

TRANSMISSION LINE
ROCKY MOUNTAIN POWER &
HEBER LIGHT AND POWER

CONDITIONAL USE



PROPOSED CONDITIONAL USE

- Rebuild existing HL&P (46-138kV)
- Install RMP lines on the same poles (138kV)
- Establish a second transmission line interconnection
 - Strengthen reliability
 - Increase capacity in Midway and surrounding area
- About 1 mile of transmission line in Midway
 - Follow historic route
 - Stringtown Road, Wards Lane, and 970 South
- Pole heights would range from 65' – 88'
- Distribution lines would be buried by HL&P

CITY CODE

- Midway adopted a transmission line code on 1-15-2019
- Transmission lines allowed as a conditional use
- Resident concerns
 - Aesthetics
 - Health
 - Property values
 - Potential other options (lack of)

TRANSMISSION LINES IN MIDWAY

- Judge Line (west of Homestead Drive)
 - Rocky Mountain Power
 - 1 mile
- 500 South
 - Heber Light & Power
 - 0.8 miles
- 970 South
 - Heber Light & Power
 - 1 mile



SWISS ALPINE



LIME CANYON



LIME CANYON



500 SOUTH



500 SOUTH



500 SOUTH



970 SOUTH



970 SOUTH



STRINGTOWN ROAD



STRINGTOWN ROAD



WARDS LANE



WARDS LANE 65' POLE



Stringtown Road 55' Pole



Hwy 113
Approx. 60'



970 South 55' Pole



WARDS LANE 65'



Stringtown Road



970 South



TRANSMISSION LINE PROPOSAL

CONDITIONAL USE

Tangent Pole



Dead End Pole

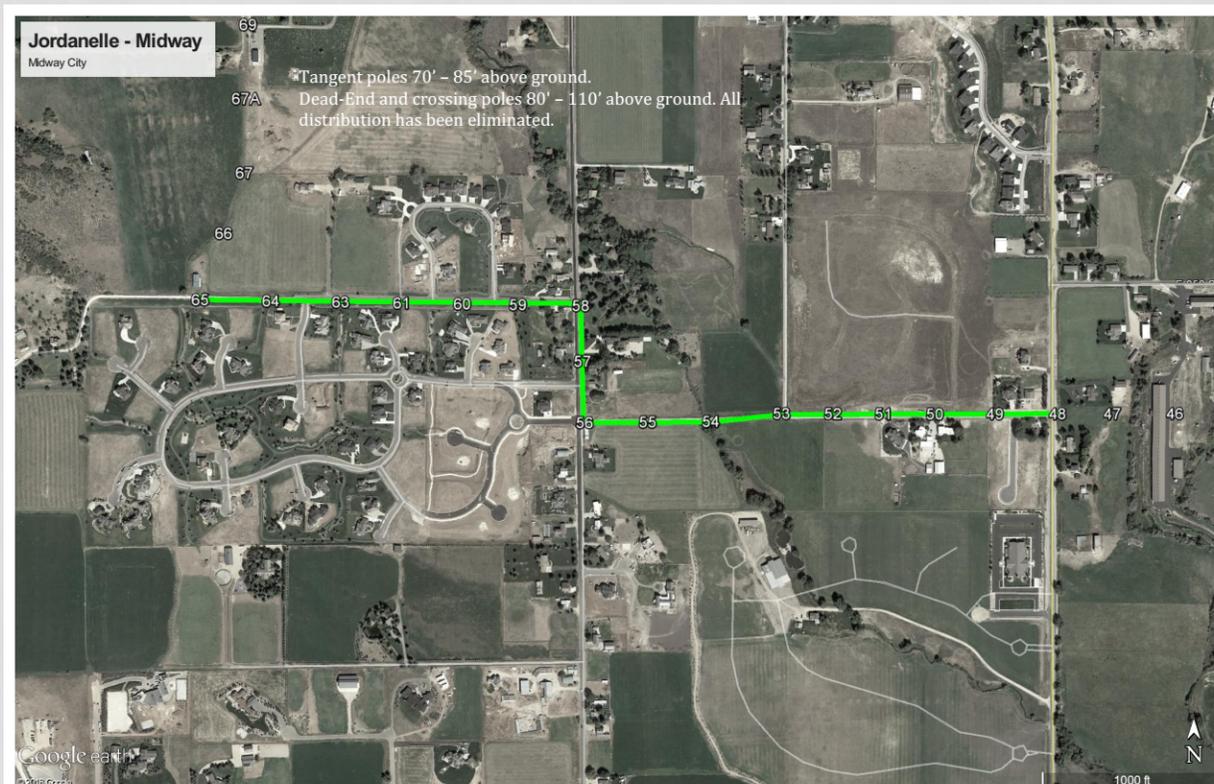


SUBMITTED DOCUMENTS

- Underground Transmission Cost/Feasibility Study
- Transmission Lines and Property Values: Review of the Research
- EMF Electric and Magnetic Fields Associated with the Use of Electric Power
- Powering Our Future: Summit Wasatch Electrical Plan Local Planning Handbook

ROUTE

- Section.13.47 (D)(1)
 - Prefers transmission lines follow historic routes
 - Proposal is to follow existing route



POLE HEIGHT

- Section.13.47 (D)(2)
 - Prefers the shortest poles allowed by industry standards
 - All options should be considered for aesthetics and for harmonizing with the vision of the General Plan
 - Taller poles may reduce the number of poles required
 - Shorter poles may require the most amount of poles
 - Proposal is to replace existing 55'-65' (total length of poles) poles with poles that are 65'- 88' in height
 - All distribution and, possibly, communication lines will be buried

TYPES OF POLES

- Section.13.47 (D)(3)
 - Limits the types of poles and focuses on the visual impact
 - No galvanized poles or reflective material is allowed
 - Pole color and material will focus on minimizing the visual impact
 - Wood poles or metal poles are both options
 - Wood poles would be taller than metal poles
 - If metal poles are chosen then the City may determine the color
- Section.13.47 (D)(4)
 - Any reasonable conditions may be imposed

BURIAL OF TRANSMISSION LINES

- Section.13.47 (E)
 - Allows the City to require the burial of transmission lines and distribution lines
 - Application states that distribution and communication lines will be buried
 - If transmission lines area required to be buried
 - Cost must be considered
 - The City or some other source must pay the difference in cost
 - Must be paid within 30 days prior to construction
 - Limited time allowed to pay the difference in cost creates complications that would need to be considered

BURIAL OF TRANSMISSION LINES

- Two poles are required, one for each transmission line

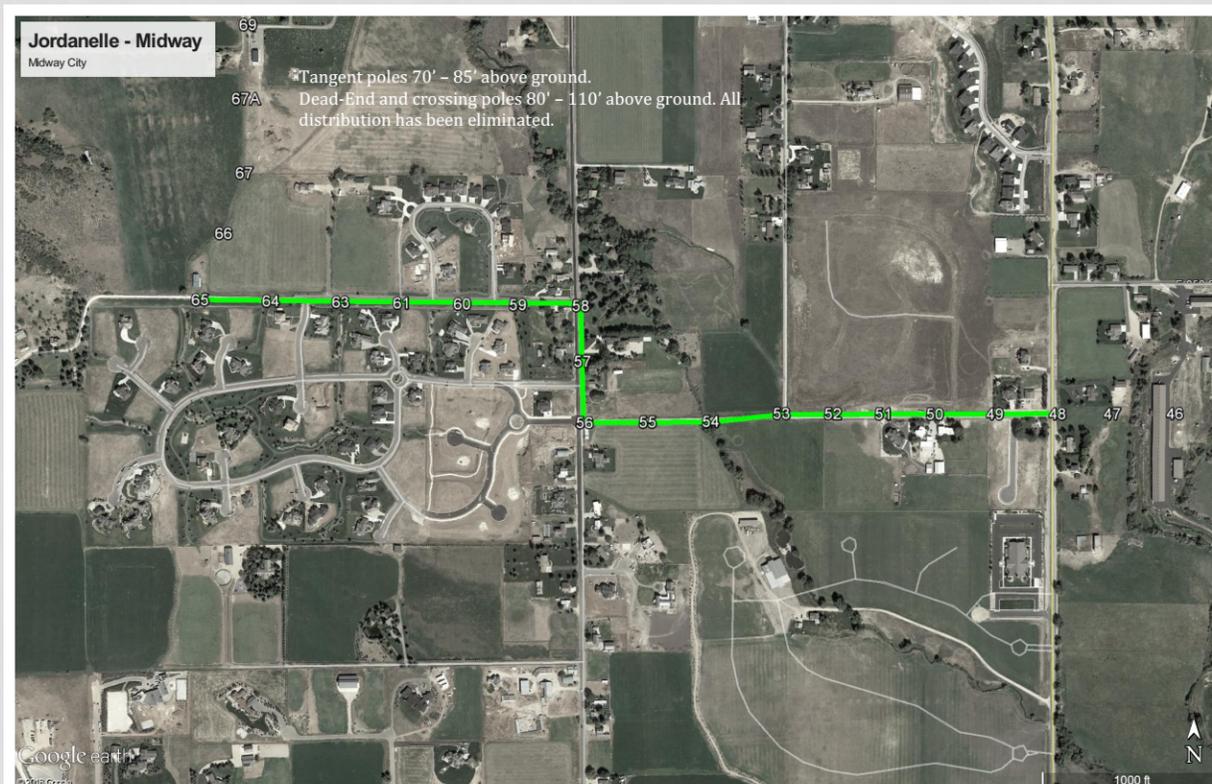


POLE HEIGHT & NUMBER OF POLES

- Option A
 - 21 poles
 - 65' – 83'
 - 6 steel poles and 15 wood poles
- Option B
 - 16 poles
 - 70' - 85'
 - 6 steel poles and 10 wood poles
- Option B Alternate
 - 16 poles
 - 70' – 88'
 - 7 steel poles and 9 wood poles

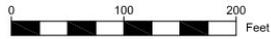
ALTERNATIVE ROUTE STUDY

- Section.13.47 (D)(1)
 - Prefers transmission lines follow historic routes
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PROVIDE COST AND SIZE OF EASEMENTS

	Short Span	Long Span	Underground
Wards Lane	0sf	0sf	134sf
Stringtown Road	1401sf	1729sf	1298sf
970 S. West	4676sf	5489sf	329sf
970 S. East	7046sf	7734sf	813sf
Total	13123	14952	2574
Fee Acre Price	\$ 150,000.00	\$ 150,000.00	\$ 150,000.00
% of Fee	0.5	0.5	0.5
Est. Easement Cost	\$ 22,594.70	\$ 25,743.80	\$ 4,431.82



JORDANELLE-MIDWAY TRANSMISSION LINE MIDWAY RIGHT-OF-WAY MAP

Section 3, Township 4 South, Range 4 East, SLB&M
Wasatch County, Utah

Option A (short spans)
Existing 46kV ROW: 27' from centerline
138kV ROW: 28.5' from centerline

- LEGEND:**
- PROPERTY LINE
 - - - ROAD RIGHT-OF-WAY LINE
 - PAVED ROAD
 - - - UNPAVED ROAD
 - x-x- FENCE
 - EXISTING POWER LINE
 - EXISTING POLE
 - | EXISTING GUY/ANCHOR
 - PROPERTY CORNER MARKER
 - PROPOSED POWER LINE
 - PROPOSED POLE
 - - - EXISTING RIGHT-OF-WAY LINE
 - - - PROPOSED RIGHT-OF-WAY LINE



I, G. THOMAS TORGERSEN, DO HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR, CERTIFICATE NO. 8205593, AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT, BY AUTHORITY OF THE CLIENT, I HAVE DIRECTED A SURVEY OF THE PROPOSED EASEMENTS AND AFFECTED LAND BOUNDARIES SHOWN ON THIS PLAT.



