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LAW OFFICE
THOMAS F. McFARLAND, P.C.
208 SOUTH LASALLE STREET - SUITE 1666
CHICAGO, ILLINOIS 60604-1228
TELEPHONE (312) 236-0204
mcfarland@aol.com

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THOMAS F. McFARLAND

July 7, 2020

By e-filing

Ms. Cynthia T. Brown, Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20024

Re: Finance Docket No. 36284, *Seven County Infrastructure Coalition—Construction and Operation—in Utah, Carbon, Duchesne, and Uintah Counties, UT*

Dear Ms. Brown:

Hereby transmitted is a Reply in Opposition to Petition for Exemption for filing with the Board in the above referenced matter.

Very truly yours,

/s/ Thomas F. McFarland

Thomas F. McFarland
Attorney for Argyle Wilderness
Preservation Alliance

TMcF:mg:1858\efSTB2

cc: Kathryn K. Floyd, Esq., *kkfloyd@venable.com*
All parties of record
Mr. Darrell Fordham, *darrellfordham@hotmail.com*

BEFORE THE
SURFACE TRANSPORTATION BOARD

SEVEN COUNTY INFRASTRUCTURE)
COALITION -- CONSTRUCTION AND) FINANCE DOCKET
OPERATION EXEMPTION -- IN UTAH,) NO. 36284
CARBON, DUCHESNE, AND UINTAH)
COUNTIES, UT)

**REPLY IN OPPOSITION TO
PETITION FOR EXEMPTION**

ARGYLE WILDERNESS
PRESERVATION ALLIANCE
511 South 600 East
Lehi, UT 84043

Protestant

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Protestant

DUE DATE: July 7, 2020

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**REPLY IN OPPOSITION TO
PETITION FOR EXEMPTION**

Pursuant to the Board's procedural decision served June 17, 2020, ARGYLE WILDERNESS PRESERVATION ALLIANCE (the Alliance) hereby replies in opposition to a Petition for Exemption (Petition) filed by Seven County Infrastructure Coalition (the Coalition) on May 29, 2020. The Petition seeks an exemption from the prior approval requirements of 49 U.S.C. § 10901 for construction and operation of an 85-mile rail line between a point of connection to Union Pacific Railroad Company (UP) at or near Kyune, UT and South Myton-Leland Bench, UT (the Rail Line) (Petition at 4). For reasons here explained, the Petition should be rejected. If it is not rejected, the Petition should be denied. Under no circumstances should the Petition be conditionally approved pending completion of environmental review.

This Reply relies heavily on the attached comprehensive Verified Statements of Mr. Darrell Fordham, a leading member of the Alliance, who has participated actively in all local public proceedings since the track construction was first proposed in April, 2019. Mr. Fordham's Statement dated August 28, 2019 is Appendix 1 to this Reply. Mr. Fordham's Statement dated July 2, 2020 is Appendix 2 to this Reply.

Rebuttal is not permitted in Board exemption proceedings. *See* 49 C.F.R. § 1121.4(a). Any rebuttal attempted to be filed by the Coalition would be subject to a motion to strike as an untimely attempt to bolster its case-in-chief. *Malone Freight Lines, Inc. v. United States*, 204 F.Supp. 745, 755 (USDC, N.D. Ala., SD).

REPLY

I. THE PETITION SHOULD BE REJECTED

A. Accelerated Exemption Procedure Is Not Appropriate Where, As Here, The Proposal Is Vigorously Contested And Highly Controversial, And There Is No Evidence Of Financial Ability To Complete The Track Construction, Nor Evidence Of Public Need

The petition for exemption procedure for abandonment is primarily intended to be used to expedite decisions and minimize regulatory burdens in uncontested or noncontroversial proceedings. *Central RR of Indiana -- Abandonment Exemption -- in Dearborn, Decatur, Franklin, Ripley, and Shelby Counties, IN*. 1998 WL 221442 (STB Docket No. AB-459 [Sub-No. 2X], decision served May 4, 1998), at *9, emphasis added. That principle applies equally to track construction.

1. The Relief Sought In The Petition Is Vigorously Contested And Highly Controversial

The Petition seeks approval to construct an 85-mile rail line through pristine mountainous terrain historically used for recreation and other scenic purposes. Local landowners are vigorously opposed to this proposed invasion of their highly aesthetic surroundings, as evident

by the numerous individual protests filed with the Board.^{1/} Suffice it to say that the proposed track construction is the antithesis of uncontested routine proposals appropriately processed by means of accelerated petition for exemption procedure.

2. There Is No Evidence Of Financial Ability To Complete The Track Construction

Petition for exemption procedure is not appropriate where, as here, there is no evidence of financial ability to complete the track construction. Thus, in *Ozark Mountain Railroad -- Construction Exemption*, 1994 WL 698676 (ICC Finance Docket No. 32204, decision served December 15, 1994), the Board's predecessor, the Interstate Commerce Commission (ICC), revoked an exemption for track construction and operation for failure to provide adequate evidence of financial capability. The ICC said (at *4):

Ozark has indicated that Bartow Group will provide financing. But Ozark provides no information about Bartow Group or any investors associated with Bartow Group. The financing is described as private with investors receiving a stock interest in Ozark.

The proponent of track construction filed a Petition to Reopen the decision in the *Ozark* case that included a Statement by Innova Capital Support Group that it will "still continue our work in providing financing" as evidence of the proponent's ability to obtain funding for the track construction at the time of construction. The Board denied the Petition to Reopen in *Ozark Mountain Railroad -- Construction Exemption*, 1995 WL 561990, stating (at *4):

. . . The statement, however, does not constitute compliance with the requirements of [49 CFR] 1150.6 . . . Nor is the information adequate to show that Ozark has a reasonable prospect of financing the project.

^{1/} There are 3,783 signatures on a local petition of those persons opposed to the track construction. The signatures are available for review on request.

The Board articulated the applicable principle as follows (1995 WL 561990 at *2):

In short, where, as here, serious concerns about the impact of the project have been raised, the application process, rather than the exemption process, is the more appropriate vehicle for us to use in considering whether to approve the proposed construction and operation. As we have previously explained, the application process will ensure that we have the financial and other information that we need to make an informed decision and allow the public to better understand this project and comment on their concerns. . .

That principle fits the record in the case under consideration like a comfortable glove.

The proponent of track construction voluntarily dismissed a petition for judicial review of the ICC's decision in the *Ozark* case. *Ozark Mountain Railroad v. STB*, 1996 WL 247943 (DC Cir. No. 95-1107, order dated April 4, 1996).^{2/}

Chairman Begeman has voted against use of petition for exemption procedure where there is insufficient evidence of financial ability to fund a track construction project to completion. In dissenting in part in *California High-Speed Rail Authority -- Construction Exemption -- in Merced, Madera, and Fresno County, CA*, 2013 WL 3053064 (STB Finance Docket No, 35724, decision served June 13, 2013), then-Vice Chairman Begeman said (at *20):

. . .I. . .cannot support granting an exemption here in lieu of a more thorough examination of the proposal through the application process.

x x x

Under 49 U.S.C. § 10901, the Board is directed to generally approve new construction, unless the proposed construction is inconsistent with the public convenience and necessity. But a construction application under § 10901 also requires an analysis of factors not considered under a § 10502 exemption. One

^{2/} The decision in the *Ozark* case is consistent with Board decisions rejecting applications for failure to provide adequate financial capability in similar contexts. *Dr. Daniel R. Fiehrer – Feeder Line Application -- BNSF Ry. Co. between Helena and Great Falls, MT*, 2006 WL 3380865 (STB Docket No. 34947, decision served November 22, 2006) at *2, and decisions there cited.

such factor is a project's financial information, including projected costs and funding. Significant federal taxpayer dollars are at stake here, with nearly \$3.5 billion in funding awarded by the Federal Railroad Administration. . .As such, I believe the public interest showing clearly merits our robust scrutiny in this case. Instead, this decision discounts the agency's responsibilities and largely cedes our judgement to others.

Chairman Begeman dissented on the same and other grounds in a later proceeding on an adjacent segment of the proposed California High-Speed project. *See California High-Speed Rail Authority -- Construction Exemption -- in Fresno, Kings, Tulare, and Kern Counties, CA*, 2014 WL 3973120 (STB Finance Docket No. 35724 [Sub-No. 1], decision served August 12, 2014) at *17:

. . .Each segment of this project, including its financing, merits the Board's thorough examination, which has not and cannot occur under the exemption process.

Neither of the two Board members who were the majority in the *California High-Speed* decisions is a Member of the Board at present. The door is open for current Board Vice Chairman Oberman and Board Member Fuchs to vote with Chairman Begeman to reject the Petition for Exemption here on the basis of the decision in the *Ozark Mountain Railroad* case and on the sound rationale expressed by Chairman Begeman in her dissents in the *California High-Speed* cases.

The Coalition has not shown, nor even alleged, that it has the capability to finance the proposed track construction to completion. Instead, the Coalition contends that such a showing is not necessary, allegedly because "the market adequately determines the value of a potential rail construction project", so "there is no need for regulatory approval under § 10901 to determine if a project is economically sound". (Petition at 23, note 79).

The Coalition's contention in that respect is flatly inconsistent with the *Ozark Mountain Railroad* case, *supra*. Further, the Coalition's argument is at odds with a primary purpose of determining whether a proponent of track construction has the financial wherewithal to complete the construction. That purpose is explained in *Tongue River R. Co. -- Construction and Operation -- Western Alignment*, 2007 WL 2936132 (STB Finance Docket No. 30186 [Sub-No. 3], decision served October 9, 2007), at *8:

... (O)ur purpose is ... to protect ... the affected communities from needless disruption and environmental impacts if the applicant were to start construction but not be able to complete the project and provide the proposed service ...

Accord: New Mexico Navajo Ranches Assn. v. ICC, 702 F.2d 227 (DC Cir. 1983).

Thus, there must be a showing of sufficient funding for the cost of track construction at the outset so that once construction is started it can be completed instead of leaving a partially completed track as an eyesore that would be difficult or impossible to economically dismantle. That is to say that there must be financial capability at the outset to fully fund the project. That takes on added importance in view of the highly scenic character of the Uinta Basin. The Board would not be able to carry out the purpose of the track construction statute if the Board were to fail to protect the Basin's aesthetic setting.

3. There Is No Evidence Of Public Need For The Track Construction

The Coalition has not shown a public need for the proposed track construction. If there were such a public need, surely Union Pacific would have constructed track into the Uinta Basin long ago. Union Pacific has not been willing to do so, neither historically nor at present.

Petitioner's Witness McKee states at paragraph 16 of his statement that:

In the 19th and 20th centuries, transcontinental railway lines purposely were constructed around the (Uinta) Basin to avoid the high construction and operating costs needed to traverse the mountains and plateaus circling the region.

In response, Mr. Fordham stated (Appendix 2 at 3):

. . .These mountains and plateaus still exist today. They have not decreased in size. The same high construction and operating costs still exist. . .The fact is that the Coalition has not changed their construction numbers even with the addition of the Whitmore Park alignment which added an additional tunnel in order to lessen the number of grade crossings in the South Argyle Community Area. . .The mountains have not shrunk, and the cost of construction certainly has not exponentially decreased as the Coalition would have everyone believe. . .

The "reasonably foreseeable traffic projections" referred to on page 10, note 28, of the Petition are no more than an unsupported wish list that does not begin to show a public need for the proposed track. Not one shipper has come forward stating an intent to ship over the new track.

The prospect of shipping crude oil, frac sand, and related commodities over the new track has been drastically reduced in light of an oil glut in the US and foreign markets, which recently resulted in a negative value of crude oil for the first time in history. It is understatement to say that it would be unwise to rely on crude oil as a revenue source in the foreseeable future.

Even if there were a realistic public need for rail transportation of crude oil over the new track, the identified crude oil reserves in the Uinta Basin would be exhausted in only 5.32 years, according to information provided by the Coalition itself. (Appendix 1 at 3).

Mr. Fordham has personal knowledge that agricultural commodities would not be shipped over the new rail line, viz. Appendix 1 at 2-3:

Having spoken with many in the agricultural and ranching communities in this area, I found no agricultural producers whatsoever who intend to utilize the proposed railway in any manner. The Coalition has further failed to produce any substantive data regarding either existing or prospective industries who might utilize the proposed railway . . .

B. Summary and Conclusions re Rejection of the Petition

This record shows:

- (1) a cost of more than \$1.25 billion to construct the track;
- (2) no means to fund even the first dollar of that cost; and
- (3) not a single shipper who claimed a potential to ship even a carload of freight over the new track.

Construction of the track under those circumstances would be the height of folly!

The Board should reject the Petition. If the Coalition continues to intend to construct the track, it should provide the crucial information that is missing from its Petition, and file an Application with the Board under 49 U.S.C. § 10901 for authority to construct and operate the track.

II. IF NOT REJECTED, THE PETITION SHOULD BE DENIED

If the Petition is not rejected, it should be denied because application of 49 U.S.C. § 10901 to the proposed track construction is necessary to carry out the National Rail Policy that strongly favors public safety. It is our Nation's policy that rail facilities be operated without detriment to public safety. 49 U.S.C. § 10101(8). It is also national rail policy that there be safe working conditions in the railroad industry. 49 U.S.C. § 10101(11).

Among the multiple serious safety concerns associated with the proposed track is the substantial increase in local truck traffic if oil production were to increase to the extent claimed by the Coalition. Thus, the Coalition claims that crude oil production will increase from the current rate of 90,000 barrels per day to 360,000 barrels per day, a 400 percent increase. That would cause a corresponding increase in local truck traffic between the oilwell sites and the rail loading points. Local highway infrastructure is ill-equipped and grossly inadequate to accommodate truck volume of that magnitude. The local roads are already overtaxed. Increasing truck traffic by 400 percent is sure to cause numerous vehicle collisions with resulting certain death and damage. (Appendix 1 at 7).

Another serious safety concern is potential for wildfire. The proposed track would traverse steep, rugged, heavily forested mountain areas, much of which is on private land accessed by privately owned and maintained roads. The Argyle Canyon area was heavily damaged during the Church Camp Wildfire in 2012 that burned 7,211 acres, destroyed 15 homes, and cost \$5.7 million to fight. That fire was sparked from a single ignition point. A defective or damaged railcar wheel or bearing could throw sparks and ignite fires for several miles before being discovered. Railroad clearing of grasses, weeds and other highly flammable items is performed haphazardly at best. (Appendix 1 at 5).

Many areas within the Argyle Canyon communities have only one way in and one way out. These communities are off-grid and are not served by any municipal or other utilities, and no emergency warning systems exist. If a train were to ignite a wildfire, the potential for loss of life and property damage would be extreme. The private forest areas that would be traversed by the track are dense with deadfall and underbrush. Adding a rail line multiplies the propensity for

devastating, fatal wildfires. The wildfire risk from trains running through the forested areas cannot be adequately mitigated. (Appendix 1 at 5).

Additional grade crossings that would result from the proposed track construction present a serious risk of death and property damage due to train, vehicle, pedestrian, and OHV collisions. In the absence of any electric utilities in the area, it would not be possible to install crossing arms, warning bells and lights or other mechanized safety devices. The associated safety concerns from the numerous new grade crossings cannot be adequately mitigated. (Appendix 1 at 6).

The proposed track construction would result in serious safety concerns during emergency and evacuation scenarios. Residents will be cut off and, in some cases trapped, between railway loops as a result of zig-zag track construction. If a wildfire, derailment, toxic spill or other emergency were to occur during the provision of rail service, residents would be unable to escape by vehicle or in some cases on foot. Emergency vehicles would be unable to access many of the residents in the area. (Appendix 1 at 6).

A refinery known as the Uintah Advantage Lube Oil Refinery is proposed to be constructed in the Leland Bench area. The construction and operation of that refinery will result in transportation of distilled and refined hazardous chemicals. That will dramatically increase the risk of death and property damage to the public in the event of a derailment or collision, as well as result in environmental pollution. (Appendix 1 at 6).

In addition to the foregoing adverse effects on public safety, there would be other adverse effects that are unique to the Uinta Basin because of its pristine scenic character. A number of

such unique adverse effects are set forth in Appendix 1 at 13 under the heading “Visual Resources”. See, also, “Noise and Vibration” at 8, and “Recreation” at 10.

In contrast to serious public safety and other adverse effects of track construction, public benefits from the proposal would be minimal. No shipper has claimed a benefit from the track construction. There is no evidence whatsoever to support the Coalition’s contention that the new track would be used for transportation of crude oil, frac sand, pipe, or agricultural products. Mr. Fordham has shown that transportation of agricultural commodities would not occur (Appendix 1 at 2). No potential shipper of crude oil testified to an intent to use the proposed track to transport oil or related supplies. That is not surprising in view of the current global glut of crude oil that recently saw the value of crude oil fall into negative territory for the first time in history.

A principal public benefit claimed by the Coalition -- that the proposed track construction would reduce truck transportation in the local area -- has been thoroughly debunked in Appendix 1 at 7. The opposite is true. The Coalition has claimed that crude oil production will increase from the current rate of 90,000 barrels per day to 360,000 barrels. That would result in a corresponding increase in truck transportation of oil in the local area from well sites to transloading facilities. Local infrastructure in the Uinta Basin is ill-equipped and grossly inadequate to handle such increased truck traffic. The increased truck traffic on the inadequate road system will pose a significant safety risk. The Coalition claims that reduced heavy truck traffic and resultant savings from reduced road maintenance is a primary public benefit of the project. However, that claim is demonstrably false. It is not possible to increase oil production by 400 percent and at the same time decrease heavy truck traffic. (Appendix 1 at 7).

The Coalition's Petition for Exemption should be denied because the serious adverse effects on public safety from the proposed track construction greatly outweigh the minimal public benefits of the proposal. That was the scenario in *Indiana & Ohio Railway Company -- Construction and Operation -- in Butler, Warren and Hamilton Counties*, 9 ICC 2d 783 (1993), where the proposed track construction was denied on safety grounds, viz:

The construction of a line may pose a significant risk to public safety, both in the building of the line and the subsequent operation over it. Thus, it is entirely appropriate to factor public safety concerns into our § 10901 analysis of whether the public convenience and necessity require or permit construction of the line. Moreover, where, as here, the evidence before us shows that the public safety concerns are significant and cannot be adequately mitigated, we may find that the adverse public safety consequences outweigh the transportation benefits of the proposed line. (9 ICC 2d at 788).

X X X

After weighing the adverse impact of this line's construction on public safety against the transportation benefits noted above and in the Appendix, however, we conclude that Applicants have failed to meet their burden of showing that building the line is permitted or required by the public convenience and necessity. The reduced costs of operation by the I&O Railway constitute an increase in efficiency that, given the competitive nature of I&O Railway's service, could be expected to be passed on, at least in part, to the shipping public. But as the final EIS and Draft EIS explain, the location of this line would create public safety problems that simply cannot be adequately mitigated. Thus, this is a case where public safety concerns outweigh the transportation benefits of the proposed line, and therefore, the application is denied (9 ICC 2d at 790-791).

The *Indiana & Ohio Railway* case was denied before 49 U.S.C. § 10901(c) was amended to provide for approval unless track construction is inconsistent with public convenience and necessity (PC&N). However, the result of the *Indiana & Ohio Railway* case and the case here under consideration are not changed by that amendment. It may be that the amendment results in a presumption that the proposed track construction is permitted by PC&N. Nevertheless, any such presumption was clearly rebutted in the present case by evidence that serious harm to

public safety overwhelmingly outweighs minimal transportation benefits that would result from the proposed track construction.

III. THE PETITION SHOULD NOT BE CONDITIONALLY APPROVED

The Alliance opposes the Coalition's request that the Board conditionally grant the Petition pending completion of environmental review (Petition at 26-28). The Coalition has not provided a rational basis for the Board to depart from its now-settled practice to the contrary.

The Petition should be rejected or denied for reasons stated in this Reply, but in the absence of that relief, the Petition should not be decided until environmental review has been completed.

CONCLUSION AND REQUESTED RELIEF

WHEREFORE, for the reasons stated, the Coalition's Petition should be rejected. If not rejected, that Petition should be denied. The Petition should not be conditionally approved.

Respectfully submitted,

ARGYLE WILDERNESS
PRESERVATION ALLIANCE
511 South 600 East
Lehi, UT 84043

Protestant

/s/ Thomas F. McFarland

THOMAS F. McFARLAND
THOMAS F. McFARLAND, P.C.
208 South LaSalle Street, Suite 1666
Chicago, IL 60604-1228
(312) 236-0204
mcfarland@aol.com

Attorney for Protestant

DUE DATE: July 7, 2020

**Argyle
Wilderness
Preservation**



August 28, 2019

Mr. Joshua Wayland
Surface Transportation Board
% 9300 Lee Highway
Fairfax, VA 22031
ATTN: Environmental Filing, Docket No. FD 36284

Re: Seven County infrastructure Coalition - Rail Construction & Operation - in Utah, Carbon, Duchesne, and Uintah Counties, Utah

Mr. Wayland,

Thank you for the opportunity to submit comments regarding the proposed construction and operation of the Uinta Basin Railway Project (UBR). It was a pleasure to meet you and Dave and the ICF team during the Scoping Meetings in Utah and Colorado. I again compliment you on your professionalism, courtesy, attentiveness, and attention to detail regarding this project.

As you are aware, a project of this type, size, and scope is always accompanied by numerous, significant, substantial, and serious impacts. I trust that your office, consultants, and cooperating agencies will exercise extreme care and will be comprehensive in your evaluation of the proposed project and its corresponding impacts. I have attempted to organize my comments according to the evaluation criteria categories outlined in the Scoping Meetings and documentation.

By way of information, my comments are based on my 15 years of Commercial Construction Management experience, coupled with 5 years of Small Business Ownership, as well as representation of the interests and concerns of approximately 400 landowners in the Argyle Canyon, Indian Canyon, Avintaquin Canyon, and Emma Park areas, of which I am a member and fellow landowner. I have spent a considerable amount of time researching the proposed project, the Seven County Infrastructure Coalition (Coalition), and project stakeholders. I first became aware of the proposed project in early April 2019 when landowners began receiving letters from Jones & DeMille Engineering (the Coalition's Project Engineer) requesting access to private properties along the Indian Canyon and Wells Draw Routes for the purposes of field surveying. I have attended every public meeting concerning the project since that time in order to make an informed, educated opinion concerning the project and the Coalition. Unfortunately, this has proven to leave more questions unanswered than answered, and has led me to conclude that the Coalition, in my opinion, has and continues to act in bad faith as an Interlocal Government Entity. All relevant information regarding

the proposed project's financial feasibility, long-term viability, ownership, etc. have been maliciously and intentionally withheld from the public. The Coalition has repeatedly ignored and delayed required timely responses to Government Records Access and Management Act Requests, and requests that have been answered have had all relevant financial data redacted, thereby rendering the public's ability to evaluate the project's and Coalition's financial feasibility and respective viability futile. The Coalition continues to act in bad faith regarding the financial aspects of the proposed project, suggesting that the project's viability and the Coalition and its partners' financial fitness to complete the construction of the project are questionable at best.

I am opposed to the proposed project in its entirety for many reasons which will be detailed herein, and vehemently opposed specifically to the proposed Indian Canyon and Wells Draw Routes.

FINANCIAL VIABILITY

ECONOMIC FEASIBILITY

I submit that the first consideration which the Surface Transportation Board must undertake is to determine the economic feasibility of the project. I am extremely concerned and disturbed by the Coalition's deliberate and intentional withholding of any and all relevant information regarding the economic and financial feasibility of the project. The Coalition cites Section 305(3)&(4) of the Government Records Access and Management Act as justification to withhold all information from the public which would provide sufficient and necessary proof that the project is in fact financially viable, and that the Coalition and its private partners have sufficient financial resources and applicable knowledge and experience to construct, operate, and maintain the proposed railway. I have reviewed all of the documents currently available on the STB's website and, in my opinion, the Coalition has failed to comply with 49 C.F.R. § 1150.4 regarding the public need for the new line as well as 49 C.F.R. § 1150.6 regarding the Coalition's financial ability to undertake the project and provide rail service. The Coalition has virtually no assets of its own, and to date has put none of its own money or resources into the project, instead relying on illegal grants from the Utah Permanent Community Impact Fund Board to fund the work on the project, which are currently being challenged in Court.

