



ABRA Update #243 – September 5, 2019

The Sixth Year of the Fight Begins

It was 5 years ago this week – Tuesday, September 2, 2014 – that Virginia Governor Terry McAuliffe and Dominion Energy CEO Tom Farrell appeared at a press conference in Richmond to announce the Atlantic Coast Pipeline (ACP) project, a partnership of Dominion, Duke Energy, Piedmont Natural Gas and AGL Resources. The project, announced as a \$5 billion venture, was to be operational by the end of 2018. The ACP was a successor project to a Dominion venture announced in May of that year as the Southeast Reliability Project. The Mountain Valley Pipeline project was publicly announced on the same day, also with a projected completion date of late 2018.

It was also 5 years ago this week that the formation of the Allegheny-Blue Ridge Alliance (ABRA) was made public, with 22 founding member organizations. The September 8 press release announcing the coalition's creation stated:

The Alliance and its member organizations are gravely concerned about the proposed route of the pipeline, which could disrupt some of the most ecologically sensitive areas in the Eastern United States, including more than 50 miles of public lands in the George Washington and Monongahela national forests.

Alliance members are also acutely concerned that the proposed project presents substantial unjustified risks and costs for the rural communities of the Allegheny-Blue Ridge region. These communities will bear the full impact of pipeline development, including the loss of private property, damage to their scenic landscape, and the risk of pollution, with few, if any, of the long-term economic benefits touted by proponents.

As ABRA begins its sixth year fighting the Atlantic Coast Pipeline, the truths in the statement made in our maiden press release have been underscored by further research and events. The ACP continues to be a project that is unneeded and incompetently conceived. We continue the fight!

Opposition Brief Is Filed in Appeal of Forest Service Case to Supreme Court

The petition filed with the U.S. Supreme Court by Atlantic Coast Pipeline, LLC (ACCP, LLC) should be denied, so stated a brief filed August 28 in opposition to the appeal. ACCP, LLC filed its Writ of Certiorari on June 25, asking the Supreme Court to review the December 13, 2018 decision of the Fourth Circuit Court of Appeals that said the U.S. Forest Service lacked the authority to grant a right-of-way for the Atlantic Coast Pipeline (ACP) to cross the Appalachian

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National Scenic Trail (Trail). The filing by ACP, LCC was accompanied by a similar petition from the U.S. Solicitor General.

The question presented to the Supreme Court is

“Whether the United States Forest Service has statutory authority under the Mineral Leasing Act to grant a gas pipeline right-of-way across the Appalachian National Scenic Trail.”

The [respondents brief](#) argues that:

- The case is not a suitable vehicle to address the question presented because 1) the Fourth Circuit opinion does not conflict with any decision of other U.S. Courts of Appeal and 2) ACP, LLC is only seeking a review of one of the four bases of the Fourth Circuit’s decision;
- The question presented to the Court does not warrant review because the ACP and other pipelines could still cross the Appalachian Trail and in no way does the Fourth Circuit decision prevent the construction of new pipelines (contrary to the contentions of ACP, LLC); and
- The Fourth Circuit’s decision is correct on the merits. There is no dispute that the entire Appalachian Trail is a unit of the National Park System, including where it crosses a national forest. There is no dispute that the Mineral Leasing Act prohibits pipeline crossings over federal lands in the National Park System. And there is no dispute that the relevant parcel where Atlantic seeks to cross the Trail is federal land. Accordingly, this is federal land in the National Park System, and a pipeline cannot cross it without congressional authorization.

The Supreme Court is expected to decide whether to accept the ACCP, LLC petition sometime soon after it reconvenes for its new session on October 1. Historically, only about 1% of cases appealed to the Supreme Court are granted a review. Should the Court grant the appeal, the case would not likely be argued until sometime in 2020.

FERC Rejects Complaint About MVP Violations

The Federal Energy Regulatory Commission (FERC) has rejected a [Formal Complaint filed June 21](#) by Wild Virginia, Preserve Craig, Indian Creek Watershed Association and two private landowners regarding numerous violations by the Mountain Valley Pipeline (MVP) of conditions set forth in the Certificate FERC had granted the project. The complaint requested FERC to suspend or revoke its Certificate for the project and to issue a project-wide stop work order.”

