

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
ROANOKE DIVISION

MOUNTAIN VALLEY PIPELINE, LLC, )  
)  
Plaintiff, )

v. )

Case No. 7:23cv00809

PHILIP ATETO )  
1800 Poplar Avenue )  
Annapolis, Maryland 21401-3236, )

BARKHA BHANDARI )  
310 Elm Street, Apt. 1 L )  
Northampton, Massachusetts 01060, )

JOEL DAVIS )  
15120 Gorgeous View Trail )  
Little Rock, Arkansas 72210, )

KIDUS GIRMA )  
5749 Gaston Avenue )  
Dallas, Texas 75214, )

KLEA HAZIZAJ )  
3133 Rochambeau Avenue )  
Bronx, New York 10467, )

DEVORA KLIONSKY )  
5215 S. Dorchester Avenue, Apt. 2 )  
Chicago, Illinois 60615, )

CHRISTIAN SHUSHOK )  
331 Airport Road )  
Blacksburg, Virginia 24060, )

SLOAN TOUCHET )  
1909 Old Orchard Drive )  
Dallas, Texas 75208, )

BRYNN CASSIDY WEST )  
971 Cole Comfort Road )  
Dillwyn, Virginia 23936, )  
 )  
Defendants. )

COMPLAINT

Plaintiff Mountain Valley Pipeline, LLC (“MVP”), by counsel, for its complaint against defendants Philip Ateto, Barkha Bhandari, Joel Davis, Kidus Girma, Klea Hazizaj, Devora Klionsky, Christian Shushok, Sloan Touchet, and Brynn Cassidy West, states as follows:

INTRODUCTION

1. This is an action for an injunction and damages for interference with federal authorizations for work being performed by MVP in the Jefferson National Forest. The work is authorized by a Record of Decision issued by the United States Department of Agriculture, United States Forest Service, and Record of Decision and Right of Way Grant and Temporary Use Permit issued by the United States Department of Interior, Bureau of Land Management, and defendants are prohibited from entering the right of way and interfering with the work under a Right of Way Closure Order issued by the United States Department of Agriculture, United States Forest Service. Notwithstanding these authorizations, defendants have willfully and unlawfully entered the right of way, obstructed workers, and interfered with permitted work. MVP therefore brings this action for injunctive and monetary relief.

## PARTIES

2. MVP is a natural gas company holding a certificate from the Federal Energy Regulatory Commission (“FERC”) to construct and operate a new natural gas pipeline from Wetzel County, West Virginia, to Pittsylvania County, Virginia.

3. Work on the project is expressly authorized under the Fiscal Responsibility Act of 2023, which became law on June 3, 2023. Pub. L. No. 118-5, 137 Stat. 10 (2023). In this Act, Congress found and declared that timely completion of the MVP project is required in the national interest, and Congress ratified and approved all authorizations for completion of the project. *Id.* at § 324(b), (c).

4. Defendants are individuals opposed to the MVP project who have entered the Jefferson National Forest to block the work that MVP is conducting there.

## JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. § 1331, which gives district courts jurisdiction over all civil actions “arising under the Constitution, laws, or treaties of the United States.”

6. Specifically, this action involves the application, interpretation, and enforcement of the Record of Decision of the United States Department of Agriculture, United States Forest Service, and Record of Decision and Right of Way Grant and Temporary Use Permit issued by the United States Bureau of Land Management and the Closure Order entered by the United States Forest Service. The Right of Way Grant and Temporary Use Permit were issued pursuant to 30 U.S.C. § 185, and the Closure Order was entered pursuant to 16 U.S.C. § 551.

7. Further, Congress expressly ratified and approved these agency authorizations in the Fiscal Responsibility Act, and it directed the agencies to continue to maintain these authorizations and others necessary for the construction and completion of the MVP pipeline. Section 324 of the Act expressly supersedes any law that is inconsistent with these authorizations.

8. Venue is proper under 28 U.S.C. § 1391(b) in that the events in question occurred in this district.

#### FACTS

9. The MVP project runs from Wetzel County, West Virginia, to Pittsylvania County, Virginia, and it crosses approximately 3.5 miles of the Jefferson National Forest in Monroe County, West Virginia, and Giles County and Montgomery County, Virginia.

10. On May 15, 2023, the United States Department of Agriculture, United States Forest Service, issued a Record of Decision approving the Right of Way Grant and Temporary Use Permit to MVP to cross the Jefferson National Forest. A copy of the Record of Decision is attached as Exhibit 1.

11. On May 17, 2023, the United States of Interior, Bureau of Land Management, issued a Record of Decision authorizing the Right of Way Grant and Temporary Use Permit to MVP to cross the Jefferson National Forest. A copy of the Record of Decision is attached as Exhibit 2.

12. On June 20, 2023, the United States Department of Interior, Bureau of Land Management, issued a Right of Way Grant and Temporary Use Permit for the

MVP project. A copy of the Right of Way Grant is attached as Exhibit 3, and a copy of the Temporary Use Permit is attached as Exhibit 4.

