M- these are in chronological order.

Katherine Haase

From: Matthew Birnie
Sent: Friday, June 17, 2011 11:30 AM
To: Katherine Haase
Subject: Roadless Rule, Mine support

(K)

K-

Please gather up any correspondence from the Board regarding the Colorado Roadless Rule or supporting the coal mines in leasing permitting, or any other process.

Thanks,

Matthew

From: Matthew Birnie
Sent: Friday, June 17, 2011 11:26 AM
To: Mike Pelletier
Subject: RE: RE: RMBL comments on CO roadless

So, we will need to prepare comments. I will gather up whatever we have sent previously.

From: Mike Pelletier
Sent: Friday, June 17, 2011 11:04 AM
To: Matthew Birnie
Subject: RE: RMBL comments on CO roadless

Hi Matthew,

Just talked with John Murphy and here's the link to the Proposed Colorado Roadless Rule EIS.

John said comments are due July 14th and that this is more about land designation than travel management in that it doesn't close existing roads but rather impacts future use of land. He didn't see how it would affect RMBL but did say that it does effect the mines ability to access coal (venting issue) and thus how much longer they will be in business at their locations.

Mike

-----Original Message-----
From: Matthew Birnie
Sent: Thursday, June 16, 2011 4:45 PM
To: director@rmbl.org
Cc: Mike Pelletier
Subject: RE: RMBL comments on CO roadless

Thanks Ian,

I have forwarded your comments to Mike Pelletier who coordinates the County's responses to federal processes.

Matthew

-----Original Message-----
From: Ian Billick [mailto:ibillick@gmail.com]
Sent: Tuesday, June 14, 2011 1:52 PM
To: Matthew Birnie
Subject: RMBL comments on CO roadless

Matthew-

I don't know if the commissioners will be submitting comments on the proposed colorado roadless regulations. I have attached a copy of our comments; if there is an appropriate conversation by the BOCC I would appreciate having them brought forward. If there is someone else I should send such comments to, just let me know. Thanks-

--
Ian Billick
Executive Director
RMBL
PO 519, Crested Butte, CO 81224
970 349 6669

RESOLUTION OF THE BOARD OF COMMISSIONERS
OF GUNNISION COUNTY, COLORADO

RESOLUTION NO. 26, SERIES 1997
APPROVING A PLAN FOR NEW HAUL ROAD, SEDIMENTATION POND
AND COAL REFUSE PILE

WHEREAS, Oxbow Carbon and Minerals, represented by Thomas Anderson, have submitted an application to establish a new coal refuse disposal facility, sedimentation pond, and haul road, all of which will be located to the west of the existing primary surface facilities of the Oxbow Mine which is located in Section 8, T13S, R90W, 6th p.m., and adjacent to Somerset as shown on Exhibit A; and,

WHEREAS, review and consideration of this application is based on all materials contained in the submittal application file held by the Gunnison County Planning Department; and,

WHEREAS, the proposed refuse disposal facility is to be located within an ephemeral drainage approximately 0.25 miles west of existing surface facilities and will have a capacity to serve the mine for approximately 24 years; and,

WHEREAS, the proposed haul road will be used for access to the refuse disposal area as well as provide public access to the Somerset Cemetery; and,

WHEREAS, engineer details of the haul road and refuse pile and sedimentation pond plans were established by WESTEC (Drawings: 95255 1-4) and those designs were evaluated by Lincoln DeVore Inc. who in a letter dated February 5, 1997 made certain proposed design changes that will be incorporated by Oxbow; and,

WHEREAS, the location of these new facilities are warranted because there is no other appropriate location within the permitted boundary that would afford efficient transportation and storage of reuse material or allow post mining reclamation; and,

WHEREAS, continued public access the Somerset cemetery will be maintained during the coal refuse pile and haul road construction and thereafter, the general public will be allowed on the new haul road to the cemetery; and,

WHEREAS, the new haul road will pose fewer hazards to the public than the existing access to the cemetery; and,

WHEREAS, these new facilities will not change the existing operation in terms of number of employees, number of vehicles, or surface activities except during the construction period; and,

WHEREAS, there are no conflicts with the County Land Use Policies or Design Guidelines as defined in the Gunnison County Land Use Resolution; and,

WHEREAS, the Gunnison County Planning Commission has reviewed the said plan and, at their regular meeting of March 7, 1997 recommended approval of this application with certain conditions; and,

WHEREAS, the Board of County Commissioners have reviewed the Planning Commission recommendation, and duly considered all material submitted by the applicant relative to this plan, and found those recommendation conditions to be reasonable;

NOW, THEREFORE, the Board of County Commissioners of Gunnison County hereby resolve that LUC 1996-055 be Classified as a Minor Impact and be approved with the following conditions:

1) The construction of these facilities shall not commence until appropriate permits have been issued by the Colorado Division of Minerals and Geology, Army Corps of Engineers and any other related permitting agencies.

2) The public will be allowed access to the Somerset Cemetery both during the construction phase of these proposed projects and thereafter for the life of the mining operation.

3) Maintenance of the new Cemetery access haul road and related parking site, will be provided by Oxbow Carbon & Minerals during the life of the mine.

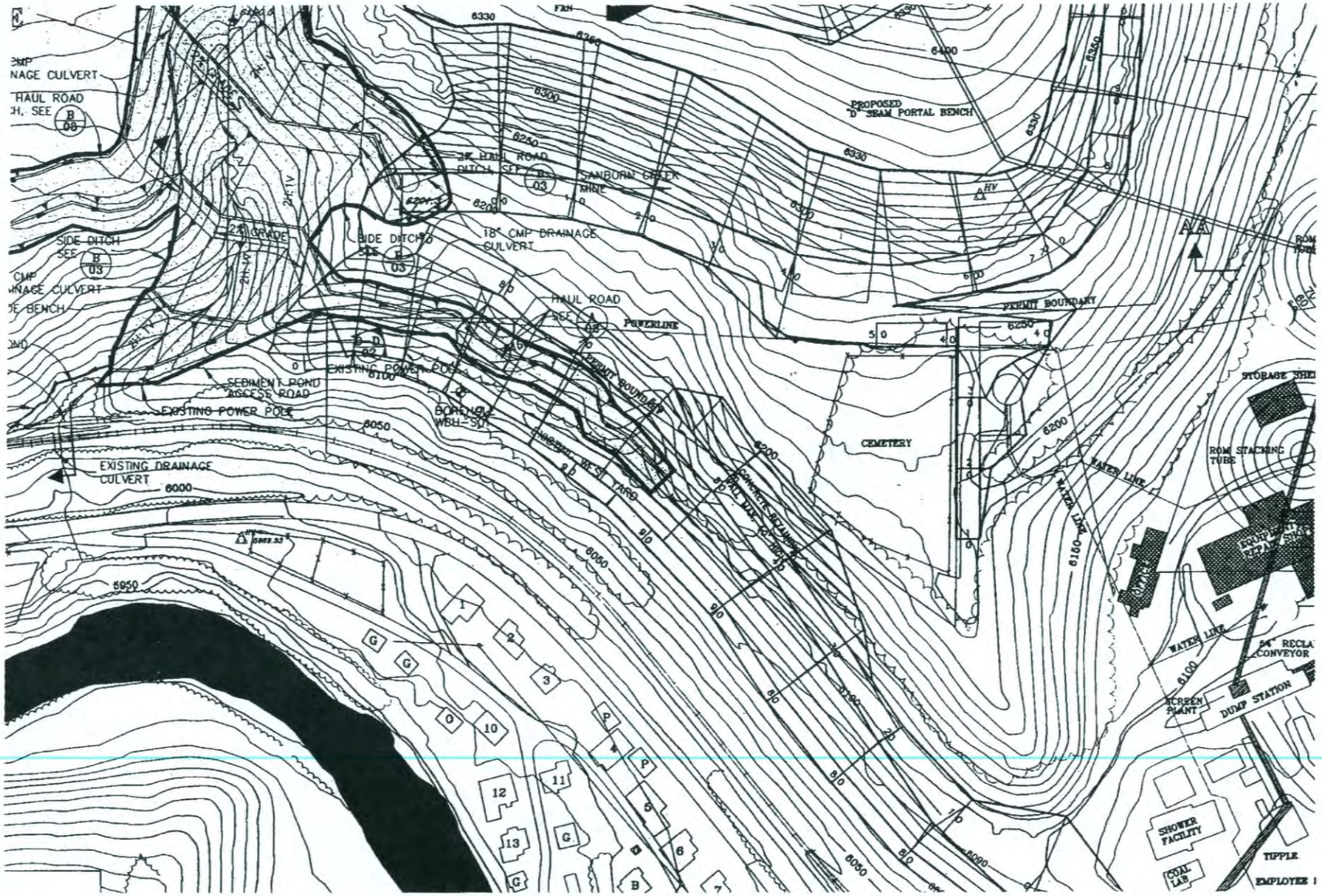
MOTION TO APPROVE made by Commissioner Field, seconded by Commissioner, Santarelli and passed this 18th day of March 1997.

1st Fred Field
Chairperson,
Board of Commissioners
Gunnison County

ATTEST:

Darren Rentuge
Clerk and Recorder of Gunnison County

Exhibit A


PROPOSED
'D' SEAM PORTAL BENCH
HAUL ROAD
SANBORN CREEK
18" CMP DRAINAGE
CULVERT
SIDE DITCH
SEE B 03
HAUL ROAD
POWERLINE
PERMIT BOUNDARY
CEMETERY
SEDIMENT POND
ACCESS ROAD
EXISTING POWER POLE
EXISTING DRAINAGE
CULVERT
BOREHOLE
WBH-501
WATER LINE
ROM STACKING
TUBE
STORAGE SHED
SCREEN
PLANT
DUMP STATION
SHOWER
FACILITY
COAL
LAB
TIPPLE
EMPLOYEE

The Gunnison County Board of Commissioners conducted a regular meeting on Tuesday, April 1, 1997 in the Commissioners Public Meeting Room in the Gunnison County Courthouse, 200 East Virginia, Gunnison, Colorado.

Those Present:

Fred R. Field, Chairperson
R.A. Santarelli, Vice-Chairperson
Marlene Zanetell, Commissioner
John DeVore, County Manager
David Baumgarten, County Attorney
Kelly Balch, Secretary to the Board

CALL TO ORDER: The April 1, 1997 meeting was called to order at 8:05 a.m. by Chairperson Field. He said that he would be leaving today's meeting by 10:30 a.m. due to a doctor's appointment in Denver. The agenda was amended, posted, and distributed to the press.

MINUTES APPROVAL: **Moved** by Commissioner Santarelli, seconded by Commissioner Zanetell to approve the March 18, 1997 minutes as corrected. Motion passed unanimously.

COMMISSIONER COMMENTS: There was discussion about Buckhorn Ranch and how to proceed. County Manager DeVore said that staff will be meeting soon to discuss the issues, and then a worksession will be held with the Board.

Regarding the Arts Center EIA grant, County Manager DeVore has discussed the grant with Tim Sarmo of the Department of Local Affairs. The options available are to request an extension of award of the grant until all funds are committed, or to re-apply in 1998. This is on the agenda for later today.

WORKSESSION: A Board worksession was scheduled for April 22 from 8 a.m. to 1 p.m. to discuss various issues.

OXBOW MINE LAND USE CHANGE APPLICATION: Planning Director Joanne Williams and Assistant Planner Steve Westbay were present, as were Walt Wright and Tom Anderson of Oxbow Carbon and Minerals, Inc. to discuss the classification of their land use change application for improvements at the Sanborn Creek Mine in Somerset. The Planning Commission unanimously recommend that this application be reviewed under the County Land Use Resolution, rather than through the Special Development Regulations.

Mr. Anderson said that the purpose of this project is to implement long-wall mining. As a result of the higher production rate of mining the long wall, several changes are necessary in operations to handle the coal. He displayed a map and summarized the proposed mine improvements. There was also discussion regarding weed control, water, and wastewater issues.

Moved by Commissioner Santarelli, seconded by Commissioner Zanetell that the Board accept the recommendation of the Planning Commission and find that the proposed project by Oxbow Carbon and Minerals not be a Special Development Project under the Gunnison County Special Development Project Regulations, and that this is a land use change pursuant to the Gunnison County Land Use Resolution. Motion passed unanimously.

Commissioner Zanetell stated her concern with how this application and the previous one approved on March 18 were done separately. She asked that the public in Somerset and Delta County be involved in meetings regarding Oxbow's proposal. It is staff's recommendation to do so.

JOB SERVICE UPDATE: Don Golladay of the Montrose Job Service Center, and Maxine Maestas of the Cortez Job Service Center, updated the Board on Job Service Center operations in this region. They summarized the type of services offered, as well as departmental goals and procedures designed to increase job placement. Commissioner approval is being requested for the 1997 Job Service Plan.

The Board came out of executive session at 1:55 p.m. Chairperson Field reported that discussion was held regarding the contract for purchase of land at the Airport, as well as discussion regarding the Brush Creek Airport LLC (Buckhorn Ranch) lawsuit.

OXBOW MINE LAND USE CHANGE: County Planner Neal Starkebaum was present, along with Oxbow Mining Inc. representatives Walter Wright and Tom Anderson, for consideration of a land use change request for new mining facilities at the Elk Creek Mine, and related surface facilities. The Planning Commission unanimously recommended approval of this Minor Impact Recommendation on January 14, 2000.

Neal Starkebaum stated that the request is for Oxbow Mine to move operations from the Sanborn Creek area into the Elk Creek drainage to recover existing coal reserves in that location. A map of the permitted area was displayed. Planning Commission held a public hearing in Somerset on September 17, 1999, regarding this proposal. At that time the Planning Commission also took an underground tour of the Sanborn Creek mine. This land use change will not increase Oxbow Mining's overall coal production; the total project expenditure is 9.8 million dollars; and employment will not increase above the approximate 195 FTE and therefore will not increase the area population. Required state and federal permits have either been obtained, or are pending approval.

Commissioner Zanetell noted that Oxbow Mining is approved for up to 4 million tons per year, and asked what actual production is at this time. Walter Wright stated that production was down in 1999 due to a fire, but this year's projections are for 3.2 million tons. They do not anticipate reaching the 4 million ton mark until the move into the Elk Creek Mine is complete. Commissioner Zanetell asked if Oxbow Mining would request approval for additional production if it is determined that the mine can produce it. Mr. Wright responded that he would not preclude that, but their long-term goal remains 4 million tons per year.

