

# Chapter 5

## Consultation and Coordination

---

This chapter summarizes public, agency, and tribal involvement during the environmental review process leading to the issuance of this Draft EIS.

### 5.1 Public Involvement

#### 5.1.1 EIS Scoping

To help determine the scope of this EIS, and as required by the Board's regulations at 49 Code of Federal Regulations (C.F.R.) § 1105.10(a)(2), OEA published a Notice of Intent to Prepare an Environmental Impact Statement, Notice of Availability of the Draft Scope of Study, Notice of Scoping Meetings, and Request for Comments (NOI) (84 *Federal Register* [FR] 28611) on June 19, 2019. OEA sent letters to elected officials; federal, state, and local agencies; tribes; and other potentially interested organizations to notify them of the availability of the NOI and provide details on the scoping process. OEA also prepared and distributed a postcard that introduced the Coalition's proposed rail line, announced OEA's intent to prepare an EIS, and gave notice of scoping meetings to over 360 residents and landowners identified in the vicinity of the preliminary rail line alternatives.

OEA circulated a press release and a public service announcement for distribution to media outlets in the areas surrounding the proposed rail line. OEA also distributed a community flyer with similar information to high-traffic areas including chambers of commerce, libraries, and town halls near the proposed rail line. OEA also conducted a digital campaign to advertise public meetings, increase awareness, and direct interested parties to the project website for additional information. OEA placed notices of the scoping meetings in several newspapers, including the *Salt Lake City Tribune*, *Deseret News*, *Uintah Basin Standard*, *Vernal Express*, *Craig Daily Press*, *Rio Blanco Herald Times*, and *Utah County Daily Herald*.

Publication of the NOI initiated a 45-day public scoping period that commenced on June 19, 2019, and was scheduled to end on August 3, 2019. In response to requests to extend the public scoping period, OEA extended the scoping comment period for an additional 30 days to September 3, 2019. During the scoping period, OEA held six public scoping meetings in communities in the vicinity of the proposed rail line and in Salt Lake City, Utah. The first 30 minutes of each public meeting was an open-house format, followed by a brief presentation and an opportunity for public comment at an open microphone. Approximately 410 people attended the scoping meetings, including citizens; tribal members; representatives of organizations; elected officials; and officials from federal, state, and local agencies. Some attendees submitted oral and/or written comments during the meetings, and OEA received additional scoping comment forms and letters by mail.

OEA received 1,530 comment letter submissions during the scoping comment period. This included one form letter campaign comprising 949 submissions. Upon receipt of each comment letter, the submission was parsed into individual comments and sorted by resource topic. OEA identified 961 unique comments during this process. OEA considered all the of the comments and revised the Draft Scope of Study in response to public and agency input. On December 13, 2019, OEA published the

Final Scope of Study in the *Federal Register* (84 FR 68274). The Final Scope of Study includes a summary of the comments received and the potential impacts to be analyzed in the EIS. As part of the environmental review process to date, OEA has conducted broad public outreach activities to inform the public about the proposed rail line and to facilitate public participation. OEA consulted with, and will continue to consult with, federal, state, and local agencies; tribes; affected communities; and all interested parties to disseminate information and gather comments.

## 5.1.2 Project Website

Early in the EIS scoping process, OEA established a Board-sponsored website ([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)) to communicate project-related information to the public. During the scoping process, OEA posted project information such as the NOI, the Draft Scope of Study, information about scoping meetings, instructions and guidance on how to provide scoping comments, scoping meeting presentation materials, and the Final Scope of Study. OEA continued to update the website beyond the scoping process and posted relevant project information, such as baseline environmental data and engineering details. OEA will continue to update the project website throughout the NEPA process to communicate project-related information to the public.

## 5.2 Agency Coordination and Consultation

### 5.2.1 National Environmental Policy Act

As part of scoping under NEPA and before the NOI was published, OEA sent consultation letters to agencies soliciting their input, comments, ideas, and concerns (Table 5-1).

