



## ABRA Update #275 – May 7, 2020

### Issue Highlights . . .

- Rockbridge Planning Commission to Consider Approval of ACP Yard
- FERC Process Skewed Against Landowners, Says Congressional Committee
- Dominion Expresses Optimism About ACP in Call with Financial Analysts
- New EPA Navigable Waters Rule Challenged in Court
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### Rockbridge Planning Commission to Consider Approval of ACP Yard

A proposed storage yard for the Atlantic Coast Pipeline will be the subject of a May 13 meeting of the Rockbridge County (VA) Planning Commission to discuss its possible approval. This issue was discussed in the [April 30 issue of ABRA Update](#). The proposed contractor yard, to be located in Goshen, VA, would be an active hub for pipe welding, fuel storage, pipeline worker rendezvous, material storage, and construction vehicle travel to pipeline installation locations in neighboring Bath, Highland, and Augusta counties.

**Action is needed!** ABRA members and activists are urged to file comments in opposition to the proposal with the Planning Commission in advance of the May 13 meeting.

For more information, [click here for an alert](#) and share it with others.

### FERC Process Skewed Against Landowners, Says Congressional Committee

Rep. Jamie Raskin (D-MD), Chairman of the Subcommittee on Civil Rights and Civil Liberties of the U.S. of Representatives, released on April 28 preliminary findings showing that the natural gas pipeline approval process used by the Federal Energy Regulatory Commission (FERC) unjustly tramples on the rights of private landowners. The subcommittee report concluded:

- FERC rubber-stamps pipeline projects. Only 6 out of more than 1000 projects have been rejected in the past 20 years.
- Landowners are prevented from defending their property against pipeline companies. FERC has issued a tolling order in every case where a landowner has requested a hearing, thus delaying the consideration of appeals, often until after a project is completed.
- FERC favors pipeline companies. Among 114 requests for rehearing over the past 12 years, FERC has authorized 64% of the time construction of a pipeline project before ruling on a rehearing request.

The subcommittee issued in conjunction with the release of its report a 12-minute video that features Richard Averitt of Friends of Nelson County, an ABRA Member, and Maury Johnson, a West Virginia landowner and Board member of the POWHR coalition that is leading the fight against the Mountain Valley Pipeline. A link to the video is [here](#).

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## **Dominion Expresses Optimism About ACP in Call with Financial Analysts**

Dominion Energy reiterated this week its expectation that construction activity on the Atlantic Coast Pipeline will resume later this year, that its overall cost will be in line with the latest \$8 billion estimate and that the pipeline will be in full service in 2022. These projections were made by CEO Tom Farrell during a May 5 quarterly earnings conference call with financial community analysts. Farrell said:

“We can maintain the existing schedule and cost estimates so long as we can take advantage of the November 2020 through March 2021 tree felling season. We will continue to monitor and provide communication to investors as appropriate. Based on these expectations, we remain confident in the successful completion of the project and note that there are no changes to the financial contribution estimates for 2020 and beyond.”

Regarding the status of some of ACP’s vacated permits, Farrell said:

“Next, the biological opinion. Progress continues, despite COVID as we provide information that is responsive to request from both FERC and the Fish and Wildlife Service. We expect the authorization to be reissued by the end of this quarter, that period would mark nearly a 12 – a full 12 months since the court invalidated the prior version in July 2019. Demonstrating the rigor with which the permitting agencies are approaching resolution of the concerns identified by the court.

“In the case of the air permit for Buckingham Compressor Station, we’ve already begun to submit additional data and analysis to the Virginia department of environmental quality, which we believe provides ample justification for the original air board decision to approve the strictest minor source air permit in the nation and addresses all the concerns voiced by the court. We expect the permit to be re-issued by year end.

