



ABRA Update #311 – June 24, 2021

Issue Highlights . . .

- DC Circuit slams FERC criteria for approving pipelines
- Conservation Hub takes flight
- VA DEQ urged to require certification for MVP water crossings
- West Virginia Rivers releases new video on MVP water violations
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DC Circuit slams FERC criteria for approving pipelines

The long-standing practice of the Federal Energy Regulatory Commission (FERC) justifying the need for a new pipeline by over relying on a pipeline’s plans to sell gas to an associated company (e.g., precedent agreements) to establish market need was called into serious question by the DC Circuit Court of Appeals in a decision released June 22. The case involved the Spire STL, a 65-mile natural gas pipeline from Illinois to the St. Louis, Missouri area that was approved by FERC in November 2018 and began operations in November 2019. The challenge to Spire STL was brought by the Environmental Defense Fund (EDF).

In its unanimous, monumental decision, the three-judge panel stated:

“Under the circumstances presented in this case – with flat demand as conceded by all parties, no Commission finding that a new pipeline would reduce costs, and a single precedent agreement between affiliates – we agree with EDF that the Commission’s approach did not reflect reasoned and principled decision making.”

The court further said that FERC had “ignored record evidence of self-dealing and failed to seriously and thoroughly conduct the interest-balancing required by its own Certificate Policy Statement”

FERC Chairman Richard Glick, who as a commissioner had dissented from approving a certificate for Spire STL in 2018, said about the DC Circuit’s ruling:

“Today’s decision shows when FERC cuts corners, it puts its decisions & investments made on those decisions, at substantial risk.”

The now-cancelled Atlantic Coast Pipeline had, like Spire STL, relied heavily on precedent agreements to justify that its project was needed. The court’s decision remands the future of Spire STL back to FERC for further proceedings. For a copy of the decision, click [here](#). For further insights, click [here](#).

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Conservation Hub takes flight

In August of last year, shortly after the cancellation of the Atlantic Coast Pipeline, ABRA announced the launch of a new program...the [Conservation Hub](#). Building on the experience and success of the Compliance Surveillance Initiative, or CSI, a monitoring and enforcement program that targeted the Atlantic Coast Pipeline, the Conservation Hub is a regional information and mapping portal focused on the Central Appalachian Highlands region of West Virginia and Virginia.

The Conservation Hub will become a major initiative for ABRA in the future. The Hub program's objective is to promote responsible resource management by providing data-focused tools that enhance a project's transparency, strengthen its accountability to permitting and regulatory agencies and facilitate public participation in the evaluation process. The program is designed to significantly enhance the capabilities of environmental, conservation and citizen groups to assess impacts of projects in the greater Central Appalachian Highlands region and to help assure that the overall environmental integrity of the region is maintained.

With the Hub, ABRA provides a set of tools that will give conservation groups, the general public, and even regulatory agencies an unprecedented look at the scale and scope of development and land management projects. The Conservation Hub provides a one-stop-shop for environmental and regulatory data, a platform for analysis and messaging and thus a means of levelling the playing field for those focused on conservation. Our goal is to enable those actors to participate in the process of ensuring that projects are reasonable, equitable and sustainable, wherever possible.

Conservation Hub's geographic area of interest covers what has been termed the Central Appalachian Highlands, in West Virginia and Virginia. The specific [focus area](#) consists of 26 counties in West Virginia and 26 counties in Virginia. Projects outside of the focus area will be considered on a case-by-case basis.

Like the CSI Program, the Conservation Hub is built around online maps and data. The Hub also leans heavily on the work of both federal and state agencies and regulators, who provide a wealth of geographic data to the public.

Over the last ten months, the Conservation Hub has made significant progress, both visibly and behind the scenes. The initial four projects have expanded to seven, covering issues ranging from opposition to gold mining in Buckingham County, VA to forest land management practices in the Monongahela National Forest. One supports efforts to create a Shenandoah Mountain National Scenic Area in Virginia. Another describes risks to the survival of the endangered Candy Darter, a colorful fish under threat in WV and VA. Four more projects are in development and one existing project may be expanded to address an emerging threat to the northern Shenandoah Valley. Over the coming months additional changes will occur:

- Some cosmetic changes to the Hub site, its project web pages and project-related online maps.
- New tools will be made available, such as a site-wide, searchable data catalog, that will aid the use of the online maps; the ability to utilize crowd-sourced data, such as that from water monitoring programs.
- The launch of the National Forest Integrity Project (NFIP)

A significant new portion of the Conservation Hub, the NFIP is a monitoring program created to track proposed and ongoing projects in the three National Forests that are located within the Central Appalachian Highlands (Monongahela in West Virginia and George Washington and Jefferson in Virginia). These three National Forests are defining components of the Central Appalachian Highlands region. Information about National Forest Service projects is often not readily available to the public and, indeed, sometimes is withheld by the agency.

