August 6 federal court decision vacating two key permits for the ACP and a subsequent request made to the agency by several ABRA members for a stop work order to be issued.

<https://www.abralliance.org/wp-content/uploads/2018/08/FERC-approval-of-ACP-interim-right-of-way-and-work-area-stabilization-plans-8-17-18.pdf>

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?document_id=14697063

VA Water Control Board rejects reconsideration of its permit for ACP

286. The Virginia State Water Control Board on August 21 rejected a motion, on a 3-4 vote, to modify or revoke the Board's December action to approve a water quality certification that was based in part on the U.S. Corps of Army Engineers' permit on stream crossings for the two pipelines. Instead, the Board approved a motion, 7-0, calling for the Department of Environmental Quality "to continue aggressive compliance, enforcement, inspection and enforcement activities" for the two pipelines.

<https://www.abralliance.org/2018/08/24/state-water-board-declines-to-revisit-permit-approvals-for-acp-and-mvp/>

287. An analysis released August 31 by the Dominion Pipeline Monitoring Coalition (DPMC) vividly showed how the Atlantic Coast Pipeline, LLC was deceiving regulators and others, in defiance of the stop work order for the Atlantic Coast Pipeline (ACP) project issued August 10 by the Federal Energy Regulatory Commission. DPMC's report, *Timeline of Defiance*, detailed a timeline of relevant regulatory actions affecting the ACP over the recent months, accompanied by photographic evidence gathered by ABRA's Pipeline Air Force.

<http://pipelineupdate.org/2018/08/31/acps-timeline-of-defiance/>

September 2018

288. A proposal for a storage yard to be built in western Augusta County to serve construction of the Atlantic Coast Pipeline (ACP) was tabled September 6 for 30 days by the county's Board of Zoning Appeals (BZA). The site for the proposed yard was in the West Augusta area of the county, along U.S. 250. Another proposed storage yard for the ACP near Churchville was rejected by the BZA earlier in 2018. Opposition to the proposed yard was led by the Augusta County Alliance, an ABRA member organization.

<https://www.abralliance.org/wp-content/uploads/2021/09/ACP-storage-yard-proposal-tabled-by-Augusta-County-9-16-21.pdf>

ACP compressor station strongly opposed at Air Board hearing

289. A crowd of over 150 persons attended a September 11 hearing in Buckingham, VA conducted by the Virginia State Air Control Board (SACB) to hear comments on the proposed compressor station for the Atlantic Coast Pipeline (ACP). The facility would have been the only compressor station for the ACP in Virginia and had been criticized because of the egregious impact it would have had on the Union Hill community and the nearby Yogaville Ashram and retreat center, both of which were proximate to the proposed site. Of the 85 persons presenting comments, 80% were opposed to the project and most persons who spoke in favor were from outside of Buckingham County.



Among those presenting comments at the Air Board hearing were Swami Dayananda (left) of Yogaville and Pastor Paul Wilson (right) of the Union Hill and Union Grove Churches.

<https://www.virginiamercury.com/2018/09/12/as-if-we-dont-exist-opponents-call-on-air-board-to-reject-pipeline-compressor-station-permit/>

FERC lifts stop work order for ACP

290. The Federal Energy Regulatory Commission (FERC) on September 17 lifted the stop work order that had been imposed August 10 on the Atlantic Coast Pipeline. The action came after the National Park Service and the U.S. Fish and Wildlife Service, respectively, reissued permits that had been struck down in August by the Fourth Circuit Court of Appeals.

On September 19, in response to the FERC action, the Southern Environmental Law Center, representing the Sierra Club and the Virginia Wilderness Committee, filed with the Fourth Circuit a joint petition asking for review of the reissued permits to determine if they comply with the objections the Court had expressed in striking down the original permits.

<https://www.abralliance.org/wp-content/uploads/2018/09/SELC-review-petition-to-4th-Circuit-on-NPS-repermitting-of-ACP-9-19-18.pdf>

Forest Service permit for ACP stayed for third time by 4th Circuit

291. The U.S. Court of Appeals for the Fourth Circuit on September 25 ordered a stay of the Special Use Permit that had been issued by the U.S. Forest Service for the Atlantic Coast Pipeline (ACP). The Court's Order was the third time in four months that the Fourth Circuit has vacated or stayed federal authorization for the ACP. The Court had issued on May 15 and reaffirmed on August 6 an order vacating the project's Incidental Take Statement from the U.S. Fish and Wildlife Service (FWS), pursuant to requirements of the Endangered Species Act, and the right-of-way permit issued by the U.S. Park Service (NPS) to permit the pipeline to cross the Blue Ridge Parkway and Appalachian Trail. The Federal Energy Regulatory Commission (FERC) followed-up on August 10 with a stop work order for the project. The stop work order was lifted by FERC on September 17 following the issuance of a revised permit by the NPS and incidental take statement by the FWS.

On September 25, FERC was requested to issue a new stop work order for the ACP, in light of the Fourth Circuit's Order. The plaintiffs requesting the action, represented jointly by the Southern Environmental Law Center and Appalachian Mountain Advocates, were the Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia. The Chesapeake Bay Foundation was also a plaintiff in the filing.

<https://www.abralliance.org/wp-content/uploads/2018/09/Request-to-FERC-for-stop-work-order-9-25-18.pdf>

<https://www.abralliance.org/wp-content/uploads/2018/09/Fourth-Circuit-issues-stay-on-pipeline-a-3rd-time-Recorder20180927.pdf>

292. A three-judge panel of the Fourth Circuit of the U.S. Court of Appeals in Richmond heard arguments September 28 on two important cases challenging permits granted to the Atlantic Coast Pipeline (ACP). The first case challenged the December 13, 2017, decision by the Virginia State Water Control Board to grant a water quality certificate for the ACP (pursuant to requirements of Section 401 of the federal Clean Water Act).

The second case challenged the decisions of the U.S. Forest Service to amend the Forest Plans of the Monongahela and George Washington National Forests and to accordingly issue a Special Use Permit for the ACP to cross the two forests. Plaintiffs in both cases were ABRA member organizations and others that were jointly represented by Appalachian Mountain Advocates and the Southern Environmental Law Center.

<https://www.abralliance.org/wp-content/uploads/2021/09/Forest-Service-emails-raise-questions-about-pipeline-approval-Richmond-Times-Dispatch-10-1-18.pdf>

<https://www.ca4.uscourts.gov/OAarchive/mp3/18-1144-20180928.mp3>
(Forest Service case, recording of proceedings)

<https://www.ca4.uscourts.gov/OAarchive/mp3/18-1077-20180928.mp3>
(Water certification case, recording of proceedings)

October 2018

293. The Augusta County, VA Board of Zoning Appeals (BZA) tabled the potential Atlantic Coast Pipeline storage yard yet again during its October 4 meeting. Only three of the five members of the BZA were present. This was the fifth time and second location had been brought before the BZA to approve a special use permit for a staging yard to build the Atlantic Coast Pipeline.

<https://www.abralliance.org/wp-content/uploads/2021/09/Augusta-Zoning-Board-of-Appeals-again-tables-ACP-storage-yard-proposal-Staunton-News-Leader-10-4-18.pdf>

Tree felling for ACP compressor station site OK'd by FERC

294. Permission to cut trees on the planned site for the ACP compressor station site in Buckingham County, VA was granted by the Federal Energy Regulatory Commission on October 11. The proposed compressor station was strongly opposed by residents of the majority-black Union Hill neighborhood which was adjacent to the site.

<https://www.abralliance.org/wp-content/uploads/2021/09/FERC-gives-green-light-to-tree-cutting-at-Buckingham-compressor-site-RTD-10-16-2018.pdf>

FERC grants authority for ACP construction to resume in WV and NC

295. Permission to commence construction of the Atlantic Coast Pipeline in West Virginia was granted by the Federal Energy Regulatory Commission on October 23, in response to an earlier request from Dominion Energy Transmission, Inc (DETI), managing partner of the ACP project. DETI filed on October 19 a similar request to begin ACP construction in Virginia.

<https://www.abralliance.org/2018/10/26/acp-requests-authority-to-begin-construction-in-virginia/>

296. The Atlantic Coast Pipeline was given further authority for construction in North Carolina by the Federal Energy Regulatory Commission (FERC). The October 26 Notice to Proceed granted an October 2 request “to commence construction of the remaining certificated workspaces on Spreads 8, 9, 10, and 11 in North Carolina” with certain exceptions.

<https://www.abralliance.org/wp-content/uploads/2018/11/FERC-Notice-to-proceed-with-ACP-in-NC-10-26-18.pdf>

297. The October 19 request by Dominion Energy Transmission, Inc. to commence construction of the Atlantic Coast Pipeline for certain portions of the project’s route in Virginia was met with strong objection from the Southern Environmental Law Center in an October 26 letter to the Federal Energy Regulatory Commission that stated:

“In light of the Fourth Circuit’s stay of the Forest Service right of way, the Commission should deny Atlantic’s October 19, 2018, request to proceed with construction in Virginia. The Commission should issue a stop-work order halting all construction activities on the ACP until Atlantic has an effective authorization from the Forest Service.”

<https://www.abralliance.org/wp-content/uploads/2018/11/SELC-to-FERC-objecting-to-ACP-construction-in-VA-10-26-18.pdf>

298. A new video on the threats posed to the environment and the lives of affected property owners by the Atlantic Coast Pipeline was released in late October. The 8 ½ minute film, *The Truth Is in The Proof*, was filmed by filmmaker Sarah Hazelgrove and sponsored by the Chesapeake Climate Action Network, an ABRA member.

<https://www.youtube.com/watch?v=ZX0lbHwu59s&t=9s>

November 2018

Augusta County rejects a second site for an ACP storage yard

299. A proposed pipeline storage yard for the Atlantic Coast Pipeline (ACP) in Augusta County, VA was denied a special-use permit by the County's Board of Zoning Appeals (BZA) on November 1. On a 4-1 vote, the Board turned down a proposal for the facility to be built just south of West Augusta, VA. The proposal had been tabled at the Board's September and October meetings. The action marked the second time this year that the BZA rejected a storage yard in the county.

<https://www.abralliance.org/wp-content/uploads/2021/09/County-board-of-zoning-appeals-denies-Atlantic-Coast-Pipeline-storage-yard-request-Staunton-News-Leader-11-1-2018.pdf>

ACP cost rises to \$7 billion, according to Duke CEO

300. During Duke Energy's third quarter 2018 earnings call with financial analysts on November 2, Duke's CEO Lynn Good said estimated costs for the 600-mile Atlantic Coast Pipeline under construction between West Virginia and North Carolina had increased from \$6.5 billion to \$7 billion. When the pipeline project was initially proposed by Dominion Energy in May 2014, the estimated cost was \$4 billion. (See #3, above)

<https://www.constructiondive.com/news/atlantic-coast-pipeline-costs-reach-7b/541607/>

301. Ken Cuccinelli, a former Republican attorney general in Virginia, authored a November 2 op-ed in the *Washington Post* entitled "Virginia has a pipeline problem," in which he said:

"From my view as a former Virginia attorney general, the process that allows Dominion to do business this way is broken, and Virginia consumers will be left holding the bag. The pipeline may have other uses that will benefit the commonwealth, but Dominion's shareholders should bear that risk, not Virginians who have no say and no profit in the venture."

<https://www.abralliance.org/wp-content/uploads/2021/10/Virginia-has-a-pipeline-problem-Cuccinelli-WashPost-11-2-18.pdf>

ACP stream crossings in WV stayed by Fourth Circuit

302. The Fourth Circuit of the U.S. Court of Appeals on November 7 issued a stay on the ability of the Atlantic Coast Pipeline (ACP) to cross streams in West Virginia. The Court's order was issued in connection with a legal challenge to the U.S. Army Corps of Engineers' Nationwide 12 permit governing stream crossings for the ACP. The legal challenge had been filed by Appalachian Mountain Advocates, representing several ABRA members.

<http://www.appalmad.org/wp-content/uploads/2018/11/Doc.-23-Order-granting-motion-for-stay.pdf>

303. Six ABRA member organizations requested on November 9 that the Federal Energy Regulatory Commission (FERC) issue a stop work order for the Atlantic Coast Pipeline (ACP) because of the Fourth Circuit Court of Appeals' issuance on November 7 of a stay of the U.S. Army Corps of Engineers of the project's Nationwide Permit 12 relating to 156 waterbody crossings in West Virginia. Appalachian Mountain Advocates represented the plaintiffs. On November 20, the Corps temporarily suspended authorizations for the ACP to do any in-stream or wetland construction anywhere along the proposed route.

<https://www.abralliance.org/wp-content/uploads/2018/11/Appalmad-stop-work-order-request-per-4th-Circuit-stay-on-ACP-404-permit-11-9-18.pdf>

https://www.abralliance.org/wp-content/uploads/2018/11/Pipeline-water-crossing-permits-suspended-Recorder_20181129.pdf

304. The Virginia State Air Pollution Control Board on November 9 deferred until its December 10 meeting a decision on a needed air permit for the proposed compressor station in Buckingham County for the Atlantic Coast Pipeline. The vote was 6-0. A major reason cited by board members for deferring the vote centered upon concerns over the disproportionate impact the compressor station would have on the minority community of Union Hill and the unsatisfactory response by the Department of Environmental Quality staff to those concerns.



<https://www.abralliance.org/wp-content/uploads/2021/10/Virginia-regulators-balk-at-voting-on-pipeline-permit-affecting-Union-Hill-WashPost-11-9-18.pdf>

305. A Federal Court issued on November 13 a 90-day stay in an attempt by Atlantic Coast Pipeline, LLC to acquire by eminent domain rights to an 11-acre property in Nash County, NC, citing as a major reason the fact that there were legal challenges to the Atlantic Coast Pipeline project pending in the Fourth Circuit Court of Appeals that could result in a re-examination of the project.

<https://www.abralliance.org/wp-content/uploads/2018/11/ACP-v.-Winstead-Order-Granting-90-day-Stay-11-13-18.pdf>

VA Governor replaces board members who questioned ACP permit

306. On November 15, it was learned that Virginia Governor Ralph Northam was replacing two members of the State Air Pollution Control Board and one member of the State Water Control Board. All three of the individuals who were being replaced on their respective boards had in various ways raised questions about or voiced opposition to the Atlantic Coast Pipeline (ACP). The Air and Water boards were in the process of considering permits for the ACP.

