



# Office of the County Attorney

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## MEMO FOR BUSINESS MEETING

**Date:** October 15, 2024

**From:** David Hughes, Deputy County Attorney

**To:** Board of County Commissioners

**Subject:** Requesting Approval of Boulder County's Participation in the Amicus Brief in *Seven County Infrastructure Coalition, et al. v. Eagle County, Colorado, et al.*, United States Supreme Court Case No. 23-975

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### Background:

Boulder County will participate with the Northwest Colorado Council of Governments, Grand County, Pitkin County, Lake County, Chaffee County, Routt County, Vail, Red Cliff, Avon, Glenwood Springs, and Minturn, in an amicus brief in support of Eagle County in *Seven County Infrastructure Coalition, et al. v. Eagle County, Colorado, et al.*, No. 23-975 (U.S.), a case challenging the railroad approval (Petition for Writ of Certiorari). The amicus brief details the interests of the Amici, a bipartisan coalition of local governments and communities located along the Union Pacific Rail Line and Interstate 70 in western Colorado (the "down-line study area") and highlights Colorado-based examples where a federal NEPA process and its analysis of effects led to durable, collaborative solutions that would not have occurred without the NEPA process bringing together all relevant stakeholders (including affected towns, cities, and counties). The amicus brief will also argue that this case does not cleanly present the question presented as it pertains to the down-line impacts in Colorado along the Union Pacific Line because analysis of those effects is required by the Board's ICCTA regulations, separate from the NEPA issues on which cert was granted; that Petitioners also failed to preserve their challenge to the Board's analysis of down-line impacts in Colorado by not raising them before the Board or in the D.C. Circuit; and for the importance of NEPA review for disclosing the impacts of proposed federal actions that will impact local communities such as Amici.

### Recommendation:

Approve Boulder County's participation in amicus brief in *Seven County Infrastructure Coalition, et al. v. Eagle County, Colorado, et al.*, No. 23-975 (U.S.).