



ABRA Update #248 – October 10, 2019

Legal Challenge to FERC Certificate Put on Hold

Consideration of legal challenges to the certificate issued in December 2017 by the Federal Energy Regulatory Commission for construction of the Atlantic Coast Pipeline (ACP), which was to be argued before the DC Circuit Court of Appeals on October 16, has been deferred. The case before the Court consolidates several cases, including the challenge brought by several ABRA members asking that the FERC certificate for the ACP be invalidated. The Order deferring the argument of the case, [issued by the DC Circuit late on October 4](#), explained that the reason for delaying the scheduled argument was the U.S. Supreme Court's decision announced earlier that day to accept for argument *United States Forest Service v. Cowpasture River Preservation Association* case, in which the Fourth Circuit Court of Appeals decided that the Forest Service did not have the authority to grant the ACP the right to cross the Appalachian Scenic National Trail.

The DC Circuit will decide when to reschedule consideration of the FERC challenge after the Supreme Court hands down a decision on the *Cowpasture* case. No date has yet been set by the Supreme Court for the *Cowpasture* case to be argued, but it is believed that will occur sometime in February or March 2020, with a decision being made before the end of June. Initial briefs by parties in the *Cowpasture* case are to be filed with the Supreme Court by December 19.

In the meantime, construction on the ACP is still suspended as the company awaits issuance by the U.S. Fish and Wildlife Service (FWS) of a new biological opinion for the project, which is expected to occur sometime in coming weeks. [The Southern Environmental Law Center submitted to FWS on October 1 an 88-page submission](#) to the agency on how it should consider rewriting the new biological opinion, noting:

As the agency well knows, this is the second time its approvals for this project have been vacated. Both vacatures followed rushed, incomplete analysis unsupported by best available science. We urge the agency to resist pressure from the pipeline companies to fast-track yet another approval for this unnecessary project and to instead heed its mandate under the Endangered Species Act ("ESA") to protect and conserve endangered and threatened species and their habitats. That requires avoiding inflicting further harm on species where that injury may jeopardize the species, as it would here for rusty-patched bumble bee, clubshell, and Roanoke logperch.

In the year since the agency issued its last biological opinion and incidental take statement, facts regarding the impact of constructing this pipeline on protected species have changed. The agency must take these changes into account to issue a valid approval for this project. If the agency again seeks to expedite approvals, we are concerned these changes will be ignored. Therefore, on behalf of Defenders of Wildlife, Sierra Club, and the Virginia Wilderness Committee, we request that the agency consider the following in its re-evaluation of the pipeline.

Volunteer for ABRA's
Pipeline CSI Program

Volunteer

Submit a report to
the Pipeline CSI

Report

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New NRDC Study Confirms Unequal Water Quality for Minorities

“Race, ethnicity, and language had the strongest relationship to slow and ineffective enforcement of the Safe Drinking Water Act,” according to the findings of a new study released September 24 by ABRA member Natural Resources Defense Council. The study found that “while the Safe Drinking Water Act guarantees all Americans access to clean, drinkable water, it hasn’t worked out that way in practice.” NRDC partnered in the study with the Environmental Justice Health Alliance for Chemical Policy Reform (EJHA) and Coming Clean to analyze nationwide violations of the law from 2016 to 2019. The study concludes that there is a disturbing relationship between sociodemographic characteristics—especially race—and drinking water violations. For a copy of the study, *Watered Down Justice*, click [here](#).

Who is ABRA?

This is another in a series of profiles of the member groups of the Allegheny-Blue Ridge Alliance.

West Virginia Rivers Coalition

In 1990 a group of concerned citizens gathered in a private home to form what was to become a statewide organization to promote the preservation, restoration, and enhancement of West Virginia’s beautiful rivers and streams so that they could be enjoyed by present and future generations. The West Virginia Rivers Coalition (WV Rivers) was the result, becoming the first statewide river advocacy group east of the Rockies. In the ensuing 29 years, WV Rivers has grown to become a vital voice for environmental and conservation advocacy in West Virginia, and a leading member of the Allegheny-Blue Ridge Alliance.

Among the initiatives that WV Rivers has launched in furtherance of its mission is its Safe Water for West Virginia Program, which is designed to help utilities by involving public agencies and citizen groups in implementing source water protection plans and watershed protection. This included production of [Drinking Water Protection: A Citizen’s Guide to Getting Involved](#), a toolkit to educate community stakeholders and prepare them to take on a leadership role in source water protection planning.

Another major focus of WV River’s work is its concern for public lands, which its website notes “are the birthplace of our exceptional rivers and streams; they provide drinking water for thousands of West Virginians.” Accordingly, the Coalition coordinates West Virginians for Public Lands, an alliance of individuals, businesses and organizations working to enhance and protect our public lands and waters.

WV Rivers is a prominent defender of water resources threatened by natural gas pipelines in West Virginia, including the Mountain Valley Pipeline and the Atlantic Coast Pipeline. Angie Rosser, WVR Rivers’ Executive Director, serves on ABRA’s Steering Committee. Autumn Leah Crowe, Staff Scientist for WV Rivers, serves as West Virginia Coordinator for ABRA’s CSI program.

For more on the West Virginia Rivers Coalition, including how to a member and supporter of its important work, visit <https://wvrivers.org/>.

