

Draft Environmental Assessment

PAROWAN FRONT LAND EXCHANGE

BETWEEN THE

UTAH DIVISION OF WILDLIFE RESOURCES

AND THE

**UTAH SCHOOL & INSTITUTIONAL
TRUST LANDS ADMINISTRATION**

Iron County, Utah

Decision Relating to Grant # W-66-L

March 2009

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for

U.S. Fish and Wildlife Service -- Wildlife and Sportfish Restoration
Region 6

Denver, Colorado

PURPOSE AND NEED

This environmental assessment (EA) addresses the need to protect crucial-value mule deer winter range associated with the Parowan Front Wildlife Management Area (WMA).

Primary purposes of the proposed action are: (1) to protect wildlife values on two specific Utah School & Institutional Trust Lands Administration “inholdings” within the Parowan Front WMA, which contain crucial-value mule deer winter habitat exposed to increasing pressures for residential development; and, (2) having already issued a right-of-way for an existing road which crosses the Parowan Front WMA, to complete the formation of a partnership with local government and real estate developers to reduce impacts to wildlife resulting from suburban “sprawl” near the Parowan Front WMA.

INTRODUCTION

Background

The Utah Division of Wildlife Resources (UDWR) is the state’s appointed trustee and custodian for protected wildlife, vested by statute with the rights, duties, and responsibilities of a wildlife agency managing protected wildlife throughout the state. A substantial component of this responsibility involves managing mule deer populations which depend on the availability of particular habitat types during certain times of year.

Winter habitat availability is considered the primary limiting factor for most mule deer populations inhabiting Utah (only a few lower elevation, drier areas of Utah present summer range limitations for mule deer). Without adequate amounts of good quality winter range, mule deer populations will not flourish. UDWR strives to protect and restore winter range for mule deer populations limited by winter habitat availability.

To promote better management of mule deer, elk, and other wildlife species, UDWR has acquired title to substantial wildlife properties (over 431,500 acres) spread across many parts of the state. These holdings are parceled into distinct Wildlife Management Areas (“WMAs”) for ease of management. Lands owned by other government agencies or by private parties regularly fall within the outer boundaries of many of these WMAs. The interior, non-UDWR parcels are commonly termed “inholdings,” and they tend to substantially complicate management of WMA lands dedicated for wildlife purposes.

Checker-board ownership patterns, as a result of the more highly interleaved boundary configurations, lead to more property interface within a given amount of area, and consequently introduce more complexity into the process of resolving land management differences on adjacent parcels owned by the various parties. This complexity sometimes requires UDWR to work more closely with adjacent owners in efforts to remedy land use differences, so that other landowners have their legitimate needs and interests in property

ownership met, while still permitting UDWR to effectively address its own wildlife management objectives on behalf of the public.

UDWR currently owns and manages over 6,000 acres in the Parowan Front WMA (Figure 1) situated in the foothills east of I-15 near the town of Summit, located in Iron County, Utah. The holdings in this particular WMA were acquired during the period 1952-1985, from a mix of private, U.S. Bureau of Land Management (BLM), and Utah School & Institutional Trust Lands Administration (TLA) sources. A primary wildlife value provided by the Parowan Front WMA is crucial winter habitat for mule deer, although it supplies winter habitat values for other wildlife species, including elk, wild turkeys, and bald eagles.

Areas having the “crucial value” designation provide habitat upon which the local population of a wildlife species depends for survival because there are no alternative ranges or habitats available. Crucial value habitat is essential in supplying the life history requirements of a wildlife species. Degradation or loss of crucial habitat will lead to significant declines in carrying capacity and the reduction of actual numbers of the wildlife species in question. When mountain snow depths become a serious impairment to mule deer movements and foraging, the deer descend to lower elevations where conditions require less exertion, temperatures are more moderate, and where adequate forage -- typically shrubby browse species like sagebrush or cliffrose -- is generally available despite the presence of some snowcover.

Additionally, crucial value habitat generally occurs lower on the mountainside, where the terrain is less steep and, incidentally, closer to human habitations and agricultural areas, which often leads to increased human-related disturbances. This can cause nutritionally stressed animals to become even further taxed. The restricted availability of crucial winter habitat for the Beaver mule deer herd, which occupies the Parowan Front area, seriously limits the population size which can be supported during harsh winters. Crucial winter habitat holds primary importance to UDWR as an essential aspect of mule deer management, particularly for mule deer herds such as the Beaver herd, which is limited by winter range availability.

Nature of the Decision to Be Made

UDWR has concluded that a land exchange would provide the best option for wildlife given the circumstances surrounding the Parowan Front WMA. Realty actions of this nature cannot be undertaken by UDWR on Federal Aid lands without additional authorization, however, because funding for the original purchases was provided in part through a Federal Aid in Wildlife Restoration Act grant (#W-66-L) issued by the U.S. Fish and Wildlife Service (Service). Because funds were provided by the Service, the original purchases and subsequent exchange lands were bound under contracts between UDWR and the Service. These agreements help ensure that wildlife lands and waters continue to be managed for the purposes which led to their original acquisition.

