

December 22, 2023

Mark Chandler  
U.S. Forest Service  
Director, Lands, Minerals, and Geology Management Staff  
201 14th Street SW  
Washington, DC 20250-1124

**Re: Comments on the U.S. Forest Service's Proposed Rule, "Land Uses; Special Uses; Carbon Capture and Storage Exemption," 88 Federal Register 75530 (Nov. 3, 2023), RIN 0596-AD55**

*Submitted via regulations.gov*

Dear Mr. Chandler,

Thank you for the opportunity to comment on the U.S Forest Service's (USFS) Proposed Rule, "Land Uses; Special Uses; Carbon Capture and Storage Exemption." These comments are submitted jointly by the Western Organization of Resource Councils (WORC), Dakota Resource Council (DRC), Northern Plains Resource Council (NPRC), Powder River Basin Resource Council (PRBRC), and Western Colorado Alliance (WCA).

WORC is a regional network of nine grassroots community organizations with 19,935 members and 39 local chapters and affiliates in seven states, including Colorado, Idaho, Montana, North Dakota, Oregon, South Dakota, and Wyoming. WORC's members farm and ranch on lands overlying and neighboring federal, state, and privately owned coal, oil and gas deposits. WORC and its member groups have a long-standing interest in federal mineral leasing and development, and for more than 40 years have actively engaged in advocacy in this area.

Northern Plains is a statewide non-profit grassroots organization of approximately 3,500 members based in Billings, Montana. Northern Plains was formed in 1972 over the issue of federal coal leasing, when ranchers who owned private surface land over federal coal deposits in southeastern Montana and in the Bull Mountains north of Billings grew concerned about protecting their livelihoods and private property rights from coal development. Northern Plains has worked ever since to protect Montanans from the environmental and social impacts of coal mining, burning, and transport. The livelihoods of many Northern Plains members as ranchers and farmers depend entirely on clean air and water, native soils and vegetation, and lands that remain intact and productive.

PRBRC is a nonprofit organization founded in 1973 and located in Sheridan, Wyoming. PRBRC has approximately 2,000 landowner and citizen members in Wyoming dedicated to the stewardship of Wyoming's water, air, land, and wildlife resources. The organization's many agricultural members ranch and derive a livelihood from the land, many above federal split-estate coal managed by BLM [Bureau of Land Management]. PRBRC's mission includes the preservation and enrichment of Wyoming's

agricultural heritage and rural lifestyle, the conservation of Wyoming's unique land, mineral, water, and clean air resources consistent with responsible use of those resources to sustain the livelihoods of present and future generations, as well as the education and empowerment of Wyoming's citizens to raise a coherent voice in the decisions that will impact their environment and lifestyle.

DRC formed in 1978 in North Dakota in response to impacts to agricultural and rural residential communities from coal development. DRC works with communities across the state to organize around common goals of securing a thriving North Dakota and putting people first. Members take action to create public awareness and shape public policy in order to ensure safe and responsible development, to protect North Dakota's agricultural economy, and to establish a foundation for a just transition to a diverse energy economy.

For more than 40 years, WCA has protected the Western Slope's public health and environment, built a growing network of civically engaged youth organizers, supported our local farmers and ranchers, passed influential pieces of legislation, brought clean and renewable energy to our local communities, and won funding for our small rural towns facing economic transition. We have won precedent-setting victories for landowners, consumers, our environment and everyday people in our communities. Our interconnected program areas form a mosaic of community empowerment that drives sustainable change in Western Colorado.

While we appreciate the opportunity to comment on this proposed rule, we are deeply concerned about the implications this proposal would have on our local communities, ecosystems, and our federal lands and minerals. Throughout the West, there is a vast network of national forest land. The Northern Region of the USFS (which spans North Dakota, South Dakota, Idaho, Washington, and Montana) manages 20 million acres of public land that consists of both forests and grasslands. The Intermountain Region (which spans Utah, Wyoming, Idaho, Nevada) encompasses more than 34 million acres of public forest and grassland. The Rocky Mountain Region (which spans Colorado, Wyoming, South Dakota, Kansas, Nebraska) manages more than 40 million acres of federal forest and grassland. Compared to the eastern US where 80% of forest land is privately owned, in the West more than two-thirds of forest land is publicly owned, which helps explain the gravity of the situation that this proposal poses to our members and communities in the region.

