



COLORADO

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May 11, 2015

Bureau of Land Management
Director (210)
Attention: Protest Coordinator, W0-210
P.O. Box 71383
Washington, D.C. 20024-1383

ALSO VIA EMAIL (to attention of BLM protest coordinator): protest@blm.gov

RE: Protest to Proposed Grand Junction Field Office Resource Management Plan and Final Environmental Impact Statement Dated March 2015.

Dear Protest Coordinator:

The Board of County Commissioners for Mesa County, Colorado (“BoCC”) is submitting this Letter as Mesa County's Protest to the Bureau of Land Management’s (“BLM”) Proposed Resource Management Plan and Final Environmental Impact Statement (collectively “PRMP/FEIS” and individually “PRMP” and “FEIS”) for the Grand Junction Field Office (“GJFO”). The BoCC has appreciated its role as a cooperating agency in this process. The BoCC’s goal is to help the BLM ensure the public lands in Mesa County and the region in general are managed in the most appropriate and beneficial manner.

Mesa County is the economic regional center for Western Colorado and Eastern Utah. Multiple uses of BLM lands and resources administered by the GJFO and surrounding field offices directly and indirectly impact the Mesa County economy, including agriculture, forestry, energy development, recreation, tourism. Mesa County staff has thoroughly reviewed the PRMP/FEIS and continue to be concerned with the new preferred alternative(B). The BoCC generally supports many aspects of alternatives (A)&(D).

Mesa County’s Protest is based on Mesa County’s comments provided throughout the seven year planning process and provided herein in a spirit of cooperation, coordination and partnership. Specifically, this Protest is based on Mesa County’s comments submitted to the BLM

on the Draft Resource Management Plan (“DRMP”) in a letter to the BLM dated June 20, 2013. This Protest includes three specific topics:

1. Comprehensive Travel and Transportation Management - Recreation and Visitor Services
2. Fluid Leasable Minerals
3. Inconsistencies with Local and State Plans

1. Comprehensive Travel and Transportation Management - Recreation and Visitor Services:

A. Travel Management Plan Record of Decision Extension Request:

The BoCC understands the specific route designations in the Travel Management Plan (“TMP”) are Resource Management Plan (“RMP”) implementation level decisions and are therefore appealable after the Record of Decision (“ROD”) is signed for the RMP. The BoCC has requested in writing that the BLM’s Colorado State Director delay the approval of a ROD for the TMP portion of the RMP for at least six (6) months to allow the public and cooperating agencies adequate time for a transparent, concerted and focused review of the TMP. The BoCC believes that a six month additional review and public education period could result in the elimination of many of the concerns that Mesa County residents currently have, and ultimately will result in a vast reduction of the number of appeals filed on the TMP after the ROD is signed.

B. Use of new categories and nomenclature:

As a cooperating agency, Mesa County staff worked closely with the BLM staff on reviewing the TMP designations, especially in relation to the roads defined as "County Roads" and "Vested County Interest" roads on Mesa County’s maps that were shared with the BLM. However, the BoCC is concerned that many of the recreational Vested Interest Routes and Vested Interest Areas Mesa County became aware of based on extensive public input and review, and which were submitted during the DRMP review, may be closed to public use.

The BoCC is also concerned that the TMP planning process from DRMP to PRMP has been so confusing for the general public to understand. For example, the PRMP uses new categories and nomenclature different from the DRMP for the route designations, i.e., the DRMP fact sheet listed 510 miles of “County roads on public land,” but the PRMP lists 304.2 miles of “County Maintained Roads” (a new category). These changes in terminology and apparent discrepancies in Appendix M are not easily explained and render a comparison of the PRMP with the DRMP nearly impossible for Mesa County staff and the general public.

C. Full Range of Alternatives Not Analyzed and No Socio-Economic Analysis of Reducing Open Area Allocations:

On this issue, Mesa County’s Protest includes the following points:

1. A full range of alternatives regarding travel management land use allocations was not included in the PRMP/FEIS; and
2. The size and locations of “Open” OHV areas was reduced; and
3. The Castle Rock SRMA was excluded from the preferred Alternative; and

4. There is an absence of an analysis of the negative socio-economic impacts and public safety concerns to Mesa County and the surrounding region by as a result of such drastically reduced areas designated for “Open” OHV use.

