

# Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah Environmental Assessment



U.S. Department of the Interior, Central Utah Project Completion Act Office  
U.S. Bureau of Reclamation  
Utah Reclamation Mitigation and Conservation Commission

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## ABBREVIATIONS AND ACRONYMS

BCR 16	Southern Rockies/Colorado Plateau
BIA	Bureau of Indian Affairs
BU	Bonneville Unit
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
Cirrus	Cirrus Ecological Solutions, LC
CS	conservation agreement species
CUP	Central Utah Project
CUPCA	Central Utah Project Completion Act
CWA	Clean Water Act
District	Central Utah Water Conservancy District
DOI	Department of the Interior
EA	Environmental Assessment
ESA	Endangered Species Act
FS/FES	Final Supplement to Final Environmental Statement
FWCA	Fish and Wildlife Coordination Act
IPaC	Information for Planning and Consultation
ITAs	Indian Trust Assets
Mitigation Commission	Utah Reclamation Mitigation and Conservation Commission
NEPA	National Environmental Policy Act
PILT	Payment in Lieu of Taxes
PRPA	Paleontological Resources Preservation Act
Reclamation	Bureau of Reclamation
SHPO	State Historic Preservation Office
SPC	species of concern
TMDL	Total Maximum Daily Load
UCA	Utah Code Annotated
UDWQ	Utah Division of Water Quality
UDWR	Utah Division of Wildlife Resources
USFS	U.S. Forest Service
USFWS	U.S. Fish and Wildlife Service

## **CHAPTER 1: PURPOSE AND NEED**

### **1.1 INTRODUCTION**

The Wildlife Mitigation Plan for the Bonneville Unit (BU) of the Central Utah Project (CUP) was adopted by the Bureau of Reclamation (Reclamation) in its 1987 Final Supplement to the Final Environmental Statement and its Record of Decision for the Municipal and Industrial System (the '1987 FS/FES'). The Wildlife Mitigation Plan included several requirements to address CUP-associated impacts to wildlife, including the transfer of acquired mitigation properties to the Utah Division of Wildlife Resources, or to the U.S. Forest Service for lands within the outer boundaries of a National Forest. The Aquatic Mitigation Plan for CUP's Strawberry Aqueduct and Collection System was adopted by Reclamation in 1988.

The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) is a federal agency established by Congress with passage of the Central Utah Project Completion Act in 1992, P.L. 102-575, as amended (CUPCA). The Mitigation Commission's mission is to plan, fund and coordinate the environmental mitigation and conservation programs authorized by CUPCA. Section 301(c) of CUPCA requires compliance with all Federal fish and wildlife laws, including the Fish and Wildlife Coordination Act (FWCA; 16 U.S.C. §§ 661-67, 48 Stat. 401), as amended. Section 301(h)(7) of CUPCA authorizes the Mitigation Commission to acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the purposes of this Act.

The Mitigation Commission and Reclamation together have acquired lands in Duchesne and Wasatch counties since the 1980s for the purpose of fulfilling CUP wildlife and aquatic mitigation requirements. The Mitigation Commission and Reclamation are now proposing to transfer ownership of approximately 16,538 acres of those lands acquired in the Duchesne River watershed to the State of Utah, Division of Wildlife Resources (UDWR) for ongoing stewardship for fish and wildlife purposes as per the FWCA and the CUPCA. This Environmental Assessment (EA) reflects public input received by the Mitigation Commission in response to the scoping letter and public open house. Its purpose is to assess and disclose the potential direct, indirect, and cumulative effects of the proposed land transfer on the human environment.

The interdisciplinary team (comprised of Department of the Interior (DOI), Reclamation, Mitigation Commission, and Cirrus Ecological Solutions personnel) used a systematic process to analyze the Proposed Action and alternatives and estimate environmental effects. The National Environmental Policy Act (NEPA) process was coordinated with appropriate Federal, State and local agencies, local Federally Recognized Indian Tribes, associated Bureau of Indian Affairs offices, as well as the public.

### **1.2 PROPOSED ACTION**

The proposed action is to transfer Federally acquired mitigation and conservation properties (Duchesne and Wasatch Counties, Utah), totaling approximately 16,538 acres<sup>1</sup> and appurtenant water rights, to the UDWR for ongoing ownership and management (Figure 1). The transfer would include an agreement and deed restrictions requiring continued management of the lands for the purposes for which they were acquired. The approximate 16,538 acres were purchased as mitigation for fish and wildlife impacts of the Strawberry Aqueduct and Collection, Diamond Fork, and Municipal and Industrial Systems of the Bonneville Unit of the Central Utah Project (CUP). The properties were purchased over a period of almost 30 years to protect

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<sup>1</sup> This acreage estimate is based on available lands data. Final acreage values will be as per conveyance deeds.

and restore fish and wildlife habitat. Consumptive recreation opportunities that occur on the properties include angling and hunting of both upland game and big game. Non-consumptive recreation opportunities are wildlife viewing and hiking. The transfer would constitute a major Federal action requiring analysis and disclosure under NEPA. The United States would transfer the acquired lands to the UDWR, in accordance with Federal and State of Utah laws, rules, and policies.

### **1.3 PURPOSE AND NEED**

Water development projects in Strawberry Valley were constructed in the early 1900s. Strawberry Reservoir was constructed as the major feature of the Strawberry Valley Reclamation Project, Utah's first Federal reclamation project. Creation and subsequent enlargement of Strawberry Reservoir as part of the CUP profoundly impacted the valley by replacing a naturally flowing river system with a permanent reservoir, inundating a large segment of the Strawberry River and portions of several of its tributaries. Stream fisheries were replaced by a reservoir fishery managed by the UDWR. Inundation of thousands of acres of land resulted in habitat loss for numerous wildlife species (Commission 2016).

Strawberry Valley has since become the hub of the CUP's BU. Over the past 20 plus years of CUP development in the Duchesne and Strawberry River drainages, substantial investments in fish, wildlife mitigation and conservation and related recreational facilities have been made, and numerous opportunities to enjoy fish and wildlife populations have been provided. Significant progress has been made toward restoring fish and wildlife habitats (Commission 2016).

The purpose of the proposed land transfer is to fulfill CUP mitigation requirements described in the 1987 and 1988 mitigation plans and the 1992 General Plan for Use of Project Lands and Waters for Wildlife Conservation and Management, for Bonneville Unit of the CUP. The need is to transfer lands acquired for CUP BU aquatic and wildlife mitigation and conservation from federal ownership to the UDWR. The transfer would also satisfy the need to affirmatively designate ownership and management of specified Mitigation Commission-administered property. Section 301(k) of CUPCA provides “...upon the termination of the Commission ...” for the transfer of “... title to any real and personal properties **then held by the Commission** ... to the appropriate division within the Department of Natural Resources ...” (*emphasis added*). Section 301(k) does not prohibit or restrict the Mitigation Commission from transferring title prior to its termination and Section 301(h)(7) specifically authorizes the Commission to acquire and dispose of real and personal property. Taking this step now would be a positive step toward fulfilling the requirements of both CUPCA and the FWCA, as well as Reclamation's Record of Decision for the M&I System.

### **1.4 DOCUMENT PURPOSE AND DECISIONS TO BE MADE**

The purpose of this document is to inform and disclose to other agencies and the interested public the environmental impacts of this proposed project, and to provide an opportunity to comment on the proposal. This EA fulfills the requirements of NEPA.

Through the EA process, the Mitigation Commission, Reclamation, and DOI-CUPCA Office will evaluate the potential impacts of transferring acquired lands out of Federal ownership to the UDWR for ongoing stewardship, mitigation, and management. The deed(s) transferring the property from the United States to the UDWR would include requirements that the properties be managed for fish and wildlife mitigation and associated recreation.

The Joint Lead Agencies – Mitigation Commission, Reclamation, and DOI, CUPCA Office – will determine whether to transfer the acquired lands (proposed transfer parcels) to the UDWR.

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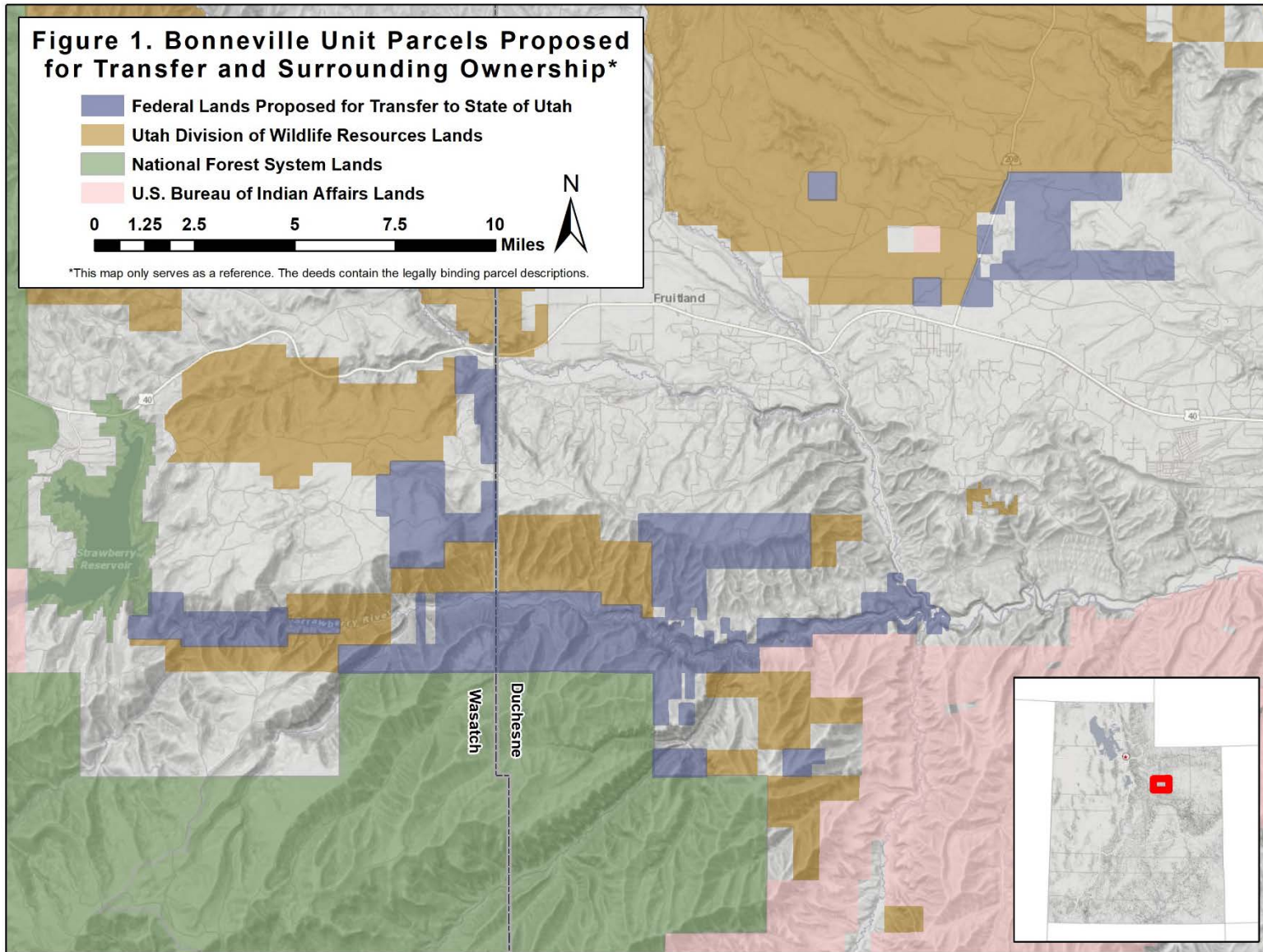


Figure 1. Bonneville Unit proposed transfer parcels and surrounding ownership.

