

October 11, 2018

Gunnison County Commissioners
200 E. Virginia Ave.
Gunnison, CO 81230
bocc@gunnisoncounty.org

Re: Gunnison Energy Seismic Project

Dear Gunnison County Commissioners,

High Country Conservation Advocates (HCCA) and Citizens for a Healthy Community (CHC) submit the following comments for your consideration regarding a proposal from Gunnison Energy to conduct a 3-D seismic project (Iron Point 3-D Project) on approximately 28,000 acres of mostly public and some private lands in Gunnison and Delta Counties. Given its location within Gunnison County, its already-occurring impacts to hunting and recreation, its possible impacts to water structures and buildings, and its likely impacts to wildlife, we respectfully request that Gunnison County (1) address this project through the county's oil and gas permitting process, and (2) engage in the public scoping process that has been initiated by the U.S. Forest Service's Paonia Ranger District.

Background

Beginning the week of October 8, HCCA and CHC were separately contacted by members of the public expressing concern about active and future seismic testing in the Iron Point area of Gunnison and Delta Counties. Neither organization had been notified by the Forest Service prior to these conversations. An examination of the GMUG's online NEPA log on October 10 indicated that the Forest Service had initiated a public comment period for a large-scale seismic testing project to be conducted by Gunnison Energy, with a comment deadline of October 26, 2018.¹ See <https://www.fs.usda.gov/project/?project=54846&exp=overview> for associated information, documents, comment guidelines, etc. Based on these conversations, it appears that Gunnison Energy has already begun implementing components of the proposal, prior to any federal or county approval.

The Forest Service characterizes the proposal as: "Gunnison Energy LLC proposes to conduct a 3-D seismic project (Iron Point 3-D Project) on approximately 28,000 acres of public lands north of Paonia, Colorado in Delta and Gunnison Counties to determine if there is oil and gas potential, determine the best locations for exploratory drilling, and to provide information allowing identification of subsurface features that could impede development of oil and gas leases."² The project is estimated to begin no earlier than late October 2018, and is anticipated to last approximately 40-60 days.

Among the documents available on the Forest Service project website is Gunnison Energy's Plan of Operations (PoO).³ Other documents available to the public include a lease map, seismic preplot map,

¹ The original comment deadline of October 19 was extended by seven days through notification on October 11.

² See <https://cara.ecosystem-management.org/Public//CommentInput?Project=54846>.

³ Available at https://www.fs.usda.gov/nfs/11558/www/nepa/110181_FSPLT3_4437672.pdf.

slope map, and wildlife stipulation map.⁴ These documents reveal a project significant in scope, intensity, and impact, most notably from the detonation of hundreds of pounds of dynamite in shot holes scattered across this 28,000-acre landscape.

According to the PoO:

- The 3-D seismic program includes the generation of acoustic energy transmitted into the ground using dynamite as well as vibroseis buggies.⁵
- Shot holes will generally require 2-5 pounds of dynamite at depths of 20 to 60 feet.⁶
- Portions of the project area fall within USFS roadless areas. Within these areas operations will be conducted using either heliportable deployment of both personnel and equipment or via ATV if operations can be conducted in such a way as to not cause damage to the surface.⁷
- The receiver operations would employ an array of approximately 10,050 receivers spaced in-line at approximately 660 feet apart. Helicopters will be used to lay out the receiver lines in most areas.⁸
- The seismic program is currently anticipated to begin no earlier than October 2018, and will last approximately 40-60 days, and will require roughly 50 workers. Seismic operations will be conducted 7 days per week during daylight hours. Vehicles anticipated during seismic operations include 8 to 12 pickup trucks, 1 fuel truck, 2 vans, 10 to 15 ATV/Kubota's/snowmobiles, and up to 5 vibroseis trucks, one helicopter and up to 8 shot hole drill rigs.⁹
- *“Any facilities damaged in connection with this seismic operation will be immediately restored to original condition or replaced with a similar facility.”*¹⁰

In light of the intensity of this project and its already-demonstrated impacts to hunters (discussed below), the undersigned organizations respectfully request that Gunnison County engage in this process by requiring that Gunnison Energy go through county permitting procedures and by participating in the Forest Service process.

Gunnison County Oil and Gas Regulations

Gunnison Energy's PoO defines the project as “seismic exploration.”¹¹ As such, Gunnison County's oil and gas regulations mandate that this project be addressed through the county permitting process. Operations falling under the purview of the regulations explicitly include “exploration for oil and gas.”¹² Section 1-103(B) states: “No person shall engage in, cause, allow or conduct any Oil and Gas Operations prior to obtaining an Oil and Gas Permit unless the Operations fall within the exemption in Section 1-103(C).” None of the three exemptions under Section 1-103(C) are applicable to Gunnison Energy's proposed project. While “mapping activities that do not result in any surface disturbance” are exempt (Section 1-103(C)(1)), the Iron Point 3-D Project does not meet that description. We think it unlikely

⁴ Id.

⁵ At 2.

⁶ Id.

⁷ At 3.

⁸ Id.

⁹ At 5.

¹⁰ Id. (emphasis added).

¹¹ At 1. (emphasis added).

¹² Section 1-114(18) (emphasis added).

that, in crafting its oil and gas regulations, Gunnison County intended to exempt the use of dynamite in hundreds of boreholes across tens of thousands of acres, utilizing helicopters, trucks, and drill rigs, while a crew of 50 people scoured the landscape for two months in the middle of hunting season. The sheer scale of the project, not to mention numerous boreholes packed with dynamite and detonated at depths of only 20-60 feet, will very much result in surface disturbance.

