

**STATE OF UTAH
DIVISION OF WATER QUALITY
DEPARTMENT OF ENVIRONMENTAL QUALITY
SALT LAKE CITY, UTAH**

§401 Water Quality Certification No. DWQ-2020-06003

Pursuant to §401 of the *Federal Clean Water Act*(CWA), the Utah Department of Environmental Quality (DEQ), Division of Water Quality (DWQ) certifies that the applicant has provided reasonable assurance that any discharges associated with the proposed project will not violate surface water quality standards or cause additional degradation in surface water not presently meeting water quality standards. In accordance with Section 401(a)(1) of the CWA [33 U.S.C. Sec. 1341(a)(1)], DWQ hereby issues this §401 Water Quality Certification provided any listed conditions are met and included in the corresponding U.S. Army Corps of Engineers (USACE) Section 404 Permit, Rivers and Harbors Act §9 and §10, or Federal Energy Regulatory Commission (FERC) License.

Applicant: Utah Department of Transportation
Mr. Rod Hess
4501 South 2700 West
Taylorsville, UT 84129

Project: The applicant is proposing to discharge fill material into waters to construct an extension and access road of the UTA FrontRunner commuter rail track. This approximately two-mile, double-track extension is being constructed to improve operations by extending an existing double track and would also serve the planned Vineyard commuter rail station that is being designed and constructed in conjunction with this project; however, the station would be built in uplands. The project includes a new set of tracks and a new single-lane access road on the west side of the existing FrontRunner tracks from approximately FrontRunner milepost S33.9 to milepost S35.8. The project would include approximately 8,560 feet of new track construction, construction of a new signal house, and a new single-lane access road to allow for maintenance of the signal equipment. In addition, the project would also require a temporary construction access road and truck turnaround. The total area of wetlands directly impacted by the new rail would be 1.04 acres. The proposed project would permanently impact 1.77 acres of freshwater marsh wetland and 15 linear feet (0.005 acre) of Lindon Hollow Creek, and temporarily impact 1.92 acres of freshwater marsh wetland. The applicant has proposed to deduct 1.75 credits from the UDOT Northern Utah County Mitigation Bank.

Location: The approximately two-mile long project site is located along the existing UTA Frontrunner commuter rail right-of-way, just east of Utah Lake and north of the Lindon Marina, Latitude 40.33296°, Longitude -111.76475°, Vineyard, Utah County, Utah

Watercourse(s): Linden Hollow Creek & Freshwater Marsh Wetlands adjacent to Utah Lake

Effective Date: Month, Day, Year

Erica Brown Gaddis, PhD
Director, Division Water Quality

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I. Background

A. Other Applicable Permits

1. USACE 404 Permit (LOP) : SPK-2019-00664
2. Stream Alteration Permit: Pending application.

B. Project Description/Purpose

The project proposes to discharge fill material into waters to construct an extension and access road of the UTA FrontRunner commuter rail track. This approximately two-mile, double-track extension is being constructed to improve operations by extending an existing double track and would also serve the planned Vineyard commuter rail station that is being designed and constructed in conjunction with this project; however, the station would be built in uplands. The project includes a new set of tracks and a new single-lane access road on the west side of the existing FrontRunner tracks from approximately FrontRunner milepost S33.9 to milepost S35.8. The project would include approximately 8,560 feet of new track construction, construction of a new signal house, and a new single-lane access road to allow for maintenance of the signal equipment. In addition, the project would also require a temporary construction access road and truck turnaround. The total area of wetlands directly impacted by the new rail would be 1.04 acres.

