

September 15, 2025

White River National Forest, Supervisor's Office

c/o John Lee

900 Grand Ave.,

Glenwood Springs, CO 81601

Submitted electronically at <https://cara.fs2c.usda.gov/Public/CommentInput?Project=68621>

Re: Wolf Creek Pipeline Replacement Project

Dear Mr. John Lee:

Please accept these comments on behalf of Wilderness Workshop regarding the Wolf Creek Pipeline Replacement Project. Thank you for the opportunity to submit scoping comments, so that issues and concerns we and the public raise can be adequately considered as the USFS reviews this proposal. Please keep us informed of next steps with project review and approval.

1. The USFS must show the cited categorical exclusion applies to the proposed project and confirm that no extraordinary circumstances exist.

The USFS intends to approve this project pursuant to a categorical exclusion. *See* Scoping Letter at 5 (“USDA Forest Service category of actions adopted from the Department of Energy under 7 Code of Federal Regulations (CFR) § 1b.4(d) that may be excluded from further documentation in either an Environmental Assessment or an Environmental Impact Statement.”). The Scoping Letter states that the proposed plan is consistent with the Department of Energy’s category B5.4 (10 CFR 1021 Subpart D Appx B):

“Repair, replacement, upgrading, rebuilding, or minor relocation of pipelines within existing rights-of-way, provided that the actions are in accordance with applicable requirements (such as Army Corps of Engineers permits under section 404 of the Clean Water Act). Pipelines may convey materials including, but not limited to, air, brine, carbon dioxide, geothermal system fluids, hydrogen gas, natural gas, nitrogen gas, oil, produced water, steam, and water.”

Scoping Letter at 5.

Under 7 C.F.R. § 1b.4(d), “categorical exclusions require NEPA documentation, which will be completed as set forth at § 1b.3(g)”. At a minimum the USFS must document findings of applicability and no extraordinary circumstances (FANEC) including the following elements:

- (i) Incorporate by reference any other relevant documentation developed as part of the environmental review process and contained in the proposal record, such as documentation of compliance with other applicable laws or regulations as deemed necessary by the responsible official;
- (ii) State the category or categories being used. If a category being used is adopted from another non-USDA agency, specify that it was adopted;

- (iii) Describe the proposed action and certify the category or categories used are applicable to the actions;
- (iv) State the resources that the responsible official considered in determining whether an extraordinary circumstance exists;
- (v) State that no extraordinary circumstances exist, as informed by the interdisciplinary review; and
- (vi) Include the date issued and signature of the responsible official.

7 C.F.R. § 1b.3(g)(2).

As a primary matter, the cited category of actions does not explicitly authorize expansion of pipelines. Category B5.4 authorizes: “Repair, replacement, upgrading, rebuilding, or minor relocation of pipelines within existing rights-of-way...” *See* category B5.4 excerpt at p.1 *supra*. It is unclear that any of the terms used in category B5.4 were intended to authorize a significant increase in size, volume, and capacity of a pipeline. The terms used in the category suggest it was intended to authorize pipeline updates with minor impacts. However, the pipeline expansion proposed here may have broader impacts that exceed the scope of the category (e.g., increased production to fill the bigger pipeline, increased injection and withdrawal activities within the Wolf Creek Storage Facility, increased climate emissions, etc.). Before using this categorical exclusion to approve the proposed pipeline expansion, the USFS must present evidence that the category was intended to authorize pipeline expansions.

Even if the proposed exclusion was intended to authorize pipeline expansions like the one proposed here, the USFS must consider whether extraordinary circumstances exist that necessitate more detailed environmental review in an environmental assessment or environmental impact statement. *See* 7 C.F.R. §§ 1b.3(f), (g)(2)(iv), (e). Regulations include a list of resources to screen when making an extraordinary circumstances determination. *Id.* at § 1b.3(f).

Several of the resources listed in Section 1b.3(f) could be impacted in this case. For example, the proposed project has the potential to impact federally listed lynx and gray wolves; wetlands along Thompson, Park, and Wolf Creeks; important cutthroat habitat; sensitive shallow groundwater resources in the project area; segments of Thompson Creek that are eligible for Wild and Scenic designation and currently designated as “Outstanding Waters” by Colorado’s Water Quality Control Commission; the Thompson Creek Colorado Roadless Area; and prime grazing allotments in the Thompson Divide that are critical to the viability of local ranching operations.

Potential impacts to these sensitive resources must be considered in the USFS’s FANEC, and documentation of such consideration must be made available to the public with any final decision on the proposed project. If any potential impacts may be significant, additional environmental analysis must be undertaken prior to approval.

2. *The USFS must consider potential impacts to resources above and beyond those listed in 7 C.F.R. § 1b.3(f).*

While agency regulations provide a list of resources to screen in deciding whether “extraordinary circumstances” exist, the list is not all inclusive. 7 C.F.R. § 1b.3(f) (“The resources to screen for in the potentially affected environment when considering extraordinary circumstances may include, *but are not limited to:*”) (emphasis added). In this case, there are unlisted resources and impacts that may be significant and must be considered prior to approval of the proposed project. Consideration of these potential impacts is required by the National Environmental Policy Act (NEPA). 42 U.S.C. §§ 4332 et seq.

