



WESTERN SLOPE
CONSERVATION
CENTER



November 26, 2021

Chad Stewart, Forest Supervisor
Samantha Staley, Forest Planner
Grand Mesa, Uncompahgre and Gunnison National Forest
2250 South Main St.
Delta, Colorado 81416

Re: Comments on the Grand Mesa, Uncompahgre, and Gunnison National Forest Plan Revision Draft Management Plan

Dear Mr. Stewart and Ms. Staley,

Please accept these comments on the Draft Environmental Impact Statement (Draft EIS) recently released for the revised Grand Mesa, Uncompahgre and Gunnison National Forest Plan.

In January of 2020, Wilderness Workshop, Western Slope Conservation Center, National Wildlife Federation, Audubon Rockies, and Black Canyon Audubon Society submitted special management area (SMA) proposals, attached as Exhibit A, to the Grand Mesa, Uncompahgre and Gunnison National Forest (the Forest) for consideration in the revised forest plan.

Our proposals included three new recommended wildernesses and SMAs for the Forest Service to incorporate into its revised forest plan and analyze in one or more alternatives. These included: Mendicant Ridge Recommended Wilderness, Muddy Country Watershed and Wildlife Conservation Area (WWCA), and Pilot Knob Backcountry Wildlife Conservation Area (BWCA). We also resubmitted a proposal by the Western Slope Conservation Center to identify and analyze the Lamborn Special Interest Area (SIA) and the Coal Mountain Recommended Wilderness.¹

Our January 2020 submission also included and supported comments previously submitted by Mr. Pat Stucker to the Forest Service which identified an area near Hubbard Creek for inclusion in the Forest Service's inventory of lands that may be suitable for wilderness designation due to its outstanding wilderness characteristics. We requested in our January 2020 letter that the Forest Service:

¹ These proposals have also been adopted into the broader Community Conservation Proposal. See <https://www.gmugrevision.com/> (last accessed 11/18/21). See Exhibit C for original proposals.

[E]valuate Mr. Stucker's comments; add the area to the agency's inventory of wilderness-suitable lands; analyze the area as the Hubbard Park Recommended Wilderness in the GMUG Forest Plan revision; and ultimately adopt a management decision to protect the highly valuable wilderness characteristics of Hubbard Park.

Exhibit A at 1.

Collectively, these proposals make up the North Fork citizen proposals that are the subject of these comments. The North Fork citizen proposals have been largely ignored by the Forest Service in developing the Draft EIS, even though we submitted them nearly two years ago and had subsequent meetings and communications with the Forest Service about these proposals.

As discussed in more detail below, the Draft EIS is unlawful because it violates the Forest Service's 2012 Planning Rule and the National Environmental Policy Act (NEPA) by failing to identify and evaluate citizen-proposed recommended wildernesses and SMAs. First, the Draft EIS does not comply with the 2012 Planning Rule and its implementing regulations and guidance because the Forest Service failed to identify and evaluate lands suitable for inclusion in the National Wilderness Preservation System—including the North Fork citizen proposals. In addition to citizen-recommended wilderness areas, the Forest Service was also required to identify and analyze the SMAs we proposed, but the Forest Service never included many of these proposals in any of its alternatives, nor did the agency give any explanation whatsoever for why the proposed units should not be carried forward in an alternative. In addition to violating the 2012 Planning Rule, the Forest Service violated NEPA when it failed to consider a reasonable range of alternatives inclusive of the North Fork citizen proposals. Lastly, the Forest Service violated NEPA when it failed to take a hard look at the direct, indirect, and cumulative impacts of the North Fork citizen proposals.

The Forest Service's Draft EIS is also inadequate for its failure to include oil and gas management strategies to protect sensitive forest resources, including values in the North Fork citizen proposals. Two strategies the Forest Service must consider are 1) a moratorium on new leasing, and 2) a commitment to utilize the agency's full authority to condition discretionary approvals, including imposing new stipulations on existing leases that fail to adequately protect forest resources.

I. The Draft EIS Violates the 2012 Planning Rule

The Draft EIS does not identify and evaluate most of the North Fork citizen proposals that were submitted to the Forest Service for inclusion in this forest plan revision, nor does the document provide a reason for exclusion of these areas. The 2012 Planning Rule's implementing regulations make clear that as a part of the forest planning process, the Forest Service shall: "[i]dentify and evaluate lands that may be suitable for inclusion in the National Wilderness Preservation System and determine whether to recommend any such lands for wilderness designation." 36 CFR 219.7(c)(2)(v).

