



ABRA Update #153 – October 26, 2017

State Water Control Board Told It *Can* Say No!

In a comprehensive, strongly-worded letter sent this week 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 [October 25 letter](#) highlighted the key legal issues confronting the SWCB in reviewing the proposed pipeline projects:

- “1. The Board has well-established legal authority to deny 401-certification for the Atlantic Coast and Mountain Valley pipelines to protect water quality.
- “2. DEQ has not provided the Board the information it needs to conclude that it has reasonable assurance” that state water quality standards will be protected.
- “3. DEQ has excluded from consideration other critical information that is necessary for the Board to determine that there is “reasonable assurance” that water quality standards will be protected.”

Signatories of the letter were: Ben Lockett, Appalachian Mountain Advocates; Margaret Sanner, Chesapeake Bay Foundation; Tammy Belinsky, Preserve Craig; Greg Buppert, Southern Environmental Law Center; and David Sligh, Wild Virginia.

Forest Service Rejects All Objections to Its Plan to Approve the MVP

Objections filed with the U.S. Forest Service (USFS) to the agency’s Draft Decision Document to amend the Forest Plan of the Jefferson National Forest so that construction of the Mountain Valley Pipeline (MVP) can proceed have been rejected out of hand by Deputy Regional Forester Frank Beum. [Mr. Beum’s October 19 letter](#) in response to the 760 individual objections that were filed with the (USFS) by the August 7 comment deadline “determined that the proposed amendment meets the required law, regulation, and policy.” The decision clears the way for the eventual issuance of a Special Use Permit to allow the MVP to cross 3.5 miles of the Jefferson National Forest.

A draft decision document for the Atlantic Coast Pipeline, setting forth proposed amendments to the Forest Plans of the George Washington and Monongahela National Forests, was issued on July 21. A response to objections filed regarding that document have not yet been issued.

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ACP Implementation Plan Filed with FERC

The approval document issued by Federal Energy Regulatory Commission (FERC) for the Atlantic Coast Pipeline listed 73 environmental conditions to which the project is subject (see [ABRA Update 152](#)). Many of those listed conditions are to be included in the Implementation Plan that is to be filed for the project. The plan was filed with FERC last week. The [827-page document](#) includes project plans and schedules for how the pipeline is to be built, addressing such topics as migratory birds, karst mitigation and timber removal.

FERC Chairman Openly Admits Pro-Industry Bias

Neil J. Chatterjee, current Chairman of the Federal Energy Regulatory Commission (FERC), last week, stated he does not believe it is the agency's responsibility or capability to question an applicant company's claim that it needs to build a new pipeline. In an [October 17 address](#) before the Federal Energy Bar in Washington, DC, Chairman Chatterjee set forth as his most important priority the streamlining of FERC's regulatory process:

"The FERC review process continues to get longer and longer due in large part to increased participation in the process by stakeholders, including numerous legal challenges.

"I anticipate that a flashpoint for many of those legal challenges will be the question of economic need for a new natural gas pipeline project.

"The dissents to Friday's decisions approving the Atlantic Coast and MVP pipeline projects suggested that FERC should depart from its longstanding policy of relying on precedent agreements with shippers to demonstrate economic need in favor of weighing a broad range of economic, social and aesthetic values. Although I respect my colleague's position on this question, I strongly disagree.

"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 D.C. (emphasis added)

"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.

For more on the Chatterjee remarks, see the *Recorder* story below in In the News, "Pipeline opponents argue agency's bias to industry unfair."

Congressmen Ask Attorney General About Prosecuting Pipeline Protestors

Eight-four Members of the U.S. House of Representatives sent a letter to Attorney General Sessions this week 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) - posed several questions in their [October 23 letter](#), including whether existing federal statutes "adequately arm the DOJ to prosecute criminal activity against energy infrastructure at the federal level?"

The congressmen's letter comes the same week that the [Energy Builders Energy Infrastructure Incident Reporting Center](#) was announced. The Center's website lists incidents of what it considers to be "criminal attacks on critical energy infrastructure." Among the incidents

the website lists as qualifying as one of “violence, sabotage, illegal trespass or other opposition misconduct” is the [September 15 demonstrations in Richmond](#) at the offices of the Virginia Department of Environmental Quality. Energy Builders proclaims itself as “a grassroots coalition of workers, local businesses, civic leaders, unions and American families who work directly in or support the energy delivery supply chain.” In reality, Energy Builders is a program of the [Energy Equipment and Infrastructure Alliance](#), a coalition of companies involved in the shale energy supply chain.

In the News:

Local/Atlantic Coast Pipeline

Pipeline opponents argue agency’s bias to industry unfair

- The Recorder – 10/26/17

<https://www.abralliance.org/wp-content/uploads/2017/10/Pipeline-opponents-argue-agencys-bias-to-industry-unfair-Recorder-20171026.pdf>

Virginia cannot approve proposed natural gas pipelines lacking critical information about impacts on state waters

- Augusta Free Press – 10/25/17

<http://augustafreepress.com/virginia-cannot-approve-proposed-natural-gas-pipelines-lacking-critical-information-impacts-state-waters/>

ACP builders submit new plans for erosion control

- The Robesonian – 10/24/17

<http://www.robsonian.com/news/104058/acp-builders-submit-new-plans-for-erosion-control>

The previous plans were disapproved on Sept. 26 by officials with the DEQ’s Division of Energy, Mineral and Land Resources. A letter of disapproval was issued with requests for additional information.

