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October 24, 2023

Mr. Greg Larsen  
District Manager, Upper Colorado River District  
Bureau of Land Management  
2815 H Road  
Grand Junction, CO 81506

Letter to be submitted electronically via ePlanning comment portal: <https://go.usa.gov/xtrgf>

RE: Colorado River Valley Field Office and Grand Junction Field Office Draft Supplemental Environmental Impact Statement and Resource Management Plan Amendment

Dear Mr. Larsen:

Thank you for the opportunity to provide comments on the Colorado River Valley Field Office (“CRVFO”) and Grand Junction Field Office (“GJFO”) Draft Supplemental Environmental Impact Statement (“DSEIS”) and Resource Management Plan Amendment (“RMPA”). Mesa County has appreciated the opportunity to serve as a cooperating agency during the development of this SEIS and many others with the Bureau of Land Management (“BLM”).

We believe the most effective plans are those that embrace the knowledge of local voices, empower local management, and encourage locally tailored solutions, all within the context of adapting efficiently to the dynamic changes in our world. Our questions and concerns regarding the DSEIS and RMPA primarily pertain to the GJFO DSEIS/ RMPA. However, a small portion of land managed by the CRVFO lies in Mesa County, and the cumulative effects of closures in Delta, Garfield, Rio Blanco, and Gunnison Counties will directly impact Mesa County. As the regional economic hub for employee housing, consumer services, healthcare, and industrial supply, these decisions will have economic consequences for our county.

### **Proposed Plan Amendment Failure to Fully Consider Economic Impacts**

Oil and gas exploration and production play a crucial role in sustaining the well-being of countless individuals, local enterprises, and communities, extending beyond the boundaries of Mesa County to encompass the state of Colorado and the United States as a whole. In recent years, western Colorado has experienced a reduction in oil and gas industry workforce numbers, largely attributable to increasingly stringent state and federal regulations and support for renewable energy sources. Considering the significant changes in our economy over the past decade, the BLM should undertake a comprehensive economic analysis for each alternative, taking into account the current economic conditions.

While the extractive industry regularly sees ebbs and flows as prices and demand changes, we acknowledge the pivotal role the oil and gas industry has had on our economy. This industry not only creates high-paying job opportunities, but also contributes significantly to the financial well-being of both counties and the state through taxes generated by business operations and industry and family spending in our communities. These tax contributions, directed through programs like the Federal Mineral Lease Program, State Severance payments, and Energy/Mineral Impact Assistance Fund grants, are crucial for the allocation of essential for critical services and projects, including rural fire protection district equipment, road and bridge infrastructure, rural broadband, the establishment of the new Early Childhood Education Center, improvements to sewer and water system facilities, and various other initiatives that our communities rely

on. Examples of the important funding that has been distributed in Mesa County through the Federal Mineral Lease Program (2018-2022) include:<sup>i</sup>

- Mesa County Public Library District \$386,184
- Colorado Mesa University/ Mesa County Valley School District \$88,400
- Town of Collbran \$300,000
- City of Fruita \$100,000
- City of Grand Junction \$150,000
- Clifton Sanitation \$75,000
- East Orchard Mesa Fire Protection District \$153,595
- Lands End Fire Protection District \$19,348
- Lower Valley Fire Protection District \$50,000
- Plateau Valley Fire Protection District \$63,816

Without the tax revenue from oil and gas companies, many of these programs and projects would be financially unviable. While we understand the need to diversify inputs in the energy grid, Mesa County has extreme concerns regarding the draft SEIS and the potential for even deeper economic ramifications if the suggested closures are formalized in a Record of Decision.

Moreover, oil and gas companies, typically situated in the remote corners of the county, frequently take on the responsibility of road maintenance, gravel placement, and dust suppression. These contributions serve a dual purpose: they offer valuable assistance to local governments grappling with limited resources, and significantly improve the travel experience for backcountry recreationists. These well-maintained roads also provide safer access for emergency personnel responding to medical emergencies. If these funds become unavailable, Mesa County will face challenging choices regarding resource allocation, potentially prioritizing areas near population centers and diminishing access to public lands.

