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April 12, 2012

William H. Stallings, Chief
Transportation, Energy and Agricultural Section
Anti-trust Division
US Department of Justice
450 5th Street NW, Suite 8000
Washington, DC 20530

RE: Civil Action 12 CV 00395, United States v. SGI and GEC

Dear Mr. Stallings,

We are writing you from the North Fork Valley which is a rapidly growing agricultural and tourist destination in Colorado. Our valley is filled with hard working folks who farm, ranch, have orchards and vineyards and of course the necessary supporting occupations. We are surrounded by BLM gas leases that have been granted to SGI (a Texas Corporation) and GEC (owned by Bill Koch).

Frankly we are very concerned about how their drilling activity negatively impacts our valley and the apparent power they have to get what they want from the government. A recent 30,000 acre leasing proposal has been summarily approved by the BLM and is now in the second scoping period. We have attached a letter we recently wrote to the BLM that is a good historical summary of what is happening here.

But now on to the purpose of this letter. WE, AND MOST OF OUR NEIGHBORS DO NOT BELIEVE THAT THE PROPOSED CONSENT JUDGMENT IS IN THE PUBLIC INTEREST NOR THAT IT WILL DETER SIMILAR FRAUD IN THE FUTURE. And we are the "public" that will be impacted the most if this consent judgment is approved.

First of all we think you should know that both of these gas companies have publically denied any wrongdoing. Their explanation was that they were just paying the fines to avoid the legal fees that would be incurred to prove their innocence.

To suggest that these well funded gas companies would hesitate to pay lawyers if they thought they had done nothing wrong is fictitious at best. Bill Koch once paid

\$500,000 for four bottles of a wine reputedly owned by Thomas Jefferson. He then spent \$5,000,000 in legal fees in a "relentless series of lawsuits" chasing after vendors who had sold him fake wine. Bill Koch's point in the lawsuits was that he had been defrauded. We suspect that he would never have accepted a consent judgment as weak as the one being proposed in this case to vitiate the perceived fraud against him.

Robert Abbey, the national director of the BLM referred indirectly to the actions of GEC and SGI as "fraudulent conduct" and said that he hoped that the fine would deter others from trying to pull this fraud off again. Does anyone really think that paying a fine of \$275,000 and getting to keep the leases will deter them or any of their competitors in the future? Bear in mind that they were only caught because Tony Gale blew the whistle. They and many other gas companies might have perpetrated this same fraudulent act in this or other jurisdictions yet they were never caught because nobody brought it to the attention of DOJ.

Allowing these companies to keep the leases after defrauding the government is not in the public interest. It encourages gas companies to violate the law and pay what is to them a small fine if they get caught. If someone defrauds another out of something valuable they normally have to pay the fine and/or go to jail and for sure they have to give back the spoils of their fraud. Why should gas companies be treated any differently?

THE ONLY PROPER DETERRENT AND PROTECTION FOR THE PUBLIC IN ADDITION TO A MEANINGFUL FINE IS TO INCLUDE IN THE CONSENT JUDGMENT THAT THE LEASE SALE IS VOID AND LET THEM AND OTHER POTENTIAL BIDDERS START ALL OVER AGAIN. THIS REINSTATES THE SPIRIT OF THE COMPETITIVE BIDDING PROCESS WHICH HAS BEEN CIRCUMVENTED BY THE FRAUDULENT ACTION OF SGI AND GEC.

If they don't agree to that then let them go to trial as there would be substantial public benefit from airing these issues in court. Both to show the public that they have compounded the original fraud by denying wrongdoing and as an effective deterrent to them and other gas companies who might want to give this fraudulent behavior a try in the future.

The proposed decree is outside of the range of acceptability and completely lacks any relief that is remotely within the reaches of public interest given the circumstances. This Court needs to make a bold statement in this case rather than simply agree to this chump change fine. We locals are appreciative of the Court's open minded analysis of the proposed settlement and hope that it will not be another example of the gas companies getting what they want while we, as members of the public, get nothing.

Sincerely yours,
Michael McCarthy


Kathryn McCarthy

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BLM Uncompahgre Field Office

2465 So. Townsend Ave.

Montrose, CO 81401

Attn: Oil and Gas EA

March 31, 2012

To whom it may concern:

We have lived in the North Fork Valley for 23 years and have turned a run down 320 acre ranch into a spectacular and very alive part of the North Fork Valley. Our ranch is contiguous to BLM Parcels 6191, 6195 and 6196. We have farmed organically for that entire period of time and during our first few years here we sponsored several workshops on organic gardening.

We also organized and sold produce at Farmer's Markets in Telluride, Hotchkiss, Aspen and Boulder Colorado. Several years ago we placed most of our ranch into a Conservation Easement now held by the Black Canyon Regional Land Trust. We did this because we wanted to do our part to maintain the integrity and future of the land. Like many other families here we have worked hard during the last 23 years and done our best to steward our land with an eye toward improvement and the creation of an even better place for future generations to live.

