Data Submitted (UTC 11): 9/5/2017 11:00:00 AM
First name: Angie
Last name: Rosser
Organization: West Virginia Rivers Coalition
Title: Executive Director and Lead Objector
Comments: Atlantic Coast Pipeline Decision Objection

Mr. Cassamassa,

Please accept the attached Atlantic Coast Pipeline Decision Objection on behalf of West Virginia Rivers Coalition (lead objector) and its co-objectors. Identical files in PDF and Word formats are attached.

Thank you for your consideration.

Angie Rosser, Executive Director and Lead Objector

West Virginia Rivers Coalition

3501 MacCorkle Ave. SE #129

Charleston, WV 25304

304-637-7201 office | 304-437-1274 cell

arosser@wvrivers.org

September 4, 2017

Glen Casamassa, Associate Deputy Chief

USDA Forest Service

1400 Independence Ave SW, Mailstop #1104

Washington, DC 20250

Attn: Administrative Reviews

Re: Atlantic Coast Pipeline Decision Objection

Dear Associate Deputy Chief Casamassa,

West Virginia Rivers Coalition, along with the following organizations listed below, (collectively [ldquo]WV

Rivers[rdquo]) respectfully object to the Forest Service[rsquo]s Draft Record of Decision (ROD) for the Atlantic Coast Pipeline. The lead objector is WV Rivers Coalition pursuant to 36 C.F.R. [sect] 218.8(d)(3).

WV Rivers requests that you, as the Reviewing Officer, convene a meeting to discuss issues raised in this objection, in accordance with 36 C.F.R. [sect] 218.11(a).

The Responsible Officials for the draft ROD are:

Tony Tooke, Regional Forester Southern Region,

1720 Peachtree Road NW Atlanta, GA 30309

Mary Beth Borst, Acting Regional Forester, Eastern Region,

626 East Wisconsin Avenue

Milwaukee, WI 53202

The Atlantic Coast Pipeline is proposed to be located within the Monongahela National Forest in West Virginia and the George Washington National Forest in Virginia.

The West Virginia Rivers Coalition (WV Rivers) is a 501(c)(3) nonprofit organization founded in

1990 by paddlers and whitewater enthusiasts who care deeply about restoring and caring for the Mountain State's renowned free-flowing waters and scenic beauty. Today, the WV Rivers is the statewide voice for water-based recreation and clean, drinkable, swimmable, and fishable rivers and streams--from the headwaters to wherever water flows in West Virginia. Our mission is to conserve and restore West Virginia's exceptional rivers and streams. We believe that clean water is the foundation of life, and that all people should respect and be able to enjoy clean West Virginia rivers and streams.

Each of the signed organizations and WV Rivers have important interests in the Monongahela National Forest lands that are affected by this action. These interests include past and ongoing uses of these public lands for recreational, scientific, and educational activities. The parties have all been actively involved in the NEPA review addressing the ACP proposal and filed comments on the DEIS. We incorporate by-reference the following documents that were [ldquo]previously provided to the Forest Service by the objector during public involvement opportunities for the proposed project where written comments were requested by the responsible official[rdquo] as allowed at 36 C.F.R. [sect] 218.8(b)(4): FERC Accession Number 20170406-5620, WV Rivers comments on DEIS, April 6, 2017; FERC Accession Number 20160610-5150, WV Rivers scoping comments on GWNF-6 Route Alternative, June 10, 2016 (attached).

The ROD is legally deficient for the following reasons:

* The United States Forest Service ([ldquo]Forest Service[rdquo]) may not adopt the Environmental Impact Statement ([ldquo]EIS[rdquo]) issued for this project by the Federal Energy Regulatory Commission ([ldquo]FERC[rdquo]) and must take necessary actions to meet all requirements of the National Environmental Policy Act ([ldquo]NEPA[rdquo]) independently of FERC[rsquo]s action.
*
The environmental analyses, and the record on which the draft ROD is based, fail to provide adequate support for ROD. The record omits vital analyses and fails to meet the needs the Forest Service has described throughout its review process for this project.

Failure to Satisfy NEPA RequirementsA. Inadequate DEIS Violates NEPA; Deprives Public of Right to Make Informed Comments
The Federal Energy Regulatory Commission ([ldquo]FERC[rdquo]) published a Draft Environmental Impact

Statement ([ldquo]DEIS[rdquo]) and a notice requesting public comments on the DEIS on December 30, 2016. That DEIS was grossly deficient and, therefore, the Forest Service may not rely on the NEPA process to approve Forest Plan amendments. The legal standard for a DEIS is expressed in federal regulations which command that a DEIS must fulfill and satisfy to the fullest extent possible the requirements established for final statements in section 102(2)(C) of the Act. If a draft statement is so inadequate as to preclude meaningful analysis, the agency shall prepare and circulate a revised draft of the appropriate portion. The agency shall make every effort to disclose and discuss at appropriate points in the draft statement all major points of view on the environmental impacts of the alternatives including the proposed action. 40 C.F.R. [sect] 1502.9(a).

