

**UTAH COUNTY
APPLICATION FOR CONDITIONAL USE PERMITS
(Excluding Large Scale Developments)**

<p>Check - Agency Approval Needed</p> <p><input checked="" type="checkbox"/> Planning Commission</p> <p><input checked="" type="checkbox"/> County Commission</p>	<p>Section <u> </u> ^{Multiple} Township <u> </u> ^{Multiple} Range <u> </u> ^{Multiple}</p> <p>Fee Paid <u> </u> Receipt # <u> </u></p> <p>Date <u> </u></p> <p>Application Taken By <u> </u></p>
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All conditional uses are subject to the requirements set forth in the Utah County Zoning Ordinance. Along with the necessity that the proposed conditional use meet the requirements of the zoning ordinance, all conditional use permits are subject to approval by a designated reviewing agency (Planning Commission or County Commission). Approval by other agencies such as the Health Department may also be required.

In preparation of any conditional use permit or zone text or map amendment, due and careful consideration will be given to the recommendations of the general plan, the stated intent of the zoning ordinance, the suitability of the land for particular uses, and to the character of the area with a view of conserving the value of buildings and encouraging the most appropriate use of land throughout the county. No application can be approved when it is determined that the proposed use or amendment does not promote the health, safety, morals, convenience, or general welfare of the public.

As part of a conditional use or zone map amendment application, the applicant must submit:

1. A plot plan showing the location of the proposed use and the siting of the use or any existing
2. A map identifying the property boundaries and adjacent property ownership

In order to meet the intent of the requirements given above, the applicant is asked to complete the following application:

(Please attach all maps and documents to application)

Applicant's Name: <u>Rod Fisher</u>	Date: <u>November 20, 2009</u>
Mailing Address: <u>1407 W North Temple, Suite 250 Salt Lake City, UT 84116</u>	
Phone: <u>801-220-4561</u>	Fax: <u>801-220-4521</u>
Property Owner's Name (if different from applicant): <u>PacifiCorp</u> <u>(dba Rocky Mountain Power)</u>	

1. Conditional use permitted under what zoning section: _____
Please see Conditional Use Permit Application, Section III-
Question #1
2. Describe in detail the proposed conditional use: _____
Please see Conditional Use Permit Application, Section III-
Question #2
3. Conditional Use Permit information:
 - a. Location of proposed use (address): Please see Conditional Use
Permit Application, Section III- Question #3a
Legal description (section, township, and range): _____
Please see Conditional Use Permit Application,
Section III- Question 3a
 - b. Lot's tax numbers: Please see Conditional Use Permit
Application, Section III- Question #3b
Present zone designation: Please see Conditional Use Permit
Application, Section III- Question #3b
 - c. How is the land being used at present? _____
Please see Conditional Use Permit Application,
Section III- Question #3c
 - d. Describe adjacent land uses: _____
Please see Conditional Use Permit Application,
Section III- Question #3d
4. What will be done to avoid creating any adverse conditions not already present, or to avoid
causing any significant increase in those adverse conditions which may already be present?
Please see Conditional Use Permit Application, Section III-
Question #4
5. In what ways does the proposed use promote the health, safety, morals, convenience, or
general welfare of the public? Please see Conditional Use Permit Application,
Section III, Question #5
6. To the best of my knowledge the above information is accurate and complete.

Signature of Applicant





1407 West North Temple
Salt Lake City, Utah 84116

November 20, 2009

Mr. Jeff Mendenhall
Community Development Director
Utah County
100 East Center, Suite 2200
Provo, UT 84606

Re: Rocky Mountain Power - Application for Conditional Use Permit

Dear Mr. Mendenhall:

Enclosed please find an Application for Conditional Use Permit submitted on behalf of Rocky Mountain Power. This application seeks approval from Utah County in order to construct a new single-circuit 500 kilovolt (kV) transmission line, in conformance with Utah County land use ordinances.

