



ABRA Update #170 – March 1, 2018

Federal Court Sides with ACP in Eminent Domain Cases

The Federal District Court for the Western District of Virginia ruled Wednesday night, February 28, against landowners and in favor of the Atlantic Coast Pipeline, LLC. (ACP). The twenty-seven cases before the Court were in response to ACP's motions for partial summary judgment and for a preliminary injunction granting the company immediate possession of the properties. ACP claimed it needs immediate possession by March 1 to complete tree felling before that activity is foreclosed in mid-March by the Migratory Bird Act. Otherwise, claims ACP, 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." In other excerpts from the opinion, Judge Moon stated:

- "The Landowners have failed to undermine ACP's arguments in favor of immediate possession. This Court joins the many courts throughout this country that have held pipelines are irreparably harmed by being required to wait to access easements until after a trial on just compensation."
- In commenting upon one Buckingham County, VA case, the Judge said that the landowner "raised interests that do implicate the timing of ACP's access, but I find both that she will be able to mitigate the effects of ACP's immediate access and that ACP's need to begin construction on time outweighs her interests. These harms, and the harms the unrepresented Landowners will face, are real. However, the Court is confident that they will be at least partially 'blunted by [the landowners'] right to draw down the money' posted by ACP. The Landowners' harms must be balanced with the equally real harms that ACP will face if its construction is delayed. I find the balance of the equities tips in ACP's favor."
- "This Court fully understands that condemnation often forces landowners to part with land that they would prefer to keep for many reasons, including sentimental ones. The Supreme Court has framed these losses 'as part of the burden of common citizenship.' But as the evidence before the Court demonstrated, this burden can be heavy. While the Court cannot repay the Landowners for these personal associations with their property, a bond will be set and a fund will be established to allow the Landowners to be compensated, subject to a final determination of value after trial."

Don't Miss it!

ABRA's Pipeline CSI Meeting - March 3, 1:30-5 pm
Holiday Inn, 152 Fairway Lane, Staunton, VA (I-81 and Rt. 262)
To Register: <https://www.abralliance.org/pipeline-csi-meeting-registration/>

Augusta County Nixes ACP Storage Yard Permit

A proposed storage yard for the Atlantic Coast Pipeline in Augusta County, VA, to be located on U.S. 42 north of Churchville, has been denied a permit from the County Board of Zoning Appeals. The action late Thursday caps three months of consideration by the Board, which voted 4-1 to deny the request on the basis that it is incompatible with the neighborhood and there is a potential for traffic hazard and damage to water quality. For, see *News Leader* story below.

In neighboring Highland County, the local Planning Commission has agreed to delay its consideration of two ACP storage yards – one in McDowell, the other south of Monterey – until after a public hearing March 29. For more, see the *Recorder* story below (“Highland County Plans Dominion Public Hearings”).

New Study Details Impacts to Stream Crossings of ACP and MVP

The Natural Resources Defense Council (NRDC) this week released a report that studies the impact on waterbodies in Virginia 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 focuses 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. Among the threats and likely impacts to waterways in Virginia by the proposed pipelines that are cited in the study are:

- **Erosion and sedimentation:** Sedimentation of streams would increase because of pipeline construction, even well after construction is complete. While some amount of sedimentation occurs naturally, excess sediment in streams is considered a pollutant, which can impact fish and other aquatic life. In Virginia, impacts would occur in streams that are both pristine and those already impaired by sedimentation.
- **Drinking water:** Six drinking water assessment areas would be crossed by the two pipelines in Virginia, including over 75 water crossings, some less than one mile from water supply reservoirs and as close as 1.1 miles from water supply intakes.
- **Trout waters:** Numerous wild, native, and stocked trout streams would be directly impacted by the pipelines, including 73 water crossings deemed highest-concern by Trout Unlimited.
- **Environmental justice:** The proposed paths of the pipelines cross through or near several disadvantaged communities and could threaten water quality, including drinking water, in these communities.
- **The Chesapeake Bay:** The ACP’s proposed 864 water crossings in the Chesapeake Bay watershed would make attaining mandated sediment load reductions in the Chesapeake Bay Watershed Agreement more difficult.

- **Wetlands:** Over 315 acres of Virginia wetlands would be impacted by construction of the two pipelines, including the permanent conversion of over 75 acres of forested wetlands to less desirable wetlands.

The study concludes that due to these varied impacts, a more detailed analysis of threats should be performed before final permits are issued for the two pipeline projects.

