

APPENDIX N
Environmental Compliance Management Plan

Appendix N

Environmental Compliance Management Plan

Mountain Valley Pipeline Project

Prepared by:



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Mountain Valley Pipeline Project Environmental Compliance Management Plan

1.0 INTRODUCTION

Mountain Valley Pipeline, LLC (MVP), a joint venture between EQT Midstream Partners, LP and affiliates of NextEra Energy, Inc.; Con Edison Gas Midstream LLC; WGL Holdings, Inc.; and RGC Midstream, LLC (collectively referred to as MVP), is seeking a Certificate of Public Convenience and Necessity (Certificate) from the Federal Energy Regulatory Commission (FERC) pursuant to Section 7(c) of the Natural Gas Act authorizing it to construct and operate the proposed Mountain Valley Pipeline Project (Project) located in 17 counties in West Virginia and Virginia. MVP plans to construct an approximately 303-mile, 42-inch-diameter natural gas pipeline to provide timely, cost-effective access to the growing demand for natural gas for use by local distribution companies, industrial users, and power generation in the Mid-Atlantic and southeastern markets, as well as potential markets in the Appalachian region. Construction is anticipated to begin in 2017 and conclude in the fourth quarter of 2018. Construction on National Forest System lands will occur in 2018.

The proposed pipeline will extend from the existing Equitrans, L.P. transmission system and other natural gas facilities in Wetzel County, West Virginia to Transcontinental Gas Pipe Line Company, LLC's (Transco) Zone 5 compressor station 165 in Pittsylvania County, Virginia. In addition to the pipeline, the Project will include approximately 171,600 horsepower of compression at three compressor stations currently planned along the route, as well as measurement, regulation, and other ancillary facilities required for the safe and reliable operation of the pipeline. The pipeline is designed to transport up to 2.0 million dekatherms per day of natural gas.

A 3.6-mile long segment of the Project will cross portions of the Jefferson National Forest (JNF) in Monroe County in southern West Virginia and in Giles, Craig, and Montgomery counties in southwestern Virginia. The JNF is managed by the U.S. Forest Service (FS) of the U.S. Department of Agriculture. Another 60-foot segment of the Project will cross the Weston and Gauley Bridge Turnpike Trail (Weston and Gauley Turnpike) in Braxton County, West Virginia, which is administered by the U.S. Army Corps of Engineers (USACE). Approval to cross land managed by two or more federal agencies is the responsibility of the U.S. Department of the Interior, Bureau of Land Management (BLM) through issuance of a Right-of-Way Grant. Project-wide construction environmental compliance will be the responsibility of the FERC. The FS and USACE will also ensure compliance across lands managed or administered by those agencies. Because the majority of federal lands crossed are managed by the FS, this plan focuses on the JNF, noting any additional or different requirements that are specific to the crossing of the Weston and Gauley Turnpike.

The FS will be responsible for enforcement of the terms and conditions of the BLM's Right-of-Way Grant on National Forest System lands during the term of the Right-of-Way Grant for the Mountain Valley Pipeline Project. Compliance will be monitored on the JNF portion of this Project by the FS Project Manager and the Authorized Officer's designated compliance monitors. FS will have stop work authority per terms outlined in the BLM Right-of-Way Grant. FS will also have stop work authority if unsafe work conditions are encountered during construction.

The Project has potential to impact sensitive environmental resources and, as a result, environmental protection measures have been developed to minimize potential impacts on these resources and will be applied, as applicable, to the Project.

2.0 ENVIRONMENTAL COMPLIANCE MANAGEMENT PLAN ELEMENTS AND AUTHORITY

This Environmental Compliance Management Plan (ECMP) is the primary guidance document that states how MVP will uphold, document, and manage compliance with the Right-of-Way Grant, the Plan of Development (POD), (which is incorporated into and part of the Right-of-Way Grant), and all federal, state, and local permits. It is a centralized Project environmental compliance reference and is intended to facilitate environmental compliance. It describes the following essential elements:

- Roles and responsibilities of the participants;
- Comprehensive inspection and monitoring program;
- Corrective procedures in the event of non-compliance;
- Standard protocol for variance requests, exceptions, and other deviations;
- Communication plan;
- Reporting process; and
- Comprehensive Project-specific environmental compliance training program.

The ECMP is intended to be revised as needed throughout the construction process.

The construction contractor will contract with MVP. As part of MVP's environmental compliance commitment, the construction contractor will be contractually bound to comply with all laws, regulations, and permit requirements, including the mitigation measures and other specific stipulations and methods set forth in the POD. Project-specific permitting documents must be reviewed prior to any construction activities to identify and determine application of all Project-wide and site-specific requirements. These Project-specific permitting documents will be distributed by the Compliance Inspection Contractor (CIC) to the appropriate parties.

A third-party CIC will act on the FERC's behalf to ensure adequate oversight during the preconstruction, construction, and post-construction phases. The CIC will be brought on early enough to allow for an adequate amount of time for the CIC to review documents and develop on-the-ground familiarity with the Project. The CIC will coordinate with the FS to ensure that the National Historic Preservation Act (NHPA) and Endangered Species Act (ESA) requirements are met and Project activities on federal lands are consistent with the applicable Project authorizations. The FS Compliance Monitor shall work under the direct supervision and control of the FS. No direction shall be taken from MVP or the construction contractor. However, it is understood the compliance monitor and MVP will work together to support the Project's timely and effective construction.

Environmental Inspectors will be retained by the construction contractor. The Environmental Inspectors' primary focus will be to ensure that all construction activities are performed in accordance with the environmental commitments set forth in the BLM Right-of-Way Grant (including the POD), all Project-specific permitting documents, and any individual agreements.

