



## *ABRA Update #161 – December 21, 2017*

### **Virginia DEQ Issues 401 Certificate for ACP: With Strings!**

The December 12 decision by the Virginia State Water Control Board to approve, with conditions, a water quality certification for the Atlantic Coast Pipeline (ACP) has finally been made official with a [December 20 notification](#). In its certification document, required under Section 401 of the Clean Water Act, the Virginia Department of Environmental Quality makes clear that the effective date by which time construction can commence on the ACP is delayed until several conditions are satisfied, as follows:

This certification shall be effective only following submission, review and final approval as required by law of the Karst Mitigation Plan, Annual Standards and Specifications, and Erosion and Sediment Control Plans and Stormwater Management Plans, and a report to the Board and the public by DEQ on the adequacy of these materials. The Board may consider further actions on the Certification following the review of the DEQ report.

Pursuant to 33 U. S.C. § 1341 (a)(3), the Board reserves the right to impose further conditions if any existing plans and/or mitigation measures are amended by the Owner and/or FERC that may materially reduce the water quality protection provided thereunder.

An excellent analysis of the December 12 decision has been prepared by David Sligh, Conservation Director for Wild Virginia. “What Did the State Water Control Board Do?” is available [here](#).

### **ABRA Groups Challenge ACP’s Request of FERC To Cut Trees**

A [December 15 filing](#) with the Federal Energy Regulatory Commission (FERC) by the owners of the Atlantic Coast Pipeline, requesting permission to begin felling trees along the pipeline’s path, has been challenged by several member groups of the Allegheny-Blue Ridge Alliance. The ACP request proposes:

... to fell upland trees and vegetation at or above ground level, using methods that will not rut soils or damage root systems. The contractors will not be allowed to use mechanized clearing methods or heavy equipment when tree felling. Trees and vegetation will not be felled within or into delineated wetlands and waterbodies. Mats and bridges will not be used; waterbodies and wetlands will be crossed on foot. Felled trees will be left in place until all applicable permits and approvals and FERC’s issuance of a separate notice to

## ***Holiday Greetings***

*ABRA Update will take a week off and resume on January 4. If there are any important developments in the interim, we’ll send out a special email. But . . . let’s hope not. We all need a break!*

proceed to begin earth disturbing activities are received. The felling of trees will not occur on lands for which easements have not been obtained or for which additional state or local permits are required for such activity.

The ACP request was promptly challenged. Thirteen conservation groups, most of them ABRA members, [filed a motion December 21 with FERC](#) urging the agency to deny the ACP request to fell trees. The principal arguments set forth by the Southern Environmental Law Center on behalf of the groups were:

1. Multiple permits and approvals are outstanding or incomplete, including Clean Water Act Section 401 Certifications in Virginia and North Carolina, the National Historic Preservation Act Section 106 Programmatic Agreement, the Clean Water Act Section 404 permit, formal consultation under the Endangered Species Act, and state erosion and sediment control and stormwater management plans. The Commission also has not resolved numerous requests for rehearing and motions for stay.
2. In North Carolina, state law prohibits tree felling because the state has not fully approved Atlantic's proposed Erosion and Sedimentation Control Plan. North Carolina has also not issued a Section 401 Certification for the project. And in West Virginia, the Department of Environmental Protection has not approved a required stormwater permit.
3. In Virginia, the State Water Control Board has not issued an effective Section 401 Certification for the project, and therefore, Atlantic does not have the required state approval for tree felling. The Board is not expected to make a final decision on whether to certify the project until March or April 2018 at the earliest.

Friends of Nelson (FoN) also filed a request with FERC to deny the ACP's tree-felling request. The [FoN December 19 letter](#) pointed out that reviews of various forthcoming reports, required by the Virginia State Water Control Board in its approval of water quality certification for the ACP, "could result in possible denial of the final permit, changes in the route, or further conditions placed on the Atlantic Coast Pipeline. In addition, the Section 106 permits are still outstanding, and while ACP intends to avoid these areas, adjacent properties could potentially be impacted and there is a possibility of minor or significant route changes."

