

# Chapter 1

## Introduction and Background

### 1.1 Introduction

On July 30, 2001, the Six County Association of Governments (SCAOG or the Applicant), a regional association representing Juab, Millard, Sevier, Sanpete, Piute, and Wayne Counties in central Utah, filed a Petition for Exemption with the Surface Transportation Board (Board) pursuant to 49 United States Code (USC) 10502 for authority to construct and operate a new rail line between Levan<sup>1</sup> and Salina, Utah (see Figure 1-1 below). In its petition for exemption, SCAOG also requested, and the Board conditionally granted, SCAOG's request for exemption in a decision dated October 18, 2001, pending completion of an environmental review. In the conditional grant, the Board stated that the petition will not become effective until the environmental review is completed and the Board issues a further decision considering the environmental impacts of the proposed rail line and determining whether it should grant, deny, or grant with conditions SCAOG's request to construct and operate the new rail line.

SCAOG states that, although it seeks authorization to construct and operate the proposed line and, therefore, would become a common carrier, it does not plan to own or operate this line for profit. SCAOG expects to work jointly with another entity in constructing the line and possibly assign its responsibility for common-carrier operations to an experienced but not-yet-identified operator. SCAOG states that it intends to make appropriate filings with the Board for these events in the future.<sup>2</sup>

The Applicant's Proposed Action would involve constructing and operating about 43.2 miles of new rail line to serve shippers in central Utah. The rail line would transport bulk commodities and would primarily serve the coal-mining operations of Bowie Resources.

The Board's Office of Environmental Analysis (OEA)<sup>3</sup> issued a Draft Environmental Impact Statement (Draft EIS) on June 29, 2007, for public review and comment. The Draft EIS evaluated the potential environmental impacts of constructing and operating SCAOG's proposed rail line, and it recommended mitigation to reduce the potential environmental impacts identified.

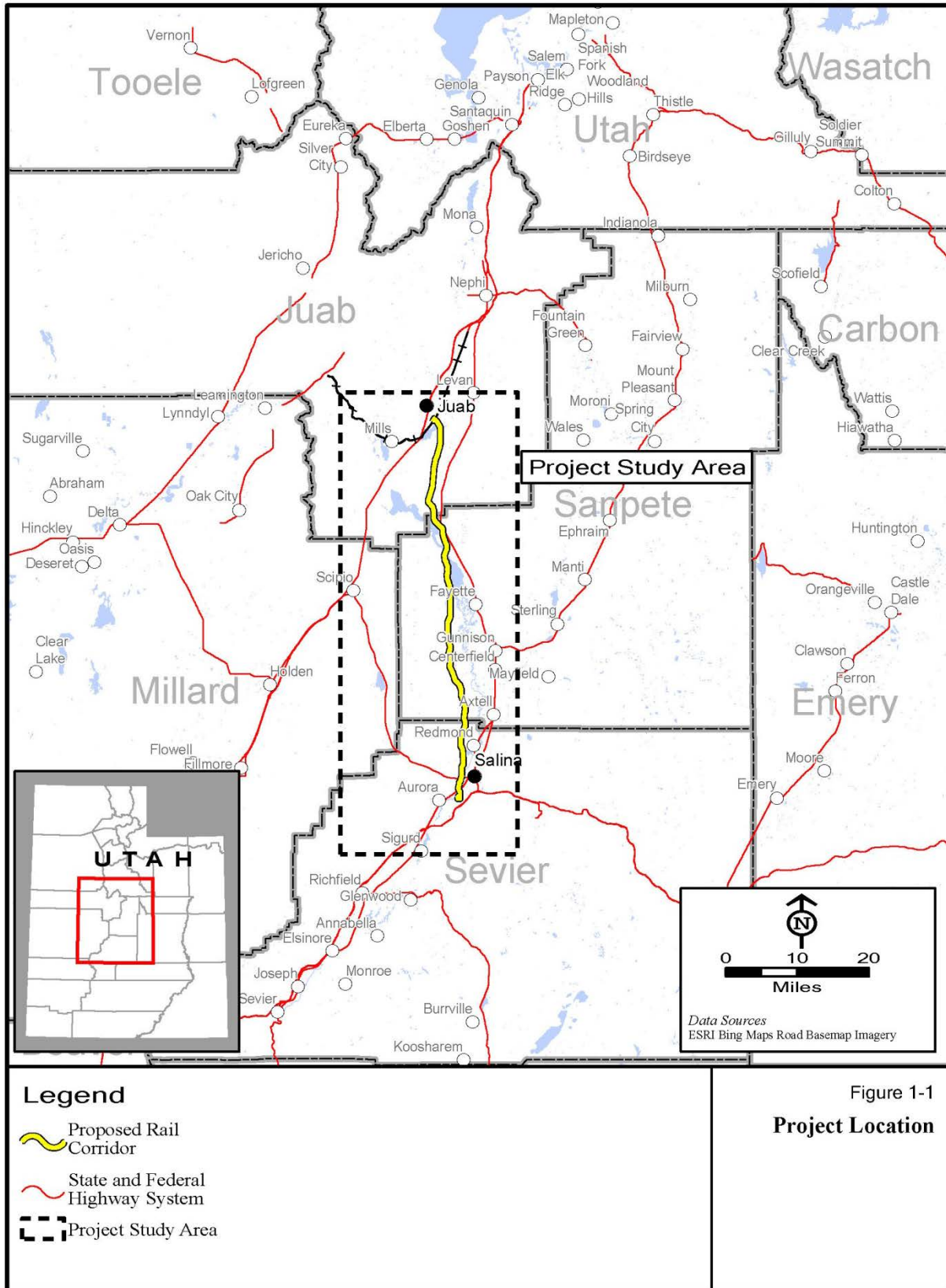
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<sup>1</sup> In a letter dated July 23, 2003, the Union Pacific Railroad (UPRR) notified the Applicant that it recommends that the proposed connection with the UPRR line be near the existing Juab and Sharp sidings. The Applicant modified the proposed alignment location at Levan to reflect the Juab location. The geographic location known as Juab, Utah, is about 16 miles south of Nephi just off of Interstate 15 (I-15) near the UPRR rail line and Chicken Creek Reservoir at 39.51792 N 111.94216 W.

