

January 8, 2024

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Submitted electronically: <https://cara.fs2c.usda.gov/Public//CommentInput?Project=63679>

RE: Draft EA & FONSI for the proposed Thompson Divide Administrative Withdrawal

Mr. Edwards:

Thank you for the opportunity to comment on the draft environmental assessment (“EA”) and finding of no significant impact (“FONSI”) for the proposed Thompson Divide Administrative Withdrawal (“TDAW”). As stated in prior comments, we support the proposed administrative withdrawal that would remove these lands from all forms of entry, appropriation, and disposal under the public land, mining, and mineral and geothermal leasing laws and urge the Secretary of Interior to approve the withdrawal request as soon as possible.<sup>1</sup>

The EA and FONSI describe the existing values in the Thompson Divide, including those related to socioeconomics, recreation, scenery, grazing and rangelands, special areas, watershed resources, wildlife, and botanical resources. The analysis recognizes that the Thompson Divide is a singular place with myriad natural and economic values unrelated to and incompatible with future oil and gas development, hardrock mining, and other extractive operations. These are the values that have long motivated locals and people from all across the country to advocate for protection of the area. The analysis clearly shows that existing uses and values in the Thompson Divide far exceed the prospective value of mineral leasing and development there.

The EA, Reasonably Foreseeable Development Scenario (“Agency RFD”), and the Mineral Report prepared by the U.S. Forest Service (“USFS”) and the Bureau of Land Management (“BLM”) do, however, appear to overestimate the potential foreseeable impacts of future development in the area for several reasons. First, BLM and the Forest Service acknowledge that only three wells have been drilled in the withdrawal area over the past twenty years, and all of those were

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<sup>1</sup> Comments from the undersigned groups and their members are available in the project record. *See e.g.*, U.S. Dept. of Agriculture (“USDA”), USFS, and U.S. Dept. of Interior (“DOI”), BLM, Thompson Divide Withdrawal, EA and FONSI (Dec. 2023), at 53 (“Over 60,000 letters were received between the two comment periods. The majority of comments received were expressions of support for the requested withdrawal. Commenters in support of the requested withdrawal expressed the value and importance of protecting climate, air, water, wildlife habitat, traditional livestock grazing, roadless areas, unique recreation experiences, big game hunting, scenery and other resources from the potential impacts of mineral exploration and development. World class big game hunting and fishing experiences, backpacking, snowmobiling, climbing, unique kayaking experiences, biking, leaf peeping, and taking in iconic landscapes were all recreational activities commenters noted would be protected by a withdrawal, and thus, the recreation economy would also be protected.”).

non-production wells in the Wolf Creek storage area.<sup>2</sup> Today, there are **zero** producing wells drilled within the withdrawal area, and only one well (Trail Gulch Unit 1090 #30-H2) with a bottom-hole location inside the withdrawal area.<sup>3</sup> This record does not support a finding that development will increase significantly over the next two decades.

Second, the Agency RFD inaccurately assumes that existing leases within the withdrawal area are valid existing rights (“VERs”), and thus “are expected to see development regardless of the status of the withdrawal.”<sup>4</sup> In fact, most of the leases (apart from those in the Wolf Creek storage area) should not be treated as VERs because (as Wilderness Workshop and partners have pointed out repeatedly) the leases: (a) were improperly issued, and/or (b) should have expired years ago for lack of diligent development.<sup>5</sup> As Wilderness Workshop has explained in prior correspondence, BLM has improperly allowed the companies holding the leases to keep those leases on the books long after their ten-year primary term without seeking to bring them into production.<sup>6</sup> If the leases are not canceled (which Wilderness Workshop has urged BLM to do), the leaseholders can be expected to continue their pattern of extended delay. And in the unlikely event that development is proposed on one of the leases, approval by the agencies would be unlawful because the leases were improperly issued, should have expired, or both.<sup>7</sup>

Third, the Agency RFD focuses on regulatory and management decisions that limit development, but gives little weight to an important additional factor: the difficulty and expense of drilling in the project area due to topography and other factors. Attached to these comments is a report entitled “Reasonable Foreseeable Development of the Thompson Divide” by Ken Kreckel.<sup>8</sup> Mr. Kreckel is a professional geo-scientist with over forty years’ experience in the exploration and development of oil and gas reserves in North America and Europe.<sup>9</sup> Mr. Kreckel’s conclusion follows:

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<sup>2</sup> USDA, USFS, and DOI, BLM, Thompson Divide Withdrawal, Draft Reasonably Foreseeable Development Report (“Agency RFD”) (Nov. 2023), at 12.

<sup>3</sup> *Id.*

<sup>4</sup> See *e.g.*, Agency RFD at 17, 21, and EA and FONSI at 26, 36 (discussion of VERs and development of VERs).

<sup>5</sup> See *e.g.*, Letter from Wilderness Workshop et al., to Jamie Connell, Colorado State Director, BLM, Re: expiration of leases in the Huntsman Unit on the GMUG National Forest (Oct. 11, 2019) (presenting evidence that leases properly expired years ago) (attached as Exhibit 1); see also Letter from Wilderness Workshop et al., to Doug Vilsack, Colorado State Director, BLM, Re: Request for State Director Review of decision suspending operations on oil and gas leases COC 69999 (COCO105387780), 70000 (COCO105388815), and 78845 (COCO105691193) (June 20, 2023) (presenting evidence that BLM’s suspension decisions violate law and policy and that subject leases have properly expired) (attached as Exhibit 2); See *e.g.*, Letter from Wilderness Workshop et al., to Steven Hall, Acting Deputy State Director, BLM, Re: Huntsman Unit COC 74403X and Oil and Gas Leases COC 70002, 70006, 63886, 63888, 63889, and 78843 (Feb. 21, 2020) (describing NEPA deficiencies and reasons the leases already expired) (attached as Exhibit 3).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> Ken Kreckel, Reasonable Foreseeable Development of the Thompson Divide (“Kreckel RFD”) (Mar. 28, 2023) (attached as Exhibit 4).

<sup>9</sup> *Id.* at 2, 34-37.

the prospect for developing oil and gas from under the Thompson Divide acreage under any reasonable and foreseeable timeline is essentially zero. Drilling in the Thompson Divide, lies at a considerable competitive disadvantage when compared to the middle of the Piceance Basin where formations are deeper and prospects have been proven.<sup>10</sup>

Kreckel's RFD provides important detail on the economics of developing oil and gas in the project area that is lacking in the agencies' analysis. His report indicates that the Mesaverde formation is not prospective in the Divide; and the Mancos formation is challenging and very expensive to develop, especially in the Thompson Divide due to location, terrain, and lack of infrastructure. Kreckel also points out that drilling activity in the area is low, has been for years, and shows no sign of accelerating.

Full and searching consideration of information in the agencies' analysis and supplemental information presented herein clearly shows that existing uses and values in the Thompson Divide far exceed the prospective value of mineral leasing and development there. We ask the Forest Service and BLM to quickly finalize this analysis and formally recommend that the Secretary of Interior approve administrative withdrawal of the Thompson Divide area.<sup>11</sup>

Thank you,

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<sup>10</sup> *Id.* at 1.

<sup>11</sup> The undersigned groups support a minor modification to the Thompson Divide Administrative Withdrawal Boundary in order for the Secretary to exclude lands from the withdrawal boundary to facilitate the Mount Emmons land exchange.

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Exhibits: 4