Data Submitted (UTC 11): 5/5/2025 6:00:00 AM
First name: Peter
Last name: Hart
Organization: Wilderness Workshop
Title: Legal Director
Comments: Please find objection and seven exhibits attached. Thank you!

May 5, 2025

RE: West Mamm Creek Pipeline Project Objection

Objection Reviewing Officer

USDA Forest Service Rocky Mountain Region

Attn: Reviewing Officer

C/O Director of Strategic Planning

1617 Cole Blvd., Bldg. 17

Lakewood, CO 80401

Submitted online at https://cara.fs2c.usda.gov/Public//CommentInput?Project=64353

Dear Objection Reviewing Officer:

Please consider this objection to the Draft Decision Notice (DDN) and Environmental Assessment (EA) for the West Mamm Creek Pipeline Project #64353 (*1). The project is proposed on the White River National Forest (WRNF), within the Rifle Ranger District. The Forest Supervisor is the deciding officer for this project. This objection is timely filed on behalf of Western Watersheds Project, Wilderness Workshop, Center for Biological Diversity, Western Colorado Alliance, Save West Mamm Creek, Colorado Sierra Club, Roaring Fork Audubon, and ColoradoWild (hereafter "the objectors"). The objectors previously submitted comments relevant to issues discussed below which can be found in the project record.

I. The Forest Service (USFS) failed to take a hard look at the impacts of operating the pipelines.

The National Environmental Policy Act (NEPA) requires that federal agencies considering approval of actions that may significantly affect the quality of the human environment must take a hard look at the "reasonably foreseeable environmental effects of the proposed agency action." 42 U.S.C. [sect] 4332(C)(i); see also id. at [sect] 4332(C)(ii) (the responsible official shall take a hard look at "any reasonably foreseeable adverse environmental effects which cannot be avoided should the proposal be implemented."). The Forest Service Handbook directs that "effects" and "impacts" are synonymous for the purposes of USFS analysis and requires the agency to consider:

Effects includ[ing] ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect or cumulative. Effects may also include those resulting from actions which may have both beneficial and detrimental effects, even if on balance the agency believes that the effect will be beneficial.

Forest Service Handbook (FSH) 1909.15, Ch. 10, Sec. 15.

Here, while the EA analyzes some impacts of constructing the proposed pipelines, it fails to analyze or even acknowledge ongoing and long-term impacts associated with operating the pipelines over their lifetime. In fact, the EA claims that operation of the pipelines will have no impact: "emissions would not occur during operation of the pipelines." EA at 32. This is simply false and belies any claim that the USFS took a hard look at the potential direct, indirect and cumulative impacts this project might have, including ecological, economic, and health related effects.

This issue was raised in comments submitted by the objectors and by the Environmental Protection Agency (EPA) that are available in the project record. See e.g., Center for Biological Diversity et al., Comments RE: West Mamm Creek Pipeline Project #64353; DOI-BLM-CO-G020-2023-0048-EA (Feb. 7, 2025) (hereafter "CBD et al., cmts") at 8-21 (discussing numerous impacts associated with continued operation of the proposed pipelines related to air and water quality, human health and safety, etc.); see also West Mamm Creek Pipeline EA (hereafter "EA"), App. D at 9-11 (describing EPA comments asking for disclosure of "the chemical characteristics of any transported pipeline fluids" and analysis of spills and leaks that may occur during construction, maintenance, and operation of the proposed pipelines." (emphasis added)).

Comments raised issues related to spills and leaks from pipelines that may cause air and water pollution, contribute to global warming, waste valuable natural resources, and implicate the health and safety of people and wildlife. The comments presented evidence of impacts that were never adequately addressed in the EA. Instead, the EA narrowly focused analysis exclusively on development of the pipeline. See e.g., EA, App. D at 10, 89 (agency response to comments demanding analysis of pipeline operations: "The anticipated emissions from construction of the pipelines include exhaust from heavy equipment and vehicle traffic, fugitive dust from vehicles and equipment on unpaved surfaces, and windblown dust from disturbed lands. These activities would temporarily elevate pollutant levels, would occur only for the short-term duration of the activities, and these emissions would be minor when compared to county-level annual emissions totals."). The EA's focus on short-term construction related impacts and its failure to disclose and consider the long-term impacts of operating the proposed pipelines does not satisfy NEPA's hard look mandate.

