



Shenandoah Valley Network



Southern
Environmental
Law Center



VIRGINIA
CONSERVATION
NETWORK

June 29, 2017

Via U.S. and electronic mail

Governor Terry McAuliffe
Common Ground for Virginia
P.O. Box 1475
Richmond, VA 23218

David K. Paylor, Director
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Robert Dunn, Chair
State Water Control Board
c/o Office of Regulatory Affairs
Department of Environmental Quality
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Re: 401 certification for the proposed Mountain Valley and Atlantic Coast Pipelines

Dear Governor McAuliffe, Director Paylor, and Members of the State Water Control Board:

We write to urge the Commonwealth to use the full scope of its authority to assess the impacts of the Mountain Valley and Atlantic Coast pipelines. Our groups represent tens of thousands of Virginians who are counting on the Department of Environmental Quality (DEQ) and the State Water Control Board (Water Board) to conduct a thorough and transparent review of stream and wetland crossings, as well as all upland activities, and ensure that Virginia water quality standards are met.

Specifically, we request that DEQ require individual 401 certification review for wetland and stream crossings, rather than relying on the Army Corps of Engineers' (the Corps) Nationwide Permit 12 (NWP 12). In addition, DEQ should wait to schedule public hearings, hold comment periods, or otherwise move forward with Section 401 certification until the pipeline developers have provided all information necessary for thorough DEQ review, and the public has had an opportunity to examine that information.

As you know, Virginia has broad authority to conduct its own analysis under Section 401 of the Clean Water Act. These enormous infrastructure projects would cross hundreds of sensitive waterways, including waterways in some of the steepest terrain in the eastern United States. Both pipelines pose significant threats to Virginia's water quality and aquatic environment, including threats to: the recharge area of Gardner Spring, which supplies five million gallons of water a day to the citizens of Staunton and Augusta County; tributaries of Warwick Run that are state-

designated trout waters and provide essential habitat to rare and vulnerable populations of native brook trout; the Cowpasture River, home to the endangered James River spiny mussel and described as “literally exceptional” and “extremely rare” by DEQ; the Jackson River, a pristine river described by the Department of Game and Inland Fisheries as an “excellent” trout fishery; and Bottom Creek, one of only 30 Tier III Exceptional State Waters in Virginia, which contains rare species and a popular recreation destination featuring the second highest waterfall in the state. Virginians rely on these waters for recreation, fish habitat, and the health of our watersheds. Analysis of these crossings by DEQ and the Water Board is critical to ensure that water quality and the aquatic environment in Virginia are protected.

Such a review would not be redundant with the analysis under NWP 12. The Corps will not conduct site-specific reviews of the more than 1,000 crossings along the pipelines’ routes. When authorizing a project under NWP 12, the Corps must only find that each individual waterbody crossing along the pipeline route will not cause a loss of more than a half-acre of waters of the United States.

As DEQ has noted, NWP 12 contains general conditions, including those pertaining to restoration and mitigation. But the Corps will not ensure that those conditions are met before determining that a project can be authorized under NWP 12. That means impacts from activities like in-stream blasting and trenching in rugged and challenging terrain will not be considered unless DEQ considers them. Whether serious impacts such as sedimentation can be mitigated would not be known without such analysis, despite the risk to some of the most pristine waters in Virginia. DEQ can and indeed must fill this gap with its own review of waterbody crossings.

We appreciate DEQ’s planned approach to review some of the impacts not covered by NWP 12. This analysis is incredibly important. However, the current limited scope of this review fails to consider river, stream, and wetland crossings.

Finally, we urge you not to rush any part of the Commonwealth’s review of these pipelines. Protection of Virginia’s streams, rivers, and wetlands is too important to place at risk. DEQ must take the time to ensure it has all necessary information, review that information, give the public an opportunity for thorough review, and then conduct a comprehensive and transparent analysis of critical water crossings and all related upland activities. Such an approach will allow DEQ to fulfill its responsibilities to protect the waterways of Virginia.

Sincerely,

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Appalachian Mountain Advocates

Appalachian Trail Conservancy

Appalachian Voices

Audubon Naturalist Society

Augusta County Alliance

Blue Ridge Land Conservancy

Bold Alliance

Buckeye Environmental Network

Center for Biological Diversity

Central Virginia Land Conservancy

Chesapeake Bay Foundation

Chesapeake Climate Action Network

Civil War Trust

Clean Water Fund

Climate Action Alliance of the Valley

Coalition for Smarter Growth

Cooper Conservation Advisors, LLC

Cowpasture River Preservation Association

Dominion Pipeline Monitoring Coalition

Earth Care House Church, Trinity Presbyterian Church, Harrisonburg, VA

Eastern Virginia Pipeline Resistance

Eight Rivers Council

Food & Water Watch

Free Nelson

Friends of Augusta

Friends of Buckingham

Friends of Nelson

Friends of Shenandoah Mountain

Friends of the Central Shenandoah

Friends of the Middle River

Friends of the North Fork of the Shenandoah River

Friends of the Rappahannock

Garden Club of Virginia

Highlanders for Responsible Development

Jackson River Preservation Association

James River Association

Lynnhaven River NOW

Mothers Out Front Hampton Roads

Natural Resources Defense Council

New River Land Trust

Ohio River Citizens' Alliance

Oil Change International

Physicians for Social Responsibility

Potomac Appalachian Trail Club, Southern Shenandoah Valley Chapter

Potomac Riverkeeper Network

Preservation Virginia

Preserve Craig, Inc.

Preserve Floyd

Preserve Newport Historic Properties

Protect Our Water

Rockingham Alliance for the Protection & Transformation of Our Resources & Society

Rappahannock League for Environmental Protection

Richmond Audubon

Roanoke Appalachian Trail Club

Rockbridge Area Conservation Council

Rockfish Valley Foundation

Rockingham Community Alliance for Preservation

RVA - Interfaith Climate Justice League

Scenic 340 Project, Inc.

Scenic Virginia

Shenandoah Forum

Shenandoah Riverkeeper

Shenandoah Valley Battlefields Foundation

Shenandoah Valley Network

Sierra Club

Sierra Club Virginia Chapter

Southern Appalachian Mountain Stewards

Southern Environmental Law Center

SouthWings

The Downstream Project

The Piedmont Environmental Council

Valley Conservation Council

VES Land Trust

Virginia Conservation Network

Virginia League of Conservation Voters

Virginia Wilderness Committee

Voices from Bath

Waterkeepers Chesapeake

West Virginia Chapter of Sierra Club

Wetlands Watch

Whitescarver Natural Resources Management, LLC

Wild Virginia