



United States Department of the Interior



FISH AND WILDLIFE SERVICE

Nevada Fish and Wildlife Office
1340 Financial Blvd., Suite 234
Reno, Nevada 89502

Ph: (775) 861-6300 ~ Fax: (775) 861-6301

RECEIVED

MAR 27 2012

JBR ENVIRONMENTAL

March 26, 2012
File No. 2012-SL-0143

Mr. George Dix
JBR Environmental Consultants, Incorporated
595 Double Eagle Court, Suite 2000
Reno, Nevada 89521

Dear Mr. Dix:

Subject: Species List Request for the Austin Pipeline Project, Lander County, Nevada

This responds to your letter received on March 9, 2012, requesting a species list for the Austin Pipeline Project, Lander County, Nevada. To the best of our knowledge, no listed or proposed species occur in the subject project area; however, the following is a list of candidate species which may occur in the subject project area:

- Greater sage-grouse (*Centrocercus urophasianus*), candidate

This list fulfills the requirement of the Fish and Wildlife Service (Service) to provide information on listed species pursuant to section 7(c) of the Endangered Species Act of 1973, as amended (ESA), for projects that are authorized, funded, or carried out by a Federal agency. Candidate species receive no legal protection under the ESA, but could be proposed for listing in the near future. Consideration of these species during project planning may assist species conservation efforts and may prevent the need for future listing actions.

The Nevada Fish and Wildlife Office no longer provides species of concern lists. Most of these species for which we have concern are also on the Animal and Plant At-Risk Tracking List for Nevada (At-Risk list) maintained by the State of Nevada's Natural Heritage Program (Heritage). Instead of maintaining our own list, we adopted Heritage's At-Risk list and are partnering with them to provide distribution data and information on the conservation needs for at-risk species to

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agencies or project proponents. The mission of Heritage is to continually evaluate the conservation priorities of native plants, animals, and their habitats, particularly those most vulnerable to extinction or in serious decline. In addition, in order to avoid future conflicts, we ask that you consider these at-risk species early in your project planning and explore management alternatives that provide for their long-term conservation.

For a list of at-risk species by county, visit Heritage's website (<http://heritage.nv.gov>). For a specific list of at-risk species that may occur in the project area, you can obtain a data request form from the website (<http://heritage.nv.gov/forms.htm>) or by contacting the Administrator of Heritage at 901 South Stewart Street, Suite 5002, Carson City, Nevada 89701-5245, (775) 684-2900. Please indicate on the form that your request is being obtained as part of your coordination with the Service under the ESA. During your project analysis, if you obtain new information or data for any Nevada sensitive species, we request that you provide the information to Heritage at the above address.

Furthermore, certain species of fish and wildlife are classified as protected by the State of Nevada (<http://www.leg.state.nv.us/NAC/NAC-503.html>). You must first obtain the appropriate license, permit, or written authorization from the Nevada Department of Wildlife (NDOW) to take, or possess any parts of protected wildlife species. Please visit <http://www.ndow.org> or contact NDOW at (775) 777-2300.

Greater sage-grouse (*Centrocercus urophasianus*) are known to occur within and/or near the project area; therefore, we recommend that you analyze potential impacts from this project on the species to ensure that the proposed action does not exacerbate further decline of the species. On March 23, 2010, the Service's 12-month status review finding for the species was published in the Federal Register (75 FR 13910). We determined that the greater sage-grouse warrants the protection of the ESA but that listing the species at this time is precluded by the need to address higher priority species first. The greater sage-grouse has been placed on the candidate list for future action, meaning the species does not receive statutory protection under the ESA, and States will continue to be responsible for managing the species. The Western States Sage and Columbian Sharp-tailed Grouse Technical Committee, under direction of the Western Association of Fish and Wildlife Agencies, has developed and published guidelines to manage and protect greater sage-grouse and their habitats in the Wildlife Society Bulletin (Connelly *et al.* 2000). We ask that you consider incorporating these guidelines (<http://www.ndow.org/wild/conservation/sg/resources/guidelines.pdf>) into the proposed project. On a more local level, the Sage Grouse Conservation Plan for Nevada and Portions of Eastern California was completed in June 2004. The Plan is available online at: <http://www.ndow.org/wild/conservation/sg/plan/SGPlan063004.pdf>. We encourage you to adopt all appropriate management guidance from this Plan as you analyze and implement your proposed action and to engage your local State and Federal wildlife biologists early in the project planning process.