Based on our pre-application meeting on November 2, 2009 we are submitting the Application for Conditional Use Permit supported by 8 sets of the following materials:

- Application for Conditional Use Permit
- Conditional Use Application including:
 - Attachment 1 – Schematic Project Drawing
 - Attachment 2 – Project Study Area
 - Attachment 3 – Typical 500kV Self-Supporting Lattice Structure
 - Attachment 4 – Table of Permits
 - Attachment 5 – Zoning Map (Panels 1 through 5)
 - Attachment 6 – Parcel Map (Panels 1 through 5)
 - Attachment 7 – List of Properties Crossed
 - Attachment 8 – Management Plans
 - Attachment 9 – Wildland Fire Mitigation Measures
 - Attachment 10 – Draft Reclamation, Revegetation, and Weed Management Plan
 - Attachment 11 – General Plan Map (Panels 1 through 5)
 - Attachments 12 through 14 – Public Outreach and Project Correspondence
- \$400.00 Conditional Use Permit application fee

We have enclosed two (2) digital copies of files listed above and one (1) digital copy of the Draft Environmental Impact Statement for the Mona to Oquirrh Transmission Corridor Project.

We appreciate your review of the application materials. If there are any questions regarding the project or application materials, please contact me at (801) 756-1239. Thank you for your time and consideration.

Sincerely,

Bret Hunter
Customer & Community Manager for Rocky Mountain Power

CITY OF SOUTH JORDAN ■ PLANNING & ZONING
1600 W. TOWNE CENTER DRIVE ■ SOUTH JORDAN UT 84095
TEL. (801) 254-3742 ■ FAX. (801) 253-5235

PLANNING & ZONING APPLICATION

CONCEPT CUP SITE PLAN REZONING APPEAL
 GENERAL PLAN AMENDMENT/LAND USE MINOR SITE PLAN AMENDMENT
 OTHER

Property Owner Name: _____
Address: _____
Business Phone: _____ Home Phone: _____ Fax: _____

Agent Name: _____ Business: _____
Address: _____
Business Phone: _____ Cell Phone: _____ Fax: _____

Engineer/Surveyor/Architect
Name: _____ Cert. Number _____
Firm Name: _____ Address: _____
Phone: _____ Fax: _____

Subject Property Information:
Address/Location: _____ Zone District: A-1, P-C, C-I
Property I.D. # (Sidwell) _____ Property Size (acres): _____
Proposed Use of Property: Electric Transmission Line

If Rezoning or Land Use Change: N/A
Proposed change from: _____ to: _____

OWNERS AFFIDAVIT

I, (we) _____, being duly sworn depose and say that I, (we) am the owner or authorized agent of the owner of property involved in this application and that the foregoing statements and answers herein contained and the answers in the attached plans and other exhibits thoroughly, to the best of my (our) ability, present the argument in behalf of the application herewith requested and that the statements and information above referred to are in all respects true and correct to the best of my (our) knowledge and belief.

Signed _____
Subscribed and sworn to before me this _____ day of _____

Notary Public Residing in Salt Lake County,

Utah

My Commission Expires _____

Fee: _____
Date Paid: _____
Received By: _____

**Rocky Mountain Power
Mona-Oquirrh 500/345kV Transmission Corridor Project EIS**

Utah County CUP Board of Adjustment Meeting
January 7, 2010
5:15 PM

ATTENDEES

Utah County

Bryce Armstrong
Robert Moore

Rocky Mountain Power

Brandon Smith
Rich Woodworth
Rod Fisher
Jeff Richards
Margaret Oler

UFS

Clay Crocket
Matt Horowitz

Utah County Board of Adjustment Members

Rose Blakelock
Randy Christiansen
Jim Brady
Don Olsen
Ernie Parkin

EPG

Joel Schneider
Steve Matthews

MEETING SUMMARY

Utah County Board of Adjustment (BOA) member J. Brady introduced the Farmland Reserve Inc. (FRI) Utah County CUP application staff report rebuttal and supplemental.

B. Armstrong introduced the staff report of the project, both the preferred and alternate routes. Utah County provided pictures of where routes would run at various locations along the Utah County portion of the project. Utah County staff categorized each route as a different appeal; therefore, Appeal #1484 is the preferred route and Appeal #1485 is the alternate route.

J. Brady – question regarding Attachment #2, is there a third Utah County alternative? R. Fisher stated no. The third route was a BLM Alternative and was not moved forward with as it was not along the BLM Preferred Route in the EIS.