Commissioner Zanetell stated concern with keeping dust and particulates under control, and whether the fugitive emission permit is current. Tom Anderson stated that they have been issued an initial State permit for new construction. Walter Wright added that they do have that permitting for the Sanborn Creek mine. Neal Starkebaum stated that the State Air Quality Control Commission reports that Oxbow Mining is in complete compliance with fugitive dust permits and ambient air quality standards. The mine has plans for chip sealing certain roadways this year, in order to reduce the off-site tracking of dust. Magnesium or Calcium Chloride is also used on the haul roads. Commissioner Zanetell requested that previous Board approved conditions regarding air quality, tarping, etc. at this mine be referenced in this land use approval.

Neal Starkebaum continued review of the Planning Commission's Recommendation. Colorado Division of Wildlife stated no outstanding concerns with this proposal. A private consultant was hired by Oxbow to verify compliance with statutory noise level requirements; only the trains were determined to be out of compliance.

Commissioner Zanetell stated concern with deterioration of water quality in the North Fork of the Gunnison River. Discussion followed regarding discharge points from the current mine into the North Fork, future mine discharge into Elk Creek, and compliance with state water quality standards. According to Tom Anderson, the current discharge from the Sanborn Creek mine into the North Fork averages 200 gallons per minute, which is minimal compared to flows in the North Fork. They do not yet know what amount will be discharged at the new mine. Chairperson Field feels that the gallonage being discussed is minimal.

Neal Starkebaum mentioned the need for a new wastewater treatment system in Somerset, and asked if Oxbow Mining would consider participating in that in some manner. Walter Wright stated that he feels an arrangement could be made if land on Oxbow Mining's property is found to be appropriate for a system. County Manager DeVore discussed issues associated with and options to resolve wastewater concerns in the Somerset area. Walter Wright again stated that use of Oxbow property would not be a problem.

Commissioner Starr suggested language amendments to this land use change, according to discussion today.

Moved by Commissioner Starr, seconded by Commissioner Zanetell to approve as a Minor Impact classification the Elk Creek Mine and related surface facilities presented by the Oxbow Mining Inc., and adopt its land use change #1999-38, including the findings and recommendations of the Planning Commission report dated January 14, 2000. Add the amendment that condition #1 shall be expanded by including the sentence which reads, "This application shall be conditioned upon continued compliance with the permits identified above." And that a new condition #5 be added which reads, "All conditions previously placed on the applicant dealing with protection of air and water quality shall continue to be in full force and effect as a condition of this approval." Motion passed unanimously.

Moved by Commissioner Starr, seconded by Commissioner Zanetell to direct staff to draft a resolution memorializing our approval of this application. Motion passed unanimously.

TRAPPERS CROSSING AT WILDCAT: Attorney Bob Wright, on behalf of Trappers Crossing Ltd., was present to request the release/substitution of security for road and development improvements agreements for Trappers Crossing at Wildcat. Attorney David Leinsdorf was present on behalf of the Trappers Crossing Homeowners Association, to protest release of security. County Attorney Baumgarten summarized the improvements agreements and security obtained by Gunnison County in the form of land. He said that a large portion of the work has been completed on the ground, however, the required engineer's certification has not been received. The developer has provided a status report from the engineer and the Public Works Department has done a site visit. It appears that some work remains to be done; however, it is a substantially smaller portion than what was originally necessary. Mr. Baumgarten suggested that the Board consider allowing the substitution of collateral, but that the amount of security remain close to the originally secured portion, until an engineer's certification is received and reviewed.

Bob Wright stated that the developer is willing to leave security in place, but requests that they be allowed to substitute cash security in place of the land. He said that they are negotiating with the homeowners association regarding some of the concerns they have raised regarding the roads. Although he feels that the remaining work will cost less than $60,000, they are willing to substitute collateral in the amount of $900,000. David Leinsdorf responded that the homeowners association has several remaining issues, and he does not know what their position would be regarding substituting collateral.

Commissioner Starr discussed the Baxter Gulch trail which may cross a portion of the property which the County has held for security, and asked if releasing security on that property could somehow affect the County's leverage on future usage. County Attorney Baumgarten said he feels there is no legitimate connection between the County's security on the Trappers Crossing land and the separate issue of maintaining public accessibility to that trail. The security is specifically in place to ensure compliance with the improvements agreements. He said that the County has focused on getting the Forest Service to make Trappers Crossing good on its warranty regarding that public access, and the Forest Service has said they are willing to do so.

County Attorney Baumgarten suggested that the Board approve the chairperson's signature on two releases of deed of trust (Book 710, Page 455 and Book 791 Page 724) for the land secured in the improvements agreements, and also execute the signature of the chairperson on the escrow instructions to Gunnison County Abstract for $900,000. Mr. Baumgarten will hold both the escrow instructions and release of deeds until the funds have been received by the Abstract Company. This action will substitute cash for the original collateral, until an engineer's certification has been received and reviewed.

Moved by Commissioner Starr, seconded by Commissioner Zanetell to authorize execution of the two referenced releases of deed of trust, with the final wording of those documents being as approved by the County Attorney, and execution of the escrow instructions with Gunnison County Abstract for the escrow of $900,000 as replacement security for the releases. Motion passed unanimously.

SKYLAND FILING 3 LAND USE CHANGE: Planning Director Joanne Williams was present, along with applicant Lou Costello and attorney Mike Dawson, regarding the

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO 31 SERIES 2000

A RESOLUTION APPROVING LAND USE CHANGE APPLICATION NO. 1999-62
A LAND USE CHANGE PERMIT FOR MOUNTAIN COAL COMPANY LLC
ELK CREEK MINE

WHEREAS, Mountain Coal Company, LLC has applied for a land use change permit to establish new mining facilities located at the West Elk Mine, in the Sylvester Creek drainage, including new mine portals and related surface facilities, including all exhibits, references and documents contained within the Planning Department file application; and

WHEREAS, after a review of the application and all information, documentation and testimony related to it, the Gunnison County Planning Commission did on June 2, 2000 forward a Recommendation of approval of that application to the Board of Commissioners with certain findings and conditions; and

WHEREAS, the Board of Commissioners did, on June 20, 2000 receive and review the information within the Commission's Recommendation, and considered it in evaluating this application and is hereby approved, by the adoption in full of the Planning Commission's June 2, 2000 Recommendation, which is attached as "Exhibit A", as a development of Minor Impact, with the following conditions:

1. The construction and use of these facilities shall not commence until all appropriate permits have been issued by the Colorado Division of Minerals and Geology, Colorado Department of Public Health & Environment, Colorado Air Quality Control Commission, Army Corps of Engineers and any other applicable regulatory agency. Prior to commencement of construction, copies of all final permits shall be submitted to the County Planning Department.

2. This permit is limited to activities described within the "Project Description" of this application. Expansion or change of this use will require either an application for amendment of this permit, or submittal of an application for a new permit, in compliance with applicable requirements of the *Gunnison County Land Use Resolution.*

3. This permit may be revoked or suspended if Gunnison County determines that any material fact set forth herein or represented by the applicant was false or misleading, or that the applicant failed to disclose facts necessary to make any such fact not misleading.

4. The removal or material alteration of any physical feature of the property (geological, topographical or vegetative) relied on herein to mitigate a possible conflict shall require a new or amended land use change permit.

5. Approval of this permit is not effective until the Board of County Commissioner's Resolution is recorded with the Gunnison County Clerk and Recorder.

6. Any increase in coal production above 8.2 million tons per year, of clean coal, within a 12 - month period, as measured by the Colorado Department of Public Health and Environment,

would be considered a Land Use Change and will require a new Land Use Change application and permit from Gunnison County; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that Land Use Change application No. 1999-62 is hereby approved as a development of Minor Impact, by the adoption in full of the Planning Commission's June 2, 2000 recommendation; and

THIS APPROVAL is effected noting that decision documentation includes, but is not limited to the application and the entire Planning Department land use change permit file relative to this application; and

THIS RESOLUTION AND THE APPROVAL GRANTED HEREBY shall not be effective unless and until a copy is recorded in the Office of the Clerk and Recorder of Gunnison County.

INTRODUCED by Commissioner Starr, seconded by Commissioner Zanetell and passed on this 20th day of June, 2000.

BOARD OF COUNTY COMMISSIONERS

Fred R. Field	Marlene Zanetell	Jim Starr
Chairperson	Commissioner	Commissioner

ATTEST:

Kelly Balch, Deputy

Gunnison County Clerk and Recorder

GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061
September 6, 2001

USDA-Forest Service – CAT
Attention: Roadless ANPR Comments
P.O. Box 221090
Salt Lake City, UT 84122

Via electronic mail: roadless_anpr@fs.fed.us

Dear Docket,

Gunnison County would like to take this opportunity to provide comments on the Advance Notice of Proposed Rulemaking on the Roadless Area issue. The land area of Gunnison County includes 86% public lands of which a significant portion is currently designated as either wilderness or roadless. Although we highly value our wilderness and roadless areas, as they to play an important role in our economic well being, the proposed rulemaking needs to identify a careful mechanism to support present operations like the existing coal mines which are particularly impacted by this rulemaking.

Background

Coal has been produced from the southern part of the Piceance Basin, including the northwestern corner of Gunnison County, since the late 1800's, with more than 100 mines having operated at various times along the margin of the Basin. In fact, the signs at the entrance to the town of Somerset, Colorado commemorate that fact by stating "Coal Mining Town since 1896". From 1977 to 1997, 31 mines produced 94,244,000 short tons of coal in the southern part of the Piceance Basin. Of this amount, nearly 40% was produced in Gunnison County from the Somerset and Sanborn Creek Mines operated by Oxbow Mining, Inc., and the West Elk Mine operated by Mountain Coal Company (a subsidiary of Arch Coal, Inc.). Currently, only three of these mines remain in production, two of which are the Sanborn Creek and West Elk Mines located in Gunnison County. These two mines produce 35-40% of all produced in the State of Colorado, and the North Fork Valley is considered the premier coal-mining region in the State of Colorado

Both the West Elk and Sanborn Creek Mines have been in operation for many years. As a result, the necessary investment in infrastructure to support underground coal mining is in place. This infrastructure includes mining equipment, surface coal handling and support facilities, rail service, etc. Allowing acquisition and expansion of operations into additional private or federal coal reserves, and utilizing the infrastructure that is already in place will minimize the surface disturbances required for these operations. Oxbow Mining Company's new Elk Creek Mine, currently under construction just to the north of the current Sanborn Creek Mine facilities, is a prime example. Allowing such acquisition and expansion will extend the lives of the existing operations, thereby preserving more than 500 high paying jobs, as well as significant tax and royalty revenues to the county, state and federal governments.

Both the West Elk and Sanborn Creek mines have operators who are good corporate citizens of Gunnison County. They operate the facilities within the confines of existing Federal, State and County regulations. The current regulations require that any road construction or road improvements be reclaimed after there use is no longer warranted.

These mines are among the top taxpayers in Gunnison County (the West Elk Mine is the #1 payer and the Sanborn Creek Mine is currently #3). Without access to coal reserves, the future of these mines is foreclosed, and Gunnison County will be significantly impacted.

Gunnison County would like to take this opportunity to specifically address several questions posed in the Advance Notice of Proposed Rulemaking.

1. Informed Decisionmaking. What is the appropriate role of local forest planning as required by NFMA in evaluating protection and management of inventoried roadless areas?

The Forest Service should provide a process by which consideration could be given for the boundary of the Roadless Area to be modified to meet current conditions. In this instance, the boundary (which is derived from the 1979 RARE II Final Environmental Impact Statement) includes lands that are roaded and have been managed as such for many years.

Discussion of these areas in the Forest Management Planning process is certainly appropriate. Unfortunately, this planning process can take four to six years. In many instances this time frame may be satisfactory, but in the case of the coal mines in Gunnison County the enjoined rule is already impacting the daily operations of the coal mines. There also needs to be a more immediate solution to this problem between now and the time the revised forest management plan is completed.

6. Describing Values. What are the characteristics, environmental values, social and economic considerations, and other factors the Forest Service should consider as it evaluates inventoried roadless areas?

The Forest Service should clearly consider the impacts to rural communities. This impact assessment should include a review of current road conditions within the proposed boundary.

Thank you for the opportunity to provide these comments on the Advance Notice of Proposed Rulemaking.

Sincerely,

Fred Field,
Chairperson

Jim Starr,
Commissioner

Perry Anderson,
Commissioner

cc Senator Wayne Allard
Representative Scott McInnis

COURTHOUSE SQUARE • 200 EAST VIRGINIA • GUNNISON, COLORADO 81230

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY
RESOLUTION NO. 2002-01

A RESOLUTION IDENTIFYING THE PROPOSED NORTH FORK VALLEY ENERGY RESOURCES SPECIAL AREA

WHEREAS, energy production in the North Ford Valley of Gunnison County (the "County") has been a traditional land use for over one hundred years and a significant amount of infrastructure including mining equipment, surface handling and support facilities, and rail service is in place; and,

WHEREAS, the North Fork Valley is considered the premier coal mining region in the State of Colorado because it produces very high BTU, low sulfur coal which is in great demand across the United States; and,

WHEREAS, the North Fork Valley contains methane that must be properly vented to conduct safe mining operations and this coal bed methane may have commercial development potential; and,

WHEREAS, the United States Department of the Interior has designated most of the North Fork Valley as a Known Recoverable Coal Resource Area based on a determination of the existence of workable coal with potential for development in commercial quantities; and,

WHEREAS, the Gunnison County Land Use Resolution establishes, at Section 1-110, Process For Designating Special Areas, "...a process by which the County may designate particular geographical areas, basins or other land areas as being subject to specialized land use regulations."; and,

WHEREAS, energy producers in the North Fork Valley are among the County's largest taxpayers and loss or reduction of such revenue would have a significant negative impact on the County's ability to provide essential services to County residents; and,

WHEREAS, the County adopted a new land use resolution (the "Land Use Resolution") on January 8, 2001; and,

WHEREAS, it was not the intention to establish extensive permitting and review requirements for energy producing operations in the North Fork Valley through the Land Use Resolution; and,

WHEREAS, it was not the intent of the Land Use Resolution to impose serious restraints on the continuing energy production operations in the North Fork Valley; to make further expansion of such energy production activities or more efficient use of the mineral and oil and gas resources of the area commercially unviable; to impede needed safety improvements for continued safe operations; or to impede the development of coalbed methane resources and associated power generation within the County; and,

WHEREAS, coal production operations in the North Fork Valley are heavily regulated by both the State of Colorado and the federal government; and,

WHEREAS, the Section 1-110 of the Land Use Resolution allows the Board of County Commissioners to designate special areas where particular areas are subject to specialized land use regulations; and

WHEREAS, the Board of County Commissioners has determined that the North Fork Valley is an appropriate place for a special use area because of the unique nature of the energy resources in the area, the history of energy production in the area, the positive contribution of energy production in the North Fork Valley to the County, and the fact that coal mining and oil and gas operations are heavily regulated by the State;

NOW THEREFORE, BE IT RESOLVED that the area designated on the attached Exhibit A be and hereby is proposed by the Board of County Commissioners for designation as the North Fork Valley Energy Resources Special Area (the "Special Area") in accordance with Section 1-110 of the Land Use Resolution; and,

FURTHER BE IT RESOLVED, that the Planning Director be and hereby is directed to prepare a map, report, proposed regulations for the Special Area, and any proposed amendments to the Land Use Resolution in accordance with Section 1-110 of the Land Use Resolution, and shall provide such map, report, proposed regulations, and proposed amendments to the Land Use Resolution to the Planning Commission and the Board of County Commissioners.