In its [August 28 response](#) rejecting the request, FERC stated that the Director of the Office of Energy Projects (Director) authorized construction of the MVP “to continue in areas where Mountain Valley had the applicable authorizations required under federal law because it was deemed the best way to mitigate further impacts on the environment. Given the large percentage of right-of-way that had been cleared and graded, the Director determined that protection of the environment along the Project’s right-of-way across non-federal land is best served by completing construction and restoration activities in as short a time as feasible, while complying with all laws and conditions of the certificate order.”

The FERC action on the complaint is subject to a rehearing request that can be made within 30 days of the issuance of the letter (September 27).

In the News:

Local/Atlantic Coast Pipeline

The Case Against The Atlantic Coast Pipeline

- Southern Environmental Law Center – 9/5/19

<https://www.southernenvironment.org/atlantic-coast-pipeline>

SELC and our partners have maintained for years that the risky and unnecessary Atlantic Coast Pipeline should not be built. Now you can find the supporting research and legal documentation behind that position all in one place, at StopTheACP.org.

The pipeline, national security, and Dominion's PR machine

- The Recorder – 9/5/19

https://www.abralliance.org/wp-content/uploads/2019/09/The-pipeline-national-security-and-Dominions-PR-machine-Recorder_20190905.pdf

Rather than admit the ACP is a bad idea, Dominion continues to crank out public relations pieces to save the beleaguered project.

Mission accomplished: 4 month horseback ride against pipeline ends

- Emporia Independent-Messenger 9/3/19

http://www.emporiaindependentmessenger.com/news/article_fdb5ac66-c835-11e9-b3a7-offoe8b1c665.html

Congratulations to Sarah Murphey for completing her epic ride of the Atlantic Coast Pipeline route!

Green groups say no high court review needed on Atlantic Coast Pipeline hurdle

- S&P Global – 8/29/19

<https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/082919-green-groups-say-no-high-court-review-needed-on-atlantic-coast-pipeline-hurdle>

Environmental groups countered assertions that an appeals court ruling left unchecked could have widespread implications for eastern US energy projects.

A step too far for the Appalachian Trail

- Politico – 8/29/19

<https://www.politico.com/agenda/story/2019/08/29/appalachian-trail-dominion-energy-000943>

To get its pipeline, as currently designed, Dominion Energy must persuade lawmakers to overturn a federal court decision and change a law that has protected important parts of the trail for almost 50 years. Congress should say no. *The author, Jonathan Jarvis, served as the 18th director of the National Park Service from 2009 to 2017.*

Dominion claimed excess profits of \$277 million in 2018, according to SCC report

- Richmond Times-Dispatch – 8/29/19

https://www.richmond.com/news/virginia/government-politics/dominion-claimed-excess-profits-of-million-in-according-to-scc/article_791e00bb-8coe-53fe-b3ee-d540b5876f7b.html

The Richmond-based electric monopoly will be allowed to divert excess earnings into new capital investments that modernize the state's electric grid and boost renewables, instead of refunding the money to ratepayers or reducing electricity rates. And, of course, they will collect ~10% ROE on the investments made with overcharged funds. What a racket!

Related:

- <https://wamu.org/story/19/08/29/dominion-energy-will-buy-virginia-electric-school-buses-if-they-can-use-the-batteries/>

Regional/Mountain Valley Pipeline, other

FERC backs water crossing changes for Mountain Valley Pipeline

- S&P Global – 8/27/19

<https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/082719-ferc-backs-water-crossing-changes-for-mountain-valley-pipeline>

FERC continues its pattern of approving any and all variance requests by pipeline companies.

FERC Asks Feds to Further Review MVP Authorizations

- Natural Gas Intelligence – 8/29/19

<https://www.naturalgasintel.com/articles/119427-ferc-asks-feds-to-further-review-mvp-authorizations>

The Federal Energy Regulatory Commission requested in a letter that the USFWS “reinitiate consultation” related to some of the authorizations it issued under the Endangered Species Act (ESA).

