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January 7, 2026

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Office of Chief Counsel
January 8, 2026
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**RE: Docket No. FD 36284, Seven County Infrastructure Coalition
Application for Construction & Operation Exemption for Uinta Basin
Railway**

To the Board:

As the Surface Transportation Board (“Board”) considers this matter on remand, I submit these comments to highlight the impacts that the Uinta Basin Railway (“Railway”) would have on the State of Colorado and numerous Colorado communities, and to urge the Board to deny the Coalition’s application for exemption.

The Railway project poses significant risks to Colorado’s communities and natural resources. In reviewing the Board’s previous approval decision, the D.C. Circuit Court of Appeals identified numerous flaws in the Board’s analysis, several of which directly implicate Colorado’s interests—and these findings were left undisturbed by the Supreme Court’s decision in *Seven County Infrastructure Coalition v. Eagle County*. The Board must review these issues as it considers the application on remand and address the significant impacts this project would have on Colorado. To the extent that the Board is considering relying on the supposed “energy emergency” to expedite its review, that reliance would be unsupported by the facts. The United States is producing record quantities of crude oil and natural gas; indeed, the United States is the world’s largest exporter of liquified natural gas, exports millions of barrels a day of crude oil, and has been a net energy

exporter since 2019.¹ Thus, there is no national energy emergency that would justify curtailed review.

The Railway's proposed connection to existing rail infrastructure would facilitate the daily transport of up to 350,000 barrels of waxy crude oil on two-mile-long trains traversing through Colorado. These oil trains would run directly along sensitive and critical waterways and ecosystems in our state, including the Colorado River—Colorado's most critical water source—and its headwaters. This delicate resource is the primary water source for millions of Coloradans, provides important habitat for several imperiled species, and serves as a critical economic driver for Colorado's rural economies.

The record before the Board demonstrates that the proposed project will result in increased rail accidents and oil spills in Colorado, with attendant increases in wildfire risks and impacts to endangered and threatened species and their habitat. These impacts are of significant concern to Colorado and numerous Western Slope communities in our state.

Record wildfires have devastated Colorado in recent years, caused by worsening droughts and other environmental conditions exacerbated by climate change, such as the resurgence in diseased trees due to pine bark beetle infestations. Over time, these conditions are projected to become increasingly severe. The years since 2012 have brought eight of the ten largest fires in state history, burning over 708,000,000 acres and costing over \$360,000,000 to suppress.² The Board's Final Environmental Impact Statement estimates that the Railway will increase downline rail traffic by up to 9.5 trains per day, and recognizes trains are an ignition source for wildfires, and that train accidents could cause the crude oil carried on the Railway to ignite.³ Adding ignition sources to these areas would endanger the homes and lives of Coloradans. The Board's original conclusion that the Railway's operations would pose a low risk of wildfires was "utterly unreasoned,"⁴ and must be revisited on remand.

¹ Victoria Zaretskaya, *The United States was the world's largest liquified natural gas exporter in 2023*, U.S. ENERGY INFO. ADMIN.: IN-BRIEF ANALYSIS (Apr. 1, 2024), <https://www.eia.gov/todayinenergy/detail.php?id=61683>; U.S. ENERGY INFO. ADMIN., *U.S. Exports of Crude Oil* (Dec. 31, 2025), <https://www.eia.gov/dnav/pet/hist/LeafHandler.ashx?n=pet&s=mcexus1&f=a>; Imports & Exports, U.S. ENERGY INFO. ADMIN.: U.S. ENERGY FACTS EXPLAINED (July 15, 2024), <https://www.eia.gov/energyexplained/us-energy-facts/imports-and-exports.php>.

² Thomas Gifford & Edward Barbier, *Battle Scars: Trends in Wildfire Size and Impact Across Colorado*, REG'L ECON. DEV. INST. at 2 (2025), https://csuredi.org/redi_reports/battle-scars-trends-in-wildfire-size-and-impact-across-colorado/.

³ SURFACE TRANSP. BD., *Uinta Basin Railway Final Environmental Impact Statement*, STB Docket No. FD 36284 (Aug. 6, 2021), at 3.1-12; 3.2-5; 3.4-42.

⁴ *Eagle Cnty., Colo. v. Surface Transp. Bd.*, 82 F.4th 1152, 1183-84 (D.C. Cir. 2023), *rev'd sub nom. on other grounds*, *Seven Cnty. Infrastructure Coal. v. Eagle Cnty., Colo.*, 605 U.S. 168 (2025).

The risk of wildfires caused by the Railway could also threaten our state's most critical transportation corridor connecting the Western Slope with the Front Range and Eastern Plains, Interstate 70 ("I-70"), which has been subject to closures in recent years due to worsening wildfires and resulting debris flows. The proposal would increase train traffic along existing tracks that run parallel to the western portion of I-70 in Colorado, from Grand Junction to Glenwood Springs. As a crucial east-west corridor for automotive traffic, I-70 connects Colorado's major cities, rural communities, and recreational destinations. Whenever this corridor closes, essential goods are blocked from reaching Western Slope communities, tourism is harmed, and products cannot be shipped to market. This concern is not theoretical, but is very real. In fact, in 2020, the Grizzly Creek Fire raged around Glenwood Springs, causing a 13-day closure of I-70 and recurrent closures from debris flowing through the burn scar.⁵ Each closure of I-70 impacted the state's economy and limits Coloradans' freedom of movement. The threat to I-70, and the resultant impact on residents and economic harms, from increased ignition sources should be considered in the Board's updated analysis.

