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May 24, 2024

Travis Mote
Acting State Conservationist
USDA Natural Resources Conservation Service
125 S. State Street, Room 4010
Salt Lake City, UT 84138

VIA ELECTRONIC MAIL: travis.mote@usda.gov

**Subject: Heber Valley Corridor EIS – Coordination on Proposed Gertsch
Agriculture Conservation Easement**

Dear Mr. Mote,

UDOT is preparing an Environmental Impact Statement (EIS) in the Heber Valley to improve regional and local mobility on U.S. Highway 40 (US-40) from State Route 32 (SR-32) to U.S. Highway 189 (US-189) and provide opportunities for nonmotorized transportation while allowing Heber City to meet their vision for the historic town center. Five action alternatives are being evaluated along with the No-action Alternative. **This letter serves to clarify the status of the EIS process and the action alternatives being evaluated; express UDOT's concerns with the proposed Gertsch easement, which would block all five action alternatives being considered in the EIS; and seek further action to resolve this issue.**

When NRCS, UDOT, and Wasatch County first met on April 29, 2024, to discuss this issue, Scott Morton said he would like to consult with NRCS's general counsel to determine whether UDOT was far enough along in the EIS process to affect NRCS's decision regarding how to move forward with the Gertsch application. Three potential options were discussed:

1. EIS process is complete enough to warrant sending the application back to the applicant (wait for UDOT to complete the EIS process),
2. EIS process is complete enough to warrant modifying the application before proceeding, or
3. EIS process is not complete enough to affect NRCS's decision—proceed with the application as proposed.

After the meeting, we provided shapefiles of all five action alternatives to NRCS. We were told that a follow-up meeting would be scheduled and have sent follow-up correspondence to Scott Morton requesting this meeting. We are awaiting a response from NRCS and look forward to receiving further direction.

As context for this discussion, the following is a brief history of our process.

As allowed under the National Environmental Policy Act (NEPA), UDOT used an early scoping process in 2020 to conduct activities to develop a proposal in enough detail to allow for meaningful public comment before formally initiating the Heber Valley Corridor EIS. A notice of intent (NOI) to prepare the EIS was published in the Federal Register on May 11, 2021. UDOT published the *Final Alternatives Development and Screening Report* on January 16, 2023.¹ Five action alternatives passed through the screening process and are being evaluated in detail (Alternatives WA1, WB1, WB2, WB3, and WB4); see the *Final Alternatives Screening Factsheet* referenced in footnote 2 for a high-level overview of the action alternatives, including figures.² In the fall of 2023, the Draft EIS was substantially complete and was undergoing UDOT's review for publication in early 2024 when a draft update to the regionally approved travel demand model became available.

Every 4 years, the regional travel demand model for Summit and Wasatch Counties is updated by the Mountainland Association of Governments with the latest approved growth projections and planned transportation improvements. Usually, new models validate the assumptions and results from previous models so UDOT can rely on decisions based on previous models to keep moving forward. However, we evaluated draft versions of the new model and determined that the traffic volumes are different enough to warrant using the updated model. Preliminary information from the updated model shows considerably more traffic on North US-40 than previously assumed. As a result, the EIS schedule has been delayed.

All five action alternatives being evaluated follow a similar alignment between SR-113 (Midway Lane) and the east-west connection to US-40 at 900 North in Heber City, as shown in the attached Figure 1. We considered several alignment shifts in this area before settling on the location shown. All action alternatives follow the historic preservation corridor where possible (Heber City and Wasatch County have been working to preserve right-of-way for a specific alignment since 2006). The action alternatives were shifted off the historic preservation corridor to avoid substantial impacts to the new Heber Light & Power substation, Kimball Villas (a senior living community), Parkview Place (a housing development with priority given to essential workers), the future Heber City high school, and potentially jurisdictional wetlands.