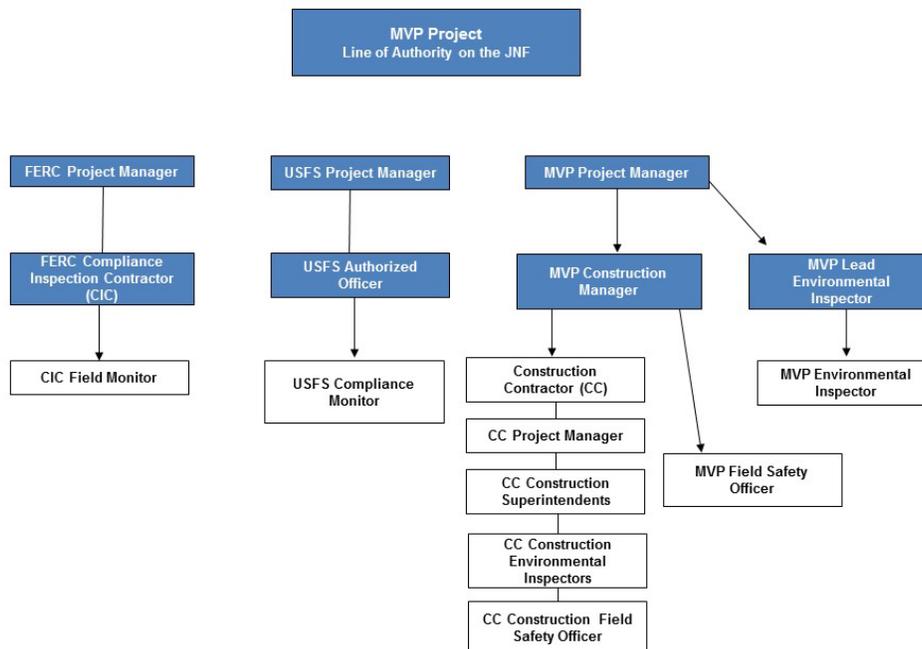
The FS, with the assistance of the CIC and MVP, will provide direct oversight of the construction contractor's environmental compliance performance. However, should changes need to be made to erosion and sedimentation controls or other non-emergency issues arise on FS property, the FS should relay that

information to MVP. An MVP representative will then provide direction to the construction contractor. Additional information about the construction contractor’s role in this ECMP is explained below in Section 3 - Roles and Responsibilities.

If any additional environmental compliance oversight is required by agencies other than the FS, their responsibilities would be consistent with those outlined for the FS and the CIC as described in this ECMP, although their authority and enforcement would be solely applicable in their respective agency’s area of jurisdiction.

3.0 ROLES AND RESPONSIBILITIES

The following section describes the roles and responsibilities of the primary entities involved with the Project, and their reporting relationships and roles in implementing the ECMP. If other parties become engaged in this ECMP as additional participants, they would be responsible to function and abide by the protocols, terms, and conditions outlined in this ECMP, and their reporting relationships would be case-specific according to their jurisdiction, expertise, and/or nature of their input. The roles identified below, as well as the corresponding responsibilities, are intended to be representative and not an exhaustive listing of either roles or subsequent responsibilities for those roles.



This section briefly discusses the variance process. However, a more detailed variance discussion is located in Section 4.2 - Variance Procedures (Unforeseen Circumstances).

3.1 Mountain Valley Pipeline

MVP will act as holder of the Certificate, Right-of-Way Grant, and other permits and authorizations. As such, MVP is ultimately accountable for adherence to the environmental requirements specified in the terms of the Project authorizations, including the POD. To facilitate this goal, MVP will maintain regular and consistent communication with the BLM and the FS, the CIC, the construction contractor, and any other pertinent Project entities prior to, during, and following construction.

3.1.1 MVP's Project Manager

Responsible for Project delivery. Ensures effective coordination occurs between MVP's Project Manager and Environmental Manager with the FS's Project Manager and CIC and the construction contractor's Project Manager.

Informs the construction contractor they are contractually bound to comply with all of the Project's environmental requirements, including the implementation of the ECMP.

3.1.2 MVP's Construction Manager

Responsible for all aspects of Project construction execution and completion.

Enforces construction contractor compliance with all applicable environmental laws and regulations and, all Project-specific authorizations, during the construction of the Project.

Manages MVP's Construction Inspector and Environmental Manager.

3.1.2.1 Reporting

Reviews and evaluates weekly reports.

Reports compliance and violations to MVP's Project Sponsor as needed.

3.1.2.2 Variances

Reviews and approves construction contractor's written variance requests for submittal to the CIC.

3.1.3 MVP's Environmental Manager

Facilitates oversight and coordination of construction contractor's compliance with all applicable environmental laws and regulations and, all Project-specific authorizations during the construction of the Project.

Coordinates with MVP's Construction Manager and Construction Inspector (see Section 3.1.4–MVP's Construction Inspector), the construction contractor's environmental inspection/compliance personnel and the CIC on a regular basis to evaluate environmental compliance with the Project.

Monitors completion of all preconstruction and post-construction commitments.

Serves as MVP's primary contact regarding environmental issues.

Communicates environmental compliance issues to the FS Project Manager and CIC and tracks resolution of issues to completion.

Maintains coordination with MVP's environmental departments throughout the Project.

Develops training program to facilitate compliance with all environmental laws and regulations, including all Project-specific permitting documents, during the construction of the Project.

Maintains records of training for all construction personnel and submits to MVP on a weekly basis.

3.1.3.1 Reporting

Provides environmental updates to MVP's Project Manager.

Reviews all construction-contractor-derived environmental documentation including, but not limited to, site-specific environmental plans, environmental plans, variance requests, daily reports, and weekly reports.

4.0 VARIANCES

Provides review and comments of written variance requests from the Construction Contractor.

Submits completed variances to MVP's Project Manager for review, approval, and submission to the CIC or applicable agencies.