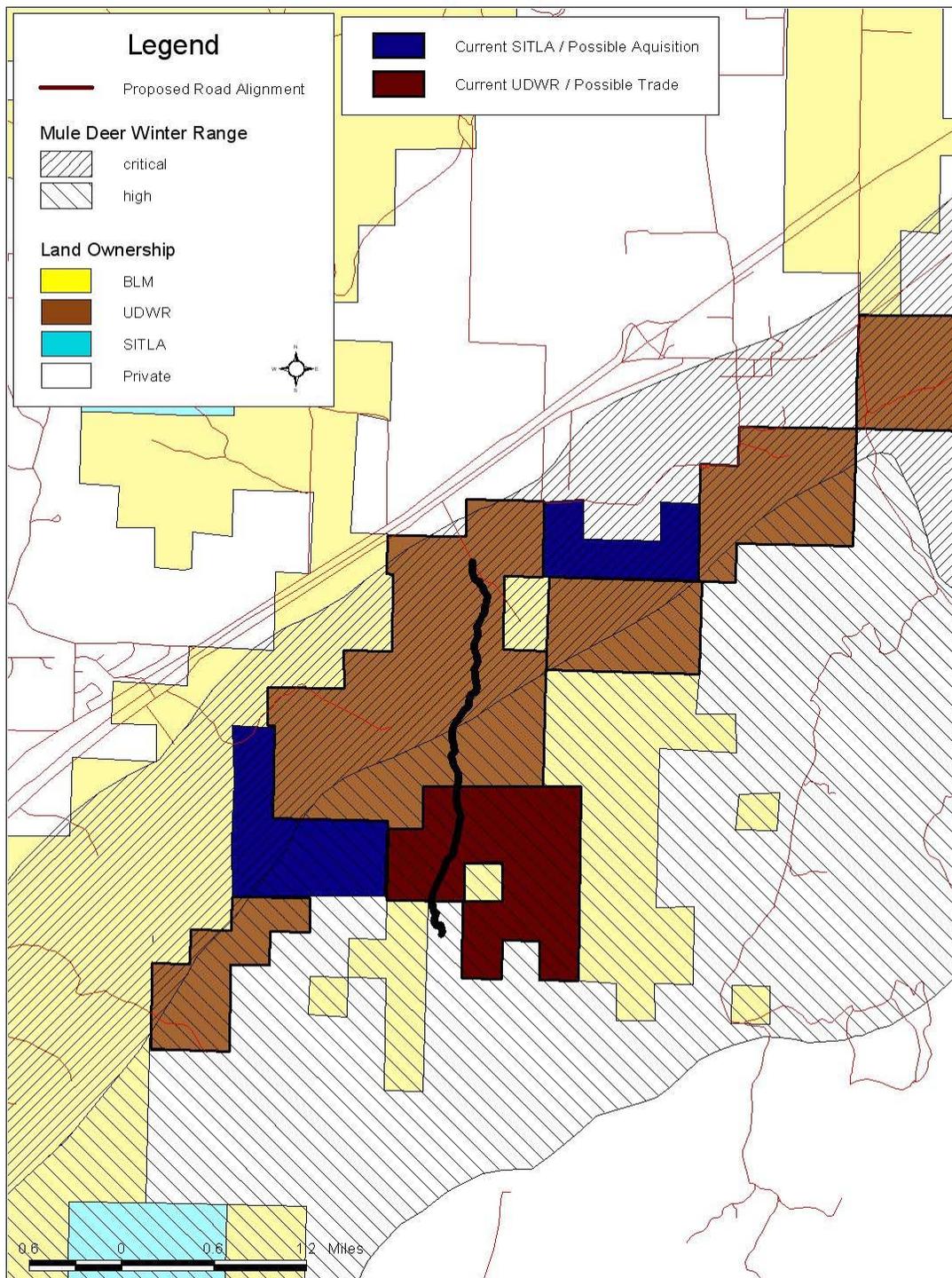


Figure 1. Parowan Front WMA, showing UDWR (in brown) and TLA (in blue) ownership, extent and location of crucial- and substantial-value mule deer winter range, and location of the existing road to private lands.

The proposed land exchange would for these reasons require advance approval from the Service before it could be implemented. Land disposal requires the Service to analyze the proposed action for its potential to impact the human environment, as required in the National Environmental Policy Act. This environmental assessment will be used to document that analysis and allow the public to review and comment on the proposed exchange prior to final decisions being made by the Service or UDWR.

The Service will use this analysis and the public comments it generates to determine if the proposed action is likely to result in significant impacts to the environment. If the Service determines that no significant impacts are likely, they may issue a “finding of no significant impact” (or “FONSI”) which clears the way for a decision authorizing UDWR to carry out the actions proposed in this document. If significant impacts are determined to be likely, the Service would need to develop an environmental impact statement before it could authorize the actions.

The History of Agreements with Adjacent Landowners

In January 2000, UDWR granted a right-of-way (ROW) for a pre-existing, unpaved road which crossed UDWR property in the Parowan Front WMA. This ROW was granted to the owners of a parcel of private land located on the mountain immediately above the WMA. Implicit in the grant of this ROW was a recognition by UDWR that the pre-existing road had a long history of continuous public use by the previous owners and their predecessors. Moreover, there is evidence in official written communications surrounding the property transactions of the preceding decades that the private landowners had conscientiously asserted their need for continuing access across the parcel while it was still BLM property being considered for exchange to UDWR (the parcel containing the road was patented to UDWR in 1983, as part of a land exchange expanding Parowan Front WMA). There also were written statements indicating that both BLM and UDWR noted the private landowners’ assertions of the need for continuing access. There was no indication that the agencies had any objections to granting a continuation of such access.

Although there is no indication of any BLM intent to refuse access, there also was no recognition made in the final patent transferring the property to UDWR of any public access rights to the road. Despite the absence of access-rights language in the patent, UDWR feels that the most appropriate course of action is to respect the prior use. This prior use is particularly relevant given the “R.S. 2477” (Revised Statute 2477¹) claims

¹ Section 8 of the Mining Act of 1866 provided: “...that the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.” The statute was self-enacting, with rights being established by “construction” of a “highway” on unreserved public lands, without any form of acknowledgement or action by the Federal government. This section of the statute was later re-codified as Revised Statute 2477.