Regarding the impacts of potential spills and leaks, the EA states that the probability of such incidents is "low due to the state-of-the-art materials being used for pipeline construction, the rigorous pre-installation testing and monitoring of system components, and the technological advances and capabilities for remote monitoring and operation of pipeline system components (i.e., valves, pumps, and motors)." EA at 48. The EA does not undertake to consider pipeline spills that have occurred in the area or to discuss the impacts wrought by those incidents even though such incidents have occurred several times in recent years. See CBD et al., cmts at 9.

One recent and nearby incident reported to the State of Colorado's Energy & Carbon Management Commission (ECMC) on March 23, 2025, involved leakage from a produced water pipeline operated by the project proponent, Terra Energy Partners (TEP), that: "impacted an unnamed tributary (seep water ditch) of Dry Hollow Creek as well as a private pond. The unnamed tributary (seep water ditch) and the private pond are both considered Waters of the State and were both impacted by this spill/release." See ECMC Spill/Release Report, Doc. Number 404137774 (March 23, 2025) (attached as Exhibit 1). An affected property owner reported as follows: "leak near the road occurred in the produced water line and spilled into the ditch (Multa Trina) that directly feeds our pond. On March 14th we noticed our pond had turned dark charcoal grey in color, literally overnight. On March 15th my husband called the EPA. March 20th TEP and ECMC came out and tested and

found the leak." Testing later revealed "elevated levels of benzene." A supplemental report from ECMC confirms the "presence of contaminated soil in contact with Surface water" and confirmed that "corrosion on a steel section of a 6" produced water pipeline cause an unknown volume of produced water to be released." See ECMC Spill/Release Report, Doc. Number 404145198 (March 28, 2025) (attached as Exhibit 2). Again, this incident involved the same operator, the same kind of pipe, and the same type of activities proposed in the West Mamm Creek Pipeline Project at issue here.

Nonetheless, no effort is made in the EA to explain how the proposed West Mamm Creek pipelines are different than other pipelines in the area that have leaked. Despite recent and historic evidence to the contrary, the EA suggests that any leaks would be contained and that chemicals in produced water are "benign." EA at 48. No effort was made to consider the impacts of prior pipeline spills, including remediation and repair costs, damages incurred by neighboring property owners, etc., or to compare those to the "benefits" of the proposed project. Instead, the EA arbitrarily ignores significant evidence that pipeline leaks and spills have occurred in the area, under the supervision of project proponents, impacting the quality of the human environment. These failures and omissions must be remedied in the EA to satisfy NEPA's hard look mandate.

In addition to the specific information and science presented to the agencies during public comment periods that was summarily ignored, there is new science on natural gas pipeline leakage that must be considered prior to approval. For example, a recent study undertaken by researchers at Johns Hopkins found natural gas transmission lines leaking at rates far above the leakage rates previously estimated by EPA. The study suggests that leakage may be ten times higher than previously estimated by EPA (*2), and it provides a new model for making emissions rate measurements. The impacts analysis in the EA must be revised to include consideration of this new information.

Proposed remedy: To comply with legal and regulatory obligations, the USFS must revise the EA to disclose and analyze all reasonably foreseeable impacts of operating the proposed pipelines for the entire 30-year period proposed to be authorized with Special Use and Temporary Use permits. Such analysis must consider new information related to the long-term impacts of natural gas pipeline operations, including new science on pipeline leakage.

II. USFS failed to adequately consider cumulative and connected actions.

As stated above, NEPA requires analysis of reasonably foreseeable impacts. 42 U.S.C. [sect][sect] 4332(C)(i), (ii). That includes direct, indirect, and cumulative impacts from the proposed action and any connected actions. See FSH 1909.15, Ch. 10, Sec. 15. Additionally, USFS guidance makes clear that agencies must consider connected actions "as part of the proposed action." See FSH 1909.15, Ch. 10, Sec. 11.2.

In addition to failing to consider ongoing, long-term impacts of operating the pipeline (see Section I supra), the EA fails to disclose and consider reasonably foreseeable impacts of various connected actions, including the impacts of building, maintaining, and operating the compressors necessary to fill and pressurize the proposed pipelines and effects from the Rulison Water Management Facility (WMF). The EA also fails to take a hard look at reasonably foreseeable development that the pipelines will induce.