<https://www.abralliance.org/2018/11/16/gov-northam-to-replace-members-on-the-air-and-water-boards/>

<https://www.virginiamercury.com/2018/11/15/with-compressor-station-decision-pending-northam-replaces-two-members-of-state-air-board/>

<https://www.virginiamercury.com/2018/11/19/a-governor-meddles-with-the-air-board-as-it-weighs-a-dominion-energy-permit-and-a-former-member-gets-deja-vu/>

307. The six ABRA members that asked the Federal Energy Regulatory Commission (FERC) on November 9 to issue a stop work order for the Atlantic Coast Pipeline filed additional information with FERC on November 27, noting that the project had lost three separate Corps of Engineers permits under the Corps' Nationwide 12 permit and stating: "As a result of the suspensions of those three authorizations, Atlantic no longer has the requisite federal approval to construct any stream or wetland crossing along its entire route."

<https://www.abralliance.org/wp-content/uploads/2018/11/APPALMAD-letter-to-FERC-Stop-work-request-11.27.2018.pdf>

308. A motion to stay the U.S. Fish and Wildlife’s (FWS) latest Biological Opinion (BiOp) and Incidental Take Statement for the Atlantic Coast Pipeline (ACP) was filed November 30 with the Fourth Circuit Court of Appeals by the Southern Environmental Law Center (SELC) on behalf of its clients: Defenders of Wildlife, Sierra Club and The Virginia Wilderness Committee. The FWS’s original BiOp and Take Statement on the project was struck down by the Fourth Circuit in an opinion issued August 6, 2018. FWS issued a revised Opinion and Take Statement was issued September 11 and a stop work order that had been in effect since the Fourth Circuit’s decision was lifted by the Federal Energy Regulatory Commission on September 17. In its petition to the Court, SELC pointed out that four endangered species would be adversely affected by ACP construction.

<https://www.abralliance.org/wp-content/uploads/2018/12/SELC-Motion-for-Stay-FWS-Case-No.-18-2090-11-30-18-1.pdf>

December 2018

309. The Virginia Air Pollution Control Board was asked to reject an eleventh-hour attempt by Dominion Energy to insert new conditions and provisions into the pending air quality permit for the Atlantic Coast Pipeline’s compressor station in Buckingham County, VA without input from the public. The request was made in a December 3 letter from the Southern Environmental Law Center to Board Chair Richard Langford and David Paylor, Director of the Department of Environmental Quality, arguing that “to allow Dominion to unilaterally amend a proposed permit after the close of the comment period would invite abuse of the process and frustrate meaningful public participation.” The Air Board had set December 10 for a vote on the compressor station permit.

<https://www.abralliance.org/wp-content/uploads/2018/12/SELC-CBF-Letter-to-Air-Pollution-Control-Board-re-Buckingham-Compressor-Permit-12-1-18.pdf>

Nelson County rejects flood plain variances for ACP

310. The Nelson County (VA) Board of Zoning Appeals denied on December 3, by a 3-2 vote, four of Dominion Energy’s applications for variances to the County’s flood plain ordinance needed to construct the Atlantic Coast Pipeline across flood plains in Nelson. The other seven of the original eleven applications were dismissed in January 2018. The Nelson County Zoning Ordinance stated: “Structures or facilities that produce, use, store, or transport highly volatile, flammable, explosive, toxic, and/or water reactive materials” in the list of “critical facilities [that] are prohibited from being constructed or operated within a SFHA [Special Floodplain Hazard Area] unless a Variance is granted.”

<http://friendsofnelson.com/acps-floodplain-variance-request-denied/>

311. Atlantic Coast Pipeline, LLC filed suit on December 6 against Nelson County, VA after the county’s Board of Zoning Appeals had denied the company a variance request for floodplain crossings. The suit sought a judgment stating the Natural Gas Act pre-empts the requirements of Nelson’s floodplain ordinance, which would include “obtaining any zoning permits for any of the floodplain crossings.”

<https://www.abralliance.org/wp-content/uploads/2021/10/Atlantic-Coast-Pipeline-sues-Nelson-County-over-zoning-decision-RTD-12-17-18.pdf>

Fourth Circuit stays Fish and Wildlife Service permit for ACP

312. The U.S. Fish and Wildlife Service’s Biological Opinion and Incidental Take Statement for the Atlantic Coast Pipeline were stayed on December 7 by the Fourth Circuit Court of Appeals. The Court’s Order was the result of a motion filed November 30 by the Southern Environmental Law Center on behalf of Defenders of Wildlife, Sierra Club and The Virginia Wilderness Committee.

<https://www.abralliance.org/2018/12/14/fish-and-wildlife-approval-of-acp-stayed-by-fourth-circuit/>

Forest Service permits for ACP vacated by Fourth Circuit

313. The Fourth Circuit Court of Appeals vacated on December 13 the U.S. Forest Service’s approval for the Atlantic Coast Pipeline (ACP) to cross two national forests and the Appalachian Trail. The Court’s 60-page opinion came on a case brought by several ABRA members and others that was argued on September 28. The plaintiffs, represented by Southern Environmental Law Center, were Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, Sierra Club, Virginia Wilderness Committee and Wild Virginia.

The Court concluded that the Forest Service’s decisions amending its Forest Plans and granting a Special Use Permit for the ACP violated the National Forest Management Act and National Environmental Protection Act, and that the Forest Service lacked statutory authority pursuant to the Mineral Leasing Act to grant a pipeline right of way across the Appalachian National Scenic Trail.

<https://www.abralliance.org/wp-content/uploads/2018/12/Fourth-Circuit-opinion-on-ACP-Forest-Service-permit-12-13-18.pdf>

<https://www.virginiamercury.com/2018/12/13/if-i-were-dominion-id-be-panicked-federal-court-vacates-another-atlantic-coast-pipeline-permit/>

https://www.abralliance.org/wp-content/uploads/2018/12/Court-vacates-key-permit-for-pipeline-Recorder_20181213.pdf

314. In a December 13 filing, the Federal Energy Regulatory Commission (FERC) was asked to revoke the certificate for the Atlantic Coast Pipeline due to the decision earlier that day by the Fourth Circuit Court of Appeals to vacate the U.S. Forest Service’s approval for the pipeline to cross national forest lands and the Appalachian National Scenic Trail. In a 65-page letter to FERC, the Southern Environmental Law Center, joined by Appalachian Mountain Advocates and the Chesapeake Bay Foundation, said:

“Crucially, the court held that the Forest Service does not have statutory authority to authorize the pipeline to cross the Appalachian Trail. As a result, under federal law, Atlantic Coast Pipeline, LLC (“Atlantic”) cannot obtain authorization from federal agencies to cross the Trail as proposed. Thus, the Commission’s Certificate approves a project that cannot be constructed in compliance with federal law.”

https://www.abralliance.org/wp-content/uploads/2018/12/12_13_2018-Letter-re-Vacated-USFS-Decision.pdf

315. The Virginia State Air Pollution Control Board voted December 19 to delay its vote on a permit for the Atlantic Coast Pipeline’s proposed compressor station in Buckingham County until after a new public comment period. The Board had been originally scheduled to meet on December 10 to consider the ACP permit. The stated basis of the delay was to permit the public to provide input on new information about the project that had become available since the earlier public comment period ended in September. A new comment period was announced: December 21 to January 4.

<https://www.abralliance.org/2018/12/23/air-board-again-delays-a-vote-on-compressor-station/>

316. On December 21, the Southern Environmental Law Center (SELC), Appalachian Mountain Advocates and Chesapeake Bay Foundation asked the Federal Energy Regulatory Commission (FERC), on behalf of their respective clients, to require the company to remove strung pipe from the Atlantic Coast Pipeline (ACP) right-of-way rather than allow it to continue to install pipe along a route that is not authorized by law. The request resulted from Atlantic Coast Pipeline, LLC’s request to FERC on December 11 to conduct certain stabilization measures due to the company’s cessation of work on the ACP in the wake of the Fourth Circuit Court of Appeals December 7 decision to stay the U.S. Fish and Wildlife’s Biological Opinion and Incidental Take Statement for the project. The SELC, et. al. letter, pointed to the several Fourth Circuit decisions in recent months striking down various permits for the ACP, and said that the “pipe should be removed to ensure compliance with applicable laws, and not furtherance of a predetermined route unauthorized by law.”

<https://www.abralliance.org/wp-content/uploads/2019/01/Response-to-ACP-stabilization-plan-12-21-18.pdf>

January 2019

ABRA conducts additional CSI training sessions

317. ABRA announced on January 3 that it would continue its series of training workshops on its Compliance Surveillance Initiative (CSI), with sessions in Stuarts Draft, VA on January 5 and Deerfield, VA on January 14.



Attendees at the Stuarts Draft, VA CSI training workshop on January 5.

318. A West Virginia lobbyist for Dominion Energy, Robert Orndorff, addressing a WV General Assembly Joint Committee on Natural Gas Development on January 8, urged the state legislature to adopt a resolution condemning “rogue environmental groups” for their opposition to the Atlantic Coast Pipeline. He said:

"I think it's important for West Virginia to go on record that the end result of their tactics hurt the state economy of West Virginia. That's important, for the pipeline industry to have that type of support from the West Virginia Legislature."

The lobbyist's speech prompted the *Charleston Gazette-Mail* to editorialize against the lobbyist's speech:

“... for representatives of the industry to blame “rogue” environmentalists is dishonest and simply wrong. . . The suggestion to the Legislature offered up by lobbyist Bob Orndorff that the body pass a resolution condemning the environmental groups pursuing litigation is insulting.”

<https://www.wvpublic.org/podcast/the-legislature-today/2019-01-09/energy-lobbyist-calls-for-legislature-to-condemn-rogue-enviros#stream/o>

<https://www.abralliance.org/wp-content/uploads/2021/10/Who-are-the-real-rogues-Gazette-Mail-editorial-1-10-19.pdf>

Virginia Air Board approves ACP compressor station permit

319. The Virginia Air Pollution Control Board voted 4-0 on January 8 to approve an air permit for the proposed compressor station for the Atlantic Coast Pipeline, to be located near the Union Hill community in Buckingham County, VA. The Board's vote came after twice deferring action on the proposal. In a January 4 letter, sent on behalf of ABRA, several ABRA members and other concerned conservation groups, the Southern Environmental Law Center wrote to request that the Board disapprove the proposed air permit for the Buckingham compressor station.



Several hundred people attended the Air Board meeting in Richmond.

https://www.abralliance.org/wp-content/uploads/2019/01/SELC-et-al.-Comments-re-Buckingham-Compressor-Station-01_04_2018-1.pdf

<https://www.abralliance.org/wp-content/uploads/2019/01/Air-Board-motion-on-Buckingham-compressor-station-adopted-Jan-8-2019.png>

<https://www.abralliance.org/wp-content/uploads/2019/01/DEQ-statement-on-Air-Board-vote-on-compressor-station-1-8-19.pdf>

320. A January 9 op-ed in the *Roanoke Times* by a prominent Virginia State Senator, Republican Frank Wagner of Virginia Beach, urged the completion of the Atlantic Coast Pipeline, saying:

“The truth is the Atlantic Coast Pipeline is absolutely critical to the economic future of Hampton Roads and the environmental health of our entire region. Virginia Natural Gas is the local utility that serves 300,000 homes and businesses in Hampton Roads. They heat our homes, power our businesses and serve Naval Station Norfolk. In 2018 alone, Virginia Natural Gas had to shut off gas service to Norfolk Naval Station multiple occasions. Why? Because we don’t have enough pipelines or natural gas in Hampton Roads to serve homes, businesses and the naval base at the same time. Our local utility has to throttle service to the U.S. Navy and hundreds of other large industrial customers just to keep homes and hospitals warm.”

<https://www.abralliance.org/wp-content/uploads/2021/10/Hampton-Roads-urgently-needs-the-Atlantic-Coast-Pipeline-Wagner-Roanoke-Times-1-9-19.pdf>

321. A plan for stabilization measures on the Atlantic Coast Pipeline route during cessation of construction activity on the project was approved January 10 by the Federal Energy Regulatory Commission. The plan had been submitted to the agency in the wake of the Fourth Circuit Court of Appeals December 7 decision to stay the U.S. Fish and Wildlife's Biological Opinion and Incidental Take Statement for the project. The Southern Environmental Law Center, Appalachian Mountain Advocates and Chesapeake Bay Foundation had written FERC on December 21 asking that the agency to require the company to remove strung pipe from the right-of-way rather than allow it to continue to install pipe along a route that is not authorized by law, but the request was ignored.

<https://www.abralliance.org/wp-content/uploads/2019/01/FERC-approval-of-ACP-Interim-Right-of-Way-and-Work-Area-Stabilization-Plans-1-10-19.pdf>

ACP's Virginia water quality certificate upheld by Fourth Circuit

322. The Fourth Circuit Court of Appeals on January 14 denied an appeal for review of the water quality certificate issued for the Atlantic Coast Pipeline (ACP) by the Virginia State Water Pollution Control Board under Section 401 of the federal Clean Water Act. The case had been filed with the Court in January 2018 and argued on September 28. The petitioners, most of whom were ABRA members, were represented by the Southern Environmental Law Center, Appalachian Mountain Advocates and the Chesapeake Bay Foundation. The principal contention in the case was that approval of the 401-certificate for the ACP was arbitrary and capricious.

<https://www.abralliance.org/wp-content/uploads/2019/01/4th-Circuit-denial-of-401-appeal-1-14-19.pdf>

Army Corps and Park Service ask Court to vacate their ACP permits

323. The U.S. Army Corps of Engineers filed a motion on January 18 with the Fourth Circuit Court of Appeals for a remand and vacating of the permit that the Huntington District of the Corps had issued for the Atlantic Coast Pipeline (ACP) to cross rivers and streams in West Virginia. The Court had previously issued a stay of the Nationwide 12 (NWP12) permit issued for the ACP. In a similar action, the U.S. Park Service on January 17 filed a motion with the Fourth Circuit asking for a voluntarily remand of the construction and right-a-way permits for the ACP.

<https://www.abralliance.org/wp-content/uploads/2019/01/Corps-of-Engineers-motion-to-remand-ACP-permit-1-18-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/01/Park-Service-Motion-for-Remand-1-17-19.pdf>

324. It was reported in the January 24 issue of *ABRA Update* that ABRA's Compliance Surveillance Initiative (CSI) was demonstrating its worth, despite the limited construction that had occurred for the Atlantic Coast Pipeline. Based upon aerial surveillance flights over the project's route in West Virginia (conducted in November and December 2018 by the Pipeline Air Force), 22 potential incidents of non-compliance were noted and analyzed by CSI's team of analysts, and subsequently submitted by the West Virginia Rivers Coalition (an ABRA member)) to the West Virginia Department of Environmental Protection (WVDEP). The WVDEP subsequently issued a Notice of Violation, including citations for: erosion control devices not in place, water bars not installed and perimeter controls not in place.