Tree-Cutting to Begin in National Forest for MVP

The Supervisor of the Jefferson National Forest, Joby Timm, announced late Wednesday (2/28) that tree cutting associated with the Mountain Valley Pipeline can commence. While a Special Use Permit for the MVP had been issued earlier, the authority to cut trees required a separate approval process. Supervisor's Timm's announcement states:

This week, the Mountain Valley Pipeline Project will begin cutting trees in their right-of-way on National Forest Service lands. Cutting is anticipated to take approximately two weeks. To protect soil stability, the trees will then be left on the right-of-way until the project is ready to begin construction in May 2018.

The pipeline right-of-way crosses 3.6 miles of the JNF in Monroe County, West Virginia and Giles and Montgomery Counties in Virginia. The Forest Service anticipates a minimal disruption to the public during tree cutting on the right-of-way. The roads that will be utilized are primarily closed year-round to public motorized use or closed when work is anticipated.

This project supports federal policies emphasizing energy infrastructure, jobs, economic growth, and our agency's efforts to provide for multiple use. The Forest Service authorization also continues to provide for social, economic, and ecological sustainability of the JNF.

For more information, please visit the George Washington and Jefferson National Forests website.

Tree cutting for the Atlantic Coast Pipeline in the Monongahela and George Washington National Forests has not begun, as of this writing.

Another Congressman Requests of FERC Rehearing on the ACP and MVP

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

In his [February 26 letter to FERC Chairman Kevin McIntyre](#), Cong. Beyer cited as a major reason for requesting a rehearing on the ACP and MVP the absence of two new Commissioners from the vote (Chairman McIntyre and Commissioner Richard Glick had not yet been seated when FERC voted 2-1 on October 13 to approve both pipelines). Noting the strong dissent from Commissioner LeFleur, Cong. Beyer observed that a "partial decision of this magnitude may not accurately reflect the position of FERC, and thus the Commission should allow for rehearings to ensure that the ruling fairly reflects the entire Commission." The Congressman's letter also noted that "the effects on water resources and fish and other aquatic species are still somewhat unknown" and that "all information be given special consideration."

Virginia Marine Resources Commission Schedules Hearing on ACP

A March 16, 9:30 am hearing in the Newport News City Council Chambers has been scheduled by the Virginia Marine Resources Commission to consider an application for the Atlantic Coast Pipeline, LLC to install a natural gas pipeline beneath the bed of 48 non-tidal streams and/or rivers with drainage areas greater than 5 square miles, which are considered to be State-owned subaqueous bottomlands of the Commonwealth, beneath 3 tidal streams and approximately 1.6 acres of tidal wetlands along the designated pipeline corridor in Highland, Bath, Augusta, Nelson, Buckingham, Prince Edward, Cumberland, Nottoway, Dinwiddie, Brunswick, Greensville and Southampton Counties and the Cities of Chesapeake and Suffolk.

The hearing follows a solicitation of written comments by the Commission in January. The Commission approved a similar application last month for the Mountain Valley Pipeline. Further details on the March 16 are [here](#).

In the News:

Local/Atlantic Coast Pipeline

Zoning board nixes permit request for Dominion storage yard

- News Leader – 3/1/18

<https://www.newsleader.com/story/news/local/2018/03/01/zoning-board-nixes-permit-request-dominion-storage-yard/384761002/>

The board voted 4-1 to deny the request on the basis that it is incompatible with the neighborhood and there is a potential for traffic hazard and damage to water quality.

Highland County plans Dominion public hearings

- The Recorder – 2/28/18

https://www.abralliance.org/wp-content/uploads/2018/03/Highland_County_plans_Dominion_public_hearings-Recorder_20180228.pdf

The planning commission voted to ratify a decision to indefinitely postpone a public hearing on proposed pipeline storage yards in McDowell and Monterey until the required information is received.

DEQ Approves Final Atlantic Coast Pipeline Stormwater Methodology

- The Roanoke Star – 2/23/18

<http://theroanokestar.com/2018/02/23/deq-approves-final-atlantic-coast-pipeline-stormwater-methodology/>

The methodology was said to be “subjected to a thorough review” and DEQ rejected several earlier versions of this technical document before approving the final release.

Nelson couple grants 'immediate access' for Atlantic Coast Pipeline

- The News & Advance – 2/27/18

http://www.newsadvance.com/news/local/nelson-couple-grants-immediate-access-for-atlantic-coast-pipeline/article_b9faeda6-1c0b-11e8-9d34-3bf4b38e0a4.html

Company surveying Atlantic Coast Pipeline route in NC lacks a current state license

- The Progressive Pulse – 2/28/18

<http://pulse.ncpolicywatch.org/2018/02/28/company-surveying-atlantic-coast-pipeline-route-nc-lacks-current-state-license/#sthash.PWkB56LL.dpbs>

This is at least the second time an unlicensed company has done work associated with the Atlantic Coast Pipeline. (in North Carolina)

State issues air quality permit for Atlantic Coast Pipeline project

- North Carolina DEQ – 2/27/18

<https://deq.nc.gov/news/press-releases/2018/02/27/updated-version-state-issues-air-quality-permit-atlantic-coast>

The state Department of Environmental Quality today issued an air quality permit for the Northampton Compressor Station for the Atlantic Coast Pipeline project.

