



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 8**

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November 3, 2022

Ref: 8ORA-N

Andrea Poole
Surface Transportation Board, OEA
Docket No. FD 36616
395 E Street SW
Washington, DC 20423

RE: Savage Tooele Railroad Company – Construction and Operation – Line of Railroad in
Tooele County, Utah; Preliminary Consultation, Docket No. FD 36616

Dear Ms. Poole:

The U.S. Environmental Protection Agency has received the request for preliminary consultation from the Surface Transportation Board (Board) for the Savage Tooele Railroad Company (STR) Construction and Operation Project. With this project, the STR is seeking authority from the Board to reinstitute common carrier freight service on approximately six miles of a currently inactive railroad line and to construct approximately five miles of new railroad line to extend the reinstated railroad line into a planned business and industrial park in Tooele County, Utah. In accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA), we are providing the enclosed comments to assist in the development of an environmental document.

Areas of consideration to meet NEPA requirements include:

Purpose and Need

The EPA recommends that the NEPA document for the proposed project clearly identify the underlying purpose and need (40 CFR § 1502.13). The purpose and need should be a clear, objective statement of the rationale for the proposed project, as it provides the basis for identifying project alternatives. The purpose of the proposed action is typically the specific objective(s) of the activity. The need for the proposed action may be to eliminate a broader underlying problem or take advantage of an opportunity. Please describe the short- and long-term transportation needs as well as the reasoning behind, and the information that supports, those needs.

Water Resources

The EPA considers the protection of water and aquatic resources a critical issue to be addressed in NEPA analyses for transportation projects, especially in the arid west. Portions of the project appear to pass through a significant palustrine wetland complex on the south shore of Great Salt Lake (GSL). The wetlands associated with GSL account for nearly 80% of the wetland acreage in Utah. The GSL is designated as a Hemispheric Site of Importance by the Western Hemisphere Shorebird Reserve Network, a designation that is shared by only seven such sites in the lower 48 states. The U.S. Fish and Wildlife Service describes the GSL ecosystem as a critically important and irreplaceable resource due to

its location, size, and ecological features. In particular, the open waters, shorelines, and adjacent mix of wetlands and uplands provide a critical migratory bird staging area in an otherwise arid region. The maintenance of the GSL ecosystem, and its component areas and functions, is essential to the continued productivity and biodiversity of migratory birds and other wildlife species dependent upon the GSL ecosystem. Many wetlands along the GSL have already been extensively altered or lost due to development pressures.

Due to the critical importance of the GSL and ongoing stresses this ecosystem is facing, we recommend including an analysis of how rehabilitation of the line (including replacing ties, rails, and culverts) and reinstituting common carrier freight service could affect the functions and values of the GSL wetlands, including temporary effects to wetlands and effects to the species that utilize these resources during migration. Please also evaluate how temporary effects would be minimized and mitigated (see section below on mitigation). We also recommend coordinating with the U.S. Army Corps of Engineers (Corps) about this project to determine whether it may require either a nationwide or individual Clean Water Act (CWA) Section 404 permit. CWA Section 404(f) exempts discharges of dredged or fill material for the purposes of “maintenance and emergency reconstruction of recently damaged parts, [and] of currently serviceable structures such as ... transportation structures.” The regulations clarify that maintenance does not include any modification that would change the character, scope, or size of the original fill design. The Corps’ nationwide permit regulations define “currently serviceable” as: “useable as is or with some maintenance, but not so degraded as to essentially require reconstruction.” If the rehabilitation of the line is not exempt under CWA Section 404(f) then a permit would be needed if the work involves a discharge of dredged or fill material into waters of the U.S. (although it may qualify for authorization under a NWP, such as NWP 14).

