

## 1.1 Introduction

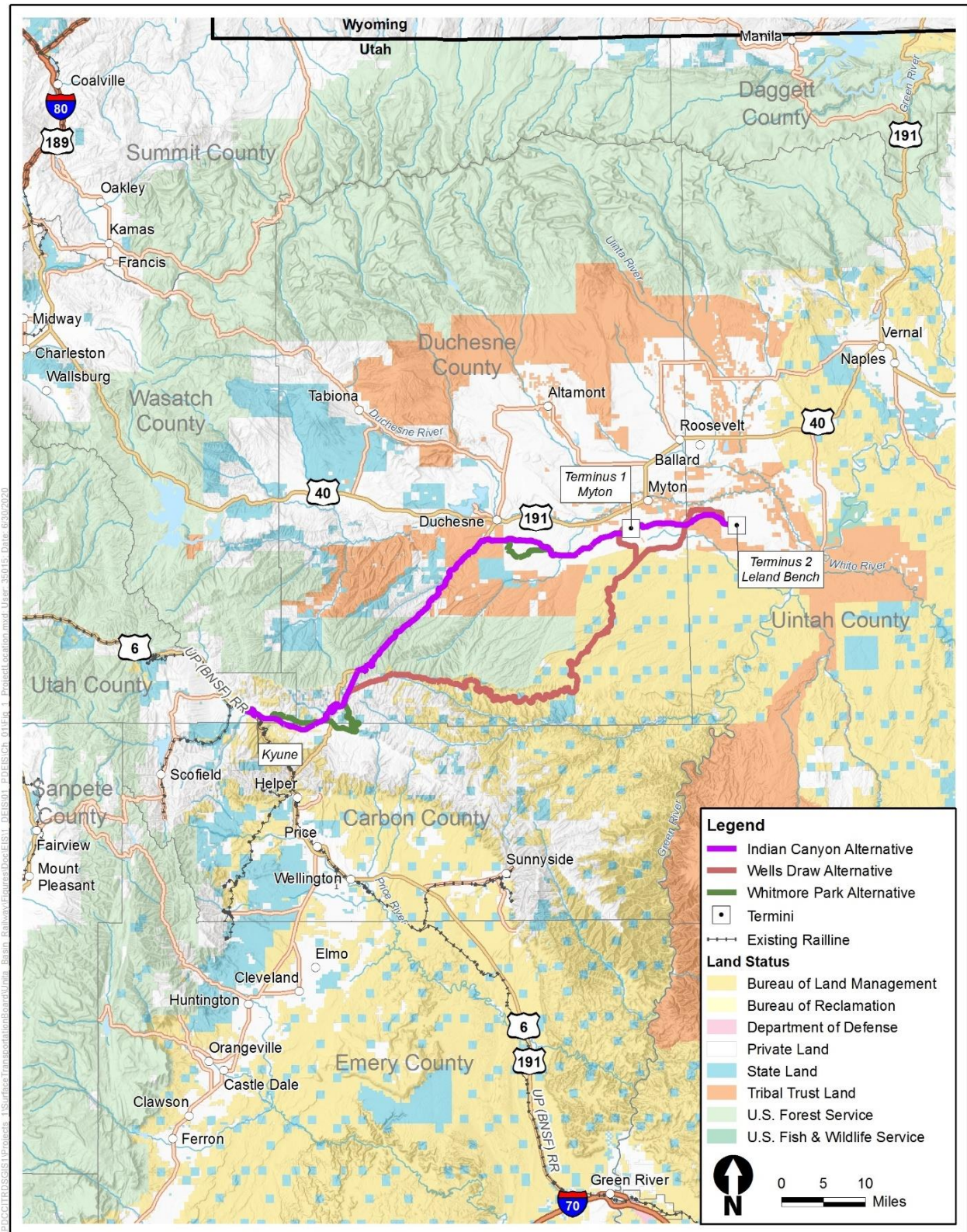
On May 29, 2020, the Seven County Infrastructure Coalition (Coalition) filed a petition for exemption with the Surface Transportation Board (Board) pursuant to 49 United States Code (U.S.C.) § 10502 in Docket No. FD 36284. The petition requests Board authority to construct and operate a new line of railroad in Carbon, Duchesne, Uintah, and Utah Counties, Utah. The Coalition is a political subdivision of the State of Utah established under an inter-local agreement by the Utah counties of Carbon, Daggett, Duchesne, Emery, San Juan, Sevier, and Uintah. The Coalition's proposed rail line would provide a new rail connection between the Uinta Basin in northeastern Utah (Basin) and the existing interstate rail network. It would extend approximately 85 miles from terminus points in the Basin near Myton, Utah and Leland Bench, Utah to an existing Union Pacific (UP) rail line near Kyune, Utah. OEA understands that the Coalition has entered into or intends to enter into agreements with Drexel Hamilton Infrastructure Partners (Drexel Hamilton), Rio Grande Pacific Corporation (RGPC), and the Ute Indian Tribe of the Uintah and Ouray Reservation (Ute Indian Tribe). If the Board were to authorize the proposed construction and operation, the Coalition states that Drexel Hamilton would be responsible for financing and commercialization of the proposed rail line and RGPC would operate and maintain it. The Coalition expects that the Ute Indian Tribe would become an equity partner in the proposed rail line.<sup>1</sup>

