RED CREEK DAM REINFORCEMENT AND SPILLWAY REPLACEMENT PROJECT

DRAFT ENVIRONMENTAL ASSESSMENT

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List of Acronyms Used

ACHP	Advisory Council on Historic Preservation
BMP	Best Management Practices
CEQ	Council on Environmental Quality
CFR	Code of Federal Regulations
EA	Environmental Assessment
ESA	Endangered Species Act
FEMA	Federal Emergency Management Agency
FONSI	Finding of No Significant Impact
FPPA	Farmland Protection and Policy Act
HAER	Historic American Engineering Survey
MBTA	Migratory Bird Treaty Act
MOA	Memorandum of Agreement
MOU	Memorandum of Understanding
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NRCS	Natural Resources Conservation Service
NRHP	National Register of Historic Places
OHWM	Ordinary High Water Mark
RCIC	Red Creek Irrigation Company
SGMA	Sage-Grouse Management Area
SHPO	State Historic Preservation Office
SWPPP	Storm Water Pollution Prevention Plan
UDAQ	Utah Division of Air Quality
UDWQ	Utah Division of Water Quality
UDWR	Utah Division of Wildlife Resources
UDWRes	Utah Division of Water Resources
UNHP	Utah Natural Heritage Program
UPDES	Pollutant Discharge Elimination System
USACE	United States Army Corps of Engineers
USC	United States Code
USFWS	United States Fish and Wildlife Service
WMA	Wildlife Management Area
WSFR	Wildlife and Sport Fish Restoration

CHAPTER 1: PURPOSE AND NEED

Introduction

The Utah Department of Wildlife Resources (UDWR) is seeking the U.S. Fish and Wildlife Service's (USFWS) approval (through a grant) to allow an easement with Red Creek Irrigation Company (RCIC), in order to allow the RCIC and the Utah Division of Water Resources (UDWRes) to make improvements to the existing Red Creek Dam. The Red Creek Dam is located approximately seven (7) miles north of Fruitland in Duchesne County, Utah.

This Draft Environmental Assessment (EA) evaluates the potential effects of the Proposed Action in order to determine whether it would cause significant impacts to the human or natural environment as defined by the National Environmental Policy Act (NEPA) and the Council on Environmental Quality (CEQ) Regulations Implementing NEPA (40 CFR Parts 1500-1508 and 43 CFR Part 46, respectively). If the EA shows no significant impacts associated with implementation of the proposed project, then a Finding of No Significant Impact (FONSI) will be issued.

What is NEPA?

NEPA applies to all projects which are authorized, funded, or carried out with the involvement of the federal government. It is designed to help officials make decisions that are based on a full understanding of the environmental consequences of a project and to take actions that protect, restore, and enhance the environment. NEPA provides a structured process for decision-makers to follow. The CEQ regulations [40 CFR 1500-1508] are the primary regulations implementing NEPA.

Proposed Action

The Proposed Action would rebuild part of the Red Creek Dam, including replacement of the old spillway. Proposed improvements would include:

- Relocation of the spillway to the east end of the dam
- Construction of a soil-bentonite cutoff wall to decrease seepage through the porous gravelly formations in the west abutment.
- Construction of a drainage collection system to address leaking areas in the dam near the old spillway location
- Construction of an earthen berm at the downstream toe at foot of the dam to improve the stability of the dam in order to meet seismic standards
- Raising the crest of the dam to address the loss of volume due to sedimentation and settlement by placing fill on the downstream face of the dam.
- Realignment of a county road to curve around the new spillway
- Enhancement of the soils in the upstream face of the dam and in the foundation using in-situ soil-mixing technology (to be included in future phasing of the project dependent upon funding)

Study Area

The Red Creek Reservoir is located in Duchesne County, Utah, approximately seven (7) miles north of Fruitland. See Figure 1 – Project Location Area.

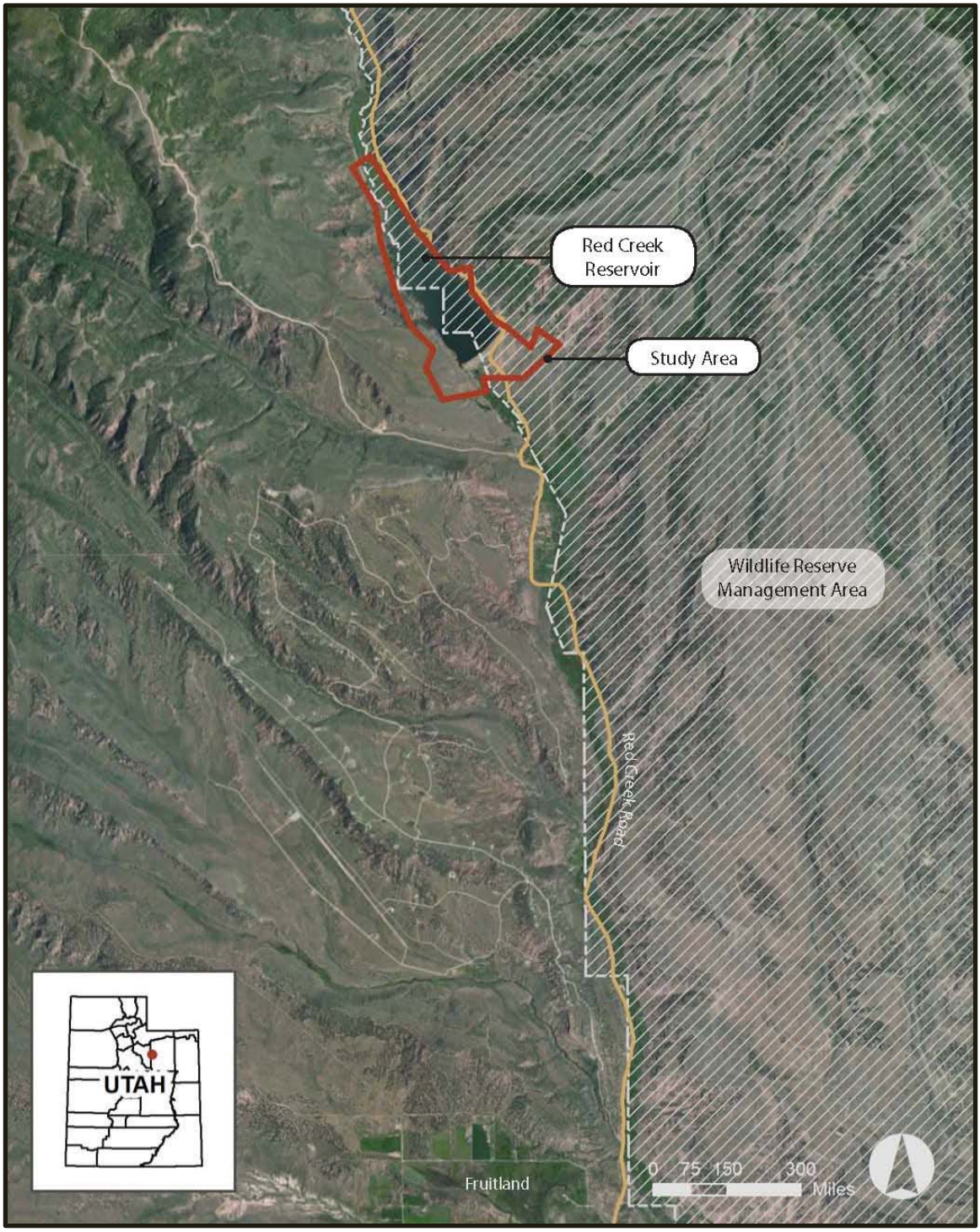

Figure 1. Project Location Area

Project Background

In 1959, the Red Creek Irrigation Company (RCIC) entered into a Conservation Pool Agreement with the UDWR, using state funds, to facilitate construction of the Red Creek Dam for the purpose of creating a reservoir to handle irrigation flows, as well as other purposes. The property was privately owned and the owners granted easements to RCIC in order to build the dam and impound Red Creek for irrigation water storage. As part of the agreement, UDWR acquired the right to use the dead storage of the reservoir for fish culture and to allow public access for fishing, hunting, and other recreation purposes.

In 1967, the UDWR, under the name "Red Creek Game Management Area", acquired the surface estate of one of the private property owners in part with grant funds (Grant #W-106-L) from the Wildlife and Sport Fish Restoration (WSFR) Program (administered by the USFWS) in order to protect big game winter range in the area east of Red Creek. Upkeep of the Red Creek Dam is supported by another grant from the WSFR (F-44-R) that provides Operations and Maintenance funds.

Approximately two-thirds of the project area is currently part of the Tabby Mountain Wildlife Management Area (WMA), which is managed to support game animals and other wildlife. Tabby Mountain WMA acts as critical range for big game animal survival (primarily mule deer and elk) in winter. The WMA is closed to the public during the winter and spring to protect wintering wildlife, but is open during other seasons for wildlife viewing and hunting. The other third, the western side of the dam and reservoir, is located on private property.

Red Creek Dam suffers from leakage issues near the existing spillway, which is unstable. Red Creek Dam is currently categorized as a "High Hazard" dam by the Dam Safety Section of the Utah Division of Water Rights, which is the regulatory agency for non-federal dams in the State of Utah. This determination is based upon the potential threat to lives and property should the dam suffer a catastrophic failure due to a seismic event, extremely high precipitation or other such event. The dam has been informally condemned and the reservoir level is required to be maintained at a level below the spillway until such time as repairs can be made to stop the seepage and stabilize the dam against seismic disturbance. See the Temporary Reservoir Management Plan in Appendix A.

Further, in 2003, RCIC inadvertently released the easements that had been granted for the dam and spillway. In order to complete the proposed improvements, the RCIC has requested a right-of-way easement from the UDWR, who is the current owner of the surface estate underlying most of the dam and reservoir. This easement would restore the inadvertently released easement, allow for the proposed improvements, and would allow for the realignment of the existing public county road. Currently, the county road runs along the foot of the dam and is subject to a right-of-way easement held by Duchesne County since 1932. The new alignment would move the road to the southeast, redirecting it around the new spillway, avoiding the need to construct two traffic-rated bridge crossings across the spillway. Duchesne County has agreed to the realignment, but the new roadway would require a right-of-way easement from the UDWR as well.

Purpose and Need

Project Purpose

The purpose of the proposed action is an easement for the RCIC, which would result in modifications to the dam (as described in the Project Description section). The goal of the action is to improve the safety and reliability of the Red Creek Dam so as to enable the reservoir to fulfill its intended purposes of water conservation, irrigation, fish and wildlife habitat, and public recreation.

Need for Action

The project action (i.e., dam modification) is needed because the deficiencies of the existing dam prevent it from operating as intended. The following deficiencies have been noted:

- The spillway is structurally unsound. The walls are tipping and the joints are separating and deteriorating, allowing water to flow through them into the soil below.

- The spillway is undersized and cannot pass the flows required by Utah State Code.

- Piping (internal erosion of the foundation or embankment caused by seepage) has occurred, and is continuing to occur, beneath the spillway. At least one large cavity has been observed below the spillway, and several sinkholes have been observed around the upstream end.

Figure 2. View of the Existing Spillway

- Liquefiable soils have been identified below the dam, and the dam does not meet stability criteria for a seismic event.

- The drains under the spillway do not meet filter criteria, consisting only of a uniformly graded gravel surrounding a perforated clay pipe. The existing drain system is exacerbating the piping and seepage problems already present.

- The dam has settled in a bowed fashion, with the largest settlement exceeding three (3) feet near the center of the dam. This settlement was due to the unconsolidated alluvial foundation upon which the dam was built.

- There is excessive seepage through the gravelly porous soils in the right abutment of the dam, which has been occurring ever since the dam was constructed. Previous efforts to control it, including a grout curtain, drains, and installing clay blankets on the upstream side, have failed to stop the seepage. Combined flows are estimated at 100 gallons per minute (gpm).

Figure 3. Views of Existing Seepage Near the Existing Spillway

- Volume for the UDWR's conservation pool, as well as for the active storage of the reservoir, has been lost due to sedimentation. In order to restore the storage volume lost to sedimentation, the spillway crest and dam crest will need to be raised to 2.15 feet above their original elevation.

- The Dam Safety Section of the Utah Division of Water Rights has prohibited the use of the spillway and put a restriction on the water level permitted in the dam in order to prevent its use. The water level in the reservoir must remain low enough that the base flows during snowmelt, plus a 100-year storm event, will not raise the level of the water sufficiently to flow over the spillway.

Figure 4. Red Creek Dam and Reservoir Showing Water Level Restriction (Spring 2013)

- The restrictions on the filling of the reservoir, combined with poor water years and some issues with the construction of the new outlet works during the winter of 2013/2014 that were beyond the control of the RCIC, have combined to put substantial economic stress on the members of the irrigation company who are dependent upon the water stored in the reservoir to irrigate their crops through the entire growing season.

CHAPTER 2: ALTERNATIVES

Introduction

This chapter discusses the No-Action Alternative, the Proposed Action Alternative, and other Alternatives considered.

No-Action Alternative

Under the No-Action Alternative, no easement would be issued. Therefore, no dam modification would occur and no new WSFR grant would be needed. The Red Creek Dam would continue to suffer from leakage near the existing spillway on the west side and, under the condemnation order, would continue to be restricted from being filled more than about 2/3 of its volume and 3/4 of its elevation to protect public safety in the event of a seismic event or extremely high precipitation.

Purpose and Need Compliance

The No-Action Alternative does not meet the Purpose and Need of the project action because it would:

- Not provide an easement to allow for modifications to the dam to address deficiencies
- Not address existing structural issues or seepage conditions that threaten the stability of the dam
- Leave the dam at a high risk of failure in the event of a seismic occurrence of sufficient magnitude
- Continue to restrict the usage of the dam for irrigation purposes by limiting the volume of water that it can contain due to the condemnation of the spillway

The No-Action Alternative fails to meet the Purpose and Need for the project.

Proposed Action Alternative

The Proposed Action Alternative would involve reconstructing the Red Creek Dam in order to address the deficiencies identified previously. See the attached preliminary Red Creek Dam Safety Upgrades design plans in Appendix B. The Proposed Action Alternative would include:

- Relocation of the spillway to the east end of the dam on the left abutment. (see Figure 5 – Top of the Red Creek Dam (looking at where the new spillway would be located)
- Construction of a soil-bentonite cutoff wall to decrease seepage through the porous gravelly formations in the west abutment.

Figure 5. Top of the Red Creek Dam (looking at where the new spillway would be located)

- Construction of a drainage collection system to address leaking areas in the dam near the old spillway location
- Construction of an earthen berm at the downstream toe at foot of the dam to improve the stability of the dam in order to meet seismic standards
- Raising the crest of the dam to address the loss of volume due to sedimentation and settlement by placing fill on the downstream face of the dam.
- Realignment of a county road to curve around the new spillway
- Enhancement of the soils in the upstream face of the dam and in the foundation using in-situ soil-mixing technology (to be included in future phasing of the project dependent upon funding)

The drainage collection system would consist of filter sand and gravel drain material being placed over areas currently experiencing seepage, which will collect water into a toe drain system. The toe drains would be located in cutoffs, which will intercept shallow groundwater before it can resurface in order to prevent piping. Also, a 70-foot deep, 30 inch wide soil-bentonite cutoff trench would be cut down the centerline of the crest of the dam at the dam's western end. The cutoff will intercept the gravelly porous formations in the west abutment which lie below the dam's foundation. Refer to the preliminary drawings in Appendix B for further details.

The Proposed Action Alternative includes the installation of a dissipation basin in the river channel where the discharge channel from the new spillway will intersect with the stream approximately 75 feet downstream from the historical dissipation pond (see Figure 6) and the installation of a small discharge structure for the 8-inch toe drain approximately 690 feet downstream from the historical dissipation pond (when measured in a straight line). These structures will be located on the private land west of the UDWR property. The basin will be riprapped in order to protect against high velocity flows that could occur during a design storm. The flow in the creek is controlled by the dam and is commonly shut off completely in accordance with the water rights covering the reservoir so it is anticipated that the flow will be shut off during construction.

Figure 6. Stream Channel Below Existing Dissipation Pond Where New Canal Will Terminate

During construction of the project, including the rerouting of the county road, traffic on the county road will be accommodated. All necessary permits and approvals would be obtained for traffic control and/or other transportation-related issues.

The easement lease agreement between UDWR and RCIC will specify the Best Management Practices (BMPs) to protect, to the greatest extent possible, the natural and other environmental resources in the area of the proposed project. These BMPs will include, but are not limited to: seasonal restrictions of construction activities during sensitive wildlife periods; noise reduction provisions to reduce disturbance to sensitive wildlife; dust suppression measures using non-toxic treatment (e.g., water); use of silt fences and other measures to prevent sediment loading; and promotion of awareness of cultural resource concerns for construction workers. BMPs will be either directly included in the easement lease agreement language or will be included in a "Plan of Work" document to be attached to the easement lease agreement as an exhibit.

Purpose and Need Compliance

The Proposed Action Alternative would meet the Purpose and Need for the project because it would address the issues presented by the existing deficiencies in the dam structure. An easement would be obtained to allow for the dam modifications to take place, thereby allowing the restrictions on the volume capacity to be able to be lifted and the reservoir to be able to be utilized fully for its intended purpose.

