

# SENATE OF VIRGINIA

## JOHN S. EDWARDS

21ST SENATORIAL DISTRICT  
ALL OF GILES COUNTY; ALL OF THE CITY OF ROANOKE;  
AND PART OF MONTGOMERY AND ROANOKE COUNTIES  
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COMMITTEE ASSIGNMENTS:  
JUDICIARY, CHAIR  
COMMERCE AND LABOR  
EDUCATION AND HEALTH  
FINANCE AND APPROPRIATIONS  
RULES

July 28, 2022

Kimberly D. Bose  
Secretary, Federal Energy Regulatory Commission  
888 First Street NE, Room 1A  
Washington, DC 20426

Re: Docket Nos. CP16-10-000, CP21-57-000 and CP19-477-000

Dear Secretary Bose:

As members of the Virginia General Assembly, we respectfully request that the Federal Energy Regulatory Commission deny the extension of time for the Mountain Valley Pipeline Certificate of Public Convenience and Necessity (Docket Nos. CP16-10-000, CP21-57-000 and CP19-477-000). Denial is requested owing to the impacts to the environment and communities along the route, the continued lack of necessity for the project, and the project's multiple missing federal authorizations.

For years, we have heard from residents and constituents about the real and significant harm the MVP has inflicted on their local streams and rivers, property, drinking water, and quality of life. In Virginia, inspectors identified over 300 violations of environmental protection in 2018 alone. The project has an unacceptable impact on Virginia and has exceeded both its original CPCN timeline of three years, and the previous 2020 extension of two years.

The Commission should deny both the extension of the Certificate and permission for any tree-felling, land-clearing, trenching, or additional pipe installation for multiple reasons including:

### **Many significant health and environmental concerns about the MVP continue.**

As evidenced by the over 300 violations of environmental protection measures in Virginia, both Mountain Valley Pipeline and FERC overstated the effectiveness of erosion and sedimentation control measures. Degradation of waterways harms drinking water and protected species, including the endangered Roanoke logperch and candy darter, and is exacerbated by

blasting practices that increase turbidity. Failed erosion control measures have plagued construction, resulting in mudslides and sediment-laden runoff. Issues continue to accumulate even during periods of inactivity, owing to slippage of buried pipe.<sup>1</sup> Mountain Valley has shown it cannot maintain or comply with existing permit conditions and has been fined over \$2 million in penalties in Virginia, and over \$500,000 in West Virginia for violating environmental protection requirements.<sup>2,3</sup>

Additionally, MVP's plans have not received sufficient National Environmental Protection Act (NEPA) review. For example, MVP has received boring variances to circumvent its lack of an Army Corps of Engineers permit for water crossings, but no supplemental NEPA review assessing potential impacts of that method has occurred. In addition, pipes slated for the project have been exposed to direct sunlight for up to four years, or left in standing water along the route leading to coating degradation and potential health hazards.

### **The MVP's developers have never demonstrated public need.**

MVP has never demonstrated a true public need for this project. Falling renewable energy prices, a growing body of evidence that the developers overstated the demand for gas in 2017, and upgrades to existing infrastructure that increased available capacity reinforce the lack of market need for the MVP.<sup>4</sup> Mountain Valley states that the project remains fully subscribed under binding long-term agreements, yet subscription capacity for MVP continues to be slated for affiliates of its own investors.

Investors have indicated they are moving from gas transmission investments or have written off their investments in the project through impairment charges. Consolidated Edison, Inc., has capped its investment in the project and is considering monetizing its MVP assets. NextEra Energy, RGC Resources, Equitrans and AltaGas have all written off investments in the project through impairment charges as well. NextEra Energy has stated that the "regulatory challenges have resulted in a very low probability of pipeline completion."<sup>5</sup>

### **The MVP is missing required permits from multiple federal agencies.**

MVP has had several federal permits repeatedly vacated by courts or suspended by agencies since July 2018. Currently, the pipeline lacks multiple required authorizations: a U.S. Forest Service Amendment to the Forest Plan for Jefferson National Forest,<sup>6</sup> a Bureau of Land Management right-of-way under the Mineral Leasing Act,<sup>7</sup> a U.S. Fish & Wildlife Service

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<sup>1</sup>[https://roanoke.com/news/local/report-of-pipeline-slips-in-west-virginia-under-investigation-raises-concern/article\\_05d9ea1e-8944-5a10-a9e9-acad9d709e92.html](https://roanoke.com/news/local/report-of-pipeline-slips-in-west-virginia-under-investigation-raises-concern/article_05d9ea1e-8944-5a10-a9e9-acad9d709e92.html)

<sup>2</sup><https://www.virginiamercury.com/blog/va/mountain-valley-pipeline-agrees-to-pay-virginia-2-15-million-for-environmental-violations/>

<sup>3</sup>[https://roanoke.com/news/local/mountain-valley-pipeline-cited-again-for-erosion-and-sedimentation-violations/article\\_496c5fd4-671c-11eb-a913-8b3e7d176b2b.html](https://roanoke.com/news/local/mountain-valley-pipeline-cited-again-for-erosion-and-sedimentation-violations/article_496c5fd4-671c-11eb-a913-8b3e7d176b2b.html)

