



**LAUREL MOUNTAIN PRESERVATION ASSOCIATION**

P.O. Box 217  
Montrose, WV 26283

February 9, 2015

Mr. H. Thomas Speaks, Jr., Forest Supervisor  
George Washington and Jefferson National Forests  
5162 Valleypointe Parkway  
Roanoke, VA 24019

REFERENCE: Mountain Valley Pipeline Survey Permit Comments

SUBJECT: Comments on the Application for a Special Use Authorization for Survey Activities, submitted by Mountain Valley Pipeline, LLC, for the Proposed Mountain Valley Pipeline Corridor through the Jefferson National Forest

Dear Supervisor Speaks,

The Application submitted by Mountain Valley Pipeline, LLC, (MVP) pertaining to conducting survey activities where MVP proposes constructing a 42-inch gas pipeline across a portion of the Jefferson National Forest (JNF) **is deficient and should be denied**. FERC is the authority for determining the Alternatives associated with the gas pipeline construction, including the "No-Action Alternative", which would result in no pipeline construction and no environmental damage. Extensive background data studies should be conducted prior to personnel conducting field sampling. There is no mention in the Application of any background data studies being performed, such as a study of soil survey maps, geologic maps, or cave information. The description includes that vegetation less than 2 inches in diameter would be cut to conduct the civil survey; however it does not specify the path width of cutting and it does not specify the identification of vegetation that will be destroyed. The Environmental Survey includes only a delineation of wetlands and water bodies, both of which can be delineated based on map studies and data provided by the U.S. Army Corps of Engineers, and consultation with U.S. Fish and Wildlife Service (FWS) personnel regarding endangered species and threatened species. There is no mention of determining the presence of karst terrain, delineation of watersheds impacted by construction and the changes in the ground cover, or determination of groundwater conditions. There is no mention of the Forest Service's Goals, Objectives, Standards, and Management Prescriptions described in the Revised Jefferson National Forest Land and Resource and Management Plan (2004).

The Application does not include a listing of the credentials and experience of personnel who would be conducting the surveys. Specific deficiencies are detailed below.

### **THE APPLICATION PRECLUDES FERC'S DECISION PROCESS**

As part of the Federal Energy Regulatory Commission's (FERC) Pre-Filing Process, MVP submitted a preliminary draft of "Summary of Alternatives", dated December, 2014. One of the alternatives provided would be the "No-Action" Alternative, which specifies the FERC decision not to approve construction of the gas pipeline. MVP provided a general statement by the Environmental Information Agency that the use of natural gas is expected to increase by 2040. However, no mention was made about the decreased demand based on residential conservation practices and on-going industrial upgrades to reduce energy requirements. MVP did not provide documentation of analytical studies to support their desire to construct the gas pipeline. By submitting the Application to conduct studies in a corridor through the JNF, MVP is simply forcing its own preference concerning FERC's decision. The Application to JNF is therefore premature because there has been no opportunity for public comments or for FERC analysis. The Application should be denied because FERC may decide that such a survey, and its damage to the JNF, is not to be conducted.

### **THE APPLICATION IS DEFICIENT WITH RESPECT TO THE ACREAGE WHERE DEVEGETATION AND SHOVELING WILL BE CONDUCTED**

In the MVP Application, there is no information provided about the corridor width of vegetation that would be destroyed by the personnel establishing the survey line. There is no information provided about any limits for vegetation destruction or identification of vegetation that should not be destroyed. The MVP Application does not include any information pertaining to the Forest Service's Goals, Objectives, Standards, and Management Prescriptions described in the Revised Jefferson National Forest Land and Resource and Management Plan (2004). A listing of the credentials and experience of personnel has not been submitted in order to determine if they are qualified to identify plants which should be avoided and not destroyed.

### **THE APPLICATION IS DEFICIENT WITH RESPECT TO WATERSHED ANALYSIS, STREAM DESIGNATIONS, OR IDENTIFICATION OF KARST AREAS WITHIN THE STUDY CORRIDOR**