I further assert that the Coalition has failed to comply with 49 C.F.R. § 1150.4(g)(2) which requires the applicant to submit information regarding "*The nature or type of existing and prospective industries (e.g., agriculture, manufacturing, mining, warehousing, forestry) in the area, with general information about the age, size, growth potential and projected rail use of these industries.*" The Coalition has submitted only broad generalities to support and substantiate the public need for the project. Given the size of the Uinta Basin communities that this railway will serve, the only market segment that will make any significant use of the proposed railway will be the crude oil industry. Having spoken with many in the agricultural and ranching communities in this area, I found no agricultural producers whatsoever who intend to utilize the proposed railway in any manner. The Coalition has further failed to produce any substantive data regarding other existing and prospective industries who might utilize the proposed railway, thereby proving that the proposed Uinta Basin Railway is not consistent with the public convenience and necessity, rather it will serve one primary

industry only, crude oil production, which is chronically cyclical and ever-dependent on global market conditions. I submit that the proposed Uinta Basin Railway will be grossly under-utilized during periods when oil prices are low - producers will simply slow or stop production for months or years at a time. How will the Coalition pay for the railway during these times?

Given that the proposed railway will be financially supported by a single industry and commodity, it would be foolhardy to approve the Coalition's application with the accompanying safety, environmental, land use, socioeconomic, and other impacts. The economic data, contracts, letters of intent, etc. simply do not appear to exist to adequately prove the project's long-term viability. Per slide #3 of the Union Pacific Railroad Meeting powerpoint presentation dated April 18, 2018¹, which was recently obtained through my appeal to a Government Records Access and Management Act Request, the Uinta Basin Oil Field contains a "700 million bbl resource". Slide #4 indicates current average production of 90,000 bbl/day, 80,000 bbl which are trucked to Salt Lake City Refineries, and 10,000 bbl/day trucked to Price River Terminals and transloaded to rail, and purports that by 2022 270,000 bbl/day demand is expected at the Gulf Coast refineries, bringing the estimated total daily production to 360,000 bbl/day when the proposed Uinta Basin Railway would be constructed and in operation. A simple math equation taking the 700 million bbl resource and dividing it by an estimated 360,000 bbl/day production results in exhaustion of the identified crude oil reserves in the Uintah Basin within 1,944 days, or 5.32 years! These are numbers that have been provided by the Seven County Infrastructure Coalition - the Uinta Basin Railway's proponent! What then becomes the fate of the railway once the oil reserves have been exhausted? Verifiable data that other industries and resources of sufficient size and shipping volume to then support the operation of and payback of the initial construction costs for the railway does not exist. I therefore submit that the Surface Transportation Board and the Office of Environmental Analysis have no other option than to select the no-build alternative for this project. To do otherwise would prove gross negligence.

UNDER-ESTIMATED COSTS FOR CONSTRUCTION

I firmly believe that the Coalition and its engineers have maliciously and fraudulently deflated the anticipated costs of construction of both the Indian Canyon and Wells Draw Routes in an attempt to bias and thwart the route selection process. For example, prior to 2019, when the Coalition was asking the Utah Permanent Community Impact Fund Board (CIB) for the \$27.9 million dollars required to illegally fund the project, the Coalition had proposed 3 routes - all going to Colorado - the Craig, Rifle, and Mack Routes. At that time, per item #2 of a Coalition-provided Summary of RL Banks rail study², "*Rail to Rifle from Myton/Leland Bench plus transloading is roughly estimated to cost \$1.4 Billion. Various Route alternatives, etc. may reduce the final cost.*" (emphasis added) Per Item #3 of the referenced Summary of RL Banks rail study, "*Rail to Rifle is the preferred route because it allows shipping on two major rail carriers, Union Pacific and Burlington Northern.*" Why then, a few months later, was the Rifle route completely scrapped from consideration? Logic and reason would suggest that if the Rifle Route was the Coalition's original preferred route, it would have remained as one of the 3 current proposed routes. Instead, the Coalition chose the Craig Route

¹ 190416 UBRY UP Presentation dated April 18, 2018

² Summary of RL Banks rail study

in addition to the Indian Canyon and Wells Draw Routes. I believe that this was intentional, since the Coalition knew and had already identified that the fatal flaw for the Craig Route was that there is only a single Class 1 rail carrier in Craig, CO. In addition, it is my belief based on the Draft Route Selection Technical Memorandum, Revision 1, dated March 14, 2019³ that HDR, Inc. and the Coalition artificially inflated the cost for both the East Rifle and West Rifle Routes from the \$1.4 Billion noted above (which included transloading) to \$2.63 Billion and \$2.67 Billion respectively in order to artificially remove the Craig routes from evaluation and consideration.

One must also consider the vast discrepancy between the cost estimates for the Coalition-preferred Indian Canyon Route that was studied in 2014 for the Utah Department of Transportation⁴. The UDOT Study consisted of a Cost Estimating Validation Process (CEVP)⁵ wherein a 4-day workshop was held with a “team of top engineers and risk managers from local and national private firms and public agencies” who reviewed the cost estimate for the Indian Canyon Route. The CEVP concluded that the “base” cost estimate for the project was \$2.665 Billion in 2014 dollars, which was the estimate assuming that everything would go according to plan, “*without risk, opportunity, contingency, or inflation*”. The Year-of-Expenditure estimate ranged between \$3.338 Billion and \$4.801 Billion - which now, 5 years later, appear to be much more realistic estimates. The CEVP further concluded that construction would take an estimated 11 years as opposed to the Coalition’s current estimate of 2 years. Consider further that HDR, Inc. performed the 2014 UDOT Study as well as the current studies and estimates for the Coalition. How does the same engineering firm, even with significant changes to alignment, tunnel length, highway realignment and reconstruction, etc. come up with a revised estimate for the Indian Canyon Route of \$1.2 Billion dollars 5 years later, when inflation and construction costs have increased considerably? Considerably more research, study, and independent verification of the actual project costs and the actual, factual costs of each alternative route need to be conducted. The Coalition is relying on cost estimates from HDR, Inc. which are unsubstantiated and which vary considerably with little-to-no explanation or justification.

I firmly believe that better, more suitable routes exist for the UBR that were unfairly and irresponsibly removed from the running by the Coalition and its engineers. Ultimately proposed rail line distance, artificial cost estimating, and perceived respective route opposition led to the selection of the Indian Canyon route specifically, as well as the Wells Draw route. I have requested detailed information regarding the route selection processes, including drawings, details, engineering calculations, takeoff quantities, unit costs, proposed route alignments, vertical profiles, Engineering Basis of Design, Operating Basis of Design, Environmental fatal flaws analysis of proposed routes, and any and all other data used to perform conceptual engineering of selected routes from the Coalition, beginning May 21, 2019. To date very little other than cursory, redacted information has been provided by the Coalition’s Legal Counsel, suggesting that the Coalition is fully aware that their discussions and deliberations regarding route selection have not been done in the light of day, and have not been conducted in compliance with Utah State Law, a fact which is currently being

³ Draft Route Selection Technical Memorandum, Revision 1, dated March 14, 2019

⁴ Uinta Basin Railroad Feasibility Study Summary Report

⁵ Appendix J Uinta Basin Rail CEVP Report

contested in Court. I therefore request that the OEA and STB forthwith deny the Coalition's Indian Canyon, Wells Draw, and Craig Routes since complete and relevant documentation which would qualify these routes as the most economical, least environmentally impactful routes either does not exist or has not been made public for the analysis and review of all who may be affected by these proposed routes.

PUBLIC SAFETY

WILDFIRE

The proposed project is fraught with a myriad of public safety issues, challenges, and concerns, many of which I feel cannot be adequately mitigated. Of primary concern is the dramatically increased risk of wildfire danger, specifically along the Indian Canyon and Wells Draw proposed routes. Both of these routes traverse steep, rugged, heavily forested mountain areas in the Indian Canyon and Argyle Canyon areas. Much of these forested areas are private land, accessed by privately owned, privately maintained roads. The Argyle Canyon area was heavily damaged during the Church Camp Wildfire in 2012, which burned 7,211 acres, destroyed 15 homes, and cost \$5.7 million to fight. That fire was sparked from a single ignition point. One can only imagine the widespread devastation that could result from a railway running through this area, where a defective or damaged railcar wheel or bearing could potentially throw sparks and ignite fires for several miles before being discovered. Despite claims that will be made to the contrary, rail car safety inspections will not prevent all mechanical failures that have the propensity to ignite wildfires. In addition, as can be witnessed along hundreds of miles of existing railways, continual maintenance and clearing of grasses, weeds, and other highly flammable fuels is performed haphazardly at best.

Many areas within the Argyle Canyon and Avintaquin Canyon Communities have only one way in and one way out. These communities are off-grid and are not served by any municipal or other utilities, and no emergency warning systems exist. If a passing train were to ignite a wildfire along the proposed Indian Canyon or Wells Draw Routes, the potential for loss of life and destruction of private property would be extreme. Despite private landowner efforts, the private forest areas that will be traversed by either the Indian Canyon or Wells Draw Routes are dense with deadfall and underbrush. The fire danger in these areas already exists from lightning, campfires, and other potential human causes...adding a railway multiplies the propensity and potential for devastating, fatal wildfires exponentially. I do not feel that the wildfire risk from trains running on the proposed railway could be adequately mitigated. The risk of death to nearby canyon residents is simply too great. This factor alone should be sufficient for the STB to deny the Indian Canyon and Wells Draw Routes.

PRIVATE ROAD CROSSINGS

Another area of significant concern is the high number of at-grade rail crossings that will be constructed in the South Argyle Community Area between railway mileposts MP-12 and MP-17. The Indian Canyon and Wells Draw Routes share common alignments between these mileposts and cross private roads in this area no less than 14 times. Approximate locations are 39.84397, -110.77271; 39.84587, -110.76749; 39.84606, -110.76619; 39.84518, -110.76507; 39.84343, -110.76650;

39.84076, -110.77109; 39.84010, -110.76925; 39.84151, -110.76634; 39.84168, -110.75865; 39.84799, -110.74861; 39.86130, -110.74363; 39.86567, -110.74045; 39.86779, -110.73976; 39.86981, -110.73859; 39.87141, -110.73767; These routes present an extreme risk of death due to train/vehicle/pedestrian/OHV collisions. Given the absence of any electric utilities in this area, rail crossing arms and warning lights and sounds would not be possible, nor would they be acceptable within the South Argyle Off-Grid Cabin Community. The proposed Indian Canyon and Wells Draw Routes in these areas between MP-12 and MP-17 zig-zag through numerous private properties, and directly affect access to 100 or more private properties not directly traversed. The associated safety concerns from these numerous rail crossings cannot be adequately mitigated in order to protect the residents in this area, and are grounds for STB denial of the Indian Canyon and Wells Draw Routes.

EMERGENCY ACCESS/ EVACUATION

In addition to risks of death from collisions with trains, the proposed routing between MP-12 and MP-17 of the Indian Canyon and Wells Draw Routes poses significant safety issues for South Argyle Community residents during emergency and evacuation scenarios. Residents will be cut off, and in some cases, trapped between railway loops in this area when trains are present on the track. Were a mechanical breakdown, wildfire, train derailment, toxic train spill, or other issue to occur, residents would be unable to escape by vehicle, and likely, even on foot. Emergency vehicles would also be cutoff from being able to access many of the residences in this area.

HAZARDOUS MATERIALS

Very little is known about the products that are proposed to be hauled, initially or in the future, on the proposed railway. The Coalition has attempted to allay public fears by stating that the crude oil that will be hauled will be in a semi-solid form when at temperatures below approximately 120 degrees Fahrenheit, thereby minimizing the possibility for spills and waterway contamination in the event of a train derailment. However, the Coalition is negotiating and planning to assist with utility infrastructure the building of at least one refinery in the Uinta Basin, specifically in the Leland Bench area, covertly referred to as the Uintah Advantage Lube Oil Refinery. The construction and operation of this refinery will result in the transportation of distilled and refined hazardous chemicals on the proposed railway, which will dramatically increase the risk of injury and death to the public in the event of a derailment or collision, and will result in much greater risk of pollution and environmental destruction from hazardous materials and chemicals.

There is also the possibility that liquefied natural gas may one day be transported on the proposed railway. There is also no guarantee whatsoever as to what may be transported on the railway in the future, be that toxic waste or any number of hazardous substances. Given the very close proximity of the Indian Canyon and Wells Draw routes to several communities and residents in Duchesne County, a serious public safety concern accompanies the approval of either of these routes.

TRANSPORTATION SYSTEMS

LOCAL TRUCK TRAFFIC

The Coalition and other project proponents have touted significant increases in Uinta Basin crude oil production as the main benefit from construction and operation of the proposed railway. The Coalition and other project proponents have also falsely indicated to the public that truck traffic will be greatly reduced by the UBR, when in fact the opposite will be true. The Coalition and its consultants have indicated that crude oil production will increase from the current rate of 90,000 barrels per day (bopd) to 360,000 bopd and as high as 500,000 bopd. Such anticipated increases in oil production will result in exponential increases in heavy truck traffic on local, county, and state roads and highways to transport oil from well sites to transloading facilities. Local infrastructure in the Uinta Basin is ill-equipped and grossly inadequate to handle such increased traffic and heavy hauling, which undoubtedly poses an increased public safety risk. In addition, the Coalition claims that reduced heavy truck traffic and the resultant savings from reduced road maintenance is the primary public benefit for the project. This claim is categorically false! It is impossible to increase oil production by 400% and at the same time decrease heavy truck traffic.

LONG-HAUL TRUCK TRAFFIC

The Coalition has also attempted to mislead Uintah and Duchesne County residents and the general public by stating that current long-haul trucking on U.S. Highway 40 and U.S. Highway 191 will be replaced by the proposed UBR. Nothing could be further from the truth. The Coalition's Director, Mike McKee, spoke on KVEL radio - a local Uinta Basin radio station - on November 1, 2018. Director McKee stated *"It's contemplated that the oil that's going to Salt Lake will continue. This is not to displace...let me state it this way...the study shows that it's a little bit more expensive to put it on rail than it is by truck. I can't promise you that a company wouldn't say well we want to put it on rail anyway, so there may be some company that says to do that. But according to the study it is slightly more expensive to put it on a rail to take it to Salt Lake than it is to truck it. It's cheaper to transport it on a truck to Salt Lake. The R.L. Banks Study, and based on a previous pipeline study...what it showed is that it generally costs about \$5.00 a barrel to get oil to Salt Lake by truck...Under the study that we did...it shows...that R.L. Banks did...it showed kind of a higher and a lower amount of oil being produced. Um, on the higher amount of oil, if it was on a train it would be about \$5.25 a barrel. On the lower amount it would be about \$6.19. So in all cases it's cheaper to put it on a truck than it is on a train. The primary idea of this rail is to be able to get this additional oil to market."*⁶ Clearly, the Coalition will say whatever, to whomever, in order to garner support for the UBR project.

AIR QUALITY AND CLIMATE CHANGE

As stated in the paragraph above, air emissions from trains will be in addition to, not in place of, heavy truck emissions. The Uinta Basin already struggles to meet EPA air quality standards at current oil production levels. Increased oil production due to the construction of the UBR will undoubtedly result in catastrophic decreases in air quality, from the proposed Uintah Advantage Refinery to the estimated 7 trains per day on the UBR, to the quadrupling of local truck traffic

⁶ https://soundcloud.com/user-583590841/uintah-rail-project-11-1-18?fbclid=IwAR11553XiMTNB2UrDUAj2MHbARAYkacJ9W_PBmfrT_X-5I9kUnn5DaWaO5w

hauling from the wells to the transloading facilities, to the quadrupling of emissions from the oil wells themselves. Such impacts will be both the direct and indirect result of construction and operation of the proposed UBR.

Without question, such increases in oil-related production and transportation emissions, in addition to the burning of these fossil fuels, will result in dramatic and measurable climate change. Such matters are well beyond my scope of experience, knowledge, and understanding, but nevertheless must be fully evaluated, quantified, and carefully weighed by the STB and OEA when considering approval of the proposed UBR.

NOISE AND VIBRATION

Noise and vibration, both during construction as well as during subsequent operation of the railway, are of significant concern, especially to private landowners who own property directly on and adjacent to the proposed railway routes. My comments will primarily be focused on the Argyle Canyon and South Argyle Communities, but certainly mirror and echo the concerns of other private landowners, farmers, and ranchers whose land values, livelihoods, and quiet enjoyment will forever be negatively impacted and altered by the UBR project.

Argyle Canyon and South Argyle are off-grid, cabin and recreational property communities. These parcels consist of pristine high-elevation mountain lots generally 10 acres in size or larger. These communities are heavily forested with several species of pine trees, quaking aspens, and other high-elevation flora. The primary draw of these communities is the peace, quiet, solitude, and seclusion offered by this area. Indeed, it is the peace and quiet enjoyment from which these properties draw their intrinsic value. Construction of the proposed Indian Canyon and Wells Draw Routes for the UBR will disrupt and destroy the peace, tranquility, and quiet enjoyment of the residents of these communities. Indeed, properties which are several miles away from the proposed routes through these mountainous areas will nevertheless be significantly impacted by noise, vibration, and dust during railway construction and tunnel boring. Massive amounts of earthwork with heavy equipment will be required to perform the extreme cuts and fills required to traverse such difficult terrain. Property values in these areas have already plummeted due to the UBR proposal, and will continue to fall in the event that the STB approves either the Indian Canyon or Wells Draw Route. Such noise and vibration during construction and subsequent railway operation, in mountainous terrain such as this, will not be able to be adequately mitigated or avoided. Property owners whose land is near, but not directly within, the UBR rights-of-way will be rendered valueless, and owners will be unjustly impacted and devoid of compensation. Such impacts are inherently evil and wrong, and devoid of reason and justification.

The Argyle Canyon, Indian Canyon, and South Argyle Communities will also forever be negatively impacted by resultant noise and vibration after construction - during railway operation. The associated noise of multiple locomotives, which will be required to traverse the maximum grades anticipated along both the Indian Canyon and Wells Draw Routes, coupled with the squeaks and squeals of hundreds of railcar wheels, combined with locomotive whistles and warning noises, will

reverberate through these canyons and through these communities at all hours of the night and day. This resultant noise pollution will forever tarnish and irreversibly destroy the peace, quiet, and tranquility of these off-grid mountain communities. Already land that has been listed for sale has been negatively impacted by the mere proposal of the UBR, with land values plummeting and potential sales being canceled at an alarming rate.

LAND USE

I believe that the land use along both the Indian Canyon and Wells Draw Routes is incompatible with the construction and operation of the proposed Uinta Basin Railway. Much of the land that would be traversed by these routes consists of farm/ranch land, steep and rugged mountainous terrain, neighborhoods, and an off-grid cabin and recreational property community in Argyle Canyon. It would appear that the Coalition spent very little time evaluating these proposed routes and even less time considering and evaluating the impacts that these routes would have on thousands of citizens and landowners, though the public and potentially affected landowners have no way to know because of the Coalition's secrecy regarding the route selection process. Government Records Access and Management Act Requests are still outstanding with the Coalition, rendering our ability to fully provide relevant, substantiated comments on land use along the routes futile.

In addition, the Indian Canyon Route crosses a significant amount of U.S. Forest Service Roadless Area 0401011 designated under the 2001 Roadless Rule on the Ashley National Forest. Clearly the proposed UBR is incompatible with the intent of the 2001 Roadless Rule.

It would appear that the proposed Craig Route would provide far less challenging terrain, much fewer variables and unknowns, and with some additional effort on the part of the Coalition and its engineering consultants many of the challenges of the Craig Route could be mitigated and avoided. In addition, it is clear from earlier Coalition documents that at one time the estimated cost of construction, including transloading, for the Rifle Route was \$1.4 Billion dollars - slightly more than the alleged (and in my opinion, grossly miscalculated and underestimated) \$1.2 Billion dollar estimate for the proposed Indian Canyon Route, slightly less than the current \$1.44 Billion dollar estimate for the Craig route, and significantly less than the current \$2.14 Billion dollar estimate for the Wells Draw Route.

RECREATION

The Indian Canyon and Wells Draw Routes pose significant harm to recreation in the Indian Canyon, Argyle Canyon, and Avintaquin Canyon areas. These areas are frequented by many recreationalists for camping, hiking, ATV and OHV riding, big game hunting, sightseeing, bird watching, and other common outdoor activities. A railway running along either of these routes poses significant impacts to all of these activities. Campers, hikers, sightseers, and bird watchers frequent these canyon areas for the peace, quiet, solitude, beauty, and tranquility that these places provide. Multiple trains per day, traveling at requisite slow speeds which will be required to safely traverse the maximum rail grades and sharp corners, will undoubtedly ruin these activities for thousands of people each year. ATV and OHV riders will likewise be significantly affected. Big game herds will be displaced, their

migration patterns will be forever altered, and many will be lost due to collisions with passing trains. The public should also be afforded the ability to recreate in these areas without the safety concerns and inherent danger posed by a railway hauling toxic chemicals, hazardous wastes, and who knows what else. It is truly unfortunate that a select few multi-billion dollar oil producers and their questionable political affiliates have the ability to trample on the public in such a way to forever damage such a pristine area that is known for its beauty and outdoor recreation opportunities.

BIOLOGICAL RESOURCES

The impacts of both the Indian Canyon and Wells Draw Routes in particular on flora and fauna will be significant and without truly effective mitigation. Big Game species in the Argyle Canyon, Avintaquin Canyon, Indian Canyon, and surrounding areas include elk, mule deer, moose, black bear, and antelope. Smaller game include mountain lions, bobcats, wolverines, skunks, cottontail rabbits, jackrabbits, several squirrel species, chipmunks, weasels, ferrets, sage grouse, forest grouse, pheasants, chukars, many raptors and various bird species, etc. I believe that the proposed railway will significantly alter and damage critical habitat areas for virtually all of these animals.

In addition, there are several rare and endangered plant species in the Argyle Canyon area which will be impacted and likely destroyed by the construction activities for the proposed railway.

SOCIOECONOMICS

In my opinion, the socioeconomic impacts of the proposed project are many, diverse, and given the limited amount of substantive project information that is available to the public, largely unable to be addressed or evaluated or commented on with any degree of confidence. For the OEA to request public comment based on the overarching lack of publicly available information on the project seems highly irresponsible. It is rather clear that the Coalition is intentionally withholding information, or lacks the necessary information altogether (which is highly probable), which would afford any intelligent individual the ability to evaluate the project's probable and anticipated socioeconomic impacts.

The Coalition appears to be well-versed in the spreading of socioeconomic propaganda clearly intended to garner support from the general public who will march along to the pied piper rather than making an effort to verify the information presented or seek substantive proof. The Coalition claims that the proposed Uinta Basin Railway will bring 27,000 new jobs to the Uintah Basin. Despite my requests no information has been provided or presented which would even begin to substantiate such claims. The Coalition claims that oil production in the basin can meet the forecasted demand of 350,000 to 500,000 barrels per day without massive increases in drilling operations and new wells. If so, then where will the thousands of newly created jobs be based in the railway's primary market segment? This proposed railway will not require thousands or even hundreds of railway workers to operate and maintain. A vast majority of the construction labor required to construct the railway will be transient, highly skilled labor brought in by the large contractors that will construct the railway, not local workers. No reliable, verifiable data has been produced to support any claims to the contrary.

In truth, the local communities will be overrun by the influx of construction workers. Their hotels, housing, and other infrastructure will be taxed well-beyond its capacity, displacing low-income tenants and effectively pricing a significant portion of the Uintah Basin population out of the housing rental and purchase markets, much like what has happened in recent years during the last oil boom. The positive impacts on the local economies were short-lived, and vastly overshadowed by the long-term, negative impacts. The proposed Uinta Basin Oil Railway will be no different. To suggest otherwise would be foolhardy at best.

