



## ABRA Update #333 – May 19, 2022

### Issue Highlights . . .

- MVP asks 4th Circuit to assign new judges to its cases
- New webinar series on pipelines launches June 1
- Virginia Governor Youngkin announces appointments to Air Board
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### MVP asks 4<sup>th</sup> Circuit to assign new judges to its cases

Mountain Valley Pipeline, LLC (MVP, LLC) has requested that the Fourth Circuit Court of Appeals randomly assign judges to hear future cases involving appeals over permits for the Mountain Valley Pipeline. In a [May 16 petition](#) filed with the Fourth Circuit, MVP, LLC argued that the “Court’s rules do not contemplate the assignment of the same judges to every case involving one specific private party, if those cases cover one large, multi-state project.” The petition goes on to point out that the “Court has consistently assigned the same three judges to numerous, diverse cases involving different state and federal authorizations for Mountain Valley in all but two instances.”

The company’s petition was filed in conjunction with the lawsuit brought by the Sierra Club challenging Virginia’s certification that the MVP’s water crossings comply with state standards, as required under Section 401 of the Clean Water Act.

MVP, LLC’s petition further argues that:

- “Over the last four years, only four of the Court’s 18 sitting judges have heard any of the myriad petitions challenging different federal and state authorizations for Mountain Valley and the former Atlantic Coast Pipeline.” Primarily, there have been three judges hearing most pipeline cases: Chief Judge Gregory (who oversees the assignment of cases) and Judges Wynn and Thacker.
- “In the twelve consolidated petitions challenging different authorizations for Mountain Valley and ACP, this special panel has vacated or stayed all but two. It has done so despite purporting to apply the Administrative Procedure Act’s deferential standard of review in each case, which constrains courts to set aside only arbitrary and capricious agency action.”
- “This Court’s internal operating procedures, which aim to ‘achieve total random selection’ in assigning mature cases to three-judge panels, dictate random assignment in this case.”
- “The perception created by this Court’s deliberate formation of a special ‘pipeline panel’— actually, a ‘Mountain Valley panel’— threatens public confidence in the Court’s legitimacy. Contrary to the Court’s own rules, Mountain Valley and members of the public, currently expect the same panel on any pipeline case before this Court.”

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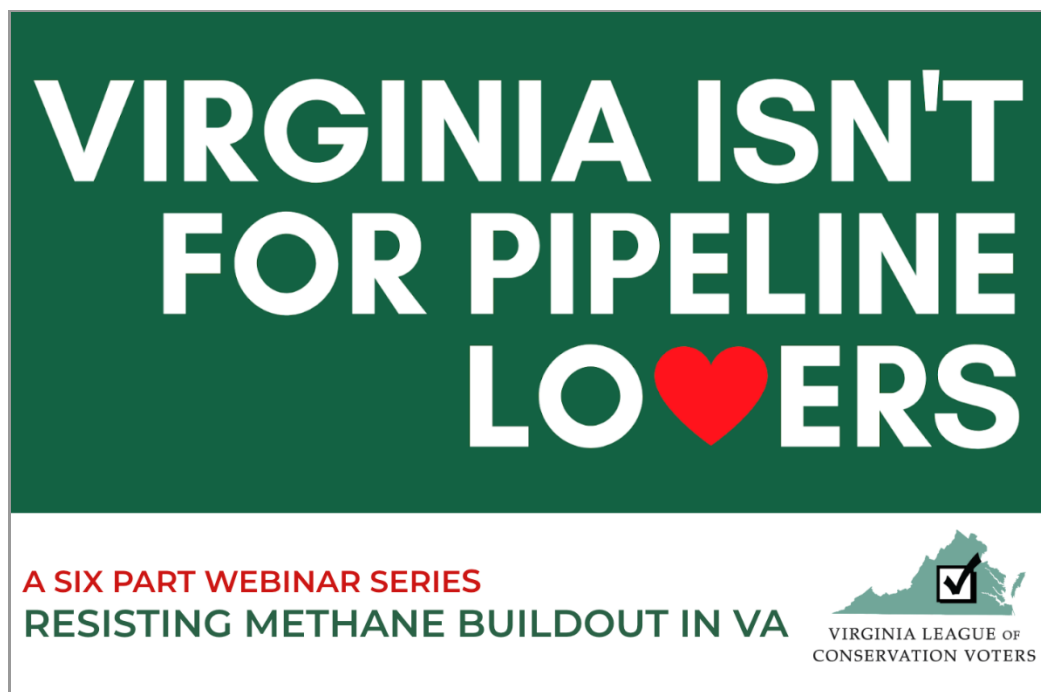
**GiveNow**

