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BEFORE THE UTAH UTILITY FACILITY REVIEW BOARD

<p>ROCKY MOUNTAIN POWER, Petitioner, vs. WASATCH COUNTY, Respondent.</p> <hr/> <p>MARK 25, LLC; BLACK ROCK RIDGE MASTER HOMEOWNERS ASSOCIATION, INC.; BLACK ROCK RIDGE TOWNHOME OWNERS ASSOCIATION, INC.; BLACK ROCK RIDGE CONDOMINIUM ASSOCIATION, INC., Intervenors.</p>	<p>REPLY TO ROCKY MOUNTAIN POWER’S OPPOSITION TO PETITION TO INTERVENE</p> <p>Docket No. 16-035-09</p>
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Intervenors Mark 25, LLC (“**Mark**”); Black Rock Ridge Master Homeowners Association, Inc. (“**Master Association**”); Black Rock Ridge Townhome Owners Association, Inc. (“**Townhome Association**”); and Black Rock Ridge Condominium Association, Inc. (“**Condo Association**”), by and through counsel of record, reply as follows to Rocky Mountain Power’s (“**RMP**”) Opposition to their Petition to Intervene. (The Master Association,

Townhome Association, Condo Association, and Mark are collectively referred to as the “*Intervenors*” herein.)

FACTS

RMP characterizes the sole issue in its petition for review as whether RMP should be allowed to upgrade its transmission line. And it asserts that without the proposed upgrade, RMP “will be unable to meet its load service obligations to its customers within” Summit County and Wasatch County. *See* RMP Mem. Opp’n, at 2. But nobody disputed the need for an upgrade in the permit application process before the Wasatch County Planning Commission or Board of Adjustment, and RMP has every right to upgrade its line right where it exists now. The real issue presented in RMP’s petition is whether there is any compelling reason to relocate the transmission line (in violation of Wasatch County ordinances and over the nearly unanimous objection of nearby property owners) from the route that has existed for nearly one-hundred years. It is RMP’s request to relocate the transmission line that impacts Intervenors. RMP did not offer any explanation for the need to relocate its transmission to Wasatch County, nor does its statement of facts articulate a justification before this Board.

RMP claims that its application to Wasatch County has no effect on the Intervenors because the transmission line will not be located directly on top of their property. But as RMP acknowledges in a footnote, it proposed several different locations to Wasatch County for the transmission line, one of which would cross Intervenors’ property. *See* Application for Conditional Use Permit (“*RMP Application*”) at 6 & appendix 6, a condensed version of which is attached hereto as Exhibit 1. RMP represents that it has now abandoned that option, but the

fact remains that the permit application that is the subject of this proceeding suggests a location for the transmission line that crosses Intervenor's property. *See id.*

Moreover, the other options RMP proposed would still relocate the transmission line to the edge of Promontory's property and directly next to Intervenor's property. The transmission line will closely parallel existing homes and development and take a much more circuitous route than the route that already exists. As a result, each of RMP's proposed locations for the transmission line will have adverse effects beyond merely "displeasing aesthetics." *See RMP Mem. Opp'n*, 3. For example, the Wasatch County Fire Marshall, in a letter¹ to Wasatch County's Planning Commission, noted that RMP's plan to relocate its transmission line will create fire hazards. That means that if RMP is allowed to relocate its transmission line, Intervenor's will be required to modify their existing development plans and construct numerous mitigation and safety measures. Additionally, moving the transmission line on or next to Intervenor's property diminishes both the value and marketability of their property. Bank of American Fork has previously provided Intervenor's with construction financing on properties in Wasatch County. Upon learning that the transmission line might be moved close to planned future developments, the bank's Vice President Bret Bushman stated in a letter that the relocation "may affect Bank of American Fork's ability to finance these units," because "power lines often reduce value and make the sale of units difficult." *See Bank of American Fork Letter*, attached hereto as Exhibit 2. Mr. Bushman also noted that in "other instances in which Bank of American Fork has declined financing, . . . power lines w[ere] one of the deciding factors." *Id.*

¹ Intervenor's do not attach a copy of the Fire Marshall's letter because they do not have a copy, but Wasatch County has the letter in its records.

In sharp contrast to Intervenor's property, relocating the transmission line would make Promontory's property more valuable and marketable because the transmission line would be relocated to the edge of its property and away from its future development. Promontory requested the relocation for its own pecuniary interests, and RMP has seemingly acquiesced to the request despite Wasatch County's ordinances and Intervenor's interests. Accordingly, the fact that Promontory did not "object or express concern regarding [RMP]'s preferred alignment" of the transmission line is not indicative of the costs that would be imposed on neighboring property owners like Intervenor. *See* RMP's Mem. Opp'n, at 3.

ARGUMENT

Intervenor acknowledges that RMP's objections to intervention under Utah Code section 54-14-303(2) are well-taken. But intervention is nevertheless plainly authorized by section 63G-4-207(2). Under that section, the "presiding officer shall grant a petition for intervention" if two conditions are met: "(a) the petitioner's legal interests may be substantially affected by the formal adjudicative proceeding; and (b) the interests of justice and the orderly and prompt conduct of the adjudicative proceedings will not be materially impaired by allowing the intervention." Utah Code § 63G-4-207(2). As explained below, each of these conditions is met.

First, there can be no dispute that Intervenor's interests will be substantially affected. RMP is seeking to construct a massive transmission line paralleling their property and over the mountain top and across the mountain side above their property. This transmission line will create noise and safety issues. It will also impact the Intervenor's economic interests. It will require them to spend substantial sums trying to mitigate the impacts of the transmission line and it will harm their property values and their ability to market their respective properties. Further,

Intervenors have a legal interest in the enforcement of Wasatch County’s zoning ordinances, including its ridgeline ordinance. And Intervenors have a right to rely on the enforcement of those ordinances or at least have the right to participate in proceedings (such as this one) seeking an exception from those ordinances. RMP cannot credibly claim this proceeding will not substantially affect Intervenors’ legal interests. In fact, RMP appears to concede in its memorandum opposing intervention that this condition is satisfied. *See* RMP’s Mem. Opp’n, at 5–8 (arguing that the interests of justice do not favor intervention because Intervenors’ interests are “adequately represented by the County” without addressing whether Intervenors’ interests will be substantially affected by this proceeding).

Second, the interests of justice are served by allowing Intervenors to participate in proceedings that directly impact their property. To determine whether intervention serves “the interests of justice” under section 63G-4-207(2)(b), the Utah Supreme Court considers a number of factors: (1) the timeliness of the intervention; (2) the extent to which intervention will increase the time and expense of the proceedings; (3) whether the party seeking to intervene participated in administrative hearings prior to the petition for review; (4) whether the intervenors’ interests are adequately represented by one of the parties; and (5) whether the agency can devise procedures to minimize the effects of any complications imposed by intervention. *See In re Questar Gas Co.*, 2007 UT 79, ¶¶ 33–37, 175 P.3d 545; *Millard County v. Utah State Tax Comm’n*, 823 P.2d 459, 463 (Utah 1991).

