



ABRA Update #221 – March 14, 2019

Who's on First? – A Round-up of Legal Challenges to the ACP

The lawsuit challenging the FERC certificate for the Atlantic Coast Pipeline (ACP) has finally been scheduled for briefs to be filed by April 5. The suit, which was filed August 16 with the 4th Circuit Court of Appeals but was re-assigned to the DC Circuit Court of Appeals, was brought on behalf of a group of ABRA member organizations and other plaintiffs. The plaintiffs are represented by Southern Environmental Law Center (SELC) and Appalachian Mountain Advocates (Appalmad). Arguments before the court are not expected to be scheduled until sometime in the Fall.

Here's a brief status report on two other pending cases that challenge ACP permits:

- 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, 2018 with the 4th Circuit Court of Appeals](#). Plaintiffs are a group of ABRA members and others, represented by SELC and Appalmad. The Fourth Circuit vacated the permit in a December 13 decision, thus denying the ACP the right to cross the Appalachian National Scenic Trail (ANST), which the Court said the U.S. Forest Service lacked the legal authority to grant. An appeal of that ruling to the entire Fourth Circuit (an *en banc* hearing before all fifteen of the Court's judges) was denied on February 25. Dominion Energy has said it will appeal the decision by late May to the U.S. Supreme Court. That appeal has not yet been made. It is worth noting that only about one percent of the cases that are appealed to the Supreme Court are heard.

In the meantime, Dominion has been lobbying Congress since the Fourth Circuit's December decision to have language added to pending legislation that would override the Court's vacating of the Forest Service permit to cross the ANST. To date, those lobbying efforts have not succeeded. [ABRA asks that contacts be made with Members of Congress to urge them to oppose such an action.](#) For the Action Alert, click [here](#).

- Air Permit for Buckingham Compressor Station – The January 8 decision by the Virginia Air Pollution Control Board to grant an air permit for the proposed ACP compressor station in Buckingham County, VA was challenged in a lawsuit filed with the Fourth Circuit Court of Appeals by the Southern Environmental Law Center on behalf of Friends of Buckingham. A proposed briefing schedule for the case will be filed in early May, with arguments in the case not likely until sometime this Fall.

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West Virginia House of Delegates Condemns Those Opposing the ACP

The lead article in the March 7 *ABRA Update* reported that the Rules Committee of the West Virginia House of Delegates had approved a resolution (House Resolution 11) condemning "assaults on the Atlantic Coast Pipeline and other urgently needed energy infrastructure projects." Later that night, after *Update* had been emailed, the House of Delegates overwhelmingly approved House Resolution 11 by an 80-17 vote (3 members did not vote). All Republican members who voted supported the measure, plus 21 of the 40 Democrats in the House. The text of the bill as introduced is available [here](#). An identical resolution was introduced in the West Virginia Senate in mid-February, Senate Resolution 42, but no action on the resolution was taken before the West Virginia General Assembly adjourned on March 9.

In the News:

Local/Atlantic Coast Pipeline

ACP On The Trail To The Supreme Court

- BTU Analytics – 3/7/19

<https://btuanalytics.com/acp-appalachian-trail/>

Atlantic Coast Pipeline's timeline since the project was announced in 2014 is filled with authorizations, approvals, revocations, stays and court decisions all leading to an over two-year delay of the project.

Remain vigilant, pipeline opponents told

- The Recorder – 3/14/19

https://www.abralliance.org/wp-content/uploads/2019/03/Remain-vigilant-pipeline-opponents-told-Recorder_20180314.pdf

Dominion Energy continues fight for future of Atlantic Coast Pipeline project

- WV News – 3/11/19

https://www.wvnews.com/dominion-energy-continues-fight-for-future-of-atlantic-coast-pipeline/article_2698f66b-ffe9-5701-8311-9b11c7b61124.html

Dominion Energy has vowed to take the fight to defend its Atlantic Coast Pipeline project all the way to the Supreme Court. It has tried tack on riders to unrelated pending legislation. What avenue will it pursue next?