See[Chapter: 3. Affected Environment (Comprehensive Travel and Transportation Management), 4. Environmental Consequences (Recreation and Visitor Services); Sections: 2.2, 3.3.5, 4.4.3; Pages: 2-7, 3-203, 4-335, and 4-348; Figure 2-16, Alternative B: Extensive Recreation Management Areas; Figure 2-19, Alternative B: Special Recreation Management Areas; Figure 2-23, Alternative B: Comprehensive Travel and Transportation Management.]

The PRMP/FEIS fails to consider a full and reasonable range of alternatives for acres open to various uses as required by the National Environmental Policy Act (“NEPA”) [CFR § 46.420 (b) and (c)]. For example, acreage analyzed as open to motorized use is very limited: 12,500 acres in Alternative A, zero acres for Alternative C, and 10,200 acres in Alternatives B and D. The PRMP/FEIS fails to address the negative socio-economic impacts of anticipated crowded and unsafe trail use that would result from such a reduction of acres open to motorized use, as required by NEPA (42 U.S.C. § 4332). The cumulative impacts of OHV recreational opportunities in Section 4.4.3 are not quantified and are merely vague qualitative statements which fail to include a rigorous comparison of impacts by each alternative. Shrinking, rather than increasing, the overall open areas in the GJFO will lead to crowding, safety issues, and negative socio-economic impacts.

Although “the acres open to intensive OHV use (i.e., OHV Open areas) have increased from 5,400 in the Draft RMP/EIS to 10,200 acres in the Proposed RMP/Final EIS”(pages 6-231-232), these areas are anticipated to see increases in use above the current estimate of 250,000 annual visitor days. The BLM recognizes this problem in the PRMP/FEIS by stating “Trailhead signage would help minimize negative user interactions by educating users, but a dramatic increase in use could result in greater potential for conflict and safety issues” (page 4-335), but the PRMP/FEIS offers no solution or reasonable analysis. Such crowding will eventually keep visitors away from the area, which will result in a drop in the number of visitors, which in turn equates to fewer outside dollars spent in the area.

Support for a Castle Rock “Vested Interest Area” is included in Mesa County’s comments on the DRMP (June 20, 2013). The Castle Rock Single Track Trail System, developed by the DeBeque Working Group of the Grand Valley Trails Alliance, has unique recreational opportunities for mechanized users that are not duplicated in the GJFO. A Castle Rock SRMA, as recommended in Alternative D, will protect sensitive resources through adaptive management and mitigation of potential impacts to cultural sites and special species. If closure of the area limits cross country travel to foot and horse travel, the area containing these sensitive resources may not be adequately protected as required by NEPA. There is no analysis of potential impacts to the resources by cross-country travel included in the PRMP/FEIS. In fact, the resources could be better protected if the SRMA is created and user groups are allowed to adopt and assist in trail maintenance.

D. Concurrence with other commenting individuals and entities:

Mesa County concurs with and supports the protests to the PRMP/FEIS filed by the Bookcliff Rattlers Motorcycle Club/Motorcycle Trail Riders Association, James B. Solomon, and the joint protest filed by Colorado Off-Highway Vehicle Coalition - Trail Preservation Alliance - Colorado Snowmobile Association. These protests specifically address issues with Lands with

Wilderness Characteristics, the use of “user interaction” as a driver for land allocations, incomplete analysis of possible cultural resources sites as a driver for closure of 53,500 acres to all surface disturbing activity, and insufficient data and analysis leading to closure of the Castle Rock area to motorized recreation.

2. Fluid Leasable Minerals:

Preserving the ability for the oil and gas industry to explore, extract and operate in Mesa County is of great importance to the region due to the positive economic impacts such activity creates for this region. In general, the BoCC does not support closing areas to leasing or imposing unnecessary restrictive measures to oil and gas development. To that end, Mesa County concurs with the protests to the PRMP/FEIS filed by the West Slope Colorado Oil & Gas Association/Western Energy Alliance, Black Hills Exploration and Production, and Oxy USA WTP LP.

A. BLM Failed to Address Mesa County’s Comments:

Mesa County commented on several specific issues during the comment period for the DRMP/DEIS, including: (1) removal of areas open for leasing; (2) prohibition to new leasing in the Palisade and Grand Junction watershed; (3) no surface occupancy stipulations for major river corridors; (4) the addition of right of way exclusion areas for special status species; (5) expanded buffer zones for cultural resources; (6) the role of BLM in regulating air quality; and (7) visual resource management restrictions to existing leases.

