

Chapter 1

Introduction

1.1 Introduction

On July 30, 2001, the Six County Association of Governments¹ (SCAOG or the Applicant) filed a Petition for Exemption with the Surface Transportation Board (Board) pursuant to 49 United States Code (USC) § 10502 for authority to construct and operate 43.2 miles of new single-track rail line in Sanpete, Sevier, and Juab Counties, Utah.² This new line would connect the Union Pacific Railroad (UPRR) mainline about 16 miles south of Nephi, near Juab, Utah, to a proposed coal transfer terminal facility about 0.5 mile southwest of Salina, Utah (see Figure 1-1 below).

A portion of the proposed rail line would cross segments of public land administered by the U.S. Department of the Interior, Bureau of Land Management (BLM). Therefore, on February 14, 2005, the Applicant filed a right-of-way application with BLM pursuant to Section 501(a)(6) of the Federal Land Policy and Management Act of October 21, 1976 (43 USC § 1761). BLM will decide on the right-of-way application after the completion of this environmental review process.

In June 2007, the Draft Environmental Impact Statement (Draft EIS) was issued by the Board's Office of Environmental Analysis (OEA)³ in cooperation with BLM. Under the requirements of the National Environmental Policy Act of 1969 (NEPA), the Board is the lead agency for preparing the Draft EIS, and BLM is a cooperating agency.⁴ The Draft EIS and all other NEPA documents in the proceeding were prepared in compliance with NEPA, the Board's regulations for implementing NEPA (49 Code of Federal Regulations [CFR] Part 1105), the guidance provided by the Council on Environmental Quality's (CEQ) regulations implementing the procedural provisions of NEPA (40 CFR 1500), and BLM's policy procedures and guidance documents.

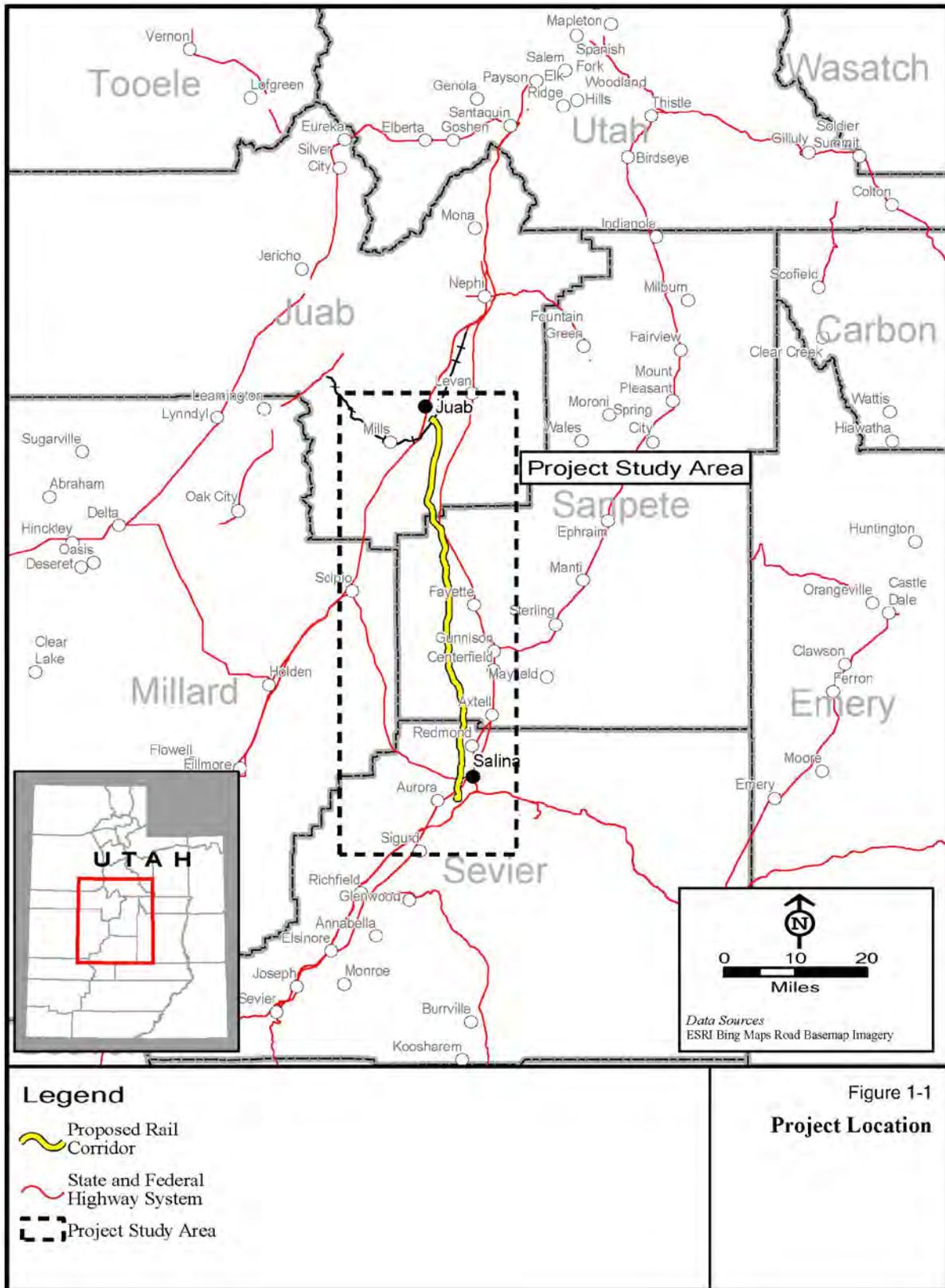
¹ SCAOG is a voluntary association of local governments of Sevier, Juab, Sanpete, Millard, Piute, and Wayne Counties in Utah. Its general purpose is to act as an "umbrella-type" organization to plan and develop programs with respect to various economic activities including, but not limited to, owning, acquiring, constructing, operating, and financing transportation facilities.

² In a decision of December 19, 2001, under 49 USC 10502, the Board conditionally exempted SCAOG's construction and operation of a new rail line along the proposed rail corridor between Juab and Salina, Utah, from the prior approval requirement of 49 USC 10901 subject to the Board's consideration of the anticipated environmental impacts of the proposal. In that decision, the Board stated that, on completion of the environmental review process, the Board would issue a further decision making the exemption effective at that time, if appropriate, thereby allowing construction to begin.

³ OEA was formerly known as the Board's Section of Environmental Analysis (SEA). The name change from SEA to OEA became effective on September 1, 2010, after the Draft EIS in this proceeding was published. OEA is responsible for ensuring that the Board's decision complies with NEPA and related environmental laws.

⁴ The U.S. Army Corps of Engineers (USACE) was not a cooperating agency during the preparation of the Draft EIS. However, USACE became a cooperating agency during the preparation of the Supplemental Draft EIS.

Figure 1-1. Project Location



Legend

-  Proposed Rail Corridor
-  State and Federal Highway System
-  Project Study Area

Figure 1-1
Project Location

After issuing the Draft EIS, OEA received comments from several agencies raising concerns about the wetland impacts of the alternatives that were being carried forward.⁵ The U.S. Environmental Protection Agency (EPA), in an informal comment letter, suggested that a more detailed assessment and characterization of the wetlands for the alternatives carried forward be conducted. In its comments, EPA also recommended that the Board consider an alternative that would either avoid or have fewer impacts on wetlands at the northern terminus of the project. EPA suggested that the Board consider an alternative UPRR connection that is east of Juab. Finally, EPA suggested that the EIS should contain detailed mitigation for wetland loss. The U.S. Department of the Interior's Office of Environmental Policy and Compliance and the Utah Division of Wildlife Resources expressed interest in receiving additional information on the springs and wetlands in the Chicken Creek Reservoir area near Nephi, Utah.⁶

In response to these comments, OEA directed the Applicant to provide additional information on wetlands in the project area, focusing on the large wetland complexes at the northern and southern ends of the project. The Applicant conducted a wetland investigation along the proposed routes, then used the information gathered during these wetland investigations to develop three new modified alternatives. These three alternatives, which are referred to as Alternatives B1, B2, and B3 and are modifications of Alternative B (the Proposed Action in the Draft EIS), are addressed in the Supplemental Draft EIS. Figure 1-2 below shows these alternatives.

