June 30, 2017

Delta County Planning Commission
Delta County Courthouse
501 Palmer St.
Delta Co 81416
VIA US MAIL and VIA EMAIL to Planningcommission@deltacounty.com

Dear Members of the Delta County Planning Commission,

Citizens for a Healthy Community (CHC) submits the following comment regarding the Delta County Master Plan Revision. CHC members and staff participated in the Vision Workshops and the Landowner Drop-ins. CHC Interim Executive Director, Natasha Léger spoke with Gabe Preston of RPI Consulting on April 7, 2017 regarding issues and concerns to be addressed in the planning revision process, which he said he counted as an official interview. This comment letter encapsulates the issues raised during those sessions regarding the value of the North Fork Valley, future trends impacting the North Fork Valley, concerns with the current Specific Development Regulations, and recommendations on how to protect the North Fork Valley and Delta County values in the Master Plan.

1. Value of the North Fork Valley

It is vital to the future of Delta County to protect both the physical land of the North Fork Valley, as well as the diverse, resilient, and sustainable economy that has been built with such great effort here. The North Fork Valley, over the last twenty years has developed statewide and national recognition as a cultural, agitourism, and recreation destination. It has also developed a reputation for its clean air, water, and food, which increasingly makes it a new home destination for families and retirees.

A. Agriculture

Delta County is the fifth largest agricultural county in Colorado. The County in general and the North Fork Valley in particular are home to the greatest concentration of organic farms in the State.
seventy-plus organic farms in the North Fork Valley generate over $3 million in sales. Nine vineyards in the North Fork Valley generated almost $10 million in sales. Commodity sales do not generate tax revenue for the County, but the many value-added products sold at vineyards, wineries, and organic farms do generate substantial sales taxes for the county. The County also maintains the distinction of being relatively untouched by oil and gas development. This gives it a significant competitive advantage over other agricultural counties in the State. Delta County will lose one of its competitive advantages if it allows oil and gas development in the headwaters regions that provide irrigation water for these farms.

There have been over 600 studies, with more coming out every day, on the potential health impacts of fracking due to ground and surface water contamination, and air pollution. Some of the most frightening of these focus on the persistence, toxicity, and fast-traveling speed of some of the chemicals used in fracking as they interact with the water system. Other studies have shown that these chemicals can be absorbed in soils and potentially by plants. See Exhibit A for examples of these studies. Delta County’s relative lack of oil and gas development means that the food produced here is largely free of the health concerns that plague food produced in other regions.

Delta County is the fifth agricultural producing County in the State with 1250 farms. Four of the top-ten agricultural producing counties are also four of the top-ten natural gas producing counties. As the fifth largest agricultural producing County, Delta County currently has the distinction of not being a top natural gas producer, which puts it at a competitive advantage relative to other counties. Introduction of persistent and dangerous chemicals into our watershed, through oil and gas drilling, could potentially destroy the North Fork Valley’s agricultural economy on all levels, from organic to conventional producers, and ranches of all sizes.

The most resounding chorus throughout the Vision Workshop process has been the call to protect the rural nature of Delta County, and to maintain its agricultural heritage. The future of North Fork Valley agriculture and ranching is tied to the public lands, which surround and permeate the Valley. Irrigation water originates on public lands, and the economic viability of ranching is dependent on BLM grazing allotments. The health issues, risks to agriculture of nearby oil and gas development, and numerous health studies extensively addressed in our comments on the UFO Draft Resource Management Plan are attached as Exhibit B, and hereby incorporated by reference.

Farmers and ranchers depend upon clean water and have a private property right in their water rights, which must be respected and protected. The Master Plan should reference the importance of establishing a protective designation for these agricultural lands and watersheds, and criteria for protecting them.

B. Recreation

Hunting and fishing generate over $36 million in economic impact to Delta County and an estimated $720,000 per year in sales taxes for Delta County. According to the Outdoor Industry Association, the
economic impact of recreation across all categories has grown substantially over the last decade, even during periods where the United States economy has shrunk or grown slowly. See Exhibit D: Economic Impact of Natural Gas Development on Delta County. Much of what makes Delta County such an excellent destination for anglers and hunters is the ease of access to un-industrialized public lands. Public lands provide more than just opportunities to hunt and fish. Jumbo Mountain in Paonia is a rapidly-growing mountain biking destination, and the Grand Mesa provides myriad other opportunities for outdoor enthusiasts. As the recreation brand for Delta County continues to grow, more recreation jobs will come to the area. Access to public lands and recreation also contribute to the overall brand of the County, driving the real estate market to new heights.

