



COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
RICHMOND

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SEVENTY-NINTH DISTRICT

July 11, 2017

COMMITTEE ASSIGNMENTS:  
FINANCE  
COUNTIES, CITIES AND TOWNS  
SCIENCE AND TECHNOLOGY

The Honorable Molly Ward  
Secretary of Natural Resources  
1111 East Broad Street  
Richmond, VA 23219

David K. Paylor, Director  
Virginia Department of Environmental Quality  
629 East Main St.  
Richmond, VA 23219

Robert Dunn, Chair  
State Water Control Board  
c/o Office of Regulatory Affairs  
Department of Environmental Quality  
P.O. Box 1105  
Richmond, VA 23218

Dear Secretary Ward, Director Paylor and Chairman Dunn,

I'm writing to urge the Commonwealth to use the full scope of its authority to assess the impacts of the Mountain Valley and Atlantic Coast pipelines. I and my constituents 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.

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 some of the most significant threats to Virginia's water quality and aquatic environment in decades, including threats to:

1. The recharge area of Gardner Springs, which supplies five million gallons of water a day to the citizens of Staunton and Augusta County;
2. Tributaries of Warwick Run that are state-designated trout waters and provide essential habitat to rare and vulnerable populations of native brook trout;

3. The Cowpasture River, home to the endangered James River spiny mussel and described as “literally exceptional,” and “extremely rare” by DEQ;
4. 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, habitat, and the health of our watersheds. Analysis of these crossings by DEQ and the State Water Control Board is critical to insure that water quality and our aquatic environment in Virginia are protected. Such a review would not be redundant with the analysis under the U.S. Army Corps (The Corps) Nationwide Permit 12 (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.

I 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.

I 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 insure it has all necessary information, review that information, give the public an opportunity to thoroughly review the information, and then conduct a thorough 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.

Specifically, I am requesting the following:

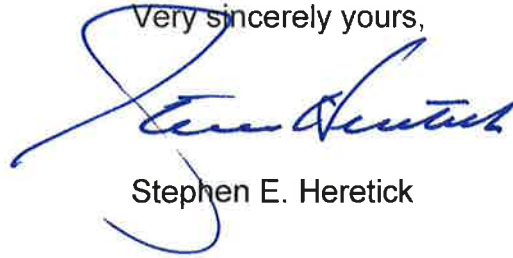
1. DEQ to perform individual 401 certifications for wetland and stream crossings, rather than relying on the Army Corps of Engineers' (the Corps) Nationwide Permit 12 (NWP 12).
2. DEQ to postpone any public hearings or other activities that move forward with Section 401 certification until the pipeline developers have provided all

information necessary for thorough DEQ and public review. At the very least DEQ should extend any public comment periods on this issue to ninety days or more.

3. DEQ to expand the number and locations within impacted Counties for the Section 401 Certification public hearings to maximize opportunities for public input and participation.

Thank you for your time and attention to this important matter. With sincere and continuing appreciation for your service to the Commonwealth, I am

Very sincerely yours,

A handwritten signature in blue ink, appearing to read "Stephen Heretick", written in a cursive style.

Stephen E. Heretick