Drawing # 17412-Midway-A
Sheet 1 of 4
7/05/2019

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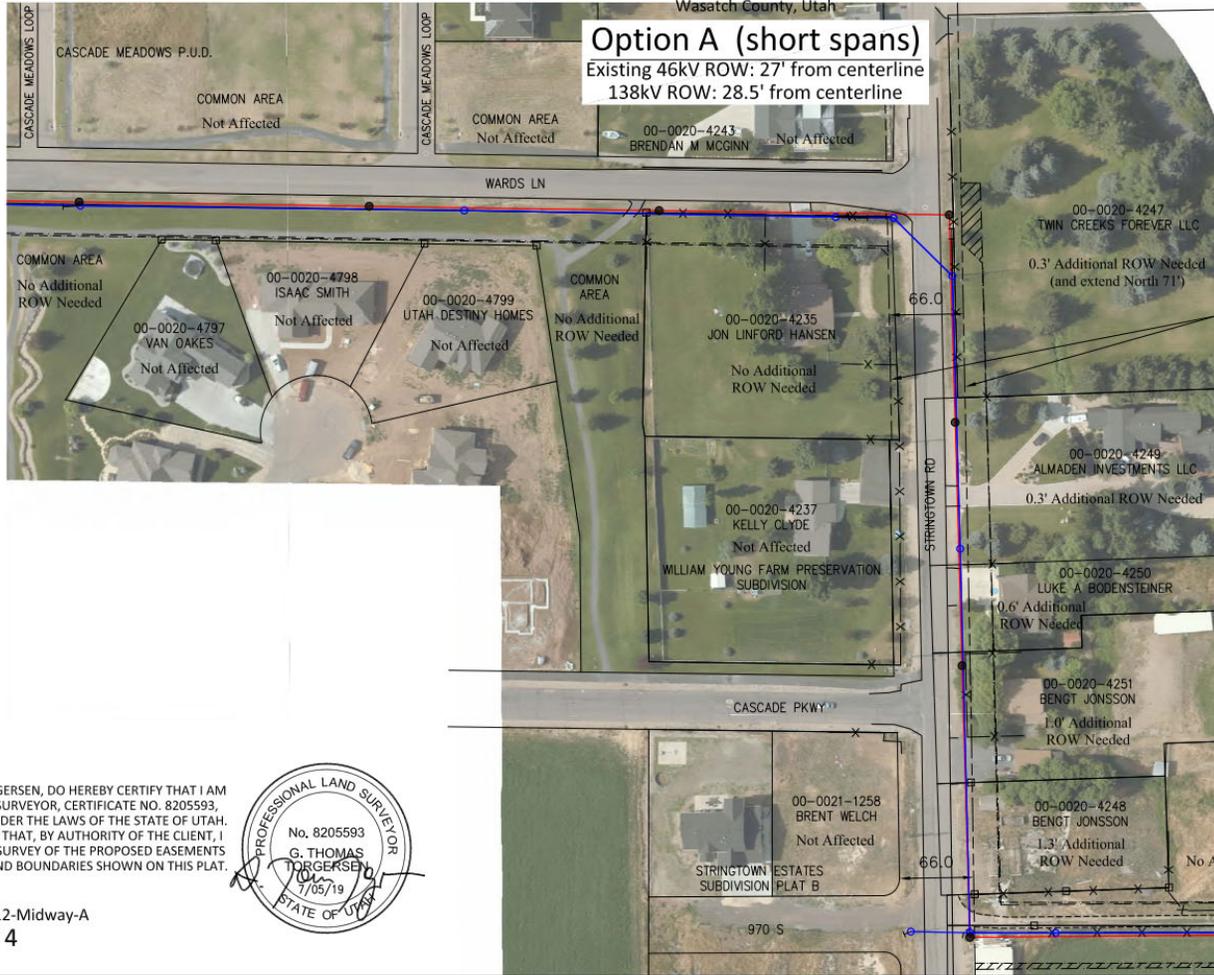
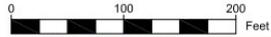
ROCKY MOUNTAIN POWER
A DIVISION OF PACIFICORP

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Wasatch County, Utah

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Stringtown Road right-of-way lines based on 33' half-width from centerline (Typ.)

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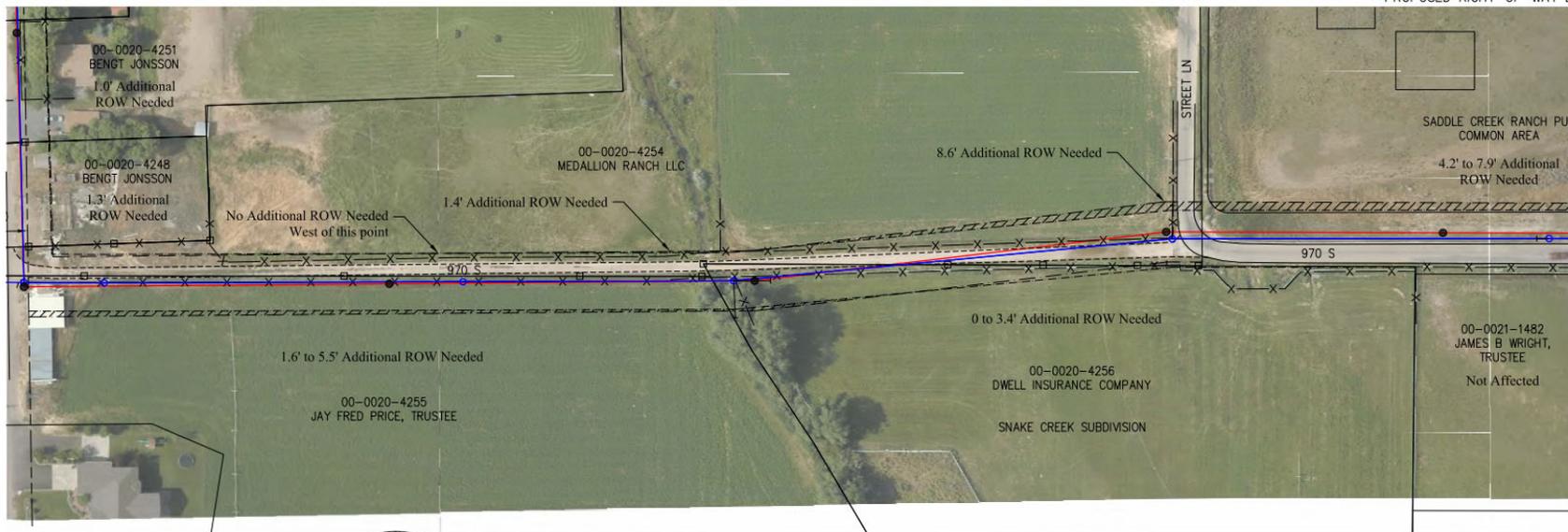
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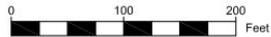
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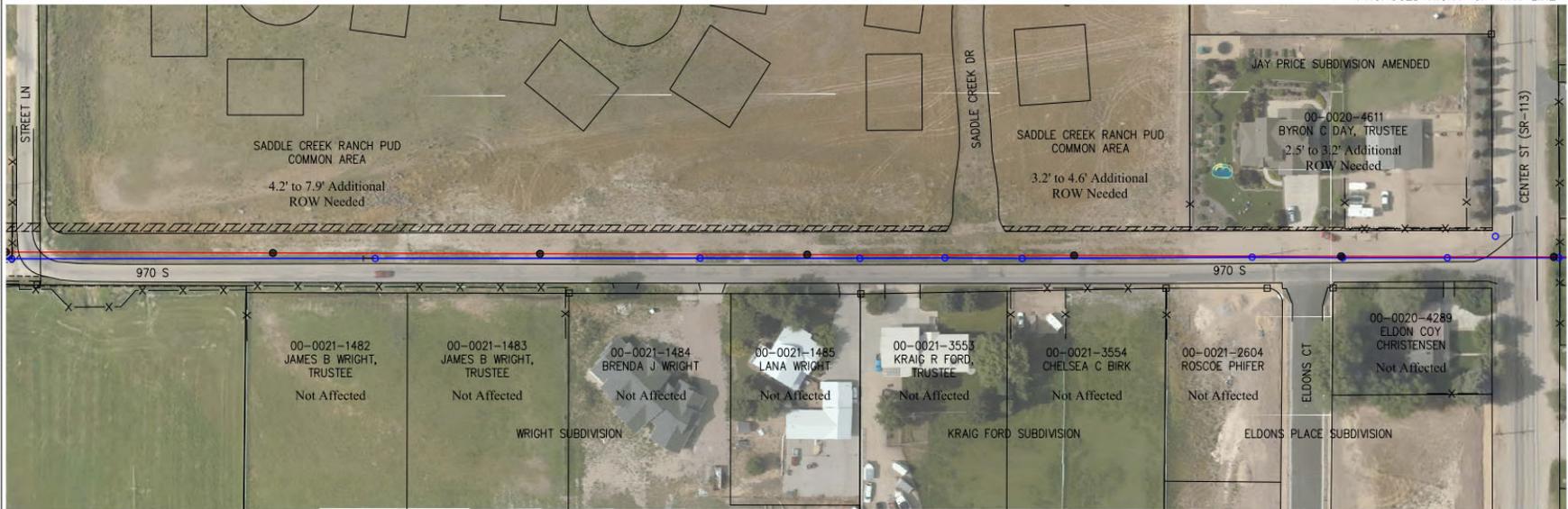
JORDANELLE-MIDWAY TRANSMISSION LINE MIDWAY RIGHT-OF-WAY MAP

Section 3, Township 4 South, Range 4 East, SLB&M
Wasatch County, Utah

Option A (short spans)

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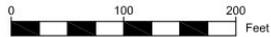
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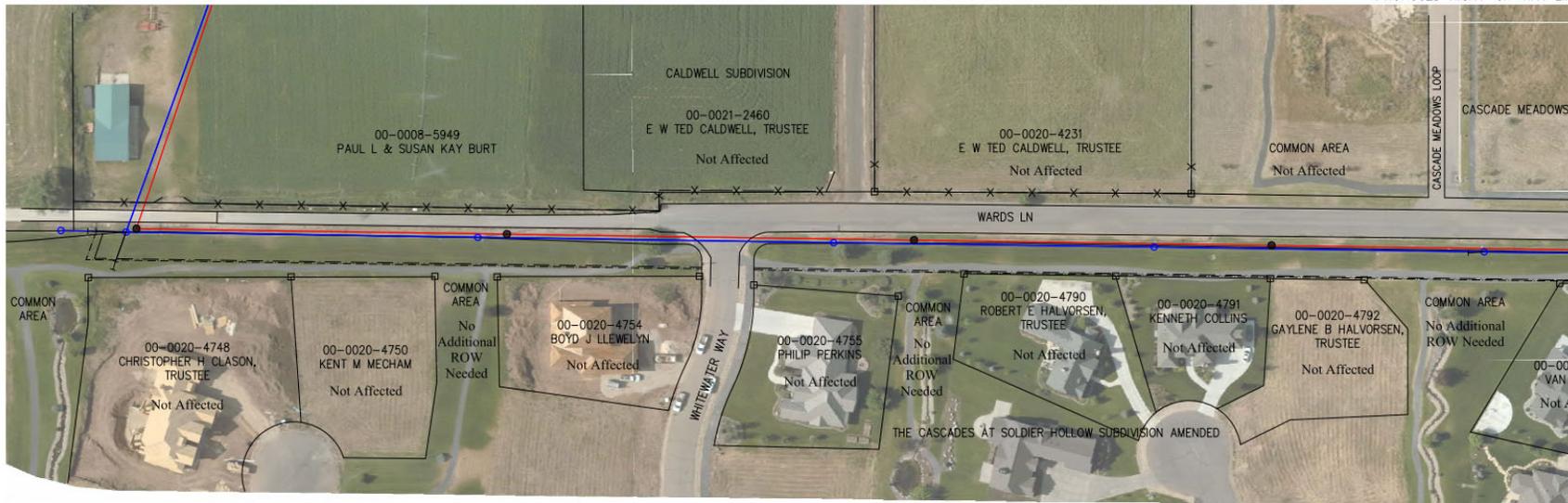
JORDANELLE-MIDWAY TRANSMISSION LINE MIDWAY RIGHT-OF-WAY MAP

