

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

§401 Water Quality Certification No. DWQ-2020-01001

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: Ogden City Corporation
Mr. Justin Anderson
2549 Washington Blvd
Ogden, UT 84401

Project: The applicant is proposing to stabilize an existing sewer main crossing on the Weber River and repair the associated grade control structures downstream of the crossing. The proposed project also seeks to improve fish passage, restore and enhance riparian habitats, and provide public access and recreational amenities within the reach of the river. The Federal Emergency Management (FEMA) has identified the existing sewer main crossing as a water quality hazard due to potential for failing during a catastrophic storm/flood event. In addition, the current grade control structures pose a public safety hazard due to the hydraulic condition they produce. The applicant seeks to improve fish passage by realigning and upgrading the existing diversion channel to allow for fish passage over the sewer crossing and improved grade control structures. The project proposes constructing access paths, steps, and a new overlook to improve public access. The proposed project will result in direct construction-related impacts (excavation and fill) within 0.51 acres or 410 LF of waters and 0.07 acres of wetlands. The project will place 1,760 CY of fill within waters and 300 CY of fill within wetlands.

Location: The proposed project is located on the Weber River on the west side of Ogden, UT immediately downstream of the Exchange Road bridge crossing near Ogden City's Kayak Park. The project boundaries are from approximately 41.223493, -111.988221 to approximately 41.224841, -111.987738.

Watercourse(s): Weber River

Effective Date: February XX, 2020

Erica Brown Gaddis, PhD
Director, Division Water Quality

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I. Background

A. Other Applicable Permits

1. USACE 404 Permit : SPK-2019-00511
2. DNR Stream Alteration Order: 19-35-17SA

B. Project Description/Purpose

The applicant is proposing to stabilize an existing sewer main crossing on the Weber River and repair the associated grade control structures downstream of the crossing. The proposed project also seeks to improve fish passage, restore and enhance riparian habitats, and provide public access and recreational amenities within the reach of the river. The Federal Emergency Management (FEMA) has identified the existing sewer main crossing as a water quality hazard due to potential for failing during a catastrophic storm/flood event. In addition, the current grade control structures pose a public safety hazard due to the hydraulic condition they produce. The applicant seeks to improve fish passage by realigning and upgrading the existing diversion channel to allow for fish passage over the sewer crossing and improved grade control structures. The project proposes constructing access paths, steps, and a new overlook to improve public access. The proposed project will result in direct construction-related impacts (excavation and fill) within 0.51 acres or 410 LF of waters and 0.07 acres of wetlands. The project will place 1,760 CY of fill within waters and 300 CY of fill within wetlands.

C. Existing Site Conditions

The site is located adjacent to a former industrial complex that is undergoing redevelopment as the Ogden Business Exchange. The former Swift Meatpacking facility, which is currently being demolished as part of the larger redevelopment project, is located along the right riverbank. The Weber River at the project site has been historically altered by humans to confine the flooding of the river to the channel, which was built up on both sides over the last century. The river has a 10'+ flood wall and extensive rip rap on river right and a steep bank on river left. There is a 36" diameter sanitary sewer line that crosses the river at the top of the project area and a set of three grade drops below the crossing that protect the sewer line from vertical erosion and undercutting. These grade drop features also serve as whitewater features for the Ogden City Kayak Park. A fish passage channel around the sewer crossing and grade drops exists along river left, though this feature is not functioning as designed due to sedimentation. A wooden overlook is located along river left, immediately off Exchange Rd, and provides kayak recreation and nature viewing opportunities.

II. Certification Conditions

A. Project Specific Conditions

1. Channel Work and Fill

- a. In channel work and work conducted on the bank 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.
- b. In river structures should not result in a disruption or cause a barrier to the movement of fish or other aquatic life on the downstream side.
- c. If any dredged material is removed from the river and stored on land, the material must be protected or stored in a way as to prevent reentry into the river.
- d. While working in the river, BMPs should be implemented to prevent additional discharges and limit increases in turbidity. A turbidity curtain or other means to prevent impacts to water quality should be utilized to prevent impacts to downstream water quality.
- e. Construction machinery used should be clean to prevent the possible transfer of Aquatic Invasive Species.

