



ABRA Update #304 – March 18, 2021

Issue Highlights . . .

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What FERC needs to hear about the ACP Restoration Plan

The public comment period on the proposed plan for the restoration of the Atlantic Coast Pipeline (ACP) route, which was formally announced by the Federal Energy Regulatory Commission (FERC) in [a March 8 Federal Register notice](#) and preliminary discussed in the [March 4 ABRA Update](#), provides an important opportunity for ABRA members and landowners to express their views. Comments are due by Friday, April 16 at 5 pm. Instructions on how to file are included in the Federal Register notice linked above.

The Federal Register Notice directs Atlantic Coasts Pipeline, LLC (which submitted the restoration plan for the ACP) and Eastern Gas Transmission (which submitted the plan for the Supply Header Project) to provide notice of the FERC comment opportunity “to all affected landowners and towns, communities and local, state and federal governments and agencies involved in the project” by March 18. Any recipients of *ABRA Update* who are among those who should receive such notification and have not received the required notification, are urged to contact ABRA (email lewfreeman@gmail.com) so that we can bring that information to the attention of appropriate authorities at FERC.

The issues that particularly deserve being brought to FERC’s attention were articulated in comments filed with the FERC docket on February by several ABRA members and other conservation groups. Below are highlights from their filing:

1. Atlantic should release easements upon request from private landowners or open-space easement holders.

The Commission should require Atlantic to give private landowners and open- space easement holders the opportunity to regain full ownership of their property—by releasing easements held by Atlantic for a pipeline it does not intend to build.

2. Atlantic should afford all affected landowners the opportunity to communicate specific restoration requirements.

Now that it has abandoned the ACP, it is important that Atlantic permit landowners to have a voice in how their property is to be restored.⁷ The ACP Plan reports that Atlantic has contacted specific landowners to discuss whether felled trees will be cleared or left in place.⁸ But it is unclear whether Atlantic intends to contact all landowners with felled trees on their property.

3. Atlantic should not be permitted to engage in new tree-felling within established setbacks around wetlands and waterbodies.

4. Atlantic should be required to treat non-native invasive species on national forest lands to halt their spread.

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5. Atlantic should honor its commitment to reseed the high-potential zone and dispersal zone for rusty-patched bumble bee with pollinator-friendly plant species.
6. Atlantic should quantify and offset freshwater-mussel impacts from tree-felling and other disturbances by providing funding to regional hatcheries for mussel propagation and release.
7. Atlantic should fulfill its specific commitments regarding treatment of historic and cultural resources affected by ACP construction.
8. Atlantic should remain responsible for all restoration work until it is determined that such restoration has been successful.
9. Eastern GTS still has not demonstrated good cause to extend the deadline for completion of the Supply Header Project.

For a copy of the complete comments that were filed on the FERC docket by the conservation groups, click [here](#).

REMINDER: Comments due March 22 on MVP stream crossings

Comments are due to the Federal Energy Regulatory Commission by March 22 on the February 19 request by Mountain Valley Pipeline, LLC to amend its certificate from the agency to change the crossing method for certain wetlands and water bodies. For more, see the [article in the March 4 ABRA Update](#).

FERC announces new scoping period for MVP environmental issues

The Federal Energy Regulatory Commission (FERC) issued on March 16 a notice of scoping and request for public comments regarding environmental issues associated with the pending application (referenced in the above article) to change the method of stream crossings for the Mountain Valley Pipeline. The Notice states:

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies regarding the amendment. As part of the National Environmental Policy Act (NEPA) review process, the Commission takes into account concerns the public may have about proposals and the environmental impacts that could result from its action whenever it considers the issuance or amendment of a Certificate of Public Convenience and Necessity.

Comments are due by 5 pm, April 15, 2021. For a copy of the FERC notice, click [here](#).

Trump policy weakening migratory bird protections is revoked

A December 2017 legal opinion by the Trump Administration that limited the application of the Migratory Bird Treaty Act (MBTA) has been revoked by the Biden Administration. In a [March 8, 2021 memorandum](#), Robert Anderson, the Department of Interior's Principal Deputy Solicitor, revoked the earlier opinion, noting that a U.S. District Court last August struck down the weakening interpretation, which was upheld in March 2021 by the U.S. Court of Appeals for the Second Circuit. The Trump Administration contended that the Treaty's provisions only applied if the prohibited taking of birds was intentional; the Court disagreed. A number of conservation groups had urged the Biden Administration to take this action, [among them the Audubon Society](#).

The MBTA is very important to our region because the Central Appalachian Highlands is a major migration pathway for many species of birds, as noted in a [February 5 article in *The Appalachian Voice*](#). The weakened interpretation of the MBTA would have had a serious negative impact to the overall ecology of the region.

In the News:

Regional Issues

Death of 600-mile pipeline leaves ‘zombie easements’

- The Recorder – 3/18/21

https://www.abralliance.org/wp-content/uploads/2021/03/Death-of-600-mile-pipeline-leaves-zombie-easements-Recorder_20210318.pdf

Dominion spokespersons have stated the company does not intend to voluntarily release the easements and has not ruled out transferring the easements to another party.

