



ABRA Update #240 – August 8, 2019

Forest Service Proposes Limiting Public Comments in NEPA Reviews

A proposal by the U.S. Forest Service (NFS) would severely limit the opportunities for the public to comment on environmental analysis conducted by the agency in accordance with requirements of the National Environmental Protection Act (NEPA). The proposed public comment restriction is part of a proposed rule by the NFS “to increase efficiency in its environmental analysis.” Public comments on the proposed rule are due August 12.

In an op-ed in the August 8 *New York Times* entitled “[Why is the Forest Service Trying to Evade the Public?](#)”, Sam Evans of the Southern Environmental Law Center argued:

The law requires every government agency to look for less harmful ways of meeting its goals. To that end, agency decisions must be based on solid science and made in the sunlight of public accountability. Each federal agency has some leeway to implement the law, but the Forest Service’s newly [proposed rules](#) would instead circumvent it, creating loopholes for logging projects, road construction and even permits for pipelines and other utilities.

By eliminating the opportunity for public comment, the Forest Service is abandoning the chance to get meaningful advice for free. In the short run, the proposal will be bad for forest users, bad for wildlife and bad for local economies that depend on recreation. In the long run, it will hurt timber economies too. The public tolerates commercial logging on public lands only because passionate forest advocates have found ways, working with industry representatives and agency professionals, to minimize harm and even to harness logging for ecological good. If the Forest Service abandons the process that makes this possible, it will undermine the cooperation that allows us to share our public lands.

ABRA Update readers are [urged to submit comments](#) about this wrong-headed proposal by clicking on [OurForestsOurVoice.org](#). The process is simple and straightforward. Be sure to [act by Monday, August 12, 2019](#)

Halt to Future ACP Construction Requested in Wake of FWS Court Decision

Construction of the Atlantic Coast Pipeline (ACP) should be prohibited because of the [July 26 decision by the Fourth Circuit Court of Appeals](#) to vacate the biological opinion (BiOp) and incidental take statement (ITC) issued by the U.S. Fish and Wildlife Service (FWS) for the project. The request was made in a [July 31 letter to the Federal Energy Regulatory Commission](#) (FERC) from the Southern Environmental Law Center (SELC), which represented plaintiffs in the FWS case.

<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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SELC's cited four reasons for urging FERC to issue an order halting future construction of the ACP:

- The Commission may not authorize any action that is likely to jeopardize the continued existence of an endangered species. The Fourth Circuit decision found arbitrary and capricious FWS's conclusion that the ACP would not jeopardize two endangered species: the rusty patched bumble bee and the clubshell mussel.
- In permitting construction, the Commission risks taking species in violation of the Endangered Species Act. Although FWS may allow the incidental take of a limited number of animals in connection with a no-jeopardy biological opinion for that species and an incidental take statement, those authorizations for the ACP have now been vacated.
- Allowing construction of pipeline facilities that might have to be relocated or abandoned risks unnecessary environmental harm. If FWS concludes that the ACP will jeopardize either the rusty patched bumble bee or the clubshell, the proposed pipeline route may have to be modified to avoid the endangered species.
- The Commission cannot permit construction where Atlantic lacks federal authorizations that are mandatory conditions of its certificate. Following the Fourth Circuit's decision, *seven* federal authorizations that are mandatory conditions of FERC's Certificate Order for the ACP have now been vacated or suspended.

The FWS is now charged with issuing a new BiOp and ITC for the ACP. After FWS's first permit for the project was struck down by the Fourth Circuit in August 2018, the agency reissued a second BiOp and ITC in less than three weeks. In its July 26 opinion, the Fourth Circuit strongly criticized FWS for its rush to issue new approvals for the project. It remains to be seen whether the agency will heed that admonishment.

