



Jennifer Wilson
Salt Lake County Mayor

**DEPARTMENT OF
ADMINISTRATIVE SERVICES**

Megan Hillyard
Director

Derrick Sorensen
Real Estate Manager

DIVISIONS

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CONTRACTS & PROCUREMENT

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SALT LAKE COUNTY
GOVERNMENT CENTER

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Salt Lake City, UT 84190
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MEMORANDUM

RE 380501

Date: February 28, 2019

To: Chris Preston, Deputy District Attorney
Derrick Sorensen, Real Estate Manager

From: Gary C. Ladle, Staff Appraiser
Salt Lake County Real Estate Division

RE: Utah Department of Transportation Application #30863
(Vacation of a portion of a donated right-of-way
recorded April 23, 1945, Book 420, page 540)

Address: 496 West 13490 South, Draper City, Utah

AP#: 33-02-200-017; 33-01-151-001 and 33-02-400-005
Note: These are the current tax ID numbers and may
vary from those utilized in the application.

Purpose:

This memo is written for the purpose of presenting an opinion of value associated with the deeded interest Salt Lake County has in the above captioned perpetual right-of-way.

It is intended that this memo be limited to assisting Salt Lake County Officials with internal discussion regarding the proposed right-of-way vacation.

Definitions:

For the benefit of the reader, the following definitions are provided for terms utilized in this memo:

Appraisal: The act or process of developing an opinion of value.

Market Value: The most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably, and assuming the price is not

affected by undue stimulus. Implicit in this definition is consummation of a sale as of a specified date and passing of title from seller to buyer under conditions whereby:

1. Buyer and seller are typically motivated;
2. Both parties are well-informed or well-advised and each acting in what they consider their own best interest;
3. A reasonable time is allowed for exposure in the open market;
4. Payment is made in terms of cash in U.S. dollars or in terms of financial arrangement comparable thereto;
5. The price represents a normal consideration for the property sold unaffected by special or creative financing or sales concessions granted by anyone associated with the sale.

It is important to note that this type of value presumes the transfer of a property (i.e., a right of ownership or a bundle of such rights), as of a certain date and under specific conditions.

Note: The concept of “market value” does not appear to be overly applicable to the issue being addressed in this memo, i.e, a perpetual right-of-way for the “use of the public as a highway”. It is not anticipated that the “use of the public as a highway” could ever be realistically marketed in a “competitive and open market” with willing buyers and sellers.

Value in Use: A value concept which is based upon the productivity of an economic good to its owner-user. Value in use may be a valid substitute for market value when the current use is so specialized that it has no demonstrable market.

This concept has some applicability to the current valuation problem because the “perpetual right-of-way for the use of the public, as a highway” is limited to Salt Lake County.

Appraisal Problem:

As noted throughout, the subject of this memo is the deeded “interest” Salt Lake County has to construct a highway for the use of the public. The client has requested an opinion of value for this “interest”. The expressed opinion will then be utilized for internal discussion purposes. The appraisal problem does not readily lend itself to typical analysis and the concept of “market value” is not considered overly applicable because the subject “interest” would never be exposed on the open market. As noted above, the “value in use” concept is also entered into the discussion.

Even though this memo contains an opinion of value, the nature and intended use restricts the scope and a USPAP compliant report is not generated at this time.

Ownership:

The perpetual right-of-way, which is the subject of this memo, was convey from the State of Utah to Salt Lake County on November 10, 1943 and recorded April 23, 1945 (Book 420, page 540, Entry #999334).

The defined right-of-way traverses property currently vested in the name of the State of Utah Department of Transportation. Three tax ID numbers are assigned to the related parcels and they are 33-02-200-017, 33-01-151-001 and 33-02-400-005, respectively.

Size:

Based upon numbers generated by the Salt Lake County Surveyor's office, the area of the right-of-way being vacated contains 339,938 sf or some 7.804 acres. See attached exhibits for illustration of detail.

Valuation of the Perpetual Right-of-Way:

It is critical that the reader understands that the 1943 right-of-way deed did not convey to the county any interest in land. The conveyance was limited to the "right" to construct a highway, for the use of the public. The deed was specific to Salt Lake County. Therefore, the "right to construct a public road" is the only tangible item that is being valued in this memo.

Various methods are available to the appraiser to estimate value. Namely, the Income Approach, Cost Approach and the Market Comparison Approach. Only the latter could possibly be applicable to the current valuation issue being addressed in this memo. Even then, the Market Comparison Approach has extremely limited utility because the "right to construct of public highway" doesn't typically trade in the open market.

That being understood, two very comparable scenarios are introduced which support a value opinion:

1100 East 6600 South, Murray City, Utah (22-20-401-003):

In 1959, Salt Lake County was granted an easement to construct a bridge over the Little Cottonwood Creek. Subsequently, the bridge was moved to a new location and the said easement was no longer in use nor needed. The adjacent property owner requested a vacation and reconveyance of the easement.