Federally-protected public lands are proven drivers of local economies. The Center for Western Priorities and Headwaters Economics found that counties containing national monuments and other federally-protected public lands either matched or outperformed benchmark counties in almost all key performance categories: population, employment, real personal income, and real per-capita income. Additionally, non-metropolitan counties in the eleven contiguous western states with larger shares of protected public lands substantially outperformed those counties with lower than average shares of federally-protected public lands in the same categories. Federally-protected public lands contribute more than just recreation revenue. Studies by Headwaters Economics also show that proximity to protected public lands helps recruit a talented workforce across many industries, not just in recreation services. Protected public lands also attract retirees and increase demand for property investment. Over 50% of the surface area of Delta County is public land, managed by either the BLM, Forest Service, or National Park systems. The County must recognize the importance of these lands, and the direct value they represent to Delta County and its residents.

Recreation and protecting access to public lands were also consistently repeated during Vision Workshop meetings. The Master Plan should reference the importance of protecting our surrounding public lands from industrial activity, and list criteria and standards for a protected designation or zone for agricultural lands and watersheds.

C. Real Estate

The North Fork Valley is also the driving force behind the larger Delta County real estate market. According to information from local realtors, real estate prices in the North Fork Valley are consistently higher than the Delta County average. [See Exhibit D]

The recent introduction of a high-speed fiber optic network to the North Fork Valley will continue to bring people to the area. As the broadband network continues to grow, the North Fork Valley will attract and support more telecommuters and people who can bring jobs and income-producing opportunities with them to the County, creating more employment opportunities and growing the already diverse North Fork Valley economy.
The Master Plan should acknowledge the importance of the North Fork Valley real estate market and those factors that contribute to growing and maintaining the health of that market, which also determine County revenues from property taxes.

2. Future Trends

Delta County is seeing a rapid rise in both the number of organic farms and the amount of organic products produced. The Valley Organic Growers Association 2016-2017 directory lists more than seventy organic producers and sellers in the region. These organic farmers and producers are a driving force behind the economic growth in the North Fork Valley.

The future of Delta County is powered by renewable energy sources instead of fossil fuels. Delta County has the agricultural resources to produce high quantities of biofuels that, when combined with existing efforts in developing and implementing renewable energy, can lead to self-sufficient energy production for electricity, home-heating, and auto and farm equipment fuel. As organizations like Solar Energy International (SEI) bring energy and innovation to this area, there is less need for a power grid based on fossil fuels. Renewable energy potential in the North Fork Valley is not limited to solar. There is increased interest in biofuels as a source of power for farm machinery, and the area abounds in small-scale hydropower potential. The North Fork Valley is a source of renewable energy and other creative solutions to our dependence on fossil fuels. The future of Delta County is in this innovation, not oil and gas.

Delta County and the North Fork Valley’s future should also include growth in the industrial hemp economy. The risk of pollution from extractive industry activity in the headwaters region would greatly weaken the County’s burgeoning hemp industry.

Delta County’s future holds great potential in the recreation industry. Across the United States, and Colorado in particular, the recreation industry has seen consistent growth. Growth in the recreation industry occurs consistently even during years when the economy as a whole shrinks. In 2012, outdoor recreation in Colorado generated $13.2 billion in consumer spending, and nearly $1 billion in state and local taxes. As stated above, Delta County sees $36 million in direct economic impact from hunting, fishing and wildlife viewing alone. Delta County has a wealth of recreation opportunities from gold medal fishing, to big-game hunting, backcountry skiing, mountain biking, and hiking. Increased oil and gas development in Delta County is not compatible with any of these recreation opportunities.

Oil and gas development will cause irreparable harm to Delta County’s land, water, and air. The current state and local regulatory structure allows oil and gas developers to pass significant portions of their costs onto the public, which gains little from the development. For instance, the duty of conducting baseline air quality monitoring currently falls to private citizens and non-profit organizations. Both the risk of aquifer contamination and the burden of detection are placed entirely on the aquifer’s users. The cost of leaks and spill from operations, including pipelines (especially unregulated pipelines) is largely externalized, placing the burden of remediation and future cleanup costs on the future residents of Delta County.

