



REGION 8

DENVER, CO 80202

October 27, 2023

Ref: 8ORA-A

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

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

Dear Andrea Poole:

The U.S. Environmental Protection Agency has reviewed the Draft Environmental Assessment (EA) prepared by the Surface Transportation Board (STB) for the Savage Tooele Railroad Company's (STR) Construction and Operation – Line of Railroad Project. STR is seeking authority from the STB 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 309 of the Clean Air Act and Section 102(2)(C) of the National Environmental Policy Act (NEPA), we are providing the enclosed comments on the Draft EA.

Our detailed comments describe our concerns and provide recommendations for addressing them. Areas of consideration include: 1. Water Resources, 2. Air Quality, 3. Tribal Consultation and Environmental Justice, and 4. Climate Change and Greenhouse Gasses. We appreciate the opportunity to review and provide comments as you complete the EA. If further explanation of these comments is desired, please contact me at 303-312-6155 or mccoy.melissa@epa.gov, or Matt Hubner of my staff at (303) 312-6500 or Hubner.matt@epa.gov.

Sincerely,

**MELISSA
MCCOY**

Digitally signed by
MELISSA MCCOY
Date: 2023.10.27
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Melissa W. McCoy, Ph.D., J.D.
Manager, NEPA Branch
Office of the Regional Administrator

ENCLOSURE

1. EPA's Detailed Comments on the STR Constructions and Operation – Line of Railroad Project

cc: Danielle Gosselin, Director, Office of Environmental Analysis, Surface Transportation Board

Enclosure – EPA’s Detailed Comments on the STR Construction and Operation – Line of Railroad Project

Water Resources

Surface and Groundwater

The water quality analysis identifies that the project will not impact the impaired Grantsville Reservoir because the Proposed Action site drains towards the Great Salt Lake (GSL). For this very reason we believe that a number of the voluntary mitigation measures for water quality will be important for avoiding adverse impacts to the GSL. We appreciate inclusion of these mitigation measures in the draft document and recommend they be conditions of STB’s decision in order to support a finding of no significant impact. Additionally, we support and recommend that the STB-proposed mitigation measure to have STR obtain a Clean Water Act (CWA) Section 401 certification from the Utah Department of Environmental Quality be a condition of the STB’s approval. For clarity, we further recommend that the EA identify what actions (e.g., STB’s decision, USACE’s 404 permitting, etc.) would require a CWA Section 401 certification. If the certification would likely be a requirement for the project, then it may not be mitigation, but a necessary component of STB’s decision. Ensuring that the project will not impact the GSL and its drainage area is invaluable to maintaining the overall health of the GSL and the aquatic environment in the vicinity of the project.

The Draft EA analysis indicates there are no anticipated impacts to groundwater. The Draft EA does not evaluate the indirect impacts of industrial activity at the Lakeview Business Park (LBP) and whether the development may subsequently impact groundwater. We recommend that the EA evaluate the potential types of industrial activities that the proposed rail line could support and their potential impacts to groundwater as well as surface water. This information will inform the larger picture of the Proposed Alternative’s impacts to water quality.

Wetlands and CWA Section 404 Consultation

In our November 3, 2022, scoping letter, we recommended that the NEPA review for this project and consultation with the U.S. Army Corps of Engineers (USACE) on Section 404 permitting be conducted concurrently. The Draft EA assumes that the STR will be able to obtain a Nationwide Permit from the USACE; however, it is unknown if an Individual Permit (IP) may be necessary as consultation has not been initiated. If an IP is necessary, there will likely be considerably more work to determine the least environmentally damaging practicable alternative. Further, a 404 IP would require a 401 certification as discussed above. Identifying if a 401 certification would be a mandatory requirement for this decision is another important step to protect the aquatic environment. We recommend that completion of the Section 404 consultation be a condition of STB’s decision to ensure that the EA can support a FONSI.

