

Data Submitted (UTC 11): 5/28/2023 6:00:00 AM

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Comments: COMMENTS ON THE WHITE RIVER NATIONAL FOREST PROPOSAL "THOMPSON DIVIDE" WITHDRAWAL #63679

First, my comments are only for the north portion on National Forest System Lands of the Thompson Divide requested withdrawal. I am not familiar enough with the BLM portion as to be able to accurately and completely comment. I am thoroughly familiar with the "Thompson Divide" area as I administered the oil and gas program for the White River NF for approximately 15 years. I have walked ridden and/or flown virtually every foot of the "Thompson" Divide" north and a fair amount of the the south as well.

I know that those who work for the Forest Service are thoroughly familiar with the appropriate portions of the Forest Service Manual, but I repeat them here to provide background for my comments.

Forest Service Manual 2760 provides the direction Forest Service Officers are to follow, when contemplating withdrawal of U.S. Minerals. The following is the policy direction for withdrawals:

"2761.03 - Policy

1. Forest officers should consider withdrawals for areas with a history of mineral findings and in which the management direction is not compatible with alienation or use under the mining laws; for example, research natural areas, interpretive or cultural sites, scenic areas, geologic areas, critical habitat of endangered species having a very limited range and specific habitat requirements not found elsewhere, and botanical areas.
2. Forest officers should consider withdrawals for the National Forest System lands that are occupied by capital improvements in which relocation or replacement would be impractical. These areas would include sites containing major improvements such as offices, work center complexes, and developed recreation areas.
3. Requests for withdrawal from mineral leasing should be made rarely (see FSM 2761.04). Existing public laws, Federal regulations, and leasing stipulations provide substantial opportunities (FSM 2822.2) to accommodate both surface resources and the recovery of leasable minerals.
4. Forest officers should consider withdrawals for National Forest System lands occupied under special-use authorization. Notify permittees holding permits on lands open to mineral development of their risks and liabilities where withdrawal of the area is not appropriate (FSM 2720).
5. Document new withdrawal of lands from alienation or entry under the mining laws by:
 - a. An assessment of the mineral potential.
 - b. An evaluation of alternatives.
 - c. An analysis showing that the use or special features of the area cannot be adequately preserved or protected through other means.
6. Include in the withdrawal the minimum area needed for the intended use.
7. Revoke withdrawals of National Forest System lands where protection is no longer needed or appropriate."

Let's take a look at each section of the policy to see where the "Thompson Divide" area stacks up.

1. "Forest officers should consider withdrawals for areas with a history of mineral findings and in which the management direction is not compatible with alienation or use under the mining laws;[hellip]."

What is the Management Direction for the area according to the Forest Plan. There are primarily 4 management prescriptions that dominate the "Thompson Divide":

4.3 - Dispersed Recreation

5.12 - General Forest and Rangelands - Range Vegetation Emphasis

5.13 - Resource Production - Forest Products.

5.43 - Elk Habitat - Calving and Summer Concentration.

Given that the "Thompson Divide" area does not contain any areas identified as the examples given, and that virtually all of the management direction for the area west of CO 133 are shown above (8.25, 1.31 & 1.32 were left out. 8.25 is already withdrawn & 1.31 & 1.32 would not seem to be compatible with minerals development). This management prescriptions are compatible with mineral development and have appropriate stipulations to protect the resources. Therefore because the area has had successful mineral development in the past and shows high potential for the future it would seem that the Thompson Divide fails the first criteria for withdrawal.

2. "Forest officers should consider withdrawals for the National Forest System lands that are occupied by capital improvements in which relocation or replacement would be impractical. These areas would include sites containing major improvements such as offices, work center complexes, and developed recreation areas."

There are no government owed capital improvements where relocation or replacement would be impractical except a World War II B24 bomber. However there are millions of dollars of private capital improvements through out the "Thompson Divide" area associated with leasable mineral development. So I do not see that criteria #2 would trigger a withdrawal application.

3. "Requests for withdrawal from mineral leasing should be made rarely (see FSM 2761.04). Existing public laws, Federal regulations, and leasing stipulations provide substantial opportunities (FSM 2822.2) to accommodate both surface resources and the recovery of leasable minerals."

The 1993 Leasing EIS identified appropriate stipulations to integrate minerals development and other resources identified in the Forest Plan within the Management areas 4.3, 5.12, 5.13, & 5.43. These areas were not modified in the most recent amendment, therefore despite the area being Administratively Closed Through Management Direction, the original stipulations would be in place, and would provide for protection of the resources involved as determined by 2 EIS evaluations. The administrative officer does have total discretion to administratively close an area of Nation Forest. But generally one would expect that they would have a strong reason for such action considering the strong admonishment in criteria 3 that withdrawal would be at best a rare occasion.

