



2200 Energy Drive | Canonsburg, PA 15317
844-MVP-TALK | mail@mountainvalleypipeline.info
www.mountainvalleypipeline.info

August 25, 2020

Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
888 First Street NE
Washington, DC 20426

Re: Mountain Valley Pipeline, LLC
Docket No. CP16-10-_____
Request for Extension of Time

Dear Ms. Bose:

On October 13, 2017, the Federal Energy Regulatory Commission issued an order granting a Certificate of Public Convenience and Necessity to Mountain Valley Pipeline, LLC for the construction and operation of the Mountain Valley Pipeline Project (“Project”).¹ The Project includes approximately 303 miles of 42-inch-diameter greenfield natural gas pipeline, three new compressor stations, interconnections with new meter and regulator stations, taps, and other appurtenant facilities. The Certificate Order was the result of a nearly two-year certificate process in Docket No. CP16-10-000 and a one-year pre-filing process in Docket No. PF15-3-000. The United States Court of Appeals for the District of Columbia Circuit (“D.C. Circuit”) affirmed the Certificate Order in an order issued February 19, 2019. The D.C. Circuit thoroughly examined and rejected multiple challenges to the Certificate Order on Natural Gas Act and National Environmental Policy Act grounds, including Project need, impacts on water resources, and greenhouse gas emissions.

Ordering Paragraph (C)(1) of the Certificate Order and Section 157.20(b) of the Commission’s regulations require that Mountain Valley complete construction of the authorized facilities and to place the Project facilities into service within three years of issuance of the Certificate Order, or October 13, 2020.² Rule 2008³ of the Commission’s Rules of Practice and Procedure allows the Commission, for good cause, to extend the time by which Mountain Valley is required to complete construction and place the Project into service. Pursuant to Rule 2008 and the revised procedures announced in *Algonquin*,⁴ Mountain Valley hereby submits this Request for Extension of Time for an additional two years, or until October 13, 2022, to complete construction of the Project and

¹ *Mountain Valley Pipeline, LLC*, 161 FERC ¶ 61,043 (2017), *order on reh’g*, 163 FERC ¶ 61,197 (2018) (“Certificate Order”), *aff’d sub. nom., Appalachian Voices v. FERC*, No. 17-1271, 2019 WL 847199 (D.C. Cir. Feb. 19, 2019).

² Certificate Order at ordering para. (C)(1); 18 C.F.R. § 157.20(b) (2020).

³ 18 C.F.R. § 385.2008(a).

⁴ *Algonquin Gas Transmission, LLC*, 170 FERC ¶ 61,144 (2020). In *Algonquin*, the Commission established a new timeframe for approving requests for extensions of time. Within seven days of this request, the Commission’s Office of the Secretary and Office of Energy Projects shall issue a notice in this docket and will establish a 15-day limited intervention and comment period.

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place the Project facilities into service.⁵ Regarding certificate extensions, the Commission has explained that “if a certificate holder files for an extension of time within a timeframe during which the environmental and other public interest findings underlying the Commission’s authorization can be expected to remain valid,” the Commission “generally will grant an extension of time if the movant demonstrates good cause.”⁶ Mountain Valley satisfies both prongs.

First, the Project continues to be required by the public convenience and necessity for the reasons described in the Certificate Order. While the Commission granted to Mountain Valley an initial three-year construction period for the Project, the Commission has recognized, when addressing extension requests, that it has “frequently authorized infrastructure projects with initial deadlines of four, five, or six years without expressing concerns about the certificate order’s economic or environmental findings becoming stale.”⁷ Here, none of the prior findings is stale. The Project has always been, and continues to be, fully subscribed by binding long-term agreements with multiple shippers for transportation service that will begin at Project in-service and extend for at least a 20-year primary term. The Commission properly concluded that these precedent agreements were significant evidence of Project need, and the D.C. Circuit agreed with that conclusion. Nothing in this request modifies or diminishes these agreements, the substantial need they reflect, or the Commission’s prior findings on Project need. Instead, since the Commission issued the Certificate Order, the need for the Project to meet the demand for natural gas transportation in the Mid-Atlantic and Southeastern regions of the United States has only increased. During construction of the Project, Mountain Valley developed, and the Commission approved, its Southgate Project to extend Mountain Valley’s footprint into North Carolina to meet the increased demand of a local distribution company in that state.⁸ Further, last month, the sponsors of the Atlantic Coast Pipeline announced the cancellation of that project, which was expected to bring additional natural gas volumes to market.⁹ It is vitally important for this Project to be completed and placed in service as soon as possible to meet the demand for natural gas in these regions. Further, the Commission’s environmental review was affirmed by the D.C. Circuit and remains valid today. Mountain Valley requests only to change the timing of the Project.