In *Questar Gas Co.*, for example, the Utah Supreme Court affirmed the denial of two consumers’ motion to intervene in a Utah Public Service Commission proceeding. 2007 UT 79, ¶¶ 33–37. In so holding, the court noted that the petition to intervene was filed “over a year after

the parties initiated proceedings,” during which time “the parties [had] undert[aken] much work at great expense.” *Id.* ¶ 33. The parties had retained experts, and Questar had responded to more than 400 discovery requests—work that would be unnecessarily duplicated if the consumers were allowed to intervene. *Id.* ¶¶ 33, 37. The court also observed that the consumers had not participated in any prior public hearings, and their interests as consumers were adequately represented by an agency “charged by statute with protecting consumer interests.” *Id.* ¶ 35.

In *Millard County*, by contrast, the Utah State Tax Commission denied a county’s motion to intervene based on concerns that doing so would allow political subdivisions to intervene in all tax proceedings, and thereby “create an administrative nightmare, greatly increase the costs of administering the system, clog the entire system . . . , unduly complicate all sales tax proceedings, and substantially delay the receipt of revenues.” 823 P.2d at 462. The Utah Supreme Court rejected the tax commission’s reasoning and reversed. *Id.* at 463. It noted that the county sought intervention with respect to just one tax payer, so allowing intervention would not significantly complicate the administrative process. *Id.* But even if the county had sought to intervene with respect to multiple tax payers, the court noted that the commission could devise procedures to eliminate any burdens, such as allowing one taxing agency or political subdivision to act on behalf of other similarly situated entities. *Id.* Further, the county’s motion to intervene was timely, having been filed just one month into the administrative proceedings. *Id.* at 460. The court ultimately concluded that denying intervention in such circumstances would justify denial in nearly every case and “render the intervention statute a nullity.” *Id.*

Here, unlike the consumers in *Questar*, Intervenors have filed a timely motion to intervene. RMP filed its petition for review on February 19, 2016, and Intervenors filed their

motion to intervene less than one month later on March 14, 2016. *See* Docket. As a result, granting the motion will not cause the parties to unnecessarily duplicate the costs of discovery or require the Board to essentially restart an already lengthy, ongoing proceeding. Further, unlike the consumers in *Questar*, Intervenors fully participated in the proceedings before the Wasatch County Planning Commission and Board of Adjustment, presenting written materials with supporting evidence and legal argument.² Finally, the Intervenors' interests are not adequately represented by any of the parties to this proceeding. Unlike the agency in *Questar* that was required by statute to represent the interests of the consumer intervenors (one of which was the former director of that very agency), Wasatch County has no statutory obligation to protect the property interests of Intervenors, and it certainly has no obligation to favor Intervenors' interests over Promontory's. Indeed, during the conditional use permit process, Wasatch County took several positions contrary to those presented by Intervenors, including on issues related to the standard of review for the Board of Adjustment and the interpretation of County ordinances and Utah law.³ For these reasons, each of the pertinent factors the Utah Supreme Court has outlined weigh in favor of granting Intervenors' petition to intervene in this proceeding.

RMP nevertheless argues that allowing intervention would inject unnecessary complexity into the proceeding and potentially allow intervention by "every resident of Wasatch County

² RMP asks, rhetorically, why Intervenors should be allowed to intervene when they did not intervene in the proceedings before Wasatch County. *See* RMP's Mem. Opp'n, at 8. This argument is premised on the false assumption that Intervenors could or needed to intervene in the proceedings in Wasatch County. There is no such procedure. Instead, Intervenors were allowed to argue facts and law and present written materials to Wasatch County's Planning Commission and Board of Adjustments. It is those same rights Intervenors seek now.

³ RMP's speculation that allowing Intervenors to intervene may hinder any proposed settlement between it and Wasatch County underscores this point and demonstrates that Wasatch County and Intervenors have divergent interests. *See* RMP's Mem. Opp'n, at 8.

who claims their property will suffer, lose value, or have views impaired.” *See* RMP’s Mem. Opp’n, at 8. The Utah Supreme Court rejected a strikingly similar argument in *Millard*. As discussed above, the tax commission in *Millard* unsuccessfully argued that allowing the county to intervene in one tax proceeding would effectively allow any political subdivision or taxing entity to intervene in any proceeding involving the collection of local sales taxes. *See* 823 P.2d at 463. The Utah Supreme Court allowed intervention, noting that there was a “vast difference” between the county’s interest in intervening in a tax proceeding involving a single large tax payer within its jurisdiction and “routine proceedings involving sales tax audits of all business located in that city or county.” *Id.* The court concluded that the tax proceeding was simply “not a run-of-the-mill sales tax audit case,” so to “disallow intervention in this case would justify disallowing it in every case and render the intervention statute a nullity.” *Id.*

Just as the county in *Millard* was situated differently than other taxing entities, Intervenors are not like every other landowner in Wasatch County—RMP is seeking to build a transmission line right next to, or over, their property. RMP may claim it has abandoned any design to build over Intervenors’ land, but it did submit an application for a permit to construct the transmission line across Intervenors’ property, and that application is the subject of this proceeding. *See* Ex. 1, RMP Application, at 6. Further, Intervenors (specifically the associations) represent hundreds of landowners affected by this proceeding, which is precisely the kind of arrangement the Utah Supreme Court suggested could minimize administrative burdens without undermining the right of intervention provided by the statute. *See* 823 P.2d at 463 (“In cases where a number of political subdivisions have a legitimate interest in a proceeding, the [Tax] Commission might, for example, allow one local taxing agency to act on

behalf of other similarly situated agencies if intervention and full participation of all would be unduly burdensome to the [Tax] Commission.”). If the fact that other property owners could hypothetically seek to intervene were a valid reason to deny intervention, that argument could be made in every case, and intervention would never be appropriate. As in *Millard*, accepting this argument would “render the intervention statute a nullity,” *id.*, and the Board should accordingly reject it.

RMP also argues that allowing intervention would be an “unnecessary impairment on the proceedings” and result in “duplicate efforts, and duplicate arguments by differing parties.” *See* RMP’s Mem. Opp’n, at 7. But intervenors have no interest in delaying or impeding this matter. They are interested in a quick and final resolution. Just the prospect of RMP moving the transmission line is causing them difficulty. Further, the Board has authority under the statute to limit the role of intervenors to mitigate any increased costs or duplicative efforts. *See* Utah Code § 63G-4-207(3)(b) (“An order permitting intervention may impose conditions on the intervenor’s participation in the adjudicative proceeding that are necessary for a just, orderly, and prompt conduct of the adjudicative proceeding.”). And administrative agencies have an obligation under Utah Supreme Court precedent to “devise procedures to minimize” such burdens “without undermining the right” of intervention provided by statute. *See Millard*, 823 P.2d at 463. So if the Board is concerned about specific issues, those issues can be addressed by an order. For example, the Board can place limits on Intervenor’s discovery and motion practice. There is no reason to believe Intervenor’s will abuse motion practice and discovery. They are represented by counsel and have every incentive to keep legal fees and costs to a minimum. But even if there were such a concern, the Board can limit Intervenor’s role.