<sup>2</sup> If final authority to construct and operate the line is granted, SCAOG would acquire a common-carrier obligation to provide service on the line. That obligation could not be assigned or otherwise transferred without the Board's approval. Furthermore, any operator other than SCAOG would need the Board's authority under 49 USC 10901 or an exemption under 49 USC 10502 in order to operate the line.

<sup>3</sup> OEA was formerly known as the Board's Section of Environmental Analysis (SEA). The name change from SEA to OEA became effective on September 1, 2010. OEA is responsible for ensuring that the Board's decision complies with the National Environmental Policy Act (NEPA) and related laws.

Figure 1-1. Project Location



As part of the preparation of the Draft EIS, OEA conducted broad public outreach to inform the public, appropriate agencies, tribes, and government entities about this project and to facilitate both public and agency participation in the environmental review.

In response to the Draft EIS, OEA received about 45 written comment letters from individuals, organizations, tribes, and local, state, and Federal agencies. After carefully reviewing all comments received as well as updated information about the project proposal provided by the Applicant, OEA decided to prepare this Supplemental Draft Environmental Impact Statement (Supplemental Draft EIS) to amend the Draft EIS. OEA will respond to the comments on the Draft EIS and this Supplemental Draft EIS<sup>4</sup> in the Final EIS. A detailed explanation of the reasons for preparing the Supplemental Draft EIS is provided below.

This Supplemental Draft EIS addresses five specific matters: (1) the range of reasonable alternatives discussed in the Draft EIS, (2) evaluation of three new alternative rail routes that were not studied in detail in the Draft EIS (Alternatives B1, B2, and B3) and re-evaluation of a route dismissed in the Draft EIS (Alternative N1), (3) discussion and results of wetland investigations performed by the Applicant,<sup>5</sup> (4) development of additional mitigation for the potential environmental impacts on the region's resources from the Proposed Action, and (5) a discussion of the progress of additional efforts pursuant to Section 106 of the National Historic Preservation Act after the Draft EIS was issued.

The remaining sections of this chapter set forth the purpose of and need for SCAOG's proposed rail line construction and operation, describe the environmental review process for this proceeding, outline the scope and organization of this Supplemental Draft EIS, and provide instructions for submitting written comments on this Supplemental Draft EIS and for obtaining additional information.

