



## *ABRA Update #145 – August 31, 2017*

### **Comments Due September 5 on Whether to Accommodate the ACP**

Next Tuesday, September 5 is the deadline for comments to be submitted to the U.S. Forest Service (NFS) in response to the agency's proposal to amend the Forest Plans for the George Washington and Monongahela National Forests to permit construction of the Atlantic Coast Pipeline. The NFS had published on July 21 its Draft Decision Document which concluded: "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." The proposal, which ABRA opposes because it is based on insufficient evidence to support the decision, was discussed in more detail in ABRA Update 140.

Details on how to file objections to the NFS proposal are set forth here.

### **Two VA State Agencies Call for Greater Scrutiny of ACP**

The Virginia Department of Conservation and Recreation (DCR) has once again raised concerns about the impact of the Atlantic Coast Pipeline (ACP). [In comments filed August 21 with the Federal Energy Regulatory Commission \(FERC\)](#), DCR provided supplemental information to FERC on the ACP Final Environmental Impact Statement (FEIS), released on July 21. The state agency said that it "continues to recommend the avoidance of all conservation sites intersected by the pipeline footprint." The comments specifically raised concerns about the proposed construction of the ACP through certain areas of karst. Expressing serious concerns about ACP's proposed route through Highland County, Virginia's Valley Center area, DCR said:

extreme vigilance during and post-construction and strict adherence to the provisions of the Karst Mitigation Plan and other pollution control measures is essential to the minimization of risk during construction and operation of the pipeline in this area. DCR-DNH requests an updated Karst Survey Report from Atlantic including the areas that have not been surveyed within the pipeline footprint and continued coordination with this office.

Dominion's own karst consultant recommended against routing the pipeline in this area for the same reasons cited by DCR. Dominion rejected the consultant's recommendation.

The week before, the Virginia Department of Health filed [comments on August 18](#) with the Virginia Department of Environmental Quality (DEQ) in response to DEQ's request for comments on the FEIS on the ACP. The comments noted that the FEIS "recommends that field surveys for wells and springs within 150 feet of the construction workspace (500 feet in karst terrain) be completed prior to construction." The Department of Health made a counter recommendation, that "a complete sanitary survey along the pipeline's path be performed by a team of persons with expertise in geology, hydro-geology, epidemiology, and public health." It further recommended that "a sanitary survey within at least 1,000 feet on either side of the

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pipeline be performed to ensure people and properties using local and regional groundwater and surface water for recreational use or human consumption are identified and protected. The sanitary survey should also include all private wells and springs identified as potential receptors as part of ACP's Karst Mitigation Plan."

## **Chesapeake Bay Foundation Urges VA Water Board to Decline 401 Approval**

The Chesapeake Bay Foundation (CBF) has urged the Virginia State Water Control Board (WCB) to "recognize that the draft Certification fails to meet Congress's intent when it granted the states the responsibility to protect state waters through CWA § 401, to decline approval of the draft Certification and to remand the matter to DEQ for further work consistent with these comments." The CBF, a 50-year-old non-profit organization dedicated to preserving the Chesapeake Bay, said the certification recommendation submitted to the WCB "does not rest on reasonable assurance that that water quality in receiving streams – including the tributaries and other waters subject to the Chesapeake Bay . . . – will be protected."

Among points made by the CBF in its [August 22 comments](#) are:

- The states' role in evaluating and certifying a federal project has never been more important than it is here, given the Project's scope and potential to impact hundreds of small streams as well as larger tributaries that drain to the Chesapeake Bay. Decades of Bay restoration work . . . have made it clear that pollution to tributary streams is a major and ongoing cause of Bay degradation; without protecting them, the Chesapeake Bay will never be restored.
- DEQ has proposed to address the Project's § 401 certification in two separate segments. For activities impacting uplands . . . DEQ devised and followed a new Project review procedure . . . For activities impacting stream crossings and wetlands, DEQ deferred review and certification to the U.S. Army Corps of Engineers (USACE) and its Nationwide 12 permit. We believe the bifurcated certification process was inappropriate and the draft Certification reflects serious omissions and weaknesses that contradict the agency's conclusion that there is "reasonable assurance" of water quality protection. In these circumstances, the State Water Control Board ("Board") must decline to approve the draft Certification and remand it to DEQ for necessary modifications.
- The § 401 certification process requires states to assess whether a federally-permitted project like the one at issue here will violate the state's water quality standards. . . No such information or analysis of the likely quantity and timing of discharges that may affect water quality appears in this record. . . The absence of this information in a proposed § 401 certification for a project of this magnitude is, frankly, stunning.