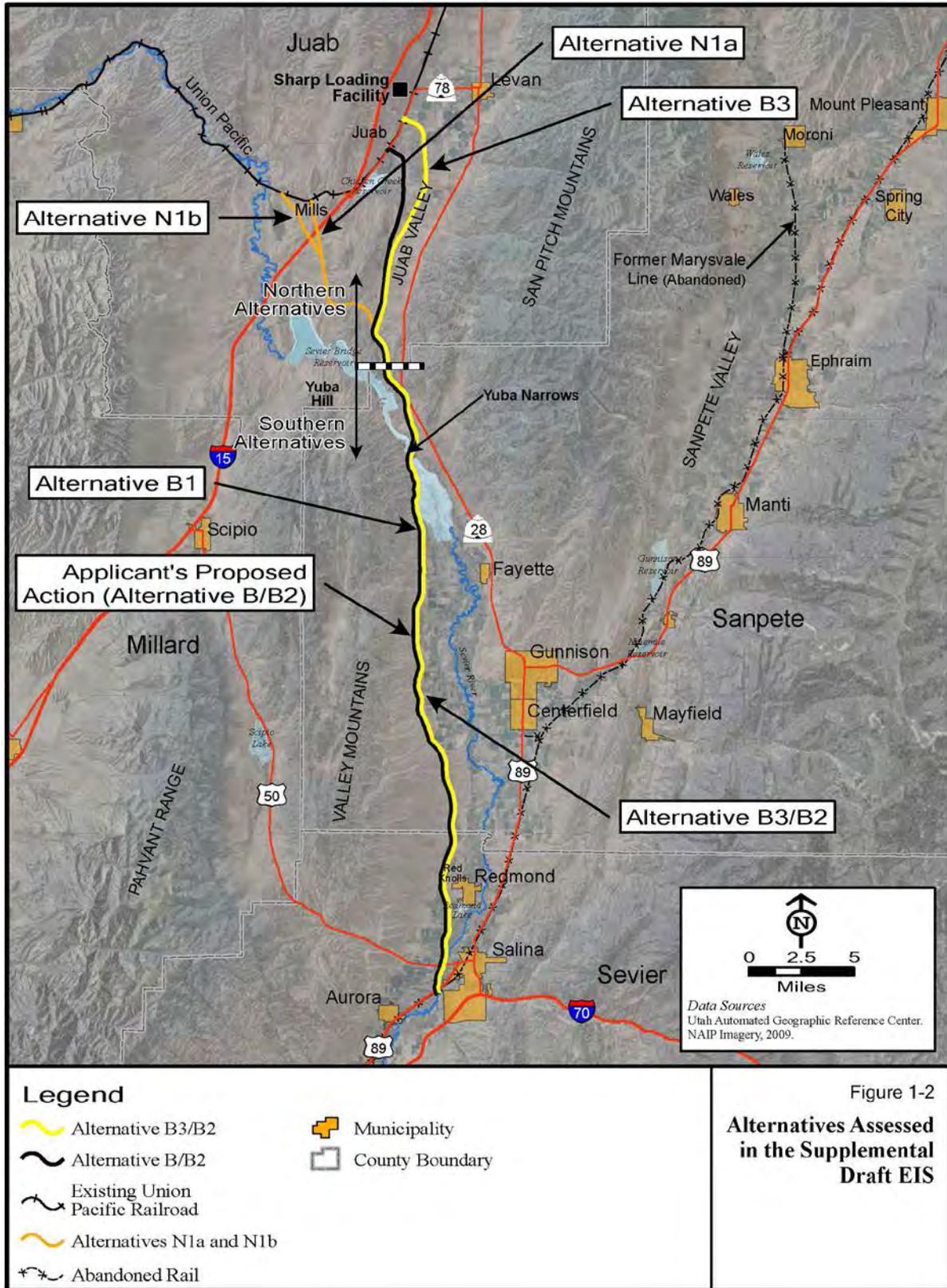
Following the issuance of the Draft EIS, OEA worked closely with the U.S. Army Corps of Engineers (USACE) to evaluate alternatives that would further reduce impacts to wetlands in the project area. To ensure that all feasible northern alternative options were assessed, OEA re-evaluated a route (Alternative N1) that had been dismissed in the Draft EIS because of construction and operational concerns; this route was re-evaluated in the Supplemental Draft EIS for its potential to minimize wetland impacts. For convenience, we have continued to designate this route as Alternative N1. OEA also considered two minor variations of this alternative: Alternative N1a and Alternative N1b (see Figure 1-2 below). These additional alternatives and their impacts on wetlands were assessed in the wetland impacts analysis in the Supplemental Draft EIS, which OEA issued on May 2, 2014.⁷

⁵ A detailed discussion of the alternatives evaluated during the EIS process can be found in Chapter 2, Proposed Action and Alternatives, of the Draft EIS and the Supplemental Draft EIS as well as Appendix B, Corridor and Alternative Identification, of the Supplemental Draft EIS. These documents are available on the Board's website at www.stb.dot.gov and on the project website at www.sixcountyutahrail.com.

⁶ In response to concerns and comments regarding wetlands in the project area, OEA invited representatives from EPA, USACE, BLM, the U.S. Fish and Wildlife Service, and the Utah Division of Wildlife Resources on a field tour of the alignment for the Proposed Action (at that time, Alternative B) to provide a first-hand view and understanding of the project area. The field tour occurred on October 1–3, 2007.

⁷ A detailed assessment and characterization of wetlands generally is performed for the purposes of an Applicant's permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. Site-specific mitigation is also developed as part of the Section 404 permit process. Here, the Applicant has not yet applied for a Section 404 permit. When an applicant has not completed the Section 404 permit process prior to the issuance of the Final EIS, OEA recommends that the Board impose a condition on any authorization to construct and operate a rail line that requires the applicant to obtain a Section 404 permit. In the Draft EIS and Supplemental Draft EIS, OEA, as part of its recommended mitigation, required the Applicant to obtain the necessary permits from USACE prior to initiation of any project-related construction activities in wetlands and water bodies. Similar mitigation is included in this Final EIS.

Figure 1-2. Alternatives Assessed in the Supplemental Draft EIS



In addition to providing a more robust analysis of wetlands, the Supplemental Draft EIS also reanalyzed the alternatives-development process and updated historic property issues pursuant to Section 106 of the National Historic Preservation Act (NHPA).

This Final EIS reflects changes made to the Draft EIS and Supplemental Draft EIS in response to agency and public comments and the availability of new and updated information. Copies of the agency and public comments on the Draft EIS and Supplemental Draft EIS are provided in Appendix B, Comment Letters, of this Final EIS. OEA's responses are summarized in Chapter 3, Comment Summaries and Responses. Responses to individual comments are provided in Appendix A, Comments and Responses.

The following sections describe the project context, the purpose of and need for the Proposed Action, the alternatives considered in the Draft EIS and the Supplemental Draft EIS, and the Applicant's current Proposed Action (Alternative B/B2) and Alternative B3/B2, which OEA has identified as the Environmentally Preferred Alternative. The environmental effects of the Proposed Action and Alternatives are summarized and compared. The progress of the historic resources review process under Section 106 of the NHPA since the Draft EIS and Supplemental Draft EIS were issued is also updated.

1.2 Project Context

The proposed rail line would be located in Juab, Sevier, and Sanpete Counties, which run south to north in central Utah and are generally broad, flat or rolling areas divided by the Sevier River. There are several small towns in these counties and along the proposed project route; these towns include Fayette, Gunnison, Centerfield, Axtel, Redmond, Scipio, and Salina. Most of the valley floor supports farms that rely on an irrigation system composed of an extensive canal-and-ditch network. The valley is bounded on either side by a mountain range. This mountainous topography supports placing the rail line within the valley and generally parallel to the Sevier River, where possible.

Industries in the area include coal mining, rock salt mining, gypsum production, and bentonite production.

1.3 Purpose of and Need for the Proposed Action

The purpose of this project is to provide rail access to local industries, primarily the Southern Utah Fuel Company (SUFCO) coal mine owned by Bowie Resources and located about 30 miles northeast of Salina. The SUFCO mine produces 6 million to 7 million tons of low-sulfur coal annually. About 4 million tons are shipped to power plants in Carbon and Emery Counties east of the mine, about 1 million tons are shipped to the Salt Lake City area, and 1 million to 2 million tons are shipped to the Sharp loading facility near Levan, Utah (personal communication with Malcolm Nash, July 16, 2013).

For many years and until 1983, the former Denver & Rio Grande Western (D&RGW) Railroad and its predecessor companies (now part of the UPRR) provided rail service to the central Utah counties of Sanpete, Sevier, and Piute. As a result of a 1983 landslide and subsequent abandonment of the D&RGW rail line, shippers began trucking their goods to markets or to rail/truck transfer points at Juab, Sharp, or Nephi. These transfer points are located on a UPRR rail line that lies on the western edge of Juab County. The right-of-way of

the former D&RGW rail line has been sold to adjoining landowners and primarily converted to farmland. Most bridges and drainage structures have been removed.

Other than Juab's access to the nearby UPRR line, there is no rail service in this part of Utah, and, therefore, local industries in Sanpete and Sevier Counties rely exclusively on trucking for freight transportation. The proposed rail line would allow Bowie Resources and other industries to access rail transportation for coal and bulk commodities to and from the project area, thereby reducing the amount of heavy truck traffic on state highways and city streets that are not designed for heavy truck loads.

In total, nearly 750 truck trips per day (one way) are needed to transport coal from the SUFCO mine (Washington Infrastructure 2001). The trucks pass through the cities of Salina, Centerfield, Gunnison, and Levan on their way to the loading facility. At that rate, trucks travel through downtown Salina at a frequency of about one truck every minute. The trucks use local and state highways, and each truck carries about 43 tons of coal.

The Applicant expects that direct rail access to the UPRR line near Juab would ease traffic congestion, improve transportation safety, extend the life of local roads and other state roads, and contribute to a reduction in local air pollution. The Applicant also anticipates that the addition of a rail line would improve businesses' overall competitiveness, thereby preserving and improving employment and tax revenues.

In addition to coal shipments, SCAOG anticipates future business from local industries that currently ship smaller quantities of petroleum products, lumber products, nonmetallic minerals, wallboard, and plaster by truck.

The Applicant states that it seeks authorization to construct and operate the proposed rail line as common carrier, but it does not plan to own or operate this line for profit. The Applicant expects to work jointly with a private entity to do the actual construction of the proposed line and states that it might assign its responsibility for common-carrier operations to an experienced but not-yet-identified operator.