Below are photos produced by the CSI surveillance and submitted to WVDEP.



Above left: Pipeline Air Force photo of ACP construction in Dry Branch and Middle Mountain area in Pocahontas County. Above right: Citizen volunteer observer photo of ACP construction on Middle Mountain in Pocahontas County. In both instances, water bars had not been installed as required for steep slope construction.

ACP asks 4th Circuit to reconsider its decision on Forest Service permit

325. The Atlantic Coast Pipeline, LLC filed on January 28 a petition with the Fourth Circuit Court of Appeals asking that the Court grant a rehearing en banc (before the full Fourth Circuit) on the successful challenge that a group of ABRA members made against the Forest Service permit for the Atlantic Coast Pipeline (ACP). If the rehearing request were granted, a new hearing would be scheduled before all fifteen judges of the Fourth Circuit.

<https://www.abralliance.org/wp-content/uploads/2019/01/ACP-LLC-Petition-for-Rehearing-En-Banc-1-28-19.pdf>

<https://www.abralliance.org/2019/02/01/rehearing-sought-on-fourth-circuit-opinion-on-acp-forest-service-permit/>

326. A study released January 29 concluded that if the Atlantic Coast Pipeline (ACP) ever were built, its affiliated utility customers would have difficulty in convincing state regulators to pass on the project's costs to utility customers. *The Vanishing Need for the Atlantic Coast Pipeline* was released by Oil Change International and the Institute for Energy Economics and Financial Analysis. Among key findings in the study were:

- Six companies, all of whom were regulated utility affiliates of the pipeline's sponsors, had contracted for 96% of the pipeline's capacity.
- Atlantic Coast Pipeline, LLC would recover the costs of the pipeline through rates charged to the pipeline's customers. Given that the ACP owners were regulated utilities, these costs would have to be approved by state utility regulators in Virginia and North Carolina.
- Over the next decade, it was likely that the demand for natural gas in Virginia and North Carolina would be further eroded as renewable energy and storage technologies continue to rapidly decline in price.

<http://priceofoil.org/2019/01/29/the-vanishing-need-for-the-atlantic-coast-pipeline/>

February 2019

327. A resolution condemning the "assaults on the Atlantic Coast Pipeline" from citizen groups was introduced in the West Virginia House of Delegates on February 6. House Resolution 11 was co-sponsored by 49-members of the 100-member House, including the Speaker. The action followed a January 8 speech at a West Virginia energy conference by a Dominion Energy lobbyist who called for "rogue environmentalists" to be condemned by the state legislature.

Angie Rosser, Executive Director of the West Virginia Rivers Coalition, on February 18 wrote members of the House of Delegates Rules Committee, to which the resolution was referred:

"You may want to condemn the court decisions or condemn your legislative peers who put in place these regulatory schemes, but it's completely misplaced and inappropriate to condemn citizens of this state who act to make sure laws the legislative branch makes are followed by all. Please do not advance this resolution to the floor as it undermines the rights of impacted citizens to recourse when laws are violated, and it undermines the legislative branch's expectation that the laws it creates will be enforced."

<https://www.abralliance.org/wp-content/uploads/2019/02/Angie-Rosser-letter-to-WV-House-Rules-Committee-2-18-19.pdf>

<https://www.propublica.org/article/dominion-energy-lobbyist-wrote-west-virginia-pipeline-resolution>

328. The February 7 issue of *ABRA Update* reported on a concerted effort by Dominion Energy to convince Congress to grant permission for the Atlantic Coast Pipeline to cross the Blue Ridge Parkway, authority for which was withdrawn by the National Park Service. This was according to several news reports and conversations that some ABRA members have had with Members of Congress and staff. The company reportedly attempted to have an amendment added to the continuing spending resolutions passed in December separately by the House and Senate, but neither bill contained such an amendment. The efforts were not successful.

<https://www.abralliance.org/2019/02/11/dominion-seeks-congressional-action-on-acp-crossing-blue-ridge-parkway/>

Air permit for ACP challenged in Court

329. The Southern Environmental Law Center (SELC), on behalf of Friends of Buckingham, challenged on February 8 the Virginia Air Pollution Control Board's decision to approve Dominion's Atlantic Coast Pipeline Buckingham County compressor station. Joining SELC in the lawsuit, filed with the Fourth Circuit Court of Appeals, was the Chesapeake Bay Foundation (CBF). The Air Board had voted unanimously January 8 to approve the permit. The SELC/CBF petition contended that the Air Board and the Virginia Department of Environmental Quality did not meet their obligations under state and federal laws to consider less-polluting alternatives and the best available pollution controls for minimizing pollution from the proposed compressor station.

<https://www.abralliance.org/wp-content/uploads/2019/02/Air-Board-appeal-to-4th-Circuit-2-8-19.pdf>

Forest Service asks 4th Circuit to reconsider its decision

330. The U.S. Forest Service (NFS) on February 11 filed a petition for review of the Fourth Circuit Court of Appeals decision in December vacating the NFS permit for the Atlantic Coast Pipeline to cross the Appalachian National Scenic Trail. Atlantic Coast Pipeline, LLC had filed a challenge to the decision, on January 28.

<https://www.abralliance.org/wp-content/uploads/2019/02/Forest-Service-en-banc-petition-to-4th-Circuit-2-11-19.pdf>

331. A February 11 request by Atlantic Coast Pipeline, LLC (ACP, LLC) to the Federal Energy Regulatory Commission (FERC) to authorize additional stabilization measures for the Atlantic Coast Pipeline – including new trenching – was challenged by the Southern Environmental Law Center (SELC), Appalachian Mountain Advocates (Appalmad) and Chesapeake Bay Foundation (CBF). FERC had granted the ACP, LLC request on February 13. In a February 15 letter to FERC, SELC, Appalmad and CBF – writing on behalf of their respective clients – argued that trenching “is not necessary to stabilize a right-of-way; on the contrary, it is one of the most destabilizing activities involved in pipeline construction. . . Far from a stabilization method, trenching actually demands further mitigation measures due to its destabilizing effects on a landscape.”

<https://www.abralliance.org/wp-content/uploads/2019/02/ACP-request-to-FERC-for-stabilization-plan-supplement-2-11-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/02/Request-to-FERC-to-reconsider-ACP-stabilization-plan-supplement-2-15-19.pdf>

Al Gore, Rev. Barber speak at rally against ACP compressor station

332. Over 1,000 persons gathered February 19 in Buckingham, VA to hear former Vice President Al Gore and Rev. William Barber at the “Moral Call for Ecological Justice.” The event was held to call attention to the environmental justice threat the proposed compressor station for the Atlantic Coast Pipeline would pose to the Union Hill community.

<https://www.virginiamercury.com/2019/02/20/civil-rights-leader-former-vice-president-take-aim-at-northam-dominion-during-visit-to-buckingham-county/>



333. A February 2019 environmental monitoring report by the Federal Energy Regulatory Commission (FERC) of construction problems of the Atlantic Coast Pipeline (ACP) illustrated the significant environmental difficulties being encountered by the project. The photos below, taken after rains in Upshur County, WV at milepost 40 of the ACP by FERC Compliance Monitors, showed equipment stuck in what the report described as soil liquified to a depth of 2 to 3 feet, with silt-laden water and sediment deposits migrating into a nearby water body that is a “state-designated warm water fishery.” In this instance, appropriate sediment barriers had not been properly installed or not installed at all.



Spread 2-1, MP 40.1, View west of Marooka stuck in mud and liquified soil.



Spread 2-1, MP 40.1, View north of mud and liquified soil in travel lane.
Note depth of mud over equipment tracks.

4th Circuit denies request to rehear Forest Service case

334. An appeal by Atlantic Coast Pipeline, LLC (ACP, LLC) for a rehearing of the December 13, 2018, decision of the Fourth Circuit Court of Appeals to vacate the U.S. Forest Service permit for the Atlantic Coast Pipeline (ACP) was rejected on February 25. The ACP, LLC's January 28 petition, which was supported by a February 11 filing from the Forest Service, sought an en banc hearing (a hearing before all 15 sitting judges on the Fourth Circuit). Dominion Energy, the largest owner of the ACP project, issued a statement the following day saying it expected to appeal the decision to the Supreme Court of the United States in the next 90 days.

<https://www.abralliance.org/wp-content/uploads/2019/02/Fourth-Circuit-denial-of-ACP-en-banc-petition-2-25-19.pdf>

March 2019

Financial community questions viability of ACP

335. During the first week of March 2019, over 100 news articles were published that reported on increasing questions in the financial community about the viability of the Atlantic Coast Pipeline (ACP), as well as the Mountain Valley Pipeline. Typical of the articles was one from an analyst writing in *Forbes* on March 7: "Investors can no longer be entirely sanguine about the possibility that one or both of these projects could be abandoned."

The *Richmond Times-Dispatch* reported on March 4 that Moody's Investor Service had rated the ACP "credit negative" because of mounting costs and uncertainty over the project in the wake of the Fourth Circuit Court of Appeals' decision not to review a December decision to vacate the U.S. Forest Service permit for the project to cross beneath the Appalachian National Scenic Trail. Moody's stated: "The appeals court's decision and the subsequent appeal mean that a longer legal process will ensue, adding costs and uncertainty to when and how the project will be completed."

<https://www.abralliance.org/wp-content/uploads/2021/10/4th-Circuit-decision-prompts-Wall-Street-concern-over-pipeline-Martinez-RTD-3-4-19.pdf>

WV House votes to condemn opponents of the ACP

336. The West Virginia House of Delegates on March 7 overwhelmingly approved a resolution condemning "assaults on the Atlantic Coast Pipeline and other urgently needed energy infrastructure projects." House Resolution 11 passed by an 80-17 vote (3 members did not vote). All Republican members who voted supported the measure, plus 21 of the 40 Democrats in the House. An identical resolution was introduced in the West Virginia Senate in mid-February, Senate Resolution 42, but no action on the resolution was taken before the West Virginia General Assembly adjourned on March 9.

http://www.wvlegislature.gov/Bill_Text_HTML/2019_sessions/RS/bills/hr11%20intr.htm

337. “The ACP is facing a triple threat,” so concluded a study released March 25 by Oil Change International and Friends of the Earth. *Atlantic Coast Pipeline – Risk Upon Risk* cited three principal threats to the viability of the Atlantic Coast Pipeline: 1) extensive legal and regulatory challenges that are delaying construction and raising costs; 2) fundamental challenges to its financial viability in the face of lack of growth in domestic demand for methane gas and increased affordability of renewable energy options; and 3) an unprecedented citizen initiative positioned to ensure strict compliance with environmental laws and regulations.

<http://priceofoil.org/content/uploads/2019/03/ACP-Risk-Upon-Risk.pdf>

338. The CEOs of Dominion Energy, Tom Farrell, and Duke Energy, Lynn Good, acknowledged in separate comments during the last week of March that there were alternatives that could be pursued should the Atlantic Coast Pipeline (ACP) not be built. In comments to shareholders on March 25, Farrell said there are “alternatives” sure to “get the job done,” though he did not specify what those alternatives might be.

In a March 26 interview with *Bloomberg News*, Good said – when pressed – that a “Plan B” – should the ACP be scrapped – would be to build a different pipeline project from east to west in North Carolina to move needed gas.

https://www.abralliance.org/wp-content/uploads/2019/03/Dominion-confident-in-its-troubled-pipeline-project-Recorder_20190328.pdf

<https://www.robsonian.com/news/121558/acp-builders-reject-claim-pipeline-project-is-dead>

<https://www.bloomberg.com/news/videos/2019-03-26/duke-needs-another-project-if-atlantic-coast-pipeline-fails-ceo-says-video>

April 2019

339. The opening brief in a lawsuit challenging the Federal Energy Regulatory Commission’s (FERC) certificate that allows construction of the Atlantic Coast Pipeline (ACP) was filed on April 5 with the U.S. Court of Appeals for the District of Columbia by Appalachian Mountain Advocates, Southern Environmental Law Center and Chesapeake Bay Foundation on behalf of their clients. The principal arguments in the brief for Appalachian Voices, et. al. vs. FERC were:

1. FERC’s exclusive reliance on precedent agreements with affiliated monopoly utilities to establish market need for the project was arbitrary and capricious. Such precedent agreements are unreliable evidence for market need.

2. FERC’s Environmental Impact Statement on the ACP was seriously deficient and thus violated requirements of the National Environmental Protection Act (NEPA).

<https://www.abralliance.org/wp-content/uploads/2019/04/FERC-case-opening-brief-4-5-19.pdf>

340. An amicus brief was filed April 12 with the D.C. Circuit Court of Appeals arguing that “the Federal Energy Regulatory Commission (FERC) broke the law in ways that discounted and endangered African American and American Indian communities in Virginia and North Carolina in approving the proposed Atlantic Coast gas pipeline.” The brief was filed by Natural Resources Defense Council and nine other groups. The brief detailed how FERC failed to serve the public interest in evaluating, and approving, construction of the proposed 600-mile, \$7.5 billion Atlantic Coast project. The groups asked the court to declare FERC’s approval of the pipeline null and void or order FERC to conduct a new environmental justice review.

<https://www.abralliance.org/wp-content/uploads/2019/04/NRDC-Amicus-brief-to-DC-Circuit-4-12-19.pdf>

North Carolina legislators ask FERC to suspend ACP certificate

341. Twenty-two Members of the North Carolina General Assembly requested in an April 12 letter to the Federal Regulatory Commission (FERC) that the agency should issue a stop work order and suspend the certificate of public convenience for the Atlantic Coast Pipeline (ACP). The legislators – 14 Representatives and 8 Senators, all Democrats – argued that the pipeline’s “developers have never convincingly demonstrated a public need for the ACP.” The legislators pointed out that the “lack of demand for the ACP is underscored by the most recent Integrated Resource plans of Duke and Dominion Energy.”

<https://www.abralliance.org/wp-content/uploads/2019/04/NC-Lawmakers-to-FERC-4-12-19.pdf>

https://www.abralliance.org/wp-content/uploads/2019/04/N.C.-leaders-seek-pipeline-stoppage-urge-FERC-to-suspend-Recorder_20180418.pdf

342. In an April 19 letter, ABRA asked the Virginia Department of Environmental Quality why it had proclaimed that its review of the Atlantic Coast Pipeline (ACP) covered “every foot” of the project, when recently discovered evidence contradicted that. The letter called attention to a recent controversy concerning a proposed 5-mile ACP access road in Bath County.

