

Appendix A

Consultation and Coordination

Appendix A

Consultation and Coordination

This appendix contains a summary of correspondence and consultation pertinent to this Supplemental EIS and its preparation. The contents are listed in chronological order.

Date	From	To	Regarding
September 16, 1999	Utah Department of Transportation	Utah Division of Parks and Recreation	Agreement for Section 4(f) and 6(f) Land Exchange
June 22, 2000	Federal Highway Administration	State Historic Preservation Office	Section 106 Memorandum of Agreement Regarding Legacy Parkway Project
February 21, 2001	Christopher Lizotte (Utah Department of Transportation)	Barbara L. Murphy (State Historic Preservation Office)	Submission of ILS Documentation for 650 West State Street, Farmington
March 8, 2001	Barbara L. Murphy (State Historic Preservation Office)	Christopher Lizotte (Department of Transportation)	ILS Documentation for 650 West State Street, Farmington
September 20, 2001	Christopher Lizotte (Utah Department of Transportation)	Barbara Murphy (State Historic Preservation Office)	Legacy Parkway Haul Routes for Construction
October 19, 2001	Barbara Murphy (State Historic Preservation Office)	Christopher Lizotte (Utah Department of Transportation)	Legacy Parkway Haul Routes for Construction
August 9, 2002	Byron Parker (Utah Department of Transportation)	Max Forbush (Farmington City)	Roundabout at Intersection of 650 West and State Street, Equestrian Trail Termination at 650 West
August 30, 2002	David Connors (Farmington City)	Byron Parker (Utah Department of Transportation)	Roundabout at Intersection of 650 West and State Street
January 24, 2003	David Gibbs (Federal Highway Administration) and Brooks Carter (U.S. Army Corps of Engineers)	Robert Roberts (Environmental Protection Agency) Lee Waddleton (Federal Transit Administration) Ralph Morgenweck (U.S. Fish and Wildlife Service)	February 21, 2003, Meeting Invitation and Cooperating Agency Request

Date	From	To	Regarding
April 11, 2003	Nancy Kang (U.S. Army Corps of Engineers)	See List of Recipients following letter	Invitation to Participate in Environmental Scoping Process
April 17, 2003	Chadwick Greenhalgh (Clark Lane Historic District)	Federal Highway Administration	Request for Review of Potential Construction Effects on Historic District
May 2, 2003	Henry Maddux (U.S. Fish and Wildlife Service)	Greg Punske (Federal Highway Administration)	Comments on Notice of Intent
May 20, 2003	Mary Henry (U.S. Fish and Wildlife Service)	David Gibbs (Federal Highway Administration)	Acceptance of Invitation to Be a Cooperating Agency
June 10, 2003	Leon Bear, THPO Skull Valley Band of Goshute Indians	Greg Punske, (Federal Highway Administration)	Scoping Comments
June 13, 2003	Nancy Kang (U.S. Army Corps of Engineers)	See List of Local Government Recipients (following letter)	Participation Opportunities in Preparation of Supplemental Environmental Impact Statement
June 13, 2003	Nancy Kang (U.S. Army Corps of Engineers)	See List of Recipients (following letter)	Participation Opportunities in Preparation of Supplemental Environmental Impact Statement
October 2, 2003	Nancy Kang (U.S. Army Corps of Engineers)	Nancy Keate (Utah Department of Natural Resources)	Review of Revised Wetland Section
November 18, 2003	Mike Perkins (Legacy Parkway Team)	Field Supervisor (U.S. Fish and Wildlife Service)	Environmental Re-Evaluation of Final Environmental Impact Statement
December 3, 2003	Henry Maddux (U.S. Fish and Wildlife Service)	Mike Perkins (Legacy Parkway Team)	Environmental Re-Evaluation of Final Environmental Impact Statement
July 15, 2004	Utah Department of Transportation and Utah Transit Authority		Weber County to Salt Lake City Commuter Rail Project Partnering Charter
September 23, 2004	Mark W. Franc (Bountiful City Engineering Department)	John Thomas (Utah Department of Transportation)	Bountiful Recreation Pond South of Bountiful Sanitary Landfill
November 3, 2004	Federal Highway Administration and Utah Department of Transportation	Wilson Martin (State Historic Preservation Office)	Determination of Eligibility and Finding of Effect for Legacy Parkway
November 4, 2004	Ray Grow (Natural Resources Conservation Service)	Laynee Jones (Legacy Parkway Team)	Farmland Conversion Impact Rating for Corridor Type Projects

Date	From	To	Regarding
November 8, 2004	Nancy Kang (U.S. Army Corps of Engineers)	John Thomas (Utah Department of Transportation)	Reverification of Wetland Delineation
August 5, 2005	Charles W. Chappell (Wasatch Front Regional Council)	Greg Punske (Federal Highway Administration)	Position on Smart Mobility Land Use Reallocation
August 10, 2005	Jeffrey Berna (Federal Highway Administration)	Wilson Martin (State Historic Preservation Office)	Final Memorandum of Agreement Regarding the Legacy Parkway Project

AGREEMENT

THE UNDERSIGNED hereby agree to the following:

UTAH DEPARTMENT OF TRANSPORTATION (UDOT) has taken possession of the following described property which it acquired for exchange of land owned by the Utah Division of Parks and Recreation (DPR) further identified as the "Jordan River OHV Park" located between I-215 and the Jordan River, approximately 2600 North Rosepark Lane, Salt Lake City, Salt Lake County, Utah.

The legal description of the "UDOT parcel(s)" are attached to and made part of this Agreement and identified as Parcel No. 0067:1B and 0067:1D.

It is understood and agreed that "DPR" will transfer title to "UDOT" those certain lands identified by the Utah Department of Transportation under the "Legacy Parkway" project as needed for right of way from the area of the "Jordan River OHV Park," identified as 4F and 6F properties. Said exchange will take place when the following conditions are met: 1) A "Record of Decision" (ROD) is received from the Federal Highway Administration which (a) approves an alignment which would require the acquisition of the property subject to this agreement.

It is understood and agreed that said exchange will be based upon acreage for acreage. Excess land remaining, if any; from the parcel 1B/1D exchange will be acquired by "DPR" at the purchase price "UDOT" paid of \$14,000 per acre, provided that the exchange occurs within the 5 year time frame contemplated under this agreement, and/or exchanged for certain parcels of land identified and agreed upon by both parties to this agreement. Transfer of titles between said parties will be by "Quit Claim Deed."

It is understood and agreed that if the conditions for acquisition are not met within 5 years from the date this agreement is signed, the "DPR" agrees to acquire the properties at the current "Fair Market Value" at time of transfer of title, and/or exchange for certain parcels of lands identified and agreed upon by both parties to this agreement. Said exchange will be based upon "value for value" at the "current fair market value," at time of transfer of title.

"UDOT" agrees to allow the "DPR" to lease parcel 0067:1B and 0067:1D for \$1.00 per year, commencing at the date this agreement is signed. Said "DPR" agrees not to sublease, encumber or to construct permanent structures or change the characteristic of the property without the written permission of UDOT.

Witness the hands of said UNDERSIGNED DATED this 16th day of SEPT 1999

Courtland Nelson

Utah Division of Parks and Recreation (DPR)

STATE OF UTAH)
) ss.
COUNTY OF SL)

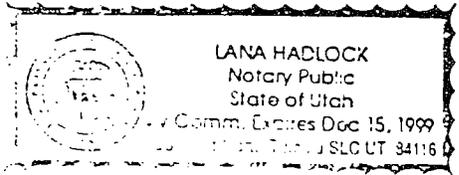
On the date first above written personally appeared before me.

COURTLAND NELSON signer of the within instrument, who duly acknowledge to me that he executed the same.

Lana Hadlock

NOTARY PUBLIC

Residing at: SALT LAKE CITY



[Signature]

Utah Department of Transportation (UDOT)

STATE OF UTAH)
) ss.
COUNTY OF SL)



On the date first above written personally appeared before me.

LYLE MC MILLAN signer of the within instrument, who duly acknowledge to me that he executed the same.

James H. Brown

NOTARY PUBLIC

Residing at: SALT LAKE CITY

Salt Lake County

Parcel No. 0067:1B:T
Project No. SP-0067()0

in Salt Lake County, State of Utah, to-wit:

An undivided 58.45% interest in two tracts of land in fee, being all of an entire tract of property situate in the NW~~SW~~ and the W~~NW~~ of Section 15, T. 1 N., R. 1 W., S.L.B & M. The boundaries of said tracts of land are described as follows:

Beginning at a Northwest corner of said entire tract, which point is 19.970 m (65.52 ft.) S 0°33'38" E and 129.378 m (424.47 ft.) N 89°26'22" E from the West Quarter corner of said Section 15; running thence S 85°45'40" E 167.286 m (548.94 ft.) along a northerly boundary line of said entire tract; thence S 31°45'49" W 93.574 m (307.00 ft.) along a southeasterly boundary line of said entire tract; thence N 89°45'49" E 37.490 m (123.00 ft.) along a northerly boundary line of said entire tract; thence S 38°42'49" W 5.624 m (18.45 ft.) along a southeasterly boundary line of said entire tract; thence S 55°38'54" E 11.677 m (38.31 ft.) along a northeasterly boundary line of said entire tract to the east bank of the original Jordan River, also being the easterly boundary line of said entire tract; thence along said easterly boundary line the following four (4) courses and distances: (1) S 40°19'42" W 213.028 m (698.91 ft.); thence (2) S 17°40'52" W 58.500 m (191.93 ft.); thence (3) S 0°46'35" E 62.478 m (204.98 ft.); thence (4) S 8°35'36" E 8.544m (28.03 ft.); thence S 87°30'00" W 96.707 m (317.28 ft.) along the southerly boundary line of said entire tract to an easterly right of way fence line of the existing frontage road of record; thence along said easterly right of way fence line the following three (3) courses and distances: (1) N 7°10'48" W 21.211 m (69.59 ft.); thence (2) N 4°32'07" E 62.981 m (206.63 ft.); (3) N 15°30'22" E 323.984 m (1,062.94 ft.) to the point of beginning. The above described tract of land contains 51,070.9 square meters (12.62 acres), more or less.

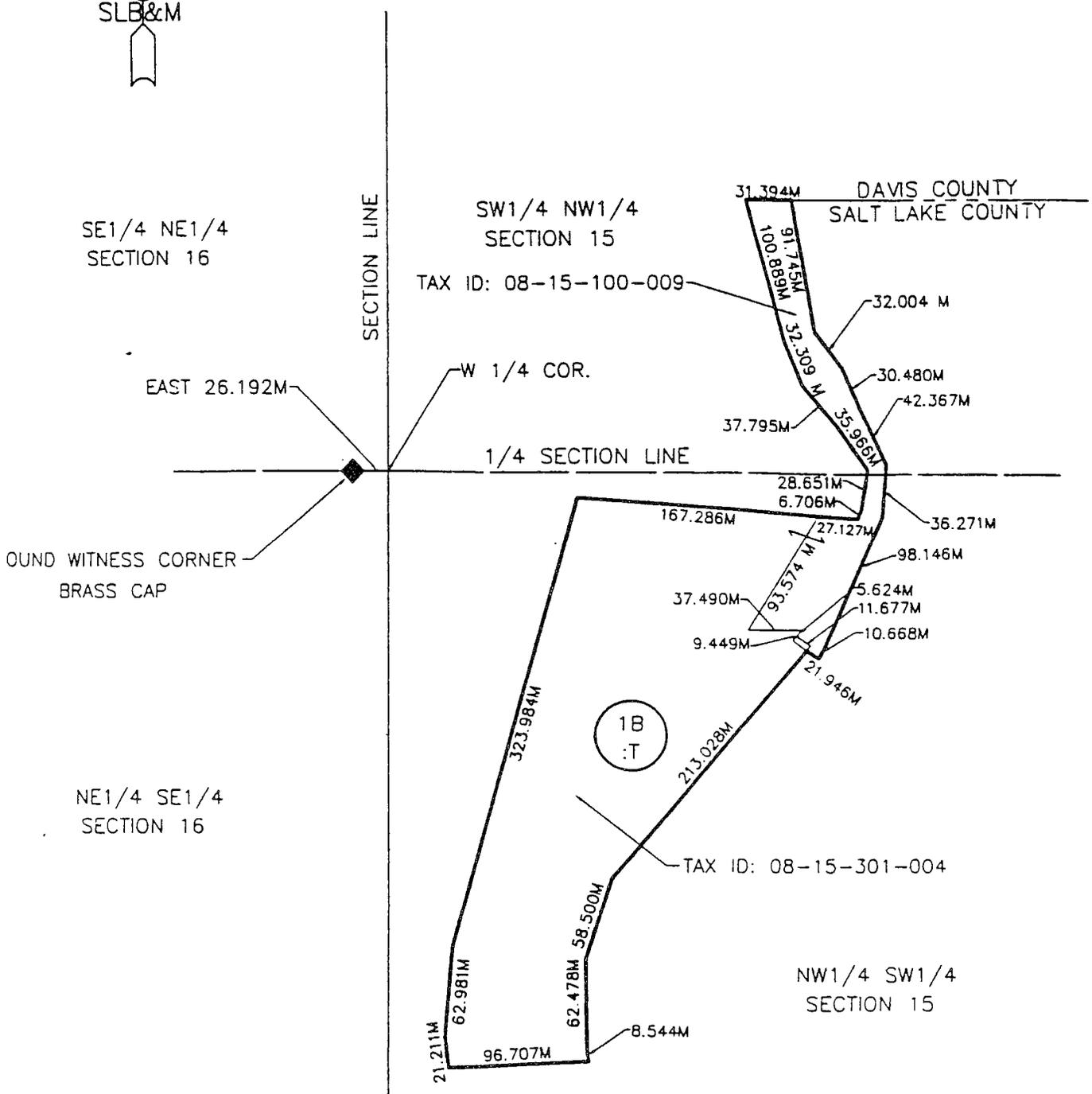
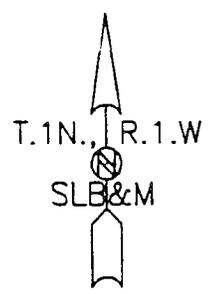
PAGE 2

Parcel No. 0067:1B:T
Project No. SP-0067()0

ALSO:

Beginning at a northwest corner of said entire tract at a point 268.834 m (882 ft.) east and 168.554 m (553 ft.) north (by record, but measures 246.5 m (808.73 ft.) east and 186.2 m (610.85 ft.) north) from said West Quarter corner of Section 15; running thence along a westerly boundary line of said entire tract the following six (6) courses: (1) S 15°07' E 100.889 m (331 ft.); thence (2) S 22°20' E 32.309 m (106 ft.); thence (3) S 40°49' E 37.795 m (124 ft.); thence (4) S 35°40' E 35.966 m (118 ft.); thence (5) S 8°40' W 28.651 m (94 ft.); thence (6) S 26°56' W 6.706 m (22 ft.); thence N 85°30' W 27.127 m (89 ft.) along a northerly boundary line of said entire tract; thence S 32° W 93.574 m (307 ft.) along a northwesterly boundary line of said entire tract; thence East 37.490 m (123 ft.) along a south boundary line of said entire tract; thence S 38°57' W 9.449 m (31 ft.), more or less, along a northwesterly boundary line of said entire tract; thence S 54° E 21.946 m (72 ft.) to an easterly boundary line of said tract; thence along said easterly boundary line the following seven (7) courses: (1) N 28°01' E 10.668 m (35 ft.); thence (2) N 24°02' E 98.146 m (322 ft.); thence (3) N 4°29' E 36.271 m (119 ft.); thence (4) N 25°40' W 42.367 m (139 ft.); thence (5) N 23°58' W 30.480 m (100 ft.); thence (6) N 37°16' W 32.004 m (105 ft.); thence (7) N 9°48' W 91.745 m (301 ft.), more or less, to a north boundary line of said entire tract; thence West 31.394 m (103 ft.), more or less, along said north boundary line to the point of beginning. The above described tract of land contains 9,712.4 square meters (2.40 acres), more or less.

Both tracts of land contain a total of 60,783.3 square meters (15.02 acres), more or less.



OWNER: LAWRY J. BOWDEN, 58.45%; CHRIS J. BOWDEN, 13.85%							
OWNER: JAMES J. BOWDEN, 13.85%; NANCY BOWDEN REGIER, 13.85%							
CEL NO.	NET SQ. m	SQ. FT.	ACRES	EXIST. R/W SQ. m IN DEED	OWNERSHIP SQ. m	REMAINING SQ. m	
						LEFT	RIGHT
7:1B:T	60,783.3	654,271.2	15.02	NONE	60,783.3	NONE	NONE

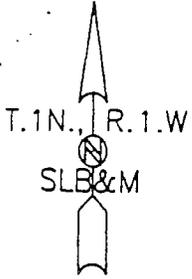
in Davis County, State of Utah, to-wit:

An undivided 58.45% interest in a tract of land in fee, being all of an entire tract of property situate in the SW~~1~~NW~~4~~ of Section 15, T. 1 N., R. 1 W., S.L.B & M. The boundaries of said tract of land are described as follows:

Beginning in the south line of Davis County at the southwest corner of said entire tract at a point 3.048 (10 ft.) east of a county boundary monument. Said point of beginning is also 268.834 m (882 ft.) east and 168.554 m (553 ft.) north (by record, but measures 246.5 m (808.73 ft.) east and 186.2 m (610.85 ft.) north) from the West Quarter corner of said Section 15; running thence along the westerly boundary line of said entire tract, and along the west bank of the abandoned Jordan River channel the following four (4) courses and distances: (1) N 11°07' W 57.912 m (190 ft.); thence (2) N 5°25' W 55.474 m (182 ft.); thence (3) N 6°14' W 48.768 m (160 ft.); thence (4) N 11°15' W 42.062 m (138 ft.), more or less, to the north boundary fence line of said entire tract, adjoining the Clyde S. Hill, et.al., property; thence East 16.764 m (55 ft.) along said north boundary fence line to the easterly boundary line of said entire tract, which is the east bank of said abandoned Jordan River channel; thence along said easterly boundary line and east bank the following five (5) courses and distances: (1) S 9°29' E 39.624 m (130 ft.); thence (2) S 15°59' E 50.597 m (166 ft.); thence (3) S 6°41' E 54.864 m (180 ft.); thence (4) S 17°31' E 55.169 m (181 ft.); thence (5) S 9°48' E 7.010 m (23 ft.), more or less, to said county line; thence West 31.394 m (103 ft.) along said county line to the point of beginning. The above described tract of land contains 4,653.8 square meters (1.15 acres), more or less.

Together with any and all water rights appurtenant to the above described tract of land.

Property 0067:1D
 Project No. SP-0067()0
 West Davis Highway



NE1/4 NE1/4
 SECTION 16

NW1/4 NW1/4
 SECTION 15

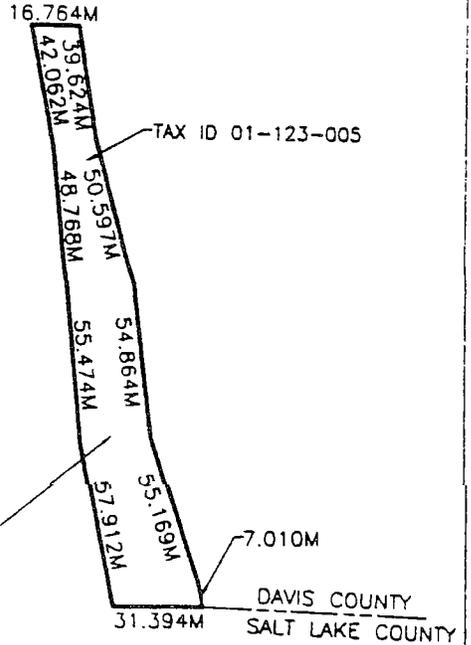
40 ACRE LINE

SE1/4 NE1/4
 SECTION 16

SW1/4 NW1/4
 SECTION 15

SECTION LINE

1D
 :T



EAST 26.192M

FOUND WITNESS CORNER
 BRASS CAP

1/4 SECTION LINE

NE1/4 SE1/4
 SECTION 16

NW1/4 SW1/4
 SECTION 15

OWNER: LAWRY J. BOWDEN, 58.45%; CHRIS J. BOWDEN, 13.85%; JAMES J. BOWDEN, 13.85%;
 OWNER: NANCY BOWDEN REGIER, 13.85%.

ARCEL NO.	NET SQ. m	SQ. FT.	ACRES	EXIST. R/W SQ. m IN DEED	OWNERSHIP SQ. m	REMAINING SQ. m	
						LEFT	RIGHT
367:1:D	4,653.8	50,094.0	1.15	NONE	4,653.8	NONE	NONE

Appendix O
**Section 106 Memorandum of Agreement
Regarding the Legacy Parkway Project**

Signers:

Advisory Council on Historic Preservation
Federal Highways Administration
Utah State Historic Preservation Officer
Utah Department of Transportation
Utah Division of Indian Affairs

Tribal Concurrence:

The Northwest Band of Shoshoni of Idaho and Utah
The Shoshone Bannock Tribes of Idaho
The Ute Indian Tribe (of the Uintah-Ouray Agency)
Confederated Tribes of the Goshute (Ibapah)
Skull Valley Goshute Tribe

Advisory Council On Historic Preservation

The Old Post Office Building
1100 Pennsylvania Avenue, NW, #809
Washington, DC 20004

JUN 21 2000

Mr. David C. Gibbs, P.E.
Division Administrator
Federal Highway Administration
2520 West 4700 South, Suite 9A
Salt Lake City, UT 84118-1847

REF: Legacy Parkway
Project No. SP-0067()
Davis and Salt Lake Counties, Utah

Dear Mr. Gibbs:

Enclosed are your copies of the fully executed Memorandum of Agreement for the referenced project. By carrying out the terms of the Agreement, you will have fulfilled your responsibilities under Section 106 of the National Historic Preservation Act and the Council's regulations for this project. We recommend that you also provide a copy of the fully-executed agreement to the Utah State Historic Preservation Officer, the Utah Department of Transportation, the Utah Division of Indian Affairs, the Northwest Band of Shoshoni, the Shoshone Bannock Tribe, the Ute Indian Tribe, the Confederated Tribes of the Goshute, and the Skull Valley Goshute Tribe. We have retained an original version of the agreement in this office where it will remain on file.

Should you have need to discuss this matter further, you may contact MaryAnn Naber at (202) 606-8534. We appreciate your cooperation.

Sincerely,



 Don L. Klima
Director
Office of Program Review

Enclosure

MEMORANDUM OF AGREEMENT REGARDING THE LEGACY PARKWAY PROJECT

WHEREAS, the Federal Highway Administration Utah Division has determined that the Legacy Parkway Project between the I-215 Interchange, northern Salt Lake County, Utah and Burton Lane north of Farmington, Davis County, Utah (hereinafter called the Project) will have an effect upon **42DV2, 42DV70, and 10N 650 W. Clark Lane Farmington, Utah** properties included in or eligible for inclusion in, the National Register of Historic Places, and has consulted with the Utah State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (Council) pursuant to 36 CFR Part 800, regulations implementing Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) and Section 4(f) of the Department of Transportation Act of 1966 (23 CFR 771.135); and

WHEREAS, the Project constitutes a federal action and requires compliance under federal statutory requirements; and the Federal Highway Administration, Utah Division (hereinafter called the FHWA) is the lead Federal Agency, will carry out the terms of this agreement (hereinafter called Agreement); and

WHEREAS, the Utah Department of Transportation (UDOT) is the agency coordinating this project, and has participated in the consultation, and been invited to concur in this Memorandum of Agreement (MOA); and

WHEREAS, the FHWA and UDOT recognize that the Shoshone Bannock Tribes of Idaho are a sovereign government located outside the exterior boundaries of the State of Utah, and that technical and government to government consultation will be directly with the Shoshone Bannock Tribes of Idaho ; and

WHEREAS, the Project is large and complex, with a potential for the discovery of additional properties eligible for inclusion in, the National Register of Historic Places, the UDOT intends to use the provisions of this Agreement to address all activities that may result in impacts to both known and inadvertently discovered historic properties; and

WHEREAS, the Project area of potential effect (hereinafter called APE) for this undertaking includes all lands subject to project activities or activities directly funded by the Project as delineated in Appendix A.

WHEREAS, All areas within the APE were surveyed for cultural resources as detailed in *A Cultural Resources Inventory of the proposed Legacy/West Davis Highway in Davis and Salt Lake Counties Utah (Colman and Colman 1998)*; and

WHEREAS, the Northwest Band of Shoshone of Idaho and Utah the, the Ute Indian Tribe of the Uintah-Ouray, Utah, Confederated Tribes of the Goshute (Ibapah), Utah, the Skull Valley Goshute Tribe and the Shoshone Bannock Tribes of Idaho (hereafter called Tribes) participated in the technical coordination and consultation and have been invited to concur in this Memorandum of Agreement; and

WHEREAS, the Utah Division of Indian Affairs (DIA) is the agency responsible for Native American graves protection and repatriation for the State of Utah and the tribes located in the State of Utah, which has participated in the consultation and has been invited to be party to this Memorandum of Agreement; and

WHEREAS, the consulting parties have considered the applicable requirements of the Utah Native American Graves Protection and Repatriation Act of 1992 (U.C.A. 9-9-401, et seq., hereinafter called NAGPRA, and its implementing Rule R230-1), and the Utah Code 76-9-704, in the course of consultation; and

WHEREAS, the parties to this agreement recognize that every reasonable effort should be made to protect, from possible harm by the project, Traditional Cultural Properties it is incumbent upon the tribes, or such interested party(ies), to identify any TCP's believed to exist within the project APE.

WHEREAS, the definitions given in Appendix B are applicable throughout this Memorandum of Agreement; and

NOW, THEREFORE, the FHWA, the Utah SHPO, and the Council agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of Legacy Parkway Project on historic properties.

STIPULATIONS

The FHWA, shall ensure that the following measures are carried out:

I. MITIGATION OF PROJECT IMPACTS TO KNOWN SITES: 42DV2, 42DV70, and 10N 650 W. Clark Lane Farmington, Utah.

A. Historic Structures

The UDOT, or its consultant will complete a Full Utah Intensive Level Survey Form (ILS) form for each eligible and contributory structure.

1. Photographs: Photographs are required of all buildings or structures on the property at 10N 650 W. Clark Lane Farmington, Utah.. This means at least one photograph of all elevations, of professional quality black/white 35 millimeter photographs (3x5 prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), the street scape, and detailed photographs of all areas to be impacted by the adverse effect. Photographs of exterior architectural trim/decorations shall be

submitted. Photographs shall be numbered and labeled with address (street and city) and date the photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archival quality protective storage pages.

2. Drawings: Sketch floor plans of all eligible buildings on the properties at 10N 650 W. Clark Lane Farmington, Utah shall be submitted. The plans must be based on an accurate footprint (e.g., Sanborn maps, tax card drawings, or measurements taken on site) and show all existing construction. Rooms shall be labeled by use. These non-measured drawings are to be on 8.5 " x 11 " or 11 " x 17" sheets. A site sketch plan showing subject buildings and all out buildings is also required.
3. Research Materials: A legible photocopy of the entire historic tax card of the property and a 5x7 inch black and white, 35mm print and negative of the historic tax card photo shall be submitted. Label and submit print and negative as described above.
4. Repository: All materials shall be submitted to the Division of State History, Historic Preservation Office to be placed on file.

B. Archaeological Sites

1. Data recovery: The FHWA shall ensure that a data recovery plan is developed in consultation with the SHPO for the recovery of archeological data from 42DV2, and 42DV70. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and take into account the Council's publication, Treatment of Archeological Properties (Advisory Council on Historic Preservation, 1980), subject to any pertinent revisions the Council may make in the publication prior to completion of the data recovery plan and to relevant SHPO or other guidance. It shall specify, at a minimum:
 - a. the research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
 - b. the methods to be used, with an explanation of their relevance to the research questions;
 - c. the methods to be used in analysis, data management, and

- dissemination of data, including a schedule;
 - d. the proposed disposition of recovered materials and records;
 - e. proposed methods for involving the interested public in the data recovery;
 - f. proposed methods for disseminating results of the work to the interested public;
 - g. proposed methods by which the tribes or other interested parties will be kept informed of the work and afforded the opportunity to participate;
 - h. a proposed schedule for the submission of progress reports to the SHPO, the Council, and the tribes at their request; and
 - i. The data recovery plan shall be submitted by the UDOT to the SHPO, and also to the tribes at their request, for 30 days review. Unless these parties object within 30 days after receipt of the plan, the FHWA through the UDOT shall ensure that it is implemented.
- C. Reporting: The FHWA shall ensure that any/all reports on activities carried out pursuant to this agreement are provided to the SHPO, the Council, and upon request, to the Tribes or any other interested parties, following completion of the activities stipulated in the agreement.
- D. Personnel Qualifications: The FHWA shall ensure that all historic work carried out pursuant to this agreement is completed by or under the direct supervision of a person or persons meeting or exceeding the Secretary of interior's Standards for History or Archaeology as appropriate (36 CFR 61 Appendix A).

II. THE PLAN OF ACTION FOR INADVERTENT DISCOVERY OF CULTURAL RESOURCES

The UDOT has developed a plan of action in consultation with the Tribes and SHPO regarding inadvertent discovery, of historic properties potentially eligible to the NRHP. The plan detailed below describes

coordinating efforts among UDOT, the Tribes, and USHPO; assessment of effects to historic properties (not affecting Utah NAGPRA related issues); inventory and evaluation process; treatment of TCPs, identified within the APE and mitigation strategies.

- A. In the Event that cultural resources are discovered:
1. work will stop in the immediate area of the discovery in accordance with UDOT Standard Specification 104.15 as detailed in Appendix D. The UDOT will notify the parties to the Agreement.
 2. The discovered resources will be evaluated for NRHP eligibility.
 - a. The UDOT will initiate internal coordination with their contractor.
 - (1) Designated contractor will prepare draft inventory reports and recommendations regarding the NRHP eligibility of identified properties.
 - (2) Content and scope of Draft and final report(s) on the results of the evaluation studies will follow state guidelines as found in the UDOT's Consultant Guidelines.
 - b. In consultation with USHPO, the UDOT will apply the NRHP criteria (36 CFR 60.4) to all archaeological cultural resources discovered during the project with regard to their potential for inclusion in the NRHP. This evaluation shall take into account the guidance found in all applicable National Register Bulletins.
 3. Determinations of effect will be made for all discovered NRHP eligible properties.
 - a. In situations affecting historic properties, application of the criteria of effect and adverse effect described in 36 CFR 800.9 (a) and (b) will be implemented.
 - b. A Determination of Eligibility and Finding of Effect (DOE-FOE) will be submitted to the USHPO and to the Tribes along with appropriate documents relative to the stipulations of this Agreement.

4. Treating Effects

- a. If the undertaking might affect historic properties as defined by 36 CFR 800.2 (e), the UDOT, will develop site specific treatment plans to minimize or mitigate the effects of the historic properties located within the area of the discovery in coordination with the USHPO, the Tribes, and other interested parties as follows:
- (1) Human remains and the associated cultural items will be treated in accordance with the Utah NAGPRA (See Appendix C of this Agreement).
 - (2) The preferred alternative to mitigation is avoidance of impact to historic properties.
 - (3) Project redesign will be implemented when technically, economically, and environmentally feasible, to avoid the placement of the facility, or related construction activities in a manner that may affect historic properties.
 - (4) Development of site-specific mitigation plans/strategies for individual areas of effect will include:
 - (a) full analysis and documentation of the materials and data resulting from the studies according to a Research Design drafted in consultation with the SHPO.
 - (b) Submission of appropriate documents relative to the stipulations of this Agreement to the USHPO and to the Tribes.
 - (c) All properties identified during the inventory will be recorded or updated on Utah cultural resources inventory forms. Inventories completed after the initial scope of work is completed will follow the stipulations established in this document. All site documents, except as noted in Section III E,

will be included with each report as a detached appendix that is not available for public distribution in accordance with this Agreement and other statutory obligations including ARPA (43 CFR 7.18).

III. ADMINISTRATIVE STIPULATIONS

A. Changes in the undertaking.

1. Changes in the Project will not relieve the UDOT of the responsibility of completing resource evaluations.
2. If, during the Project planning or implementation, modification and/or changes in the undertaking are proposed in ancillary areas that have not been previously inventoried for historic properties, the UDOT shall ensure that the area is inventoried and that historic properties are evaluated in a manner consistent with the inventory, evaluation, and standards identified in this Agreement. The UDOT will prepare a draft report(s) of the inventory results and submit said document(s) to the parties of this Agreement for review and comment. A final report incorporating the comments of the said parties will be prepared. Final reports will be provided to the parties of this Agreement.
3. The applicable Research Design shall be modified or appended, as appropriate by the contractor (s) under the direction of the UDOT, in consultation with USHPO, to incorporate treatment and management measures for previously unevaluated historic properties consistent with the Agreement. The Tribes may request participation to review and comment on the Research Design upon written notice to the UDOT.
4. The parties to this Agreement shall be afforded an opportunity to comment within 30 days on documents prepared in response to revisions to the undertaking.

B. Tribal Consultation Process

Tribal Consultation will occur between the UDOT and the Tribes throughout the project. In general, consultation will take place on two levels: Technical Interaction and Formal Government to Government

Consultation.

