



Federal Energy Regulatory Commission
Kimberly D. Bose, Secretary
888 First St. N.E. Room 1A
Washington, DC 20426

Re: Comments on Atlantic Coast Pipeline's Draft Environmental Impact Statement.

Thank you for considering the comments of the Appalachian Trail Conservancy (ATC). The ATC and our partner clubs have a congressionally identified responsibility to coordinate the preservation and management of the Appalachian National Scenic Trail (ANST), which is an independent unit of the National Park System (NPS). We are submitting these comments on behalf of the ATC and the National Parks Conservation Association.

The ANST is visited by over three million people a year. Some of the most heavily visited areas are within the project area and would be visible to those seeking to experience the outstanding scenic, natural and cultural value of this National Scenic Trail. The ANST is unique due to the fact it is accessible to the highly populated East Coast and honored throughout the world as the longest footpath. We assert that these values and qualities should be top of mind as you consider the following comments.

We have five major areas of concern for the proposed action, the Atlantic Coast Pipeline.

1. Incomplete Alternatives Analysis

The ACP DEIS states: *“The NPS has indicated that it does not have the authority to authorize a pipeline crossing of the ANST on its lands. Instead, legislation proposed by Congress and signed into law by the President would be necessary to allow the NPS the authority to review, analyze, and approve a pipeline crossing of the ANST on its lands. Because of this legislative process, Atlantic considered locations where the ANST was located on lands acquired and administered by the FS, which significantly constrained the pipeline route and severely limits opportunities for avoiding and/or minimizing the use of NFS lands.”*

In section 3.3.4.1, the ACP DEIS also dismisses alternatives avoiding or minimizing impacts to the ANST and surrounding forest lands because planning, design and approvals would “take too long.” NEPA and CEQ regulations for dismissing alternatives do not include timeframes convenient to the applicant. In fact, alternatives cannot be dismissed because they are cheaper and faster. (NPS NEPA Handbook Section 2.7A and B 2015)

FERC inconsistently dismisses some alternatives because route modifications along the ANST would require congressional approval. Other alternatives are dismissed stating that congressional approval was not a factor, even though approval by Congress would be required.

Without analysis of all alternatives, it is impossible to select the best alternative for the proposed action. Further, without the opportunity to make an informed case for a preferred alternative that would cross National Park Service land, there is no chance to pursue the provided legal mechanisms to cross NPS lands even if the applicant and ATC are in mutual support.

Desired Action

- We request that all alternatives be considered based on their relative environmental impact irrespective of land ownership (NPS or USFS). While a final decision may take into consideration issues of land ownership, it is important to evaluate and explore all alternatives so an informed decision can be made.

2. Viability of the HDD and contingency plan

Both the primary and contingency plans for crossing the Appalachian National Scenic Trail include aggressive strategies to bore extremely long distances under the ANST and the Blue Ridge Parkway. It is unclear how the success probability of these operations was established. Further, given that other pipeline companies proposing similar projects quote significantly smaller figures as maximum drilling distances, the viability of both the primary and contingency plans can be reasonably questioned. Specific contingency plans are postponed to after FERC's Record of Decision.

Desired Actions

- The ATC asks FERC to verify through an independent third party, the viability of all proposed crossing methods of the ANST
- The ATC requests the release of all geologic studies relative to evaluation of the primary and contingency actions prior to release of a FEIS or Supplemental EIS to allow for independent review
- The ATC asks FERC to develop a mechanism that would ensure the construction of the ANST and BLRI crossing occurs first and before any other project construction, the purpose of which would be to ensure:
 - All funds are allocated to a viable project
 - No unfavorable means of crossing the ANST will be required as a last resort to save the project.

3. Forest Plan Amendments to the A.T. Prescription area standard requiring co-location.

There is a significant concern for the proposed action's need to amend the Land and Resource Management Plan of the George Washington National Forest's standard 4A-025 which states:

"Locate new public utilities and rights of way in areas of this management prescription area where major impacts already exist."

The requirement to amend this standard has the ability to negatively affect the ANST in two major ways; first in the establishment of a new utility corridor and second; establishing a new utility corridor that cannot reasonably accommodate future energy or utility projects.

The complexity of FERC's potential approvals, USFS EIS adoption, four Records of Decisions and a multitude of future promised study and mitigation is also precedent-setting and at odds with a transparent public process.

Further, any amendment to the A.T. prescription area can represent an erosion of protections provided to the entire National Trails System by the forest planning process.

Desired Action

- Analysis of alternatives that do not require an amendment to the A.T. prescription area should be reconsidered and re-evaluated given the significant impact to the National Trails System.
- The analyses should include other potential development that could proceed with an amendment of FS plans and prescription areas.
- The analyses should include what FS objection and appeals processes would be available to the public as the amendment process proceeds, long before any FS RODs are issued.
- A Supplemental Draft EIS should be issued to disclose the precedent-setting nature of the proposed action.

