

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

Mountain Valley Pipeline, LLC)	Docket No. CP16-10-000
)	Docket No. PF15-3-000
)	
)	

**MOTION TO INTERVENE
AND LIMITED PROTEST OF THE ALPHA COMPANIES
TO CERTIFICATE APPLICATION
FOR PROPOSED MOUNTAIN VALLEY PIPELINE PROJECT**

Pursuant to Rules 211 and 214 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (“FERC” or “Commission”), 18 C.F.R. §§ 385.211 & 385.214, and the Notice of Applications Notice and associated errata issued on November 5, 2015, Alpha Natural Resources Services, LLC (“Alpha”), on behalf of certain affiliates,¹ submits this motion to intervene and limited protest concerning Mountain Valley Pipeline, LLC’s (“MVP”) October 23, 2015 Certificate Application for the proposed Mountain Valley Pipeline Project (“Project”).

As discussed below, the Alpha Companies own, lease, or otherwise control and will mine coal reserves in the vicinity of and beneath the location of the proposed Project. Based on the information MVP has submitted thus far, Alpha has determined that the Project will impact active and future mining operations of at least two of Alpha’s affiliates, and may impact other Alpha operations. From the face of MVP’s application it is does not appear that MVP has adequately addressed mining issues. Therefore, Alpha

¹ Alpha affiliates that may potentially be impacted by the Project include Green Valley Coal Company (“Green Valley”) and Brooks Run Mining Company, LLC (“Brooks Run”) (collectively, the “Alpha Companies”). The Alpha Companies are continuing to review the publicly available information regarding the Project and may find that additional Alpha affiliates are impacted by the Project.

files this limited protest to ensure that safety issues associated with constructing a pipeline over active and future mining areas are fully considered in the Resource Reports, Environmental Assessment or Environmental Impact Statement, and any certificate order. Consistent with its precedent,² the Commission should include appropriate conditions in the Environmental Assessment or Environmental Impact Statement and any future certificate order requiring that MVP cooperate with mining companies and undertake appropriate mitigation and monitoring to protect its pipelines from safety issues associated with mining.

I. DESCRIPTION OF THE PROJECT

MVP proposes to construct approximately 301 miles of 42-inch diameter pipeline in West Virginia and Virginia to supply about 2 million dekatherms of gas per day to markets in the Mid-Atlantic and Southeastern U.S. The proposed pipeline will originate at an interconnection with Equitrans L.P.'s existing H-302 pipeline near the MarkWest Liberty Midstream & Resources, L.L.C. Mobley processing facility in Wetzel County, West Virginia and terminate at Transcontinental Gas Pipeline Company LLC's Zone 5 Compressor Station 165 in Pittsylvania County, Virginia. In addition to the buried steel pipe, the Project will include 3 new compressor stations in West Virginia, as well as associated meter stations, main line valves, and pig launchers and/or receivers. MVP is a joint venture among affiliates of EQT Midstream Partners, LP; NextEra Energy US Gas

² *Dominion Transmission, Inc.*, 135 FERC ¶ 61,239 (2011) (“*Appalachian Gateway*”); *Dominion Transmission, Inc.*, 129 FERC ¶ 61,012 (2009), *order granting clarification*, 130 FERC ¶ 61,223 (2010) (“*Hub III*”); *Rockies Express Pipeline LLC*, 123 FERC ¶ 61,234, *modified*, 126 FERC ¶ 61,225 (2009) (“*REX*”).