Related:

- https://www.roanoke.com/business/ferc-asks-for-new-review-of-endangered-species-in-the/article_32a0b16c-fc9d-5f4d-8adc-3f5b82aoffe2.html

An Up-to-Date DEQ Vital For Virginia's Environment

- The Danville Register & Bee – 9/1/19

https://www.godanriver.com/opinion/editorials/an-up-to-date-deq-vital-for-virginia-s-environment/article_f7d92744-e95b-578a-9507-2a332c64c3ee.html

Secretary of Natural Resources’ report details hollowed-out agency, unable to fulfill its multiple mandates.

As Pipeline Construction Booms, Citizens Take Inspections Into Their Own Hands

- WV Public Broadcasting – 8/29/19

<https://www.wvpublic.org/post/pipeline-construction-booms-citizens-take-inspections-their-own-hands#stream/0>

Munley: Northam is 'greenwashing' MVP

- The Roanoke Times – 8/28/19

https://www.roanoke.com/opinion/commentary/munley-northam-is-greenwashing-mvp/article_18566dbc-1383-5bc1-8587-5efa488c4e40.html

Big Picture:

Trump’s Methane Rule Rollback Divides Oil and Gas Industry

- The New York Times – 8/29/19

<https://www.nytimes.com/2019/08/29/business/energy-environment/methane-regulation-reaction.html>

Bigger companies don’t want gas to get a ‘bad rap’. Smaller producers are struggling and clamoring for any advantage to stay afloat.

FERC chairman to Congress: 'Make energy policy boring again'

- Utility Dive – 9/5/19

<https://www.utilitydive.com/news/ferc-chairman-to-congress-make-energy-policy-boring-again/562288/>

Chatterjee says Congress should get to work and decide a direction for the nation’s energy system. It’s not FERC’s job to do so.

US EPA Proposes Rule Narrowing States’ Ability to Block Pipeline Projects

- The National Law Review – 8/30/19

<https://www.natlawreview.com/article/us-epa-proposes-rule-narrowing-states-ability-to-block-pipeline-projects>

As usual, NLR provides a clear, detailed explanation of a complex issue.

FERC puts Constitution Pipeline back on track, finding New York waived water authority

- S&P Global – 8/29/19

<https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/082919-ferc-puts-constitution-pipeline-back-on-track-finding-new-york-waived-water-authority>

The commission, by a 4-0 vote late Wednesday, reversed its earlier finding - that the New York review could not be waived - in light of a recent DC Circuit Court of Appeals ruling regarding a hydropower project.

To lower residential energy costs, waive goodbye to the Jones Act

- American Enterprise Institute – 9/3/19

<https://www.aei.org/publication/to-lower-residential-energy-costs-waive-goodbye-to-the-jones-act/>

The Jones Act is a 1920s legislative relic, a wasteful one-hundred-year old attempt by Congress to address a post-World War I surplus of merchant ships. Today, it effectively prohibits New England gas customers from accessing US-produced LNG. This opens the “no more pipelines or fossil fuels anywhere” can of worms but is worthy of consideration. Any Jones Act waiver ought to apply to offshore wind projects as well.

Climate change: Big lifestyle changes 'needed to cut emissions'

- BBC News – 8/29/19

<https://www.bbc.com/news/science-environment-49499521>

People must use less transport, eat less red meat and buy fewer clothes if the UK is to virtually halt greenhouse gas emissions by 2050, the government's chief environment scientist has warned.

Climate Change Is Likely to Devastate the Global Food Supply. But There's Still Reason to Be Hopeful

- Time Magazine – 8/28/19

<https://time.com/5663621/climate-change-food-supply/>

Although Climate Change is an ever-present and looming danger to our agricultural systems, humans are really good at solving problems...see below...maybe!

Related:

- <https://www.chemistryworld.com/news/microbes-and-renewable-energy-turn-carbon-dioxide-into-edible-protein/3010920.article>