



ABRA Update #125 – April 14, 2017

After DEIS Filings, FERC Asks for Supplemental Info from Dominion

The Federal Energy Regulatory Commission (FERC) wasted little time in following-up with Dominion Transmission, Inc. (DTI) to seek additional information and clarifications on numerous items, many of which were flagged in comments filed about the Draft Environmental Impact Statement (DEIS) for the Atlantic Coast Pipeline (ACP). On April 11, five days after the DEIS comment deadline, FERC wrote DTI making 111 specific requests for supplemental information, requesting that the company submit its responses by May 1 (20 days from the date of the agency's letter). Noteworthy among the items in the [FERC letter](#) are:

- “We received numerous comments on the draft environmental impact statement (EIS) questioning the need for the relatively large number of temporary and permanent access roads. Limit the number of access roads to that necessary to construct and operate the ACP and SHP. . . Note that we are requesting that Atlantic and DTI conduct a thorough review of the entire project to determine where access road reductions can be achieved.” (Item #3)
- “The updated Karst Survey Report filed on February 24, 2017 identified numerous point and area features and known and suspect closed depressions within the current project workspace. It appears that many of these features could be avoided by small route variations and/or potential workspace reductions. Clarify whether Atlantic and DTI propose to incorporate route and/or workspace design revisions to avoid or minimize impacts to these features.” (#10)
- The Valley Center area of Highland County, VA (where the ACP would cross from West Virginia into Virginia) “appears to have an abundance of karst features, caves, and sinking streams. Incorporate a route variation to avoid these features.” (#11, emphasis added)
- “Identify the location and temporary and permanent impact acreage of high quality wetlands such as Atlantic white cedar and cypress gum swamps.” (#18)
- Forest fragmentation data that DTI had submitted February 24, in response to a FERC request of October 26, was not in compliance with the agency’s requested data parameters. DTI is requested to provide an updated table of forest fragmentation analysis using the proper data sets. (#19)

The letter requests additional or clarifying information regarding numerous species and the impact that ACP construction would have on them (#28-79)

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- “Provide an update of Atlantic’s consultations with the Virginia Outdoors Foundation regarding easement crossings.” (#83)
- “The Virginia Outdoors Foundation proposes to receive and manage the 1,034-acre Hayfields Farm property as a substitute for acreage affected by the ACP route that is currently part of a conservation easement. Consider whether the Hayfields Farm property is subject to the Section 106 process, and if so, provide any appropriate Section 106 documentation.” (#96)
- “Provide a status report on the survey, evaluation, and effect assessment of properties along the project route through Nelson County, Virginia. Include access roads and off-right-of-way facilities. Report also on agency and local informant communication regarding the properties and historic districts.” (#99)
- “In response to numerous comments received on the draft EIS, describe in more detail how Atlantic would work with local law enforcement and emergency response to promote the safe evacuation of landowners in remote areas should a pipeline incident occur. Consult with each landowner where the proposed pipeline crosses a private egress that is the sole access to/from the property to determine if a site-specific evacuation procedure is requested.” (#106)

DPMC Takes Legal Action Against Virginia DEQ. Again!

For the second time in less than a year, the Dominion Pipeline Monitoring Coalition (DPMC) has started a legal proceeding to compel the Virginia Department of Environmental Quality (DEQ) to obey the state’s Freedom of Information Act (FOIA).

DPMC seeks information justifying a DEQ decision that affects regulation of utility lines constructed through streams and wetlands in Virginia. The DEQ responded that it was not ready to supply that information in the time required.

The DEQ announced its intention on April 7 to issue a blanket Clean Water Act section 401 certification for pipelines that are covered by the U.S. Army Corps of Engineers’ Nationwide Permit number 12. This followed the DEQ announcement on April 6 that it would conduct individual Clean Water Act section 401 reviews for the Atlantic Coast and Mountain Valley Pipelines. The next day’s announcement that the state would, none-the-less, issue a blanket 401 Water Quality Certification for the NWP 12 will still enable utility projects that are very damaging to our waters – without thorough reviews and public involvement.

