

VIA ELECTRONIC SUBMISSION

January 2, 2024

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Re: Thompson Divide Withdrawal – Gunnison County’s Comments on the December 2023 Draft Environmental Assessment and Notice of No Significant Impact

Dear Supervisors Stewart and Fitzwilliams:

On behalf of the Board of County Commissioners of Gunnison County (“Gunnison County” or “County”) and as a Cooperating Agency, we submit the following comments to the United States Forest Service’s (“USFS’s” or “Forest Service’s”) draft Environmental Assessment (“EA”) and Finding of No Significant Impact (“FONSI”) for the Thompson Divide Withdraw proposed action (“Thompson Divide Withdraw”). Gunnison County reserves the right to submit additional or different comments as the planning process progresses and as a Cooperating Agency.

INTEREST OF GUNNISON COUNTY

Recognizing that public lands are an important part of the economy, health, and well-being of its citizens, Gunnison County has, throughout its history, promoted responsible use and enjoyment of USFS lands within its borders by the public, most often in cooperation with the USFS and other stakeholders. In addition, pursuant to Colorado law, the County retains, and exercises, authority to regulate land use planning, environmental quality, and protection of lands within its borders. *See, e.g.,* Colo. Rev. Stat. §§ 18-9-117, 29-20-101, 30-28-101 et seq., 30-11-107 et seq., 38-1-202, 42-1-102, 42-4-106, 43-1-217, 43-2-112, 43-2-201, 43-2-201.1; *Bd. of*

Cty. Comm'rs v. BDS Int'l, LLC, 159 P.3d 773, 785 (Colo. App. 2006); *Asphalt Paving Co. v. Bd. of Cty. Comm'rs*, 425 P.2d 289, 293 (Colo. 1967).

On October 27, 2023, USFS executed a Memorandum of Understanding with the County that both designated Gunnison County as a Cooperating Agency for the Thompson Divide Withdraw and recognized that the County:

[T]hrough promulgation of its Land Use Resolution and pursuant to Colorado law, has adopted regulations to “establish reasonable and uniform limitations, safeguards and controls for exploration, extraction and processing of minerals. . . in the County that allow wise utilization of natural resources, eliminate or mitigate to the maximum extent feasible both on and off-site environmental and visual impacts, manages the extraction of mineral resources in a responsible manner while conserving other natural resources, ensure compatibility with surrounding land uses, protect the safety of the community, promote beneficial post-mining land uses, and protect the tax base of the County.” LUR Section 9-401, as amended. Further, the County is a Cooperating Agency with regard to the Mt. Emmons Land Exchange currently pursued by and between Mount Emmons Mining Company and USFS. Finally, the County has been extensively involved in legislative efforts consistent with the proposed mineral withdraw that is the subject of this MOU.

See 24-MU-11020400-001 at 2.

COMMENTS ON THE DRAFT

Gunnison County provides the following comments on the draft EA and FONSI:

I. GUNNISON COUNTY SUPPORTS THE EA’S DESCRIPTION OF ALTERNATIVES AND FURTHER SUPPORTS SELECTION ALTERNATIVE A BY THE SECRETARY OF THE INTERIOR.

As a general matter, the County concludes that USFS has identified all appropriate alternatives for the proposed withdraw action, and hereby expresses its support for Alternative A – withdraw, up to 20 years all forms of entry, appropriation and disposal under federal public land and mining laws (subject to valid existing rights) the 224, 173 acres of land identified in the EA. As USFS is aware, on January 16, 2022, Gunnison County submitted comments to the Bureau of Land Management (“BLM”) regarding the proposed Thompson Divide withdraw.¹ As set forth in those comments:

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

¹ The January 16, 2022 comments are incorporated by reference within these comments as if fully set forth herein.

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.

See Jan. 16, 2022 ltr. from J. Houck to D. Vilsack at 3, *citing* Colorado Outdoor Recreation and Economy Act, House Resolution 823 (116th Congress). The County therefore comments that the EA and FONSI appropriately identify the proposed withdraw action as a viable and permissible alternative.

II. THE EA'S SOCIOECONOMIC ANALYSIS IS GENERALLY SOUND, BUT SHOULD BE MORE REFINED TO REFLECT THE IMPORTANCE OF THE TOURISM-BASED ECONOMY TO THE WITHDRAW AREA, AS WELL AS THE DECLINE OR ELIMINATION OF THE MINING ECONOMY IN THE WITHDRAW AREA.

In the County's view, the USFS has, for the most part, engaged in an appropriately robust analysis of the socioeconomic effects of the proposed withdraw and Alternative A. This stated, the County suggests refinement of the EA to better reflect economic realities, particularly with regarding to the significant and beneficial economic impact that tourism and recreational use of the proposed withdraw area has on the citizens of Gunnison County and other implicated communities, as well as the rapid decline of mining as an economic driver in the subject area. In particular:


- The EA's discussion of the socioeconomics of Garfield County, *see* EA at 6-7, 8-9, should further emphasize the fact that mining accounts for but 3.8 percent of that County's employment, but tourism is **over four times greater** (nearly 17 percent), even less than Gunnison County (see below).
- The EA should reiterate and emphasize that mining employment comprises a minuscule amount of employment in Delta and Gunnison Counties, as it mostly surround work at the West Elk Coal Mine located in Gunnison County. *See id.* Further, missing from the discussion is the fact that there is likely a "vastly diminished role for coal in the U.S. by 2030[.]" *See* Feaster, Seth, "U.S. on Track to Close Half of Coal Capacity by 2026," Inst. for Energy Econ. and Financial Analysis (April 2023) at 11, *available at* eefa.org/resources/us-track-close-half-coal-capacity-2026#. Accordingly, "For the mining companies that supply coal to power plants, **and the communities where mines are located**, this reduction in coal use signals **more lean years of restructuring and downsizing** are ahead, a trajectory that is becoming increasingly locked in." *Id.* (emphasis added). The EA should therefore analyze and articulate the fact that mining, particularly coal, is both a small and diminishing part of the economies of the counties in the withdraw area.

- The discussion of the Mt. Emmons mine fails to include the separate and ongoing efforts by USFS to transfer the mine site property to private ownership in exchange for a conservation easement and extinguishment of the mine owner's mineral interests, thus removing future mining from this portion of the Withdraw area even past the 20-year period contemplated by the proposed federal action. *See* Jan. 16, 2022 ltr. from J. Houck to D. Vilsack at 2-3.
- The EA should expressly reference the fact that the Mt. Emmons portion of the withdraw area is a popular winter recreation spot, particularly for backcountry skiing. *See* EA at 13.
- The County concurs with the EA's conclusion that "[r]ecreation visitation in the withdraw application area over the next 20 years will likely increase and may lead to demand for tourism and recreation." *See* EA at 26. However, the County suggests that the EA go further and acknowledge the distinct possibility that selection of Alternative A by the Secretary of Interior would increase recreation demand and opportunities due to the elimination of mining/recreational use conflicts during the withdraw period.
- The County concurs with the public finance impacts identified in the EA if Alternative A is selected, but suggests it would be helpful to break out and detail such impacts at the local government (county) level. Gunnison County strongly suspects that the economic effect on any individual county within the proposed withdraw area from lost mining or oil and gas tax revenue will be miniscule, and therefore believes it important that the EA highlight that fact.

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