INTRODUCED by Commissioner Anderson, seconded by Commissioner Starr, and passed this 8th day of January, 2002.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

Fred R. Field

Fred R. Field, Chairperson

Jim Starr

Jim Starr, Commissioner

Perry Anderson

Perry Anderson, Commissioner

ATTEST

Kelly Balch, Deputy Clerk

Gunnison County Clerk and Recorder

EXHIBIT A

PROPOSED BOUNDARIES
OF THE
NORTH FORK VALLEY ENERGY RESOURCES SPECIAL AREA

The following-described lands to the extend located in Gunnison County, Colorado and only insofar as such lands are not located in the West Elk Wilderness Area:

T12S; R89W
Section: 5, 6, 7, 8, 17, 18, 19,
20, 29, 30, 31 and 32;

T13S; R89W
Sections: 5, 6, 7, 8, 9, 16, 17, 18, 19,
20, 21, 28, 29, 30, 31, 32 and 33;

T14S; R89W
Sections: 3-9, inclusive,

T12S; R90W
Sections: All;

T13S; R90W
Sections: All;

T14S; R90W
Sections: 1- 23, inclusive,
and 26, 27, 28, 29 and 30;

T12S; R91W
Sections: 1, 12, 13, 24, 25 and 36;

T13S; R91W
Sections: 1, 12, 13, 24, 25 and 36.

GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

March 28, 2002

Susan Spear
District Ranger
U.S. Forest Service
P.O. Box 1030
Paonia, Colorado 81428

Dear Ms. Spear:

This correspondence is in response to the February 2002 Environmental Assessment regarding the "Coal Methane Drainage Project Panels 16-24 Mountain Coal Company – West Elk Mine". We have reviewed the EA and endorse the preferred alternative. We recognize and understand the concern regarding the proposed construction in this sensitive area. However the West Elk Mine has a good track record regarding environmental issues. This facility is important to the economy of Gunnison County, and is also an important energy producer of cleaner burning coal than produced elsewhere in the nation.

We are in hopes that this EA will result in the issuance of the FONSI. As you know time is of the essence in terms of preventing any disruptions in the operation of the West Elk Coal mine.

Please don't hesitate to contact our office if you have any questions regarding this matter.

Sincerely,

Fred Field,
Chairperson

Jim Starr,
Commissioner

Perry Anderson
Commissioner

cc Delta Board of County Commissioners

537166
Page: 1 of 26
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BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 03-63

A RESOLUTION CORRECTING THE ATTACHMENT TO GUNNISON COUNTY RESOLUTION NO. 03-62, A RESOLUTION DESIGNATING THE NORTH FORK VALLEY COAL RESOURCE SPECIAL AREA AND ADOPTING THE COAL RESOURCE SPECIAL AREA COAL MINING REGULATIONS

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado previously adopted Gunnison County Resolution No. 03-62, A Resolution Designating the North Fork Valley Coal Resource Special Area and Adopting the Coal Resource Special Area Coal Mining Regulations (hereinafter "Resolution 03-62"); and

WHEREAS, the Resolution 03-62 which was recorded in the records of the Clerk and Recorder of Gunnison County, Colorado at reception number 536918 inadvertently contained the wrong document as an attachment (a document identified as "Draft BOCC changes - November 18, 2003); and

WHEREAS, the Board desires to correct that error;

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY that: Resolution 03-62 is corrected by the full deletion of the erroneous document (i.e. the document identified as "Draft BOCC Changes - November 18, 2003") with its Appendix and its replacement in full by the document attached hereto and incorporated herein (i.e. the document identified as "North Fork Valley Coal Resource Special Area Regulations - November 18, 2003" with its appendices A and B.)

Introduced by Commissioner Anderson, seconded by Commissioner Starr, and passed this 24th day of November, 2003.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By _____
Fred Field, Chairperson

By _____
Jim Starr, Commissioner

By _____
Perry Anderson, Commissioner

GUNNISON COUNTY SEAL COLORADO

Attest: Kelly Balch
Deputy County Clerk

NORTH FORK VALLEY COAL RESOURCE SPECIAL AREA

DIVISION 1: DESIGNATION

SECTION 1-101: SPECIAL GEOGRAPHIC AREA DESIGNATION.

The North Fork Valley Coal Resource Special Area (the "Coal Resource Special Area") has been designated by Gunnison County pursuant to Section 1-110 of the Gunnison County Land Use Resolution as a Special Geographic Area and is more fully described in Appendix A.

DIVISION 2: NORTH FORK VALLEY COAL RESOURCE SPECIAL AREA COAL MINING REGULATIONS.

SECTION 1-201: PURPOSE OF COAL RESOURCE SPECIAL AREA COAL MINING REGULATIONS.

The general purpose of the Coal Resource Special Area Coal Mining Regulations ("Regulations") is to recognize the unique importance of coal mining within the Coal Resource Special Area. Gunnison County recognizes that:

1. Coal is a resource valuable to the United States, Colorado and Gunnison County that deserves to extracted and put to use;

2. Extraction of that resource causes impacts;

3. Extraction of that resource is heavily regulated by the federal and state governments; and

4. Gunnison County has a legitimate role in reasonably regulating the extraction of that resource.

In addition, the purposes of these Regulations are as follows:

A. **ENHANCE ABILITY TO MEET ENERGY NEEDS.** To enhance the ability of existing Coal Mining Operations within the Coal Resource Special Area to meet the energy needs of our region, state and country.

B. **SIMPLIFY THE REGULATORY REVIEW PROCESS.** To exempt existing Coal Mining Operations from permit requirements and to provide a simplified and expedited regulatory review process that does not duplicate state or federal processes for the responsible expansion and enlargement of Coal Mining Operations within the Coal Resource Special Area.

C. **PROTECT THE ENVIRONMENT; PUBLIC HEALTH, SAFETY AND WELFARE; PUBLIC SERVICES, FACILITIES AND PROPERTY.** To avoid or mitigate potential impacts to the environment, public services and facilities, property and public safety that are not addressed by other state or federal regulatory agencies with jurisdiction over Coal Mining Operations within the Coal Resource Special Area.

SECTION 1-202: ENFORCEMENT OF STATE AND FEDERAL PERMIT PROVISIONS.

Nothing in these Regulations shall be construed as authorizing Gunnison County to enforce compliance with state and federal environmental or land use law or regulation or permit requirement or conditions. However, Gunnison County reserves the right to seek enforcement of same.

SECTION 1-203: APPLICABILITY OF THESE REGULATIONS.

A. **APPLICABLE TO COAL MINING OPERATIONS IN COAL RESOURCE SPECIAL AREA.** These Regulations shall apply to Coal Mining Operations within the North Fork Valley Coal Resource Special Area described in Appendix A.

B. **RELATIONSHIP TO GUNNISON COUNTY LAND USE RESOLUTION.**

1. **COAL MINING WITHIN COAL RESOURCE SPECIAL AREA.** No provision of the Gunnison County Land Use Resolution shall apply to Coal Mining Operations within the Coal Resource Special Area unless otherwise specified herein.

2. **COAL MINING OUTSIDE COAL RESOURCE SPECIAL AREA.** All provisions of the Gunnison County Land Use Resolution shall apply to Coal Mining Operations outside the Coal Resource Special Area.

C. **EXEMPTION FROM COAL RESOURCE SPECIAL AREA PERMIT REQUIREMENTS AND STANDARDS.**

1. **EXISTING COAL MINING OPERATIONS.** Existing Coal Mining Operations within the Coal Resource Special Area that register with the County under Section 1-205 of these Regulations are exempt from the requirement to obtain a Coal Mining Permit under Section 1-207, the Standards

under Section 1-208 and the Financial Security under Section 1-209.

2. **METHANE VENTING INTEGRAL AND ESSENTIAL TO COAL RESOURCE SPECIAL AREA COAL MINING OPERATION.** Coal mine methane venting and all infrastructure associated therewith from a mine that is in compliance with these Regulations and that is an integral and essential component of the coal mining operation shall not be subject to these Regulations or any other County regulations otherwise applicable to oil and gas drilling and production.

3. **EXPLORATION.** Coal exploration and all infrastructure associated therewith conducted under the grant of a federal coal lease or federal exploration permit, license or notice of intent to explore or written approval to explore, to confirm or establish coal reserves within the Coal Resources Special Area associated with Coal Mining Operations described in Section 1-203 C. 1. is exempt from the requirement to obtain a Coal Mining Permit under Section 1-207, the Standards under Section 1-208 and the Financial Security under Section 1-209.

4. **DECLARATORY RULING REGARDING EXEMPTIONS.**

   a. **DECLARATION REQUEST**. Any coal operator may submit a written request to the Board of County Commissioners for a declaratory ruling as to whether proposed Coal Mining Operations of that Coal Operator fall within an exemption from these Regulations. A copy of the request shall also be submitted to the Planning Director.

   b. **CONTENT OF REQUEST.** The request for declaratory ruling shall include a brief explanation of the proposed activity and the reasons why the proposed activity falls within an exemption under these Regulations.

   c. **BOARD CONSIDERATION.** The Board shall consider the request for a declaratory ruling within 30 days of the date of the next regularly scheduled meeting of the Board. The person requesting the exemption may present information at the meeting.

d. **DECLARATION OF EXEMPTION**. If the Board determines that the proposed Coal Mining Operations are exempt from these Regulations, it shall issue a declaration of exemption and no further review or approvals shall be required from the County for the extent of Coal Mining Operations described in the declaration of exemption.

SECTION 1-204: COMPLIANCE WITH SPECIAL AREA COAL MINING REGULATIONS.

No person shall engage in Coal Mining Operations within the Coal Resource Special Area except in compliance with these Regulations.

SECTION 1-205: REGISTRATION OF EXISTING COAL MINING OPERATIONS.

A. **REGISTRATION.** Within sixty (60) days of the effective date of these Regulations, each coal operator within the Coal Resource Special Area shall submit a *Registration of Existing Coal Mining Operations* to the Planning Director. The *Registration of Existing Coal Mining Operations* shall include the following information:

1. **NAME AND ADDRESS OF OPERATOR.** The name and address of the operator.

2. **NARRATIVE.** A written description, together with a map describing the nature, extent and location of all current, authorized and approved Coal Mining Operations, including the location of facilities, the number of employees, lease boundaries and permit boundaries approved pursuant to the Coal Rules and the State Coal Permit.

3. **PERMITS AND APPROVALS.** A list of all principal operating permits, including the State Coal Permit.

B. **FINDING OF REGISTRATION COMPLETENESS.** Within thirty (30) days of receipt of the *Registration of Existing Coal Mining Operations*, the Planning Director shall either issue a written Finding of Registration Completeness for the existing coal mining operation, or issue a deficiency letter identifying the additional information needed to complete the registration.

C. **FAILURE TO REGISTER.** Any Coal Mining Operations within the Coal Resource Special Area that do not register with the County shall be subject to Section 1-208, *Standards for Expansion of Coal*

Mining Operations Within the North Fork Valley Coal Resource Special Area.

SECTION 1-206: NOTIFICATION OF COAL MINING OPERATIONS.

A. **NOTIFICATION REQUIRED.** Prior to February 15 of each year, each coal operator with active Coal Mining Operations within the Coal Resource Special Area shall submit a *Notification of Coal Mining Operations* form to the Planning Department that shall contain the information in Section 1-206 B. of these Regulations for that coal operator's operations in the Coal Resource Special Area for the previous calendar year.

B. **NOTIFICATION OF COAL MINING.** The Planning Department shall provide, and the coal operator shall complete and submit the *Notification of Coal Mining Operations* attached as Appendix B that shall include the following:

1. **NAME AND ADDRESS**. Name and address of the reporting coal operator and the mine(s) operated by that operator within the Coal Resource Special Area.

2. **NOTIFICATION.** A brief written description together with a map describing the nature, extent and location of all Coal Mining Operations conducted by that coal operator during the preceding calendar year within the Coal Resource Special Area which shall include the following:

   a. **EXISTING OPERATIONS.** The quantity of coal that was mined, the number of employees within the Coal Resource Special Area, any new or expanded operations, and the extent and location of significant surface disturbance and underground operations that occurred within the Coal Resource Special Area.

   b. **PROPOSED OPERATIONS.** A brief written description, together with a map, of all Coal Mining Operations proposed to be undertaken in the next calendar year including the maximum quantity of coal anticipated to be mined, the number of employees anticipated to be employed, the projected extent and location of significant surface disturbance and underground operations likely to occur within the Coal Resource Special Area.

c. **VIOLATIONS.** For the preceding calendar year, a description of any violations of a local, state or federal environmental or land use law or regulation or permit requirement or condition of which the operator received notice and the status of any enforcement actions and compliance requirements.

C. **ADDITIONAL INFORMATION.** The Planning Director may request additional follow-up information that may be necessary for a complete description of the operations.

SECTION 1-207: COAL MINING PERMIT FOR EXPANSION OF COAL MINING OPERATIONS WITHIN THE COAL RESOURCE SPECIAL AREA

A. **PERMIT REQUIRED FOR EXPANSION.** No person shall engage in the expansion of Coal Mining Operations within the Coal Resource Special Area after the effective date of these Regulations without first obtaining a Coal Mining Permit.

B. **COAL MINING PERMIT APPLICATION SUBMITTAL REQUIREMENTS.**

1. **WRITTEN DESCRIPTION.** The applicant shall submit a written description of the new or expanded mining operation together with a map showing the area within which the new mining operation or the expansion will occur.

