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Cynthia Brown
Chief, Section of Administration
Surface Transportation Board Office of Proceedings
395 E St., SW
Washington, DC 20423

Re: FD 36471

Audubon Colorado Council (ACC), representing 25,000 members and supporters who consider the Browns Canyon area an important recreation and study site, is submitting comments objecting to the lease of the Union Pacific (UP) Tennessee Pass rail line to the Colorado, Midland, and Pacific Railroad (CMP) and opposing common carrier authority to operate the line for freight and passenger service.

Additionally, ACC objects to the fact that CMP filed for an exemption from regulations that should apply to this lease and ensuing rail operations. ACC believes that the proposal is neither "routine" nor "noncontroversial" (as CMP says), and does not qualify for an exemption.

The proposal is controversial because:

1. A key section of the remaining route into Pueblo, CO is jointly owned by Rock and Rail and the Royal Gorge Route Railroad. Rock and Rail operates gravel trains over this 11-mile section at night and Royal Gorge Route operates trains during the day. The owner of the Royal Gorge route has been quoted as strongly opposing any additional freight traffic over his section of the track. Without access to the Royal Gorge section, the lease of the UP rails is useless.
2. A competitor of CMP, Colorado Pacific (CP), has filed a protest to the lease. CP's owner owns tens of thousands of acres of farmland in Eastern Colorado, and has spent millions upgrading an abandoned rail line that runs from Eastern Colorado into Pueblo, CO. He wants the Tennessee Pass line to ship grain west. Given his investments, he is not likely to give up easily.

3. CMP claims its revenues from operating the rail line would not exceed \$5 million per year. Since operating costs alone would exceed \$5 million per year, we believe CMP's projected revenues are intentionally underestimated to avoid appropriate regulation.

The proposal is not "routine" because:

1. CMP would operate trains carrying crude oil on the line that passes through Browns Canyon National Monument. CMP is currently involved in constructing a new rail line in Utah, the Uinta Basin Railroad. This 88-mile line would connect existing UP tracks with a new Utah oilfield, and would be the source of oil traffic over Tennessee Pass. The draft EIS for the Uinta Basin Railroad is currently under review by the Surface Transportation Board. It is too early to tell what the results of that review will be.

2. In the past, derailments were common on this rail line. It was a major derailment in 1996 that caused the line to be abandoned in the first place.

3. CMP has promised to consider passenger service over the route. However, the last passenger service was in 1964. It is also too early to tell if communities along the CMP route would welcome or oppose the new rail traffic.

CMP claims there will be no environmental impacts associated with resuming operations of the rail line. ACC believes that there will indeed be serious potential environmental impacts, including:

- *Air quality impacts*, including impacts to adjacent Class I wilderness areas in the mountains of Colorado.

- *Water quality impacts*, particularly impacts from potential train derailments that could irreversibly contaminate headwater streams, the Colorado River, Eagle River, and the Gold Medal waters of the Arkansas River.

- *Impacts to the climate* related to the burning of fossil fuels, including the processing and burning of any oil shipped from Utah.

- *Impacts to protected lands*, including Browns Canyon National Monument and other public lands in the area.

- *Impacts to wilderness values* (solitude, beauty, spiritual connection, mental and physical well-being, quality of life) of the Monument and adjacent Wilderness Study Areas.

- *Impacts to communities and businesses that depend on angling, rafting, and wildlife watching.*

Forty percent (40%) of Colorado's rafting business takes place on the Arkansas River. The economic impact of commercial rafting in the Salida/Buena Vista/Canon City area is more

\$100 million/year. (ColoradoBiz 2019). Anglers flock to the Arkansas River's Gold Medal Fishery waters and those waters are the most fly-fished area in the state. Spotting wildlife is reason many people visit wilderness areas. Birding is a multi-million-dollar business bringing hobbyists, citizen scientists, and ornithology professionals together in their love of birds.

- *Impacts to birds, fish, other wildlife, plants, and their habitats.*

The river corridor of Browns Canyon National Monument represents one of the only riparian ecosystems along the Arkansas River that remains relatively undisturbed. It's an important migratory corridor for birds moving through that area of the mountains. Because of this, several Colorado Bird Species of Concern/Sensitive Species can be found here: Black Swift, Rufous-crowned Sparrow, Mexican Spotted Owl, Lewis's Woodpecker, Ferruginous Hawk, Peregrine Falcon, Bald Eagle, Sage Sparrow, and Gray Vireo. A mammal Species of Concern that frequents Browns Canyon is the Bighorn Sheep, Colorado's State Mammal. The prospect of oil trains derailing and contaminating their habitat is chilling.

In summary, the CMP lease and common carrier authority must be rejected.

Sincerely,

Peg Rooney, President ACC
On behalf of Audubon Colorado Council

cc. Parties of Record