



ABRA Update #286 – July 30, 2020

Issue Highlights . . .

- ACTION ALERT: Comments Due August 3 on ACP & SHP Time Extension
- New NEPA Regulations Challenged in Court
- Forest Service, Park Service Move Toward Reissuing New MVP Permits
- MVP Completion Percentage is Overstated
- Two New FERC Commissioners Nominated
- Book Recommendation: The Next Great Migration
- *In the News* – page 3

ACTION ALERT: Comments Due August 3 on ACP & SHP Time Extension

Comments are due by 5 pm, Monday, August 3 on the request by Dominion Energy Transmission, Inc. (DETI), submitted to the Federal Energy Regulatory Commission (FERC) on July 10, for an extension of time of 1) one-year to address abandonment and restoration issues for the Atlantic Coast Pipeline, and 2) two-years to complete construction of the Supply Header Project (SHP). For details on how to comment, click [here](#).

The major points that should be made in comments are:

- The SHP time extension should be denied because it has not and cannot be justified in accordance with FERC standards. The project was proposed as being dependent upon the Atlantic Coast Pipeline (ACP). Dominion Energy clearly stated on the record that “the SHP does not have independent utility and would not be built without construction of the ACP.” If built, the SHP would be a pipeline to nowhere because the ACP project is dead!
- The extension request for the ACP to address abandonment and restoration activities along the project’s right-of-way should not be granted without a public comment period of at least 30-days. It is in the Commission’s interest to know the concerns that the public and affected landowners have about restoration activities and impacts on landowners’ rights in the future.
- Landowners who entered into an easement agreement with Atlantic Coast Pipeline, LLC (Atlantic) should be provided an opportunity to be released from those agreements as a condition of FERC’s granting Atlantic its requested extension so that the landowners can once again utilize their land without the restrictions such agreements placed upon future use. The recommendation for such a remedy, made in a [July 17 filing by a group of conservation organizations](#) (cited below), should be adopted by FERC.

“Requiring Atlantic to promptly contact all landowners where a right-of-way easement exists and inform them that (i) Atlantic will release the right-of-way easement within 90 days of a written request from an affected landowner, (ii) Atlantic will provide the affected landowner with the proposed written release of the right-of-way easement, (iii) Atlantic will pay the reasonable attorneys’ fees of the affected landowner in reviewing and negotiating changes to the proposed written release of the right-of-way easement, and (iv) Atlantic will file the final, executed written release of the right-of-way easement in the land records of the appropriate jurisdiction. Atlantic has already committed that landowners will keep the easement compensation they have received.”

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

FERC's agreement with this recommendation would be in keeping with the recently expressed interest by Chairman Chatterjee of the Commission being more responsive and sensitive to the interests and concerns of landowners who are affected by projects being considered by the Commission.

New NEPA Regulations Challenged in Court

The Southern Environmental Law Center (SELC) filed a complaint July 29 with the U.S. District Court for the Western District of Virginia asking that the new regulations implementing the National Environmental Policy Act (NEPA), [issued July 15 by the Council on Environmental Quality \(CEQ\)](#), be set aside. The SELC filing, made on behalf of a group of conservation organizations that includes 5 ABRA members, charges that CEQ "disregarded clear evidence from over 40 years of past implementation; ignored the reliance interests of the citizens, businesses, and industries that depend on full and complete NEPA analyses; and turned the mandatory public engagement process into a paper exercise, rather than the meaningful inquiry the law requires."

Continuing, the complaint states:

By excluding a range of projects from any NEPA review, severely limiting the environmental effects that must be considered under NEPA, restricting which alternatives should be studied, and allowing projects to proceed before the NEPA process is complete, CEQ has eviscerated the heart of the statutory scheme. Because CEQ has arbitrarily reversed longstanding regulations, contrary to the administrative record and the governing statute, its rulemaking violates the APA [Administrative Procedures Act] and must be vacated.

For a copy of the SELC complaint, click [here](#). For more on the filing, click [here](#).

Forest Service, Park Service Move Toward Reissuing New MVP Permits

The U.S. Forest Service (NFS) [published on July 30 a Notice of Intent](#) to prepare a Supplement Environmental Impact Statement (SEIS) for the Mountain Valley Pipeline (MVP) "to address the Fourth Circuit Court's ruling, new information, and changed circumstances such as new Federally listed threatened and endangered species and critical habitat designations." The draft SEIS is expected to be available in September, with the final SEIS completed later in 2020. The NFS announcement follows a [July 16 notice by the U.S. Park Service](#) that it will be issuing a new right of way permit for the MVP to cross Park Service land.

