

Appendix B: U.S. Fish and Wildlife Coordination

B.1 Addendum to the Biological Assessment

A Biological Assessment letter was sent to Larry Crist (USFWS, Project Leader) at the USFWS Utah Field Office on February 7, 2007, and a response was received February 22, 2007, from Laura Romin (USFWS, Supervisory Fish and Wildlife Biologist). Recent (January 27, 2006) federal guidance (50 CFR 402) stipulates that the USFWS will no longer send formal correspondence back on a No Effect concurrence. However, in an email communication Ms. Romin concurred with the No Effect (NE) assessment for the federally listed threatened and endangered species (February 22, 2007). Ms. Romin also expressed some concern for the need to address any potential impacts to sensitive Utah native fish species (Conservation Species and Species of Special Concern) from the rail bridge crossings of both the Sevier Bridge Reservoir at the Yuba Narrows and the Sevier River close to the southern terminus. These sensitive fish species include leatherside chub, least chub, Utah sucker, and Bonneville cutthroat trout. Although any potential impacts to all sensitive species including native fish were described in Table 4.3-2, we will address these species specifically in this addendum.

The leatherside chub and least chub, and potentially the Utah sucker, are known to occur in the Sevier River, and sometimes including its tributaries and the Sevier Bridge Reservoir. The proposed rail line will cross the Sevier Bridge Reservoir at the Yuba Narrows and the Sevier River close to the southern terminus, by means of a bridge. No structures or fill will be placed in the waterway, and BMPs will be employed during construction to prevent sedimentation of the waterway. Therefore, the construction and operation of the rail line will have **no effect** on any fish species of the Sevier River system.

The Bonneville cutthroat trout is another native species found within the project area, specifically the Chicken Creek Reservoir. However, no impacts to the Chicken Creek Reservoir are anticipated, therefore, the Central Utah Rail Project will have **no effect** on the Bonneville cutthroat trout.

February 7, 2007 - Draft

Larry Crist

U.S. Fish and Wildlife Service

Utah Field Office

2369 West Orton Circle

West Valley City, Utah 84119

Dear Mr. Crist:

Enclosed is a brief biological assessment for the Central Utah Rail Project. On behalf of the Surface Transport Board's (Board) Section of Environmental Analysis, HDR initiated contact to all applicable agencies, including USFWS, in early April of 2003, with follow-up phone calls in late April through early May. Comments collected from the agencies were used to help identify issues which needed further focus and review in the EIS process, specifically in preparing the Draft EIS, planned for release in the spring of 2007.

HDR has closely reviewed and researched the federally listed species and associated information provided by the USFWS, in a letter dated May 13, 2003. Surveys for federally listed and other sensitive species and their habitats were initiated by qualified HDR biologists along the project study area in December of 2003, then more intensely during the fall of 2004 and through the summer of 2005.

The enclosed biological assessment includes a project description, project setting, potential impacts to federally listed species, as well as potential impacts to raptors. Please review our assessment of potential impacts, and if possible and appropriate, provide a letter of concurrence to the assessment of potential impacts to federally listed species and raptors for this project.

B.2 Project Overview

A Draft Environmental Impact Statement (Draft EIS) was prepared by the Board's Section of Environmental Analysis (SEA) in cooperation with BLM for the Central Utah Rail Project (CURP). This Biological Assessment (BA) letter has been written to address expected impacts from proposed project on federally listed threatened, endangered, or candidate species. The expected impacts of the proposed project could include impacts to individuals, populations, or their critical habitat within the CURP project corridor.

The Proposed Action, also known as the CURP, is to construct and operate about 43 miles of new rail line and related rail facilities to connect shippers within a portion of central Utah to mainline rail service. Implementing the Proposed Action would provide rail operations from the existing UPRR mainline for shippers throughout portions of Juab, Sanpete and Sevier Counties.

The purpose of this project is to access local industries, primarily a coal mine owned by the Southern Utah Fuel Company (SUFCO) located 30 miles east of Salina. Due to an absence of rail access, these industries currently move all goods by truck. The Applicant believes that the proposed project would reduce the number of coal trucks using portions of five highways: Interstate 70 (I-70), State Route (SR) 50, Interstate 15 (I-15), SR 28, and SR 10. This project would improve the safety and reduce the wear and tear on these portions of these highways.

B.3 Project Location

The context for this project is Juab, Sevier and Sanpete Counties within the Sevier Valley, which runs south to north and is generally a broad flat-or-rolling area divided by the Sevier River. Most of the valley floor supports farms that rely on irrigation. The valley is bounded on either side by a mountain range. The area includes primarily agricultural land uses. There are several small towns in the valley including Fayette, Gunnison, Centerfield, Redmond, and Salina. Other industries in the area include rock salt mining, gypsum production, and bentonite production.