In the Application submitted by MVP, it is stated that field personnel will conduct wetland and waterbody delineation surveys. Portions of numerous watersheds are shown on the maps provided in the Application; however, there is no mention

of a watershed based analysis for the study corridor. Watershed based analysis of the numerous watersheds within the study corridor is necessary in order to determine if construction will negatively impact water resources within each of the numerous watersheds. In the U.S. Forest Service's publication, FS-977 (May 2011), "Watershed Condition Framework - A Framework for Assessing and Tracking Changes to Watershed Condition", Secretary Tom Vilsack states: "Restoration, for me, means managing forest lands first and foremost to protect our water resources while making our forests far more resilient to climate change." It is further stated in this document that "The watershed condition policy goal of the Forest Service is "to protect National Forest System watersheds by implementing practices designed to maintain or improve watershed condition, which is the foundation for sustaining ecosystems and the production of renewable natural resources, values, and benefits". In the Forest Service's Revised Jefferson National Forest Land and Resource and Management Plan (2004), Goal #1 is to "Manage watersheds to maintain or restore resilient and stable conditions to support the quality and quantity of water necessary to protect ecological functions and support beneficial water uses." However, in the MVP Application, there is no mention of using a watershed based analysis to evaluate the watersheds through which the proposed survey corridors will pass.

The proposed MVP study corridor passes through the JNF both in West Virginia and in Virginia. The Code of West Virginia, "Chapter 22, Article 11" requires that anyone proposing a construction activity that is 3 acres or greater and that discharges to or upstream of Tier 2.5 or Tier 3 waters, or a construction activity that is 100 acres or greater shall submit a site registration application for a National Pollutant Discharge Elimination System (NPDES) permit 90 days prior to commencing operation. It is also stated that, "Sites discharging to impaired waters must demonstrate consistency with the approved Total Maximum Daily Load (TMDL) and applicable state law." The Environmental Study described in the Application is deficient because it does not include a discussion of the designation of impaired or of high quality trout streams in the corridor or in the watersheds associated with the corridor, the existence of stream monitoring data, or the existence of bioassay data conducted on streams within watersheds associated with the corridor.

The Code of Virginia, "Title 62.1 – Waters of the State, Ports and Harbors", "Chapter 3.1 – State Water Control Law" established the Virginia Stormwater Management Program and the Virginia Erosion and Sediment Control Program in § [62.1-44.15:27](#) and § [62.1-44.15:52](#). The evaluation of stormwater management, including both the quantity and quality of stormwater runoff, for construction projects is based on the watershed approach and includes a consideration of groundwater resources as well as surface water resources (Virginia Stormwater Management Handbook (2013): [http://www.deq.virginia.gov/fileshare/wps/2013\\_SWM\\_Handbook/](http://www.deq.virginia.gov/fileshare/wps/2013_SWM_Handbook/)). The Code of Virginia (<http://lis.virginia.gov/cgi-bin/legp604.exe?000+cod+62.1-44.15C24>)

provides the following definition of "Watershed": "a defined land area drained by a river or stream, karst system, or system of connecting rivers or streams such that all surface water within the area flows through a single outlet. In karst areas, the karst feature to which water drains may be considered the single outlet for the watershed."

The Virginia Stormwater Management Program requires the use of the Runoff Reduction Method to determine the amount of stormwater discharge from a construction site. The Runoff Reduction Method incorporates the determination of the U.S. Environmental Protection Agency (EPA) that the stormwater discharge from a 10 percent impervious area within a watershed will negatively impact that watershed. The determination of the stormwater discharge from a 10 percent impervious area compared to the stormwater discharge from de-vegetated construction areas, resulting in less permeable ground cover, allows a determination of the stormwater discharge quantities that will negatively impact the watersheds. An analysis of each entire watershed must be conducted in order to determine if de-vegetation of a specific amount of acreage within the watershed will negatively impact the watershed.

The Environmental Study described in the Application is deficient because it does not include a discussion of background data to indicate knowledge of the requirement for field observations for watershed analysis, the designation of impaired or of high quality trout streams in the corridor or in the watersheds associated with the corridor, the existence of stream monitoring data, or the existence of bioassay data conducted on streams within watersheds associated with the corridor. Additionally, there is no mention of documenting the observation of seeps or springs in the corridor or any springs serving as a residential water source. There is no mention of documenting residential wells associated with groundwater underlying the watersheds within the corridor. There is no listing of the credentials and experience of the personnel involved in the Environmental Survey to ascertain if they have the qualifications necessary to adequately analyze the watershed and determine the stormwater quantities from the construction area that would impact each individual watershed.

