

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

AT BECKLEY

MOUNTAIN VALLEY PIPELINE, LLC,

Plaintiff,

v.

CIVIL ACTION NO. 5:23-cv-00626

JUDGE: _____

ROSE ZHENG ABRAMOFF, a Tennessee resident;

Defendant.

COMPLAINT

Mountain Valley Pipeline, LLC (“MVP”), by counsel, hereby complains and petitions this Court for injunctive and other relief as necessary against Defendant Rose Zheng Abramoff (“Defendant”). In support thereof, MVP states as follows:

PARTIES & JURISDICTION

1. 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. MVP is authorized to conduct business in the State of West Virginia. None of MVP’s members, or those holding an ownership interest in MVP for purposes of diversity are residents of Tennessee.

2. Upon information and belief, Defendant Rose Zheng Abramoff is a resident of Knoxville, Tennessee.

3. Pursuant to the provisions of 28 U.S.C. § 1332(a), as amended, the United States District Court for the Southern District of West Virginia, at Beckley, has original jurisdiction over

this action because the parties are citizens of different states and because the action seeks damages in excess of \$75,000.00.

4. The real property that is the subject of this action is situated in Summers County, West Virginia.

5. Venue is proper in the Southern District of West Virginia under 28 U.S.C. § 1391 because it is the judicial district in which a substantial part of the events giving rise to the claim occurred.

FACTUAL BACKGROUND

6. MVP restates and incorporates the allegations above as if fully set forth herein.

7. MVP is engaged in, among other things, the construction and operation of natural gas pipelines, including a natural gas pipeline to be used for interstate commerce (the “Project”) being constructed through Summers County, West Virginia.

8. The construction and operation of interstate pipelines is subject to the jurisdiction and regulation of the Federal Energy Regulatory Commission (“FERC”) pursuant to authority granted by the Natural Gas Act. 15 U.S.C. § 717o (2018).

9. MVP applied for and was granted authorization for the construction of the Project pursuant to the Certificate and/or Order. 161 FERC P 61043 (F.E.R.C.), 2017 WL 4925425.

10. Pursuant to the Fiscal Responsibility Act of 2023 and subsequent federal regulatory and administrative orders, MVP has obtained all necessary permits and authorizations to proceed with construction of the Project. Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, H.R. 3746, § 324(b) (2023).

11. Through voluntary agreements with property owners, MVP has acquired temporary and permanent easements to construct and operate the pipeline on the land at issue (“Subject Property”).

12. Defendant is opposed to the Project and has collaborated, combined, and agreed to work to delay or stop the project by unlawful means.

13. Specifically, Defendant unlawfully attached herself to equipment, placing her in dangerous proximity to the equipment, in order to prevent its operation and delay work.

COUNT ONE: PRELIMINARY INJUNCTION

14. MVP restates and incorporates the allegations above as if fully set forth herein.

15. “A plaintiff seeking a preliminary injunction must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20, 129 S. Ct. 365, 172 L.Ed.2d 249 (2008).

16. As further set forth herein, MVP is likely to succeed on the merits of this action.

17. MVP will be irreparably harmed in the absence of preliminary relief by being forced to halt the Project.

18. Defendant, on the other hand, is a trespasser and has no legal right to be on the Subject Property or interfere with the Project. The Defendant’s presence on the Subject Property also presents a safety risk to the Defendant and to the employees and contractors working on the Subject Property. The Defendant will not be harmed in any way by the grant of a preliminary injunction.

19. Finally, as outlined in the Fiscal Responsibility Act of 2023, not only is the Project generally in the public interest, but there is also a particular importance in its speedy completion. Fiscal Responsibility Act of 2023, Pub. L. No. 118-5, H.R. 3746, § 324(b) (2023).

20. Without a preliminary injunction, MVP will be irreparably harmed in a way that is not correctable with monetary damages. In addition, Defendant has created a safety hazard to themselves and the public through their presence near the Project's construction.

21. The balance of the equities is in MVP's favor. Defendant's actions and their failure to vacate the Subject Property could cause substantial damage to MVP.

22. Finally, an injunction is in the public interest as declared by FERC, the Congress of the United States, and the State of West Virginia.