1. Technical Interaction. This means coordination between the technical staff of the parties to this Agreement. Such interaction may occur through communication by informal means, i.e. telephone conversations, etc. and/or formal interaction and correspondence. This level also may include seeking advise and opinion from other governmental agencies that share an interest or responsibility.
2. Formal Government to Government Consultation. Government to Government Consultation is considered consultation by definition. This involves interaction and communication between the policy/decision maker representatives of the parties to this Agreement, such as the UDOT, USHPO, ACHP, the Utah Division of Indian Affairs, and the respective Tribes. This process will be initiated by formal correspondence/notification as required by Utah NAGPRA or other applicable laws. At this point, after formal notification, the technical staff shall advise the government level representatives of the issue and make recommendations toward a viable decision/resolution.

C. Traditional Cultural Properties (TCP's)

1. If a TCP is identified to the UDOT, the UDOT and/or its contractor shall immediately secure the identified site from any potential impacts and notify the SHPO of such TCP. SHPO notification will occur within 1 working day. The UDOT and/or its contractor shall make an initial determination of possible effect to the identified TCP, and take reasonable steps to protect the TCP. Consultation with the affected tribal interest will be initiated. At the discretion of the UDOT and the party that identified the TCP, a formal consultation process, as described in section III B, may be utilized in this effort. If a dispute results, the Dispute Resolution described in section III G will be initiated.
2. In accordance with Section III A(5), if the party identifying the TCP provides the UDOT with a written request to safeguard the confidentiality of the identified TCP, the UDOT will make every reasonable effort to protect the confidentiality of the identified TCP.

D. Curation

1. Cultural material (artifact) curation. Upon discovery and gathering of cultural items within the Project APE, exclusive of Utah NAGPRA items as defined by that act, the UDOT will ensure that the items will be placed in an appropriate repository facility as described in 36 CFR 79.
2. Reporting and documentation curation. Upon the UDOT finalizing the documentation of the Project, all reports and documentation will accompany the cultural material consistent with the provisions described in 36 CFR 79. Upon written request of the Tribes, a copy of said documentation shall be provided for the tribal archives.
3. The cultural material, records, and other material resulting from the implementation of this Agreement and the Project will be subject to the provisions of the Freedom of Information Act, unless otherwise specified within this Agreement.

E. Confidential Safeguards

In accordance with 36 CFR 79 AND Section 304 of the National Historic Preservation Act, all applicable information will be safeguarded and not provided to the general public.

F. Public Participation

1. The UDOT will afford interested parties with an adequate opportunity to receive information and to express their views regarding the Project. Public notice will be coordinated through NEPA as articulated in 23 CFR 771.

G. Dispute Resolution

1. Should the USHPO, the tribes, or DIA, or the Council, object within 30 days to any documentation provided for review pursuant to this agreement, the UDOT shall consult with the objecting party to resolve the objection. If the UDOT determines that the objection cannot be resolved, the UDOT shall request the further comments of the Council pursuant to 36 CFR § 800.6(b). Any Council comment provided in response to such a request will be taken into account by the UDOT in accordance with 36 CFR § 800.6(c)(2) with reference only to the subject of the dispute; the UDOT's

responsibility to carry out all actions under this agreement that are not the subjects of the dispute will remain unchanged.

2. The Utah Division of Indian Affairs State NAGPRA Review Committee will arbitrate disputes relative to Utah NAGPRA in accordance with U.C.A. 9-9-405 (3)(c), if consultation fails to resolve the dispute.

H. Time Frames

1. Document Review. Unless otherwise stated, document review shall be 30 days following receipt of said document submitted for review. The UDOT may assume failure of any party to respond within 30 days indicates their concurrence.
2. Amendment. The UDOT will provide copies of written request(s) for amendment from any signatory party to all other signature parties within 3 days, and the parties agree to begin discussions regarding proposed amendments immediately.

I. Amendments

1. Any signature party to this Agreement may request an amendment (s), whereupon the other signature parties will consult to consider such amendment(s).
2. Any proposed amendment to this Agreement must be submitted to the UDOT in writing, with an explanation as to the reasoning for the requested change. The UDOT will initiate consultation with the signature parties for their consideration of the proposed amendment(s) under the time provisions as set forth in III Section H2.

J. Monitoring

1. A monitoring plan will be included in the Research Design(s). Project monitoring will ensure all parties to this Agreement that the activities and provisions of this Agreement are in compliance. Monitoring will also ensure that all parties to this Agreement will have oversight and updates to the Project as the Project commences.
2. After completion of the fieldwork component of the data recovery

provided for in Section I, the UDOT will ensure that particular care is taken during construction to avoid affecting any other archeological remains that may be associated with the sites recorded during the initial survey. Restrictions on construction work in all areas not previously cleared in the original Determination of Eligibility and Finding of Effect will be accomplished by erection of a temporary fence and flagging as necessary. Suitable arrangements for archeological monitoring, and any additional survey deemed necessary, will be made in consultation with the SHPO prior to construction in the APE. An archeologist meeting the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) will monitor the construction activities. The Tribes will be invited to assist in the monitoring in conjunction with the authorized archaeologist. At a minimum, such monitoring will include recording and reporting of major features or artifact concentrations uncovered, and recovery and curation of a sample of uncovered remains where practicable.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the Legacy Parkway Project and its effects on historic properties, and that FHWA has taken into account the effects of the undertaking on historic properties.

ADVISORY COUNCIL
ON HISTORIC PRESERVATION

By: Bernice M. Brown for John M. Fowler
John M. Fowler, Executive Director

Date: 6-21-00

FEDERAL HIGHWAYS ADMINISTRATION

By: David C. Gibbs
David C. Gibbs, P.E., Division Administrator

Date: 5/22/00

UTAH STATE HISTORIC PRESERVATION
OFFICER

By: Max J. Evans
Max J. Evans, Utah SHPO

Date: 3/15/2000

UTAH DEPARTMENT OF TRANSPORTATION

By: Thomas R. Warne
Thomas R. Warne, Executive Director

Date: 2-24-00

UTAH DIVISION OF INDIAN AFFAIRS

By: Forrest S. Cuch
Forrest S. Cuch, Director

Date: 5-11-00

Concur:

THE NORTHWEST BAND OF SHOSHONI OF
IDAHO AND UTAH

By: Gwen T. Davis
Gwen T. Davis, Chairman

Date: 3-31-2000

THE SHOSHONE BANNOCK TRIBES

By: _____
Duane Thompson, Chairman

Date: _____

THE UTE INDIAN TRIBE (OF THE UINTAH-
Ouray AGENCY)

By: _____
Roland McCook, Chairman

Date: _____

CONFEDERATED TRIBES OF THE
GOSHUTE (IBAPAH)

By: _____
David Pete, Chairman

Date: _____

SKULL VALLEY GOSHUTE TRIBE

By: _____
Leon Bear, Chairman

Date: _____

APPENDIX B - DEFINITIONS

“Area of Potential Effects” (APE) is defined as geographic area within which an undertaking and/or connected action may cause changes in the character or use of heritage resource properties. Although treatment of properties may vary with land status, the area of potential effects was determined without regard for land status and includes both state and private lands as delineated in (Exhibit A). In defining the area of potential effect, the UDOT included all lands potentially affected by the proposed project within a thousand foot (1000') wide corridor between the I-215 interchange and Burton Lane north of Farmington.

“Associated Funerary items” are defined as items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later, with or near individual human remains.

“Data Recovery Plan” is a planning document that provides details for the recovery of information from historic properties on a site by site basis. Data recovery is a specific form of treatment usually associated with 36 CFR 60.4, Criterion D.

“Day” is defined as calendar day throughout this document.

“Discovery Situation” is an occurrence whereby human remains or an historic property are identified as a result of the process described in the Monitoring Plan, or during construction.

The Legacy/West Davis Highway Research Design (Research Design) is a planning document that is consistent with State and Federal technical standards which produces reliable, understandable and up-to-date information for decision making related to the identification, evaluation, and protection/treatment of historic properties and traditional cultural properties.

“Historic Property” is any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion in, the NRHP. This term includes artifacts, records, and remains related to or located within such properties. This term also includes properties associated with traditional life-way values when such values are considered eligible for inclusion in the National Register. For the purposes of this agreement, a traditional life-way value must be associated with a definite location.

“Interested Parties” are defined as those organizations and individuals that are concerned with the effect of an undertaking on historic properties as defined in 36 CFR 800.5 (e)(1).

“Monitoring Plan” identifies the methods for assuring that historic properties discovered during the land disturbance activities of an undertaking will be subject to the provisions of the Agreement This planning document is incorporated into the Research design.

“National Register of Historic Places” (NRHP) refers to the national register of districts, sites, buildings, structures, and objects significant in history, architecture, archaeology, engineering and culture. The National Historic Preservation Act of 1966, as amended, authorizes the Secretary of interior to amend and maintain this register.

“Objects of cultural patrimony” means items having ongoing historical, traditional, or cultural importance central to the Indian tribe itself.

“Traditional Cultural Property” (TCP) is defined generally as one that is eligible for inclusion in the NRHP because of its association with cultural practices or beliefs of a living community that (a) are rooted in that community's history, and (b) are important in maintaining the continuing cultural identity of the community. For the purposes of this agreement the communities or social groups are the Northwest Band of Shoshone of Idaho and Utah, the Shoshoni Bannock Tribes, and The Ute Indian Tribe (Of the Uintah-Ouray Agency), and Confederated Tribes of the Goshute (Ibapah), individually or collectively.

“UDOT” (the Utah Department of Transportation) is the agency responsible for the project and is the lead agency for purposes of compliance with the terms and regulations stipulated in this agreement as designated by the Federal Highway Administration, Utah Division (FHWA)

“Tribe(s)” is defined as The Northwest Band of Shoshone of Idaho and Utah, The Ute Indian Tribe (Of the Uintah-Ouray Agency) Confederated Tribes of the Goshute (Ibapah) and Skull Valley Goshute Tribe, and the Shoshone Bannock Tribes of Idaho. Although the collective term “Tribe” is applied within this agreement, each Tribe which participated in the consultation and concurs in this agreement, and will be notified individually for any and all actions described.

APPENDIX C

I. IMPLEMENTING UTAH NAGPRA U.C.A. 9-9-401 *et. seq.* AND ITS IMPLEMENTING RULE R230-1 AND UTAH CODE 76-9-704 ABUSE OR DESECRATION OF A DEAD HUMAN BODY

A. Purpose:

1. Purpose: The Parties to the Agreement intend to respect and be sensitive to the cultural perspectives and responsibilities, the religious and ceremonial rights, and sacred practices of the Tribes in fulfilling tribal interests in the discovery of Utah NAGPRA related items identified during the Project.

B. Objectives:

1. To implement the legislative provisions of Utah law specifically, U.C.A. 76-9-704 and 9-9-401 *et. seq.* within the intent of such legislation.
2. To implement legal requirements, while respecting and maintaining the dignity of the individual and the Utah NAGPRA related cultural items potentially discovered during the Project's construction, and in conjunction with the best interests of, the UDOT, the SHPO, and the Tribes.
3. To facilitate UDOT compliance with Utah NAGPRA, respective to decisions that must be made, and actions taken, regarding curation, disposition, re interment, data recovery, consultation and notification, and treatment, of human remains and cultural items as defined by Utah NAGPRA.
4. To provide guidance for UDOT construction personnel regarding the discovery and notification process upon location of human remains and cultural items as defined by Utah NAGPRA

C. Implementation of Objectives:

1. The UDOT will provide the construction personnel supervisors with a set of procedures to be followed in the event of an inadvertent discovery of human remains as detailed in Figure 1 of this Appendix.
2. In accordance with UDOT Standard Specification 104.15 (Appendix D), upon discovery of human remains (including cultural items as defined by Utah NAGPRA), construction activities within the immediate area of discovery shall cease, the site will be secured, and notification of law enforcement, Division of Indian Affairs and USHPO Antiquities Section as required by U.C.A.9-9-403, and U.C.A. 76-9-704, will commence immediately.
 - (1) If the site is determined not to contain Native American remains, UDOT will advise the Tribes of such determination. Work will resume at the direction of the UDOT archaeologist.
 - (2) If the site is determined to contain Native American remains, UDOT will provide notification to the Tribes according to the consultation and notification procedures outlined in section III B (1) of this agreement and applicable requirements of Utah NAGPRA [9-9-403(4)b and R-230-1-6(4)].
3. At such time a discovery of human remains is made and construction ceases in the area of the discovery, and having satisfied the requirements of U.C.A. 76-9-704:
 - a. If the remains are in immediate danger of harm, or in the event that construction could not move, they will be excavated in accordance with R-230-1-7(1)a. All records and documentation will be afforded as much confidentiality as desired by the tribes and allowable by such laws and regulations as apply according to Stipulation E III.

- b. If the site at which the remains are located can remain intact and free from immediate harm, the site will be secured and a preservation plan will be implemented according to R-230-1-7-1.
4. Any excavated Native American remains will remain in the custody of the UDOT or its consultant pending consultation and determination of ownership.
5. The repatriation of the individual will be consistent with, Utah NAGPRA [9-9-403 and R-230-1-13 et. seq.].

II. GENERAL PROVISIONS:

- A. Dispute Resolution: Disputes on non Utah NAGPRA related issues will be resolved according to the dispute resolution procedures as described in the Agreement Section III G. The Utah NAGPRA Review Committee will resolve all Utah NAGPRA related disputes.
- B. Treatment of Utah NAGPRA related items and human remains:
 1. Human Remains
 - a. Any and all human remains that have been damaged or removed due to construction activity will be immediately returned to accompany the remains still present in the site.
 2. Associated Funerary Items/Items of Cultural Patrimony
 - a. Unless otherwise identified, Associated Funerary Items/Items of Cultural Patrimony found near or about the discovery of human remains will be immediately returned to accompany the human remains. Associated Funerary items are defined as items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later, with or near individual human remains. Objects of cultural patrimony means items having ongoing historical, traditional, or cultural importance central to the Indian tribe itself. If they are so identified,

documentation of these materials will be included in the reports as funerary objects and/or items of cultural patrimony.

Legacy Parkway Project

Procedure for Implementing Utah NAGPRA and Section 106

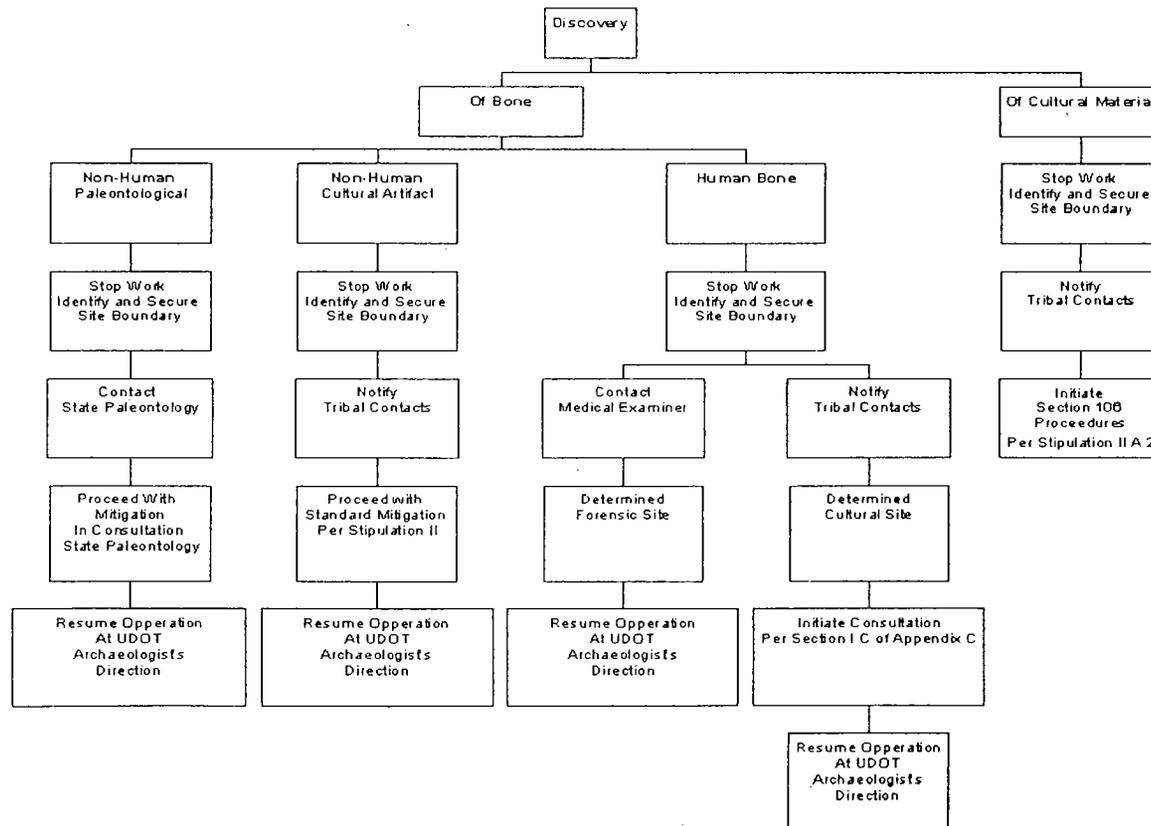


Figure 2. Outline of UDOT Discovery Procedure.

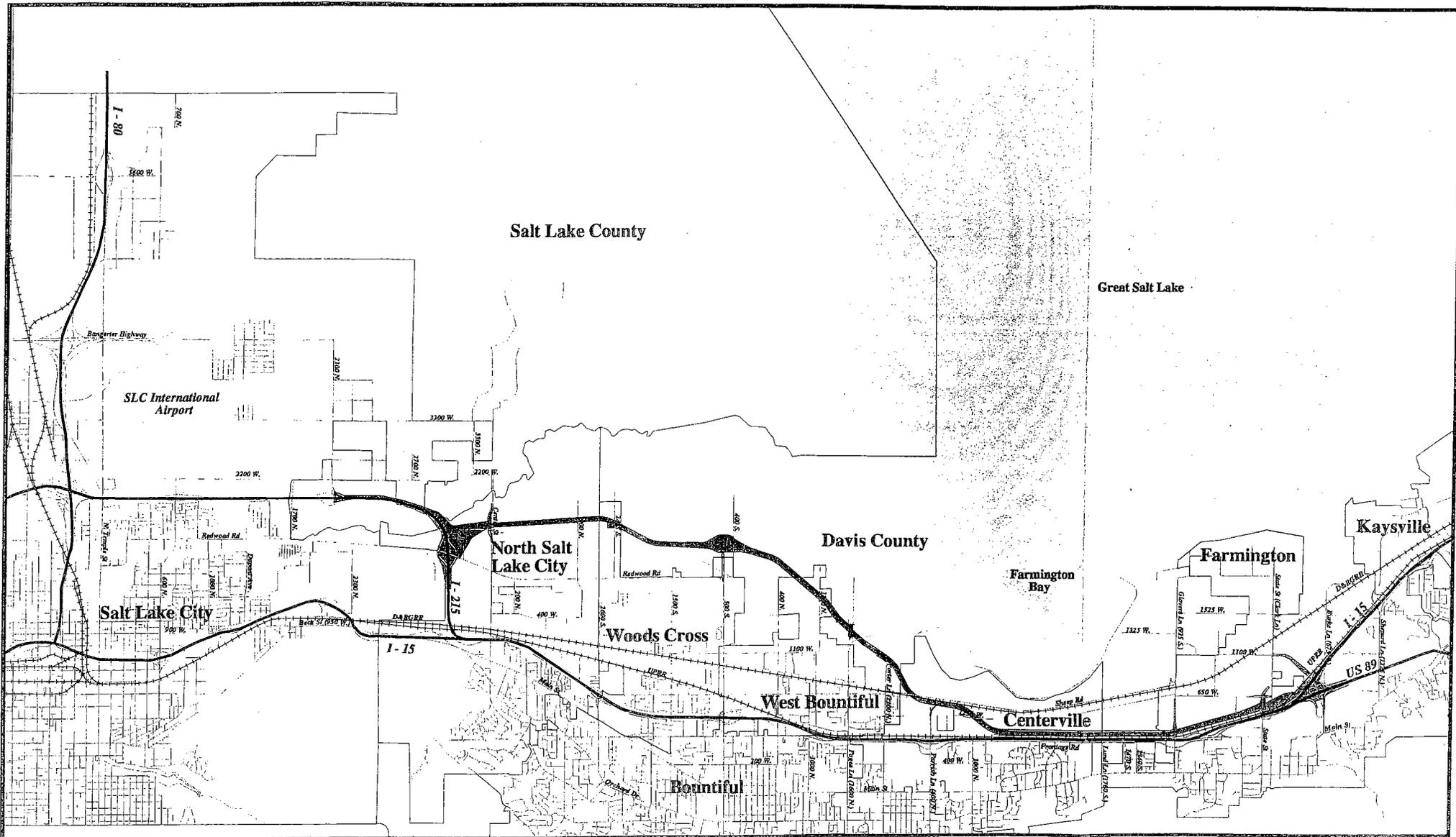
APPENDIX D

UDOT STANDARD SPECIFICATION FOR DISCOVERY OF HISTORIC, ARCHEOLOGICAL OR PALEONTOLOGICAL OBJECTS

104.15 Discovery of Historic, Archeological or Paleontological Objects:

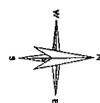
If a suspected historic, archeological or paleontological item, feature, or site is encountered, construction operations shall be immediately stopped in the vicinity of the discovery and the ENGINEER shall be verbally notified of the nature and exact location of the findings. The CONTRACTOR shall not damage the discovered objects and shall provide written confirmation of the discovery to the ENGINEER within 2 calendar days.

After operations in the vicinity of the discovery have been restricted, the ENGINEER will keep the CONTRACTOR informed concerning the status of the restriction. The CONTRACTOR should be aware that the time necessary for the DEPARTMENT to handle the discovered item, feature, or site is variable and is dependent on the nature and condition of the discovered item, feature, or site. It is possible that a delay of as much as 2 weeks in the vicinity of the discovery can be expected. The ENGINEER will inform the CONTRACTOR when the restriction is terminated, with written confirmation following within 2 calendar days. If a changed condition is approved, it will be controlled in accordance with Subsection 104.2: Differing Site Conditions.



LEGEND

- Preferred Alternative
- Rail
- Jurisdiction Boundary
- Major Road
- Secondary Road



Appendix A
AREA OF POTENTIAL EFFECT
 Legacy Parkway Preferred Alternative
 Section 106 Memorandum of Agreement



State of Utah
DEPARTMENT OF TRANSPORTATION

FILE COPY

Michael O. Leavitt
Governor
Thomas R. Warne
Executive Director
John R. Njord
Deputy Director

Ahmad O. Jaber, Director
Region One
169 North Wall Avenue
P.O. Box 12580
Ogden, UT 84412-2580
801-399-5921
FAX: 801-399-5926
www.sr.ex.state.ut.us/r1

Commission
Glen E. Brown
Chairman
James G. Larkin
Hal M. Clyde
Stephen M. Bodily
Jan C. Wells
Bevan K. Wilson
Kenneth L. Warnick

February 21, 2001

Ms. Barbara L. Murphy
Preservation Planner
State Historic Preservation Office
300 Rio Grande
Salt Lake City, UT 84101-1182

RE: Project No. SP-0067(1)0: Legacy Parkway. Salt Lake and Davis Counties, Utah.
Case #: 97-0375

**Submission of ILS Documentation for 650 West State Street
Farmington**

Dear Ms. Murphy

In accordance with the MOA for the Legacy Parkway Project, please find enclosed an ILS package for **650 West State Street Farmington** a property which will be adversely affected by the project.

Thank you for your efforts on our behalf. If you have any questions, please call me at 399-5921 ext. 371.

Sincerely,

Christopher Lizotte, M.A.
Preservation Specialist
Region One

enclosure

cc: w/o enclosure

Byron Parker, P.E., Legacy Team
Vince Izzo, P.E., HDR Engineering, Inc.
Asa Nielson Baseline Data Inc. 789 East Bamberger Hwy. American Fork 84003



State of Utah

Department of Community and Economic Development
Division of State History
Utah State Historical Society



Michael O. Leavitt
Governor
Max J. Evans
Director

300 Rio Grande
Salt Lake City, Utah 84101-1182
(801) 533-3500 FAX: 533-3503 TDD: 533-3502
ushs@history.state.ut.us http://history.utah.org

March 8, 2001

Christopher Lizotte, M.A.
Preservation Specialist
Region One
Utah Department of Transportation
169 North Wall Avenue
P.O. Box 12580
Ogden UT 84412-2580

RE: Project No. SP-0067(1)0: Legacy Parkway - ILS Documentation for 650 West State Street,
Farmington

In Reply Please Refer to Case No. 97-0375

Dear Mr. Lizotte:

Thank you for the submission of the documentation specified in the Memorandum of Agreement for the above referenced project. These materials will be placed on file in the Preservation Office of the Division of State History.

This information is provided to assist with Section 106 responsibilities pursuant to §36CFR800. If you have questions, please contact me at (801) 533-3563. My email address is: bmurphy@history.state.ut.us

Sincerely,

Barbara L. Murphy
Preservation Planner
State Historic Preservation Office

BLM:97-0375 DOT

Ms. Barbara L. Murphy, Letter
September 20, 2001
Page 2

(2) inches per second.

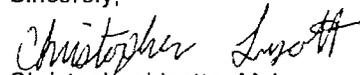
Consistent with normal Department practices, UDOT has monitored haul route traffic along the entire corridor for potential vibration impacts from haul trucks. This was accomplished by setting up seismic monitors along the project haul routes, including areas with historic structures (Attachment 1 and 3). The monitors were placed immediately behind the curb of the road approximately 20 to 30 feet from the residences along the route. The monitors were placed at the curb next to the road to detect the highest possible vibration level. Monitors on this route were operating over several days for a 2 hour period at each location during which time trucks, including Legacy Parkway haul trucks, were tracked (Attachments 2 and 4). In order to test the possibility of vibration damage to structures, Jerry set up his monitor at a setting of .15 in/sec. Vibration was so low, he could not get a reading, even at this lower setting and even in such close proximity to the vibration source.

Results of the monitoring showed that none of the seismic monitors registering any vibration at the curb that exceeded the conservative threshold level we established (.15 inches per second) at which the monitors were set to read. Therefore, the UDOT has determined that there will be **No Historic Properties Affected** from vibration associated with this material hauling operation.

Please note that this route is used by numerous other trucks, not associated with the Legacy Parkway. And UDOT also monitored noise associated with the truck haul route and found no increase from the FAK truck noise over the other traffic on the route.

Consistent with standard UDOT practices we will continue to monitor for project impacts. I will keep you informed of any findings if they occur. If you have any questions, please contact me at 399-5921 ext. 371.

Sincerely,



Christopher Lizotte, M.A.
Archaeologist and NEPA Specialist
Region One

I concur with the finding of **No Historic Properties Affected** from vibration associated with this material hauling operation on State Street Farmington, Davis County, Utah. Further, the UDOT has taken into account the effects of the proposed project on historical and archaeological resources, as required by Section 106 and U.C.A. 9-8-404.

Barbara L. Murphy, Preservation Planner

Date

CC:
Byron Parker, P.E. Legacy Parkway Team
Vince Izzo, HDR Engineering, Inc.



Michael O. Leavitt
Governor
John R. Njord
Executive Director
Carlos M. Braceras
Deputy Director

State of Utah

DEPARTMENT OF TRANSPORTATION

Ahmad O. Jaber, Director
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SEP 24 2001

Commission
Glen E. Brown
Chairman
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Hal M. Clyde
Stephen M. Bodily
Jan C. Wells
Bevan K. Wilson
Kenneth L. Warnick

September 20, 2001

Ms. Barbara L. Murphy
Preservation Planner
State Historic Preservation Office
300 Rio Grande
Salt Lake City, UT 84101-1182

RE: Case #: 97-0375 Legacy Parkway Haul Routes for Construction

Dear Ms. Murphy:

The Utah Department of Transportation (UDOT or Department) has started construction on the Legacy Parkway. The UDOT has considered the effects of this undertaking on any historic or archeological resources which could be eligible for the State or National Registers, and to afford the Utah State Historic Preservation Office (USHPO) an opportunity to comment on the undertaking and its effects, as outlined in U.C.A. 9-8-404. In addition, the UDOT is complying with Section 106 of the National Historic Preservation Act of 1966, as amended, and its implementing regulation, 36 CFR Part 800. This compliance is being conducted by UDOT on behalf of the Federal Highway Administration, Utah Division (FHWA). Please review this letter and the attached materials and, providing you agree with the finding contained herein, sign and date the signature line at the end of this letter.

The UDOT Contractor on the Legacy Parkway is a consortium of Fluor Daniel, Ames Construction, and Edward Kraemer and Sons (FAK), has identified a route to haul material from an existing commercial borrow site in Weber County to the Legacy Parkway. A notification regarding the haul route was provided to the public in the affected area at the end July 2001. Several comments were received from the public regarding potential impacts to historic structures along the haul route from vibration caused by the haul trucks.

The requirements for haul routes are identified in the contract between the Department and FAK. In July, FAK identified this particular haul road based on the limitations placed on them in the contract. The requirements include the need to minimize impacts to motorists, and to avoid congested areas around the Lagoon Amusement Park, during its peak operating season.

A key limitation in the contract requires FAK to limit their operations to State Roads, to avoid impacts to municipal roads not designed for truck traffic. Both State and Main Streets in Farmington are State Routes, regularly traveled by heavy trucks. And unlike other non-UDOT, non-project trucks on these roads, project trucks are weighed to insure no over-load violations. And the travel speed of the project trucks along this haul route is also monitored. These steps help to limit truck vibration and noise.

The possibility of vibration damage to structures is not a new issue to UDOT. UDOT regularly monitors vibration impacts at adjacent structures during the course of construction. UDOT employs a full time seismic operator, Jerry Ryan to monitor vibration effects. There are no mandated national or FHWA standards for vibration. Jerry and many FHWA people rely on research funded by the United States Department of Transportation. That research claims that in most soils, the *possibility* of architectural damage from traffic does not start until vibration reaches about .2 inches per second. And although plaster cracks have been recognized as low as .2 in/sec., actual damage is not to be expected until the vibration reaches a full two



Department of Community and Economic Development
Division of State History
Utah State Historical Society

UTAH STATE
HISTORICAL
SOCIETY

Michael O. Lenvitt
Governor
Max J. Evans
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moh@hassiac.state.ut.us http://history.utah.gov

October 19, 2001

Christopher Lizotte, M.A.
Archaeologist and NEPA Specialist
Region One
Utah Department of Transportation
169 North Wall Avenue
P.O. Box 122580
Ogden UT 84412-2580

RE: Legacy Parkway Haul Routes for Construction

In Reply Please Refer to Case No. 97-0375

Dear Mr. Lizotte:

There are a number of issues we would like to address regarding the haul route through Farmington for the Legacy Parkway project. Many of these issues have been raised by residents of Farmington who have expressed deep concern about the affect of this particular undertaking and of future activities related to the parkway project.

As you are aware, the "undertaking" of intensive hauling of material for the Legacy Parkway along State and Main Streets in Farmington, where a number of historic properties exist, was well underway before consultation was initiated with our office. This precluded any ability on our part or on the part of consulting parties to participate in the discussion of avoidance through the use of other routes or in the exploration of mitigation options.

The vibration study conducted by UDOT a few weeks after the trucks were rolling was a sincere attempt on the part of UDOT to determine the vibration effects of this undertaking. However, the methodology and standards used in this study may not be appropriate for the resources involved. These historic buildings, constructed primarily in the late nineteenth century of unreinforced masonry, are far more vulnerable to vibrations than new buildings would be. Instead of the 0.2 inches per second standard that has been used as a benchmark for possible damage to new buildings, some experts, including the German Institute of Standards, have recommended 0.08 in/sec for historic structures *in good condition*. The UDOT vibration study apparently did not take into account the condition and characteristics (height, footprint, materials, etc.) of the buildings. Nor did it conduct any measurements on the buildings

themselves, as vibration studies conducted in other states have done, in order to more accurately measure the potential "whipping action" created on the buildings by the ground movement. The issues involved with road vibrations seem to be more complex than what this study addressed.

We are concerned that your letter of September 20, 2001, does not address future hauls along this route or hauls along other routes during the course of the construction project. We are aware of at least one other historic district near the parkway corridor (along Onion Street in West Bountiful), and, depending on which haul routes might be selected, numerous other historic properties might be affected. We would like there to be a clear understanding among all parties about how the routes will be selected and how impacts might be avoided or mitigated.

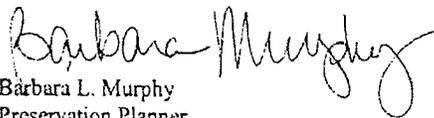
We are also concerned about other construction activities that have not been addressed in either your September 20 letter or in the MOA that was signed for this project. For example, the proposed demolition and reconstruction of the State Street overpass would likely create much greater ground vibrations than those generated by the haul. As a result, it is very likely that historic buildings in the Clark Lane Historic District, especially those on the west end of the district, would be adversely affected.

Due to the extent and complexity of this overall project we feel that it is appropriate to amend the existing MOA to include undertakings that were overlooked and potential issues that might yet surface. This will ensure that the project is in full compliance with both Section 106 of the National Historic Preservation Act and U.C.A. 9-8-404.

We look forward to working with you on an amended MOA that will address the full range of issues involved with this project.