Under the CEQ regulations implementing NEPA at 40 CFR 1508.9(b), an agency's environmental analysis shall include a brief discussion of the proposed project's purpose and need. The proposed rail line involves an application by SCAOG for a license or approval from the Board to construct a common-carrier rail line as part of the interstate rail network. The proposed rail line is not a project proposed or sponsored by the Federal government. Thus, the project's purpose and need should be informed by both the private applicant's goals and the agency's enabling statute here, 49 USC § 10901.⁸ Construction and operation of new rail lines requires prior authorization by the Board under 49 USC § 10901(c), which is a permissive licensing standard. It now directs the Board to grant construction proposals "unless" the Board finds the proposal "inconsistent with the public convenience and necessity (PC&N)." Thus, Congress presumes that rail-construction projects are in the public interest unless shown otherwise.⁹

⁸ See *Alaska Survival v. STB*, 705 F.3d 1073, 1084-85 (9th Cir. 2013).

⁹ See *N. Plains Res. Council v. STB*, 668 F.3d 1067, 1091-92 (9th Cir. 2011); *Mid States Coalition for Progress v. STB*, 345 F.3d 520, 552 (8th Cir. 2003); and *Alaska R.R. – Constr. and Operation Exemption – Rail line Between North Pole and Delta Junction, Alaska*, FD 34658, slip op. at 5 (STB served January 5, 2010). Congress first relaxed the Section 10901 standard in the Staggers Rail Act of 1980, Pub. L. No. 96-448,

1.4 Scoping and Public Involvement

OEA has undertaken extensive public outreach activities to provide interested parties, agencies, federally recognized tribes, elected officials, and the general public opportunities to comment on and actively participate in the environmental review process. These activities are described in Chapter 5, Agency Coordination and Public Outreach, of this Final EIS.

1.5 Alternatives Considered

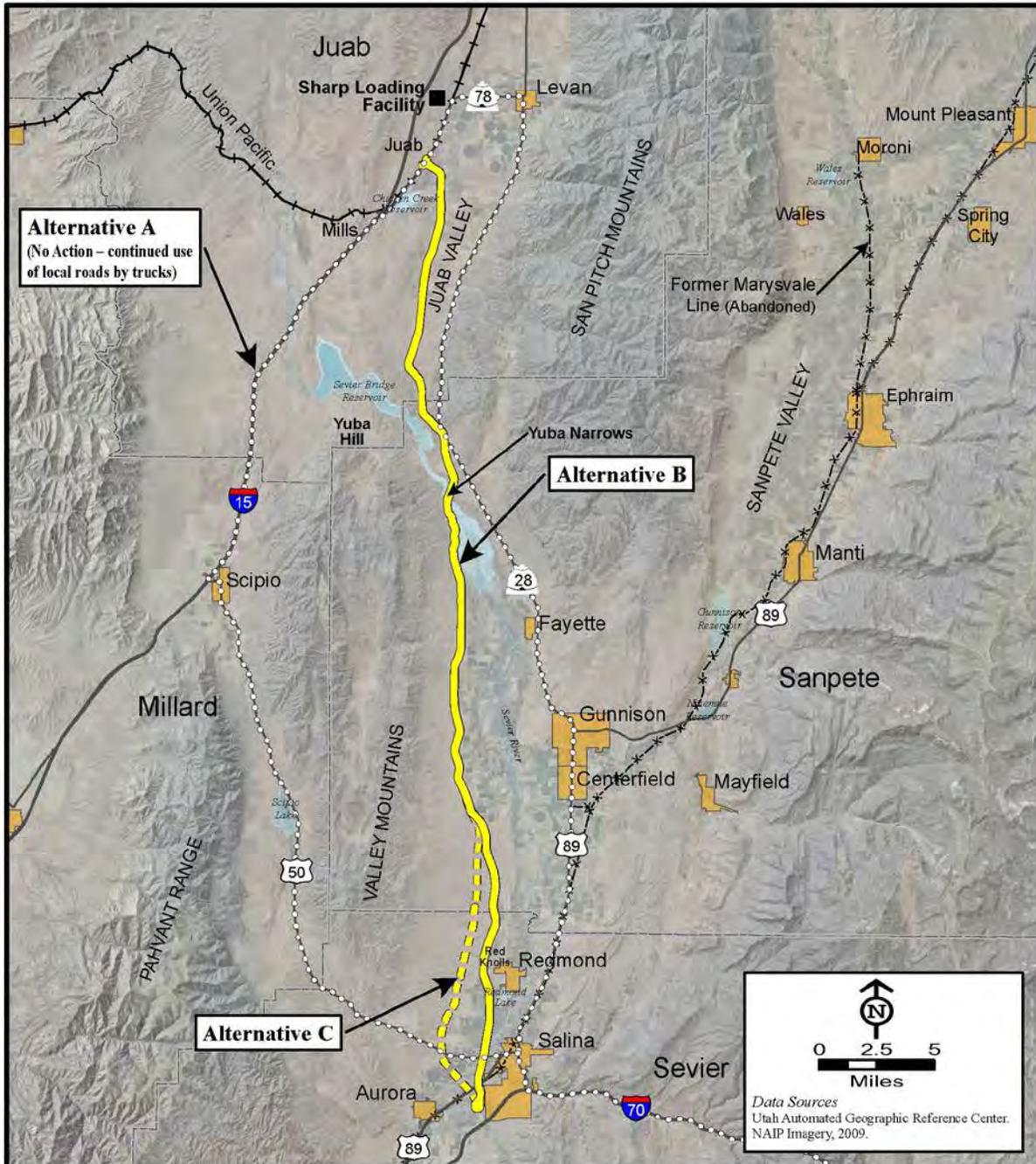
1.5.1 Alternatives Considered in the Draft EIS

The Draft EIS considered three alternatives in detail: (1) the No-Action Alternative (Alternative A); (2) the Applicant's Proposed Action as of the Draft EIS (Alternative B); and (3) a second action alternative (Alternative C; see Figure 1-3 below). Each alternative would run from the UPRR mainline within portions of Juab, Sanpete, and Sevier Counties beginning near Juab, about 16 miles south of Nephi, to the loading facility located about 0.5 mile southwest of Salina. The Draft EIS also identified and discussed other alternatives that were considered and eliminated from detailed analysis.

No-Action Alternative (Alternative A). The No-Action Alternative (Alternative A) provides a basis for comparing the other project alternatives. With the No-Action Alternative, no new rail line or terminal facilities would be constructed. No new train operations through Juab, Sevier, or Sanpete Counties would be conducted, and rail operations on the UPRR line would not change. Coal-haul trucks would continue to use highways in the project area to transport coal from the SUFCO mine to the existing UPRR mainline south of Nephi near Juab. Trucks would also continue to be used to transport bulk commodities to and from the project area.

96 Stat. 1895. Before 1980, Congress directed the Interstate Commerce Commission (ICC), the Board's predecessor agency, to scrutinize rail construction proposals closely to prevent excess rail capacity. ICC was to issue a license only if it found that the PC&N "require" the construction. See former 49 USC § 10901(a) (1978); see, for example, *Chesapeake & Ohio Ry. v. United States*, 283 U.S. 35, 42 (1931). In the Staggers Act, Congress made it easier to obtain agency authorization for a new line by providing that ICC need only find that the PC&N "permit," as opposed to "require," the proposed new line. See former 49 USC § 10901(a) (1995); H.R. Rep. No. 1430, 96th Cong., 2d Sess. 115-16 (1980), reprinted in 1980 *U.S.C.C.A.N.* 4147-48. With the Interstate Commerce Commission Termination Act (ICCTA), Congress completed its policy shift, directing that the Board "shall" issue construction licenses "unless" the agency finds a proposal "inconsistent" with the PC&N. See 49 USC § 10901(c).

Figure 1-3. Alternatives Considered in the Draft EIS



Legend

- ○ ○ ○ No Action (Existing Truck Route) – Alternative A
- Alternative B
- - - Alternative C
- Railroad
- Abandoned Rail
- Municipality
- County Boundary


 0 2.5 5
 Miles

Data Sources
 Utah Automated Geographic Reference Center.
 NAIP Imagery, 2009.

Figure 1-3
**Alternatives Considered
 in the Draft EIS**

Alternative B. Alternative B would involve constructing about 43 miles of new rail line. Alternative B is generally north-south and passes east of Chicken Creek Reservoir and through the Juab Plain, a valley between mountains to the east and west. Alternative B crosses the Sevier Bridge Reservoir at Yuba Narrows, south of Yuba Lake Recreation Area. This crossing would be adjacent to the point where a high-voltage transmission line currently crosses the reservoir. Alternative B continues southward along and outside of the western edge of a marshy area south of the reservoir. South of the reservoir, it continues along the western edge of the agricultural areas roughly parallel to but east of the existing high-voltage transmission line. It gradually veers to the south-southeast and then south toward the Sanpete County–Sevier County border and eventually to Salina, where the alternative terminates.

Alternative C. This alternative follows the same alignment as Alternative B from the northern terminus to a point about 4.5 miles north of the Sanpete County–Sevier County border. At this point, Alternative C begins to run south on the west side of the Piute Canal, about 0.5 mile to 1.0 mile west of Alternative B but east of the existing high-voltage transmission line. Alternative C continues south essentially parallel to but west of Alternative B and the Piute Canal across the Sanpete County–Sevier County border. Alternative C then rejoins Alternative B about 0.5 mile south of the point where Alternative B crosses U.S. Highway 50 (U.S. 50) about 3 miles west of Salina. Because Alternative C remains west of the Piute Canal, it also remains at a higher elevation on the foothills than Alternative B toward the southern terminus at Salina.

1.5.2 Alternatives Considered in the Supplemental Draft EIS

The Supplemental Draft EIS evaluated Alternative B (the Proposed Action in the Draft EIS) and three modified alternative routes (Alternatives B1, B2, and B3) developed by the Applicant after the Draft EIS was issued and re-evaluated an alternative dismissed in the Draft EIS (Alternative N1 near the community of Mills, Utah).¹⁰ OEA retained the designation of Alternative N1 from the Draft EIS (see Figure 1-3 above).