DPMC submitted its FOIA request on April 7, the day the DEQ announced its blanket Water Quality Certification. The DPMC request asked for evidence that the DEQ had conducted the required analysis to ensure covered activities would uphold state water quality standards. The DEQ then claimed that the “complexity” of the request justified an extension that would more than double the time required for DPMC to get the information. DPMC asserts that DEQ lacks a proper basis for the time extension and is prepared to make that case in court.

Accordingly, on April 12, DPMC delivered a Petition for Writ of Mandamus and Injunctive Relief to DEQ Director David Paylor and the Department’s FOIA coordinator, demanding that DEQ meet the legal requirement that it provide records within five work-days after a request. The Petition was served on the DEQ officials in advance of filing in the state Circuit Court for the City of Richmond. For more, click [here](#).

In an additional action this week, DPMC filed a separate FOIA request with DEQ requesting site-specific information in five Virginia counties (Highland, Bath, Augusta, Nelson and Buckingham) on: 1) erosion and sediment control plans; 2) stormwater management plans; 3) descriptive material on ACP's "Best in Class" program and other slope-stabilization plans; and 4) any correspondence related to the foregoing information.

Diverse DEIS Comments Raise Serious Questions About ACP

"Incomplete" and "go back to the drawing board" were sentiments most commonly echoed in the comments filed with the Federal Energy Regulatory Commission on the Draft Environmental Impact Statement for the proposed Atlantic Coast Pipeline over the past two weeks. ABRA has posted on its website [comments from over 50 organizations and individuals](#) that provide a broad overview of the serious shortcomings of the DEIS. Here are excerpts from some of them:

Appalachian Mountain Advocates

- . . . the Commission has fundamentally misapplied NEPA in its assessment of the impacts of the Atlantic Coast Pipeline. Instead of issuing a thorough agency assessment of environmental impacts and alternatives on which the public can meaningfully comment, the Commission treats its draft EIS as a data request to the developers—a mere stepping stone on the Commission's way to gathering more information and eventually understanding the impacts of the proposed project. This draft EIS reads like a laundry list of missing and incomplete information. But that falls far short of what NEPA requires.
- Nowhere is the problem of self-dealing with the Atlantic Coast Pipeline more apparent than in the discrepancies between the electricity demand forecasts from PJM and Dominion Virginia Power. PJM is the regional transmission organization that manages the electrical transmission grid in all or parts of thirteen states, including Virginia and North Carolina, and the District of Columbia. . . PJM's 2017 forecast for the Dominion zone is substantially less—approximately 3,500 MW less—than Dominion Virginia Power's own projection from its 2016 integrated resource plan proceeding at the Virginia State Corporation Commission.
- . . . disposal of the excess material created by ridgeline construction along the entire length of the ACP and SHP corridors would require spoil deposition on hundreds or even thousands of acres of land, with attendant impacts to water quality. . . Because FERC has failed to analyze the critical issue of excess spoil disposal in any meaningful way, the DEIS does not satisfy NEPA.

(Note: Included in an attachment are the results of a study of a two-mile segment of the route in Pocahontas County, WV. It is estimated that the ridgetop removal occurring in this short segment would produce a volume of spoilage equal to an 8-story building with the circumference of a football field!)

U.S. Department of Interior, National Park Service

- As proposed, the pipeline will cross the Appalachian National Scenic Trail in Augusta and Nelson County, Virginia . . . The proposed method of construction uses the horizontal directional drill (HDD) method . . . NPS supports the Forest Service position that no construction would take place on National Forest System lands until the HDD or contingency crossing is successful.

Southern Environmental Law Center

- Relying on the claims of need from Atlantic, the draft EIS fails to provide a meaningful analysis of the “no action” alternative or existing pipeline alternatives that would increase incremental gas delivery capacity in Virginia and North Carolina. . . recent analysis from Synapse Energy Economics indicates that existing natural gas infrastructure is sufficient to meet demand through 2030 even under a high gas demand scenario that is unlikely to occur. The Commission cannot gloss over or ignore these alternatives. In doing so in the draft EIS, its fails to meet its NEPA obligations.
- The most significant problem in the draft EIS with respect to the proposed route through the MNF and GWNF stems not from an inadequate analysis on the part of the Forest Service, but from Atlantic’s failure to timely submit critical information that would have provided the Forest Service the information it needs to adequately assess impacts to the National Forests and for the public to comment on that assessment.