2. Monitoring/Reporting

- a. Any reports required by the USACE and DNR shall additionally be sent to the DWQ for our records.
- b. After completion of work, representative photos of the completed work should be sent to the DWQ for our records.

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. UTR300000^[1]). 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 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. UTG070000^[2]). 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.

¹Link: <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>

- 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 shall immediately notify the DWQ. A fact sheet describing the Utah Department of Environmental Quality's (DEQ) recommended environmental BMPs for construction sites are located on our web site [³].

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.

³Link: <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 of 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. Weber River

- 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 3A: Protected for cold water species of game fish and other cold 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. Impairments and Pollutants of Concern

Results from the current water quality assessment, as documented in Utah's 2016 Integrated Report [4], indicate that the water quality of the Weber River is considered to be impaired (Assessment Category 5). Weber River is impaired for OE Bioassessment, due to human activities, which impacts cold water aquatic life (Class 3A) beneficial use. The CWA directs states to prepare a plan to restore water quality to impaired waters, otherwise known as a total maximum daily load (TMDL) study. A TMDL is required for each parameter and water body to define pollutant reduction requirements necessary for the water body to meet water quality standards. At present, no TMDLs have been finalized for the Weber River.

⁴Link: <https://documents.deq.utah.gov/water-quality/monitoring-reporting/integrated-report/DWQ-2017-004941.pdf>

IV. 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.

V. 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 [4]. 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.

⁵Link: <https://documents.deq.utah.gov/admin/2020-fee-schedule.pdf>

VI. Public Notice and Comments

A. Public Notice Dates

1. USACE 404 Permit No. SPK-2018-00408: No Public Notice for Letters of Permission (LOP)
2. Utah DEQ Certification No.: DWQ-2020-01001