Other Alternatives Considered and Dismissed

An option that was considered but dismissed was the removal of the Red Creek Dam and all its appurtenances. This option was dismissed since it would not meet the Purpose and Need for the project. It would also have significant impacts on the socioeconomic conditions in the area since it would eliminate a critical source of irrigation water needed by local agricultural producers. The natural flow of the Red Creek would only allow for enough water to grow one cuttings worth of agricultural product per year and many acres would likely go fallow due to lack of water, resulting in substantial loss of production capacity for the local growers. Since the local economy is mostly agricultural, this loss of production would also create an unsustainable local economic situation. The shareholders in RCIC have a legal right to the dam, the reservoir, and the irrigation water held in the reservoir, through their contracts with the property owners to build the dam, and through their purchase of water rights and proof of beneficial use of the water. Further, the UDWR would lose the impoundment in the reservoir that is currently being utilized for fish culture and the public would lose a recreational resource.

In regards to the proposed repairs for the dam, several options had also been considered and dismissed with regards to the spillway. These options included rebuilding the spillway in its current location, building a primary spillway in its current location and constructing a fuseplug on the left abutment, and building a smaller primary spillway and fuseplug auxiliary spillway on the left abutment. The options for the spillway are discussed in Table 1. The option for the spillway that was selected for this project was to rebuild the spillway on the left abutment.

Table 1. Spillway Options Examined

Option	Discussion	Decision
Rebuild Spillway in Current Location	The existing spillway would be demolished and a similar spillway designed to handle the full design flow would be built in its place. This option provided for minimal disturbance and alteration of the dam overall, but would leave the spillway in a location with a history of piping and seepage problems. Further, the spillway intersects with the drainage blanket and berm, complicating the construction and increasing the potential for future problems. The spillway would also be located adjacent to the deepest section of the dam in an area that includes liquefiable soils, making this the location of the maximum probable deformation in the event of an earthquake.	Due to safety concerns, this option was not favored. Officials with the Utah Dam Safety Section strongly discouraged this option and it was **eliminated from consideration**.
Build Primary Spillway in Current Location and Construct a Fuseplug Auxiliary Spillway on the Left Abutment	This option would allow a smaller concrete spillway to be constructed in the current location, but is still would have the same negative aspects as rebuilding the spillway in place and the difference in the size of the concrete structure was not sufficient enough to compensate for the cost of constructing the auxiliary spillway.	Due to safety concerns and cost considerations, this option was **eliminated from consideration**.
Rebuild Spillway on Left Abutment	This option would construct a concrete spillway on the left abutment through the dam and across the flat area south of the toe, and then drop it into an earthen channel to carry the flows back to the stream. This option would not suffer from the same negative aspects as rebuilding the spillway in place, as the left abutment of the dam does not suffer from the same issues of seepage and liquefaction.	**Preferred Option** due to improved safety and stability, as well as the continuity permitted in the drainage blanket and berm.
Build Smaller Primary Spillway and a Fuseplug Auxiliary on the Left Abutment	This option would construct a smaller concrete spillway on the left abutment, along with an auxiliary fuseplug spillway. Cost estimates for this option did not result in a significant cost savings, and the auxiliary fuseplug spillway would disturb even more area, as well as potentially interfering with the county road.	This option was **eliminated from consideration** due to an increased area of disturbance, potential conflicts with the county road, and no significant cost savings.

CHAPTER 3: AFFECTED ENVIRONMENT

Introduction

The purpose of this chapter is to describe the existing conditions of the human and natural environment within the study area. Existing conditions were identified based on field investigations, coordination with federal, state, and local agencies, and literature and data file searches.

The scoping process identified the following resource topics of concern:

- Soils and Geotechnical
- Biological Resources
- Water Resources
- Cultural Resources
- Socioeconomics
- Visual Resources
- Recreation
- Noise
- Public Health and Safety
- Energy
- Cumulative Impacts

Resources Not Addressed in the Environmental Assessment

Resources not addressed in this EA include resources that are not present in the study area and/or would not be impacted by the Proposed Action Alternative. The resources considered for inclusion but eliminated from further analysis based on a no impact determination include:

- **Prime, Unique, and Statewide Important Farmland** – The Farmland Protection and Policy Act (FPPA) defines prime farmland as farmland that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops, and is also available for other uses. A unique farmland is land other than prime farmland that is used for production of specific high-value food and fiber crops; it has the special combination of soil quality, location, growing season, and moisture supply needed to economically produce sustained high quality or high yields of specific crops. Farmland does not include land already in or committed to urban development. Farmland *already in* urban development includes lands identified as "urbanized area" on the Census Bureau Map. The Natural Resource Conservation Service (NRCS) does not have any data regarding soils in the project area. However, the project area itself does not include any land that is currently being used for agricultural production.

- **Floodplains** – Executive Order 11988 – Floodplain Management required agencies to evaluate the potential effects of any actions it may take in a floodplain. *Floodplains* are defined as normally dry areas that are occasionally inundated by high stream flows or high lake water. Development in floodplains can reduce their flood-carrying capacity and extend the flooding hazard beyond the

developed area. A stream has a *regulatory floodplain* if the floodplain is identified and mapped by the Federal Emergency Management Agency (FEMA). There is a floodplain associated with Red Creek; however, the project area has not been mapped by FEMA.

As part of the project, the existing dissipation pond will be filled in and a new pond constructed at the end of the proposed new spillway, less than 100 feet downstream. All areas within the normal extent of the riparian habitat will be revegetated, though state dam safety regulation requires that no woody vegetaion be allowed to establish itself wihin 25 feet of the toe of the dam. Other types of vegetation are encouraged. These actions would not alter or impair the floodplain associated with Red Creek. Also, repairing the dam so that the reservoir can be filled will render it capable of protecting the downstream area from potential flooding.

- **Wild and Scenic Rivers** – There are no designated Wild and Scenic Rivers in the project area.

- **Wilderness** – The Proposed Action Alternative would not disturb lands that are protected now or proposed for protection under the Wilderness Act of 1964, nor would the project introduce any additional lands for consideration as wilderness.

- **Climate Change** – Executive Order 13514 Federal Leadership in Environmental, Energy, and Economic Performance established an integrated strategy towards sustainability in the Federal Government and made the reduction of greenhouse gas emissions a priority for Federal agencies. The Proposed Action Alternative would not contribute to climate change, nor would it create vulnerability to climate impacts. Implementation of the Proposed Action Alterantive will be consistent with Executive Order 13514 Federal Leadership in Environmental, Energy, and Economic Performance.

- **Air Quality** – The Clean Air Act Amendments of 1990 requires that the EPA set standards for pollutants that are considered harmful to public health and the environment. These criteria pollutants are identified as carbon monoxide (CO), nitrogen dioxide (NO_2), ozone (O_3), lead (Pb), particulate matter smaller than 10 microns (PM_{10}), particulate matter smaller than 2.5 microns ($PM_{2.5}$), and sulfur dioxide (SO_2). The project area is not in a nonattainment area for any of the criteria pollutants. The Proposed Action Alternative would not cause any violations of or contribute substantially on a long term basis to a violation of any ambient air quality standard.

  The Proposed Action Alternative would involve construction activities and would therefore have temporary impacts to air quality during construction. A permit for air quality impacts during construction will be obtained from the Utah Division of Air Quality (UDAQ) by the contractor. Fugitive dust during construction will be mitigated and controlled in accordance with a dust-control plan to be developed with UDAQ. This plan will include measures to minimize fugitive dust, such as the application of dust suppressants and water sprays, minimizing the extent of

disrupted surface areas, and restricting activities during high-wind periods. BMPs will be utilized during construction to minimize air quality impacts.

- **Hazardous Waste –** A search of the Utah Department of Environmental Quality's (UDEQ) Division of Environmental Response and Remediation (DERR) interactive map did not identify any hazardous material sites in the project area. Further, due to its remote location, previous usage, and its designation as a wildlife management area, there is a low probability of encountering hazardous waste during construction.

- **Environmental Justice Populations –** Under the Proposed Action Alternative, there would be a monthly fee increase in order to repay the no-interest loan from the State that is the RCIC's share of the project costs. See the Socioeconomic Section for more information. The fee increases would be the same for all users, regardless of race, gender, income, or minority status. Further, the Proposed Action Alternative would not adversely affect recreational users of the reservoir. Once the project is completed, the water level in the reservoir will be allowed to be returned to its normal levels. Restocking of the fish population by the UDWR would continue to occur as previously done and fishing and angling would continue to be available to the public. Therefore, the Proposed Action Alternative would not have an adversely high and disproportionate impact on minority or low-income populations. No other potentially adverse impacts to environmental justice populations were identified.

Soils and Geotechnical

Red Creek Dam was constructed in 1960 with the initial filling in 1962. The embankment was constructed on an alluvial foundation, which consisted of soft sands, silts, and clays. The left side of the dam rests entirely on a deep formation of this alluvial material that slopes gently toward the river channel. In contrast, the right abutment, at the base of which the Red Creek river ran prior to construction of the dam, is a steep hill which consists of a bottom foundation formation of competent to highly weathered shale, capped with successive layers of porous gravel and layers of silty, sandy clays. See the Geotechnical Investigation for the Red Creek (Duchesne) Dam Safety Remediation, Duchesne County, Utah report dated February 2014 in Appendix C.

These foundation conditions have led to several issues. First, the dam has settled up to three (3) feet due to the saturation and placement of overburden on the soft alluvial foundation. Second, liquefiable soils have been identified under the dam foundation which would cause the slopes to fail in a seismic event. Third, excessive seepage has been flowing around the right abutment ever since initial construction, creating a piping issue. The piping issue is exacerbated by the spillway drains not meeting filter criteria.

Wildlife, Fish Habitat, and Threatened and Endangered Species

According to the USFWS Information, Planning, and Conservation System (IPAC), the following species in Table 2 that are listed under the Endangered Species Act (ESA) were identified as potentially being present in the project area:

Table 2. Threatened and Endangered Species Potentially Present in the Project Area

Common Name	Scientific Name	Status
Birds		
Greater sage-grouse	*Centrocercus urophasianus*	Candidate
Mexican spotted owl	*Strix occidentalis lucida*	Threatened
Yellow-billed cuckoo	*Coccyzus americanus*	Proposed Threatened
Fishes		
Bonytail chub	*Gila elegans*	Endangered
Colorado pikemnow	*Ptychocheilus Lucius*	Endangered
Humpback chub	*Gila cypha*	Endangered
Razorback sucker	*Xyrauchen texanus*	Endangered
Flowering Plants		
Ute ladies'-tresses	*Spiranthes diluvialis*	Threatened
Mammals		
Canada lynx	*Lynx canadensis*	Threatened

Source: USFWS IPAC (accessed on July 15, 2014)

Further, the following migratory birds listed in Table 3 were identified as being potentially present in the project area:

Table 3. Migratory Birds Potentially Present in the Project Area

Species Common Name	Scientific Name	Seasonal Occurrence in the Project Area
Brewer's sparrow	*Spizella brewer*	Breeding
Calliope Hummingbird	*Stellula calliope*	Breeding
Greater sage-grouse	*Centrocercus urophasianus*	Year-round
Pinyon jay	*Gymnorhinus cyanocephalus*	Year-round
Prairie falcon	*Falco mexicanus*	Year-round
Willow flycatcher	*Empidonax trailii*	Breeding

Source: USFWS IPAC (accessed on July 15, 2014)

To determine which species of concern may be present in the project area, the UDWR requested information from the Utah Natural Heritage Program (UNHP), which identified two species from the Utah Sensitive Species List: greater sage-grouse (*Centrocercus urophasianus*) and bald eagle (*Haliaeetus leucocephalus*). The greater sage-grouse is listed as a candidate species under the ESA. The bald eagle, while no longer federally-listed under the ESA, is classified as a Migratory Bird and therefore is protected under the Migratory Bird Treaty Act (MBTA), as well as under the Bald and Golden Eagle Protection Act.

<u>Greater Sage- Grouse</u>

Greater sage-grouse has been documented west of the reservoir in the past, and the general area of the reservoir is classified as "habitat" within the Strawberry Sage-grouse Management Area (SGMA), as established under Utah's Conservation Plan for Greater Sage-grouse in Utah of February 14, 2013; however, it is not within a known lek (communal area in which two or more males of a species perform courtship displays) or within a three-mile buffer area around a known lek. The nearest lek is located approximately six miles northeast of the reservoir.

Bald Eagle

Bald eagle have been observed in the past, hunting along the shores of the reservoir and roosting in cottonwood trees downstream of the Red Creek Dam. There have not been any recent observations of bald eagle, but a golden eagle was recently observed by UDWR successfully preying on cottontail rabbit in the same area.

Bonytail Chub, Colorado Pikeminnow, Humpback Chub, and Razorback Sucker

Red Creek is a tributary for the Strawberry River, which in turn flows to the Duchesne River, then to the Green River, and eventually to the Colorado River. Red Creek Reservoir serves as a sport fishery maintained through UDWR's dead storage of 128 acre-feet of water in the reservoir, and twice-yearly stocking of fingerling tiger trout and rainbow trout.

The irrigation company owns essentially all of the water rights to Red Creek, other than the reserved dead storage, and during normal operation of the reservoir, would impound all the flow into the reservoir during the winter and early spring months. The creek below the dam would therefore remain dry during those periods of reservoir filling, and there would be no fishery in the creek. During irrigation releases, the water would be released into the creek to flow through the creek for about two miles, then diverted into a ditch to the designated shareholder. During the recent required reduced reservoir level, the creek has had consistent flows from the irrigation discharge pipe, and it is possible that fish could have established in the dissipation pond and in the creek below the dam.

Due to the potential for water depletion in the Upper Colorado River Drainage due to the project, the project has the potential for impacts the bonytail chub (*Gila elegans*), Colorado pikeminnow (*Ptychocheilus lucius*), humpback chub (*Gila cypha*), and razorback sucker (*Xyrauchen texanus*), which are all federally-listed endangered species with critical habitat designated in the Upper Colorado River.

Wildlife and Vegetation

The vegetation communities in the area of the reservoir consist of spruce-fir in the higher elevations, oak-maple and pinyon-juniper in the lower hills, and sagebrush-grass in the immediate vicinity. The higher ground east of the reservoir in the Tabby Mountain WMA is important winter range habitat for mule-deer and elk, as well as other wildlife. Tabby Mountain WMA provides some of the most desirable hunting opportunities for these big game species in the state.

Water Resources

The Red Creek Reservoir is a medium sized reservoir that impounds the Red Creek, which is a tributary of the Strawberry River. When filled, it has an approximate volume capacity of 5,694 acre feet with a conservation pool of 128 acre-feet. It drains a moderate sized natural watershed coming from the foothills surrounding the Uinta Mountains, with the highest point being Red Creek Mountain with an elevation of 3,229 meters (10,595 feet) above sea level. The watershed is excluded from the Uinta National Forest. See the Red Creek Reservoir Hydrology Report in Appendix D.

The reservoir is classified for the following beneficial uses; boating and similar recreation (excluding swimming)(2B), cold water game fish and organisms in their food chain (3A), and agricultural uses (4). Nonpoint pollution sources include sedimentation and nutrient loading from grazing; waste or litter due to recreational use; and sediments from construction activity associated with the development of summer homes near the reservoir. There are no point sources of pollution in the watershed. Water quality is generally good, although there are indications of water quality impairment that exceed the standards for the defined beneficial uses, namely, total phosphorus and dissolved oxygen.

The Red Creek Reservoir is classified as Waters of the U.S., but according to representatives from the UDWR, there are no wetlands in the project area.

Cultural Resources

In accordance with Section 106 of the National Historic Preservation Act (NHPA) and the Utah Historic Preservation Act (U.C.A. §9-8-102 et seq.), potential impacts or the Proposed Action Alternative on historic resources were considered.

In connection with this project, a cultural resources survey was conducted by the UDWR. See the *Cultural Resource Inventory of the Red Creek Dam Reinforcement and Spillway Replacement in Duchesne County, Utah* dated February 4, 2014 in Appendix E. As a result of this survey, the Red Creek Dam was determined to be eligible for the National Register of Historic Places (NRHP).

Native American tribes that may have an interest in the area were contacted to inform them about the proposed project and to solicit their participation in this evaluation at whatever level they deemed appropriate. A letter dated July 15, 2014, was sent by the UDWR to the Ute Indian Tribe. No verbal or written responses to the letters have been received. See Appendix E.

Socioeconomics

The project area is located just north of Fruitland, in Duchesne County, Utah. Fruitland is an unincorporated community in western Duchesne County, which lies along U.S. Highway 40. The economy of the area consists of agriculture, mineral development (oil and gas), tourism and recreation, and government. The 2010 U.S. Census does not have any specific data in regards to Fruitland; however, it is located in Census Tract 9403, which had a total population of 3,847, with approximately 95% of the population being white and only approximately 5% being Hispanic or Latino. The project area is located within about eight (8) miles of the Uintah-Ouray Ute Tribe Reservation.

