

May 31, 2018

GMUG National Forests  
Attn: Forest Plan Revision Team  
2250 S. Main Street  
Delta, CO 81416

*Submitted electronically via email to gmugforestplan@fs.fed.us*

**Re: GMUG Scoping Comments – Coal**

Dear Forest Plan Revision Team,

Thank you for the opportunity to comment on the Grand Mesa, Uncompahgre, and Gunnison (GMUG) National Forests' preliminary needs for change and scoping document. The following comments are submitted by High Country Conservation Advocates, Western Environmental Law Center, Great Old Broads for Wilderness, Rocky Mountain Wild, Sheep Mountain Alliance, Defenders of Wildlife, and Rocky Smith. The GMUG has an opportunity in the forest planning process to implement a new framework for coal mining that transitions the forest away from being a significant source of coal-related greenhouse gas emissions and public lands impacts. Continuing the business-as-usual approach to accommodating this industry perpetuates and accelerates climate change, land and water pollution, and public health impacts, while freezing communities in an unsustainable economic dependency to an industry in rapid decline. At a time when the GMUG is struggling to adapt to beetle-killed forests and wildfire threats, continuing coal development is incompatible with the 2012 Planning Rule's prioritization of ecological integrity in forest planning.

Over 40% of the United States' annual coal production comes from federal coal, including the West Elk mine on the GMUG.<sup>1</sup> Greenhouse gas pollution from the West Elk coal mine is significant: it is the largest source of industrial methane pollution in Colorado.<sup>2</sup> At the same time, local, state, and national energy markets are undergoing fundamental changes as resources other than coal become more competitive for electricity production. But continued coal development on the GMUG hampers movement towards renewable resources. Coal mining on the forest accelerates climate change, negatively affects critical ecological resources, and artificially distorts electrical power markets. The GMUG needs to acknowledge these issues and proactively address the challenges stemming from the mining and burning of coal.

The major land use planning decision concerning coal is the identification of areas acceptable for further consideration for coal leasing.<sup>3</sup> To implement the requirements of the 2012 Planning Rule, the revised Forest Plan must provide for ecological sustainability by maintaining or restoring ecological integrity and protect air, soil, water, and riparian areas, taking into account stressors such as wildland fire, insects and

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<sup>1</sup> Federal coal production data available at <https://www.onrr.gov/About/production-data.htm>.

<sup>2</sup> EPA Facility Level Information on Greenhouse Gas Emissions Tool, available at <https://ghgdata.epa.gov/ghgp/main.do>.

<sup>3</sup> GMUG, Revised Draft Forest Assessments: Renewable and Nonrenewable Energy Resources, Mineral Resources, and Geologic Hazards Assessment (March 2018), at 21.

diseases, and changes in climate.<sup>4</sup> Because continued mining and burning of coal is incompatible with ecological sustainability, and because Forest Service policies and guidance recognize the importance of the agency proactively addressing climate change,<sup>5</sup> the GMUG must identify and analyze a range of alternatives addressing what areas are and are not acceptable for further consideration for coal leasing, including an alternative that precludes any future leasing on the forest.

### Need for Change

There is a need for a new approach to coal on the GMUG. On the one hand, the GMUG's forests are succumbing to massive spruce beetle infestations and may be experiencing other problems associated with a warming climate, including increased temperatures and decreased water supplies. On the other hand, the GMUG continues to approve significant coal lease expansions that only exacerbate climate change impacts. This dichotomy is not sustainable for the environment or for local communities.

The existing Forest Plan does not specifically identify lands for further consideration for coal leasing, or identify areas of potentially recoverable coal resources. However, the current Forest Plan does provide general coal leasing direction, which is summarized as:

[W]ithdrawals only in exceptional situations, inclusion of standard and regional stipulations, do not lease in areas with irreversible or irretrievable surface impacts with no potential for reclamation (i.e., terrain, water quality, steep slopes, visuals, threatened and endangered species, etc), leasing will not be in congressionally designated areas, (Wilderness, Wild and Scenic Rivers, National Trails) and apply stipulations (NSO, CSU, or no surface disturbance) to classified areas not withdrawn from mineral entry.<sup>6</sup>

This revision process provides the opportunity to reexamine the direction above in light of the 2012 Planning Rule and a significantly changed forest from the one that existed in 1983.

Part II of the scoping document identifies Key Needs for Change. Notably, coal mining, methane emissions, and coal burning are contrary to the identified key need for the GMUG to provide for ecological sustainability.<sup>7</sup> The outsized climate change impacts of coal development on the forest undermine the identified key need to maintain the diversity of plant and animal communities.<sup>8</sup> Coal mining and unmitigated methane emissions also undermine the identified key need to incorporate best available science,<sup>9</sup> which supports a rapid transition from fossil fuels to renewables. Continued coal mining is incompatible with the critical changes necessary to sustainably manage the forest into the future, and the GMUG should reflect this in the revised forest plan.

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<sup>4</sup> See 36 CFR 219.8.

<sup>5</sup> See *USFS National Roadmap for Responding to Climate Change* (2010); *Navigating the Climate Change Performance Scorecard* (2011); *The Forest Service Global Change Research Strategy, 2009-2019* (2009).