The new signal house would be placed on a pad constructed of road base material with subgrade stabilization. The signal house pad, including side slopes, would be approximately 40 feet x 40 feet, and seven feet high and would impact 0.04 acre of wetland. The permanent single-lane access road is between ten to twelve feet wide, depending on existing ground elevations and would be approximately 8,230 feet long. The road would be constructed with road base and would impact approximately 0.69 acre of wetland. The temporary construction access road would be a 16 to 20-foot wide road for about 1,640 feet between the north end of the new track and the Timpanogos Special Services District wastewater treatment facility. Approximately half of the length of the temporary construction access road would avoid wetlands by utilizing an existing road bed. The temporary access road would be constructed with road base and a geotextile fabric would be laid under the subgrade stabilization to facilitate easier removal of all of the material after construction is complete. There would also be a temporary 1,175-foot long truck turnaround area adjacent to the new track. The temporary access road and turn around would temporarily impact 1.92 acres of wetland. The construction of the new track and permanent access road would require a 15-foot extension of the existing culvert at Lindon Hollow Creek.

Based on the available information, the overall project purpose is to address existing and projected schedule deficiencies while allowing for additional FrontRunner service to be provided to the Vineyard Station. The proposed project would permanently impact 1.77 acres of freshwater marsh wetland and 15 linear feet (0.005 acre) of Lindon Hollow Creek, and temporarily impact 1.92 acres of freshwater marsh wetland. The applicant has proposed to deduct 1.75 credits from the UDOT Northern Utah County Mitigation Bank.

C. Site Description

The proposed project is located along an existing rail line that is located east of Utah Lake. The 25.4-acre project site contains approximately 15.4 acres of palustrine emergent wetland. These 15.4 acres of wetland within the site support a freshwater marsh plant community comprised mainly of common reed (*Phragmites australis*), cattail (*Typha latifolia*), and reed canary grass (*Phalaris arundinacea*). The site also contains approximately 4.6 acres of pond and 480 linear feet (0.063 acre) of ditch. The remainder of the site is mainly within the UTA rail right of way that is comprised of cheat grass (*Bromus tectorum*), smooth brome (*Bromus inermis*), tall wheatgrass (*Agropyron elongatum*), and whitetop (*Cardaria draba*).

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II. Certification Conditions

A. Project Specific Conditions

1. Culvert(s) and Fill

- a. Wetlands outside of the permitted impact area shall be clearly marked to prevent unintentional/additional impacts to water features.
- b. Construction of culvert(s) shall be conducted in the “dry” to the maximum extent practicable, by diverting flow utilizing cofferdams, berms constructed of sandbags, clean rock (containing no fine sediment) or other non-erodible, non-toxic material. All diversion materials shall be removed at the completion of the work.
- c. The bottom of culverts shall be installed below streambed elevation in a manner that allows for natural substrate to reestablish.
- d. The culverts shall not result in a disruption or cause a barrier to the movement of fish or other aquatic life on the downstream side.
- e. Construction machinery used should be clean to prevent the possible transfer of Aquatic Invasive Species.
- f. Clearing, grubbing, and other disturbances to riparian and wetland vegetation shall be kept to the minimum required for proposed work and native riparian and wetland vegetation should be reestablished after work is complete.

B. General Conditions

1. Good Housekeeping

- a. Applicant and their subcontractors shall ensure that all workers involved are continuously aware of the water quality protection measures before the start and during the construction period.
- b. Retain a copy of this §401 Certification and its affiliated USACE 404 Permit onsite.

2. Stormwater and BMPs

- a. Water quality standards in associated water resources could be violated unless appropriate Best Management Practices (BMPs) are incorporated to minimize the erosion-sediment and nutrient load to any adjacent waters during project construction. The applicant shall not use any fill material which may leach organic chemicals (e.g. discarded asphalt), noxious weeds/seeds, or nutrients (e.g., phosphate rock) into waters of the State.
- b. Construction activities that disturb one acre or more, or are part of a common plan of development, are required to obtain coverage under the Utah Pollutant Discharge Elimination System (UPDES) Stormwater General Permit for Construction Activities

(Permit No. UTR300000¹). The permit requires the development of a Storm Water Pollution Prevention Plan (SWPPP) to be implemented and updated from the commencement of any soil disturbing activities at the site, until final stabilization of the project. The SWPPP should include, but not be limited to, final site maps and legible plans, location of stormwater outfalls/discharges, and information pertaining to any stormwater retention requirements.