4.1.1 MVP's Environmental Inspectors

Observes, witnesses, and monitors the construction activities of the construction contractor for compliance to the engineering contract documents, plans, standards, and specifications to ensure construction quality.

Coordinates with MVP's Environmental Manager regarding specific work activities scheduled to occur in environmentally sensitive areas that may require additional environmental oversight.

4.2 BLM Authorized Officer

Responsible for enforcing conditions and requirements specified in the BLM Right-of-Way Grant.

Works with the FS Officials to ensure that Project work is being conducted in accordance with the Right-of-Way Grant and agreed upon conditions.

BLM will have stop work authority per terms outlined in the BLM Right-of-Way Grant. BLM will also have stop work authority if unsafe work conditions are encountered during construction.

4.3 FS

The Authorized FS Officer will designate a project manager and compliance monitors to oversee all Project activities on the JNF during the preconstruction, construction, and post-construction (including reclamation) phases to ensure compliance with the Right-of-Way Grant including the POD.

4.3.1 FS Authorized Officer

The FS Authorized Officer shall work under the direct supervision and control of the FS. FS will have stop work authority per terms outlined in the BLM Right-of-Way grant. FS will also have stop work authority if unsafe work conditions are encountered during construction.

Determines, in coordination with FERC CIC and the BLM Authorized Officer, if any environmental non-compliance events, for which MVP is accountable, qualify as violations to the terms and conditions of them Right-of-Way Grant.

4.3.2 FS Project Manager

Enforces compliance with FS environmental laws and regulations during construction of the Project.

Manages FS compliance monitors.

Coordinates with FS compliance monitors and resource specialists for their technical expertise and input.

Informs MVP of any Right-of-Way Grant violations due to environmental non-compliance and ensures any non-compliance is rectified.

Reports major environmental compliance violations to FS Authorized Officer.

5.0 REPORTING

Responsible for ensuring that the Project Administrative Record is maintained accurately.

6.0 VARIANCES

If delegated by the FS Authorized Officer, authorizes approval of Level 2 Variances (see Section 4.2.2 for a description of Level 2 variances).

6.1.1 FS Compliance Monitors

Represent the FS in the field for compliance activities and reports directly to the FS Project Manager (or designees).

Coordinate with the CIC Field Monitors

Verify and report construction contractor's compliance with all environmental requirements and tracks all reported non-compliance events and their resolution.

Verify construction occurs as outlined in the Record of Decision and Right-of-Way Grant, which includes the POD.

Track all Project construction disturbance for verification in the MVP prepared End of Construction Project Report.

Perform compliance monitoring work. At a minimum, the compliance monitors are required to be on the right-of-way when activities involving the use of construction equipment have the potential for significant surface disturbance or harm to sensitive resources. Exceptions can be made should the FS Project Manager determine, using professional judgment, that reductions in the compliance monitors would not adversely impact compliance oversight.

Coordinate variance requests with the FS Project Manager, the FERC, and MVP's Project Manager and Environmental Manager.

Discuss any potential compliance issues with the construction contractor's environmental inspection staff as soon as possible.

Communicate and coordinate regularly with MVP's Project Manager and Environmental Manager and the CIC.

At a minimum, meets weekly with the FS Project Manager, in person or by telephone, to review construction activities and the status of compliance.

Provide recommendations to the FS Project Manager on ways to resolve or prevent non-compliance issues prior to the commencement of work.

Conduct the final route review and develops final report documenting the status of the right-of-way and the final amount of construction disturbance.

Coordinate post-construction reclamation monitoring protocols developed by the construction contractor, to be approved by the FS Authorized Officer or his/her designated representative, per the procedures and requirements identified in Restoration Plan of the POD (Appendix H).

Perform post-construction reclamation monitoring as described in the Restoration Plan in the POD (potentially conducted by a separate third-party contractor as determined by the FS and MVP).

7.0 REPORTING

Document all instances of non-compliance, or other problems that would reasonably be expected to result in environmental impacts.

Provide weekly summary reports of compliance inspection to the FS and MVP via a secure, but mutually exclusive, website. Weekly reports shall summarize the prior week's activities and include a brief description of construction activities, compliance issues, any additional acreage disturbed resulting from variances and corrective actions taken and any foreseeable issues.

Participate in all meetings that involve environmental compliance aspects of the Project.

Prepare and submit post-construction reclamation monitoring reports to the FS, the FERC, and MVP throughout the post-construction.

8.0 VARIANCES

Coordinate with FS Project Manager, the CIC, and construction contractor to review and approve variance requests.

Authorize level 1 variances (see Section 4.2.1 for a description of level 1 variances).

8.1 The FERC

The FERC will utilize a third-party CIC contracted to MVP to act on behalf of the agency to provide Project-wide construction oversight and monitor compliance. The CIC will inspect and monitor preconstruction and construction activities and enforce requirements related to the NHPA, the ESA, and other applicable laws and regulations. The Project will adhere to all federal, state, and local permits.

The CIC shall work under the direct supervision and control of the FERC. No direction shall be taken from MVP or Construction Contractor. However, it is understood the CIC and MVP will work together to support the Project's timely and effective construction.

8.1.1 Compliance Inspection Contractor Field Monitors

Provides Project-wide construction oversight and monitors compliance through regular and consistent field observations.

Document field finding

Process and facilitate variance level 1 requests

Represents the FERC in the field for compliance activities.

Verifies construction occurs as outlined in the POD, Final EIS, and Right-of-Way Grant.

Inspects and monitors preconstruction and construction activities and enforce requirements related to the NHPA, the ESA, and other applicable laws and regulations.

Tracks all Project construction disturbances for verification of the End of Construction Project Report, which will be written by MVP's contractor.

Conducts daily compliance inspection activities and develop daily reports.

Coordinates with MVP's Environmental Inspectors as their primary point of contact.

Discusses any potential compliance issues with the MVP's Environmental Inspectors as soon as possible.

