

**U.S Department of the Interior
National Park Service, Department of Interior Region 2**

**FINDING OF NO SIGNIFICANT IMPACT
Right-of-Way (ROW) Permit for Dominion Energy, North Carolina
(DENC) T2 Natural Gas Pipeline Crossing
MP 393.3 Buncombe County, North Carolina**

Recommended:

TRACY SWARTOUT Digitally signed by TRACY
SWARTOUT
Date: 2022.09.09 16:58:35 -04'00'

Tracy Swartout
Superintendent
Blue Ridge Parkway

Date

Approved:

Mark A. Foust
Regional Director
Interior Region 2, South Atlantic - Gulf

Date

INTRODUCTION

In compliance with the National Environmental Policy Act (NEPA), the National Park Service (NPS) prepared an environmental assessment (EA) titled *Proposed Right-of-Way (ROW) Permit for Dominion T2 Natural Gas Pipeline Crossing, Buncombe County, North Carolina, Environmental Assessment (EA)* to examine alternatives and environmental impacts associated with proposed construction and ROW permits to cross the Blue Ridge Parkway (the Parkway). The proposed action is the potential issuance of permit for a construction and a ROW permit for operation and maintenance of a pipeline constructed using the horizontal directional drilling (HDD) method crossing National Park Service (NPS) property at Parkway Milepost 393.3 to applicant Dominion Energy of North Carolina (DENC).

The proposed pipeline segment is part of the larger county-wide DENC Buncombe County Enhancement Project, a new natural gas pipeline that would enable DENC to derate (reduce pressure) on an aging segment of its existing pipeline network so that it can be repurposed from transmission service to lower pressure distribution service and would increase the reliability of natural gas service to DENC's area customer base. The older segment of pipeline to be derated is currently located within the shoulder of heavily-trafficked, geologically/topographically challenged and otherwise developed portions of the North Carolina Department of Transportation (NCDOT) ROW adjacent to Brevard Road.

The EA considered two alternatives, issuance of the construction and ROW permit and the no action alternative (no permit issued), which provides a basis for comparing environmental impacts of the action alternative. The statements and conclusions in this Finding of No Significant Impact (FONSI) are based on documentation and analysis provided in the EA. During the preparation of the EA, the NPS consulted with federal and state agencies, tribes, interested and affected parties, and the general public. The EA was made available for a 30-day public comment period from January 7, 2022, through February 5, 2022. A total of 1,450 pieces of correspondence were received during the public comment period for the EA. There were 5 concern statements created reflecting substantive comments as well as recurring comment themes; no changes were required to the EA as a result of the comments.

Blue Ridge Parkway - Authority to issue ROW permits The Blue Ridge Parkway has park-specific legislative authority to issue ROW permits.

In the administration of the Blue Ridge Parkway, the Secretary of the Interior may issue revocable licenses or permits for rights-of-way over, across, and upon parkway lands, or for the use of parkway lands by the owners or lessees of adjacent lands, for such purposes and under such nondiscriminatory terms, regulations, and conditions as [the Secretary of the Interior] may determine to be not inconsistent with the use of such lands for parkway purposes. (16 U.S.C. Section 460a-3).

As part of use of this Parkway authority to issue a ROW permit, the NPS will also complete a ROW determination, documented via memo, that issuing a ROW permit is 'not inconsistent with the use of such lands for parkway purposes' and the overall National Park System to which it belongs. See *Sierra Club v. United States Dep't of the Interior*, 899 F.3d 260, 292. (4th Cir. 2018)

SELECTED ALTERNATIVE AND RATIONALE FOR THE DECISION

The NPS has selected the Proposed Action Alternative, Alternative B to issue a construction permit and ROW permit to DENC which would allow installation via HDD of approximately 760 linear feet of 12-inch diameter steel piping underneath NPS property. The construction permit and ROW permit would allow the construction, operation, and maintenance of the pipeline. The pipeline would be located no less than 50 feet below the ground surface of the Parkway property, and at the location of the Parkway itself, the pipeline would be located approximately 115 feet below the surface. The HDD entry and exit points would be located more than 800 feet outside of the Parkway property boundaries, more than 800 feet from the Parkway travel land and 380 feet from the NPS property boundary. No additional appurtenances or facilities are proposed for construction on the Parkway property. No grading, land clearing, tree removal or other land disturbances within the proposed construction and ROW permit area on the Parkway property are proposed.