<https://www.abralliance.org/wp-content/uploads/2019/04/ABRA-letter-to-David-Paylor-4-18-19.pdf>

https://www.abralliance.org/wp-content/uploads/2019/04/Neglect-of-5-mile-pipeline-access-road-questioned-Recorder_20190425.pdf

343. A photo taken on April 20 by ABRA’s Compliance Surveillance Initiative team along Elk Lick Road in Lewis County, WV, near Milepost 4 of the Atlantic Coast Pipeline route, showed the so-called “best in class” techniques that the contractors for the Atlantic Coast Pipeline, LLC claimed they were using did not live up to their name.



The barricade pictured was comprised of metal piping holding up stacked lumber. It appeared that the contractor ran short of lumber. The photo was taken in dry weather. There were two nearby streams that would have been adversely impacted by sediment runoff caused by an even modest rainfall

344. *Pipeline Bubble*, a study released April 24 by the Global Energy Monitor, a network of researchers developing collaborative informational resources on fossil fuels and energy alternatives, likened the expansion in fossil infrastructure in the United States and beyond to the “heady optimism and over-expansion” that characterized the coal industry just a few years ago. The study noted:

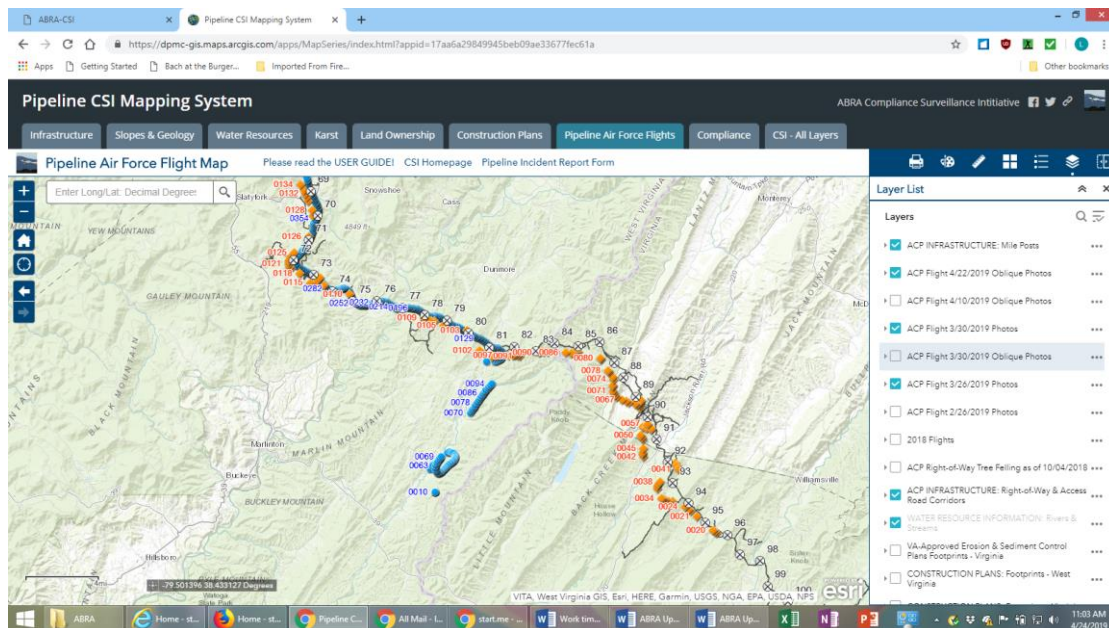
- Oil and gas pipeline building projects have tripled since 1996, with half of the projects in North America.
- Domestic demand growth cannot support the current North American oil and gas infrastructure boom. The current expansion in oil and gas infrastructure is predicated on a “super cycle” of increased demand from overseas buyers, especially Asia.

- New findings by the Intergovernmental Panel on Climate Change have called for a 65% reduction in oil use and a 43% reduction in gas use by 2050, relative to 2020. Such reductions are incompatible with rapid infrastructure expansion.

<https://globalenergymonitor.org/wp-content/uploads/2021/02/Pipeline-Bubble-2019.pdf>

ABRA unveils new CSI website

345. ABRA unveiled on April 25 a new website for its Compliance Surveillance Initiative (CSI) program. The site included instructions on how volunteers could become involved in the program, examples of non-compliance issues and numerous technical resources, including the CSI mapping system that provided links to surveillance photographs taken by the ABRA/CSI Pipeline Air Force.



May 2019

Feds issue warning bulletin about dangers of landslides to pipelines

346. The Pipeline and Hazardous Materials Safety Administration (PHMSA) issued on May 2 an advisory bulletin “to remind owners and operators of gas and hazardous liquid pipelines of the potential for damage to pipeline facilities caused by earth movement from both landslides and subsidence in variable, steep, and rugged terrain and for varied geological conditions.” The bulletin noted that “these conditions can pose a threat to the integrity of pipeline facilities if those threats are not identified and mitigated. PHMSA is aware of recent earth movement and other geological-related incidents/accidents and safety-related conditions throughout the country, particularly in the eastern portion of the United States.” The PHMSA bulletin was issued at a time when significant slope failures have been reported for the Atlantic Coast Pipeline in West Virginia where construction was taking place until late 2018 when work ceased.

<https://www.federalregister.gov/documents/2019/05/02/2019-08984/pipeline-safety-potential-for-damage-to-pipeline-facilities-caused-by-earth-movement-and-other>

Challenge to Fish and Wildlife permit for ACP heard by 4th Circuit

347. A three-judge panel of the U.S. Court of Appeals for the Fourth Circuit in Richmond, VA on May 9 heard arguments challenging the U.S. Fish and Wildlife Service’s (FWS) biological opinion and incidental take statement for the Atlantic Coast Pipeline (ACP) that led to work stopping on the project. The original FWS permit was voided by the Fourth Circuit in May 2018 in response to a lawsuit filed by the Southern Environmental Law Center (SELC) on behalf of Defenders of Wildlife, Sierra Club and the Virginia Wilderness Committee. A new FWS permit was issued on September 11, 2018 and was being challenged in this case.

SELC argued that the FWS’s reissued permit relied on a series of irrational assumptions that mischaracterized the potential impact of the ACP route on the rusty patched bumble bee and erred in its analysis of the project’s impact on three other endangered species: the clubshell mussel, Indiana bat and Madison Cave isopod. Most of the questioning from the judges focused upon the adequacy of the FWS’s evaluation of the threat of the project to the rusty patched bumble bee, a species listed as endangered by the FWS in 2017.

The Court seriously questioned the Department of Justice attorney, representing FWS, who contended that a bee expert retained by the agency had made an informed “best estimate” of the impact of the ACP on the rusty patched bumble bee population in Bath County, VA, when – as the Court pointed out – the expert instead had used the term “wild guess” to characterize her analysis.

Audio recording of oral arguments - <https://www.ca4.uscourts.gov/OAarchive/mp3/18-2090-20190509.mp3>

https://www.abralliance.org/wp-content/uploads/2019/05/4th-Circuit-casts-critical-eye-on-Atlantic-Coast-permits-EE-Energywire_20190510.pdf

348. Fifty-Two organizations, representing thousands of individuals in Virginia, wrote to the Virginia congressional delegation on May 16 urging them to oppose “possible federal legislation that would allow the highly controversial Atlantic Coast Pipeline (ACP) to be built across the Appalachian Trail and Blue Ridge Parkway.” The groups’ letter noted that “Dominion Energy is pressuring some members of Congress to consider legislation that could make it easier to build the ACP along the developers’ preferred route. Such legislation would be inappropriate given the ongoing review of the project by agencies and the courts.” Separate letters were sent to Senators Warner and Kaine, and to the eleven Virginia members of the U.S. House of Representatives. ABRA and many of its member organizations were among the signatories to the letter.

<https://www.abralliance.org/wp-content/uploads/2019/05/AT-crossing-letter-to-Virginia-U.S.-Senators-5-16-19.pdf>

<https://greyareanews.com/news/national/virginia-senators-urged-to-protect-appalachian-trail/>

Microsoft, other tech giants ask Dominion to reduce natural gas plans

349. Ten major data industry companies, including Microsoft, Apple, and Adobe, have written Dominion Energy imploring the company to base its future electricity generation on renewables and to diminish its planned reliance on natural gas. The companies’ May 8 letter stated: “Given the significance of our growing and energy-intensive industry in relation to total energy demand in Virginia, companies’ data center energy interests should be considered in decisions regarding the future of the region’s energy infrastructure. In particular:

- “Companies providing or using data centers want to power our operations with renewable energy resources like wind and solar.
- “Data centers are at the forefront of innovative energy-efficient technologies to reduce the energy burden of our operations.
- “Energy storage technologies are here today and should be integrated into grid planning.”

<https://www.abralliance.org/wp-content/uploads/2019/05/VA-Data-Center-IRP-Letter-to-Dominion-5-8-19.pdf>

<https://www.utilitydive.com/news/tech-giants-pressure-dominion-for-more-storage-renewables-less-gas-in-vir/554692/>

350. A new report released on May 30 by Oil Change International contended that gas is not a “bridge fuel” to a safe climate. Aside from the often-discussed issue of leaking methane throughout the gas supply chain, the report identified five additional reasons why gas cannot be the “bridge to a clean energy future” as it is touted by proponents. Briefly, these points were:

- Gas breaks the carbon budget.
- Coal-to-gas switching doesn’t cut it.
- Low-cost renewables can displace coal and gas.
- Gas is not essential for grid reliability.
- New gas infrastructure locks in emissions.

<http://priceofoil.org/2019/05/30/gas-is-not-a-bridge-fuel/>

<https://www.vox.com/energy-and-environment/2019/5/30/18643819/climate-change-natural-gas-middle-ground>

June 2019

351. In a June 10 letter to the Administrator of the Pipeline and Hazardous Materials Safety Administration, an agency of the U.S. Department of Transportation, William Limpert, a Bath County, VA landowner and a member, warned about the “threat to public safety from the Atlantic Coast Pipeline from landslides and earth movement, but other public safety concerns exist as well. These include risks from flooding, karst terrain, difficult construction in extreme terrain, and degradation of the pipe exterior corrosion protection from excessive exposure to sunlight during storage.”

<https://www.abralliance.org/wp-content/uploads/2019/06/PHMSA-Letter-Requesting-ACP-Safety-Improvements-from-Limpert-6-10-19.pdf>

352. An environmental coalition in North Carolina, NC Warn, wrote Governor Cooper on June 17 urging that he oppose the completion of the Atlantic Coast Pipeline (ACP), contending that North Carolinians would ultimately pay most of the costs of the project due to increased utility bills. The group’s letter to the Governor said the state’s citizens were destined to pay “more than \$20 billion for the ACP for just the first 20 years.”

<https://www.ncwarn.org/wp-content/uploads/ltr-6-17-19-Cooper-ACP.pdf>

353. The Southern Environmental Law Center (SELC) wrote the U.S. Forest Service (USFS) on June 24 regarding the Fourth Circuit Court of Appeals’ December 13 decision that the USFS lacked the authority to grant a right-of-way for the Atlantic Coast Pipeline (ACP) to cross the Appalachian National Scenic Trail (ANST). The SELC letter followed an April 30 communication from USFS to the Atlantic Coast Pipeline, LLC asking the company if it would like the USFS to “renew its consideration of the right-of-way application for the ACP.” The company responded in the affirmative.

The SELC letter pointed out that:

“(1) the Cowpasture decision does not affect the Forest Service's other management authorities for the ANST;

“(2) reasonable off-forest alternatives exist for the ACP to cross the ANST; and

“(3) while the Forest Service has never before and cannot now issue a new gas pipeline right-of-way across the ANST, options exist for new pipelines to be built in the eastern United States, and existing pipelines are unaffected by the Cowpasture decision.”

<https://www.abralliance.org/wp-content/uploads/2019/06/SELC-to-Forest-Service-6-24-19.pdf>

ACP appeals decision on Forest Service permit to U.S. Supreme Court

354. Atlantic Coast Pipeline, LLC on June 25 filed an appeal with the U.S. Supreme Court asking it to review the December 13, 2018, decision of the Fourth Circuit Court of Appeals that said the U.S. Forest Service lacked the authority to grant a right-of-way for the Atlantic Coast Pipeline to cross the Appalachian National Scenic Trail. U.S. Solicitor General also filed an appeal. Both actions had been anticipated.

<https://www.abralliance.org/wp-content/uploads/2019/06/ACPLLC-petition-to-SC-in-Forest-Service-case-6-25-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/06/Solicitor-General-petition-to-SC-in-Forest-Service-case-6-25-19.pdf>

355. In the lawsuit filed April 5 by several ABRA members challenging the certificate of the Atlantic Coast Pipeline (ACP), response briefs were filed by the Federal Energy Regulatory Commission (FERC) on June 18, and by Atlantic Coast Pipeline, LLC (ACP, LLC) on June 26. Counsel representing the plaintiffs were Southern Environmental Law Center and Appalachian Mountain Advocates. FERC's response brief argued that all required issues were properly addressed in the agency's consideration of the project's certification. The ACP, LLC response brief made contentions similar to FERC's, that the agency's decision-making process in issuing the certificate was supported by substantial evidence and was in full compliance with all applicable legal procedures.

<https://www.abralliance.org/wp-content/uploads/2019/06/FERCs-brief-DC-Circuit-case-6-18-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/06/ACP-brief-DC-Circuit-case-6-26-19.pdf>

356. There was a standing room only crowd at a June 30 Friends of Nelson meeting in Lovingson, VA that featured presentations by Dr. Mary Finley-Brooks, University of Richmond, on the impacts of fossil fuel development, and by Ann Carter Witt, Virginia Department of Mining, Minerals and Energy, on the landslides associated with Hurricane Camille in 1969. Concern was expressed by attendees about the potential for the Atlantic Coast Pipeline, if built, to exacerbate the potential landslides in the mountainous county.



July 2019

357. The Federal Energy Regulatory Commission (FERC) on July 3 asked Atlantic Coast Pipeline, LLC to provide toxicological information about chemicals used to coat the inside of pipes. The request was in response to comments from the Virginia Department of Health.