4. Visual Impacts

The National Park System was created by its 1916 Organic Act, as amended, to create and preserve national parks "unimpaired for future generations." (16 U.S.C. 1 et seq.).

The National Park Service Management Policies (2006) and various directives state: "enjoyment by present and future generations can be assured only if these special places are passed on to them in an unimpaired condition." The Appalachian National Scenic Trail was established by the National Trails System Act of 1968, as amended. Thus, like all other national parks in the system, it too must be left unimpaired for present and future generations.

Numerous courts across the nation have affirmed that federal legislation, management directives and the purpose of our nation's treasures must be managed to avoid impairment and derogation by unacceptable impacts. (Blue Water Network v Salazar 2010; Southern Utah Wilderness Alliance v Dabney 2000).

The 2006 NPS Management Policies (section 1.6), "Cooperative Conservation Beyond Park Boundaries," state the conservation beyond park boundaries is necessary as the NPS strives to fulfill its mandate to preserve the natural and cultural resources of parks unimpaired for future generations. Further, section 1.6 states "If a decision is ...imminent that will result in unacceptable impacts on park resources, superintendents must take appropriate action ...to manage or constrain the use to minimize impacts." The Appalachian National Scenic Trail, as a unit of the national park system, must therefore be protected from both internal and external derogation in order to adhere to its legislative purpose to, among other things, preserve scenic resources.

The USFS has an agreement with the NPS to cooperatively protect and manage the ANST, a result of which is an ANST management zone in forest management plans for all National Forests hosting the Trail. A prescription for the ANST scenic resources requires Forest managers

to manage scenic resources to a high quality Scenic Integrity Objective. Anything less than the high quality viewshed experienced by visitors to the trail would be an impairment to the ANST for many generations to come.

The supplemental Visual Impact Analysis filed January 2017 shows extensive visual impacts to the foreground of the ANST at multiple locations. Some of these visual impacts can and must be avoided. Others impacts are unavoidable and the scope of impacts must be further analyzed.

Impacts identified in KOP ANST 05 and 06 may be in the middle ground and a significant portion of the pipeline visible from these KOPs may traverse USFS lands. It's important to document exactly the length of visible pipeline on USFS lands that is observable to the A.T. visitor and what effect this will have on the Scenic Integrity Objectives for the Appalachian Trail prescription area identified in the George Washington Forest Plan.

The KOPs taken at ANST 08, Three Ridges Overlook identify the single greatest visual impairment to the ANST that would result from this proposed action, but do not adequately provide a baseline for quantifying this impact. Additional visual simulations are needed at this location to best quantify impacts to the ANST at the Three Ridges Overlook.

Desired Actions

- Additional visual impact analysis filed after the DEIS reveal that the proposed action would result in significant impairments to the Appalachian National Scenic Trail. Less impactful alternatives must be re-evaluated given the potential impact represented in the analysis.

5. Incomplete Cumulative Impact Analysis

The cumulative impact analysis does not use an approach consistent with the methodology set forth in relevant guidance, specifically the Council on Environmental Quality's "Considering Cumulative Impact" (1997). While the DEIS correctly states that the applicant must consider "projects of comparable magnitude and timeframe" which "must impact the same resource category" and lists the Mountain Valley Pipeline (MVP) project as a likely source of cumulative impact, the DEIS fails to analyze or address cumulative impacts to the ANST from the proposed ACP and MVP projects which is required by NEPA and identified in the CEQ's referenced guidance given that:

1. MVP and ACP are of comparable magnitude.
2. MVP and ACP are proposed within a similar timeframe.
3. MVP and ACP both impact the ANST and require identical amendments to the USFS's FLRMP.
4. MVP and ACP together impact a section of the ANST commonly experienced by a visitor during a single visit.
5. Visual impacts from MVP and ACP would be virtually identical to visitors on the ANST.
6. The Environmental Protection Agency's December 20, 2016 comments on the MVP DEIS strongly states that the MVP cumulative analysis is grossly deficient, yet the ACP DEIS dismisses the related scope between the two projects. Assuming FERC

corrects this deficiency in the MVP EIS process, the cumulative analysis should be corrected in a SEIS for the ACP.

7. FERC's Guidance Manual, February 2017, states that for some resources, cumulative impacts must be addressed for a larger geographical scope, beyond the project "impact zone." The basis for the assumption in the DEIS that limits impact analyses to .25 or .5 miles is never fully explained. Yet, the Guidance Manual acknowledges that air quality impacts could be well beyond these limits. The same holds true for the ANST visual impact analyses.

