

## Kincheloe Mitigation Bank Affidavit

EXHIBIT A

AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

I, David E. Gibbons, certify that I am now, and at all times mentioned herein have been, the Authorized Representative of WV Bunrootis Existing Mitigation Holdings LLC, a Delaware limited liability company (the "Company"), and as such I hereby certify the following:

The Company (by and through its operator and manager, Kincheloe Mitigation Holdings LLC), as of the date hereof, has granted, sold, conveyed and transferred Six Hundred Thirty Nine and 00/100 (639.00) stream mitigation credits and Zero point Nine Ninety Seven Thousandths (0.977) wetland mitigation credits to the Mountain Valley Pipeline, LLC, a Delaware limited liability company from the Kincheloe Stream and Wetland Mitigation Bank located in Lewis and Harrison Counties, West Virginia, established under the authority of the United States Army Corps of Engineers – Pittsburgh District Nationwide Permit No. No. 2014-1128 issued on August 14, 2015. The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the 3<sup>rd</sup> day of August, 2017.

WV Bunrootis Existing Mitigation Holdings LLC,  
a Delaware limited liability company

By:

David E. Gibbons

Printed: David E. Gibbons

Title: Authorized Representative

STATE OF TEXAS:

COUNTY OF DALLAS:

Sworn to and subscribed before me this 3<sup>rd</sup> day of August, 2017 the undersigned Notary Public for and in the jurisdiction aforesaid, by David E. Gibbons, the Authorized Representative of WV Bunrootis Existing Mitigation Holdings LLC, a Delaware limited liability company.

Katherine M. Husman

Notary Public

My commission expires:

4/30/18



EXHIBIT B

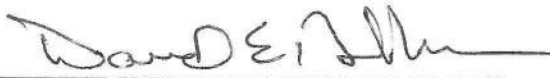
BILL OF SALE

THIS BILL OF SALE is made as of the 3<sup>rd</sup> day of August, 2017, by WV BUNROOTIS EXISTING MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and WV BUNROOTIS EXISTING MITIGATION HOLDING LLC, a Delaware limited liability company ("Purchaser").

Seller (by and through its operator and manager, Kincheloe Mitigation Holdings LLC) and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream and Wetland Mitigation Credits dated August 3<sup>rd</sup>, 2017 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of Stream Credits and Wetland Credits (each as defined in the Agreement) held in Seller's Kincheloe Stream and Wetland Mitigation Bank located in Lewis and Harrison Counties, West Virginia.

In consideration of the Total Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns, Six Hundred Thirty Nine and 00/100 (639.00) stream mitigation credits and 0.977 wetland mitigation credits, to have and hold all such Stream Credits and Wetland Credits forever. Witness the following authorized signature:

WV BUNROOTIS EXISTING MITIGATION HOLDING  
LLC

By: 

Printed: David E. Gibbons

Its: Authorized Representative

## Foster Run Mitigation Bank Affidavit

EXHIBIT A

**AFFIDAVIT OF CREDIT SALE  
WEST VIRGINIA MITIGATION BANK  
FOSTER RUN MITIGATION BANK SITE**

**TO: WEST VIRGINIA INTERAGENCY REVIEW TEAM**

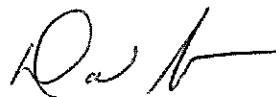
The undersigned, EBX-EM, LLC, the Sponsor of the West Virginia Mitigation Bank (the "Bank"), hereby certifies the following:

1. **Mountain Valley Pipeline, LLC** has deposited monies with the Sponsor sufficient to acquire **362.00 stream mitigation bank credits** (the "Stream Credits") from the Foster Run Mitigation Bank Site of the West Virginia Mitigation Bank for use on its project – Mountain Valley Pipeline Project located within Wetzel and Doddridge Counties, West Virginia; **HUC 05030201 (USACE Permit # LRP-TBD)**.
2. The Sponsor has deducted 362.00 Stream Credits from the Bank's credit ledger for the Foster Run Mitigation Bank Site.

A copy of the Bank's Foster Run Mitigation Bank Site credit ledger reflecting the above transaction is attached to this Affidavit.