A map provided by the Utah Geospatial Resource Center¹ appears to show the northern part of the line could be within the GSL floodplain. If it is, then in order to avoid to the extent possible the long- and short-term adverse impacts associated with the occupancy and modification of floodplains and to avoid direct or indirect support of floodplain development wherever there is a practicable alternative, we recommend the NEPA document discuss Executive Order 11988, *Floodplain Management*, and ensure adverse effects are avoided and minimized. Executive Order 13690, *Establishing a Federal Flood Risk Management Standard and a Process for Further Soliciting and Considering Stakeholder Input*, was published on January 30, 2015, and amended Executive Order 11988. Section 6(c) of amended Executive Order 11988 requires alternative methods of establishing the floodplain rather than basing the floodplain on the area subject to a one percent or greater chance of flooding in any given year. Section 2(a)(2) of the amended Executive Order states, "Where possible, an agency shall use natural systems, ecosystem processes, and nature-based approaches when developing alternatives for consideration." We recommend that the NEPA document discuss how the project will comply the principles in the amended Executive Order and the associated implementation guidelines,² regarding improving resiliency in a changing climate.

Construction Stormwater

Under the CWA NPDES stormwater program, a permit is required for discharges from construction activities that disturb one or more acres, and discharges from smaller sites that are part of a larger

¹ https://opendata.gis.utah.gov/datasets/d8e7d2483a364d58a6d7eac4a250449e_0/explore?location=41.103351%2C-112.742353%2C-1.00

² The Guidelines for implementing Executive Orders 11988 and 13690 can be found at: https://asfpm-library.s3-us-west-2.amazonaws.com/General/Implementing_Guidelines_for_EO11988_13690_08_Oct15_508.pdf.

common plan of development. Depending on the construction site's location, the state or EPA will administer the permit. We recommend obtaining all permits before breaking ground to ensure compliance with the CWA. We recommend that the NEPA document discuss applicable stormwater permitting requirements and specific mitigation measures that would be required to reduce adverse impacts to water quality and aquatic resources, including:

- A list of Best Management Practices (BMPs) that would be required to protect surface water and groundwater resources. These could include silt fences, detention ponds, and other stormwater control measures, as well as measures to prevent any associated construction or railroad contaminants from entering waters of the U.S.;
- A discussion of the circumstances under which the BMPs would be applied (e.g., proximity to surface water resources, presence of erosive soils, slope, shallow water aquifers, the proximity of water wells, etc.); and
- An explanation of how the STB or other responsible entity would ensure that the BMPs would be monitored and enforced.

Air Quality

Existing Air Quality and Air Quality Related Values (AQRVs)

We recommend characterizing the existing air quality baseline for criteria pollutants and AQRVs, including visibility and resources sensitive to deposition. For criteria pollutants we recommend coordinating with the Utah Division of Air Quality (UDAQ) to establish representative design values (background pollutant concentrations) based on the most recent monitoring data. Data are available to the public through EPA's outdoor air monitor webpage,³ as well as through the EPA's Air Quality System (AQS) for AQS users.⁴ We also recommend providing the attainment status for the area according to 40 CFR § 81.345 designations, including the nonattainment status for the project area for ozone and particulate matter less than 2.5 micrometers in diameter (PM_{2.5}).

We recommend characterizing trends in visibility within and near the planning area, including sensitive areas identified by Federal Land Managers (FLMs). Data are available through the IMPROVE monitoring network as well as information prepared by the FLMs. Based on the project location and proximity to an existing monitor we recommend disclosing AQRV data from the Spanish Fork monitor (AQS Site ID 49-049-5010). It may be appropriate to collaborate with UDAQ when processing the monitoring data to present trends in visibility (presented as deciviews, which are a measure of decreased visibility resulting from airborne particles). We are also available to assist. Information is also available online at:

- <https://www.epa.gov/outdoor-air-quality-data/interactive-map-air-quality-monitors>;
- <http://vista.cira.colostate.edu/Improve/>;
- <https://www.nps.gov/subjects/air/park-conditions-trends.htm>; and
- https://www.fs.usda.gov/air/technical/class_1/alpha.php

Existing deposition may be characterized by utilizing the National Atmospheric Deposition Program (NADP) monitoring network in conjunction with total deposition (TDEP)⁵ estimates and information available from the FLMs and sites bulleted above. Due to the location of the project, TDEP maps available from CIRA and EPA may be the most reasonable means for disclosing existing deposition. We