Coordinates solutions for corrective action on non-compliance activities with MVP and the Construction Contractor.

Verifies corrective action is performed for non-compliance activities.

May temporarily stop activities for non-compliance.

Performs the same duties as the FS Compliance Monitor in the event that the FS Compliance Monitor is not available.

Has the authority to issue an immediate temporary suspension or work-stoppage order (WSO) if a specific work activity or activities are in violation. However, all efforts shall be made to coordinate closely with MVP and construction contractor to report and document compliance concerns, providing an opportunity to resolve the concerns. Every effort shall be made to limit any work stoppage to situations involving immediate threats to sensitive resources or emergency situations. The CIC is not, at any time or way, otherwise authorized to direct work undertaken by the construction contractor, with the exception of a WSO.

9.0 REPORTING

Submits reports to the FERC to document compliance or non-compliance with the Project's environmental requirements.

9.1 Construction Contractor

The construction contractor will be contractually bound to comply with all applicable environmental laws and regulations and all Project-specific permitting authorizations, throughout all phases of the Project.

9.1.1 Construction Contractor's Project Manager

Responsible for all aspects of Project execution and completion.

Responsible for Project completion in accordance with all environmental laws and regulations, including all Project-specific permitting.

Manages construction contractor Project Manager to ensure adequate responses to any environmental issues.

Ensures effective coordination between construction contractor's Project Manager with MVP's Project Manager, Environmental Manager, the FS Project Manager and the CIC

Requires all construction contractor and subcontractor staff to adhere to compliance with all applicable environmental laws and regulations and, including all Project-specific authorizations, during the construction of the Project.

Coordinates with construction contractor Superintendent(s), as well as MVP's Project Manager and Environmental Manager, on a regular basis to stay updated regarding the Project's compliance with environmental laws and regulations.

Manages construction contractor's senior level personnel.

Requires all Superintendents and Foremen follow directions of the construction contractor's environmental compliance staff regarding maintaining compliance with all applicable environmental laws and regulations and Project-specific authorizations.

Ensures Superintendents and Foremen implement measures identified to resolve non-compliance issues in a timely manner.

Develops and distributes weekly schedules of construction activities.

Immediately informs MVP's Environmental Manager of any noncompliance. Responsible for resolving non-compliance situations. (note: MVP's Environmental Manager will be responsible for informing the FS Project Manager and the CIC of any non-compliances).

Responsible for developing a document-control system to manage distribution of all documents and revisions.

10.0 REPORTING

Responsible for making sure MVP is provided with reports in a timely fashion.

11.0 VARIANCES

Reviews and approves written variance requests for submittal to MVP, CIC, and FS.

Can delegate authority to submit written variance request to others.

11.1.1 Construction Contractor's Chief Inspector

Assists in tracking Project compliance with all applicable environmental laws and regulations and all Project-specific authorizations, during the construction of the Project.

Coordinates with internal construction contractor personnel, MVP's staff, CIC, and other field inspection personnel on a regular basis to manage and track Project activities and ensure consistent communications Project-wide.

Manages construction contractor's environmental staff.

Coordinates daily with Environmental Inspectors to discuss upcoming construction activities, potential problem areas, and areas of concern

Coordinates with Environmental Inspectors and construction personnel to provide information and facilitate regular communication among all parties.

Determines the need for variances and works with internal construction contractor personnel to develop a formal request.

Receives and reviews daily environmental compliance inspection reports from internal construction contractor environmental personnel.

12.0 REPORTING

Responsible for tracking and coordinating environmental issue areas and non-compliance reports and ensuring follow-up and resolution reports are filed.

13.0 VARIANCES

Tracks variances and communicates variance status with construction contractor's Project Manager and Superintendent(s).

Coordinates processing and archiving of variances.

Ensures completion of any required field surveys (biology, archaeology, etc.) and technical reports to support variances.

Ensures variance requests are complete and accurate prior to submitting to the FS.

Communicates variance status to the Construction Contractor's Environmental Inspectors and construction personnel.

13.1.1 Construction Contractor's Environmental Inspector

Regularly inspects or coordinates the inspection of all applicable environmental laws and regulations and all Project-specific authorizations, during the construction life of the Project.

Conduct and documents daily inspections of construction activities

Has the authority to stop work when construction activities violate environmental laws and regulations or Project-specific authorizations.

Coordinates identification of sensitive resources and areas of concern prior to upcoming construction activities and coordinates appropriate measures with construction personnel accordingly.

Follow up on the repair and maintenance of erosion control devices/measures.

Supervises environmental crew in daily installation and maintenance of erosion control devices/measures and all other design features of the Project for environmental protection.

Ensures all areas of the right-of-way are in compliance with all applicable environmental requirements and authorizations held by the construction contractor(s).

Ensure any Project disturbance is approved to proceed.

Identify sensitive resources and areas of concern prior to upcoming construction activities and coordinates with construction personnel to discuss.

Identifies, documents, coordinates, and oversees corrective actions to resolve non-compliance issues.

Acts as a resource and technical lead to Environmental Inspectors and construction personnel.

Conducts post-construction reclamation monitoring in coordination with the CIC as described in the Restoration Plan of the POD Appendix H, and as directed by the FS and MVP.

14.0 REPORTING

Receives and reviews daily reports from construction contractor Environmental Inspectors and ensures completeness and accuracy and communicates action items or follow-up items to appropriate parties.

Compiles daily reports into weekly summary report.

Maintains centralized storage of daily/weekly Environmental Inspection reports and makes reports available at the request of the FS Project Manager.

Submits weekly summary documenting construction activities and compliance issues to the FS Project Manager and FERC.

Submit daily reports to the Construction Contractor's Chief Inspector that document construction activities and associated compliance status for that day.

Document the resolution of any compliance issues in daily reports.

14.1.1 Construction Contractor's Superintendent(s)

Manages construction activities.