## **1.2 Reason for and Scope of This Supplemental Draft EIS**

### **1.2.1 Reason for This Supplemental Draft EIS**

After issuing the Draft EIS, OEA received comments from several agencies and citizens regarding the impacts on wetlands and other natural resources of the alternatives carried forward.<sup>6</sup> 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 (see Appendix A, Supplemental Correspondence, of this Supplemental Draft EIS). In its comments, EPA recommended that the Board consider an alternative that would avoid or have fewer impacts on wetlands at the northern terminus of the project. EPA also suggested that the EIS should contain detailed mitigation for losses of

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<sup>4</sup> Typically, the EIS process consists of preparing a Draft EIS that analyzes the potential environmental impacts of a Proposed Action and a Final EIS that addresses the comments on the Draft EIS. However, a Supplemental Draft EIS to the Draft EIS can be prepared for public review and comment after a Draft EIS has been issued in order to address substantial changes to the project or new information about environmental concerns. In a decision of August 24, 2007, the Board informed the public that OEA will issue a new comment date for the Draft EIS and Supplemental Draft EIS. The comment period will begin the day after the notice appears in the Federal Register and will run for a period of 45 days.

<sup>5</sup> SCAOG has completed wetland investigations for most of the study area.

<sup>6</sup> The detailed discussion of alternatives evaluated in the Draft EIS can be found in detail in Chapter 2, Proposed Action and Alternatives, of the Draft EIS.

wetlands. The U.S. Department of the Interior (USDOl), Office of Environmental Policy and Compliance, expressed interest in receiving additional information on the springheads and wetlands in the Chicken Creek Reservoir area.<sup>7</sup>

Generally, detailed assessments and characterizations of wetlands are performed for the purpose of an Applicant's permits under 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. At the time the Draft EIS and this Supplemental Draft EIS were issued, the Applicant had not yet applied for the Section 404 permit from the U.S. Army Corps of Engineers (USACE). When an applicant has not completed the Section 404 permit process before a Draft, Supplemental Draft, or Final EIS has been issued, the Board imposes a condition on any authorization to construct and operate a rail line that requires the Applicant to obtain a Section 404 permit.

In the Draft EIS, OEA, as part of its recommended mitigation, required the Applicant to obtain the necessary permits from USACE before initiating any project-related construction activities in wetlands or water bodies. Similar mitigation is included in this Supplemental Draft EIS. Because of the potential to affect large, contiguous wetland areas, and to be responsive to EPA and the Utah Division of Wildlife Resources, the Applicant prepared a wetland investigation (Bio-West 2009). The results of the wetland investigation are included in the analysis of wetland impacts in this Supplemental Draft EIS.

Since receipt of EPA's letter dated October 18, 2007, OEA has been working with USACE and SCAOG to obtain additional information on wetland impacts and to develop appropriate mitigation.

## **1.2.2 Scope of This Supplemental Draft EIS**

### **1.2.2.1 Background**

This Supplemental Draft EIS discusses the changes to the project since the Draft EIS was published in June 2007. These changes include evaluation of three new alternatives, re-evaluation of a route dismissed in the Draft EIS, and evaluation of the impacts of these alternatives on resources in the project area. This Supplemental Draft EIS presents the results of the Applicant's wetland investigations and the evaluation of additional alternatives to reduce wetland impacts and avoid large, contiguous wetland systems.

The Applicant's Proposed Action in the Draft EIS (Alternative B) would provide a direct connection to rail service for the coal industry and other bulk commodity shippers in central Utah. As stated in the Draft EIS, the impacts of Alternative B on traffic delay and delay from grade crossings, land use, biological resources, geology, energy resources, socioeconomics, recreation noise and vibration, air quality, and hazardous materials would not be significant, but the impacts on wetlands would be substantial.

After issuing the Draft EIS and evaluating the wetland investigation provided by the Applicant, OEA found that the amount of wetlands that would be affected by this alternative

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<sup>7</sup> In response to concerns and comments regarding wetlands in the project area, OEA invited representatives from EPA, USACE, the Bureau of Land Management (BLM), the U.S. Fish and Wildlife Service (USFWS), and the Utah Division of Wildlife Resources on a field tour of the alignment for the Proposed Action to provide a first-hand view and understanding of the project area. The field tour occurred in September 2007.

as stated in the Draft EIS was grossly overstated (163 acres<sup>8</sup>). In fact, based on formal wetland delineations, construction of Alternative B as designed in the Draft EIS would fill 12.3 acres of wetlands. To address the concerns of EPA, USDOJ, and the Utah Division of Wildlife Resources, OEA directed the Applicant to further modify its design to reduce impacts to wetlands. In response, the Applicant developed three new alternatives: Alternatives B1, B2, and B3.

