Chapter 3
Comment Summaries and Responses

3.1 Introduction

This chapter provides responses to comments that OEA received on the Draft EIS (40 comment letters) and Supplemental Draft EIS (4 comment letters). This chapter describes how those comments led to changes in the analysis and environmental documentation. Although the comment responses refer to OEA, the cooperating agencies have reviewed the responses presented in this Final EIS, and the comment responses reflect their input.

This chapter provides a summary of comments received by major topic area. Appendix A, Comments and Responses, of this Final EIS provides a catalogue of all comments that OEA received on the Draft EIS and Supplemental Draft EIS as well as concise responses to those comments. In Appendix A, comments are organized by comment letter. Each comment letter was given a unique comment number, such as EI-3112. If that comment letter included more than one comment, a numerical suffix was attached to identify each comment. For example, if comment letter EI-3112 had two comments, the first comment was assigned comment number EI-3112-1, and the second comment was assigned comment number EI-3112-2.

Appendix B, Comment Letters, of this Final EIS includes a copy of all comment letters received on both the Draft and Supplemental Draft EISs. Appendix B is organized by the type of commenter letter—either public or agency. Appendix B also provides the comment letter number and contains a table of contents in order to help locate each individual comment. To find a specific comment and OEA's response, first find the comment in Appendix B, note the comment number and topic area, review the comment response by major topic area found in this chapter, and/or review the response by comment number in Appendix A.

3.2 Methodology

OEA prepared the comment responses in accordance with CEQ guidance at 40 CFR 1501.6, which states that an agency need not issue a lengthy reiteration of its methodology for any portion of an EIS if the only comment addressing methodology alleges only that the EIS methodology is inadequate. But the agencies must respond to comments, however brief, that are specific in their criticism of agency methodology. The CEQ guidance goes on to state that "if a number of comments are identical or very similar, agencies may group the comments and prepare a single answer for the group. Comments may be summarized if they are especially voluminous."

The following list describes the methodology OEA used to capture, track, and respond to comments on the Draft EIS and Supplemental Draft EIS:

- OEA read all comment documents and any attachments to identify and extract individual comments. After comment identification, OEA grouped individual comments by topic and prepared a response.
- When more than one commenter submitted identical comments, OEA grouped them, provided a summary of the comments, and/or provided a series of verbatim comments to illustrate the concern. If OEA summarized two or more comments, this chapter presents a summary comment. Where OEA extracted a comment taken verbatim, this chapter presents it as a comment. OEA's response follows each summary comment, verbatim comment, or group of verbatim comments.
- OEA presented the comments in this chapter by topic area. Comments are presented under the applicable topic area heading and include the comment number and a response.
- If the meaning of a comment was not clear, OEA made a reasonable attempt to interpret the comment and respond based on that interpretation.
- In some cases, the commenter submitted a comment that referenced a specific section of the Draft EIS or Supplemental Draft EIS, but OEA determined that the comment was more applicable to another section where the contents of that section or chapter addressed the comments. For example, some comments received on the mitigation chapter (Chapter 6) of the Draft EIS requested analysis that was included in the Proposed Action and Alternatives chapter (Chapter 2) of the Draft EIS or the environmental consequences chapter (Chapter 4) of the Draft EIS. In these cases, the comments were included by topic area in this chapter.
- If the comment resulted in a change to the contents of the Draft EIS or Supplemental Draft EIS, OEA's response describes the change in the response. OEA also directs the reader to the location of the revised text. In general, revisions to the Draft EIS were captured in the Supplemental Draft EIS and, in the case of mitigation, Chapter 2, Final Recommended Conditions/Mitigation, of this Final EIS. Others revisions are included in Chapter 4, Errata and Other Changes, of this Final EIS.

The methodology described above enabled OEA to efficiently consider, individually and collectively, all comments it received on the Draft EIS and Supplemental Draft EIS and respond to those comments. The reminder of this chapter is organized by major topic area.

3.3 Proposed Action and Purpose and Need

3.3.1 Proposed Action

Comment Summary

Public commenters were generally supportive of the Proposed Action. Comments in support of the Proposed Action noted the safety benefits that would be associated with a reduction in coal truck traffic in the study area. Supportive commenters pointed to the added benefit of a rail line in helping maintain regional business competitiveness by providing transportation options for locally produced goods and products, as well as the overall positive economic impact of preserving jobs and maintaining a large portion of the tax base for the communities served. For more information, see Section 3.4.4, General Support, of this chapter.

Some commenters who would be individually affected by the project expressed opposition to Alternative B, which was the Applicant's[1] Proposed Action in the Draft EIS. Some commenters supported a more westerly alignment, Alternative C, which was evaluated but dismissed in the Draft EIS (EI-3119-9 and EI-3134-1). Some commenters expressed opposition to the project overall, and others requested clarification about the alignment-selection process. For more information about the alignment-selection process for the project, see Section 3.4.5, General Opposition, of this chapter.

Comment

Some commenters were unclear about the project proponent. For example, one commenter directed a comment to the Bureau of Land Management (BLM):

> "If the BLM is planning to put a railroad across the cities of Utah, then they need to put the railroad on BLM land. There is plenty of BLM land to put the railway on from Levin to Salina." (EI-3029)

Response

The Six County Association of Governments (the Applicant) is proposing to construct and operate the proposed rail line. The Surface Transportation Board is the Federal agency that will either (1) approve the transaction as proposed, without conditions; (2) approve the transaction with conditions to offset or reduce potential impacts, including environmental impacts, of the proposed transaction; or (3) disapprove the transaction entirely. BLM will decide whether to approve or deny a right-of-way grant on public lands where the right-of-way is located on public land under BLM's jurisdiction. The proposed rail line would cross land administered by BLM, land administered by the Utah School and Institutional Trust Lands Administration (SITLA), and land owned by private owners. The mountainous topography of the project area supports placing the rail right-of-way within the valley, and options for the right-of-way are limited by the mountains on either side of the valley.

[1] The Applicant, the Six County Association of Governments (SCAOG), is a voluntary association of the local governments of Sevier, Juab, Sanpete, Millard, Piute, and Wayne Counties in Utah.

3.3.2 Purpose and Need

Comment

"The question is, how much coal reserves are left in the Southern Utah Fuel Company (SUFCO) mine? This is the major reason for constructing the CURP [Central Utah Rail Project] in the first place is to haul the coal produced from SUFCO mine from Salina to Levin, UT." (EI-3111-8)

3.3.2.1 Response

The Supplemental Draft EIS provides updated information regarding coal production. At current production rates, the SUFCO mine, located in the Wasatch Plateau, has about 16 years of production under contract. However, the Utah Geological Survey estimates that between 45 and 50 years of economically recoverable reserves remain in the Wasatch Plateau. Depending on prices, the volume of coal produced by the mine is expected to remain stable for the foreseeable future, which suggests that there would not be any appreciable change in production at the SUFCO mine.

3.3.3 Agency Responsibilities

Comment

Several comments requested that OEA define in the Supplemental Draft EIS and Final EIS specific mitigation measures proposed for unavoidable impacts to Waters of the U.S. and wetlands.

"We believe that once better identification and characterization of the wetlands are completed, more specific mitigation measures can be proposed in the Supplemental Information to the [Draft] EIS. Such measures could include: 1) acquisition of land near Chicken Creek Reservoir where springs are located to reduce impacts from livestock and enhance/restore currently marginal wetlands; 2) reducing the footprint on wetlands acreage in and around the proposed rail yard associated with the northern and southern terminuses; 3) enhancement of wetlands through acquisition of land adjacent to the Redmond Wildlife Management Area; and 4) improvement of water quality (e.g. restoration of impaired stream segments) within the Sevier River watershed. In implementing these and/or other measures, the Supplement[al] Information to the DEIS [Draft EIS] should also discuss what monitoring programs will be in place to evaluate the success of such mitigation." (EI-3204-6)

"Our main concern with the Supplemental Draft EIS is that wetland mitigation measures are not provided. The Supplemental Draft EIS Section 4.2 provides numerous voluntary mitigation measures that include best management practices (BMPs). This section also describes obtaining the Federal Clean Water Act Section 404 permit as a mitigation measure. The permit is a control required by law and stating that the project will require a Section 404 permit does not by itself identify specific mitigation for project impacts. Specific proposed mitigation is important to understanding [a] project's overall environmental impact. By including specific mitigation in the EIS, the lead and permitting agencies can benefit from ideas generated through knowledgeable public and agency reviewers. We recommend the

Final Supplemental EIS (as well as the Section 404 permit application) provide more detail on proposed mitigation measures for the loss of wetlands including the loss of the playa wetland if the Applicant's preferred alternative is selected." (EI-20465-3)

Response

The U.S. Army Corps of Engineers (USACE) is ultimately responsible for wetland permitting, including determining any required mitigation. In this EIS, OEA has considered the potential for wetland impacts. The Board will consider impacts to wetlands when making its final decision on the project. During the Clean Water Act Section 404 permitting process, which has not yet taken place, the Applicant would follow the standard mitigation sequence of first avoiding, then minimizing, and finally mitigating for impacts to wetlands that would result from rail line construction. For wetlands filled, in accordance with the Clean Water Act Section 404 permit, the Applicant would have to mitigate to ensure "no net loss" of wetlands. In the Draft EIS and Supplemental Draft EIS, the Board imposed a condition requiring the Applicant to comply with the requirements of USACE as they relate to the proposed project, develop appropriate mitigation, and obtain all required wetland permits.

As of the date of issuance of this Final EIS, the Applicant has not submitted a Clean Water Act Section 404 permit application. The permitting process will address required mitigation. The permitting process also requires public notice, and USACE will consider comments on all versions of the EIS as additional agency and public input when processing the Section 404 permit. Section 2.2.4, Voluntary Mitigation Measures for Water Resources and Wetlands, of this Final EIS includes voluntary mitigation measure VM 39, which would require the Applicant to work with USACE for Section 404 permitting and any required mitigation. OEA has recommended an additional 10 mitigation measures to minimize impacts to water resources. Also see Section 1.12, Agency Responsibilities, of this Final EIS, which describes how the Board can impose only conditions that are within its statutory authority.

Comment

"[Draft EIS] Page 4-13, last paragraph, second sentence: This indicates that BLM [Bureau of Land Management] would determine whether private farmland would remain farmable. Since SEA [now OEA, Office of Environmental Analysis]/STB [Surface Transportation Board] is the lead agency and BLM has no jurisdiction to determine whether private farmland would remain farmable, the lead agency would make the determination." (EI-3112-20)

Response

OEA coordinates with Federal, local, and state land-management agencies to address issues related to land use. BLM is a cooperating agency for the project, and it has responsibility to manage Federal lands as the landowner of property that would be crossed either Alternative B/B2 or Alternative B3/B2 were constructed. The reference in the Draft EIS is to farmland that can be farmed economically. There is no specific guidance regarding the size at which private land in Utah becomes too small to farm economically. However, according to the Utah Farmland Assessment Act, 5 acres is the size at which farmland can qualify for Utah Farmland Assessment Act assistance. The Applicant and the property owners affected by the

project in consultation with other Utah agencies would determine, on a case-by-case basis, whether remaining farmland would remain farmable.

Recommended mitigation measures RM 6 to RM 10 in Section 2.3.2, Recommended Mitigation Measures for Land Use, in this Final EIS would direct the Applicant to work with local farm agencies and landowners during the final design of the rail line to help avoid, minimize, or mitigate impacts to their operations and property.

3.3.4 NEPA Process

Comment

> "Based on EPA's [U.S. Environmental Protection Agency] review of the Draft EIS, EPA believes the range of alternatives presented in the Draft EIS may not include all reasonable alternatives as required in the CEQ's [Council on Environmental Quality] quality regulations for implementing the procedural provisions of NEPA [National Environmental Policy Act]." (EI-3204-3)

Response

In the Draft EIS and Supplemental Draft EIS, OEA described the range of alternatives considered for this project. Fifteen build alternatives were considered and evaluated in the Draft EIS, and two of the 15 were carried forward for detailed analysis in the Supplemental Draft EIS.