The issue of compensation was discussed to great length because no comparable market data was available to support a value estimate. The District Attorney's Office provided the following opinion:

“The owner of the underlying property called the “servient tenant” wants a reconveyance of the easement to clear up the title to his property. Since the easement owned by the County can only be used for a bridge easement and as a practical matter there is no possible need for a bridge easement in the foreseeable future, the property has no value either to the County or to a prospective purchaser. In our opinion, **the appropriate valuation would be zero.**” Ultimately, there was a token \$150 office minimum charge made to address administrative costs.

Approximately 2274 North Burrs Lane (9450 East) Pinecrest – Emigration Canyon

On May 11, 1911, The Groves Subdivision was recorded in Book F, pages 75-76. The dedication plat included designated roadways. The roadway easements acquired by the public vested “the mere right of passage” over the land, and did not divest the owner(s) of their fee simple interest.

Over the years, the physical roads were not always constructed in the dedicated alignments. This was mainly due to topographic issues.

In 2008, Salt Lake County Quit Claimed to abutting owners the public's interest (“mere right of passage”) to a section of Burrs Lane adjacent to Lots 22-31, Block 7, Groves Subdivision.

After discussion with the County District Attorney's Office, it was opined that the public's/county's “potential interest” in “the mere right of passage” had virtually no practical value in use and no measurable value in exchange. At most, a prudent investor would pay no more than a reasonable “hostage fee” to clear any potential cloud on their title.

The Salt Lake County Real Estate Division does not extract “hostage fees” and has a long standing office minimum of \$150.00 to address administrative costs. That amount was considered to exceed the value of the “mere right of passage” over the defined area. Similar to scenario #1 above, the “mere right of passage” was opined to have **zero market value.**

Conclusion:

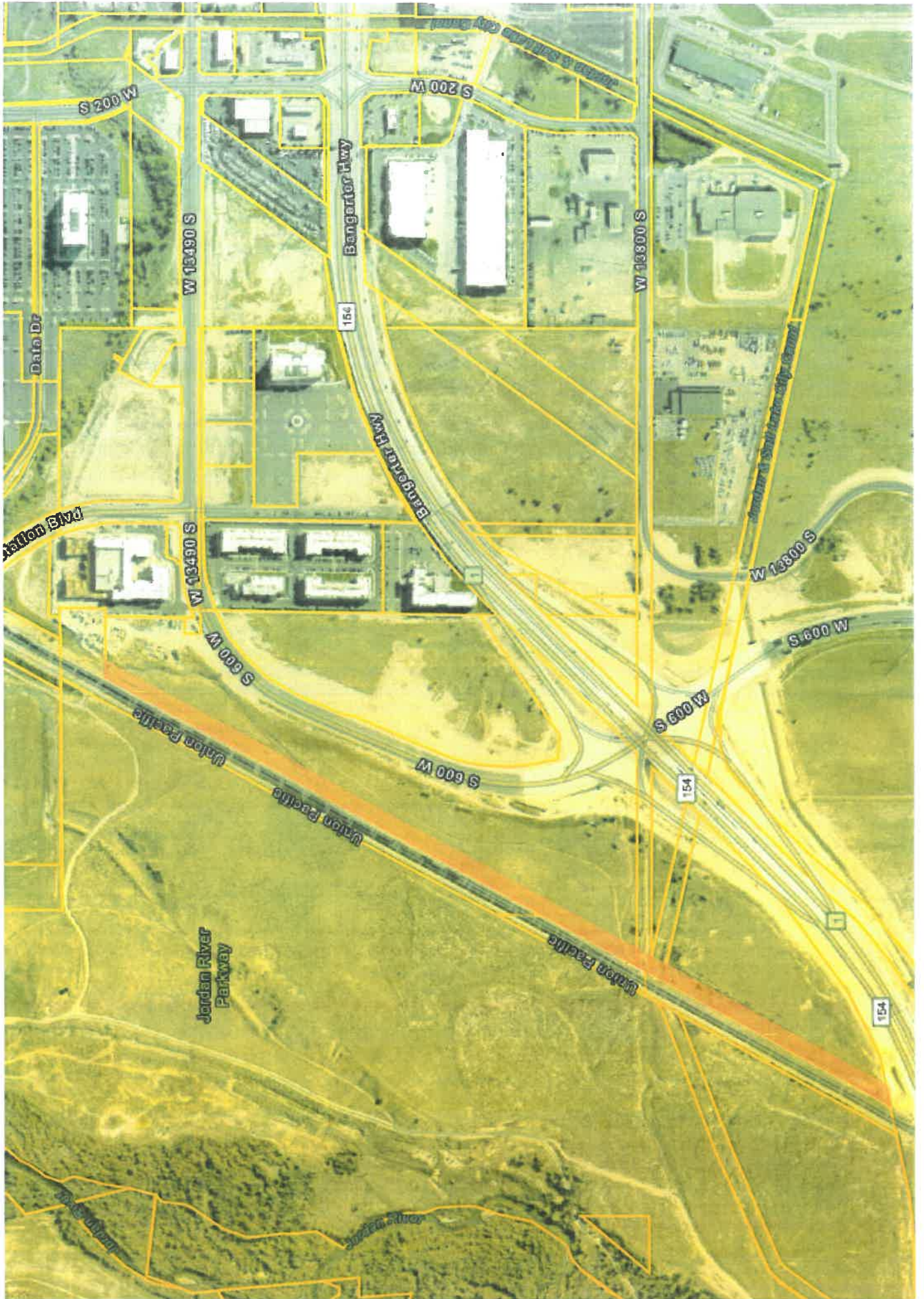
As outlined in this memo, the 1943 right-of-way deed, granted to Salt Lake County the “right” to construct a public highway on the described tract of land. No “dirt” was conveyed by virtue of that deed.