R. Fisher provided an overview of the project, why the proposed routes were chosen, and why two different proposed routes were applied for.

E. Parkin asked whether the article regarding EMF and dairy farms included in the FRI submittal had any credence and associated hazards. R. Fisher stated that Rocky Mountain power (RMP) facilities are built to NESC code and RMP did not have enough notice to adequately address FRI materials until 4 pm today, January 7, 2010. Additionally, the article examines a direct

current (DC) transmission line system. The proposed project is an alternating (AC) system and there has not been any proven effect on dairies or humans.

D. Olsen asked what impacts precipitated the ½ mile shift west from the originally proposed route. R. Fisher stated the shift was based on comments during the DEIS comment period, with most impacts being visual in nature, but also there were some comments about bisecting property. RMP had meetings with FRI and the Jacob brothers (landowners along the routes). These meetings helped alleviate issues with the proposed route after the shift.

R. Blakelock asked why RMP is not waiting until the record of decision (ROD) is issued. R. Fisher stated there is a timing issue if RMP is to wait until the ROD's issuance.

J. Brady asked what would happen if neither CUP application is approved. R. Moore (Utah County Legal Counsel) stated there would have to be a change in circumstances, or RMP would not be allowed to re-apply. J. Brady asked whether the current situation would be considered a change in circumstances since RMP knows the BLM decision is forthcoming. R. Moore said the current situation could be considered a change in circumstances since RMP is anticipating the BLM to choose one of the two proposed routes.

R. Christiansen asked RMP in determining property values and possible negative impacts, which appeal is better. R. Christiansen also asked what discussions has RMP had with landowners. R. Fisher described the appraisal/purchase process and added that there is no discernable difference between each proposed route. R. Christiansen asked what the standard to determine property values is. R. Moore stated that Chapter 7-20-C of the Utah County Land Use Ordinance is the standard. R. Christiansen asked if RMP has met that standard. R. Moore stated that meeting the standard is open to interpretation as the county does not apply a clear and convincing standard any longer; the standard is now a preponderance of evidence which does not have as high a standard as clear and convincing.

R. Blakelock asked about the property values methodology. She stated that only the parcels that are crossed have a defined valuation process, but the appeals do not address the larger, surrounding areas. She asked if applications answer Chapter 7-20 D (The applicant has the burden of proving by a preponderance of the evidence that all the conditions for granting a conditional use have been met and must meet that burden based on the facts presented for the record; expressions of support or protest alone shall not constitute the basis of approval or denial.). R. Moore stated that the ordinance is open to interpretation by the BOA.

J. Brady stated the application material does not seem to address property values of surrounding lands outside of the 250-foot right-of-way. R. Fisher stated studies have not shown any appreciable decline in home prices. J. Brady stated this was anecdotal and evidence, verbal or otherwise, would need to come from an appropriate authority.

J. Brady stated there were 3 options:

- approve one or both applications
- deny one or both applications
- table the applications until the property values issue has been adequately answered.

J. Brady asked what would happen if a structure falls. Would the transmission structure fall out of the right-of-way? R. Fisher responded no, the structures are designed to be contained within the right-of-way.

E. Parkin asked if the right-of-way would be fenced or would it contain grazing animals. R. Fisher responded it would not be fenced, and the proposed project would not hinder grazing.

R. Blakelock asked if RMP was willing to meet the conditions stated in the FRI letter. R. Fisher responded that RMP either has already met the proposed conditions or would be willing to.

R. Blakelock asked whether the energy provided by the project would be provided locally first. R. Fisher stated no, that the proposed project is part of a larger system and would improve the existing system's reliability, which would benefit all customers of RMP, including those served in Utah County.

Public Comment

Mark Jacob was the only public commenter. He stated that he has not been happy with the process and could not get an accurate map of the proposed project in a timely manner. He commended RMP for moving the line as far west as possible, but was still upset that it crossed the western boundary of his property.