If bald eagles (*Haliaeetus leucocephalus*) and/or golden eagles (*Aquila chrysaetos*) occur in the project area or within 10 miles of the proposed project area boundary, we recommend you analyze project impacts to the affected individuals, their habitats, and regional populations. While the bald eagle has been removed from the Federal list of threatened and endangered species (August 8, 2007; 72 FR 37346), it remains classified as endangered by the States of Nevada and California. Further, the bald eagle along with the golden eagle continues to be protected under the Bald and Golden Eagle Protection Act of 1940 (BGEPA), as amended (16 U.S.C. 668-668d) and the Migratory Bird Treaty Act of 1918 (MBTA), as amended (16 U.S.C. 703 *et seq.*). Both the BGEPA and the MBTA prohibit take as defined as pursue, shoot, shoot at, poison, wound, kill, capture, trap, collect, destroy, molest, disturb, or otherwise harm eagles, their nests, or their eggs. Under the BGEPA, "disturb" means to agitate or bother a bald or golden eagle to a degree that causes, or is likely to cause, based on the best scientific information available: 1) injury to an eagle, 2) decrease in its productivity, by substantially interfering with normal breeding, feeding, or sheltering behavior, or 3) nest abandonment, by substantially interfering with normal breeding, feeding, or sheltering behavior. On September 11, 2009 (74 FR 46836), the Service set in place rules establishing two new permit types: 1) take of bald and golden eagles that is associated with, but not the purpose of, the activity; and 2) purposeful take of eagle nests that pose a threat to human or eagle safety. We recommend you coordinate with State and Federal wildlife officials early in the planning process to ensure compliance with State and Federal regulations and to develop a survey protocol to evaluate the potential risk and the likelihood of take of eagles. If take is reasonably anticipated to occur, we recommend you develop a Bird Conservation Strategy (BCS) in coordination with State wildlife agencies and the Service. A BCS is intended to avoid, minimize, or mitigate impacts to these species.

Because wetlands, springs, or streams are known to occur in the project area, we ask that you be aware of potential impacts project activities may have on these habitats. Discharge of fill material into wetlands or waters of the United States is regulated by the U.S. Army Corps of Engineers (ACOE) pursuant to section 404 of the Clean Water Act of 1972, as amended. We recommend you contact the ACOE's Regulatory Section, 300 Booth Street, Room 3060, Reno, Nevada 89509, (775) 784-5304 regarding the possible need for a permit.

Based on the Service's conservation responsibilities and management authority for migratory birds under the MBTA, we are concerned about potential impacts the proposed project may have on migratory birds in the area. Given these concerns, we recommend that any land clearing or other surface disturbance associated with proposed actions within the project area be timed to avoid potential destruction of bird nests or young, or birds that breed in the area. Such destruction may be in violation of the MBTA. Under the MBTA, nests with eggs or young of migratory birds may not be harmed, nor may migratory birds be killed. Therefore, we recommend land clearing be conducted outside the avian breeding season. If this is not feasible, we recommend a qualified biologist survey the area prior to land clearing. If nests are located, or if other evidence of nesting (*i.e.*, mated pairs, territorial defense, carrying nesting material, transporting food) is observed, a protective buffer (the size depending on the habitat

Mr. George Dix

File No. 2012-SL-0143

requirements of the species) should be delineated and the entire area avoided to prevent destruction or disturbance to nests until they are no longer active.

Please reference File No. 2012-SL-0143 in future correspondence concerning this species list. If you have any questions regarding this correspondence or require additional information, please contact me or Chad Mellison at (775) 861-6300.

Sincerely,

A handwritten signature in cursive script that reads "Macey Hancock". The signature is written in black ink and is positioned above the typed name of the sender.

Edward D. Koch
State Supervisor



BRIAN SANDOVAL
Governor

STATE OF NEVADA
DEPARTMENT OF WILDLIFE

1100 Valley Road
Reno, Nevada 89512
(775) 688-1500 • Fax (775) 688-1595

KENNETH E. MAYER
Director

RICHARD L. HASKINS, II
Deputy Director

PATRICK O. CATES
Deputy Director

March 22, 2012

George Dix
JBR Environmental Consultants, Inc.
595 Double Eagle Court, Suite 2000
Reno, Nevada 89521

Re: Austin Municipal Water System Project

Dear Mr. Dix:

I am responding to your request for information from the Nevada Department of Wildlife (NDOW) on the known or potential occurrence of wildlife resources in the vicinity of the Austin Municipal Water System Project located in Lander County, Nevada. In order to fulfill your request an analysis was performed using the best available data from the NDOW's wildlife sight records, commercial reptile collections, scientific collections, raptor nest sites and ranges, greater sage-grouse leks and habitat, and big game distributions databases. No warranty is made by the NDOW as to the accuracy, reliability, or completeness of the data for individual use or aggregate use with other data. These data should be considered **sensitive** and may contain information regarding the location of sensitive wildlife species or resources. All appropriate measures should be taken to ensure that the use of this data is strictly limited to serve the needs of the project described on your GIS Data Request Form. Abuse of this information has the potential to adversely affect the existing ecological status of Nevada's wildlife resources and could be cause for the denial of future data requests.