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Based on the information presented in this EA, the responsible officials – the Joint Lead Agencies: Mitigation Commission, Reclamation, and DOI, CUPCA Office– will make three decisions:

- Whether to authorize the proposed land transfer and, if so,
- Whether the proposed land transfer would result in significant environmental impacts necessitating preparation of an environmental impact statement, and
- Whether any modifications or reservations regarding the conveyance are required.

## **1.5 SCOPING AND ISSUE IDENTIFICATION**

On September 27, 2019, the Mitigation Commission issued a public scoping notice outlining the proposed transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah (the proposed action) and invited comments on issues to be addressed in the associated NEPA review. The public scoping notice was distributed to the agencies, organizations, and individuals on the Mitigation Commission mailing list. The notice was also posted on the Mitigation Commission website. A public scoping meeting was advertised on the scoping notice and was held on October 17, 2019 in Heber City, Utah.

The scoping period formally began on October 1, 2019 and closed on November 1, 2019. Scoping comments were received from one organization and two agencies. The scoping notice and letters received are included in the project record.

No issues requiring an alternative to the proposed action were raised during scoping, therefore, no alternatives to the proposed action, other than the no action alternative, required in-depth analysis. The sections below contain issues raised that are considered subject to further analysis in the EA and issues considered but not analyzed further in the EA.

### **1.5.1 ISSUES ANALYZED IN DEPTH**

Merging substantive agency and public concerns yielded the following issues that are analyzed in detail in this EA. Analysis has been completed to the level necessary to: (1) highlight differences among the proposed action and no action alternative and (2) identify any significant impacts associated with the proposed action and no action alternative. The following issues are analyzed in detail:

#### **1.5.1.1 Wildlife Species**

- *How would special status wildlife species (i.e., federally threatened and endangered, State sensitive, conservation agreement species, or migratory birds) be affected by the project?*

#### **1.5.1.2 Plant Species**

- *How would special status plant species (i.e., federally threatened and endangered, or State sensitive) be affected by the project?*

#### **1.5.1.3 Water Resources**

- *How would water quality, water rights, and Waters of the U.S., including wetlands be affected by the project?*

#### **1.5.1.4 Land Use**

- *Does grazing, timber harvest and/or oil and gas development occur on proposed transfer parcels and how would these be affected by the project?*



### **1.5.1.5 Socioeconomic Resources**

- *How would the proposed land transfer affect Payment in Lieu of Taxes (PILT) funding currently received by Duchesne and Wasatch counties?*

## **1.5.2 ISSUES CONSIDERED BUT NOT ANALYZED IN DEPTH**

The following issues were raised during scoping or internal interdisciplinary team review but did not require in-depth analysis. An explanation is given below as to why they were not analyzed in depth.

### **1.5.2.1 Cultural and Paleontological Resources**

- *Would the project impact any resources eligible for listing to the National Register of Historic Places?*
- *Would the transfer of property out of federal ownership jeopardize any listed or eligible resources to the National Register?*
- *Would the project impact any resources culturally or religiously significant to Indian Tribes?*
- *Would the project impact any scientifically significant paleontological resources?*

Section 106 of the National Historic Preservation Act requires all Federal Agencies to identify the impacts their actions would have on cultural and historical resources. Section 106 defines the transfer, lease, or sale of property out of Federal ownership as an “adverse action” unless there are adequate and legally enforceable restrictions or conditions to ensure long-term preservation of the property's historic significance (36 CFR 800.5(a)(2)(vii)).

The State of Utah has legally enforceable State statutes similar to those at the Federal level including:

- Utah Native American Graves Protection and Repatriation Act, Utah Code Annotated (UCA) 9-9-401 and subsequent sections
- Rule 230-1 Ancient Human Remains on Nonfederal Lands That Are Not State Lands, UCA 9-8-309
- Utah State Antiquities Act UCA 9-8-301 to 9-8-308 and implementing rule, Protection of Paleontological Resources, UCA 79-3-508 UCA 9-8-404 (part of Title 9, Heritage, Arts, Libraries, and Cultural Development) UCA 9-8-404

The no action alternative would result in no Historic Properties Affected. The proposed action alternative would also result in No Historic Properties Affected as language would be included in the deeds transferring property out of Federal ownership that would ensure preservation of cultural and historical resources. In addition, future actions would be subject to Utah statutes (listed above) that ensure long-term preservations of qualifying properties’ historical significance. The Mitigation Commission sent a consultation letter to the Utah State Historic Preservation Office (SHPO) at the Utah Division of State History on June 22, 2020 and the SHPO concurred with the agencies’ determination of effect in a letter dated June 23, 2020.

The Paleontological Resources Preservation Act (PRPA) of 2009 requires USDA and DOI agencies to manage paleontological resources on Federal lands using current scientific principles. The no action alternative would have no effect on paleontological resources. The proposed action would result in no effect to significant paleontological resources as language in the land transfer documents would ensure preservation and protection of these resources. If the proposed action were undertaken, any future undertaking on these lands would be required to review the effects of the undertaking on paleontological resources and to maximize the scientific and educational information recovered under UCA 79-3-508.

## **1.6 CONFORMANCE WITH APPLICABLE LAWS AND REGULATIONS**

The transfer would occur pursuant to the authority of Section 301(h)(7) of CUPCA, and the Fish and Wildlife Coordination Act.

This EA was prepared in accordance with NEPA and the Council on Environmental Quality (CEQ) regulations for implementing NEPA (40 CFR 1500-1508). Cirrus Ecological Solutions, LC (Cirrus), of Logan, Utah, assisted the Joint Lead Agencies in the preparation of this EA, under third-party contract as directed by 40 CFR 1506.5[c].

## **1.7 REQUIRED PERMITS, LICENSES, AND CERTIFICATIONS**

If a decision is made to authorize the proposed land transfer, the Mitigation Commission and Reclamation would transfer through donation all their federal ownership as described in this EA, approximately 16,538 acres and appurtenant water rights, to the UDWR. Deeds transferring the properties to the UDWR would include language that limits future uses of the properties solely to those consistent with the goals and objectives for which they were purchased. The deeds would be recorded with the appropriate County (Wasatch or Duchesne) and would encumber the properties into the future.

## **CHAPTER 2: PROPOSED ACTION AND ALTERNATIVES**

This EA analyzes in detail the proposed action and the no action alternative. The proposed action and no action alternative are described below. No additional action alternatives warranting detailed analysis have been identified. Section 2.4 summarizes and contrasts the projected impacts of the proposed action and no action alternative.

### **2.1 PROPOSED ACTION**

The proposed action is to transfer acquired mitigation and conservation properties totaling approximately 16,538 acres and appurtenant water rights, to the UDWR for ongoing management and stewardship (Figure 1). The transfer would include an agreement and deed restrictions requiring continued management of the lands for the purposes for which they were acquired. The properties are in Duchesne and Wasatch counties. The United States would transfer the acquired lands and appurtenant water rights to the UDWR, in accordance with Federal and State of Utah laws, rules and policies. A list of Mitigation Commission properties proposed for transfer to the State of Utah is attached in Appendix A.

### **2.2 NO ACTION ALTERNATIVE**

Under the no action alternative, the land transfer would not occur. Ownership and management of the proposed transfer parcels would remain as they are currently. The Mitigation Commission and Reclamation would continue to own the properties. The UDWR would continue to manage these lands for the purposes for which they were acquired under interim agreements. For the long-term, the CUP aquatic and wildlife mitigation requirements may not be met until lands are transferred to the State of Utah, Division of Wildlife in accordance with FWCA. Upon the Mitigation Commission's termination at some future date yet uncertain, those acres acquired under CUPCA would be conveyed to the appropriate Division within Utah Department of Natural Resources (expected to be the Division of Wildlife Resources). Reclamation acquired acres would remain in federal ownership.

### **2.3 ALTERNATIVES CONSIDERED BUT NOT ANALYZED IN DETAIL**

No additional alternatives were identified through scoping and internal, interdisciplinary review of the proposal.

### **2.4 COMPARISON OF PROPOSED ACTION AND NO ACTION ALTERNATIVE**

Table 1 summarizes the proposed differences between the proposed action and the no action alternative, and Table 2 compares the projected impacts associated with each alternative, relative to the issues analyzed in detail in this document.

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<b>Table 1. Summary of alternatives.</b>	
<b>Alternative</b>	<b>Actions</b>
<b>Proposed Action – Property Transfer to UDWR</b>	<ul style="list-style-type: none"> <li>• The Mitigation Commission and Reclamation would transfer through donation ownership of approximately 16,538 acres of land and appurtenant water rights to the UDWR, thereby completing the required mitigation.</li> <li>• The UDWR would continue its current management of the 16,538 acres in perpetuity subject to the protective restrictions to be incorporated into the conveyance deed.</li> </ul>
<b>No Action</b>	<ul style="list-style-type: none"> <li>• The Mitigation Commission and Reclamation would not transfer any property to the UDWR.</li> <li>• For the short-term, the UDWR would continue to manage these 16,538 acres for wildlife under interim agreements.</li> <li>• For the long-term, the CUP aquatic and wildlife mitigation requirements may not be met.</li> <li>• Upon the Mitigation Commission’s termination, those acres acquired under CUPCA would be conveyed to the State of Utah, Department of Natural Resources. Reclamation acquired acres would remain in federal ownership.</li> </ul>

<b>Table 2. Summary and comparison of impacts.</b>		
<b>Issue</b>	<b>Proposed Action</b>	<b>No Action Alternative</b>
<b>Wildlife Species</b>		
How would special status wildlife species (i.e., federally threatened and endangered, State sensitive, conservation agreement species or migratory birds) be affected by the project?	Management goals, objectives, and actions would remain the same. No effect on special status wildlife species, Migratory Birds, or their habitat.	No change in ownership or management and no effect on special status wildlife species, Migratory Birds, or their habitat.
<b>Plant Species</b>		
How would special status plant species (i.e., federally threatened and endangered, or State sensitive) be affected by the project?	Management goals, objectives, and actions would remain the same. No effect on special status plant species.	No change in ownership or management and no effect on special status plant species.
<b>Water Resources</b>		
How would water quality, water rights, and Waters of the U.S., including wetlands be affected by the project?	Management goals, objectives and actions would remain the same, there would be no effect on nor changes to water quality, water rights, and Waters of the U.S., including wetlands. All appurtenant water rights would be transferred with the properties and managed according to the corresponding agreement and deed restrictions that require continued land management for the purposes for which they were acquired.	There would be no change in ownership or management and no anticipated impacts to water quality, water rights, and Waters of the U.S., including wetlands.

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<b>Table 2 (cont'd). Summary and comparison of impacts.</b>		
<b>Issue</b>	<b>Proposed Action</b>	<b>No Action Alternative</b>
<b>Land Use</b>		
Does grazing, timber harvest and/or oil and gas development occur on proposed transfer parcels and how would these be affected by the project?	The UDWR would continue to manage the Mitigation Commission and Reclamation properties in the same way in which they have been under interim management agreement. Since management goals, objectives, and actions would remain the same, there would be no effect on nor changes to the properties due to land use. UDWR management of livestock grazing, timber harvest, and mineral estates would likely be unchanged.	No land transfer would take place and land management would continue through agreement with the UDWR under their Habitat Management Plans. Management of livestock grazing, timber harvest, and mineral estates would be unchanged.
<b>Indian Trust Assets</b>		
Would the project impact any Indian Trust Assets?	There are known ITAs within the project vicinity. Because the Proposed Action would essentially be an administrative action, implementation would have no effect on ITAs.	No land transfer would take place and there would be no potential for impacts to ITAs.
<b>Socioeconomic Resources</b>		
How would the proposed land transfer affect PILT funding currently received by Duchesne and Wasatch counties?	The transfer of land would result in no change in PILT to Duchesne County, but would decrease PILT to Wasatch County by \$15,355. State of Utah mineral lease payments made to counties in lieu of taxes on State-owned lands would increase by \$5,770 and \$2,829 for Duchesne and Wasatch counties, respectively. Therefore, the net change would be \$5,770 and -\$12,525 for Duchesne and Wasatch counties, respectively.	No land transfer would take place and there would be no potential for socioeconomic impacts. PILT amounts would continue to be calculated the same for the affected counties as in the past. Mineral lease payments would be unchanged.