R.S. 2477 was repealed by FLPMA (the Federal Land Policy and Management Act) on October 21, 1976, with a savings provision for rights established prior to the date of FLPMA’s enactment. R.S. 2477 did not require government approval nor public recording of title (which may explain why no mention was made in the patent of any access through this parcel). As a result of R.S. 2477, however, uncertainty arose regarding whether particular rights of way had in fact been established. This uncertainty, which continues, has implications for a wide range of entities, footnote continued on next page

which Iron County has asserted on more than one occasion regarding these specific properties. R.S. 2477 claims (which number well into the thousands in Utah) are important because they can lead to administrative or legal determinations of the validity of rights-of-way on former BLM lands.

UDWR recognizes there are indications that an R.S. 2477 right-of-way claim may have some basis. Rather than forcing the question of that claim, UDWR opted instead for a straightforward, constructively oriented solution described in the Memorandum of Understanding (MOU; Attachment A) which outlines resource concerns and defines steps which would resolve the matter to the satisfaction of all signatory parties.

The MOU itself conveys descriptive detail but it may be important for the present discussion to stress the overall contribution the MOU makes to long-term conservation strategies for mule deer winter range found near the Parowan Front WMA: the MOU defines the appropriate balance among the major competing interests, wildlife conservation and access to private lands occurring above the crucial winter ranges.

Involved private landowners, UDWR, BLM, and the Iron County Commission were able to reach agreement in the MOU regarding appropriate access judged essential to fulfilling the property interests of the private landowners. These parties also were able to agree that conserving the winter range values which help sustain mule deer and other wildlife contributes to the quality of life for people inhabiting the area and was important, therefore, to the interests of all the involved parties.

Through provision of limited access corridors passing through the winter range, and through implementation of the land exchange detailed in the Proposed Action, the parties to the MOU agreed specifically on what was deemed to constitute adequate public and private access, so that no new corridors would be needed in the foreseeable future. The Iron County Commission thus endorsed the MOU and the substantive provisions it contains. This agreement entered by the Iron County Commission should provide a balancing influence over time to any new demands which could arise from private landowners seeking additional access pathways across the winter range. The proposed land exchange is a pivotal element of completing this conservation strategy.

The ROW agreement was amended in 2006 following the sale of the private property to Braffits Creek Estates, LLC (a Nevada-based real estate development firm). The amendment was structured to allow improvements to the road to facilitate residential access by the new owner, and to grant Iron County a non-exclusive right-of-way for the purposes of public travel. This ROW amendment was granted contingent upon completion of a land exchange between UDWR and TLA.

including the U.S. Department of the Interior and other federal agencies, state and local governments who would assert title to R.S. 2477 rights-of-way, and those who favor or oppose continued use of these claimed rights-of-way.

The Service has previously authorized the ROW easement in Amendment 10 to Federal Aid Grant #W-66-L. Approval of the land exchange itself, however, would require an additional grant amendment. That grant amendment is subject to Service discretion, and hinges on determinations which can only be made following completion of satisfactory NEPA compliance documentation.

ALTERNATIVES INCLUDING THE PROPOSED ACTION

No Action

The No Action Alternative would consist of continuing present management patterns of UDWR and TLA lands with no exchange of ownership. Importantly, under the No Action Alternative, TLA would retain complete authority to offer any of its properties for sale if it determined that doing so would support the interests of their trust beneficiaries.

Land Exchange (Proposed Action)

UDWR is proposing to exchange up to 720 acres of UDWR-owned “substantial value²” mule deer winter range for approximately 657 acres of TLA-owned land, approximately 400 acres of which are considered crucial-value winter habitat for mule deer (Figure 1). UDWR would protect these crucial-value winter range parcels presently owned by TLA by acquiring ownership and thereby gaining direct management control. Property would be exchanged on a value-for-value basis using standard appraisal practices customarily employed in acquisition or disposal of Federal Aid-funded lands and waters.

Domestic livestock grazing patterns on the parcels to be acquired by UDWR would be modified with regard to timing and intensity to correspond to the period of maximum grass and forb production, while limiting the consumption of shrub species that are important winter browse/forage species on the deer wintering areas. Cattle grazing would be used on these areas as a management tool to facilitate shrub growth and thus enhance the mule deer winter habitat.

Land Purchase

This alternative would differ from the Land Exchange Alternative only in the important regard that no existing UDWR lands would be offered in exchange. Instead, UDWR would locate sufficient funds to permit purchase of the two TLA tracts, and then proceed

² This classification is generally reserved for those habitats which afford good browse for mule deer during mild to moderate winters, when mule deer can spread out on the abundant “substantial value” winter habitat, which is available and not covered by snow during moderate to mild winters. There is some benefit to mule deer which derives from the presence of this transitional range, yet the value of the crucial winter range on the current TLA parcels is considered more important to UDWR for mule deer population management.

to purchase. This alternative would respond to the purpose and need, but is impractical given current budgetary constraints.

AFFECTED ENVIRONMENT

The three land parcels considered for exchange are located in southwestern Utah, to the southeast of Interstate 15 (I-15), between the towns of Enoch and Summit, Iron County, Utah. The two TLA parcels each occur within one-half mile of the freeway at their closest points, and the UDWR parcel occurs within two miles of the freeway. The northern TLA parcel contains 240 acres and has the following legal description:

S2S2, NW4SW4, and NE4SE4 of Section 2, Township 35 South, Range 10 West, SLB&M.

The southern TLA parcel contains 417 acres and has the following legal description:

S2 and W2NW4 of Section 16, Township 35 South, Range 10 West, SLB&M.

The UDWR parcel contains 720 acres and has the legal description:

W2SW4 and SW4NW4 of Section 14; S2, SE4NW4, and S2NE4 of Section 15; N2NE4 and SW4NE4 of Section 22; and W2NW4 of Section 23, Township 35 South, Range 10 West, SLB&M.