The proposed rail line would begin at the connection with UPRR's mainline near Juab, about 16 miles south of Nephi, and would terminate at a point to the south near the intersection of US 89 and US 50 (Figure 1) in the industrial park located about .5 miles southwest of Salina.

B.4 Consultation History

Before the beginning of the public scoping period, SEA invited appropriate agencies with interests in the proposed rail line to participate in the environmental review process. Their comments helped SEA determine what level of environmental analysis was warranted for the proposed rail line. The agencies were asked to help identify potential environmental issues and concerns in the corridor. SEA held an agency scoping meeting on May 21, 2003, to solicit additional agency comments regarding the Proposed Action.

Letters of notification for the meeting were mailed on April 1, 2003, to about 44 agencies and agency representatives. These letters invited the agencies to attend the agency scoping meeting and provide comments on the Proposed Action. Project representatives made follow-up phone calls to the invitees on April 24 and April 25, 2003, and again on May 15, 2003, to ensure that the agencies received notice of the meeting. There were 29 attendees at this meeting representing 19 agencies.

These agencies were also invited to submit comments during SEA's public scoping period. Project representatives mailed letters with project information, a request for their comments, and an invitation to the public scoping meetings to the resource agencies on October 14, 2003.

The comments collected from the agencies both before and during the public scoping period were used to help identify issues that need further review in the EIS process. A total of 37 agency comments were received before and during the public scoping period. Copies of these comments will be included in the CURP Draft EIS Agency and Public Scoping Summary Report.

As part of researching which threatened, endangered, or candidate species might have a potential for occurring in the project corridor, consultation was undertaken with the USFWS, as it is the federal agency with primary expertise in fish, wildlife, and natural resource issues. USFWS is responsible for implementing the Endangered Species Act and, through its regional offices, for consulting with other federal agencies on expected impacts of Proposed Actions on threatened and endangered species.

Under Section 7 of the Endangered Species Act, USFWS is responsible for reviewing federal agency actions and expected impacts to threatened and endangered species. USFWS can issue a determination, in the form of a biological opinion, that details projected impacts to threatened and endangered species. The Board is responsible for initiating Section 7 consultation with USFWS.

The list of the species recorded by the USFWS as potentially occurring in Juab, Sevier and Sanpete Counties is discussed in this document (Table 1). These USFWS listed species include three plants, three birds, and one mammal.

B.5 Existing Habitat Conditions

Large portions of the study area that once contained native plant communities have been converted to pastures and croplands for agricultural uses. A sizable portion of the land in the southern part of the study area is irrigated farmland, while the rest of the southern part, and most of the northern part of the study area, being dryland crops (including pasturelands). The remaining native plant communities are generally of moderate quality and are neither pristine nor highly degraded. At several locations, the field investigations found plant species, such as big sagebrush (*Artemisia tridentata*), rubber rabbitbrush (*Chrysothamnus nauseosus*), and bluebunch wheatgrass (*Elymus intermedium*), that are important to community health. However, the field investigations also found several species of invasive and non-native plants throughout the study area that dominated areas disturbed by human activity.

Plant community types include:

- Agricultural – found throughout study area,
- Sagebrush – found throughout study area, except agricultural areas,
- Grasslands – found primarily in the south-central part of study area,
- Salt desert scrub – found only near the northern terminus,

- Juniper – found scattered but mostly outside of study area, also associated with salt desert scrub and sagebrush,
- Wetlands (wet meadows, emergent marsh, and lowland riparian) – found mostly near the northern terminus and in the southern part of the study area, or associated with waterways, ephemeral drainages, or floodplains,
- Invasive/non-native – found throughout study area.

B.6 Federally Listed Species for Project Area

Table B.6-1. Summary of Federal Status and Determination of Effect

Common Name	Scientific Name	Federal Status	Effect
Birds			
Bald eagle	<i>Haliaeetus leucocephalus</i>	T	No effect
Southwestern willow flycatcher	<i>Empidonax traillii extimus</i>	E	No effect
Western yellow-billed cuckoo	<i>Coccyzus americanus occidentalis</i>	C	No effect
Mammals			
Utah prairie dog	<i>Cynomys parvidens</i>	T	No effect
Plants			
Heliotrope milkvetch	<i>Astragalus montii</i>	T	No effect
Last Chance townsendia	<i>Townsendia aprica</i>	T	No effect
Wright fishhook cactus	<i>Sclerocactus wrightiae</i>	E	No effect
Federal Status			
T = Threatened			
E = Endangered			
C = Candidate for Listing			

B.6.1 Bald Eagle

Bald eagles prefer habitat with nesting or roosting areas such as large, mature trees or standing dead trees (snags), usually near water. During the field surveys, bald eagles were observed near the proposed project right-of-way; bald eagles were observed perched on rocks near the Narrows at Yuba Lake, close to the proposed alignment where it crossed Yuba Lake. However, there are very few mature trees or snags near any body of water in the study area that would provide ideal nesting or winter roosting habitat for bald eagles.