The RCIC, which is the primary user of the reservoir, consists of approximately 110 members located in the vicinity of Fruitland that draw water from the Red Creek Reservoir.

Visual Resources

The visual landscape in the project area consists of a remote reservoir with an earthen dam across the southernmost border. Currently, the water level in the reservoir is low and the shoreline extends farther out into the reservoir than normal, which is a result of the water level restrictions imposed by the Utah

Dam Safety Section to protect the public in the event of a catastrophic failure of the dam. See Figure 7. The crest of the dam has settled approximately three (3) feet in its center, with the settlement tapering off to each end.

Figure 7. View of the Red Creek Reservoir at Current Restricted Water Levels

Recreation

The Red Creek Reservoir is located north of U.S. Highway 40 near Fruitland and most of it lies within the Tabby Mountain WMA. The UDWR maintains fish habitat in the reservoir and stocks the reservoir with 15,000 fingerling rainbow trout annually, plus tiger trout. Although the western side of the reservoir is privately owned, the reservoir is open to the public for recreation, including fishing and boating (motorized and non-motorized boat and flotation devices), and the Tabby Mountain WMA is open to the public for hunting, hiking, horseback riding, and other such outdoor activities.

Noise

Noise can be defined as unwanted sound and noise levels and its effects are interpreted in relationship to its effects on sensitive receptors. Noise-sensitive receptors include sensitive land uses and those individuals and/or wildlife that could be affected by changes in noise sources or levels due to the project. The project is located within the Tabby Mountain WMA. Noise sensitive land uses in the project area consist of wildlife and recreational users of the reservoir. There are no residential structures in the immediate vicinity of the project area. The primary sources of ambient noise in the project area are natural sounds and those sounds inherent in the operations of the facility itself.

Public Health and Safety

Red Creek Dam suffers from leakage issues near the existing spillway, which is unstable. Red Creek Dam is currently categorized as a “High Hazard” dam by the Dam Safety Board, which is the regulatory agency for non-federal dams in the State of Utah, based upon the potential threat to lives and property should the dam suffer a catastrophic failure due to a seismic event, extremely high precipitation or other such event. The dam has been informally condemned and the reservoir level is required to be maintained at a

level below the spillway until such time as repairs can be made to the spillway, to stop the seepage, and to stabilize the dam against seismic disturbance.

Energy

The existing dam is a small earthen dam and is not used for generating electricity, so there are no hydraulic turbines or other such mechanized equipment associated with it. The water is reserved for irrigation, fish habitat, and recreational activities (both motorized and non-motorized) only. There are no pumps or other motorized equipment used in the operation of the dam, with the exception of a hydraulic gate that is operated by a solar-powered pump, nor is energy generated by the operation of the dam and/or irrigation facilities.

CHAPTER 4: ENVIRONMENTAL CONSEQUENCES

Introduction

This chapter evaluates the potential beneficial or adverse consequences of implementing the Proposed Action Alternative and the No-Action Alternative. This section also presents the basis for the comparative analysis of the alternatives described in Chapter 2, an analysis of the potential direct and indirect impacts that each alternative would have on the affected environment, and details measures to avoid, minimize, or mitigate potential impacts.

The National Environmental Policy Act (NEPA) of 1969 requires consideration of direct, indirect, and cumulative impacts, plus identification of measures to mitigate these impacts. Impacts are described as follows:

- **Direct impacts** are those caused by the action and occur at the same time and place (40 CFR §1508.8).
- **Indirect impacts** are those caused by the action and are later in time or farther removed in distance, but are still reasonably foreseeable (40 CFR §1508.8). Indirect effects are generally less quantifiable but can be reasonably predicted to occur.
- **Cumulative impacts** are those impacts to the environment which result from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions (40 CFR §1508.7).

Soils and Geotechnical

The No-Action Alternative

Under the No-Action Alternative, no improvements would be made to the Red Creek Dam. The existing issues and concerns regarding settlement, seepage, and liquefaction would still be present, leading to the ongoing need for restrictions on water levels to protect the public in the event of catastrophic failure of the dam.

The Proposed Action Alternative

Under the Proposed Action Alternative, all three identified geotechnical issues would be addressed. First, the spillway would be relocated to the other abutment, which does not suffer from the same issue of liquefaction. To improve the stability of the dam in order to meet seismic standards, an earthen berm will be constructed at the foot of the dam on the downstream side, and the soils in the upstream face of the dam and in the foundation will be enhanced using in-situ soil-mixing technology (to be included in future phasing of the project dependent upon funding). Seepage would be addressed by the installation of a drainage collection system to repair leaking areas in the dam near the old spillway location and the installation of a soil-bentonite slurry cutoff trench through the west abutment. The project would also raise the crest of the dam to address the loss of volume due to sedimentation and settlement by placing fill on the downstream face of the dam.

Wildlife, Fish Habitat, and Threatened and Endangered Species

The No-Action Alternative

Under the No-Action Alternative, no improvements would be made to the Red Creek Dam and no construction activities would occur in the project area. As a result there would be no immediate impacts to biological resources, including the greater sage-grouse and the bald eagle. However, there may be indirect effects due to the inability of the RCIC to fill the reservoir up to its normal levels. The reservoir provides fish habitat and support to other wildlife in the project area. With the water levels reduced over the long term, the attractiveness of the reservoir for wildlife would be depreciated.

The Proposed Action Alternative

As part of the ESA Section 7 consultation (required due to a federal nexus on the project), the UDWR coordinated with the USFWS Utah Ecological Services Field Office on the federal Candidate species potentially present in this area, i.e., the greater sage-grouse, as well as the four federally listed Endangered fish found in the Colorado River, i.e., the bonytail chub, Colorado pikeminnow, humpback chub, and razorback sucker. The migratory bald eagle was also included as part of the coordination. See the letter dated February 20, 2014 addressed to the Utah Ecological Services Field Office from the UDWR in Appendix F. In its letter, the UDWR indicated that it believed that the project may affect, but is unlikely to adversely affect either sage-grouse or bald eagle habitat or populations. The letter also stated that the proposed project will use water from the reservoir which is owned by the RCIC to control dust and to moisture-condition soils, thereby not resulting in a water depletion of the Upper Colorado River Drainage that could impact the federally listed fish species.

In its response dated March 25, 2014, the USFWS Utah Ecological Services Field Office identified several measures to be implemented during construction to minimize the potential for impacts to the greater sage-grouse and bald eagle. These mitigation measures are set forth below. The March 25 response is included in Appendix F. The USFWS state that it did not identify any specific concerns related to these species, but declined to determine whether the project qualifies as a categorical exclusion.

<u>Greater Sage-grouse</u>

Source: http://www.fws.gov/greatersagegrouse/

For the greater sage-grouse, the main concern was noise increase, for both construction and operation of the facilities, which would interfere with lekking (courtship rituals), nesting, and brood rearing. The USFWS recommended avoiding placement of structures in the greater sage-grouse habitat that would result in noise levels of more than ten (10) decibels above ambient conditions and to avoid construction activities during sensitive times for the birds. Compensatory mitigation was not required due to the project occurring in approximately the same location, which does not include potential habitat. However, should additional habitats be impacted by the project, the management and mitigation protocols in the Conservation Plan should be implemented, which includes avoidance, minimization, and mitigation at a 4:1 ratio per acre disturbed.

Bald Eagle and Other Migratory Birds

For the bald eagle and other migratory birds, USFWS recommended use of the Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances. Further, the following items were recommended to ensure that ground-disturbing activities do not result in a "take" of an active nest or migratory bird:

http://www.nwf.org/Wildlife/Wildlife-Library/Birds/Bald-Eagle.aspx

- Any groundbreaking activities or vegetation treatments should be performed before migratory birds begin nesting or after all young have fledged.
- If activities must be scheduled to start during the migratory bird breeding season, you should take appropriate steps to prevent migratory birds from establishing nests in the potential impact area, which could include covering equipment and structures and the use of various excluders (e.g., noise). (Birds may be harassed in order to prevent them from nesting on the site.)
- If activities must be scheduled during the migratory bird breeding season, a site specific survey for nesting birds should be performed starting at least two (2) week prior to vegetation treatments since established nests with eggs or young cannot be moved and the birds cannot be harassed (other than to prevent them from nesting on site) until all young have fledged and are capable of leaving the nest site.
- If nesting birds are found during the survey, appropriate spatial buffers should be established around nests. Vegetation treatments within the buffer areas should be postponed until the birds have left the nest. Confirmation that all young have fledged should be made by a qualified biologist.

Bonytail Chub, Colorado Pikeminnow, Humpback Chub, and Razorback Sucker

In relation to the endangered aquatic species, the UDWR committed that water usage during construction would not exceed the water rights currently owned by the RCIC in the reservoir and that BMPs would be implemented during construction to prevent sediment from entering the live stream. See the letter dated February 20, 2014 to the Utah Ecological Services Field Office from the UDWR in Appendix F. The proposed water depletion was determined not to require formal consultation, as the change in use would be considered temporary in nature and the use of this water is not expected to increase the overall amount of water being depleted from the reservoir, with the use not exceeding the allocated amount of water owned by the irrigation company. See the March 25, 2014 response from USFWS in Appendix F.

During construction, no water would be used from the Colorado River for construction activities; therefore there would be no impact to the federally listed fish from construction activities. Further, water quality in Red Creek (which is a tributary to the Colorado River by way of the Strawberry, Duchesne, and Green rivers) would not be impaired by construction activities due to the implementation of BMPs. See the Water Resources section for more information.

Wildlife

In regards to other fish and wildlife, the Proposed Action Alternative would improve fish habitat in the reservoir, as well as provide an attractive water source for wildlife in the area. This restoration of the water source will support the Tabby Mountain WMA's mission to protect big game habitat in the area.

Vegetation and Invasive Species

The Proposed Action Alternative would involve construction activities and therefore would involve the potential for the introduction of invasive species. BMPs will be implemented during construction to prevent the introduction of non-native species, both vegetative and aquatic. In connection with the Stream Alteration Permit, all required mitigation measures will be implemented, which would include reseeding all disturbed natural areas with native grasses and shrubs, prohibiting the contractor from disturbing any vegetation that is not directly interfering with construction or where not absolutely necessary, and maintaining the existing shade (or replace stream shade vegetation removed during construction with native species at a ratio of 1:1).

Water Resources

The No-Action Alternative

Under the No-Action Alternative, no improvements would be made to the Red Creek Dam. Current restrictions on the water level of the reservoir, which were intended to be temporary measures only and which are currently restricting the reservoir from being filled to its intended levels, would be required to remain in place in order to protect the public from the potential for harm due to a catastrophic failure of the dam. This restriction would continue to impact use of the dam for its intended purposes since it would not be able to be filled to normal levels. Further, sedimentation would continue to reduce the volume of water available for fish habitat.

The Proposed Action Alternative

The Proposed Action Alternative would address the deficiencies in the dam that are currently preventing the reservoir from being fully utilized for its intended purposes. The additional volume that would be added to the reservoir from the minimal raising of the crest will help to address the issue of sedimentation and will help to improve water quality for fish habitat and may impact water quality for wildlife.

The Proposed Action Alternative would not impact the Strawberry River tributaries or the watershed in that water quality would not be impaired during construction due to the inclusion of BMPs to prevent sedimentation. Examples of relevant BMPs for water quality include silt fences or other acceptable measures to be maintained at the bottom of any cut surfaces situated upstream of water bodies, slope breakers (such as gravel socks, soil berms, or other measures) to be installed on long slopes, washout areas being kept clear of any drainages and proper confinement for any potentially hazardous materials. Dust suppression would be accomplished by means of watering exposed surfaces and stockpiles. Refer to the preliminary drawings in Appendix B for further details on potential BMPs. Also, all stream flow control methods proposed by the contractor would be reviewed and required to introduce no additional sediment load into Red Creek.

Construction projects that disturb more than 1 acre of land must be covered under the statewide Utah Pollutant Discharge Elimination System (UPDES) permit. The Proposed Action Alternative would disturb more than one (1) acre of land and therefore would require coverage under the UPDES storm water permit. To obtain a UPDES permit, a notice of intent must be submitted by the contractor to the Utah Division of Water Quality (UDWQ) describing the construction activities. A Storm Water Pollution Prevention Plan (SWPPP) that includes a Temporary Erosion and Sediment Control Plan must be developed prior to submitting the notice of intent for the UPDES permit.

In connection with this project, the RCIC obtained a Stream Alteration Permit from State of Utah in accordance with the Programmatic General Permit 40 with the U.S. Army Corps of Engineers (USACE). See Appendix G. All required mitigation measures outlined in the permit will be included in the project.

Cultural Resources

The No-Action Alternative

Under the No-Action Alternative, no improvements would be made to the Red Creek Dam; therefore, there would be **No Historic Properties Affected**.

The Proposed Action Alternative

Due to the improvements proposed to be made to the dam (which has been determined to be an eligible historic resource), the UDWR determined that the project would have an **Adverse Effect** on the Red Creek Dam. The Cultural Resource Inventory was submitted to the Utah State Historic Preservation Office (SHPO) for review and concurrence with the determination of eligibility and finding of effect for the project. See the letter from the UDWR to the Utah SHPO dated February 4, 2014 in Appendix E. The Utah SHPO concurred with UDWR determination via letter dated February 12, 2014. The WSFR was also contacted in regards the NHPA compliance issues and stated that the significance of the earthen dam is marginal but, based off of UDWR's support for eligibility, it is a determination that was acceptable. As per the Programmatic Agreement between USFWS, the Utah SHPO, the Advisory Council on Historic Preservation (ACHP), and UDWR dated May 31, 2001, the dam and dike structures that are over 45 years old need to be evaluated and/or reviewed for potential effects. Therefore, since the dam was older than 45 years, the Programmatic Agreement could not cover NHPA compliance. See the April 15, 2014 letter from the USFWS to the UDWR and the 2001 Programmatic Agreement, both in Appendix E.

In order to comply with the NHPA process, a Memorandum of Agreement (MOA) was entered into between the USFWS, the UDWR, and the Utah SHPO to resolve the adverse effect and determine the mitigation measures to be implemented. See the fully executed MOA dated July 11, 2014 in Appendix E. The ACHP was invited to participate in the consultation for the MOA, but declined to the invitation. See the June 18, 2014 letter from the ACHP to the USFWS in Appendix E.

Under the terms of the MOA, the dam (identified as Site 42DC3610) would be intensively documented by UDWR staff, with all surface materials mapped according to Level II Historic American Engineering Survey (HAER) documentation, and the historic records to be compiled and posted on the UDWR blog site and Wikipedia (with copies and a revised IMACS Form to be provided to the Utah SHPO).

During construction, if previously unidentified historic, archaeological, or paleontological resources are encountered, the contractor shall cease work immediately in the area of the find and comply with the applicable provisions of the contract, which would include consultation with the Utah SHPO.

Socioeconomics

The No-Action Alternative

Under the No-Action Alternative, there would be no improvements made to the Red Creek Dam. Since the spillway would still suffer from the problems identified in the Purpose and Need, the dam would still be classified as High Hazard and the Dam Safety Board would not allow the reservoir to be filled to its proper levels. As a result, there would be insufficient water supplies to support the local irrigation needs in order to have the water supplies extend through the entire growing season. Local farmers would be restricted to one crop of produce, or less depending on the water supply for the year. The local economy would be impacted by reduced crops, degraded farmland, lowered property values, lower income tax and sales tax receipts, and reduced purchases at local stores and fishing tackle shops by anglers who might have used the reservoir if it could be restored to its full volume. This would have a substantial impact on the local economy and may put farmers out of business.

The Proposed Action Alternative

The Proposed Action Alternative would address the issues of seepage near the existing spillway and would relocate the spillway to the opposite abutment, where seepage and liquefaction issues are not of concern. The proposed improvements would clear the dam from its filling restrictions and allow it to be fully utilized for irrigation water storage. This would allow farmers to have sufficient water supplies (dependent of course upon precipitation levels for a given year) for the entire growing season. This would also improve the visual quality of the reservoir and improve fishing, encouraging more visitors to come to the reservoir.

A very minor portion of the overall project costs is attributable to the RCIC and will be paid for through a no-interest loan that has been obtained from the State. In order to repay the loan principal, the fees paid by the members of the RCIC per water share would have to be increased. The fee increase would be substantial, estimated to approximately double the current assessment per share (which is currently about $5.00 per share). However, these increases would be temporary and would consist of repayment of principal only, since it is a no-interest loan. The RCIC anticipates that the loan would be able to be retired within ten (10) to twenty (20) years.

Despite the nature of the increase, the impacts of not repairing the dam would constitute a greater impact on the users of the RCIC due to the ongoing restrictions on water levels in the reservoir that would limit the amount of water available for irrigation in the future and thereby limit the number of crops that could be produced. In addition, the current restrictions prevent the RCIC from fully utilizing their water rights in Red Creek, with an ongoing cost attributable to the loss of that water.

Visual Resources

The No-Action Alternative

Under the No-Action Alternative, there would be no improvements to the dam and therefore, the water levels in the dam would continue to be restricted to levels below the spillway. The visual quality of the reservoir would continue to be impacted by the low water level. Further, the dam would continue to suffer from settlement, resulting in a bowed crest along the top of the dam.

