

Virginia Department of Environmental Quality's investigation into the Mountain Valley Watch report titled "Mountain Valley Pipeline Stabilization, Franklin County, VA"

April 15, 2021

On March 30, 2021, Mountain Valley Watch (MVW) submitted a report via email to the Department of Environmental Quality (DEQ). The title of the undated report is "Mountain Valley Pipeline Stabilization, Franklin County, VA". The report is comprised of 3 pages of text followed by 71 aerial and ground-level photographs of portions of Mountain Valley Pipeline's (MVP or project) ROW's Spreads H and I in Franklin County. The photos cover a distance of about 38 miles.

The report introduces itself as "a continuation of observations from aerial flights and ground reconnaissance of the Mountain Valley Pipeline." It is identical in form to a report MVW submitted earlier in the month concerning the portion in Spread I in Pittsylvania County. Like the previous report, it includes a brief discussion of the two Minimum Standards (MS) from the Virginia Erosion and Sediment Control (ESC) Regulation addressing stabilization during regulated land-disturbing activities and excerpts from Standards and Specifications 3.31 and 3.32 for Temporary and Permanent Seeding, from the *Virginia Erosion and Sediment Control Handbook*. This is followed by brief remarks on the Franklin County soils found on the project. The text is followed by captioned aerial and ground level photographs. Most of the photographs were taken in January 2021, with a few others from 2019 for comparison purposes. For the most part, the photographs identify areas where vegetation cover is sparse with a request for inspection to require additional seeding. (Photos 1. and 2.) Other photographs are accompanied by captions, which allege discharges of sediment from the project. DEQ immediately investigates and takes action where needed on all the complaints and allegations of non-compliance it receives. In response to MVW's report, DEQ investigated the areas noted in the report for compliance with the regulation and for impacts caused by the project to natural resources and offsite properties.

No exception is taken to MVW's observations that many areas are sparsely vegetated and the temporary stabilization needs maintenance. The aerial photographs were taken by MVW in January, when much of the vegetation stabilizing the right-of-way (ROW) is at the end of its effective life. The MVW report incorrectly stated that Minimum Standard 1, requires "the use of vegetation to stabilize soil and prevent erosion during and after land-disturbing activities". This implies that because the MVP ROW is not stabilized with vegetation, the project is not in compliance with the ESC Regulation. As the MVW report correctly notes, Minimum Standard 1 of the ESC regulation addresses soil stabilization. It does not specify that stabilization must be provided by vegetation. Because establishing and maintaining vegetation is not always possible on construction sites due to staging or seasonal constraints, other methods of stabilization may be applied. MVP has several approved alternative methods of soil stabilization, which it employs when vegetative stabilization is not successful or feasible. Although not always evident in the aerial photographs, soil stabilization has been maintained by MVP throughout the course of the project, per the requirements of Minimum Standard 1 and verified by DEQ field inspectors, through the application of straw, blankets and matting or soil stabilization pellets as exhibited in

Photos 3 & 4 of this report. When alternative methods of stabilization are used, and there may not be a highly visible ground cover, close inspection of the soil is necessary to verify that rill erosion and sediment transport is not occurring.

The report also alleges that Minimum Standard 3 requires the ROW to have been permanently stabilized, since it has been dormant for one year. The MVP project has experienced long delays to construction and its schedule for completion has remained unclear. There has been no schedule for completion that specified the project would be maintained at temporary grade but dormant for over one year. At this time, a relatively few areas in Franklin County have been taken to the stage of construction where the ROW is returned to finish grade, topsoil spread and prepared for final seeding. However, throughout the duration of the project, soil stabilization has been required and MVP has maintained temporary stabilization on the unfinished areas of the ROW. In the areas where the ROW has been restored and seeded with its permanent seed mixture, there is an excellent stand of permanent perineal vegetation as required by the Regulations. (Photo 5.)

The first paragraph of the MVW report states, “No construction activity was observed during January and February, including maintenance of erosion control devices and seeding of ROW.” While it may be true that no activity was observed by MVW, the implication that no activity including maintenance, took place during January and February of this year is not correct. All across the length of the project in Franklin County, reseeding and stabilization of ROW began in January and has continued through March. (Photos 6. & 7.) During those months since the MVW aerial photos were taken, the entire right-of way has been inspected, reseeded, and re-stabilized where needed. At this time, the primary request made in the MVW report - to inspect the ROW in Franklin County for sparse vegetation and re-seed as necessary – has already been carried out. The discussion which follows addresses specific issues beyond stabilization which are alleged in the captions accompanying the MVW photographs

The photo from milepost (MP) 283.6 shows a portion of a pond adjacent to the ROW. The water in pond is colored with sediment and the caption requests inspection for sediment runoff to the pond, implying that the source of the sediment is the project. The photo also shows the right-of way necking down at the bridge crossing, the ground surface nearly completely stabilized and the perimeter control measures clearly evident and in good condition. What is not shown so clearly in the photo is that the pond and ROW are in an active cow pasture. Cows have access to this pond and there is additional drainage from barns/feeding areas upslope that are not pictured. After rain events, many farm ponds in Franklin County that are well away from the project become similarly colored with sediment from agricultural activities in their watersheds.

