



ABRA Update #229 – May 10, 2019

Fourth Circuit Panel Hears Arguments on Challenge to ACP Permit

A three-judge panel of the U.S. Court of Appeals for the Fourth Circuit in Richmond, VA on May 9 heard arguments challenging the U.S. Fish and Wildlife Service's (FWS) biological opinion and incidental take statement for the Atlantic Coast Pipeline (ACP) that led to work stopping on the project. The original FWS permit was voided by the Fourth Circuit in May 2018 in response to a lawsuit filed by the Southern Environmental Law Center (SELCA) on behalf of Defenders of Wildlife, Sierra Club and the Virginia Wilderness Committee. A new FWS permit was issued on September 11, 2018 and is being challenged in this case.

SELCA argued that the FWS's reissued permit relied on a series of irrational assumptions that mischaracterized the potential impact of the ACP route on the rusty patched bumble bee and erred in its analysis of the project's impact on three other endangered species: the clubshell mussel, Indiana bat and Madison Cave isopod. Most of the questioning from the judges focused upon the adequacy of the FWS's evaluation of the threat of the project to the rusty patched bumble bee, a species listed as endangered by the FWS in 2017.

The Court seriously questioned the Department of Justice attorney, representing FWS, who contended that a bee expert retained by the agency had made an informed "best estimate" of the impact of the ACP on the rusty patched bumble bee population in Bath County, VA, when – as the Court pointed out – the expert instead had used the term "wild guess" to characterize her analysis. An audio recording of the May 9 oral arguments (40 minutes) is available [here](#).

A decision on the case is not expected until late summer. For more, see the E&E Energywire article below in In the News: "4th Circuit casts critical eye on Atlantic Coast Pipeline permits."

New Study Calls Fossil Fuel Infrastructure Boom "Risky"

Pipeline Bubble, a study released April 24 by the Global Energy Monitor, likens the expansion in fossil infrastructure in the United States and beyond to the "heady optimism and over-expansion" that characterized the coal industry just a few years ago. The study notes:

- Oil and gas pipeline building projects have tripled since 1996, with half of the projects in North America;
- Domestic demand growth cannot support the current North American oil and gas infrastructure boom. The current expansion in oil and gas infrastructure is predicated on a "super cycle" of increased demand from overseas buyers, especially Asia.

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- New findings by the Intergovernmental Panel on Climate Change have called for a 65% reduction in oil use and a 43% reduction in gas use by 2050, relative to 2020. Such reductions are incompatible with rapid infrastructure expansion.
- Today's boom in North American pipelines is based on a belief that the fracking boom has given North American producers a long-term advantage in global markets. But just as the fracking revolution enabled natural gas to push coal out of North American power markets, today plunging solar and wind cost structures threaten to similarly drive the displacement of natural gas.

Global Energy Monitor is a network of researchers developing collaborative informational resources on fossil fuels and energy alternatives. To view the full study, click [here](#).

New Virginia energy coalition is announced

Nine organizations representing a wide range of public policy ideologies announced the on May 7 the formation of the Virginia Energy Reform Coalition (VERC), an unprecedented coalition with the goal of reforming Virginia's energy market. Coalition policy goals include implementing performance-based regulation, establishing a competitive retail electricity market and a low-income bill assistance and weatherization program, and securing increased consumer protections.

VERC members are: Appalachian Voices, Clean Virginia, Earth Stewardship Alliance, FreedomWorks Foundation, Piedmont Environmental Council, Reason Foundation, R Street Institute, Virginia Institute for Public Policy, and Virginia Poverty Law Center.

For more about VERC, click [here](#).

In the News:

Local/Atlantic Coast Pipeline

4th Circuit casts critical eye on Atlantic Coast permits

- E&E News EnergyWire – 5/10/19
https://www.abralliance.org/wp-content/uploads/2019/05/4th-Circuit-casts-critical-eye-on-Atlantic-Coast-permits-E&E-Energywire_20190510.pdf
Court appears to take a dim view of Dominion and FWS's arguments regarding the re-issued Endangered Species Incidental Take Permit. Ruling should come this summer.

Construction delays frustrate Dominion, investors

- The Recorder – 5/9/19
https://www.abralliance.org/wp-content/uploads/2019/05/Construction-delays-frustrate-Dominion-investors-Recorder_20190509.pdf
The natives are getting restless on Wall Street...

Coalition from left, right calls on state to break up utilities, deregulate energy; Dominion bristles

- Washington Post – 5/7/19
https://www.washingtonpost.com/local/virginia-politics/coalition-of-unlikely-allies-calls-on-state-to-break-up-utilities-deregulate-energy/2019/05/07/72916a2e-70e9-11e9-8be0-ca575670e91c_story.html
Its members said the state should allow monopolies only for the network of wires that distributes energy. Power production should be open to competition.

Riding the pipeline path

- The Farmville Herald – 5/7/19
<https://www.farmvilleherald.com/2019/05/riding-the-pipeline-path/>

Va. won't cap CO2 with 9 other states — for now

- E&E News – 5/3/19
<https://www.eenews.net/stories/1060263689>

Northam signs VA budget containing language that bars VA from joining Regional Greenhouse Gas Initiative. Critics say he could have line-item vetoed it.