Requires all personnel follow direction provided by the construction contractor's environmental staff regarding maintaining compliance with all applicable environmental laws and regulations and all Project-specific authorizations during the construction of the Project.

Coordinates with the Construction Contractor's and MVP's Environmental Inspectors, and the construction contractor's Chief Inspector and the construction contractor's Environmental Inspectors, to ensure all construction personnel for which he/she is responsible abide by all applicable laws, authorizations, and agreements.

Conducts regular meetings and training with construction personnel to review safety and environmental compliance practices.

Ensures measures identified to resolve non-compliance issues are communicated to construction personnel and implemented in a timely manner.

Immediately informs construction contractor's Project Manager of any non-compliance.

Evaluates all compliance issues and ensures all supervisees involved with any construction activities complete the environmental training program.

15.0 VARIANCES

Provides data and/or supports development of written variance requests for submittal to MVP, CIC, and FS.

15.1.1 Construction Contractor's Civil Survey Supervisor

Sets and maintains right-of-way and easement boundary stakes and flagging with agreed-on Project flagging scheme.

Delegates survey crews when necessary to work with Environmental Inspectors to adjust work areas to comply with environmental constraints.

Communicates with MVP's Construction Inspector and Environmental Manager regarding changes to right-of-way boundaries.

16.0 REPORTS AND VARIANCES

Provides data and/or supports development of maps and legal descriptions for Project reports, variance requests, and documentation in the Project Record.

16.1.1 MVP's and Construction Contractor's Field Safety Officers

The FSOs will be responsible for managing on-site fire suppression documentation, ensuring that fire suppression equipment is available and maintained, ensuring that construction personnel are trained to use equipment properly, and communicating fire hazards and threat levels to construction personnel. Additional responsibilities of the FSOs include:

- reporting all uncontrolled fires within or in the vicinity of the construction area, regardless of source, to the Spread Superintendent, emergency responders, and nearest fire dispatch;
- conducting weekly inspection of tools, equipment, personal protective equipment, and first aid kits;
- developing and maintaining a register of emergency equipment;
- conducting weekly inspections of flammable materials;
- posting "No Smoking" and "Designated Smoking Area" signs and fire rules at appropriate locations within the construction area;
- providing initial response support in the event of a fire and supervising fire suppression activities until relieved;
- providing and gaining approval of site-specific burn and smoke management plans for pre-planned controlled fires that will be implemented in accordance with federal, state/commonwealth, and local requirements;
- providing written burning and blasting schedules, as required, to the appropriate federal, state/commonwealth, and local fire control jurisdiction;
- monitoring construction areas where activities may present safety issues, such as blasting;
- complying with regulatory requirements in the storage and handling of flammable substances and maintaining a registry of flammable substances;
- establishing facilities for on-site chemical management and maintaining Safety Data Sheets (formally known as Material Safety Data Sheets) for flammable materials;
- establishing controls that minimize exposure to flammable materials;
- ensuring that flammable substances are removed from the construction area when not in use or when the location is unattended;
- training and instructing workers in the use, handling, and storage of flammable materials;

- ensuring that construction personnel have been trained in the requirements of this Fire Plan; and
- monitoring compliance with applicable federal, state/commonwealth, and local laws, ordinances, and regulations regarding fire prevention and suppression

17.0 PROCEDURES

17.1 Compliance Levels

Each separate activity that is inspected and documented in a daily report will be assigned a compliance level: acceptable, problem area, and non-compliance (defined below). The construction contractor's Environmental Inspectors will assess potential non-compliant activities based on the extent and nature of actual impacts on a resource, the potential for additional impacts on a resource, the intent behind the action, and the history of the occurrence.

17.1.1 Acceptable

All activities that are in compliance with the Project's environmental requirements will be documented as acceptable.

17.1.2 Problem Area

A problem area is a location or activity that does not meet the definition of acceptable but is not non-compliant (see Section 4.1.3 – Non-Compliance).

If a problem area is corrected in a timely manner, it will not be considered a non-compliance. The construction contractor's Environmental Inspectors will document problem areas and their resolutions in daily reports. Problem areas documented by the CIC Field Monitors or FS Compliance Monitors will be reported and discussed with the construction contractor's Environmental Inspectors. If the problem area is not corrected in the agreed-on timeframe, resource damage occurs, or similar activities occur repeatedly, a non-compliance report may be issued by the CIC or the FS compliance Monitor.

17.1.3 Non-Compliance

A non-compliance report will be prepared and issued by the CIC when construction activities violate environmental laws, regulations, or Project-specific authorizations; result in damage to a protected resource, or place sensitive resources at unnecessary risk.

If the FS Project Manager, a FS compliance monitor, or the CIC observes a non-compliant activity, MVP's Environmental Manager and the construction contractor's Environmental Inspector will be notified immediately to discuss the situation prior to issuing a non-compliance report. If a non-compliance report is issued, it will include the name(s) of the construction contractor personnel contacted and the time of the notification. In addition, a follow-up report will be filed documenting the resolution of the non-compliance. If the construction contractor's Environmental Inspector is not immediately available or the severity of the situation requires immediate action, the CIC or FS compliance monitor will contact the construction contractor's Chief Inspector.

If the construction contractor's Environmental Inspectors observe a non-compliance, the Construction Manager and MVP Environmental Inspector will be notified on site immediately. The MVP Environmental manager will notify the CIC and FS compliance monitor. The non-compliance will be resolved immediately or within an agreed-on timeframe that has been established by MVP's Environmental Inspector and the Superintendent or Foreman. MVP's Environmental Inspector will document the non-compliance in a daily

report. The CIC will submit all non-compliance reports to FERC, the FS Project Manager, MVP, and construction contractor. The construction contractor's Environmental Inspectors, MVP's Environmental Manager, the CIC, and the FS compliance monitor will work together to establish the appropriate corrective actions and timeframes for the resolution of a non-compliance. The construction contractor's LEI and Environmental Inspectors will be responsible for communicating the corrective actions to the on-site Superintendent or Foreman. The CIC and FS compliance monitor will submit all reports documenting a non-compliance resolution to FERC, the FS Project Manager, MVP, and the construction contractor.