Because the construction and operation of the proposed rail line would result in significant environmental impacts, the Board's Office of Environmental Analysis (OEA) has prepared this [Draft Environmental Impact Statement \(EIS\)](#) pursuant to the National Environmental Policy Act (NEPA). 42 U.S.C. § 4321 et seq. Including the Coalition's preferred alternative, OEA identified three reasonable alternatives for consideration in this [Draft EIS](#). Those alternatives are the Indian Canyon Alternative, the Wells Draw Alternative, and the Whitmore Park Alternative (collectively, the Action Alternatives). The Action Alternatives are shown in Figure 1-1 in relation to the project area and are discussed in detail in Chapter 2, *Proposed Action and Alternatives*. The [Draft EIS](#) also considers the No-Action Alternative, which would occur if the Board were to deny the Coalition's request for construction and operation authority. The Coalition, the project applicant, has identified the Whitmore Park Alternative as its preferred alternative. Based on the information presented in this [Draft EIS](#), OEA has identified the Whitmore Park Alternative as OEA's environmentally preferred alternative. Should the Board decide to authorize construction and operation of the proposed rail line, OEA [preliminarily](#) recommends that the Board authorize the Whitmore Park Alternative to minimize impacts of construction and operation on the environment.

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<sup>1</sup> As used in this [Draft Environmental Impact Statement \(EIS\)](#), references to the Coalition as the project applicant also refer to any private partners that may be involved in the construction and operation of the proposed rail line, including Drexel Hamilton Infrastructure Partners (Drexel Hamilton) and Rio Grande Pacific Corporation (RGPC).

**Figure 1-1. Project Location**



## 1.2 Purpose and Need

The proposed federal action in this case is the Board's decision to authorize, deny, or authorize with conditions the Coalition's petition. If the Board were to [grant](#) authorize the petition, the proposed rail line would be operated as a common carrier rail line. As a common carrier, the Coalition would be required to provide rail service to any shipper upon reasonable request. The proposed rail line is not being proposed or sponsored by the federal government. Therefore, the purpose and need of the proposed rail line is informed by both the goals of the Coalition, as the project applicant, and the Board's enabling statute, specifically 49 U.S.C. § 10101 (the Rail Transportation Policy provision), § 10502 (the Board's exemption provision) and § 10901 (the Board's rail construction licensing provision).<sup>2</sup> Construction and operation of new rail lines require prior authorization by the Board either through a certificate under 49 U.S.C. § 10901, or an exemption from the formal application requirements of § 10901 under § 10502. Section 10901(c) directs the Board to grant construction proposals "unless" the Board finds the proposal "inconsistent with the public convenience and necessity (PC&N)." This is a permissive licensing standard that presumes that rail construction projects are in the public interest unless shown otherwise. [The Coalition, however, has sought an exemption under § 10502 from the regulatory requirements of § 10901; therefore, the public convenience and necessity standard in § 10901—although instructive—does not directly apply in this case. Under § 10502, the Board here must grant an exemption if it finds that the application of § 10901 \(in whole or in part\) is not necessary to carry out the Rail Transportation Policy contained in § 10101 and either the rail construction and operation is of limited scope or the application of § 10901 is not needed to protect shippers from the abuse of market power.](#)

As described in the Coalition's petition, the purpose of the proposed rail line would be to provide common carrier rail service connecting the Basin to the interstate common carrier rail network using a route that would provide shippers with a viable alternative to trucking. The Basin is an isolated geographical region, approximately 12,000 square miles in area, extending from northeastern Utah into northwestern Colorado. Because it is surrounded by high mountains and plateaus with elevations up to 13,500 feet above sea level, the Basin has limited access to all transportation modes. Currently, all freight moving into and out of the Basin is transported by trucks on the area's limited road network, which includes one north-south two-lane highway (U.S. Highway 191) and one east-west two-lane highway (U.S. Highway 40).