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Wasatch County, Utah

Option B (long spans)

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138kV ROW: 29' from centerline

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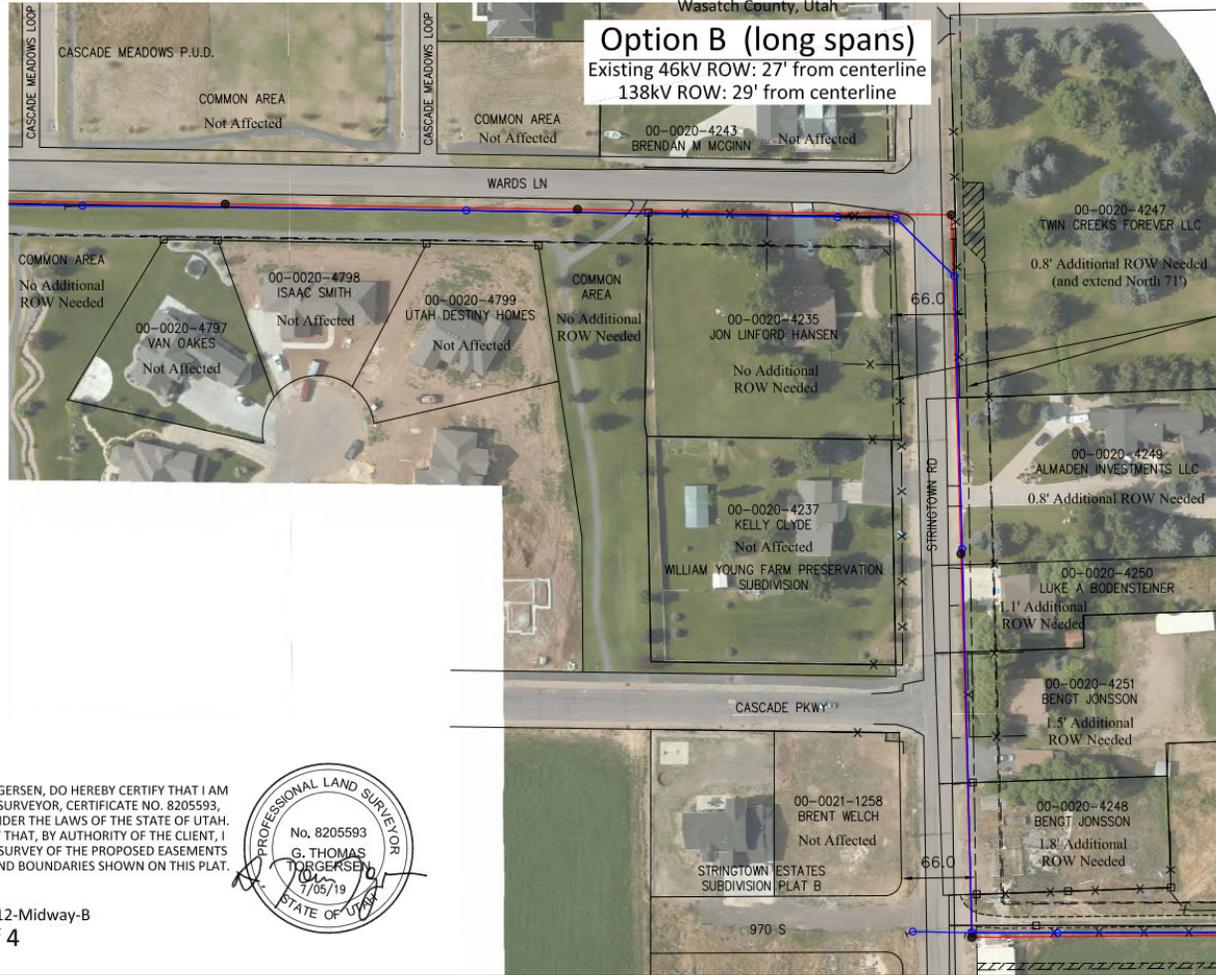
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Wasatch County, Utah

Option B (long spans)

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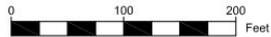
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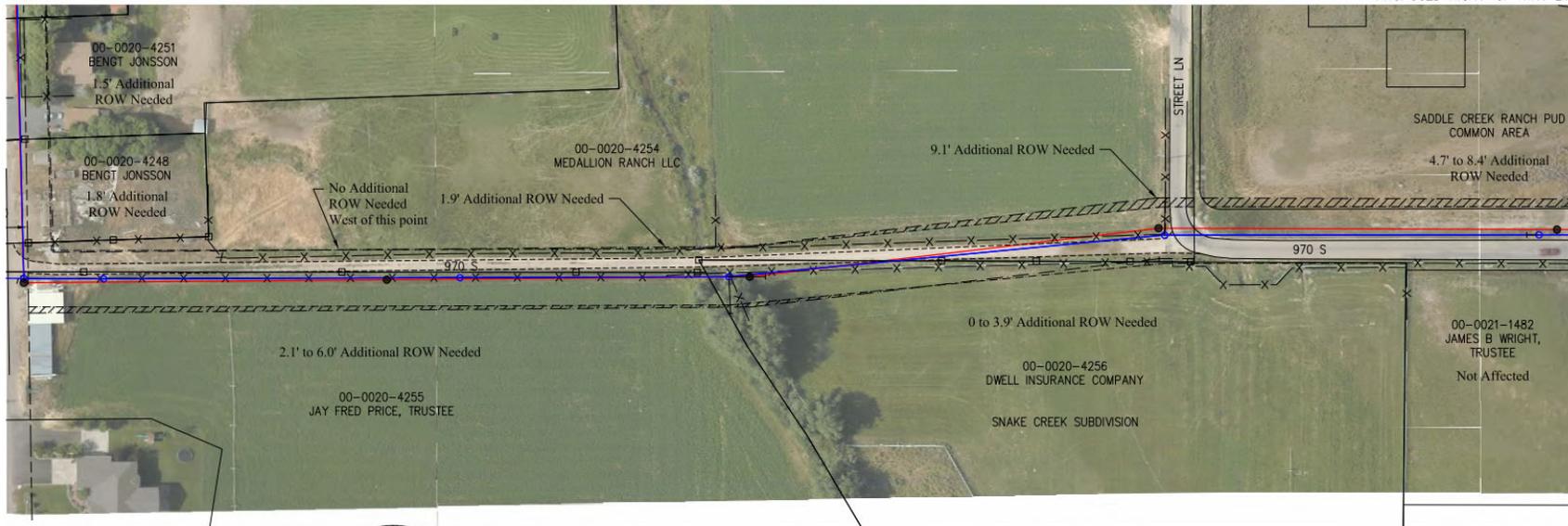
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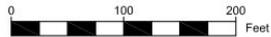
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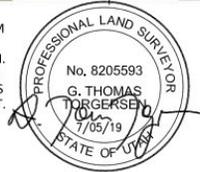
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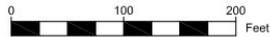
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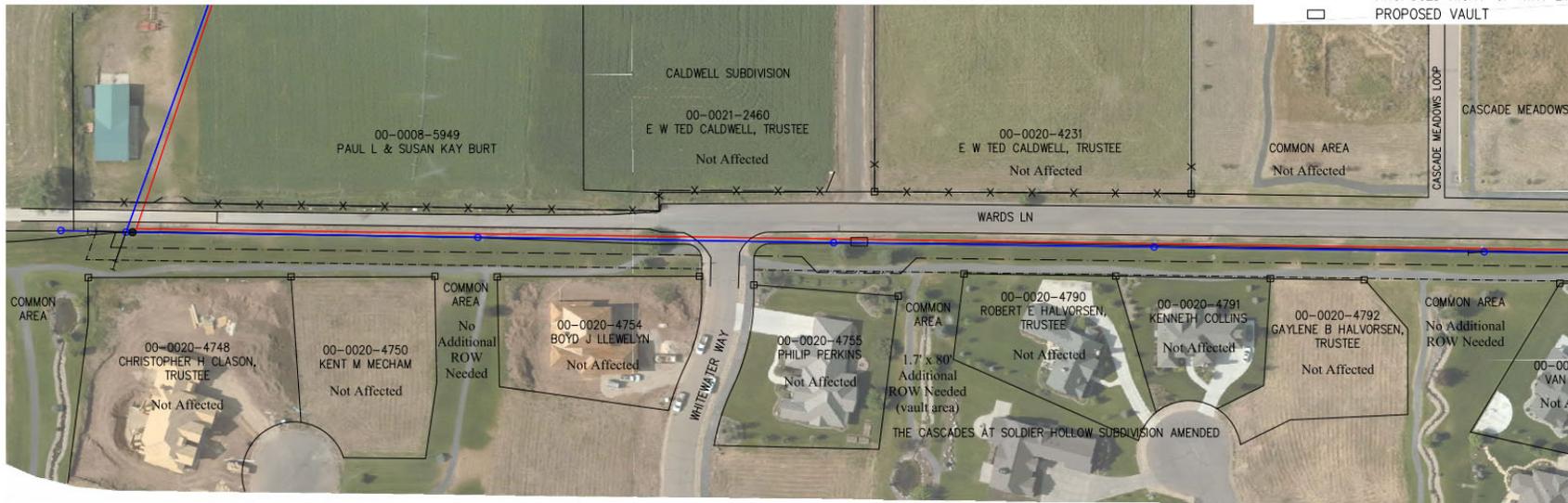
JORDANELLE-MIDWAY TRANSMISSION LINE MIDWAY RIGHT-OF-WAY MAP

Section 3, Township 4 South, Range 4 East, SLB&M
Wasatch County, Utah

Option C (Underground)

Existing 46kV ROW: 27' from centerline
138kV Underground ROW: 15' from centerline and 30'x80' for vaults

LEGEND:	
	PROPERTY LINE
	ROAD RIGHT-OF-WAY LINE
	PAVED ROAD
	UNPAVED ROAD
	FENCE
	EXISTING POWER LINE
	EXISTING POLE
	EXISTING GUY/ANCHOR
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	PROPOSED POWER LINE
	PROPOSED POLE
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	PROPOSED RIGHT-OF-WAY LINE
	PROPOSED VAULT