Next, the Board must take a "hard look" at the potential impacts from increased rail accidents and associated oil spills downline, including in Colorado.⁶ This review should update the data and modeling used in the original environmental review, which is now at least five years old,⁷ and identify any available information that can improve the analysis of expected derailments and other accidents involving loaded oil trains traveling through mountain passes. Accidents in those circumstances are readily foreseeable, as demonstrated by a recent train derailment that released over 8,000 gallons of diesel fuel into the Gunnison River.⁸ Updating the analysis to provide a more accurate picture of potential accidents and the resulting oil spills that will threaten the health of the Colorado River is vital to making an informed decision regarding the Railway.

Finally, the D.C. Circuit Court of Appeals found that the impacts from spills and accidents on endangered species and their critical habitat in the Colorado River were not properly vetted in the Board's original analysis.⁹ These deficiencies warrant a revised Biological Opinion ("BiOp") and additional environmental review. Colorado is home to several imperiled species, including the federally- and state-

⁵ Taylor Cramer, *Grizzly Creek Fire marks 5 years since largest blaze in White River National Forest*, ASPEN TIMES (Aug. 11, 2025), <https://www.aspentimes.com/news/grizzly-creek-fire-marks-5-years-since-largest-blaze-in-white-river-national-forest/>.

⁶ See *Eagle Cnty., Colo.*, 82 F.4th at 1181-82, 1184-85.

⁷ See *Indigenous Env't. Network v. State*, 347 F. Supp. 3d 561, 582 (D. Mont. 2018) (faulting reliance on four-year old analysis that did not analyze newer data), *vacated on other grounds*, *Indigenous Env't. Network v. State*, No. CV 17-29-GF-BMM, WL 22900787 (D. Mont. Sept. 27, 2022).

⁸ Christa Swanson, *Cleanup continues in Colorado after train derails into Gunnison River, spills over 8,000 gallons of fuel*, CBS COLO. (Dec. 20, 2025, at 18:56 MST), <https://www.cbsnews.com/colorado/news/fuel-spill-cleanup-train-derails-gunnison-river-colorado/>.

⁹ *Eagle Cnty., Colo.*, 82 F.4th at 1187-88.

listed Colorado pikeminnow, razorback sucker, humpback chub, and bonytail.¹⁰ Each of these species require protection from the state to ensure their conservation.¹¹ On remand, the Board should review and analyze whether the effects of the Railway will, either directly or indirectly, result in consequences to imperiled species that are reasonably certain to occur.

The action area adopted by the U.S. Fish and Wildlife Service in its original BiOp is problematic. This area was defined by the Service to include “[t]he area of the Upper Colorado River Basin affected by water depletions,” but not the area affected by train accidents that release crude oil.¹² Based on this delineation,¹³ the Service analyzed the effects that water depletions associated with the project would have on the listed Colorado River fish and their critical habitat, but not the effects of train accidents that release crude oil or other leaks or drips of fuel or lubricants from train traffic.¹⁴ The D.C. Circuit found the BiOp flawed in both respects, leading the Court to vacate it.¹⁵ Thus, the Service must issue a new BiOp based on the best scientific and commercial data available before the Board can complete its review of the application on remand.¹⁶ Even without updated data, the information included in the current record warrants either 1) expanding the action area and evaluating the effects of expected crude oil releases on the listed Colorado River fish and their critical habitat, or 2) explaining why these effects are not reasonably certain to occur.

In sum, the original review of the proposed Railway was inadequate in its review of the harms this project could inflict on Colorado. It specifically did not adequately identify and study several serious downline impacts in Colorado, and the Board has a legal duty to address these deficiencies as it reconsiders the matter on remand. I urge the Board to deny the Coalition’s application for exemption, and

¹⁰ 2 COLO. CODE REGS. § 406-10:1002.A.1 (2023) (designating razorback sucker and bonytail endangered in Colorado); 2 COLO. CODE REGS. § 406-10:1003.A.1 (2022) (designating Colorado pikeminnow and humpback chub threatened in Colorado).

¹¹ See COLO. REV. STAT. § 33-2-102(1)(b) (2024) (“Species or subspecies of wildlife indigenous to this state that may be found to be endangered or threatened within the state should be accorded protection in order to maintain and enhance their numbers to the extent possible.”).

¹² U.S. FISH & WILDLIFE SERV., Biological Opinion for Uinta Basin Railway project proposal at 13 (Sept. 20, 2021)[hereinafter *BiOp*].

¹³ See *Endangered Species Act Section 7 Consultation Handbook*, U.S. FISH & WILDLIFE SERV. & NAT’L MARINE FISHERIES SERV. (1998) at 4-15 to 4-16, <https://www.fws.gov/sites/default/files/documents/endangered-species-consultation-handbook.pdf> (“analyses of the environmental baseline, effects of the action, and levels of incidental take are based upon the action area”).

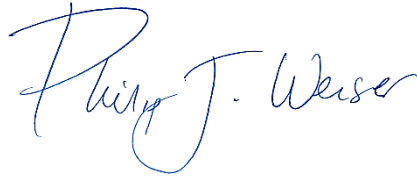
¹⁴ See *BiOp* at 44-45; *Eagle Cnty., Colo.*, 82 F.4th at 1188.

¹⁵ See *Eagle Cnty., Colo.*, 82 F.4th at 1188, 1196 (concluding FWS’s “adoption of the Board’s proposed action area causes the BiOp itself to be flawed as a result” and stating FWS “never considered possible risks to protected species downline based on the Board’s faulty reasoning and therefore did not fulfill its important function under the ESA”).

¹⁶ 50 CFR § 402.14(f) (2024); see *Ctr. for Biological Diversity v. EPA*, 56 F.4th 55, 62 (D.C. Cir. 2022).

to address the deficiencies identified by the D.C. Circuit in a robust supplemental review process.

Sincerely,

A handwritten signature in blue ink that reads "Phil J. Weiser". The signature is written in a cursive style with a large, stylized "P" and "W".

Phil Weiser
Attorney General