

Wayland, Joshua

From: Darrell Fordham <darrellfordham@hotmail.com>
Sent: Monday, July 29, 2019 11:23 PM
To: Wayland, Joshua; Gosselin, Danielle; Rutson, Vicki
Subject: Request for 45-Day Extension of Scoping Comment Period - Uinta Basin Railway
Attachments: 2019_07-29 Letter to Josh Wayland Extension Request.pdf; 2019_05_21_SCIC GRAMA Request Email.pdf; 2019_07_26_Letter to Mike McKee - Notice of Appeal GRAMA.pdf

Josh,

Please find attached our written Request for 45-Day Extension of Scoping Comment Period for the Uinta Basin Railway Project.

Thanks,

Darrell

Darrell Fordham
Argyle Wilderness Preservation Alliance
(801) 301-4190
darrellfordham@hotmail.com



**Argyle
Wilderness
Preservation**



July 29, 2019

Mr. Joshua Wayland
Surface Transportation Board
% 9300 Lee Highway
Fairfax, VA 22031
ATTN: Environmental Filing, Docket No. FD 36284
Submitted via email to joshua.wayland@stb.gov, danielle.gosselin@stb.gov,
vicki.rutson@stb.gov

Re: Request for 45-Day Extension of Scoping Comment Period on Surface Transportation Board's Seven County Infrastructure Coalition - Rail Construction and Operation - in Utah, Carbon, Duchesne, and Uintah Counties, Utah

Dear Mr. Wayland,

I am writing on behalf of myself, members of the Argyle Wilderness Preservation Alliance, affected landowners, and many concerned citizens to respectfully request a minimum 45-day extension of the public scoping comment period for the preparation of the Environmental Impact Study (EIS) for the Seven County Infrastructure Coalition (Coalition) request to the Surface Transportation Board (STB Docket No. FD36284). We have attended every public meeting the Coalition has held regarding the Uinta Basin Railway Project since we first learned about it in early April 2019. We have spent countless hours researching the project and doing everything we could to learn about the proposed project, routes, impacts, costs, etc. We attended all 6 Scoping Meetings in Utah and Colorado between July 15-19, 2019.

I have personally met with Jones & DeMille Engineering (the Coalition's Project Engineering Firm) at their main office in Richfield, Utah. We have invited the Coalition members to Argyle Canyon to show them portions of the Indian Canyon and Wells Draw Routes that are of greatest concern to us. We have submitted GRAMA Requests to the Coalition which to this day remain largely unanswered and ignored. My initial request¹ dated May 21, 2019 went completely

¹ Darrell Fordham to Seven County Infrastructure Coalition Re: Meeting Regarding Uinta Basin Railway: Seven County Infrastructure Coalition, May 21, 2019.

unanswered by the Coalition until the evening of July 12, 2019, when the Coalition's legal counsel sent me a small portion of the information that I had requested, with all financial information, cost estimating data, revenue and carload volume forecasts, free cash flow forecasts, conceptual engineering data, environmental fatal-flaw analyses, and relevant substantive data regarding the route selection process and scoring, redacted. Such redactions rendered the requested information virtually useless in attempting to assess the Project's true impacts. I submitted a Notice of Appeal² to Mr. Michael J. McKee, the Coalition's Executive Director regarding my GRAMA Request on July 26, 2019 as well as to the Utah Records Ombudsman. The Coalition violated Utah State Code 63-G-304(4)(b) which requires a response from the Coalition within 10 business days - the response I received was 36 business days from the date of my request.

Myself and many concerned landowners along the proposed routes have requested detailed maps showing the proposed routes overlain with landowner information for well over two months from the Coalition and the Coalition's engineers. To date we still have not received any despite multiple verbal and written promises from the Coalition, the Coalition's legal counsel, and the Coalition's engineers. In fact, the only maps we have received have been from your office, the Surface Transportation Board Office of Environmental Analysis (OEA).