I vehemently admonish the OEA and STB to seriously evaluate and request substantive, proven, documentation from the Coalition regarding the project's true socioeconomic impacts, both positive and negative. A failure to do so will result in the OEA and STB being complicit with the Coalition in the devastation of many small communities in the area. The fact that the Coalition has invested none of its own money or resources into the project, and therefore has no associated financial risk, should of itself avail the project of intense scrutiny and questionability as to its financial viability and speculative nature. Equally disturbing is the fact that the Coalition's public/private partner, Drexel Hamilton Infrastructure Partners L.P. (Drexel Hamilton) also has not, according to information publicly available, invested any of its own money or financial resources in the project to date, based on statements made in the June 13, 2019 Utah Permanent Community Impact Board Meeting (CIB)⁷ by Drexel Hamilton executives, again due to the speculative nature of the project and lack of contracts from potential shippers who would purportedly utilize and therefore fund the construction and operation of the railway. Such an absence of capital investment from any of the project's proponents and purported benefactors speaks volumes as to the railway project's financial feasibility and risk profile. To date, the project is being funded solely by what I feel are illegal CIB grants of Federal Mineral Lease monies which, by Utah State Statute, must be spent to alleviate impacts on rural Utah communities resulting from mineral extraction on federal lands. Instead, the Coalition is using the CIB funds to "railroad" a project of questionable long-term viability and financial stability over the top of the very communities those funds are intended to protect, uplift, and benefit. It is my belief and my fear that the OEA and STB will overlook the ever-mounting evidence of the project's fatal flaws, unsubstantiated viability, and ultimate dependence on a single "boom and bust" industry, and approve the project to move forward with construction. The railway construction will begin, oil prices will drop, the economy will slow (global economic indicators are already illuminating this with distinct clarity) and the railway construction will never be completed. Communities will be damaged and disrupted, landowners will have lost their properties to the Coalition's exercise of eminent domain, and rural Utah counties will be left with billions of dollars of loans to repay. Such catastrophic consequences of this highly questionable, fatally flawed project will be unrecoverable.

WATER RESOURCES

The proposed Several creeks and waterways stand to be impacted by both the Indian Canyon and Wells Draw Routes. Of particular concern to me are Indian Creek, Willow Creek, and Gooseberry

⁷ <https://jobs.utah.gov/media/housing/cib/061319cib.mp3>

Creek. These water resources stand to be forever altered by construction activities. Having been a commercial construction manager for 15 years I have seen multiple instances where mitigation measures, erosion control plans, etc. were ignored or implemented incorrectly or were simply inadequate. Government oversight by responsible agencies has historically been grossly deficient in enforcing required measures and BMP's, and there is no reason to think this project will be any different. To expect that lasting, long-term, significant damage will not occur to any of the wetlands or waterways along the proposed routes is utter madness.

Less-discussed and frequently overlooked are the subsurface water resources that stand to be disrupted and impacted by the construction and operation of the railway. Many landowners in the Argyle Canyon community own wells and water rights to springs. The geology is such that any significant disturbance, vibration, excavation, boring, blasting, etc. will likely disrupt the shale layers that contain this water, resulting in wells that go dry and springs that no longer flow. Community residents will undoubtedly be expected to suffer these expensive and irreparable losses, with no responsibility taken and no compensation provided from the companies and government entities who cause such harm, unless residents have the requisite time and financial resources to pursue remedies in Court. Such negative impacts on area landowners should be viewed as absolutely abhorrent, yet I suspect that they will be brushed aside and trampled underfoot/underrail of the multi-billion dollar oil train.

I am also extremely concerned with the resultant impact on drilling in the Uintah Basin should the railway be constructed and placed into operation. With estimates of 350,000 to 500,000 bopd the water resources required to support such production and drilling will be staggering. Careful consideration must be given to the long-term, far-reaching affects that this proposed railway will have on other resources.

VISUAL RESOURCES

Significant visual impacts are inherent with both the Indian Canyon and Wells Draw Routes. The Indian Canyon Route parallels U.S. Highway 191, which is part of the Dinosaur Diamond Prehistoric Highway National Scenic Byway. Because of the steep, rugged terrain in this area massive cuts and fills will be required in order for the proposed UBR to traverse these routes. Such massive earthmoving activities will undoubtedly significantly and permanently alter the visual beauty throughout these areas and especially along US-191. Such permanent scars cannot be restored simply by seeding and other soil stabilization measures. It is anticipated that in many of these areas the rail right-of-way will extend as much as 700-feet⁸ on each side of the rail centerline. In many locations Indian Canyon is less than 1,400 feet wide. I do not believe that OEA or any other agencies can effectively ensure that visual resources throughout Indian Canyon and Argyle canyon will not be utterly destroyed and forever negatively altered. It is impossible to replace 100+ year old pine trees with like and equal visual resources.

⁸ Seven County Infrastructure Coalition's Response to the STB Office of Environmental Analysis April 12, 2019 Request for Information #1 dated April 19, 2019

The visual impacts to the Argyle Canyon Community will be equally destructive and irreparable. Argyle Canyon is full of rich, thick, dense forest comprised of several species of pine trees and quaking aspen. These forested areas will be utterly destroyed by construction and staging activities which will require hundreds of feet of disturbance on either side of the rail centerline. Re-planting and re-seeding will not be acceptable restorative measures to adequately and equally replace what will inevitably be destroyed. The land in Argyle Canyon is privately-owned recreational property. Its purpose and value lies in its inherent beauty, mature trees and forests, and primitive, unmolested nature. A railway through such an area is completely and totally inconsistent with the use and purpose of this land, and will utterly destroy its value and will unfairly and unjustly damage landowners. Those whose properties will not be directly overrun by the railway and its construction corridor will be rendered valueless and indeed, useless, for their intended purpose. Adequate visual restoration after the construction and operation of the railway will never be possible.

GEOLOGY AND SOILS

The geology and soils along the Indian Canyon and Wells Draw Routes are incompatible with the successful construction and subsequent operation of a railway, particularly a railway hauling heavy loads of crude oil which will be the primary commodity on the railway. The soils liquify and become severely unstable during heavy precipitation events. The high salinity of the soils contributes to massive erosion. The railway will be constantly operating under the threat, risk, and danger of landslides, particularly after the massive cuts and fills and earthwork that will be required along both of these routes. Natural vegetation frequently cannot control significant landslides and mudslides in the area, for anyone to assume that man-made erosion control measures will perform better or adequately is simply preposterous. Approval of either the Indian Canyon or Wells Draw Routes due to the risks of landslides, mudslides, falling rocks and boulders, seismic events, etc. will be problematic at best and in all likelihood will be a precursor to future major disasters.

There are also numerous risks that will be encountered during construction of either the Indian Canyon or Wells Draw Routes. Both of these routes require 3+ mile-long tunnels through a mountain that is likely to contain explosive methane gas and other flammable hydrocarbons similar to those that caused the July 31, 2000 Willow Creek Mine Disaster⁹, a mere 9 miles southwest of the proposed tunnels for the Indian Canyon and Wells Draw Routes. OEA should require extensive exploration and geologic study of the proposed tunnel locations in order to completely and sufficiently understand the anticipated, possible, and probable hazardous conditions that will accompany tunnel construction. One landowner recently encountered several pockets of gasses while drilling a water well within 1.6 miles of the proposed south tunnel portals (approximate location 39.84525, -110.76194). .

Utah has long been an area with significant seismic activity. Due to the unstable soils and geology in the area the potential for catastrophic failure and likely resultant train derailments and spills due to seismic events must be considered by OEA. There are also at least two slide areas/fault lines which the railway will traverse on both the Indian Canyon and Wells Draw Routes, located at

⁹ https://usminedisasters.miningquiz.com/saxsewell/willow_creek_2000.pdf

approximately 38.83202, -110.78620 and 39.84168, -110.75882. Both of these areas clearly exhibit earth movement and continual sliding, which will be extremely problematic for the construction and ongoing viability and stability of a railway.

CONCLUSION

In conclusion, it should be clear to OEA and all government agencies having jurisdiction that the proposed Uinta Basin Railway is fraught with unanswered questions due to both a lack of information and deliberate withholding of critical information by the Coalition and its consultants. In my opinion, the Coalition has intentionally deliberated in secret and has kept and continues to keep the public in the dark. I believe that the Coalition has knowingly and intentionally underestimated the true costs of construction and operation of the railway, and has utilized biased selection criteria and weighting in their route selection processes. It is my belief that the Coalition's preferred route, Indian Canyon, was chosen in order to solicit and entice participation and cooperation from the Ute and Ouray Indian Tribes, as this is the only route that crosses tribal land. OEA has a duty and responsibility to ensure that the project will not be inconsistent with public convenience and necessity. I firmly believe that the proposed Uinta Basin Railway is nothing more than a government-backed boondoggle which will not benefit the public or provide any convenience or satisfy any public necessity. The railway's financial viability will be dependent on choices and decisions of oil producers who have no financial stake in the construction and operation of it, such that when oil prices are low the producers will simply choose to slow or stop oil production and shipping until market conditions become more favorable. Make no mistake, oil producers are not going to put themselves in any position to lose money if oil prices drop and the economy slows. They will not ship their product, and the necessary funding required to pay back the initial billions of dollars of construction costs will fall to the public. Data to suggest that other industries such as agriculture, manufacturing, gilsonite, and other exports from the Uintah Basin can pay for the costs of and financially justify the construction of the railway does not exist! A railway whose feasibility solely rests on a single, volatile, fossil fuel industry - an industry that is largely accountable to no one - is not consistent with public convenience and necessity. I strongly urge the OEA to choose the no action alternative in light of the preponderance of evidence that suggests that the railway is completely dependent on a single industry, true costs for construction and operation are unknown, the Coalition has not been honest and truthful about their route selection processes and therefore approval of any of the three proposed routes cannot be determined with any degree of certainty based on the information currently available.

I further submit that the public is not generally in support of the project as evidenced by my petition on change.org¹⁰ which currently has 3,717 signatures opposing the project. Those who appear to support it either stand to directly benefit from anticipated resultant increases in oil production or have not taken the time to fully evaluate the project and all of its impacts.

It is my hope that the OEA and STB will take the necessary time to fully and completely evaluate and address all concerns and foreseeable impacts that accompany such a large, complex, and far-

¹⁰ <http://chnq.it/cKYJ9yy5>

reaching project. The Coalition is seeking to fast-track the project schedule in order to capitalize on the current Trump administration's favorable disposition and on what the Coalition interprets as positive project momentum.

Sincerely,



Darrell Fordham
Argyle Wilderness Preservation Alliance
511 South 600 East
Lehi, Utah 84043
(801) 301-4190
darrellfordham@hotmail.com

Argyle Wilderness Preservation



July 2, 2020

Via Electronic Filing – Emailed to rcpa@stb.gov

Ms. Cynthia T. Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, SW
Washington, DC 20423-0001

Re: *Seven County Infrastructure Coalition – Construction and Operation – in Utah, Carbon, Duchesne, and Uintah Counties, UT, STB Docket No. FD 36284*

Cc: Kathryn Kusske Floyd – Venable LLP – kkfloyd@venable.com

Dear Ms. Brown:

Thank you for the opportunity to submit comments regarding the Seven County Infrastructure Coalition's (the "Coalition") recent Petition for Exemption from 49 U.S.C. § 10901. I previously submitted comments to the Board's Office of Environmental Analysis ("OEA") on August 28, 2019 regarding the proposed Uinta Basin Railway Project (the "UBR")¹. I respectfully request that the Board review those comments in conjunction with my comments contained herein.

By way of information and introduction, I represent a group of over 400 landowners in the Argyle Canyon, Avintaquin Canyon, and Indian Canyon areas through which the proposed UBR would be constructed. I am a landowner in the Argyle Canyon area. I also have a degree in Construction Management and over 15 years of Commercial Construction Management experience coupled with 6+ years of successful Small Business Ownership. I have spent countless hours researching the proposed project, the Coalition, and the project stakeholders and consultants. I have attended nearly all of the Coalition's monthly Board Meetings as well as all public scoping and information meetings related to the project all at my personal expense. I have requested documentation and information from the Coalition numerous times, and without exception, the information that I have received has been redacted by the Coalition and its legal counsel, specifically with regard to the proposed project's financial feasibility, long-term viability, current and future ownership, etc. I firmly believe and assert that the Coalition is knowingly, maliciously, and intentionally withholding such information from the public in order to cloud and discredit any public opposition to the project, and in order to deliberately conceal the project's lack of financial feasibility, financial backing and investment, and the true costs of the project's construction. The Coalition continues to deliberate in secret, behind closed-doors, and acts in bad faith as an Interlocal Government Entity. The Coalition continues to ignore and delays timely responses to Government Records Access and Management Act Requests ("GRAMA").

¹ Comments of Darrell Fordham to OEA dated August 28, 2019 ("DF OEA")

The Coalition alleges that it is an independent political subdivision of the State of Utah. The truth is that the Coalition is a self-appointed, self-created pseudo-government entity which misappropriates public monies, specifically federal mineral lease funds, to pay its own six-figure salaries and compensation packages, and to pay its own pet project consultants millions of dollars, while under the guise of promoting and developing infrastructure projects that are allegedly for the public good. The Coalition's actions as well as those of the Utah Permanent Community Impact Fund Board ("CIB") were recently called into question in a new legislative audit released on May 13, 2020 by the Office of the Legislative Auditor General². In addition, the Utah Attorney General's Office stated that economic benefit is not an appropriate use of mineral lease funds, which are the funds which the Coalition is using to fund all work on the UBR project to-date³.

In addition to my prior comments to the OEA, the Coalition and its private partners – Drexel Hamilton Infrastructure Partners ("Drexel Hamilton") and Rio Grande Pacific Corporation ("Rio Grande") continue to mask the true financial feasibility of the project, both in terms of its construction as well as its ongoing operation. The Memorandum of Understanding ("MOU") dated May 10, 2019 between the Coalition and Drexel Hamilton⁴ set a deadline of June 1, 2020 for the Rail Developer to present "*a proposal reasonably acceptable to the Coalition Board to finance the purchase of the Right of Way for the alternate route to be approved by the Surface Transportation Board coupled with the Development Rights to finance development of the Facilities.*" Drexel Hamilton failed to meet this deadline, and the Coalition voted on June 2, 2020 to extend the deadline to March 31, 2021 via Resolution No. 2020-06A⁵. Such failure by the Rail Developer to meet the original financing deadline is a clear indication of the lack of financial feasibility of the project, and further indicates a lack of confidence and commitment from oil producers, farmers, ranchers, and other industries purported to be in support of and future benefactors of the proposed railway. The Coalition falsely claims that this is due to the ongoing COVID-19 pandemic and its economic impacts, ignoring the fact that Drexel Hamilton and Rio Grande had 8 months prior to the pandemic in which to secure the requisite funding and financial backing for the project. In addition, oil prices were dramatically declining due to global market conditions for several weeks prior to the COVID-19 pandemic hitting the United States, which clearly began to hamper the project's private partners' efforts in securing project financing.

We have repeatedly requested documentation and detailed financial information and projections for both crude oil production as well as the other "*Key economic activities in the Uinta Basin,*

² KSL.com story dated 05/13/2020 by Amy Joi O'Donoghue – Audit: Some rural Utah projects need greater clarity in funding, purpose

³ Comments from Alison Garner – Assistant Utah Attorney General in Utah Permanent Community Impact Fund Board Meeting June 13, 2020 [1:03:17]

⁴ Memorandum of Understanding between the Coalition and Drexel Hamilton May 10, 2019 ("MOU")

⁵ Resolution No. 2020-06A Amendment No. 2 to the MOU between the Coalition and Drexel Hamilton June 2, 2020 ("Amendment No. 2 MOU")

*including farming, ranching, oil and gas production, and mineral extraction”*⁶ which the Coalition alleges will depend on and benefit from effective competition between differing modes of transportation. Such documentation either does not exist, or the documentation simply does not support and validate the financial feasibility of the proposed project, as the Coalition and its private partners continue to withhold such information from the public and especially from affected landowners, and presumably from the STB. I personally attended a Farm Bureau Meeting in Duchesne on November 12, 2019 where farmers and ranchers from the Uintah Basin indicated that they had no intentions of utilizing the railway to ship their livestock, hay, grain, fertilizer, and other commodities, stating that livestock has not been hauled on trains since the 1960’s, and expressing concerns that there were no plans for a transloading facility to serve markets other than crude oil.

The Petition states that *“In the 19th and 20th centuries, transcontinental railway lines purposely were constructed around the Basin to avoid the high construction and operating costs needed to traverse the mountains and plateaus circling the region”*⁷. These mountains and plateaus still exist today. They have not decreased in size. The same high construction and operating costs still exist. The Coalition would have the Surface Transportation Board (“Board”) believe that somehow the Coalition and its consultants are much smarter than the myriad of firms and individuals who have studied railway routes into and out of the Basin, but they are not. The fact is that the Coalition has not changed their construction estimate numbers even with the addition of the Whitmore Park alignment which added an additional tunnel in order to lessen the number of at-grade rail crossings in the South Argyle Community Area which I pointed out to them in my comments to OEA.⁸ The mountains have not shrunk, and the cost of construction certainly has not exponentially decreased as the Coalition would have everyone believe. The Coalition’s continued refusal to produce any verifiable estimates, design, or engineering for the proposed construction is a clear indication that the Coalition and its consultants are artificially manipulating the anticipated construction and operating costs in order to obtain regulatory approval by any means necessary. I admonish the Board to deny the Coalition’s Petition as it is clear that this project and the project’s proponents require further scrutiny in order to avoid yet another railway boondoggle akin to the California High-Speed Rail.

The Coalition further erroneously states in their Petition that *“Development of the Uinta Basin Railway also is expected to create local jobs and reduce unemployment in the Basin”*⁹ citing an out-of-date 2013 UBETS Study. The Coalition further states that *“It is estimated that the Uinta Basin Railway will add the equivalent of approximately 3,100 – 5,500 job years during construction of the rail line and 50-100 permanent new railway jobs in Carbon, Duchesne, and Uintah Counties”*¹⁰, while simultaneously claiming that the railway will reduce heavy truck traffic on the area’s two-lane highways¹¹. What the Coalition fails to disclose is the net effect on

⁶ Petition for Exemption by Coalition dated May 29, 2020 (“Petition”) ¶15

⁷ Id. ¶16

⁸ DF OEA ¶14

⁹ Petition ¶21

¹⁰ Id. ¶21

¹¹ Id. ¶17

jobs in the Basin. If trucking is reduced as the Coalition claims it will result in job losses. It is absurd to conclude that the railway will result in a net increase in jobs in the area, and further ridiculous to assert that the unemployed in the region will be the only individuals tapped to staff the newly-created railway jobs. The fact is that the vast majority of currently unemployed workers in the area will remain unemployed if and when the railway is constructed and in operation. There is simply no data to support a claim that only currently unemployed individuals will be hired to staff the railway. In addition, it is absolutely clear that the current unemployment rates and the recent increases therein are a result of declining oil prices. The Coalition would have the Board and the public believe that this decline is due to the current COVID-19 pandemic, however, oil prices were declining in the weeks and months prior to the shutdowns and economic contraction associated with the pandemic. The Coalition has failed to prove that the UBR could survive or be sustained absent the production and shipping of crude oil, which is proof that the construction of the railway will only exacerbate the current and future problems of unemployment due to the volatility of the crude oil market.

In typical political fashion – never let a crisis go to waste - the Coalition is asking that their Petition be granted based on the false notion that the project will save the region from the economic effects of the COVID-19 pandemic. Rather, if construction moves forward, the fact is that nearly all of the workers for the railway construction will be from out-of-state contractors who specialize in rail construction, which will result in the overrunning of local economies, local infrastructure, and local healthcare facilities which are undersized and grossly inadequate to be able to treat such an influx of workers and families in the area. In fact, on March 16, 2020 the TriCounty Health Department (comprising Daggett, Duchesne, and Uintah Counties issued a travel advisory to restrict travel into and out of the area. The pandemic numbers are rapidly increasing in Utah, suggesting that a project that would bring in thousands of out-of-state workers and their families would be catastrophic for the region given the back-and-forth travel associated with a transient workforce. The Coalition should instead be viewing the pandemic as a reason to delay and postpone construction on the project at a minimum in order to be good government stewards and in keeping with other government programs and mandates designed to reduce the spread of the COVID-19 pandemic.

The Coalition falsely asserts in Discussion Item I of the Petition that “*The proposed construction and operation are presumptively in the public interest*”¹². The UBR is clearly not in the public interest. The project is intended to serve a single private industry – crude oil – as evidenced by the lack of inclusion of transloading facilities for goods other than crude oil in the project. If the project does not include transloading for the agricultural, mining, ranching, farming, and other local industries (which all project documentation which is available to the public suggests is not currently included) then how can the Coalition claim that the project is in the public interest? A common carrier railway with no transloading facilities by which the public can load and unload their goods does not constitute a project that is in the public interest, rather, it clearly illustrates that the Coalition is acting deceptively, in bad faith, to get a pet project approved that, by design, will benefit a single private industry rather than the public at large.

¹² Petition ¶26

To further illustrate, the Coalition and its consultants have deliberately altered the alignment of the Coalition-preferred Whitmore Park route with the specific intention of avoiding public lands (Bureau of Land Management lands), which is a direct violation of Utah Code Section 78B-6-506¹³ which requires that land for projects such as this be “*required for public use*” and “*located in the manner which will be most compatible with the greatest public good and the least private injury*” (emphasis added). Pushing the railway off of public lands and onto private lands instead results in the greatest amount of private injury to private landowners, is a violation of state law, and is blatant government overreach and oppression. The Coalition and its consultants discussed in the Coalition’s Board Meeting on December 20, 2019, Discussion Item #18, that “*We quickly found out that being on BLM land was not an advantage. Because it is BLM land, we would have had to do a couple of amendments to either Land Management Plans or Resource Management Plans. This would have been possible but typically takes a couple of years to do. We don’t have a couple of years in our schedule. So, we altered that alignment to go North of Emma Park Road onto private property.*”¹⁴ I firmly assert again that the project is not in the public interest when the project’s proponents deliberately seek to injure private landowners by avoiding public lands simply to avoid government processes and associated timeframes. The fact that the Coalition has done so, coupled with their Petition, should be a giant red flag waving to the Board that the Coalition is rushing to get the project pushed through and is seeking to minimize or subvert any and all government oversight and regulation which is specifically in place in order to protect the public.

In conclusion, I respectfully request that the Board deny the Coalition’s Petition for Exemption. The Coalition has repeatedly demonstrated contempt for the public, specifically for those of us who are landowners who will have our properties damaged, ravaged by railway construction and access roads and ongoing railway maintenance. Our community will forever be negatively impacted by the noise, pollution, and destruction that will accompany the project. The Coalition continually seeks to silence and censor public comments during its meetings, and continues to meet in secret, behind closed-doors, multiple times per week in order to strategize ways to push this project through while avoiding nearly all government review, permitting, and processes. The very elected government officials who are tasked with representing us, the public, are abusing their power and authority and are using public monies to fund their diabolical schemes. The Coalition fights us with their own legal counsel which is again paid for by public money, and we are left to defend our rights, our properties, and our community with our own hard-earned money. To date we have gathered 3,783 signatures of individuals who oppose the Uinta Basin Railway project – a clear showing that a large number of the public do not feel that the project is in their best interest¹⁵. Without the Surface Transportation Board and other responsible government agencies holding the Coalition accountable our land, our community, our environment, and our peace will forever be utterly destroyed by the Uinta Basin Railway Project. If this project is truly in the public’s best interest, then the Coalition should rightly be required to

¹³ <https://le.utah.gov/xcode/Title78B/Chapter6/78B-6-S506.html>

¹⁴ Seven County Infrastructure Meeting Minutes 2019_12_20

¹⁵ https://www.change.org/p/seven-county-infrastructure-coalition-utah-cib-state-of-utah-petition-opposing-uinta-basin-railway-indian-canyon-and-wells-draw-routes/dashboard?source_location=user_profile_started

provide verifiable, substantiated documentation as to the project's financial viability, and their route selections should be thoroughly vetted to insure that private properties are being avoided at all costs rather than being targeted because of the easiness of the way in targeting the little guys – hard-working Americans like myself who want nothing more than to protect the land and community we have worked so hard to obtain.

Sincerely,



Darrell Fordham

Argyle Wilderness Preservation Alliance

511 South 600 East

Lehi, Utah 84043

(801) 301-4190

darrellfordham@hotmail.com

VERIFICATION

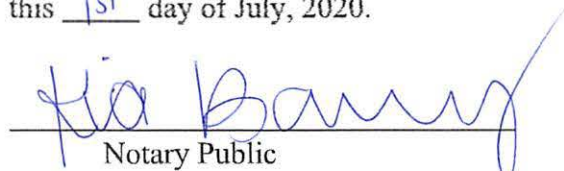
DARRELL FORDHAM, being duly sworn, states that he has knowledge of the factual assertions set forth in this Verified Statement; and that all of those assertions are true and correct:



DARRELL FORDHAM

STATE OF UTAH)
) SS:
COUNTY OF UTAH)

SUBSCRIBED and SWORN to before me
this 1st day of July, 2020.


