

**House Natural Resources Committee**  
**Subcommittee on Energy and Mineral Resources**  
**June 20, 2019**

**Written Testimony on H.R. 3225, the Restoring Community Input and Public  
Protections in Oil and Gas Leasing Act of 2019**  
**Pete Kolbenschlag**

**Introduction**

Good morning Chairman Lowenthal, Ranking Member Gosar, and honorable committee members. My name is Pete Kolbenschlag, and I come from Colorado's North Fork Valley in Delta County. I thank you for the opportunity to testify before you today in support of H.R. 3225, a bill that would help to fix a broken oil and gas leasing system to better provide transparency, protect American taxpayers, and safeguard our public lands, waters, and wildlife for today and for future generations. I'm here today to address issues that rural communities, like mine, and businesses and towns have in attempting to engage in the oil and gas leasing process. And that we often face challenges getting our voices heard by the Bureau of Land Management (BLM). Thankfully H.R. 3225 seeks to address some of these challenges.

**I. Background**

**A. About the North Fork Valley**

Colorado's North Fork Valley has always been an orchard and farming town, from when the first non-native settlers arrived -- and even before then, it was an agricultural area for the Ute tribes. Those settlers brought the first orchard trees into the valley in 1881, and it's been known as a source of high-quality fruit ever since. Fifteen years after those settlers arrived, North Fork fruit was already winning ribbons at the World's Fair back east. The ditch I live on has water rights dating to 1893, and, as anyone who knows the West knows, those rights are a precious thing. The Valley's heritage is in agriculture, and its oldest enterprise was bringing irrigation water to it.

We have also been a coal mining community since the early days. At first just farmers' mines, shallow adits for heating fuel and for the orchards, to keep the spring frosts at

bay. Around the beginning of the 20th Century, coal companies moved in. So we have a history of not only feeding America but helping to power it, too. People here are rightfully proud of this heritage.

The North Fork is the kind of community that has a real sense of, and pride in, place. People here identify with the landscape, the community, and our past. But we are looking to the future as well. We have learned over the past 120 years that an extractive-based economy is not the best way to succeed over time. Being tied to a boom and bust development regime is a liability to current livelihoods and our future prosperity.

So, I am honored to speak here today to provide my input on this important comprehensive energy reform legislation, and to bring insight from my little community of a few thousand people in rural Colorado. In drafting my testimony before you today, I spoke with board members of ditch companies, local government officials, farm associations, small business owners, conservation groups and citizens.

We are a well-organized valley, and we know how to advocate for our interests. But, too often, it is difficult to advance our vision for the future when the system is rigged to favor industry interests. In order to succeed, we need to have our voices heard, and we need the opportunity to fully engage on land use decisions that affect our lives, our heritage, and our livelihoods -- including and especially oil and gas leasing.

That's why I am here today to support the Restoring Community Input and Public Protections in Oil and Gas Leasing Act -- H.R. 3225 -- which would ensure better transparency and balance in the federal oil and gas leasing program. This would benefit communities like mine.

The watershed of the North Fork of the Gunnison River, for which the valley is named, along with its adjacent neighbor the Smith Fork, comprise a wonderful mix of private,

state, and public lands. Federal agencies include the National Park Service, Bureau of Land Management, Bureau of Reclamation, and the US Forest Service -- all of which manage lands or facilities within the immediate vicinity. The area includes a national park, a national recreation area, a BLM national conservation area, state wildlife areas and two state parks. It's an important landscape all around - for farming and ranching, for recreation and tourism, and for wildlife. Hunting lands in the North Fork are some of the state's most prized units.

The management decisions on public lands are critically important to the economies and livelihoods of those that live in the valley that they surround. Where and how mineral leasing and development happens has outsized impacts on our clean air and water, on our wildlife and -- ultimately -- on the growing economies like outdoor recreation, tourism, and an evolving agricultural industry that are the future of our valley.

This vital link between the health of the valley and public lands management is not new. In a 1904 report regarding the Gunnison Forest Reserve, federal officials wrote:

"The value of the forest as a protection cover is clearly shown by the experience of the people of the North Fork Valley. Several years ago the ditches which drew their supply from the North Fork became very short in their supply. The fruit growers, on investigating, found that the herders who were running large bands of sheep on the watershed of the river were setting a great many fires that destroyed the forest cover... This expensive object lesson thoroughly convinced the farmers and fruit growers of the importance of forest cover to prolong stream flow and it seems unnecessary to give further evidence in this report."<sup>1</sup>

The protection of our public lands - and their close bond with the health of our watersheds - has been a top concern since the founding of our small communities.

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<sup>1</sup> U.S. Department of Agriculture: Bureau of Forestry, "The Proposed Gunnison Forest Reserves Report," 1904. Online at [www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5378337.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5378337.pdf)

## **B. Agro-tourism**

The North Fork's largest agricultural association--the Valley Organic Growers Association--supports H.R. 3225. VOGA represents over 100 family farms and livestock ranches. Its membership runs from multi-generational to young farmers just starting out. VOGA supports these reforms as a way for the government to provide an even-handed process. H.R. 3225 is respectful of ranchers' and farmers' long days and busy schedules, allowing for meaningful engagement on local public lands and their water supplies, just as their predecessors have done for over 100 years.

