



ABRA Update #225 – April 11, 2019

Brief Filed in Lawsuit Challenging ACP’s FERC Certificate

The opening brief in a lawsuit challenging the Federal Energy Regulatory Commission’s (FERC) certificate that allows construction of the Atlantic Coast Pipeline (ACP) was filed on April 5 with the U.S. Court of Appeals for the District of Columbia. Appalachian Voices, et. al. vs. FERC, which includes several ABRA members as plaintiffs, had originally been filed with the Fourth Circuit Court of Appeals. It was subsequently transferred to the DC Circuit Court where it was consolidated with several other pending cases that challenged the FERC certificate for the ACP.

The principal arguments made in the April 5 brief are:

1. FERC’s exclusive reliance on precedent agreements with affiliated monopoly utilities to establish market need for the project was arbitrary and capricious. Such precedent agreements are unreliable evidence for market need.
2. FERC’s Environmental Impact Statement on the ACP was seriously deficient and thus violated requirements of the National Environmental Protection Act (NEPA). Specifically:
 - FERC failed to adequately consider the adequacy of existing transmission systems and off-forest alternative routes;
 - The impacts to aquatic resources, including sedimentation impacts and impacts in karst terrain, were inadequately analyzed by FERC;
 - Analysis of environmental justice impacts by FERC was flawed;
 - Impacts of downstream greenhouse gas emissions were insufficiently considered; and
 - FERC’s refusal to use the Social Cost of Carbon without an adequate explanation was arbitrary and capricious.

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3. Allowing the ACP, LLC to exercise eminent domain violates the Natural Gas Act and the Constitution because 1) several required permits and related conditions for the project have been vacated, thus removing the basis on which eminent domain authority should be exercised, 2) the use of eminent domain for the ACP thus violates the takings clause of the Constitution and also violates due process.

A copy of the complete brief is available [here](#).

President Issues Orders to Speed Up Energy Infrastructure Projects

President Trump signed late April 10 two long-anticipated Executive Orders that he said would “cut through destructive permitting delays and denials” for energy infrastructure projects, such as natural gas pipelines and liquified natural gas (LNG) facilities.

The first Order, “[Executive Order on Promoting Energy Infrastructure and Economic Growth](#),” would seek to limit a state’s authority to invoke Section 401 of the Clean Water Act to prevent or interfere with an energy infrastructure project. The Order would also allow LNG to be transported by rail and tanker truck, a practice that is not currently permitted.

A special section of the Order also seeks to spur petrochemical industry growth in Appalachia:

Within 180 days of the date of this order, the Secretary of Energy, in consultation with the heads of other agencies, as appropriate, shall submit a report to the President, through the Assistant to the President for Economic Policy, describing opportunities, through the Federal Government or otherwise, to promote economic growth of the Appalachian region, including growth of petrochemical and other industries. This report also shall assess methods for diversifying the Appalachian economy and promoting workforce development.

The President’s second Order, “[Issuance of Permits with Respect to Facilities and Land Transportation Crossings at the International Boundaries of the United States](#),” transfers final decision-making for infrastructure projects involving international borders (with Canada or Mexico) from the Secretary of State to the President.

ABRA released the following statement in response to the two Executive Orders:

"The Allegheny-Blue Ridge Alliance, a coalition of more than 50 conservation organizations in Virginia and West Virginia, is gravely disappointed by President Trump's Executive Orders of April 10 that purport to strengthen the nation's energy infrastructure. The proposals reflect backward thinking and ignore the growing relevance of energy conservation and renewable sources of energy as necessary solutions for meeting the nation's future energy needs. Furthermore, the Orders lower the standards of environmental and public safety that should be heeded with any infrastructure project. These Orders are not in the best interest of the greater public good."

President Trump’s remarks associated with the two Executive Orders is available [here](#).

In the News:

Local/Atlantic Coast Pipeline

Pipelines Plagued by Lawsuits and Delays

- The Appalachian Voice – 4/9/19
<http://appvoices.org/2019/04/09/pipelines-plagued-by-lawsuits-and-delays/>

Wild Virginia expects Dominion bill on the horizon

- The Recorder – 4/11/19
https://www.abralliance.org/wp-content/uploads/2019/04/Wild-Virginia-expects-Dominion-bill-on-the-horizon-Recorder_20190411.pdf

WV on the line: Members of Lewis County, WV, community discuss local impact of Atlantic Coast Pipeline shutdown

- WV News – 4/9/19
https://www.wvnews.com/news/wvnews/wv-on-the-line-members-of-lewis-county-wv-community/article_d1398991-5e08-52ff-9e21-29b0e2478273.html
Dominion and Lewis County Economic Development Authority's meeting to garner support for ACP construction attracts perhaps 30 attendees (judging by the photos), underscoring the difficulty of organizing, on either side, in largely rural West Virginia.
Related:
- <https://www.wboy.com/news/lewis/community-members-industry-officials-call-for-work-restart-on-acp/1912197016>

Dominion Energy is fooling no one

- The Recorder – 4/4/19
https://www.abralliance.org/wp-content/uploads/2019/04/Dominion-is-fooling-no-one-Recorder_20190404.pdf
We missed this one last week!