**EBX-EM, LLC**

By:



David Joyce, Authorized Agent

Date: 08-XX-2017

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Copies:

Justin Elkins, U.S. Army Corps of Engineers, Huntington District  
Matthew Gilbert, U.S. Army Corps of Engineers, Pittsburgh District  
Matt Hoover, Mountain Valley Pipeline, LLC

## **Spanishburg Mitigation Bank Affidavit**

EXHIBIT A

AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

I, David E. Gibbons, certify that I am now, and at all times mentioned herein have been, the Authorized Representative of WV Bunrootis Existing Mitigation Holdings LLC, a Delaware limited liability company (the "Company"), and as such I hereby certify the following:

The Company (by and through its operator and manager, Spanishburg Mitigation Holdings LLC), as of the date hereof, has granted, sold, conveyed and transferred Six Hundred Seventy Five and 00/100 (675.00) stream mitigation credits (the "Stream Credits") and Two and 839/1000 (2.839) wetland credits wetland mitigation credits to the Mountain Valley Pipeline, LLC, a Delaware limited liability company to offset impacts from their project number LRH-2015-592 from the Spanishburg Stream and Wetland Mitigation Bank located in Mercer County, West Virginia, established under the authority of the United States Army Corps of Engineers – Huntington District Nationwide Permit No. 27 2010-116-NEW issued on October 1, 2013. The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the 20<sup>th</sup> day of November, 2017.

WV Bunrootis Existing Mitigation Holdings LLC,  
a Delaware limited liability company

By: David E. Gibbons

Printed: David E. Gibbons

Title: Authorized Representative

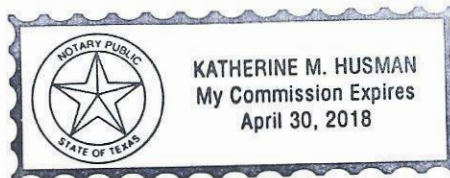
STATE OF TEXAS:

COUNTY OF DALLAS:

Sworn to and subscribed before me this 20<sup>th</sup> day of November 2017 the undersigned Notary Public for and in the jurisdiction aforesaid, by David E. Gibbons, the Authorized Representative of WV Bunrootis Existing Mitigation Holdings LLC, a Delaware limited liability company.

Katherine M. Husman

Notary Public



My commission expires: 4/30/18

EXHIBIT B

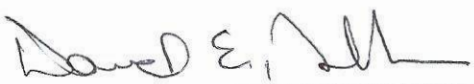
BILL OF SALE

THIS BILL OF SALE is made as of the 20<sup>th</sup> day of November, 2017, by WV BUNROOTIS EXISTING MITIGATION HOLDINGS LLC, a Delaware limited liability company ("Seller"), and MOUNTAIN VALLEY PIPELINE, LLC, a Delaware limited liability company ("Purchaser").

Seller (by and through its operator and manager, Spanishburg Mitigation Holdings LLC) and Purchaser have entered into that certain Agreement for Purchase and Sale of Stream and Wetland Mitigation Credits dated October \_\_\_\_, 2017 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of Stream Credits and Wetland Credits (each as defined in the Agreement) held in Seller's Spanishburg Stream and Wetland Mitigation Bank located in Mercer County, West Virginia.

In consideration of the Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns Six Hundred Seventy Five and 00/100 (675.00) stream mitigation credits (the "Stream Credits") and Two and 839/1000 (2.839) wetland mitigation credits, to have and hold all such Stream Credits and Wetland Credits forever. Witness the following authorized signature:

WV BUNROOTIS EXISTING MITIGATION HOLDING  
LLC

By: 

Printed: David E. Gibbons

Its: Authorized Representative



## **Beverly Mitigation Bank Affidavit**

AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

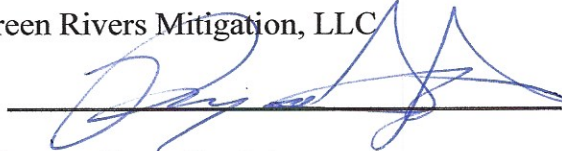
I, Ryan Gaujot, certify that I am now, and always mentioned herein have been, the Authorized Representative of Green Rivers Mitigation, LLC, a West Virginia limited liability company (the "Company"), and as such I hereby certify the following:

The Company, as of the date hereof, has granted, sold, conveyed and transferred 0.7793 Secondary Wetlands Credits to the Mountain Valley Pipeline, LLC, a Delaware limited liability company from the Beverly Bank located in Randolph County, West Virginia established under the authority of the United States Army Corps of Engineers – Pittsburgh District Nationwide Permit No.–LHR-2013-00574-OHR No. 2014-1128 issued on August 14, 2015. The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the 13<sup>th</sup> day of December 2017.

Green Rivers Mitigation, LLC

By:



Printed:

Ryan Gaujot

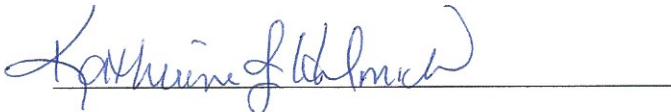
Title:

Authorized Representative

STATE OF WEST VIRGINIA:

COUNTY OF TUCKER:

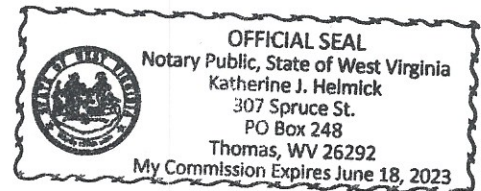
Sworn to and subscribed before me this 13<sup>th</sup> day of December 2017 the undersigned Notary Public for and in the jurisdiction aforesaid, by Ryan Gaujot, the Authorized Representative of Green Rivers Mitigation, LLC.



