UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105

October 20, 2008

Brenda Redwing
Federal Highway Administration
2520 West 4700 South, Suite 9A
Salt Lake City, Utah 84118

Subject: Draft Environmental Impact Statement (DEIS) for State Route (SR) 262 Montezuma Creek to Aneth Project, Navajo Nation, San Juan County, Utah (CEQ # 20080340)

Dear Ms. Redwing:

The U.S. Environmental Protection Agency (EPA) has reviewed the Draft Environmental Impact Statement (DEIS) for the State Route (SR) 262 Montezuma Creek to Aneth Project, Navajo Nation, San Juan County, Utah. Our comments are provided under the National Environmental Policy Act (NEPA), the Council on Environmental Quality's NEPA Implementing Regulations (40 CFR 1500-1508), and Section 309 of the Clean Air Act. Based upon our review, we have rated the proposed action as *Environmental Concerns- Insufficient Information (EC-2*). See attached "Summary of the EPA Rating System" for a description of the rating. The basis for the rating is summarized below and further detailed in our enclosed comments.

The Utah Department of Transportation (UDOT) State Transportation Improvement Program refers to this project as "SR 262 Montezuma Creek to Aneth Project", but SR 262 is now renamed and signed SR 162. For consistency, SR 262 is referenced in the DEIS and in this comment letter as SR 162. The DEIS addresses the environmental impacts of the non-capacity-increasing improvements of the State Route (SR) 162 from Montezuma Creek to Aneth and the improvements for the intersection of SR 162, SR 262, and County Road (CR) 450 in Montezuma Creek. The project is proposed to address safety concerns for the traveling public along this 8.5-mile segment of SR 162 and at this intersection. EPA recommends that the Final Environmental Impact Statement (FEIS) provide additional information on proposed drainage crossings to reduce impacts from increased sedimentation and erosion. EPA also recommends that mitigation strategies be identified to compensate for project impacts to "Other Waters" (non-wetland waters) of the United States. EPA further recommends that the FEIS include a discussion of the project's contribution to cumulative impacts to water quality and to wildlife, and that the locations and design of proposed animal crossings be coordinated with Navajo, State, and Federal departments of fish and wildlife. These recommendations are further discussed in the attachment.

We appreciate the opportunity to review this DEIS and are available to further discuss all recommendations provided. When the FEIS is released for public review, please send one hard

copy, and if available, an electronic copy, to the address above (Mail Code: CED-2). Additionally, please mail a hard copy to Jody Ostendorf at U.S. Environmental Protection Agency Region 8, NEPA Program, 1595 Wynkoop Street, Denver, CO 80202. If you have any questions, please contact me at 415-972-3521, or contact Susan Sturges, the lead reviewer for this project. Susan can be reached at 415-947-4188 or sturges.susan@epa.gov.

Sincerely,

/s/ Tom Plenys for

Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)

Attachment: EPA's Detailed Comments

CC: Kim Manwell, Utah Department of Transportation Region 4
Tom Platero, Navajo Department of Transportation
Rachel McQuillen, URS Corporation
Valerie Waldorf, URS Corporation
Jody Ostendorf, EPA Region 8

EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR STATE ROUTE (SR) 262, MONTEZUMA CREEK TO ANETH PROJECT, NAVAJO NATION, SAN JUAN COUNTY, UTAH, OCTOBER 20, 2008

Water Quality and Other Water Features

Under Section 404 of the Clean Water Act (CWA), only the project alternative that represents the least environmentally damaging, practicable alternative (LEDPA) may be authorized (40 CFR 230). The Draft Environmental Impact Statement (DEIS) identifies that the proposed Build Alternatives for the State Route (SR) 262 Montezuma Creek to Aneth Project (Project) may permanently affect a maximum of 1.014 acres of other water (non-wetland) features and temporarily affect 0.57 acre of other water features. The DEIS indicates that a jurisdictional determination by the U.S. Army Corps of Engineers (Corps) on other water features is pending and that mitigation for non-wetland waters of the U.S. will be identified once jurisdiction is confirmed. According to the DEIS, the Corps has already provided a jurisdictional determination on the wetlands in the project area and that the Build Alternatives avoid all impacts to wetlands.

The DEIS identifies that SR 162 crosses 36 unnamed drainage channels in the project area via culverts, and further, that many of the culverts have been completely or partially filled with sediment and as a result cannot adequately convey stormwater across the highway. The DEIS also states that many of the culverts have suffered significant erosion on the downstream end resulting in culverts protruding into air several feet above the ground at their outfall, which is likely a result of insufficient protection at the outfalls, causing soils surrounding the pipe to erode. Severe sedimentation from rainstorm events has occurred in many of the culverts at the cliffs near Montezuma Creek, leading to plugging of the culverts and the sheet flow of water over the roadway surface.

The DEIS Water Quality and Other Water Features sections do not sufficiently describe how existing sedimentation and erosion concerns will be addressed with the project. Many of the DEIS Chapter 2 figures show overviews of the SR 162 corridor with roadway fill lines extending beyond existing culverts, and identify very few replacement culverts. It is unclear whether these existing culverts will be improved and/or extended and, if so, whether these extensions would be sufficient to address existing and future sedimentation and erosion concerns associated with proposed SR 162 widening. The Final Environmental Impact Statement (FEIS) should sufficiently describe existing sedimentation and erosion problems for each channel crossing and identify specific measures to address these impacts.