“Finally, with regard to the nationwide permit 12, which is issued for the project by the United States Army Corps of Engineers, we had expected the permits to be re-issued shortly after the issuance of the biological opinion, as the core in recent months has taken steps that address the four circuits concerns. The recent decision related to the Keystone pipeline by the district court in Montana has potential implications for nearly all critical infrastructure investment and associated employment across the country. . . With regard to ACP, we believe it is too early to tell what if any impact this ruling will have on the existing and timing and cost of the projects which are otherwise affirming today.”

## **New EPA Navigable Waters Rule Challenged in Court**

A group of conservation organizations on April 29 filed a lawsuit in the U.S. District Court of South Carolina, Charleston District, challenging the [Trump Administration’s Navigable Waters Protection Rule](#), which was published as a final rule on April 21. The rule would redefine what wetlands and streams qualify for protection under the Clean Water Act. It is estimated that half of the nation’s wetlands and nearly 1/5<sup>th</sup> of its streams would lose Clean Water Act protection. The rule, which was jointly issued by the U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers, is to become effective June 22, 2020.

The suit was filed by the Southern Environmental Law Center (SELC) on behalf of a coalition of conservation groups that includes the James River Association, an ABRA member. A similar lawsuit challenging the new law was filed in U.S. District Court for the District of Massachusetts by another coalition of conservation organizations that includes the Natural Resources Defense Council, also an ABRA member.

The lawsuit contends that the agencies' wholesale stripping of protections was an unlawful departure from decades of bipartisan practice. Among other things, the agencies failed to explain or evaluate the impact of their actions on the nation's water quality or give Americans a meaningful opportunity to comment on the elimination of scientifically based protections for streams and wetlands. The suit further argues that the challenged rule ignores the intent of the Clean Water Act, which a bipartisan Congress passed in 1972 because state-by-state efforts to clean the nation's waters failed.

A copy of the SELC filing with the court is available [here](#). A SELC press release is [here](#).

## ***In the News:***

### **Local/Atlantic Coast Pipeline**

#### **SELC: Dominion plan anchored on pollution**

- The Recorder – 5/7/20

[https://www.abralliance.org/wp-content/uploads/2020/05/Dominion-plan-anchored-on-pollution-Recorder\\_20200507pdf.pdf](https://www.abralliance.org/wp-content/uploads/2020/05/Dominion-plan-anchored-on-pollution-Recorder_20200507pdf.pdf)

plan undermines a new clean energy law by laying out a strategy that remains fossil fuel-intensive for at least the next 25 years.

Related:

- <https://bluevirginia.us/2020/05/dominion-energys-costly-new-energy-blueprint-fails-to-meet-challenge-of-virginias-clean-energy-transition>

#### **Thousands of Virginians, Scores of National Groups Tell Dominion CEO and Shareholders to Abandon Atlantic Coast Pipeline**

- Blue Virginia – 5/6/20

<https://bluevirginia.us/2020/05/thousands-of-virginians-scores-of-national-groups-tell-dominion-ceo-and-shareholders-to-abandon-atlantic-coast-pipeline>

As Dominion Energy met virtually for its annual shareholder meeting, an unprecedented coalition of advocacy organizations and Virginia residents sent a message to shareholders and board members, calling on the utility monopoly to abandon its plans to build the highly controversial Atlantic Coast Pipeline (ACP).

#### **Dominion expects bills to rise to pay for renewable mandates**

- NBC29 News – 5/4/20

<https://www.nbc29.com/2020/05/04/dominion-expects-bills-rise-pay-renewable-mandates/>

Customers of Dominion Energy Virginia can expect their bills to increase by an average of about 3% annually over the next 10 years as the company changes its generation mix to comply with new renewable energy mandates.

#### **Clean Economy Act will help Virginia's economic recovery**

- Virginia Mercury – 5/7/20

<https://www.virginiamercury.com/2020/05/07/clean-economy-act-offer-will-help-virginias-economic-recovery/>

While efforts to protect public health remain paramount right now, it is also critical that we look ahead and plan how we are going to emerge from this pandemic and rebuild our economy.