For these reasons, granting Intervenors' motion would not materially impair "the interests of justice" or "the orderly and prompt conduct of the adjudicative proceedings." *See* Utah Code § 63G-4-207(2)(b). And in light of the substantial property interests that will be affected by this proceeding, justice and due process weigh heavily in favor of granting Intervenors' motion to intervene.

CONCLUSION

The Board should allow Intervenors to intervene in order to allow them to protect their property interests. There is no applicable law justifying the denial of Intervenors' request. But allowing them to participate will serve the interests of justice and due process and ensure that their legal interests and arguments are considered.

DATED the 25th day of March 2016.

BENNETT TUELLER JOHNSON & DEERE

/s/ Jeremy C. Reutzel
Jeremy C. Reutzel
Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I CERTIFY that on March 25, 2016, a true and correct copy of the foregoing was served upon the following as indicated below:

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DOCKET NO. 16-035-09

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/s/ Jeremy C. Reutzel

EXHIBIT 1

WASATCH COUNTY

APPLICATION FOR CONDITIONAL USE PERMIT

SUPPLEMENTARY INFORMATION

**Double Circuit 138 KV Transmission Line
West Side of Browns Canyon / South of Wasatch/Summit County Line
Section 36 Township 2 South Range 4 East**

Submitted by:



September 9, 2015

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Supplemental Narrative

I. Project Summary

Overview

Rocky Mountain Power (the "*Company*") is a public utility regulated by the Public Service Commission of the state of Utah. Under state regulation, the Company has an affirmative legal duty to design, construct, and maintain facilities sufficient to provide safe, reliable, adequate, and efficient electric service to its customers. In furtherance of its legal duty, the Company is constructing a new 138 kV transmission line (the "*Project*") to accommodate the significant increased demand for electricity in Wasatch and Summit Counties due to commercial and residential growth and development. The Project consists of 74 miles of transmission line between Railroad Substation near Evanston, Wyoming and the Silvercreek substation near Park City, Utah. As proposed, the a small portion of the Project will have four (4) power poles located within Wasatch County near Browns Canyon Road and Highway 248. The Project is needed to be constructed and placed in service in Fall 2016 in order to accommodate customer demand. This Conditional Use Permit application (the "*CUP Application*") seeks approval only of a small segment of the Project that is located within Wasatch County.

Background

In 2007, the Company performed studies to determine the electrical needs in Utah's Wasatch and Summit Counties; both Wasatch and Summit Counties are popular winter tourism destinations which include several world class ski resorts and host large winter events. In 2007, the Company had approximately 25,000 customers in the combined Wasatch and Summit County area, including the rapidly growing Heber Valley. Heber Light and Power, which serves many additional customers in the area, receives its power directly from the Company.

Wasatch County experiences its peak electrical load during both summer and winter months, with the winter months being the higher of the two peak periods. Peak load was identified as load that exceeds 160 megavolts-amps. The studies also identified that, when the power supply to the Wasatch County experiences an N-1 occurrence (meaning that the system is not functioning optimally, due to any number of causes), Wasatch County has no reliable power transformer backup. Due to these factors and in order to protect the area's electrical system from experiencing a cascading event across the power grid, these areas are operated "radially," with each area being fed from a single source, which can cause what is referred to as "rolling brown outs." To clarify, Wasatch County is currently served by two transmission lines, one through Parleys Canyon and one from Provo Canyon. In the event one of those transmission lines was unavailable for service during peak load, the Company would be required to implement rolling brown outs in order to maintain service. Recent studies show peak load in the winter of 2013-2014 was 183 megavolts-amps, which is 114 percent of the winter limit of both major transmission feeds to the area. Following these studies, it was determined that the Company must take action to correct these issues and build a more reliable power supply for both Wasatch and Summit Counties. To be clear, the Company's actions are based on its obligations as a publicly regulated utility to provide safe, reliable, adequate, and efficient electric transmission service to its customers, and in response to increasing demand for electricity.

How to Correct the Problem

To correct these area-wide electrical issues and provide much needed reliability, the Company developed a systematic improvement plan. The first phase of this plan includes upgrading 74 miles of 46kV transmission line to 138kV line. This transmission line runs from the existing Railroad Substation (Evanston, Wyoming) to the Silvercreek Substation (Park City, Utah). The upgrade includes building a new transmission substation in Croydon, Utah, and expanding the Coalville Substation (Coalville, Utah), Silvercreek Substation (Park City, Utah) and Railroad Substation (Evanston, Wyoming). Work will also include the removal of three small substations located across the total transmission line project.

The second phase of the plan will consist of an 8 mile 138kV transmission line from the Midway Substation (Midway, Utah) to the Jordanelle Substation (North of Heber, Utah). Of these eight miles, approximately 3.5 miles are located within Wasatch County. When completed, these upgrades will eliminate the current reliability issues impacting customers (including Heber Light & Power as a wholesale customer) in Wasatch County, as well as Summit County and surrounding communities. The upgrade will also provide residents in Wasatch County with additional capacity for the future growth and development that has been documented and planned by Wasatch County in its general plan. Reliable electricity cannot be afforded to the future growth and development identified by Wasatch County without these transmission line improvements.

Benefits

Construction of the Project is necessary for the following reasons:

- Increased the safety, reliability, adequacy and efficiency of electric service to customers within Wasatch County , as well as service to the Company's customers in Summit County and surrounding counties.
- Elimination of cascading power outages in Wasatch County as well as Summit County and surrounding areas, and
- Allows for Wasatch County area load be returned to a reliable looped configuration during peak periods, rather than a radial feed.

Additional benefits include:

- Correct low voltage issues currently being experienced by both Wasatch and Summit County large industrial customers including Mountain Regional Water, Utlite, Weber Basin Water, and others.
- Upgrades will also benefit neighboring Morgan County and its customers.
- The upgrades align with the area master plan to provide a 138kV loop between the Ogden, Morgan County, Summit and Wasatch County areas which provides future increased reliability and load serving capabilities within Utah.
- The Project also allows an additional path for moving resources from electric-generation rich areas such as Wyoming to service areas within Utah, including Wasatch County as well as Summit County and surrounding areas.

Schedule and Timeline

Completed

- Railroad Substation (Evanston, Wyoming) – 2012
- Railroad to Devils Slide (Morgan, Utah) – 2013
- Devils Slide to Croydon (Morgan, Utah) – 2014

In Progress

- Croydon Substation – Scheduled in-service September 2015
- Coalville Substation (Coalville, Utah) to Croydon – Schedule In-service December 2015

In Permitting

- Coalville to Oakley Tap (Peoa, Utah) – Permitting underway, desired in-service Summer 2016
- Oakley Tap to Silvercreek (Park City, Utah) - Permitting underway, desired in-service Fall 2016

Conditional Use Application Background and Transmission Line Alignment Alternatives

On January 23, 2015, the Company submitted an application for a Conditional Use Permit (the "**Initial CUP Application**") to allow for the construction of a double circuit 138kV transmission line as depicted on a proposed Option 1 Plan (the "**Option 1 Plan**") (See [Appendix 1](#)). The Wasatch County Planning Staff (the "**Staff**") issued a Planning Commission Staff Report (the "**Staff Report**") (See [Appendix 2](#)) providing its recommendations and findings on the proposal, which was discussed at a hearing before the Planning Commission on March 12, 2015 (See [Appendix 3](#)). The proposal was continued to allow for further discussions among interested parties. Thereafter, the Company participated in several meetings with the County and interested stakeholders to present and discuss the need for the transmission line, alternative transmission line routes and concerns expressed by the County and interested parties. Through the course of these meetings, the Company thoroughly substantiated the need for the new transmission line to provide safe, reliable, adequate, and efficient delivery of electricity to the Company's customers, Wasatch County as well as Summit County and surrounding areas.

