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## **COURT REJECTS REQUIREMENT TO REVIEW ENTIRE PIPELINE PROJECT UNDER NEPA**

*WASHINGTON, DC* – This week, a U.S. federal district court judge [rejected](#) a lawsuit by a group of national environmental organizations seeking to force the federal government to conduct an environmental review of the entire length of a major pipeline construction project. The court found “no basis in law or fact” that federal law requires such a review of the entire project.

“Today’s court decision is an important win against attempts to block needed pipeline infrastructure by expanding federal reviews beyond their original intent,” said Andy Black, President & CEO of the Association of Oil Pipe Lines.

In 2013, the Sierra Club and National Wildlife Federation filed suit in the U.S. District Court for the District of Columbia seeking a preliminary injunction to halt construction of the Flanagan South pipeline. The proposed pipeline would follow the path of an existing pipeline and stretch 589 miles from Pontiac, IL to Cushing, OK. The company seeking to construct the new pipeline had obtained all necessary permits and reviews from the U.S. Corps of Engineers, Fish and Wildlife Service and Bureau of Indian Affairs under the Clean Water Act, Endangered Species Act, National Environmental Policy Act (NEPA) and related federal regulations. At each point along the proposed route where federal law or regulation was invoked, the relevant federal agency conducted the related review and issued the specific permit or approval. No federal agency interpreted NEPA as requiring a comprehensive environmental impact statement for the entire pipeline.

Nevertheless, the Sierra Club and National Wildlife Federation filed suit alleging the federal government was obligated under NEPA to conduct an environmental review of the entire pipeline project. In her ruling this week, U.S. District Judge Ketanji Brown Jackson rejected the environmental groups’ arguments that NEPA should be expanded beyond specific federal actions to broad project-wide reviews. Judge Brown Jackson similarly ruled the Clean Water Act did not require a pipeline-wide analysis when invoked to review specific wetlands crossing locations. Likewise, she rejected plaintiffs’ assertions that the federal government’s actions were an arbitrary or capricious violation of the Administrative Procedures Act.

In making these findings, Judge Brown Jackson reaffirmed the U.S. Corps of Engineers implementation of the Nationwide Permit (NWP) program. Specifically authorized by section 404(e) of the Clean Water Act, the NWP program allows needed infrastructure projects to proceed if they will have a minimally adverse impact on the environment. This program is vital for completion of projects such as pipelines and renewable electricity transmission lines. The case, *Sierra Club, et al. v. United States Army Corps of Engineers et al.* is Civil Action No. 13-cv-1239 (KBL) can be found [here](#).

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