MVP Completion Percentage is Overstated

The owners of the Mountain Valley Pipeline (MVP) have repeatedly proclaimed that over 90% of the project has been completed, no doubt to bolster confidence from their investors and stockholders so that they continue investing. An examination by ABRA of the data reported by MVP to the Federal Energy Regulatory Commission reveals that project completion claims are overstated. Only 51% of the 300-mile route has pipe in the ground and the ground above it restored. In Virginia, which has one-third of the MVP route, less than 15% of the route has undergone final restoration.

Two New FERC Commissioners Nominated

President Trump has nominated two new Commissioners to serve on the Federal Energy Regulatory Commission. Mark Christie, chairman of the Virginia State Corporation Commission for the past 16 years, was nominated to fill the seat of departing Commissioner Bernard McNamee, a Republican member. Allison Clements, now with the Energy Foundation and formerly an attorney with the Natural Resources Defense Council, was appointed to fill the seat vacated last summer by Cheryl LaFleur, a Democrat.

The President sent required paperwork on the two nominees to the U.S. Senate on July 29, but it is uncertain how soon the nominations will be considered, but it presumably will not be until after Labor Day. The Senate is scheduled to begin a month-long recess on August 10, returning to session on September 8.

For more on the two nominees, click [here](#).

Book Recommendation: *The Next Great Migration*

The Next Great Migration: The Beauty and Terror of Life on the Move by Sonia Shah (Bloomsbury, 2020) fascinatingly explores why species migrate - humans, animals and plants. Shah, author of the best-selling book *Pandemic*, discusses the history and the interaction of various theories on why and whether migration is good or bad and how those theories influence public policy. Given the current proposal by the Trump Administration to significantly amend and restrict the Migratory Bird Treaty Act, Ms. Shah's new book is a timely read. For a review of the book that appeared in *Nature*, click [here](#).

In the News:

Local/Atlantic Coast Pipeline

The Atlantic Coast Pipeline was canceled. What happens to all the land acquired for it?

- Virginia Mercury – 7/29/20

<https://www.virginiamercury.com/2020/07/29/the-atlantic-coast-pipeline-was-canceled-what-happens-to-all-the-land-acquired-for-it/>

Figuring out what to do with the lands placed under permanent easement for the 604-mile pipeline that was set to cross West Virginia, Virginia and North Carolina, with just over half in Virginia, may be one of the thorniest problems Dominion and Duke will face as they unwind the \$8 billion project.

No longer in Atlantic Coast Pipeline's path, landowners consider next steps

- Energy News Network – 7/30/20

<https://energynews.us/2020/07/30/southeast/no-longer-in-atlantic-coast-pipelines-path-landowners-consider-next-steps>

After a half-decade fight over pipeline easements, property owners look to recoup legal costs and property values.

Defeat of Atlantic Coast Pipeline rooted in homegrown legal strategy

- Richmond Times-Dispatch – 7/24/20

<https://richmond.com/news/virginia/defeat-of-atlantic-coast-pipeline-rooted-in-homegrown-legal-strategy/article dbc50eb2-07fe-5c88-98a3-eb0071abce30.html>

The massive legal effort that stopped the Atlantic Coast Pipeline grew directly from the communities in the path of the project, including the law firms that worked to stop it.

Hallelujah. What's next?: The defeat of the Atlantic Coast Pipeline is only the beginning

- CVILLE – 7/29/20

<https://www.c-ville.com/hallelujah-whats-next-the-defeat-of-the-atlantic-coast-pipeline-is-only-the-beginning/>

The dissolution of the Atlantic Coast Pipeline project defines a sharp contrast between communities. Central Virginia activists worked hard to fight the ACP, whereas people in southwestern Pennsylvania (right) have mostly welcomed the fracking industry, seeing it as a financial lifeline.

INSTITUTE INDEX: The ongoing toxic threat from canceled and delayed gas pipelines

- Facing South – 7/27/20

<https://www.facingsouth.org/2020/07/institute-index-ongoing-toxic-threat-canceled-and-delayed-gas-pipelines>

Improperly stored pipe sections, once destined to make up the Atlantic Coast Pipeline and coated with toxic chemicals, are still stored in our communities. Does Dominion have a plan for dealing with this?

Back-to-back Va. rulings boost Dominion's grip on renewables

- E&E Energywire – 7/27/20

<https://www.abralliance.org/wp-content/uploads/2020/07/Back-to-back-Va.-rulings-boost-Dominions-grip-on-renewables-EE-Energywire-7-27-20.pdf>

Regional/Mountain Valley Pipeline, other

Mountain Valley to receive new permit to cross Blue Ridge Parkway

- The Roanoke Times – 7/28/20

https://roanoke.com/business/mountain-valley-to-receive-new-permit-to-cross-blue-ridge-parkway/article_acfooffo-b556-5bfo-a9be-bff11934249e.html

The joint venture of five energy companies building the pipeline still lacks three sets of key permits that must be re-granted if the project is to be finished by early next year.