As WV Rivers has stated in a previous submittal, [ldquo]We found the DEIS lacking of the critical information needed to fully analyze the significant impacts of the project. Due to the lack of adequate information, we are unable to provide a comprehensive analysis of the DEIS. Because of this deficiency, we request a revised DEIS to be issued for the proposed project with all the necessary information to meet the requirements of the National Environmental Policy Act (NEPA). Specifically, the regulation explains that [ldquo]NEPA procedures must ensure that environmental information is available to public officials and citizens before decisions are made and before actions are taken. The information must be of high quality. Accurate scientific analysis, expert agency comments, and public scrutiny are essential to implementing NEPA.[rdquo] The ACP DEIS released fails to meet NEPA requirements and a revised DEIS must be issued. A complete DEIS is necessary to provide the planning and analysis required so that agency decision-makers can mitigate or avoid impacts, and can correctly identify the least-impacting alternative.[rdquo] Accession Number 20170406-5620, attachment, letter dated April 6, 2017.

Under NEPA, the EIS must be [ldquo]a detailed statement,[rdquo] describing environmental impacts and alternatives. 42 U.S.C [sect] 4332(C) [section 102(2)(C)]. The DEIS for the ACP fails to meet the regulatory mandate in many respects, as described in previous comments WV Rivers submitted to FERC. Comments from the Environmental Protection Agency ([ldquo]EPA[rdquo]) support WV Rivers[rsquo] arguments. Likewise, as evidenced by comments submitted by the Forest Service[rsquo]s expert staff, even the Forest Service insisted that the DEIS failed to provide a basis for meaningful analysis.
B. Inappropriate Definition of Project Purpose and Need
An appropriate definition of the purpose for a proposed project is vital. A statement of purpose that is too narrow will drive the entire NEPA process to conclusions that are designed merely to support the interests of the project proponent instead of the wider range of public interests that are to be served by final agency decisions. This is exactly the fault that is presented by FERC[rsquo]s DEIS for the ACP proposal and is one basis on which the Forest Service must reject FERC[rsquo]s NEPA process.

Section 1.1 (Project Purpose and Need) of the FEIS describes the purpose of the project is to serve the growing energy needs of multiple public utilities and local distribution companies in Virginia and North Carolina. But if the project is to be assessed in light of the public interest and not just the interest of the profit-making corporations promoting it, a more appropriate statement would cite energy needs for populations in Virginia and North Carolina and the goals of meeting those needs in an efficient and environmentally protective manner. Such a purpose would require consideration of a range of solutions that could meet energy needs, including renewable sources, and would dictate that this project be considered in context with the multitude of proposed natural gas pipelines currently in place or under review that can help meet the same purpose.

The Forest Service may not adopt a lead agency[rsquo]s statement of purpose unless that purpose reflects its agency obligations for preservation and enhancement of public lands. While the Forest Service can approve energy projects, such as natural gas pipelines, that will have negative impacts on the environment, the Service may not do so without thoroughly assessing whether such actions are consistent with the basic purposes for which National Forests are created: 1) improve and protect the forest within the boundaries, 2) secure favorable conditions of water flows, and 3) furnish a continuous supply of timber for the use and necessities of citizens of the United States. 16 U.S.C. [sect] 475. The narrow purpose adopted by FERC in the EIS cannot meet the Forest Service[rsquo]s NEPA obligations or provide a valid basis for a decision on plan amendments.

The scope and scale of impacts to which this proposed project will contribute are huge and have farreaching consequences for the public interest and, more specifically for the National Forest. The pipeline is directly and inextricably tied to the fracking operations that produce the gas and the consumers at the receiving end. To build the pipeline is to facilitate both [ldquo]upstream[rdquo] and [ldquo]downstream[rdquo] activities and is dependent on them, so the purpose must be defined in a way that recognizes these connections and causal links. However, FERC has refused to incorporate any consideration of these associated activities and their environmental impacts into this NEPA review. This narrow focus was pre-ordained, because the purpose was so narrowly defined as to be essentially meaningless.

As WV Rivers stated in the DEIS comments submitted to FERC, [ldquo]The only evidence of need for the pipeline is that ACP is contracting with its own affiliates. There does not appear to be any independent analysis of existing pipeline capacity. This leads to expensive overbuilding and needless environmental impacts. Former Commission Chairman Norman Bay said the commission should also consider whether capacity is needed to ensure deliverability to power generators, reliability benefits and concerns [lsquo]that anticipated markets may fail to materialize.[rsquo] This issue must be fully analyzed in a revised DEIS.[rdquo] Accession Number 20170406-5620, attachment, letter dated April 6, 2017.