It goes without saying that compressors are integral to the proposed pipelines (*3). Compressor stations and pipelines are interconnected and essential for moving natural gas and produced water. Compressor stations are strategically placed along pipelines to maintain the pressure and flow of gas and water. They act as the "engines" that push water and natural gas through the pipeline system. Without compressors, the proposed pipeline system will not work. Nonetheless, the EA fails to analyze the potential impacts of operating and constructing compressors. In fact, a word search of the EA shows no occurrence of the words "compressor" or "compression."

The Rulison WMF is also an integral piece of this project, as described in the EA:

With implementation of the West Mamm Creek Pipeline Project, produced water from the existing nine wells and produced water from any future wells would be transferred by pipeline to the Rulison Water Management Facility eliminating the need for trucking produced water. In addition, installation of the Project would allow for recycled produced water to be transferred from the Rulison Water Management Facility to the West Mamm Creek area to be used for completions of future wells. Installation of GRG's natural gas pipelines would allow transport of natural gas from existing and future wells in the West Mamm Creek area to national markets.

EA at 1; see also id. at 3 ("new 8-inch and 6-inch produced water pipelines would provide for a safer and more efficient means of transporting produced water to TEP's water management facility for recycle, reuse, and/or disposal of produced water."). While the EA describes the benefits of piping wastewater to and from the Rulison WMF in terms of reduced truck traffic, the agencies' analysis arbitrarily omits any discussion of impacts associated with operating that facility.

Objectors' comments made clear that the Rulison WMF is "a large source of air pollution and poses other environmental impacts." CBD et al., cmts at 7-8. The comments raised questions about whether new throughput associated with operation of the proposed pipelines would result in additive impacts, including effects to air and water quality, that exceed permitted thresholds or may otherwise be significant. Id. The comments also pointed out that existing permits were issued prior to implementation of existing air quality standards and some analysis must be undertaken to ensure existing operations combined with anticipated impacts of the proposed action will comply with applicable regulations. Id. Nonetheless, the EA made no effort to assess and disclose impacts of operating the WMF or the additive impact of new throughput from the proposed project.

Additionally, the agencies arbitrarily ignored evidence of reasonably foreseeable future development associated with this project, and made no effort to utilize methodologies presented by objectors that would enable future development estimates based on pipeline capacity. The EA states that potential oil and gas development is "too speculative" and "the nature of development remains uncertain." EA at 6. The agencies failed to provide any type of Reasonably Foreseeable Development scenario on which to base its cumulative effects analysis. Id. Instead, the agencies rely solely on estimates provided by project proponent indicating that future development may include one new well pad and expansion of three existing pads with a total of 47 wells to be drilled. Id. This ignores the fact that the project proponent has an interest in minimizing potential impacts associated with the proposed pipelines.

The EA also ignored evidence presented by objectors that the pipelines will enable drilling more than the 47 wells. See e.g., CBD et al., cmts at 6-7; see also EA, App. D at 7 (comments from Lulu Colby: "I was first approached by TEP in the spring of 2021 regarding its plans to continue large scale oil and gas development in West Mamm Creek area. TEP's stated plans have alternated between several different surface locations for over 90 new wells, including a location within 2,000 feet of my home. At this point, they seem to have settled on one new location less than 2,250 feet south of my property line on the Johnson property, plus expanding the two existing Johnson locations for a total of at least 70 new wells. I have attached a May 1, 2023 letter from TEP that further outlines its representatives' meetings with me and their deliberations related to the location of the future oil and gas development. It is clear the proposed pipeline is not just designed for existing oil and gas facilities, but also to service a substantial number of planned new wells in the area.") (*4).

Still more documentation of future development in excess of the 47 wells analyzed in the EA is exhibited below in Diagram 1. Diagram 1 shows TEP's proposal to directionally drill, complete, and operate sixty-two (62) natural gas wells from three (3) oil and gas pads located on private surface formerly owned by Johnson, RM Revocable Trust. See also TEP, West Mamm Creek Phase 2 Plan of Development Summary (August 2022) (attached as Exhibit 4) (describing in detail the TEP drilling plan depicted in Diagram 1). The Johnson property recently

changed hands and is now owned by Lulu Colby. An email between the current property owner and TEP representatives on April 21, 2025 shows that the company's plans have not changed. See email from Bryan Hotard, TEP to Lulu Colby (April 21, 2025) (attached as Exhibit 5).