The sheer magnitude and scope of the proposed Uinta Basin Railway Project requires careful, knowledgeable, diligent analysis and consideration based on full and complete Project information which heretofore remains unavailable and hidden from the public view. The Coalition is an interlocal political subdivision of the State of Utah. It is not a private entity. By State statute its dealings must be done within the purview of the public. It is our belief that to date nearly all of the Coalition's discussions, planning, and deliberations concerning the Project have been done in secret, behind closed doors, devoid of legal justification. We feel that the Coalition has particularly endeavored to withhold relevant Project information from those who will be directly impacted and perpetually harmed by the proposed Project.

There are many relevant facts related to the Project that seem to be in a continual state of flux, from Project ownership, to the funding source to finance the construction of the Project, to the anticipated number of trains per day, to the anticipated increase in crude oil production in the Uinta Basin as a result of the railway, to the true impacts on local and long-haul trucking within and outside of the Uinta Basin, to the anticipated cost for construction of each of the proposed routes, to right-of-way acquisition tactics, to easements vs. surface right ownership, etc. These are but a few examples of the ever-changing narrative of the Uinta Basin Railway Project. The

² Darrell Fordham to Michael J. McKee (Executive Director, Seven County Infrastructure Coalition) and Rosemary Cundiff (Utah Records Ombudsman) Re: Response and Partial Denial to GRAMA Request dated May 21, 2019 - Notice of Appeal.

public has not had sufficient time, nor sufficient information, to fully understand, evaluate, and formulate relevant substantive comments regarding the EIS for the Project.

We cite the case of the recent similar Great Lakes Basin Railroad Project, for which the OEA initially set a 60-day scoping period, and subsequently extended by an additional 30 days, for a total of 90 days³. This Uinta Basin Railway Project is similar in size and scope, and is arguably considerably more complex given the terrain that the proposed routes will traverse.

Just as we expect and anticipate that the OEA will spend the requisite time to fully study and evaluate all relevant data regarding this Project and its anticipated impacts, we respectfully request that the public and all concerned individuals also be afforded a reasonable, fair, and adequate opportunity and timeframe to provide public comment that is concise, relevant, and factual. A Project with this size, scope, complexity, and far-reaching impacts must be given proper and complete due diligence. Thank you for your time and consideration in evaluating our request.

Sincerely,



Darrell Fordham
Argyle Wilderness Preservation Alliance
511 South 600 East
Lehi, Utah 84043
(801) 301-4190
darrellfordham@hotmail.com

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³ Office of Environmental Analysis, Surface Transportation Board, "Public Comment Deadline Extended to July 15 for Surface Transportation Board's Public Scoping of Great Lakes Basin Rail Project" (2016) at: <https://tomdemmer.org/2016/06/13/public-comment-deadline-extended-to-july-15-for-surface-transportation-boards-public-scoping-of-great-lakes-basin-rail-project/>

From: Darrell Fordham
Sent: Tuesday, May 21, 2019 10:11 AM
To: Brian Barton
Cc: Michael Hawley; mmckee
Subject: RE: Meeting Regarding Uinta Basin Railway

Brian,

Thanks again for taking the time to meet with me yesterday. As we discussed, we would definitely prefer to work in collaboration with JDE/SCIC/HDR. In order to do that and work toward a route that would work for everyone I would like to respectfully request that the following information be shared with us:

1. Updated .kmz file showing the most recent Indian Canyon and Wells Draw proposed routes
2. Cost estimate information for each of the three proposed routes along with cost estimate data for the Rifle, CO and Mack, CO routes
3. Information provided to respondents to the RFI dated April 2, 2019 for the Commercialization, Financing, Construction, Operation, and Maintenance of the UBR, namely:
 - a. Revenue and Carload Volume Forecast
 - b. Free Cash Flow Forecast
 - c. Conceptual Engineering Data
 - d. Environmental fatal-flaws analysis of the proposed routes
 - e. Status of the Coalition's Environmental Impact Statement before the STB
 - f. Proposed Project Schedule
4. All data related to route evaluation and selection, scoring matrices, analyses, etc. for the Indian Canyon, Wells Draw, Craig, Rifle, and Mack routes

When we have asked for this information in the past we have been told that the STB would not allow this information to be shared with us, however, when I spoke with Josh Wayland on 5/16/19 he indicated that there would be no conflict of interest or other concerns from the STB regarding dissemination of this information. As there is no agency specifically tasked with evaluating and championing the rights of us as landowners we feel it should be deemed reasonable and appropriate to share this information with us.

