



## **ABRA Update #185 – June 14, 2018**

### **FERC Is Asked to Stop ACP Construction**

A motion was filed June 11 with the Federal Energy Regulatory Commission (FERC) requesting that the agency immediately revoke its May 11 authorization for construction to proceed in West Virginia for the Atlantic Coast Pipeline. The action, filed by the Southern Environmental Law Center on behalf of Defenders of Wildlife, Sierra Club and Virginia Wilderness Committee, was prompted by a report last week to ABRA's Compliance Surveillance Initiative (CSI) of construction activity occurring south of Buckhannon, West Virginia (in Upshur County). The construction work was subsequently verified by photographic evidence produced by the ABRA/CSI Pipeline Air Force, one example of which is below.



In its [motion filed with FERC](#), SELC said:

*Petitioners request that the Commission grant rehearing, immediately revoke the West Virginia Notice to Proceed, and stay all pipeline construction authorized by the Notice. On May 15, 2018 the Fourth Circuit Court of Appeals vacated the Fish and Wildlife Service's Incidental Take Statement for the Atlantic Coast Pipeline. Therefore, Atlantic and Dominion are not in compliance with two mandatory conditions of the project's Certificate*

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*Order: Environmental Condition 54 and Environmental Condition 10. Certificate Order, Appendix A, ¶¶ 10, 54. Both of these conditions require a valid incidental take statement before pipeline construction proceeds.*

Continuing, the motion argued that:

1. Endangered Species Act consultation is not complete for the project, and the Atlantic Coast Pipeline, LLC (Atlantic) and Dominion Energy are not in compliance with Environmental Conditions 54 and 10 of FERC's October 13, 2017 Certificate Order for the ACP. Condition 54 stipulates that construction cannot begin until after the process of complying with the Endangered Species Act is completed. Condition 10 requires that Atlantic must file with FERC all applicable authorizations required under federal law. SELC contends in its motion that Atlantic no longer has all applicable authorizations because it lacks a valid incidental take statement.
2. Atlantic, Dominion and FERC will violate Section 7(d) of the Endangered Species Act if pipeline construction continues before consultation is complete.
3. Atlantic, Dominion and FERC risk violation of the Endangered Species Act's prohibition on the "take" of protected species without a valid incidental take statement.

### **Reminder: Stream Crossing Comments Are Due This Friday**

Friday, June 15 is the deadline for submitting comments on the adequacy of the U.S. Army Corps of Engineers NWP 12 program for stream crossings of the Atlantic Coast Pipeline and the Mountain Valley Pipeline. Written comments may be submitted via hand-delivery to DEQ, 1111 East Main Street, Richmond, VA 23219; via postal mail to DEQ, P.O. Box 1105, Richmond, VA 23218; or via e-mail at the following email address(es) ONLY – emails and attachments sent to other email addresses or internet sites will not be considered:

- [NWP12InfoOnMVP@deq.virginia.gov](mailto:NWP12InfoOnMVP@deq.virginia.gov)
- [NWP12InfoOnACP@deq.virginia.gov](mailto:NWP12InfoOnACP@deq.virginia.gov)

All ABRA members are urged to file their own comments and encourage their members and constituencies to do so as well. To assist ABRA in its ongoing analysis of the issue of ACP stream crossings, please send copies of your filed comments to [lewfreeman@gmail.com](mailto:lewfreeman@gmail.com) or to ABRA, P.O. Box 96, Monterey, VA 24465.

### **CSI Seeks Team Leaders, Plans Training Workshops**

ABRA is assembling teams of incident investigators who can assist ABRA staff in checking out incidents of possible pipeline violations that are reported by volunteers into the Pipeline Compliance Surveillance Initiative (CSI). Persons interested in becoming part of such teams in Virginia or West Virginia are asked to contact Lew Freeman at [lewfreeman@gmail.com](mailto:lewfreeman@gmail.com). Please indicate your geographical location proximate to the route of the Atlantic Coast Pipeline.

Special orientation and training sessions to equip CSI volunteers with the knowledge and skills to enhance their monitoring efforts are now being conducted by representatives of the CSI Committee. The first of these will be held Wednesday, June 27, 6 to 8 pm at the Linwood Community Library, Snowshoe, WV, sponsored by the Eight-Rivers Council, an ABRA member organization. Other ABRA member organizations interested in sponsoring a similar training session are urged to contact ABRA Executive Director Lew Freeman at [lewfreeman@gmail.com](mailto:lewfreeman@gmail.com).

## Eminent Domain Movie To be Screened June 28 in Charlottesville

*Little Pink House*, the new film about the circumstances leading up to the U.S. Supreme Court decision in the famed Kelo case that upheld the right of private corporations to exercise eminent domain powers for private gain, will have a special screening on Thursday, June 28, 7:30 pm at the Regal Cinema at Stonefield, 1954 Swanson Drive Charlottesville, VA.