Furthermore, the Forest Service Manual 1923 instructs that "[u]nless otherwise provided by law, *all areas that may be suitable for inclusion in the National Wilderness Preservation*

System must be inventoried and evaluated for recommendation as designated wilderness areas during plan development or revision.” FSM 1923.03—Policy (emphasis added). The process for wilderness identification, evaluation, and eventually recommendation is outlined in the Planning Handbook, which mandates opportunities for public participation throughout the process, including opportunities “to provide feedback and input on inventory, evaluation, analysis, and recommendation steps...” FSH 1909.12 – Land Management Planning Handbook, Chapter 70 – Wilderness at 70.61.

The regulations also require the Forest Service to identify and consider SMAs for designation in a new forest plan. 36 CFR § 219.7(c)(2)(vii); *see also* FSH 1909.12—Land Management Planning Handbook at 34 (stating: “Plans must identify designated areas. Designated areas may be identified on a map or identified by the use of a narrative.”). An SMA, referred to as a “designated area” in the regulations, is defined as “[a]n area or feature identified and managed to maintain its unique special character or purpose.” 36 CFR § 219.19.

The Draft EIS fails to consider important citizen proposals for recommended wilderness and SMAs with “unique and special character,” despite requirements to identify and evaluate such designations. The document does not even discuss or analyze the Muddy Country WWCA (61,200 acres); the Pilot Knob BWCA (24,100 acres); the Hubbard Park Recommended Wilderness (5,238 acres); or the Lamborn SIA (14,100 acres).

While the Forest Service considers protecting 8,219 acres of the Coal Mountain Recommended Wilderness as recommended wilderness in Alternative D, the agency failed to take a hard look at managing the full 15,200 acres of wilderness quality lands proposed for protection in the North Fork citizen proposals. The proposals provided a thorough assessment of the full area’s naturalness, outstanding opportunities for solitude and unconfined recreation, its roadless character, and detail on the area’s numerous important supplemental values. Citizen proposals also made a strong case for the manageability of the full 15,200 acre Recommended Wilderness. The agency must take a hard look at protecting the wilderness values identified in the full citizen proposal, not just the substantially smaller area considered in Alternative D.

We note that Alternative D would manage Mendicant Ridge as recommended wilderness, which we support and encourage the agency to carry forward to the final plan.

If the Forest Service chooses not to analyze any areas recommended by the public, the agency is required to provide rationale for excluding that area. *See* FSH 1909.12 – Land Management Planning Handbook, Chapter 70 – Wilderness at 73 (“For each evaluated area or portions thereof that are not included in an alternative in the applicable NEPA analysis, the Responsible Official shall document the reason for excluding it from further analysis.”). Here, though, the agency provides no rationale for its omissions.

The Draft EIS fails to comply with the Forest Service Handbook and the 2012 Planning Rule by ignoring proposals submitted by the public and foreclosing meaningful opportunities for public participation in the recommendation and designation process, and by failing to provide the public with any explanation or rationale for its omissions.

Summary of Comments: The Forest Service must identify and evaluate all citizen proposed recommended wilderness and SMAs. The North Fork citizen proposals must be analyzed either in a supplement to this Draft EIS or in the Final EIS, and the agency should ensure the unique special character of these areas is preserved in the final plan.

II. The Draft EIS Violates the National Environmental Policy Act

A. The Draft EIS Fails to Consider a Reasonable Range of Alternatives

The Draft EIS fails to consider a reasonable range of alternatives because the Forest Service neglected to evaluate and explore inclusion of over 110,000 acres of recommended wilderness and SMAs. An EIS must include “alternatives to the proposed action.” *Fuel Safe Wash. v. FERC* (389 F.3d 1313, 1323 (10th Cir. 2004) (quoting 42 U.S.C. § 4332(2)(C)(iii)). Consideration of alternatives is the “heart” of the NEPA process. *Id.* As explained in NEPA regulations, an EIS must “[r]igorously explore and objectively evaluate all reasonable alternatives, and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated.” 40 C.F.R. § 1502.14(a). Through this process, agencies must gather “information sufficient to permit a reasoned choice of alternatives as far as environmental aspects are concerned.” *Greater Yellowstone Coal. v. Flowers*, 359 F.3d 1257, 1277 (10th Cir. 2004). Courts have held that “[t]he existence of a viable but unexamined alternative renders an environmental impact statement inadequate.” *Westlands Water Dist. v. United States DOI*, 376 F.3d 853, 868 (9th Cir. 2004).

