

DECISION MEMO

Atlantic Coast Pipeline Site Survey and Testing Special Use Permit GBR205003

USDA Forest Service, Eastern Region
Greenbrier Ranger District, Monongahela National Forest
Pocahontas and Randolph Counties, West Virginia

I. DECISION TO BE IMPLEMENTED

A. Location

The area affected by this decision is located on the Greenbrier Ranger District in Pocahontas and Randolph Counties on various Quads and PLSS US Tracts (as seen on attached maps and land lists).

B. Summary of Decision

My decision is to authorize a temporary special use permit to Atlantic Coast Pipeline, LLC (ACP) to use National Forest System (NFS) lands while performing site survey and testing activities (hereafter referred to survey). The survey area shall be a 300-foot width within a 2,000-foot width by 17.1 mile long area. The area is more particularly described in the attached map (Exhibit A) and land list (Exhibit B).

The survey includes such activities as field routing, environmental resource inventory, cultural resource inventory, and civil surveys, as described in ACP's application, in preparation for the analysis of a possible future corridor route for a proposed natural gas transmission pipeline. Coordination between ACP and the Forest will occur to determine data collection needs and the methodology of performing the surveys needed to meet Forest Service and other federal and state agencies' needs for analysis.

Design Features and Mitigation:

Coordinate with the Monongahela National Forest on details of data collection and methodology. Any survey activities that may have environmental effects beyond the scale and scope of those disclosed in this Decision require additional formal written authorization.

All surveys shall be conducted via foot travel with vehicle access on existing established public roads. Vehicle access beyond general public access, beyond a NFS gate, is not authorized, except by written permission from the District Ranger on a case-by-case basis. Reinforcement of existing roads or new road construction is not authorized.

Subsequent to botanical surveys and TES (threatened and endangered species) plant marking, minor amounts of brush cutting will be authorized with the use of hand tools to allow pedestrian access

through forest-covered areas and allow a minimal width for line of sight to conduct the surveys. All brush removal shall be limited to saplings or limbs less than 2 inches in diameter.

Soil excavation for wetland delineation, soil surveys, cultural resource surveys, or other purposes may not be conducted in mapped known or high potential Cheat Mountain salamander (CMS) habitat, or in modelled CMS habitat, without the sites first being cleared by a biologist with suitable CMS identification skills, as approved by the Monongahela National Forest wildlife biologist.

Entering or being in or using any cave on the Forest is prohibited unless specifically authorized by the Forest Supervisor in accordance with Forest Order No. 09-21-13-13, Cave Closure Order.

Wooden stakes, PK survey pins, and ribbon flagging (biodegradable in one year) may be placed along the survey corridor to identify a possible centerline of the proposed pipeline corridor. These items must be removed within 12 months after the permit has expired if not being used to identify an actual corridor for a proposed natural gas transmission pipeline.

Leave No Trace principles shall be practiced, where appropriate, while performing activities on NFS lands.

All information produced by activities authorized under this permit must be submitted to the Forest Service upon completion of the survey work or expiration of the special use permit, whichever occurs first.

Do not infringe upon existing special uses or rights-of-way of roads or utilities. These include but are not limited to:

- Road right-of-way permits issued and outstanding rights to third party in US Tracts 1450B, 1450AA, 1450A, and 110.

- Telephone line / fiber optic cable issued to Citizens Telecommunication (being reissued to Atlantic Broadband) in US Tract 51H-I.

- Electrical power line issued to Monongahela Power in US Tracts 51G and 39

- Natural gas pipeline issued to Chesapeake Appalachia in US Tract 128

Foot traffic and other disturbance should be limited to the minimal amount necessary in wetland and bog areas. Within the borders of the Blister Run Swamp Botanical Area and National Natural Landmark, foot traffic, soil pits, shovel tests, brush cutting, and other disturbance shall be minimized to the maximum extent possible, including activities associated with wetland delineation and cultural resource surveys. Any such disturbance that is necessary shall have prior site-specific approval from the Forest Service Authorized Officer.

Forest survey corners and property boundaries are not to be removed or destroyed. If such activities occur, ACP shall have the survey corner or boundary resurveyed and set in accordance with Federal and State survey guidelines and standards.

Prior to any vegetative cutting for any survey, a qualified botanist subject to FS approval must survey the route and clearly mark a 30-foot radius buffer around any TES, or Regional Forester's Sensitive Species plant, bush, or tree. Nothing within a marked buffer area may be removed, cut, or disturbed.

C. Purpose and Need

Atlantic Coast Pipeline, LLC requested access over NFS lands to conduct surveys to identify a possible corridor route for a proposed natural gas transmission pipeline. Temporary access over NFS lands is required to perform the survey. The survey request included such activities as field routing, environmental resources, cultural resources, and civil surveys. Vehicle access is needed over existing established public roads and roads currently under Forest Service special use authorization. Once leaving the road, foot travel only is needed for access to the survey area. No new roads are requested or desired to be constructed for this project.