H.R. 3225 reforms are also important for protecting our emerging economies, including tourism and agritourism, for which the North Fork is renowned. Called "Colorado's Farm to Table Capital," the valley includes the state's highest concentration of organic farms. The North Fork Valley is also one of only two federally-designated wine grape growing regions, or American Viticultural Areas, in the state. The West Elk AVA is comprised of more than one dozen wineries and includes the highest wine grape arbors (and wineries) in North America, at nearly 8,000 feet.<sup>2</sup>

Wineries, and the markets and agritourism farms worry that the bucolic charm that brings tourists and business, along with the quality of the water that feeds arbors and farms, could be impacted by expanding oil and gas development in the watersheds above and public lands surrounding them. These businesses certainly expect a federal government that actively seeks out and considers their input prior to making decisions that could so greatly impact them, which is why the West Elk AVA is also a supporter of H.R. 3225.

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<sup>2</sup> Forbes, "Wine in Colorado: Where Cool Climate Grapes are the New Hot," May 25, 2016. Online at [www.forbes.com/sites/cathyhuyghe/2016/05/25/where-cool-climate-grapes-are-the-new-hot-wine-in-colorado-believe-it/#25fb45045af9](http://www.forbes.com/sites/cathyhuyghe/2016/05/25/where-cool-climate-grapes-are-the-new-hot-wine-in-colorado-believe-it/#25fb45045af9)

### **C. Outdoor Economy & Tourism**

Tourism is not limited to the wineries and farm-markets, but includes a growing creative industry attracted to quality-of-life, the vibrant rural community, and the stunning beauty of the area's public lands. The North Fork is a state-designated Colorado Creative District. The highway that links it with the rest of the state, known as the West Elk Scenic Loop and a state scenic byway, is designated as Colorado's Creative Corridor.<sup>3</sup>

Many tourist-oriented businesses are concerned that further industrialization of the public lands, and more heavy industrial traffic on the roads will be a detriment to their livelihoods. They, too, expect a federal process that ensures adequate time to review documents, fully consider proposals, and to engage in a fair and even-handed process.

Tourism in Colorado is also driven by proximity to outstanding outdoor recreation, and here the public lands are not only the backdrop and foreground to our lives and businesses, making wineries, scenic drives, and the creative industry here all possible -- but are themselves both prized and productive in terms of supporting a multi-million dollar recreation economy.

One recent study found that outdoor recreation in Colorado's Third Congressional District, where I live, brings in over \$2 billion dollars every year to local coffers.<sup>4</sup> The hunting units on the public lands surrounding the valley are among the most sought-after in Colorado -- and provide the type of remote, backcountry experience that most hunters can only dream about, and that many are willing to pay top dollar for -- bringing robust business to local outfitters, main street businesses, and everyone between. Hunters and guides and all who care about recreation on public lands should be afforded a meaningful opportunity to field check and otherwise consider potential

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<sup>3</sup> Colorado Field Guide, "Colorado Creative Corridor." At [www.colorado.com/fieldguide/colorado-creative-corridor](http://www.colorado.com/fieldguide/colorado-creative-corridor)

<sup>4</sup> Outdoor Industry Association, "Outdoor Recreation Thriving in Colorado's 3rd Congressional District with \$2.19 Billion in Annual Resident Spending," April 27, 2018. Online at <https://outdoorindustry.org/press-release/outdoor-recreation-thriving-colorados-3rd-congressional-district-2-19-billion-annual-resident-spending/>

impacts to the public lands they rely on and utilize, before they are considered for opening to industrial development.

## **II. More Transparency, More Input**

The National Environmental Policy Act at its core is a “transparency statute.” It is meant, in part, to ensure that certain federal decisions are made with public oversight at every step. This is required both as a fundamental check on agency plans from the actual seat of government--We, the People--and it is meant to provide real-world input on the analysis that undergirds decisions.

Too often, however, the BLM and US Forest Service have short-circuited this process in ways that undermine the intent and spirit of the law. Poorly communicated planning processes with inadequate and abbreviated opportunities for public comment result in management that doesn't match with public needs nor meaningfully reflect public input.

More robust work up front, better transparency around the leasing process, an end to noncompetitive leasing, and shorter lease terms, can all help keep parcels from going to sale that never belong there in the first place. And let's be clear, although we may hear today how careful the agency is in what it does, including when deciding which lands to lease or not, that is not how it happens, in too many cases, on-the-ground.

There are lots of examples of public lands that the BLM put up for leasing, and then had to withdraw, defer, or suspend due to poor underlying or project-level analysis, and ignoring local community input. It's not a short list. Some reversals have happened before the lands are leased - which is preferable - and some of the reversals happen only after litigation such as in the Roan Plateau and Thompson Divide in Colorado.