See Attachment B for selected photographs of the subject parcels.

The parcels described in the proposed action are positioned along the eastern edge of the Hurricane Fault, which extends nearly to the town of Beaver, Utah, to the north, and into Arizona to the south. The fault is the dividing line between the Basin and Range Physiographic Province to the west and Plateau country to the east. To the west lie a series of long, narrow, north-trending mountain ranges separated by flat basin areas.

The mountain ranges and the basins between them were formed over many thousands of years by vertical slippage of fault blocks and stretching of the earth's crust. Eroded materials from the uplifted edges of the fault blocks were deposited in the initially wedge-shaped valleys, eventually resulting in the relatively flat terrain that currently exists between the ranges.

To the east from the Hurricane Fault, and as a result of vertical slippage of the earth's crust along the fault, the terrain rises sharply to the Markagunt Plateau. The fault-block slippage, and the erosion that accompanied it over time, produced the foothills transition and, farther up the slope, the Hurricane Cliffs. The two TLA parcels included in the proposed exchange lie along the foothills at the transition to Cedar Valley and at an elevation of approximately 5,900 ft. Elevations on the northern TLA parcel range from approximately 5,900 ft to 6,440 ft. Elevations on the southern TLA parcel range from

approximately 5,950 ft to 7,600 ft. The UDWR parcel is farther upslope with elevations ranging from approximately 6,800 ft to 7,800 ft. The aspect for all three of the parcels is predominantly northwest.

The flat land to the east of the I-15 corridor and the adjoining foothills below the Hurricane Cliffs are considered crucial value winter habitat areas for mule deer and elk, and are used by wild turkeys which migrate down from the high country off of the mountainous plateau to the east to escape the deep snow and winter conditions in Cedar Valley. Historically, wintering big game herds spread out over the entire valley.

In the benches and foothills east above the towns of Beaver, Parowan, and Summit, only limited amounts of crucial wintering habitat are presently accessible to mule deer herds, which has the effect of reducing availability of the browse plants which deer rely upon during the winter. Construction of I-15 dramatically interrupted mule deer access to traditional wintering areas which extended for miles southwest of Beaver and west of Parowan, thereby restricting the herds and resulting in higher mule deer concentrations east of the freeway. Subsequently, the ever-escalating development of the area into commercial and residential properties has removed habitat and resulted in additional access barriers to the mule deer using the limited habitat areas remaining east of the freeway.

The majority of the mule deer winter habitat UDWR owns in the exchange parcel occurs higher on the mountain and is classified as substantial-value habitat.

Fish and Aquatic Habitat

There are no perennial streams, lakes, or ponds on any of the three tracts of land involved in the proposed action. The nearest stream is the West Fork of Braffits Creek, located north of the UDWR property and considered to be an ephemeral water flowing only from early spring to early summer, depending on snowpack. Accordingly, there are no fish or other persistent aquatic life forms present on any of the parcels in question.

Vegetation

The vegetation type on the three land parcels is predominantly a juniper-piñon forest community with the primary species being Utah juniper (*Juniperus osteosperma*) and piñon pine (*Pinus edulis*). To a much lesser extent, small clearings in the juniper-piñon forest support a mixed shrub community that is predominantly of mountain big sagebrush (*Artemisia tridentata* var. *pauciflora*) but mixed with Utah serviceberry (*Amelanchier utahensis*), bitterbrush (*Purshia tridentata*), mountain mahogany (*Cercocarpus montanus*), cliff rose (*Purshia stansburiana*), rubber rabbitbrush (*Chrysothamnus nauseosus*), low rabbitbrush (*Chrysothamnus depressus*), smooth sumac (*Rhus glabra*), broom snakeweed (*Gutierrezia sarothrae*), yucca (*Yucca harrimaniae*), and prickly-pear cactus (*Opuntia erinacea* var. *utahensis*). The understory in the shrub community is dominated by cheatgrass (*Bromus tectorum*), an exotic, invasive, annual grass, red brome (*Bromus rubens*), sixweeks fescue (*Festuca octoflora*), and a few annual forbs. Perennial

grasses are limited in the shrub community. Intermediate wheatgrass (*Elymus hispidus*) is the more abundant of the perennial grasses, but purple three-awn (*Aristida purpurea*), galleta (*Hilaria jamesii*), sand dropseed (*Sporobolus cryptandrus*), bulbous bluegrass (*Poa bulbosa*), Indian ricegrass (*Stipa hymenoides*), and squirreltail (*Elymus elymoides*) are present as well. The mixed-shrub community species occur also to a limited extent in the understory of the juniper-piñon forest, although their occurrence and distribution in this forest type are more limited than in the clearings.

Domestic Livestock

Cattle are allowed, under permits administered by the BLM, to graze parcels involved in the proposed action and most of the surrounding areas. Grazing rights on private lands are controlled by the landowners. Some fences are present on the adjacent valley floor areas and extend onto the foothills to control the movement of cattle on the various parcels. Some taller fences along the roads restrict livestock from entering the road alignment. Grazing of the accessible areas of the three parcels by domestic livestock is an intermittent activity. The terrain on the parcel to be acquired by TLA is very steep and not well suited to grazing by domestic livestock.

Wildlife and Terrestrial Habitat

Mule deer (*Odocoileus hemionus*), elk (*Cervus canadensis*), and wild turkey (*Meleagris gallopavo*) winter in the general area and move into the high country during the spring, summer, and fall months when these areas are free of snow. During the winter months, and especially during periods of deep snow in the mountains, mule deer and elk are dependent on the low foothills and available valley areas for browse plants to sustain them. Mule deer particularly depend on sagebrush in Utah. Accordingly, the low foothill areas have been designated crucially important mule deer wintering areas. The north and south TLA parcels occur within the larger area designated as crucial value deer winter habitat. The UDWR parcel is higher in the foothills and lies within an area that has been given a lesser designation of “substantial value” transitional winter deer habitat. Wintering deer are present in all of these areas in much larger numbers than elk.

