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February 22, 2018

Via Electronic Filing

Ms. Kimberly D. Bose, Secretary
Federal Energy Regulatory Commission
999 First Street, N.E.
Washington, D.C. 20426

**Re: Mountain Valley Pipeline, LLC (Docket No. CP16-10-000; OEP/DG2E/G3)
Comments and Objection re Revised Treatment Plan for Historic Properties
within Roanoke County**

Dear Secretary Bose:

Pursuant to Stipulations III.B.5 and IV.E of the executed Programmatic Agreement regarding the Mountain Valley Pipeline Project (MVP Project), Roanoke County hereby files comments and an objection regarding the “Revised Historic Property Treatment Plan [for] Bent Mountain Rural Historic District (080-0322), Bent Mountain Apple Orchard Rural Historic District (080-5731), and Coles-Terry Rural Historic District (080-5689)” (revised Treatment Plan). The County is a consulting party for purposes of the National Historic Preservation Act (NHPA) section 106 process for the MVP Project proceeding.¹

I. Mountain Valley did not complete the consultation process provided under Stipulation III.B.5 of the Programmatic Agreement.

Stipulation III.B.5 of the Programmatic Agreement requires Mountain Valley Pipeline, LLC (Mountain Valley) to consult with consulting parties to try to resolve objections to mitigation measures proposed by Mountain Valley in any draft Treatment Plan. On January 4, 2018, Roanoke County filed comments objecting to mitigation measures proposed in the draft Treatment Plan dated August 2017 for the rural historic districts located within the County.²

The County had to contact Mountain Valley to initiate the required further consultation. The County and Mountain Valley consulted via telephone on February 9, 2018, and early the

¹ FERC, “Letter Dated February 10, 2016 Re: Mountain Valley Pipeline Project – Consulting Party Status,” eLibrary no. 20160210-30285 (Feb. 10, 2016).

² Giles and Roanoke County, “Comments Regarding Historic Property Treatment Plans,” eLibrary no. 20180104-5142 (Jan. 4, 2018).

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subsequent week. County Counsel and Staff prioritized these discussions, which were productive from their perspective.

Consultation was ongoing the day Mountain Valley filed the revised Treatment Plan. Mountain Valley did not notify the County that it intended to file a revised Treatment Plan on February 15, 2018, even though they met via telephone the previous day. There was no indication that all remaining issues had been narrowed or resolved to the extent possible, or that the consultation was otherwise at an impasse.

Mountain Valley's filing of the revised Treatment Plan while consultation with Roanoke County was ongoing is inconsistent with Stipulation III.B.5. The Commission should not approve the Treatment Plan without consulting, or directing Mountain Valley to consult, with the County to try to resolve the remaining objection. County representatives stand ready to undertake and complete consultation in a timely manner.

II. The proposed compensatory mitigation is not proportional to the MVP Project's adverse effects and does not adequately consider the input of consulting parties and local stakeholders.

The revised Treatment Plan quotes the Virginia Department of Historic Resources' (VDHR) finding of adverse effects:

...the Bent Mountain Rural Historic District, and Coles-Terry Rural Historic District will be adversely affected by Mountain Valley bisecting them and leaving a permanent fifty-foot wide imprint on their landscapes. This condition is incompatible with the existing rural character of the districts, which derive much of their historic significance and NRHP-eligible status from that very agrarian setting and feeling the undertaking will diminish. The adverse effect to the five historic districts will require mitigation to be determined through future consultation with DHR and other stakeholders and memorialized in the Programmatic Agreement (PA) for the undertaking.³

Mountain Valley accepted this finding of adverse effect.⁴

The Treatment Plan states that permanent impacts will only be partially addressed by avoidance and minimization measures, and the rest will need to be mitigated.

Permanent impacts on the portions of the landscape not devoted to agriculture, and not in forest (e.g., meadows), will be avoided and/or minimized by the restoration of the pre-existing contours of the temporary and permanent rights-of-way and revegetation with native seed mixes. Permanent impacts on agricultural lands will be avoided and/or minimized by allowing the right-of-way to return to previous agricultural use following Project construction. *For the Bent Mountain Rural Historic District, this results in*

³ Revised Treatment Plan Attachment E, eLibrary no. 20180215-5004 (Feb. 15, 2018), p. 7.

⁴ *Id.* at 8.