Our organizations were alarmed to see this proposal, given our historic and current understanding of USFS regulations, and the status of carbon capture and sequestration (CCS) research and development. In 1998, the USFS updated its Special Use permit rules to make it very clear that "an exclusive and perpetual use of Federal lands" was not allowed. The agency made it clear that no industry, no matter how useful to society, had the right to permanently use or occupy national forest and grasslands. The current proposal appears to us to be a direct contradiction to longstanding policy meant to ensure that our national forest and grasslands are protected for generations to come. Not only would the USFS be contradicting its own regulations, the Proposed Rule is the first ever regulation-level change that would allow CO2 injection on federal lands. In summary, CCS is an expensive and unproven technology with potentially catastrophic effects. Regulations and research have not caught up to the

influx of money that is flowing to CCS projects and it is crucial for our members and others to recognize the danger that this proposal poses to our national forest and grasslands nationwide forever.

Along with our overall concern about CCS technologies, we have specific suggestions and considerations that we hope you will take into account before deciding whether or not to finalize this Proposed Rule:

**1. Our National Forests and Grasslands Should Not be a Dumping Ground for Industry**

- a. *We urge the USFS to withdraw its Proposed Rule immediately.* This proposal is in direct contradiction to previous USFS regulations, and we have a hard time understanding why there has been this unexplained change in position for the agency. This proposal changes the very nature of our national forests and grasslands, and the historical and fundamental fact that our national forests have not been available for CO<sub>2</sub> injection and storage, nor for *any permanent use permit*. As required by USFS's mission, our national forests and grasslands should be sustained to meet the needs of present and future generations. Allowing CCS development on these lands would jeopardize local ecosystems, specifically trees and grasslands, which are carbon sinks themselves.
- b. Allowing CCS development on our national forests and grasslands will only further our reliance on fossil fuels AND will permanently threaten local ecosystems. It is very likely that the emissions from extensive tree harvesting for the construction of well pads, access roads, and electric transmission lines will be significant, eroding the benefits that might otherwise come from capturing and storing CO<sub>2</sub>. Developments of CCS on our national forests and grasslands would likely be in remote regions, which would make it difficult for emergency responders to identify, access and fix a leak or other issue that arises—once again putting wildlife, communities, and recreationalists at risk.

**2. Lack of Agency Regulations pose a serious risk to CCS on Forest Service Lands**

- a. Agencies continue to fall behind on promulgating regulations that ensure that CCS development is done in a way that protects communities, the environment, and wildlife. The risks of sequestration continue to be extensive—storage leaks could contaminate groundwater and soil, well failure during injection or blowout often releases large amounts of CO<sub>2</sub>, and seismic events could occur during sequestration which could cause an earthquake and permanent damage to infrastructure and the surrounding environment.<sup>1</sup> Money from taxpayers continues to flow to CCS projects, even though safeguards have not yet been properly established—thus, the USFS is effectively “putting the cart before the horse”. Regulations have yet to be promulgated that track CO<sub>2</sub> from the point of capture to sequestration. CCS development should not continue until the EPA, PHMSA, IRS, and HUD rules are promulgated. More importantly and in addition,

---

<sup>1</sup> [https://www.foodandwaterwatch.org/wp-content/uploads/2021/03/fs\\_2003\\_carboncapture-web-1.pdf](https://www.foodandwaterwatch.org/wp-content/uploads/2021/03/fs_2003_carboncapture-web-1.pdf)

we need scientific research that proves or disproves the effectiveness of CCS as a climate mitigator. As of now, CCS projects have not proven to be reliable. PHMSA, for example, has serious regulatory and scientific gaps which causes the public to have minimal confidence in the safety of the pipelines being proposed through communities and on our national forests and grasslands; PHMSA's current definition of CO<sub>2</sub> does not even cover all physical states.<sup>2</sup> Research done by IISD found that despite significant industry and government investment in the technology, more than 80% of proposed CCS projects have failed due to high costs, low technological readiness and research, and overall lack of credible financial and climate return.<sup>3</sup>

