



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

June 28, 2021

Western Virginia Regulatory Section

LRH-2015-00592-GBR

LRP-2015-798

NAO-2015-0898

EXTENSION OF THE REASONABLE PERIOD OF TIME

Melanie Davenport
Virginia Department of Environmental Quality
Water Permitting Division
P.O. Box 1105
Richmond, Virginia 23218

Dear Director Davenport:

I refer to an e-mail from the U.S. Army Corps of Engineers (Corps) Norfolk District of March 18, 2021 notifying the Virginia Department of Environmental Quality (VADEQ) of the receipt of a valid request for water quality certification satisfying the nine requirements of 40 CFR 121.5(b) and establishing the 120-day reasonable period of time to act on the request for water quality certification. I refer also to your letter dated March 25, 2021 requesting an extension of the reasonable period of time to act on the request for water quality certification associated with the Mountain Valley Pipeline Project (Project). You initially requested an additional 245 days extension of for the reasonable period of time to act on the request for water quality certification. As a result of additional discussion with your agency, it has been determined that 182 days would be a reasonable extension of the reasonable period of time.

Your extension request was provided to Corps Headquarters for consideration and approval. Based on their evaluation, the reasonable period of time has been extended 182 additional days.

The reasonable period of time for you to act on the certification request for the Project, as extended, ends December 31, 2021. In accordance with 40 CFR 121.7, you may take one of four actions pursuant to your agency's Clean Water Act Section 401 authority:

1. Grant certification;
2. Grant certification, with conditions;
3. Deny certification; or
4. Waive your opportunity to provide a certification.

Any action by your agency to grant, grant with conditions, or deny a certification request must be within the scope of certification (see section III.E of the Clean Water Act Section 401 Certification Rule (85 FR 42210)), must be completed within the established reasonable period of time (see section III.F of the Clean Water Act Section 401 Certification Rule (85 FR 42210)), and must otherwise be in accordance with Section 401 of the Clean Water Act (see section III.G of the Clean Water Act Section 401 Certification Rule (85 FR 42210)). Alternatively, your agency may expressly waive the certification requirement. You may also implicitly waive the certification requirement by failing or refusing to act within the established reasonable period of time noted above. Any additional request for an extension must be made in writing but in no case shall the reasonable period of time exceed one year from receipt (March 4, 2021) of a valid request for water quality certification consistent with 40 CFR 121.6(d).

All certification conditions received by December 31, 2021 that satisfy the requirements of 40 CFR § 121.7(d) shall be incorporated into the Department of the Army permit. In accordance with the Corps' regulations at 33 CFR 330.4(c), if you deny certification for the proposed Project, then the Corps will deny without prejudice the application for Department of the Army permit for the proposed Project. If the certification is waived, the Corps will proceed with final issuance of the Department of the Army permit.

If you have any questions concerning the above, please contact Vincent Pero of the Western Virginia Regulatory Section at (757) 297-0011, by mail at the above address, or by email at Vincent.D.Pero@usace.army.mil.

Sincerely,

A handwritten signature in black ink, appearing to read 'W. Walker', with a stylized flourish at the end.

William T. Walker
Chief, Regulatory Branch
U.S. Army Corps of Engineers
Norfolk District