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approximately 8,733 feet (or 36 percent) of impacts that will either be avoided or restored. For Bent Mountain Apple Orchard Rural Historic District, this results in approximately 3,663 feet (or 37 percent). The implication of these measures for the Coles-Terry Rural Historic District is the avoidance or restoration of approximately 2,100 feet (or 14 percent of impacts).⁵

The revised Treatment Plan states that Mountain Valley’s “selection of appropriate mitigation is guided by three principles: it should (1) have a nexus to the identified adverse effects of the proposed action, (2) be proportional to those effects, and (3) take consideration of the input of consulting parties and local stakeholders.”

The revised Treatment Plan proposes the following mitigation measures:

- (1) Enhanced Right-of-Way Treatment to Reduce Visibility of Permanently Maintained Corridor (section 4.2.7);
- (2) [Preliminary Information Form (PIF)] for the Bent Mountain Rural Historic District and [National Register of Historic Places (NHRP)] Nominations for the Bent Mountain Apple Orchard and Coles-Terry Rural Historic Districts (section 4.2.8); and
- (3) Preservation and Restoration of the Bent Mountain Center (section 4.2.9).

The County supports the first two measures. The first is based on the County’s comments on the draft Treatment Plan,⁶ and the second reflects input from other consulting parties and the VDHR.⁷ While the County generally supports the third measure, preservation and restoration of the Bent Mountain Center, it objects to Mountain Valley’s proposal to limit funding for this purpose to \$500,000 because it is not proportional to the adverse effect and does not reflect the County’s input.

Roanoke County first proposed preservation and restoration of the Bent Mountain Center as compensatory mitigation when it became clear that Mountain Valley was not willing to consider further avoidance or minimization measures. As stated in the revised Treatment Plan, the Bent Mountain Center, formerly the Bent Mountain Elementary School 080-0322, is an important cultural resource within the Bent Mountain Rural Historic District. It continues to serve as an important gathering space for this rural mountain community, which has raised

⁵ *Id.* at 13.

⁶ Giles and Roanoke County, “Comments Regarding Historic Property Treatment Plans,” eLibrary no. 20180104-5142 (Jan. 4, 2018).

⁷ Roger Kirchen, “Letter Dated November 8, 2017 Re: DHR File No. 2014-1194,” (Nov. 8, 2017).

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significant concerns about the effects of the MVP Project on their way-of-life. Bent Mountain is one of the locations along the pipeline route where cultural attachment issues were raised.⁸

The \$500,000 in funding proposed by Mountain Valley is insufficient to keep the Bent Mountain Center open, let alone contribute to its restoration. Roanoke County provided Mountain Valley documentation that it would require approximately \$1.7 million to preserve and restore the Bent Mountain Center. Thus, the proposed \$500,000 in funding will not accomplish the objective of mitigating the MVP Project's adverse effects on the "very agrarian setting and feeling" of the rural historic districts. As described, most of the permanent adverse effects associated with the pipeline bisecting the three rural historic districts in Roanoke County will not be addressed by avoidance or minimization measures. Requiring Mountain Valley to provide the funding needed to preserve and restore the Bent Mountain Center is proportional to the adverse effect of the pipeline bisecting these rural historic districts.

Mountain Valley has suggested that Roanoke County could seek additional funding from the Historic Resources Mitigation Fund, an endowment for grant making purposes created by the Memorandum of Agreement for Historic Resource Mitigation of Virginia Resource Impacts of Mountain Valley Pipeline" (Dec. 22, 2017) (Historic Resources Mitigation Fund). The County disagrees with the suggestion that the Commission can rely on the endowment, which is based on an agreement between Mountain Valley and Commonwealth of Virginia, over which the Commission does not have authority, to mitigate project impacts on historic properties in Roanoke County. Reliance on this fund would be further mis-placed given that the endowment has not yet been established, and procedures for applying for and criteria for allocating funding have not been established.

CONCLUSION

In conclusion, the County requests that the Commission not approve the revised Treatment Plan, and instead undertake further consultation with the County, or direct Mountain Valley to undertake such consultation, in order to resolve the remaining objection to the compensatory mitigation proposal.

Respectfully submitted,



Richard Roos-Collins
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⁸ See Preserve Bent Mountain, "Summary of Poor and Bent Mountain History and Cultural Attachment," eLibrary no. 20161222-5151 (Dec. 22, 2016); see also James A. Kent, MA, JD, *The Scientific Validity of Cultural Attachment as a Social Phenomenon and the Basis for an "All Lands" Approach in NEPA Decisionmaking*, eLibrary no. 20151023-5124, (Oct. 23, 2015).

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Cc:
John Eddins, Advisory Council on Historic Preservation
Roger Kirchen, Virginia Department of Historic Resources
Service List for CP16-10

Document Content(s)

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