



# COMMONWEALTH of VIRGINIA

## Office of the Governor

Matthew J. Strickler  
Secretary of Natural Resources

August 20, 2018

The Honorable Mark Keam  
Virginia House of Delegates  
P.O. Box 1134  
Vienna, VA 22183

Dear Delegate Keam,

Thank you for your letter dated July 26 regarding the Mountain Valley and Atlantic Coast Pipelines. Governor Northam and I understand your concerns and are working closely with state regulators to ensure that construction activities for these projects meet the Commonwealth's rigorous standards to protect water and air quality.

We share your concern over the impacts of climate change, which is why we are working to finalize a regulation that will reduce carbon pollution from large power plants in Virginia by 30 percent over the next decade. Additionally, we appreciate the General Assembly's support for the Grid Transformation and Security Act, which will modernize Virginia's energy economy and reduce our carbon footprint by requiring electric utility companies to commit to massive investments in clean energy and energy efficiency. We saw a major step toward meeting these commitments last month when Dominion Energy announced as a result of that legislation that it would plan to deploy 3,000 megawatts of solar and wind by the end of Governor Northam's term.

We also share your frustration over the fact that the Federal Energy Regulatory Commission (FERC) made decisions regarding siting, the use of eminent domain, and cost-benefit analysis without the kind of thoughtful review we would have required, and that these decisions preclude us from taking many of the actions that landowners and conservationists have asked us to take. We agree with Senators Warner and Kaine that the FERC process for evaluating similar projects needs significant reform. Despite this, we have worked diligently to avoid and mitigate impacts to sensitive landscapes – including through finalizing mitigation agreements worth tens of millions of dollars to offset forest fragmentation and impacts to historic resources – and have supported the rights of landowners and other impacted citizens to protest peacefully and defend themselves in court.

With that said, I would like to address some of the specific points in your letter to offer clarification of the actions we are taking to protect Virginia's environment.

First, it is inaccurate to suggest that the Commonwealth is relying solely on the U.S. Army Corps of Engineers Nationwide 12 Permit (NWP) for stream crossings. We are using the NWP as a

baseline, only. The Virginia Department of Environmental Quality (DEQ) has been conducting its own independent analysis of every foot of the pipeline routes, and has put in place additional protections for each stream crossing by including stringent erosion and sediment control measures, stormwater management protocols, and protections for sensitive karst features. This process meets the standard the Governor set during his campaign for a stream-by-stream permitting process for pipelines.

Once approved, these standards are a matter of public record, and we have invited Virginians to inform us if they see flaws in the plans or out in the field so that we can work to correct them. We have also directed DEQ to monitor construction activity on site continuously, stop construction work if any problems arise along the pipeline routes, and address violations of permit conditions through strong enforcement action. This approach has already resulted in two work stoppages along the MVP route, the correction of inadequate erosion and sediment control measures, a pending enforcement case against MVP, and the avoidance of impacts to streams and drinking water.

Despite making other rulings that found federal environmental reviews were inadequate, the United States Court of Appeals for the Fourth Circuit recently upheld DEQ's approach to the Clean Water Act Section 401 certification for the MVP, finding that the agency and the State Water Control Board actions were not arbitrary and capricious and stating the following:

*"In making this judgment, we cannot ignore the fact that the State Agencies vigorously participated at every stage of the decision-making process and did not issue their final 401 certificate until they had added all of the protections that they concluded were needed to give them reasonable assurance that state water quality would be protected. This is exactly how the system was designed to work."*

The 401 certification for the ACP will not be made effective until DEQ has received the same reasonable assurance. Further, while federal stop work orders are in place, DEQ is working hard to ensure that exposed soils are stabilized and water quality is protected.

Second, with respect to the State Water Control Board, it is important to note that the seven members of the Board continue to serve at the pleasure of the Governor, even upon the expiration of their terms. This is common practice for citizen boards across state government, and often happens in the first year of an administration. The Governor will exercise his authority to make appointments or reappointments but in the meantime, the Board will maintain the same composition and function that it did prior to June 30.

At its April 12 meeting, the Board voted to open a 30-day public comment period on the NWP. That decision was the direct cause of the next meeting being delayed, because more than 13,000 public comments were submitted. Reviewing and summarizing this volume of comments and submitting that summary to the Board a week in advance of a June 11 Board meeting was not practical. Further, DEQ had to extend the comment period because the agency's website – the main portal through which it receives public comment – was attacked by a malicious party and shut down for nearly two weeks in May and June. August 21 was identified as a date that Board

members would be able to attend and that would allow DEQ enough time to adequately assess submissions by the public.

Finally, with respect to the proposed compressor station in Buckingham County, I have personally visited the Union Hill community along with the Governor's Advisory Council on Environmental Justice, and have spoken with community leaders and residents about their concerns. The Commonwealth's role is to evaluate the potential impacts of the facility on air quality, and we have directed DEQ to ensure that any permit issued for this facility meets the highest possible air quality standards.

The Governor and I appreciate your continued support of strong protections for Virginia's environment and natural resources. Please do not hesitate to contact me if I can be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Matthew J. Strickler', with a long horizontal flourish extending to the right.

Matthew J. Strickler

cc: The Honorable Mark Herring  
The Honorable Justin Fairfax  
The Honorable R. Creigh Deeds  
The Honorable Kenneth R. Plum  
The Honorable Patrick A. Hope  
The Honorable Alfonso H. Lopez  
The Honorable Mark H. Levine  
The Honorable Elizabeth Guzman  
The Honorable Jennifer D. Carroll Foy  
The Honorable J. Chapman Petersen  
The Honorable Kaye Kory  
The Honorable Sam Rasoul  
The Honorable Chris Hurst  
The Honorable Lee J. Carter  
The Honorable Danica A. Roem  
The Honorable John Edwards