M. Jacob stated that RMP could move the line further west, that the topography of land would allow for this. He added that RMP would not be paying for land outside of the easement RMP obtains and would not be fair since the proposed project would negatively impact the value of his property. J. Brady stated that the aerial imagery showed the proposed route to be along an existing road, in between foothills. M. Jacob showed that the route would be better suited along Chimney Rock Road and he wants RMP to look at moving the route. B. Smith stated that the current alignment was based on a request from the BLM to utilize existing roads in the area north of M. Jacob's property and that the steep topography along Chimney Rock Road would be much more difficult construction and would require extensive cuts into the hillsides.

D. Olsen asked if M. Jacob had any information besides anecdotal on property value decreasing due to the proposed project. M. Jacob stated no.

R. Blakelock asked how many acres the proposed route crosses on either of the Jacob brothers' properties. M. Jacob stated he was not sure but added that the current value was not reflective of how much the land is worth, that the BOA needs to look to future when the land would be worth much more. M. Jacob added that the current land use is grazing.

E. Parkin asked whether the project would change the dynamics of the land currently. M. Jacob stated no, but the land's plan is based on future development.

R. Christiansen asked if the proposed project bisects M. Jacob's land, and if the project does bisect his land, by how much on one side and how much on the other. M. Jacob stated the proposed project does not bisect his land but still devalues it.

J. Richards was asked what would happen if property value surrounding the proposed project is devalued. J. Richards stated that landowners are entitled to a just compensation or severance damage.

J. Brady asked if severance damage would be applicable to someone in M. Jacob's situation. J. Richards stated that severance damage only applies to condemnation, that the line had to be drawn somewhere. Therefore, if there is no taking, then there is no compensation.

J. Brady stated that he was not sure if J. Richards answered the question of negative impacts on property values to adjacent property. J. Richards stated that he did by stating that if there is no taking of actual property, then there is no basis to compensate adjacent property owners. J. Richards continued that the proposed project enhances the value of Goshen Valley, as without it; there would not be enough electricity to warrant new development. J. Richards stated that the FRI article does not discuss the same type of current as the proposed project.

D. Olsen asked if severance damage exists, does it not imply a reduction in property value. J. Richards answered no.

R. Blakelock asked J. Richards if he had any issue with the conditions identified in the FRI letter. He responded that RMP either has already met the proposed conditions or would be willing to.

R. Blakelock asked if M. Jacob's property would be impacted by Appeal 1484 or 1485 differently. J. Richards stated no.

R. Christiansen asked if one route is better than the other. B. Armstrong responded that Appeal 1484 is RMP's preferred route as it is straight line and less expensive.

Board Discussion: Closed public hearing portion

R. Blakelock asked what would occur if RMP does not meet conditions of the CUP approval process. E. Parkin stated that moving the route where M. Jacob presented it is not feasible to RMP as it is a very steep canyon.

D. Olsen state he was struggling with a lack of evidence on both sides regarding property values. J. Brady stated that when clear and convincing evidence was the requirement, verbal

arguments on either side of the discussion did not meet the burden and there was a need for more than opinion. However, clear and convincing is not the standard in Utah County anymore.

R. Christiansen stated that the standard is different for a utility especially in light of their rights of condemnation for a public purpose. E. Parkin stated that the area is as rural as Utah County gets, and the power is necessary.

Utah County Legal Counsel (R. Moore left earlier during the meeting) stated the conditions of the FRI letter were not applicable as the route cannot be adjusted. As the BOA is making a determination on the routes in the application, there is only one color for the transmission towers (steel color), Utah County cannot impose open space on RMP's private land, and RMP already has an obligation to provide power, Utah County cannot force that obligation.

Open for motion

R. Christiansen moved to adopt Appeal 1484 – unanimous approval.

R. Christiansen moved to deny Appeal 1485 based on a lack of information on property values – unanimous approval.

Utah County CUP 1/07/10 Expires 1/07/12 see supplemental height allowances

III. STAFF FINDINGS:

- 1 - **Section 3-37-A-4** of the Utah County Land Use Ordinance lists electric power and distribution lines of 345 kV and over within a new transmission corridor as a conditional use in any zone, subject to approval by the Board of Adjustment.
2. A complete application was submitted November 20, 2009 as per **Section 7-20-A**,
3. The application is for a conditional use which the Board is empowered to approve as per **Section 7-20-B**.
4. The application appears to meet the requirements of **Section 7-20-C-1**, which requires the proposed conditional use to not degrade the public health, safety, or welfare. It would not appear to have any obvious negative effects on the public health, safety or welfare. An electric power transmission line of 345 IN and over is a permitted conditional use in the M&G-H and PC Zones. The proposal appears to be providing additional capacity to serve the growing electrical demand of the region. The application also indicates the project will improve reliability and operational flexibility of the electrical system.