<sup>4</sup> <https://www.synapse-energy.com/sites/default/files/Virginia-NG-Pipeline-Report-15-049.pdf>

<sup>5</sup><https://www.spglobal.com/marketintelligence/en/news-insights/latest-news-headlines/nextera-takes-800m-impairment-charge-on-mountain-valley-pipeline-investment-69002279>

<sup>6</sup> Vacated in *Wild Virginia v. U.S. Forest Service, No. 21-1039 (4th Cir., January 25, 2022)*

<sup>7</sup> Vacated in *Wild Virginia v. U.S. Forest Service, No. 21-1039 (4th Cir., January 25, 2022)*

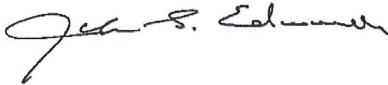
Biological Opinion and Incidental Take Statement,<sup>8</sup> and a U.S. Army Corps 404 Clean Water Act permit. Mountain Valley has not realistically changed the circumstances which caused loss of these authorizations, namely, that the project will cause irreparable harm to federally protected endangered species and forest land.

Mountain Valley Pipeline, LLC must obtain all of these missing authorizations before the Commission considers granting permission for construction to proceed. Accordingly, construction should not be allowed to proceed until it can be reasonably proven that this project is consistent with a legitimate public need and that the project's developers can comply with environmental laws.

As elected officials entrusted with protecting the health and safety of our communities, as well as the Commonwealth's natural resources, we respectfully request that the Commission (1) deny Mountain Valley's application for an extension of its Certificate of Public Convenience and Necessity and (2) deny any request from Mountain Valley for permission to resume construction in the Commonwealth of Virginia while the project lacks required authorizations.

Thank you for your time and attention to this critical matter.

Sincerely,



John S. Edwards  
Senator, 21st District



Sam Rasoul  
Delegate, 11th District



Ghazala F. Hashmi, PhD  
Senator, 10th District



R. Creigh Deeds  
Senator, 25th District



Jennifer Boysko  
Senator, 33rd District



Scott Surovell  
Senator, 36th District

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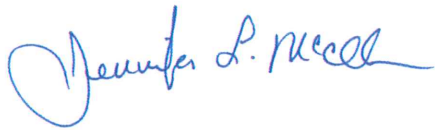
<sup>8</sup> Vacated in *Appalachian Voices v. U.S. Department of the Interior*, No. 20-2159 (4th Cir., February 3, 2022)



Jeremy McPike  
Senator, 29th District



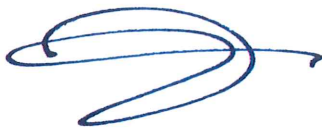
Chap Petersen  
Senator, 34th District



Jennifer McClellan  
Senator, 9th District



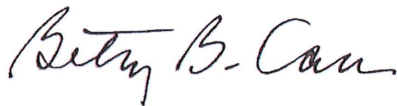
Michelle Maldonado  
Delegate, 50th District



Dr. Dawn M. Adams, Nurse Practitioner  
Delegate, 68th District



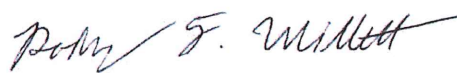
Sally Hudson  
Delegate, 57th District



Betsy Carr  
Delegate, 69th District



Irene Shin  
Delegate, 86th District



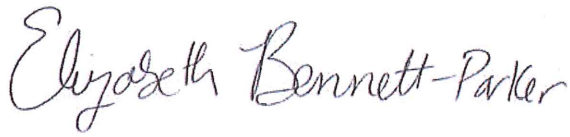
Rodney Willet  
Delegate, 73rd District



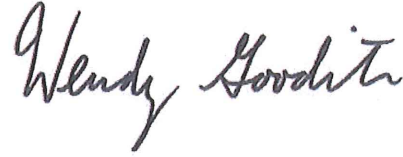
Patrick Hope  
Delegate, 47th District



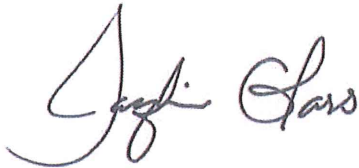
Mark Keam  
Delegate, 35th District



Elizabeth Bennett-Parker  
Delegate, 45th District




Wendy Gooditis  
Delegate, 10th District



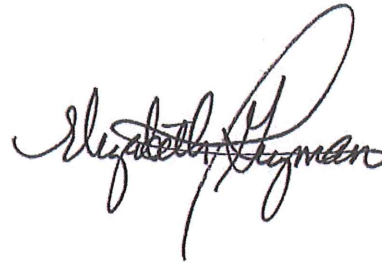
Jackie Glass  
Delegate, 89th District



Clinton Jenkins  
Delegate, 76th District



Kaye Kory  
Delegate, 38th District



Elizabeth Guzman  
Delegate, 31st District



Nadarius Clark  
Delegate, 79th District



Kelly Convirs-Fowler  
Delegate, 21st District



Shelly Simonds  
Delegate, 94th District



Kathy Tran  
Delegate, 42nd District