



## *ABRA Update #164 – January 18, 2018*

### **ABRA Members Sue Virginia Over ACP Approvals**

A coalition of environmental and conservation organizations, including 12 members of ABRA, filed 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 late on January 18 by the Southern Environmental Law Center (SELC) and Appalachian Mountain Advocates on behalf of the client group, charges 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.

The plaintiffs include the following ABRA members: Appalachian Voices, Chesapeake Climate Action Network, Cowpasture River Preservation Association, Friends of Buckingham, Highlanders for Responsible Development, Jackson River Preservation Association, Shenandoah Riverkeeper, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network, the Sierra Club, Virginia Wilderness Committee, and Wild Virginia.

In separate legal actions, also taken on January 18, SELC on behalf of the Sierra Club, Defenders of Wildlife and Virginia Wilderness Committee filed a legal challenge to a decision by the U.S. Fish and Wildlife Service, and a legal challenge on behalf of the Sierra Club and The Virginia Wilderness Committee to a decision by the National Park Service. The agencies both issued permits for the pipeline. These decisions further highlight agency failures to adequately review crucial information in a process that is being driven by developers rather than regulators.

A copy of the lawsuit challenging the SWCB decision will be posted on the ABRA website on Friday.

### **Virginia DEQ Shuts Down Public Input, Curbs Water Board in 401 Process**

The Virginia Department of Environmental Quality (DEQ) has proclaimed that there is to be no further input from the public in the final stages of water quality certification (under Section 401 of the federal Clean Water Act) for the Atlantic Coast Pipeline, and has also purported to limit the further role of the State Water Control Board in the process.

This astounding action came to light in a [posting on the agency's website](#), apparently made on Friday, January 12 (the final day of the McAuliffe Administration). The pronouncement contradicts the expressed understanding of members of the SWCB regarding the Board's continuing role in the process, as well as of the need for further public input, based on a transcript of comments made by Board members at the December 12 SWCB meeting.

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The DEQ posting states, in the following excerpts (portions underlined for emphasis):

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. DEQ has not imposed any specific deadlines on ACP for the submittal of information other than those included in the certification. The deadline for submitting information necessary for the certification to become effective is at the discretion of ACP. Therefore, an estimate for the delivery and publication of the written report to the board has not been made.

Upon submittal of the report documenting approval of the Supplemental Karst Evaluation Plan annual standards and specifications, erosion and sediment control plans, and stormwater management plans, Virginia's Section 401 water quality certification for activities in upland areas becomes effective. No further action by the board is required for the certification to become effective. As provided in the certification, the board may, after review of the report, consider further actions on the certification. The matter is before the board at its discretion without additional public comment on whether further action is warranted. When or if the certification will be an agenda item at a future board meeting is unknown at this time.

## **DPMC Asks Virginia Governor to Restore Integrity to Pipeline Reviews**

The Dominion Pipeline Monitoring Coalition (DPMC) has written Virginia Governor Ralph Northam asking that he order responsible state officials to correct the failures and improper actions exhibited by the Department of Environmental Quality and State Water Control Board in its improper decision to issue water quality certifications for the Atlantic Coast Pipeline and Mountain Valley Pipeline. The group's [January 17 letter](#) urged prompt action, stating that: "Timing is vital. Degradation of our waters could be imminent if you fail to act and act quickly."

DPMC requested that three specific actions be taken that are in accordance with the Governor's previously stated views he voiced as Lieutenant Governor and as a candidate for Governor:

- "1. Your environmental officials must use their authority to review and approve or disapprove waterbody crossings covered by the Corps of Engineers' general permit.
- "2. Your environmental officials must prohibit *any and all* activities related to construction of the pipelines that might affect water quality unless and until all requirements of the WQCs are met.
- "3. Your environmental officials must ensure that before the ACP certification is deemed effective: a) remaining plans submitted by the company are made available to the public for review and comment and that DEQ considers and addresses those comments, b) DEQ makes a final recommendation to the SWCB, based on its review of the final plans and of public submissions, and c) DEQ requests formal Board action on its recommendation."