Under the NEPA, the BLM is required to substantively respond to all relevant public comments. 40 C.F.R. § 1503.4. In the PRMP/FEIS, however, BLM failed to sufficiently address Mesa County’s comments as detailed above.

B. Management Strategies are inadequate:

The Record of Decision for the PRMP must include viable management strategies that: (1) will benefit Mesa County and its local communities; (2) conform to BLM’s multiple use mandate; (3) protect valid existing lease rights; (4) are supported by the record; (5) incorporate the least restrictive measure, and (6) removes the Shale Ridges and Canyons Master Leasing Plan. In sum, the RMP should be revised and the ultimate ROD be designed to provide more management flexibility for BLM and more certainty for development industries.

C. BLM must sufficiently address the impact its restrictive measures for oil and gas development will have on socio-economics:

BLM fails to adequately consider the effects its proposed management strategy will have on current and future oil and gas exploration and development activities, and the associated socio-economic impact on Mesa County, its local communities, and the State of Colorado. Both the Federal Land Policy and Management Act (“FLPMA”) and NEPA require the BLM to include a sufficient economic analysis as part of its decision-making process for land use planning decisions. The absence of a detailed analysis of the potential fiscal impacts of each alternative attributable to reductions or changes in the number and distribution of new oil and gas wells ignores the important role that oil and gas property tax revenues, Federal Mineral Leasing Tax

payments and Colorado State Severance tax payment to local counties play in the financing of local government services, and it ignores the resultant negative impacts on the quality of life for residents within Mesa County and surrounding counties. The BLM must sufficiently consider economic impacts in identifying and evaluating management alternatives and in particular the preferred alternative; it has an obligation to Mesa County and the State of Colorado to ensure their economies will not be adversely affected by federal land management policies.

The BLM did not update its socio-economic analysis in response to comments on the DRMP/DEIS, concluding that its analysis was sufficient, yet it did not provide any explanation in the document for where the numbers come from or how they were established. The BLM also fails to account for development of the Niobrara and Mancos Shale formations, both of which have recently been shown to hold significant oil and gas reserves from which production can currently be obtained. The BLM must provide appropriate reasoning for its socio-economic analysis.

The BLM must update the PRMP/FEIS to include an accurate and timely socio-economic analysis that will appropriately consider the Preferred Alternative's restrictive measures on oil and gas development, as well as take into account the economic benefits of developing oil and gas resources within the Planning Area.

D. The BLM's proposed restrictions violate the Federal Land Policy and Management Act's Multiple Use Mandate:

The PRMP/FEIS's Preferred Alternative B violates FLPMA by failing to manage the lands for multiple use. Under FLPMA, the BLM is required to manage public lands under the principles of multiple use and sustained yield, to meet the needs of present and future generations. 43 U.S.C. § 1701(a)(7), (8) & (12); 43 U.S.C. § 1732(a) & (b); 43 C.F.R. § 1610.5-3. Further, FLPMA identifies mineral exploration and production as one of the "principle or major uses" of public lands. 43 U.S.C. § 1702(l).

FLPMA emphasizes the importance of public resources to America's domestic energy supply and contains an express declaration of Congressional policy that the BLM manage public lands "in a manner which recognizes the Nation's need for domestic sources of minerals, [and other commodities] from the public lands." 43 U.S.C. § 1701(a)(12).

Despite statutory and regulatory direction under FLPMA, the PRMP/FEIS proposes unduly burdensome restrictions on oil and gas development, and chooses to manage certain lands for uses to the exclusion of oil and gas development, even where there are conflicts with valid existing lease rights. For example, ACECs and areas identified for management of wilderness characteristics already contain numerous oil and gas leases, yet the BLM proposes to restrict an operator's ability to develop its valid existing lease rights.

Mesa County protests BLM's decision-making wherein management prescriptions would preclude development of valid existing leases and ultimately result in financial loss to Mesa County and its local communities. The BLM must revise the PRMP to recognize its multiple-use mandate in a manner which includes a recognition of the Nation's need for domestic mineral development, and preserve the economic viability of the oil and gas industry in Mesa County.

E. BLM must recognize valid existing lease rights:

All BLM actions, including authorizing resource management plan amendments, are “subject to valid existing rights.” 43 U.S.C. § 1701 note (h); see also 43 C.F.R. § 1610.5-3(b) (BLM is required to recognize valid existing lease rights). Under FLPMA, the BLM, through the PRMP/FEIS process, or otherwise, cannot cancel or modify valid existing property rights. 43 U.S.C. § 1701 note (h).