23. A preliminary injunction is therefore necessary to preserve the status quo pending resolution of this action.

COUNT TWO: PERMANENT INJUNCTION

24. MVP restates and incorporates the allegations above as if fully set forth herein.

25. "According to well-established principles of equity, a plaintiff seeking a permanent injunction must satisfy a four-factor test before a court may grant such relief. A plaintiff must demonstrate: (1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction." *eBay, Inc. v. MercExchange, L.L.C.*, 547 U.S. 388, 391 (2006); *Cantley v. W. Va. Reg'l Jail & Corr. Facility Auth.*, 771 F.3d 201, 207 (4th Cir. 2014).

26. The allegations set forth above also establish the factors set forth in *eBay, Inc. v. MercExchange, L.L.C.* for permanent injunctive relief.

COUNT THREE: TRESPASS

27. MVP restates and incorporates the allegations above as if fully set forth herein.

28. MVP has specific rights otherwise outlined in this Complaint and Defendant does not own or have any interest in the Subject Property.

29. Defendant has intentionally and knowingly entered and occupied the Subject Property and/or interfered with the Project without lawful authority.

30. MVP requested Defendant vacate the Subject Property and not return.

31. Defendant refused to vacate the Subject Property and had to be removed by the West Virginia State Police.

32. Defendant trespassed on the Subject Property and interfered with the Project and has proximately caused damage to MVP.

COUNT FOUR: TORTIOUS INTERFERENCE

33. MVP restates and incorporates the allegations above as if fully set forth herein.

34. To establish a claim for tortious interference, “a plaintiff must prove: (1) existence of a contractual or business relationship or expectancy; (2) an intentional act of interference by a party outside that relationship or expectancy; (3) proof that the interference caused the harm sustained; and (4) damages.” *Torbett v. Wheeling Dollar Sav. & Trust Co.*, 173 W. Va. 210, 314 S.E.2d 166 (1983).

35. MVP has a contractual and business expectancy for the construction of the Project.

36. Despite knowledge of MVP’s business expectancy, Defendant, by her own admission, intentionally and knowingly interfered with MVP’s ability to construct the Project.

37. Defendant refused to vacate the Subject Property voluntarily and had to be removed by the West Virginia State Police causing delays to the Project.

38. As such, Defendant has caused damage to MVP in salaries, wages, and other expenses incurred through delay of the project in the amount of at least \$45,629.50

COUNT FIVE: VIOLATION OF W. VA. CODE § 61-10-34

39. MVP restates and incorporates the allegations above as if fully set forth herein.

40. The Critical Infrastructure Protection Act (the “Act”) provides that “[a]ny person who willfully and knowingly trespasses or enters property containing a critical infrastructure facility without permission by the owner of the property or lawful occupant thereof is guilty of a misdemeanor” W. VA. CODE § 61-10-34(c)(1).

41. The Act further states that “[a]ny person who conspires with any person to commit the offense of trespass against a critical infrastructure facility . . . and the trespass actually occurs is guilty of a misdemeanor and, upon conviction thereof, shall be fined in an amount of not less than \$2,500 not more than \$10,000.” W. VA. CODE § 61-10-34(c)(3).

42. Further, “[a]ny person who is arrested for or convicted of an offense under this section may be held civilly liable for any damages to personal or real property while trespassing . . .” W. VA. CODE § 61-10-34(d)(1).

43. Under the Act, critical infrastructure includes any “natural gas transmission facility[.]” W. VA. CODE § 61-10-34(b)(14).

44. Defendant has unlawfully entered and occupied the Subject Property and interfered with the Project without permission from MVP.

45. Defendant violated the Critical Infrastructure Protection Act and proximately caused damage to MVP.

COUNT SIX: CIVIL CONSPIRACY

46. MVP restates and incorporates the allegations above as if fully set forth herein.

47. “A civil conspiracy is a combination of two or more persons by concerted action to accomplish an unlawful purpose or to accomplish some purpose, not in itself unlawful, by unlawful means.” *Dunn v. Rockwell*, 225 W. Va. 43, 689 S.E.2d 255 (2009).

