

Appendix 4B: Farmland Correspondence

05/11/99 12:42 FAX 801 524 5059

USDA/NRCS UTAH

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United States
Department of
Agriculture

Natural Resources
Conservation
Service

P.O. Box 2890
Washington, D.C.
20013

APR 30 1999

SUBJECT: LNU - Field Office Workload Reduction - Farmland Protection Policy Act (FPPA)

TO: Regional Conservationists
State Conservationists

File Code: 410

This addresses item #12 of the Chief's July 15, 1998, letter on Field Office Workload Reduction regarding the administrations of the FPPA. It recommended to stop making determinations under the FPPA where local zoning takes precedence, specifically, for bridge replacement, road widening, new roads, and for conversion less than one acre. We have reviewed the request and agree that in most cases, this action results in an unnecessary workload and paperwork.

In 7 CFR Part 658, section 658.2 (a) defines farmland as prime and unique or of statewide or local importance. It does not include land already in or committed to urban development or water storage. Section 658.4 (a) also indicates that an agency may determine whether or not a site is farmland or request Natural Resource Conservation Service (NRCS) to make that determination on form AD-1006.

It is not irrational to assume that when funds have already been committed for utilities, water lines, and road replacement and widening, the land is committed to development and can be exempt from having to make a determination. We also recognize that the last farm syndrome in town is not enough to support an agricultural infrastructure, or if it is, not for very long. This syndrome may be tantamount to preserving green or open space which is a local issue and decision. It can be strongly argued and supported by most processes used by local units of government to assess the conversion commitments, that farmland in the above situations does not fit the definition of farmland as defined in the FPPA implementing regulations.

Thus, pending a proposed action to have an interagency task force to review and propose modifications to both the FPPA statute and the codified rules, I am suspending the requirement to make determinations on farmland that is already committed to development through local actions.

If you have further questions, please call Fen C. Hunt at (202) 720-7671.

Thomas A. Weber
Acting for
THOMAS A. WEBER
Deputy Chief for Programs

CC:
Joan Comanor, Director, RCCD, NRCS, Washington, D.C.
Fen Hunt, Land Use Planner, RCCD, NRCS, Washington, D.C.

OPTIONAL FORM 99 (7-90)

FAX TRANSMITTAL

of pages 1

To: *Stephanie Smith* From: *Thomas A. Weber*
Dept./Agency: *NRCS* Phone #: *202-720-7671*
Fax #: *202-720-7671*

NSN 7540-01-317-7368

5099-101

GENERAL SERVICES ADMINISTRATION

The Natural Resources Conservation Service (NRCS),
formerly the Soil Conservation Service, is an agency of the
Department of Agriculture

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From: Albers, Meredith - NRCS, Salt Lake City, UT [<mailto:Meredith.Albers@ut.usda.gov>]
Sent: Wednesday, April 26, 2017 2:57 PM
To: Spoor, Heidi K. <Heidi.Spoor@hdrinc.com>
Subject: RE: Prime Farmland guidance question

Hello Heidi,

Yes, the FPPA does not apply to land within city boundaries. In addition to the letter you provided (thank you for including it) the current definition of farmland from the Electronic Code of Federal Regulations ([accessed 4/26/2017](#)) should also exclude land within city boundaries.

Title 7: Agriculture

PART 658—FARMLAND PROTECTION POLICY ACT

§658.2 Definitions.

(a) *Farmland* means prime or unique farmlands as defined in section 1540(c)(1) of the Act or farmland that is determined by the appropriate state or unit of local government agency or agencies with concurrence of the Secretary to be farmland of statewide or local importance. "Farmland" does not include land already in or committed to urban development or water storage. Farmland "already in" urban development or water storage includes all such land with a density of 30 structures per 40-acre area. Farmland already in urban development also includes lands identified as "urbanized area" (UA) on the Census Bureau Map, or as urban area mapped with a "tint overprint" on the USGS topographical maps, or as "urban-built-up" on the USDA Important Farmland Maps. Areas shown as white on the USDA Important Farmland Maps are not "farmland" and, therefore, are not subject to the Act. Farmland "committed to urban development or water storage" includes all such land that receives a combined score of 160 points or less from the land evaluation and site assessment criteria.

