

3.22 PERMITS AND FINAL APPROVALS

This section discusses the permits, reviews, clearances, and approvals that would be required to construct the Midvalley Highway. The contractor will be required to adhere to UDOT's Standard Specification 01355 – Environmental Protection.

3.22.1 Federal Permits, Reviews, and Approvals

Clean Water Act

The Clean Water Act (CWA) is the foundation for the protection of the surface water quality in the United States. It was enacted by the federal government in 1972. The CWA does not deal directly with groundwater or with water quantity issues. This statute uses a variety of regulatory laws to reduce direct pollutant discharges into waterways and to manage polluted runoff. The laws and regulations include Section 404, Section 401 and Section 402; each is discussed below.

Section 404, Discharge of Dredged or Fill Materials into Waters of the U.S Including Wetlands

The Joint Lead Agencies (FHWA, UDOT, and Tooele County) would be required to obtain a Section 404 permit of the Clean Water Act if the proposed action would result in the discharge of dredged or fill materials into wetlands and waters of the U.S. (see section 3.11 - Wetlands and Waters of the U.S.). An Individual Section 404 permit is required when a proposed action would place more the 25 cubic yards of fill material below the ordinary high water mark or within a jurisdictional wetland.

Both of the Midvalley Highway alternatives would place more fill material into wetlands and waters of the U.S. than what is allowed under a Nationwide Permit. Therefore, an Individual Permit would be required from the U.S. Army Corps of Engineers (USACE). Before a Section 404 permit can be granted, the applicant must first obtain a Section 401 water quality certification by the state. The state water quality certification (see discussion below) is a finding that the proposed action complies with the water quality standards set by the State of Utah.

For the Midvalley Highway alternatives, a Section 404 permit would be required after the Record of Decision (ROD) is issued for this project and prior to construction. As construction monies have not been identified, this permit would not be obtained until design and construction sometime in the future, pending the ROD.

Section 401, Water Quality Certification

Section 401 of the Clean Water Act requires federal agencies to ensure that their projects do not violate state water quality standards. The Utah Division of Water Quality is required to evaluate the Section 401 certification. The Midvalley Highway alternatives would require this certification due to the placement of fill material into waters of the U.S. and jurisdictional wetland areas.

Section 402, Utah Pollution Discharge Elimination System Permit

Section 402 of the Clean Water Act regulates discharge of pollutants to surface waters. In Utah, construction activities that disturb more than one acre of land must obtain a Utah

Pollution Discharge Elimination System (UPDES) from the Utah Division of Water Quality. Both of the Midvalley Highway alternatives would disturb more than one acre of land which would require coverage under the UPDES stormwater permit.

To obtain a UPDES permit, a Notice of Intent must be submitted to the Utah Division of Water Quality which describes the nature of the construction activities. In addition, a Storm Water Pollution Prevention Plan (SWPPP) must be prepared and approved using UDOT and Tooele County standards. The SWPPP describes and details the stormwater Temporary Erosion Controls and Sediment Control Plan. These plans include best management practices as well as site-specific measures to minimize impacts to receiving waters from the construction related activities. These must be finalized and included into the Notice of Intent.

Access Justification Report

Both of the Midvalley Highway alternatives would require a new freeway-to-freeway interchange on I-80 in the Mill Creek area, near milepost 95. The addition of this new interchange requires approval from FHWA. An Access Justification Report would be prepared and need FHWA approval prior to final design and construction.

Section 4(f) of the U.S. Department of Transportation Section Act

Chapter 4 of this Draft EIS is the Section 4(f) Evaluation for the Midvalley Highway alternatives. This evaluation found that both of the Midvalley Highway alternatives would require a 'use' of properties protected under Section 4(f) of this act. However, all uses are considered *de minimis* impacts by FHWA. No avoidance alternatives analysis is required for the Midvalley Highway alternatives.

Tooele Army Depot Right-of-Way

The alternatives on the south end of the Midvalley Highway require right-of-way from the Tooele Army Depot. This depot is managed and owned by the U.S. Department of Defense.

3.22.2 State Permits, Reviews, and Clearances

Stream Channel Alteration Permit

This permit is administered by the Utah Division of Water Rights and is required for projects if a stream channel were to be altered. Constructing stormwater drainage structures, a new stream crossing, or modifying an existing stream crossing would require this permit. This permit is often obtained in connection with the CWA Section 404 permit. It is assumed that since the Midvalley Highway would require an Individual Permit from the USACE that a Utah Stream Channel Alteration Permit would not be required. All of the potential stream crossings (potential near the Mill Creek area of the proposed I-80 interchange) are also considered waters of the U.S. and would be covered under the CWA Section 404 permit.

Air Quality Approval Order

An air quality approval order is required to build, own, or operate a facility that generates air pollutants. To obtain this approval order a Notice of Intent must be submitted to the Utah Division of Air Quality. The Notice of Intent would describe the construction related activities and emissions that would be associated with operating construction equipment. The permit applicant must provide measures for controlling dust particles and other emission sources.

The permit could include other construction approvals depending on the location of aggregate stock piles, concrete batch plants, asphalt batch plants, combustion, and/or fuel storage facilities and areas.

Water Rights

Existing groundwater wells within the right-of-way for the selected alternative are considered points of diversion. Water rights are inventoried and managed by the Utah Division of Water Rights. If a point of diversion is altered as a result of the Midvalley Highway, the owner of the well must petition the change with the Utah Division of Water Rights. If the UDOT and Tooele County purchase the water right associated with the well, the deed of record with the Utah Division of Water Rights would have to be changed.

Approval of Remediation Work Plan for Hazardous Waste Sites

A remediation work plan must be submitted and approved by either the Utah Department of Environmental Quality or the U.S. Environmental Protection Agency when the construction related activities would occur on an existing hazardous waste site. The remediation work plan would include protective measures for construction workers.

3.22.3 Local Permits and Clearances

Floodplain Development Permit

Floodplain development permit(s) would be required from the local jurisdictions (Tooele City, Tooele County) if construction related activities are within the mapped Federal Emergency Management Agency (FEMA) 100-year floodplain boundary. As discussed in section 3.10 – Water Resources, the only area mapped by FEMA is within Tooele City; much of the project study area has not been mapped by FEMA.

Construction Related Permits

The selected contractor would be required to obtain all construction related permits and other environmental clearances. These may include activities outside of the needed right-of-way for the Midvalley Highway, staging areas, borrow pits, and batch plant areas.

Table 3.21-1 shows the permits and clearances required for the Midvalley Highway.

TABLE 3.22-1, REQUIRED PERMITS AND CLEARANCES

Permit/Clearance	Granting Agency(ies)	Applicant
Federal Permits, Reviews and Approvals		
Section 404 Permit Discharge of Dredged or Fill Materials into Waters of the U.S. including Wetlands	USACE	Joint Lead Agencies
Section 401 Certification Water Quality Certification	Utah Division of Water Quality	Joint Lead Agencies

TABLE 3.22-1, REQUIRED PERMITS AND CLEARANCES

Permit/Clearance	Granting Agency(ies)	Applicant
Section 402 Permit Utah Pollution Discharge Elimination System (UPDES)	Utah Division of Water Quality	Contractor
Access Justification Report	FHWA	UDOT/Tooele County
Right-of-way from the Tooele Army Depot	U.S. Department of Defense	FHWA/UDOT
State Permits, Reviews and Clearances		
Stream Channel Alteration Permit	Utah Division of Water Rights	Joint Lead Agencies
Air Quality Approval Order	Utah Division of Air Quality	Contractor
Local permits and Clearances		
Construction-related permits for all of the above	Various agencies	Contractor