17.1.4 Response to Non-Compliant Activities

If the resolution of a non-compliance is not achieved through the process identified above, the following responses may be implemented:

18.0 TEMPORARY SUSPENSION

For incidents of non-compliance by MVP or the construction contractor that remain unresolved after the notifications described under Section 4.1.3 – Non-Compliance, the CIC or FS Project Manager may issue a temporary suspension to halt specific activities or all activities in a localized work area. The temporary suspension shall be issued orally and in writing to MVP's Project Manager, and MVP shall immediately provide notice of the temporary suspension to the construction contractor's Project Manager.

19.0 WORK-STOPPAGE ORDER

If necessary, a WSO to temporarily suspend all activities in a localized work area or all construction activities across the Project may be issued orally or in writing by the CIC or FS Authorized Officer to MVP's Project Manager. A WSO would be appropriate in the event of serious non-compliance that could reasonably be expected to result in a risk of death or harm to persons or repeated violations of environmental requirements that have a detrimental effect to sensitive resources.

A conference call will be held with the CIC, FS Project Manager, MVP, and the construction contractor within 24 hours to discuss the WSO incident and to schedule a face-to-face meeting, if necessary. The face-to-face meeting will be held with all pertinent parties to discuss the WSO resolution within 24 hours of the initial conference call (excluding weekends and federal holidays).

After conclusion of the conference call, or meeting if necessary, MVP and the construction contractor will resolve the issue(s) identified by the CIC or FS. Once the issue(s) has been resolved and documented, MVP will provide a request, either verbal or in writing, to the CIC or FS to resume construction activities within the non-compliance area. No construction activities shall be undertaken (except emergency or safety-related) until approval is provided by the CIC or FS. The CIC and the FS shall review and the FS should respond to the MVP request to resume construction activities within 24 hours after receipt on FS managed lands. On USACE managed lands, the CIC will be requested to respond within 24 hours of receipt of the request. The FS response shall either approve the request or provide additional criteria that must be met prior to resuming construction activities. Any additional criteria must not be arbitrary and cite applicable law(s), agreement (s), and/or project authorizations.

20.0 GRANT SUSPENSION OR TERMINATION

In accordance with 43 CFR § 2886.17(a), the BLM may suspend or terminate the Right-of-Way Grant if MVP and/or its construction contractor does not comply with applicable laws and regulations or any terms,

conditions, or stipulations of the Right-of-Way Grant. Prior to suspension or termination, MVP will be notified in writing and allowed a reasonable opportunity to correct any non-compliance pursuant to 43 CFR § 2886.18(a), and, if applicable, provided a hearing pursuant to 43 CFR § 2886.18(a)(1).

20.1 Variance Procedures (Unforeseen Circumstances)

It is understood by the FS and MVP that unforeseen circumstances will occur during construction. The need for realignments to the proposed route, access roads, and/or work areas not within the permitted Project Right-of-Way Grant may arise. In addition, the need to make changes to construction procedures, schedule, and/or approved mitigation measures and other specific stipulations and methods may be required. Under these or similar circumstances, for activities within the JNF, a variance will need to be filed and approved by the FS to stay in compliance.

Variance requests will be generated by the construction contractor and provided in writing to MVP, who will then review the request. MVP will evaluate the variance request and, if deemed appropriate by MVP, submit the variance request and supporting documentation to the CIC and FS to be processed according to the process outlined herein.

The CIC is responsible for providing the variance request, supporting documentation, and an on-the-ground perspective of the requested variance to the FERC and the FS. A CIC can approve or deny Level 1 variance requests in the field with concurrence from the FS Project Manager or designated compliance monitor (see Section 4.2.1 – Level 1 Variance – Variances Accomplished through Field Resolution). The CIC is responsible for providing Level 1 Variance request approval on USACE managed lands. If a Level 1 variance request is approved in the field, follow-up documentation will be provided by the construction contractor to the CIC and MVP.

On a case-by-case basis, the FS and CIC may approve a Level 2 variance request (Section 4.2.2 – Level 2 Variance – Variances Beyond Field Resolution, Not Requiring an Amendment to the Right-of-Way Grant).

The authority to approve or deny Level 3 variances requests (Section 4.2.3 – Level 3 Variance – Variances Requiring an Amendment to the Right-of-Way Grant) is provided solely to the appropriate FS, USACE and BLM Project Managers. The variance request process, as described below, will be implemented.

A variance request form will be developed by the construction contractor, reviewed and approved by MVP and the CIC, and then reviewed and approved by the FS prior to the start of construction. The variance request form will describe the variance request in detail, provide justification and documentation for the variance (including maps and photos), and calculate the proposed permanent or temporary acreage affected relative to the original disturbance acreage analyzed in the EIS. It will also describe any potentially impacted resources and identify if additional resource surveys will be required.

The variance request may be implemented in the field as soon as the approved variance is received by the construction contractor. The CIC is responsible for communicating with MVP regarding variance request status, and MVP is responsible for communicating with the construction contractor prior to modifications being made on the ground.

Table 4-1 – Summary of Variance Procedures on Federal Lands summarizes the different variance levels, potential uses, and approvals required in order to obtain Project variances.

