

FEDERAL ENERGY REGULATORY COMMISSION
WASHINGTON, D.C. 20426

OFFICE OF ENERGY PROJECTS

In Reply Refer To:
OEP/DG2E/G3
Mountain Valley Pipeline LLC
CP16-10-000

March 29, 2019

Tiernan Lennon
U.S. Fish and Wildlife Service
West Virginia Field Office
90 Vance Drive
Elkins, WV 26241

Re: ESA Emergency Consultation Procedures

Dear Ms. Lennon:

By letter dated March 29, 2019 Mountain Valley Pipeline LLC (Mountain Valley) informed the Federal Energy Regulatory Commission of emergency landslide conditions along its project corridor that pose an imminent risk to human safety, property, and the environment that requires immediate remediation including tree felling to resolve. Mountain Valley's planned remediation, however, will occur beyond the tree removal window in the Biological Opinion issued for the Mountain Valley Project by the U.S. Fish and Wildlife Service on November 21, 2017. Accordingly, we are requesting expedited consultation under the Endangered Species Act using the emergency consultation procedures specified at 50 CFR §402.05.

Consistent with your regulations, we are providing the following elements to assist preparation of an after-the-fact biological opinion: 1) a description of the emergency; 2) a justification for the expedited consultation; and 3) an evaluation of the impacts of the emergency and Mountain Valley's responsive actions on affected species and their habitats.

In response to the first two elements, Mountain Valley's project corridor has been compromised in certain locations by landslides or slips. Landslides are a type of slope failure which are themselves unpredictable events. They can be caused by a variety of different factors, but they generally result in a downward falling or sliding of a mass of soil, rock, trees and other debris from a steep slope onto an area below. In the case of Mountain Valley Project, the landslide conditions have been caused or exacerbated by

record rainfall during project construction, which left the land saturated and unusually susceptible to landslide occurrence. Because many areas adjacent to the Mountain Valley corridor are forested, those landslides resulted in the loss of numerous trees, and associated summer bat habitat, while adding to the debris entrained in the landslide. Unless remediated, the area from which a landslide originated will remain unstable and will pose increased significant unpredictable risk to human safety, property, and the environment from further migration of the landslide and soil, rock, tree, and debris fall. As a result, small landslides in particular should be addressed before conditions worsen, increasing these risks.

Likewise, the location of a landslide, and areas immediately adjacent, pose significant risks from hazard trees that have been mostly uprooted but remain standing or leaning in precarious positions above project work areas and areas where Mountain Valley's construction team and members of the public could be harmed. In addition, until remediated, the landslide debris presents a substantial risk to the environment, particularly from erosion of unconsolidated sediment into wetlands and streams, which degrades water quality and could impact any protected species and other aquatic life occurring there.

After reviewing Mountain Valley's request, we concur that conditions warrant expedited authorization to address imminent risks to human safety, property, and the environment that the landslides have created and that may be created by future landslides. An expedited authorization would enable Mountain Valley to begin eliminating these risks in habitat for federally listed bat species with only minimal extension beyond the tree removal window in the Biological Opinion issued by the U.S. Fish and Wildlife Service on November 21, 2017.

To evaluate the impacts of the emergency on affected species and their habitats, Mountain Valley provided Attachment A (enclosed) that provides details regarding the areas to be treated. Specifically, Mountain Valley identified three slips that occur within Indiana bat known summer use habitat. Cumulatively, Mountain Valley expects that about 2.2 acres of tree clearing is required to remediate the identified risks. Consistent with your guidance provided in preparation of the Biological Opinion, Mountain Valley commits to document pertinent data on all trees that are removed outside of the established timing window.

We look forward to conferring with you as soon as possible in order to identify and schedule the measures necessary to comply with the Endangered Species Act and to ensure stabilization of the Project area. If you have any questions, please contact me at 202-502-8045.

Sincerely,

for
James Martin
Gas Branch 3 Chief
Office of Energy Projects

Enclosure

cc:

John Schmidt
Spencer Simon

ATTACHMENT A

Slip ID	Variance ID	ATWS ID	Spread	County	State	MP	Notes	Total Variance Acreage	Estimated Tree Clearing Acreage
MVP-A-016	A-47	SM-027	A	Wetzel	WV	5.52	This landslide is located on a steep stream embankment upslope of a stream and a palustrine forested wetland. Timely repair of this landslide is necessary to protect the aquatic resources adjacent to this landslide.	0.04	0.04
MVP-A-036 and MVP-A-047	A-21	SM-037 and SM-037 ext	A	Wetzel	WV	5.73	This landslide is a combination of two smaller landslides that originated along a ridgetop section of the pipeline. Continued movement of the landslide has resulted in the formation of the two landslides into one larger landslide. The landslide has progressed onto a steep embankment approximately 400 feet in elevation above a stream valley. Due to heavy precipitation, sediment and damaged trees that originated from the landslide moved downslope approximately 900 feet and affected aquatic resources at the base of the slope. MVP pipe has been installed in this area and final restoration is scheduled for 2019. Timely repair of the landslide is necessary to prevent further impacts to aquatic resources, reduce the loss of trees, and protect the integrity of the pipe already installed.	2.36	1.65
MVP-A-032 ext	A-55	SM-031 Ext	A	Wetzel	WV	1.2	This landslide is located on a steep slope above a stream. Timely repair of this landslide is necessary to protect the aquatic resources adjacent to this landslide.	1.41	0.48