
May 6, 2026

By Electronic Transmission

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Surface Transportation Board
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Re: **STB Docket No. FD 36889, Nevada Gold Rail, LLC Proposal to Remove Alignments from Further Analysis**

Nevada Gold Rail LLC ("Nevada Gold Rail") formally requests the following rail alignment alternatives presented in the Cortez Rail Alternatives Analysis Report dated January 2026 ("Alternatives Report") be removed from further consideration and detailed analysis. In the Alternatives Report, Nevada Gold Rail presented an array of alignments, not intending to have all alignments analyzed in detail, but to demonstrate that Nevada Gold Rail internally considered an array of alternatives before selecting our "Preferred Alternative" to present to the Surface Transportation Board, Office of Environmental Analysis.

NEPA only requires that the Board consider a "reasonable" range of alternatives. 42 U.S.C. § 4332; 49 C.F.R. § 1105.7. Under this "rule of reason," the Board "need not consider an infinite range of alternatives, only reasonable or feasible ones." *Westlands Water Dist. v. U.S. Dep't of Interior*, 376 F.3d 853, 868 (9th Cir. 2004) (quoting *City of Carmel-By-The-Sea v. U.S. Dep't of Transp.*, 123 F.3d 1142, 1155 (9th Cir. 1995)). "Nor is an agency required to undertake a 'separate analysis of alternatives which are not significantly distinguishable from alternatives actually considered, or which have substantially similar consequences.'" *Id.* (quoting *Headwaters, Inc. v. Bureau of Land Mgmt.*, 914 F.2d 1174, 1181 (9th Cir. 1990)).

Further, the Board's alternatives analysis must be "bounded by some notion of feasibility." *Id.* (quoting *Vt. Yankee Nuclear Power Corp. v. Nat. Res. Def. Council, Inc.*, 435 U.S. 519, 551 (1978)). NEPA does not require the Board to "pursue alternatives that present unique problems, or are impractical or infeasible." *Latin Ams. for Soc. & Ec. Dev. v. Adm'r of Fed. Hwy. Admin.*, 756 F.3d 447, 470 (6th Cir. 2014). Thus, an applicant or the Board itself may decline to carry forward alternatives for further analysis on the basis of increased costs, technical complications, or other problems unique to the applicant or project. See, e.g., *Mid States Coal. for Progress v. STB*, 345 F.3d 520, 547-48 (8th Cir. 2003) (alternative infeasible when it required substantially more earthwork, was prohibitively expensive, and environmentally precarious); *Airport Neighbors All., Inc. v. United States*, 90 F.3d 426, 432 (10th Cir. 1996) (alternatives infeasible when they

would have required removal of Air Force laboratories or would cost several billion dollars); *Nat'l Parks Conservation Ass'n v. Semonite*, 311 F. Supp. 3d 350, 373 (D.D.C. 2018) (alternative infeasible when it would take twice as long to construct, cost three times as much, and impact more aquatic resources), *rev'd on other grounds by* 925 F.3d 500 (D.C. Cir. 2019).

The Board also need only consider “alternatives relevant to the applicant’s goals.” *Citizens for Clean Air & Clean Water in Brazoria Cnty. v. U.S. Dep’t of Transp.*, 98 F.4th 178, 195 (5th Cir. 2024) (quoting *City of Shoreacres v. Waterworth*, 420 F.3d 440, 450-51 (5th Cir. 2005)). In other words, the Board should only evaluate “alternatives to a project which would reduce environmental harm while still achieving the goals to be accomplished by the proposed action.” *Id.* (quoting *S. La. Env’t Council, Inc. v. Sand*, 629 F.2d 1005, 1017 (5th Cir. 1980)).

Within the Alternatives Report, Nevada Gold Rail initially presented eight alignment alternatives in Crescent Valley and six alignment alternatives in Boulder Valley. However, after considering costs and preliminary engineering and land use analysis, Nevada Gold Rail believes that several alternatives should be removed from further analysis due to cost or technical constraints, or on the basis that they are substantially similar to other alternatives that will be carried forward for detailed analysis.

