



2200 Energy Drive | Canonsburg, PA 15317  
844-MVP-TALK | mail@mountainvalleypipeline.info  
www.mountainvalleypipeline.info

September 22, 2020

Kimberly D. Bose, Secretary  
Federal Energy Regulatory Commission  
888 First Street NE  
Washington, DC 20426

Re: Mountain Valley Pipeline, LLC  
Docket No. CP16-10-000  
Request to Resume Certain Construction Activities

Dear Ms. Bose:

On October 13, 2017, the Federal Energy Regulatory Commission issued an order granting a Certificate of Public Convenience and Necessity to Mountain Valley Pipeline, LLC for the construction and operation of the Mountain Valley Pipeline Project (“Project”).<sup>1</sup> The United States Court of Appeals for the District of Columbia Circuit affirmed the Certificate Order in an order issued February 19, 2019.

As a result of court actions on certain other federal permits or authorizations that are required for the Project, the Commission issued various orders that have affected Mountain Valley’s ability to conduct construction activities. On August 3, 2018, Commission Staff issued a stop work order directing Mountain Valley to cease construction activity along all portions of the Project, with the exception of measures necessary to stabilize the right-of-way and work areas.<sup>2</sup> Commission Staff subsequently modified that order to allow additional activities to resume with the exception of a 25-mile portion of the Project between milepost 196.0 and milepost 221.0.<sup>3</sup> In addition, on October 15, 2019, Commission Staff issued an order directing Mountain Valley to cease construction activity along all portions of the Project, with the exception of restoration and stabilization for previously-disturbed areas.<sup>4</sup>

In this filing, Mountain Valley requests authorization to resume all construction activities permitted by law Project-wide, except for the segments from mileposts 196.2-201.6 and 218.6-220.9.<sup>5</sup> Specifically, Mountain Valley requests that the Commission (i) lift, rescind, or otherwise

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<sup>1</sup> *Mountain Valley Pipeline, LLC*, 161 FERC ¶ 61,043 (2017), *order on reh’g*, 163 FERC ¶ 61,197 (2018) (“Certificate Order”), *aff’d sub. nom., Appalachian Voices v. FERC*, No. 17-1271, 2019 WL 847199 (D.C. Cir. Feb. 19, 2019).

<sup>2</sup> Notification of Stop Work Order (Aug. 3, 2018).

<sup>3</sup> *See* Stop Work Order Modification (Aug. 15, 2018); Partial Authorization to Resume Construction (Aug. 29, 2018); Weston and Gauley Bridge Turnpike Trail Construction (Oct. 24, 2018). In this filing, Mountain Valley refers to this series of orders collectively as the “August 2018 Stop Work Order.”

<sup>4</sup> Commission Staff subsequently modified that order to allow limited activities to resume, but the general cessation of activities currently remains in place. In this filing, Mountain Valley refers to this series of orders collectively as the “October 2019 Cessation Order.”

<sup>5</sup> Mountain Valley intends to file a subsequent request to resume or proceed with additional construction activities for the segment from mileposts 196.2-201.6 and 218.6-220.9.

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modify the October 2019 Cessation Order, (ii) approve construction of the Greene Interconnect,<sup>6</sup> (iii) provide final approval for the Roanoke River bore,<sup>7</sup> (iv) lift, rescind, or otherwise modify the August 2018 Stop Work Order to the extent necessary while leaving in place the restrictions for the segments from mileposts 196.2-201.6 and 218.6-220.9, and (v) provide any other authorizations it deems necessary or appropriate to resume or proceed with Project construction. Consistent with its actions in 2018 and 2019, Mountain Valley undertakes that it will not perform any construction activity that requires a permit under Section 404 of the Clean Water Act until it receives a permit or other applicable authorization from the U.S. Army Corps of Engineers (“USACE”) for that activity.<sup>8</sup>

There is ample justification for this request:

- Mountain Valley has received all federal permits and authorizations for the requested activities. On September 4, 2020, the U.S. Fish & Wildlife Service (“USFWS”) issued its Biological Opinion for the Project. The September 2020 Biological Opinion, which was a re-evaluation and update of Mountain Valley’s November 2017 Biological Opinion, involved a roughly year-long process to develop a comprehensive report that exceeds regulatory requirements. In addition, the rationale for the October 2019 Cessation Order is no longer valid. The October 2019 Cessation Order expressly states that it was issued “in response to” the U.S. Court of Appeals for the Fourth Circuit’s stay of the November 2017 Biological Opinion. The September 2020 Biological Opinion supersedes and replaces the November 2017 Biological Opinion.
- Completion of construction is best for the environment. Commission Staff previously acknowledged and supported the continuation of construction to achieve final restoration because doing so is best for the environment, and the Commission affirmed Staff’s decisions.<sup>9</sup> Mountain Valley agrees with the Commission and has worked diligently to

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<sup>6</sup> On April 16, 2020, the Commission issued an order authorizing Mountain Valley’s Greene Interconnect, which would allow Mountain Valley to deliver approximately 1.0 billion cubic feet per day of natural gas from its system to Columbia Gas Transmission, LLC’s KA System. *Mountain Valley Pipeline, LLC*, 171 FERC ¶ 61,047 (2020). Despite authorizing the interconnect, the Commission stayed its authorization to proceed with construction “until Mountain Valley receives appropriate federal permits, and the Director of the Office of Energy Projects lifts the stop-work order and authorizes Mountain Valley to continue constructing along portions of the mainline.” *Id.* at P 18. Construction of the Greene Interconnect involves only upland activities.

<sup>7</sup> On May 27, 2020, Commission Staff partially approved Mountain Valley’s request to change the crossing method for the Roanoke River from open-cut to microtunnel. Partial Approval of Variance Request No. H-12, Docket No. CP16-10-000 (issued May 27, 2020). Commission Staff did not authorize construction of the modified crossing method until Mountain Valley received documentation of completion of consultation with USFWS (which has now occurred) and subsequent written authorization from the Commission.

<sup>8</sup> Mountain Valley does not believe that Commission approval is required to implement the activities permitted by the forthcoming Corps approval, but requests Commission approval to the extent necessary.

<sup>9</sup> In both the October 2019 Cessation Order and the August 2018 Stop Work Order, Commission Staff acknowledged that allowing Mountain Valley to continue construction was best for the environment. For example, in modifying its original stop work order, the Commission noted that “allowing completion of construction, including full restoration along the right-of-way,” with the exception of the “exclusion zone,” is the “best option” to achieve the “goal of protecting the environment to the maximum extent possible.” Stop Work Order Modification at 1-2 (Aug. 15, 2018). The Commission explained that “[m]aintaining the status quo would result in significant areas being subject to erosion and soil movement for an indeterminate period, possibly negatively affecting plant and wildlife habitat and adjacent water bodies.” *Id.* at 2. On the other hand, “requiring restoration of the right-of-way immediately to pre-construction

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complete construction and final restoration on as many segments of the Project as possible. As a result, the Project is 92% complete, with 256 miles of pipe in the ground and 155 miles of final restoration. By returning to work, Mountain Valley will be able to put additional portions of the Project into final restoration, which benefits the environment and affected landowners. Currently, there are areas of the Project that are ready to convert from a temporary stabilized condition to final restoration but require Commission approval to do so. The Commission's approval of this request by September 25, 2020 would allow Mountain Valley to maximize the extent of its final restoration and complete as many activities as possible before the onset of winter. Finally, the Commission's approval of this request would allow Mountain Valley to install temporary cathodic protection to protect the integrity of the installed pipeline.<sup>10</sup>

- Completion of construction is best for affected landowners. In addition to being best for the environment, completion of construction is also best for affected landowners. Mountain Valley began the Commission's pre-filing process and discussions with potential affected landowners in 2014 and construction in early 2018. Mountain Valley ramped up its workforce and worked on all aspects of construction on all nine spreads and facility locations in 2018. As a result, Mountain Valley was on track to complete construction by the end of 2018. Because of court actions and associated work stoppages, however, affected landowners have dealt with active or idled/incomplete workspaces, pipe strung on cribbing, construction equipment, regular maintenance/repair of erosion and sediment control devices, and other Project impacts on their properties for more than 2 ½ years. Not surprisingly, affected landowners in both West Virginia and Virginia recently filed comments in this docket asking the Commission to expedite Project completion, especially so they can resume using their own land as intended.<sup>11</sup> Many of these landowners also