This information is provided to assist with Section 106 responsibilities as specified in §36CFR800. If you have questions, please contact Roger Roper at (801) 533-3561 or myself at (801) 533-3563. My email address is: bmurphy@history.state.ut.us

Sincerely,



Barbara L. Murphy
Preservation Planner
State Historic Preservation Office

BLM:97-0375

August 9, 2002

Mr. Max Forbush
City Manager
Farmington City
130 North Main
P.O. Box 160
Farmington City, Utah 84025-0160

Re: Roundabout at the Intersection of 650 West and State Street
Equestrian Trail Termination at 650 West

Dear Max,

The Legacy Parkway design team recently met with Horrocks Engineers to discuss the roundabout the City desires at the intersection of 650 West and State Street. After reviewing the design information provided by Horrocks it appears the roundabout can be incorporated into our design at this location without requiring additional right-of-way or causing major conflicts with utility relocations. If this change is to be incorporated into the Legacy Parkway project UDOT will need to issue a changeorder to FAK on the Legacy Parkway contract, because this is a change to the scope of work and FAK has completed much of the required design in this area.

UDOT will need written verification of the following items should Farmington City desire UDOT issue a changeorder to FAK for the roundabout at the intersection of 650 West and State Street:

1. Written notice from the City confirming their approval of a roundabout at this location.
2. Evidence the City has contacted the Whitakers and they approve of their property access within the roundabout.
3. Verification of the new narrower typical section required for State Street.
4. Acknowledgement that it will be the City's continual responsibility to maintain the roundabout.
5. Documentation of the design expenditures to Horrocks Engineers if the City desires reimbursement from UDOT for their services.

Farmington City's request for relocation of the equestrian trail termination from 650 West to Clark Lane will also be incorporated with the changeorder for the roundabout,

Max Forbush
Page 2
August 9, 2002

because this is also a change in scope of work for FAK and the trail termination occurs within the same project design area.

It is imperative that we receive the outlined items from the City by August 30, 2002, if the City desires to move forward with the design of a roundabout in this location. There is still time to incorporate this change into our design/build contract with FAK, but the window of opportunity is becoming narrower.

We appreciate the opportunity to work with the City to develop transportation solutions that meet the City's goals as well as the Department's goals.

Sincerely,



4197.tif

Byron Parker, P.E.
Project Director

RECEIVED SEP 06 2002

Historic beginnings



David M. Connors
Mayor

MAX FORBUSH
City Manager

KEITH JOHNSON
Finance Director

MARGY L. LOMAX
Recorder

GLORIA B. ANDERSON
Treasurer

130 North Main
P. O. Box 160
Farmington, Utah 84025-0160
Telephone (801) 451-2383

DAVID S. HALE
BOB HASENYAGER
LARRY W. HAUGEN
SUSAN TANNER HOLMES
ED JOHNSON
Council Members

August 30, 2002

Byron Parker, P. E.
Project Director
Legacy Parkway
360 North 700 West, Suite F
North Salt Lake, Utah 84054

Re: **Roundabout at Intersection of 650 West and State Street.**

Dear Byron:

I am responding on behalf of members of the Farmington City Council regarding requested documentation pertaining to the proposed roundabout at the intersection of 650 West and State Street. The documentation you requested is included as follows.

Confirmation of City Approval of Roundabout.

The City Council has approved the conceptual design and layout of the roundabout and width of east State Street as shown on drawings prepared by Horrocks Engineers based on certain conditions.

- 1) That the entire roundabout be constructed of concrete at a depth sufficient to support heavy truck and bus traffic.
- 2) That the City be permitted additional input into final detailed plans, including but not limited to, cross slopes, angle, side and center treatments (stamped concrete) and landscaping.

Whitaker Family Support for the Proposed Roundabout.

This family is in support of the proposal. See enclosed letter written to the Farmington City Council from Don and Donna Whitaker dated August 22, 2002.

Cross Section of State Street Bridge Structure.

It is the City's understanding that the planned pavement section of the State Street bridge structure is 52 feet in width. The City requests 8 ½ foot shoulders, two 11-foot lanes with a 13-foot

Byron Parker
August 30, 2002
Page 2

center turn lane. The City also requests that the sidewalk treatment on both sides remains as planned - 6 ½ feet on the south side and 8 feet on the north side.

City's Commitment to Maintain the Roundabout.

The City Council in their approving vote agreed to maintain the roundabout once completed and the final Legacy Project accepted by UDOT.

Horrocks' Design Engineering Expenses.

We appreciate your agreement to reimburse the City on these costs. The City is asking a deferral of the time requirement for sending the reimbursement request for costs accrued on this project by Horrocks Engineers. These costs are still being submitted. Once the final invoice is submitted and paid by the City, a request for reimbursement will be sent.

I trust this information meets the requirements of your previous letter. If not, please call Max Forbush and advise him of any deficiencies.

Sincerely,



David M. Connors
Mayor

MF/ml

cc: Members of the City Council
Max Forbush, City Manager
Russell Youd, Horrocks Engineers

Don and Donna Whitaker
P.O.Box 857
601 W State Street (Whitaker Lane)
Farmington, Utah 84025
451-6159

August 22, 2002.

Farmington City Council
130 North Main
P.O.Box 160
Farmington, Utah 84025-0160

To Whom It May Concern:

On August 15th, 2002, we met with Max Forbush to discuss the "roundabout" concept being proposed for the State Street and 650 West intersection. We were shown a concept drawing and it was explained to us.

We like the concept, as it was explained to us at that time. Provided there are no major design changes, we would be in favor of a roundabout at this intersection. We see several very favorable aspects of this type of design for this location. It would maintain the size and integrity of the State Street overpass and help keep this area safer for pedestrians. By keeping the bridge size down, it would also help to control the speed of traffic coming off the bridge and entering that intersection. We think this would be beneficial to both sides of the freeway. We have driven on this type of design in several different locations and found it very functional. We understand it has worked well in many other states.

One of our concerns, is that there be yield signs in place, and not stop signs on the roundabout. This would provide for a smoother traffic flow. It would slow traffic, possibly decreasing the amount of traffic at this intersection and provide a safer access point for our road, as long as the size and number of lanes feeding into it did not increase. Because traffic would be flowing smoother and hopefully slower, we feel that it would make it much nicer for larger vehicles like buses, delivery vans and horse trailers to make the turn without interfering with other lanes of traffic making turns.

We have watched traffic flow after major events, and it is not that intersection that causes traffic jams, but the vehicles turning on the east side of the overpass. By slowing traffic at 650 West, we think that traffic would not become so jammed up.

We would like the city council to know that in our opinion, this would be a good design and it would work very well for this location at this time.

*Don + Donna
Whitaker*



U.S. Department
of Transportation

Federal Highway
Administration



US Army Corp
of Engineers

FHWA Utah Division
2520 West 4700 South, Suite 9A
Salt Lake City, UT 84118

U.S. Army Corps of Engineers
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, UT 84010

January 24, 2003

Mr. Robert Roberts
Regional Administrator
Environmental Protection Agency, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Dear Mr. Roberts:

Subject: Legacy Parkway, Davis and Salt Lake Counties, Utah
Supplemental Environmental Impact Statement
February 21, 2003, Meeting Invitation and Cooperating Agency Request

To continue to enhance the working relationships between Federal agencies, Dr. Christine Johnson, Director of Field Services, Federal Highway Administration (FHWA) and Colonel Conrad of the Army Corps of Engineers (ACOE) invite you and your staff to participate in a Federal agency partnering meeting for the proposed Legacy Parkway project in Utah. The meeting has been scheduled for February 21, 2003, from 9:00 am to 12:00 pm in the Rocky Mountain Room of the EPA Conference Center, 999 18th Street, Denver - 2nd floor. Mr. Lee Waddleton, Federal Transit Administration, Regional Administrator and Mr. Ralph Morgenweck, U.S. Fish and Wildlife Service, Regional Director, have also been invited to attend.

The objective of this meeting is to establish an environmental stewardship framework (expectations and process), with the endorsement of senior management, for the preparation of the Supplemental Environmental Impact Statement (SEIS) for the Legacy Parkway project that is consistent with the Executive Order, "Environmental Stewardship and Transportation Infrastructure Project Reviews." Our goal is to have an open discussion that allows all agencies to discuss their expectations and concerns for this high profile project and to identify improvements to the process previously used to develop the original Environmental Impact Statement (EIS).

The Legacy Parkway is a proposed four-lane, limited access, divided highway extending from I-215 at 2100 North in Salt Lake City northward 14 miles to the interchange of I-15 and U.S. 189 in Farmington. The Final Environmental Impact Statement (FEIS) was completed in June 2000. On September 16, 2002, the Tenth Circuit Court issued an opinion finding the EIS inadequate and remanded the FEIS to the District Court for additional consideration in the following five areas:

1. The Denver & Rio Grande (D&RG) as an alternative alignment.
2. Alternative sequencing of the Shared Solution.
3. Integration of the Legacy Parkway and transit solutions.
4. Impacts to wildlife.
5. A narrower median as a practicable alternative.

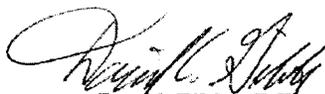
Currently, preliminary work is underway for the preparation of a SEIS to address the Tenth Circuit Court's opinion. The SEIS will focus on addressing the above five issues identified in the Tenth Circuit Court's decision. However, a formal re-evaluation of the original FEIS will be prepared to determine whether there have been changes in the project, its surroundings and impacts, or any new issues identified since the FEIS.

Because of your agency's expertise and jurisdiction regarding wetland issues that pertain to the SEIS, we are requesting that your agency be a cooperating agency. In accordance with the provisions of 40 CFR, Part 1501.6, your role would include:

- ◆ Consulting on relevant technical studies required for the project.
- ◆ Reviewing project information, including study results, and agreeing on a time frame for your review.
- ◆ Expressing your views on subjects within your jurisdiction and/or expertise.
- ◆ Participating in joint public involvement activities.
- ◆ Identifying EIS content necessary to discharge your National Environmental Policy Act (NEPA) responsibilities and other requirements regarding jurisdictional approvals, permits, licenses, and/or clearances.

We look forward to discussing your agency's participation in this project at our February 21, 2003 meeting. We would like to collaborate with your staff in developing the meeting agenda. If you have any questions regarding meeting, please have your staff contact Greg Punske, FHWA Environmental Program Manager at (801) 963-0078 x 237.

Sincerely,



David Gibbs, P.E.
FHWA Division Administrator
Salt Lake City, Utah



Brooks Carter
ACOE Intermountain
Regulatory Section Chief
Bountiful, Utah

cc: Cynthia Cody, EPA Region 8, Chief NEPA Unit



U.S. Department
of Transportation
**Federal Highway
Administration**



**US Army Corp
of Engineers**

FHWA Utah Division
2520 West 4700 South, Suite 9A
Salt Lake City, UT 84118

U.S. Army Corps of Engineers
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, UT 84010

January 24, 2003

Mr. Lee Waddleton
Regional Administrator
Federal Transit Administration, Region 8
216 16th St., Suite 650
Denver, CO 80202-5120

Dear Mr. Waddleton:

**Subject: Legacy Parkway, Davis and Salt Lake Counties, Utah
Supplemental Environmental Impact Statement
February 21, 2003, Meeting Invitation and Cooperating Agency Request**

To continue to enhance the working relationships between Federal agencies, Dr. Christine Johnson, Director of Field Services, Federal Highway Administration (FHWA) and Colonel Conrad of the Army Corps of Engineers (ACOE) invite you and your staff to participate in a Federal agency partnering meeting for the proposed Legacy Parkway project in Utah. The meeting has been scheduled for February 21, 2003, from 9:00 am to 12:00 pm in the Rocky Mountain Room of the EPA Conference Center, 999 18th Street, Denver - 2nd floor. Mr. Robert Roberts, Environmental Protection Agency, Regional Administrator and Mr. Ralph Morgenweck, U.S. Fish and Wildlife Service, Regional Director, have also been invited to attend.

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4. Impacts to wildlife.
5. A narrower median as a practicable alternative.

Currently, preliminary work is underway for the preparation of a SEIS to address the Tenth Circuit Court's opinion. The SEIS will focus on addressing the above five issues identified in the Tenth Circuit Court's decision. However, a formal re-evaluation of the original FEIS will be prepared to determine whether there have been changes in the project, its surroundings and impacts, or any new issues identified since the FEIS.

Because of your agency's expertise regarding transit issues that pertain to the SEIS, we are requesting that your agency be a cooperating agency. In accordance with the provisions of 40 CFR, Part 1501.6, your role would include:

- ◆ Consulting on relevant technical studies required for the project.
- ◆ Reviewing project information, including study results, and agreeing on a time frame for your review.
- ◆ Expressing your views on subjects within your jurisdiction and/or expertise.
- ◆ Participating in joint public involvement activities.
- ◆ Identifying EIS content necessary to discharge your National Environmental Policy Act (NEPA) responsibilities and other requirements regarding jurisdictional approvals, permits, licenses, and/or clearances.

We look forward to discussing your agency's participation in this project at the February 21, 2003 meeting. If you have any questions regarding meeting, please have your staff contact Greg Punske, FHWA Environmental Program Manager at (801) 963-0078 x 237.

Sincerely,



David Gibbs, P.E.
FHWA Division Administrator
Salt Lake City, Utah



Brooks Carter
ACOE Intermountain
Regulatory Section Chief
Bountiful, Utah



U.S. Department
of Transportation

Federal Highway
Administration



**US Army Corp
of Engineers** ®

FHWA Utah Division
2520 West 4700 South, Suite 9A
Salt Lake City, UT 84118

U.S. Army Corps of Engineers
Utah Regulatory Office
533 West 2600 South, Suite 150
Bountiful, UT 84010

January 24, 2003

Mr. Ralph O. Morgenweck
Regional Director
U.S. Fish and Wildlife Service, Region 6
134 Union Boulevard
Lakewood, CO 80228-1807

Dear Mr. Morgenweck:

**Subject: Legacy Parkway, Davis and Salt Lake Counties, Utah
Supplemental Environmental Impact Statement
February 21, 2003, Meeting Invitation and Cooperating Agency Request**

To continue to enhance the working relationships between Federal agencies, Dr. Christine Johnson, Director of Field Services, Federal Highway Administration (FHWA) and Colonel Conrad of the Army Corps of Engineers (ACOE) invite you and your staff to participate in a Federal agency partnering meeting on the proposed Legacy Parkway project in Utah. The meeting has been scheduled for February 21, 2003, from 9:00 am to 12:00 pm in the Rocky Mountain Room of the EPA Conference Center, 999 18th Street, Denver - 2nd floor. Mr. Robert Roberts, Environmental Protection Agency, Regional Administrator and Mr. Lee Waddleton, Federal Transit Administration, Regional Administrator have also been invited to attend.

The objective of this meeting is to establish an environmental stewardship framework (expectations and process), with the endorsement of senior management, for the preparation of the Supplemental Environmental Impact Statement (SEIS) for the Legacy Parkway project that is consistent with the Executive Order, "Environmental Stewardship and Transportation Infrastructure Project Reviews." Our goal is to have an open discussion that allows all agencies to discuss their expectations and concerns for this high profile project and to identify improvements to the process previously used to develop the original Environmental Impact Statement (EIS).

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4. Impacts to wildlife.
5. A narrower median as a practicable alternative.

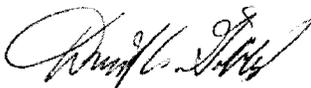
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Because of your agency's expertise regarding wildlife and migratory bird issues that pertain to the SEIS, we are requesting that your agency be a cooperating agency. In accordance with the provisions of 40 CFR, Part 1501.6, your role would include:

- ◆ Consulting on relevant technical studies required for the project.
- ◆ Reviewing project information, including study results, and agreeing on a time frame for your review.
- ◆ Expressing your views on subjects within your jurisdiction and/or expertise.
- ◆ Participating in joint public involvement activities.
- ◆ Identifying EIS content necessary to discharge your National Environmental Policy Act (NEPA) responsibilities and other requirements regarding jurisdictional approvals, permits, licenses, and/or clearances.

We look forward to discussing your agency's participation in this project at our February 21, 2003 meeting. We would like to collaborate with your staff in developing the meeting agenda. If you have any questions regarding meeting, please have your staff contact Greg Punske, FHWA Environmental Program Manager at (801) 963-0078 x 237.

Sincerely,



David Gibbs, P.E.
FHWA Division Administrator
Salt Lake City, Utah



Brooks Carter
ACOE Intermountain
Regulatory Section Chief
Bountiful, Utah

cc: Mr. Henry Maddux, Utah Field Supervisor



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

Regulatory Branch

April 11, 2003

Mr. Wayne Norwall, Regional Director
Bureau of Indian Affairs
P.O. Box 10
Phoenix, AZ 85001

Dear Mr. Norwall:

This letter is to inform you that the environmental scoping process is currently under way for a Supplemental Environmental Impact Statement (SEIS) for the Utah Department of Transportation's (UDOT's) proposed construction of the Legacy Parkway Project. The U.S. Army Corps of Engineers (Corps) and the Federal Highway Administration (FHWA), as federal joint lead agencies under the National Environmental Policy Act (NEPA), are interested in your comments about the content of the Legacy Parkway Project SEIS and invite you to participate in the scoping process.

Project Description

The proposed Legacy Parkway Project is one component of the planned three-part "Shared Solution" for addressing transportation needs between Salt Lake City and Kaysville. The "Shared Solution" strategy includes expansion of public transit, improvements to the existing Interstate 15 (I-15) freeway, and construction of the Legacy Parkway project. The Legacy Parkway is intended to help meet the projected peak-hour traffic needs in the north corridor area through 2020. The proposed parkway would include a four-lane, limited access, divided highway extending approximately 14 miles from Interstate 215 (I-215) in Salt Lake City northward to I-15 in Farmington City. A multiple-use trail for pedestrians, bicyclists, and equestrians would parallel the highway, and a large nature preserve is also planned.

Supplemental Environmental Impact Statement

The SEIS will supplement the June 2000 Legacy Parkway Final EIS (FEIS) (FHWA-UT-EIS-98-02-F), which was the subject of litigation and a court decision in *Utahns for Better Transportation et al. v. U.S. Department of Transportation et al.* (305 F.3d 1152 (10th Cir. 2002)). To address concerns identified by the court, the Corps and FHWA are directing and managing the development of an SEIS.

In accordance with the court decision, several specific aspects of the FEIS require further study. The Corps and FHWA have made a preliminary decision to consider the following in the SEIS based on the court ruling: (1) the Denver & Rio Grande railroad (D&RG) alignment,

(2) a narrower right-of-way (ROW) for the proposed alignment, (3) alternative sequencing for construction of the various component projects of the Shared Solution, (4) concurrent integration of construction of the Legacy Parkway with expansion of public transportation, and (5) impacts to wildlife. In addition, the FEIS will be reevaluated to determine whether any other information should be updated and revised as part of the SEIS process.

Agency Roles

As a joint lead agency, the Corps must make a decision on UDOT's permit application pursuant to Section 404 of the Clean Water Act (CWA). The FHWA, as a joint lead agency must make a decision on the request to connect the proposed project to I-215 and I-15. As joint lead agencies, the Corps and FHWA are responsible for the SEIS and have selected an independent consultant to ensure the SEIS process is effective and objective. UDOT is the project applicant and proponent of the Legacy Parkway. As project proponent, UDOT will provide information and answer questions related to the proposed Legacy Parkway Project. The U.S. Environmental Protection Agency (EPA), U.S. Fish and Wildlife Service (USFWS), and Federal Transit Administration (FTA) have agreed to serve as cooperating agencies in the preparation and review of the SEIS. As cooperating agencies, EPA, USFWS, and FTA are responsible for providing input to the lead agencies throughout the development of the SEIS. All agencies are committed to fully informing and engaging interested parties and agencies throughout the SEIS process.

Participation in the Supplemental Environmental Impact Statement Process

An open house has been scheduled to provide information about the SEIS process and to solicit input. All interested parties are invited to attend this open-house-style scoping meeting. Please drop by anytime on Thursday, April 17, 2003, between 4 p.m. and 8 p.m. to talk directly with agencies and consultants at a variety of information stations. The scoping meeting will be held at Woods Cross High School Auditorium, 600 West 2200 South, Woods Cross, Utah.

The following additional topic-specific focus group meetings are open to the public, and are planned for late April: (1) D&GR alignment corridor (Monday, April 28, 2003, 9 – 11 a.m.), (2) narrower ROW impact evaluation (Monday, April 28, 2003, 1 – 3 p.m.), (3) wildlife impacts (Tuesday, April 29, 2003, 9 – 11 a.m.), and (4) sequencing and integration (Tuesday, April 29, 2003, 1 – 3 p.m.). These meetings will be held at Davis County Fairpark, Building 1, 151 South 1100 West, Farmington, Utah.

Information is also available by calling our Information Hotline at (801) 951-1039. The hotline will be available throughout the SEIS process and will include general information, updates, and opportunities for public involvement.

We are interested in obtaining your input on the scope of the SEIS. You are welcome to attend any of the public meetings or focus group sessions. If you would like to submit written comments on the scope and content of the SEIS, please submit them directly to the Corps or FHWA by June 1, 2003, at the following addresses:

Nancy Kang
Chief, Utah Office
U.S. Army Corps of Engineers
533 W. 2600 S., Suite 150
Bountiful, UT 84010

Greg Punske
Environmental Program Manager
Federal Highway Administration
2520 W. 4700 S., Suite 9A
Salt Lake City, UT 84118

Your input is critical and important in this process. We look forward to hearing from you. If you have any questions regarding this request, please feel free to contact me by telephone at (801) 295-8380 extension 14, or by email at nancy.kang@usace.army.mil.

Sincerely,

Nancy Kang
Chief, Utah Regulatory Office

cc: Greg Punske, Project Development Engineer, FHWA
Andrew Gemperline, UDOT

List of Recipients

Federal Transit Administration

Federal Transit Administration
Don Cover
Region 8
216 16th Street, Suite 650
Denver, CO 80202-5120

Federal Emergency Management Agency

Mr. David Maurstad, Regional Director
Federal Emergency Management Agency
Region VIII
Building 710, Box 25267
Denver, CO 80225-0267
(303) 235-4800
(303) 235-4976 FAX

Bureau of Indian Affairs

Mr. Wayne Norwall, Regional Director
Bureau of Indian Affairs
P.O. Box 10
Phoenix, AZ 85001
(602) 379-4413
(602) 379-4413 FAX

U.S. Fish and Wildlife Service

Mr. Henry Maddux
U.S. Fish and Wildlife Service
2369 West Orton Circle, Suite 50
West Valley City, UT 84119
(801) 975-3330
(801) 975-3331 FAX

U.S. Geological Survey

U.S. Geological Survey
Utah District
2329 Orton Circle
(2329 West 2390 South)
West Valley City, Utah
84119-2047
Phone: (801) 908-5000
Fax: (801) 908-5001

Environmental Protection Agency

Cynthia Cody, NEPA Program Chief
EPA Region 8 (EPR-N)
999 18th Street, Suite 300
Denver, CO 80202-2466

Natural Resources Conservation Service

Phillip Nelson
Utah State Office
Natural Resources Conservation Services
125 S. State St.
Suite 4425
Salt Lake City, UT 84111

State Agencies

Forrest Cuch
Community and Economic Development, Division of Indian Affairs
324 South State Street
Suite 500
Salt Lake City, UT 84114

Ursula Truman
Department of Environmental Quality, Division of Air Quality
168 North 1950 West
Salt Lake City, UT 84116

Kevin Brown
Utah Division of Drinking Water
P.O. Box 144830
Salt Lake City, UT 84114-4830

Kent Gray, Director
Utah Division of Environmental Response and Remediation
168 North 1950 West (Building #2)
First Floor Box 144840
Salt Lake City, UT 84114-4840

Don Ostler
Utah Division of Water Quality
P.O. Box 144870
Salt Lake City, UT 84114-4870

Robert L. Morgan
Utah Department of Natural Resources
1594 West North Temple
Suite 3710
Salt Lake City, UT 84114

Greg Mladenka
Utah Division of Water Rights
1594 West North Temple
Suite 220
Salt Lake City, UT 84114-6300

Tharold E. Green, Jr.
Utah Division of Parks and Recreation
1594 West North Temple
Suite 116
Salt Lake City, UT 84114-6001

Judy Watanabe
Dept. of Public Safety, Division of Comprehensive Emergency Management
Flood Loss Reduction Section
1110 State Office Building
Salt Lake City, UT 84114

Carolyn Wright
Governor's Office, Resource Development
Coordinating Committee, Dept. of Natural Resources
1594 West North Temple
Salt Lake City, UT 84102

James Dykemann
State Historic Preservation Office
300 South Rio Grande
Salt Lake City, UT 84114

Larry Anderson
Utah Division of Water Resources
1594 W. North Temple
Suite 310
Salt Lake City, UT 84114

Kevin Conway
Utah Division of Wildlife Resources
1594 West North Temple
Suite 2110
Salt Lake City, UT 84114-6301

Dick Buehler
Utah Division of Forestry, Fire & State Lands
1594 W. North Temple
Suite 3520
Salt Lake City, UT 84114-5703

Native American

David Pete
Goshute Indian Tribe
BIA Hwy #1
Ibapah, UT 84034 (Box 6104)

Ivan Wongan
Northwestern Band of Shoshone Tribe
427 N. Main, Suite 101
Pocatello ID 83204

Geneal Anderson
Paiute Indian Tribe of Utah
440 N. Paiute Dr
Cedar City, UT 84720

Leon Bear
Skull Valley Band of Goshute Indians
3359 S. Main, #808
SLC UT 84115

Ron Wopsock, Administration
Ute Indian Tribe
988 S. 7500 E.,
Fort Duchesne UT 84026

New
in 16



April 17, 2003

Dear members of the Federal Highway Administration,

As Davis County's only nationally recognized historic district, we would like to point out some potential adverse affects that Legacy Highway construction could have on the homes in our neighborhood. We also request that a complete and thorough Section 106 review of these affects be studied in cooperation with the Utah State Historic Preservation Officer.

The Clark Lane Historic District occupies both sides of State Street in Farmington, from the State Street overpass over I-15 east to 200 West. The homes in the district were constructed between the 1850s through the 1920s. Most are extremely fragile, as they were built of soft adobe and/or un-reinforced masonry and fieldstone foundations.

Some of the potential adverse affects we're concerned about include:

- Damage caused by ground borne vibrations during pile driving during the reconstruction of the State Street overpass
- Adverse affects to historic landscapes and properties during reconstruction of the State Street Overpass, including:
 - o Removal of street trees
 - o Changes in grade and elevations
 - o Changes in street width and elevation
- Damage caused by ground borne vibrations of heavy trucks hauling fill materials

We appreciate the current willingness of the FHA, UDOT, and FAK to utilize the frontage road and "jug handle" near the State Street Overpass an alternate haul route to hauling materials through the historic district.

We believe the best way to mitigate affects on our historic homes is to NOT rebuild the State Street overpass. With the newly completed Burke Lane overpass just to the north, and the Glover's Lane overpass to the south, the State Street overpass seems unnecessary. It would certainly be prudent to study the necessity of this overpass before spending the money to rebuild it or risking damage to these nationally recognized properties during pile driving, etc.

We appreciate your willingness to involve us in the project and will do everything we can to help.

Much success,

A handwritten signature in black ink, appearing to read "Chadwick Greenhalgh". The signature is fluid and cursive, with the first name being the most prominent.

Chadwick Greenhalgh
208 West State Street
Farmington, UT 84025
801.245.1219
chadwick.greenhalgh@eurorscg.com

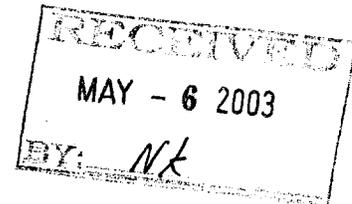


United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

In Reply Refer To
FWS/R6
ES/UT
03-0616

May 2, 2003



Greg Punske
Environmental Program Manager
Federal Highway Administration
2520 West 4700 South, Suite A
Salt Lake City, Utah 84118

Dear Mr. Punske

The U.S. Fish and Wildlife Service (Service) has reviewed the April 1, 2003, Federal Register Notice of Intent to Prepare a Supplemental Environmental Impact Statement (SEIS) for the Utah Department of Transportation's proposed construction of the Legacy Parkway project in Salt Lake and Davis Counties, Utah. The purpose of the project is to solve future traffic problems in Salt Lake and Davis Counties by implementing a three part "Shared Solutions" strategy that includes: 1) Constructing the Legacy Parkway; 2) improving and expanding Interstate 15; and 3) expanding the public transit system. This project will involve the construction of a roughly 14 mile highway from Interstate 215 in the south to U.S. 89 near Farmington, Utah in the north. A multiple use trail for pedestrians, bicyclists, and equestrians would parallel the highway. The SEIS is being prepared because the courts found certain aspects of the original EIS insufficient, including the wildlife impact analysis. The SEIS will build upon the EIS and specifically address the court-identified deficiencies.

The Service has agreed to be a cooperating agency for purposes of NEPA compliance for this project. We expect to assist the lead agencies in evaluating the potential impacts to fish and wildlife resources and developing measures to avoid, minimize, and compensate for unavoidable impacts. We are providing the following comments as general guidelines for wildlife issues we believe should be addressed. These comments are not meant to be exhaustive, however, because we expect to be closely involved with identification of wildlife issues, determining appropriate evaluation methodology, and interpreting results.

In Section 1 of this letter we convey our concerns that should be addressed in the SEIS. Section 2 of this letter addresses your responsibilities under section 7 of the Endangered Species Act (ESA) of 1973, 16 U.S.C. § 1536.

Section 1.

We recommend that the SEIS evaluate the following potential direct, indirect, and cumulative impacts on fish and wildlife resources:

Direct Effects

Mortality due to project implementation, construction, and maintenance.

Mortality due to ongoing activities associated with project (vehicle collisions with vehicles, contamination of soils/waters from road treatments, automotive fluids, truck spills, etc.).

Displacement of individuals/populations due to project implementation, construction, maintenance, and ongoing activities associated with the project. In particular, you should evaluate whether and to what extent organisms may be displaced to areas where fitness is reduced and/or mortality rates increased (population sinks).

Habitat loss/gain due to project implementation, construction, and maintenance.

Habitat loss/gain due to ongoing activities associated with project (contamination of soils/waters from road treatments, automotive fluids, truck spills, etc.).

Habitat fragmentation and its effects on mate search/selection, gene flow, predation rate, dispersal success, colonization events (as they pertain to metapopulation dynamics), and overall population size.

Effects on individual fitness (reduced nesting success, brood size, fledging success, number of matings, etc.) due to project implementation, construction, and maintenance.

Effects on individual fitness (nesting success, brood size, fledging success, number of matings, etc.) due to ongoing activities associated with project (vehicle collisions with vehicles, contamination of soils/waters from road treatments, automotive fluids, truck spills, etc.).

Effects to habitat and species diversity, both spatial and temporal, due to project implementation, construction, and maintenance.

Indirect Effects

Effects on hydrology, both temporal and spatial that relate directly with quantity, quality, and distribution of habitats.

Effects on hydrology, both spatial and temporal, that may convert one type of wetland to another, thus changing its habitat function.

Effects on water quality as it relates to habitats for wildlife and fish.

Effects on air quality due to project implementation, construction, and maintenance.

Effects on air quality due to the ongoing activities associated with the project (vehicle emissions, increased air temperatures, etc.)

Effects of ground disturbance and ongoing activities (vehicular, bike, and horse traffic, trail/berm/median maintenance) that may facilitate the introduction of invasive/exotic/noxious species.

Effects of noise on wildlife populations and individuals. Possibilities include effects on mate identification, nest location, prey location, predator location, and territory defense.

Effects of an increase of human access/activity to formerly isolated wildlife habitats on wildlife populations, mating success, mortality, foraging/hunting opportunities, etc.

Effects on development opportunities that may further reduce/impair/eliminate wildlife habitats in the project area.

Effects of increased lighting during nighttime hours on predator/prey interactions, foraging behavior, and dispersal behavior.

Cumulative Effects

Effects of continued degradation, fragmentation, and removal of wetlands in the Great Salt Lake ecosystem as it pertains to wildlife populations.

Effects of increased development and other economic opportunities as a result of improved access (induced or facilitated development) as it pertains to wildlife populations.

Effects of perpetuating single person/single vehicle transportation on future air quality, water quality, and habitat value inside and outside of the project area.

Section 2. Federal agencies have specific additional responsibilities under Section 7 of the ESA. To help you fulfill these responsibilities, we are providing an updated list of threatened (T) and endangered (E) species that may occur within the area of influence of your proposed action.

<u>County</u>	<u>Species</u>	<u>Status</u>
DAVIS		
Bald Eagle ^{1,3}	<i>Haliaeetus leucocephalus</i>	T
SALT LAKE		
Bald Eagle ^{1,3}	<i>Haliaeetus leucocephalus</i>	T

¹ Nests in this county of Utah.

³ Wintering populations (only four known nesting pairs in Utah).

The proposed action should be reviewed and a determination made if the action will affect any listed species or their critical habitat. If it is determined by the Federal agency, with the written concurrence of the Service, that the action is not likely to adversely affect listed species or critical habitat, the consultation process is complete, and no further action is necessary.