Minor amounts of brush need to be removed for pedestrian access and line-of-sight through forest covered areas. Wooden stakes, PK survey pins, and biodegradable ribbon flagging need to be placed to identify a possible centerline of the proposed pipeline corridor. Soil samples using Dutch augers or tile spades are needed to identify soil composition and hydrology features. Shovel tests are needed to identify any archaeological and heritage sites within the corridor. Natural Resource Group (NRG), a third party hired by ACP, will perform the majority of the survey and will work directly with the Forest.

An estimated 46.4 miles of public roads are proposed for use by passenger vehicle for this project.

Although the project area is 2,000-foot wide, only a 300-foot wide corridor will be identified during the actual survey.

This decision is consistent with special uses direction in the 2006 (updated 2011) Monongahela National Forest Land and Resource Management Plan (Forest Plan). This special use authorization is compatible with the Forest Plan.

LS18 – Special use authorizations are issued for uses that: a) Serve the public, b) Promote public health and safety, c) Protect the environment, and/or, d) Are legally mandated.

Management Prescription:

MP 3.0 – Vegetation Diversity

MP 4.1 – Spruce and Spruce-Hardwood Ecosystem Management

Standard – TE07: Special use permits may be authorized in TEP species habitat if the uses do not adversely affect populations or habitat. This standard does not apply to Indiana bat or running buffalo clover.

MP 6.1 – Wildlife Habitat Emphasis

Standard – 6141: Utility corridors shall not be developed for or used by motorized vehicles, except for administrative use or where authorized for maintenance of the corridor

Guideline – 6142: Special Uses should generally not include developed recreation areas or rights-of-way open to public motorized use in order to reduce disturbance to wildlife.

Goal – LS19: Work with utilities and others to minimize the use of NFS lands for utility corridors, and to share existing corridors when feasible.

MP 8.0 – Special Areas

Standard – LS25: Proposals for utility and communication facilities outside existing sites or corridors shall be considered only after improvement or expansion of existing facilities is determined to be inadequate or impractical.

II. REASONS FOR CATEGORICALLY EXCLUDING THE DECISION

A. Category of the Proposed Action and Rationale

I have concluded that this decision is appropriately categorically excluded from documentation in an environmental impact statement or environmental assessment consistent with Forest Service Handbook (FSH) 1909.15 section 32.12 (8) 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)

B. Relationship to Extraordinary Circumstances

1. Threatened and Endangered Species or Their Critical Habitat and Regional Forester's Sensitive Species

The Endangered Species Act requires that federal activities do not jeopardize the continued existence of any species federally listed or proposed as threatened or endangered (TEP species), or result in adverse modification to such species' designated critical habitat. Suitable habitat for the endangered Indiana bat and Virginia big-eared bat, as well as the threatened northern long-eared bat, exists in the proposed corridor. Trees measuring 5 inches in diameter at breast height (DBH), and potentially as small as 3 inches DBH, may be considered to provide potential roosting habitat for the Indiana bat and northern long-eared bat. The project area also contains known or potential Cheat Mountain salamander (CMS) habitat. If the recommended mitigation measures are followed, the proposed survey work is expected to have No Effect on TEP species in the study area.

Forest Service Manual 2670 requires analysis of potential impacts to Regional Forester Sensitive Species (RFSS), those species for which the Regional Forester has identified population viability as a concern. While many sensitive plant and animal species have been identified in the corridor, if the recommended mitigation measures are followed, the proposed activity is expected to have no impact on RFSS in the study area.

2. Floodplains, Wetlands, or Municipal Watersheds –

- a. *Floodplains*: Executive Order 11988 is to avoid adverse impacts associated with the occupancy and modification of floodplains. Floodplains are defined by this order as, “. . . the lowland and relatively flat areas adjoining inland and coastal waters, including flood prone areas of offshore islands, including at a minimum, that area subject to a one percent

[100-year recurrence] or greater chance of flooding in any one year.” Floodplains are not expected to be altered by authorized activities.

- b. *Wetlands*: Executive Order 11990 is to avoid adverse impacts associated with destruction or modification of wetlands. Wetlands are defined by this order as, “. . . areas inundated by surface or ground water with a frequency sufficient to support and under normal circumstances does or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats, and natural ponds.” Wetlands are not expected to be altered by authorized activities.
 - c. *Municipal Watersheds*: Municipal watersheds are managed under multiple use prescriptions in land and resource management plans. Authorized activities would not occur within any known municipal watersheds; therefore, no adverse impacts to municipal watersheds are anticipated.
3. Congressionally Designated Areas –
- a. *Wilderness*: This decision would not adversely affect any Wildernesses. No activities would be implemented within congressionally designated Wilderness.
 - b. *Wilderness Study Areas*: The Forest does not have any Wilderness Study Areas, thus this decision will not affect Wilderness Study Areas.
 - c. *National Recreation Areas*: This decision is not within the National Recreation Area and will have no adverse effects.
 - d. *Wild and Scenic Rivers*: There are no designated Wild and Scenic rivers in the project area. The Shaver’s Fork River, which crosses the survey area, is eligible for the Recreational classification under the Wild and Scenic Rivers Act. The permitted survey activities will have no adverse effect on any designated or eligible Wild and Scenic Rivers, their free-flowing status, or their outstandingly remarkable values.
4. Inventoried Roadless Areas – Authorized activities will not occur within nor adjacent to an Inventoried Roadless Area (IRA), including Roadless Conservation Rule IRAs; thus this decision will not affect IRAs.
5. Research Natural Areas – Authorized activities will not occur within nor adjacent to a candidate or established Research Natural Area. Therefore, this decision will not affect any Research Natural Areas.
6. American Indian and Alaska native religious or cultural sites – There are no tribal trust lands or ceded lands located within the State of West Virginia. There are also no federally recognized Indian tribes in West Virginia. There are fifteen federally recognized Tribes that have declared the Monongahela National Forest is within their area of interest due to historic connections with the land and surrounding region. These Tribes have not identified any native religious or cultural sites within the project area. The Forest Service will consult with these fifteen Tribal partners throughout the duration of the permit to conduct archaeological surveys under the authority of the Organic Act. The Forest Service will also fulfill the obligation to consult with federally recognized Tribes prior to the issuance of any permit under the authority of ARPA.

