

VIRGINIA SPIRAEA

STATUS OF THE SPECIES

As described in Service (2008) VASP conservation needs include preserving existing populations by minimizing human disturbance and controlling invasive species. Currently, as a whole, the range-wide status of the species is stable (Service 2008). From 1992-2007, population numbers in WV remained stable (Service 2008). The primary factors influencing the status include risks posed by a limited range with increasing amounts of fragmentation, a lack of genetic variation, a lack of natural succession in the habitat, invasive species, application of herbicides, and disturbance by humans leading to “changes in hydrology by impoundment and by impact from recreational use, hydroelectric facilities, and run-off debris” (NatureServe 2016).

VASP is a clonal shrub of the rose family and was listed as threatened in 1990. It can be found among large boulders, flatrock, and flood debris along scoured streamsides and rivers, as well as roadside wet areas and wet marshy meadows. VASP requires periodic flood scouring to eliminate taller woody competitors and to create river-wash deposits and early successional habitats.

For a more detailed account of the species description, life history, population dynamics, threats, and conservation needs, refer to: <https://ecos.fws.gov/ecp0/profile/speciesProfile?scode=Q2R1>.

ENVIRONMENTAL BASELINE

Regulations implementing the ESA (50 CFR 402.02) define the environmental baseline as the past and present impacts of all federal, state, or private actions and other human activities in the action area. Also included in the environmental baseline are the anticipated and/or ongoing impacts of all proposed federal projects in the action area that have undergone Section 7 consultation, and the impacts of state and private actions which are contemporaneous with the consultation in progress.

Status of the Species within the Action Area

The proposed action crosses portions of the Gauley, Greenbrier, and Meadow rivers in Nicholas and Summers Counties WV, which are known to provide habitat for VASP. Field surveys were completed by a Service approved plant surveyor in areas near these rivers using a pedestrian-meander search technique across the 300ft wide environmental study corridor (ESI 2015 – Plant Survey Study Plan dated June 3, 2015). A presence/probable absence survey for VASP was performed from August 5 - 12, 2015, in Summers and Nicholas Counties, yielding no individuals (ESI 2016 - Rare Plant Survey Results dated November 8, 2016). A total of 3.64 acres along 0.14 miles were surveyed during these efforts.

Due to restricted land access, a total of 2.30 acres along 0.11 miles in Summers County, within close proximity to the Greenbrier River, was not surveyed. Therefore, for the purposes of this analysis, presence of VASP is assumed within the unsurveyed area.

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Greenbrier River Population

There are 3 documented occurrences of VASP on the Greenbrier River. Two are in close proximity to each other, and were last surveyed in 2017, and the other is located 11 miles downstream, and was surveyed in 2015 (personal communication WVDNR 2017 – Jeff H). For the purposes of this analysis we will consider these 3 occurrences to be 1 population, which will be referred to as the Greenbrier River population. Monitoring reports provided by the WVDNR indicate that the Greenbrier River population is stable and within the natural range of fluctuation (WVDNR 2011 Section 6 report).

In order to estimate the coverage of VASP within the unsurveyed area, the Service compiled VASP data from existing occurrences along the Greenbrier River and averaged the data together to make a reasonable assumption regarding VASP coverage.

According to the most recent survey data collected at a long-term WVDNR monitoring site on the Greenbrier River, the extent of VASP coverage averaged 221.33m² (0.05 acre) over a 21 year period (Table X). The extent of the site was used in this Opinion as the best measure for VASP coverage. Therefore, for the purposes of our analysis, the Service will assume that the extent of VASP coverage within the unsurveyed area will be 0.05 acre.

Table X. Estimated coverage of VASP at a WVDNR monitoring site on the Greenbrier River.

Year	Extent of site (m ²)
1996	205.31
1997	183.00
2001	226.37
2003	226.37
2005	233.07
2007	237.61
2010	237.61
2017	Waiting on the data
Average	221.33

All VASP occurrences along the Greenbrier River are on private land (personal comm. WVDNR 2017) and we are not aware of specific activities that have occurred that adversely affect the species. However, because most occurrences of VASP are located on or near the edge of the river, they have likely received some type of occasional disturbance. Potential threats within the action area may include: invasive species, such as Japanese knotweed and purple loosestrife that compete with VASP; or changes in water flow regimes from weather related factors; or construction of boat docks or other streambank modifications. All of these potential threats may affect the amount of habitat available for the species along the streambanks in the action area (Service 2008 - VASP Draft 5-Year Review).

EFFECTS OF THE ACTION

Direct effects are the direct or immediate effects of the project on the species, its habitat, or designated/proposed critical habitat. Indirect effects are defined as those that are caused by the proposed action and are later in time, but still are reasonably certain to occur (50 CFR 402.02).