Preservation of public lands from damage is squarely within the mandate of the National Forest Management Act (NFMA), the Forest Service’s organic act. NFMA directs that land use plans broadly “provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple-Use Sustained-Yield Act of 1960[16 U.S.C. 528–531], and, in particular, include coordination of *outdoor recreation*, range, timber, *watershed, wildlife and fish, and wilderness*].” 16 U.S.C. § 1604(e)(1) (emphasis added). Federal courts have held that citizen proposals must be considered among alternatives analyzed by agencies where the proposals are distinct from other alternatives, feasible, and in line with the purpose and need of the action. *See generally Colo. Envtl. Coalition v. Salazar*, 875 F. Supp. 2d 1233, 1249 (Dist. Colo. 2012); *see also Wilderness Workshop v. Bureau of Land Management*, No. 1:16-cv-01822-LTB, Memorandum Opinion and Order (D. Colo. October 17, 2018).

Here, the North Fork citizen proposals included objective information to support designation of recommended wilderness and SMAs that the Draft EIS fails to rigorously explore and objectively evaluate in any alternative. These proposals were thorough, outlined unique values that deserve protection, and included proposed management recommendations. Subsequent comments we filed provided a more detailed discussion related to timber and vegetation management in these areas, attached as Exhibit B. The proposals clearly fall within a reasonable range of alternatives. Managing the areas as proposed would fit squarely within the purpose of the plan revision and is viable and feasible under current laws and regulations. By failing to include the proposed recommended wildernesses and SMAs in the Draft EIS, the Forest Service neglected to consider reasonable alternatives to protect 111,619 acres of land with important values in these areas. As written, the Draft EIS is inadequate because none of its

alternatives include a complete inventory and evaluation of lands eligible for inclusion in the National Wilderness Preservation System and it fails to consider special designation for areas with unique special character.

As discussed above, during the forest plan revision process the Forest Service must inventory and evaluate all recommended wilderness. Specifically, the Forest Service must inventory and evaluate “*all areas that may be suitable for inclusion in the National Wilderness Preservation System.*” FSM 1923.03—Policy (emphasis added). We provided the Forest Service with three recommended wilderness areas and supplemental analysis of those areas’ wilderness characteristics. These thorough citizen proposals put the Forest Service on notice that it should inventory and evaluate these areas for inclusion in the National Wilderness Preservation System. The agency’s decision not to look at all of these proposals in the Draft EIS demonstrates that the Forest Service has not included a reasonable range of alternatives nor followed its own internal guidance, e.g., inventory and analyze *all* lands for inclusion as wilderness. Instead, the Draft EIS carries forward four incomplete alternatives that do not accurately or completely represent the true acreage of wilderness-quality lands on the Forest.

In addition to not inventorying or evaluating these proposed recommended wilderness areas, the Forest Service also neglected to identify and evaluate our proposed SMAs. These SMAs included the Muddy Country WWCA, Pilot Knob BWCA, and Lamborn SIA. The Forest Service’s internal guidance makes clear that as a part of forest plan revision process the agency must identify designated areas with unique special character. The citizen proposals outlined unique and special values within the boundaries of proposed SMAs that deserve protections. The citizen proposals also included reasonable management direction that would ensure protection of these values within the proposal areas. Nonetheless, the agency arbitrarily ignored the citizen proposed SMAs rather than including them in any alternative.

Not only has the Forest Service failed to consider citizen-proposed alternatives in contravention of NEPA, but the failure to evaluate any protective management for many of the North Fork citizen proposal areas improperly limits the range of alternatives in the EIS. Evaluating at least one alternative with the fullest extent of conservation management provides essential comparative value to inform the NEPA process. This is necessary for the Forest Service to meet the requirement that the EIS consider a range of alternatives that covers the full spectrum of possibilities. The requirement to evaluate all reasonable alternatives extends to considering more environmentally protective alternatives and mitigation measures. *See, e.g., Kootenai Tribe of Idaho v. Veneman*, 313 F.3d 1094, 1122-1123 (9th Cir. 2002) (and cases cited therein).