C. Inappropriate Climate Change Analysis

FERC failed to make any credible analysis of the relationships between this proposal and the occurrence or consequences of climate change. Two aspects of this issue must be addressed by the Forest Service before it may comply with NEPA. First, the Forest Service must describe the project[rsquo]s incremental impacts on climate change while including both carbon dioxide and methane emissions from all parts of the system to which the pipeline would be tied. This would include the fracking operations, the pipeline and all associated facilities, and the end users of the gas. As stated above, fracking operations cannot be divorced from the pipeline. It is widely recognized that this and other proposed pipelines would not be built without the fracking boom occurring in West Virginia and nearby states and, conversely, the future of fracking in those areas is largely dependent on the availability of pipelines to transport the gas to U.S. and foreign markets.

Second, the forests and mountains of West Virginia are particularly sensitive to warming trends and the associated ecological impacts. For a number of plant and animal species that are native to the areas to be affected by ACP, this area is at the extreme southern end of their ranges. The maintenance of cooler temperatures in these habitats, especially in higher elevations, will determine whether some of these species can survive in this region. Therefore, the impacts this project would cause to habitats and species that are sensitive to warming must be addressed in detail in the NEPA review and any possible mitigation measures to buffer these

species from continuing and increasing warming must be discussed. Without question, the removal of forested tracts and of shading of waterbodies, among other effects, must be assessed and Forest Service must analyze whether actions can or must be implemented to ameliorate those effects.

As WV Rivers stated in the DEIS comments submitted to FERC, [ldquo]While this DEIS does provide some information on greenhouse gases, it does not include a detailed analysis of methane emissions. Additionally, it does not address the basic question of whether cumulative emissions will increase or decrease, whether the CO2 emissions of end users of the gas from the ACP pipeline displace, or add to, emissions from existing coal-fired power plants, or the impacts of [lsquo]upstream[rsquo] emissions from additional gas drilling, pipelines and compressor stations. Former Commission Chairman Norman Bay called on the commission to [lsquo]analyze the environmental effects of increased regional gas production from the Marcellus and Utica[rsquo] and consider [lsquo]the downstream impacts of the use of natural gas and [hellip] a life-cycle greenhouse gas emissions study.[rsquo] The revised DEIS must address these issues.[rdquo] Accession Number 20170406-5620, attachment, WV Rivers letter dated April 6, 2017.

Environmental Impacts Analyses Do Not Support Forest Service ROD or Justify Plan Amendments

ACP construction will affect previously undisturbed or minimally disturbed National Forest; previously unbroken interior forest; steep, erodible forested mountain slopes; erodible remote mountain ridge tops; ephemeral and perennial streams and wetlands; and recreational use. EPA and the Forest Service in addition to WV Rivers commented on the inadequate information concerning these issues in the DEIS.

EPA stated in their comments on the DEIS, [ldquo]Given that blasting, in combination with steep slopes, sensitive karst topography and active or abandoned mines and quarries, has the potential to result in adverse impacts, we recommend efforts be made to complete relevant ground reconnaissance surveys prior to release of the final EIS. EPA also recommends evaluating the potential effects of these geologic hazards, including mining-related subsidence, landslides and flash flooding, on pipeline construction and operation.[rdquo] Accession Number 20170411-0262, attachment, EPA letter dated April 6, 2017.

Additionally, the Forest Service submitted comments on the DEIS, Accession Number 20170406-5532, and the Construction, Operation, and Maintenance (COM) Plan, Accession Number 20170411-5440, pointing out 69 pages of discrepancies in the DEIS and 65 pages of needed corrections in the COM Plan. In reviewing the FEIS, these issues and concerns raised by the Forest Service were not all addressed.

A. Inadequate Information on Steep Slopes

WV Rivers comments on the DEIS stated, [ldquo]The DEIS fails to adequately address slope hazards. The DEIS states [lsquo]Atlantic and DTI have not yet completed the Phase 2 analysis and field surveys at all evaluation sites, and final measures related to slope hazards have not yet been completed for ACP and SHP.[rsquo] Mitigation designs for steep slopes is critical in evaluating the hazards posed by construction on slip prone areas. The public must be provided access to this information in a revised DEIS. The failure to include complete information on this issue in the DEIS implies that information on steep slopes is not particularly important to decision-making, a conclusion contradicted by both science and common sense, as slope hazards can lead to catastrophic failure of the pipeline. Such a failure could lead to substantial damage to the natural environment, private and public property, and loss of human life, which, according to 40-CFR-1508.27, clearly would be defined as a significant impact, and which therefore, must be addressed in a revised DEIS.[rdquo] Accession Number 20170406-5620, attachment, WV Rivers letter dated April 6, 2017.

