

DECISION MEMO

Special Use Permit for Routing and Survey Activities on National Forest System Lands

Mountain Valley Pipeline, LLC
George Washington & Jefferson National Forests
Eastern Divide Ranger District
Craig, Giles, Montgomery and Roanoke Counties, Virginia
and Monroe County, West Virginia

DECISION

I have decided to authorize the use of National Forest System (NFS) lands by Mountain Valley Pipeline, LLC (MVP) to conduct field routing, environmental, cultural resource, and civil surveys within the Jefferson National Forest (JNF). These surveys will occur along the following segments that cross the JNF: 1) a 2.1 mile segment, with an additional variation (Proposed Route) in Giles and Montgomery counties, VA, and Monroe County, WV; 2) a 5.3 mile segment (Alternative 110J) in Craig and Montgomery counties, VA and Monroe County, WV; and 3) a 6.2 mile segment (Alternative 110R) in Craig, Montgomery, and Roanoke counties, VA and Monroe County, WV. Alternative Routes 110J and 110R coincide for 3.1 miles; therefore the total length of survey routes within NFS lands is 10.5 miles (Appendix A, Maps). The surveys are to be completed within one year following the issuance of the permit.

The Forest Service expanded the area of survey on Peters Mountain (Proposed Route) to include the area between the proposed route and the boundary of Peters Mountain Wilderness. This expansion will allow for evaluation of additional opportunities to cross the Appalachian Trail.

Allowing these survey activities does not mean that I am allowing the construction of a pipeline across the JNF. If proposed, the construction of a pipeline would involve a separate environmental analysis and require a separate decision. These surveys are collectively necessary to determine the feasibility of any proposed routes and will collect the environmental and cultural resources data needed to inform future decisions on whether or not to allow the construction and operation of the gas pipeline on the JNF. If construction is allowed, the survey information will also inform us where to avoid or reduce the impacts to sensitive resources.

The following activities will be authorized in the special use permit:

Centerline Survey – A pedestrian reconnaissance survey crew will use biodegradable flagging to identify the centerline in advance of other survey crews.

Wetland and Waterbody Delineation Survey – A wetland and waterbody delineation survey using visual observations of vegetation composition, hydrology and soil samples at selected locations within 300 feet of the centerline. Biodegradable flagging will be used to delineate features. Test pits for wetland surveys will be approximately 4-6 inches in diameter and 18 inches deep and will be recorded by GPS. All test pits will be backfilled immediately after the survey is complete and before crews leave the survey area each day.

Cultural Resources Survey – Forest Service archaeologists will be funded by MVP to conduct the cultural resource surveys along the routes.

Rare, Threatened or Endangered Species Survey - Rare, threatened or endangered species surveys will also be conducted. All flags will be recorded by GPS. Flora and fauna may be observed and captured for identification but none will be collected or removed from the site. All surveys will be conducted per authorization and consultation with the United States Forest Service, U.S. Fish and Wildlife Service, West Virginia Department of Natural Resources, and/or Virginia Department of Game and Inland Fisheries.

Civil Survey – A recording of GPS readings of the centerline location. Minor amounts of brush can be removed with hand tools to provide line of sight and a travel path for survey equipment. Brush cutting is to be limited to saplings or limbs less than 2 inches in diameter. Biodegradable flagging will be used.

Access for the Surveys – No vehicles will be used except to access the corridor using public and existing, open Forest Roads. The surveys will be conducted on foot.

I have made this decision because authorization of these surveys would involve no significant effects, is consistent with management direction, and provides for needs that cannot be met on non-National Forest System lands. This decision will be implemented through issuance of the appropriate special use authorization document that meet the requirements of the decision and Forest Service regulations.

I. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

Decisions may be categorically excluded from documentation in an environmental impact statement (EIS) or environmental assessment (EA) when they are within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified in Forest Service National Environmental Policy and Procedures Handbook (FSH) 1909.15, Section 30 and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect.

Category of Exclusion

This action falls within Section 32.12, Category 8 of the FSH 1909.15, WO Amendment 1909.15-2014-1: “*Approval, modification, or continuation of minor, short-term (1 year or less) special uses of National Forest System lands.*” (36 CFR 220.6(d)(8))

Relationship to Extraordinary Circumstances

Direction provided in FSH 1909.15 (1909.15-2014-1, effective 05/28/2014) requires the Responsible Official to consider whether effects to extraordinary circumstances related to a proposed action warrant analysis in an EA or EIS. The Handbook also states that the mere presence of these resources does not preclude use of a categorical exclusion. This project was analyzed for the following resource conditions (per FSH 1909.15, Section 31.2) and the results are as follows:

a. Federally listed threatened or endangered species or designated critical habitat,

species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species:

An analysis on potential effects to federally listed and rare species as part of a Biological Assessment/Biological Evaluation (BA/BE) was completed for these proposed survey activities. The analysis determined that there will be no effect on federally listed threatened or endangered species, designated or proposed critical habitat, species proposed for Federal listing, or Forest Service sensitive species. The proposed survey activities were analyzed knowing the entire Jefferson National Forest is potential habitat for the endangered Indiana bat and proposed endangered northern long-eared bat. Effects to the Indiana bat resulting from implementation of the 2004 Revised Jefferson Forest Land and Resource Management Plan (Forest Plan) were determined during formal consultation with the US Fish and Wildlife Service (USFWS) in 1997 which resulted in a Biological Opinion. The project area is outside the primary and secondary cave protection areas for Indiana Bats as presented in the Forest Plan of 2014. The surveys will be conducted in accordance with the Terms and Conditions of the Biological Opinion; therefore, this project has no additional effect, beyond that which is already disclosed in the Biological Assessment. Effects to the northern long-eared bat were discussed with the USFWS in a Conference Report prepared by the Forest Service on August 4, 2014 and the Service agreed on August 27, 2014 that continued implementation of conservation measures in place for the Indiana bat were sufficient for the northern long-eared bat and Forest management actions would not result in jeopardy to the species. Environmental surveys conducted for bats will follow guidance and permit requirements in effect at the time of the survey as issued by the USFWS. MVP will coordinate with USFS and USFWS biologists to follow standard protocols and determine the appropriate methodology for conducting presence/absence surveys prior to completing these investigations.