Our Opinion: County leaders stand up for residents stuck in gas pipeline’s path

- The Wilson Times – 10/20/17

<http://www.wilsontimes.com/stories/county-leaders-stand-up-for-residents-stuck-in-gas-pipelines-path,100792>

Group of Lawmakers Suggests Calling Pipeline Sabotage Domestic Terrorism

- Natural Gas Intelligence – 10/25/17

<http://www.naturalgasintel.com/articles/112211-group-of-lawmakers-suggests-calling-pipeline-sabotage-domestic-terrorism>

Related:

- <http://pulse.ncpolicywatch.org/2017/10/25/pipeline-builders-group-starts-incident-database-track-protests/#sthash.asjJaYI2.dpbs>

Regional/Mountain Valley Pipeline, other

Mountain Valley Pipeline still faces hurdles before construction

- The Roanoke Times – 10/20/17

http://www.roanoke.com/news/local/roanoke-county/mountain-valley-pipeline-still-faces-hurdles-before-construction/article_713fa99e-e721-5133-a08f-14380c17cb6d.html

State-level permits now critical to projects’ full approval are now the focus of opposition groups.

Related:

- <https://www.wsls.com/news/virginia/roanoke/roanoke-county-to-request-rehearing-on-ferc-s-pipeline-certification>

Forum to examine pipeline health impacts

- The Roanoke Times – 10/24/17

http://www.roanoke.com/business/news/franklin_county/forum-to-examine-pipeline-health-impacts/article_20a85559-3a41-54d2-a6d9-2b86c1902edo.html

Thursday's event is co-sponsored by Roanoke College, the Greater Roanoke Valley Asthma and Air Quality Coalition, and Physicians for Social Responsibility.

10 Reasons to Stop Mtn. Valley & Atlantic Coast Pipelines

- NRDC – 10/23/17

<https://www.nrdc.org/experts/amy-mall/top-ten-concerns-mountain-valley-atlantic-coast-pipelines>

There's time to stop them from being constructed, and opportunities for citizens to engage in protecting their future.

The Politicization of Energy Regulation in Virginia

- Bacon's Rebellion – 10/20/17

<http://baconsrebellion.com/the-politicization-of-energy-regulation-in-virginia/>

Bacon's take on the RTD series regarding the relationship between Dominion, the General Assembly, the SCC, etc., and what it means for us ratepayers and light bulb users.

Big Picture:

Congressional Auditor Urges Action to Address Climate Change

- The New York Times – 10/23/17

<https://www.nytimes.com/2017/10/23/climate/gao-climate-change-cost.html>

One estimate projects that rising temperatures could cause losses in labor productivity of as much as \$150 billion by 2099.

Rick Perry's power grid plan gets pushback from Texas energy companies like Exxon

- Dallas News – 10/26/17

<https://www.dallasnews.com/business/energy/2017/10/26/exxon-others-give-rick-perrys-power-grid-plan-warm-texas-welcome>

Even coal-heavy utilities are calling for FERC to reject the plan.

Related:

- <https://www.eenews.net/stories/1060064583>
- <https://dailyenergyinsider.com/news/8642-us-manufacturers-ask-ferc-stop-doe-notice-proposed-rulemaking/>
- <http://blogs.edf.org/energyexchange/2017/10/23/department-of-energys-proposal-to-ferc-too-many-costs-no-actual-benefits/>

Natural gas pipeline groups call on US Army Corps to break permitting logjam

- Platts – 10/25/17

<https://www.platts.com/latest-news/natural-gas/washington/natural-gas-pipeline-groups-call-on-us-army-corps-21354590>

Faced with repeated rejections of interstate natural gas pipelines in New York, a key industry trade group is hoping the US Army Corps of Engineers may be able to assist, as well as exploring whether to pursue Clean Water Act changes.

FERC Order Signals States Can't Delay Pipeline Rulings

- Law360 – 10/20/17

https://www.google.com/url?rct=j&sa=t&url=https://www.law360.com/articles/975989/ferc-order-signals-states-can-t-delay-pipeline-rulings&ct=ga&cd=CAEYFCoUMTY2NjUyMzc2MTU4MzAyNjY2MzkyHGU4MwZiMzI3OTQyZTljYmM6Y2qtOmVuOlVTOLl&usq=AFQjCNEb-lmMyPzWkqb_eSRaWOKmWIHQ6A

An organization that supplies the energy industry with equipment and machinery is tracking protests against oil and gas pipeline projects, including those that are peaceful demonstrations.

Data shows two companies stand alone in their New England pipeline practices

- Environmental Defense Fund – 10/23/17

<http://blogs.edf.org/energyexchange/2017/10/23/data-shows-two-companies-stand-alone-in-their-new-england-pipeline-practices/>

Questions raised about potential price manipulation in NE gas markets.

Fitch: Low costs will continue to drive renewable energy expansion

- Electric Light & Power – 10/26/17

<http://www.elp.com/articles/2017/10/fitch-low-costs-will-continue-to-drive-renewable-energy-expansion.html>

A drop in the cost of installing solar and wind power over the last decade should ensure sustained renewables growth in all major markets, with much less reliance on government incentives, Fitch Ratings says.

Related:

- <https://energy.economictimes.indiatimes.com/energy-speak/india-s-stellar-renewable-energy-story-the-road-ahead/2673>
- <https://qz.com/1111998/renewable-energy-is-creating-us-jobs-twice-as-fast-as-any-other-industry/>