

The Order of the Court is stated below:
Dated: July 28, 2016 11:25:45 AM

/s/ ANDREW H. STONE
District Court Judge



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Attorneys for Plaintiff

I CERTIFY THAT THIS IS A TRUE COPY
OF AN ORIGINAL DOCUMENT ON FILE
IN THE THIRD JUDICIAL DISTRICT COURT, SALT
LAKE COUNTY, STATE OF UTAH.
DATE:
[Signature]
DEPUTY COUNTY CLERK
SALT LAKE CITY

IN THE THRID JUDICIAL DISTRICT COURT
IN AND FOR SALT LAKE COUNTY, STATE OF UTAH

UTAH DEPARTMENT OF
TRANSPORTATION,

Plaintiff,

vs.

PACIFICORP, an Oregon Corporation, dba
Rocky Mountain Power, successor in interest
to Utah Power and Light, a Maine Corporation,

Defendant.

ORDER OF IMMEDIATE
OCCUPANCY, PENDENTE LITE

Project No. S-0154(70)1
Parcel Nos. 111:A, 2A, C, 2C, E, 2E

Affecting Tax Id. Nos: 33-01-200-003,
33-01-200-044, 33-01-200-045

Civil No. 160904367

Judge Andrew H. Stone

Discovery Tier 3

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08/11/2016 09:41 AM #0.00
Book - 10462 Ps - 7275-7284
GARY W. OTT
RECORDER, SALT LAKE COUNTY, UTAH

UT-DEPT OF TRANSPORTATION
BOX 140420 ATT: JASON HENLEY
SLC UT 84114-8420
BY: SSR, DEPUTY - 01 10 P.

Plaintiff Utah Department of Transportation's ("UDOT") Motion for Order of Immediate Occupancy, Pendente Lite, having been submitted for decision and the Court having reviewed the Motion and supporting memorandum in support thereof, the Stipulation for Immediate Occupancy executed on behalf of Defendant PacifiCorp, dba Rocky Mountain Power and the pleadings and papers including the Declaration of Lyle McMillan, filed herein, and for good

cause appearing,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. Plaintiff's Motion for Immediate Occupancy is granted.
2. The Plaintiff Utah Department of Transportation is an agency of the State of Utah with the power of eminent domain.
3. The Plaintiff Utah Department of Transportation is entitled to condemn the property which is the subject of this lawsuit.
4. The public use for which the power of eminent domain is being exercised in this matter is for highway and highway-related purposes authorized under Utah Code Ann. §§ 72-5-101 et. seq. and 78B-6-501 et. seq.
5. Pursuant to Utah Code Ann. Section 78B-6-510(2), the Court has taken proof by Declaration that:
 - (a) UDOT's approved appraised value of the premises sought to be condemned is in the amount of \$431,000;
 - (b) UDOT's appraisal determined that there are no severance damages to the remaining property; and,
 - (c) the subject property is necessary for the transportation needs of Salt Lake County, to provide a safe means of travel and that UDOT requires speedy occupancy of said premises to avoid the waste of public resources associated with project interruptions and delay.
6. The Plaintiff has deposited with the Clerk of the Court the appraised value in the sum of \$431,000 for the purposes set forth in Utah Code Ann. § 78B-6-510.

7. The Plaintiff, its contractors, assignees and permittees are granted the right to immediate occupancy of the following premises, pendente lite, and to do whatever construction, relocation of utilities, and other work thereon as may be required in furtherance of the project described in Plaintiff's Complaint in Eminent Domain as follows:

Parcel No. 0154:111:A

A parcel of land in fee situate in the SW1/4NE1/4 of Section 1, T.4S., R.1W., S.L.B.&M. Said parcel of land is described as follows:

Beginning at the northwest corner of said entire tract in the southerly right of way line and no-access line of the existing highway State Route 154 which corner is 104.30 feet S.89°58'51"E. along the north line of said Section 1 and 1,377.74 feet South from the North Quarter Corner of said Section 1, said corner is also approximately 75.00 feet radially distant southerly from the Bangerter Highway Control Line opposite engineer station 178+97.96; and running thence easterly along the arc of a 2,221.59-foot radius non-tangent curve to the right along said southerly right of way and no-access line concentric with said control line (Note: center bears S.06°18'11"E.) 237.39 feet through a delta of 06°07'20" (Note: chord to said curve bears N.86°45'29"E. for a distance of 237.27 feet) to the northeast corner of said entire tract; thence S.35°54'36"W. 68.53 feet along said easterly boundary line to a point in a 2,166.59-foot radius non-tangent curve to the left, concentric with and 130.00 feet radially distant southerly from said control line (Note: center bears S.01°14'54"E.); thence westerly along the arc of said curve 241.57 feet through a delta of 06°23'18" (Note: chord to said curve bears S.85°33'27"W. for a distance of 241.44 feet) to a point in the westerly boundary line of said entire tract; thence N.35°54'36"E. 75.05 feet along said westerly boundary line to the point of beginning.

The above described parcel of land contains 13,169 square feet or 0.302 acre in area, more or less.

(Note: All bearings in the above description equal highway bearings.)

Excepting and reserving therefrom the continued and perpetual right to access, operate, maintain, repair inspect, relocate, and replace its overhead electric power lines, including all other appurtenant overhead or underground structures, anchors, and equipment, including communication circuits, fibers, cables, and related equipment and such equipment or similar equipment that may be installed by Rocky Mountain Power or its licensees and assigns, and to maintain the area free from any and all hazards, including trees and vegetation, and uses injurious to the operation of its power lines, without payment to UDOT; provided, however, that Rocky Mountain Power or its licensees shall be required to obtain such permits and other approvals as may be required by federal or state statute and UDOT's rules.

Rocky Mountain Power shall have the continued right for itself and its licensees,

successors and assigns, of reasonable access to and from the state highway to repair its facilities, subject to the provisions of Utah Admin. Code R930-7 and other relevant UDOT rules or permit instructions, but without prior permission in the event of an emergency or equipment failure or other failure resulting in an outage. However, Rocky Mountain Power must contact UDOT concerning the emergency entry upon the UDOT right of way

The rights being acquired by the Utah Department of Transportation expressly include any and all rights appurtenant to the remaining property of Rocky Mountain Power by reason of the location thereof with reference to Bangerter Highway, including, without limiting the foregoing, all rights of ingress to or egress from said remaining property contiguous to the lands hereby conveyed to or from said highway.

Parcel No. 0154:111:2A

A parcel of land in fee situate in Governmental Lot 2 of Section 1, T.4S., R.1W., S.L.B.&M. Said parcel of land is described as follows:

Beginning at the southwest corner of said entire tract, which corner is 220.03 feet S.89°58'51"E. along the north line of said Section 1 and 1,217.74 feet South from the North Quarter Corner of said Section 1, said point is also approximately 75.00 feet radially distant northerly from the Bangerter Highway Control Line opposite engineer station 180+26.42; and running thence N.35°54'38"E. 25.03 feet along said westerly boundary line to a point in a 2,2391.09 foot radius non-tangent curve to the right, concentric with and 94.50 feet radially distant northerly from said control line (Note: center bears S.02°43'14"E.) 113.54 feet through a delta of 02°43'14" (Note: chord to said curve bears N.88°38'23"E. for a distance of 113.52 feet) to a parallel line 94.50 feet perpendicularly distant northerly from said control line opposite engineer station 181+50.60; thence East 115.63 feet along said parallel line to a point in the easterly boundary line of said entire tract; thence S.35°54'38"W. 24.08 feet along said easterly boundary line to the existing highway State Route 154 northerly right of way and no-access line; thence West 101.51 feet along said northerly right of way and no-access line to the beginning of a 2,371.59-foot radius curve to the left; thence westerly along the arc of said curve 128.24 feet through a delta of 03°05'53" (Note: chord to said curve bears S.88°27'03"W. for a distance of 128.22 feet) to the point of beginning.