## New webinar series on pipelines launches June 1

The Virginia League of Conservation Voters launches Wednesday June 1 at 7 pm a series of webinars on resisting methane buildout in the state. The first webinar will explore the energy and utility forces driving pipeline construction in Virginia and what can be done to protect the Commonwealth and climate. Speakers for the one-hour event will be Lew Freeman, Executive Director of the Allegheny Blue Ridge Alliance, and Dr. Bill Shobe, Director of Center for Economic & Policy Studies, University of Virginia Weldon Cooper Center for Public Service.

To register for the June 1 webinar, click on the link below:

[https://us06web.zoom.us/webinar/register/tZEKce6qrT8qGt1CG3uAzaLcHAHdCod-eKfn/success?user\\_id=XtIoSvB1S2iDjl\\_TvKT3fg&timezone\\_id=America%2FNew\\_York](https://us06web.zoom.us/webinar/register/tZEKce6qrT8qGt1CG3uAzaLcHAHdCod-eKfn/success?user_id=XtIoSvB1S2iDjl_TvKT3fg&timezone_id=America%2FNew_York)



## Virginia Governor Youngkin announces appointments to Air Board

Governor Youngkin announced on May 13 the following appointments to the Virginia State Air Pollution Control Board:

- James Patrick Guy II of Saxe, General Counsel, Mecklenburg Electric Cooperative
- Jay Holloway of Richmond, Managing Partner, Climate Law & Strategy, PLLC
- David Hudgins of Richmond
- Donald L Ratliff of Big Stone Gap, President, Commonwealth Connections Inc.

## ***In the News:***

### **Regional Issues**

#### **Pipeline developer urges replacement of 4th Circuit Panel**

- E&E News – 5/17/22

<https://www.abralliance.org/wp-content/uploads/2022/05/MVP-urges-replacement-of-4th-Circuit-EE-News-5-17-22.pdf>

A string of rulings against pipelines from the same three judges of the 4th U.S. Circuit Court of Appeals has created the "perception of a deck stacked against large infrastructure projects generally and one private party specifically," Mountain Valley wrote in a Monday.

Related:

- <https://www.abralliance.org/wp-content/uploads/2022/05/Green-Judges-vs.-American-Gas-Editorial-Wall-Street-Journal-5-6-22.pdf>

#### **Dominion makes its case to SCC for \$9.65 billion from customers to build wind farm**

- Richmond Times-Dispatch – 5/17/22

[https://richmond.com/news/state-and-regional/govt-and-politics/dominion-makes-its-case-to-scc-for-9-65-billion-from-customers-to-build-wind/article\\_109a07a3-a6c5-5cad-b9a2-9279bd5bc835.html](https://richmond.com/news/state-and-regional/govt-and-politics/dominion-makes-its-case-to-scc-for-9-65-billion-from-customers-to-build-wind/article_109a07a3-a6c5-5cad-b9a2-9279bd5bc835.html)

Related:

- <https://www.virginiamercury.com/2022/05/16/whats-reasonable-and-prudent-when-it-comes-to-dominion-offshore-wind-projects-costs/>

#### **State panel studies potential impact of gold mining in Virginia**

- WDBJ7 News – 5/16/22

<https://www.wdbj7.com/2022/05/16/state-panel-studies-potential-impact-gold-mining-virginia/>

#### **Shareholders ask Dominion for report on risk of stranded natural gas assets**

- Virginia Mercury – 5/11/22

<https://www.virginiamercury.com/2022/05/11/shareholders-ask-dominion-for-report-on-risk-of-stranded-natural-gas-assets/>

Vote followed several months of disagreement over proposal at Securities and Exchange Commission.