Several alternatives also conflict with the company’s internal ethical operational standards, or “social license.” Nevada Gold Rail’s social license requires it to obtain community support for the project and to avoid significant disruptions to the environment and surrounding communities. Nevada Gold Rail is already aware of landowners unwilling to sell property to further the project, and the company will make every attempt to avoid an eminent domain action to obtain such property. As a result, Nevada Gold Rail believes that alternatives crossing a significant number of private properties are not compatible with the goals of its social license should be eliminated without further analysis.

Crescent Valley Alignment Alternatives for Removal:

Crescent Valley Bypass West. Nevada Gold Rail anticipates this route will be more expensive (\$149.2M) to construct than the preferred alternative (\$142.2M). It is also anticipated this route would incur additional costs associated with acquiring private land not presently owned by Nevada Gold Rail that are not factored into the \$149.2M cost estimate. If selected, this alignment is anticipated to impact approximately 62 privately owned parcels totaling 3,205.7 acres, of which 10 parcels have structure or residences on the property. Assuming the average purchase price per acre Nevada Gold Rail paid to acquire land along the private land avoidance route of \$1,034 per acre*, this would add approximately \$3,314,714 to the alignment cost. As explained above, Nevada Gold Rail seeks to avoid routes requiring substantial acquisitions of private land to prevent harm to its social license and already has reason to believe that it may not be able to acquire all necessary land. Furthermore, this alignment would likely impose undue noise and

*Nevada Gold Rail acquired 25 private parcels for the private land avoidance route in Crescent Valley with an average purchase price of \$1,034 per acre with a high price of \$3,000 per acre and a low price of \$500 per acre. It should be noted that land prices are likely lower on the east side of Crescent Valley where access is limited and many parcels are landlocked, with no legal access.

vibration impacts on the Crescent Valley community as well as requiring two crossings with traffic control on Highway 306 in addition to crossing 35 minor roads and driveway crossings. This obstruction to traffic and residents, in addition to possible delays to emergency medical services and fire services, could present a critical safety concern, as well as impact Nevada Gold Rail's social license to operate in the local community.

The Crescent Valley Bypass East. This alignment is noted as a lower-cost construction option (\$134.1M), but it carries similar social and logistical burdens to construct as the Crescent Valley Bypass West alignment. The alignment would cause significant noise and vibration disturbances to residents in the community of Crescent Valley and would also require the acquisition of private lands that are not currently owned by Nevada Gold Rail, increasing the cost of this alignment. This alignment would require the acquisition of approximately 68 private parcels totaling 3,054.4 acres, with 10 structure or residence occurring on the lots, and could cost approximately \$3,158,270, assuming the average rates Nevada Gold Rail paid for the private land avoidance route. Additionally, this route would bisect 33 private driveways and roads, posing safety risks and daily inconveniences to residents. Again, Nevada Gold Rail aims to avoid disturbing local residents and acquiring additional private land and has reason to believe that at least some landowners will be unwilling to sell. An additional constraint for this alignment would be the need for the Bureau of Land Management to revoke the existing lease for the Crescent Valley Airport; Nevada Gold Rail anticipates this would trigger significant protest from the local general aviation community that uses this airport, further harming the company's social license goals.

Nevada Gold Rail understands that co-locating the proposed rail line with the existing highway and power infrastructure in Crescent Valley may be an attractive option when considering wildlife, noxious weeds, and range impacts. However, Nevada Gold Rail maintains the impacts to the town, private lands, and the possible conflicts with miscellaneous utilities and other infrastructure near the highway outweigh the environmental impacts associated with locating the rail on the east side of the valley.

The Frenchie Road Direct. This alignment represents the second most expensive construction option (\$186.3M), primarily due to the volume of cut and fill required near the northern portion of the alignment to achieve the 1% grade design criteria. This option is anticipated to require 6.7M cubic yards of cut and fill compared with Nevada Gold Rail's preferred alternative, which will only require 3.7M cubic yards. Beyond the financial cost, the resulting surface disturbance would make reclamation efforts exceptionally difficult given the arid conditions and the ruderal nature of the Crescent Valley landscape. The Frenchie Road Direct alignment option will specifically impact 11 rural landowners in addition to private lands near hot springs point that would also be impacted by other alignments that Nevada Gold Rail wishes to carry forward into detailed analysis. These private lands total 2,961 acres and could add approximately \$3,061,725 dollars to the alignment cost. As with the above two alignments, further acquisition of private land could harm the company's social license goals and may not be possible due to known landowner resistance.