## **Another Pipeline Is Denied 401 Certification by New York State**

Millennium Pipeline's Valley Lateral Project has been denied a water quality certificate by the New York State Department of Environmental Conservation. The action follows an earlier decision by the NY state agency to deny a similar permit, required by Section 401 of the Clean Water Act, to the Constitution Pipeline, which has effectively stopped that project from being built, pending a review by the U.S. Supreme Court.

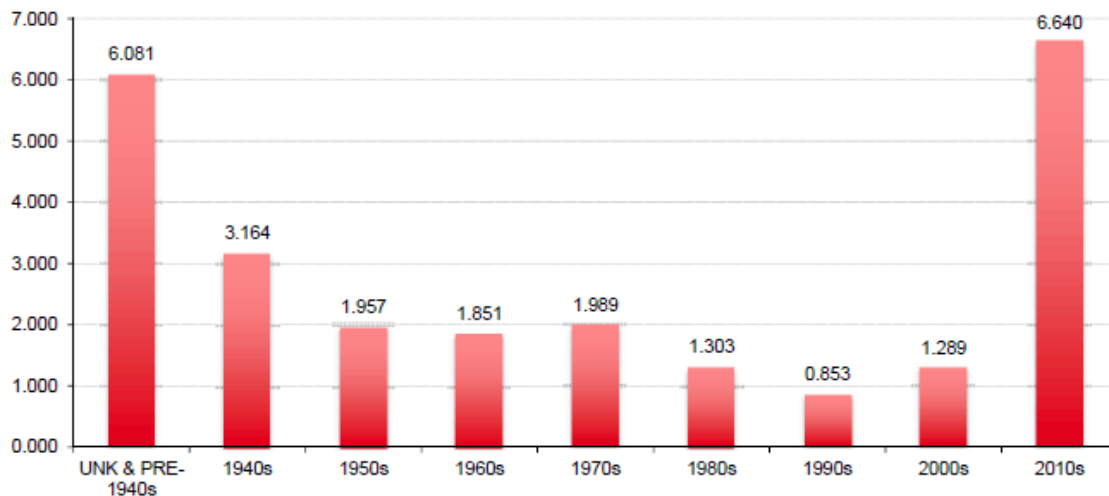
The agency's [August 30 decision letter](#) cites as a major reason for the denial [the August 22 decision by the 2<sup>nd</sup> District U.S. Court of Appeals \(District of Columbia\)](#) that found the Federal Energy Regulatory Commission (FERC) had not properly considered climate change as a factor in its 2016 approval of the Sabal Trail Pipeline in Florida.

## New Report Details Safety Concerns of the ACP in North Carolina

Clean Water for North Carolina has released 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](#)," relies on the Final Environmental Impact Statement (FEIS), released August 21 by the Federal Energy Regulatory Commission. The FEIS identified "24 High Consequence Areas in the NC section of the proposed pipeline, located in 7 counties. These are areas within which the extent of damage to property or the chance of serious injury or death are significant. This is generally taken as 20 or more occupied buildings located within a hazardous distance from the pipeline, or where there are particularly vulnerable populations."

The report notes the alarming increase in pipeline safety incidents for those projects constructed since 2010, based on information from the U.S. Pipeline and Hazardous Material Safety Administration.

**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 report also points out that "seven of the eight counties 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."

## ***In the News:***

### **Local/Atlantic Coast Pipeline**

#### **The Buck Stops Here: Time for Virginia's Leaders to Take Responsibility for the Pipelines**

- Blue Virginia – 8/26/17  
<http://bluevirginia.us/2017/08/the-buck-stops-here-time-for-virginias-leaders-to-take-responsibility-for-the-pipelines>
- Related:
  - <https://therepublicanstandard.com/time-to-start-talking-about-the-democratic-civil-war-over-the-pipeline/>

#### **Agencies favor pipeline path change**

- The Recorder – 8/31/17  
[https://www.abralliance.org/wp-content/uploads/2017/08/Agencies\\_favor\\_pipeline\\_path\\_change-ecorder\\_20170831.pdf](https://www.abralliance.org/wp-content/uploads/2017/08/Agencies_favor_pipeline_path_change-ecorder_20170831.pdf)
- The agency whose mission is to conserve Virginia's biodiversity recommends a major rerouting of the proposed Atlantic Coast Pipeline, away from conservation sites.