The Proposed Action Alternative

Under the Proposed Action Alternative, improvements would be made to the dam to address the settlement issues, raising the dam to its original height across the entire length of the dam, plus approximately 2.5 feet so as to slightly increase the capacity of the reservoir that has been impacted by sedimentation, allowing it to be able to store its original volume of water. This raising of the dam's height would be barely perceptible to users of the facility. The spillway would also be moved to the opposite abutment, with the county road being rerouted so as to avoid the need for bridges across the new spillway. These visual changes would not be significant.

The principal visual aspect of the project is the reservoir itself, not the dam per se. The Proposed Action Alternative would allow the dam to be refilled to its previous levels, thus eliminating the "bathtub ring" effect and thereby improving the visual quality of the reservoir itself for recreational users and making it more attractive to wildlife.

Figure 8 – Red Creek Reservoir Prior to Water Level Restrictions

Visual impacts due to construction activities are considered temporary and no mitigation is required.

Recreation

The No-Action Alternative

Under the No-Action Alternative, there would be no improvements made to the Red Creek Dam and it would remain classified as High Hazard. The current restrictions on water levels, intended to be temporary in nature, would continue to be imposed, preventing the reservoir from being fully utilized. This restriction would impact recreational activities due to the low water levels, making the reservoir less attractive to both recreational users and wildlife in the area. Fish habitat would continue to exist due to the UDWR's conservation of the dead storage of the reservoir, but it would still be potentially harmful to fish mortality due to ongoing sedimentation.

The Proposed Action Alternative

The Proposed Action Alternative would improve recreational opportunities in the project area by making the reservoir more useful and attractive to those who wish to participate in outdoor activities and by providing a more attractive water source for wildlife. Restocking activities would continue to occur, replenishing the game fish populations in the reservoir.

Noise

The No-Action Alternative

The No-Action Alternative would not involve construction activities; therefore, there would be no noise impacts as a result. The primary source of noise in the project area would continue to be natural sounds.

The Proposed Action Alternative

The Proposed Action Alternative would involve a temporary increase in noise levels in the project area during construction of the project. The BMPs regarding noise impacts in relation to biological resources (most particularly the greater sage-grouse) would be implemented during construction to prevent impacting noise sensitive wildlife. After construction, and during normal operation of the dam, noise levels would be consistent with current ambient levels.

Public Health and Safety

The No-Action Alternative

Under the No-Action Alternative, there would be no improvements made to the Red Creek Dam. The No-Action Alternative would not address the deficiencies in the dam that have precipitated the usage restrictions. The Dam Safety Section will not allow the dam to be filled to its normal operating capacity so long as the dam remains at substantial risk for catastrophic failure from a seismic event or in a high precipitation year. Although the dam is located in a somewhat remote area, a failure of the dam still poses a risk to human health and safety.

The Proposed Action Alternative

The Proposed Action Alternative would make sufficient improvements to the Red Creek Dam to enable it to withstand a seismic event. Stability improvements would include an earthen berm at the foot of the dam on the downstream side, and enhancing the soils in the upstream face of the dam and in the foundation using in-situ soil-mixing technology (soil-mixing to be included in future phasing of the project

dependent upon funding). By relocating the spillway to the other abutment, the dam would be less at risk from failure due to the presence of liquefiable soils in the vicinity of the dam. The abutment where the proposed spillway would be located is not as deep as the abutment where the existing spillway is and consists of more stable soils. See the Soils and Geology section for more information. The Proposed Action Alternative would also address the issue of seepage through the dam by the construction of a drainage collection system to repair leaking areas in the dam near the old spillway location and the construction of a soil-bentonite slurry cutoff trench in the abutment. Further, raising the crest of the dam to levels slightly higher than existing prior to the settlement of the dam would also add volume capacity lost to sedimentation, thereby helping in the event of a high precipitation year.

Energy

The No-Action Alternative

The No-Action Alternative would not involve construction activities and therefore would not require the consumption of energy supplies for such activities. Further, the No-Action Alternative would not alter the existing use of the dam in regards to energy production, nor would it install mechanized equipment that would require an ongoing energy source for operation. It would, however, result in less energy being consumed in farming activities. Since the water restrictions would result in only one crop being produced, rather than two as would be under normal water conditions, there would be less energy used for farm equipment, including sprinklers, tractors, trucks, etc.

The Proposed Action Alternative

The Proposed Action Alternative would involve construction activities and would therefore utilize energy in the form of gas and electrical powered machinery during construction activities. This energy consumption would be temporary and limited to the timeframe necessary for construction of the proposed improvements. The Proposed Action Alternative would not alter the existing use of the dam in regards to energy production, nor would it install mechanized equipment that would require an ongoing energy source for operation. Energy consumption for agricultural production would continue at similar levels due to the water being sufficient to produce two crops, with some energy savings being possible in the future due to upgrades in fuel efficiency for farming equipment.

Cumulative Impacts

The Council on Environmental Quality (CEQ) regulations, which implements the National Environmental Policy Act of 1969 (42 USC 4321 et seq.), requires assessment of cumulative impacts in the decision-making process for federal projects. Cumulative impacts are defined as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (federal or non-federal) or person undertakes such other actions” (40 CFR 1508.7). Cumulative impacts are considered for both action and no action alternatives.

Cumulative impacts were determined by combining the impacts of the given alternative with other past, present, and reasonably foreseeable future actions. Therefore it was necessary to identify other past, ongoing, or reasonably foreseeable future action in the vicinity of the project area. For the purposes of

this analysis, the geographic scope is defined in relation to the individual resources included in the cumulative impacts analysis. The temporal scope of the analysis is limited to a 20-year time frame as the reasonably foreseeable future.

The cumulative impact analysis focuses on environmental resources which would have direct or indirect impacts. The resources that are included in this cumulative impacts analysis are:

- Soils and Geotechnical
- Cultural Resources
- Biological Resources
- Water Resources

Soils and Geotechnical

Past projects which have had an impact on soils and geotechnical features in the project area include the construction of the Red Creek Dam and Reservoir, which impounded the Red Creek. Although the construction of the dam did not directly affect soils in the area, the spillway for the dam was constructed upon soils which are somewhat unsuitable for the type of installation that was built, which leads to the necessity to make the improvements that are discussed in this EA. Liquefiable soils are present in the immediate vicinity of the spillway, which makes the dam at risk for failure in the event of a seismic occurrence. Future improvements may be needed based upon future safety, maintenance, and irrigation needs, but no such plans are currently being considered.

Cultural Resources

The project would have an adverse effect on cultural resources due to its impact on the Red Creek Dam, which has been determined to be eligible for the NRHP. This adverse effect stems from the relocation of the spillway from one abutment to the other and the other minor changes associated with shoring up the dam to make it more stable. Due to the limited nature of the project, the APE for cultural resources had been limited to the immediate vicinity of the dam itself so it is unknown as to the presence of potential cultural resources beyond the APE for this project. No other projects are planned in the area by municipal or other entities and much of the area is within the Tabby Mountain WMA, which would limit development that may impact unknown cultural resources. There is unrelated private development in the general vicinity of the reservoir, in the form of cabins and other types of residential and/or recreational housing that could have an impact on any unknown cultural resources.

Wildlife, Fish Habitat, and Threatened and Endangered Species

Past projects in the project area that have impacted biological resources in the area include the construction of the Red Creek Dam and Reservoir and the implementation of the Tabby Mountain WMA to protect wildlife habitat. The reservoir now serves as an asset to wildlife and helps to support the mission of the WMA. Future projects in the area would be limited by the officials with jurisdiction over the WMA, which would help to limit cumulative impacts to biological resources. However, there are some private developments occurring which would have some impacts to wildlife. Private development would continue to occur on those lands that are outside of the Tabby Mountain WMA, but it is likely that such

development would be in line with the goals of maintaining, as much as possible, the natural resources already present since the area is valued for its natural beauty and recreational opportunities.

Water Resources

Past projects in the project area that have impacted water resources includes the construction of the Red Creek Dam, impounding Red Creek for storage of irrigation water supplies, and some private development for recreational purposes. The reservoir has resulted in a conservation of the water supply provided by Red Creek, including the dead storage of the reservoir, which is reserved to maintain fish habitat. The proposed project would improve the ability of the reservoir to fulfill its purpose. Private development in the project area, to the extent possible considering the nature of the project area, would require the development of culinary sources of water, most likely through wells, which would impact groundwater resources in the project area. However, this development is most likely to be limited due to the nature of the project area and its proximity to the Tabby Mountain WMA and other state and federally protected lands.

The normal filling and depleting of water in the reservoir due to irrigation and dam processes is an action that has occurred in the past, is occurring now, and will continue to occur in the future. As such, there will not be a cumulative impact for this normal give and take of the reservoir's water resource.

CHAPTER 5: COMMENTS AND COORDINATION

Public Involvement

No public meetings have been held in connection with this EA; however, public input into the project was solicited via publication of the proposal to upgrade the dam at Red Creek Reservoir in the Uintah Basin Standard (a newspaper of general circulation for the project area) on April 1, 2014, which allowed for written public comments to be submitted until April 15, 2014. See the Affidavit of Publication in Appendix H. No comments were received on the project.

Additionally, Duchesne County advertised a public hearing before the County Commission regarding the road realignment: the hearing was held July 7, 2014, and no one from the public attended, and there were no written comments submitted. The notice of the public hearing was published in the Uintah Basin Standard for four weeks prior to the hearing. The Notice of the Public Hearing and the minutes of the Commission meeting are included in Appendix H.

A letter from Utah Division of Wildlife Resources was sent to the Ute Tribe dated July 15, 2014, inviting the Tribe to participate in the Environmental Assessment process. The Tribe did not respond. A follow-up telephone call to the Ute Tribe was made July 30, 2014, but the Tribal representative was unavailable to speak. A copy of the letter is included in Appendix E as part of the Section 106 coordination efforts.

Due to the nature of the project and the limited potential area of impact, no other public involvement activities were conducted.

Coordination and Review of the EA

This EA will be circulated for fifteen (15) days to agencies, organizations, and individuals known to have an interest in the project. All comments received will be considered and incorporated into the EA, as appropriate.

CHAPTER 6: LIST OF PREPARERS AND CONTRIBUTORS

List of Preparers

Name	Organization	Project Role	Education	Years of Experience
Jennifer Hale	Horrocks Engineers	Environmental Analysis/Graphics	BA, Humanities MLA, Landscape Architecture	7
Judy Imlay	Horrocks Engineers	Environmental Analysis	BA, Political Science JD	19
Ryan Pitts	Horrocks Engineers	Environmental Analysis	BS, Horticulture MLA, Landscape Architecture	8
Stan Jorgensen	Horrocks Engineers	Environmental Manager	BS, Civil Engineering MS, Civil Engineering	21

List of Contributors

- Therese Meyer, Utah Department of Wildlife Resources (UDWR)
- Aaron Spencer, Utah Division of Water Resources (UDWRes)
- Nathan Robinson, President of Red Creek Irrigation Company (RCIC)
- Kathy Robinson, Water Master with Red Creek Irrigation Company (RCIC)
- Monson Shaver, Utah Division of Wildlife Resources (UDWR)
- Anna Schmidt, U.S. Fish and Wildlife Service (USFWS)
- Otto Jose, U.S. Fish and Wildlife Service (USFWS)
- David McGillivary, U.S. Fish and Wildlife Services' Wildlife and Sport Fish Restoration Program (WSFR)

CHAPTER 7: LITERATURE CITED

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APPENDIX A

(Appendix A available upon request)

APPENDIX B

(Appendix B available upon request)

APPENDIX C

(Appendix C available upon request)

APPENDIX D

(Appendix D available upon request)

APPENDIX E

Cultural Resource Inventory
of the
Red Creek Dam Reinforcement and Spillway Replacement
in
Duchesne County, Utah

by

Monson W. Shaver

Utah Division of Wildlife Resources
1594 W. North Temple, Suite 2110
Salt Lake City, Utah

February 4, 2014

Antiquities Section Project Number U-14-UQ-0014s

INTRODUCTION

This report details the methods and results of a cultural resource inventory of the Red Creek Dam Reinforcement and Spillway Replacement Project, Duchesne County, Utah. The area surveyed is legally described as Township 16 South, Range 2 West, Section 13: NE 1/4 of the SW 1/4; NW 1/4 of the SE 1/4 UB&M. The property is in the ownership of the State of Utah, Division of Wildlife Resources (UDWR). The location surveyed during the course of the work is depicted on the map on the following page. The action driving this compliance survey is the intent to reinforce the dam and construct a new spillway. The objective of the inventory was to locate, document, and evaluate any cultural resources within the project area in order to comply with Utah Code 9-8-404 and Section 106 of 36 CRF 800, the National Historic Preservation Act of 1966 (as amended).

PROJECT CONTEXT

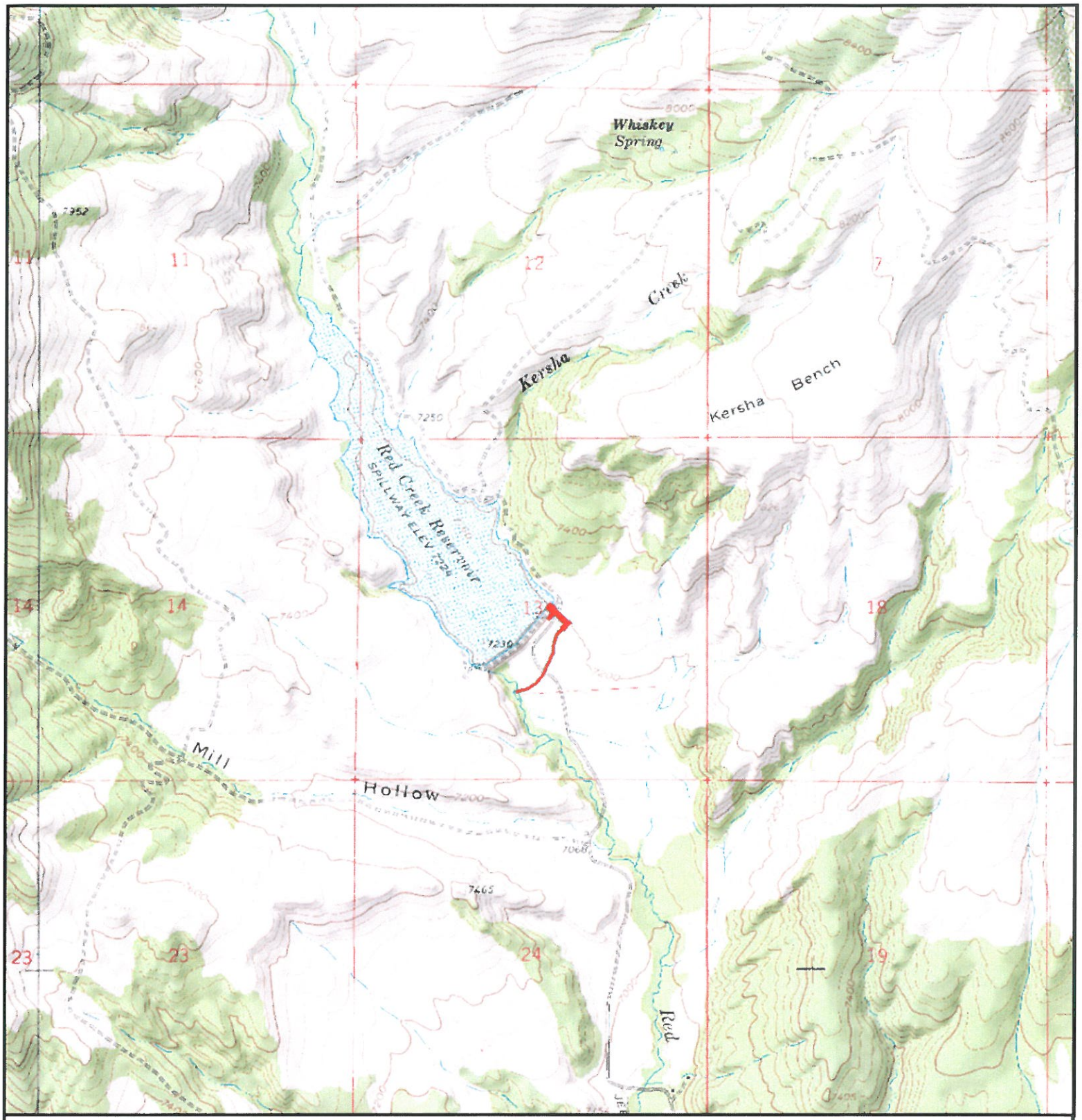
The Red Creek Dam Reinforcement and Spillway Replacement Project is located approximately 10 miles north of the town of Fruitland and U.S. 40 in western Duchesne County. Geologically, the project area is located within the Uinta Basin subdivision of the Colorado Plateau Physiographic Province. The Uinta Basin is well named; it is distinctly bowl-shaped in both topographic form and geologic structure. The topography conforms closely, but not exactly, to the structure. The topography, apart from the stream valleys, is best described in terms of sloping surfaces. Those which incline northward are mainly dip slopes on the harder layers of the Green River an Uinta Formations. The sloping surfaces of much of the northern half of he basin are pediments planed by erosion and coated with a veneer of gravel and sand from the Uinta Mountains (Stokes 1988; 231-232). Specifically, the Red Creek Dam is located in an unnamed valley south of Tabby Mountain and north of U.S. 40.