Attached to this FONSI is the summary of the comments received on the EA with responses (FONSI: Appendix B).

Approximately 760 feet of the new 12-inch diameter steel natural gas pipeline (a portion of the larger 11.5-mile DENC Buncombe County Enhancement Project) would be installed beneath the NPS Parkway property by HDD perpendicular to the Parkway and adjacent to an existing 143-foot-wide cleared Duke Energy Electric transmission line ROW. The project includes up to three attempts to complete the HDD in the construction and ROW permit area. Modified, lower profile, pipeline markers would be located on the Parkway ROW permit area for line of sight to satisfy DOT 192.707 requirements. Pedestrian access would be required twice per year for non-invasive leak surveys and quarterly at road crossings. Equipment access to private property on the north side of the Parkway would be provided by an existing deed reserved private access road that passes beneath the French Broad River Bridge on NPS property. The access road at this location is situated on high ground and is well-maintained. The water to be utilized for the drilling and testing of the HDD under the Parkway would be drawn from the French Broad River adjacent to existing and ongoing construction for a bridge across the river, not on NPS property. Returns from the drilling and testing would be filtered through a filter structure approved by NCDEQ. These filter structures have been successfully utilized at other HDD locations on the project.

DENC proposed the crossing of the Parkway as part of a new natural gas pipeline project in Buncombe County, NC. The Parkway traverses the entire DENC project corridor, which made crossing NPS land unavoidable. Alternative B was selected based upon analysis of potential resource impacts and effects. The proposed action is not anticipated to have significant impacts to Parkway resources. Given the inability to avoid crossing the Parkway The proposed ROW corridor, as well as several alternative ROW locations and alternative installation methods (installation via trenching) were considered as part of internal scoping by NPS and state and federal agencies with project jurisdiction. Given constraints of the existing pipeline, controlled access interstate ROW, and resource concerns, the proposed ROW corridor via HDD was identified as the proposed alternative. There will be no surface construction or vegetation clearing on NPS lands. Evaluation of water and subsurface geology has indicated terrain and soil suitable for HDD with inadvertent returns and safety issues not anticipated. Viewshed impacts, impacts to the recreational resources (Mountains to Sea Trail), and soundscape impacts were evaluated and no impacts are anticipated to these resources.

FINDING OF NO SIGNIFICANT IMPACT

As described in the EA, the selected alternative has the potential for adverse and beneficial impacts on Park resources, including noise, soundscape, and viewshed. No significant adverse impacts were identified. When considering impacts to park resources, the project area was defined broadly to include not just the underground Parkway crossing itself, but also potential impacts to NPS resources related to the entry and exit boreholes for the drilling (located on private land), as well as potential impacts to NPS resources from the workspace needed to complete the drilling and install the pipeline (also located on private land). The private, deed reserved access road across NPS property is also within the project area. For viewsheds and visitor use and experience, the project area was further expanded to encompass visual and noise impacts associated with the project. For the purpose of this project, Parkway refers to the road, Mountains to Sea Trail, and the associated land owned by the United States and managed by the National Park Service (NPS) in the proposed pipeline construction and ROW permit area.

Visual Resources – Viewshed

There is a potential for impacts to the Parkway viewshed associated with the visibility of the proposed drill rig and construction equipment that would be present during HDD activities from key vistas and overlooks along the Parkway, as well as the Mountains to Sea Trail. The applicant provided a viewshed analysis as part of their ROW permit application. The viewshed analysis evaluated potential effects of the HDD and associated equipment on the Parkway viewshed, the height of the HDD operations relative to the tree-canopy height and density at the HDD

entry and exit locations, along with the topography between the HDD locations and the Parkway.

A utility tower is located in the existing ROW approximately 200 feet south of the proposed HDD entry point and is visible from the Parkway and Trail. The lowest crossbar of the tower that is visible from the Parkway is approximately 30 feet high. A crossbar that is 20 feet high is visible from the Mountains to Sea Trail. The tower base below these crossbars cannot be seen due to tree cover. The line of sight from the Parkway is 52 feet above ground surface (AGS) at the HDD entry point (30-foot-high crossbar plus 22 feet difference in ground surface elevation between the tower and the HDD entry point). The line of sight from the Trail is 42 feet above ground surface (20-foot-high crossbar plus 22 feet difference in ground surface elevation). The HDD rig and associated equipment do not exceed 30 feet in height; therefore, neither would be visible from the Parkway or the Trail. To further support this conclusion, DENC has committed to leaving a 30-foot tree buffer between their HDD location and the Parkway. These trees would further block visibility from the Parkway toward the HDD operations.