Assets, LLC; WGL Midstream, Inc.; Vega Midstream MVP LLC; and RGC Midstream, LLC.³

II. MOTION TO INTERVENE

Alpha is one of America's leading producers of coal. The Alpha Companies own, lease, or otherwise control, and have been or will be engaged in the mining of, substantial coal reserves in the vicinity of and beneath the pipelines proposed as part of the Project. Based on information and maps included in MVP's Resource Report 6, the Project will traverse various coal seams in central West Virginia, including coal reserves that are owned, leased, or otherwise controlled by, and which have been or will be mined by or on behalf of Alpha affiliates Green Valley and Brooks Run. The Alpha Companies seek to ensure that safety issues associated with constructing a pipeline over and through mining areas are fully considered by the Commission and that MVP develops a plan to communicate with mine operators and undertake any mitigation necessary to ensure safety, consistent with the Commission's holdings in prior cases.⁴

MVP states in Resource Report 6 that "[m]ine operators will be contacted to coordinate the design of any necessary mitigation measures to be used during construction and operation of the Pipeline."⁵ The Alpha Companies appreciate MVP's

³ See generally Certificate Application at 3, 5-9.

⁴ See, e.g., *Appalachian Gateway* at P 46 & n.45; *REX* at PP 93, 96-97, Environmental Conditions 50 & 147; *Hub III* at Appendix E, Environmental Condition 1 (adopting mitigation measures described in response to FERC data request).

⁵ Certificate Application, Resource Report 6 at 6-15 ("Resource Report 6").

recognition that it will need to coordinate with mine operators and install mitigation where necessary. The Alpha Companies welcome the opportunity to discuss these issues with MVP to ensure that the Project, as well as mining operations, can safely coexist in all areas affected by the Project, and to ensure that valuable coal reserves are not sterilized by construction and operation of the Project. However, to date, MVP has not contacted Alpha regarding the design of mitigation measures to be used during construction and operation of the pipeline.

MVP has not yet surveyed and finalized the entire Project route,⁶ making it impossible to determine the precise extent to which the Project will impact each of Alpha's affiliates listed above. At the very least, however, Alpha has identified the following locations where it appears that the Project will traverse Alpha affiliate operations:

1. Green Valley's Quinwood No. 7 Mine, a deep mine with an active permit in Nicholas County, W. Va.;
2. Green Valley's Grassy Creek No. 2 Deep Mine, a deep mine that is currently inactive (but could be reopened) in Nicholas County, W. Va.;
3. Brooks Run's Whiteoak-Coltrane Deep Mine, a planned deep mine in Webster County, W. Va. that Brooks Run is in the process of permitting; and
4. Green Valley's Potato Hole Knob Deep Mine, a planned deep mine in Nicholas County, W. Va.

Thus, the Alpha Companies own, lease, or otherwise control coal reserves along and beneath the proposed route of the Project and expect to be conducting mining operations for many decades into the future.

⁶ Resource Report 6 at 6-15.

The coal leases and deeds for the property where the Alpha Companies' mines are located, which are publicly recorded, grant the Alpha Companies the right to conduct surface mining or full extraction underground mining, and they permit the Alpha Companies to subside the surface. Accordingly, any pipeline operator contemplating construction of a pipeline over these areas will need to communicate with the Alpha Companies and have a mitigation plan to deal with pipeline stresses or subsidence from mining techniques that may include room and pillar, surface mining, or full extraction underground mining.

The Alpha Companies are continuing to study the available information and alignment sheets MVP has filed in this proceeding to determine where proposed Project facilities will impact mining operations and coal reserves. The Alpha Companies look forward to working with MVP to identify all areas of coal mining and reserves that could be impacted by the Project, so that MVP can develop appropriate mitigation measures. The Alpha Companies therefore hope and expect that the safety issues raised by the Project will be thoroughly considered and addressed by the Environmental Assessment or Environmental Impact Statement, and any subsequent certificate order.

Accordingly, the Alpha Companies have a direct interest in MVP's certificate application that cannot be represented by another party. For all these reasons, the public interest is served by participation of the Alpha Companies in this proceeding, and the Commission should grant this motion to intervene.

