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NORTH CAROLINA
Environmental Quality

January 28, 2020

DWR # 20181638 v3
Alamance & Rockingham Counties

Mountain Valley LLC
Attn: Kathy Salvaor
700 Universe Boulevard
Juno Beach FL 33408

Subject: **REQUEST FOR ADDITIONAL INFORMATION**
Mountain Valley Pipeline – Southgate (MVP Southgate)

Dear Ms. Salvaor:

On August 14, 2019, the Division of Water Resources (Division) received your application dated August 9, 2019, requesting a 401 Individual Water Quality Certification and Jordan Lake Buffer Authorization (15A NCAC 02B .0267) from the Division for your project. On September 23, 2019 the Division notified you that your application was incomplete and requested additional information. On October 30, 2019 the Division received a response to our request. In addition, on November 19, 2019, the Division held a Public Hearing regarding your application and received comments from the public until December 20, 2019. Upon review of the additional information submitted on October 30, 2019 and comments received during the public notice and comment period, the Division has determined that your application is incomplete and cannot be processed. **The application is on-hold until all of the following information is received**:

1. The Division previously requested that you provide the exact locations and rate of discharge for the hydrostatic test water to be used within the Project. In the response submitted October 30, 2019 you stated that you were working with various agencies to determine the appropriate discharge locations and methods and will provide that information upon final determination. This information is required for the Division to complete a review of the application in accordance with 15A NCAC 02H .0506. [15A NCAC 02H .0506(b)(3)]

2. Section 2-12(h) of the application submitted to the Division on August 14, 2019 stated that hydrostatic test water was anticipated to be procured from municipal sources. The additional information submitted to the Division on October 30, 2019 states that "Mountain Valley proposed to use a total of approximately 5.9 million gallons of water from the Dan River and/or two municipal water sources for hydrostatic testing of the pipeline..". Based on this new

information, provide the location and rate of withdrawal, and the maximum, instantaneous pumping capacity, and the percent of flow that the withdrawal represents in the water body at the location during the projected time of year and in comparison to the lowest flow of record and 7Q10. [15A NCAC 02H .0506(b)(3)]

3. The Division previously requested that you "Provide a *qualitative* cumulative impact analysis for the project. The analysis should follow the procedure/guidance outlined in the Division's Cumulative Impact Policy for the 401 and Isolated Wetland Permitting Programs (Ver2.1, dated April 10, 2004), available online: https://files.nc.gov/ncdeq/Water%20Quality/Surface%20Water%20Protection/401/Policies_Guides_Manuals/CumulativeImpactPolicy.pdf [15A NCAC 02H .0506(b)(4)]

   The Division recognizes that you have provided a Cumulative Impact Analysis which follows standards NEPA cumulative impact procedures. The Division's Cumulative Impact Policy requires an analysis which is specific to the potential secondary and cumulative impacts from anticipated development resulting from the construction of the pipeline. Please provide a step by step cumulative impact analysis that is in accordance with the process outlined in the cited Policy.

4. The Division received numerous comments expressing concern over potential sedimentation and turbidity from the construction of the pipeline. The City of Burlington specifically expressed concerns regarding construction activities within the Watershed Critical Area of the Stoney Creek Lake watershed. The Division understands from the Division of Energy, Mineral and Land Resources (DEMLR) that the proposed pipeline has submitted a partial Sediment & Erosion Control Plans for review.
   a. Provide an overview of the sediment and erosion control measures you plan to implement as part of your Sediment & Erosion Control Plan, including if there are any measures or steps you plan to voluntarily take above the minimum requirements and in what locations you propose additional measures (*e.g.* implementing the requirements in Section II.B. of the NCG010000 Construction Stormwater General Permit, *etc.*).