The BLM cannot use the RMP process to revise or restrict valid existing lease rights through creation and imposition of new lease stipulations in the form of COAs for drilling permits on valid existing leases. Colorado Environmental Coalition, 165 IBLA 221, 228 (2005). Specifically, The BLM cannot impose new NSO stipulations or COAs on existing leases that differ from those entered under the original contractual terms.

The BLM’s proposed restrictions include terms that vastly exceed terms included in valid existing lease rights. For example, the proposed South Shale Ridge ACEC contains numerous valid existing leases, yet is proposed for NSO restrictions for the ACEC designation as well as overlapping NSO, CSU and TL restrictions for species within the ACEC. These limitations and expanded restrictions would unduly and unreasonably restrict a lessee’s rights and ability to develop its leases. However, the BLM has not provided any scientific, justifiable, rational, or legal basis to support this excessively harsh surface disturbance limitation.

The BLM’s proposed wildlife emphasis or priority areas to protect wildlife habitat also are lacking scientific, justifiable, or rational basis, and would unduly and unreasonably restrict valid existing lease rights. Further, these areas would open the BLM to substantial legal exposure and liability for claims of unlawful takings in violation of the Takings Clause of the Fifth Amendment to the U.S. Constitution.

Additionally, BLM’s proposal to restrict development in the Palisade and Grand Junction municipal watersheds is contrary to the work that the town of Palisade, Mesa County, and other stakeholders, including the BLM, put into the Palisade/Grand Junction Watershed Plan. This plan recognizes new technologies and practices that make oil and gas development cleaner and safer for the environment. BLM failed to take this local planning process into account and will instead attempt to penalize owners of valid existing lease rights.

By imposing the above referenced restriction and the other restrictions placed in the PRMP, the BLM is discouraging oil and gas development, whether directly or indirectly. As a result, the BLM’s actions could penalize the economy in Mesa County through losses of jobs and tax revenue from decreased oil and gas development in the Planning Area.

The BLM cannot unilaterally impose its proposed oil and gas restrictions on valid existing leases, nor can it impose new, unduly burdensome, restrictions in the form of COAs on permits to drill where there are valid existing leases. The BLM cannot breach its contractual agreements with the lessees. The BLM must revise its proposed restrictive measures to recognize valid existing lease rights, and expressly vacate and not adopt undue and unnecessary management prescriptions in the ROD for the RMP.

F. Proposed restrictions on oil and gas development violate valid existing lease rights, are not justifiable or supportable, are unduly and unnecessarily restrictive, and will negatively impact Mesa County:

Through the PRMP Preferred Alternative B, the BLM unlawfully proposes to implement a series of restrictions on oil and gas development that (1) do not protect valid existing lease rights; (2) violate BLM's multiple use mandate; (3) are not sufficiently supported by the record; (4) are unduly and unnecessarily restrictive, and (5) will have a negative economic impact on Mesa County and its local communities. As explained in this protest, the PRMP's overly-burdensome, restrictive measures must be revised and/or not expressly adopted in the RMP's Record of Decision.

Preferred Alternative B proposes, among other things, the following restrictions on oil and gas development, either as stipulations for future leases, or as imposed conditions of approval (COA) on existing leases through the permitting process:

- No surface occupancy (NSO) or use within 400 meters of the ordinary high-water mark or within 100 meters of the 100-year floodplain on the Colorado, Gunnison, and Dolores Rivers to protect the rivers and adjacent aquatic habitat; and NSO within 100 meters from the edge of the ordinary high-water mark where the riparian corridor width is greater than 100 meters. PRMP Appendix B, Table B-5 at B-20-21.
- NSO in the Palisade and Grand Junction municipal watersheds allegedly in order to reduce potential for groundwater contamination and/or dewatering municipal sources. *Id.* at B-23-24.
- NSO and use in the following areas of critical environmental concern (ACEC): Atwell Gulch, Badger Wash, Pyramid Rock, South Shale Ridge, for the BLM-stated purpose of protecting critical habitat for threatened, proposed, and sensitive plants. *Id.* at B-36.
- NSO to protect threatened, endangered, proposed, and candidate species within 200 meters of current and historically occupied and suitable habitat. *Id.* at B-37.
- Prohibit surface occupancy, use and surface disturbing activities within 4 miles of an active lek or within sage-grouse nesting and early brood-rearing habitat. *Id.* at B-44.
- Prohibit surface occupancy and use and surface-disturbing activities in elk production areas year-round. *Id.* at B-51.
- NSO within identified wildlife emphasis or priority areas to protect BLM-identified lands for the benefit of wildlife habitat: Blue Mesa, Bull Hill, East Salk Creek, Prairie Canyon, Sunnyside, and Timber Ridge. *Id.* at B-52.
- Prohibit surface occupancy and use within 100 meters around eligible archaeological sites allegedly to protect unique scientific information in sites allocated to Conservation Use. *Id.* at B-54.
- NSO on lands identified for management of wilderness characteristics in Bangs Canyon, Maverick, and Unaweep Canyon. *Id.* at B-59.
- NSO to protect Wilderness Study Areas (WSA) at Demaree Canyon, Little Book Cliffs, the Palisade, and Sewemup Mesa. *Id.* at B-65.

Preferred Alternative B also includes numerous controlled surface use (CSU) and timing limitation (TL) stipulations to manage resources within the GJFO Planning Area, including increased timing limitations for species habitat. The access restrictions imposed by BLM through right of way ("ROW") exclusion areas may have the unintended consequences of stranding existing leases and causing additional surface disturbance through the building of significantly longer roads to access leases with stipulations, rather than allowing shorter access roads from existing roads through leases with ROW restrictions. The PRMP Preferred Alternative B proposes 670,300 acres of land with NSO stipulations, 642,400 acres of land with CSU stipulations, and 526,400 acres of land with TL stipulations for surface disturbing activities. Where 935,600 acres of federal mineral estate are open to mineral leasing and geophysical exploration, Mesa County is

concerned that the BLM is proposing overly restrictive and burdensome restrictions on oil and gas development within the Planning Area. The BLM must consider the effects its proposed management strategy will have on oil and gas development, as well as the associated economic impact on Mesa County, local communities, and the State of Colorado.

G. The BLM fails to adequately substantiate proposed lease restrictions and COAs, and utilize least restrictive measures:

Mesa County protests the BLM's failure to provide adequate support for its management decisions. The BLM is required to utilize the least-restrictive management practices with respect to oil and gas development. Pursuant to Section 363 of the Energy Policy Act of 2005, lease restrictions should be "only as restrictive as necessary to protect the resource for which the stipulations are provided." 42 USC § 15922(b)(3)(C). With respect to oil and gas resources, the BLM's Manual 1601 on Land Use Planning, and Manual 1624 on Planning for Fluid Minerals, both specifically direct the BLM to not only identify which areas would be subject to different categories of restrictions as included in the RMPA/FEIS, but also to show that "the least restrictive constraint to meet the resource protection objection [is] used." See BLM Handbook H-1601-1, App. C.II.H. at 24.

Further, NEPA requires that the agency take a hard look at the environmental consequences of its actions, which must be based on "accurate scientific information" of "high quality." 40 C.F.R. § 1500.1(b). NEPA requires the use of high quality data and the disclosure of the methodology underlying proposed decisions, and explicitly requires that an EIS be presented in a way that "the public can readily understand." 40 C.F.R. § 1502.8. Thus, the BLM must rely on relevant scientific studies and data to make its land use plan decisions.

The PRMP fails to utilize scientifically valid and supportable information to justify and substantiate the many overlapping onerous restrictions it attempts to place on oil and gas development, including valid existing federal oil and gas leases. The BLM's use of restrictions to protect big game, threatened and endangered plants and animals, BLM sensitive species, water quality and other resources is not supported by peer reviewed scientific studies or documented sources, nor is there evidence that the BLM considered the least restrictive measures.

In the case of air quality impacts and air pollution emissions, the BLM misrepresents its authority to regulate air quality or enforce air quality laws. In Colorado, the Colorado Department of Public Health and the Environment ("CDPHE") has primary jurisdiction over air quality under the Clean Air Act ("CAA") and pursuant to delegation from the Environmental Protection Agency. The BLM has authority to simply provide lease stipulations or notices that ensure that applications for permits to drill and other site-specific project authorizations include a measure or condition of approval that a lessee must obtain all applicable air permits from the appropriate jurisdiction, (the CDPHE in this case). The BLM must recognize its limited role and appropriately remove any restrictions contained in the PRMP/FEIS that attempt to regulate air quality.