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conditions would require significant construction activity, including earth moving, with concomitant environmental impacts, and might result in the same areas having to be disturbed twice," making "[l]ong-term restoration along the right-of-way . . . difficult," and "potentially leading to other negative environmental impacts." *Id.* In an order issued August 31, 2020, the Commission affirmed Staff's decisions to allow Mountain Valley to continue "certain construction activities based on the status of various federal authorizations, as well as staff's determinations of what is most protective of the environment." *Mountain Valley Pipeline, LLC*, 172 FERC ¶ 61,193 at P 18 (2020).

<sup>10</sup> Following the October 2019 Cessation Order, Mountain Valley requested approval to install temporary cathodic protection. Project opponents challenged this request even though it was solely for safety and integrity purposes and involved only approximately 0.10 acres of ground disturbance Project-wide. Mountain Valley's request remains pending.

<sup>11</sup> *See, e.g.*, Comment of Kelly Stewart (Accession No. 20200911-5019) ("[T]he area on our property has two small stream crossings and we have been told that the pipe in this area cannot be installed and the area reclaimed because of the stream permits not being approved. This is a problem for us because my nephew wants to move to a field that will be reclaimed (a necessary lay down yard for MVP) as his late Grandmother stipulated in her will. We would greatly appreciate any appropriate expedience in the permitting process. Honestly, it seems at some point it would be less of an environmental impact if the pipe were installed in these areas and then reclaimed as soon as possible. Also, for the record, MVP has been responsive to our needs throughout the entire pipeline process."); Comment of James Varner (Accession No. 20200910-5043) ("This pipeline crosses a portion of our farm and has sat unfinished for approximately two years due to administrative holdups. We strongly believe that this pipeline is necessary. It has been a boon for our local economy which has stagnated as a result of the lack of pipeline completion. In addition, it is unsightly as it currently sits. We strongly urge that it be allowed to proceed to completion and full reclamation."); Comment of Greg Wilhelm (Accession No. 20200910-5108) ("I am writing on behalf of MVP which crosses our property in WV.... MVP has followed every guideline, been very receptive to our requests and been very good to work with overall. It is our belief they should be granted the means to proceed with the project in order to finalize the construction and get the pipeline closed out. These delays have done nothing but expose our property unduly[.]");

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recognize, as does Mountain Valley, that Project completion is best for the environment. By authorizing Mountain Valley's request to resume construction, the Commission would permit final restoration to be completed on some properties and expedite completion on others, all to the benefit of landowners.

- Mountain Valley can expedite construction completion while maintaining the status quo for the Jefferson National Forest and the shared sub-watershed. The 25-mile "exclusion zone" that resulted from the August 2018 Stop Work Order includes the 3.5 miles of pipeline across the Jefferson National Forest (approximate mileposts 196.2-198.5 and 218.6-220.9 except for a small area of non-federal lands around Craig Creek) as well as approximately 21 miles of non-federal lands in Monroe County, West Virginia and Giles County, Virginia (approximate mileposts 198.5-218.6 as well as a small area around Craig Creek and outside of the Jefferson National Forest). Mountain Valley affirms it will not resume or proceed with work within the Jefferson National Forest until it receives the necessary authorizations from the U.S. Forest Service and the Bureau of Land Management and is not requesting Commission approval for that work in this request. Mountain Valley expects the U.S. Forest Service to issue its Draft Supplemental Environmental Impact Statement for the 3.5-mile crossing by the end of this month, which should focus on sedimentation impacts to address the appellate court's vacatur order.<sup>12</sup> Mountain Valley is requesting authorization to resume construction on all non-federal lands in the exclusion zone with the exception of mileposts 198.5-201.6 and the small area around Craig Creek. Mountain Valley is not requesting authorization for the non-federal lands from mileposts 198.5-201.6 and around Craig Creek out of an abundance of caution due to the Forest Service's ongoing analysis of sedimentation impacts. As shown in the figures attached to this request, the segments of the non-federal lands from mileposts 198.5-201.6 and around Craig Creek are located in the same sub-watersheds as Mountain Valley's crossing of the