The Supplemental Draft EIS evaluated Alternative B (the Proposed Action in the Draft EIS) and three modified alternative routes (Alternatives B1, B2, and B3) developed by the Applicant after the Draft EIS was issued and re-evaluated an alternative dismissed in the Draft EIS (Alternative N1 near the community of Mills, Utah).[2] OEA retained the designation of Alternative N1 from the Draft EIS (see Figure 1-3, Alternatives Considered in the Draft EIS, in Chapter 1, Introduction, of this Final EIS).

After re-evaluating the area's topography and natural resources and completing a detailed wetland investigation, the Applicant developed Alternatives B1, B2, and B3 by modifying, shifting, and redesigning Alternative B. Because the project area is located in a valley bordered by mountains on the east and west and containing large, contiguous wetlands, the possible locations of the rail line that would meet the project's purpose and need and that would avoid directly affecting natural or cultural resources were limited.

Two of these five alternatives were dismissed (Alternatives N1a and N1b), and three were carried forward because fewer biological and water resources would be impacted on these alignments. See Section 1.5, Alternatives Considered, of this Final EIS. More information is provided in Chapter 2, Proposed Action and Alternatives, of the Supplemental Draft EIS. OEA also re-evaluated alignments that were considered but eliminated in the Draft EIS. Also see Appendix B, Corridor and Alternative Identification, of the Supplemental Draft EIS.

[2] Mills, Utah, is located about 5 miles west of Juab. OEA evaluated two options for Alternative N1, N1a and N1b.

3.3.5 Scoping, Public Involvement, and Native American Consultation

Comment Summary

Several comments on the Draft EIS requested clarification on the number of tribes contacted and asked OEA to supply additional information once cultural inventories are completed (EI-2113-17, EI-3112-16, and EI-3157).

Response

Consultation with tribes was initiated in 2003 and is ongoing. The following Federally recognized tribes have been included: the Confederated Tribes of the Goshute Reservation, Nevada and Utah; Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation of Arizona, New Mexico, and Utah; Paiute Indian Tribe of Utah (including the Cedar Band, Indian Peaks Band, Kanosh Band, Koosharem Band, and Shivwits Band); San Juan Southern Paiute Tribe of Arizona; Skull Valley Band of Goshute Indians of Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah and Ouray Reservation, Utah; and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico, and Utah.

Four of these tribes (Hopi Tribe of Arizona; Navajo Nation of Arizona, New Mexico, and Utah; Paiute Indian Tribe; and Kaibab Band of Paiute Indians) have expressed interest in consultation. In addition, the Kanosh Band of the Paiute Indian Tribe of Utah has expressed interest. OEA will continue Section 106 consultation with the tribes and will invite those tribes that have expressed an interest in consultation to be concurring parties in the Programmatic Agreement under development in accordance with 36 Code of Federal Regulations 800.

3.4 Proposed Action and Alternatives

3.4.1 Alternatives Development

Comment

After issuing the Draft EIS, OEA received comments from several agencies raising concerns about the wetland impacts of the alternatives carried forward and whether avoidance alternatives were adequately considered.

> "Based on EPA's [U.S. Environmental Protection Agency] review of the DEIS [Draft EIS], EPA believes the range of alternatives presented in the DEIS may not include all reasonable alternatives as required in the CEQ's [Council on Environmental Quality] quality regulations for implementing the procedural provisions of NEPA [National Environmental Policy Act]. Considerations should be given to an alignment that avoids to the extent practicable, the wetlands and associated springs in and near the Chicken Creek Reservoir at the proposed rail corridor's northern terminus. EPA believes such an alignment can be proposed without adversely impacting agricultural lands and other important resources. Better characterization of the wetlands in this area (as noted above) should help inform the development of such an Alternative." (EI-3204-3)

> "We understand that STB [Surface Transportation Board] supports a more robust and detailed assessment of the wetlands in this area prior to the Applicant applying to the USCOE [U.S. Army Corps of Engineers] for a Clean Water Act Section 404 permit. We continue to maintain that conducting such an assessment now would effectively meet the USCOE's informational needs for the subsequent Section 404 permitting process and facilitate development of the Supplemental Information needed for this DEIS [Draft EIS] by: 1) informing the feasibility of an additional alternative which significantly reduces impacts to wetland resources…." (EI-7117-2)
>
> "EPA [U.S. Environmental Protection Agency] does not believe the current wetlands impact analysis in the DEIS [Draft EIS] is sufficient to meet the requirements regarding the obligation to select the least environmentally damaging practicable alternative as defined by the Clean Water Act (CWA) Section 404 Guidelines." (EI-3204-4)

Response

In response to comments received on the Draft EIS regarding wetlands, OEA prepared the Supplemental Draft EIS, which evaluated the additional information generated from a wetland investigation report prepared by the Applicant for its to-be-filed Clean Water Act Section 404 permit application. In the Supplemental Draft EIS, OEA re-evaluated corridor alignments and alternatives that were considered but eliminated from consideration in the Draft EIS. See Appendix B, Corridor and Alternative Identification, of the Supplemental Draft EIS.

OEA directed the Applicant to provide additional information about wetlands in the project area because of the potential to affect large wetland complexes at the northern and southern ends of the project. In response to OEA's request, the Applicant conducted a more robust wetland investigation along the proposed routes. The Applicant used the information gathered during the wetland investigation to develop three new modified alternatives.

Because of the anticipated number of wetland impacts associated with Alternative B as defined in the Draft EIS (12.3 acres total and 10.8 acres in the southern portion), two new alternatives were evaluated in the southern portion of the project area (Alternatives B1 and B2). For Alternatives B1 and B2, the proposed alignment was moved farther to the west, and additional curvature was designed into the alignments to avoid high-value wetlands along the Sevier River. Alternatives B1 and B2 follow a similar route with minor differences to reduce wetland impacts. As a result, Alternative B1 would fill 5.2 acres of wetlands, and Alternative B2 would fill 1.6 acres of wetlands. Alternative B1 was eventually dismissed because it closely follows the route of Alternative B2 but would have greater wetland impacts.

Similarly, the Applicant developed Alternative B3 to avoid, to the extent possible, wetland impacts near Chicken Creek Reservoir at the north end of the project while also minimizing, to the extent possible, impacts to irrigated cropland. Compared to Alternative B (1.2 acres of wetland impacts in the northern portion), Alternative B3 would fill about 0.5 acre of wet meadow wetlands in the northern portion near the new proposed connection with Union Pacific Railroad's mainline.

The U.S. Army Corps of Engineers (USACE) is a cooperating agency for this EIS. USACE provided informal comments on the alternatives screening re-evaluation conducted by OEA during the preparation of the Supplemental Draft EIS. The Draft EIS, Supplemental Draft

EIS, and Final EIS may be used by USACE in evaluations related to selecting the Least Environmentally Damaging Practicable Alternative. The wetland impact analysis in the Supplemental Draft EIS identifies new alternatives, specifically Alternative B3/B2 (2.1 acres of wetland impacts), that in OEA's view would meet the requirements of selecting the Least Environmentally Damaging Practicable Alternative under the Clean Water Act Section 404 Guidelines because it would have the least impacts to water resources (including wetlands) and associated biological resources as well as fewer impacts to cultural and historic resources.

3.4.2 Alternatives Considered in OEA's Environmental Review

3.4.2.1 Alternative A, No-Action Alternative

Besides general opposition to the project (EI-3108-1, EI-3111-1 and -5, and EI-3129-1), no comments raised concerns about the analysis for the No-Action Alternative (Alternative A) conducted for the Draft EIS and Supplemental Draft EIS.

3.4.2.2 Alternative B

Alternative B was the Applicant's Proposed Action in the Draft EIS. As described in Section 3.4.1, Alternatives Development, of this chapter and in Section 1.5, Alternatives Considered, of this Final EIS, OEA directed the Applicant to modify Alternative B to minimize impacts on wetlands following receipt of comments on the Draft EIS. In the Supplemental Draft EIS, OEA evaluated modifications to Alternative B from the Draft EIS and explained that the evaluation had resulted in the development of additional alternatives (Alternative B3 in the northern portion of the alignment and Alternatives B1 and B2 in the southern portion) to seek to minimize potential wetland impacts. Therefore, several comments received on Alternative B as presented in the Draft EIS were addressed by OEA in the Supplemental Draft EIS process. See Section 3.1.4, Impacts to Wetlands and Waters of the U.S., of the Supplemental Draft EIS.

Also see Section 3.4.4, General Support, and Section 3.4.5, General Opposition, of this chapter for examples of the public comments received on the Proposed Action in the Draft EIS.

Comment

> "We [Consolidated Sevier Bridge Reservoir Company] would like to enter our objections to building of the Central Utah Rail Project's proposed railroad over any part of Consolidated Sevier Bridge Reservoir (CSBR), also known as Yuba Lake. This reservoir is used by our companies as a storage reservoir for irrigation water." (EI-17902-1 and -2)

Response

Comment noted. The Proposed Action would cross the Consolidated Sevier Bridge Reservoir at Yuba Narrows with a 300-foot clear-span bridge. Compared to the volume of the reservoir, the estimated volume of materials needed to build the bridge would be minor and would not affect the storage capacity of the reservoir.

Comment

"It would not be necessary to cross the reservoir, but rather just the river. We suggest that the railroad go around the reservoir on either the east or west side." (EI-17902-7)

Response

As part of the alternatives evaluation in the Supplemental Draft EIS, the Applicant conducted an initial screening of potential rail corridors based on the comments received. Three corridors were evaluated where the rail line would stay east of the reservoir (see Appendix B, Corridor and Alternative Identification, of the Supplemental Draft EIS). These corridors were eliminated, however, because they did not meet the project's purpose and need. Due to the topography of the Valley Mountains and Yuba Hill, impacts on biological resources (particularly wetlands), and other logistically complicating factors, it is not practical to align a rail corridor to stay completely west of the reservoir and tie into the existing Union Pacific Railroad tracks.

3.4.2.3 Alternative B1

No comments were received on Alternative B1 as presented in the Supplemental Draft EIS. Because Alternative B2 was similar to Alternative B1 but would have fewer wetland impacts, Alternative B1 was eliminated from consideration in the Supplemental Draft EIS.

3.4.2.4 Alternative B2

Comment

"In the southern portion of the alignment, we [U.S. Department of the Interior] support the selection of Alternative B2 as it minimizes impacts to the riparian habitats of the Sevier River." (EI-20464-1)

Response

Thank you for the comment.

Comment

"In this Supplemental [Draft] EIS the STB [Surface Transportation Board] looked for ways to reduce the environmental impact from this project and identified and analyzed a number of options to minimize the impacts to wetlands. We [EPA] support the B2 rail alignment in the southern area of the project. The B2 alternative avoids almost three quarters (9.2 of the 12.3 acres) of wetlands that would be impacted under the original Alternative B." (EI-20465-1)

Response

Thank you for the comment.

3.4.2.5 Alternative B3

Comment

"In the northern portion, we [U.S. Department of the Interior] support the selection of Alternative B3, as it minimizes wetland impacts adjacent to Chicken Creek reservoir." (EI-20464-1)

Response

Thank you for the comment.

3.4.2.6 Alternative C

Comment

"My main concern is the location of the proposed rail line in northern Sevier County. The shortest route doesn't make sense to me when you consider the wetlands, farm lands that will be taken out of production. It's my opinion that the proposed railroad line farthest west [Alternative C] would be most beneficial to all concerned." (EI-3134-1)

Response

Alternative C was suggested because it would reduce the visual impacts to the farms and ranches adjacent to Alternative B. Alternative C would require a large embankment (75 feet high by about 500 feet wide) at the southern end of the project. This large earth-fill embankment would be needed to reduce the existing steep natural grades so that loaded trains can operate on this alignment. It would have a large footprint and would affect farmland and wetlands west of Salina. It would also have more significant visual impacts overall. Therefore, Alternative C is not considered feasible. Also see Section B.2, Screening for the Draft EIS, in Appendix B, Corridor and Alternative Identification, of the Supplemental Draft EIS. Also see the discussion in Chapter 2, Proposed Action and Alternatives, of the Draft EIS.

3.4.3 Alignments and Alternatives Considered but Eliminated from Detailed Study

3.4.3.1 Alternatives N1a and N1b

Comment Summary

Agency comments on the Draft EIS suggested that OEA consider a broader range of alternatives. During coordination with OEA on the Supplemental Draft EIS, the U.S. Army Corps of Engineers (USACE) suggested that OEA re-evaluate an alternative with a Union Pacific Railroad connection at Mills rather than at Juab.