In the News:

Local/Atlantic Coast Pipeline

Supreme Court to hear appeal case on pipeline project

- The Recorder – 10/9/19
https://www.abralliance.org/wp-content/uploads/2019/10/Supreme-Court-to-hear-appeal-case-on-pipeline-project-Recorder_20191009.pdf

What to watch in the Appalachian Trail pipeline fight

- E&E EnergyWire – 10/7/19
<https://www.abralliance.org/wp-content/uploads/2019/10/What-to-watch-in-the-Appalachian-Trail-pipeline-fight-EE-Energywire-10-7-19.pdf>

Dominion PR Director Spins Through Revolving Door into Northam Administration

- Little Sis – 10/8/19
<https://news.littlesis.org/2019/10/08/dominion-pr-director-spins-through-revolving-door-into-northam-administration/>
Virginia Governor Ralph Northam announced last week that Grant Neely will become his new Communications Chief. Neely has been the Director of Strategic Communications for Dominion Energy since August 2016.

For businesses and residents alike, Virginia must reform its energy economy

- The Washington Post – 10/4/19
https://www.washingtonpost.com/opinions/local-opinions/for-businesses-and-residents-alike-virginia-must-reform-its-energy-economy/2019/10/04/18d0f3aa-e3a4-11e9-b403-f738899982d2_story.html
- Related:
- <https://bluevirginia.us/2019/10/va-secretary-of-natural-resources-praise-op-ed-advocating-reining-in-dominion-energy-reforming-virginias-energy-system-then-quickly-deletes-the-tweet>

Regional/Mountain Valley Pipeline, other

Supreme Court denies appeal of eminent domain for Mountain Valley Pipeline

- The Roanoke Times – 10/7/19
https://www.roanoke.com/news/local/supreme-court-denies-appeal-of-eminent-domain-for-mountain-valley/article_4149f182-88aa-505b-abbd-fcc1bc7d287b.html
A group of about a dozen landowners had hoped the court would overturn a ruling by a Roanoke-based federal judge, who last year gave Mountain Valley immediate possession of about 300 properties.

Trump's fast-tracking of oil pipelines hits legal roadblocks

- Reuters – 10/9/19
<https://www.reuters.com/article/us-usa-trump-pipelines-insight/trumps-fast-tracking-of-oil-pipelines-hits-legal-roadblocks-idUSKBN1WO12L>
The Republican administration tried to accelerate permits for two multi-billion-dollar natural gas lines and jumpstart the long-stalled Keystone XL crude oil pipeline that would start in Canada. Judges halted construction on all three over the past two years.

Officials Catch Mountain Valley Pipeline Workers Transporting Water To Seed Grass During Drought

- WOAY News – 10/7/19
<https://woay.tv/officials-catch-mountain-valley-pipeline-workers-transporting-water-to-seed-grass-during-drought/>
Wells? Waterways? Water table? In the middle of a significant drought, just where is MVP getting tankers full of water to water lawn? Of course, with a heavy rain, that bare ground will end up in our streams...maybe they shouldn't have scraped the mountains 'clean' in the first place!

The hidden power behind the Chickahominy gas power plant proposal

- Virginia Mercury – 10/9/19

<https://www.virginiamercury.com/2019/10/09/the-hidden-power-behind-the-chickahominy-gas-power-plant-proposal/>

Why should the SCC privilege a request for secrecy by an unregulated firm over the public's right to know and who would benefit?

Big Picture:

The Literal Gaslighting That Helps America Avoid Acting on the Climate Crisis

- The New Yorker – 10/9/19

<https://www.newyorker.com/news/daily-comment/the-literal-gaslighting-that-helps-america-avoid-acting-on-the-climate>

A bridge built on methane emissions is a bridge to nowhere...nowhere good, that is.

PennEast seeks US FERC's help with eminent domain snag in 3rd Circuit

- S&P Global – 10/7/19

<https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/100719-penneast-seeks-us-fercs-help-with-eminent-domain-snag-in-3rd-circuit>

At issue is a potentially far-reaching September 3rd Circuit ruling that found state sovereign immunity prevented PennEast from pulling states into federal court for condemnation proceedings.

Revealed: the 20 firms behind a third of all carbon emissions

- The Guardian – 10/9/19

<https://www.theguardian.com/environment/2019/oct/09/revealed-20-firms-third-carbon-emissions>

New data shows how fossil fuel companies have driven climate crisis despite industry knowing dangers.

Editorial: How Appalachian natural gas is connected to Ukraine (sort of)

- The Roanoke Times – 10/7/19

https://www.roanoke.com/opinion/editorials/editorial-how-appalachian-natural-gas-is-connected-to-ukraine-sort/article_61c87819-7784-5a1a-a478-b4da2e61b369.html

Pipelines, even those seemingly going from nowhere to nowhere, have an impact. It's all interconnected.

Greta Thunberg is right: It's time to haul ass on climate change

- Vox – 20/4/19

<https://www.vox.com/energy-and-environment/2019/10/4/20896541/greta-thunberg-panic-carbon-tax-price>

Economically and politically, early ambition is better.

PacifiCorp to add 7 GW renewables + storage, close 20 of 24 coal plants

- Utility Dive – 10/3/19

<https://www.utilitydive.com/news/pacifiCorp-to-add-7-gw-renewables-storage-close-20-of-24-coal-plants/564299/>

Critics say it's moving too slowly, as some coal plants would remain open after 2038.