

Memorandum to Interested Parties

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RE: **Uinta Basin Oil Train Costs Balloon, and the Tax-Exempt Bond Authority the Railway Hopes Will Finance Much of the Project Is Almost Out of Cash**

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The U.S. Supreme Court's decision last month may have limited the legal challenges the Uinta Basin Railway faces, but numerous obstacles remain, key among them financing.

On May 8, 2025, Utah's Seven County Infrastructure Coalition, one of the sponsors of the Uinta Basin Railway, adopted a resolution seeking to induce the U.S. Department of Transportation (DOT) to certify that the Railway could issue \$2.4 billion in tax-exempt "private activity bonds" to construct and operate the oil train.<sup>1</sup> That's a 20% increase from what backers sought two years ago. But the Federal program they hope to use is almost out of money to back such projects, raising questions about the Railway's financing plans.

**A required public meeting to address the bond issue is set for Thursday June 12 at 10 AM in Price, UT, with a satellite location at the Utah State Capitol.**<sup>2</sup> The public will be able to comment remotely.

The Oil Train's Costs Keep Rising. The Coalition's May 2025 resolution authorizes Uinta Basin Railway Holdings company to seek to issue up to \$2.4 billion in tax-exempt bonds,<sup>3</sup> a half a billion dollar increase from the \$1.9 billion the Coalition approved in February 2023.<sup>4</sup> That's also a 78% increase over the \$1.35 billion estimated as the Railway's *total* cost by the federal agency analyzing the project in an environmental impact statement (EIS) four years ago.<sup>5</sup> Note that the bonds the Railway hopes to have issued represent less than the Railway's total financing needs. Financiers stated in 2023 that the bonds they hoped to issue then represented 70% of Uinta Basin Railway's financing; the balance would come from private equity.<sup>6</sup> If that ratio holds, the oil train's total cost now could be as much as \$3.4 billion.

The Authority the Railway Intends to Use to Issue Tax Exempt Bonds Is Running Out of Funds to Allocate. The Railway financiers stated that they intend to submit an application "shortly" to the DOT for

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<sup>1</sup> Seven County Infrastructure Coalition [Resolution 2025-05A](#) (May 8, 2025); Seven County Infrastructure Coalition, [audio of May 8, 2025 meeting](#), starting at 37:30; *id.* at 1:35:50–1:37:25 (adopting resolution).

<sup>2</sup> Deseret News, Notice of Public Hearing and Bonds to be Issued (May 31, 2025). Available at [Utah Legals and Public Notices](#) (search for "railway").

<sup>3</sup> SCIC [Resolution 2025-05A](#); Seven County Infrastructure Coalition, [audio of May 8, 2025 meeting](#), at 42:05. *See id.* at 1:22:55 (attributing the Railway's rising costs to "the passage of time, supply chain issues, inflation," etc.).

<sup>4</sup> Seven County Infrastructure Coalition, [Resolution No. 2023-02A](#). Utah Inducement Resolution Private Activity Bonds (Feb. 9, 2023).

<sup>5</sup> Surface Transportation Board, [Final EIS on Uinta Basin Railway, Ch. 2](#), at 2-25 (Aug. 2021) (estimating Whitmore Park alternative alignment, chosen by the Railway, will cost \$1.35 billion to construct).

<sup>6</sup> Seven County Infrastructure Coalition, [audio of Feb. 9, 2023 meeting](#), at 1:14:05. In the Coalition's May 2025 meeting, financiers stated that there would be "an equity component" above and beyond the up to \$2.4 billion in debt (bond) financing. Seven County Infrastructure Coalition, [audio of May 8, 2025 meeting](#), at 1:06:35-1:07:30.

approval to issue tax-exempt private activity bonds.<sup>7</sup> The tax code provision establishing the DOT program capped the allocation for bonds at \$30 billion.<sup>8</sup> Data from this month shows DOT has already allocated \$29.4 billion, leaving less than \$600 million left available for allocation.<sup>9</sup> Congress may not revise the cap until late 2026, if ever.<sup>10</sup> It thus appears DOT currently has no legal way to authorize the Railway to issue \$2.4 billion in private activity bonds under the existing cap. The money just isn't there.

Oil Train Proponents Seek Tens of Millions Per Year in Subsidies from Federal Taxpayers. Financiers told the Coalition in 2023 that tax-exempt bonds can offer bond-holders a 6% return per year, as opposed to the 10% rate for corporate bonds.<sup>11</sup> Thus issuing tax-exempt bonds will save the Railway up to \$96 million per year in finance costs,<sup>12</sup> with U.S. taxpayers losing tens of millions in tax revenues annually.

Further Financial Headwinds: Oil Prices Down, Steel Prices Up. Uinta Basin oil production is up over previous years, but may cool as oil prices have fallen to their lowest level since 2021.<sup>13</sup> The price of steel (used for rails) in the U.S. is on the upswing as 50% tariffs on most steel imports kick in.<sup>14</sup>

Increasing Oil Train Costs Will Likely Require More Drilling, and More Oil Trains, for the Railway to Break Even. Increasing costs will require the Railway to move more freight to recover its costs, because its revenue stream is based on fees for railway use. And virtually the only product the train will move out of the Uinta Basin is oil.<sup>15</sup> More drilling will mean more air pollution in the Uinta Basin, more potential accidents and spills along the Colorado River (where oil trains run from Utah on their way to refineries on the Gulf Coast and Oklahoma), and more heat-trapping pollution for the climate.