Additionally, the BLM's inclusion of Comprehensive Air Resources Protection Protocol ("CARPP") violates NEPA and FLPMA. CARPP was not included in the DRMP, and as a result, the public did not have an opportunity to comment on CARPP and its relationship to the DRMP. The DRMP included the Air Resources Management Plan, which was replaced by CARPP in the PRMP. The change from the use of the Air Resources Management Plan in the DRMP to CARPP in the PRMP was a significant and substantial change which clearly warrants further public review and input, or the amendment of the PRMP to reflect the use of the Air Resources Management

Plan. Further, CARPP will discourage energy development on public lands by imposing burdensome air monitoring and reporting requirements.

The PRMP must recognize existing science and data, and design its management prescriptions based on sound, supportable, viable and effective strategies. The oil and gas proposed stipulations in Preferred Alternative B are not supported within the document. The PRMP fails to provide a scientific, let alone rational, basis to support or justify its unduly restrictive measures, instead continuing to rely on policy and other mechanisms to promote a strategy of restricting oil and gas where science is not available to provide the requisite support. Accordingly, these undue, unnecessary, and unsupported management prescriptions must be removed in the RMP, or expressly rejected and not adopted in BLM's Record of Decision.

H. The Shale Ridges and Canyons Master Leasing Plan is duplicative, overly burdensome, and violates BLM's Multiple-Use Mandate:

Mesa County protests the inclusion of the BLM's Shale Ridges and Canyons Master Leasing Plan ("MLP") in the PRMP/FEIS, which is discussed at Appendix P of the DRMP. The inclusion of the MLP in the PRMP deprived the public and local governments of the required opportunity to make public comment on the MLP.

The MLP process was intended to reform the oil and gas program to provide additional environmental review. However, it is not necessary under NEPA, because the RMP process and all other levels of analysis, from analysis at the leasing stage to site specific analysis for permitting, provides necessary and thorough environmental review before oil and gas development can proceed. In particular, the BLM guidance on planning decisions for oil and gas development provide that oil and gas leasing allocation decisions are made at the planning stage. The EIS associated with the RMP is intended to meet NEPA's requirements in support of leasing decisions. IM 2004-110.

Additionally, Federal law requires the BLM's MLP to comply with FLPMA's multiple-use mandate and to recognize valid existing rights, as discussed above. The BLM is required to continue making leasing decisions during the planning process. For the same reasons that the PRMP fails to adequately protect valid existing lease rights, the MLP and the process of developing it, violates the tenets of multiple use and the policy that the development of minerals is a major use of public lands. The MLP here overly restricts access to and the development of federal minerals by the imposition of overly broad NSO, CSU and TL restrictions. The MLP is making the development of federal minerals overly burdensome and will have a negative impact on Mesa County's economy. The restrictions in the Shale Ridges and Canyons MLP are unnecessary, especially given BLM's policy of conducting Lease Sale EAs, and should be removed from the PRMP.

3. Inconsistencies with Local and State Plans:

Pursuant to Federal Law, 43 C.F.R. § 1610.3-2, the BLM is required to ensure its resource management plan, or plan amendments, "are consistent with officially approved or adopted" state and local government related plans, and policies and programs in those plans so long as the plans "are also consistent with the purpose, policies and programs of federal laws and regulations applicable to public lands."

A. Inconsistency with the Mesa County Master Plan:

The Mesa County Mineral and Energy Resources Master Plan (the “County Energy Master Plan”), which is an element of the Mesa County Master Plan, was adopted in 2011 by the Mesa Planning Commission and the BoCC. The purpose of the County Energy Master Plan is to ensure that mineral and energy resources in Mesa County can be developed in a way that minimizes potential negative impacts to local quality of life. The County Energy Master Plan applies to all mineral and energy resources (referred to as “Resources” in the document) and updated and replaced the 1985 Mineral Extraction Policies.

Mineral and energy resources provide an excellent opportunity for economic growth within Mesa County in terms of jobs, capital investments, and secondary (spin-off) industries. It is understandable that the development of these resources will also influence existing community infrastructure in terms of transportation, the environment, noise, view sheds, air, soils, wildlife, and watersheds. The County Energy Master Plan is a policy document directing Resource development to appropriate locations and describing measures to avoid, minimize, or mitigate impacts on sensitive areas and to the community.