#### **Advocates say Duke Energy's North Carolina climate plan relies too heavily on fossil fuels**

- Energy News Network – 5/17/22

<https://energynews.us/2022/05/17/advocates-say-duke-energys-north-carolina-climate-plan-relies-too-heavily-on-fossil-fuels/>

The company floated four possible pathways for curbing emissions: All include small nuclear, over 3 gigawatts of new natural gas plants, and little indication that it is preparing for offshore wind growth.

#### **New Comment Period and Public Meeting Announced for Rocky Forge Wind Farm's Modified Permit**

- Rocky Forge Wind – 5/18/22

[https://www.rockyforgewind.com/pbr\\_public\\_comment](https://www.rockyforgewind.com/pbr_public_comment)

## **Not a great time to roll out Dominion's pricey solar tariff**

- Virginia Mercury – 5/16/22

<https://www.virginiamercury.com/2022/05/16/not-a-great-time-to-roll-out-dominions-pricey-solar-tariff/>

If the company were trying to discourage people from signing up for its solar product, it could hardly have chosen a better time.

## **Big Picture:**

### **Europe's push to cut Russian gas faces a race against winter**

- ABC News/Associated Press – 5/18/22

<https://abcnews.go.com/Politics/wireStory/europes-push-cut-russian-gas-faces-race-winter-84800420>

Russian sanctions and shut-down pipelines make it increasingly difficult for European countries to fill their gas storage facilities for the coming winter.

### **FERC, state regulators eye options for clearing up interconnection 'quagmire,' allocating upgrade costs**

- Utility Dive – 5/9/22

<https://www.utilitydive.com/news/ferc-state-naruc-interconnection-queue-allocation-upgrades/623394/>

Related:

- <https://www.eenews.net/articles/get-rid-of-competition-ferc-and-the-push-for-power-lines/>

### **Manchin calls for 'North American minerals alliance'**

- E&E News – 5/18/22

<https://www.abralliance.org/wp-content/uploads/2022/05/Manchin-calls-for-North-American-minerals-EE-News-5-18-22.pdf>

"We all agree that Putin has used Russian oil and gas resources as a weapon on the Ukrainian people and on Europe, and other energy-rich autocracies are taking note. We'd be fools to think that [Chinese President] Xi Jinping won't consider using a similar playbook, leveraging China's control over global critical minerals supply chains," Manchin said.

### **The banks collapsed in 2008 – and our food system is about to do the same**

- The Guardian – 5/19/22

<https://www.theguardian.com/commentisfree/2022/may/19/banks-collapsed-in-2008-food-system-same-producers-regulators>

Massive food producers hold too much power – and the regulators scarcely understand what is happening. Sound familiar?

### **Hearing shows uphill fight for progressive mining reform**

- E&E News – 5/13/22

<https://www.eenews.net/articles/hearing-shows-uphill-fight-for-progressive-mining-reform/>

Momentum is building toward a potential deal to reform the nation's mining law, but a House hearing May 12 made evident that progressives aren't the ones driving that discussion.

## **Study finds cleaner air leads to more Atlantic hurricanes**

- Associated Press – 5/11/22

<https://apnews.com/article/climate-storms-science-air-pollution-united-states-a629da4d72fa94d75f6668acd5a04bf3>

Turns out, all the soot and smoke we've been working for 50 years to prevent entering our atmosphere was cooling the Atlantic!

## **How this big project will turn the high desert in central Utah 'green'**

- Deseret News – 5/10/22

<https://www.deseret.com/2022/5/9/23046910/green-hydrogen-energy-advanced-clean-energy-storage-project-utah-politics-renewables-delta-ipp>

Central Utah, home to solar fields, wind farms, and vast geothermal resources, definitely has it going on when it comes to the renewable energy revolution.