Response

In response to these comments, OEA re-evaluated in the Supplemental Draft EIS the northern connection with the existing Union Pacific Railroad tracks at Mills. Alternative N1 had been previously evaluated and eliminated from consideration in the Draft EIS because of safety, construction, and operational issues. In the Supplemental Draft EIS, OEA evaluated two

additional options for Alternative N1: Alternatives N1a and N1b. The impacts of these options were compared to rail construction and operation alternatives with northern connections near Juab (Alternatives B and B3).

In the Supplemental Draft EIS, OEA concluded that the wetland impacts associated with Alternatives N1a and N1b would be similar (about 0.5 acre) to those from Alternative B3. Compared to Alternatives B and B3, Alternatives N1a and N1b have a higher potential to affect least chubs (*Iotichthys phlegothontis*) found in the Mills Valley. The least chub is a fish classified as a sensitive species by the State of Utah and is a candidate species for listing under the Endangered Species Act by the U.S. Fish and Wildlife Service. Therefore, in addition to the operational, construction, and safety issues, the Mills connection would have about the same amount of impacts to wetlands but a greater potential to affect a sensitive species. Therefore, the Mills connection (Alternatives N1a and N1b) was eliminated from detailed analysis in the Supplemental Draft EIS.

Comment

> "We [U.S. Department of the Interior] support the elimination of alternative N1a and N1b in Mills Valley, which would have direct impacts to least chub (*Iotichthys phlegethontis*) habitat. The U.S. Fish and Wildlife Service (USFWS) found least chub warranted for listing under the Endangered Species Act on June 22, 2010 (75 FR [Federal Register] 35398); it is currently a candidate species." (EI-20464-3)

Response

Thank you for the comment.

3.4.4 General Support

Comment Summary

Several comments were received on the Draft EIS and one on the Supplemental Draft EIS expressing support for the Proposed Action. Supportive comments were received from, among others, Sanpete County Commission, Sanpete County Economic Development, Board of Sevier County Commissioners, Richfield Area Chamber of Commerce, Richfield City Council, and the Utah Department of Transportation. Comments in support pointed to the need to re-establish rail service in the area, which was lost in 1983, and to the economic development and improved safety that would result (EI-3042, EI-3044, EI-3053-1 and -2, EI-3054, EI-3055, EI-3056-1, EI-3057-1 and -2, EI-3058, EI-3059-1, EI-3104, EI-3105, EI-3106, EI-3113, EI-3145, and EI-3155).

> "I support the rail system and would hope that the Federal government would assist our area in approving the construction of a Railroad access. This would help us be a more viable economic concern especially when attempting to get manufacturing into our communities. We need this to compete in the marketplace and hope you will help in the approval of this project." (EI-3043)

> "Benefits to our County include: An opportunity for business and industry to locate in the county with a viable means of exporting their product. Currently Sanpete County is not on a freeway, has no rail system, and only local small airports. Alleviate the

increased coal trucks impact on our rural two-lane highways in the County--both in maintenance and safety." (EI-3116-1)

"The proposed rail project will not only be a good thing for Sevier and surrounding areas, but it is necessary for the growth and future of any current and future industry coming into the area. It will be utilized immediately by the current coal industry. I am in the fuel distribution business and we will be able to get our fuel into the area for less freight than the conventional methods. In Cedar City they are already utilizing rail in that way and realizing a great savings." (EI-3103)

"The Board of Sevier County Commissioners has reviewed the DEIS [Draft EIS] released by your office. This letter is to express our support for the project and our desire to have the Surface Transportation Board take final action. We believe that the study document has more than adequately reviewed all possible impacts. We further believe that the study has outlined appropriate actions to mitigate those impacts on property owners and the community as a whole. The applicant's preferred alignment should move forward as the proposed action since it best balances competing interests." (EI-3154)

"The Richfield Area Chamber of Commerce Hereby expresses it support for the proposed Central Utah Rail Project. We believe our area has suffered economically due to the lack of rail service since 1983. Several of the businesses in this area have expressed a desire to have rail service in order to expand their business operations. Naturally when a company expands, they are hiring more people and keeping our local economy strong." (EI-3155)

"This project will take up to 750 large, 42-ton capacity LCV [longer-combination vehicles] coal hauling trucks off U.S. Highway 89 from Salina to Gunnison, Utah, Utah State Route (S.R.) 28 from Gunnison to Levan, and Utah S.R. 78 from Levan to the truck-to-rail load out on the Union Pacific Railroad. This would be a major benefit in terms of highway infrastructure, longevity as well as improving the quality of life, air quality and safety in the communities along current coal haul route." (EI-20462)

Response

Thank you for the comment.

3.4.5 General Opposition

Comment Summary

Several comments were received on the Draft EIS expressing opposition to the Proposed Action. These comments were primarily from individuals whose land would be directly affected by the project, who live close to the project, or whose farmland would be affected (EI-3108-1 and -3, EI-3129-1, EI-3111, and EI-3133). Representative comments expressing opposition include the following:

"My personal vote would be for the "no-build" alternative, because if I voted for the proposed railroad alignment as is currently being proposed, it would run through my front yard, and since there are better alternatives, I say take the more costly route to the west or don't do the project at all." (EI-3108-1)

"My farm and ranch land are for cows and horses! My land is NOT FOR SALE! Not to the CURP [Central Utah Rail Project] project or to anyone! And not for any price. This land without the CURP is priceless! My plea is NOT TO TAKE MY LAND!" (EI-3111-5)

"Our choice to move to this exact location was to provide a safe environment for our children. Building a rail line 125 feet west of our property line robs our entire family of safety. We have three autistic children in our home that are in the highest risk regarding this rail line." (EI-3129-1)

"I vote for the No Action Alternative, for the construction of the Central Utah Rail Project. I am opposed to the Proposed Action, Applicants Preferred Alternative, Alternative B. Alternative B places the Central Utah rail Project across two parcels of my land and land locks another two parcels of my land/property. My farm and ranch comprises 286 acres consisting of ten parcels of land/property." (EI-3111-1 and EI-3133)

Response

Thank you for your input. With respect to dividing parcels, see Section 3.6.2, Agriculture, of this chapter.

3.5 Rail Operations and Safety

3.5.1 Rail Operations

Comment

"[Draft EIS] Page 2-3, last sentence: This [statement 'Once an operator is identified.'] seems confusing. Throughout the document it refers to shippers (primarily 'SUFCO'); the rail line connecting to 'UPRR' [Union Pacific Railroad] mainline; and under the Operating Plan of the Glossary it states, 'A document that is provided as part of the proposed application detailing planned railroad by applicant operations following the proposed action.' The document should explain who the operator of the rail line would or is likely to be." (EI-3112-8)

Response

Although the Applicant seeks authorization to construct and operate the proposed rail line, it does not plan to own or operate the line for profit. The Applicant expects to work jointly with another entity in constructing the line and possibly assigning its responsibilities for common-carrier operations. The day-to-day operator for the proposed rail line has not yet been determined.

Comment

"The trestle could provide an attractive nuisance causing people to enter our [Consolidated Sevier Bridge Reservoir Company] reservoir at a point beyond our control. We will hold the railroad company and builders of the railroad responsible for any injuries or damages that occur in our reservoir as a result, direct or indirect, of the trestle being built across the reservoir. The railroad company and builders of the

railroad should be required to indemnify and defend Consolidated Sevier Bridge Reservoir Company against such damages." (EI-19902-5)

Response

The Applicant would secure property or easements for the rail line from the Consolidated Sevier Bridge Reservoir Company. The Company and the Applicant would negotiate the terms and conditions (including indemnification and claims defense) in the property purchase or lease agreement.

3.5.2 Hazardous Materials Transportation

Comment

"It would also benefit the public to know the precise steps and general period of time for clean up actions should there be ([Draft EIS] page 4-25, 3rd paragraph) a coal or petroleum spill 'to prevent irreparable harm to the environment.'" (EI-3107-2 and EI-3182-1)

Response

The Applicant would be responsible for cleaning up any spills in accordance with the requirements and any timelines required in Federal, state, and local regulations. To avoid or minimize the potential environmental impacts from hazardous materials and from the proposed rail line, OEA is recommending that the Board impose three voluntary mitigation measures proposed by the Applicant (voluntary mitigation measures VM 49, 50, and 51) and three mitigation measures proposed by OEA (recommended mitigation measures RM 26, 27, and 28 in Section 2.3.6, Recommended Mitigation Measures for Hazardous Materials, of this Final EIS). These measures include requiring development of a spill-prevention plan and notifying appropriate officials and agencies if a spill occurs. Recommended mitigation measure RM 1 in Section 2.3.1, Recommended Mitigation Measures for Rail Operations and Safety, of this Final EIS requires the Applicant to comply with the safety regulations enforced by the Federal Railroad Administration. The safe transportation of hazardous materials is also mandated by regulations and standards developed by the US Department of Transportation's Pipeline and Hazardous Materials Safety Administration.

3.5.3 Land Transportation Network

No comments were received on this topic specifically. See Section 3.5.4, Trucking Operations, below for a related comment on trucking operations.

3.5.4 Trucking Operations

Comment

"[Draft EIS] Page 5-1, Cumulative Impacts: The rail line would reduce use of truck hauling activity and anticipates safety and less damage to roads. The Final EIS should explain whether trucks would stop hauling altogether or if they would be rerouted. If truck haul would continue, identify continued hauling of coal by trucks as a reasonably foreseeable action and discuss the effect(s) of continued truck operation if any." (EI-3112-33)

Response

The No-Action Alternative (Alternative A) assumes that truck hauling would continue. With the No-Action Alternative, no new rail line or terminal facilities would be constructed. No new train operations through Juab, Sanpete, and Sevier Counties would be conducted, and rail operations on the Union Pacific Railroad (UPRR) line would not change. Coal-haul trucks would continue to use roads and highways in portions of Juab, Sanpete, and Sevier Counties to transport coal from the Southern Utah Fuel Company (SUFCO) mine to the existing UPRR mainline near Juab. Chapter 4, Environmental Consequences, of the Draft EIS describes the impacts of the No-Action Alternative on the wide variety of resources in the study area. Section 4.1.2, Impacts on the Regional Transportation System, of the Draft EIS discusses the impacts on traffic delay and traffic safety of the No-Action Alternative, which is to continue coal trucking operations.

Under the Proposed Action, some truck traffic would remain. As described in Section 1.3, Purpose and Need, of the Supplemental Draft EIS, the purpose and benefits of the proposed rail line construction include a cost-effective alternative to truck transportation for some of the primary existing industries in the area. It is likely that other industries with smaller deliveries and shorter hauls to customers in the region, as well as industries not in proximity to the rail line, would continue to truck shipments to customers when truck transportation is more economical than rail transportation. However, trains can move 4 times more ton-miles of freight per gallon of fuel than trucks can.

The overall transportation system would be maintained with at-grade crossings at several of the major roads. Therefore, no significant rerouting is anticipated from the project. See voluntary mitigation measure VM 1 in Section 2.2.1, Voluntary Mitigation Measures for Rail Operations and Safety, of this Final EIS for a description of the type of crossing proposed by the Applicant. Section 4.1.2, Impacts on the Regional Transportation System, of the Draft EIS discusses the impacts to traffic delay and traffic safety from the Proposed Action.

3.5.5 Rail Safety

No comments were received on rail operation safety. Comments focused on the overall safety improvements of reduced truck traffic in cities and towns in the study area with the Proposed Action, which is a key aspect of the purpose of and need for the project.

3.6 Land Use

3.6.1 General Land Use

3.6.2 Agriculture

Comment

> "The current alignment of this proposed railroad between Levan and Salina, Utah, will take out of production hundreds of acres of irrigated agriculture land, not just the 43.06 acres as indicated by the report, because the report only takes into consideration the 100' right-of-way, it doesn't consider the problem the farmer now has to change his method of irrigation to work around the railroad, if it is to costly that portion of ground may very well be left idle, taking it out of production, thus taking out of

production hundreds of acres of irrigated agriculture land for this project." (EI-3108-2 and 3134-2)

Response

Indirect impacts are taken into consideration in Section 4.2.2, Impacts to Agriculture, of the Draft EIS. To determine the indirect farmland impacts, parcels were identified as being farmed either by visual review of National Agriculture Imagery Program aerial photographs from 2004 or by information obtained from the Natural Resources Conservation Service and the Utah Division of Water Resources.