Although the bald eagle may be an occasional winter migrant through the study area, little to no adequate nesting or roosting habitat exists within the project corridor. Therefore, the CURP will have **no effect** on the bald eagle.

B.6.2 Southwestern Willow Flycatcher

The southwestern willow flycatcher nests in habitat that is classified as dense lowland riparian which is characterized by a dense subcanopy or shrub layer. The overstory can be developing trees or large gallery-forming trees (willow or cottonwoods). There are some riparian zones with low, dense vegetation in the study area, but are inadequate in size and complexity to sustain the species.

The riparian habitat within the study area is not adequate for the species, and the project area is outside of and north of the known distribution of the species. Therefore, the CURP will have **no effect** on the southwestern willow flycatcher.

B.6.3 Western Yellow-Billed Cuckoo

The western yellow-billed cuckoo, like the southwestern willow flycatcher, nests in habitat that is classified as dense lowland riparian which is characterized by a dense subcanopy or shrub layer. The overstory can be developing trees or large gallery-forming trees (willow or cottonwoods). There are some riparian zones with low, dense vegetation in the study area, but are inadequate in size and complexity to sustain the species.

The riparian habitat within the study area is not adequate for the species, and there are no known, historical accounts of the species within the project area. Therefore, the CURP will have **no effect** on the southwestern willow flycatcher.

B.6.4 Utah Prairie Dog

The Utah prairie dog is similar to other species of prairie dogs in its habitat requirements. Prairie dogs form colonies and spend much of their time underground. The study area has prairies with low-growing shrubs and grasses in the foothills of the Valley Mountains. However, no prairie dog colonies or mounds were observed within the project corridor during field surveys.

No colonies or prairie dog mounds of any kind were observed with the study area, and the project is outside and to the north of the known distribution of this species. Therefore, the CURP will have **no effect** on the Utah prairie dog.

B.6.5 Heliotrope Milkvetch

Heliotrope milkvetch grows in rocky soils directly derived from the Flagstaff Formation at elevations ranging from 10,600 feet to 10,900 feet, in alpine mixed grass-forb communities along windblown ridges. The study area (elevation ranging between 5,100 and 5,400 feet) does not have any terrain within this elevational range of this plant, nor was this specific soil type identified within the project corridor. Therefore, the CURP will have **no effect** on the heliotrope milkvetch.

B.6.6 Last Chance Townsendia

Last Chance townsendia occurs in clay soils derived from the Mancos Shale Formation (Arapien and Blue Gate members) at elevations ranging from 6,100 to 8,000 feet, in salt desert shrub and pinyon-juniper plant communities. Although small areas containing salt desert shrub or juniper plant communities exist within the project area, soils of the Mancos Formation were not found in the study area during field surveys and the elevation range of the project is only between 5,100 to 5,400 feet. Therefore, the CURP will have **no effect** on the Last Chance townsendia.

B.6.7 Wright Fishhook Cactus

Wright fishhook cactus occurs in clay to fine sandy soils of the Mancos Shale, Dakota, Morrison, Summerville, and Entrada Formations in salt desert scrub and widely scattered pinyon-juniper communities with well-developed biological soil crusts. There are some salt desert scrub and widely scattered pinyon-juniper communities in the project area, but no soils of the Mancos Shale or other related formations were identified.

The Wright fishhook cactus has never been documented to occur within the study area, and the project area is outside of and west of the known distribution for this species. Therefore, the CURP will have **no effect** on the Wright fishhook cactus.

B.6.8 Raptors

Raptor surveys were conducted along the project corridor, although not to the full extent of the advised mile-wide buffer. No raptor nests were found during these project corridor surveys. The project construction is not expected to have any direct impacts to raptors, as long as the recommended raptor awareness BMPs are followed by the construction crews (i.e., reducing vehicle speeds, education of construction personnel, removal of wildlife carcasses along access roads, etc.). The eventual operation of the rail line is also not expected to have any direct impacts on raptors because of the anticipated slow speeds and infrequency of the freight train operations (when compared to a roadway).

