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August 7, 2017

Mr. Tony Tooke
Regional Forester
USDA Forest Service
1720 Peachtree Street
Atlanta, GA 30309

RE: Notice of Objection to Draft Record of Decision for the Mountain Valley Pipeline Plan Amendment

Dear Mr. Tooke:

The purpose of this letter is to state The Nature Conservancy's objection to the Draft Record of Decision (Draft ROD) for the Mountain Valley Pipeline Plan Amendment, issued by Joby P. Timm, Forest Supervisor, 5162 Valleypointe Parkway Roanoke, VA 24019. The proposed project would be located on the Jefferson National Forest (JNF) in Virginia. This Notice of Objection filed pursuant to Title 36 CFR Part 218.

The mission of The Nature Conservancy is to conserve the lands and waters on which all life depends. The Conservancy is a leading conservation organization working in all 50 states and more than 35 countries. We have helped conserve nearly 15 million acres of land in the United States and more than 118 million acres with local partner organizations globally.

The proposed route of the MVP crosses through the Central Appalachian Whole System Project, which is an area of deep investment for the Conservancy. Within this region, The Conservancy has worked with public agencies, corporations, private landowners, and local communities to undertake land protection, management, and restoration actions across public and private lands. We have worked with others to develop and implement strategies to protect the best, large, intact habitats that will continue to support a diversity of species, in the face of a changing landscape and a changing climate. In particular, we have worked with the USFS to found and administer the Central Appalachians Fire Learning Network, a collaborative effort to develop and implement scientifically based ecological fire management objectives to restore healthy forests on public and private lands in western Virginia.

On December 22, 2016, the Conservancy submitted comments on the Draft Environmental Impact Statement (DEIS) addressing issues raised in the scoping letter we filed with the Federal Energy Regulatory Commission (FERC) on June 16, 2015. The following recommendations made in our scoping letter relate to our objection to this Draft ROD:

- The recommended alternative for the Mountain Valley Pipeline avoid all preserves, easements, and Critical Habitats for conservation;
- Avoidance of both direct and indirect impacts be demonstrated by the applicant, and supported by robust, quantitative, and repeatable analyses;

- Compensatory mitigation recommendations consider landscape context, are in addition to business as usual and equivalent to functions and values lost, are located to benefit the area in which impacts occurred, incorporate temporal loss of functions and values, and are durable over time.
- Impacts to public lands are evaluated according to the consistency of the introduction of linear infrastructure with management area objectives and desired conditions stated within the area's resource management plan.

The Conservancy objects to the decision to amend the LRMP to allow impacts to areas in Management Prescription 6C (*Old Growth Communities Associated with Disturbance*). We recommend instead that the USFS require the MVP to avoid impacts to areas in Management Prescription 6C. This objection is based on our finding that the introduction of a permanent, non-forested, linear feature would create adverse impacts to old growth forest habitats that will effectively be permanent in nature. As such, we believe that the proposed amendment is fundamentally inconsistent with the purpose for which the areas in Management Prescription 6C were designated during the planning process, which included significant involvement by public and private stakeholders.

The Draft ROD includes two proposed modifications to areas within Management Prescription 6C:

- 1) Add language to Standard 6C-007 to allow vegetation management activities to: "clear the trees within the construction zone associated with the Mountain Valley Pipeline."
- 2) Add language to Standard 6C-026 which currently designates these areas as unsuitable for designation of new utility corridors, utility rights-of-way, or communication sites "with the exception of the Mountain Valley Pipeline right-of-way".

The Draft ROD states: "Having considered the best available scientific information and the FEIS effects analysis, I have concluded that there will not be substantial adverse effects, nor a substantial lessening of protections, to the terrestrial and aquatic ecosystems within Rx 6C". This section of the Draft ROD further states: "A total of 4.6 acres of old growth trees within Rx 6C will be affected by constructing the pipeline."