Meredith Albers, CPSS, Resource Soil Scientist, USDA-NRCS
Office: 801-524-4572-----Cell: 385-249-6482

From: Spoor, Heidi K. [<mailto:Heidi.Spoor@hdrinc.com>]
Sent: Wednesday, April 26, 2017 11:11 AM
To: Albers, Meredith - NRCS, Salt Lake City, UT <Meredith.Albers@ut.usda.gov>
Subject: Prime Farmland guidance question

Hi Meredith,

I have a question that I'm hoping you can answer. Way back in 2006 NRCS (Ray Grow) provided HDR with an email re-affirming that the Prime Farmland Rule does not apply for any farmlands within city boundaries. Is this still the case?

Thanks,
Heidi Spoor



State of Utah

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

DEPARTMENT OF TRANSPORTATION

CARLOS M. BRACERAS, P.E.
Executive Director

SHANE M. MARSHALL, P.E.
Deputy Director

March 29, 2017

Luann Adams, Commissioner
Utah Department of Agriculture and Food
350 North Redwood Road
Salt Lake City, UT 84114-6500

Dear Commissioner Adams:

The West Davis Corridor (WDC) Environmental Impact Statement (EIS) is evaluating the impacts of four alternatives that meet the purpose of and need for the West Davis Corridor Project. This memo is submitted to the commissioner of the Utah Department of Agriculture and Food pursuant to Utah Code 17-41-405 and 17-41-406. The Utah Code requires the Utah Department of Transportation (UDOT) to submit its development plans to the commissioner if the proposed transportation corridor would be located on land that is included within an Agriculture Protection Area (APA).

The WDC team has received numerous comments and has met many times with representatives of the Utah Department of Agriculture and Food, the U.S. Department of Agriculture, the National Resources Conservation Service, local farm bureaus, and local farmers. During the alternatives-development and refinement process, the WDC team has undertaken substantial efforts to avoid and minimize impacts to farmland and APAs from the WDC alternatives while also meeting engineering roadway design standards and avoiding impacts to other resources.

As shown in Table 1, none of the WDC alternatives being evaluated in the EIS would avoid all impacts to APAs.

Table 1. APA Impacts

Alternative	Acreage of APAs Impacted	Number of APAs Impacted
A1	23	6
A2	40	11
B1	3	1
B2	4	2

Pursuant to Utah Code 17-41-405(4)(a), the WDC team does not believe that there is a prudent and feasible alternative for the WDC Project that would avoid all impacts to APAs.

However, as shown in Table 1 above, the level of impact to APAs varies greatly among the WDC alternatives, with Alternative B1 affecting only 3 acres of one APA. This impact would be on the corner of a 141-acre parcel and would allow the continued agricultural use of the remainder of the property. This is the least impact to APAs of any of the WDC alternatives. See the attached figures of the WDC alternatives and their impacts to APAs.

WDC Alternatives A1, A2, and B2 would all impact more APAs, with Alternative A2 impacting the highest number (11) and most acreage (40 acres) of APAs. Although these WDC alternatives have more impacts to APAs, the WDC team has undertaken significant efforts to minimize the impacts to APAs by shifting the WDC alternatives to the edges of APA parcels in order to maximize the remaining acreage. The WDC team does not anticipate that any of the impacted APAs would be agriculturally unviable as a result of the WDC alternatives.

We request your concurrence with this memo and a review of the WDC APA impacts from your office pursuant to Utah Code 17-41-405 and 17-41-406.

