

July 27, 2023

**VIA E-MAIL**

Greg Sheehan, Utah State Director  
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**Re: BLM Environmental Review of Coal Energy Group 2, LLC's Wildcat Loadout Facility Right-of-Way Amendment**

Dear Director Sheehan:

On behalf of Eagle County, Colorado, we request that the Bureau of Land Management (BLM) undertake an Environmental Impact Statement (EIS) to evaluate the environmental effects of Coal Energy Group 2, LLC's (Coal Energy) proposal to amend its Right-of-Way (ROW) UTU-48027, known as the Wildcat Loadout Facility (the Facility), near Price, Utah. The National Environmental Policy Act (NEPA), 42 U.S.C. § 4332 *et seq.*, requires BLM conduct an EIS for the ROW rather than the more abbreviated environmental assessment that BLM proposes to complete.

Eagle County is concerned with recent plans to significantly increase oil development in the Uinta Basin, which will result in transport of millions of gallons of oil a day on the existing Union Pacific's Central Corridor Line (UP Line) across the mountains and forests of Colorado, and directly through Eagle County. Eagle County is located in the Rocky Mountains in central Colorado and is comprised of almost 1,700 square miles of pristine mountainous terrain, valleys, rivers, and forests. Eagle County has nine towns and some of the most popular resorts in the country. A vast majority of Eagle County's land is public and includes natural areas and other lands owned by the County or State of Colorado, federal national forests and wilderness areas, and lands owned by the BLM. Our environment, including the rivers, mountains, forests, and valleys, provide unique and critical wildlife habitat and world-class recreational opportunities including hiking, mountain biking, skiing, fishing, rafting, and hunting. The health of Eagle County's environment and natural resources is critical to the County's communities and to our economy.

Oil trains transporting waxy crude oil from the Uinta Basin across Colorado through Eagle County—and the significant environmental effects of that rail traffic—demand a comprehensive analysis of the Facility in an EIS. As BLM is aware, Eagle County and environmental groups challenged the federal Surface Transportation Board’s decision to authorize the 88-mile Uinta Basin Railway in violation of NEPA and other federal environmental laws, *see Eagle County, Colorado v. Surface Transportation Board*, Case Nos. 22-1019 & 22-1020 (D.C. Cir. 2022). Among the legal errors in the Board’s decision, the Board failed to evaluate the dramatic increase in rail traffic on the existing UP Line and the environmental risks posed by hauling millions of gallons of oil across the Rocky Mountains and along the Colorado River each day. The parties are awaiting a ruling from the Court of Appeals for the D.C. Circuit.

Eagle County has similar concerns with Coal Energy’s proposal to expand the Facility, which is expected to facilitate shipment of an additional one billion gallons of Uinta Basin crude oil annually via the UP Line, the single interstate rail line serving the Facility and the only east-west rail line traversing the Rocky Mountains, including through Eagle County’s jurisdiction. In estimating the expected markets of new Uinta Basin waxy crude oil, the Surface Transportation Board, which has exclusive jurisdiction over the interstate rail network, estimated that the most likely markets for significant additional shipments of Uinta Basin waxy crude would be located at refineries in the Gulf of Mexico, meaning that the oil would need to be shipped via rail on the UP Line through Eagle County. *See* Surface Transportation Board, Office of Environmental Analysis, Uinta Basin Railway Final Environmental Impact Statement, Appendix C-1 to C-4 (Aug. 2021). Thus, the Facility is directly related to the Uinta Basin Railway and will facilitate a dramatic increase in oil trains traveling the UP Line.

Coal Energy’s proposal to expand the Facility’s capacity to transload Uinta Basin waxy crude oil by more than 230% would result in significant local, regional, and national impacts. For communities downline of the Facility, including those located in Eagle County, this includes increasing the risk of oil train-related congestion, accidents, environmental hazards, and social and economic impacts. Proper assessment of these impacts under NEPA requires that an EIS be conducted.

Federal law and BLM’s own guidance requires that BLM conduct an EIS when its actions are likely to have significant effects on the environment. 42 U.S.C. § 4332(C); 40 C.F.R. § 1501.3(a)(3); 516 DM11.8(A)(1). In considering whether the effects of a proposed action are significant, BLM must analyze the potentially affected environment and the degree of the effects of an action. 40 C.F.R. § 1501.3(b). The potentially affected environment is not limited to the local area and may be regional or national in scope. *Id.* § 1501.3(b)(1). The degree of effects that BLM must consider include both short- and long-term effects, and the effects on public health and safety. *Id.* § 1501.3(b)(2)(i), (iii).