48. Defendant conspired and acted in concert with other persons and/or organizations in an attempt to prevent MVP from lawful use of its property. The Defendant has admitted that she committed the acts knowingly, unlawfully, and with the intent to interfere with the Project. *See* Exhibit A, blog post by Melinda Ann Tuhus; Facebook Posts by *Appalachians Against Pipelines* (identifying each as members of the “Rocking Chair Rebellion” and supplying quotes from each).

49. Defendant has, through unlawful acts, interfered with MVP’s property rights and easements.

COUNT SEVEN: PUNITIVE DAMAGES

50. MVP restates and incorporates the allegations above as if fully set forth herein.

51. Defendant intentionally and knowingly trespassed and unlawfully interfered with the Project with the intent to cause harm to MVP and to delay its construction of the Project.

52. The Defendant’s willful, wanton, and intentional acts with the intent to harm MVP entitles MVP to an award of punitive and exemplary damages against Defendant.

53. MVP further seeks punitive damages in compliance W. VA. CODE § 55-7-29 in excess of the jurisdictional amount in controversy.

WHEREFORE, for the foregoing reasons, MVP hereby complains, petitions, and requests the entry of an immediate order 1) enjoining Defendant from entering upon the Subject Property or performing any activities that may interfere with or obstruct MVP’s use and construction on or

through the Subject Property; (2) from engaging in any act that would interfere with MVP's safe construction, operation, and/or maintenance of the Project including, but not limited to, attempting to block access any of MVP's equipment or facilities in Summers County; (3) from obstructing in any way MVP's ability to conduct its business; (4) from conspiring with others, inciting, encouraging and/or assisting others from engaging in any act or activity from which they are prohibited; (5) imposing judgment against the Defendant in an amount that will compensate MVP for damages incurred by Defendant's conduct, including pre- and post-judgment interest, and an award of punitive damages; and (6) such other and further relief as the Court may deem appropriate. **MVP DEMANDS A JURY TRIAL.**

MOUNTAIN VALLEY PIPELINE, LLC

By Counsel

/s/ Timothy M. Miller

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Exhibit A

Appalachians Against Pipelines's Post



Appalachians Against Pipelines

4d ·



Earlier today, these 4 folks — the Rocking Chair Rebellion — blockaded a Mountain Valley Pipeline access road at the Greenbrier River crossing. They blocked the road for multiple hours before they were extracted and arrested. These folks are now out of jail!

At the same time, 2 additional pipeline fighters locked themselves to the drill that MVP will use to drill under the Greenbrier. More updates on those folks to come.

"A livable planet tomorrow depends on serious and dedicated action TODAY to end fossil fuels," stated Jess Grim, one of the members of the Rocking Chair Rebellion. "I want my young adult son to feel he has a future, and that generations beyond his have a fair chance of living on a clean, healthy planet. The MVP flies flagrantly in the face of what we know we must do to insure that future. The near certainty that the pipeline will cause environmental destruction and serious harms to the people of Appalachia essentially insures years more climate destruction. It makes the completion of the pipeline unconscionable. The MVP must be stopped, and I am willing to put my body on the line to advance the fight to defeat it. NO MVP!"

Mary Beth Naim, from her perch in a rocking chair blocking the access road, added, "I sit here with my fellow elders in the same spot where Joe Manchin celebrated the sacrificing of Appalachians communities, lands, and water as a bargaining chip for his Mountain Valley Pipeline. I protest the expansion of fossil fuel infrastructure which further heats up our burning planet. I stand for our children, grandchildren, and future generations who deserve a livable planet."

[#NoMVP](#) [#StopMVP](#)

9/12/23, 8:17 AM

Facebook

  72

12 comments 36 shares

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Most relevant 



Anne E Sparks

NO MVP!! Thank you Appalachians Against Pipelines, I hope to join you next time! 

Like Reply 3d

 3



Dee Quaranto

Love, respect and solidarity from this West Virginia grandmother. Thank you on behalf of my grandchildren and myself.

Like Reply 2d

 2



Jon Grainger


The will of the people cannot be ignored! Respect.

Like Reply 4d

 2




JB Moorecroft

Jon Grainger oh yes it can. 

Like Reply 2d



Spicer Blount

Thank y'all.  2

Like Reply 4d



Konnie Downing Conrad

What alternative do you have,a horse,walking,just what?

