

**From:** Floyd, Kathryn K. <KKFloyd@Venable.com>  
**Sent:** Tuesday, January 26, 2021 6:19 PM  
**To:** Wayland, Joshua  
**Cc:** Gosselin, Danielle; Fawal, Margaret K.; 'Mike McKee'; Karl Morell  
**Subject:** Coalition's Response to Extension Requests on the DEIS  
**Attachments:** Seven County Infrastructure Coalition's Response to Extension Request.pdf; Hemphill Verified Statement.pdf

Dear Josh,

Please find attached the Seven County Infrastructure's response to recent requests to further extend the public comment period on the DEIS. For the reasons described therein, the Coalition does not believe an extension is warranted and asks that OEA end the comment period on January 28, 2021.

In addition, I am attaching a verified statement from Mark Hemphill, Senior Vice President – Program Management of Rio Grande Pacific Corporation. Rio Grande Pacific's counsel, Karl Morell (copied on this email), planned to submit this to you today in response to the extension requests. However, Mr. Morell is not able to do so due to internet connectivity problems and asked me to provide you with the verified statement.

Please let me know if you have any questions.

Kathryn

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January 26, 2021

Josh Wayland  
Office of Environmental Analysis  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

Re: FD 36284 – Uinta Basin Railway – Response to Request for Extension of  
Comment Period on DEIS

Mr. Wayland,

On behalf of the Seven County Infrastructure Coalition, I am writing in response to recent requests submitted to the Surface Transportation Board asking for an additional extension of the public comment period on the draft environmental impact statement (DEIS) for the proposed Uinta Basin Railway. These requests contend that such extension is appropriate because the Notice of Exemption filed by the Colorado, Midland & Pacific Railway Company (“CMP”) on December 31, 2020 (FD 36471) “materially alters the necessary scope of the evaluation of the anticipated impacts of the [Uinta Basin Railway].”<sup>1</sup> As explained below, a further extension of the comment period is not warranted. OEA should close the comment period on January 28, 2021 and deny the requests for an additional extension.

First, the recent unrelated Notice of Exemption in FD 36471 does not “materially alter” the scope of potential impacts from the proposed Uinta Basin Railway. The Tennessee Pass Line referenced in the recent submissions to the Board is an existing rail line on which UP is authorized to operate rail traffic, and this issue concerning potential use of the Tennessee Pass Line is not new. Other submissions to the Board previously have raised concerns regarding potential traffic originating from the Uinta Basin Railway and traveling on the Tennessee Pass Line.<sup>2</sup> Because concerns about these potential impacts (which are unfounded for the reasons discussed below) are not new, as characterized in recent submissions, no additional time to comment on the DEIS is necessary.

In fact, OEA has considered potential downline impacts in the DEIS, using a downline study area likely to experience an increase in Uinta Basin Railway-related traffic. To conduct

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<sup>1</sup> See, e.g., Motion for Extension of Time and Petition for Reconsideration, Eagle County, CO in FD 36284 (Jan. 25, 2021).

<sup>2</sup> See, e.g., Comment filed by Mayor P.T. Wood in FD 36284 (July 7, 2020); Comment filed by Julie Mach in FD 36284 (July 6, 2020); Comment filed by Alan Robinson in FD 36284 (July 16, 2020).

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Surface Transportation Board  
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that analysis, “OEA used two PC Rail Miler routing functions to identify the shortest route and the ‘most practical’ route from the Basin to example refineries, where the most practical routing simulates the most likely movement of general merchandise train traffic with preference given to main lines over branch lines.”<sup>3</sup> Based on this modeling, “all rail traffic moving from Kyune to destinations in the east would travel over the existing rail line between Kyune and Denver, Colorado. From Denver, many different routings could be used for rail traffic to/from the identified refining regions.”<sup>4</sup> Notably, the model did not anticipate any traffic moving over the existing Tennessee Pass Line.