2. **CONCURRENT APPLICATIONS.** An applicant may apply concurrently to the County, and to state or federal permit agencies.

a. **INFORMATION SUBMITTED TO OTHER PERMITTING AGENCIES ACCEPTED AS SUBMITTAL.** To the maximum extent feasible, Gunnison County will accept information submitted within an application to the Colorado Division of Mineral and Geology and any other state or federal agency as part of related permit processes to satisfy the submittal requirements of these Regulations.

b. **CONCURRENT PROCESSING.** Gunnison County seeks to avoid duplicative regulatory controls or unnecessary delays. Therefore, processing of an application for a permit normally will proceed concurrently with the processing of other required

federal or state applications. However, final action of the application may not occur until a permit is issued by each other federal or state entity with applicable regulatory authority so that Gunnison County will have the benefit of the analysis and determinations by the other entity(s) in reaching its own decision. In order to facilitate the processes of each other federal or state entity with applicable regulatory authority, when an application for permit under these Regulations is received by Gunnison County, the Planning Director shall review the application and inform each other entity with regulatory authority and the applicant of the preliminary and known primary issues of concern to Gunnison County.

c. **CONSIDERATION OF STATE OR FEDERAL CONDITIONS.** Gunnison County shall consider the conditions of any related federal or state permit when processing an application for permit under these Regulations.

3. **IMPACT REPORT.** The applicant shall submit an impact report that describes how the new or expanded mining operation will comply with Section 1-208, *Standards for Expansion of Coal Mining Operations Within the North Fork Valley Coal Resource Special Area*.

4. **DOCUMENTATION OF TECHNICAL INFEASIBILITY WAIVER**. Documentation of the basis for any Technical Infeasibility Waiver from *Standards for Expansion of Coal Mining Operations Within North Fork Valley Coal Resource Special Area* that may be requested pursuant to Section 1-208 B. shall be submitted by the applicant.

C. **PLANNING DIRECTOR REVIEW OF COAL MINING PERMIT APPLICATION.**

1. **RECEIPT OF APPLICATION BY PLANNING DIRECTOR.** Within thirty (30) days of receipt of the Coal Mining Permit Application, the Planning Director shall determine whether the application is complete and ready for review based upon the provisions of these Regulations. If the Planning Director determines the application is not complete, the Planning Director, within said thirty (30) day period, shall send written notice to the applicant specifying the deficiencies. No further

action shall be taken on the application until the deficiencies have been remedied.

2. **PUBLIC NOTICE AND COMMENT.** Within fourteen (14) days of the Planning Director's completeness determination, the Planning Director shall publish a notice of the application in a newspaper of general circulation in Gunnison County and a newspaper of general circulation in Delta County. The period for public comment shall be fourteen (14) days from the date of first publication of the notices.

3. **COORDINATION WITH STATE AND FEDERAL AGENCIES.** In reviewing the application, the Planning Director shall consider permit and approval conditions imposed on the proposed Coal Mining Operations by state and federal regulatory agencies. Where an applicant has chosen to submit concurrent applications to the County and to state or federal agencies, the Planning Director shall discuss preliminary issues of concern with those agencies.

4. **REQUEST FOR REVIEW BY CONSULTANTS**. The Planning Director may obtain the professional analysis and recommendations of technical and legal consultants the Director deems appropriate and necessary to complete the review. The applicant shall be responsible for the reasonable cost of consultant reviews.

5. **DECISION.** The Planning Director shall review the application for a Coal Mining Permit and approve, approve with conditions or deny the application based upon compliance with Section 1-208, *Standards for Expansion of Coal Mining Operations Within the North Fork Valley Coal Resource Special Area*. Unless the Planning Director determines and so advises the applicant that significant issues exist and additional time will be necessary to complete the appropriate review, a decision on the application for a Coal Mining Permit shall be issued within fourteen (14) days after the close of the period for public comment.

6. **NOTICE OF DECISION.** Within one working day of the decision on the application for a Coal Mining Permit, the Planning Director shall notify in writing the applicant, the County Manager, the Board, the County Attorney, and the Delta County Planning Director of the decision to approve, approve with conditions or deny the application. Upon request, other interested parties may submit their name to

the Planning Director to be placed on a list of persons who will be notified of any decision on the application for a Coal Mining Permit.

D. **RECONSIDERATION OF PLANNING DIRECTOR DECISION BY BOARD OF COUNTY COMMISSIONERS.**

1. **CALL-UP BY THE BOARD.** Within fourteen (14) calendar days after receipt of the Notice of Decision, the Board may, at its discretion, decide to reconsider the Planning Director's Coal Mining Permit decision at the next regularly scheduled meeting of the Board for which proper notice can be accomplished.

2. **REQUEST FOR RECONSIDERATION.** Within seven (7) calendar days of the Notice of Decision the applicant or any aggrieved party may request that the Board reconsider the Planning Director's Coal Mining Permit decision at a public hearing scheduled no later than forty-five (45) days after receipt of the Notice of Decision.

3. **HEARING NOTICE.** No less than thirty (30) days prior to the date of the public hearing, written notice of the hearing shall be provided to the applicant, persons on the mailing list and property owners within 500 feet of the boundary of the Coal Resource Special Area, and shall be published one time in a newspaper of general circulation within Gunnison County and in Delta County.

4. **DECISION BY THE BOARD.** At the hearing, the Board may determine not to hear or if it does hear, may affirm, reverse and/or amend the Planning Director's Coal Mining Permit decision. The Board may consider the evidence that was before the Planning Director, and any additional evidence that may be presented to the Board regarding compliance with Section 1-208, *Standards for Expansion of Coal Mining Operations Within the North Fork Valley Coal Resource Special Area*.

E. **EFFECT OF PERMIT DECISION.** Once a Coal Mining Permit has been issued pursuant to these Regulations, the County shall not impose additional regulatory requirements on the Coal Mining Operations unless there is a material change in the Coal Mining Operation from what was approved by the County or the additional regulatory requirement is necessary for the immediate preservation of the public health and safety.

SECTION 1-208: STANDARDS FOR EXPANSION OF COAL MINING OPERATIONS WITHIN THE NORTH FORK VALLEY COAL RESOURCE SPECIAL AREA.

A. **COMPLIANCE WITH STANDARDS REQUIRED.** Expansion of Coal Mining Operations within the Coal Resource Special Area shall comply with the following standards unless Gunnison County waives the standard in writing pursuant to Section 1-208 D., *Technical Infeasibility Waiver,* prior to initiation of the expansion.

B. **EXISTING FACILITIES AND STRUCTURES EXEMPT FROM THESE STANDARDS**. Surface structures, infrastructure and features existing or permitted or approved as of the date of the adoption of these Regulations constituting or relating to Coal Mining Operations are exempt from these standards.

C. **GENERAL STANDARDS APPLICABLE TO SURFACE STRUCTURES OR FEATURES OF EXPANDED COAL MINING OPERATIONS WITHIN THE COAL RESOURCE SPECIAL AREA.**

1. **SETBACKS.** Surface area disturbed by the expansion shall fall within the following setbacks:

   a. **FEDERALLY, STATE, OR LOCALLY DEDICATED OPEN SPACE OR CONSERVATION AREAS.** No surface area disturbance caused by the expansion of the Coal Mining Operations shall occur in whole or in part closer than 1000 feet from a permanently dedicated federal, state, or local open space or conservation area unless a smaller setback has been approved by the federal, state or local entity with jurisdiction over the open space or conservation area.

   b. **ADJACENT PROPERTY, IRRIGATION DITCH OR ROAD RIGHT OF WAY.** No excavation, deposit of overburden, nor stockpiling or other coal mining activities associated with expansions of Coal Mining Operations shall be permitted within 100 feet of the boundary of adjacent property, irrigation ditch or private right of way.

2. **PUBLIC ROADS**. Roads affected by expansions of Coal Mining Operations shall comply with the following requirements:

a. **IMPACT MITIGATION**. The applicant shall bear the proportionate cost of all public road and bridge improvements, repairs, and maintenance necessitated by the proposed coal mining operation.

b. **VEHICLE WEIGHT**. The weight of trucks shall not exceed federal, state or local government imposed road or bridge weight capacity on approved haulage routes.

c. **SEASONAL TRAFFIC LIMITATION.** As a condition of approval, the County may limit the number of trucks that may access the mine to avoid damage to roads caused by heavy vehicle use, weather conditions or water saturation.

3. **ROUTING**. Designation of construction and haul routes within the County for expansions of Coal Mining Operations shall comply with the following:

a. **TIMING OF HAUL TRAFFIC**. Timing of truck traffic may be controlled to prevent congestion or adverse noise impacts or safety risks.

b. **LOAD CONTROL**. Applicant shall prevent loss of loads and fugitive dust emissions during transit, and shall be responsible to ensure that haul routes are maintained in accordance with dust-suppressant methods required by applicable state or federal agency.

4. **TRUCK NOISE.** Mine haul trucks associated with expansions of Coal Mining Operations shall comply with Section 5-505 F.6. of the Gunnison County Land Use Resolution.

5. **WATER QUALITY.** The operations shall not cause significant net adverse effect/impact in the water quality or water pressure of any public or private water wells.

6. **WILDLIFE.** Surface disturbance caused by the expansion of the Coal Mining Operations shall not result in significant net

adverse effect/impact to sensitive wildlife habitat areas as defined by the Colorado Division of Wildlife.

7. **IMPACT MITIGATION.** The applicant shall bear the proportionate cost to mitigate impacts to County caused by Coal Mining Operations under the standards in these Regulations.

8. **ACCESS TO RECORDS.** All coal operators shall make and keep appropriate books and records covering their operations in the Coal Resource Special Area, from which they shall be able to make and substantiate the reports required by these Regulations. Such books and records shall be kept on file and available for inspection by the County for a period of at least three (3) years.

9. **INSPECTION.** The County may enter and inspect any property subject to these Regulations at reasonable hours for the purpose of determining whether a Coal Mining Operation is in violation of the provisions of these *Regulations*.

10. **EMERGENCY RESPONSE.** New or expanded Coal Mining Operations shall provide a written emergency response plan for the potential emergencies that may be associated with the operation of the facilities. The plan shall include a provision for the Operator to reimburse the appropriate emergency response service provider for costs incurred in connection with the emergency.

11. **WILDFIRE HAZARD.** The expansion of Coal Mining Operations shall not cause a significant risk of wildfire hazard.

D. **TECHNICAL INFEASIBILITY WAIVER.** The Planning Director may waive one or more of the *Standards for Expansion of Coal Mining Operations Within the North Fork Valley Coal Resource Special Area* if the applicant demonstrates to the satisfaction of the County that it is technically impracticable to comply with the standard(s). To be granted a waiver from a standard for technical impracticability, the burden is on the applicant to demonstrate the following with clear and convincing evidence:

1. **NO TECHNOLOGY AVAILABLE.** There is no reasonable technology generally available to conduct the coal mining operation in compliance with the County standard, and the

applicant will implement the best available technology to conduct the coal mining operation in compliance with the County standards to the maximum extent feasible; or

2. **CONFLICT WITH STATE OR FEDERAL REGULATION.** Conduct of the coal mining operation in compliance with the County standard would result in an irreconcilable conflict with a state or federal mining regulation, condition or other requirement, and:

   a. The state or federal requirement cannot be waived; and

   b. Compliance with both the state or federal requirement and the County standard is not technically possible; and

   c. The applicant will design, construct and operate the coal mining operation in compliance with County standards to the maximum extent feasible.

SECTION 1-209: FINANCIAL SECURITY FOR EXPANSIONS OF COAL MINING OPERATIONS.

Applicants for a Coal Mining Permit issued under these Regulations shall be required to provide financial security, to the extent not otherwise covered by the performance bond requirement of Rule 3 of the Coal Rules, in a form and amount identified by Gunnison County, to ensure timely and complete performance of all conditions of approval of a Coal Mining Permit.

SECTION 1-210: APPLICATION REVIEW AND ENFORCEMENT FEES.

The Board may establish from time to time by separate resolution fees for application review and enforcement for this Coal Resource Special Area.

DIVISION 3 NORTH FORK VALLEY COAL RESOURCE SPECIAL AREA OIL AND GAS OPERATIONS.

SECTION 1-301: OIL AND GAS DRILLING AND PRODUCTION.

The Temporary Regulations for Oil and Gas Operations or other regulations that may be adopted by the County applicable to oil and gas drilling and production shall apply to oil and gas drilling and production within the North Fork Coal Resource Special Area.

SECTION 1-302: MINE METHANE VENTING AND USE.

A. **METHANE VENTING INTEGRAL AND ESSENTIAL TO COAL RESOURCE SPECIAL AREA COAL MINING OPERATION.** Coal mine methane venting from a mine that is in compliance with these Regulations and that is an integral and essential component of the coal mining operation shall not be subject to these Regulations or any other County regulations otherwise applicable to oil and gas drilling and production and such methane can be used by the Operator on-site.

B. **METHANE GAS PRODUCTION NOT INTEGRAL AND ESSENTIAL TO COAL RESOURCE SPECIAL AREA COAL MINING OPERATION**. The production and distribution of methane gas subject to the approval of the Colorado Oil and Gas Conservation Commission shall be subject to all County regulations applicable to oil and gas production, drilling and distribution, and these Regulations shall not apply to such production, drilling and distribution.

DIVISION 4 GENERAL PROVISIONS

SECTION 1-401: CONSTRUCTION.

A. **LIBERAL CONSTRUCTION.** These Regulations and the terms herein are to be liberally construed to effect the purposes of these Regulations.

B. **MORE VERSUS LESS RESTRICTIVE REQUIREMENTS.** Where there exists a conflict or overlap between different requirements in these Regulations or between these Regulations, the Gunnison County Land Use Resolution and any other resolution, regulation or ordinance adopted by Gunnison County, or any other applicable state or federal requirement or statute, the requirement that is the more restrictive or particular shall prevail over that which is less restrictive or is more general.

C. **REQUIREMENTS ARE MINIMUM REQUIREMENTS.** The requirements of these Regulations shall be regarded as the minimum requirements necessary for the protection of the public health, safety, general welfare, and the environment.

D. **DELEGATION OF DUTIES BY DEPARTMENT HEAD.** Whenever a provision requires the Planning Director or the head of any other County department to perform an act or duty, it shall be construed to authorize the Planning Director, or the head of that other County department, to designate, delegate, and authorize subordinates to

perform the duty or act, unless the terms of the provision or section specify otherwise.

E. **COMPUTATION OF TIME.** The time in which an act is to be done shall be computed by excluding the first and including the last day. If a deadline falls on a weekend or County holiday, the deadline extends to the end of the next working day. Time shall be based on calendar days, not working days, unless otherwise specified.

1. **DAY.** The end of a day shall be at 5:00 P.M. Gunnison time.

2. **WEEK.** The word "week" shall mean seven days.

3. **MONTH.** The word "month" shall mean 30 days.

4. **YEAR.** The word "year" shall mean 365 days.

F. **MEANINGS OF CERTAIN WORDS.**

1. **SINGULAR / PLURAL.** A word used in the singular may also be applied to several persons and things as well as to one person or thing. The use of the plural number shall include any single person or thing, unless the context clearly indicates the contrary.

