



**File Code:** 1570  
15-02-00-0066-219  
**Date:** May 11, 2015

Peter Hart  
Wilderness Workshop  
520 S. 3rd Street  
Suite 27  
Carbondale, Colorado 81623

Dear Mr. Hart:

On February 9, 2015, you filed an objection on behalf of Wilderness Workshop, Sierra Club, Natural Resources Defense Council, and Conservation Colorado regarding the White River National Forest's *Oil and Gas Leasing Decision*. The legal notice for that project was published in the *Glenwood Springs Post Independent* on December 12, 2014, which initiated the 60-day objection period. Your objection was timely. This letter is my written response to that objection, as required by 36 Code of Federal Regulations (CFR) 219.56(g).

To satisfy 36 CFR 219.57(a), an objection resolution meeting was held with the objectors in Glenwood Springs, Colorado on April 27, 2015. You attended that meeting along with other objectors. I was in attendance as was Scott Fitzwilliams, Supervisor of the White River National Forest and staff from both the forest and the Rocky Mountain Regional Office. We were unable to resolve your objections at that meeting.

### **Project Subject to Objection**

The White River National Forest proposes to make portions of that forest available for oil and gas leasing, to adopt stipulation requirements for use on those lands, to close other portions of the forest to oil and gas leasing, and to amend the White River National Forest Land and Resource Management Plan (LRMP).

Three alternatives were considered in detail in this project's final environmental impact statement (FEIS). These alternatives included:

- Alternative A – No Action (current management);
- Alternative B (Scenario 1 & 2) – No New Leasing;
- Alternative C (Scenario 1 & 2) – Proposed Action.

Scenario 1 assumes the 39 leased/undeveloped parcels would expire or terminate and subsequently be closed to future leasing through management direction (Alternative B) or a combination of closed to future leasing through management direction and available for lease (Alternative C).

Scenario 2 assumes the 39 leased/undeveloped parcels would not expire and would be developed under the 1993 WRNF Oil and Gas Leasing stipulations and/or stipulations they were leased under.



As detailed in the Draft Record of Decision (DROD) for this project, a combination of Alternatives B and C was selected for implementation.

### **Objection Responses**

Following are summaries of the objection issues, paraphrased from the actual objections filed by the addressee. The agency response then follows each summarized issue.

**Objection Issue 1:** The failure to close East Divide is arbitrary and capricious.

*Objection Response* – There is discussion specific to the East Divide area in the analysis (FEIS Section 3.2.11.2.1.1.1). That discussion notes that an “exploratory and development proposal for the East Divide Creek area is currently under review and is expected to result in two exploratory locations with multi-well pads and additional development wells if successful. A pipeline is also reasonably foreseeable in this area (FEIS Appendix F). The Reasonably Foreseeable Development Scenario (RFDS) describes the East Divide as being within the Divide Creek Unit which holds that land under production. Making the East Divide area available for leasing is consistent with Alternative C rationale (FEIS Section 1.5 and 2.2) because: the area has historic, current, or likely future exploration or development activity; or has the high occurrence potential lands for oil and gas resources; or has moderate potential lands bordering high potential lands with past or present interest either in leasing or exploration and development.

An agency action may be arbitrary and capricious if the agency: overlooked evidence, made a decision unsupported by the facts, made a decision that lacks logic, or made a clear error of judgement. The DROD and the analysis outlined above do not support the allegation that failure to close the East Divide is arbitrary and capricious.

**Objection Issue 2:** The FEIS does not expressly analyze the selected alternative.

*Objection Response* – The FEIS contains extensive analysis of the expected effects of implementing either Alternative B or Alternative C. (FEIS Chapter 3) The selected alternative falls between Alternatives B and C in scope and effect. The expected environmental consequences were, therefore, completely analyzed. However, the effects of the selected alternative, which falls within the range of Alternatives B and C, are not clearly displayed.

**Objection Issue 3:** The discussion of how roadless areas will be impacted by existing oil and gas leases should be clarified because roadless is a significant aspect of the environmental impact of the proposed action. Moreover, environmental impact statements shall state how alternatives comply with environmental laws and policies.

*Objection Response:* The roadless area issue was extensively addressed in the FEIS in the Response to Comment (Public Concerns 6-4 to 6-13 and Encana Concern #4). The DROD discusses how the selected alternative complies with environmental laws and policies. Specific impacts on roadless characteristics would be most appropriately addressed at the time development is proposed. New analysis of direct and indirect effects of existing oil and gas leases in roadless areas is outside the scope of this analysis (DROD). New leases

within roadless areas made available with an NSO stipulation in accord with the Colorado Roadless Rule were analyzed. (FEIS Section 3.5.2), and carried forward in the decision.

**Objection Issue 4:** The FEIS discusses a right of access on existing mineral leases that do not exist under law.

**Objection Response** – You contend that the Forest Service has misinterpreted the right of access on existing leases. The analysis and decision on access rights and routes is accomplished at the development stage. (FEIS Sections 3.3.3.3.2 and 3.4.9.1) This leasing decision does not cover that phase of the process. When an Application for Permit to Drill (APD) and Surface Use Plan of Operations (SUPO) is submitted, a site-specific NEPA analysis is done. This issue is beyond the scope of the instant decision.

**Suggested Remedies:**

In your objection, you recommended that the FEIS be revised to: close the East Divide area to future leasing; describe the selected alternative; note that existing oil and gas leases issued since 2001 will be developed (if at all) subject to the limits on road construction and other activities in the Roadless Area Conservation Rule and 2012 Colorado roadless rule; and eliminate any reference to a right of access granted on existing mineral leases and revise any analysis that relied on that as an assumption.

**Conclusion:**

Based on my review of your objection, the FEIS, and objection record, I find no violation of law, regulation, or policy. However, I agree that the Forest Service should better describe the selected alternative, better describe how the expected effects of the alternative were considered, and determine if there are any unique effects created by combining parts of two alternatives that require further analysis. By copy of this letter I am instructing the Responsible Official, Forest Supervisor Scott G. Fitzwilliams to address this issue by more clearly displaying the effects of the selected alternative in the Final ROD. As required by 36 CFR 219.58(a), Forest Supervisor Fitzwilliams cannot sign a decision for this project until all instructions have been addressed. This response is not subject to further administrative review by the Forest Service or the Department of Agriculture pursuant to 36 CFR 219.57(b)(3).

If you have any questions or concerns regarding this response, please contact Nancy Miller at 303-275-5373 or [njmiller@fs.fed.us](mailto:njmiller@fs.fed.us).

Sincerely,



JAMES S. BEDWELL  
Acting Deputy Regional Forester  
Reviewing Officer

cc: Scott Fitzwilliams, Sarah Hankens, Wendy Haskins