On August 13, 2015, the Company appeared before the Planning Commission and requested the hearing be continued to allow for further discussions with the County, to address what the Company believed were inaccuracies in the Staff Report, and to requested consideration and input from the County regarding alternative route alignments. Despite the Company's request, the Planning Commission moved for a vote on the Initial CUP Application without further discussion, at which point the Company elected to withdraw the application. The application was withdrawn with the express purpose of seeking additional opportunity find a mutually agreeable resolution.

As of the date hereof, the Company now files the CUP Application seeking the approval to construct a double circuit 138kV transmission line as depicted on the Option 1 Plan (See [Appendix 1](#)). Under the Option 1 Plan, four (4) power poles would be located within Wasatch County. The proposed route for the Option 1 Plan was selected by the Company through its

normal and customary transmission line siting practices and procedures, after evaluating several alternative alignments, and represents the alignment and design the Company would construct in compliance with local regulations as imposed on similar land uses and which do not impair the ability of the Company to provide service to its customers in a safe, reliable, adequate and efficient manner. Utah Code Ann. § 54-14-103(9)(b). Therefore, the Option 1 Plan constitutes the measure for “standard cost” of the required facility. Utah Code Ann. § 54-14-103(9)(a). The estimated cost of the Option 1 Plan for the segment within Wasatch County is Five Hundred Thousand Dollars (\$500,000.00).

In response to concerns expressed previously by the County regarding the Option 1 Plan, the Company has evaluated several alternative alignments for the proposed transmission line, and outlines three of those alignments in this application for the County’s consideration.

The Option 2 Plan, as depicted in Appendix 4, follows the Option 1 alignment. Option 2 Plan takes into consideration comments provided by Staff during the Initial CUP Application process and complies with the Ridgeline Regulations, as interpreted by Staff, by not breaching the ridgeline. Option 2 preserves the initial proposed centerline, but adjusts the heights and configurations of the proposed pole schematics in order to remain below the ridgeline. While this option remains below the ridgeline it nevertheless imposes a greater base impact on the ground and increases the visual impact against elevation of the adjacent ridge. Furthermore, the Company notes that it will be required to work with the underlying property owner to seek a modification to the existing easement of record in order to accommodate the wider base of the proposed pole schematics.

The Option 3 Plan, as depicted on Appendix 5, provides for the underground of the 138 kV facilities through the area of Browns Canyon within Wasatch County. The underground facilities would replace the overhead facilities located within Wasatch County only. The adjoining overhead facilities located within Summit County will remain above ground. The estimated cost of the Option 3 Plan is Six Million Eight Hundred Thousand Dollars (\$6,800,000.00). It is important to note that such estimate is based on preliminary data only and may increase depending geotechnical evaluation or other unknown conditions.

The Browns Canyon Road Option, as depicted in Appendix 6, provides for a transmission line alignment along Highway 248 and Browns Canyon Road. Similar to the undergrounding alternative, this option is not preferred. The Browns Canyon Road Option will require the installation of sixteen (16) power poles within the roadway rights-of-way along Highway 248 and Browns Canyon Road. The estimated cost of the Browns Canyon Road Option is Three Million Three Hundred and Fifty Thousand Dollars (\$3,350,000), excluding any costs associated with rights-of-way acquisition, which may be significant.

This CUP Application is hereby submitted requesting approval of the Option 1 Plan. The Company, however, could also construct the Option 2 alternative within the scope of the proposed Project. The Option 3 Plan and the Browns Canyon Road Plan could both be constructed in compliance with the County’s local land use regulations and ordinances, and would fulfill the need for the Project to provide safe, reliable, adequate, and efficient electric transmission service to the Company’s customers. Therefore, the Company invites the County to evaluate whether the Option 3 Plan and the Browns Canyon Road Plan is preferred by the

County, with the understanding that the excess costs associated with either of these two alternative facilities over the "standard cost" of the Option 1 or Option 2 Plans will be the responsibility of the County. Utah Code Ann. § 54-14-201(2).

II. Wasatch County Local Regulatory Compliance

During the Initial CUP Application process, the Company demonstrated the Option 1 Plan's compliance with the County's local land use requirements, ordinances and General Plan, as well as compliance with the Company's obligation to provide safe, reliable, adequate and efficient electric service to its customers. The following information was previously submitted in support of the Initial CUP Application, and is herein resubmitted in support of this application.

Ridgeline/View Shed Regulations and Impact Analysis

The purpose of Wasatch County Ordinance Section 16.27.22 - Ridgeline/View Shed Regulations (the "Ridgeline Regulations") is to "...*protect the valuable views of the ridgelines of Wasatch County by providing regulations, which will limit the building of structures that protrude above primary and secondary ridgelines, or will mitigate the appearance of such structures if prevention is not possible.*" The application of these regulations is to "...*all land use applications in Wasatch County for which any portion of a proposed structure protrudes above ridgelines when viewed from the designated viewing platforms...*"

In the Staff Report, an assertion was made that the Company's proposal violates the Ridgeline Regulations by "*protruding above significant ridgelines.*" The Company disagrees that there is a complete prohibition of any pole "protruding above [a] ridgeline." As written, the Ordinance merely states that its purpose is to "limit" the building of "structures" that protrude above the ridgeline. Limiting is not synonymous with prohibiting. Indeed, the Ordinance goes on to provide that in the event such protrusion is impossible to prevent, the County will mitigate the appearance of the protrusion. On its face this language acknowledges that there will be instances, as are currently instances in the County, when structures will protrude above ridgelines. Accordingly, the Company urges the Commission to reject any interpretation of the County ordinances which outright prohibits any and all construction of any kind above a ridgeline.

Furthermore, a broad application of the regulations by inclusion of a "utility pole" within the definition of "structure" does not appear to be consistent with the remaining language of this section. The Ridgeline Regulations, by their own terms, are designed to address subdivisions, housing projects, and large scale commercial infrastructure. Their terms speak of lot construction, "building envelope locations", and the like. The Ridgeline Regulations are silent as to electrical facilities, including poles. Clearly, it is not appropriate to include poles within the definition of a "structure."