Diagram 1

(see attached letter for diagrams and other images)

Objectors were not the only stakeholders asking BLM and the USFS to take a hard look at induced development. The issue was also raised by officials at the Environmental Protection Agency (EPA). See U.S. EPA, Comments on Draft EA for the West Mamm Creek Pipeline Project (Jan. 2, 2025) (hereafter EPA cmts) at 3 (attached as Exhibit 6) ("[hellip]we recommend considering the potential that the proposed action may lead to indirect impacts through induced fluid mineral growth.").

The agencies' analysis further failed to make a reasonable estimate of potential development that may be facilitated, serviced, and connected with the pipelines based on the size and capacity proposed by proponents. Commenters asked agencies to take a hard look at the capacity of the proposed pipelines and make their own independent reasonable estimate of potential development. See CBD et al., cmts at 3, 5-6 ("To effectively consider and analyze the potential impacts of these proposed pipelines, the agencies should work backwards from the size/capacity of the lines proposed by TEP. Oil and gas companies size their pipelines based on the anticipated volume of oil or gas they need to transport, considering factors like the distance of the pipeline, the terrain it will traverse, the desired flow rate, and the pressure required. Ultimately, operators choose a pipe diameter that can efficiently move the volume of gas they anticipate producing. Agencies should consider the capacity of the proposed pipelines to estimate buildout in the service area and then use that buildout scenario to inform analysis of potential impacts to other resources. Here, since TEP's own estimates of the number of wells that may be drilled in the area varies depending on their audience, the agencies must base their impact analysis on capacity of the proposed lines."). Commenters, including objectors, provided methodologies to reasonably assess the drilling proposed pipelines could service the proposed pipelines. See id. at Exhibit 6 (Gregory M. Lander declaration demonstrating how the number of wells necessary to keep a pipeline at operational capacity over its projected lifetime can be estimated).

The EA failed to take a hard look at these cumulative impacts and connected actions.

Proposed remedy: To comply with legal and regulatory obligations, the EA must be revised to disclose and analyze all connected actions and associated cumulative effects, including impacts from compressors, water management facilities, and induced development that the pipeline will service over its 30-year lifespan.

III. There is insufficient information in the record to show agencies' reliance on CARMMS satisfies NEPA.

The agencies rely on the Bureau of Land Management's (BLM's) Colorado Air Resource Management Modeling Study (CARMMS) to support the conclusion that air quality impacts will not be significant from the proposed action. See e.g., EA at 34 ("The CARMMS analysis predicted that the contributions of cumulative air quality from federal and non-federal project-specific maximum potential annual emissions (full development plus one full year of production occurring in the same year) would be below the applicable NAAQS and CAAQS for all pollutants in the West Mamm Creek area."). However, there is no evidence presented in the record showing that CARMMS quantifies, discloses, and considers the impacts discussed above, including emissions from operation (rather than construction) of the pipelines, associated compressors, and connected water management facilities.

Proposed remedy: The USFS must present clear evidence that the direct, indirect, and cumulative impacts of

operating the proposed pipelines and all connected infrastructure that currently exists or is reasonably foreseeable have been adequately quantified and considered prior authorizing the proposed project.

IV. The EA fails to take a hard look at impacts to elk and deer.

The Affected Environment description fails to undertake the legal minimum of baseline information description regarding present elk and mule deer herds, their current status and trends, and the habitat effectiveness of the Project Area to support them. Instead of assessing the level of present impacts, and the resulting state of habitat function for key habitats for elk and mule deer such as Elk Winter Concentration Areas and Elk Production Areas, the EA's baseline information starts and ends with a definition of what these designations mean. EA at 50. There is no assessment of current habitat function, nor is there even a disclosure of how many acres of each type of sensitive area occur within the lands to be affected by the project (either directly or cumulatively).

There is a complete absence of a hard look at the direct or cumulative impacts to elk and mule deer from the project. The Environmental Consequences section of the EA contains only a vague listing of categories of types of impact. EA at 50. There is no assessment of whether direct or cumulative impacts will contribute to declines in recruitment or overall population levels. There is no assessment of the degree to which the direct or cumulative impacts of the project will result in abandonment of key habitats, or interruption of migration routes. The EA does note that habitat loss due to displacement and avoidance resulting from industrial activities and vehicle traffic is greater than the physical habitat loss. EA at 54. But then the EA fails to assess the extent of that indirect habitat loss, instead stating that "The extent of this effective habitat loss cannot be estimated quantitatively" and providing some vague excuses. In comments, objectors provided quantitative thresholds associated with population declines, recruitment reductions, and migration route impairment, and the agencies utterly failed to even attempt to apply these metrics, and the underlying scientific findings cited, to the project and impacts to the project area. CBD et al., cmts at 17-18.