Thanks,

Darrell Fordham

From: Brian Barton <Brian@jonesanddemille.com>
Sent: Friday, May 17, 2019 7:14 AM
To: Darrell Fordham <darrellfordham@hotmail.com>
Cc: Michael Hawley <Michael@jonesanddemille.com>; mmckee <mmckee@7county.utah.gov>
Subject: Re: Meeting Regarding Uinta Basin Railway

Sounds great! See you then.

Brian Barton, PE
Jones & DeMille Engineering, Inc.
435.979.7650

----- Original message -----

From: Darrell Fordham <darrellfordham@hotmail.com>
Date: 5/16/19 5:46 PM (GMT-07:00)
To: Brian Barton <Brian@jonesanddemille.com>
Cc: Michael Hawley <Michael@jonesanddemille.com>, mmckee <mmckee@7county.utah.gov>
Subject: Re: Meeting Regarding Uinta Basin Railway

Yes, let's plan on Monday at 11am at your office in Richfield. I look forward to meeting with you then.

Darrell Fordham
801-301-4190

On May 16, 2019, at 5:34 PM, Brian Barton <Brian@jonesanddemille.com> wrote:

Monday could work. 11am or 330pm. Does either slot work for you? Thanks!

Brian Barton, PE
Jones & DeMille Engineering, Inc.
435.979.7650

----- Original message -----

From: Darrell Fordham <darrellfordham@hotmail.com>
Date: 5/16/19 4:58 PM (GMT-07:00)
To: Brian Barton <Brian@jonesanddemille.com>
Cc: Michael Hawley <Michael@jonesanddemille.com>
Subject: RE: Meeting Regarding Uinta Basin Railway

I'm actually scheduled to be in Richfield on Monday the 20th. Any chance you would have time to meet anytime on Monday? If not I can juggle a few things and make Wednesday the 22nd work in Price.

Darrell

From: Brian Barton <Brian@jonesanddemille.com>
Sent: Thursday, May 16, 2019 4:56 PM
To: Darrell Fordham <darrellfordham@hotmail.com>
Cc: Michael Hawley <Michael@jonesanddemille.com>; mmckee <mmckee@7county.utah.gov>
Subject: RE: Meeting Regarding Uinta Basin Railway

Hi Darrell. I am out of the Richfield office and Mike Hawley is in Roosevelt, but we roam between offices a lot. You are welcome to meet with either of us. We will be together in Price next Wednesday and Thursday. What are the chances of connecting at 11am on Wednesday the 22nd? It would need to be 9am on Thursday if it's better for you.

Thanks!

Brian Barton, PE
Principal

Jones & DeMille Engineering, Inc.
435.979.7650

From: Darrell Fordham <darrellfordham@hotmail.com>
Sent: Thursday, May 16, 2019 4:13 PM
To: Brian Barton <Brian@jonesanddemille.com>
Cc: Michael Hawley <Michael@jonesanddemille.com>; mmckee <mmckee@7county.utah.gov>
Subject: RE: Meeting Regarding Uinta Basin Railway

Brian,

Wanted to check in with you to see how your schedule is looking. Do you work out of the Roosevelt office? I could make arrangements to meet you there next week if you have availability.

Let me know.