## **CHAPTER 3: AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES**

### **3.1 INTRODUCTION**

This chapter describes the current situation as the baseline for assessment of the direct, indirect, and cumulative environmental impacts of the proposed action and the no action alternative. It is organized according to the categories of issues identified through public and agency scoping, as noted in section 1.5.1. Discussion under each category begins with a list of the specific issues to be addressed, followed by a description of the affected environment associated with those issues and then a discussion of the relevant environmental consequences.

The scope of the analysis of this EA is limited to the transfer of 16,538 acres of United States-owned property and appurtenant water rights administered by the Mitigation Commission and Reclamation, currently managed by the UDWR, to the UDWR. Under the proposed action, the UDWR would continue to manage these properties as required by the corresponding agreement and deed restrictions requiring continued management of the lands for the purposes for which they were acquired.

A segment of the Strawberry River watershed in the project area is still recovering from the 2018 Dollar Ridge Fire. The fire consumed approximately 68,000 acres of land (including portions of the project area) which resulted in debris flows created by intense storm runoff in some drainages. Average burn severity in the proposed land transfer area was assessed by the U.S. Forest Service (USFS) as low to zero (USFS 2018). The UDWR has reseeded the upland burned areas and the Commission has funds to continue restoration work once additional ground access is obtained with the road rebuilding. The UDWR has reported in 2019 that grasses are coming back on their own as well. The occurrence of the fire in 2018 is not anticipated to have an effect on the proposed transfer of property from the Federal government to the Utah Division of Wildlife Resources. Goals and actions taken would be the same for those properties

#### **3.1.1 RESOURCES CONSIDERED**

- Wildlife Species
- Plant Species
- Water Resources
- Land Use
- Indian Trust Assets
- Socioeconomic Resources

#### **3.1.2 CUMULATIVE EFFECTS**

The proposed action is essentially an administrative action with no anticipated impacts on the environment resulting from the transfer of properties from the Mitigation Commission and Reclamation to the UDWR. Since no impacts are anticipated as a result of the proposed action, no cumulative effects would occur. The net change in PILT and mineral lease payments in the affected counties would not noticeably affect county budgets on a cumulative basis.

## 3.2 WILDLIFE SPECIES

Scoping and internal, interdisciplinary review identified the following wildlife issue:

- *How would special status wildlife species (i.e., federally threatened and endangered, State sensitive, conservation agreement species, or migratory birds) be affected by the project?*

### 3.2.1 AFFECTED ENVIRONMENT

#### 3.2.1.1 Special Status Wildlife

On January 9, 2020, a project-specific species list was obtained from the U.S. Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) website regarding federally threatened and endangered species that may occur in the proposed land transfer area (USFWS 2020). This list identified seven fish and wildlife species covered under the Endangered Species Act (ESA) of 1973, as amended, that should be considered for this project. These species are listed in Table 3 below along with a description of habitat for each species and whether suitable habitat is present. Table 3 also lists all State identified wildlife species of concern (SPC) and conservation agreement species (CS) (UDWR 2017). Migratory birds are listed in Table 4 below in section 3.2.1.1.1.

<b>Table 3. Federally threatened and endangered, State sensitive, and conservation agreement species with potential to occur in the proposed land transfer area.</b>			
<b>Species Name</b>	<b>Habitat Description</b>	<b>Status<sup>1</sup></b>	<b>Suitable Habitat Present in Project Area?</b>
<b>Mammals</b>			
Canada lynx ( <i>Lynx canadensis</i> )	Coniferous or mixed forests, thick undergrowth for hunting, old growth with deadfall for denning and resting. <sup>2</sup>	T	Yes
Fringed myotis ( <i>Myotis thysanodes</i> )	Occur primarily at middle elevations in desert, riparian, grassland, and woodland habitats. <sup>3</sup>	SPC	No
Kit fox ( <i>Vulpes macrotis</i> )	Open prairie, plains, and desert habitats. <sup>3</sup>	SPC	Yes
Spotted bat ( <i>Euderma maculatum</i> )	Cliffs and a variety of habitats, including openings in high-elevation conifer and aspen communities. <sup>3</sup>	SPC	Yes
Townsend's western big-eared bat ( <i>Corynorhinus townsendii</i> )	Wide variety of roosting and foraging habitats, including caves and mines for roosting and open areas for foraging. <sup>3</sup>	SPC	Yes
White-tailed prairie dog ( <i>Cynomys leucurus</i> )	Open shrublands, semidesert grasslands, and open valleys. <sup>3</sup>	SPC	Yes
<b>Birds</b>			
American three-toed woodpecker ( <i>Picoides dorsalis</i> )	Coniferous or mixed forests, generally with abundant beetle-killed snags. <sup>4</sup>	SPC	No
Bald eagle ( <i>Haliaeetus leucocephalus</i> )	Roosts in large trees. Generally, nests in mature, old-growth trees within 2 kilometers of water. <sup>4</sup>	SPC	Yes

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<b>Table 3 (cont'd). Federally threatened and endangered, State sensitive, and conservation agreement species with potential to occur in the proposed land transfer area.</b>			
<b>Species Name</b>	<b>Habitat Description</b>	<b>Status</b>	<b>Suitable Habitat Present in Project Area?</b>
Black swift ( <i>Cypseloides niger</i> )	Require waterfalls for nesting; Often mixed conifer or spruce-fir forests. <sup>2</sup>	SPC	No
Bobolink ( <i>Dolichonyx oryzivorus</i> )	Wet meadow (grasses and sedges), wet grassland, and irrigated agricultural (primarily pasture and hay fields) areas. <sup>3</sup>	SPC	Yes
Burrowing owl ( <i>Athene cunicularia</i> )	Open grassland and prairies, but it also utilizes other open situations, such as golf courses, cemeteries, and airports. <sup>2</sup>	SPC	Yes
Ferruginous hawk ( <i>Buteo regalis</i> )	Flat and rolling terrain in grassland or shrub steppe during breeding. Open farmlands, grasslands, arid areas. <sup>2</sup>	SPC	Yes
Greater sage-grouse ( <i>Centrocercus urophasianus</i> )	Sagebrush obligate. Requires expansive areas dominated by sagebrush of varying densities and age classes. <sup>4</sup> Project area overlaps Strawberry Sage Grouse Priority Area of Concern. <sup>5</sup>	SPC	Yes
Lewis's woodpecker ( <i>Melanerpes lewis</i> )	Open ponderosa pine forests; burned-over Douglas-fir, mixed conifer, pinyon-juniper, riparian, and oak woodlands, fringes of pine and juniper stands, and deciduous forests. <sup>2</sup>	SPC	Yes
Long-billed curlew ( <i>Numenius americanus</i> )	Mixed fields with adequate grass cover and fields with elevated points. Uncultivated rangelands and pastures. <sup>2</sup>	SPC	Yes
Mexican spotted owl ( <i>Strix occidentalis lucida</i> )	Variety of forested and steep rocky-canyon habitats. The proposed land transfer area is outside designated critical habitat. <sup>3</sup>	T	Yes
Mountain plover ( <i>Charadrius montanus</i> )	Typically associated with shortgrass prairie habitat, except in the Uinta Basin where habitat is sparsely vegetated and sagebrush communities are dominated by <i>Artemisia</i> spp. <sup>3</sup>	SPC	Yes
Northern goshawk ( <i>Accipiter gentilis</i> )	Coniferous or mixed, old-growth forests. Often nests in small (~10-acre) patches of trees. <sup>4</sup>	CS	Yes
Short-eared owl ( <i>Asio flammeus</i> )	Grasslands, shrublands, and other open habitats. <sup>2</sup>	SPC	Yes
Yellow-billed cuckoo ( <i>Coccyzus americanus</i> )	Large stands of riparian woodlands greater than 25 contiguous acres at least 330 feet wide below 7,000 feet. <sup>4</sup> Proposed land transfer area is outside designated critical habitat. <sup>6</sup>	T	No
<b>Amphibians</b>			
Columbia spotted frog ( <i>Rana luteiventris</i> )	Requires perennial, slow-moving, or standing water, generally with emergent vegetation. <sup>3</sup>	CS	Yes



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<b>Table 3 (cont'd). Federally threatened and endangered, State sensitive, and conservation agreement species with potential to occur in the proposed land transfer area.</b>			
<b>Species Name</b>	<b>Habitat Description</b>	<b>Status</b>	<b>Suitable Habitat Present in Project Area?</b>
Western toad ( <i>Anaxyrus boreus</i> )	Wide variety of habitats; desert springs to mountain wetlands. Various upland habitats around ponds, lakes, reservoirs, and slow-moving rivers and streams. <sup>3</sup>	SPC	Yes
<b>Reptiles</b>			
Smooth greensnake ( <i>Opheodrys vernalis</i> )	Meadows, grassy marshes, moist grassy fields at forest edges, mountain shrublands, stream borders, bogs, open moist woodland, abandoned farmland, and vacant lots. <sup>3</sup>	SPC	Yes
<b>Fish</b>			
Bluehead sucker ( <i>Catostomus discobolus</i> )	Rocky riffles and runs of small to large rivers; rarely lakes. Occupies a wide range of fluvial habitats ranging from cold, clear mountain streams to warm, turbid streams. <sup>3</sup>	CS	Yes
Bonneville cutthroat trout ( <i>Oncorhynchus clarkii utah</i> )	High-elevation streams with coniferous and deciduous riparian trees to low-elevation streams in sage-steppe grasslands. <sup>3</sup>	CS	Yes
Bonytail ( <i>Gila elegans</i> )	Ranges from high-elevation streams with coniferous and deciduous riparian trees to low-elevation streams in sage-steppe grasslands containing herbaceous riparian zones to lakes. <sup>3</sup>	E	No
Colorado pikeminnow ( <i>Ptychocheilus lucius</i> )	Medium to large rivers; various habitats including various habitats including deep turbid strongly flowing water, eddies, runs, flooded bottoms, or backwaters. Proposed land transfer area is outside designated critical habitat. <sup>6</sup>	E	No
Colorado River cutthroat trout ( <i>Oncorhynchus clarkii pleuriticus</i> )	Cool, clear water and well-vegetated streambanks for cover and bank stability; relatively cold water; most remaining populations are fluvial or resident; lakes. <sup>3</sup>	CS	Yes
Flannelmouth sucker ( <i>Catostomus latipinnis</i> )	Rocky pools, runs, riffles, and backwaters of medium to large rivers, less often in small rivers and creeks, absent from impoundments; typical of pools and deeper runs and often enters mouths of small tributaries. <sup>3</sup>	CS	Yes
Humpback chub ( <i>Gila cypha</i> )	Large rivers; Various habitats, including deep turbulent currents, shaded canyon pools, areas under shaded ledges in moderate current, riffles, and eddies. Proposed land transfer area is outside designated critical habitat. <sup>6</sup>	E	No

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<b>Table 3 (cont'd). Federally threatened and endangered, State sensitive, and conservation agreement species with potential to occur in the proposed land transfer area.</b>			
Species Name	Habitat Description	Status	Suitable Habitat Present in Project Area?
Razorback sucker ( <i>Xyrauchen texanus</i> )	Rivers with deep runs, eddies, backwaters, and flooded off-channel environments in spring; runs and pools often in shallow water associated with submerged sandbars in summer. Proposed land transfer area is outside designated critical habitat. <sup>6</sup>	E	No
Roundtail chub ( <i>Gila robusta</i> )	Rocky runs, rapids, and pools of creeks and small to large rivers; large reservoirs in the upper Colorado River system; prefers cobble-rubble, sand-cobble, or sand-gravel substrate. <sup>3</sup>	CS	Yes
<b>Mollusks</b>			
Eureka mountainsnail ( <i>Oreohelix eurekaensis</i> )	Found under pygmy sagebrush and at the bases of ledges on north-facing slopes at altitudes of about 2200 to 2400 meters. <sup>2</sup>	SPC	Yes
<sup>1</sup> T = Federally Threatened Species; SPC = State Species of Concern; CS = Conservation Agreement Species; E = Federally Endangered Species. <sup>2</sup> Utah Conservation Data Center. <a href="https://dwrcdc.nr.utah.gov/ucdc/default.asp">https://dwrcdc.nr.utah.gov/ucdc/default.asp</a> . <sup>3</sup> Natureserve. 2020. <a href="http://explorer.natureserve.org/index.htm">http://explorer.natureserve.org/index.htm</a> . <sup>4</sup> Birds of North America. <a href="http://bna.birds.cornell.edu/bna">http://bna.birds.cornell.edu/bna</a> . <sup>5</sup> USFWS (2013). <sup>6</sup> USFWS (2020).			