Resident birds in the study area include golden eagle (*Aquila chrysaetos*), several species of hawks (*Buteo spp*), falcons (*Falco spp*), blue grouse (*Dendragapus obscurus*), Rio Grande/Merriam’s wild turkey (*Meleagris gallopavo intermedia/merriami*), common crow (*Corvus brachyrhynchos*), common raven (*Corvus corax*), black-billed magpies (*Pica pica*), Clark’s nutcracker (*Nucifraga columbiana*), gray jay (*Perisoreus canadensis*) and a variety of smaller perching birds. Bald eagles (*Haliaeetus leucocephalus*) winter in the surrounding valley and canyon areas (November 15-March 15) and use the area as a feeding zone, although there are no known bald eagle winter roosting sites close by.

Other migrating birds pass through the area but are not known to rely on any specific resting or food-source areas present in the immediate vicinity. Migrating waterfowl do not use the area heavily because of the limitation of water sources near the project lands.

Resident predator/furbearer animals present in the general area and potentially transient on each of the land parcels associated with the proposed action include mountain lion (*Felis concolor*), coyote (*Canis latrans*), bobcat (*Lynx rufus*), badger (*Taxidea taxus*), mink (*Mustela vison*), raccoon (*Procyon lotor*), grey fox (*Urocyon cinereoargenteus*), red fox (*Vulpes fulva*), long-tailed weasel (*Mustela frenata*), and shorttail weasel (*Mustela erminea*). With the exception of the mountain lion, predator densities in the area are most dependent on the presence and population densities of small prey species such as rabbits and mice, although occasionally predators such as the coyote may take deer that are weakened by injury, disease, nutritional deficiency, or old age. Mountain lion populations in Utah are dependent on mule deer as a major prey item, yet they make some use of other prey species.

Prey species/rodents in the general area include blacktail jackrabbits (*Lepus californicus*); whitetail jackrabbit (*Lepus townsendii*); desert cottontail (*Sylvilagus auduboni*); pygmy rabbit (*Sylvilagus idahoensis*); yellowbelly marmot (*Marmota flaviventris*); Utah prairie-dog (*Cynomys parvidens*); and various squirrels, chipmunks, voles, and mice. Of the animals that occur in the general area, the pygmy rabbit and Utah prairie-dog are not known to occur on any of the three land parcels associated with the proposed action.

Threatened or Endangered Wildlife Species

No plant or animal species that are either Federally listed as threatened and endangered (T&E) species or candidate species are known to be present on any of the three land parcels associated with the proposed action. The pygmy rabbit is a Utah wildlife species of concern. It has been reported in the general vicinity, but is not known to be present on any of the three land parcels associated with the proposed action.

Colonies of Utah prairie-dogs, a threatened species under the Endangered Species Act, are present on the valley floor, at the toe of the mountains, within one-half mile of the north TLA parcel, but have not been observed on any of the parcels described in the proposed action. The location and habitat present on the parcels is considered out of the present range for these animals.

Bald eagles are protected by the Migratory Bird Treaty Act and the Bald and Golden Eagle Protection Act. This species is known to pass through the area on migrations north and south, and they use the area for winter feeding sites. Although roosting trees used by the eagles are present in the valley to the west of the area of concern, no roost sites are known to be present within or adjacent to any of the land parcels associated with the proposed action. The area is not considered to be a breeding area for the bald eagle.

Wetlands/Floodplains

Wet-meadow areas occur on the project lands, particularly on the UDWR parcels alongside the access road. These areas are generally a result of surface depressions or basins that allow for an accumulation of snow in the winter months. Based on these site characteristics, when the snow melts in the spring the soil storage capacity allows

facultative wetland plants to grow. There is the potential for small spring sources along the hillsides to emerge as seeps, although none are known at present. These seeps would provide a source of water for wildlife and plants early in the year and would likely dry up later in the year.

No floodplains as defined by the Federal Emergency Management Agency (FEMA) are present within any of the three land parcels associated with the proposed action. Flash flooding during severe thunderstorms or periods of rapid snow melt would move across the parcels but no areas of run-off pooling are present on the parcels aside from the small depressions along access roads.

Historical/Cultural

No historical structures are present on any of the three land parcels associated with the proposed action. During historical times, these areas were used primarily for activities such as grazing of domestic livestock, hunting and trapping, and recreational pursuits.

No evidence is available to indicate that there are significant archaeological sites or artifacts present from pre-historic human activities in the area. It is likely that piñon pine nuts were gathered along the foothills but this activity has not resulted in any significant artifacts or habitation sites on any of the three parcels involved.

In an interview and follow-up communications with Kathie Davies (UDWR Archaeologist), the following interpretation was made with respect to the exchange of lands between state agencies: “When land is exchanged between two state agencies a determination of ‘no potential to affect historic properties’ is recommended. The [Utah] School and Institutional Trust Lands Administration is a state agency and under Utah Code § 9-8-301 it is legally obligated to preserve and protect cultural resources, making it unnecessary to conduct a cultural resource inventory.” TLA in other words has the same legal responsibilities as UDWR regarding cultural resource survey and protection.

ENVIRONMENTAL CONSEQUENCES

No Action

Land Use

If no action is taken, then most likely the Trust Lands Administration would sell their current ownership to residential development interests, which, generally, have been expanding their activities over the last several years. This impact to land use could result in the loss of up to 400 acres of crucial-value mule deer winter range in the near vicinity of the Parowan Front WMA. It is likely that livestock grazing would not form a dominant aspect of land use on the TLA parcels under such a scenario, because of the shift to a more intensively developed residential land use which would displace the

wildlife presently benefitting from the undeveloped lands. The current UDWR lands would not be exchanged.

