



COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES

RICHMOND

June 15, 2018

VIA EMAIL AND U.S. POSTAL SERVICE

Commonwealth of Virginia
State Water Control Board
c/o Office of Regulatory Affairs
Department of Environmental Quality
P.O. Box 1105
Richmond, Virginia 23218

**Re: Public Notice on Mountain Valley Pipeline and Atlantic Coast Pipeline Projects,
State Water Control Board Request for Technical Information on Specific Wetland
and/or Stream Crossings**

Dear State Water Control Board:

As members of the Virginia General Assembly, we have been following the proposals by Mountain Valley Pipeline (MVP) and Atlantic Coast Pipeline (ACP) which would construct two new massive fracked methane gas pipelines in Virginia. We write as part of this extended public comment period to express our serious concerns about how these projects would have severe negative impacts on Virginia's water resources.

First, we are deeply troubled that the Commonwealth's government appears to be relying on the Nationwide Permit 12 issued by the U.S. Army Corps of Engineers, rather than the legal authority the Commonwealth has under Section 401 of the Clean Water Act, to protect the water quality in Virginia from the harm that we anticipate will be caused by MVP and ACP. Yet, nationwide permits were intended for certain routine projects that have only minimal effects on water quality. That certainly is not the case with the proposed MVP and ACP as these projects will have pipelines crossing rivers, streams, and wetlands more than 1,000 times in Virginia, including some of the most pristine rivers and streams in the Commonwealth.

For example, ACP's path would cross the Cowpasture River, a waterway that the Department of Environmental Quality (DEQ) has described as "literally exceptional," and the MVP would cross Bottom Creek, one of Virginia's few Tier III exceptional waterways. These multiple crossings throughout Virginia will have direct impact on the quality of drinking water for hundreds of thousands of our fellow citizens while resulting in cumulative harm to watersheds. Our state water quality standards require the review of serious cumulative impacts on water quality.

As elected officials in Virginia, we believe that it is wrong for our state government to delegate the responsibility for protecting our state's water quality to federal officials. Instead of relying on these insufficient nationwide permits that are not customized for the needs of Virginia, we strongly urge the State Water Control Board (Board) to direct the DEQ to conduct stream-by-stream analyses of all proposed crossings in Virginia using the Clean Water Act Section 401 authority. We further urge the Board and DEQ to impose all necessary standards to ensure full protection of Virginia's designated water uses, including aquatic life, recreation, wildlife, and drinking water supplies.

Second, we request that the Board and DEQ place on hold the Section 401 "upland" certifications for both MVP and ACP until the time when (1) this underlying public comment period concludes, (2) the Board has completed its review of the adequacy of Nationwide Permit 12, and (3) the Board has determined whether it will take additional actions.

Third, we request that the Board and DEQ immediately halt all development activities along the pipeline routes in Virginia during the time that petitions for rehearing remain pending before the Federal Energy Regulatory Commission (FERC) and various legal challenges to Virginia's 401 certifications, FERC permits, and other critical permits remain pending before the federal courts.

Fourth, we are concerned by recent media reports of mud and other debris running into streams and creeks due to the failure of sediment and erosion control measures undertaken by MVP during its construction activities. We also are very concerned that the out-of-state contractor retained by MVP, Precision Pipeline LLC, has a long history of permit violations that took place during their previous methane gas pipeline projects, including dozens of landslides caused by their negligence. The Board and DEQ should therefore fully investigate these prior incidents and take MVP and its contractor's prior negligence into account before placing our water resources in further jeopardy of harm.

Thank you for the opportunity to comment on this important issue. As elected leaders, we believe it is our obligation to speak out and to do all we can to protect our fellow Virginians from potential harm to their water quality. We hope you will agree that conducting a stream-by-stream analysis of all water crossings is not only the proper legal recourse for your agencies to follow under both federal and state laws, but a reasonable and prudent measure to prevent potential harm our health and environment.

Sincerely,

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Virginia Senate, District 34

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House of Delegates, District 38

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