

## **Mt. Emmons Land Exchange**

### **Response to Comments #1**

April 26, 2022

#### **Introduction**

The following questions have been collected through public feedback since the March 2, 2022, through one public open house, individual stakeholder meetings, and online comments submitted through the website ([mtemmonslandexchange.com](http://mtemmonslandexchange.com)). Responses have been categorized and combined into representative questions or issue statements, to capture themes and similarities across comments.

#### **Questions by Topic**

*Answers provided by MEMC in blue.*

##### *Conservation Easements and Agreements:*

- Will the conservation easement language be available for the public to view?
  - Yes. The conservation easement will be available to the public to review as soon as the exact language is agreed to by the parties.
- What guarantee do we have that the mineral extinguishment and conservation easements will be completed?
  - The agreements will be deposited in an escrow account with a title company and recorded upon completion of the land exchange.

##### *Withdrawal and CORE Act:*

- What is the timing of the administrative withdrawal of the lands from mining?
  - The administrative withdrawal of the National Forest land surrounding the exchange is on a separate, independent timeline. The GMUG National Forest has not decided whether to submit a request to the BLM for the withdrawal. BLM will be the lead agency that makes the decision on enacting the administrative withdrawal.
- Why aren't the lands containing the WTP being conserved in some manner?
  - All of the federal lands acquired by MEMC in the land exchange will be subject to the conservation easement, including the Water Treatment Plant area and tailings ponds.
- What happens with the surrounding mineral estate if the CORE Act fails?
  - MEMC expressed its support for a permanent withdrawal of mineral entry and location in the July 2016 MOU signed by MEMC, Town of Crested Butte and Gunnison County, including support for the Town and the County's request for an administrative withdrawal. MEMC will pursue additional strategies that will make mining infeasible if the CORE Act fails.
- Why not pursue a Federal Mineral Withdrawal?
  - The legislative withdrawal (CORE Act) is preferable because it is permanent. If the CORE Act doesn't move forward, a 20-year administrative withdrawal is an option.

### *Exchange Parcels:*

- Why does MEMC need the lands on top of the mountain in the exchange?
  - Federal Parcel 2 is in the exchange in order to accommodate potential expansion of remediation efforts to divert clean snowmelt and stormwater away from the naturally occurring mineralized zone and toward Evans Basin to the west. Federal Parcel 3 is in the land exchange at the U.S. Forest Service's request. Presently, this three-acre parcel is legally inaccessible and impossible for the Forest Service to manage as it surrounded by MEMC and other private property.
- What are the locations of the federal and non-federal parcels?
  - See map.
- Why have Federal Parcels 1 and 2 been expanded from the original concept proposed by MEMC in spring 2021?
  - The boundary of Federal Parcel 1 has been reconfigured to facilitate BLM land surveys. The boundary of Federal Parcel 2 was corrected, as BLM's land status data showed 20 acres as MEMC property when it is in fact National Forest land.
- Why does the proposal not include non-federal parcels going to the United States in the Coal Creek watershed?
  - The proposed non-federal lands in the exchange are inholdings with high natural resource values. There are few, if any sizeable private parcels in the Coal Creek watershed that are available to purchase. Past land exchanges in the GMUG have added lands to the National Forest in the Coal Creek watershed. Since the Mt. Emmons Land Exchange will facilitate water quality improvements in Coal Creek and increase the amount of conserved lands via the conservation easement, the land exchange as proposed is a net benefit for the watershed.
- What are the current uses on Federal Parcel 1?
  - The water treatment plant and associated infrastructure, access roads, the Kebler winter trailhead and Kebler Pass Road.

### *Process / NEPA:*

- Where is this in the process?
  - The land exchange is currently in "pre-scoping." The exchange proposal has been accepted for review by the USFS in February and they are evaluating the project through a formal Feasibility Analysis.
- How can this project be evaluated under a Categorical Exclusion?
  - There is no change in use for the federal parcels being exchanged, which qualifies this project under Categorical Exclusion. The conservation easement and deed restricted mineral agreement will ensure that the use will not ever change.
- How many of these types of meetings are you going to have?
  - We have public meetings planned throughout the summer, prior to Project Scoping, at which point several more will occur as part of the formal NEPA process.

### *Water Rights:*

- What is the relationship of the water rights to the land exchange?
  - MEMC is addressing this issue through its Diligence Application case in Water Court and expects the land exchange to provide certainty to the process.
- What is happening to Mt. Emmons water rights on Slate Creek?
  - MEMC is addressing this issue through its Diligence Application in Water Court and is working toward determining its water needs from all decreed water sources.

### *Water Treatment Plant:*

- Who is the regulatory agency (responsible for water treatment and water quality) after the land exchange goes through and the USFS is no longer involved?
  - The Colorado Department of Public Health and Environment (CDPHE) is the responsible agency that has been delegated authority to implement the Clean Water Act by the U.S. Environmental Protection Agency (EPA). The MEMC Water Treatment Plant discharges treated water under permits issued by CDPHE.
- What are the financial assurance (FA) requirements to operate the WTP?
  - There are no requirements to provide financial assurance to operate water treatment facilities.
- It was requested that permits for the site should be up to date/valid before the Federal government conveys any land.
  - Operation of the water treatment plant is in compliance with existing permits. Permit renewals are conducted by CDPHE.

### *Several questions for the USFS:*

- Why is USFS interested and what USFS will receive in the Land Exchange?
  - The land exchange accomplishes a long sought-after community goal to protect Mt. Emmons from commercial mining activity.
  - In addition, the exchange will establish permanent, year-round recreational access to popular routes and adds ecologically important land to the public domain.