Wildlife

Under the No Action Alternative, if current TLA holdings are sold and developed, it would result in a commensurate loss of crucial-value mule deer winter range. This is not considered beneficial to mule deer populations limited by winter range availability. Depending upon how the real estate is developed as residential property, it may still provide some benefits to migratory birds which are less prone to disturbance effects, but the developed property would not yield benefits for big game species which are displaced by the presence of people and their dwellings. The No Action alternative would not meet part of the Purpose and Need to “protect wildlife values...” The “substantial-value” big game winter range values on the current UDWR lands would be retained.

Threatened or Endangered Wildlife Species

As no threatened or endangered species are known to occur on the lands in question, there are no expected consequences to species listed pursuant to the Endangered Species Act from the development of the TLA tracts.

Vegetation

The No Action Alternative likely would result in TLA selling their properties with residential development the most likely change in use expected for the properties. That would result in a direct loss of up to 400 acres of crucial mule deer winter range considered important for mule deer wintering in the Parowan Front WMA vicinity. Presumably the shrubs and small trees (some tracts of which are burned) forming the vegetative cover on the TLA tracts would be subject to this incremental loss in habitat which would impact the mule deer population, as winter habitat is the principal factor limiting the mule deer populations in the area. The No Action Alternative does not respond to the need for, nor purposes of, the proposed action.

Land Exchange (PROPOSED ACTION)

Land Use

The Proposed Action would result in the two land parcels currently owned by TLA being exchanged for the single land parcel (of comparable size and monetary value) currently owned by the UDWR. TLA has agreed to exchange the approximately 657 acres for an amount of UDWR land of equal market value located higher on the mountain within the Braffits Creek - West Fork drainage. In the exchange, UDWR would gain ownership of the two parcels that are lower on the foothills and currently contain roughly 400 acres of “crucial-value” mule deer winter habitat. Upon acquiring these parcels, UDWR would protect the land use as open space and maintain it as undeveloped land. If TLA ultimately sells the tracts to be acquired, that they would be subject to use as residential

estates since residential development is the major economic use observed currently in the immediate vicinity.

Wildlife

The crucial-value mule deer winter range on the current TLA tracts would be protected under this alternative, facilitating management of the parcels as part of the Parowan Front WMA to the benefit of wintering mule deer herds.

The land UDWR would relinquish in the exchange is considered by UDWR to be higher elevation, transitional range that is used by mule deer primarily during the spring and fall migrations. It does not contain any crucial-value mule deer winter habitat areas. The land parcel that would be acquired by TLA is of lesser value as deer winter habitat. Once it becomes managed by TLA it could be sold, most likely for residential real estate purposes. In such an eventuality, the moderate mule deer use on the current UDWR tract would be subject to being lost, and there would be a diminishment of migratory bird values, although some habitat would likely remain for more tolerant migratory birds such as crows, ravens, magpies, and gray jays.

Threatened or Endangered Wildlife Species

As no threatened or endangered species are known to occur on the lands in question, there are no expected consequences to species listed pursuant to the Endangered Species Act from the development of the TLA tracts.

Vegetation

Sale of the tract to be acquired by TLA would very likely result in eventual loss of some sagebrush vegetation which occurs on it. The predicted future use would be conversion to residential estates. As the tract to be acquired by TLA is steeper, it is less likely that it would experience heavy use by domestic livestock.

The TLA-owned lands proposed for acquisition by UDWR would be protected from development, and would be preserved in their current condition as undeveloped range land. Any domestic livestock grazing which would take place on the UDWR-acquired tract would occur only for wildlife management purposes, with grazing patterns on the parcels modified with regard to timing and intensity to correspond to the period of maximum grass and forb production, while limiting the consumption of shrub species that are important winter browse/forage species on the mule deer wintering areas.

Cattle grazing would be used on these areas strictly as a wildlife management tool to facilitate shrub growth and thus enhance the mule deer winter habitat. The fact that the 720-acre UDWR tract occurs adjacent to private development lands increases the likelihood that TLA would elect to sell it, as it holds more value to existing development interests given its location. Developers could expand their residential project area

without having to relocate operations. The Proposed Action would address the need and purposes identified in this EA.

Land Purchase

Land Use

In terms of effect on land use, this alternative would be the most protective. It would conserve open lands to the greatest degree. However, this alternative would require UDWR to locate sufficient available funds to succeed in purchasing the TLA tracts, presumably at public auction, which TLA customarily holds twice per year during normal budgetary conditions. The present budgetary conditions and extremely tight finances have caused TLA to cancel its most recent public auctions, and have greatly reduced the chance that UDWR would find extra cash for purchase.

UDWR has not budgeted for such a purchase, and given the current economic conditions, would prefer to resolve the situation without having to bring in additional funds. Also, it is not clear that UDWR would win the two properties at auction if another bidder had the will and the wherewithal to outcompete UDWR, as UDWR is typically held more closely to paying appraised value than private entities might be. The Land Purchase Alternative would satisfy the needs and purposes of the proposed action if the money to purchase the lands were available and the UDWR proved successful in acquiring the parcels at auction. Because neither of those scenarios is assured, the viability of the Land Purchase Alternative is brought into question.

Wildlife

This alternative would generate the greatest acreage of protected lands for wildlife. None of the properties would be subject to development of residential estates if UDWR were to acquire ownership to each of the parcels now owned by TLA, and retain its current tract.

Threatened or Endangered Wildlife Species

As no threatened or endangered species are known to occur on the lands in question, there are no expected consequences to species listed pursuant to the Endangered Species Act from the development of the TLA tracts.