According to the Coalition, the proposed rail line would provide customers in the Basin with multi-modal options for the movement of freight to and from the Basin; promote a safe and efficient system of freight transportation in and out of the Basin; further the development of a sound rail transportation system; and foster sound economic conditions in transportation and effective competition and coordination between differing modes of transportation. While the Board will ultimately determine whether to authorize or deny the petition, the Coalition's stated purposes appear to be consistent with the PC&N contained in § 10901 and the Rail Transportation Policy contained in § 10101.<sup>3</sup>

<sup>2</sup> See *Alaska Survival v. STB*, 705 F.3d 1073, 1084-85 (9th Cir. 2013); *Citizens Against Burlington, Inc. v. Busey*, 938 F.2d 190, 199 (D.C. Cir. 1991).

<sup>3</sup> [The Board issued a preliminary decision on the transportation merits under the § 10502 exemption criteria in this proceeding on Jan. 5, 2021. \*Seven County Infrastructure Coalition – Rail Constr. and Oper. Exemption – In Utah, Carbon, Duchesne, and Uintah Counties, Utah\*, FD 36284 \(Jan. 5, 2021\).](#)

The Coalition anticipates that shippers would use the proposed rail line primarily to transport crude oil from the Basin to markets across the United States. Depending on future market conditions, including future global demand for crude oil and oil refinery capacity, the number of dedicated trains that would transport crude oil on the proposed rail line could range from 3.68 to 9.92 trains per day, on average, including unloaded trains entering the Basin and loaded trains leaving the Basin. The unit trains would consist of approximately 110 oil tanker cars and may be up to 10,000 feet long, including locomotives and buffer rail cars.

The rail line could also be used to transport other mineral and agricultural products out of the Basin, but the volume of those products would likely not be large enough to require dedicated trains. In addition, shippers could use the railroad to transport products and commodities such as frac sand,<sup>4</sup> other proppant material, steel, and machinery to markets in the Basin. Depending on future market conditions, the Coalition estimates that the number of dedicated frac sand trains on the proposed rail line would range between 0 and 0.6 trains per day, on average, including loaded trains entering the Basin and empty trains leaving the Basin. Aside from frac sand, other products entering the Basin would not require dedicated trains. Therefore, the total rail traffic on the proposed rail line would range between 3.68 and 10.52 trains per day, on average, during rail operations.

## 1.3 National Environmental Policy Act Process

### 1.3.1 Lead Agency

NEPA requires federal agencies to assess the environmental effects of proposed actions prior to making decisions. OEA is the office of the Board tasked with carrying out the Board's responsibilities under NEPA and related environmental laws. The Board, through OEA, is the lead agency responsible for preparing this [Draft EIS](#) to identify and evaluate the potential environmental impacts associated with the proposed rail line and reasonable and feasible alternatives.

### 1.3.2 Cooperating Agencies

Four federal agencies and one state agency, acting as lead agency for other Utah State agencies, assisted in the preparation of this [Draft EIS](#) as cooperating agencies, pursuant to Council on Environmental Quality (CEQ) regulations at 40 Code of Federal Regulations (C.F.R.) § 1501.6. The CEQ regulations emphasize agency cooperation early in the NEPA process and allow a lead agency to request the assistance of other agencies with either jurisdiction by law or special expertise in matters relevant to preparing an EIS.

OEA and the cooperating agencies prepared this [Draft EIS](#)<sup>5</sup> in accordance with NEPA, the CEQ regulations, and the Board's environmental regulations (49 C.F.R. Part 1105). This [Draft EIS](#) is intended to provide the Board; the cooperating agencies; other federal, state, and local agencies; federally recognized tribes; and the public with clear and concise information on the potential environmental impacts of the proposed rail line and the No-Action Alternative. The Board and the

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<sup>4</sup> *Frac sand* is a type of sand that is injected into underground cracks in rocks from which oil is harvested during the hydraulic fracturing (fracking) process.

<sup>5</sup> While much of this [Draft EIS](#) refers to OEA as the document's preparer, the analysis and conclusions reflect input from all cooperating agencies.

cooperating agencies will consider the information in this [Draft EIS](#) during their decision-making processes. Table 1-1 lists the cooperating agencies and summarizes their regulatory role with respect to the proposed rail line. Additional information regarding the role of each cooperating agency is provided below. Chapter 5, *Consultation and Coordination*, includes information on OEA's consultation with cooperating agencies and tribes.