Federal Flood Risk Management Standard (FFRMS)

Our review indicates an absence of analysis of FEMA’s FFRMS.¹ The Draft EA discusses recommendations for designing project structures (i.e., culverts) for a 100-year flood event. Additionally, we noticed the use of the 100-year floodplain in Draft EA analyses. FFRMS identifies that it “requires agencies to select one of the three following approaches for establishing the

¹ <https://www.fema.gov/floodplain-management/intergovernmental/federal-flood-risk-management-standard>

flood elevation (“how high”) and corresponding flood hazard area (“how wide”) used for project siting, design, and construction:

1. Climate Informed Science Approach (CISA): The elevation and flood hazard area that result from using the best-available, actionable hydrologic and hydraulic data and methods that integrate current and future changes in flooding based on climate science;
2. Freeboard Value Approach (FVA): The elevation and flood hazard area that result from adding an additional 2 feet to the base flood elevation for non-critical actions and by adding an additional 3 feet to the base flood elevation for critical actions; or
3. 500-year floodplain: The area subject to flooding by the 0.2% -annual-chance flood.”

We recommend the EA utilize one or more of these approaches to evaluate project alternatives and development of impacts analyses.

Leaks and Spills

It is unclear from review of the EA what types of industry could be authorized and developed at the LBP due to the operation of this line. As such, there is no analysis of incidental spills of materials coming into and out the complex. Small leaks or accidental releases of transported materials could present a source of chronic pollution nearby and downstream in the GSL. Additionally, there is no evaluation of impacts resulting from major spills or derailment. Due to the proposed line’s proximity to the Great Salt Lake and surrounding sensitive aquatic habitat, it will be essential for decision makers and stakeholders to understand the full range of potential impacts of leaks, spills, and derailments to the surrounding ecosystem.

Pesticides

The Draft EA identifies that STB is recommending a mitigation measure to ensure appropriate pesticides are used by trained individuals to maintain the right-of-way and limit impacts of pesticides to ground and surface waters. We further recommend that this mitigation be enhanced by prescribing that pesticides not be used in the presence of wetlands and, most importantly, by following the instructions on the pesticide label.

Air Quality

Construction

We appreciate the evaluation of estimated pollutants from project construction activities relevant to State Implementation Plans and General Conformity. We further appreciate inclusion of voluntary mitigation to control fugitive dust and maintenance of construction equipment to limit construction-related pollutant emissions. These measures will be important to avoid impacts to sensitive receptors in Marshall and nearby communities to the rail line. We recommend that construction equipment use newest engine technology where possible to reduce emissions and pollutants even further.

Appendix E includes additional details for air quality analyses; however, we were unable to locate the emission inventory from which emission totals are based. We recommend Appendix E include the detailed emission inventory to substantiate the Applicability Analysis for General Conformity. In addition, we recommend that comparisons to the *de minimis* rates (40 C.F.R. 93.153(b)(1)) be conducted for each nonattainment area separately. While the rates for ozone are indeed 100 tpy, for PM_{2.5} and its precursors the rate is 70 tpy for the nonattainment area based on its classification.

Therefore, the *de minimis* rates for NO_x, VOC, and SO₂ are all 70 tpy for the purposes of the PM_{2.5} nonattainment area. We recommend this be clarified in the EA. We appreciate that the STB considered the 1971 SO₂ nonattainment area designation. However, we recommend verifying whether the project is in the nonattainment area, which was reduced in size. The area was redesignated to attainment with the exception of a portion of the Oquirrh Mountains above the 5,600-foot contour and north of Middle Canyon.²

Operations

The EA identifies hazardous air pollutants (HAPs) from operation of the rail to be small for Tooele County; however, we recommend that analyses be based on quantitative air modeling results compared to relevant health-based risk thresholds. For instance, the residence and businesses in Marshall may be exposed to greater and more significant concentrations of HAPs due to their immediate proximity to the rail line. Other nearby communities and residences may also see an increase in HAPs compared to the County. Evaluating these exposures will be important for decision-making and the health of nearby communities.