### **3.2.1.1.1 Migratory Birds**

Migratory birds receive federal protection under the Migratory Bird Treaty Act (16 U.S.C. 703-712) and bald and golden eagles are also protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668-668d). Pursuant to Executive Order 13186, which defines the responsibilities of Federal Agencies to protect migratory birds, the Mitigation Commission and Reclamation ensure that environmental analyses of federal actions required by NEPA evaluate the effects of actions and agency plans on migratory birds and eagles.

A list of birds of conservation concern is published and maintained by the USFWS, Division of Migratory Bird Management (USFWS 2008). The current list is available at <http://www.fws.gov/migratorybirds>. The proposed transfer parcels are located within the Southern Rockies/Colorado Plateau (BCR 16).

There is a total of 27 USFWS birds of conservation concern for BCR 16. Six of these species are also State species of concern and one is a threatened species under the Endangered Species Act (ESA). The ESA-listed and State species of concern are discussed above. The remaining 20 species are described in Table 4. The listed 20 species have no specific legal standing that is different from any other migratory bird. They are listed here for completeness.

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<b>Table 4. USFWS Region 16 Birds of Conservation Concern, their habitat, and their presence in the proposed transfer area.</b>		
<b>Species Name</b>	<b>Habitat Description</b>	<b>Habitat Present in Project Area</b>
American bittern	Marshes. Nests on dry ground above the water or mud in emergent vegetation. Feeds on fish, aquatic invertebrates, small mammals, insects.	No
Bald eagle	See Table 3.	Yes
Bendire's thrasher	Usually found in sparse desert habitats. (One breeding pair has recently been documented in the Uinta Basin.)	Yes
Black rosy-finch	Alpine grasslands, alpine moss-lichen-forb, barren ground, fallow agricultural areas. A variety of habitats during the winter. Nests on the ground or on cliffs. Feeds on seeds, insects.	Yes
Brewer's sparrow	Sagebrush shrublands. Nests in taller sagebrush. Feeds on insects and seeds.	Yes
Brown-capped rosy-finch	Alpine grasslands, alpine moss-lichen-forb, barren ground, fallow agricultural areas. A variety of habitats during the winter. Nests on the ground or on a cliff. Feeds on seeds, insects.	Yes
Burrowing owl	See Table 3.	Yes
Cassin's finch	Coniferous forests up to timberline, including burns. Lower habitats during the winter, especially urban areas. Nests in conifers; nest is usually placed near the end of a large limb. Feeds on buds, berries, and conifer seeds.	Yes
Chestnut-collared longspur (nb)	Great basin-foothills grasslands, basin-prairie shrublands, agricultural areas. Nests on the ground in a shallow depression, usually concealed by a tuft of grass. Feeds on insects, seeds.	No
Ferruginous hawk	See Table 3.	Yes
Flammulated owl	Montane forests, especially ponderosa pine. Feeds primarily on insects; also a few arthropods.	No
Golden eagle	Most habitats with open areas for foraging. Nests in a tree or on a cliff. Feeds mostly on small mammals, rabbits.	Yes
Grace's warbler	Parklike stands of mature pines.	No
Grasshopper sparrow	Basin-prairie shrublands, eastern great plains grasslands, wet-moist meadow grasslands, agricultural areas. Nest is sunk in a slight depression on the ground. Feeds on insects, seeds.	Yes
Gray vireo	Desert habitats such as mesquite scrub, oak scrub, chaparral, and pinyon pine-juniper, up to about 7,800 feet elevation. Feeds mostly on insects.	Yes

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**Table 4 (cont'd). USFWS Region 16 Birds of Conservation Concern, their habitat, and their presence in the proposed transfer area.**

Species Name	Habitat Description	Habitat Present in Project Area
Gunnison sage-grouse	Sagebrush and sagebrush/grassland habitats. Feeds mainly on sagebrush, other plant material, and sometimes insects.	No
Juniper titmouse	Pine-juniper, woodland-chaparral, mountain-foothills shrublands, juniper-sagebrush, urban areas. Feeds on insects, fruit, seeds.	Yes
Lewis's woodpecker	See Table 3.	Yes
Long-billed curlew	See Table 3.	Yes
Mountain plover	See Table 3.	Yes
Peregrine falcon	Vary widely distributed across highly variable habitats.	Yes
Pinyon jay	Ponderosa pine savannah, pine-juniper, woodland-chaparral, mountain-foothills shrublands. Feeds on conifer seeds, fruit, insects, eggs, nestlings.	Yes
Prairie falcon	Cliffs in all habitats with open areas. Nests in a hole or on a ledge on a cliff or rock outcrop. Feeds on birds, small mammals, insects, lizards.	Yes
Snowy plover (c)	Shorelines, aquatic areas. Nests on the ground among tufts of grass. Feeds on insects, some invertebrates.	No
Veery	Aspen, cottonwood-riparian, coniferous forests, below 9,000 feet. Nests on the ground or in a shrub. Feeds on insects, some fruit.	No
Willow flycatcher	Riparian shrub including willow, hawthorn, water birch, and alder below 9,000 feet. Nests in upright or slanting fork in a shrub. Feeds primarily on insects, occasionally berries.	Yes
Yellow-billed cuckoo	See Table 3.	No

### 3.2.2 ENVIRONMENTAL CONSEQUENCES

Since the proposed action is essentially an administrative action as opposed to a physical action, effects on special status wildlife or potential habitat would not be anticipated. Since no effects would be anticipated as a result from either alternative considered, individual species are not analyzed in depth.

#### 3.2.2.1 No Action Alternative

Under this alternative, the land transfer would not take place and there would be no potential for impacts on any special status fish or wildlife species (threatened, endangered, and sensitive), migratory birds, or their habitat. The UDWR would continue to manage the Mitigation Commission and Reclamation owned lands for the purposes for which they were acquired.

### **3.2.2.2 Proposed Action**

Under the proposed action, the UDWR would continue to manage the Mitigation Commission and Reclamation properties on a permanent basis as they have been and as required by the corresponding agreement and deed restrictions requiring continued management of the lands for the purposes for which they were acquired. Since management goals, objectives, and actions would remain the same, there are no effects on any special status fish or wildlife species (threatened, endangered, and sensitive), migratory birds, or their habitat.

## **3.3 PLANT SPECIES**

Scoping and internal, interdisciplinary review identified the following issue:

- *How would special status plant species (i.e., federally threatened and endangered, or potential species of conservation need) be affected by the project?*

### **3.3.1 AFFECTED ENVIRONMENT**

Dominant plant/vegetation community types within the proposed transfer parcels include Inter-mountain Basins Montane Sagebrush Steppe, Colorado Plateau Pinyon-Juniper Woodland, Inter-Mountain Basins Big Sagebrush Shrubland, and Southern Rocky Mountain Mesic Montane Mixed Conifer Forest and Woodland.

The shrubland and steppe vegetation community classifications are upland systems typically composed of various shrub species including *Artemisia spp.*, *Symphoricarpos spp.*, *Amelanchier spp.*, *Ericameria nauseosa*, *Peraphyllum ramosissimum*, *Ribes cereum*, and *Chrysothamnus viscidiflorus*. Perennial herbaceous components typically contribute less than 25 percent vegetative cover within the shrubland habitat type, while over 25 percent in steppe. Depending on the agricultural use or disturbance history, proposed transfer parcels may also be abundant in *Bromus tectorum*, other annual bromes (i.e., grasses), and invasive weeds.

The forest and woodland vegetation community types are also both upland with typical canopy dominants including *Pinus edulis* and/or *Juniperus osteosperma* (Colorado Plateau Pinyon-Juniper Woodland) or *Pseudotsuga menziesii* and *Abies concolor* (Southern Rocky Mountain Mesic Montane Mixed Conifer Forest and Woodland). Understories of both community types can vary greatly.

Subdominant vegetation community types include Colorado Plateau Pinyon-Juniper Woodland, Inter-Mountain Basins Big Sagebrush Shrubland, Inter-Mountain Basins Montane Sagebrush Steppe, and Southern Rocky Mountain Mesic Montane Mixed Conifer Forest and Woodland.

According to the USFWS IPaC list for this project, only one special status species, the federally listed threatened Ute ladies' tresses, has potential to occur within the proposed land transfer area. This species is typically found in moist to very wet meadows, along streams, in abandoned stream meanders, and near springs, seeps, and lake shores. It prefers sandy or loamy soils mixed with gravels and is usually found at elevations between 4300 and 7000 feet in Utah. National Heritage Records do exist for this species in the Strawberry Watershed (Natureserve 2020), however, not within the project area (Reisor 2019, Wheeler 2020).

The State of Utah does not have a State sensitive species list for plants nor a state policy regarding plants. The Utah Department of Natural Resources maintains a list of potential species of conservation need. Special status plant species, including potential species of conservation need, that could be found in the project area are listed in Table 5 below with their corresponding habitats and status.

<b>Table 5. Special status plant species (federally threatened and endangered, or potential species of conservation need).</b>			
<b>Species Name</b>	<b>Habitat Description</b>	<b>Status <sup>1</sup></b>	<b>Potential to occur in project area</b>
Barneby's columbine ( <i>Aquilegia barnebyi</i> )	Mixed desert shrub, pinyon juniper, and Douglas fir communities; 5495 – 7400 feet elevation. <sup>2</sup>	PSCN <sup>3</sup>	Yes <sup>3</sup>
Ute ladies' tresses ( <i>Spiranthes diluvialis</i> )	Moist to very wet meadows, along streams, in abandoned stream meanders, and near springs, seeps, and lake shores. <sup>2</sup>	T	No <sup>3, 4</sup>
Western townsend-daisy ( <i>Townsendia mensana</i> )	Barren and semi-barren sites in salt desert shrub, pinyon-juniper, and sagebrush communities, at 5594 to 8908 feet elevation. <sup>2</sup>	PSCN <sup>3</sup>	Yes <sup>3</sup>

<sup>1</sup> PSCN = Potential species of conservation need; T = Threatened species.  
<sup>2</sup> Natureserve 2020. <http://explorer.natureserve.org/index.htm>.  
<sup>3</sup> Wheeler (2020).  
<sup>4</sup> Reisor (2019).

### 3.3.2 ENVIRONMENTAL CONSEQUENCES

Since the proposed action is essentially an administrative action as opposed to a physical action, impacts to special status plant species would not be anticipated. Since no impacts would be anticipated as a result from either alternative considered, individual species are not analyzed in depth.

#### 3.3.2.1 No Action Alternative

Under this alternative, the land transfer would not take place and there would be no potential for impacts on any special-status plant species (threatened, endangered, and sensitive), or their habitat. The UDWR would continue to manage the Mitigation Commission and Reclamation owned lands for the purposes for which they were acquired.