In Section 8.0 UPLAND EROSION CONTROL PLAN of the Construction, Operation, and Maintenance Plan reference is made to several Attachments, but the Attachments are not included within the DEIS:

Attachment A [ndash] Construction ROW diagrams

Attachment B [ndash] Alignment sheets

Attachment C [ndash] Dominion[rsquo]s Slope Stability Policy and Procedure. Attachment G [ndash] Soil Survey Report

In 8.7.2.1 Steep Slopes, Attachment A is erroneously referred to as [ldquo]construction alignment sheets, and

Attachment G is erroneously referred to as [ldquo]site specific designs.[rdquo]

A selection of the Forest Service comments related to the inadequate information and concerns around slope stability in the COM Plan are captured below (Accession Number 20170411-5440):

*
Typical right-of-way configurations provided in Attachment A are inadequate for a COM Plan on NFS lands. The first configuration ([ldquo]Atlantic Coast Pipeline AP-1 (Federal Lands Only) Typical

Construction Right-of-Way Non-Agricultural Areas[rdquo]) is a profile (cross-section) with dimensions

(feet) but is for flat ground where the only excavation is for the trench. The second configuration ([ldquo]Atlantic Coast Pipeline and Supply Header Projects Cut and Fill Construction[rdquo]) is a profile (cross-section) for side hill construction but with unknown dimensions ([ldquo]Additional ROW As Required[rdquo]) and vertical and/or horizontal distortion of configuration. The Cut and Fill Construction configuration has unrealistic and unstable cut-and-fill slope angles. Neither of these two configurations is representative of most of the proposed pipeline ROW construction on NFS lands.

* Because the configurations in Attachment A are not representative of most of the proposed pipeline ROW construction on NFS lands, and because the Cut and Fill Construction configuration has unrealistic and unstable cut-and-fill slope angles, we have concerns about the basis for ACP[rsquo]s determination of the [ldquo]exact dimensions of the proposed construction right-ofway widths on NFS lands[rdquo] in the alignment sheets. Attachment A includes very general typical drawings, not specific to USFS. They do not include the correct buffers around streams as required by Forest Plans.
* In order to verify land requirements for ATWS, typical cross-sections with dimensions (feet) and stable angles for cut and fill slopes are needed where ATWS would have cuts or fills including log landings or storage of temporary spoils. See the comments on TOC on the need for several typical drawings in an Excavation and Embankment (Cut and Fill) Plan in order to verify land requirements ATWS. Equally important is that the ATWS for stream crossings in the mountains narrow valleys would be excavated into steep slopes at the base of or on the lower slopes of the mountainside. Stream down cutting and incision in narrow mountain valleys makes these lower slopes near streams susceptible to stream or storm-induced landslides as well as excavationinduced slope failures, such as by a road or pipeline construction.
* Timber harvesting on steep slopes (40% or greater) would need to be done in a manner that ensures slope stability and complies with LRMP SW07 from the time the timber is harvested until pipeline construction begins. Winter logging must meet LRMP SW09 as well as all other erosion control plans and LRMP standards. Timber harvesting by use of skid trails and landings must comply with SW40.
*
The identified seasonal restrictions on timber removal operations may also conflict with current Forest Plan standards addressing slope stability concerns when working in areas with steep slopes, as well as other aquatic T&E and sensitive species concerns of soil movement and stream crossings that restrict timber removal activities during winter months. Conflicting seasonal restrictions concerning T&E and Migratory Bird species have been brought to the attention of the FWS.

With 65 pages of comments and concerns on the COM Plan, the Forest Service then issued their ROD simply amending the Land and Resource Management Plan to exempt the ACP from complying with the standards within the LRMP. For example, [ldquo]Standard SW07: Use of wheeled and/or tracked motorized equipment may

be limited on soil types that include the following soil/site conditions with the exception of the construction of Atlantic Coast Pipeline, where the applicable mitigation measures identified in the COM Plan and SUP must be implemented.[rdquo] However, relying on the COM Plan and SUP will be ineffective in protecting the resources on public lands due to the inadequacies of the COM Plan that the Forest Service has identified.

B. Inadequate Information of Geology on Federal Lands

WV Rivers comments on the DEIS states, [ldquo]The DEIS fails to satisfy the NEPA requirements for construction on public lands. The DEIS states, [lsquo]Atlantic has not provided the information requested by the FS to access potential project-induced landslide hazards and also the effectiveness of proposed mitigation measures for restoration of steep slopes on MNF lands.[rsquo] This statement appears to have a typo; [lsquo]access[rsquo] should be corrected to say [lsquo]assess[rsquo]. The United States Forest Service (USFS) must have detailed information to assess the project[rsquo]s impacts on public lands. If the USFS has requested this information to adequately assess the impacts and ACP has not provided it, then the DEIS was issued prematurely. The USFS must have all the information requested to make their determination. Failure to provide this information violates NEPA requirements. FERC must issue a revised DEIS with the information requested by the USFS.[ldquo]

Regarding the statement in the DEIS that impacts on Karst terrain and steep slopes would be minimized, the Forest Service concluded that [ldquo]The Forest Service cannot concur with this conclusion for National Forest land until all erosion control, steep slope procedures, etc. are available for review and a FS decision on NFS lands has been made,[rdquo] Accession Number 20170406-5532.

