



COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES
RICHMOND

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COMMITTEE ASSIGNMENTS:
EDUCATION
GENERAL LAWS
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July 29, 2017

Via U.S. and electronic mail

Governor Terry McAuliffe
Common Ground for Virginia
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:

As Representative of the 20th District in the Virginia House of Delegates, I represent Virginians living and working in parts of Augusta and Nelson Counties, as well as Highland County and the Cities of Staunton and Waynesboro. The proposed Atlantic Coast Pipeline has been an issue of great concern to many of my constituents since it was announced in 2014. Of particular concern are impacts to water quality, including the public and private drinking water supplies in Augusta County, Staunton, Nelson County, and Highland County.

I write again to urge the Commonwealth to use the full scope of its authority to assess the impacts of the Mountain Valley and Atlantic Coast pipelines. My 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, I 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.

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 could pose the most significant impact to Virginia's water quality and aquatic environment in decades. In my district alone, the Atlantic Coast Pipeline could impact: the recharge area of Gardner Springs, which supplies five million gallons of water a day to the citizens of Staunton and Augusta County; and tributaries of Warwick Run that are state-designated trout waters and provide essential habitat to rare and vulnerable populations of native brook trout. It 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. My 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.

I 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. 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.

Thank you again for your attention to this request. If I can be of any assistance to you regarding this matter, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Dickie Bell". The signature is written in a cursive, flowing style.

Dickie Bell