



ABRA Update #214 – January 24, 2019

Army Corps, National Park Service Ask Court to Vacate Key ACP Permits

The U.S. Army Corps of Engineers filed a [motion on January 18 with the Fourth Circuit Court of Appeals](#) for a remand and vacating of the permit that the Huntington District of the Corps had issued for the Atlantic Coast Pipeline (ACP) to cross rivers and streams and West Virginia. The Court had previously issued a stay of the Nationwide 12 (NWP12) permit issued for the ACP by the Huntington District, as well as other NWP12 permits issued for the project by Corps districts in Pittsburgh, Norfolk and Wilmington that have jurisdiction over other portions of the ACP project. The motion is expected to be granted as it is unopposed. It only directly affects the portion of the ACP subject to the Huntington District's jurisdiction, the stays on stream and river crossings for the ACP in the other Corps districts remain in effect.

In a similar action (reported via email to the ABRA mailing list on January 19), the [U.S. Park Service January 17 filed a motion with the Fourth Circuit](#) asking for a voluntarily remand of the construction and right-of-way permits for the ACP. In the motion, the Park Service explains that upon the Court granting the request, the agency will vacate the previously issued permit for the ACP to cross the Blue Ridge Parkway and "consider whether issuance of a right-of-way permit for the pipeline to cross an adjacent segment of the Parkway is appropriate." The Fourth Circuit granted that motion on January 23.

Trump Reportedly Developing Plans to Increase Pipeline Construction

"The Trump administration is considering executive actions to boost the proliferation of pipelines across the United States and limit state interference on water permitting," according to an [in-depth article published January 24 in the E&E News publication Energywire](#). The report is based on multiple energy industry sources. According to *Energywire*:

Sources expect any executive action to broadly apply to infrastructure permitting, with a focus on easing transport of fossil fuels from the wellhead to market, either domestically or internationally. Doing so could include facilitating construction of pipelines across international borders, as well as LNG exports.

The industry source with direct knowledge of the executive action noted that its broader focus was to leverage "energy dominance" both geopolitically and to enhance the U.S. economy. The administration is looking at a variety of ways to eliminate or ease obstacles to those objectives.

Continuing, the *Energywire* article states:

EPA water chief David Ross told the Environmental Council of States' annual meeting this fall that the agency is considering changing policies for how much time states have to make their

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certification decisions — a move that many state groups including the Western Governors' Association, Association of State Wetland Managers and Association of Clean Water Administrators have already expressed concerns about.

Under the Clean Water Act, if states don't make their certification decisions "within a reasonable time" set by federal agencies, they waive their authority and a project can proceed without state action. The law itself is vague about when that clock starts, and EPA has previously interpreted it to mean the countdown begins once a state decides a permit application is complete.

CSI Program Shows Results, ACP Construction Violations Cited

ABRA's Compliance Surveillance Initiative (CSI) is demonstrating its worth, despite the limited construction that has occurred for the Atlantic Coast Pipeline. Based upon aerial surveillance flights over the project's route in West Virginia (conducted in November and December by the Pipeline Air Force, an arm of the CSI program), 22 potential incidents of non-compliance were noted and analyzed by CSI's team of analysts, and subsequently submitted by the West Virginia Rivers Coalition (WVRC, a cooperating partner of the CSI program) to the West Virginia Department of Environmental Protection (WVDEP). The WVDEP subsequently issued a Notice of Violation, including citations for:

- Erosion control devices not in place
- Water bars not installed
- Perimeter controls not in place

Below are some of the photos produced by recent CSI surveillance.



Above left: Pipeline Air Force photo of ACP construction in Dry Branch and Middle Mountain area in Pocahontas County. Above right: Citizen volunteer observer photo of ACP construction on Middle Mountain in Pocahontas County. In both instances, water bars are not installed as required for steep slope construction.

The central strength of ABRA's CSI program is its citizen volunteers. Many people have already signed on to be part of the program, but many more are needed. Persons interested in becoming CSI volunteers can sign up by clicking [here](#).

In the News:

Local/Atlantic Coast Pipeline

National Park Service reconsiders permit, creating uncertainty for \$7B Atlantic Coast Pipeline

- Charlotte Business Journal – 1/24/19
<https://www.bizjournals.com/charlotte/news/2019/01/24/national-park-service-reconsiders-permit-creating.html>
 Costs keep rising, profits keep receding...at what point do investors realize it was all just a mirage?
 Related:
https://www.wfae.org/post/permit-delays-raise-concerns-atlantic-coast-pipeline-owners?fbclid=IwAR2rqgemOnjps9GTTv-81VC2ZMmfj2qdZDGcAZce_V17NYRJOBQuUbcah4#stream/o

Bad news for environmental justice in Virginia

- The Washington Post – 1/24/19
https://www.washingtonpost.com/opinions/2019/01/24/bad-news-environmental-justice-virginia/?noredirect=on&utm_term=.3a2496c0292b
 Northam and Paylor have already sent the relevant messages on what Environmental Justice means to them.