Indirect Impacts

To provide a complete picture of potential air quality impacts resulting from this project, we recommend including information about the construction and operation of LBP and its indirect effects on air quality. This may include operational emissions from industries and businesses likely to utilize the park as well as additional vehicle traffic as a result of the development.

Tribal Consultation and Environmental Justice

Tribal Consultation

The Draft EA identified that letters were sent by STB to four Tribes as part of consultation and no responses were received. To ensure that all avenues have been attempted to consult with not only Tribal nations currently affiliated with the area but also those that may consider the project area to be ancestral homelands, we suggest making attempts to reach out through more than written letters alone. If you need assistance reaching out to Tribal Governments and Tribal Historic Preservation Officers, our Tribal Assistance Branch can help ensure you have correct addresses and any other means of contact. This will ensure Tribal contacts have a voice during the NEPA process.

Environmental Justice

The Executive Order 14096, *Revitalizing Our Nation's Commitment to Environmental Justice for All*, April 26, 2023, supplemented E.O. 12898 and directs federal agencies, as appropriate and consistent with applicable law: to identify, analyze, and address disproportionate and adverse human health and environmental effects (including risks) and hazards of Federal activities, including those related to climate change and cumulative impacts of environmental and other burdens on communities with environmental justice concerns. E.O. 14906 sets expectations for a whole-of-government approach informed by scientific research, high-quality data, and meaningful Federal engagement with communities in order to advance equity for all. Consistent with those executive orders and CEQ's

² 46 FR 16258 (Thursday, March 12, 1981)

Environmental Justice Guidance Under NEPA,³ we recommend that the STB reevaluate the analysis of Environmental Justice and other marginalized communities in the EA.

The Draft EA identifies that no Environmental Justice communities were identified in the area; however, looking at EPA's EJScreen⁴ tool identified that Marshall and surrounding communities experience higher percentiles of unemployment and air toxics health impacts. This review is not holistic and should be scrutinized in greater detail, yet it does imply that there may be marginalized communities within the project vicinity that could be further impacted by the return of rail traffic, LBP development and increased HAPs in the area. For instance, the receptors, or household and businesses of Marshall, that are directly adjacent to this rail line and business park will see a significant change to their daily lives. The Draft EA identifies that the resumption of rail activities will be unlikely to be disruptive to these properties due to their historic proximity to the rail line. However, it appears from the text that approximately 30 to 40 years have passed since the rail was active. It is possible that a whole generation has resided or worked in the area without experiencing the impacts of rail traffic in such proximity. We recommend that STB and STR reach out directly to the occupants of residences and businesses in Marshall and those near the rail line to gather their input. This information will help inform whether the community that will be primarily impacted has concerns and whether there may be mitigation to minimize impacts.

Greenhouse Gas (GHG) Emissions and Climate Change

We appreciate the STB's inclusion of climate change and GHG analyses and discussions in the Draft EA. The Draft EA identifies that a climate change plan will be developed to address and mitigate impacts of climate change on the rail. The Draft EA does not detail what will be included in this plan and how it will mitigate impacts of climate change. Further, the Draft EA does not evaluate the project's cumulative impacts on GHGs and climate change, including the indirect impacts of Lakeview Business Park's development on GHGs. To achieve the objectives laid out in Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, the EPA recommends using the CEQ's *National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change*⁵ to ensure that the Final EA includes an adequate analysis of GHG emissions and climate change, and measures available to address and mitigate climate change and GHG emissions. Inclusion of the most-recent policy and guidance in the EA will better ensure the utility and adaptability of the proposed climate change plan. We further recommend mitigation through adoption of practices to minimize greenhouse gas pollutants during construction and operation of the rail line. Regardless of whether the Draft EA determines that the proposed action would be below *de minimus* thresholds for GHGs, the cumulative contributions of GHGs are not insignificant and should be mitigated to the extent possible.

³ <https://www.epa.gov/environmentaljustice/environmental-justice-and-national-environmental-policy-act>

⁴ <https://www.epa.gov/ejscreen>

⁵ <https://www.federalregister.gov/d/2023-00158>