



COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES

RICHMOND

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COMMITTEE ASSIGNMENTS:

EDUCATION  
GENERAL LAWS  
HEALTH, WELFARE AND INSTITUTIONS

August 7, 2017

*Via U.S. and electronic mail*

Governor Terry McAuliffe  
P.O. Box 1475  
Richmond, VA 23218

David K. Paylor, Director  
Virginia Department of Environmental Quality  
629 East Main St.  
Richmond, VA 23219  
Email: David.Paylor@deq.virginia.gov

Robert Dunn, Chair  
State Water Control Board  
c/o Office of Regulatory Affairs  
Department of Environmental Quality  
P.O. Box 1105  
Richmond, VA 23218  
Email: citizenboards@deq.virginia.gov

**Re: 401 certification for the proposed Mountain Valley and Atlantic Coast Pipelines**

Dear Governor McAuliffe, Director Paylor, and Members of the State Water Control Board:

We are writing on behalf of a caucus of western Virginia members of the General Assembly representing the headwaters of the Chesapeake Bay. Our districts are in the paths of the two proposed 42-inch high pressure natural gas transmission lines, the Mountain Valley Pipeline and the Atlantic Coast Pipeline.

We know that there are many views on this subject, however, we encourage careful consideration of the impacts of these proposed projects on our vibrant rural communities and our state's water supplies. Therefore, we write to urge the Commonwealth to use the full scope of its authority to assess the impacts of the Mountain Valley and Atlantic Coast pipelines with particular emphasis on all aspects of the impacts of these pipelines on our state's water supplies.

Our constituents are counting on the Department of Environmental Quality (DEQ) and the State Water Control Board (Water Board) to conduct a thorough and transparent review of stream and

wetland crossings, as well as all upland activities, and ensure that Virginia water quality standards are met.

Specifically, we request that DEQ require individual 401 certifications for wetland and stream crossings, rather than relying on the Army Corps of Engineers' (the Corps) Nationwide Permit 12 (NWP 12), as is currently proposed by DEQ. In addition, DEQ should decline to move forward with the scheduled public comment period or the Section 401 certification until the pipeline developers have provided all information necessary for thorough DEQ review.

Further, we respectfully request that the timetable for the public comment periods and hearings be pushed back to give you and the public time to properly review and comment meaningfully and transparently on all information relevant to the 401 certification, including impacts to each stream and each wetland crossing and for all erosion and sediment control and stormwater management plans.

As you know, Virginia has broad authority to conduct its own analysis under Section 401 of the Clean Water Act. These enormous infrastructure projects would cross hundreds of sensitive waterways, including streams and rivers in some of the steepest terrain in the eastern United States. Both pipelines pose some of the most significant threats to Virginia's water quality and aquatic environment in decades. The pipelines would also cross thousands of sensitive waterways, and pipeline construction on the very steep slopes that characterize our region will increase erosion and sedimentation, seriously threatening water quality. Our constituents rely on these waters for recreation, habitat, and the health of our watersheds. Analysis of these crossings by DEQ and the Board is critical to ensure that water quality and the aquatic environment in Virginia are protected.

Such a review would not be redundant with the analysis under NWP 12. The Corps will not conduct site-specific reviews of the more than 1,000 crossings along the pipelines' routes. When authorizing a project under NWP 12, the Corps must only find that each individual waterbody crossing along the pipeline route will not cause a loss of more than a half-acre of waters of the United States.

As DEQ has noted, NWP 12 contains general conditions, including those pertaining to restoration and mitigation. But the Corps will not ensure that those conditions are met before determining that a project can be authorized under NWP 12. That means impacts from activities like in-stream blasting and trenching in rugged and challenging terrain will not be considered unless DEQ considers them. Whether serious impacts such as sedimentation can be mitigated would not be known without such analysis, despite the risk to some of the most pristine waters in Virginia. DEQ can and indeed must fill this gap with its own review of waterbody crossings.

We appreciate DEQ's planned approach to review some of the impacts not covered by NWP 12. This analysis is incredibly important. However, the current limited scope of this review fails to consider river, stream, and wetland crossings.

Finally, the timeline proposed by the DEQ is not adequate for the needed review of these pipelines by the Commonwealth. Why the rush? Protection of Virginia's streams, rivers, and public and private water supplies is too important to place at risk. DEQ must take the time to ensure it has all necessary information, review that information, give the public an opportunity for thorough

review, and then conduct a comprehensive and transparent analysis of critical water crossings and all related upland activities. Such an approach will allow DEQ to fulfill its responsibilities to protect the waterways of Virginia on which my constituents rely.

Sincerely,



Richard P. "Dickie" Bell  
20<sup>th</sup> District, House of Delegates



Sam Rasoul  
11<sup>th</sup> District, House of Delegates



R. Creigh Deeds  
25<sup>th</sup> District, Senate of Virginia



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24<sup>th</sup> District, Senate of Virginia