

Wayland, Joshua

From: Whyte, Jennifer <jwhyte@blm.gov>
Sent: Monday, August 26, 2019 6:47 PM
To: Wayland, Joshua; uinta.eis@icf.com
Cc: Price, Christina; Mary Higgins; Shered Mullins
Subject: BLM Colorado Comments on the Uinta Basin Railroad Colorado Alternative
Attachments: 2019.08.26_Uinta RR BLM Colorado Resources Comments to STB.pdf

Please find attached the comments from BLM Colorado regarding the affects to resources and the request to eliminate the Colorado Alternative.

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In Reply Refer To:
2800 (P)
COC-79637(P)
CO923

AUG 26 2019

CERTIFIED MAIL – Return Receipt Requested

Joshua Wayland
Surface Transportation Board
c/o ICF
9300 Lee Highway
Fairfax, VA 22031

Dear Mr. Wayland,

The comments in this letter are in response to your request regarding Docket No. FD 36284 – Seven County Infrastructure Coalition – Construction and Operation Exemption.

While the Surface Transportation Board's Office of Environmental Analysis is in the process of scoping for the Environmental Impact Statement, the Bureau of Land Management (BLM) would like to submit the following comments for consideration in determining resource impacts of the Craig Alignment Alternative. Due to the impacts to resources, we ask that this alternative be eliminated from further analysis.

Wildlife: Greater Sage-Grouse

According to the 2019 Northwest Colorado Greater Sage-Grouse Approved Resource Management Plan Amendment (ARMPA), the Craig Alignment Alternative of the Proposed Uinta Basin Railway is inconsistent with our management decisions (see enclosure). Management Decision-Lands and Realty 3 (MD-LR 3) states that no new roads or above ground structures would be authorized within one mile of an active lek unless there would be negligible effects to Greater Sage-Grouse (GRSG) or it would prevent implementation of a more detrimental alternative. The Craig Alignment Alternative is within one mile of five active leks (and within one-quarter mile of three active leks) in one of Northwest Colorado's most prolific habitat areas, Axial Basin.

Priority Habitat Management Areas (PHMA) and General Habitat Management Areas (GHMA) are managed as right-of-way (ROW) avoidance areas unless it is clear there is no ill effect to

GRSG or that the effect could be offset by mitigation. The route could be allowed in this area but would require the proponent to adequately mitigate any effects to GRSG. An amendment allowing for a ROW corridor through this area would likely be highly controversial and complex.

MD-LR 10 states that new ROW corridors in PHMA should be designated only where there is a compelling reason to do so and location would not adversely affect GRSG populations due to habitat loss or disruptive activities.

In addition to the issues of plan conformance and impacts to GRSG, the Little Snake and White River Field Offices (LSFO, WRFO) identified other resources concerns explained below.

Wildlife: Columbian Sharp-tailed Grouse, Big Game, Raptors, Black-footed Ferret

The Craig Alignment Alternative has the potential to cause significant impacts to wildlife species within the LSFO and WRFO. The Craig Alignment Alternative crosses important habitat for Columbian sharp-tailed grouse. Disruptive impacts to sharp-tailed grouse would occur from construction and operation of the railway. Noise disturbances would impact this species, possibly leading to displacement from suitable habitat along the route. The Craig Alignment Alternative is near several sharp-tailed grouse leks and would potentially lead to a reduction in lek attendance and lek abandonment.

The Craig Alignment Alternative also crosses important winter habitat for big game species, including pronghorn, mule deer and elk. These species could be displaced from suitable habitat during the critical winter period, which has the potential to increase winter mortality. Train operation could have impacts to big game migration corridors through direct mortality of animals or altering movement patterns. Other wildlife considerations would need to be addressed, including surveys for suitable raptor habitat.

The U.S. Fish and Wildlife Service would need to be informed of the proposal for consultation. The route would travel through the Wolf Creek Management Area (MA) that is managed for a reintroduced population of black-footed ferrets. Depending on how much habitat is impacted, some mitigation may be required. The project area in the MA would need prairie dog surveys to analyze for impacts to the black-footed ferret.