As explained in Section 2.1, Alternatives Analysis, of the Supplemental Draft EIS, the north-south route of Alternative B provided the most direct rail connection to the UPRR network from the new coal transfer terminal in Salina and met the project's purpose and need. However, this direct route would result in substantial impacts on wetlands. Thus, after issuance of the Draft EIS and the receipt of EPA's suggestion that OEA examine alternatives to Alternative B on the north to minimize the potential impacts on wetlands, OEA directed the Applicant to design alternatives to Alternative B that would reduce impacts on wetlands and other aquatic resources.

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

¹⁰ Mills, Utah, is located about 5 miles west of Juab.

Because all of the alternatives considered in both the Draft EIS and the Supplemental Draft EIS converge at a common point near the Juab County–Sanpete County border northeast of Yuba Hill, the project area was divided to allow the creation of two corridor groupings (north and south), and the alternatives are designed and referred to as northern and southern alternatives (see Figure 1-2 above).

1.5.2.1 Northern Alternatives

As stated in Section 1.1, Introduction, of this chapter, EPA suggested that OEA examine alternatives to Alternative B (the Proposed Action in the Draft EIS) on the north that would further avoid the wetlands in the Chicken Creek Reservoir area (personal communication with Larry Svoboda, October 18, 2007). USACE also suggested further evaluation of an alternative (Alternative N1) that was studied but dismissed in the Draft EIS. USACE suggested that the connection near Mills might affect fewer wetlands than would a connection at Juab.

In response, OEA directed the Applicant to conduct a more detailed wetland investigation in the area around the Proposed Action and to reanalyze the various rail alternatives. The Applicant examined four alternatives on the north (Alternatives B, B3, N1a, and N1b). Alternative N1 was further divided into Alternatives N1a and N1b to provide additional design options to Alternative N1. See Figure 1-4 below.

The following sections discuss the wetland impacts and other impacts from constructing and operating the northern alternatives that were studied in the Supplemental Draft EIS.

Alternative B

Alternative B on the north was evaluated in both the Draft and Supplemental Draft EISs. Alternative B on the north continues to be the Applicant’s Proposed Action in this Final EIS. Alternative B would involve constructing about 11.1 miles of new rail line. Alternative B is generally north-south and passes east of Chicken Creek Reservoir and through the Juab Plain. Alternative B crosses the Sevier Bridge Reservoir at Yuba Narrows, south of Yuba Lake Recreation Area. Alternative B would permanently disturb about 77 acres of pasture and cropland and would fill 1.2 acres of playa wetlands and 0.3 acre of wet meadow wetlands in the northern portion of the project area.

Figure 1-4. Northern Alternatives

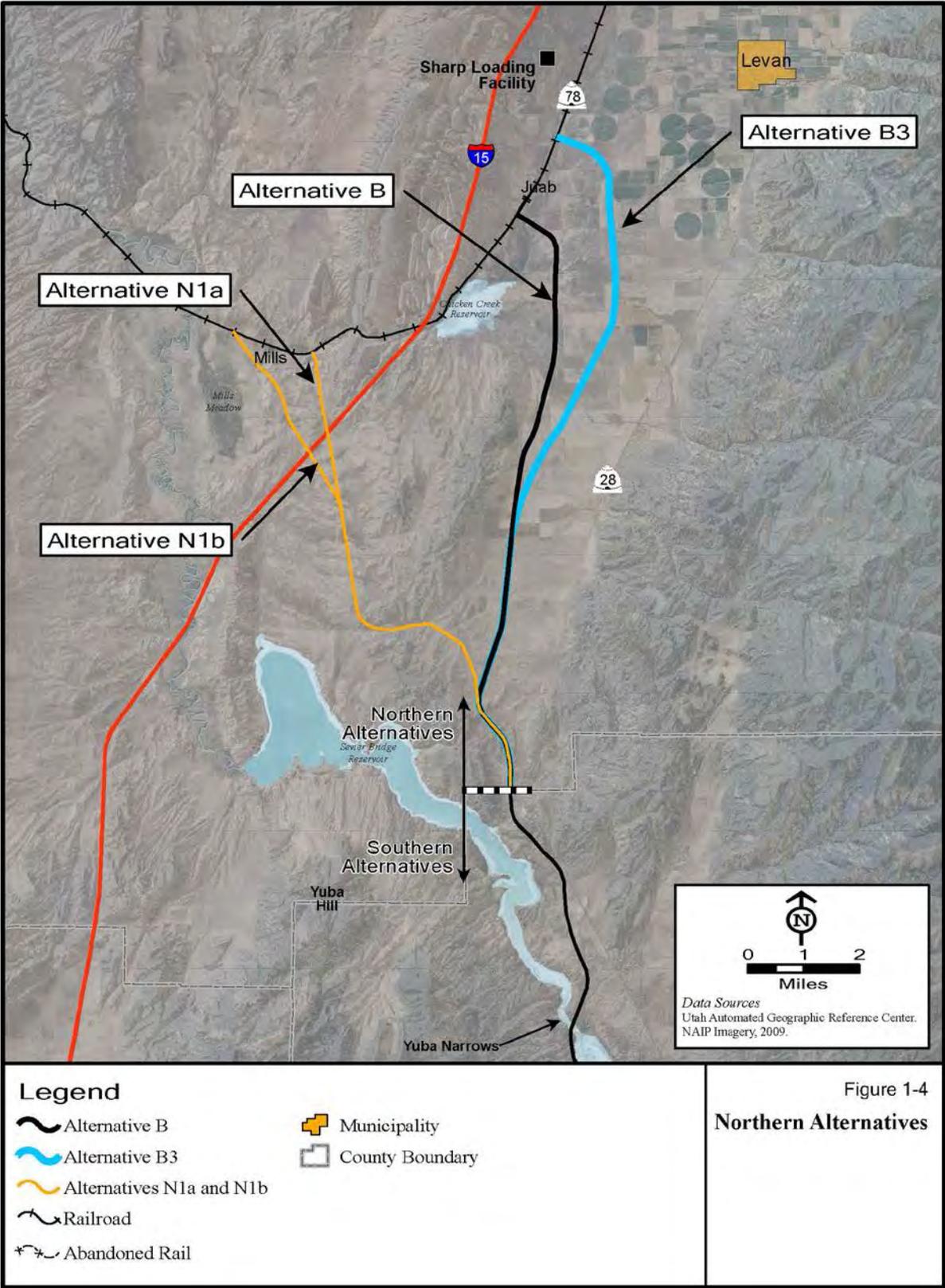


Figure 1-4
Northern Alternatives

Alternative B3

The Applicant developed Alternative B3 to avoid, to the extent possible, wetland impacts near Chicken Creek Reservoir at the north end of the project area and minimize, to the extent possible, impacts to irrigated cropland. This alternative connects to the UPRR mainline with a wye connection (a Y-shaped intersection) about 1 mile north of the Juab siding, near the Sharp siding. From the UPRR mainline, the alternative runs southeast for about 2 miles, turns south, continues for about 3 miles, turns southwest, and continues for about 8 miles to the Juab County–Sanpete County border, which is northeast of Yuba Hill. Alternative B3 would be about 13 miles long (see Figure 1-4 above). Alternative B3 would permanently disturb about 115 acres of pasture and cropland during construction, about half of which would be permanently converted to rail right-of-way.

During the initial comment period on the Draft EIS, farmers expressed concerns regarding impacts on irrigation, the bisecting of farms, access to fields, the potential reduction in the value of the farms crossed, and the fact that most agricultural irrigation is flood irrigation. Mindful of farmers' concerns regarding impacts to irrigable farmland and access to cropland, the Applicant designed Alternative B3 to minimize or avoid the impacts to farms and to have minimal impact on wetlands. The alternative would require one additional local road crossing at Powell Road. This alternative would fill about 0.5 acre of wet meadow wetlands near the connection with UPRR's mainline.

Alternatives N1a and N1b

In its comments on the Draft EIS, USACE suggested that the Board re-evaluate the alternative with a UPRR connection at Mills that was studied in the Draft EIS (Alternative N1) for its potential to minimize wetland impacts. Mills is located at the north end of the study area but west of Interstate 15 (I-15). In the Supplemental Draft EIS, Alternative N1 was presented as two different options: Alternative N1a and Alternative N1b.

Alternative N1a connects with the UPRR mainline near the intersection of Washboard/Valley Road and Mills Road. Of the four alternatives considered at the northern end of the study area in the Supplemental Draft EIS (Alternatives B, B3, N1a, and N1b), Alternative N1a has the shortest length. However, this alternative would require about 10,000 feet of new siding to meet current rail industry safety standards because there is no existing siding. The new siding would also require new turnouts¹¹ and control signals to link the siding with the UPRR network.

Alternative N1b connects with the UPRR mainline about 1 mile west of Washboard Road. It is slightly longer than Alternative N1a (about 8.5 miles compared to about 8 miles).

Both alternatives would require extensive excavation (about 300,000 cubic yards) to construct the rail line because a high ridge separates the Mills area from I-15. Moreover, because of design maximum grade constraints (1 percent maximum grade), deep cuts and imported fill would be necessary to construct these alternatives. At the ridge peak, the cut depth would be over 50 feet. Near the southwestern corner of Chicken Creek Reservoir, the UPRR track crosses under I-15 and continues westward toward Lynndyl, Utah. Consequently, new track

¹¹ A rail turnout is a mechanical installation that enables trains to be guided from one track to another, such as at a railway junction or where a spur or siding branches off.

from Alternative N1a or N1b would have to cross over I-15 via a new grade-separated crossing that would be about 30 feet higher than the I-15 grade.