To adequately provide wildlife resource information in the vicinity of the proposed project the NDOW delineated an area of interest that included a three-mile buffer around the project area provided by you via email (March 7, 2012). Wildlife resource data was queried from the NDOW databases based on this area of interest. The results of this analysis are summarized below.

Big Game – Occupied mule deer distribution exists in the Toiyabe Range in the eastern portions of the project area and three-mile buffer area. Pronghorn antelope distribution exists in Reese River Valley in the western portions of the project area and three-mile buffers area. Please refer to the attached maps for details regarding these big game species distributions relative to the proposed project area. There are no known bighorn sheep or elk distributions in the vicinity of the project area.

Greater Sage-Grouse – Greater sage-grouse summer distribution exists throughout the entire project area and three-mile buffer area. Winter distribution exists in Reese River Valley in the western portion of the project area and three-mile buffer area, as well as the northeastern portion of the three-mile buffer area. Sage-grouse nesting habitat also exists in Reese River Valley in the western portion of the project area and the southwestern portion of the three-mile buffer area. Please refer to the attached maps for details regarding sage-grouse distributions relative to the proposed project area.

There are no known greater sage-grouse core breeding habitat or lek sites in the vicinity of the project area.

Raptors – Various species of raptors, which use diverse habitat types, are known to reside in the vicinity of the project area. American kestrel, barn owl, burrowing owl, Cooper's hawk, ferruginous hawk, golden eagle, great horned owl, long-eared owl, merlin, northern goshawk, northern harrier, northern saw-whet owl, osprey, peregrine falcon, prairie falcon, red-tailed hawk, rough-legged hawk, sharp-shinned hawk, short-eared owl, Swainson's hawk, turkey vulture, and western screech owl have distribution ranges that

include the project area and three-mile buffer area. Furthermore, Cooper's hawk, ferruginous hawk, golden eagle, great horned owl, northern goshawk, northern harrier, prairie falcon, red-tailed hawk, rough-legged hawk, and Swainson's hawk have been directly observed in the vicinity of the project area.

Raptor species are protected by State and Federal laws. In addition, burrowing owl, ferruginous hawk, northern goshawk, peregrine falcon, short-eared owl, and Swainson's hawk are NDOW species of special concern and are target species for conservation as outlined by the Nevada Wildlife Action Plan.

Four raptor nest sites have been identified by the NDOW in the vicinity of the project area:

Species	Township/Range/Section	Species	Township/Range/Section
common raven		prairie falcon	
great horned owl		red-tailed hawk	

Per the *Interim Golden Eagle Technical Guidance: Inventory and Monitoring Protocols; and Other Recommendations in Support of Golden Eagle Management and Permit Issuance* (United States Fish and Wildlife Service 2010) we have extended our raptor nest database analysis for bald and golden eagle nest site locations to within ten miles of the proposed project area. Two golden eagle nests and no bald eagle nests are known to exist within ten miles of the project area. The golden eagle nests are located in Township North, Range East, Section and Township North, Range East, Section .

Other Wildlife Resources

The following species have also been observed in the vicinity of the project area:

American robin	Great Basin pocket mouse	Ord's kangaroo rat
blue grouse	house wren	red-breasted sapsucker
California quail	long-tailed weasel	violet-green swallow
chukar	MacGillivray's warbler	warbling vireo
cliff chipmunk	mountain quail	western fence lizard
desert tortoise	northern rubber boa	western scrub-jay
gophersnake	orange-crowned warbler	yellow-rumped warbler
gray partridge		

The above information is based on data stored at our Reno Headquarters Office, and does not necessarily incorporate the most up to date wildlife resource information collected in the field. Please contact the Habitat Division Supervising Biologist at our Eastern Region Elko Office (775.777.2300) to discuss the current environmental conditions for your project area and the interpretation of our analysis. Furthermore, it should be noted that the information detailed above is preliminary in nature and not necessarily an identification of every wildlife resource concern associated with the proposed project. Consultation with the Supervising Habitat biologist as the project progresses will facilitate the development of avoidance or mitigation measures that will decrease or eliminate impacts to the wildlife resources in the vicinity of the project area.

