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Working to protect and restore Western Watersheds and Wildlife

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DELIVERED VIA EMAIL

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Comments-intermtn-caribou-targhee-montpelier@fs.fed.us

Subject: Supplemental Comments on the Crow Creek Pipeline DEIS

Dear Mr. Brown:

Western Watersheds Project (WWP) and Yellowstone to Uintas Connection thank you for this opportunity to provide comments in response to the Forest Service's request for comments on the Draft Environmental Impact Statement (DEIS) for the proposed Crow Creek high-pressure natural gas pipeline. This letter supplements the DEIS comments that we have previously submitted.

Western Watersheds Project is a non-profit organization headquartered in Idaho with more than 5,000 members and supporters. WWP's mission is to protect and restore western watersheds and wildlife through education, public policy initiatives and legal advocacy. Western Watersheds Project and its staff and members use and enjoy America's lands and their wildlife, cultural and natural resources for health, recreational, scientific, spiritual, educational, aesthetic and other purposes, including in the Caribou-Targhee National Forest and surrounding area.

Yellowstone to Uintas Connection works to restore fish and wildlife habitat in the Yellowstone to Uintas Corridor through the application of science, education and advocacy.

We have a number of additional concerns about this project.

I. There are errors and ambiguities in the federal government's approach to this pipeline's NEPA analysis and approval process that must be resolved.

The NEPA analysis prepared by the Forest Service for this proposed pipeline has a fundamental flaw. This interstate pipeline will not be able to operate without approval from the Federal Energy Regulatory Commission (FERC) related to the Natural Gas Act, yet this is not addressed in the DEIS; FERC and its required approval decision does not appear in Table 1.5-1 (Major Permits, Approvals, and Consultation Potentially Required for the Project). See DEIS at 1-5 to 1-7.

FERC plays an important role in the natural gas pipeline approval process. According to the FERC website, “FERC review ensures that applicants certify that they will comply with Department of Transportation safety standards.”¹ This review is especially important because the Department of Transportation’s Pipeline and Hazardous Materials Safety Administration’s rules for use of plastic in natural gas pipelines changed this week.

Based on conversations that Western Watersheds Project has had with staff of Lower Valley Energy (LVE) and FERC, it appears that FERC is considering granting this pipeline an exemption from the normal interstate pipeline regulatory process requirements.² From what we have been told, it appears that two different types of FERC interstate natural gas pipeline exemptions are being considered: a Hinshaw exemption and an area designation exemption. However, as explained in greater detail below, the environmental impacts of this pipeline would be different depending on which exemption FERC approved. Thus, this DEIS has been prepared and issued for public comment prematurely.

To the extent that federal environmental analysis for this project has been limited to only the permits, approvals, and consultation listed in Table 1.5-1, it needs to be extended to include all of the direct, indirect, and cumulative pipeline impacts that would result from a FERC approval for this interstate natural gas pipeline. We are raising this issue because Western Watersheds Project was told by LVE that the DEIS only covers impacts to Forest Service lands and not also to private property.³ However, wildlife, surface water, groundwater, and air quality on, below, and over private property will also be potentially impacted by the pipeline’s construction, operation, and decommissioning. FERC’s approval decision is a federal action that would trigger those impacts.

At a minimum, the environmental impacts of the two exemptions LVE and FERC are considering must be disclosed and analyzed in the FEIS. However, we urge the Forest Service and FERC to publish a Supplemental EIS for public review instead, once LVE chooses which FERC interstate natural gas pipeline exemption it plans to pursue. This would allow the federal government to better follow NEPA and its implementing regulations’ requirements for public participation.

II. The DEIS does not identify and analyze the full range of alternatives that that are currently being considered for this pipeline.

The DEIS includes two alternatives (No Action, Action). The Action Alternative includes two route variants. However, the DEIS does not acknowledge or analyze the impacts of two Action Alternative variants we understand have been suggested by FERC to LVE as possibilities for this pipeline, namely the upstream and downstream impacts of approving this pipeline under a Hinshaw exemption or approving it under an area designation

¹ See FERC website at <https://www.ferc.gov/industries/gas/indus-act/pipelines.asp>. Last accessed November 21, 2018.

² Personal communications, Kelly Fuller (Western Watersheds Project) and Martell Brower (LVE), October 11, 2018; Kelly Fuller (Western Watersheds Project) and Richard Foley (FERC), October 18, 2018.