Tickets must be purchased in advance: <https://www.tugg.com/events/little-pink-house-dauw>. Proceeds will benefit Friends of Nelson, a founding member of ABRA. More details at: <https://www.facebook.com/events/345978402594792>.



### In the News:

#### Local/Atlantic Coast Pipeline

##### Environmental groups file petition to stop Atlantic Coast Pipeline construction

- Charlotte Business Journal – 6/13/18  
<https://www.bizjournals.com/charlotte/news/2018/06/13/environmental-groups-file-petition-to-stop.html>  
The groups allege that construction work in West Virginia, which the FERC authorized last month, violates the federal Endangered Species Act.  
Related:  
- <http://wvmetronews.com/2018/06/09/dominion-energy-predicts-little-impacts-from-federal-appeals-court-ruling/>

##### Waynesboro's Lewis wins Demo primary; Stewart gets GOP Senate nod

- The News Virginian – 6/12/18  
[http://www.dailypress.com/newsvirginian/news/politics/waynesboro-s-lewis-wins-demo-primary-stewart-gets-gop-senate/article\\_9c2fd8c8-6ea3-11e8-bbb9-a3a865a16847.html](http://www.dailypress.com/newsvirginian/news/politics/waynesboro-s-lewis-wins-demo-primary-stewart-gets-gop-senate/article_9c2fd8c8-6ea3-11e8-bbb9-a3a865a16847.html)  
Lewis will face Republican Ben Cline in November for the right to succeed retiring Rep. Bob Goodlatte, R-Roanoke.

##### Federal agency approves some in-stream pipeline work during fish-spawning season

- WV News – 6/13/18  
[https://www.wvnews.com/news/wvnews/federal-agency-approves-some-in-stream-pipeline-work-during-fish/article\\_5d17b86a-6ce9-5a0f-b2e3-1586bdfcb727.html](https://www.wvnews.com/news/wvnews/federal-agency-approves-some-in-stream-pipeline-work-during-fish/article_5d17b86a-6ce9-5a0f-b2e3-1586bdfcb727.html)

## Va. Secretary visits landowners affected by pipeline

- The Recorder – 6/13/18

[https://www.abralliance.org/wp-content/uploads/2018/06/VA-Secretary-visits-landowners-affected-by-pipeline-Recorder\\_20180613.pdf](https://www.abralliance.org/wp-content/uploads/2018/06/VA-Secretary-visits-landowners-affected-by-pipeline-Recorder_20180613.pdf)

## News Alert – Wintergreen Property Owners Request DEQ Intervention on Army Corps of Engineers Approval

- Blue Ridge Life – 6/13/18

<http://www.blueridgelife.com/2018/06/13/news-alert-wintergreen-property-owners-request-deq-intervention-on-army-corps-of-engineers-approval/>

Concerns raised over groundwater issues already presenting after initial tree clearing.

## Commission hears pipeline concerns

- The Record Delta – 6/11/18

<https://therecorddelta.com/article/commission-hears-pipeline-concerns>

Bridge safety, erosion, local jobs among concerns raised at Upshur County Commission meeting.

## Regional/Mountain Valley Pipeline, other

### Natural gas pipeline agrees to pay \$430,000 penalty for water pollution violations

- Charleston Gazette-Mail – 6/12/18

[https://www.wvgazettemail.com/news/natural-gas-pipeline-agrees-to-pay-penalty-for-water-pollution/article\\_da3b1828-ae83-5ac3-93bb-06f1a7fc8e37.html](https://www.wvgazettemail.com/news/natural-gas-pipeline-agrees-to-pay-penalty-for-water-pollution/article_da3b1828-ae83-5ac3-93bb-06f1a7fc8e37.html)

The consent order references violations dating back to April 2017, including failing to control erosion and keeping sediment water from leaving construction sites.

### Regulators cite Mountain Valley Pipeline a second time for erosion problems

- The Roanoke Times – 6/7/18

[http://www.roanoke.com/news/local/regulators-cite-mountain-valley-pipeline-a-second-time-for-erosion/article\\_bd4753bf-9fef-5f7a-8444-48a813965a27.html](http://www.roanoke.com/news/local/regulators-cite-mountain-valley-pipeline-a-second-time-for-erosion/article_bd4753bf-9fef-5f7a-8444-48a813965a27.html)

Crews building the natural gas pipeline failed to prevent sediment-laden water from running off at a work site in Wetzel County, West Virginia, according to a notice of violation issued last week by the state's Department of Environmental Protection.

