

Wayland, Joshua

From: Wayland, Joshua
Sent: Wednesday, January 15, 2020 3:11 PM
To: 'Mike Mckee'
Cc: Floyd, Kathryn K.; Keller, Kevin; Rogers, Debra; Rutson, Vicki
Subject: Uinta Basin Railway Field Surveys
Attachments: UBRY_Field_Survey_Concerns.pdf

Mike,

Please see the attached correspondence from Vicki Rutson related to the Uinta Basin Railway proceeding (Docket No. FD 36284).

Best,
Josh

Joshua Wayland, PhD
Environmental Protection Specialist
Office of Environmental Analysis
Surface Transportation Board
202.245.0330



SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

January 15, 2020

Mike McKee
Executive Director
Seven County Infrastructure Coalition

RE: Docket No. FD 36284, Seven County Infrastructure Coalition—Construction &
Operation Exemption—in Utah, Carbon, Duchesne, and Uintah Counties, Utah

Dear Mr. McKee:

OEA has received the results of baseline environment field surveys (field surveys) prepared by the Coalition.¹ The purpose of this letter is to raise several crucial problems with the field surveys conducted and submitted by the Coalition, the correction of which could require additional field survey work and prevent OEA from issuing a Draft Environmental Impact Statement (EIS) within the currently planned timeframe. This letter does not present our final comments on the field survey reports that the Coalition has submitted, but rather raises issues that must be addressed and resolved before OEA can move forward with its review of field survey results.

As you recall, the Coalition asked OEA if the Coalition could retain its own contractor to conduct field surveys that OEA would then review and verify, or comment on, after which the Coalition would conduct additional work or clarify information. The Coalition explained that this approach would promote efficiencies. We agreed to your proposal but noted that the field surveys must be thorough, accurate, and contain the data OEA needs to include in the EIS to avoid delay.

To ensure that the Coalition and OEA agreed on the methodologies that would be followed in conducting the field surveys, the Coalition and OEA (and the Coalition's consultant, HDR, Inc., and OEA's consultant, ICF) discussed various methodologies over the course of several months. The Coalition would propose a methodology. OEA would review and comment. The Coalition would then

¹ The survey reports we have received from the Coalition include (1) a Selective Reconnaissance-Level Survey of Historic Architectural Resources report (Architectural Resources Report) submitted on November 22, 2019; (2) a Selective Reconnaissance-Level Survey of Archaeological Resources report (Archaeological Resources Report) submitted on November 27, 2019; (3) a Biological Resources Baseline Environment Technical Memorandum (Biological Resources Report) submitted on December 3, 2019; (4) a Waters of the United States Baseline Environmental Technical Memorandum (Water Resources Report) submitted on December 20, 2019; and (5) a revised Biological Resources Report submitted on January 10, 2020.

amend the methodology to incorporate OEA's comments and edits. This process is documented in several publicly available records on the Board's website.²

Unfortunately, the submitted survey reports submitted by the Coalition to OEA contain several potentially major deficiencies that must be addressed before OEA can move forward with the EIS process. First, it does not appear that the Whitmore Park Alternative, the Coalition's preferred alternative, was accurately surveyed. The Biological Resources Report, Archeological Resources Report, and Architectural Resources Report describe the results of field surveys conducted on a preliminary version of the Whitmore Park Alternative, rather than on the revised alignment that the Coalition provided to OEA on December 2, 2019. The Water Resources Report and the revised Biological Resources Report address the revised Whitmore Park Alternative; however, on January 9, 2019, the Coalition informed OEA that the Coalition was revising the Whitmore Park Alternative again and that the Coalition would be providing the details of a new alignment in the coming days or weeks. The newly revised Whitmore Park Alternative will presumably be different from the preliminary Whitmore Park Alternative described in the Biological Resources Report, Archeological Resources Report, and Architectural Resources Report, as well as the revised version of the Whitmore Park Alternative described in the Water Resources Report and the revised Biological Resources Report.

It is therefore our understanding that none of the survey reports submitted to date correctly surveyed the corridor in which the Coalition now proposes to construct and operate a new rail line. Accordingly, we are requesting that the Coalition provide revised reports for each resource area that include field survey results for the finalized Whitmore Park Alternative. We strongly recommend that the Coalition definitively finalize its preferred alternative before completing or submitting any revised field survey reports to avoid the need for further resubmissions, which are adding delays and inefficiencies to the review process.