Second, good cause exists for the requested extension. The Commission has explained that “good cause” can be shown by the project sponsor making good faith efforts to meet its construction deadline but encountering unforeseen circumstances, and regularly found that providing more time for the project sponsor to obtain necessary permits is an appropriate basis demonstrating good cause.¹⁰ Mountain Valley’s request is consistent with those approvals. Mountain Valley

⁵ Mountain Valley respectfully requests that the Commission issue any waivers that may be necessary to grant the requested extension.

⁶ *Algonquin*, 170 FERC ¶ 61,144 at P 15 (citing *Arlington Storage Co.*, 155 FERC ¶ 61,165 at P 8 (2016) and *Chestnut Ridge Storage LLC*, 139 FERC ¶ 61,149 at P 11 (2012)).

⁷ *PennEast Pipeline Co., LLC*, 170 FERC ¶ 61,138 at P 17 (2020) (citations omitted).

⁸ *Mountain Valley Pipeline, LLC*, 171 FERC ¶ 61,232 (2020).

⁹ Press Release, *Dominion Energy and Duke Energy Cancel the Atlantic Coast Pipeline* (July 5, 2020), <https://news.dominionenergy.com/2020-07-05-Dominion-Energy-and-Duke-Energy-Cancel-the-Atlantic-Coast-Pipeline>.

¹⁰ *E.g., Nw. Pipeline, LLC*, 171 FERC ¶ 61,077 at P 13 (2020); *Algonquin*, 170 FERC ¶ 61,144 at P 32; *Constitution Pipeline Co.*, 165 FERC ¶ 61,081 at P 9 (2018), *order on reh’g*, 169 FERC ¶ 61,102 (2019); *Arlington Storage Co.*, 155 FERC ¶ 61,165 at P 8 (2016), *reh’g denied*, 158 FERC ¶ 61,011 (2017).

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undeniably made good faith efforts to meet its construction deadline. Since the issuance of the Commission's order, Mountain Valley has worked diligently to complete timely construction of the Project in a safe and environmentally-protective manner. Following receipt of all federally-required permits and authorizations for the Project, Mountain Valley began construction in early 2018. Mountain Valley ramped up its workforce and worked on all aspects of construction on all nine spreads and facility locations in 2018. As a result, Mountain Valley was on track to complete construction by the end of 2018. If Mountain Valley had completed construction by the end of 2018, then areas of the Project would have experienced, as of the date of this request, more than 20 months of vegetation growth associated with final restoration and at least two growing seasons.

However, Mountain Valley has not completed Project construction due to unforeseen litigation and permitting delays outside of Mountain Valley's control. This includes litigation directly challenging Project permits and authorizations as well as litigation associated with other infrastructure projects. These challenges have affected, directly or indirectly, Project permits and authorizations from the U.S. Forest Service, Bureau of Land Management, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, and the National Park Service. Because of these permitting challenges, Mountain Valley will not be able to complete construction and make the Project facilities available for service by October 13, 2020.

Despite these permitting issues, Mountain Valley has made substantial progress to complete construction and achieve final restoration where able while continuing to focus on environmental protection and safety. A map showing the current status of Project pipeline construction is included as Attachment A. To date, the Project is approximately 92 percent complete. Mountain Valley has installed and backfilled approximately 253 miles of pipeline, and more than 155 miles of the Project right-of-way have been fully restored. Mountain Valley has also completed construction of all three of the Project's compressor stations. As a result of the litigation and associated work stoppages, many areas of the Project have been, and continue to be, subject to temporary stabilization measures rather than final restoration, and landowner impacts have continued.