The amazing result of everyone's dedication to our valley has been a dramatic change in the character of the valley. We now have a valley that has been referred to as "the Provence of America." The reputation of this valley for the production of organic fruits, vegetables, agricultural products and wine has spread far beyond the Western Slope. Our valley is also known and respected for the many species of wildlife for whom the hills and mountains included in Parcels 6191, 6195 and 6196 are their home and breeding grounds. We are a destination point for thousands of tourists who visit here each year to experience the tranquil natural beauty of the area.

You have made a finding of no significant impact to this valley from the leasing of 22 parcels of BLM land comprising 30,000 acres for oil and gas leasing based on your

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inadequate EA. If I understand the basis for this FONSI it runs something like this. Just leasing the land has no significant impact and that is all you are doing. That is like saying that there is no significant impact to jumping off a 30 story building, that it is only when you hit the ground that a significant impact occurs. Your reasoning is an absurd twisting of logic and a complete failure on your part to consider the ultimate consequences of "just leasing." To properly arrive at an accurate conclusion would require at the very least, a current EIS.

You have a Resource Management Plan (RMP) upon which your decision to lease the 30,000 must be based. Problem is that this RMP was created in 1986, TWENTY-FIVE years ago. We have witnessed so many changes in the valley since 1986 that you really can't compare what is happening now to what was happening then. Think about how long ago that was....Reagan was president, the Berlin wall was torn down, Russia was getting out of Afghanistan. Think about how gas drilling has changed to include exploration in shale requiring fracking techniques.

In the last several years the dangers of fracking with toxic and unnamed "secret" chemicals being injected under tremendous pressure into the earth have been uncovered. Those dangers include water pollution, air pollution, increased seismic activity, and compromised human health. Most of those articles, scientific reports and studies were collected and delivered to you in notebook form during the January-December comment period and were available for your review prior to your EA and FONSI. The potential significant negative impacts reviewed in that collection of articles were obvious and very scary.

During the December-January comment period you received 3,000 letters from businesses, farmers, ranchers, irrigation companies, government agencies and just plain folks who were very concerned about the impacts of gas drilling in the hills surrounding our valley. You were made aware of the potential significant impacts on our water, air and the land we cultivate. You were made aware of the significant impacts with increased traffic, pressure on wildlife and a change from agricultural to industrial. You were made aware of the significant impact these changes would have on local tourism which as you know supports many families and local businesses. You obviously did not consider these impacts in your cursory analysis.

PERHAPS THE MOST CRITICAL IMPACT ON THIS VALLEY YOU WERE MADE AWARE OF WAS THAT GAS DRILLING COULD HAVE A SERIOUS NEGATIVE IMPACT BY CONTAMINATING OF OUR DRINKING AND IRRIGATION WATER.

We own a small domestic water company and the collection point is a spring located on our ranch. The water we collect for distribution originates sub-surface on Parcels 6191, 6195 and 6196 and migrates down slope to the collection point.

The domestic water distributed by OUR COMPANY, Belknap Springs Domestic Water Company, was adjudicated absolute in 91CW 83 and 01 CW 42. Belknap Springs Domestic Water Company provides 11 domestic water taps. Located near our collection point are the collection points for two other domestic water

companies, Jay Creek Domestic Water Company (3 taps) and Mystic Mesa Domestic Water Company (6 taps).

Exhibit A depicts the location of the numerous other domestic water sources near ours and continuing east along the Highway 133 corridor. As you could tell from this water map exhibit THERE ARE NUMEROUS SMALL DOMESTIC WATER SOURCES RANGING FROM A SINGLE WELL THAT SUPPLIES ONE OR TWO FAMILIES TO A WATER COMPANY SUPPLYING SEVERAL FAMILIES ALL OF WHICH ARE LOCATED DOWN SLOPE FROM PARCELS 6191, 6195 AND 6196.

You received letters from all of the other water companies depicted on Exhibit A outlining the significant impact water contamination could have on them and those who depend on them for their drinking water.

Supporting the pleas of the small water companies to withdraw these parcels you received a report entitled ““Hydrogeological Summary of the North Fork Valley Area with Respect to Potential Oil and Gas Exploration/Development” written by Michael Galloway, Senior Hydrologist, ERO Resources Corporation.

The Hydrogeologic Summary refers specifically to Parcels 6191, 6195 and 6196: *“Nominated parcels 6191, 6195 and 6196 are located within the probable discharge area for water supply springs and wells located immediately downhill from these parcels. There would be very little horizontal and vertical separation between activities on these nominated parcels and the existing domestic water supplies, placing the water supplies at considerable and immediate risk should there be a loss of control of any fluids associated with oil and gas exploration.”*

In noting the interaction between all water companies in the affected area it is stated in the above referenced Hydrogeological Summary that: *“Because domestic water supplies are limited and the population is spread over a large geographic area, there is no single source or distribution system for domestic water in the valley. Instead, small community and individual water supply systems have been developed, tapping springs, creeks, and limited shallow ground water aquifers.”*

And yet you have chosen to ignore all of those very significant potential impacts by basically saying that just the act of leasing creates no impacts. This is a very short sighted line of reasoning. It would be much more competent of you to create a more detailed report in the form of an EIS that takes into account all of the potential negative impacts of actually drilling and fracking in our water shed.