#### **Pipeline Battle**

- Virginia Business – 8/2017  
<https://content.yudu.com/web/1sfs5/0A1shn6/August2017/html/index.html?page=24>

#### **Federal Court Ruling Gives Pipeline Opponents New Ammo**

- Public News Service – 8/28/17  
<http://www.publicnewsservice.org/2017-08-28/energy-policy/federal-court-ruling-gives-pipeline-opponents-new-ammo/a59188-1>

#### **Dominion vows 'habitat' on pipeline route, but critics scoff**

- The Daily Progress – 8/26/17  
[http://www.dailyprogress.com/newsvirginian/news/local/dominion-vows-habitat-on-pipeline-route-but-critics-scoff/article\\_bef2fo2e-8ac0-11e7-a5c6-0fd3c905c02a.html](http://www.dailyprogress.com/newsvirginian/news/local/dominion-vows-habitat-on-pipeline-route-but-critics-scoff/article_bef2fo2e-8ac0-11e7-a5c6-0fd3c905c02a.html)
- Pipeline opponents say the plan is little more than window dressing, adding that the damage to endangered bees and other insects from the pipeline construction itself will far outweigh 750 acres of new habitat.

### **Regional/Mountain Valley Pipeline, other**

#### **Virginia Supreme Court agrees to hear another appeal of pipeline surveying law**

- The Roanoke Times – 8/25/17  
[http://www.roanoke.com/townnews/law/virginia-supreme-court-agrees-to-hear-another-appeal-of-pipeline/article\\_52ec21d0-b671-51ec-a391-1b1d6239f5f3.html](http://www.roanoke.com/townnews/law/virginia-supreme-court-agrees-to-hear-another-appeal-of-pipeline/article_52ec21d0-b671-51ec-a391-1b1d6239f5f3.html)
- Though the surveying for the pipelines is mostly complete, the issue of property rights, fundamental to Americans' values and way of life, is still alive and kicking.

#### **Environmental groups urge Fayette Commission to reject pipeline zoning**

- The Register-Herald – 8/29/17  
[http://www.register-herald.com/news/environmental-groups-urge-fayette-commission-to-reject-pipeline-zoning/article\\_4a3806bc-5d9c-537e-8e40-e3d16e51a27d.html](http://www.register-herald.com/news/environmental-groups-urge-fayette-commission-to-reject-pipeline-zoning/article_4a3806bc-5d9c-537e-8e40-e3d16e51a27d.html)
- The Sierra Club and Appalachian Mountain Advocates formally requested Monday that the Fayette County Commission deny the necessary zoning change to allow Mountain Valley Pipeline LLC (MVP) to build a compressor station in their county.

## **CIA Veteran Sees Russian Connection to 2 Groups Opposing Fracking, Pipelines**

- The Daily Signal – 8/25/17

<https://dailysignal.com/2017/08/25/cia-veteran-sees-russian-connection-to-2-groups-opposing-fracking-pipelines/>

## **Big Picture:**

### **For Scott Pruitt's EPA, Climate-Change Denial Is Mission Critical**

- The Nation – 8/30/17

<https://www.thenation.com/article/for-scott-pruitts-epa-climate-change-denial-is-mission-critical/>

The new EPA head refuses to acknowledge the most basic conclusions of climate science and has recruited researchers to try to discredit scientific evidence he disagrees with.

### **Oil and gas allies to Trump: Slow down**

- Politico – 8/25/17

<http://www.politico.com/story/2017/08/25/oil-and-gas-allies-want-trump-to-slow-down-242008>

While the industry has generally cheered the administration's approach, there are growing worries that its efforts could backfire.

### **FERC approves NEXUS Gas pipeline project**

- Utility Dive – 8/29/17

<http://www.utilitydive.com/news/ferc-approves-nexus-gas-pipeline-project/503745/>

The order is among the first issued by the Federal Energy Regulatory Commission's new quorum, and signals the commission is ramping up after months with just one or two commissioners.

### **Virginia's heat climbs while leaders nap**

- Star-Tribune – 8/30/17

[http://www.chathamstartribune.com/opinion/article\\_48727420-8d80-11e7-8e08-870234992817.html](http://www.chathamstartribune.com/opinion/article_48727420-8d80-11e7-8e08-870234992817.html)

### **The Federal Energy Regulatory Commission Issues Guidelines for Reporting on Cultural Resources Investigations for Natural Gas Projects: A Summary of the Tribal Engagement Provisions**

- JD Supra – 8/29/17

<http://www.jdsupra.com/legalnews/the-federal-energy-regulatory-82749/>

The advisory provides an overview of the new FERC guidelines under the NHPA that pertain to natural gas projects that traverse Indian lands or otherwise impact traditional cultural properties of Tribes.