Mapped elk and mule deer winter range exist within the project area.¹³ The county regulations include explicit instructions as to wildlife and hunting. Section 1-108(D) states: “The Oil and Gas Operation shall not cause significant degradation of wildlife or sensitive wildlife habitat.” Section 1-108(F) states: “The Oil and Gas Operation shall not cause a significant degradation in the quality or quantity of recreational activities such as hunting” Pursuing this project in the middle of big game hunting season in one of the most productive units in the state directly contradicts these regulatory requirements. Several members of the public have already submitted statements to the Forest Service and the undersigned organizations that their hunting trips this year were ruined by activities related to the project. See Attachments 1, 2, and 3.

Also of concern are impacts to waters, ditches, and soils from seismic operations. The Highway 133 corridor between Hotchkiss and Paonia Reservoir is listed as the second most serious landslide threat in the entire state of Colorado. It contains “extremely active landslides along entire corridor, [and] severe rockfall hazard on west side of Paonia Reservoir.”¹⁴ The Terror Creek Reservoir and Ditch Company submitted a comment to the Forest Service expressing concerns with impacts from this project and the complete lack of communication. See Attachment 4. While the ditch is in Delta County, the concerns raised are applicable to water resources on the other side of the county line. An indication of the intensity of this project is foreshadowed by the following statement in the PoO: “Any facilities damaged in connection with this seismic operation will be immediately restored to original condition or replaced with a similar facility.”¹⁵ How will Gunnison Energy immediately restore ditches, ponds, and water conveyance structures that are destroyed or degraded by the detonation of dynamite in an area noted for its seismic and geologic instability?

Gunnison County has the jurisdiction to ensure that this project adheres to its constituents’ expectations for responsible land and resource management. HCCA and CHC ask that you require that Gunnison Energy adhere to all county regulations and processes before commencing this endeavor.

Forest Service Scoping Comments

The Forest Service is requesting comments by October 26.¹⁶ The agency is proposing to address this proposal through the use of a Categorical Exclusion (CE),¹⁷ effectively minimizing opportunities for public

¹³ See https://www.fs.usda.gov/nfs/11558/www/nepa/110181_FSPLT3_4437676.pdf.

¹⁴ Rogers, W.P., 2005, Critical landslides in Colorado – a year 2002 review and priority list: Denver, Colorado Geological Survey Open-File Report 03-16, 59 p., 1 map plate, scale 1:500,000.

¹⁵ At 5.

¹⁶ Comments can be submitted via <https://cara.ecosystem-management.org/Public//CommentInput?Project=54846>.

engagement afforded by NEPA. The use of a CE is wholly inappropriate for a project of this scale and intensity. As such, we request that Gunnison County submit comments to the Forest Service outlining the numerous anticipated and demonstrated impacts to county resources from this proposal and requesting that an Environmental Assessment be completed by the agency.

CEs were created for categories of actions that the agency has determined does not individually or cumulatively have a significant effect on the quality of the human environment.¹⁸ “Examples include issuing administrative personnel procedures, making minor facility renovations (such as installing energy efficient lighting), and reconstruction of hiking trails on public lands.”¹⁹ CE’s should only be used in limited situations where “there are no extraordinary circumstances related to the proposed action.”²⁰ Among resource conditions that should be considered in determining whether extraordinary circumstances related to a proposed action warrant further analysis in an EA are:

- “Federally listed threatened or endangered species . . . or Forest Service sensitive species”²¹ Mapped lynx habitat is within the project area. See Attachment 5. In addition, the map provided on the project website indicates the presence of cutthroat trout habitat in the project area.
- “Flood plains, wetlands, or municipal watersheds”²² There is sensitive and vital water infrastructure in the project area. As discussed above, the Terror Creek Reservoir and Ditch Company has grave concerns about the impact of this project on both their storage and transportation infrastructure. Similar concerns are applicable in Gunnison County.
- “Inventoried roadless area”²³ Three separate Colorado Roadless Areas (CRAs) overlap with the project area. These are the Electric Mountain, Flattops/Elk Park, and Pilot Knob CRAs.
- “Archaeological sites, or historic properties or areas.”²⁴ The famous Dominguez-Escalante expedition of 1776 passed through the middle of the project area. In fact, the expedition camped on August 31, 1776 in a meadow one mile north of the confluence of Willow Creek and Hubbard Creek, within the project area.²⁵

In light of these concerns, and given the impacts to resources within Gunnison County, we request that the Board of County Commissioners submit comments to the Forest Service outlining issues and requesting an Environmental Assessment.

We hope that you can address our concerns at the October 16 County Commissioner meeting. If so, we are happy to discuss these comments at that time.

Thank you for your consideration.

¹⁷ See <https://www.fs.usda.gov/project/?project=54846&exp=detail>.

¹⁸ 40 C.F.R. 1508.4. See also Forest Service Handbook, National Environmental Policy Act Handbook, Chapter 30: Categorical Exclusion From Documentation, Amendment No. 1909.15-2018-1, p. 3.

¹⁹ Council on Environmental Quality, *A Citizen’s Guide to the NEPA* 10, December 2007.

²⁰ 36 C.F.R. § 220.6(a).

²¹ 36 C.F.R. § 220.6(b)(i).

²² 36 C.F.R. § 220.6(b)(ii).

²³ 36 C.F.R. § 220.6(b)(iv).

²⁴ 36 C.F.R. § 220.6(b)(vii).

²⁵ *The Dominguez-Escalante Journal: Their Expedition Through Colorado, Utah, Arizona, and New Mexico in 1776*. Edited by Ted J. Warner. University of Utah Press, 1995. At 34.

Sincerely,

Matt Reed

Matt Reed
Public Lands Director
High Country Conservation Advocates
PO Box 1066
Crested Butte, CO 81224

cc:

David Baumgarten, Gunnison County Attorney
John Whitney, Western Slope Regional Director for U.S. Senator Michael Bennet