The Conservancy finds that the Draft ROD fails to consider comments previously provided by The Conservancy, the Commonwealth of Virginia and FERC that indicate that the project will have substantial direct and indirect adverse effects on terrestrial ecosystems, including those within Prescription 6C, and that the Draft ROD fails to adequately mitigate for these impacts. Specifically, we find that this project will cause impacts to old-growth forest within a very large and diverse patch of contiguous forests, and we believe that these impacts cannot practically be compensated for. We base this conclusion on the following information presented previously by the Conservancy, the Commonwealth of Virginia, and in FERC's Conclusions:

- In our June 2015 scoping comments The Conservancy requested that FERC observe the full mitigation hierarchy by first seeking to avoid impacts, then minimize impacts, then finally requiring or recommending compensation for remaining unavoidable impacts. The Conservancy specifically requested that MVP avoid impacts to Critical Habitats for conservation. In that letter we described Critical Habitats as designated areas with high biodiversity value, consistent with the definitions of Critical Habitats as outlined in the [International Finance Corporation Performance Standard 6: Biodiversity Conservation and Sustainable Management of Living Natural Resources](#). For the Central Appalachians, these habitats include very large and diverse patches of intact forest, ecologically significant cave and karst systems, and rare, threatened and endangered species known to occur in less than 10 locations globally. We made these datasets publicly available in the hope they would be used in siting decisions and impact assessment.
- In section **4.5.2.2 Forest Fragmentation and Edge Effects on Wildlife** of the FEIS, FERC states that "in Virginia, the MVP would permanently impact about 350 acres of contiguous interior forest classified as General to Outstanding quality."

- In section **4.4.1.2 Interior Forest** FERC reports that “In Virginia, interior forests were assessed by Mountain Valley using data from the VADCR’s Virginia Natural Landscape Assessment (VaNLA) project (VADCR-DNH, 2007). The VaNLA project ranks areas with at least 100 acres of interior forest and the associated forest fragments as Ecological Core Areas (ECA) into the five categories of Outstanding (C1), Very High (C2), High (C3), Moderate (C4), and General (C5). Figure 4.4.1-3 from the FEIS (Attachment 1) illustrates the ECA that the MVP would pass through in Virginia. Of these, VA Cores 01, 02, 04 and 05 are on the Jefferson National Forest (JNF). VA Core 04 – ranked Outstanding – surrounds the area assigned to Management Prescription 6C (*Old Growth Communities Associated with Disturbance*) which is the subject of the project specific modification in the Draft ROD. The LRMP states that this management prescription is allocated only to approximately 30,200 acres (4%) across the Jefferson National Forest, and that “Management of these areas emphasizes protection, restoration, and management of old growth forests and their associated wildlife, botanical, recreational, scientific, educational, cultural, and spiritual values.
- Within the Land Use And Visual Resources Chapter or the FEIS, p4-332, FERC reports amendments to the Draft EIS requested by USFS includes language used in the Draft ROD : “With respect to meeting the § 219.8(a)(1) planning rule requirement, since only 2 acres of Rx 6C would be affected by the pipeline, it is likely that there would not be any “substantial adverse effects” to the ecosystems within Rx 6C and therefore, this planning rule provision would not apply.”
- However, In Section **4.4.1.2 Interior Forest** of the FEIS FERC reports: “Within the 50-foot-wide operational pipeline easement within the Jefferson National Forest, about 28 acres of forests cleared during construction would be permanently converted to herbaceous grassland, including about 12.4 acres of old growth forest.
- The Section continues: “Areas outside of the 50- foot-wide permanent right-of-way would be allowed to naturally revegetate; converting old growth and mature forest to an early successional condition. The result would be the conversion of 336 acres of interior forest to forest edge habitat in Jefferson National Forest based on the extension of forest edge an estimated 300 feet on either side of the MVP right-of-way.

Based on the assessment by the FS, existing species are unlikely to regenerate in the cleared areas since adequate advanced oak reproduction is lacking. While stump sprouting potential may be adequate in some areas that may not be graded such as wetland and waterbody buffers, the FS anticipates that the grading along the entire upland construction right-of-way would be quite heavy and would result in removal of most, if not all, stumps to an extent that seriously reduces or eliminates stump sprouting potential. These areas would likely be regenerated with light seeded species such as red maple, various pine species, and/or yellow poplar, depending upon site quality. Therefore, the FS expects a shift in forest stand composition on 79.1 acres away from the current oak dominated community in all areas outside of the 50-foot-wide permanent right-of-way.”