¹ <https://hebervalleyeis.udot.utah.gov/wp-content/uploads/2023/01/Heber-Valley-Corridor-EIS-Final-Alternatives-Development-and-Screening-Report-1-16-2023.pdf>

² <https://hebervalleyeis.udot.utah.gov/wp-content/uploads/2023/01/HVC-EIS-Final-Screening-Report-Fact-Sheet.pdf>

Alternatives WB3 and WB4 extend through the north fields to connect to US-40 at River Road, whereas Alternatives WA1, WB1, and WB2 follow the existing US-40 alignment between 900 North and River Road. The primary consideration for the alignment of Alternatives WB3 and WB4 in the north fields is to minimize impacts to wetlands. We evaluated alignments west of 600 West but determined that impacts to wetlands would increase, which would make it difficult to obtain the necessary Clean Water Act Section 404 permit to construct these alternatives.

Although we anticipate that some alternatives would likely need additional improvements to meet the project’s purpose due to the increased traffic demand shown in the current model (for example, additional lanes on North US-40 for Alternatives WA1, WB1, and WB2), we do not anticipate the alignment location changing for any action alternative.

The alignment of the action alternatives that we are evaluating is based on technical analysis, design requirements, and extensive outreach. Since initiating this study in 2020, we have conducted about 75 meetings with local government representatives and stakeholders, three public meetings, and four public comment periods. UDOT has been coordinating with Heber City and Wasatch County throughout the EIS process.

An additional element of our community engagement has included a Stakeholder Working Group, which includes representatives from trucking, agriculture, open lands, emergency services, schools, residents, developers, local government staff, and businesses. The Stakeholder Working Group is not a decision-making body. Instead, the group is a cross-section of community members who provide input from the broader communities they represent. In return, the project team asks the members to distribute any provided information to their respective communities. The Stakeholder Working Group has met five times to date. Laren Gertsch serves as the representative for the agricultural community, and Justin Keys (a member of the Wasatch Open Lands Board) serves as the representative for open space.

We have concerns with the Gertsch conservation easement proposal because it would conflict with all five action alternatives being evaluated, as shown on Figure 1 and in Table 1.

Table 1. Overlap between Action Alternatives and Proposed Gertsch Conservation Easement

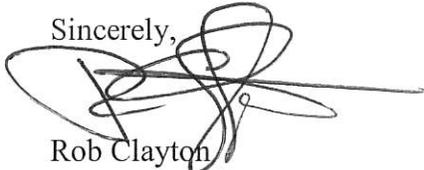
Alternative	Overlap Based on Pavement (acres /% of proposed easement)	Overlap Based on Right-of-Way (acres /% of proposed easement)
WA1	4.41 ac (2.7%)	14.49 ac (8.8%)
WB1	3.34 ac (2.0%)	8.85 ac (5.4%)
WB2	3.35 ac (2.0%)	8.86 ac (5.4%)
WB3	7.51 ac (4.6%)	22.86 ac (13.9%)
WB4	7.51 ac (4.6%)	22.83 ac (13.9%)

UDOT is concerned that if the Gretschesch easement is recorded as proposed UDOT would face significant challenges in the future in acquiring the portion of the easement needed from the NRCS and the landowner. This could jeopardize the construction of a western bypass around Heber City. Furthermore, UDOT lacks the authority to condemn property held in an NRCS Agricultural Conservation Easement Program (ACEP) easement. Furthermore, Title 440 of the *Conservation Programs Manual*, Section 528.172 (E), directs NRCS to avoid enrolling land into ACEP where the intended purpose is to interfere with a proposed infrastructure project. UDOT believes that the Gretschesch conservation easement as proposed will interfere with the proposed bypass currently being evaluated in the Draft EIS.

We do not see a viable alignment that avoids this easement. Shifting the alignments to avoid the Gertsch easement would cause greater impacts to other federally protected resources, including wetlands and Southfield Park (which is protected by Section 4(f) of U.S. Department of Transportation Act of 1966), and would not meet the minimum requirements for intersection spacing with Southfield Road and/or the already permitted access to the future high school.

We appreciate your attention to this matter and look forward to connecting soon to find a resolution.

Sincerely,



Rob Clayton
UDOT Region Three Director

cc:

Dustin Grabau, Wasatch County Manager dgrabau@wasatch.utah.gov
Matt Brower, Heber City Manager mbrower@heberut.gov
Scott Morton, Assistant State Conservationist scott.morton@usda.gov
Project file hebervalleyeis@utah.gov

Figure 1. Gertsch Conservation Easement and Action Alternatives