Notary Public

My Commission expires: 5-10-2023



Audit: Some rural Utah projects need greater clarity in funding, purpose

SALT LAKE CITY — A new legislative audit details how some big ticket projects such as a new rail line in the Uinta Basin using money from mineral extraction fees could be aggravating the impacts of industry activity rather than alleviating them as the money is supposed to.

The analysis released Wednesday of how the Permanent Community Impact Board is spending those dollars stresses the projects may not have been improper, but it does point out the numerous questions raised at the time — including from the board's staff attorney — and how the board itself lacks a policy to ensure projects adequately alleviate impacts from mineral extraction operations.

House Minority Leader Brian King, D-Salt Lake City, said the report raised some interesting issues.

“The audit seems to suggest that some of the projects aggravate rather than mitigate the impacts,” he said. “The projects have a lot more to do with economic development and the expansion of extraction of minerals in rural communities.”

Performed by the Office of the Legislative Auditor General and presented Wednesday morning to members of the Legislative Audit Subcommittee, the document detailed several projects in particular that raised questions: the Uinta Basin Railway Project, paving Seep Ridge Road and granting pass-through money to three private canal companies for flood mitigation purposes.

An opinion by the Utah Attorney General's Office, using the provisions of the federal Mineral Leasing Act, stated that economic benefit is not an appropriate use of mineral lease funds, which are derived from the mining of coal and oil and gas development. Those monies are paid to the federal government, which then remits a portion of them to the states to be used in rural counties impacted by the large swath of federal land ownership and bearing the brunt of industry activity.

The Utah Attorney General's Office raised concerns over the railway project in October 2018, asserting there was insufficient documentation it would alleviate truck traffic and its primary purpose appeared to be economic development, making it ineligible for funding.

Still, the project was given \$27.9 million the following year, with one board member voting in opposition.

Related



[A new freight train route for Utah? Uinta Basin hopes so](#)

An 80-mile railway linking the Uinta Basin to the national railroad network would open up the geologically hemmed in region to expanded markets for oil, coal, agricultural products and other goods such as soda ash.

Other questions were raised over paving the 48-mile Seep Ridge Road.

According to the project's application, it read: "This roadway provides access to recreation, hunting, ranching and the development of abundant natural resources including oil, natural gas, oil sands and oil shale."

The audit added that the application also mentioned public benefits such as enhancing access to recreational and hunting opportunities and enhancing traveler safety.

"Rather than reducing impacts from mineral development, it appears as though the road's primary intended purpose was to enhance mineral development, which would by extension, increase some impacts on local communities," the audit said.

"Meeting minutes indicate that increased energy production was expected from building the road noting that, "if production increases in the Uinta Basin by about 100,000 barrels a day, that will add another 300 to 500 trucks a day," according to the audit.

The audit said those pricey projects raised concerns.

"Given the large percentage of CIB funding awarded to these expensive projects, we are concerned that the money has not benefited the greatest number of citizens, as required by statute. The board should clearly articulate in policy how it will comply with this requirement in the future and provide information supporting it."

While the audit notes roads are an expressly permitted use of the funds, supporting documents on this road appear to show a dominant private benefit.

Another troubling project was the board's award of loans and grants of \$10.9 million to Uintah County Municipal Building Authority for a flood mitigation project. In 2018, Uintah County Water Conservancy District applied to take over the project, which had not yet begun.

"The audit seems to suggest that some of the projects aggravate rather than mitigate the impacts."

—House Minority Leader Brian King, D-Salt Lake City

Auditors said the project — which is now underway — will pay canal companies for a 100-year rights-of-way lease to use the canals to divert flood water should a flood occur. The money provided for this project may be an inappropriate pass-through to three private canal companies, according to auditors.

One county commissioner even raised concerns, saying that "even though my county is a beneficiary it seems odd to give such generous terms to a project with so many unstated objectives."

Auditors said they share the commissioners' concerns.

The document also raised questions over the board's 50% match requirement from communities for planning efforts.

Community mayors told auditors the requirement is difficult given limited budgets, forcing some projects, such as a new master water plan, to be put on hold due to lack of funding.

Auditors noted the 50% match, while required in 94% of planning grants, was not required in the railway project as part of its planning process.

Jonathan Hardy, director of Division of Housing and Community Development in the Department of Workforce Services and chairman of the Community Impact Board, said all projects fit the definition of alleviation of industry impacts.

But Senate Minority Leader Karen Mayne, D-West Valley City, said she believes the scope of acceptable projects is overly expansive.

"It is so broad you can drive a dump truck through it," she said.

Senate President Stuart Adams, R-Layton, and co-chairman of the committee, pointed out that if the rural economies benefit from revenue generated from mineral extraction, it makes sense to pursue projects that not only provide public benefit in terms of roadways, but also boost that revenue.

House Speaker Brad Wilson, R-Kaysville and co-chairman of the committee, said Utah's rural communities face a much different challenge than urbanized areas.

"I think it is easy for us on the Wasatch Front to forget how difficult things can be off the Wasatch Front," Wilson said.

Correction: An earlier version mislabeled Seep Ridge Road as Sheep Ridge Road.

PERMANENT COMMUNITY IMPACT FUND BOARD MEETING

Department of Workforce Services
Housing and Community Development Division
Salt Lake City, Utah

MINUTES

Thursday, June 13, 2019

Members Present

Jonathan Hardy
Bruce Adams
Gregg Galecki
Kyle Stephens
Naghi Zeenati
Garth "Tooter" Ogden
Jack Lytle
Michael Dalton
Dean Baker
Ron Winterton

Chairman
Southeastern Utah Association of Local Governments
State Board of Water Quality
State Board of Water Resources
State Transportation Commission
Six County Association of Governments
Uintah Basin Association of Governments
Five County Association of Governments
Uintah County
Duchesne County

Audio Attendance

David Damschen

State Treasurer

Staff and Visitors

Keith Heaton
Candace Powers
Gayle Gardner
Cristine Rhead
Alison Garner
Lisa Nelson
Skyler Davies
Jenny Fairey
Bill Jackson
Justin Atkinson
Nick Tatton
Russell Seeley
Miles Nelson
Gary Zabriskie
Nate Wiberg
Clint Johnson
Rodney Rowley
Casey Hopes
Jordan Merrell
Greg Todd
Eric Johnson
Jennifer Hall

Housing and Community Development
Housing and Community Development
Housing and Community Development
Housing and Community Development
Attorney General's Office
Division of Drinking Water
Division of Water Quality
Diamond Valley Fire Department
Grand County Roads Department
Sunrise Engineering
Price City
Price City
Price City
Five County Association of Governments
Five County Association of Governments
Jones & DeMille Engineering
Duchesne City
Carbon County
Uintah County GIS
Duchesne County
Blaisdell, Church and Johnson
Encore Land Services, Inc.

Brian Gorum
 Chris Gamble
 Alyson Measel
 Garrett McMullen
 Jason Blankenagel
 Dickson Taylor
 Michael Hawley
 Jason Dean
 Tony Baumgardner
 Greg Tseng
 Ross Watkins
 Cody Evans
 Marcus Keller
 Conae Black
 Kathy Ryan
 Matt Memmott
 Keith Despain
 Bill Kremin
 B. J. Peters
 Clay Crozier
 Jeff Samuels
 Quinn Bennion
 Aaron Averett
 David Brinkerhoff
 Stephanie Steed
 Melani Torgerson
 Lee Moon
 Clinton Moon
 Willard Wood
 Jade Powell
 Michael Bryant
 Mike Logan
 Mark Logan
 Jose *Gastelum*
 Sarah Stock
 Al Peacock
 Ryan Beam
 Jordan Katcher
 Skye Sieber
 Bart Haslem
 Devin Caldwell
 William Merkley
 Jason Brown
 Rich Mahoney
 Bergan Eskildsen
 Gil Conover
 Kent Wilson

State Farm Insurance
 Patriot Real Estate
 State Farm Insurance
 WW Clyde Co.
 Sunrise Engineering
 Johnson Water Improvement District
 Jones & DeMille Engineering
 Basin Western Inc.
 Norco
 Project Finance Advisory Ltd (PFAL)
 Uintah County
 Goodrich Mud and Quick Sand
 Zions Public Finance
 Green River City
 Green River City
 Alpha Tech Research Corp
 CRS Engineers
 Utah Trucking Association
 Epic Engineering
 Eastern Utah Director ~ Senator Mitt Romney
 Anadarko Vernal
 Vernal City
 Sunrise Engineering
 Crescent Point Energy
 Escalante City
 Escalante City
 East Duchesne Water District
 East Duchesne Water District
 Fountain Green
 Southeastern Utah Association of Local Governments
 Southeastern Utah Association of Local Governments
 Logan Welding
 Logan Welding
 Logan Welding
 Living Rivers
 Earth First
 Center for Biological Diversity
 Community Development Office
 Community Development Office
 Uintah County
 Goodrich Mud & Quick Sand
 Uintah Water Conservancy District
 Beaver City
 Naples City
 Office of Energy Development
 Emery County
 Emery County

Christina Davis
 Bill Prater
 David Hinkins
 Lynn Sitterud

Department of Workforce Services
 Bond Counsel
 Emery County
 Emery County

Citizens present:

Joel Yellowhorse
 Caro Norton
 Louise Thompson
 Brady Thompson
 Sonja Norton
 Ralph McPhersen
 Lionel Trepanier
 Greg Tseng
 Micky Kiever
 Alan Bird
 Cindy Bryson
 Keith Foley
 Troy Slaugh
 Jim Boren
 Kelly Boren
 Joel Percival
 William Percival
 Novella Lynn Percival
 Darrell Fordham
 Rebecca Fordham

Matt Williams
 Al Peacock
 Carol Moosman
 Seth Cauman
 Patty McCourt
 Kortinee Bacon
 Gordon Evans
 Carolyn Evans
 John Harlan
 Rocky Engleholm
 Phil Daspatt
 Mark Fole
 Vera Martinsher
 Katherine S. Fryer
 Byron S. Fryer
 Courtney Fryer
 LaRae Summers
 Ryatt Summers
 Kelli Summers
 Mi Mole

WELCOME

The Permanent Community Impact Fund Board (CIB) Meeting was held on Thursday, June 13, 2019 at the Uintah Conference Center, 313 East 200 South, Vernal, Utah and called to order at 8:30 a.m. by Chairman Jonathan Hardy.

Chairman Hardy indicated that today's meeting is open to the public but is not a public hearing to receive public comment. The priority projects on today's agenda have been discussed during the past three months and at this meeting, the Board may award funding for those projects. Other projects on the agenda will be discussed with the applicant and upon Board approval may also receive funding. This is the final funding meeting of FY2019.

ADMINISTRATION ITEMS

Briefing

1. Upcoming Meeting Dates and Locations

July 11, 2019 – Salt Lake City

2. Financial Review

Candace Powers reviewed the status of the funds for today's meeting.

3. Review of Agenda Items

There are nineteen projects listed on the Priority List, with 17 Priority Projects ready for final funding consideration, one new project, one Large Infrastructure Funding Project, two Supplemental Requests, two Special Consideration Requests, and Board Member Discussion and/or Action Items.

I. INTRODUCTIONS ^[*9:57]

Chairman Hardy welcomed everyone and asked the Board members and staff to give introductions.

II. APPROVAL OF MINUTES

Chairman Hardy requested a motion to approve the minutes of the May 2, 2019 Board Meeting.

Naghi Zeenati made and Tooter Ogden seconded a motion to approve the minutes from the May 2, 2019 meeting. The motion carried with Jack Lytle abstaining.

III. PRIORITY PROJECTS

All projects advanced to the Priority List were reviewed by the Board at previous meetings. The information below is a summary of the requests as advanced to the Priority List.

1. Town of Koosharem (Sevier County)

The Town of Koosharem's funding request was advanced to the Priority List as a \$168,000 loan for 10 years at 2.5% interest and a \$500,800 grant (total \$668,800) to chip seal all town roads with the exception for state maintained roads. The project consists of 9 – 12 miles borrow ditch; 23 miles of 18" culvert, 2.05 miles of single chip seal; and 4.3 miles of double chip seal.

Total Funding Request: \$668,800 ((\$168,000 loan for 10 years at 2.5% interest and a \$500,800 grant).

The applicant is requesting an addition \$10,000 to accommodate the issuance of bonds.

Jack Lytle made and Gregg Galecki seconded a motion to fund this project as a \$178,000 loan for 10 years at 2.5% interest and a \$500,800 grant. (Total \$678,800). The motion carried unanimously.

2. Duchesne City (Duchesne County)

Duchesne City's funding request was advanced to the Priority List as a \$347,100 grant for the 1200 North water line and River Road water line project. This project consists of installing 1,000 LF of 8" water line to connect River Road to Victory Pipeline and 2,700 LF to connect the 1200 North line to Old Farm and Scotch Pine subdivisions, and appurtenances to complete the connections.

Total Funding Request: \$347,100 grant.

Ron Winterton made and Mike Dalton seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

3. East Duchesne Culinary Water Improvement District (Duchesne County)

East Duchesne's funding request was advanced to the Priority List as a \$3,683,000 loan for 30 years at 1% interest for water system improvements. This project consists of installing an additional 300,000 gallon tank at Utahn and 35,400 LF of 8" PVC C900 pipe and appurtenances to connect to existing water lines, including valves, pressure reducing valve vault, fire hydrants, a river crossing, a bore under the state highway and easement acquisition.

Total Funding Request: \$3,683,000 loan for 30 years at 1% interest.

Naghi Zeenati made and Tooter Ogden seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

4. Price City (Carbon County)

Price City's funding request was advanced to the Priority List as a \$750,000 loan for 15 years at 1.5% interest and a \$250,000 grant (total \$1,000,000) for a 2019 Street/Water/Sewer project on 700 East and 4th Avenue. This project consists of reconstructing 700 East between 100 S to 400 S with 2,400 CY road base, 2,600 tons of hot asphalt, 900 LF curb & gutter, storm drains and ADA corners; on 300 east, 900 CY road base, 1,000 tons hot asphalt, 50 LF curb & gutter, storm drains, ADA corners, 1,200 LF water main, 3 water main connections, 3 fire hydrants, 5 service connections and a traffic loop replacement; on 4th Avenue, 125 CY road base, 250 tons hot asphalt, 600 LF water main, 1 water connection, 1 fire hydrant, 20 service connections and 15 sewer connections.

Total Funding Request: \$1,000,000 (\$750,000 loan for 15 years at 1.5% interest and a \$250,000 grant).

Bruce Adams made and Jack Lytle seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

5. Green River City (Emery County)

Green River City's funding request was advanced to the Priority List as a \$120,000 loan for 10 years at 2.5% interest for the purchase of equipment. This project will consist of purchasing a mini excavator, a full tilt trailer, a F250 ¾ ton super cab truck with a utility bed and a ½ ton F150 crew cab truck.

Total Funding Request: \$120,000 loan for 10 years at 2.5% interest.

Ron Winterton made and Dean Baker seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

6. Grand County (Grand County)

Grand County's funding request advanced to the Priority List as a \$166,000 grant for SITLA Easements. This project will consist of obtaining permanent easements on 60 miles of Class D roads across SITLA property.

Total Funding Request: \$166,000 grant.

Bruce Adams made and Mike Dalton seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

7. Fountain Green (Sanpete County)

Fountain Green's funding request advanced to the Priority List as a \$1,100,000 loan for 30 years at 1% interest and a \$2,155,000 grant (total \$3,255,000) for the construction of the Fountain Green Public Safety Building. This project consists of building an 18,300 square foot facility that will include 3 fire truck bays, training space, kitchen, storage room, men's locker room, women's locker room, restrooms with decontamination appurtenances, city offices, meeting room, law enforcement office, library and multi-media space, city council and justice court.

Total Funding Request: \$3,255,000 (\$1,100,000 loan for 30 years at 1% interest and a \$2,155,000 grant).

Jack Lytle made and Kyle Stephens seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

8. Escalante City (Garfield County)

Escalante City's funding request advanced to the Priority List as a \$326,000 grant for the purchase of a type one aerial fire truck. The purchase will be a Rosenbauer 78' Viper aerial type one truck with an onboard extendable 78' ladder and includes a built-in waterway with a remotely controlled nozzle.

Total Funding Request: \$326,000 grant.

Bruce Adams made and Naghi Zeenati seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

9. Panguitch City (Garfield County)

Panguitch City's funding request advanced to the Priority List as an \$80,000 grant for recreational lighting. The project consists of purchasing lights for the baseball field and the outdoor rodeo arena. At the baseball field there will be two 70' poles with 5 light fixtures and 1 ball tracker light per pole, four 70' poles with 7 light fixtures and 1 ball tracker light per pole, and two 60' poles with 4 light fixtures per pole. Also included are the pre cast bases for the poles, electrical component boxes, electrical wire inside of the poles, cross arms, and a wireless control system.

Total Funding Request: \$80,000 grant.

Mike Dalton made and Tooter Ogden seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

10. Beaver County Fire District #2 (Beaver County)

Beaver County Fire District #2's funding request was advanced to the Priority List as a \$664,000 loan for 30 years at 1% interest and a \$221,108 grant (total \$885,108) for a fire service office at Milford. The project consists of the demolition of an existing structure and building a 75'4"x

41'3-1/4" (3,091 sq. ft.) office and storage building in Milford that has 2 offices, a restroom, a break room, a conference room, a reception area, fire storage and a two bay garage with storage attached.

Total Funding Request: \$885,108 (\$664,000 loan for 30 years at 1% interest and a \$221,108 grant).

Ron Winterton made and Jack Lytle seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

11. Beaver County Municipal Building Authority (Beaver County)

Beaver County MBA's funding request advanced to the Priority List as a \$4,695,000 loan for 30 years at 2.5% interest and a \$2,499,146 grant (total \$7,194,146) for the Beaver Equestrian and Event Center. The project consists of a 71,363 square foot steel building , footings and foundation, lighting, sound, heating and ventilation systems, concrete bleacher platforms, 1,800 retractable and stationary bleachers, restrooms, kitchen, concession stand, livestock paneling system, and extending the transmission line and the existing water well.

The applicant requested to be placed on the Pending List to review project cost and scope.

Naghi Zeenati made and Bruce Adams seconded a motion to place this project on the Pending List. The motion carried unanimously.

12. Diamond Valley Fire Special Service District (Washington County) [19:21]

Diamond Valley Fire SSD's funding request advanced to the Priority List as a \$138,000 loan for 15 years at 2.5% interest and a \$136,500 grant (total \$274,500) for the purchase of an International 4x4 Cummins diesel Model 14 Type III Wildland 6-man Crew Cab with a 500 GPM waterous pump and a Darley Auxiliary water pump.

Total Funding Request: \$274,500 (\$138,000 loan for 15 years at 2.5% interest and a \$136,500 grant).

Naghi Zeenati made and Kyle Stephens seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

13. Salina City (Sevier County) [19:00]

Salina City 's funding request advanced to the Priority List as a \$1,000,000 loan for 20 years at 1.0% interest for swimming pool renovations. This project will consist of demolishing the interior building and remodeling the pool building with ADA ramps and railing, all new plumbing and fixtures, framing, flooring, electrical, cabinets and countertops, metal roofing, new mechanical room and control systems, lighting, masonry fencing, landscaping, resurface and improvements to the pool area, and remove existing water slide and install new water slide and appurtenances.

Total Funding Request: \$1,000,000 loan for 20 years at 1.0% interest.

The Board asked the applicant If they are requesting to extend the loan term to 30 years.

The applicant is fine with a 20 year term.

Michael Dalton made and Tooter Ogden seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

14. Town of Elmo (Emery County) [21:00]

Elmo Town's funding request advanced to the Priority List as a \$199,000 loan for 30 years at 1.0% interest and a \$198,000 grant (total \$397,000) for town hall/fire station modifications. The project will consist of increasing the size of the fire station 1,800 sq. feet to accommodate a fire engine, ambulance, firefighter laundry facilities, office space and equipment storage. The modifications to the town hall will repurpose a restroom into a kitchen and an office and storage area will be repurposed into a restroom.

Total Funding Request: \$397,000 (\$199,000 loan for 30 years at 1.0% interest and a \$198,000 grant).

Gregg Galecki made and Jack Lytle seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

15. Town of Tropic (Garfield County) [21:50]

Tropic Town's funding request advanced to the Priority List as a \$1,450,000 loan for 30 years at 2.5% interest and a \$1,450,000 grant (total \$2,900,000) for new sewer lagoons. This project will consist of deepening, relining and repairing existing lagoon cells, replacing existing inlet, transfer and conveyance structures and the addition of a new containment lagoon including property purchase. There will also be repair or replacement of broken or damaged manholes and collection lines throughout the existing sewer collection system.

Total Funding Request: \$2,900,000 (\$1,450,000 loan for 30 years at 2.5% interest and a \$1,450,000 grant).

Naghi Zeenati made and Michael Dalton seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

16. Beaver City Municipal Building Authority (Beaver County) [22:19]

Beaver City MBA's funding request was advanced to the Priority List as a \$200,000 loan for 20 years at 1.0% interest and a \$200,000 grant (total \$400,000) for upgrades to the Beaver City Opera House. This project will consist of seismic upgrades to the roof and walls, electrical and mechanical renovations, kitchen upgrades, and a new sound system, lighting, seating and space for productions in the theater area. The senior center will be a CDBG project.

Total Funding Request: \$400,000 (\$200,000 loan for 20 years at 1.0% interest and a \$200,000 grant).

The applicant requested that the funding be directed to Beaver City and the loan term be increased to 30 years.

Total Funding Request: \$400,000 (\$200,000 loan for 30 years at 1.0% interest and a \$200,000 grant).

Michael Dalton made and Naghi Zeenati seconded a motion to fund this project as a \$200,000 loan 30 years at 1.0% interest and a \$200,000 grant (total \$400,000) with funding to Beaver City. The motion carried unanimously.

17. Town of Leeds (Washington County) [23:45]

The Town of Leeds funding request was advanced to the Priority List as a \$35,000 grant for a master plan. The project will consist of a general plan to anticipate future land use development, management, tourism demands and future growth. This will also include a transportation master plan that will analyze impacts due to tourism, residential and commercial growth, determine local roads data in conjunction with UDOT roads and create a GIS map.

Total Funding Request: \$35,000 grant

Ron Winterton made and Jack Lytle seconded a motion to fund this project as advanced to the Priority List. The motion carried unanimously.

18. Town of Charleston (Wasatch County) [24:10]

The Town of Charleston's funding request advanced to the Priority List as a \$1,165,000 loan for 15 years at 2.5% interest for the Winterton Road project. The project consists of removal of current asphalt, road base and any road preparations to a depth of 18", then the addition of clay free road base with 2' shoulders and 3" asphalt to meet engineering specifications to ¾ mile of Winterton Road and Winterton Circle.

Total Funding Request: \$1,165,000 loan for 15 years at 2.5% interest.

The applicant requested a reduction of the interest rate to 1.5% and indicated they are in the process of establishing a special service area in the next two months.

The Board referred to the guideline for funding non impacted areas with regard to the interest rate.

Gregg Galecki made and Tooter Ogden seconded a motion to fund this project at 2.5% as advanced to the Priority List. The motion carried unanimously.

19. Town of Brian Head (Iron County) [27:15]

Brian Head Town's funding request advanced to the Priority List as a \$734,000 15 year loan at 2.5% interest for the Steam Engine Meadows Phase 1-C streets and utilities project. This project consists of street improvements to include paving approximately .75 mile of dirt/gravel roadway with asphalt, 100 feet of 36 inch culvert, 60 feet of 18 inch culvert, rock wall stacking and 27 manholes on Highland Drive, Paddington Circle, Steam Engine Drive, Peak Avenue and Autumn Drive.

The applicant requested to be placed on the Pending List to review project cost and scope.

Naghi Zeenati made and Dean Baker seconded a motion to place this project on the Pending List. The motion carried unanimously.

V. NEW PROJECTS

1. Spring City (Sanpete County) [27:45]

Spring City presented a funding assistance request for a \$35,000 grant for a water and sewer master plan. This project consists of a water master plan to identify future water supply and demand, develop a capital improvement plan to correct deficiencies and demands, hydraulic modeling requirements report and a system capacity and expansion report. The sanitary sewer master plan will analyze current and future demands and capacity and develop a capital improvement plan to accommodate growth. A GIS map will also be created for the City. The applicant is contributing \$35,000 cash.

The Board indicated that applications requesting under \$50,000 from the CIB for planning were to be reviewed by the Community Development Office.

