

FEDERAL ENERGY REGULATORY COMMISSION

WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

In Reply Refer To:
OEP/DG2E/Gas Branch 3
Mountain Valley Pipeline LLC
Docket No. CP16-10-000

VIA Electronic Mail

October 15, 2019

Matthew Eggerding, Counsel
Mountain Valley Pipeline LLC
625 Liberty Ave., Suite 1700
Pittsburgh, PA 15222
MEggerding@equitransmidstream.com

Re: Cessation of Certain Activities

Dear Mr. Eggerding:

On September 11, 2019, the U.S. Fish and Wildlife Service (FWS) accepted the Commission's August 28, 2019 request to reinitiate consultation regarding impacts to the candy darter, Roanoke logperch, Indiana bat, and Northern long-eared bat, pursuant to section 7 of the Endangered Species Act (ESA) of the Mountain Valley Pipeline Project (Project). On October 11, 2019, the United States Court of Appeals for the Fourth Circuit issued an order granting a stay of the November 2017 Biological Opinion and Incidental Take Statement issued by the FWS for the Project and granting the Department of the Interior's motion to hold the litigation in abeyance until completion of ESA re-consultation.¹

On August 15, 2019, Mountain Valley suspended new construction activities in areas of the Project where such activities present a potential risk of take to federally-listed species or a potential risk of destruction or adverse modification to proposed critical habitat areas.² However, in certain areas outside the scope of the August 15th suspension, Mountain Valley had continued to undertake new ground-disturbing activities. In response to the court's October 11th stay of the 2017 Biological Opinion

¹ *Wild Virginia v. Department of the Interior*, Order, 4th Cir. No. 19-1866 (Oct. 11, 2019) (order granting stay and holding case in abeyance).

² See Mountain Valley's Voluntary Suspension of Certain Construction Activities Letter (filed Aug. 15, 2019).

and Incidental Take Statement, Commission staff, in consultation with the FWS, will evaluate the impacts and risks of allowing these activities, including boring, to continue.

While next steps are determined, Mountain Valley is hereby notified that construction activity along all portions of the Project and in all work areas must cease immediately, with the exception of restoration and stabilization of the right-of-way and work areas, which Commission staff believes will be more protective of the environment, including listed species, than leaving these areas in an unstable condition. Specifically, Mountain Valley may complete work of the type detailed in its August 15th suspension letter, necessary to stabilize and restore previously-disturbed areas along the entire route, provided that these activities do not impact listed species.

To assist our evaluation of the impacts and risks to listed species associated with construction activities, Mountain Valley is directed to provide the status of project construction (*e.g.*, clearing, grading, trenching, pipe installation, backfilling, and restoration) and an estimate of the time needed to get to the restoration and stabilization phase. This information should be provided by milepost. In addition, provide the status of all bores and tie-in work. Within two days, Mountain Valley must also provide an updated interim right-of-way and work area stabilization plan for construction activities that have not yet reached restoration and stabilization efforts. This plan must be filed for review and written approval by the Director of the Office of Energy Projects or his designee.

Sincerely,

Terry L. Turpin
Director
Office of Energy Projects

Document Content(s)

CP16-10-Work Cessation.PDF.....1-2