The cumulative impacts analysis is even more inadequate. The agencies note that the construction of the pipelines will support the future drilling of up to 47 additional oil and gas wells. EA at 55. Each of these wells will require drilling, and presumably fracking (indeed, the Reasonably Foreseeable Future Actions include the construction of an additional frack pad to accommodate these operations). The EA makes no attempt to describe the impacts of these operations, which are manifestly very different from the one-time construction of a buried pipeline. Instead, the EA classifies these actions as "similar to the Proposed Action's direct and indirect impacts." EA at 54. This is a false statement. Drilling and completing of an oil and gas well involve trucking in, assembling ("rigging up") and operating a very tall and very noisy drilling rig, for a duration of time that varies based on the depth of the well and geological problems encountered but can be a month or more. Fracking a well involved trucking in dozens of truck trailers containing fracking fluid, pumping often-toxic fracking compounds (often containing benzene, toluene, ethylene, and xylene, which are highly toxic pollutants) and risking spills onto land and into surface waters. Fracking is also a very noisy operation. And both involve the construction of at least two new well pads, and likely the expansion of three existing pads, to accommodate the wells and fracking operations, and these pads further fragment elk and deer habitats over the life of the wells, perhaps 50 years or more. These impacts are extremely different from the one-time excavation of a ditch to accommodate four pipelines, burying the pipelines, and initiating the revegetation of disturbed lands within one month. The legally required 'hard look' simply has not been taken here.

After noting that the pipelines' construction would assist in the full development of the area with future oil and gas wells, the EA then describes a speculative and dubious scenario in which all wells are drilled anyway, despite the lack of additional pipelines, and suggests that a resulting reduction of a maximum-scenario quantity of truck trips would result in reduced disturbance to elk and deer and reduced animal/truck collisions. EA at 55. But nowhere does the EA even attempt to assess the impacts of future drilling and fracking on elk or mule deer, and the

degree to which these impacts, which flow directly from pipeline completion, have the potential to cause abandonment of key habitats or losses in population numbers in the local area.

Even if timing limitations are rigorously applied to all future development and related human activity and presence, heavy equipment use, and vehicle traffic (and the EA is vague to the point of vapidness on this point), there still are certain to be significant cumulative impacts on elk and mule deer (and likely moose as well). The magnitude of these impacts has not been assessed, and therefore the present level of analysis cannot support a Finding of No Significant Impact.

Proposed remedy: To comply with legal and regulatory obligations, the USFS must revise the EA to take a hard look at direct, indirect, and cumulative impacts to elk and deer.

V. Surveys relied upon in the EA were flawed.

As a primary matter, the surveys relied upon to inform the EA were not made publicly available until after the public comment period had closed. See Lulu Colby, Organizer, Save West Mamm Creek, Comments RE: West Mamm Creek Pipeline Project #64353; DOI-BLM-CO-G020-2023-0048-EA (Feb. 7, 2025) at 4 (noting that WestWater Engineering surveys were unavailable to the public prior to the comment deadline). After several email and phone inquiries, objectors were forced to submit a FOIA requesting release of the surveys. This seriously undermined meaningful opportunity for public engagement and informed public comment.

When the surveys were finally released in response to the FOIA request, flaws were immediately apparent. The scope and scale of the monitoring was far more limited than was implied by the citations to them throughout the EA. For example, the 2023a WestWater Engineers (WWE) Biological Survey Report supports and shows WWE's use of boilerplate methodology, poor timing and one round shot surveying that only captures a small snapshot window of biological resources.

These inadequacies explain discrepancies between WWE findings and the findings of other surveys that agencies ignored in the EA, including a Roaring Fork Audubon Survey of the same area undertaken on June 1 of 2024 (*5.) For example, the WWE survey reported "No special status birds were observed during (WestWater's 2023) surveys" while the Roaring Fork Audubon survey of the same areas on June 1st reported 12 special status birds. Clearly then the WWE survey conducted in July of 2021 and used to assess impacted values was undertaken too late in the season to effectively assess values and potential impacts. Other comments pointed out that nocturnal surveys would be necessary to identify important values in the area, but there is no evidence that WWE undertook surveys at night. Further flaws in the WWE Surveys are noted by Colorado Sierra Club, Roaring Fork Audubon and ColoradoWild, show that WWE surveys were inadequate to accurately assess the impacts of the proposed pipeline on sensitive plants, nesting birds, migratory & other wildlife species in the area. See Colorado Sierra Club et al., Comments RE: West Mamm Creek Pipeline Project #64353; DOI-BLM-CO-G020-2023-0048-EA at 1-3, 13. It would be arbitrary and capricious for the agencies to rely on flawed surveys while ignoring the findings of other surveys in the record.