Chairman Hardy indicated that is correct starting in FY2020.

Ron Winterton made and Kyle Stephens seconded a motion to approve a \$35,000 grant for a Water and Sewer Master Plan.

The Board complimented the applicant on their minutes and discussion of the project in the public hearing and expressed appreciation for the work of Spring City on improving their water sources and their continued planning.

The Chairman called the question.

Ron Winterton made and Kyle Stephens seconded a motion to approve a \$35,000 grant for a Water and Sewer Master Plan. The motion carried unanimously.

VI. LARGE INFRASTRUCTURE FUNDING REQUEST

1. Seven County Infrastructure Coalition (Daggett County, Carbon County, San Juan County, Emery County, Uintah County, Duchesne County, Sevier County) [31:52]

Seven County Infrastructure Coalition presented a funding assistance request for a \$21,400,000 grant for Phase II and Phase III of the Uintah Basin Rail Study to include engineering, environmental including NEPA, mapping, operation and maintenance planning, right-of-way planning and negotiation, STB regulatory and legal support, commercialization planning, program management, federal agency cost recovery including federal staff review of the EIS and right-of-way permitting process, financial advisory services and administrative travel expenses.

The Chairman indicated that the Coalition would be reporting on the funding and progress of Milestone 1 which was funded November 8, 2018.

Commissioner Horrocks, co-chair of the Seven County Coalition, stated the Coalition has made a great deal of progress this past year. He expressed appreciation for all who have worked on the various projects.

Mike McKee, Executive Director, referred to the prior funding awarded on November 8, 2018 and said they are ahead of schedule. He reviewed the progress utilizing a power point presentation noting that the Colorado routes had at that time, been the suggested routes. The Coalition hired HDR, a firm which had also worked on the 2014 UDOT study analyzing twenty six different routes. Three more routes were added to the study for a total of twenty nine possible routes. The list of routes was reduced to three

routes chosen to be sent to the Service Transportation Board as the lead agency who makes the record of decision as to the best route. The Coalition has identified the preferred route to be Indian Canyon. CIB has provided a portion of the funding to begin the planning and EIS in Phase I. The SCIC is requesting the remaining budget amount at this meeting to complete the planning for regulatory approval. The SCIC reviewed different proposals to help commercialize the project and have selected Drexel Hamilton which is an infrastructure fund out of New York City.

Mark Michele, of Drexel Hamilton, indicated their company is partly comprised of disabled service veterans. They invest in container terminals, bridges, highways, and airport terminals. Their military training and experience is valuable in taking on large, complex projects such as the Basin rail. The hydrocarbon industry in the Basin has been stranded because of transportation and all Basin industries including agriculture would benefit from a common carrier railroad. Drexel Hamilton is fortunate to be partners with the Rio Grande Pacific Corporation which is a second generation railroad company to operate this railroad. Rio Grande Pacific Corporation has committed to be part of this project with Drexel Hamilton to service all commodities. Drexel Hamilton is committing \$5,000,000 to \$15,000,000 to commercialize the project.

Mr. Zeenati stated that working in Louisiana there are marsh lands and it is flat and asked if they could meet the challenges of elevation in the Basin.

Mr. Michele stated that there were challenges in Louisiana and they worked with environmental agencies in the state to make sure they did not do anything to damage the environment. They will work with State agencies on the Uintah Basin project. HDR has indicated they will work through the rights of way to ensure what will be the least intrusive and have determined how to navigate the 2 ½ % grade and preserve the environment.

Mr. Zeenati referred to the tunnel and asked how many tunnels and what size.

Mark Hemphill, Vice President HDR Engineering, indicated that the Wells Draw and Indian Wells routes have a 3.1 mile tunnel and possibly shorter tunnels. The Craig route does not have tunneling.

Mr. Galecki asked for an explanation of the NEPA process and public input.

Mr. McKee stated they have been in the pre-NEPA stage. The Surface Transportation Board, which is the lead agency for rail, will issue a notice of intent and will lead the meetings. Public meetings will be scheduled for the public to engage.

([52:50] Interruption – out of order)

Mr. McKee referred to a third party contactor (ICF) that does the environmental work; very transparent and independent. He assured the Board that this is a planning document which is an eligible use of mineral lease funds. They have contacted UDOT and utilized their previous studies and a private entity has also provided information to the SCIC for use in this effort. [57:18]

Mr. Michele stated that in addition to their monetary investment, they are providing outward awareness of the project and engaging customers. Currently, markets are positive in the gas industry and there is excitement about a railroad in the Basin. Permitting takes a significant amount of time and Drexel Hamilton is firmly committed to this project noting the support from potential customers. This is the type of transaction Drexel Hamilton frequently does and the price of this project does not exceed similar projects. [1:02:05]

Mr. McKee again stated they are ahead of schedule and are requesting the additional funds to finish out this planning effort.

Chairman Hardy asked legal counsel for the Board to address the Board. [1:03:17]

Alison Garner, Assistant Attorney General again admonished the Board to be aware of the potential legal risks and vulnerabilities that may arise in deciding this Phase II application. There are a lot of unknowns and should a legal challenge be filed, a court will scrutinize the record to determine whether the Board's decision was arbitrary and capricious; did the Board ask questions, seek supporting evidence and require answers to difficult questions. Regardless of any possible challenge, the Board has a duty to closely examine each application that appears before it including this one and the Board was strongly advised to do so today.

Ms. Garner referred to two specific issues. Does this project constitute mere economic development? Referring to the 1993 Attorney General's office opinion, *mere* economic development is not an eligible project under the Mineral Lease Act which usually means assistance to private business. The expectation that this activity may provide jobs, taxes and other benefits that may accrue to the local communities can be justified using general funds. Does the project primarily benefit private businesses? Will the requested funding be utilized for the intended purpose to alleviate the burden of mineral development impacts on local communities and advised the Board to consider those issues?

Chairman Hardy asked the Board's financial consultant to address the Board concerning financial liability and completion of the project. [1:06:46]

Marcus Keller, Zion's Public Finance noted the Board had questioned who would finance the project which has been partially answered in bringing in private partnerships discussed today. Unresolved concerns include if the funds are spent according to the scope of work and if the planned project is viable with a long term financing commitment for the project. Unresolved concerns to address:

1. The public acceptance by the Ute Tribe for this project
2. The final contracts with Drexel Hamilton.
3. The notice of intent from the Surface Transportation Board.

Chairman Hardy asked Mr. McKee to respond to the three issues Marcus Keller sighted. [1:10:34]

Mr. McKee stated there is a Memorandum of Understanding with the Ute Tribe listing items the Coalition needs to do and they have signed a surface use agreement with the Tribe. The Coalition, Tribal Vice Chairman, and their attorney met with the Surface Transportation Board in Washington wherein a term sheet was signed. He noted the Ute Tribe is a sovereign nation but the Coalition is encouraged with what has been done. The Drexel Hamilton MOU is in place and a more formal contract will be forthcoming. The Surface Transportation Board *Notice of Intent* will be published in the federal register soon with a schedule of public meetings. Mr. McKee stated that this project has a public benefit indicating the rail is a common carrier and there are legal decisions made concerning rail at the Attorney General's office and that can be provided.

Mr. Michele [1:16:45] reiterated this is a common carrier and is not specific to one industry or one business. He stated it's like a highway or road where anybody can use it and it is not limited to the hydrocarbon industry but is a transportation logistics effort. They are working toward a contract. New transportation infrastructure is greatly needed. Rail is a critical component in moving goods and services throughout the country and Drexel Hamilton would not invest in this project if they did not think it was needed and would be successful. [1:19:58]

Mr. McKee noted that Governor Herbert, Senator Lee, Senator Romney, Rob Bishop and Senator Stuart Adams all support this project. He acknowledged people in the audience who attended or provided correspondence in support of the project locally as well as elected officials.

Senator Winterton [1:22:18] responded to the reference of economic development. Part of the job of elected officials is to provide infrastructure including water, sewer, highways, emergency services airports, roads and bridges which contribute to the economic development of any county, city or state. Economic development will expand on what government provides. Highway 191 and Highway 40 provide for commerce. [1:23:23] Rail is needed to mitigate the impacts of maintenance cost, crowding of the roadways and safety on the road. All commodities are currently transported by truck. He acknowledged that community planning does not make everyone happy and all questions and concerns have not been addressed but they will be. He asked the Coalition who is going to own the rail.

Mr. McKee: [1:27:25] indicated it will be a Public/Private partnership with Drexel Hamilton, the Coalition and the Ute Tribe.

Mr. Michele [1:27:56] stated that typically with a P3, the public body will own either the land or some of the infrastructure or all the infrastructure for a period of time and will give concession rights back to the private operator in a lease. There will be a cooperative endeavor agreement (CEA) which is the contractual guidelines on transfer of ownership and title for the terms and usage which has not yet been discussed. It shall depend on the expense of the railroad etc. Drexel Hamilton as the investor will take on operational risk. Union Pacific Railroad manages railroads across the United States which is accommodated through a fee structure to service and maintain the railroad and allow common access to all industries involved. Lease payments will go to the State of Utah and the Infrastructure Coalition.

Mr. Lytle [1:30:35] noted for the record he is on the Seven County Coalition Board. NEPA is a big part of this but there has not been a notice of intent yet, so everything up to this point has been anticipatory to NEPA. At what stage is the NEPA process? No decisions have been made until the STB makes their decision based on the NEPA process, is that correct?

Mr. McKee [1:32:28] stated that SCIC is ready to do the NEPA with today's funding. The decision will be made by the Surface Transportation Board though SCIC can indicate a preferred alignment and the STB will issue a license to proceed.

Gregg Galecki [1:34:24] asked if revenue from the lease would be brought to the County.

Mr. McKee [1:35:11] stated a revenue stream is anticipated in this project.

Mr. Michele [1:36:10] stated that there is a lease payment for access to the land and the use of the infrastructure owned by the public entity and because it is improvement on the land, ad valorem taxes would be generated for the Counties it runs across. Each county decides the distribution of the taxes. Rail will increase the volume of commodities with an increase of royalties. Lease payments, royalties and ad valorem taxes will provide revenue.

Naghi Zeenati [1:37:25] referred to the options of Craig and Riley, Colorado which in November were the options to consider. Now it has changed to Indian Canyon and he asked why the change? He also asked what is the deadline to accommodate the appropriate due diligence in regard to the necessary studies.

Mr. Michele [1:38:54] stated the choice of locations to make the project viable took into account access to two railroad lines; the BNSF and Union Pacific railroads which go West making this project more viable.

The Colorado route had only one rail carrier. The due diligence will be accommodated in one year to make this a commercially viable project and either party has ninety days to terminate the Memo of Understanding. It is advantageous at this time due to politics and the world market, to commercialize this project quickly with letters of intent which will translate into contractual obligations from shippers prior to the new year. The current calculation is approximately 3 unit trains a day of commodities to achieve commercial viability.

Mr. McKee [1:41:44] stated in the NEPA process the decision makers prefer three or four alternatives and a *no action* alternative. HDR engineering has labeled the three best routes from an engineering standpoint and the Indian Canyon is the preferred route.

Mark Hemphill, HDR [1:42:45] stated the Indian Canyon route has the lowest cost with the least environmental impact in regard to what NEPA considers are no impacts. Routes were ranked for engineering feasibility, operational feasibility and acres of impact and three routes were proposed to the STB.

Commissioner Horrocks stated a rail line will also create jobs in Duchesne County, Carbon County and Uintah County to build and operate it and the tax revenue will be beneficial.

Mr. Zeenati [1:44:42] asked if any cultural challenges are anticipated with the Indian Canyon route.

Mr. McKee indicated they are working with the Tribe and cultural resource people.

Mr. Hemphill with HDR [1:45:10] stated the tribe has set up a steering committee to look at each of these resource areas: natural resources, water resources, wildlife resources, cultural resources etc. to ensure they are satisfied that these routes are viable.

Mr. McKee indicated the Tribe signed a service use agreement allowing needed access.

Mr. Galecki [1:46:07] referred to the \$6.5 million Phase I allocation of which \$1.4 million was spent on NEPA studies and asked what studies were submitted? During the winter not much can be accomplished so were those studies previous studies? He asked if a study had been done as to a reduction of traffic to mitigate air quality problems.

Mr. Hemphill with HDR [1:47:05] stated the \$1.4 million was for desk-top research on each of the 29 alignments to categorize and quantify the environmental impacts of each of the 29 and for gathering baseline environmental data mostly on wetland resources and endangered species. This data will be provided to STB's 3rd party contractor who will write the EIS. Their people have also been out in the field to make sure that the appropriate data has been gathered. The STB will look at the air emissions created by the railroad versus a no-build case. STB will make their decision in consultation with other Federal agencies during the scoping process. They will look at the railroad emissions versus the trucking alternative.

Commissioner Adams [1:48:58] asked about the rights-of-way on public and private land.

Mr. McKee [1:49:35] indicated the Indian Canyon route is the only route that goes through Tribal land and also goes through private and Forest Service Land. SCIC has had discussions with the Forest Service, has sent out letters to the private land owners and has had two meetings with landowners discussing the project. The STB is also having correlation/coordination meetings. They have talked with BLM offices in Colorado and in Utah.

Mr. Zeenati [1:51:32] asked about the process and review of other investment firms before selecting Drexel Hamilton and what sources of funding has been considered at the State or Federal level.

Commissioner Horrocks indicated he participated in three interviews.

Mr. McKee stated they sent an RFI which was converted to an RFQ in the process of selecting Drexel Hamilton. All sources of funding will be considered and the best fit will be selected. The Tribe may wish to be involved.

Mr. Michele stated that until a full understanding of what contractual, underlying assets exist to support debt service and/or return basis for an equity instrument, there aren't answers or variables. As the financial arm of this project, when there is finality on what contracts look like on a term basis and a rate basis, the best financial engineering to make this as viable as possible will be determined.

Mr. Lytle [1:54:47] asked if this rail is this going to be a short line and is there an example where local governments or local entities are engaged in this type of project.

Mr. Michele [1:55:49] stated it is a short line. The STB regulates railroads for economics and classifications. This would likely be a class 2 or class 3 rail line. There are more than 600 in the United States and many of them are leased or owned or concessioned by public agencies. It is not unusual for a public/private partnership between a county or port or a city or state that owns the underlying right of way or underlying asset and leases it for operation on a revenue split with a private operator who is solely responsible for the operation of the rail.

Ron Winterton [1:58:14] indicated that with every applicant, a public hearing is required and asked if SCIC has had their public hearings and when did they take place.

Mr. McKee [1:58:52] stated they have had two public hearings; one in February 2018 and then CIB requested a second public hearing and a second hearing was held.

Mr. Zeenati [1:59:37] asked if the Seven County bylaws require each of the seven counties to have a separate public hearing before any decisions.

Mr. McKee [1:59:49] said the structure of the Coalition is made up of seven counties with an elected official that comes from each county and they are authorized to speak on behalf for their county. The Board meets monthly.

Chairman Hardy [2:00:40] asked if this is exacerbating impacts. There is not a regulatory barrier to increasing production; the wells exist and the permits exist so it is a matter of turning the flow on to get increased production as opposed to having to drill new wells. He asked what percentage of the calculations on increased production exists with permits already issued versus what would have to happen with new oil gas leases.

Mr. McKee [2:01:30] stated that technology is much more efficient. In 2006 the maximum number of wells in Uintah Basin was just over 50 and today there are 4 rigs which are more efficient with horizontal drilling. Environmentally it is much better today.

Commissioner Horrocks [2:00:40] indicated some oil companies say they can only get 80 – 90,000 barrels a day *out of the Basin*. It is reported that production can increase 30% just by opening up the existing wells.

Mr. Michele [2:03:12] stated this Basin has been limited by the Salt Lake City Refinery market because a finite number of barrels can be processed; 75,000 - 80,000 a day. This railway will open up this stranded Basin to be able to access the chief refinery market in Louisiana. There are close to 7 million barrels a day processed in the Gulf Coast area. The Gulf Coast markets are excited to access crude from the Basin because of its unique characteristics.

Mr. McKee [2:06:21] stated the project the Board is considering today is the NEPA document – the planning document. The rail project itself will be a private enterprise.

Jon Hardy [2:06:57] stated there is an economic side and a regulatory side. In regard to public benefits if the commodity price increased there could be a lot of trucks traveling on every single one of these roads taking products out as opposed to a rail line without ever having to issue a new permit for oil and gas. The Board is considering a planning document, not the project itself. But there are scenarios in the future when the price of oil is different when there would be truck after truck going down Indian Canyon or going to Craig or going anywhere else to get oil onto a rail line somewhere else. Studying the impacts of a rail does help alleviate the public transportation issue of having all those trucks on the road even without additional gas and oil leases permitted.

Mr. Michele [2:09:20] indicated that is a correct assumption. If oil prices go higher, producers would be inclined to increase production and get it to an end user market. There are four ways to move the crude: ship, train, truck or pipeline. Ship is not an option, and a pipeline will not work due to the wax nature of the crude. That leaves rail and truck. If the oil price is high, it will be trucked to an available rail. It is much more efficient and safe to bring the rail to where the oil is.

Mr. McKee [2:10:33] stated that when the STB came out to look at the project, they drove the Indian Canyon route on a day when there was a blizzard and trucks were at a standstill.

Commissioner Horrocks [2:11:27] indicated that an increase of 300,000 gallons per day would be approximately 1300 more trucks on the road.

Commissioner Dalton [2:11:43] referred to the application for the requested funds of \$21,400,000 and asked what the time frame would be for spending that amount. Perhaps part of the funding could be allocated now and part later.

Brian Barton, Jones & DeMille Engineering, [2:12:50] stated that the STB has requirements for the NEPA process that need to be answered as well as commercialization questions. A lot of progress has been made in each category and it is necessary to keep things moving forward.

Mr. Michele [2:14:44] indicated both the public and the private entities have invested capital with common end results. This funding will finish out the permitting and the engineering and help mitigate any concerns that the project is viable.

Mr. Dalton [2:16:07] clarified the manner the funding is provided which is to commit the \$21,400,000 which is allocated through reimbursement when contractor invoices for work performed are submitted and if the project is not viable, the remaining funding can be recaptured.

Mr. Hardy [2:16:40] stated there would be a contract between Workforce Services and the Seven County Infrastructure Coalition detailing what they can spend money on and then they would have to have approved invoices within the scope of work and budget to be reimbursed. Funding is not allocated outside that.

Mr. Zeenati [2:17:10] asked if there is any commitment from the railroads that they will allow a connection to their railroad.

Mr. Michele [2:17:50] indicated that under Federal Law they have to offer a connection as a common carrier railroad, to any short line railroad that comes to them. The Surface Transportation Board regulates that closely.

Mr. McKee [2:19:33] noted that Craig, Colorado has only one Class I carrier along that route which has been a bit of a challenge.

Mayor Baker [2:20:18] commended SCIC on their progress since November and would like to make a motion.

Chairman Hardy [2:20:40] stated there are still further questions from the Board.

Commissioner Ogden [2:20:53] disclosed his affiliation with the Seven County Coalition Board and he expressed concern with the amount of the requested funding thus far. Accountability is of real concern with \$6.5 million allocated in November and the \$21,400,000 request today. He suggested this should be the last request from SCIC to this funding source.

Mr. McKee [2:22:00] acknowledged the CIB assistance with this project planning. This funding should be enough to accomplish the planning components and encourage other funding for the rail. He anticipates no further requests from the CIB on this project.

Mr. Michele [2:22:43] stated from a capital partner standpoint after this allocation they should have commercial viability and commit the rest of the funds for finalization of construction.

Commissioner Lytle [2:23:50] indicated that in terms of CIB's public purpose and ability to disperse this kind of funding, could there be a succinct statement to support why SCIC is coming to ask for CIB funding relative to the public purpose.

Mr. McKee [2:24:45] stated this is a planning document and planning was anticipated by the Federal Government, stated in statute as an appropriate use of Mineral Lease funds and referred to a court case that addresses this public side of the question.

Mr. Eric Johnson [2:26:10] referred to the 1993 opinion from the Attorney General' Office regarding the use of Mineral Lease funds for economic development which states: *"Economic development may be a goal or intended benefit of a particular project as long as the project qualifies as planning, construction and maintenance of public facilities or provision of public services."* *"Grants or loans "merely" for economic development are not authorized under the state and federal acts. However, a grant and loan for the construction and maintenance of a public facility or the provision of public service, which may have economic development as an additional goal or benefit would be authorized."* The 1993 opinion cited a railroad case as to what is a public purpose. *"If the Impact Board is funding: (1) a project which is a public facility, i.e. owned and operated by a public entity or to which the public has a right to use that cannot be denied at the pleasure of the owner..."* *"A project that provides a traditional local governmental service, such as public safety or public health, funding the project would be a lawful use of the mineral lease monies even if economic development were one of the primary anticipated results"* (Union Pac. R.R. v. Public Service Commission 211 P.2d 851, 895 (Utah 1949). This was a Utah case dealing with a railroad.

David Damschen [2:30:03] (via phone) expressed support of the project as long as it can be professionally, competently and legally accomplished with a minimum of taxpayer costs and a minimum of adverse impacts from the project. He noted improvements in the quality of the Coalition's efforts. He also referred to the public comments received by the Board which he has reviewed. He thanked the members of the Utah public for taking the time to organize and communicate their concerns. He expressed appreciation for the high level of participation from private capital and the potential for partnership with the Ute Tribe though tentative. [2:33:44] He noted the opportunity to meet with the professionals from Drexel Hamilton who are committed to this great nation and are distinguished financial professionals with impressive credentials. His concern is the process seems a bit rushed, involving this amount of money for a large and complex project. The Board has had this information for a relatively short time and he understands the need to move quickly to ensure this project is viable and can succeed. [2:35:21] His primary concern is based on the magnitude and technical nature of the project and members of the Coalition lack the level of experience, noting the importance of engaging all the right kinds of contract professionals with the needed expertise. Robust procurement procedures are important and expressed concern about the Coalition procurement process. [2:36:24]

Mr. McKee [2:37:29] indicated that through the procurement process, two entities responded.

Mr. Damschen [2:37:00] commented that public funds should be safeguarded and only entrusted to safe, industry leading providers. The individuals he met from Drexel Hamilton are impressive, but noted that Drexel Hamilton is not found in PitchBook which is a technology application used as an initial check on asset managers.

Mr. Michele [2:40:31] indicated Drexel Hamilton filed for their fund which was established in December 2017. Last year Drexel Hamilton executed their first two assets. The Basin rail would be the third asset to be developed through this fund. Drexel Hamilton has been an investment bank and broker dealer since 2006. From an energy standpoint, the 2018 pipeline and liquid bulk terminal was done in a P3 construct which provides the requisite experience for this project.

Mr. Damschen [2:42:18] listed a selection of companies that would be expected to bid on this project but did not and requested comment.

Mr. Michele [2:44:17] stated their joint partner in the Louisiana project is Blackstone. He is familiar with the firms listed by Mr. Damschen. Those funds do not do 'green field' developments. They don't have development teams and rely on firms such as Drexel Hamilton to assemble the financial, contractual level.

Mr. Damschen [2:45:18] stated that Drexel Hamilton may bring in those firms as a capital partner, not a competitor.

Mr. Michele [2:42:18] indicated that is the way other projects have been constructed as a wise risk of capital. Drexel Hamilton is an originator/packager of a project to a point where asset managers participate.

Mr. Damschen [2:46:50] noted that with a project of this scope and size, it is a concern there were only two bidders with Drexel Hamilton being one. He asked about Drexel Hamilton's involvement in other projects.

Mr. Hemphill of HDR, [2:49:55] indicated they worked with Drexel Hamilton on the TallGrass project in Louisiana – the terminal seahorse project. HDR has checked with 4 rail companies concerning Drexel

Hamilton with the response that they are good partners and would like to see Drexel Hamilton as the commercializer on this project.

Mr. Michele [2:50:48] added that Drexel Hamilton recruited TallGrass energy as the terminal operator. They have a good working relationship.

Mr. Damschen [2:51:50] indicated that very large procurements are to be posted on an electronic system that is tracked nationally by firms. RFP's and RFQ's are generally posted on BidSynk or other sites to the broadest possible market, maximizing transparency and competition and improving the outcome of procurements. He asked if the RFQ was posted on an electronic system.