To do otherwise violates the Mission Statement of the BLM.

The BLM Mission Statement requires you to “sustain the health, diversity and **productivity** of the public lands for the use and enjoyment of **present and future generations.**” It is for the people now living here and future generations that require that you take the “long look” at potential negative impacts of drilling in

these sensitive areas in the form of an EIS before just rubber stamping the request for leasing the 30,000 acres with an unexamined EA and FONSI.

"Productivity" doesn't just mean "producing gas." The BLM has a "multiple-use mission" for managing public lands under their domain. As Robert Abbey, the Director of the BLM, has said, "The multiple-use mission makes the agency unique among Federal land management agencies...**However multiple-use does not mean every use on every acre.**"

In order to make your decision on the August 22, 2012 lease proposals you are mandated to encourage multiple uses of the land you manage. This means that you have to consider all different uses. Of course one use would be to open it up to drilling and another would be to keep it safe for wildlife and water.

You are mandated to make your decision on the potential for significant impacts with the equitable application of the concept of multiple-uses. You have failed to do that and have simply made your limited EA and FONSI statement without having the benefit of an updated EIS. And you have further limited your investigation by analyzing the potential existence of impact only of leasing, not the naturally following impact of drilling and fracking.

So let's consider how you have proceeded in the past. The map attached to this letter (Exhibit B) shows the location of the active leases you have already granted for oil and gas development. You will notice that contiguous to, and north of 6191, 6195 and 6196 are thousands of BLM acres ALREADY LEASED for oil and gas exploration purposes. My understanding is that approximately 130,00 acres have already been leased for oil and gas exploration.

And you have begun your plan to develop those previously leased acres with up to 146 gas wells which could begin as early as this summer. Interestingly enough is the fact that these 146 wells will be drilled by SG Interests, Inc., a Texas oil and gas company. SGI, along with Gunnison Energy (the Koch drilling company) are the primary companies with whom you have done business in your prior and present drilling lease program. It wouldn't surprise us if it turns out that the anonymous company requesting these leases was one of those two companies.

What makes this so interesting is that they are the same two companies who were the defendants in a very recent federal anti trust suit for cheating the BLM. Prior to the lease auction they entered into a secret agreement that only SGI would bid on the leases at the auction and that they would split up the leases later. This artificially lowered the price the BLM received for the leases. They ended up paying a fine of \$550,000 and your director, Robert Abbey commented that "*We are hopeful that the outcome of this case will deter anticompetitive and **FRAUDULENT** conduct at BLM auctions.*"

So your job in evaluating the August 22, 2012 leasing proposal was a balancing of the interests of the oil companies who have defrauded the BLM and the hard

working people creating the beauty in this valley who have never tried to cheat you out of anything.

In your recent decision resulting in an incomplete EA and resulting FONSI you were required to evaluate what uses to allow on the proposed parcels. You failed to give the appropriate weight to the fact that the oil companies have already received their share of the precious public land you administer.

"Multiple-use does not mean every use on every acre." The oil and gas companies have been granted their piece of the "multiple-use pie" and we should have been given a small slice by prohibiting drilling in 6191, 6195 and 6196. Your ill-considered and cavalier approach did a lot to serve the interests of the same oil companies who have committed fraud against the BLM and nothing to serve the interests of the hard working families who farm and live down slope from those proposed parcels.

The proposed parcels 6191, 6195 and 6196 for which you have issued an EA and FONSI are not only the originating source of domestic water as mentioned above but they also form a thin PROTECTIVE BUFFER ZONE shielding us from those thousands of acres already in the hands of the oil companies. By "us" we mean the other water companies and homes and farms and ranches and businesses down slope from 6191, 6195 and 6196. It would be nice to maintain a safe zone with those parcels where our water originates. Your decision has taken that security away from us. Apparently that important issue, protection of our families, farms and water, had no significant impact in your flawed reasoning.

Frankly, we anticipate that no one from the BLM will ever read this letter. It appears that you have totally disregarded the concerns of the 3,000 other people and companies who have written you with objections to the lease proposal. Maybe you never read any of those either. But just for fun, and as a good government agency please send us an email letting us know that this letter was read by someone in the BLM and that we are not just another voice in the wilderness trying to be heard on a subject that affects our life in a very critical way.

We feel that you have abdicated your responsibilities to the present and future generations by summarily issuing a cursory EA and resulting FONSI. We object to the August 22, 2012 leasing proposal and request that you reevaluate your findings with the benefit of an up to date EIS. We incorporate by reference all of the letters and exhibits we submitted in the December-January comment period.

Sincerely yours,

Michael and Kathryn McCarthy