³ Personal communications Kelly Fuller (Western Watersheds Project) and Martell Brower (LVE), October 11, 2018.

exemption. They would appear to result in different numbers of new LVE natural gas customers burning natural gas and thus have different environmental impacts, both from each other and from the No Action Alternative.

III. The DEIS fails to take a hard look at environmental impacts.

NEPA's purpose is to maintain a national "look before you leap" policy in regard to all major federal actions. Congress' intent in establishing this objective was to avoid uninformed agency decisions that could have serious environmental consequences. Thus, NEPA's mandate is that all federal agencies analyze the likely effects of their actions, as well as address the potential alternatives. "Agencies are to perform this hard look before committing themselves irretrievably to a given course of action so that the action can be shaped to account for environmental values. NEPA § 102(2)(c) requires the agency to consider numerous factors [including] irreversible commitments of resources called for by the proposal." *Sierra Club v. Hodel*, 848 F.2d 1068 (10th Cir. 1988) (rev'd on other grounds). NEPA provides procedural protections for resources at risk by requiring analysis of impacts before substantial decisions are made that set development in motion. See *Conservation Law Foundation v. Watt*, 560 F. Supp. 561, 581 (D. Mass. 1983), aff'd by *Massachusetts v. Watt*, 716 F. 2d 946 (1st Cir. 1983).

We are concerned that the public safety analysis in the DEIS is inadequate. The DEIS does not contain the project's Emergency Response Plan, which Western Watersheds Project requested from the Forest Service but did not receive. Thus, we have not been able to evaluate it and can only comment from the sparse information provided in the DEIS. For instance, the DEIS does not contain any site-specific analysis of how various portions of the route could be impacted by a pipeline leak or rupture followed by a fire or explosion. There are no impact zone calculations and no identification of High Consequence Areas (e.g., in Afton, Wyoming). In addition, the DEIS does not analyze potential impacts related to wildfire, should a pipeline leak or rupture followed by fire or explosion take place. The EIS must analyze these impacts by alternative, as they would not be the same for all alternatives. The DEIS attempts to sidestep this analysis by downplaying the risk, but this is not in the public interest. In the last eight years alone, interstate pipelines have exploded or caught fire 137 times.⁴

We also note that the Forest scoping notice was for an 8" low-pressure natural gas pipeline and not the 12" high-pressure natural gas pipeline analyzed in this DEIS.⁵ The risk to the public from a 12" high-pressure natural gas pipeline is greater than for the smaller, lower-pressure pipeline described in the scoping notice, yet the Forest Service did not re-open the scoping comment period once the project changed. The DEIS oddly states, "The change in size and pressure of the pipeline would have no change in the results of the analysis conducted." DEIS at 1.1. This statement needs to be revised. This pipeline would be installed in the Right of Way for at least one road used by the public and would pass through Caribou-Targhee National Forest areas used by the public, as well as near homes and businesses. If the pipeline leaked or ruptured and fire followed,

⁴ See Soraghan, Mike. November 15, 2018. "No penalties for 90% of pipeline blasts." Energy & Environment News. Available at <https://www.eenews.net/stories/1060106253>. Attachment A.

⁵ See Attachment B (Public Scoping Letter, Crow Creek Pipeline EIS).

the size of the fire would relate to the rate at which fuel was fed to it.⁶ A larger diameter, higher-pressure natural gas pipeline would release more fuel, more rapidly than a smaller diameter, lower-pressure natural gas pipeline, thus making for a larger fire. The larger the fire, the greater the risk of human deaths, which we would expect to see reflected in the NEPA analysis. The importance of analyzing this risk is underscored by Pipeline and Hazardous Materials Safety Administration (PHMSA) guidance published in the Federal Register in 2016.⁷

The fact that the pipeline would be buried in at least one county road Right of Way introduces potential impacts that are not analyzed adequately in the DEIS. The pipeline will be subject to breakage due to county maintenance, such as repairing or replacing culverts, maintaining drainage and other activities requiring earth removal or excavation. What steps will be taken to ensure that the pipeline is not damaged during county maintenance activities? What will happen if the pipeline is nevertheless damaged during county maintenance activities?

The DEIS states, “LVE personnel at the LVE complex would monitor gas flow, leak detection as well as maintenance activities and inspections.” DEIS at 2-9. What type of leak detection system will be used?⁸ Will it provide continuous or noncontinuous leak detection? What would be the smallest size of leak it could detect? If a leak were detected, how quickly could LVE shut down the pipeline? Could LVE shut down the pipeline from its Afton facility, or would a worker have to go into the field? The shutdown speed and degree of shutdown difficult are very important to understanding how large a potential leak or rupture could be and thus how large a fire or explosion following a leak or rupture could be.