III. CORRESPONDENCE

Correspondence regarding these comments should be directed to:

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IV. LIMITED PROTEST AND COMMENTS

The Alpha Companies file this limited protest to ensure that safety issues associated with constructing a pipeline over and through mining areas are fully considered by the Commission and that MVP develops a plan to communicate with mine operators and undertake any mitigation necessary to ensure safety. While Resource Report 6 states that MVP intends to coordinate with mine operators,⁷ MVP has thus far not communicated with Alpha to establish mitigation plans and has not fully or adequately addressed mining issues in its application. That said, Alpha does not necessarily oppose the Project, so long as any Environmental Assessment or Environmental Impact Statement, and any certificate order, adequately addresses safety issues arising from the construction of a pipeline over and through mining areas.

A. Resource Report 6 Does Not Fully Address Mining Issues Raised by the Commission's Data Requests.

MVP's Resource Report 6 includes a table of FERC Environmental Information Requests, as well as section numbers where MVP's responses should be located. However, it appears that Resource Report 6 only cursorily addresses FERC's

⁷ Resource Report 6 at 6-15.

Environmental Information Requests concerning mining locations and mitigation measures.

In its March 13, 2015 Information Request, FERC required MVP to provide a list of “active or abandoned mines.” It also instructed MVP to “[o]utline measures Mountain Valley would implement to avoid, minimize impacts, or mitigate impacts on mines that would be crossed or near the pipeline.”⁸ While MVP includes a list of mines crossed or near the Project in Table 6.3-1, and Section 6.3.3 provides some additional detail about affected mining areas, very little is said about mitigation measures that MVP will undertake.⁹ As explained further in section III.C below, in *REX* and *Hub III*, the applicant agreed to specific measures to ensure the safety of its pipeline in areas of active or future mining. Similar specificity should be required of MVP.

In its August 11, 2015 Environmental Information Request, FERC directed MVP to “[e]xplain why many [mines listed on table 6.3-1] have a status of ‘unknown’.”¹⁰ MVP states that it has responded to this request in Table 6.3-1, yet that table still contains “unknown” for a significant number of mines listed on the table. MVP lists certain

⁸ Resource Report 6, listing of FERC Environmental Information Request for Resource Report 6 Dated March 13, 2015, request no. 6.

⁹ Section 6.3.3 states that “MVP has made an effort to avoid as many active mines as possible,” but notes that some mines remain affected. Resource Report 6 at 6-14. MVP also states that, “[m]ine operators will be contacted to coordinate the design of any necessary mitigation measures to be used during construction and operation of the Pipeline” and notes that final project design cannot be completed until MVP finishes surveying the entire route. *Id.* at 6-15. These statements offer no specificity concerning the measures MVP will undertake to ensure the safety of its pipeline during mining activities.

¹⁰ Resource Report 6, listing of FERC Environmental Information Request for Resource Report 6 Dated August 11, 2015, request no. 7.

sources for its data,¹¹ but does not explain why it could not obtain updated status information from the mining companies themselves, such as the Alpha Companies and other mining companies who filed pre-filing scoping comments in Docket No. PF15-3-000. In its Response to Scoping Comments, MVP indicated it would contact mining companies such as Rex Coal Land Co., Inc., Warrior Energy Resources, LLC, Plum Creek Timberlands, L.P., and Alpha.¹² Indeed, Alpha provided information concerning its mines in its pre-filing scoping comments, and stands ready to discuss the precise location and status of its mines with MVP.

The August 11, 2015 Environmental Information Request also requested “an estimated schedule when final Project design would be completed” and identification of mines would be provided to FERC.¹³ However, no schedule for completion of final Project design is apparent. Rather, Resource Report 6 states that “Final Project design cannot be achieved until MVP is able to survey the entire pipeline route. Once surveys are complete, MVP will finalize the pipeline route and provide any changes to the FERC.”¹⁴

Furthermore, the August 11, 2015 Environmental Information Request required MVP to include: (a) “communication plans or procedures” to coordinate with mine

¹¹ Resource Report 6 at 6-12.

¹² Response to Scoping Comments of Mountain Valley Pipeline, LLC, Docket No. PF15-3-000, at 11 (June 30, 2015).