The area surrounding the project supports an Upper Sonoran life zone with a vegetation community dominated by pinyon-juniper woodland with a sagebrush, rabbit brush, and cheat grass understory. The project area is at an elevation of 7,200 feet. The site of the new spillway, just below the dam, has been previously disturbed by construction of the Red Creek Dam in 1960.

The prehistory of northern Utah spans the last 10,000 to 12,000 years. For a detailed history of the region the reader is directed to Jennings (1978), Grayson (1993) and most recently Simms (2008).

RECORDS SEARCH RESULTS

On January 16th, 2014 the author conducted a literature search of the archaeological site files located at the State of Utah Antiquities Section and a search of the CURES GIS database prior to field survey. Five cultural resource inventories have been conducted within one mile of the project area (Shaver 2002a, 2002b, 2002c, 2007; Stavish 2011). Archaeological site types for this area can be expected to consist of prehistoric chipped stone scatters and historic trash scatters. The General Land Office (GLO) maps for this Township and Range are not available.



UTAH DNR NATURAL RESOURCES

N

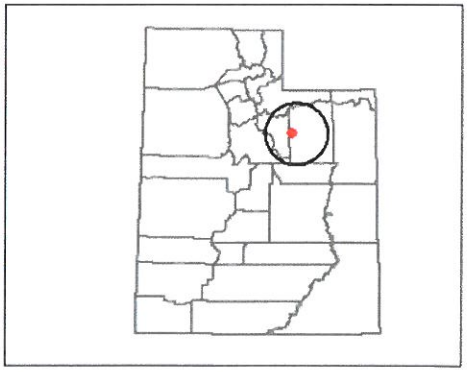
0 0.125 0.25 0.5 Miles

1:24,000

42Dc3610
U-14-UQ-0014s

Township 2 South, Range 9 West
Section 13 USM
Duchesne County

Red Creek Dam Spillway Replacement



METHODS

The Red Creek Dam Reinforcement and Spillway Replacement Project was conducted on various dates through out the summer of 2013. A global positioning system in conjunction with a 1:24,000 scale topographic map were used for control. The inventory was conducted using standard archaeological survey methods. As the project area has been previously disturbed by dam construction meandering pedestrian transects were employed across and below the structure.

INVENTORY RESULTS

The cultural resource inventory resulted in the documentation of the Red Creek Dam (42Dc3610).

Red Creek Dam was constructed by Utah Fish and Game in 1960 from property owned by the Butters and Colemon Families. A tributary to the Strawberry River, Red Creek's head waters are located 10 miles to the northwest of the dam on Red Creek Mountain. The reservoir is situated in an unnamed valley overlooked by 10,000 foot Tabby Mountain to the northeast and Raspberry Knoll to the northwest.

The dam runs southwest to northeast measuring approximately 1,500 feet long by 258 feet at the widest point and originally 96 feet high covering an area of 2.6 acres. The top of the dam is uneven as the structure has sunken by 3 feet. The original cement spillway is located on the western side of the dam and has been braced as the walls of the spillway tilt inward. The dam was constructed from earthfill but leaked, and a grout curtain was installed in 1964. No head gates or control features are present at the top of the spillway. A head gate is located on the reservoir side of the dam to control water release from an underground pipe which is 15 feet above the bottom of the reservoir, creating a conservation pool for wildlife, which can not be drained. Large amounts of water are seeping above and below ground, eroding soil from underneath the spillway. Sink holes have developed around the sides of the spillway. A gated two track runs across the top of the spillway.

ELIGIBILITY/EFFECT RECOMMENDATIONS

The Red Creek Dam (42Dc3610) occupies its original 1960 location and retains integrity of location, design, setting, feeling and association as outlined in 36 CFR 60.4. The Red Creek Dam has made a significant contribution to the broad pattern of the history of the region by enabling the agricultural and economic development of Duchesne County. The Red Creek Dam is recommended eligible for listing on the National Register of Historic Places (NRHP) under Criteria C.

Based on the above, the Utah Division of Wildlife Resources has made a determination of *adverse effect* for the Red Creek Dam Spillway Replacement Project.

REFERENCES CITED

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GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Wildlife Resources

GREGORY SHEEHAN
Division Director

July 15, 2014

Honorable Gordon Howell
Chairman, Ute Tribal Business Committee
P.O. Box 190
Fort Duchesne, Utah 84026

Dear Chairman Howell,

Red Creek Irrigation Company and the Utah Division of Water Resources are proposing to repair Red Creek Dam in Duchesne County, Utah, in cooperation with the Utah Division of Wildlife Resources (UDWR), the current owner of the surface estate. The U.S. Fish and Wildlife Service, Wildlife and Sport Fish Restoration Program, is also a partner in the project, through its investment in the land underlying the reservoir, and through its investment in maintenance of the dam to contain the reservoir which supports a fishery for angling.

The purpose of this letter is to invite comments regarding the proposed project from the Ute Indian Tribe. We are preparing an Environmental Assessment (EA) in compliance with the National Environmental Policy Act as part of the proposed project. The EA will provide the necessary analysis for determining potential environmental impact associated with the proposed action.

The proposed action includes removal of the old spillway, creation of a new spillway, addition of fill material to stop leaks, installation of drain systems in the earthen dam, building an earthen berm on the downstream side of the dam to stabilize the dam in case of an earthquake, and relocating a stretch of county road to go around the new spillway. We enclose a scoping brief for the proposed project to provide additional detail of the location, description of the proposed action, and supplementary information supporting the proposed project.

Red Creek Dam was originally constructed in 1959 approximately seven miles north of Fruitland, Utah. Within two years after completion, the dam began to leak, and subsequent attempts to patch the leaking areas were not completely successful. Over time, the spillway became cracked and is currently partially collapsed. The Utah Dam Safety Board determined that the reservoir level must remain at a very low level until repairs are completed, and this loss of storage capacity in the reservoir has created a reduction in irrigation and a reduction in the fishery.

Because the dam is more than forty-five years old and has historic significance to the region, UDWR and the State Historic Preservation Office determined that the proposed

1594 West North Temple, Suite 2110, PO Box 146301, Salt Lake City, UT 84114-6301
telephone (801) 538-4700 • facsimile (801) 538-4709 • TTY (801) 538-7458 • *www.wildlife.utah.gov*

project would have an adverse effect on the historic character of the dam, and this adverse effect necessitates preparation of an EA.

If, after reviewing the material included in this letter, you feel that the proposed project might affect any properties of religious or cultural importance, we request your notification and participation as a consulting party during the EA process. A response within 15 days would be appreciated. Ms. Therese Meyer at UDWR will be following up this letter with a telephone call to you in the next two weeks. If you have questions, or if there is additional information that you would like to receive, please contact Ms. Meyer at 801-538-4866.

We appreciate your time and consideration of the proposed project, and we look forward to hearing from you in the near future.

Sincerely,

Mr. Ashley D. Green
Habitat Section Chief

Enclosure: Scoping Brief

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Wildlife Resources
GREGORY SHEEHAN
Division Director

February 4, 2014

Lori Hunsaker
Deputy State Historic Preservation Officer
State History
300 Rio Grande
Salt Lake City, UT 84101-1182

RE: Cultural Resource Inventory of the Red Creek Dam Reinforcement and Spillway Replacement Project, Duchesne County, Utah (U-13-UQ-0014s)

Dear Ms. Hunsaker:

Enclosed for your review and comment is a report entitled *Cultural Resource Inventory of the Red Creek Dam Reinforcement and Spillway Replacement Project, Duchesne County, Utah.* The project is located on Utah Division of Wildlife Resources' (UDWR) property. The action driving this U.C.A. 9-8-404 compliance survey is the intent to reinforce the dam and replace the spillway.

The Utah Division of Wildlife Resources (UDWR) conducted a cultural resource inventory of the project area resulting in the documentation of one new site, the Red Creek Dam (42Dc3610). The UDWR recommends 42Dc3610 as *eligible* to the National Register of Historic Places (NRHP). The UDWR has made an *adverse effect* determination for the Red Creek Dam Reinforcement and Spillway Reconstruction Project. We ask for your concurrence for our site eligibility recommendation and project determination.

Sincerely,

Mr. Ashley D. Green
Habitat Section Chief

ADG/mws
Enclosure
cc: Miles Hanberg, Regional Habitat Manager

1594 West North Temple, Suite 2110, PO Box 146301, Salt Lake City, UT 84114-6301
telephone (801) 538-4700 • facsimile (801) 538-4709 • TTY (801) 538-7458 • *www.wildlife.utah.gov*

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

Julie Fisher
Executive Director
Department of
Heritage & Arts

Utah Division of
State History

Brad Westwood
Director

February 12, 2014

Mr. Ashley D. Green
Habitat Section Chief
Division of Wildlife Resources
PO Box 146301
Salt Lake City, Utah 84114-6301

RE: Cultural Resource Inventory of the Red Creek Dam Reinforcement and Spillway Replacement Project, Duchesne County, Utah U-13-UQ-0014s

For future correspondence please reference Case No. 14-0145

Dear Mr. Green:

The Utah State Historic Preservation Office received your request for our comment on the above referenced undertaking on February 7, 2014.

We concur with your determinations of eligibility and effect for this undertaking. We look forward to working with you on resolving this adverse effect.

Utah Code 9-8-4-4(1)(a) denotes that your agency is responsible for all final decisions regarding cultural resources for this undertaking. Our comments here are provided as specified in U.C.A. 9-8-4-4(3)(a)(i). If you have questions, please contact me at 801-245-7263 or Lori Hunsaker at 801-245-7241 *lhunsaker@utah.gov*.

Sincerely,

Chris Merritt, Ph.D.
Senior Preservation Specialist
comerritt@utah.gov

United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region

IN REPLY REFER TO
FWS/WSFR/R6

MAILING ADDRESS:
Post Office Box 25486
Denver Federal Center
Denver, Colorado 80225-0486

STREET LOCATION:
134 Union Blvd.
Lakewood, Colorado 80228-1807

APR 15 2014

Greg Sheehan, Director
Utah Division of Wildlife Resources
1594 West North Temple, Suite 2110
PO Box 146301
Salt Lake City, Utah 84114-6301

Dear Mr. Sheehan:

We are writing to follow-up on recent National Historic Preservation Act (NHPA) compliance discussions between our offices concerning the earthen dam at Red Creek Game Management Area (Red Creek Reservoir), Duchesne County, acquired, in part, with Wildlife Restoration grant funds in 1966/67 (W-106-L). In March, we received a draft grant proposal for an easement to reconstruct the earthen dam, subsequently learning of the earthen dam and its recent recommendation of eligibility for listing under the NHPA by Utah Department of Wildlife Resources (UDWR) Archeologist Monson Shaver. It is our understanding that the eligibility was concurred by the Utah State Historic Preservation Office (SHPO).

Our Regional Historic Preservation Officer, Meg Van Ness's position regarding the eligibility determination is that the significance of the earthen dam is marginal but, based on her discussions with Mr. Shaver and his adamant support for the eligibility, it is a determination we can accept.

In consideration of the eligible determination, we need to re-assess grant-funded actions that could impact the earthen dam. Currently, there is a statewide Operation and Maintenance (O&M) grant involving activities pertinent to the reservoir's fishery (grant F-44-R-34/F13AF00697, July 1, 2013 through June 31, 2014). NHPA compliance for UDWR statewide O&M grant activities is usually covered under the "Programmatic Agreement" signed by the FWS Region 6 Regional Director, Utah SHPO, the Executive Director of the Advisory Council on Historic Preservation, and the UDWR Director, dated May 31, 2001.

Under the Agreement, "Maintenance and Operations Activities" as well as "Dams and Dikes" are programmatically approved, specifically "repair and maintenance of previously determined non-historical small dams and dikes where activities are confined to previously disturbed areas. All other structures 45 years old or older will be evaluated and/or reviewed for effects." The recent eligible determination for the Red Creek Reservoir earthen dam negates the use of the Programmatic Agreement for this project.

Therefore, we respectfully request the following:

- Provide our office documentation of all work conducted with WSFR funding on the Red Creek Reservoir earthen dam, spillway, and other O&M activities in the earthen dam area to date.
- Stop all grant-funded work on the earthen dam, spillway, and in the earthen dam area until NHPA issues are resolved. This includes O&M (i.e. fisheries grant F-44-R-34) or other WSFR-funded activities near the earthen dam (i.e. W-106-L).
- However, if there are safety (emergency) issues associated with the earthen dam, proceed as you determine appropriate.

In closing, we are committed to working with the UDWR and others in support of operation, maintenance, repair, and reconstruction of the Red Creek Reservoir earthen dam while meeting NHPA requirements. Regarding the draft grant proposal, we will continue to work with your office for completion of a grant application, including the environmental compliance requirements for the National Environmental Policy Act, Endangered Species Act, and NHPA. Also, we suggest representatives from our agencies conduct a site visit at the Red Creek Reservoir earthen dam to view the project first hand, discuss all associated issues, and discuss next steps.

Please feel free to contact Anna Schmidt at (303) 236-4375 or me at (303) 236-4411 to set up a site visit, or if you have any additional questions or concerns.

Sincerely,

David McGillivary,
Chief, Wildlife and Sport Fish
Restoration Program

cc: Eric Hyatt, UDWR Federal Aid Grant Coordinator
Craig Walker, UDWR Aquatic Habitat Coordinator
Therese Meyers, UDWR Wildlife Reality Specialist
Monson Shaver, UDWR Archeologist
Lori Hunsaker, Utah Deputy State Historic Preservation Officer
Christopher Merritt, Utah State History, Senior Preservation Specialist
Margaret Van Ness, FWS Region 6 Regional Historic Preservation Officer /Archaeologist

State of Utah
Department of Natural Resources
Division of Wildlife Resources

Contract No.
70 1888
Amend No.

CONTRACT INFORMATION

Date **7/1/2014**

Vendor No.
Vendor United States Fish and Wildlife Service
Vendor and the State Historic Preservation Office
City

Description of work to be completed.

Memorandum of Agreement between UDWR, USFWS & SHPO regarding mitigation of adverse effects to the Red Creek Dam, Duchesne County, Utah. This MOA is related to easement DUCH-1312EA-0444.

Receivable [ ] Payable [ ] Land Acquisition [ ] MOA [X] Easement/Right of Way [ ]

NUMBER OF FTE'S PER THIS CONTRACT:

# of AJ's	
# of AL's	
# of B's	
Total number of FTE's	

An FTE is defined as 2,088 labor hours being worked. That could be comprised of multiple employees or a single employee.
Example: A contract has $58,500 for labor that is 3-AJ's for 3 months each = 1,566 hrs and 1-AL for 1 year = 2088 hrs. Total is 3,654 hrs or 1.75 FTE's

DELIVERABLES (Reports, products, materials):

	Due Date:

Effective Date
Expiration Date

Total Amount to be Received/Paid:

Description	Amount
TOTAL	

Is this a new Project number? Yes No

A budget change form will need to be submitted with all contracts, including amendments.

Unit	Appr	Activity	Function	Program	Object	Amount	SLO Use
					TOTAL	**$0**	

Contract Monitor: Monson W. Shaver

:tion Chief / Regional Supervisor Approval:

MEMORANDUM OF AGREEMENT
AMONG
THE UNITED STATES FISH AND WILDLIFE SERVICE, UTAH STATE HISTORIC PRESERVATION OFFICE, AND THE UTAH DIVISION OF WILDLIFE RESOURCES, REGARDING MITIGATION OF ADVERSE EFFECTS TO THE RED CREEK DAM (42DC3610), DUCHESNE COUNTY, UTAH

70 1888

WHEREAS, the Wildlife and Sport Fish Restoration Program (WSFR) of the United States Fish and Wildlife Service, Region 6 (Service), is reviewing a grant for a right-of-way for a Red Creek Reservoir Dam and Spillway Rebuild project which will include reinforcing the dam and constructing a new spillway; and

WHEREAS, the Red Creek Dam (42DC3610) has been determined eligible for the National Register of Historic Places; and

WHEREAS, the Service has consulted with the Utah State Historic Preservation Office (SHPO) pursuant to 36 C.F.R. part 800, of the regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. § 470f) and there is concurrence that the project is an undertaking that will have an adverse effect on the Red Creek Dam; and

WHEREAS, the Red Creek Reservoir is a part of the Tabby Mountain Wildlife Management Area managed by the Utah Division of Wildlife Resources (DWR) and acquired in part with WSFR grant finds and DWR is responsible for obtaining a right-of-way to conduct the undertaking; and

WHEREAS, the DWR has defined the undertaking's area of potential effect (APE) as the dam, borrow pits, new spillway and the road; and

WHEREAS, in accordance with 36 C.F.R. § 800.6(a)(1), the Service has notified the Advisory Council on Historic Preservation (ACHP) of its adverse effect determination with specified documentation and the ACHP has chosen not to participate in the consultation pursuant to 36 CFR § 800.6(a)(1)(iii); and

NOW, THEREFORE, the Service, DWR, and the SHPO agree that the undertaking shall be implemented in accordance with the following stipulations to take into account the effect of the undertaking on historic properties.

