

WV DEP chief Caperton refuses hearing on MVP pipeline appeal

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The Justice administration has quietly refused to schedule a hearing on an appeal of a state authorization for the controversial Mountain Valley Pipeline.

Last week, Department of Environmental Protection Secretary Austin Caperton signed a letter in which he denied a request for a hearing on an appeal challenging DEP's approval of a Clean Water Act certification for the MVP project.

The [two-paragraph letter](#), dated May 10, did not state a reason for denial. The letter was sent to the environmental law firm Appalachian Mountain Advocates, which had challenged the DEP's authorization, and to three citizens who filed their own legal appeals.

DEP did not otherwise publicly announce its decision, and agency public information officer Jake Glance did not respond to a request for comment on Caperton's decision.

Unlike many other permitting decisions, an appeal of a DEP 401 certification does not go to a board like the state Environmental Quality Board, but to the agency secretary. Under [DEP's own rules](#), the secretary has discretion on whether to even hold a hearing on such an appeal.

When it initially approved the pipeline's 401 certification, the DEP [issued a press release](#) about the action, and pointed members of the media to the MVP developer's website for "information about the potential economic benefit" of the project.

The [Mountain Valley Pipeline](#) would run about 300 miles from Northwestern West Virginia to Southern Virginia. It is a joint project of EQT Midstream Partners LP; NextEra US Gas Assets LLC; WGL Midstream; and Vega Midstream MVP LLC. According to DEP, the pipeline originates in Wetzel County and goes through Harrison, Doddridge, Lewis, Braxton, Webster, Nicholas, Greenbrier, Fayette, Summers, and Monroe Counties before entering Virginia.

The permit in question is a certification [under Section 401 of the Clean Water Act](#) that the pipeline activity will not violate the state's water quality standards or stream designated uses. In appealing the DEP's approval, citizens and organizations [said the agency did not have enough information](#) to draw such a conclusion.

Derek Teaney, senior attorney with Appalachian Mountain Advocates, said individual citizens and groups that he represents are highly likely to appeal Caperton's decision to the 4th Circuit Court of Appeals.

"It's really disappointing that the secretary of the DEP so cursorily rejected our request for a hearing," Teaney said Tuesday. "But it's not surprising given how little attention the agency gave the application in the first instance, accepting such limited information from the applicant."

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