



ABRA Update #291 – September 10, 2020

Issue Highlights . . .

- Decisions by FERC on ACP Time Extension Requests Still Pending
- Comments Due Friday, September 11 on MVP Extension Request
- Fish and Wildlife Service Issues New Biological Opinion for MVP
- Comments Filed Opposing Endangered Species Act Modification
- Trump Administration Lists MVP Southgate as a Priority Project
- FERC Now Has a Bare Quorum to Function
- *In the News* – page 3

Decisions by FERC on ACP Time Extension Requests Still Pending

It has been two-months since Dominion Energy Transportation, Inc. (DETI), the managing partner of the Atlantic Coast Pipeline (ACP) project, requested of the Federal Energy Regulatory Commission (FERC) an extension of one year to complete abandonment and restoration of the Atlantic Coast Pipeline (ACP) project and a two-year extension to construct and place the now-cancelled Supply Header Project (SHP) into service while DETI evaluates options for the potential use of some or all of it. The SHP is a proposed natural gas pipeline in West Virginia (33.6 miles) and Pennsylvania (3.9 miles) that would have connected existing natural gas pipelines in Ohio and Pennsylvania with the ACP. Numerous public comments were filed by August 3 on the DETI requests, most in opposition.

ABRA has conferred over the past two weeks with officials from FERC and the U.S. Forest Service concerning the outlook for a decision on DETI's time extension requests. We have learned, so far, the following:

- FERC staff and lawyers are continuing to evaluate the DETI time extension requests and the comments received. While no timetable has been shared on when a decision might be forthcoming, it seems reasonable to anticipate a decision of some type will be announced by or before October 13, which is the expiration date for the FERC certificate to construct the ACP.
- DETI has not yet submitted a formal plan for restoring the lands along the ACP route that have been disturbed by construction activity. But it is our understanding that discussions between the company and government officials about what should be in such a plan are being conducted. When an official plan is submitted, it will be posted on the FERC docket.
- Restoration work on the ACP route cannot proceed without the restoration of some permits that were vacated by court decisions. These would include a new Special Use Permit from the Forest Service and a new Biological Opinion and Incident Take Statement from the U.S. Fish and Wildlife Service. Currently, DETI and its contractors are authorized to conduct only necessary maintenance work along the route to address such problems as sediment runoff.
- It is unclear at this time what will be done about easements many landowners entered into with Atlantic Coast Pipeline, LLC, which restrict affected landowners' ability to use

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their property. The company has not yet addressed the issue. In many of the comments filed with FERC, the agency was urged to require that the easements be relinquished, and all rights restored to the landowners as a condition of approving any restoration plan and associated time extension.

ABRA will continue to monitor and report on the further evolution of these critical issues.

Comments Due Friday, September 11 on MVP Extension Request

Comments on the Mountain Valley Pipeline's request for a two-year extension of its certificate to construct the pipeline, which is due to expire October 13, are due to the Federal Energy Regulatory Commission (FERC) by 5 pm on Friday, September 11. ABRA members and those active in the coalition are urged to file comments in opposition to the certificate extension request. Principal reasons why FERC should reject the MVP request, as detailed in the [August 27 issue of ABRA Update](#), are:

- The project is no longer needed, as evidenced by a weakened market for natural gas and the industry's own admission that there is excess pipeline capacity serving the Marcellus shale field (see [August 14 ABRA Update](#)), an excess that will only grow if the MVP is built.
- The MVP's justification for completing the project because it is already "92% complete" is a decided exaggeration. The company's own filings with FERC state that only one-half of the project is fully complete, and the one-third of the route in Virginia is only 15% complete. For more, see the [August 10 Virginia Mercury](#).
- If 92% of the MVP route is actually complete, why would it take two years to complete the remaining 8% of the project? It shouldn't take two-years and the MVP should not be provided the opportunity to continue an unneeded project.
- Given that North Carolina has denied a Section 401 water certificate for the Southgate Project, what assurance can MVP demonstrate that the project (which is one of the cited reasons for the certificate extension request to FERC) will even be built?

FERC strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the "e-File" link at <http://www.ferc.gov>. Persons unable to file electronically may mail similar pleadings to the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. Hand delivered submissions in docketed proceedings should be delivered to Health and Human Services, 12225 Wilkins Avenue, Rockville, Maryland 20852.

