

# SENATE OF VIRGINIA

**EMMETT W. HANGER, JR.**  
24TH SENATORIAL DISTRICT  
ALL OF AUGUSTA, GREENE, AND MADISON  
COUNTIES; ALL OF THE CITIES OF STAUNTON  
AND WAYNESBORO; AND PART OF CULPEPER  
AND ROCKINGHAM COUNTIES  
POST OFFICE BOX 2  
MOUNT SOLON, VIRGINIA 22843



COMMITTEE ASSIGNMENTS:  
FINANCE, CO-CHAIR  
AGRICULTURE, CONSERVATION AND  
NATURAL RESOURCES  
LOCAL GOVERNMENT  
REHABILITATION AND SOCIAL SERVICES  
RULES

August 3, 2017

*Via 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

Robert Dunn, Chair  
State Water Control Board  
c/o Office of Regulatory Affairs  
Department of Environmental Quality  
P.O. Box 1105  
Richmond, VA 23218

## **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 the 24<sup>th</sup> District Senator, I represent citizens in Augusta County and Staunton. 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 our region.

I 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. It is of utmost importance that the Department of Environmental Quality (DEQ) and the State Water Control Board (Water Board) conduct thorough and transparent reviews of stream and wetland crossings, as well as all upland activities, and ensure that Virginia water quality standards are met.

Specifically, I request 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 pose some of the most significant threats to Virginia's water quality and aquatic environment in decades. In my district alone, the Atlantic Coast Pipeline would threaten: the recharge area of Gardner Springs, which supplies five million gallons of water a day to the citizens of Staunton and Augusta County as well as the headwaters of rivers and streams that ultimately flow into the

Chesapeake Bay. 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. These waters are used 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.

Sincerely,

A handwritten signature in blue ink, appearing to read "Emmett W. Hanger, Jr.", written in a cursive style.

Emmett W. Hanger, Jr.