7. Archaeological sites, or historic properties or areas – This decision will authorize various types of surveys to include the identification of historic properties. A separate permit will be issued to conduct archaeological investigations within the Forest. These surveys must be performed in accordance with guidelines provided in the West Virginia Guidelines for Phase I, II, and III Archaeological Investigations and Technical Report Preparation. Specific conditions and performance measures for ACP and NRG to follow during surveys are identified in the permit to conduct archaeological investigations. By following the State guidelines during survey activities, no adverse effects to cultural and heritage resources are expected. If additional excavations (Phase II) are necessary to determine NRHP eligibility of a particular property, ACP is responsible for coordinating with the Monongahela National Forest and the West Virginia Division of Culture and History to determine appropriate methods at each site prior to completing additional testing. ACP should ensure that its consultant, NRG, will apply for an additional permit to conduct archaeological investigations, under the authority of the Archaeological Resources Protection Act of 1979 (ARPA) as amended, prior to completing these investigations.

No other extraordinary circumstances related to the project were identified.

III. INTERESTED/AFFECTED AGENCIES, ORGANIZATIONS AND PERSON CONTACTED

Forest Service and public scoping was conducted for this project. The following Forest Service employees submitted comments regarding this proposal:

Gavin Hale – Heritage
Carol Whetsell – Lands
Todd Hess – Special Uses
Will Wilson – Geologist
Mike Owen – Fisheries Biologist
Tim Tolley – Forest Hydrologist
Stephanie Connolly – Forest Soil Scientist
Kent Karriker – Ecosystems Staff Officer
Cathy Johnson – Forest Wildlife Biologist
Julie Fosbender – North Zone Recreation Manager
Jacob D'Angelo – Forest Engineer
Will Dienst – Timber Program Manager
Jeff Kochenderfer – Silviculturist
Whitney Bailey – Forest Ecologist

The project was placed on the SOPA and a legal notice was placed in *The Pocahontas Times* and *The Elkins Inter-Mountain* local newspapers in December 2014. Public scoping also included mailing letters to individuals and groups. Comments received from the public are addressed in Exhibit C attached.

IV. FINDINGS REQUIRED BY AND/OR RELATED TO OTHER LAWS AND REGULATIONS

My decision will comply with all applicable laws and regulations. I have summarized some pertinent laws and regulations below.

Federal Land and Policy Management Act (FLPMA) - This decision is consistent with FLPMA. The regulations at 36 CFR 251 guide the issuance of permits, leases, and easements under this Act. Permits, leases, and easements are granted across National Forest Service lands when the need for such is consistent with planned uses and Forest Service policy and regulations.

Organic Administration Act of 1897 - This decision is consistent with the Organic Administration Act of 1897, as amended.

Forest Plan Consistency (National Forest Management Act) - This decision is consistent with the standards and guidelines contained in the Forest Plan. See Management Prescription information under section I. C. Purpose and Need of this Decision Memo.

Endangered Species Act - See Section II, Item B1 of this document.

Clean Water Act - This decision is compliant with the Clean Water Act.

Floodplains (Executive Order 11988) - See Section II, Item B2 (a) of this document.

Wetlands (Executive Order 11990) - See Section II, Item B2 (b) of this document.

Federal Cave Resources Protection Act - No known cave resources will be affected by this decision.

National Historic Preservation Act - See Section II, Item B7 of this document.

Archaeological Resources Protection Act - See Section II, Item B7 of this document.

Native American Graves Protection and Repatriation Act - See Section II, Item B7 of this document.

Wild and Scenic Rivers Act - See Section II, Item B3 (d) of this document.

Environmental Justice (Executive Order 12898) - This decision complies with this Act. This decision is not expected to adversely impact minority or low-income populations.

National Environmental Policy Act - The entirety of documentation for this decision supports compliance with this Act (see documentation in the permit file).

V. IMPLEMENTATION DATE

This decision may be implemented immediately.

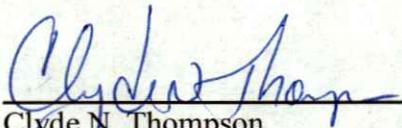
VI. ADMINISTRATIVE REVIEW OR APPEAL OPPORTUNITIES

This decision is not subject to an administrative review or appeal by the public or the special use applicant pursuant to 36 CFR § 214.