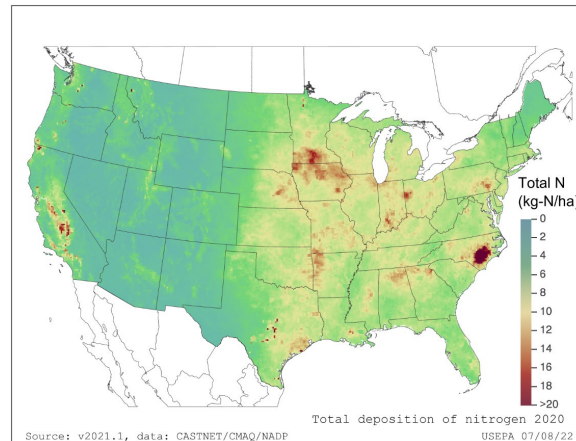
³ <https://www.epa.gov/outdoor-air-quality-data/interactive-map-air-quality-monitors>

⁴ <https://www.epa.gov/aqs>

⁵ <http://nadp2.slh.wisc.edu/committees/tdep/tdepmaps/>

also recommend explaining what levels of deposition cause negative ecological effects (in terms of critical loads for nitrogen and sulfur). An example of a map available is provided below.⁶

Total Nitrogen Deposition estimated for 2020



In addition to the recommendations above to characterize existing air quality and AQRVs, we recommend including any relevant UDAQ State Implementation Plan (SIP) considerations that are relevant to the project area.

Air Quality and AQRV Impact Analysis

To disclose the potential impacts of the alternatives, we recommend explaining the activities that would be necessary to reestablish and construct the proposed railway and alternatives. Since the railway will service a new business and industrial park, we recommend including information about the construction and operation of this park, and any potential future satellite port operation, including impacts associated with any increased traffic in the area. Based on the activities that would be necessary to develop the project and estimates of operations we recommend generating an emission inventory for each alternative and project phase to provide the foundation for understanding potential impacts on air quality.

EPA recommends that the NEPA analysis assess all impacts on air quality resulting from the project, including those emissions that are not regulated by state air permitting authorities. We look forward to working with STB and other federal and state agencies on the approach for the air quality impact analysis after completing the emission inventory for the alternatives. Based on the level of emissions, existing air quality, proximity to sensitive receptors, and input from other state, federal agencies, and community members, it may be appropriate to conduct additional analysis beyond the emission inventory. We recommend that STB work with EPA and others to address the following analysis components:

- Impacts from each of the criteria pollutants (ozone, particulate matter, carbon monoxide, nitrogen oxides, sulfur dioxide, and lead) with respect to their appropriate National Ambient Air Quality Standards (NAAQS);
- Impacts to AQRVs in potentially impacted Class I areas and any other relevant areas identified in collaboration with Cooperating Agencies and FLMs; and

⁶ https://gaftp.epa.gov/castnet/tdep/2021_01_images/n_tw-2020.png; accessible from <http://vista.cira.colostate.edu/Improve/>

- Impacts that could result from exposure to Hazardous Air Pollutants (HAPs) based on relevant health-based risk thresholds for HAPs. We are available to assist with methods of analysis, and appropriate characterization of available thresholds.

As an example of the type of analysis that may be appropriate, we recommend considering the information presented by STB for the Uinta Basin Railway EIS as well as EPA's comments on the NEPA document for that project.

General Conformity

Since the project is located within ozone and PM_{2.5} nonattainment areas, the requirements of General Conformity will need to be met for each nonattainment area. The current nonattainment classifications are marginal for ozone and serious for PM_{2.5}. As a result, the de minimis rates (see 40 CFR § 93.153(b)) for PM_{2.5} and its precursors are 70 tons per year (for each pollutant). We also wish to make STB aware that the ozone nonattainment area will be reclassified to moderate, effective November 7, 2022.⁷ UDAQ has SIP-approved General Conformity Regulations which incorporate by reference EPA's regulations at 40 CFR Part 93, Subpart B. We worked closely with STB's Office of Environmental Analysis (OEA) to address the requirements of General Conformity for the Uinta Basin Railway, which should provide a framework for the necessary analyses. As a courtesy, we are including, as an appendix to this letter, input we provided to STB regarding General Conformity for the Uinta Basin Railway. Much of the information, other than that specific to the particular nonattainment area designations, is applicable to the Savage Tooele Rail Project. We are available to assist with these analyses.