Per Utah Code 17-41-405 and 17-41-406, the same opportunity for review and comment has also been provided to Davis County. Davis County has not had an Advisory Board for APAs since 2012 and does not have an active Advisory Board. However, Davis County has reviewed the WDC APA impact information and has provided a letter, which is included an attachment to this letter, to meet the intent of Utah Code 17-41-405 and 17-41-406.

Please let me know if you need any additional information to assist with this request.

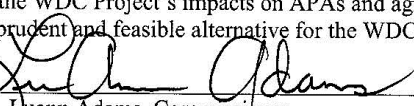
Sincerely,



Randy Jefferies, PE
West Davis Corridor EIS Project Manager
Utah Department of Transportation

Pursuant to Utah Code 17-41-405 and 17-41-406, the Utah Department of Agriculture and Food has reviewed the WDC Project's impacts on APAs and agrees with UDOT's determination that there is not a prudent and feasible alternative for the WDC Project that would avoid all APAs.

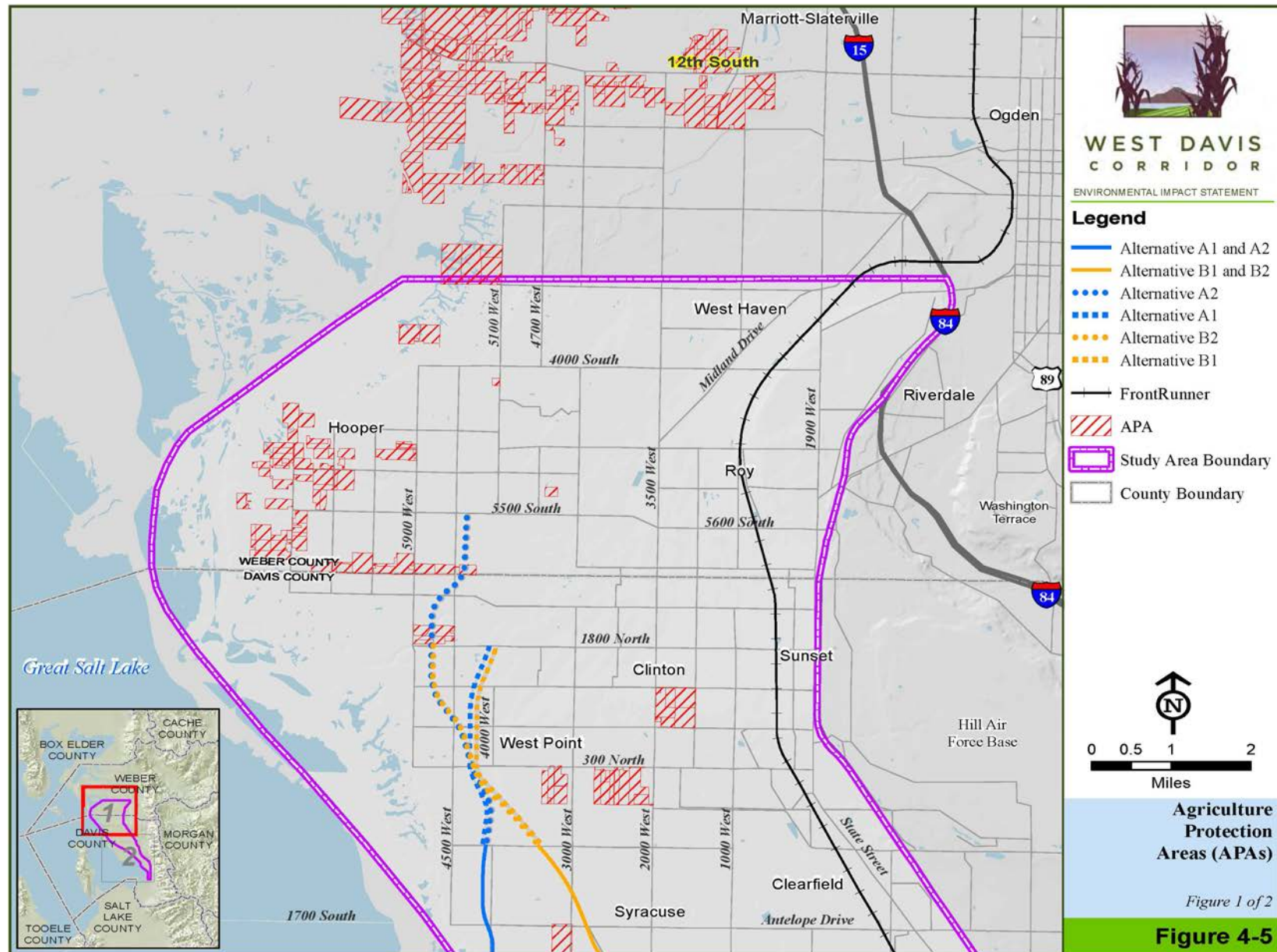
Concurrence:

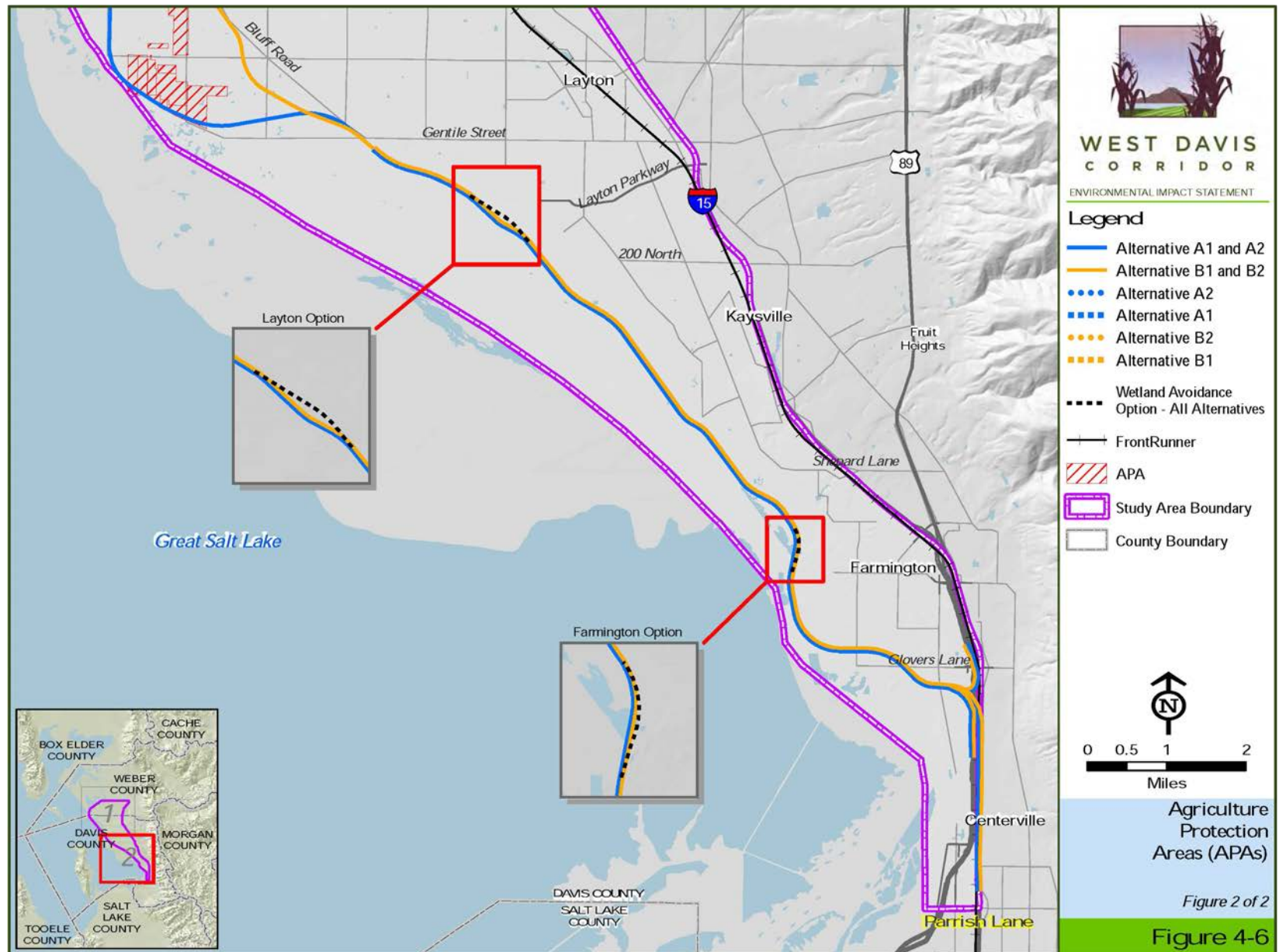


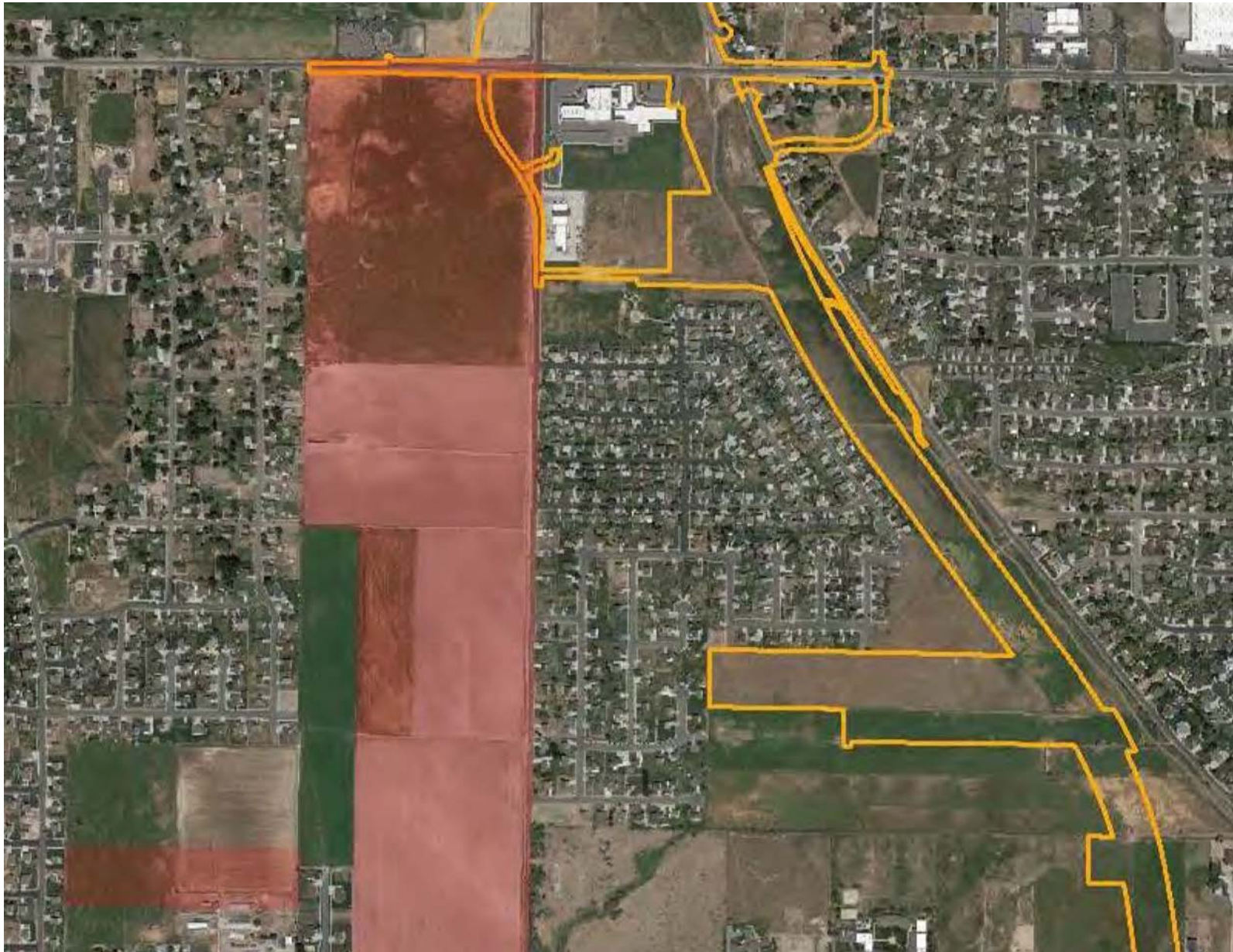
Luann Adams, Commissioner

Utah Department of Agriculture and Food

Date: 3-30-18









Davis County Commission

Commissioner P. Bret Millburn Commissioner James E. Smith Commissioner Randy B. Elliott

March 24, 2017

Luann Adams, Commissioner
Utah Department of Agriculture and Food
350 North Redwood Road
Salt Lake City, UT 84114-6500

Dear Commissioner Adams:

Davis County is submitting this letter at the request of the Utah Department of Transportation (UDOT) to meet the intent of Utah Code 17-41-405 and 17-41-406. The Utah Code requires UDOT to submit its development plans to the Advisory Board of the Agriculture Protection Area and the Commissioner of the Utah Department of Agriculture and Food if the proposed transportation corridor would be located on land that is included within an Agriculture Protection Area (APA).

Davis County has not had an Advisory Board for APAs since 2012 and does not have an active Advisory Board. However, Davis County has been involved with the West Davis Corridor (WDC) Environmental Impact