State Wildlife Areas (SWA)

The proposed route goes through the Bitter Brush State Wildlife Area in the following location:

Sixth Principal Meridian, Colorado

T. 6 N., R. 96 W.,

sec. 22, E1/2SE1/4;

sec. 23, W1/2SW1/4.

The proposed route then skirts the eastern edge of the SWA in sec. 26 and 35 of the same Township and Range. The SWA states that vehicle access is restricted to two county roads in this

area. LSFO has been performing route-by-route evaluations for a travel management process which currently proposes to close almost all routes entering the SWA from public lands, with the exception of those requested by the Colorado State Land Board to use for administrative access.

Right-of-Way Conformance

The current Craig Alignment Alternative follows some of the designated West Wide Energy Corridors, however, the majority of the line does not lie within an existing ROW corridor. The LSFO Resource Management Plan (RMP) encourages ROWs within existing corridors. The remainder of the area will be open for consideration of ROWs on a case-by-case basis, with stipulations identified during activity level environmental reviews.

A ROW application/grant would be required by the proponent in order to use public lands for systems or facilities. Access permits from Highway 40 would need to be coordinated through the Colorado Department of Transportation.

Paleontological Resources

There is limited information characterizing paleontological resources along this route, and the BLM would require additional surveys in accordance with Paleontological Resources Protection Act.

Sensitive Plant Species

BLM Manual 6840: Special Status Species Management (Manual) provides policy guidance to manage Bureau sensitive species and their habitats to minimize or eliminate threats affecting the status of the species or to improve the condition of the species habitat.

A segment of the proposed route passes through historical occurrences of three species identified in the BLM Colorado State Director's Sensitive Species List: *Penstemon yampaensis*, *Cryptantha caespitosa*, and near a historical occurrence of *Oxytropis besseyi* var. *obnapiformis*. The Manual requires that BLM take action to improve the status of these species. Prior to construction, a qualified botanist must complete a plant survey. If these species are found in the proposed route, the route may be altered to avoid them. BLM Colorado and the Colorado Natural Heritage Program (CNHP) have a data sharing agreement that requires any new occurrences of these three species be documented in the CNHP BIOTICS Database.

Visual Resource Management (VRM)

The proposed Craig Alignment Alternative goes through Class II, III, and IV visual resource management areas, as designated by the Little Snake RMP, all of which would need to be considered for potential impacts. The proposed route crosses through the Little Yampa Canyon Special Recreation Area, which is managed to retain VRM Class II.

The route is also within the Dinosaur Trail Master Lease Plan area, designated as VRM Class II. Special stipulations would apply that provide extra prescriptions on visuals, noise, lighting, and

coordination with Dinosaur National Monument. Plan conformance for visual resource management requirements would be difficult to meet in VRM Class II areas and could require a land use plan amendment.

Lands with Wilderness Characteristics (LWC)

Public lands on the north side of US 40 are in the M F Mountain LWC area which is a Tier II LWC area designated by the Little Snake RMP. Tier II LWCs are managed as a ROW avoidance area.

Cultural Resources

Construction of the proposed railroad will likely have an adverse effect on cultural resources, especially on buried prehistoric sites in the area south and southwest of Maybell, Colorado. This area is a stabilized sand dune field known to have a high density of buried sites. When several gas pipelines were constructed in a north-south utility corridor extending through this area, a large number of buried prehistoric sites were discovered. Under Section 106 of the National Historic Preservation Act, such sites were determined to be eligible to the National Register of Historic Places for their potential to yield information important to prehistory. The adverse effect of pipeline construction on the sites was mitigated through salvage excavation by the proponent companies.

The likelihood that the proposed railroad will encounter many buried eligible prehistoric sites, particularly in the vicinity of Maybell, is a factor that should be considered when deciding between alternatives. The gas transportation companies had little ability to avoid the dune field and had to fund salvage excavations intended to mitigate the adverse effect of pipeline construction on eligible sites. As with the pipeline projects, any buried sites encountered during railway construction would need to be mitigated through salvage excavation. Such excavations are costly and the federal government would need to ensure that the multi-county association promoting the Craig Alignment Alternative would have the financial resources necessary to mitigate impacts to eligible sites via salvage excavation.