However, the Forest Service has not yet received all the information requested in their comments on the DEIS and COM Plan. Additionally, some of the recommendations FERC listed in the FEIS is to provide this information to the agency prior to construction. The Forest Service cannot legally release their ROD without a thorough review of the information that was requested during the NEPA process.

C. Inadequate Information Concerning Landslides

WV Rivers comments on the DEIS related to landslides included the following statement, [ldquo]The DEIS does not provide adequate information to determine that impacts from landslides will be minimal. The DEIS states [lsquo]However, Atlantic and DTI are currently working to provide documentation of the likelihood that their proposed design features and mitigation measures would minimize the risk of landslides in the project area.[rsquo] Without this information FERC cannot conclude that ACP has minimized the risk of landslides in the project area. A revised DEIS must be issued which includes the deficient information. NEPA specifically requires agencies to [lsquo]Take a Hard Look[rsquo] at the impacts of the proposed action, and to allow public review of that information, before making a decision. Asking the public to comment on incomplete information, and assuming that any subsequent documentation filed by ACP will mitigate all hazards, clearly cannot be construed as an objective analysis of impacts.[rdquo]

Additionally, when commenting on the fact that Phase 2 analysis had not been completed, the Forest Service stated that [ldquo]This information will be critical to inform the site-specific designs on MNF lands as well as the effects analysis of the FEIS. The Forest Service will need to review this data once it becomes available. The results will need to be incorporated into the Best in Class site specific designs.[rdquo]

However, the FEIS states that [ldquo]Because analysis, field surveys, and final measures related to slope hazards have not yet been completed for ACP and SHP, we recommend that Atlantic and DETI file the results of its geotechnical studies and geohazard analysis field reconnaissance, and identify mitigation that would be implemented in slope hazard areas during construction and operation of the projects.[rdquo]

Because this necessary information is not available for the Forest Service to base their decision, the NEPA process cannot be deemed sufficient and any decision by the Forest Service cannot be adequately supported. The final approval by the Forest Service may be premature and may give license for the Applicant to cause grave

damages to public resources if the agency relies only on the documents submitted and assessed prior to the publication of the FEIS. On the other hand, if the Forest Service relies on these documents now, the Service will have violated the dictates of NEPA by seeking to base its decisions on information that was not provided in the open process.

D. Inadequate Information on Springs and Groundwater Impacts

WV Rivers comments on the DEIS state, [ldquo]The DEIS does not supply sufficient information on water supply wells and springs. The DEIS states [lsquo]Atlantic should complete the remaining field surveys for wells and springs within 150 feet of the construction workspace, and within 500 feet of the construction workspace in karst terrain, and file the results, including type and location, with the Secretary.[rsquo] This information is critical in determining the impacts of construction on private drinking water sources. The results of the completed field surveys must be included in a revised DEIS.[rdquo]

Likewise, the Forest Service comments on the DEIS concur, [ldquo]It is unclear and unsubstantiated how an effects determination can be made if the number and location of wells and springs is unknown.[rdquo]

Paradoxically, FERC recommends in the FEIS, [ldquo]Prior to construction, Atlantic and DETI should complete the remaining field surveys for wells and springs within 150 feet of the construction workspace, and within 500 feet of the construction workspace in karst terrain, and file the results, including type and location, with the Secretary.

However, this issue now seems to be inconsequential with the ROD stating that, [ldquo]Implementation of construction, mitigation, and monitoring procedures listed above would avoid or minimize groundwater impacts on the MNF and GWNF.[rdquo] The Forest Service statements in the comments on the DEIS and ROD are contradictory.

E. Water Quality Impacts Are Not Fully Defined

Any action approved by the Forest Service must insure that all applicable water quality. Nearly all of the waters on the Forest qualify as [ldquo]high quality waters[rdquo] under state antidegradation requirements and, as such, must be maintained in these high quality conditions without measurable impairments or lessening of quality.

WV Rivers comments on the DEIS stated, [ldquo]The DEIS does not adequately address Tier 3 stream impacts. The DEIS states, [ldquo]Use of this existing access road would not likely impact the stream. We acknowledge that various tributaries that flow into Tier 3 streams would be crossed by the projects, some of which may contain trout and cross public lands. By implementing the construction measures discussed below in section 4.3.2.6, impact on these streams and stream biota would be effectively minimized.[rdquo] The FERC cannot conclude that construction would not [lsquo]likely[rsquo] impact Tier 3 streams without an antidegradation review as required by WV State Code [sect]22-11-7b. Water quality standards; implementation of antidegradation procedures; procedure to determine compliance with the biologic component of the narrative water quality standard. An antidegradation review must be performed on any Tier 3 streams potentially impacted by ACP.[ldquo]