Friends of Nelson fighting for pipeline easements to be released

- NBC29 News – 3/7/21

<https://www.nbc29.com/2021/03/08/friends-nelson-fighting-pipeline-easements-be-released>

Mountain Valley Pipeline's extension opposed by existing Transco pipeline

- The Roanoke Times – 3/16/21

https://roanoke.com/news/local/mountain-valley-pipelines-extension-opposed-by-existing-transco-pipeline/article_a450c4ae-8697-11eb-b3d4-43e6c258f581.html

Citing safety concerns, Transco is asking federal judges in Virginia and North Carolina to deny Mountain Valley's requests to acquire space in or along its easements.

Federal court rules that DEQ acted legally in denying MVP Southgate permit, but must explain itself

- The Progressive Pulse – 3/12/21

<http://pulse.ncpolicywatch.org/2021/03/12/federal-court-rules-that-deq-acted-legally-in-denying-mvp-southgate-permit-but-must-explain-itself>

State environmental officials acted within their legal authority when denying a water quality permit for the Mountain Valley Pipeline Southgate project, but part of their justification was insufficient, a federal appeals court ruled yesterday.

IEEFA U.S.: Financial rationale for Mountain Valley Pipeline has evaporated in changing market

- IEEFA – 3/8/21

<https://ieefa.org/ieefa-u-s-financial-rationale-for-mountain-valley-pipeline-has-evaporated-in-changing-market>

Falling demand, legal and regulatory challenges spell financial peril for pipeline project

Kevin Campbell: Manchin should chart new course for WV (Opinion)

- Charleston Gazette-Mail – 3/16/21

https://www.wvgazettemail.com/opinion/op_ed_commentaries/kevin-campbell-manchin-should-chart-new-course-for-wv-opinion/article_3a38589a-dd1e-5470-boab-ffe9de57adb2.html

It's the eternal question for West Virginia — how can a state that produces so much in natural resources be so poor?

Water utilities, state environmental regulators wary of bill that would relax oil and gas tank oversight

- Charleston Gazette-Mail – 3/15/21

https://www.wvgazettemail.com/news/legislative_session/water-utilities-state-environmental-regulators-wary-of-bill-that-would-relax-oil-and-gas-tank/article_ac228dfe-51e9-5fd2-bed8-e7205a5f1dc4.html

On environmental justice, Democrats split over the best path forward

- Virginia mercury – 3/12/21

<https://www.virginiamercury.com/2021/03/12/on-environmental-justice-democrats-split-over-the-best-path-forward>

New Report Strongly Implies That the Virginia Clean Economy Act's 2045/2050 Timeframe Is At Least a Decade Too Slow

- Blue Virginia – 3/11/21

<https://bluevirginia.us/2021/03/new-report-strongly-implies-that-the-virginia-clean-economy-acts-2045-2050-timeframe-is-at-least-a-decade-too-slow>

Ever wonder why the EIA *consistently* underestimates the pace of renewables' construction and adoption? Worth the 18 minutes to watch the presentation.

Virginia looks to gain ground in states' slow race on electric vehicle policy

- Energy News Network – 3/16/21

<https://energynews.us/2021/03/16/virginia-looks-to-gain-ground-in-states-slow-race-on-electric-vehicle-policy/>

By putting the squeeze on tailpipe emissions, Virginia is prepping to merge into an electric-vehicle fast lane dominated by California, New York, Maryland and other green pacesetters.

Big Picture:

Biden administration wants the financial sector to face up to climate risk

- The Washington Post – 3/17/21

<https://www.washingtonpost.com/climate-environment/2021/03/17/biden-climate-change-economy/>

A growing number of federal regulators are pushing corporate America to reckon with the cost of climate change, arguing that global warming poses significant peril not only to the environment but also to the U.S. economy.

Taking Charge: Commissioner Clements on FERC's 'make or break' role amid the energy transition

- Utility Dive – 3/16/21

<https://www.utilitydive.com/news/taking-charge-commissioner-clements-on-fercs-make-or-break-role-amid-th/596736/>

Democrats reintroduce sweeping environmental justice bill

- E&E Energywire – 3/18/21

<https://www.abralliance.org/wp-content/uploads/2021/03/Democrats-reintroduce-sweeping-environmental-justice-bill-EE-News20210318.pdf>

Biden echoes Trump in Supreme Court eminent domain battle

- E&E Energywire – 3/10/21

<https://www.abralliance.org/wp-content/uploads/2021/03/Biden-echoes-Trump-in-Supreme-Court-eminant-domain-battle-EE-Energywire-3-10-21.pdf>

Biden administration rejects NJ's claim that PennEast pipeline project's use of eminent domain violates its "sovereign immunity".

Senate Advances Confirmation of Climate and Native Champion Deb Haaland

- TruthOut – 3/11/21

<https://truthout.org/articles/senate-confirms-progressive-climate-and-native-champion-deb-haaland-to-interior/>

Fracking Industry Has Another Terrible, Horrible, No Good, Very Bad Day

- Sierra Club – 3/11/21

<https://www.sierraclub.org/michael-brune/2021/03/delaware-river-basin-fracking-ban>

Fracking banned in the Delaware Basin.

Beyond solar and wind: What decarbonization looks like in 2021

- The Hill – 3/17/21

<https://thehill.com/opinion/energy-environment/543701-beyond-solar-and-wind-what-decarbonization-looks-like-in-2021>

The global energy transition is gaining momentum as political, policy and investment priorities converge in the U.S., Europe, China and elsewhere.