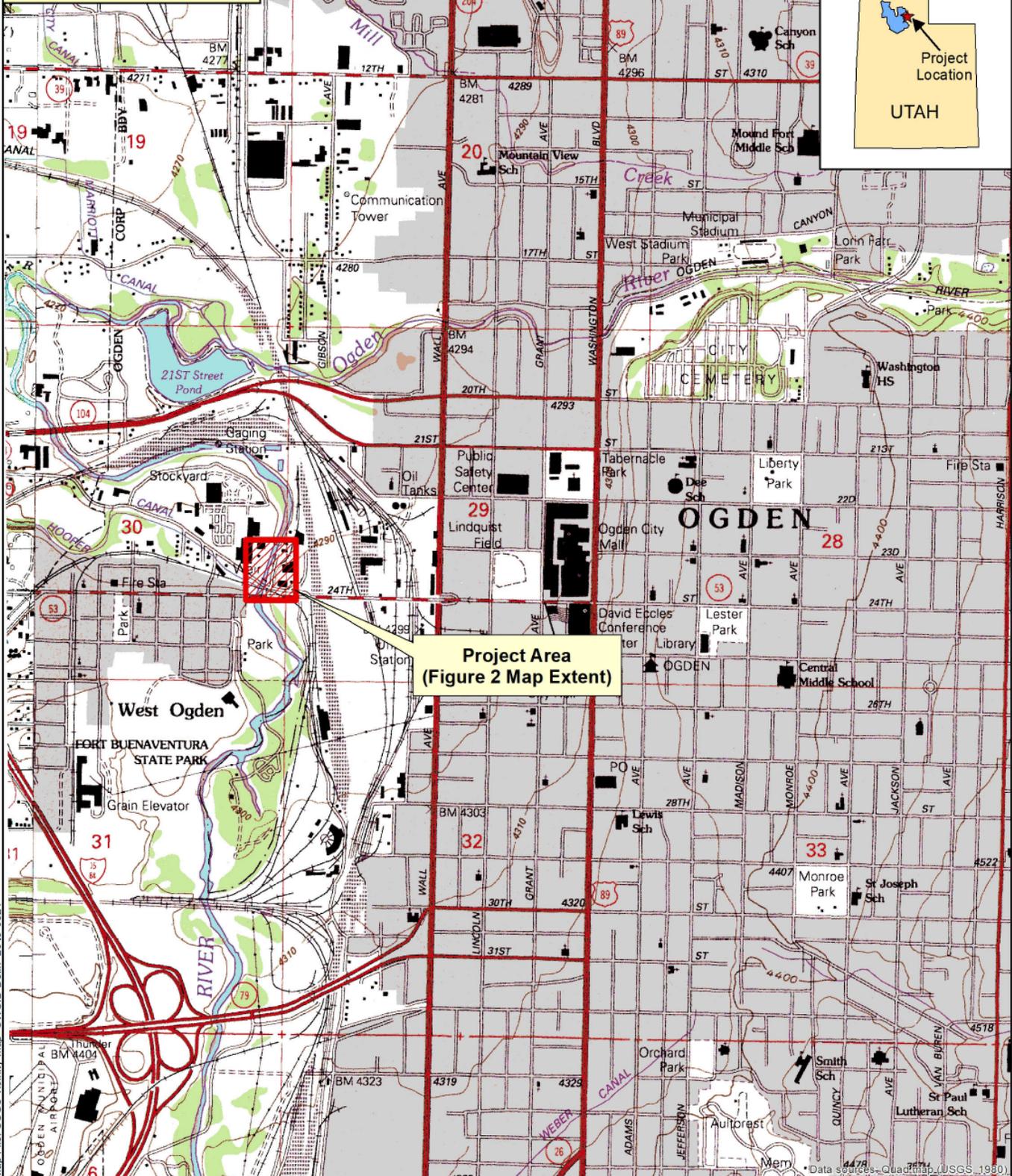
B. Public Notice Comments/Response

PND DRAFT

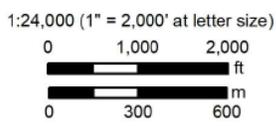
Appendix A: Site Location Maps

PND DRAFT

Ogden 7.5' Quadangle



Project Area
(Figure 2 Map Extent)



CWSID - Sewer Line Protection

Figure 1

Project Vicinity - USGS 7.5' Quad Map



CWSID - Sewer Line Protection



1:1,200 (1" = 100' at letter size)

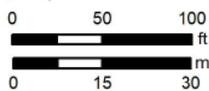


Figure 2

Project Area Map

Appendix B: Proposed Project Design Elements

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Project Design Elements

Sewer Line Protection and Channel Stabilization

-  Concrete Grade Control Structure
-  Boulder Grade Control Terrace
-  Sheet Pile Wall
-  Boulder Scour Pool Armoring
-  Cobble Channel Armoring
-  Boulder Retaining Wall/Terrace
-  Boulder Riffle