Additionally, Forest Service comments on the DEIS point to another Tier 3 stream potentially impacted, [ldquo]ACP crosses an unnamed tributary of Shock Run (Reach Code = 05050003002200) that is on the MNF but currently it is not identified as a Tier 3 stream. However, there is more than a reasonable chance that this tributary is utilized by a component of the wild brook trout population known to inhabit the Shock Run watershed. If so, this tributary would in fact be a Tier 3 stream by definition even though it is not currently identified as such. Conducting a fish population survey in this tributary could determine the validity of this professional conjecture.[rdquo]

None of the analyses of potential water quality impacts, by FERC, the Applicant, or by state governments includes discussion of antidegradation requirements, including the absolute requirement in the Clean Water Act that [ldquo]existing uses[rdquo] be fully protected and maintained. Antidegradation is particularly important for

many of the streams on National Forest land, because intact forests and careful management has prevented water quality impairments found in other waterbodies.

The analyses of potential impacts to water quality almost uniformly refer to a goal of minimizing or lessening potential pollution impacts, however, this is not the level of protection that is mandated by state standards or the Clean Water Act. The Forest Service must assure that conditions are in place to uphold all designated uses, meet all numeric and narrative criteria, and comply with antidegradation policies and analyses sufficient to provide these assurances have not been completed. Therefore, it falls to the Forest Service to insist that these analyses be completed and to deny the Right of Way (ROW) grant unless and until all proper assurances can be made.

F. Water Resource Impacts are Incomplete

WV Rivers stated in our comments, [ldquo]The DEIS does not identify water sources for dust control. The DEIS states, [ldquo]Water sources for dust control are still being evaluated by Atlantic and DTI.[rdquo] Atlantic will use approximately 38.2 million gallons of water for dust control during the driest times and when streams are at their lowest flow. The DEIS must identify the sources of water for dust control and the approximate amount of the withdrawal from each water source. Without this information the DEIS does not satisfy NEPA requirements and a revised DEIS must be issued which contains the deficient information.

The Forest service expressed similar concerns, [ldquo]it is possible that water withdrawals and discharges off NFS lands may affect aquatic habitats and biota on NFS lands (for example, withdrawal from Big Spring Fork in West Virginia could impact the Elk River where it flows across NFS lands). Therefore, such potential impacts need to be considered and disclosed in the analysis.[rdquo] Accession Number 201704065532.

Even EPA recommended providing the proposed or potential sources of water used for dust control and anticipated quantities and practicable measures that could be implemented to ensure water sources and aquatic biota are not adversely affected. Accession Number 20170411-0262.

However, the FEIS has yet to provide information on sources of water for dust control stating, [ldquo]Atlantic and DETI should file with the Secretary, for review and written approval by the Director of OEP, proposed or potential sources of water used for dust control, anticipated quantities of water to be appropriated from each source, and the measures that would be implemented to ensure water sources and any related aquatic biota are not adversely affected by the appropriation activity.[rdquo]

In the ROD, the Forest Service cannot address impacts of water withdrawals for dust control if those sources have yet to be identified.

G. Cumulative Impacts Analysis on Water Resources Are Not Provided

The watershed size that FERC used in its cumulative impacts analyses for water quality is totally inappropriate and provides no useful information about the combinations of effects that will result in watersheds, particularly in some of the small, sensitive headwater stream systems on the National Forest.

WV Rivers comments include, [ldquo]The DEIS fails to address cumulative impacts on headwater streams. First-order or headwater streams are vitally important to the health of the watershed. The overall health of a watershed is dependent on its network of tributaries. Further analysis is needed to understand the impacts to headwater streams. A project of this magnitude that impacts multiple watersheds must be assessed at a regional scale. The DEIS must contain an analysis on the projects total impacts within each watershed to determine the overall impacts of the project. ACP must provide an analysis for each watershed including information on the number of headwater stream crossings by watershed and the number of stream crossings on each stream if waterbodies are crossed multiple times. At the landscape level, impacts from the ROW are exacerbated by the cumulative impacts of the proposed access roads. There is a negative correlation between road miles within a watershed

and water quality. An analysis of the pre-construction vs. post-construction ratio of roads within a basin must be included in the DEIS to adequately assess the impacts from the proposed project.[ldquo]

Additionally, EPA comments on the DEIS state, [ldquo]EPA recommends that additional analysis of cumulative impacts be provided in the FEIS,[ldquo] and goes on to provide an example of a methodology used to assess cumulative impacts. Accession Number 20170411-0262.

However, FERC fails to take EPA[rsquo]s recommendation into consideration in the FEIS. Likewise, the Forest Service ROD fails to mention cumulative impacts on water resources.

H. Habitat Fragmentation and Edge Effects

One of the few environmental impacts FERC acknowledged would be significant was the removal of intact forests and associated changes in ecosystems and natural processes. Thus, a proper analysis of these types of impacts is particularly important and must be paramount in the Forest Service[rsquo]s deliberations to protect National Forest lands. Despite very detailed and well-documented concerns about the methods used to assess forest fragmentation and loss of core forest values submitted by state agencies, FERC relied on incomplete and professionally incompetent reports and analyses from the Applicant for completion of the FEIS.