Statement (EIS) since its inception and can support and attest to UDOT's efforts during the course of the project to avoid and minimize impacts from all of the WDC alternatives to APAs in Davis and Weber Counties.

UDOT has provided Davis County with the updated APA impact information for the WDC Final EIS alternatives. The WDC Final EIS is evaluating the impacts of four alternatives that meet the purpose of and need for the WDC Project. As shown in Table 1, none of the WDC alternatives being evaluated in the EIS would avoid all impacts to APAs. UDOT's preferred alternative, Alternative B1, would affect only 3 acres of one APA and would have the fewest impacts to APAs of any of the WDC alternatives. This impact would be on the corner of a 141-acre parcel and would allow the continued agricultural use of the remainder of the property.



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Table 1. APA Impacts

Alternative	Acreage of APAs Impacted	Number of APAs Impacted
A1	23	6
A2	40	11
B1	3	1
B2	4	2

Utah Code 17-41-405(4)(a) requires the Advisory Board to approve the condemnation of land in an APA only if there is no reasonable and prudent alternative to the use of the land within the APA. Davis County has reviewed the information provided by UDOT and determined that there is not a prudent and feasible alternative for the WDC Project that would avoid all impacts to APAs.

Davis County has also reviewed UDOT's alternatives and determined, pursuant to Utah Code 17-41-406:

- UDOT's WDC Final EIS alternatives have been designed to minimize impacts to APAs and no other reasonable efforts to minimize impacts are available, and
- UDOT's preferred alternative, Alternative B1, would have the fewest impacts to APAs and would not interfere with the agriculture protection activities on the APA or prohibit continued agricultural use of the APA impacted by the preferred alternative.

In summary, pursuant to Utah Code 17-41-405 and 17-41-406, Davis County has reviewed the WDC Project's impacts on APAs and agrees with UDOT's determination that there is not a prudent and feasible alternative for the WDC Project that would avoid all APAs.

Sincerely,



Jim Smith
Commission Chair



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