



FSEEE

Forest Service Employees
for Environmental Ethics

Citizens working together to save our forests

TRANSMITTED ELECTRONICALLY

December 23, 2019

Glenn Casamassa, Regional Forester and Objection Reviewing Officer
Pacific Northwest Region
Attn: 1570 Appeals
PO Box 3623
Portland, OR 97208-2623

RE: Objection to Pacific Connector Gas Pipeline Project and Plan Amendments

Dear Mr. Casamassa,

By this letter, pursuant to 36 CFR 219, Forest Service Employees for Environmental Ethics (“FSEEE”) objects to all of the “project-specific” and “plan-level” amendments proposed on November 22, 2019, by Umpqua National Forest Supervisor Alice Carlton associated with the Pacific Connector Gas Pipeline. The amendments are unnecessary because the pipeline can be located off of the national forests and illegal because the Land and Resource Management Plans (“Forest Plans”) bar private special uses when non-national forest land is available, in violation of the National Forest Management Act. *See, Cowpasture River Preservation Ass’n v. U.S. Forest Service*, 911 F.3d 150 at 168 (4th Cir. 2018). The FEIS also violates the National Environmental Policy Act (“NEPA”) because it fails to consider an alternative that avoids crossing national forest land. *Id* at 171.

On July 5, 2019, FSEEE submitted comments (Exhibit A) on the Pacific Connector Pipeline draft EIS (“DEIS”). In its comments, FSEEE pointed out that the Forest Plans bar special-use permits for activities that can be accommodated on non-national forest land, e.g., DEIS Appendix F at 1-2 (“National forest land will not be made available for private development when suitable private land is available to support needs”); Fremont LRMP at 94 (“Issue new permits where there is demonstrated public need which cannot be met off the National Forest”); Umpqua LRMP at IV-80 (“Umpqua National Forest land will not be made available for private development when suitable private land is available to support needs”).

We explained that the National Forest Management Act requires permits be consistent with the forest plans. *See* 16 U.S.C. 1604(i) (“Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans”). We also explained that the DEIS’s failure to consider a non-national forest land alternative violates NEPA. The final EIS (“FEIS”) and Supervisor Carlton’s proposed decisions correct none of these defects.

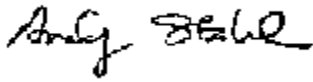
The FEIS makes two responses to FSEEE’s comments. First, the FEIS states that the Forest Service Manual (“FSM”) “does not apply to this project because the BLM is the permitting agency to authorize the Right-of-Way Grant.” FEIS at R-350. Regardless of whether the FSM is binding on the BLM, there is no question (nor does the FEIS assert otherwise) that the Forest Plans are legally binding. In fact, it is precisely because the Forest Plans are legally binding that the Forest Service proposes to make the forest plan amendments to which FSEEE objects. In addition to the natural resource-related standards that Supervisor Carlton proposes to amend, the Forest Plans also bar private development when non-national forest land is available. Thus, Supervisor Carlton’s proposal violates the Forest Plans.

Second, the FEIS asserts that “a non-FS route was considered but was not feasible given the extensive Forest Service lands north, west, and south, and of (sic) Malin, OR.” This claim is false for two reasons. First, the DEIS did not consider a “non-FS” route; it considered only a “non-federal land” route. FSEEE made this point in its July 5 comments. *See* Exhibit A at 1 (“the DEIS’s ‘no federal land alternative appears to be a strawman to avoid considering a ‘no national forest land’ (‘NNFL’) alternative”). Second, a non-national forest land route is geographically feasible. There is a 15-mile gap between national forest land (Rogue River NF) south and west of I-5 and national forest (Winema and Rogue River) north of I-5, through which the pipeline could be routed, thus avoiding entirely the Winema and Rogue River national forests. *See* Exhibit B at Figure 1. The Umpqua National Forest land can also be avoided by routing the pipeline south of the Umpqua National Forest. *Id.* Thus, although a non-federal land route may be infeasible, a non-national forest land route is feasible. The FEIS’s failure to consider such a route violates NEPA. The FEIS’s justification for failing to consider a non-national forest alternative is not supported by the geographic facts, i.e., it is arbitrary and capricious.

To further demonstrate the feasibility of a non-national forest route, Dr. Dongmei Chen, an expert in data visualization and geospatial statistics, analyzed a least-cost pipeline route between Malin and Coos Bay that avoids national forest lands. *See* Exhibit B. This route avoids high elevations, steep slopes, high risk of geohazard areas, environmentally sensitive areas, including protected and natural areas, parks, lakes, and national forests, and socially sensitive areas such as urban areas. This route is also environmentally preferable as it requires no Forest Plan amendments.

In sum, NFMA bars the Forest Service from concurring in and the BLM from issuing a special-use permit for locating the Pacific Connector pipeline on national forest land. NEPA also requires consideration of a non-national forest land pipeline route, e.g., the route presented in Exhibit B or one similar thereto. Thus, FSEEE objects to Forest Supervisor Carlton's proposed amendments to the Forest Plans and her proposal to concur in issuing the Pacific Connector Pipeline special-use permit.

Sincerely,

A handwritten signature in black ink, appearing to read "Andy Stahl".

Andy Stahl
Executive Director

Attachments: Exhibit A
 Exhibit B