#### 3.3.2.2 Proposed Action

Under the proposed action, the UDWR would continue to manage the Mitigation Commission and Reclamation properties on a permanent basis as they have been and as required by the corresponding agreement and deed restrictions requiring continued management of the lands for the purposes for which they were acquired. Since management goals, objectives and actions remain the same, there are no effects on any special status plant species (i.e., threatened, endangered, or State sensitive).

## 3.4 WATER RESOURCES

Scoping and internal, interdisciplinary review identified the following water resource issue:

- *How would water quality, water rights, and Waters of the U.S., including wetlands be affected by the project?*

### 3.4.1 AFFECTED ENVIRONMENT

The proposed transfer parcels were acquired by the Mitigation Commission and Reclamation as part of the BU of the CUP. The BU is the largest unit in the CUP, located on both sides of the Wasatch Mountains in central and northeastern Utah. This unit diverts tributary water from the Colorado River Basin into the

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Bonneville Basin and Utah’s Wasatch Front through managing stream flows in the Duchesne and Strawberry Rivers watersheds. It includes facilities to divert water from Duchesne River system streams, store and regulate the collected water, and release water as needed into the Bonneville Basin. The proposed transfer parcels are located within the Strawberry Collection System of the BU, which diverts flows from Rock Creek and eight other Duchesne River tributaries through approximately 40 miles of tunnels and aqueducts for storage in Strawberry Reservoir.

The Strawberry River watershed drains approximately 1,155 mi<sup>2</sup> (739,444 acres) in northeastern Utah located in the Uintah Basin. The watershed is bounded by the Uintah Mountains to the north, the Wasatch Mountains to the west, and lies within the Colorado Plateau. It occupies approximately 536 mi<sup>2</sup> of Wasatch County and 619 mi<sup>2</sup> of Duchesne County. The proposed land transfer overlaps approximately 21 miles of perennial streams, including the Strawberry River.

**3.4.1.1 Water Quality**

Streams, rivers, lakes, and reservoirs have been delineated into management units by the Utah Division of Water Quality (UDWQ). These units are used in managing water quality and determining if waters of the state are supporting their designated beneficial uses. There are seven units that overlap the project area. Current EPA- and state-derived water quality assessment categories and 2016 impairment(s) determinations are found within the proposed transfer parcels (Table 6). Beneficial use classifications and protected uses for all assessment units within the project area are currently identified as (1C) drinking water, (2B) secondary contact recreation, (3A) cold water aquatic life, and (4) agriculture (UDWQ 2016).

<b>Table 6. Major water bodies located in the project area and associated impairments <sup>1</sup>.</b>		
<b>Unit Name/Description</b>	<b>Assessment Category</b>	<b>2016 Impairment</b>
Avintaquin Creek/ Avintaquin Creek and tributaries from Strawberry River confluence to headwaters	5: TMDL <sup>2</sup> required. 303d impaired	Use Class 1C: Arsenic
Currant Creek Lower/ Currant Creek and tributaries from Red Creek confluence to Currant Creek Reservoir	3: Insufficient Data.	
Red Creek Middle/ Red Creek and tributaries from Currant Creek confluence to Red Creek Reservoir	3: Insufficient Data.	
Strawberry Reservoir/ Strawberry Reservoir	4A: Approved TMDL. Impaired	Use Class 3A: Dissolved Oxygen, Total Phosphorus
Strawberry River-3/ Strawberry River and tributaries, except Willow Creek and Timber Canyon, from Avintaquin Creek confluence to Strawberry Reservoir	5: TMDL required. 303d impaired	Use Class 3A: OE Bioassessment <sup>3</sup>
Timber Canyon Creek/ Timber Canyon Creek and tributaries from confluence with Strawberry River to headwaters	5: TMDL required. 303d impaired	Use Class 1C: Arsenic
Willow Creek-Wasatch/ Willow Creek and tributaries from confluence with Strawberry River to headwaters	1: Supports all designated uses	

<sup>1</sup> UDWQ (2016).  
<sup>2</sup> TMDL = Total Maximum Daily Load. A plan for restoring impaired waters that identifies the maximum amount of pollutant that a body of water can receive while still maintaining water quality standards.  
<sup>3</sup> OE Bioassessment = UDWQ evaluates the biological condition of streams by examining the organism communities that live in the water. The number of specific taxa observed (O) at a stream site are compared to a list of taxa that are expected (E) to be there in the absence of human-caused stress. This ratio (OE Bioassessment) measures the loss of biodiversity because it represents the extent to which taxa have become locally extinct as a result of human activities.

A segment of the Strawberry River in the project area is still recovering from the 2018 Dollar Ridge Fire. The fire consumed approximately 68,000 acres of land (including portions of the project area) which resulted in debris flows created by intense storm runoff in some drainages. Average burn severity in the proposed land transfer area was assessed by the USFS as low to zero (USFS 2018). The UDWR has reseeded the upland burned areas and the Commission has funds to continue restoration work once additional ground access is obtained with the road rebuilding. The UDWR has reported in 2019 that grasses are coming back on their own as well.

#### **3.4.1.2 Water Rights**

Water rights are associated with some of the Federal proposed transfer parcels. These water rights were originally held by other landowners prior to acquisition by the Mitigation Commission and Reclamation.

#### **3.4.1.3 Waters of the U.S., including Wetlands**

According to databases managed by the USFS and USFWS, there are known Waters of the U.S., which include wetland systems, within the proposed land transfer area. Impacts to wetlands and other Waters of the U.S. may be subject to regulation under Section 404 of the Clean Water Act (CWA).

### **3.4.2 ENVIRONMENTAL CONSEQUENCES**

#### **3.4.2.1 No Action Alternative**

Under this alternative, the land transfer would not take place and there would be no potential for impacts or changes to any associated water resources, including water quality, water rights, or Waters of the U.S., including wetlands. The UDWR would continue to manage the Mitigation Commission and Reclamation owned lands for the purposes for which they were acquired.

#### **3.4.2.2 Proposed Action**

Under the proposed action, the UDWR would continue to manage the Mitigation Commission and Reclamation properties. All appurtenant water rights would be transferred with the properties and managed according to the corresponding agreement and deed restrictions that require continued land management for the purposes for which they were acquired. Since management goals, objectives, and actions would remain the same, there would be no effect on nor changes to water resources in the proposed transfer parcels, including water quality, water rights, or Waters of the U.S., including wetlands.

## **3.5 LAND USE**

Scoping and internal, interdisciplinary review identified the following land management issue:

- *Does grazing, timber harvest and/or oil and gas development occur on proposed transfer parcels and how would these be affected by the project?*

### **3.5.1 AFFECTED ENVIRONMENT**

The proposed transfer parcels are currently managed by the UDWR through agreements with the Mitigation Commission and Reclamation for fish and wildlife values. The UDWR has developed habitat management plans for the areas to guide their management. The purposes identified in the Strawberry River Management Plan are to preserve and enhance wildlife habitats and populations, as well as preserve public angler access to the Strawberry River between Soldier Creek Dam and its confluence with Red Creek near the Strawberry Pinnacles (UDWR 2020). Uses of these lands are to be compliant with these purposes.

Grazing does not generally occur on the proposed transfer parcels but is used by the UDWR as a management tool to improve wildlife habitat. Timber harvest does not generally occur on the proposed transfer parcels, unless for a specific purpose, for example, removal of burned, dead, or diseased trees that



pose a safety concern. The Mitigation Commission or Reclamation most likely do not own the mineral rights on the transfer parcels, which could only be determined definitively by a mineral estate title search for each parcel. The mineral estate is the dominant estate and access to explore and develop those rights are granted to the mineral estate owner by the U.S. as the surface owner, through a negotiated license agreement for access and use of the property.

### **3.5.2 ENVIRONMENTAL CONSEQUENCES**

#### **3.5.2.1 No Action Alternative**

Under the no action alternative, the land transfer would not take place and land management would continue through agreement with the UDWR under their Habitat Management Plans. The management of livestock grazing, timber harvest, and mineral estates would be unchanged.

#### **3.5.2.2 Proposed Action**

Under the Proposed Action, the transfer parcels would be transferred to the UDWR and would be subject to Rule R657-28, Use of Division Lands. This rule states: “The division manages division lands and water rights to directly or indirectly protect and improve wildlife habitats and watersheds; increase fish and game populations to meet wildlife management plan objectives and expand fishing and hunting opportunities; conserve, protect, and recover sensitive wildlife species and their habitats; and provide wildlife-related recreational opportunities.” Grazing is through permit only, according to UDWR grazing policy and used as a management tool by UDWR for the maintenance or improvement of wildlife habitat.

Timber harvest, or wood cutting would also be allowed through proper permitting and for specific purposes. For example, the Strawberry River Wildlife Management Area Habitat Management plan recommends removal of trees impacted by the Dollar Ridge fire for safety and flood damage prevention reasons.

Under the proposed action, the UDWR would issue a rights of way lease for oil and gas exploration and development under Rule R657-28-23. This rule requires that the applicant submit a project plan with alternatives considered, including those that do not affect the division, identification of adverse impacts to wildlife and their habitat and measures taken to avoid, minimize or mitigate them. The application process includes consideration and protection of cultural resources and direct, indirect, and cumulative impacts to wildlife and wildlife habitat and surveys of species listed under ESA, Utah wildlife sensitive species, and species of special concern.

Under the proposed action, the UDWR would continue to manage the Mitigation Commission and Reclamation properties in the same way in which they have been under interim management agreement. Since management goals, objectives, and actions would remain the same, there would be no effect on nor changes to the properties due to land use.

### **3.6 INDIAN TRUST ASSETS**

Scoping and internal, interdisciplinary review identified the following Indian Trust Assets issue:

- *Would the project impact any Indian Trust Assets?*

#### **3.6.1 AFFECTED ENVIRONMENT**

Indian Trust Assets (ITAs) are legal interests in property held in trust by the United States for Federally recognized Indian tribes or Indian individuals. ITAs can be real property, physical assets, or intangible property rights, such as lands, minerals, hunting and fishing rights, traditional gathering grounds, and water rights. The United States has an Indian Trust responsibility to protect and maintain rights reserved by or granted to such tribes or individuals by treaties, statutes, and executive orders. These rights are sometimes

further interpreted through court decisions and regulations. This Trust responsibility requires that all federal agencies take all actions reasonably necessary to protect Trust Assets.

The policy of the Department of the Interior is to recognize and fulfill its legal obligations to identify, protect, and conserve the trust resources of Federally recognized Indian tribes and tribal members, and to consult with tribes on a Government-to-Government basis whenever plans or actions affect tribal trust resources, trust assets, or tribal safety (see Departmental Manual, 512 DM 2). Under this policy, DOI agencies are committed to carrying out activities in a manner that avoids adverse impacts to ITAs when possible and mitigate or compensates for such impacts when it cannot. All impacts to ITAs, even those considered nonsignificant, must be discussed in the trust analyses in NEPA compliance documents and appropriate compensation or mitigation must be implemented. Any action that adversely affects the use, value, quality or enjoyment of an ITA is considered to have an adverse impact to the resources.

Indian Trust Assets in the project vicinity include land held by the United States Bureau of Indian Affairs (BIA) in Trust for the Ute Indian Tribe (Figure 1).

### **3.6.2 ENVIRONMENTAL CONSEQUENCES**

#### **3.6.2.1 No Action Alternative**

Under this alternative, the land transfer would not take place and there would be no potential for impacts on ITAs.

#### **3.6.2.2 Proposed Action**

Transfer of the proposed properties to UDWR with essentially no change in management would have no effect on ITAs. There are known ITAs (BIA Lands) in the project area vicinity; however, no ITA concerns were identified by potentially affected tribes during the tribal consultation process. Because the Proposed Action would essentially be an administrative action, implementation would have no effect on ITAs.

