

**SAVE YOUR
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CURB UPDATE

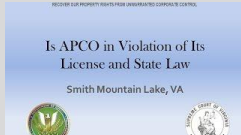


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January 8, 2017

OUR MISSION IS TO EDUCATE AND INFORM ...

VOLUME 3 NUMBER 1



**CURB YouTube
CHANNEL**



LITIGATION STATUS

IMPORTANT LINKS

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THE FERC IS AN EXISTENTIAL THREAT TO OUR DEMOCRACY

The Commission requires its licensees to acquire and retain all property interests necessary to carry out project operations and to submit project drawings detailing land rights by subdivision. The Commission unequivocally accepts every licensee's certification of rights, without verification. Instead, the Commission burdens private property owners with the legal obligation and expense to defend their private property against its multi-billion dollar licensees. This blind trust results in the award of licenses to licensees that do not hold the required property rights.

FACT: APCO HAS YET TO PROVE IN A STATE COURT OF APPROPRIATE JURISDICTION THAT THE FLOWAGE EASEMENT GRANTS THEM RIGHTS TO REGULATE ALL USES OF THE LANDS WITHIN THE PROJECT BOUNDARY. UNTIL A STATE COURT DETERMINES APCO'S FLOWAGE RIGHTS, THEY HAVE NO BASIS, OTHER THAN THEIR OPINION, TO DEMAND THAT LAKE FRONT PROPERTY OWNERS MUST SEEK APCO'S PERMISSION AND SIGN A PERMIT. THE FOURTH CIRCUIT COURT OF APPEALS AGREES AND HAS MANDATED THAT JUDGE MOON REMAND PRESSLS' CASE TO STATE COURT FOR DETERMINATION OF PRESSLS' RETAINED RIGHTS UNDER THE FLOWAGE EASEMENT.

The following law is irrefutable:

1. It is unconstitutional to grant federal or state regulatory authority to a private corporation;
2. The jurisdiction of federal courts is limited to constitutional issues, federal law and treaties;
3. It is unconstitutional to seize private property without compensating the owner;
4. Determination of property law is reserved for state courts;
5. The Federal Power Act (FPA) limits FERC's regulatory authority to licensees;
6. A private property owner cannot violate the FPA;
7. The issuance of a federal license cannot change property rights;
8. A licensee has no federal authority to regulate private property without the owner's consent.

Per the Fourth Circuit's ruling, neither case belonged in federal court and there can be no doubt that both the Commission and its licensee had the legal expertise and knowledge that the court of appropriate jurisdiction was state court. Both the Commission and APCO also knew that the Federal Power Act only applies to the FERC and its licensees, and that non-licensees cannot violate the FPA or APCO's federal license. The Commission is as guilty as its licensee in promoting legal maneuvers to fabricate federal jurisdiction, where none exists. It is totally inappropriate for Commission to allow its licensees to raise legal arguments that conflict with the FPA, Commission regulations and policies, and waste the resources of the federal judicial system. The Commission's indifference towards this licensee's actions is nothing less than collusion in the extortion of property.

Pressls' and Nissens' experience in the defense of their property rights illustrates the legal and financial burden the Commission places upon non-licensee property owners. Legal expenses to defend private property rights in these cases now exceed \$145,000, and the expense of a state court trial has yet to be realized. Justice is not free. It's unaffordable.

This unfortunate and costly experiment in the regulation of private property by a for-profit corporation has exposed how the Commission and its licensee manipulated the public, and federal district court, to their mutual advantage – allowing the taking of private property, without compensation, to ultimately benefit this licensee's profit margins and the Commission's annual licensing fees. **Such practice poses an existential threat to our democracy.**

ELIMINATE IGNORANCE – Before you agree to sign any APCO property stealing revocable permits, at least read the permit and your flowage easement. Seek the professional advice of a competent attorney. We know several. For a more in-depth understanding, we recommend viewing the following CURB videos:

[Read Your Flowage Easement](#) [Read APCO's Dock Permit](#) [History of Regulation](#)
[What Did APCO Permit](#) [APCO Manipulated the Judicial System](#)

DONATIONS ARE NEEDED for STATE COURT DETERMINATION OF FLOWAGE RIGHTS – Why does APCO continue to avoid state court? Simply, APCO cannot prevail in Virginia state court because it cannot re-write decades of easement law and erase its decades long history and practice of not regulating shorelines. APCO's limited flowage rights will be determined following state easement law, without consideration of their federal license or shoreline management plan. Only the language of the easement, the understanding of the parties at the time of easement creation and the 45 years of custom and practice recognizing shoreline owner's rights to construct, own and maintain docks without seeking APCO's approval, will be considered.

We need your continued financial support to continue these legal fights. Everyone will benefit from these victories and it's only right that everyone shares the cost of this legal defense of our property rights. For those that have already signed APCO's permits and encumbered your property rights, victory will mean the terms of the flowage easement holds precedence over the permit and render any conflicts invalid. 100% of your contribution goes to fund legal expenses. CURB Officers and Directors are legally bound not to financially benefit. Please consider donating to support the ongoing legal effort and education programs. CURB is a registered 501c (4) not-for-profit Virginia corporation. Your donations to support CURB efforts are not discoverable and remain anonymous. Use the donate button on the first page of this update. Thanks for your continued support.

**C.U.R.B. CONTRIBUTIONS CAN ALSO BE MAILED TO:
81 LIGHTHOUSE LN MONETA, VA 24121-1991**

THERE ARE NO FEDERAL OR STATE LAWS THAT REQUIRE A PROPERTY OWNER TO SIGN A PERMIT TO BE REGULATED BY APCO. SO WHY ARE SELLERS AND BUYERS BEING LED TO COORDINATE REAL ESTATE TRANSACTIONS WITH APCO?

ANS: REALLY BAD LEGAL ADVICE

For Your Property Rights ...

Bill Brush

C.U.R.B. DOES NOT PROVIDE LEGAL ADVICE