Vegetation

The Land Purchase Alternative would guarantee protection for the greatest amount of vegetation in the Parowan Front WMA vicinity. None of the subject parcels would be slated for development, if UDWR were to succeed in purchasing the TLA tracts.

<u>ALTERNATIVES</u>	Land Use	Wildlife	Threatened or Endangered Spp.	Vegetation
NO ACTION	657 acres TLA land sold for residential development; 720 acres UDWR land remains protected	approx. 400 acres crucial winter range for mule deer lost through disturbance following sale to developers;	Not an issue	some level of vegetation loss to residential development; possibly less than 400 acres affected
LAND EXCHANGE (Proposed Action)	657 acres TLA protected by UDWR; 720 acres UDWR eventually sold by TLA for residential development	400 acres crucial winter range for mule deer protected; 720 acres substantial winter range lost through sale to real estate developers	Not an issue	some portion of the 720 current UDWR acres affected by vegetation loss through residential development
LAND PURCHASE	all 1,377 acres of TLA and UDWR protected; option infeasible because of low funding likelihood	1,120 acres mule deer winter range (crucial & substantial) protected	Not an issue	no loss of vegetation on the 1,377 acres; project feasibility doubtful because of unmet costs

Table. Summary of impacts, by alternative.

CUMULATIVE EFFECTS

Principle cumulative effects to consider are related to the loss of crucial mule deer winter range. With the historic construction of I-15 and the consequent interruption of traditional mule deer migration patterns, the amount of available mule deer winter range east of I-15 has been markedly reduced. Incremental losses of the limited, remaining, crucial-value mule deer winter range under the No Action Alternative (resulting in loss of up to 400 additional acres of crucial-value mule deer winter habitat) could have increased adverse effects on mule deer populations using the Beaver Mountains during summer, as a result of the present loss combined with historic habitat losses. The Land Exchange Alternative (proposed) would protect those 400 acres of crucial winter habitat but could permit the loss of up to 720 acres of substantial-value mule deer winter range currently protected as UDWR land. The Land Purchase Alternative would protect the maximum acreage of 1,120 acres of crucial- and substantial-value mule deer winter habitat, and therefore is least likely to cause cumulative impacts. As stated earlier, however, the Land Purchase Alternative is not considered feasible because of agency funding limitations. Typically in mule deer and many other ungulate species with comparable population ecology, there are certain population thresholds below which populations tend to decline, and above which populations either hold steady or increase in size. While the exact thresholds for the Beaver mule deer herd are currently unknown, from a cumulative impacts perspective, it is possible that incremental losses of the already limited crucial-value winter range presently accessible to mule deer could result in further decreases in mule deer numbers and a resultant decrease in public recreational opportunity.

CONSULTATION AND COORDINATION

Interaction between UDWR, TLA, and BLM resulted in the creation of a Memorandum of Understanding (Attachment A) between the aforementioned agencies and the major stakeholders to provide for the exchange and potential development of the identified properties. The stakeholders include Iron County Commission; the Ashdown Family, comprised of Laurence Ashdown, Craig Ashdown, Murray Ashdown, Celestia Nichols, and Frank Nichols; Braffits Creek Estates; LLC (Sure Development); and Westco Jankar Enterprises, L.C. (Kary Smith).

The draft Environmental Assessment will be released for a 30-day public review period via a statewide news release and will also be available on the Service's Region 6 website. The comment period will begin on (**fill in date**). The draft EA will be made available to the public through a statewide public news release and will be posted on the Service's Region 6 website at <http://mountainprairie.fws.gov/federalassistance>. The draft EA is on file at the U. S. Fish and Wildlife Service, Division of Wildlife and Sport Fish Restoration, 134 Union Boulevard, Lakewood, Colorado, 80228, and is available for public review upon request.

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ATTACHMENT A

Memorandum of Understanding

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MEMORANDUM OF UNDERSTANDING
 BETWEEN
 IRON COUNTY
 AND
 PRIVATE LAND OWNERS: SURE DEVELOPMENT, ASHDOWN, SMITH Et. AL;
 UTAH SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION;
 UTAH DIVISION OF WILDLIFE RESOURCES; AND BUREAU OF LAND MANAGEMENT

BACKGROUND INFORMATION

The residents of Iron County, Iron County Commissioners, the Bureau of Land Management (BLM) and the Utah Division of Wildlife Resources (DWR) have long recognized the Parowan Front area as an important mule deer wintering area. It is further recognized that use of the properties that lie from Cedar City and Parowan, Utah, between I-15 and the mountain face, are crucial to their winter survival and the continuance of a major mule deer population. The DWR has the responsibility for maintaining and managing the wildlife populations, thus they see the need to protect and maintain the area for its habitat values. The multiple-use mission of the BLM requires a balanced approach of protecting habitat values, and other natural resource values while striving to meet the needs associated with community growth and development. The BLM supports collaborative planning and management of access routes so that community needs are met efficiently without undue and unnecessary loss to resource values. The human population of Iron County continues to grow and with that growth, holders of private properties in and adjacent to this area recognize the opportunities for providing land for seasonal and/or long-term residences. The DWR, the School and Institutional Trust Lands Administration (SITLA), the BLM and private individuals are owners of properties within and adjacent to the critical deer wintering area. Some of the owners of the private properties are desirous of developing them for residential purposes. Suitable access for development and subsequent use by the residents requires crossing BLM and DWR properties. To manage and protect the critical big game wintering area, it is mutually agreed that controlled access must be attained and managed.

Iron County holds that access to private holdings is vitally important. In accordance with the Iron County General Plan (pg. 22), "within Iron County are many roads, trails, and paths which are used for everything from access to traditional agricultural concerns and livestock movement to timber harvesting to recreation areas. Iron County is committed to maintaining the safe and appropriate use of existing roads, paths, and trails for these and similar activities," across all lands regardless of ownership.