### **3.7 SOCIOECONOMIC RESOURCES**

Scoping and internal, interdisciplinary review identified the following socioeconomic issue:

- *How would the proposed land transfer affect PILT funding currently received by Duchesne and Wasatch counties?*

#### **3.7.1 AFFECTED ENVIRONMENT**

The Federal Government is exempt from paying property taxes on federally owned properties. To help offset the loss of property tax revenues that would otherwise have been paid to counties if federally owned property was in private ownership, counties receive Payments in Lieu of Taxes (PILT) from the United States. The formula used to compute PILT amounts is contained in the PILT Act (P.L. 94-565, as amended, 31 U.S.C. §§6901-6907) and is based on the amount of federal land within an affected county. PILT amounts are also limited by the county's population. PILT are in addition to other federal payments to states, such as oil and gas leasing, livestock grazing, and timber harvesting. The 2019 PILT amounts to Duchesne and Wasatch County were \$2,068,619 and \$1,257,731, respectively<sup>2</sup>. Duchesne County's PILT amount is presently limited by the county's smaller population size.

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<sup>2</sup> (Fiscal Year 2019 Payment in Lieu of Taxes, U.S. Department of Interior National Summary [https://www.doi.gov/sites/doi.gov/files/uploads/2019\\_national\\_summary\\_pilt\\_0.pdf](https://www.doi.gov/sites/doi.gov/files/uploads/2019_national_summary_pilt_0.pdf))

### 3.7.2 ENVIRONMENTAL CONSEQUENCES

#### 3.7.2.1 No Action Alternative

Under this alternative, the land transfer would not take place and there would be no potential for socioeconomic impacts. PILT amounts would continue to be calculated the same for Duchesne and Wasatch counties as in the past. Mineral lease payments would also be unchanged.

#### 3.7.2.2 Proposed Action

Once federally owned lands are transferred out of federal ownership, they are no longer subject to PILT. Under the Proposed Action, the amount of Federal land subject to PILT would be reduced in Duchesne and Wasatch counties by approximately 11,097 acres and 5,441 acres, respectively<sup>3</sup>. Because Duchesne County’s PILT amounts are already being limited under existing conditions, the reduction in lands subject to PILT would not decrease the PILT amount to Duchesne County under the Proposed Action. Wasatch County’s PILT amount would not be limited by its population size, therefore the reduction in Federal lands subject to PILT would reduce the county’s PILT amount by \$15,354 annually.

The State of Utah appropriates funds from the Mineral Lease Account at \$0.52 per acre of land owned by the UDWR that are not under an in lieu of taxes contract to each county in which those lands are located (Utah Code 59-21-2 §2(j)(i)(A)). Therefore, the transfer of federal lands to the UDWR would increase annual payments to Duchesne and Wasatch counties from the Mineral Lease account by \$5,770 and \$2,829, respectively. The net change in payments to Duchesne and Wasatch counties would be a 0.3 percent (\$5,770) increase for Duchesne County and a 1.0 percent (\$12,525) reduction for Wasatch County (Table 7).

County	Acres Affected	Pre-Project PILT (2019)	Post-Project PILT	Change in PILT	State of Utah Mineral Lease Payments	Net Change in Payment
Duchesne	11,097	\$2,068,619	\$2,068,619 <sup>1</sup>	\$0	\$5,770	\$5,770
Wasatch	5,441	\$1,257,731	\$1,242,376	-\$15,355	\$2,829	-\$12,525

<sup>1</sup> PILT amount presently limited by Duchesne County’s population size.

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<sup>3</sup> These acreage estimates are based on available data. Final acreage values will be per conveyance deeds.

## **CHAPTER 4: CONSULTATION AND COORDINATION**

On September 27, 2019, the Mitigation Commission issued a public scoping notice outlining the proposed BU of the CUP Land Transfer (the proposed action) and inviting comments on issues to be addressed in the associated NEPA review. The public scoping notice was distributed to the agencies, organizations, individuals, local Indian Tribes, and the Bureau of Indian Affairs on the Mitigation Commission mailing list. The notice was also posted on the Mitigation Commission website ([www.mitigationcommission.gov](http://www.mitigationcommission.gov)). A public scoping meeting was advertised on the scoping notice and was held October 17, 2019.

The scoping period formally began on October 1, 2019 and closed on November 1, 2019. Scoping comments were received from one organization and two agencies. The scoping notice and letters received are included in the project record.

Letters requesting other agencies to be Cooperating Agencies were sent to the USFWS, UDWR, Central Utah Water Conservancy District (District), and Duchesne, Wasatch, and Summit counties. Cooperating Agency status was accepted by the UDWR, District, and Duchesne and Wasatch Counties. Representatives of many of these agencies were involved in meetings and draft document reviews.

On May 29, 2020, the Mitigation Commission released a Public Draft of the Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah Environmental Assessment (EA) for review and comment. The draft EA was distributed electronically to agencies, organizations, and individuals on the Mitigation Commission mailing list. The draft EA was also posted on the Mitigation Commission website at [www.mitigationcommission.gov](http://www.mitigationcommission.gov). Paper copies of the document could also be obtained from Maureen Wilson, Project Coordinator.

The comment period formally began on June 2 and closed on July 2, 2020. Comment letters were received from the U.S. Forest Service, the Navajo Nation, and Duchesne County. The Response to Public Comment Report is included as Appendix B.

## **CHAPTER 5: LIST OF PREPARERS**

<b>Utah Reclamation Mitigation Conservation Commission</b>		
<b>Name</b>	<b>Position</b>	<b>Contribution</b>
Mark Holden	Executive Director	Project oversight.
Maureen Wilson	Project Coordinator	Project administration and coordination.
<b>U.S. Department of Interior, CUPCA Office</b>		
Reed Murray	Program Director	Project oversight.
W. Russ Findlay	Program Coordinator	Review
<b>U.S. Bureau of Reclamation, Provo Office</b>		
Wayne Pullan/ Kent Kofford	Area Manager	Project oversight.
Tom Davidowicz	Fish and Wildlife Biologist	Review
Carley Smith	Archaeologist	Review
<b>Cirrus Ecological Solutions, LC Team</b>		
Scott Evans	Contractor Project Manager	Project management, NEPA oversight, and QA/QC review.
Eric Duffin	Hydrologist and Soils Scientist	Preparation of water resources analysis.
Lauren Ikerd	Botanist	Preparation of botany resource analysis.
Matt Westover	Wildlife Biologist	Preparation of wildlife and fish resources analyses.
Judith Seamons	Document Production Specialist	Document production and preparation of the project record.

## **CHAPTER 6: REFERENCES**

- NatureServe. 2020. NatureServe Explorer: An online encyclopedia of life. <explorer.natureserve.org>. Accessed 2 Jan 2020.
- Reisor, R. 2019. U.S. Fish and Wildlife Service. Botanist. Email conversation with Jenna Jorgensen, Jones & DeMille Engineering, regarding presence of Ute ladies'-tress in Strawberry River area. November 2019
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- USFWS. 2020. List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project. Information for Planning and Consultation (IPaC). Accessed 9 Jan 2020.
- Wheeler, M. 2020. Utah Department of Natural Resources, Rare Plant Conservation Coordinator. Email conversation with L. Ikerd, Cirrus Ecological Solutions, regarding special status plant species. January 27.

## **APPENDIX A – FEDERAL PROPERTIES** **PROPOSED FOR TRANSFER TO THE STATE OF** **UTAH**

<b>Proposed transfer parcels, associated acreages, and general location of Federal properties proposed for transfer to the State of Utah.</b>				
<b>FID</b>	<b>Parcel ID</b>	<b>County</b>	<b>Acres</b>	<b>Owner</b>
24	00-0008-7050	Duchesne	39	Mitigation Commission
25	00-0008-7084	Duchesne	147	Mitigation Commission
26	00-0008-7027	Duchesne	77	Mitigation Commission
27	00-0008-6730	Duchesne	67	Mitigation Commission
28	00-0008-6862	Duchesne	643	Mitigation Commission
29	00-0008-6680	Duchesne	76	Mitigation Commission
30	00-0008-6714	Duchesne	28	Mitigation Commission
31	00-0035-0448	Duchesne	315	Mitigation Commission
32	00-0035-0449	Duchesne	313	Mitigation Commission
33	00-0008-6805	Duchesne	10	Mitigation Commission
34	00-0008-7092	Duchesne	18	Mitigation Commission
35	00-0035-0450	Duchesne	242	Mitigation Commission
36	00-0008-8504	Duchesne	160	Mitigation Commission
37	00-0008-8728	Duchesne	159	Mitigation Commission
38	00-0008-6664	Duchesne	317	Mitigation Commission
39	00-0008-6649	Duchesne	311	Mitigation Commission
40	00-0008-8710	Duchesne	9	Mitigation Commission
41	00-0008-7019	Duchesne	81	Mitigation Commission
42	00-0010-6173	Duchesne	79	Mitigation Commission
43	00-0010-6165	Duchesne	236	Mitigation Commission
44	00-0010-6199	Duchesne	159	Mitigation Commission
45	00-0010-6181	Duchesne	159	Mitigation Commission
46	00-0010-6207	Duchesne	646	Mitigation Commission
47	00-0010-6215	Duchesne	628	Mitigation Commission
48	00-0010-6249	Duchesne	333	Mitigation Commission
49	00-0028-4350	Duchesne	39	Mitigation Commission
50	00-0028-4343	Duchesne	39	Mitigation Commission
51	00-0028-4368	Duchesne	40	Mitigation Commission
52	00-0010-5084	Duchesne	118	Mitigation Commission
53	00-0010-3188	Duchesne	636	Mitigation Commission
54	00-0010-3196	Duchesne	636	Mitigation Commission
55	00-0010-3204	Duchesne	640	Mitigation Commission
56	00-0010-4350	Duchesne	35	Mitigation Commission
57	00-0010-4269	Duchesne	10	Mitigation Commission
58	00-0010-4236	Duchesne	526	Mitigation Commission
59	00-0010-6124	Duchesne	80	Mitigation Commission
60	00-0010-4277	Duchesne	10	Mitigation Commission

Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah  
Environmental Assessment

<b>Proposed transfer parcels, associated acreages, and general location of Federal properties proposed for transfer to the State of Utah.</b>				
<b>FID</b>	<b>Parcel ID</b>	<b>County</b>	<b>Acres</b>	<b>Owner</b>
61	00-0010-5282	Duchesne	40	Reclamation
62	00-0010-5167	Duchesne	157	Reclamation
63	00-0010-5100	Duchesne	315	Reclamation
64	00-0010-4962	Duchesne	98	Reclamation
65	00-0027-5242	Duchesne	5	Reclamation
66	00-0010-4525	Duchesne	5	Reclamation
67	00-0010-4533	Duchesne	318	Reclamation
68	00-0010-4368	Duchesne	509	Reclamation
69	00-0010-4228	Duchesne	10	Reclamation
70	00-0010-3725	Duchesne	7	Reclamation
71	00-0010-4558	Duchesne	156	Reclamation
72	00-0029-5125	Duchesne	315	Reclamation
73	00-0010-4376	Duchesne	60	Reclamation
74	00-0027-8501	Duchesne	1	Reclamation
75	00-0010-4673	Duchesne	6	Reclamation
76	00-0010-4681	Duchesne	39	Reclamation
77	00-0010-4640	Duchesne	31	Reclamation
78	00-0010-4574	Duchesne	29	Reclamation
79	00-0010-4624	Duchesne	10	Reclamation
80	00-0010-4590	Duchesne	10	Reclamation
81	00-0010-4616	Duchesne	10	Reclamation
82	00-0010-3311	Duchesne	4	Reclamation
83	00-0010-3295	Duchesne	10	Reclamation
84	00-0026-5607	Duchesne	31	Reclamation
85	00-0027-8469	Duchesne	78	Reclamation
86	00-0010-3501	Duchesne	297	Reclamation
87	00-0010-3329	Duchesne	35	Reclamation
88	00-0010-6157	Duchesne	123	Reclamation
89	00-0010-6231	Duchesne	10	Reclamation
90	00-0029-3344	Duchesne	62	Reclamation
91	00-0010-6223	Duchesne	258	Reclamation
0	00-0020-3851	Wasatch	119	Mitigation Commission
1	00-0010-7545	Wasatch	180	Mitigation Commission
2	00-0010-7651	Wasatch	180	Mitigation Commission
3	00-0010-8865	Wasatch	639	Mitigation Commission
4	00-0010-9558	Wasatch	212	Reclamation
5	00-0014-2005	Wasatch	79	Reclamation
6	00-0013-9423	Wasatch	96	Reclamation
7	00-0013-9431	Wasatch	220	Reclamation
8	00-0010-9954	Wasatch	315	Reclamation
9	00-0010-9962	Wasatch	294	Mitigation Commission
10	00-0010-9970	Wasatch	20	Mitigation Commission
11	00-0010-8907	Wasatch	641	Mitigation Commission
12	00-0010-8915	Wasatch	319	Mitigation Commission
13	00-0010-8931	Wasatch	318	Mitigation Commission
14	00-0010-9038	Wasatch	637	Mitigation Commission



Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah  
Environmental Assessment

<b>Proposed transfer parcels, associated acreages, and general location of Federal properties proposed for transfer to the State of Utah.</b>				
<b>FID</b>	<b>Parcel ID</b>	<b>County</b>	<b>Acres</b>	<b>Owner</b>
15	00-0013-9464	Wasatch	158	Mitigation Commission
16	00-0010-8998	Wasatch	317	Mitigation Commission
17	00-0010-9020	Wasatch	319	Mitigation Commission
18	00-0013-5199	Wasatch	40	Mitigation Commission
19	00-0013-5223	Wasatch	40	Mitigation Commission
20	00-0020-1838	Wasatch	20	Mitigation Commission
21	00-0020-1839	Wasatch	20	Mitigation Commission
22	00-0020-8807	Wasatch	160	Mitigation Commission
23	00-0012-9150	Wasatch	98	Mitigation Commission

**APPENDIX B – RESPONSE TO PUBLIC  
COMMENT REPORT**

# RESPONSE TO PUBLIC COMMENT REPORT

## TRANSFER OF BONNEVILLE UNIT WILDLIFE AND AQUATIC MITIGATION LAND TO STATE OF UTAH ENVIRONMENTAL ASSESSMENT

August 7, 2020

### INTRODUCTION

On May 29, 2020, the Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) released a Public Draft of the Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah Environmental Assessment (EA) for review and comment. The EA analyzed the consideration of the transfer of 16,700 acres acquired in the Duchesne River watershed for CUP aquatic and wildlife mitigation to the Utah Division of Wildlife Resources for ongoing stewardship per the Fish and Wildlife Coordination Act and the Central Utah Project Completion Act.

The draft EA was distributed electronically to agencies, organizations, and individuals on the Mitigation Commission mailing list. The draft EA was also posted on the Mitigation Commission website at [www.mitigationcommission.gov](http://www.mitigationcommission.gov). Paper copies of the document could also be obtained from Maureen Wilson, Project Coordinator.

Public Notices were published in the *Salt Lake Tribune* on June 2, 2020; *Uintah Basin Standard* on June 2 and June 9, 2020; and *Wasatch Wave* on June 3 and June 10, 2020.

The comment period formally began on June 2 and closed on July 2, 2020. Comment letters were received from the U.S. Forest Service, the Navajo Nation, and Duchesne County. The Public Notice and comment letters are included below (Appendix A and B, respectively).

### RESULTS

Table 1 identifies each comment letter, noting the name and address of the commenter, and the topic or topics raised.

<b>Table 1. Public comment log.</b>		
<b>Name</b>	<b>Address</b>	<b>Topic(s) Raised</b>
Paul Cowley U.S. Forest Service	<a href="mailto:Paul.cowley@usda.gov">Paul.cowley@usda.gov</a>	Purpose and need, land transfer, land ownership.
Timothy C. Begay Navajo Cultural Specialist Navaho Nation Heritage and Historic Preservation Department	P.O. Box 4950 Window Rock, AZ 86515 <a href="mailto:tbegay@navajo-nsn.gov">tbegay@navajo-nsn.gov</a>	Traditional Cultural Properties.
Michael A. Hyde, AICP Duchesne County Community Development Director	P.O. Box 317 Duchesne, UT 84021 <a href="mailto:mhyde@duchesne.utah.gov">mhyde@duchesne.utah.gov</a>	Timber harvest, general support.

## PROCESSING OF COMMENTS

Methodologically, a key step in the comment process is determining which comments affect the scope of the NEPA analysis and which do not. Comments that do not affect the scope of the analysis include those that:

- Express an opinion without an associated issue or concern.
- Are outside the scope of the decision to be made.
- Are addressed by other regulations, laws, or higher-level decisions.
- Are conjectural or not supported by science.

Comments that do affect the results of the analysis include those that:

- Supplement, improve, or modify its analysis.
- Make factual corrections.
- Modify alternatives including the proposed action.
- Develop and evaluate alternatives not previously given serious consideration.
- Explain why the comments do not warrant further agency response, citing the sources, authorities, or reasons which support the agency's position and, if appropriate, indicate those circumstances which would trigger agency reappraisal of further response.

## COMMENTS AND RESPONSES

The responsible official considered all written comments on the EA. However, specific written comments were most helpful when they were within the scope of the proposed action, had a direct relationship to the proposed action, and included supporting reasons for the responsible official to consider.

The comments received were associated with resource-specific concerns and opinions regarding the proposed action. All comments received are included in this report. Each comment is quoted, in italics, under the appropriate topic or resource area, followed by a discussion of how it is being considered in this NEPA review. Comments received and responses to them are provided below.

Under each topic heading, comments that could affect the NEPA analysis are identified and discussed first, followed by comments that do not affect the scope of the analysis.

### Process

#### *Purpose and Need*

- *Section 1.3 Purpose and Need does not present why there is a need to transfer of lands to the State of Utah. This section states that the purpose is to fulfill the CUP requirements described in the 1987 and 1988 mitigation plans. Do these plans state that there is a requirement to transfer the lands to the State of Utah? If so, then the language in the plans should be cited in the Purpose and Need section so that it is very clear that the intent of the plans was to transfer the lands from federal ownership to State of Utah ownership. Please explain where in the plans that it is stated that the transfer of lands to the State of Utah is a requirement.*

Discussion:

The referenced 1987 and 1988 mitigation plans for the Bonneville Unit were both prepared and subsequently adopted by Reclamation under the authority of the Fish and Wildlife Coordination Act of 1934 (“FWCA”, 16 U. S.C.A. §§ 661-67, 48 Stat. 401, as amended), and Section 8 of the Colorado River Storage Project Act (the Act of April 11, 1956, 70 Stat. 105, 43 U.S.C. § 620, et seq., as amended). The FWCA provides for lands acquired under its authority to be made available to the State wildlife agency if the Secretary of the Interior and the State agree it is in the public interest. “title will be conveyed to the U.S. Forest Service”, or “Title will be conveyed to the Utah Division of Wildlife Resources”, or “Title will be retained by the U.S. Bureau of Reclamation. A management agreement with State of Utah will be implemented”. The Bureau of Reclamation’s Record of Decision for the M&I System also committed to transfer mitigation lands to the Utah Division of Wildlife Resources. The State of Utah and the Department of the Interior did agree under the 1992 ‘General Plan’ (see 16 USC §§ 663-664) for the Bonneville Unit, which identified the designated mitigation lands to transfer to the State of Utah for administration by the Utah Division of Wildlife Resources. Transferring these lands to the State of Utah is in fulfillment of the FWCA commitments and agreements.

The text in the EA has been revised to clarify.

***Land Transfer***

- *Section 2.2 No Action Alternative states that “For the long-term, the CUP aquatic and wildlife mitigation requirements may not be met until lands are transferred to the State of Utah, Division of Wildlife in accordance with FWCA.” Please explain why this is so. Why is meeting the CUP aquatic and wildlife mitigation requirements contingent upon the transfer of lands to the State of Utah?*

*We would recommend that the Act be cited in regards to the land transfer. This will make it easier for the public to understand why the transfer is necessary. Here is the applicable language from the Act on the land transfer.*

*The Act provides the following direction:*

*(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION. – Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b) –*

*(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and*

*(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within the Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.*

Discussion: See above for explanation of why this is so.

The transfer of lands to the Utah Division of Wildlife Resources would be made under the authority of not only CUPCA, which was referenced in your comment, but also under the FWCA. Section 301(c) of CUPCA specifically addresses the Commission’s compliance with “... the requirements of all Federal fish, wildlife, recreation, and environmental laws, including (but not limited to) the Fish and Wildlife Coordination Act, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) ...”. The section of CUPCA included in your comment, Section 301(k), provides “...upon the termination of the Commission ...” for the transfer of “... title to any real and personal properties **then held by the Commission** ... to the appropriate division within the Department of

*Natural Resources ...” (emphasis added).* Section 301(k) does not prohibit or restrict the Commission from transferring title prior to its termination. Section 301(h)(7) specifically authorizes the Commission to acquire and dispose of real and personal property.

Text in the EA has been revised to address your comment.

### ***Land Ownership***

- *We have reviewed the parcels and none of these are within the proclaimed boundary of the Forest Service.*

Discussion: The Mitigation Commission agrees with your boundary assessment.

### **Traditional Cultural Properties**

- *After reviewing your letter and cross referencing our Traditional Cultural Properties (TCP’s) database, NNHHPD-TCP has determined that there are No Navajo TCP’s within the project area and you may proceed without further consultation for this project.*

Discussion: The Mitigation Commission recognizes and appreciates the determination of the Navajo Nation Heritage and Historic Preservation Department.

### **Timber Harvest**

- *I noticed one potential edit to be made on the bottom of Page 19: The sentence should read: “Timber harvest does not generally occur on the proposed transfer parcels, unless for a specific purpose, for example, removal of burned, dead or diseased trees that pose a safety concern.”*

Discussion: The Mitigation Commission has made the requested edits to the final EA.

### **General Support**

- *I will ask the Duchesne County Commissioners to sign an official letter in support of the transfer.*

Discussion: The Mitigation Commission appreciates the support of Duchesne County.

## APPENDIX A – PUBLIC NOTICE

### Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah – Draft Environmental Assessment

Released for Public Comments through July 2, 2020

A draft Environmental Assessment (EA) analyzing potential environmental impacts resulting from a proposed transfer of approximately 16,700 acres of Federal lands located in Duchesne and Wasatch counties to the State of Utah is available for public review and comment. The Mitigation Commission and U.S. Bureau of Reclamation purchased the lands to provide public access for compatible recreational opportunities, including angling and hunting, as mitigation for fish and wildlife impacts resulting from construction and operation of the Bonneville Unit of the Central Utah Project (CUP).

The proposed land transfer would satisfy the need to determine long-term management and stewardship of the properties, which have been managed by the Utah Division of Wildlife Resources (DWR) on an interim basis since the late 1980s.

The transfer would constitute a major Federal action requiring analysis and disclosure under NEPA. The United States would transfer the acquired lands to DWR, in accordance with Federal and State of Utah laws, rules, and policies.

The draft EA can be downloaded from the Mitigation Commission's website at [mitigationcommission.gov](http://mitigationcommission.gov) and the Department of the Interior website at [doi.gov/cupcao](http://doi.gov/cupcao). **All questions and comments regarding the draft EA need to be submitted no later than 2 July 2020 to:** Maureen Wilson, Mitigation Commission, 230 South 500 East, Suite 230, SLC, UT 84102; [mwilson@usbr.gov](mailto:mwilson@usbr.gov); 801-524-3146.

