Mr. Greg Larson
Project Manager, Colorado River Valley Field Office
Bureau of Land Management
2300 River Frontage Road
Silt, CO 81652

Re: Comments regarding the *Previously Issued Oil and Gas Leases in the White River National Forest* Draft Environmental Impact Statement (DEIS), prepared by the Bureau of Land Management (BLM)

Mr. Larson,

In response to the Notice of Availability of the Draft Environmental Impact Statement for Previously Issued Oil and Gas Leases in the White River National Forest (WRNF), CO (80 FR 72733, and hereafter referred to as the DEIS), the member organizations of Western Slope Colorado Oil and Gas Association (WSCOGA) and Western Energy Alliance (collectively "the Associations") wish to register their opposition to the BLM's Proposed Action, **Alternative 4**. As currently described in the DEIS, the Proposed Action would modify or cancel the affected leases to match the stipulations and availability decisions identified for future leasing in the 2015 WRNF Oil and Gas Leasing EIS.

WSCOGA is a member-based organization focused on promoting the development of natural gas and oil resources in Northwest Colorado. Western Energy Alliance represents over 450 companies engaged in all aspects of environmentally responsible exploration and production of oil and natural gas in Colorado and across the West. The associations are committed to developing the significant oil and natural gas resources within the White River National Forest in an environmentally responsible manner.

Summary Statement:

The Associations are very concerned that BLM has engaged in an overly politicized process with a pre-determined outcome. Local communities have expressed legitimate concerns about economic declines and job loss that will result from the DEIS, but BLM has ignored those concerns. Political interference and direction from Washington D.C. has caused BLM to fail in its legal mandates to balance environmental interests with the economic needs of the larger community, which has resulted in a biased document.

Political pressure to rush through the DEIS according to political deadlines rather than according to the mandates for a deliberative process leaves BLM vulnerable legally. Even our reasonable request for an extension of the comment period–which in normal circumstances is routinely granted–was denied, again calling into question how deliberative and open the process is. Furthermore, the DIES is legally flawed, as we discuss in great detail below.

The Associations are fundamentally opposed to any cancellation of existing lease rights based on retroactive analysis. The entire enterprise of private extraction of minerals on federal lands is founded on contracts entered into between the Federal Government and private entities. It is the strongly held opinion of the Associations that the lease contracts in question have always been and continue to be valid, as they were entered into in good faith by all parties, including the BLM, the US Forest Service, and the purchasers of the leases. These lease contracts represent valid existing rights, and are expressly protected under the Federal Land Policy and Management Act of 1976 (FLPMA), which states that all BLM actions are "subject to existing rights."[1]

Furthermore, under the Mineral Leasing Act[2], the BLM does not have the authority to cancel leases except in specific and extremely circumscribed situations, none of which pertain to these leases. That authority is vested in the courts, and applies only to cases in which the lessee has failed to meet the terms of the contract. In addition, the DEIS represents a retroactive application of the 2015 Leasing EIS to leases issued between 1995 and 2012. In the absence of significant changes in the interval between the original issuance of the leases and now, regulation and case law clearly indicate that adoption of the 1993 FS EIS is sufficient and that the preparation of a new DEIS is neither appropriate nor necessary. Finally, the DEIS inadequately evaluates the mineral resources within the affected leases, and does not account at all for the very considerable financial and logistical impacts associated with the disruption of existing and planned surface development infrastructure.

The Associations are opposed to any attempt to modify leases or add stipulations that were not part of the original lease terms, due to damage this breach of contract will inflict on the members' operations, and the serious implications such a decision would have on the viability of federal mineral development nationwide. As stated, the Associations question the need to prepare an EIS at all, and also contend that the BLM does not have the authority to enact several of the Alternatives included in the document. The only action that is fully supported by law and regulation is **Alternative 1**, the No Action Alternative, and the Associations strongly urge the BLM to select this Alternative.