Mr. Johnson [2:54:50] indicated that their RFP was not posted on the two sites mentioned, but there was an effort to reach out to those in the industry roles in the selection of a financial advisor with PFAL as well as with the commercialization with Drexel Hamilton. 14 firms were contacted and Drexel Hamilton was selected. There were responses from some not directly contacted.

Mr. Damschen [2:56:23] stated that firms may not bid on certain things because it is not a good fit, not a good partner or the procurement is built to favor an entity. He referred to the committees within SCIC procurement and commercialization processes and asked if that was the evaluation committee.

Mr. McKee [2:58:47] indicated the names listed by Mr. Damschen were involved in the evaluation and the full Board made the selection based on the committee recommendations.

Mr. Hemphill [2:59:29] indicated that a railroad project is complicated from regulatory, commercial and operating standpoints. A financing interest would need railroad expertise and the RFI was sent to Union Pacific, BNSF, Florida East Coast Railway, the Shortline Holding Companies, etc. These have financial Partners and a list can be furnished.

Mr. Damschen [3:00:56] asked why the PFAL financial advisor was not involved with the commercialization procurement.

Mr. Johnson [3:01:31] stated the final approval of PFAL occurred at the same meeting as Drexel Hamilton.

Mr. Damschen [3:01:31] suggested that PFAL should serve the Coalition as a fiduciary, committed to the best interest of the Coalition and be at the table during the evaluation process.

Mr. McKee [3:03:18] stated that at the meeting in Provo there were issues and only the financials were approved. The approval of PFAL was delayed a month but PFAL did participate in the approval of Drexel Hamilton.

Greg Tseng [3:05:36] PFAL, indicated they focus on all types of rail and are financial advisors to the Coalition to protect the Coalition and public interests. PFAL was consulted before the selection was made for the commercialization entity. They are familiar with BidSync and other procurement methods and track them as well as the rail industry firms. Larger investment firms usually wait until there is more development in a project.

Mr. Damschen [3:09:31] stated that the Coalition procurement process is troubling and also expressed more confidence in the Office of the Attorney General than the analysis of the Coalition's counsel. The grant requested of the Board is speculative. The return on investment could be significant or could be zero. The Board has to decide the degree to which they are willing to allocate public resources to an

organization that may not be able to deliver on promises. This grant is very different from everything this Board does with public resources and risk taking with public funds should be very limited.

Chairman Hardy [3:13:28] thanked Treasurer Damschen and asked if there were any further questions.

Mr. Galecki [3:13:43] asked if phase 2 and phase 3 could be funded separately. What is the timeline for the rest of this project and the use of the funding? Normally the Board requires a 50% match and suggested the seven counties contribute \$1.5 million each. It is easy to be supportive when you don't have any money in it.

Mr. McKee [3:15:21] indicated the anticipated timeline is to have a record of decision by December 2020. He referred to the last request which had some matching funds. Drexel Hamilton has indicated they will be providing between \$5,000,000- \$15,000,000 in tandem with the planning portion. And the \$4,000,000 UDOT study has provided a lot of information.

Mr. Galecki [3:17:49] asked about contributions from the Counties.

Mr. McKee [3:17:57] indicated the question was asked in Moab of the County representatives and they said no.

Mr. Zeenati [3:18:30] referred to Mr. McKee's service on the CIB where he asked the hard questions making sure that the CIB money was spent on a properly planned project. The money must be used for planning only; not rights-of-way, property or construction and asked for assurance of that fact. He asked what would happen to SCIC and the other projects if CIB chooses not to fund this.

Mr. McKee [3:19:48] indicated that the Coalition won't be coming back to CIB for additional funding. This is for planning. In the application, land purchase is indicated but they don't plan on coming to CIB. If the funding is rejected, the project may not move forward.

Chairman Hardy [3:22:15] expressed concern with the right-of-way issue to make a clear delineation between planning and the project. The intent is to complete the project and to insure all the rights of way, but that is part of the project itself. He asked for clarity concerning the rights of way, the planning and the project.

Mr. McKee [3:23:07] indicated there is uncertainty in reaching out to land owners and there is usually a small amount of money put forward to hold the right-of-way option.

Chairman Hardy [3:24:06] suggested it would be better for the Coalition to have a private partner working on the optioning portion. It is hard to draw a line on where the planning ends and the project begins when you talk about right-of-way. Even the options are part of the project. It should be determined what right-of-way options or acquisitions will be rather than including it with the planning scope of work.

Mr. McKee [3:24:44] stated the Coalition wants to make sure that everything is in compliance. This is a planning document and is separate. It can be looked at several ways but the CIB needs to make sure they are comfortable.

Commissioner Dalton [3:25:33] stated that Drexel Hamilton said this project is being accepted in the commercial area very strongly, but are those partners willing to fund this project to completion? Drexel Hamilton is funding the contracting, but is there any other money besides CIB to help obtain right-of-ways and help with some of this NEPA?

Mr. Michele [3:26:19] reiterated the project has been commercially and robustly perceived by the producer community which will be the fundamental customers for the rail road. They are going to invest in the contract to move this, and Drexel Hamilton will build, operate and maintain the railroad.

Michael Dalton [3:26:19] suggested that if producers think this is such a good project and can see additional production getting to market, they should want to invest.

Mr. Michele [3:26:19] stated that typically the producers are uniquely drillers and their capital is put into wells. The midstream is the transportation, downstream are the refineries. Indirectly, the producers do invest through shipping the product.

Chairman Hardy [3:31:07] noted no other questions and called for any proposed actions or motions. [3:31:19]

Dean Baker made and Ron Winterton seconded a motion to fund this project as a \$21,400,000 grant for the planning of Phase II and Phase III of the Rail Study.

Chairman Hardy asked if there were any caveats concerning the right-of-way acquisition.

Mayor Baker [3:32:04] suggested the understanding is there will be place holders with some of the landowners. The purchase will come later. This is the planning of the right of way.

Gregg Galecki made a substitute motion to fund this project as a \$10,000,000 grant and an \$11,400,000 loan with the opportunity to generate additional funding. The motion failed with no second.

Mr. Zeenati [3:31:19] commented that it is a lot of money, but we cannot widen enough roads or build enough bridges. This is a community effort. There aren't enough resources; no other ideas and if nothing is done, there will be no roads because there will be double the tankers. This is one answer.

Bruce Adams [3:35:36] commented that the Basin area has contributed millions of dollars in revenue royalties to the CIB and the community has dealt with the impacts of oil production for 50 years. He suggested the community is contributing by dealing with the impacts.

Mr. Galecki [3:36:28] indicated he is in support of the project but was considering the funding for the project.

Ron Winterton [3:31:19] indicated the State leadership is in full support of the rail project. The funds could be given to UDOT to build roads which encounter the same issues with acquiring rights of way to widen the roads. If CIB does not fund it, the Legislature will face a decision to accommodate it another way with tax payer money.

Keith Heaton [3:37:57] stated this is a lot of money in anyone's opinion. He referred to his term as Chairman several years ago and there was a little more money coming in. Some was put aside as the Major Infrastructure Fund. That money has been waiting for a major infrastructure project and that is where this funding will be coming from. There is uncertainty, but this is a way to put funding to work and planning is appropriate. This money is not coming out of other community's pockets at this time.

The Chairman called the question and proceeded with a roll call vote.

Dean Baker made and Ron Winterton seconded a motion to fund this project as a \$21,400,000 grant for the planning of Phase II and Phase III of the Rail Study. The motion carried with Gregg Galecki opposed.

[Audience applause ... Lunch Break [3:40:39]]

VII. SUPPLEMENTAL REQUESTS

1. Price River Water Improvement District (Carbon County)

On October 4, 2018 Price River Water Improvement District was awarded a \$2,000,000 loan for 20 years at 2.5% interest for a project consisting of replacing 2000 linear feet of sewer pipe including excavation, placement, backfill and pavement repair and repair and rehabilitation of 5000 linear feet of sewer line with "cure-in-place pipe" lining, cleaning, placement, and curing.

The Price River Water Improvement District requested time at the June 13, 2019 CIB meeting to discuss supplemental funding as a \$1,100,000 loan for 20 years at 2.5% interest.

Bruce Adams made and Michael Dalton seconded a motion to fund the supplemental request of a \$1,100,000 loan for 20 years at 2.5% interest. The motion carried unanimously.

2. Town of Brian Head (Iron County)

On October 4, 2018 the Town of Brian Head was awarded a \$732,648 grant for a new waterline in the Cedar Breaks Mountain Estates fire protection project. This project consists of approximately 8,600 lineal feet of 8" waterline with gate valves, air/vac valves, fittings, tie-ins and modifications to the existing pump station booster pump and 8" transmission pipeline project from the One Million tank to the Salt Pile Tank, and 4,500 lineal feet of 8" distribution line and gate valves, pipeline fittings, air/vac valves, fire hydrant assemblies and road base and asphalt replacement in Mountain View Drive and Forest Drive. Brian Head is contributing \$732,648 cash to the project.

The applicant indicated that the bids were higher than expected and is asking for a supplemental loan of \$147,000 for 15 years at 2.5% interest and a \$146,326 grant (total \$293,326).

Naghi Zeenati made and Jack Lytle seconded a motion to fund the supplemental request of a \$147,000 loan for 15 years at 2.5% interest and a \$146,326 grant (total \$293,326). The motion carried unanimously.

VIII. SPECIAL CONSIDERATION

Chairman Hardy requested a motion to hear two projects for Special Consideration.

Gregg Galecki made and Kyle Stephens seconded a motion to hear two projects for Special Consideration. The motion carried unanimously.

1. Emery County Local Building Authority (Emery County)

Emery County LBA presented a funding assistance request for a \$2,625,000 grant for the San Rafael Energy Research Facility. This project consists of renovating a portion of the industrial warehouse building to meet NQA-1 clean room standards to house the energy research equipment, secure permits, and initiate operations; and improvements to accommodate coal combustion testing unit, including demolition, engineering, enclose and finish existing building unit, water cooling system and tank, utilities connection, hydrants, meters, walls, ceilings, electrical, plumbing, finishing and paint, new concrete floor, HVAC and a coal storage bin and pad for delivery of coal.

The applicant indicated this project was originally meant to be a research center for molten salt, thorium research; not an emergency, but the University of Utah and Brigham Young University visited the

property and offered a coal combustion research machine which was in Salt Lake City. The lease on the building was up and needed another location. Senator Hinkins arranged funding to provide transportation of the machine, but funding is needed to reassemble the machine. A company out of England has expressed interest in a contract to use the machine if it is running by January 1, 2020. The facility is a good building, away from town but gas and electricity were needed. Questar Gas and Rocky Mountain Power have provided quotes to accommodate adequate power and gas to run the facility. There may also be a coal gasification research facility if there is sufficient power. There is also consideration of utilizing the facility to do hydrogen research and carbon fiber research.

The Board asked if the molten salt was part of the project.

The applicant indicated it is the largest part of the project but the accommodation of the coal combustion research machine is the imminent need.

The Board stated it is a great project for Emery County and the area but asked if there was any ability to take part loan for the project noting some retiring debt.

The applicant indicated the County is the landlord but would not operate the research facility and the County would prefer not to incur debt for this facility. The professor who originated the machine is committed to reassembling the unit.

Gregg Galecki made and Tooter Ogden seconded a motion to fund this project as a \$2,625,000 grant as requested.

Chairman Hardy asked who determines who gets to use the research facility and under what conditions. Could lease payments be utilized to support a loan?

The applicant stated they are in contact with a company in Alabama that operates five research facilities to possibly manage the research facilities. Currently, any university can use the facility for research and testing at cost. It is a nonprofit facility but revenue would help maintain the facility.

The Board asked what a coal combustion machine is.

The applicant indicated it is similar to a power plant, 106 feet long. It is heated and the coal is injected to test and facilitate cleaner technology used by the University of Utah, and when they lost their lease, they were going to scrap the machine. The system is 10 years old and will be maintained.

Chairman called the question.

Gregg Galecki made and Tooter Ogden seconded a motion to fund this project as a \$2,625,000 grant as requested. The motion carried unanimously.

2. Duchesne County Municipal Building Authority (Duchesne County)

Duchesne County MBA presented a funding assistance request for a \$558,000 grant for a salt shed in the Fruitland area. This project consists of the purchase and installation of a pre-engineered metal building to utilize as a salt shed and office including excavation, concrete, electrical, plumbing, utilities, fending, office area, appurtenances and finishes for the purpose of storing equipment and asphalt millings for the west side of the county. The applicant is contributing \$120,000 in-kind land.

This project was on the Capital Improvement List anticipating an application submission, but in March 2019, the contractor for UDOT offered Duchesne County 100,000 tons of asphalt millings which will be

salvaged from a nearby project that will start in early summer and a place is needed to store the millings which will be used to help repair 232.4 miles of road on the west side of the county.

In 2018 the Dollar Ridge fire destroyed 70,000 acres of vegetation and numerous structures. Since that time there have been two floods that caused extreme debris flow and culinary water contamination. The floods also affected county bridges, roads and residents. Over 50 homes and a water treatment facility have been impacted by the floods due to the fire.

The county is obligated to have 8 trucks immediately available to receive the materials so that the road work would not be delayed; The materials must be moved this summer and before the end of this calendar year before the snow comes.

There is the potential for more flooding when runoff starts due to the above average snowpack. This shed will also store the needed road equipment in the event of additional natural disasters in this area. The area will be fenced and the millings will be fully contained.

Senator Winterton asked for an explanation of the project.

The applicant stated the reason they are doing this is to have a place close to the Dollar Ridge fire which is accessible to the situation but away from the community. This is along Highway 40 and will house vehicles, accommodate the tailings and be fenced. It is 32 miles from Duchesne City and will accommodate the West side of Duchesne County.

Jack Lytle made and Dean Baker seconded a motion to fund this project as a \$558,000 grant.

The Board asked the applicant if they could take a partial loan for this project.

The applicant said that right now they could not as they are trying to find \$2,000,000 as a match for the NRCS grant for flood mitigation. There are still two families that are not back in the homes from the previous fire and flooding and even today, the main road is being flooded with two to three feet of water and the road cannot be repaired.

The Chairman called the question.

Jack Lytle made and Dean Baker seconded a motion to fund this project as a \$558,000 grant. The motion carried unanimously.

IX. BOARD MEMBER DISCUSSION and/or ACTION ITEMS

1. Board Packet Tool Discussion.

The new Board packet tool will be iLegislate / Peak Agenda. This will be the final meeting utilizing BoardDocs. The CIB will receive information prior to the July 11, 2019 meeting.

ADJOURNMENT

The next meeting of the Permanent Community Impact Board will be July 11, 2019 at the DWS South Office, 1385 South State Street, Salt Lake City, Utah at 8:00 a.m.

This meeting adjourned at 1:15 p.m.

Submitted by:
Candace Powers
Cristine Rhead

**MEMORANDUM OF UNDERSTANDING REGARDING THE DEVELOPMENT OF THE
UINTA BASIN RAILWAY**

This Memorandum of Understanding (the "MOU") regarding the development of the Uinta Basin Railway, an infrastructure development project conceived of and to be developed under the jurisdiction and mandate of the Seven Counties Infrastructure Coalition (the "Coalition"), an independent political subdivision of the State of Utah, is entered into as of May 10, 2019 (the "Effective Date").

Recitals

A. The Coalition has determined that it is in the best interest of the Coalition to acquire certain railroad Rights of Way and develop the Uinta Basin Railway with all associated improvements. The Coalition has obtained a docket number with the U.S. Surface Transportation Board and proposed three alternative routes. The preferred route is approximately 80 miles in length which is roughly from crude oil production centers near Roosevelt, Utah to Soldiers Summit, Utah, which is described with more particularity in Exhibit A ("Preferred Route"). A map showing all three alternative routes is attached hereto.

B. The Coalition has determined that it would be in the best interests of the Coalition to develop a short line railroad and associated terminal/s with capacity to gather and load up to approximately 500,000 barrels per day of crude oil product or other bulk commodities, such as agricultural products, and the infrastructure associated therewith or to serve such terminal, including railroad facilities, handling facilities, tank batteries, rail track, roads, buildings and handlings facilities (collectively, the "Facilities"). The Coalition has obtained funds and commenced the design, financing and development of the Facilities, including the commercial facilitation and development thereof.

C. The Coalition has entered into an agreement with the Ute Indian Tribe with respect to the proposed railway and the Facilities and the Coalition and the Ute Indian Tribe are negotiating additional agreements related thereto. The Coalition's Preferred Route crosses trust lands of the Ute Indian Tribe and the agreement of the Ute Indian Tribe is necessary for the Preferred Route.

D. Drexel Hamilton Infrastructure Partners, L.P., a Delaware limited partnership ("Developer") desires to develop the Facilities, including: (i) financing the purchase of the property for the Right of Way for the alternate route to be approved by the Surface Transportation Board (the "Right of Way"), and then (ii) undertaking thereafter, pursuant to a long term arrangement for the use of the Facilities by the Developer, which arrangement shall be acceptable to the Coalition and Developer, to finance, construct, own, operate and maintain the Facilities.

NOW, THEREFORE, the Developer and Coalition hereby mutually agree and covenant, as follows:

1. The Developer (Drexel Hamilton Infrastructure Partners, L. P.) agrees to develop the Facilities by (i) financing the purchase of the property for the Right of Way, and then (ii) undertaking, pursuant to a long term arrangement for the use of the Facilities by the Developer, which arrangement shall be acceptable to the Coalition and Developer to finance, construct, own, operate and maintain the Facilities. Developer agrees to use commercially reasonable efforts and shall not engage in any projects touching the State of Utah that may compete with the rail or the Facilities or with the Coalition. This non-compete covenant shall survive the termination of this agreement by two years.

2. The Coalition shall during the term of this MOU, negotiate in good faith with the Developer, and the Developer shall negotiate in good faith with the Coalition, to agree upon an arrangement (which may include a professional services agreement and/or a cooperative endeavor agreement), to be coordinated with the Developer, to finance the purchase by the Coalition for the Right of Way, for development of the Facilities, which financing may include tax exempt or other municipal conduit bonds issued by the Coalition, or other loan or credit arrangements, all subject to the Coalition Board's review and approval. The Coalition further agrees and pursuant to a resolution of the Coalition's Board dated May 10, 2019, hereby selects the Developer to be its exclusive commercial facilitator to assist and advise the Coalition and to develop the Facilities by (i) financing the purchase of the property for the Right of Way, and then (ii) undertaking, pursuant to a long term arrangement for the use of the Facilities by the Developer, which arrangement shall be acceptable to the Coalition and Developer to finance, construct, own, operate

and maintain the Facilities. The Developer may develop the Facilities either directly or indirectly (acting through Developer's Affiliate, which is defined as a portfolio entity of Developer and assigns and their respective contractor).

3. The Developer understands and agrees that the Coalition intends to cooperate with the Ute Indian Tribe and that the Ute Indian Tribe has been extended an invitation by the Coalition to participate in the Preferred Route for the rail and the Facilities (irrespective of the route) to the extent it so desires. Any and all participation by the Ute Indian Tribe or any interest in the rail, the transloading facilities, or any other Facilities shall be in the sole, unfettered discretion of the Ute Indian Tribe. The Developer agrees to the term sheet between the Coalition and the Ute Indian Tribe that the Coalition Board approved on May 10, 2019, recognizing that the Ute Indian Tribe may not agree to such terms, and the Developer further agrees that all negotiations and agreements related to the participation by the Ute Indian Tribe in the rail and Facilities shall be within the purview and under the direction of the Coalition, however the Coalition agrees to consult with the Developer and seek their input and consent prior to any agreement.

4. In connection with any financing of a purchase of the Right of Way for the anticipated development of the Facilities, the Parties shall also negotiate in good faith for a long term arrangement between the Coalition and the Developer, which arrangement shall be acceptable to the Parties (and may include, without limitation, a lease, a concession, a license and/or a right of use), whereby the Developer, the Developer's Affiliates will have long term rights to arrange for and coordinate the financing, construction, ownership, operation and maintenance of the Facilities (with such agreement or agreements being referred to herein as the "Development Rights"), subject to the Board's approval.

5. The term of this MOU will be for five years from the Effective Date unless extended or terminated by agreement of the Parties; provided however, that if the Developer has not been successful in presenting a proposal reasonably acceptable to the Coalition Board to finance the purchase of the Right of Way for the alternate route to be approved by the Surface Transportation Board coupled with Development Rights to finance development of the Facilities by June 1, 2020, then the Coalition will have the right to terminate the MOU, with thirty days written notice to the Developer, and to work with other parties to finance the purchase of the Right of Way and to develop it for any purpose the Coalition deems in its best interest. The Coalition, however, shall not enter into any agreement with any third party to finance the purchase of the Property or to grant any Development Rights to any such third party with which the Developer materially negotiated to reach an agreement to finance the purchase of the Right of Way or to exercise the Development Rights (each such third party being referred to hereinafter as a "Prohibited Third Party"), or with or to any Affiliate of any Prohibited Third Party, provided that the Developer has given written notice, within the later of thirty days (1) of the execution of this MOU or (2) the initiation of such material negotiation, to the Executive Director identifying any such Prohibited Third Party. For purposes of this MOU, an "Affiliate" is, with respect to the Developer or any Prohibited Third Party, any other person directly or indirectly controlling, controlled by or under common control with Developer or any Prohibited Third Party. For the purposes of this definition: (a) the term "control" (including with correlative meaning, the terms "controlled by" and "under common control with") as applied to the Developer or any Prohibited Third Party, means the possession, directly or indirectly, of the power to direct or cause the direction of the management of the Developer or that Prohibited Third Party whether through ownership of 50% or more of the Developer's or such Prohibited Third Party's voting securities, by contract, or otherwise; and the term "person" means any individual, corporation, partnership, limited liability company, trust, unincorporated association or other entity.

6. Except as is acceptable to the Developer, the Coalition shall not, through the Executive Director or any other person, directly or indirectly, negotiate any: (a) financing, lease, right of use, license, concession or purchase of the Right of Way or the Development Rights; (b) financing or other agreement regarding any development thereof; (c) other encumbrance of the Right of Way, with any person or entity other than the Developer during the term hereof without the Developer's prior consent.

7. Any agreement reached between the Coalition with regard to financing a purchase of the Right of Way, coupled with a long-term arrangement for the use of the Facilities by the Developer (or other arrangement acceptable to the Parties) and the Development Rights, will be subject to the Coalition Board's review and approval. The Parties intend Development Rights to include the transportation of bulk commodities to and from the Uinta Basin and from markets outside the State of Utah, which transportation may commence prior to construction of the Uinta Basin Railway.

8. In carrying out their obligations hereunder both Parties shall comply with all applicable laws.
9. This MOU is to be interpreted and enforced in accordance with Utah law, without the application of any jurisdiction's conflicts of law principles.
10. This MOU is not assignable by either Party without the written consent of the other Party.
11. The foregoing recitals are incorporated herein by reference and are made a part hereof in their entirety.

[Signed on Next Page]

IN WITNESS WHEREOF, the Parties have caused their duly authorized representatives to execute this MOU as of the Effective Date.

Seven Counties Infrastructure Coalition

By: Michael J. McKee

Name: Michael J. McKee

Title: Executive Director

ATTESTED:

Eric Todd Johnson
Eric Todd Johnson, Legal Counsel



Drexel Hamilton Infrastructure Partners, L.P.