As described further in Section 4.2.2, Impacts to Agriculture, of the Draft EIS, indirect impacts on farmland occur when farmland outside the right-of-way is rendered non-farmable because of impacts such as the creation of only small remnants and disruption of access. There is no specific guidance regarding the size at which a farmland remnant becomes too small to farm economically. However, 5 acres is the size at which farmland can qualify for the Utah Farmland Assessment Act. For the Draft EIS, farmland with less than 5 acres remaining was considered non-farmable and was counted as an indirect impact of the project.

Section 2.3.2, Recommended Mitigation Measures for Land Use, of this Final EIS presents several recommended mitigation measures to avoid or reduce impacts on agricultural operations.

Comment

"[Draft EIS] Page 2-6: Clarify the difference, if any, between farmland and agricultural land. The first paragraph, second sentence, states that an alternative [Alternative C] was suggested because it would disturb fewer parcels of farmland within the project area. However, [Draft EIS] page 2-14, Table 2.4-1, Aesthetics, states, 'Alt C would create more disturbance to agricultural land.'" (EI-3112-9)

Response

The meanings overlap as used in the Draft EIS. The reference is to agricultural land that is farmed. The analysis has been re-evaluated for the Supplemental Draft EIS. See Section 3.2, Agriculture, of the Supplemental Draft EIS for the expected impacts of the alternatives now being considered. Alternative C is no longer being considered.

3.6.3 State Land Use

Comment

"The Draft EIS states that proper best management practices (BMPs) and mitigation measures would be implemented according to Section 6.3.3 (page 6-6) if the Redmond Wildlife Management Area (WMA) is impacted. However, the maps in the DEIS lack detail and direct impacts to the Redmond WMA could not be measured. Also, there is no mention of efforts to avoid or minimize the direct impacts to the Redmond WMA with Alternatives B and C. UDWR [Utah Division of Wildlife Resources] recommends the use of a detailed map of to better ascertain impacts and develop actions to avoid and/or minimize impacts to Redmond WMA." (EI-3132-8 and EI-3112-3)

Response

See Figure 3-4, Redmond Wildlife Management Area, on page 3-29 of the Supplemental Draft EIS. About 3.9 acres of land in the Redmond WMA would be needed if the Proposed Action is constructed. Voluntary mitigation measure VM 25 has been included in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS, which would require the Applicant to coordinate with the Utah Division of Wildlife Resources regarding the Redmond WMA to ensure that Management Plan objectives are maintained.

3.6.4 Federal Land Use

Comment

> "Federal Public Lands: The following measure should be added to this section: 'The subject right-of-way grant would be issued subject to regulations under 43 CFR [Code of Federal Regulations] 2800 and mitigating stipulations that are either required by policy, law, or regulation or are needed to insure mitigation of associated surface disturbance activities.'" (EI-3112-36)

Response

Section 2.1.4, Role of Cooperating Agencies in Developing Proposed Environmental Mitigation Measures, of this Final EIS references 43 CFR 2800. Voluntary mitigation measure VM 13 in Section 6.4.2.2, Grants and Leases, of the Draft EIS was modified for this Final EIS to be consistent with the applicable regulation.

3.6.5 Grazing Allotments

Comment

> "The railroad would traverse grazing lands and should be fenced on both sides of the track on Federal lands. Where livestock would be separated from water sources, new wells, pipelines and troughs or underpasses would have to be constructed by the applicant to supply water to livestock." (EI-3112-6)

Response

The Applicant has agreed to install temporary fences during construction of the proposed rail line to allow continued grazing. The Applicant would also replace fences, gates, and cattle guards after construction and maintain access to grazing allotments, as well as maintain connections to water sources (see voluntary mitigation measures VM 15 to VM 18 in Section 2.2.2.4, Grazing Allotments, of this Final EIS).

3.7 Biological Resources

3.7.1 Plant Communities

Comment

"[Draft EIS] Page 3-17: Page 3-16, Section 3.3.4, third paragraph, last two sentences state, 'As part of mitigation for impacts from this project, surveys for specific species would be conducted prior to construction, if required by the affected land management agency. These surveys would be conducted according to agency approved protocols.' This language should be included on page 3-17 as it pertains to threatened, endangered and sensitive (TES) plant species." (EI-3112-12)

Response

Section 3.4.3, Impacts to Threatened and Endangered Species, of the Supplemental Draft EIS describes the U.S. Fish and Wildlife Service's conclusions related to listed species, including plant species. Because there is no potential for negative impacts to threatened, endangered, or sensitive plant species, no mitigation requiring plant surveys has been proposed in this case.

Comment

"The DEIS [Draft EIS] also states that (pages 4-25 and 4-27) 'herbicides could affect the surrounding plant communities (and wildlife habitat) if they are improperly applied.' The DEIS seems to imply that if herbicides are applied properly, there would be 'no' impacts on biological resources. The final EIS could improve by access[ing] the potential impacts of herbicide use on plant communities and wildlife habitat, as well as potential impacts on wildlife and aquatic species resulting from stormwater run-off containing herbicides entering streams, lakes, reservoirs, and wetlands within the project area." (EI-3182-3)

"The final EIS could be improved by assessing the potential impacts of herbicide use on plant communities and wildlife habitat, as well as potential impacts on wildlife and aquatic species resulting from storm water run-off containing herbicides entering streams, lakes, reservoirs, and wetlands within the project area." (EI-3107-4)

Response

Under OEA's final recommended mitigation, a weed-management plan would be prepared for the project area that would include prescribing herbicides approved for use near aquatic resources and application procedures to avoid harming biological resources while preventing the spread of noxious and invasive species. Only herbicides approved by the U.S. Environmental Protection Agency (EPA) would be used in vegetation management along the right-of-way. See Section 6.4.3, Biological Resources, in the mitigation chapter of the Draft EIS and voluntary mitigation measure VM 31 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS. VM 31 would require the use of EPA-approved herbicides.

Comment Summary

Several comments were received about the list of invasive and non-native plant species and suggested that an updated list be generated for the Final EIS. Commenters pointed out that these species can out-compete native species, dominate original vegetation communities, invade wildlife habitats, and severely reduce or eliminate species that provide food and cover for wildlife. Commenters recommended that the rail line's weed-management program also include and address invasive and non-native plants that have been designated as state or county noxious weeds (EI-3112-39, EI-3132-2 and -3).

Response

Under OEA's final recommended mitigation, a weed-management plan would be prepared to address all covered invasive and non-native plant species within the rail right-of-way. The Applicant has committed to working with local and state authorities to establish a weed-control program. Voluntary mitigation measure VM 31 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS includes requirements to prepare and follow a noxious-weed-control program during rail construction and operations. Also see Section 3.21, Mitigation, of this chapter for additional comments regarding the topic of maintaining existing plant communities.

3.7.2 Wildlife Resources

Comment

> "It would benefit the public, however, if an explanation was provided as [to] why the STB [Surface Transportation Board], in consultation with the U.S. Fish and Wildlife Service, proposes ([Draft EIS] page 4-23) to include only 'pedestrian observational surveys' and not conduct any specific survey protocols to determine the potential impacts to species in the study area." (EI-3107-1, EI-3112-13, and EI-3182-1)

Response

As stated in the Draft EIS, walking ("pedestrian") surveys were conducted in 2004 and 2005 to determine the presence or absence of suitable habitat for ranges of potential species, rather than specific surveys for specific species, as a first step toward assessing potential impacts. If no suitable habitat was found for a particular species, then more-detailed surveys were not justified and were not conducted.

Comment Summary

Comments were received on the Draft EIS from the U.S. Geological Survey and the U.S. Department of the Interior's Office of Environmental Policy and Compliance related to the need for species-specific impact analyses due to direct impacts on wildlife habitat, habitat fragmentation, and wildlife movement (EI-3107-3, -5, and -7; EI-3132-19; and EI-3182-1, -2, -4, -5, and -6). Two representative comments are provided below.

> "Other generalized statements in the DEIS [Draft EIS] that warrant scientific documentation, scientific analysis, and supporting references include, but are not limited to the following: 'SEA [now OEA, the Office of Environmental Analysis] expects that the impacts from constructing and operating a rail line with anticipated

traffic of one round trip … per day would not contribute significantly to habitat fragmentation and the alteration of wildlife behavior in the project area.' (page 4-26)" (EI-3107-5, EI-3182-2 and -4)

"Other generalized statements in the DEIS [Draft EIS] that warrant scientific documentation, scientific analysis, and supporting references include … 'Construction of Alternative B would result in a relatively small amount of habitat loss within wildlife corridors for migratory birds and big-game mammals. However, because of the timing of the construction of the rail line and the temporary nature of construction, SEA [now OEA, the Office of Environmental Analysis] does not anticipate that these construction activities would be a substantial barrier to wildlife movement. Construction of Alternative B would not compromise the biological function of these wildlife corridors.' (page 4-28)" (EI-3107-7, EI-3182-4 and -5)

Response

During the EIS process, biological resources were assessed, and the potential for the project to affect wildlife species or to otherwise modify wildlife habitat and wildlife movement in the project area was analyzed. Wildlife surveys were conducted in order to determine the presence or absence of suitable habitat for a wide range of potential wildlife species. Section 3.3.3, Biological Resources, of the Draft EIS identifies some of the more common wildlife species in the study area. Section 4.3, Impacts on Biological Resources, of the Draft EIS provides information on plant communities, wildlife habitat, wildlife corridors, wildlife sanctuaries and refuges, and threatened, endangered, and sensitive species. The Draft EIS documents both the impact of rail line construction and the anticipated impacts of rail operation and maintenance activities.

For the three modified alternatives considered in the Supplemental Draft EIS, the Supplemental Draft EIS reassessed the potential impacts on federally listed threatened, endangered, and sensitive wildlife species. See Section 3.4, Federal Lands, of the Supplemental Draft EIS. Section 3.5, State Lands, of the Supplemental Draft EIS also assesses impacts to species of special concern, wildlife management areas, and wildlife movement.

Vegetation clearing and fill placement during rail line construction would result in long-term alteration of habitats, as described in Section 4.3.2, Plant Communities, of the Draft EIS. However, a weed-management plan would be implemented to protect plant communities in adjacent habitats. The EIS acknowledges a minor reduction in the biological function of these habitats due to the addition of a 43-mile-long, 100-foot-wide linear feature (the rail line). However, because of the presence of existing highways and minor roads and because much of the project area has been converted to agricultural, residential, commercial, and industrial land uses, the project area has already been fragmented and has experienced a reduction in wildlife diversity, population densities, and distribution. Therefore, the direct impacts of the proposed rail line construction, operation (one round trip per day on average), and maintenance to wildlife habitat would be minor.

Regarding wildlife corridors, the Draft EIS acknowledges minor impacts on big-game habitat because the rail line would bisect parts of two winter ranges: the San Pitch Mountains and Valley Mountains ranges. Figure 4-4, Impacts to Elk and Mule Deer Seasonal Range, of the Draft EIS shows these winter ranges. The three modified alternatives analyzed in the

Supplemental Draft EIS are on the same alignment as Alternative B as presented in the Draft EIS. Therefore, the impacts to these winter ranges would be the same as those presented in the Draft EIS.

The Utah Division of Wildlife Resources has stated that a significant number of deer (15 per month) are struck and killed along State Route (S.R.) 28 (Sakaguchi 2005), which bisects the San Pitch Mountains' winter mule deer range for about 4 miles. Although deer-train collisions are expected, the reduction of truck traffic on S.R. 28 with the project could result in a net decrease in collisions. The proposed rail line also skirts the eastern edge of the Valley Mountains mule deer winter/spring range for about 6 miles. However, only a small percentage (less than 1 percent) of these two ranges would be on the opposite side of the rail line.

OEA does not believe that big-game collisions would be a major issue in the project area. Because of the flat topography, the embankment heights would be low through the Valley Mountains range. Movements of big game directly north to the Sevier Bridge Reservoir would not be impeded by the proposed rail line. Minimal train traffic is anticipated (one round trip per day), and the Utah Division of Wildlife Resources has stated that the low train traffic anticipated (one round trip per day) would allow natural wildlife movement patterns in the project area. As a result, no fencing would be required (RDCC 2007).