¹³ Resource Report 6, listing of FERC Environmental Information Request for Resource Report 6 Dated August 11, 2015, request no. 10.

¹⁴ Resource Report 6 at 6-15.

operators; (b) “specific limitations that may affect mining along the Project such as restrictions to excavation, heavy equipment movement, blasting, and planned subsidence for room and pillar mining operations;” and (c) “specific measures that would be used in regards to landsliding and slumping, blasting, excavation, heavy equipment movement, and planned mine subsidence within proximity to the proposed Project.”¹⁵ Aside from stating that MVP plans to communicate with mine operators via CB radios, and that blasting performed by mine operators must follow federal regulations,¹⁶ Resource Report 6 contains no explanation of the measures MVP will take to ensure the safety of its pipeline where it crosses areas of existing or future mining. Indeed, MVP states that “[m]ining can occur along the project as long as the mine operator is not within the 125’ construction corridor” and that “[e]nvironmental controls will be in place along the right-of-way to prevent these activities from encroaching on the pipeline right-of-way.”¹⁷ These statements could be construed as indicating that mining will be prevented within the pipeline right-of-way, which would appear to contradict MVP’s representation that it will contact mine operators to coordinate mitigation measures where necessary.¹⁸ Mine operators such as the Alpha Companies hold the property rights to valuable coal reserves, and sterilization of any portion of those reserves would require compensation by MVP. Accordingly, the Commission should require MVP to clarify what mitigation measures it will undertake to ensure coal mine operators can safely engage in mining operations

¹⁵ Resource Report 6, listing of FERC Environmental Information Request for Resource Report 6 Dated August 11, 2015, request no. 11.

¹⁶ Resource Report 6 at 6-40, 6-49.

¹⁷ *Id.*

¹⁸ *Id.* at 6-15.

where the right-of-way crosses areas of current or future mine operations, and whether, as a result of Project construction, any coal reserves will be sterilized.

B. Resource Report 6 Appears to Contain Incomplete or Inaccurate Information Concerning Alpha's Mines.

Alpha understands that final project design has not been completed and MVP is continuing to survey the pipeline route.¹⁹ The uncertainty in the route is all the more reason why MVP should be contacting mine operators to obtain accurate information about the location, timing, and status of mining operations.

The information in Table 6.3-1 appears to be incomplete or inaccurate in the following respects:

- Table 6.3-1 in Draft Resource Report 6 lists Green Valley as operating mines in Greenbrier County, W. Va., at mileposts 134.4 – 136.5 and 138.3 – 138.4.²⁰ Based on Alpha's information, those mines are not Green Valley operations.
- Table 6.3-1 lists "unknown" as the status of Green Valley's Quinwood No. 7 Mine and Grassy Creek No. 2 Deep Mine. The Quinwood No. 7 Mine has an active permit, and, while mining is not currently ongoing, it could begin at any time.
- The Grassy Creek No. 2 Deep Mine is not listed by name, though there are several entries on Table 6.3-1 that appear to correspond to this mine based on the listed mileposts (roughly between mileposts 118 and 131). Table 6.3-1 lists the permit status as "unknown." Grassy Creek No. 2 Deep Mine's permit status is currently inactive, but Green Valley could seek to activate that permit and begin operations should market conditions require it. In addition, Green Valley plans future mining at the Grassy Creek Shaft and the Hominy Shaft of its Grassy Creek No. 2 Deep Mine, which is not listed on Table 6.3-1.
- Brooks Run's Whiteoak-Coltrane Deep Mine is not listed by name on Table 6.3-1. Rather, it is listed as "Coal/Strip mine area" with "unknown" status. Brooks Run has completed prospecting at this mine and is in the

¹⁹ Resource Report 6 at 6-15.

²⁰ *Id.* at 6-11, 6-14.

process of permitting the reserve. It appears that the Project will cross the mineral removal area of the Whiteoak-Coltrane Deep Mine, as well as a haul road and potentially other operational areas.

