



ABRA Update #241 – August 16, 2019

“VioBlitz” Uncovers Over 100 Potential MVP Violations

Impacted landowners, concerned citizens, and trained volunteer monitors participated in a “VioBlitz” over the August 9-11 weekend. Sponsored by the West Virginia Rivers Coalition, an ABRA member and a partner in the ABRA CSI program (Compliance Surveillance Initiative), participants traveled portions of the Mountain Valley Pipeline (MVP) and documented as many permit violations as possible over a 3-day period.

Volunteers reported approximately 100 potential violations to regulatory agencies across the West Virginia and Virginia, with more than 60 occurring in West Virginia alone. Although responsible state regulatory agencies insist that they have adequate enforcement capacity, there is currently only one dedicated pipeline inspector for the entire state of WV. It took a dozen volunteer monitors hundreds of hours over three days to trace the route through Monroe, Summers, Greenbrier, Nicholas, Webster, Braxton, Lewis, and Harrison counties. The continued pattern of repeated violations and impacts on water resources calls into question the quality, safety and reliability of MVP construction. For the health and safety of affected communities and environment, citizen monitors and organizations are calling for the regulatory agencies to immediately issue a stop-work order on the project.



Heavy runoff laden with sediment overwhelms Mountain Valley Pipeline’s sediment and erosion control barriers, making its way into Oil Creek in Braxton County, WV.

Volunteer for ABRA’s Pipeline CSI Program

Volunteer

Submit a report to the Pipeline CSI

Report

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MVP fails to control sediment and sediment-laden water from leaving their access road impacting Barbecue Run which flows into Knawl Creek, a tributary of Burnsville Lake.

For more information on Vioblitz, contact Autumn Crowe, WV Rivers Coalition, at acrowe@wvrivers.org. To become a volunteer in ABRA's CSI program, click [here](#).

Legal Challenge to FERC Certificate Scheduled for October 16 Oral Argument

The challenge to the Federal Energy Commission's (FERC) approval of the Atlantic Coast Pipeline been scheduled for oral argument on October 16 before the D.C. Circuit Court of Appeals. The plaintiffs are 14 conservation groups, including several ABRA members, that are represented by the Southern Environmental Law Center (SELC) and Appalachian Mountain Advocates. The petitioners argue that FERC's Environmental Justice Impact Statement is fatally flawed. Members of the 3-judge panel hearing the case will be announced in mid-September.

New Rule Announced That Reduces Endangered Species Protections

A new rule that would significantly limit the protections for endangered and threatened species under the Endangered Species Act (ESA) was announced August 12 by the Trump Administration. The rule, originally proposed in July 2018, will go into effect 30-days after it is published in the Federal Register (as of August 15, publication had not occurred).

The rule, jointly announced August 12 by the Secretaries of Interior (which includes the U.S. Fish and Wildlife Service) and Commerce (which includes the National Marine Fisheries Service), is being touted by the Trump Administration as "easing the regulatory burden on the American public." However, environmental and conservations groups have a different take and reacted strongly against the new rule:

- "Undermining this popular and successful law is a major step in the wrong direction as we face the increasing challenges of climate change and its effects on wildlife.
- *Lena Moffitt, Sierra Club*

- “We are in the midst of an unprecedented extinction crisis, yet the Trump Administration is steamrolling our most effective wildlife protection law. This Administration seems set on damaging fragile ecosystems by prioritizing industry interests over science. - *Rebecca Riley, Natural Resources Defense Council*
- “Threatened and endangered fish, wildlife and plants in our national parks already face habitat changes and impacts of a climate crisis that is accelerating each year. Instead of working with Congress and states to better protect and restore wildlife as the climate changes, the Trump administration is reinterpreting the Endangered Species Act to weaken protections. – *Bart Melton, National Parks Conservation Association.*

Among changes included in the new rule are: 1) the inclusion of economic considerations, in addition to scientific criteria, in determining whether a species should be listed or delisted (currently, only scientific criteria can be considered); and 2) ceasing the practice of providing the same protections to “threatened” species as those that have been declared to be “endangered.” The ESA issues that have been raised in about the Atlantic Coast Pipeline and the Mountain Valley Pipeline are not impacted by the new rule, as it is only applicable to the listing and delisting of threatened and endangered species in the future.

For more, see news articles below in In the News and click [here](#).