The Draft EIS and Supplemental Draft EIS were reviewed by a variety of wildlife agency experts with the U.S. Fish and Wildlife Service and the Utah Division of Wildlife Resources. Comments were received on specific species and questions about specific locations along the Proposed Action. Many of the concerns and comments on the Draft EIS were addressed in the Supplemental Draft EIS. Others have been addressed by voluntary and recommended mitigation measures. See Section 3.21, Mitigation, of this chapter and Chapter 2, Final Recommended Conditions/Mitigation, of this Final EIS.

Comment

> "The following recommendations are based on the proposed train traffic described in the Executive Summary. As the proposed train traffic will average less than two loaded trains per day traveling at 49 miles per hour, UDWR [Utah Division of Wildlife Resources] does not believe that it is necessary to design fences that will force big game to underpass structures, nor necessitate the need for escape ramps, as described by mitigation measure #35 ([Draft EIS] page 6-14). Allowing natural movement for wildlife across the right-of-way (ROW) would be of benefit for wildlife. If the ROW needs to be fenced or if train traffic increases, we recommend a four-strand wire fence, with the top strand being no higher than 42 inches to avoid trapping big game hind legs. Wire spacing would be 16", 24", 32", and 42" from the ground. The bottom wire should be smooth to circumvent big game entanglement, while the other three wires can be barbed." (EI-3132-5)

Response

Thank you for your comment. The Applicant would be required to work with the Bureau of Land Management and the Utah Division of Wildlife Resources during preliminary design of the proposed rail line to determine mitigation measures to enhance movement and reduce wildlife losses during migration periods. See revised mitigation (now voluntary mitigation measure VM 36) in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources,

of this Final EIS. Some fences would be required in order to address livestock operations and grazing allotments. See VM 17 in Section 2.2.2.4, Grazing Allotments, of this Final EIS, which would require the Applicant to evaluate whether existing gates on existing side roads that are used to access grazing allotments need to be upgraded with properly sized cattle guards to accommodate increased present and future traffic. Also see VM 18 in Section 2.2.2.4, Grazing Allotments, of this Final EIS, which would require the Applicant to maintain safety fencing.

Comment

Two comments were received on deer and elk highway mortality on Interstate 70.

> "The DEIS [Draft EIS] does not contain an analysis of potential increases of haul traffic along I-70 [Interstate 70] through Salina Canyon, which is a probable result of an increased capacity to haul coal once a rail line is established through Aurora. Increased truck traffic in Salina Canyon could greatly increase highway mortality of mule deer and elk. This reach of I-70, between mine exit 72 and Aurora, currently has the highest instance of big game mortality in Southern Utah (see Utah Department of Transportation [UDOT] publication, 'Wildlife Connectivity Across Utah's Highways,' June 7, 2006). There has been considerable collaborative effort between UDOT and the UDWR [Utah Division of Wildlife Services] to address this problem. Mitigation of potential impacts to the deer and elk herds on I-70 might be accomplished via cooperation and/or contributions to this ongoing effort." (EI-3132-7)

> "Mitigation of potential impacts to the deer and elk populations on I-70 [Interstate 70], from exit 72 to Aurora, from increased haul traffic needs to be addressed. We recommend working with UDOT [Utah Department of Transportation] and UDWR [Utah Division of Wildlife Services] to develop mitigation strategies along I-70 to develop effective means to reduce potentially detrimental impacts." (EI-3132-18)

Response

The proposed project is not expected to increase highway haul traffic on I-70. Section 3.7, Climate Change and Greenhouse Gas Production, of the Supplemental Draft EIS describes how the production rate and customer mix for Southern Utah Fuel Company (SUFCO) coal is not anticipated to change with the Proposed Action (Nash 2013). Also see Section 4.1.1, Methodology, of the Draft EIS, which states that the total volume of coal produced and transported through the study area would not materially change from current conditions with the proposed rail line. The mode of transportation would change from truck to rail from Salina to Juab but would not materially change along I-70. The Proposed Action would shorten the total distance of over-the-road truck hauls by over 50 percent, thus reducing the potential for wildlife collisions in the majority of the study area.

Comment

> "There is no current information available on big game collisions (wildlife strikes) within the proposed project area ([Draft EIS] Section 3.3.3.4, page 3-15). We recommend wildlife strikes along the rail line be recorded, by mile post or other reference marker, and reported annually to the Central and Southern Regional Offices of UDWR [Utah Division of Wildlife Resources]. This information will help

document any net decrease or increase in vehicle-wildlife collisions resulting from coal transportation once the rail line is in operation." (EI-3132-6)

Response

Section 4.3.3.2, Wildlife Corridors, of the Draft EIS describes the impacts of the proposed project with regard to wildlife strikes. The Draft EIS acknowledges impacts to big-game habitat because the rail line would bisect parts of two winter ranges: the San Pitch Mountains and Valley Mountains ranges. Figure 4-4, Impacts to Elk and Mule Deer Seasonal Range, of the Draft EIS shows these winter ranges. Only a small percentage (less than 1 percent) of these two ranges would be on the opposite side of the rail line.

If the project is constructed, voluntary mitigation measure VM 37 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS would require the Applicant to work with the Bureau of Land Management and the Utah Department of Natural Resources to provide reasonable enhancement (such as reseeding, restoration, or other appropriate measures) to parts of the deer winter range to replace the habitat lost from constructing the rail line and to attract the animals to the enhanced range and away from the rail line. OEA does not believe that any additional mitigation is needed.

Comment

"Juab Valley, in the northern portion of the alignment, contains numerous seeps and springs that may provide habitat for rare and sensitive species such as the spotted frog, least chub, or unusual mollusks or macroinvertebrates. We were unable to find any significant discussion in the DEIS [Draft EIS] regarding springs and recommend an expanded evaluation of this important biological resource. We recommend: 1) an inventory of springs in the project corridor; 2) a survey of the aquatic biota for any springs determined to be within the zone of direct or indirect impacts, with particular focus on detecting rare or unique species; 3) protection of any springs at risk of degradation of water quality; and 4) compensation for unavoidable impacts to fish and wildlife resources." (EI-3112-5, EI-3132-10 and -16)

"Page 3-32, Section 3.5.4.2, Impacts to Species of Special Concern – The SDEIS [Supplemental Draft EIS] states that seeps and springs are located in the vicinity of the northern portion of the proposed action; however field level surveys do not appear to have been conducted. The springs may provide habitat for Columbia spotted frog (*Rana luteiventris*), least chub (*Iotichthys phlegethontis*), spring snails (*Pyrgulopsis* spp.), or other unusual mollusks or macroinvertebrates. We recommend the project proponent conduct field level surveys for seeps and springs and their biota to enable precise corridor sitting to avoid these important aquatic sites. We recommend the FEIS [Final EIS] include a commitment to avoid springheads by a minimum protective buffer of 100 meters." (EI-20464-7)

Response

Additional wetlands field work and investigations conducted for the Supplemental Draft EIS did not record or identify any obvious springs or seeps within the 150-to-700-foot-wide wetland investigation survey area. The wetland investigation did identify some isolated wet meadow wetland areas in the northern portion of the study area; however, the hydrological

source of the wet meadows was not apparent. Section 3.1.3.1, Wetland Areas, of the Supplemental Draft EIS includes discussion of wetland boundaries that were revised after a preliminary field review of the Alternative B3 corridor in 2008. The Proposed Action in the Draft EIS (Alternative B) included a maintenance yard near the northern terminus of the alignment. With this maintenance yard, the proposed right-of-way would be about 600 feet wide near the northern terminus. Alignments were refined for the Supplemental Draft EIS including moving the maintenance yard south to minimize potential wetland impacts. In the northern portion of the study area, the alternatives would have about a 100-foot-wide right-of-way; a 200-foot width would be needed during construction. Also see the response to the following comment regarding least chub.

Comment

> "Least chub were discovered in spring heads in northern Juab Valley in 1995. They were subsequently discovered along the Sevier River in the Mills Valley marsh complex in 1996 (downstream of Chicken Creek Reservoir). There is the possibility that they could be present in the spring complex north of Chicken Creek Reservoir. No surveys have been done on the springs and seeps north of Chicken Creek Reservoir to determine whether the fish are present or absent in these waters. The alignment of the rail line at the north terminus of the project corridor crosses Juab Valley and could directly impact some of the springs that have not been surveyed. We recommend that the springs, seeps and other wetland habitats north of Chicken Creek Reservoir be surveyed to determine the absence/presence of least chub. Aquatic surveys should also be conducted on the springs and other wetland habitats at the Redmond WMA [Wildlife Management Area]. If least chub are found, then appropriate mitigation should be done in accordance with the agencies involved with the Conservation Agreement and Strategy for Least Chub (1997). If other sensitive species are found, then appropriate avoidance, minimization, or mitigation should be included." (EI-3132-9 and -14)

Response

No springs were found during the wetland surveys conducted for the Supplemental Draft EIS (BioWest 2009). In addition, according to the Utah Division of Wildlife Resources, populations of least chub have not been identified in or around Chicken Creek Reservoir (UDWR 2013). For more information, see Section 2.1.1, Alternatives Considered for this Supplemental Draft EIS, of the Supplemental Draft EIS. As mentioned above in the previous comment response, the preliminary field review did not identify springs within 100 feet of the Alternative B3 (the westernmost alternative developed and evaluated in the Supplemental Draft EIS) centerline that would provide habitat for the least chub. Ground disturbances from the proposed project would be limited to only the area necessary for project-related construction.

The Supplemental Draft EIS evaluates impacts to the Redmond WMA and the sensitive species (leatherside chub and long-billed curlew) that might use the area. As described in Section 3.5.3.2, Impacts to Wildlife Movement and Management, of the Supplemental Draft EIS, the Proposed Action (Alternative B/B2) and Alternative B3/B2 would affect about 3.9 acres of wildlife habitat in the Redmond WMA. These impacts would consist of about

0.2 acre of emergent marsh wetlands and 3.7 acres of agricultural land. None of the alternatives would affect critical wildlife habitat.

Comment

"[Draft EIS] Page 3-18, Table 3.3-4: Bald eagles are no longer listed as threatened under the Endangered Species Act (ESA). They are, however, still protected under the Bald and Golden Eagle Protection Act (BGEPA) and the Migratory Bird Treaty Act (MBTA). Therefore, we recommend that project plans continue to incorporate best management practices for avoiding disturbance or take of bald eagles." (EI-3112-14, EI-3112-26, and EI-3132-11)

"Appendix B, Page B-7, Raptors: The DEIS [Draft EIS] states that "raptor surveys were conducted along the corridor, although not to the full extent of the advised mile-wide buffer." We commend the project's commitment to following the recommendations in the Utah Field Office's Raptor Guidelines (page 6-13, item #32); however, not knowing the extent to which nest surveys were conducted raises concern that nests within the recommended buffer distances (1/4 to 1 mile depending on raptor species) could be subject to construction-related disturbance. We recommend that the extent of the studies be included in the Final EIS." (EI-3112-43, EI-3182-6, and EI-20464-6)

Response

To reduce potential impacts on raptors, the Applicant would mitigate potential impacts to raptors and would implement management practices from the U.S. Fish and Wildlife Service's *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* (Romin and Muck 2002) (see voluntary mitigation measure VM 33 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS). These guidelines include conducting preconstruction surveys for raptor nests.