**Table 5-1. Agencies and Tribes Consulted during Scoping for Input on the Draft EIS**

<b>Federal Agencies</b>	<b>State Agencies</b>	<b>Tribes</b>
U.S. Environmental Protection Agency	State of Utah School and Institutional Trust Lands Administration	Ute Indian Tribe of the Uintah and Ouray Reservation
U.S. Fish and Wildlife Service	Utah Public Lands Policy Coordinating Office	
Bureau of Indian Affairs	Utah Governor's Office	
National Park Service	Utah Department of Transportation	
U.S. Army Corps of Engineers	Utah State Historic Preservation Office	
Bureau of Land Management	Utah Department of Environmental Quality	
Federal Railroad Administration	Colorado Department of Public Health & Environment	
U.S. Forest Service	Colorado Department of Transportation Colorado Governor's Office Colorado Parks and Wildlife Colorado State Historic Preservation Office Colorado State Land Board	

OEA also sent consultation letters to Carbon, Duchesne, Uintah, and Utah Counties in Utah and Moffat and Rio Blanco Counties in Colorado.

Prior to the issuance of the NOI, OEA invited four federal agencies and one state agency, acting as lead agency for other Utah State agencies, to participate in the EIS process as cooperating agencies (Chapter 1, Section 1.3.2, *Cooperating Agencies*).

OEA held several meetings with the cooperating agencies before and during the scoping period. These included a kickoff teleconference with the cooperating agencies on June 3, 2019, in-person meetings with the cooperating agencies in Salt Lake City, Utah, on July 15, 2019, and November 21, 2019, and a series of biweekly teleconference meetings that began on July 31, 2019, and will continue, as needed through the end of the NEPA process.

During preparation of the Draft EIS, OEA continued consultation with the above agencies and additional agencies, including the Utah Department of Wildlife Resources, Utah Geological Survey, Utah Division of Air Quality, and Utah Department of Agriculture and Food.

OEA also held separate teleconference meetings with various agencies, including the U.S. Environmental Protection Agency (EPA), Bureau of Land Management (BLM), U.S. Forest Service (Forest Service), U.S. Army Corps of Engineers, and U.S. Fish and Wildlife Service as needed to discuss resource-specific topics. For example, OEA convened a project-specific Greater Sage-Grouse Interagency Working Group with representatives from the Bureau of Land Management, U.S. Army Corps of Engineers, U.S. Fish and Wildlife Service, Utah Division of Wildlife Resources, Utah Public Lands Policy Coordinating Office, and other Utah State agencies. This working group met six times to exchange information related to greater sage-grouse management, study impacts on greater sage-grouse habitat, and review the Coalition's voluntary mitigation approach for addressing impacts on greater sage-grouse.

Appendix S, *Agency and Tribal Consultation*, provides additional details on OEA's consultation with cooperating agencies and other agencies during the development of this Draft EIS.

## 5.2.2 National Historic Preservation Act Section 106

OEA also consulted with appropriate agencies under Section 106 of the National Historic Preservation Act (NHPA). OEA's formal Section 106 consultation effort began in June 2019, when OEA identified and sent letters to an appropriate group of potential consulting parties. OEA invited all parties with whom it initiated consultation to participate in the July 2019 public scoping meetings and to identify any topics related to cultural resources or historic properties that should be included in the EIS. Throughout the remainder of 2019, OEA followed up on the initiation letters by email and telephone to determine whether each invited party wished to participate in consultation.

As of the issuance of this Draft EIS, the following federal, state, and tribal agencies are participating the Section 106 process as consulting parties.

