



ABRA Update #202 – October 18, 2018

West Virginia Proposes New Stormwater Permit

A new general permit that authorizes stormwater discharges from activities associated with oil and gas construction activities, including pipelines, in West Virginia has been proposed by the state's Department of Environmental Protection. The permit is a reissuance of the existing permit and will be in effect for a five-year term. The reissued permit strengthens many requirements from the existing general permit, requiring enhanced best management practices for Tier II and III streams and requiring groundwater protection plans to be reviewed. The deadline for public comments is October 21. Details on the oil and gas construction stormwater proposal and how to comment are available [here](#). The Atlantic Coast Pipeline and the Mountain Valley Pipeline are currently operating under the existing general stormwater permit, but would have to reapply and meet new standards under the new proposed permit if their respective projects are not completed by May 2019.

Legal Challenges to FERC Certificate and Other ACP Permits – An Update

There are now five principal legal challenges to the Atlantic Coast Pipeline (ACP). Here's a brief rundown of these challenges and their status:

- **FERC certificate** – A suit challenging the FERC certificate was filed August 16 with the 4th Circuit Court of Appeals by Southern Environmental Law Center (SELC) and Appalachian Mountain Advocates (Appalmad), on behalf of a group of ABRA member organizations and other plaintiffs. This followed FERC's refusal to reconsider its October 13, 2017 approval of a certificate for the ACP in a motion filed in January by the same group of plaintiffs. In the meantime, two other challenges to FERC's ACP decision were filed in the District of Columbia Circuit of Appeals. Under federal law, all cases challenging the FERC order for the ACP must be in a single circuit, so the SELC/Appalmad suit was re-assigned to the D.C. Circuit. SELC & Appalmad filed on October 15 a motion to transfer all ACP FERC proceedings from the D.C. Circuit to the 4th Circuit because of the deep experience that Circuit Court has with the ACP issues. A decision on the requested transfer is not expected until sometime in November.
- **Forest Service** – The challenge to the U.S. Forest Service's issuance of a Special Use Permit for the ACP on January 23 was [filed February 5 with the 4th Circuit Court of Appeals](#). Plaintiffs are a group of ABRA members and others, represented by SELC and Appalmad. [Oral arguments on the case were heard on September 28](#) and we await a decision by the court.

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| <p>Volunteer for ABRA's Pipeline CSI Program</p> <p><u>Volunteer</u></p> | <p>Submit a report to the Pipeline CSI</p> <p><u>Report</u></p> | <p>Stay informed, like us on Facebook.</p>  | <p>Support ABRA financially</p> <p><u>GiveNow</u></p> |
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- Virginia Section 401 Certificate – The December 12, 2017 decision by the Virginia State Water Control Board to conditionally approve a water quality certificate for the ACP, as required under Section 401 of the federal Clean Water Act, [was challenged in a suit filed January 18 by SELC and Appalmad](#) on behalf of a client group, most of whom were also plaintiffs in the Forest Service case. The [401 case was heard in oral argument before the 4th Circuit on September 28](#) and we await a decision.
- National Park Service Permit – The National Park Service ‘s (NPS) December 2017 approval for the ACP to cross underneath the Blue Ridge Parkway and the Appalachian National Trail was challenged in the 4th Circuit by the Sierra Club and the Virginia Wilderness Committee, represented by SELC. The [Court vacated the permit on August 6](#) and FERC issued a stop work order for the entire project on August 10. The stop work order was lifted September 17 when the NPS issued a new permit that purported to remedy the deficiencies in the earlier permit. That permit has been re-challenged by the plaintiffs in the 4th Circuit.
- Fish and Wildlife Service – The U.S. Fish and Wildlife Service’s (FWS) biological opinion on threats to endangered species by the ACP was vacated by the 4th Circuit Court of Appeals on May 5, but an opinion from the Court explaining its order was not issued until [August 6, as part of the same order vacating the NPS permit](#). As with the NPS permit, a new biological opinion was issued by the FWS that sought to meet the court’s objections. That re-issued opinion has also been challenged by the plaintiffs in the first case, the Sierra Club and the Virginia Wilderness Committee, represented by SELC.

Northam Rebuffs Environmental Justice Commission Recommendations

Virginia Natural Resources Secretary Matt Strickler has rebuffed recommendations made to Governor Northam on August 16 by the Governor’s Advisory Council on Environmental Justice (GACEJ) concerning the environmental justice impacts of the Atlantic Coast Pipeline (ACP) and the Mountain Valley Pipeline (MVP). The GACEJ’s letter essentially recommended a stay in pipeline construction work on the MVP and ACP until certain concerns were addressed. In a formal response to the Council, [Secretary Strickler’s October 16 letter to GACEJ members](#) said that FERC’s decision to approve the projects “preclude us from taking many of the actions that landowners, conservationists, and environmental justice advocates have asked us to take.” Continuing, Strickler said that the state’s Department of Environmental Quality “is focused on requiring that all federal and state health-based standards will be met on both a short-term and long-term basis. The Governor and I are watching closely to ensure that standard is met.”

In the News:

Local/Atlantic Coast Pipeline

FERC gives green light to tree cutting at Buckingham compressor site

- Richmond Times-Dispatch – 10/16/18

https://www.richmond.com/business/local/ferc-gives-green-light-to-tree-cutting-at-buckingham-compressor/article_12992c7b-cbeb-5ae4-82e4-251ff04fb659.html

Federal Energy Regulatory Commission staff this week granted a request to conduct non-mechanized tree clearing at ACP’s Buckingham County Compressor Station and at the nearby Woods Corner Metering and Regulating Station.