Water Rule Rewrite Would Weaken Requirements for Pipeline Projects

A new proposed rule by the Environmental Protection Agency (EPA) would weaken the ability of states to regulate their own waters. The [rule, proposed by EPA on August 12](#), will have a 60-day comment period that begins when the rule is published in the Federal Register (which had not happened as of August 15). Among the changes in the Clean Water Act that the proposed rule would bring about is to tighten the time requirements by which a state must act on a Section 401 certification for infrastructure projects (like natural gas pipelines), and provide the EPA the right to treat a state’s denial of a 401 certificate as if it were a waiver, thus effectively giving the EPA a veto over a state’s action on a 401 certificate issue. The EPA plans to finalize the new rule in May 2020.

Environment Groups Ask North Carolina to Revoke ACP’s 401 Certificate

A petition filed this week with the North Carolina Department of Environmental Quality (NCDEQ) requests that the agency revoke the 401-certification granted to the Atlantic Coast Pipeline. In its [August 13 letter to NCDEQ](#), Friends of the Earth and the NC Climate Solutions Network state:

Facts we have discovered since January of 2018 show significant adverse impact to the largest community of American Indians east of the Mississippi River from the construction and operation of the Atlantic Coast Pipeline and projects dependent upon it. Correct information not considered by DEQ shows that the impacts analyzed in the 401 and the FERC EIS (*Environmental Impact Statement*) were a mere fraction of the impacts directly related to the project. We ask you to revoke the 401 Certification since it was based on incorrect information and conditions have changed since the certification was issued.

In the News:

Local/Atlantic Coast Pipeline

A blind crustacean, at least for now, is stronger than Dominion's drive for a gas pipeline

- News Leader – 8/15/19

<https://www.newsleader.com/story/opinion/columnists/2019/08/15/blind-crustacean-bat-bee-block-dominions-atlantic-coast-pipeline-virginia-fracking-gas/2020121001>

The Endangered Species Act is holding its own against corporate greed...for now.

Lumbee Indians, climate coalition ask DEQ to revoke Atlantic Coast Pipeline permit; EPA proposes to clamp down on states' authority

- The Progressive Pulse – 8/15/19

<https://pulse.ncpolicywatch.org/2019/08/15/lumbee-indians-climate-coalition-ask-deq-to-revoke-atlantic-coast-pipeline-permit-epa-proposes-to-clamp-down-on-states-authority/>

Feds warn of unsafe construction on Atlantic Coast project

- E&E Energywire – 8/15/19

https://www.abralliance.org/wp-content/uploads/2019/08/Feds-warn-of-unsafe-construction-on-Atlantic-Coast-project-EE-Energywire_20190815.pdf

Pipe sections were left in rock-lined ditches and near unstable boulders, all of which could shift and damage the pipeline. This has happened with other recently-built pipelines in the region.

Amherst council approves lease to Atlantic Coast Pipeline for storage yard, staging hub

- The News & Advance – 8/14/19

https://www.newsadvance.com/news/local/amherst-council-approves-lease-to-atlantic-coast-pipeline-for-storage/article_c1b74db4-1b64-56b2-9652-daaee528d962.html

Virginia joins coalition suing Trump administration over Clean Power Plan replacement

- Virginia Mercury – 8/13/19

<https://www.virginiamercury.com/blog-va/virginia-joins-coalition-suing-trump-administration-over-clean-power-plan-repeal/>

The suit, filed in the U.S. District Court for the District of Columbia, alleges that the Obama-era plan's replacement, the Affordable Clean Energy rule, violates the Clean Air Act and therefore should be reversed by the courts.

Dominion is polling its customers for pro-monopoly arguments

- PV Magazine – 8/12/19

<https://pv-magazine-usa.com/2019/08/12/dominion-is-polling-its-customers-for-pro-monopoly-arguments/>

Under pressure by both corporations who want other options to buy renewables and a new coalition seeking to break its monopoly, Dominion is trying out some arguments with questionable factual basis.

Regional/Mountain Valley Pipeline, other

Photos of Insanity: Active Landslide Threatens Lives Along Route of Mountain Valley Pipeline

- Jonathan Sokolow; Medium – 8/15/19

<https://medium.com/@jonsokolow/photos-of-insanity-active-landslide-threatens-lives-along-route-of-mountain-valley-pipeline-12a1f487da59>

Last week, we learned that Mountain Valley Pipeline destroyed a steep mountain slope in West Virginia, causing a landslide that has made at least one home uninhabitable. The situation has been going on since at least April. And it is getting worse.

Related:

- <https://medium.com/@jonsokolow/definition-of-insanity-mountain-valley-pipeline-ask-for-emergency-authorization-to-prevent-a-ea6bbc70e517>

Mountain Valley Pipeline voluntarily suspends construction that could harm endangered species

- Virginia Mercury – 8/15/19

<https://www.virginiamercury.com/blog-va/mountain-valley-pipeline-voluntarily-suspends-construction-that-could-harm-endangered-species/>

The developer of the controversial pipeline through West Virginia and Virginia wrote that it had undertaken the suspension in response to a letter submitted by the Sierra Club to the Fish and Wildlife Service earlier this week asking that the agency reverse its permit for the project. But, "...they've already cut down all the trees that had Indiana bats in them."

