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January 1, 2024

Forest Service, USDA  
Director, Lands, Minerals, and Geology Management Staff  
201 14<sup>th</sup> Street SW  
Washington, DC 20250 – 1124

**Re: RIN 0596 – AD55, Land Uses; Special Uses; Carbon Capture and Storage Exemption**

We write to state our opposition to this proposed Rule and to request that you extend the comment period to allow more stakeholders time to be made aware of this proposal and submit informed comments.

The Allegheny Forest Alliance (AFA) is a 501(c)(6) non-profit coalition of local communities and individuals who support sustainable forestry, environmental stewardship, and ensuring the stability of the communities occupied by the Allegheny National Forest (ANF). We collaborate with the ANF and other state and regional agencies and organizations to ensure the health of this 514,000+ acre national forest and adjacent state and private lands, as well as the communities that host this forest.

**We object to the FS assessment that no extraordinary circumstances exist which would require preparation of an environmental assessment or environmental impact statement are needed for this proposed Rule.** The unproven safety, effectiveness, and surety of permanent underground CO<sub>2</sub> storage calls for an assessment and makes this proposal premature.

There have been failures with catastrophic consequences<sup>1</sup> and differences of opinion exist within the scientific community regarding reducing CO<sub>2</sub> levels and the best technology to do so. The evidence that CO<sub>2</sub> in concentration is dangerous and that opportunities exist for leakage and environmental damage should prohibit the possibility that it be stored beneath our national forests. This use would present a risk to groundwater quality, soil health, plants, wildlife, residents, and visitors. While the EPA has excluded carbon capture and storage from classification as a hazardous waste, CO<sub>2</sub> is, by definition (and according to the EPA)<sup>2</sup>, a pollutant. Therefore, we argue that it is, indeed, a hazardous substance and cannot be stored on our NFS lands.

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<sup>1</sup> <https://www.foodandwaterwatch.org/2021/07/20/top-5-reasons-carbon-capture-and-storage-ccs-is-bogus/>

<sup>2</sup> <https://humanevents.com/2022/02/28/your-honor-co2-is-not-a-pollutant/>

The potential environmental risks alone should give the agency pause, as the health of these forest lands is one of your primary responsibilities. What is being proposed is turning our public forests into dumping grounds for the world's (supposed) excess CO<sub>2</sub>. The fact that the storage will be underground makes it neither non-hazardous nor acceptable. This use would be contrary to the purposes for which our national forests were created and would be detrimental to the forests, ecosystems, and residents.

The massive impacts on our public lands must be considered next to the minimal gain of carbon capture. There will always be more carbon to be forced down the Earth's "throat", and the impacts of these wells – construction of pipelines, well sites, access roads and power lines, construction traffic, and more – will produce more carbon than they will remove, as well as leave our forests with an ongoing risk of dangerous CO<sub>2</sub> release.

Our national forests are already doing their part to "capture" CO<sub>2</sub> through the natural process of vegetation utilization by a healthy, managed forest. We believe this is enough to ask of them.

We would also point out that EO13563, Sec. 5, Science, states: "Agencies shall ensure the objectivity of any scientific and technological information and processes used to support the agency's regulatory actions." This proposed Rule change ignores the conflicting science regarding CO<sub>2</sub> levels, the need to remove it from the atmosphere, and storing it underground. Until there is consensus among scientists, and the technology is proven needed, safe and effective, our national forests are the last places that should be used for capture and storage of CO<sub>2</sub>.

**We disagree with your Environmental Justice assessment as required by E.O. 12898 for two reasons:**

- 1) The proposed Rule will result in disproportionately high and adverse impacts on minority or low-income populations. EO13563 also requires agencies to consider "distributive impacts", "equity", and "fairness". Burdening rural communities hosting NFS lands with storage of a substance that is dangerous in concentration, is not fair and equitable to these low-income communities already burdened financially by the presence of NFS lands whose PILT payments are a small fraction of the property taxes lost. Although there are benefits for areas hosting national forests, tourism jobs are usually seasonal and mostly minimum wage, opportunities for other economic development are limited, residents pay higher taxes to make up for the smaller tax base, and businesses suffer when NFS management decisions affect tourist draw and resource production.
- 2) Minority and low-income populations will be excluded from meaningful involvement in decision making because many of them have limited internet connectivity, lack the information to make informed comments, and efforts were not made to ensure they were aware of this proposed Rule.