An important factor in pipeline repair is emergency venting, which is not discussed in the DEIS. How long would it take for the pipeline to undergo emergency venting?⁹

⁶ See pages 2 and 10 at Gas Research Institute and C-FER Technologies, 2000. “A Model for Sizing High Consequence Areas Associated With Natural Gas Pipelines.” Available at <https://pstrust.org/docs/C-FerCircle.pdf>. Attachment C.

⁷ See Pipeline Safety: High Consequence Area Identification Methods for Gas Transmission Pipelines. December 13, 2016. Federal Register, Vol. 81, No. 239. Pages 90062 – 90064. Attachment D.

⁸ For a review of basic types of natural gas pipeline leak detection systems, see Kalubu, Lawrence & Kaijage, Shubi & Sinde, Ramadhani. (2014). An overview of pipeline leak detection and location systems. 10.13140/2.1.4328.8327. Conference paper (Pan African International Conference on Information Science, Computing and Telecommunications, At Arusha – Tanzania). Available at https://www.researchgate.net/publication/266557667_An_overview_of_pipeline_leak_detection_and_location_systems. Attachment E. See also Sivathanu, Yudava. Undated. Technology Status Report on Natural Gas Leak Detection in Pipelines, Prepared for the U.S. Department of Energy. Available at https://netl.doe.gov/File%20Library/Research/Oil-Gas/Natural%20Gas/scanner_technology_0104.pdf. Attachment F.

⁹ For one method of calculating emergency venting time, see Xiong Yi, et al. Research of emergency venting time in natural gas pipeline accidents with SPS. Procedia Engineering 84 (2014) 927 – 932. doi: 10.1016/j.proeng.2014.10.517. Available at <https://www.sciencedirect.com/science/article/pii/S1877705814018621>. Attachment G.

We understand that the pipeline will be plastic (high-density polyethylene or HDPE) rather than steel and thus avoid steel corrosion issues. However, it will be still be susceptible to leaks at joints between sections of pipelines, for instance where the pipeline route requires turns and angles that do not allow one continuous piece of pipe. The DEIS identifies the pipeline joining method as fusion. DEIS at 2-1. How will the quality and condition of the fused joints be monitored, both at time of construction and during operation?¹⁰ How will LVE ensure that only workers who hold current pipeline fusion qualifications are used to fuse the pipeline's joints?¹¹

The DEIS states that there are HDPE pipelines that have been in service since the 1960s or before that have not experienced signs of degradation. DEIS at 2-2. However, it does not state the size of these long-serving pipelines (e.g., whether transmission or distribution). There have also been documented problems with cracking in some HDPE distribution pipelines installed from the 1960s to the 1980s,¹² so if the DEIS is describing the history of HDPE distribution pipelines, it could just as easily say that the Crow Creek pipeline would last a much shorter period of time than 50 years. Given the mixed history of HDPE pipelines, how will Forest Service, FERC, and LVE ensure that the pipeline does not experience the deterioration problems of earlier generations of plastic pipelines? If deterioration does happen, how will it be discovered and repaired?

In addition, the DEIS does not discuss what will happen to the pipeline at the end of its useful life, which the DEIS estimates at 50 years or more, unless the pipeline's capacity stops meeting meet service area needs before then. *See* DEIS at 2-2. Will its ownership be abandoned? Will it be left in the ground? Will it be removed? The impacts and mitigation for the various end-of-useful-life alternatives must be analyzed in the EIS. In addition, what would the end-of-useful-life regulatory process be? For example, would a FERC abandonment order be necessary? How will Forest Service, FERC, and PHMSA ensure that whatever end-of-useful-life decision they make about the pipeline is implemented and mitigation for the resulting impacts takes place? If the pipeline will remain in the ground after its useful life has ended, how will Forest Service, FERC, and LVE verify that no natural gas is still in the abandoned pipeline?

Furthermore, the EIS should discuss PHMSA's role in ensuring this pipeline is safe and meeting PHMSA regulations. How PHMSA be involved? How often will PHMSA inspect the pipeline? How will PHMSA's newly amended plastic pipeline regulations be implemented for this pipeline?¹³

The climate change analysis in the DEIS is insufficient. The EIS must calculate downstream greenhouse gas (GHG) emissions for all alternatives, including the two

¹⁰ A June 2015 National Transportation Safety Board Safety Alert stresses the importance of good technique in constructing HDPE pipeline joints. Attachment H.