During the construction phase, there may be some temporary indirect impacts from the noise and operations of the earthmoving and associated equipment. The longer term indirect impacts from both the construction and the future operations may include a very slight reduction in the prey base from the construction of the railway bed, and the corresponding loss of a narrow strip of prey habitat. However, all of these potential indirect impacts are expected to be negligible to not only the prey and raptor populations, but also the available habitat because the areas impacted by the project are very minor compared to the ubiquitous nature in this region of the habitats impacted (i.e., agricultural lands, disturbed lands with invasive species, sagebrush, and grasslands).

B.7 References

Romin, L.A. and J.A. Muck. 2002. Utah field office guidelines for raptor protection from human and land use disturbances. U.S. Fish and Wildlife Service, Utah Field Office, Salt Lake City, Utah.

U.S. Department of the Interior, U.S. Fish and Wildlife Service. [No date]. *Utah Prairie Dog*. mountain-prairie.fws.gov/species/mammals/utprairiedog/. Accessed 6 February 2007.

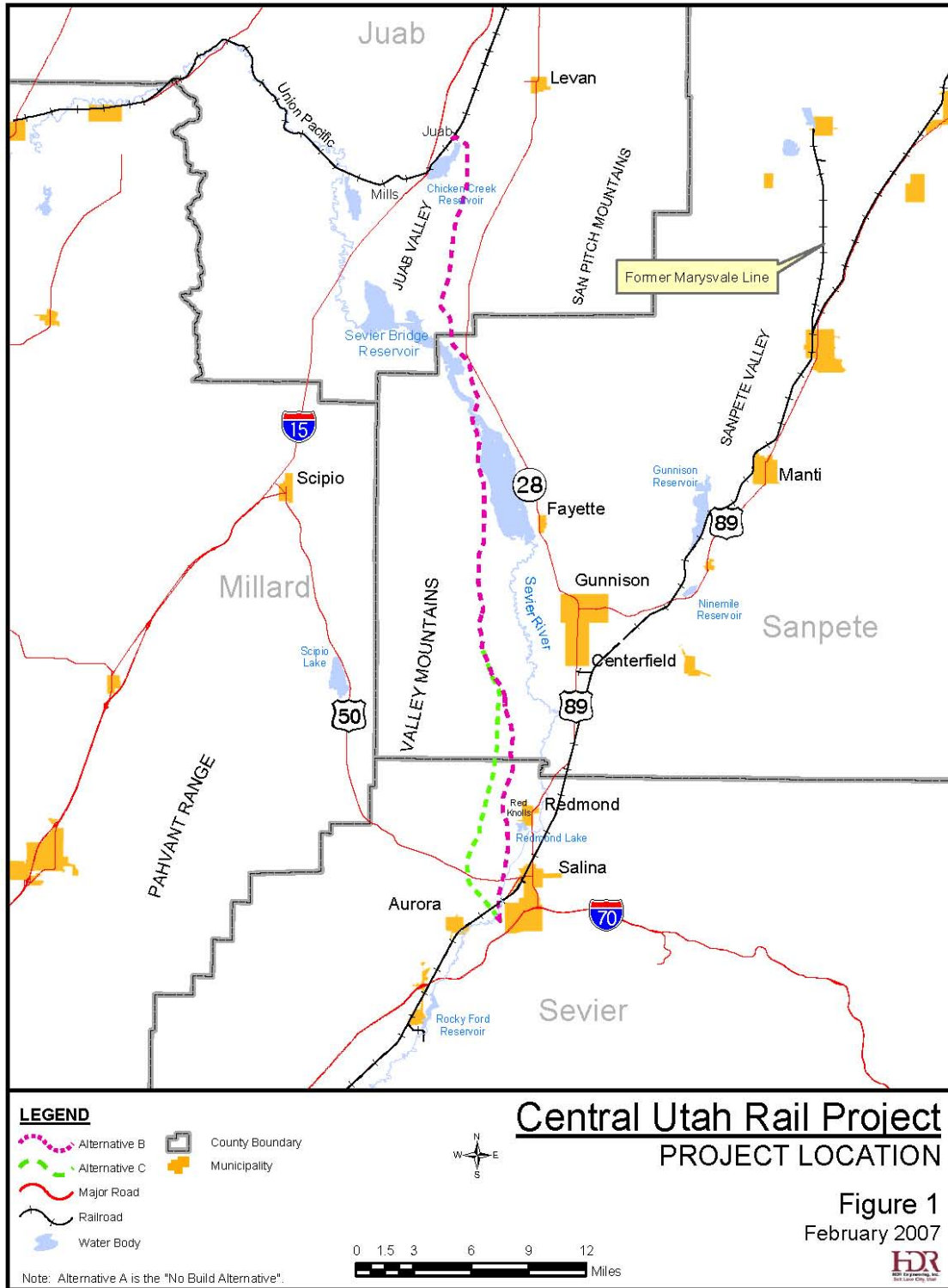
Once again, thank you for your review of this biological assessment. We are aiming to release a DEIS in the spring of 2007. Therefore, please provide comments as soon as possible. If you have any questions or concerns, please contact me at (801) 743-7832, or Rick Black at (801) 743-7831.