## Urge Governor Northam to Insist on a Credible 401 Review of the ACP & MVP

An on-line petition to Virginia Governor Northam, who was inaugurated last weekend, urges that he “ensure that DEQ’s continued investigation of pipeline impacts on Virginia’s waters is transparent, thorough and grounded in the best available scientific and engineering data — as you called for in the past and as you promised in your campaign.” The petition effort is organized by Appalachian Voices. All Virginians are asked to add their names to this important effort by signing the petition [here](#).

## Request Your Congressman to Ask FERC to Rehear ACP and MVP Decisions

In the wake of Virginia [Sen. Kaine’s January 5 letter](#) asking that the Federal Energy Regulatory Commission to rehear its decisions on the Mountain Valley Pipeline and the Atlantic Coast Pipeline, a campaign is underway to encourage other Members of Congress to make similar requests to the agency. [The Sierra Club has launched an online effort to facilitate congressional communications](#). ABRA members are urged to participate.

## *In the News:*

### Local/Atlantic Coast Pipeline

#### Atlantic Coast Pipeline permitting process unfolds in Nelson

- The News & Advance – 1/17/18

[http://www.newsadvance.com/news/local/atlantic-coast-pipeline-permitting-process-unfolds-in-nelson/article\\_98bca654-fbca-11e7-89cc-4744979cf303.html](http://www.newsadvance.com/news/local/atlantic-coast-pipeline-permitting-process-unfolds-in-nelson/article_98bca654-fbca-11e7-89cc-4744979cf303.html)

The ACP is required to go before the Board of Zoning Appeals to obtain variances for 11 floodplain crossings in the county.

#### Pipeline faces another hurdle

- The Robesonian – 1/11/18

<http://www.robsonian.com/news/106496/pipeline-faces-another-hurdle>

The N.C. Department of Environmental Quality’s Division of Energy, Mineral and Land Resources issued a disapproval letter Jan. 4 to the pipeline’s builders. The letter addresses the builders’ erosion and sediment control plan for the northern portion of the pipeline route proposed for North Carolina.

### Regional/Mountain Valley Pipeline, other

#### Efforts to take land for the Mountain Valley Pipeline challenged by property owners

- The Roanoke Times – 1/13/18

[http://www.roanoke.com/business/efforts-to-take-land-for-the-mountain-valley-pipeline-challenged/article\\_12dc22bb-b61a-569b-8565-c2a8a68d74b1.html](http://www.roanoke.com/business/efforts-to-take-land-for-the-mountain-valley-pipeline-challenged/article_12dc22bb-b61a-569b-8565-c2a8a68d74b1.html)

Even as it asks a federal judge to allow it to run a natural gas pipeline through land it does not own, Mountain Valley Pipeline LLC is considering changes to the pipeline’s route.

#### Revisit pipeline fed decision

- The Franklin News-Post – 1/11/18

[http://www.thefranklinnewspost.com/editorials/revisit-pipeline-fed-decision/article\\_44a2a40a-f725-11e7-b478-2b7c763ca50f.html](http://www.thefranklinnewspost.com/editorials/revisit-pipeline-fed-decision/article_44a2a40a-f725-11e7-b478-2b7c763ca50f.html)

U.S. Sen. Tim Kaine (D-Virginia) has joined others in calling on FERC to step back and set a rehearing on this consequential matter and also the Atlantic Coast Pipeline. Though unlikely to be heeded, Kaine’s request deserves full consideration.