Although the Associations cannot support any decision other than a selection of the No Action Alternative, in the event the BLM is unwilling to come to this conclusion, **Alternative 2** is a potentially acceptable alternative. **Alternative 2** simply adds the lease stipulations that should have been included on the existing leases under the 1993 FS EIS, but which were omitted

[1] 43 USC 1701 note (h)
[2] 30 USC 181 et seq.

through BLM error. However, **any lease stipulation additions must be dependent on the concurrence of the lessee**, since there is no current legal basis for the BLM to apply lease stipulations after the fact, and the Associations will oppose any action that would establish a precedent for the BLM's authority to do so.

Specific comments regarding the DEIS are as follows:

Comment 1: There is not sufficient cause to justify preparing an EIS for these leases, as the error was an administrative paperwork oversight rather than a violation of NEPA procedure.

The mandate of the National Environmental Policy Act (NEPA), the guiding principles as articulated by the Council on Environmental Quality (CEQ) in 40 CFR 1500.3, state that "the provisions of the Act and of these regulations must be read together as a whole in order to comply with the spirit and letter of the law… Furthermore, it is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action."

By the BLM's own assertion, all efforts were made to comply with the 1993 White River National Forest Leasing Plan at the time that the leases under discussion were offered for sale. Specifically, as detailed in the IBLA decision *Board of Commissioners of Pitkin County and Wilderness Workshop et al.*, (173 IBLA 173 [2007]), the BLM contended that, "as a cooperating agency with respect to the 1993 FS EIS and a reviewing agency with respect to the 2001 FS EIS, it should now be deemed to have adopted those EISs." The IBLA disagreed with this position in its decision, and found that the BLM had not formally adopted the EISs. However, no finding was made by IBLA to suggest that the BLM had **intentionally** failed to comply with the requirements of NEPA. Indeed, under 40 CFR 1503.2, the BLM is **required** to comment on all EISs to which it is a cooperating agency, whether those EISs are to be adopted or not. Acting under this requirement, the BLM by necessity had to take an active role in the process of evaluating these leases under NEPA prior to offering them. Further evidence that the BLM felt that compliance with NEPA had been achieved should be derived from the fact that the BLM continued to offer WRNF leases under this arrangement for many years, persisting through several changes of leadership. Additional evidence of BLM's intention to comply with NEPA was provided by BLM staff during the original scoping meetings[3], with repeated statements being made to the effect that the BLM thought that their staff had been handling the leasing process correctly.

In addition, there is no reason to believe that the BLM would have found the need to modify the USFS EISs had they been formally reviewed and adopted. Per the Memorandum of Understanding (MOU) between the USFS and BLM regarding oil and gas leasing[4], the USFS has the sole responsibility for oil and gas leasing availability and analysis. This MOU formalizes

[3] Steve Bennett, public communication, Scoping Meeting, Debeque, CO, May 1, 2014

[4] *Memorandum of Understanding Between United States Department of the Interior Bureau of Land Management and United States Department of Agriculture Forest Service, Concerning Oil and Gas Leasing and Operations*, BLM-MOU-WO-300-2006-07, April 2006

the reasonable assumption and common working procedure that USFS staff have the greater expertise to evaluate existing environmental conditions and potential impacts on USFS lands, and that the BLM defers to USFS judgement on matters regarding surface impacts. Therefore there is no evidence to suggest, nor does the IBLA decision contend, that any changes in the lease offerings would have been likely had the BLM conformed to the letter of the law and formally adopted the USFS NEPA documents prior to issuing the leases.

In summary, the Associations contend that the spirit of the law has been adhered to by the operators who purchased these leases in good faith, and also by the BLM who offered the leases under their best understanding of the Act and the associated regulations. The Associations do not contest the IBLA decision at this time, but do contend that BLM's failure to formally adopt the FS EISs is an administrative technicality rather than a failure of intent or the symptom of a systematic dereliction of duty, and is exactly the type of "trivial violation" that the CEQ did **not** intend to serve as the basis for independent action. The current DEIS represents just such an independent action, and is not justified under a reasoned reading of NEPA and 40 CFR 1500.

