

# Land Donation to Sandy City

## *Draft Environmental Assessment*

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May 2016

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**Cover Sheet**  
**Land Donation to Sandy City**  
**Draft Environmental Assessment**

**Lead Agency**

Utah Reclamation Mitigation and Conservation Commission

**Project Location**

Salt Lake County, Utah

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**Abstract**

The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) is proposing to donate 3.86 acres of open space land to the Sandy City Department of Parks and Recreation (Sandy City). This project will help meet the Mitigation Commission's need to identify appropriate permanent land owners and management entities for properties it owns along the Jordan River. The donation property is located on the east side of the Jordan River at approximately 9850 South, near the "Grandpa's Pond" urban fishery. The land is currently managed for ecological and compatible recreational purposes, and this management focus would continue unchanged under the proposed land transfer.

The proposed land transfer agreement includes binding conditions and restrictions to ensure that the land continues to be managed for the wetland and wildlife resource values it was acquired to protect. These conditions lay out acceptable and unacceptable uses of the property and require compliance with the Utah Noxious Weed Act, Section 106 of the National Historic Preservation Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Utah Pesticide Control Act, and the Migratory Bird Treaty Act of 1918. The property would revert to Mitigation Commission ownership if these established restrictions were to be violated.

*Comments on this draft Environmental Assessment should be provided to Melissa Stamp at [mstamp@usbr.gov](mailto:mstamp@usbr.gov) by June 17, 2016.*

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## **ATTACHMENTS**

Brochure: Our Shared Responsibilities and the Migratory Bird Treaty Act.

U.S. Fish and Wildlife Service list of threatened and endangered species.

Letter from Utah Division of Wildlife Resources Natural Heritage Program regarding species of concern.

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## 1.0 Purpose and Need

### 1.1 Location and Proposed Action

The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) is proposing to donate 3.86 acres of open space land to the Sandy City Department of Parks and Recreation (Sandy City). The property includes two land parcels located on the east side of the Jordan River at approximately 910 West 9850 South, near the “Grandpa’s Pond” urban fishery (Figure 1). The land is currently managed for ecological and compatible recreational purposes, and this management focus would continue unchanged under the proposed land transfer. The proposed donation property lies within the South Jordan City municipal boundary.

### 1.2 Background

Between 1997 and 2001, the Mitigation Commission acquired a series of Jordan River properties linking a two mile-long open space corridor between about 11100 South and 9800 South (Figure 1). Through partnerships with South Jordan City, U.S. Fish and Wildlife Service, and Great Salt Lake Audubon, this corridor has been managed for wetland and wildlife values since its acquisition and is known as the Jordan River Migratory Bird Reserve (Reserve). Significant restoration activities have been implemented in the southern part of the Reserve between 11100 South and about 10200 South. These activities included invasive plant removal, tributary stream channel and wetland restoration, and extensive planting of native riparian shrub and tree species. Since acquisition, however, no significant investment in restoration work has occurred on either the west or east land parcels that comprise the 3.86-acre area proposed for donation to Sandy City. The donation property is limited in area, comprises the northern-most portion of the Reserve, and is separated from the rest of the corridor by Shields Lane, a large roadway that fragments the Reserve habitat.

From 1997 to 2015, Great Salt Lake Audubon (GSLA) had primary responsibility for managing the Reserve under a license agreement with the Mitigation Commission. At the end of calendar year 2015, the agreement was terminated at GSLA’s request and management responsibility reverted to the Mitigation Commission. Ongoing Reserve management activities include regular site visits to inspect, maintain, or manage water control structures, beaver dams, vegetation exclosures, and perimeter fences located on Reserve properties south of Shields Lane. No maintenance-requiring restoration infrastructure is present within the proposed donation property; however, the donation property is included in the Mitigation Commission’s 2016 plans for assessment and treatment of invasive weeds on all its Jordan River properties. The Mitigation Commission does not have any plans or funding in place to pursue new or additional restoration activities within the Reserve beyond these ongoing management activities.