As such, the Company disagrees with Staff's previous position during the Initial CUP Application process that the proposed Option 1 Plan violates the Ridgeline Regulations. While the Option 1 Plan does depict single pole line visibility above the ridgeline in four (4) isolated locations, the Company believes that the overall elevation of the ridgeline view shed is better

preserved in the Option 1 Plan than in comparison with all other alternatives, including the Browns Canyon Road Option. As previously stated, the Company is also open to consider reasonable mitigation consistent with the purpose and intent of the language in the Ridgeline Regulations and in fact has designed the Project to use materials such as nonreflecting conductor, minimized pole height, etc., to mitigate and minimize the extent possible the visual effects of the line.

Notwithstanding the forgoing, and in an effort to respond to Staff's comments on the Initial CUP Application and the Option 1 Plan, the Company proposes the Option 2 Plan, the Option 3 Plan and the Browns Canyon Road Plan.

Compliance with Ordinance and General Plan

As provided in the Staff Report, Section 16.23.07 of the Ordinance requires the Planning Commission to find the following:

1. The application complies with all requirements of Title 16.

The Company has provided four (4) plan options in compliance with the Ridgeline Regulations.

2. The business shall maintain a business license if required.

Staff has noted in the Staff Report that this requirement is not applicable. Notwithstanding this position by Staff, the Company has the appropriate agreements in place for compliance with all state, county and municipal business regulations.

3. The use will be compatible with surrounding structures in use, location, scale, mass, design and circulation.

Staff previously suggested that the proposal may not be compatible with the adjacent development due to the visibility of the poles above the residential structures. The Company disagrees with Staff's recommendation to the Planning Commission on this issue. While the height of the poles will be visible above the residential structures, the Company notes that the visibility of utility poles above residential structures is a standard physical occurrence in developments around Wasatch County and throughout the state. Also, the placement of the poles along open space corridors is also not only an industry standard, but a development standard nationally. More importantly, the pole height is necessary to meet industry and state safety, reliability and efficiency standards, and regulations, with which the Company must comply. In the Company's view, the Staff's recommendation on this point is not only unreasonable and impractical, but unrealistic and unsustainable.

Considering existing development within the County, the proposed use is consistent with the scale of pole heights and distances adjacent to other residential developments within the County. As a reference, there is a development across Hwy 248 being constructed adjacent to existing double circuit 138kV and 46kV transmission lines at a distance of approximately 130 feet from the corner transmission line structure. The Stillwater development and Fox Bay condominium developments are also similar in distance and scale to adjacent pole structures. (See Appendix 7) Lastly, the Company has previously offered and is willing to incorporate strategic vegetation in an effort to mitigate the visual impact and provide compatibility with the adjacent residential development. To date, all of the Company's offers to provide additional mitigation have been rejected by the County.

4. The visual or safety impacts caused by the proposed use can be adequately mitigated with conditions.

All three options proposed by the Company provide alternative options in mitigating visual impacts, which also meet the County's Ridgeline Regulations. The Company is also willing to discuss material, color and vegetation treatments to further mitigate any visual impacts. The proposed use meets all safety regulations and standards within the industry.

5. The use is consistent with the Wasatch County General Plan.

The Company has provided three (3) plans to consider for a proposed use that are each consistent with the mission statement of the General Plan in seeking to enhance the quality of life for County residents, visitors and the business community by providing required electrical infrastructure and reliability. The General Plan addresses various public facilities and services such as water, sewer and other types of development infrastructure; however, it is silent on specific criteria relative to electrical infrastructure. In promoting development consistent with the General Plan, safe, efficient and reliable power and electricity is necessary. The Project is being provided to support the local communities and will provide critical infrastructure and redundancy to support residents and citizens of the County, as well as surrounding counties and the state of Utah. The proposed use, as depicted in each option plan, is consistent with Section 1.1.2 of the General Plan as it preserves the ridge lines viewed from the State Roads or County arterial and collector roads. Option 1 preserves a greater width and base of the overall ridge view by using the fewest number of poles in the design and Option 2 provides a design that preserves the view of the ridgeline by keeping the structures from protruding above it.

6. The effects of any future expansion in use or scale can be and will be mitigated through conditions.

The Company understands that any change or expansion to the proposed use would require a new conditional use permit application and be subject to the Planning Commission's approval. This project has been designed to meet the current and projected needs of Summit and Wasatch Counties. The Company notes that no future expansion is anticipated at this time based upon current projected population and development within the County and surrounding areas.

7. All issues of lighting, parking, the location and nature of the proposed use, the character of the surrounding development, the traffic capacities of adjacent and collector streets, the environmental factors, such as drainage, erosion, soil stability, wildlife impacts, dust, odor noise and vibrations have been adequately mitigated through conditions.

Staff has indicated in their Staff Report that compliance with the Ridgeline Regulations was the only issue relative to this requirement. The Company believes it has submitted plan options that are compliant with the Ridgeline Regulations. While Staff has not raised any other concerns of compliance with this requirement, the Company notes that any relative noise would be compatible with adjacent development. (See Appendix 8)

The Company has reviewed the impact of the proposed use on the environment, wildlife and soils. A copy of the Geotechnical Report that was initially provided to the Planning Director in January of 2015 is provided as a formal supplement to the application. (See Appendix 9)

8. The use will not place an unreasonable financial burden on the County or place significant impacts on the County or surrounding properties without adequate mitigation of those impacts.

A large scale study review by CH2MHill shows minimal initial impacts and no long term detrimental impacts to property values. In some cases there is a positive impact when transmission lines are adjacent to a development. (See Appendix 10)

The Company notes that without electrical infrastructure property could actually be valued less. Safe, reliable power supplied to developments and residents impacts the overall tax base for the County and complies with the goals and policies of the County General Plan.

9. The use will not adversely affect the health, safety or welfare of the residents and visitors of Wasatch County.

Staff suggests in the Staff Report potential negative effects of power lines on adjacent residential homes due to presence of electromagnetic fields.

The magnetic fields that are present around proposed transmission line wires are insignificant, due in part to their distance from people on the ground. The weak magnetic

fields decay quickly with distance from the wire. According to national studies, the proposed use is far below recommended exposure limits for the general public. Indeed, this particular project will have fields only 1/10th of the allowed recommended limits. On page 47 of the included EMF RAPID report generated by the National Institute of Environmental Health Sciences and the National Institutes of Health, the general public exposure limit is 833mG. (See Appendix 11) Yet, the anticipated initial loading is projected to create a field of only 64mG. To reach the higher limit would take several years of load growth and even at that point the calculated maximum load, considering direct proximity adjacent to the pole, would be 78mG -- well below 1/10th of the exposure threshold. Accordingly, the Company believes that the proposed use would not adversely affect the health, safety or welfare as the anticipated limits are significantly less than the regulated limit of the industry.

In addition, the proposed use meets the strict criteria of the National Electric Safety Code, which is published by the International Electrical and Electronic Engineering society (IEEE) in conjunction with other institutes like American National Standards Institute (ANSI) that have developed several standards and design criteria that govern the electrical equipment industry including the equipment utilities use. The proposed use also meets the requirements of the Western Electricity Coordinating Council (WECC) Standards for reliability. The WECC is an approved corporation by the Federal Energy Regulatory Commission to maintain reliability of the western interconnection area.