Opposition Voiced Against Corps of Engineers Permit Modifications

The West Virginia Rivers Coalition and 22 other organizations (including ABRA and several of its members) [filed comments on July 26 with the West Virginia Department of Environmental Protection's \(WVDEP\)](#) proposed modification of Nationwide Permit 12 (NWP 12), the permit program that governs the conditions by which projects like the Atlantic Coast Pipeline can cross rivers and streams. The comments state:

We oppose the WVDEP's modifications to NWP 12 special conditions, which weaken protections for over 500 of West Virginia's rivers and streams proposed to be crossed by the Atlantic Coast Pipeline and the Mountain Valley Pipeline. We urge the Corps to decline WVDEP's request to modify the 401 State Water Quality Certification of the Army Corps of Engineers NWP 12.

The WVDEP's modifications are unnecessary. WVDEP has the authority now to permit large pipeline construction projects coverage using individual 401 Water Quality Certifications. Instead of following through with the proposed modifications that weaken protections for rivers and streams, WVDEP can use individual 401 Water Quality Certifications to provide stream and wetland protections tailored to each project. Army Corps must deny WVDEP's modifications which attempt to make it easier to permit large pipeline construction projects when they cannot meet existing regulations.

Wild Virginia to Sponsor Camping Trip Along the ACP Route

Wild Virginia is sponsoring an overnight trip on August 24th-25th that will explore some special areas along the proposed Atlantic Coast Pipeline route in Bath County. The event will involve a tour and camping on the property of Bill and Lynn Limpert on August 24th, and a visit to Fort Lewis Lodge and Farm on August 25th. The trip will highlight the effects pipeline construction will have on the area. To learn more and sign up to participate, visit <https://www.facebook.com/events/456314581615063/>

In the News:

Local/Atlantic Coast Pipeline

Pipeline company questioned over revoked permits

- Recorder, 8-8-19

<https://www.abralliance.org/wp-content/uploads/2019/08/Pipeline-company-questioned-over-revoked-permits-Recorder-8-8-19.pdf>

Investment research analysts focused on the stalled Atlantic Coast Pipeline during a July 31 earnings call in which Dominion Energy CEO Thomas Farrell assured them the \$7.8 billion project would resume construction next year following a favorable U.S. Supreme Court decision.

Atlantic Coast Pipeline: Is It Still a Viable Project?

- The News & Advance – 8/4/19

https://www.newsadvance.com/opinion/editorials/atlantic-coast-pipeline-is-it-still-a-viable-project/article_def80525-63cb-5991-8664-6f4fced4136d.html

With the rising costs, the courtroom setbacks and still-growing grassroots opposition to the project, you have to wonder if, at some point, the project simply becomes politically and financially unviable.

Environmental group requests order halting Atlantic Coast Pipeline construction

- WV News – 8/1/19

https://www.wvnews.com/news/wvnews/environmental-group-requests-order-halting-atlantic-coast-pipeline-construction/article_46bfde71-f8b3-52af-a455-2a5296784299.html

Dominion's 100% renewables tariff could kill Virginia's retail choice ambitions

- Utility Dive – 8/5/19

<https://www.utilitydive.com/news/dominions-100-renewables-tariff-could-kill-virginias-retail-choice-ambit/559983/>

Competitive retail providers are fighting for customers in the state, alongside a growing number of displeased ratepayers.

Regional/Mountain Valley Pipeline, other

Pipeline opponents urge regulators to expand stop work order

- WDBJ News – 8/6/19

<https://www.wdbj7.com/content/news/Pipeline-opponents-urge-regulators-to-expand-stop-work-order-523983931.html>

Related:

- https://www.roanoke.com/news/local/regulators-stop-work-on-miles-of-mountain-valley-pipeline-in/article_baef3581-ff6f-5400-80a4-7546a2b11da9.html

- <https://bluevirginia.us/2019/08/wild-virginia-deqs-stop-work-order-to-mvp-is-appropriate-but-its-not--enough>

‘Getting in the way:’ Inside the standoff over the Mountain Valley Pipeline

- Virginia Mercury – 8/4/19

<https://www.virginiamercury.com/2019/08/04/getting-in-the-way-inside-the-standoff-over-the-mountain-valley-pipeline-in-southwest-virginia/>

While a variety of tactics are in use by various groups to stop the Mountain Valley Pipeline, a dedicated group has decided that for it, direct action is the best means of resistance. Lots of other good information on MVP, Southgate, etc.