### ***1.2.2.2 Alternative Development since the Issuance of the Draft EIS***

This Supplemental Draft EIS evaluates the three new alternative routes (Alternatives B1, B2, and B3). These alternatives would reduce the impact on wetlands in the study area by shifting Alternative B (the Applicant's Proposed Action in the Draft EIS) away from contiguous wetlands in the study area on the northern and southern segments of the project while minimizing impacts to farmland and still meeting the project's purpose and need for an efficient direct rail connection.

This Supplemental Draft EIS also re-evaluates Alternative N1, which was considered and eliminated from detailed analysis in the Draft EIS. For the purpose of maintaining continuity with the Draft EIS, we have retained the designation of Alternative N1 from the Draft EIS. OEA considered two possible routes for this alternative, which are designated as Alternatives N1a and N1b in this Supplemental Draft EIS. These alternatives were eliminated from detailed consideration for reasons described in Chapter 2, Proposed Action and Alternatives, of this Supplemental Draft EIS.

Because all of the alternatives studied in both the Draft EIS and this Supplemental Draft EIS converge at a common point on the Juab County–Sanpete County border northeast of Yuba Hill, the project area was divided into the north and south. This division allowed for the development of alternatives in the north and south that minimally affected wetlands in the study area.

As discussed in Chapter 2, Proposed Action and Alternatives, of this Supplemental Draft EIS, combining an alternative on the north and an alternative on the south created an alignment that would avoid the greatest number of wetlands in the study area.

OEA identified and evaluated one new alternative route at the northern terminus to try to minimize wetland impacts. This alternative would add 1.9 miles of track, thereby converting about 38 additional acres of cropland to rail right-of-way. This alternative was developed at EPA's suggestion to reduce or try to avoid wetland impacts in the northern portion of the study area. This Supplemental Draft EIS discusses the feasibility of this alternative, referred to as Alternative B3, which would fill 0.5 acre of wetland.

On the south, the Applicant redesigned several portions of the proposed Alternative B alignment (the Applicant's Proposed Action in the Draft EIS) to further minimize wetland impacts. The result was two new alternatives, which are identified in this Supplemental Draft EIS as Alternatives B1 and B2. The adjustments in Alternatives B1 and B2 reduced wetland impacts in the south from 10.8 acres for Alternative B in the Draft EIS to 5.2 acres for Alternative B1 and 1.6 acres for Alternative B2. Additional curvature was designed into the alignments to avoid high-value wetlands along the Sevier River.

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<sup>8</sup> This value was subsequently found to be in error.

In October 2008, the Bureau of Land Management (BLM) published a Resource Management Plan for public land managed by BLM's Richfield Field Office (BLM 2008). This Supplemental Draft EIS discusses the proposed project in the context of the various resources presented in the BLM's management plan and describes the project's potential impacts, if any and if different from the impacts described in the Draft EIS, on each resource.

This Supplemental Draft EIS provides Federal and state agencies, local municipalities, elected officials, and the public with an opportunity to review and comment on the updated and revised project information. The Council on Environmental Quality's (CEQ) regulations implementing the National Environmental Policy Act (NEPA) do not require OEA to reinstate formal scoping activities to determine the scope of study for this Supplemental Draft EIS. OEA held public scoping meetings for the Draft EIS.

Alternatives considered in detail must be examined in a manner that allows reviewers to compare them equally.<sup>9</sup> Thus, OEA used the same scope of analysis for the new alternatives studied in this Supplemental Draft EIS that was used for the alternatives considered in the Draft EIS. The new alternatives resulted in changes to the potential impacts on the following resources:

- Wetlands
- Agriculture
- Noise
- Federal land
- State land
- Historic properties

A detailed discussion of existing conditions and potential impacts on other resources in the project area is provided in the Draft EIS. For the convenience of the reader, we have provided that discussion in Appendix D of this Supplemental Draft EIS.