2,391.09

The above described parcel of land contains 4,475 square feet or 0.103 acre in area, more or less. (Note: All bearings in the above description equal highway bearings.)

Excepting and reserving therefrom the continued and perpetual right to access, operate, maintain, repair inspect, relocate, and replace its overhead electric power lines, including all other appurtenant overhead or underground structures, anchors, and equipment, including communication circuits, fibers, cables, and related equipment and such equipment or similar equipment that may be installed by Rocky Mountain Power or its licensees and assigns, and to maintain the area free from any and all hazards, including trees and vegetation, and uses injurious to the operation of its power lines, without payment to UDOT; provided, however, that

Rocky Mountain Power or its licensees shall be required to obtain such permits and other approvals as may be required by federal or state statute and UDOT's rules.

Rocky Mountain Power shall have the continued right for itself and its licensees, successors and assigns, of reasonable access to and from the state highway to repair its facilities, subject to the provisions of Utah Admin. Code R930-7 and other relevant UDOT rules or permit instructions, but without prior permission in the event of an emergency or equipment failure or other failure resulting in an outage. However, Rocky Mountain Power must contact UDOT concerning the emergency entry upon the UDOT right of way.

The rights being acquired by the Utah Department of Transportation expressly include any and all rights appurtenant to the remaining property of Rocky Mountain Power by reason of the location thereof with reference to Bangerter Highway, including, without limiting the foregoing, all rights of ingress to or egress from said remaining property contiguous to the lands hereby conveyed to or from said highway.

Parcel No. 0154:111:C

A parcel of land in fee situate in the Governmental Lot 2 of Section 1, T.4S., R.1W., S.L.B.&M. Said parcel of land is described as follows:

Beginning at a northwest corner of said entire tract in the southerly right of way line of the existing 13490 South Street which corner is 644.17 feet S.89°58'51"E. along the north line of said Section 1 and 631.89 feet South from the North Quarter Corner of said Section 1, said corner is also approximately 36.00 feet perpendicularly distant southerly from the 600 West Street control line opposite engineer station 386+32.96; and running thence S.89°49'22"E. 226.67 feet along said southerly right of way line to a northeast corner of said entire tract; thence S.35°54'38"W. 20.94 feet along said easterly boundary line to a line parallel with and 53.00 feet perpendicularly distant southerly from said control line; thence N.89°49'22"W. 72.40 feet along said parallel line to a point opposite engineer station 387+75.00; thence S.84°28'00"W. 85.42 feet to a line parallel with and 61.50 feet perpendicularly distant southerly from said control line opposite engineer station 386+90.00; thence N.89°49'22"W. 50.00 feet along said parallel line to a point opposite engineer station 386+40.00; thence N.84°06'44"W. 23.80 feet to a point in the westerly boundary line of said entire tract which point is 59.13 feet perpendicularly distant southerly from said control line; thence N.35°54'38"E. 28.50 feet along said westerly boundary line to the point of beginning.

The above described parcel of land contains 4,799 square feet or 0.110 acre in area, more or less. (Note: All bearings in the above description equal highway bearings.)

Excepting and reserving therefrom the continued and perpetual right to access, operate, maintain, repair, inspect, relocate, and replace its overhead electric power lines, including all other appurtenant overhead or underground structures, anchors, and equipment, including communication circuits, fibers, cables, and related equipment and such equipment or similar

equipment that may be installed by Rocky Mountain Power or its licensees and assigns, and to maintain the area free from any and all hazards, including trees and vegetation, and uses injurious to the operation of its power lines, without payment to UDOT; provided, however, that Rocky Mountain Power or its licensees shall be required to obtain such permits and other approvals as may be required by federal or state statute and UDOT's rules.