Summary of Comments: The Forest Service must include a full range of alternatives that identify and evaluate all citizen proposals in a supplement to this Draft EIS or in its Final EIS. Citizen proposals should be considered in multiple alternatives, and the agency should ensure these areas are protected in a final plan.

B. The Draft EIS Fails To Take A Hard Look At The North Fork Citizen Proposals And The Significant Environmental Impacts From Protecting Those Areas

NEPA imposes “action-forcing procedures ... requir[ing] that agencies take a hard look at environmental consequences.” *Robertson v. Methow Valley Citizens Council*, 490 U.S. 332, 350 (1989). The purpose of the “hard look” requirement is to ensure that the “agency has adequately considered and disclosed the environmental impact of its actions and that its decision is not arbitrary or capricious.” *Baltimore Gas & Elec. v. NRDC*, 462 U.S. 87, 97 (1983). These “environmental consequences” may be direct, indirect, or cumulative. 40 C.F.R. §§ 1502.16, 1508.7, 1508.8; *see also Hillsdale Env'tl. Loss Prevention v. U.S. Army Corps of Eng'rs*, 702 F.3d 1156, 1166 (10th Cir. 2012). Direct effects “are caused by the action and occur at the same time and place.” 40 C.F.R. § 1508.8(a). Indirect effects “are caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable.” *Id.* § 1508.8(b). “Indirect effects may include ... effects on air and water and other natural systems, including ecosystems.” *Id.* A cumulative impact is the “impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.” *Id.* § 1508.7; *see also id.* § 1508.25. An environmental effect is “reasonably foreseeable” if it is “sufficiently likely to occur that a person of ordinary prudence would take it into account in reaching a decision.” *Sierra Club v. Marsh*, 976 F.2d 763, 767 (1st Cir.1992). An agency’s hard look examination “must be taken objectively and in good faith, not as an exercise in form over substance, and not as a subterfuge designed to rationalize a decision already made.” *Forest Guardians v. U.S. Fish & Wildlife Serv.*, 611 F.3d 692, 712 (10th Cir. 2010).

Here, the Draft EIS fails to take a hard look at the direct, indirect, and cumulative impacts of protecting the sensitive values described in the North Fork citizen proposals. Our proposals mapped specific boundaries; provided justification for those boundaries; described unique and important values in each area; and proposed management objectives, including desired conditions and standards. The values highlighted in our proposals set the proposed areas apart from other portions of the Forest, and the agency has an obligation to take a hard look at the benefits of protecting them. The Forest Service must analyze all direct, indirect, and cumulative impacts to the resources listed below, as well as those catalogued in more detail in the proposals:

- Wilderness characteristics
 - *See* Exhibit 3, Coal Mountain Recommended Wilderness Proposal (stating: “Coal Mountain contains extraordinary wildlife values that should be maintained by protecting the area’s wilderness character and ensuring minimal conflicts between wildlife species and land users.”).
 - *See* Mr. Stucker’s Hubbard Park Wilderness Proposal (available in the project file) (highlighting the area’s “High wilderness characteristics” including a naturally-appearing composition of plants and animals, abundant opportunities for solitude and/or primitive-type recreation activities, sufficient size and topography to effectively buffer sights and sounds of civilization, many high-quality opportunities for primitive or unconfined recreation where visitors can feel removed from civilization, self-reliant, and connected to the land, and proximity to other designated areas.).
- Water resources

