

Wayland, Joshua

From: Rutson, Vicki
Sent: Friday, June 07, 2019 4:23 PM
To: dcook@moffatcounty.net; Ray Beck; Donald.; 'Jeff Comstock'
Cc: 'Jeff Comstock'; Wayland, Joshua
Subject: Response to Moffat County Colorado Cooperating Agency Letter
Attachments: Moffat County.doc

Dear Chairman Cook, Commissioner Beck, Commissioner Broom, and Mr. Comstock: Please find attached to this email a letter from me responding to your request to be a cooperating agency. I called and left messages with the Chairman and Commissioners yesterday. I am away next week but will be in the office again on Tuesday, June 18th if you would like to speak to me. My contact information is below. We are eager to work with you to ensure that our analysis of potential impacts and benefits to Moffat Co. are accurately set forth in the EIS. For the reasons explained in the letter, we can do this most effectively and efficiently if you are a consulting agency rather than a cooperating agency on the EIS. I hope that you are able to understand and accept our position. We certainly intend no slight to Moffat County. Please call me (on or after June 18th when I'm back in the office) if you would like to discuss this with me.

Regards,

Vicki Rutson

Victoria Rutson

Director, Office of Environmental Analysis
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SURFACE TRANSPORTATION BOARD
Washington, DC 20423

Office of Environmental Analysis

June 7 , 2019

Honorable Don Cook, Chairman and District 1
Honorable Ray Beck, District 2
Honorable Donald Broom, District 3
Moffat County Commission
221 West Victory Way
Ste 130
Craig, CO 81625

Dear Chairman Cook and Commissioners Beck and Broom:

I have received your May 30, 2019 letter requesting that the Surface Transportation Board (Board) invite Moffat Count to participate as a cooperating agency in the forthcoming Environmental Impact Statement (EIS) for the proposed construction and operation of a new line of railroad serving the Uinta Basin in eastern Utah. The Seven County Infrastructure Coalition is likely to be the applicant seeking the Board's authority for the construction and operation.

I understand that some of you met with my staff and discussed Moffat County's interest in participating in the EIS as a cooperating agency. Your letter disagrees with my staff's determination at that meeting that the Board would not invite Moffat County to be a cooperating agency for this EIS. I am sorry that the reasoning for the Board's decision may have gotten somewhat confused and would like to provide this information: When the Board is the lead agency in a NEPA review, it has been our practice to invite agencies or entities with Federal permitting decisions to be made regarding a proposed project to be cooperating agencies. This is consistent with both the Board's environmental rules and the Council on Environmental Quality's (CEQ) regulations implementing NEPA. As explained below, CEQ regulations do not require that the Board invite local entities to be cooperating agencies.

CEQ's regulations provide at 40 C.F.R. 1501.6 that:

Upon request of the lead agency, any other Federal agency which has jurisdiction by law shall be a cooperating agency. In addition any other Federal agency which has special expertise with respect to any environmental issues, which should be addressed in the statement may be a cooperating agency upon request of the lead agency. An agency may request the lead agency to designate it a cooperating agency.

CEQ's regulations at 40 C.F.R. 1508.5 further provide that:

A State or local agency of similar qualifications or, when the effects are on a reservation, an Indian Tribe, may by agreement with the lead agency become a cooperating agency.

To satisfy NEPA in this proceeding, the Board must take a hard look at all the associated environmental consequences of the proposed construction and operation and, when possible, develop mitigation to avoid or minimize potential harmful environmental impacts. To achieve this goal, the Board will be consulting with a number of Federal, state and local government agencies and entities to help identify and analyze environmental impacts and related mitigation as well as potential alternatives. These agencies and entities will be listed in the EIS as consulting agencies in the EIS. As set forth in your letter, Moffat County has special expertise, local knowledge, and significant experience that could result in improved environmental analyses of a number of issues that involve, or are of interest to, Moffat County. We hope that Moffat County will give the Board the benefit of its expertise by becoming a consulting agency.

If you have any questions or additional comments regarding the environmental review process for this project, please feel free to contact Josh Wayland, the project manager, at Josh.Wayland@stb.gov or 202-245-0330 or me at Vicki.Rutson@stb.gov or 202-245-0295.

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

Cc: Jeffrey Comstock, Esq.