Rocky Mountain Power shall have the continued right for itself and its licensees, successors and assigns, of reasonable access to and from the state highway to repair its facilities, subject to the provisions of Utah Admin. Code R930-7 and other relevant UDOT rules or permit instructions, but without prior permission in the event of an emergency or equipment failure or other failure resulting in an outage. However, Rocky Mountain Power must contact UDOT concerning the emergency entry upon the UDOT right of way.

Parcel No. 0154:111:2C

A parcel of land in fee situate in Governmental Lot 2 of Section 1, T.4S., R.1W., S.L.B.&M. Said parcel of land is described as follows:

Beginning at a southwest corner of said entire tract in the northerly right of way line of the existing 13490 South Street, which corner is 696.32 feet S.89°58'51"E. along the north line of said Section 1 and 560.04 feet South from the North Quarter Corner of said Section 1, said point is also approximately 36.00 feet perpendicularly distant northerly from the 600 West Street Control Line opposite engineer station 386+84.89; and running thence N.35°53'59"E. 20.94 feet along the westerly boundary line of said entire tract to a line parallel with and 53.00 feet perpendicularly distant northerly from said control line; thence S.89°49'22"E. 226.64 feet along said parallel line to a point in the easterly boundary line of said entire tract; thence S.35°53'59"W. 20.94 feet along said easterly boundary line to the southeast corner of said entire tract; thence N.89°49'22"W. 226.64 feet along said northerly right of way line to the point of beginning.

The above described parcel of land contains 3,853 square feet or 0.089 acre in area, more or less. (Note: All bearings in the above description equal highway bearings.)

Excepting and reserving therefrom the continued and perpetual right to access, operate, maintain, repair inspect, relocate, and replace its overhead electric power lines, including all other appurtenant overhead or underground structures, anchors, and equipment, including communication circuits, fibers, cables, and related equipment and such equipment or similar equipment that may be installed by Rocky Mountain Power or its licensees and assigns, and to maintain the area free from any and all hazards, including trees and vegetation, and uses injurious to the operation of its power lines, without payment to UDOT; provided, however, that Rocky Mountain Power or its licensees shall be required to obtain such permits and other approvals as may be required by federal or state statute and UDOT's rules.

Rocky Mountain Power shall have the continued right for itself and its licensees, successors and assigns, of reasonable access to and from the state highway to repair its facilities, subject to the provisions of Utah Admin. Code R930-7 and other relevant UDOT rules or permit instructions, but without prior permission in the event of an emergency or equipment failure or other failure resulting in an outage. However, Rocky Mountain Power must contact UDOT concerning the emergency entry upon the UDOT right of way.

Parcel No. 0154:111:E

A temporary easement located in Governmental Lot 2 of Section 1, T.4S., R.1W., S.L.B.&M., in Salt Lake County, Utah, to facilitate the construction of roadway improvements, side treatments and appurtenant parts thereof and blending slopes, incident to the widening of the existing highway 13490 South Street known as Project No. S-0154(70)1.

Non-exclusive use. The easement acquired herein does not convey any right except as stated herein, nor does it prevent Defendant from the use of the real property within the easement so long as such use does not interfere with the purposes for which the easement is being acquired. This easement does not convey the right to use the easement in a manner that would deny any right the Defendant may possess of reasonable access to property outside of the easement.

Duration of easement. The easement shall begin at the time actual construction of said project is commenced at the location of the easement, and shall continue for a period of the three years or until the earlier completion of the project. The easement shall run with the real property and shall be binding on Defendant, its successors, heirs and assigns.

Restoration of property. UDOT will restore the real property as nearly as reasonably possible to its condition prior to any material disturbance from construction activities, consistent with project improvements.