- The location of Green Valley's planned mining at the Potato Hole Knob Deep Mine may be incorrect on Table 6.3-1.

Alpha identified these operations in its pre-filing Scoping Comments for the Project in Docket No. PF15-3-000. Alpha remains willing to cooperate with MVP to accurately identify, locate, and classify the status of these mines.

C. The Environmental Impact Statement Must Address Mining Safety Issues Because The Project Will Cross Coal Mining and Reserves, As MVP's Draft Resource Report 6 Recognizes.

MVP acknowledges the existence of mining along the proposed Project route.²¹

As companies that have been and will be mining in this area, the Alpha Companies have a strong interest in ensuring that MVP develops an appropriate mining mitigation plan that includes communication and cooperation with coal mining companies such as the Alpha Companies as well as appropriate measures to ensure the safety of MVP's pipeline, mining workers, the surrounding community, and the environment. The Alpha Companies also seek to ensure that MVP's construction and operation of a new pipeline in this active coal mining region does not impede mining operations. Accordingly, the applicant and the Commission have a responsibility to ensure that the Environmental Impact Statement and underlying Resource Reports identify and analyze all locations where the proposed Project will impact coal mining or coal reserves and include

²¹ Resource Report 6 at 6-14 to 6-15; *see id.* at 6-10 (Table 6.3-1).

appropriate mitigation measures to be conducted by MVP to protect the public and the environment.²²

D. The Commission Should Include Mitigation Conditions in Its Environmental Impact Statement and Certificate Order for the Project, As It Did in *REX*, *Appalachian Gateway*, and *Hub III*.

In *REX*, *Appalachian Gateway*, and *Hub III*, which involved construction of pipeline facilities over areas of active and future coal mining, the Commission protected the public safety by adopting reasonable certificate conditions requiring the pipeline to cooperate with mining operators in developing plans to accommodate mining and ensure public safety. The Commission should adopt similar conditions for MVP's Project, because, as MVP recognizes, the Project will traverse several seams of coal that have been or will be mined in the future.²³ Accordingly, the Environmental Impact Statement and any certificate awarded for MVP's Project must ensure that MVP will address the pipeline stresses and possible subsidence associated with constructing a pipeline over mining areas.

In *REX*, which involved the construction of a new pipeline over coal reserves that were planned to be mined in the future, the Commission imposed conditions requiring that Rockies Express communicate with mining companies to prevent subsidence issues,

²² 18 C.F.R. §§ 380.12(h)(2) (requiring an applicant to “[d]escribe, by milepost, existing and potential geological hazards and areas of nonroutine geotechnical concern, such as . . . planned, active, and abandoned mines . . . and areas of potential ground failure, such as subsidence . . . and [d]iscuss the hazards posed to the facility from each one”), 380.12(h)(3) (requiring applicant to “[d]escribe how the project would be located or designed to avoid or minimize adverse effects to the resources or risk to itself, including geotechnical investigations and monitoring that would be conducted before, during, and after construction”).

²³ Resource Report 6 at 6-14 to 6-15.

develop a subsidence plan, and, if an adequate plan could not be developed, relocate its pipeline. These conditions state:

50. Prior to the start of construction, Rockies Express shall file with the Secretary, for review and written approval by the Director of OEP, a Mining Subsidence Plan that at a minimum addresses the following:

a. this plan shall indicate how areas where the pipeline would cross underground mines would be monitored during the life of the project and what steps would be taken if the area were to destabilize in the future; and

b. communications with mining companies planning to use longwall or room and pillar mining techniques in areas of the pipeline. The plan shall outline the monitoring protocol and mitigation measures that may be implemented to prevent subsidence impacts from these specific types of mining to the pipeline.²⁴

