

From: Fawal, Margaret K. <MKFawal@Venable.com>
Sent: Friday, September 10, 2021 1:04 PM
To: Wayland, Joshua
Cc: Gosselin, Danielle; Floyd, Kathryn K.; Karen McKee; george_weekley@fws.gov; Converse, Yvette; Jennifer_Lewinsohn@fws.gov
Subject: Proposed Mitigation Measures
Attachments: Proposed Mitigation Measures(53213984.2).docx

Josh,

Thank you for taking the time to speak with us yesterday. As discussed, the Coalition believes that certain revisions and clarifications to some of the mitigation measures in the final Biological Assessment are appropriate in light of anticipated construction methods and results from the ULT and BRC surveys. Attached are the suggested revised mitigation measures for inclusion in the final Biological Opinion. These changes have also been discussed with the USFWS.

Note that in addition to the modifications to certain ULT and BRC mitigation measures, we have also suggested an additional mitigation measure related to the Uinta Basin Hookless Cactus and Pariette Cactus—pulled from the final EIS mitigation measures—to recognize the jurisdiction of the Ute Indian Tribe over Tribal trust lands.

We understand that OEA will advise USFWS as to whether OEA finds these updated measures to be acceptable. Please let us know if you have any questions.

Maggie

Margaret K. Fawal, Esq. | Venable LLP
t 202.344.4791 | f 202.344.8300 | m 512.630.1652
600 Massachusetts Avenue, NW, Washington, DC 20001

MKFawal@Venable.com | www.Venable.com

This electronic mail transmission may contain confidential or privileged information. If you believe you have received this message in error, please notify the sender by reply transmission and delete the message without copying or disclosing it.

Proposed BRC-6: Except during freezing temperatures, the Coalition shall use only water (i.e., no chemicals, reclaimed production water, oil field brine) for dust abatement within suitable habitat during construction. During freezing temperatures, sodium chloride solution may be used for dust abatement within suitable habitat to reduce risk of ice formation, which could present a safety hazard.

Proposed BRC-7: To reduce the risk of spreading seeds from noxious and invasive species into suitable habitat, the Coalition shall (1) power wash off-road earthmoving equipment that will be used in areas of suitable habitat within the project right-of-way prior to mobilization of that equipment to the project area, (2) power wash off-road earthmoving equipment being used in areas of suitable habitat within the project right-of-way on a monthly basis when night-time temperatures are above freezing (approximately April 1 through September 30), and (3) restrict off-road earthmoving equipment used within areas infested with noxious and invasive species from use within areas of suitable habitat within the project right-of-way without prior power-washing.

Proposed BRC-12. The Coalition shall not conduct construction activities from May 1 through June 30 (flowering period) within occupied habitat unless, during the flowering period:

- the Coalition establishes and implements a dust monitoring and dust control program to prevent significant dust accumulation on Barneby Ridge-Cress in occupied habitat within the project earthmoving footprint (defined as the farthest extent of earthmoving activities, plus 25 feet) and a 300-foot buffer zone measured from the project footprint;
- the Coalition restricts or reduces, to the greatest extent practical, earthmoving activities (excavation, transportation, and placement) or transportation in occupied habitat within the project footprint and the 300-foot buffer zone;
- dust accumulation on Barneby Ridge-cress is monitored by a qualified botanist on a daily basis. If the qualified botanist identifies significant dust accumulation, construction activities that cause or have significant potential to cause dust accumulation within occupied habitat will cease until either (1) a dust-control measure that prevents any new significant dust accumulation from occurring is implemented, or (2) the flowering period (May 1 through June 30) has ended. The Coalition will report within 24 hours any finding of significant dust accumulation to OEA and USF&WS;
- the Coalition reports weekly to OEA and USF&WS the results of its dust monitoring and dust control program.

Proposed ULT-6: The Coalition shall use geotextile matting to protect vegetation and soils from damage and compaction for equipment operating within suitable habitat. Temporary fencing may be used in place of geotextile matting around areas of suitable habitat not beneath embankment and excavation areas.

Proposed ULT-8. Except during freezing temperatures, the Coalition shall use only water (i.e., no chemicals, reclaimed production water, oil field brine) for dust abatement within suitable habitat during construction. During freezing temperatures, sodium chloride solution may be used for dust abatement within suitable habitat to reduce risk of ice formation, which could present a safety hazard.

Proposed BRC-12. The Coalition shall not conduct construction activities during the flowing period (typically August-September, depending on location) unless, during the flowering period:

- the Coalition establishes and implements a dust monitoring and dust control program to prevent significant dust accumulation on Ute Ladies'-tress in occupied habitat within the project earthmoving footprint (defined as the farthest extent of earthmoving activities, plus 25 feet) and a 300-foot buffer zone measured from the project footprint;
- the Coalition restricts or reduces, to the greatest extent practical, earthmoving activities (excavation, transportation, and placement) or transportation in occupied habitat within the project footprint and the 300-foot buffer zone;
- dust accumulation on Ute Ladies'-tresses is monitored by a qualified botanist on a daily basis. If the qualified botanist identifies significant dust accumulation, construction activities that cause or have significant potential to cause dust accumulation within occupied habitat will cease until either (1) a dust-control measure that prevents any new significant dust accumulation from occurring is implemented, or (2) the flowering period (August-September) has ended. The Coalition will report within 24 hours any finding of significant dust accumulation to OEA and USF&WS;
- the Coalition reports weekly to OEA and USF&WS the results of its dust monitoring and dust control program.

Proposed SLC-__: The Coalition shall abide by the requirements of the Ute Indian Tribe's Sclerocactus Management Plan for project-related activities on Tribal trust lands.