2. **SHALL / WILL / MUST / MAY / SHOULD.** "Shall", "will" and "must" all mean the provision is mandatory; "may" means it is permissive; "should" means it is preferred.

3. **MASCULINE / FEMININE.** The masculine gender shall include the feminine, and the feminine gender shall include the masculine.

4. **CONJUNCTIONS.** Unless the context clearly suggests otherwise, conjunctions shall be interpreted as follows:

   a. **"AND"** means that all connected items, conditions, requirements, or events apply.

   b. **"OR"** means that one or more of the connected items, conditions, requirements, or events apply.

5. **COMMON / TECHNICAL TERMS.** Words and phrases shall be construed according to the common usage of the term, but technical words and phrases that have acquired a

particular meaning shall be understood according to that particular meaning.

6. **LISTS AND EXAMPLES.** Unless otherwise specifically indicated, lists of items or examples that use terms including "for example" and "including" or similar language are intended to provide examples, not exhaustive lists of all possibilities.

SECTION 1-402: INTERPRETATION.

A. **AUTHORITY.** The Planning Director shall be authorized to make a written interpretation of the requirements of these Regulations.

B. **INITIATION.** A request for a written interpretation may be made by any person by submitting a written request to the Planning Director. The written request shall specify the provision of these Regulations for which an interpretation is requested. The written request shall also state the factual basis for the request.

C. **DETERMINATION OF COMPLETENESS FOR REVIEW.** Within fifteen (15) days of receipt of the request for an interpretation, the Planning Director shall determine whether the request is complete, specific, and ready for review based upon the provisions of these Regulations. If the Planning Director determines the request is not complete or specific, written notice shall be sent to the applicant specifying the deficiencies. No further action shall be taken on the request until the deficiencies have been remedied.

D. **RENDERING OF INTERPRETATION.** Within thirty (30) days of determining that the request for an interpretation is complete, the Planning Director shall evaluate the application, consult with the County Attorney and other staff as necessary, and render a written interpretation. When rendering the interpretation, the Planning Director shall consider the County's legislative intent in adopting the provision, as expressed in these Regulations, and as may be determined from the County's official records.

E. **OFFICIAL RECORD.** The Planning Department shall keep an official written record of all written interpretations that have been rendered. The record shall be available at the Planning Department for public inspection, on reasonable request, during normal business hours.

F. **APPEALS.** Interpretations or final decisions rendered by the Planning Director may be appealed to the Board of Commissioners.

The appeal shall be submitted and considered in compliance with the requirements of Section 4-603: *Appeals* of the Gunnison County Land Use Resolution.

SECTION 1-403: SEVERABILITY.

If any article, division, section, paragraph, clause, provision, or portion of these Regulations is determined to be unconstitutional or invalid by a court of competent jurisdiction, such determination shall not affect the validity of these Regulations as a whole or any part of these Regulations other than the part determined to be unconstitutional or invalid. If any application of these Regulations to a particular structure, parcel of land, or body of water is determined to be unconstitutional or invalid by a court of competent jurisdiction, such determination shall not be applicable to any other structure, land, or water not specifically included or referenced in that judgment.

SECTION 1-404: AMENDMENTS.

A. **PURPOSE.** The purpose of this Section is to provide a process by which the Board may, from time to time, amend, supplement or repeal these Regulations.

B. **INITIATION.** An amendment to these Regulations may be initiated by the Board, by the Planning Commission, the Planning Director, by any person who owns a legal interest in real property within the County, or by any person residing within the County.

C. **PROCESS.** The following process shall apply to an application for an amendment to these Regulations:

1. **BOARD MOTION.** The Board may initiate an amendment by motion directing the Planning Director to submit a proposed amendment and report to the Planning Commission for review and for further action pursuant to this Section.

2. **PLANNING COMMISSION INITIATIVE.** The Planning Commission may initiate an amendment by submitting a written recommendation for proposed amendment to the Board.

3. **PROPERTY OWNER OR OTHER RESIDENT INITIATIVE.** An amendment may be initiated by a person who owns a legal interest in real property within the County, or by any person living within the County, by the submittal of an application to the Planning Department.

4. **DRAFT OF PROPOSAL FOR AMENDMENT.** Any initiative or application for amendment shall include at a minimum the following:

   a. **IDENTIFICATION OF APPLICANT.** If the applicant is a resident or property owner, the applicant's name, address and telephone number. If the applicant is to be represented by an agent, a notarized letter signed by the applicant shall also be submitted, authorizing the agent to represent the applicant and stating the representative's name, address, and phone number.

   b. **PRECISE WORDING.** The precise wording of the proposed amendment, and the proposed section(s) that it will change, or to which it will be added.

   c. **RATIONALE FOR PROPOSED AMENDMENT.** A concise statement of the purpose and need for the proposed amendment.

5. **PLANNING DEPARTMENT'S REVIEW.** Review of the application for the proposed amendment shall be accomplished as specified in Section 4-110: *Planning Department's Review of Application* of the Gunnison County Land Use Resolution.

   a. **REQUEST FOR REVIEW BY OTHER AGENCIES, DEPARTMENTS AND CONSULTANTS.** The Planning Director may request that other agencies, departments and consultants review the proposed amendment.

6. **PLANNING COMMISSION REVIEW.** A complete copy of the application shall be forwarded to the Planning Commission, together with a copy of the Planning Department's report. The Planning Commission shall review the application and shall make a recommendation to the Board to approve, approve with modifications, table for further study, or deny the proposed amendment.

7. **BOARD PUBLIC HEARING.** The Planning Commission's recommendations shall be forwarded to the Board, together with a complete copy of the application and a copy of the Planning Department's review. The Board shall conduct a public hearing in compliance with Sections 4-112: *Notice of*

Public Hearing and 4-113: *Conduct of Public Hearing* of the Gunnison County Land Use Resolution.

8. **BOARD REVIEW AND ACTION.** The Board shall consider the application, any relevant support materials, the Planning Department's report, the Planning Commission's recommendation, the public testimony and evidence given at the public hearing. Following closure of the public hearing, the Board may, by written resolution, adopt the amendment, adopt the amendment with modifications, table for further study or deny the amendment.

9. **REVIEW STANDARDS**. The wisdom of amending the text of these Regulations is a matter committed to the legislative discretion of the Board of County Commissioners and is not controlled by any one factor. In determining whether to adopt the proposed amendment, adopt the amendment with modifications, table for further study or deny the amendment, the Board of County Commissioners shall consider among other factors the following:

   a. **CONSISTENCY WITH ANY COMPREHENSIVE PLAN ADOPTED BY GUNNISON COUNTY.** Consistency of the proposed amendment with any comprehensive plan that may be adopted by Gunnison County.

   b. **CHANGED CONDITIONS.** Changed conditions, including the economy of Gunnison County.

   c. **EFFECT ON THE NATURAL ENVIRONMENT.** Effect of the proposed amendment on the natural environment.

   d. **COMMUNITY NEEDS**. Community needs.

   e. **DEVELOPMENT PATTERN**. Development pattern.

   f. **CHANGES IN APPLICABLE LAW**. Changes in applicable law.

   g. **PUBLIC HEALTH, SAFETY AND WELFARE.** Public health, safety and welfare.

   h. **COMPLIANCE WITH ANY APPLICABLE INTERGOVERNMENTAL AGREEMENTS**

ADOPTED BY GUNNISON COUNTY. Compliance with any applicable intergovernmental agreements adopted by Gunnison County.

SECTION 1-405: INTENT TO NOT DUPLICATE OTHER PERMIT PROCESSES OR REQUIREMENTS.

Gunnison County intends to avoid duplicative regulatory submittals or processes. Processing of applications for permits generally proceeds concurrently with other required state or federal agency permitting processes.

SECTION 1-406: RUNS WITH THE LAND.

Any Coal Mining Permit issued under these Regulations shall run with the land that is the subject of the Coal Mining Permit.

SECTION 1-407: NO PRECEDENT.

Neither the designation nor these Regulations, procedures or approvals hereunder shall be construed as a precedent for any other action.

DIVISION 5 VIOLATIONS AND ENFORCEMENT PROVISIONS

SECTION 1-501: VIOLATIONS AND ENFORCEMENT.

Failure to comply with any provision of these Regulations shall be deemed a violation of the *Gunnison County Land Use Resolution* and shall be subject to enforcement under Chapter 7 of the *Gunnison County Land Use Resolution*.

DIVISION 6 DEFINITIONS

SECTION 1-601: RELATIONSHIP TO GUNNISON COUNTY LAND USE RESOLUTION.

Unless otherwise defined below, the definitions of the *Gunnison County Land Use Resolution* set forth in Section 2-102, *Definitions* shall apply to these Regulations.

SECTION 1-602: DEFINITIONS

A. **Aggrieved Parties.** The applicant, the owner of the subject property, or any person, or member of the public.

B. **Coal Exploration.** This term has the same meaning as defined in Section 1.04(22) of the Coal Rules which is as follows: (a) the field gathering of surface or subsurface geologic, physical, or chemical

data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; (b) the disturbance of the natural land surface in the gathering of the environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations under the requirements of the Coal Rules; or (c) the gathering of any environmental data in an area designated unsuitable for surface Coal Mining Operations.

C. **Coal Mining Operations**. Coal exploration, development, extraction and reclamation and all activities incident to such operation, including without limitation coal mine methane venting and the use of vented coal mine methane for mining operations within the Coal Resource Special Area.

D. **Coal Mine Methane Venting**. The venting of methane from a Coal Resource Special Area coal mine necessary for worker safety, approved by the Division of Minerals and Geology, pursuant to a coal lease.

E. **Coal Operator.** Any person, firm, partnership, association, corporation or any department, division, or agency of any government engaged in coal mining.

F. **Coal Resource Special Area**. The North Fork Valley Coal Resource Special Area.

G. **Coal Rules.** The regulations of the Colorado Mined Land Reclamation Board for Coal Mining implemented pursuant to the Colorado surface Coal Mining Reclamation Act, Article 33 of Title 34, as amended of the Colorado Revised Statures, and found a 2 CCR 407-2.

H. **Existing Coal Mining Operations.**

1. Coal Mining Operations as of the effective date of these Regulations, allowed under a valid Gunnison County Land Use Change Permit and/or a valid Division of Minerals and Geology Permit, or

2. Coal Mining Operations that are contiguous or adjacent to those Coal Mining Operations described in 1-602G.1 and that do not result in significant net adverse effect/impacts from new surface area disturbance after the effective date of these regulations.

I. **Expansion.** Coal Mining Operations that are not Existing Coal Mining Operations or that are not exempted under Section 1- 203 C. of these Regulations.

J. **Non-Coal Resource Special Area Coal Mining Operation.** A new or existing coal mining operation located wholly or partially outside the boundaries of the North Fork Valley Coal Resource Special Area.

K. **North Fork Valley Coal Resource Special Area.** That area of the County designated by the Board of County Commissioners as a special geographic area.

L. **Oil and Gas Drilling, Production and Distribution.** Exploration for oil and gas, including the conduct of seismic operations and the drilling of test bores; the siting, drilling, deepening, recompletion, reworking or abandonment of an oil and gas well; production operations related to any such well including the installation of flowlines and gathering systems; the generation, transportation, storage, distribution, treatment or disposal of exploration and production wastes; and any construction, site preparation, or reclamation activities associated with such operations.

M. **Regulations**. The North Fork Valley Coal Resource Special Area Regulations.

N. **Significant Net Adverse Effect/Impact.** An impact of an action, after mitigation, that is considerable or substantial, and unfavorable or harmful; includes social, economic, physical, health, aesthetic and historical impacts, and biological impacts including but not limited to, effects on natural resources or the structure or function of affected ecosystems.

O. **State Coal Permit.** The permit to conduct surface coal mining and reclamation operations issued by the Division of Minerals and Geology pursuant to the Coal Rules.

APPENDIX A

The North Fork Valley Coal Resource Special Area is that area, within Gunnison County, known as the Somerset Coal Field which consists of lands shown on the United States Geological Survey (USGS) 7.5 Minute Quadrangle Maps for the Bowie, Somerset, Paonia Reservoir, Minnesota Pass and West Beckwith quadrangles.

All private lands contained within T13S, R89W, Sections 8, 9, and 16 are excluded from the designated North Fork Valley Coal Resource Special Area.

APPENDIX B

Notification of Coal Mining Operations
(Pursuant to § 1-204 C)

The undersigned, an officer of _____, hereby certifies to the best of his or her knowledge as follows:

1. _____ is a _____ [corporation/partnership] with an address at _____, _____, _____.

2. _____ is a coal mining operator within the Gunnison County North Fork Valley Coal Resource Special Area (the "Special Area").

3. During the calendar year ending December 31, 20__ (the "Calendar Year") _____ mined and shipped _____ tons of coal from its _____ Mine in the Special Area from lands shown on a map attached hereto as Exhibit A. _____'s permits and approvals allow it to mine _____ tons of coal from the lands permitted to it from the _____ Mine.

4. During the Calendar Year, _____ employed a maximum of _____ and minimum of _____ employees at its _____ Mine.

5. During the Calendar Year the following significant changes in _____ coal mining operations occurred since the prior calendar year:

6. During the calendar year which commenced on January 1, 20__, _____:

(a) intends to conduct the following coal mining operations at its _____ Mine, which intended operations are depicted on the map attached hereto as Exhibit C:

(b) intends to employee a minimum of _____ employees and a maximum of _____ employees;

(c) anticipates it will mine and ship _____ tons of coal from its _____ Mine; and

(d) anticipates its underground mining operations shall be conducted on the lands depicted as such on Exhibit C.

7. A listing of all unremedied environmental and land use violations, notice of which was received by _____ during the Calendar Year relating to local, state or federal environmental or land use laws, regulations, permit requirements or conditions and the status of any enforcement action and compliance requirements related thereto is attached hereto as Exhibit D.

_____

By:_____
Vice-President

the wildlife fence construction can be completed. County Attorney Baumgarten added that this acquisition also includes a permanent easement for construction of the fence.

Chairperson Field noted the plans for fencing with a W Mountain subdivision owner who was present. That owner acknowledged an understanding, and advisement to all property owners in that subdivision, of the plans for fencing.

Moved by Commissioner Starr, seconded by Chairperson Field to authorize the Airport to purchase a certain piece of property in accordance with FAA regulations, and adopt Resolution #2004-33, A RESOLUTION AUTHORIZING PURCHASE OF REAL PROPERTY. *(See attachment to Minutes).*

Moved by Commissioner Anderson, seconded by Chairperson Field to amend the motion to add that this offer is time sensitive and contingent upon the purchase being consummated while the grant is open and funds are available.

Amendment passed. **Motion** passed.