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Comment of Ken Brazeros (Accession No. 20200911-5007) ("MVP crossed my property from North to South and have completed all but a small section of pipeline on my boundary with the neighboring Northern property. MVP did a superior job in restoring my land to its original contours, re-seeding the entire disturbed area, providing excellent environmental erosion control, and replacing all fencing as required. I would like the MVP project completed as soon as possible."); Comment of Robert Harris for Pittsylvania County Farm Bureau (Accession No. 20200915-5067) ("We need Mountain Valley to be able to finish construction and finish full restoration of the right of way as soon as possible. This delay is tying up real estate on our farm land that we need to be in production."); Comment of Charles Brandon White (Accession No. 20200911-5042) ("The Mountain Valley pipeline covers around 3,700 feet of our property. I'm sending this email to let you know that we support Mountain Valley pipeline. It's improved the quality of our land. The Mountain Valley pipeline employees have been extremely nice and respectful to work with. We are in favor of getting this project finished."); Comment of John E. Law (Accession No. 20200911-5177) ("The affected property is being reclaimed currently, as the pipe is already in the ground. All representatives have been cooperative, responsive and considerate. I believe the project will greatly benefit Lewis County and the surrounding area through employment, increased revenue payments to landowners as well as an increase in the county's tax base which would provide more revenue to our schools. I would be greatly disappointed if this project was not properly completed."); Comment of Stewart A. Moss, Docket No. CP16-10-000 (filed Sept. 14, 2020) (Accession No. 20200914-5004) ("The MVP pipeline crosses property I manage in West Virginia. They have been very thorough and vigilant with their environmental protection activities, even during the COVID-19 related shutdown. We have had no issues with erosion or water-quality impacts and I have complete faith in their ability to complete this project with minimal environmental impacts. I believe it is important to complete this project and am in support of their efforts to finish the pipeline despite unanticipated delays.")

<sup>12</sup> Jefferson National Forest; Monroe County, West Virginia; Giles and Montgomery County, Virginia; Mountain Valley Pipeline and Equitrans Expansion Project Supplemental Environmental Impact Statement, 85 Fed. Reg. 45,863 (July 30, 2020).

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Jefferson National Forest, and sedimentation impacts in these sub-watersheds would presumably be analyzed during the Forest Service's environmental review. The remainder of the non-federal lands in the exclusion zone are not located in any sub-watershed shared with the Jefferson National Forest. In sum, Mountain Valley requests that the Commission modify the August 2018 Stop Work Order by lifting the construction restrictions in the 25-mile exclusion zone with the exception of mileposts 196.2-201.6 and 218.6-220.9. By resuming or proceeding with construction in these areas, Mountain Valley can expedite construction completion and final restoration.

Mountain Valley respectfully requests that the Commission approve this request by September 25, 2020, so that Mountain Valley can maximize final restoration and complete as many activities as possible before winter. Mountain Valley remains committed to protecting the environment and completing the construction of this important infrastructure project. If you have any questions, please do not hesitate to contact me at (412) 553-5786 or meggerding@equitransmidstream.com. Thank you.

