

Wayland, Joshua

From: Fawal, Margaret K. <MKFawal@Venable.com>
Sent: Wednesday, September 15, 2021 10:33 AM
To: Wayland, Joshua
Cc: Gosselin, Danielle; Floyd, Kathryn K.; Karen McKee; george_weekley@fws.gov; Converse, Yvette; Jennifer_Lewinsohn@fws.gov
Subject: RE: Proposed Mitigation Measures

Hi Josh,

Thank you for your participation in the conference call with the U.S. Fish and Wildlife Service yesterday. During that call, we discussed the proposed mitigation measures that the Coalition provided to you on Friday, September 10. As a follow-up to that discussion, the Coalition suggests the following mitigation measure for the Uinta Basin Hookless Cactus and Pariette Cactus to address project-related activities on Tribal lands:

SLC-18. If new surface disturbance occurs within occupied habitat on tribal lands, the coalition shall abide by the requirements of the Ute Indian Tribe's Sclerocactus Management Plan for mitigation of project-related activities on Tribal lands. Proof of payment shall be provided to the action agency prior to construction. The payment shall be calculated based on acres of disturbance from the results of pre-construction surveys. The Coalition shall work with our office and Ute Tribe to calculate the mitigation as described in the Tribe's Sclerocactus Management Plan. Funds shall be paid to:

Sclerocactus Conservation Fund –
 Ute Tribe Impact-Directed Environmental
 Accounts National Fish and Wildlife Foundation
 1133 Fifteen Street NW, Suite 1100
 Washington, DC 20005

We understand that OEA will advise USFWS as to whether this updated language is acceptable. Thank you again.

Maggie

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From: Fawal, Margaret K.
Sent: Friday, September 10, 2021 1:04 PM
To: 'joshua.wayland@stb.gov' <joshua.wayland@stb.gov>
Cc: 'Danielle.Gosselin@stb.gov' <Danielle.Gosselin@stb.gov>; Floyd, Kathryn K. <KKFloyd@Venable.com>; Karen McKee <mmckee@7county.utah.gov>; george_weekley@fws.gov; Converse, Yvette <yvette_converse@fws.gov>; 'Jennifer_Lewinsohn@fws.gov' <Jennifer_Lewinsohn@fws.gov>
Subject: Proposed Mitigation Measures

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

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