



United States
Department of
Agriculture

Forest
Service

Southern Region

1720 Peachtree Street, NW
Suite 870S
Atlanta, Georgia 30309

File Code: 1570 (218)

Date: October 19, 2017

RE: Objection Response Letter to the Draft Decision for the Mountain Valley Project Forest Plan Amendment; Eastern Divide Ranger District, Jefferson National Forest

Dear Objector:

This letter constitutes my written response to your objection concerning the above-referenced Draft Record of Decision (DROD). My review of your objection was conducted in accordance with the requirements of 36 Code of Federal Regulations (CFR) Part 218, Subparts A and B. These regulations provide a pre-decisional, administrative review process for certain decisions of the Forest Service related to projects and activities implementing land and resource management plans.

Due to the large number of objections on this project, I am issuing one written response for all objections as allowed by 36 CFR § 218.11(b). The Forest Service has a limited decision space with the Mountain Valley Project and Equitrans Expansion Project (hereinafter referred to as MVP), and, therefore, must consider these objections within the scope of its role as a Cooperating Agency.

Introduction

The Federal Energy Regulatory Commission (FERC) as the lead agency prepared the Final Environmental Impact Statement (FEIS) for the construction and operation of the MVP. The FEIS describes the process that was undertaken to evaluate the effects of the MVP Proposed Action and the alternatives developed during the process. The Forest Service, Bureau of Land Management (BLM), and U.S. Army Corps of Engineers (USACE), along with other federal and state agencies, participated in the process as cooperating agencies.

The FERC's FEIS for the MVP included the consideration of a BLM rights-of-way grant to Mountain Valley Pipeline, LLC. These rights-of-way would be for pipeline construction and operation across Federal lands under the jurisdiction of the Forest Service and the USACE. However, before issuing the rights-of-way grant, the BLM must acquire the written concurrences of the Forest Service and the USACE. Through this concurrence process, the Forest Service may submit to the BLM any stipulations for inclusion in the rights-of-way grant that are deemed necessary to protect federal property and otherwise protect the public interest. FERC issued a certificate of public convenience and necessity to Mountain Valley Pipeline, LLC and Equitrans, L.P. for MVP on October 13, 2017.

My review addressed the DROD to amend the Jefferson National Forest's Land and Resource Management Plan and the analysis associated with that draft decision. My review is not meant to replace or serve as a surrogate for the MVP permitting process. Although the proposed decisions of other government agencies related to the proposed pipeline are not the subject of this review, the analysis of environmental impacts associated with constructing the proposed pipeline on National Forest System lands, as disclosed in the FEIS, were considered during the objection review. Additional information about the MVP can be found at the MVP Project website: www.mountainvalleypipeline.info/.



Background

The construction phase of the MVP would require use of about 83 acres of the Jefferson National Forest, consisting of 51 acres of pipeline corridor, 0.8 acres of additional temporary workspace, and 31 acres of access roads. Only existing access roads on the Forest will be used; however, some road reconstruction will be necessary especially during the construction phase. The operational phase of the MVP would occupy 42 acres of the Forest, consisting of 21.3 acres the pipeline corridor and 20.4 acres of existing access roads. There would be no above ground facilities located on the Forest. The FEIS states that once all approvals are in place, construction will likely last a period of about 2.5 years or until all 303 miles are constructed. Operation and maintenance within the rights-of-way would begin shortly thereafter and continue as long as the pipeline is in service.

Summary of the Forest Plan Amendment Proposed Decision in DROD

The proposed plan amendment modifies eleven standards of the Jefferson National Forest's Land and Resource Management Plan for the following five matters: Utility Corridors; Soil and Riparian; Old Growth Management Area; Appalachian National Scenic Trail Area; and Scenic Integrity Objectives.

The proposed plan amendment would result in accommodating the MVP construction, use and occupancy of Forest Service lands, should BLM issue a rights-of-way grant.

Objection Process

The objection process provides for a predecisional administrative review (hereinafter referred to as "objection") for certain decisions of the Forest Service. The MVP FEIS and DROD were completed in June 2017. The objection process was initiated by releasing these analysis documents to the public through the publication of the legal notice in *The Roanoke Times* on June 23, 2017. The date of the legal notice marked the beginning of the 45-day objection filing period.

Objections to the proposed project were received via electronic or postal submissions until the objection filing period end date of August 7, 2017. Over 760 individual objections were received. Objections received after the deadline or that did not meet the filing requirements were dismissed and not considered. The objectors whose letters were set aside were notified that their objections were not considered per 36 CFR §218.10. Each objection received within the objection period was considered in the process documented in this letter.