Table 4-1		
Summary of Variance Procedures on Federal Lands		
Variance Level	Potential Use	Approval
Level 1	Minor field adjustments	CIC and FS
Level 2	Modify POD	CIC and FS
Level 3	Amend Right-of-Way Grant	BLM, FS, USACE, and CIC

20.1.1 Level 1 Variance – Variances Accomplished through Field Resolution

A Level 1 variance is a minor field adjustment within the approved Right-of-Way Grant. A Level 1 variance must meet the following criteria:

- The area of activity or change lies within the approved Right-of-Way area, including temporary use areas.
- The area of activity or change was previously identified and analyzed in the EIS.
- The area of activity or change does not result in an increase in disturbed area relative to the EIS.
- The variance request creates equal to or less impact on resource values than the original location and activity.

A Level 1 variance request will be initiated by the construction contractor and submitted to MVP for review, in the form of a variance request form. The variance request form will include all attached supporting documentation. Upon MVP’s review and approval, MVP’s Environmental Manager will submit the variance request package to the CIC for their review.

21.0 LEVEL 1 VARIANCE APPROVAL OR DENIAL

A CIC can approve or deny Level 1 variance requests in the field with concurrence from the FS Project Manager or designated compliance monitor. Level 1 variance requests may be approved if the results of implementing the changes are not significant and will occur within the granted right-of-way. A Level 1 variance request can be implemented in the field as soon as it is approved and signed by the CIC and FS. In cases where safety or environmental impacts are of concerns, a verbal approval can be given, and followed up with a written, signed variance document by either the CIC or FS. The CIC will document the approved variance in the daily report.

If a Level 1 variance is denied, the CIC will inform MVP’s Project Manager within 24 hours. MVP’s Project Manager may choose to resubmit the request as a Level 2 variance or to discontinue pursuit of the request.

22.0 LEVEL 1 VARIANCE DISTRIBUTION

The CIC will send the approved Level 1 variance request to MVP and the construction contractor. The CIC will generate a report at the end of each week identifying all Level 1 variance requests approved during the previous week.

22.1.1 Level 2 Variance – Variances Beyond Field Resolution, Not Requiring an Amendment to the Right-of-Way Grant

On a case-by-case basis, the FS and CIC may approve a Level 2 variance request. Level 2 variance requests generally involve Project changes that would affect an area outside of the approved work area, but within the area previously surveyed for resources and/or analyzed within the EIS. Such variance requests typically require review of supplemental documents, correspondence, and records to be provided with the request.

Level 2 variance requests may also be submitted for minor changes that would extend beyond the previously surveyed work area and corridor for sensitive resources. In these situations, additional surveys would be required. Documentation of the surveys and other applicable correspondence would need to be submitted with the variance request. If sensitive biological resources are encountered during the additional surveys, documentation of consultation with applicable agencies must be provided with the variance request. All BLM approved Right-of-Way Grant conditions, and the Terms and Conditions of the U.S. Fish and Wildlife Service's Biological Opinion must be adhered to for the variance to be approved.

A Level 2 variance request will be initiated by the construction contractor and submitted to MVP for review. The variance request form will include all attached supporting documentation. After MVP's review and approval, MVP's Environmental Manager will submit the variance request package to the CIC and FS for review. Following review, the CIC and FS will approve the requested change.

23.0 EXCEPTIONS

Requests for an exception from a seasonal restriction or protective buffer will be submitted via the same process as a Level 2 variance request to the CIC and FS. However, should the seasonal restriction be state or federally required, MVP will also submit the request to the applicable state and federal agencies. The construction contractor will follow the limited operating periods enforced by the FS and described in Appendix V – Plant and Wildlife Conservation Measures unless an exception is granted.

Exception requests on FS-managed lands will proceed as follows. The FS, the CIC, or a contractor approved by MVP will conduct the appropriate surveys and coordinate with any other agencies as necessary. A variance request with the survey results incorporated will be submitted in writing to the CIC and FS no more than two weeks prior to the proposed commencement of the construction activity, to ensure that conditions during construction are consistent with those evaluated.

The FS Authorized Officer, or designated representative, in consultation with the CIC, on a case-by-case basis, may grant exceptions to FS seasonal stipulations or buffers only and has the authority to cancel this exception at any time.

A good faith effort will be made to act on exceptions within five business days of receiving a request to allow for orderly construction mobilization. The CIC will conduct any required site visit and report status to FS for consideration of the decision to accept or deny the request.

24.0 LEVEL 2 VARIANCE APPROVAL OR DENIAL

The FS, after consulting with FS resource staff and the CIC as necessary, will provide MVP written approval or denial of the variance request.

The FS may request additional information, or a modification of the variance request, before deciding whether to approve the variance request. If a Level 2 variance request is denied, the FS will provide MVP a written denial, including a justification.

The FS will make a good faith effort to act on Level 2 variance requests within five business days from receipt of a complete variance request.

MVP or construction contractor may choose to re-submit a denied variance request as a Level 3 variance request.

25.0 LEVEL 2 VARIANCE DISTRIBUTION

The CIC will send the approved Level 2 variance request to MVP and the construction contractor. The CIC will generate a report at the end of each week identifying all Level 2 variance requests approved during the previous week.

25.1.1 Level 3 Variance – Variances Requiring an Amendment to the Right-of-Way Grant

The FS will assist the CIC and MVP in determining whether a significant proposed change, typically a change outside of the approved Right-of-Way Grant, will necessitate submittal of a Right-of-Way Grant amendment, or whether the change can be handled with a Level 2 variance request.

Any proposed construction modification the FS Project Manager has determined to involve substantial deviations from the Right-of-Way Grant will require a grant amendment in accordance with 43 CFR § 2887.10. A change requiring an amendment to the Right-of-Way Grant requires completion of an application on a Standard Form (SF) 299 and a decision by the BLM Authorized Officer. MVP will prepare the SF-299 with supporting documentation including, but not limited to, a POD and map of the variance area (1:24,000 scale), and will provide to the appropriate BLM and FS office. The BLM will process the amendment application pursuant to 43 CFR § 2887.10. The BLM may request additional information, or a modification, before the amendment can be approved.

