

Virginia DEQ Seeks Extension from Corps of Engineers on MVP Review One Year "Reasonable Period" Sought

On March 25, 2021, the Virginia Department of Environmental Quality (DEQ) sent a letter to the Norfolk District of the U.S. Army Corps of Engineers (Corps) (attached) requesting an extension of the period in which the state must act on a water quality certification request for Mountain Valley Pipeline (MVP). MVP was required to file the request under Clean Water Act (CWA) section 401, as a prerequisite to acquiring a Corps permit to discharge to hundreds of streams and wetlands across western Virginia.

The Clean Water Act requires Virginia to act on a certification request within a "reasonable period" not to exceed one year. As the federal permitting agency, the Corps may define a period shorter than one year as "reasonable," based on the characteristics of a particular project. In a March 18, 2021 email to DEQ, the Corps stated that the "applicable 'reasonable period of time' to act on the certification request" was set at 120 days and would expire on July 2, 2021. However, the Corps also told DEQ: "If you find that additional time is required past the timeframe established above, please provide us a written notice of the extension request . . . prior to the established timeframe end date."

David Sligh, Wild Virginia's Conservation Director stated:

"We strongly support DEQ's extension request. The review of a project of this size and scope, which would have such serious impacts on many of our most sensitive and valuable waters and on thousands of Virginians, must not be rushed. For this project, a 120-day deadline cannot possibly be deemed reasonable.

"MVP has not provided the information necessary to show that it can comply with Virginia's water quality standards. DEQ must require the company to submit much more data and analyses and it must all be weighed with MVP's abysmal record of violations and damages in mind. This project cannot dig and blast through all of these waterbodies without damaging them and a thorough and appropriate review will demonstrate that fact. Neither the Corps nor DEQ has conducted the necessary analysis before, so now is the time to do the stream-by-stream review that we called for from the start. The Corps must respect the right of the state and the public to look out for our waters and our interests by allowing a fair and complete process - it should grant DEQ's request."

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