Mitigation

We recommend the NEPA document identify the mitigation that will be applied to BLM-authorized activities, including what entity will be executing the mitigation, inspection schedules, documentation procedures, and accountability processes. With these considerations in mind, we recommend the Draft EIS include the following information for each mitigation measure:

- A description of the required mitigation and its expected effectiveness.
- Designation of the entity responsible for implementing the mitigation.
- Identification of how BLM would ensure that the mitigation would be monitored to ensure timely and correct implementation as well as timely maintenance.
- Identification of funding sources and any financial assurance requirements.

If adaptive management practices will be utilized, we recommend the NEPA document include the following information:

- A defined monitoring plan.
- Specific environmental thresholds which would trigger action.
- Management alternatives and mitigation measures that would be implemented should a threshold be exceeded.
- An evaluation procedure for determining the effectiveness of the implemented mitigation and further measures to take in cases of ineffectiveness.
- A description of the mechanisms for the public disclosure of monitoring data, its analysis, and related management decisions.

⁷ See final rule at: <https://www.regulations.gov/document/EPA-HQ-OAR-2021-0742-0254>; Federal Register for Friday, October 7, 2022 (87 FR 60897).

Greenhouse Gas Emissions and Climate Change

The transportation sector emits the highest amount of greenhouse gas (GHG) emissions of all the U.S. sectors, with the rail sector contributing 2% of those emissions. Consistent with Executive Order 14008 – *Tackling the Climate Crisis at Home and Abroad* – the EPA recommends that STB assess, disclose, and mitigate the climate pollution and related effects and risks resulting from the proposed action. We recommend using the CEQ’s 2016 *Final Guidance for Federal Departments and Agencies on Consideration of Greenhouse Gas Emissions and the Effects of Climate Change in National Environmental Policy Act Reviews*⁸ as a resource for analyzing greenhouse gas (GHG) emissions, opportunities to reduce those emissions, climate impacts on the planning area, and climate change adaptation and resilience strategies.

We recommend including an estimate of the direct and indirect GHG emissions associated with the project, and an analysis of alternatives and/or identification of practicable mitigation to reduce project related GHG emissions. In addition to emissions associated with project construction, development, and operation, we recommend calculating reasonably foreseeable upstream and downstream emissions that could be attributable to the project. For the analysis, we suggest the following general approach:

- Include a summary discussion of ongoing and projected regional climate change relevant to the project area, based on U.S. Global Change Research Program assessments. This would enable the environmental report to identify impacts that may be exacerbated by climate change.
- Estimate the anticipated direct and indirect GHG emissions associated with the project. The NEPA.gov website⁹ includes a non-exhaustive list of GHG accounting tools available to agencies. We also recommend estimating GHG emissions in CO₂-equivalent terms and translating the emissions into equivalencies that are more easily understood by the public (e.g., annual GHG emissions from x number of motor vehicles, see <https://www.epa.gov/energy/greenhouse-gas-equivalencies-calculator>).
- Account for the project's climate impacts by utilizing the current interim values for the social cost of GHG emissions. The February 2021 Social Cost of Greenhouse Gases Technical Support Document: Social Cost of Carbon, Methane, and Nitrous Oxide Interim Estimates under Executive Order 13990¹⁰ (developed by the Interagency Working Group on Social Cost of Greenhouse Gases, United States Government) provides the most current information on generating these calculations.
- Identify and assess measures to reduce GHG emissions associated with the project, including alternatives and/or requirements to mitigate or offset emissions.
- Discuss how reasonably foreseeable GHG emissions associated with the project are, or are not, consistent with state or federal policies or goals. For example, discuss how emissions help or hinder meeting GHG reduction targets set at the federal, state, or local level as required in 40 CFR § 1506.2(d), including the U.S. 2030 Paris GHG reduction target and 2050 net-zero pathway.¹¹ We recommend that the BLM avoid percentage comparisons between project-level

⁸ <https://www.epa.gov/nepa/climate-change-guidance-national-environmental-policy-act-reviews>

⁹ https://ceq.doe.gov/guidance/ceq_guidance_nepa-ghg.html

¹⁰ https://www.whitehouse.gov/wp-content/uploads/2021/02/TechnicalSupportDocument_SocialCostofCarbonMethaneNitrousOxide.pdf

¹¹ <https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/22/fact-sheet-president-biden-sets-2030-greenhouse-gas-pollution-reduction-target-aimed-at-creating-good-paying-union-jobs-and-securing-u-s-leadership-on-clean-energy-technologies/>

and national or global emissions, which inappropriately minimize the significance of planning-level GHG emissions.