Proposed remedy: New surveys must be undertaken at times when sensitive values may be present and identifiable. Once new surveys are complete, the EA should be updated to reflect new information and the project should be modified to ensure protection of sensitive resources.

VI. The EA is inadequate to show compliance with the Clean Water Act.

Objectors raised concerns about compliance with the Clean Water Act in comments. See EA App. D at 84. The operator must obtain appropriate permits from the U.S. Army Corps of Engineers (USACE) prior to discharging fill material into Waters of the U.S. in accordance with Section 404 of the Clean Water Act. 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. The proposed pipelines will make 11 crossings of jurisdictional waters and clearly require a permit under Section 404.

The EA acknowledges this requirement, but it provides no indication that permits have been secured by project proponents or that the process to secure such permits has been undertaken. The EA is also devoid of analysis on this issue. There is insufficient evidence in the record to support a Finding of No Significant Impact without evidence that activities proposed can be permitted to comply with the Clean Water Act.

Proposed remedy: The Forest Service cannot grant final approval for the proposed pipelines until 404 permits have been secured by project proponents and issued by the U.S. Army Corps of Engineers.

VII. The EA is inadequate due to its failure to adequately disclose and consider baseline conditions.

NEPA mandates that agencies provide the public "'the underlying environmental data' from which the Forest Service develop[ed] its opinions and arrive[d] at its decisions." (*6) Included in this underlying environmental data is consideration of baseline conditions. Courts have consistently acknowledged the importance of obtaining information on baseline conditions prior to approving projects (*7). "The agency must explain the conclusions it has drawn from its chosen methodology, and the reasons it considered the underlying evidence to be reliable. (*8)" In the end, "vague and conclusory statements, without any supporting data, do not constitute a 'hard look' at the environmental consequences of the action as required by NEPA (*9)."

Here, objectors asked the agencies to disclose baseline conditions related to air quality, water quality, wildlife and sensitive plants. See e.g., EA, App. D at 87-88. The EA was updated to cite EPA websites with air quality data for Garfield County. However, as discussed in prior sections, the agencies failed to provide adequate baseline information to support a hard look at potential impacts. For example, as discussed above in Section V, the surveys relied upon in the EA were flawed. Section IV above high lighted inadequate baseline information about elk and deer population trends and habitat that would be necessary to gauge potential impacts. And Section II exposed the EA's inadequate discussion and analysis of connected infrastructure, including compressors, the Rulison WMF, and reasonably foreseeable development. These are just a few examples of important baseline information missing from the EA's analysis.

Proposed remedy: The EA must be revised to include defensible and detailed baseline conditions to support any final decision and any finding of no significant impact.

VIII. USFS failed to include a public interest determination.

Objectors' comments noted that special use authorizations like those proposed in this case must be in the public interest. CBD et al., cmts at 5, 22. Forest Service regulations state: "[a]n authorized officer shall reject any proposal . . . if, upon further consideration, the officer determines that: . . . the proposed use would not be in the public interest." 36 C.F.R. [sect] 251.54(e)(5)(ii). The Forest Service Manual provides further guidance on [sect] 251.54(e)(5)(ii), directing that a proposed use should be authorized as "in the public interest" "only if . . . the proposed use cannot reasonably be accommodated off of National Forest System lands." FSM 2703.2 - Use of National Forest System Lands. The Forest Service Manual further directs, "[d]o not authorize the use of National

Forest System lands solely because it affords the applicant a lower cost or less restrictive location ." Id.; see also Cowpasture River Pres. Ass'n v. Forest Serv., 911 F.3d 150, 168 (4th Cir. 2018).

Comments specifically asked that USFS consider alternatives that would keep the proposed pipelines off National Forest lands. CBD et al., cmts at 5. No such alternative was considered in the EA. Nor did the EA include any discussion or rationale explaining why such a reasonable alternative, which would clearly comport with agency regulation, was not considered.