- c. Dewatering activities, if necessary during construction, may require coverage under the UPDES General Permit for Construction Dewatering (Permit No. UTG070000²). The permit requires water quality monitoring every two weeks to ensure that the pumped water is meeting permit effluent limitations unless water is contained onsite.
- d. A project within a Municipal Separate Storm Sewer System (MS4) jurisdiction, must comply with all the conditions required in that UPDES MS4 Permit and associated ordinances. No condition of this 401 Certification shall reduce or minimize any requirements provided in the MS4 Permit. In the case of conflicting requirements, the most stringent criteria shall apply.
- e. Utah Administrative Code R317-2 requires that the Applicant cannot increase water turbidity by 10 NTUs. If violated, Applicant shall immediately notify the DWQ. A fact sheet describing the Utah Department of Environmental Quality's (DEQ) recommended environmental BMPs for construction sites is located on our web site³.

3. Spills

- a. Refueling equipment and storage of lubricants and fuels will occur at designated staging areas and in state approved containers. The storage and refueling areas will be at least 500 feet from the edge of the nearest waterbody (including wetlands), at least 200 feet from the nearest private water supply well, and at least 100 feet from the nearest municipal water supply well.
- b. Utah Annotated Code 19-5-114 requires that any spill or discharge of oil or other substances which may cause pollution to waters of the State, including wetlands, must be immediately reported to the Utah DEQ Spill Hotline at (801) 536-4123, a 24-hour phone number.

¹ Link: <https://documents.deq.utah.gov/water-quality/permits/updes/DWQ-2017-003485.pdf>

² Link: <https://deq.utah.gov/legacy/permits/water-quality/utah-pollutant-discharge-elimination-system/docs/utg070000.pdf>

³ Link: <https://deq.utah.gov/legacy/businesses/business-assistance/construction/index.htm>

III. Aquatic Resource Impacts

All Waters of the State of Utah (defined in Administrative Code (UAC) R317-1-1) are protected from pollutant discharges that affect water quality by narrative standards (see UAC R317-2-7.2); broadly, discharges should not become offensive or cause undesirable conditions in human health effects or aquatic life. In addition, some particularly sensitive classes of water are further protected from deleterious effects of specific pollutants by application of numeric criteria to designated (beneficial) uses of that water body. Listed below are the water features within the project area and their associated designated beneficial uses (see UAC R317-2-6):

A. Linear Water Features

1. Linden Hollow Creek

- a. Class 2B: Protected for infrequent primary contact recreation. Also protected for secondary contact recreation where there is a low likelihood of ingestion of water or a low degree of bodily contact with the water. Examples include, but are not limited to, wading, hunting, and fishing
- b. Class 3B: Protected for Warm water species of game fish and other warm water aquatic life, including the necessary aquatic organisms in their food chain.
- c. Class 4: Protected for agricultural uses including irrigation of crops and stock watering.

B. Wetlands

1. Palestine Emergent Wetlands adjacent to Utah Lake

- a. Class 2B: as described above;
- b. Class 3D: Protected for waterfowl, shore birds and other water-oriented wildlife not included in Classes 3A, 3B, or 3C, including the necessary aquatic organisms in their food chain.

Classifications are based on UAC R317-2-13.13, where it states that “*all waters not specifically classified are presumptively classified: 2B, 3D.*”

IV. Antidegradation

Linden Hollow Creek is considered Category 3 waters for antidegradation purposes. Category 3 waters in Utah are waters where “*point source discharges are allowed and degradation may occur, pursuant to the conditions and review procedures outlined in Section 3.5*”, as described in Utah Administrative code R317-2-3.4. The antidegradation policy allows for discharges where the water quality effects of the proposed project are determined to be temporary and limited after consideration of the factors identified in Utah Administrative Code R317-2-3.5.b.4., and where best management practices will be employed to minimize pollution effects.