SITLA has an obligation to the citizens of the State to manage "state trust lands" for the financial support of public education and other public institutions. SITLA has land holdings within the critical winter area and holds that limitations on development would be adverse to the purposes in which Congress granted the properties. However, SITLA and DWR have an assembled land exchange agreement that provides for the trading of properties that would be mutually beneficial to both. In accordance with this agreement, SITLA may exchange lands within important wildlife habitat for properties in areas less likely to impact wildlife, but which could reap greater values for Utah's educational system.

It is mutually recognized that with uncontrolled private land development, increased vehicle use, and unplanned, sporadic access development within this critical area the loss of animals and habitat is inevitable. Therefore, Iron County, DWR, BLM, SITLA and the private landowners acknowledge a need for planned development and access while holding vital the importance of managing development in a manner to protect the area for its valued wildlife habitat.

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PURPOSE

The purpose of this memorandum of understanding is to recognize the desire for private land development with suitable public access while providing for long-term resource protection within the critical wildlife habitat area lying east of I-15 along the Parowan Front (Hurricane Cliffs) between Parowan and Cedar City, Utah by limiting access across DWR and BLM lands to the maximum extent possible while allowing for suitable access.

AGREEMENT

It is mutually agreed and understood by and between said parties as follows:

Access to the private properties south and east of the critical deer winter range necessitates crossing properties owned and controlled by the DWR, BLM and possibly others. Specific right-of-way (ROW) applications will be completed as part of a detailed project proposal submitted to the DWR and/or BLM after acceptance of this agreement by all parties. It is intended that this proposal will meet all of the access needs for development of private lands delineated on attached "Iron County map Parowan Front MOU" for the foreseeable future.

It is further agreed that all applications, exchanges, agreements, conveyance and construction will be processed and completed in accordance with applicable laws, regulations and policy of the interested parties.

Further provisions of this agreement are as follows:

1. DWR and BLM will consider granting no more than two (2) total ROW access roads, no greater than 66 feet in total footprint width, in the name of Iron County.
2. All parties agree that private lands will be used to the maximum extent practicable to meet access needs to private lands.
3. To minimize disturbance within the critical wildlife area, utilities for the development of the private lands will be confined to the 66-foot wide ROW granted to Iron County, except as granted by DWR in individual utility ROW applications.
4. Construction of the roads or installation of the utilities will not commence until a ROW has been formally granted and will conform to all provisions of the ROW grant.
5. Future access to other private properties in the area will be accommodated from granted County ROWs and private properties and will not involve additional BLM or DWR properties.
6. The granted ROW will be for year-around use. Seasonal closures may be carried out by Iron County. County shall not be responsible for the construction or maintenance of any roads constructed in the ROW. County shall not be obligated to provide winter snow removal on the roads in the ROW.
7. Iron County will control vehicle use of the authorized ROW grant through statute, signing, periodic patrols, and other legal methods available.
8. DWR and BLM will only consider a ROW across their property based on a centerline survey provided by the County or a private developer, and agreed upon by all parties.
9. Losses to the habitat on DWR properties due to the road ROW will be mitigated by a facilitated exchange of properties. DWR owns property outside the critical big game winter range and adjacent to private parcels being developed or considered for development and desires to exchange this property for property within the critical area. SITLA owns property within the critical area and in accordance with an 11/29/2004 exchange agreement between SITLA and DWR would entertain an exchange. Iron County and private developers would facilitate property exchanges where feasible to provide long term management of the critical

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deer wintering area by DWR. The ROWs contemplated for DWR property in this MOU will be granted by DWR to Iron County only in the event DWR is successful in exchanging properties with SITLA pursuant to this paragraph.

- 10. If required, County or a private developer will fund and provide for satisfactory environmental documentation (e.g., NEPA or other permitting), DWR costs of appraisal of exchanged lands, appraisal reviews, and archaeological or other land surveys applicable to SITLA or private lands DWR would acquire, cultural resource surveys on the DWR lands SITLA will acquire, and other costs associated with land exchanges that constitute mitigation.
- 11. By virtue of Federal Aid funds used to originally purchase DWR properties, the DWR will obtain approval of all land exchange proposals and/or ROW applications from the United States Fish and Wildlife Service (USFWS).
- 12. Private land development will occur in a manner that provides for vehicle access to public lands.

Approval:

IRON COUNTY COMMISSION:

UTAH DIVISION OF WILDLIFE RESOURCES:

SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION:

BRAFFIT'S CREEK ESTATES LLC:

ASHDOWN FAMILY:

Laurence Ashdown

Craig Ashdown

Murray Ashdown

Celestia Nichols

Frank Nichols

NICHOLS, FRANK & CELESTIA

WESTCO JANKAR ENTERPRISES L.C. (KARY SMITH):

BUREAU OF LAND MANAGEMENT (CEDAR CITY FIELD OFF. MGR):

[Handwritten signatures and initials corresponding to the entities listed on the left. Some signatures include the text "manager member" written below them.]

ENTERED JUL 11 2006

ATTACHMENT B

Photographs of Parcels

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UDWR tract, containing steeper terrain and transitional range for mule deer.



Looking east from the UDWR tract onto National Forest System lands.



View across UDWR tract to the northeast showing “substantial-value” mule deer winter habitat.



More northerly of the SITLA tracts, showing recent burned area.



More northerly of the two SITLA tracts, showing recent burned area (second of two images).



More southerly of the two SITLA tracts, showing crucial mule deer winter habitat in the mid-ground below the steeper cliff faces.



More southerly of the two SITLA tracts, showing crucial mule deer winter habitat in the foreground immediately below the steeper terrain. This winter range is representative of what carries mule deer through severe winters in the Parowan Front area of southwestern Utah.



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