### **1.3 Purpose and Need**

The Applicant states that the purpose of the proposed construction and operation of a new rail line between the UPRR rail line near Juab and Salina is to provide a direct connection to rail service for shippers, primarily Bowie Resources, in central Utah. Currently, coal from the Bowie Resource's Southern Utah Fuel Company (SUFCO) mine is trucked about 80 miles to the Sharp loading facility near Levan, where it is transferred to rail. The Applicant also states that the Proposed Action would reduce the number of coal trucks traveling on highways and through communities in Sevier and Sanpete Counties.

The project area currently has no rail service,<sup>10</sup> so shippers transport commodities and products by truck. The SUFCO mine is about 30 miles northeast of Salina and is Utah's largest coal producer (Utah Geological Survey 2012). The mine produces about 6 million to 7 million tons of low-sulfur coal per year. The Applicant has stated that restoring and extending rail service within central Utah, specifically in Juab, Sanpete, and Sevier Counties,

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<sup>9</sup> See 40 CFR 1502.9(c)(4): "Agencies shall prepare, circulate, and file a supplement in the same fashion (exclusive of scoping) as a draft and final statement unless alternative procedures are approved by [CEQ]."

<sup>10</sup> This area was served by the Denver & Rio Grande Western Railroad until service was discontinued in the mid-1980s.

would allow Bowie Resources and other businesses to reduce their operating costs and maintain their competitiveness by using rail to transport goods.

Regional roads currently carry high levels of truck traffic. Coal trucks currently use Interstate 70 (I-70), Interstate 15 (I-15), U.S. Highway 89 (U.S. 89), U.S. Highway 50 (U.S. 50), and State Route (SR) 28. In total, nearly 750 trucks trips per day are needed to transport coal from the SUFCO mine. The trucks pass through the cities of Salina, Centerfield, Gunnison, and Levan on their way to the loading facility (at that rate, trucks travel through downtown Salina at a frequency of about one truck every minute). Truck traffic from the SUFCO mine to the Sharp loading facility runs in one direction on I-70, U.S. 89, SR 28, SR 78, I-15, U.S. 50, and I-70 (see Figure 1-2 below). The round-trip distance between the mine and the loading facility is about 160 miles.

The Applicant states that these high levels of truck traffic affect transportation safety in the area. OEA reviewed the Utah Department of Public Safety's vehicle safety report (Utah Department of Public Safety 2012) and specific safety data from 2007 to 2011 for incidents on the highways where coal is being moved in trucks. Statewide, large trucks were involved in 4.1 percent of the "property damage only" crashes and 2.5 percent of the "vehicles involved in injury" crashes. During the period from 2007 to 2011, large trucks were involved in over 10 percent of the accidents in Juab, Sanpete, and Sevier Counties. In addition, high levels of truck traffic cause roadway congestion and accelerate wear and tear on state roads in the towns of Salina, Centerfield, Gunnison, and Fayette as well as on parts of I-70 and I-15 between Salina and Nephi.

Project benefits include a cost-effective alternative to truck transport for existing industries, improvement of businesses' overall competitiveness, preservation of jobs and tax revenues, reduced heavy truckloads on area highways, reduced pollution, reduced impacts on area roads, and improved safety.

The local economic impact of maintaining jobs and preserving a large portion of Sevier County's tax base is significant. In addition to coal traffic, shipper businesses that stand to benefit are livestock and crop farmers, a gypsum manufacturer, a rock salt mine, forest product manufacturers, and existing businesses.

Under the CEQ regulations implementing NEPA, specifically 40 Code of Federal Regulations (CFR) 1508.9(b), an agency's environmental analysis shall include a brief discussion of the proposed project's purpose and need. OEA notes that the analysis of a project's purpose and need depends on the type of Federal action that is involved in the particular project. Here, the Proposed Action involves an application by a local government agency, SCAOG, for a license or approval. The Proposed Action is not a project that is proposed or sponsored by the Federal government. In cases such as this, courts have held that the project's purpose and need should be defined by the private applicant's goals, in conjunction with the agency's enabling statute. For example, see *Citizens Against Burlington, Inc. v. Busey*, 938 F. 2d 190, 196 (D.C. Cir. 1991); *Alaska Survival v. STB*, 705 F. 3d 1073, 084-85 (9th Cir. 2013); and *Nat'l Parks and Conservation Assoc. v. BLM*, 606 F. 3d 1058, 1070 (9th Cir. 2009).