Comment 2: Cancellation or modification of valid leases is not within the authority of the BLM under the Mineral Leasing Act (MLA).

The MLA does not grant the authority to the BLM to cancel or modify valid existing leases, whether those leases are on USFS lands or BLM lands. Under MLA, cancellation of leases is strictly limited to cases in which the terms have been violated by the leaseholder. Section 31 of the Act states that leases "may be forfeited and cancelled **by an appropriate proceedings in the United States district court…whenever the lessee fails to comply** with any of the provisions of this Act, of the lease, or of the general regulations promulgated under this Act" (emphasis added). The MLA is quite clear that only the failure of a lessee is cause for cancellation; failure of the BLM to comply with administrative requirements is not addressed as a justifiable cause for cancellation, and a reasonable person would conclude that the lessee should not be held liable for a mistake on the part of the BLM. In addition, the MLA makes it clear that lease cancellation is a matter for the judiciary, and is not a function of the BLM.

The Associations are adamant that the leases in question are valid leases, based upon a reasonable interpretation of the good faith under which they were awarded (see **Comment 1**), the legally binding nature of the contracts that they represent, and the fact that all lessees have remained in good standing. It should be emphasized that the IBLA decision did not find the leases invalid, but simply reversed the BLM's dismissal of the protests lodged against those leases. Given that the leases are valid and that the lessees have given no cause for cancellation by violating the terms, the BLM does not have the authority to consider or enact cancellation of these leases.

In the leasing process, once the BLM accepts the bid and the lessee fully pays for the lease, a contract exists between the lessee and the BLM based solely on those identified terms and conditions. See, e.g., Coastal States Energy Co.,80 IBLA 274, 279 (1984); BLM Manual MS-

3120 – Competitive Leases, § 3120.64.A (Rel. 3-337, 2/18/13) ("A properly signed bid on a BLM-approved lease bid form constitutes a legally binding lease offer and acceptance of a lease, including all terms and conditions of the lease."). The unilateral addition of new terms by the BLM is a breach of this contract and violates "the equal opportunity for all bidders to compete on a common basis for leases." See Anadarko Prod. Co., 66 IBLA 174, 176 (1982), aff'd Civ. No. 82-1278C (D. N.Mex. 1983).

In a recent IBLA case stemming from Colorado, the IBLA recognized that stipulations could not be added to an existing lease if the BLM could not provide an adequate justification for the inclusion of the additional leases. DeJour Energy Corp (USA, IBLA 2010-175, *16 (April 21, 2011). Absent a coherent rational basis, the BLM does not have the authority to impose additional stipulations on an existing lease. The Associations are not convinced the BLM has provided a full and complete explanation as to why the stipulations were not originally included on the identified leases.

Comment 3: Retroactive analysis of these leases is not supported by federal regulations or case law, in the absence of significant new information concerning the environmental impact associated with the issuance of these leases.

The IBLA decision does not require the preparation of a new environmental analysis for the 65 leases included in the DEIS, but merely requires the BLM to respond to the protests received on the four particular leases addressed by the IBLA. The decision to prepare a retroactive analysis of the leases was internally generated by the BLM, as "the Forest Service NEPA analysis conducted for the previously issued leases is no longer adequate due to changes in laws, regulations, policies, and conditions since the Forest Service's EIS was issued in 1993."[5] However, the BLM's choice to prepare an EIS is not supported by the federal regulations governing such actions, and there is case law to support the contention that a new EIS is not warranted.

The BLM is refusing to adopt the USFS EIS as their own, citing that it is "inadequate." However, it is fundamentally flawed thinking to consider the 1993 EIS as inadequate in comparison to the current state of knowledge, when considering that the leases at issue were granted between 1995 and 2012. If this type of reasoning is taken to its logical conclusion, no agency statements would ever be adequate because more accurate and complete information could always become available at some point in the future. The framers of NEPA were aware of the potential for endless delays associated with gathering ever-more-precise information, and addressed the issue explicitly in 40 CFR 1502.22, stating that "if information relevant to reasonably foreseeable significant adverse impacts cannot be obtained…" the agency shall include a statement to this effect in the document and base the evaluation of impacts upon generally accepted theoretical approaches." All leasing EISs are necessarily based on incomplete information due to the ever-changing nature of the technical possibilities and business climate in which fluid mineral extraction occurs. All leasing EISs, including the 1993 WRNF EIS, use theoretical approaches

