

January 16, 2022

***VIA ELECTRONIC AND FIRST
CLASS MAIL***

Bureau of Land Management
Attn: State Director Doug Vilsack
2850 Youngfield Street
Lakewood, Colorado 80215
BLM_CO_Thompson_Divide@blm.gov

Re: Gunnison County's Comments Regarding Proposed Mineral Withdraw in Thompson Divide and Mt. Emmons Areas

Dear Director Vilsack,

On behalf of the Board of County Commissioners of Gunnison County ("Gunnison County" or "County"), we submit the following comments regarding the Bureau of Land Management's and the United States Forest Service's ("USFS" or "Forest Service") proposed mineral withdraw of federal lands in both the Thompson Divide area and lands surrounding Mt. Emmons. As you may be aware, the County has submitted to USFS a request to become a Cooperating Agency in this process. Accordingly, please do not consider the comments contained in this letter to be the only, or final, comments that the County may submit regarding the proposed withdraw. Gunnison County reserves the right to submit additional or different comments as the process continues and as a Cooperating Agency.

INTERESTS OF GUNNISON COUNTY

Gunnison County is the fifth-largest county by land area in Colorado, with a total area of 3,260 square miles, a significant portion of which consists of BLM and USFS-managed lands.

The County has long expressed its support for Colorado Outdoor Recreation and Economy Act, House Resolution 823 (116th Congress). The provisions contained in CORE Act that relate to public lands within Gunnison County are the product of years of work by the County to bring together stakeholders and County residents with its Congressional delegation to preserve, protect and promote sustainable development, recreation and multiple uses of public lands within our borders, particularly the Curecanti National Recreation Area, as well as the

Bureau of Reclamation's continuing obligation under the Colorado River Storage Project Act, 70 Stat. 110, chapter 203; 43 U.S.C. § 620g, to acquire at least 26 miles of public fishing access as mitigation for the Aspinall Unit. Germane here is that portion of the CORE Act that would legislatively withdraw mineral development within the Thompson Divide area, a portion of which sits in Gunnison County (as well as federal mineral interests surrounding the Mt. Emmons mine site, as further explained below). The County has expressed its continuing support for the CORE Act provisions containing such a withdraw because it considers the Thompson Divide an incredibly productive landscape for ranching, sporting and recreation opportunities as well as having an incredible and intact ecological function.

Because the CORE was not enacted by the last Congress and was still pending legislation at that time, on September 16, 2022 the County wrote to the President and the Secretaries of Interior and Agriculture urging them to initiate an administrative mineral withdraw for the federal parcels surrounding the Thompson Divide.

In addition, Gunnison County has long engaged as a stakeholder in the community's quest to obtain long-term, viable solutions to the Keystone molybdenum mine site located on the slopes of Mt. Emmons west of the Town of Crested Butte, Colorado ("Town"), the unpatented mining claims currently held by MEMC in and around Mt. Emmons, and the Keystone Mine Water Treatment Plant owned and operated by MEMC. To that end, on February 12, 2016, the County, along with the Town, the State of Colorado and MEMC, entered into a Memorandum of Understanding ("MOU"), in which the parties expressed their intent to mutually work together to achieve, amongst others, the following goals: "Support Mt. Emmons in acquiring the Site and assist in ensuring compliance with all applicable environmental laws and regulations[,] [and] [p]ursue disposition of the mining and mill site claims and fee simple lands in a mutually beneficial way."

On July 20, 2021, the County, the Town and MEMC furthered their understandings by executing an MOU which detailed a mutual intent with regard to the present land exchange. The terms of the 2021 MOU included details on placing the lands MEMC would receive in the Exchange into a conservation easement, supporting federal withdrawal of mineral development in the federal lands surrounding Mt. Emmons, and permanent disposition of MEMC's mineral claims and right to mine the Site after the Exchange is consummated. The 2021 MOU also expressed the Town's and the County's support for reasonable amounts of water in feasible locations for mining reclamation and remediation activities.

Recently, MEMC negotiated a Conservation Easement and Mineral Extinguishment Agreement over the Mt. Emmons mine site consistent with many of the County's stated goals and intent in the 2016 and 2021 MOUs, including MEMC's abrogation of both its development and mining rights at the Site, and providing the County the third-party right to enforce some of its key provisions.

COMMENTS ON THE PROPOSED WITHDRAW

Gunnison County provides the following comments on the proposed withdraw:

I. THE COUNTY GENERALLY SUPPORTS THE PROPOSED WITHDRAW.

The County support any measures that can be taken to enshrine as many public lands protections as possible in support of the goals of the CORE Act that fall within the Grand Mesa, Uncompahgre and Gunnison National Forests, and that portion of the proposed withdraw regarding the Thompson Divide furthers this objective. In addition, the inclusion of federal mineral interests surrounding the Mt. Emmons mine site furthers the County’s aim of reaching a permanent solution to the disposition of the issues surrounding that site consistent with the aforementioned MOUs. Finally, both the CORE Act and the Mt. Emmons mine proposed disposition enjoy broad community support within Gunnison County. Accordingly, as a general proposition, Gunnison County supports the proposed mineral withdraw.

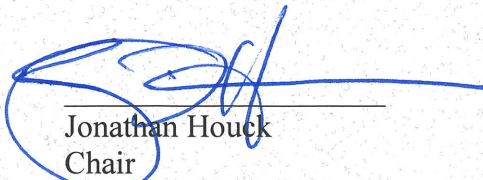
II. THE COUNTY DOES NOT OPPOSE AMENDMENT OF THE FEDERAL REGISTER NOTICE AND OF THE PROPOSED WITHDRAW ACREAGE TO ALLOW THE MT. EMMONS LAND EXCHANGE TO PROCEED.

The County has come to understand that, per Federal law, the Federal Register notice, and the proposed lands subject to the withdraw, the process could create an impediment to the contemplated land exchange discussed above. In particular, the Federal Register provides that “[t]his notice *segregates the land for 2 years from all forms of* entry, appropriation, and *disposal* under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing, mineral materials, and geothermal leasing laws, subject to valid existing rights[.]” See Notice of Proposed Withdraw and Public Mtg., Thompson Divide Area, Colo., 87 Fed. Reg. 199 (Oct. 17, 2022) (emphasis added). To the extent that “disposal” inhibits the contemplated land exchange during this two-year period, the County does not oppose amendment of the Federal Register Notice and modification of proposed land subject to withdraw to ensure that lands included in the proposed exchange are not part of the administrative withdraw. This is not to say that Gunnison County supports mineral development on these lands – as explained in the Background section above, the opposite is true. However, the County, consistent with the MOU, desires that the land exchange proceed under the terms and conditions of those MOUs, and therefore does not object to amendment of the proposed withdraw to accomplish this objective.

CONCLUSION

Gunnison County appreciates the opportunity to provide the foregoing comments. As Chair of the Board of County Commissioners, the Board has authorized me to submit these comments on behalf of the Board.

Best regards,



Jonathan Houck
Chair

Gunnison County Board of County Commissioners