



October 17, 2022

Chad Stewart
Forest Supervisor
Grand Mesa, Uncompahgre and Gunnison National Forests
2250 South Main Street
Delta, CO 81416

Submitted via email

Subject: Mt. Emmons Land Exchange #61798

Dear Forest Supervisor Stewart:

Since 2015 the Coal Creek Watershed Coalition (CCWC) has provided water quality and technical expertise to the Town of Crested Butte and Gunnison County in the process to revise the water quality standards applied to the lower portion of Coal Creek. In recent years, CCWC has also played a role in evaluating technical solutions to the environmental issues at the Keystone Mine Site. Following a detailed review of the project documents provided by the USFS, CCWC would like to offer the following comments on the Mt. Emmons Land Exchange.

The USFS should further link the execution of the conservation easement and mineral extinguishment agreement to the land exchange. In the feasibility analysis (FA), the USFS correctly concludes that the voluntary conservation easement and mineral extinguishment agreement between Mt. Emmons Mining Company (MEMC) and the Crested Butte Land Trust (CBLT) is:

- 1) a foreseeable future condition that the USFS authorized officer may consider in evaluating the net public benefit of the land exchange¹;

¹ As stated by the USFS on August 30, 2022 in FA Exhibit 1.



2) a critical element of the land exchange that prohibits mining and development on the exchanged lands and prevents extractive mining on Mt. Emmons while allowing for necessary reclamation and water treatment activities to protect the public interest, including the municipal water supply for the Town of Crested Butte; and

3) the primary reason that local governments, non-profits, and the public support the proposed land exchange.

Given the critical importance of the conservation easement and mineral extinguishment agreement, CCWC urges the USFS to implement the following recommendations:

- **The USFS should require the concurrent execution of the conservation easement and mineral extinguishment agreement as a condition of the land exchange in the decision memorandum or record of decision for the project.**
- **The USFS should amend the agreement to initiate to include mineral extinguishment agreement alongside every reference to the conservation easement.** Because these agreements permanently protect water quality and watershed health, which are necessary to assure that the exchange is in the public's interest, CCWC urges the USFS to reference both the conservation easement and mineral extinguishment agreement in all places where the term conservation easement appears.

On October 12, President Biden, with the support of several Colorado congressional representatives, local government officials, and non-governmental organizations, directed the Department of Agriculture and the Department of Interior to complete an administrative withdrawal of the mineral rights on Mt. Emmons and surrounding lands. Because of this recent development CCWC offers the following recommendations:

- **Revise the text on page 53 and elsewhere to acknowledge President Biden's direction for an administrative withdrawal of the minerals on Mt. Emmons and adjacent lands.**

The FA describes the Colorado water court case as one of three "concurrent efforts underway related to the land exchange."² CCWC does not agree that the pending diligence case for the water rights are related to the land exchange as the water rights considered in the case are not located on any of the parcels in the proposed exchange. CCWC offers the following recommendations related to the water court case:

- **Remove all text related to the water court case.**
- **If the USFS opts to discuss the water court case, please make the following revisions:**

² See FA at page 51.



- **Identify all opposers in the case, including CCWC and Western Resource Advocates.**
- **Correct the amount of the Slate River direct flow right (20 cfs).**

Finally, the FA notes that the discharge and stormwater permits required by the State of Colorado's Department of Public Health and Environment (CDPHE) are on administrative renewal. However, the FA does not adequately document when the permits were last renewed. This is particularly important for the discharge permit, which was last renewed in 2008 and relies upon outdated water quality data and water quality standards. Because of the status of these permits, CCWC recommends that the USFS do the following:

- **Request that CPDHE renew both the discharge and stormwater permits for the Keystone Mine site to assure that the permits fully protect Coal Creek and the public interest as it relates to the proposed land exchange.**

In conclusion, CCWC supports the proposed land exchange as long as the conservation easement and mineral extinguishment agreement are executed simultaneously with the exchange. CCWC strongly supports a condition in the land exchange decision memorandum that requires concurrent execution of conservation easement and mineral extinguishment agreement. CCWC fully supports President Biden's order to apply an administrative withdrawal of the mineral rights on Mt. Emmons and surrounding lands.

Sincerely,

Ashley Bembenek
Executive Director
Coal Creek Watershed Coalition
P.O. Box 925
Crested Butte, CO 81224

Cc: Dayle Funka
Corey Wong
Tammy Randall-Parker
John Hare