In addition, the application includes a Plan of Development (POD) which addresses such issues as reclamation, revegetation and weed management, storm water pollution protection and management, cultural resource monitoring and mitigation, plant and wildlife species conservation measures, and other associated issues.
5. The application appears to meet the requirements of **Section 7-20-C-2**, which requires the proposed conditional use to meet the general purposes and intent of the ordinance, as specified in Section 1-2. Specifically, it would promote efficient and economical utilization of facilities (Section 1-2-C), and facilitate adequate provision for electrical service (Section 1-2-13).
6. The application appears to meet the requirements of **Section 7-20-C-3**, which requires the proposed conditional use to be consistent with the

"characteristics and purposes" stated for the zoning district involved and the adopted general plan. This conditional use would appear to be consistent with the purposes and intent of the M&G-1 and PC Zones, including:

- Providing a location for certain types of uses which are not compatible with urban development
- Facilitating investment in infrastructure for economic and community development

In addition, the Utah County General Plan states that public or privately owned utilities and utility corridors should be allowed in all areas of the county to provide the needed public uses for growth and development (Chapter 1, Objective 11-0, Utah County General Plan, 2006).

7. The application appears to meet the requirements of **Section 7-20-C-4**, which requires the proposed conditional use be compatible with the public interest and with the characteristics of the surrounding area. The expansion and increased capacity and reliability of an electric transmission line serves a valid public interest and this application appears to fill that role.

In addition, the application includes a Plan of Development (POD, referenced above) and an Environmental Impact Statement that address issues and proposed mitigation measures that would be of concern to the characteristics of the surrounding area.

8. The application appears to meet the requirements of **Section 7-20-C-5**, which requires the proposed conditional use to be shown to not adversely affect local property values. There appears to be no evidence that this conditional use would adversely affect local property values due to the remoteness of the proposed location of the transmission corridor.

In addition, the application indicates affected property owners will be compensated at market value for right-of-way acquisition. The application did not include any appraisals, however it did include a summary of the process for determining the property value impacts and associated involvement of the Utah State Property Rights Ombudsman for any potential eminent domain proceedings.

9. The application appears to meet the requirements of **Section 7-20-C-6**, which requires the proposed conditional use to comply with all of the terms and requirements of the ordinance. Analysis of each applicable section of the ordinance are as follows:

Section 3-37-B-1 states that no minimum area is required for a public facility (electric power transmission line).

Section 3-37-B-2 requires that only walled and/or roofed structures of a public facility meet the setback standards of the zone. The application does not indicate any walled or roofed structures as part of the proposal. Regardless, any such structure would be required to meet the setbacks required for the zone and would be monitored through the permitting process.

Sections 3-37-B-3 and 5-7-G state that utility line structures shall have no maximum height.

10. The application appears to meet the requirements of Section 7-20-C-7, which requires the proposed conditional use to be shown to **not** result in a situation which is cost ineffective, administratively infeasible, or unduly difficult for the provision of essential services. The un-manned nature of the transmission line limits the essential services required.

Conditions

1. That the Board finds that the conditional use meets the standards found in Section 7-20-C(1) through (7) of the Utah County Land Use Ordinance to the extent required in Section 7-20-D;
2. That permits be obtained for all applicable structures and uses that meet all applicable zoning, building, and fire-safety requirements;
3. That the proposed project be constructed and used consistent with the submitted "Plan of Development", "Environmental Impact Statement", and "Reclamation, Revegetation, and Weed Management Plan";
4. That the approval termination date be January 7, 2012, at which point the applicant must have submitted an application for a Zoning Compliance Permit for the transmission line;
5. That utilization of approval of this appeal nullify any approval of Appeal #1485.