Notary Public

My commission expires:

June 18, 2023



AFFIDAVIT OF WETLAND AND STREAM MITIGATION SALE

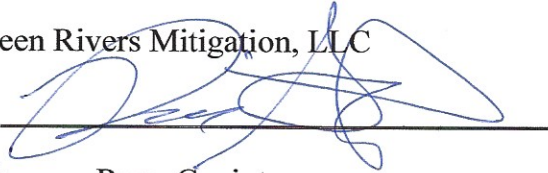
I, Ryan Gaujot, certify that I am now, and always mentioned herein have been, the Authorized Representative of Green Rivers Mitigation, LLC, a West Virginia limited liability company (the "Company"), and as such I hereby certify the following:

The Company, as of the date hereof, has granted, sold, conveyed and transferred 0.5982 Secondary Wetlands Credits to the Mountain Valley Pipeline, LLC, a Delaware limited liability company from the Beverly Bank located in Randolph County, West Virginia established under the authority of the United States Army Corps of Engineers – Pittsburgh District Nationwide Permit No. LHR-2013-00574-OHR No. 2014-1128 issued on August 14, 2015. The execution and delivery of this Affidavit has been duly authorized and is not in violation of the incorporation or organizational documents of the Company or any other agreement, document, or obligation to which the Company is bound.

IN WITNESS WHEREOF, I have duly executed this Affidavit as of the 13<sup>th</sup> day of December 2017.

Green Rivers Mitigation, LLC

By:



Printed: Ryan Gaujot

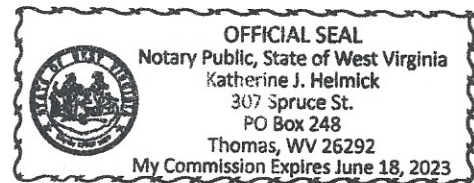
Title: Authorized Representative

STATE OF WEST VIRGINIA:

COUNTY OF TUCKER:

Sworn to and subscribed before me this 13<sup>th</sup> day of December 2017 the undersigned Notary Public for and in the jurisdiction aforesaid, by Ryan Gaujot, the Authorized Representative of Green Rivers Mitigation, LLC.

  
Notary Public



My commission expires: June 18, 2023

EXHIBIT B

BILL OF SALE

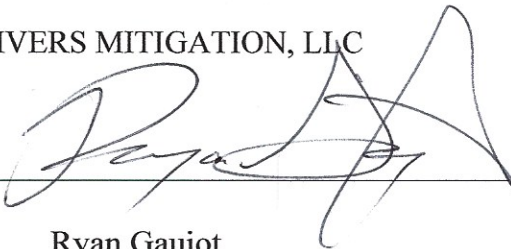
THIS BILL OF SALE is made as of the 13<sup>th</sup> day of December 2017, by GREEN RIVERS MITIGATION, LLC, a West Virginia limited liability company ("Seller"), and MOUNTAIN VALLEY PIPELINE, LLC, a Delaware limited liability company ("Purchaser").

Seller and Purchaser have entered into that certain Agreement for Purchase and Sale of Wetland Credits dated November 7, 2017 (the "Agreement"), the terms of which are incorporated herein by reference and made a part hereof, with respect to the sale by Seller and the purchase by Purchaser of Secondary Wetlands Credits (as defined in the Agreement) held in Seller's Beverly Bank located in Randolph County, West Virginia.

In consideration of the Total Purchase Price (as defined in the Agreement) and other good and valuable consideration, the receipt and sufficiency of which are mutually acknowledged, Seller hereby sells, transfers, assigns, conveys, delivers, and sets over to Purchaser, its successors, or assigns, 1.3775 Secondary Wetlands Credits, to have and hold all such Secondary Wetlands Credits forever. Witness the following authorized signature:

GREEN RIVERS MITIGATION, LLC

By:

A handwritten signature in black ink, appearing to read "Ryan Gaujot", is written over a horizontal line. The signature is stylized and somewhat cursive.

Printed: Ryan Gaujot

Its: Authorized Representative

**Banister Bend Mitigation Bank  
Purchase and Sales Agreement**

## Purchase and Sale Agreement

THIS PURCHASE AND SALE AGREEMENT (this “Agreement”), dated as of November 30<sup>th</sup>, 2017, is made by and between **Banister Bend Farm, LLC**, a Virginia Limited Liability Company (“Seller”), and **Mountain Valley Pipeline, LLC, a Delaware Limited Liability Company** (“Purchaser”).