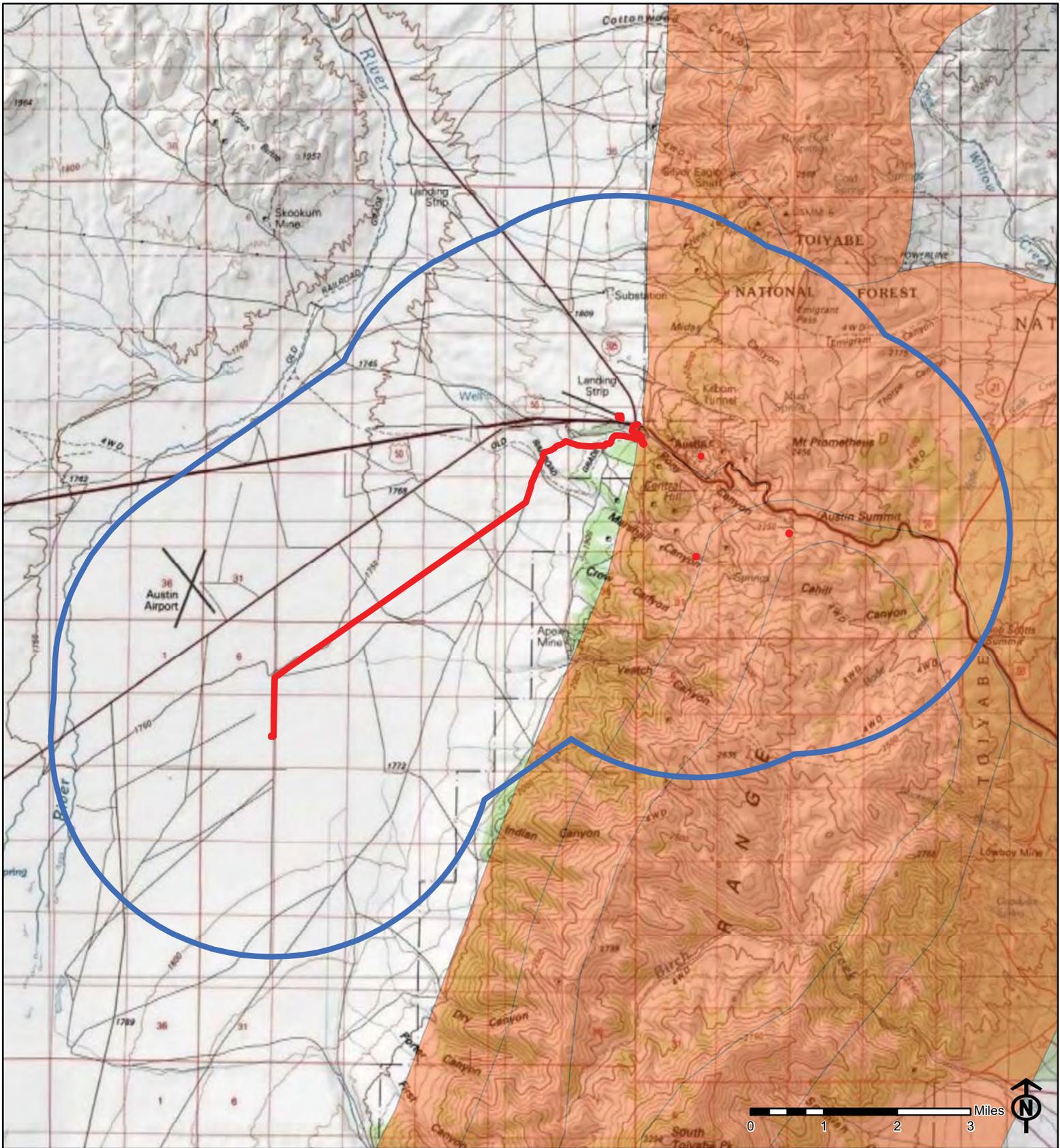
Alan Jenne – Eastern Region Supervising Habitat Biologist (775.777.2332)

Federally listed Threatened and Endangered species are also under the jurisdiction of the United States Fish and Wildlife Service. Please contact them for more information regarding these species.

If you have any questions regarding the results or methodology of this analysis please do not hesitate to contact our GIS office at (775) 688-1565.