Section 2.1 of the County Energy Master Plan contains the Guiding Goal to “*Create and maintain a balance between present and future Resource development and use,*” and it includes the following goals and policies applicable to the future development of the federal mineral estate:

GOALS:

G2. Balance new and traditional technologies related to exploration, development, conservation, and use of Resources in a way that will strengthen economic growth, provide safe and reliable use of Resources, and mitigate environmental impacts.

G5. Minimize potential conflicting land uses that may adversely impair or prevent the exploration, development, and use of commercially valuable Resources, recognizing the location of the Resources and current land use patterns.

G7. No duplication of regulatory oversight.

POLICIES:

P1. Participate in regulatory rule-making of the appropriate State regulatory agencies, e.g., Colorado Department of Natural Resources (DNR), Colorado Department of Public Health and Environment (CDPHE), Colorado Oil and Gas Conservation Commission (COGCC), Colorado Geological Survey (CGS), Colorado Division of Wildlife (CDOW), Colorado Department of Transportation (CDOT), Public Utilities Commission (PUC), etc.

P2. Participate as a cooperating agency with Federal regulatory and land management agencies, e.g., Bureau of Land Management (BLM), United States Forest Service (USFS), United States Fish and Wildlife Service (USFWS), Bureau of Reclamation (BOR), Federal Energy Regulatory Commission (FERC), etc.

The PRMP is inconsistent with the County Energy Master Plan as it inadequately anticipates and analyzes the socio-economic impacts to local communities and the State of new

and emerging technologies. Specifically, the PRMP inadequately anticipates the socio-economic impacts of the development of the Niobrara and Mancos Shale formations, both of which have recently been shown to hold significant oil and gas reserves. The BLM must provide appropriate reasoning for its socio-economic analysis. The development of the Niobrara and Mancos Shale formations is not some remote, speculative future possibility, but rather, Black Hills Exploration and Production currently has two rigs working in the Shale plays and plans additional fracking. Pages 3-185; 4-455.

The PRMP clearly imposes duplicative regulatory mechanisms above and beyond state and local regulation and oversight.

B. Inconsistency with the Colorado Blueprint: A Bottom-Up Approach To Economic Development:

The PRMP is at odds with the Governor's Blueprint Colorado (the "Blueprint"), and the PRMP should be reconciled accordingly before a ROD is issued. An example of the conflict between the PRMP and the Blueprint includes the following:

- Blueprint excerpt:

Region 11: Moffat, Rio Blanco, Mesa, Garfield and Routt Counties

Goal: Encourage responsible energy development of our unique natural resources through innovation.

Strategy: Request the State provide leadership and assistance in addressing federal regulatory involvement given the significant presence of federal lands in all Region 11 counties.

The PRMP compiles a collective set of restrictions that may result in curtailing two of the most significant contributors to the Mesa County economy: future oil and natural gas development and motorized recreation. The PRMP contrasts with the federal government's longstanding policy of encouraging responsible energy development and motorized trail use on federal lands under multiple-use principles. The changes reflect a philosophy working to reduce and limit natural resource extraction throughout Western Colorado's federal mineral estate and force overcrowding of increasingly popular motorized recreation.

Advances in energy technology, largely perfected in the Piceance Basin in recent decades, were exported and applied throughout the nation to the benefit of the country's economy, federal treasury and national security. Amidst these developments the Blueprint is a critically important document seeking to place Colorado's economy at competitive advantage by implementing the Blueprints' core objectives, which include:

1. Build a Business-Friendly Environment
2. Retain, Grow & Recruit Companies
3. Increase Access to Capital
4. Create & Market a Stronger Colorado Brand
5. Educate & Train the Workforce of the Future
6. Cultivate Innovation & Technology

The Department of Interiors' ongoing hostility towards mineral development and motorized recreation on federal lands manifests itself via ongoing statistics showing that development has

increased on private lands around thenation while declining, in the same commodity price environment, on federal lands. The aforementioned litany of land-use restrictions has increased over the last decade and conflicts with the Blueprint in the following ways:

1. The Blueprint discusses the idea of Building a Business Friendly Environment, and states that "Coloradans deserve a government that is responsive to their concerns and priorities, is frugal with their tax dollars and promotes economic development. That means knowing when to regulate, how to regulate, and when to get out of the way. This is one of the important roles of government. To this end, the Hickenlooper Administration is focused on the Three E's of good government: efficiency, effectiveness and elegance."