Mountain Valley has worked in good faith with other federal agencies to obtain new or revised permits that are comprehensive and durable:

- Mountain Valley expects the U.S. Fish and Wildlife service to issue a new Biological Opinion and Incidental Take Statement for the Project shortly.
- On July 30, 2020, the U.S. Forest Service published in the Federal Register its notice of intent to prepare a supplemental environmental impact statement ("SEIS") for the Project's approximately 3.5 miles of pipeline in the Jefferson National Forest.¹¹ As stated in its notice, the Forest Service expects to issue its draft SEIS by September 2020 and the final SEIS later in 2020.¹²

¹¹ Jefferson National Forest; Monroe County, West Virginia; Giles and Montgomery County, Virginia; Mountain Valley Pipeline and Equitrans Expansion Project Supplemental Environmental Impact Statement, 85 Fed. Reg. 45,863 (July 30, 2020).

¹² *Id.* at 45,863.

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- On July 16, 2020, the National Park Service notified the Commission that it expects to issue a new right-of-way permit across the Blue Ridge Parkway to Mountain Valley.¹³
- Mountain Valley submitted its Nationwide Permit 12 applications to the relevant districts of the U.S. Army Corps of Engineers, which are now being reviewed for approval.

Mountain Valley expects to receive all of these permits by the end of 2020. As it has in the past, Mountain Valley will continue Project activities to the extent permitted.


Unfortunately, yet unsurprisingly, opposition groups have sought to delay the issuance of these new and reissued permits for the Project and stated their intention to continue litigating these permits in the hopes of delaying or cancelling the Project, regardless of the merits. By their actions, these groups lengthen the time Mountain Valley relies on temporary erosion control devices and forestall the environmental benefits and protections associated with final restoration, to the detriment of landowners and the environment.

Due to the uncertainty regarding the timing of these permits and the outcome of any subsequent legal challenge, Mountain Valley asserts that a two-year extension is necessary and proper. The Commission has regularly granted two-year extensions and has granted longer extensions either individually or in aggregate. The table in Attachment B includes examples of granted extensions. Mountain Valley reserves the right to request additional extensions if necessary.

Mountain Valley remains committed to completing the construction of this important infrastructure project and starting service as soon as possible. If you have any questions, please do not hesitate to contact me at (412) 553-5786 or meggerding@equitransmidstream.com. Thank you.

Respectfully submitted,

MOUNTAIN VALLEY PIPELINE, LLC
by and through its operator,
EQM Gathering Opco, LLC