### RECITALS:

A. Seller owns certain rights in and to certain real property consisting of approximately 226+- acres located in Pittsylvania County, Virginia (the “Property”). The United States Army Corp of Engineers (“USACE”) and the Virginia Department of Environmental Quality (“DEQ”) have authorized the creation of a wetland mitigation bank and stream mitigation bank on the Property known as the Banister Bend Mitigation Bank (the “Bank”) and the sale of wetland and stream mitigation credits in the Bank to third parties to mitigate impacts on wetlands and other waters of the United States.

B. Pursuant to the ACOE permit #17-1609, the Army Corp of Engineers has approved unavoidable impacts to certain wetlands, waters of the United States, drainage ways and riparian buffers at the project sites described in the Permit (the “Project”) upon the condition that the Purchaser shall acquire 7.1 wetland mitigation credits from the Bank: 1.74 Wetland credits are for impacts in the Geographical Service Area and an additional 5.36 Wetland credits (2.68 credits at a 2:1 ratio) for out of GSA ( collectively the “Bank Credits”).

C. Purchaser wishes to purchase and Seller wishes to sell on the terms set forth in the Agreement the Bank Credits for the purpose of satisfying the Permit mitigation obligations.

### AGREEMENT:

NOW, THEREFORE, in consideration of the sum of FOUR HUNDRED SIXTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$461,500.00), cash in hand paid by Purchaser to Seller and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Agreement to Sell and to Purchase. Seller shall sell to Purchaser, and Purchaser shall buy from Seller, the Bank Credits for the purpose of satisfying the Permit mitigation obligations and in accordance with the terms and conditions set forth in this Agreement. Seller shall be responsible for all permit requirements applicable to the Bank.

2. Purchase Price. In consideration of Seller entering into this Agreement, Purchaser shall pay to Seller the sum of FOUR HUNDRED SIXTY ONE THOUSAND FIVE HUNDRED DOLLARS (\$461,500.00) by mailing a certified or cashier’s check at Closing to the Seller at the address set forth in Paragraph 8, below.

3. Closing.

(a) Date and location. Closing shall occur on a mutually agreeable date. Purchaser will complete the transaction by mailing payment to Seller (Banister Bend Farm, LLC, attn.: Andrew D. Wall – PO Box 1069 – Chatham, Va. 24531

(b) Deliveries at Closing. At Closing, Seller shall (i) execute and deliver to Purchaser an Affidavit of Credit Sale in the form attached hereto as Exhibit A (the “Affidavit”), and (b) execute and deliver to Purchaser a Bill of Sale in the form attached hereto as Exhibit B (the “Bill of Sale”). At Closing, Purchaser shall pay the Purchase Price to Seller.

(c) Delivery to the Army Corp of Engineers. Promptly following Closing, Seller shall provide the Army Corp of Engineers with a copy of the executed Affidavit of Credit and Bill of Sale.

(d) Closing Costs. Seller shall pay the cost of preparing the Bill of Sale and Affidavit, and other costs of Closing, if any.

4. Seller’s Representations and Warranties. Seller hereby makes the following representations and warranties:

(a) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A and C above.

(b) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of Seller, constitutes the binding agreement of Seller and is enforceable in accordance with its terms. The Seller has full power and authority to sell the Bank Credits to Purchaser and upon payment of the purchase price, Purchaser will be the sole and rightful owner of Bank Credits.

(c) Reservation of Mitigation Capacity. During the period beginning on the date of execution of the Agreement and ending upon the earlier of (i) Closing or (ii) termination of this Agreement, Seller will not sell wetland or stream credits in the Bank that would cause the remaining credits to be insufficient for the purpose of satisfying Seller’s obligations under this Agreement.

(d) Compliance with Laws. Seller will comply with all applicable laws and regulations relating to the creation and maintenance of the Bank and the sale of the Bank Credits to Purchaser.

(e) Wetland Credits. The Wetland Credits qualify as Palustrine (PFO).

(f) Seller shall deliver the Bank Credits to Purchaser free and clear of any liens, security interests or other encumbrances.

(g) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder

5. Purchaser's Representations and Warranties. Purchaser hereby makes the following representations and warranties as of the date of this Agreement:

(a) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of Purchaser, constitutes the valid and binding agreement of the Purchaser and is enforceable in accordance with its terms.

(b) Reliance. In entering into this Agreement, Purchaser has not been induced by, and has not relied upon, any representations, warranties or statements, whether express or implied, made by the Seller or any agent, employee or other representative of the Seller, which are not expressly set forth herein.