The NFIP will be the first effort of its kind in the nation to monitor Forest Service projects. It is a much-needed program that will enhance public understanding of projects that affect not only the forests but the land and communities surrounding them. Also, the NFIP will be instrumental in identifying National Forest Service projects that might compromise the critical role that the National Forests have in carbon sequestration, an important part of fighting climate change. Two USFS projects are currently active on the Hub. Several more will come online in the next few weeks, prior to the launch of the NFIP.

The Conservation Hub has already proven useful to project sponsors in affecting change. A Hub page and online map, aided ABRA-affiliated groups opposing a prospective Gold Mine in Buckingham County, VA. These groups succeeded in securing legislation requiring the study of industrial-scale gold mining in Virginia and whether it can be done safely and legally. Two Forest Service projects have been delayed for unspecified reasons after repeated requests for data and transparency by hub project sponsors.

For those of you who have already seen and used the Hub, please note that its web address has recently changed. The new URL is:

<https://conservation-abra.hub.arcgis.com/>

Any bookmarks you may have will need to be replaced or updated. Otherwise, everything should function as it did before.

Those with concerns about additional Forest Service projects and other development activities are welcomed to request their inclusion on the Hub or the NFIP. Decisions regarding project development and inclusion are made by an Advisory Committee that meets monthly. For more information on the Conservation Hub, or the National Forest Integrity Project, please contact [Dan Shaffer](#).

VA DEQ urged to require certification for MVP water crossings

Fifteen conservation organizations, including ABRA, wrote the Virginia Department of Environmental Quality (DEQ) on June 21 arguing that the agency must require certification under section 401 of the Clean Water Act for the Mountain Valley Pipeline to tunnel under nearly 100 streams and wetlands in Virginia. The Federal Energy Regulatory Commission had asked DEQ on May 13 whether it intended to require certification for the new crossings and asked for a response within 30 days. DEQ has not yet responded. For a copy of the conservation groups' letter to DEQ, click [here](#).

West Virginia Rivers releases new video on MVP water violations

West Virginia Rivers Coalition, an ABRA member, released this week an excellent video documenting the serious stream sediment violations – 50 incidents – that have occurred because of construction activity of the Mountain Valley Pipeline (MVP). The video (2 ½ minutes) depicts the significant inadequacy of the MVP's attempts to control dangerous sediment from fouling West Virginia streams and rivers that are in the path of the project. To view the video, click [here](#).

Concerns expressed about MVP compressor station permit hearing

A planned July 7 hearing by the Virginia Air Pollution Control Board on the proposed Lambert Compressor Station (LCS) for the Mountain Valley Pipeline has received strong criticism from a cross-section of conservation and citizen organizations. In a June 23 letter to David Paylor, Director of the Virginia Department of Environmental Quality (DEQ), 23 groups, including ABRA and several of its members, pointed out that the Air Board Chair had originally proposed a two-day hearing on the proposed air permit for the LCS in order to accommodate the hundreds of individuals who submitted comments.

The letter argues that a two-day meeting would be more reasonable to accommodate the large number of people would wish to weigh in about the LCS and that remote participation options should be provided given that the Covid health crisis is not fully abated. Instead, DEQ has scheduled a one-day Air Board meeting for July 7 with only in-person participation. The groups' letter urged that the original plan for a two-day meeting be pursued, with both evening and daytime opportunities for those wishing to comment, including the option for virtual participation and further written submissions. For a copy of the groups' letter, click [here](#).

In the News:

Regional Issues

Nelson officials recognize anniversary of pipeline's demise as day of celebration

- The Daily Progress – 6/20-21

https://dailyprogress.com/news/local/nelson-officials-recognize-anniversary-of-pipelines-demise-as-day-of-celebration/article_384c9960-1869-5dee-a3d5-80b8198cc2dc.html

Ding Dong, the pipeline's dead! (Well, *one* of them anyway...good riddance!)

Biden must stop methane pipelines to deliver on climate change and environmental justice

- USA Today – 6/21/21

<https://www.abralliance.org/wp-content/uploads/2021/06/Biden-must-stop-methane-pipelines-to-deliver-on-climate-change-and-environmental-justice-USA-Today-6-21-21.pdf>

The Mountain Valley Pipeline and others awaiting approval are nails in America's climate coffin. And most are concentrated among vulnerable communities.