**Table 1-1. Cooperating Agencies**

<b>Agency</b>	<b>Role</b>
State of Utah Public Lands Policy Coordinating Office	Coordinates input for Utah state agencies under NEPA and related laws.
U.S. Department of Agriculture, U.S. Forest Service (Forest Service)	May approve or deny a special use permit for Forest Service-managed lands. May approve or deny a project-specific Forest Plan amendment for visual quality objectives.
Department of the Army, U.S. Army Corps of Engineers (Corps)	May issue or deny a Section 404 Clean Water Act permit and/or a Section 10 Rivers and Harbors Act permit.
Department of the Interior, Bureau of Indian Affairs	May approve, deny, or grant with modifications the application for grant of easement(s) or leases on Tribal trust lands.
Department of the Interior, Bureau of Land Management (BLM)	May approve or deny a right-of-way grant for the proposed rail line across BLM-administered lands.

Notes:

NEPA = National Environmental Policy Act

### 1.3.2.1 U.S. Forest Service

Because the Indian Canyon Alternative and the Whitmore Park Alternative would cross National Forest System (NFS) lands, the Coalition would have to seek U.S. Forest Service (Forest Service) approval for permitting the rail line right-of-way if the Board were to license either of those alternatives. The Forest Service decision on whether to permit the rail right-of-way would also include determining whether to amend the Ashley Forest Land and Resource Management Plan (Ashley Forest Plan) with a project-specific amendment for visual quality. The Forest Service intends to use this [Draft EIS](#) to inform its decision on the necessary approvals and the Ashley Forest Plan project-specific amendment. In the event that the Forest Service decides to amend the Ashley Forest Plan, the Forest Service has given notice that the scope is expected to be limited to the proposed rail line only, and the scale of the amendment is the project area that occurs on NFS lands. The Forest Service has also given notice that the substantive requirements of the 2012 Planning Rule (36 C.F.R. Part 219) are likely to be directly related and, therefore, applicable to the Ashley Forest Plan amendments are 36 C.F.R. § 219.8(b)(1) and (2) (specifically scenic character), regarding social and economic sustainability, and 36 C.F.R. § 219.10(a)(1) (specifically scenery) and (3) (specifically transportation), regarding integrated resource management for multiple use. The Forest Service responsible official is the Ashley Forest Supervisor. The Indian Canyon Alternative and the Whitmore Park Alternative would cross through roadless areas [in](#) Ashley National Forest. To construct either of those alternatives, a roadless review and approval by the Regional Forester would have to be completed to ensure consistency with the 2001 Roadless Area Conservation Rule (36 C.F.R. Part 294, Subparts A and B).

### 1.3.2.2 U.S. Army Corps of Engineers

The U.S. Army Corps of Engineers (Corps), through the Regulatory Program, administers and enforces Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act. Under Rivers and Harbors Act Section 10, a permit is required for work or structures in, over, or under navigable waters of the United States. Under Clean Water Act Section 404, a permit is required for the discharge of dredged or fill material into waters of the United States. On September 30, 2020, the Corps issued a public notice announcing that it was evaluating the Coalition's application for a permit under Section 404 of the Clean Water Act.

### 1.3.2.3 Bureau of Indian Affairs

The Indian Canyon Alternative and the Whitmore Park Alternative would cross Tribal trust lands in the Uintah and Ouray Reservation. To construct either of those alternatives, the Coalition would have to obtain a consent resolution from the Ute Indian Tribe and a grant of easement for right-of-way or leases (if necessary) from the Bureau of Indian Affairs before beginning construction.

### 1.3.2.4 Bureau of Land Management

The Indian Canyon Alternative and the Wells Draw Alternative would cross Bureau of Land Management (BLM) lands administered by the BLM's Vernal Field Office, Price Field Office, and Salt Lake Field Office. Therefore, if the Board were to authorize one of those two alternatives, the Coalition would have to seek and obtain a right-of-way permit across BLM-administered public lands, pursuant to 43 C.F.R. Part 2800, before beginning construction. If the Board were to authorize an alternative that would cross BLM-administered land, the issuance of a right-of-way would be subject to the requirements of the BLM's applicable Resource Management Plans (RMPs), including the Vernal Field Office RMP, Price Field Office RMP, and Pony Express RMP. As proposed, the Indian Canyon Alternative and Wells Draw Alternative would not be in compliance with greater sage-grouse noise thresholds [and ground disturbance cap](#) in the Price Field Office RMP and Pony Express RMP, and BLM may need to amend these plans to issue a right-of-way grant. BLM may also need to amend the Vernal Field Office RMP based on where the Wells Draw Alternative crosses BLM Visual Resource Management Class II land and the Lears Canyon Area of Critical Environmental Concern.