#### *Missing Piece of Economic Analysis*

Mesa County is currently a cooperating agency for multiple federal planning processes. There is no indication in this DSEIS/ RMPA that the BLM has evaluated the cumulative effects of all pending BLM plans and how the various closures, timing limitations, and other restrictions proposed will impact the economic and socioeconomic viability of Mesa County. When combined, nearly every part of the 73% of Mesa County managed by federal land managers faces some form of restriction. While this may not be the intention, the comprehensive impacts of these restrictions on Mesa County need careful consideration by decision-makers.

According to an August 8, 2023 press release by the Grand junction Economic Partnership, Mesa County is still heavily reliant on jobs in the mining, quarrying, and oil and gas extraction industry.<sup>ii</sup> Given the potential for compounded impacts on the economies of Mesa County and other western slope counties and the families and individuals that rely on the well-paying jobs from the extractive industry, Mesa County supports a more reasonable alternative that fosters a diversified economy, allows Mesa County to better weather external shocks, encourages entrepreneurship and innovation, and can reduce income inequality through job creation.

#### **Inclusivity and Timeliness of Reasonably Foreseeable Development Scenario for Oil and Gas**

The BLM's decision to close areas with unknown, low, or medium potential to future leasing lies largely in the findings of the 2012 report entitled *Reasonably Foreseeable Development ("RFD") Scenario for Oil and Gas*, developed for the Grand Junction Field Office and the 2008 report *Reasonable Foreseeable Development: Oil and Gas in the Glenwood Springs Field Office (GSFO) Administrative Boundary Area*. These RFD reports, while based on geological considerations, underscore the speculative nature of predicting future development possibilities.

While some areas in western Colorado may have previously been deemed uneconomical for development due to resource depths, difficult terrain, and infrastructure constraints, it's crucial to acknowledge the rapid advancements in technology and innovations that have occurred, even in the years since the RFD's completion. Recent and future breakthroughs may render previously “inaccessible” resources both cost-effective and more environmentally friendly. By prematurely restricting access to these lands, we risk limiting our capacity to tap into these resources. Therefore, closures of specific areas should undergo a more nuanced and site-specific review rather than being subjected to the broad-brush closures currently proposed in the Preferred Alternative. Mesa County supports an Alternative which would maintain access to BLM lands for future leasing, contingent upon a comprehensive, site-specific National Environmental Policy Act (“NEPA”) analysis. The adopted plan should strike a balance between conservation and responsible resource development, both of which are crucial for sustaining our community's economic well-being and environmental stewardship.

Lastly, to ensure that the BLM can base its decisions on the most up-to-date and robust scientific information, it is our recommendation that the BLM consider reevaluating the assessment of Reasonably Foreseeable Development for the region. This recommendation is prompted by the information provided in the 2016 United States Geological Survey (“USGS”) report titled "Assessment of Continuous (Unconventional) Oil and Gas Resources in the Late Cretaceous Mancos Shale of the Piceance Basin, Uinta-Piceance Province, Colorado and Utah." The USGS report states, "the USGS Energy Resources Program drilled a research core in the southern Piceance Basin that provided significant new geologic and geochemical data that were used to refine the 2003 assessment of undiscovered, technically recoverable oil and gas in the Mancos Shale." <sup>iii</sup> This discovery lends to the possibility that there is more resource potential than previously known. It is important to ensure that upon reevaluations, areas of low potential are reclassified should they be found to contain previously undiscovered resources.