# LAND DONATION TO SANDY CITY Project Area Map

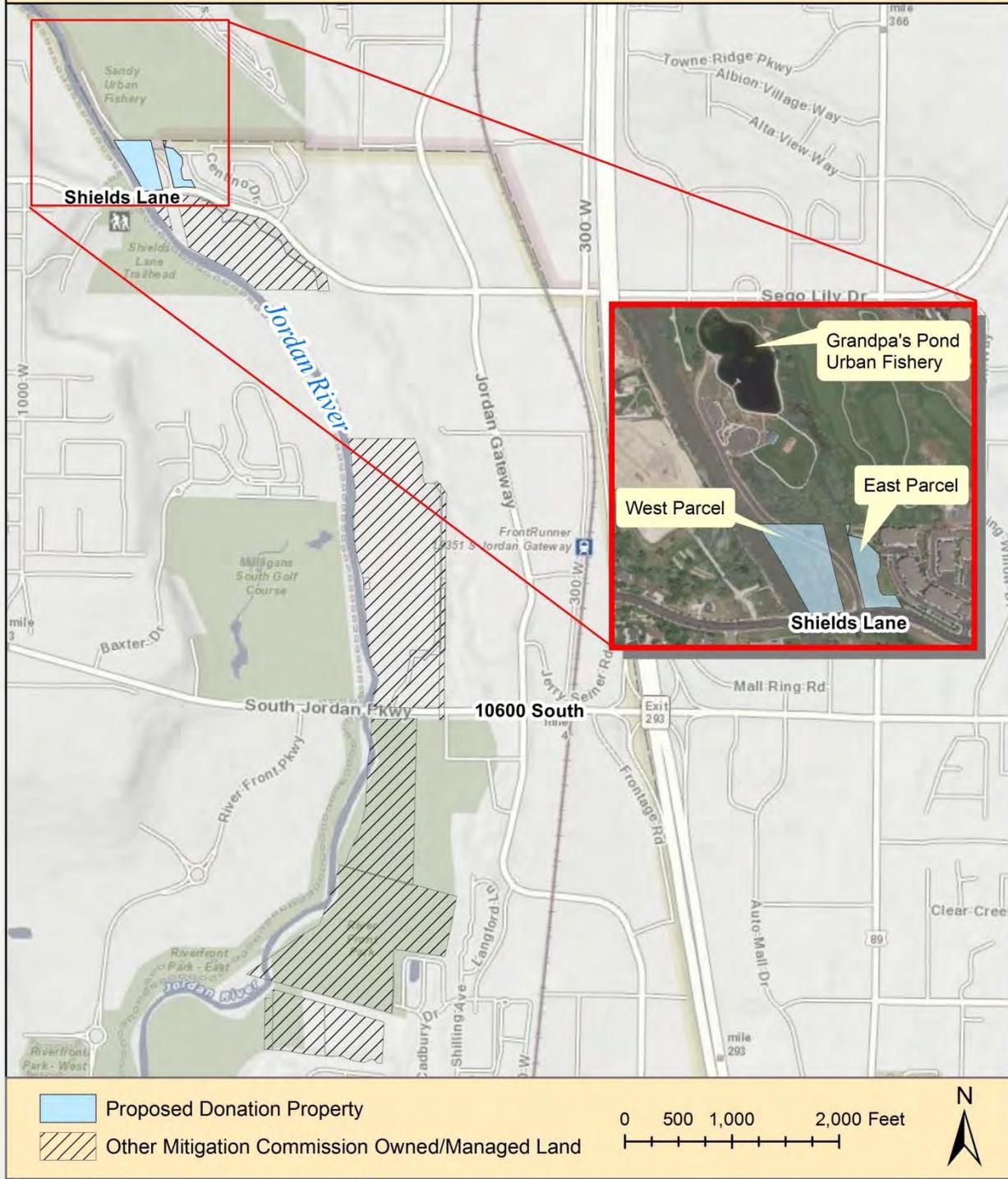


Figure 1. Project area map.

In 2007, the Mitigation Commission issued a license agreement to Sandy City granting them an easement to build an access road across the donation property to access their new urban fishery park. The license agreement was amended in 2008 to include a second easement for curb, gutter, and sidewalk construction adjacent to the access road. The Mitigation Commission is now proposing to convey title of the donation property to Sandy City to be managed for open space values in perpetuity. As the current active manager of the neighboring urban fishery property to the north, Sandy City Department of Parks and Recreation is well-suited to provide for long-term management and oversight of the donation property.

### **1.3 Need for Proposed Action**

The Mitigation Commission was established with the passage of Public Law 102-575, containing the Central Utah Project Completion Act (CUPCA). Section 311 of CUPCA, titled “Jordan and Provo River Parkways and Natural Areas” authorized the Mitigation Commission to acquire wetlands along the Jordan River; to rehabilitate and improve riparian vegetation and fish habitats; and to construct recreational facilities within the parkway areas. The Mitigation Commission is not primarily a land management agency and has a narrowly defined mission to mitigate the impacts on fish and wildlife resources from the construction and operation of Federal reclamation projects in Utah. Under CUPCA, the Mitigation Commission will expire as an agency 20 years after completion of the Central Utah Project. Therefore, the Mitigation Commission has a need to identify and enter into agreements with interested, appropriate, permanent land owners and management entities for properties it owns along the Jordan River. Sandy City has indicated its interest in owning and managing the proposed donation property for its intended purposes. Their interest in the property matches the Mitigation Commission’s current Jordan River programmatic emphasis on permanently transferring Jordan River property to suitable management entities.

### **1.4 Purpose of Proposed Action**

The purposes of the Proposed Action are to:

- Provide a long-term management solution for the proposed donation property;
- Ensure the proposed donation property is permanently managed for the wetland, wildlife, and compatible recreation values it was originally acquired to provide and protect; and,
- Eliminate the need to perpetually renew the urban fishery access road license agreement.

### **1.5 Document Purpose and Decisions to Be Made**

The National Environmental Policy Act of 1969 (NEPA) requires all Federal Agencies to take into account the environmental impacts of their proposals before they implement them. Because the proposed donation property is owned by the United States under administration of the Mitigation Commission, the proposal is subject to NEPA requirements.

NEPA requires Federal agencies to consider the environmental effects of their actions including, among others, impacts on social, cultural, and economic resources, as well as natural resources. The purpose of this document is to inform and disclose to other agencies and the interested public what those

environmental impacts would be and to provide an opportunity for those entities to comment on the proposal. This Environmental Assessment (EA) fulfills NEPA requirements.

Based on the analysis presented in this EA, comments received from the public, agencies and other interested parties, the Executive Director of the Mitigation Commission will decide whether or not to transfer the land owned by the United States to Sandy City. If it is determined through this EA that the environmental impacts of the project are not significant, then the Mitigation Commission would make a Finding of No Significant Impact (FONSI) and the project would likely proceed. If, however, it is determined that the project would result in significant impacts on the environment, then a more detailed Environmental Impact Statement (EIS) would be required prior to proceeding.

## **2.0 Alternatives**

### **2.1 No Action Alternative**

Under the No Action Alternative the 3.86 acres of Federal land proposed for donation would remain in Federal ownership. The Mitigation Commission would continue to manage the property in the manner it has been managed since acquisition, and the property would be included in the Commission's ongoing invasive weed assessment and management activities. The License Agreement between the Commission and Sandy City for their urban fishery access road would be renewed. The Mitigation Commission would still need to find a suitable entity for long-term ownership and management of the property or, upon expiration of the Mitigation Commission, the property would be transferred to and managed by the Utah Department of Natural Resources (UDNR) pursuant to Section 301(k)(2) of CUPCA.

### **2.2 Proposed Action**

The Proposed Action is to transfer title of the 3.86-acre donation property from the Mitigation Commission to the Sandy City Department of Parks and Recreation. The proposed land transfer agreement includes binding conditions and restrictions to ensure the land continues to be managed for the wetland and wildlife resource values it was acquired to protect. These conditions establish acceptable and unacceptable uses of the property and require compliance with the Utah Noxious Weed Act, Section 106 of the National Historic Preservation Act, the Federal Insecticide, Fungicide, and Rodenticide Act, the Utah Pesticide Control Act, and the Migratory Bird Treaty Act of 1918. The property would revert to United States ownership if these established restrictions were to be violated.

More specifically, the land transfer agreement and deed would require the land to be managed and maintained for the use, benefit, conservation, and management of wetland and wildlife resources, or for the education, interpretation, compatible recreational use, or scientific study thereof. Uses and practices considered to be acceptable include:

- soft surface trails for non-motorized public use
- unpaved non-motorized boat launches and associated unpaved vehicle pullouts
- interpretive signs or kiosks
- benches

- wildlife viewing areas
- outdoor classrooms
- control of invasive non-native weeds in accordance with best management practices and state and federal laws
- revegetation with native plant species
- phased removal of mature invasive trees in conjunction with native tree revegetation
- wetland or floodplain restoration activities
- operation/maintenance/repair/replacement of existing public utilities
- maintenance of existing roadway and lighting systems

Unacceptable uses and practices include:

- buildings or pavilions
- restroom facilities
- roads
- parking lots
- commercial/residential/industrial development
- agricultural facilities or uses
- above-ground utility systems
- billboards
- sports fields
- playgrounds
- non-native tree or shrub plantings
- clear-cutting of mature invasive tree stands unless required for wetland/floodplain restoration
- paved trails
- motorized trails
- dog parks
- equestrian facilities
- splash pads
- golf courses
- skate parks
- BMX bike parks
- cattle/stock grazing unless for the express purpose of invasive weed control
- dumping or disposal of refuse/other materials
- subdivision or disposal of the property into smaller tracts

Following the land transfer, Sandy City Department of Parks and Recreation would manage the property as a natural area in accordance with the restrictions above. Currently, Sandy City is the manager of the neighboring urban fishery park to the north and also maintains the urban fishery access road that traverses the donation property. As such, Sandy City staff have a frequent and active presence in the area and this would continue under the Proposed Action.