By: 
Matthew Eggerding
Assistant General Counsel

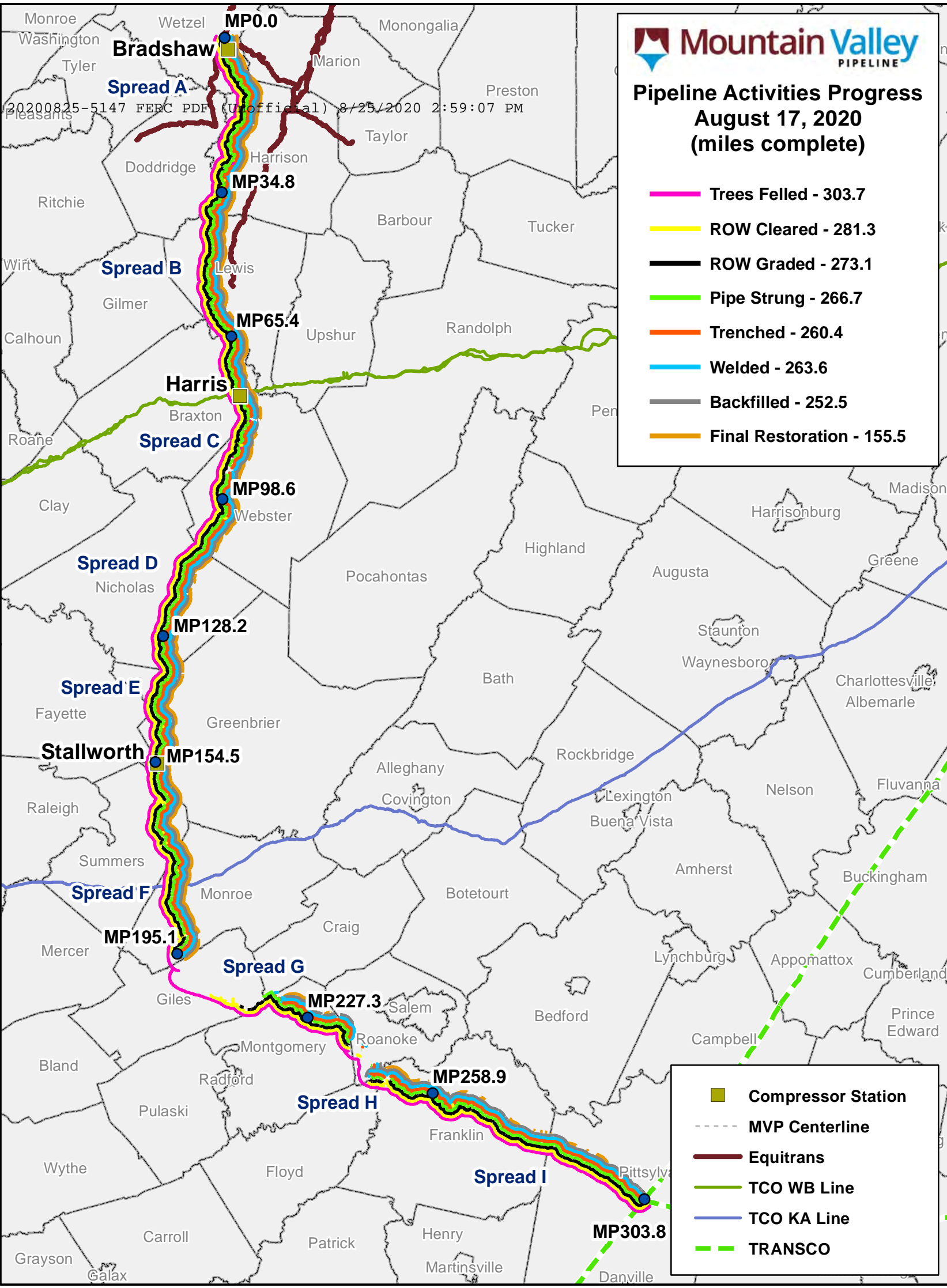
Attachments

cc: Rich Foley, FERC
Todd Ruhkamp, FERC
Jim Martin, FERC
Paul Friedman, FERC

¹³ Letter from JD Lee, Superintendent, National Park Service to Paul Friedman, Environmental Project Manager, Federal Energy Regulatory Commission, Docket No. CP16-10-000 (dated July 16, 2020; filed date July 28, 2020).

Attachment A

Project Status Map



Attachment B

Examples of Granted Certificate Extensions

Project Sponsor	Project Name and Docket Number	Approved Construction Period in Certificate Order	Certificate Extension(s) Granted	Total Approved Construction Period
Northwest Pipeline LLC	Kalama Lateral Project CP15-8	2 years	1 year 1 year 2 years (granted April 27, 2020)	6 years
Pine Prairie Energy Center, LLC	Phase III Expansion Project CP11-1	3 years	3 years 3 years (granted April 21, 2020)	9 years
Cameron LNG, LLC	Cameron LNG Expansion Project Docket No. CP15-560	4 years	4 years (granted March 25, 2020)	8 years
PennEast Pipeline Company, LLC	PennEast Project CP15-558	2 years	2 years (granted February 20, 2020)	4 years
Algonquin Gas Transmission, LLC	Atlantic Bridge Project CP16-9	2 years	2 years (granted December 26, 2018)	4 years
Constitution Pipeline Company, LLC	Constitution Pipeline Project CP13-499	2 years	2 years 2 years (granted November 5, 2018)	6 years
Iroquois Gas Transmission System, L.P.	Wright Interconnect Project CP13-502			
Islander East Pipeline Company, L.L.C. Algonquin Gas Transmission Company	Islander East Pipeline Project CP01-384 and CP01-387	2 years	1 year 2 years 2 years (granted September 13, 2007)	7 years

Document Content(s)

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