Related:

- https://www.roanoke.com/news/local/mountain-valley-suspends-work-on-pipeline/article_d86a71b8-cf9a-5639-93e2-7138c60380ae.html

Mountain Valley Pipeline faces new legal challenge, this one over endangered species

- The Roanoke Times – 8/12/19

https://www.roanoke.com/business/mountain-valley-pipeline-faces-new-legal-challenge-this-one-over/article_569ed8b1-fc59-5749-a2ee-4219635980b1.html

Already, construction of the natural gas pipeline across streams and wetlands and through the Jefferson National Forest has been stalled by earlier legal challenges.

Related:

- <https://www.sierraclub.org/press-releases/2019/08/new-lawsuit-launched-against-mountain-valley-pipeline>

Appalachian pipelines face new setbacks amid renewed national scrutiny

- Think Progress – 8/15/19

<https://thinkprogress.org/appalachia-pipelines-mountain-valley-atlantic-coast-2020-warren-sanders-inslee-trump-keystone-3d0c74a70049>

Two controversial pipeline projects in the South and Appalachia have hit new stumbling blocks regarding safety concerns and legal challenges that could further delay construction.

FERC to hold meeting about pipeline Aug. 20

- Star-Tribune – 8/13/19

http://www.chathamstartribune.com/news/article_00454176-bdff-11e9-b14b-23e032950135.html

The Federal Energy Regulatory Commission (FERC) will hold a Mountain Valley Pipeline (Southgate) public comment session Tuesday, Aug. 20 from 5 p.m. to 8 p.m. at the Olde Dominion Agricultural Complex.

Big Picture:

2°C: BEYOND THE LIMIT: Extreme climate change has arrived in America

- The Washington Post – 8/13/19

<https://www.washingtonpost.com/graphics/2019/national/climate-environment/climate-change-america/>

A Washington Post analysis of more than a century of National Oceanic and Atmospheric Administration temperature data across the Lower 48 states and 3,107 counties has found that major areas are nearing or have already crossed the 2-degree Celsius mark.

EPA's latest power grab is aimed at states' rights

- The Hill – 8/14/19

<https://thehill.com/opinion/energy-environment/457426-epas-latest-power-grab-is-aimed-at-states-rights>

The proposed rule change would limit the ability of states and tribes to block pipeline plans over concerns for water safety.

Related:

- <https://insideclimatenews.org/news/09082019/epa-fast-track-pipeline-permits-clean-water-act-rule-change-trump-executive-order>

Trump Administration Final Rule Would Revise Endangered Species Act

- Natural Gas Intelligence – 8/12/19

<https://www.naturalgasintel.com/articles/119258-trump-administration-final-rule-would-revise-endangered-species-act>

The Trump administration said Monday it has finalized changes to portions of the Endangered Species Act (ESA) dealing with adding or removing species from the act's protections, a move that could have significant effects on the oil and natural gas industry.

Greenland's ice is melting at the rate scientists thought would be our worst-case scenario in 2070

- Yahoo – 8/14/19

<https://www.yahoo.com/news/greenlands-ice-melting-rate-scientists-192500402.html>

Fracking may be a bigger climate problem than we thought

- Vox – 8/16/19

<https://www.vox.com/energy-and-environment/2019/8/15/20805136/climate-change-fracking-methane-emissions>

Global methane emissions rose steeply in the last decades of the 20th century and then leveled off. But around 2006, they started heading up again. Why?

The U.S. left a hole in leadership on climate. China is filling it.

- Politico – 8/15/19

<https://www.politico.com/story/2019/08/15/climate-china-global-translations-1662345>

"...that's where the world is going. That's where technology is moving. And if you're not playing in that space, you're not going to be a winner."

New US study finds renewable energy storage costs need to drop 90%

- PV Magazine – 8/12/19

<https://www.pv-magazine.com/2019/08/12/new-us-study-finds-renewable-energy-storage-costs-need-to-drop-90/>

A new study, published last week by researchers at MIT, finds that technologies with storage capacity costs below US\$20/kWh will make them competitive and enable confidence in a 100% renewably supplied electricity system.

Wind power is winning in the U.S. despite Trump's critiques

- Axios – 8/14/19

<https://www.axios.com/wind-power-renewable-energy-donald-trump-888ec2bc-4f99-4fb1-b2f4-b31160a938e6.html>

Turbine size, generating capacity and *capacity factor* are going up.