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Drawing # 17412-Midway-C
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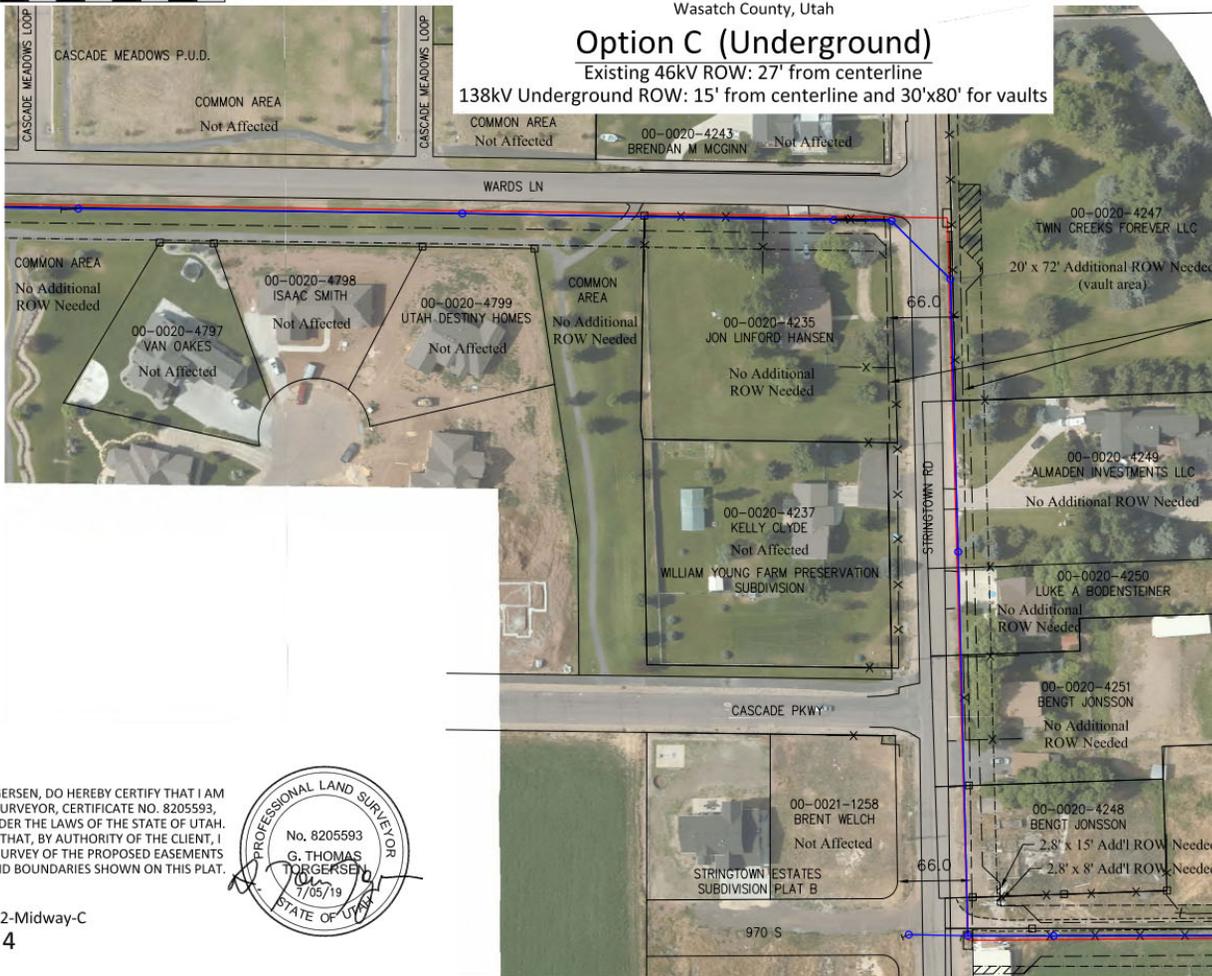
JORDANELLE-MIDWAY TRANSMISSION LINE MIDWAY RIGHT-OF-WAY MAP

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Wasatch County, Utah

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JORDANELLE-MIDWAY TRANSMISSION LINE MIDWAY RIGHT-OF-WAY MAP

Section 3, Township 4 South, Range 4 East, SLB&M
Wasatch County, Utah

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- - -	UNPAVED ROAD
x-x	FENCE
—	EXISTING POWER LINE
o	EXISTING POLE
T	EXISTING GUY/ANCHOR
□	PROPERTY CORNER MARKER
—	PROPOSED POWER LINE
●	PROPOSED POLE
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- - -	PROPOSED RIGHT-OF-WAY LINE
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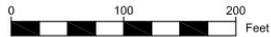
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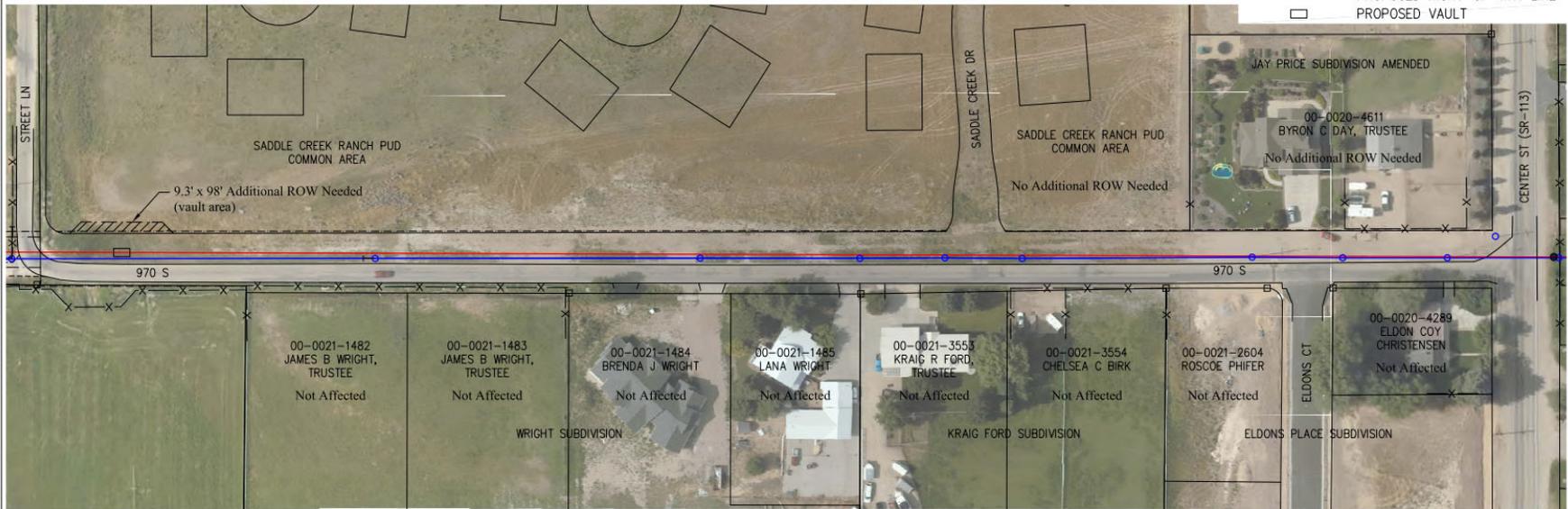
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	PROPOSED RIGHT-OF-WAY LINE
	PROPOSED VAULT



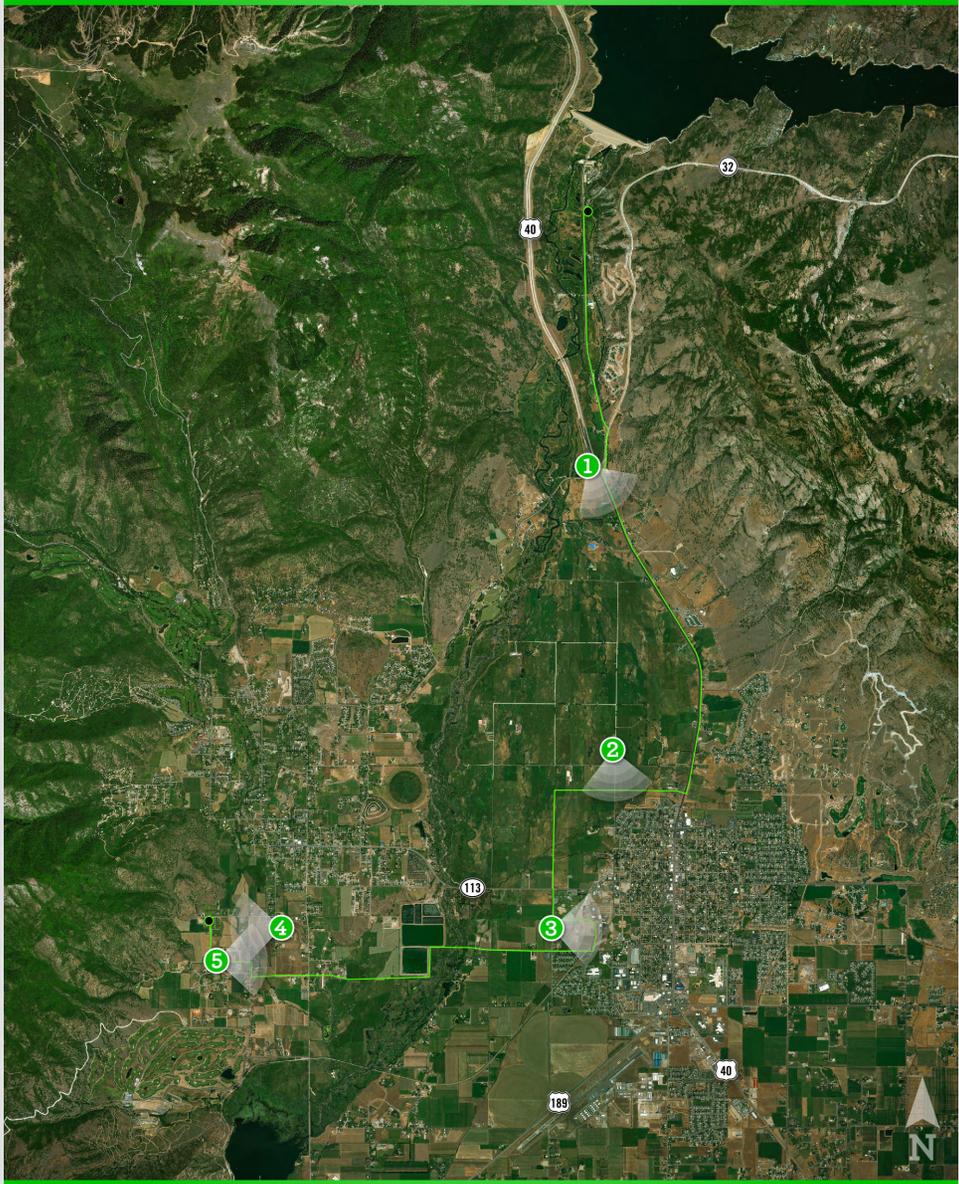
I, G. THOMAS TORGERSEN, DO HEREBY CERTIFY THAT I AM A LICENSED LAND SURVEYOR, CERTIFICATE NO. 8205593, AS PRESCRIBED UNDER THE LAWS OF THE STATE OF UTAH. I FURTHER CERTIFY THAT, BY AUTHORITY OF THE CLIENT, I HAVE DIRECTED A SURVEY OF THE PROPOSED EASEMENTS AND AFFECTED LAND BOUNDARIES SHOWN ON THIS PLAT.



