

DOMINION PIPELINE MONITORING COALITION

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August 28, 2017

David Paylor
Director, Virginia Department of Environment Quality
David.Paylor@deq.virginia.gov

Sent via Email

Re: Addition to Official Record for Clean Water Act Section 401 Process for ACP

Dear Mr. Paylor:

I am writing on behalf of the Dominion Pipeline Monitoring Coalition (“DPMC”). We have learned of a letter dated August 21, 2017 from the Virginia Department of Conservation and Recreation (“DCR”) to the Federal Energy Regulatory Commission (“FERC”) (attached) that is relevant to the subject regulatory process and we insist that the Department of Environmental Quality (“DEQ”) acknowledge that this letter will be included as part of the official record. DPMC found this letter only after the public comment period ended on August 22, 2017 and would have included it with our submittals but were unable to do so. Therefore, we also insist that our letter, which is our first opportunity to comment on this vital information, also be entered into the record.

As is the case with comments Virginia agencies have made to FERC in the past, the DCR letter directly refutes the conclusion in the draft Water Quality Certification (“WQC”) that there is a “reasonable assurance” that water quality standards will be met if the proposed Atlantic Coast Pipeline (“ACP”) complies with the conditions in that draft WQC. For example, the DCR letter describes conditions that “have high potential to impact karst resources, including significant springs and rare cave fauna associated with subterranean ecosystems.” DCR letter at 7.

While DEQ has ignored conclusions state agency experts made in past comments to FERC, in relation to both the ACP and the Mountain Valley Pipeline (“MVP”), failing to incorporate those findings into the WQC regulatory processes, we assert that exclusion of this DCR letter from the record will be an arbitrary and irresponsible action by the Department. We note that the letter was copied to DEQ staff and is entered into FERC docket number CP15-554-000 as accession number 20170821-5098(32353347).

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The “high potential” of impacts to springs and cave fauna from pipeline activities that DCR personnel described in the August 21 letter amplifies comments made in a report submitted to DEQ in the public comment period on behalf of DPMC and other parties. In that report (attached), a group of technical and scientific experts stated that “[a]gency staff rightly insisted in comments on the DEIS for this project that studies to characterize groundwater flow paths and potential impacts from pipeline-related activities are necessary to prevent damage to groundwater and surface water resources in areas on and adjacent to karst terrain.”

Given that DEQ’s draft WQCs for both pipelines allow the companies to defer adequate characterization of karst flows and threats to state waters until all regulatory decisions are made, we can have no confidence that the Department will act any more responsibly in acknowledging this DCR letter and devising requirements that will *prevent* any potential water pollution impacts, as it is legally obligated to do. DEQ must not continue on the path it has so far followed, which would require the companies to document damage to Virginian’s springs and wells and our irreplaceable natural resources after they occur rather than prevent that damage.

Therefore, we ask that you respond to this letter and, as stated above, we insist that you acknowledge that the DCR letter and this DPMC letter will be entered into the official record for DEQ’s regulatory action.

Thank you.

Sincerely,

/s/ David Sligh

David Sligh

Senior Regulatory Systems Investigator

cc: Governor Terry McAuliffe
c/o paul.reagan@governor.virginia.gov
Molly Ward, Virginia Secretary of Natural Resources
Rick Webb, DPMC