[5] Pg. 1-1, *Previously Issued Oil and Gas Leases in the White River National Forest Draft Environmental Impact Statement*, Bureau of Land Management BLM/CO/PL-16/002, November 2015

to approximate the expected impacts to the extent possible, especially in the development of the Reasonably Foreseeable Development Scenarios (RFDSs).

It is inappropriate for the BLM to undertake new analysis of the impacts of these leases, given that the proposed action (i.e. the leasing of the acreage) has not changed from the original action. In fact, the regulations dealing with NEPA adoption (40 CFR 1506.3) state that "if the actions covered by the original environmental impact statement and the proposed action are substantially the same, the agency adopting another agency's statement is not required to recirculate it except as a final statement." This indicates that the BLM could fulfill its obligation under NEPA simply by adopting the 1993 EIS without further examination, and that the preparation of an EIS is unwarranted. The BLM could be warranted in re-examining the leases in the context of the 1993 EIS **under which they were issued**, but the retroactive application of new information as used in the DEIS is not supported either by regulation or logic.

In addition to the regulatory guidance cited above, there is case law to support this position. A case was recently adjudicated regarding whether the USFS was required to complete a Supplementary EIS (SEIS) to the WRNF Forest Plan in order evaluate a proposed expansion of the Vail ski area (Colorado Environmental Coalition v. Dombeck, 185 F.3d 1162 [10th Cir. 1999]). The court found in favor of the USFS, **that an SEIS was not required***.* Specifically, although an SEIS may be required if there are "significant new circumstances or information relevant to environmental concerns and bearing on the proposed action or its impacts" (40 CFR 1502.9), this requirement is not interpreted to require an SEIS "every time new information comes to light" (Marsh, 490 U.S. at 373). A SEIS comes into play only "if the new information is sufficient to show [the proposed action] will affect the quality of the human environment in a significant manner or to a significant extent not already considered" (ibid.). In this case, the ski area expansion was determined to be sufficiently considered in the existing Forest Plan.

Additional case law support is derived from *Pennaco Energy v. Department of Interior* (377 F. 3d 1147 [10th Cir. 2004]). In this case the existing NEPA analysis within the applicable Resource Management Plan was deemed insufficient to support a lease sale that had already taken place. The BLM proceeded to prepare an EA that further analyzed conditions **at the time of the sale**, emphasizing in the record of decision that, since the leases had already been issued, the analysis considered issues foreseeable at the time the leases were offered.

As discussed, the leases can only be appropriately evaluated in the context of the leasing EIS under which they were issued. Given that the action under evaluation (i.e. the issuance of leases) is **identical** to the action evaluated in the existing 1993 EIS, it is clear that another EIS is not required. The only appropriate new environmental analysis would address issues and conditions that existed at the time of the lease sales but were not adequately addressed at that time.

Comment 4: The DEIS is flawed because it is based on an inaccurate evaluation of the mineral resources in the leases, due to an insufficient consideration of reserves in Mancos shale formation.

There has been extensive discussion in the public sphere about whether the mineral resources in the leases have sufficient value to justify development. Analysts have questioned the economic viability of the leases under consideration in the DEIS, contending that the potential revenues from development cannot support the costs of development.[6] [7] However, these analyses were prepared at the request of Pitkin County and the Thompson Divide Coalition, both of which have made plain their opposition to any development of these leases. The objectivity of these analyses therefore must be suspect.