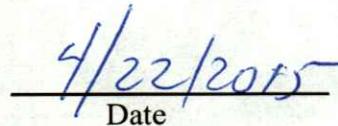
VII. CONTACT PERSON

Further information about this decision can be obtained from Todd Hess during normal office hours (weekdays, 8:00 a.m. to 4:30 p.m.) at the Monongahela National Forest Headquarters, 200 Sycamore Street, Elkins, WV, 26241; Phone: voice (304) 636-1800 ext. 222; Fax: (304) 637-0582; e-mail: tahess@fs.fed.us.

VIII. SIGNATURE AND DATE



Clyde N. Thompson
Forest Supervisor
Responsible Official



Date

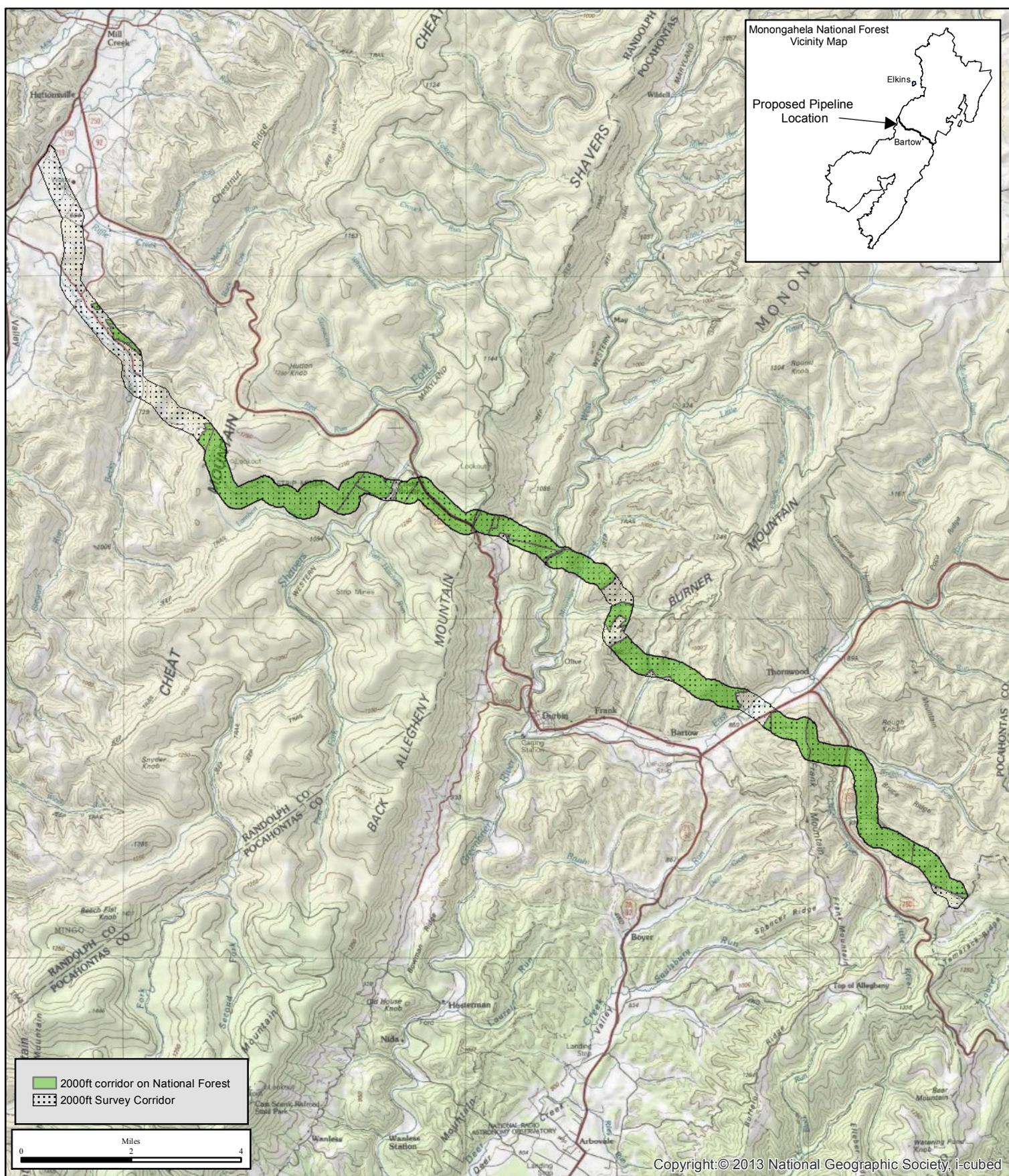
The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, sex, religion, age, disability, sexual orientation, marital status, family status, status as a parent (in education and training programs and activities), because all or part of an individual's income is derived from any public assistance program, or retaliation. (Not all prohibited bases apply to all programs or activities.)

If you require this information in alternative format (Braille, large print, audiotape, etc.), contact the USDA's TARGET Center at (202) 720-2600 (Voice or TDD).

If you require information about this program, activity, or facility in a language other than English, contact the agency office responsible for the program or activity, or any USDA office.