The comments additionally asked the USFS to provide a public interest determination clearly articulating whether the proposed project satisfies the public interest along with a list of factors the agency considered to make its conclusion. In response to these comments, the EA noted that the Forest Plan made the project area available for oil and gas leasing. EA, App. D at 83-84. Availability, by itself, is an inadequate showing to satisfy this burden. Further, due to the inadequacies detailed above, including a failure to take a hard look at potential impacts of operating this pipeline along with the cumulative effects and connected actions, the record is insufficient to support any conclusion that the proposed pipelines are in the public interest.

The agency must provide additional information on baseline conditions and foreseeable impacts related to all issues outlined above to support any public interest determination.

Proposed remedy: To support any finding that the proposed pipelines are in the public interest, deficiencies in the EA identified above must be resolved. After resolving those problems, the Forest Service must reconsider the full record and issue a public interest determination-which should be incorporated into any final decision.

Thank you for your consideration. We look forward to your written response within 45 days.

Respectfully submitted,

Lead Objector:

Delaney Rudy, Colorado Director

Western Watersheds Project

On behalf of:

Peter Hart, Legal Director

Wilderness Workshop

Emily Hornback, Executive Director

Western Colorado Alliance

Allison N. Henderson

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Center for Biological Diversity

Lulu Colby, Organizer

Save West Mamm Creek

Erik Molvar, Executive Director

Western Watersheds Project

Mary Harris, President

Roaring Fork Audubon,

Delia G. Malone, Wildlife Chair

Roaring Fork Audubon

John C. Emerick, Ph.D.

Executive Board

ColoradoWild

List of Exhibits:

1. ECMC Spill/Release Report, Doc. Number 404137774 (March 23, 2025)

2. ECMC Spill/Release Report, Doc. Number 404145198 (March 28, 2025)

3. Ellis S. Robinson and Peter F. DeCarlo, Transmission and Distribution Pipeline Leak Identification and Characterization by Walking Survey and Soil Flux Measurements, ACS ES&T Air 2025 2 (1), 31-39

4. TEP, West Mamm Creek Phase 2 Plan of Development Summary (August 2022)

5. Email from Bryan Hotard, TEP, to Lulu Colby (April 21, 2025)

6. U.S. EPA, Comments on Draft EA for the West Mamm Creek Pipeline Project (Jan. 2, 2025)

7. Colorado Sierra Club et al., Comments RE- West Mamm Creek Pipeline Project #64353 (including full results of surveys undertaken by the Sierra Club in June of 2024)

(*1) See project webpage: https://www.fs.usda.gov/r02/whiteriver/projects/64353 (last accessed 5/2/25).

(*2) Ellis S. Robinson and Peter F. DeCarlo, Transmission and Distribution Pipeline Leak Identification and Characterization by Walking Survey and Soil Flux Measurements, ACS ES&T Air 2025 2 (1), 31-39 DOI: 10.1021/acsestair.4c00109 (attached as Exhibit 3).

(*3) Objectors raised concerns related to compressors in prior comments. See CBD et al., cmts at 16-17.

(*4) This correspondence is documented in the EA and properly in the agencies' project record.

(*5) Comments submitted by Sierra Club et al. included a list of special status bird species documented to be present in the project area, many of which were not included in the EA's analysis. See Colorado Sierra Club et al., Comments RE: West Mamm Creek Pipeline Project #64353; DOI-BLM-CO-G020-2023-0048-EA at 2, 6-9, 15-17. Full results of surveys undertaken by the Sierra Club in June of 2024 are also viewable at pp. 15-17 in Exhibit 7 (attached).

(*6) WildEarth Guardians v. Mont. Snowmobile Ass'n, 790 F.3d 920, 925 (9th Cir. 2015).

(*7) Half Moon Bay Fishermans' Mktg. Asso. v. Carlucci, 857 F.2d 505, 510 (9th Cir. 1988); see also Great Basin Res. Watch v. BLM, 844 F.3d 1095, 1104 (9th Cir. 2016) (invalidating agency analysis because for failure to consider baseline conditions).

(*8) N. Plains Res. Council, Inc. v. Surface Transp. Bd., 668 F.3d 1067, 1075 (9th Cir. 2011) (citation omitted).

(*9) Great Basin Mine Watch v. Hankins, 456 F.3d 955, 973 (9th Cir. 2006); see also Ocean Advocates v. Army Corps of Engineers, 402 F.3d 846, 869 (9th Cir. 2004) (finding that a vague and uncertain analysis is insufficient to meet NEPA's mandate).