Sincerely,

Timothy Herrick
Conservation Aide III
Wildlife Diversity Division



Legend

-  Project Area Boundary
-  Three-mile Buffer Area Boundary
-  Mule Deer Distribution



Austin Municipal Water Pipeline Mule Deer Distribution

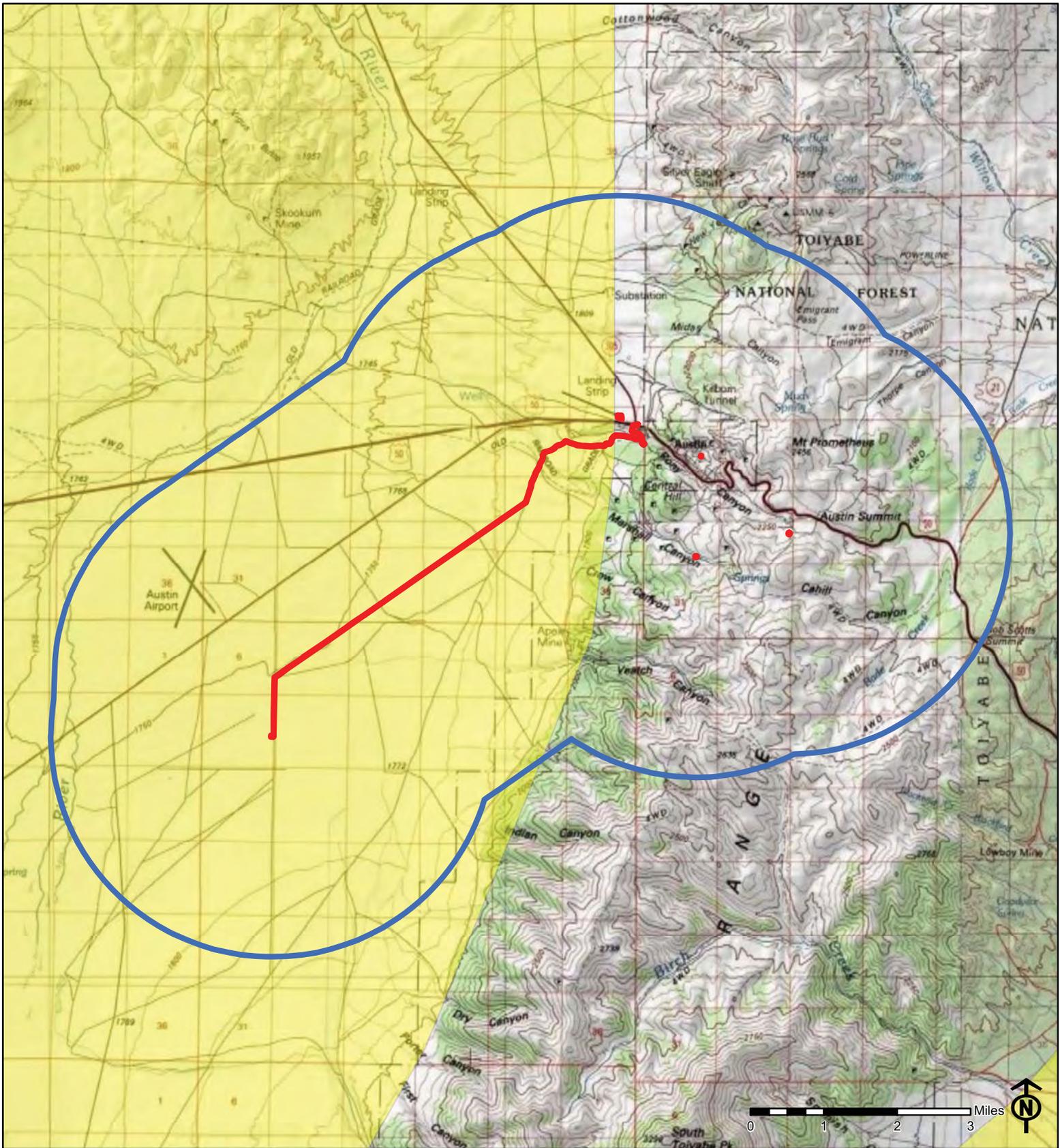


March 22, 2012

Projection: UTM Zone 11 North, NAD83

No warranty is made by the Nevada Department of Wildlife as to the accuracy, reliability, or completeness of the data for individual use or aggregate use with other data.