Community Coordination / Meeting Efforts

Throughout the Initial CUP Application process, the Company was in continual communication with interested parties, including Summit and Wasatch Counties and adjacent landowners. A timeline of events and summary of minutes and meeting efforts by the Company during the Initial CUP Application process is included with this supplemental information. (See Appendix 12).

Additionally, on July 29, 2015, the Company submitted mailing envelopes to re-notice property owners of the Company's plans regarding the Project. In response to a request from adjacent concerned parties, the Company expanded such notice to include all property owners in attendance at the May 2015 Planning Commission hearing, though not required by local or state law. (See Appendix 13). The Company will continue to communicate and work closely with interested parties, including the Counties, throughout the current CUP Application process and during construction of the Project.

Significantly, the Company has also obtained a letter of support from Heber Light & Power Company, highlighting the importance of the Project for Wasatch County. (See Appendix 14).

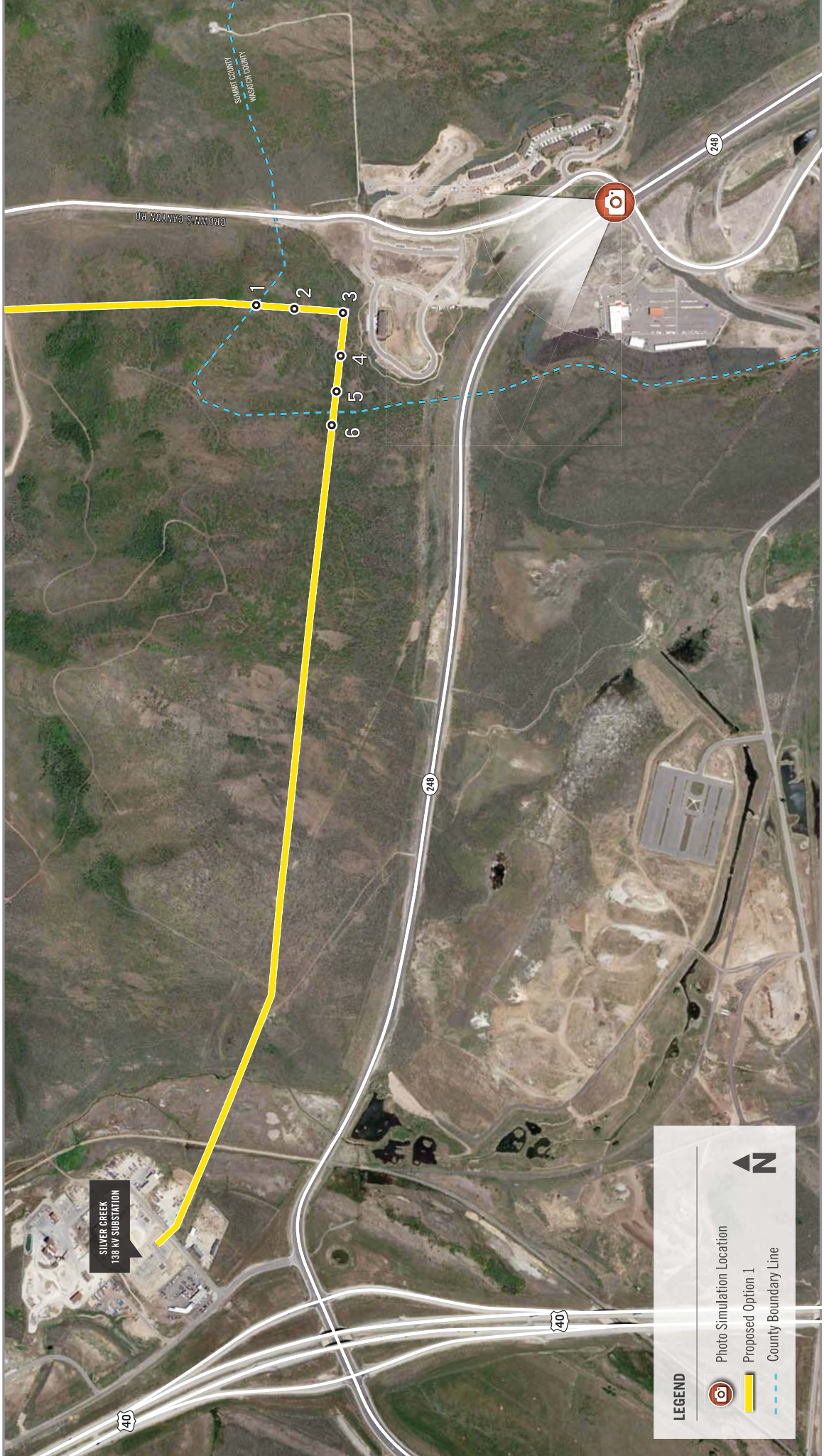
III. Conclusion

The Company has an affirmative legal duty to design, construct, and maintain facilities sufficient to provide safe, reliable, adequate, and efficient electric service to its customers within Wasatch County and throughout the state of Utah. In addition, as a regulated utility, the Company must meet minimum reliability standards for its electrical service. Due to increasing electricity demand in Wasatch and surrounding areas, the Project must be constructed to maintain the reliability of the Company's system in these areas, and to provide safe, adequate and efficient electric service to the Company's customers. With this need in mind, the Company has thoughtfully and carefully planned and designed the Project to meet the demand and load growth that has occurred in Wasatch County, and expected future load growth, while at the same balancing the interests of the environment, community and the Company's customers by minimizing the impact of the Project to the extent reasonably possible.

With the submittal of the CUP Application, including this supplemental filing, the Company believes the CUP Application is complete, and in full compliance with the County's requirements, ordinance, General Plan, and state land use law. Accordingly, the Company requests the County approve the CUP Application. The Company remains willing to meet with the County and interested parties to discuss additional reasonable mitigation stipulations that would allow for the approval of the CUP Application.




Finally, the Company thanks the Commission and its Staff for their time and efforts to understand the issues and needs surrounding the Project.

Appendix 1 Option 1 Plan



SILVER CREEK
138 kV SUBSTATION

LEGEND

-  Photo Simulation Location
-  Proposed Option 1
-  County Boundary Line




PHOTO SIMULATION OPTION 1
LOCATION MAP

**COALVILLE TO SILVER CREEK
138kV TRANSMISSION LINE**

OPTION 1 SUBMITTED WITH PREVIOUS CONDITIONAL USE PERMIT



EXISTING CONDITIONS

TIME: 8:54 AM
DATE: 4/9/2015
LOOKING: NORTHWEST



PROPOSED CONDITIONS



Photo simulations are for discussion purposes only. Final design may change pending public and regulatory review.