13. On July 1, 2023, the United States Department of Agriculture, United States Forest Service issued a Right of Way Closure Order for the MVP project. A copy of the Right of Way Closure Order is attached as Exhibit 5.

14. Defendants are members of a group of individuals who are unwilling to accept the fact that the MVP project is approved and can be constructed. Defendants are participants in a direct action campaign aimed at stopping the project by unlawful means.

15. One of the tactics of the campaign is for individuals to enter the right of way and place themselves around or in front of equipment in order to prevent the equipment from operating.

16. On October 16, 2023, defendants Philip Ateto, Barkha Bhandari, Joel Davis, Kidus Girma, Klea Hazizaj, Devora Klionsky, Christian Shushok, Sloan Touchet, Brynn Cassidy West and others entered the right of way in Jefferson National Forest and surrounded equipment and blocked work.

17. In the process, defendants endangered themselves and workers on the project.

18. Defendants blocked work until law enforcement arrived and removed them.

19. Defendants acted willfully, intentionally, and maliciously for the purpose of interfering with MVP's rights and work allowed under the Right of Way Grant and Temporary Use Permit and the Closure Order.

COUNT ONE—AGAINST DEFENDANTS FOR  
INTERFERENCE WITH MVP'S EASEMENT AND AUTHORIZED WORK

20. MVP adopts and incorporates by reference its allegations in paragraphs 1-19 above.

21. By entering the right of way and interfering with the work, defendants violated the rights of MVP under the Right of Way Grant and Temporary Use Permit and Closure Order.

22. As a direct and proximate result, MVP has sustained damages, costs, expenses, and attorney fees.

COUNT TWO—AGAINST DEFENDANTS FOR  
COMMON LAW CONSPIRACY

23. MVP adopts and incorporates by reference its allegations in paragraphs 1-22 above.

24. Defendants and others have agreed and combined to accomplish by concerted action an unlawful purpose.

25. The unlawful purpose of defendants is to delay or stop work on a project that Congress, the agencies, and the courts have determined should proceed.

26. Defendants and others are attempting to accomplish their purpose by unlawful means.

27. The unlawful means includes interference with the rights and easements of MVP in violation of the Right of Way Grant and Temporary Use Permit and Closure Order.

28. Each defendant engaged in the common law conspiracy is jointly and severally liable for acts in furtherance of the conspiracy.

29. As a direct and proximate result, MVP has sustained damages, costs, expenses, and attorney fees.

COUNT THREE—AGAINST DEFENDANTS FOR  
STATUTORY CONSPIRACY

30. MVP adopts and incorporates by reference its allegations in paragraphs 1-22 above.

31. In violation of Virginia Code § 18.2-499A, defendants and others have combined, associated, agreed, and mutually undertaken and acted in concert together for the purpose of (i) willfully and maliciously injuring MVP in its reputation, trade, business, and profession and (ii) willfully and maliciously preventing or hindering MVP from doing or performing lawful work.

32. Defendants and others are carrying out this statutory conspiracy through unlawful acts—interfering with MVP’s rights and easements and violating the Right of Way Grant and Temporary Use Permit and Closure Order.

33. Each defendant in the statutory conspiracy is jointly and severally liable for acts in furtherance of the conspiracy.

34. As a direct and proximate result of this statutory conspiracy, MVP has sustained damages, costs, expenses, and attorney fees.

COUNT FOUR—AGAINST DEFENDANTS FOR  
PRELIMINARY AND PERMANENT INJUNCTIONS

35. MVP adopts and incorporates by reference its allegations in paragraph 1-34 above.

36. As a result of defendants' actions, MVP is sustaining irreparable harm, and MVP does not have an adequate remedy at law.

37. MVP is entitled to preliminary and permanent injunctive relief against defendants prohibiting interference with MVP's easements and work and prohibiting violations of the Right of Way Grant and Temporary Use Permit and Closure Order, as stated below.

PRAYER

WHEREFORE, MVP prays that the Court:

1. Grant a preliminary and permanent injunction against defendants prohibiting them from:
  - (a) Entering MVP's right of way or easements;
  - (b) Blocking access to MVP's right of way or easements;
  - (c) Otherwise interfering with MVP's right of way or easements or the work of its contractors thereon;
  - (d) Aiding, abetting, encouraging, or promoting any activities being enjoined by the Court; and



(e) Soliciting or accepting money or other contributions for such activities.

2. Make the injunctions binding on defendants and their agents, servants, and employees and others in active concert and participation with them who have notice of the injunction.

3. Award MVP compensatory damages against defendants jointly and severally under Count One.

4. Award MVP compensatory damages against defendants jointly and severally under Count Two.

5. Award MVP punitive damages against defendants jointly and severally Counts One and Two.

6. Award MVP compensatory damages against defendants jointly and severally under Count Three.

7. Award MVP treble damages against defendants jointly and severally under Count Three.

8. Award MVP its costs, expenses, and attorney fees.

9. Grant such other relief as the nature of the case may require.

Respectfully submitted,

MOUNTAIN VALLEY PIPELINE, LLC

By Counsel

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By /s/ Wade W. Massie  
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