Sincerely,

HDR Engineering, Inc.

Trent R. Toler

Field Manager and Biologist



3_Re Central Utah Rail Project mini-BA letter resend.txt
From: Laura_Romin@fws.gov
Sent: Thursday, February 22, 2007 4:19 PM
To: Toler, Trent
Cc: Holmes, Dana; Black, Rick
Subject: Re: Central Utah Rail Project mini-BA letter resend
Attachments: Section 7 Guidance 01-27-2006.pdf; FWS_Biol_Assess_Ltr.doc;
a_Fig1_alts_A_B_C.pdf

Hi Trent:

I have reviewed the BA, and concur with your NE determination. Please note, that the Sevier River in this stretch, particularly below Yuba Reservoir (aka Chicken Creek) contains leatherside chub which is soon to be a Conservation Agreement species. There are other natives in the river also like Utah sucker.

Also, please take note of the attached letter.

Laura.

Laura Romin, Assistant Field Supervisor
U.S. Fish and Wildlife Service, Utah Field Office
2369 West Orton Circle
West Valley, UT 84119
Phone: 801-975-3330, ext. 142
Fax: 801-975-3331

Achieving sustainable native species and ecosystems through leadership, partnerships, and innovation.

(See attached file: Section 7 Guidance 01-27-2006.pdf)

"Toler, Trent" <Trent.Toler@hdrinc.com>		To
02/21/2007 04:38 PM	<laura_romin@fws.gov>	cc
	"Black, Rick" <Rick.Black@hdrinc.com>, "Holmes, Dana" <Dana.Holmes@hdrinc.com>	Subject
	Central Utah Rail Project mini-BA letter resend	

Here is the resend of the No Effect mini-BA letter for CURP we discussed on the phone Feb 21st (~4:30pm). I realize with the new rules and budget cuts a detailed response will not be given, so even a simple one sentence response that FWS has received this letter and concur with the No Effect will be sufficient.

Thanks again on your quick response to this! You can either reply to me, or to Rick Black and Dana Holmes.

Cheers,
Trent Toler
Field Manager
HDR|ONE COMPANY | Many Solutions
3995 South 700 East, Suite 100 | Salt Lake City, UT | 84107
Phone: 801-743-7832 | Fax: 801-743-7878
Mobile: 801-680-5579

(See attached file: FWS_Biol_Assess_Ltr.doc)(See attached file: a_Fig1_alts_A_B_C.pdf)



United States Department of the Interior

FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

In Reply Refer To
FWS/R6
ES/UT
TA-0125

January 27, 2006

Dear Interested Parties:

In the past, our office has responded to requests for species lists and requests for concurrence on "no effect" determinations. We believed that these procedures were mutually beneficial as they maintained good interagency coordination on all project activities and provided clear documentation of section 7 consultations for your files. Due to current funding allocations and increased workload, the Utah Field Office is changing priorities and eliminating some of our current section 7 procedures. We wanted to make you aware of these changes and recommend that you also provide this information to project-level consultants, as appropriate.

- 1) Species lists will no longer be provided in letter format. Current county species lists can be obtained from the U.S. Fish and Wildlife Service website:
<http://mountain-prairie.fws.gov/endspp/CountyLists/UTAH.htm>
We recommend that you check this website on a regular basis to confirm that you are using the most current list.
- 2) We will no longer provide concurrence for "no effect" determinations. Federal agencies can individually analyze and conclude that a project has "no effect" to a listed species. Written concurrence from our office is not required for "no effect" determinations. If you are unsure if a project will affect a listed species, please call and we can discuss proposed actions. At this time, we will still provide written concurrence for projects that "may affect" listed species, either by informal concurrence letters or formal biological opinions (50 CFR 402).

We appreciate your continued interest in conserving endangered species. If further assistance is needed or you have any questions, please contact Laura Romin, at (801) 975-3330 extension 142.

Sincerely,

Henry R. Maddux
Utah Field Supervisor