Formal consultation (50 CFR 402.14) is required if the Federal agency determines that an action is "likely to adversely affect" a listed species or will result in jeopardy or adverse modification of critical habitat (50 CFR 402.02). Federal agencies should also confer with the Service on any action which is likely to jeopardize the continued existence of any proposed species or result in the destruction or adverse modification of proposed critical habitat (50 CFR 402.10). A written request for formal consultation or conference should be submitted to the Service with a completed biological assessment and any other relevant information (50 CFR 402.12).

Candidate species have no legal protection under the Endangered Species Act (ESA). Candidate species are those species for which we have on file sufficient information to support issuance of a proposed rule to list under the ESA. Identification of candidate species can assist environmental planning efforts by providing advance notice of potential listings, allowing resource managers to alleviate threats and, thereby, possibly remove the need to list species as endangered or threatened. Even if we subsequently list this candidate species, the early notice provided here could result in fewer restrictions on activities by prompting candidate conservation measures to alleviate threats to this species.

Only a Federal agency can enter into formal Endangered Species Act (ESA) section 7 consultation with the Service. A Federal agency may designate a non-Federal representative to conduct informal consultation or prepare a biological assessment by giving written notice to the Service of such a designation. The ultimate responsibility for compliance with ESA section 7, however, remains with the Federal agency.

Your attention is also directed to section 7(d) of the ESA, as amended, which underscores the requirement that the Federal agency or the applicant shall not make any irreversible or irretrievable commitment of resources during the consultation period which, in effect, would deny the formulation or implementation of reasonable and prudent alternatives regarding their actions on any endangered or threatened species.

Please note that the peregrine falcon which occurs in all counties of Utah was removed from the federal list of endangered and threatened species per Final Rule of August 25, 1999 (64 FR 46542). Protection is still provided for this species under authority of the Migratory Bird Treaty Act (16 U.S.C. § 703-712) which makes it unlawful to take, kill, or possess migratory birds, their parts, nests, or eggs. When taking of migratory birds is determined by the applicant to be the only alternative, application for federal and state permits must be made through the appropriate authorities. For take of raptors, their nests, or eggs, Migratory Bird Permits must be obtained through the Service's Migratory Bird Permit Office in Denver at (303) 236-8171.

We recommend use of the *Utah Field Office Guidelines for Raptor Protection from Human and Land Use Disturbances* (Romin and Muck, January 2002) which were developed in part to provide consistent application of raptor protection measures statewide and provide full compliance with environmental laws regarding raptor protection. Raptor surveys and mitigation measures are provided in the Raptor Guidelines as recommendations to ensure that proposed projects will avoid adverse impacts to raptors, including the peregrine falcon.

If we can be of further assistance or if you have any questions, please feel free to contact Chris Witt, Ecologist, at the letterhead address or (801) 975-3330 extension 133.

Sincerely,



Henry R. Maddux
Utah Field Supervisor

cc: Nancy Kang, Chief, Utah Office, U.S. Army Corps of Engineers, 533 West 4700 South, Suite 9A, Salt Lake City, Utah 94010

UDWR – Salt Lake City, Ogden

Regional Office – Region 6 (Attn: NEPA Coordinator)



United States Department of the Interior

FISH AND WILDLIFE SERVICE
Mountain-Prairie Region



IN REPLY REFER TO:

FWS/R6

MAILING ADDRESS:

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

STREET LOCATION:

134 Union Blvd.
Lakewood, Colorado 80228-1807

MAY 20 2003

David Gibbs, P.E.
Federal Highway Administration
Utah Division
2520 West 4700 South, Suite 9A
Salt Lake City, Utah 84118

Dear Mr. Gibbs:

The U.S. Fish and Wildlife Service has received your letter of January 24 inviting us to be a cooperating agency in preparation of a Supplemental Environmental Impact Statement for the proposed Legacy Parkway project in Davis and Salt Lake Counties, Utah. (An identical letter has been sent to Brooks Carter, U.S. Army Corps of Engineers.) We appreciate, and accept, the invitation. As described in your letter, our role would include:

- Consulting on relevant technical studies required for the project.
- Reviewing project information including study results and agree on a time frame for our review.
- Expressing our views on subjects within our jurisdiction or expertise.
- Participating in joint public involvement activities.
- Identifying Environmental Impact Statement content necessary to discharge our National Environmental Policy Act responsibilities and other requirements regarding jurisdictional approvals, permits, licenses, and/or clearances.

The Utah Ecological Services Field Office will be the lead office for the FWS on this project. Your principal FWS contact will be Dr. Lucy Jordan, Supervisory Fish and Wildlife Biologist, telephone: (801) 975-3330 extension 143; e-mail: lucy_jordan@fws.gov. The project biologist will be Chris Witt, Ecologist, at extension 133; email: chris_witt@fws.gov.

David Gibbs, P.E.

2

Again, we appreciate the opportunity to participate in the preparation of a Supplemental Environmental Impact Statement for the Legacy Parkway project.

Sincerely,



Mary Henry
Assistant Regional Director
Ecological Services

Identical letter to:

Brooks Carter
U.S. Army Corps of Engineers

THPO

Skull Valley Band of Gosiute Indians
3359 S. Main Street #808
Salt Lake City, UT 84115
thpo@earthlink.net

Greg Punskey
USDOT/FHWA
Utah Division
2520 West 4700 South, STE. 9A
SLC, UT 84118-1847

June 10, 2003

RE: NA Consultation

Mr. Punskey,

We appreciate the USDOT/FHWA (FHWA) recent consultation requests. The following discusses procedures, compliance with HPL, and pressing issues that require resolution. For the immediate future until the relationship with the UDOT improves we request that FHWA continue consultation responsibilities for the Federally Funded State Agency. Please keep in mind DOT 186-99 "U.S. Transportation Secretary Slater Signs Order Establishing New Policy For Working with Native Americans".

First, We are extremely concerned with the Legacy Highway Project in the areas of environmental, sacred, and Cultural Resources issues. We understand that the USDOT/FHWA is a Joint Lead Agency. There are numerous compliance issues that arose during the original phase of this project which involve cultural resource and NAGPRA concerns.

As we understand two sets of skeletal remains and numerous archaeological sites were located during the original project. Federal Funding allows the FHWA and Army Corps of Engineers to be Lead Agencies for the Environmental Impact Statement. For these reasons and the expenditure of Federal Funding for the oversight of two sister Agencies, it is of utmost importance for your Agency to comply with relevant Historic Preservation Law. As we understand the State will utilize Federal Grants to build the proposed highway if approved. We expect Federal Oversight to continue throughout all phases of this project.

During January 2003 the Band sent your agency an Indigenous Lands Cultural Patrimony Map. We request that your Agency consult with the Band on all projects within this area. As can be gleaned from the map,

the Wasatch Front area between Ogden, and North of Utah Lake is an area the Gosiute utilized along with the Northern Ute and Northwest Band of the Shoshone Indians. We recommend in this area that all three Tribes be consulted.

Concerning skeletal remains unearthed and desecrated due to project planning for the proposed Legacy Highway Project, we request that these remains and associated and un-associated funerary objects be repatriated to the Band as soon as possible. Due to the use of Federal Funding for oversight of the project, the jurisdiction of the NAGPRA related human remains and objects falls within Federal Jurisdiction.

This is an official claim for the repatriation of skeletal remains, associated and unassociated funerary items and sacred objects desecrated and removed from ancestral land, in this case the Federal Law takes precedence due to the use of Federal Oversight. It is the responsibility of the Lead Agencies to comply with Historic Preservation Law before the expenditure for funding and license or permit of any project.

This repatriation claim is made under the authority of the Native American Grave Protection and Repatriation Act (NAGPRA: Public Law 101-601' 104 Stat. 3048: 25USC3001).

Our intention is to repatriate all, NAGPRA protected materials. We are basing this cultural affiliation claim on reserved Treaty Rights, Indian Claims Commission findings an historical documentation of ancestral lands, human rights, religious freedom, spirituality, and the preponderance of scientific evidence. As provided under NAGPRA 25 USC - Sec 2 - Sec 3 (1) (2) (a-b-c (1)), we request the immediate return of these ancestors and material culture objects.

No consumptive analysis of these remains is permitted or authorized and we are firm in our conclusions that the above referenced scientific an historical evidence supports this claim. Any further scientific analysis used to support undocumented scientific findings is unnecessary and would be a violation of NAGPRA.

As has been gleaned from recent NA Consultation requests from your Agency between November 26, 2003 and May 25, 2003 the following concerns are related.

Sacred, Spiritual, Religious concerns: Particular geography or power centers that emanate from Grandmother earth are cave

openings, rock-shelters, caves, springs, ponds, streams, lakes, rock overhangs, outcrops, canyons, mountain tops, volcanic vents, hot springs, geologic hoodoos, large trees, ancient trees, and so on, within striking natural features. Sacred Earth Matrix is considered holy places where "prayer offerings, and ceremonies take place. Any excavation or looting of these sites is extreme reasons for concern with the Band. In the future we would like to work with your staff in identifying sacred items removed from the matrix through excavation within the Gosiute ancestral land.

As is usually the case in areas where extreme disturbance and Urban Sprawl has occurred, many cultural resources are located through undertaking activities. We are concerned that when project oversight leaves the watchful oversight of the Federal Lead Agencies that the same care and protection provided by our Nations Historic Preservation Law is not considered fully. We request that Federal Oversight of entire project phases be done, so as to allow for compliance.

The following discusses specific concerns with undertakings.

A recurrent problem in reports is that the contemporary mainstream Culture History of the archaeology in the area is void of Gosiute modulation and orientation before 1,350 A.D. We do not agree with the Culture History. We are writing a Band Culture History for ancestral lands scheduled for completion in December of 2003 (Brewster, Dissertation 2003). However, this document is expected to change as new data are added. We would appreciate having an equal voice in the scientific analysis of our ancestral lands and at this time we require that a disclaimer be added to reports:

Presently, the Skull Valley Band of Gosiute Indians does not agree with the current Eastern Great Basin archaeological culture history due to its exclusion of Gosiute thought and disconnection from ancestors. A Band Culture History is in development to offer a Gosiute and Shoshone view on the history of its ancestors in the Region. For the present purpose, the Gosiute and Shoshone assert that the archaeology of the Region supports an in situ development for 12,000+ years.

We request a copy of final archaeological reports for our files. In addition, we will review in house projects only, in keeping with Cultural Resource Management compliance procedure. However, we urge the FHWA in the future, that contract Archaeological Consultant companies

and proponents write Native American Consultation fees into their proposals for work within ancestral Gosiute land.

The Band THPO has, it's own Principal Investigator and these fees are set at the standard rate of \$50.00 per hour. Field visits for complex projects with potential site visits include the standard mileage, field rates, and hourly wage for providing services.

Concerning "inadvertent discoveries", of skeletal remains and associated funerary objects and/or cached prayer offerings. We require immediate notification by phone so we can process and coordinate spiritual responsibilities of the Band toward ancestors.

We are planning a training August 28, 2003 for Federal, State, Public and Tribal Cultural Resources Management managers and government. The training concerns Compliance with Historic Preservation Law. We will contact you with the official notification for this training that will be held at the Indian Walk in Center. The Advisory Council on Historic Preservation will also provide a Lecture concerning the compliance at this training.

Please contact us at your earliest convenience and if you require further data please do not hesitate to contact us at the above address.

Thank You,

A handwritten signature in cursive script, appearing to read "Leon Bear", written in black ink.

LEON BEAR
Band Executive



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

Regulatory Branch

June 13, 2003

Mayor Rick Miller
Fruit Heights
910 S. Mountain Road
Fruit Heights, UT 84037

RE: Participation Opportunities for Preparation of the Legacy Parkway Supplemental Environmental Impact Statement (SEIS)

Dear Mr. Mayor:

The U.S. Army Corps of Engineers (Corps) and Federal Highway Administration (FHWA) invite you to take an active role in the development of the supplemental environmental impact statement (SEIS) for the Legacy Parkway project.

Community Planning and Information Committee (CPIC)

At the Legacy Parkway public scoping meetings in April 2003, the citizens and communities informed us of their desire to be involved in the Legacy SEIS process. We are therefore forming a Community Planning and Information Committee (CPIC) to help us better collect and share information that is critical to our technical work on the environmental analysis.

Concurrent with the development of the Legacy SEIS, FHWA is reevaluating the draft environmental impact statement (DEIS) for the I-15 North project. Both the Legacy Parkway project and the I-15 North project are components of the "Shared Solution" for transportation issues in the north corridor. Since both projects are related and dependent upon one another, we'll be using the CPIC meetings to gather information for the I-15 North project as well. We welcome your participation in this effort, and ask that you designate two persons from your organization's Planning and Development Department or Public Works Department to participate in the CPIC and to attend the meetings. (No more than two representatives per organization please.)

CPIC Meetings

We currently anticipate three CPIC meetings this year related to the Legacy Parkway and I-15 North projects. In addition to these meetings, the Legacy Parkway team will be holding more meetings once development of the Legacy SEIS is initiated, and the I-15 North team will be holding more meetings as their process progresses.

The first CPIC meeting is scheduled for Thursday, July 10, 2003, from 2:00 to 4:00 p.m., at the Bountiful City Hall, 790 South 100 East, Bountiful, Utah. The first meeting will provide a status update on the I-15 North reevaluation and an opportunity to address Legacy Parkway topics,

including the proposed trail, the narrower right-of-way, and the D&RG Regional Alignment. The following issues will be covered:

- How would a roadway alignment within the D&RG corridor impact your community?
- Where would you like to see a trail in your community, if a trail is not proposed adjacent to the Legacy Parkway?

The second CPIC meeting is proposed for late July or early August. The meeting will address the findings of the I-15 North reevaluation and sequencing and integration of the Legacy Parkway project.

Your Response

We request your response to our invitation by Thursday, June 26, 2003. You may respond by calling or emailing Kimberly Stevens at 801-951-1026 ext. 317 or kstevens@jsanet.com. If you have any questions about the CPIC, please call Nancy Kang at the Corps (801-295-8380 ext. 14) or Greg Punske at FHWA (801-963-0078 ext. 237).

Sincerely,

Nancy Kang
Chief, Utah Regulatory Office
U.S. Army Corps of Engineers

cc: Greg Punske, Project Development Engineer, FHWA
Andrew Gemperline, UDOT

enclosure

Local Government Recipient List

Commissioner Dannie R. McConkie
Davis County
Davis County Memorial Courthouse
P.O. Box 618
Farmington, UT 84025

Mayor Carl Martin
West Bountiful City
550 North 800 West
West Bountiful, UT 84087

Mayor Joe Johnson
Bountiful City
P.O. Box 369
Bountiful, UT 84010-0369

Mayor Mike Deamer
Centerville City
3500 South Main, Suite 206
Salt Lake City, UT 84115

Mayor Kay Briggs
North Salt Lake City
P.O. Box 208
North Salt Lake, UT 84054

Mayor Jerry Larrabee
Woods Cross City
466 North 900 West
Kaysville, UT 84037

Mayor David Connors
Farmington City
P.O. Box 160
Farmington, UT 84025-0160

Mayor Nancy Workman
Salt Lake County
2001 S. State, Suite N2100
Salt Lake City, UT 84190

Mayor Rocky Anderson
Salt Lake City Corporation
451 S. State
Salt Lake City, UT 84111

Mayor Brian Cook
Kaysville City
23 E. Center
Kaysville, UT 84037

Mayor Rick Miller
Fruit Heights
910 S. Mountain Road
Fruit Heights, UT 84037



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

Regulatory Branch

June 13, 2003

Mick Crandall
UTA
221 West 2100 South
Salt Lake City, UT 84115

RE: Participation Opportunities for Preparation of the Legacy Parkway Supplemental Environmental Impact Statement (SEIS)

Dear Mr. Crandall:

The U.S. Army Corps of Engineers (Corps) and Federal Highway Administration (FHWA) invite you to take an active role in the development of the supplemental environmental impact statement (SEIS) for the Legacy Parkway project.

Community Planning and Information Committee (CPIC)

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Sincerely,

Nancy Kang
Chief, Utah Regulatory Office
U.S. Army Corps of Engineers

cc: Greg Punske, Project Development Engineer, FHWA
Andrew Gemperline, UDOT

enclosure

Recipient List

Chuck Chappell
Wasatch Front Regional Council
295 N. Jimmy Doolittle Road
Salt Lake City, UT 84116

Mick Crandall
UTA
221 West 2100 South
Salt Lake City, UT 84115

Stephen Holbrook
Executive Director
Envision Utah
254 S. 600 E.
Salt Lake City, UT 84102

David Schaller
8P-R
US EPA, Region 8
999 18th Street, Suite 300
Denver, CO 80202-2466

Roger Borgenicht
Chair, Future Moves Coalition for
Utahns for Better Transportation
218 E. 500 S.
Salt Lake City, UT 84111

Nina Dougherty
Sierra Club
Utah Chapter Office
2120 S. 1300 E.
Suite 204
Salt Lake City, UT 84106-3785



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922
October 2, 2003

RECEIVED OCT 06 2003

Regulatory Branch (200350493)

Nancy Keate
Utah Department of Natural Resources
Division of Wildlife
1594 West North Temple, Suite 2110
P.O. Box 146301
Salt Lake City, Utah 84114-6301

Dear Dr. Keate:

The Corps of Engineers and the Federal Highway Administration are developing a Supplemental Environmental Impact Statement (SEIS) to re-evaluate the environmental effects of the Legacy Parkway Project proposed by Utah Department of Transportation. As you are aware, the project was subject to litigation and a court decision. This SEIS will be used to address limited deficiencies identified by the Court and, where needed, will update, when needed, portions of the original Final EIS (FEIS) dated June 2000.

We are currently reviewing our assessment of the project's impacts to wetlands made in the FEIS. In accordance with Nation Environmental Policy Act regulations (40 CFR 1502.9(c)), we are required to supplement our original environmental document if we determine (1) there were substantial changes in the proposed action that are relevant to environmental concerns; or, (2) there are significant new circumstances or information relevant to the environmental concerns and bearing on the proposed action or its impacts.

Although the Court upheld our reliance on the functional analysis methodology used in the original FEIS, we still must consider whether there is significant new information to warrant a supplement. As you are recognized as the State's leading wetland scientist and technical expert on the hydrogeomorphic functional assessment (HGM) methodology, we would like your assessment on whether recent improvements to the Great Salt Lake Ecosystem Slope Wetlands HGM model would constitute "significant new circumstances or information."

Under separate cover we have sent a copy of the original FEIS sections related to wetlands, including the technical appendix of the original HGM analysis for your review. While the decision to revise the wetland section is under the authority of the Corps of Engineers, we would appreciate your expert input.

Thank you for your cooperation. If you have any questions, please contact me at our Utah Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010, or email Nancy.Kang@usace.army.mil, or telephone 801-295-8380, extension 14.

Sincerely,

ORIGINAL SIGNED

Nancy Kang
Chief, Utah Regulatory Office

Copy furnished:

- ✓ Andrew Gemperline, P.E., Utah Department of Transportation, 360 North 700 West, Suite F
2nd Floor, North Salt Lake, Utah 84054
- Greg Punske, P.E., Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt
Lake City, Utah 84118-1847

November 18, 2003

Field Supervisor
United States Department of the Interior
Fish And Wildlife Service
2369 West Orton Circle
West Valley City, Utah 84119

RE: Environmental Re-Evaluation of the Legacy Parkway Final Environmental Impact Statement

Dear Field Supervisor:

The proposed Legacy Parkway would be a four-lane, limited-access, divided highway extending approximately 22.5 kilometers (14 miles) from Interstate 215 at 2100 North in Salt Lake City northward to I-15 and U.S. 89, near Farmington, Utah (see attached project location figures). The primary purpose of the Legacy Parkway project is to provide a portion of the transportation facilities needed in the North Corridor to accommodate the safe and efficient movement of people and goods projected for the year 2020.

A Final Environmental Impact Statement (FEIS) for the Legacy Parkway was released in June 2000, however, The United States Court of Appeals, 10th Circuit remanded the FEIS in September 2002 for further consideration. Under direction of the Federal Highway Administration and U.S. Army Corps of Engineers, an Environmental Re-evaluation of the Legacy Parkway Final Environmental Impact Statement (FEIS) is being prepared to support drafting of the Legacy Parkway Supplemental Environmental Impact Statement (SEIS).

Section 4.15 of the FEIS presented the following as federally listed Threatened or Endangered species potentially affected:

Species		Status	Known or Potential Effect
Common Name	Scientific Name		
Ute ladies' tresses	<i>Spiranthes diluvialis</i>	Threatened	No effect; not located in study area
Bald Eagle	<i>Haliaeetus leucocephalus</i>	Threatened	Likely to be affected
Mountain Plover	<i>Charadrius montanus</i>	Proposed Threatened	Not likely to be affected because distribution is outside study area

A Final Formal Biological Opinion for the Legacy Parkway project was received from the USFWS, dated February 11, 1999, wherein the Service concurred with a biological assessment that the proposed project may affect and is likely to adversely affect the bald eagle and peregrine falcon (*Falco peregrinus*). The Biological Opinion also states that the Legacy Parkway is not likely to jeopardize the continued existence of the bald eagle and that no critical habitat has been designated for the bald eagle in Utah, so none would be affected.

A letter from the USFWS dated September 17, 1999, acknowledged the removal of the peregrine falcon from the federal list of endangered and threatened wildlife, and stated that the terms and conditions of its former Biological Opinion are no longer considered nondiscretionary with respect to the peregrine falcon. Nevertheless, the USFWS still recommended implementing all strategies outlined in the Biological Opinion to prevent any violations under the Migratory Bird Treaty Act.

Please let us know if the USFWS still concurs with the determination outlined in the Biological Opinion and whether information provided from the FEIS remains current for the subject proposed project.

Sincerely,
HDR, Inc.

Mike Perkins
Biologist
Legacy Parkway Team
360 North 700 West, Suite F
North Salt Lake, UT 84054

cc: project files



United States Department of the Interior
FISH AND WILDLIFE SERVICE

UTAH FIELD OFFICE
2369 WEST ORTON CIRCLE, SUITE 50
WEST VALLEY CITY, UTAH 84119

In Reply Refer To
FWS/R6
ES/UT
04-0221

December 3, 2003

Mike Perkins
Biologist
Legacy Parkway Team
360 North 700 West, Suite F
North Salt Lake, UT 84054

Dear Mr. Perkins:

The U.S. Fish and Wildlife Service (Service) has reviewed your letter of November 18, 2003 requesting concurrence outlined in the February 11, 1999 Biological Opinion (BO) for the Legacy Parkway Final Environmental Impact Statement. The Service maintains that the BO is still in effect. However, your document lists the mountain plover (*Charadrius montanus*) as Proposed Threatened. At this time, the mountain plover is no longer proposed for listing and can be removed from the species list for your project area.

We appreciate the opportunity to provide these comments. If you need further assistance, please contact Chris Witt, Ecologist, at the letterhead address or (801) 975-3330 ext. 133.

Sincerely,

For Henry R. Maddux
Utah Field Supervisor

cc: UDWR - SLC
✓ FHWA - Attn: Greg Punske
COE - Attn: Nancy Kang

Weber County to Salt Lake City Commuter Rail Project Partnering Charter July 15, 2004

Mission:

We agree to work together as a team to complete the design and construction of the Weber County to Salt Lake City Commuter Rail Project in a way that meets the transit, highway and freight railroad needs in a safe, efficient and cost-effective manner.

The success of our efforts on behalf of the Commuter Rail project will be measured by the public in their acceptance and use of commuter rail and by the stakeholders, including neighborhoods and communities, as the commuter rail operates as part of an integrated and complementary transportation system that provides for the safe and efficient movement of people, goods and services.

Objectives:

Safety: We agree to design, construct, and operate a project that will provide safe conditions for transit and highway system patrons, construction workers, pedestrians, freight railroad employees, highway construction and maintenance crews, and the people living and working adjacent to the corridor.

Teamwork: We agree to work together to achieve our mutually agreeable and beneficial goals in a spirit of cooperation, positive reinforcement, trust, respect and accountability and to work together in making decisions in a timely manner.

Cost-Effectiveness: We agree to maintain a strong focus on finding and implementing the most cost-effective solutions to the design and construction of the project and performing the work within the agreed budgets. All team members will continue to look for value engineering opportunities early on without compromising the integrity of the railroad, highway and transit systems.

Quality: We agree to design and construct the project in accordance with recognized standards which meet the long-term needs for transit users, communities, and adjacent railroad and highway systems, offers value for the investment, is compatible with the environment and provides a safe, reliable, clean, quiet, efficient and comfortable riding experience.

Schedule: We agree to make the on-time completion of the project a high priority by developing and adhering to a mutually agreeable schedule, timely resolving problems, and utilizing resources appropriately.

Communication: We agree to establish and maintain clearly defined channels of communication between the stakeholders and the public, and communicate in an open and positive manner.

Construction Impacts: We agree to collaborate as a team in minimizing construction impacts to the stakeholders and their customers.

Issue Resolution: We agree to seek early identification and timely resolution of differences in an atmosphere of openness, accessibility, fairness, understanding, mutual agreement, listening, mutual respect and attention to details.

Environmental Awareness: We agree to pursue the design, construction and operation of this system with conformance to the commitments within the environmental document and to existing laws, regulations and community concerns. Special attention will be given to communicating with the permitting/regulatory agencies.



Andrew Styerlain
D.D.
Walter Wood
Randy Woyler
Thomas J. Ogee
Jerry White
Tony K. Love
Al Farrow
Curtis Hill
Kevin J. Smiley
Michael Fisher
Ala. Bach
Dave, Orvell
C. J. [unclear]
Michael [unclear]
M. J. Christensen

Wm. J. Jolley
W. H. [unclear]
Mark [unclear]
Al Hill
Kevin [unclear]
Randy [unclear]
Howard J. Anderson
Bill [unclear]
Ted [unclear]
Mela Farrow
Jim [unclear]
Paul M. [unclear]
Ray W. [unclear]
Rich [unclear]
[unclear]
[unclear]



RECEIVED SEP 27 2004

JOE L. JOHNSON
MAYOR

CITY COUNCIL
BARBARA HOLT
R. FRED MOSS
JOHN S. PITT
J. GORDON THOMAS
TOM TOLMAN

CITY MANAGER
TOM HARDY

September 23, 2004

John Thomas, P.E.
Legacy Parkway Project Manager
360 N. 700 West Suite F
North Salt Lake, UT 84054

RE: Bountiful Recreation Pond
South of Bountiful Sanitary Landfill

Dear Mr. Thomas

By letter of December 11, 1997 and a follow-up letter of September 2, 1999, we provided HDR Engineering, then the Utah Department of Transportation's (UDOT's) contractor for the Legacy Parkway Environmental Impact Statement, with information concerning the Bountiful Recreation Pond (the "Pond") and our views on possible impacts of the planned Legacy Parkway on this property. We asked that "impacts of the proposed highway should be kept as minimal as possible" and presented our views on several specific items.

In the years since those letters, we have been pleased to maintain an open dialogue with UDOT and the federal agencies working on the Legacy Parkway. We believe that the Legacy Parkway has been designed and planned to have no impacts to the Pond. Bountiful fully supports prompt development of the Legacy Parkway at the location known as the Preferred Alternative. To assist in the ongoing review of this project, Bountiful City offers additional information concerning the pond property.

The property upon which the Pond is located was originally acquired by Bountiful City with the intent of using the property in landfill operations, specifically as an area to mine clay cover soil for use at the landfill and/or possible landfill expansion or equipment and materials storage. In 1991 Bountiful received a 404 permit from the U.S. Army Corps of Engineers which allowed us to excavate over 650,000 cubic yards of clay soil from the property for use in our landfill operations. As part of this construction project, Barton/Stone creek was concrete lined and diverted into the excavation. This is how and why the Pond was created. At that point people began using the area for recreational purposes such as fishing and bird watching. These activities were not encouraged by the City and the property was not managed as a recreational facility by the City.

In December 2001 Bountiful City applied for and obtained a grant to improve and construct some recreational facilities at the Pond location. We previously submitted to you a copy of the grant agreement and a site plan which shows the improvements at the pond. The site plan clearly shows the areas which the City determined would be the most appropriate for recreational development

Mark W. Franc P.E.

Bountiful City Engineering Department

790 South 100 East • P.O. Box 369 • Bountiful, Utah 84011-0369 • (801) 298-6125 • FAX (801) 298-6033 • mfranc@bountifulutah.gov

and areas which would be most appropriate for potential other uses (the undeveloped areas). As part of the grant agreement Bountiful City agreed to maintain the recreational facilities for at least the next 30 years which we intend to do.

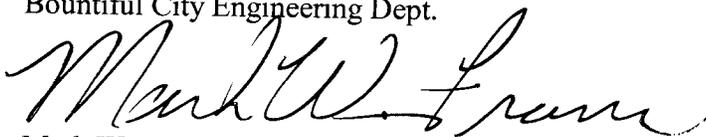
In addition to maintaining the designated recreational facilities at the property, the City intends to use other parts of the property for other municipal purposes as needed. These may include equipment and/or materials storage, staging, or as a source for additional clay soil. This multiple use management is necessary because Bountiful City cannot predict whether parts of the pond property may be needed for these or other municipal purposes.

Under current and future planned management, no recreational improvements or activities are existing or planned in the southeast corner of the Pond property. This area is unused acreage within the property boundary that Bountiful has long decided will be part of the Legacy Parkway Preferred Alternative alignment. The City approached the design of the recreational facilities and the ongoing management of the facilities with full knowledge and intent that this part of the property should be used for the Legacy Parkway and as future access to the recreational facilities.

It is our understanding that the current design for the Legacy Parkway does not impact any portion of the Pond and/or any recreational features associated with the Pond. We feel that our recreational facility and our ability to manage it as such will not be negatively impacted by construction of the Legacy Parkway as currently designed at the location known as the Preferred Alternative. In fact, we feel that the Parkway and the included frontage road adjacent to the Pond property will improve and create planned access to recreational areas of the property that currently have limited access.

We have taken steps in obtaining and administering the funds from the grant to carefully consider how the property can best be used under a multiple use management system. We understand that, based on our prior letters, the federal agencies considered the entire Pond property to be a significant recreational resource. As owners and managers of the property, we believe that conclusion is not correct. We would be happy to provide any additional information that you may find useful.

Sincerely,
Bountiful City Engineering Dept.

A handwritten signature in cursive script, appearing to read "Mark W. Franc".

