

# Majors, Chisholm and Bondurant: A dispatch from the path of the Mountain Valley Pipeline

This photo shows the path that workers for the Mountain Valley Pipeline have cut across Brush Mountain in Montgomery County.

Courtesy of Lynda Majors

By Lynda Majors, Russell Chisholm and Roberta Bondurant

The writers serve on the Executive Committee of Protect Our Water, Heritage Rights, a coalition of nonprofits from Virginia opposing the Mountain Valley Pipeline.

Gov. Ralph Northam and Secretary of Natural Resources Matt Strickler:

The abuses of federal eminent domain for private pipeline profit coupled with “environmental mitigation” schemes set frightening precedent for our commonwealth and nation. Since the Mountain Valley Pipeline appeared in 2014, Virginia state and federal courts have avoided decisions against the gas industry, including the question of “public need,” rationalizing it as administratively determined by the Federal Energy Regulatory Commission (FERC).

## **Public Need**

Former FERC Chiefs Norman Bay and Cheryl LaFleur highlighted in their respective dissents on pipelines including MVP that in fact, no federal agency has undertaken a true “programmatic” needs assessment that considers infrastructure, gas supply, demand and alternatives to the proposed project. FERC and aligned agencies refused such a study for the Appalachian region, although they’ve used them in other regions for 15-20 years. With Roanoke Gas

claiming a mere .5 percent interest in MVP gas, mounting evidence indicates it's destined for LNG export facilities.

LaFleur and Bay acknowledge the high-risk shell game of affiliates as both supplier and purchaser, treating fracked gas as a commodity, market-traded and shipped at the whim of investors. MVP, as a limited liability corporation, can dissolve as rural communities risk displacement as environmental refugees from pure drinking water, as wells and springs are destroyed by blasting, trenching, bulldozing, hydrostatic testing and construction poisons. Query who will bear responsibility for potable water, among other losses.

### **“Mitigation”**

“Mitigation” developed as a statutory framework for repairing and restoring environmental injuries and compensating “unavoidable” consequences. Shockingly, the Department of Environmental Quality, FERC and other agencies accepted gross, indiscriminate environmental damage as “unavoidable” before performing required investigative permit analysis. In October 2015, Gov. McAuliffe initiated mandatory monthly meetings of department heads, dubbing them the “Pipelines Mitigation Team,” and muzzled state employees on pipeline matters. Neither the state nor the feds ever considered “no build” or less damaging routes, as promoted by Chair LaFleur. Permitting was guaranteed. Consider:

Virginia’s statute, the “Wetlands and Stream Replacement Fund (2013),” allows for both authorized and “unauthorized” environmental injuries, essentially encouraging corporate polluters to prepay their crimes.

Virginia’s DEQ website invites investment in mitigation “credits” and “banking,” thus “potentially reducing permit review times.”

The Virginia Outdoors Foundation (VOF), accepted — over landowners’ objections — 4 million dollars and 21,000 acres in

land swaps on the Atlantic Coast Pipeline and \$75,000 and 10 acres on the MVP. Calling it the “conversion diversion,” the VOF boasted an average ratio of acquired-to- taken acreage at about 26:1. Landowners had entrusted treasured property to this state agency to protect it from radical destruction such as that from mega pipelines. The ratio doesn’t excuse this “conversion,” another word for theft, as a breach of trust.

Memoranda Agreements between the MVP, Virginia’s DEQ and the VDHR to accept the assault on our natural and historical resources for a payoff of \$27.5 million, \$5 million to state agencies (\$75 million for ACP) are a final abusive flourish by bureaucracies whose mission is to protect our environment.

Combined with eminent domain, mitigation has become a filthy word, a form of legalized theft that breeds public disgust and outrage.

There’s something in these pipeline deals for everyone but the law abiding, taxpaying, long- contributing landowner. Investors get a 14 percent return on the trade and export of fracked gas; state and federal agencies get fat payments for operating expenses; many legislators get campaign contributions and localities get millions in taxes. By comparison, MVP landowner-defendants were herded into federal court during the winter holidays, along with some 500 other defendants in a reverse class action lawsuit that’s scheduled like a runaway train. They are promised easement awards a pittance of what would allow them to relocate far enough from the 42” diameter pipe bomb driven through the heart of their homes. They will relinquish a percentage of any easement settlement or court ordered sum to eminent domain lawyers, federal capital gains tax and, in a final cruel blow, to local property tax.

Landowners refuse to have their homes rendered sacrifice zones by government in the grip of gas industry power and greed. Virginians should not be forced to suffer the economic and environmental

disaster at the hands of MVP and our prior administration's politics. This commonwealth was borne of revolt against abuses of a monarch. Together with our newly elected administration, we face a new revolution – in asserting our power over the gas industry and responsibility in protecting Virginia's people, land and water.