By: Mark A. Michel

Name: Mark A. Michel

Title: Managing Partner

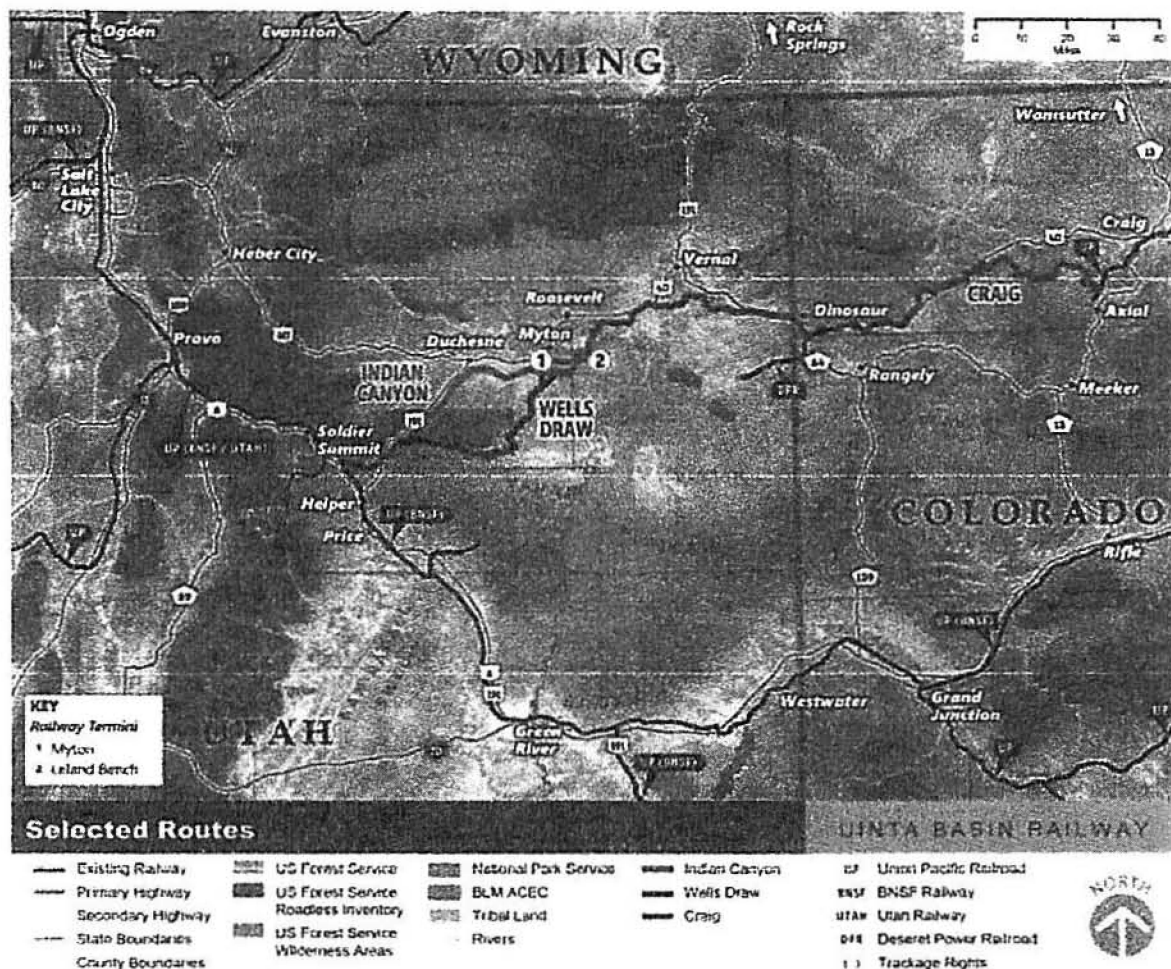
*[Signature Page to Memorandum of Understanding Regarding the Utah Seven Counties Infrastructure Coalition
Uinta Basin Railway Development]*

EXHIBIT A

The need for the Uinta Basin Railway is to enable the residents and industries in the Uinta Basin to have the same economic opportunities and access to markets that are enjoyed by most of the residents and industries elsewhere in the United States. The economic burden on residents and industries in the Uinta Basin through their current costly, truck-mediated access to railway service prevents them from enjoying the same economic opportunities that are available to most of the residents and industries elsewhere throughout the country.

The Uinta Basin Rail project is a proposed railroad in the Uinta Basin region of eastern Utah. In 2012, the Utah Department of Transportation, working with the regional Six-County Infrastructure Coalition, began studying transportation in the basin. After examining 26 potential routings, the determination of three routes were superior, (1) a proposed longer route east through eastern Utah connecting to the Union Pacific branch line in Craig, Colorado, (2) a proposed 80 mile long railway route through the Indian Canyon west from the basin to near Soldier Summit, and finally (3) a proposed 100 mile long route to Soldier Summit through a more southern route via Wells Draw.

The right of way would largely follow existing roadways, including US Route 40 and US Route 191. There are intended to be one or two terminals established in the basin for crude oil loading and to receive the importation of frac-sand and other commodities needed for the extraction of natural resources in the state of Utah. See the image below for greater illustration of the preferred routes and locations.





SEVEN COUNTY INFRASTRUCTURE COALITION
SPECIAL MEETING MINUTES

June 1, 2020 at 2:00 p.m.

Electronic Meeting
(435) 219-1362

Board Members Present: Casey Hopes (Carbon County), Jack Lytle (Daggett County), Greg Miles (Duchesne County), Lynn Sitterud (Emery County), Willie Grayeyes (San Juan County), and Brad Horrocks (Uintah County)

Also, in attendance: Mike McKee, Eric Johnson, Brian Barton, Mike Hawley, Doug Rasmussen, Kristi Sharp, Heather Hoyt, Melissa Cano, Kevin Keller, Mark Hemphill, Pam Juliano.

Attended telephonically: All

Absent: Garth (Tooter) Ogden, Sevier County

Others Present: Commissioner Irene Hansen, Commissioner Bart Haslem, Kelly Carter, Devin Pehrson, Jeremy Patterson, Mitch Holditch, Richard Bartel, Bob Bach, Mark Michell, Greg Todd, Tim Fisher, Troy Ostler, Reed Paige (Please notify staff at 435-219-1362 of any spelling corrections.)

NOTE: Due to the Coronavirus, dial-in participation was offered. Dial-in numbers were as follows:

Join Zoom Meeting

<https://zoom.us/j/93482194980>

Meeting ID: 934 8219 4980

Dial by your location

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1. Welcome and introduction Brad Horrocks
2. **Discussion and consideration Amendment No. 2 to the Memorandum of Understanding with the Rail Developer extending time and adding a party, and related matters.** Mike McKee

Executive Director McKee began by introducing Mitch Holdich from the General Counsel Office of the Ute Indian Tribe, and Mark Hemphill and Bob Bach from Rio Grande Pacific and Mark Michel, Tim Fisher and Pam Juliano from Drexel Hamilton. Time was next turned over to Eric Johnson, SCIC attorney, who explained that the original Memorandum of Understanding (MOU) was executed in May of 2019. This MOU had a provision that the agreement could be

terminated as of June 1, 2020. A 1st Amendment was signed in October of 2019 clarifying a right-of-way acquisition. This 2nd Amendment extends the termination date of March 31, 2021. In addition, the Ute Indian Tribe is requesting to join the MOU as a party and this MOU outlines their roll.

Director McKee noted that the MOU had been previously signed by Luke Duncan, the Chairman of the Ute Tribal Business Committee, and by Rick Bartel of Rio Grande Pacific, and Mark Michel of Drexel Hamilton.

Resolution No. 2020-06A approving Amendment No. 2 to the Memorandum of Understanding with the Rail Developer extending time and adding a party, and related matters, was made by Commissioner Lytle, seconded by Commissioner Miles.

Prior to the vote, Commissioner Grayeyes requested clarification asking if this was a light rail or a real heavy rail? Eric Johnson, attorney, responded informing him that this was a heavy freight rail. Commissioner Grayeyes further asked if its purpose was to transport coal, oil or gas to other parts of the U S. or overseas? Eric Johnson responded that it was for that purpose.

Roll call vote, to make sure every electronic vote was counted, was as follows:

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon	Board Member	Yea X	No ____
Daggett	Board Member	Yes X	No ____
Duchesne	Board Member	Yea X	No ____
Emery	Board Member	Yea X	No ____
San Juan	Board Member	Yea ____	No X
Sevier	Board Member	Yea X	No ____
Uintah	Board Member	Yea X	No ____

Approved 6-1-0 absent

3. **A motion to adjourn** was made by Commissioner Hopes.

A motion to approve the June 1, 2020 Special Meeting minutes was made by Commissioner _____, seconded by Commissioner _____.

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon	Board Member	Yea	___	No	___
Daggett	Board Member	Yes	___	No	___
Duchesne	Board Member	Yea	___	No	___
Emery	Board Member	Yea	___	No	___
San Juan	Board Member	Yea	___	No	___
Sevier	Board Member	Yea	___	No	___
Uintah	Board Member	Yea	___	No	___

Co-Chair: Brad Horrocks

Co-Chair: Lynn Sitterud

(COALITION SEAL)

ATTEST:

Eric T. Johnson (Legal Counsel)

SEVEN COUNTY INFRASTRUCTURE COALITION

June 2, 2020

Resolution No. 2020-06A SPECIAL MEETING

**RESOLUTION APPROVING AMENDMENT NO. 2 TO THE
MEMORANDUM OF UNDERSTANDING WITH RAIL DEVELOPER
EXTENDING TIME AND ADDING A PARTY, AND RELATED
MATTERS.**

WHEREAS, in May 2010, the Coalition and Drexel Hamilton entered into a Memorandum of Understanding (the "MOU") related to the commercial development of the rail; and

WHEREAS, the Coalition, Drexel Hamilton and Rio Grande Pacific, as the Developer, desire to more clearly set forth terms related to the purchase of Right of Way for the rail pursuant to Amendment No. 1 to the MOU; and

WHEREAS, the parties to the MOU desire to extend certain terms and to add the Ute Indian Tribe as a party; and

WHEREAS, the Coalition has been informed that the Ute Indian Tribe approved Amendment No. 2 to the MOU on May 26, 2020.

NOW, THEREFORE, be it resolved by the Governing Board of the Seven County Infrastructure Coalition, Utah as follows:

1. The Governing Board approves and authorizes Amendment No. 2 to the MOU as presented, and authorizes the Executive Director to sign Amendment No. 2, as attached, and to have said contract sealed and attested as is appropriate and to take all further action as is appropriate and desirable related to the MOU as amended.
2. All parts of this Resolution are severable, and if any section, clause or provision of this Resolution shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of any such section, clause or provision shall not affect the remaining sections, clauses or provisions of this Resolution.
3. All resolutions or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed and this Resolution shall be in full force and effect immediately upon its approval and adoption.

APPROVED AND ADOPTED this June 2, 2020.

Motion by Commissioner Lytle and Seconded by Commissioner Miles.

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon County	Yea ☒ No ☐
Daggett County	Yea ☒ No ☐
Duchesne County	Yea ☒ No ☐
Emery County	Yea ☒ No ☐
San Juan County	Yea ☐ No ☒
Sevier County	Yea ☒ No ☐
Uintah County	Yea ☒ No ☐

Co-Chair Brad Horrocks

Co-Chair, Lynn Silterud

ATTEST:

Eric Johnson, Legal Counsel



APPROVED AND ADOPTED this June 2, 2020.

Motion by Commissioner Lytle and Seconded by Commissioner Miles.

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon County	Yea	☒	No	☐
Daggett County	Yea	☒	No	☐
Duchesne County	Yea	☒	No	☐
Emery County	Yea	☒	No	☐
San Juan County	Yea	☐	No	☒
Sevier County	Yea	☒	No	☐
Uintah County	Yea	☒	No	☐

[Signature]
Co-Chair Brad Horrocks

Co-Chair, Lynn Sitterud

ATTEST:

[Signature]
Eric Johnson, Legal Counsel





SEVEN COUNTY INFRASTRUCTURE COALITION
MEETING MINUTES

December 20, 2019 at 10:00 a.m.
Carbon County Commission Chambers
751 East 100 North, Price, UT
(435) 219-1362

Board Members Present: Casey Hopes (Carbon County), Jack Lytle (Daggett County), Greg Miles (Duchesne County), Lynn Sitterud (Emery County), Willie Grayeyes (San Juan County, arrived at 10:35a.m.), Garth (Tooter) Ogden (Sevier County), and Brad Horrocks (Uintah County)

Also, in attendance: Mike McKee, Eric Johnson, Brian Barton, Mike Hawley, Doug Rasmussen, Kristi Sharp, Heather Hoyt, Kevin Keller, Pamela Juliano, Mark Hemphill

Attended telephonically: Stan Holmes, Ryan Beam

Absent:

Others Present: Commissioner Kent Wilson, Troy Ostler, Daryl Fordham, Andrew Baxter, Mike Dennis, Ron Winterton, Alair Emory, Anna Boynton, Angelia Crowther, Mechelle Miller, Scott Hacking, Frances Stevens, Hank Stevens, Staci Wheeler, Renee Memmott, Chris Hansen

1. Welcome (Lynn Sitterud)

Commissioner Sitterud welcomed all in attendance. The Pledge of Allegiance was recited.

2. Public Comment (Lynn Sitterud)

Daryl Fordham, representing Argyle Wilderness Alliance – Mr. Fordham began by noting that in his opinion the Coalition’s Mission Statement contradicts its actions. It’s the role of government to do the people’s business, not to compete with private industry. He can find nowhere that the Coalition’s profits have been shared among the member counties. Rather, its profits are being used to support Director McKee’s compensation package. Such self-serving action by a “governmental entity” is wrong.

The second thing he addressed is the taxpayer burden for this project. It is clear, through various agreements, that the Coalition intends to own the project rights-of-way. When this happens, and thousands of acres of private land are removed from the property tax base, how are these counties going to offset these revenue losses? It seems clear that property owner’s taxes will have to be raised to make up these shortfalls. Do the residents understand this? Are they

OK sharing in the cost of this railroad? You may try to say that this difference will be offset by increased revenues and oil production, but not if Senator Winterton has anything to say about it as he pushes for the passage of SB201 which will exempt oil and gas production from Utah sales tax. So, not only will County residents lose tax revenue, they will have to help with infrastructure improvements required due to roads, etc. being pushed well beyond their capacities. All this while the Counties will be experiencing a reduction in property tax and sales tax revenues. So, where is this money going to come from? Do your County residents know where it's going to come from? How many of them know they will be on the hook through massive tax increases? All of your careers are in jeopardy from this single project and all the handouts that are being given to support it. You have already squandered almost \$28 million dollars of CIB money that could have been used for necessary infrastructure improvements. If the rail is built and the infrastructure can't support the temporary boom it creates, you will be the ones to blame.

The STB (Surface Transportation Board) just issued the scope for their draft EIS. They flat out stated that they are not considering landowner impacts and/or owner concerns. Time and again you've pushed responsibility off onto the STB saying they are the ones responsible to make decisions but now they are saying they aren't even considering these impacts to us private landowners. So, that puts the responsibility back on you.

We do all we can to fight this. If we challenge this in a legal manner, that comes out of our pockets. You guys, as a "governmental entity", you have unending resources to fight us. We use our own money. We are just trying to protect what is ours and really what it comes down to is we are powerless against you guys and the government that is supposed to be serving us and protecting our interests.

3. Approval of November 15, 2019 Minutes

Commissioner Ogden requested clarification on No. 11 in the minutes concerning the BLM Cost Recovery on the Seep Ridge Road project. He wondered why the Coalition is not required to do cost recovery on the \$3.2 million from the State of Utah, but later in the minutes it states that we are approving the cost recovery? Director McKee stated that we are not required to pay it right now, but if it is put off a few years into the future, when it comes due an inflation factor could cause the Coalition to have to pay millions more than if it is paid right now.

Commissioner Ogden also asked where the \$4.2 million dollar number came from if we are talking about \$3.2 million dollars? Director McKee explained that they had previously received \$500,000 from the CIB and have another \$500,000 pledged by the Uintah Transportation Special Service District, making the total funds \$4.2 million dollars. The CIB grant expires the end of December, this year, and there is only around \$50,000 left in the grant. The Coalition will be submitting a request to extend the deadline allowing for the full use of all the grant funds. Director McKee has checked with the Special Service District and that money is still waiting for us to use on this project. Commissioner Ogden had no further questions.

Motion to approve November 15, 2019 meeting minutes by Commissioner Lytle, seconded by Commissioner Hopes. Unanimously approved 6-0-1 absent. (Commissioner Grayeyes arrived after the discussion on the minutes.)

4. Report on San Rafael Research Lab.

Commissioner Sitterud began by stating that the Coal Combustion Machine is assembled and most of the building improvements are complete. They did not make their December 31st deadline to begin operations. They are held up waiting on a switch gear and a few other items. They have spoken with their first customer in England and they are willing to extend their start date to January 31, 2020. The electrical should be all done by then. The gas company is set to purge the gas line the end of the week. All of the installation has been completed. The water-cooling tower has been ordered and is expected by January 31st. They have had some delays but it is expected all should be ready by January 13st.

Commissioner Lytle wanted to thank Commissioner Sitterud for all of the hard work that has been done on this project. He wanted the Commissioner to know that they have his support and he believes the support of the Coalition Board. The project has positive long-reaching benefits for all of the Coalition counties.

Commissioner Hopes stated that they had a meeting with Utah State University in Logan and talked about letters of support and the University's interest in this project. It was a very positive and valuable meeting. Their letter of support has already been drafted and should soon be received.

Commissioner Sitterud stated that there has been a request submitted from the office to our federal representatives. They are looking at a meeting with 3 congressional offices, Senator's offices, the last week of the month before they have to return to Washington D.C. This will be an opportunity to give them more information about the project and let them know what kind of federal help and support is needed.

Commissioner Lytle said that he presumed they had been able to work out the problems with the gas company? Commissioner Sitterud reminded everyone that Dominion Gas had given them a bid of \$625,000 to install the gas service. Right before work began, they jumped the price to \$1,020,000. They were able to get the phone number for the President of the company. They had a very productive conversation with him. Some people under him found themselves in a bunch of trouble and they went back to the original bid.

5. Report on the Uinta Basin Railway Project.

Commissioner Horrocks began by noting that there has been a lot of good work and a lot of great people involved in bringing this project along. There was a great presentation last Tuesday at the Vernal Chamber of Commerce luncheon. The buzz and excitement were unreal.

Commissioner Miles added some comments. He noted that the project is on schedule. Also, the STB (Surface Transportation Board) posted in the Federal Register concerning the Craig Route being dropped from consideration. He, too, appreciated all of the work that Director McKee and the contractors have been doing.

Commissioner Lytle wanted to thank the board and everyone working on the project. He, also, wanted to thank the public for their oversight and comments. He noted that the public keeps them aware of the issues so they can be addressed.

6. Report on the Inland Port Satellite Hubs.

Commissioner Ogden stated that there was not a lot to report. He had been unable to make the meeting set for yesterday. They are still in the process of looking for the right individual or firm to help put this together.

Brian Barton, with Jones and DeMille, noted that they are working on a Scope of Work to put with a Request for Qualifications or Proposals for a consultant to do an initial feasibility study. This will help us to understand all of the dynamics and how this will fit into the bigger Salt Lake City Inland Port picture.

Commissioner Horrocks requested that Commissioners Ogden and Hopes let them know how they can lend support to the project. He mentioned that Legislature is about to begin and they will all be on the “Hill” during January and February. If they know how to help, they might have an unexpected opportunity.

Commissioner Ogden stated that he appreciated the offer and noted that the project is still in its infancy with them still trying to figure out how it all fits together.

7. Legal Items and Updates.

Attorney Eric Johnson stated that he had reviewed the State’s Travel Policy and it is many, many pages and quite detailed. In addition, he had reviewed the Travel Policies from other similar governmental entities. The policy before you today reflects the best of these.

Motion to adopt Resolution 2019-12A the Travel Policy was made by Commissioner Miles, seconded by Commissioner Ogden. Unanimously approved 7-0-0 absent.

8. Presentation by Andrew Baxter on sequestration (Carbon Capture).

Mr. Baxter was introduced as the CEO/Cofounder of Sustainable Energy Solutions. They have 10 years into research and development and over 80 patents filed. This is a Utah corporation. Cryogenic Carbon Capture can be used at power plants or gas plants to separate CO₂ from plant exhaust and pressurize it in a single process delivering it as a high-pressure liquid ready for transportation and use or to be stored underground. Its benefits are that it is the lowest cost retrofit carbon capture technology and it produces high-purity, liquid CO₂.

This process recognizes that the real-life solution is not to rid the world of coal, gas, oil, carbon products, but to come up with innovative means to clean up the by-products. There have been a couple of small, successful demonstration projects. Now they are ready for the first commercial demonstration that could result in moving a couple of trucks a day of CO₂. This is projected to be a \$25 million dollar project. Senator Hinkins supports the project and is helping to promote it at the State level. The bulk of the funding will come from private investors, industrial partners, and the federal government. They have asked the State of Utah for \$2 million dollars.

The project would happen entirely in the State of Utah. Engineers, manufacturers have all been sourced within the State. The demonstration project will take place at either the Hunter, Huntington or IPP Power Plants.

Commissioner Miles asked what the power requirement was for this process? Mr. Baxter stated that it is only about 14 to 15% of the plants power, which is about 50% less than any other process available at this time.

Commissioner Ogden asked if he understood correctly that Rocky Mountain Power was in support of this pilot project? If so, what is the “take away” for them? This could be very important for Sevier County which relies heavily on revenues from coal production. Mr. Baxter stated that he could not speak for them, but they have represented a willingness to host the demonstration project at one of their plants. They appear very interested in seeing this technology developed to help clean-up plant emissions.

Commissioner Miles asked, as far as regulations go, could this be used to replace “SCR” or is this in addition to that? Mr. Baxter stated that his process is a one-stop shop for capturing a variety of emissions, in addition to CO₂, which makes this process even more cost effective.

Andrew Baxter was asked if this still needed to be approved by the EPA? He stated that yes, before it is implemented full scale at some place like the Hunter Plant, they would either need a pretty large market to support it or regulations forcing the use of this type of carbon recapture. It appears like this is coming in the near future.

Commissioner Miles went on to say that this could be a game changer for the Uintah Basin. If they could use this CO₂ to flood zones instead of water, it would be much better for the environment. They’d be using CO from the air and using it to lift petroleum out of the ground. This is a very exciting process.

Commissioner Hopes asked if they had had communication with the DOE (Department of Energy)? He went on to say that a few of the Commissioners have met with the DOE, on other projects, and the DOE seems very interested in some of these alternative options.

Mr. Baxter stated that the DOE has been an important stakeholder for them and supported parts of their work to date. The pilot project at the Hunter Plant was partially supported by the DOE.

The DOE will be putting out some requests for projects this next Spring and they are hoping to get some more of their funding for cost sharing.

The board thanked Mr. Baxter for his presentation and asked him to come back in the future with an update.

9. Discussion and consideration of allowing the Co-Chairs and Executive Director to approve the June 2020 Eastern Utah Regional Connection (Seep Ridge Road) invoices for payment prior to the July 2020 meeting.

If you will remember, last year, we needed to have the July meeting the first week of July in order to approve all the invoices and get them submitted timely to the State due to their end of year deadlines. This year, the only contract that comes under that same deadline is the Seep Ridge Road Project. That project's expenditures need to be approved right at the first of the month, like last year. In order to do that we will need board approval for the Co-Chairs and the Executive Director, along with our financial people, to review the Seep Ridge Road expenditures and submit those to the State timely on the first of July. Those expenditures would then be brought to the July 10th board meeting for ratification. This will give the contractors and vendors time to get their invoices submitted for payment and allow the board ample time to review expenditures prior to the meeting. Last year was very difficult for everyone and this should make that process much smoother.

Motion to adopt Resolution 2019-12B allowing the approval of the June 2020 Seep Ridge Road Invoices by the Co-Chairs and Executive Director was made by Commissioner Miles, seconded by Commissioner Ogden. Unanimously approved. 7-0-0 absent.

10. Discussion and consideration of the 2020 Annual Meeting Schedule.

As we look at the proposed 2020 meeting schedule meetings will remain on the 3rd Friday except for the July meeting, which we just spoke about, which will be on July 10th, and the November meeting which will be on the 13th because UAC is on November 20th. All meetings will be in Price, except for the February 21st meeting which will be at the CIB office in Salt Lake City to accommodate those who will be at Legislature.

Commissioner Lytle asked about September and the Energy Summit. Did we miss that date? Commissioner Horrocks stated that he believed that we had missed that date. Staff will double check to make sure.

NOTE: Staff checked the dates for the 2020 Energy Summit and they are August 28th to 29th.

Motion to adopt Reslution 2019-12C adopting the 2020 Annual Meeting Schedule was made by Commissioner Lytle, seconded by Commissioner Horrocks. Unanimously approved. 7-0-0 absent.

11. Executive Directors Report.

Executive Director McKee began by thanking the board for the amount of time and effort each member is putting into these great projects. Also, he thanked all the other County elected officials, Senators, Representatives and project members who lend their help and support. These kinds of complex projects cannot happen without this kind of ongoing support.

Director McKee next introduced Staci Wheeler with Alphatech Research Corporation. Ms. Wheeler is helping in conjunction with the Research Lab. This is one of the public/private partnerships which help projects advance and develop. Ms. Wheeler reported that they are working on a design to separate out various elements from the Molten Salts. She then introduced Renee Memmett who also works with Alphatech. She reported that Staci and Matthew Memmett have been in Washington, D.C. Out of that trip has developed more interest from the Department of Defense (DoD). This interest may lead to another source of revenue for the Research Lab. If the DoD continues to show interest and support this project could move from research to the production stage.