Comment

"[Draft EIS] Page 3-14, Migratory Birds: As stated in the DEIS [Draft EIS], the wetlands associated with Chicken Creek Reservoir, the Sevier River, Sevier River Reservoir, and the Redmond Wildlife Management Area provide important habitat for a variety of migratory bird species including shorebirds. Table 3.3-3 is limited to very common species, and we note that several species of concern (as identified in the 2005 Utah Comprehensive Wildlife Conservation Strategy [Wildlife Action Plan]) have been documented in the project area, such as the American avocet, black-necked stilt, and grasshopper sparrow. These species use habitat found in the study area not only as a 'migratory stopover,' as stated in the DEIS, but also for nesting. We recommend an expanded evaluation of potential impacts to nesting birds in addition to mitigation measures (e.g., avoidance of vegetation removal during nesting season within potential habitat for Utah Wildlife Action Plan avian species of concern)." (EI-3112-11)

"[Draft EIS] Page 4-27, Wildlife in the Area, Construction Impacts: Construction could have an impact on birds nesting under either Alternatives B or C, depending on the season of construction. We recommend that vegetation removal be conducted outside of bird nesting season (approximately April–July) to the extent possible, to avoid the take of migratory birds." (EI-3112-23)

"[Supplemental Draft EIS] Page 4-7, Section 4.2.3, Voluntary Mitigation Measures for Biological Resources – Neither the DEIS [Draft EIS] nor the SDEIS [Supplemental Draft EIS] describes how the project proponent will avoid take of migratory birds protected under the Migratory Bird Treaty Act. We recommend the project proponent implement the measures identified in Attachment 2 [to the comment letter] ['Migratory Bird Conservation Actions for Projects to Reduce the Risk of Take during the Nesting Season,' and that this commitment be identified in the FEIS [Final EIS] in Section 4.2.3." (EI-20464-8)

Response

Recommended mitigation measure RM 13 in Section 2.3.3, Recommended Mitigation Measures for Biological Resources, of this Final EIS describes the process for vegetation removal during construction in compliance with appropriate seasonal restrictions to ensure protection of the breeding, nesting, and roosting seasons of all migratory birds. Preconstruction surveys for raptors and migratory birds would be conducted if large woody vegetation, dense shrubs, or other natural habitats are scheduled to be cleared during the nesting seasons for either group of bird species. The Applicant would also implement best management practices to protect raptors and other migratory birds (voluntary mitigation measure VM 33 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS would require implementation of the U.S. Fish and Wildlife Service's *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* [Romin and Muck 2002]) and would coordinate with the U.S. Department of the Interior (RM 13). OEA believes that this mitigation is appropriate and adequate.

3.7.3 Threatened, Endangered, and Sensitive Species

Comment

"On August 9, 2007, during a field inspection of a proposed oil and gas well site and associated access, active burrowing owl habitat (sensitive species) was observed and recorded with GPS [global positioning system] data on public land between the Alternative B and Alternative C routes and actually on a segment of the Alternative C route. An active area was also observed on the adjacent State land. Additional baseline information and analysis concerning this species is required." (EI-3112-15)

Response

Alternative C is no longer under consideration as a viable alternative. The Draft EIS determined that, because no dens were observed in the area of potential impact, the potential for negative impacts on burrowing owls is low. If the proposed construction is authorized, the Applicant would implement management practices to protect raptors (voluntary mitigation measure VM 33 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS) and would coordinate with the U.S. Department of the Interior and the Utah Division of Wildlife Resources for other migratory birds (recommended mitigation measure RM 13 in Section 2.3.3, Recommended Mitigation Measures for Biological Resources, of this Final EIS). The Applicant also would conduct preconstruction surveys before clearing the right-of-way prior to ground-disturbing activities (RM 13). OEA believes that this mitigation is appropriate and adequate.

Comment

"Bonneville cutthroat trout do not occur in Chicken Creek Reservoir, although they are reported from higher up in the Chicken Creek drainage." (EI-3132-13)

Response

Thank you for the comment. No Bonneville Cutthroat Trout exist in the Chicken Creek Reservoir, which is shallow, contains warm water, is not fed by any perennial streams, and dries out most years by irrigators in the Mills Valley. There is another Chicken Creek in Utah that might contain Bonneville cutthroat trout. However, this stream is not located in the project area. The Supplemental Draft EIS provides updated information on sensitive species. See Chapter 4, Errata and Other Changes, of this Final EIS for clarifications regarding Bonneville cutthroat trout.

Comment

"Long-billed curlews have been observed in the vicinity of Chicken Creek Reservoir. The discussion of negative impacts from the proposed alternative ([Draft EIS] Table 4.3-2) only mentions the presence of this species at the south end of the proposed rail line. Surveys, following approved protocol for long-billed curlew, should be conducted to determine whether the rail line, or construction of the rail line will impact this species or habitat used by this species." (EI-3132-12)

Response

Section 3.5.3.2, Impacts to Wildlife Movement and Management, of the Supplemental Draft EIS presents additional information on long-billed curlews. Long-billed curlews, a wildlife species of concern on the Utah Sensitive Species List, have been found in the vicinity of the Redmond Wildlife Management Area (WMA) and Chicken Creek Reservoir. The habitat requirements for long-billed curlews include short-stature grasslands with a bare ground component, shade, and an abundant prey base, all of which are found in and immediately adjacent to the Redmond WMA and around Chicken Creek Reservoir.

Recommended mitigation measure RM 13 in Section 2.3.3, Recommended Mitigation Measures for Biological Resources, of this Final EIS describes the process for protecting migratory birds during project-related construction. Construction would be conducted in compliance with appropriate seasonal restrictions to ensure protection of the breeding, nesting, and roosting seasons for all migratory birds. The responses to comments on migratory bird protection in Section 3.7.2, Wildlife Resources, of this chapter and the mitigation for biological resources presented in Section 2.3.3, Recommended Mitigation Measures for Biological Resources, of this Final EIS would also apply to long-billed curlews. Therefore, the Supplemental Draft EIS concludes that, with OEA's recommended mitigation, the potential impacts to long-billed curlews from the alternatives now under consideration are low.

3.8 Water Resources

3.8.1 Wetlands and Waters of the U.S.

Comment Summary

As described in Chapter 1, Introduction, of this Final EIS and in Section 3.4.1, Alternatives Development, of this chapter, after issuing the Draft EIS, OEA received comments from several agencies raising concerns about the wetland impacts of the alternatives carried forward. The U.S. Environmental Protection Agency (EPA), in an informal comment letter, suggested that a more detailed assessment and characterization of the wetlands for the alternatives carried forward be conducted (EI-3204-3). In its comments, EPA recommended that the Board consider alternatives that would avoid or have fewer impacts on wetlands at the northern terminus of the project. Other commenters pointed to the significance of wetland impacts for wildlife habitats and other functions (EI-3112-4, EI-3132-1 and -17, and EI-3204-1 and -2).

Response

After comments were received on the Draft EIS and after coordination with EPA and the USACE, on August 24, 2007 OEA directed the Applicant to provide additional information on wetlands in the project area because of the potential to affect large wetland complexes at the northern and southern ends of the project. In response to OEA's request, the Applicant conducted a wetland investigation along the proposed routes. The additional information gained from these wetland investigations resulted in the development of three new modified alternatives and the re-evaluation of alternatives dismissed in the Draft EIS. This re-evaluation was provided to the U.S. Army Corps of Engineers for review.

Wetland impacts were considered in the alternatives re-evaluation process OEA conducted on previously eliminated alternatives and on the new alternatives proposed after the Draft EIS was issued. Wetland considerations used in the alternatives screening are presented in Chapter 2, Proposed Action and Alternatives, of the Supplemental Draft EIS. Section 3.1, Wetlands and Waters of the U.S., of the Supplemental Draft EIS presents the wetland impacts for Alternative B, the Proposed Action (Alternative B/B2), and Alternative B3/B2, the latter of which was preliminarily identified in the Supplemental Draft EIS as the Environmentally Preferred Alternative.

Overall, based on the wetland investigations and alternative modifications, the anticipated wetland impacts of the proposed project have been reduced from 12.3 acres for Alternative B as presented in the Draft EIS to 3.1 acres for the current Proposed Action (Alternative B/B2) and to 2.1 acres for Alternative B3/B2, OEA's Environmentally Preferred Alternative.

Comment

> "The environmental difference between the Alternative B and B3 in the northern area of the project is the impact to a 1.3 acre playa wetland. Playa wetlands provide unique habitats for specialized plants and ecosystems and are considered difficult to replace resources. Whether Alternative B or B3 is proposed for permitting in the northern project area, we recommend the project be designed to maintain hydrologic [hydraulic] conductivity throughout the playa wetland." (EI-20465-2)

Response

Comment noted. The proposed alternatives were designed to reduce the impact on wetlands in the northern part of the project area. Alternative B3 (which would have about 0.5 acre of impacts) was designed to minimize such impacts. Recommended mitigation measure RM 16 in Section 2.3.4, Recommended Mitigation Measures for Water Resources and Wetlands, of this Final EIS addresses maintaining hydrologic connectivity to wetlands and the prevention of a hydraulic barrier.

3.8.2 Floodplains

No comments were received on this topic.

3.8.3 Groundwater, Wells, and Irrigation

Comment

> "I am concerned that it may impact the Redmond Town drinking water by crossing over the town's aquifer." (EI-3134-6)

Response

OEA evaluated several factors that together address the risk of affecting a drinking water aquifer. These factors include the risk of rail accidents, the impact of train vibrations on groundwater wells, the anticipated amount of hazardous materials transported and spill-response procedures, and the location of the rail line with respect to the locations of primary aquifer recharge areas and well-head protection zones. The most critical factor is the location of the rail line with respect to the drinking water source protection zones. Drinking water source protection Zone 1, which is a 100-foot radius around the well, is the most restrictive zone and one in which rail line construction might be limited by well-owner-imposed development restrictions. No drinking water protection Zone 1s would be affected by either of the alternatives. Also, voluntary mitigation measure VM 50 in Section 2.2.6, Voluntary Mitigation Measures for Hazardous Materials, of this Final EIS would require the Applicant to report spills and comply with its spill-prevention and clean-up plan.

Comment

> "I feel that if I take action with my plans to build a pressurized irrigation system it's in my best interest to get it built before the CURP [Central Utah Rail Project] is constructed. I also feel this places me under a time frame and in a race with time to get my pressurized irrigation system constructed before the CURP is constructed. But if I would build this system now and shortly thereafter the CURP is constructed using Alternative B, much more financial cost is foreseen. However, if I would wait to see the CURP be constructed using alternative B, I could engineer my pipeline system under the CURP. If the CURP is constructed using Alternative B it will bring with it financial damage in my future farming and ranching endeavors." (EI-3111-2)
>
> "I have plans to drill another well on Section 26, Parcel 4-3-6 and from this well supply water to Parcel 4-3-5, Parcel 4-3-7 and Parcel 4-3-2. The purpose of this water source is for a future home for Adopted Wild Mustangs. These 160 acres will provide

a prime home for these horses. The Wild Mustangs represent part of America's Heritage and are an American Icon!" (EI-3111-4)

"Field drains and existing wells will also be affected along with our irrigation system." (EI-3134-3)

Response

The Applicant would be required to remedy any damage to crops caused by the construction of the rail line. This includes damage to any existing wells and irrigation appurtenances. See Section 2.3.2, Recommended Mitigation Measures for Land Use, of this Final EIS, specifically recommended mitigation measure RM 7.

3.9 Topography, Geology, and Soils

Comment

"The railroad bed will be on unstable ground and will be costly to maintain." (EI-3134-5)

Response

OEA evaluated the topographic and geologic setting, seismic hazards, and overarching soil conditions in the study area including potential impacts from liquefaction and landslides. No significant risks to rail construction and operation were identified. Section 4.5.3, Geologic Impacts, of the Draft EIS presents detailed information on geologic hazards to the proposed rail line. Moreover, soil and subsurface investigations would occur prior to final design of the rail line in order to incorporate appropriate design features or conduct soil-stabilization measures within the right-of-way prior to construction.

3.10 Vibration

Comment

"My farm/ranch land has a water well that was drilled in December 1999. This well is approximately 500 feet away from CURP [Central Utah Rail Project] Alternative B. I am very concerned with what the vibrations caused by the train may cause to this precious life sustaining water source." (EI-3111-3)

"The weight of the train cars alone can vibrate the ground, not to mention the cargo they are carrying." (EI-3129-3)

Response

Section 4.6, Vibration Impacts, of the Draft EIS discusses impacts from vibration to buildings and water wells within the study area. No impacts are anticipated outside of 36 feet from the track centerline. No re-evaluation was conducted due to alignment shifts for the Supplemental Draft EIS. However, if a well would be directly affected by rail line construction, recommended mitigation measure RM 7 would require the Applicant to work with affected landowners to remedy impacts to irrigation facilities (see Section 2.3.2, Recommended Mitigation Measures for Land Use, of this Final EIS).