- Utah Division of State History, State Historic Preservation Office
- Ute Indian Tribe of the Uintah and Ouray Reservation
- Advisory Council on Historic Preservation
- Department of Agriculture, U.S. Forest Service

- Department of the Interior, Bureau of Indian Affairs
- Department of the Interior, Bureau of Land Management
- Department of the Army, U.S. Army Corps of Engineers
- The State of Utah's Public Lands Policy Coordinating Office
- Utah Trust Lands Administration
- Utah Department of Transportation

Beginning in January 2020, OEA hosted monthly consulting party teleconferences. OEA also held a topic-specific teleconference to solicit consulting party perspectives on the likely presence and significance of rock imagery in the APE. In addition to these group consultations, OEA consulted individually with the Forest Service, Utah State Historic Preservation Office, and the Advisory Council on Historic Preservation. OEA is continuing to coordinate with appropriate agencies and other consulting parties on development of a Programmatic Agreement (PA) that will specify procedures and responsible parties for identification and evaluation of historic properties, assessment of potential effects on historic properties, and the resolution of adverse effects on historic properties.

To keep agencies and the public involved and informed, OEA included a page on the Board-sponsored project website ([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)) that includes up-to-date information about the Section 106 process.

## 5.3 Tribal Coordination and Consultation

This section addresses OEA's coordination and consultation with tribes under NEPA, Executive Order 13175, and Section 106.

### 5.3.1 Government-to-Government Consultation

Executive Order 13175 requires that federal agencies conduct government-to-government consultations with federally recognized Indian tribes in the development of federal policies (including regulations, legislative comments or proposed legislation, and other policy statements or actions) that have tribal implications. Tribes may have concerns about natural resources that would not be brought up during the NHPA Section 106 process and that can be voiced during government-to-government consultation.

On June 19, 2019, OEA sent letters to the following federally recognized tribes that have current and ancestral connections to the area surrounding the proposed rail line.

- Ute Indian Tribe of the Uintah and Ouray Reservation, Utah
- Apache Tribe of Oklahoma
- Eastern Shoshone Tribe of the Wind River Reservation, Wyoming
- Confederated Tribes of the Goshute Reservation, Nevada and Utah
- Fort Belknap Indian Community of the Fort Belknap Reservation of Montana

- Hopi Tribe of Arizona
- Navajo Nation, Arizona, New Mexico, and Utah
- Northwestern Band of the Shoshone Nation
- Paiute Indian Tribe of Utah
- Shoshone-Bannock Tribes of the Fort Hall Reservation
- Skull Valley Band of Goshute Indians of Utah
- White Mesa/Ute Mountain Ute Tribe

The letters provided information regarding the Board's responsibility for preparing the appropriate NEPA documentation for the proposed rail line. The letters also notified the tribes of the issuance of the NOI, provided directions on how to comment on the Draft Scope of Study, and invited the tribes to engage with OEA in government-to-government consultation. OEA requested that the tribes reply to indicate interest in consultation with OEA regarding the broader range of impacts assessed under NEPA including impacts on tribal lands and resources. The letter also included a questionnaire on which tribes could indicate their interest in future involvement in the NEPA process. OEA has been engaging in government-to-government consultation with the Ute Indian Tribe of the Uintah and Ouray Reservation throughout the NEPA process.

OEA has met multiple times with members of the Ute Tribal Business Committee and other tribal officials and staff at the Board's Washington, D.C. office, at tribal offices at the Uintah and Ouray Reservation, and by teleconference to review tribal concerns or questions, and to review project updates. These meetings occurred in February, May, July, September, and November 2019, as well as in January, May, and August 2020.

### 5.3.2 Tribal Consultation under NHPA Section 106

On June 19, 2019, OEA sent a letter outlining the Board's responsibilities to consult regarding potential impacts of the proposed rail line on historic properties as defined, under Section 106 of the NHPA. OEA sent the letter to the following tribes and invited recipients to consult under Section 106 of the NHPA.