At this time, Sandy City does not have any plans or funding in place to pursue specific projects on the donation property. It is anticipated that Sandy City would manage the donation property in the same manner and to the same standard that it manages the adjacent natural area portion of their urban fishery property. Any future projects proposed by Sandy City on the property would need to follow the South Jordan City Planning and Zoning Division's site plan process as well as comply with the acceptable/unacceptable use restrictions listed above.

## 3.0 Affected Environment and Environmental Consequences

### 3.1 Introduction

The purpose of this section is to describe elements of the existing environment that could be affected by the Proposed Action and to describe the environmental effects that would likely result for each alternative. For each resource, a list of issues considered in the analysis is identified.

### 3.2 Vegetation and Wetlands

#### Issues Considered

- *How would the Proposed Action affect vegetation communities in the project area, particularly vegetation important for migratory birds and wildlife?*
- *How would the Proposed Action affect mature trees in the project area?*
- *How would the Proposed Action affect the amount and distribution of invasive weeds in the project area?*

#### Affected Environment

Vegetation mapping completed in 2014 (Smith 2016) notes the presence of three main vegetation types in the west donation parcel: Russian olive (*Elaeagnus angustifolia*), common reed (*Phragmites australis*), and upland herbaceous/shrublands (Figures 2 and 3). Vegetation has not been mapped for the east donation parcel, but based on field observations it appears to be dominated by areas of common reed and areas of mixed herbaceous/shrubland vegetation (Figure 4).

Common reed and Russian olive are both considered non-native, invasive weed species. Both species were recently added to the updated 2016 State of Utah Noxious Weed List. Treatment of these invasive plants on the donation property has not been a focus of past management activities, although efforts to control these plants have been implemented in the southern portions of the Jordan River Migratory Bird Reserve.

The donation property is located within the historic floodplain of the Jordan River. The entire area is mapped as wetlands according to the U.S. Fish and Wildlife Service's National Wetlands Inventory (USFWS 2014) (Figure 2); however, the National Wetlands Inventory map for this area is based on broad-scale interpretation of 1997 aerial imagery and does not appear to accurately reflect current on-the-ground conditions. No detailed, up-to-date field delineations of wetlands are available for the property. Based on the existing vegetation on the property, the project area is most likely dominated by non-wetland habitats; some areas of wetland may also be present.

# LAND DONATION TO SANDY CITY

## Vegetation Map

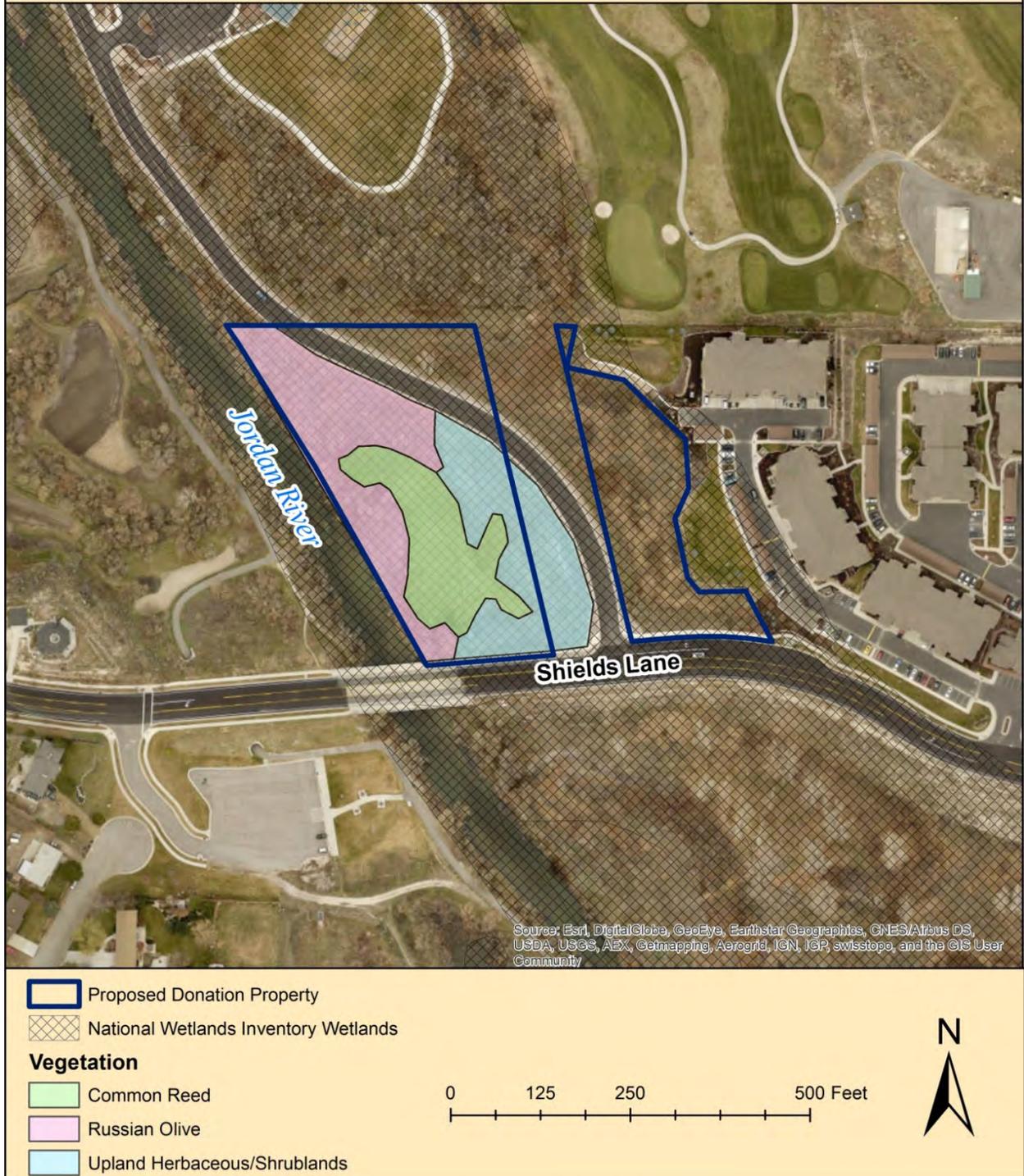


Figure 2. Vegetation map.