To file a complaint alleging discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call toll free, (866) 632-9992 (Voice). TDD users can contact USDA through local relay or the Federal relay at (800) 877-8339 (TDD) or (866) 377-8642 (relay voice users). You may use USDA Program Discrimination Complaint Forms AD-3027 or AD-3027s (Spanish) which can be found at: http://www.ascr.usda.gov/complaint_filing_cust.html or upon request from a local Forest Service office. USDA is an equal opportunity provider and employer.

Usted puede usar la forma de discriminación AD-3027 o AD-3027 en Español, la cual se puede encontrar en: http://www.ascr.usda.gov/complaint_filing_cust.html o puede obtener en cualquier oficina local del Servicio Forestal. El Departamento de Agricultura ofrece oportunidades de programas y de empleo libres de discriminación.



**Site Survey & Testing, Atlantic Coast Pipeline, LLC
GBR205003**

**Randolph & Pocahontas Counties
Exhibit A (Vicinity Map)
Monongahela National Forest**

Original data was compiled from multiple source data and may not meet the U.S. National Mapping Accuracy Standard of the Office of Management and Budget. This map has no warranties as to its contents or accuracy.



MNF GIS
UTM, Zone 17
NAD 83
TMB
03/12/15



USGS Quads:
Durbin, Hightown,
Mill Creek, Snyder Knob,
Thornwood

Exhibit C

Analysis of Public Comments Received Decision Memo for Atlantic Coast Pipeline Site Survey and Testing Special Use Permit GBR205003

On January 14, 2015, the Monongahela National Forest initiated public scoping for a special use permit application to perform site survey and testing activities by Atlantic Coast Pipeline, LLC. Public scoping was initiated by placing the application on the SOPA website, placing a legal notice in the newspaper of record (*The Pocahontas Times* and *The Elkins Inter-Mountain*), and sending letters to individuals/organizations on the Forest's NEPA mailing list. Public scoping ended on February 13, 2015. Responses received consisted of 521 emails/letters that were outside the project scope, 18 duplicate comments from the same individual/group, and 67 comments which addressed the scope of the project. Those comments that were outside the project scope were related to construction and use of a pipeline, which is not authorized by this decision. This project is focused on site survey and testing. These comments have been grouped into the following categories and are addressed with my response.

1. Comment - Surveyors must be held to the highest standards while completing the most thorough survey possible.
Response – We have identified specific information needs related to several resource issues. Forest Service resource specialists are coordinating with the applicant's contractors to ensure that adequate data are collected to facilitate analysis of the resource issues on the Monongahela National Forest. Where survey protocols already exist, we are recommending that the applicant use these protocols, or work with us to develop alternative protocols that will produce the necessary information.
2. Comment - Review of the qualifications of the surveyors performing work to ensure they are qualified and knowledgeable to perform the tasks assigned.
Response – Forest Service resource specialists will coordinate with the applicant to evaluate the qualifications of contractors who will perform the surveys.
3. Comment – The surveyors work for the proponent, thereby it is likely the reports may offer false information in favor of proponent.
Response – Forest Service resource specialists will coordinate with the applicant to evaluate the qualifications of contractors who will perform the surveys. The Forest Service will inspect survey activities periodically. Data collected will need to be thoroughly documented to

facilitate subsequent analysis of any proposal to locate and construct a pipeline on National Forest land.

4. Comment – The Forest Service should monitor the proponent’s activities on a daily basis to ensure protocols are being followed.

Response – The Forest Service will inspect survey activities periodically. However, it is not practical to divert Forest Service specialists away from their normal work to the extent that would be necessary to facilitate daily monitoring. Data collected will need to be thoroughly documented to facilitate subsequent analysis of any proposal to locate and construct a pipeline on National Forest land.

5. Comment – The data collected should be made public for purpose of environmental review, permit evaluation, and project oversight.

Response – The data collected will be submitted to the Forest Service and will become public information, to the extent allowed by law and regulation. However, we are prohibited from releasing certain sensitive information to the public (for example, the locations of archaeological sites and cave entrances).

6. Comment – The results of survey should be reviewed by the Forest Service.

Response – The Federal Energy Regulatory Commission is the lead agency for conducting the analysis of any proposal to locate and construct an interstate pipeline. As a cooperating agency, the Forest Service will review and comment on the analysis. The Forest Service may prepare certain portions of the analysis for which it has primary expertise.

7. Comment – Survey should document the endangered and threatened plants, animals, and special habitats.

Response – Qualified surveyors will document occurrences of Threatened, Endangered, and Regional Forester’s Sensitive Species, and the location of sensitive habitats along the survey corridor. Recommended survey methodologies will be provided and/or reviewed by the Forest. Survey results will be reviewed and approved by Forest resource specialists. Occurrences will be protected during project activities to the fullest extent practicable through mitigation measures such as buffers around known species and communication with project personnel.

8. Comment – Survey should evaluate impacts on game and non-game species and their habitats.

Response – Qualified surveyors will document wildlife where encountered, including both game and non-game species, and wildlife habitats within the survey corridor. No adverse impacts to wildlife are anticipated from the proposed survey activities, given recommended protocols and mitigation measures. Proposed surveys would not result in the evaluation of impacts to any

species, but will provide data that could be used to evaluate impacts from any proposals for future activities that might be submitted for the area

9. Comment – If surveys are not performed to best scientific protocols, full and accurate negative impacts will not be correctly analyzed.