Recommendations:

- Provide additional information for each SR 162 drainage crossing, including whether the existing crossing experiences problems with sedimentation or erosion. EPA further recommends that the FEIS include overview figures and cross sections of problem drainage crossings.
- Discuss improvements proposed at each drainage crossing, including whether or not the existing culvert will be replaced with a large diameter culvert or alternative structure or

simply extended and improved. Describe what specific measures will be incorporated at each drainage crossing to avoid and minimize impacts associated with increased sedimentation and erosion.

- Propose compensatory mitigation for unavoidable impacts to these unnamed drainage channels. For channels that are subject to Section 404 CWA jurisdiction, the mitigation discussion should reflect current regulations. On April 10, 2008, EPA and the Corps issued revised regulations, "Compensatory Mitigation for Losses of Aquatic Resources; Final Rule" (Mitigation Rule) (40 CFR 230), governing compensatory mitigation for authorized impacts to wetlands, streams, and other waters of the U.S. under Section 404 CWA. These regulations are designed to improve the effectiveness of compensatory mitigation to replace lost aquatic resource functions and area, and include a mitigation hierarchy with an inherent preference for mitigation banks and in-lieu fee programs over the use of an on-site mitigation site. The link to the final Mitigation Rule, which went into effect on June 9, 2008, can be found at http://www.epa.gov/EPA-WATER/2008/April/Day-10/w6918a.pdf. Ensure that all mitigation proposed for waters of the United States is in compliance with the Mitigation Rule.

Cumulative Impacts to Water Quality and Wildlife

Cumulative impacts are defined in the Council of Environmental Quality's (CEQ) National Environmental Policy Act (NEPA) regulations as the impact on the environment that results from the incremental impact of the action when added to the other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such actions (40 CFR 1508.7). The cumulative impact analysis should consider all nearby projects that are reasonably foreseeable and are identified in the surrounding area. Where adverse cumulative impacts are identified, the DEIS should identify appropriate mitigation measures, even if the mitigation is the responsibility of other entities. Disclose the parties that would be responsible for avoiding, minimizing, and mitigating those adverse impacts (CEQ's Forty Most Frequently Asked Questions #19).

The DEIS does not include a cumulative impacts analysis for the project's contribution to cumulative impacts to water quality and to wildlife. The DEIS identifies other projects in the SR 162 Project vicinity, including the McElmo Creek Bridge Replacement Project located immediately west of Aneth, Utah within the SR 262 Project corridor, and the Montezuma Creek Bridge Rehabilitation Project over the San Juan River located south of the intersection improvements being proposed in Montezuma Creek. These projects may have impacts to water quality and wildlife. EPA recommends including a cumulative impacts analysis for water quality and wildlife in the SR 162 FEIS, considering the projects' proximity and proposed timelines for construction. EPA recommends using the California Department of Transportation Indirect and Cumulative Impacts Analysis, which is co-authored by EPA and is applicable to impact analyses for projects outside of California. This guidance can be found at [http://www.dot.ca.gov/ser/cumulative_guidance/purpose.htm] and [http://www.dot.ca.gov/ser/Growth-related_IndirectImpactAnalysis/gri_guidance.htm].

Wildlife Impacts and Effectiveness of Crossings

The DEIS identifies that the project may result in impacts to wildlife such as possible mortality or displacement during roadway construction or operations, loss of habitat, and additional habitat fragmentation. The project includes proposed fencing along the SR 162 corridor to reduce the potential for vehicle collisions with livestock and wildlife, which will further impede the ability of wildlife to access habitat on the opposite side of the roadway. Extensions of existing culverts may further impede wildlife and aquatic organism movement and further degrade the passage of stream bedload and large organic debris. The DEIS states that if metal culverts are in need of replacement, consideration should be given to replacing them with concrete box culverts that would be of sufficient size to allow passage by wildlife (i.e. Mule deer), and that the entrances to drainage road crossings will be constructed to enhance the approachability and potential passage of wildlife. Two specific culverts were identified to be designed as animal friendly under-crossings for the 8.5-mile project corridor**.**

During public commenting, the U.S. Fish and Wildlife Service recommended installation of bridges, oversized bottomless culverts, or oversized squashed culverts, and the Navajo Nation Department of Fish and Wildlife recommended utilizing concrete box culverts or open bottom pipe arches. The DEIS does not provide sufficient details on the proposed drainage crossings and the animal friendly under-crossings nor discusses whether these crossings were or will be designed in coordination with the Navajo, State and U.S. departments of fish and wildlife to determine effectiveness of these crossings.

Recommendations:

- Provide details on each drainage crossing and describe how each crossing was or was not improved to address the passage of animals and to reduce habitat fragmentation. EPA recommends including cross sections of crossings designed to improve wildlife and aquatic organism movement in the FEIS.
- Include a discussion of how decisions were made on the locations and designs of crossings to improve wildlife and aquatic organism movement. EPA recommends bridged crossings, oversized culverts, concrete box culverts, or open bottom pipe arches to improve wildlife and aquatic organisms movement through the corridor. Clarify whether or not locations and designs were or will be coordinated with Navajo, State, or U.S. departments of fish and wildlife.