Mark W. Franc, P.E.
Asst. City Engineer

DETERMINATION OF ELIGIBILITY
AND
FINDING OF EFFECT

for

PROJECT NO. SP-0067(1)0: LEGACY PARKWAY
(FORMER LEGACY WEST DAVIS HIGHWAY)
SALT LAKE AND DAVIS COUNTIES, UTAH

Prepared by the

FEDERAL HIGHWAY ADMINISTRATION, UTAH DIVISION

and the

UTAH DEPARTMENT OF TRANSPORTATION

Submitted to the

UTAH STATE HISTORIC PRESERVATION OFFICE

Wilson Martin, State Historic Preservation Officer

November 3, 2004

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SUMMARY SHEET

1. Project: SP-0067(1)0: Legacy Parkway
2. Location: Salt Lake to Farmington, Salt Lake and Davis Counties, Utah
3. Funding: State
4. Lead Federal Agency: Federal Highway Administration & U.S. Army Corps of Engineers
5. Inventory/Evaluation Reports:

Author(s)	Title
(Colman and Coleman et. al. 1998)	<i>A Cultural Resources Inventory of the Proposed Legacy-West Davis Highway in Davis and Salt Lake Counties, Utah</i>
(Colman 1999)	<i>Cultural Resource Inventory of Wetland Mitigation Areas for the Legacy Parkway,</i>
(Overstreet, Seacat et. al., 2004)	<i>Supplemental Cultural Resources Report for the Proposed Legacy Highway Project from Salt Lake City, Salt Lake County to Kaysville, Davis County, Utah</i>
(Wright 2001),	<i>Class III Cultural Resource Inventory for the Legacy Nature Preserve, Davis County, Utah</i>
(Elsken 2004),	<i>Documentation of the Woodman Townsite, the Antelope Island Improvement Company Boat Landing, the Lake Shore Bathing Resort, and Associated Features for the Legacy Parkway Project in Davis County, Utah</i>
(Seddon & Lundin, 2003),	<i>Site DV94: A Human Remains Discovery in the Jordan River Wetlands, Davis County, Utah</i>
(Seddon, et. al. 2004)	<i>Industrial Debris and the Bottle Louse: Data Recovery at the Lagoon Drive Discovery Site (42DV 93) on the Legacy Parkway project, Farmington, Davis County, Utah</i>
6. Historic Properties: See Table 1.
7. Affected Historic Properties:

Alt. A	42Dv2, 42Dv94, 42Dv97, D&RG railroad, 10 N 650 W, Farmington, Clark Lane Historic District, 662 W Clark Lane, Farmington
Alt. B	42Dv2, 42Dv70, 42Dv77, 42Dv90, 42Dv94, D&RG railroad, 1300 Glover Lane, Farmington, Clark Lane Historic District, Farmington, 662 W Clark Lane, Farmington, 10 N 650 W, Farmington

	Alt. C	42Dv2, 42Dv94, 42Dv97, D&RG railroad, Clark Lane Historic District, Farmington, 662 W Clark Lane Farmington, 10 N 650 W, Farmington
	Alt. D&E	42Dv2, 42Dv94, 42Dv97, D&RG railroad, Clark Lane Historic District, Farmington, 662 W Clark Lane Farmington, 10 N 650 W, Farmington
	Redwood Alt.	42Dv2, 42Dv67, 42Dv94, 836 S Redwood Woods Cross, 918 S Redwood, Woods Cross, 946 S Redwood, Woods Cross, 974 S Redwood, Woods Cross, 1650 S Redwood, Woods Cross, 2018/2020 S Redwood, Woods Cross, 2408 S Redwood, Woods Cross, 1095 N Redwood, North Salt Lake, D&RG railroad, Clark Lane Historic District, Farmington, 662 W Clark Lane Farmington, 10 N 650 W, Farmington
	Alt. A	42Dv2, 42Dv94, 662 W Clark Lane, Farmington, 10 N 650 W, Farmington
8.	Project Effect: Adverse Effect	Alt. B 42Dv70, 42Dv77, 42Dv90, 1300 Glover Lane, Farmington, 662 W Clark Lane Farmington, 10 N 650 W, Farmington
	Alt C	42Dv2, 42Dv94, 662 W Clark Lane, Farmington, 10 N 650 W, Farmington
	Alt D&E	42Dv2, 42Dv94, 662 W Clark Lane, Farmington, 10 N 650 W, Farmington
	Redwood Alt.	42Dv2, 42Dv67, 42Dv94, 836 S Redwood Woods Cross, 918 S Redwood, Woods Cross, 946 S Redwood, Woods Cross, 974 S Redwood, Woods Cross, 1650 S Redwood, Woods Cross, 2018/2020 S Redwood, Woods Cross, 2408 S Redwood, Woods Cross, 1095 N Redwood, North Salt Lake, 662 W Clark Lane, Farmington, 10 N 650 W, Farmington

Table 1: Sites Recorded during the Surveys

In-Period Historic Structures					
Address	City	Year	Type	Eligibility	
326 Burke Lane	Farmington	1920	Hall Parlor House	N	
1300 Glover Lane	Farmington	1950	Animal Facility	Y	
415 S 650 W	Farmington	1950	Animal Facility	Y	
637 S 650 W	Farmington	1910	Cross Wing House/Animal Facility	Y	*
2120 S 650 W	Farmington	1930	Animal Facility	Y	
1515 N 1100 W	W. Bountiful	1920	Foursquare House	Y	
2125 N 1100 W	W. Bountiful	1940	Animal Facility	Y	
772 S Redwood	Woods Cross	1930	Bungalow House	N	
808 S Redwood	Woods Cross	1930	Bungalow House	N	
836 S Redwood	Woods Cross	1950	WWII Era Cottage	Y	
864 S Redwood	Woods Cross	1930	Bungalow House	N	#
918 S Redwood	Woods Cross	1920	Cross Wing House	Y	
946 S Redwood	Woods Cross	1950	WWII Era Cottage	Y	*
974 S Redwood	Woods Cross	1920	Bungalow House	Y	
1430 S Redwood	Woods Cross	1920	Cross Wing House	N	*
1452 S Redwood	Woods Cross	1950	WWII Era Cottage	Y	
1650 S Redwood	Woods Cross	1920	Cross Wing House	Y	*
2018/2020 S Redwood	Woods Cross	1920	Cross Wing House	Y	
2408 S Redwood	Woods Cross	1950	WWII Era Cottage	Y	
1095 N Redwood	N. Salt Lake	1950	WWII Era Cottage	Y	
ca. 900 N Redwood	N. Salt Lake	1905	Foursquare House	Y	
3290 N 2200 W	N. Salt Lake	1950	Ranch House	Y	
3200 N 2200 W	N. Salt Lake	1955	Ranch House	Y	
2790 N 2200 W	N. Salt Lake	1950	WWII Era Cottage	N	#
2770 N 2200 W	N. Salt Lake	1920	Foursquare House	Y	
2704 N 2200 W	N. Salt Lake	1950	WWII Era Cottage	N	
2662 N 2200 W	N. Salt Lake	1930	Bungalow House	Y	
2650 N 2200 W	N. Salt Lake	1950	WWII Era Cottage	Y	
2664 N Rose Park Lane	N. Salt Lake	1910	Foursquare House	Y	
393 W State Street	Farmington	1910	Cross Wing House	N	
Clark Lane Historic District	Farmington	Varies	District	Y	*
662 W Clark Lane/ 650 W. Clark Lane	Farmington	1950	Animal Facility	Y	*
10 N. 650 West	Farmington	1910	Temple Form House	Y	*
453 W Glovers Lane	Farmington	1955	WWII Era Cottage	N	

Archaeological Sites

Site Number	Type	Eligibility	
42Dv2	Prehistoric	Y	*
42Dv3	Prehistoric	?	
42 Dv4	Prehistoric	?	
42 Dv22	Prehistoric	N	
42 Dv35	Prehistoric	Y	
42Dv67	Historic	Y	*
42Dv68	Historic	N	*
42Dv69	Historic	N	#
42Dv70	Prehistoric	Y	*
42Dv71	Historic	N	*
42Dv72	Prehistoric	Y	*
42Dv73	Historic	N	*
42Dv74	Multi-Component	Y	*
42Dv75	Historic	N	*
42Dv76	Prehistoric	Y	*
42Dv77	Prehistoric	Y	*
42Dv80	Prehistoric	Y	***
42Dv88	Prehistoric	Y	***
42Dv89	Historic	N	#
42Dv90	Historic	Y	
42Dv91	Historic	N	**
42Dv92	Historic	N	**
42Dv93	Historic	N	
42Dv94	Prehistoric	Y	
42Dv97	Historic	Not Evaluated	
42Dv98	Multi-Component	Y	
42Dv102	Historic	N	
42Dv103	Historic	N	
42Dv112	Historic	N	
42Dv113	Historic	N	
42SI154/182	Multi-Component	Y	*
42SI155	Prehistoric	N	*
42SI197	Prehistoric	N	
42SI241	Historic	N	*
42SI242	Multi-Component	Y	*
42SI243	Historic	N	*
42SI244	Prehistoric	N	*
42SI245	Multi-Component	N	*
42SI246	Prehistoric	Y	*
42SI247	Historic	N	*
42SI248	Prehistoric	Y	*
42SI249	Prehistoric	N	*
42SI250	Historic	N	*

42SI251	Historic	N	*
42SI252	Prehistoric	N	*
42SI253	Historic	N	*
42SI254	Historic	N	*
42SI255	Historic	Y	*
D&RG Railroad	Historic	Y	
UP Railroad	Historic	Y	
* = Eligibility determined with SHPO concurrence in August 31, 1998 DOE/FOE			
** = Eligibility determined with SHPO concurrence in July 18, 2002 DOE/FOE			
*** = Eligibility determined with SHPO concurrence in June 5, 2002 DOE/FOE			
# = Change in eligibility determination from previous DOE/FOE			

Introduction

This documentation is a Determination of Eligibility and Finding of Effect (DOE/FOE) for State highway project No. SP-0067(1)0; Legacy Parkway, Salt Lake and Davis Counties, Utah. This project will comply with all federal regulations because it has the potential to use Federal-aid highway funds. This document specifies the consideration given to historic properties in accordance with Section 106 of the National Historic Preservation Act of 1966, as amended, and 36 CFR 800: Protection of Historic Properties. The Federal Highway Administration, Utah Division (FHWA) and the U.S. Army Corps of Engineers are the lead federal agencies for purposes of Section 106. The Utah Department of Transportation (UDOT) is the state highway agency coordinating this project, and is the applicant for federal funds. A summary sheet condensing pertinent project data is provided at the beginning of this document to expedite Section 106 reviews.

A DOE/FOE was prepared for the Legacy Parkway project originally on August 31, 1998. A lawsuit was filed subsequent to the Record of Decision on the Environmental Impact Statement (EIS) prepared for the project. Based upon the results of the lawsuit, a Supplemental EIS will be prepared. This DOE/FOE re-examines and re-evaluates site eligibility and effects based upon proposed project design changes and the passage of time. This DOE/FOE replaces the August 31, 1998 DOE/FOE and will be used to evaluate impacts to historic properties in the Supplemental EIS. Differences in the reporting of historic properties between this document and the 1998 DOE/FOE are the result of additional inventories, more properties becoming in-period, and non-project related demolition/removal of historic standing structures. It should be noted that several sites eligible for the NRHP have been affected by construction work that took place on the project prior to the injunction. Portions of 42Dv2 have been excavated. Additional DOE/FOEs have been prepared for actions related to the project. They include a DOE/FOE dated July 18, 2002 for the Legacy Nature Preserve Questar Gas Utility Relocation and a June 5, 2002 DOE/FOE for a Cultural Resource Inventory of the Legacy Nature Preserve. Sites that have had prior eligibility determinations with SHPO concurrence are noted in Table 1.

Based upon the Record of Decision issued on the initial Legacy Parkway project, one historic property determined to be adversely affected was documented and removed, in accordance with the provisions of the associated Memorandum of Agreement (MOA). That property is the White House at 10N 650 W in Farmington. Please note that the White House has been completely removed. For the purposes of this document, and the Supplemental EIS, this property will be listed as having an adverse effect from all alternatives. Additionally,

because impacts to 42Dv2 and 42Dv94 have already occurred, these sites will be listed as having an adverse effect from all alternatives.

Project

The proposed project consists of constructing a new four-lane facility with median and shoulders. The Legacy Parkway project area runs from approximately 2100 North in North Salt Lake to just north of Burton Lane north of Farmington. Several build alternatives and a No Action Alternative are being considered. Each of the build alternatives are four-lane, divided, limit-access highways, but each are on different alignments. This DOE/FOE will determine eligibility of historic properties within the project area and the effects that the various alternatives will have on those properties eligible for the National Register of Historic Places (NRHP).

Project Alternatives

The build alternatives are shown in the attached map(s). The build alternatives are identified by the following titles: Alternative A, Alternative B, Alternative C, Alternative D & E, and the Redwood Road Alternative. Alternative D & E are combined in this discussion as they follow an identical alignment. The difference is that D includes a 328-foot right-of-way width and E has a 312-foot width. Impacts to Historic and Archaeological resources are the same, regardless of the reduction of width. The Redwood Road Alternative is receiving a cursory evaluation based upon existing data. Should this alternative be selected, additional cultural resource surveys would need to be performed in accordance with the provisions for phased identification in 36 CFR 800.4(b)(2).

Historic and Archaeological Resources

The effort to identify and evaluate all historic and archaeological resources within the area of potential effects (APE), as defined by 36 CFR 800.2(c), has been completed and reported in several volumes. These volumes are:

Author(s)	Title
Colman and Coleman et. al. 1998	<i>A Cultural Resources Inventory of the Proposed Legacy-West Davis Highway in Davis and Salt Lake Counties, Utah</i>
Colman 1999	<i>Cultural Resource Inventory of Wetland Mitigation Areas for the Legacy Parkway</i>
Overstreet, Seacat et. al., 2004	<i>Supplemental Cultural Resources Report for the Proposed Legacy Highway Project from Salt Lake City, Salt Lake County to Kaysville, Davis County, Utah</i>
Wright 2001	<i>Class III Cultural Resource Inventory for the Legacy Nature Preserve, Davis County, Utah</i>
Elsken 2004	<i>Documentation of the Woodman Townsite, the Antelope Island Improvement Company Boat Landing, the Lake Shore Bathing Resort, and Associated Features for the Legacy Parkway Project in Davis County, Utah</i>
Seddon & Lundin, 2003	<i>Site DV94: A Human Remains Discovery in the Jordan River Wetlands, Davis County, Utah</i>
Seddon, et. al. 2004	<i>Industrial Debris and the Bottle Louse: Data Recovery at the Lagoon Drive Discovery Site (42DV 93) on the Legacy Parkway</i>

The inventory and evaluation efforts have been conducted in accordance with the *Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation* (48 Federal Register Part IV).

Inventory

A total of 85 in-period structures and sites were identified during the inventories for this project. Many more structures are located within the project area, but only those historic or archaeological resources dating prior to 1959 were included for evaluation in the inventories. Included in the various reports for this project, there are a total of 50 prehistoric and historic sites and 35 historic standing structures. Of these properties, 20 prehistoric and historic sites and 25 historic standing structures are considered eligible for the NRHP under one or more criteria. Two prehistoric sites remain unevaluated for eligibility. Two could not be located in the field (42Dv3 and 42Dv4) and the other will require additional testing to make a determination (42Dv97).

Evaluation

In accordance with 36 CFR 800.4(a-d), the NRHP criteria have been applied to all 83 in-period sites. All of the sites are identified below by either an address or a site number. The UDOT/FHWA has made determinations on each of the sites below based upon NRHP requirements

For a complete list of the sites located during the Legacy Parkway surveys, both eligible and non-eligible, see Table 1. All sites from Table 1 are described briefly below and are accompanied by an eligibility determination. A more thorough discussion of each of the sites can be found in the attached reports.

Historic Structures

All of the standing historic structures are determined eligible under criterion C. Because they are eligible for their architecture, boundaries of these historic properties only include the structural elements that contribute to the properties significance.

326 Burke Lane – This is a 1920's hall parlor house that has had substantial alterations. The UDOT/FHWA has determined it ineligible for the NRHP.

1300 Glover Lane, Farmington – This is a ca. 1950's animal facility consisting of several outbuildings. The UDOT/FHWA has determined this site eligible for the NRHP under criterion C.

415 S 650 W, Farmington – This is a ca. 1950's barn. The UDOT/FHWA has determined this site eligible for the NRHP under criterion C.

637 S 650 W, Farmington – This originally was a cross wing house from 1910 that has since been used to house animals. The UDOT/FHWA has determined this site eligible for the NRHP under criterion C.

2120 S 650 W, Farmington – This is a ca. 1930's barn. The UDOT/FHWA has determined this site eligible for the NRHP under criterion C.

1515 N 1100 W, West Bountiful – This is a 1920's Foursquare house. The UDOT/FHWA has determined this site eligible for the NRHP under criterion C.

2125 N 1100 W, West Bountiful—This is a 1940's era animal facility. The UDOT/FHWA has determined this eligible for the NRHP under criterion C.

772 S. Redwood Road, Woods Cross –This is a 1930's bungalow with alterations. The UDOT/FHWA has determined it ineligible for the NRHP.

808 S. Redwood Road, Woods Cross – This is a 1930's bungalow with alterations. The UDOT/FHWA has determined it ineligible for the NRHP.

836 S Redwood Road, Woods Cross – This is a 1950's World War II (WWII) Era Cottage. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

864 S. Redwood Road, Woods Cross -- This is a 1930's bungalow with alterations. The UDOT/FHWA has determined it ineligible for the NRHP.

918 S Redwood Road, Woods Cross – This is a 1920's Cross Wing House. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

946 S Redwood Road, Woods Cross – This is a 1950's WWII Era Cottage. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

974 S Redwood Road, Woods Cross – This is a 1920's Bungalow house. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

1430 S Redwood Road, Woods Cross – This is a 1920's Cross Wing House with alterations. The UDOT/FHWA has determined the house ineligible for the NRHP.

1452 S Redwood Road, Woods Cross – This is a 1950's WWII Era Cottage. The UDOT/FHWA has determined the house eligible for the NRHP under criterion C.

1650 S Redwood Road, Woods Cross -- This is a 1920's Cross Wing House. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

2018/2020 S Redwood Road, Woods Cross -- This is a 1920's Cross Wing House. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

2408 S Redwood Road, Woods Cross -- This is a 1950's WWII Era Cottage. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

1095 N Redwood Road, North Salt Lake -- This is a 1950's WWII Era Cottage. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

ca. 900 N Redwood Road, North Salt Lake – This is a 1900's Foursquare house. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

3290 N 2200 W, North Salt Lake – This is a 1950's Ranch style house. The UDOT/FHWA has determined this house eligible for the NRHP under criterion C.

3200 N 2200 W, N. Salt Lake –This is a 1950's era ranch style house. The UDOT/FHWA has determined it eligible for the NRHP under criterion C.

2790 N 2200 W, N. Salt Lake – This is a 1950's WWII era cottage with alterations. The UDOT/FHWA has determined it ineligible for the NRHP.

2770 N 2200 W, N. Salt Lake – This is a 1920's foursquare home. The UDOT/FHWA has determined it eligible for the NRHP under criterion C.

2704 N 2200 W, N. Salt Lake – This is a 1950's WWII era cottage with alterations. The UDOT/FHWA has determined it ineligible for the NRHP.

2662 N 2200 W, N. Salt Lake – This is a 1930's bungalow style house. The UDOT/FHWA has determined it eligible for the NRHP under criterion C.

2650 N 2200 W, N. Salt Lake – This is a 1950's WWII era cottage. The UDOT/FHWA has determined it eligible for the NRHP under criterion C.

2664 N Rose Park Lane, N. Salt Lake – This is a 1910's era foursquare house. The UDOT/FHWA has determined it eligible for the NRHP under criterion C.

393 W State Street, Farmington –This is a 1910's era cross wing house with alterations. It is located in the Clark Lane Historic District. The UDOT/FHWA has determined that it does not contribute to the district and it is individually not eligible for the NRHP.

Clark Lane Historic District, Farmington – This is a listed historic district.

662 W. Clark Lane, Farmington – This is a 1950's era animal facility. The UDOT/FHWA determines that the structure is eligible for the NRHP under criterion C.

10 N 650 W, Farmington – This was a 1910 era Temple Form home. It was removed as part of the initial Legacy Highway effort in accordance with the MOA.

453 W Glovers Lane, Farmington – This is a 1950's WWII era cottage with alterations. The UDOT/FHWA has determined it ineligible for the NRHP.

Archaeological Resources

42Dv2 – This property is a large Prehistoric campsite spanning both the prehistoric and historic periods. Excavation were begun in accordance with the original MOA. Excavations were halted prior to completion. During the excavation, human remains were encountered. This site is determined eligible for the NHRP under criterion D.

42Dv3 – This site was identified in the literature search. Site forms did not provide sufficient information to locate the site in the field. Because it could not be located, its eligibility is undetermined.

42Dv4 – This is a prehistoric site that was encountered in the literature search but was not found in the field. Location information was insufficient to locate it and as such, eligibility is undetermined.

42Dv22 – This is a prehistoric human burial located during the earthmoving activities at the Bountiful city dump. The burial was removed and the site is not eligible for the NRHP.

42Dv35 – Is a prehistoric lithic and groundstone scatter. It has previously been determined eligible for the NRHP under criterion D.

42Dv67 – This is a homestead site west of Woods Cross in the Salt Lake Valley. It consists of a collapsed stone, brick, and frame house and the remains of eight outbuildings. Historic trash is present. Data recovery potential is high. It is eligible for the NRHP under criteria C and D.

42Dv68 – This site consists of six structures, two brick and four metal. There are debris mounds indicative of three other structures that are now collapsed. A rail spur runs directly into the site. This site has been removed in association with the Foxboro Development. The UDOT/FHWA has determined the site ineligible for the NRHP.

42Dv69 – This site appears to be associated with 42 DV 68. It also contains six structures, two of brick and four of metal. The site has been removed in association with the Foxboro Development. The UDOT/FHWA has determined the site ineligible for the NRHP.

42Dv70 – Auger testing revealed subsurface artifacts at this site including mano fragments, lithic tools and debris, and a diagnostic Fremont sherd. The UDOT/FHWA has determined the site eligible for the NRHP under criterion D.

42Dv71 – This is a well consisting of a large metal pipe extending about 20 cm above the ground, a stump of a wooden pole and a long, curved piece of metal. There is little potential for subsurface deposits, data recovery potential is minimal, and no association can be made to a person or event. Because of this, the UDOT/FHWA has determined the site ineligible.

42Dv72 – This site is an open camp site near the Jordan River. The site surface exhibited lithic debitage, fire-cracked rock, and groundstone fragments. Diagnostic Fremont sherds were also present. The UDOT/FHWA has determined the site eligible for the NRHP under criterion D.

42Dv73 – This site consists of over 100 shards of glass. In addition, the site contains 20 pieces of white stoneware, all apparently from a single plate. The site bears no indication of buried deposits. Because of the limited potential for data recovery and the lack of association with a person or event, the UDOT/FHWA has determined this site ineligible.

42Dv74 – This is a multi-component site containing lithic material, fire-cracked rock, faunal bone and groundstone fragments. The historic component is a stone and brick foundation, shards of historic glass, and an irrigation ditch and two ponds. The UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

42Dv75 – This site is the remains of a water conveyance system. It includes 12-18 inch wide open metal pipe held in place by a 2 x 4 inch wooden slat framework. The site exhibits low potential for yielding new information on the region's history and is not connected with a person or event of note. Because of this, the UDOT/FHWA has determined this site ineligible.

42Dv76 – Auger testing revealed diagnostic late prehistoric body and rim sherds, chipped stone debitage, and faunal bone. The UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

42Dv77 – Auger testing revealed this site after an obsidian flake was observed on the surface. Thirteen artifacts were recovered including unburned faunal bone, a McKean Lancolate point base of obsidian, and lithic debitage. The UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

42Dv80 – This is an lithic and ceramic scatter located on an old Jordan River channel. Purple glass fragments are also associated with the site. The UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

42Dv88 – This site is a prehistoric lithic and ceramic scatter. Artifacts include lithic debitage and tools, prehistoric ceramics, and fire-cracked rock. The UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

42Dv89 – This site consists of two historic earthen and rock slag berms associated with 24 wooden posts located on the marshy eastern shore of Farmington Bay. The elements may relate to a rail spur and dock associated with the Lake Shore Resort. In a determination made June 5, 2002, the UDOT then determined this site eligible for the NRHP. However, because this site does not appear to contain significant cultural data, and there is little potential for this site to contribute to specialized research questions, the UDOT/FHWA has determined this site ineligible.

42Dv90 – This site consists of a buried historical debris deposit, burned structural material and three concrete foundations. The UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

42Dv91 -- This is a earthen water diversion ditch. No structures or features associated with the ditch were located. Because of the lack of association with any important person or event, the UDOT/FHWA has determined this site ineligible.

42Dv92 -- This is an earthen water diversion ditch. No structures or features associated with the ditch were located. Because of the lack of association with any important person or event, the UDOT/FHWA has determined this site ineligible.

42Dv93 – This is a historic trash scatter located by construction monitoring of the Legacy Parkway project. The site consists of a historical/trash debris deposit of glass, ceramics, and metal. Because it was discovered during construction, data recovery and excavation has taken place. The UDOT/FHWA has determined this site ineligible for the NRHP because data recovery has provided a valid sample of the deposit and physical remains capable of yielding relevant information.

42Dv94 – This site consists of human remains discovered eroding from the margins of the City Drain Canal in North Salt Lake City, Utah. The human remains have been fully excavated, but because there is sufficient potential for additional remains to be present in the area, the UDOT/FHWA has determined this site eligible for the NRHP.

42Dv97 -- This is a privy located at 1395 W. Parish Lane, Centerville that was discovered during property acquisition. In consultation with the Utah SHPO, it was determined that testing

would be necessary to determine the eligibility of the site. Because the current injunction prohibits ground disturbance, the UDOT/FHWA has decided to test the site when and if the injunction is lifted. If testing occurs, the UDOT/FHWA will determine eligibility at that time.

42Dv98 – This is a multi-component site consisting of a prehistoric lithic and ceramic scatter and a historical trash scatter. The prehistoric assemblage consists of one ceramic fragment, one groundstone fragment, one projectile point tip and approximately 20 lithic flakes. The historic component contains four ironstone plate fragments and three glass fragments. The historic debris was scattered across the site. A 1 x 1 meter test pit was dug to test the prehistoric component. Prehistoric artifacts were recovered from the pit to a depth of 25 cm. Based upon this information, the UDOT/FHWA has determined the prehistoric component of the site eligible for the NRHP under criterion D and the historic component is determined to be a non-contributory part of the site.

42Dv102 – This is a historic artifact scatter consisting of glass and ceramics. Rodent burrowing and utility excavation have heavily impacted the site. The UDOT/FHWA has determined this site ineligible for the NRHP.

42Dv103 – This is a historic abandoned sewer line located in the Legacy Nature preserve. The site consists of to 685 m long east-west oriented rows of concrete risers and two concrete frames. Overall, the site is in poor condition due to decay and dismantling. The UDOT/FHWA has determined this site ineligible for the NRHP.

42Dv112 – This is the townsite of Woodman. This includes five east/west blocks and four north/south blocks laid out in a grid pattern. Apparently all that was done with the townsite was to blade the roads. Two capped wells may be related to the townsite as well. Because it is unlikely that the site contains buried deposits, and no additional surface artifacts are associated with the site, the UDOT/FHWA has determined this site ineligible for the NRHP.

42Dv113 – This site is a historic boat landing consisting as an earthen and slag berm. Because this site does not appear to contain significant cultural data, and there is little potential for this site to contribute to specialized research questions, the UDOT/FHWA has determined this site ineligible for the NRHP.

42SI154/182 – This is a multi-component site consisting of a prehistoric lithic scatter and an historic glass scatter. Based upon testing, the prehistoric component appears to be an open Archaic site. The UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

42SI155 – This site is an open lithic scatter. Two possible diagnostic projectile points were recovered from the site, but testing showed there was no depth to the cultural deposits. Because the potential for data recovery is limited, the UDOT/FHWA has determined this site ineligible.

42SI197 – This is a Fremont site recorded in 1994 located near North Temple and west of Redwood Road. Little information is available from the site form and it has been determined ineligible for the NRHP.

42SI241 – This is a historic trash scatter containing glass shards, bricks, metal strips, ceramic sherds, and other metal objects. Because the site lacks buried cultural deposits and is not associated with a noteworthy person or event, the UDOT/FHWA has determined the site ineligible.

42SI242 – This is a multi-component site consisting of an open prehistoric camp and an historic trash scatter. A test pit revealed buried cultural deposits and data recovery potential for the prehistoric component of the site. The UDOT/FHWA has determined the site eligible for the NRHP under criterion D.

42SI243 – This is an historic open trash scatter consisting of glass, ceramics, and terra cotta ceramics. The site lacks depth of cultural fill and no association can be made with any noteworthy event or person. The UDOT/FHWA has determined the site ineligible.

42SI244 – This is a prehistoric open camp. The site contains two manos. Interviews with the property owner revealed that the land has been plowed over many times and the owner does not recollect seeing any other type of artifact besides groundstone. Two test pits were dug, recovering quartzite shatter, faunal bone, a charcoal sample, and historic metal. Because of the limited amount of artifacts on the surface, the instability of the site, and the lack of artifact recovery from the test pits, the UDOT/FHWA has determined the site ineligible.

42SI245 – This multi-component site contains a prehistoric open lithic scatter and a historic trash scatter. The site is located in a plowed alfalfa field. Three test pits were dug, with only one groundstone fragment being recovered. The lack of artifacts in the test pits suggests limited potential for data recovery. In addition, the agricultural modifications to the land have affected the integrity of the site. Because of this, the UDOT/FHWA has determined this site ineligible.

24SI246 – This site is a prehistoric open lithic scatter containing three diagnostic projectile points, lithic flakes, and groundstone. Two test pits were dug with additional artifacts being recovered. Based upon the buried cultural deposits, the diagnostic points, and other artifacts, the UDOT/FHWA has determined this site eligible under criterion D.

42SI247 – This is a historic trash scatter located in an alfalfa field. The artifacts included numerous glass fragments and sherds from ceramic plates. The site has no evidence for cultural depth and has been perpetually disturbed by agricultural activities. The UDOT/FHWA has determined this site ineligible.

42SI248 – This is a prehistoric lithic scatter consisting primarily of lithic debitage. Two test pits were dug revealing additional lithic material. Because of the large quantity of chipped stone on the surface and test pits, the UDOT/FHWA has determined this site eligible under criterion D.

42SI249 – This is a prehistoric lithic scatter with chipped stone and fire-cracked rock. Three test pits were dug with very few artifacts recovered. Because of the lack of cultural depth, the UDOT/FHWA has determined this site ineligible.

42SI250 – This is a historic trash scatter with cans, glass, metal fragments, milled wood, and white-ware ceramics. Data recovery potential is low and it is unlikely to be able to link this site with a person or event of importance. The UDOT/FHWA has determined this site ineligible.

42SI251 – This is a historic foundation. Erosion has revealed portions of two wall courses are still attached to the foundation. The first course consists of two red sandstone blocks and several yellow bricks. The second course consists entirely of yellow bricks. This site has limited data recovery potential because of the lack of diagnostic elements. In addition, the site

stability is in jeopardy due to an adjacent canal. The UDOT/FHWA has determined this site ineligible.

42SI252 – This is a prehistoric lithic scatter containing lithic debitage and groundstone. It is located on top or on the north slope of an old railroad grade. Two test pits were dug revealing additional lithic material and groundstone. Because of the location on the railroad grade, the site was disturbed during the rail line construction and site integrity has been destroyed. The UDOT/FHWA has determined this site ineligible.

42SI253 – This is a historic, single episode trash dump. It is located in a 3 x 3 meter area and consists of glass fragments, tin can fragments, chicken bones, a piece of ceramic pipe, ceramic dish fragments, and other items. Because the site is not associated with any known historical person or event and is unlikely to lend new information to the history of the region, the UDOT/FHWA has determined it ineligible for the NRHP.

42SI254 – This is historic construction debris consisting of concrete forms, milled wood, cinder block fragments, slag, fencing, fence post, steel bar and other items. The site has no known association with important people or events and has no data recovery potential. The UDOT/FHWA has determined the site ineligible for the NRHP.

42SI255 – This is a historic structural site consisting of a pond, a ditch, and four depressions. One of the depressions contains much trash, bottles, and ceramics. Trash is also scattered throughout other areas of the site. Because of the large quantities of surface artifacts and also the presence of the depressions suggest buried cultural deposits, the UDOT/FHWA has determined this site eligible for the NRHP under criterion D.

Denver and Rio Grande Railroad – The grade is present throughout the project area. In some places, rails and ties are present. This site is determined eligible for the NHRP under criteria A and D.

Union Pacific Railroad – This railroad is currently operational throughout the entire corridor. Because of its importance to the history and development of Utah, the UDOT/FHWA has determined the railroad eligible for the NRHP under criteria A and D.

Assessment of Avoidance

The attached exhibits illustrate the relationship of the build alternatives design to all potentially affected NRHP eligible historic properties. In general, the eligible sites listed above are considered avoided by the project under the various alternatives if they are at least over 15 feet distant from the toe of slope or top of cut, and are determined NRHP eligible only under criterion C (a type, period, or method of construction) or criterion D (information potential only).

None of the build alternatives would avoid all NRHP eligible historic properties located along the corridor. Please refer to the attached maps to see the relationship of the sites to the various build alternatives. All sites (both eligible and ineligible) are plotted on the map, with their current boundaries, except for those that are not located within the boundaries of the map. Sites not plotted include all of the Salt Lake County sites with the exception of 42SI243, 42SI244, 42SI245, and 42SI247. Implementation of Alternative A would impact 4 NRHP eligible

properties, Alternative B would impact 7, Alternative C would impact 6, Alternative D&E would impact 6, and the Redwood Road Alternative would impact 12 properties eligible for the NRHP. As expected, the various alternatives affect different sites. The sites impacted by each alternative are shown in the table below.

Table 2

Property	A	B	C	D&E	Redwood
42Dv2	X		X	X	X
42Dv67					X
42Dv70		X			
42Dv72					
42Dv74					
42Dv76					
42Dv77		X			
42Dv80					
42Dv88					
42Dv90		X			
42Dv94	X	X	X	X	X
42Dv97	X			X	
42Dv98					
42SI154/182					
42SI242					
42SI246					
42SI248					
42SI285					
D&RG Railroad	X	X	X	X	X
UP Railroad					
1300 Glover Lane, Farmington		X			
415 S 650 W, Farmington					
637 S 650 W, Farmington					
2120 S 650 W, Farmington					
1515 N 1100 W, W. Bountiful					
2125 N 1100 W, W. Bountiful					
836 S Redwood Road, Woods Cross					X
918 S Redwood Road, Woods Cross					X
946 S Redwood Road, Woods Cross					X
974 S Redwood Road, Woods Cross					X
1452 S Redwood Road, Woods Cross					
1650 S Redwood Road, Woods Cross					X
2018/2020 S Redwood Road, Woods Cross					X
2408 S Redwood Road, Woods Cross					X
1095 S Redwood Road, North Salt Lake					X
Ca. 900 N. Redwood Road, North Salt Lake					
3290 N 2200 W, North Salt Lake					

3200 N 2200 W, North Salt Lake					
2770 N 2200 W, North Salt Lake					
2662 N 2200 W, North Salt Lake					
2650 N 2200 W, North Salt Lake					
2664 N Rose Park Lane, North Salt Lake					
Clark Lane Historic District, Farmington	X	X	X	X	X
662 W Clark Lane, Farmington	X	X	X	X	X
10 N 650 West, Farmington	X	X	X	X	X
Totals	7	9	7	7	15

Finding of Effect

The UDOT/FHWA has determined that 24 of the 45 eligible properties will not be impacted by any of the build alternatives. Eligible sites that will not be impacted by any alternative have a grey background on Table 2. Based upon this, the UDOT/FHWA has determined that implementation of any build alternative will have **no effect** on those 24 properties listed above pursuant to 36 CFR 800.5(a-d). Below the impacts of the various alternatives are outlined. All effect determinations are made in accordance with 36 CFR 800.5(a-d).

As described earlier, each alternative will result in an **Adverse Effect** on 42Dv2, 42Dv94 and 10 W 650 N, Farmington. Impacts to each of these properties have already occurred from previous work on the project. Mitigation, in accordance with the previous MOA, has been performed on 10 W 650 N, Farmington. Excavations of both 42Dv2 and 42Dv94 have also taken place.