Response – Forest Service resource specialists will coordinate with the applicant’s contractors to ensure that adequate data are collected to facilitate analysis of the resource issues on the Monongahela National Forest. Where survey protocols already exist, we will recommend that the applicant use these protocols, or work with us to develop alternative protocols that will produce the necessary information. The Federal Energy Regulatory Commission (FERC) is the lead agency for conducting the analysis of any proposal to locate and construct an interstate pipeline. As a cooperating agency, the Forest Service will review and comment on the analysis.

10. Comment – The proponent should submit protocols of survey activities prior to conducting activities and those protocols should be reviewed by the Forest Service.

Response – Forest Service resource specialists will coordinate with the applicant’s contractors to ensure that adequate data are collected to facilitate analysis of the resource issues on the Monongahela National Forest. Where survey protocols already exist, we will recommend that the applicant use these protocols, or work with us to develop alternative protocols that will produce the necessary information.

11. Comment – The line of sight should be kept to a minimum and not allow proponent to clear-cut the corridor.

Response – Only minor amounts of brush cutting using hand tools will be allowed to provide pedestrian access through forest covered areas. Brush removal is limited to saplings or limbs less than 2 inches in diameter.

12. Comment – The ACP survey should be considered in conjunction with other proposed pipeline projects that would cross National Forest lands so that the potential impact on the National Forest system can be properly assessed.

Response – The impacts of the survey will be very minor, and the effects of surveying one proposed corridor would have no measurable cumulative impact when combined with the effects of surveying other proposed corridors. If the applicant later applies for authorization to locate and construct a pipeline, FERC would be the lead federal agency responsible for conducting the environmental analysis, including the analysis of the cumulative impacts of multiple pipeline proposals, through an Environmental Impact Statement (EIS). As a cooperating agency, the Forest Service would review and provide comments on this analysis.

13. Comment – The site survey and testing special use permit should not be authorized prior to FERC approving the pipeline.

Response – The environmental surveys are needed to facilitate FERC’s decision on whether to approve a proposal to locate and construct a pipeline. Therefore, the surveys cannot occur after FERC’s decision on the pipeline proposal.

14. Comment – Survey all historic resources including those associated with the Civil War, early homesteads, and Native Americans.

Response – The applicant is required by law to make a reasonable and good faith effort to identify historic properties within the proposed survey area and such wording will be included with any permit authorizing such surveys. Historic Property means any prehistoric or historic district, site, building, structure, object or historical/cultural landscape included in, or eligible for inclusion in, the National Register of Historic Places (NRHP) maintained by the Secretary of the Interior. This term also applies to any cultural resource or property not yet evaluated to determine whether it is eligible for the NRHP. This term includes artifacts, features, records, and remains that are related to and located within such properties. The term includes properties of traditional religious and cultural importance to an Indian tribe or native Hawaiian organization and that meet the National Register criteria per the definition in 36 CFR § 800.16(1).

15. Comment – The survey crew must include all appropriate cultural resource management disciplines and not just archaeologists who are not qualified to evaluate the built environment, and all members must meet the professional qualifications standards for cultural resources professionals, as set forth at 36 CFR § 61.

Response – The Forest Service shall act in accordance with the Protection of Archaeological Resources Uniform Regulations (36 CFR § 296). These regulations implement the Archaeological Resources Protection Act by establishing the uniform definitions, standards, and procedures for Federal land managers to follow in providing protection for archaeological resources located on public lands and Indian lands. The regulations also provide requirements for issuing permits under the authority of the Archaeological Resources Protection Act to any person proposing to excavate and/or remove archaeological resources from public lands or Indian lands. Additional permit procedures for cultural resources can also be referenced in the Forest Service Manual (FSM 2367.1 and FSM 2724.4), as well as the Forest Service Handbook (FSH 2709.11).

16. Comment – Survey should assess the impact on all karst and soil features along the corridor.

Response – The Forest is recommending that the applicant identify, locate, evaluate, and map karst and soil features, as such information will be needed to evaluate any subsequent proposed activities in the corridor. Geophysical methods may be required to identify and characterize any known and unknown karst and associated resources. This information will be used to analyze any effects to the resources. The Forest is recommending that a Level 1 Order Soil Survey be conducted for the corridor. The Forest will recommend that the Level 1 Order Soil Survey be used to describe the existing soil resource condition at the appropriate scale for the proposed disturbance. That information may be used to analyze potential effects on the soil resource and other resources that depend on the soil.

17. Comment – The survey should analyze possible impacts to additional forest fragmentation.

Response – The survey is expected to provide information relative to the presence of TES species and other species of interest, and their habitats along the survey corridor. Such information would be useful in assessing potential effects of fragmentation to those species should a proposal for other activities within that area be submitted for consideration.

18. Comment – The Survey will not evaluate fragmented forest and the impact to plants and animals.

Response – The survey is expected to provide information relative to the presence of TES species and other species of interest, and their habitats along the survey corridor. Such information would be useful in assessing potential effects of fragmentation to those species should a proposal for other activities within that area be submitted for consideration.