**Figure 3. Photo of west donation parcel looking north from Shields Lane. Note herbaceous vegetation in foreground; common reed in middle of photo; and Russian olive at left/background.**



**Figure 4. Photo of east donation parcel looking north from Shields Lane. Note areas of common reed and other herbaceous/shrubby vegetation.**

## Environmental Effects

### *Proposed Action*

No changes to wetlands or vegetation communities are anticipated under the Proposed Action. Active vegetation management activities would continue to be limited to periodic herbicide weed treatments along the urban fishery access road shoulder areas. Sandy City has no plans or funding currently in place to pursue a large-scale invasive weed control/native vegetation restoration effort on the donation property. If such a project were to become a priority in the future, it would need to be implemented in accordance with the conditions outlined in the land transfer documents. These conditions require compliance with Federal Insecticide, Fungicide, and Rodenticide Act, the Utah Pesticide Control Act, the Migratory Bird Treaty Act of 1918, and the use of best management practices (BMPs) to control noxious weeds. Under these conditions, Sandy City would need to follow established guidelines for the use of weed treatment herbicides and avoid disturbing active nests of protected bird species. The land transfer documents also define clear-cutting of mature invasive trees as an unacceptable use unless required for a wetland or floodplain restoration project.

Because the existing mix of vegetation types would not change, habitat for birds and wildlife would not be affected by the Proposed Action. Similarly, the existing amount and distribution of invasive weeds would not be expected to change, and compliance with the Utah Noxious Weed Act would be required under the conditions of the land transfer agreement.

### *No Action*

Under the no action alternative, the existing types and distribution of vegetation communities would remain intact with the exception of areas where planned invasive weed assessment and treatment activities lead to a change. The exact weed treatment approach for the donation property has not yet been determined, but likely approaches include chemical and mechanical weed treatments. Removal of Russian olive trees would be limited to plants less than one meter in height; mature tree stands would not be affected by the Mitigation Commission's ongoing weed assessment and management activities.

## 3.3 Wildlife

### Issues Considered

- *How would the Proposed Action affect wildlife, particularly nesting birds, in the project area?*

### Affected Environment

The project area is part of the Jordan River floodplain corridor that links the Utah Lake and Great Salt Lake ecosystems. This corridor lies within the Pacific Flyway and provides important habitat for migratory birds as well as resident bird and wildlife species. More than 100 different bird species have been observed in the Jordan River Migratory Bird Reserve and along the greater Jordan River corridor (Smith 2016).

In the project area, wildlife habitat connectivity is interrupted by Shields Lane and the urban fishery access road. Wildlife in the project area is subject to disturbance from traffic on these roadways and noise associated with human activities at the nearby apartment complex and urban fishery. However,

the property does provide an important pocket of natural habitat and vegetation within the otherwise highly urbanized Wasatch Front area. As discussed in the previous section, primary vegetation types in the project area include Russian olive, common reed, and mixed herbaceous/shrublands.

No detailed wildlife inventory has been conducted specifically in the project area, but wildlife most likely includes urban-tolerant species such as mule deer, red fox, skunk, voles, mice, and raccoon. Avian species likely include a mix of raptors, neo-tropical migratory birds, shorebirds, and waterfowl. The proposed donation property does not lie within an identified “wildlife priority area” of the Jordan River Migratory Bird Reserve (Smith 2016).

## **Environmental Effects**

### ***Proposed Action***

No changes to wildlife habitat are anticipated under the Proposed Action. Sandy City has no plans or funding currently in place to pursue specific habitat restoration, vegetation management, or recreation projects on the donation property. If any such project were to become a priority in the future, it would need to be implemented in accordance with the conditions outlined in the land transfer documents. Under these conditions, Sandy City would need to follow established best practices for the selection and use of weed treatment herbicides. Sandy City would also need to follow current U.S. Fish and Wildlife Service guidelines for avoiding illegal “take” of birds, nests, or eggs during tree trimming, brush removal, and other improvement projects. The land transfer documents also promote phasing the removal of mature invasive trees and restrict clear-cutting of mature invasive trees unless required for a wetland or floodplain restoration project. These conditions would minimize the potential for negative consequences to wildlife.

### ***No Action***

Under the no action alternative, the existing types and distribution of habitats that support wildlife in the project area would remain intact. The Mitigation Commission would continue to manage habitat on the property in the manner it has been managed since acquisition.

## **3.4 Threatened, Endangered, and Sensitive Species**

### **Issues Considered:**

- *How would the Proposed Action affect threatened, endangered, and sensitive species?*

### **Affected Environment and Environmental Effects**

The U.S. Fish and Wildlife Service’s on-line IPaC tool (USFWS 2016) was used to search for proposed, candidate, threatened, and endangered species that may occur in the project area. Four species were identified through this process (Table 1); no critical habitats are present in the project area. No State-sensitive species are known to occur on the property (UDWR 2016a). As described in Table 1, the Proposed Action will not affect any federally listed or candidate species or their habitat.

**Table 1. Threatened (T) and endangered (E) species that may occur in the project area.**

SPECIES	STATUS	OCCURRENCE POTENTIAL	ENVIRONMENTAL EFFECTS FOR ALL ALTERNATIVES
June sucker <i>Chasmistes liorus</i>	E	None	The June sucker neither occurs in the project area nor in the Jordan River adjacent to the project area.
Yellow-billed cuckoo <i>Coccyzus americanus</i>	T	Unlikely	Project area lacks suitable nesting habitat for western yellow-billed cuckoo, which requires large (>20 hectares) contiguous tracts of riparian forest with dense understory (UDWR 2016b). Project area is inadequate in size and lacks the riparian tree species (cottonwood, willow, etc.) where cuckoo are known to nest. Project area is unlikely to provide foraging habitat for this species, as no suitable breeding habitat is found near the project site.
Canada lynx <i>Canadensis</i>	T	None	Project area lacks suitable habitat and prey for Canada lynx, which lives in mountain coniferous forest areas and relies on snowshoe hare as a main food item (UDWR 2016c).
Ute ladies'-tresses <i>Spiranthes diluvialis</i>	T	Unlikely	The Ute ladies' tress orchid (ULT) is known to occur in wet habitats with coarse alluvial soils such as wet meadows, floodplains, and spring/seep areas. More recently it has also been found in disturbed areas such as irrigation canals, levees, and gravel pits (UDWR 2016d). Only one occurrence has been found in Salt Lake County in recent decades; this population is located in a horse pasture in Murray several miles east of the project area (Fitts 2016, pers. comm.). No ULT populations are known to exist along the Jordan River corridor. The existing hydrologic and vegetation conditions on the property appear to be too dry/shaded for preferred ULT conditions. Any ULT populations that may exist in the project area would not be affected by the Proposed Action because no ground disturbance or alterations to the site hydrology are proposed.

