



ABRA Update #306 – April 17, 2021

Issue Highlights . . .

- Strong concerns voiced to FERC about ACP restoration plan
- Conservation groups contend MVP must file supplemental EIS
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Strong concerns voiced to FERC about ACP restoration plan

Comments filed with the Federal Energy Regulatory Commission about the proposed restoration plan for the Atlantic Coast Pipeline (ACP) universally called for easements on property along the 604-mile route of the now cancelled project to be relinquished by Atlantic Coast Pipeline, LLC (Atlantic). The deadline for all comments to be filed was 5 pm, April 16.

Representative of the concerns over easements was [the filing by the Nelson County \(Virginia\) Administrator](#):

Because the project has been cancelled, there is no longer a “public use” justification for these easements. These easements impose a significant burden upon these landowners which has been proven to be unwarranted. They significantly diminish and limit the owner’s use of their properties and, therefore, reduce its value.

It is inevitable that the county tax assessments on these properties will be reduced due to the limitations that the easements put upon the landowner’s properties, costing a loss of county tax revenue on these properties. The impacted landowners who had their properties taken by eminent domain should “be made whole” in the process, for a pipeline that will not be built. FERC, having authorized this process and its consequences, bears the responsibility of creating a process whereby landowners can have their previous property rights fully restored as well as ecological restoration or full reimbursement of the economic costs of physical ecological restoration.

[An array of conservation groups](#), most of which are ABRA members, represented by Southern Environmental Law Center (SELC), Appalachian Mountain Advocates and Chesapeake Bay Foundation, filed comments highlighting serious shortcomings of the proposed ACP restoration plan as well as the restoration and disposition plan for the Supply Header Project, submitted last November by Eastern Gas Transmission and Storage (GTS), the successor company to Dominion Energy Transmission, Inc. Among the recommendations made by the groups were that FERC require Atlantic to:

1. Release easements upon request from private landowners or open-space easement holders. They noted that the “easements represent a severe, continuing, and now wholly unwarranted burden on properties throughout the ACP’s 604-mile path.
2. Afford all landowners the opportunity to communicate specific restoration requirements.
3. Not engage in new tree-felling within established setbacks around wetlands and waterbodies.
4. Treat non-native invasive species on National Forest lands to halt their spread.

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5. Be held responsible for all restoration work until it is determined that such restoration has been successful.

The conservation group comments also urged FERC not to extend the deadline of the Supply Header Project or otherwise authorize the project's completion.

The SELC, et. al. comments were echoed by many other filed comments, including those of [ABRA](#) and [West Virginia Rivers Coalition](#).

Concern over the property rights issue was strongly echoed by a business owner with properties in Northampton and Halifax Counties in North Carolina, [Robinson Farms, LLC](#):

Given the untenable situation of balancing possibilities of economic benefit for distressed communities and the threat of eminent domain, we and other neighbors felt compelled to reach an agreement with the Atlantic Coast Pipeline for right of ways through our family lands. The power of eminent domain was granted to the Atlantic Coast Pipeline with the issuance of the Certificate of Public Convenience and Necessity. Under this threat of eminent domain, landowners were faced with minimal choices regarding their own properties. Since the Federal Energy Regulatory (FERC) authorized this process, we respectfully request that the Commission take part in helping rectify the subsequent consequences by ensuring our community and its lands are restored to their previous condition.

Continuing, Robinson Farms' comments expressed alarm over environmental consequences of the "mess" left by the ACP.

In Northampton and Halifax Counties of North Carolina, we currently have an unsightly mess. The now-abandoned Atlantic Coast Pipeline project right of ways have intrusively cut through our lands and farms. The underground pipe is deteriorating from the elements due to its lack of cathodic and/or any other protections and posing a future safety hazard to heavy farming equipment from soil subsidence when the metal eventually deteriorates and collapses. The pipe abandoned on the surface of some properties is also deteriorating from exposure to the elements. This is creating potential safety, environmental and soil contamination issues.

The unreleased easements and abandoned underground pipe present an impediment to any property sale, transfer or future development. From a future development standpoint, housing needs in the area are constantly evolving. Abandoning the pipe in place as planned would present ongoing challenges should anyone need to install a septic system, drill a water well, pour concrete foundations, etc. As FERC contemplates a decision on this matter, please keep in mind that we did not ask for or seek out this invasion of our property or time, but in good faith made an effort to collaborate and act upon the Atlantic Coast Pipeline's initial request. All that we are asking in return is for our properties to be restored as closely as possible to their original state.

The [Virginia Department of Conservation and Recreation](#) urged in its comments to FERC caution in allowing restoration work to result in new access roads.