Governor Cooper Refusing To Let Pipeline Workers Be Interviewed

- NPR WFAE – 1/24/19
<https://www.wfae.org/post/governor-cooper-refusing-let-pipeline-workers-be-interviewed#stream/o>
 And the circus continues over Dominion's North Carolina mitigation fund.

In wake of compressor station vote, Northam's order reconstitutes environmental justice advisory council

- Virginia Mercury – 1/23/19
<https://www.virginiamercury.com/2019/01/23/in-wake-of-compressor-station-vote-environmental-justice-advisory-council-to-be-reconstituted/>
 Shaken, not stirred, but will the state actually pay attention when it matters?

Former state board member was accused of 'working for the opposition' after raising concerns about pipeline construction damage

- Virginia Mercury – 1/18/19
<https://www.virginiamercury.com/2019/01/18/when-i-was-accused-of-working-for-the-opposition-after-raising-concerns-about-pipeline-construction-damage/>

SCC allows Dominion to improve security, but denies much of grid plan as too costly, too soon

- Richmond Times-Dispatch – 1/17/19
https://www.richmond.com/news/virginia/government-politics/general-assembly/scc-allows-dominion-to-improve-security-but-denies-much-of/article_01ff01eb-f592-5e5f-8075-ad6b87b6f5d0.html
 Plan does too little to protect monopoly rate-payers from unspecified costs of program.

Regional/Mountain Valley Pipeline, other

U.S. Supreme Court declines to hear challenge of Mountain Valley Pipeline

- The Roanoke Times – 1/22/19
https://www.roanoke.com/business/news/u-s-supreme-court-declines-to-hear-challenge-of-mountain/article_2a5bf945-a29e-506e-8426-22574ce7c74c.html
 The Supreme Court did not explain why it is not taking the case.

Roanoke attorneys seek criminal investigation of Mountain Valley Pipeline

- The Roanoke Times – 1/22/19

https://www.roanoke.com/news/local/roanoke-attorneys-seek-criminal-investigation-of-mountain-valley-pipeline/article_e6b5597a-034d-55ec-8481-545f222cea46.html?fbclid=IwAR3ILBr3iliDoZFaXcJxJGv-A_rswQimQ-NXBPFtzilbg4uAQRZqQoVnMY8

Crews building the Mountain Valley Pipeline may have violated civil and criminal laws by continuing construction in streams and wetlands after a permit was suspended.

Court filing asks judge to deny Mountain Valley's request for injunction against tree-sitters

- The Roanoke Times – 1/17/18

https://www.roanoke.com/business/news/court-filing-asks-judge-to-deny-mountain-valley-s-request/article_957c3f1f-28e5-5f33-98bf-e57bb531f9bb.html

States that judge should not be MVP's "enforcer" and that eminent domain can only be used against people who have some legal tie to the land in question.

Manchin's focus on pipelines may equal his love of coal

- E&E News – 1/18/19

<https://www.eenews.net/stories/1060117863>

One thing is for sure: he'll do whatever he can to get pipelines built and gas shipped out of West Virginia.

Related:

- https://www.wvgazette.com/news/manchin-we-re-going-to-surprise-a-lot-of-people/article_od36c42c-bbf7-5048-84fc-7b6ae9ffeffo.html?fbclid=IwARoOjsbTG9c5Tn9hlPiFLYtiHq17HuyXjv6XxwKo5v-K9Urrog8OGdo7570

Big Picture:

Climate Change's Giant Impact on the Economy: 4 Key Issues

- The New York Times – 1/17/19

<https://www.nytimes.com/2019/01/17/upshot/how-to-think-about-the-costs-of-climate-change.html>

Many of the big economic questions in coming decades will come down to just how extreme the weather will be, and how to value the future versus the present.

Pentagon: Climate change threatens military installations

- Politico – 1/18/19

<https://www.politico.com/story/2019/01/18/pentagon-military-installations-climate-1098095>

Investigation begins into Ohio pipeline explosion

- The Columbus Dispatch – 1/23/19

<https://www.dispatch.com/news/20190122/investigation-begins-into-ohio-pipeline-explosion>

The Unprecedented Surge in Fear About Climate Change

- The Atlantic – 1/23/19

<https://www.theatlantic.com/science/archive/2019/01/do-most-americans-believe-climate-change-polls-say-yes/580957/>

Everyone is worried...but nobody is willing to pay to clean up the mess...not even \$10 per month. Until that changes, our collective goose is cooked.

Related:

- <https://insideclimatenews.org/news/22012019/climate-change-survey-impact-now-americans-extreme-weather-george-mason-yale>

An All-Renewable Grid Is Economically Superior To Mixed Generation

- Clean Technica – 1/23/19

<https://cleantechnica.com/2019/01/23/an-all-renewable-grid-is-economically-superior-to-mixed-generation/>

Not a brief read, but an interesting one. And one that blows the "Bridge Fuel" argument out of the water.