Environmental Justice

Executive Order 12898 – *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* – applies to federal agencies that conduct activities that substantially affect human health or the environment. In addition, Executive Order 13985 – *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* – sets expectations for a whole-of-government approach to advancing equity for all. To that end, EJScreen was developed by EPA to highlight places that may be candidates for further review, analysis, or outreach to support the agency's environmental justice work. However, for the Savage Tooele Railroad project, we recommend against drawing conclusive decisions based on EJScreen. EJScreen cannot provide data on every environmental impact and demographic factor that may be important to any location. Therefore, its initial results should be supplemented with additional information and local knowledge whenever appropriate, for a more complete picture of a location. Therefore, consistent with these executive orders and CEQ's Environmental Justice Guidance Under NEPA¹², the EPA recommends the NEPA analysis include the following:

- Meaningful engagement of communities located near the proposed project regarding the STB's decisions on the proposed project.
- Disclosure of the project's effects on homes and populations located adjacent to the inactive railroad line.
- Consideration of impacts from noise, vibration, dust, and other air emissions during both construction and operation.
- Consideration of impacts from the business and industrial park on traffic, emergency response times, neighborhood connectivity, etc. that could warrant analysis.

Closing

We appreciate the opportunity to provide comments in the early stages of this project and look forward to the NEPA document. If you have any questions regarding our comments, please contact me at (303) 312-6128 or by email at lozano.velrey@epa.gov, or Melissa McCoy, NEPA Branch Manager, at (303) 312-6155 or mccoy.melissa@epa.gov. If you have any questions or comments regarding NEPA air quality analysis or General Conformity, please contact Christopher Razzazian at (303) 312-6648, razzazian.christopher@epa.gov for support.

Sincerely,

VELREY LOZANO

Digitally signed by VELREY
LOZANO
Date: 2022.11.03 15:20:29 -06'00'

VelRey A. Lozano
NEPA Lead Reviewer
Office of the Regional Administrator

¹² Available along with other environmental justice resources at: <https://www.epa.gov/environmentaljustice/environmental-justice-and-national-environmental-policy-act>

APPENDIX

Below is email correspondence from EPA to STB regarding general conformity for the Uinta Basin Railway project. EPA Air Program staff are available to assist you with questions you may have regarding the information provided herein as it pertains to the Savage Tooele project.

Razzazian, Christopher

From: Russ, Timothy
Sent: Thursday, September 3, 2020 10:26 AM
To: Joshua.Wayland@stb.gov
Cc: Razzazian, Christopher; Boydston, Michael
Subject: Additional EPA General Conformity Information for the Uinta Basin Railway Project

Hi Josh,

We are providing the below information in response to your general conformity discussions with Chris Razzazian. Chris is on Leave through September 9, 2020, but he asked that we send this material to you in his absence.

As described below, we are providing you with additional information as to how the construction and implementation of the STB's proposed Uinta Basin Railway project might apply under the General Conformity (GC) regulations at 40 CFR part 93, subpart B (sections 93.150 through 93.165).

We note that under § 93.154, the STB has the right and responsibility to make its own decision as to whether GC applies to its actions, how the evaluation of GC is prepared, and the validity of a positive GC determination, if needed. We are providing this information for the STB's consideration to assist in understanding GC applicability and to help minimize potential vulnerabilities as the STB's decision is finalized and the project is implemented.

Since we last spoke, we had a chance to discuss your project with our general conformity advisor in our Office of Air Quality Planning and Standards, and based on our consultation, we offer the following comments and recommendations:

A.) Air Quality Status

Portions of the proposed railway would lie within four Utah counties, three of which include or are part of a nonattainment area (NAA) or a maintenance area (MA) that are relevant for GC (refer to the below table). The legal designation of the air quality status of each county should be verified with the EPA at the time of the GC evaluation.