STIPULATIONS

The Service shall ensure that the following measures are carried out:

I. DOCUMENTATION

Site (42DC3610) will be intensively documented by DWR staff with all surface materials mapped according to Level II Historic American Engineering Survey (HAER) documentation.

II. HISTORIC RECORDS

DWR staff will research and compile historic records on the dam from local, county, and state archives, including measured design drawings and historic photographs as appropriate.

III. IMACS FORM

Both I and II will be compiled by DWR staff into a revised IMACS Form, and summarized in a final mitigation report submitted in hard copy to the SHPO Office.

IV. PUBLIC OUTREACH

DWR staff will post a history of Red Creek Dam, along with photographs, line drawings and references to the DWR blog site: http://wildlife.utah.gov/blog/. A Wikipedia page with the same information will also be posted.

V. PUBLIC NOTIFICATION

Public notification for comment will be placed in the Uintah Basin Standard by DWR staff for two weeks in succession.

VI. DURATION

This MOA will expire if its terms are not carried out within five (5) years from the date of its execution. Prior to such time, the Service may consult with the other signatories to reconsider the terms of the MOA and amend it in accordance with Stipulation VIII below.

VII. POST REVIEW DISCOVERIES

DWR will notify the Service as soon as practicable if it appears that the Undertaking will affect a previously unidentified property that may be historic, or affect a known historic property in an unanticipated manner. DWR will require the sub-grantee to stop construction activities in the vicinity of the discovery and take all reasonable measures to avoid or minimize harm to the property until the Service concludes consultation with the SHPO.

The Service will notify the SHPO of the discovery at the earliest possible time and consult to develop actions to take into account the effects of the Undertaking. The Service will notify the SHPO of any time constraints, and all parties will mutually agree upon timeframes for this consultation. DWR and the sub-grantee may participate in this consultation. The Service will provide the SHPO with written recommendations to take into account the effects of the Undertaking. SHPO will respond to the written recommendation within no more than 15 days of their receipt.

If the SHPO does not object to the Service's recommendations within the agreed upon timeframe, the Service will require the sub-grantee to modify the scope of work to implement the recommendations. If the SHPO objects to the recommendations, the Service and the SHPO will consult further to resolve this objection through actions including, but not limited to, identifying project alternatives that may result in the Undertaking having no adverse effect on historic properties.

If human remains and/or funerary objects are encountered all work in the vicinity of the discovery will stop immediately and all reasonable measures to secure the location and prevent additional disturbance to the property will be taken by the DWR. The Service and the SHPO will be notified immediately and the provisions of the Utah Native American Grave Protection and Repatriation law (Rule R456-1) will be implemented.

VIII. MONITORING AND REPORTING

Each calendar year following the execution of this MOA until it expires or is terminated, DWR shall provide all parties to the MOA a summary report detailing work undertaken pursuant to its terms. Such report shall include any scheduling changes proposed, any problems encountered, and any disputes and objections received in DWR's efforts to carry out the terms this MOA.

IX. DISPUTE RESOLUTION

Should any signatory or concurring party to the MOA object at any time to any actions propose or the manner in which the terms of this MOA are implemented, the Service shall consult with such party to resolve the objection. If the Service determines that such objections cannot be resolved, the Service will:

A. Forward all documentation relevant to the dispute, including the DWR's proposed resolution, to the ACHP. The ACHP shall provide the Service with its advice on the resolution of the objection within thirty (30) days of receiving adequate documentation. Prior to reaching a final decision on the dispute, the Service shall prepare a written response that takes into account any timely advice or comments regarding the dispute from the ACHP, signatories and concurring parties, and provide them with a copy of this written response. The Service will then proceed according to its final decision.

B. If the ACHP does not provide its advice regarding the dispute within the thirty (30) day time period; the Service may make a final decision on the dispute and proceed accordingly. Prior to reaching such a final decision, the Service shall prepare a written response that takes into account any timely comments regarding the dispute from the signatories and concurring parties to the MOA, and provide them and the ACHP with a copy of such written response.

C. The Service's responsibilities to carry out all other actions subject to the terms of this MOA that are not the subject of the dispute remain unchanged.

X. FEDERAL FUNDING AND CONGRESSIONAL PROVISIONS

No Member of or Delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of this contract or agreement, or to any benefit to arise therefrom unless the share, part, or benefit is for the general benefit of a corporation or company.

Nothing contained in this Agreement shall be construed as binding the FWS to expend in any one fiscal year any sum in excess of appropriations made by Congress for the purposes of this Agreement for that fiscal year, or other obligation for the further expenditure of money in excess of such appropriations (Anti-Deficiency Act- 31U.S.C.§1341).

XI. AMENDMENTS

This MOA may be amended when such an amendment is agreed to in writing by all signatories. The amendment will be effective on the date a copy signed by all of the signatories is filed with the ACHP.

XII. TERMINATION

If any signatory to this MOA determines that its terms will not or cannot be carried out, that party shall immediately consult with the other parties to attempt to develop an amendment per Stipulation VII, above. If within thirty (30) days (or another time period agreed to by all signatories) an amendment cannot be reached, any signatory may terminate the MOA upon written notification to the other signatories.

Once the MOA is terminated, and prior to work continuing on the undertaking, the Service must either (a) execute a MOA pursuant to 36 FCR § 800.6 or (b) request, take into account, and respond to the comments of the ACHP under 36 CFR § 800.7. The Service shall notify the signatories as to the course of action it will pursue.

Execution of this MOA by the Service and SHPO and implementation of its terms evidence that the Service has taken into account the effects of this undertaking on historic properties.

SIGNATORIES

70 1888

United States Fish and Wildlife Service:

6-18-2014

David McGillivary, Program Chief
Wildlife & Sport Fish Restoration

Date

Utah Division of Wildlife Resources:

ACTING DIRECTOR

7/3/14

Gregory J. Sheehan, Director

Date

7/3/14

Financial Mgr. Date
Division of Wildlife Resources

Utah State Historic Preservation Office:

7.7.14

Lori Hunsaker, Deputy State Historic Preservation Officer

Date

Preserving America's Heritage

June 18, 2014

Meg Van Ness
Regional Historic Preservation Officer
Fish and Wildlife Service
Mountain-Prairie Region
134 Union Boulevard
Lakewood, CO 80228-1807

Ref: *Proposed Red Creek Reservoir Dam and Spillway Rebuild Project*
Duchesne County, Utah

Dear Ms. Van Ness:

The Advisory Council on Historic Preservation (ACHP) has received your notification and supporting documentation regarding the adverse effects of the referenced undertaking on a property or properties listed or eligible for listing in the National Register of Historic Places. Based upon the information provided, we have concluded that Appendix A, *Criteria for Council Involvement in Reviewing Individual Section 106 Cases*, of our regulations, "Protection of Historic Properties" (36 CFR Part 800), does not apply to this undertaking. Accordingly, we do not believe that our participation in the consultation to resolve adverse effects is needed. However, if we receive a request for participation from the State Historic Preservation Officer (SHPO), Tribal Historic Preservation Officer, affected Indian tribe, a consulting party, or other party, we may reconsider this decision. Additionally, should circumstances change, and it is determined that our participation is needed to conclude the consultation process, please notify us.

Pursuant to 36 CFR §800.6(b)(1)(iv), you will need to file the final Memorandum of Agreement (MOA), developed in consultation with the Utah State Historic Preservation Office (SHPO), and any other consulting parties, and related documentation with the ACHP at the conclusion of the consultation process. The filing of the MOA, and supporting documentation with the ACHP is required in order to complete the requirements of Section 106 of the National Historic Preservation Act.

Thank you for providing us with the notification of adverse effect. If you have any questions or require further assistance, please contact John T. Eddins, Ph.D. at 202-517- 0211 or at jeddins@achp.gov.

Sincerely,

LaShavio Johnson

LaShavio Johnson
Historic Preservation Technician
Office of Federal Agency Programs

APPENDIX F

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah
DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Wildlife Resources

GREGORY SHEEHAN
Division Director

February 20, 2014

Larry Crist, Field Supervisor
Utah Ecological Services Field Office
2369 Orton Circle, Suite 50
West Valley City, Utah 84119

Dear Mr. Crist:

This letter is to request consultation with the Utah Ecological Services Field Office regarding a proposed Red Creek Reservoir dam spillway reconstruction in Duchesne County, Utah.

The Utah Division of Wildlife Resources (UDWR) sought information from the Utah Natural Heritage Program regarding species of concern in the vicinity of the project. Two species on the *Utah Sensitive Species List* were identified: Greater sage-grouse and bald eagle. Additionally, UDWR needs to address the Upper Colorado River Drainage water depletion concerns. This letter addresses these concerns.

Reservoir Background Information

Red Creek Reservoir was initially constructed in 1960 as a joint project between the Red Creek Irrigation Company (RCIC), UDWR, and the Utah Division of Water Resources (UDWRe). UDWR joined the reservoir project partnership by establishing a conservation pool to create a sport fishery and provide angling opportunities for the public, and to gain public access into the hunting areas east of the reservoir. The purchase of the conservation pool was not made with federal funds. In 1966, UDWR purchased the ground where the reservoir is located using federal funds under grant W-106-L, Red Creek Game Management Area. The area is now managed as the Tabby Mountain Wildlife Management Area.

After several decades since construction, the existing dam spillway has lost integrity. This project proposes to replace the existing spillway with a new spillway, and to return the flow to the natural stream through a constructed canal and culvert passing under a road. A subsequent stage of the project will rebuild or strengthen the dam itself.

UDWR proposes to grant an easement to Red Creek Irrigation Company to enable it, with funding assistance from UDWR and UDWRe, to build the new spillway and impound water in the reservoir, and thus to continue to store water for the several shared purposes (fishery, angling, irrigation). The proposed work will be conducted from mid-June through mid-October of 2014, using two scrapers, a loader, dump trucks with pups, a medium-sized track hoe, a bulldozer, gravel trucks, cement trucks and pump truck, a flat-bed delivery truck, and seven to twelve workers. Since the dam and spillway are

1594 West North Temple, Suite 2110, PO Box 146301, Salt Lake City, UT 84114-6301
telephone (801) 538-4700 • facsimile (801) 538-4709 • TTY (801) 538-7458 • *www.wildlife.utah.gov*

already in existence, and will be rebuilt in approximately the same location, there will be minimal additional disturbance.

Greater sage-grouse

The Utah Natural Heritage Program identified occurrences of Greater sage-grouse (*Centrocercus urophasianus)* "within a two-mile radius of the project area" which was defined as T2S, R9W, Section 13, SLB&M.

Utah's Conservation Plan for Greater Sage-grouse ("Plan"), signed by the Governor on February 14, 2013, aims to protect sage-grouse and sage-grouse habitat through cooperative actions among private, local, state, tribal, and federal land owners and managers. In the Plan, sage-grouse habitat in Utah was aggregated into eleven "Sage-grouse Management Areas" (SGMAs) of highest concentration and utility to sage-grouse populations. Within each SGMA, the land is further divided into "non-habitat areas" which are not suitable for sage-grouse use; "habitat areas" of known sage-grouse use, "opportunity areas" that are not currently utilized by sage-grouse but are judged to be potential habitat if some restoration were accomplished; and "leks" including a three-mile buffer zone around each known lek.

This reservoir is located in the Strawberry SGMA, in an area designated as "Habitat Area." Strawberry is one of five SGMAs in the state with the highest proportion of private lands, and also with larger and flourishing populations of sage-grouse (Plan, page 10). The reservoir project is not within a lek or lek buffer area; the project may be approximately six miles from the nearest mapped lek (Plan Map, Exhibit 1).

The west side of the reservoir and the west end of the dam are located on private land. The east side of the reservoir and the east end of the dam are located on Utah Division of Wildlife Resources land. The spillway will be constructed in a new orientation on the east end of the dam rather the current west end location. The lower portion of the spillway will be in the borrow pit created by the original dam construction, and thus in previously disturbed ground. Since the construction location is in close proximity to the existing infrastructure, it may affect, but is unlikely to adversely impact sage-grouse habitat or populations.

UDWR requests U.S. Fish and Wildlife Service, Utah Ecological Services, to determine if this proposed project qualifies as a categorical exclusion with respect to Greater sage-grouse for the purposes of NEPA.

Bald Eagle

The Utah Natural Heritage Program database identified occurrences of bald eagle (*Haliaeetus leucocephalus)* "within the project area" also defined as T2S, R9W, Section 13, SLB&M. Bald eagle is a wintering bird in Utah, but also has known nesting sites in the state.

Bald eagles commonly scavenge shorelines for fish and will take live fish from open water. It is possible that bald eagles use the Red Creek Reservoir as a food source site, however, the workers familiar with the site report no observations of bald eagles near the reservoir, and there are no

trees or power poles or other tall structures in the vicinity that might be used as perches. This project will not construct any tall structures.

The construction process will occur on the dam and in the spillway areas, so there will be no disturbance to areas most likely to be used by bald eagles: the reservoir shorelines. Since the location of the construction is in close proximity to the existing infrastructure, it may affect, but is unlikely to adversely impact bald eagle habitat or populations.

UDWR requests U.S. Fish and Wildlife Service, Utah Ecological Services, to determine if this proposed project qualifies as a categorical exclusion with respect to bald eagle for the purposes of NEPA.

Water Depletion: Upper Colorado River Drainage

DWR holds a water right in the Red Creek Reservoir for storage of 168 acre-feet of dead storage for a fishery and for public angling. Red Creek Irrigation Company and other adjacent land owners hold the balance of the water rights in the reservoir for irrigation of private property in the vicinity and for livestock watering directly from the reservoir. Red Creek Irrigation Company has water rights to irrigate 2,762 acres.

The proposed project construction will use water from the reservoir to control dust, and to moisture-condition soils, using, but not exceeding, the water rights owned by the irrigation company. Upon completion of the project, RCIC will restore the reservoir to the normal level and to normal usage allowed by the water rights held by the various entities.

Care will be taken to avoid or minimize sediment flowing into the stream below the dam during spillway and canal culvert construction. Silt fences, straw bales, and earth berms will be employed as needed to prevent sediment from entering the live stream. Reclamation including re-contouring and re-vegetation of disturbed surfaces will be required.

In conclusion, UDWR requests U.S. Fish and Wildlife Service, Utah Ecological Services, to determine if this proposed project qualifies as a categorical exclusion with respect to Greater sage-grouse, bald eagle, and the Upper Colorado River Drainage Water Depletion for the purposes of NEPA. Please contact Therese Meyer, Wildlife Realty Specialist, in our Salt Lake City office if you or your staff have any questions regarding this request. She can be reached at 801-538-4866 or theresemeyer@utah.gov .

Sincerely,

Mr. Ashley Green
Habitat Section Chief

ADG/tm

Therese Meyer <theresemeyer@utah.gov>

Re: Red Creek Reservoir Dam Spillway Reconstruction Project

1 message

Martini, Jay <jay_martini@fws.gov> Tue, Mar 25, 2014 at 4:03 PM
To: theresemeyer <theresemeyer@utah.gov>
Cc: Betsy Herrmann <betsy_herrmann@fws.gov>, Anna Schmidt <anna_schmidt@fws.gov>

Hi Therese,

I just got off the phone with Kevin McAbee our regional office Colorado River water depletion expert. After discussing the project with him, it was determined that the Project, as proposed in your letter, would not likely affect the endangered Colorado River fishes. Your letter indicates that some of the water allocation that would normally be used for irrigation and livestock water would be used for dust control during project implementation. As such, this change in use would be considered temporary in nature. The use of this water is not expected to increase the overall amount of water being depleted from the reservoir and the use would not exceed the allocated amount of water owned by the irrigation company. Therefore formal consultation would not be required and we do not have an specific issues that give us concern in regard to the Upper Colorado River water depletion, the endangered fish species or their designated critical habitat. I apologize for the flurry of emails today, but hopefully this will cut down on the amount of work. If you have further questions please give me a call.

Thanks

Jay

On Tue, Mar 25, 2014 at 10:59 AM, Martini, Jay <jay_martini@fws.gov> wrote:

> Therese,
>
> I'm sorry, I forgot to include where you can go if you need to find a complete set of migratory birds/raptor guidelines. They are available at: http://www.fws.gov/utahfieldoffice/MigBirds.html.
>
> On Tue, Mar 25, 2014 at 10:36 AM, Martini, Jay <jay_martini@fws.gov> wrote:
>
> > Hi Therese
> >
> > This responds to your February 20, 2014, letter regarding the Red Creek Reservoir Dam Spillway Reconstruction Project (Project). Your letter requested that the U.S. Fish and Wildlife Service, Utah Ecological Services Field Office determine if the proposed Project qualifies as a categorical exclusion with respect to greater sage-grouse, bald eagle, Colorado pikeminnow, humpback chub, bonytail, and razorback sucker.
> >
> > Greater Sage-grouse

Your letter indicates that the Project will occur within the Utah Division of Wildlife Resources' (DWR) mapped priority habitat for greater sage-grouse (GRSG). Special consideration should be given to the GRSG, a sensitive species in the State of Utah and a Candidate for listing under the ESA. Our comments related to GRSG are provided largely in the context of the Final Greater Sage-Grouse Conservation Objectives Team Final Report (COT report). Our purpose for developing the COT report was to provide range-wide conservation objectives that, if met, would indicate that threats to the species have been reduced or ameliorated so that it is no longer in danger of extinction or likely to become so in the foreseeable future.

