



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Four Penn Center
1600 John F. Kennedy Boulevard
Philadelphia, Pennsylvania 19103-2852**

February 15, 2023

Dr. Homer Wilkes, Under Secretary
Natural Resources and Environment
U.S. Department of Agriculture
c/o Jefferson National Forest
MVP Project
5162 Valleypointe Parkway
Roanoke, VA 24019

RE: Mountain Valley Pipeline and Equitrans Expansion Project, Draft Supplemental Environmental Impact Statement, Monroe County, WV and Giles and Montgomery Counties, VA (CEQ # 2020191)

Dear Dr. Wilkes:

The U.S. Environmental Protection Agency (EPA) Region 3 has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act (CAA). The CAA Section 309 role is unique to EPA. It requires EPA to review and comment publicly on any proposed federal action subject to NEPA's environmental impact statement requirement.

The U.S. Department of Agriculture (USDA) U.S. Forest Service (USFS), with the Bureau of Land Management (BLM) as a cooperating agency, has prepared a Draft Supplemental Environmental Impact Statement (DSEIS) that evaluates the potential environmental impacts associated with the construction and operation of a buried 42-inch natural gas pipeline across 3.5 miles of the Jefferson National Forest (JNF). The DSEIS supplements the Federal Energy Regulatory Commission (FERC) 2017 Final Environmental Impact Statement (2017 FEIS), which evaluates the potential impacts of the entire 303.5-mile Mountain Valley Pipeline and Equitrans Expansion Project (MVP), and the USFS 2020 SEIS, which was developed to respond to a 2018 United States Court of Appeals for the Fourth Circuit ruling that vacated and remanded the Forest Service's decision approving the Forest Plan amendment, based on violations of the National Forest Management Act and NEPA. The USFS 2020 SEIS also responded to the Court's 2018 ruling that vacated and remanded BLM's Mineral Lease Act (MLA) Right-of-Way (ROW) decision for the portion of the pipeline proposed to cross through National Forest System (NFS) lands, based on a violation of the MLA.

EPA was a cooperating agency on the development of the FERC 2017 EIS and provided extensive comments during interagency meetings, on preliminary drafts, technical resource documents and in letters dated December 20, 2016, and July 31, 2017, on FERC's draft and final 2017 EIS. On November 9, 2020 (Draft) and January 7, 2021 (Final), Region 3 provided comments on the USFS 2020 SEIS. Additionally, on September 12, 2021, EPA Region 3 provided comments on the draft FERC MVP Amendment Project Environmental Assessment referred to in the DSEIS as the 2021 FERC Boring EA.

The current DSEIS responds to a Fourth Circuit Court ruling on the 2020 USFS SEIS and Record of Decision (ROD) that asserts the USFS and BLM: 1) inadequately considered the actual sedimentation and erosion impacts of the pipeline; 2) prematurely authorized the use of the conventional

bore method to construct stream crossings; and 3) failed to comply with the USFS's 2012 Planning Rule.

The scope of analysis for this DSEIS seeks to address the deficiencies identified in the Fourth Circuit's January 2022 decision and new circumstances and relevant information that have materialized since the December 2020 USFS Final SEIS, regarding the environmental concerns and decision framework, and which have a bearing on the proposed action or its effects. Two alternatives were evaluated: a No-action Alternative and the Proposed Action Alternative in which the USFS would amend the Forest Plan as necessary to allow for the MVP to cross the JNF and concur in a decision by the BLM to grant a right-of-way and a temporary use permit under the MLA.

EPA acknowledges the USFS stated reason for limiting the scope of the SEIS, because previous evaluations of the project's expected impacts on resources, including climate and air quality, were provided in the FERC 2017 FEIS and the USFS 2020 SEIS. However, policy changes have occurred since those evaluations were developed and finalized. Most notably, on January 9, 2023, the Council on Environmental Quality (CEQ) published interim guidance to assist federal agencies in assessing and disclosing climate change impacts during environmental reviews.¹ CEQ developed this guidance in response to EO 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis. This interim guidance is effective immediately. CEQ indicated that agencies should use this interim guidance to inform the NEPA review for all new proposed actions and for evaluations in process, as agencies deem appropriate, such as informing the consideration of alternatives or helping address comments raised through the public comment process. EPA recommends the Final SEIS (FSEIS) apply the interim guidance as appropriate, to ensure robust consideration of potential climate impacts, mitigation, and adaptation issues. Please see enclosed additional comments for your consideration in the FSEIS.

Thank you for providing EPA with the opportunity to review the DSEIS. We look forward to reviewing the FSEIS when it becomes available. In the interim, we welcome the opportunity to discuss any of our comments further. If you have any questions, please feel free to contact Joy Gillespie at 215-814-2793 or gillespie.joy@epa.gov.

Sincerely,

Stepan Nevshehirlan
Chief, Environmental Assessment Branch
Office of Communities, Tribes and Environmental
Assessment

¹ <https://www.federalregister.gov/documents/2023/01/09/2023-00158/national-environmental-policy-act-guidance-on-consideration-of-greenhouse-gas-emissions-and-climate>

Detailed Comments for Draft Supplement Environmental Impact Statement Mountain Valley Pipeline and Equitrans Expansion Project

EPA has the following recommendations for consideration in the development of the FSEIS:

- Section 3.2.1 *Air Quality, Climate, and Noise* states [t]he Forest Service performed an independent agency review of the 2021 FERC Boring EA and determined that its effects analysis is consistent with effects anticipated on NFS lands because the nature and type of stream crossings on NFS lands would be like those analyzed in the 2021 FERC Boring EA for the MVP as a whole. EPA recommends providing a discussion of the USFS independent agency review or provide a citation as to where the analysis can be reviewed.
- EPA finds the 2017 FERC EIS and the 2020 USFS SEIS do not have an analysis or discussion on the climate impact the permanent conversion of 22 acres of forest to grass/shrub and industrial use (e.g., access roads). The loss of the forest's ecosystem service of carbon sequestration, carbon dioxide capture, and its impact on climate change should be evaluated in the FSEIS. EPA suggests comparing the carbon sequestration capability of the intact mature forest that was cleared to the proposed operational land use conditions.
- EPA finds under Section 4 *Consultation and Coordination* a list of federal [state and local] agencies and tribes consulted; however, there are no state or local agencies listed. Please update this list with the appropriate information. If no state or local entities were consulted for the FSEIS, please explain why. Also, EPA recommends, in an effort to ensure meaningful engagement, USFS provide in the FSEIS a description of topics discussed during those consultations and any follow-up coordination efforts with impacted Tribes as well as the outcomes of those discussions, including any adjustments that were made to the proposed action as a result.