

**From:** (b) (6)  
**To:** [jennifer\\_stanhope@fws.gov](mailto:jennifer_stanhope@fws.gov); [cindy\\_schulz@fws.gov](mailto:cindy_schulz@fws.gov)  
**Subject:** My apologies, here is the letter file with FERC  
**Date:** Tuesday, October 10, 2017 3:53:18 PM  
**Attachments:** [20171010-5320\(32442818\).pdf](#)

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My apologies ladies, but FERC usually takes a day to post. My letter on the TES, the Roanoke log perch.

Best Regards,

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October 10, 2017

Jennifer Stanhope  
Cindy Schulz  
US Department of Interior  
Fish and Wildlife Service  
Virginia Field Office  
Gloucester, VA

Dear Ms. Stanhope, and Ms. Schulz

I have provided comments to the record of the Mountain Valley Pipeline (MVP) on the Threatened & Endangered Species (TES), the Roanoke logperch, on numerous occasions. I have copied the USFWS, the Department of Interior, and the Virginia Department of Game and Inland Fisheries (VDGIF). I read your letter dated August 4, 2017 to FERC on the USFWS's formal Section 7 consultation. I am aware that you will provide your Biological Opinion (BO) on or before November 22, 2017. I wished to provide further comments for the record prior to your issuance of the BO.

**Concerns:**

1. **'Reasonable and prudent alternatives'** do exist, like the Hybrid Alternative Route 1 A, which would avoid all but one waterbody that contains the logperch. Unfortunately, both the applicant and FERC have ignored many submittals posted by Intervenor on this NEPA requirement. Both FERC and MVP were aware of the Hybrid Alternative in **November 2015**<sup>1, 2</sup> and have skillfully ignored this topic for the past two years.

The ESA is not unlike NEPA in that they both require **avoidance**. I am hopeful that the USFWS, will do its job and protect the TES by requiring a robust **alternative's analysis and comparison** by the applicant. If FERC authorizes this project, it would constitute an action that **"jeopardizes the continued existence of [a] listed species."**<sup>3</sup> Ironically both MVP and FERC concur that the proposed project is "likely to adversely affect,"<sup>4, 5</sup> the logperch, yet no **true** alternative route analysis to avoid the habitat of this species has occurred.

2. Even though the applicant promises to fund logperch mitigation based upon the linear stream feet of habitat impacts,<sup>6</sup> the information provided is so vague as to be almost meaningless to Intervenor that are concerned for the species. The applicant has not defined

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<sup>1</sup> Submittal #20151125 5156(31043643)

<sup>2</sup> Submittal #20151130 5432(31052486)

<sup>3</sup> ESA Section 7

<sup>4</sup> Submittal # ESI

<sup>5</sup> Submittal # 20170623 4000(32228865); FEIS

<sup>6</sup> Submittal #20170707 4008(32255229); p. 218

what is meant by “targeted restoration activities in or near waterbodies at 55 stream crossing locations.”<sup>7</sup> The *Watershed Restoration Project* between the VDGIF and North Fork Roanoke River landowners has admirable goals, but the information is not current (November 2011).

Will the proposed stream restoration activities planned by the applicant have achievable benchmarks and monitoring? These might include:

- decades of water quality monitoring for aquatic species (not human consumption)
- decades of logperch population monitoring (through Virginia Tech)
- decades of riparian buffer restoration and management
- decades of stream bank erosion mitigation
- decades of floodplain improvements/mitigations
- decades of upland erosion and sedimentation control

Will this type of restoration occur in **every** waterbody affected, such as Mill Creek (Montgomery County), North Fork Roanoke River, Flatwoods Branch, Bradshaw Creek, the South Fork Roanoke River, Bottom Creek, Mill Creek (Roanoke County), Roanoke River, Blackwater Creek, Little Creek, Teels Creek, an Maggodee Creek, Harpen Creek and the Pigg River?

3. The applicant’s Hydrostatic Water Discharge in Montgomery County is in an area that is within 100’ of a waterbody known to contain the logperch. Even though the discharge would be through an energy dissipating and filtering device, and not directly into the waterbody itself, **FERC’s Wetland and Waterbody Construction and Mitigation Procedures do not permit “discharge into waterbodies which provide habitat for federally listed threatened or endangered species without appropriate permissions.”**<sup>8</sup>

“Field location” of the discharge as indicated in the applicant’s comments on the map are appropriate, nevertheless 100 feet is very close indeed. The Catawba Valley floor is quite level at an elevation of 1580’ and it is considered part of the floodplain (see Figure 1 and 2 provided below). It is also noted that the Proposed Limit of Disturbance (LOD) on the map appears to be within the 1580’ elevation. In other words, **there appears to be no upland above 1580’ within the LOD.** Regardless of my ineptitude at reading the Spread 9 maps submitted on September 22<sup>nd</sup>, to the VDEQ, 5.7 million gallons of hydrostatic test water in the soil of a floodplain may prove problematic for the logperch, even if it is released gradually.

4. Upland deforestation and construction activities will result in increased erosion and sedimentation into the waterbodies that are lower in elevation; this is not disputed by the applicant although they state it will be minimized with *mitigation*. Intervenors have just learned that the applicant requested a variance of the VDEQ’s MS 16 A Length of Trench, which typically is 500’. The applicant requested the DEQ approve up to 4 miles of continuous open

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<sup>7</sup> Submittal #20170727 5178(32300778); p. 5

<sup>8</sup> Submittal #20170224 5083(31988464); p. 20

trench, not including waterbody and wetland crossings.<sup>9</sup> This request is 42 times what is normally permitted and it is alarming. The applicant's desire to construct rapidly to minimize their costs, landowner's inconveniences, and ensure that all pipe welds are tested and safe is understandable, but 4 miles of open trench provides an enormous area that has the potential to collect rainfall (and wildlife). Significant rainfall events would require that the trenches be dewatered and removal of muddy water will further contribute to sedimentation of waterbodies (and landowner's properties).

On the steep slopes of West Virginia and Virginia, the **denuded** right of way (ROW) will result in significant erosion and sedimentation into the waterbodies of their respective valleys. **This will negatively impact all waterbodies, whether they provide habitat for threatened or unthreatened aquatic species.**

5. The Virginia Department of Game & Inland Fisheries (VDGIF) commented on the FERC FEIS on July 20<sup>th</sup> indicating their consternation that FERC had all but ignored their DEIS comment letter dated December 21, 2016.

The FEIS does not include the 26 pages of summarized recommendations provided as Attachment A, nor the **341 pages of specific Virginia agency comments** provided to FERC as Attachment B. **VDGIF provided 22 pages of recommendations** to DEQ in our November 10, 2016 review of the DEIS, followed by two additional pages of recommendations in a December 21, 2016 email, submitted to DEQ for submission to FERC.<sup>10</sup>

**It is disconcerting that FERC would ignore Virginia agencies, tasked with protecting Virginia's natural resources, comments and recommendations.**

I respectfully request that the US Department of Interior Fish and Wildlife Service consult with the VDGIF to ensure this TES, the Roanoke logperch, be protected **by denying the applicant an exemption through the Roanoke River subbasin.**

Respectfully Submitted,

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<sup>9</sup> VDEQ; MVP Pipeline Project Spread 9 Variance and Exemption Request (9 20 17)

<sup>10</sup> Submittal # 20170721 5055(32291349)