Based on the information provided, an antidegradation level II review will not be required for this project because the effects on water quality of the proposed activity are expected to be temporary and limited, which meets the requirements outlined in UAC R317-2-3.5b. The proposed activities will likely only impact the stream during the proposed work, and the impacts should only be related to sediment and turbidity.

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V. Modifications

- A. Without limiting DWQ's discretion to take other actions in accordance with UAC R317-15, and, as applicable, 33 USC 1341, DWQ may modify the Certification to add, delete, or modify the conditions in this Certification as necessary and feasible to address:
1. Adverse or potential adverse project effects on water quality of designated beneficial uses that did not exist or were not reasonably apparent when this certification was issued;
 2. Total Maximum Daily Loads (TMDLs);
 3. Changes in water quality standards;
 4. Any failure of Certification conditions to protect water quality or designated uses when the Certification was issued; or
 5. Any change in the Project or its operations that will adversely affect water quality of designated beneficial uses when this Certification was issued.

VI. Other Information

A. Fees

1. The legislatively-mandated fee for the 2020 fiscal year is \$100.00/hour for review and issuance of the §401 Water Quality Certification. A quarterly invoice will be sent once plans have been approved. Your payment is due within 30 days.

B. Liabilities

1. Applicant must acquire all necessary easements, access authorizations and permits to ensure they are able to implement the project. This §401 Certification does not convey any property rights or exclusive privileges, nor does it authorize access or injury to private property.
2. This §401 Certification does not preclude the applicant's responsibility of complying with all applicable Federal, State or local laws, regulations or ordinances, including water quality standards. Permit coverage does not release the applicant from any liability or penalty, should violations to the permit terms and conditions or Federal or State Laws occur.

⁴ Link: <https://documents.deq.utah.gov/admin/2020-fee-schedule.pdf>

VII. Public Notice and Comments

A. Public Notice Dates

1. USACE 404 Permit No. SPK-2020-00247: Letter of Permission (No Public Notice)
2. Utah DEQ Certification No.: DWQ-2020-06001:

B. Public Notice Comments/Response

- 1.

