



Post Office Box 11075  
Takoma Park, MD 20913-1075  
(202) 423-0504  
info@waterkeeperschesapeake.org

June 15, 2018

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

Via email to:

NWP12InfoOnMVP@deq.virginia.gov  
NWP12InfoOnACP@deq.virginia.gov  
CitizenBoards@deq.virginia.gov  
David.Paylor@deq.virginia.gov  
Matt.Strickler@governor.virginia.gov  
Kimberly.Bose@ferc.gov

Dear Members of the Virginia State Water Control Board and Director Paylor:

Waterkeepers Chesapeake, and signatories, appreciate the opportunity to comment on the U.S. Army Corps of Engineers Nationwide Permit 12 (NWP 12) and Virginia's § 401 Water Quality Certification (WQC) for the Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP) projects. Waterkeepers Chesapeake is a coalition of 19 Riverkeepers and Waterkeepers from Pennsylvania to Virginia working to make the waters of the Chesapeake and Coastal Bays swimmable, drinkable and fishable once again. Together, this network patrols thousands of miles of tributaries and shorelines throughout the Chesapeake and Coastal Bays.

The potential water quality impacts from the ACP and MVP in the Chesapeake Bay watershed is alarming, specifically for the headwaters of the Shenandoah and James rivers. Our comment highlights the inadequacies of the Corps NWP 12 and Virginia's § 401 water quality certification as both fall short in upholding state water quality standards. For the reasons outlined below, we urge the members of the State Water Control Board to direct the Department of Environmental Quality to conduct stream-by-stream analyses of crossings and to impose the necessary standards to ensure full protection of Virginia's water resources. We also request that you put on hold MVP and ACP development until all legal and regulatory challenges are resolved.

Anacostia Riverkeeper  
Assateague Coastkeeper  
Baltimore Harbor Waterkeeper  
Chester Riverkeeper  
Choptank Riverkeeper  
Gunpowder Riverkeeper  
Lower James Riverkeeper

Lower Susquehanna Riverkeeper  
Middle Susquehanna Riverkeeper  
Miles-Wye Riverkeeper  
Potomac Riverkeeper  
Sassafras Riverkeeper  
Severn Riverkeeper

Shenandoah Riverkeeper  
South Riverkeeper  
Upper James Riverkeeper  
Upper Potomac Riverkeeper  
Virginia Eastern Shorekeeper  
West Rhode Riverkeeper



These natural gas pipelines will cross rivers, streams, and wetlands more than a thousand times in Virginia. Instead of relying on these insufficient permits, the State Water Control Board should direct the Department of Environmental Quality (DEQ) to conduct stream-by-stream analyses of crossings using its authority under § 401 of the Clean Water Act and impose the necessary standards to ensure full protection of Virginia's designated water uses, including aquatic life, recreation, wildlife, and drinking water supplies.

DEQ and the Board should also put on hold the § 401 "upland" certifications for both the ACP and MVP until the Board has completed its review of public comments on the adequacy of NWP 12 and the Board has determined whether it will take additional action. Likewise, while petitions for rehearing are pending before FERC and court challenges to Virginia's § 401 certifications, FERC permits, and other critical permits are pending in the federal courts of appeals - all development activities along the pipeline routes in Virginia should halt.

Nationwide permits are appropriate for certain routine projects that have only minimal effects on water quality. The MVP and ACP are not appropriate candidates for coverage under NWP 12 because they are major construction projects that will each cross hundreds of waterways, including some of the most pristine rivers and streams in Virginia. The ACP, for instance, will cross the Cowpasture River, a waterway that DEQ has described as "literally exceptional," and the MVP will cross Bottom Creek, one of Virginia's few Tier III exceptional waterways.

Further, NWP 12 does not consider cumulative impacts to water quality where there are multiple crossings along the same stream and its tributaries (i.e. the cumulative harm to these watersheds). Therefore, it is appropriate—and necessary—for the Board to direct DEQ to conduct its own more thorough, site-specific review that considers the cumulative effects of multiple crossings within individual watersheds. For example, the Atlantic Coast Pipeline and pipeline access roads will cross the Calfpasture River and its tributaries in Augusta County a startling 71 times according to the final environmental impact statement for the project. And according to the final environmental impact statement for the MVP project that pipeline and pipeline access roads will cross the watershed of Bottom Creek 36 times. The concentration of pipeline crossings and other pipeline activities along these streams and rivers presents a significant risk to water quality that was not assessed as part of the Corps' NWP 12 review or the state's §401 WQC. The Board should take this risk seriously.

Additionally, we'd like to point out that the U.S. Army Corps of Engineers withdrew the NWP 12 for the MVP in West Virginia to determine whether its construction would violate West Virginia's environmental regulations. A thorough review is necessary, because under current documentation, the MVP will not be able to meet the required conditions under NWP 12.

We'd like to reiterate: without doing individual stream crossing reviews, the total threat to Virginia's water supply is not understood. For example, all of Staunton's water comes either Gardner Spring or the reservoir in the National Forest, both located in the county

and both downstream of intense pipeline construction. Since the Atlantic Coast Pipeline project began, city officials have been asking for individual wetland and stream crossing reviews in order to protect the city's water supplies.

Thank you for the opportunity to comment on this important issue - Virginia's response to the NWP and the §401 WQC will determine the quality of hundreds of local waterways across the state. Given our recent torrential thunderstorms, it's even more critical that we ensure our waterways are protected from the exposed terrain and other harms along the construction path for the ACP and MVP. Without detailed review and research of our headwaters, there is no way for the pipeline developers and regulators to know what our frequent hurricane deluges do to the river bottoms and stream banks where the pipe is proposed to be buried. It's up to Virginia to step up in this process and require a stream-by-stream review of the Atlantic Coast and Mountain Valley pipelines.

Thank you for your time and consideration.

Sincerely,  
Betsy Nicholas  
Waterkeepers Chesapeake

Ted Evangelidas  
Lower Susquehanna Riverkeeper