The HDD exit point is located over 800 feet southeast of the Trail; the exit point is approximately 30 feet higher than the Parkway and 22 feet higher than the Trail. At the exit point, equipment would be restricted to standard truck heights (less than eight feet high). Due to the difference in elevation and the existing vegetation, no equipment would be visible from the Parkway or the Trail at the exit point (EA, Appendix D: Viewshed Analysis).

The proposed action of NPS issuing a construction and a ROW permit would not result in impacts to the viewshed from the Parkway motor road or the Trail. Photographic documentation and a figure depicting the results of the viewshed analysis are included in the EA, Appendix D; viewshed impact discussion and EA, Section 5.5.2 p. 18.

Noise and Soundscape

There are potential impacts to the Parkway soundscape due to the potential noise impacts associated with the drilling activity that would occur for approximately six to eight weeks. Current plans include drilling twelve hours per day, six to seven days per week. Although prohibited by the standard Blue Ridge Parkway permit conditions, a 24-hour/seven days a week schedule was also considered for noise impacts.

The complete Report of Limited Environmental Noise Assessment dated March 12, 2021 is included as Appendix E of the EA. In summary, sound level measurements were recorded at 100-foot intervals from both the front (drill direction) and rear (exhaust end) of the current French Broad River and Hominy Creek drill sites, which are part of the larger DENC Buncombe County Enhancement Project. The sound level measurements are considered a representative surrogate for the expected sound levels at the Parkway. The assessment findings demonstrate that the drilling operation at the Parkway crossing site would occur at sufficient distance from

both the Parkway travel lanes and Mountains to Sea Trail to prevent potential adverse noise impacts. Furthermore, the HDD entry point is located in a topographic depression and would be separated from the Parkway by a tree buffer. No other noise sensitive areas were identified within the proximity of the proposed drilling location.

AGENCY AND TRIBAL CONSULTATION

Consultation with the North Carolina State Historic Preservation Office (NCSHPO) resulted in concurrence with the “No Adverse Effect” determination. The North Carolina Department of Natural and Cultural Resources (NCDNCR) State Historic Preservation Office (SHPO) accepted DENC’s archeological survey report, prepared by via contract with consultant S&ME, and on July 23, 2020, concurred that no further archaeological investigation was needed for this undertaking based on the proposed alignments (EA, Appendix B: Scoping Letters).

As part of the Government-to-Government relationship between the NPS and Native American tribes, the archeological survey report was sent to the consulting tribes that claim this area as part of their ancestral lands. The report was shared with the Catawba Indian Nation, the Cherokee Nation, the Eastern Band of Cherokee Indians, the United Keetoowah Band of Cherokee Indians, the Absentee Shawnee Tribe of Oklahoma, the Eastern Shawnee Tribe, and the Shawnee Tribe on November 17, 2021, for their review and comment. The Catawba Indian Nation and the Eastern Shawnee Tribe both concurred with the finding of No Adverse Effect after their reviews of the archeological survey report. The Cherokee Nation responded with clarifying questions, which were answered to their satisfaction. They then concurred with the finding of No Adverse Effect. NPS had received no responses from additional tribes.

SHPO and THPO concurrence on the selected alternative is described in the EA, Section 3.2.2a. The following stipulation was included during consultation:

If archeological resources are discovered during construction, all work in the immediate vicinity of the discovery until the resources can be identified and documented, and an appropriate mitigation strategy developed. If necessary, NPS staff would consult with the NCSHPO, THPOs, and/or the NPS regional archeologist to ensure that the protection of resources is addressed. In the unlikely event that human remains, funerary objects, sacred objects, or objects of cultural patrimony are discovered during construction, the National Park Service would follow provisions outlined in the Native American Graves Protection and Repatriation Act (25 USC 3001) of 1990.

There were no impacts to cultural resources identified during the National Historical Preservation Act (NHPA) or the NEPA analysis.