(c) Purchaser expressly represents, warrants and covenants the matters set forth as Recitals B and C above.

6. Default.

(a) By Purchaser. If Purchaser defaults in performing any of Purchaser's obligations under this Agreement, and if such default continues for a period of ten (10) days after Seller has provided written notice to Purchaser of such default, Seller may terminate this Agreement by providing written notice to Purchaser. Upon such termination neither party shall have any further rights or obligations hereunder, except as expressly provided herein. Seller expressly waives any right that Seller may have to damages, whether compensatory, hereby consequential or otherwise, or to seek specific performance from Purchaser as a result of such default.

(b) By Seller. If Seller defaults in performing any of Seller's obligations under this Agreement, and such default continues for a period of ten (10) days after Purchaser has provided written notice to Seller of such default, the Purchaser's sole remedy shall be to terminate this Agreement by providing written notice thereof to Seller, in which event neither party shall have any further rights or obligations hereunder, except as expressly provided herein

(c) Attorney's Fees. In the event of any litigation between Seller and Purchaser, the prevailing party shall be entitled to an award of its costs incurred in such litigation, including reasonable attorneys' fees and costs, and court costs.

7. Effect of Condemnation, Regulatory Action or Unavoidable Delays.

(a) Condemnation. If the Property or any part thereof is taken prior to Closing pursuant to eminent domain proceedings, or if such proceeding are commenced prior to Closing, and as a result Seller determines that it will be unable to sell the Wetland Mitigation Credits to Purchaser at Closing as specified in this Agreement, then Seller may terminate this Agreement by providing written notice to Purchaser at any time prior to Closing. If Seller elects to terminate this Agreement as provided in this subparagraph, neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

(b) Regulatory Action.



(i) If Seller is unable to sell the Bank Credits to Purchaser as provided in this Agreement because of the action or order of any regulatory agency, regardless of whether or not Seller has contested or challenged such action or order, Seller may terminate this Agreement by providing written notice to Purchaser. If Seller elects to terminate this Agreement as provided in this subparagraph, and such termination occurs prior to Closing, then neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

(ii) If prior to Closing, Purchaser is prevented by any regulatory agency from satisfying the Mitigation Obligation by purchasing the Bank Credits as provided in this Agreement, or if Purchaser's mitigation plan is not approved by the Army Corp of Engineers, as may be required, Purchaser may terminate this Agreement by providing written notice to Seller. If Purchaser elects to terminate this Agreement as provided in this subparagraph, then neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

8. Indemnities, Notice.

(a) Seller's Indemnities. Seller shall indemnify, defend and hold harmless Purchaser and Purchaser's authorized successors and assigns from and against any action, order, investigation or proceeding initiated by any government agency and arising from or based upon Seller's breach of the representations and warranties contained in Paragraph 4.

(b) Survival. The indemnity provisions of this paragraph shall survive Closing and termination of this Agreement for a period of five (5) years after the date of this Agreement.

(c) Notices. Each notice, request, demand or other communication hereunder will be in writing and will be deemed to have been duly given (i) when delivered by hand, or (ii) three (3) business days after deposit in United States certified or registered mail, postage pre-paid, return receipt requested, or (iii) one (1) business day after delivery to a recognized overnight courier service, in each case addressed to the parties at the following addresses:

If to Seller: Banister Bend Farm, LLC  
ATTN: Ben Davenport, Jr. – (Manager)  
P.O. Box 1069  
Chatham, Va. 24531

With a copy to: Andrew Davenport Wall  
P.O. Box 1069  
Chatham, Va. 24531

If to Purchaser: Mountain Valley Pipeline, LLC  
ATTN: Robert J. Cooper, SVP-MVP Engineering and Construction  
Mountain Valley Pipeline  
625 Liberty Avenue, Suite 1700  
Pittsburgh, PA 15222

Each party shall have the right to change its address by providing the other party with at least ten (10) days prior written notice of the change.

9. Brokers. Each party hereunder represents and warrants that it did not consult or deal with any broker or agent with regard to this Agreement or the transactions contemplated hereby.

10. Entire Agreement and Modifications. There are no other agreements or understandings, written or oral, between the parties regarding this Agreement or the subject matter hereof. This Agreement shall not be modified or amended except by a written document executed by both parties to this Agreement.

11. Governing Law. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to its conflict of laws and principals.

12. Compliance with Applicable Laws. Both parties shall comply with all applicable federal, state and local law, regulations and restrictions in the conduct of their obligations under this Agreement.

13. Severability. The provisions of this Agreement shall be deemed severable and, if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the parties.

14. Binding Agreement. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and assigns. Any proposed assignment shall be subject to the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed.

15. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same Agreement.

16. Employment Discrimination. During the performance of this Agreement, the Seller agrees as follows:

a. The Seller will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state and federal law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The Seller agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

b. The Seller, in all solicitations or advertisements for employees placed by or on behalf of the Seller, will state that such Seller is an equal opportunity employer.

c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulations shall be deemed sufficient for the purpose of meeting the requirements of this section.

d. The Seller will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or purchase order of over \$10,000.00, so that the provisions will be binding upon each subcontractor or vendor.

17. **Drug Free Workplace.** During the performance of this contract, the Seller agrees to (i) provide a drug-free workplace for the Seller’s employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that an unlawful manufacture, sale, distribution, dispensation, possession or use of a controlled substance or marijuana is prohibited in the Seller’s workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisement for employees placed by or on behalf of the Seller that the Seller maintains a drug-free workplace; and (iv) include the provisions of the forgoing clauses in every subcontract or vendor. For the purpose of this section, “drug-free workplace” means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, in which the employees are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

18. **Nondiscrimination Statement.** In accordance with the Code of Virginia sections 2.2-4310 and 2.2-4343.1, Purchaser does not discriminate against faith-based organization or against a bidder or offer or because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

WITNESS the following signatures:

SELLER:                      Signature for Seller:  
    **Banister Bend Farm, LLC.**

Date: \_\_\_\_\_

By: \_\_\_\_\_

AGENT

TIN: \_\_\_\_\_

PURCHASER:                Signature for Purchaser:

By: **Mountain Valley Pipeline, LLC.**

Date: November 30, 2017

By: Robert J. Cooper

Name: Robert J. Cooper

Title: SVP-MVP Construction and Engineering

TIN: 61-1744744

**Graham and David Mitigation Bank  
Purchase and Sales Agreement**

## PURCHASE AND SALE AGREEMENT

**THIS PURCHASE AND SALE AGREEMENT** (this "Agreement"), dated as of **November 30, 2017**, is made by and between **GRAHAM AND DAVID MITIGATION BANK, LLC**, a Virginia limited liability company ("Seller"), and **Mountain Valley Pipeline, LLC**, a Delaware limited liability company ("Purchaser"). Seller and Purchaser are collectively referred to herein as the "Parties".

### **RECITALS:**

A. Seller is the owner and sponsor of a compensatory stream mitigation bank ("Bank") consisting of 427 +/- acres, more or less, located in Montgomery County, Virginia. Pursuant to that certain Mitigation Banking Instrument ("MBI") approved by the U.S. Army Corps of Engineers ("Corps") and the Virginia Department of Environmental Quality ("VDEQ") on May 5, 2014, a copy of which is attached hereto and incorporated herein by reference as Exhibit A, Seller has been authorized to sell mitigation credits generated from the Bank to compensate for unavoidable impacts to waters of the United States, including streams, caused by projects approved pursuant to permits or authorizations granted by the Corps and VDEQ ("Bank Credits"). Operation, management and maintenance of the Bank are subject to the requirements of the MBI and to the statutes, regulations and policies cited therein.

B. Purchaser holds USACE/DEQ Permit #: **17-1609** for impact to streams as part of the Mountain Valley Pipeline Project located in Montgomery, Roanoke, Franklin and Pittsylvania Counties, Virginia (the "Project"). Purchaser proposes to mitigate these impacts by purchasing Bank Credits (as defined herein) from Seller (the "Mitigation Obligation").

C. Purchaser wishes to purchase and Seller wishes to sell on the terms set forth in this Agreement the Bank Credits for the purpose of satisfying the Mitigation Obligation.

### **AGREEMENT:**

NOW, THEREFORE, in consideration of the sum of TEN DOLLARS (\$10.00), cash in hand paid by Purchaser to Seller and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser hereby agree as follows:

1. Recitals. The foregoing Recitals are hereby incorporated into this Purchase Agreement as a matter of contract and not mere recital.
2. Agreement to Sell and to Purchase. Seller shall sell to Purchaser, and Purchaser shall buy from Seller, **298** Bank Credits for the purpose of satisfying the Mitigation Obligation within the Bank's direct service area in accordance with the terms and conditions set forth in this Agreement.

3. Purchase Price. In consideration of Seller entering into this Agreement, Purchaser shall pay to Seller the sum of **Seventy Thousand and Thirty Dollars (\$70,030.00)** for the Bank Credits used to satisfy the Mitigation Obligation within the Bank's service area (the "Purchase Price") as follows: by either delivering a company, certified or cashier's check made out to **GRAHAM AND DAVID MITIGATION BANK, LLC** or by making a wire transfer of immediately available federal funds to an account at a financial institution designated in writing by Seller.