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

### **Local/Atlantic Coast Pipeline**

#### **Dominion presses for go-ahead to cut trees**

- The Recorder – 12/21/17

[https://www.abralliance.org/wp-content/uploads/2017/12/Dominion\\_presses\\_for\\_go-ahead\\_to\\_cut\\_trees-Recorder\\_20171221.pdf](https://www.abralliance.org/wp-content/uploads/2017/12/Dominion_presses_for_go-ahead_to_cut_trees-Recorder_20171221.pdf)

The felling work, which Dominion said is not a ground-disturbing activity, would start in southern Highland County and other areas planned for construction in 2018.

#### **ACP owners confident**

- The Robesonian – 12/20/17

<http://www.robsonian.com/news/105971/acp-owners-confident>

ACP still needs several permits in North Carolina. The Virginia State Water Control Board effectively delayed work on the project, pending additional environmental studies.

### **Pipeline a boon or bust?**

- The Record Delta – 12/20/17  
<https://therecorddelta.com/article/pipeline-a-boon-or-bust>  
DEP hosts stormwater permit hearing in Buckhannon

### **Would the Atlantic Coast Pipeline be the job creator its TV ads claim?**

- Facing South – 12/15/17  
<https://www.facingsouth.org/2017/12/would-atlantic-coast-pipeline-be-job-creator-its-tv-ads-claim>  
Funded by developers of the Atlantic Coast Pipeline, the EnergySure Coalition is running TV ads claiming the project would be a significant job creator. But a new economic analysis casts doubt on those optimistic claims.

### **Steve Haner: It's time for the General Assembly to help consumers and fix its flawed Dominion bill**

- Richmond Times-Dispatch – 12/16/17  
[http://www.richmond.com/opinion/their-opinion/guest-columnists/steve-haner-it-s-time-for-the-general-assembly-to/article\\_9c5b3b32-64f6-5f56-895d-3a2ee1d2a5ff.html](http://www.richmond.com/opinion/their-opinion/guest-columnists/steve-haner-it-s-time-for-the-general-assembly-to/article_9c5b3b32-64f6-5f56-895d-3a2ee1d2a5ff.html)  
Related:  
- <http://baconsrebellion.com/41546-2/>  
- <http://baconsrebellion.com/dominion-pursued-solarsmart-grid-strategy/>

## **Regional/Mountain Valley Pipeline, other**

### **Second court challenge filed over water quality certification for Mountain Valley Pipeline**

- The Roanoke Times – 12/18/17  
[http://www.roanoke.com/news/local/franklin\\_county/second-court-challenge-filed-over-water-quality-certification-for-mountain/article\\_8f8612ae-c9f3-5e20-9a95-802675230a7c.html](http://www.roanoke.com/news/local/franklin_county/second-court-challenge-filed-over-water-quality-certification-for-mountain/article_8f8612ae-c9f3-5e20-9a95-802675230a7c.html)  
Del. Sam Rasoul, D-Roanoke, is listed as the first of 16 petitioners who contend the board lacked adequate information on which to find a “reasonable assurance” that the 303-mile long buried pipeline would not contaminate the waters of Western Virginia.

### **Pipeline lawsuit moves ahead**

- The Franklin News Post – 12/18/17  
[http://www.thefranklinnews.com/news/local/pipeline-lawsuit-moves-ahead/article\\_f3022bbc-e413-11e7-bd84-ab15d32c7dao.html](http://www.thefranklinnews.com/news/local/pipeline-lawsuit-moves-ahead/article_f3022bbc-e413-11e7-bd84-ab15d32c7dao.html)  
Mountain Valley Pipeline is pushing ahead with a federal lawsuit filed in Roanoke to acquire easements over certain properties throughout Franklin County and the rest of the state.