In addition, the economic feasibility of the leases is not relevant to the DEIS, and is a matter for the individual lessees to determine. The selection of acreage to analyze for potential leasing is not based on feasibility, but on expressions of interest and the potential impacts of development (as a recent example, the 2015 WRNF Oil and Gas Leasing EIS did not consider the feasibility of profitable development in making determinations of leasing availability). The Associations therefore applaud the BLM for its statement that "the socioeconomic impact analysis for this EIS is not focused on the evaluation of the economic feasibility of specific wells or oil and gas production in the analysis area. Instead it evaluates the future socioeconomic impacts that would be expected under different future lease alternatives assuming future full development of the approved leases."[8]

However, the socioeconomic analysis contained in the DEIS is still inadequate, as the "future full development" considered by the BLM does not account for the latest information regarding natural gas production from the extremely productive Mancos Shale formation in the lease area. The Associations contest the BLM's foundational assumption in preparing the RFDS that "future development will follow past development trends."[9] Recent results from well completions suggest that future development will be distinctly **different** from past development, due to the increased use of horizontal drilling and completion within the Mancos Shale, and that these changes have the potential to **dramatically** increase production from these leases beyond previous expectations.

The potential of the Mancos Shale underlying the lease area has been most recently demonstrated by SG Interest's Falcon Seaboard #3 natural gas well. This well is less than 1 mile outside the area under consideration in the DEIS, and is currently producing between 6,000 Mscf and 7,000 Mscf per day. In addition to the new Falcon Seaboard #3 well, there are several other key indicators available that point to the enormous gas resource in the Mancos shale across the Thompson Divide:

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[6] Wright, J. D. 2014. *Economic Analysis of the Potential for Oil and Gas Development in the Thompson Divide Area.* Prepared for Board of County Commissioners. Pitkin County, Colorado.

[7] MHA Petroleum Consultants LLC, 2014. *Thompson Divide Geological & Economic Assessment.* Prepared for Thompson Divide Coalition.

[8] Pg. 3.17-18, *Previously Issued Oil and Gas Leases in the White River National Forest Draft Environmental Impact Statement*, Bureau of Land Management BLM/CO/PL-16/002, November 2015

[9] Pg. 1-8, ibid.

- Encana's Benzel 6-11H was completed in October 2011 a few miles to the northwest of the DEIS area, and has already produced 3.7 BCF of gas and is currently producing 900 Mscf per day.

- Texaco's Thunderhawk #1 well was drilled in 1989 at the intersection of Mesa, Delta, and Pitkin Counties, in the heart of the DEIS area. It was drilled through the Mancos Shale to reach lower target formations, but the well logs included many gas shows in the Mancos Shale.

- The Chevron Hurd #1 was drilled in 1998 within the DEIS area, and "the drill stem test flowed gas to surface at an estimated rate of 7 million ft3/day."[10]

These examples represent only a few of the more notable successes in Mancos Shale development that have occurred throughout the DEIS area. The Mancos shale is known to be about 4000 feet thick across the entire area, and contains prodigious recoverable gas reserves, estimated to be as large as 500 Bscf per square mile. There is no reason to doubt that lessees will be able and willing to extract these resources, which were not available in the past but are now recoverable with modern drilling techniques. Based on the preponderance of evidence, the DEIS must include a consideration of this new information when evaluating the scale of socioeconomic benefits that will result from the development of these leases.

The Associations specifically contest the following assumptions and conclusions found in the DEIS socioeconomic analysis and the supporting RFDS:

- *No horizontal drilling would occur outside of Mesa County. No horizontal drilling is projected in Garfield, Pitkin, or Rio Blanco Counties.*[11]

  This is an inaccurate assumption. Horizontal drilling has occurred within the general area of analysis in Garfield county (e.g. Encana's Benzel 6-11H), Delta County (e.g. SG Interests' Falcon Seaboard), and on the border of Pitkin County (Texaco's Thunderhawk #1). All these wells have shown strong production, and the target formation underlies the entire area under evaluation. It is should be assumed that horizontal drilling will occur in all of the leases, and is in fact likely to be a primary technique used during development.