¹¹ The importance of properly fused pipelines and worker qualifications is made clear by the National Transportation Safety Board's January 2015 report on the March 12, 2014 HPDE distribution pipeline leak and series of explosions in New York City, where eight people died. Attachment I.

¹² See National Transportation Safety Board. 1998. Brittle-Like Cracking in Plastic Pipe for Gas Service. Attachment J.

¹³ Pipeline Safety: Plastic Pipe Rule. November 20, 2018. Federal Register Vol. 83, No. 224. Available at <https://www.gpo.gov/fdsys/pkg/FR-2018-11-20/pdf/2018-24925.pdf>. Attachment K.

different pipeline federal approval alternatives that have been suggested to LVE but are not analyzed in the DEIS. This pipeline would result in service to new LVE natural gas customers, whether they result from future population increases in LVE's current natural gas service area, landowners along the pipeline route being offered service, or LVE's natural gas service area being expanded into Idaho. The calculation of downstream GHG emissions should include not only CO₂ but also fugitive methane leaks, as well as their social costs.

In addition to calculating downstream GHG emissions and social costs for all alternatives, including those that are being considered but are not named in the DEIS, the EIS should calculate upstream GHG emissions and their social costs. The pipeline will allow natural gas to be transported from production sites in the gas fields to end users, and thus the production of natural gas that will be transported by this pipeline will be an indirect impact.¹⁴ The EIS should include mitigation measures for upstream and downstream GHG emissions.

The EIS must also analyze the impacts to air quality of LVE's customers burning more natural gas, for the same reasons as described above for GHG emissions. We note that the DEIS's air quality analysis is inadequate and does not contain enough evidence and comparative analysis of alternatives to draw the conclusion that it does: "Operations and maintenance of the pipeline would not result in adverse impacts to air quality." DEIS at 3-5. The DEIS does not include baseline air quality data for this region, instead merely stating that the area is attainment or unclassifiable.¹⁵ Where are the long-term monitoring sites? What are the current levels relative to the NAAQS, etc. and what will be the impacts of increased natural gas use resulting from this project on NOX, CO₂, ozone, etc.? The EIS should also include mitigation measures for air quality impacts as a result of LVE's customers burning more natural gas as a result of this pipeline.

Because natural gas can be used to cost efficiently dry phosphate ore, we are concerned that the impacts of this proposed pipeline may include increasing phosphate mining, which is not discussed in the DEIS and should be analyzed. Phosphate mining has a history of devastating environmental impacts in Idaho, including selenium contamination of streams and many Superfund sites. Furthermore, the company J.R. Simplot is a property owner along the proposed Crow Creek Pipeline route. Significantly, J.R. Simplot's property extends from the Crow Creek Road area through a canyon into a valley, where it will be near Simplot's Smoky Canyon phosphate mine, which plans to expand. Has the J.R. Simplot company been offered a natural gas pipeline tap to the Crow Creek pipeline? If not, could it be offered a tap in the future? In addition, the DEIS references current phosphate leases in the area and states they are the reason why two route alternatives did not receive full analysis in the DEIS. DEIS at ES-ii. If LVE were to

¹⁴ For more information about downstream and upstream GHG emission impacts, *see* Burger and Wentz. 2017. Downstream and Upstream Greenhouse Gas Emissions: The Proper Scope of NEPA Review. Harvard Environmental Law Review. Available at <http://columbiaclimatelaw.com/files/2017/05/Burger-Wentz-2017-05-Downstream-and-Upstream-Emissions.pdf>. Attachment L.

¹⁵ *See* the statements about air quality in the DEIS's Roadless Area Characteristics Worksheets, which do not have page numbers.

expand its natural gas service area into Idaho, would it potentially include areas where there are current phosphate leases? The DEIS contains neither a map of those current phosphate leases nor a map of a proposed LVE Idaho natural gas service area expansion, so it is impossible for the public to evaluate these potential impacts.

IV. Additional mitigation measures should be included in the EIS.

The EIS should also analyze mitigation measures related to livestock grazing that could reduce the cumulative impacts of the proposed pipeline. These could include, but are not limited to, seasonal timing restrictions on grazing, reducing allowed Animal Unit Months (AUMs), and retiring grazing permits.

Thank you again for this opportunity to provide comments on the proposed Crow Creek Pipeline's DEIS. We respectfully request to be notified of future public comment and objection opportunities related to it, as well as the Forest Service's decision, per 40 CFR 1506.6. If you have any questions about these comments, please contact us per the information below.

Sincerely yours,



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