NEPA’s “primary function is information forcing, ... compelling federal agencies to take a hard and honest look at the environmental consequences of their decisions.” *Am. Rivers v. FERC*, 895 F.3d 32, 49 (D.C. Cir. 2018) (citations and internal quotation marks omitted). Section 102 of NEPA requires that agencies disclose “any adverse environmental effects which cannot be avoided” if the agency action goes forward. 42 U.S.C. § 4332(2)(C)(ii). And NEPA requires agencies to consider the larger context, directing them to “recognize the worldwide and long-range character of environmental problems.” *Id.* §§ 4332(2)(F), 4332(I). NEPA’s legislative history, too, makes clear that, through NEPA, Congress sought to prevent agencies from making decisions without considering the larger context and incremental impact of projects on the environment. For instance, the Senate expressed concern that “[i]mportant decisions concerning the use and the shape of man’s future environment continue to be made in small but steady increments which perpetuate rather than avoid the recognized mistakes of previous decades.” S. Rep. No. 91-296, at 5.

NEPA demands consideration of indirect impacts as well as direct impacts. NEPA reflects Congress’s recognition of the “impact of man’s activity on the interrelations of all components of the natural environment, particularly the profound influences of population growth, high-density urbanization, industrial expansion, resource exploitation, and new and expanding technological advances.” 42 U.S.C. § 4331(a). The statute directs the federal government to look beyond the immediate intended effects of an action, and specifically directs agencies to consider “undesirable and unintended consequences,” 42 U.S.C. § 4331(b)(3), and even “presently unquantifiable environmental amenities and values,” 42 U.S.C. § 4332(B). Thus, agencies must consider the relationship between “local short-term uses” of the environment and “long-term productivity,” all with an eye toward “any irreversible and irretrievable commitments of Federal resources which would be involved in the proposed agency action should it be implemented.” 42 U.S.C. § 4332(C)(iv)–(v).

In other words, consideration of indirect effects ensures that the effects of an agency action are not “overlooked or underestimated only to be discovered after resources have been committed or the die otherwise cast.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 349 (1989). Artificial constraints on the effects the Agency can consider creates the risk the Agency will “act on incomplete information, only to regret its decision after it is too late to correct.” *Marsh v. Or. Nat. Res. Council*, 490 U.S. 360, 371 (1989). The act’s “manifest concern with preventing uninformed action” demands as much. *Id.*

A robust analysis of a project’s environmental effects is critical for informing decision makers and the public, particularly where projects may contribute incrementally to larger environmental or climate harms. Or, as the Second Circuit noted in *Hanly v. Kleindienst*, “[o]ne more factory

polluting air and water in an area zoned for industrial use may represent the straw that breaks the back of the environmental camel. Hence the absolute, as well as comparative, effects of a major federal action must be considered.” 471 F.2d 823, 831 (2d Cir. 1972).

A stated purpose of this project is to “increase transmission capacity within the Wolf Creek Storage Field.” Scoping Letter at 1. This purpose triggers questions that must be considered prior to approval—likely in a more detailed NEPA-compliant analysis.

First, where is the gas going to come from to fill the new pipeline? The Forest Service must disclose and consider how much new drilling will be necessary to fill the proposed pipeline, where that drilling is likely to occur, and what the potential impacts of that drilling may be.

Second, what are the operational impacts of the proposed expansion? What are the existing impacts of the storage facility, and will those impacts change or increase with the transmission of additional gas through the proposed pipeline?

Third, is there an increased risk of leakage or spills with additional transmission capacity, either from the pipeline itself or from connected infrastructure in the Wolf Creek Storage Field? Note: some of the infrastructure in the Wolf Creek Storage Field has been updated, but much of it is very old and there is a history of leaks and fires in the Storage Field.

Fourth, how will the air and climate emissions differ between the current pipeline and the larger proposed pipeline? We are unaware of any analysis undertaken by the USFS or any other agency that considers and discloses the air and climate emissions of the Wolf Creek Storage Field, associated wells and compressors, and connected pipelines. That information should be considered and disclosed now, and the agency should compare potential impacts of the proposal to existing conditions.

3. *The USFS must clearly articulate the need for the proposed project.*

A cited purpose of the project is to increase transmission capacity, but documents do not explain the need for increased capacity. The USFS should publicly disclose the need for increased capacity to help explain and support any decision approving this proposal.

4. *The USFS must ensure Clean Water Act compliance prior to approval.*

Category B5.4 requires compliance “with applicable requirements,” including Section 404 of the Clean Water Act. *See* category B5.4 excerpt at p.1 *supra*. Here, the operator must obtain appropriate permits from the U.S. Army Corps of Engineers prior to discharging fill material into Waters of the U.S. in accordance with Section 404. Waters of the U.S. are defined in 33 C.F.R. Section 328.3 and may include wetlands as well as perennial, intermittent, and ephemeral streams. Maps of the proposed project suggest that the pipeline will cross jurisdictional waters. The USFS must provide proof of compliance with the Clean Water Act prior to approval.

5. *The USFS should consider conditioning approval on mandatory reclamation and maintenance to improve the health of public lands in the project area.*

Local cattlemen often say that pipeline corridors in and around the Wolf Creek Storage Field are among of the weediest areas on the Forest. This project presents an opportunity for forest managers to ensure better reclamation and more effective weed mitigation moving forward. Any approval must require use of weed-free native seed mixes for revegetation and mandatory monitoring of the pipeline corridor for the life of the project that requires the operator to actively identify and remove invasive, non-native plants, which can outcompete native species.

Additionally, the agency should consider requiring removal and proper disposal of all old pipeline segments. Doing so would eliminate risk that buried steel and iron pipes corrode and decay, potentially leaking remnant hydrocarbons, naturally occurring radioactive materials, and other hazardous chemicals into the surrounding soil and water.

Thanks for your consideration,

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