Second, we are very concerned that the field methodology described in the survey reports is inconsistent with the field methodology that OEA reviewed and commented upon. The field methodology that we worked with the Coalition on stated that the Coalition intended to survey a study area that would be 2,000 feet in width, extending outward 1,000 feet on either side of the proposed rail centerline. However, the Water Resources Report, Biological Resources Report, and revised Biological Resources Report all indicate that the Coalition surveyed a study area that was only 1,000 feet in width, extending 500 feet on either side of the proposed rail centerline. The surveyed study area therefore is substantially smaller than—in fact, only half as large as—the study area that the Coalition initially proposed (and OEA reviewed) to survey for both hydrological and biological resources. And the survey reports contain no explanation of the change of the field survey width from 2,000 feet to 1,000 feet.

Moreover, the 1,000-foot field survey width appears to be insufficient in some areas. During our review of the proposed survey methods, OEA commented that the Coalition's proposed 2,000-foot study corridor would likely be sufficient to capture the extent of the area that would be permanently disturbed by the proposed rail line, including the railbed, cut-and-fill areas, and rail-related structures. Based on the

² See the following documents on the Board's Environmental Correspondence Tracking database: EI-26449, EI-26459, EI-26483, EI-26486, EI-26487, EI-26494, EI-26497, EI-26547, EI-26563, EO-3064, EO-3131, EO-3133, EO-3136, and EO-3140.

maps of the project footprint that the Coalition has provided to OEA, however, it appears that areas that would be permanently disturbed by the proposed rail line fall outside of the 1,000-foot wide study area that the Coalition actually surveyed. Without information about the biological, hydrological, and archeological resources in those areas, OEA is unable to accurately and thoroughly assess the potential environmental impacts of the proposed rail line.

In addition, the Archeological Resources Report describes study areas that vary significantly between alternatives. The study corridor for the Indian Canyon Alternative is described as being 2,000 feet wide, consistent with the proposed field methods, while the study corridors for the Whitmore Park Alternative and Wells Draw Alternative are described as being 1,000 feet wide. The survey report, however, provides no explanation for the variances.

A related issue concerns the linear distance over which surveys were conducted for each alternative. The original version of the Biological Resources Report indicated that field surveys were conducted over approximately 93% of the total length of the Indian Canyon Alternative, approximately 92% of the total length of the Wells Draw Alternative, and approximately 91% of the total length of the Whitmore Park Alternative. The Water Resources Report and the revised Biological Resources Report, however, suggest that field surveys were conducted over only about 89% of the total length of the Indian Canyon Alternative, only about 64% of the total length of the Wells Draw Alternative, and only about 79% of the Whitmore Park Alternative. The reports state that the areas that were not surveyed were inaccessible due to property restrictions or due to safety concerns and winter weather conditions, but provides no additional information to explain if and where potential data gaps exist as a result of the survey coverage or why coverage varies across the three alternatives under consideration.

To address these concerns, we request that the Coalition clarify the area that the Coalition surveyed for biological, hydrological, and historical resources. This clarification should include the width of the study corridor of each alternative for each resource area, the linear distance over which surveys were conducted for each alternative and each resource area, the total acreage of the surveyed area for each alternative and resource area, the total acreage of land within the study corridor that was not surveyed, detailed maps showing the areas that were surveyed and the areas that were not surveyed for each alternative and each resource area, and detailed descriptions of the conditions that prevented the Coalition's contractors from accessing each location where surveys were not conducted, with reference to the requested maps and parcel information, as appropriate. We also request that the Coalition provide an explanation of how the Coalition determined that the 1,000-foot study corridor would be appropriate for the field surveys.

Finally, we request a written summary of the procedure that the Coalition used to request access to public and private property for the purpose of conducting field surveys, including how follow-up requests were conducted with property owners who did not respond to the Coalition's initial request.

If, upon review, OEA determines that the surveyed area is insufficient to capture the footprint of the proposed rail line or inadequate to describe the differences between the three alternatives under consideration, we will request that the Coalition conduct additional fieldwork in the areas that were not surveyed. If the Coalition elects not to conduct the requested fieldwork, we will instruct our third-party contractor to undertake the fieldwork at the Coalition's expense. The requirement for additional fieldwork would, as you know, result in additional cost and time to complete the EIS process.

The issues raised in this letter do not represent our final comments on the field survey reports that the Coalition has submitted. We will resume our review of the survey results after we have received the revisions and clarifications requested above. At that time, we will make a final decision on how to proceed. If you have questions or concerns, please feel free to contact myself or Dr. Joshua Wayland of my staff by email at joshua.wayland@stb.gov or by phone at (202) 245-0330. Thank you for your prompt attention to this important matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Victoria Rutson". The signature is fluid and cursive, with the first name "Victoria" and last name "Rutson" clearly distinguishable.

Victoria Rutson

Director

Office of Environmental Analysis