19. Comment – Surveyors should not be allowed to enter into forest during key nesting, hibernation, and roosting times of bats and other birds.

Response – The Forest will make recommendations and restrictions to provide protections for sensitive habitats and TES species (e.g., entry to caves is currently prohibited on the MNF). In some cases, project personnel may need to conduct surveys during certain seasons to ensure that appropriate data is gathered (e.g., breeding bird surveys are conducted from late May through June when most bird species are breeding in the study area, and bat surveys may be designed to allow identification of roost trees on the landscape in/near the survey corridor); however, no adverse impacts are anticipated to the target species as a result of proposed surveys, given recommended protocols and mitigation measures.

20. Comment – The survey should identify sensitive areas prior to entering to perform the survey.

Response – The Forest has informed the Applicant of known sensitive habitats as well as imposed mitigation measures in the decision. The Forest will recommend survey methods within sensitive habitats.

21. Comment – Surveyors should wash vehicles and equipment in an effort to reduce invasive species from entering into the area.

Response – Mitigation measures to reduce the possibility of invasive species into an area are mandated by Regional Directives and will be a clause in the special use permit.

22. Comment – The survey should determine the method and impact of crossing each waterway along the proposed corridor.

Response – The survey is expected to yield information about waterways within the survey corridor. That information will be used to help determine the appropriate crossing method and potential impacts of any subsequent proposed activities. The survey is recommended to include wetland delineations according to Corp of Engineers protocol. The Forest expects that the FERC EIS will include a thorough analysis of potential stream impacts. The Forest has recommended additional surveys such as stream bed composition, bank stability and cross sectional surveys on larger streams to better assess potential impacts.

23. Comment – Survey should analyze the stream discharge, pH, nutrients, bank stability, geomorphological data, phosphorus, and other scientific environmental data at each water crossing.

Response – The Forest expects that the FERC EIS will include a thorough analysis of water quality and stream impacts. We have recommended that the survey include various water quality and geomorphic data collection, including stream bed material composition, substrate “embeddedness” (degree to which larger substrate material is covered by smaller material), bank stability, cross section, and water quality.

24. Comment – A watershed survey and testing in the area should be part of the activity to identify if construction would negatively impact the watershed and identify any seeps or springs in the project area.

Response – The Forest expects a thorough analysis of potential impacts of any subsequent proposed activities. We are recommending that the applicant conduct various surveys, including identifying springs and seeps, so that the types and extent of impacts can be better analyzed.

25. Comment – The survey should evaluate the karst topography, its aquifers, and possible impact to water quality.

Response – The Forest expects that the FERC EIS will include a thorough analysis of potential impacts to karst features. Therefore, we have recommended that the applicant survey karst areas for the presence of sinkholes and subsurface karst features that may act as flow paths for groundwater.

26. Comment – Where the study corridor crosses carbonate rocks, public and private water supplies that are located within a mile of the pipeline corridor should be sampled to establish baseline water quality prior to beginning construction.

Response – The Forest expects a thorough analysis of potential impacts to water supplies that originate on the Forest. We have recommended that in areas of karst geology, ACP should evaluate the potential impact to water supplies beyond the immediate vicinity of the pipeline corridor.

27. Comment – The study should demonstrate that stream crossings can be designed so as not to interfere with the free passage of fish and other stream organisms.

Response – The region is prone to intense precipitation events and flash flooding may result from this. This can have adverse impacts on construction sites and other disturbed areas. The Forest expects that the FERC EIS will address this potential, so we have recommended that the applicant identify areas of steep slopes and unstable soils in the surveys. Addressing how to best mitigate the potential impacts will be part of the environmental impacts analysis which will be conducted by FERC.

28. Comment – The Survey should identify the impacts flashfloods can have to the project site.

Response – The region is prone to intense precipitation events and flash flooding may result from heavy rainfall. This can have adverse impacts on construction sites and other disturbed areas. The Forest is recommending the applicant identify areas of steep slopes and unstable soils in the surveys. Addressing how to best mitigate the potential impacts will be part of the environmental impacts analysis conducted by FERC.

29. Comment – Two inch small saplings should be allowed to grow into mature trees instead of cut for line of sight.

Response – Trees and saplings that are authorized to be cut through this decision have no commercial value. Cutting brush for line of sight is routinely done for landline surveys and other work performed on the Forest.

30. Comment – Someone from the public should accompany the proponent’s survey crews.

Response – The public is always welcome to enjoy the Monongahela National Forest and observe any company performing activities upon National Forest System lands as long as the authorized use is not being restricted, interfered with, or hindered in any manner.

31. Comment – The project is incompatible with the Forest Plan

Response – This decision only addresses the site survey and testing. These surveys will have minimal impacts, and I have determined that they are consistent with the Forest Plan. Any subsequent application to locate and construct a pipeline would need further review for Forest Plan consistency.

32. Comment – The National Forest should not allow commercial activity to take place on public lands.

Response – The National Forest is a multiple use agency where several laws direct commercial activity to occur on public lands. A few of these laws are: The Organic Act of 1897, Act of March 4, 1915 (Occupancy Permit), Mineral Leasing Act of 1921, Federal Land and Management Act of 1976, and Forest Leisure and Recreation Enhancement Act.