Legend

-  Project Area Boundary
-  Three-mile Buffer Area Boundary
-  Pronghorn Antelope Distribution



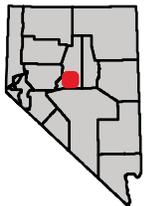
Austin Municipal Water Pipeline Pronghorn Antelope Distribution

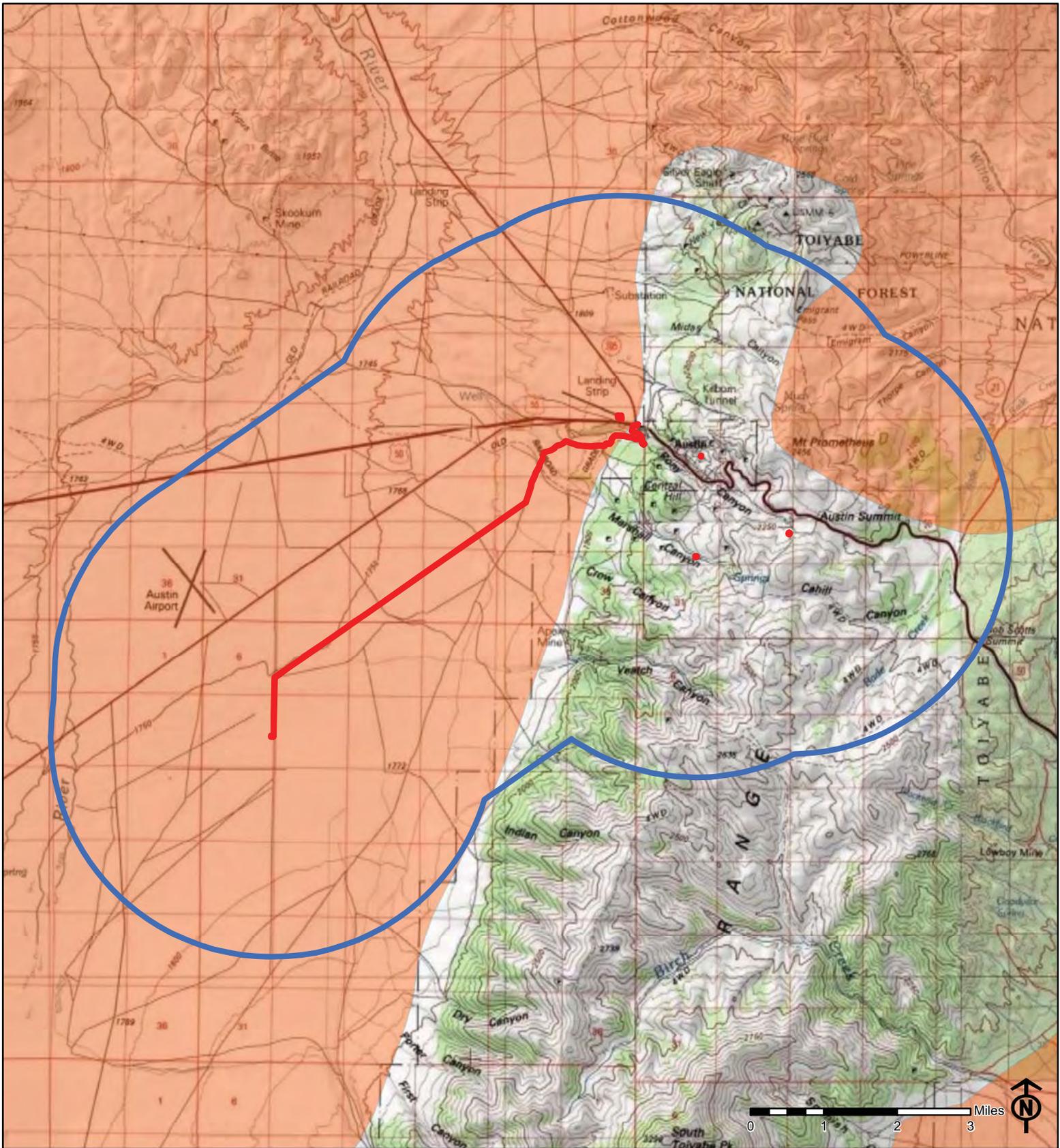


March 22, 2012

Projection: UTM Zone 11 North, NAD83

No warranty is made by the Nevada Department of Wildlife as to the accuracy, reliability, or completeness of the data for individual use or aggregate use with other data.