All comments received will be carefully reviewed and considered in preparing a final EA.

## **APPENDIX B – COMMENT LETTERS RECEIVED**

**U.S. Forest Service**

**Navajo Nation**

**Duchesne County**



## Scott Evans

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**From:** Wilson, Maureen M <MWilson@usbr.gov>  
**Sent:** Thursday, June 25, 2020 11:27 AM  
**To:** Holden, Mark A; Scott Evans  
**Cc:** CFiles, rec-URM  
**Subject:** Fw: [EXTERNAL] RE: Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah; Public Draft Environmental Assessment

For your information and files.

---

**From:** Cowley, Paul -FS <paul.cowley@usda.gov>  
**Sent:** Thursday, June 25, 2020 11:10 AM  
**To:** Wilson, Maureen M <MWilson@usbr.gov>  
**Cc:** Cowley, Paul -FS <paul.cowley@usda.gov>  
**Subject:** [EXTERNAL] RE: Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah; Public Draft Environmental Assessment

Maureen,

Our staff have reviewed the documents provided and we would like to make the following comments:

Comment #1: Section 1.3 Purpose and Need does not present why there is a need to transfer of lands to the State of Utah. This section states that the purpose is to fulfill the CUP requirements described in the 1987 and 1988 mitigation plans. Do these plans state that there is a requirement to transfer the lands to the State of Utah? If so, then the language in the plans should be cited in the Purpose and Need section so that it is very clear that the intent of the plans was to transfer the lands from federal ownership to State of Utah ownership. Please explain where in the plans that it is stated that the transfer of lands to the State of Utah is a requirement.

Comment #2: Section 2.2 No Action Alternative states that "For the long-term, the CUP aquatic and wildlife mitigation requirements may not be met until lands are transferred to the State of Utah, Division of Wildlife in accordance with FWCA." Please explain why this is so. Why is meeting the CUP aquatic and wildlife mitigation requirements contingent upon the transfer of lands to the State of Utah?

We would recommend that the Act be cited in regards to the land transfer. This will make it easier for the public to understand why the transfer is necessary. We have reviewed the parcels and none of these are within the proclaimed boundary of the Forest Service. Here is the applicable language from the act on the land transfer.

The Act provides the following direction:

(k) TRANSFER OF PROPERTY AND AUTHORITY HELD BY THE COMMISSION. - Except as provided in section 402(b)(4)(A), upon the termination of the Commission in accordance with subsection (b) –

(1) the duties of the Commission shall be performed by the Utah Division of Wildlife Resources, which shall exercise such authority in consultation with the United States Fish and Wildlife Service, the District, the Bureau, and the Forest Service; and

(2) title to any real and personal properties then held by the Commission shall be transferred to the appropriate division within Utah Department of Natural Resources or, for such parcels of real property as may be within the boundaries of Federal land ownerships, to the appropriate Federal agency.

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## Scott Evans

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**From:** Wilson, Maureen M <MWilson@usbr.gov>  
**Sent:** Thursday, June 18, 2020 10:52 AM  
**To:** Scott Evans  
**Cc:** Smith, Carley B  
**Subject:** Fw: [EXTERNAL] ENVIRONMENTAL ASSESSMENT OF BONNEVILL UNIT WILDLIFE AND AQUATIC MITIGATION LANDS

Scott, a comment letter for the record.

Maureen

Maureen Wilson, Project Coordinator  
Utah Reclamation Mitigation and Conservation Commission  
230 South 500 East, Suite 230  
Salt Lake City, Utah 84102-2045  
801-524-3166  
801-718-5435 cell

<https://www.mitigationcommission.gov/>

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**From:** Findlay, Walter (Russ) <WFindlay@usbr.gov>  
**Sent:** Thursday, June 18, 2020 9:20 AM  
**To:** Holden, Mark A <MHolden@usbr.gov>; Wilson, Maureen M <MWilson@usbr.gov>  
**Subject:** FW: [EXTERNAL] ENVIRONMENTAL ASSESSMENT OF BONNEVILL UNIT WILDLIFE AND AQUATIC MITIGATION LANDS

I received the attached letter form NNHPD on the Bonneville Unit EA.

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**From:** Timothy Begay <tbegay@navajo-nsn.gov>  
**Sent:** Friday, June 12, 2020 1:47 PM  
**To:** Findlay, Walter (Russ) <WFindlay@usbr.gov>  
**Subject:** [EXTERNAL] ENVIRONMENTAL ASSESSMENT OF BONNEVILL UNIT WILDLIFE AND AQUATIC MITIGATION LANDS

Dear Ms. Mackay:

The Navajo Nation Heritage and Historic Preservation Department's (NNHPD) Traditional Culture Program is (TCP) in receipt of your letter regarding Transfer Bonneville Unit Wildlife and Aquatic Mitigation Lands to the State of Utah.

After reviewing your letter and cross referencing our Traditional Cultural Properties (TCP's) database, NNHPD-TCP has determined that there are No Navajo TCP's within the project area and you may proceed without further consultation for this project.

If you have any additional questions, concerns or would like to discuss these issues further, please don't hesitate to contact our office at (928) 871-7198 or (928) 871-7152. Thank you for your cooperation and understanding.

Sincerely,

Timothy C. Begay, Navajo Cultural Specialist  
Navajo Nation Heritage and Historic Preservation Department  
P.O. Box 4950  
Window Rock, AZ 86515  
[tbegay@navajo-nsn.gov](mailto:tbegay@navajo-nsn.gov)

## Scott Evans

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**From:** Wilson, Maureen M <MWilson@usbr.gov>  
**Sent:** Friday, May 29, 2020 2:49 PM  
**To:** Scott Evans  
**Cc:** Holden, Mark A  
**Subject:** Fw: [EXTERNAL] Re: Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah; Public Draft Environmental Assessment

1st comment email.

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**From:** Mike Hyde <mhyde@duchesne.utah.gov>  
**Sent:** Friday, May 29, 2020 10:56 AM  
**To:** Wilson, Maureen M <MWilson@usbr.gov>  
**Subject:** [EXTERNAL] Re: Transfer of Bonneville Unit Wildlife and Aquatic Mitigation Lands to State of Utah; Public Draft Environmental Assessment

Thanks for sending Duchesne County the public draft of the EA associated with the land transfer to the UDWR. In June, I will ask the Duchesne County Commissioners to sign an official letter in support of the transfer.

I noticed one potential edit to be made on the bottom of Page 19: The sentence should read:

"Timber harvest does not generally occur on the proposed transfer parcels, unless for a specific purpose, for example, removal of burned, dead or diseased trees that pose a safety concern."

On Fri, May 29, 2020 at 8:55 AM Wilson, Maureen M <MWilson@usbr.gov> wrote:

Dear Reader:

The draft Environmental Assessment (draft EA) of the proposed Transfer of Central Utah Project (CUP) Wildlife and Aquatic Mitigation Lands to the State of Utah is attached for your review and comment. The draft EA analyzes potential environmental impacts of the proposed lands transfer and alternatives for meeting its purpose. The lands are in Duchesne and Wasatch counties, Utah.

The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) is a federal agency established by Congress with passage of the Central Utah Project Completion Act in 1992, P.L. 102-575 (CUPCA). The Mitigation Commission's mission is to plan, fund and coordinate the environmental mitigation and conservation programs authorized by CUPCA. Section 301(h)(7) of CUPCA authorizes the Mitigation Commission to acquire and dispose of personal and real property and water rights, and interests therein, through donation, purchase on a willing seller basis, sale, or lease, but not through direct exercise of the power of eminent domain, in order to carry out the Act's purposes.

The Mitigation Commission and Bureau of Reclamation together have acquired lands in Duchesne and Wasatch counties since the 1980s for the purpose of fulfilling CUP wildlife and aquatic mitigation requirements. The Mitigation Commission and Reclamation are now proposing to transfer ownership of approximately 16,538 acres and appurtenant water rights of those lands to the State of Utah, UDWR for ongoing stewardship for fish and wildlife purposes as per the Fish and Wildlife Coordination Act and CUPCA.

The approximately 16,538 acres were purchased as mitigation for fish and wildlife impacts of the Strawberry Aqueduct and Collection, Diamond Fork, and Municipal and Industrial Systems of CUP's Bonneville Unit. The properties were purchased to protect and restore fish and wildlife habitat and to provide sportsman's access for related recreation. Consumptive recreation opportunities that occur on the properties include angling and hunting of both upland game and big game.

The transfer constitutes a major Federal action requiring analysis and disclosure under NEPA. The United States would transfer the acquired lands to UDWR, in accordance with Federal and State of Utah laws, rules, and policies.

The attached draft EA is also available on the Mitigation Commission website at [www.mitigationcommission.gov](http://www.mitigationcommission.gov). Copies may also be obtained by contacting Maureen Wilson (contact information below). All comments received will be carefully reviewed and considered in preparing a final EA. Your comments regarding the draft EA need to be submitted no later than **Thursday, July 2, 2020** to:

Project Coordinator: Maureen Wilson  
Email: [mwilson@usbr.gov](mailto:mwilson@usbr.gov)  
Mailing Address: 230 South 500 East, Ste 230  
Salt Lake City, UT 84102

Sincerely,

Mark A. Holden,  
Executive Director

--  
Mike Hyde, AICP  
Duchesne County  
Community Development Director  
PO Box 317  
Duchesne, UT 84021-0317  
435-738-1151  
Fax: 435-738-5522  
[mhyde@duchesne.utah.gov](mailto:mhyde@duchesne.utah.gov)



## DUCHEсне COUNTY COMMISSION

*Greg Todd, Chairman, Irene Hansen, Member, Gregory Miles, Member*

P.O. Box 270

Duchesne, Utah 84021-0270

Phone (435) 738-1100

Fax (435) 738-5522

June 8, 2020

Ms. Maureen Wilson, Project Coordinator  
Utah Reclamation, Mitigation & Conservation Commission  
230 South 500 East, Suite 230  
Salt Lake City, UT 84102

RE: Transfer of Bonneville Unit Wildlife & Aquatic Mitigation Lands to the State of Utah

Dear Ms. Wilson:

The Duchesne County Commissioners are in full support of the proposal of the Utah Reclamation, Mitigation & Conservation Commission (URMCC) to transfer approximately 11,097 acres of land in our county from federal ownership to state ownership. Our philosophy is that public lands should generally be owned and managed by agencies closer to the local level as opposed to the federal level.

These lands would be managed by the Utah Division of Wildlife Resources (UDWR) as they have been in the past, with the primary objectives to “protect and improve wildlife habitats and watersheds; increase fish and game populations to meet wildlife management plan objectives and expand fishing and hunting opportunities; conserve, protect, and recover sensitive wildlife species and their habitats and provide wildlife-related recreational opportunities.”

We are pleased to find, in Table 7 of the Environmental Assessment, that this transfer will have no affect on the amount of PILT funding that is received by Duchesne County and that mineral lease payments from the state are anticipated to increase by \$5,770.00 after the transfer.

The Duchesne County Resource Management Plan contains the following policies:

*The county should be consulted on any federal land acquisition or disposal actions located within the borders of, or in close proximity to, the county.*

*Federal lands shall be available for disposal when lands are difficult to manage or consist of isolated tracts, when such disposal meets the important public objective of community expansion or economic development, or when the disposal would serve the public interest.*

We appreciate the opportunity to consult with the URMCC regarding this land disposal action. We believe that the proposal is in the public interest and makes sense given that UDWR has been managing the lands in the past.

Mitigation Commission  
Land Transfer EA  
June 8, 2020  
Page 2 of 2

Sincerely,

DUCHESNE COUNTY COMMISSIONERS

*Greg Todd*  
*Jenni Hansen*  
*Greg Miller*



Mike Hyde, AICP  
Community Development Director