- *See Exhibit 4, Muddy Country WWCA at 2* (stating: “the Muddy Creek watershed provides important water resources for agriculture production in the North Fork Valley. Muddy Creek is a major tributary to the Paonia Reservoir, which provides agriculture producers downstream with critical irrigation resources, as well as domestic water for the town of Somerset.”).
- *See Exhibit 5, Pilot Knob BWCA at 3* (stating: “This area lies within a source water assessment area (municipal water supply). Over 70% of this assessment area is managed by the FS and is recognized as having a high value for domestic water supply. Headwater rivers flow from runoff in the area, which connect to the North Fork of the Gunnison River and ultimately provide the water for irrigation.”).
- *See Exhibit 6, Lamborn SIA at 1* (stating: “The proposed SIA contains many seeps, springs, creeks, and reservoirs. Many of the creeks’ headwaters begin from the slopes of Mount Lamborn, including Sams Creek and Bells Creek. Reservoirs include Todd reservoir in the western portion of the unit and Lone Cabin Reservoir and Beaver Reservoir in the north-northeast section of the unit.”).
- **Wildlife habitat**
 - *See Exhibit 4, Muddy Country WWCA at 3* (stating: “State wildlife officials have recommended that the roadless lands in this WWCA be protected to prevent habitat fragmentation and disturbance. Sensitive wildlife species dependent on both aspen and high elevation conifer habitats rely on this area. It provides calving areas, summer range, and winter range for elk; summer range and fall concentration areas for black bear; and important habitat for mountain lion, mule deer, turkey, mountain goat, and moose.”).
 - *See Exhibit 5, Pilot Knob BWCA at 2* (stating: “The proposed Pilot Knob BWCA provides summer range for mule deer, black bear, mountain lion, and elk; calving areas and winter range for elk; priority habitat and summer range for moose; bald eagle winter range; and Lynx habitat. Aspen dependent sensitive species such as the Northern goshawk, purple martin, flammulated owl, and the American marten also have suitable habitat in the area.” And also “As a whole, the area provides phenomenal and increasingly scarce unfragmented, mid-elevation habitat for wildlife. The area remains relatively pristine while lands around it have undergone a significant transformation from development related to agriculture, mining, and oil and gas exploration.”).
 - *See Exhibit 6, Lamborn SIA at 2* (stating: “This Lamborn area provides an important elk migration corridor in the lower elevation areas and into the mountains of the Coal Mountain Recommended Wilderness. The areas below Mount Lamborn and Landsend Peaks also provide elk winter range and concentration area from the West Elk Wilderness to the east. The low elevation area includes critical winter range for mule deer. Potential lynx habitat is mapped for the forested cover at higher elevations. The steep rocky and rugged cliffs also make for great raptor habitat, including the bald eagle.”).
 - *See Exhibit 3, Coal Mountain Recommended Wilderness Proposal at 1.*

The proposed recommended wildernesses and SMAs specifically address and protect these values. Because the Draft EIS fails to analyze the forest plan’s impacts on these values in

these specific places, the Forest Service has not met its burden to take the required hard look under NEPA.

Summary of Comments: The Forest Service must take a hard look at the significant environmental impacts that would result from protections of the recommended wilderness areas and SMAs in the North Fork citizen proposals.

C. The Draft EIS Fails To Take A Hard Look At The Reasonably Foreseeable Environmental Impacts On Wilderness, Wildlife, and Water Resources From Not Designating The North Fork Citizen Proposals In The New Forest Plan

The Forest Service's decision to not include the North Fork citizen proposals in its Draft EIS will have significant environmental impacts on the resources identified for protection in our January 2020 submission to the Forest Service that the Forest Service has not considered.

For instance, the Muddy Country WWCA encompasses three roadless areas, all the lands between them, and a large swath of non-roadless land that overlaps with the proposed Mule Park Important Bird Area (IBA).² The four alternatives in the Draft EIS allow for various uses in the Muddy Country WWCA such as timber production, vegetation treatments, coal leasing, temporary road construction and other surface-disturbing activities, as well as road building in non-roadless portions. These uses in the Muddy Country WWCA will impact wildlife, wilderness, water resources, and recreation.

The North Fork citizen proposals asked the Forest Service to protect these precious resources and provided proposed management protocols and direction for that purpose. But the Forest Service chose not to consider the citizen proposals and instead to manage large swaths of this area as general forest in all of the alternatives it considered.

Because much of the area is roadless, it may be that the agency was relying on the Roadless Rule to protect the area's special character. However, the Roadless Rule will not fully protect the lands encompassed by the proposed Muddy Country WWCA, or any of the North Fork citizen proposals, for at least two reasons.

First, the citizen proposals encompass more than just roadless areas. For example, while the Muddy Country WWCA and the Pilot Knob BWCA do overlap roadless lands, they also overlap substantial acreage that would be managed as general forest even under Alternative D in the Draft EIS. As mentioned above, Alternative D makes lands available for timber harvest and vegetation treatments; construction of new roads, trails, and rights of way; and open to new oil and gas leasing without NSO stipulations. None of these activities would be allowed under standards in the North Fork citizen proposal, and all these activities would impact important values our proposal sought to protect (e.g., sensitive bird species).