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An interrelated activity is an activity that is part of the proposed action and depends on the proposed action for its justification. An interdependent activity is an activity that has no independent utility apart from the action under consultation. Direct and indirect effects of the proposed action along with the effects of interrelated/interdependent activities are all considered together as the “effects of the action.”

To standardize the effects analysis, the proposed action was divided into discrete actions described as subactivities. Defining subactivities allows for easier interpretation and consideration of complex activities. The project subactivities are defined in the species effects tables (Appendix X Tables 1-X).

Virginia spiraea - The potential effects of the proposed action are described in Appendix X Table X. The project subactivities unlikely to result in any impacts to VASP are described in Appendix X Table X; NE subactivities. Most of these subactivities are not expected to occur in VASP habitat. For example, upland areas are not VASP habitat and thus, activities with all effects in those areas will not directly affect the species. Vegetation management, inspection activities, vegetation disposal, compression facility noise, and telecommunications equipment operation would have no effect on VASP. For those subactivities of the proposed action that are determined to result in NE to VASP, there will be no further discussion in this Opinion.

The project subactivities that may affect, but are NLAA, VASP are described in Appendix X Table X; NLAA subactivities. Most of these subactivities will occur after the primary impacts have occurred from the original clearing and construction of the project. Tree trimming, mowing, ROW repair, regrading, and revegetation would have discountable effects on VASP. For those subactivities of the proposed action that are determined NLAA VASP, there will be no further discussion in this Opinion.

There are other subactivities of the project that are LAA VASP, should they occur where the species is present (Appendix X Table X; LAA subactivities). The type and magnitude of these impacts are discussed below. For some components of the proposed action that may affect VASP, AMMs have been incorporated to ameliorate those effects and those are also noted in Appendix X Table X. These subactivities are LAA VASP by physically impacting individual plants and/or altering or degrading its habitat.

Using the National Wetlands Inventory maps, the Service was able to identify areas of potentially suitable habitat for VASP within the proposed project workspace. Since VASP is a riparian/wetland species that occurs along rivers, streams, and wetlands, the Service assumes that VASP is mostly likely to inhabit areas along a 288.6 linear ft reach of stream that overlaps with the project workspace. Using the extent of VASP coverage described in the Environmental Baseline, the Service assumes that up to 0.05 acre of VASP could be present along this 288.6 linear ft reach of stream, specifically in the temporary access road construction ROW and additional temporary project workspace. Therefore, in our effects analysis we estimate that 0.05 acre of VASP within the 6.04 acre unsurveyed proposed project workspace, will be adversely affected by the construction of the proposed action.

The subactivities completed in VASP habitat may result in direct and indirect impacts to the exposed individuals. Ground disturbance subactivities related to grading, graveling, grubbing, increased foot and vehicle traffic, vegetation and tree clearing, stream and wetland crossings, and trenching (for temporary access roads, temporary workspaces, and the pipeline ROW) will kill VASP plants and seeds (Appendix X Table X). Conducting these activities in areas of suitable habitat may alter/degrade the habitat in such a way that the reestablishment of VASP post-construction is not likely. Additionally, the placement of fill and gravel will cause permanent habitat loss in all areas permanently maintained by MVP. The effects from these activities could potentially result in the removal of the entire VASP occurrence (0.05 acre) assumed to be present within the unsurveyed area.

Direct impacts may cause individuals to experience temporary stress or decreased reproductive success (e.g., from minor physical damage, competition with introduced invasive species, or habitat disturbance) to death (e.g., from crushing, cutting, digging up, burying, or soil compaction). These direct impacts to VASP would occur primarily from the installation of pipeline and building of new access roads across occupied habitat. In-stream work and stream crossings may cause sedimentation that may bury plants and alter hydrology on-site resulting in unsuitable VASP habitat. Individuals may suffer decreased fitness resulting from indirect effects, such as introduction of invasive exotic plant competitors. Activities involving heavy equipment and machinery in or near species habitat may spread seeds of invasive exotic plant species.

MVP has incorporated a number of conservation measures into the project that should minimize the extent and significance of the adverse effects on VASP, if VASP is not located immediately within the proposed project workspace. These measures include: implementing sediment and erosion control measures during and after construction; ensuring restoration of pre-existing topographic contours after any ground disturbance; restoring native vegetation (where possible); developing plans and procedures for invasive species management; expediting construction within any waterbody, effectively reducing disturbance to the streambed and adjacent soils and the quantity of suspended sediments; prohibiting construction equipment, vehicles, hazardous materials, chemicals, fuels, lubricating oils, and petroleum products from being parked, stored, or serviced within a 100 ft radius of any wetland or waterbody; and avoiding the use of herbicides and pesticides to maintain any portion of the project ROW. Furthermore, if VASP is found within the project workspace MVP has committed to relocate individuals outside of the affected area in coordination with the Service.