Consultation was undertaken with the United States Fish and Wildlife Service (USFWS) under Section 7 of the Endangered Species Act (ESA) for the larger 11.5 mile DENC Buncombe County Enhancement Project occurred. While impacts to NPS threatened and endangered resources are not anticipated for the NPS proposed action, the connected action of water removal and return from the French Broad River for the HDD process was addressed in United States Fish and Wildlife Service (USFWS) Endangered Species Act (ESA) Section 7 consultation for the larger pipeline project beyond NPS lands.

The USFWS concurred with a “may affect, not likely to adversely affect” determination for Virginia spirea and Appalachian elktoe based on the proposed use of HDD at all French Broad River crossing locations; USFWS commended DENC for using HDD for stream crossing locations. The USFWS concurred with the determination that the Buncombe County Enhancement Project “may affect, but is not likely to adversely affect” Gray bat and Northern long-eared bat due to proposed tree-clearing restrictions on the project and made a determination of “no effect” on all other federally-listed species known to occur in Buncombe County. USFWS recommended additional measures be implemented into the larger DENC project plans to ensure that impacts to the French Broad River and Appalachian elktoe are completely avoided (EA, Section 3.2.1 – I Threatened and Endangered Species, pp. 8-10, Appendix B: Scoping Letters, Appendix C: Natural and Cultural Resources Report).

North Carolina Wildlife Resources Commission (NCWRC) was also consulted regarding the larger Buncombe County Enhancement Project and determined that wild trout would not be impacted by project activities, and a trout moratorium is not needed. In addition, NCWRC identified state listed and threatened species in the larger project area and provided suggestions for erosion and sedimentation control measures to avoid impacts to those species. NCWRC acknowledged DENC’s coordination with the agency to avoid important wetland areas along the French Broad River as well as to perform surveys for bald eagle (EA, Appendix B: Scoping Letters).

Standard Blue Ridge Parkway conditions and mitigations will be included in the construction and ROW permit.

No highly uncertain or controversial impacts, unique or unknown risks, significant cumulative effects, or elements of precedence were identified. Implementation of the NPS selected action would not violate any federal, state, or local environmental protection law. Based on the foregoing, it has been determined that an environmental impact statement is not required for this action and thus will not be prepared.

DECISION REACHED AND RATIONALE

The NPS has selected the proposed action analyzed in the EA for implementation and described in this FONSI.

The NPS selected the proposed action, issuing a construction and ROW permit to DENC for HDD construction, operation, and maintenance of a 12-inch natural gas pipeline because no significant impacts to NPS resources are anticipated and the action meets the purpose of considering the ROW and need to respond to the application for ROW.

The NPS will also complete a ROW determination, documented via memo, that issuing a ROW permit is 'not inconsistent with the use of such lands for parkway purposes' and the overall National Park System to which it belongs. See *Sierra Club v. United States Dep't of the Interior*, 899 F.3d 260, 292. (4th Cir. 2018)

For these reasons and in consideration of the likely environmental impacts described in the EA and this Finding of No Significant Impact, I have decided to select the proposed alternative for implementation.

APPENDIX A NON-IMPAIRMENT DETERMINATION

The Prohibition on Impairment of Park Resources and Values

NPS Management Policies 2006, Section 1.4.4, explains the prohibition on impairment of park resources and values:

While Congress has given the Service the management discretion to allow impacts within parks, that discretion is limited by the statutory requirement (generally enforceable by the federal courts) that the NPS must leave park resources and values unimpaired unless a particular law directly and specifically provides otherwise. This requirement, the cornerstone of the NPS Organic Act, establishes the primary responsibility of the NPS. It ensures that park resources and values will continue to exist in a condition that will allow the American people to have present and future opportunities for enjoyment of them.

What is Impairment?

NPS Management Policies 2006, Section 1.4.5, *What Constitutes Impairment of Park Resources and Values*, and Section 1.4.6, *What Constitutes Park Resources and Values*, provide an explanation of impairment:

Impairment is an impact that, in the professional judgement of the responsible NPS manager, would harm the integrity of park resources or values, including the opportunities that otherwise would be present for the enjoyment of those resources or values.

