



United States Department of the Interior



BUREAU OF LAND MANAGEMENT

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January 21, 2004

OFFICE OF THE SECRETARY
CASE CONTROL UNIT
STB FINANCE DOCKET NO. 34075
SURFACE TRANSPORTATION BOARD
ATTN: PHILLIS JOHNSON-BALL
SECTION OF ENVIRONMENTAL ANALYSIS
ENVIRONMENTAL FILING
1925 K STREET, NW
WASHINGTON DC 20423-0001

Dear Ms. Johnson-Ball:

This is in response to the letter we received on January 8, 2004, from the Surface Transportation Board (STB), requesting comments on the Notice of Availability (NOA) of Draft Scope of Analysis (DSA) for the Environmental Impact Statement (EIS) for the Central Utah Rail Project (CURP), that was published in the Federal Register on December 24, 2003.

It is our understanding that the proposal is driven by the Six County Association of Governments (SCAOG) for the Construction and Operation Exemption for a Rail Line between Levan and Salina, Utah. Our comments are based on the DSA and the last map that was reviewed at the public meeting that was held on Wednesday, October 22, 2003 at the North Sevier High School in Salina, Utah. This map depicts the tentative on-the-ground location of the subject proposed rail line.

As presented, the preferred route would cross very little public land. In our letter to you dated April 30, 2003, we listed a number of issues and questions we have concerning potential impacts to existing resources, and of the long-term feasibility of this project. Based on the very preliminary data available then and now, we recognize the need to address the following items which include, but are not limited to, a few new comments and a re-submission of the issues and questions stated in our letter to you dated April 30, 2003:

- 1 Upon receipt of a formal application for a right-of-way across public land, a serialized right-of-way case file will be established and opened. Please identify who the proponent/applicant will be that will file the relevant right-of-way application with the BLM.
- 2 Once the application is filed, a cost recovery category determination will be made for advanced reimbursement of expected reasonable administrative and other costs incurred in processing the application pursuant to 43 CFR 2808; and the proponent/applicant shall pay annually, in advance, the fair market rental value of the right-of-way, as determined by the Secretary. If the 2800 case type is a Category V determination (at least \$5000.00 non-refundable costs), and the preparation of an EIS is required, then all actual/full cost recovery shall be reimbursed. This regulation does not apply if the proponent/applicant is determined to be exempt pursuant to 43 CFR 2808.1 (1) or (2).
- 3 Upon filing of an official right-of-way application an internal interdisciplinary resource team would review the proposal for issues/impacts to specific resources.
- 4 The subject EIS must be written and published in accordance with section 102(2)(c) of the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) and 40 CFR 1500 regulations.
- 5 In accordance with 40 CFR 1501.6, the Bureau of Land Management (BLM), Richfield Field Office (RFO), requests to be designated as an official "Cooperating Agency" on the CURP proposal and be listed on all future notices so that we can adopt the EIS for BLM decision making. The BLM should be formally identified as a cooperating agency in the Notice of Intent (NOI) published in the Federal Register. The BLM must be identified as a cooperating agency in the draft and final EIS, preferably on the cover sheet.
- 6 General responsibilities for lead and cooperating agencies are set forth in 40 CFR 1501.6(a) and (b), however, an interagency memorandum of understanding (MOU) should be prepared. It should identify all cooperating agencies, a BLM contact, third-party contractors, etc. and specify any special resource needs, data requirements or issues which need to be addressed in the analysis. It should also identify the role and responsibilities of the lead and cooperating agency (See 40 CFR 1501.6(a) and (b) for detailed guidance on lead and cooperating agency responsibilities). The BLM's intent to adopt the EIS should be noted in the NOI for both the Draft and Final EISs.