<https://www.abralliance.org/wp-content/uploads/2019/07/FERC-request-for-tox-info-on-ACP-coatings-7-3-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/07/FERC-presses-Atlantic-Coast-developer-to-answer-critics-EE-Energywire-7-8-19.pdf>

358. Leaching of coating chemicals used in pipe materials for the Atlantic Coast Pipeline (ACP) is “not a significant pathway and will not result in human health risks,” so stated a July 23 filing with the Federal Energy Regulatory Commission (FERC) by Dominion Energy Transmission, Inc. (DETI), managing partner for the ACP project. DETI’s filing was in response to a July 3 request from FERC, which had asked DETI to:

“Evaluate and report on the toxicity of the FBE (Fusion Bonded Epoxy) from all potential exposure pathways including from direct and indirect human contact, ingestion or inhalation; as well as environmental pathways (leachability and mobility) in air, soils, surface water, and groundwater. The evaluation should likewise include an analysis of human and environmental exposure from the degradation of FBE due to exposure to sunlight, and sloughing (chalking) of the material.”

https://elibrary.ferc.gov/eLibrary/idmws/file_list.asp?accession_num=20190722-5061

https://www.abralliance.org/wp-content/uploads/2019/07/Pipeline-coating-not-risky-feds-told-by-Dominion-Energy-Recorder_20190725.pdf

ACP’s Fish and Wildlife permit struck down again by 4th Circuit

359. The Fourth Circuit of the U.S. Court of Appeals on July 26 struck down the latest permit the U.S. Fish and Wildlife Service (FWS) had issued for the Atlantic Coast Pipeline (ACP). The issue arose from a requirement in the Endangered Species Act that (quoting from the decision) “the proposed pipeline will not jeopardize the continued existence of several endangered and threatened species that are likely to be impacted by pipeline construction.” Much of the Court’s opinion in striking down latest FWS Biological Opinion (BiOp) focused on the inadequacies of FWS in analyzing the potential impact of the ACP on the rusty patch bumblebee (RPBB). It concluded: “In sum, the 2018 BiOp’s conclusion that the ACP will not jeopardize the RPBB in Bath County, Virginia, is arbitrary and capricious because it runs counter to available evidence, relies on data without providing a meaningful basis for that reliance, fails to consider the species’ status as a whole, and fails to consider the pipeline’s impacts on RPBB recovery.”

<https://www.abralliance.org/wp-content/uploads/2019/08/4th-Circuit-opinion-on-FWS-case-7-26-19.pdf>

360. The West Virginia Rivers Coalition and 22 other organizations (including ABRA and several of its members) filed comments on July 26 with the West Virginia Department of Environmental Protection’s (WVDEP) proposed modification of Nationwide Permit 12 (NWP 12), the Army Corps of Engineers permit program that governs the conditions by which projects like the Atlantic Coast Pipeline can cross rivers and streams. The comments stated:

“We oppose the WVDEP’s modifications to NWP 12 special conditions, which weaken protections for over 500 of West Virginia’s rivers and streams proposed to be crossed by the Atlantic Coast Pipeline and the Mountain Valley Pipeline. We urge the Corps to decline WVDEP’s request to modify the 401 State Water Quality Certification of the Army Corps of Engineers NWP 12. The WVDEP’s modifications are unnecessary. WVDEP has the authority now to permit large pipeline construction projects coverage using individual 401 Water Quality Certifications. Instead of following through with the proposed modifications that weaken protections for rivers and streams, WVDEP can use individual 401 Water Quality Certifications to provide stream and wetland protections tailored to each project. Army Corps must deny WVDEP’s modifications which attempt to make it easier to permit large pipeline construction projects when they cannot meet existing regulations.”

<https://www.abralliance.org/wp-content/uploads/2019/08/WVRC-ltr-to-Army-Corp-on-NWP-modifications-7-26-19.pdf>

16 Republican State AGs side with ACP before Supreme Court

361. Sixteen Republican State Attorneys General, led by West Virginia AG Patrick Morrisey, on July 29 filed an amicus brief with the U.S. Supreme Court asking it to accept the appeal made by the Atlantic Coast Pipeline, LLC (ACP, LLC) to overturn the Fourth Circuit Court of Appeals decision to vacate the U.S. Forest Service permit for the Atlantic Coast Pipeline to cross the Appalachian Trail. The ACP, LLC filed its appeal with the Supreme Court on June 25. It was joined in that request by the U.S. Solicitor General. Among the reasons stated in the AGs’ brief for its support of the ACP appeal:

- The Fourth Circuit decision was wrong, as it misread the Mineral leasing Act (MLA) and because it undermined the MLA’s goal to balance conservation with energy development.
- Shutting construction on the Atlantic Coast Pipeline harms states on both ends of its route.
- The decision could severely constrain energy development nationwide.

<https://www.abralliance.org/wp-content/uploads/2019/08/State-AGs-SC-petition-on-Forest-Service-case-7-31-19.pdf>

362. Two witnesses appearing before a July 30 Virginia State Corporation Commission (SCC) hearing on the proposed fuel factor for Dominion Energy to use in calculating future customer rates testified that the company has sufficient pipeline capacity to meet future energy demands. Greg Lander, an energy consultant representing Appalachian Voices (an ABRA member), testified that Dominion “has sufficient pipeline capacity to serve its existing generation fleet. Further, because of the frequency, magnitude, and duration of the non-power plant deliveries 3 under its existing pipeline contracts, I conclude that the Company has ample pipeline capacity to serve additional power generation load should that be necessary.” Mr. Lander’s analysis was echoed by Bernadette Johnson, a consultant retained by the SCC staff.

<https://www.abralliance.org/wp-content/uploads/2019/08/Dominion-2019-Fuel-Factor-SCC-SELC-witness-for-7-30-19-hrg.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/08/Dominion-2019-Fuel-Factor-SCC-Staff-Testimony-for-7-30-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/08/2019-07-19-Supplemental-testimony-Bernadette-Johnson-SCC-case-no.-PUR-2019-00070.pdf>

363. Construction of the Atlantic Coast Pipeline (ACP) should be prohibited because of the July 26 decision by the Fourth Circuit Court of Appeals to vacate the biological opinion (BiOp) and incidental take statement (ITC) issued by the U.S. Fish and Wildlife Service (FWS) for the project. The request was made in a July 31 letter to the Federal Energy Regulatory Commission (FERC) from the Southern Environmental Law Center (SELC), Appalachian Mountain Advocates and Chesapeake Bay Foundation, which represented plaintiffs in the FWS case.

The letter cited four reasons for urging FERC to issue an order halting future construction of the ACP:

- The Commission may not authorize any action that is likely to jeopardize the continued existence of an endangered species.
- In permitting construction, the Commission risks taking species in violation of the Endangered Species Act.
- Allowing construction of pipeline facilities that might have to be relocated or abandoned risks unnecessary environmental harm.
- The Commission cannot permit construction where Atlantic lacks federal authorizations that are mandatory conditions of its certificate.

<https://www.abralliance.org/wp-content/uploads/2019/08/SELC-to-FERC-stop-work-order-request-7-31-19.pdf>

Dominion CEO predicts ACP construction will resume in 2020

364. Dominion Energy CEO Thomas Farrell assured investment analysts during a July 31 earnings call that the Atlantic Coast Pipeline (ACP) project would resume construction in 2020 following a favorable U.S. Supreme Court decision.

“We are pleased that the Solicitor General filed an appeal to the Supreme Court of the Fourth Circuit Cowpasture decision as it relates to ACP’s crossing underneath the Appalachian Trail. To date, 16 states, the American Gas Association, Interstate Natural Gas Association, the Chamber of Commerce, several unions, the National Association of Manufacturers, Mountain Valley Pipeline have all filed (friend of the court) briefs. History indicates cases appealed by the Solicitor General have an approximately 70 percent chance of being considered. We expect that in October or November, the Supreme Court will schedule arguments to occur in the spring of next year with a final decision no later than June 2020. We are confident that the Fourth Circuit’s ruling will be overturned.”

<https://www.abralliance.org/wp-content/uploads/2019/08/Pipeline-company-questioned-over-revoked-permits-Recorder-8-8-19.pdf>

August 2019

365. On August 7 the *New York Times* published an op-ed entitled “Why is the Forest Service Trying to Evade the Public?” The piece was prompted by a proposal from the U.S. Forest Service (NFS), published in June, to limit the opportunities for the public to comment on environmental analysis conducted by the agency in accordance with requirements of the National Environmental Protection Act. The stated purpose of the proposed rule change by NFS was “to increase efficiency in its environmental analysis.” The op-ed, authored by Sam Evans of the Southern Environmental Law Center, argued:

“The law requires every government agency to look for less harmful ways of meeting its goals. To that end, agency decisions must be based on solid science and made in the sunlight of public accountability. Each federal agency has some leeway to implement the law, but the Forest Service’s newly proposed rules would instead circumvent it, creating loopholes for logging projects, road construction and even permits for pipelines and other utilities.”

<https://www.abralliance.org/wp-content/uploads/2021/10/Why-Is-the-Forest-Service-Trying-to-Evade-the-Public-NY-Times-8-7-21.pdf>

<https://www.fs.fed.us/emc/nepa/revisions/includes/docs/NEPAProposedRule-ReadingRoom.pdf>

366. The U.S. Environmental Protection Agency (EPA) proposed on August 12 a rule change that would weaken the ability of states to regulate their own waters. Among the changes in the Clean Water Act that the proposed rule would bring about were to tighten the time requirements by which a state must act on a Section 401 certification for infrastructure projects (like natural gas pipelines), and provide the EPA the right to treat a state's denial of a 401 certificate as if it were a waiver, thus effectively giving the EPA a veto over a state's action on a 401 certificate issue. The EPA established a 60-day comment period for the proposed rule and said it planned to finalize it in May 2020.

<https://www.abralliance.org/wp-content/uploads/2019/08/EPA-proposed-rule-on-water-quality-certifications-8-8-19.pdf>

367. A petition was filed August 13 with the North Carolina Department of Environmental Quality (NCDEQ) requesting that the agency revoke the 401-certification granted to the Atlantic Coast Pipeline. In its letter to NCDEQ, Friends of the Earth and the NC Climate Solutions Network stated:

“Facts we have discovered since January of 2018 show significant adverse impact to the largest community of American Indians east of the Mississippi River from the construction and operation of the Atlantic Coast Pipeline and projects dependent upon it. Correct information not considered by DEQ shows that the impacts analyzed in the 401 and the FERC EIS (Environmental Impact Statement) were a mere fraction of the impacts directly related to the project. We ask you to revoke the 401 Certification since it was based on incorrect information and conditions have changed since the certification was issued.”

<https://ncclimatesolutions.org/wp-content/uploads/2019/08/Legal-Petition-to-DEQ-NC-Climate-Solutions-Coalition-and-Friends-of-the-Earth.pdf>

<https://pulse.ncpolicywatch.org/2019/08/15/lumbee-indians-climate-coalition-ask-deq-to-revoke-atlantic-coast-pipeline-permit-epa-proposes-to-clamp-down-on-states-authority/>

<https://energynews.us/2019/08/21/in-north-carolina-novel-legal-maneuver-deployed-against-atlantic-coast-pipeline/>

368. ABRA voiced strong opposition on August 21 to a U.S. Forest Service proposed rule that would effectively eliminate the opportunity for the public to provide comments on many projects proposed within the National Forests. The proposed rule would amend agency procedures governing how environmental analyses are conducted for projects on Forest Service land in compliance with the National Environmental Protection Act (NEPA). In its comments to the Forest Service, ABRA said:

“The proposed rule, by expanding the use of “categorical exclusions,” would eliminate the public comment process for many proposed uses of the national forests. Essentially, the Forest Service is saying to citizens with an interest in a proposed Forest project that the agency will decide whether their opinion is worth listening to. This proposed “don’t call us, we’ll call you” approach to

future NEPA analyses represents a bureaucratic conceit that is contrary to the partnership with the public that the Forest Service has admirably practiced in the past. The Forest Service should be encouraging increased public involvement, not blocking it as these proposed changes would do.”

<https://www.abralliance.org/wp-content/uploads/2019/08/ABRA-comments-to-Forest-Service-on-proposed-rule-on-NEPA-compliance-8-21-19.pdf>

369. The petition filed with the U.S. Supreme Court by Atlantic Coast Pipeline, LLC (ACCP, LLC) should be denied, so stated a brief filed by Southern Environmental Law Center and the Sierra Club on behalf of several ABRA members on August 28 in opposition to the appeal. ACCP, LLC filed its Writ of Certiorari on June 25, asking the Supreme Court to review the December 13, 2018, decision of the Fourth Circuit Court of Appeals that said the U.S. Forest Service lacked the authority to grant a right-of-way for the Atlantic Coast Pipeline to cross the Appalachian National Scenic Trail.

<https://www.abralliance.org/wp-content/uploads/2019/09/Forest-Service-case-brief-in-opposition-to-appeal-to-SC-8-28-19.pdf>

<https://www.abralliance.org/2019/09/06/opposition-brief-is-filed-in-appeal-of-forest-service-case-to-supreme-court/>

September 2019

370. Two new reports were released by the Rocky Mountain Institute (RMI) at the beginning of September that concluded “the role of natural gas as a ‘bridge fuel’ is behind us.” In announcing the reports – *The Growing Market for Clean Energy Portfolios* and *Prospects for Gas Pipelines in the Era of Clean Energy* – RMI stated:

“The past decade has seen a dramatic reduction in the costs of wind, solar, and storage technologies. At the same time, sophisticated utilities and market operators are increasingly able to procure grid reliability services from these non-traditional resources. As a result, leading US utilities are now prioritizing investment in “clean energy portfolios” — combinations of renewables, storage, and demand-side management strategies—that can cost-effectively provide the same reliability services as traditional gas-fired power plants.”

<https://www.abralliance.org/2019/09/13/new-studies-conclude-role-of-natural-gas-as-a-bridge-fuel-is-over/>

<https://rmi.org/wp-content/uploads/2019/09/clean-energy-portfolio-two-pager.pdf>

<https://rmi.org/insight/clean-energy-portfolios-pipelines-and-plants>

371. Virginia Governor Ralph Northam issued an Executive Order September 17 establishing a statewide energy production goal for 30% of the state's electric system to be powered by renewables by 2030, and 100% of the system resources to come from renewables by 2050.

The Executive Order directed the state's Department of Mines, Minerals and Energy to develop a plan to achieve the stated goals, which is to be completed by July 1, 2020. Among specific considerations set forth in the Order were:

- 1) Targets for wind and solar energy production (5,500 megawatts by 2028).
- 2) Increased utility investment in energy efficiency programs.

<https://www.governor.virginia.gov/newsroom/all-releases/2019/september/headline-846745-en.html>

<https://www.pbs.org/newshour/nation/virginia-governor-sets-renewable-energy-goal-of-100-percent-by-2050>

372. A study released September 25 by MapLight, a Berkeley, CA-based non-profit organization that studies the influence of money in politics, the sponsors companies behind the Atlantic Coast Pipeline “spent more than \$109 million lobbying federal lawmakers and officials since the \$7.8 billion project was unveiled five years ago.”