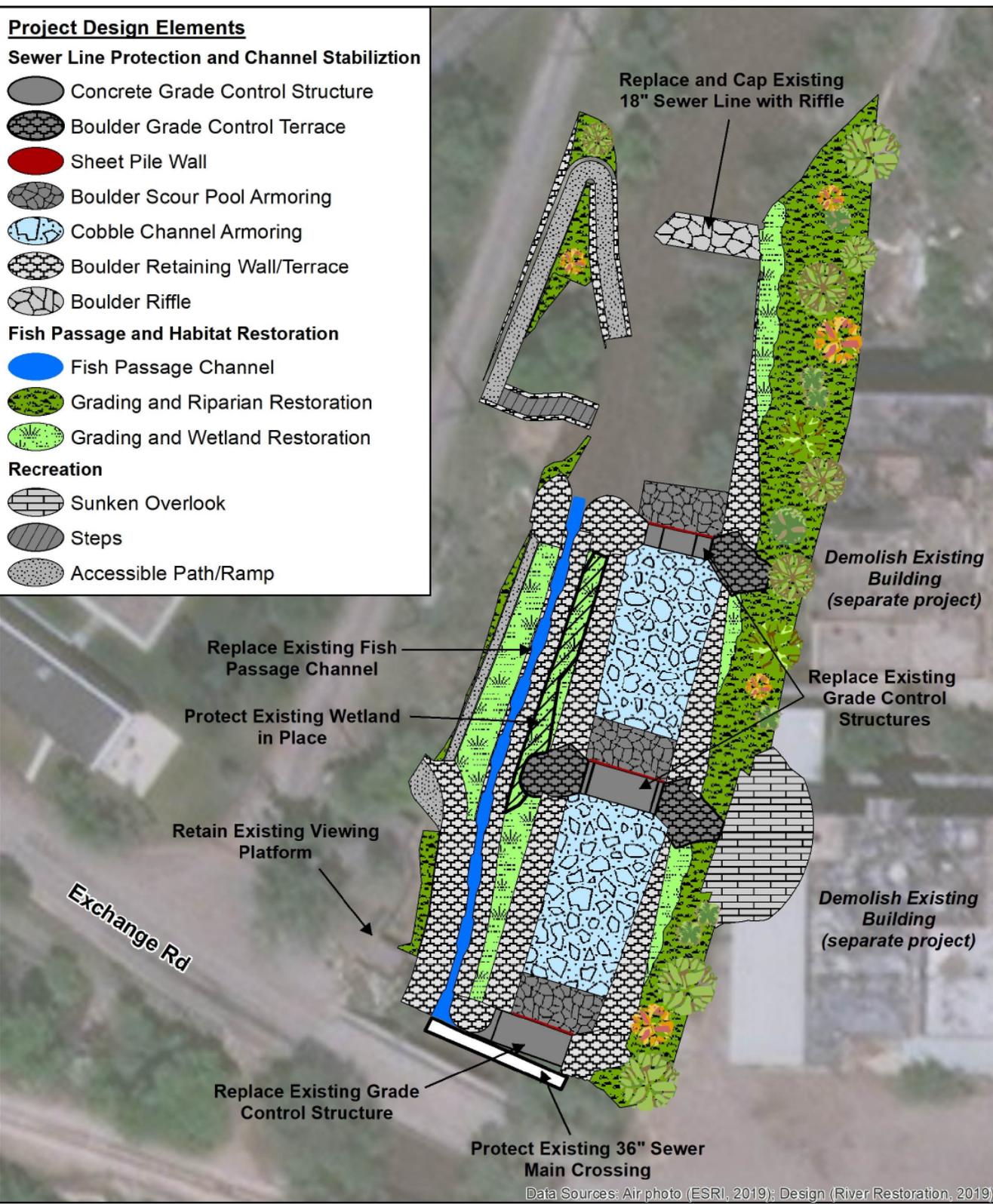
Fish Passage and Habitat Restoration

-  Fish Passage Channel
-  Grading and Riparian Restoration
-  Grading and Wetland Restoration

Recreation

-  Sunken Overlook
-  Steps
-  Accessible Path/Ramp

Map File: Project-design-overview_CWSID-Deim_2019-10-15.dwg



Data Sources: Air photo (ESRI, 2019); Design (River Restoration, 2019)
CWSID - Sewer Line Protection