<sup>6</sup> See III-62 to III-70.

<sup>7</sup> Grand Mesa, Uncompahgre, and Gunnison National Forests, *Forest Plan Revision: Scoping*, 4-5 (Mar. 2018) [hereinafter Scoping Document].

<sup>8</sup> Id. at 5.

<sup>9</sup> Id. at 6.

## Impacts and Alternatives

The revision process is the critical opportunity to analyze and address the principal issues related to coal development on the GMUG. These include environmental impacts on the climate and local environment, and potential alternatives to address those impacts. The EIS must also grapple with “[e]nergy requirements and conservation potential of various alternatives and mitigation measures.”<sup>10</sup> Such mitigation measures may include: (a) avoiding the impact altogether by precluding leasing, and (b) minimizing impacts by limiting the degree or magnitude of the action and its implementation through mitigation measures.<sup>11</sup>

All alternatives must be evaluated for their potential effects on climate change. Federal coal leasing contributes significantly to our nation’s greenhouse gas emissions and the threats posed by climate change. Federal fossil fuels result in the equivalent of 20% of U.S. climate emissions.<sup>12</sup> The federal coal program accounts for the bulk of those emissions – over 57% of emissions from federal fossil fuel production, or 12% of total U.S. greenhouse gas emissions.<sup>13</sup> In addition to climate change impacts, federal coal development creates significant impacts to air and water resources, wildlife habitat, and ecosystem integrity. The revision process provides the framework to thoroughly analyze these environmental impacts and provide alternatives to address them.

In its discussion of “Over-arching Direction” in the Minerals Assessment, the GMUG references the Federal Land Policy and Management Act of 1976 (FLPMA) as stating that public lands are to be managed in a manner that recognizes the need for the domestic sources of minerals, including renewable and non-renewable resources.<sup>14</sup> At the same time, national forest lands are subject to a multiple use mandate and must be managed for a variety of uses, not primarily for coal development.<sup>15</sup> As such, in the NEPA analysis for the forest plan revision, the GMUG must consider a reasonable range of alternatives regarding areas open to coal leasing. This evaluation includes considering more environmentally protective alternatives.<sup>16</sup> The consideration of more environmentally protective alternatives in the GMUG’s analysis is consistent with applicable direction in the Planning Rule, including those for sustainability (§ 219.8) and diversity of plant and animal communities (§ 219.9).

Coal resources on the GMUG are managed by the federal government under the Mineral Leasing Act of 1920, as amended by the 1976 Federal Coal Leasing Amendments Act.<sup>17</sup> The statute directs the agency to authorize leasing of coal on federal lands, in its “discretion,” only as the agency “finds appropriate and in the public interest.”<sup>18</sup> Put differently, the driving force behind agency-authorized coal development must be the long-term and broad public interest, not the often short-term and narrow interest of coal companies. Thus, the GMUG is obligated to consider the enduring legacy of coal

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<sup>10</sup> 40 CFR § 1502.16(e).

<sup>11</sup> 40 CFR § 1508.20.

<sup>12</sup> See <https://wilderness.org/federal-lands-emissions-accountability-tool>.

<sup>13</sup> Id.

<sup>14</sup> GMUG, Revised Draft Forest Assessments: Renewable and Nonrenewable Energy Resources, Mineral Resources, and Geologic Hazards Assessment (March 2018), at 1.

<sup>15</sup> Multiple Use Sustained Yield Act, 16 U.S.C. § 528.

<sup>16</sup> See, e.g., *Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9th Cir. 2002).

<sup>17</sup> 30 U.S.C. § 181, et seq.

<sup>18</sup> 30 U.S.C. § 201.

development, balanced against other critical multiple-use resource values on the GMUG, in the forest plan revision process.

The GMUG's obligation to manage for multiple uses does not mean that new coal leasing must be allowed. Development is a possible use, which the GMUG must weigh against other possible uses—including conservation to protect environmental values. An alternative that closes the GMUG to new coal leasing does not violate the principle of multiple use, and the Multiple Use Sustained Yield Act, Mineral Leasing Act, and FLPMA provide sufficient reason to include more protective alternatives for consideration.

The objective reasonableness of alternatives can be judged by how they relate to the GMUG's purpose and need statement. As stated in the scoping notice:

The purpose and need for revising the current Forest Plan is . . . (2) to address the preliminary needs for change to the existing plan . . . Preliminary needs for change are identified to respond to new requirements per the Forest Service's 2012 Land Management Planning Rule (36 CFR 219); to address changes in economic, social, and ecological conditions; and to use the best available scientific information.<sup>19</sup>

This purpose of forest plan revision does not accept coal development as a foregone conclusion. The Forest Service has a responsibility in this planning process to match its expansive land and resource management to current conditions, evolving demands, and the guidance provided in the 2012 Planning Rule.