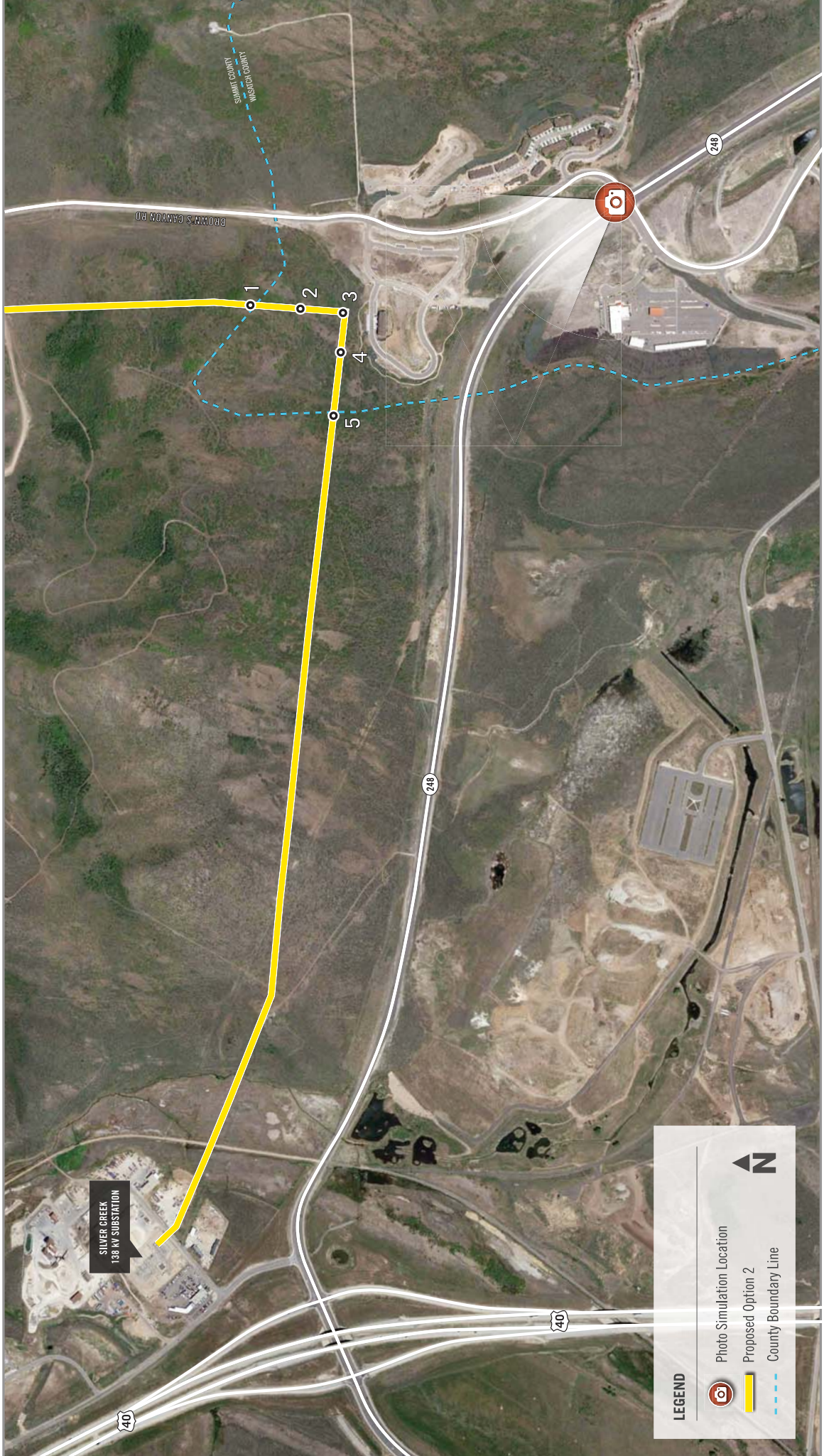
OPTION 1 SUBMITTED WITH PREVIOUS CONDITIONAL USE PERMIT



**COALVILLE TO SILVER CREEK
138kV TRANSMISSION LINE**

PHOTO SIMULATION
OPTION 1

Appendix 4
Alternative Plan - Option 2



**COALVILLE TO SILVER CREEK
138kV TRANSMISSION LINE**

**PHOTO SIMULATION OPTION 2
LOCATION MAP**



EXISTING CONDITIONS

TIME: 8:54 AM
DATE: 4/9/2015
LOOKING: NORTHWEST



PROPOSED CONDITIONS

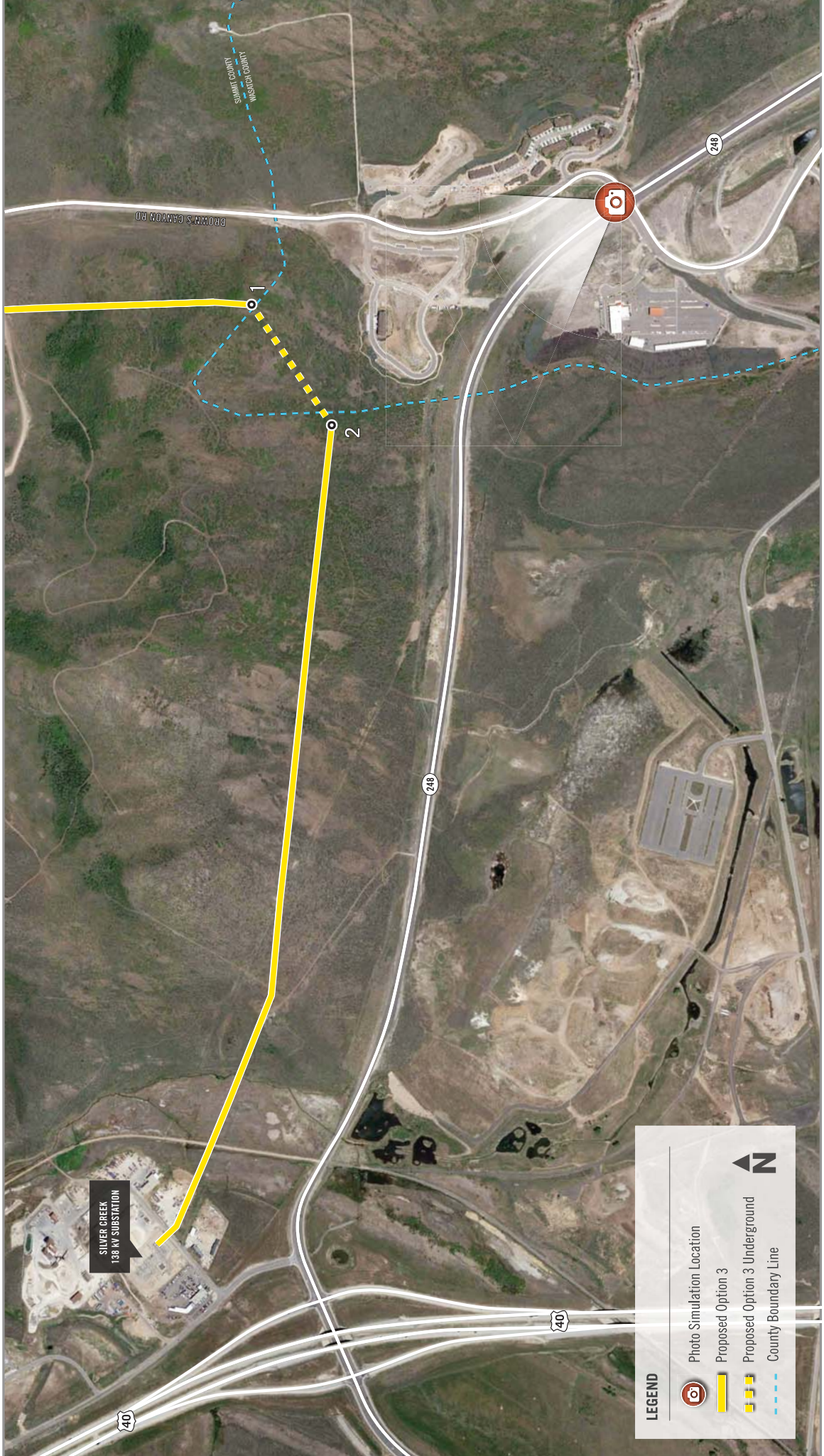


Photo simulations are for discussion purposes only. Final design may change pending public and regulatory review.