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If oil and gas development is prioritized in Delta County’s future, the costs associated with it could far outweigh any short-term benefit it might produce. CHC has conducted research showing that oil and gas development in the North Fork Valley could result in the loss of hundreds of thousands of dollars of County revenue annually. In this study, we conducted a cost-benefit analysis on the proposed North Fork Mancos Master Development Plan, which demonstrates that the costs to the County far outweigh the county revenues that would be generated from the project. [See Exhibit D]

Additional research shows that rural counties with minimal existing oil and gas infrastructure are the most likely to experience net-negative impacts from increased oil and gas development. The largest source of impacts comes from infrastructure improvements and maintenance, and increased demands on services and emergency response. The irreparable harm done to the land, water, and air could also result in the County’s inability to sustain the diverse economy the North Fork Valley has worked so hard to build.

Many of the industries that form the backbone of the North Fork Valley’s diverse and resilient economy are intrinsically tied to the land and water. The ranching community, the orchardists, the vineyards and wine producers, and the conventional and organic farmers that support the growing agritourism industry in the North Fork Valley cannot simply pick up and move if the County prioritizes oil and gas development.

This all leads to the question of what Delta County’s economy should look like in the future. CHC and its members believe that the diverse and resilient economy that the North Fork Valley has built is far more sustainable in the long term than an economy focused on extractive industries, bound to a boom and bust cycle. See Exhibit C: Delta County Resilient Economy Petition, which addresses this point. There are examples all across the western United States of cities, counties, and states whose economies have been tied to oil and gas development. We need look no farther than some of our neighboring counties for examples of the boom and bust cycle that follows oil and gas development. No one can make the argument that there are not short-term economic gains to be had sometimes. We simply ask that the County look farther ahead. The county should look to studies like the Heart and Soul Project, the Colorado Office of Economic Development and International Trade’s “Bottom-Up” project, and the North Fork 2020 project, all of which show that local businesses, alternative energy sources, arts, education, tourism, and recreation should form the basis of a healthy and sustainable Delta County economy.

3. Concerns with Current Specific Development Regulations

CHC has specific concerns about Delta County’s current Specific Development Regulations (SDRs), which are indicative of a broader County perspective on oil and gas development. We recognize that the Master Plan is a visionary document, which will inform subsequent review of the County’s land use regulations. By addressing specific concerns with the SDRs here, we are identifying issues that should be elevated to a broader policy level and resolved in terms of the County’s goals within the Master Plan. The County should use the Master Plan revisions to address specific deficiencies within the SDRs and further

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safeguard protections for human health and the environment. Below are five major concerns we have with the SDRs from an oil and gas perspective:

A. **Notice requirements.** The current public notice requirements fail to ensure that all impacted users are notified. According to the BLM, the areas of highest development potential for oil and gas in Delta County are in the headwaters regions in the northeast corner of the County. While this area is sparsely populated, the streams that form in the region provide drinking and irrigation water for many of the County’s residents and farms. Based on these circumstances, a public notice requirement based solely on distance from the wellpad fails to put all affected residents on notice. In order to inform and protect county residents, operators should be required to inform everyone connected to potentially-impacted water sources, regardless of their distance from the wellpad.

B. **Definition of Minor Development.** The County’s Specific Development Regulations’ definition of Minor Development also fails to protect Delta County residents adequately. By using a definition of Minor Development that includes two wells within a mile of each other being drilled in the same year, two gas gathering or water collection lines within a mile of each other, storage areas smaller than an acre, and well bore expansion that would require an APD from the State, the County allows projects with potentially significant impacts to escape close scrutiny. The County should use a more stringent definition of minor development, or even do away with the concept of minor development altogether, recognizing the risks that such development pose to the community, in order to protect its residents more effectively.

C. **Lack of local control.** The County is also far too reliant on state and federal regulations. By deferring regulatory oversight, the County is missing a vital opportunity to protect its residents, lands, and waters more rigorously. While state and federal preemption limits the steps the County can take, recent actions by neighboring counties show that there is more Delta County could be doing. The County can require more rigorous assessments of nearby water sources, more baseline air and water quality measurements, greater protections for water sources, analysis of existing wildlife resources, and increased protections for grazing right holders.

