



ABRA Update #194 – August 23, 2018

State Water Board Declines to Revisit Permit Approvals for ACP and MVP

The Virginia State Water Control Board chose this week not to reconsider its previous decision to approve water quality certification for the Atlantic Coast Pipeline (ACP) and the Mountain Valley Pipeline (MVP). At its August 21 meeting in Richmond the Board rejected a motion, on a 3-4 vote, to modify or revoke the Board’s December action to approve a water quality certification that was based in part on the U.S. Corps of Army Engineers’ permit on stream crossings for the two pipelines. Instead, the Board approved a motion, 7-0, calling for the Department of Environmental Quality (DEQ) “to continue aggressive compliance, enforcement, inspection and enforcement activities” for the two pipelines.

Earlier in the meeting, DEQ staff briefed the Board about the more than 13,000 comments that had been filed about the adequacy of the Army Corps’ permits for the ACP and MVP. That was followed by a brief comment period during which several ABRA member representatives spoke. Representative of the strong words offered by many were those of David Sligh, Conservation Director for Wild Virginia:

The fact is that the Corps of Engineers’ permitting decision is not based on water quality standards. They explicitly say over and over that that is not their job, that’s the job of the states. . . For DEQ to tell you that they don’t intend to enforce certain parts of your water quality standards is atrocious and you should not accept that.”

In a statement released after the Board vote, Greg Buppert, senior attorney with the Southern Environmental Law Center, said:

The board’s action today squandered a powerful opportunity to protect the waters in communities across Virginia. We have seen firsthand that pipeline construction in Virginia cannot be done without causing serious and permanent sedimentation problems to rivers and streams. The ACP and MVP will cross Virginia waters more than a thousand times. The people of the Commonwealth deserve better than blanket assurances that everything will be ok when the facts on the ground show that they are not.”

The full text of the motion adopted by the Water Board follows:

The Board has reviewed the public comment received during the comment period, has heard the staff’s evaluation of the public comments and the sufficiency of the Nationwide Permit 12 to protect stream crossings impacted by the Mountain Valley Pipeline and the Atlantic Coast Pipeline.

The Board has also heard the staff’s report on the status of both projects regarding

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public complaints, compliance and enforcement and have considered advice of counsel as to the Board's jurisdiction and authority.

Based on the foregoing considerations, the Board directs DEQ staff:

(1) to share relevant information from the public comment period with the Corps of Engineers for their consideration in administering and enforcing Nationwide Permit 12 to ensure protection of state waters;

(2) to continue aggressive compliance, inspection and enforcement activities to the maximum extent of its authority, and to include incorporation of erosion and sediment measures required by the Department of Mines, Minerals and Energy where they are relevant and to the extent that they are more stringent; and

(3) to respond promptly and effectively to verified public complaints of violations.

Staff reports presented to the State Water Board at the meeting are available [here](#).

FERC Approves Stabilization Plan for ACP Work Stoppage

The Federal Energy Regulatory Commission (FERC) granted on August 17 permission for the Atlantic Coast Pipeline, LLC (ACP, LLC) to implement plans to conduct interim work on the Atlantic Coast Pipeline (ACP) during the period of the stop work order on the project. FERC had requested the plan as part of its August 10 stop work order for the project, which had been prompted by an August 6 federal court decision vacating two key permits for the ACP and a subsequent request made to the agency by several ABRA members for a stop work order to be issued.

[FERC's August 17 letter to ACP, LLC](#) authorizes the company "to implement the plans with the following condition: for locations where trees have been felled, but mainline construction activity has not yet started (table 3.1-1 of each plan), Atlantic and DETI must continue monitoring the right-of-way as dictated by weather conditions, but no less than once every month." Continuing, the letter states:

We note that clearing of felled vegetation has not yet occurred on federal lands. Thus, the stabilization measures (except for monitoring) would generally not apply to these locations. However, Atlantic must continue to work and seek concurrence from the appropriate agencies for any additional measures that Atlantic may propose on federal lands.

The ACP, LLC plan, submitted August 14, is available [here](#).

In the News:

Local/Atlantic Coast Pipeline

State agencies failed to act, groups assert

- The Recorder – 8/23/18

https://www.abralliance.org/wp-content/uploads/2018/08/State-agencies-failed-to-act-groups-assert-Recorder_20180823.pdf

Motion to revoke 401 permit fails...Board adopts motion that DEQ should "aggressively enforce" current requirements.

Virginia governor advised to freeze permits for Atlantic Coast, Mountain Valley gas pipelines

- S&P Global – Platts – 8/20/018

<https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/082018-virginia-governor-advised-to-freeze-permits-for-atlantic-coast-mountain-valley-gas-pipelines>

The Advisory Council on Environmental Justice cited concerns about "racism in the siting decision" for an Atlantic Coast compressor station, potential civil and human rights violations, and other practices that endangered the largely African American community in Union Hill in Buckingham County, Virginia.

