



ABRA Update #259 – January 16, 2020

New Brief Filed with Supreme Court in Cowpasture Case

The Southern Environmental Law Center (SELC) and the Sierra Club Environmental Law Program filed on January 15 a brief with the U.S. Supreme Court in response to the briefs filed in December by the U.S. Forest Service and the Atlantic Coast Pipeline, LLC in their challenge to the Fourth Circuit Court of Appeals decision in the *Cowpasture River Preservation Association v. U.S. Forest Service* that vacated the Atlantic Coast Pipeline’s permit from the Forest Service, which included the right to cross the Appalachian National Scenic Trail.

The SELC/Sierra brief urges the Supreme Court to uphold the Fourth Circuit decision on the grounds that: 1) the Forest Service lacks authority to grant a pipeline right-of-way because the Appalachian Trail is land in the National Park System; and 2) the petitioners cannot separate the “Trail” from the Federal “lands” dedicated to the Trail. The latter argument was set forth in the briefs filed by the Forest Service and ACP, LLC. Click [here](#) for the *ABRA Update* article discussing the earlier brief and [here](#) for an article discussing the amicus briefs filed in support of the appeal.

SELC represents the Cowpasture River Preservation Association, Highlanders for Responsible Development, Shenandoah Valley Battlefields Foundation, Shenandoah Valley Network and Virginia Wilderness Committee. Sierra is representing itself and Wild Virginia.

A copy of the January 15 SELC/Sierra brief is filed is available [here](#). Amicus briefs in support of the respondents’ brief are due to be filed by January 22. The case is scheduled to be argued before the Supreme Court on February 24.

Resolution Would Invite VA Counties, Cities to Join West Virginia

A West Virginia House of Delegates resolution introduced on January 14 would invite Virginia counties or independent cities that are dissatisfied with prospective legislation in the Virginia General Assembly on gun control to leave Virginia and become part of West Virginia. House Concurrent Resolution 8, sponsored by 37 of the 58 WV Republican Delegates and 1 Independent, has already received approval from one of the two House committee to which the resolution was referred. Floor consideration in the House of Delegates is anticipated soon.

The resolution calls for an election to be held prior to August 1, 2020 in any Virginia jurisdictions desiring admission to West Virginia (under provisions of the WV Constitution that provide for admitting new territory), subject to the approval of the Virginia General Assembly, and, in turn, for the admission of such Virginia jurisdictions to be submitted for approval by the voters in West Virginia general election in November 2020. The resolution cites several precedents for such an action, including “the peaceful dissolutions of Czechoslovakia and the Soviet Union, and the creation of South Sudan.” Click [here](#) for a copy of the resolution.

Volunteer for ABRA’s
Pipeline CSI Program

Volunteer

Submit a report to
the Pipeline CSI

Report

Stay informed, like us
on Facebook.



Support ABRA
financially

GiveNow

Top Democrat Energy Staffer Joins Duke Energy as VP

The Democrat Staff Director of the U.S. Senate Committee on Energy and Natural Resources, Sarah Venuto, has been named Vice President of Public Policy for Duke Energy. She began her duties on January 13.

Ms. Venuto was appointed to the minority staff director position of the Senate Energy Committee in January 2019 after serving for 4 years on the staff of Sen. Joe Manchin (D-WV), who is the Ranking Member of the Committee. Before that, Ms. Venuto was a lobbyist for the natural gas industry.

New Status of Legal Challenges to the ACP Now Available

The report on the status of legal challenges to the Atlantic Coast Pipeline that is a regular feature of the ABRA website has been updated to reflect recent changed circumstances with some of the several lawsuits involving the pipeline project. It is available by clicking [here](#).

In the News:

Local/Atlantic Coast Pipeline

In Virginia, anti-pipeline activists feel ‘justice was served’ with court ruling

- Energy News Network – 1/15/20

<https://energynews.us/2020/01/15/southeast/in-virginia-anti-pipeline-activists-feel-justice-was-served-with-court-ruling/>

The ruling is potentially a huge setback for Dominion Energy, which will now reapply for the permit to build the Atlantic Coast Pipeline.

Virginia Lawmakers Move to Dismantle Energy Monopoly

- Courthouse News Services – 1/9/20

<https://www.courthousenews.com/virginia-lawmakers-move-to-dismantle-energy-monopoly/>

The Virginia Energy Reform Act aims to create a competitive market for electricity retailers monitored by a state-run nonprofit. It would also push the burden of maintaining the distribution system onto existing monopolies, and install additional utilities for low-income consumers.

Related:

- <https://www.wric.com/news/politics/capitol-connection/proposed-bills-could-eat-into-dominion-energys-excess-earnings-and-end-the-monopoly/>

Youth Activists Ask VA Democrats To Support Green New Deal Bill

- Patch – 1/13/20

<https://patch.com/virginia/fredericksburg/youth-activists-ask-va-democrats-support-green-new-deal-bill>

Members of the Sunrise Movement, a youth-led environmental group, occupied the office of Virginia's new Speaker of the House.