Like Reply 4d

Most Relevant is selected, so some comments may have been filtered out.

9/12/23, 8:17 AM

Facebook

9/12/23, 8:18 AM

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Appalachians Against Pipelines's Post

✕

**Appalachians Against Pipelines**

4d · 🌐

...

All 6 pipeline fighters who blockaded the Greenbrier River MVP crossing for multiple hours today were extracted, arrested, and have been released! 🍊🍊🍊

Rose Abramoff, one of the people who locked herself to MVP's drill, stated, "I'm an Earth scientist. I study how climate change and human land use affects ecosystems like the one that the Mountain Valley Pipeline is ripping its way through. I can't stand by and live my life as usual while this carbon bomb rips its way through Appalachia. That is why I am choosing to be here and stop this work with my body. We are desperate, we are out of time, so we are rising up."

Marty Zinn, who also locked to the drill, stated, "I have lived a long life at almost 80 years old; I want to help ensure that young people today and in the future have a chance to live a life too, and one that is worth living. I am acting for them. That is why I came to stop the Mountain Valley Pipeline. Its sole purpose is to transport fracked natural gas mostly for export to foreign countries and make a lot of money for fossil fuel corporations and their owners—meanwhile further endangering the survival of all we know."

Thank you so much to all of these folks for taking action today! [#NoMVP](#) [#NoPipelines](#)



137

41 comments 45 shares

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Becky Crabtree
@WVVA -looks like a story to me!

Like Reply 3d



Sandy Thornton
Love to All! Thanks that y'all are out! Appreciate you dedication to NO PIPELINES!

Like Reply 2d



Helen Kate Mcallister
You are brave and right.

Like Reply 4d



Katie Painter
Next time just leave them cuffed there for a few months. It'll make for good Halloween decorations.

Like Reply 4d



3 Replies



Anne Barga
Well done, thank you ❤️

Like Reply 4d



Kristy Elizabeth
You all are amazing humans. Thank you!!

Like Reply 4d



Rose Hart
American heroes !

Like Reply 3d



Richard Averitt
Thank you! 🙏

Like Reply 4d



Christopher Marshburn
Doing the Lord's work. Thank you!

Like Reply 4d

3 Replies



Lauren Cooper
Incredible work 🍀🍀🍀🙏🙏🙏🍀🍀🍀🍀🍀🍀🍀🍀🍀🍀🍀🍀

Like Reply 4d

9/12/23, 8:18 AM

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Dee Quaranto
THANK YOU.

Like Reply 3d



Marilyn Karp
Thank you

Like Reply 3d



Paula Oliver Mann
Thank all of you!

Like Reply 4d



Andrea Midk
Thank you!!!

Like Reply 3d



Red Terry
Thank you.

Like Reply 4d



Lynne Hazard Florin
Thank you.

Like Reply 3d



Pamela Ashley
Thank you!

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Appalachians Against Pipelines's Post