The Right-of-Way Grant amendment will be reviewed by BLM and FS staff, who may consult with other federal, state, and local agencies, as needed. The Right-of-Way Grant amendment approval or denial will come directly from the BLM. Approval of the Right-of-Way Grant amendment also could require issuance of a Notice to Proceed (NTP) allowing the implementation of the Right-of-Way Grant amendment. The approval will then be sent to FERC for approval and issuance of a NTP.

26.0 COMMUNICATIONS

Communication between all parties will be critical to maintain environmental compliance throughout the Project. Communication will help maintain a consistent understanding of the Project's environmental requirements throughout construction. It is anticipated that the construction contractor, the FS Project Manager, the CIC, and all compliance monitors will maintain a communications network that consists of one or both of the following devices: two-way radios or cellular phones. This will allow for real-time coordination between all parties, which will facilitate resolution of any questions and/or monitoring requirements prior to construction activities.

The construction contractor will conduct daily morning meetings to review the location and extent of each day's construction activities. Discussion should highlight safety and environmental issues, including a summary of activities that require monitoring by Environmental Inspectors and coordination with the FS

Project manager and the CIC. Evidence of proper approvals must be furnished for any activities scheduled to occur outside designated areas. Attendees should include the FS Project Manager or designated FS compliance monitors, the CIC; the construction contractor's LEI or Environmental Inspectors, Superintendent(s), and Foreman(s); and MVP's Construction Inspector.

27.0 TRAINING

27.1 Preconstruction

All personnel, regardless of affiliation, will receive environmental training prior to accessing the Project right-of-way. Training will emphasize compliance with all applicable environmental laws and regulations and all Project-specific authorizations. Roles and responsibilities of all pertinent parties, flagging methodology, specific landowner issues, biological and cultural resources, and disturbance limits will be some of the major topics covered in the training. The environmental training will be developed by the construction contractor and reviewed and approved by MVP, the CIC, and FS. Training will include environmental and cultural resource training.

The construction contractor will maintain a master list of all Project personnel who have completed the training and provide an updated list as part of weekly reporting to MVP or CIC. Hardhat stickers demonstrating attendance of the training will be issued to attendees.

27.2 During Construction

All contractor personnel who arrive after construction has begun will attend environmental training.

Remedial training will be given to individuals and crews who are involved in non-compliant activities. These trainings will focus on the requirements pertaining to the non-compliance as well as measures to follow to prevent further non-compliance situations. These may be performed in the field or in a more formal setting to be determined by the construction contractor, the CIC, and the FS.

Training for visitors will be held as the need arises.

28.0 REPORTING AND DOCUMENTATION

There will be multiple forms and reports completed on a regular basis during the course of construction. The reports and forms will include:

- **Daily Inspection Reports.** FS compliance monitors, Environmental Inspectors and CIC Field Monitors will fill out daily reports to record site visits. The reports will document construction activities observed with respect to environmental compliance. The daily reports will also include a section to address problem areas and non-compliance issues, in which photo documentation will be required. A separate resolved non-compliance report may be required if the non-compliance is not resolved on the same day.
Environmental Inspector reports will be submitted to MVP and the CIC and will be available to the FS on request. CIC Monitor reports will be submitted to the FS.
- **Weekly Reports.** The construction contractor will produce a weekly report documenting the week's activities and compliance issues to be submitted to MVP and the CIC. MVP will prepare the weekly compliance report and submit it to the FERC and to the FS.
- **Variance Request Forms.** Variance requests will be produced by the Construction Contractor, reviewed by MVP, and submitted to the CIC and FS for review and approval. The construction

contractor will track, distribute, and archive all approved and denied variances. Section 4.2 – Variance Procedures (Unforeseen Circumstances) provides more detailed information.

- **Weekly Training Log.** The construction contractor will maintain a master list of all Project personnel who have completed the training and provide it as part of weekly reporting to MVP and the CIC.

Forms and reports should be submitted with appropriate supporting documentation, as necessary.

29.0 PROJECT CLOSEOUT

29.1 Reclamation and Post Construction

On notification of completion of work by MVP and the construction contractor, the CIC will coordinate with the FS and appropriate resource staff to conduct final on-the-ground inspections. Inspections will take place within 30 days to assure work was completed in accordance with the Right-of-Way Grant and the right-of-way reclamation activities as described in the Restoration Plan. The CIC will be retained until reclamation and initial re-vegetation efforts are complete.

After construction reclamation activities are complete, the FS will meet with the CIC to determine if there is any further work required. If no further work is required, the post-construction reclamation monitoring period will begin, as described in the Restoration. MVP will retain the third-party CIC for post-construction reclamation monitoring activities described in Restoration Plan and continue to work closely with the FS and CIC during restoration activities.

29.2 End-of-Construction Project Report

Within 60 days of construction completion, the CIC will submit an End-of-Construction Project Report to document all environmental non-compliances during the construction of the Project. It is anticipated that the CIC will solicit assistance from the BLM, USACE, and the FS to complete sections of the report that are applicable to each agency. The End-of-Construction Project Report will include the amount of actual temporary and permanent acreage disturbed compared with the original temporary and permanent disturbance acreage analyzed in the EIS and found in the POD. The End-of-Construction Project Report will also include electronic and hardcopy compilation of all daily compliance reports (including digital pictures), variance requests, temporary suspensions, and WSOs (including documentation of resolution).

MVP will coordinate with the CIC to provide all applicable documentation for inclusion in the End-of-Construction Project Report. Completeness of the End-of-Construction Project Report will be verified by the CIC.

29.3 Construction Closeout Meeting

At the request of the BLM and FS, MVP will coordinate a construction closeout meeting with the BLM, the FS, construction contractor, and any other pertinent parties to document all agency requirements have been met, determine areas of improvement, and ensure all issues have been satisfactorily resolved.