### **“Green Antifa?” Is This a Bad Joke or a Smear Campaign Against Anti-Pipeline Activists?**

- Blue Virginia – 12/17/17  
<https://bluevirginia.us/2017/12/green-antifa-is-this-a-bad-joke-or-a-smear-campaign-against-anti-pipeline-activists>  
Related:  
- [https://pilotonline.com/news/local/environment/she-received-an-anti-pipeline-banner-at-home-this-norfolk/article\\_8116891c-ee33-5c76-ae8-759f1351aef5.html](https://pilotonline.com/news/local/environment/she-received-an-anti-pipeline-banner-at-home-this-norfolk/article_8116891c-ee33-5c76-ae8-759f1351aef5.html)

## **Big Picture:**

### **FERC to Review its 1999 Pipeline Policy Statement**

- FERC – 12/21/17  
<https://www.ferc.gov/media/news-releases/2017/2017-4/12-21-17.asp#.WjwiUN-nGUn>  
Related:  
- <http://www.washingtonexaminer.com/ferc-to-review-federal-pipeline-approval-process/article/2644177>

## **The Energy 202: NASA and NOAA are still talking about climate change. That's notable.**

- The Washington Post – 12/19/17

[https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2017/12/19/the-energy-202-nasa-and-noaa-are-still-talking-about-climate-change-that-s-notable/5a3831ab30fbo469e883fc4d/?utm\\_term=.e08b216ac9e0](https://www.washingtonpost.com/news/powerpost/paloma/the-energy-202/2017/12/19/the-energy-202-nasa-and-noaa-are-still-talking-about-climate-change-that-s-notable/5a3831ab30fbo469e883fc4d/?utm_term=.e08b216ac9e0)

One possible “reason NASA and NOAA have experienced relatively little political meddling this year: They are not policymaking agencies.”

## **Trump’s Silence On Climate Change Threatens Our National Security**

- Newsweek – 12/21/17

<http://www.newsweek.com/trumps-silence-climate-change-threatens-our-national-security-755047>

Simply because a threat is not addressed does not mean that it no longer exists.

## **New FERC chair wants to make agency more transparent**

- Utility Dive – 12/21/17

<https://www.utilitydive.com/news/new-ferc-chair-wants-to-make-agency-more-transparent/513605/>

## **After pipeline losses, greens hope for win in this tiny town**

- E&E News – 12/21/17

[https://www.abralliance.org/wp-content/uploads/2017/12/After\\_pipeline\\_losses\\_greens\\_hope\\_for\\_win-EE-News\\_20171221.pdf](https://www.abralliance.org/wp-content/uploads/2017/12/After_pipeline_losses_greens_hope_for_win-EE-News_20171221.pdf)

## **The Coast Guard chief describes how the US remains unprepared to deal with the effects of climate change**

- Business Insider – 12/20/17

<http://www.businessinsider.com/coast-guard-chief-paul-zukunft-us-unprepared-for-extreme-weather-2017-12>

According to the US Coast Guard commandant, the US military and public still has work to do to adapt to a changing climate.

## **Canada’s Electricity-Generation From Fossil Fuels Drops to 20 Percent**

- IEEFA – 12/21/17

<http://ieefa.org/canadas-electricity-generation-fossil-fuels-drops-20-percent/>

Nuclear accounts for 15%. The rest comes from renewables.

## **Gas, renewables can replace coal with stronger rules — NERC**

- E&E News – 12/15/17

<https://www.eenews.net/stories/1060069111>

Slowing growth and a surge in new natural gas, wind and solar installations have so far more than made up for the drop in generation capacity due to retirements of coal and nuclear plants, NERC said.

## **China Unveils an Ambitious Plan to Curb Climate Change Emissions**

- The New York Times – 12/19/17

<https://www.nytimes.com/2017/12/19/climate/china-carbon-market-climate-change-emissions.html>

Hopes are high, but experience at the provincial level in China and in Europe have had lackluster results.