Governor Northam Announces Launch of ConserveVirginia

- Blue Virginia – 4/9/19
<https://bluevirginia.us/2019/04/governor-northam-announces-launch-of-conservevirginia>
Yet again this governor (like the one before) touts his environmental credentials and efforts while continuing to support the ACP and MVP.

Virginia legislature blocks Northam cap-and-trade initiative

- Virginia Watchdog – 4/8/19
https://www.watchdog.org/virginia/virginia-legislature-blocks-northam-cap-and-trade-initiative/article_eb979432-57eb-11e9-8cd1-4f523376ab43.html
Republicans say their opposition to the plan stems from a desire to protect their constituents from executive over-reach. Of *course* it does!

Regional/Mountain Valley Pipeline, other

After 212 days, tree-sitters are still standing against the Mountain Valley Pipeline

- Richmond Times-Dispatch – 4/5/19
https://www.richmond.com/business/after-days-tree-sitters-are-still-standing-against-the-mountain/article_db7c61fc-bdf3-53ec-8b70-7foe77190501.html
Since Sept. 5, 2018, two people have occupied tree stands in a white pine and a chestnut oak, perched about 50 feet off the ground while supporters camped on the ground sent up food and water in plastic buckets and kept watch over the peaceful protest.

69-year-old grandfather joins Yellow Finch tree sits to protest MVP

- Virginia First – 4/5/19

<https://www.virginiafirst.com/news/local-news/69-year-old-grandfather-joins-yellow-finch-tree-sits-to-protest-mvp/1903349947>

Related:

- <https://bluevirginia.us/2019/04/video-no-mvp-from-a-grandfathers-heart-scott-ziemer>

Big Picture:

Trump Signs Orders to Speed Up Oil and Gas Pipeline Construction

- The New York Times – 4/10/19

<https://www.nytimes.com/2019/04/10/business/energy-environment/trump-oil-gas-pipelines.html>

The actions are unlikely to have much of an immediate impact, and they will probably attract legal challenges by state governments seeking to preserve control over such projects.

Trump-appointed energy official: Climate change is real and we must lower carbon emissions

- CNN – 4/10/19

<https://www.cnn.com/2019/04/10/business/climate-change-chatterjee-coal-renewable-energy/index.html>

Wednesday's comments by Neil Chatterjee mark a striking contrast with Trump, who has voiced skepticism about climate change and recently suggested wind power causes cancer — despite no evidence to support that.

As White House questions climate change, U.S. military is planning for it

- The Washington Post – 4/8/19

https://www.washingtonpost.com/national/health-science/as-white-house-questions-climate-change-us-military-is-planning-for-it/2019/04/08/78142546-57c0-11e9-814f-e2f46684196e_story.html

Generals, former Defense Secretaries and National Security Council probably better-suited than a real estate developer/con man to determine what is, and what is not, a national security issue. Probably.

House Democrats Voted for a Natural Gas Future, and Nobody Noticed

- Paste Magazine – 4/4/19

https://www.pastemagazine.com/articles/2019/04/house-democrats-voted-for-a-natural-gas-and-fracki.html?fbclid=IwAR1x2C-AWQ4bwkYjr6VYzMumaKy5PfbqkRnDWUkrUT2HCXLZfi6m9_Wrroo

Not a lot of money, but symbolically significant, nonetheless. What are Democrats (and AOC) doing voting for increased fossil fuel infrastructure if they claim to be serious about addressing climate change? Burning gas releases CO₂, whether burned in Europe or the U.S.

How Climate Change Is Fuelling the U.S. Border Crisis

- The New Yorker – 4/3/19

<https://www.newyorker.com/news/dispatch/how-climate-change-is-fuelling-the-us-border-crisis>

In the western highlands of Guatemala, the question is no longer whether someone will leave but when.

New Satellite Photos Show Climate Change Is Sweeping Europe

- Bloomberg – 4/9/19

<https://www.bloomberg.com/news/features/2019-04-09/new-satellite-photos-show-europe-s-changing-climate>

“I’ll believe it when I see it” folks...meet the Copernicus Climate Change Service, which operates a network of satellites for the European Union that collects weather, soil, air and water data.

Global Energy Storage to Hit 158 Gigawatt-Hours by 2024, Led by US and China

- GreenTech Media – 4/10/19

<https://www.greentechmedia.com/articles/read/global-energy-storage-to-hit-158-gigawatt-hours-by-2024-with-u-s-and-china#gs.4i7r3g>

Report projects that energy storage deployments will grow thirteenfold over the next six years, from a 12 gigawatt-hour market in 2018 to a 158 gigawatt-hour market in 2024.

Check out this upcoming event:



The SUN SiNG collective is working now to create a new No Pipeline anthem, song video and an inspiring theatrical concert evening for the entire environmental and pipeline resistance community of Virginia.

The song video is being recorded and filmed now along both the Mountain Valley and Atlantic Coast fracked gas pipeline routes by the Sun Bus using the power of the sun.

The [SUN SiNG Concert](#), Friday, April 26, 6 pm (doors open 5), The Jefferson Theater, Charlottesville, VA, is also for those new to the story of protecting Virginia from fracked gas pipelines and certainly for anyone who loves good Virginia music and circus like spectacle.

Tickets: <http://bit.ly/SunSingTix>

All proceeds go to [Interfaith Alliance for Climate Justice](#)