Chesapeake Bay Foundation

- Multiple aspects of Project construction and operation will create risks of increased sedimentation to waterbodies across a wide swath of the Chesapeake Bay watershed in Virginia and neighboring states. . . Following construction, the risk of erosion and sedimentation from the previously-active construction sites, particularly from the denuded and disturbed segments on steep slopes, will continue throughout the Project’s operational periods.
- The DEIS’s strategy of referring to the presumed application of best management . . . fails to meet NEPA’s “hard look” requirement in the absence of a review of the state rules and an analysis of the expected effectiveness of these measures along the specific routes, and in the rugged terrain, at issue. It is well-settled that NEPA prohibits a federal agency to “pass the buck” to state regulatory agencies and thereby to circumvent its own NEPA obligation to conduct an adequate investigation

National Trust for Historic Preservation

- FERC’s pattern of denying requests from stakeholders interested in participating as consulting parties is not consistent with the Section 106 regulations. Upon information and belief, FERC has excluded local governments from participating as consulting parties, even though the Section 106 regulations explicitly require that “a local government with jurisdiction over the area in which the effects of an undertaking may occur is entitled to participate as a consulting party.”
- It is clear in the DEIS that FERC has not completed the process of assessing adverse effects on historic properties (or even the process of identifying all historic properties that are potentially affected). DEIS at 4-415. Most of the sites that have been identified have not yet been evaluated for their potential National Register eligibility.

In the News:

Local/Atlantic Coast Pipeline

USFS cites shortcomings in pipeline plan

- The Recorder – 4/13/17

http://www.abralliance.org/wp-content/uploads/2017/04/USFS_cites_shortcomings_in_pipeline_plan-Recorder_20170413.pdf

Shows renewed interest in a merged, or co-located project (with MVP)

Agency urges Dominion to avoid karst terrain

- The Recorder – 4/13/17

http://www.abralliance.org/wp_content/uploads/2017/04/Agency_urges_Dominion_to_avoid_karst_terrain-Recorder_22170413.pdf

The recommendation was part of a 186- page response to the Federal Energy Regulatory Commission's draft Environmental Impact Statement for the proposed Atlantic Coast Pipeline.

River groups protest open trench variance

- The Recorder – 4/13/17

http://www.abralliance.org/wp-content/uploads/2017/04/River_groups_protest_open_trench_variance-Recorder_20170413.pdf

Many cite 500-foot open trench limit as crucial to protecting water resources and preventing landslides and heavy erosion

Pipeline politics stir Virginia governor's race

- Culpeper Star-Exponent – 4/9/17

http://www.dailypress.com/starexponent/news/pipeline-politics-stir-virginia-governor-s-race/article_141bb392-7e80-5ea4-a3f1-d8b8foec0fe5.html

How times have changed...get ready for arguments over who was against the pipelines first!

Oppose Atlantic Coast Pipeline

- The Transylvania Times – 4/13/17

<http://www.transylvaniatimes.com/story/2017/04/13/opinion/oppose-atlantic-coast-pipeline/32108.html>
North Carolina needs to step into the 21st Century. It is a much cleaner world with lower electricity costs.

Related:

- <http://www.wilsontimes.com/stories/pipeline-protesters-plan-appeals-to-gov-cooper-county-commissioners.83381>

Regional/Mountain Valley Pipeline, other

Law firm disputes W.Va. water quality permit for pipeline

- The Roanoke Times – 4/11/17

http://www.roanoke.com/business/news/law-firm-disputes-w-v-a-water-quality-permit-for-pipeline/article_53b8f7c6-6680-5e7a-8e4a-4e2afoaa98d.html

"This pipeline threatens some of the most sensitive and ecologically valuable headwaters streams in the state.
The WVDEP can't get this wrong."