Figure 1-2. Existing Truck Routes for SUFCO Coal

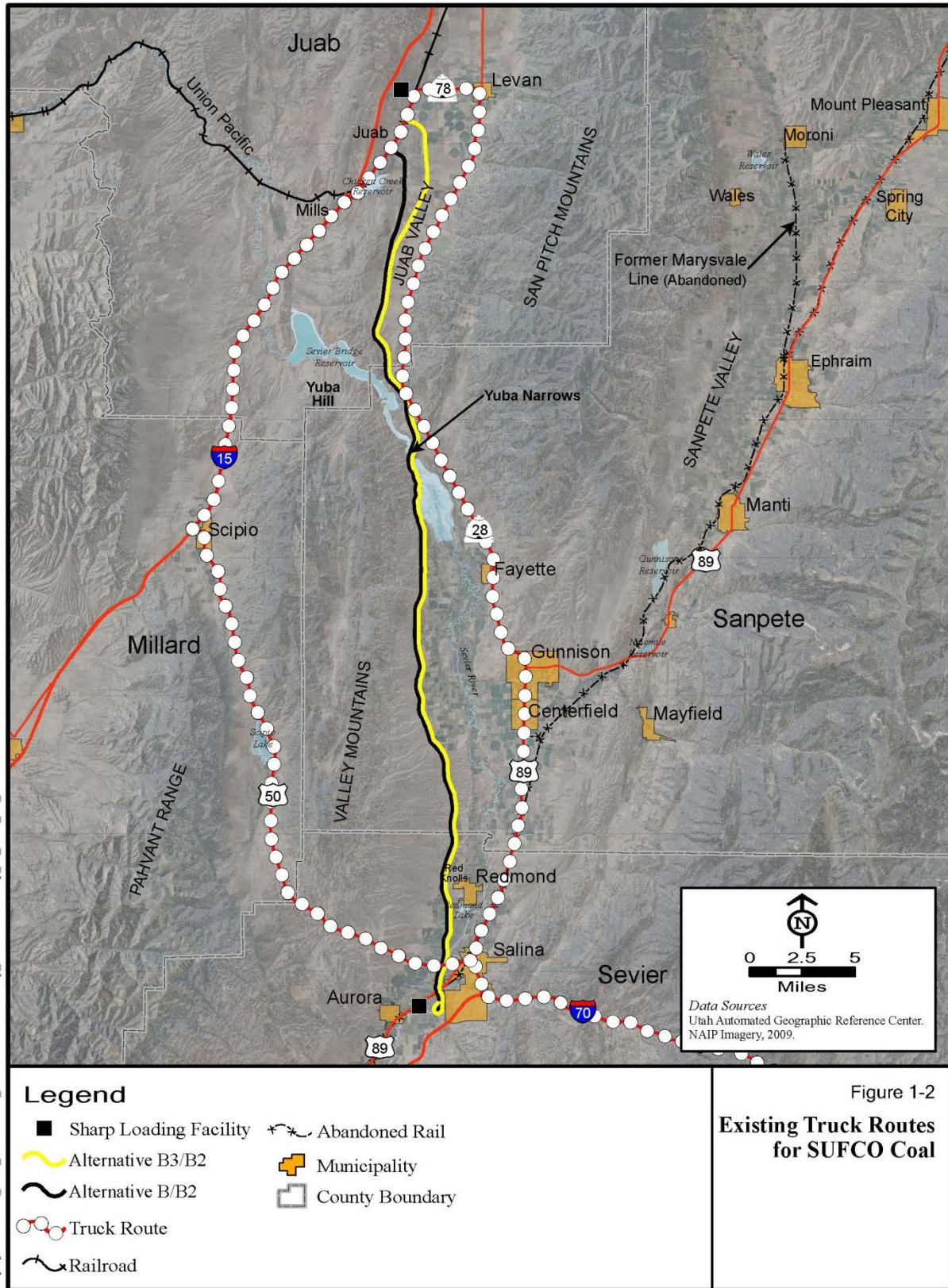


Figure 1-2  
Existing Truck Routes  
for SUFCO Coal



## **1.4 Agency Responsibilities**

The environmental review process for this proceeding is described in Chapter 9, Coordination, of the Draft EIS. The Federal agency actions considered in the Draft EIS include decisions by the Board, BLM, and USACE. Because each agency must take an action and because those actions are integrated, the Board, BLM, and USACE have agreed to cooperate in the preparation of a single EIS. Other Federal agencies have responsibilities to review the Draft EIS and participate in other components of the environmental review process. Agencies and their responsibilities are discussed below.