### **Inadequate Analysis and Acknowledgement of State Regulations**

The purpose of the DSEIS is to enhance the air quality analysis for the various fluid mineral management options considered in the 2014 CRVFO Final EIS and the 2015 GJFO Final EIS, as well as in this DSEIS. In order to gain a comprehensive understanding of the cumulative impacts, it is essential to conduct a thorough assessment of the potential effects of oil and gas leasing on air quality. This evaluation should encompass all possible scenarios, rather than focusing solely on adverse outcomes.

It is crucial for the BLM to accurately represent the projections outlined in Colorado's Greenhouse Gas (GHG) Pollution Reduction Roadmap (“Roadmap”), which anticipates emissions reductions of approximately 16 percent by 2025 and 25 percent by 2030 without extreme interventions as identified in the DSEIS.<sup>iv</sup> Projections should also be reevaluated for Alternatives A through D to ensure the BLM has presented the most accurate, timely information available. The previously completed analysis didn't account for the significant changes to oil and gas technology, monitoring, and regulatory compliance that has been required since the passage of Senate Bill 19-181.

The DSEIS also fails to account for cumulative effects if production in western Colorado is moved to another producing state with less stringent regulatory requirements, includes overestimates due to inclusion of the non-energy related uses, and is unable to make assumptions for changes to future technologies, regulations, policies, and consumer behavior. If unable to make accurate predications with certainty, it is imprudent to choose the most restrictive path forward.

Through the Memorandum of Understanding between the BLM and the State of Colorado's Energy and Carbon Management Commission (“ECMC”) ensures that all oil and gas leases in the state are required to meet all rules and regulations, regardless of who own ensures a more stringent and consistent regulatory environment for operators.

## **Closure of Areas with Viable Helium Resources**

As stated in the DEIS/ RMPA “Helium is a critical component in many fields, including, but not limited to (BLM 2022f)...Manufacturing...Medical technology...Monitoring...National defense...Science and research... Cooling.”<sup>v</sup> Restricting access to this valuable resource, particularly in a times of heightened demand and limited availability, is highly shortsighted. Mesa County requests that the BLM establish an exemption for helium recovery, irrespective of any assumptions about the Reasonably Foreseeable Development potential for the area.

## **Concerns Regarding Special Management Designations**

### *Areas of Critical Environmental Concern*

It is unclear why all of the ACECs proposed in this RMPA were not designated in the 2015 RMP. If the conditions have not changed, it is likely that the ACECs still do not warrant designation. If conditions have changed, the BLM should conduct a new ACEC Report to ensure the relevance and importance criteria are still valid. Again, BLM needs to utilize the most current, accurate data available in making a decision that will have a large impact on public lands in western Colorado.

While the restrictions imposed on Areas of Critical Environmental Concern (“ACEC”) are not as stringent as those associated with Wilderness Designations or Wilderness Study Areas, they do impose limitations on other activities such as grazing, development, rights-of-way, surface use, timing limitations, or as in this case, the restriction of fluid mineral extraction.

The additional layer of “management” often becomes further restrictive when used as a blanket restriction in range-wide plans. For instance, in the Approved RMPA/Record of Decision for Solar Energy Development in Six Southwestern States, all ACEC’s are exclusion zones along with Special Recreation Management Areas, Extensive Recreation Management Areas, Wilderness Study Areas, etc. Mesa County is opposed to any ACEC impedes valid existing grazing or water rights. Further, given that a substantial portion of Mesa County's acreage within the proposed ACECs is already held by lease, we oppose any amendments or restrictions placed on existing lease rights through the introduction and enforcement of new lease conditions in the form of Conditions of Approval (“COA’s), No Surface Occupancy (“NSO”), etc. for drilling permits.

### *National Wild and Scenic Rivers*

Historically, Mesa County has expressed concerns about adding areas to the National Wild and Scenic Rivers System (“NWSRS”) because, similar to Wilderness Study Areas, these newly designated management areas often remain in an indefinite state of limbo without final Congressional action. Determining eligibility for a stream segment obligates it to be managed to preserve its Outstandingly Remarkable Value (“ORV”), as identified for that segment. These designations should not create unnecessary regulatory burdens or de facto restrictions on the use by Mesa County citizens or adjacent property owners.