The Blueprint [Region 11 (Moffat, Rio Blanco, Mesa, Garfield and Routt Counties) Statement, Table 1, Column 2, Row 2] notes Colorado's strategy is to "...provide leadership and assistance in addressing federal regulatory involvements given the significant presence of federal lands in all Regional 11 counties." Perhaps nowhere in Colorado is this specific strategy more critical than in Region 11. Documents supporting and supplementing the Blueprint are Colorado's Energy Industry, Strategic Development through Collaboration and the 2010 Colorado State Parks Strategic Plan. These documents highlight enormous benefits and future opportunities offered by the Colorado Energy Industry and outdoor recreation respectively. The BLM proposed final decision is in direct conflict with the Blueprint's emphasis on the "Three E's" of good government.

The PRMP is the antithesis of elegant, efficient and effective. Perhaps now more than ever the nation's oil and gas industry requires an operating environment that is flexible, responsive, adaptive and proactive. Unlike all other operating environments in the U.S., oil and gas development on federal lands has almost no mechanism in place to ensure agency timelines are met and commitments are kept. Requests for federal units have recently gone unanswered for up to half a decade. Challenging ongoing inconsistency and shifting of agency interpretations (that inform conditions of approval) is difficult and expensive. Proving of partial takings requires, at a minimum, decades of litigation and millions of dollars in legal fees. This reality leaves companies operating on federal lands at the mercy of these uncertainties and absorbing the additional costs. Erosion of the contractual nature of lease rights creates a reality where drilling may only materialize after significant and unpredictable costs and time horizons.

2. The Blueprint discusses the idea of Retain, Grow and Recruit Companies, and states that "Colorado is a great place to do business and grow a company. Through a more analytical understanding of and focus on our key industry clusters, as well as increased coordination within the economic development community, Colorado is poised for economic growth. It is also important to focus on aligning infrastructure improvements with economic development priorities to ensure economic vitality in communities from every corner of Colorado."

Many companies with large lease holdings in the GJFO have vast holdings in other basins around the country and world. The PRMP conflicts with the Blueprint insofar as layers of restrictions and regulations place GJFO mineral holdings and recreational resources at a direct, competitive disadvantage to thousands of other projects and areas around the nation. This reality does little by way of retaining, growing and recruiting energy and recreation related companies to Western Colorado.

Unlike federal agencies, counterparties to lease agreements on private lands are bound by the terms of specific leasecontracts whose terms are enforced by the accessibility of business-to-business legal dispute resolution afforded by the courts. Contrasting this reality, federal agencies modify lease terms day-in-and-day-out without consequence though conditions of approval. The operational surety provided to energy producers on private lands results in access to capital and a platform for development that gives assurance and mutual benefit to all parties involved. This reality, in contrast to permitting on federal lands, highlights another PRMP conflict with the Blueprint: The goal of retaining, growing and recruiting companies. This trend is outlined in the PRMP and is one of the most egregious inconsistencies with the Blueprint and its "Three E" philosophy for good government.

4. Conclusion:

Land use decisions made in the PRMP/FEIS will have lasting impacts on Mesa County's economy and the economies of local communities within and around Mesa County. The BLM must consider the effects its proposed decisions will have on Mesa County directly through jobs and through associated socio-economic impacts. Mesa County submits this timely Protest because the BoCC is concerned that the BLM has failed to sufficiently consider the effects of its land use management proposals on the local economies. The BoCC respectfully requeststhat the BLM seriously consider this Protest and reconcile the PRMP with the issues raised herein before issuing a Record of Decision on the PRMP.

Thank you for your attention and consideration of Mesa County's Protest. Please let us know if you have any questions.

Sincerely,

Rose Pugliese, Chair
Board of Commissioners

John Justman
Commissioner

Scott McInnis
Commissioner

cc: Ruth Welch, BLM Colorado State Director
Joe Meyer, NW Colorado BLM District Manager
Wayne Werkmeister, Acting GJFO Manager
U.S. Senator Michael Bennet
U.S. Senator Cory Gardner
U.S. Congressman Scott Tipton
Colorado Governor John Hickenlooper
Colorado Senator Ray Scott
Colorado Representative Dan Thurlow
Colorado Representative Yuelin Willett
Cynthia Coffman, Colorado Attorney General