Appalachians Against Pipelines

September 9 at 5:48 PM · 🌐

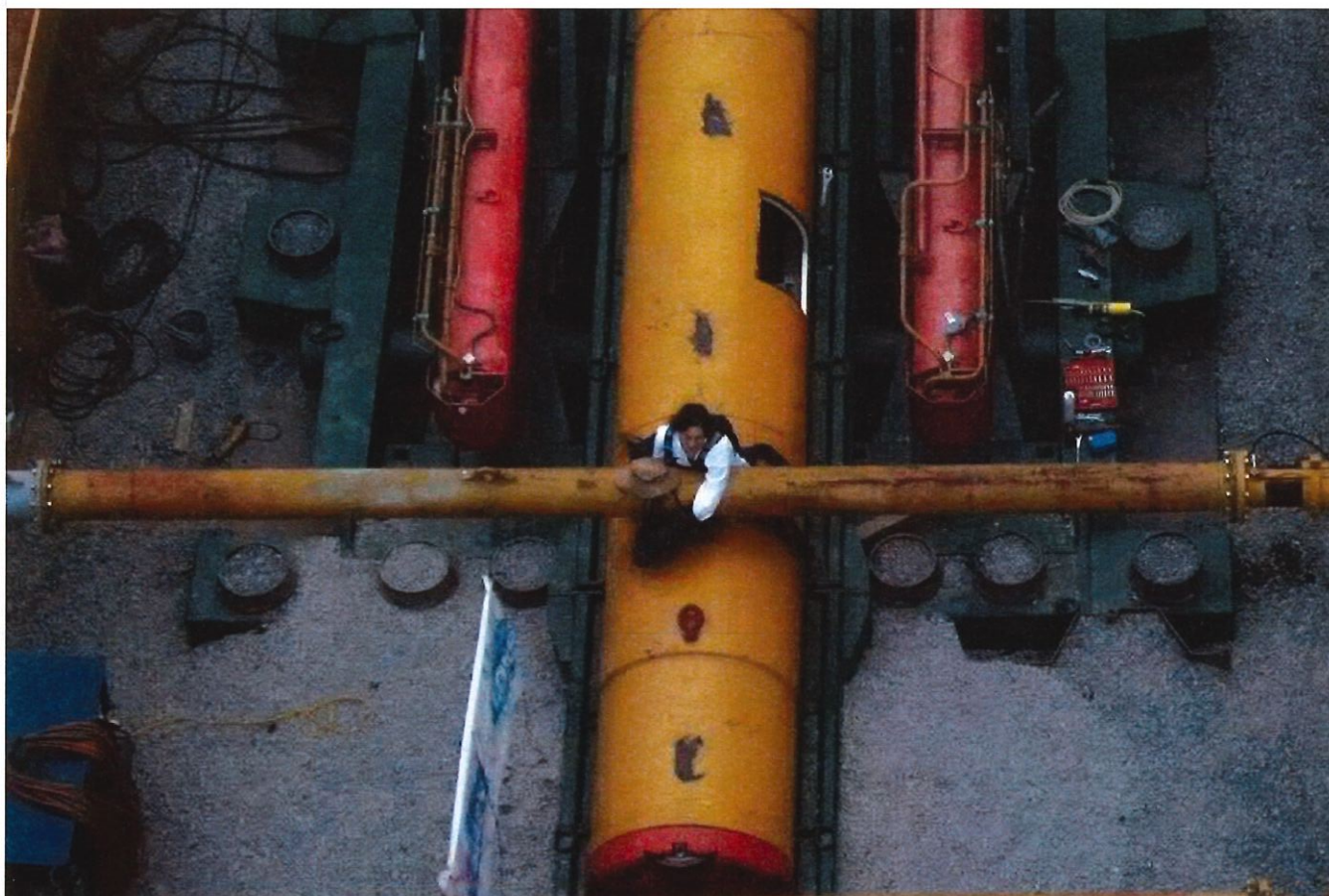


"When we know better, we have to do better, and we know we have to follow the science. We want a livable future for our children. Our children are depending on us." —Judy Smucker, one of the folks arrested in the Rocking Chair Rebellion, which prevented Mountain Valley Pipeline access to the Greenbrier River crossing for nearly 6 hours on Thursday! Check out these great aerial photos of both of Thursday's actions at the Greenbrier River.

Melinda Tuhus, another member of the group, stated, "Appalachia should not be a sacrifice zone as fossil fuel projects continue to be built out, backed by both political parties. The people here love their land and their clean water which will be destroyed by MVP. I am here in solidarity and also because my future is bound up with theirs."

Learn more, donate, and join us! aapsolidarity.org

[#NoMVP](#) [#NoPipelines](#) [#DoomToThePipeline](#)



9/12/23, 8:18 AM

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63

37 comments 14 shares

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Most relevant



Deanna Thomas

THANK YOU! I LOVE YOU SO MUCH!!! 🍌💜🙏🌍❤️

Like Reply 1d



Leslie Woodzell

Thank you ladies!! Love the concrete footers!!

Like Reply 2d



Berdawn Hutchinson

Thank you for your service ❤️

Like Reply 1d



Dana Anderson

Thank you Judy!

Like Reply 2d

Most Relevant is selected, so some comments may have been filtered out.