Based on the Project information provided, the proposed action will occur in DWR mapped priority habitat that lies within the Strawberry Sage Grouse Management Area identified in the State of Utah's Conservation Plan for Greater Sage-grouse in Utah (Plan), as well as the Strawberry Priority Area for Conservation (PAC), as identified in the COT report. The PACs are the most important areas needed for maintaining GRSG representation, redundancy, and resilience across the landscape. Your letter states that the closest known lek is approximately 6 miles from the proposed project.

The Project will occur in approximately the same location as the existing spillway, therefore we anticipate minimal additional disturbance. However indirect impacts could occur as a result of Project implementation due to noise associated with work activities. Therefore, we recommend avoiding placement of structures in GRSG habitats that would result in noise levels of more than 10 decibels above ambient conditions. The noise measurement should be applied to construction and long term operation of project facilities. To further reduce impacts to GRSG during lekking, nesting and brood rearing seasons we recommend working with DWR sage-grouse biologists to implement the Project during a time when GRSG are less vulnerable to noise impacts.

Since the Project will occur in approximately the same location as the original dam and spillway (as well as 6 miles away from the nearest known lek), we do not recommend compensatory mitigation for both direct and indirect impacts to GRSG. However should additional GRSG habitats be impacted by activities associated with Project implementation, we recommend implementation of the management and mitigation protocols found within the Conservation Plan for Greater Sage-grouse in Utah. This Plan states that agencies should follow a hierarchical protocol that includes avoidance, minimization, and mitigation for impacts to sage-grouse and their habitat. If avoidance and minimization is not possible, the Plan requires mitigation at a 4:1 ratio starting with the first acre disturbed. We recommend GRSG occupancy be a primary success criterion for mitigation.

<u>Bald Eagle, Raptors and Migratory Birds</u>

We recommend use of the Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances which were developed in part to provide consistent application of raptor protection measures statewide and provide full compliance with environmental laws regarding raptor protection. Raptor survey and mitigation measures are provided in the Raptor Guidelines as recommendations to ensure that proposed projects will avoid adverse impacts to raptors.

Please note that the bald eagle was removed from the federal list of endangered and threatened species. While bald eagles no longer are provided protection under the Endangered Species Act (ESA), they are still protected under the Bald and Golden Eagle Protection Act in addition to the Migratory Bird Treaty Act (MBTA).

The MBTA prohibits the take of migratory birds, their parts, nests, eggs, and nestlings. To ensure ground-disturbing activities do not result in the "take" of an active nest or migratory bird protected under the MBTA, we recommend:

a. Any groundbreaking activities or vegetation treatments should be performed before migratory birds begin nesting or after all young have fledged to avoid take;

b. If activities must be scheduled to start during the migratory bird breeding season, you should take appropriate steps to prevent migratory birds from establishing nests in the potential impact area. These steps could include covering equipment and structures and use of various excluders (e.g., noise). Birds can be harassed to prevent them from nesting on the site.

c. If activities must be scheduled during the migratory bird breeding season, a site specific survey for nesting birds should be performed starting at least 2 weeks prior to vegetation treatments. Established nests with eggs or young cannot be moved, and the birds cannot be harassed (see b., above), until all young have fledged and are capable of leaving the nest site;

d. If nesting birds are found during the survey, appropriate spatial buffers should be established around nests. Vegetation treatments within the buffer areas should be postponed until the birds have left the nest. Confirmation that all young have fledged should be made by a qualified biologist.

<u>Endangered Colorado River Fishes</u>

As you are aware, water depletions from the Upper Colorado River Basin are likely to adversely affect the federally endangered Colorado pikeminnow, humpback chub, bonytail, razorback sucker and their designated critical habitat through multiple ecological stressors, such as habitat loss, competition from non-native fish, and degraded water quality. Because water depletions from the Upper Colorado River Basin are a major factor in the decline of the endangered fishes, the Service has historically determined that any depletion will jeopardize their continued existence and will likely contribute to the destruction or adverse modification of their critical habitat.

Based on the information in your letter, we cannot determine if the project will require formal

consultation as described in section 7 of the ESA. Attached is some information that will be useful in providing us with the required additional information and will aid the Utah DNR and the Service's Wildlife and Sport Fish Restoration (WSFR) office to determine the appropriate level of NEPA analysis.

Conclusion

While our Ecological Services Field Office does not determine whether this Project will qualify as a categorical exclusion, based on information from your request we have not identified any specific issues that give us concern relative to bald eagle or greater sage-grouse.

We recommend that you continue to work with the Service's WSFR office to make this determination. However with regards to the endangered Colorado River fishes and their designated critical habitat listed under the ESA we request additional information before we can determine if initiation of ESA section 7 consultation is appropriate. If so, we will coordinate with you and the WSFR office to conduct an Intra-Service section 7 consultation.

These finding are based on our understanding of the nature of the Project, local conditions, and/or current information indicating that no listed species are present. Should the nature of your project change, you may need to contact us for additional information. We appreciate your commitment to the conservation of endangered species. If you require further assistance or have any questions, please feel free to contact me at (801) 975-3330 extension 144.

Thanks

--
Jay Martini
U.S. Fish and Wildlife Service
Utah Ecological Services Field Office
2369 W. Orton Circle
West Valley City, Utah 84119
ph: 801-975-3330, ext. 144

--
Jay Martini
U.S. Fish and Wildlife Service
Utah Ecological Services Field Office
2369 W. Orton Circle
West Valley City, Utah 84119
ph: 801-975-3330, ext. 144

--
Jay Martini
U.S. Fish and Wildlife Service
Utah Ecological Services Field Office
2369 W. Orton Circle
West Valley City, Utah 84119
ph: 801-975-3330, ext. 144

APPENDIX G

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER
Executive Director

Division of Water Rights

KENT L. JONES
State Engineer/Division Director

ORDER OF THE STATE ENGINEER

AMENDMENT TO STREAM ALTERATION APPLICATION NUMBER **14-43-10SA**
IN THE NAME OF RED CREEK IRRIGATION COMPANY FOR ALTERATION
TO RED CREEK IN DUCHESNE COUNTY, UTAH

This **ORDER** is issued pursuant to statute and in accord with the statutory criteria for approval of a stream alteration application that are described at UTAH CODE ANN. § 73-3-29. The State Engineer has determined that this application does meet the necessary legal criteria to **ORDER** the approval of the application based upon the following information and reasoning set forth in the Findings of Fact and Discussion.

FINDINGS OF FACT

1. The application was received by the Division of Water Rights ("Division") on July 22, 2014, and made available for comment on the Division's webpage, provided to pertinent governmental agencies, and to other entities as warranted, for a period of 20 calendar days, said period concluding prior to August 11, 2014.

2. The application contains the following information:
   - The stated description of the proposed project is: Rehabilitation of Red Creek Dam and related stream work associated with Red Creek in Duchesne County.
   - The stated purpose of the proposed project is: To address safety deficiencies.

3. The Division received comments or objections on the proposed project from:
   - U.S. Army Corps of Engineers (Corps), Timm Kennedy

   The comments or objections received by the Division are summarized as follows:
   - The Corps has indicated they will require separate permitting and has assigned reference number SPK-2014-00702-UO. Timm Kennedy can be contacted at 801-295-8380 extension 12 or timm.a.kennedy@usace.army.mil for more information.
   - The Corps has now indicated that this project does qualify under PGP40. All conditions of the original permit apply except as superseded by the items below.

DISCUSSION

1. Based on a review of the Division's water rights records and/or a review of the application by personnel of the Division's regional office, it is the opinion of the State Engineer that the project will not impair vested water rights.

2. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily affect recreational use or the natural stream environment.

3. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily endanger aquatic wildlife.

4. It is the opinion of the State Engineer that the project will not unreasonably or unnecessarily diminish the natural channel's ability to conduct high flows.

5. Other comments or concerns submitted by interested persons or parties are not believed to be within the purview of the State Engineer in evaluating an Application to Alter a Natural Stream.

ORDER

Stream Alteration Application No. **14-43-10SA**, submitted in the name of Red Creek Irrigation Company, applicant, in order to complete rehabilitation of Red Creek Dam and related stream work associated with Red Creek, a natural stream located in Duchesne County, Utah, is hereby AMENDED AND APPROVED, contingent upon the conditions outlined in this **ORDER**. This approval also constitutes compliance with Section 404 (e) of the Clean Water Act (33 USC 1344) pursuant to Programmatic General Permit 040 issued to the State of Utah by the U.S. Army Corps of Engineers on January 3, 2011 and is subject to all conditions therein. Full text of Programmatic General Permit 040 can be found at the following link: http://www.waterrights.utah.gov/strmalt/whitepapers/PGP40.pdf. The applicant is hereby authorized to conduct the work detailed in the application and supporting documentation, as described in this **ORDER**. Any modification or addition to the work may require additional authorization and/or application resubmittal.

1. The expiration date of this order is **August 19, 2016**. Work affecting the bed and/or banks of the stream may not be conducted after this date. Extension of the order is subject to reverification by the U.S. Army Corps of Engineers and review by the Division. A request for extension must be submitted in writing to the Division and include an explanation for project delay. The request must be submitted at least 30 days prior to expiration of the order.

2. A copy of this order must be kept onsite at any time the work authorized under this order is in progress.

3. We suggest that you coordinate with potentially impacted landowners.

4. Photos must be taken before and after project construction and submitted to this office.

5. Best Management Practices should be implemented and maintained during any streamside or instream work to minimize sedimentation, temporary erosion of stream banks, and needless damage or alteration to the streambed.

6. Disturbed areas must be planted with a variety of appropriate vegetation (especially woody vegetation where feasible) to help hold the soil around riprap, prevent excessive erosion, and to help maintain other riverine functions. Successful revegetation efforts must be monitored and reported to this office.

7. Approval of this application does not authorize trespass, easements, rights-of-way, or any other access and land use permits. It is the responsibility of the applicant to obtain any such authorizations as may be necessary for this proposal.

8. Excavated material and construction debris may not be wasted in any stream channel or placed in flowing waters, this will include material such as grease, oil, joint coating, or any other possible pollutant. Excess materials must be wasted at an upland site well away from any channel. Construction materials, bedding material, excavated material, etc. may not be stockpiled in riparian or channel areas.

9. Erosion control, revegetation, and noxious weed control must be implemented and monitored until revegetation becomes well established. Success of these measures must also be reported prior to the compliance inspection. This is especially important for all disturbed areas, including fill, in order to prevent sediments from entering flowing water. Particular attention is required to assure that silt fencing is properly installed and left in place until after revegetation becomes established at which time the silt fence can then be carefully removed.

10. Ingress and egress access should be kept to a minimum.

11. Work must be accomplished during a period of low flow. Sediment introduced into stream flows during construction must be controlled to prevent increases in turbidity downstream. Flows must be diverted away from the construction area using a non-erodible cofferdam or other means of bypass.

12. Machinery must be properly cleaned and fueled offsite prior to construction.

13. Riprap must consist of only clean, properly sized angular rock, which must be keyed deeply into the streambed to prevent undercutting. A filter must be placed behind if necessary (i.e., if soils are fine grained, non-cohesive, and/or erodible). Demolition debris or refuse will not be allowed, nor material such as bricks, concrete, asphaltic material [either natural (tar sand, oil shale, etc.) or man-made].

14. Cement is toxic to aquatic organisms, and its introduction into waters of the United States would constitute a violation of the Clean Water Act. Cement or concrete may not be allowed to enter stream flows. Water must be excluded from areas where concrete or cement is used until it has set. Contaminated water pumped from the construction area may not be discharged in a manner that will allow it to enter flows. Equipment used during this type of work must be washed well away from the channel.

15. The applicant must maintain existing stream shade on all Class 3 A streams. Destruction of any stream shade vegetation within the project area must be replaced at a 1:1 shade ratio at mature life stage with native vegetation along a Class 3 A stream. If stream shade vegetation is to be removed, the applicant must submit an estimate in their restoration plan of the portion of the water surface area within the project area that is shaded by estimating areas with no shade, poor shade, and shade prior to the commencement of work. Time of the year, time of the day, and weather can affect your observation of shading. Therefore, the relative amount of shade is a professional best-guess estimate. Ideally the applicant would be measuring when the sun is at an angle that provides maximum stream shade and the vegetation is in full leaf-out. As noted in General Condition #6 of PGP 40 the destruction of mature trees is to be avoided to the maximum extent possible and the permittee is ultimately responsible for revegetation success.

16. Within 30 days after the completion of this project, the attached compliance certification form must be completed and returned to the U.S. Army Corps of Engineers. Failure to return this compliance certification form would invalidate U.S. Army Corps of Engineers General Permit 040, thereby placing the applicant in violation of Section 404 of the Clean Water Act.

Your contact with the Division is Daren Rasmussen, who can be reached at telephone number 801-538-7377.

This **ORDER** is subject to the provisions of UTAH ADMIN. CODE R. 655-6-17 of the Division of Water Rights and to UTAH CODE ANN. §§ 63G-4-302 and 73-3-14, which provide for persons or parties with legal standing to file either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this **ORDER**. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this **ORDER**, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken within 20 days after the Request is filed.

Dated this 19th day of August, 2014.

David K. Marble, P.E.
Assistant State Engineer

Enclosure

Mailed a copy of the foregoing Order this 19th day of August, 2014, to:

RED CREEK IRRIGATION COMPANY
P.O. BOX 270034
FRUITLAND UT 84027

Corps of Engineers
Bob Leake - Regional Engineer
Richard Clark - EPA
Miles Hanberg - Regional Wildlife Habitat Manager
Aaron Spencer, aaronspencer@utah.gov

By: Tiffany Gonzales
Tiffany Gonzales
Secretary

APPENDIX H

AFFIDAVIT OF PUBLICATION

County of Duchesne,
STATE OF UTAH

I, Kevin Ashby on oath, say that I am the PUBLISHER of the Uintah Basin Standard, a weekly newspaper of general circulation, published at Roosevelt, State and County aforesaid, and that a certain notice, a true copy of which is hereto attached, was published in the full issue of such newspaper for 2 consecutive issues, and that the first publication was on the 1 day of April, 20 14, and that the last publication such notice was in the issue of such newspaper dated the 8 day of April, 20 14.

Publisher

Subscribed and sworn to before me on this 12 day of June, 20 14, by Kevin Ashby.

Notary Public

Notary Public
BONNIE PARRISH
Commission #653427
My Commission Expires
February 23, 2016
State of Utah

Legal Notices

UBS Legal Notices

The Red Creek Irrigation Company proposes to perform safety upgrades mandated by State minimum safety standards on the dam at Red Creek Reservoir, Duchesne County. Proposed work includes: stabilizing the slopes of the dam by constructing a berm at the toe; relocating the failing spillway; raising the crest in order to compensate for settling of the dam, meet seismic standards, and to regain lost volume; and related work. If you would like to comment on this planned project, please send your written correspondence to: Aaron Spencer, P.E., Utah Division of Water Resources, 1594 W. North Temple, Ste. 310, SLC, UT 84114- until 5:00 pm on April 15th.

Shake shingle and

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Miscellaneous

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Legal Notices

UBS Legal Notices

I, Danny Wayne Murray am not responsible for any debt incurred by Sheena Marie Reed from March 19, 2014.

The Red Creek Irrigation Company proposes to perform safety upgrades mandated by State minimum safety standards on the dam at Red Creek Reservoir, Duchesne County. Proposed work includes: stabilizing the slopes of the dam by constructing a berm at the toe; relocating the failing spillway; raising the crest in order to compensate for settling of the dam, meet seismic standards, and to regain lost volume; and related work. If you would like to comment on this planned project, please send your written correspondence to: Aaron Spencer, P.E., Utah Division of Water Resources, 1594 W. North Temple, Ste. 310, SLC, UT 84114-6201. Comments will be received until 5:00 pm on April 15th.

Miscellaneous

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Northeastern Counseling Center
Position Opening

March 2014

Licensed Practical Nurse or Registered Nurse

Northeastern Counseling Center, the tri-county community mental health and substance abuse treatment center for the Uintah Basin, has an immediate opening for a Licensed Practical Nurse or Registered Nurse for the Vernal office. Duties include working with agency medical staff to provide medication management services to individuals with mental illness. Position requires a Utah license as a Licensed Practical Nurse or Registered Nurse. Applicants must be able to pass criminal background screening for employment.

This is a full-time position with excellent benefits including retirement, 401(k), term life, health and dental insurance plus a generous holiday, vacation and sick leave allowance. Salary is negotiable. Position is open until filled.