### 3.5 Cultural Resources

#### Issues Considered

- *Would the project affect any resources eligible for listing to the National Register of Historic Places?*
- *Would the transfer of property out of Federal ownership jeopardize any listed or eligible resources to the National Register?*

#### Affected Environment

No comprehensive cultural resource survey has been completed of the entire project area; however, the portion of the donation property that lies within Sandy City's urban fishery access road easement was surveyed in 2008 (Figure 5). No archaeological debris was found in the access road area (Bighorn 2008),

and a determination of “no historic properties affected” was accepted by the Utah State Historic Preservation Office (SHPO). Similarly, no cultural resource sites were documented during a 2007 inventory of the 14-acre urban fish pond property adjacent to the donation property (Bighorn 2007). While there are no obvious indications that the donation property contains significant cultural or historic resources, it is possible that such resources may be present. Also, sub-surface artifacts could be present given that the property is located in a depositional floodplain environment.

### **Environmental Effects**

Section 106 of the National Historic Preservation Act requires all federal agencies to identify the impacts their actions would have on cultural and historical resources. These impacts are described below.

#### ***Proposed Action***

No ground-disturbing activities or changes in on-the-ground conditions at the property are proposed under the Proposed Action. Therefore, if any cultural resources do exist on the property, they will not be affected by the Proposed Action.

Under the Proposed Action, the federally-owned donation property would be transferred to Sandy City. Regulations implementing the National Historic Preservation Act define the transfer of property out of federal ownership as an "adverse effect" unless adequate and legally enforceable restrictions or conditions are included in the documents that legally transfer ownership to ensure long-term preservation of the property's historic significance (36 CFR 800.5(a)(2)(vii)). Such conditions are included in the proposed land transfer documents, and would be enforceable through a reversionary clause by which the property would revert to United States/Mitigation Commission ownership if Sandy City were found to be in violation and did not correct the violation. Because these binding conditions would be in place, no “adverse effect” would result from the proposed land transfer, and no potential resources that are listed or eligible to the National Register would be jeopardized.

#### ***No Action***

Under the no action alternative, the property would remain in federal ownership and the Mitigation Commission would continue to comply with Section 106 of the National Historic Preservation Act. Any cultural resources that may exist on the property would neither be affected nor jeopardized.

# LAND DONATION TO SANDY CITY Cultural Resource Survey Areas



Figure 5. Cultural resource survey areas map.

### 3.6 Other Resources

The following additional resources were considered but dismissed from detailed analysis in this Environmental Assessment as described in Table 2.

**Table 2. Resources dismissed from detailed analysis.**

RESOURCES	REASON FOR DISMISSAL FROM DETAILED ANALYSIS
Recreation, Socioeconomics	The property will continued to be managed for ecological and compatible recreational purposes. Sandy City has no plans or funding currently in place to pursue any specific projects on the donation property. Therefore there would be no change in recreational opportunities or socioeconomics with the transfer.
Water Rights	There are no water rights appurtenant to the property and therefore there would be no change to these resources with the transfer.
Floodplains	No ground-disturbing activities or changes in on-the-ground conditions at the property are proposed under the Proposed Action. Therefore there would be no change to floodplains with the transfer.
Public Health and Safety	The property will continued to be managed for ecological and compatible recreational purposes. Sandy City has no plans or funding currently in place to pursue any specific projects on the donation property. Therefore there would be no change in use of the property or the urban fishery access road, and no change to public health and safety with the transfer.
Unique Geographic or Ecologically Significant Areas	The proposed donation property does not contain unique geographic or ecologically significant areas.

### 3.7 Cumulative Impacts

The property will continued to be managed for ecological and compatible recreational purposes. Sandy City has no plans or funding currently in place to pursue any specific projects on the donation property. Therefore the Proposed Action would not cause any cumulative impacts to the quality of the human environment.

### 4.0 Coordination

The Mitigation Commission coordinated with U.S. Fish and Wildlife Service and Sandy City to get their input when preparing a preliminary list of acceptable/unacceptable use restrictions to include in the draft land transfer agreement.

On March 4, 2016, a scoping notice explaining the project and inviting comments was emailed to the following agencies and organizations:

- U. S. Fish and Wildlife Service
- Sandy City
- Great Salt Lake Audubon
- Utah Division of Wildlife Resources

- Jordan River Commission
- South Jordan City
- Utah Division of Forestry Fire and State Lands
- Utah Division of Parks and Recreation
- National Audubon Society

Also on March 4, 2016, the scoping notice was posted at the Sandy City urban fishery park north of the proposed donation property, and copies of the notice were hand-delivered to the office of the San Marino Apartments. These apartments are the neighboring property east of the donation property.

One substantive comment was received in response to the scoping notice. This comment was from Great Salt Lake Audubon and it expressed concern that Sandy City would manage the property more from a parks perspective instead of a wildlife management perspective. Specific concerns included the potential for mass removal of mature trees, inappropriate use of toxic chemicals, and associated impacts to nesting birds and aquatic life. In response to these comments, additional wording was added to the acceptable/unacceptable use clauses in the draft land transfer documents to specify that, unless required for a floodplain or wetland restoration project, mass removal of mature trees would be considered an unacceptable practice. Clauses were also added to the draft land transfer documents specifying that Sandy City's management of the property must comply with the requirements of the Federal Insecticide, Fungicide, and Rodenticide Act, the Utah Pesticide Control Act, and the Migratory Bird Treaty Act of 1918.

## 5.0 Environmental Commitments

- Binding conditions and restrictions would be included in the legal instrument transferring the property to Sandy City to ensure the land continues to be managed for the wetland and wildlife resource values it was acquired to protect.
- The legal instrument transferring the property to Sandy City would require that management practices and any future projects implemented on the donation property comply with the acceptable/unacceptable uses listed in Section 2.2 of this document.
- The legal instrument transferring the property would require Sandy City to use best management practices to control noxious weeds on the donation property in accordance with the Utah Noxious Weed Act (UCA-4-17), Utah Administrative Rule 68-9, and the Salt Lake County Noxious Weed List.
- The legal instrument transferring the property would require Sandy City to avoid the use of any banned or severely restricted chemicals and to comply with all applicable pesticide applicator certification requirements, label instructions, and best practices when transporting, storing, handling, disposing of, and using herbicides in accordance with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 6), the Utah Pesticide Control Act (UCA-4-14), and Utah Administrative Rule 68-7.
- Conditions would be included in the legal instrument transferring the property to Sandy City to limit potential effects on nesting birds. These conditions would require Sandy City to avoid disturbing active bird nests when removing invasive non-native weeds and trees on the donation property in accordance with the Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712) and current guidelines published by the U.S. Fish and Wildlife Service's Utah Ecological Services Field Office. The conditions would also establish that clear-cutting stands of mature trees on the property would be an unacceptable practice unless mass tree removal were necessary for implementing a floodplain/wetland restoration project.
- Conditions would be included in the legal instrument transferring the property to Sandy City to provide sufficient continued protection of cultural and historical resources which may be found on the property. If cultural resources are discovered during any future project on the property, the State Historic Preservation Officer would be consulted and appropriate measures to mitigate the impact implemented.