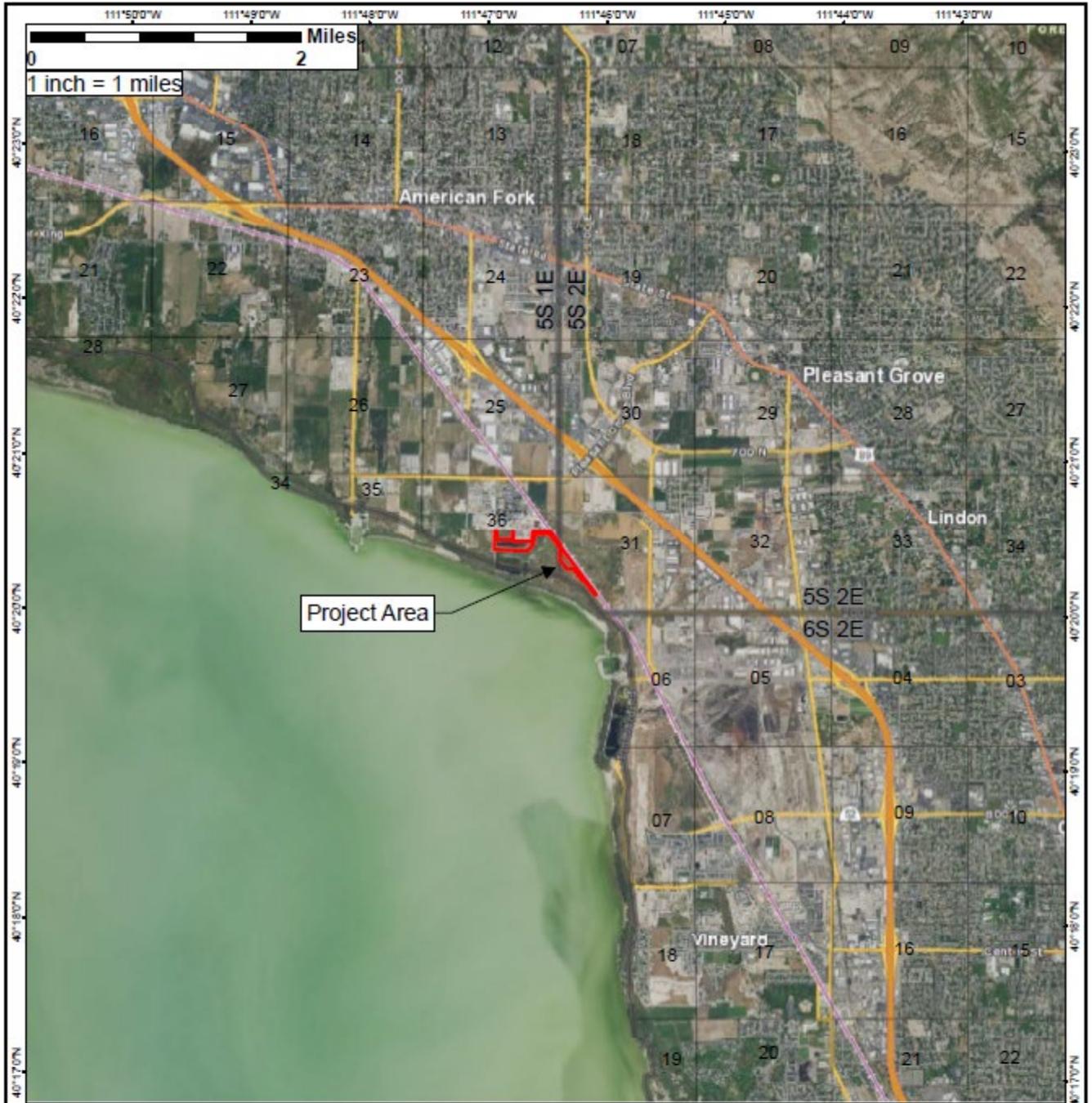
C. Changes Made to the Certification after Public Notice

1. During finalization of the Certification certain dates, spelling edits, and minor language or formatting corrections may have been completed. Due to the nature of these changes they were not considered major and the Certification will not be Public Noticed again.

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Appendix A: Project Location Map

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Project Location

Vineyard Double Track
Construction Access

Section 36
in T.5S, R.1E S.L.B.&M.
Section 31
in T.5S, R.2E S.L.B.&M.

Legend

 Project Area

Projection:

NAD 83 UTM Zone 12N

Source:

2018 Google Imagery

Survey Performed by
Todd Sherman



Wetland Resources, Inc.