Drawing # 17412-Midway-C
Sheet 4 of 4
7/05/2019

PREPARED BY:
TORGERSEN ENGINEERING
265 North 600 East
Richfield, Utah 84701
(435) 893-0081
www.TorgEng.com

ROCKY MOUNTAIN POWER
A DIVISION OF PACIFICORP



— TRANSMISSION LINE TO BE REBUILT

① VIEWPOINT LOCATION

● SUBSTATION

JORDANELLE TO MIDWAY TRANSMISSION LINE UPGRADE PROJECT

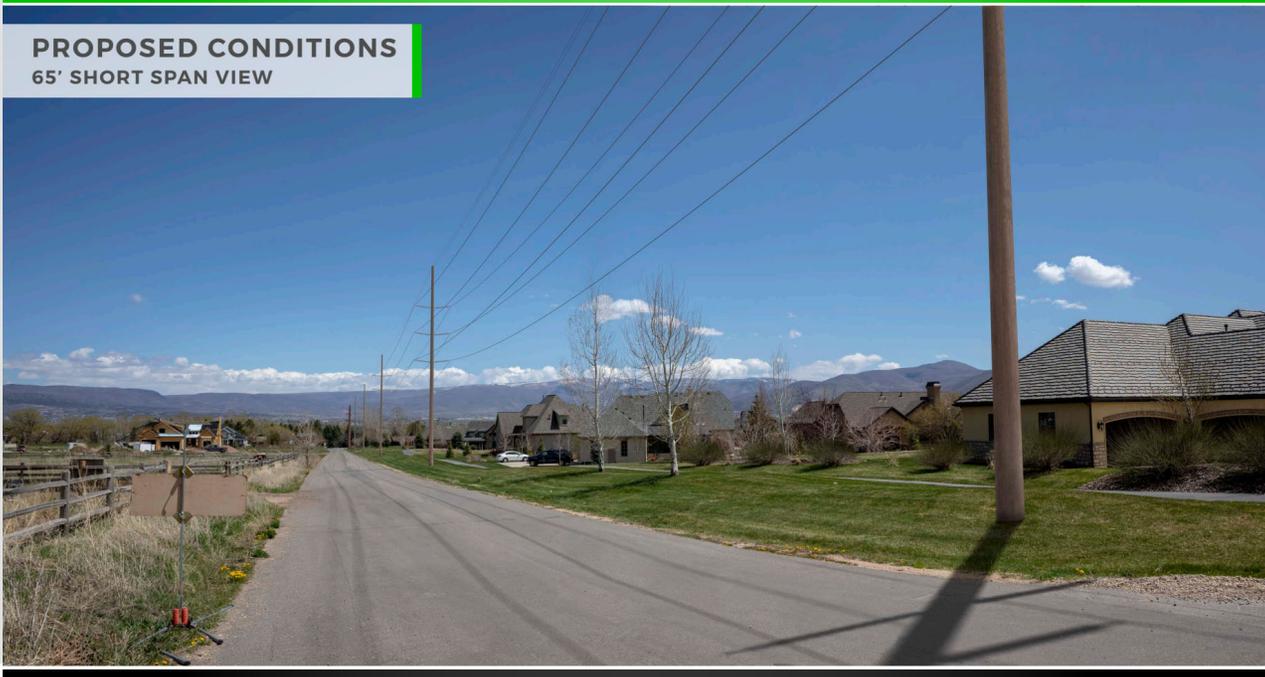


PHOTO SIMULATION BY
POWER ENGINEERS

EXISTING CONDITIONS



PROPOSED CONDITIONS
65' SHORT SPAN VIEW



EXISTING CONDITIONS



PROPOSED CONDITIONS
70' LONG SPAN VIEW



PROPOSED CONDITIONS
65' SHORT SPAN VIEW



PROPOSED CONDITIONS
70' LONG SPAN VIEW



Typical Span Lengths Proposal
Span Length: 300ft - 395ft
16 Total Structures
Structure Height Above Ground:
70ft - 85ft



LONG & SHORT SPAN OPTIONS

		970 S (Center - 250 W)						970 S (250 W - Stringtown)			Stringtown (970 S - Wards Lane)			Wards Lane (Stringtown - County)									
Short Span / Shorter Poles	Structure Number	# 1	# 2	# 3	# 4	# 5	# 6	# 7	# 8	# 9	# 10	# 11	# 12	# 13	# 14	# 15	# 16	# 17	# 18	# 19	# 20	# 21	
	Pole Height (Feet)	83	80	75	70	70	70	72	75	80	81	75	65	71	65	65	65	65	65	65	65	65	70
	Pole Material	Steel	Wood	Wood	Wood	Wood	Wood	Steel	Steel	Wood	Steel	Wood	Wood	Steel	Wood	Wood	Wood	Wood	Wood	Wood	Wood	Wood	Steel
	Span (Feet)	210	264	264	264	264	264	395	348	348	241	216	184	258	258	258	258	258	258	258	258	258	Steel
Long Span / Taller Poles	Structure Number	# 1	# 2	# 3	# 4			# 5	# 6	# 7	# 8	# 9		# 10	# 11	# 12	# 13	# 14	# 15	# 16			
	Pole Height (Feet)	85	80	75	75			72	75	80	81	75		73	75	75	75	75	75	70			
	Pole Material	Steel	Wood	Wood	Wood			Steel	Steel	Wood	Steel	Wood		Steel	Wood	Wood	Wood	Wood	Wood	Steel			
	Span (Feet)	382	382	382	382			395	348	348	340	301		333	313	331	343	390	355				
Long Span / Taller Poles / 970 Road	Structure Number	# 1	# 2	# 3	# 4			# 5	# 6	# 7	# 8	# 9		# 10	# 11	# 12	# 13	# 14	# 15	# 16			
	Pole Height (Feet)	88	80	75	75			83	78	80	80	75		73	75	75	75	75	75	70			
	Pole Material	Steel	Steel	Wood	Wood			Steel	Steel	Wood	Steel	Wood		Steel	Wood	Wood	Wood	Wood	Wood	Steel			
	Span (Feet)	369	366	366	366			434	366	366	369	302		333	313	331	343	390	355				

Longer Span Summary:	Long span results in two (2) fewer poles that are 0' - 5' taller.	Both designs are identical.	Long span results in one (1) fewer pole that is 0' - 10' taller.	Long span results in two (2) fewer poles that are 0' - 10' taller.
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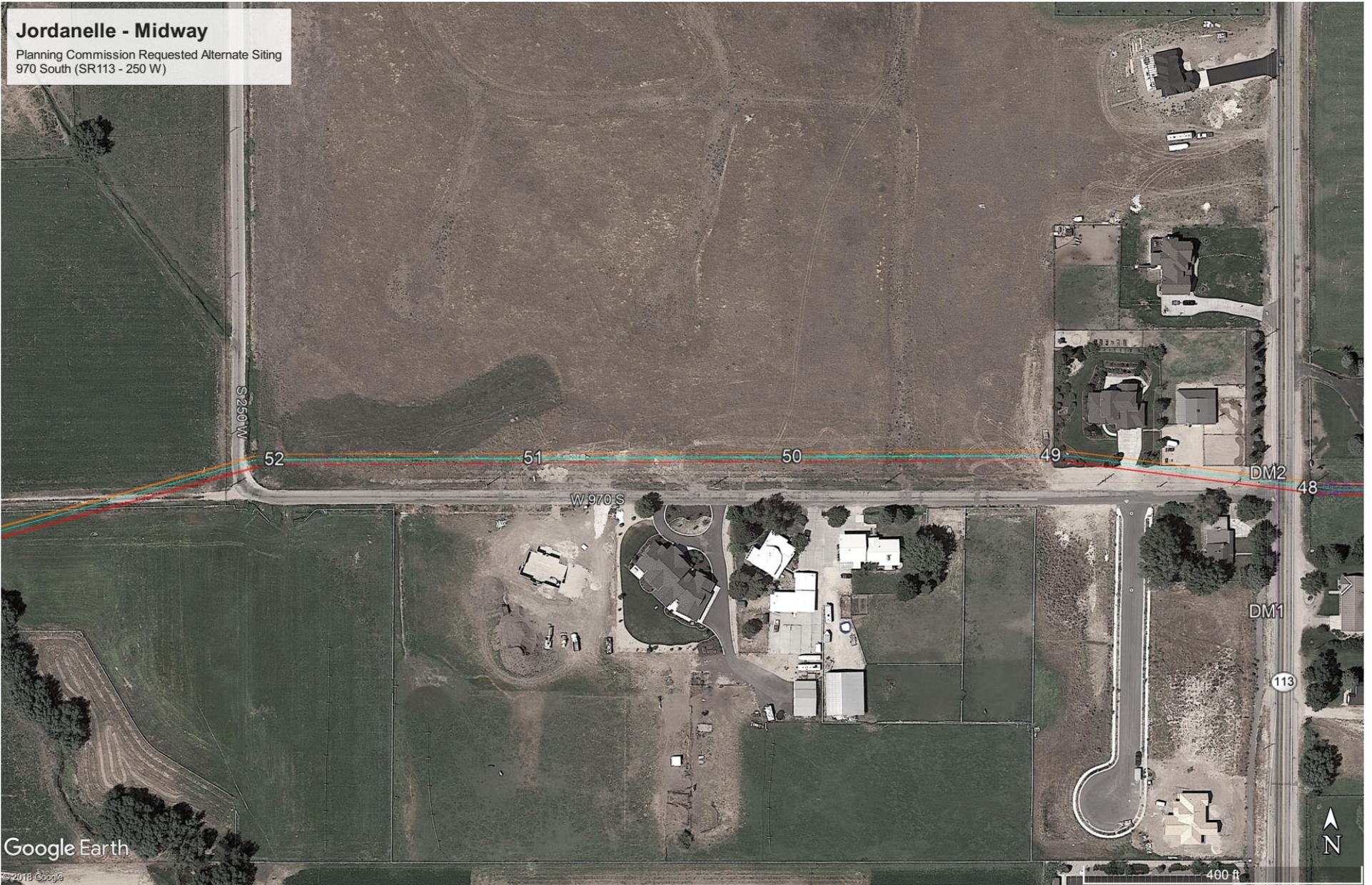
970 South Road Span Summary:	Long span results in two (2) fewer poles that are 0' - 5' taller and one (1) more steel pole.	Both designs are identical.	Long span results in one (1) fewer pole that is 0' - 10' taller.	Long span results in two (2) fewer poles that are 0' - 10' taller.
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OPTION B - ALTERNATE



Jordanelle - Midway

Planning Commission Requested Alternate Siting
970 South (SR113 - 250 W)



Google Earth

© 2018 Google

400 ft

Jordanelle - Midway

Planning Commission Requested Alternate Siting
970 South (250 W - Stringtown)



Google Earth

© 2018 Google

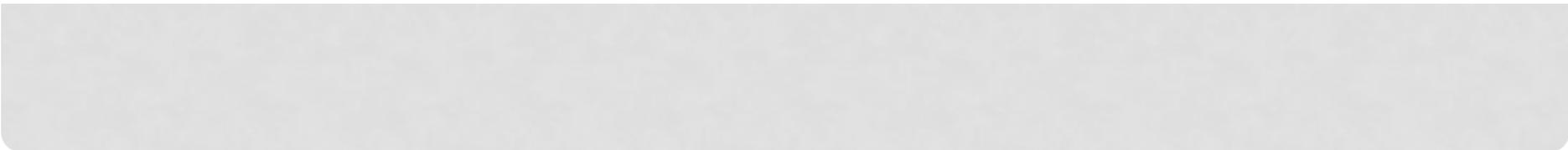
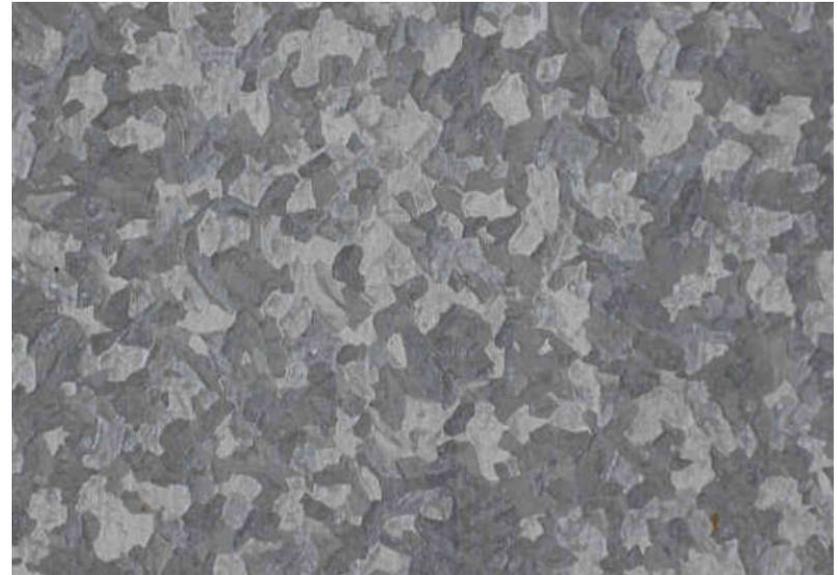
400 ft