### **THE APPLICATION IS DEFICIENT WITH RESPECT TO CAVE PROTECTION**

The West Virginia Cave Protection Act, provided in the Code of Virginia "Chapter 20, Article 7A" states that it is unlawful for anyone to "Disturb or alter in any manner the natural condition of any cave." or "to remove, kill, harm, or disturb any plant or animal life found within any cave." The Virginia Cave Protection Act is provided in the Code of Virginia: "Title 10.1 – Conservation, Chapter 10, §10.1-1000 through §10.1-1008". The Virginia Cave Protection Act specifies protection of the groundwater flow in caves and the protection of maintenance of cave life. Decreased groundwater recharge and increased quantities of stormwater discharge resulting from de-vegetation of areas for the proposed pipeline

construction areas can change the groundwater characteristics that maintain the cave environments within karst areas. A change in groundwater characteristics affects the moisture within caves. Cave moisture must remain consistent in order to provide adequate living conditions for cave-dwelling organisms. Certain cave-dwelling organisms in caves near the JNF have been identified as threatened or endangered.

The Application is deficient because it does not present information on background data needed to assess the potential impact of the pipeline construction on caves and there is no mention of any attempt to identify caves or karst terrain within the impacted watersheds or nearby areas. Additionally, a listing of credentials and experience of survey personnel has not been provided to ascertain if they are qualified to assess the occurrence of caves or karst terrain that could be negatively impacted by the proposed pipeline construction.

**THE APPLICATION IS DEFICIENT BECAUSE THERE IS NO REFERENCE TO  
GROUNDWATER CHARACTERIZATION, GEOLOGIC DATA, OR SOILS  
SURVEY DATA**

In the Code of Virginia, "9VAC25-870-55. Stormwater Management Plans", it is stated that "A stormwater management plan shall consider all sources of surface runoff and all sources of subsurface and groundwater flows converted to surface runoff." The Code of West Virginia, "47CSR58, Section 4.11" requires that projects with pipelines must include a Groundwater Protection Plan. Additionally, it is specified that if excavation extends into a karst area, an Underground Injection Control permit must also be obtained. In the Application's Environmental Study description, there is no mention of identifying the geology of the study corridor or identifying karst areas within the study corridor. Also, there is no mention of characterizing the groundwater within the study corridor. Therefore, the Application is deficient because it does not include a geologic study to determine the groundwater characteristics or where there may be karst areas within the study area.

The Natural Resources Conservation Service (NRCS) of the U.S. Department of Agriculture provides detailed maps of the soils in the counties where JNF is located. Soils develop differently with respect to the underlying bedrock as well as the percent slope. Percent slope is an important consideration for pipeline construction because there have been several slope failures associated with pipeline construction in West Virginia. Specifically, in the Consent Order issued by the West Virginia Department of Environmental Protection (WVDEP; Order No. 8078, 10/01/14), slope failures associated with Dominion pipeline construction resulted in water quality violations affecting a number of separate streams in several West Virginia counties. Soils descriptions provided by the NRCS include the suitability for specific development, including the category of suitability for forest habitat only, based on the percent slope of any specific area.

Prior study of the available material on percent slope provides the field personnel with appropriate knowledge concerning how to collect information prior to pipeline construction and how to identify risks associated with avoiding slope failures. Additionally, the soils descriptions include the depth to the water table, the drainage characteristics, identification of the bedrock, and the depth to bedrock, which provides information concerning the need for blasting. Soils descriptions include the typical vegetation of the area. All of this background data is critical for field personnel to obtain as a preliminary determination of the corridor route to be surveyed in the field. The Application is deficient because there is no mention of using soils survey information as background data and because there is no listing of the credentials and experience of personnel to ascertain if they are qualified to assess soils information as a tool for determining the suitability of the corridor for proposed construction.

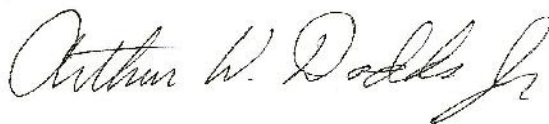
**CONCLUSION: THE APPLICATION IS DEFICIENT AND SHOULD BE DENIED**

**JNF should deny the Special Use Authorization** Application submitted by MVP because the information provided in the Application is deficient with respect to the amount of land disturbance that will occur during the survey, the lack of data presentation that can be obtained from existing publications that would serve as a guide for the proposed surveys, the lack of environmental considerations presented in the Environmental Survey description, and the lack of a list of credentials and experience of personnel who will conduct the survey. If the field personnel are not adequately qualified or informed prior to the field study, additional field studies would be required, with the result of additional potential disturbance and damage to the JNF and its wildlife and vegetation.

Respectfully Submitted,



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