Randy Kesling: Protecting trout relies on rigorous pipeline oversight

- Charleston Gazette-Mail – 6/19/21

https://www.wvgazette.com/opinion/op_ed_commentaries/andy-kesling-protecting-trout-relies-on-rigorous-pipeline-oversight/article_ac4502c7-b351-510d-a701-7564cf2a0987.html

Sedimentation of streams resulting from construction activities, such as road building and pipeline crossings, presents a major threat to native fish populations.

Va. pipeline tests landmark environmental justice ruling

- E&E Energywire – 6/14/21

<https://www.abralliance.org/wp-content/uploads/2021/06/Va.-pipeline-tests-landmark-environmental-justice-ruling-EE-Energywire-6-14-21.pdf>

Wind farm in Botetourt County missed deadline for approval, opponents say

- The Roanoke Times – 6/8/21

https://roanoke.com/business/local/wind-farm-in-botetourt-county-missed-deadline-for-approval-opponents-say/article_92c05f0c-c89a-11eb-aa0c-ffa957963c80.html

Project developer Apex Clean Energy says the VA General Assembly extended their deadline through legislation related to the Covid pandemic.

New mapping tool aims to clarify Virginia environmental justice debates

- Virginia Mercury – 6/16/21

<https://www.virginiamercury.com/2021/06/16/new-mapping-tool-aims-to-clarify-virginia-environmental-justice-debates/>

A picture may be worth a thousand words. A well-made map is worth *many* more!

Governor tells lawmakers to 'go back to the drawing board' on major energy bill

- WRAL News – 6/19/21

<https://www.wral.com/governor-tells-lawmakers-to-go-back-to-the-drawing-board-on-major-energy-bill/19730582/>

North Carolina Gov. Roy Cooper said the bill would "cost ratepayers too much, fall short of clean energy goals, hamper job recruitment and weaken the Utilities Commission, which exists to provide accountability for utility companies."

Dominion Energy's wind turbines have been more efficient than expected

- Daily Press – 6/17/21

<https://www.dailypress.com/news/environment/dp-nw-dominion-wind-farm-turbines-20210617-mjjxudkv4zhclihbakfyknas6e-story.html>

Some good news, from offshore...

Big Picture:

Crushing climate impacts to hit sooner than feared: draft UN report

- Yahoo News (from AFP) - 6/22/21

<https://news.yahoo.com/crushing-climate-impacts-hit-sooner-010253436.html>

There is very little good news in the report, but the IPCC stresses that much can be done to avoid worst-case scenarios and prepare for impacts that can no longer be averted.

Related:

- <https://www.afp.com/en/inside-afp/afp-has-world-scoop-draft-climate-science-report>

A Long-Awaited Participatory Revolution in Energy Regulation

- The Regulatory Review – 6/22/21

<https://www.theregview.org/2021/06/22/welton-long-awaited-participatory-revolution-energy-regulation/>

In 1978, Congress directed the Federal Energy Regulatory Commission (FERC) to create an Office of Public Participation (OPP) to enhance the public's ability to weigh in on energy policy. Today, finally, the OPP appears finally on the precipice of coming into existence.

Feds falling short on pipeline safety

- E&E Energywire – 6/24/21

<https://www.abralliance.org/wp-content/uploads/2021/06/Feds-falling-short-on-pipeline-safety-EE-Energywire-6-24-21.pdf>

The country's pipeline safety agency needs to develop performance measures to gauge whether previous regulatory changes are achieving their desired results, according to a new report from the Government Accountability Office

Fewer trees means poorer, minority areas are hotter — report

- E&E Greenwire – 6/22/21

<https://www.abralliance.org/wp-content/uploads/2021/06/Fewer-trees-means-poorer-minority-areas-are-hotter-EE-Greenwire-6-22-21.pdf>

The lack of tree cover in parks and on city streets correlates with hotter conditions in the summer along with heat-related illnesses, plus higher crime rates, worse air quality and lower property values, according to various studies.

Climate Change Is Threatening The U.S. West's Water Supply

- NPR (audio w/ transcript) – 6/24/21

<https://www.npr.org/2021/06/22/1009076317/climate-change-is-threatening-the-u-s-wests-water-supply>

The people who manage the West's complex water systems are realizing that with climate change, they can no longer rely on the past to predict the future.

Satellites seek out methane leaks from pipelines, oil fields, landfills and farms

- PBS – 6/17/21

<https://www.pbs.org/newshour/science/satellites-look-out-methane-leaks-from-pipelines-oil-fields-landfills-and-farms>

Thanks to rapidly advancing technology, a growing fleet of satellites is now aiming to help close the valve on methane by identifying significant leaks from space.