Related:

- <https://www.naturalgasintel.com/articles/116147-ferc-rejects-enviro-argument-oks-acp-tree-clearing-in-virginia>

‘Robeson Rises’ pipeline documentary wins Indigo Moon Film Festival award

- The Fayetteville Observer – 10/14/18
<https://www.fayobserver.com/news/20181014/robeson-rises-pipeline-documentary-wins-indigo-moon-film-festival-award>

Atlantic Coast Pipeline set to destroy rare Bath County old-growth forest

- News Leader – 10/17/18
<https://www.newsleader.com/story/opinion/columnists/2018/10/17/atlantic-coast-pipeline-set-destroy-bath-county-old-growth-forest/1669261002/>

OP-ED: The injustices of the Atlantic Coast Pipeline

- Technician – 10/14/18
http://www.technicianonline.com/opinion/article_6307dab6-d00d-11e8-99d2-bfa3f9cbb2aa.html

Regional/Mountain Valley Pipeline, other

Opponents seek a stop to 'reckless' construction of Mountain Valley Pipeline

- The Roanoke Times – 10/15/18
https://www.roanoke.com/news/local/opponents-seek-a-stop-to-reckless-construction-of-mountain-valley/article_e52eac2d-39fc-5316-808a-88baf83ea7f8.html
Three environmental groups and a nonprofit law firm are asking the Federal Energy Regulatory Commission to stop work on the natural gas pipeline, which is continuing outside of water bodies and crossings, for which it has lost federal permits.

Advisory council asks Northam to stop pipeline work, but governor passes

- The Roanoke Times – 10/17/18
https://www.roanoke.com/business/news/advisory-council-asks-northam-to-stop-pipeline-work-but-governor/article_e4243b18-d631-5201-99b0-83966292f4be.html
Nothing but more of the same lip service to “environmental standards”. Water, forests, property rights...now environmental justice may be added to the long list of issues that are less important than Dominion’s greed and donations.

In Virginia, local pipeline votes come with economic stakes attached

- Energy News Network – 10/17/18
<https://energynews.us/2018/10/17/southeast/in-virginia-local-pipeline-votes-come-with-economic-stakes-attached>
County supervisors who opposed Mountain Valley Pipeline now face decisions that could bring gas and jobs to their communities.

Video: Heavy Rains Turn Pristine Streams to “River of Sediment” Thanks to Mountain Valley Pipeline Construction Activities

- Blue Virginia – 10/12/18
<http://bluevirginia.us/2018/10/video-heavy-rains-turn-pristine-streams-to-river-of-sediment-thanks-to-mountain-valley-pipeline-construction-activities>

Flood carries a piece of the Mountain Valley Pipeline into the hands of opposing landowner

- The Roanoke Times – 10/12/18
https://www.roanoke.com/news/local/flood-carries-a-piece-of-the-mountain-valley-pipeline-into/article_2f9eb2e6-71b4-566c-bce5-659ad31f2dea.html
MVP asked for its pipe back. Landowner isn’t so sure...

Big Picture:

In North Carolina, hurricanes did what scientists could not: Convince Republicans that climate change is real

- The Washington Post – 10/18/18

https://www.washingtonpost.com/politics/in-north-carolina-hurricanes-do-what-scientists-could-not-persuade-republicans-that-climate-change-is-real/2018/10/17/45136c56-d0ac-11e8-8c22-fa2ef74bd6d6_story.html?utm_term=.2e0d0826de9a

“People see what’s happening. It’s in your face and it’s not going away.”

FERC’s LaFleur Sheds Light on Recent Natural Gas Pipeline Dissents

- Natural Gas Intelligence – 10/16/18

<https://www.naturalgasintel.com/articles/116135-fercs-lafleur-sheds-light-on-recent-natural-gas-pipeline-dissents>

LaFleur still speaking candidly about issues with FERC’s processes and policies...adding some clarity.

Rick Perry’s coal rescue runs aground at White House

- Politico – 10/15/18

<https://www.politico.com/story/2018/10/15/rick-perry-coal-rescue-trump-850528>

The White House has shelved the plan amid opposition from the president’s own advisers, according to four people with knowledge of the discussions.

Study That Failed to Back Trump’s Coal Rescue Plan Is Kept Under Wraps

- Bloomberg – 10/12/18

<https://www.bloomberg.com/news/articles/2018-10-12/study-that-fails-to-back-trump-coal-rescue-plan-kept-under-wraps>

A report commissioned by the Energy Department failed to reach conclusions favoring the Trump administration’s efforts to prop up coal and nuclear power -- and remains under wraps six months after submission.

Exxon is lobbying for a carbon tax. There is, obviously, a catch.

- Vox – 10/18/18

<https://www.vox.com/2018/10/18/17983866/climate-change-exxon-carbon-tax-lawsuit>

The oil giant wants immunity from lawsuits that would make it pay for the damages of climate change.

The Quiet but Furious Nationwide War Against Pipelines

- Vice – 10/11/18

https://www.vice.com/en_us/article/8xjen4/the-quiet-but-furious-nationwide-war-against-pipelines

“An Interstate Natural Gas Facility on My Land? What Do I Need to Know?” Quite a lot. But start out knowing that your opponents and your government have only their own interests in mind.

Corporate Renewable Energy Deals Smash Records in 2018

- GreenTech Media – 10/18/18

<https://www.greentechmedia.com/articles/read/corporate-renewable-energy-deals-smash-record-2018#gs.AvhUXhc>

U.S. corporate renewables procurement is on track to surpass 5 gigawatts by December, according to the latest figures from RMI.

2035: The renewable energy tipping point

- PV Magazine – 10/18/18

<https://www.pv-magazine.com/2018/10/18/2035-the-renewable-energy-tipping-point/>

But will it be soon enough?

Related:

- <https://www.pv-magazine.com/2018/10/17/there-is-no-alternative-to-a-world-of-100-renewables/>