b. Flood plains, wetlands, or municipal watersheds:

The survey activities would have no effect on flood plains, wetlands or municipal watersheds since the extent of impacts would only be potential removal of minor amounts of brush using hand tools to navigate the survey route and minor soil sampling associated with wetland identification. The information gained from these survey activities would be used to avoid, minimize, or mitigate potential impacts to floodplains, wetlands and municipal watersheds from possible construction of a pipeline.

c. Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas:

The study corridor is not within any congressionally designated areas so there would be no effect on any congressionally designated areas.

d. Inventoried roadless areas or potential wilderness areas:

The study corridor is not within any inventoried roadless areas or potential wilderness areas.

e. Research natural areas:

The study corridor is not within a research natural area, so there would be no effect on any research natural areas.

f. American Indians and Alaska Native religious or cultural sites:

The cultural resources survey is designed to identify these types of sites. The field methodology, data recording, and documentation efforts will meet all state and federal guidelines for Section 106 compliance. The information gained from these survey activities would be used to avoid, minimize, or mitigate potential impacts to floodplains, wetlands and municipal watersheds from possible construction of a pipeline.

g. Archaeological sites, or historic properties or areas:

The cultural resources survey is designed to identify archaeological sites and historic resources. The field methodology, data recording, and documentation efforts will meet all state and federal guidelines for Section 106 compliance. The information gained from these survey activities would be used to avoid, minimize, or mitigate potential impacts to floodplains, wetlands and municipal watersheds from possible construction of a pipeline.

I have concluded that this decision may be categorically excluded from documentation in an environmental impact statement or environmental assessment as it is within one of the categories identified by the U.S. Department of Agriculture in 7 CFR part 1b.3 or one of the categories identified by the Chief of the Forest Service in Forest Service Handbook (FSH) 1909.15, Section 32.12, and there are no extraordinary circumstances related to the decision that may result in a significant individual or cumulative environmental effect. My conclusion is based on information presented in this document and the entirety of the planning record.

II. PUBLIC INVOLVEMENT

Public scoping for surveys for the Proposed Route began on January 20, 2015 with a letter sent to those on the Eastern Divide Ranger District project mailing list and those who have expressed interest to us in this project. A news release was released and information was posted on the Forests' website. The project was also identified in the Forests' Schedule of Proposed Actions (SOPA) report. Before a decision was made, two additional route alternatives were submitted for survey permission. A second comment period began on March 13, 2015 and was extended to allow adequate time for an MVP public workshop in areas affected by the additional routes.

The purpose of the scoping was to request comments to determine issues and concerns related to the proposed surveys. Attachment 1 is a summary of the public comments received and our response to those comments. No reason was found not to authorize the routing and survey activities or to require more detailed analysis.

III. FINDINGS OF CONSISTENCY WITH THE FOREST PLAN AND OTHER LAWS AND REGULATIONS

The 2004 Revised Jefferson Forest Land and Resource Management Plan (Forest Plan) was reviewed for consistency with the proposed project. The following Forest Plan direction allows for the authorized survey activities:

Forestwide Standard, FW-244 (Forest Plan, p. 2-60): *"Evaluate new special use authorizations using the criteria outlined in 36 CFR 251.54 and according to Forest Service policy. Limit to needs that cannot be reasonably met on non-National Forest System lands or*

that enhance programs and activities. Locate uses where they minimize the need for additional designated sites and best service their intended purpose. Require joint use on land when feasible.”

The 300-foot-wide survey corridor comprises approximately 450 acres of NFS lands. Under the 2004 Revised Land and Resource Management Plan (Forest Plan) for the JNF, the survey area includes Management Areas 0B-Custodial Management, 4A-Appalachian National Scenic Trail Corridor, 5C-Designated Utility Corridors, 6C-Old Growth with Disturbance, 7E1-Dispersed Recreation Areas-Unsuitable, 8A1-Mix of Successional Habitats, 8C-Black Bear Habitat, and 12B-Remote Backcountry Areas. The Forest Plan allows the proposed survey activities to occur within these management areas.

IV. IMPLEMENTATION DATE

Implementation of this decision may begin immediately after the decision is signed.

V. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITY

Pursuant to 36 CFR 215.8(a)(4), this decision is not subject to a higher level of administrative review.

VI. CONTACT PERSON

Further information about this decision can be obtained from Alex Faught at the Supervisor's Office, 5162 Valleypointe Parkway, Roanoke, VA 24019 or by email: afaught@fs.fed.us; or by phone at 540-265-5192.



H. THOMAS SPEAKS, Jr.
Forest Supervisor



Date

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Mtn Valley Pipeline

Legend

- Proposed Route
- Alt 110J
- Alt 110R
- Appalachian Trail
- County Boundary
- Major Roads
- Wilderness
- National Forest System Lands
- City or Town