4. Closing.

(a) Closing. Closing on the purchase and sale of the Bank Credits pursuant to this Agreement ("Closing") shall be held at a location mutually agreeable to Purchaser and Seller, at a time and date to be agreed upon by the Parties, but not later than 5:00 p.m. on N/A unless Seller consents in writing to a later date. Closing shall be contingent on Bank Approval.

(b) Deliveries at Closing. At Closing, Seller shall (i) execute and deliver to Purchaser an Affidavit of Credit Sale and (b) execute and deliver to Purchaser a Bill of Sale. At Closing, Purchaser shall pay the Purchase Price to Seller.

(c) Delivery to Corps/VDEQ. Promptly following closing, Seller shall provide the Corps and/or VDEQ with an original, executed Affidavit.

(d) Closing Costs. Seller shall pay the cost of preparing the Affidavit and Bill of Sale and Seller's attorney's fees. Purchaser shall pay Purchaser's attorney's fees and other costs of Closing, if any.

5. Seller's Representations and Warranties. Seller hereby makes the following representations and warranties:

(a) Seller expressly represents, warrants, and covenants the matters set forth as Recitals A, B, and C, above.

(b) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of Seller, constitutes the binding agreement of Seller and is enforceable in accordance with its terms.

(c) Reservation of Mitigation Capacity. During the period beginning on the date of execution of this Agreement and ending upon the earlier of (i) Closing or (ii) termination of this Agreement, Seller will not sell Bank Credits in the Bank that would cause the remaining credits to be insufficient for the purpose of satisfying Seller's obligations under this Agreement.

(d) Compliance with Laws. Seller will comply with all applicable laws and regulations relating to the sale of the Bank Credits to Purchaser and with the terms of the MBI relating to the establishment and operation of the Bank.

(e) Seller shall deliver the Bank Credits to Purchaser free and clear of any liens, security interests or other encumbrances.

(f) There is no pending or threatened action or proceeding affecting Seller before any court, governmental agency, or arbitrator that would adversely affect Seller's ability to comply with its obligations hereunder.

6. Purchaser's Representations and Warranties. Purchaser hereby makes the following representations and warranties as of the date of this Agreement.

(a) Authorization, Execution and Delivery. This Agreement has been duly authorized, executed and delivered by all necessary action on the part of Purchaser, constitutes the valid and binding agreement of the Purchaser and is enforceable in accordance with its terms.

(b) Seller's Warranties Acknowledged. The Seller has not made and does not make any representations or warranties, either express or implied, with respect to the Bank Credits, other than as expressly set forth in Paragraph 5, and in entering into this Agreement, Purchaser has not been induced by, and has not relied upon, any representations, warranties or statements, whether express or implied, made by the Seller or any agent, employee or other representative of the Seller, which are not expressly set forth herein. This Paragraph shall survive Closing and delivery of the Bank Credits.

7. Default.

(a) By Purchaser. If Purchaser defaults in performing any of Purchaser's obligations under this Agreement, and if such default continues for a period of ten (10) days after Seller has provided written notice to Purchaser of such default, Seller may terminate this Agreement by providing written notice to Purchaser. Upon such termination the Deposit shall be disbursed to Seller as Seller's sole and exclusive remedy and neither party shall have any further rights or obligations hereunder, except as expressly provided herein. Seller hereby expressly waives any right, other than the foregoing right to retain the Deposit, that Seller may have to damages, whether compensatory, consequential or otherwise, or to seek specific performance from Purchaser as a result of such default.

(b) By Seller. If Seller defaults in performing any of Seller's obligations under this Agreement, and such default continues for a period of ten (10) days after Purchaser has provided written notice to Seller of such default, the Purchaser may terminate this Agreement by providing written notice thereof to Seller, and receive a refund of the Deposit,

(c) Attorneys' Fees. In the event of any litigation between Seller and Purchaser, the prevailing party shall be entitled to an award of its costs incurred in such litigation, including reasonable attorneys' fees and costs, and court costs.

8. Effect of Condemnation, Regulatory Action or Unavoidable Delays.

(a) Condemnation. If the Bank Property or any part thereof is taken prior to Closing pursuant to eminent domain proceedings, or if such proceedings are commenced prior to Closing, and as a result Seller determines that it will be unable to sell the Bank Credits to Purchaser at Closing as specified in this Agreement, then Seller may terminate this Agreement by providing written notice to Purchaser at any time prior to Closing. If Seller elects to terminate this Agreement as provided in this subparagraph, the Deposit shall be refunded to Purchaser and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

(b) Regulatory Action.