<https://maplightarchive.org/story/energy-giants-spend-big-on-lobbying-to-clear-pipeline-path-through-national-forests-appalachian-trail/>

Rallies held protesting pipelines crossing Appalachian Trail

373. *Hands Across the AT* rallies were held at three Virginia locations along the Appalachian National Scenic Trail (AT) on September 28, near Pearisburg, Bluemont and at Humpback Rocks. The events were held to highlight the fight against the Atlantic Coast Pipeline crossing the Appalachian Trail.



October 2019

Supreme Court agrees to hear appeal on Forest Service ACP permit

374. The U.S. Supreme Court on October 4 announced it would hear the appeal by the Atlantic Coast Pipeline, LLC of the Fourth Circuit Court of Appeals decision on the Cowpasture River, et. al. vs. Forest Service case. No date for oral argument was set, but it was expected to occur in February or March 2020.

https://www.supremecourt.gov/orders/courtorders/100419zr_onkq.pdf

<https://www.abralliance.org/wp-content/uploads/2021/10/SCOTUS-Throws-Pipeline-a-Lifeline-Washington-Analysis-10-4-19.pdf>

https://www.abralliance.org/wp-content/uploads/2019/10/Supreme-Court-to-hear-appeal-case-on-pipeline-project-Recorder_20191009.pdf

375. Consideration of legal challenges to the certificate issued in December 2017 by the Federal Energy Regulatory Commission (FERC) for construction of the Atlantic Coast Pipeline (ACP), which was to be argued before the DC Circuit Court of Appeals on October 16, was deferred on October 4. The Order issued by the Circuit Court deferring the argument of the case explained that the reason for delaying the scheduled argument was because the U.S. Supreme Court's decision announced earlier that day to accept for argument United States Forest Service v. Cowpasture River Preservation Association case, in which the Fourth Circuit Court of Appeals decided that the Forest Service did not have the authority to grant the ACP the right to cross the Appalachian Scenic National Trail. The DC Circuit said it would decide when to reschedule consideration of the FERC challenge after the Supreme Court hands down a decision on the Cowpasture case.

<https://www.abralliance.org/wp-content/uploads/2021/10/D.C.-Circuit-Order-delaying-FERC-case-argument-10-4-19.pdf>

376. ABRA's Compliance Surveillance Initiative (CSI) program provided more evidence to federal regulators of unsafe and non-compliant construction practices of the Atlantic Coast Pipeline (ACP) in an October 16 letter to the Pipeline and Hazardous Material Safety Commission (PHMSA).

On July 25, PHMSA had written Dominion Energy Transmission, Inc., that trench widths of the ACP did not appear to meet specifications and that there was bedrock and loose boulders in pipeline trenches. This prompted ABRA to examine the reported incidents based upon photographic evidence acquired by ABRA/CSI Pipeline Air Force photo surveillance flights.

<https://www.abralliance.org/wp-content/uploads/2019/10/ABRA-letter-to-PHMSA-10-16-19.pdf>

377. A more thorough and less rushed process in developing a new biological opinion and taking statement for the Atlantic Coast Pipeline (ACP) was advocated to the U.S. Fish and Wildlife Service (FWS) in separate comments submitted to the agency by the Southern Environmental Law Center (SELC) and by ABRA.

ABRA's October 23 letter to FWS focused on the shortcomings of previous agency reviews of the threat the ACP would pose to the Madison Cave Isopod (MCI). ABRA pointed out that there is "abundant evidence from the Final Environmental Impacts Statement and other sources makes clear that the entire extent of karst terrain along and adjacent to the ACP's path may harbor MCI and should be protected in accordance with that fact. The Federal Energy Regulatory Commission and other agencies have described testing they deemed necessary to make valid predictions and we find no evidence that that testing has been completed."

In its October 1 comments to FWS, SELC said: "... this is the second time its approvals for this project have been vacated. Both vacaturs followed rushed, incomplete analysis unsupported by best available science. We urge the agency to resist pressure from the pipeline companies to fast-track yet another approval for this unnecessary project and to instead heed its mandate under the Endangered Species Act to protect and conserve endangered and threatened species and their habitats."

<https://www.abralliance.org/wp-content/uploads/2019/10/ABRA-letter-to-FWS-10-23-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/10/SELC-Letter-to-U.S.-Fish-Wildlife-Service-re-ACP-10-1-19-1.pdf>

4th Circuit hears appeal on ACP compressor station air permit

378. A Fourth Circuit Court of Appeals three-judge panel heard on October 29 arguments in the case challenging the permit issued by the Virginia State Air Pollution Control Board for the Atlantic Coast Pipeline (ACP) compressor station proposed for Buckingham County, VA. The case, brought by ABRA member Friends of Buckingham and argued by the Southern Environmental Law Center (SELC) and the Chesapeake Bay Foundation (CBF), questioned the appropriateness of the location of the compressor station being proximate to the historic Union Hill African American community.

A primary issue raised by SELC and CBF was whether the Air Board had properly weighed the health effects the facility would have on the Union Hill community. The judges on the panel challenged that comparison, suggesting that a more relevant comparison would be between emissions expected in the Union Hill community with air quality in other areas of Buckingham County, farther away from the compressor station.

A second issue raised in the plaintiff's argument was that the compressor station engines would be powered by natural gas that would emit fine particle matter, rather than by electric engines (as is the case with many compressor stations) which produce no air emissions.

Audio recording of oral arguments before 4th Circuit -

<https://www.ca4.uscourts.gov/OAarchive/mp3/19-1152-20191029.mp3>

<https://www.abralliance.org/wp-content/uploads/2022/03/State-concedes-Union-Hills-racial-status-RTD-11-29-19.pdf>

November 2019

Duke Energy CEO predicts ACP operational in early 2022

379. Lynn Good, Chairman and CEO of Duke Energy, said on November 8 that the construction of the Atlantic Coast Pipeline (ACP) will be completed “in late 2021 with full-in service in the first half of 2022,” according to a transcript of the company’s third quarter earnings conference call with investment analysts. Continuing, Ms. Good said:

“We believe this pipeline remains the best option to meet our customers’ needs. We remain committed to the Atlantic Coast Pipeline and the significant benefits that it will bring to our customers and our region. It will provide much needed natural gas to an underserved area of the Southeast and will allow us to retire pulling in it and replace them with cleaner burning natural gas fired plants to help meet our carbon reduction targets. In addition, it supports critical resiliency need for some of the country’s most important military output.”

https://www.abralliance.org/wp-content/uploads/2019/11/Duke-Energy-abruptly-alters-pipeline-financing-plan-Recorder_20191114.pdf

December 2019

Dominion & Duke lobbying Congress on ACP falls short

380. Efforts by Dominion Energy to convince the 116th Congress to approve having the Atlantic Coast Pipeline (ACP) cross the Appalachian National Scenic Trail (AT) did not yield results in 2019. Dominion had been seeking to have a rider added to other legislation that would, in effect, overturn the decision of the Fourth Circuit Court of Appeals that had vacated the permit for the ACP issued by the U.S. Forest Service. In the final days of the 2019 congressional session, two prominent bills that had been possible vehicles for the Dominion amendment – the National Defense Authorization Act and the continuing resolution funding the Federal Government – passed without language addressing the AT issue.

Appellant briefs filed with Supreme Court on Forest Service case

381. Briefs were filed December 2 and 9 on the appeal to the U.S. Supreme Court of the Fourth Circuit Court of Appeals December 2018 decision vacating the Atlantic Coast Pipeline's permit from the U.S. Forest Service. The appellants in the case, Atlantic Coast Pipeline, LLC and the U.S. Forest Service, filed their briefs with the Court on December 2. Amicus briefs in support of the appellants were filed by December 9. The respondents in the case, all members of ABRA, were not due to file their brief until January 15, with amicus briefs in support of the respondents' position due January 22.

The Supreme Court scheduled oral arguments in the case for February 24, 2020.

<https://www.abralliance.org/2019/12/06/appeal-of-forest-service-case-scheduled-for-supreme-court-argument/>

<https://www.abralliance.org/2019/12/13/briefs-in-support-of-dominion-on-at-issue-filed-with-supreme-court/>

<https://www.abralliance.org/wp-content/uploads/2019/12/Forest-Service-case-ACP-brief-12-2-19.pdf>

<https://www.abralliance.org/wp-content/uploads/2019/12/Forest-Service-case-Govt-brief-12-2-19-1.pdf>

<https://www.supremecourt.gov/search.aspx?filename=/docket/docketfiles/html/public/18-1584.html>

<https://www.abralliance.org/2020/01/17/new-brief-filed-with-supreme-court-in-cowpasture-case/>

<https://news.bloomberglaw.com/environment-and-energy/natural-gas-pipeline-iconic-trail-at-odds-in-supreme-court-case>

January 2020

Air permit for ACP compressor station vacated by 4th Circuit

382. The Fourth Circuit Court of Appeals on January 7 vacated the Atlantic Coast Pipeline's Buckingham compressor station air permit that was granted in January 2019 by the Virginia Air Pollution Control Board. The suit challenging the permit had been brought by Friends of Buckingham (represented by the Southern Environmental Law Center) and the Chesapeake Bay Foundation and was argued before the court on October 29. In the 3-0 opinion, the Court ruled that:

1. The Air Board's decision was arbitrary and capricious and unsupported by substantial evidence.
2. The Air Board failed in its statutory duty to determine the character and degree of injury to the health of the Union Hill residents.

<https://www.abralliance.org/2020/01/10/acp-compressor-station-air-permit-vacated-by-4th-circuit-court-of-appeals/>

<https://www.abralliance.org/wp-content/uploads/2020/01/Fourth-Circuit-opinion-Friends-of-Buckingham-19-1152.pdf>

<https://www.southernenvironment.org/press-release/union-hill-citizens-overpower-unfair-atlantic-coast-pipeline/>

383. ABRA released on January 16 an overview of the status of all the current legal challenges to the Atlantic Coast Pipeline.

https://www.abralliance.org/wp-content/uploads/2020/01/Status-of-Court-Challenges-to-the-Atlantic-Coast-Pipeline_20200116.pdf

Virginia AG, 12 other state AGs oppose ACP crossing the Appalachian Trail

384. The Atlantic Coast Pipeline “threatens Virginia’s resources without clear corresponding benefits,” so stated a brief filed January 22 with the U.S. Supreme Court by Virginia Attorney General Mark Herring. The amicus brief was filed as part of the appeal brought by Atlantic Coast Pipeline, LLC and the U.S. Forest Service of the Fourth Circuit Court of Appeal’s decision in the Cowpasture River Preservation Association, et. al. v. U.S. Forest Service case. In addition to the Virginia AG brief, the Attorneys General of 13 states and the District of Columbia filed an amicus brief in support of upholding the Fourth Circuit’s decision.

<https://www.abralliance.org/2020/01/24/state-ags-file-briefs-backing-4th-circuit-on-forest-service-permit-case/>

https://www.supremecourt.gov/DocketPDF/18/18-1584/129405/20200122113926567_2020%2001%2022%20BrAmicus%20Virginia%20ISO%20Respondent.pdf

385. A new request to halt construction of the Atlantic Coast Pipeline (ACP) was made to the Federal Energy Regulatory Commission (FERC) in a January 14 filing by the Southern Environmental Law Center, Appalachian Mountain Advocates and Chesapeake Bay Foundation on behalf of their respective client groups. While construction on the ACP had ceased in late 2018 in the wake of the project losing its Biological Opinion and Take Statement – permits required by the Endangered Species Act – the project’s managing partner, Dominion Energy, had indicated its intention to resume construction as soon as a new Biological Opinion and Take Statement was issued by the U.S. Fish and Wildlife Service (FWS). The FWS had still not announced plans for reissuing a revised permit. The request to FERC pointed out that with the recent loss of the Buckingham compressor station air permit there were 8 missing permits for the project.

<https://www.abralliance.org/wp-content/uploads/2020/01/SELC-to-FERC-request-to-half-ACP-construction-1-14-20.pdf>

Former U.S. Park Service Director opposes ACP crossing Appalachian Trail

386. Among the amicus briefs filed with the U.S. Supreme Court on January 22 in support of the Fourth Circuit Court of Appeals decision to vacate the U.S. Forest Service permit for the Atlantic Coast Pipeline to cross the Appalachian Trail was one jointly filed by: John Jarvis, former Director of the U.S. Park Service; Pam Underhill, former Superintendent of the Appalachian Trail; and the National Parks Conservation Association. The Jarvis/Underhill/NPCA brief set forth three-principal arguments:

1. Federal agencies may not issue pipeline rights-of-way through federal lands in units of the National Park System, including the Appalachian Trail, without express authorization from Congress.
2. There exist other well-established means of obtaining authorization for pipeline rights-of-way in or through National Park System lands.
3. Congress’s delegation to the Park Service of administrative jurisdiction over the Appalachian Trail also ensures the Trail’s long-term conservation in the manner Congress intended.

<https://www.abralliance.org/wp-content/uploads/2020/01/Jarvis-Underhill-NPCA-ACP-Amicus-Brief-1-22-20.pdf>

<https://www.npca.org/articles/2417-dominion-energy-s-proposed-atlantic-coast-pipeline-would-cut-through>

387. “Continued efforts to complete the Atlantic Coast Pipeline (ACP) are fraught with risks” to investors, ratepayers and those who live along the route of the ACP, according to a paper released January 30 by ABRA. “Why Support for the Atlantic Coast Pipeline Adds Risks to Shareholders and Ratepayers” was authored by Thomas Hadwin, a former utility executive and a member of ABRA’s Steering Committee. Hadwin pointed out that since 2014, when the ACP was proposed, existing pipelines serving Virginia and the Carolinas had increased in capacity more than the ACP would provide. The paper explained that the cost for Dominion subsidiaries to use gas from the ACP would be more than four times as expensive as gas transported by the Transco pipeline system, where sufficient capacity exists. Hadwin said the same would be true for Duke Energy’s subsidiaries.