The need for effective cumulative impact analysis is further supported by the following quotes from the ACP and MVP DEIS:

"ACP and SHP could result in cumulative impacts on recreation such as fishing, hunting, biking etc., and special interest areas if other projects affect the same areas or feature at the same time which would include MNF and GWNF {The ANST}" –ACP DEIS 4-503

"However, in selected areas such as views from the ANST to the pipeline right-of-way and at the ANST crossing of the GWNF, the potential for visual impacts (from ACP combined with other projects listed in table W-1) is elevated and thus may be mitigated further..." –ACP DEIS 4-504

... "the merged system (ACP and MVP) holds several environmental advantages over constructing both projects separately, including increased colocation, avoidance of MNF and GWNF, reduced crossings of the ANST and BRP, reduced number of access roads and contractor/pipe yards, and less construction across karst terrain." –ACP DEIS 5-26

"ACP would cross both the BRP and the ANST thereby potentially contributing to cumulative impacts."
-MVP DEIS 4-508

The ACP DEIS does an adequate job listing the proposed MVP project as a contributor to cumulative impact, but fails to analyze those impacts due to a definition of the geographic scope of analysis for the ANST that does not follow CEQ and other relevant guidance. The ACP DEIS incorrectly establishes the geographic scope of impact of the ANST as the "construction footprint of the project," failing to take into account cumulative effects from visual impacts and from amending the FLRMP as required in 36CFR219.

A comprehensive analysis of the proposed pipeline and its potential cumulative impacts on the A.T. should be conducted now, not later. Recent case law (Delaware Riverkeeper Network, et al. v. Federal Energy Regulatory Commission) suggests that FERC has the responsibility to avoid segmentation through a cumulative review of other related projects and impacts.

Finally, it's important to reassert that the A.T. Prescription standard requiring co-location of utility projects is a means of mitigating cumulative impacts. Amending this prescription standard not only eliminates the ability of the USFS to mitigate cumulative impact by co-locating ACP on an existing utility corridor but makes further application of the standard impossible in the case of ACP given that project construction methods and manipulation of the 5c utility corridor's width

effectively preclude future projects from being co-located on the utility corridor established for ACP.

Desired Actions

- Given that the ACP and MVP projects are of similar magnitude, timeframe, impact the same A.T. Prescription area standards and impact a segment of National Scenic Trail commonly experienced within a single visit to the resource, FERC must require the applicant and the USFS to conduct a thorough cumulative impact analysis relative to the ANST that considers both the proposed Mountain Valley and Atlantic Coast Pipeline projects.
- A minor but important correction to the record must be made. The following statement is incorrect or unknown and cannot be supported:

“However, use of the ...bore method (MVP) would not significantly change the foreground views experienced by hikers at the ANST crossings” (p4-504)

At the time of this filing, the USFS has not made a determination that would support the above statement and has repeatedly corrected any filing to the contrary by stating clearly that more analysis is needed.

Project Timelines and Public Involvement

The impact analyses provides various timeframes for completion of the NEPA process, FERC’s Certificate, In Service Approval, Jurisdictional Permits, Forest Plan Amendments, and multitudes of future studies from project design through abandonment. Some phases are promised to not advance unless restoration is deemed to be proceeding successfully and projected to occur “to pre-construction immediately following construction.” Fourth quarter, 2019. Performance standards are not specific to the affected area and are generic. In section 2.3.1-1, the DEIS states that reestablishment of trees would take 30 years, yet the impact analyses, in particular to the ANST visual resources is limited to 3 years.

The ACP DEIS lists over 60 major project elements to be assessed prior to the close of the DEIS comment period, FEIS or construction. These elements include critical surveys, studies, feasibility analyses and mitigation measures. (ACP Section 5) It appears FERC and the applicant are purporting a “design-build” proposal, i.e., substantive data and NEPA analyses are to occur after a decision has been made. Adequate public engagement throughout these phases is dependent on FERC’s amendments to dockets and while publically available, the process and timelines for comments and potential change in course for the project is not clear. This has been struck down in numerous court decisions, including *Sierra Club v Babbitt*, 1999. Design-build and “rolling” the analyses gives the public and decision makers a snapshot in time, but no meaningful analyses of impacts throughout the project’s life. It also appears to be “segmenting” the 50-year plus project based upon assumptions yet to be determined. This is not in keeping with CEQ regulations. (40 CFR 1508.25)

EPA's rating of the MVP DEIS was an EC-2, Environmental Concerns, Insufficient Information, stating that measures for adequate public engagement are inadequate. The same holds true for the ACP. Completion of critical analyses would mean that the applicant and FERC are committing tremendous funds and resources. Along the way, natural and cultural impacts to the ANST and surrounding forest lands would be irreversible and irretrievable, but this is not discussed in the ACP DEIS.

Desired Outcomes

A consistent and complete disclosure should be provided in the Executive Summary and Project Description illustrating what phases are analyzed in the DEIS and what is postponed for future analyses and public involvement from project construction through abandonment.

If "future" analyses and conclusions are necessary as conditions of approvals and permits, impacts should be disclosed in "tiered" in subsequent NEPA and public involvement processes. (40 CFR 1500, 1502, 1508.28). This would assist the public and decision makers to avoid and mitigate significant impacts to the ANST.

Respectfully,



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