Some objectors requested to meet to discuss the issues raised in their objections. Due to the high number of objectors and the complexity of the issues raised, I felt further issue clarification was unlikely to happen during a meeting. In addition, the limited scope of the Forest Service's Plan Amendment decision narrows the available resolutions. Therefore, I declined to meet with objectors per 36 CFR § 218.11(a).

I convened an independent team of resource specialists to review the objection issues based on the prior written comments¹ set forth in the objection letters. The review team analyzed the issues along with the documentation in the Project Record including, but not limited to, the FEIS and the DROD. My written response is based upon my review of your objections, the Project Record, and the recommendations of the

¹ 36 CFR §218.2 Specific written comments. Written comments are those submitted to the responsible official or designee during designated opportunity for public participation (§218.5(a)) provided for a proposed project. Written comments can include submission of transcriptions or other notes from oral statements or presentation. For purposes of this rule, specific written comments should be within the scope of the proposed action, have a direct relationship to the proposed action, and must include supporting reasons for the responsible official to consider.

review team.

Objection submissions included possible remedies to address the objectors' concerns. Proposed remedies ranged from very general – re starting the analysis process, or suggested selecting the No Action Alternative; to more specific – suggesting new, additional, or revised analysis.

Written Objection Response²

All timely, legible objections received were considered in the administrative review process. Many of the objectors submitted identical, or near-identical issues. Individual issues were grouped to aid the review team. Approximately 100 distinct issues were identified, which were further grouped into four general categories:

- Procedural Issues
- Analysis and Use of Best Available Science
- Mitigation Measures
- Amendment Content

I appreciate the number of individuals and organizations that took the time to express their concerns. This project has been under analysis and in the public involvement process since 2014. Having a lead agency and several cooperating agencies has added an additional layer of complexity to an already complicated process of environmental analysis and disclosure.

Objection Issues

To focus on the key issues found in the review process, I am limiting my response to the four categories of objection issues identified.

Procedural Issues

A category of objections involved issues with the procedure used. Objectors were concerned with the way the Forest Service adopted the analysis, the requirements for adequate notice and timelines, and the opportunities to comment. While the information sharing procedures likely could have been more clearly explained throughout the process, my review determined that the Forest Service met all requirements per the controlling law, regulation, and policy.

Objectors also were concerned with the timing of mandatory consultations and the signing of the Final Record of Decision. My review determined that as a Cooperating Agency, the Forest Service has met its legal obligations on this topic.

Analysis and Use of Best Available Science

Another category of objections revolved around the analysis and best available science associated with the decision. This included disagreement over the science used or the scientific methodology itself, the adequacy of the data used to run an analysis model, the use of a particular model, or the scientific references used or not used for the analysis. My review concludes that analysis and science used

² 36 CFR §218.11(b)(1): A written response must set forth the reasons for the response, but need not be a point-by-point response and may contain instructions to the responsible official, if necessary. In cases involving more than one objection to a proposed project or activity, the reviewing officer may consolidate objections and issue one or more responses.

sufficiently meets the requirements per the controlling law, regulation, and policy.

Mitigation Measures

A third category of objections concerned the proposed mitigation measures and their sufficiency to minimize impacts from construction and operation of the MVP. Objectors questioned the analysis to determine the sufficiency of the proposed mitigation measures as well as the ability of these measures to protect resources. My review concluded that the proposed mitigation measures and associated analysis sufficiently meets the required law, regulation, and policy.

Amendment Content

The final category of objections included concerns related to the proposed project-specific amendment to the existing Jefferson National Forest Land and Resource Management Plan. The objectors raised issues regarding the proposed amendment content, the use of the amendment for the MVP, and noncompliance with the amendment process. My review determined that the proposed amendment meets the required law, regulation, and policy.

Conclusion

The objection process documented in this review complies with the regulations at 36 CFR Part 218 for a predecisional administrative review process. These regulations provide opportunity for concerns to be raised and considered on a project-by-project basis prior to a decision being made.

This written response concludes the administrative review process for the Mountain Valley Pipeline Forest Plan Project Specific Amendment decision by the Forest Service. In accordance with 36 CFR § 218.11(b)(2), this written response is not subject to further review from any other Forest Service or USDA official.

Sincerely,

FRANK R. BEUM
Deputy Regional Forester
Reviewing Officer for the Acting Regional Forester

cc: Job Timm, Peter Gaulke, Tim Abing