Pipeline group to set up 'citizen air force'

- News Leader – 3/1/18

<https://www.newsleader.com/story/news/local/2018/03/01/pipeline-group-set-up-citizen-air-force/380799002/>

Citizens' group aims to maintain watch over Atlantic Coast Pipeline construction, should it continue moving forward.

Regional/Mountain Valley Pipeline, other

Pipeline protesters are sitting in trees along its route in an effort to stop construction

- The Roanoke Times – 2/28/18

http://www.roanoke.com/news/local/giles_county/pipeline-protesters-are-sitting-in-trees-along-its-route-in/article_6c6fd37f-b0e8-54bd-9ecb-eae7b8c650f4.html

The spot for a potential standoff with construction crews is on public land in the Jefferson National Forest.

State regulators promise 'vigilant' inspections of Mountain Valley Pipeline

- The Roanoke Times – 2/23/18

http://www.roanoke.com/business/news/state-regulators-promise-vigilant-inspections-of-mountain-valley-pipeline/article_954d66fc-bc1f-59bf-8517-9d1c05d9ea52.html

State regulators outlined a strategy Friday to monitor construction of the Mountain Valley Pipeline, which opponents fear will leave a trail of environmental damage through Southwest Virginia.

With few remaining detractors, bill overhauling utility regulation advances

- Richmond Times-Dispatch – 2/26/18

http://www.richmond.com/news/virginia/government-politics/general-assembly/senate-version-of-utility-regulation-overhaul-clears-house-of-delegates/article_044a7c06-1745-599c-987e-aa88274ab10e.html

The Dominion Energy-backed legislation that overhauls how Virginia regulates its two large electric utilities could be headed to Gov. Ralph Northam's desk by the end of next week.

Pipeline bills aim to protect landowners, not making much headway

- The State Journal – 2/26/18

https://www.wvnews.com/statejournal/energy/pipeline-bills-aim-to-protect-landowners-not-making-much-headway/article_da60a1a0-391e-55f2-a341-dfo401926eco.html

Officials voice growing concerns

- The Franklin News-Post – 2/28/18

http://www.thefranklinnews.com/news/officials-voice-growing-concerns/article_1e4c87ec-1c98-11e8-ba0b-d3ae17b8ca5e.html

Big Picture:

Why fossil fuels survive

- The Washington Post – 2/28/18

https://www.washingtonpost.com/opinions/why-fossil-fuels-survive/2018/02/28/4725cb3c-1cad-11e8-9de1-147dd2df3829_story.html?utm_term=.f126196ae609

The real obstacle is us — our vast dependence on fossil fuels and the difficulty of extricating ourselves without crippling the world economy.

Young Republicans push for GOP action on climate change

- The Verge – 3/1/18

<https://www.theverge.com/2018/3/1/17066656/students-for-carbon-dividends-coalition-climate-change-action-gop>

“We need more conservative voters to speak up and show support for climate action.”

True, but we need EVERYBODY to vote, show support, and step up and take ACTION against climate change. It WON'T be easy or cheap.

FERC staff: Eversource, Avangrid did not withhold pipeline capacity

- Utility Dive – 2/28/18

<https://www.utilitydive.com/news/ferc-staff-eversource-avangrid-did-not-withhold-pipeline-capacity/518061/>

Following up on a story from last fall.

New Jersey, continuing tug-of-war over PennEast, questions FERC tolling order

- Platts – 2/28/18

<https://www.platts.com/latest-news/natural-gas/washington/new-jersey-continuing-tug-of-war-over-penneast-10267344>

Related:

<https://stateimpact.npr.org/pennsylvania/2018/02/23/ferc-order-effectively-denies-appeals-of-penneast-approval-critics-say/>

Energy forecast: Wind power will rival gas

- The Berkshire Eagle – 2/28/18

<http://www.berkshireeagle.com/stories/energy-forecast-wind-power-will-rival-gas.533311>

Hydropower supply dries up with climate change

- DW – 3/1/18

<http://www.dw.com/en/hydropower-supply-dries-up-with-climate-change/a-42472070>

Climate change means some countries are experiencing severe droughts and reservoirs are drying up.