- *Each horizontal well is expected to produce 320 MMscf/yr.*[12]

  This is an inaccurate assumption, which equates to an expected daily production of 877 Mscf. As previously stated, the most recent horizontal completion in the area is SG Interest's Falcon Seaboard #3 well, which has been producing between 6,000 Mscf and 7,000 Mscf per day, even while the well has been choked back. Production

[10] *Abnormal Pressures Encountered in a Deep Wildcat Well, Southern Piceance Basin, Colorado*, AAPG Memoir 70, p 195-214, 1998.
[11] Pg. 4-17-3, ibid.
[12] Pg. 4-17-3, ibid.

from tight formation completions does typically decline over the lifetime of the well, but the average productivity used in the DEIS still clearly understates the potential of what is now known to be an extremely productive formation.

- *Direct county and local government agency revenues resulting from the future natural gas production in the lease area (i.e., federal mineral lease, severance and property taxes) are assumed to be comparable to the revenue generation rates from past regional natural gas production.*[13]

  This is an inaccurate assumption, because it is based on the previously discussed inaccurate assessment of production from horizontal well development, and the previously discussed inaccurately low estimate of what may constitute full development. Production has the potential to be significantly higher than in the past, and therefore county and local government revenues have the potential to significantly increase.

The MLA, FLPMA, and the Energy Policy Act of 2005 contain language that affirm that federal mineral resources are to be managed for sustained yield and the greatest benefit for the American taxpayer, as well as for the benefit of national energy independence and energy security. It is crucial that the DEIS accurately describe the mineral resources that would be affected by the proposed action, especially given the preponderance of evidence that suggests that the resources (and associated production and royalty revenues) are very significant. Therefore the Associations contend that the BLM must revise their evaluation of the leases, and the RFDS that supports it, to more accurately account for the latest information.

Comment 5: The DEIS fails to adequately consider the development and infrastructure implications of the proposed partial lease cancellations.

The DEIS does not address a significant impact of the proposed lease cancellations, which is the impact to planned and existing surface facilities and infrastructure on the subject leases and adjacent leases. NEPA requires that a consideration of "connected actions" associated with the proposed action be included where relevant and germane to the analysis, and further requires that impacts to the human environment "shall be interpreted comprehensively" (40 CFR 1508). In this case, the impact to unit- and field-wide infrastructure planning must be considered.

Individual leases are acquired by companies as part of a coherent portfolio of lease holdings. Although the primary factor that determines a lease's potential value are the hydrocarbon resources contained in that lease, a major secondary factor is the extent of the capital outlay required to extract those hydrocarbons. Oil and natural gas companies have worked diligently to acquire contiguous lease holdings that are appropriate for their individual business models and resources, and which can be developed in an efficient and cost-effective fashion. Orderly development of the hydrocarbon resource relies on years of planning regarding the siting of well pads, the development of an efficient road network, and sufficient access to pipeline

[13] Pg. 4-17-4, ibid.

infrastructure to transport the products to market. This planning process does not take place at the level of the lease, but at the level of the unit or even the entire field. Well pads are located to reach the desired bottom hole locations; road networks are planned to service the necessary well pads with a minimum of surface disturbance; pipeline gathering networks are planned to minimize construction and maintenance costs and conform to negotiated purchase agreements.

Cancelling some or all of a single lease has impacts beyond the boundaries of that lease, and methodology used for adjust the RFDSs for Alternative in the DEIS[14] does not account for the economic and logistical challenges posed by canceling portions of an otherwise-contiguous leaseholding. The DEIS does contain a basic analysis that purports to show that all remaining leases would be accessible under **Alternative 4** (Figure D-3) despite the proposed cancellations and additional NSO stipulations. However, this analysis is extremely flawed, since it assumes that all development can be achieved using horizontal bores of 2 miles in length, regardless of topographic, stratigraphic, and economic constraints. The analysis also fails to take into account the COGCC minimum spacing rules for wellbores[15], which make it impossible to direct more than a limited number of wells in a given cardinal direction from a single well pad. In other words, it is not accurate to assume that full development can be achieved from outside the lease, especially at a distance of as much as 2 miles.