Section 1.4.5 of NPS Management Policies 2006 states:

An impact to any park resource or value may, but does not necessarily, constitute impairment. An impact would be more likely to constitute impairment to the extent that it affects a resource or value whose conservation is:

- Necessary to fulfill specific purposes identified in the establishing legislation or proclamation of the park, or
- Key to the natural or cultural integrity of the park or to opportunities for enjoyment of the park, or
- Identified as a goal in the park's general management plan or other relevant NPS planning documents as being of significance.

An impact would be less likely to constitute an impairment if it is an unavoidable result of an action necessary to preserve or restore the integrity of park resources or values and it cannot be further mitigated.

Per Section 1.4.6 of NPS Management Policies 2006, park resources and values that may be impaired include:

- the park's scenery, natural and historic objects, and wildlife, and the processes and conditions that sustain them, including, to the extent present in the park: the ecological, biological, and physical processes that created the park and continue to act upon it; scenic features; natural visibility, both in daytime and at night; natural landscapes; natural soundscapes and smells; water and air resources; soils; geological resources; paleontological resources; archeological resources; cultural landscapes; ethnographic resources; historic and prehistoric sites, structures, and objects; museum collections; and native plants and animals;
- appropriate opportunities to experience enjoyment of the above resources, to the extent that can be done without impairing them;
- the park's role in contributing to the national dignity, the high public value and integrity, and the superlative environmental quality of the national park system, and the benefit and inspiration provided to the American people by the national park system; and
- any additional attributes encompassed by the specific values and purposes for which the park was established.

Impairment may result from NPS activities in managing the park, visitor activities, or activities undertaken by concessionaires, contractors, and others operating in the park. Impairment may also result from sources or activities outside the park, but this would not be a violation of the NPS Organic Act unless the NPS was in some way responsible for the action.

How is an Impairment Determination Made?

Section 1.4.7 of NPS Management Policies 2006 states:

In making a determination of whether there would be an impairment, an NPS decision maker must use his or her professional judgement. This means that the decision-maker must consider any environmental assessments or environmental impact statements required by the National Environmental Policy Act of 1969 (NEPA); consultations required under Section 106 of the National Historic Preservation Act; relevant scientific and scholarly studies; advice or insights offered by subject matter experts and others who have relevant knowledge or experience; and the results of civic engagement and public involvement activities relating to the decision.

NPS Management Policies 2006 further defines “professional judgement” as, “a decision or opinion that is shaped by study and analysis and full consideration of all the relevant facts, and that takes into account the decision maker’s education, training, and experience; advice or insights offered by subject matter experts and others who have relevant knowledge and experience; good science and scholarship; and, whenever appropriate, the results of civic engagement and public involvement activities related to the decision.”

Non-Impairment Determination for the Proposed Action Alternative

This determination on impairment has been prepared for the Proposed Action Alternative as described in Chapter 4 of the EA. An impairment decision is made for all resource impact topics analyzed for the Proposed Action Alternative. An impairment determination is not made for visitor use and experience, park operations or health and safety because impairment findings relate back to park resources and values, and those impact areas are not generally considered to be park resources or values according to the Organic Act and cannot be impaired in the same way that an action can impair park resources and values.

Visual Resources – Viewshed

The visual character of the Parkway in the area of the proposed action is forested with a cleared utility corridor and towers currently visible directly adjacent to the proposed construction and ROW permit area. The project area is in what is referred to as the Asheville corridor, an urban area where there are periodic views of development. There are numerous ongoing projects within a mile of the project in Buncombe County; these projects are not impacted by, and do not impact, the proposed action.

In order to determine potential effects of the HDD and associated equipment to the Parkway viewshed, the height of the HDD operations relative to the tree-canopy height and density at the HDD entry and exit locations was evaluated, along with the topography between the HDD locations and the Parkway. A viewshed analysis for the HDD drill pad location on the north and the exit location on the south side of the Parkway, evaluating the travel lanes and the adjacent Mountains-to-Sea Trail (the Trail) was conducted. The visual impact analysis had a goal of identifying potential effects to the viewshed of each of the resources.

The HDD exit point (not on NPS land) is located over 800 feet southeast of the Mountains to Sea Trail; the exit point is approximately 30 feet higher than the Parkway and 22 feet higher than the Trail. At the exit point, equipment would be restricted to standard truck heights (less than eight feet high). Due to the difference in elevation and the existing vegetation, no equipment would be visible from the Parkway or the Trail at the exit point.