## 6.0 References

- [Bighorn] Bighorn Archaeological Consultants, LLC. 2007. A cultural resource inventory of the Sandy Urban Fish Pond, Salt Lake County, Utah. Prepared for PSOMAS. SHPO Authorization No.: U07-HO-0134s. Report Number 07-10. Orem (UT): 5 p.
- [Bighorn] Bighorn Archaeological Consultants, LLC. 2008. Letter and map from J. Baxter, Bighorn Archaeological Consultants, to Jamie Tsandes, PSOMAS, r.e. cultural resource inventory for Sandy Fish Pond access road. 12 March 2008. Orem (UT): 5 p.
- Fitts R. 2016. Botanist, Utah Division of Wildlife Resources. Personal communication via email with Melissa Stamp (Mitigation Commission) regarding Ute ladies' tress occurrences in Salt Lake County and likelihood of ULT presence on Sandy donation property. 4/20/16.
- [Smith] K.A. Smith Consulting, Inc. 2016. Jordan River Migratory Bird Reserve stewardship plan. Prepared for U.S. Fish and Wildlife Service. Sandy (UT): 176 p.
- [UDWR] Utah Division of Wildlife Resources. 2016a. April 12, 2016 letter from S. Lindsey, Utah Natural Heritage Program, to M. Stamp, Mitigation Commission r.e. species of special concern near the Sandy City Land Donation Project Area.
- [UDWR] Utah Division of Wildlife Resources. 2016b. Utah Conservation Data Center website, yellow-billed cuckoo species information page, accessed 4/6/2016. Location: <http://dwrcdc.nr.utah.gov/rsgis2/Search/Display.asp?FINm=coccamer>
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- [USFWS] U. S. Fish and Wildlife Service. 2014. National Wetlands Inventory website. U.S. Department of the Interior, Fish and Wildlife Service, Washington, D.C. <http://www.fws.gov/wetlands/>
- [USFWS] U. S. Fish and Wildlife Service. 2016. Information for Planning and Conservation (IPaC) website, accessed 4/6/16. Location: <http://ecos.fws.gov/ipac/>

## Attachments

## CONTACTS



Northern Flicker © Ron Dudley

### For MBTA Information or Consultation

U.S. Fish and Wildlife Service  
2369 Orton Circle, Suite 50  
West Valley City, UT 84119  
Phone: (801) 975-3330

[www.fws.gov/migratorybirds](http://www.fws.gov/migratorybirds)

### To Report a Violation

Utah Division of Wildlife Resources  
1594 W North Temple  
Salt Lake City, UT 84116  
Phone: (801) 538-4700

Special Agent

U.S. Fish and Wildlife Service: Office of Law Enforcement  
2155 W. Forest Street  
Brigham City, UT 84302  
Phone: (435) 734-6446

THIS PUBLICATION HAS BEEN  
PRODUCED AS A COLLABORATION OF:

Great Salt Lake Audubon  
[www.greatsaltlakeaudubon.org](http://www.greatsaltlakeaudubon.org)

U.S. Fish and Wildlife Service  
[www.fws.gov/utahfieldoffice](http://www.fws.gov/utahfieldoffice)

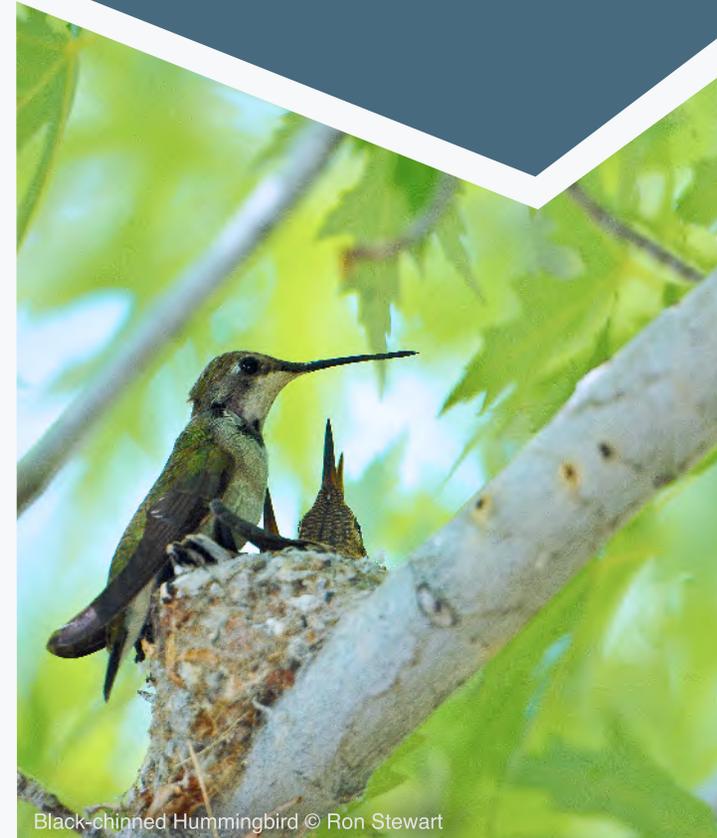
Utah Division of Wildlife Resources  
[www.wildlife.utah.gov](http://www.wildlife.utah.gov)

Tracy Aviary  
[www.tracyaviary.org](http://www.tracyaviary.org)