Field reconnaissance of the Mills area found potential wetlands and other Waters of the U.S. that would be affected by Alternatives N1a and N1b. The required new siding for both alternatives would affect Chicken Creek and an adjacent wetland area (about 0.5 acre) located along the creek where it runs on the south side of the existing UPRR tracks. In addition, the Alternative N1b alignment and the required new siding might affect potential wetland areas in the Mills Meadow wetland complex.

Near the northern terminus, Alternatives N1a and N1b would also affect other unnamed intermittent and ephemeral drainages as well as irrigation ditches that divert water from Chicken Creek Reservoir and Chicken Creek. A connection of these waters to the Mills Meadow wetland complex and the Sevier River could make these waterways jurisdictional, and therefore impacting them would require a permit from USACE. Under these circumstances, the wetland impacts associated with Alternatives N1a and N1b would be similar (about 0.5 acre) to those from Alternative B3.

The Utah Division of Wildlife Resources discovered least chubs (*Iotichthys phlegothonis*) in the Mills Meadow wetland complex in 1996 (UDWR 2007). The least chub is a fish classified as a sensitive species by the State of Utah and is a candidate species for listing under the Endangered Species Act by the U.S. Fish and Wildlife Service. Contrary to previous speculation by the Utah Division, least chubs have not been identified in Chicken Creek Reservoir or the Sevier Bridge Reservoir (UDWR 2013). Therefore, compared to Alternatives B and B3, Alternatives N1a and N1b have a higher potential to affect this sensitive species.

The impacts of a connection at Mills include:

- Slight reduction in I-15 traffic safety caused by a new rail bridge.
- Impact to about 0.5 acre of wetlands adjacent to an existing track.
- Extensive excavation to meet design rail grade limitations.
- Increased project costs for constructing a new siding and a new rail bridge over I-15.
- Increased operating costs for maintaining a bridge over I-15.
- Increased impacts to wildlife resources caused by new construction of rail line in the Mills Valley and the associated new siding. Specifically, there would be potential direct impacts to least chub habitat, a potential to change the hydrologic conditions of the Mills Meadow wetland complex due to the impacts to Mills-area waterways (potential Waters of the U.S.), and a potential to conflict with planned conservation measures for least chubs in the Mills Valley.

Given these construction and operational concerns and the expected environmental impacts, the alternatives at Mills (Alternatives N1a and N1b) were eliminated from further detailed consideration in the Draft EIS. Because of these issues, the Supplemental Draft EIS also eliminated these alternatives as not reasonable and practicable for this project. Mindful of EPA's and USACE's concerns regarding wetland impacts, OEA notes that the alternate northern alignment Alternative B3 would affect about the same amount of wetlands (0.5 acre) as Alternatives N1a and N1b, but Alternative B3 would have fewer impacts on other natural

resources and safety. In a comment on the Supplemental Draft EIS, the U.S. Department of the Interior supported eliminating the Mills alternatives because of their direct impacts on least chubs (Stewart 2014).

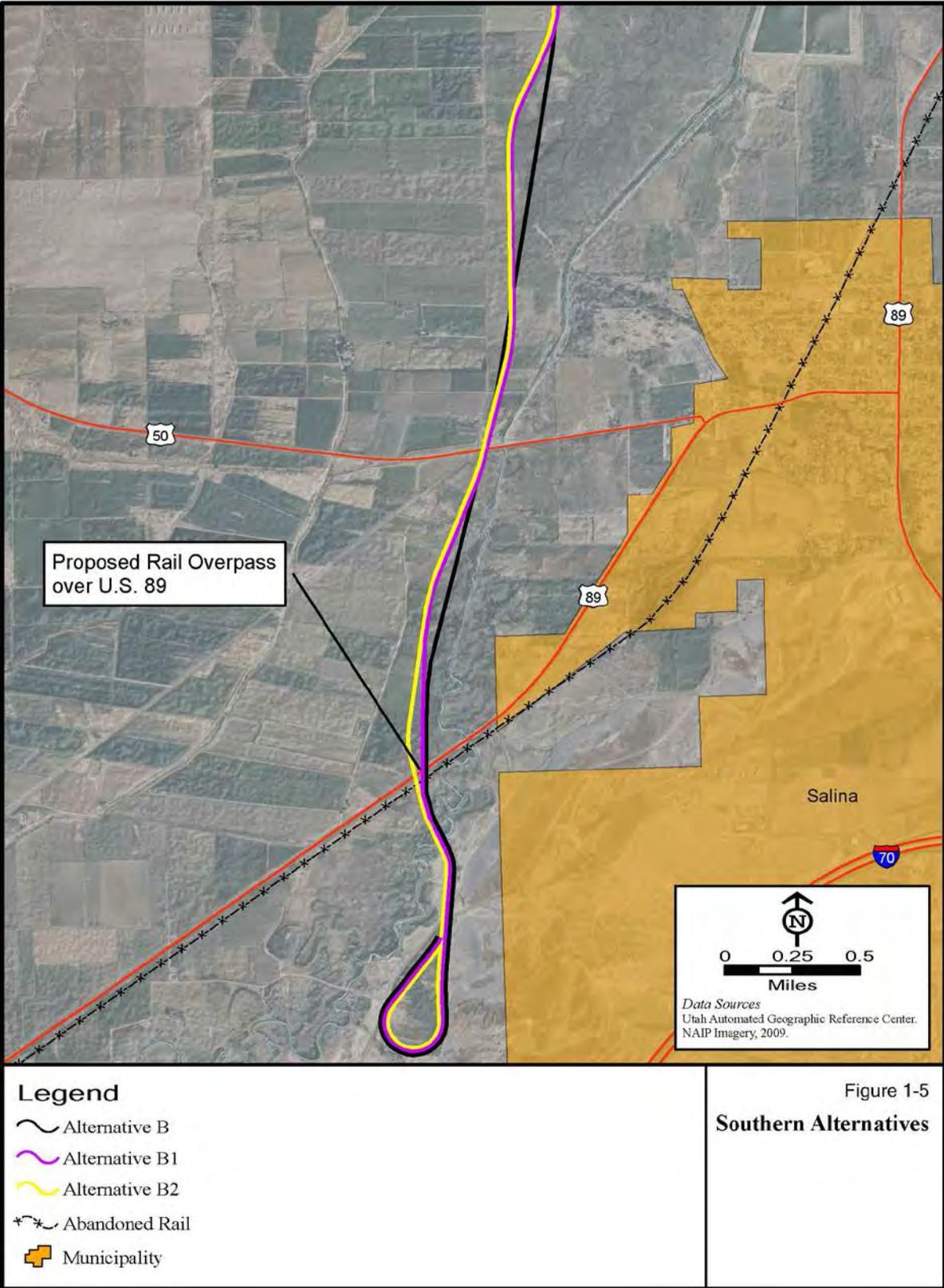
On the basis of the analysis conducted for the Supplemental Draft EIS, OEA determined that Alternatives B and B3 represent reasonable northern terminus alternatives and carried these alternatives forward for a detailed environmental analysis. Table 1-1 compares the final northern alternatives. Alternative B, which was the Applicant’s Proposed Action on the north in the Draft EIS, Supplemental Draft EIS, and Final EIS would have the simplest physical connection with the UPRR mainline but would have the greater impact on wetlands (1.5 acres). In comparison, Alternative B3 on the north would fill fewer wetland areas (0.5 acre total). Because it is 1.9 miles longer, Alternative B3 would be more expensive to construct than Alternative B. Alternative B3 would convert more acres of non-irrigated farmland to rail right-of-way.

Table 1-1. Comparison of Northern Alternatives		
Alternative	Advantages	Disadvantages
B Juab Alternative (11.1 miles)	<ul style="list-style-type: none"> • Topography allows flat rail grades, thereby minimizing operating costs and air pollutant emissions during operation and reducing construction footprint • Avoids need for new siding and control signals at UPRR mainline • Meets UPRR preference for a connection at an existing siding near Juab and Sharp 	<ul style="list-style-type: none"> • Would fill about 1.5 acres of wet meadow and playa wetlands in the vicinity of Chicken Creek Reservoir • Would convert about 77 acres of non-irrigated farmland to rail right-of-way • Would fill 1.0 acre more wetlands than Alternative B3
B3 Juab/Sharp Alternative (13 miles)	<ul style="list-style-type: none"> • Topography is similar to that of Alternative B • Avoids need for new siding and control signals at UPRR mainline • Meets UPRR preference for a connection at an existing siding near Juab and Sharp 	<ul style="list-style-type: none"> • Would fill less than 0.5 acre of wet meadow wetlands east of Chicken Creek Reservoir • Would convert about 115 acres of non-irrigated farmland to rail right-of-way • Would cost about \$10 million more than Alternative B due to additional length of track

1.5.2.2 Southern Alternatives

For the southern portion of the study area, OEA also directed the Applicant to develop an alternative that reduced impacts on wetlands following issuance of the Draft EIS. Alternative B from the Draft EIS on the south was not carried forward because it would have the greatest impact on wetlands (10.8 acres in the southern portion). The two new southern alternatives (Alternatives B1 and B2), developed by modifying and redesigning Alternative B, were carried forward for review in the Supplemental Draft EIS (see Figure 1-5 below).