<https://www.abralliance.org/wp-content/uploads/2020/01/Why-Support-for-the-Atlantic-Coast-Pipeline-Adds-Risks-to-Shareholders-Ratepayers-Hadwin-January-2020.pdf>

388. Legislation was introduced January 30 in the West Virginia House of Delegates that would increase the penalties for protesting near oil and gas pipelines and other infrastructures. Under the provisions of H.R. 4615 knowingly trespassing on property containing a critical infrastructure facility is punishable by a year in jail and a \$500 fine. Criminal trespassing on critical infrastructure property with the intent to "vandalize, deface, tamper with equipment, or impede or inhibit operations" of the facility is a felony punishable by up to three years in prison and a \$1,000 fine.

http://www.wvlegislature.gov/Bill_Text_HTML/2020_SESSIONS/RS/bills/HB4615%20INTR.pdf

February 2020

389. The Federal Energy Regulatory Commission (FERC) requested in a February 10 letter to the U.S. Fish and Wildlife Service (FWS) that it reinstate formal consultation with Atlantic Coast Pipeline, LLC (ACP, LLC) to develop a new Biological Opinion (BiOp) and Incidental Take Statement (ITS) for the company’s proposed pipeline. The BiOp and ITS for the ACP, required under Section 7 of the Endangered Species Act, had been vacated for the second time by the Fourth Circuit Court of Appeals in July 2019. Because of the Fourth Circuit’s action, construction on the ACP had ceased in December 2018 and ACP, LLC indicated it would not seek to resume construction until a new BiOp and ITS were approved. The Southern Environmental Law Center (SELC) wrote to FWS on February 11 on behalf of its clients (Defenders of Wildlife, Sierra Club and Virginia Wilderness Committee) in the third legal challenge to the ACP’s BiOp and ITS, contending that the “FWS cannot complete consultation on the ACP until it knows the final route of the pipeline.”

<https://www.abralliance.org/wp-content/uploads/2020/02/FERC-to-FWS-to-initiate-formal-consultation-on-ACP-BiOp-2-10-20.pdf>

<https://www.abralliance.org/wp-content/uploads/2020/02/SELC-to-FWS-on-Sec.-7-consultation-on-ACP-2-11-20.pdf>

390. The Norfolk District of the U.S. Army Corps of Engineers (Corps) was told that it would violate legal requirements should it reinstate the suspended verification for the Atlantic Coast Pipeline (ACP) using the Corps' Nationwide 12 Permit (NWP12). The argument was set forth in a February 11 letter from the Southern Environmental Law Center, Appalachian Mountain Advocates (Appalmad) and the Chesapeake Bay Foundation. Pipeline projects like the ACP that cross waterbodies under the jurisdiction of the Corps are required by the Clean Water Act to have a NWP12 permit. The Corps had suspended the NWP12 for the ACP in November 2018 in response to a legal challenge by Appalmad on behalf of its client group of ABRA members.

<https://www.abralliance.org/wp-content/uploads/2020/02/SELC-to-Army-Corps-on-NWP-12-for-ACP-2-11-20.pdf>

391. Dominion Energy announced on February 11 that it had purchased the 5% stake that The Southern Company had in the Atlantic Coast Pipeline, LLC. The move left Dominion with a 53% share in the joint venture, with Duke Energy owning the remaining 47% of the project.

<https://www.abralliance.org/wp-content/uploads/2021/10/Dominion-agrees-to-buy-Southern-stake-in-Atlantic-Coast-Pipeline-SP-Global-2-11-20.pdf>

Supreme Court hears arguments on appeal of Forest Service ACP decision

392. A very engaged U.S. Supreme Court (SCOTUS) heard on February 24 arguments for and against overturning the Fourth Circuit Court Appeals' December 13, 2018, decision to vacate the U.S. Forest Service (NFS) permit for the Atlantic Coast Pipeline (ACP). After the Fourth Circuit turned down an appeal by NFS and Atlantic Coast Pipeline, LLC (ACP, LLC) for reconsideration by all 15 judges in the Circuit, the losing parties appealed to SCOTUS. Their appeal was accepted in September 2019. At issue in the case was only one of the findings of the Fourth Circuit opinion: that the NFS did not have authority to grant authority for the ACP to cross the Appalachian National Scenic Trail (AT) because the AT was administered by the National Park Service not the Forest Service.

During the arguments, the Justices' questions raised two major questions:

1. How can the AT be a separate entity from the land on which it exists, an argument made by the appellants (ACP, LLC and NFS)?
2. What would be the consequences – intended and unintended – if the Fourth Circuit opinion were upheld and the ACP was not permitted to cross the AT?

Recording of oral arguments:

https://www.supremecourt.gov/oral_arguments/audio/2019/18-1584

https://www.abralliance.org/wp-content/uploads/2020/02/Supreme-Court-considers-pipeline-appeal-Recorder_20200227.pdf

<https://www.abralliance.org/wp-content/uploads/2021/10/Supreme-Court-Seems-Ready-to-Back-Pipeline-Across-Appalachian-Trail-NY-Times-2-24-20.pdf>

March 2020

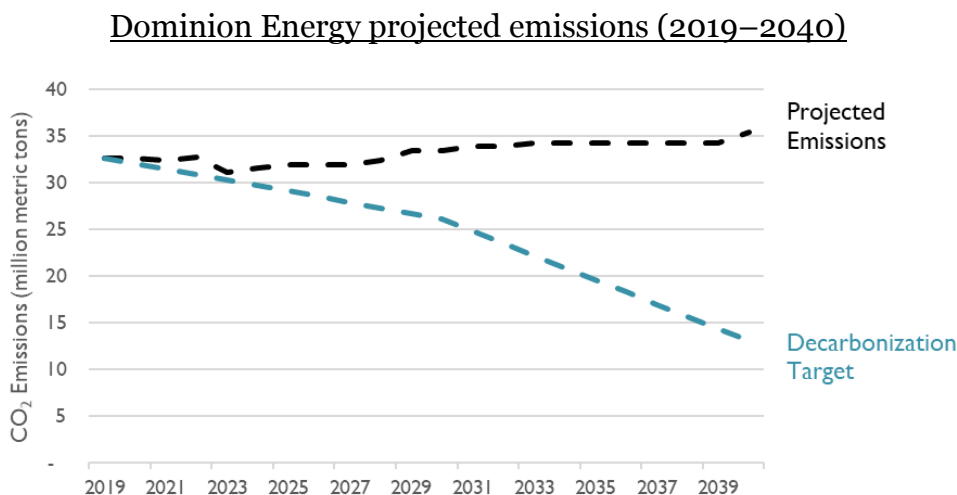
393. The denial of a request by the Atlantic Coast Pipeline (ACP) for permission to cross a flood plain in Nelson County, Virginia was overruled March 9 by the U.S. District Court for the Western District of Virginia. The county's Board of Zoning Appeals (BZA) in December 2018 had rejected a request for a variance from the county's flood plain ordinance for the ACP. The court concluded that Nelson County's Floodplain Regulations were preempted by federal law.

<https://www.courthousenews.com/wp-content/uploads/2020/03/acp-nelson.pdf>

394. A new study, released March 9 by Synapse Energy Economics, on how the owners of the Atlantic Coast Pipeline (ACP) were faring in meeting their own decarbonization targets, concluded that they were decidedly “missing the mark.” *Investing in Failure* studied the announced goals of Dominion Energy, Duke Energy and Southern Company to decarbonize their generating facilities. (The study was conducted prior to the purchase by Dominion of Southern's stake in the ACP.) The study observed:

“While the ACP is not directly owned by the subsidiary electric utilities discussed here, those subsidiary utilities have contracted for the majority of the gas that will be transported on the pipeline. This means that the costs associated with building the pipeline will be passed onto the utility customers via transportation fees and fuel contracts. . . . Which begs the question, how can Duke and Dominion be net or zero carbon by 2050 if they are building a pipeline intended to supply its own generators with natural gas that has a lifetime through 2100?”

A chart from the study showed that Dominion Energy's projected CO₂ emissions between 2019-40 would be more than double the company's announced decarbonization target. The projected shortfalls for Duke and Southern were similar.



<https://static1.squarespace.com/static/5d4df99c531b6d0001b48264/t/5e640e8147d5f50a1ec2e717/1583615623480/Investing-in-Failure-20-005.pdf>

395. The Federal Energy Regulatory Commission (FERC) was urged to reject any request the agency might receive from Atlantic Coast Pipeline, LLC to bypass tree clearing restrictions under provisions of the Migratory Bird Treaty Act (MBTA). In a March 27 letter, the Southern Environmental Law Center (SELC) pointed out that FERC's certificate for the Atlantic Coast Pipeline (ACP) called for compliance with MBTA provisions. The issue arose because of a February 2020 proposal by the U.S. Fish and Wildlife Service (FWS) to rollback protections for incidental takes against migratory birds. SELC filed comments with FWS on March 19 on behalf of ABRA and several of its member organizations, taking exception to the proposed FWS changes.

<https://www.abralliance.org/wp-content/uploads/2020/04/SELC-to-FERC-on-MBR-3-27-20.pdf>

April 2020

396. ABRA asked the Virginia Department of Environmental Quality (DEQ) on April 1 for clarification about how the agency reviews land-disturbing activities associated with a pipeline project, such as the Atlantic Coast Pipeline, but which are removed from the actual route of the project, such as equipment storage yards. Conversations with DEQ staff had suggested that the review standards for erosion and sediment control plans and stormwater plans of such sites would not be subject to the same standard as similar construction work unrelated to a pipeline project.

<https://www.abralliance.org/wp-content/uploads/2020/04/ABRA-letter-to-David-Paylor-4-1-20.pdf>

397. The Southern Environmental Law Center (SELC) on March 20 challenged a contention made by Atlantic Coast Pipeline, LLC to the Federal Energy Regulatory Commission (FERC) that bat surveys it conducted in 2015 should be considered "current." SELC's April 2 letter to FERC pointed out that the surveys were valid only for two years, in accordance with established guidelines by the U.S. Fish and Wildlife Service. The SELC also said a similar problem exists for mussel surveys done by the ACP in Virginia and North Carolina.

<https://www.abralliance.org/wp-content/uploads/2020/04/SELC-to-FERC-outdated-surveys-for-ACP-4-2-20.pdf>

398. Virginia Governor Ralph Northam signed into law April 6 a new statute that would protect ratepayers from being charged for the cost of unneeded infrastructure, such as natural gas pipelines, based upon a determination by the State Corporation Commission. HB 167, whose principal sponsor was Del. Lee Ware (R-Powhatan), passed the Senate and House unanimously.

The *Marcellus Drilling News*, an outspoken publication serving shale industry interests, was highly critical of the new law:

"What the bill actually does is remove freedom of choice for utility companies, driving up the cost of electricity in the Old Dominion. The bill does the opposite of what it says it will do. All in the name of trying to block Dominion Energy's Atlantic Coast Pipeline (ACP) project. What a sorry state of affairs in a once-great state. The disgusting Northam and a sycophantic legislature have fallen into the trap of opposing ACP because it's a "fossil fuel" pipeline and because of a bunch of country club-types with big horse farms along the route who don't want their pastures dug up. Money talks."

<https://energynews.us/2020/04/13/new-virginia-law-could-be-atlantic-coast-pipelines-greatest-barrier-yet/>

Army Corps' permit for pipelines invalidated by Federal Court

399. A federal district judge in Montana on April 15 ruled that the U.S. Army Corps of Engineers violated the law when it approved National Permit 12 (NWP12) to permit the Keystone XL Pipeline to cross streams and rivers under the Corps' jurisdiction. The ruling prohibited the Corps from using the fast-tracked approval process for any pipelines nationwide. The Corps began issuing NWP12 permits in 1977 for categories of activities that it deemed to be similar in nature and "will cause only minimal adverse environmental effects when performed separately and will have only minimal cumulative adverse effect on the environment." The Atlantic Coast Pipeline (ACP) was, at the time of the court decision, without an authorized NWP12. Thus, until a new NWP12 was approved, an NWP12 permit could not be issued for the ACP.

<https://northernplains.org/press-release-scotus-rejects-nw12-construction/>

400. "The Atlantic Coast Pipeline is looking like a riskier investment every day" was the title of an April 20 op-ed in the *Virginia Mercury* by Thomas Hadwin, a former utility executive and member of ABRA's Steering Committee. Hadwin pointed out in the piece that the application for the Atlantic Coast Pipeline that had been submitted to the Federal Energy Regulatory Commission (FERC) stated that 80 percent of the ACP was reserved for power plants in Virginia and North Carolina and claimed the ACP was essential to supply them. However, fewer new plants than had been proposed were needed. And, if built, they would require less than half of the capacity originally announced as the main reason to build the pipeline.

<https://www.virginiamercury.com/2020/04/20/the-atlantic-coast-pipeline-is-looking-like-a-riskier-investment-every-day/>

401. A proposed construction storage yard for the Atlantic Coast Pipeline in Rockbridge County, VA drew expressions of deep concern from a coalition of citizens plus ABRA, Augusta County Alliance and the Rockbridge Area Conservation Council, both ABRA members. The proposed yard site was proximate to wetlands and streams on the edge of Goshen, VA that empty into the Calfpasture River and then the scenic Maury River. In an April 29 letter to the Rockbridge County Planning Commission and County Administrator (with copies to the County Supervisors), Rockbridge resident Molly Petty wrote on behalf of the coalition: “We are especially concerned that the absence of an open public hearing and further limits on public comment under pandemic guidelines will prevent adequate opportunity for scrutiny of the concerns many of us have about the construction yard.”

<https://www.abralliance.org/wp-content/uploads/2020/04/Goshen-ACP-yard-letter-to-PC-BOS.pdf>

402. Atlantic Coast Pipeline, LLC (ACP, LLC) submitted responses to the January 7 decision by the Fourth Circuit Court of Appeals to vacate the Buckingham compressor station for the Atlantic Coast Pipeline (ACP). The company wrote the Virginia Department of Environmental Quality on April 30 addressing the Court’s concern about “conflicting evidence in the record, the particular studies it relied on, and the corresponding local character and degree of injury from particulate matter. ACP, LLC had on April 24 responded to the issue of “why electric turbines are not required to be considered in Virginia’s Best Available Control Technology analysis of the Compressor Station.” The Virginia Air Pollution Control Board had been directed by the Fourth Circuit to reconsider the ACP’s air permit regarding the two issues to which ACP, LLC filed responses. At the time of the filing, the Air Board had not scheduled a meeting to consider the permit issues.

<https://www.abralliance.org/wp-content/uploads/2020/05/Dominion-to-DEQ-on-Air-permit-4-24-20.pdf>

<https://www.abralliance.org/wp-content/uploads/2020/05/Dominion-to-DEQ-air-permit-supplemental-info-4-30-20-1.pdf>

May 2020

Dominion CEO reiterates ACP will be in full service in 2022

403. Dominion Energy CEO Tom Farrell reiterated on May 5 his company's expectation that construction activity on the Atlantic Coast Pipeline would resume later in 2020, that its overall cost would be in line with the latest \$8 billion estimate and that the pipeline would be in full service in 2022. These projections were made by Farrell during a quarterly earnings conference call with financial community analysts. Farrell said:

"We can maintain the existing schedule and cost estimates so long as we can take advantage of the November 2020 through March 2021 tree felling season. Based on these expectations, we remain confident in the successful completion of the project and note that there are no changes to the financial contribution estimates for 2020 and beyond."

https://www.abralliance.org/wp-content/uploads/2020/05/Thousands-sign-letter-to-end-pipeline-Recorder_20200514.pdf

Rockbridge County, VA approves ACP storage yard site

404. The Rockbridge County, VA Planning Commission approved on May 13 a site plan for a proposed construction storage yard for the Atlantic Coast Pipeline (ACP) in Goshen, VA. The 4-0 vote (with one abstention) came despite the fact that 95 of the 99 written comments received by the Commission expressed opposition to the proposed yard. The County Board of Supervisors was scheduled to consider the issue on May 26.