Each build alternative will also impact 662 W Clark Lane, Farmington, requiring the removal of the structure resulting in an **Adverse Effect**. Each build alternative will also impact the D&RG railroad with an at-grade crossing, resulting in a **No Adverse Effect**. Additionally, each build alternative will require temporary use of property in the Clark Lane Historic District. Extensive coordination has taken place to minimize disturbances and will result in a **No Adverse Effect**. Any additional effect determinations on each of the alternatives is described below.

Alternative A will impact 42Dv97. The eligibility of 42Dv97 is still undetermined and will be resolved by testing should the injunction be lifted.

Alternative B will impact 42Dv70, 42Dv77, 42Dv90, and 1300 Glover Lane, Farmington,. This alternative would result in an **Adverse Effect** for 42 DV 70, 42 DV 77, and 42 DV 90. In addition, the alternative would require the removal of the structures at 1300 Glover Lane, resulting in an **Adverse Effect**.

Alternative C will impact 42Dv97. The eligibility of 42Dv97 is still undetermined and will be resolved by testing should the injunction be lifted.

Alternatives D & E will impact 42Dv97. The eligibility of 42Dv97 is still undetermined and will be resolved by testing should the injunction be lifted

The Redwood Road Alternative will impact 42Dv67, 836 S Redwood Road, Woods Cross, 918 S Redwood Road, Woods Cross, 946 S Redwood Road, Woods Cross, 974 S Redwood Road, Woods Cross, 1650 S Redwood Road, Woods Cross, 2018/2020 S Redwood Road, Woods Cross, 2408 S Redwood Road, Woods Cross, and 1095 S Redwood Road, North Salt Lake. This alternative would result in an **Adverse Effect** for 42Dv67. The alternative would require the removal of the properties at 836 S Redwood Road, Woods Cross, 918 S Redwood Road, Woods Cross, 946 S Redwood Road, Woods Cross, 974 S Redwood Road, Woods Cross, 1452 S Redwood Road, Woods Cross, 1650 S Redwood Road, Woods Cross, 2018/2020 S Redwood Road, Woods Cross, 2408 S Redwood Road, Woods Cross, and 1095 N Redwood Road, North Salt Lake, resulting in an **Adverse Effect**.

In summary, implementation of all of the build alternatives would impact different historic properties and the overall project finding of effect will be **adverse** for each alternative.

To ensure the implemented build alternative will have no effect on the historic properties not directly impacted by the project, a special provision will be added to the construction contract. This special provision prohibits any ground-disturbing activities by the construction contractor outside of the right-of-way, as shown in the design plans and as exhibited by orange fencing in the field. Archaeological monitoring will occur during construction.

Finally, pursuant to 36 CFR 800.13, the UDOT and FHWA have planned for post-review discoveries using UDOT Standard Specification Section 01355, part 1.10.

Proposed Mitigation

Pursuant to 36 CFR 800.6, the following measures are offered to facilitate consultation with the USHPO regarding methods to minimize the effects of the project on the historic qualities of these properties. The UDOT/FHWA is in the process of soliciting the views of interested parties. Further, the UDOT/FHWA recommends the historic properties eligible under criterion A and C be documented to Utah State Intensive Level Survey (ILS) standards in advance of relocation or demolition and that a marketing plan be developed and implemented in applicable cases.

Section 4(f) considerations

The UDOT/FHWA consider the following properties to be Section 4(f) resources. They are included in Table 3.

Table 3.

Property
42Dv2
42Dv67
42Dv94
D&RG Railroad
UP Railroad

1300 Glover Lane, Farmington
415 S 650 W, Farmington
637 S 650 W, Farmington
2120 S 650 W, Farmington
1515 N 1100 W, W. Bountiful
2125 N 1100 W, W. Bountiful
836 S Redwood Road, Woods Cross
918 S Redwood Road, Woods Cross
946 S Redwood Road, Woods Cross
974 S Redwood Road, Woods Cross
1452 S Redwood Road, Woods Cross
1650 S Redwood Road, Woods Cross
2018/2020 S Redwood Road, Woods Cross
2408 S Redwood Road, Woods Cross
1095 S Redwood Road, North Salt Lake
Ca. 900 N. Redwood Road, North Salt Lake
3290 N 2200 W, North Salt Lake
3200 N 2200 W, North Salt Lake
2770 N 2200 W, North Salt Lake
2662 N 2200 W, North Salt Lake
2650 N 2200 W, North Salt Lake
2664 N Rose Park Lane, North Salt Lake
Clark Lane Historic District, Farmington
662 W Clark Lane, Farmington
10 N 650 West, Farmington

42Dv2 is a Section 4(f) property important to remain in place because of the potential for additional human remains and the fact that it is perhaps the last remaining archaeological site of its magnitude along the Wasatch Front. 42Dv67 is a Section 4(f) property because of the architectural value of the remaining standing structures. 42Dv94 is also a Section 4(f) property important to remain in place because of the potential for additional human remains. The D&RG and UP rail lines are Section 4(f) properties because of their contribution to the development of Utah. The remaining Section 4(f) properties are buildings valued for their architecture.

**DRAFT
MEMORANDUM OF AGREEMENT**

Regarding the

LEGACY PARKWAY PROJECT

**Project No. SP-0067(1)0
Salt Lake and Davis Counties, Utah**

WHEREAS, the Federal Highway Administration, Utah Division (FHWA) has determined that the Legacy Parkway Project between the I-215 Interchange, northern Salt Lake County, Utah and Burke Lane north of Farmington, Davis County, Utah (hereinafter called the Project) may have an effect upon properties included in or eligible for inclusion in, the National Register of Historic Places (NRHP), and has consulted with the Utah State Historic Preservation Officer (USHPO) in accordance with 36 CFR 800.6(b)(1), regulations implementing Section 106 of the National Historic Preservation Act (NHPA)(16 U.S.C. 470f) to resolve the adverse effects; and

WHEREAS, the Utah Department of Transportation (UDOT) is the agency coordinating this Project on behalf of the FHWA and has participated in the consultation, the FHWA has invited them to sign this Memorandum of Agreement (MOA) pursuant to 36 CFR 800.6(c)(2) as an invited signatory; and

WHEREAS, the Northwestern Band of Shoshone of the Shoshone Nation, Idaho and Utah; the Ute Indian Tribe of the Uintah-Ouray, Utah; the Confederated Tribes of the Goshute (Ibapah), Utah; the Skull Valley Band of Gosiute, Utah; and the Shoshone Bannock Tribes, Idaho (hereafter called Tribes); participated in the technical coordination and consultation and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(3) as concurring parties; and

WHEREAS, the residents of the Clark Lane Historic District (CLHD), Farmington, have participated in the technical coordination and consultation and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(3) as a concurring party; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), the FHWA will notify the Advisory Council on Historic Preservation (Council) of its adverse effect determination, with specified documentation, and invite the Council to participate in the consultation pursuant to 36 CFR 800.6(a)(1)(iii); and

WHEREAS, a legal injunction halted archaeological and construction activities done under a prior MOA for this Project, the parties to this MOA agree that upon execution, all stipulations and conditions contained within this MOA will take precedence over the previously executed MOA for the Project; and

WHEREAS, the Project is large and complex, with a potential for the discovery of additional properties eligible for inclusion in the NRHP, the FHWA intends to use the provisions of this MOA to address all activities that may result in impacts to both known and inadvertently discovered

historic properties; and

WHEREAS, the Project's area of potential effect (APE) for this undertaking includes all lands subject to Project activities or activities directly funded by the Project as delineated by Alternatives A, B, C, D, E, and Redwood in Appendix A; and

WHEREAS, the parties to this MOA have considered the applicable requirements of the Utah Native American Graves Protection and Repatriation Act of 1992 (Utah NAGPRA)(U.C.A. 9-9-401, et seq., and its implementing Rule R230-1), and the Utah Code 76-9-704 in the course of consultation; and

WHEREAS, the parties to this MOA recognize that every reasonable effort should be made to protect Traditional Cultural Properties (TCP) from possible harm by the Project, it is incumbent upon the tribes or such interested party(ies), to identify any TCPs believed to exist within the Project APE;

NOW, THEREFORE, the FHWA, the UDOT and the USHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Project on historic properties.

STIPULATIONS

The FHWA shall ensure that the following measures are carried out. To aid the signatories of this MOA, the stipulations are organized in the following order:

1. Environmental Control Supervisor
2. Clark Lane Historic District
3. Archaeological Testing
4. Archaeological Data Recovery
5. Historic Structures
6. Inadvertent Discovery of Cultural Resources
7. Project Specific Procedures for Implementing Utah NAGPRA
8. Administrative Stipulations

1. ENVIRONMENTAL CONTROL SUPERVISOR

An Environmental Control Supervisor (ECS) will be required for the Project. The ECS will be responsible for monitoring and ensuring compliance with the stipulations and mitigation commitments contained within this MOA. The ECS's contact information will be provided to the FHWA, the UDOT, the USHPO, the Tribes, and the homeowner(s) and tenant(s) located at 393, 398, and 399 W. State Street, Farmington, UT prior to the resumption of construction activity.

2. CLARK LANE HISTORIC DISTRICT (CLHD)

2.1 *Design Measures to Minimize Harm*

The following measures have been developed to ensure that project-related impacts from the Project are minimized and stipulations are in place to return the conditions of the CLHD and its contributory elements to their original pre-construction condition.

- No Change in Capacity or Function of Bridge. The existing bridge over I-15 and Lagoon Drive will be replaced with a structure of similar design and orientation, thereby maintaining a 2-lane configuration and not altering appearance or traffic patterns in the area.
- Lighting and Associated Safety Concerns. Standard lighting fixtures have been incorporated into the design of the new bridge.
- No Haul Route Traffic. Truck traffic and associated impacts will be reduced during construction by not allowing State Street to be used as the principle haul route for the Project. Construction vehicle traffic will occur around the juncture of Clark Lane and State Street while removing and replacing existing traffic and pedestrian bridges.
- Minimal Grade Change. Efforts have been made to design a new bridge with as little grade change to State Street as possible. The new grade height is estimated at 18” on the east side of the bridge and will taper to existing road grade in front of 393 W. State Street. The change in height for 399 W. State Street is estimated at 12”. The driveways of 393 and 399 W. State Street will be tapered to the new State Street grade.
- Sidewalk Moved. Sidewalks will be incorporated within the new bridge structure, requiring the redesign of the sidewalk in front of 399 W. State Street. This redesign moves the sidewalk further from the house and improves control of water runoff.
- Water Control. Several water catchments will be added to the east of the new bridge structure, which in conjunction with the new curbs, will improve the management of water runoff so as not to impact the yards or foundations of the historic homes.
- Pavement Converted to Green Space. The new State Street design east of the new bridge will convert approximately 1068 square feet of pavement within existing right-of-way to green space within right-of-way. Existing homeowner irrigation lines will be extended to water this new green space with homeowner’s approval. If no irrigation system exists, or if the homeowners do not want to extend their irrigation lines to the new green space, then appropriate landscaping will be used.
- Mature Trees Protected. The mature trees in front of 393 and 399 W. State Street will be protected from fill through the use of short block (or rock) walls surrounding the trunks. Material to be used in the construction of these small walls will be determined in consultation with the property owner.
- No Historic Property Takes. There will be no property takes from any of the historic properties. Temporary easements will be needed to move the sidewalk, slope (or terrace) the yard towards the new sidewalk, taper the driveways of 393 and 399 W. State Street and add curb and gutter on the northeast of State Street and Clark Lane.
- No Change to Sound Walls. Existing sound walls will be left in place along the west side of 399 W. State Street.

- Maintain Existing Landscape Features. The existing landscape wall and associated plantings in the front of 399 W. State Street will be protected to the extent possible during construction. Upon removal of the sidewalk, new landscaping will take into consideration the existing wall and match with in-kind materials to the extent possible.

2.2 *Measures to Minimize Potential Harm from Construction-Related Vibration*

The following measures are included within the MOA to reduce the likelihood of potential impacts caused by construction-related vibration. In the unlikely event that the ECS or homeowner(s)/tenant(s) believe such harm has occurred, the responsibilities of all parties is described below.

- Pre-drilled Pilings an Option. Pre-drilling of pilings may be used by the contractor to increase the distance from piles to the historic homes thereby reducing the potential for vibration effects on the homes.
- Energy of Pile-Driving Hammers Limited. The maximum rated energy of pile-driving hammers will be limited to 54,000 foot-pounds for all impact-driven piles within 200 feet of the buildings within the CLHD.
- Homeowner and Tenant Notification. The homeowner(s) and tenant(s) at 393, 398, and 399 W. State Street will be notified of any pile-driving activities five (5) days in advance.
- Pre- and Post-Construction Surveys of Structures. A pre-and post-construction survey of all buildings or structures located on the property of 393, 398, and 399 W. State Street will be required. The survey will consist of photo and written documentation of the structures' exterior and interior condition to the extent possible. This means at least one photograph of all elevations from all cardinal directions, of professional quality black/white 35 mm photographs (3 x 5" prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), the streetscape, and detailed photographs of all areas most sensitive to vibration effects. Photographs of exterior architectural trim/decorations shall also be submitted. Photographs shall be numbered and labeled with address (street and city) and date the photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archival quality protective storage pages. When allowed by owners, interior photographs shall be taken of each wall in every room of these structures for the purposes of documenting present conditions.
- Vibration Monitoring. A vibration monitor will be placed on the foundation and upper elevation of the home at 399 W. State Street and record vibration levels throughout the duration of pile driving activities within two hundred (200) feet of the home. The vibration monitor will be set to read vibration levels at 0.12 in/sec.
- Exceeding Vibration Threshold of 0.12 in/sec. Pile-driving activities will stop and other less vibration-intense activities must be employed if the vibration monitor readings exceed 0.12 in/sec or if there is visual evidence that the pile driving is causing damage to a structure. The selection of alternative methods will be made between the contractor and UDOT with input from the ECS and approval from FHWA when necessary. Such methods may include using smaller pile drivers or continuing

with pre-drilled piles.

- Identification of Damage. If damage to the structures located at 393, 398, or 399 W. State Street is observed by the ECS, the ECS will be responsible for identifying and stopping the responsible activity if known and within the control of the Project team.
- Notification of Damage. If the homeowner(s) and/or the tenant(s) of 393, 398, or 399 W. State Street observe damage or believe damage to be caused by pile driving activities, they are responsible for notifying the ECS as soon as possible within the next twenty-four (24) hours. The ECS will assess the claim and report to the homeowner(s) and/or tenant(s) within twenty-four (24) hours.
- Resolving Damage Claims: If it is agreed amongst the UDOT and the homeowner(s) that damage has occurred to a structure as a result of the activities of the Project, the damage will be documented and the structures must be restored to the documented condition existing before damage occurred with in-kind materials and workmanship.
- Contact Information: If any of the homeowner(s) or tenant(s) within the CLHD believes that the terms of this MOA are not being met, or that their concerns are not being heard or addressed by the Project's ECS, they may contact the Legacy Project Office or the FHWA Utah Division Office directly.

Legacy Parkway Office
360 N. 700 W., Suite F
North Salt Lake, UT 84054
(801) 951-1026
(800) 483-4587

U.S. Department of Transportation
Federal Highway Administration
Utah Division
2520 West 4700 South, Suite 9a
Salt Lake City, UT 84118-1847
(801) 963-0182

3. ARCHAEOLOGICAL TESTING

Site 42Dv97 (Historic Privy) will be tested subsurface to make a final determination of eligibility or assess data recovery potential. A written testing plan will be developed by UDOT and submitted to the USHPO for review and comment. If Site 42Dv97 is subsequently determined by FHWA to meet NRHP eligibility requirements for its information potential and will be adversely effected by the Project, then significant deposits at the site will undergo archaeological data recovery in accordance with Stipulation 4.

4. ARCHAEOLOGICAL DATA RECOVERY

Data Recovery: The FHWA shall ensure that a data recovery plan is developed by UDOT in consultation with the USHPO, the Tribes, and consulting parties for the recovery of archeological data from NRHP eligible sites adversely effected by the final alignment of the Project. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and take into account the Council's publication, Treatment of Archeological Properties (Advisory Council on Historic Preservation, 1980), subject to any pertinent revisions the Council may make in the publication prior to completion of the data recovery plan and to relevant USHPO or other guidance.

The Data Recovery Plan shall specify, at a minimum:

- the research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
- the methods to be used, with an explanation of their relevance to the research questions;
- the methods to be used in analysis, data management, and dissemination of data, including a schedule;
- the proposed disposition of recovered materials and records;
- proposed methods for involving the interested public in the data recovery, including an invitation to Utah State Archaeological Society (USAS) members to volunteer where safe conditions present themselves;
- proposed methods for disseminating results of the work to the interested public, including;
 - Offering to present a talk to the local USAS chapter;
 - Preparing an article for publication in a local paper; and
 - Preparing a scripted slide show for FHWA/UDOT for future use in public education programs;
- proposed methods by which the Tribes or other consulting parties will be kept informed of the work and afforded the opportunity to participate, including;
 - Extending an invitation to the Tribes (including school age children) to tour the sites while fieldwork is ongoing and where safe conditions present themselves,
 - Offering to make a presentation about the project findings to all interested Tribes at a location convenient to the Tribes;
 - Recognizing the benefits of ‘Multiple Voices’ by offering Tribes and Tribal members an opportunity to present interpretations and views that may augment or counter current archaeological theory, findings, and interpretation.
- a proposed schedule for the submission of progress reports to the FHWA, the UDOT, and the USHPO; and
- The data recovery plan shall be submitted by the UDOT to the USHPO, and also to the Tribes, for 30 days review. Unless these parties object within 30 days after receipt of the plan, the FHWA through the UDOT shall ensure that it is implemented.

Table 1 identifies archaeological sites potentially impacted by the Project. However, only those sites located within the APE of the preferred alternative identified in FHWA’s Record of Decision and adversely effected will undergo data recovery.

Table 1. NRHP Eligible Archaeological Sites Impacted by Project (Listed by Alternative).

Site Number	A	B	C	D	E	Redwood
42Dv2	X		X	X	X	X
42Dv67						X
42Dv70		X				
42Dv77		X				
42Dv90		X				
42Dv94	X	X	X	X	X	X
42Dv97	X			X	X	

Of special note are sites 42Dv2 and 42Dv94:

42Dv2 – This property is a large site spanning both the prehistoric and historic periods. Excavations were begun in accordance with the original MOA but were halted prior to completion. During the excavation, human remains were encountered. This site is determined eligible for the NHRP under Criterion D and warrants Section 4(f) protection due to the presence of human remains and the sanctity of these burial grounds. The sacred nature of burials has been formally communicated to FHWA on numerous occasions specifically by Dr. Brewster, Director of the Tribal Historic Preservation Office of the Skull Valley Band of the Gosiutes. The site limits will be delineated and protected from construction activities through the use of construction fencing. If portions of the site are deemed necessary for the current Project at a later time, then additional consultation with the USHPO, the Tribes, and consulting parties will become necessary.

Although future work within the APE of the current Project will avoid the site, prior impacts have already adversely effected the site. In addition, a future I-15 ramp may tie into the present Project and may further impact the site. Because the I-15 ramp is a foreseeable action, its potential impacts are disclosed in this document. However, additional data recovery for potential impacts to 42Dv2 will not take place until the need for the ramp is determined and final design and environmental clearance of the ramp is complete. Avoidance, minimization, and if necessary, mitigation measures for these future impacts will be evaluated as part of the I-15 project development. Mitigation for past impacts to 42Dv2 as a result of the present Project will include completion of the archaeological analysis and reports already underway.

42Dv94 – This site consists of human remains discovered eroding from the margins of the City Drain Canal in North Salt Lake City, Utah. The identified human remains have already been fully excavated. However, because there is sufficient potential for additional remains to be present in the site vicinity, the UDOT/FHWA has determined this site eligible for the NRHP and warrants preservation in place, and thus Section 4(f) protection, due to the sanctity of the potential burials. Like 42Dv2, site 42Dv94 lies in an area potentially impacted by a future I-15 ramp connecting into the Project. For the purposes of the current Project, a 50-foot buffer zone around 42Dv94 site limits will be delineated and protected from construction activities through the use of construction fencing. If portions of the site are deemed necessary for the current Project at a later time, then additional consultation with the USHPO, the Tribes, and consulting parties will become necessary.

5. HISTORIC STRUCTURES AND RAILROADS

Table 2 identifies Historic Structures and Railroads potentially impacted by the Project. However, only those properties located within the APE of the preferred alternative identified in FHWA's Record of Decision and adversely effected will require the Full Intensive Level Survey.

Table 2. Historic Structure and Railroad Impacts (Listed by Alternative).

Property	A	B	C	D	E	Redwood
1300 Glover Lane, Farmington		X				
836 S Redwood Road, Woods Cross						X
918 S Redwood Road, Woods Cross						X
946 S Redwood Road, Woods Cross						X
974 S Redwood Road, Woods Cross						X
1650 S Redwood Road, Woods Cross						X
2018/2020 S Redwood Road, Woods Cross						X
2408 S Redwood Road, Woods Cross						X
1095 S Redwood Road, North Salt Lake						X
Clark Lane Historic District, Farmington	X	X	X	X	X	X
662 W Clark Lane, Farmington	X	X	X	X	X	X
10 N 650 West, Farmington	X	X	X	X	X	X
D&RG Railroad	X	X	X	X	X	X

Of special note is 10 N 650 West, Farmington (The White House). This historic property was comprised of a 1910 era Temple Form home. It was razed following recordation according to the stipulations of the original MOA. For the purposes of the Supplemental Environmental Impact Statement for the Project, this property is being recognized as an adverse effect. However, the property is no longer extant and has been fully mitigated per the requirements of the original MOA, therefore, the property does not warrant further work.

- 5.1 *Intensive Level Survey:* An ILS (Historic Site Form) will be completed for any Historic Property that will be adversely affected by the Project.
- 5.2 *Photographs:* Photographs are required of all buildings or structures on the property. An adequate number of professional quality black-and-white photographs (3x5 prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), streetscapes, all outbuildings, detailed photographs of all areas to be impacted by the adverse effect, and photographs of exterior architectural trim/decorations, shall be submitted. Photographs shall be numbered and labeled with address (street and city) and date photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archival stable protective storage pages.
- 5.3 *Floor Plans:* Sketch floor plans of all eligible buildings shall be submitted. The plans must be based on an accurate footprint (e.g., Sanborn maps, tax card drawings, or measurements taken on site) and show all existing construction. Rooms shall be labeled by use. These non-

measured drawings are to be on 8.5x11 or 11x17 sheets. A site sketch plan showing subject buildings and all outbuildings is also required.

- 5.4 *Research:* A legible photocopy of the entire historic tax card of the property and a 5x7 black-and-white print and negative of the historic tax card photo (if available) shall be submitted. Label and submit print and negative as described above. Other research shall be conducted as necessary to obtain complete information on the property; sources include the title abstracts, Sanborn maps, building permits, architects' file, city directories, family histories, and others.
- 5.5 *Filing:* All materials shall be submitted to the Utah Division of State History, Preservation Section, to be placed on file.

6. INADVERTENT DISCOVERY OF CULTURAL RESOURCES

The FHWA and the UDOT have developed a plan of action for consultation with the Tribes and the USHPO regarding inadvertent discovery of historic properties potentially eligible to the NRHP. The plan detailed below describes coordinating efforts among the FHWA, the UDOT, the Tribes, and the USHPO; assessment of effects to historic properties (not affecting Utah NAGPRA related issues); inventory and evaluation processes; and mitigation strategies.

In the event that cultural resources are discovered:

- 6.1 *Cease Activity:* Work will stop in the immediate area of the discovery in accordance with UDOT Standard Specification 01355, Part 1.10 as detailed in Appendix B. The UDOT will notify the USHPO and FHWA. The FHWA will subsequently notify the Council and Tribes. If Human Remains are encountered, the contractor will follow procedures detailed in Stipulation 7 below.
- 6.2 *Evaluate Resource:* The UDOT will initiate internal coordination with their contractor to evaluate the resource for NRHP eligibility. The designated contractor will prepare draft inventory reports and recommendations regarding the NRHP eligibility of identified properties. The content and scope of the draft and final report(s) on the results of the evaluation studies will follow state guidelines as found in the UDOT's Consultant Guidelines.
- 6.3 *Determine Eligibility:* In consultation with the USHPO, the UDOT will apply the NRHP criteria (36 CFR 60.4) to all cultural resources discovered during the Project with regard to their potential for inclusion in the NRHP. This evaluation shall take into account the guidance found in all applicable National Register Bulletins.
- 6.4 *Assessment of Effect:* In situations affecting historic properties, application of the criteria of effect and adverse effect described in 36 CFR 800.9 (a) and (b) will be implemented. A Determination of Eligibility and Finding of Effect (DOE-FOE) will be submitted to the USHPO and to the Tribes along with appropriate documents relative to the stipulations of this MOA.

6.5 *Treating Effects:* If the undertaking might affect historic properties as defined by 36 CFR 800.2 (e), the UDOT will develop site specific treatment plans to minimize or mitigate the effects of the historic properties located within the area of the discovery in coordination with the USHPO, the Tribes, and other interested parties as follows:

- Human remains and the associated cultural items will be treated in accordance with the Utah NAGPRA (See Stipulation 7 of this MOA).
- The preferred alternative to mitigation is avoidance of impacts to historic properties.
- Project redesign will be implemented when technically, economically, and environmentally feasible and prudent, to avoid the placement of the facility, or related construction activities in a manner that may affect historic properties.

6.11 *Data Recovery:* The FHWA shall ensure that a data recovery plan is developed in accordance with Stipulation 4 of this MOA.

6.12 *Reporting:* The FHWA shall ensure that all reports on activities carried out pursuant to this MOA are provided to the USHPO, the Council, the Tribes, and upon request to any other consulting parties, following completion of the activities stipulated in the MOA.

6.13 *Personnel Qualifications:* The FHWA shall ensure that all historic work carried out pursuant to this MOA is completed by or under the direct supervision of a person or persons meeting or exceeding the Secretary of interior's Standards for History or Archaeology as appropriate (36 CFR 61 Appendix A).

7. PROJECT SPECIFIC PROCEDURES FOR IMPLEMENTING UTAH NAGPRA (U.C.A. 9-9-401 et. seq. AND ITS IMPLEMENTING RULE R230-1 AND UTAH CODE 76-9-704)

7.1 Purpose

7.1.1 The Parties to the MOA intend to respect and be sensitive to the cultural perspectives and responsibilities, the religious and ceremonial rights, and sacred practices of the Tribes in fulfilling tribal interests in the discovery of Utah NAGPRA related items identified during the Project.

7.1.2 If circumstances warrant and a determination is made by FHWA that federal NAGPRA applies to a discovery case during construction, then FHWA will ensure that all applicable federal procedures and requirements are met.

7.2 Objectives

7.2.1 To implement the legislative provisions of Utah law, specifically U.C.A. 76-9-

704 and 9-9-401 et. seq. within the intent of such legislation.

- 7.2.2 To implement legal requirements, while respecting and maintaining the dignity of the individual and the Utah NAGPRA related cultural items potentially discovered during the Project's construction, and in conjunction with the best interests of the Tribes.
- 7.2.3 To facilitate UDOT compliance with Utah NAGPRA, respective to decisions that must be made, and actions taken, regarding curation, disposition, re-interment, data recovery, consultation and notification, and treatment of human remains and cultural items as defined by Utah NAGPRA.
- 7.2.4 To provide guidance for construction personnel regarding the discovery and notification process upon location of human remains and cultural items as defined by Utah NAGPRA.

7.3 *Implementation of Objectives*

- 7.3.1 The UDOT will provide the Project ECS with a set of procedures to be followed in the event of an inadvertent discovery of human remains.
- 7.3.2 In accordance with UDOT Standard Specification 01355, Part 1.10 (Appendix B), upon discovery of human remains (including cultural items as defined by Utah NAGPRA), construction activities within the immediate area of discovery shall cease, the site will be secured, and notification of law enforcement, Division of Indian Affairs and USHPO Antiquities Section as required by U.C.A.9-9-403, and U.C.A. 76-9-704, will commence immediately. In addition, Tribes desiring to be notified at this time will be included on the contact list.
- 7.3.3 If the site is determined not to contain Native American remains, the UDOT will contact the FHWA, and the FHWA will notify the Tribes of such determination. Work will resume at the direction of the UDOT archaeologist.
- 7.3.4 If the site is determined to contain Native American remains, the UDOT will contact FHWA within one (1) working day. The FHWA will provide notification to the Tribes within one (1) working day and invite the Tribes to visit the site containing the remains. If contact with the FHWA cannot be made within this timeframe, the UDOT may contact the Tribes directly for the purposes of expediting notification. The Tribes will be allowed access to the remains for the purpose of performing ceremonies, discussing treatment options, and monitoring excavation if removal is deemed necessary.
- 7.3.5 The Tribes will be compensated for expenses incurred to visit the burial site and/or perform ceremonies. Compensation will be based on and limited to those activities included within FHWA's Native American Tribal Consultation

Policies and Guidelines.

- 7.4 *Excavation versus Preservation in Place:* At such time a discovery of human remains is made and construction ceases in the area of the discovery, and having satisfied the requirements of U.C.A. 76-9-704:
- 7.4.1 If the remains are in immediate danger of harm, or in the event that construction could not move, they will be excavated in accordance with R-230-1-7(1)a.
 - 7.4.2 If the site at which the remains are located can remain intact and free from immediate harm, the site will be secured and a preservation plan will be implemented according to R-230-1-7-1.
- 7.5 *Custody of Remains:* Any excavated Native American remains will remain in the custody of the UDOT pending:
- 7.5.1 Consultation and determination of ownership by the Native American Remains Review Committee (NARRC) pursuant to Utah NAGPRA [9-9-403 and R-230-1-13 et. seq.], or
 - 7.5.2 In the event of multiple requests for repatriation, the requesting parties agree upon its disposition, or
 - 7.5.3 The dispute is otherwise resolved by a court of competent jurisdiction.
- 7.6 *Repatriation:* The repatriation of the individual will be consistent with Utah NAGPRA [9-9-403 and R-230-1-13 et. seq.]. It is incumbent upon all parties to this MOA to work towards the repatriation of human remains in as timely manner as allowable by law. FHWA is responsible for ensuring that the UDOT and its consultants follow state law procedures and the stipulations contained herein.
- 7.8 *Status Inquiry:* At any time in the process, the Tribes may inquire with FHWA as to the status of human remains associated with this Project. It is the responsibility of the FHWA to address the questions and concerns of any Tribe within five (5) working days. If the Tribes are interested in verifying the physical condition and storage treatment of any human remains, a verbal or written request must be submitted to FHWA. FHWA is responsible for arranging a meeting within five (5) working days, or at the earliest convenience of the interested Tribe(s).
- 7.9 *Dispute Resolution:* Disputes on non-Utah NAGPRA related issues will be resolved according to dispute resolution procedures described in this MOA (Stipulation 8.5). The Utah NARRC Committee will resolve all Utah NAGPRA related disputes.

7.10 *Treatment of Utah NAGPRA Related Items and Human Remains*

7.10.1 Human Remains

- Any and all human remains that have been damaged or removed due to construction activity will be immediately returned to accompany the remains still present in the site.
- Pursuant to Utah NAGPRA, scientific study of human remains may be carried out only with approval of the owner of the human remains as established in 9-9-403(1) and (2). If ownership is unknown, scientific study shall be restricted to that sufficient to identify ownership but will be limited to non-destructive analysis.

7.10.2 Associated Funerary Items/Items of Cultural Patrimony

- Unless otherwise identified, Associated Funerary Items/Items of Cultural Patrimony found near or about the discovery of human remains will be immediately returned to accompany the human remains. Associated Funerary items are defined as items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later, with or near individual human remains. Objects of cultural patrimony means items having ongoing historical, traditional, or cultural importance central to the Indian tribe itself. If they are so identified, documentation of these materials will be included in the reports as funerary objects and/or items of cultural patrimony.

8. ADMINISTRATIVE STIPULATIONS

8.1 *Changes in the Undertaking*

- 8.1.1 Changes in the Project will not relieve the FHWA or UDOT of the responsibility of completing resource evaluations.
- 8.1.2 If, during the Project planning or implementation, modification and/or changes in the undertaking are proposed in ancillary areas that have not been previously inventoried for historic properties, the UDOT shall ensure that the area is inventoried and that historic properties are evaluated in a manner consistent with the inventory, evaluation, and standards identified in Stipulation 6 of this MOA. The UDOT will prepare a draft report(s) of the inventory results and submit said document(s) to the parties of this MOA for review and comment. A final report incorporating the comments of the said parties will be prepared. Final reports will

be provided to the parties of this MOA.