3.11 Hazardous Materials and Waste Sites

Comment

> "We encourage you to review the DERR [Utah Division of Environmental Response and Remediation] Interactive Map, as one source of data, prior to finalizing the Environmental Impact Statement to ensure you are informed of potential contamination. You are also encouraged to speak to the Division of Solid and Hazardous Waste at (801) 536-0200 and the Division of Water Quality at 536-4300." (EI-20491-1)

> "It is possible that future construction activities associated with this project will encounter hazardous substances. These materials must be managed and disposed of properly. If impacted materials are encountered during construction, please notify the DERR [Utah Division of Environmental Response and Remediation]." (EI-20491-2)

Response

The referenced interactive map was reviewed prior to publication of the Final EIS. Nothing was found to influence the alternatives selection or change the conclusions related to hazardous materials presented in the Draft EIS.

Voluntary mitigation measures VM 50 and VM 51 in Section 2.2.6, Voluntary Mitigation Measures for Hazardous Materials, of this Final EIS would adequately address hazardous materials and the requirement to document activities involving hazardous materials sites.

3.12 Air Quality

No comments were provided specifically on this topic. Several commenters provided comments in support of the project that cited the air quality benefits of reduced truck traffic.

3.13 Noise

Comment

> "When trains cross roads they have to blow their horns by law, their horns are extremely loud even from a distance." (EI-3129-4)

Response

All trains operated on the North American rail network are subject to Federal safety regulations administered by the Federal Railroad Administration as well as state safety regulations. Federal regulation 49 Code of Federal Regulations (CFR) 222 requires all trains to sound the locomotive horn when approaching and entering public highway/rail at-grade crossings if the train speed is 15 miles per hour or greater and the railroad does not provide train crew or flagpersons on the ground at all times to warn motorists. Highway/rail at-grade crossing warning devices such as bells, flashing lights, and gates do not relieve this requirement to sound the train horn—except in established quiet zones where supplemental safety measures have been instituted. The regulations in 49 CFR 222 and 49 CFR 229 allow communities to establish quiet zones. Refer to Chapter 2, Final Recommended Conditions/

Mitigation, of this Final EIS for the final voluntary mitigation measures and OEA's final recommendations to the Board for noise mitigation.

3.14 Energy Resources

No comments were received on this topic.

3.15 Socioeconomics

No comments were received on this topic other than general support for the project that cited its potential economic benefits.

3.16 Cultural Resources

Comment

"Thank you for your correspondence dated June 29, 2007, with an enclosed Environmental Impact Statement. In our June 26, 2006, letter we reviewed the cultural resources inventory report that identifies 16 prehistoric sites recommended as eligible for listing on the National Register and described as lithic scatters, 10 prehistoric sites recommended as eligible and described as temporary camps, and 1 prehistoric site recommended as eligible and described as a habitation site. In addition there are 8 prehistoric sites described as lithic scatters that are recommended as ineligible for listing on the National Register. We stated that we have determined that this project is likely to adversely affect cultural resources significant to the Hopi Tribe, and requested additional consultation, including to be provided with a copy of the draft cultural resources treatment plan for review and comment." (EI-3157)

"Thank you for your correspondence dated September 5, 2014, regarding a proposed railroad construction project in central Utah. The Hopi Tribe claims cultural affiliation to earlier identifiable cultural groups in Utah. The Hopi Cultural Preservation Office supports the identification and avoidance of our ancestral sites, and we consider the prehistoric archaeological sites of our ancestors to be 'footprints' and Traditional Cultural Properties. Therefore, we appreciate the Surface Transportation Board's continuing solicitation of our input and your efforts to address our concerns.

"The Hopi Cultural Preservation Office previously consulted on this proposal. In our most recent letter dated June 18, 2012, regarding Finance Docket No. 34075, a Supplemental Draft Environmental Impact Statement for the Six County Association of Governments 43-mile rail line between Levan and Salina, we stated we are interested in consulting on any proposal in Utah that has the potential to adversely affect prehistoric cultural resources, and we previously reviewed the cultural resources survey report and Draft Environmental Impact Statement.

"We understand 26 National Register eligible prehistoric sites will be adversely affected by the project including 16 sites described as lithic scatters, 9 as temporary camps, and one as a possible habitation site. Regarding the proposed Programmatic Agreement, we defer to the State Historic Preservation Office and other interested

parties. However, we request continuing consultation including being provided with copies of the draft treatment plan and draft treatment reports for review and comment." (EI-20550)

Response

The Board will continue consultation with the Hopi Tribe and has invited the Hopi Tribe to be a concurring party in the Section 106 Programmatic Agreement. As a concurring party, the Hopi Tribe will have an opportunity to review and comment on cultural resources reports and treatment plans and to participate in any consultation regarding inadvertent discovery.

Comment

"[Draft EIS] Page 3-65, Section 3.12.4.4: The Numic Expansion theory discussed here has been largely discredited. This discussion should be removed from the EIS." (EI-3112-18)

Response

Reference to the Numic Expansion theory was deleted in the Supplemental Draft EIS and is not discussed in this Final EIS.

Comment

"There was consultation on the visual, cumulative, and indirect effects and we [Utah State Historic Preservation Office] did concur with your determination of No Adverse Effect." (EI-3174)

Response

Thank you for your concurrence.

Comment

"The Historic Preservation Department–Traditional Culture Program, hereafter (HPD-TCP) is in receipt of the letter notification for a proposed railroad construction project in central Utah. After reviewing the information documents provided, HPD-TCP has concluded that the project will not have adverse effects to Navajo Traditional Cultural Properties, and would like to recommend that the project identified stay within close proximity to the highway it is adjacent to. HPD-TCP on behalf of the Navajo Nation has no concerns at this time.

"If the proposed project inadvertently discovers habitation sites, plant gathering areas, human remains and objects of cultural patrimony, the HPD-TCP requests that we be notified respectively in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA). (The Navajo Nation claims cultural affiliation to all Anasazi people (periods from Archaic to Pueblo IV) of the Southwest. The Navajo Nation makes this claim through Navajo oral history and ceremonial history, which has been documented as early as 1880 and taught from generation to generation." (EI-20553)

Response

The Board will continue consultation with the Navajo Nation and has invited the Navajo Nation to be a concurring party in the Section 106 Programmatic Agreement. As a concurring party, the Navajo Nation will have an opportunity to review and comment on cultural resources reports and treatment plans and to participate in any consultation regarding inadvertent discovery.

Comment

"We [Department of the Interior, National Park Service] have confirmed through our GIS [geographic information systems analysis] that the project area as currently configured will cross the congressionally designated alignment of the Old Spanish National Historic Trail (NHT), which we co-administer with the Bureau of Land Management. The exact location of the Old Spanish NHT has not been confirmed on the ground in this area. This part of the project appears to lie on private land that either is or has been cultivated. It is not entirely clear to me if the area where the trail is crossed has been surveyed archaeologically or not. If the project could be moved north a quarter-mile or so, it would avoid the trail entirely.

"Assuming that it has not been surveyed and the project cannot be moved, we recommend that an intensive archaeological survey be conducted within 100 m[eters] of the trail's projected alignment on the ground. This intensive survey should be conducted at no greater than a 5 m[eter] survey interval within the project APE [area of potential effects]. We also recommend analysis of existing satellite and aerial photography to determine if the trail might be visible in color imagery, or an alternate spectrum. In addition, we recommend that at least two zigzag metal detector transect sweeps be conducted at 10 m[eter] interval from the trail's projected alignment on the ground within your APE. If nothing is observed or located during these investigations, then we would consider the project to have no direct adverse effect to trail resources.

"However, as you mentioned, the project could still have indirect visual impacts to the trail setting in this area, though. While we have not identified any high potential sites or segments in the immediate area, these potential visual impacts to the designated alignment should be evaluated as plans for the project progress. The severity of these impacts would depend on the design elements of the railroad and any associated support structures. If the project will create adverse visual impacts to the trail setting, then compensatory mitigation of one or more forms may be appropriate as part of the Section 106 consultation process." (EI-20552)

"I [Old Spanish Trail Association] have spent a lot of time trying to figure out exactly where the Old Spanish Trail and this railroad project would intersect. I am still unclear and haven't been able to find anyone that can show me where this would go. I am not comfortable with this railway going over the trail or disturbing anymore of the trail if it can be located." (EI-20904)

Response

The Board continues consultation with the National Park Service (NPS), National Trails, Intermountain Region and the local Fish Lake chapter of the Old Spanish Trail Association (OSTA) regarding the potential for the project to affect the Old Spanish Trail. Archaeological surveys in the area where the trail is mapped have not revealed evidence of the trail. The Board has included the NPS and OSTA as concurring parties in the development of a Programmatic Agreement to ensure that concerns about the trail are adequately addressed.

3.17 Environmental Justice Communities

No comments were received on this topic.

3.18 Recreation

Comment

> "[Draft EIS] Page 4-20, Section 4.2.5.4: This section indicates that mitigation measures for access to public land and recreation routes are discussed in Section 6.3.2.2; however, that section addresses only grazing allotments. An accurate reference and discussion are needed." (EI-3112-22)

Response

Access to public land for recreation is addressed in Section 2.2.11, Voluntary Mitigation Measures for Recreation, of this Final EIS.

Comment

> "[Draft EIS] Page 4-90, Section 4.14.4.2, Paiute ATV [all-terrain vehicle] Trail System: This section, and other sections in the document, should identify the length as well as the height and width of the berms." (EI-3112-30)

Response

The comment is referring to the fact that Alternative C would have required a large berm to accommodate rail grades. Alternative C is no longer being considered.

3.19 Aesthetics

Comment

> "[Draft EIS] Page 4-91, Section 4.15.1, Methodology: Remove the statement '…Effects on visual resources are often difficult to characterize due to the subjective nature of scenic value and differing perception of visual quality.' This statement is itself subjective and does not add to the analysis since this section also notes that impacts were determined by using the BLM [Bureau of Land Management] Visual Resource Management Program." (EI-3112-31)
>
> "[Draft EIS] Section 4.15.3, User Groups: Rewrite the last paragraph of this section. The rail line would be under operation 365 days a year which should be described as continual use. The statement that 'Users would not have a high sensitivity to the rail

itself' should be changed to discuss impacts on viewers who live along the rail line since tracks will be used every day." (EI-3112-32)

Response

Section 3.4.2, Impacts to Visual Resources, of the Supplemental Draft EIS provides an updated discussion of the visual resources in the study area and the expected impacts of the Proposed Action. The Proposed Action (Alternative B/B2) and Alternative B3/B2 would be adjacent to Visual Resource Management (VRM) Class III and Class IV categories of Federally managed lands. The VRM uses four categories to classify visual resources.

The management objectives for Class I and Class II categories and federally managed lands are to preserve and retain, respectively, the existing character of the landscape. The management objective for Class III lands is to partially retain the existing character of the landscape. The management objective for Class IV lands allows for activities that require major modification of the existing character of the landscape. Where BLM-administered lands would be affected, most of the alignment of each alternative still under consideration is within or adjacent to Class IV land; the northern and southern ends of the alternatives are adjacent to (but not within) Class III land.

The long-term visual impacts from the construction and operation of any of these alternatives would result from a new rail line, including cut-and-fill slopes, bridges, loss of agricultural land and other vegetation, and drainage structures. However, the railroad tracks would not be under continuous use; there would be only one round trip (two movements which equals one full load and one empty back-haul) per day. For this reason, the viewers are not likely to have a high sensitivity to the tracks. Because the Proposed Action (Alternative B/B2) and Alternative B3/B2 would not affect areas that are sensitive to visual modifications, OEA has concluded that the aesthetic impacts of the project would be low.

No comments were received on the aesthetics analysis in the Supplemental Draft EIS.

Comment

"[Draft EIS] Executive Summary, Page ES-5, Alternative C: This section states, 'this alternative was suggested because it minimizes the visual impacts.' The statement should explain how the 75-foot-high and 550-feet-wide long berm created by this alternative would minimize visual impacts." (EI-3112-7)

Response

Alternative C was suggested because it would minimize the visual impacts to the farms and ranches that are adjacent to Alternative B. OEA agrees that the embankment at the southern end of the project would pose a significant visual impact. However, Alternative C is no longer considered feasible. Information is presented in Appendix B, Corridor and Alternative Identification, of the Supplemental Draft EIS; see Section B.2, Screening for the Draft EIS, of that appendix for an explanation of the rationale for this determination.