The construction of additional roads, clearing of vegetation and timber, and related activities would likely result in more resource impacts, than if cut timber were allowed to decompose in place in areas that have not already been subject to ground disturbing activities. If the respective landowners are agreeable to this option, DCR recommends this course of action to minimize impacts to natural heritage resources, consistent with the no tree removal action that will occur on the USFS lands and allowing native forest to regenerate.

The [North Carolina Department of Environmental Quality](#) stated in its comments that it expects Atlantic to fully comply with the state's Sedimentation Pollution Control Act of 1973 and with the 401 Wager Quality Certification the department issued to the project in January 2018.

It is not known at this time how long FERC will take to analyze the comments that have been filed and arrive at a decision about the ACP restoration plan that was submitted in early January. The plan's schedule called for restoration work to continue into mid-2023.

Conservation groups contend MVP must file supplemental EIS

Comments were filed April 15 with the Federal Energy Regulatory Commission (FERC) urging that the agency require the Mountain Valley Pipeline, LLC file a supplemental Environmental Impact Statement before passing judgment on the company's March 16 request for authority to change the method by which the Mountain Valley Pipeline project would cross 182 waterbodies from a dry open-cut method to one of several trenchless methods. The filing, which was made by Appalachian Mountain Advocates, National Resources Defense Council and Southern Environmental Law Center (all ABRA members), on behalf of a cross section of conservation groups, including ABRA, stated:

The actions for which Mountain Valley has requested authorization pose serious environmental risks that were not disclosed in the 2017 Final Environmental Impact Statement (EIS) on which the certificate of public convenience and necessity for the MVP relies, nor in the Commission's more recent Environmental Assessment for the similar, now withdrawn, amendment application in FERC Docket No. CP21-12. And neither Mountain Valley's new Amendment Application nor its supplemental materials provide adequate information to allow the Commission to fully and rationally assess the impacts of its proposed activities. Accordingly, FERC cannot grant Mountain Valley's application until it has collected substantial additional information necessary to evaluate the impacts of Mountain Valley's proposal and put that evaluation out for public review and comment in a Supplemental EIS.

The comments noted that a supplemental EIS is required where there remains major Federal action to occur, and there is new information to show that the remaining action will affect the quality of the human environment in a significant manner or to a significant extent not already considered.

For a copy of the comments, click [here](#).

In the News:

Regional Issues

Council on Environmental Justice asks Northam to institute fossil fuel infrastructure ban

- Virginia Mercury – 4/16/21

<https://www.virginiamercury.com/2021/04/16/council-on-environmental-justice-asks-northam-to-institute-fossil-fuel-infrastructure-ban>

In an April 7 letter signed by 12 members of the 21-person advisory body, the council argues that a ban is necessary "to avoid future devastation" and calls on Northam "to fulfill your climate and environmental justice commitments."

'It's time to retire': With six-year struggle now behind them, some opponents of ACP moving on

- The News & Advance – 4/7/21

https://newsadvance.com/community/nelson_county_times/news/its-time-to-retire-with-six-year-struggle-now-behind-them-some-opponents-of-acp/article_bea78fb4-88d5-11eb-ac93-of99d7e95c45.html

Pipeline opponents urge State Water Control Board to increase oversight

- WDBJ7 News – 4/14/21

<https://www.wdbj7.com/2021/04/14/pipeline-opponents-urge-state-water-control-board-to-increase-oversight/>

Candy darter fish gets critical habitat designation, but remains in the path of a pipeline

- The Roanoke Times – 4/9/21

https://roanoke.com/news/local/candy-darter-fish-gets-critical-habitat-designation-but-remains-in-the-path-of-a-pipeline/article_bb660694-9976-11eb-b6fe-83900e551a01.html

Nearly 370 miles of mountain streams in Virginia and West Virginia have been declared a critical habitat for the candy darter, a small, rainbow-colored fish that two years ago was listed as an endangered species.

Funds from Mountain Valley Pipeline awarded for Carvins Cove land, other projects

- The Roanoke Times – 4/12/21

https://roanoke.com/news/local/funds-from-mountain-valley-pipeline-awarded-for-carvins-cove-land-other-projects/article_406e5488-9be6-11eb-8e9b-7b7848d826a6.html

A \$175,000 grant from the Virginia Outdoors Foundation will initiate talks with the owners of a 46-acre tract at the reservoir's southern tip — the last remaining privately owned piece of waterfront property.

