

**MEMORANDUM OF UNDERSTANDING**  
**BETWEEN**  
**SURFACE TRANSPORTATION BOARD**  
**OFFICE OF ENVIRONMENTAL ANALYSIS**  
**AND**  
**UNITED STATES DEPARTMENT OF THE INTERIOR**  
**BUREAU OF LAND MANAGEMENT, TUSCARORA FIELD OFFICE**

**For Preparation of an Environmental Impact Statement in Docket No. FD 36889, Nevada  
Gold Rail LLC – Construction Exemption – Line of Railroad in  
Eureka and Lander Counties, Nev.**

**I. Background and Purpose**

On May 7, 2006, Nevada Gold Rail LLC (NG Rail) petitioned the Surface Transportation Board (Board) for an exemption from the prior approval requirements of 49 U.S.C. § 10901 to construct approximately 55.7 miles of new rail line (proposed rail line) in Eureka and Lander Counties, Nevada. The case is docketed as Docket Number FD 36889.

The proposed action involves construction of approximately 55.7 miles of new rail line. NG Rail states it would construct two separate rail segments, the Crescent Segment (approximately 35.6 miles long), and the Boulder Segment (approximately 20.1 miles long), both connecting to an existing Union Pacific Railroad Company (UP) mainline. The purpose of the proposed project is to construct a new common carrier rail line to connect the Cortez Mine and the roasting facilities located at the Goldstrike Mine to the UP mainline. NG Rail identified a preferred alignment and several other feasible alternative alignments, each of which would cross federal lands managed by the U.S. Department of the Interior Bureau of Land Management (BLM). The Board may advance alignments provided by NG Rail for further review as alternatives in the EIS, or, if presented with compelling reasons throughout the scoping process, create new alternatives for consideration in the Environmental Impact Statement (EIS).

According to NG Rail, in addition to the proposed rail line, the project would include rail sidings at certain locations, a right-of-way ranging in width from 50 to 100 feet, and ancillary railroad support facilities. Ancillary railroad support facilities – including stockpiles, rail loops, conveyor systems, and access roads – would be necessary to support loading, unloading, and maintenance activities. The project would also involve approximately 23 new at-grade crossings.

If the Board were to approve construction of the proposed rail line, NG Rail would need to seek approval for a right-of-way (ROW) from BLM.

**II. Authorities**

- A. To construct a new interstate rail line, a rail carrier must first apply to the Board for authority under the Interstate Commerce Commission Termination Act (49 U.S.C. § 10901). Pursuant to 49 U.S.C. §10901(c), the Board shall authorize an application for construction authority filed under 49 U.S.C. §10901(b) unless the Board finds that the proposed activities would be inconsistent with the public convenience and necessity. In lieu of a full application, a carrier may seek construction authorization pursuant to a Petition for Exemption under 49 U.S.C.

§ 10502. A Petition for Exemption is appropriate when a full proceeding under § 10901 “is not necessary to carry out the [rail] transportation policy” in 49 U.S.C. § 10101, and the transaction is limited in scope or if regulation “is not needed to protect shippers from the abuse of market power.” 49 U.S.C. § 10502. A Board decision whether to authorize construction under either § 10901 or § 10502 is a “major Federal action” subject to the National Environmental Policy Act (NEPA) (42 U.S.C. §§ 4321-4370m-11). The Board has determined that it will prepare an EIS in this proceeding. Pursuant to the Board’s environmental regulations, the Board’s Office of Environmental Analysis (OEA) is the office within the Board responsible for preparing an EIS or Environmental Assessment, as appropriate, to fulfill the Board’s responsibilities under NEPA and related laws and regulations.

- B. In order to issue approval for a ROW on BLM-administered land, BLM must comply with NEPA and other applicable related laws and regulations.

### **III. Lead Agency**

Pursuant to Section 107(a) of NEPA, 42 U.S.C. § 4336a(a), the Board shall be the lead agency and shall lead the preparation of the EIS. The environmental review process shall be consistent with NEPA and the Board’s environmental rules, 49 CFR Part 1105.