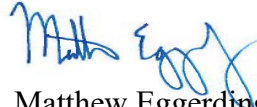
Respectfully submitted,

MOUNTAIN VALLEY PIPELINE, LLC

by and through its operator,

EQM Gathering Opco, LLC

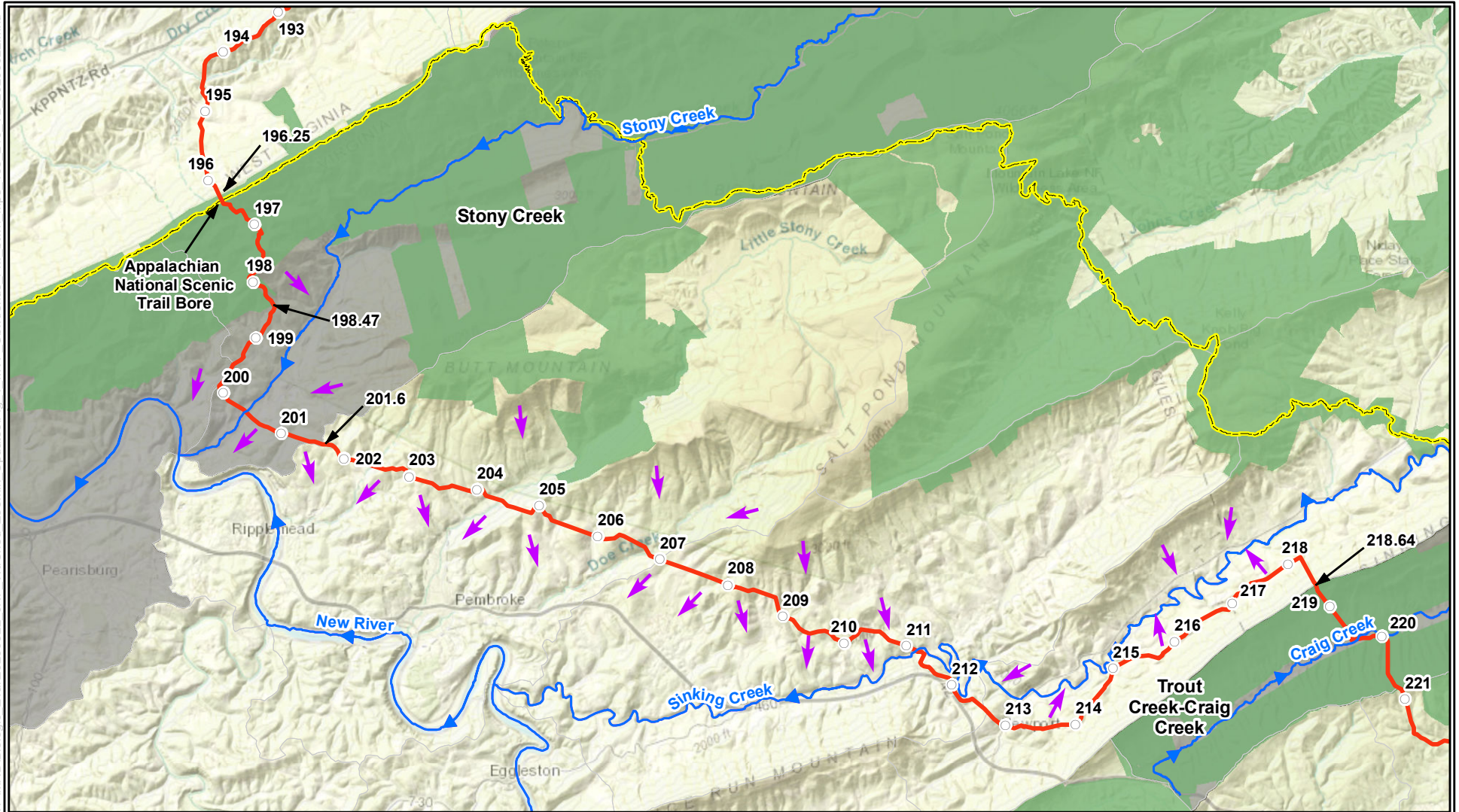
By:



Matthew Eggerding

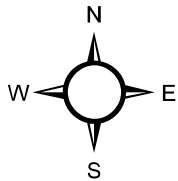
Assistant General Counsel

Attachments

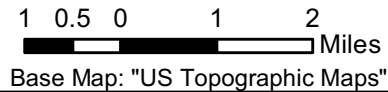


- Milepost
- Stream
- Appalachian National Scenic Trail
- U.S. Forest Service (National Forest) Lands
- Intersecting JNF and Project Subwatershed
- General Rainwater Flow
- Proposed Route
- Subwatershed

Figure 1: Mountain Valley Pipeline – Subwatersheds and Flow between Mileposts 198 and 219