Data	County Names (ref. 40 CFR 81.345) ¹		
	Utah	Uintah	Duchesne
Area Name	Utah County	Uinta Basin, UT	Uinta Basin, UT
NAAQS Criteria Pollutant	PM10 1987 NAAQS	Ozone 2015 NAAQS	Ozone 2015 NAAQS
NAAQS NAA/MA	PM10 MA	Marginal NAA	Marginal NAA

Date of Re-Designation and Maintenance Plan (end date of plan)	PM10 3/27/2020 (3/27/2030)		
Whole or Partial County	PM10 Whole	Partial	Partial
Relevant pollutants	PM10, NOx and SO2	NOx and VOC	NOx and VOC

¹The project also includes Carbon County, which is currently in attainment for all six NAAQS.

For a GC analysis, the relevant criteria and precursor pollutants for direct and indirect emissions for the Uinta Basin Railway project are:

Uinta Basin Ozone NAA: NOx and VOC

Utah County PM₁₀ MA: PM₁₀, SO₂, and NOx.

If the STB chooses to prepare a GC evaluation, each NAA or MA in which the action is subject to the GC regulations must have its own evaluation and its own separate determination, if one is necessary. In each evaluation, and as applicable a conformity determination, the STB would consider only the project, or action, emissions that originate within the applicable NAA or MA.

B.) General conformity analysis, and if applicable, conformity determination: If the STB does conclude that a general conformity analysis, and determination as appropriate, is necessary for its Federal action(s) associated with this rail line project, we offer the following further comments for the STB's consideration in preparing the general conformity documents:

1. Railway construction – For a general conformity evaluation analysis, the STB will need to consider emissions from railway construction that would occur within NAA/MAs. As noted above under (A.), those emissions must be separately evaluated under GC for each NAA/MA. In section V.E.4 of the final rule for the 2010 Revisions to the General Conformity Regulations (75 FR 17254 (Apr. 5, 2010)), the EPA affirmed that “emissions from construction activities must be considered in a conformity evaluation.” Further, in section VI.D. of the 2010 revisions, the EPA clarified that “construction emissions are part of the total direct and indirect emissions from an action,” a term that is defined in § 93.152, and is also referred to as “net emissions.”
2. Railway operation – Emissions from railway operation are not subject to GC unless they are direct emissions or indirect emissions as defined in § 93.152. We encourage the STB to carefully examine these definitions. The STB is responsible for the decision as to whether to include the railway's operational emissions in its GC evaluation, and if so, how to prepare that evaluation. We note the following for the STB to consider:
 - (a) Indirect emissions occur at a different time or place than direct emissions, and are those for which the “Federal agency has and will continue to maintain some authority to control; in addition, the agency must have in place an effective mechanism for enforcement.” 1993 Proposed GC Rule, 58 FR 13836, 13839 (March 15, 1993).
 - (b) For emissions that are indirect, STB must have continuing program responsibility (authority) for the emissions from operation of the railway, and the agency must have practical control of those emissions based on that authority (enforcement);
 - (c) If the STB has the authority to impose conditions for its approval of the action, in this case where those conditions could affect the emissions from locomotives, and the agency has a mechanism whereby such conditions can be enforced, the emissions are indirect and would

be included in the GC applicability analysis. Some examples of control of emissions from locomotives that could be enforced:

- i.* limitations on the type/size of locomotive that can operate on the railway;
 - ii.* limitations on how many trips per day are allowed;
 - iii.* limitations on how many cars can be hauled by the locomotive;
 - iv.* consider any contracts STB plans to make that will limit emissions from locomotives and can be enforced by STB; and
 - v.* assess whether any provisions of the Board's approval or the documentation of the NEPA analysis demonstrate that STB has continuing program responsibility (authority) and can practically control emissions (enforce).
 - (d) The STB can find explanations and examples of what constitutes continuing program responsibility and practical control in the 1993 Proposed GC Rule beginning at 58 FR 13839 (58 FR 13836, 3/15/1993), and in the 2010 Final GC revisions at 75 FR 17260 (75 FR 17254, 4/5/2010). Based on our review of the GC regulations, we suggest that the STB consider:
 - i.* If the STB decides that operation of the railway results in indirect emissions, then those emissions would be included in the applicability analysis and conformity demonstration and determination, if required, just like construction emissions.
 - ii.* If the STB determines that these emissions are not considered indirect emissions, due to a lack of agency control or continuing program responsibility, we recommend STB clearly document the reasons for its decision within the NEPA document and the associated general conformity analysis.
3. Should the STB decide to prepare a GC applicability analysis for any affected NAA/MA, as required under § 93.153, the STB would need to consider:
- (a) If the annual net increase in emissions of any of the relevant pollutants is less than the applicable de minimis rates under § 93.153(b)(1) and (2), then further analysis for those pollutant emissions is not required. The STB would document their analysis and keep it in their files. The STB should note, regarding this analysis preparation and decision, in the NEPA document that the GC evaluation was completed and a demonstration and determination of conformity were not required.
 - (b) If the annual net increase in emissions of any of the relevant pollutants equals or exceeds the applicable de minimis rates described in § 93.153(b)(1) and (2), a demonstration of conformity pursuant to the criteria and procedures in § 93.158(a) is required, along with consideration of the procedures under § 93.159, upon which the STB would base its general conformity determination.
4. If the STB decides to prepare a conformity determination, the STB can use one or more of the following methods (ref. 40 CFR 93.158 and 93.159):
- (a) For any of the relevant NAAQS pollutant and/or precursor emissions, STB could build operational limitations into the project, or make other changes to the plan, that would reduce the annual net emissions increase of the relevant pollutants to below the applicable de minimis rates; this would be included as part of the usual applicability analysis and is not considered mitigation or offsets. It's worth a try even it just reduces some of the net

emissions increase. However, as there is an environmental review document being prepared under NEPA, check with the NEPA advisor since all the environmental categories must assess the impacts of the changes made to the plan, including the NEPA air quality assessment.

- (b) Check with the Utah Division of Air Quality to determine for any of the relevant NAAQS pollutant or precursor emissions:
 - i.* if there is a generic construction emissions budget for Utah County in the respective NAA or MA SIP revisions that would account for the annual net increase in emissions of all or some of the construction pollutants.
- (c) Check with the Metropolitan Planning Organization (MPO) to see if all or a portion of the action's mobile source emissions are accounted for by the MPO as being included in a Regional Transportation Plan or a Transportation Improvement Program as discussed under § 93.158(a)(5)(ii).
- (d) Computer modeling – Modeling for ozone or secondarily-formed criteria pollutants is generally not appropriate under the GC regulations. This would also apply to the formation of secondary PM₁₀; therefore, computer modeling under §§ 93.158(a)(3) and (a)(4) would not be appropriate.
- (e) Consider creating “Early emission reduction credits” under 93.165 for any of the relevant NAAQS pollutant and/or precursor emissions
 - i.* Under § 93.165(c)(1), use techniques to create reductions that will occur at the same facility as the action and could have occurred in conjunction with the action, then use the credits to reduce the net emissions increase of one or more relevant pollutants to below the de minimis rates; no demonstration or determination is required for such emissions; otherwise,
 - ii.* Under § 93.165(c)(2), if (c)(1) doesn't reduce emissions to below de minimis, use the techniques available under (c)(1) to reduce at least some of the net emissions, and then apply mitigation and offsets under § 93.158, pursuant to § 93.163, so there is no increase in net emissions, also referred to as “fully offset.”
- (f) Consider fully offsetting the net emissions from the rail line project.

Finally, we encourage the STB to carefully review § 93.158 and § 93.163 for the remaining methods available to show conformity of ozone and secondarily formed PM₁₀. If, through consultation with the State, this leads to a revision to the State Implementation Plan to incorporate the project's emissions, this would then require involvement by the Utah Department of Environmental Quality, the Utah Air Quality Board, and the State Governor.

Thank you for allowing us to consult with you and we are available to assist STB as it moves forward.