



STATEMENT

Joint Statement of Commissioner Cheryl A. LaFleur and Commissioner Richard Glick on Mountain Valley Pipeline Construction

Date: August 29, 2018

Docket No.: CP16-10-000

Today, Commission staff issued a letter modifying the August 3, 2018 Stop Work Order on the Mountain Valley Pipeline (MVP) Project, allowing Mountain Valley Pipeline, LLC to resume construction on all non-federal lands between Milepost 77 up to Milepost 303. We have significant concerns with today's decision to allow construction to resume while required right-of-way and temporary use permits remain outstanding.

On July 27, 2018, the United States Court of Appeals for the Fourth Circuit issued an order vacating decisions by the Department of Interior's Bureau of Land Management and the Department of Agriculture's Forest Service authorizing the construction of the MVP Project across federal lands and remanding to those agencies for further proceedings. In response, on August 3, Commission staff halted construction activity along all portions of the MVP Project acknowledging MVP, "has not obtained the rights-of-way and temporary use permits from the federal government needed for the Project to cross federally owned lands." We supported staff's decision given the significance of the court's order and the questions it raised regarding the future viability of the MVP Project.

Today's action also highlights a broader concern regarding the Commission's response to federal court actions that remand or vacate a federal authorization that is among the necessary pre-conditions for commencing construction in the first place. In response to recent court decisions, Commission staff has acted within its delegated authority to address the impact of those court decisions on post-certificate pipeline activities, as it did today. However, given the increasing complexity of such issues, we believe the Commission should revisit this practice. In the future, when a court remands or vacates a required federal authorization following the issuance of a notice to proceed, we believe the decision regarding whether and how to proceed with the pipeline should be made by the Commission rather than its staff. Ultimately, it is the Commission's responsibility to ensure the project is in the public interest.