In each alternative it develops, the GMUG should acknowledge and assess the predicted and reasonably foreseeable impacts of climate change from coal development and consider methods to mitigate those impacts. These alternatives should assess different means of fostering resiliency to satisfy the 2012 Planning Rule's directive to "provide for social, economic, and ecological sustainability."<sup>20</sup> One way to meet this directive is to preclude new coal leasing. Another way is to require methane capture, flaring, or other mitigation in any new leasing. Specific technologies have emerged to reduce greenhouse gas emissions from coal mines.<sup>21</sup>

As it develops and analyzes plan components, the GMUG "should consider dominant ecological processes, disturbance regimes, and stressors (FSH 1909.12, ch. 10, sec. 12.3)," and should:

Consider developing plan components designed to limit the ability of stressors to impact ecosystem integrity. In doing so, consider: (1) Providing protection from stressors for areas of high ecosystem integrity, or areas of social, cultural, or economic importance. (2) Mitigating stressors associated with forest and rangeland management, such as equipment impacts on soils and water, or movement of invasive species via vehicles and

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<sup>19</sup> Notice of Intent, 83 Fed Reg. 14244 (April 3, 2018).

<sup>20</sup> 36 C.F.R. § 219.8.

<sup>21</sup> For example, see [Attachment 1](#).

foot travel. (3) Mitigating, if feasible, the effects of widespread environmental stressors such as air pollution and influence of changing climate.<sup>22</sup>

The above guidance can be realized and Planning Rule direction can be met through precluding new leasing on the forest. It can be met to a lesser degree by prescribed mitigation measures to minimize methane emissions and other sources of greenhouse gas emissions associated with coal mining.

Because ecological integrity is so fundamental to the 2012 Planning Rule, we recommend that clear direction be developed in the revised Forest Plan to address how ecological integrity will be consistently maintained in light of coal development (or lack thereof) on the GMUG. Plan components should be developed regarding the protection of climate, water quality, at-risk species, cleanup, and bonded site restoration. Without strong, effective, and enforceable mitigation measures, a forest that is affected by climate change is not ecologically sustainable. Nor is it socially or economically sustainable. The agency must disclose the quantity of greenhouse gas emissions likely to occur from coal development as a result of any alternative that does not preclude future leasing. This includes emissions from mining and coal combustion. The alternatives should also disclose these impacts by calculating the social cost of carbon of the agency action either using the established social cost of carbon method or something substantially similar.<sup>23</sup>

In approving a recent coal mine expansion, the GMUG deferred taking steps to mitigate climate change impacts pending the revision process. The agency acknowledged that “the forest plan revision strategy under the 2012 planning rule ... will identify ... forest management actions that will aid in reducing possible impacts to and improve the resilience of the landscape ....”<sup>24</sup> A no leasing alternative and alternatives that require methane mitigation under the revised forest plan are reasonable approaches to fulfilling planning rule direction. The GMUG was advocating for methane reduction from its coal mines almost a decade ago.<sup>25</sup>

#### Unsuitability Criteria for Coal Mining

An important component of the revision process is the completion by the Forest Service of the Unsuitability Criteria for Coal Mining process, as required by regulation at 43 CFR § 3461. This will be completed during the revision process and will be used to identify areas that contain resources that may be unsuitable for coal mining based on the established criteria. The Revised Draft Assessment for Renewable and Nonrenewable Energy Resources, Mineral Resources, and Geologic Hazards Need for Change section states: “[C]omplete an unsuitability analysis for coal to meet regulatory requirements to determine a) which lands will be available for further consideration and b) remove those lands for which coal development and post-lease surface use is incompatible based on unsuitability criteria for other surface resources.”<sup>26</sup> Each alternative should detail the specific plan components concerning the

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<sup>22</sup> FSH 1909.12, ch. 20, sec. 23.11b.

<sup>23</sup> For examples, see [Attachments 2, 3, 4, and 5](#).

<sup>24</sup> U.S. Forest Service, Supplemental Draft Environmental Impact Statement Federal Coal Lease Modifications COC-1362 & COC-67232 (June 2017) at 600-601.

<sup>25</sup> See [Attachment 6](#).

<sup>26</sup> At 41.

suitability of lands for coal leasing and how those plan components will or will not foster resiliency in the face of climate change to provide for social, economic, and ecological sustainability.

We look forward to a robust analysis of relevant criteria that may support a determination of unsuitability. Criterion Number 1 states explicitly that National Forests “shall be considered unsuitable.”<sup>27</sup> This presumption of unsuitability is subject to a number of exceptions, the first being: “A lease may be issued within the boundaries of any National Forest if the Secretary finds no significant recreational, timber, economic or other values which may be incompatible with the lease.”<sup>28</sup> The GMUG should consider the incompatibility of continued coal leasing and development with winter recreation, air quality, wildlife habitat connectivity, ecosystem integrity, roadless values, and the myriad economic values of the GMUG that are dependent on climate stability.

### Conclusion

The current forest plan is based on a framework of public issues, management concerns, and management opportunities that have not been updated in decades. The agency is now updating that framework. We request that the GMUG analyze and implement an alternative that moves the forest in the permanent direction of sustainability and ecological integrity. One significant way to do this is to preclude future coal leasing on the forest.

Sincerely,

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<sup>27</sup> 43 CFR 3461.5(a)(1).

<sup>28</sup> Id. at (a)(2)(i).

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