405. The Ninth Circuit Court of Appeals denied on May 28 a request of the U.S. Corps of Engineers and the owner of the Keystone XL Pipeline to reinstate the Nationwide Permit 12 (NWP12) authority of the Corps. A federal district court in Montana had ruled on April 15 that the Corps had violated the Endangered Species Act (ESA) in issuing the current NWP12 and revoked the Corps' authority to issue any new permits for pipeline projects to cross streams and rivers. The NWP12 authority thus would remain invalid until the Ninth Circuit ruled on the district court's decision on the ESA issues, meaning that the Atlantic Coast Pipeline still did not have a valid permit under the Corps' NWP12 program to cross rivers and streams.

<https://www.abralliance.org/wp-content/uploads/2020/05/Keystone-Order-Denying-Stay-Pending-Appeal-5-28-20.pdf>

406. A coalition environmental and conservation organizations, most of them ABRA members, filed a motion on May 30 with the Federal Energy Regulatory Commission (FERC) requesting that the Commission supplement the Environmental Impact Statement for the Atlantic Coast Pipeline (ACP) to address significant new information bearing on the project's environmental impacts. The motion was jointly filed by the Southern Environmental Law Center, Appalachian Mountain Advocates and the Chesapeake Bay Foundation. The motion pointed out that the ACP was missing eight needed permits, has had no construction conducted since December 2018 and cited a January 2020 filing by the Virginia Attorney General with the U.S. Supreme Court stating that because there is "mounting evidence that the pipeline is not needed, the ACP threatens Virginia's natural resources without clear corresponding benefits."

<https://www.abralliance.org/wp-content/uploads/2020/06/SELC-et-al.-Motion-to-Supplement-EIS-for-ACP.pdf>

https://www.abralliance.org/wp-content/uploads/2020/06/Conservation-groups-ask-to-supplement-pipeline-report-Recorder_20200604.pdf

June and July 2020

407. The U.S. Environmental Protection Agency (EPA) issued on June 1 its final rule amending Section 401 of the Clean Water Act, under which states are given authority to issue permits certifying that any discharges into the state's waters from a proposed project will comply with Clean Water Act, including state-established water quality standard requirements. A permit under Section 401 was required for the Atlantic Coast Pipeline. The new rule limited the authority of a state in exercising its permit-granting authority, including requiring that a state act on its 401-certification within one year. The rule was proposed in August 2019 in accordance with President Trump's Executive Order 13868, issued in April 2019, that directed EPA to streamline the 401-certification process.

<https://www.abralliance.org/wp-content/uploads/2020/06/Rejecting-Criticism-EPA-Touts-CWA-401-Rule%E2%80%99s%E2%80%98Cooperative-Federalism%E2%80%99-Inside-EPA-6-1-20.pdf>

President Trump issues order bypassing laws for energy projects

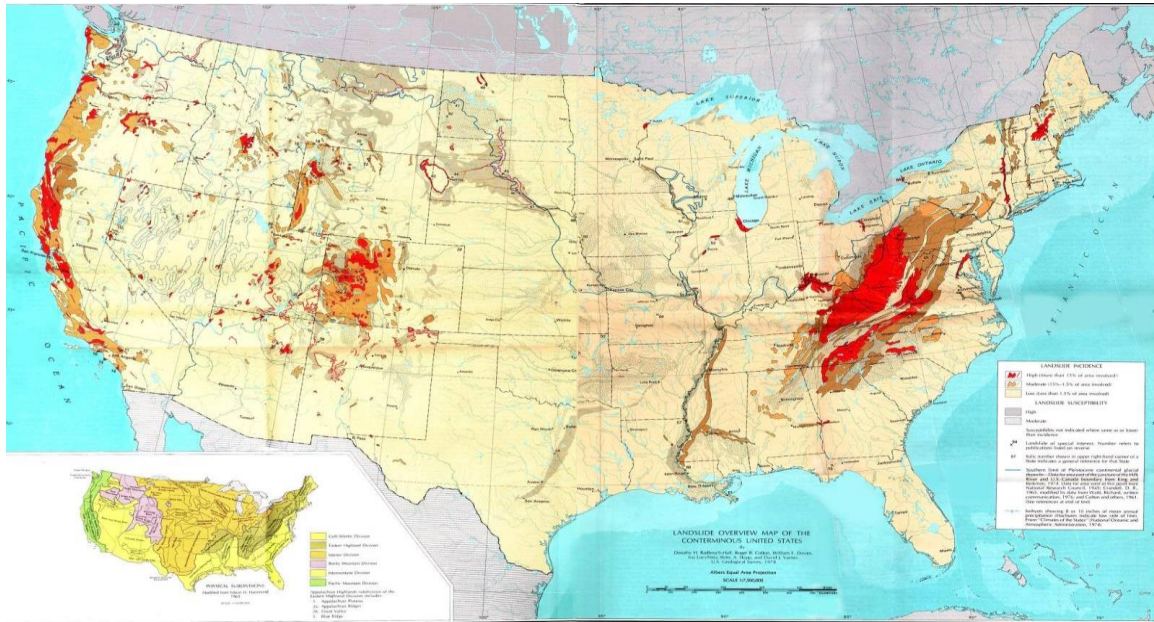
426. President Trump on June 4 signed an Executive Order directing all federal agencies to invoke their emergency authority to bypass the Endangered Species Act, Clean Water Act, National Environmental Policy Act and other environmental laws to approve projects as fast as possible. Pipeline projects were among those prominently targeted by the President's action.

<https://www.southernenvironment.org/press-release/trump-administration-environmental-order-could-further-silence-vulnerable-communities/>

<https://www.federalregister.gov/documents/2020/06/09/2020-12584/accelerating-the-nations-economic-recovery-from-the-covid-19-emergency-by-expediting-infrastructure>

ABRA releases study on threat of landslides to ACP

427. The routes of the Atlantic Coast Pipeline (ACP), as well as the Mountain Valley Pipeline (MVP), pass through the most landslide-prone landscape in the United States, according to a new study released June 11 by ABRA. *Landslides & the ACP* examined the hazards accompanying landslides and pipeline construction and evaluates the issue as it specifically relates to the ACP. The study concluded that the “potential for landslides along the ACP route, and the threat they present to affected communities and water supplies due to sediment runoff and debris flows, were inadequately evaluated by the regulatory agencies responsible for issuing the project’s required permits.”



US Geological Survey (USGS) Map - frequency of, and susceptibility to, landslides. Red areas have the highest rates of landslide incidence (15%+ of area involved). Areas with dashes reflect high landslide susceptibility.

<https://www.abralliance.org/wp-content/uploads/2020/06/Landslides-and-the-ACP-June-2020.pdf>

Forest Service announces development of Supplemental EIS for ACP

428. Development of a Supplemental Environmental Impact Statement for the Atlantic Coast Pipeline (ACP) was announced June 11 by the U.S. Forest Service (USFS). The Notice of Intent, published in the Federal Register, was in response to the Fourth Circuit Court of Appeals action in December 2018 vacating the USFS’s Record of Decision and Special use Permit issued for the ACP. The USFS Federal Register Notice of Intent states that a draft SEIS will be available in July 2020 and that a final SEIS is anticipated later in 2020.

<https://www.federalregister.gov/documents/2020/06/11/2020-12621/warm-springs-north-river-and-glenwood-pedlar-ranger-districts-george-washington-national-forest>

U.S. Supreme Court overturns 4th Circuit decision on ACP

429. The U.S. Supreme Court, in a 7-2 decision on June 15, overturned the decision by the Fourth Circuit Court of Appeals that the U.S. Forest Service (USFS) did not have authority to grant a permit for the Atlantic Coast Pipeline to cross the Appalachian National Scenic Trail (AT). In writing the majority opinion, Justice Thomas noted that the Fourth Circuit’s opinion had in effect made the AT a part of the National Park System (NPS) because the AT was an area of land . . . administered by the Secretary of the Interior acting through the Director of the NPS, in accordance with provisions of the Mineral Leasing Act. With that logic, he said, the USFS lacked authority to grant a permit for the ACP to cross the AT.

<https://www.abralliance.org/2020/06/19/supreme-court-oks-acp-to-cross-appalachian-trail-in-cowpasture-decision/>

<https://www.abralliance.org/wp-content/uploads/2020/06/2020-06-15-SCOTUS-Opinion-Forest-Serv.-v.-Cowpasture-River-Pres.-Ass n-1.pdf>

Time extension for completion of ACP requested of FERC

430. Dominion Energy on June 16 submitted a request to the Federal Energy Regulatory (FERC) for a two-year extension of time for the Atlantic Coast Pipeline and the associated Supply Header Project to be completed. The certificates that FERC issued for the projects on October 13, 2017, were to expire on October 13, 2020. Dominion’s request, which had been anticipated, asked for the certificates to build the projects to be extended to October 13, 2022. In its request, Dominion cited “unforeseen delays in permitting” and contended that “markets to be served by the Projects have been chronically constrained in terms of natural gas supply, as interstate natural gas pipeline capacity is either already fully subscribed or nonexistent. The need for the Projects is undiminished.”

<https://www.abralliance.org/wp-content/uploads/2020/06/ACP-request-for-extention-of-time-to-construct-6-16-20.pdf>

431. West Virginia Rivers Coalition and Trout Unlimited in mid-June released a report on the impact pipeline construction has on rivers and streams. *Reducing Impacts of Pipelines Crossing Rivers and Streams* notes that the Atlantic Coast Pipeline and Mountain Valley Pipeline routes included over 2,600 waterbody crossings in West Virginia, Virginia and North Carolina, with approximately 250 rivers and streams containing species of concern such as native and naturally reproducing trout, anadromous fish and sensitive mussels. The 7-page study discussed the various methods used for pipelines to cross streams and rivers and included several case studies that document the environmental challenges posed by pipelines crossing water bodies.

<https://wvivers.org/wp-content/uploads/2020/06/streamcrossingreport.pdf?eType=EmailBlastContent&eId=ee5e2a21-d4ab-4d62-8c55-3fe50221ed44>

432. Dominion Energy Transmission, Inc. filed with the Federal Energy Regulatory Commission (FERC) on June 22 a new Biological Assessment (BA) for the Atlantic Coast Pipeline (ACP). Dominion designated the information as “privileged and confidential” and thus not available to the public. The new BA, developed in consultation with the U.S. Fish and Wildlife Service (FWS), was a necessary step toward the issuance of a new Biological Opinion and Incidental Take Statement (BiOp/ITS) for the ACP. The Fourth Circuit Court of Appeals had previously twice vacated the BiOp/ITS for the ACP, which led to construction activity on the ACP being suspended in December 2018.

Southern Environmental law Center wrote FERC on June 24 requesting that a public version of the new BA be posted on the FERC docket within five business days (by June 30), in accordance with statutory requirements.

<https://www.abralliance.org/wp-content/uploads/2020/06/SELC-to-FERC-on-ACP-BA-submission-6-24-20.pdf>

Dominion Energy and Duke Energy announce cancellation of ACP

433. Dominion Energy and Duke Energy released a joint statement on the afternoon of Sunday, July 5 announcing that they were canceling the Atlantic Coast Pipeline Project.

“Dominion Energy (NYSE: D) and Duke Energy (NYSE: DUK) today announced the cancellation of the Atlantic Coast Pipeline ("ACP") due to ongoing delays and increasing cost uncertainty which threaten the economic viability of the project. Despite last month's overwhelming 7-2 victory at the United States Supreme Court, which vindicated the project and decisions made by permitting agencies, recent developments have created an unacceptable layer of uncertainty and anticipated delays for ACP.”

ABRA released the following statement to media contacts:

"The Allegheny-Blue Ridge Alliance (ABRA), a coalition of over 50 organizations in Virginia and West Virginia that was formed in 2014 to oppose the Atlantic Coast Pipeline (ACP), is elated with the announcement by Dominion Energy and Duke Energy that the project has been canceled. ABRA has contended for six years that the ACP was not needed to meet the future energy needs of their customers. Furthermore, the ACP has been wrongheaded from the start, presenting threats to the environment and the safety and prosperity of the communities through which it would have been built that did not justify the project. We are glad to see that Dominion and Duke have come to their senses and arrived at the same conclusion."

<https://news.dominionenergy.com/2020-07-05-Dominion-Energy-and-Duke-Energy-Cancel-the-Atlantic-Coast-Pipeline>

<https://www.abralliance.org/2020/07/10/ding-dong-the-acp/>

<https://www.abralliance.org/wp-content/uploads/2020/07/Out-of-gas-Recorder20200709.pdf>

<https://www.southernenvironment.org/news/selcs-pipeline-team-reflects-on-the-path-to-victory/>

Below is a reproduction of the first page of the July 10 issue of *ABRA Update*.

DING, DONG, THE ACP!



Implosion of the former Dominion Energy headquarters, May 20, 2020

434. In the aftermath of the cancellation of the Atlantic Coast Pipeline (ACP), Atlantic Coast Pipeline, LLC filed with the Federal Energy Regulatory Commission (FERC) in January 2021 a plan for how to restore the route of the Atlantic Coast that had been disturbed by construction or tree felling. On March 24, 2022, FERC approved a plan for restoration of the ACP route.

In approving the restoration plan FERC rejected the request that ABRA and many of its members had made for the Commission to make as a condition of plan approval a requirement that easements acquired for the project be relinquished to affected landowners so that they would once again have full use of their property. The Commissioners said:

“While we acknowledge the concerns raised by landowners and others, we find that imposing conditions governing disposition of the easements is not required to ensure the proposed restoration is in the public convenience and necessity. In addition, as a practical matter the Commission’s ability to impose conditions on Atlantic’s and EGTS’s (the company that acquired the Supply Header Project) pending request is limited. “

https://elibrary.ferc.gov/eLibrary/filelist?accession_num=20220324-3115

<https://www.abralliance.org/2022/03/28/ferc-approves-restoration-plan-for-acp/>