### **IV. Parties To and Purpose**

Pursuant to Section 107(a) of NEPA, 42 U.S.C. § 4336a(a), this Memorandum of Understanding (MOU) identifies BLM as a cooperating agency on the EIS to coordinate with and cooperate in conducting the environmental analysis for the EIS. This MOU establishes BLM as a cooperating agency in the EIS and establishes procedures through which the Board and BLM will cooperate.

### **V. Term of MOU**

This MOU shall commence upon the day and date last signed and executed by the duly authorized representatives of the parties to this MOU and shall remain in full force and effect until terminated. This MOU may be terminated, without cause, by either party upon thirty (30) days written notice to the other party. During the intervening 30 days, the agencies agree to actively attempt to resolve any outstanding disputes or disagreements that are the basis for the termination. At any time during the 30-day period, the agency initiating the request to terminate may withdraw its request or postpone its request for an additional 30-day period. Termination of this MOU does not affect any remaining statutory obligations of the agencies.

### **VI. Agency Decisions**

- A. Surface Transportation Board. Pursuant to 49 U.S.C. § 10502, the Board shall decide whether to grant Board authority to construct the proposed rail line and, if so, which alternative Nevada Gold Rail should construct. The Board will also decide what, if any, environmental conditions to impose on any authority granted.
- B. Bureau of Land Management. BLM administers land within the project area that NG Rail would use for the proposed rail line. BLM also administers land that NG Rail could potentially use for access roads and other construction-related features, depending on which, if any, of the proposed alternatives, is ultimately approved.

If the Board ultimately authorizes one of the alternatives carried forward for review in the

EIS, BLM shall decide whether to issue and grant NG Rail a ROW across BLM-administered public lands. The issuance of the ROW across BLM-administered public lands would be under the authority of Title V of the Federal Land Policy and Management Act of 1976, 43 U.S.C. § 1737. During its consideration of NG Rail's ROW application, BLM may use the EIS that the Board prepares to fulfill its NEPA requirements. BLM may also decide to amend current land use plans in order to grant a ROW consistent with land use planning regulations (43 CFR §1610). Any decisions on BLM-administered lands will be made by BLM.

## **VII. Responsibilities**

As the lead agency and pursuant to 49 CFR Part 1105, the Board shall prepare the EIS with the assistance of a third-party contractor. The third-party contractor shall work under the direction, supervision, and control of the Board. The contractor shall be paid for by NG Rail, as the applicant; however, NG Rail shall not have any direction, supervision, or control responsibilities over the contractor regarding the EIS. The contractor selected to prepare the EIS is Vanasse Hangen Brustlin, Inc. (VHB). In order to maximize efficiency in the preparation of the EIS, the Board and its third-party contractor shall utilize, to the extent possible, appropriate and validated baseline environmental data provided by the applicant and from other available existing studies and reports.

In addition to the roles listed in Section 107(a)(2) of NEPA, 42 U.S.C. § 4336a(a)(2), the Board's roles and responsibilities are as follows:

- A. The EIS shall disclose and analyze the potential environmental impacts related to resource areas that would be impacted by the proposed construction, potentially including land use, energy, biological resources, water resources, geology and soils, air quality, noise and vibration, safety, transportation systems, and cultural and historic resources, and visual resources.
- B. The Board agrees to coordinate and communicate with BLM during preparation of the EIS. Any analysis that takes place for an area administered by BLM shall be guided by the respective regulations, laws, and policies of BLM. The Board and BLM will cooperate in apprising each other, as far in advance as possible, of any related actions or problems that might affect the EIS and documentation process or that might affect either party. The Board and BLM agree to meet on issues concerning the EIS at the request of either party.
- C. BLM agrees to provide the Board with information as available. Each agency may develop interdisciplinary teams or designate specialists to review the analysis; provide direction, or comment when necessary to meet applicable laws, regulations, and policies without undue delay. At a minimum, BLM shall have the opportunity to review and provide comments on the following documents during the NEPA review process:
  - Annotated outline for the EIS;
  - Analytical methodologies to be used;
  - Notice of Intent to Prepare an EIS (NOI);
  - Any field survey work required for any resource areas studied for the EIS on or impacting BLM land;
  - An administrative draft of the completed EIS.