The Service has received limited information on the types of subactivities that are proposed within the unsurveyed area for which we are assuming presence of VASP. Therefore, any subactivities that are not described in this section, or in Appendix X Table X, that results in adverse effects to VASP, would be considered new information that was not analyzed in this Opinion.

CUMULATIVE EFFECTS

Cumulative effects are those “effects of future State or private activities, not involving federal activities, that are reasonably certain to occur within the action area” considered in this Opinion (50 CFR 402.02).

The Service is not aware of any future state, tribal, local, or private actions that are reasonably certain to occur within the action area at this time; therefore, no cumulative effects are anticipated.

JEOPARDY ANALYSIS

Section 7(a)(2) of the ESA requires that federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat.

Jeopardy Analysis Framework

“Jeopardize the continued existence of” means to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR 402.02). The following analysis relies on 4 components: (1) Status of the Species, (2) Environmental Baseline, (3) Effects of the Action, and (4) Cumulative Effects. The jeopardy analysis in this Opinion emphasizes the range-wide survival and recovery needs of the listed species and the role of the action area in providing for those needs. It is within this context that we evaluate the significance of the proposed federal action, taken together with cumulative effects, for purposes of making the jeopardy determination.

Analysis for Jeopardy

Impacts to Individuals – The proposed action includes ground disturbance, vegetation and tree clearing, and stream and wetland crossing subactivities. As discussed in the Effects of the Action, potential effects of the action include effects to VASP present within the action area year-around during construction. Effects generally include decreased fitness and reproductive success or death of individual VASP due to degradation and loss of VASP habitat caused by soil compaction, altered hydrology, sedimentation, and competition. Additionally, these activities may permanently alter and degrade habitat such that conditions are no longer favorable for VASP re-establishment. The conservation measures listed in the Effects of the Action will minimize the potential effects from sedimentation during construction and restoration and competition from invasive exotic plants. In summary, there will be impacts to individual VASP survival and fitness.

Impacts to Populations – As we have concluded that individual VASP are likely to experience mortality due to the proposed action, we need to assess the aggregated consequences of the anticipated losses of the exposed individuals on the populations to which these individuals belong.

We expect that the population level impacts from injury, death, and decreased fitness and reproductive success to VASP will be relatively small because the proposed action affects a small number of individuals in 1 occurrence of VASP (estimated to be 0.05 acre in size) near the Greenbrier River, which is a fraction of the number of occurrences that make up the Greenbrier

River population and overall populations. The Greenbrier River population consists of 3 occurrences, not including the 0.05 acre for which presence is being assumed. Furthermore, Service (2008) estimates that there are 109 occurrences of VASP in WV and 236 occurrences throughout the range of the species, which means that 0.9% of the WV occurrences and 0.4% of the overall occurrences range-wide will be affected by the proposed project.

Following completion of each action that results in adverse effects to VASP, we expect that the Greenbrier River population, given no other major stressors, will recover. The effects of the proposed action are expected to be primarily temporary and in time VASP habitat should recover, providing favorable conditions for VASP re-establishment. Additionally, if MVP's relocation efforts are successful we anticipate that the number of VASP stems relocated will increase over time. Therefore, we conclude that the effects from the proposed action do not pose a significant risk to VASP and will not result in permanent population declines.

Impacts to Species – As we have concluded that populations of VASP are unlikely to experience reductions in their fitness, there will be no harmful effects (i.e., there will be no reduction in RND) on the species as a whole.

CONCLUSION

We considered the current overall stable status of VASP and the similar condition of the species within the action area (environmental baseline). We then assessed the effects of the proposed action and the potential for cumulative effects in the action area on individuals, populations, and the species as a whole. These types of effects of the proposed action are currently considered primary factors influencing the status of the species. While they may compound those factors, as stated above, we do not anticipate any reductions in the overall RND of VASP. It is the Service's Opinion that authorization to construct and operate the pipeline, as proposed, is not likely to jeopardize the continued existence of VASP.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information.

- Conduct surveys for VASP in areas where landowner access was denied, and suitable habitat is present, prior to construction.
- Relocate plants outside of the affected area. Dig the plants out by hand prior to the construction and move them to a safe location during construction. After the project is complete, the plants and any propagules should be planted in areas where they are most likely to thrive.
- Monitor any documented occurrences of VASP within and adjacent to the action area and conduct surveys to locate additional populations.

- Permanently protect habitat for the Greenbrier River population to further the recovery of the species.
- Contribute towards research efforts for breeding ecology (seed viability/pollinators/compatibility) and genetic diversity.
- Develop a site specific exotic/invasive species management plan to be implemented at sites occupied by VASP, as these activities will provide recovery benefits for this species.

For the Service to be kept informed of actions minimizing or avoiding adverse effects or benefitting listed species or their habitats, the Service requests notification of the implementation of any conservation recommendations.

LITERATURE CITED