



September 18, 2017

By U.S. Mail and Email

Mr. Matthew W. Fellerhoff
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Re: Mountain Valley Pipeline
DHR File 2014-1194
FERC Docket CP16-10
Response to Letter Dated September 11, 2017

Dear Mr. Fellerhoff:

This letter responds to your letter of September 11, 2017, regarding a conference call between Mountain Valley and representatives of the Greater Newport Rural Historic District (GNRHD) on September 7, 2017.

You point out in your letter that you sent an email to Robert Pichardo, on July 17, 2017, stating that the GNRHD Committee wished to discuss “alternatives to the route and inaccuracies in the identification of effected resources.” Both of those issues—appropriate mitigation and mislocated resources—had been thoroughly addressed in written communications prior to the September 7 call.

Mountain Valley previously addressed the concerns raised by Mr. Brady that contributing resources in the GNRHD, namely the Adlie Jones Farm, may be mislocated. On August 18, 2017, Mountain Valley sent a detailed explanation to the GNRHD Committee Section 106 Coordinator, David Brady, with copies to Roger Kirchen at the Virginia Department of Historic Resources (DHR) and the Committee’s counsel, Matthew W. Fellerhoff of Strauss Troy. This letter described Mountain Valley’s efforts to identify contributing resources on the Adlie Jones Farm.

As you are aware, Mountain Valley sent a copy of the proposed Treatment Plan for the GNRHD to Mr. Brady on August 25, 2017, with a copy to Mr. Fellerhoff. Copies of the letter also were sent to other consulting parties with an interest in GNRHD. The letter advised that Mountain Valley’s objective was to engage consulting parties and stakeholders in a discussion of mitigation measures to address the adverse effect identified by DHR in its letter dated July 7, 2017. The letter further specified that the attached Treatment Plan was Mountain Valley’s proposal to mitigate that adverse effect. Comments were requested by September 11, 2017, so that any necessary revisions could be made to the Treatment Plan. The Treatment Plan was predicated on the assumption that

additional avoidance and minimization measures were either not feasible, not proportional to the adverse effect identified by DHR, or both.

Mountain Valley explained the basis for its assumption about appropriate mitigation for the GNRHD in the August 18 letter referenced above to Mr. Brady (with a copy to Mr. Fellerhoff). This was one week before the circulation of the Treatment Plan. The letter explained that a full analysis of a reasonable range of alternatives had been conducted by FERC in its Final Environmental Impact Statement (FEIS) (June 2017), including six route alternatives that would have avoided direct impacts on the GNRHD. That evaluation expressly considered the avoidance of the GNRHD (and other historic districts) in its analysis, along with impacts on other relevant resources. Those alternatives were eliminated from consideration for various reasons detailed in the FEIS. As a result, impacts on the GNRHD are unavoidable if the project is granted regulatory approval. The letter concluded by acknowledging the GNRHD's objections to the recommended route in the FEIS and the location of resources within the GNRHD, while suggesting that the parties need not resolve their disagreements on those tangential issues to engage in a fruitful exploration of potential mitigation strategies to address the adverse effect identified by DHR.

We regret that there was a misunderstanding regarding the purpose of the teleconference. However, in light of the oral and written communications subsequent to your July 17, 2017 email, it was our intention and understating that the discussion would focus on the contents of Mountain Valley's recent submissions—the letters to Mr. Brady and the GNRHD Treatment Plan in particular. Furthermore, as we stated on the call, the outreach on treatment measures was being made in response to instructions from DHR and the FERC to engage with consulting parties regarding treatment measures for the identified adverse effects to the respective historic districts. While Mountain Valley was willing to discuss avoidance and mislocated resources, it was our understanding that these conversations would be germane to the task at hand—consulting on appropriate mitigation for the adverse effect to the GNRHD identified by DHR.

On the teleconference, you stated that the GNRHD intended to discuss only the two topics addressed in your July 17 email, and not the Treatment Plan. Regarding route alternatives, you state in your letter that it was your intention to discuss “avoidance alternatives that FERC had not evaluated based on the best scientific information available, and new information that was not available prior to the issuances of the Final Environmental Impact Statement.” More specifically, you stated on the teleconference that it was the GNRHD representatives' preference for alternative route “Hybrid 1A.” This route was considered and rejected by FERC because it offered no significant environmental benefit over the current route and would merely “shift the impacts from the current set of landowners to a new set of landowners” (FEIS 3-25). Mr. Brady added that the discussion of alternatives should include consideration of other potential resource impacts wholly unrelated to Section 106 consultation, including impacts on forest cores and federally listed species.