D. **Interference with irrigation water.** The existing SDRs only protect the right of irrigators to use and maintain pipelines and ditches that cross or adjoin land proposed to be developed, and prohibit developers from channeling storm or produced water into ditches or canals. The current SDRs define interference solely as an access issue. These protections fail to consider the extent of possible interference development can have on irrigation water. The County should use the Master Plan revision process to prioritize the importance of water quantity and quality. The County can do this by increasing protections for irrigation water users by requiring regular water quality assessments, and a fiscal response to risk of reduced flow of, and contamination or pollution to irrigation water due to operations. This can include increasing insurance requirements on developers to ensure that any adverse impact on water quality can be effectively mitigated or repaired.
In order to protect irrigation water users more thoroughly, the County should create a database of chemicals associated with oil and gas development and hydraulic fracturing that are proven to increase the risk of cancer, endocrine disease, and other debilitating medical issues. [See Exhibit A]. The County should then develop regulations around risk tolerance related to any of these chemicals, with special regulatory focus being given to any chemicals determined to be persistent, toxic, and fast acting. [See Exhibit A]. Prior to approval of any development proposal, the County should require independent baseline assessment of water bodies near proposed sites to determine the rate of occurrence of any chemicals in the database, and create site-specific monitoring plans and risk tolerance portfolios for any new development proposal.

The definition of interference must be extended to include water quality. The County’s reputation for producing quality livestock and produce is dependent on clean and safe irrigation water. If a developer cannot ensure that its proposals will not adversely affect water quality, then the County should not approve the project. As the Colorado Court of Appeals declared in Martinez v. Colorado Oil and Gas Conservation Commission and American Petroleum Institution (2017 COA 37), development must be regulated subject to public health, safety, and welfare.

E. Inconsistency between stated goals and regulations. The current specific development regulations don’t provide adequate protection for the county’s existing economy, human health, and the environment. The specific development regulations initially state their purpose is to “Promote the health, safety, and general welfare of the present and future residents of Delta County.” However, the oil and gas regulations specifically fail to make any concerted effort to follow through with the stated purposes of the regulations. The County should use the master plan process to revisit the regulations on oil and gas development and take specific steps to protect the existing economy, human health, and the environment.

4. How to Protect the North Fork Valley in the Master Plan

The Master Plan should prioritize protecting the headwaters region of the North Fork Valley for future generations. These areas are vital, and protecting them will go a long way toward protecting the rest of the County. The County should also prioritize protecting human health and the environment. Any proposed development should have to provide convincing evidence that it will not harm the County’s residents or environment.

A. Headwaters Regions.

Prioritizing the headwaters regions, health, and the environment will show that the County respects all property owners’ rights and takes the principles of non-infringement and non-harm seriously. For instance, the current specific regulations state that developments should not interfere with irrigation rights. These current regulations do not adequately consider the extent of possible harms oil and gas development can cause. The County should instead adopt a policy of non-infringement and non-harm that states that oil and gas operators can neither infringe on an irrigator’s water rights nor cause any harm to the irrigator. These harms would include devalued

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water rights due to diminished water quality and harms caused by inability of producers to market their products as before.

B. **Cost/Benefit Analysis.**
The County should require a cost-benefit analysis of any new development to ensure that the proposed development would have a net positive impact on the county.

C. **Impact Fees.**
The County should collect impact fees from developers to offset costs the County will accrue as a result of the proposal. Impact fees should account for infrastructure costs, negative impacts to the County’s tax base, public health costs, environmental impact costs, and any other development-specific costs the County deems likely to occur.

D. **Non-invasive Development.**
The County and the Master Plan should do more to encourage renewable, non-polluting, non-invasive development that is compatible with the Heart and Soul, “Bottom-Up”, and North Fork 2020 studies.