33. Comment – An amendment to the Forest Plan is required to authorize this project over Cheat Mountain.

Response – An amendment to the Forest Plan is not required to authorize a site survey and testing permit over Cheat Mountain. Any subsequent application to locate and construct a pipeline would need further review for Forest Plan consistency.

34. Comment – The survey results could skew FERC’s eventual EIS in favor of the identified corridor.

Response – The surveys authorized by this decision are essential for facilitating FERC’s analysis of the applicant’s preferred route. As a cooperating agency, the Forest Service will work with FERC in an effort to ensure that all feasible alternatives are evaluated on an equal footing.

35. Comment – The application should not be accepted because it is not in the public’s interest. 36 C.F.R. § 251.54(e)(5)(ii) (addressing “Second-level Screening of Proposed Uses”).

Response – Applications must be accepted if they meet the initial screening criteria outlined in 36 CFR § 251.54(e)(1). The application met those criteria and had already been accepted when we solicited public comments. The second-level screening occurs during the NEPA process after the proposal has been accepted as an application project. This decision, that is documented herein, addresses the results of the second-level screening. We have determined that the proposed use is in the public interest because it would provide necessary information for evaluating a subsequent proposal to locate and construct a pipeline.

36. Comment – The site survey and testing should be an Environmental Assessment (EA) instead of a Categorical Exclusion (CE) because available alternative corridors are being ignored and could have a significant impact upon the environment.

Response – This project for site survey and testing is supported by a CE identified in 36 CFR § 220.6(d)(8). Performing a survey has little to no impact upon the environment, so it is not necessary to evaluate alternatives to the proposed survey. Granting this permit to survey the applicant’s preferred route for a pipeline does not preclude subsequent surveys of any alternative routes that might be identified. We expect that any feasible alternative routes would be analyzed on an equal footing.

37. Comment – Alternative locations should be identified and investigated prior to issuing a site survey and testing special use permit.

Response – The site survey and testing is needed to identify impacts of a subsequent proposal to locate and construct a pipeline. Performing a survey has little to no impact upon the environment, so it is not necessary to evaluate alternatives to the proposed survey. Granting this permit to survey the applicant’s preferred route for a pipeline does not preclude subsequent surveys of any alternative routes that might be identified. We expect that any feasible alternative routes would be analyzed on an equal footing.

38. Comment – An EA is required for the site survey and testing special use permit due to “unresolved conflicts concerning alternatives” not being identified.

Response – This project for site survey and testing is supported by CE identified in 36 CFR § 220.6(d)(8). Performing a survey has little to no impact upon the environment, so it is not necessary to evaluate alternatives to the proposed survey. Granting this permit to survey the applicant’s preferred route for a pipeline does not preclude subsequent surveys of any alternative routes that might be identified. We expect that any feasible alternative routes would be analyzed on an equal footing.

39. Comment – The site survey and testing should evaluate the economic impact and/or viability it brings to the area.

Response – We anticipate that the surveys will produce a small, temporary benefit for the local economy due to out-of-town contractors staying in local hotels, eating in local restaurants, purchasing supplies, etc. If the applicant later applies for authorization to locate and construct a pipeline, the FERC would be the lead federal agency responsible for conducting the environmental analysis, including the analysis of economic impacts. As a cooperating agency, the Forest Service would review and provide comments on this analysis.

40. Comment – The survey should identify slope stability for construction needs and reference a Forest Service study “Slope Stability Reference Guide for National Forests in the United States” written by R.W. Prellwitz, T.E. Koler, and J.E. Steward. 1994..

Response – The Forest will recommend the Forest Service study “Slope Stability Reference Guide for National Forests in the United States” written by R.W. Prellwitz, T.E. Koler, and J.E. Steward. 1994, be used to gather data and information. The data collected is recommended to include slope stability upslope and downslope of the corridor within the watershed to assess the entire landscape.

41. Comment – The Survey should analyze the associated roads and staging areas that might be needed for future use.

Response – In are recommending that the survey provide information that can be used to analyze visual impacts of any subsequent proposed activities. The survey activities (walking through the woods, using hand tools, etc.) in themselves will not significantly affect visual or recreation resources because of their limited pipeline.

42. Comment – The survey should analyze visual impacts and effects to recreation.

Response – It will be recommended the survey should provide information used to analyze visual impacts of the area if a pipeline is constructed. The survey activities (walking through the woods, using hand tools, etc.) in themselves will not significantly affect visual or recreation resources because of their limited nature.

43. Comment – The application says nothing about the need for port-a-potties at various locations so the surveyors do not litter the woods with human trash and waste.

Response – Leave No Trace principles are to be followed, where appropriate, on NFS lands. These principles include burying human waste and packing out everything they pack in, with the exception of survey markers, pins, and flagging. Leave No Trace principles are the accepted

practice for anyone traveling through the backcountry. The Forest Service has also required that surveyors remove all flagging, markers, etc. within 12 months after the permit expires, unless those materials are marking a route still under consideration for a proposed pipeline. Once corridors are no longer under consideration, all survey materials would be removed.