Below is the FSM 2761.04 referenced above:

2761.04 - Responsibilities.

Forest Supervisors shall initiate actions and prepare applications and recommendations reflecting National Forest needs identified in the National Forest Management Plan.

The question then becomes where in the Forest Plan was this area identified as in need of withdrawal? I have found no reference, therefore, it seems that the Forest Officer, may have stepped outside their responsibilities in requesting a withdrawal.

5. "Document new withdrawal of lands from alienation or entry under the mining laws by:

a. An assessment of the mineral potential.

b. An evaluation of alternatives.

c. An analysis showing that the use or special features of the area cannot be adequately preserved or protected through other means."

With regard to criteria 5, it appears that the Forest Officer has fulfilled criteria 5a. with the completion of the RFD. There appears to be no mention of the mineral potential identified in the RFD for the area (see attached map from RFD) in the petition despite the RFD identifying the area as high potential for oil and gas occurrence.

With regard to 5b., I have not seen alternatives evaluated, that would preclude withdrawal, in fact no alternatives to withdrawal appear to have been considered.

The application for withdrawal states "The area is valued as a recreation setting due in part to the clean air, clear night skies, and the quiet and the remoteness from the sights and sounds of human development. These values could be compromised if developed by additional mineral extraction related activities." The only value mentioned above that seems to fit the management direction for this area would be clean air, which is dictated by the Clean Air Act, which is required of all uses of National Forest. Clear night skies is an urban criteria not a Forest plan directive. "the quiet and the remoteness from the sights and sounds of human development", would appear to be closer to a wilderness criteria not the management prescriptions dictated for the area, that would allow motorized uses. There is no noise criteria for National Forest. So the only assumed special feature identified in the application would appear to be clean air. The other 2 are straw dogs identified to justify the withdrawal.

Criteria 5c. requires an analysis showing that the use or special features of the area cannot be adequately preserved or protected through other means." In looking through the documentation for the withdrawal, I have not found such an analysis. In the application there are several unsubstantiated statements regarding the area:

1. This could detract from the landscape, visual attractiveness, and sense of vastness that make recreating and ranching in the area a notable experience.

2. With an average of 70-150 truckloads per day to move a typical drill rig to a site, the communities of Glenwood Springs and Carbondale have expressed their concern regarding safety and the ability for their roads to handle this type of traffic. (No company has proposed such a scenario to access the area)

3. The appeal of the Thompson Divide area includes its singularity as a special place. It holds a combination of characteristics that makes a place special and unique. Sense of place involves the human experience in a landscape, the local knowledge, culture and folklore. Sense of place also refers to identifying oneself in relation to a particular piece of land. It is an important component of culture, social, economics, and the self-identity of a community. (This actually describes the basic component of "Not In My Back Yard".

This particular area of the White River National Forest is unique in that virtually every activity that occurs on

National Forest occurs across this area. Just to name a few grazing, hunting (both individuals as well as outfitted), natural gas development, production, storage and transportation, motorized travel by all means both summer and winter, ski area, communications site, coal mining, mountain biking, camping, scenery observation, firewood gathering, cross country skiing, and timber harvest. This area is as multiple use as it gets, and the management prescriptions support that.

6. Include in the withdrawal the minimum area needed for the intended use.

There does not seem to be any identification of the areas needing protection, except an arbitrary line drawn around the whole area. If 5a & 5c, had been done, maybe this question could be answered. Given the present documentation, there is no way to answer this question.

7. Revoke withdrawals of National Forest System lands where protection is no longer needed or appropriate."

This particular criteria is irrelevant at this time.

So to summarize, the Forest Service appeared to ignore its own policy's identified in FSM 2761.03 regarding withdrawals, as well as its responsibilities identified in FSM 2761.04. I also feel that the arbitrary decision to make the area administratively unavailable, despite the area being found in the RDS for the 2015 leasing EIS as high potential for development.

I have also attached a paper on the laws affecting mineral development on National Forest System Lands, and how important Congress feels mineral development is to the nation and is reflected in the laws passed.

I want to thank you for the opportunity to comment on this potentially long term impact to National Forest System Lands.

Gary T. Osier

Attachment: WRNFFinalRFDS Map

Attachment: Laws affecting the relationship between recreation and minerals management on the national forests