In our comments on the DEIS regarding this issue, WV Rivers stated [ldquo]The DEIS analysis on forest fragmentation is incomplete. The DEIS states [lsquo]Several agencies, including the FS and WVDNR, have expressed concerns regarding forest fragmentation and the impacts on interior forest and their associated wildlife species.[rsquo] FERC recommends several additional items be submitted prior to the close of the DEIS comment period to address the deficiency. The additional information should have been included in the DEIS. A revised DEIS must be issued containing this critical information.[rdquo]

The Forest Service agreed that the information on fragmentation was inadequate stating, [ldquo]More supporting documentation of effects statements in this section is needed from the scientific literature. Fragmentation is a well-studied issue.[rdquo] Accession Number 20170406-5532.

While forest fragmentation has been classified as a significant impact, the ROD does not address long term impacts on national forest lands and instead states, [ldquo]The greatest potential for impact will be during the estimated 18-month construction phase, with impacts diminishing as reclamation is completed. Because of the adverse environmental impacts, we are requiring a broad spectrum of mitigation measures for the ACP Project. Therefore through application of mitigation and the limited extent of the project, long-term productivity of NFS lands would be maintained.[rdquo] However, creation of additional forest edge habitat through fragmentation will be a lasting impact which reclamation and mitigation will not solve creating reductions in the long-term productivity of NFS land.

I. Information on Impacts to Freshwater Mussels is Incomplete

WV Rivers comments on the DEIS state, [ldquo]Conservation measures to avoid or mitigate impacts to threatened and endangered mussel species have not been identified. The DEIS states [lsquo]FERC and FWS will re-evaluate this determination upon receipt of pending survey results and proposed conservation measures.[rsquo] If FERC and FWS have not made a final determination on the impacts to threatened and endangered mussel species than the DEIS was released prematurely. A revised DEIS must be issued when the determination of impacts has been made.[rdquo]

Furthermore, in comments on the DEIS, the Forest Service stated, [ldquo]Effects cannot be analyzed without completed surveys, or assumed presence. Sediment analysis has not been incorporated which would inform on downstream effects.[rdquo]

The FEIS states, [ldquo]Atlantic and DETI should file with the Secretary, for review and written approval by the Director of OEP, an aquatic invasive species protocol for West Virginia mussel relocation efforts on both ACP and SHP.[rdquo] Since this information has not yet been submitted to the Forest Service, the ROD is based on

insufficient information regarding potential impacts to freshwater mussels.
J. Impacts on Wetlands Inconsistent
As WV Rivers stated in comments in the DEIS, [ldquo]The DEIS prematurely concludes that the project would not significantly impact wetlands. The DEIS states [lsquo]Based on Atlantic[rsquo]s and DTI[rsquo]s measures to avoid, minimize, and mitigate wetlands, along with adherence to their construction and restoration plans; the FERC Procedures; and federal, state, and local permit requirements, we have determined that ACP and SHP would not significantly impact wetlands.[rsquo] The mitigation plan has not been completed and the wetland permits have not been issued; therefor, FERC is premature in concluding that the project will not significantly impact wetlands. FERC must have all the pertinent information before drawing that conclusion.[rdquo]

The Forest Service pointed out several issues regarding wetlands in the COM Plan, Accession Number 20170406-5440. A few of those issues are included below:

* Document states: [ldquo]Wetland boundaries and other environmentally sensitive areas will also be marked at this time.[rdquo] Wetlands and environmentally sensitive areas should have already been identified and marked by qualified individuals. Please describe what is meant by environmentally sensitive areas and how the surveyors will know if they are in them.
* 4th paragraph in this section (Section 2.1.9.1) states that AWTS will be located at least 100[rsquo] from water[rsquo]s edge at each waterbody on USFS land. However, Attachment A (Right-Of-Way Configurations) shows only a 50[rsquo] distance on multiple sheets. All of these sheets in Attachment A need to be changed.
* Two wetlands are proposed to be crossed by 2 roads on the GWNF. The total area affected by these two roads combined is 0.6 acres, shown in Table 2.1.1-1 on page 6, and here the total area of wetland crossed is 0.1 acres. Please clarify whether all possible reasonable alternatives to the construction of these two roads have been fully explored. We recall 3 locations on the GWNF; the MP 99.3 location is missing. Please also discuss locations and construction methods for all the wetlands crossed by access roads or ATWS.
* Forest plan standards require a 100ft buffer for perennial waterbodies and thus wetlands. [ldquo]Site-specific justifications for extra work areas that would be closer than 50 feet from a waterbody or wetland;[rdquo] are not acceptable to the Forest Service.
* The FS has not seen the erosion and sediment control requirement plans for construction which include the placement of E&S controls and BMP control locations along the pipeline route on NFS Lands. These plans should include identification of areas that are > 40% slope, wetlands, streams, riparian areas, mileposts, environmentally sensitive areas, construction entrances, sensitive species locations and buffers, and all E&S controls and BMP controls (i.e., trench plug locations, timber mats, ATWS, temporary workspaces, permanent workspaces, filter socks, slope breakers, bleeder drain outlets, etc.) drawn to scale.
* [ldquo]Additional temporary workspace (ATWS) is proposed at certain locations, such as road crossings, and where additional spoil storage, log landings or equipment staging is needed.[rdquo] This statement is inadequate in describing the scope and magnitude of additional temporary workspace (ATWS) on NFS lands. Section 8.3.2 states, [ldquo]ATWS measuring 50 by 150 feet will typically be required on both sides of the corridor and both sides of the crossing at wetlands, waterbodies measuring greater than 10 feet in width, two lane roads, and railroads. ATWS measuring 25 by 100 feet will typically be required on both sides of the corridor and both sides of the crossing at waterbodies measuring less than 10 feet in width and single lane roads.[rdquo] Where ATWS adds 50 feet on each side of the 125-feet-wide temporary construction ROW, the results is a 225-feet-wide temporary construction ROW. Where ATWS adds 25 feet on each side of the 125-feet-wide temporary construction ROW, the results is a 175-feet-wide temporary construction ROW. The ATWSs 40 to 80% increase in width is a major increase in temporary construction. So far, more than 80 ATWS are identified on the GWNF, and at least 11 ATWS on the MNF. 80 ATWS would mean about 40 sections where the temporary construction ROW would be 175-feet-wide or 225-feet-wide rather than 125-feet-wide.
*
In order to verify land requirements for ATWS, typical cross-sections with dimensions (feet) and stable angles for cut and fill slopes are needed where ATWS would have cuts or fills including log landings or storage of temporary spoils. See the comments on TOC on the need for several typical drawings in an Excavation and Embankment

(Cut and Fill) Plan in order to verify land requirements ATWS.

However, the ROD states [ldquo]We estimate about 0.4 acre of wetlands may be impacted by the ACP project on NFS lands. The required mitigation measures in the COM Plan to protect wetlands and minimize compaction include: limiting the construction right-of-way width to 75 feet or less through wetlands ; placing equipment on mats; using low-pressure ground equipment; limiting equipment operation and construction traffic along the right-of-way; locating ATWS at least 100 feet away from wetland boundaries (unless approved by the FS); cutting vegetation at ground level; limiting stump removal to the trench; segregating the top 12 inches of soil, or to the depth of the topsoil horizon; using [ldquo]push-pull[rdquo] techniques in saturated wetlands; limiting the amount of time that the trench is open by not trenching until the pipe is assembled and ready for installation; not using imported rock and soils for backfill; and not using fertilizer, lime, or mulch during restoration in wetlands. ACP must also follow U.S. Army Corps of Engineer permit terms and conditions and the FERC Waterbody and Wetland Construction and Mitigation Procedures. The Forest Service will continue to work with

Atlantic to ensure appropriate erosion control and restoration measures are incorporated into the

COM plan to further reduce potential impacts to wetlands on NFS lands.[rdquo]

Yet, the Forest Service pointed out numerous inconsistencies within the COM Plan. It is irresponsible for the Forest Service to rely on ACP[rsquo]s COM Plan to mitigate wetland impacts when the Forest Service[rsquo]s own staff has identified multiple failures within the COM plan to adequately protect wetland resources on public lands.

Relief Requested
WV Rivers asks that the Reviewing Officer issue a Record of Decision that rejects the application for amendments to the Monongahela National Forest Land and Resource Management Plan for the ACP, based on the insufficiency of information in the record and on the evidence of unacceptable environmental impacts that would occur if the proposal were to proceed.

Respectfully Submitted,

Angie Rosser, Lead Objector

On Behalf of West Virginia Rivers Coalition

3501 MacCorkle Ave SE #129

Charleston, WV 25304

Jonathan Rosenbaum, President

League of Women Voters of WV

531 Woodland Circle

Morgantown, WV 26505

Justin Raines, Gas Committee Chair

Sierra Club WV Chapter

421 Big Knawl Fork

Walkersville, WV 26447

April Pierson-Keating

Mountain Lakes Preservation Alliance 115 Shawnee Dr.

Buckhannon, WV 26201

Cynthia Ellis, President

WV Highlands Conservancy

PO Box 306

Charleston, WV 25321

Betsy Nicholas, Executive Director

Waterkeepers Chesapeake

P.O. Box 11075

Takoma Park, MD 20913-1075

Allen Johnson, Coordinator

Christians For The Mountains

12664 Frost Road,

Dunmore, WV 24934

Elizabeth Little, Secretary/Treasurer

Eight Rivers Council

214 Black Gum Lane,

Hillsboro, WV 24946