Views from the French Broad Overlook on the Parkway were also evaluated to identify the potential for viewshed impacts. The previously mentioned utility tower could be seen from the French Broad Overlook, however, only the upper-most portion of the tower was visible. Based

on the discussion presented in the previous paragraph, and because the HDD rig and equipment are less than 30 feet high, the HDD operations would not be visible from the overlook.

The viewshed analysis identified no impacts to viewsheds or the visual character of the Parkway, therefore the proposed action would not result in impairment.

Soundscape

The proposed construction and ROW permit area is in what is referred to as the Asheville corridor, an urban area where development is adjacent to and nearby the Parkway. This is one of the busiest stretches of the Parkway given the proximity to and connection with Asheville and Buncombe County, North Carolina and use of the Parkway in this section as part of the local transportation network because of those connections. Sounds related to urbanization, including traffic noise, can be heard periodically while travelling through this corridor. There are numerous ongoing projects within a mile of the project in Buncombe County; these projects are not impacted by, and do not impact, the proposed action.

The proposed action will result in construction drilling twelve hours per day, six to seven days a week for approximately six to eight weeks. Although prohibited by the Parkway standard permit conditions, a 24-hour/seven days a week schedule was also considered for noise impacts.

Section 5.3 in the EA addresses the methodology and findings of the noise assessment. In summary, the noise levels dropped below background levels 550 feet from the front of the drill rig and 800 feet behind the rig. The front of the rig should generally be facing the Parkway during drilling. The findings demonstrate the drilling operation at the Parkway crossing site would occur at sufficient distance from both the Blue Ridge Parkway travel lanes and Mountains to Sea Trail to prevent potential adverse noise impacts. Furthermore, the HDD entry point is located in a topographic depression and would be separated from the Parkway by a tree buffer. No other noise sensitive receptors were identified within the proximity of the proposed drilling location. The NPS proposed action of issuing a construction and ROW permit would not affect ongoing or proposed projects in or near the Asheville corridor of the Parkway and would not be impacted by those projects.

The noise analysis identified no adverse impacts to the soundscape of the Parkway because the drilling operation at the Parkway crossing site would occur at sufficient distance from both the Parkway travel lanes and Mountains to Sea Trail to prevent potential adverse noise impacts. Furthermore, the HDD entry point is located in a topographic depression and would be separated from the Parkway by a tree buffer. Therefore the proposed action would not result in impairment.

APPENDIX B

RESPONSE TO CONCERN STATEMENTS (COMMENTS)

CONCERN STATEMENT: Alternate right-of-way (ROW) locations avoiding National Park Service (NPS) property were considered but dismissed in the Environmental Assessment (EA). Alternatives to NPS land such as NCDOT ROWs should have been considered and analyzed in the EA.

The Blue Ridge Parkway traverses the larger project area, so there was no alternative that avoided crossing NPS lands. As stated in the EA, alternative locations and alignments, as well as installation via trench, were considered during the initial scoping process and dismissed from detailed analysis for the reasons summarized in Section 2.2: Scoping History (p. 3) and further outlined in Section 4.2: Alternatives Considered but Eliminated from Detailed Study (p. 15). These alternatives included: Alternative C – *Construction of a New 12-inch Diameter Gas Line Through the Blue Ridge Parkway via Trenching*; Alternative D – *Construction of a New 12-inch Diameter Gas Line Along Interstate 26*; and Alternative E - *Replace Existing Pipeline with Proposed Line, in the Same General Location*.

To further clarify the safety considerations related to location in the I-26 NCDOT ROW referenced in the EA, the *NCDOT Utilities Accommodation Manual*, Section 3.1.2.10.1 reads:

New utilities shall not be permitted longitudinally within fully controlled access right of way except when all of the special circumstances listed in item 3 are met and under strictly controlled conditions”. The NCDOT does permit utility crossings of fully controlled access rights of way if the crossing is “as near perpendicular (90 degrees) to the highway alignment as practical.

CONCERN STATEMENT: Greenhouse Gasses and Climate change was dismissed as an impact topic needing further analysis in the Environmental Assessment (EA). Climate change and greenhouse gas emissions resulting from issuing a permit for a pipeline under the Blue Ridge Parkway should be retained as an impact topic and impacts from this action analyzed in the EA.