Furthermore, the analysis concludes that no additional lease would become inaccessible "should more extensive use of horizontal drilling be employed by operators."[16] This assumption conflicts with the rest of the RFDSs, which assumes that "future development will follow past development trends" and places minimal emphasis on horizontal drilling.

In summary, the existing analysis does not take into account the effect of lease cancellation and NSO stipulation on the feasible development of surface facilities. The effect of the proposed lease cancellations on subsurface mineral accessibility is analyzed on a per-lease basis, which is misleading and inaccurate, and does not account for limitations imposed by state regulations regarding wellbore spacing. Finally, the analysis of impacts to neighboring leases is a perfunctory feel-good effort that reaches its conclusion of minimal effect by shifting the burden to the operators by assuming a reliance on expensive, potentially-infeasible horizontal drilling, all while contradicting all previous analyses in the DEIS that minimize the likelihood of horizontal drilling. Anyone reasonably familiar with oil and gas development would recognize this analysis as inadequate to evaluate the impacts to the lessees.

The Associations strongly urge the BLM to consider that the leases included in the EIS do not exist in isolation, either from each other or from the surrounding leases. There are

[14] Appendix D, *Previously Issued Oil and Gas Leases in the White River National Forest Draft Environmental Impact Statement*, Bureau of Land Management BLM/CO/PL-16/002, November 2015
[15] COGCC Rule 321
[16] Pg. D-12, *Previously Issued Oil and Gas Leases in the White River National Forest Draft Environmental Impact Statement*, Bureau of Land Management BLM/CO/PL-16/002, November 2015

approximately 900 producing wells within 2 miles of these leases[17]; any fair and balanced analysis of impacts must include a consideration of the impacts to these neighboring wells and leases.

In Conclusion:

The Associations would like to reiterate adamant opposition to any cancellation or modification of any existing leases. This opposition is founded in a concern for the operational stability of the member companies and the continued viability of their operations in the area, as well as a larger concern for the viability of mineral extraction on public lands in a climate where federal contracts cannot be trusted. In addition, as described in detail above, the proposed cancellation of leases is not supported by any clear authorizing regulation, and is counter to both the spirit and the letter of the law of MLA and FLPMA. Any attempt to cancel leases would place the BLM in a legally tenuous situation and jeopardize the trust-based relationship which the private-public partnership is founded on.

It is also worth reiterating the statement found in the CEQ's mandate: "It is the Council's intention that any trivial violation of these regulations not give rise to any independent cause of action." The BLM's failure to complete a minor administrative task should not be cause to re-evaluate these leases, especially when the leases were entered into in good faith by all concerned parties.

Although the Associations contest the necessity and validity of the DEIS, we agree with the BLM's assessment that "an increased level of oil and gas activity has created an increased level of public interest in oil and gas related activities on public lands,"[18] and we recognize that simply completing the process of formal adoption without public discussion may not be in the best interests of the continuing relationship between the public, the BLM, and the oil and gas industry. However, the only action that can be supported by law and regulation is one which does not cancel or modify leases at all. The only action in the DEIS that meets this criterion is **Alternative 1**, the No Action Alternative, and the Associations urge the BLM to select this alternative.

Although the Associations cannot support any decision other than the No Action Alternative, in the event the BLM is unwilling to accept **Alternative 1**, **Alternative 2** is a potentially acceptable alternative. **Alternative 2** merely adds lease stipulations that should have been included on the existing leases under the 1993 FS EIS. However, the BLM must recognize that it cannot unilaterally add new stipulations to the existing leases if the BLM's failure to include said stipulations was based on administrative inadvertence (see **Comments 1 & 2**). The BLM must receive the concurrence of the current lessee prior to adding the new stipulations proposed.

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[17] Pg. 3.17-19, *Previously Issued Oil and Gas Leases in the White River National Forest Draft Environmental Impact Statement*, Bureau of Land Management BLM/CO/PL-16/002, November 2015

[18] Notice of Intent to Prepare an Environmental Impact Statement for the Previously Issued Oil and Gas Leases in the White River National Forest; Silt, Colorado (79 FR 18576)

Sincerely,

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