3.20 Cumulative Impacts

Comment

One comment (EI-3113) expressed support for another project, the Nevco Energy Company Power plant, identified in Chapter 5, Cumulative Impacts, of the Draft EIS.

Response

Thank you for the comment.

3.21 Mitigation

3.21.1 Mitigation Measures for Biological Resources

3.21.1.1 Vegetation

Comment

> "[Draft EIS] Page 6-13, Applicant's Voluntary Mitigation Measures, Biological Resources: Item #29 should identify the method to be used for monitoring the revegetation sites and also the criteria to determine whether the revegetation has been successful." (EI-3112-39)

Response

Recommended mitigation measure RM 12 in Section 2.3.3, Recommended Mitigation Measures for Biological Resources, of this Final EIS describes the requirement for the Applicant to develop a Reclamation Plan establishing guidelines for revegetating disturbed areas. The mitigation measure would require that the Applicant coordinate with the Utah Department of Natural Resources in developing the Reclamation Plan to ensure appropriate seed mixtures, planting rates and times, and post-planting monitoring methods and schedules to ensure that the criteria for success are met. Voluntary mitigation measure VM 31 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS would also require the Applicant to develop a weed-control program during construction and operation of the proposed rail line.

3.21.1.2 Wildlife

Comment

> "Page 3-32, Section 3.5.4.12, Impacts to Species of Special Concern – the SDEIS [Supplemental Draft EIS] states (page 3-31) that bald eagle roost sites (important communal resting areas) are located in the study area, but does not describe impacts to the roost sites that could occur from construction, nor identify measures to mitigate those impacts. If roost sites exist within 0.5 miles of construction activities, we recommend that, between November 1 and March 31, construction activities initiate after 9:00 AM and terminate at least one hour prior to official sunset." (EI-3112-15 and EI-20464-5)

Response

As described in Section 3.3.4.1, Birds, of the Draft EIS, there are very few mature trees or snags (upright dead trees) near water bodies in the study area that would provide ideal habitat for bald eagles. Therefore, the potential for negative impacts is low. However, mitigation measures were included in the Draft EIS and Supplemental Draft EIS in the event that bald eagles are found near the rail corridor during construction. See voluntary mitigation measure VM 33 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources, of this Final EIS regarding raptor-protection measures. VM 33 states that "the Applicant shall mitigate potential impacts to raptors and shall implement management practices from the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* (Romin and Muck 2002)."

Comment

> "[Draft EIS] Page 4-7, Section 4.2.3, Voluntary Mitigation Measures for Biological Resources – Neither the DEIS [Draft EIS] nor the SDEIS [Supplemental Draft EIS] describes how the project proponent will avoid take of migratory birds protected under the Migratory Bird Treaty Act. We recommend the project proponent implement the measures identified in Attachment 2 [to the comment letter] ['']Migratory Bird Conservation Actions for Projects to Reduce the Risk of Take during the Nesting Season,' and that this commitment be identified in the FEIS [Final EIS] in Section 4.2.3." (EI-20464-8)

Response

See recommended mitigation measure RM 13 in Section 2.3.3, Recommended Mitigation Measures for Biological Resources, of this Final EIS regarding migratory bird protection measures. RM 13 would require the Applicant to protect migratory birds during their breeding, nesting, and roosting seasons. Preconstruction surveys for raptors and migratory birds would be conducted if large, woody vegetation, dense shrubs, or other habitats are scheduled to be cleared during the nesting seasons of raptors or migratory birds.

Comment

> "We note, however, the potential for impacts to the Redmond Wildlife Management Area and recommend coordination with the Utah Division of Wildlife Resources to avoid and minimize those impacts to the extent possible, and to mitigate any unavoidable impacts." (EI-3112-3)

Response

Mitigation was added to the Supplemental Draft EIS (voluntary mitigation measure VM 25 in Section 4.2.3, Voluntary Mitigation Measures for Biological Resources) and this Final EIS (VM 25 in Section 2.2.3, Voluntary Mitigation Measures for Biological Resources) to require the Applicant to coordinate with the Utah Division of Wildlife Resources regarding the Redmond Wildlife Management Area to ensure that Management Plan objectives are maintained.

Comment

"[Draft EIS] Page 6-6, Preliminary Environmental Mitigation Measures, Biological Resources, second sentence of item #10: This sentence states: 'USFWS [U.S. Fish and Wildlife Service] has determined that the Proposed Action and Alternatives would have negligible effects on plant communities and the spread of noxious weeds as well as wildlife resources and threatened, endangered, and sensitive species.' The USFWS has not made any such statements regarding plant communities, noxious weeds, or sensitive species. The concurrence under ESA [Endangered Species Act] by the USFWS, provided February 22, 2007, and documented in Appendix B, applies only to Federally-listed threatened and endangered species." (EI-3112-35)

Response

The text has been changed in the Supplemental Draft EIS by deleting the language regarding impact conclusions and USFWS's determinations not under its jurisdiction.

3.21.2 Voluntary Mitigation for Land Use, Grants, and Leases

Comment

"[Draft EIS] Page 6-8, Federal Public Lands: The following measure should be added to this section: 'The subject right-of-way grant would be issued subject to regulations under 43 CFR [Code of Federal Regulations] 2800 and mitigating stipulations that are either required by policy, law, or regulation or are needed to insure mitigation of associated surface disturbance activities.'" (EI-3112-36)

Response

Section 2.1.4, Role of Cooperating Agencies in Developing Proposed Environmental Mitigation Measures, of this Final EIS references 43 CFR 2800. Voluntary mitigation measure VM 13 in Section 6.4.2.2, Grants and Leases, of the Draft EIS was modified in this Final EIS to be consistent with the applicable regulation.

Comment

"[Draft EIS] Page 6-9, Applicant's Voluntary Mitigation Measures: Add the following measure: 'A copy of the Plan of Operations shall be provided to the BLM [Bureau of Land Management] for their review and approval, prior to beginning any construction activities.'" (EI-3112-37)

Response

Voluntary mitigation measure VM 13 in Section 6.4.2.2, Grants and Leases, of the Draft EIS was modified for this Final EIS to include the requirement to submit a Plan of Operation prior to construction of the proposed rail line.

3.21.3 Voluntary Mitigation Measures for Water Resources and Wetlands

Comment

"[Draft EIS] Page 6-14, Applicant's Voluntary Mitigation Measures, Water Resources and Wetlands, Item #37: Item #37 indicates that mitigation in U.S. Army Corps of Engineers Section 404 permits would be followed. This section also should indicate whether the 404 permits have been acquired and also should include the mitigating measures stipulated in the permits." (EI-3112-42)

Response

The Applicant has not yet applied for a Clean Water Act Section 404 permit. However, the Applicant would be required to obtain a Section 404 permit prior to construction and operation of the proposed rail line if required by the U.S. Army Corps of Engineers (USACE). USACE is a cooperating agency on the project, and the Applicant has been working closely with USACE regarding the wetland investigations, preliminary jurisdictional determination, alternatives selection, and other requirements for a Section 404 permit. Generally, detailed assessment and characterization of wetlands are performed for purpose of an Applicant's permit pursuant to Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Site-specific mitigation is also developed as part of the Section 404 permit process.

When an Applicant has not completed the Section 404 permit process prior to the issuance of the Draft EIS, Supplemental Draft EIS, or Final EIS, OEA recommends that the Board impose a condition on any authorization to construct and operate a rail line that requires the Applicant to obtain a Section 404 permit if required by USACE. In the Draft EIS, OEA, as part of its recommended mitigation, included a condition requiring the Applicant to obtain the necessary permits from USACE prior to initiation of any project-related construction activities in wetlands and water bodies. Similar mitigation is included in this Final EIS. For detailed requirements, see voluntary mitigation measures VM 38 to VM 42 in Section 2.2.4, Voluntary Mitigation Measures for Water Resources and Wetlands, of this Final EIS.

Section 2.2.4, Voluntary Mitigation Measures for Water Resources and Wetlands, of this Final EIS describes the Applicant's requirements to obtain and to follow any stipulations in the Section 404 permit. For more information, see Section 3.3.3, Agency Responsibilities, and Section 3.4.1, Alternatives Development, of this chapter.

Comment

"[Draft EIS] Page 6-13, Applicant's Voluntary Mitigation Measures, Biological Resources: Item #27 specifies that culverts will be installed at surface water crossings; however, the extensive impacts to emergent marsh and wet meadow indicate that significant measures, including culvert installation, should be taken to ensure hydrology is maintained in these areas and that the rail line does not create a hydrologic [hydraulic] barrier." (EI-3112-38)

Response

Recommended mitigation measure RM 16 addresses connectivity and prevention of a hydraulic barrier to wetlands. RM 16 states that "[t]he Applicant shall design and construct the rail line authorized by the Board in such a way as to maintain natural water flow and drainage patterns to the extent practicable. This shall include installing bridges or placing equalization culverts through the embankment as necessary to prevent the impoundment of water or excessive drainage and maintaining the connectivity of floodplains and wetlands as applicable." See Section 2.3.4, Recommended Mitigation Measures for Water Resources and Wetlands, of this Final EIS.

Comment

"Our [U.S. Environmental Protection Agency] main concern with the Supplemental Draft EIS is that wetland mitigation measures are not provided. The Supplemental Draft EIS Section 4.2 provides numerous voluntary mitigation measures that include best management practices (BMPs). This section also describes obtaining the Federal Clean Water Act Section 404 permit as a mitigation measure. The permit is a control required by law and stating that the project will require a Section 404 permit does not by itself identify specific mitigation for project impacts. Specific proposed mitigation is important to understanding project's overall environmental impact. By including specific mitigation in the EIS, the lead and permitting agencies can benefit from ideas generated through knowledgeable public and agency reviewers. We recommend the Final Supplemental EIS (as well as the Section 404 permit application) provide more detail on proposed mitigation measures for the loss of wetlands including the loss of the playa wetland if the Applicant's preferred alternative is selected." (EI-20465-3)

Response

The U.S. Army Corps of Engineers (USACE) is ultimately responsible for wetland permitting, including any required mitigation. As of the date of issuance of this Final EIS, the Applicant has not submitted a Clean Water Act Section 404 permit application. Site-specific mitigation would be developed as part of the Section 404 permit process. When an Applicant has not completed the Section 404 permit process prior to the issuance of the Draft EIS, Supplemental Draft EIS, or Final EIS, OEA recommends that the Board impose a condition on any authorization to construct and operate a rail line that requires the Applicant to obtain a Section 404 permit prior to the construction and operation of the proposed rail line. The permitting process also requires public notice, and USACE would consider agency and public input at that time. See Section 2.2.4, Voluntary Mitigation Measures for Water Resources and Wetlands, of this Final EIS; voluntary mitigation measures VM 38 and VM 39 would require

the Applicant to work with USACE for Section 404 permitting and for any required mitigation, respectively.

Comment

Several commenters provided potential mitigation options for the project.

> "We note that there are approximately five acres of wetlands along the Sevier River that are mostly tamarisk. Tamarisk, or salt cedar, is an invasive plant that absorbs large amounts of water and creates large deposits of salts thereby killing more desirable wetland plants. The STB [Surface Transportation Board] may want to consider eradication of Tamarisk as part of the potential wetland restoration mitigation for some of the project impacts." (EI-20465-4)

> "Such [wetland] measures could include: 1) acquisition of land near Chicken Creek Reservoir where springs are located to reduce impacts from livestock and enhance/restore currently marginal wetlands; 2) reducing the footprint on wetlands acreage in and around the proposed rail yard associated with the northern and southern terminuses; 3) enhancement of wetlands through acquisition of land adjacent to the Redmond Wildlife Management Area; and 4) improvement of water quality (e.g. restoration of impaired stream segments)within the Sevier River watershed. In implementing these and/or other measures, the Supplement Information to the DEIS [Draft EIS] should also discuss what monitoring programs will be in place to evaluate the success of such mitigation." (EI-3204-6)

Response

Thank you for the comments. OEA has provided these suggestions to the Applicant and the U.S. Army Corps of Engineers.

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