Staci added that the Federal Appropriation Bill contains the most funding for nuclear that they have ever seen. It, also, includes funding for 2 demonstration plants and an additional \$30 million to be used for research. There is, also, \$70 million in the DoD budget for mobile nuclear reactors. They have had some conversations about mobility design for the military or domestic use. There is a lot of interest in developing smaller power sources without having to construct a full-sized plant. In referring back to the \$30 million, these are funds that the Research Lab is in a great position, along with a partner, to apply for and possibly receive a portion.

Commissioner Sitterud mentioned that there is a meeting scheduled for the last week of the year to educate congressional people about this research and these possibilities. They also plan to educate federal people about what's going on with nuclear and Molten Salts. Matthew will be teaching them hoping to increase their knowledge and background giving them a better ability to make decisions as concerns these appropriations.

Commissioner Grayeyes requested a copy of their presentation, a briefing paper or some kind of additional information concerning Uranium mining and the medical isotopes. He wanted to know if this is medically viable technology? Staci addressed his question stating that this is now state of the art and widely used medically. She stated that previously all of the sources for these medical isotopes came from out of the country, but at times there have been shortfalls in product and the U.S. has not had any control. Consequently, Congress has mandated that a U.S. domestic source be developed, but that has not happened yet. But this is proven technology. The U.S. is the largest consumer but has no supply of its own. Executive Director McKee and Commissioner Sitterud requested they get Commissioner Grayeyes some fact sheets.

Executive Director McKee next introduced Alair Emory with the Utah State Office of Energy Development. The million-dollar grant awarded to the Research Lab came through her office and she will be the person administering the grant. She has experience with nuclear advanced concepts, as well as carbon capturing and sequestration, so she is very excited to be helping with this grant.

Director McKee mentioned that there was a group that met with him in Vernal that has computerized equipment used for testing oil shale and can be used with coal, also. Although it is not for sure at this time, it appears they may donate this equipment to the Coalition.

As to the rail project, the fact that this project is on schedule is monumental. This has been a very aggressive schedule, yet the project is still on task. Thank you to everyone for making this possible.

He also reported that the Seep Ridge Road project is moving forward. That, too, requires a lot of coordination and he wanted to recognize everyone working on it for a job well done.

12. Report on Uintah Advantage.

This is tabled until the January meeting.

13. Discussion and consideration of the Fraud Hot Line.

A policy was adopted a couple of months ago establishing a Fraud Hot Line. The actual phone number to be used had not been determined at that time. This Hot Line would give someone who might be aware of suspicious or fraudulent activity a way to report. In addition, the State is requiring a Hot Line to be established. In order to keep the cost down, Carbon County has offered one of its phone lines to be used. If a call is received on that line the substance of the report would be passed on to the Coalition's Co-Chairs for review and determination of the appropriate action to be taken.

UPDATE: The Fraud Hot Line phone number is 1-435-636-3224. The number is posted in the bottom margin of the website's home page (www.scic-utah.gov).

14. Discussion and consideration of the ground lease with Emery County.

The purpose of this ground lease is to memorialize the relationship between Emery County and the Coalition as concerns the San Rafael Research Lab. Emery County has purchased the property, has been paying for the utilities, and has put in a lot of sweat equity. They have also applied for and received a CIB grant. The ground lease is not quite ready for review, so it won't be considered at this time. Hopefully it will be ready for next month.

Commissioner Sitterud had some concerns he wanted addressed before the project went any further. Because of questions he has received and comments he has heard, he was concerned that the Coalition may not really want to move forward with this project. He wondered if it was the board's preference that Emery County move forward on its own? The lease will be a 15-year lease with an annual review during which the Coalition could pull out, if it so chose. So, every year the Coalition could opt out. Right now, Emery County has about a million dollars invested in this Lab.

Commissioner Miles stated that he believed this Lab and the Molten Salt Project represented an amazing opportunity and this project fits into the 7 County's portfolio. This is as big, if not

bigger, for Emery County than the railroad is for all of the other counties. He finished by saying that Duchesne County is 100% in support of this project.

Commissioner Ogden stated his only concern is how the Coalition comes out in the end of this project? He thinks it's a good project but would like a better vision of where it is headed. How does 7 County fit in? There are still a lot of unanswered questions. He supports the project but still needs some questions answered. Is the Coalition suppose to be incubating projects? Owning projects? Is it suppose to develop and at a later date sell of its interest?

Director McKee addressed his concerns. He stated that this project had already been voted on and accepted by the Coalition. To the best of his knowledge this has always suppose to have been a Coalition project. As to the end game, some projects are always going to bring in more revenue than others. Some projects may have more to do with community building through adding jobs and enriching communities. Emery County has taken on a lot of risk with this project. Until it is up and running there is not a revenue stream to cover Operation and Maintenance (O&M) expenses. But, Alair Emory, with the State Office of Energy has confirmed that the State grant can be used to cover some of these costs. Emery County can submit those appropriate expenses for reimbursement.

The Coalition's attorney, Eric Johnson, added that when a governmental body enters in to a lease for more than one year, under the Constitution, the entity must have the opportunity to step away each year. It's called an Annual Appropriation Lease. So, everyone understands, this clause was not added to this lease to give the Coalition an "out" each year. It is a required provision. Were that provision not in the lease there would have to be a public bond election supporting the long-term project.

Director McKee stated that what he thought was really needed today was to have the board reflect its support for this project.

Commissioner Hopes stated that Carbon County is 100% behind it. There are still some questions as to where all of the money will come from, but if we can use some of the State's grant money for right now that would be great. Then, if we can get some of the letters of commitment from those planning to use the Lab that would add additional security. That helps establish a future revenue stream. The Coalition is not financially in a position to help pay for these things.

Director McKee added that Senator Hinkins is looking to get a \$9 million dollar appropriation from the legislative this session. There is a good chance this could happen. Also, there is a chance of getting some of the federal appropriation money.

Commissioner Sitterud stated that Emery County has hired a consultant who is working with the Department of Energy right now to get some of the remaining 2019-year end money. It was his understanding that the Coalition was going to help pay the insurance and help with the utilities, but so far that hasn't happened. So, right now, Emery County is paying all of the expenses.

Commissioner Kent Wilson, from Emery County, stood up from the audience and addressed the board. He wanted them to know that the expense pay back wasn't really the issue. The issue

was the lack of support from the Coalition to Commissioner Sitterud and Emery County and the project in general.

Commissioner Horrocks stated that he fully supported the project and Emery County needs to use some of the State grant funds to reimburse themselves for these expenses. He further stated that everyone needs to pull together on this project. He, personally, is excited about the opportunity this represents for those three counties. He is 100% behind it.

Alair Emory further added that these expenses incurred after the start of the funding, July 1st, 2019, used to get the facility up and running, may be submitted for reimbursement.

Commissioner Lytle doesn't think there is a question as to whether 7 County supports this project. It sounds like the retroactive expenses can be paid, which is great for Emery County. He'd like to see a motion to support the project and move forward with the agreements. It's time to just move forward and get this done.

Commissioner Ogden once again reiterated that he is not opposed to the project. He just has some questions. It's a good project and he would not want Emery County to believe he was not in favor of it. He has reservations when it comes to signing contracts if the revenue stream has not been identified. That's just being fiscally responsible.

Commissioner Miles stated that they would find the money. He will help knock on doors if needed. He has done it before on other projects in his County and he is not opposed to doing it again for this project.

Commissioner Horrocks stated that there are still details to work out but he thought it was time for a motion in support. Commissioner Hopes added that it would be his recommendation that everything reimbursable through the State grant be paid as soon as possible. Commissioner Miles stated that there are still some things in the actual agreement that he would like to see addressed.

Commissioner Sitterud added that there are ownership questions still to be resolved. Whose money is the CIB grant? But, the big question for him is whether the 7 County board is in favor of the project and do they want to move forward?

Commissioner Hopes made a motion that as long as there is a funding source then Emery County should be reimbursed for appropriate project expenses out of the State grant. Commissioner Lytle seconded the motion. Approved unanimously. 7-0-0 absent.

Commissioner Miles made a second motion to put this to a roll call vote as to whether the board members were in support of the project and whether or not it should remain a 7 County project. Commissioner Hopes seconded the motion. Approved unanimously. 7-0-0 absent.

Roll call vote was as follows:

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon	Board Member	Yea X	No ____
Daggett	Board Member	Yes X	No ____

Duchesne	Board Member	Yea X	No ____
Emery	Board Member	Yea X	No ____
San Juan	Board Member	Yea X	No ____
Sevier	Board Member	Yea X	No ____
Uintah	Board Member	Yea X	No ____

15. Resolution approving monthly expenses.

Accountant Doug Rasmussen led the discussion. He began by stating that initially there were expenditures presented for approval in the amount of \$1,203,812.92. The check copies and invoices had been submitted prior to the meeting for the board's review.

Director McKee stated that there was one check to pull and hold until next month. It was Jones & DeMille check number 1570, Invoice number 021589. This check is made up of 3 invoices. The invoice in question is for \$2,312.36. Once this invoice is removed the check will have to be re-issued for \$10,782.25. This would change the total amount of invoices to be approved.

Commissioner Ogden questioned why Heather (Staff to Board) had spent 4 hours reviewing the audio of a CIB meeting? Attorney Eric Johnson stated that there was information from the June meeting that needed to be reviewed prior to responding to a Request for Information. It was essential to double check to make sure they were accurately responding with what was on the public record.

Commissioner Ogden requested additional information as to the background concerning the check to ICF in the amount of \$111,464.05. Director McKee stated that ICF was the 3rd party consultant hired to provide information to the Surface Transportation Board for the NEPA environmental document. They are independent from any of our other consultants as required by law and we have to pay their bill.

There was one other question from Commissioner Sitterud concerning a check to Duane Moss. Duane Moss is a water attorney for the Ute Indian Tribe and is working on the utilities for the Leland Bench Project.

Commissioner Horrocks wanted to address an invoice where there had been a charge for alcohol. Although our position is that the board will not reimburse alcohol, and that particular charge had been stricken from the invoice and not paid, he just wanted to ask that Contractors be reminded that this is not acceptable and, if possible, please pay any alcohol charges separate from the meal.

Doug Rasmussen, accountant, stated that alcohol charges are not currently a board policy, but the board could adopt such a policy if it wished.

SEVEN COUNTY INFRASTRUCTURE COALITION FINANCIALS					
December 20, 2019 at 10:00 a.m.					
751 East 100 North, Price, UT 84501					
Vendor	Check #	Invoice #	Amount	Description	Grant
CIVCO Engineering, Inc	1559	2019536	47,023.50	I-70 Transportation Corridor - Engineering	Book Cliffs Transportation Corridor
Jones & Demille	1560	0121582	242.50	I-70 Transportation Corridor - Engineering	Book Cliffs Transportation Corridor
ETJ Law	1561	1563	3,000.00	General - Legal Services	General
ETJ Law	1561	1564	2,158.92	Leland Bench Utilities - Legal Services	General
Smuin, Rich & Marsing	1562	40862	4,038.59	Consulting Per Contract - November 2019	General
Mike McKee	1563	Nov. 2 - Dec. 3, 2019	222.22	Director's Travel/Expenses	General
Heather Hoyt	1564	November 29, 2019	2,503.04	Office Supplies, Administrative Hours	General
UB Media (Uintah Basin Standard)	1565	130451	77.25	Legal Notice - Budget Hearing	General
UB Media (Vernal Express)	1565	130464	77.25	Legal Notice - Budget Hearing	General
San Juan Record	1566	157016	28.80	Legal Notice - Budget Hearing	General
Emery Telcom	1567	12/01/2019	92.00	Legal Notice - Budget Hearing	General
The Richfield Reaper	1568	32396	70.00	Legal Notice - Budget Hearing	General
Utah Media Group	1569	I01274557-11232019	119.24	Legal Notice - Budget Hearing	General
Utah Media Group	1569	I01275154-11302019	955.00	RFP for Engineering Services	General
Utah Media Group	1569	I01269800-10102019	1,145.00	RFQ for Energy Research Center Operations	General
Jones & Demille	1570	0121583	10,782.25	Engineering, Planning, Coordination	General
ETJ Law	1571	1562	583.33	Molten Salt/Research Center Facility - Legal Services	Energy Research Center
HDR	1572	1200230533	280,000.00	Uinta Rail Line - Engineering	Uinta Basin Railway Project - Engineering Services - Phase 2
HDR	1572	1200230533	320,000.00	Uinta Rail Line - Engineering	Uinta Basin Railway Project - Baseline Environmental Services - Phase 2
HDR	1572	1200230534	49,000.00	Uinta Rail Line - Engineering	Uinta Basin Railway Project - Strategic Communication Services - Phase 2
Jones & Demille	1573	0121590	123,210.00	Uinta Rail Line - Engineering	Uinta Basin Railway Project - Program Management Services - Phase 2
Jones & Demille	1573	0121590	6,301.14	Uinta Rail Line - Engineering	Uinta Basin Railway Project - Engineering Services - Phase 2
Jones & Demille	1573	0121590	149,160.00	Uinta Rail Line - Engineering	Uinta Basin Railway Project - Mapping Services - Phase 1 & 2
Jones & Demille	1573	0121590	740.00	Uinta Rail Line - Engineering	Uinta Basin Railway Project - Right-of-Way Planning - Phase 2
ETJ Law	1574	1565	9,038.28	Uinta Rail Line - Legal Services	Uinta Basin Railway Project - Legal Services - Phase 2
Venable LLP	1575	2166070	79,468.20	Uinta Rail Line - Legal Services	Uinta Basin Railway Project - Legal Services - Phase 2
ICF Jones & Stokes, Inc	1576	0143318	111,464.05	Uinta Rail Line - NEPA Consulting	Uinta Basin Railway Project - Baseline Environmental Services - Phase 2
Total Payment Approval			\$ 1,201,500.56		

Commissioner Lytle requested to make a motion to adjust the total of the invoices being presented, less the \$2,312.36 reflected by Invoice 021589, payable to Jones & DeMille, making a new total of \$1,201,500.56.

Motion to approve Resolution 2019-12-D approving expenses dated 12-20-2019 in the amount of \$1,201,500.56 was made by Commissioner Lytle, seconded by Commissioner Hopes. Unanimously approved. 7-0-0 absent.

Roll call vote for expenses for payment was as follows:

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon	Board Member	Yea X	No ____
Daggett	Board Member	Yes X	No ____
Duchesne	Board Member	Yea X	No ____
Emery	Board Member	Yea X	No ____
San Juan	Board Member	Yea X	No ____
Sevier	Board Member	Yea X	No ____
Uintah	Board Member	Yea X	No ____

Doug Rasmussen next directed the board to the financial reports to include the Balance Sheet, followed by the Profit and Loss sheet thru 10-31-2019. The Profit and Loss is also provided by class, individual operating revenue and expenses associated with the various funding sources.

Note that negative amounts represent expenses where there is not an income stream to offset the expenses. These are often professional or technical expenses which have been paid but are not associated with a specific project. Or, it can be things like bank charges. The Coalition has a little money of its own, but not a lot. They will take a careful look at these expenses and see if there is any way to reimburse them.

Motion to accept the financials as of October 31, 2019 was made by Commissioner Horrocks, seconded by Commissioner Miles. Unanimously accepted. 7-0-0 absent.

Mr. Rasmussen next took the board through the sheets depicting each project and how much remains in each fund. This is solely for the board's information and does not require board approval.

Commissioner Miles directed a question to the Jones & DeMille staff wondering whether we were on budget with the rail project? Are there any overages? Brian Barton, with Jones & DeMille, responded that the project is on track to be under budget at this point. Lessening the role of BLM has helped save money. They feel very good about the rail project budget.

Commissioner Lytle asked if we were expecting any reductions in cost recovery with BLM's reduced role? The response was yes. Initially there was \$500,000 budgeted for cost recovery. To date, BLM has been paid \$100,000 of that money. If that is not all spent the balance will be returned.

Commissioner Hopes wanted the board to know that he had performed his expense oversight audit. He has gone through October 31, 2019. He will get November and December finished as

soon as he can. The board reflected its appreciation for his doing this. The oversight is something required by the State and he is keeping the Coalition compliant.

Commissioner Horrocks wanted to remind everyone that the Coalition is under scrutiny at the State level as concerns its expenditures. These are public funds and they need to be very careful to see they are used responsibly.

16. Public Hearing to adopt the 2020 budget.

Commissioner Miles made a motion to go in to the Public Hearing, seconded by Commissioner Ogden. Unanimously approved. 7-0-0 absent

Doug Rasmussen, the Coalition accountant, began by asking board members to look at the 2020 Tentative Budget adopted at the last meeting. As to the CIB proceeds, currently there is \$19,740,000. The 2020 Budget needs to have this amount increased to \$19,790,000. Of that amount, \$19,000,000 is for the Rail Project, \$740,000 is the General Grant, and \$50,000 is the remaining money in the Seep Ridge Road grant carried forward into 2020.

Another modification is in Intergovernmental Income, where we take the \$85,000 down to \$50,000. So, \$50,000 is the I70 Transportation Project.

Of the \$13,325,000, there is \$9,000,000 from the Energy Center coming from Senator Hinkins, and a million coming from the Department of Energy. Then, the UDOT I70 Project for \$3,325,000.

There is debt financing anticipated, \$10,000,000 for the Water Project and \$4,500,000 for the Leland Bench Project. That makes up the total anticipated revenue for the 2020 budget.

When preparing line items in a budget, the revenues and expenditures are required to be the same. There is an increase in the line item for the Eastern Utah Regional Connection pre-construction. That \$3,300,000 is increased by \$15,000 which will bring the total expenses for 2020's budget to \$47,665,000.

Commissioner Sitterud asked if there was any public comment. Seeing none:

Commissioner Miles made a motion to leave the public hearing and return to the meeting, seconded by Commissioner Hopes. Unanimously approved. 7-0-0 absent.

Commissioner Miles next made a motion to adopt Resolution 2019-12D accepting the 2020 budget in the amount of \$47,665,000.

Roll call vote was as follows:

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon	Board Member	Yea X	No ____
Daggett	Board Member	Yes X	No ____

Duchesne	Board Member	Yea X	No ____
Emery	Board Member	Yea X	No ____
San Juan	Board Member	Yea X	No ____
Sevier	Board Member	Yea X	No ____
Uintah	Board Member	Yea X	No ____

17. Engineer's Report.

Brian Barton stated that everyone, today, has heard a lot about the difference projects. He turned the time over to Michael Hawley, from Jones & DeMille. Mr. Hawley mentioned that there is a very large data transfer going to the STB right as he was speaking. In the past month that has been the biggest project, gathering all of this data to submit to the STB. There is still engineering work taking place and mapping efforts are still underway.

18. Update concerning the refining of the Whitmore Park preferred alignment.

Director McKee opened this stating that the last time we met this alignment was running along the Emma Park Road. There are several different factors that have to be considered once a route is determined – habitat, wildlife, birds, etc. These all influence the alignment.

Kevin Keller noted that each of the Commissioners had been given a copy of the Federal Register Notice containing the STB Scope of Study. In the beginning there were 30 alternatives being considered. That has been refined down to 3 proposed alternatives to carry forward to the STB NEPA process. Since then there has been a lot of work – public scoping meetings, meetings with the various agencies, etc. The Craig Route has been dropped. The Indian Canyon Route has been modified to what we are calling the Whitmore Park route. One of the things modified on the Whitmore Park alignment is the western part that runs through Utah/Carbon Counties. Originally it was thought to use the Emma Park Road to cross Hwy. 191. This would be on BLM land. We quickly found out that being on BLM land was not an advantage. Because it is BLM land, we would have had to do a couple of amendments to either Land Management Plans or Resource Management Plans. This would have been possible but typically takes a couple of years to do. We don't have a couple of years in our schedule. So, we altered that alignment to go North of Emma Park Road onto private property. We aren't skipping any steps, but that allows us to maintain our aggressive schedule. We have tweaked other parts of that alignment to avoid impacting Sage Grouse Management Areas, trying to avoid too many water crossings, and any other sensitive habitat. We are looking hard at the far western terminus where we connect with the Union Pacific Railroad. It ends up there is a little piece of BLM property right in there that we will need to avoid. Then, right along Emma Park Road there is a strip of BLM land that was not initially identified but indeed exists. We are moving the alignment a little to avoid this. So, this is the new preferred alignment. This is the preferred alignment that STB, with the help of ICF, will be evaluating for impacts. While they are evaluating all of this data, we will be doing what is called a "minimization exercise". This is used to further refine the route. For example, if there is a place where we cross a body of water several times, can we

figure out a way to reduce that to one crossing, or no crossing. The goal is to reduce as many impacts as possible. But we are on schedule and the STB and other agencies are all on schedule.

The Chair recognized Darrell Fordham who had a question. Since the public scoping meetings took place there have been a lot of changes. Will the public have an opportunity to comment on these changes?

Director McKee and Kevin Keller both stated that when the STB releases the draft EIS, probably the end of March, first of April, the public will have a comment period. Then, when the STB releases its final document there will be another public comment period.

Commissioner Lytle asked Kevin Keller if the STB had the same map that they were looking at today? Kevin stated that the STB had what they call the November 22nd version of the map. The only changes since then are a couple of small areas on private property where they had to make some slight adjustments.

19. Update concerning the amending of the Independent Contract Agreement with Eric Johnson.

Executive Director McKee began by reminding everyone that at the last meeting a Sub-Committee was appointed to finalize this contract with Eric Johnson. Currently, his contract with us is for CIB projects. He is capped at \$175,000 a year for 84 hours a month. With the Research Lab he is putting in additional hours. We now have the grant from the State Office of Energy which allows money for work done on behalf of the Lab. Mr. Johnson needs a way to bill for and be reimbursed for his hours outside of the CIB grants. We have checked with the Office of Energy and Lab related expenses can be submitted for reimbursement against their grant. Mr. Johnson has indicated he would bill any Lab hours at \$170 an hour. We have checked with CIB and they do not have a problem with this. This new contract states that should he submit hours for work on the Lab that the State Office of Energy does not approve for payment, the Coalition is not responsible for paying those hours. This contract would begin December 1, 2019.

Commissioner Hopes made a motion to accept Resolution 2019-12E, seconded by Commissioner Ogden. Unanimously approved. 7-0-0.

20. Motion to enter closed/executive session and reopen at the end of the closed/executive session for the purposes of pending and recently imminent litigation, and potential real estate acquisition was made by Commissioner Lytle, seconded by Commissioner Miles. Unanimously approved 7-0-0 absent.

Roll call vote was as follows:

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon	Board Member	Yea X	No ____
Daggett	Board Member	Yes X	No ____
Duchesne	Board Member	Yea X	No ____
Emery	Board Member	Yea X	No ____
San Juan	Board Member	Yea X	No ____
Sevier	Board Member	Yea X	No ____
Uintah	Board Member	Yea X	No ____

21. Motion to leave closed/executive session made by Commissioner Hopes, seconded by Commissioner Lytle. Unanimously approved 7-0-0 absent.

22. A motion to adjourn was made by Commissioner Hopes, seconded by Commissioner Miles. Unanimously approved 7-0-0 absent.

A motion to approve the December 20, 2019 meeting minutes was made by Commissioner _____, seconded by Commissioner _____.

SEVEN COUNTY INFRASTRUCTURE COALITION VOTING:

Carbon	Board Member	Yea ___ No ___
Daggett	Board Member	Yes ___ No ___
Duchesne	Board Member	Yea ___ No ___
Emery	Board Member	Yea ___ No ___
San Juan	Board Member	Yea ___ No ___
Sevier	Board Member	Yea ___ No ___
Uintah	Board Member	Yea ___ No ___

Co-Chair: Brad Horrocks

Co-Chair: Lynn Sitterud

(COALITION SEAL)

ATTEST:

Eric T. Johnson (Legal Counsel)

CERTIFICATE OF SERVICE

I hereby certify that on July 7, 2020, I served the foregoing document, Reply In Opposition To Petition For Exemption, by e-mail on Kathryn Kusske Floyd, Seven County Infrastructure Coalition, 600 Massachusetts Ave NW, Washington, DC 20001, *kkfloyd@venable.com*, and on all other parties of record by e-mail.

/s/ Thomas F. McFarland

Thomas F. McFarland