Figure 1-5. Southern Alternatives



Alternatives B1 and B2

For Alternatives B1 and B2, the proposed alignment was moved farther to the west, and additional curvature was designed into the alignments to avoid high-value wetlands along the Sevier River. Alternatives B1 and B2 follow a similar route with minor differences to reduce wetland impacts. Alternative B1 would fill about 5.2 acres of wetlands, and Alternative B2 would fill about 1.6 acres of wetlands. Alternative B1 was eventually dismissed because it closely follows the route of Alternative B2 but would have greater wetland impacts. Impacts to pasture and cropland would be about the same (about 50 acres) for the two southern alternatives.

Table 1-2 compares Alternatives B1 and B2, the two southern alternatives evaluated in the Supplemental Draft EIS. Of the two southern alternatives, Alternative B2 would have the lesser impact on wetlands. Alternative B2 would also be the longer of the two southern alternatives and would have similar impacts on private land. Impacts to farmland would be similar for both southern alternatives.

Table 1-2. Comparison of Southern Alternatives		
Alternative	Advantages	Disadvantages
B1	<ul style="list-style-type: none"> • Would reduce wetland impacts by 5.6 acres vs. Alternative B 	<ul style="list-style-type: none"> • Would fill about 5.2 acres of wetlands • Would convert 66 acres of irrigated farmland and 50 acres of non-irrigated farmland to rail right-of-way • Would convert about 226 acres of private land to rail right-of-way • Slight increase in cost vs. Alternative B due to additional track
B2	<ul style="list-style-type: none"> • Would have the least impact on wetlands of all southern alternatives 	<ul style="list-style-type: none"> • Would fill about 1.6 acres of wetlands • Same as B1, would convert 116 acres of irrigated and non-irrigated farmland to rail right-of-way • Would convert about 226 acres of private land to rail right-of-way • Slight increase in cost vs. Alternative B due to additional track

Alternative B2 was retained for detailed evaluation in the Supplemental Draft EIS. Alternative B2 is the southern alignment for both the Applicant’s current Proposed Action and the Environmentally Preferred Alternative, as described in Section 1.6, Alternatives Analyzed in Detail in the Supplemental Draft EIS, and Section 1.7, Environmentally Preferred Alternative, of this chapter. Alternative B2 is not devoid of impacts on wetlands and other natural resources. However, alternatives that would meet the project’s purpose and need and avoid or minimally impact wetlands and other natural resources are limited by the area’s geography and by engineering design elements for construction of a safe and viable rail line.

1.5.2.3 No-Action Alternative (Alternative A)

CEQ’s regulations implementing NEPA at 40 CFR 1502.14(d) require consideration of a No-Action Alternative. The No-Action Alternative provides a basis for comparing the other project alternatives.

With the No-Action Alternative for this project, no new rail line or terminal facilities would be constructed. No new train operations through Juab, Sevier, or Sanpete Counties would be conducted, and rail operations on the UPRR line would not change. Coal-haul trucks would continue to use highways in the project area to transport coal from the SUFCO mine to the

existing UPRR mainline south of Nephi near Juab. Trucks also would continue to be used to carry bulk commodities to and from the project area. The No-Action Alternative would avoid the potential environmental impacts of the action alternatives but would not meet the purpose of and need for the project and would not provide the potential benefits of the rail line versus truck transportation for the coal shipments at issue in this case.

1.6 Alternatives Analyzed in Detail in the Supplemental Draft EIS

1.6.1 Applicant's Proposed Action - Alternative B/B2 (Combination of Alternative B on the North and Alternative B2 on the South)

The Applicant's current Proposed Action (Alternative B/B2, the combination of Alternative B on the north and Alternative B2 on the south; see Figure 1-2 above) would connect to the UPRR mainline at the Juab siding¹² on the north and continue southward past the Yuba Lake Recreation Area to cross the Sevier Bridge Reservoir at Yuba Narrows, where the reservoir narrows. This crossing would be adjacent to a high-voltage transmission line in an area known as the Juab Plain.

After crossing the reservoir at Yuba Narrows, Alternative B/B2 continues southward on the west side of the Sevier River Valley where the foothills intersect with irrigated farmlands. It crosses U.S. 50, U.S. Highway 89 (U.S. 89), and the Sevier River southwest of Salina, where it terminates at a proposed new loading facility north of Interstate 70 (I-70) near Salina's industrial park. The crossing of U.S. 89 would be via a new, grade-separated structure.

The southern portion of the Applicant's proposed route was modified after the Draft EIS was issued to avoid impacts on wetlands adjacent to the Sevier River south of the U.S. 50 crossing west of Salina. The Applicant shifted the original alignment about 300 feet west and, in so doing, was able to reduce the impacts on wetlands from about 10.8 acres to 1.6 acres. This alignment is referred to as Alternative B2.

Alternative B/B2 would fill about 3.1 acres of wetlands, consisting of about 1.6 acres on the southern end and about 1.5 acres on the northern end near the connection with the UPRR mainline. It would also convert 66 acres of irrigated cropland and 126 acres of non-irrigated and sub-irrigated cropland to rail right-of-way. Of this farmland, 37 acres are prime farmland and 11 acres are farmland of statewide importance.

Alternative B/B2 would adversely affect up to 36 historic properties, mostly archaeological sites that are eligible for, or unevaluated for, the National Register of Historic Places (see Table 4.12-1, Historic Properties Located in the Right-of-Way and within a 50-meter Buffer of the Right-of-Way, in Chapter 4, Errata and Other Changes, of this Final EIS). Little, if any, additional survey would be required for this alternative. Impacts to some properties that are situated on the edge of the alternative alignments may be avoided in final design.

¹² The Applicant stated in a letter of March 6, 2008, that the northern terminus was designed to avoid wetlands to the greatest extent possible and to skirt the edges of private farmland.

1.6.2 Alternative B3/B2 (Combination of Alternative B3 on the North and Alternative B2 on the South)

In response to EPA's and USACE's concerns about wetland impacts following issuance of the Draft EIS, OEA considered additional alternatives that would reduce impacts on wetlands and other aquatic resources without substantially diminishing the feasibility of constructing the proposed rail line.

Alternative B3/B2 is a combination of Alternative B3 on the north and Alternative B2 on the south. This alternative's northern terminus would be a connection with both the existing Juab siding and the nearby Sharp siding on the UPRR mainline. This connection would require both the UPRR Sharp and Juab sidings to be extended to maintain safe operations.

The proposed Alternative B3/B2 rail line starts at a new connection on the UPRR mainline between the Juab and Sharp sidings, then proceeds in a south-southeasterly direction. The alignment continues southward past the Yuba Lake Recreation Area to cross the Sevier Bridge Reservoir at Yuba Narrows, where the reservoir narrows. This crossing would be adjacent to a high-voltage transmission line that also crosses the reservoir at Yuba Narrows.

After crossing the reservoir, Alternative B3/B2 continues southward on the west side of the Sevier River Valley. It crosses U.S. 50, U.S. 89, and the Sevier River southwest of Salina, where it terminates at a proposed new loading facility north of I-70 near Salina's industrial park. The crossing of U.S. 89 would be via a new, grade-separated structure. To reduce wetland impacts, the southernmost portion of Alternative B3/B2 follows the proposed Alternative B2 alignment.

Alternative B3/B2 would fill 2.1 acres of wetlands, consisting of about 1.6 acres on the southern end and about 0.5 acre on the northern end near the connection with the UPRR mainline. It would also convert 66 acres of irrigated farmland and 165 acres of non-irrigated and sub-irrigated cropland to rail right-of-way. Of this farmland, 37 acres are prime farmland and 11 acres are farmland of statewide importance.

Alternative B3/B2 would adversely affect up to 32 historic properties, mostly archaeological sites that are eligible for, or unevaluated for, the National Register of Historic Places. Additional properties may be identified in a survey of Alternative B3. About 8 miles require an intensive-level cultural resources survey. Of the 32 known properties, impacts to some that are situated on the edge of the alternative alignments might be avoided in final design.

1.7 Environmentally Preferred Alternative

CEQ's regulations implementing NEPA at 40 CFR 1502.14(e) require an agency to identify its preferred alternative in a Final EIS, if it has not already done so in a Draft EIS. This section sets forth OEA's Environmentally Preferred Alternative. Section 1.5, Alternatives Considered, and Section 1.6, Alternatives Analyzed in Detail in the Supplemental Draft EIS, of this chapter as well as Chapter 2, Proposed Action and Alternatives, and Appendix B, Corridor and Alternative Identification, of the Supplemental Draft EIS discuss in detail the proposed rail line corridors and alignments that OEA evaluated and selected for detailed environmental review.

To facilitate comparison of the alternatives, OEA divided the alternatives into southern and northern segments. The alternatives considered in this Final EIS include construction and

operation of a rail line along the southern and northern segments and a No-Action Alternative. Details on the selection of OEA's Environmentally Preferred Alternative are provided below. Table 1-3 below summarizes the information that OEA used in its determination.

OEA concludes that Alternative B3/B2 (the combination of Alternative B3 on the north and Alternative B2 on the south) would be environmentally preferable to Alternative B/B2. Table 1-3 below compares the alternatives for each resource area assessed.

Only two action alternatives that would meet the purpose of and need for this project while minimizing potential impacts on wetlands and other natural resources have been identified. Of the two action alternatives analyzed in detail, Alternative B/B2 would cause greater environmental impacts on wetlands and other natural resources. Alternative B3/B2 would be longer with greater impacts on non-irrigated farmland but fewer impacts on wetlands and other natural resources. Based on the current inventory of historic properties, more sites might be impacted by Alternative B/B2. However, because Alternative B3 remains unsurveyed for historic properties, this assessment could change.