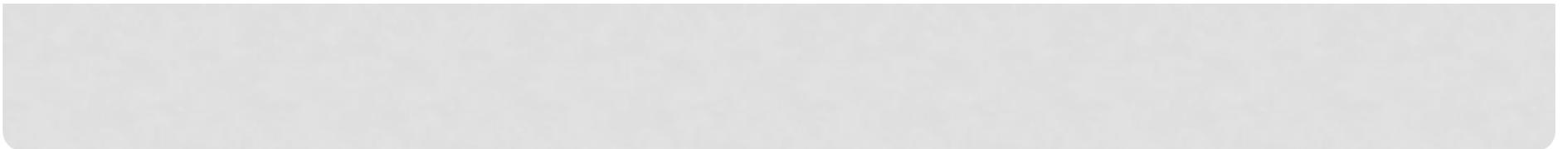
Metal Finishes: Self-Weathering Steel



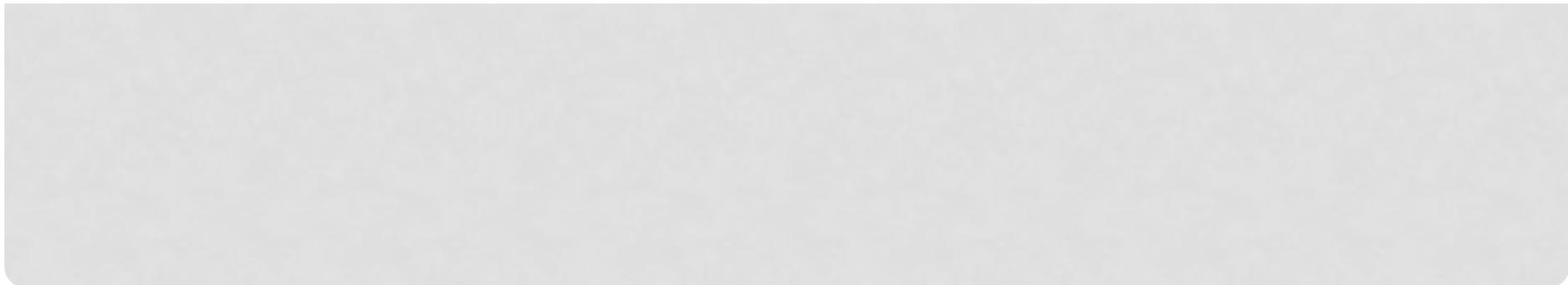
Metal Finishes: Galvanized Steel



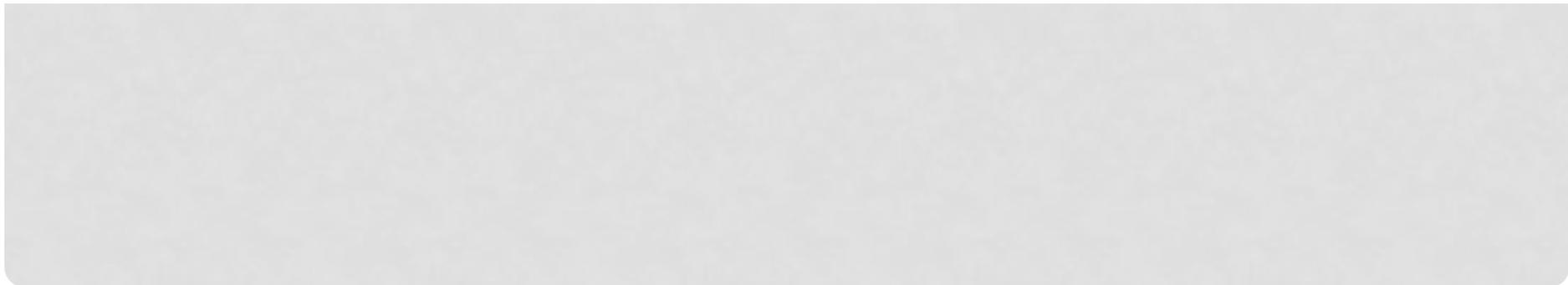
Metal Finishes: Dulled Galvanized Steel



46kV – 138kV Rights-of-Way with Vegetation



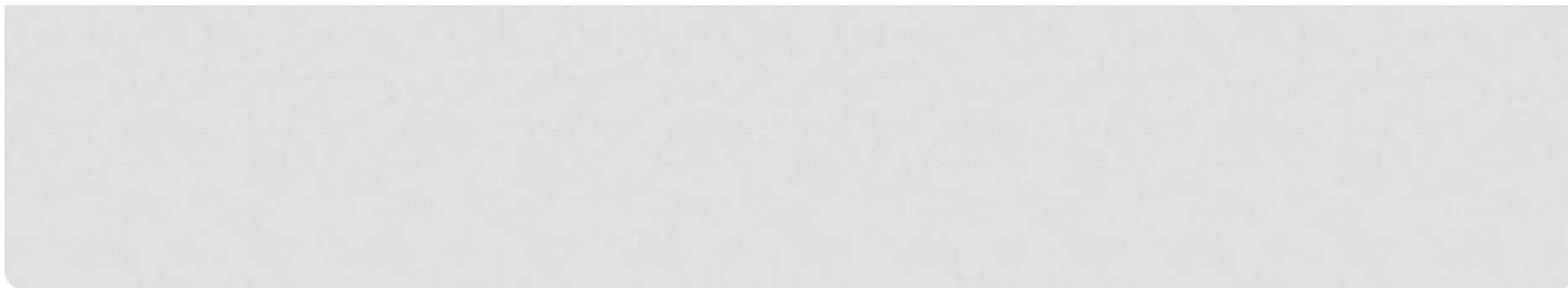
46kV – 138kV Rights-of-Way with Vegetation



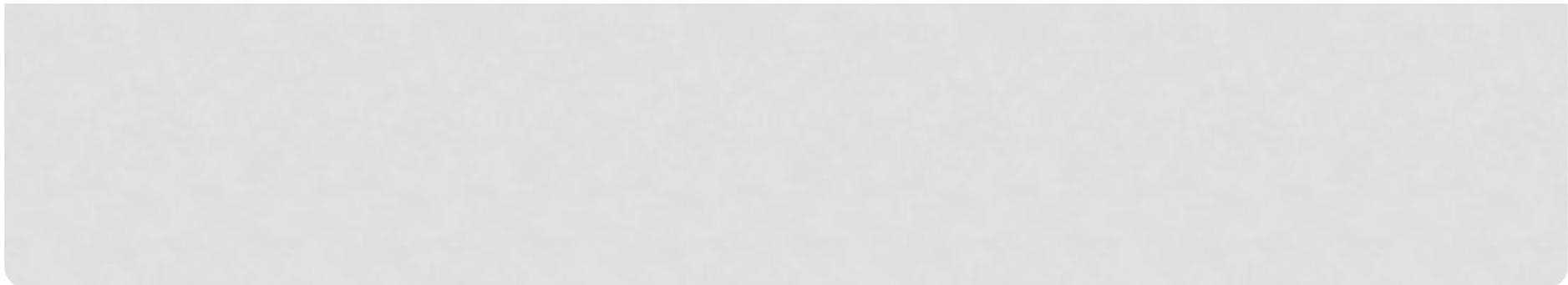
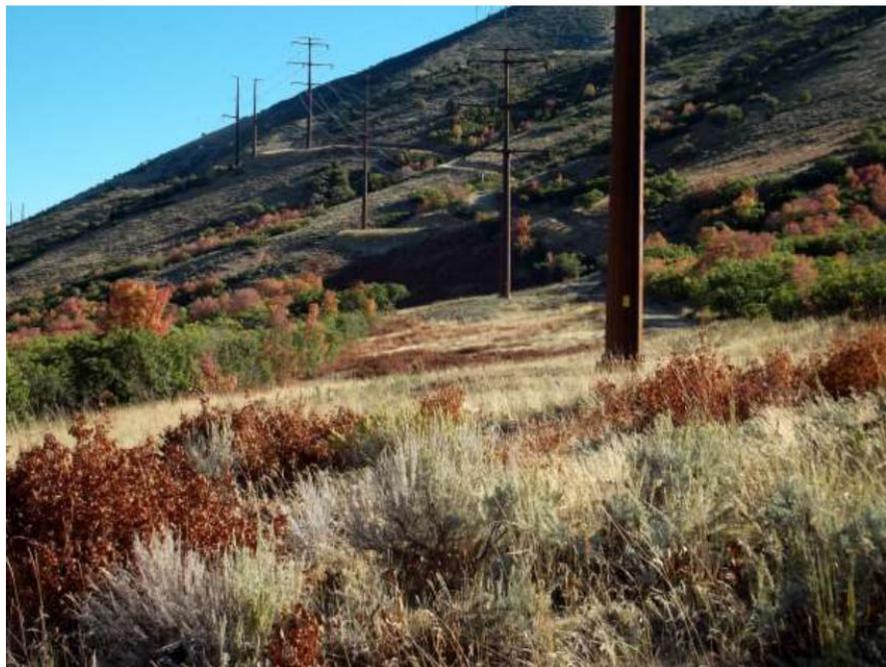
46kV – 138kV Rights-of-Way with Vegetation



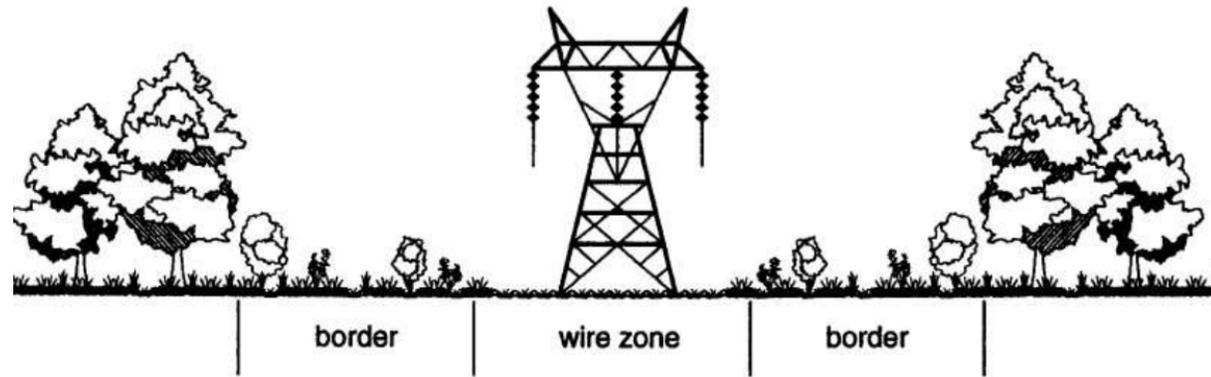
46kV – 138kV Rights-of-Way with Vegetation



345kV Rights-of-Way with Vegetation



Bramble & Byrnes Right-of-Way Method



POSSIBLE FINDINGS

- The proposal is an administrative review and approval
- The proposed use is a conditional use and the city may impose reasonable conditions to mitigate identified issues
- The proposal includes taller poles that will be visible to the residents of Midway, visitors of Midway, and the surrounding residents of Wasatch County
- The distribution and possibly communication lines will be buried to help declutter the current transmission line situation, and reduce the weight being carried by the poles, thus reducing poles in the area
- The proposal will create a second point of power access that will benefit the residents of the valley
- The proposal will allow more power to enter the valley that will benefit the entire community by meeting community needs

PROPOSED CONDITIONS

As the review process continues, conditions will be created based on public comment, Planning Commission discussion, and City Council discussion.



Brad Wilson

From: Michael Henke
Sent: Monday, November 18, 2019 9:30 AM
To: Brad Wilson
Subject: Fwd: Letter to Midway City Council -- Review of Transmission Power Line Survey Wording Prior to Issuance

Sent from my Verizon, Samsung Galaxy smartphone
Get [Outlook for Android](#)

From: Heather Whitney <hwhitney_90403@yahoo.com>
Sent: Monday, November 18, 2019 9:16:19 AM
To: Michael Henke <mhenke@midwaycityut.org>; Ken Van Wagoner <kvanwagoner@midwaycityut.org>; Lisa Christen <lchristen@midwaycityut.org>; Bob Probst <bprobst@midwaycityut.org>; Jeff Drury <jdrury@midwaycityut.org>; JC Simonsen <jsimonsen@midwaycityut.org>
Cc: Celeste Johnson <cjohnson@midwaycityut.org>; Christopher Whitney (US - Tax) <chris.whitney@pwc.com>
Subject: Letter to Midway City Council -- Review of Transmission Power Line Survey Wording Prior to Issuance

Dear Michael,

Can you please ensure that the City Council Members have this letter in time for tomorrow evening's Midway City Council Meeting?