MelindaTuhus.net

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Anatomy of a Crime

9/11/2023

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We four grannies deployed before dawn on a road near the Mountain Valley pipeline right-of-way across the Greenbrier River, each with one foot inside a concrete barrel, sitting in our famous rocking chairs, holding a banner that said, Rocking Chair Rebellion. Ahead of us was another rocker holding a sign in bold red letters, STOP ELDERS AHEAD, so cars coming our way would have plenty of notice to stop. Another two women locked down to the drill that was preparing to bore under the Greenbrier – a beautiful river I'd walked along last year as part of the Walk for Appalachia's Future that, at 162 miles, is the longest undammed river in the eastern U.S.

As the sky lightened, we noticed a big stretch of beautiful white, pink and yellow wildflowers on the other side of the railroad tracks. The fog that covers the valleys here was ethereal.

We stopped work for a total of five hours, and were charged with trespassing, obstructing an officer, and violating West Virginia's Critical Infrastructure Protection Act, which had just gone into effect. All misdemeanors, although the cops said we'd be charged with domestic terrorism felonies if we didn't leave, and that was a possibility. These new laws in many states around the country are meant to intimidate folks from taking action to protect the real critical infrastructure – the pure, delicious drinking water. clean air and beautiful mountains. The MVP is being built across the steepest ng landslides. And then there is the karst, which makes

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Melinda Tuhus

Welcome to my blog, **Leaves and Fishes**. It connotes that I'll often be blogging about environmental issues, though certainly not exclusively. It also references the idea that when people pool their resources -- even if meager -- generous and equitable outcomes can result. Finally, since "leaves" and "fishes" are both nouns and verbs, I hope to have fun with the words I write.

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9/11/23, 10:07 PM

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the river one of the worst possible places to drill.

From Wikipedia: "The unique karstlands of the Greenbrier River Valley constitute one of the world's densest sinkhole plains, with an average of 18 sinkholes per square kilometer. This green "moonscape" of collapsed craters is a unique problem for development as the ground is prone to subsidization. It is impossible to tell how large a cave system is by looking at the surface, and developers often build their structures too close to the open spaces beneath the ground."

There's also a big problem with the coating on the pipes having deteriorated after they sat in the sun for five or six years. Best practice is to recoat them at the factory, but the company is just burying some of them without recoating at all, increasing the risk of ruptures and explosions.

So, building the pipeline is the real crime, and could only finally go forward when the US Congress, at Sen. Joe Manchin's bidding (with full backing from Sen. Chuck Schumer and President Biden), took the matter out of the hands of the Fourth Circuit appeals court (which had consistently ruled against the MVP, for its many violations). Then the US Supreme Court approved all the remaining permits.

The cops complimented us on our creativity, and after arresting us and tossing rocking chairs and red umbrellas (decorated with NO MVP signage) aside, they chuckled over the STOP ELDERS AHEAD sign and threw it into their truck. I'm sure it's gracing the wall of some police department.

An action a few days earlier saw two more activists – a young person and an elder – lock down to MVP machinery in nearby Montgomery County, VA. We held a rally at the site with a big banner proclaiming, "Young and old unite – No MVP." They were also charged with misdemeanors.

When the sheriff arrived at our action, he said we should leave because, "You have zero chance of stopping this pipeline. There's too much money behind it and the country is too divided."

What is the role of nonviolent direct action (NVDA) in campaigns to stop the fossil infrastructure that's killing the planet and ruining the lives and livelihoods of local residents? I had that question before heading down to Appalachia. I think it's a dance between the occupiers – like the [Yellow Finch aerial blockade](#) of the pipeline route that lasted 932 days and, according to the company, cost \$213,000 in delays and security expenses – and the surveyors who document every violation along the route, and the legal defenders who fight for our rights in court. Also all the local people who hate this pipeline and come out to support in various ways.

One local woman told me we have to keep disrupting because we can't just let it be built without doing everything in our power, nonviolently, to stop it. Another friend said it's important to show solidarity with those on the front lines, and by doing that we build the power needed for the next fight. Sitting on the wide porch, looking out over the beautiful mountains, the fog and the nighttime stars, I felt very much a part of a wonderful community where people love and support each other. Also, I haven't laughed so much maybe ever. It gives us the strength to go on.

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Maury

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Thank you. We are forever grateful.

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Debbie

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..... id the other grannies and other activists. Thank you for

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