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February 12, 2021

Joshua Wayland, PhD
Surface Transportation Board
c/o ICF
9300 Lee Highway
Fairfax, VA 22031
Attn: Environmental filing, Docket No. FD 36284

Re: Uinta Basin Railway Project; Public Comment of the Uintah Valley Shoshone Tribe

Dear Dr. Wayland:

I. INTRODUCTION

Our firm represents the Uintah Valley Shoshone Tribe (also known as the Affiliated Ute Citizens). The Uintah Valley Shoshone Tribe (UVST or the Tribe) is a tribe of Native Americans that largely resides on the Uintah and Ouray Reservation. In 1954 490 members of the Ute Tribe were disenrolled from the Ute Tribe by an act of Congress, the Ute Partition and Termination Act. These “mixed-blood” Utes as they were called, lost their status as a federally recognized Indian Tribe, but still retained its identity as the Affiliated Ute Citizens, and later the Uintah Valley Shoshone Tribe. Therefore, the Tribe has lost its government-to-government relationship, and the majority of its rights to have any control over what happens on tribal lands.

This means there are over one thousand members of the Tribe that have been shut out of government-to-government discussions of this project while having a railroad constructed directly through their ancestral home.

II. WATER RESOURCES

The Uintah Basin has always had issues with water, specifically, not having enough. There is limited storage capacity for surface water in the Uintah Basin. (*Colorado River Basin Ten Tribes Partnership Tribal Water Study, 2018, Sec. 5.1-11*). Water availability is primarily dependent on climate factors, and flows vary considerably from year-to-year, and month-to-month. Drought is already a common occurrence within the Uintah Basin, and there are already current water shortages. Water shortages within the Basin are only projected to increase over time. (*Colorado River Basin Ten Tribes Partnership Tribal Water Study, 2018, Sec. 5.1-6*).

Due to the already limited water available for residents of the Uintah Basin, any change in the surface water poses dramatic downstream consequences. Each of the three Action Alternatives will have numerous water crossings and will require stream re-alignments, any of which may cause changes in waterflow to a community that is in desperate need of water resources. Stream realignments often cause water to move downstream faster, something that can both increase flooding and decrease downstream water quality as it can increase sediment deposits. Both of these negatively impact an already fragile hydrological system. More so than the stream realignment, downstream water quality is likely to decrease during at a minimum the construction period.

For an area with water insecurity, having any decrease in waterflow, even if only during the building period can have lasting economic impacts. The Tribe believes these risks are unacceptable in pursuit of the construction of a railroad for the transport of petroleum products that will only further cause drought conditions in the Basin through additions to global climate change.

III. BIOLOGICAL RESOURCES

All three Action Alternatives greatly impact the Greater Sage-Grouse. Oil and gas development in the Basin has already had a large negative impact on the greater sage-grouse population. A 2005 graduate dissertation, Greater Sage-Grouse and Energy Development in Northeastern Utah: Implications for Management by Leah Suzanne Smith from Utah State University found that greater sage-grouse sensitivity to energy development is heightened due to their large habitat and requirement for large areas to lek. The leads to reduced reproductive success. The study found that in Wyoming near areas of energy development, greater sage-grouse lek attendance declined by an average of 51% while only 3% decline in lek attendance was found in areas undisturbed by energy development. Furthermore, in the Powder River Basin in Wyoming, among those leks active in 1997, only 38% remained active in the natural gas fields by 2005. The Tribe is deeply concerned about the mitigation efforts proposed, and is also concerned that having this rail line will further develop energy exploration in the Basin leading to additional declines in the greater sage-grouse.