The Frenchie Road Switchback. This alignment is the third most expensive proposed alignment in Crescent Valley (\$153.2M). This alignment option attempts to avoid the major grading costs of the Frenchie Road Direct route by switch-backing the track to maintain the 1% grade design. While this option is less expensive than the cut and fill grading associated with the Frenchie Road

Direct Alignment, it increases the total track length to meet grade constraints and still requires around 600,000 additional cubic yards of cut and fill versus the preferred alignment. This switchback design results in tight turns that are difficult to navigate and maintain, and it would specifically impact nine private parcels totaling 2,921 acres and could cost \$3,020,365 to acquire. As is the case with the other three discussed alternatives, this acquisition of private land would harm the company's social license and may not be possible due to known landowner resistance.

Trailblazer. This alignment is, by a wide margin, the most expensive (\$2.9B) and environmentally damaging option when compared to other alignments that do not require the same amount of construction effort. The extreme volume of cut and fill (208M cubic yards versus 3.8M for the preferred alignment) would cause significant land disturbance, as this option would require a grading scar approximately 0.25 – 0.3 miles wide and approximately five miles long in the northern portion of the alignment, potentially fragmenting wildlife habitat and creating a high potential for the spread of noxious and invasive weeds by creating such a significant disturbance area. Furthermore, this alignment would disproportionately impact leased and private grazing allotments and large sections of private lands not owned by Nevada Gold Rail. There are only 10 private parcels intercepted by this alignment; however, the private acreage total is 10,126.5 acres. While it is unlikely Nevada Gold Rail would acquire the entirety of these large parcels, these acquisitions are still in conflict with the company's social license goals. This proposed alignment would also cause disturbance to otherwise large sections of land whereas other alignment options utilize lower-value range habitat (playa) and minimize the length of track needed to tie into the Union Pacific mainline.

Boulder Valley Alignment Alternatives for Removal:

Private Land Avoidance West and Private Land Avoidance East. These alternatives were originally developed as contingencies before a purchase agreement for the Rhodes Ranch pivots was finalized. Now that the agreement is in place, these alignments are unnecessary and pose excessive ecological impacts compared with alignments that follow the county road alignment. The West option is anticipated to be the most expensive alignment option to construct in Boulder Valley (\$109.5M, compared with \$81.2M for the preferred alternative) due to increased grading (4.9M cubic yards, versus 2.4M cubic yards for the preferred alternative) and redundant crossings of the county road. The East option requires less grading at 4M cubic yards but is still the second most expensive option (\$100.1M). These alternatives also require additional crossings of Boulder Creek versus the alternatives Nevada Gold Rail would like to see carried forward. Additionally, the West alternative could negatively impact proposed reclamation seeding scheduled to occur on the flanks of the Sheep Creek Range where the alignment crosses a portion of BLM managed surface as well as creating excessive surface disturbance that could further propagate the spread of noxious and invasive weeds.

Solar Bypass West. This alignment is also problematic as it would interfere with existing electrical infrastructure and access roads for the TS Powerplant. FEMA data also shows that the 100-year floodplain of Boulder Creek intercepts this proposed route at numerous locations. This would necessitate additional ballast and possible mitigation measures that are minimized by other alternatives located further east of Boulder Creek reducing impacts to the floodplain.

Dunphy Road West. This alignment is substantially similar to the Dunphy Road East option but is problematic because it provides insufficient clearance from the TS solar field array. Constructing this route would likely require the removal of several rows of solar panels. Given that viable alternatives exist to the east of the county road, Nevada Gold Rail believes it is irresponsible, and potentially harmful to its social license goals, to pursue an option that reduces the amount of existing carbon-free power available to the northern Nevada electric grid.

The alternatives identified for removal—specifically the Crescent Valley Bypass options, Frenchie Road options, and Trailblazer in Crescent Valley, and the Private Land Avoidance options, and Solar Bypass West options in Boulder Valley present a combination of prohibitive construction costs, costly engineering challenges, operational issues, and local community impacts that could affect our company's internal social license. We appreciate OEA's attention to this project and hope we can collaboratively refine the alignment options that are carried forward into detailed analysis. Nevada Gold Rail looks forward to the continuation of the rail project and initiating the formal NEPA process with the OEA.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tamara Baker".

Tamara Baker, Permitting Manager