### 3. Carbon Capture and Sequestration is not a “Silver Bullet” for Climate Change

- a. CCS has been touted by the Administration and Congress as a “silver bullet” that will help solve the climate crisis. According to decades of research and data on CCS projects, this is far from the truth. A Stanford University study calculated the social cost of carbon capture—the health impacts, air pollution, and overall economic costs and contributions to climate change. That research found that the costs are similar or higher than a fossil fuel plant *without* carbon capture.<sup>4</sup> As of now, there are no meaningful regulations that require CCS operations to result in net greenhouse gas emissions. Research done by IEEFA (Institute for Energy Economics and Financial Analysis) found that CCS, even if all sites perform as intended, will only account for about 2.4% of the world's carbon mitigation by 2030—and noted that not a single CCS project has reached its target CO<sub>2</sub> capture rate.<sup>5</sup>
- b. It is known that mature and old growth (MOG) forests and grasslands are effective mitigators of climate change due to their ability to sequester and store carbon, while at the same time ensuring that ecosystems and habitats remain stable. Rather than removing these natural carbon-capture solutions to build dangerous and ineffective CCS projects, we should be protecting and fostering these MOG forests and grasslands to ensure future biodiversity and sustainability in the forest.

### 4. The Proposed Rule Violates Indigenous Rights and Cultural Practices

- a. Due to the nationwide scope of this rulemaking, this Proposed Rule poses a direct threat to native communities, which have not been properly consulted before and during the promulgation of this rulemaking. This rulemaking infringes on many ancestral indigenous homelands, which reside on National Forest

---

<sup>2</sup> <https://www.regulations.gov/comment/PHMSA-2023-0013-0072>

<sup>3</sup>

<https://www.iisd.org/articles/deep-dive/carbon-capture-not-net-zero-solution#:~:text=In%20the%20United%20States%2C%20despite,government%20incentives%20that%20are%20withdrawn>

<sup>4</sup> Taylor Kubota, *Stanford Study casts Doubt on Carbon Capture*, Stanford News (Oct. 25, 2019), <https://news.stanford.edu/2019/10/25/study-casts-doubt-carbon-capture/>, citing Mark Z. Jacobson, *The health and climate impacts of carbon capture and direct air capture*, 12 Energy Env't. Sci. 3567 (2019), <https://pubs.rsc.org/en/content/articlelanding/2019/ee/c9ee02709b/unauth#!divAbstract> [hereinafter Stanford Study].

<sup>5</sup> [https://ieefa.org/ccs?utm\\_content=274779556&utm\\_medium=social&utm\\_source=twitter&hss\\_channel=tw-2826917226](https://ieefa.org/ccs?utm_content=274779556&utm_medium=social&utm_source=twitter&hss_channel=tw-2826917226)

System lands and are important sources of subsistence, food, supplies, and medicine for Native peoples.<sup>6</sup> Tribal Nation members and Indigenous communities often use and rely on resources from national forests and grasslands to sustain the health, safety, and culture of their people. The USFS has attempted during the past few years to promote co-management of public lands with Tribal Nations, supported by treaty rights and agreements. The Forest Service has actually entered into a Memorandum of Understanding with a handful of tribes and tribal organizations that very clearly outlines the fact that consultation must occur if special use permits and land exchanges are proposed.<sup>7</sup> We expect the USFS to not violate these agreements or reverse decades of policy that ensures Indigenous rights are protected and respected.

We appreciate this opportunity to comment on the Proposed Rule and trust that you will consider our comments and recommendations as you contemplate the costs and benefits of such a rule and the threat this poses to communities and wildlife. Our members are committed to ensuring that our national forests and grasslands are protected for generations to come.

Sincerely,

A handwritten signature in black ink, appearing to read "Bob LeResche", followed by a horizontal line extending to the right.

Bob LeResche  
WORC Board Chair and Coal Team Chair

---

6

<https://www.fs.usda.gov/main/r1r4spf/workingwithus/tribal#:~:text=National%20Forest%20System%20lands%20are,and%20cultures%20of%20Native%20peoples>.

<sup>7</sup> Superior National Forest, Tribal Relations, <https://www.fs.usda.gov/main/superior/workingtogether/tribalrelations> (last visited Dec. 1, 2023).