REALTOR FOR COUNTY PROPERTY: CEO DeVore reported receipt of three proposals from realtors for the sale of the County-owned property along the Gunnison River across from the Whitewater Park. Letters requesting proposals had been sent out to all realtors, with the deadline for submittal being June 14 at 5:00 p.m. The County's current contract for realtor services on this property expires today. The Board reviewed the three proposals from: Les White, Monarch Realty; Gerald Lain, Today Realty; and Dennis Steckel, Dennis Steckel Realtors. Steckel had the contract for the past year. The Board noted the commission amounts listed in two of the three proposals, and the suggested listing price in each.

Moved by Commissioner Anderson, seconded by Chairperson Field to select Monarch Realty as the listing agent for the Whitewater Park property, noting that the commission is 7%, with it being split 50/50 with other cooperating brokers. The term of the contract would be one year and the listing price should be $289,000. Motion passed.

Commissioner Anderson requested that a letter be sent to Dennis Steckel thanking him for his efforts during the past year.

MOUNTAIN COAL COMPANY APPEAL TO FOREST SERVICE: CEO DeVore reported on the list of other appellants to the Forest Service decision regarding two Mountain Coal Company projects. A primary concern of all appellants is the need to reduce the impact to Paonia and other roads that would result from the current decision denying a road in Sylvester Gulch. The Board initially discussed this matter at their June 1 meeting. County Attorney Baumgarten presented the draft of a formal appeal he has prepared for the Board's consideration. In the appeal the Board would recommend that the decision be reversed regarding the road in Sylvester Gulch, to allow for a road designed based on further discussion between Mountain Coal, the Forest Service, and other interested parties.

Moved by Commissioner Anderson, seconded by Chairperson Field to authorized County Attorney Baumgarten to execute and send the letter dated June 7, 2004 identifying the reasons for appeal to the Forest Service concerning the temporary construction of the Sylvester Gulch Road and Box Canyon methane drainage wells. Motion passed.

AIRPORT RUNWAY EVENT: Erich Ferchau was present to request clearance from the County sponsor a road race on the runway prior to its reopening. CEO DeVore responded that the contractor may be painting the runway the last week prior to reopening. He would suggest not advertising an event until perhaps ten days before, in order to be more certain that the runway would be completed and available. Commissioner Anderson feels that every effort should be made to accommodate this event.

ROAD SIGNAGE: Commissioner Anderson asked if the automated signage used on highways and roads could include messages regarding upcoming events, or welcoming messages to visitors. Chief of Operations Crosby will check with CDOT about use of their signs, and added that the County also owns one automated sign.

TABOR FUNDING: Chairperson Field commented on a failure of efforts by the Legislature and the Governor to refer an issue to the ballot regarding amendments to Tabor and Amendment 23, particularly that would assist education funding. He requested that the Board send a letter to Club 20 saying that the Board would support the citizens initiate in the absence of a legislative solution. The letter would go to Club 20 because they are meeting with the Governor tomorrow. A letter was prepared and signed later in the day.

GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

December 21, 2004

The Honorable Bill Owens
136 State Capitol
Denver, CO 80203-1792

Dear Governor Owens:

The Board of County Commissioners of Gunnison County supports Mountain Coal Company's (MCC) federal royalty rate reduction application at their West Elk Mine (WEM). This mine is located in Gunnison County, and is the County's largest taxpayer. It is also one of the regions largest private sector employees, providing high paying jobs in a rural part of Colorado.

Gunnison County supported MCC's initial royalty rate reduction, which was submitted in September 2001. The Bureau of Land Management (BLM) modified that original request to approve less than half the tons contained in the application, with the proviso that MCC could resubmit an application for the remaining tons if the geology did not improve. This subsequent application was submitted in August 2003 with the intent that the follow-up application would apply when the first approval expired which was December 2003.

It is critically important to Gunnison County that the West Elk Mine remain financially viable as the mine transitions from this geologically difficult area to new reserves in which the geology is anticipated to be better.

Please contact us if you have any questions regarding our support of the Mountain Coal Company royalty rate reduction request.

Sincerely,

Fred R. Field,	Jim Starr,	Perry Anderson,
Chairperson	Commissioner	Commissioner

Cc: Mr. Ron Cattany, Director Colorado Division of Minerals and Geology
1313 Sherman St., Rm. 215
Denver, CO 80203
Fax: (303) 832-8106

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BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 05-48

A RESOLUTION CONCERNING THE ADOPTION OF POLICIES AND PROCESSES THAT INVOLVE THOROUGH PUBLIC INPUT TO IDENTIFY AND ASSERT RIGHTS-OF-WAYS UNDER RS2477

RECITALS

1. The United States Congress, for the purpose of promoting the settlement of the western United States by the establishment of roads, granted a right-of-way for the establishment of highways over public lands not reserved for public uses in Section 8 of the Mining Act of 1866, re-enacted and re-codified as Revised States 2477 (R.S. 2477), 43 U.S.C. sec 932 (repealed October 21, 1976).

2. The United States Congress enacted a law in 1997 prohibiting federal land agencies from disposing of R.S. 2477 claims unless and until Congress establishes a process or has approved proposed rules and regulations concerning the process for establishing the existence and validity of R.S. 2477 claims. At this time, Congress has not acted to establish such a process or approve any such rules or regulations.

3. The above mentioned right to establish highways across public lands, except those withdrawn from public use, effected a grant that was accepted whenever and wherever roads were constructed over unreserved federal land and these public roads remain available to this day for public use.

4. The Federal Land Policy and Management Act of 1976 repealed R.S. 2477, but did not terminate any valid outstanding right-of-way claims, or provide for recordation of any such valid rights.

5. Identifying, asserting, maintaining and protecting legitimate rights-of-way can be useful to protect Gunnison County's social and economic resources and to promote public health and safety, including but not limited to search and rescue, fire protection, health and law enforcement, and other emergency services.

6. Analysis of R.S. 2477 claims across private lands should include consideration of potential conflicts with the private lands and consideration of public access needs.

7. Gunnison County has a critical role to play regarding the inventorying, maintenance and vacation of roads, including R.S. 2477 rights-of-ways, in a manner that protects or enhances the socio-economic status of Gunnison County.

8. Gunnison County's abundant natural resources and public lands provide a wealth of valuable resources and services, including fish and wildlife, drinking water, recreation, scenery, tourism, and pride in heritage that benefit our state and local economies. R.S. 2477 rights-of-way across such lands could impact, positively or negatively, these values.

9. The issue of possible assertions of ownership of R.S. 2477 rights-of-way has created uncertainty and confusion regarding county jurisdiction and management of affected public and private lands.

10. It is in the public interest for this issue to be resolved expeditiously within a set time period and in a consistent manner.

11. Following the work of CCI's R.S. 2477 Subcommittee, Congressman Udall introduced H.R. 3447, which establishes a uniform and clear process to dispose of R.S. 2477 claims across federal, private and Tribal lands, and which addresses many of the issues that this Board has identified that need to be addressed in the context of considering R.S. 2477 claims.

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado that:

1. Gunnison County recommends a national policy be adopted by Congress to resolve and address claims that assert an ownership interest in R.S. 2477 rights-of-way.

2. Gunnison County acknowledges that any solution to the R.S. 2477 issue should provide a process for thorough public involvement.

3. Gunnison County acknowledges that any solution to the R.S. 2477 issue should include a reasonable deadline by which all R.S. 2477 highway rights-of-way claims must be asserted, in order that the issue may be resolved in a timely fashion.

4. Gunnison County believes that Colorado's national parks, national monuments, national wildlife refugees, wilderness, roadless areas, and other pristine wildlands are of special importance to the heritage, culture and economy of this state and county, and should be given special consideration in the resolution of claims for R.S. 2477 highway rights-of-way.

5. Gunnison County believes that H.R. 3447 represents a reasonable compromise of the R.S. 2477 issues that were raised by it and other Colorado counties in the CCI R.S. 2477 Subcommittee process and, as a result, supports the passage of this legislation to help address R.S. 2477 claims in Gunnison County and across the west.

6. Staff is directed to send copies of this Resolution to Colorado Counties, Inc. to Gunnison County's state and federal delegates and to Representative Udall.

INTRODUCED by Commissioner Swenson, seconded by Commissioner Channell, and adopted this 6th day of September, 2005.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

By _____
Jim Starr, Chairperson

By _____
Hap Channell, Vice Chairperson

By _____
Paula Swenson, Commissioner

GUNNISON COUNTY SEAL COLORADO

Attest:

Kelly Balch
Deputy County Clerk

GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

December 6, 2005

Senator Wayne Allard
525 Dirksen Senate Office Building
Washington, DC 20510-0605
Fax: (202) 224-6471

Senator Ken Salazar
702 Hart Senate Office Building
Washington, DC 20510
Fax: (202)228-5036

Representative John D. Salazar
1531 Longworth House Office Building
Washington, DC 20515-0603
Fax: (202) 226-9669

Representative Mark Udall
115 Cannon House Office Building
Washington, DC 20515-0603
Fax: (202) 226-7840

Representative Diana L. DeGette
1527 Longworth House Office Building
Washington, DC 20515-0601
Fax: (202) 225-5657

Representative Bob Beauprez
504 Cannon House Office Building
Washington, DC 20515-0607
Fax: (202) 225-5278

Representative Thomas G. Tancredo
1130 Longworth House Office Building
Washington, DC 20515-0606
Fax: (202)226-4623

Representative Joel Hefley
2372 Rayburn HOB
Washington, DC 20515-0605
Fax: (202) 225-1942

Representative Marilyn Musgrave
1507 Longworth House Office Building
Washington, DC 20515-0604
Fax: (202) 225-5870

Re: Proposed changes to the 1872 Mining Law

Dear Senators Allard and Salazar and Representatives Salazar, DeGette, Udall, Musgrave, Hefley, Tancredo and Beauprez:

The Gunnison County Board of Commissioners urges you to oppose the pending budget reconciliation act and, specifically, "Subtitle B- Miscellaneous Amendments Relating to Mining". Our county has a long rich history of hard-rock mining activity beginning more than a century ago. We would be impacted more than any other county in the state by this legislation because Gunnison County has over 1,215 claims covering over 22,500 acres of land.

In recent years we have devoted considerable effort to preserving hundreds of acres of the historic high country patented mining claims in Gunnison County from future development through a collaborative effort with the United States Forest Service, the Trust for Public Lands, The Rocky Mountain Biological Laboratory, Crested Butte Land Trust and Crested Butte Mountain Resort. The project, known as the High Elk Corridor, was undertaken for the purpose of protecting these lands from future mineral, as well as non-mineral, development. The proposed changes to the federal mining laws contained in the pending budget reconciliation legislation have the potential to eviscerate our efforts to protect the county's high country public lands from development and to preserve these areas for the myriad motorized and non-motorized recreational uses the public currently enjoys.

The changes to the federal mining laws contained in the proposed budget reconciliation act, especially those concerning the 1872 mining act, have the potential to create a fire sale of our valuable public lands for surface development purposes that would have little, if anything, to do with responsible surface or mineral development. If enacted, this legislation would reverse the nearly thirty years of public lands policy contained in the Federal Land Policy Management Act. The proposed legislation would authorize the federal government's conveyance of fee title to both the surface and mineral estate without the federal government receiving compensation for the fair market value of any mineral interest, nor the ability to receive future mineral royalty or lease payments.

The Mining Law of 1872 certainly needs to be revised, but these revisions should be properly introduced in a separate bill so all potential ramifications can be subjected to a fair and adequate public process.

Our recreation based tourism is Gunnison County's strongest economy and this proposed legislation would seriously jeopardize this critical economy. We respectfully urge you to oppose this legislation.

Thank you.

Sincerely,

Jim Starr	*Hap Channell*	*Paula Swenson*
Chairperson	*Vice-Chairperson*	*Commissioner*

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY
RESOLUTION NO. 06-86

A RESOLUTION GRANTING A DECLARATION OF EXEMPTION MOUNTAIN COAL COMPANY, LLC, WEST ELK MINE, FOR THE CONSTRUCTION OF THE DEER CREEK SHAFT AND E SEAM METHANE DRAINAGE WELLS PROJECTS FROM THE *NORTH FORK VALLEY COAL RESOURCE SPECIAL AREA MINING REGULATIONS* LOCATED ON LANDS WITHIN THE GUNNISON NATIONAL FOREST, SECTIONS 27, 28, 29, 32, 33, 34 AND 35 TOWNSHIP 13 SOUTH, RANGE 90 WEST, AND SECTIONS 1, 2, 3, 4, 9, 10 AND 11, TOWNSHIP 14 SOUTH, RANGE 90 WEST, 6TH PRINCIPAL MERIDIAN, GUNNISON COUNTY

WHEREAS, pursuant to the *North Fork Valley Coal Resource Special Area* and *North Fork Valley Coal Resource Special Area Mining Regulations*, adopted by the Gunnison County Board of County Commissioners on November 24th, 2003, recorded at Reception No. 537166, Gunnison County Clerk and Recorder, the Board of County Commissioners of Gunnison County may issue a declaration of exemption and no further review or approval shall be required from the County for the proposed coal mining operation, if the Board finds that the proposed activity falls within an exemption from the *Regulations*; and

WHEREAS, Section 1-203 of the *North Fork Valley Coal Resource Special Area Mining Regulations* **C. EXEMPTION FROM COAL RESOURCE SPECIAL AREA PERMIT REQUIREMENTS AND STANDARDS.** states:

1. **EXISTING COAL MINING OPERATIONS.** Existing Coal Mining Operations within the Coal Resource Special Area that register with the County under Section 1-205 of these Regulations are exempt from the requirement to obtain a Coal Mining Permit under Section 1-207, the Standards under Section 1-208 and the Financial Security under Section 1-209.

2. **METHANE VENTING INTEGRAL AND ESSENTIAL TO COAL RESOURCE SPECIAL AREA COAL MINING OPERATION.** Coal mine methane venting and all infrastructure associated therewith from a mine that is in compliance with these Regulations and that is an integral and essential component of the coal mining operation shall not be subject to these Regulations or any other County regulations otherwise applicable to oil and gas drilling and production.

3. **EXPLORATION.** Coal exploration and all infrastructure associated therewith conducted under the grant of a federal coal lease or federal exploration permit, license or notice of intent to explore or written approval to explore, to confirm or establish coal reserves within the Coal Resources Special Area associated with Coal Mining Operations described in Section 1-203 C. 1. is exempt from the requirement to obtain a Coal Mining Permit under Section 1-207, the Standards under Section 1-208 and the Financial Security under Section 1-209; and

4. **DECLARATORY RULING REGARDING EXEMPTIONS.**

   a. **DECLARATION REQUEST**. Any coal operator may submit a written request to the Board of County Commissioners for a declaratory ruling as to whether proposed Coal Mining Operations of that Coal Operator fall within an exemption from these Regulations. A copy of the request shall also be submitted to the Planning Director.