Additional Considerations

Reclamation and weed treatment would be an important requirement if this project comes to fruition.

There is an existing electric rail line from the coal mine. The LSFO recommends consideration of the current line and how the proposed line would coalesce.

The considerations mentioned above are only some of the topics that would be analyzed for the Craig Alignment Alternative, though the BLM believes these issues to be compelling enough to remove the Craig Alignment Alternative from further analysis. The BLM has not received data on other route alternatives considered for analysis, but would like the opportunity to submit additional information.

If you have any questions regarding our comments, please contact Jennifer Whyte, Acting Chief, Branch of Lands and Realty at (303) 239-3708 or jwhyte@blm.gov.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jamie E. Connell", with a stylized flourish at the end.

Jamie E. Connell
State Director, BLM Colorado

Enclosure

GRSG Management Decisions Relating to the Proposed Craig Alignment (2 pp)

GRSG Management Decisions Relating to the Proposed Craig Alignment:

MD LR-1: Manage areas within PHMA as avoidance areas* for BLM ROW permits. (See Appendix G, Stipulations Applicable to Fluid Mineral Leasing and Land Use Authorizations.)

MD LR-2: Manage areas within GHMA as avoidance areas* for major (transmission lines greater than 100 kilovolts and pipelines greater than 24 inches) and minor BLM ROW permits. (See Appendix G, Stipulations Applicable to Fluid Mineral Leasing and Land Use Authorizations.)

***GRSG PHMA ROW Avoidance** ROWs may be issued after documenting that the ROWs would not adversely affect GRSG populations based on the following criteria:

- Location of proposed activities in relation to critical GRSG habitat areas as identified by factors, including, but not limited to, average male lek attendance and/or important seasonal habitat.
- An evaluation of the potential threats from proposed activities that may affect the local population as compared to benefits that could be accomplished through compensatory or off-site mitigation.
- An evaluation of the proposed activities in relation to the site-specific terrain and habitat features. For example, within 4 miles from a lek, local terrain features such as ridges and ravines may reduce the habitat importance and shield nearby habitat from disruptive factors.

MD LR-3: No new roads or above-ground structures would be authorized within 1 mile of an active lek. Above-ground structures are defined as structures that are located on or above the surface of the ground, including but not limited to: roads, fences, communication towers, and/or any structure that would provide perches.

Above-ground structures would only be authorized if:

- It is consistent with the overall objective of the RMP Amendment.
- The effect on GRSG populations or habitat is nominal or incidental.
- Allowing the exception prevents implementation of an alternative more detrimental to GRSG or similar environmental concern, and;
- Rigid adherence to the restriction would be the only reason for denying the action.

MD LR-5: Any new projects within PHMA would be subject to the 3 percent disturbance cap as described in Appendix E, Methodology for Calculating Disturbance Caps. If the 3 percent disturbance cap is exceeded in PHMA in any Colorado MZ, no new ROW would be authorized in PHMA within that biologically significant unit (Colorado populations) and proposed project analysis area (Colorado MZ), unless site-specific analysis documents no impact to GRSG. Within existing designated utility corridors, the 3 percent disturbance cap may be exceeded at the project scale if the site specific NEPA analysis indicates that a net conservation gain to the species will be achieved. This exception is limited to projects which fulfill the use for which the corridors were designated (ex., transmission lines, pipelines) and the designated width of a corridor will not be exceeded as a result of any project co-location.

MD LR-6: Prohibit surface occupancy and surface-disturbing activities associated with BLM ROW within 4 miles from active leks during lekking, nesting, and early brood-rearing (March 1 to July 15). (See special stipulations applicable to GRSG PHMA ROW TL.)

MD LR-10: (PHMA) Designate new ROW corridors in GRSG PHMA only where there is a compelling reason to do so and location of the corridor within PHMA will not adversely affect GRSG populations due to habitat loss or disruptive activities.