The No-Action Alternative (no construction) would avoid all of these environmental impacts, but it would not meet the Applicant's purpose and need, nor would it provide the benefits of new rail service in central Utah to move coal and other bulk commodities by rail instead of by truck.

1.8 Summary of the Environmental Impacts of the Alternatives

The Supplemental Draft EIS analyzed and compared the potential impacts of the Applicant's current Proposed Action (Alternative B/B2) and Alternative B3/B2 on the environment. The summary of OEA's evaluation in Table 1-3 below is the result of expanded and new analyses of impacts conducted for the Supplemental Draft EIS that include, among others, the impacts to wetlands, historic properties, safety, noise, and air quality.

As shown below, most of the impacts of the two alternatives would be the same. The impacts that would differ are indicated in bold in Table 1-3 below and are the focus of the supplemental evaluation, which also relies, where appropriate, on the analysis in the Draft EIS. OEA has identified Alternative B3/B2 as its Environmentally Preferred Alternative for the proposed new rail line because it would have the least impacts to water resources (including wetlands) and associated biological resources as well as fewer impacts to cultural and historic resources.

**Table 1-3. Comparison of Impacts from the Alternatives Presented
in the Supplemental Draft EIS**

Resource Category	Applicant's Proposed Action - Juab to Salina (Combination of Alternatives B and B2)	Environmentally Preferred Alternative - Juab/Sharp to Salina (Combination of Alternatives B3 and B2)
Rail Operations and Safety	<ul style="list-style-type: none"> • Negligible impact to road crossings due to delays • Reduced truck traffic on State Route (SR) 78, SR 28, U.S. 50, and U.S. 89, resulting in improved safety 	<ul style="list-style-type: none"> • Negligible impact to road crossings due to delays • Reduced truck traffic on SR 78, SR 28, U.S. 50, and U.S. 89, resulting in improved safety • Requires extending Juab siding 2.39 miles to connect to Sharp siding on the UPRR mainline
Land Use	<ul style="list-style-type: none"> • Loss of 66 acres of irrigated farmland and 126 acres of non-irrigated and sub-irrigated cropland • Compatible with state and BLM land-use plans and policies 	<ul style="list-style-type: none"> • Loss of 66 acres of irrigated farmland and 165 acres of non-irrigated and sub-irrigated cropland • Compatible with state and BLM land-use plans and policies
BLM Natural Areas	<ul style="list-style-type: none"> • No impacts to BLM Natural Areas in the region 	<ul style="list-style-type: none"> • Same as Proposed Action
Biological Resources	<ul style="list-style-type: none"> • Loss of about 10.9 acres of habitat in Yuba State Park • Loss of 3.9 acres of habitat in Redmond Wildlife Management Area (WMA) • Potential short-term impacts to long-billed curlew habitat in Redmond WMA • Temporary impacts to wildlife during construction 	<ul style="list-style-type: none"> • Same as Proposed Action
Water Resources	<ul style="list-style-type: none"> • Would affect 16 acres of regulatory floodplain • Would affect 174 acres of groundwater recharge area • Would fill 3.1 acres of jurisdictional wetlands 	<ul style="list-style-type: none"> • Would affect 16 acres of regulatory floodplain • Would affect 174 acres of groundwater recharge area • Would fill 2.1 acres of jurisdictional wetlands
Topography, Geology, and Soils	<ul style="list-style-type: none"> • Would not affect geological conditions • Topography modifications would be minor • Would require about 1.4 million yards of material to construct rail embankment • Loss of 37 acres of prime farmland • Loss of 11 acres of farmland of state importance 	<ul style="list-style-type: none"> • Same as Proposed Action
Energy Resources	<ul style="list-style-type: none"> • Decrease energy use from 2,832 million British thermal units (Btu)/day for truck shipping to 1,301 million Btu/day for truck and rail shipping 	<ul style="list-style-type: none"> • Same as Proposed Action

**Table 1-3. Comparison of Impacts from the Alternatives Presented
in the Supplemental Draft EIS**

Resource Category	Applicant's Proposed Action - Juab to Salina (Combination of Alternatives B and B2)	Environmentally Preferred Alternative - Juab/Sharp to Salina (Combination of Alternatives B3 and B2)
Socioeconomics	<ul style="list-style-type: none"> • Loss of about 108 jobs in trucking industry, which could be offset by new jobs from rail line • Small increase in population of Sanpete and Sevier Counties due to increased economic development • Small increase in sales tax base • Negligible effects on agricultural industry and emergency response times • No impacts would be disproportionately borne by minority or low-income populations 	<ul style="list-style-type: none"> • Same as Proposed Action
Historic Properties	<ul style="list-style-type: none"> • Adverse effect on 36 historic properties in the current inventory 	<ul style="list-style-type: none"> • Adverse effect on 32, possibly more, historic properties in the current inventory
Recreation	<ul style="list-style-type: none"> • Would convert about 0.02% of BLM-administered land to rail right-of-way • Would affect short-term use of lake at Yuba Narrows during bridge construction • Would affect long-term use of about 10.9 acres of Yuba Lake Recreation Area due to withdrawal of land for rail right-of-way • Would have negligible impact on trail use 	<ul style="list-style-type: none"> • Same as Proposed Action
Aesthetics	<ul style="list-style-type: none"> • Temporary impacts during construction • Moderate long-term impacts due to cut-and-fill slopes, loss of agricultural land, elevated rail structures, and drainage features 	<ul style="list-style-type: none"> • Same as Proposed Action
Noise and Vibration	<ul style="list-style-type: none"> • Would remove up to about 750 trucks per day (one way) from local streets and highways; this would reduce noise and vibration impacts along truck routes • Increased noise impacts from train horns. One residence would be within the 65-dBA threshold noise contour (the area around the proposed rail line where wayside noise would be 65 dBA or greater on the A-weighted decibel scale) from the horn soundings required at road crossings • No impacts from wayside noise within the 65-dBA contour 	<ul style="list-style-type: none"> • Same as Proposed Action
Air Quality	<ul style="list-style-type: none"> • Would remove 750 trucks per day (one way) from local streets and highways; this would improve air quality along the truck route 	<ul style="list-style-type: none"> • Same as Proposed Action

Table 1-3. Comparison of Impacts from the Alternatives Presented in the Supplemental Draft EIS

Resource Category	Applicant's Proposed Action - Juab to Salina (Combination of Alternatives B and B2)	Environmentally Preferred Alternative - Juab/Sharp to Salina (Combination of Alternatives B3 and B2)
Climate Change and Greenhouse Gases	<ul style="list-style-type: none"> • Would remove 750 trucks per day (one way) from local streets and highways, thus reducing the particulate air emissions and greenhouse gases produced by these truck trips by similar amounts • Reduction in particulate air emissions and greenhouse gases would be offset slightly by emissions from locomotives • Overall net result suggests that greenhouse gas emissions associated with this shift from truck to rail would be reduced by up to half, thereby producing a regional benefit, but global effects would be neutral 	<ul style="list-style-type: none"> • Same as Proposed Action
Threatened and Endangered Species	<ul style="list-style-type: none"> • No impacts on species listed as endangered or threatened under the Endangered Species Act or State-listed species 	<ul style="list-style-type: none"> • Same as Proposed Action
Hazardous Materials	<ul style="list-style-type: none"> • Hazardous materials would be stored at rail operations facilities and would be regulated by the State of Utah • Would not affect any hazardous materials sites 	<ul style="list-style-type: none"> • Same as Proposed Action

1.9 Relationship to the Least Environmentally Damaging Practicable Alternative (LEDPA)

In addition to authority from the Board, SCAOG would need to obtain a Clean Water Act Section 404 permit from USACE before beginning construction of the rail line. This permit is required for the discharge of dredge or fill materials into waters of the United States, including wetlands.¹³ Among the various requirements to obtain a Section 404 permit, SCAOG would need to demonstrate to USACE that the alternative it seeks to permit is the Least Environmentally Damaging Practicable Alternative (LEDPA).¹⁴

Although it is not OEA's role to identify the LEDPA, it was incumbent on OEA to consider, as part of its NEPA analysis, whether one of the construction alternatives among those carried forward for detailed analysis in this Final EIS could be found by USACE to be the LEDPA. OEA understands that it is USACE's responsibility to determine whether the alternative set forth in SCAOG's Section 404 permit application, when submitted, constitutes the LEDPA. OEA believes that USACE could reasonably determine that OEA's Environmentally Preferred Alternative (Alternative B3/B2) in this Final EIS (see Section 1.7, Environmentally Preferred Alternative, of this chapter) could also be the LEDPA because it would have the least impacts to water resources (including wetlands) and associated biological resources as well as fewer impacts to cultural and historic resources.

To permit the LEDPA, SCAOG would need to demonstrate wetland avoidance strategies, demonstrate minimization efforts in final design, and incorporate wetland mitigation measures for the Clean Water Act Section 404 permit application. USACE would determine whether the project-specific avoidance, minimization, and mitigation proposals are sufficient to obtain a Section 404 permit. SCAOG has not yet submitted its Section 404 application to USACE but has indicated that it plans to do so in the near future.

¹³ Controlling regulations are found in the Clean Water Act in 33 USC § 1251 *et seq.*

¹⁴ LEDPA determination guidelines are found in 40 CFR 230.10(a).

1.10 Historic Properties

OEA conducted studies (including a pedestrian, or walk-through, survey) and consulted with interested parties in order to invite them to participate as consulting parties and to seek their input regarding potential impacts on historic properties in the project area.¹⁵ OEA made these contacts through a combination of letters, emails, and phone calls.

