
No. _____

IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

SIERRA CLUB, CENTER FOR BIOLOGICAL DIVERSITY, WILD VIRGINIA,
APPALACHIAN VOICES, and CHESAPEAKE CLIMATE ACTION
NETWORK,
Petitioners

v.

UNITED STATES ARMY CORPS OF ENGINEERS; RYAN D. MCARTHY, in
his official capacity as Secretary of the U.S. Army; LIEUTENANT GENERAL
SCOTT A. SPELLMON, in his official capacity as U.S. Army Chief of Engineers
and Commanding General of the U.S. Army Corps of Engineers; COLONEL
PATRICK V. KINSMAN, in his official capacity as District Commander of the
U.S. Army Corps of Engineers, Norfolk District, and WILLIAM T. WALKER, in
his official capacity as Chief, Regulatory Branch, U.S. Army Corps of Engineers,
Norfolk District
Respondents

PETITION FOR REVIEW

Derek O. Teaney
APPALACHIAN MOUNTAIN ADVOCATES. INC.
P.O. Box 507
Lewisburg, WV 24901
Telephone: (304) 646-1182
Email: dteaney@appalmad.org
Counsel for Petitioners

Pursuant to Section 19(d)(1) of the Natural Gas Act, 15 U.S.C. § 717r(d)(1), and Rule 15(a) of the Federal Rules of Appellate Procedure, SIERRA CLUB, CENTER FOR BIOLOGICAL DIVERSITY, WILD VIRGINIA, APPALACHIAN VOICES, and CHESAPEAKE CLIMATE ACTION NETWORK hereby petition the United States Court of Appeals for the Fourth Circuit for review of the September 25, 2020 reinstatement by the Norfolk District of the United States Army Corps of Engineers of a verification under Nationwide Permit Number 12 for the discharge of dredged and/or fill material to Mountain Valley Pipeline, LLC (United States Army Corps of Engineers File Number NAO-2017-0898) (hereinafter, “NWP 12 Verification”). In accordance with Local Rule 15(b), a copy of the NWP 12 Verification is attached hereto as Exhibit A.

The agency order of which review is sought through this Petition is related to the agency order at issue in a separate petition for review that certain Petitioners are filing simultaneously with this Petition. The related petition seeks review of a verification issued by the Huntington District of the United States Army Corps of Engineers to Mountain Valley Pipeline, LLC, under Nationwide Permit 12 for the discharge of dredged and/or fill material in southern West Virginia.

In accordance with Rule 15(c) of the Federal Rules of Civil Procedures, parties that may have been admitted to participate in the underlying proceeding have been served with a copy of this Petition. Pursuant to Local Rule 15(b), attached

hereto is a list of Respondents specifically identifying the Respondents' names and addresses.

Respectfully submitted,

/s/ Derek O. Teaney

DEREK O. TEANEY (W. Va. Bar No. 10223)

APPALACHIAN MOUNTAIN ADVOCATES, INC.

P.O. Box 507

Lewisburg, WV 24901

Telephone: (304) 646-1182

Email: dteaney@appalmad.org

Dated September 28, 2020 *Counsel for Petitioners*

CERTIFICATE OF SERVICE

In accordance with Federal Rule of Appellate Procedure 15(c)(1) & (2), the undersigned hereby certifies that, on September 28, 2020, a true copy of this Petition for Review was served via first-class mail on each of the following entities that may have been admitted to participate in the agency proceedings:

1. Robert Cooper
Mountain Valley Pipeline, LLC
555 Southpointe Blvd., Suite 200
Canonsburg, PA 15317

2. CT Corporation System
Registered Agent for Mountain Valley Pipeline, LLC
4701 Cox Rd. Ste. 285
Glen Allen, VA 23060-6808

DATED: September 28, 2020 /s/ **Derek O. Teaney**
DEREK O. TEANEY (W. Va. Bar No. 10223)
APPALACHIAN MOUNTAIN ADVOCATES, INC.
P.O. Box 507
Lewisburg, WV 24901
Telephone: (304) 646-1182
Email: dteaney@appalmad.org

Counsel for Petitioners

LIST OF RESPONDENTS

Pursuant to Local Rule 15(b), Petitioners hereby provide a list of Respondents specifically identifying the Respondents' names and the addresses where Respondents may be served with copies of the Petition:

United States Army Corps of Engineers
441 G Street NW
Washington, DC 20314

Ryan D. McCarthy
Secretary, United States Army
101 Army Pentagon
Washington, DC 20310-0101

Lt. General Scott A. Spellmon
Commanding General and Chief of Engineers
United States Army Corps of Engineers
441 G Street NW
Washington, DC 20314

Col. Patrick V. Kinsman
District Commander
United States Army Corps of Engineers
Norfolk District
Fork Norfolk
803 Front Street
Norfolk, VA 23510-1011

William T. Walker
Chief, Regulatory Branch
United States Army Corps of Engineers
Norfolk District
Fork Norfolk
803 Front Street
Norfolk, VA 23510-1011



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NORFOLK DISTRICT
FORT NORFOLK
803 FRONT STREET
NORFOLK VA 23510-1011

September 25, 2020

Regulatory Branch
NAO-2017-0898 / VMRC#'s 2016-0305 and 2017-1609

Mountain Valley Pipeline, LLC
Attn: Mr. Robert Cooper
555 Southpointe Blvd., Suite 200
Canonsburg, Pennsylvania 15317

Dear Mr. Cooper:

Please reference the January 23, 2018 Department of the Army permit verification letter, project number NAO-2015-08998 (VMRC #'s 2016-0305 and 2017-1609) issued to you authorizing under Nationwide Permit (NWP) #12, impacts to waters of the US (streams and wetlands) at 383 separate stream crossings and 142 separate wetland crossings within the Commonwealth of Virginia. These impacts facilitate the installation of a 302-mile 42-inch natural gas pipeline known as the Mountain Valley Pipeline (MVP).

On October 2, 2018, the United States Court of Appeals for the Fourth Circuit vacated the Corps' verification of MVP's compliance with the NWP 12 in West Virginia (order enclosed). Because of that order, it was uncertain whether NWP 12 would ultimately be available to authorize work for MVP in West Virginia. Therefore, in accordance with 33 CFR 330.5(d), on October 5, 2018 the Norfolk District found it appropriate to suspend your authorization to await clarity on the issue.

On September 8, 2020, the Federal Energy Regulatory Commission, via email, informed the Corps that the Biological Opinion from the U.S. Fish and Wildlife Service had been accepted. On September 25, 2020, the Huntington and Pittsburgh District offices of the Corps of Engineers affirmed NWP 12 to allow you to continue the MVP project within West Virginia. Therefore, in light of these events the Norfolk District finds it appropriate to reinstate your authorization.

Exercising our authority under 33 CFR §330.5(d)(2), we hereby reinstate the January 23, 2018, authorization to conduct work under NWP 12. Effective immediately, you may resume all activities being done in reliance upon the authorization under the NWP. All special conditions remain in effect. In the event court action is taken that may impact the verifications, the Corps will consider whether or not to suspend the NWP verifications pending resolution of those issues pursuant to 33 CFR 330.5.

If you have any questions and/or concerns about this permit verification reinstatement, please contact me via telephone at (757)-201-7657 or via email at william.t.walker@usace.army.mil.

Sincerely

William T. Walker

William T. Walker
Chief, Regulatory Branch

Cc:

Randy Owen, Virginia Marine Resources Commission
Steven Hardwick, Department of Environmental Quality
Cory Chalmers, Mountain Valley Pipeline, LLC