As stated in Section 3.2.5 of the EA (p. 13), construction impacts from the proposed alternative that potentially contribute to climate change are identified; those impacts are temporary and negligible. The larger project beyond NPS lands is not the subject of this EA which focuses on the NPS action of issuing a construction and ROW permit to cross NPS lands and potential impacts from that action.

FINDING OF NO SIGNIFICANT IMPACT Right-of-Way (ROW) Permit for Dominion Energy, North Carolina (DENC) T2 Natural Gas Pipeline Crossing MP 393.3 Buncombe County, North Carolina

CONCERN STATEMENT: Hydrologic resources - including water quality - were not retained as an impact topic for further analysis in the Environmental Assessment (EA). Hydrology, underground aquifers, the French Broad River, and other water resources should have been analyzed for impacts from the Horizontal Directional Drilling (HDD) and extraction and return of water from the French Broad River in the HDD process.

As part of the NEPA analysis, water resources, including jurisdictional streams and wetlands were considered in the EA. Soil survey, included (EA, Appendix F) indicated no concerns with soil type, which should support drilling activities without impacts to hydrology.

In addition NPS has reviewed the March 2021 *Inadvertent Return and Contingency Plan* and the *Horizontal Directional Drill (HDD) Geotechnical Engineering and Technical Design Services - Revision 1* dated June 25, 2021 provided by DENC. All drill mud and water used for testing will be contained on-site and disposed of at a licensed, off-side disposal facility. No drilling mud or filtered water will be returned to the river. Evidence of proper disposal will be retained with the project records.

North Carolina General Statute G.S. 143-21.22H allows water withdrawal of up to 100,000 gallons per day without requiring a permit or registration for the withdrawal. The volume required in this project, not on NPS-lands, is significantly lower than 100,000 gallons per day, therefore a withdrawal permit is not required by the State.

The project requires the use of water for the HDD and hydrostatic testing process. If water becomes available at the nearby Pratt & Whitney commercial site under development before the HDD process begins, the applicant preference is to withdraw water where practical from a nearby hydrant. Should water service not be available, applicant will withdraw water from the French Broad River using fully contained pumps and a floating skimmer. The use of a floating skimmer will prevent any aquatic life from being pulled into the intake hose. The largest single day withdrawal will be prior to the hydrostatic testing process, which will be no more than 50,000 gallons, therefore this impact topic was not retained for further analysis.

CONCERN STATEMENT: This right-of-way (ROW permit) is not consistent with the National Park Service (NPS) and Blue Ridge Parkway mission; the NPS should not be allowing a private entity access to public lands.

The Blue Ridge Parkway has park-specific legislation that provides the authority to issue ROWs. (16 U.S.C. § 460a-3) The NPS acknowledges the need to make a determination that issuing a ROW permit for the pipeline as proposed is 'not inconsistent with the use of such lands for parkway purposes' and the overall National Park System to which it belongs." See *Sierra Club v.*

United States Dep't of the Interior, 899 F.3d 260, 292. (4th Cir. 2018). That determination is not part of the National Environmental Policy Act (NEPA) analysis, but the determination will be documented before a ROW permit is issued by the NPS.

CONCERN STATEMENT: Human Health and Safety was dismissed as an impact topic to be further analyzed in the Environmental Assessment (EA). Information about pipeline safety - including leaks, spills, and catastrophic failure - and how it will be addressed during construction, operation, and maintenance should be included in the EA.

As stated on page 13, Section 3.2.4 H of the EA, human health and safety impacts from the proposed action are not anticipated. The larger project beyond NPS lands was not the subject of this EA; the EA focuses on the NPS action of issuing a construction and ROW permit to cross NPS lands and potential impacts from that action. NPS has reviewed the March 2021 *Inadvertent Return and Contingency Plan* which addresses potential project contingencies. Applicant and contractors are required to comply with local, state, and federal regulations beyond the scope of the NPS including *49 Code of Federal Regulations (CFR) Part 142 – Transportation of Natural and Other Gas by Pipeline: Minimum Safety Standards*. Because these federal safety standards govern the applicant project and DENC and their contractors are required to follow these regulations this impact topic was dismissed from detailed analysis.
