

Wayland, Joshua

From: Allen, Dana <Allen.Dana@epa.gov>
Sent: Thursday, May 09, 2019 4:48 PM
To: Wayland, Joshua
Subject: Uinta Basin Railroad -- EPA's pre-NOI scoping comments
Attachments: Unitat Basin RR pre-scoping 5-19-2019 sgn.pdf

Please find attached EPA's pre-NOI scoping comments. Please call if I can answer questions.

*Dana Allen ** 303-312-6870 ** EPA Region 8 (ORA-N), 1595 Wynkoop Street, Denver, CO 80202-1129 * * **



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
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May 9, 2019

Ref: 8ORA-N

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

Dear Mr. Wayland:

Thank you for notifying us about the forthcoming proposal to build a new railroad in the Uinta Basin in your letter of April 10, 2019. As requested in your letter we have reviewed the preliminary information and have identified Environmental Protection Agency's major areas of concern. These comments were prepared in accordance with our responsibilities under the National Environmental Policy Act (NEPA) and in anticipation of our review of the EIS under Section 309 of the Clean Air Act.

EPA plans to prepare a more detailed scoping letter once the Surface Transportation Board formally begins scoping for the EIS. At this time, we have identified the following topics that should be included within the scope of analysis:

- Waters of the U.S. (WOTUS), including Wetlands – Depending on the alignment and the design of the rail bed there could be significant impacts to WOTUS including wetlands, from discharges of dredge or fill material. Any discharges of dredge or fill materials to a WOTUS will require coverage under a Section 404 permit issued by the U.S. Army Corps of Engineers. Options for coverage may include an individual Section 404 permit or coverage under an applicable Nationwide Permit (e.g., NWP 14 – Linear Transportation Projects). The level of impact to waters of the U.S. will determine the amount and type of mitigation that will be necessary and should be addressed early in the process to minimize temporal losses.
- Construction Stormwater – It is likely that the proposed project will also need to obtain NPDES stormwater construction permits under Section 402 of the Clean Water Act. Depending on the location of the alternatives, the proposed project would need to obtain stormwater construction permits from the EPA for portions of the project in Indian country, and from the States of Utah and Colorado for the portions of the project located in areas under their jurisdiction.
- Clean Water Act § 401 Certifications – Depending on the final alignment the applicant will need to obtain a Clean Water Act Section 401 water quality certification for any federal permits that may result in a discharge to a WOTUS, including both Section 402 permits and Section 404 permits.

Such certifications are issued by states when the discharge originates in an area of state jurisdiction, and by EPA or a Tribe when the discharge originates in Indian country. We recommend that the applicant coordinate with the State(s), Tribes and EPA throughout the entire §402 and §404 permitting process.

- Impacts to riparian habitat, stream morphology and surface water and groundwater movement – Railroad beds act as dams changing surface water and shallow groundwater flow pathways which can affect riparian habitat. Less groundwater may reach creeks and gullies and surface water flow would become more concentrated discharging only through culverts and bridges constructed for the railroad. Similarly, the riparian habitat would be separated from upland habitat by the railroad bed. For portions of the alternatives, the railroad bed would narrow stream valleys changing and constricting the geomorphology of streams and potentially the floodplain.
- Air Quality – The Uinta basin is a nonattainment area for the 2015 8-hour ozone standard. There is a substantial amount of existing air quality analysis including the Utah Air Resource Management Strategy (ARMS) modeling platform prepared for and modified for use in EISs for oil and gas development in the area. These air quality documents will also be useful in assessing cumulative impacts and potential indirect impacts from induced oil and gas development.

Depending on the anticipated air emissions from construction and operation of the railroad, a more detailed analysis may be warranted such as near field modeling for segments identified as having a potential near-field impact. We recommend contacting EPA early in the development of the air quality analysis. In the coming weeks we will offer some specific points for consideration via email following this letter.

- Air Conformity – For the portions of the project that occur within the nonattainment area an evaluation of applicability of Clean Air Act's General Conformity and Transportation Conformity requirements will be necessary. The EPA has assisted other federal agencies in understanding the aspects of Conformity requirements and are available to discuss these requirements for this project if that would be helpful.
- Environmental Justice – Three of the census blocks around Myton, Utah indicate there may be potential Environmental Justice communities that could be adversely affected by the proposed project.
- Community (including EJ populations) Impacts Concerns – noise, vibration, dust and other air emissions during both construction and operation. Similarly, there may be impacts from a new rail line to traffic, emergency response times, neighborhood connectivity, etc.
- The environmental analysis should also include the loading and offloading areas. Depending on the amount of crude oil that could be shipped out, some of the oil transloading facilities on the Fort Berthold Reservation could be used as an example for designs that minimize impacts from spills and stormwater runoff.

If you have any questions or comments, please to contact me at (303) 312-6870, allen.dana@epa.gov; Matt Hubner (303) 312-6870, hubner.matt@epa.gov; or my supervisor Philip Strobel at (303) 312-6704, strobel.philip@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Dana B. Allen", with a stylized, flowing script.

Dana Allen
NEPA Branch