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# OUR SHARED RESPONSIBILITIES & THE MIGRATORY BIRD TREATY ACT



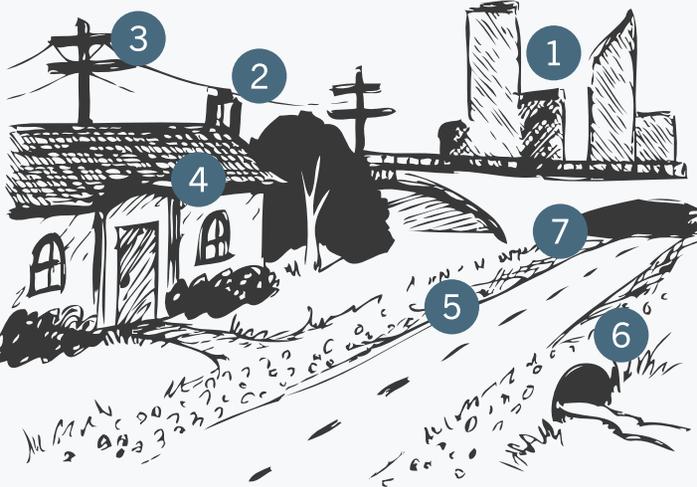
Black-chinned Hummingbird © Ron Stewart

How to Avoid Illegal "Take" of Birds  
During Tree Trimming, Brush Removal  
and Other Improvement Projects

## UTAH HAS 247 SPECIES OF BIRDS THAT BREED IN THE STATE

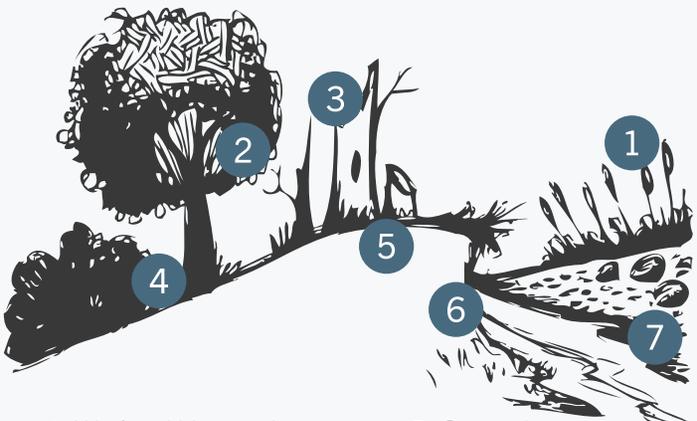
Each bird species uses different nesting habitats and different types of nests.

### URBAN NESTING SITES



- 1. High-Rise Buildings
- 2. Chimneys
- 3. Utility Poles
- 4. Building Eaves
- 5. Roadside Gravel
- 6. Culverts
- 7. Bridges

### NATURAL NESTING SITES



- 1. Wetland Vegetation
- 2. Tree Branches
- 3. Holes in Dead/Live Trees
- 4. Shrubs
- 5. Ground
- 6. Stream Banks
- 7. Gravel

## THE MIGRATORY BIRD TREATY ACT (MBTA)

The MBTA was established in 1918 and forbids the “take” (pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to pursue, hunt, shoot, wound, kill, trap, capture or collect) of migratory birds (50 CFR § 10.12).

[www.fws.gov/migratorybirds](http://www.fws.gov/migratorybirds)

### HOW ARE BIRDS IMPACTED?

Birds and nestlings may be killed or injured when their nests are destroyed, damaged, or disturbed. Projects that could impact birds include:



Trimming trees, cutting down dead and live trees, removing brush



Mowing, driving over vegetation, ground disturbance



Prescribed burns, burning vegetation or “slash” piles



Stream and habitat enhancement, invasive species management



Noise disturbance

## WHEN TO PLAN DISTURBANCE

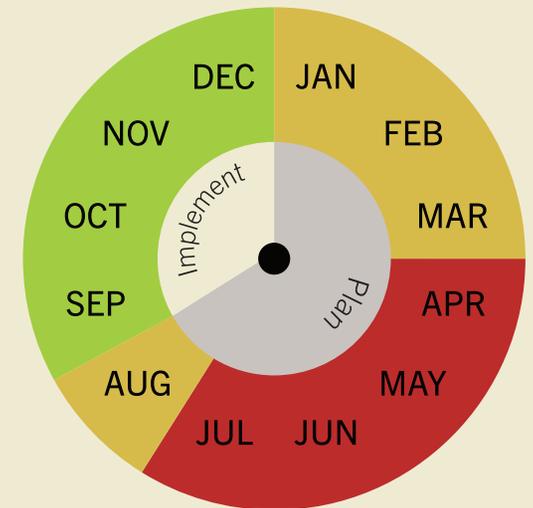
Compliance with the MBTA and avoiding impacts to breeding birds can generally be accomplished by conducting habitat-altering projects **when birds are not breeding**. Planning ahead can keep projects on schedule, within budget, and from violating the MBTA.

In Utah,

The **peak breeding season**, when most birds breed, is **April through July**.

The **entire breeding season** for all birds, including raptors and eagles, is **January through August**.

- Peak Nesting Season, Protective of Most Nesting Birds, AVOID Projects
- Entire Nesting Season, Protective of All Nesting Birds, AVOID Projects to the Extent Possible
- Best Timing for Project Implementation



If the project cannot be conducted outside of the breeding season, contact the U.S. Fish and Wildlife Service for information on avoidance and minimization measures and other practices.



## United States Department of the Interior



### FISH AND WILDLIFE SERVICE

Utah Ecological Services Field Office

2369 WEST ORTON CIRCLE, SUITE 50

WEST VALLEY CITY, UT 84119

PHONE: (801)975-3330 FAX: (801)975-3331

URL: [www.fws.gov](http://www.fws.gov); [www.fws.gov/utahfieldoffice/](http://www.fws.gov/utahfieldoffice/)

Consultation Code: 06E23000-2016-SLI-0203

April 06, 2016

Event Code: 06E23000-2016-E-00440

Project Name: Land donation to Sandy City

Subject: List of threatened and endangered species that may occur in your proposed project location, and/or may be affected by your proposed project

#### To Whom It May Concern:

The enclosed species list identifies threatened, endangered, proposed and candidate species, as well as proposed and final designated critical habitat, that may occur within the boundary of your proposed project and/or may be affected by your proposed project. The species list fulfills the requirements of the U.S. Fish and Wildlife Service (Service) under section 7(c) of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et seq.*).

New information based on updated surveys, changes in the abundance and distribution of species, changed habitat conditions, or other factors could change this list. Please feel free to contact us if you need more current information or assistance regarding the potential impacts to federally proposed, listed, and candidate species and federally designated and proposed critical habitat. Please note that under 50 CFR 402.12(e) of the regulations implementing section 7 of the Act, the accuracy of this species list should be verified after 90 days. This verification can be completed formally or informally as desired. The Service recommends that verification be completed by visiting the ECOS-IPaC website at regular intervals during project planning and implementation for updates to species lists and information. An updated list may be requested through the ECOS-IPaC system by completing the same process used to receive the enclosed list.

