

Standby Statement & Media Response
Nationwide 12 Permit Vacated
October 2, 2018

Mountain Valley Pipeline is disappointed with the decision by the U.S. Fourth Circuit Court of Appeals to vacate the Clean Water Act Section 404 stream and wetland crossing permit (Nationwide 12 permit) issued by the Huntington District of the U.S. Army Corps of Engineers (USACE). This decision affects stream and wetland crossings along approximately 160 miles of the route in West Virginia, and the MVP team is evaluating options to understand its ability to continue with construction activities that do not include stream and wetland crossings along this portion of the route.

During the past few months, the WV Department of Environmental Protection (WVDEP) has proposed modifications to its Section 401 Nationwide Permit Certification that, among other things, clarify that a 72-hour limitation does not apply to dry-cut crossing methods and other environmentally protective crossing methods requiring more than 72 hours to complete; and that crossing methods that have been approved by the Federal Energy Regulatory Commission or the West Virginia Public Service Commission are exempt from the 72-hour requirement. The public comment period for WVDEP's proposed Section 401 NWP modifications closed on September 17, 2018. Upon completion of the modification process, MVP intends to apply for a new permit with the USACE. MVP expects to secure a new Nationwide 12 permit from the USACE early in 2019.

With ongoing evaluation of its construction plan, MVP continues to target a full in-service during the fourth quarter 2019. MVP is committed to the safety of its communities, to the preservation and protection of the environment, and to the continued responsible construction of this important natural gas infrastructure project that will serve homes and business in the mid-Atlantic and Southeast United States.

Background Information:

As part of the Nationwide 12 permit, the USACE incorporated the West Virginia Special Conditions, which included a provision that stream and wetland crossings be completed within 72 hours. It was argued that MVP cannot comply with the permit condition to complete four waterbody crossings (Elk, Gauley, Greenbrier, and Meadow Rivers) within 72 hours. Both MVP and the West Virginia DEP interpreted this requirement as applying only to "wet-cut" crossings. MVP plans to utilize a "dry-ditch" coffer dam method to cross the four rivers as this technique is more protective of the environment. This crossing technique has been approved by both the FERC and the West Virginia DEP.

In June 2018, the USACE suspended its Nationwide 12 permit for MVP for the four major crossings in West Virginia to further evaluate whether the time limitation should apply. In July 2018, after evaluation, the USACE reinstated the Nationwide 12 permit for MVP, concluding that MVP's dry-ditch crossing method is significantly more protective of the environment and provides more stringent water quality protection. MVP's dry-ditch crossing method for the four river crossings is now a requirement of the Nationwide 12 permit.