- 7 Site specific analysis of all resources located on public lands within the preferred route and all alternative routes identified for the subject proposal shall be included in the EIS. The draft and final EIS document's format, content, publications and record of decision (ROD) are to be prepared and published in accordance with regulations NEPA, CEQ, and 40 CFR 1500-1508.
- 8 A No-action alternative needs to be identified and analyzed in the EIS.
- 9 State a clearly defined purpose and need.
- 10 Develop and provide legible maps depicting land ownership and the respective legal descriptions for: 1) the preferred route; and 2) each alternative route being considered.
- 11 What would the potential impacts be upon existing authorized utility rights-of-way throughout the area? This would include highways, electric power lines, telephone lines, and natural gas lines. Which utilities would be directly impacted by construction of the rail line and their location of impact?
- 12 What would construction of a rail line create significant impacts to other resource values such as historical and cultural resources, Native American values, and biological resources (especially threatened and endangered species)?
- 13 Would the rail line isolate and fragment public lands, grazing allotments, etc. and create management problems? Route locations utilizing state owned lands where feasible, and designed to be located in proximity to existing irrigation canals and power lines could help with this problem.
- 14 Depending on location of the resulting preferred route and alternative routes, additional issues may be generated that would need to be addressed.
- 15 We are concerned about the financial obligations and capabilities involved in a project of this size. What guarantees for economic feasibility, financial viability, and long-term operational stability are there? Who would be the main source of necessary long-term financial responsibility for the railroad? Have their funds and assets been analyzed so secure funding can be determined? Can they assure full underwriting for the life of the railroad including all necessary bonding requirements?
- 16 What is the projected life span of the rail line and how closely would it be tied to the operational viability of the coal mine? What happens to the rail line when the mine ceases operations?

- 17 Have the socio-economic effects for the region been considered to this point?
- 18 Have all necessary licensing, permitting, certifications, and oversight been fully considered to warrant further analysis of the project? Are agreements in place to assure long-term access, connection, use, and interchange of existing rail lines?
- 19 What type, if any, and where, would ancillary uses associated with the rail line be located on public lands.
- 20 What kind of vehicle access along the rail line and to sidings would be necessary for operational and maintenance purposes? Would this involve new roads? If so, what type of roads? Access along the rail line would also be necessary for public uses where existing roads would be changed or existing transportation routes may be eliminated.
- 21 What assurances are in place to secure contractual utilization of the rail line by entities desiring transportation and delivery of goods (eg., trucking, other uses, etc.).
- 22 What type of mineral materials and sources would be necessary for construction of the rail road? What is/are the location(s) of the mineral materials and sources.
- 23 This proposed project would likely cross ten (10) or more different livestock allotments, possibly requiring permit changes. Specific line routes may require different actions. Some of the necessary conditions might include: fencing the rail road right-of-way for livestock safety; construction of specific undercuts, culverts, or underpasses for livestock, wildlife, and vehicle movement and access; adjustment of livestock permits due to loss of Animal Unit Months (AUMs); other requirements to compensate for possible splitting and isolation of portions of the allotments.
- 24 Specific reseeding requirements would be necessary to mitigate all disturbed areas.
- 25 Long-term noxious weed controls would be required.
- 26 Impacts to Yuba Reservoir would need to be studied closely, especially at the location proposed for bridging at the narrows. How would recreational uses at the reservoir be impacted with this span? Would public recreational uses in other areas be affected by construction of the rail road?
- 27 The map shows that the northern end of the proposed preferred route would split within T. 15 S., R. 1 W., Sec. 9, and two lines would continue to run a short distance to the north and south. As depicted, the southern line would end at T. 15 S.,

R. 1 W., Sec. 16, NW¼NW¼, which is adjacent to the east side of an isolated 40 acre parcel of public land that is located within T. 15 S., R. 1 W., Sec. 17, NE¼NE¼. Is this public land proposed to be included in the project proposal?

28 Visual impacts throughout the area would need to be studied closely. Current Visual Resource Management (VRM) classification is mostly IV with some III.

29 Impact categories or elements of the human environment are subject to requirements specified in statute, regulation, or executive order and must be considered in all EIS's. If the resource or value is not present or is not affected by the proposed action or alternatives, this may be documented in the EIS as a negative declaration. Program-specific guidance is provided to determine if a negative declaration is required for certain actions.

We again appreciate the opportunity to provide comments and questions to you regarding this project proposal. We have definite concerns about potential impacts to the resources we manage and if these impacts can be effectively avoided or mitigated. Based upon the generality of the proposal, most of our comments remain fairly general.

Once the proponent/applicant and other cooperating agencies are identified, a draft MOU describing the role and responsibilities of each will be prepared and each will receive a copy. All will be afforded the opportunity to review the draft document and provide any comments they may have so that the final MOU may be prepared for signatures. During the interim, until this MOU is approved, we ask that the STB keep the BLM informed as this proposal progresses since we may have more site-specific comments to make as more information is known.

If you have any questions about this response, please contact Nancy DeMille, Realty Specialist, at (435) 896-1515 or me at (435) 896-3100.

Sincerely,

Aden Seidlitz
Field Office Manager