Signing Bonus may be available

To apply, submit a resume with cover letter and references to:
Marsha Perry
Northeastern Counseling Center
285 West 800 South
Roosevelt, UT 84066
Phone: (435) 725-6350, Fax: (435) 725-6325
Email: marshap@nccutah.org

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Uintah Basin Standard
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Entity: Duchesne County

Public Body: Duchesne County Commission

Subject:	Roads
Notice Title:	Public Hearing- Proposed Road Vacation Following Realignment
Meeting Location:	734 North Center Street Commission Chambers Duchesne 84021
Notice Date & Time:	July 7, 2014 1:30 PM
Description/Agenda:	Notice is hereby given that the Duchesne County Commission will meet at 1:30 p.m. in the County Administrative Offices, 734 North Center Street, Duchesne, Utah, on July 7, 2014 to conduct a public hearing to consider vacating a portion of County Road # 1 (Red Creek Road) in Section 13, T2S R9W, USM. Due to construction on the Red Creek Dam, a portion of the road will be re-routed around the dam and the portion abutting the dam vacated. For further information contact Tyler Allred at (435) 738-1145. Or, send comments to: Duchesne County Commission, P.O. Box 270, Duchesne, Utah 84021. Persons needing special accommodations for this meeting should call Duchesne County at least 3 days in advance of the hearing. Published in the Uintah Basin Standard: June 10th, 17th, 24th, & July 1st, 2014.
Notice of Special Accommodations:	NOTICE OF SPECIAL ACCOMMODATION DURING PUBLIC MEETINGS In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this

	meeting should notify the Duchesne County Clerk's Office. (435) 738-1103
Notice of Electronic or telephone participation:	Pursuant to UCA 52-4-207 - no electronic or telephonic participation is available for the meeting.
Other information:	
Contact Information:	BobbiJo Casper 4357381139 bcasper@duchesne.utah.gov
Posted on:	May 29, 2014 12:55 PM
Last edited on:	May 29, 2014 12:55 PM

Printed from Utah's Public Notice Website (http://pmn.utah.gov/)

MINUTES OF COMBINED COMMISSION WORKING AND REGULAR SESSION MEETING HELD JULY 7, 2014 BEGINNING AT 12:30 P.M. IN COMMISSION CHAMBERS, IN DUCHESNE, UTAH

Present

Commission Chairman Ronald Winterton; Commissioner Kent R. Peatross, Commissioner Kirk J. Wood, Duchesne County Resident Ray Snyder, Deputy County Attorney Tyler Allred, and BobbiJo Casper taking minutes of the meeting.

Opening Comments

Commissioner Peatross gave the prayer. There were no other comments.

Discussion Of Personal Property Taxes

Deputy Assessor Brandi Moon joined the meeting at 12:35 P.M…

Mr. Snyder stated that he recently received a past due bill for personal property taxes for his business called Snydz Construction in the amount of two hundred seventy five dollars ($275.00). The only things he has for his business is a pumper truck and a gauge pump; he's not really a construction company. Mrs. Moon stated that Mr. Snyder didn't turn in his paperwork so she compared to another similar business and that's how she came up with the amount which is called an assessor's estimate. Commissioner Peatross asked what the process is for this because this is the first time someone has come into a commission meeting to appeal it. Mrs. Moon stated that she was told that the process is for them to come into a commission meeting and the commission makes the decisions. We did receive Mr. Snyder's paperwork in 2013, but it was blank so we didn't have anything to go by other than to compare it to another business. Commissioner Peatross stated that he has experienced a similar situation and feels that we need to pay better attention. This bill was sent out in January and is due in May, but we can waive it or do what we want. *Commissioner Peatross motioned to waive the tax levy and have Mr. Snyder sign the appropriate paperwork due to the fact that there is no personal property so there is no value. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.*

Discussion Of A Draft Letter Regarding RCPP Application By Dry Gulch Irrigation Company

County/Community Planning Administrator Mike Hyde joined the meeting at 12:49 P.M…

Administrator Hyde stated that Dry Gulch irrigation Company is making application for funding under the Regional Conservation Partnership Program to assistant with needed structural repairs to the Atwood Lake Dam. This letter supports an application for a grant from NRCS and the efforts of Dry Gulch Irrigation Company to continue providing water. *All commissioners agreed to send the letter.*

Consideration Of Amendment #5 To The Children's Justice Center Contract #110659

Children's Justice Center Director Cheryl Boren joined the meeting at 12:51 P.M…

Director Boren stated that we will get one hundred thirty one thousand six hundred seventy five dollars ($131,675.00) this year from the State of Utah. The County does not have a match for this and this is just an amendment to the contract. *Commissioner Wood motioned to approve the amended contract for the Children's Justice Center. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Consideration Of A Business License Application For Enervest Operating LLC

Chief Deputy Clerk JoAnn Evans joined the meeting at 1:02 P.M…

Commissioner Peatross motioned to approve the business license application as presented. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Ordinance No. 14-327, An Ordinance Revising Ordinance No. 13-313 Establishing The Methods, Rules, And Procedures For County Tax Sales And Allocating Administrative Costs To Delinquent Properties

Deputy Clerk Evans stated that there are a couple of changes from the old ordinance. One is if bidders owe back taxes, they cannot bid on delinquent properties. The other change is to the bidding increments. Commissioner Wood suggested that UCIP review this.

ORDINANCE NO 14-327

AN ORDINANCE REVISING ORDINANCE 12-300 ESTABLISHING THE METHODS, RULES, AND PROCEDURES FOR COUNTY TAX SALES AND ALLOCATING ADMINISTRATIVE COSTS TO DELINQUENT PROPERTIES.

WHEREAS the County Commission is charged under Utah Law with determination of the method of sale of delinquent properties for delinquent taxes; and

WHEREAS the following "METHOD OF SALE" and "DUCHESNE COUNTY TAX SALE RULES", appear to facilitate the objectives of protecting the financial interest of the delinquent owner while meeting the county's need to collect delinquent taxes due; and

WHEREAS the Tax Sale creates costs of administration including advertising, recording, noticing, offering, mailing, etc.;

NOW THEREFORE, be it resolved that the following PUBLIC NOTICE, METHOD OF SALE, and DUCHESNE COUNTY TAX SALE RULES, are hereby adopted to govern the Duchesne County Tax Sale.

PUBLIC NOTICE

Notice is hereby given that, unless noticed otherwise, the annual Duchesne County Tax Sale shall be held every year on the third Thursday of the month in the month of May, at 10:00 a.m. in the commission chambers of the Duchesne County Administration Building, 734 North Center, Duchesne City, Duchesne County, Utah. At such time, the Duchesne County Clerk-Auditor, will offer for sale at public auction and sell to the highest bidder for CASH OR CERTIFIED FUNDS pursuant to Utah Code § 59-2-1351 et. seq., the real property as listed by the Duchesne County Treasurer on the Tax Sale Listing pursuant to Utah Code § 59-2-1343 and described herein located in Duchesne County and delinquent and subject to tax sale. A bid for less than the total amount of taxes, interest, penalty and administrative costs, which are a charge upon said real estate, will not be accepted. NO PERSONAL CHECKS WILL BE ACCEPTED IN PAYMENT OF BID.

Notice of an alternative date of sale shall be given in the form pursuant to Utah Code § 59-2-1351. Such tax sale shall proceed pursuant to Utah Code § 59-2-1351 and this Ordinance herein.

METHOD OF SALE

The Board of County Commissioners of Duchesne County has determined the following method of sale best meets the objectives of protecting the financial interests of the delinquent property owner and collecting delinquent property taxes due: The highest bid amount for the entire parcel of property shall be accepted; however, a bid may not be accepted for an amount that is insufficient to pay the taxes, penalties, interest and administrative costs. Any amount received in excess of the taxes due to all local governments and any administrative costs by the County shall be treated as surplus property and paid to the State Treasurer pursuant to Utah State Law.

DUCHESNE COUNTY TAX SALE RULES

1. Any person, business, entity, or agent of such business or entity who currently owes property taxes on any real property owned by any person, business, entity, or agent of such business or entity at the time of registration is prohibited from bidding and participating in the tax sale, and shall not solicit another person, business, entity, or agent of such business or entity to bid in their stead for the property. This rule shall not apply to a person, business, entity, or agent of such business or entity who are bidding on their own property that is a tax sale property.
2. Any person, business, entity, or agent of such business or entity must disclose all potential conflicts of interest.
3. Any person, business, entity, or agent of such business or entity who would be in a position of conflict of interest shall not be permitted to bid for any tax sale properties.
4. Duchesne County prohibits collusive bidding. “Collusive bidding” is any type of arrangement, agreement, or practice between two or more parties that in any way alters the bidding which results in an unfair advantage or disadvantage to a party,

a bidder or Duchesne County. Anyone participating in collusive bidding may, at the discretion of the Clerk-Auditor and subject to appeal to the legislative body, be banned from bidding at the present and future sales not to exceed five years.

5. A bidder shall pre-register prior to bidding and be given a number for bidding purposes. In the registration, bidder shall properly and clearly identify correct information and address for use in issuance of deeds.
6. If the amount of taxes due are $200.00 or more, a fee in the amount of 8% of the total taxes, penalty, and interest will be assessed for "administrative costs" with a minimum of $100.00 per parcel. The following minimum additional fees shall be added to and included in the “administrative costs” assessed on each delinquent parcel: fee of $2.00 for preparation of deed, fee of $10.00 for the recording of the deed pursuant to Utah Code § 59-3-1351 et seq., and a title search fee. All such fees shall be added to the delinquent taxes, penalties and interest outstanding on each delinquent property to cover a proportional share of the costs of such administration.
7. If the amount of taxes due is less than $200.00, an administrative fee in the amount of $50.00 per parcel will be added, with additional fees of $2.00 for preparation of the deed, and $10.00 for the recording of the deed, pursuant to Utah Code § 59-2-1351 et. seq. Said fee shall be added to the taxes, penalties and interest outstanding on each delinquent property to cover a proportional share of the costs of such administration.
8. The period to redeem property prior to the closing of the books and the beginning of the tax sale shall end at 5:00 p.m. on the business day immediately preceding the noticed date of sale.
9. The County Clerk-Auditor shall withdraw from the tax sale any properties that have been redeemed prior to the closing of the books at 5:00 p.m. on the business day immediately preceding the noticed day of sale.
10. As a courtesy, the tax sale listing will be posted on our website at www.duchesne.utah.gov. If a payment comes in at 5:00 p.m. the day before the tax sale, it will be posted the following morning on the website.
11. If the County Clerk-Auditor discovers before the tax sale that because of an irregular or erroneous act or assessment, legal description or amount due, said property should not be sold, the County Clerk-Auditor shall not sell the property. The county legislative body shall cause the tax records to reflect the correction in the following year.
12. If the County Clerk-Auditor, subject to approval by the county legislative body, issues a written finding that it is in the best interest of the public to withdraw a property from the tax sale, the County Clerk-Auditor shall withdraw the property from the sale.
13. Loud whispering, yelling or talking, other than bids, is not allowed so that accurate records may be kept of the proceedings of the sale.
14. The County Clerk-Auditor shall state the amount of taxes, penalties, interest, and administrative costs on the parcel(s) being offered for sale, which shall be the lowest acceptable bid at which bidding will begin.
15. The bidder first recognized by the County Clerk-Auditor shall be the first bid recorded, etc. As in any auction, the bid recognized is the one in effect at the time.
16. Upon receipt of a bid sufficient to pay taxes, penalties, interest and administrative costs on the parcel, higher bids shall be solicited in no less than $100.00 increments. The last bid received in the highest dollar amount, when the County Clerk-Auditor calls “sold”, shall be the bid accepted (if such bid is otherwise acceptable under these rules).
17. The final bid <u>number</u> announced by the County Clerk-Auditor is the official sale, and the previously registered name and address for that number will go on the deed.
18. Once the County Clerk-Auditor has offered for sale all properties on the tax sale list, all remaining properties that did not receive a bid shall be struck and become property of Duchesne County.
19. Once the County Clerk-Auditor has closed the sale of a particular parcel of property as a result of accepting a bid on a parcel, the successful bidder or purchaser of the property may not unilaterally rescind the bid. The county legislative body, after acceptance of a bid, may enforce the terms of the bid by

obtaining a legal judgment against the purchaser in the amount of the bid, plus interest and attorney's fees.

20. Only cash or certified funds will be accepted in payment for property. Payment shall be made to the County Treasurer on or before two (2) hours after the sale ends on the day of the sale.
21. If the successful bidder does not make proper payment to the County Treasurer prior to two (2) hours after the sale ends on the day of the sale, the next highest bidder shall be offered the opportunity to purchase the property for the amount of their bid, and so on, until a successful bidder is found, or until the minimum acceptable bid is reached. Original successful bidders who fail to pay for the property bid upon shall be liable as set forth in paragraph 19 above and Utah Code § 59-2-1351.1 (6) and, in addition, shall be required to post a $500 (five hundred dollar) bond prior to being allowed to bid in future sales.
22. One deed, and only one deed, will be issued to the successful bidder on each parcel sold.
23. Any person, business, entity, or agent of such business or entity wishing to contest any action taken in connection with the tax sale must present such protest to the Duchesne County Commissioners, in writing, within ten (10) days of the sale.
24. All bids shall be considered conditional, whether or not the bid is contested, until reviewed and accepted by the Board of County Commissioners, acting at a regularly scheduled meeting after the above said (10) day protest waiting period. Once the tax sale has been reviewed by the Board of County Commission, said sale shall be ratified.
25. Upon ratification of the tax sale, the County Clerk-Auditor shall prepare the tax deeds and deliver said deeds to the County Recorder.
26. Upon receiving the tax deeds, the County Recorder shall record all said deeds and then mail the original deeds to the property owners at their previously registered addresses.
27. Any property listed may be subject to a rollback tax under the provisions of "THE FARMLAND ASSESSMENT ACT", Utah Code §§ 59-2-501 thru 59-2-515.
28. The county disclaims all liability with respect to the sale of properties sold at the tax sale. All person, business, entity, or agent of such business or entity who purchase a property sold at the tax sale accept any and all disputes, suits, liabilities, and conflicts.
29. There will not be any bidder preference at the Duchesne County Auditor Tax Sale.
30.

THE BOARD OF DUCHESNE COUNTY COMMISSIONERS

_____
Ron Winterton, Chairman

Attest:

_____
Kent R. Peatross, Member

_____
Diane Freston
County Clerk/Auditor

_____
Kirk J. Wood, Member

Passed and Adopted this _____ day of _____ by the Board Of County Commissioners.

Commissioner Peatross motioned to adopt Ordinance No. 14-327 pending approval from UCIP. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of An Appointment On Special Service District #2 (Transportation District)

Assistant Casper stated that we received interest from Rodney Rowley and Roger Ames. Commissioner Wood stated that these are both good candidates and either one would do a good job on this board. *Commissioner Wood motioned to accept Roger Ames application and appoint him to SSD#2. Commissioner Peatross seconded the motion. All commissioners voted aye and the motion passed.*

Closed Meeting –

Commissioner Peatross moved to go into and out of closed session for the purpose of discussing personnel issues at 1:15 P.M. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed. Assistant Casper was excused.

-Re-entered Combined Commission Meeting at 1:30 P.M… Assistant Casper re-joined the meeting at 1:30 P.M…

Consideration To Take Action Discussed Under Closed Meeting

No action was necessary.

1:30 P.M. Public Hearing-

Consideration Of Vacating A Portion Of County Road #1 (Red Creek Road) In Section 13, T2S R9W, USM

Attorney Allred stated that the Red Creek Dam is going to be repaired but as the road currently goes, it goes right up to the dam. The new construction will cover a portion of our road. The Division of Wildlife Resources (DWR) owns the land which was acquired with federal funds, so the DWR has asked Congress for permission to grant an easement of 66 feet. The current right of way is fifty feet, so we are upgrading a little bit. It will come out and around just down from the dam and come around and then reconnect. DWR asked us to vacate that portion and they will give us a new right of way. This is not restricting the public's access in any way; it's just moving it perhaps a couple hundred feet. He has prepared an ordinance to vacate the road, but we would like the new right of way before proceeding. To vacate a road, we have to have this formal hearing, then later we can enact the ordinance.

Chairman Winterton asked for public comments. There was no public in attendance.

Entered back into Combined Commission Meeting at 1:35 P.M…

Attorney Allred stated that no motion is necessary at this time because we are awaiting approval on the new right of way. Once approval has been received, the ordinance will be on the agenda for consideration.

Commission Calendaring

Consideration Of Minutes For Combined Commission Meeting Held June 23, 2014

Commissioner Peatross motioned to approve the minutes as presented. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Consideration Of Minutes For Combined Commission Meeting Held June 30, 2014

Commissioner Peatross motioned to approve the minutes as corrected. Commissioner Wood seconded the motion. All commissioners voted aye and the motion passed.

Adjourn

Chairman Winterton adjourned the meeting at 1:53 P.M.

Read and approved this 21st day of July 2014.

Ronald Winterton	*Diane Freston*
Commission Chairman	*Clerk/Auditor*

*Minutes of the meeting were prepared by BobbiJo Casper*_____