### **A. Damocles' Sword of Irresponsible Leasing**

To name just a few, the BLM has attempted to offer leases under the Paonia Reservoir Dam; a couple hundred feet uphill from the water well (on private property) supplying the adjacent winery; and, on the steep barren slopes surrounding the high school's athletic field. The BLM even tried to lease highly erodible selenium-rich shales, where the agency itself was part of a multi-jurisdictional task force spending millions of taxpayer dollars to prevent selenium from degrading water quality. That task force recommended the area not be leased for oil and gas development.<sup>5</sup>

Luckily for the North Fork and the American public, the Paonia Dam was not leased, nor the lands surrounding Hotchkiss High School. In fact, all of the aforementioned examples were pulled before the lease sale because a more adequate comment period allowed locals with actual on-the-ground knowledge, as well as officials from state and other federal agencies, to bring the conflicts to the BLM's attention. Under the current administration, which has moved to shorten comment time and to cut public input opportunities, we worry such ill-advised leasing schemes would proceed and the fight would just move to court. Where it sucks up time, money, and public funds.

Lately the BLM has been losing in court more frequently, although that hasn't slowed leasing down substantively. Outside of sage grouse habitat, leasing under ancient, inadequate land use plans and in places it doesn't belong proceeds apace. Leasing under these conditions, where stronger plan-based surface protections are clearly needed, puts our public lands at risk. This also points to the wisdom of having a better process at the front-end and more transparency throughout. Like the reforms being proposed in H.R. 3225.

Under the current system, once leased, public lands can remain in an uncertain state for a decade or longer, like "zombie leases" that won't go away, that the BLM refuses to terminate. Zombie leases can hang over public lands like Damocles' Sword, fomenting

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<sup>5</sup> U.S. Bureau of Reclamation, Selenium Management Program "Program Formulation Document Gunnison River Basin, Colorado," December 2011. Online [www.usbr.gov/uc/wcao/progact/smp/docs/Final-SMP-ProgForm.pdf](http://www.usbr.gov/uc/wcao/progact/smp/docs/Final-SMP-ProgForm.pdf)

uncertainty for local businesses, preventing other public uses or management updates, and always carrying the risk that cherished hunting grounds, hiking trails, or a family picnic spot might be ruined by a new industrial operation.

The current leasing system holds our communities hostage; the fact that BLM has acknowledged that the drilling potential for most of the valley is “very low” makes this situation all the more confounding and ripe for reform. The provision in H.R. 3225 to shorten lease terms is critical to addressing this problem.

### **B. Stakeholder Engagement**

July 4th weekend is Cherry Day’s in the North Fork Valley, among Colorado’s longest-running community events, a genuine expression of Americana that exists only in the memories of elders in much of the nation. People there have a pride of place. It runs deep and its multi-generational. Our town governments, like most small towns, are just regular folks that sit through long meetings on tedious subjects because they care about the businesses and people there.

In Paonia, the valley’s largest town, the council meets every two weeks. In 2017, DOI extensively curtailed the timelines for which the public can engage in providing input into which lease sales are appropriate for their communities or not. Previously, we had up to two months to comment on particular lease sales. Under the current administration, local governments, businesses and other stakeholders have that time cut to as few as 10 days to protest a lease sale, including weekends. Shortened comment periods are a direct affront to these local governments, and to the home-grown grass-roots governance they represent.

Like most Americans, what the people of the North Fork want is fairness and an even-handed approach to making these decisions based on the best current information and with an eye toward sustainability and stewardship.



### **III. Requests**

The reforms found in H.R. 3225, such as meaningful review of leasing decisions including a 90-day period to file comments and protests and shorter lease terms, are not complicated or extreme. But too often politics can make even the simplest things a protracted mess. I urge this committee to avoid that, and to support H.R. 3225 and the non-partisan, sensible reforms it enables.

I encourage this committee to mark up this legislation, which allows for more public oversight, as a matter of good and even-handed government, and because it can provide useful information to help keep poorly-planned proposals from ending up in costly litigation.

### **IV. Conclusion**

The North Fork is a transitioning community that seeks to self-determine our future. Since 2012, we have successfully fought several lease sales that relied on a 30-year-old stale land use plan, and developed a community-based alternative for the BLM's ongoing revision of that plan. Since the earliest days of our founding, we have been a farming community engaged with the management of our public lands, and advocating for the protection of their critical resources, and the values we find there. As a community, the North Fork has provided comments every chance we can.

We are an engaged community, and an American community that are eager to participate and be involved with helping our public agencies manage our public lands. But we expect a fair and even-handed process that allows for updated information to be part of the process, no matter what the proposal being considered. For issues like oil and gas, that bring significant impacts and can cause disruption and harm to our communities and business, that bar must be even higher. H.R. 3225 makes many important inroads toward those ends, and it deserves this full committee's support.

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