The Legal Fight Isn't Over. While the Supreme Court ruled that the Surface Transportation Board (STB) need not disclose the environmental impacts of increased oil drilling and refining induced by the Railway, it did not directly address the D.C. Circuit Court of Appeals' decision that the STB violated environmental laws by failing to adequately disclose the impacts of increased rail traffic from the Utah border to Denver,

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<sup>7</sup> Seven County Infrastructure Coalition, [audio of May 8, 2025 meeting](#), at 45:30 (financier Cody Deeter discussing "the U.S. Department of Transportation through whom we'll receive the allocation of private activity bonds," and stating that an application will be submitted to DOT "shortly"); *id.* at 54:35–55:05 (bond counsel Tim Stratton discussing the "allocation that's going to be received from the Department of Transportation.... That is the authority that we need to issue the bonds on a tax-exempt basis").

<sup>8</sup> [26 U.S. Code Sec. 142\(m\)\(2\)](#). *See also* U.S. Dep't of Transportation, [Private Activity Bonds website](#) ("The USDOT is authorized to allocate up to \$30 billion in PABs").

<sup>9</sup> U.S. Dep't of Transportation, [Private Activity Bonds – Allocations website](#) (updated June 4, 2025).

<sup>10</sup> *See* C. Devitt, [P3 pipeline builds as private activity bonds near their allocation cap](#), Bond Buyer (May 20, 2025).

<sup>11</sup> Seven County Infrastructure Coalition, [audio of Feb. 9, 2023 meeting](#), at 1:18:30.

<sup>12</sup> The 4% differential multiplied by the up to \$2.4 billion bond issue is up to \$96 million per year. Corporate bonds of this type are usually repaid over 30 years. *See also* Seven County Infrastructure Coalition, [audio of May 8, 2025 meeting](#), 58:30–58:50 (Railway financiers are "looking at 30" years though "nothing's been finalized yet").

<sup>13</sup> Federal Reserve Bank of St. Louis, [Crude Oil Prices: West Texas Intermediate \(WTI\) – Cushing, Oklahoma website](#) (showing current oil price below \$65/barrel).

<sup>14</sup> M. Cunningham, [Trump's 50% steel and aluminum tariffs take effect today. Here's what could get more expensive](#), CBS News (June 5, 2025).

<sup>15</sup> Surface Transportation Board, [Final EIS on Uinta Basin Railway, Ch. 2](#), at 2-1 ("rail traffic on the proposed rail line would primarily consist of trains transporting crude oil from the Basin to markets across the United States"); *id.*, [Ch. 3.3](#), at 3.3-29 (the volume of non-oil products moved on the rail line "would be very low"); *id.*, [Ch. 3-13](#) at 3.13-13 ("there are currently no reasonably foreseeable plans for transporting ... commodities" other than oil and frac sand).

including the potential for more spills, accidents, and wildfires along the Colorado River, and the harm to endangered fish in the River.<sup>16</sup> The D.C. Circuit may take months to resolve the scope of the remand to the STB to address these violations. The Railway still needs approvals from the U.S. Forest Service (whose land the Railway would cross) and the Bureau of Indian Affairs.

The U.S. Department of Transportation Can and Should Deny the Tax-Exempt Status the Oil Train Seeks. Even if DOT had the funds available to allocate for the Uinta Basin Railway, it shouldn't do so. The vast majority of the tax-exempt bonds which DOT has authorized under the "Build America" program have financed highway, bridge, and transit projects that benefit the general public (drivers and transit users).<sup>17</sup> Only a few projects approximate the oil train in scale to date, including \$2.1 billion in private activity bonds issued for the "All Aboard Florida Phase 2" project that will create high-speed, "235 mile intercity passenger rail service with an anticipated three-hour travel time between Miami and Orlando," and would "decrease [greenhouse gas] emissions as a result of decreased automobile [vehicle miles traveled]."<sup>18</sup> Other multi-billion-dollar projects for which DOT has allocated funds for private activity bonds include those to add dedicated lanes to highways in Tennessee and Georgia to reduce congestion on important roadways, and a high-speed rail project between Las Vegas and Southern California, all of which benefit the general traveling public.<sup>19</sup>

By contrast, a single-use oil train would channel benefits to the oil industry alone, not the general public.

The Build America Bureau notes: "there are no specific standards ... that apply when considering applications [for private activity bonds]. The intent is to provide maximum flexibility for USDOT's award of the \$30 billion bonding authority."<sup>20</sup> The Secretary's "maximum flexibility" would appear to allow DOT to deny applications for any reason, including the public interest.

The oil train would result in massive carbon pollution, would increase refinery emissions of hazardous air pollutants in Gulf Coast and Cancer Alley communities already overburdened with pollution, would threaten spills in the Colorado River, and would double accident rates along the Union Pacific line between central Utah and Denver.

As the 2023 East Palestine, Ohio, derailment painfully demonstrated, transporting hazardous materials via rail can cause devastating harm to communities, land, air, and water.

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<sup>16</sup> See J. Blevins, [Eagle County believes US Supreme Court ruling will have little effect on its legal arguments against Uinta Basin Railway](#), Colorado Sun (June 3, 2025).

<sup>17</sup> See U.S. Dep't of Transportation, Build America Bureau, [Private Activity Bonds – Allocations website](#).

<sup>18</sup> *Id.* See also Federal Railroad Administration, [Final Environmental Impact Statement](#) for All Aboard Florida Intercity Passenger Rail Project Orlando to Miami, Florida (Aug. 2015) at S-15 (showing reduced GHG emissions due to rail line operation).

<sup>19</sup> U.S. Dep't of Transportation, Build America Bureau, [Private Activity Bonds – Allocations website](#).

<sup>20</sup> U.S. Dep't of Transportation, Build America Bureau, [Private Activity Bonds – Applications website](#).