The Baptists and the yogis join to fight a pipeline

- The Washington Post – 8/18/18

https://www.washingtonpost.com/local/virginia-politics/the-baptists-and-the-yogis-join-together-to-fight-a-pipeline/2018/08/18/9eb54816-9fe6-11e8-83d2-70203b8d7b44_story.html?utm_term=.c054491c72db

The Atlantic Coast Pipeline has created yet another "unlikely alliance" in Buckingham County.

Pipeline hoping shutdown is resolved within a matter of weeks, not longer

- The Record Delta – 8/23/18

<https://therecorddelta.com/article/pipeline-hoping-shutdown-is-resolved-within-a-matter-of-weeks-not-longer>

Dominion Energy workers and employees of the energy company's contractors are still being paid, and they have several tasks to complete despite the work stoppage.

5 Virginia Officials Involved in Regulating Dominion Energy Are Invested in the Company

- DeSmog – 8/21/18

<https://www.desmogblog.com/2018/08/21/5-virginia-deq-officials-regulating-dominion-energy-invested>

According to financial disclosures filed with the state's ethics council, four of them directly own stock in the company, while the wife of a fifth official works for Dominion.

Regional/Mountain Valley Pipeline, other

Water board stops short of revoking pipeline water permits, orders stronger enforcement

- Richmond Times-Dispatch – 8/21/18

https://www.richmond.com/news/virginia/government-politics/general-assembly/water-board-stops-short-of-revoking-pipeline-water-permits-orders/article_423100da-8c6a-5b7d-b3f2-6f8faccac2d2.html

Board essentially says: 'Keep on keepin' on...just do it better!'

Related:

- https://www.washingtonpost.com/local/virginia-politics/virginia-regulators-consider-revoking-permits-for-two-major-gas-pipelines-but-settle-for-stricter-enforcement/2018/08/21/95984c6a-a554-11e8-a656-943eefab5daf_story.html?utm_term=.d8db8961f361

Mountain Valley Pipeline releases as much as half of workforce due to stoppage

- WV News – 8/20/18

https://www.wvnews.com/news/wvnews/mountain-valley-pipeline-releases-as-much-as-half-of-workforce/article_737b2c1f-9d11-565a-9d6e-c7be6f5a3ab5.html

Despite stop work order, ACP, MVP get permission to continue building

- Charleston Gazette-Mail – 8/17/18

https://www.wvgazettemail.com/news/despite-stop-work-order-acp-mvp-get-permission-to-continue/article_492c2259-e260-52c9-a172-1ea78e944bef.html

MVP can continue work on the first 77 miles...ACP can continue with some road borings. Both may yet continue putting pipe in the ground. What exactly does "Stop Work Order" mean?

Big Picture:

Trump's New Pollution Rules Still Won't Save the Coal Industry

- The New York Times – 8/22/18

<https://www.nytimes.com/2018/08/22/climate/trump-coal-industry.html>

Potential rule does nothing to change market forces...coal is dying...let it go...

Related:

- <https://www.nytimes.com/2018/08/22/climate/trump-coal-car-regulations-climate-change.html>

Big oil asks government to protect it from climate change

- The Washington Post – 8/22/18

https://www.washingtonpost.com/national/energy-environment/big-oil-asks-government-to-protect-it-from-climate-change/2018/08/22/518cdf66-a61e-11e8-ad6f-080770dcddc2_story.html?noredirect=on&utm_term=.d87cad5f886d

Normally outspoken critics of federal spending, Texas Sens. John Cornyn and Ted Cruz both backed using taxpayer funds to fortify the oil facilities' protections and the Texas coast.

Water Use in Fracking Soars — Exceeding Rise in Fossil Fuels Produced, Study Says

- Inside Climate News – 8/15/18

<https://insideclimatenews.org/news/15082018/fracking-environmental-impacts-data-water-usage-oil-natural-gas-sand-pollution-study>

As drillers compete for oil and natural gas, more fluids are going into and out of each fracking well. Researchers warn it's headed for a tipping point.

Climate Change Has Already Hit Home Prices, Led by Jersey Shore

- Bloomberg – 8/23/18

<https://www.bloomberg.com/news/articles/2018-08-23/climate-change-has-already-hit-home-prices-led-by-jersey-shore>

The rest of the coastal U.S. won't be far behind.

Recent Arrests Under New Anti-Protest Law Spotlight Risks That Off-Duty Cops Pose To Pipeline Opponents

- The Intercept – 8/22/18

<https://theintercept.com/2018/08/22/recent-arrests-under-new-anti-protest-law-spotlight-risks-that-off-duty-cops-pose-to-pipeline-opponents/>

Eight people have been charged under Louisiana House Bill 727, which makes trespassing on "Critical Infrastructure" facilities...a category that explicitly includes oil pipelines...a felony. Critics say the law was designed to support the interests of the oil and gas industry.

Germany Has Proven The Modern Automobile Must Die

- Wired – 8/21/18

<https://www.wired.com/story/germany-proves-cars-must-die/>

"Collectively, cars and trucks account for nearly one-fifth of all U.S. emissions." In addition, automobile addiction encourages land use and development patterns that increase emissions, reduce the viability of public transport and isolate communities.