The following comments are made in reference to the Attachment E: Updated Wetland/Waterbody Impact Maps (previously Appendix M):

5. It appears that impacts could be avoided with a minor realignment or reduction of the construction corridor on Sheet 3, impact W-A18-44 (small wetland with minor impacts from ATWS). Please review this area and propose further avoidance and minimization, or provide site-specific justification of why these impacts could not be avoided or further minimized: [15A NCAC 02H .0506(b)(2)]

6. The Division acknowledges modifications that have been made to address Item #8 in the September 23, 2019 request for additional information. As noted prior, although in some locations a stream or wetland may not be present within the entire width of the construction corridor, a reduction in the corridor to 75 feet would still provide avoidance and minimization, and therefore should still be justified on site-specific merit, not solely the length of the stream

or wetland within the corridor. For some noted locations the October 30, 2019 response indicated that wetlands were within agricultural fields and therefore further avoidance and minimization was not proposed. All wetlands and streams must be evaluated equally for avoidance and minimization regardless of existing quality. Provide a follow up review and modifications for the locations identified below. Please also update the impact quantities as appropriate. [15A NCAC 02H .0506(b)(2)]

a. Sheet 5, MP 28.0, W-A18-39 PEM and W-A18-26 PEM
b. Sheet 29, MP 38.7, W-A18-7 (7-2 through 7-7)
c. Sheet 32, MP 40.5 RR, S-A18-210 and S-A18-210-2
d. Sheet 61, MP 53.4, W-A18-83
e. Sheet 62, MP 53.7, W-A18-85
f. Sheet 63, MP 54.4, W-C18-67
g. Sheet 93, MP 68.3, S-B18-3

As a site visit is unable to be conducted at this time to verify the jurisdictional nature of the following feature it must be considered jurisdictional and avoidance and minimization must be evaluated as it would for all other jurisdictional features.

h. Sheet 55, MP 50.5, SS-SOIL- 18-02

7. The response letter dated October 30, 2019 indicates that "For all waterbodies, the project will limit routine vegetation mowing or clearing up to a 30' corridor..." however the Updated Wetland/Waterbody Impact Maps do not indicate a 30' permanent maintenance/operational corridor in all locations. Please review the impact maps and adjust them, and the impact tables accordingly. [15A NCAC 02H .0506(b)(2)]

8. Thank you for the site-specific Plan and Profile of the proposed conventional bore crossing of Wolf Island Creek. The proposed machine pit appears to be within 2 feet of the centerline of stream S-A19-269 which has the potential to cause instability or other direct and/or indirect impacts to this channel during construction activities. Please provide a site-specific construction sequence for this area that specifically addresses protection and restoration of stream S-A19-269. [15A NCAC 02H .0506(b)(2)]

9. The Division recognizes the updated information provided in the October 30, 2019 response regarding the Wetland and Waterbody Crossing Analysis however additional information is again required for the following specific location: [15A NCAC 02H .0506(b)(2)]
   a. Sheet 34, MP 41.2 – As requested you have provided further analysis that incorporates the practicality of a Conventional Bore which could avoid impacts to <u>all 4 features</u> at this location. Please also provide an analysis of practicality of a conventional bore that would avoid impacts only to Lick Creek and the adjacent tributaries.

10. At various locations within the project corridor, streams are present and parallel with the corridor/pipeline. Thank you for the additional information that has been provided in the October 30, 2019. The Division continues to have concerns regarding downstream water

quality protection during construction activities when a stream is parallel within the project corridor. In Attachment J – Representative Detail Sheets, it appears that timber mats will be used directly over the pipeline trench where stream S-A18-140 is parallel to and directly above the proposed pipeline. It is unclear how the trench will be constructed, and the pipeline will be installed below timber mats. It is also unclear in this area how the portion of channel will be dewatered and how the dewatering outlet (location not shown) will maintain protection of the downstream adjacent wetland. The September 23, 2019 request for additional information also specified a need to provide site-specific restoration details for these areas. The Division is specifically concerned with any proposal to restore the channel to pre-construction location when the channel is parallel with the pipeline and within the operational workspace, as long-term maintenance activities are likely to have permanent impacts to the channels. The Division acknowledges that some of the requested information is being developed as part of the Sediment and Erosion Control Plan to be reviewed by DEMLR, however in areas with direct stream impacts and long term stream stability concerns the Division will require submittal and review of detailed information. DWR and DEMLR will communicate agency requirements to each other as necessary. [15A NCAC 02H .0506(b)(2)]

