

**Comments Regarding the Adequacy of Nationwide Permit 12
And the Mountain Valley Pipeline**

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It is my general contention that the requirements of the Corps of Engineers Nationwide Permit 12 are insufficient to protect the waters of the State of Virginia, as required by state and federal law.

The impacts created by construction of a 42-inch diameter pipeline, especially on steep slopes and with long open trenches, are far greater than the current best available practices can mitigate.

In areas where the pipeline crosses a stream multiple times, the effects will be cumulative. Turbidity and sedimentation caused by erosion is not merely a point source issue. Such impacts have cumulative downstream effects and must be addressed as such.

The Corps permit allows such sedimentation to occur for a short time and as long as such discharges are minimized. These impacts conflict with the State Water Quality Standards that say the designated and existing uses of the waters are to be protected *at all times*.

We have recently experienced a prolonged period of steady rain, nothing extreme or out of the ordinary, that caused the approved erosion and sedimentation mitigation measures used for construction of the Mountain Valley Pipeline to fail. The pipeline contractor claimed that they did everything they were supposed to do, but massive amounts of runoff and sedimentation occurred over wide-open rights-of-way stripped of ground cover. The measures that were deemed “best practices” were inadequate to stem even this moderate occurrence. Virginia is often exposed to much higher rainfall after hurricanes or other severe storms. How can the DEQ continue with a NWP 12 process that has already proved to be inadequate? The permit should be rescinded and the pipeline should be governed by the full requirements of a properly authorized 401 certificate.

The DEQ is charged with ensuring that state Water Quality Standards will not be violated by any activities for which it issues a permit. There are many established uses that the citizens of Virginia expect to continue to enjoy as they have for generations. The DEQ is the authorized guardian of these uses and must protect them as prescribed by law.

Allowing less stringent protection, as allowed by the Corps' nationwide permit, can impair and alter the uses that the DEQ was empowered to protect.

The NWP 12 often requires that uses be protected only "to the maximum extent possible." Imagine that you owned land that had been in your family for generations and now the water that people and livestock rely on has been disrupted by pipeline construction and is no longer usable. Would you accept an explanation from the pipeline company that they used techniques that have been shown to be only 40 percent effective, but they did all that was possible to avoid a problem?

Violations of Water Quality Standards may not be permitted in Virginia just because the pipeline company cannot find a practical solution to avoid them.

Activities that degrade water quality in Virginia may violate the antidegradation standards in state law. The NWP 12 requirements are too vague and cannot ensure that antidegradation requirements are met. All existing uses that have occurred since 1975 are protected by state and federal law, even if they are not specifically identified in water quality standards. So far the DEQ has avoided addressing that issue.

I have spoken to several civil engineers who have worked on public and private projects in the areas of pipeline construction. They are confused about why they must provide more detailed information and are held to more stringent requirements than are the large pipeline projects that have far more potential to damage state waters.

I am disappointed when I hear that "this is the most rigorous permitting activity ever conducted in Virginia." I have worked for electric and gas utilities in two other states. In New York, I led a department that was responsible for obtaining state and federal authorizations for multi-billion dollar utility projects, including 401 water quality permits. The process for issuing water quality permits in Virginia for pipeline projects is far more lax than I have seen applied to projects in other locations.

The NWP 12 process that the DEQ seems willing to rely on allows water quality standards to be lessened when necessary "to accommodate important economic or social development in the area in which the waters are located." If the DEQ is willing to take shortcuts in protecting the waters of the state to allow for some promised economic benefits, the Department should be aware that no such benefits will result from the construction of the MVP.

One of three FERC Commissioners, who voted regarding the certificate for the Mountain Valley Pipeline, registered a strong dissent. Commissioner Lafleur said, "I am not persuaded" that the MVP Project is "in the public interest."

Only 0.5 percent of the capacity of the MVP is assigned to a known end-user of the gas (Roanoke Gas). Owners of the pipeline have offloaded billions in long-term expenses onto their utility ratepayers to pay for a pipeline that will provide no benefit to them. EQT owes over \$9 billion for a 20-year capacity contract, but the company has no identified customers and no captive ratepayers to shoulder the risk. The business case for the MVP is extremely suspect.

The transportation charge for using the MVP will add more than a 30% premium to the price of gas. When it arrives at the connection with Transco, gas transported by the MVP will be priced higher than the abundant supplies of gas available in the Transco system. Domestic users are not eager to pay more for gas. Only export buyers are willing to pay more for gas. Using the MVP to supply the export market will help raise the price of gas in the U.S. for everyone. The waters of Virginia should not be put at risk for a speculative opportunity for profit by a few private companies.

The DEQ should not be misled by the false claims of economic benefits and coerced into taking shortcuts in exercising its responsibility to protect the waters of the state.

Respectfully submitted,

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