* * *

147. Prior to the start of construction from MPs 621 to 635, Rockies Express shall file with the Secretary, for review and written approval by the Director of OEP, a construction and operations plan, developed in collaboration with the Murray Companies, for the segment of the pipeline that traverses the coal mining reserves held by the Murray Companies. The plan shall address the primary concern of maintaining pipeline integrity and operation while not impeding the mining operation. If the collaboration does not culminate in a plan, Rockies Express shall file with the Secretary, for review and written approval by the Director of OEP, an alternative pipeline route that avoids the Murray Companies' coal reserves.²⁵

Moreover, in addition to these important certificate conditions, the Commission recognized that mining subsidence is a life-of-the-line issue, because "Rockies Express' proposed construction will occur through past and potentially future areas of mining."²⁶

²⁴ *REX* at Appendix E, Environmental Condition No. 50.

²⁵ *Id.* at Appendix E, Environmental Condition No. 147.

²⁶ *Id.* at P 96.

Similarly, in *Appalachian Gateway*, Dominion sought authorization to construct approximately 110 miles of new pipeline and 4 new compressor stations, along with upgrades to 2 existing compressor stations. In response to protests and comments filed by several mining companies, including Alpha affiliates, the Commission stated that:

Where coal mining in the vicinity of a proposed pipeline is a ‘reasonably foreseeable future action,’ [FERC] consider[s] the impacts that mining activities might have on the proposed pipeline as part of . . . environmental review of the project. In general, [it has] determined that while certain surface mining activities must be curtailed, if proper safeguards are in place, most types of underground mining can proceed while overlaying pipelines remain in service. *It expect[d] Dominion to collaborate with companies planning to extract coal beneath the approved right-of-way and to follow procedures to maintain its facilities’ integrity when mining operations undercut a pipeline.*²⁷

Likewise, in *Hub III*, Dominion proposed a new pipeline loop that crossed areas to be mined as part of the Cumberland Mine operated by Alpha affiliate Cumberland Coal Resources, LP. Dominion agreed to mitigation measures including excavating and decoupling the pipeline from the soil, monitoring for actual ground subsidence and pipe movement, cooperating with the mine operator, reducing pipeline pressure, and possibly moving or shutting down the pipeline.²⁸ Such provisions were adopted in the Environmental Assessment and the certificate.²⁹

Appropriate mitigation and monitoring are necessary to ensure safe operation of pipelines constructed above mining areas. Indeed, Alpha affiliates have undermined many miles of gas pipelines without incident when subsidence mitigation measures were

²⁷ *Appalachian Gateway* at P 46 (emphasis added) (citations omitted).

²⁸ Response to Commission Data Request of Dominion Transmission, Inc., Docket No. CP09-18-000 (June 24, 2009).

²⁹ Dominion Hub III Project Environmental Assessment, Docket No. CP09-18-000, at 6-8 (July 31, 2009); *Hub III* at Appendix B, Environmental Condition 1.

used. The Alpha Companies look forward to working with MVP to ensure that mitigation and monitoring measures implemented by MVP for the Project are appropriate to preserve the public safety and the environment in all relevant mining areas. Accordingly, the Commission should include in the Environmental Assessment or Environmental Impact Statement and any future certificate order conditions requiring MVP to take responsibility for implementing and monitoring mitigation required by underground mining and cooperating with affected mining companies, as it did in *REX*, *Appalachian Gateway*, and *Hub III*.

V. CONCLUSION

For the foregoing reasons, the Alpha Companies respectfully request that: (1) the Commission grant their motion to intervene in this proceeding and (2) the Environmental Assessment or Environmental Impact Statement and any certificate for MVP's Project address pipeline stress and subsidence issues associated with underground mining by requiring that MVP develop, disclose, and implement a plan for mitigation or relocation of pipeline facilities where necessary, and communicate and cooperate with affected mining operators, consistent with *REX*, *Appalachian Gateway*, and *Hub III*.

Respectfully submitted this 25th day of November, 2015.

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CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Washington, D.C., this 25th day of November, 2015.

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