### **Regional/Mountain Valley Pipeline, other**

#### **Report of pipeline slips in West Virginia under investigation, raises concern**

- The Roanoke Times – 5-3-20

[https://www.roanoke.com/news/local/report-of-pipeline-slips-in-west-virginia-under-investigation-raises-concern/article\\_05d9ea1e-8944-5a10-a9e9-acad9d709e92.html](https://www.roanoke.com/news/local/report-of-pipeline-slips-in-west-virginia-under-investigation-raises-concern/article_05d9ea1e-8944-5a10-a9e9-acad9d709e92.html)

Land movement in a construction area shifted a section of the Mountain Valley Pipeline after it was buried along a West Virginia slope, according to a report filed by environmental regulators.

## Feds find safety problems at W.Va pipeline project

- E&E Energywire – 5/7/20

<https://www.abralliance.org/wp-content/uploads/2020/05/Feds-find-safety-problems-at-W.Va-pipeline-project-EE-Energywire-5-7-20.pdf>

## SCC rules Virginia Natural Gas pipeline expansion hearings will proceed as planned

- Virginia Mercury – 5/5/20

<https://www.virginiamercury.com/2020/05/05/scc-rules-virginia-natural-gas-pipeline-expansion-hearings-will-proceed-as-planned>

## Big Picture:

### U.S. Supreme Court decision on groundwater discharges is a huge win for the environment

- Virginia Mercury – 5/1/20

<https://www.virginiamercury.com/2020/05/01/u-s-supreme-court-decision-on-groundwater-discharges-is-a-huge-win-for-the-environment/>

This ruling means polluters can't use groundwater or other nonpoint methods to get rid of their pollution without a permit.

### D.C. Circuit Hears Argument about Vital FERC Energy Storage Order

- Environmental Defense Fund – 5/5/20

<https://www.edf.org/media/dc-circuit-hears-argument-about-vital-ferc-energy-storage-order>

Related:

- <https://www.eenews.net/stories/1063058729>

### Study counters claim that NEPA hobbles projects

- E&E Greenwire – 5/5/20

[https://www.abralliance.org/wp-content/uploads/2020/05/Study-counters-claim-that-NEPA-hobbles-projects-EE-Greenwire\\_20200505.pdf](https://www.abralliance.org/wp-content/uploads/2020/05/Study-counters-claim-that-NEPA-hobbles-projects-EE-Greenwire_20200505.pdf)

A new study takes aim at the idea that environmental reviews take too long for timber and other projects in national forests.

### After the oil crash, we need a managed wind-down of fossil fuel production

- Climate Home News – 5/6/20

<https://www.climatechangenews.com/2020/05/06/oil-crash-need-managed-wind-fossil-fuel-production/>

To meet climate goals and avoid further market chaos, governments need to plan the decline of coal, oil and gas production, with support for workers.

### World cannot return to 'business as usual' after Covid-19, say mayors

- The Guardian - 5/7/20

<https://www.theguardian.com/environment/2020/may/07/world-cannot-return-to-business-as-usual-after-covid-19-say-mayors>

City leaders publish 'statement of principles' putting climate action at centre of recovery plans

### Inside Clean Energy: A California Utility Announces 770 Megawatts of Battery Storage. That's a Lot.

- Inside Climate News – 5/7/20

<https://insideclimatenews.org/news/06052020/inside-clean-energy-california-battery-storage-wind-solar>

Southern California Edison plans to build seven storage projects on a fast timetable despite the economic disruption of the coronavirus.

### Make That 42 Days Of Renewable Energy, And Counting

- CleanTechnica – 5/6/20

<https://cleantechnica.com/2020/05/06/make-that-42-days-of-renewable-energy-and-counting/>

The trend is being powered by changes in demand resulting from the COVID-19 crisis. Nevertheless, signs are brewing that when the outbreak eases and the economy rebounds, coal will be left behind in the dust.