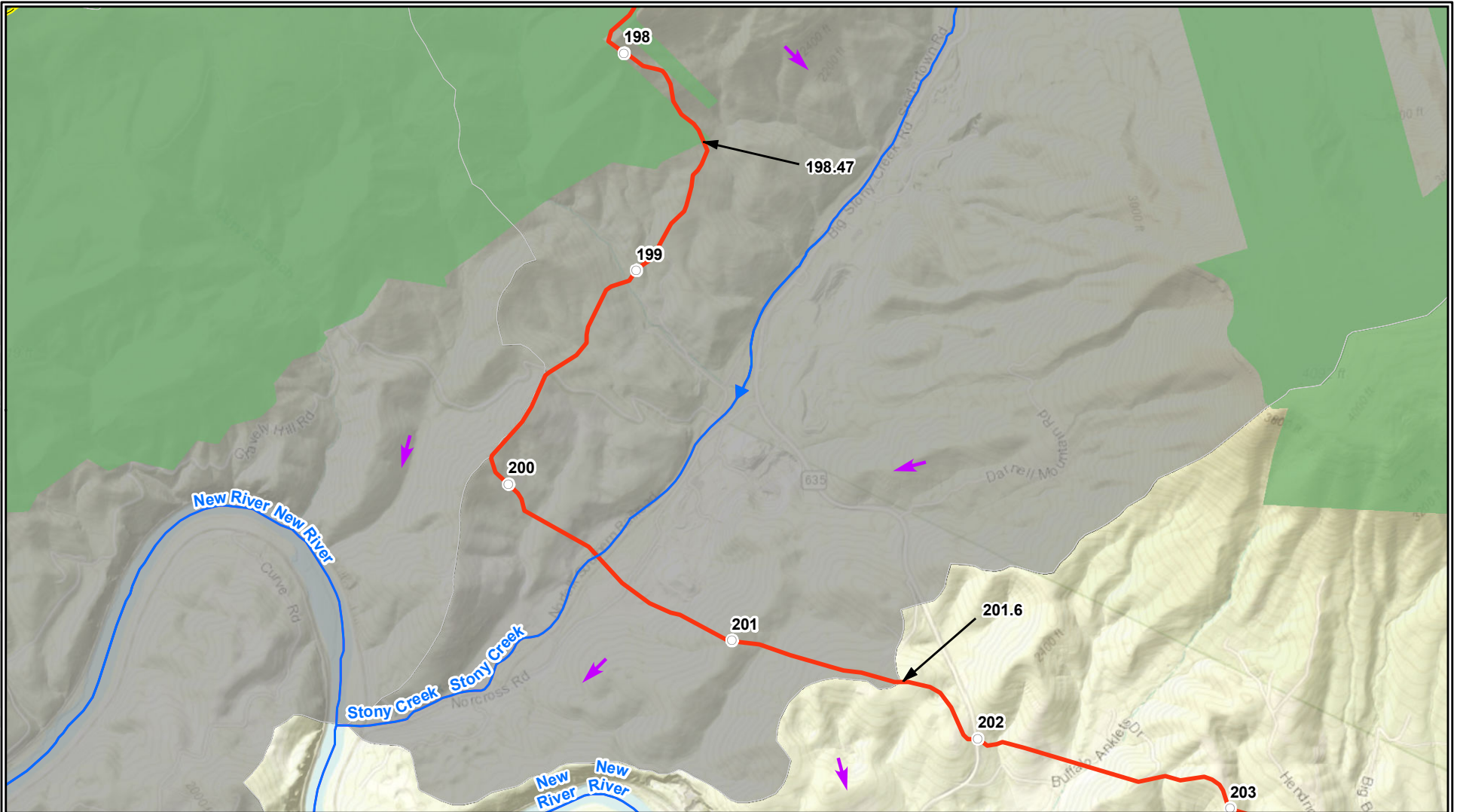
Project No. 593



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- Milepost
- ➔ General Rainwater Flow
- ▭ Subwatershed
- ▭ U.S. Forest Service (National Forest) Lands
- ▭ Intersecting JNF and Project Subwatershed
- ➔ Stream
- Proposed Route

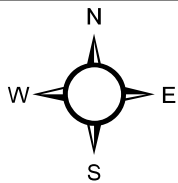
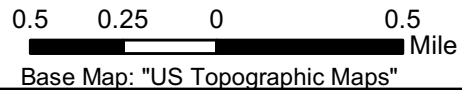


Figure 2: Mountain Valley Pipeline – Subwatersheds and Flow between Mileposts 198 and 202

Project No. 593



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Document Content(s)

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