- 8.1.3 The applicable Research Design shall be modified or appended, as appropriate by the contractor (s) under the direction of the UDOT, in consultation with the USHPO and the Tribes, to incorporate treatment and management measures for previously unevaluated historic properties consistent with the MOA.
- 8.1.4 The parties to this MOA shall be afforded an opportunity to comment within 30 days on documents prepared in response to revisions to the undertaking.
- 8.2 *Tribal Consultation Process:* Unless otherwise agreed upon, Tribal consultation will occur between the FHWA and the Tribes throughout the Project.
- 8.3 *Curation*
 - 8.3.1 Cultural material (artifact) curation. Upon discovery and gathering of cultural items within the Project APE, exclusive of Utah NAGPRA items as defined by that act, the UDOT will ensure that the items will be placed in an appropriate repository facility as described in 36 CFR 79.
 - 8.3.2 Report and Documentation curation. Upon the UDOT finalizing the documentation of the Project, all reports and documentation will accompany the cultural material consistent with the provisions described in 36 CFR 79. Upon written request of the Tribes, a copy of said documentation shall be provided for the tribal archives.
- 8.4 *Dispute Resolution*
 - 8.4.1 Should the USHPO, the Tribes, the DIA, or the Council, object within 30 days to any documentation provided for review pursuant to this MOA, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall request further comments of the Council pursuant to 36 CFR § 800.6(b). Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR § 800.6(c)(2) with reference only to the subject of the dispute; the FHWA/UDOT's responsibility to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.
 - 8.4.2 The Utah Division of Indian Affairs State Native American Remains Review Committee (NARRC) will arbitrate disputes relative to Utah NAGPRA in accordance with U.C.A. 9-9-405 (3)(c), if consultation fails to resolve the dispute.
- 8.5 *Document Review.* Unless otherwise stated, document review shall be 30 days following

receipt of said document submitted for review. Unless notified, the FHWA may assume failure of any party to respond within 30 days indicates their concurrence.

8.6 *Amendment*

- 8.6.1 Any signatory party to this MOA may request an amendment (s), whereupon the other signature parties will consult to consider such amendment(s).
- 8.6.2 Any proposed amendment to this MOA must be submitted to the FHWA in writing, with an explanation as to the reasoning for the requested change. The FHWA will initiate consultation with the signature parties for their consideration of the proposed amendment(s) under the time provisions as set forth in 8.7.3.
- 8.6.3 The FHWA will provide copies of written request(s) for amendment from any signatory party to all other signature parties within 3 days, and the parties agree to begin discussions regarding proposed amendments immediately.

8.7 *Monitoring*

- 8.7.1 A monitoring plan will be included in the Research Design(s). Project monitoring will ensure all parties to this MOA that the activities and provisions of this MOA are in compliance. Monitoring will also ensure that all parties to this MOA will have oversight and updates to the Project as the Project commences.
- 8.7.2 The UDOT will ensure that particular care is taken during construction to avoid affecting any other archeological remains that may be associated with the sites recorded during the initial survey. Restrictions on construction work in all areas not previously cleared in the original Determination of Eligibility and Finding of Effect will be accomplished by erection of a temporary fence and flagging as necessary. Suitable arrangements for archeological monitoring, and any additional survey deemed necessary, will be made in consultation with the USHPO prior to construction in the APE. An archeologist meeting the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) will monitor the construction activities. At a minimum, such monitoring will include recording and reporting of major features or artifact concentrations uncovered, and recovery and curation of a sample of uncovered material where practicable.
- 8.7.3 The Tribes will be invited to assist in the monitoring in conjunction with the authorized archaeologist and will be compensated for their participation in such monitoring activities based on FHWA's compensation policies. Compensation is restricted to FHWA approved and authorized activities and allowances.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the **Legacy Parkway Project, Project No. SP-0067(1)0, Salt Lake and Davis Counties, Utah** and its effects on historic properties, and that FHWA has taken into account the effects of the undertaking on historic properties.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By:

Mr. David C. Gibbs, P.E., Division Administrator

Date: _____

UTAH STATE HISTORIC PRESERVATION
OFFICER

By:

Mr. Wilson Martin, State Historic Preservation
Officer

Date: _____

INVITED SIGNATORIES

UTAH DEPARTMENT OF TRANSPORTATION

By:

Mr. John Njord, Director

Date: _____

CONCURRING PARTIES

CLARK LANE HISTORIC DISTRICT

By:

Date: _____

UTAH DIVISION OF INDIAN AFFAIRS?

By:

Forrest S. Cuch, Director

Date: _____

Northwestern Band of Shoshone of the
Shoshone Nation, Idaho and Utah?

Ute Indian Tribe of the Uintah-Ouray,
Utah?

Confederated Tribes of the Goshute
(Ibapah), Utah?

Skull Valley Band of Gosiute, Utah?

Shoshone Bannock Tribes, Idaho?

APPENDIX A - AREA OF POTENTIAL EFFECT (APE)

Includes:

Cultural and 4(f) Sites Under Discussion (11x 17)

Historic Structures Under Discussion (11 x 17)

Historic Structures Under Discussion-Continued (11 x 17)

APPENDIX B

UDOT STANDARD SPECIFICATION FOR DISCOVERY OF HISTORIC, ARCHEOLOGICAL OR PALEONTOLOGICAL OBJECTS

Standard Specification Section 01355, Part 1.10, Discovery of Historical, Archaeological or Paleontological Objects

Standard Specification Section 01355, Part 1.10, Discovery of Historical, Archaeological or Paleontological Objects, will be enforced during this project. This specification stipulates procedures to be followed should any archaeological, historic, or paleontological resources be discovered during construction of the project. These procedures are as follows:

1. Immediately suspend construction operations in the vicinity of the discovery if a suspected historic, archeological or paleontological item, feature, prehistoric dwelling sites or artifacts of historic or archeological significance are encountered.
2. Notify the ENGINEER verbally of the nature and exact location of the findings.
3. The ENGINEER will contact the State archeological authorities who will determine their disposition.
4. Protect the discovered objects and provide written confirmation of the discovery to the ENGINEER within 2 calendar days.
5. The ENGINEER will keep the CONTRACTOR informed concerning the status of the restriction.
 - The time necessary for the DEPARTMENT to handle the discovered item, feature, or site is variable and dependent on the nature and condition of the discovered item.
 - Expect a two (2) week or more delay in the vicinity of the discovery.
 - Written confirmation will be given by the ENGINEER when the restriction is terminated.
6. If a changed condition is approved, it will be controlled in accordance with Section 00725, paragraph: Differing Site Conditions.

Should a discovery occur, the FHWA will consult with the USHPO/THPO, and the Council in accordance with 36 CFR 800.13(b)(3) toward developing and implementing an appropriate treatment plan prior to resuming construction.

United States Department of Agriculture



Natural Resources Conservation Service
Murray Field Office
1030 W. 5370 S. Suite100
Murray, Ut. 84123
1 801 263-3204
FAX: 1801 263-3667

NOV 09 2004

Laynee G. Jones
Legacy Parkway Project Manager
HDR Engineering, Inc.

Dear Laynee,

The enclosed CPA 106 forms are for your use as requested. Let me know if there are questions

Sincerely,

A handwritten signature in cursive script that reads "Ray Grow".

Ray Grow, NRCS Murray, Utah

FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS

PART I (To be completed by Federal Agency)		3. Date of Land Evaluation Request	9/24/04	4. Sheet 1 of 2
1. Name of Project Legacy Parkway		5. Federal Agency Involved FHWA, UDOT		
2. Type of Project Roadway Preferred Alternative (Corridor E)		6. County and State Davis and Salt Lake Counties; Utah		
PART II (To be completed by NRCS) Applicant's		1. Date Request Received by NRCS	2. Person Completing Form	
		9/27/04	Ray Grow	
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form).		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	4. Acres Irrigated	Average Farm Size
			27,768	114.5
5. Major Crop(s) alfalfa, grain, corn, vegetables, grass hay, p	6. Farmable Land in Government Jurisdiction Acres: 148,124 % 1.3	7. Amount of Farmland As Defined in FPPA Acres: 11,320 % 1.3		
8. Name Of Land Evaluation System Used Utah NRCS LE	9. Name of Local Site Assessment System none	10. Date Land Evaluation Returned by NRCS		

PART III (To be completed by Federal Agency)	Alternative Corridor For Segment			
	Corridor A	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly	338	501	240	315
B. Total Acres To Be Converted Indirectly, Or To Receive Services	43	7	10	17
C. Total Acres In Corridor	381	508	250	332

PART IV (To be completed by NRCS) Land Evaluation Information				
A. Total Acres Prime And Unique Farmland	23	88	28	31
B. Total Acres Statewide And Local Important Farmland	0	2	0	0
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted	0	0	0	0
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value	5	5	5	5

PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)				
	79	86	79	79

PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))		Maximum Points			
1. Area in Nonurban Use	15	0	0	0	0
2. Perimeter in Nonurban Use	10	0	0	0	0
3. Percent Of Corridor Being Farmed	20	8	9	4	6
4. Protection Provided By State And Local Government	20	0	20	0	0
5. Size of Present Farm Unit Compared To Average	10	9	9	9	9
6. Creation Of Nonfarmable Farmland	25	2	25	6	2
7. Availability Of Farm Support Services	5	5	5	5	5
8. On-Farm Investments	20	5	10	6	5
9. Effects Of Conversion On Farm Support Services	25	5	10	6	5
10. Compatibility With Existing Agricultural Use	10	10	10	10	10
TOTAL CORRIDOR ASSESSMENT POINTS	160	44	98	46	42

PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)	100	79	86	79	79
Total Corridor Assessment (From Part VI above or a local site assessment)	160	44	98	46	42
TOTAL POINTS (Total of above 2 lines)	260	44 123	98 184	46 125	42 121

1. Corridor Selected:	2. Total Acres of Farmlands to be Converted by Project:	3. Date Of Selection:	4. Was A Local Site Assessment Used? YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>
-----------------------	---	-----------------------	---

5. Reason For Selection:

Signature of Person Completing this Part: Ray Grow (NRCS part) DATE: 11/04/04

NOTE: Complete a form for each segment with more than one Alternate Corridor

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

- (1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?
 More than 90 percent - 15 points
 90 to 20 percent - 14 to 1 point(s)
 Less than 20 percent - 0 points
- (2) How much of the perimeter of the site borders on land in nonurban use?
 More than 90 percent - 10 points
 90 to 20 percent - 9 to 1 point(s)
 Less than 20 percent - 0 points
- (3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?
 More than 90 percent - 20 points
 90 to 20 percent - 19 to 1 point(s)
 Less than 20 percent - 0 points
- (4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?
 Site is protected - 20 points
 Site is not protected - 0 points
- (5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County?
 (Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)
 As large or larger - 10 points
 Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points
- (6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?
 Acreage equal to more than 25 percent of acres directly converted by the project - 25 points
 Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)
 Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points
- (7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?
 All required services are available - 5 points
 Some required services are available - 4 to 1 point(s)
 No required services are available - 0 points
- (8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?
 High amount of on-farm investment - 20 points
 Moderate amount of on-farm investment - 19 to 1 point(s)
 No on-farm investment - 0 points
- (9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?
 Substantial reduction in demand for support services if the site is converted - 25 points
 Some reduction in demand for support services if the site is converted - 1 to 24 point(s)
 No significant reduction in demand for support services if the site is converted - 0 points
- (10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?
 Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points
 Proposed project is compatible to existing agricultural use of surrounding farmland - 9 to 1 point(s)
 Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points

FARMLAND CONVERSION IMPACT RATING
FOR CORRIDOR TYPE PROJECTS

PART I (To be completed by Federal Agency)		3. Date of Land Evaluation Request	9/27/04	4. Sheet 1 of 2	
1. Name of Project Legacy Parkway		5. Federal Agency Involved FHWA, UDOT (this form shows alt. E under Corridor A)			
2. Type of Project Roadway preferred alternative (corridor E)		6. County and State Davis and Salt Lake Counties; Utah			
PART II (To be completed by NRCS) Applicant's		1. Date Request Received by NRCS	2. Person Completing Form		
		9/27/04	Ray Grow		
3. Does the corridor contain prime, unique statewide or local important farmland? (If no, the FPPA does not apply - Do not complete additional parts of this form).		YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>		4. Acres Irrigated Average Farm Size	
				27,768 114.5	
5. Major Crop(s) alfalfa, grain, corn, vegetables, grass hay, p		6. Farmable Land in Government Jurisdiction		7. Amount of Farmland As Defined in FPPA	
		Acres: 148,124 % 1.3		Acres: 11320 % 1.3	
8. Name Of Land Evaluation System Used Utah NRCS LE		9. Name of Local Site Assessment System none		10. Date Land Evaluation Returned by NRCS	
PART III (To be completed by Federal Agency)		Alternative Corridor For Segment			
		Corridor AE	Corridor B	Corridor C	Corridor D
A. Total Acres To Be Converted Directly		307			
B. Total Acres To Be Converted Indirectly, Or To Receive Services		16			
C. Total Acres In Corridor		323	0	0	0
PART IV (To be completed by NRCS) Land Evaluation Information					
A. Total Acres Prime And Unique Farmland		29			
B. Total Acres Statewide And Local Important Farmland		0			
C. Percentage Of Farmland in County Or Local Govt. Unit To Be Converted		0			
D. Percentage Of Farmland in Govt. Jurisdiction With Same Or Higher Relative Value		5			
PART V (To be completed by NRCS) Land Evaluation Information Criterion Relative value of Farmland to Be Serviced or Converted (Scale of 0 - 100 Points)		78			
PART VI (To be completed by Federal Agency) Corridor Assessment Criteria (These criteria are explained in 7 CFR 658.5(c))		Maximum Points			
1. Area in Nonurban Use		15	0		
2. Perimeter in Nonurban Use		10	0		
3. Percent Of Corridor Being Farmed		20	6		
4. Protection Provided By State And Local Government		20	0		
5. Size of Present Farm Unit Compared To Average		10	9		
6. Creation Of Nonfarmable Farmland		25	2		
7. Availability Of Farm Support Services		5	5		
8. On-Farm Investments		20	5		
9. Effects Of Conversion On Farm Support Services		25	5		
10. Compatibility With Existing Agricultural Use		10	10		
TOTAL CORRIDOR ASSESSMENT POINTS		160	42	0	0
PART VII (To be completed by Federal Agency)					
Relative Value Of Farmland (From Part V)		100	78		
Total Corridor Assessment (From Part VI above or a local site assessment)		160	42	0	0
TOTAL POINTS (Total of above 2 lines)		260	AE 120	0	0
1. Corridor Selected:		2. Total Acres of Farmlands to be Converted by Project:		3. Date Of Selection:	
				4. Was A Local Site Assessment Used?	
				YES <input checked="" type="checkbox"/> NO <input type="checkbox"/>	
5. Reason For Selection:					

Ray Grow (NRCS part)
Signature of Person Completing this Part:

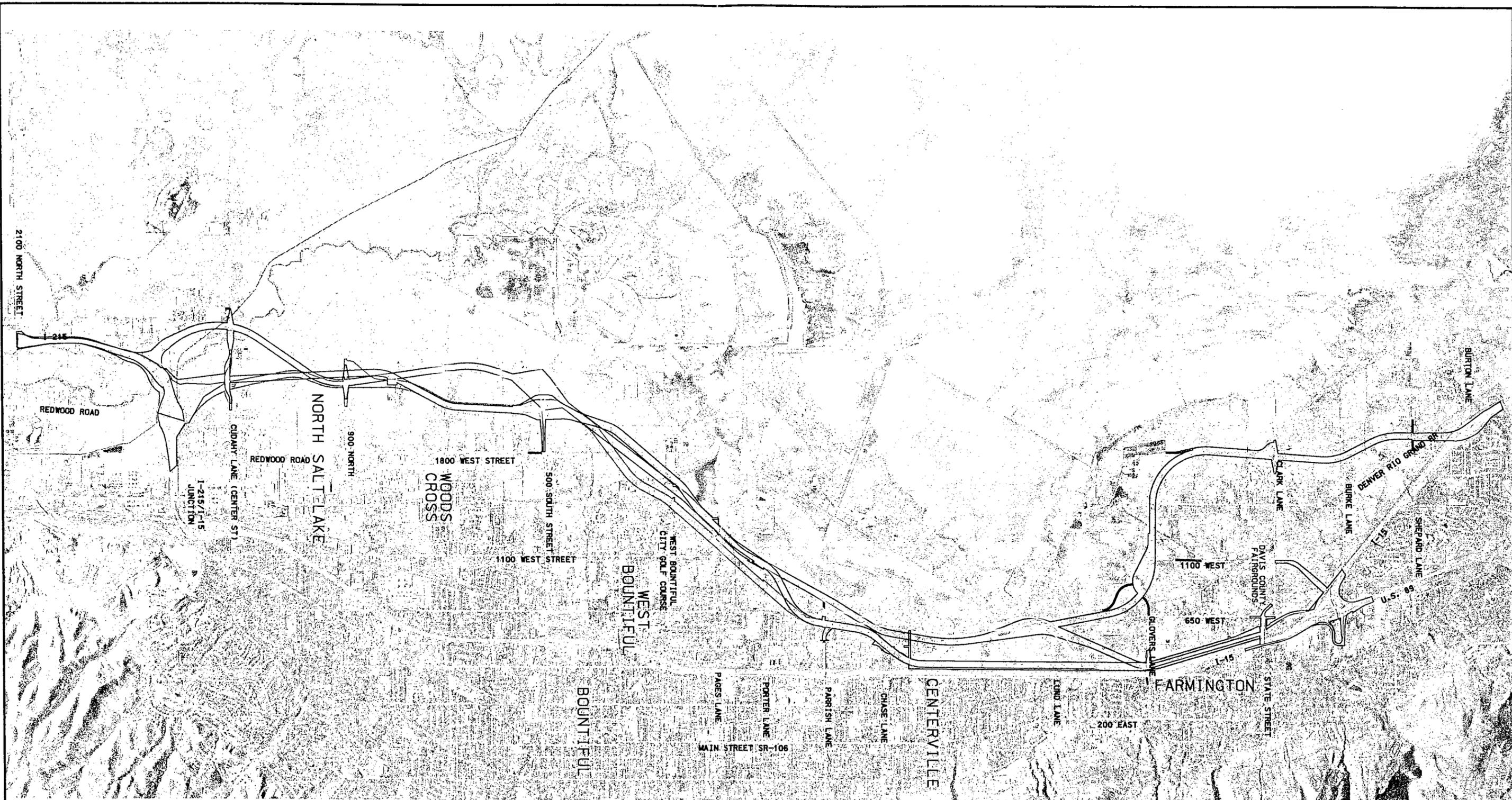
DATE

NOTE: Complete a form for each segment with more than one Alternate Corridor

CORRIDOR - TYPE SITE ASSESSMENT CRITERIA

The following criteria are to be used for projects that have a linear or corridor - type site configuration connecting two distant points, and crossing several different tracts of land. These include utility lines, highways, railroads, stream improvements, and flood control systems. Federal agencies are to assess the suitability of each corridor - type site or design alternative for protection as farmland along with the land evaluation information.

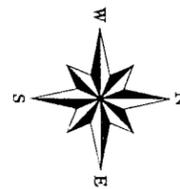
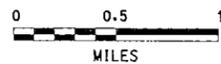
- (1) How much land is in nonurban use within a radius of 1.0 mile from where the project is intended?
 More than 90 percent - 15 points
 90 to 20 percent - 14 to 1 point(s)
 Less than 20 percent - 0 points
- (2) How much of the perimeter of the site borders on land in nonurban use?
 More than 90 percent - 10 points
 90 to 20 percent - 9 to 1 point(s)
 Less than 20 percent - 0 points
- (3) How much of the site has been farmed (managed for a scheduled harvest or timber activity) more than five of the last 10 years?
 More than 90 percent - 20 points
 90 to 20 percent - 19 to 1 point(s)
 Less than 20 percent - 0 points
- (4) Is the site subject to state or unit of local government policies or programs to protect farmland or covered by private programs to protect farmland?
 Site is protected - 20 points
 Site is not protected - 0 points
- (5) Is the farm unit(s) containing the site (before the project) as large as the average - size farming unit in the County?
 (Average farm sizes in each county are available from the NRCS field offices in each state. Data are from the latest available Census of Agriculture, Acreage or Farm Units in Operation with \$1,000 or more in sales.)
 As large or larger - 10 points
 Below average - deduct 1 point for each 5 percent below the average, down to 0 points if 50 percent or more below average - 9 to 0 points
- (6) If the site is chosen for the project, how much of the remaining land on the farm will become non-farmable because of interference with land patterns?
 Acreage equal to more than 25 percent of acres directly converted by the project - 25 points
 Acreage equal to between 25 and 5 percent of the acres directly converted by the project - 1 to 24 point(s)
 Acreage equal to less than 5 percent of the acres directly converted by the project - 0 points
- (7) Does the site have available adequate supply of farm support services and markets, i.e., farm suppliers, equipment dealers, processing and storage facilities and farmer's markets?
 All required services are available - 5 points
 Some required services are available - 4 to 1 point(s)
 No required services are available - 0 points
- (8) Does the site have substantial and well-maintained on-farm investments such as barns, other storage building, fruit trees and vines, field terraces, drainage, irrigation, waterways, or other soil and water conservation measures?
 High amount of on-farm investment - 20 points
 Moderate amount of on-farm investment - 19 to 1 point(s)
 No on-farm investment - 0 points
- (9) Would the project at this site, by converting farmland to nonagricultural use, reduce the demand for farm support services so as to jeopardize the continued existence of these support services and thus, the viability of the farms remaining in the area?
 Substantial reduction in demand for support services if the site is converted - 25 points
 Some reduction in demand for support services if the site is converted - 1 to 24 point(s)
 No significant reduction in demand for support services if the site is converted - 0 points
- (10) Is the kind and intensity of the proposed use of the site sufficiently incompatible with agriculture that it is likely to contribute to the eventual conversion of surrounding farmland to nonagricultural use?
 Proposed project is incompatible to existing agricultural use of surrounding farmland - 10 points
 Proposed project is tolerable to existing agricultural use of surrounding farmland - 9 to 1 point(s)
 Proposed project is fully compatible with existing agricultural use of surrounding farmland - 0 points



LEGEND

- ∨ Alternative A
- ∨ Alternative B
- Alternative C
- ∨ Alternative D and E

*E is 321 ft. wide
D is 328 ft. wide*



LEGACY PARKWAY

Form NRCS-CPA-106
 Identification Number: UT-2004-0002
 Davis and Salt Lake Counties, Utah
 Federal Agency Involved: FHWA
 September 27, 2004



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
U.S. ARMY ENGINEER DISTRICT, SACRAMENTO
CORPS OF ENGINEERS
1325 J STREET
SACRAMENTO, CALIFORNIA 95814-2922

November 8, 2004

Regulatory Branch (199650197) (200350493)(FJD)

Mr. John Thomas, P.E.
Utah Department of Transportation
360 North 700 West
Suite F 2nd Floor
North Salt Lake, Utah 84054

Dear Mr. Thomas:

We are responding to your request to reverify the original jurisdictional determination for the UDOT Legacy Parkway Project. We issued Permit 199750197 in January 2001, authorizing UDOT to fill up to 114 acres of wetlands for the construction of the Legacy Parkway. Portions of the right-of-way were cleared and filled before construction was halted in November 2001. Therefore, the area disturbed by this construction needed specific study to determine to what extent wetlands have changed subsequent to the impact analysis performed for the June 2000 *Legacy Parkway Final Environmental Impact Statement*. The survey area is located in the cities of Salt Lake, North Salt Lake, West Bountiful, Woods Cross, Centerville and Farmington, in Davis County, Utah.

Based on available information and the March 24, 2004 reverification report prepared by Jones and Stokes, Inc., we hereby reverify the original delineation, *Wetland Delineation, Legacy-West Davis Highway* (Baseline Data, Inc. et al, February 18, 1998) and its 1999 update with the following modification:

Within the right-of-way, 47.9 acres have been filled. Adjacent to the right-of-way, up to 4.5 acres have been filled; this includes 4.2 acres of wetlands were filled by activities not associated with the Legacy Parkway. (This figure does not include 12.9 acres of wetlands filled in association with the Foxboro project at the northwest corner of Center Street and Redwood Road, in North Salt Lake.) We concur with the acreage tally on the enclosed Table 1 from the Jones and Stokes reverification report.

These waters are regulated under Section 404 of the Clean Water Act since they are either tributary and/or adjacent to the Great Salt Lake (GSL), a waters of the United States in accordance with 33 CFR 328(a)(5) and (7). Adjacent means neighboring, bordering or contiguous. We consider wetlands that form complexes on the low terraces surrounding the GSL to be wetlands adjacent to the GSL.

This verification is valid for five years from the date of this letter, unless new information warrants revision of the determination before the expiration date. A *Notification of Administrative Appeal Options and Process and Request for Appeal* form is enclosed. If you wish to appeal this approved jurisdictional determination, please follow the procedures on the form. You should provide a copy of this letter and notice to all other affected parties, including any individual who has an identifiable and substantial legal interest in the property.

Please refer to identification number 200350493 in any correspondence concerning this project. If you have any questions, please contact me at our Utah Regulatory Office, 533 West 2600 South, Suite 150, Bountiful, Utah 84010-7744, email Nancy.Kang@usace.army.mil, or telephone 801-295-8380, extension 14. You may also use our website: www.spk.usace.army.mil/regulatory.html.

Sincerely,

A handwritten signature in cursive script that reads "Nancy Kang".

Nancy Kang
Chief, Utah Regulatory Office

Enclosure(s)

Copy furnished without enclosure(s):

Greg Punske, P.E., Federal Highway Administration, 2520 West 4700 South, Suite 9A, Salt Lake City, Utah 84118-1847
Christy Corzine, Jones and Stokes, 2600 V Street, Sacramento, CA 95818-1914.



WASATCH FRONT REGIONAL COUNCIL

295 North Jimmy Doolittle Road • Salt Lake City, Utah 84116 • www.wfrc.org
Phone Salt Lake: 801.363.4250 • Fax: 801.363.4230 • Phone Ogden: 801.773.5559

Dennis Nordfelt
Chairman
Mayor, West Valley City

Dave Connors
Vice-Chairman
Mayor, Farmington

Byron Anderson
Mayor, Grantsville

Ross C. Anderson
Mayor, Salt Lake City

Janice Auger
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Ken Bischoff
Commissioner, Weber County

Bruce Burrows
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Craig L. Dearden
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Tom Dolan
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Dannie R. McConkie
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Kent Money
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JoAnn B. Seghini
Mayor, Midvale

Jerry Stevenson
Mayor, Layton

Camille Cain
Utah Association of Counties

George Garwood
Utah League of Cities & Towns

Robert Grow
Envision Utah

August 5, 2005

Gregory S. Punske
Environmental Program Manager
Federal Highway Administration
Utah Division
2520 West 4700 South, Ste. 9A
Salt Lake City, UT 84118-1847

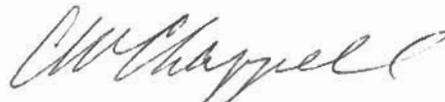
Dear Mr. Punske:

Regarding your letter dated July 11, 2005 asking for the official Wasatch Front Regional Council position on the Smart Mobility land use reallocation, we offer the following.

The long standing policy of the Wasatch Front Regional Council is that county totals published by the Governor's Office of Planning and Budget are inviolate. This is in accordance with GOPB policy framed in a memorandum, signed by Governor Scott Matheson on December 11, 1978, ordering all state agencies that use socioeconomic projections, to use the projections published by GOPB. Movement of employment from Salt Lake County to Davis County violates this policy and is not consistent with the land use elements of local plans. This, therefore, is unacceptable to our process.

If you have any further questions or concerns, or wish to discuss this further, please do not hesitate to contact me.

Sincerely,



Charles W. Chappell
Executive Director

CC/sf



U.S. Department
Of Transportation
**Federal Highway
Administration**

Utah Division
2520 West 4700 South, Ste. 9A
Salt Lake City, UT 84118-1847

August 10, 2005

File: SP-0067(1)0

Wilson Martin, State Historic Preservation Officer
Utah State Historical Society
300 Rio Grande
Salt Lake City, Utah 84101

Subject: Project #: SP-0067(1)0
Legacy Parkway Project
Final Memorandum of Agreement
Request for Signature

Dear Mr. Martin:

The Federal Highway Administration (FHWA), in cooperation with the Utah Department of Transportation (UDOT), has determined that the Legacy Parkway Project, located between the I-215 Interchange in northern Salt Lake County and Burke Lane north of Farmington in Davis County will have an effect upon historic properties. To take into account these effects, the FHWA has prepared the attached Memorandum of Agreement (MOA) for your signature.

An MOA was previously developed for the Legacy Parkway Project in consultation with your office and signed in the year 2000. Since that time, a legal injunction has halted archaeological and construction activities done under the authority of the original MOA.

The FHWA has taken this opportunity to learn from the challenges of implementing the original MOA and is pleased to provide you this revised MOA, which incorporates commitments begun under the original MOA, yet reflects improved language 1) detailing roles and responsibilities relative to consultation procedures and the treatment of human remains and 2) adding many design and mitigation measures to meet the concerns of the Clark Lane Historic District.

Much of the revised language contained herein was developed jointly with the help and expertise of Dr. Melvin Brewster, former Director of the Tribal Historic Preservation Office, Skull Valley Band of Gosiute, Utah, the residents of the Clark Lane Historic District, as well as Ms. Barbara Murphy, Mr. Corey Jensen, and Mr. Jim Dykmann of your office. The MOA is truly a product reflecting the contributions of many. I admire the strength and unity of the Clark Lane residents in addition to their collective understanding and patience with our federal and state processes. Their efforts and success are to be commended and shared with other communities interested in maintaining both their heritage and social cohesion.

Thus far, we have obtained the signatures of Ms. Gwen Davis, Chairperson of the Northwest Band of the Shoshone; Mr. Forrest Cuch, Director, Utah Division of Indian Affairs; Mr. Chadwick Greenhalgh and the residents of the Clark Lane Historic District (see attached

letter from Mr. Greenhalgh) Mr. John Thomas, Legacy Project Manager for UDOT; and Mr. David Gibbs, Division Administrator, FHWA. At this time, I respectfully request your signature on this MOA. Upon signing, please return to my office for distribution to all consulting parties and execution with the Advisory Council on Historic Preservation.

I would also like to pass along my appreciation for the continued involvement of the SHPO throughout the development of the MOA. Because of the mutual trust and understanding that we have developed, I believe we are helping one another achieve our respective missions, which ultimately better serves the state of Utah, it's resources, and it's residents.

Thank you for your attention to this matter. At your request, I will be available to meet with you to discuss any concerns you might have. Please feel free to contact me at 801-963-0078, Extension 235 to answer any questions or provide any additional information.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeff Berna". The signature is fluid and cursive, with the first name "Jeff" and last name "Berna" clearly distinguishable.

Jeffrey Berna
Environmental Specialist

Enclosures:

- #1 Figure illustrating location of Archaeological Sites in project area (11x17")
- #2 Legacy Parkway Final MOA (for signature)

cc: John Njord, Director UDOT
John Thomas, Legacy Project Manager
Greg Punske, FHWA Environmental Manager

JBerna:dm

MEMORANDUM OF AGREEMENT

Regarding the

LEGACY PARKWAY PROJECT

Project No. SP-0067(1)0
Salt Lake and Davis Counties, Utah

WHEREAS, the Federal Highway Administration, Utah Division (FHWA) has determined that the Legacy Parkway Project between the I-215 Interchange, northern Salt Lake County, Utah and Burke Lane north of Farmington, Davis County, Utah (hereinafter called the Project) may have an effect upon properties included in or eligible for inclusion in, the National Register of Historic Places (NRHP), and has consulted with the Utah State Historic Preservation Officer (USHPO) in accordance with 36 CFR 800.6(b)(1), regulations implementing Section 106 of the National Historic Preservation Act (NHPA)(16 U.S.C. 470f) to resolve the adverse effects; and

WHEREAS, the Utah Department of Transportation (UDOT) is the agency coordinating this Project on behalf of the FHWA and has participated in the consultation, the FHWA has invited them to sign this Memorandum of Agreement (MOA) pursuant to 36 CFR 800.6(c)(2) as an invited signatory; and

WHEREAS, the Northwestern Band of Shoshone of the Shoshone Nation, Idaho and Utah; the Ute Indian Tribe of the Uintah-Ouray, Utah; the Confederated Tribes of the Goshute (Ibapah), Utah; the Skull Valley Band of Gosiute, Utah; and the Shoshone Bannock Tribes, Idaho (hereafter called Tribes); and the Utah Division of Indian Affairs participated in the technical coordination and consultation and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(2) as concurring parties; and

WHEREAS, the residents of the Clark Lane Historic District (CLHD), Farmington, have participated in the technical coordination and consultation and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(2) as a concurring party; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination, with specified documentation, and invited the Council to participate in the consultation; and

WHEREAS, a legal injunction halted archaeological and construction activities done under a prior MOA for this Project, the parties to this MOA agree that upon execution, all stipulations and conditions contained within this MOA will take precedence over the previously executed MOA for the Project; and

WHEREAS, the Project is large and complex, with a potential for the discovery of additional properties eligible for inclusion in the NRHP, the FHWA intends to use the provisions of this MOA to address all activities that may result in impacts to both known and inadvertently discovered historic properties; and

WHEREAS, the Project's area of potential effect (APE) for this undertaking includes all lands subject to Project activities or activities directly funded by the Project as delineated by Alternatives A, B, C, D, E, and Redwood in Appendix A; and

WHEREAS, the parties to this MOA have considered the applicable requirements of the Utah Native American Graves Protection and Repatriation Act of 1992 (Utah NAGPRA)(U.C.A. 9-9-401, et seq., and its implementing Rule R230-1), and the Utah Code 76-9-704 in the course of consultation; and

WHEREAS, the parties to this MOA recognize that every reasonable effort should be made to protect Traditional Cultural Properties (TCP) from possible harm by the Project, it is incumbent upon the tribes or such interested party(ies), to identify any TCPs believed to exist within the Project APE;

NOW, THEREFORE, the FHWA, the UDOT and the USHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Project on historic properties.