Thank you.

Dear City Council Members,

It is very important that the wording of the Midway phone and mail power line survey accurately convey what is at stake to Midway's future and the true nature of the project if these lines are not buried. This is not just a rebuild of an existing power line, but the addition of new and exponentially more powerful lines, where the additional power is largely for the benefit of communities outside of Midway.

While it is important to mention the additional monthly utility charge estimates, it is also important to note that community groups are working to raise funds to lower these overall costs and to assist those who may have difficulty affording the additional charges. As we do not have concrete numbers for the costs and costs could be less or even substantially less, we should carefully consider how we present the cost options in the survey in order to see what amount citizens might be willing to bear. This information could also be used for citizen groups to know the amount of money that needs to be contributed.

To this end, I think a small working group of Midway citizens should review the text of the mail and phone survey before it is issued to ensure that the survey accurately conveys the nature of the project, the long term impact of overhead power lines on the rural, resort and residential character of

Midway, as well as citizen group efforts to mitigate the costs of burying the lines and to support those who may have difficulty affording the additional monthly charges.

Thank you,

Chris Whitney

745 Dutch Valley Drive
Midway, UT

--

Christopher A Whitney

PwC | Partner

Sacramento | +1 (310) 739 3146

PricewaterhouseCoopers LLP

pwc.com

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November 19, 2019

Midway City Council
c/o Michael Henke, Midway City Planner
75 North 100 West
Midway, Utah 84049

Via email to
mhenke@midwaycityut.org

Dear City Council Members:

Heber Light & Power ("HL&P") and Rocky Mountain Power ("RMP") presented to the City Council on October 15, 2019 in support of the application for a conditional use permit to rebuild approximately one mile of electrical transmission line through Midway. As you recall, the City held the public hearing despite the discovery of some errors in the noticing. Another public hearing has been noticed and is scheduled for November 19. During the October meeting, the Council asked for additional information from HL&P and RMP on the following topics:

1. Width and scope of existing prescriptive easements
2. Risks of transferring HLP's existing prescriptive easement rights to RMP (loss of control, etc.)
3. Effect of easements / questions about easements as relating to the conditional use permit process
4. More information about how estimated easement costs are calculated
5. Scope of potential severance damages
6. Process for acquiring easements

In the interest of efficient use of the Council's time, this letter will address each of these matters in turn and then provide some relevant information as to the scope of the Council's responsibilities when acting as the land use authority on a conditional use permit application.

1. Width and scope of existing prescriptive easements

The width of HL&P's prescriptive easement to operate an electrical transmission line is established by scope of HL&P's use of the easement area over the last twenty years. In Utah, "[i]t has long been the law . . . that the extent of an easement acquired by prescription is measured and limited by the use made during the prescriptive period[,] which is twenty years.¹ Utah courts have, however, recognized "the common law presumption that parties to an easement anticipate increased future use and reasonable technological improvements."² "Thus, absent express evidence of contrary intent, there is a firmly established background rule that an easement holder may make technological upgrades to its property,

¹ *McBride v. McBride*, 581 P.2d 996, 997 (Utah 1978); *Judd v. Bowen*, 2017 UT App 56, ¶ 10, 397 P.3d 686.

² *Stern v. Metropolitan Water Dist. of Salt Lake & Sandy*, 2012 UT 16, ¶ 69, 274 P.3d 935.

As you may know, HL&P's service area was the subject of a long dispute with RMP that culminated in a combination of litigation all the way to the Utah Supreme Court,⁵ new legislation specifically addressing HL&P's unique situation as an interlocal entity electric utility, and a comprehensive settlement agreement between HL&P and RMP. As a result of these actions, HL&P's service territory is extremely secure and HL&P sees no plausible risk of loss of control over its service territory as a result of this project.

RMP will own the poles that support HL&P's electrical wires, which is expected to be a significant benefit to HL&P and its customers as RMP will be responsible for the bulk of the maintenance and expenses relating to this transmission line. HL&P exists to provide efficient, economical, and reliable electrical service to its customers throughout the valley; HL&P does not exist to acquire and maintain capital assets other than those needed to support HL&P's overall purpose. In this case, the opportunity existed to jointly construct a line with RMP that replaces HL&P's deteriorating South Line, avoid placing two separate transmission lines through the valley, and to spend less money to accomplish the same results. As a real-world illustration, a vehicle recently hit one of HL&P's metal poles along Hwy. 40 in Wasatch County and damaged the pole to the extent that it must be replaced at a cost of approximately \$60,000. The owner only carried the required minimum liability insurance, which means HL&P will end up paying a significant portion of the costs of that pole replacement. If this pole had been owned by RMP, RMP would be covering the costs of replacing the pole.

3. Effect of easements / questions about easements as relating to the conditional use permit process

Looking only at the conditional use permit process, the questions of easements and the costs of easements are irrelevant. For the exact same reasons that property owner #1 cannot build a barn on the land belonging to property owner #2, a utility cannot construct a transmission line or any other facility on the property of another without some right to do so. No matter the permitting requirements, or lack of permitting requirements, HL&P and RMP cannot construct this transmission line on private property without the right to do so. That right may be in the form of a prescriptive easement, an express easement, a public right of way, a public utility easement, or by some other manner. Regardless of how that right is established, it is an absolute prerequisite to construction of a facility on property owned by another. The Council could place a condition on the permit that requires the utilities to acquire the necessary property rights prior to construction of the line; however, such a condition is merely a restatement of existing legal reality.

Easement costs do, however, factor into the decision as to whether the City wants to pay to bury the transmission lines. This question is related to the conditional use permit process but is really a separate legal question governed by a different set of statutes. Without delving into the details of the calculation or the obligations of the utilities to construct facilities in the manner desired by the City, the City is able to dictate many aspects of the construction of a particular utility facility so long as the City pays the excess costs associated with doing so. These excess costs are—put very simply—the difference between the costs of the project if constructed according to the utility's normal standards versus the costs of

⁵ *Heber Light & Power Co. v. Utah Public Service Comm'n*, 231 P.3d 1203, (Utah 2010)



of existing zoning, the slight reduction in size to less than 5 acres likely does not impact the property owner beyond the land actually taken.

Regarding the transmission line, claims have been made that property owners will be entitled to severance damages and that these damages will amount to several million dollars for property owners in Midway alone. Some property owners may indeed be entitled to severance damages; however, the likelihood that those damages will add up to several million dollars is extraordinarily low.

As an initial matter, the door is only open to severance damages if a portion of the property is actually taken for public use (as described in the definition quoted above and also discussed by Utah courts as explained below). This means that placement of the proposed transmission line (including the required easements or access rights as determined by Codes) fully in existing prescriptive easements, or fully in public rights of way or dedicated public utility easements will absolutely not open the door to severance damages as no property is being taken.

The Utah Supreme Court succinctly stated the law on severance damages in *Admiral Beverage*:

We hold that when a landowner suffers the physical taking of a portion of his land, he is entitled to severance damages amounting to the full loss of market value in his remaining property caused by the taking. However, we reaffirm our prior rule that when a landowner alleges “damages” not connected to an actual physical taking, the landowner may recover only for damage to protectable property rights.

Admiral Beverage, 2011 UT 62, ¶ 19, 275 P.3d 208

Accordingly, property owners that suffer an actual taking of a portion of their real property may indeed be able to seek severance damages equal to the reduction in market value of their property due to the taking, or may have their compensation for the taken property reduced if the construction of the public improvement increases the value of the property.⁶ However, the Court makes very clear that property owners who do not suffer an actual physical taking are only entitled to compensation for “protectable property rights.”⁷ A property adjacent to another parcel subject to a physical taking does not have a

⁶ See Utah Code § 78B-6-511(d), “. . . separately, how much the portion not sought to be condemned, and each estate or interest in it, will be benefitted, if at all, by the construction of the improvement proposed by the plaintiff, provided that if the benefit is equal to the damages assessed under Subsection (1)(b), the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit is less than the damages assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value of the portion taken.”

⁷ *Bingham v. Roosevelt City Corp.*, 2010 UT 37, ¶ 19, 235 P.3d 730, 736, (“To enjoy the protections of article I, section 22, an alleged property interest must be more ‘than a unilateral expectation of continued privileges.’ We have declined to find a taking in situations where the plaintiffs failed to prove a ‘vested legally enforceable interest.’ In



affected property owner and begin the process of negotiating the price of the necessary easement rights. Like buying any other piece of property, the eventual price paid for any given easement right is the price that is agreed to between the buyer and the seller—otherwise known as fair market value. In the rare situation where a property owner absolutely refuses to grant a necessary easement or the parties cannot agree on an acceptable price, both RMP and HL&P have the legal rights to use eminent domain to acquire the necessary property rights. To the knowledge of current HL&P employees, HL&P has never needed to resort to eminent domain to acquire the property rights to construct utility facilities.

In the event that property must be acquired by eminent domain, the process for doing so has been established by the Utah Legislature and is discussed in detail on the webpage of the State Property Rights Ombudsman at <https://propertyrights.utah.gov/>. That same webpage discusses easements generally, the determination of proper compensation, conditional use permits, and numerous other land use topics.

7. Scope of City Council Authority Acting as the Land Use Authority.

Concerning a conditional use permit application, the land use authority is tasked with applying the ordinances as they have been enacted by the legislative body. In the case of a conditional use permit for an electrical transmission line, the City Council is the land use authority for the purposes of decisions on the conditional use permit. This is an administrative role—meaning the Council is only applying the ordinances as are currently in place—and the Council cannot base its decisions on factors not listed in the applicable ordinance. The Utah Land Use Deskbook describes this role (note that while the quote refers to a planning commission acting as a land use authority, the same principles apply to a city council acting as the land use authority):

... the planning commission, when acting as a land use authority, has very little discretion on whether or not to grant or deny a permit. If the landowner's application complies with the ordinances the commission must approve it, and if it does not comply then the planning commission must deny the application. This is regardless of whether or not the planning commission, or the public, thinks that the application is a good or bad idea."

Section 1.1B, Utah Land Use Regulation Deskbook; Utah Land Use Institute (2016)

The same Utah Land Use Deskbook describes the land use authority's discretion as to a conditional use permit application as follows:

If a use is allowed as a conditional use in the zone, it is assumed that the conditional use is desirable but that it may require an extra level of review. The review criteria must be outlined in the local land use code. Denial must be based on some factor unique to the proposed location that renders the potential negative effects of the proposed use in that



Recall that the City Council has already determined that a transmission line is a permitted use with reasonable conditions that can be applied to mitigate any detrimental effects. The Council—acting as the land use authority—cannot decide that an overhead transmission line is irreconcilable with a certain area in Midway—that is a legislative decision that has already been made by the City Council when it made transmission lines a conditional use throughout all of Midway (with the preference as stated in the ordinance that transmission lines stay within existing corridors). The decision now faced by the Council is purely an administrative one.

Conclusion

Although the ordinance does not mention aesthetic considerations, HL&P and RMP have generally agreed to follow the Council’s recommendations as to the type of poles used, the color of the metal poles, and whether the line should be constructed to allow for shorter spans (and therefore shorter distances between poles) or to allow for taller poles with longer spans (and therefore fewer poles overall). Note that the heights of poles are limited on the lower end by applicable safety regulations and on the higher end by cost and engineering considerations. In general, the height difference between the shorter option and the taller option is less than fifteen feet.