Supporting materials do not show that the BLM has assessed the availability of unappropriated water in the proposed stream segments. Many ORVs depend on the continued presence of free-flowing water in these streams. An evaluation of available water and existing water appropriations should be conducted for all segments before making final eligibility determinations. Any ORV that relies on water availability should only be considered valid if the in-stream flows, after deducting appropriations, are sufficient to support the preservation of that ORV indefinitely. Mesa County does not support the acquisition of water rights through exactions, including claims of beneficial use by a federal agency. Furthermore, inclusion in the NWSRS

should not diminish existing water rights or impede access to construct, maintain, or replace important water infrastructure.

Lastly, for stream sections identified as eligible after a water appropriation assessment and remaining open for leasing, it is vital to clarify that an NWSRS designation should not be used to amend or restrict legally established lease rights by imposing new lease conditions.

### *Duplicative Management Designations are Unnecessary*

Mesa County has long been an opponent of duplicative management layers that hinder development, create confusion among lessees and public lands users, and can take years to finalize amendments in multiple land management plans. The GJFO DSEIS/ RMPA identifies both inclusion in the National Wild and Scenic River System (“NWSRS”) and an ACEC for the lower portion of the Dolores River. Mesa County would like clarification on whether the two management designations would create competing control issues. Does one designation offer protections the other does not?

### **Big Game Corridors and Greater and Gunnison Sage-grouse Plan Amendments**

The BLM is currently working on serval plans with variability in definitions and key terms, areas and acres of closures, timing limitations, NSOs, Waivers, Exceptions, and Modifications (“WEMs”), and proposed ACEC’s, etc. The inconsistency among plans creates confusion for land managers and those utilizing BLM lands for work and play. Mesa County firmly believe that the CRVFO and GJFO RMPA’s need to only reference those plans that address individual resource values, rather than creating additional complexity and layers of management within these field office plans. Other BLM plans include:

- Colorado Big Game Corridors Amendment
- Greater Sage-grouse RMPA
- Gunnison Sage-grouse RMPA
- Western Solar RMP/ Programmatic EIS
- Proposed Grazing Regulation Revision (43 CFR Part 4100, exclusive of Alaska) EIS (currently suspended)

Thus, the proposed Glade Park-Pinyon Mesa ACEC, would be better analyzed in the BLM’s Gunnison Sage-Grouse RMP and the Big Game Important Habitat areas would be better analyzed in the BLM’s big Game Corridors RMP. This would eliminate redundancies and the need for future plan updates if habitat management areas change.

### **Federal Land Policy and Management Act’s Multiple Use Mandate**

The GJFO DSEIS/ RMPA’s Preferred Alternative is inconsistent with Federal Land Policy and Management Act (“FLPMA”) by failing to manage for multiple use. Under FLPMA, 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). According to 43 U.S. Code § 1702- Definitions:

*The term “multiple use” means the management of the public lands and their various resource values so that they are utilized **in the combination** that will best meet the present and future needs of the American people...<sup>vi</sup>*

The pursuit of one use does not need to exclude others; as such, it is entirely feasible to manage mineral extraction in a manner that accommodates a range of surface activities, including grazing and outdoor recreation.

Despite statutory and regulatory direction under FLPMA, the BLM proposes unduly burdensome closures from future leasing for oil and gas development. FLPMA emphasizes the importance of public resources to America’s domestic energy supply and contains an express declaration of Congressional policy that 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). These resources need to remain accessible.