Gibbs' visit energizes opponents of Mountain Valley Pipeline

- The Roanoke Times – 4/11/17

http://www.roanoke.com/news/local/roanoke_county/gibbs-visit-energizes-opponents-of-mountain-valley-pipeline/article_baf66241-9284-5858-0ceo-e9bad8aa6629.html

Beginning last week, Gibbs, 65, founder of the Center for Health, Environment and Justice, teamed with the Blue Ridge Environmental Defense League to travel the routes of the proposed Atlantic Coast Pipeline and Mountain Valley Pipeline to help rally opponents to the multi-billion-dollar projects.

Pipeline Construction Would Scar Appalachian Trail Vistas

- Appalachian Voices – 4/13/17

<http://appvoices.org/2017/04/13/pipelines-and-appalachian-trail/>

The 300-mile Mountain Valley Pipeline and the 600-mile Atlantic Coast Pipeline would bore underneath the Appalachian Trail and require temporarily clearing as much as a 200-foot-wide right-of-way in some areas.

Q&A: A Virginia lawmaker challenges utility over customer charges

- Southeast Energy News – 4/12/17
<http://southeastenergynews.com/2017/04/12/qa-a-virginia-lawmaker-challenges-utility-over-customer-charges/>

“This is what you get the way Dominion spreads donations to lawmakers like manure in a farm yard.”

Big Picture:

Rex Tillerson wastes no time: The State Department rewrote its climate change page

- Salon – 4/14/17
http://www.salon.com/2017/04/14/rex-tillerson-wastes-no-time-the-state-department-rewrote-its-climate-change-page_partner/

New website language provides clues for how the State Department will address climate change

G7 fails to agree Paris climate statement as US turns spoiler

- Climate Home – 4/10/17
<http://www.climatechangenews.com/2017/04/10/g7-fails-agree-paris-climate-statement-us-turns-spoiler/>

All G7 nations, except the US, expressed support for the Paris climate accord, but the Trump administration did back an end to fossil fuel subsidies

Related:

https://www.washingtonpost.com/news/energy-environment/wp/2017/04/14/trumps-epa-chief-scott-pruitt-calls-for-an-exit-to-the-paris-climate-agreement/?utm_term=.aec19e23e981

Federal commission releases Columbia gas pipeline impact study

- Fairfax County Times – 4/13/17
http://www.fairfaxtimes.com/articles/federal-commission-releases-columbia-gas-pipeline-impact-study/article_ffebce8c-208c-11e7-abbf-7f7d78c5bdeo.html

FERC says WB Xpress will not significantly affect environmental quality

Cuomo: 'You need natural gas' as bridge to renewable energy

- The Buffalo News – 4/11/17
<http://buffalonews.com/2017/04/11/cuomo-natural-gas-pipelines-needed-right/>

Cuomo defended the state Department of Environmental Conservation's decision last Friday to reject National Fuel's proposed half-billion Northern Access Pipeline

Related:

<https://www.nrdc.org/experts/kimberly-ong/gov-cuomo-blocks-northern-access-pipeline>

New U.S. pipelines to drive natural gas boom as exports surge

- Reuters – 4/12/17
<http://www.reuters.com/article/us-usa-lng-pipelines-analysis-idUSKBN17E2CH>

Pipeline capacity from Pennsylvania, Ohio and West Virginia was around 23 bcf/d in 2016, according to the EIA and Thomson Reuters data. If all pipes under construction are completed, that would rise to more than 35 bcf/d.

EDITORIAL: Stop the pipeline proliferation

- Daily Record – 4/6/17
<http://www.dailypaper.com/story/opinion/editorials/2017/04/06/stop-pipeline-proliferation/100138758/>

FERC issues FEIS determining no major impacts of PennEast Pipeline, but many questions remain

Related:

<http://www.philly.com/philly/business/energy/PennEast-Pipeline-FERC-EIS-approval-Marcellus.html>

America sets new record: Electricity's carbon footprint shrinks, renewable energy use increases

- Salon – 4/14/17
http://www.salon.com/2017/04/14/america-sets-new-record-electricitys-carbon-footprint-shrinks-renewable-energy-use-increases_partner/

But overall carbon emissions are likely to grow, absent good policy decisions moving forward