The purpose of the Act is to provide a means whereby threatened and endangered species and the ecosystems upon which they depend may be conserved. Under sections 7(a)(1) and 7(a)(2) of the Act and its implementing regulations (50 CFR 402 *et seq.*), Federal agencies are required to utilize their authorities to carry out programs for the conservation of threatened and endangered species and to determine whether projects may affect threatened and endangered species and/or designated critical habitat.

A Biological Assessment is required for construction projects (or other undertakings having similar physical impacts) that are major Federal actions significantly affecting the quality of the human environment as defined in the National Environmental Policy Act (42 U.S.C. 4332(2)(c)). For projects other than major construction activities, the Service suggests that a biological evaluation similar to a Biological Assessment be prepared to determine whether the project may affect listed or proposed species and/or designated or proposed critical habitat. Recommended contents of a Biological Assessment are described at 50 CFR 402.12.

If a Federal agency determines, based on the Biological Assessment or biological evaluation, that listed species and/or designated critical habitat may be affected by the proposed project, the agency is required to consult with the Service pursuant to 50 CFR 402. In addition, the Service recommends that candidate species, proposed species and proposed critical habitat be addressed within the consultation. More information on the regulations and procedures for section 7 consultation, including the role of permit or license applicants, can be found in the "Endangered Species Consultation Handbook" at:

<http://www.fws.gov/endangered/esa-library/pdf/TOC-GLOS.PDF>

Please be aware that bald and golden eagles are protected under the Bald and Golden Eagle Protection Act (16 U.S.C. 668 *et seq.*), and projects affecting these species may require development of an eagle conservation plan ([http://www.fws.gov/windenergy/eagle\\_guidance.html](http://www.fws.gov/windenergy/eagle_guidance.html)). Additionally, wind energy projects should follow the wind energy guidelines (<http://www.fws.gov/windenergy/>) for minimizing impacts to migratory birds and bats.

Guidance for minimizing impacts to migratory birds for projects including communications towers (e.g., cellular, digital television, radio, and emergency broadcast) can be found at: <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/towers.htm>; <http://www.towerkill.com>; and <http://www.fws.gov/migratorybirds/CurrentBirdIssues/Hazards/towers/comtow.html>.

We appreciate your concern for threatened and endangered species. The Service encourages Federal agencies to include conservation of threatened and endangered species into their project planning to further the purposes of the Act. Please include the Consultation Tracking Number in the header of this letter with any request for consultation or correspondence about your project that you submit to our office.

Attachment



United States Department of Interior  
Fish and Wildlife Service

Project name: Land donation to Sandy City

## Official Species List

### Provided by:

Utah Ecological Services Field Office  
2369 WEST ORTON CIRCLE, SUITE 50  
WEST VALLEY CITY, UT 84119  
(801) 975-3330  
<http://www.fws.gov>  
<http://www.fws.gov/utahfieldoffice/>

**Consultation Code:** 06E23000-2016-SLI-0203

**Event Code:** 06E23000-2016-E-00440

**Project Type:** LAND - DISPOSAL / TRANSFER

**Project Name:** Land donation to Sandy City

**Project Description:** The Utah Reclamation Mitigation and Conservation Commission (Mitigation Commission) is proposing to donate 3.86 acres of open space land to the Sandy City Department of Parks and Recreation (Sandy City). The property includes two land parcels located on the east side of the Jordan River at approximately 910 West 9850 South, near the “Grandpa’s Pond” urban fishery. The land is currently managed for ecological and compatible recreational purposes, and this management focus would continue unchanged under the proposed land transfer.

**Please Note:** The FWS office may have modified the Project Name and/or Project Description, so it may be different from what was submitted in your previous request. If the Consultation Code matches, the FWS considers this to be the same project. Contact the office in the 'Provided by' section of your previous Official Species list if you have any questions or concerns.





United States Department of Interior  
Fish and Wildlife Service

Project name: Land donation to Sandy City

## Endangered Species Act Species List

There are a total of 4 threatened or endangered species on your species list. Species on this list should be considered in an effects analysis for your project and could include species that exist in another geographic area. For example, certain fish may appear on the species list because a project could affect downstream species. Critical habitats listed under the **Has Critical Habitat** column may or may not lie within your project area. See the **Critical habitats within your project area** section further below for critical habitat that lies within your project. Please contact the designated FWS office if you have questions.

Birds	Status	Has Critical Habitat	Condition(s)
Yellow-Billed Cuckoo ( <i>Coccyzus americanus</i> ) Population: Western U.S. DPS	Threatened	Proposed	
<b>Fishes</b>			
June sucker ( <i>Chasmistes liorus</i> ) Population: Entire	Endangered	Final designated	
<b>Flowering Plants</b>			
Ute ladies'-tresses ( <i>Spiranthes diluvialis</i> )	Threatened		
<b>Mammals</b>			
Canada Lynx ( <i>Lynx canadensis</i> ) Population: Contiguous U.S. DPS	Threatened	Final designated	



United States Department of Interior  
Fish and Wildlife Service

Project name: Land donation to Sandy City

## **Critical habitats that lie within your project area**

There are no critical habitats within your project area.



**GARY R. HERBERT**  
Governor

**SPENCER J. COX**  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

**MICHAEL R. STYLER**  
Executive Director

### Division of Wildlife Resources

**GREGORY SHEEHAN**  
Division Director

April 12, 2016

Melissa Stamp  
Utah Reclamation Mitigation & Conservation Commission  
230 South 500 East, Suite 230  
Salt Lake City, Utah  
84102

Subject: Species of Concern Near the Sandy City Land Donation Project Area

Dear Melissa Stamp:

I am writing in response to your email dated April 6, 2016 regarding information on species of special concern proximal to the proposed Sandy City Land Donation Project Area located in Section 11 of Township 3 South, Range 1 West, SLB&M in Sandy City, Utah.

The Utah Division of Wildlife Resources (UDWR) does not have records of occurrence for any threatened, endangered, or sensitive species within the project area noted above or within a two-mile radius.

The information provided in this letter is based on data existing in the Utah Division of Wildlife Resources' central database at the time of the request. It should not be regarded as a final statement on the occurrence of any species on or near the designated site, nor should it be considered a substitute for on-the-ground biological surveys. Moreover, because the Utah Division of Wildlife Resources' central database is continually updated, and because data requests are evaluated for the specific type of proposed action, any given response is only appropriate for its respective request.

In addition to the information you requested, other significant wildlife values might also be present on the designated site. Please contact UDWR's habitat manager for the central region, Mark Farmer, at (801) 491-5653 if you have any questions.

Please contact our office at (801) 538-4759 if you require further assistance.

Sincerely,

A handwritten signature in black ink that reads "Sarah Lindsey".

Sarah Lindsey  
Information Manager  
Utah Natural Heritage Program

cc: Mark Farmer