**COALVILLE TO SILVER CREEK
138kV TRANSMISSION LINE** | PHOTO SIMULATION
OPTION 2



Appendix 5
Alternative Plan - Option 3








**SILVER CREEK
138 kV SUBSTATION**

BROWN'S CANYON RD

SUMMIT COUNTY
WHEELER COUNTY

LEGEND

-  Photo Simulation Location
-  Proposed Option 3
-  Proposed Option 3 Underground
-  County Boundary Line



COALVILLE TO SILVER CREEK 138kV TRANSMISSION LINE

PHOTO SIMULATION OPTION 3 LOCATION MAP



EXISTING CONDITIONS

TIME: 8:54 AM
DATE: 4/9/2015
LOOKING: NORTHWEST



PROPOSED CONDITIONS



**COALVILLE TO SILVER CREEK
138kV TRANSMISSION LINE**

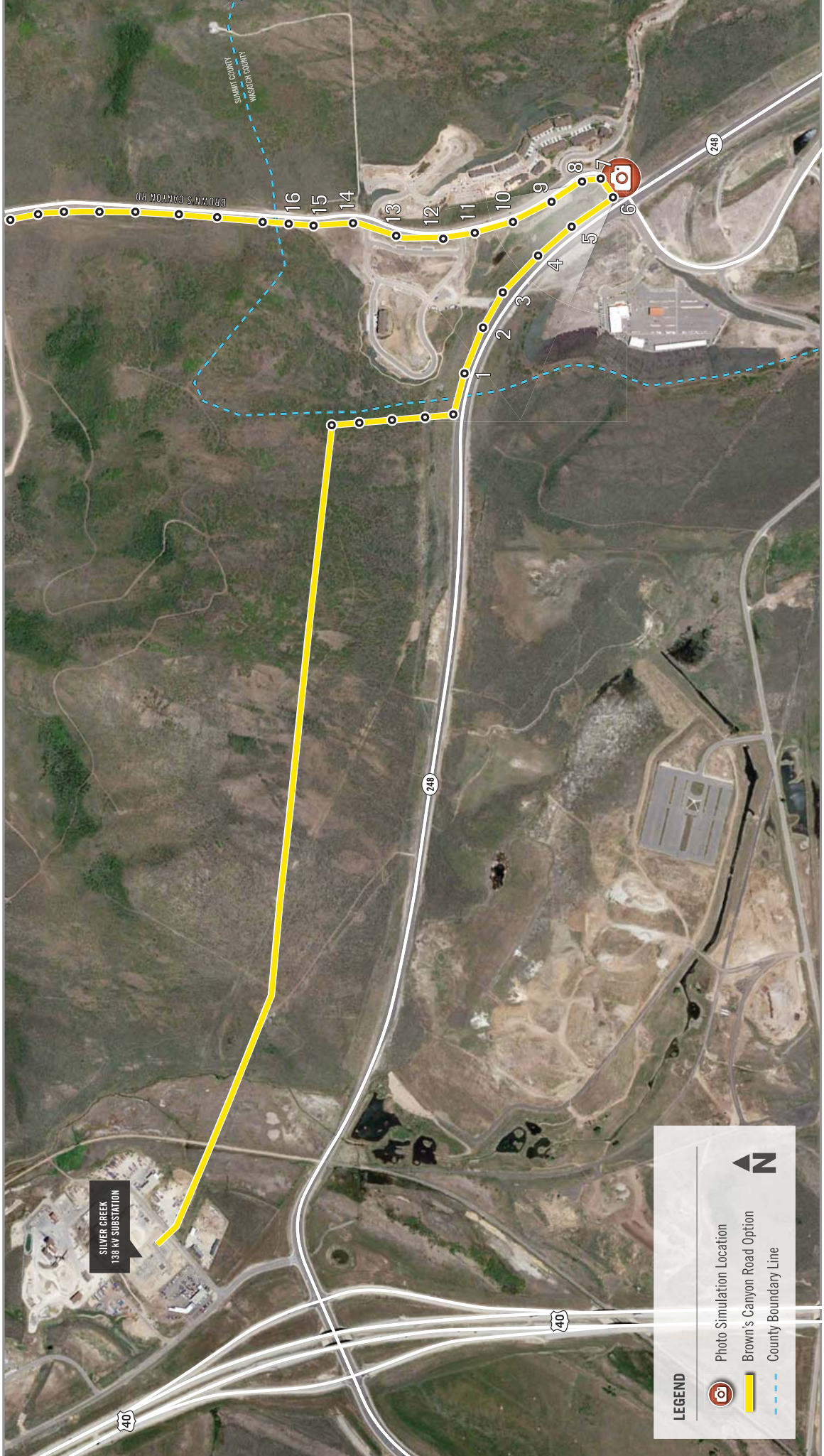
PHOTO SIMULATION
OPTION 3



Photo simulations are for discussion purposes only. Final design may change pending public and regulatory review.

Appendix 6

Alternative Plan - Browns Canyon Road Option



LEGEND

- Photo Simulation Location
- Brown's Canyon Road Option
- County Boundary Line

**COALVILLE TO SILVER CREEK
138kV TRANSMISSION LINE**

**BROWN'S CANYON ROAD OPTION
VIEWPOINT 2 LOCATION MAP**



EXISTING CONDITIONS

TIME: 8:50 AM
DATE: 4/9/2015
LOOKING: NORTHWEST



PROPOSED CONDITIONS



**BROWN'S CANYON ROAD OPTION
VIEWPOINT 2 PHOTO SIMULATION**

**COALVILLE TO SILVER CREEK
138KV TRANSMISSION LINE**



Photo simulations are for discussion purposes only. Final design may change pending public and regulatory review.

EXHIBIT 2



August 6, 2015

To whom it may concern,

Bank of American Fork has provided construction financing on several units in the Black Rock Ridge project in Wasatch County. It has come to our attention that there is a proposal to install power lines that would cross over a portion of this project. We have found that power lines often reduce value and make the sale of units difficult. This may effect Bank of American Fork's ability to finance these units. There has been other instances in which Bank of American Fork has declined financing and power lines was one of the deciding factors.

Thank you,



Bret Bushman
Vice President