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b. **CONTENT OF REQUEST.** The request for declaratory ruling shall include a brief explanation of the proposed activity and the reasons why the proposed activity falls within an exemption under these Regulations.

c. **BOARD CONSIDERATION.** The Board shall consider the request for a declaratory ruling within 30 days of the date of the next regularly scheduled meeting of the Board. The person requesting the exemption may present information at the meeting.

d. **DECLARATION OF EXEMPTION**. If the Board determines that the proposed Coal Mining Operations are exempt from these Regulations, it shall issue a declaration of exemption and no further review or approvals shall be required from the County for the extent of Coal Mining Operations described in the declaration of exemption.

WHEREAS, the Board of County Commissioners of Gunnison County, Colorado is informed of the following:

The proposed projects consist of the construction of one ventilation shaft and one emergency escapeway (the Deer Creek shaft) as well as the installation of one-hundred fifty-nine methane drainage wells (MDW's) for the E Seam Panels 1 through 12.

The purpose of the **Deer Creek Shaft** is to provide ventilation for the West Elk Mine. This shaft would be designed to function without a ventilation fan. The emergency escapeway is proposed to support the mine evacuation plans and to fulfill Mine Safety and Health Administration (MSHA) requirements. Both the Deer Creek Shaft and the emergency escapeway would be built on the same pad. The shaft pad site is approximately 1,800 feet southeast of the Minnesota Reservoir. The pad is located in the NE ¼ of Section 32, T.13S, R.90W, 6th Principal Meridian. The shaft construction project area is located on lands managed by the USDA Forest Service, Gunnison National Forest, Paonia Ranger District. The proposed project is within the current coal lease area on Federal Coal Lease C-1362, held by Mountain Coal Company, L.L.C.

The **Deer Creek Shaft** project consists of:

- Using Raisebore, blind bore, or conventional sink construction methods to construct an approximately 20 to 28-feet diameter ventilation shaft approximately 400 feet deep.
- The proposed method of construction is conventional sinking since this method may be required due to expected timing of regulatory approvals and operational needs for ventilation. Additionally, MCC requests a waiver to allow these construction activities to occur during the period between November 30, 2007 and May 1, 2008 to provide sufficient time to construct these facilities to meet anticipated operational requirements for additional mine ventilation and emergency escapeway facilities in 2008.
- Additionally a 4-feet diameter by 400-feet deep (approximate) emergency escapeway is proposed to be constructed using the raisebore or blind bore methods only.
- Construct an enclosure for the emergency escapeway and electrical generation equipment for the emergency escape hoist;
- Perform interim reclamation on the pad and light-use road once the shaft and associated structures are constructed; and
- Seal the airshaft and escapeway and perform final reclamation when these features are no longer needed at the end of the mine life (circa 2023).

The purpose of the **E Seam Methane Drainage Wells Project** is to provide methane venting of the West Elk Mine and will consist of the drilling one hundred fifty-nine (159) methane drainage wells (MDWs) for the E Seam (coal seam), panels 01 through 12. The wells will be located in

an area that is generally located 7 to 10 miles east, and northeast of Paonia, Colorado. The area is located on lands managed by the USDA Forest Service, Gunnison National Forest, Paonia Ranger District, in Sections 27, 28, 29, 32, 33, 34, and 35 of T.13S, R.90W, and in Sections 1, 2, 3, 4, 9, 10, and 11 of T. 14 S., R, 90 W. of the 6th Principal Meridian.

The proposed **E Seam Methane Drainage Wells** project consists of:

- Drilling and casing one hundred fifty-nine (159) methane drainage wells;
- Constructing of drill pads, a total area of 76.1 acres.
- Construction of spurs between existing road and drill pads, a total length of 23.54 miles and an area of 57.04 acres. A total disturbed area of 133.14 acres is anticipated;
- Installation of passive and/or active de-gassing equipment;
- Operation and Maintenance;
- Plugging drill holes and performing final reclamation when the drill holes are no longer performing their intended purpose; and

WHEREAS, the Board of County Commissioners has reviewed the written request for a declaratory ruling, submitted by Mountain Coal Company, LLC, as to whether the proposed Coal Mining Operations fall within an exemption from these Regulations;

AND WHEREAS, the Board of County Commissioners finds that the proposed projects solely involve the conduct of coal mining operations for methane venting and all infrastructure associated therewith, from the West Elk Mine, that is in compliance with these Regulations, and that the proposed projects are an integral and essential component of the coal mining operation; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Gunnison County, Colorado, that a Declaration of Exemption is hereby granted to Mountain Coal Company LLC, pursuant to Section 1-203 of the *North Fork Valley Coal Resource Special Area Mining Regulations*, and that no further review or approvals shall be required from Gunnison County for the Deer Creek Shaft and E Seam Methane Drainage Wells projects.

Nothing in this Resolution is, or shall be construed to be, a waiver by Gunnison County of Gunnison County's opportunity to seek enforcement of restrictions regarding federal roadless areas.

INTRODUCED by Commissioner Channell, seconded by Commissioner Swenson, and adopted this 19th day of December, 2006.

BOARD OF COUNTY COMMISSIONERS OF GUNNISON COUNTY, COLORADO

Jim Starr, Chairperson

Hap Channell, Vice Chairperson

Paula Swenson, Commissioner

Attest:

Kelly Balch
Deputy County Clerk

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Gunnison County
C O L O R A D O

DAVID BAUMGARTEN • COUNTY ATTORNEY
THOMAS A. DILL • DEPUTY COUNTY ATTORNEY

July 24, 2006

US FIRST CLASS MAIL AND FAXED
TO: 303-239-3799 & 970-874-6698

Sally Wisely, State Director
Bureau of Land Management
Colorado State Office
2850 Youngfield Street
Lakewood, CO 80215-7093

Charlie Richmond, Forest Supervisor
Grand Mesa, Uncompahgre and
Gunnison National Forest
2250 Highway 50
Delta, CO 81416

RE: Protest of August 10, 2006 Oil and Gas Lease Sale Auction

Dear Ms. Wisely and Mr. Richmond:

I am authorized by the Board of County Commissioners of Gunnison County, Colorado to file, on behalf of the Board, this request to remove the following parcels in Gunnison County from the August 10, 2006 Competitive Oil and Gas Sale and to formally protest the Bureau's decision to offer the following parcels located in Gunnison County for lease at the August 10, 2006 Oil and Gas Sale Auction:

Parcel Numbers: COC 69998
COC 69999
COC 70000
COC 70001
COC 70002
COC 70006

These six parcels total an area of approximately 7,561.05 acres in Gunnison County, Colorado and are located completely within or contiguous to United States Forest Service (USFS) Inventoried Roadless Areas.

1. Roadless Areas Review Task Force

The Colorado General Assembly has declared, in SB05-243, Section 1, that "the management of national forest roadless areas is of great importance to Colorado, its economy, and its environment ... (t)he State of Colorado should seek to resolve deliberations and disputes concerning such management by engaging local communities, affected stakeholders, and the people of Colorado as to the proper management of those lands." The State of Colorado has established a Roadless Areas Review Task Force, the purpose of which is to help determine the future of roadless

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areas in Colorado, including what uses, if any, will be allowed in the applicable forest areas.

The Governor of Colorado has until November 13, 2006, based upon the recommendations of the Task Force, to choose to petition the Secretary of Agriculture to promulgate regulations establishing management requirements for any or all inventoried roadless areas with Colorado.

It would be contrary to the analytical and deliberative purposes of the Task Force, and potentially fatal to the work in which it is engaged, to lease the lands identified above for oil and gas development, while the work of the Task Force proceeds. Perhaps more important, if a lease of the lands is executed, it may be difficult, if not impossible, for further restrictions to be placed on them based on the future conclusions of the Task Force.

Leasing for gas development within GMUG USFS Inventoried Roadless Areas will cause irretrievable harm to the unroaded, wild nature of these critical lower elevation portions of the national forest. The current GMUG Forest Plan does not offer sufficient, non-waivable leasing stipulations to adequately protect the forest resources found within these areas. Sensitive resources such as Canada Lynx habitat, Colorado River Cutthroat Trout streams, watershed headwaters, other wildlife migration and winter habitats, and critical riparian zones can be found throughout the GMUG parcels being offered for lease. Development of these areas for natural gas will add roads and other disturbances and cause long term significant impacts to the national forest and adjoining private lands. The 1991 GMUG Forest Plan and the 1993 Oil and Gas EIS/Reasonably Foreseeable Development (RFD) scenario fail to adequately consider roadless areas and their values. In fact, documents justifying the leasing do not consider any roadless area values whatsoever. In addition, these documents fail to reflect current conditions and demand for gas leasing. The sale of these additional lease parcels will continue to extend the GMUG beyond the analysis contained in its RFD. This leasing ought to be discontinued until an updated Forest Plan and RFD have been completed.

2. Parcel Descriptions

The following parcels and roadless values would be impacted by the lease sale and the inadequate management stipulations placed on the leases by the current Forest Management Plans:

COC69998

This lease sale parcel includes approximately 2,080 acres within the Tomahawk Inventoried Roadless Area south of McClure Pass in the North Fork Valley. This area adjoins the Ragged Wilderness to the southeast and private lands to the west. The West Elk Scenic Byway follows McClure Pass to the North and this lease sale parcel is critical to the scenic values of the area. As with other roadless areas in the North Fork Valley, the Tomahawk Roadless Area provides a critical linkage for wildlife movement between the Grand Mesa and West Elk Mountains and contains Colorado River Cutthroat Trout Habitat in Buck Creek.

COC69999

This lease sale parcel includes approximately 640 acres within the Clear Fork Inventoried Roadless Area adjacent to the White River National Forest (WRNF) at the headwaters of the North Fork of the Gunnison River drainage in the North Fork Valley. The Clear Fork Roadless Area contains 24,200 acres of roadless lands contiguous to additional roadless acreage to the north. The Clear Fork is a natural landscape with terrain and vegetation providing a sense of solitude and challenge to visitors. The area contains Canada Lynx Winter habitat as well as Colorado River Cutthroat habitat in the Clear Fork River and its tributaries.

This parcel also includes 640 acres within the Huntsman Ridge Inventoried Roadless Area northwest of McClure Pass. Huntsman Ridge Roadless Area is situated north of private lands near the village of Ragged Mountain. Like Tomahawk Roadless Area, Huntsman Ridge provides important scenic value for the West Elk Scenic Byway and helps maintain the rural character of the upper North Fork Valley. The Huntsman Ridge Roadless Area also contains Canada Lynx and Colorado River Cutthroat Trout habitat in Spring Creek.

COC70000

This lease sale parcel in northwest of parcel COC69999 and includes 2,560 acres within the Clear Fork Inventoried Roadless Area adjacent to the WRNF at the headwaters of the North Fork of the Gunnison River in the North Fork Valley. As described above, the Clear Fork Roadless Area contains Canada Lynx habitat and Colorado River Cutthroat Trout habitat.

COC70001

This lease sale parcel is north of parcel COC70000 and includes 219.030 acres within the Clear Fork Inventoried Roadless Area adjacent to the WRNF at the headwaters of the North Fork of the Gunnison River in the North Fork Valley. (Please refer to the discussion above for parcel COC70000 for a description of the Clear Fork Roadless Area.)

COC70002
This lease sale parcel is northwest of parcel COC69999 and includes 1274.850 acres within the Clear Fork and Huntsman Ridge Inventoried Roadless Area. (Please refer to the discussion above for parcels COC69999 and COC70000 for a description of the Clear Fork and Huntsman Ridge Roadless Areas.)

COC70006
This lease sale parcel is southwest of parcel COC70002 and includes 787.170 acres within the Huntsman Ridge Inventoried Roadless Area. (Please refer to the discussion above for parcel COC69999 for a description of the Huntsman Ridge Roadless Area.)

3. Lack of Adequate Management Stipulations

The GMUG Forest Plan places some of the lease sale parcels under No Surface occupancy stipulations for wetlands, steep slopes or high geological hazards, but the large majority of the parcel acreage would only be managed under controlled surface use limitations not adequate for protecting roadless character and associated important resources. Additionally, any of these stipulations could be waived at the discretion of the USFS under the guidance of the current GMUG Forest Plan. The implementation of the Forest Service's current set of stipulations will not protect the roadless character of these parcels. Removal of the parcels from the sale is the only adequate means of protecting these areas.

The Board of County Commissioners of the County of Gunnison, Colorado respectfully requests that the Bureau withdraw the above six parcels from the August 10, 2006 Oil and Gas Sale Auction. If any of the parcels remain for lease, the Board formally protests such leases.

Thank you for your consideration.

Truly yours,

David Baumgarten
Gunnison County Attorney

xc: Board of County Commissioners

200 EAST VIRGINIA AVENUE • SUITE 262 • GUNNISON, CO 81230 • 970-641-5300 • FAX: 970-641-7696

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GUNNISON COUNTY, COLORADO

this went out of DB's office

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

November 2, 2006

US FIRST CLASS MAIL AND
EMAIL: nmortenson@fs.fed.us

Grand Mesa, Uncompahgre and Gunnison National Forests
Attention: Deer Creek Shaft and E Seam MDW Project
2250 Highway 50
Delta, CO 81416

Re: Deer Creek Shaft and E Seam MDW

To Whom It May Concern:

The Board of County Commissioners of Gunnison County, Colorado respectfully submits the following comments regarding the proposed EIS for the above project. Gunnison County has designated the North Fork Valley Coal Resource Special Area and has adopted the Coal Resource Special Area Coal Mining Regulations. In those Regulations, Gunnison County recognizes that:

1. Coal is a resource valuable to the United States, Colorado and Gunnison County that deserves to be extracted and put to use;

2. Extraction of that resource causes impacts;

3. Extraction of that resource is heavily regulated by the federal and state governments; and

4. Gunnison County has a legitimate role in reasonably regulating the extraction of that resource.

Gunnison County expressly exempts from Coal Resource Special Area Permit Requirements And Standards methane venting "that is an integral and essential component" of coal mining operations. There is a specific process identified in the Regulations by which an operator may obtain a "declaration of exemption" from the Board; that process has not yet been initiated. Assuming that such an exemption from County regulations were to be granted, the federal process should analyze the following:

1. Setbacks of surface are disturbed by each shaft, well or road from existing surface improvements (including irrigation ditches).

2. Road construction location, impacts, impact mitigation and reclamation based on, among other issues, anticipated vehicle weight, and any seasonal traffic limitations.

3. Routing of construction and haul routes.

4. Truck noise.

5. Water quality such that the construction and operation does not cause significant net adverse effect/impact in the water quality or water pressure of any public or private water wells.