## Virginia Legislators Face a Flood of New Clean Energy Bills

- Blue Virginia – 1/15/18

<https://bluevirginia.us/2018/01/virginia-legislators-face-a-flood-of-new-clean-energy-bills>

Related:

<http://www.theenergycollective.com/ivy-main/2419714/2018-bills-virginia-energy-efficiency-storage-electric-vehicles>

## Senate panel kills electricity rate freeze bill, promises bipartisan solution to come

- The Roanoke Times – 1/15/18

[http://www.roanoke.com/news/politics/general\\_assembly/senate-panel-kills-electricity-rate-freeze-bill-promises-bipartisan-solution/article\\_83aedd09-69d7-51eb-b10c-2fa3ca255363.html](http://www.roanoke.com/news/politics/general_assembly/senate-panel-kills-electricity-rate-freeze-bill-promises-bipartisan-solution/article_83aedd09-69d7-51eb-b10c-2fa3ca255363.html)

Related:

- [https://pilotonline.com/opinion/columnist/guest/article\\_562a0b6e-7d25-5436-b6e5-61f28b7bed4f.html](https://pilotonline.com/opinion/columnist/guest/article_562a0b6e-7d25-5436-b6e5-61f28b7bed4f.html)

- [http://www.richmond.com/news/virginia/government-politics/general-assembly/senate-committee-kills-bill-to-ban-campaign-donations-from-public/article\\_98fdc546-b271-571a-98c4-5cf50853bobe.html](http://www.richmond.com/news/virginia/government-politics/general-assembly/senate-committee-kills-bill-to-ban-campaign-donations-from-public/article_98fdc546-b271-571a-98c4-5cf50853bobe.html)

## Big Picture:

### The planet just had its hottest 4 years in recorded history. Trump is dismantling efforts to fight climate change.

- The Washington Post – 3/1/17

[https://www.washingtonpost.com/news/energy-environment/wp/2018/01/18/2017-was-among-the-planets-hottest-years-on-record-government-scientists-report/?utm\\_term=.db75562c214e](https://www.washingtonpost.com/news/energy-environment/wp/2018/01/18/2017-was-among-the-planets-hottest-years-on-record-government-scientists-report/?utm_term=.db75562c214e)

### FERC plans fuel-neutral approach to reviewing responses in grid resiliency docket

- Daily Energy Insider – 1/16/18

<https://dailyenergyinsider.com/featured/10136-ferc-plans-fuel-neutral-approach-reviewing-responses-grid-resiliency-docket/>

### FERC Concludes New York Did Not Waive Authority to Issue Water Quality Certificate for Gas Pipeline Project

- Washington Energy Report – 1/16/18

<https://www.troutmansandersenergyreport.com/2018/01/ferc-concludes-new-york-not-waive-authority-issue-water-quality-certificate-gas-pipeline-project>

Related:

<https://stateimpact.npr.org/pennsylvania/2018/01/15/after-new-setback-constitution-pipeline-says-it-will-fight-ferc-order/>

### A Few Cold Days Should Not A Pipeline Make

- NJ Spotlight – 1/18/18

<http://www.njspotlight.com/stories/18/01/17/a-few-cold-days-should-not-a-pipeline-make/>

The connection PennEast tries to make between a cold snap and its unneeded project just doesn't exist. And here are the facts to prove that.

### The Case Against More Natural Gas Pipelines

- WBUR NPR – 1/16/18

<http://www.wbur.org/cognoscenti/2018/01/16/natural-gas-pipelines-frederick-hewett>

Related Audio:

<http://www.wbur.org/bostonmix/2018/01/12/region-need-more-pipelines>

## **Xcel Energy receives shockingly low bids for Colorado electricity from renewable sources**

- Daily Camera – 1/16/18

[http://www.dailycamera.com/news/boulder/ci\\_31598113/xcel-energy-receives-shockingly-low-bids-colorado-electricity](http://www.dailycamera.com/news/boulder/ci_31598113/xcel-energy-receives-shockingly-low-bids-colorado-electricity)

What stands out about the response Xcel received is that wind sources with storage are now cheaper than coal generation, and solar plus storage is now cheaper than about 75 percent of coal generation in the state, according to CarbonTracker.

Related:

- <http://www.wired.co.uk/article/renewable-energy-competition-market>