Fish and Wildlife Service Issues New Biological Opinion for MVP

The U.S. Fish and Wildlife Service (FWS) issued September 4 a new Biological Opinion (BiOp) and Incidental Take Statement (ITC) for the Mountain Valley Pipeline. An earlier BiOp and ITC had been subject to legal challenges in 2019. The process of writing a new BiOp and ITC has been proceeding for an extended period. In the newly released BiOp and ITC, FWS has concluded that the project "as proposed" is not expected to endanger the survival of animals such as the Roanoke logperch, candy darter and northern long-eared bat. For a copy of the 362-page document, click [here](#).

Comments Filed Opposing Endangered Species Act Modification

Sixty-Four conservation organizations, including ABRA and several of its members, filed comments on September 3 with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service in response to a proposal by the two agencies to define “habitat” in the regulations governing the Endangered Species Act (ESA). The comments, filed by the Southern Environmental Law Center on behalf of the conservation groups, argue that the agencies’ proposal would limit their “ability to protect and restore the habitats species need to recover” and is “contrary to the conservation mandate of the ESA.” For a copy of the comments, click [here](#).

Trump Administration Lists MVP Southgate as a Priority Project

An internal Trump Administration memo of July 15, obtain last week by the Center for Biological Diversity, identifies over 50 infrastructure projects that have been designated priorities to finish in accordance with the [President’s Executive Order 13927](#) to accelerate the nation’s economic recovery from the COVID-19 pandemic. Included on the list, compiled by the Department of Interior, is the Southgate Project, which would seek to extend the Mountain Valley Pipeline into North Carolina. The project has received approval from the Federal Energy Regulatory Commission but [was recently denied a Section 401 water certificate by the State of North Carolina](#), thus casting doubt on its future. For more, click [here](#).

FERC Now Has a Bare Quorum to Function

The Federal Energy Regulatory Commission’s (FERC) membership has been reduced to three, the minimum number required for votes to take place. Commissioner Bernard McNamee’s last day was September 4. His term ended June 30 but he agreed to stay on for an additional two months. The three remaining members are Chairman Neil Chatterjee and Commissioner James Danley, both Republicans, and Democrat Commissioner Richard Glick. President Trump has nominated Mark Christie, a Republican who is Chairman of the Virginia State Corporation Commission, and Democrat Allison Clements, of the Energy Foundation, to fill the two Commission vacancies, but it is unclear whether either nomination will receive consideration by the U.S. Senate before the Congress adjourns for the year.

In the News:

Local/Atlantic Coast Pipeline

Dominion’s pipeline coating concerns still unaddressed; more review needed

- The Recorder – 9/10/20

https://www.abralliance.org/wp-content/uploads/2020/09/Dominion’s-pipeline-coating-concerns-still-unaddressed-more-review-needed-Recorder_20200910.pdf

Dominion’s recent Tox Strategies report to the Federal Energy Regulatory Commission concludes no public health or environmental issues from the Atlantic Coast Pipeline pipe stockpile in Morgantown, W.Va. Nevertheless, this report does not close the door, nor end the discussion regarding possible negative health and environmental impacts from the fusion bonded epoxy coating on the pipes for the ACP, Mountain Valley Pipeline, and other pipelines across our country.

The Conservation Hub: Strengthening Environmental Analysis and Improving Public Participation

- The Highlands Voice – 9/1/20

<https://wvhighlands.org/article/the-conservation-hub-strengthening-environmental-analysis-and-improving-public-participation/>

ABRA's Conservation Hub program promotes responsible resource management by providing data-focused tools that enhance a project's transparency, strengthen its accountability to regulatory agencies and facilitate public participation in its evaluation process.

Bleicher and Rubin: Lessons for Corporate Leaders from the Death of the Atlantic Coast Pipeline

- The Roanoke Times – 9/10/20

https://roanoke.com/opinion/columnists/bleicher-and-rubin-lessons-for-corporate-leaders-from-the-death-of-the-atlantic-coast-pipeline/article_9f7707f1-4274-53fc-b35d-8205ac31e6fo.html

Virginia's vanishing bee: State works to save rusty patched bumblebee

- Virginia Mercury – 9/8/20

<https://www.virginiamercury.com/2020/09/08/virginias-vanishing-bee-state-works-to-save-rusty-patched-bumblebee>

Related:

- <https://www.abralliance.org/wp-content/uploads/2020/08/No-critical-habitat-declared-for-Rusty-Patch-Bumblebee-EE-Greenwire-8-31-20.pdf>

Dominion Energy applies for additional 20-year license for its North Anna Power Station nuclear reactor units

- Richmond Times-Dispatch – 9/4/20

https://richmond.com/business/dominion-energy-applies-for-additional-20-year-license-for-its-north-anna-power-station-nuclear/article_23de3977-9d14-57ce-a5e4-e6c2eb4b1373.html

Combined, the Surry and North Anna plants produce 31% of the electricity for Dominion's 2.5 million customers and 95% of the carbon-free electricity in the state, but questions of safety are bound to arise.