Dominion keeps trying to pull the wool over our eyes

- Virginia Mercury – 5/5/19
<https://www.virginiamercury.com/2019/05/05/dominion-keeps-trying-to-pull-wool-over-our-eyes/>

NC Democrat faces ethics complaint over work for Duke Energy, Atlantic Coast Pipeline

- The Herald Sun – 5/8/19
<https://www.heraldsun.com/news/politics-government/article230171524.html>
 Representative's family law firm representing Duke Energy in ACP-related land cases while he sponsored a bill that critics say aids Duke Energy. Bill appears to relate to utility recovery of storm-incurred costs.

Regional/Mountain Valley Pipeline, other

Mountain Valley Pipeline: Barricaded protester extracted, arrested

- Bluefield Daily Telegraph – 5/7/19
https://www.bdtonline.com/news/mountain-valley-pipeline-barricaded-protester-extracted-arrested/article_eff34df8-7057-11e9-b497-57c8711b76b9.html
 A Maryland man who barricaded himself inside a section of a natural gas pipeline in Summers County Monday morning has been charged with two felonies and two misdemeanors. Recently, local authorities have seriously upped the ante for interfering with pipeline construction.

Potential gas pipeline expansion to run adjacent to Haw River

- Elon News Network – 5/9/19
<https://www.elonnewsnetwork.com/article/2019/05/potential-gas-pipeline-expansion-to-run-adjacent-to-haw-river>
 Alamance County members voice their opposition for the potential gas pipeline installation projected to run through their community.

New questions raised about pipeline's impact on endangered species

- The Roanoke Times – 5/2/19
https://www.roanoke.com/business/new-questions-raised-about-pipeline-s-impact-on-endangered-species/article_0039c513-71e4-5d66-a289-e44526f61550.html
 Letter raises questions that MVP impact was underestimated and that more or additional endangered species may be affected. Significantly more sediment than anticipated has been released into local waterways.

Blackberry farmers claim organic property contaminated when helicopter dropped erosion-control pellets on land

- West Virginia Record – 5/6/19
<https://wvrecord.com/stories/512477222-blackberry-farmers-claim-organic-property-contaminated-when-helicopter-dropped-erosion-control-pellets-on-land>

Big Picture:

Humans Are Speeding Extinction and Altering the Natural World at an 'Unprecedented' Pace

- The New York Times – 5/6/17
<https://www.nytimes.com/2019/05/06/climate/biodiversity-extinction-united-nations.html?fbclid=IwAR37oNqHBFgZaIV7H6KYvtwDYaofjdOn-4GUxFq9DabYurURM7dwza7k9F8>
 The report is not the first to paint a grim portrait of Earth's ecosystems. But it goes further by detailing how closely human well-being is intertwined with the fate of other species.

FERC allays climate change worries to approve pipeline to move natural gas from Pennsylvania to Northeast

- Washington Examiner – 5/3/19

<https://www.washingtonexaminer.com/policy/energy/ferc-allays-climate-change-worries-to-approve-pipeline-to-move-natural-gas-from-pennsylvania-to-northeast>

Despite their differences on the issue of greenhouse gas emissions, Republican commissioners managed to gain the vote of Democratic Commissioner Cheryl LaFleur, who concurred in full with the pipeline's approval.

These Top Fossil Fuel & Utilities Companies Didn't Pay Any Federal Income Taxes Last Year

- LittleSis News – 5/7/19

<https://news.littlesis.org/2019/05/07/these-top-fossil-fuel-utilities-companies-didnt-pay-any-federal-income-taxes-last-year/>

All told, the 60 Fortune 500 companies on the Institute of Tax and Economic Policy list (NOT all fossil fuel companies) did not merely avoid paying \$16.4 billion in federal income taxes – they actually received a net tax rebate of \$4.3 billion.

U.S. Pressure Blocks Declaration on Climate Change at Arctic Talks

- The New York Times – 5/7/19

<https://www.nytimes.com/2019/05/07/climate/us-arctic-climate-change.html>

Could “Liking” an Anti-Pipeline Facebook Post Soon Be Illegal?

- Natural Resources Defense Council – 5/6/19

<https://www.nrdc.org/experts/josh-axelrod/could-liking-anti-pipeline-facebook-post-soon-be-illegal>

A new South Dakota law—written in consultation with the company that owns Keystone XL—could punish people for exercising their right to peaceful protest. Is it a harbinger of things to come?

With Renewables so Competitive, Big Plans for Oil and Gas Investments Look Risky

- DeSmog – 5/5/19

<https://www.desmogblog.com/2019/05/05/renewables-pipeline-bubble-investment-oil-gas-stranded-assets>

A Global Energy Monitor report notes that the industry is currently planning \$232 billion in new investment in oil and gas pipeline infrastructure.

The cost of generating renewable energy has fallen - a lot

- World Economic Forum – 5/7/19

<https://www.weforum.org/agenda/2019/05/this-is-how-much-renewable-energy-prices-have-fallen/>