Thanks,

Darrell Fordham
(801) 301-4190

From: Brian Barton <Brian@jonesanddemille.com>
Sent: Sunday, May 12, 2019 9:22 PM
To: Darrell Fordham <darrellfordham@hotmail.com>
Cc: Michael Hawley <Michael@jonesanddemille.com>; mmckee <mmckee@7county.utah.gov>
Subject: Re: Meeting Regarding Uinta Basin Railway

Darrell, thanks for the email and for the conversation on Friday afternoon. We are always willing to discuss the process and decision factors that go into alignment selection for railroads and to work to better understand your concerns.

This coming week will be tough for us as well. We have meetings on the Wasatch Front periodically but it doesn't look like anything fits into the schedule this coming week. Let's connect later this week to see how our schedules are shaking out for the following week.

Thanks again for reaching out. We look forward to meeting soon.

Brian

Brian Barton, PE
Jones & DeMille Engineering, Inc.
435.979.7650

From: Darrell Fordham <darrellfordham@hotmail.com>
Sent: Saturday, May 11, 2019 10:29 PM
To: Brian Barton
Subject: Meeting Regarding Uinta Basin Railway

Brian,

It was nice to meet you and talk with you yesterday after the SCIC meeting in Price. I would like to take you up on your offer to meet with you to discuss the project and routes in more detail. The next couple of weeks are extremely busy for me ahead of the Memorial Day holiday, but I will do whatever I need to in order to meet with you. If possible, it would be most convenient for me to meet with you at your Springville office. I'm not sure which office you work out of though and whether we would need to meet at one of your other locations. Please let me know what your time and location availability is for this coming week and I will adjust my schedule accordingly.

Thanks,

Darrell Fordham
Argyle Wilderness Preservation Alliance
(801) 301-4190

**Argyle
Wilderness
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July 26, 2019

Mr. Michael J. McKee
Executive Director
Seven County Infrastructure Coalition
294 East 100 South
Price, Utah 84501
(435) 637-1203

Via: Email and U.S. Mail
Cc: Rosemary Cundiff - Utah Records Ombudsman

Re: Response and Partial Denial to GRAMA Request dated May 21, 2019 - Notice of Appeal

Director McKee,

I am writing this Notice of Appeal in regard to the response received from the Coalition's Legal Counsel, Eric Johnson, on July 12, 2019 to my GRAMA Request submitted May 21, 2019. I disagree with Mr. Johnson's and the Coalition's characterizations of much of the requested data, and request a more detailed explanation to support the Coalition's refusal to provide such information based on Section 305 of GRAMA, subsections 3 and 4:

- 1. Updated .kmz file showing the most recent Indian Canyon and Wells Draw proposed routes** - Mr. Johnson indicated that "This will be provided". As of the writing of this letter, over 2 months after my initial request was submitted to the Coalition, I still have not received Updated .kmz files from the Coalition.
- 2. Cost estimate information for each of the three proposed routes along with cost estimate data for the Rifle, CO and Mack, CO routes.** - Mr. Johnson indicated that "additional cost estimate data is commercial or financial information that is classified as protected pursuant to Section 305(3)&(4)". Please provide, in detail, the specific reasons the Coalition believes that the information requested would *"lead to financial speculations in currencies, securities, or commodities that will interfere with a planned transaction by the government entity or cause substantial financial injury to the governmental entity"* or *"the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in subsection 11-13-103(4)"*. I do not believe that disclosing the requested information would lead to financial speculations in currencies, securities, or commodities, nor do I believe that disclosure would cause commercial injury to or confer

a competitive advantage upon a potential or actual competitor. If the Coalition believes contrary, please provide evidence, documentation, and a detailed explanation to support your position, otherwise, I respectfully request that you provide the requested information.