The resulting dramatic increase in oil production, including the holding and transport of such oil at the Facility, and the transport of that oil on the UP Line, would potentially impact Eagle County and its communities in several ways.

*First*, oil train accidents and accidents involving dangerous and explosive commodities can have devastating public health and safety effects on nearby communities, as was tragically demonstrated in the recent Norfolk Southern derailment in East Palestine, Ohio. The threat to public health and safety is heightened in Eagle County and other parts of the Rocky Mountains, where the terrain is rugged and access limited. In Eagle County, the UP Line runs adjacent to the busy I-70 corridor through windy terrain, exacerbating the chances of a calamitous accident.

*Second*, an increase in the risk of an oil train accident on a rail line that runs a few feet from the Colorado River and its tributaries for hundreds of miles constitutes a significant impact on this vital resource. The Colorado River and its tributaries are not just the water source for tens of millions of people, businesses, and farms in the Western United States. They are also the lifeblood of Colorado's communities and ecosystems. Virtually the entire portion of the UP line located in Eagle County runs directly adjacent to the Colorado River. Any derailment and oil spill could have a devastating impact on the Colorado River. Increasing the risk of contamination of this resource threatens the health and well-being of Eagle County residents, not to mention the entire Western United States that relies on the Colorado River Basin. It could also result in damaging precious and threatened biological systems and species that depend on these waters.

*Third*, the increased potential for an oil train accident to trigger a wildfire in Eagle County or elsewhere downline of the Facility requires a hard look under NEPA, given the widespread effect such an event would have and the increasingly hot and dry conditions in the West. The threat and severity of wildfires downline is particularly significant along the UP Line, which runs adjacent to hundreds of thousands of acres of national forests and public lands, and in a region that has seen some of its worst wildfire seasons on record in recent years. Wildfires, like oil train accidents, would profoundly affect public health and safety, our communities, economy, and ecosystems.

*Fourth*, increased oil trains would result in increased congestion and potential for accidents at road-rail at-grade crossings. The dramatic increase in rail traffic transporting oil from the Facility would also have noise and air emissions effects on downline communities and ecosystems.

As the nation moves away from promoting expanded extraction of fossil fuels, BLM must also consider the Facility's impacts in the broader context of related efforts to boost extraction of waxy crude oil from the Uinta Basin. This includes the Uinta Basin Railway, which would increase oil production in the Uinta Basin by up to 350,000 barrels per day. Recent years have also seen an attempt by the same operator proposed to operate the Uinta Basin Railway to re-open the dormant Tennessee Pass Line, which runs through Eagle County's populous areas and would create a second east-west connection through Colorado's Rocky Mountains. The increase in train traffic produced by the Facility could result in a renewed push to open a second line in order to provide another route for oil trains or relieve the constrained Moffat Tunnel Subdivision on the UP Line. BLM must better understand the impact of the

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Facility within this context, which cannot be accomplished through an abbreviated environmental review process.

BLM must also consider the effects that the Facility will have in inducing new oil extraction from the Uinta Basin as well as producing and burning fossil fuels. *See* Presidential Executive Order No. 13990, Protecting Public Health and the Environment and Restoring Science to Tackle the Climate Crisis, 86 Fed. Reg. 7037 (Jan. 20, 2021); Council on Environmental Quality, *Notice of Interim Guidance: National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change*, 88 Fed. Reg. 1196, 1201 (Jan. 9, 2023). That analysis is appropriately conducted in an EIS.

In light of the significant regional and national impact and the short- and long-term environmental effects of the proposed Facility, Eagle County requests that BLM prepare a full EIS to properly evaluate the potential significant environmental impacts, fully understand those impacts, and adequately inform the public regarding the proposed Facility.

Sincerely,

/s/ Bryan R. Treu  
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County Attorney  
Eagle County, Colorado

/s/ Nathaniel H. Hunt  
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cc: Senator Michael Bennet  
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Matt Scherr, Eagle County Board of Commissioners,  
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