

SURFACE TRANSPORTATION BOARD

DECISION

Docket No. FD 36284

SEVEN COUNTY INFRASTRUCTURE COALITION—RAIL CONSTRUCTION &
OPERATION EXEMPTION—IN UTAH, CARBON, DUCHESNE, AND UINTAH
COUNTIES, UTAH

Decided: August 25, 2020

On May 29, 2020, the Seven County Infrastructure Coalition (Coalition) filed a petition under 49 U.S.C. § 10502 for exemption from the prior approval requirements of 49 U.S.C. § 10901 for the Coalition to construct and operate an approximately 85-mile rail line connecting two termini in the Uinta Basin near South Myton Bench, Utah, and Leland Bench, Utah, to the national rail network at Kyune, Utah.

The Coalition asserts that goods produced or consumed in the Uinta Basin today can be transported only by truck and that the proposed project would give shippers a new, additional freight transportation option, eliminating longstanding transportation constraints. (Pet. 13-15.) The Coalition claims that adding a rail transportation option would provide local industries the opportunity to access new markets and increase their competitiveness in the national marketplace, and the removal of transportation constraints would benefit oil producers, mining companies, ranchers, farmers, and other local industries. (Id. at 15.)

The Coalition argues that regulation of the construction and operation of the proposed line under 49 U.S.C. § 10901 is not needed to carry out the rail transportation policy (RTP) at 49 U.S.C. § 10101 (and that the project would promote several provisions of the RTP) or to protect shippers from an abuse of market power. (Pet. 21-22.) The Coalition requests that, in considering the petition, the Board follow a two-step approach, addressing the transportation aspects of the project in advance of the environmental issues. (Id. at 26-28.)

Based on a request from the Argyle Wilderness Preservation Alliance (Argyle), the Board extended the due date for comments on the petition to July 7, 2020. On July 7, 2020, the Center for Biological Diversity (Center) filed a reply.¹ The Center argues that the Coalition has failed to justify a two-step approach and that the Board should reject the petition and require the Coalition to seek its authority through an application under 49 U.S.C. § 10901. (Ctr. Reply 1.) On the same day, Argyle also filed a reply, likewise arguing that the Board should reject the petition for exemption and require greater scrutiny of the proposed project through an application. (Argyle

¹ The Center submitted a supplemental filing consisting of the references cited in its reply on July 13, 2020.

Reply 9, July 7, 2020.) Argyle argues that, if it is not rejected, the petition for exemption should be denied because the project undermines various RTP goals. (Id.) Argyle also claims that the Coalition has failed to justify its requested two-step review process. (Id. at 14.) Additionally, by separate filings submitted on July 7, 2020, Argyle submitted numerous letters from individuals opposing the project.²

By this decision, the Board is instituting a proceeding under 49 U.S.C. § 10502(b). The requests that the Board reject the petition for exemption and require a full application under § 10901, as well as the Coalition's request that the Board follow a two-step approach addressing the transportation aspects of the project in advance of the environmental issues, will be addressed in a subsequent decision.

It is ordered:

1. Under 49 U.S.C. § 10502(b), a proceeding is instituted.
2. This decision is effective on its date of service.

By the Board, Allison C. Davis, Director, Office of Proceedings.

² Letters were also filed separately by Julie Mach on July 6, 2020, Powell T. Wood on July 8, 2020, and Alan T. Robinson on July 16, 2020. On July 21, 2020, the Coalition filed a response to the various filings in the docket. Accompanying the Coalition's response was a motion for leave to file, which Argyle opposed on August 10, 2020. The Board will address this motion and the late-filed submissions in a subsequent decision.