Editorial: Offshore wind represent prime opportunity for Virginia

- The Virginian-Pilot – 4/14/21

<https://www.pilotonline.com/opinion/editorials/vp-ed-editorial-climate-offshore-wind-0415-20210414-eh33nni75ja6nb7jbawv3mz7qu-story.html>

With strong winds and relatively shallow waters, the coast of Virginia is ideally suited for offshore wind farms. Projects in North Carolina would likely spur additional jobs and opportunities in Virginia.

Related:

- <https://www.13newsnow.com/article/news/local/mycity/virginia-beach/dominion-energy-coastal-virginia-offshore-wind-project-ed-baine/291-658362a1-4a78-4450-8b1d-14bd7dcc8442>
- <https://www.newsobserver.com/opinion/article250389901.html>

As Dominion's rate review gears up, a broader fight about regulatory balance resurges

- Virginia Mercury – 4/9/21

<https://www.virginiamercury.com/2021/04/09/as-dominions-rate-review-gears-up-a-broader-fight-about-regulatory-balance-resurges/>

Related:

- https://www.fauquier.com/news/virginia-explained-whats-triennial-review-and-why-should-you-care/article_058b6638-993b-11eb-8a13-c7c5ef8439e1.html

Opinion: Competition will build a reliable, affordable energy future for Virginia

- The Virginian-Pilot – 4/15/21

<https://www.pilotonline.com/opinion/columns/vp-ed-column-snitchler-george-0416-20210415-5bvzrvkuf5ei7dqvj5hgqfz77u-story.html>

Interesting points that most of us probably agree with already. But do consider the source...Electric Power Supply Association represents competitive power suppliers.

Tom Farrell dies at 66, the day after stepping down as leader of Dominion Energy

- The Roanoke Times – 4/2/21

https://roanoke.com/business/tom-farrell-dies-at-66-the-day-after-stepping-down-as-leader-of-dominion-energy/article_5bd409d5-d1fc-5bbd-b2e1-df1835f6e850.html

Farrell's death from cancer on Friday afternoon came as suddenly as his retirement, which took effect on Thursday after a quiet announcement in a regulatory filing just more than a week ago, ending a career marked by aggressive leadership in the state and national energy business, civic affairs and higher education, and state legislative policymaking.

WV House approves Senate resolution supporting canceled Atlantic Coast Pipeline project

- Charleston Gazette-Mail – 4/9/21

https://www.wvgazettemail.com/news/energy_and_environment/wv-house-approves-senate-resolution-supporting-canceled-atlantic-coast-pipeline-project/article_c78a5023-636a-55b1-8caa-2ab63fb83415.html

The West Virginia House of Delegates has approved a Senate resolution expressing support for a pipeline project that died nine months ago. “Why?”, you might ask. Why, indeed?!

Big Picture:

U.S. trade representative uses her first speech to call for action on climate change.

- The New York Times – 4/15/21

<https://www.nytimes.com/2021/04/15/business/katherine-tai-trade-representative-climate.html>

Ms. Tai’s speech comes a week before Mr. Biden is scheduled to host world leaders at a virtual climate summit. Her speech is another example of how the Biden administration is seeking to address climate change across the vast machinery of the federal government – not just in agencies typically associated with environmental stewardship.

FERC Lays Groundwork to Incorporate Carbon Pricing by Regional Grid Markets

- Natural Gas Intelligence – 4/15/21

<https://www.naturalgasintel.com/ferc-lays-groundwork-to-incorporate-carbon-pricing-by-regional-grid-markets/>

White House rejects pleas to shut down Dakota Access

- E&E Energywire – 4/9/21

<https://www.abralliance.org/wp-content/uploads/2021/04/White-House-rejects-pleas-to-shut-down-Dakota-Access-EE-Energywire-4-9-21.pdf>

Why investments in clean, renewable energy will avoid blackouts at a low cost

- The Hill – 4/8/21

<https://thehill.com/opinion/energy-environment/547068-why-investments-in-clean-renewable-energy-will-avoid-blackouts-at>

Many are concerned about whether the grid can stay stable with only clean, renewable energy running through it. It can, with proper investment and planning.

Researchers see links between renewable energy and improved health

- The Hill – 4/16/21

<https://thehill.com/policy/energy-environment/548594-researchers-see-links-between-renewable-energy-and-improved-health>

This should be a no-brainer, but is often overlooked in policy and economic discussions about energy.

A ‘quantum leap’: Monster wind turbines are going to get even bigger

- CNBC – 4/16/21

<https://www.cnbc.com/2021/04/16/a-quantum-leap-monster-wind-turbines-are-going-to-get-even-bigger.html>

If there’s one word that can be associated with wind energy, it’s “big.” From billion-dollar deals to vast wind farms capable of powering a million homes, the industry has undergone a massive expansion in the last few years.