² The IBA was designated by the National Audubon Society. The area was included in the Muddy Country WWCA because it has unique and special values that deserve protection, but the Forest Service failed to identify or evaluate it as an SMA in the Draft EIS.

Second, even those portions of the citizen proposals overlapping roadless areas may not be adequately protected by the Colorado Roadless Rule and the Draft EIS. Several of the proposals include explicit protections for sensitive wildlife, including prohibitions on construction of new motorized or mechanized trails. Since the Colorado Roadless Rule does not prohibit motorized or mechanized trail construction, the Forest Service cannot assume that the Rule will provide adequate protection or that they've taken a hard look at the potential benefits of our proposals. Furthermore, the Colorado Roadless Rule allows for construction of long-term temporary roads that can result in significant surface disturbance.

Clearly, then, there are meaningful differences between our proposals and the strongest protections considered in the Draft EIS. The Forest Service's decision to not include areas in the North Fork citizen proposal in its Draft EIS may have significant environmental impacts on the resources identified for protection in our January 2020 submission to the Forest Service that must be disclosed and considered in this process.

Importantly, too, if the agency had considered an SMA designation for the Muddy Country WWCA or for the Pilot Knob BWCA, values in the area would have more protection. For example, the Draft Revised Management Plan specifically prohibits timber production in SMAs. *See* Draft Management Plan at 94 (stating: "Each special management area is also removed from the area suitable for timber production (alternative D)."). But, again, the agency chose not to consider any SMA designation for these areas.

To meet its burden under NEPA, the Forest Service must take a hard look at the benefits citizen proposals would have on important forest values, including wildlife, recreation, wilderness, and water resources, as well as disclosing and considering the impacts of not designating the proposed areas.

Summary of Comments: The Forest Service's Final EIS must thoroughly discuss the impacts to wildlife, wilderness, and water resources from the resource management prescriptions permitted in Draft EIS.

III. The Plan Must Include Oil and Gas Management Strategies To Protect Sensitive Forest Resources, Including Those In Proposed SMAs

One of the most significant risks to areas we proposed for special designation relates to the management of oil and gas. Several proposal areas are currently leased and/or they would remain open to future leasing under all alternatives in the Draft EIS, including the Muddy Country WWCA, Pilot Knob BWCA, and Hubbard Park Recommended Wilderness. While we understand that the Forest Service has deferred a new oil and gas leasing decision, the agency still has an obligation to analyze and disclose potential impacts to resources in these areas, and to consider reasonable management alternatives to reduce those impacts. At least two techniques should be considered by the Forest Service in the EIS and included in a new plan.

First, the Forest Service should commit to a moratorium on new oil and gas leasing on the GMUG until a new oil and gas leasing EIS is complete and the agency makes a new leasing availability decision. The existing oil and gas leasing decision is decades old; fails to consider a

wealth of new information and changed circumstances that have come to light since that analysis was completed; and it may impact sensitive resources within our proposal areas should they be leased for oil and gas.

The existing analysis does not consider the following new information and changed circumstances: how the oil and gas EIS relates to the science of climate change; the significant contribution to climate change resulting from oil and gas development on federal lands; new regulations (including, for example, implementation of the 2001 and Colorado Roadless Rules); recent listings under the Endangered Species Act; understanding and science related to the impacts of oil and gas development on natural resources and human health; updated estimates of oil and gas resources in the area that may influence the need to lease and develop; technological innovations related to how oil and gas is developed; and the emergence of new needs and competing values on the GMUG, including substantial increases in use of forest lands that are not compatible with new leasing.

The 1993 Oil and Gas Leasing EIS fails to consider any of this information, and more. Because the existing oil and gas leasing analysis is stale and inadequate to support contemporary leasing decisions, the agency should commit not to sell new leases on the Forest until a new analysis and decision are complete. Committing to a temporary moratorium on oil and gas leasing in the new plan is the best way to address these issues.

Second, the Forest Service should take a hard look at its authority to condition decisions impacting existing leases, including those within areas we proposed for special management. The agency should commit to utilizing its authority in the new plan to ensure protection of forest resources and to bring old leases up to date with contemporary circumstances.