Regional/Mountain Valley Pipeline, other

Mountain Valley Pipeline construction won't jeopardize protected species, federal review says

- The Roanoke Times – 9/4/20

https://roanoke.com/business/local/mountain-valley-pipeline-construction-wont-jeopardize-protected-species-federal-review-says/article_fe7bc356-c02b-5ffc-886f-3d77089b320c.html

The U.S. Fish and Wildlife Service on Friday issued a revised biological opinion, which was essentially a rewrite of its finding in 2017.

In Virginia battleground, natural gas pipeline projects face reversals

- Bay Journal – 9/7/20

https://www.bayjournal.com/news/energy/in-virginia-battleground-natural-gas-pipeline-projects-face-reversals/article_f738b436-eee1-11ea-bffd-1f5d3e84cd53.html

Since June, one pipeline project has shut down, two others suddenly find themselves on shaky footing and the natural gas industry as a whole continues to reel from a series of setbacks, including the bankruptcy of one of its largest firms.

Despite rosy projections, all is not well with the Mountain Valley Pipeline

- Virginia Mercury – 9/2/20

<https://www.virginiamercury.com/2020/09/02/despite-rosy-projections-all-is-not-well-with-the-mountain-valley-pipeline/>

MVP is over two years behind schedule and \$2 billion over budget. It cannot realistically forecast when, or if, the project will be finished.

The ‘last pipeline’? Mountain Valley Pipeline remains stalled as it seeks extension from federal regulators

- Virginia Mercury – 9/10/20

<https://www.virginiamercury.com/2020/09/10/the-last-pipeline-mountain-valley-pipeline-remains-stalled-as-it-seeks-extension-from-federal-regulators>

“I think people making the argument that MVP is the last major pipeline that comes out of the (Appalachian) basin, I think is pretty credible.” - EQT CEO Toby Rice – EQT still says MVP will be operational in early 2021.

- <https://pgjonline.com/news/2020/09-september/equitrans-on-track-to-finish-mountain-valley-pipeline-in-early-2021>

Big Picture:

Wildfires and weather extremes: It's not coincidence, it's climate change

- CBS News – 9/10/20

<https://www.cbsnews.com/news/climate-change-wildfires-snow-jet-stream-extreme-weather/>

And it's only going to get worse.

Related:

- <https://apnews.com/3570f775ee3007888cd651d37fcbd465>

FERC's Carbon Blind Spot

- The Regulatory Review – 9/8/20

<https://www.theregview.org/2020/09/08/whillans-ferc-carbon-blind-spot/>

FERC's failure to address the environmental impact of carbon emissions is likely more about politics than any statutory limitation on the agency's authority.

Federal Report Warns of Financial Havoc From Climate Change

- The New York Times – 9/8/20

<https://www.nytimes.com/2020/09/08/climate/climate-change-financial-markets.html>

A report commissioned by federal regulators overseeing the nation's commodities markets has concluded that climate change threatens U.S. financial markets, as the costs of wildfires, storms, droughts and floods spread through insurance and mortgage markets, pension funds and other financial institutions.

The Forest Service's rule changes undercut its once-proud mission

- The Hill – 9/2/20

<https://thehill.com/blogs/congress-blog/energy-environment/514904-the-forest-services-rule-changes-undercut-its-once>

Related:

- <https://www.abralliance.org/wp-content/uploads/2020/08/Forest-Service-to-ease-curbs-on-leasing-and-development-EE-Greenwire-8-31-20.pdf>

Natural gas is losing its luster as a “bridge fuel” to renewable energy

- World Oil – 9/9/20

<https://www.worldoil.com/news/2020/9/9/natural-gas-is-losing-its-luster-as-a-bridge-fuel-to-renewable-energy>

Just a few years ago, natural gas was hailed as vital for the transition toward an economy that runs on renewable energy. But sentiment is changing and the fuel is going the same way as coal, its dirtier sibling shunned by governments, utilities and investors.

How to drive fossil fuels out of the US economy, quickly

- Vox – 8/6/20

<https://www.vox.com/energy-and-environment/21349200/climate-change-fossil-fuels-rewiring-america-electrify>

Related:

- <https://www.rewiringamerica.org/jobs-report>