### **1.4.1 Surface Transportation Board (Lead Agency)**

The Board is the Federal agency responsible for granting authority for the construction and operation of new rail line facilities. The Board would have to grant a license for the construction and operation of SCAOG's proposed rail line. The Board will review both the merits of the proposal and the potential environmental impacts. The Board will issue a Final Decision that provides the basis for the decision to deny, grant, or grant with conditions SCAOG's request to construct and operate the new rail line.

### **1.4.2 Bureau of Land Management (Cooperating Agency)**

The BLM action is to either grant or deny a right-of-way access across public land in the project area, access that is needed to construct, operate, maintain, and terminate relevant segments of the proposed rail line. BLM will process the application according to its policies, procedures, and guidelines.

OEA invited BLM to participate as a cooperating agency in the preparation of the EIS because the Proposed Action could affect public land administered by BLM's Richfield and Fillmore Field Offices. The Richfield Field Office is the lead BLM contact for the project. As a cooperating agency pursuant to 40 CFR 1501.6, BLM has participated in all phases of Draft EIS and Supplemental Draft EIS development and will participate in all phases of Final EIS development. BLM intends to adopt the EIS for BLM's decision-making purposes because the EIS pertains to the relevant public land.

### **1.4.3 U.S. Army Corps of Engineers (Cooperating Agency)**

USACE, under Section 404 of the Clean Water Act of 1977 (33 USC 1251 and subsequent sections), has jurisdiction over activities that would discharge dredge or fill materials into waters of the U.S. including lakes, rivers, streams, oxbows, ponds, and wetlands. Activities that affect these systems require a Section 404 permit from USACE. Construction of the proposed rail line would fill waters of the U.S.; therefore, the Applicant would have to obtain a Section 404 permit before constructing the proposed rail line.

As a cooperating agency, USACE will adopt the Draft EIS, Supplemental Draft EIS, and Final EIS for the project as part of USACE's evaluation for issuing these permits.

## **1.5 Organization and Format**

This Supplemental Draft EIS is organized and formatted in a manner that is consistent with NEPA and the CEQ regulations found at 40 CFR 1502.10. It is organized to clearly and concisely provide additional information about the project that has been developed since the Draft EIS was issued. This Supplemental Draft EIS gives a general overview of the project, describes the Proposed Action and Alternatives, presents new project information and recent project findings, and describes OEA's recommended environmental mitigation. Chapters and specific topics within each chapter are listed in the table of contents and are sequentially numbered to help the reader navigate through the document. Tables and figures are listed numerically by the chapter in which they appear. Appendices are labeled with capital letters and are included at the end of this Supplemental Draft EIS.

## **1.6 Request for Comments**

OEA welcomes written comments on all aspects of this Supplemental Draft EIS. All comments on this Supplemental Draft EIS, as well as all comments on the Draft EIS, will be considered as OEA prepares the Final EIS. The Final EIS will respond to all substantive comments on the Draft EIS and this Supplemental Draft EIS and will set forth OEA's final conclusions and recommended mitigation measures. After issuing the Final EIS, the Board will then issue a Final Decision, taking into consideration the Draft EIS, Supplemental Draft EIS, Final EIS, and OEA's final recommendations on environmental mitigation.

All comments must be submitted within the 45-day comment period, which will close June 23, 2014. When submitting comments, be as specific as possible and substantiate your concerns and recommendations. Please mail written comments to the address below:

Ms. Phillis Johnson-Ball  
Environmental Filing FD 34075  
Surface Transportation Board  
395 E Street SW  
Washington, DC 20423

Comments may also be filed electronically on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov), by clicking on the "E-FILING" link in the top navigation bar. OEA requests written and electronic comments only and will not hold a public meeting to solicit spoken comments. Comments will be posted on the Board's website after they are received.

Comments received in response to this solicitation, including the names and addresses of those who comment, will be considered part of the public record for this project and will be available for public review. Comments submitted anonymously will be accepted and considered. If an individual or an agency filed a comment letter on the Draft EIS, it is not necessary to resubmit that comment letter to OEA.

This Supplemental Draft EIS and the Draft EIS are available on the Board's website, [www.stb.dot.gov](http://www.stb.dot.gov). The Draft EIS is provided on a disk with this Supplemental Draft EIS.