- In the FEIS Conclusions and Recommendations, sub-section **5.1.5 Vegetation** FERC states: “we conclude that the projects would not have significant adverse impacts on grasslands and shrublands. However, in considering the total acres of forest affected, the quality and use of forest for wildlife habitat, and the time required for full restoration in temporary workspaces, we conclude that the projects would have significant impacts on forest.”
- In our December comments on the DEIS, the Conservancy concurred with FERC’s conclusion “that the projects would have significant impacts on forest.” We noted the thorough description of interior forest fragmentation and edge effects in Section **4.4.2.3 Interior Forest Fragmentation and Edge Effects** and observed that “Effects of forest fragmentation are extensively described within a very large body of peer reviewed research. [Haddad et al \(2015\)](#) synthesized fragmentation experiments spanning multiple habitats and scales, five continents, and 35 years and concluded that habitat fragmentation reduces biodiversity by as much as 75%”.

- In its December 2015 Scoping Comments, the Commonwealth of Virginia included the following recommendation: “Given the adverse impact to forestland that has been documented and recognized by FERC as significant in its analysis, the Commonwealth of Virginia recommends that FERC include in Section 5.2 a recommendation that directs MVP, LLC to coordinate with Virginia’s natural resource agencies and applicable federal agencies on an acceptable mitigation plan to offset and compensate for the significant forestland impacts in Virginia, including direct and indirect losses and fragmentation effects.” This recommendation was prefaced by the statement that “To the extent practicable, the Commonwealth recommends that the Bureau of Land Management and U.S. Forest Service also consider these recommendations to the degree that they relate to decisions under their jurisdiction.”
- In the Conservancy’s June 2015 Scoping Comments we recommended “that FERC require the MVP to develop mitigation plans for similarly critical resources likely to be impacted by the proposed project, such as contiguous forests. Such plans should be developed in coordination with . . . relevant state resource agencies and should be included identified mitigation measures (avoidance, minimization, and compensatory mitigation) in the final EIS and Draft ROD.”

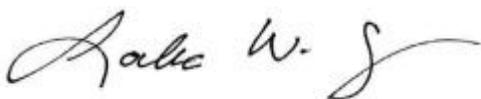
The Conservancy believes that if the proposed project specific modifications in the Draft ROD are implemented, impacts to interior forests would be significant, including permanent conversion of old growth oak forest that is already relatively rare within the forest boundary, and even less common beyond it. In addition, the project would adversely affect many acres of forest habitat adjacent to the actual permanent project footprint. Further, the Conservancy believes that in its impacts to old-growth forests within a Virginia Department of Conservation Recreation (VDCR) delineated core of outstanding ecological integrity, the project would create impacts that cannot practically be compensated for, and therefore these impacts should be avoided.

The Conservancy finds that the Draft ROD fails to consider comments provided above, as well as a very substantial body of science on the ecology of forest ecosystems, particularly on the impacts of fragmentation. We disagree with the finding within the Draft ROD that “there will not be substantial adverse effects, nor a substantial lessening of protections, to the terrestrial and aquatic ecosystems within Rx 6C”, and the consequent finding that the planning rule relevant to this change (cited in the Draft ROD) which requires plan components “to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in the plan area” (36 CFR §219.8(a)(1) “is not ‘directly related’ to this LRMP amendment for standard 6C-026, and need not be applied to it”.

We note that, despite its finding that the impacts to interior forests are significant, FERC does not make any recommendations regarding mitigation for these significant impacts. We believe that BLM, however, can and should require mitigation as a condition if it decides to grant a right-of-way for the project under the Mineral Leasing Act. The Draft ROD by the USFS should be revised to include further conditions that will avoid impacts to areas within Management Prescription 6c, and minimize and offset impacts to intact forests within other management prescriptions.

Thank you for the opportunity to provide comments to BLM on this important issue. If you have any questions about these comments, please contact Judy Dunscomb, Senior Conservation Scientist at jdunscomb@tnc.org or (434) 951-0573.

Sincerely,



Locke Ogens
Virginia State Director

Cc: Thomas Minney, West Virginia State Director
 Dr. Elizabeth Gray, Mid-Atlantic Division Director
 Nels Johnson, North American Energy Program Director
 Campbell Moore, Central Appalachians Whole System Project Director
 Joby Timm, Supervisor, George Washington and Jefferson National Forests

