

## Emily Hjulstrom

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**From:** Vicki Wheaton <vickiwheaton@gmail.com>  
**Sent:** Monday, December 03, 2018 8:17 AM  
**To:** BZA Planning  
**Cc:** David Shreve; phillipdpayne@gmail.com  
**Subject:** McQuire Wood letter to David Shreve

Dear BZA,

Herein are my comments regarding ACP's hired, legal counsel McQuire Woods letter to David Shreve dated 10/29/18 that is in your packet.

Please realizes that ACP LLC Attorney's statement "at the end of the day" we're going to win with or without permits is a bullying tactic as well as being beyond arrogant. If this is true then why is ACP LLC applying for Variances? It's one of my listed legal arguments that I sent to you earlier.

Legal arguments:

1. According to Virginia law only Owners can apply for Variances. Owning an Easement has never been determined to equate to Ownership in Virginia.
2. There's also the legal argument that because ACP applied for Variances in Nelson they forfeited their right to seek preemption using the NGA. They could have bypassed seeking permits here & just used the NGA preemption to begin with.

This is ACP's Attorney's (McQuire Woods / Ann Neal Cosby) opinion...she is not a Judge & I challenge her assumptions.

ACP LLC may or may not be able to override Nelson's total right to deny Variances but it really doesn't matter. In fact, our FPO demands that we deny these Variances. In my opinion (& also FEMA's...I specifically asked them at their 11/27/18 Meeting in Lynchburg) the ACP is not only a Critical Facility but also qualifies as Hazardous Material so really they should be required to ask for Variances for both of our Higher Standards. Regardless, what matters is that the BZA enforce our FPO, what happens after this is unprecedented so ACP LLC may be in for a big surprise. I challenge their assumption that it's a done deal.

Thank you for your considerations,

Vicki

