

Virginia League of Conservation Voters
100 W Franklin Street, Suite #102,
Richmond, VA 23220

April 22, 2022

Senator Tim Kaine
231 Russell Senate Office Building
Washington, D.C. 20510
Phone: 202-224-2023

Re: Defense Production Act and Legislation to Finish Mountain Valley Pipeline Development

Dear Senator Warner:

During the March 10 Senate Committee on Energy and Natural Resources hearing, Chairman Joe Manchin called on the Biden Administration to invoke the Defense Production Act to complete the Mountain Valley Pipeline (MVP), citing need for domestic and European energy security, and developers' false claims that MVP is 90% - 95% complete.

Senator Manchin's interest in the Defense Production Act and legislative proposals to push this flawed project through present major concerns: most notable, his interest in completing the pipeline strikes a tone of sidestepping the regulatory requirements MVP has shown it's incapable of complying with, through its own track record of irresponsible and destructive development.

Virginia's Department of Environmental Quality alleged over 350 environmental violations to MVP, many regarding failed sediment control, for which MVP paid penalties of \$2.15 million.¹ It is no surprise that in recent months, the U.S. Court of Appeals for the Fourth Circuit threw out key permits for the pipeline. In one case, the court found that the U.S. Forest Service and the Bureau of Land Management, among other errors, inadequately considered actual sedimentation and erosion impacts. [See *Wild Virginia v. U.S. Forest Serv.*, No. 21-1039 (4th Cir. Jan 25, 2022).]² In another, the court found that the U.S. Fish and Wildlife Service did not adequately evaluate how pipeline construction would impact endangered species, leading the court to vacate the pipeline's permission under the Endangered Species Act. [See *Appalachian Voices v. U.S.*

¹ Commonwealth of Virginia, Office of the Attorney General. *MVP, LLC to Pay More Than \$2 Million, Submit To Court-Ordered Compliance And Enhanced, Independent, Third-Party Environmental Monitoring*. October 11, 2019.

<https://www.oag.state.va.us/media-center/news-releases/1548-october-11-2019-mvp-llc-to-pay-more-than-2-million-submit-to-court-ordered-compliance-and-enhanced-independent-third-party-environmental-monitoring>

² *Wild Virginia v. U.S. Forest Serv.*, No. 21-1039, (4th Cir. Jan 25, 2022)

Fish and Wildlife Serv., No. 20-2159 (4th Cir. Feb. 3, 2022)].³

On the heels of these losses, the pipeline's prospects grew even dimmer when the U.S. Army Corps of Engineers confirmed that it cannot issue a permit required by Section 404 of the Clean Water Act—without which MVP cannot be built—until MVP first secures a valid approval under the Endangered Species Act called a biological opinion.⁴

MVP has reported to the Federal Energy Regulatory Commission it has 55% of pipe in the ground with full restoration of the land above.⁵ Rather than a nearly-in-service pipeline, MVP has yet to install pipeline through hundreds of water crossings, a project phase considered to be the most difficult, time consuming, and most likely to lead to detrimental environmental impact.

MVP has already exploited communities along its route, many of whom are low- to middle-income residents, people of color, and the elderly. MVP has taken advantage of their land and will continue imparting environmental harms and significant risks.

Research indicates MVP would likely leak more than 6 million cubic feet of methane and toxins per day.⁶ Once in operation, MVP would have emissions of over 20 U.S. coal plants or 19 million passenger vehicles per year.⁷ The local environmental harms and global climate harms of this line cannot be overstated at a time when experts such as the Intergovernmental Panel on Climate Change are urging rapid and immediate decreases in greenhouse gas emissions.

While Mountain Valley Pipeline's FERC certificate expires this year, FERC may not grant a second extension. MVP's investors now are scrambling to re-evaluate their investments after reporting million-dollar losses attributed to MVP.⁸

We must not mistake MVP as a ready source of energy or done deal as Senator Manchin insists. MVP is a non-viable solution for current energy concerns, and should be recognized as an environmental catastrophe with no certainty of completion.

³ *Appalachian Voices v. U.S. Fish and Wildlife Serv.*, No. 20-2159, (4th Cir. Feb 3, 2022)

⁴ Appalachian Voices. *In Yet Another Significant Blow to MVP, U.S. Army Corps of Engineers Signals Stream Crossing Permit Will Be Indefinitely Delayed*. February 11, 2022.
<https://appvoices.org/2022/02/11/mvp-404-delay/>

⁵ https://elibrary.ferc.gov/elibrary/docinfo?accession_number=20220308-5125

⁶ Limpert, William. "Limpert: Mountain Valley Pipeline Will Be a Health Hazard." *The Roanoke Times*, March 9, 2022.

https://roanoke.com/opinion/columnists/limpert-mountain-valley-pipeline-will-be-a-health-hazard/article_56cf21ae-9c02-11ec-bc8c-f7f98b174d51.html

⁷ Oil Change International, The Bold Alliance. *The Mountain Valley Pipeline: Greenhouse Gas Emissions Briefing*. Washington DC, Oil Change International, February 15, 2017.

https://priceofoil.org/content/uploads/2017/02/mountain_valley_pipe_web_final_v1.pdf

⁸ Gough, Paul J. "Circuit Court Again Rules against Agencies for MVP Approvals." *Pittsburgh Business Times*, January 25, 2022.

<https://www.bizjournals.com/pittsburgh/news/2022/02/19/next-era-energy-mountain-valley-pipeline.html>

We urge you to reject any efforts to push this project through using the Defense Protection Act or other legislative means that sidestep the regulatory process or undermine recent court rulings as it pertains to this project's clear impact to water quality and sensitive endangered species.

Signed,



Senator Ghazala Hashmi



Delegate Kaye Kory



Delegate Dawn Adams



Delegate Rodney Willett



Senator Jennifer Boysko



Delegate Sam Rasoul



Delegate Elizabeth Bennett-Parker



Delegate Kathy Tran



Delegate Wendy Gooditis



Delegate Irene Shin



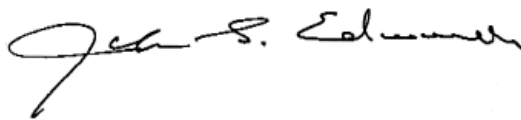
Senator Chap Petersen



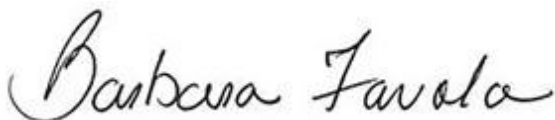
Delegate Kelly Fowler



Senator Louise Lucas



Senator John Edwards



Senator Barbara Favola



Delegate Jennifer McClellan



Delegate Delores McQuinn

Allegheny Blue Ridge Alliance
Appalachian Citizens' Law Center, Inc.
ARTivism Virginia
Center for Biological Diversity
Chesapeake Climate Action Network
Chris G. Miller / Piedmont Environmental Council
Clean Virginia
Edward Knight
Food & Water Watch
Green New Deal VA Coalition
Jo Anne St. Clair/Climate Action Alliance of the Valley
Lewinsville Faith in Action
Mothers Out Front Roanoke
New River Land Trust
Phillip Musegaas / Potomac Riverkeeper Network

Preserve Giles County

Preserve Salem

Protect Our Water, Heritage Rights (POWHR)

Third Act - Virginia+

Tom Benevento, New Community Project/Vine & Fig

Tidewater DSA Eco Group

Virginia Conservation Network (VCN)

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Virginia Organizing