### **Takings of Private Ownership (mineral rights, grazing rights, etc.)**

Although not explicitly outlined, it is imperative that the proposed closures in the DSEIS/RMPA do not hinder access to privately owned minerals beneath federal surface lands. Preventing access to these areas could be viewed as a potential infringement on property rights, resulting in a significant loss of the property's economic value or utility without just compensation for the owner. This situation might be interpreted as a "taking" of property rights. Therefore, it is essential for the BLM to meticulously assess the potential legal ramifications and constitutional implications of their land use decisions and to ensure that any proposed restrictions or closures are consistent with well-established legal principles, including the Takings Clause of the Fifth Amendment.

### **Conclusion**

We appreciate your attention to these comments. We firmly believe that significantly limiting access to a valuable resource, particularly given the current high global demand and geopolitical instability, would be detrimental to both the County and the western Slope. Based on the above concerns, Mesa County asks that the BLM formulate an alternative that strikes a more judicious balance between the mandated multi-use of our public lands, which contributes significantly to our local communities, the protection of air, water, and other resources, and the increasing demand for recreational activities. We firmly believe that a balance can be achieved, and it is our belief that Alternatives E and F have yet to strike this crucial equilibrium.

Sincerely,

Janet Rowland  
Mesa County Commissioner

Cody Davis  
Commissioner

Bobbie Daniel  
Commissioner

CC: Mesa County Administration  
Todd Starr, Mesa County Attorney

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<sup>1</sup> Mesa County Federal Mineral Lease District. (n.d.). Past Grant Cycles. Retrieved October 18, 2023, from <https://mesafml.org/past-grant-cycles/>

<sup>2</sup> Englehart, C. (2023, August 20). Economic Diversity: Using the Power of Data to Tell Our Story. Grand Junction Economic Partnership. Originally published in the Grand Junction Daily Sentinel. Retrieved October 18, 2023, from <https://www.gjep.org/blog/economic-diversity-using-the-power-of-data-to-tell-our-story/>

<sup>3</sup> United States Geological Survey. (2016). Assessment of Continuous (Unconventional) Oil and Gas Resources in the Late Cretaceous Mancos Shale of the Piceance Basin, Uinta-Piceance Province, Colorado and Utah. Retrieved October 28, 2023, from <https://pubs.usgs.gov/fs/2016/3030/fs20163030.pdf>

<sup>4</sup> United States Department of the Interior. Bureau of Land Management Draft Resource Management Plan Supplemental Environmental Impact Statement by the Colorado River Valley Field Office and Grand Junction Field Office, dated August 2023. Page 3-14. Retrieved October 6, 2023, from [https://eplanning.blm.gov/public\\_projects/2016085/200525292/20083156/250089338/CRVFO\\_GJFO\\_Draft\\_SEIS\\_2023\\_Aug.pdf](https://eplanning.blm.gov/public_projects/2016085/200525292/20083156/250089338/CRVFO_GJFO_Draft_SEIS_2023_Aug.pdf) [https://eplanning.blm.gov/public\_projects/2016085/200525292/20083156/250089338/CRVFO\_GJFO\_Draft\_SEIS\_2023\_Aug.pdf]

<sup>5</sup> United States Department of the Interior. Bureau of Land Management Draft Resource Management Plan Supplemental Environmental Impact Statement by the Colorado River Valley Field Office and Grand Junction Field Office, dated August 2023. Page 3-103-3-10. Retrieved October 6, 2023, from [https://eplanning.blm.gov/public\\_projects/2016085/200525292/20083156/250089338/CRVFO\\_GJFO\\_Draft\\_SEIS\\_2023\\_Aug.pdf](https://eplanning.blm.gov/public_projects/2016085/200525292/20083156/250089338/CRVFO_GJFO_Draft_SEIS_2023_Aug.pdf) [https://eplanning.blm.gov/public\_projects/2016085/200525292/20083156/250089338/CRVFO\_GJFO\_Draft\_SEIS\_2023\_Aug.pdf]

<sup>6</sup> 43 U.S. Code § 1702(c). (n.d.). Definitions. Cornell Law School. Retrieved October 18, 2023, from <https://www.law.cornell.edu/uscode/text/43/1702#c>