3. Information provided to respondents to the RFI dated April 2, 2019 for the Commercialization, Financing, Construction, Operation, and Maintenance of the UBR, namely:

- a. Revenue and Carload Volume Forecast** - again, I disagree with Mr. Johnson's claim that this information qualifies for protection pursuant to Section 305(3)&(4). Please explain in detail how such information qualifies for protection under the referenced statute.
- b. Free Cash Flow Forecast** - I disagree with Mr. Johnson's claim that this information qualifies for protection pursuant to Section 305(3)&(4). Please explain in detail how such information qualifies for protection under the referenced statute.
- c. Conceptual Engineering Data** - The Draft Conceptual Engineering Technical Memorandum, Revision 3, dated March 14, 2019, Prepared Under the Direction of Counsel, represents a very cursory summary overview of the actual Conceptual Engineering performed for the project, and does not satisfy the request submitted. Please provide all conceptual engineering data to include drawings, details, engineering calculations, takeoff quantities, unit costs, proposed route alignments, vertical profiles, Engineering Basis of Design, Operating Basis of Design, and any and all other data used to perform conceptual engineering of selected routes.
- d. Environmental fatal-flaws analysis of the proposed routes** - Mr. Johnson indicated that this would be provided. As of this writing this information has not been received. It is clear that this information exists as-referenced in the Request for Qualifications For the Commercialization, Financing, Construction, Operation, and Maintenance of the Uinta Basin Railway issued April 29, 2019 as information that the Coalition would provide to Respondents to the RFQ.
- e. Status of the Coalition's Environmental Impact Statement before the STB** - Mr. Johnson indicated that there are "No responsive documents" for this item. Again, this is referenced in the Request for Qualifications For the Commercialization, Financing, Construction, Operation, and Maintenance of the Uinta Basin Railway issued April 29, 2019 as information that the Coalition would provide to Respondents to the RFQ. Please provide.
- f. Proposed Project Schedule** - this was provided with redactions of virtually all information related to Commercial Planning & Negotiations and Funding Procurement. Once again, I disagree with Mr. Johnson's claim that this information qualifies for protection pursuant to Section 305(3)&(4). Please explain in detail how such information qualifies for protection under the referenced statute.

4. **All data related to route evaluation and selection, scoring matrices, analyses, etc. for the Indian Canyon, Wells Draw, Craig, Rifle, and Mack routes.** - The provided Seven County Infrastructure Coalition - Uinta Basin Railway: Evaluation of Potential Route Alternatives dated March 13, 2019, Prepared Under the Direction of Counsel, again represents a very cursory summary overview of the actual Route Evaluation and Selection performed for the project, and does not satisfy the request submitted. Please provide all scoring data, tabulations, research data, as well as all written and documented communication between Coalition and project consultants concerning route evaluation and selection, including strategies, selection criteria identification, etc. to include internal meeting minutes memorializing any and all discussions on such matters. Mr. Johnson indicated that *"additional responsive documents are protected pursuant to Section 305(17)&(18) as attorney-client privileged communications or records prepared for an attorney in anticipation of administrative proceedings"* - Please provide a detailed explanation and rationale for Mr. Johnson's claim that such documents qualify for protection under Section 305(17)&(18).

With all due respect Mr. McKee, after having attended the April, May, June, and July Coalition meetings, and witnessing the blatant and deliberate manner in which the Coalition continues to deliberate behind closed doors, the Coalition's clear and open violations of the Utah Open and Public Meetings Act, the Coalition's misuse of CIB-distributed Mineral Lease Funds, and the failure of the Coalition to timely respond to GRAMA requests, we have no faith or trust or confidence in the Coalition as an interlocal government entity. Indeed, the Coalition's actions are those of a private entity conducting business in its own self-interest, rather than as a government entity tasked with conducting the people's business in an open and transparent manner. Far more disturbing than just the potential impacts of the Uinta Basin Railway Project are the clear and open and deliberate actions of the Coalition to violate Utah State Law. Such actions cannot and will not be tolerated. Lack of experience or education or knowledge are no excuse for violating the Law. We feel that the Coalition has deliberately and intentionally withheld critical information from the general public and from potentially affected landowners with regard to the herein referenced Uinta Basin Railway Project, specifically with regard to the route selection process and purported financial viability of the project. Your prompt response is anticipated and appreciated.

Respectfully,



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