11. On Sheet 68, MP 56.5 and Sheet 69, MP 56.7, thank you for specifications regarding the type of dewatering method to be used at these locations. Please provide further details regarding dewatering sequence, specifically the Division is concerned with how the pond will be dewatered once the inflow is routed through the dam and pump system, and how downstream water will be protected during dewatering and/or sediment removal within the ponds. Please also provide a pond restoration detail/sequence which indicates how flow will continue to be supplied to the downstream channel during pond refilling. [15A NCAC 02H .0506(b)(2)]

The following comments are made specific to Jordan Buffer Rules and the portion of the project that lies within the Jordan Lake Watershed. [15A NCAC 02B .0267]

12. Provide specific details of how diffuse flow shall be maintained <u>for all above ground facilities with new impervious surfaces</u> within the Jordan Lake Watershed in order to document compliance with the diffuse flow provisions of the Jordan Buffer Rules.

13. Provide a detailed buffer restoration plan for all temporary workspace areas within Zone 1 that are not within the operational corridor shown on the plans. The plan must include a replanting plan, a vegetation monitoring plan, and proposed success criteria. Please ensure that the restoration plan is also in accordance with Item (n) of the Consolidated Buffer Mitigation Rules 15A NCAC 02B .0295. The Division acknowledges that some of the requested information is being developed as part of the Sediment and Erosion Control Plan to be reviewed by DEMLR, however in temporarily impacted buffer areas the Division will require submittal and review of a detailed buffer restoration plan to ensure it meets the requirements of the Jordan Buffer Rules. DWR and DEMLR will communicate agency requirements to each other as necessary.

14. It appears that there are still buffer impacts along an intermittent stream that is unlabeled on Sheet 87 at MP 65.6 that serves as the outlet of the pond and joins S-A18-250 that have not been shown on the Proposed Pipeline Route and Impact sheet.

Pursuant to Title 15A NCAC 02H .0502(e) and 15A NCAC 02B .0267, the applicant shall furnish all of the above requested information for the proper consideration of the application. Please respond in writing within 30 calendar days of receipt of this letter by sending one (1) copy of all of the above requested information to the 401 & Buffer Permitting Branch, 1617 Mail Service Center, Raleigh, NC 27699-1617 OR by submitting all of the above requested information through this link: https://edocs.deq.nc.gov/Forms/Supplemental-Information-Form (note the DWR# requested on the link is referenced above).

If all of the requested information is not received within 30 calendar days of receipt of this letter, the Division will be unable to approve the application and it will be denied as incomplete. The denial of this project will necessitate reapplication to the Division for approval, including a complete application package and the appropriate fee.

Please be aware that in accordance with 15A NCAC 01C .0107 (a) "While work on an environmental document is in progress, no DENR agency shall undertake in the interim any action which might limit the choice among alternatives or otherwise prejudice the ultimate decision on the issue."

Please be aware that you have no authorization under the Water Quality Certification Rules for this activity and any work done within waters of the state may be a violation of North Carolina General Statutes and Administrative Code.

Please contact Sue Homewood at 336-776-9693 or Sue.Homewood@ncdenr.gov if you have any questions or concerns.

Sincerely,

Jeff Poupart, Chief
Water Quality Permitting Section

cc: Heather Patti, TRC Environmental Corporation (via email)
David Bailey, USACE Raleigh Regulatory Field Office (via email)
Olivia Munzer, NCWRC (via email)
Todd Bowers, EPA (via email)
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DWR WSRO 401 files
DWR 401 & Buffer Permitting Unit