Legend

-  Project Area Boundary
-  Three-mile Buffer Area Boundary
-  Sage-grouse Winter Distribution



Austin Municipal Water Pipeline Sage-Grouse Winter Distribution

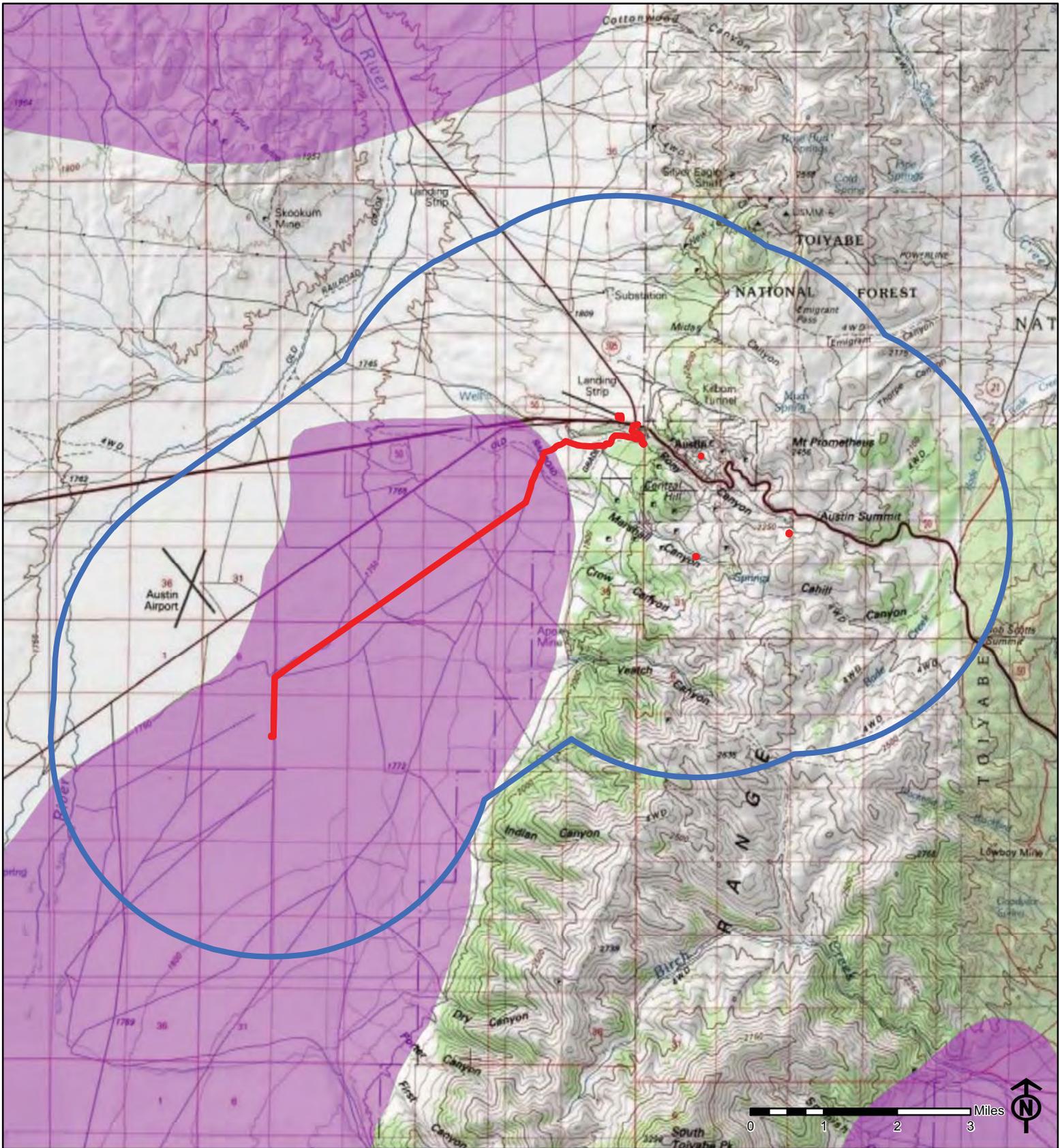


March 22, 2012

Projection: UTM Zone 11 North, NAD83

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Legend

-  Project Area Boundary
-  Three-mile Buffer Area Boundary
-  Sage-grouse Nesting Habitat



Austin Municipal Water Pipeline Sage-Grouse Nesting Habitat



March 22, 2012

Projection: UTM Zone 11 North, NAD83

No warranty is made by the Nevada Department of Wildlife as to the accuracy, reliability, or completeness of the data for individual use or aggregate use with other data.