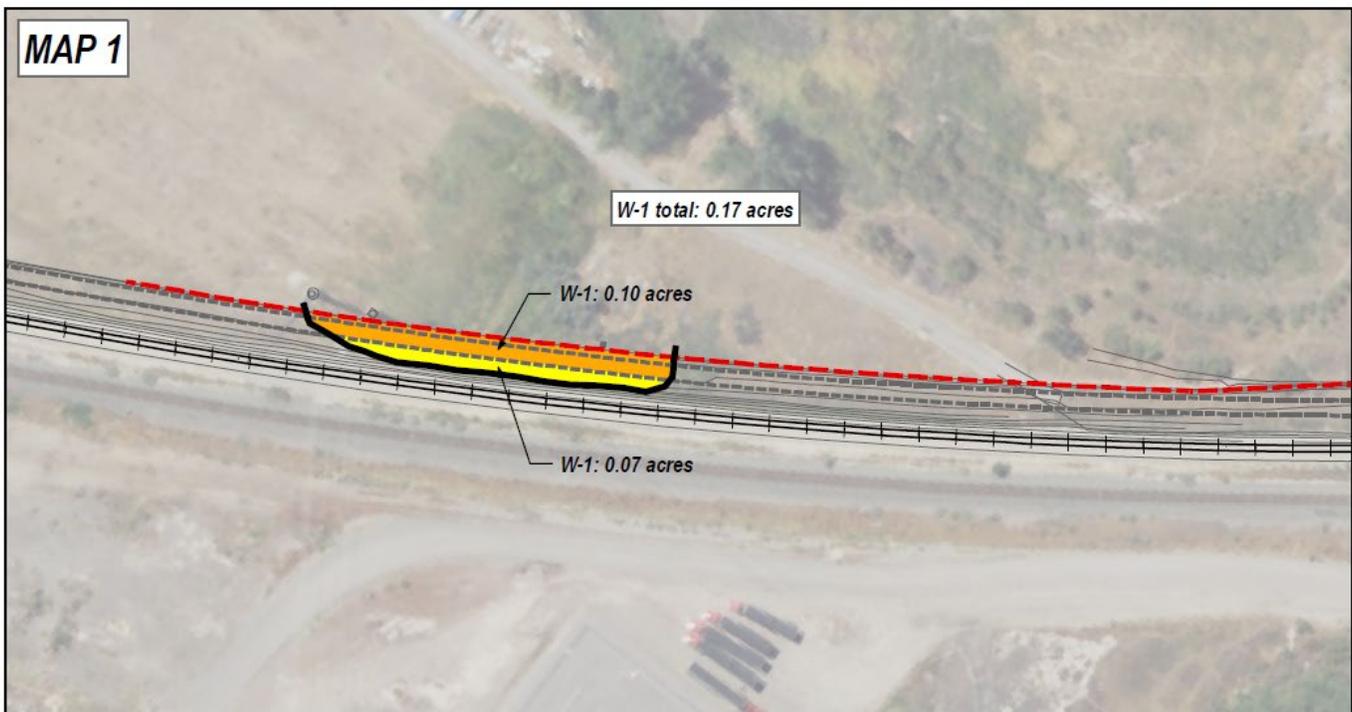
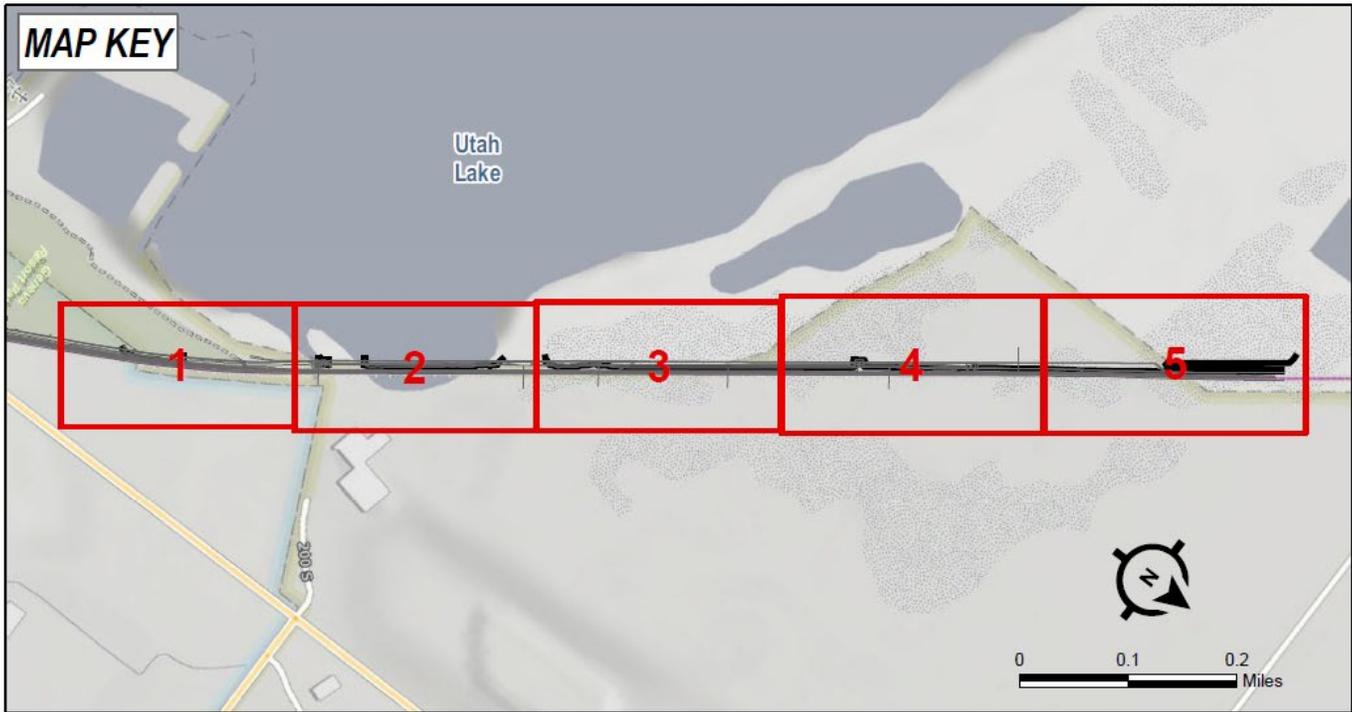
Created: 4/23/2020
Author: CMM