It was, and remains, our position that the discussion you proposed goes well beyond the appropriate scope of Section 106 consultation. As Mr. Brady confirmed on the call, you are advocating that FERC prepare a supplemental EIS to address “new information” and a second review of alternative route Hybrid 1A. Neither Mountain Valley nor Section 106 consulting parties have authority to determine how FERC complies with its responsibilities under the National Environmental Policy

Act (NEPA), including how and when FERC may exercise its discretion to supplement a completed EIS. Moreover, the GNRHD representatives and other interested parties have had ample opportunity to express their objections to the current route and their preferences for Hybrid 1A to FERC, DHR, and other relevant agencies. We are aware of numerous comments to this effect being submitted to the FERC docket. There is no new *material* information that would suggest a different conclusion on the preferred alternative if these objections are reviewed again—the FEIS evidences that FERC gave careful consideration to the avoidance of impacts on historic districts, forests, and sensitive species, among other issues. In short, Mountain Valley does not deem it productive to engage in a debate with Section 106 consulting parties about the purported necessity of a Supplemental EIS.

We wish to add that the “avoidance” mitigation option proposed by GNRHD representatives on the call—a drastic change to the route at this late hour—is not only infeasible,^{1*} it is wholly disproportionate. It is a foundational principle of mitigation that its magnitude should be proportional to the degree of impact. The adverse effect identified by DHR is that the “agrarian setting and feeling” of the districts would be adversely affected “by the MVP bisecting them and leaving a permanent fifty-foot wide imprint on their landscapes.” This adverse effect must be viewed in context to determine what degree of mitigation is appropriate. Once the pipeline is installed, the area will be restored to its original contours and land uses, with the exception of forested areas for which a 50-foot right-of-way must remain clear of woody vegetation and single main line valve that will not be visible to the general public. The principal agrarian elements of the district, its meadows, fields, pastures, and cropland, will return to meadow, field, pasture, or cropland following any temporary land disturbance necessary for construction of the buried pipeline infrastructure. As described in the Treatment Plan, other expert agencies, namely the Virginia Department of Environmental Quality and U.S. Army Corps of Engineers, have prescribed requirements and will oversee the proper restoration of all disturbed streams, wetlands, and uplands. Appropriate mitigation for the diminishment of the agrarian setting and feeling of the district must take into account the fact that the infrastructure will be buried and the surface disturbance will be restored.

The objective of Section 106 consultation at this stage is to evaluate measures to “avoid, minimize, or mitigate” the specific adverse effects on “historic properties” identified by DHR. 36 C.F.R. § 800.6(a). It is an abuse of this process to attempt to use it to seek a remedy for all of a party’s perceived grievances with the Project. Accordingly, Mountain Valley is ready and willing to discuss appropriate mitigation for the adverse effect to historical resources identified by DHR, but this is not an appropriate forum to debate unrelated environmental concerns or the NEPA process.

Regarding the location of contributing resources in the GNRHD, Mountain Valley also reiterated on the teleconference that the incorrect information cited by the GNRHD was addressed in the above-mentioned August 18 letter to Mr. Brady. Furthermore, to the extent resources are in fact mislocated within the GNRHD, we fail to see how those purported errors rise to a level of materiality or should prevent good faith discussion of the proposed GNRHD Treatment Plan. DHR

* Although it is not feasible to avoid the boundaries of the GNRHD altogether, care was taken to avoid direct adverse effects to all contributing resources within the district. By the same token, care was taken to avoid permanent indirect visual impacts on the districts and the key resources, as evidenced by the DHR’s concurrence that there are no visual impacts to the GNRHD.

concluded that the only adverse effect to the GNRHD is to the setting and feeling of the district *as a whole*. That conclusion will not materially change—and therefore the appropriate type of mitigation will not change—if the location of an individual contributing resource is misplaced on the district map.

We note that this objection has been raised on several occasions but there has been no suggestion that any unidentified or mislocated resources are within the Project's proposed limits of disturbance. That would, of course, be material and necessitate additional mitigation measures. However, Mountain Valley believes it highly unlikely that it has failed to identify any resources within its proposed right-of-way. Furthermore, several GNRHD representatives stated on the call that they know the correct location of all resources in the district, and we find it implausible that the prior comments from GNRHD's representatives on this issue would have refrained from stating that an unidentified resource is within the limits of disturbance if that was the case. In the highly unlikely event that any resources are within the proposed limits of disturbance, however, we ask that this information be called to the attention of Mountain Valley or DHR so that it may be addressed. Absent the existence of any materially mislocated resources, this persistent objection is not a genuine reason to delay good faith discussions of mitigation options.

As you recall, Mountain Valley suggested on the call that a discussion of the Treatment Plan would present an appropriate opportunity to address many of the GNRHD's apparent concerns—including whether there are other avoidance/minimization mitigation options (other than shifting the route to Hybrid 1A) that should be considered and whether there are potentially misidentified resources within the direct APE that should be avoided or given additional treatment measures. The GNRHD declined to engage in any discussion related to the contents of the Treatment Plan. Therefore, the meeting was concluded. Nevertheless, Mountain Valley remains open to discussion with the GNRHRD's representatives on all topics relevant to Section 106 consultation.

Sincerely,



John Centofanti
Corporate Director, Environmental Affairs
EQT Corporation

Cc: Mr. Paul Friedman, FERC
Mr. Roger Kirchen, VDHR
Mr. Richard Chidester, Giles County