### Impeded by protesters, MVP construction gets extension on tree cutting

- Charleston Gazette-Mail – 6/11/18

[https://www.wvgazettemail.com/news/impeded-by-protesters-mvp-construction-gets-extension-on-tree-cutting/article\\_a3181688-72a7-52b2-954a-bf4ab9dad9da.html](https://www.wvgazettemail.com/news/impeded-by-protesters-mvp-construction-gets-extension-on-tree-cutting/article_a3181688-72a7-52b2-954a-bf4ab9dad9da.html)

### Shingles: The DEQ is failing in its responsibility. Deliberately?

- The Roanoke Times – 6/12/18

[http://www.roanoke.com/opinion/commentary/shingles-the-deq-is-failing-in-its-responsibility-deliberately/article\\_a5fa805f-044e-5881-b10f-6f85f4787284.html](http://www.roanoke.com/opinion/commentary/shingles-the-deq-is-failing-in-its-responsibility-deliberately/article_a5fa805f-044e-5881-b10f-6f85f4787284.html)

Shingles, of Newport, is associate professor of political science emeritus at Virginia Tech and coordinator of Preserve Giles County.

### New VA governor calls review of DEQ the first step in rebuilding it

- Bay Journal – 6/11/18

[https://www.bayjournal.com/article/new\\_va\\_governor\\_calls\\_review\\_of\\_deq\\_the\\_first\\_step\\_in\\_rebuilding\\_it](https://www.bayjournal.com/article/new_va_governor_calls_review_of_deq_the_first_step_in_rebuilding_it)

Director ordered to inform Northam's office if 'critical updates' are needed to ensure permit process protects environment

## **Big Picture:**

### **Antarctic ice loss has tripled in a decade. If that continues, we are in serious trouble.**

- The Washington Post – 6/13/18  
[https://www.washingtonpost.com/news/energy-environment/wp/2018/06/13/antarctic-ice-loss-has-tripled-in-a-decade-if-that-continues-we-are-in-serious-trouble/?noredirect=on&utm\\_term=.a13457e12237](https://www.washingtonpost.com/news/energy-environment/wp/2018/06/13/antarctic-ice-loss-has-tripled-in-a-decade-if-that-continues-we-are-in-serious-trouble/?noredirect=on&utm_term=.a13457e12237)  
If the acceleration continues, some of scientists' worst fears about rising oceans could be realized, leaving low-lying cities and communities with less time to prepare than they had hoped.

### **LaFleur defies FERC majority, will consider broad climate impacts of pipelines**

- Utility Dive – 6/14/18  
<https://www.utilitydive.com/news/lafleur-defies-ferc-majority-will-consider-broad-climate-impacts-of-pipeline/525729/>  
Her position...could provide a model for how future commissions will approach the issue, should Democrats regain a majority.

### **FERC Chair Will Hire Review Experts ‘in a Heartbeat’ to Speed LNG, Pipe Certificates**

- Natural Gas Intelligence – 6/13/18  
<http://www.naturalgasintel.com/articles/114703-ferc-chair-will-hire-review-experts-in-a-heartbeat-to-speed-lng-pipe-certificates>  
FERC Chairman, Kevin McIntyre: "...I have no interest in initiating a review of our gas certificate policy area for the purpose of slowing anything down. My interest is in streamlining and making more efficient the processes that we have."

### **TransCanada's New 'Best-In-Class' Gas Pipeline Explodes in West Virginia, Causing Fiery Blast**

- DeSmog – 6/7/18  
<https://www.desmogblog.com/2018/06/07/new-transcanada-leach-xpress-pipeline-explodes-west-virginia>  
Ok, so now we know what “Best-In-Class” means. It ain’t good!  
Related:  
- <https://www.reuters.com/article/us-transcanada-pipeline-blast/transcanada-working-on-leach-xpress-natgas-pipe-after-west-virginia-blast-idUSKBN1J92RL>

### **Is the Trans Mountain Pipeline (and Other Fossil Fuel Investments) a Future Stranded Asset?**

- DeSmog – 6/9/18  
<https://www.desmogblog.com/2018/06/09/trans-mountain-pipeline-oil-gas-investments-future-stranded-asset>  
The modeling results show that the lower demand for fossil fuels leads to substantial stranded fossil fuel assets even if climate change policies are not adopted.

### **Sucking carbon out of the air won’t solve climate change**

- Vox – 6/14/18  
<https://www.vox.com/energy-and-environment/2018/6/14/17445622/direct-air-capture-air-to-fuels-carbon-dioxide-engineering>  
But it might fill in a few key pieces of the clean energy puzzle.

### **Global investment in wind and solar energy is outshining fossil fuels**

- The Star Business Journal – 6/12/18  
<https://www.thestar.com/wsj/technology/2018/06/12/global-investment-in-wind-and-solar-energy-is-outshining-fossil-fuels.html>