LEO DROZDOFF
Director

Department of Conservation
and Natural Resources

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STATE OF NEVADA
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
Nevada Natural Heritage Program
<http://heritage.nv.gov>

19 March 2012

George Dix
JBR Environmental Consultants, Inc.
595 Double Eagle Court, Suite 2000
Reno, NV 89521

RE: Data request received 07 March 2012

Dear Mr. Dix:

We are pleased to provide the information you requested on endangered, threatened, candidate, and/or At Risk plant and animal taxa recorded within or near the Lander County-Austin Pipeline Project in Lander County. We searched our database and maps for the following, a five kilometer radius around:

Township 18N Range 43E Sections 05-07
Township 19N Range 43E Sections 23, 24, 26, 27 and 32-34
Township 19N Range 44E Sections 19, 29 and 30

The enclosed printout lists the taxa recorded within the given area. Please be aware that habitat may also be available for, the Eastwood milkweed, *Asclepias eastwoodiana*, a Nevada Bureau of Land Management Sensitive Species. The Nevada Department of Wildlife (NDOW) manages, protects, and restores Nevada's wildlife resources and associated habitat. Please contact Chet Van Dellen, NDOW GIS Coordinator (775.688.1565) to obtain further information regarding wildlife resources within and near your area of interest. Removal or destruction of state protected flora species (NAC 527.010) requires a special permit from Nevada Division of Forestry (NRS 527.270).

Please note that our data are dependent on the research and observations of many individuals and organizations, and in most cases are not the result of comprehensive or site-specific field surveys. Natural Heritage reports should never be regarded as final statements on the taxa or areas being considered, nor should they be substituted for on-site surveys required for environmental assessments.

Thank you for checking with our program. Please contact us for additional information or further assistance.

Sincerely,

Eric S. Miskow
Biologist /Data Manager

At Risk Taxa Recorded Near the Lander County-Austin Pipeline Project Area

Compiled by the Nevada Natural Heritage Program for JBR Environmental Consultants, Inc.

19 March 2012

Scientific name	Common name	Usfws	Blm	Usfs	State	Srank	Grank	UTM E	UTM N	Prec	Last observed
Invertebrates											
<i>Cercyonis oetus pallescens</i>	pallid wood nymph		N			S1	G5T1	485448.90	4368924.79	M	1971-PRE
<i>Polites sabuleti basinensis</i>	pallid skipper					S2	G5T2	485807.84	4369201.57	S	1981-08-22
<i>Polites sabuleti basinensis</i>	pallid skipper					S2	G5T2	483869.66	4367818.13	S	1984-08-26
<i>Speyeria nokomis apacheana</i>	Apache silverspot butterfly					S2	G3T2	486265.86	4371481.91	M	1997-09
Mammals											
<i>Brachylagus idahoensis</i>	pygmy rabbit		N	S	YES	S3	G4	494243.43	4371194.43	M	1946-PRE
<i>Corynorhinus townsendii</i>	Townsend's big-eared bat		N;C	S;I;L	YES	S2	G4	T19N R44E		M	1942-01
<i>Myotis ciliolabrum</i>	western small-footed myotis		N;C			S3	G5	T19N R44E		M	1941-12

Bureau of Land Management (Blm) Species Classification:

- N Nevada Special Status Species - designated Sensitive by State Office
- C California Special Status Species (see definition S and N)

United States Forest Service (Usfs) Species Classification:

- S Region 4 (Humboldt-Toiyabe NF) sensitive species
- I Region 5 (Inyo NF) sensitive species
- L Region 5 (Lake Tahoe Basin Management Unit) sensitive species

Nevada State Protected (State) Species Classification:

- Fauna:
- YES Species protected under NRS 501.

Precision (Prec) of Mapped Occurrence:

- Precision, or radius of uncertainty around latitude/longitude coordinates:
- S Seconds: within a three-second radius
 - M Minutes: within a one-minute radius, approximately 2 km or 1.5 miles
 - G General: within about 8 km or 5 miles, or to map quadrangle or place name

Nevada Natural Heritage Program Global (Grank) and State (Srank) Ranks for Threats and/or Vulnerability:

- G Global rank indicator, based on worldwide distribution at the species level
- T Global trinomial rank indicator, based on worldwide distribution at the infraspecific level
- S State rank indicator, based on distribution within Nevada at the lowest taxonomic level
 - 1 Critically imperiled and especially vulnerable to extinction or extirpation due to extreme rarity, imminent threats, or other factors
 - 2 Imperiled due to rarity or other demonstrable factors
 - 3 Vulnerable to decline because rare and local throughout its range, or with very restricted range
 - 4 Long-term concern, though now apparently secure; usually rare in parts of its range, especially at its periphery
 - 5 Demonstrably secure, widespread, and abundant
 - A Accidental within Nevada
 - B Breeding status within Nevada (excludes resident taxa)
 - H Historical; could be rediscovered
 - N Non-breeding status within Nevada (excludes resident taxa)
 - Q Taxonomic status uncertain
 - U Unrankable
 - Z Enduring occurrences cannot be defined (usually given to migrant or accidental birds)
 - ? Assigned rank uncertain