Related:

- <https://bluevirginia.us/2019/08/breaking-news-federal-court-refuses-mountain-valley-pipeline-request-to-remove-tree-sitters-in-virginia>

High court should hear pipeline case

- WV News – 8/4/19

https://www.wvnews.com/theet/opinion/editorials/high-court-should-hear-pipeline-case/article_2378bba0-c35b-51a8-8257-d2044dca3350.html

“This is clearly a case of great importance, not only to West Virginia but to national energy policy and this country’s economic future.” I think this misses the mark, for several reasons. Proper due diligence could have avoided most of the legal issues. What’s at stake is bigger than a couple thousand temp jobs and a few million in tax receipts. And, tying this country’s economic future to oil and gas extraction is dangerous to the point of stupidity.

Independent Analysis Fails to Find Convincing Evidence that Mountain Valley Pipeline Southgate is Needed

- Appalachian Voices – 8/1/19

<http://appvoices.org/2019/08/01/independent-analysis-fails-to-find-convincing-evidence-that-mountain-valley-pipeline-southgate-is-needed/>

Applied Economics Clinic (AEC), a nonprofit consulting group, published an analysis finding that neither the builder nor the anchor customer of the proposed Mountain Valley Pipeline Southgate extension project have provided “convincing evidence of a need for MVP Southgate.”

Big Picture:

Explosions in Three States Highlight Dangers of Aging Fossil Fuel Infrastructure

- DeSmog – 8/6/19

<https://www.desmogblog.com/2019/08/06/aging-fossil-fuel-pipeline-deadly-kentucky-texas-refinery-explosion>

The nation’s oldest pipelines not only are experiencing problems with corrosion but newer pipelines are also outliers when it comes to accidents. Amid a sprint to build out new pipelines and infrastructure to support the fracking rush, the safety record of newly built pipelines deteriorated.

Federal judge rebukes FERC's 'Kafkaesque regime'

- E&E News -

<https://www.eenews.net/stories/1060831203>

Judge says FERC's practice of allowing land seizures to occur before landowners can get to court "skates on thin constitutional ice."

Fracking causes environmental damage and birth defects, new study shows

- Public Radio international – 7/31/19

<https://www.pri.org/stories/2019-07-31/fracking-causes-environmental-damage-and-birth-defects-new-study-shows>

The new report, published by Physicians for Social Responsibility and Concerned Health Professionals of New York, brings together the findings of more 1,700 studies, articles and reports tying fracking activities to a host of health problems including birth defects, cancer and asthma.

Too much rain is messing with pipeline operators' infrastructure plans

- Pittsburgh Post-Gazette – 8/5/19

<https://www.post-gazette.com/business/bop/2019/08/05/Too-much-rain-is-messing-with-pipeline-operators-infrastructure-plans/stories/201908040010>

Average annual precipitation in Pennsylvania has increased 10% over the past 100 years. By 2050, it is expected to increase another 8%, with a 14% increase during winters, when it will fall mostly as rain instead of snow.

Climate change: how the jet stream is changing your weather

- Financial Times – 8/6/19

<https://www.ft.com/content/591395fe-b761-11e9-96bd-8e884d3ea203>

Your weekly science lesson...macro weather phenomena!

The Hydrocarbon Era's Spectacular End

- The Washington Post – 8/7/19

https://www.washingtonpost.com/business/energy/the-hydrocarbon-eras-spectacular-end/2019/08/06/2b5d8e14-b831-11e9-8e83-4e6687e99814_story.html

In two-thirds of the world, up from 1% five years ago, new solar and wind projects undercut new plants that use either coal or natural gas.

Renewable energy is good money, not just good for the earth

- Financial Times – 8/4/19

<https://www.ft.com/content/d94c35ac-acf9-11e9-b3e2-4fd846f48f5>

Mainstream institutional investors are recognizing that climate change is not just a threat to the health of the planet, but also a threat to the wealth of their clients.