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Comments: In response to the 4th Circuit's 1/25/22 vacatur of USFS's ROD approving completion of the MVP through Jefferson National Forest (JNF), USFS has drafted a new SEIS responsive to the concerns raised in the Court's ruling, one of which was:

"There is no evidence that the agencies reviewed the USGS water quality monitoring data from the Roanoke River, which may indicate a significant increase in sedimentation beyond that predicted in the modeling used for the supplemental EIS. At the very least, the supplemental EIS should have acknowledged this disparity and explained its impact on the agencies' reliance on the sedimentation data in the hydrological analyses." Wild Virginia v. United States Forest Serv., No. 21-1039 (4th Cir. 2022) at 20.

The Court also took issue with USFS insistence that USGS data was irrelevant to its water quality analysis, because the Revised Universal Soil Loss Equation Version 2.0 (RUSLE2) model it employed does not use site specific data as an input.

"This argument begs the question -- how is the modeling useful to predict the Pipeline's environmental impact if it does not somehow reflect real-world data and scenarios demonstrating that impact?" Id. at 21.

In response to these concerns, USFS undertook or otherwise relied upon several water quality analyses to confirm the results of the RUSLE2 modeling application, namely that the pipeline would not have any significant impact on water quality in and around JNF. This undertaking included review of:

* USGS in-stream water quality monitoring data

* MVP in-stream water quality monitoring data

* VDEQ in-stream water quality monitoring data and inspection reports

* Transcon ROW site inspection reports on the JNF

Only the USFS analysis of USGS data used a rigorous scientific approach-namely regression analysis-to confirm RUSLE2 modeling results. Regarding MVP's use of USGS data, USFS reported that:

"Mountain Valley provided its own analysis of the USGS monitoring data (MVP 2022e), concluding that the USGS data could not corroborate the RUSLE2 modeling." Draft SEIS at 39.

This finding raises a question. Since the RUSLE2 modeling found no significant impact from pipeline construction, does Mountain Valley's analysis demonstrate that construction activity did have a significant impact-namely increased turbidity downstream of the pipeline?

Another question is raised by USFS' own analysis of the USGS data. Considered for USFS analysis were monitoring results from two streams inside the JNF watershed-Little Stony Creek and Sinking Creek--and a location in the Roanoke River not far from JNF. The two streams inside the watershed were subsequently removed from the analysis due to insufficient post construction precipitation events to perform a statistically significant analysis, leaving only the Roanoke River findings upon which to base its conclusion as follows:

"The comparison of peak event upstream - downstream turbidity for the pre- and post-construction periods at the paired Roanoke River stations identified no significant differences at the 95% confidence level (a = 0.05), indicating that in-stream turbidity measured during storm events did not increase following the beginning of construction." Draft DEIS at 42.

This is problematic insofar as the JNF watershed streams are probably the best gauge of the impacts of JNF pipeline construction. If there weren't enough precipitation events to trigger measurable turbidity in these streams post-construction, why didn't USFS wait until there were? Surely it's worth waiting to get an accurate estimate upon which to base such a critical ROD.

I think these questions need answering before USFS issues another SEIS approving the MVP in JNF.