6. Wildlife such that surface disturbance of the construction and operation will not result in significant net adverse effect/impact to sensitive wildlife habitat areas as defined by the Colorado Division of Wildlife.

7. Wildfire hazards that may reasonably be anticipated by the construction or operation.

8. Emergency response reasonably anticipated by the construction or operation.

9. Impacts to federal, state, county and other public roads caused by the construction and imposition of a mechanism to mitigate those impacts.

10. Reinstatement of the 2001 Roadless Area Conservation Rule to the degree that any of the proposed roads are in inventoried roadless areas.

Thank you.

BOARD OF COUNTY COMMISSIONERS
OF GUNNISON COUNTY, COLORADO

Jim Starr | Hap Channell | Paula Swenson

COURTHOUSE SQUARE • 200 EAST VIRGINIA • GUNNISON, COLORADO 81230

GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

November 7, 2006

Bill Jackson, Project Manager
Bull Mountain Natural Gas Pipeline Project
USDA Forest Service, White River National Forest
620 Main Street
Carbondale, CO 81623

RE: Gunnison County response, *Draft Environmental Impact Statement, Bull Mountain Natural Gas Pipeline*

Dear Mr. Jackson:

Thank you for the opportunity to review and comment on the *Draft Environmental Impact Statement, Bull Mountain Natural Gas Pipeline.*

Generally, because of the judgment in the recent California v. Dept. of Agriculture case setting aside the *State Petitions Rule* and reinstating the *Roadless Rule* and because both the Preferred Alternative and Alternative in the DEIS directly cross Inventoried Roadless Areas in contravention of the *Roadless Rule*, Gunnison County recommends that this DEIS be withdrawn and redrafted. While there potentially may be challenges to this judgment and the issue could remain in flux for some time, the ruling currently stands and may substantively affect the information, analysis and conclusions as presented in this DEIS: All must be reevaluated in the context of this ruling, and the public must have the opportunity to review and respond.

As to the document currently within the review process, our comments are primarily specific to those activities located within the boundaries of Gunnison County and described within this DEIS.

Should additional compressors or other facilities that are not described in this DEIS be needed in the future to operate the Bull Mountain pipeline at maximum capacity, we assume the Forest Service will require additional assessment, and we reserve the opportunity to participate in that review and submit additional comments at that time. The Final EIS should include language that identifies activities in addition to those defined in this DEIS that would trigger such assessment and how public notification and opportunity for comment will be assured.

Construction, operation and maintenance of the pipeline, all facilities at the proposed Bull Mountain Compressor Station, and attendant roads are subject to all applicable Gunnison County permitting requirements. Because Gunnison County regulations seek to avoid duplicative review processes, we would urge the applicant to initiate those permit reviews, so that such reviews may be conducted in tandem with this EIS review process.

Specific comments are these:

- The proposed pipeline design accommodates five times the capacity necessary to convey gas from the Bull Mountain unit. Though the analysis of cumulative effects addresses the project area, and considers some future, as well as the past 20 years, development, it does not fully address the effects of the "increased opportunity factor," i.e. that the presence of a line of this capacity would facilitate and encourage drilling and production at greater levels and over a broader area than has been addressed within the identified CEA's. Secondary growth from construction, employees and a service population should be considered outcomes, including impacts to infrastructure and both detriment and benefit to the public.

- Forest Plan Amendment 2 notes that, "Management activities within roadless areas should emphasize long-term maintenance of roadless characteristics and... maintenance and restoration of ecosystem composition and structure such as reducing the risk of uncharacteristic wildfire effects." Risk of fire during operation is attributed primarily to "unauthorized entry onto the right-of-way." While the potential for a pipeline breach and resultant release of flammable vapor may be minimal, design and monitoring measures to minimize such an occurrence (which logically might also be caused by construction failure, or weather events) ought to be included within applicable sections of the Final EIS, including the fire prevention and suppression section.

- Though Alternatives 2 and 3 would generate total construction emissions greater than those of the Preferred Alternative, the time during which those emissions would be generated is limited and so does not offset the likely long-term impacts of road construction and maintenance within the designated roadless area.

- Selection of the routes in either Alternative 2 or 3 within the Gunnison County area of the plan is preferable to either the Preferred Alternative or Alternative 1: In particular, impacts to water bodies, to visual quality, to meadowlands, and to long-term air quality will be less as the proposed routes in those alternatives follow existing roads, and to a considerable extent, the routing of existing pipelines.

- Final noxious weed management and reclamation plans should be required to comply in Gunnison County with County reclamation and revegetation requirements for noxious weed control.

Again, thank you for the opportunity to comment.

Respectfully submitted,

David Baumgarten

David Baumgarten
Gunnison County Attorney

GUNNISON COUNTY, COLORADO

BOARD OF COUNTY COMMISSIONERS
PHONE: (970) 641-0248
FAX: (970) 641-3061

February 20, 2007

Bill Ritter, Governor
136 State Capitol
Denver CO 80205-1792

Dear Governor Ritter:

We are writing to request that you review the Owens Roadless Area petition and revise it to eliminate the provisions which open many currently undeveloped roadless areas to various industrial uses. As you know, Gunnison County's primary economy is based on recreational tourism. Allowing new roads in those areas of the county which are currently roadless will harm the continued viability of that economy.

Having stated our general concern, we nonetheless ask for your review of the petition because within the County we have a designated North Fork Valley Coal Resources Special Area. This Area encompasses two existing underground coal mines and there is a need to have roads constructed within the designated area for the safety related purposes of venting methane gas from the mines. For this reason, we request that your review result in this Special Area being excluded from the adjacent roadless areas.

Please help protect our tourism economy and the wildness which helps settle our souls. We urge you to review and revise the Owens Roadless Area Petition to better protect our undeveloped roadless areas.

Sincerely,

Hap Channell, Chairperson	Absent Paula Swenson, Commissioner	Jim Starr, Commissioner

cc: Harris Sherman, Director of Colorado Department of Natural Resources
Senator Gail Schwartz
Representative Kathleen Curry

Gunnison County
COLORADO

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
Phone: (970) 641-0248, Fax: (970) 641-3061
Email: bocc@gunnisoncounty.org
Website: www.GunnisonCounty.org

July 15, 2008

United States Bureau of Land Management
Colorado State Office
2850 Youngfield Street
Lakewood, CO 80215

Attn: Karen Zurek

Re: Protest; August 14, 2008
Lease Sale

Ms. Zurek:

The Board of County Commissioners of Gunnison County, Colorado, respectfully files this Protest regarding the inclusion of the following Roan Plateau parcels in the August 14, 2008 Lease Sales:

1. COC 73064;
2. COC 73065;
3. COC 73066
4. COC 73067;
5. COC 73068;
6. COC 73069;
7. COC 73070;
8. COC 73071;
9. COC 73072;
10. COC 73073;
11. COC 73074;
12. COC 73075;
13. COC 73076;
14. COC 73077;
15. COC 73078;
16. COC 73079;
17. COC 73080;
18. COC 73081;
19. COC 73082;
20. COC 73083;
21. COC 73084;
22. COC 73085;
23. COC 73086;
24. COC 73087;
25. COC 73088;
26. COC 73089;
27. COC 73090;
28. COC 73091;
29. COC 73092;
30. COC 73093;
31. COC 73094; collectively the "Roan Plateau Parcels".

The Roan Plateau Parcels, 31 in all, include 55,186 acres that boast native trout streams and have some of the best winter elk and mule deer habitat left in the heavily developed Piceance Basin.

While Colorado is blessed to be home to significant energy resources, and tapping these resources is important to sustain our nation's energy needs and to invigorate our state economy, the current lease proposal – and the plan that is its foundation – is fundamentally flawed. The lease proposal and plan ignore the inherent environmental and ecological resource values of the Roan Plateau and their critical economic value to Western Colorado.

Within the last year, Governor Bill Ritter, United States Senator Ken Salazar, and United States Representatives John Salazar and Mark Udall, among others, have proposed recommendations for the Roan Plateau oil and gas development that would ensure responsible development of the energy resources under the Roan while maximizing revenues returned to the State of Colorado. The current leases and their foundational plan ignore these recommendations.

The Board of County Commissioners of Gunnison County is committed to the proposition that the development of oil and gas resources on federal lands on the West Slope of Colorado not be conducted in a way that damages the long-term sustainability of those lands. We urge the federal government that it is of critical importance to acknowledge and act consistently with the recognition that protection of the Roan Plateau is of core importance to the integrity of Western Colorado.

Thank you,

Hap Channell	Paula Swenson	Jim Starr
Chairperson	Commissioner	Commissioner

Cc: Governor Bill Ritter
Honorable Senator Ken Salazar
Honorable Representative John Salazar
Honorable Representative Mark Udall

Gunnison County
COLORADO

Office of the Gunnison County Attorney
David Baumgarten, County Attorney
Thomas A. Dill, Deputy County Attorney

July 22, 2008

United States Bureau of Land Management
Colorado State Office
2850 Youngfield Street
Lakewood, CO 80215

Attn: Karen Zurek

Re: Protest; August 14, 2008
Lease Sale; Notice of Addendum #1

Ms. Zurek:

Today, Gunnison County, Colorado, received the Notice of Addendum #1, dated June 25, 2008, regarding the above Lease Sale. Gunnison County reiterates the protest Gunnison County made in the correspondence dated July 15, 2008, to you.

Thank you

Truly yours,

David Baumgarten
Gunnison County Attorney

Cc: Board of County Commissioners of Gunnison County, Colorado
Matthew Birnie, County Manager

200 East Virginia Avenue, Suite 262 Gunnison, CO 81230
Office (970) 641-5300 • Fax (970) 641-7696

Gunnison County
COLORADO

GUNNISON COUNTY BOARD OF COUNTY COMMISSIONERS
Phone: (970) 641-0248, Fax: (970) 641-3061
Email: bocc@gunnisoncounty.org
Website: www.GunnisonCounty.org

May 5, 2009

To Whom It May Concern:

The Gunnison County Board of County Commissioners is concerned with the environmental impacts associated with greenhouse gas emissions which may contribute to the warming of our planet. In particular, the Commissioners are concerned with methane emissions from area coal mines.

Methane is a greenhouse gas that is 23 times as effective at trapping heat in the atmosphere as is carbon dioxide. Methane now accounts for 14 percent of all greenhouse gas emissions globally. In addition, it has a relatively short atmospheric lifetime of approximately 12 years. These characteristics make methane emission reductions particularly effective at mitigating global warming in the near term.

The Board of County Commissioners wishes for Gunnison County to be a leader in encouraging and supporting the development and use of technologies and projects which reduce or eliminate the release of methane to the atmosphere. Therefore, Gunnison County supports development and funding of the North Fork Valley Coal Mine Methane Capture and Electricity Generating Project (the "Project") proposed by Western State College ("WSC"), Gunnison Energy Corporation ("GEC") and Vessels Coal Gas, Inc. ("VCG").

The Project is designed to generate 2.7 megawatts of electricity by combusting waste coal mine methane gas. The generation and sale of this electricity will capture and use approximately 90,000 tons per year of carbon equivalent emissions which may otherwise escape to the atmosphere.

GEC and VCG have entered into a memorandum of understanding with WSC in order to identify grant funding and other public and private funding sources to defray the initial capital costs associated with the project. This agreement provides for long-term student involvement in both the construction and operation of the Project.

The Board of County Commissioners believes that through collaborative efforts between the public and private sectors, this Project can be a pioneering example of the development of cost-effective technologies that capture and utilize otherwise wasted coal mine methane gas for beneficial use. This Project not only provides a clean source of local electricity, but will also showcase the technologies involved and demonstrate Gunnison County's support of a diversified, new energy economy.

Sincerely,

Paula Swenson, Chairperson	(Absent) Jim Starr, Commissioner	Hap Channell, Commissioner

200 E. Virginia Avenue ♦ Gunnison, CO 81230

Gunnison County
COLORADO

Gunnison County Board of County Commissioners
Phone: (970) 641-0248 · Fax: (970) 641-3061
Email: bocc@gunnisoncounty.org · www.GunnisonCounty.org

January 18, 2011

Grand Mesa, Uncompahgre, and Gunnison National Forests
Attn: Forest Supervisor
2250 Hwy 50
Delta, CO 81416

Re: Federal Coal Lease Modification COC-61357

Dear Sirs,

The Gunnison County Board of County Commissioners supports the Oxbow Mining, LLC application to modify existing federal coal lease COC-61357 affecting portions of Section 32 and 33 of T.12S, R. 90W, 6th PM in Gunnison County. Coal in the existing lease is mined from the Elk Creek Mine near Somerset, Colorado.

It is not anticipated that this lease modification will require further surface facilities to mine Oxbow's D seam reserves. The modification should help to maximize available coal resource utilization as well as extend miner employment and payment of severance taxes.

We hope that you will view the application favorably as we believe that, as much as possible, it encourages environmentally sound and safe energy and mineral development. Additional comments are provided by Gunnison County Geographic Information Services Manager Mike Pelletier in the attached correspondence.

Sincerely,

Hap Channell, Chairperson | Paula Swenson, Commissioner | Phil Chamberland, Commissioner

cc: Oxbow Mining, LLC
Geographic Information Services Manager Mike Pelletier

Encl: Gunnison County Geographic Information Services Manager Mike Pelletier Correspondence, dated 1/4/2011

January 4, 2011

Gunnison County
COLORADO

Grand Mesa, Uncompahgre, and
Gunnison National Forests
ATTN: Forest Supervisor
2250 HWY 50
Delta, CO 81416

RE: Federal Coal Lease Modification COC-61357

Dear Sir or Madam,

On behalf of the Gunnison County staff, thank you for the opportunity to comment on the Federal Coal Lease Modification COC-61357. The following are Gunnison County's scoping comments on this project.

1. This project is located within our North Fork Valley Coal Resource Special Area Regulations and is subject to the Coal Resource Special Area Coal Mining Regulations.
2. Identify any surface improvements, including but not limited to, roads, buildings, irrigation ditches, and utilities within the project area. Examine the potential for damage due to subsidence upon these improvements.
3. Costs of monitoring and mitigating damages must be borne by the applicant.
4. Applicable Gunnison County regulations apply, including but not limited to reclamation and noxious weed control.

Again, thank you for the opportunity to submit these comments regarding this project. Gunnison County reserves the right to revisit these comments and amend them as lawfully necessary to protect the public health, safety and welfare of the county's residents and visitors.

Respectfully Submitted,

Mike Pelletier
Gunnison County, GIS Manager

Gunnison County, Geographic Information Services
200 East Virginia Ave., Ste. 158
Gunnison, CO 81230

(970) 641-7645
mpelletier@gunnisoncounty.org
(970) 641-3061 fax