- Ute Indian Tribe of the Uintah and Ouray Reservation
- Apache Tribe of Oklahoma
- Confederated Tribes of the Goshute Reservation, Nevada and Utah
- Eastern Shoshone Tribe of the Wind River Reservation, Wyoming
- Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Hopi Tribe of Arizona
- Navajo Nation, Arizona, New Mexico, and Utah
- Northwestern Band of the Shoshone Nation, Utah
- Paiute Indian Tribe of Utah
- Shoshone-Bannock Tribes of the Fort Hall Reservation, Idaho
- Skull Valley Band of the Goshute Indians

- **White Mesa/Ute Mountain Ute Tribe, Utah and Colorado**

The Hopi Tribe of Arizona and Ute Indian Tribe of the Uinta and Ouray Reservation accepted the invitation to participate as NHPA Section 106 consulting parties. The other tribes that received OEA's invitation letter either did not respond to or declined the invitation. In June 2020, OEA contacted all tribes that had not yet responded to invite them to participate as a Section 106 consulting party again. OEA did not receive any responses from this second round of invitations.

OEA held a consulting party kickoff meeting on January 22, 2020, via a teleconference call and held monthly meetings of the consulting parties via teleconferences throughout the development of this Draft EIS. During the monthly calls, OEA provided project updates and a venue for tribes to express any concerns regarding the proposed rail line. OEA consulted directly with the Ute Indian Tribe of the Uinta and Ouray Reservation's Cultural Rights Protection Department in person and by teleconference throughout the development of this Draft EIS. OEA is continuing to coordinate with tribes and other Section 106 consulting parties on development of a PA that will specify procedures and responsible parties for identification and evaluation of historic properties, assessment of potential effects to historic properties, and the resolution of adverse effects to historic properties.

To keep the tribal members and the public involved and informed, OEA included a page on the Board-sponsored project website ([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)) that contains up-to-date information about the Section 106 process.

## 5.4 Consultation with Other Stakeholders

### 5.4.1 Consultation under NHPA Section 106

In addition to the agencies and tribes listed in the previous sections, OEA also invited other appropriate parties to participate in the Section 106 consultation process. OEA conducted an extensive and inclusive process to provide multiple opportunities for consulting parties to participate in the Section 106 process.

As of the issuance of this Draft EIS, the following agencies, tribes, and other stakeholders are participating the Section 106 process as consulting parties.

- Utah Division of State History, State Historic Preservation Office
- Ute Indian Tribe of the Uintah and Ouray Reservation
- Advisory Council on Historic Preservation
- Department of Agriculture, U.S. Forest Service
- Department of the Interior, Bureau of Indian Affairs
- Department of the Interior, Bureau of Land Management
- Department of the Army, U.S. Army Corps of Engineers
- U.S. Environmental Protection Agency
- State of Utah's Public Lands Policy Coordinating Office
- State of Utah School and Institutional Trust Lands Administration

- Utah Department of Transportation
- Uintah County
- Duchesne County
- Carbon County
- Colorado Plateau Archaeological Alliance
- Utah Rock Art Research Association
- Nine Mile Canyon Coalition
- Hopi Tribe of Arizona
- Seven County Infrastructure Coalition

OEA held a consulting party kickoff meeting on January 22, 2020, via a teleconference call and held monthly meetings of the consulting parties via teleconferences throughout the development of this Draft EIS. OEA held multiple workshops with consulting parties to discuss specific resources of concern and to incorporate consulting party input on the Draft PA that is appended to this Draft EIS (Appendix O, *Draft Programmatic Agreement*). OEA has also included a page on the Board-sponsored project website ([www.uintabasinrailwayeis.com](http://www.uintabasinrailwayeis.com)) specifically for Section 106 of the NHPA. This page includes an overview of the Section 106 process; links to lists of invited consulting parties; meeting agendas, materials, and minutes; and information regarding identification and evaluation of effects on historic properties. Chapter 3, Section 3.9, *Cultural Resources*; Appendix N, *Historic Properties Technical Memorandum*; and Appendix S, *Agency and Tribal Consultation*, provide additional information regarding consulting party meetings and other Section 106 communications.