### 1.3.2.5 Utah Public Lands Policy Coordinating Office

The State of Utah, through its Public Lands Policy Lands Policy Coordinating Office, is participating in the Board's EIS process by providing recommendations and guidance informed by the specialized expertise of the state agencies in the areas of land use, transportation, safety, water quality, air quality, biological resources, geology, energy, socioeconomics, and cultural resources.

## 1.3.3 Scoping Process

The Board published a Notice of Intent (NOI) to prepare an EIS and a Draft Scope of Study for the EIS in the *Federal Register* on June 19, 2019. Publication of the NOI initiated a 45-day public scoping period that commenced June 19, 2019, and was scheduled to end on August 3, 2019. In response to requests to extend the public scoping period, the Board extended the scoping comment period for an additional 30 days. The scoping comment period ended September 3, 2019. During the scoping period, OEA held six public scoping meetings in the project area. Information on and materials available at those meetings can be found on the Board-sponsored project website

([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)). Following the end of the scoping period, OEA revised the Draft Scope of Study in response to comments received from agencies, other stakeholders, and the public. The Final Scope of Study for the EIS was published in the *Federal Register* on December 13, 2019.

### 1.3.4 Public Comment Period for the Draft EIS

OEA requesteds and encourages the public and any interested parties to submit comments on any aspect of theis Draft EIS. OEA ~~will~~ considered all comments in preparing thea Final EIS, which will sets forth OEA's conclusions regarding the potential environmental impacts of the proposed rail line and OEA's final recommendations to the Board, including recommended environmental mitigation measures. All comments on theis Draft EIS ~~were~~must be submitted within the published comment period, which ~~will~~ was announced to close on December 14, 2020, 45 days after the Notice of Availability of the EIS is published in the *Federal Register*. [On December 2, 2020, OEA announced a 45-day extension of the comment period, requesting that comments be submitted by January 29, 2021. On January 28, 2021, OEA announced a second comment period extension of 15 days until February 12, 2021.](#) When submitting comments on theis Draft EIS, the Board encourages commenters to be as specific as possible and substantiate concerns and recommendations.

Commenters ~~could~~ may submit comments electronically or through the mail. OEA ~~gave~~will give the same consideration to comments submitted electronically as mailed comments. Therefore, persons submitting comments electronically ~~did~~do not have to also send comments by mail. Comments on theis Draft EIS ~~could~~may be submitted electronically through the Board-sponsored project website ([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)).

Written comments on theis Draft EIS ~~could~~may be mailed to the following address.

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

[OEA asked that all commenters p](#)lease refer to Docket No. FD 36284 in all correspondence addressed to the Board, including all comments submitted on the Draft EIS.

Following the close of the comment period on the Draft EIS on ~~December 14, 2020~~[February 12, 2021](#), OEA ~~will~~ issued a Final EIS. The Board will ~~now~~then issue a final decision that will address the transportation merits of the proposed project and the entire environmental record, including the Draft EIS, Final EIS, and public and agency comments.

Further information about the project can be obtained by calling OEA's toll-free number for the project at 1-855-826-7596. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at (800) 877-8339.

This ~~Draft~~ EIS is available for viewing and downloading on the Board's website ([www.stb.gov](http://www.stb.gov)) and on the Board-sponsored project website ([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)).

### 1.3.5 Public Meetings

In addition to receiving written comments on the Draft EIS, OEA ~~will host~~ed six public online meetings during which interested parties ~~made~~ oral comments. OEA ~~will begin~~ ~~began~~ each online meeting with an overview of the proposed project and the environmental review process followed by a facilitated comment session for interested individuals who ~~have~~ registered in advance to make oral comments. Each registered commenter ~~will have~~ had several minutes to convey his or her oral comments. A court reporter ~~will record~~ed the oral comments. ~~OEA made the m~~Meeting transcripts ~~will be~~ available on the project website after the meetings.

The online public meetings ~~were will be~~ held at the following dates and times; all times are in Mountain Standard Time (MST).

- Monday, November 16, 2020, 2:00–4:00 p.m.
- Wednesday, November 18, 2020, 9:00–11:00 a.m.
- Thursday, November 19, 2020, 6:00–8:00 p.m.
- Monday, November 30, 2020, 6:00–8:00 p.m.
- Tuesday, December 1, 2020, 2:00–4:00 p.m.
- Thursday, December 3, 2020, 6:00–8:00 p.m.

To register for the online public meeting, ~~interested participants~~ ~~visited~~ the Public Involvement page on the Board-sponsored project website ([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)). OEA ~~also will~~ provided additional meeting information and dial-in instructions after registration, ~~and posted that~~ ~~information on the Board-sponsored project website for anyone to use.~~