Most leases on the GMUG are old, including those in the North Fork citizen proposal areas. The last lease sale including GMUG parcels occurred in 2012. The leases that exist in proposed SMAs are even older—dating back more than ten-years and, in some cases, much longer than that. These existing leases were issued pursuant to outdated and stale oil and gas leasing analyses. Stipulations on the leases no longer reflect contemporary conditions or adequately protect existing values. For example, many of these leases overlap with roadless areas and do not contain stipulations that insure protection of roadless values.

The Forest Service should use its authority to make management decisions in this plan that would ensure any development of these leases adequately protects sensitive resources and important values. The agency has broad discretion to approve or disapprove leaseholder requests related to these leases, or to condition approvals on measures that ensure adequate protection of forest resources. While the Bureau of Land Management is the ultimate decisionmaker, the Forest Service has authority to condition its consent or withdraw its consent to management decisions. The Draft EIS acknowledges Forest Service authority to condition approvals. Page 326 says: “Existing oil and gas leases would be subject to plan components as conditions of approval where they do not conflict with existing lease stipulations during the development phase.” However, this caveat makes it unclear that the Forest Service intends to fully utilize this authority: “... where they do not conflict with existing lease stipulations.”

Importantly, there are situations where the Forest Service could make acceptance of a new stipulation a condition of approval or a condition to its consent for approval of a leaseholder's request. For example, when a leaseholder asks for more time to develop a lease with suspension of the lease term, the agencies can condition their granting of suspension. It is critical that the agency acknowledge its authority and commit to utilizing it in the new plan.

As mentioned above, there are numerous oil and gas leases in roadless areas on the GMUG that do not explicitly protect roadless values. Most of those leases would have expired years ago but for agency suspensions giving leaseholders more time to develop. Moving forward, the Forest Service should condition its consent to suspension of these leases on compliance with the Roadless Rule. That condition could require a leaseholder's acceptance of a stipulation prohibiting road construction inside a roadless area. If leaseholders are unwilling to accept such conditions, the agencies can deny the requests.³

In short, the Forest Service should clearly articulate the full extent of its authority to condition discretionary decisions in the Final EIS, and the agency should commit to utilize that authority to ensure oil and gas development properly conserves natural resources and forest values—even if it involves adding new stipulations to a lease.

Summary of Comments: The forest plan must include oil and gas management strategies to protect sensitive forest resources, including those in proposed SMAs. Strategies should include 1) a temporary moratorium on new leasing until a new programmatic leasing analysis is complete; and 2) a commitment to utilize the agency's full authority to condition discretionary approvals, including imposing new stipulations on existing leases that fail to adequately protect forest resources.

IV. Conclusion

In conclusion, no alternative fully evaluates and analyzes the full swath of recommended wildernesses and SMAs on the Forest. Incorporating the North Fork citizen proposals into the EIS would help the agency comply with its own guidance requiring it to identify and evaluate these areas. Consideration of these proposals will also ensure a full spectrum of alternatives are considered in the EIS and will also aid the agency in complying with NEPA's hard look mandate. While we understand that the Forest Service included the Lamborn SIA on its Alternative D map, the agency has not adequately identified or analyzed the proposed SIA in its NEPA analysis or corresponding documentation. We look forward to reviewing the Forest Service's rationale for including the Lamborn SIA on its map for Alternative D. Further, we appreciate portions of our Lamborn SIA and Mendicant Recommended Wilderness proposal areas overlap with wildlife management areas under consideration in the plan, but that fact does not obviate the agency's requirements to evaluate and respond to citizen-submitted proposals for these areas.

Further, consideration and adoption of the North Fork citizen proposals would promise the most beneficial impact on wildlife; preserve the ecological integrity of the Forest; strengthen

³ Importantly, oil and gas leases do not give leaseholders a right to suspension. Grant of a suspension is a discretionary agency decision.

resiliency for the climate; and bolster local economies, among other benefits. We look forward to reviewing the Forest Service's analysis of our proposed recommended wildernesses and SMAs.

The Forest Service must also consider oil and gas management strategies to protect sensitive forest resources, including those in the North Fork citizen proposals: 1) a moratorium on new leasing, and 2) a commitment to utilize the agency's full authority to condition discretionary approvals, including imposing new stipulations on existing leases that fail to adequately protect forest resources.

We will reach out in the near future to request a meeting to discuss these concerns. Please feel free to contact us with any questions or concerns in the meantime.

Sincerely,

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