Senate passes added whistleblower protections by unanimous vote

- The LaurinburgExchange – 3/14/19

<https://www.laurinburgexchange.com/news/23440/senate-passes-added-whistleblower-protections-by-unanimous-vote>

Regional/Mountain Valley Pipeline, other

State board's vote in Mountain Valley Pipeline's favor raises questions for opponents

- The Roanoke Times – 3/9/19

https://www.roanoke.com/business/news/state-board-s-vote-in-mountain-vallley-pipeline-s-favor/article_co85e5fb-29f7-50b3-9eac-f7e7a5aa1705.html?fbclid=IwAR3b1BnMnFJGTQMqefVzYoZLifeChPL9Fjz9Sh9P-5mScBdKnLxGVUSc_wU

Related:

- <https://bluevirginia.us/2019/03/anatomy-of-a-farce-how-va-ag-mark-herring-the-state-water-control-board-caved-to-corporate-criminal-mountain-valley-pipeline-then-tried-but-failed-to-hide-the-truth>

Va. Beach Sen. Frank Wagner won't seek re-election

- Richmond Times-Dispatch – 3/7/19

https://www.richmond.com/news/virginia/government-politics/va-beach-sen-frank-wagner-won-t-seek-re-election/article_940fb383-9cdb-596b-9580-41274239f4fo.html

Dominion lackey leaving an opening in Virginia's state Senate. The move adds a hurdle to GOP efforts to hold control of the state Senate this fall.

New Report Highlights Climate Change, Toxic Flooding Threats to Vulnerable Communities in Virginia

- Blue Virginia – 3/12/19

<https://bluevirginia.us/2019/03/new-report-highlights-climate-change-toxic-flooding-threats-to-vulnerable-communities-in-virginia>

The report, Toxic Floodwaters: The Threat of Climate-Driven Chemical Disaster in Virginia's James River Watershed, focuses on the James River because of its particular vulnerability to climate change and floods, coupled with the concentration of various industrial sites throughout the region.

Big Picture:

The Green New Deal And The New Politics Of Climate Change

- Forbes – 3/13/19

https://www.forbes.com/sites/prakashdolsak/2019/03/13/gnd_and_the_politics_of_climate_change/#31e35e97c6c

The Green New Deal (GND) has brought climate issues to the center stage of US national politics.

Trump administration concedes coal is collapsing on its watch as renewables soar

- Think Progress – 3/13/19

<https://thinkprogress.org/trump-coal-collapse-renewables-rise-da01ec7e6c45/>

Under Trump, coal's share of U.S. power mix falls to lowest level on record.

This Indiana bill is meant to protect pipelines. Critics say it infringes on free speech.

- Indy Star – 3/10/19

<https://www.indystar.com/story/news/environment/2019/03/10/alec-model-bill-could-criminalize-peaceful-protest-critics-say/3078569002/>

The supporters of Senate Bill 471 say its intent is simple: protect "critical infrastructure" such as pipelines, refineries, and utility and natural gas facilities.

Republicans who believe in climate change seek alternative to Green New Deal

- NBC News – 3/10/19

<https://www.nbcnews.com/politics/congress/republicans-who-believe-climate-change-seek-antidote-green-new-deal-n973146>

Republicans finally realizing they must deal with Climate Change to avoid becoming irrelevant, yet still blather on about "The Free Market"...as though that is something that actually exists.

Pennsylvania's attorney general opens investigation into gas liquids pipeline

- Pittsburgh Post-Gazette – 3/12/19

<https://www.post-gazette.com/business/2019/03/12/Attorney-General-Shapiro-investigation-mariner-east-sunoco-energy-transfer-pipeline/stories/201903120122>

Pennsylvania AG Josh Shapiro and the Delaware County district attorney's office are conducting a joint investigation into Sunoco Pipeline LP and its parent company, Energy Transfer Partners, over allegations of criminal misconduct related to its Mariner East pipeline project.

New Mexico Governor to Sign 100% Clean Electricity Bill 'As Quickly As Possible'

- GreenTech Media – 3/12/19

<https://www.greentechmedia.com/articles/read/new-mexico-sends-100-carbon-free-bill-to-governor#gs.1hu3h2>

New Mexico is on the cusp of joining Hawaii, California and D.C. in officially committing to a zero-carbon electric grid.

