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# CURB UPDATE

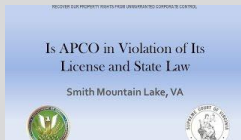


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JULY 8, 2015

OUR MISSION IS TO EDUCATE AND INFORM ...

VOLUME 1, NUMBER 7



**CURB YOUTUBE  
CHANNEL**



**LITIGATION STATUS**

## IMPORTANT LINKS

[Stakeholder Stories](#)

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[Timeline](#)

**NEW LAWSUIT FILED IN FRANKLIN COUNTY CIRCUIT COURT** -- On June 2<sup>nd</sup> a Claim for Declaratory Judgment relief was filed by Richard and Terry Pressl against APCO. Pressls' are asking their state-law claims be adjudicated by a state court. Their reasoning is consistent with the direction FERC issued to stakeholders -- "Any disputes regarding property rights are not within the Commission's jurisdiction; rather, they are matters for state courts to resolve." (March 27, 2013); "As the Commission explained under the original SMP proceeding, private access and docking facilities are privileges that the licensee has the discretion to approve or deny, subject to Commission review if necessary. If an individual's deed gives them that right, they could take it up in [State] court." (January 30, 2014) APCO's answer to the Pressls' complaint was expected by July 6<sup>th</sup>.

Rather than answer Pressls' complaint, APCO instead filed a Notice to Remove Pressls' complaint to U.S. District Court on June 23<sup>rd</sup>. Pressls' case is now assigned to the Lynchburg, VA court. Pressls' have until 23 July to ask the Lynchburg District Court to Remand their case back to Franklin County Circuit Court.

**CURB Comment -- APCO is desperate and will go to any length to avoid litigating property rights disputes in state court, even to the extent that it violates FERC guidance and direction to resolve property disputes in state court.**

**Consider making a donation to support Pressl's in their fight for all of our property rights.**

**Legal Strategy and Maneuvers** -- Federal Court is a morass of procedure and deadlines that must be precisely followed. Lots of activity is occurring, some of to which CURB is privy. We strive to keep supporters up-to-date by sharing publicly available information. We will not share strategy because doing so could harm on-going litigation. Thank you all for your support and be patient as everything now is a matter of procedure and due dates.

**CURB's 23 June 2015 Meeting at the Westlake Library** -- Between 85 and 100 stakeholders attended CURB's last meeting to receive updates on our efforts to restore property rights of shoreline residents and landowners. An update was provided on three ongoing civil suits: APCO v. Nissen; APCO v. Arthur; and Pressl v. APCO. Information on CURB's formal complain to FERC was also discussed.

**CURB'S FORMAL COMPLAINT TO FERC** -- FERC so far has ignored CURB's formal complaint, hoping we will go away ... **think again FERC!**

- CURB emailed a draft letter of complaint to stakeholders asking supporters file an individual complaint with FERC demanding the Commission follow its regulations and "Public Notice" CURB's formal 157 page complaint.
- CURB contacted our Congressional Representatives to intervene and ask the Commission to address CURB's complaint. On June 30<sup>th</sup>, we were pleased to see that Senator Mark Warner contacted FERC on our behalf. Click here to view [Senator Warner's Inquiry](#)
- CURB is in the process of contacting property rights groups, press and broadcast stations. Success here unfortunately depends upon news editors.

**THANKS TO THOSE 40 PLUS SUPPORTERS (WE KNOW OF) THAT SO FAR HAVE FILED THE FOLLOWING COMPLAINT WITH FERC:**

"To the Commission:

The Commission's failure to acknowledge and public notice the referenced complaint causes the undersigned to file this complaint asserting that Commission staff is in violation of Commission regulations. The referenced complaint requires timely Commission action to address the illegal taking of Private Property Rights at the Smith Mountain Project by a licensee of the Commission.

The Commission's inaction raises serious questions of complicity with your licensee to take Private Property Rights without compensation in violation of the Federal Power Act. CURB's complaint was filed with the Commission on 20 April 2015 and according to Commission procedures, "**Notice of the Complaint** -- *The Commission will issue public notice of the complaint promptly, usually within two days.*" Consequently the Commission should have public noticed CURB's complaint on or about 22 April 2015.

Failure to public notice CURB's formal complaint is a due process violation because stakeholders are denied the ability to file comments and/or motions to intervene. The Commission is hiding this complaint from the public. I respectfully request that CURB's formal complaint be properly administered and public noticed in accordance with Commission procedure.

My complaint is a non-public complaint because I fear retribution from your licensee, Appalachian Power."

**GUESS WHAT --** FERC has ignored all of these individual complaints as well. **Should anyone harbor any doubt as to FERC's complicity with APCO to extort private property rights from shoreline owners without compensation -- FERC's handling of your complaints demonstrates intent to conspire with its licensees.**

At the risk of sounding like a conspiracy theorist, it's no stretch to see that FERC is conspiring with its licensees to steal private property rights. A federal independent agency, sworn to support and defend the Constitution of the United States is deliberately acting contrary to its oath, mission, procedures and policies to violate the 5<sup>th</sup> and 14<sup>th</sup> amendments, by taking property rights without compensation.

**[Robert Hurt Introduces Legislation to Give Private Property Owners a Voice in Shoreline Management Plan Development](#)** -- Congressman Robert Hurt has re-introduced his SHORE ACT in the U.S. House of Representatives. Use the following link to view **[Representative Goodlatte Explain His Co-Sponsorship](#)**. The purpose of the SHORE Act is to require FERC to consider private property rights when it issues new licenses and license modifications. FERC currently believes they have no responsibility to consider private property rights and instead relies upon a certification from its licensee that it holds the necessary property rights. In our case FERC required their licensee to submit detailed project drawings, showing ownership details. The drawing submittal did not meet requirements, but FERC accepted them regardless. The SHORE ACT is a step in the right direction, and eventually either through legislation or Court rulings, FERC will be held accountable. Private Property Rights are the foundation of our Constitution and government.

**CURB Scheduled Meetings** -- We have reserved the meeting room at the Westlake Library in Franklin County for the following dates and times:

**July 30<sup>th</sup> -- Thursday Evening from 6:00PM to 7:30PM**

**August 20<sup>th</sup> -- Thursday Evening from 6:00PM to 7:30PM**

During these meetings we will provide updates on our legal activities and address questions and concerns. A lot is happening and it will be to your benefit to attend. If there is something specific you want to address, just send your request or questions to [contact-us@curb-ferc-aep.com](mailto:contact-us@curb-ferc-aep.com).

**Please consider making a donation 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 ... For Our Property Rights**

*Bill Brush*