We appreciate the Council’s consideration of this matter and we look forward to an approval of the application with guidance on pole color and pole height. I am happy to answer any questions about the conditional use permit process or related legal standards; I ask that you direct any communications through your City Attorney.

Sincerely,

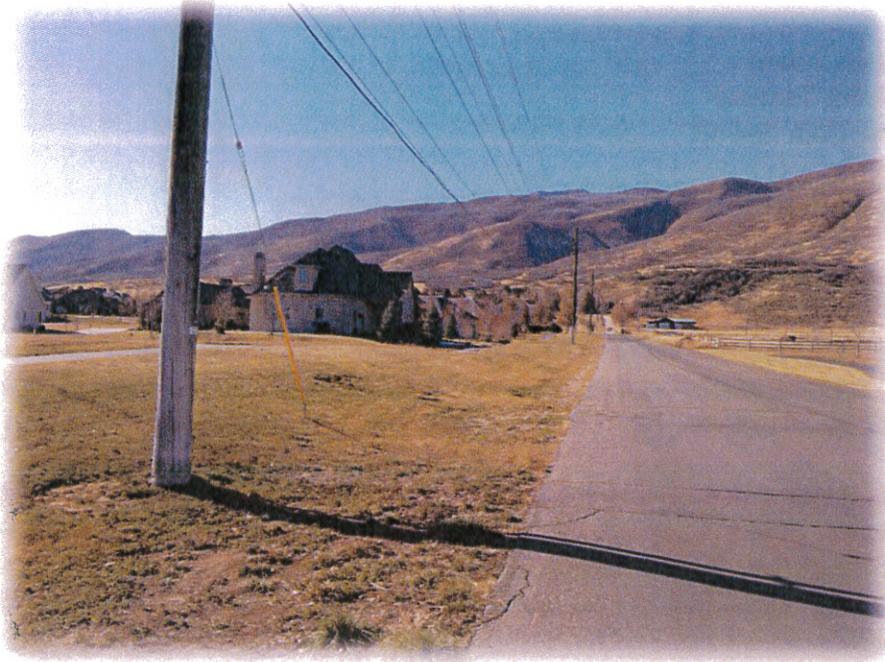


Adam S. Long
General Counsel for Heber Light & Power

cc: Corbin Gordon, Midway City Attorney
Celeste Johnson, Midway City Mayor



Jordanelle-Midway Transmission Line



Location

970 South, Stringtown Road, Wards Lane
Midway, Utah

Report Date

November 18, 2019

Report 160-2019-1280

Prepared For

Rocky Mountain Power

Prepared By

Troy Lunt, MAI
Eric Leonhardt, MAI

Integra Realty Resources
5107 South 900 East
Murray, Utah 84117
801 263-9700

Analysis of Land Value

Parcels impacted by the project range from 0.42 acre to 34.35 acres. A good sample of sales are found within Wasatch County from which a credible indicator of value can be extracted for the impacted parcels. Of the 27 sales found, 23 are closed sales, 3 are listed for sell, and 1 is a listing that expired without a sale. The 27 sales selected as value indicators for the impacted parcels are from a pool of 104 listings. Those eliminated from the pool have hillside, forested, or resort locations. Other factors for elimination are distance from the project area and surplus land. The mean discount from the listing price to the purchase price for parcels over 5 acres is 8.9% and for 8.2% for parcels under 5 acres. Listings that sold are given priority except in segments where credible sales are not found.

The sample range is from 0.39 acre to 46.21 acres as shown on the following page.

Many factors, both transactional and physical, influence value. The most influential factors on land value in the project area are size, zoning, and location. All but one of the impacted parcels is zoned and planned for residential use on minimum half-acre lots. The impacted parcel along Wards Lane is zoned for residential use on minimum one acre lots.

The following table shows the expected value range of the impacted parcels based on market activity and the most influential factors on value.

Impacted Parcel Summary					Range	
Parcel	Name	Street	Zoning	Acres	Low	High
00-0020-4611	Day	970 South	R-1-22	1.33	\$275,000	\$325,000
00-0020-4256	Dwell	970 South	R-1-22	6.00		
00-0020-4255	Price	970 South	R-1-22	6.88	\$115,000	\$140,000
00-0020-4254	Medallion	970 South	R-1-22	10.16		
Common Area	Saddle Creek	970 South	R-1-22	34.35	\$95,000	\$140,000
00-0020-4250	Bodensteiner	Stringtown	R-1-22	0.50	\$360,000	\$420,000
00-0020-4251	Jonsson	Stringtown	R-1-22	1.89	\$275,000	\$300,000
00-0020-4249	Almaden	Stringtown	R-1-22	2.60		
00-0020-4247	Twin Creeks	Stringtown	R-1-22	6.81	\$115,000	\$140,000
00-0008-5949	Burt	Wards	RA-1-43	5.01	\$105,000	\$120,000

Project Impact Analysis

The study of transmission line impact on real property value is vast. Historic studies show the impact to be 10% or less on real property value. We participated in a study of about 350,000 properties in Salt Lake County from 2001 to 2014 spanning 128,000 transactions and 450 variables. The study found: 1) homes within 165 feet of a 138 kV line show a 5.1% decrease in value; 2) homes within 165 feet of a 46 kV line have no measurable decrease but show a decrease of 2.5% beyond 660 feet. The study appears to support a diminution in value of about 5% for a change in transmission from a 46 kV to 138 kV based on the variance in the indicated property value impact for line types.

Conclusions

After analysis of the subject market, review of relevant transmission line studies, and appraisal experience, compensation of 25% to 75% of the underlying land value is indicated for that portion of the impacted properties within the expanded easement area. There is no indication of severance damages to land outside the expanded easement area. The underlying land value varies from \$95,000 per acre to \$420,000 per acre.

Thank you for this assignment. Your input is welcome.

A handwritten signature in black ink, appearing to read "Troy Lunt".

Troy Lunt, MAI

A handwritten signature in blue ink, appearing to read "Eric Leonhardt".

Eric Leonhardt, MAI



970 South – West Looking West



970 South – West Looking East



Wards Lane Looking West



Wards Lane Looking East

Short Span	Parcel	Name	Street	Zoning	Acres	Low	High	Frontage (ft)	Width Increase (ft)	Additional Area (sf)	Additional Area (acres)	Average Fee [(Low + High) / 2]	Average Fee [(Low + High) / 2]	Estimated Easement Cost
	00-0020-4611	Day	970 South	R-1-22	1.33	\$275,000	\$325,000	300	3	900	2.07%	\$300,000	50%	\$3,099
	00-0020-4256	Dwell	970 South	R-1-22	6	\$115,000	\$140,000	435	2	870	2.00%	\$127,500	50%	\$1,273
	00-0020-4255	Price	970 South	R-1-22	6.88	\$115,000	\$140,000	700	3.5	2450	5.62%	\$127,500	50%	\$3,586
	00-0020-4254	Medallion	970 South	R-1-22	10.16	\$115,000	\$140,000	1131	3.5	3958.5	9.09%	\$127,500	50%	\$5,793
	Common Area	Saddle Creek	970 South	R-1-22	34.35	\$95,000	\$140,000	1125	6	6750	15.50%	\$117,500	50%	\$9,104
	00-0020-4250	Bodensteiner	Stringtown	R-1-22	0.5	\$360,000	\$420,000	75	1	75	0.17%	\$390,000	50%	\$336
	00-0020-4251	Jonsson	Stringtown	R-1-22	1.89	\$275,000	\$300,000	210	1.5	315	0.72%	\$287,500	50%	\$1,040
	00-0020-4249	Almaden	Stringtown	R-1-22	2.6	\$275,000	\$300,000	145	0.5	72.5	0.17%	\$287,500	50%	\$239
	00-0020-4247	Twin Creeks	Stringtown	R-1-22	6.81	\$115,000	\$140,000	200	0.5	100	0.23%	\$127,500	50%	\$146
	00-0020-4235	Hansen	Stringtown	R-1-22	1.05	\$360,000	\$420,000	210	1	210	0.48%	\$390,000	50%	\$940
													Total Estimate	<u><u>\$25,556</u></u>

Long Span	Parcel	Name	Street	Zoning	Acres	Low	High	Frontage (ft)	Width Increase (ft)	Additional Area (sf)	Additional Area (acres)	Average Fee [(Low + High) / 2]	Average Fee [(Low + High) / 2]	Estimated Easement Cost
	00-0020-4611	Day	970 South	R-1-22	1.33	\$275,000	\$325,000	300	3.5	1050	2.41%	\$300,000	50%	\$3,616
	00-0020-4256	Dwell	970 South	R-1-22	6	\$115,000	\$140,000	435	2.5	1087.5	2.50%	\$127,500	50%	\$1,592
	00-0020-4255	Price	970 South	R-1-22	6.88	\$115,000	\$140,000	700	4	2800	6.43%	\$127,500	50%	\$4,098
	00-0020-4254	Medallion	970 South	R-1-22	10.16	\$115,000	\$140,000	1131	4	4524	10.39%	\$127,500	50%	\$6,621
	Common Area	Saddle Creek	970 South	R-1-22	34.35	\$95,000	\$140,000	1125	6.5	7312.5	16.79%	\$117,500	50%	\$9,862
	00-0020-4250	Bodensteiner	Stringtown	R-1-22	0.5	\$360,000	\$420,000	75	1.5	112.5	0.26%	\$390,000	50%	\$504
	00-0020-4251	Jonsson	Stringtown	R-1-22	1.89	\$275,000	\$300,000	210	2	420	0.96%	\$287,500	50%	\$1,386
	00-0020-4249	Almaden	Stringtown	R-1-22	2.6	\$275,000	\$300,000	145	1	145	0.33%	\$287,500	50%	\$479
	00-0020-4247	Twin Creeks	Stringtown	R-1-22	6.81	\$115,000	\$140,000	200	1	200	0.46%	\$127,500	50%	\$293
	00-0020-4235	Hansen	Stringtown	R-1-22	1.05	\$360,000	\$420,000	210	1	210	0.48%	\$390,000	50%	\$940
													Total Estimate	<u><u>\$29,389</u></u>

Underground	Parcel	Name	Street	Zoning	Acres	Low	High	Frontage (ft)	Width Increase (ft)	Additional Area (sf)	Additional Area (acres)	Average Fee [(Low + High) / 2]	Average Fee [(Low + High) / 2]	Estimated Easement Cost
	00-0020-4611	Day	970 South	R-1-22	1.33	\$275,000	\$325,000			0	0.00%	\$300,000	50%	\$0
	00-0020-4256	Dwell	970 South	R-1-22	6	\$115,000	\$140,000			0	0.00%	\$127,500	50%	\$0
	00-0020-4255	Price	970 South	R-1-22	6.88	\$115,000	\$140,000			264.6	0.61%	\$127,500	50%	\$387
	00-0020-4254	Medallion	970 South	R-1-22	10.16	\$115,000	\$140,000			0	0.00%	\$127,500	50%	\$0
	Common Area	Saddle Creek	970 South	R-1-22	34.35	\$95,000	\$140,000			813	1.87%	\$117,500	50%	\$1,097
	00-0020-4250	Bodensteiner	Stringtown	R-1-22	0.5	\$360,000	\$420,000			0	0.00%	\$390,000	50%	\$0
	00-0020-4251	Jonsson	Stringtown	R-1-22	1.89	\$275,000	\$300,000			64.4	0.15%	\$287,500	50%	\$213
	00-0020-4249	Almaden	Stringtown	R-1-22	2.6	\$275,000	\$300,000			0	0.00%	\$287,500	50%	\$0
	00-0020-4247	Twin Creeks	Stringtown	R-1-22	6.81	\$115,000	\$140,000			1298	2.98%	\$127,500	50%	\$1,900
		Cascades	Stringtown	R-1-22		\$360,000	\$420,000			134	0.31%	\$390,000	50%	\$600
													Total Estimate	<u><u>\$4,196</u></u>