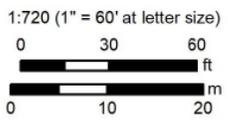
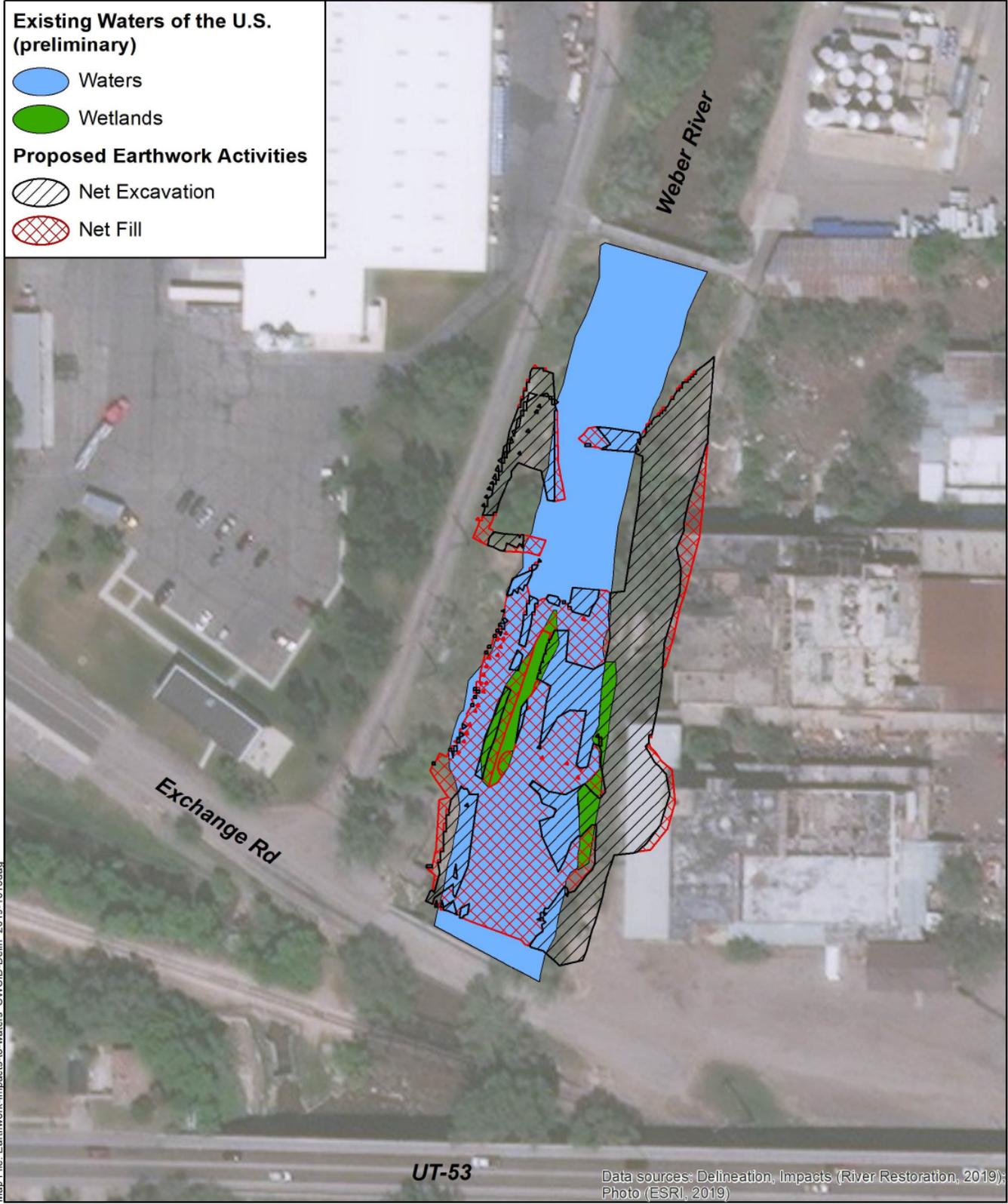


Figure 4

Proposed Project Design Elements

Appendix C: Proposed Alterations to Waters of the State



Map File: Earthwork-impacts-to-waters_CWSID-Delin_2019-1015dagg

Data sources: Delineation, Impacts (River Restoration, 2019); Photo (ESRI, 2019)

CWSID - Sewer Line Protection

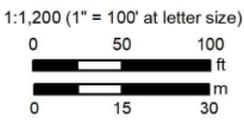


Figure 8

Proposed Earthwork Within Wetlands and Waters