These interested parties included the Utah State Historic Preservation Officer (SHPO), the Advisory Council on Historic Preservation,¹⁶ BLM, USACE, the Utah School and Institutional Trust Lands Administration (SITLA), the National Park Service, the Utah Department of Natural Resources, local county governments. The parties also included 11 federally recognized tribes: the Confederated Tribes of the Goshute Reservation, Nevada and Utah; Hopi Tribe of Arizona; Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona; Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada; Navajo Nation of Arizona, New Mexico, and Utah; Paiute Indian Tribe of Utah (including the Cedar Band, Indian Peaks Band, Kanosh Band, Koosharem Band, and Shivwits Band); San Juan Southern Paiute Tribe of Arizona; Skull Valley Band of Goshute Indians of Utah; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; and the Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah.

Due to the potential for adverse effects to significant historic properties, OEA, in cooperation with the Utah SHPO, BLM, USACE, SITLA, the National Park Service, the Utah Department of Natural Resources, and interested tribes, is currently developing a Programmatic Agreement (PA) to address impacts to historic properties. Major components of the PA will include provisions for continued consultation, additional inventory work (as necessary), avoidance, minimization and/or mitigation of adverse effects, and unanticipated discovery of cultural resources or human remains, assuming that the Board authorizes the proposed project.

Consultation toward a signed PA is being carried out pursuant to Section 106 of the NHPA and its implementing regulations described in 36 CFR 800. Of particular relevance is 36 CFR 800.14(b), which describes the use of PAs as program alternatives to the standard Section 106 process described in 36 CFR 800.3 to 800.7.

Development of a PA for this project is called for because the potential effects of the project on historic sites are regional in scope; because the effects on historic sites have not yet been fully determined for Alternative B3; and because non-Federal parties, such as SCAOG, would be delegated major decision-making responsibilities during the final design and construction.

¹⁵ In general, cultural resources relate to how humans interact with the environment through their culture (that is, the human environment) and can include cultural uses of the natural environment, the built environment, and social institutions. The EIS deals specifically with those cultural resources defined as historic properties according to the NHPA. Historic properties include sites, buildings, districts, structures, or objects that are included on or eligible for listing on the National Register of Historic Places.

¹⁶ In a letter dated November 19, 2014, the Advisory Council on Historic Preservation declined an invitation to participate in consultation to develop a Programmatic Agreement.

1.11 Cumulative Impacts

On September 8, 2011, Sevier Power Company (SPC) submitted a Notice of Intent to construct and operate a 270-megawatt, fluidized bed coal-fired power plant near Sigurd, Utah, which is about 10 miles southwest of Salina. This area is an attainment area for all air quality criteria pollutants. This plant would be a new source of air pollutant emissions, so an air quality impact analysis of the proposed plant's impact on Federal air quality standards and air quality-related values was required. SPC prepared an impact analysis, which was then reviewed by the Utah Division of Air Quality. On October 25, 2012, the Division approved the air quality permit for the plant.

SPC is currently working with BLM to obtain a permit for a gas pipeline that will run from the Scipio, Utah, area to the northwest to supply natural gas for the plant. SPC has not yet applied for any construction permits, and construction is not expected for at least 2 years. If constructed, the plant would permanently employ 20 to 30 people from surrounding communities. During construction, several hundred workers would be employed.

This proposed plant could have potential cumulative impacts with the Proposed Action in two environmental resource areas. First, potential air quality impacts could occur during construction from a combination of fugitive-dust emissions caused by grading activities for each project. Second, concurrent construction could cause a shortage of available local construction workers.

The Proposed Action would also employ several hundred workers during construction, most of whom would be engaged in site clearing and grading activities and many of whom would also come from surrounding communities.

The Applicant anticipates that, if authority is granted by the Board to construct and operate the proposed rail line and permits are granted by BLM and USACE, construction would begin within several months. Because the construction of the power plant is several years away, construction of the two facilities is not expected to overlap and therefore would not result in any cumulative impacts.

1.12 Agency Responsibilities

The Board, BLM, and USACE will each make decisions following the completion of the NEPA review of the Proposed Action. References to OEA in this Final EIS reflect input from both of the cooperating agencies (BLM and USACE).

The Board will either (1) approve the transaction as proposed, without conditions; (2) approve the transaction with conditions to offset or reduce potential impacts, including environmental impacts, of the proposed transaction; or (3) disapprove the transaction entirely.¹⁷

On October 19, 2001, the Board issued a decision finding that the new construction and operation proposed by SCAOG in its Petition for Exemption satisfies the transportation

¹⁷ The Board's authority to impose conditions is not limitless. Any conditions imposed, including environmental mitigation, must be directly related to the transaction before the Board for approval, must be reasonable, and must be supported by the record before the Board. The Board does not have the authority to require mitigation of pre-existing environmental impacts, such as impacts resulting from existing railroad operations or land development.

aspects of 49 USC § 10901.¹⁸ (A copy of the decision is attached as Appendix C, Conditional Approval of the Petition for Exemption, of this Final EIS.) In making this finding, however, the Board explained that the project could not be finally approved until the environmental review process required under NEPA and related laws is completed and the Board has the opportunity to assess fully the potential environmental effects of any environmental mitigation that it might impose on the project. The Board made clear in its decision that it would issue a further decision on the entire proposed project following the completion of the EIS process and that no new construction could begin until a final decision approving the construction is issued and has become effective. Following the conclusion of the environmental review process, the cooperating agencies also will issue decisions under their own governing statutes, based on the EIS and various applications submitted by SCAOG.

BLM will decide whether to approve or deny a right-of-way grant across public land in the project area to construct, operate, maintain, and terminate relevant segments of the proposed rail line. This public land is located in Sevier and Sanpete Counties, Utah, and is under the management jurisdiction of BLM's Richfield Field Office.

USACE will decide whether to issue, issue with conditions, or deny a permit pursuant to Section 404 of the Clean Water Act. Section 404 regulates the discharge of dredged or fill material into Waters of the U.S. including some wetlands. The Section 404 permit review falls under the jurisdiction of USACE's Sacramento District and is administered by its Bountiful (Utah) Field Office. In September 2007, USACE agreed to participate in the development of the EIS as a cooperating agency. Because parts of the proposed rail line would cross wetlands and other Waters of the U.S., a permit would be required from USACE under Section 404 of the Clean Water Act if authorization is granted by the Board to construct and operate the proposed rail line.

With the Draft EIS, Supplemental Draft EIS, and this Final EIS, OEA, BLM, and USACE informed Federal, state, and local agencies, elected officials, federally recognized tribes, affected local communities, and the general public about the expected environmental effects of the Proposed Action and Alternatives.

The Board will issue a further decision that takes into account both the project's transportation merits and its effects on the environment. This decision will be based on the entire project record, which includes the Draft EIS and Supplemental Draft EIS along with all public and agency comments received and presented in this Final EIS. In its further decision, the Board will determine whether to give final approval to the project and, if so, which mitigation measures, if any, to impose.

¹⁸ In enacting the Interstate Commerce Commission Termination Act, Congress intended to facilitate rail line construction. Congress did so by changing the statutory standard from requiring approval, if the agency finds that a project is consistent with the public convenience and necessity, to requiring approval *unless* the agency finds that the project is inconsistent with the public convenience and necessity. The Board noted (December 10, 1998, decision) that, "[u]nder the revised statute, proposed rail constructions are to be given the benefit of the doubt."

The cooperating agencies that could issue individual decisions concerning the Proposed Action intend to use information presented in the EIS for their decision-making purposes under the statutes they administer. The Applicant would not be able to begin construction of the new rail line unless:

- The Board issues a final decision granting authorization to construct and operate the new rail line, and that decision becomes effective;
- BLM issues a final decision granting authorization to construct and operate the new rail line on public land, and that decision becomes effective;
- SCAOG seeks and USACE issues a Section 404 permit; and
- The Section 106 process is completed.

1.13 Organization and Format of This Final EIS

This Final EIS is organized and formatted in a manner that is consistent with NEPA and the CEQ regulations found at 40 CFR 1503.4. It is organized to clearly and concisely provide basic information about the project and the analysis that was conducted in the Draft EIS and the Supplemental Draft EIS. This Final EIS also responds to substantive comments received on those documents. The Final EIS is intended to be read in conjunction with the Draft EIS and Supplemental Draft EIS, which provide more-detailed information on the Proposed Action and Alternatives.

This Final EIS gives a general overview of the project and describes the Proposed Action and Alternatives (Chapter 1, Introduction); describes OEA's final recommended environmental mitigation measures (Chapter 2, Final Recommended Conditions/Mitigation); and presents new project information, recent project findings, or corrections through errata to the information in the Draft EIS and the Supplemental Draft EIS (Chapter 4, Errata and Other Changes).

The main focus of this Final EIS is to respond to public and agency comments received on the Draft EIS and the Supplemental Draft EIS. OEA provides the reader with a summary of the major comments received and responses to those comments in Chapter 3, Comment Summaries and Responses. This Final EIS also includes all comments received on the Draft EIS and the Supplemental Draft EIS (Appendix B, Comment Letters) and provides concise responses to those comments (Appendix A, Comments and Responses).

Chapters and specific topics within each chapter are listed in the table of contents and are sequentially numbered to help the reader navigate through the document. Tables and figures are listed numerically by the chapter in which they appear. Appendices are labeled with capital letters and are included at the end of this Final EIS.

1.14 Final EIS

Issuance of this Final EIS completes the Board's environmental review process. The Board will now make a final decision on the Proposed Action. In making its final decision, the Board will consider the entire record on the transportation merits as well as the entire environmental record, including all public comments; the Draft, Supplemental, and Final EISs; and OEA's final recommended mitigation measures.

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