The boundaries of said easement are described as follows:

Beginning at a point in the westerly boundary line of said entire tract 644.17 feet S.89°58'51"E. and 631.89 feet South and 28.50 feet S.35°54'38"W. from the North Quarter Corner of said Section 1, said point is also approximately 59.13 feet perpendicularly distant southerly from the 600 West Street Control Line opposite engineer station 386+16.32; and running thence S.84°06'44"E. 23.80 feet to a line parallel with and 61.50 feet perpendicularly distant southerly from said control line opposite engineer station 386+40.00; thence S.89°49'22"E. 50.00 feet along said parallel line to a point opposite engineer station 386+90.00; thence N.84°28'00"E. 85.42 feet to a line parallel with and 53.00 feet perpendicularly distant southerly from said control line opposite engineer station 387+75.00; thence S.89°49'22"E. 72.40 feet along said parallel line to a point in the easterly boundary line of said entire tract; thence S.35°54'38"W. 53.59 feet along said easterly boundary line; thence N.89°49'22"W. 226.67 feet along a line parallel with said control line to said westerly boundary line; thence N.35°54'38"E. 46.03 feet

along said westerly boundary line to the point of beginning.

The above described parcel of land contains 8,914 square feet or 0.205 acre in area, more or less.
(Note: All bearings in the above description equal highway bearings.)

Parcel No. 0154:111:2E

A temporary easement located in Governmental Lot 2 of Section 1, T.4S., R.1W., S.L.B.&M., in Salt Lake County, Utah, to facilitate the construction of roadway improvements, side treatments and appurtenant parts thereof and blending slopes, incident to the widening of the existing highway 13490 South Street known as Project No. S-0154(70)1.

Non-exclusive use. The easement acquired herein does not convey any right except as stated herein, nor does it prevent Defendant from the use of the real property within the easement so long as such use does not interfere with the purposes for which the easement is being acquired. This easement does not convey the right to use the easement in a manner that would deny any right the Defendant may possess of reasonable access to property outside of the easement.

Duration of easement. The easement shall begin at the time actual construction of said project is commenced at the location of the easement, and shall continue for a period of the three years or until the earlier completion of the project. The easement shall run with the real property and shall be binding on Defendant, its successors, heirs and assigns.

Restoration of property. UDOT will restore the real property as nearly as reasonably possible to its condition prior to any material disturbance from construction activities, consistent with project improvements.

The boundaries of said easement are described as follows:

Beginning at a point in the westerly boundary line of said entire tract, which point is 696.32 feet S.89°58'51"E. along the north line of said Section 1 and 560.04 feet South and 20.94 feet N.35°53'59"E. from the North Quarter Corner of said Section 1, said point is also approximately 53.00 feet perpendicularly distant northerly from the 600 West Street Control Line of said project opposite engineer station 38+97.11; and running thence N.35°53'59"E. 57.89 feet along said westerly boundary line; thence S.89°49'22"E. 226.64 feet along a line parallel with said control line to the easterly boundary line of said entire tract; thence S.35°53'59"W. 57.89 feet along said easterly boundary line to a line parallel with and 53.00 feet perpendicularly distant northerly from said control line; thence N.89°49'22"W. 226.64 feet along said parallel line to the point of beginning.

The above described part of an entire tract of land contains 10,652 square feet or 0.245 acre in area, more or less.
(Note: All bearings in the above description equal highway bearings.)

Approved as to Form:

SEAN D. REYES
Utah Attorney General

/s/ William H. Christensen
WILLIAM H. CHRISTENSEN
Assistant Attorneys General
Attorneys for Plaintiff

Approved as to Form:

/s/ (electronically signed with permission)
DANIEL SOLANDER
Attorney for Defendant PacifiCorp, dba
Rocky Mountain Power

**ENTERED BY THE COURT EFFECTIVE AS OF THE DATE THE
COURT'S STAMP IS AFFIXED TO THE FIRST PAGE OF THIS DOCUMENT.**

CERTIFICATE OF SERVICE

I certify that on July 27, 2016, a true and correct copy of the foregoing **proposed Order of Immediate Occupancy** was served via the Court's electronic filing system upon the following persons:

Daniel E. Solander, Esq.
Rocky Mountain Power
1407 West North Temple, Suite 320
Salt Lake City, Utah 84114
Email: daniel.solander@pacificorp.com

/s/ William H. Christensen