Pipelines come into focus in CNX and EQT messages to investors

- Pittsburgh Post-Gazette – 7/28/20

<https://www.post-gazette.com/business/powersource/2020/07/28/cnx-resources-eqt-earnings-energy-stocks-pipelines-midstream-corp/stories/202007270107>

EQT CFO David Khani told analysts during a Monday call that it would try to make a profit on selling its pipeline space, *but the goal is mainly to break even and walk away from the project without paying any penalties.*

Stop Mountain Valley Pipeline from polluting Southwest Virginia's water

- Virginia Mercury – 7/30/20

<https://www.virginiamercury.com/2020/07/30/stop-mountain-valley-pipeline-from-polluting-southwest-virginias-water>

Southwest Virginia's ecosystem is in peril from the negligent construction of the Mountain Valley Pipeline. Our government must protect the water and our environment from the harm of the out-of-control gas industry.

Lovelace: Pipeline cancellation puts spotlight on Northam and Herring inaction

- The Franklin News-Post – 7/29/20

https://thefranklinnews.com/townnews/law/lovelace-pipeline-cancellation-puts-spotlight-on-northam-and-herring-inaction/article_93df3421-7877-5922-8fe4-93d565f2b47a.html

Why are Governor Northam and Attorney General Herring still refusing to speak out against the MVP?

Big Picture:

Wildfires, record warmth and rapidly melting ice: Arctic climate goes further off the rails this summer

- The Washington Post – 7/29/20

<https://www.washingtonpost.com/weather/2020/07/29/arctic-climate-change-hastens/>

Records shattered in Siberia, Svalbard, Nunavut and other areas as study points to historic shifts.

Related:

- <https://www.washingtonpost.com/climate-environment/2020/07/28/an-oil-spill-russias-arctic-exposes-problems-moscows-big-plans-far-north/?arc404=true>

Rising Seas Could Menace Millions Beyond Shorelines, Study Finds

- The New York Times – 7/30/20

<https://www.nytimes.com/2020/07/30/climate/sea-level-inland-floods.html>

As climate change raises sea levels, storm surges and high tides will push farther inland, a team of researchers says.

Trump's 2 surprise FERC picks ease fears of agency limbo

- E&E News – 7/28/20

<https://www.eenews.net/stories/1063641571>

The White House yesterday announced the president's intention to nominate Democrat Allison Clements and Republican Mark Christie to the independent energy agency. Clements is a longtime energy attorney, and Christie is the chairman of the Virginia State Corporation Commission.

Ocasio-Cortez amendment has pipeline industry on edge

- E&E News – 7/28/20

<https://www.eenews.net/stories/1063640717>

Related:

- https://www.huffpost.com/entry/alexandria-ocasio-cortez-dakota-access-pipeline-amendment_n_5f1ec5d3c5b69fd4730f4489

Canada's TransMountain Pipeline Faces Another Major Setback

- OilPrice.com – 7/23/20

<https://oilprice.com/Energy/Energy-General/Canadas-TransMountain-Pipeline-Faces-Another-Major-Setback.html>

Swiss insurance company Zurich announced on Wednesday its decision not to renew coverage for the Trans Mountain expansion, a pipeline that was effectively nationalized by the Canadian government for C\$4.5 billion.

Trump's Golden Era of Energy Is Turning to Lead

- DeSmog – 7/25/20

<https://www.desmogblog.com/2020/07/25/trump-golden-era-energy-lead-fracking>

The fossil fuel industries still retain significant power in U.S. politics, both nationally and in many energy-producing states, but even that power can no longer hide the painful economics facing these industries — no matter what President Trump says.

Clean Energy's Jobs And Sustainability Must Anchor A Green Recovery

- Forbes – 7/28/20

<https://www.forbes.com/sites/jeanmarcollagnier/2020/07/28/clean-energys-jobs-and-sustainability-must-anchor-a-green-recovery/#72906e957e9b>

The COVID-19 crisis has super-charged the imperative to green our economies, pushing fossil fuel markets to the breaking point but also reinforcing convictions that our best chance of recovering is by prioritizing clean, zero-carbon energy.

To recharge America's job market, build a green electric grid

- Fortune – 7/29/20

<https://fortune.com/2020/07/29/climate-change-clean-energy-electricity-green-jobs/>

Rewiring America estimates that some 25 million U.S. jobs can be created if we move on from fossil fuels and electrify the economy by 2035.