

SENATE OF VIRGINIA

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TRANSPORTATION

July 27, 2017

David K. Paylor, Director
Department of Environmental Quality
Post Office Box 1105
Richmond, Virginia 23218

Dear Mr. Paylor,

Under Virginia's Clean Water Act, the Department of Environmental Quality has the authority and responsibility to review and determine whether crossings of waterways in Virginia by the Mountain Valley Pipeline project meets Virginia specific water quality standards. I have received significant constituent complaints that DEQ is speeding through its review of this important project with inadequate review and public input.

The Mountain Valley Pipeline is proposed to cross some of the steepest terrain in the eastern United States with unstable, porous limestone "karst" land filled with caves, sinkholes and landslides. The largest earthquake in Virginia history occurred in 1897 with its epicenter in Giles County where this pipeline is proposed to run. The earthquake is known to have muddied and contaminated the numerous underground aquifers. A recent earthquake occurred May 12, 2017 in Giles, and earthquakes are expected to happen again.

On Bent Mountain, the granite subsoil will require blasting causing soil erosion.

Natural gas pipelines are known to leak and break, with risk of contamination to pure, pristine underground water. Moreover, in the event of a break in the highly pressurized natural gas pipeline, a spark could ignite a large explosion causing incalculable loss and damage to people, property, wildlife and the environment.

Many citizens in this region rely heavily on the pristine, fresh mountain spring water for drinking water. This is especially true in Giles, Montgomery, Craig, Roanoke and Franklin counties. Contamination of well water would be an extreme threat to health and safety and cause long term damage to the environment. Contamination of underground water in one area would most likely migrate to other areas since underground water is interconnected and impossible to control.

The Roanoke River watershed is at great risk of downstream sediment and pollution; it is also a main source of drinking water to the Roanoke Valley.

There are over a hundred water and wetland crossings in Virginia's 106 miles of the proposed 303 mile, 42 inch pipeline from Wetzel County, West Virginia to Pittsylvania, Virginia. There are also 58 miles of "Project access roads and appurtenances" located in Virginia with potential land-disturbing activity.

The Mountain Valley Pipeline and the companion Atlantic Coast Pipeline are proposed to cross four major river watersheds in Virginia: the Potomac River, the James River, the New River and the Roanoke River systems. Together, they pose the most significant threats to Virginia's water quality and aquatic environment in decades, perhaps in our history.

Under Virginia Water Protection Permit Program, DEQ has the authority to analyze "individual stream impacts", among other things. 9 VAC 25-210-80. However, currently DEQ is relying solely on the U.S. Army Corps of Engineer's Nationwide Permit 12 evaluation and permitting decision regarding wetlands and streams crossings and dredge and fill activities in pipeline constructions.

Unfortunately, the Corps Nationwide Permit 12 is a process for "expedited review of projects that have minimal impact on the aquatic environment". This is a "one crossing permit", without public participation, and is not intended to be a "multiple crossing permit", as with large pipelines. Clearly, it should not replace Virginia's Water Protection Permit Program.

DEQ plans to evaluate "other water quality impacts", under its water certification program. While this is not the same as the Water Protection Permit Program, under the water certification program, DEQ evaluates "all potentially impacted water resources related to activities that may affect water quality outside the temporary construction impacts to stream and wetland crossings", and require other water quality certification conditions to be met.

After DEQ has developed water quality conditions, the public is to be given "an opportunity to review and comment on these conditions." DEQ is also to "hold public hearings on the draft conditions." Only after this process is DEQ to make recommended water quality certification conditions to the State Water Control Board.

Unfortunately, in this case, the public comment period for DEQ's draft conditions for water certification is only 45 days -- from July 3 to August 22, 2017 -- with "public hearings" from July 22 to August 22, 2017. This is a woefully inadequate time frame given the large regional impact the pipeline entails and the numerous and complex issues involved. Moreover, there are only two public hearings scheduled, and none in the affected region. Two informal "meetings" are scheduled in Giles and Roanoke counties, on August 10, 2017, where "verbal comments will not be recorded or considered" by the agency. These are not the same as formal public hearings where testimony is taken and submitted to DEQ for consideration in its certification process.

Thus, citizens in the most affected region are effectively left out of the public hearing process of a public project with such extraordinary impact on them and their families.

The information now available is entirely inadequate for DEQ to make an informed decision on the full impacts to the water systems consistent with its responsibilities.

Given the long term impacts this pipeline will have on Virginia's waterways and water quality, which is the responsibility of DEQ to protect, the process deserves more time and attention than is now being given. A full and complete review and assessment of the impacts the proposed pipeline will have on our water system is mandated.

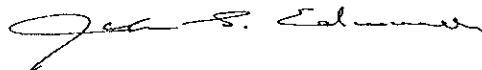
Accordingly, I am requesting that DEQ commit to the following:

1. Comply with Virginia Water Protection Permit Program to analyze the water quality and the health impacts of individual streams and wetlands by the proposed pipeline.
2. Follow the recommendations of the Department of Health to protect groundwater and drinking water, including the requirement of a complete sanitary survey within 1000 feet of the pipeline on either side.
3. Until the agency has reviewed and performed this analysis above, suspend the comment period on DEQ's draft 401 water quality certification.
4. After the comment period for the certifications is reinstated, hold additional public hearings, including those in the affected communities along the pipelines routes.
5. Deny permits to noncomplying applicants.

In our federal system of government, Virginia's DEQ is separate and independent of the federal authorities in the area of protecting the Commonwealth's water quality and environment. Indeed, other states, such as New York and Pennsylvania, have asserted their state authority to deny federally approved pipelines under state law regulating water quality.

There should be no "rush to judgment" on this momentous decision. Indeed, a mature thoughtful decision after adequate public input and thorough and complete analysis and review is essential. An incomplete or inadequate review and analysis surely will be regretted, with present and future generations looking to DEQ for explanations of any rushed and poorly thought out decision.

Sincerely,



John S. Edwards
State Senator

JSE:jrb

Cc: Honorable Terence R. McAuliffe, Governor
Honorable Ralph S. Northam, Lt. Governor
Honorable Mark R. Herring, Attorney General
Honorable Molly Joseph Ward, Secretary of Natural Resources
Board Members, Department of Environmental Quality