



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

Street address: 1111 East Main Street, Suite 1400, Richmond, VA 23219

Mailing address: P.O. Box 1105, Richmond, Virginia 23218

www.deq.virginia.gov

Matthew J. Strickler
Secretary of Natural Resources

David K. Paylor
Director

(804) 698-4000
1-800-592-5482

April 17, 2018

RE: DEQ Response to Pipeline Inquiries

Dear Mr. Shepherd, Mr. Town, and Ms. Rafferty:

Thank you for your April 12, 2018 letter inquiring about site-specific reviews of pipeline impacts on wetlands, streams, and rivers. We appreciate the opportunity to respond to you and explain our review process further. The Virginia Department of Environmental Quality (DEQ) is committed to communicate transparently about the complex programs related to the pipelines, and about all of our programs to protect Virginia's natural resources. We want to assure you that DEQ is doing everything under its authority to ensure that water quality, should construction proceed, is protected during the pipelines' construction and post-construction phases. We are committed to holding the Atlantic Coast Pipeline (ACP) and Mountain Valley Pipeline (MVP) developers to the highest standard possible during our rigorous plan review and enforcement process.

In your letter you mention Governor Northam's commitment to "a thorough, site-specific review of the proposed pipeline routes and any potential impacts to wetlands, streams, and rivers." DEQ is conducting one of the most rigorous regulatory reviews in the agency's history to ensure water quality is protected. This includes reviewing information on each specific site where the project crosses a wetland or stream. In addition, we agree that it is critical for the DEQ to use every tool at its disposal to safeguard water quality during these processes, and we are committed to using these tools thoroughly and aggressively to protect the environment.

DEQ first analyzed each project for potential water quality impacts during review of the draft environmental impact statement (EIS) for each pipeline project. Using the agency's Geographic Information System (GIS) data, DEQ staff reviewed each stream and wetland crossing proposed in the preliminary pipeline route alignments. Additionally, DEQ provided comments on ways in which the project could avoid and minimize stream and wetland impacts at each crossing, potential impacts incurred from withdrawal and discharges of water used for hydrostatic testing, review of downstream public water intakes, and identification of acid producing rocks and soils, as well as other environmental issues.

After review and comment of the draft EIS, DEQ was notified that both pipeline projects would be seeking coverage under the U.S. Army Corps of Engineers (USACE) Nationwide Permit 12 (NWP 12) in order to satisfy requirements of Section 404 of the Clean Water Act (CWA), which establishes regulatory and permitting requirements for the discharge of dredged and fill materials into stream and wetlands. In partnership with the USACE and Virginia Marine Resources Commission, DEQ administers the Virginia Water Protection Permit (VWP) Program to ensure that projects conducted within the Commonwealth follow the least environmentally damaging and practicable alternative to protect streams and wetlands from impacts caused by filling, excavating, draining, or ditching. The NWP 12, including state specific regional conditions, establish the requirements to avoid and minimize impacts to wetlands, streams and other aquatic resources, and conditions are informed by extensive feedback from the public and other key stakeholders.

If the project meets the conditions of the NWP 12 including regional and statewide conditions, then coverage under NWP 12 is determined to be sufficient to be protective of water quality. Based on DEQ's experience observing linear projects constructed under the requirements of NWP 12, DEQ determined that the NWP 12 will protect water quality at each site. Conditions of the NWP 12 are comparable to those that would have been required in an individual VWP permit.

Under the NWP 12 General Condition 12, projects are required to be constructed in compliance with all state erosion and sediment control regulatory requirements. Over the past year, DEQ staff have worked with each pipeline company in order to receive detailed, project specific erosion and sediment control (ESC) and stormwater management (SWM) plans that meet regulatory requirements and provide detailed site characteristics for each project in the pre-construction, construction, and post-construction phases. The ESC and Virginia Stormwater Management Program regulations require that plans contain site-specific information in order to ensure that the project will protect water quality during and after construction. During the ESC and SWM plan review, DEQ performs site-specific reviews of each stream and wetland crossing to ensure that adequate volume and sediment control measures are proposed that meet regulatory requirements.

Through the use of regulatory requirements to implement ESC minimum standards and best professional judgment, DEQ evaluates the impact of the construction activity and also takes into account the presence of attributes that may make a crossing more sensitive. Additionally, DEQ has the authority to enforce these water quality protections.

While the MVP plans were approved on March 26, 2018, DEQ is still in the process of reviewing the ACP plans. As part of the ESC and SWM review for MVP, DEQ considered a variety of environmental factors in determining if the proposed control measure are protective of water quality. DEQ determined, based on MVP's proposed alignment, there are no crossings of exceptional waters or portions of the MVP project within the Chesapeake Bay watershed. Additionally, because MVP proposes to discharge stormwater to several impaired waters, they are required to conduct inspections of ESC measures and stormwater runoff for the entire project more frequently than if the discharges were not to impaired waters. For steep slopes, additional best management practice to effectively reduce the size of a watershed treated by ESC measure

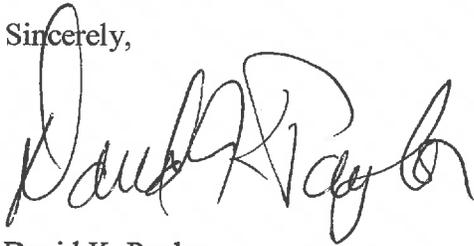
were required in order to reduce the likelihood of control measure failure as a result of a large volume or high velocity stormwater runoff event.

Waterways with public water intakes or near low-income or vulnerable communities are not considered separately during the ESC and SWM plan review. It is assumed that the uniform implementation of control measures and best management practices across a project along with appropriate sizing and placement ensures protection of water quality protects all downstream users from construction and post-construction stormwater.

In conclusion, we want to reiterate that we are extremely dedicated to protecting water quality during these processes and we will continue to uphold the highest environmental standards. We hope that this letter helped answer your inquiries, and we are available to meet to discuss the answers further if you would like more information.

As you noted, we are absolutely committed to improving transparency through thorough communication and ensuring our environmental protection programs remain strong. Please be in touch if more questions arise around DEQ's decisions and authority as they relate to these complex projects.

Sincerely,

A handwritten signature in black ink, appearing to read "David K. Paylor". The signature is fluid and cursive, with a large initial "D" and "P".

David K. Paylor
Director, Virginia Department of Environmental Quality