General Assembly will decide whether to build environmental justice into Virginia law

- Virginia Mercury – 1/13/20

<https://www.virginiamercury.com/2020/01/13/general-assembly-will-decide-whether-to-build-environmental-justice-into-virginia-law>

This session he and a handful of Democratic lawmakers including House Majority Leader Charniele Herring of Alexandria are championing efforts to make environmental justice a more systematic part of how agencies operate, permit and regulate activities within the commonwealth.

Regional/Mountain Valley Pipeline, other

‘Raging granny’ faces music for pipeline protest: ‘Happy that I did it’

- Virginia Mercury – 1/14/20

<https://www.virginiamercury.com/2020/01/14/raging-granny-faces-music-for-pipeline-protest-happy-that-i-did-it>

Benjamin, from Durham, North Carolina, is one of several anti-pipeline activists who have locked themselves to pipeline equipment and wound up in court since construction began in late 2017.

Letter from Grassroots Progressive, Enviro Groups Urges Virginia Democratic Legislators to Aggressively Address the Climate Crisis

- Blue Virginia – 1/11/20

<https://bluevirginia.us/2020/01/letter-from-grassroots-progressive-enviro-groups-urges-virginia-democratic-legislators-to-aggressively-address-the-climate-crisis>

Big Picture:

Five 2020 Energy Predictions: Solar Surge, Coal Crash, Gas Exorcism, Clean Energy Incentives, Public Mobilization

- Forbes – 1/13/20

<https://www.forbes.com/sites/energyinnovation/2020/01/13/five-2020-energy-predictions-solar-surge-coal-crash-gas-exorcism-clean-energy-incentives-public-mobilization/#12d4416a1ece>

Five leading energy and climate policy experts share their predictions for the year and decade ahead.

Related:

- <https://pv-magazine-usa.com/2020/01/13/four-tools-50-30-55-ton-ferc-to-clean-the-power-grid/>

Time to Overturn Precedent on FERC Orders, Landowners Tell Court

- Bloomberg Law – 1/13/20

<https://news.bloomberglaw.com/environment-and-energy/time-to-overturn-precedent-on-ferc-orders-landowners-tell-court>

Federal judges should seize an opportunity to reverse a “fundamentally flawed” precedent that keeps pipeline opponents out of court until it’s too late to halt a project, lawyers for landowners and environmentalists said in new court filings.

Related:

- <https://www.jdsupra.com/legalnews/d-c-circuit-en-banc-review-of-ferc-65713/>

Trump’s Weakening of Environmental Rules Would Leave the Public in the Dark

- The New York Times – 1/10/20

<https://www.nytimes.com/2020/01/10/opinion/trump-environment.html>

Nobody wants overregulation. But it can take time to gather critical information required to make informed decisions on projects that change entire landscapes. Better to get it right than to cut corners in ways that end up imposing even higher costs on everyone down the road.

‘Urgent’ need for businesses to adapt to growing threat from climate change, McKinsey says

- CNBC – 1/13/20

<https://www.cnbc.com/2020/01/16/urgent-need-for-businesses-to-adapt-to-growing-threat-from-climate-change-mckinsey-says.html>

\$Trillions on the line and hundreds of millions of lives are at stake.

U.S. gas production to drop for first time in 5 years

- E&E News – 1/16/20

<https://www.abralliance.org/wp-content/uploads/2020/01/U.S.-gas-production-to-drop-for-first-time-in-5-years-EE-Energywire-1-16-20.pdf>

Production of U.S. natural gas is forecasted to fall in 2021 after rising to record levels this year, according to a report out Tuesday from the U.S. Energy Information Administration.

Transmission Emerging as Major Stumbling Block for State Renewable Targets

- Greentech Media – 1/15/20

<https://www.greentechmedia.com/articles/read/transmission-emerging-as-major-stumbling-block-for-state-renewable-targets>

The U.S. is struggling to move renewable power from where it's cheapest to where it's wanted, with no obvious solution in sight.

Three-Quarters of New US Generating Capacity in 2020 Will Be Renewable, EIA Says

- Greentech Media – 1/14/20

<https://www.greentechmedia.com/articles/read/eia-forecasts-wind-solar-will-break-records-for-new-u-s-generation-in-2020>

2020 will be a record year for U.S. renewables construction as 6 gigawatts of coal capacity goes offline, according to new government figures.

Solar capacity to surge in Southeast US over next decade: Fitch Solutions

- S&P Global – 1/13/20

<https://www.spglobal.com/platts/en/market-insights/latest-news/electric-power/011320-solar-capacity-to-surge-in-southeast-us-over-next-decade-fitch-solutions>

Long a laggard in renewables, SE expected to play catch-up in the coming years.