BLM shall also have the opportunity to participate in meetings related to the preparation of the EIS on topics where BLM has jurisdiction by law or special expertise.

If the analysis indicates that mitigation would be appropriate, BLM shall assist in developing mitigation measures that are applicable to lands administered by the BLM. BLM shall also assist in formulating responses to public comments on the NOI for inclusion in the EIS that pertain to BLM, BLM's land management policies and ROWs grants, and other related issues.

Each agency shall work toward completing appropriate NEPA compliance and reviews for the EIS in a timely manner. Pursuant to Section 107(a)(2)(D) of NEPA, the Board shall establish a schedule for completion of the EIS that will reflect and detail expectations regarding milestones, deadlines, information sharing, coordinating with BLM and any other cooperating agencies, and deliverables to comply with Section 107(g) of NEPA. The Board will not delay the EIS process on account of a missed deadline on the part of BLM. Pursuant to Section 107(g)(1) of NEPA, the Board shall publish the EIS within the 2-year statutory deadline, unless the statutory deadline is extended in accordance with Section 107(g)(2) of NEPA.

#### **VIII. Data Sharing and Confidentiality**

The Board and BLM shall share relevant data, studies, and analyses to support EIS preparation. Confidential or sensitive information shall be managed according to applicable laws and policies. All information shared between the agencies during preparation of the EIS is deliberative and pre-decisional.

If BLM provides the Board with sensitive information necessary for the NEPA analysis or cultural and wildlife clearances, BLM shall clearly identify the information as sensitive and inform the Board of what steps it must take to protect the information.

#### **IX. Dispute Resolution**

The Agencies agree that if a dispute regarding the provisions of this MOU arises, efforts will be made to settle them amicably at the lowest possible level. If efforts to settle at the lowest level are unsuccessful, then the dispute will be elevated to the next higher level of management within each agency. If the next higher level of management for each agency is unable to resolve the dispute, then the dispute will continue to be elevated within the agencies until the dispute is resolved.

Following the exhaustion of the dispute resolution process, the Board's Director of OEA has been delegated the authority to resolve any disputes on behalf of the Board.

#### **X. Amendment**

Upon mutual consent of the agencies, this MOU may be modified, amended, or supplemented in writing.

#### **XI. Limitations**

- A. In the event this MOU terminates, the agencies agree that neither agency will have any administrative, judicial, or equitable right to seek to enforce the MOU, to seek any remedy arising out of an agency's performance or failure to perform any term or condition of this MOU, or to bring any action for breach of the MOU.

- B. Nothing in this MOU will be construed as creating rights or responsibilities inconsistent with applicable law or regulation, or precluding in any way the Board's discretion to approve, modify, or disapprove the proposed rail line, or to take any action relevant to the project, consistent with applicable law.

**XII. Non-Fund Obligating Document**

This MOU is neither a fiscal nor a funds obligation document. Any endeavor involving reimbursement, contribution of funds, or transfer of value between the parties of this instrument will be handled in accordance with applicable laws, regulations, and procedures including those for government procurement and printing. Such endeavors shall be outlined in separate agreements that shall be made in writing by representatives of the parties and shall be independently authorized by appropriate statutory authority. This instrument does not prove such authority. Specifically, this instrument does not establish authority for noncompetitive award to the cooperator of any contract or other agreement. Any contract or agreement for training or other services must fully comply with all applicable requirements for competition.

**XIII. Signatures**

- A. All signatories have the appropriate delegation of authority to sign this MOU.  
B. The agencies hereto have executed this MOU on the dates shown below.

**DANIELLE  
GOSSELIN**

Digitally signed by  
DANIELLE GOSSELIN  
Date: 2026.07.22 15:40:23  
-04'00'

Dated: \_\_\_\_\_

*Danielle Gosselin, Director*

SURFACE TRANSPORTATION BOARD, OFFICE OF ENVIRONMENTAL ANALYSIS

**ELISABETH PUENTES**

Digitally signed by ELISABETH PUENTES  
Date: 2026.07.22 12:29:42 -07'00'

Dated: \_\_\_\_\_

*Elisabeth Puentes, Field Manager*

BUREAU OF LAND MANAGEMENT, TUSCARORA FIELD OFFICE