Map 1

Appendix B: Project Impact Map(s)

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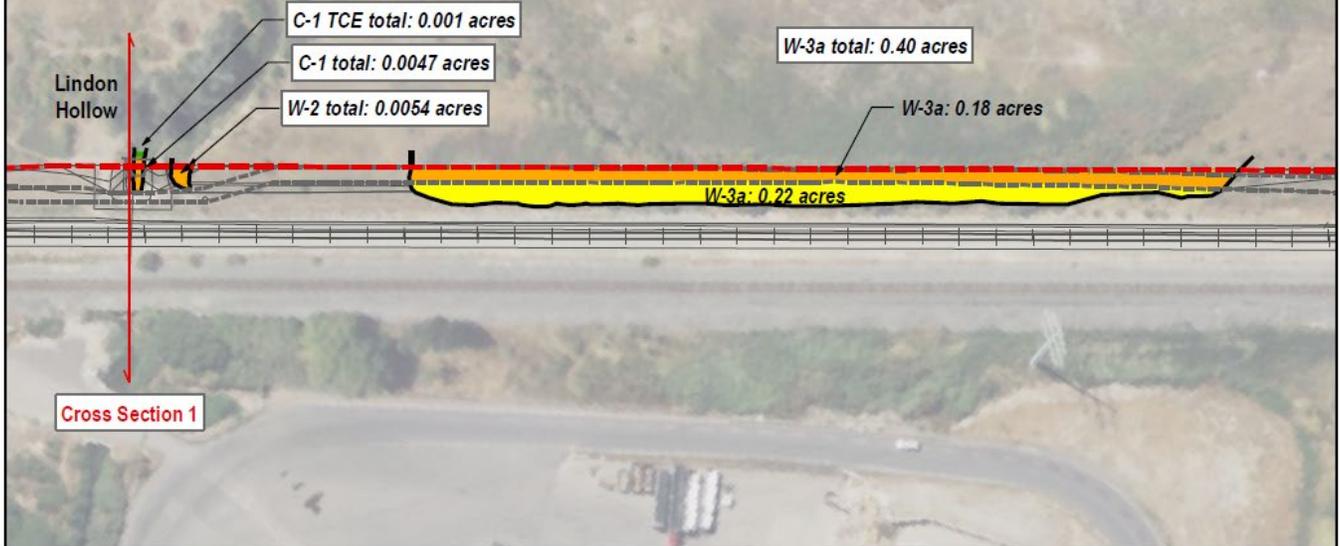
Vineyard Commuter Rail Station
 Double Track Design
 Project #S-R399(283) PIN 16790
 Reference # SPK-2019-00664

Impacted Waters of the U.S.