Photos at MPs 269.7, 269.4, 269.3 show sediment deposits in the Blackwater River and implies that sediment from the project has been deposited in the channel. (Photo 8.) Inspectors on the ground at this location have observed that there is no evidence of sediment leaving the ROW and the sediment pictured is from natural stream channel deposition. (Photo 9.) Likewise, the sediment pictured in the channel at MP 272.1 is from natural stream deposition. The light colored areas in the aerial picture are rocks and sand from stream deposition, and curlex erosion control blanket material that has been applied to the stream bank.

The photo from MP 265 shows an offsite pond discharging its emergency spillway onto the ROW and causing erosion. This known issue has been an ongoing concern for DEQ and MVP has been working with the owner of the offsite pond for a resolution. Rather than armoring the emergency spillway and constructing a stabilized channel for the pond to continue to overflow through, the owner has recently repaired the pond's principal spillway and it is functioning properly now. The pond no longer overflows constantly across the emergency spillway. (Photo 10.) The discharge is now through the principal spillway, into a channel that is off the MVP ROW. As conditions allow, the eroded channel on the ROW will be backfilled and stabilized.

The MVW aerial photos show a slip at MP 250.8 where a fissure has formed at the top of a layer of soil on a steep slope. (Photo 11.) MVP inspectors first observed this slip immediately after Tropical Storm Eta on November 12, 2020. The slip has been stabilized and presently an engineering plan is being designed by MVP to repair and permanently remedy the instability here. In addition to the engineering plan, MVP must submit a revised erosion and sediment control plans to DEQ for approval and prepare a request for a variance from the Federal Energy Regulatory Commission (FERC), since the repair will involve work off of the approved ROW.

The MVW photo taken at MP 249.9 (Photo 12.) shows a length of the ROW where it alleges sediment is being discharged from the ROW. During a recent inspection, it was observed that this area outside of the ROW was recently logged and there has been extensive land-disturbance from both the logging and from non-project related 4-wheel drive activities. (Photo 13)

The concerns alleged in this MVW report were not submitted to DEQ until over 2 months after they were observed. During that time, MVP, through its required self-inspections and DEQ, through its staff and contract inspectors from the consulting firm MBP, have maintained a routine of regular inspections and have inspected all of the portions of the project in Franklin County at least twice. Outside of the MVW report, DEQ has not received complaints or reports of alleged noncompliance from anyone in Franklin County in 2021 to date.

In conclusion, DEQ's investigation into the March 30, 2021, MVW report did not reveal non-compliance on behalf of MVP. DEQ's certified ESC inspectors and contractors continue to monitor ESC best management practices deployed by MVP in the field five to six days per week and eight to ten hours per day.

Prepared by:



John R. McCutcheon
DEQ Construction Stormwater Inspection Coordinator

Photo 1.
MVW aerial photo and caption.



Milepost 271.4 [G0020328](#)
Inspection requested for sparsely
vegetated area. Reseeding needed.

Photo 2.
MVW aerial photo and caption.



Milepost 260.2 [G0020665](#)
Inspection requested for sparsely vegetated
areas.

Photo 3. MBP photo showing straw providing
temporary soil stabilization.



Photo 4. MBP photo showing blankets and matting providing
temporary soil stabilization.



Photo 5. MBP photo showing permanent vegetation.



Photo 6. MVP photo showing hydraulic application of seed.



Photo 7. MBP photo showing newly seeded ROW.



Photo 8. MVW photo alleging sediment deposition into stream channel.



Milepost 269.4 [DSC_0162](#)
Inspection requested for apparent evidence of sediment runoff into stream and sparsely vegetated areas.

Photo 9. MBP photo showing natural stream sediment deposition.



Photo 10. DEQ photo showing pond emergency spillway no longer discharging from the surface of the pond. .



Photo 11. MVW photo soil slip. MVP has stabilized this area and is currently working on a plan to remedy the slip.



Milepost 250.8 [G0020905](#) and [DSC_0468](#)

Large slip is visible on the left side of ROW. Inspection requested for visible slip.

Photo 12. MVW alleging sediment is being discharged from the ROW.



Milepost 249.9 [G0020965](#)
Inspection requested for evidence of sediment off the left side of ROW.

Photo 13. MBP photo from April 2, 2021 showing land-disturbance outside the ROW from logging and 4-wheel drive activities.