Many members of the Tribe hunt big game for subsistence, this is meat that they need to get them through the winter. Construction of the railroad will permanently remove or alter big game habitats throughout all of the Action Alternatives. Forage quality will also likely be impacted both during construction and operations, further reducing big game in the Basin. The Tribe does not believe the mitigation efforts proposed by the Coalition to be sufficient

IV. AIR QUALITY AND GREENHOUSE GASES

Climate change will be one of the great issues of our time. It is clear that human use of fossil fuels is adversely impacting our planet. President Biden and his administration have made it a priority to reduce greenhouse gas emissions and reduce our dependance on fossil fuels. Most recently, on January 27, 2021, President Biden signed an Executive Order pausing new federal

oil leases and electrifying the federal government's fleet of vehicles by 2035. Reducing our greenhouse gas emissions are of paramount importance, both for the Uinta Basin and for our country.

Construction of the railway will contribute between 208,697 tons of CO₂e^a to 289,737 tons of CO₂e^a into the environment. Furthermore, construction will release numerous hazardous air pollutants, each Action Alternative negatively impacting a fragile ecosystem. Furthermore, operation of the railroad will produce between 40,511 tons of CO₂e^a on the low end estimate for the Indian Canyon Alternative, and 141,169 tons of CO₂e^a for the High Rail Traffic Scenario for the Whitmore Park Alternative.

V. ENERGY

The Tribe does not support the construction of this railway as this does nothing but encourage the continued consumption of fossil fuels. It is a goal of the Biden administration to reduce the nation's consumption of fossil fuels in an attempt to curb global warming. Constructing a large fixed-asset is completely counter to this national objective. Construction of this railroad will either serve to continue oil and gas exploration within the Basin, or a railroad will be constructed that has little to no use as oil and gas exploration in the Basin. Both of these alternatives will have long-term negative environmental and social impacts on the local area.

Furthermore, there is an adequate rail line already built that runs on another Rio Grande Pacific, the same operator as the proposed Uintah Basin Railway. This line, the Tennessee Pass Rail Line, runs from Craig Utah to Grand Junction, Colorado and gives an already constructed rail path to crude refineries on the Gulf Coast. There is no need for two separate railways when we already have one that can be utilized for the same purpose.

VI. CULTURAL RESOURCES

The Ute Tribe was transplanted to the Reservation in the late 1800s while the UVST are descendants of the Fremont Indians, the Native Americans that have lived on the reservation lands from time immemorial. The Ute Tribe cannot be a proxy for the UVST as this land does not hold the same deep cultural significance to the Ute Tribe. Furthermore, the Ute Tribe is taking an equity position in the railroad and therefore has a vested interest in completing the project, even at the cost of the destruction of extremely important cultural artifacts.

The entire Uintah Basin is filled with rock imagery. One only needs to look as far as Nine Mile Canyon to see the significance of these rock images. It is likely that further surveying will turn up rock imagery throughout each of the three Action Alternatives. These rock images would be irreparably damaged by emissions from the construction and operation of the railway.

Dr. Joshua Wayland, PhD

February 12, 2021

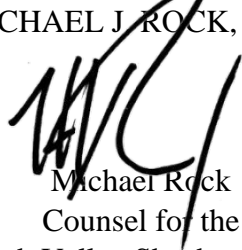
Page 4 of 4

The Tribe is concerned that the mitigation efforts proposed by the Coalition will not take the Tribe's unique cultural heritage into perspective. The Ute Indian Tribe does not have the history the Uintah Valley Shoshone Tribe has in this area as the Utes have been here for less than 150 years. This is the ancestral homeland of the Uintah Valley Shoshone Tribe and putting the history of the Tribe in the hands of those who do not share the same history with the land fails to adequately protect the Tribe and its unique and distinct culture.

We thank the Surface Transportation Board for its efforts in drafting this Environmental Impact Statement. The Uintah Valley Shoshone Tribe opposes this project and look forward to the STB addressing the concerns of the Uintah Valley Shoshone Tribe.

Sincerely,

MICHAEL J. ROCK, PLLC

A handwritten signature in black ink, appearing to read 'MJR', is written over the printed name 'Michael Rock'.

Michael Rock
Counsel for the
Uintah Valley Shoshone Tribe