(i) If Seller is unable to sell the Bank Credits to Purchaser as provided in this Agreement because of the action or order of any regulatory agency, regardless of whether or not Seller has contested or challenged such action or order, Seller may terminate this Agreement by providing written notice to Purchaser at any time prior to Closing. If Seller elects to terminate this Agreement as provided in this subparagraph, and such termination occurs prior to Closing, then the Deposit shall be refunded to Purchaser.

(ii) If prior to Closing Purchaser is prevented by any regulatory agency from satisfying the Mitigation Obligation by purchasing the Bank Credits as provided in this Agreement, or if Purchaser's mitigation plan is not approved by the Corps or VDEQ, as may be required, Purchaser may terminate this Agreement by providing written notice to Seller at any time prior to Closing. If Purchaser elects to terminate this agreement as provided in this subparagraph, then the Deposit shall be refunded to Purchaser and neither party shall have any further rights or obligations hereunder, except as expressly provided herein.

9. Indemnities.

(a) Seller's Indemnities. Seller shall indemnify, defend and hold harmless Purchaser and Purchaser's authorized successors and assigns from and against any action, order, investigation or proceeding initiated by any government agency and arising from or based upon Seller's breach of the representations and warranties contained in Paragraph 6 and/or Seller's failure to comply with this agreement.

(b) Purchaser's Indemnities. Purchaser shall indemnify, defend and hold harmless the Seller from and against any action, order, investigation or proceeding initiated by any government agency and arising from or based upon Purchaser's breach of the representations and warranties contained in Paragraph 7 and/or Purchaser's failure to comply with the agreement.

(c) Survival. The indemnity provisions of this Paragraph shall survive Closing or termination of this Agreement for a period of three (3) years after the date of Closing or termination, as applicable.

10. Credit Not Real Estate. The sale and conveyance of the Credits to Purchaser in



accordance with this Agreement shall not constitute the conveyance or transfer of any right, interest or ownership in real property or in the Bank Property, nor shall such sale and conveyance impose upon Purchaser any obligation, duty or liability arising from or incident to ownership of or interest in real property. Purchaser shall have no right of access to the Bank Property.

11. Notices. Each notice, request, demand or other communication hereunder will be in writing and will be deemed to have been duly given (i) when delivered by hand, or (ii) three (3) business days after deposit in United States certified or registered mail, postage pre-paid, return receipt requested, or (iii) one (1) business day after delivery to a recognized overnight courier service, in each case addressed to the Parties at the following addresses:

If to Seller: Graham and David Mitigation Bank, LLC  
ATTN: Joyce Graham, Managing Member  
4537 Graham Street  
P O Box 144  
Elliston, VA 24087

If to Purchaser: Mountain Valley Pipeline, LLC  
ATTN: Robert J. Cooper, SVP -  
MVP Engineering and Construction  
625 Liberty Avenue  
Pittsburgh, PA 15222-3114

Each party shall have the right to change its address by providing the other party with at least ten (10) days prior written notice of the change.

12. No Joint Venture. This Agreement is made solely for the purposes set forth herein and no joint venture, partnership or other relationship between Purchaser and Seller is created hereby.

13. No Third-Party Beneficiary. This Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and authorized assigns. This Agreement does not create or convey any rights, benefits or interests on behalf of any other person.

14. Entire Agreement and Modifications. There are no other agreements or understandings, written or oral, between the Parties regarding this Agreement or the subject matter hereof. This Agreement shall not be modified or amended except by a written document executed by both Parties to this Agreement.

15. Governing Law. The validity, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to its conflict of laws principals.

16. Compliance with Applicable Laws. Both Parties shall comply with all applicable federal, state and local laws, regulations and restrictions and the conditions of any regulatory approvals affecting the conduct of their obligations under this Agreement.

17. Severability. The provisions of this Agreement shall be deemed severable and, if any portion shall be held invalid, illegal or unenforceable for any reason, the remainder of this Agreement shall be effective and binding upon the Parties.

18. Binding Agreement/Assignment. This Agreement shall bind and inure to the benefit of the Parties hereto and their respective successors and assigns. Any proposed assignment shall be subject to the prior written consent of the other party, which consent shall not be unreasonably withheld or delayed, and any assignee shall assume the rights and obligations of its assignor.

19. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute an original and all of which together shall constitute one and the same Agreement.

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURES APPEAR ON THE FOLLOWING PAGE]

WITNESS the following signatures:

SELLER:

Graham and David Mitigation Bank, LLC

By: \_\_\_\_\_

Name: Joyce L. Graham

Title: Managing Member

TIN: 46-5319119

PURCHASER:

Mountain Valley Pipeline, LLC

By: Robert J. Cooper

Name: Robert J. Cooper

Title: SVP-MVP Construction and Engineering

TIN: 61-1744744