STIPULATIONS

The FHWA shall ensure that the following measures are carried out. To aid the signatories of this MOA, the stipulations are organized in the following order:

1. Environmental Control Supervisor
2. Clark Lane Historic District
3. Archaeological Testing
4. Archaeological Data Recovery
5. Historic Structures
6. Inadvertent Discovery of Cultural Resources
7. Project Specific Procedures for Implementing Utah NAGPRA
8. Administrative Stipulations

1. ENVIRONMENTAL CONTROL SUPERVISOR

An Environmental Control Supervisor (ECS) will be required for the Project. The ECS will be responsible for monitoring and ensuring compliance with the stipulations and mitigation commitments contained within this MOA. The ECS's contact information will be provided to the FHWA, the UDOT, the USHPO, the Tribes, and the homeowner(s) and tenant(s) located at 368, 382, 393, 398, and 399 W. State Street, Farmington, UT prior to the resumption of construction activity.

2. CLARK LANE HISTORIC DISTRICT (CLHD)

2.1 *Design Measures to Minimize Harm*

The following measures have been developed to ensure that project-related impacts from the Project are minimized and stipulations are in place to return the conditions of the CLHD and its contributory elements to their original pre-construction condition.

- No Change in Capacity or Function of Bridge. The existing bridge over I-15 and Lagoon Drive will be replaced with a structure of similar design and orientation, thereby maintaining a 2-lane configuration and not altering appearance or traffic patterns in the area.
- Lighting and Associated Safety Concerns. Standard lighting fixtures have been incorporated into the design of the new bridge.
- No Haul Route Traffic. Truck traffic and associated impacts will be reduced during construction by not allowing State Street to be used as the principle haul route for the Project. Construction vehicle traffic will occur around the juncture of Clark Lane and State Street while removing and replacing existing traffic and pedestrian bridges.
- Minimal Grade Change. Efforts have been made to design a new bridge with as little grade change to State Street as possible. The new grade height is estimated at 18" on the east side of the bridge and will taper to existing road grade in front of 393 W. State Street. The change in height for 399 W. State Street is estimated at 12". The driveways of 393 and 399 W. State Street will be tapered to the new State Street grade.
- Sidewalk Moved. Sidewalks will be incorporated within the new bridge structure, requiring the redesign of the sidewalk in front of 399 W. State Street. This redesign moves the sidewalk further from the house and improves control of water runoff.
- Water Control. Several water catchments will be added to the east of the new bridge structure, which in conjunction with the new curbs, will improve the management of water runoff so as not to impact the yards or foundations of the historic homes.
- Pavement Converted to Green Space. The new State Street design east of the new bridge will convert approximately 1068 square feet of pavement within existing right-of-way to green space within right-of-way. Existing homeowner irrigation lines will be extended to water this new green space with homeowner's approval. If no irrigation system exists, or if the homeowners do not want to extend their irrigation lines to the new green space, then appropriate landscaping will be used.
- Mature Trees Protected. The mature trees in front of 393 and 399 W. State Street will be protected from fill through the use of short block (or rock) walls surrounding the trunks. Material to be used in the construction of these small walls will be determined in consultation with the property owner.
- No Historic Property Takes. There will be no property takes from any of the historic properties. Temporary easements will be needed to move the sidewalk, slope (or terrace) the yard towards the new sidewalk, taper the driveways of 393 and 399 W. State Street and add curb and gutter on the northeast of State Street and Clark Lane.
- No Change to Sound Walls. Existing sound walls will be left in place along the west side of 399 W. State Street.
- Maintain Existing Landscape Features. The existing landscape wall and associated

plantings in the front of 399 W. State Street will be protected to the extent possible during construction. Upon removal of the sidewalk, new landscaping will take into consideration the existing wall and match with in-kind materials to the extent possible.

2.2 *Measures to Minimize Potential Harm from Construction-Related Vibration*

The following measures are included within the MOA to reduce the likelihood of potential impacts caused by construction-related vibration. In the unlikely event that the ECS or homeowner(s)/tenant(s) believe such harm has occurred, the responsibilities of all parties is described below.

- **Pre-drilled Pilings an Option.** Pre-drilling of pilings may be used by the contractor to increase the distance from piles to the historic homes thereby reducing the potential for vibration effects on the homes.
- **Energy of Pile-Driving Hammers Limited.** The maximum rated energy of pile-driving hammers will be limited to 54,000 foot-pounds for all impact-driven piles within 200 feet of the buildings within the CLHD.
- **Notification.** The homeowner(s) and tenant(s) at 368, 382, 393, 398, and 399 W. State Street, the USHPO, the UDOT, and the FHWA shall all be notified by the ECS of any pile-driving activities at least five (5) days in advance (preferably greater advance notice if known).
- **Pre- and Post-Construction Surveys of Structures.** A pre-and post-construction survey of all buildings or structures located on the property of 368, 382, 393, 398, and 399 W. State Street will be required. The survey will consist of photo and written documentation of the structures' exterior and interior condition to the extent possible. This means at least one photograph of all elevations from all cardinal directions, of professional quality black/white 35 mm photographs (3 x 5" prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), the streetscape, and detailed photographs of all areas most sensitive to vibration effects. Photographs of exterior architectural trim/decorations shall also be submitted. Photographs shall be numbered and labeled with address (street and city) and date the photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archival quality protective storage pages. When allowed by owners, interior photographs shall be taken of each wall in every room of these structures for the purposes of documenting present conditions.
- **Vibration Monitoring.** Two vibration monitors will be placed, one on the foundation and one on the upper elevation, on the home at 399 W. State Street and record vibration levels throughout the duration of pile driving activities within two hundred (200) feet of the home. Two additional monitors will be placed on the foundation and upper elevation of the home at 368 W. State Street and record vibration levels during this same time. In addition to monitoring the effects of distance from the pile driving activities, the monitoring of 368 W. State Street will provide an opportunity to study the effects of roadway traffic on the historic home and thus require synchronization between the vibration data and a recordation of the cause of the vibration (i.e. bus, car, heavy truck). The synchronization can be accomplished by either visual tabulation

- means or video, whichever is found to accomplish the task most efficiently and effectively as determined by the ECS and UDOT.
- Modifications to Vibration Monitoring Plan. The monitoring plan described above meets the minimum requirements for recordation. With the approval of the homeowners and agreement amongst the ECS, UDOT, and FHWA, additional monitoring data should be gathered (i.e. pre-drilling baseline data or additional roadway data) if equipment is available. Additional modifications to the monitoring plan can be made if agreement is reached amongst the USHPO, UDOT, FHWA, and applicable homeowners/tenants (i.e. location and placement of the monitors).
 - Exceeding Vibration Threshold of 0.12 in/sec. Pile-driving activities will stop and other less vibration-intense activities must be employed if any vibration monitor readings exceed 0.12 in/sec or if there is visual evidence that the pile driving is causing damage to a structure. A determination will be made by the ECS as to whether such vibration levels are the result of pile-driving activities. If so, the selection of alternative methods will be made between the contractor and UDOT with input from the ECS and approval from FHWA when necessary. Such methods may include using smaller pile drivers or continuing with pre-drilled piles.
 - Identification of Damage. If damage to the structures located at 368, 382, 393, 398, or 399 W. State Street is observed by the ECS, the ECS will be responsible for identifying and stopping the responsible activity if known and within the control of the Project team.
 - Notification of Damage. If any of the homeowner(s) or tenant(s) within the CLHD observe damage or believe damage to be caused by activities related to the Project, they are responsible for notifying the ECS as soon as possible. The ECS will assess the claim and report to the homeowner(s) and/or tenant(s) within twenty-four (24) hours.
 - Resolving Damage Claims: If it is agreed amongst the UDOT and the homeowner(s) that damage has occurred to a structure as a result of the activities of the Project, the damage will be documented and the structures restored to the documented condition existing before damage occurred with in-kind materials and workmanship.
 - Contact Information: If any of the homeowner(s) or tenant(s) within the CLHD believes that the terms of this MOA are not being met, or that their concerns are not being heard or addressed by the Project's ECS, they may contact the Legacy Project Office or the FHWA Utah Division Office directly.

Legacy Parkway Office
 360 N. 700 W., Suite F
 North Salt Lake, UT 84054
 (801) 951-1026
 (800) 483-4587

U.S. Department of Transportation
 Federal Highway Administration
 Utah Division
 2520 West 4700 South, Suite 9a
 Salt Lake City, UT 84118-1847
 (801) 963-0182

3. ARCHAEOLOGICAL TESTING

Site 42Dv97 (Historic Privy) will be tested subsurface to make a final determination of eligibility or assess data recovery potential. A written testing plan will be developed by UDOT and submitted to the USHPO for review and comment. If Site 42Dv97 is subsequently determined by UDOT to meet NRHP eligibility requirements for its information potential and will be adversely effected by the Project, then significant deposits at the site will undergo archaeological data recovery in accordance with Stipulation 4.

4. ARCHAEOLOGICAL DATA RECOVERY

Data Recovery: The FHWA shall ensure that a data recovery plan is developed by UDOT in consultation with the USHPO, the Tribes, and consulting parties for the recovery of archeological data from NRHP eligible sites adversely effected by the final alignment of the Project. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and take into account the Council's publication, Treatment of Archeological Properties (Advisory Council on Historic Preservation, 1980), subject to any pertinent revisions the Council may make in the publication prior to completion of the data recovery plan and to relevant USHPO or other guidance.

The Data Recovery Plan shall specify, at a minimum:

- the research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
- the methods to be used, with an explanation of their relevance to the research questions;
- the methods to be used in analysis, data management, and dissemination of data, including a schedule;
- the proposed disposition of recovered materials and records;
- proposed methods for involving the interested public in the data recovery, including an invitation to Utah State Archaeological Society (USAS) members to volunteer where safe conditions present themselves;
- proposed methods for disseminating results of the work to the interested public, including;
 - Offering to present a talk to the local USAS chapter;
 - Preparing an article for publication in a local paper; and
 - Preparing a scripted slide show for FHWA/UDOT for future use in public education programs;
- proposed methods by which the Tribes or other consulting parties will be kept informed of the work and afforded the opportunity to participate, including;

- Extending an invitation to the Tribes (including school age children) to tour the sites while fieldwork is ongoing and where safe conditions present themselves,
 - Offering to make a presentation about the project findings to all interested Tribes at a location convenient to the Tribes;
 - Recognizing the benefits of ‘Multiple Voices’ by offering Tribes and Tribal members an opportunity to present interpretations and views that may augment or counter current archaeological theory, findings, and interpretation.
- a proposed schedule for the submission of progress reports to the FHWA, the UDOT, and the USHPO; and
 - The data recovery plan shall be submitted by the UDOT to the USHPO, and also to the Tribes, for 30 days review. Unless these parties object within 30 days after receipt of the plan, the FHWA through the UDOT shall ensure that it is implemented.

Table 1 identifies archaeological sites potentially impacted by the Project. However, only those sites located within the APE of the preferred alternative identified in FHWA’s Record of Decision and adversely effected will undergo data recovery.

Table 1. NRHP Eligible Archaeological Sites Impacted by Project (Listed by Alternative).

Site Number	A	B	C	D	E	Redwood
42Dv2	X		X	X	X	X
42Dv67						X
42Dv70		X				
42Dv77		X				
42Dv90		X				
42Dv94	X	X	X	X	X	X
42Dv97	X			X	X	

Of special note are sites 42Dv2 and 42Dv94:

42Dv2 – This property is a large site spanning both the prehistoric and historic periods. Excavations were begun in accordance with the original MOA but were halted prior to completion. During the excavation, human remains were encountered. This site is determined eligible for the NHRP under Criterion D and warrants Section 4(f) protection due to the presence of human remains and the sanctity of these burial grounds. The sacred nature of burials has been formally communicated to FHWA on numerous occasions specifically by Dr. Brewster, Director of the Tribal Historic Preservation Office of the Skull Valley Band of the Gosiutes. The site limits will be delineated and protected from construction activities through the use of construction fencing. If portions of the site are deemed necessary for the current Project at a later time, then additional consultation with the USHPO, the Tribes, and consulting parties will become necessary.

Although future work within the APE of the current Project will avoid the site, prior impacts have already adversely effected the site. In addition, a future I-15 ramp may tie into the present Project and may further impact the site. Because the I-15 ramp is a foreseeable action, its potential

impacts are disclosed in this document. However, additional data recovery for potential impacts to 42Dv2 will not take place until the need for the ramp is determined and final design and environmental clearance of the ramp is complete. Avoidance, minimization, and if necessary, mitigation measures for these future impacts will be evaluated as part of the I-15 project development. Mitigation for past impacts to 42Dv2 as a result of the present Project will include completion of the archaeological analysis and reports already underway.

42Dv94 – This site consists of human remains discovered eroding from the margins of the City Drain Canal in North Salt Lake City, Utah. The identified human remains have already been fully excavated. However, because there is sufficient potential for additional remains to be present in the site vicinity, the UDOT/FHWA has determined this site eligible for the NRHP and warrants preservation in place, and thus Section 4(f) protection, due to the sanctity of the potential burials. Like 42Dv2, site 42Dv94 lies in an area potentially impacted by a future I-15 ramp connecting into the Project. For the purposes of the current Project, a 50-foot buffer zone around 42Dv94 site limits will be delineated and protected from construction activities through the use of construction fencing. If portions of the site are deemed necessary for the current Project at a later time, then additional consultation with the USHPO, the Tribes, and consulting parties will become necessary.

5. HISTORIC STRUCTURES AND RAILROADS

Table 2 identifies Historic Structures and Railroads potentially impacted by the Project. However, only those properties located within the APE and adversely effected by preferred alternative identified in FHWA’s Record of Decision would require the Full Intensive Level Survey.

Table 2. Historic Structure and Railroad Impacts (Listed by Alternative).

Property	A	B	C	D	E	Redwood
1300 Glover Lane, Farmington		X				
836 S Redwood Road, Woods Cross						X
918 S Redwood Road, Woods Cross						X
946 S Redwood Road, Woods Cross						X
974 S Redwood Road, Woods Cross						X
1650 S Redwood Road, Woods Cross						X
2018/2020 S Redwood Road, Woods Cross						X
2408 S Redwood Road, Woods Cross						X
1095 S Redwood Road, North Salt Lake						X
Clark Lane Historic District, Farmington	X	X	X	X	X	X
662 W Clark Lane, Farmington	X	X	X	X	X	X
10 N 650 West, Farmington	X	X	X	X	X	X
D&RG Railroad	X	X	X	X	X	X

Of special note is 10 N 650 West, Farmington (The White House). This historic property was comprised of a 1910 era Temple Form home. It was razed following recordation according to the stipulations of the original MOA. For the purposes of the Supplemental Environmental

Impact Statement for the Project, this property is being recognized as an adverse effect. However, the property is no longer extant and has been fully mitigated per the requirements of the original MOA, therefore, the property does not warrant further work.

- 5.1 *Intensive Level Survey:* An ILS (Historic Site Form) will be completed for any Historic Property that will be adversely affected by the Project.
- 5.2 *Photographs:* Photographs are required of all buildings or structures on the property. An adequate number of professional quality black-and-white photographs (3x5 prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), streetscapes, all outbuildings, detailed photographs of all areas to be impacted by the adverse effect, and photographs of exterior architectural trim/decorations, shall be submitted. Photographs shall be numbered and labeled with address (street and city) and date photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archival stable protective storage pages.
- 5.3 *Floor Plans:* Sketch floor plans of all eligible buildings shall be submitted. The plans must be based on an accurate footprint (e.g., Sanborn maps, tax card drawings, or measurements taken on site) and show all existing construction. Rooms shall be labeled by use. These non-measured drawings are to be on 8.5x11 or 11x17 sheets. A site sketch plan showing subject buildings and all outbuildings is also required.
- 5.4 *Research:* A legible photocopy of the entire historic tax card of the property and a 5x7 black-and-white print and negative of the historic tax card photo (if available) shall be submitted. Label and submit print and negative as described above. Other research shall be conducted as necessary to obtain complete information on the property; sources include the title abstracts, Sanborn maps, building permits, architects' file, city directories, family histories, and others.
- 5.5 *Filing:* All materials shall be submitted to the Utah Division of State History, Preservation Section, to be placed on file.

6. INADVERTENT DISCOVERY OF CULTURAL RESOURCES

The FHWA and the UDOT have developed a plan of action for consultation with the Tribes and the USHPO regarding inadvertent discovery of historic properties potentially eligible to the NRHP. The plan detailed below describes coordinating efforts among the FHWA, the UDOT, the Tribes, and the USHPO; assessment of effects to historic properties (not affecting Utah NAGPRA related issues); inventory and evaluation processes; and mitigation strategies.

In the event that cultural resources are discovered:

- 6.1 *Cease Activity:* Work will stop in the immediate area of the discovery in accordance with UDOT Standard Specification 01355, Part 1.10 as detailed in Appendix B. The UDOT will notify the USHPO and FHWA. The FHWA will subsequently notify the Council and Tribes. If Human Remains are encountered, the contractor will follow procedures detailed

in Stipulation 7 below.

- 6.2 *Evaluate Resource:* The UDOT will initiate internal coordination with their contractor to evaluate the resource for NRHP eligibility. The designated contractor will prepare draft inventory reports and recommendations regarding the NRHP eligibility of identified properties. The content and scope of the draft and final report(s) on the results of the evaluation studies will follow state guidelines as found in the UDOT's Consultant Guidelines.
- 6.3 *Determine Eligibility:* In consultation with the USHPO, the UDOT will apply the NRHP criteria (36 CFR 60.4) to all cultural resources discovered during the Project with regard to their potential for inclusion in the NRHP. This evaluation shall take into account the guidance found in all applicable National Register Bulletins.
- 6.4 *Assessment of Effect:* In situations affecting or with the potential to affect historic properties, UDOT will apply the criteria of effect and adverse effect as described in 36 CFR 800.5. A Determination of Eligibility and Finding of Effect (DOE-FOE) will be submitted to the USHPO and to the Tribes (if applicable) along with appropriate documents generated as a result of the inadvertent discovery.
- 6.5 *Treating Effects:* If the undertaking might affect historic properties, the UDOT will develop site specific treatment plans to minimize or mitigate the effects of the historic properties located within the area of the discovery in coordination with the USHPO, the Tribes and other interested parties (if applicable) as follows:
- Human remains and the associated cultural items will be treated in accordance with the Utah NAGPRA (See Stipulation 7 of this MOA).
 - The preferred alternative to mitigation is avoidance of impacts to historic properties.
 - Project redesign will be implemented when technically, economically, and environmentally feasible and prudent, to avoid the placement of the facility, or related construction activities in a manner that may affect historic properties.
- 6.6 *Data Recovery:* The UDOT shall ensure that a data recovery plan is developed in accordance with Stipulation 4 of this MOA.
- 6.7 *Reporting:* The UDOT shall ensure that all reports on activities carried out pursuant to this MOA are provided to the USHPO, the Council, the Tribes, and upon request to any other consulting parties, following completion of the activities stipulated in the MOA.
- 6.8 *Personnel Qualifications:* The UDOT shall ensure that all historic work carried out pursuant to this MOA is completed by or under the direct supervision of a person or persons meeting or exceeding the Secretary of interior's Standards for History or

Archaeology as appropriate (36 CFR 61 Appendix A).

7. PROJECT SPECIFIC PROCEDURES FOR IMPLEMENTING UTAH NAGPRA (U.C.A. 9-9-401 et. seq. AND ITS IMPLEMENTING RULE R230-1 AND UTAH CODE 76-9-704)

7.1 Purpose

7.1.1 The Parties to the MOA intend to respect and be sensitive to the cultural perspectives and responsibilities, the religious and ceremonial rights, and sacred practices of the Tribes in fulfilling tribal interests in the discovery of Utah NAGPRA related items identified during the Project.

7.1.2 If circumstances warrant and a determination is made by FHWA that federal NAGPRA applies to a discovery case during construction, then FHWA will ensure that all applicable federal procedures and requirements are met.

7.2 Objectives

7.2.1 To implement the legislative provisions of Utah law, specifically U.C.A. 76-9-704, 9-9-401 et. seq., and R230-1 within the intent of such legislation.

7.2.2 To implement legal requirements, while respecting and maintaining the dignity of the individual and the Utah NAGPRA related cultural items potentially discovered during the Project's construction, and in conjunction with the best interests of the Tribes.

7.2.3 To facilitate UDOT compliance with Utah NAGPRA, respective to decisions that must be made, and actions taken, regarding curation, disposition, re-interment, data recovery, consultation and notification, and treatment of human remains and cultural items as defined by Utah NAGPRA.

7.2.4 To provide guidance for construction personnel regarding the discovery and notification process upon location of human remains and cultural items as defined by Utah NAGPRA.

7.3 Implementation of Objectives

7.3.1 UDOT will provide the Project ECS, the contractor, the FHWA, and the UDOT Regional Engineer with a set of procedures to be followed in the event of an inadvertent discovery of human remains.

7.3.2 In accordance with UDOT Standard Specification 01355, Part 1.10 (Appendix B), upon discovery of human remains (including cultural items as defined by Utah NAGPRA), construction activities within the immediate area of discovery

shall cease, the site will be secured, and notification of law enforcement, Division of Indian Affairs and USHPO Antiquities Section as required by U.C.A.9-9-403, Utah Administrative Rule R230-1 et seq., and U.C.A. 76-9-704, will commence immediately. In addition, Tribes desiring to be notified at this time will be included on the contact list.

- 7.3.3 If the site is determined not to contain Native American remains, the UDOT will contact the FHWA, and the FHWA will notify the Tribes of such determination. Work will resume at the direction of the UDOT archaeologist.
 - 7.3.4 If the site is determined to contain Native American remains, the UDOT will contact FHWA within one (1) working day. The FHWA will provide notification to the Tribes within one (1) working day and invite the Tribes to visit the site containing the remains. If contact with the FHWA cannot be made within this timeframe, the UDOT may contact the Tribes directly for the purposes of expediting notification. The Tribes will be allowed access to the remains for the purpose of performing ceremonies, discussing treatment options, and monitoring excavation if removal is deemed necessary.
 - 7.3.5 The Tribes will be compensated for expenses incurred to visit the burial site and/or perform ceremonies. Compensation will be based on and limited to those activities included within FHWA's Native American Tribal Consultation Policies and Guidelines.
- 7.4 *Excavation versus Preservation in Place:* At such time a discovery of human remains is made and construction ceases in the area of the discovery, and having satisfied the requirements of U.C.A. 76-9-704:
- 7.4.1 If the remains are in immediate danger of harm, or in the event that construction could not move, they will be excavated in accordance with R-230-1-.1.b.
 - 7.4.2 If the site at which the remains are located can remain intact and free from immediate harm, the site will be secured and a preservation plan will be implemented according to R-230-1-7-1.a.
- 7.5 *Custody of Remains:* Any excavated Native American remains will remain in the custody of the UDOT pending:
- 7.5.1 Consultation and determination of ownership by the Native American Remains Review Committee (NARRC) pursuant to Utah NAGPRA [9-9-403 and R-230-1-13 et. seq.], or

- 7.5.2 In the event of multiple requests for repatriation, the requesting parties agree upon its disposition, or
- 7.5.3 The dispute is otherwise resolved by a court of competent jurisdiction.
- 7.6 *Repatriation:* The repatriation of the individual will be consistent with Utah NAGPRA [9-9-403 and R-230-1-13 et. seq.]. It is incumbent upon all parties to this MOA to work towards the repatriation of human remains in as timely manner as allowable by law. FHWA is responsible for ensuring that the UDOT and its consultants follow state law procedures and the stipulations contained herein.
- 7.8 *Status Inquiry:* At any time in the process, the Tribes may inquire with FHWA as to the status of human remains associated with this Project. It is the responsibility of the FHWA to address the questions and concerns of any Tribe within five (5) working days. If the Tribes are interested in verifying the physical condition and storage treatment of any human remains, a verbal or written request must be submitted to FHWA. FHWA is responsible for arranging a meeting within five (5) working days, or at the earliest convenience of the interested Tribe(s).
- 7.9 *Dispute Resolution:* Disputes on non-Utah NAGPRA related issues will be resolved according to dispute resolution procedures described in this MOA (Stipulation 8.5). The Utah NARRC Committee will resolve all Utah NAGPRA related disputes.
- 7.10 *Treatment of Utah NAGPRA Related Items and Human Remains*
- 7.10.1 Human Remains
- Any and all human remains that have been damaged or removed due to construction activity will be immediately returned to accompany the remains still present in the site.
 - Pursuant to Utah NAGPRA, scientific study of human remains may be carried out only with approval of the owner of the human remains as established in 9-9-403(1) and (2). If ownership is unknown, scientific study shall be restricted to that sufficient to identify ownership but will be limited to non-destructive analysis.
- 7.10.2 Associated Funerary Items/Items of Cultural Patrimony
- Unless otherwise identified, Associated Funerary Items/Items of Cultural Patrimony found near or about the discovery of human remains will be immediately returned to accompany the human remains. Associated

Funerary items are defined as items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later, with or near individual human remains. Objects of cultural patrimony means items having ongoing historical, traditional, or cultural importance central to the Indian tribe itself. If they are so identified, documentation of these materials will be included in the reports as funerary objects and/or items of cultural patrimony.

8. ADMINISTRATIVE STIPULATIONS

8.1 *Changes in the Undertaking*

8.1.1 Changes in the Project will not relieve the FHWA or UDOT of the responsibility of completing resource evaluations.

8.1.2 If, during the Project planning or implementation, modification and/or changes in the undertaking are proposed in ancillary areas that have not been previously inventoried for historic properties, the UDOT shall ensure that the area is inventoried and that historic properties are evaluated in a manner consistent with the inventory, evaluation, and standards identified in Stipulation 6 of this MOA. The UDOT will prepare a draft report(s) of the inventory results and submit said document(s) to the parties of this MOA for review and comment. A final report incorporating the comments of the said parties will be prepared. Final reports will be provided to the parties of this MOA.

8.1.3 The applicable Research Design shall be modified or appended, as appropriate by the contractor (s) under the direction of the UDOT, in consultation with the USHPO and the Tribes, to incorporate treatment and management measures for previously unevaluated historic properties consistent with the MOA.

8.1.4 The parties to this MOA shall be afforded an opportunity to comment within 30 days on documents prepared in response to revisions to the undertaking.

8.2 *Tribal Consultation Process:* Unless otherwise agreed upon, Tribal consultation will occur between the FHWA and the Tribes throughout the Project.

8.3 *Curation*

8.3.1 Cultural material (artifact) curation. Upon discovery and gathering of cultural items within the Project APE, exclusive of Utah NAGPRA items as defined by that act, the UDOT will ensure that the items will be placed in an appropriate repository facility as described in 36 CFR 79.

8.3.2 Report and Documentation curation. Upon the UDOT finalizing the documentation of the Project, all reports and documentation will accompany the cultural material consistent with the provisions described in 36 CFR 79. Upon written request of the Tribes, a copy of said documentation shall be provided for the tribal archives.

8.4 *Dispute Resolution*

8.4.1 Should the USHPO, the Tribes, the DIA, or the Council, object within 30 days to any documentation provided for review pursuant to this MOA, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall request further comments of the Council pursuant to 36 CFR § 800.6(b). Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR § 800.6(c)(2) with reference only to the subject of the dispute; the FHWA/UDOT's responsibility to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.

8.4.2 The Utah Division of Indian Affairs State Native American Remains Review Committee (NARRC) will arbitrate disputes relative to Utah NAGPRA in accordance with U.C.A. 9-9-405 (3)(c), if consultation fails to resolve the dispute.

8.5 *Document Review.* Unless otherwise stated, document review shall be 30 days following receipt of said document submitted for review. Unless notified, the FHWA may assume failure of any party to respond within 30 days indicates their concurrence.

8.6 *Amendment*

8.6.1 Any signatory party to this MOA may request an amendment (s), whereupon the other signature parties will consult to consider such amendment(s).

8.6.2 Any proposed amendment to this MOA must be submitted to the FHWA in writing, with an explanation as to the reasoning for the requested change. The FHWA will initiate consultation with the signature parties for their consideration of the proposed amendment(s).

8.6.3 The FHWA will provide copies of written request(s) for amendment from any signatory party to all other signature parties within 3 days, and the parties agree to begin discussions regarding proposed amendments immediately.

8.7 *Monitoring*

- 8.7.1 A monitoring plan will be included in the Research Design(s). Project monitoring will ensure all parties to this MOA that the activities and provisions of this MOA are in compliance. Monitoring will also ensure that all parties to this MOA will have oversight and updates to the Project as the Project commences.
- 8.7.2 The UDOT will ensure that particular care is taken during construction to avoid affecting any other archeological remains that may be associated with the sites recorded during the initial survey. Restrictions on construction work in all areas not previously cleared in the original Determination of Eligibility and Finding of Effect will be accomplished by erection of a temporary fence and flagging as necessary. Suitable arrangements for archeological monitoring, and any additional survey deemed necessary, will be made in consultation with the USHPO prior to construction in the APE. An archeologist meeting the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) will monitor the construction activities. At a minimum, such monitoring will include recording and reporting of major features or artifact concentrations uncovered, and recovery and curation of a sample of uncovered material where practicable.
- 8.7.3 The Tribes will be invited to assist in the monitoring in conjunction with the authorized archaeologist and will be compensated for their participation in such monitoring activities based on FHWA's compensation policies. Compensation is restricted to FHWA approved and authorized activities and allowances.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the **Legacy Parkway Project, Project No. SP-0067(1)0, Salt Lake and Davis Counties, Utah** and its effects on historic properties, and that FHWA has taken into account the effects of the undertaking on historic properties.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By:



for Mr. David C. Gibbs, P.E., Division Administrator

Date:

6/13/2005

UTAH STATE HISTORIC PRESERVATION
OFFICER

By:



Mr. Wilson Martin, State Historic Preservation
Officer

Date:

8/18/05

INVITED SIGNATORIES

UTAH DEPARTMENT OF TRANSPORTATION

By:



for Mr. John Njord, Director

Date:

6.16.05

CONCURRING PARTY

NORTHWEST BAND OF SHOSHONE OF
THE SHOSHONE NATION,
IDAHO AND UTAH

By:

Ms. Gwen Davis, Chairperson

Date:

Gwen Davis

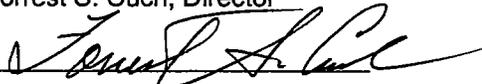
CONCURRING PARTY

UTAH DIVISION OF INDIAN AFFAIRS

By:

Forrest S. Cuch, Director

Date:

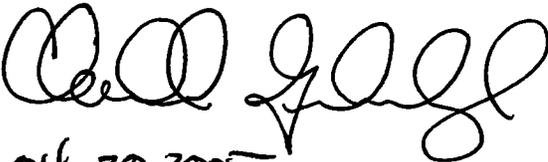

04-26-05

Legacy Parkway MOA

4/25/2005

CONCURRING PARTY

CLARK LANE HISTORIC DISTRICT

By: 

Date: 04.20.2005



April 21, 2005

Dear Mr. Berna,

On behalf of all the neighbors in the Clark Lane Historic District, I offer our sincere thanks and appreciation for all of your hard work and efforts on our behalf. We are truly grateful for your patience and concern for the historic homes in our neighborhood.

This Legacy Parkway MOA process should be regarded as a model for historic district inclusion and communication. This is how homeowners like to be included in the planning process for major undertakings like this. We especially appreciate knowing that there will be more ongoing communication, and that you've provided us people to contact should we have any concerns during the project.

Like you, we are genuinely interested in seeing the results of the vibration impact study. We look forward to working with you closely on the study as the project moves forward.

Kind regards,

A handwritten signature in black ink, appearing to read "Chadwick Greenhalgh". The signature is fluid and cursive, with the first name being the most prominent.

Chadwick Greenhalgh

Clark Lane Historic District Board of Trustees

208 West State Street

Farmington, UT 84025

801.244.4341

cc: Barbara Murphy, Utah SHPO; Kirk Huffaker, Utah Heritage Foundation



Legacy Parkway Memorandum of Agreement Concurring Signatures

We, the undersigned members of the Clark Lane Historic District, verify that we have been afforded the opportunity to comment on the Legacy Parkway Project and its effect on our historic properties and that the FHWA has taken into account the effects of the undertaking on our historic properties.

Name	Street Address	Date
<u>ELISA MIKE WHITE</u>	<u>335 W. STATE</u>	<u>3/29/05</u>
<u>John Ballantyne</u>	<u>76 S. 700 W.</u>	<u>3/29/05</u>
<u>Wesley Burns</u>	<u>227 W. State</u>	<u>3-29-05</u>
<u>Chae Lee Lorchel</u>	<u>507 N. State</u>	<u>3-22-05</u>
<u>Emily Miller</u>	<u>220 W. State St</u>	<u>3/29/05</u>
<u>Douglas Arnold</u>	<u>340 West State</u>	<u>4/4/05</u>
<u>Harold Carroll</u>	<u>382 W STATE ST</u>	<u>4/4/05</u>
<u>Clark Longini</u>	<u>367 W State</u>	<u>4/10/05</u>
<u>Matt Dault</u>	<u>24 N 400 W</u>	<u>4/10/05</u>
<u>Judy Clark</u>	<u>368 W. State St</u>	<u>4/10/05</u>