- Wetlands and Waters of the U.S.**
- Wetland Boundary
 - Impacted by Access Road (0.73 Acres)
 - Impacted by Track (1.04 Acres)
 - Temporary Construction Easement
 - Temporary Wetland Impact (1.92 Acres)
 - UTA Right-of-Way Line
 - Access Road
 - Railroad



MAP 2

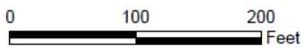


MAP 3



Vineyard Commuter Rail Station
 Double Track Design
 Project #S-R399(283) PIN 16790
 Reference # SPK-2019-00664

Impacted Waters of the U.S.

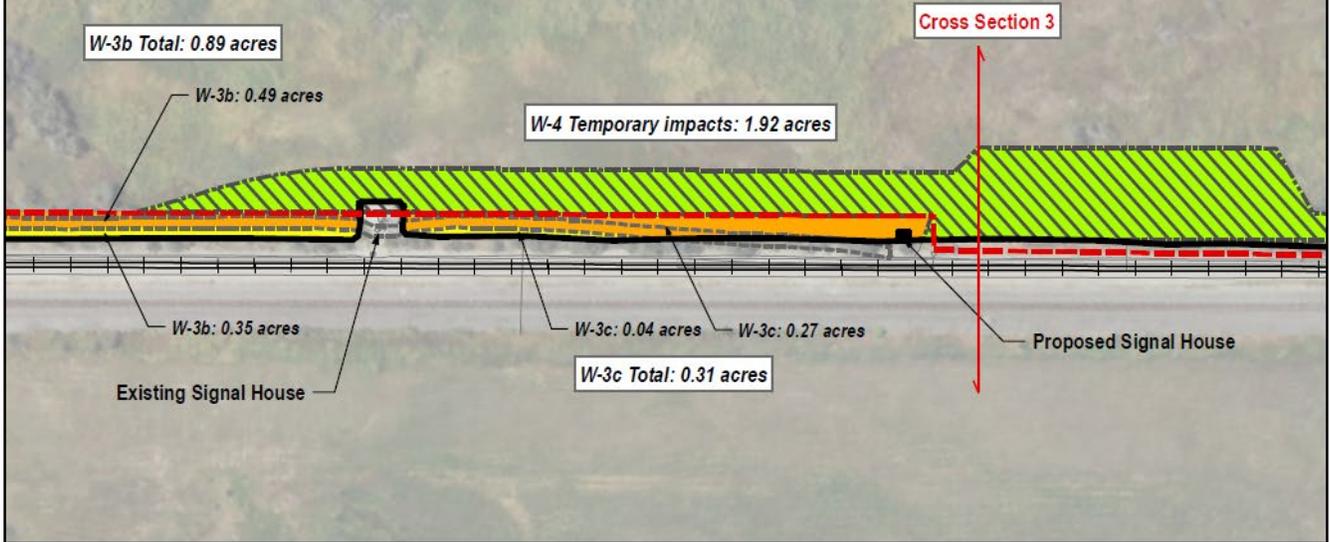


Wetlands and Waters of the U.S.

- Wetland Boundary
- Impacted by Access Road (0.73 Acres)
- Impacted by Track (1.04 Acres)
- Temporary Construction Easement
- Temporary Wetland Impact (1.92 Acres)
- UTA Right-of-Way Line
- Access Road
- Railroad



MAP 4



MAP 5



Vineyard Commuter Rail Station
 Double Track Design
 Project #S-R399(283) PIN 16790
 Reference # SPK-2019-00664

Impacted Waters of the U.S.



Wetlands and Waters of the U.S.

- Wetland Boundary
- Impacted by Access Road (0.73 Acres)
- Impacted by Track (1.04 Acres)
- Temporary Construction Easement
- Temporary Wetland Impact (1.92 Acres)
- UTA Right-of-Way Line
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