While the Organic Administration Act of June 4, 1897 (16 U.S.C. 477-482, 551) authorizes the Secretary of Agriculture to issue rules and regulations for the occupancy and use of the National Forests, a decision to allow a permanent and exclusive use of our NSF lands (including subsurface) should lie with the people. Gifford Pinchot's pamphlet, "The Use of the National Forests", pg. 25, How to Use Them, Management by the People, states:

*National Forests are made for and owned by the people. They should also be managed by the people. They are made, not to give the officers in charge of them a chance to work out*

*theories, but to give the people who use them, and those who are affected by their use, a chance to work out their own best profit. This means that if National Forests are going to accomplish anything worth while the people must know all about them and must take a very active part in their management. The officers are paid by the people to act as their agents and to see that all the resources of the Forests are used in the best interest of everyone concerned. What the people as a whole want will be done. To do it it is necessary that the people carefully consider and plainly state just what they want and then take a very active part in seeing that they get it.<sup>3</sup>*

Considering the permanence of CO2 storage and the potential risks associated, the input of all American citizens and particularly communities hosting NFS lands is not only warranted, but necessary. EO 12866 encourages greater public participation at all stages of the regulatory process, and EO 13563, Sec. 2, calls for regulations to be adopted through public participation through open exchange of information and perspectives among state, local, tribal officials, experts, affected stakeholders in the private sector, and the public as a whole. Yet no effort was made to make NFS host communities aware of this proposal and encourage their input.

These lands belong to the American people, and it is their opinions that matter most; not what an Administration wants, nor an agency head, nor scientists. NFS host communities should have been given notice directly when this Rule was first proposed. There are not so many communities as to make this impossible, or that each of the forest units could not have held public meetings. We believe this should have been part of your process to ensure public awareness and that broad public comment was achieved. We ask that you extend the comment period, notify all NFS lands host communities, and add an opportunity for local meetings to ensure you are making a management decision that satisfies the desires of the Americans this Rule would affect the most.

**We object to the OIRA’s “nonsignificant” designation under E.O. 12866** that this Rule would not adversely affect the productivity and local economies of host communities. As your agency knows, the economies of the communities that host national forests are often dominated by the presence of these massive public lands and, therefore, inextricably connected to what happens there due to your management policies. The economies of these communities would be adversely affected by declines in tourism and property values due to the presence of CO2 capture and storage on these public lands. The unproven technology and threat of CO2 leakage<sup>4</sup> will be a deterrent for visitors and potential home and business purchasers. The closure of businesses, loss of jobs followed by loss of residents, and decreases in property values will have an enormous economic impact on these communities.

This policy will serve the corporations who are seeking to “hide” their carbon emissions by pumping them below ground, while creating a health and safety threat to the ecosystems, communities, forest visitors, and residents above. This is not unlike the manufacturers in the early 1900s who dumped their toxic waste into streams and rivers, poisoning wildlife, the land, and the people downstream. Or the lumber barons who stripped the forests bare to provide timber for profit without considering the long-term environmental and ecological effects – the very reason that our national forests were created.

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<sup>3</sup> <https://archive.org/details/usenationalfore00pincgoog/mode/2up>

<sup>4</sup> <https://www.foodandwaterwatch.org/2021/07/20/top-5-reasons-carbon-capture-and-storage-ccs-is-bogus/>

While a select group of powerful individuals and corporations will profit from carbon tax credits, it will be wholly unsatisfactory to the rural communities which host public lands and the American citizens who live above/adjacent to these storage sites. CO2 capture and storage would shift the problem from the atmosphere to underground where we, supposedly, never have to think or worry about it again. This is not true...or certainly not guaranteed.

Even the US Tax code, while addressing 45Q tax credits, refers to the possibility of CO2 leaks and recapture exceptions are given for “natural disasters, including but not limited to floods, droughts, earthquakes, volcanic eruptions, landslides, hurricanes, cyclones, typhoons, and tornados; and wars, civil disturbances, terrorist acts, military actions, epidemics, pandemics, famines, and actions of a governmental authority.” This is like reading an insurance policy; there will be no “payout” for any reason. No mention is made of who will be responsible for health and environmental impacts from escaping CO2, but it’s likely to be the federal government (since EPA and USFS are approving use of carbon capture and storage) rather than states<sup>5</sup>.

We ask you to protect our national forests, their users, and our citizens and withdraw this proposed rule change. We would also ask that you extend the comment period to at least 90 days to allow more American citizens to be made aware of this proposal and provide an opportunity for meetings to be held on each national forest unit to inform local authorities and residents of the opportunity to comment.

Respectfully,



Julia McCray  
Executive Director

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<sup>5</sup> <https://insideclimatenews.org/news/26042022/carbon-capture-storage-safety-liability/>