E. **Key Performance Indicators.**
In order to assess a proposal’s compatibility with these studies, the County should create clearly defined Key Performance Indicators (KPIs) for a resilient, and health and wellness driven economy. KPIs evaluate the success of an organization or of a particular activity (such as projects, programs, products and other initiatives) in which it engages. Often success is simply the repeated, periodic achievement of some levels of operational or visionary goals (e.g. net-zero emissions, 99.9% failure proof, Grade A air quality designation, etc.), and sometimes success is defined in terms of making progress toward strategic goals (e.g. reducing consumption of fossil fuels to reach goal of 100% renewable energy generation). For example, protection of the rural, agricultural character of the county first requires defining agriculture—is it diversified or industrialized? Is it based on free-ranging animals or confined indoor structures? Is it based on minimum acreage or activity? KPIs should guide the County to assess soil quality, preserve agricultural lands, protect the Delta County and North Fork Valley brands, and encourage energy self-sufficiency through renewables. The County should use the KPIs to promote smart rural values, food security and independence, a tourism and recreation based economy, and creative arts.

F. **Geologic Concerns.**
Given the unstable geology in the Upper North Fork Valley, the County should deny any development proposals or activities that have been shown to cause manmade earthquakes. This is especially important near existing infrastructure projects.
G. **Pipeline Issues.**

The County should deny any development proposal that includes unregulated pipelines. This is defined as rural gas gathering lines, which are exempt from federal pipeline safety regulations. Federal and state regulators have no visibility into unregulated pipelines. Operators are not required to report incremental failures along the pipelines, unless such failures merit an evacuation. In addition, federal and state regulators have no visibility into the construction of these pipelines. Lastly, there is no federal or state requirement for accurate mapping of these facilities. How can Delta County claim to protect its residents from the impacts of oil and gas development, when it, and the state and federal government regulations it relies on for the protection of the community, have no visibility into these risk areas? Delta County should require accurate mapping, in particular 3D mapping to understand both surface and subsurface impacts, and aerial remote sensing for escaped volatile organic compounds. In addition, oil and gas operators in the area should be held to the same standards as the mining companies.

5. Conclusion

The North Fork Valley has value beyond just its oil and gas development potential. The community has worked hard to build a sustainable and resilient economy based on conventional and organic agriculture, ranching, recreation, agritourism, education, local businesses, and renewable energy. The County must take this into consideration in revising its Master Plan, and it must take meaningful steps to ensure its protection.

We believe that the following is required to ensure a transparent and effective revision process:

- To ensure that the County effectively communicates with the public throughout the revision process, we ask that the Planning Commission or the consultant produce individual summaries of the five Vision Workshops.
- The County must publish evaluation criteria used to assess any draft of the Master Plan Revisions. The following questions should form the basis of any evaluation criteria that ensures that the Master Plan will protect public health and the environment, and encourage the development of a diverse and sustainable economy:
  - How are community values measured, managed, and protected?
  - How is the County undertaking risk assessment? How does the County determine the acceptable risk threshold for a development proposal? For example, CHC has a risk tolerance threshold of zero for oil and gas development proposals in the area because they have the potential to destroy the basis of the local economy, and the long-term damage to public health is simply not worth it. Delta County, in consultation with the community, needs to develop a risk tolerance metric for evaluating proposals.
  - Is one industry favored over another? Does the Master Plan apply the same criteria to evaluation of development proposals that supports the community vision for the future of the County?
• Is harmful development activity, which would conflict with the vision for the future of the County, defined?
• Is harmful impact to ground and surface water, air and foodsheds defined in a way that protects public health, the environment, and existing economy?
• Is a cost-benefit analysis/criteria of development proposals required?
• Are the County and specific developers required to demonstrate their fiscal ability to mitigate any potential damage to the environment, public health, and the existing economy?

We appreciate the opportunity to present these comments for consideration in the Master Plan revision process. The attachments to this letter include Exhibit A: list of studies referenced in this letter, Exhibit B: our comments on the Draft UFO RMP, Exhibit C: Resilient Delta Economy Petition, with 185 signatures, which reinforces the majority of the views shared during the Vision Workshops regarding the future of Delta County as a resilient, non-extractive-based industry economy, and Exhibit D: Economic Impact of Natural Gas Development on Delta County.

Sincerely,

[Signature]
Natasha Léger
Interim Executive Director

Cc: Elyse Casselberry, Community and Economic Development Director
Robbie LeValley, Delta County Administrator
Gabe Preston, RPI Consulting