Finally, contrary to the assertions in recent submissions to the Board, the Notice of Exemption in FD 36471 is unrelated to the proposed Uinta Basin Railway. It is the Coalition’s understanding that if Rio Grande Pacific Corporation (the parent company of CMP) were to operate the Uinta Basin Railway, it does not intend to transport Uinta Basin oil over the Tennessee Pass Line. The Coalition understands that it would not be practical or economical to run trains carrying Uinta Basin Oil over the Tennessee Pass Line because that route is the highest-cost option for moving oil from the Uinta Basin to destination refineries anywhere east of Utah. Rather, as Rio Grande Pacific has stated to the Board, its primary interest in the Tennessee Pass Line is providing passenger rail service.<sup>5</sup>

In light of the foregoing, it is not necessary to extend the public comment period on the DEIS for the proposed Uinta Basin Railway. The Coalition therefore requests that OEA deny the recent extension requests.

Sincerely,



Kathryn K. Floyd

*Counsel for Seven County Infrastructure Coalition*

cc: Mike McKee  
Danielle Gosselin

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<sup>3</sup> Uinta Basin Draft EIS, Appendix C - Downline Analysis Study Area and Train Characteristics at C-4.

<sup>4</sup> *Id.*

<sup>5</sup> Reply to Motion to Reject Notice of Exemption, Colorado, Midland & Pacific Railway Company in FD 36471 (Jan. 26, 2021).

**BEFORE THE  
SURFACE TRANSPORTATION BOARD**

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**Finance Docket No. 36284**

**SEVEN COUNTY INFRASTRUCTURE COALITION—  
CONSTRUCTION AND OPERATION—IN UTAH, CARBON,  
DUCHESNE, AND UINTAH COUNTIES, UT.**

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**VERIFIED STATEMENT OF MARK W. HEMPHILL**

1. My name is Mark W. Hemphill. I am Senior Vice President – Program Management of Rio Grande Pacific Corporation. My office is located at 6100 Southwest Blvd., Suite 320, Fort Worth, Texas 76109.

2. As Senior Vice President – Program Management, I lead Rio Grande Pacific’s program for development of greenfield railways and terminals, and other major projects that integrate commercial, regulatory, engineering, and operational planning and execution. I have over 40 years of experience in the railroad industry.

3. I am submitting this Verified Statement in connection with the Uinta Basin Railway proposed by the Seven County Infrastructure Coalition in FD 36284, currently undergoing environmental review by the Board’s Office of Environmental Analysis.

4. Rio Grande Pacific is a railroad holding company for regional freight railroads. The company’s operations include five short line railroads operating on approximately 860 total route miles in seven states, including the Colorado Midland & Pacific Railway Company (CMP). Rio Grande Pacific is also the operator of the “A”

Train, a commuter railroad owned by the Denton County (Texas) Transportation Authority.

5. I am actively involved in and am familiar with CMP's commercial agreement with Union Pacific Railroad (UP) for the majority of the Tennessee Pass Rail Line in Colorado. CMP has filed for common-carrier authority to operate the Tennessee Pass Line with the Board (FD 36471).

6. The planned operation of the Tennessee Pass Line by CMP is unrelated to the Coalition's proposed Uinta Basin Railway, and Rio Grande Pacific and CMP have no plans to transport oil originating from the Uinta Basin Railway along the Tennessee Pass Line.

7. It is not practical or economical to transport oil on the Tennessee Pass Line. A route using the Tennessee Pass Line is the highest-cost option for moving oil from the Uinta Basin to destination refineries anywhere east of Utah, in terms of both capital expenditures and operating expenditures.

8. Rio Grande Pacific's primary interest in leasing the Tennessee Pass Line is to provide passenger rail service.

# VERIFICATION

I, Mark W. Hemphill, declare under penalty of perjury that the foregoing is true and correct. Further, I certify that I am qualified and authorized to file this statement.

Executed on this 26<sup>th</sup> day of January, 2021.

  
Mark W. Hemphill