As illustrated by the two similar scenarios, the “right” has no measurable value in exchange and thence no practical market value.

Since Salt Lake County has no interest in constructing a public road on the tract, it is also opined that there is no value in use.

Estimated Market Value of “Right” = Zero

Finally, similar to the two introduced scenarios, it may be appropriate to charge UDOT an administrative fee for the work incurred to determine and accommodate the clearing up of the right-of-way which as a matter of record, appears to be an encumbrance on their property.



(EXHIBIT A)

A road vacation being a part of a highway right-of-way described in that Right-of-Way Deed recorded April 23, 1945 as Entry No. 999334 in Book 420, at Page 540 in the Office of the Salt Lake County Recorder located in the Northwest Quarter of Section 1 and the Northeast and Southeast Quarters of Section 2, Township 4 South, Range 1 West, Salt Lake Base and Meridian. The boundary of said road vacation is described as follows:

Beginning at a point which is West 1320 feet and North 650 feet from the Southeast corner of Section 2, Township 4 South, Range 1 West, Salt Lake Base and Meridian, which point the intersection of grantor's property line with the Southeast right of way line of the Denver & Rio Grande Western Railroad; thence South along said property line 260 feet to a point on a curve of the East side of a 66 foot wide road, the vertex of which bears South 79° East 1284 feet; thence Northeasterly around curve to the right 400 feet to the point of tangency; thence running parallel to and 66 feet from the Denver and Rio Grande Western Railroad's Southeast right of way line North 28° 29' East 4880 feet to a point on the Grantor's North property line; thence West along said North line 75.08 feet to a point on the Denver and Rio Grande Western Railroad's Southeast right of way line; thence along said right of way line South 28° 29' West 5000 feet to the point of beginning.

The above described road vacation contains 339,938 square feet in area or 7.804 acres, more or less.

LESS AND EXCEPTING: All of that portion of said Right-of-Way recorded April 23, 1945 as Entry No. 999334 in Book 420, at Page 540 lying southerly of the northerly Right of Way & No Access line of Bangerter Highway (SR-154) Project SP-0154(8)0 as shown on those UDOT Right-of-Way Plans approved 3-97 as Sheet No. 11B.

BALANCE: The above described road vacation contains 263,415 square feet in area or 6.047 acres, more or less.

EXHIBIT "B": By this reference, made a part hereof.

BASIS OF BEARING: The basis of bearing is West along the Section line between the Southeast Corner and the South Quarter Corner of said Section 2, Township 4 South, Range 1 West, Salt Lake Base and Meridian.

EXHIBIT "B"

LEGEND

- SECTION LINE
- ADJACENT PARCEL LINE
- ▨▨▨▨▨▨▨▨▨▨ 66.00 FOOT ROAD VACATION

NE 1/4
SECTION 2

NW 1/4
SECTION 1

1:C

STATE OF UTAH
DEPARTMENT OF
TRANSPORTATION
33-02-200-017

SE 1/4
SECTION 2

100.00
66.00'

BANGERTE HIGHWAY (SR-154)



PAGE 2 OF 2
FEBRUARY 27, 2019



SALT LAKE COUNTY
Road Vacation Highway Right-of-Way

Prepared for:
Salt Lake County Real Estate

Sec. 1 & 2, T.4S, R.1W, S.L.B.&M.
Work Order No. W022719029

Prepared by the Office of:

Reid J. Demman, P.L.S.
Salt Lake County Surveyor

2001 S. State St. #N1-400
Salt Lake City, Utah 84114-4575
(385) 468-8240

999334

APR 23 1945

Recorded at Request of COUNTY CLERK

at 9:42 AM Fee paid \$ 7.17 by Cornelius S. Lund, Recorder S. L. County, Utah

By [Signature] Dep. Book 420 Page 540 Ref. D 25-228-36-38

RIGHT-OF-WAY DEED

D 25-210-38-40

STATE OF UTAH

grantor

of Salt Lake County of Salt Lake, State of Utah,

herby Quit-Claim to Salt Lake County, grantee, for the sum of ONE DOLLAR AND OTHER

VALUABLE CONSIDERATIONS Dollars, a perpetual right-of-way

over and across the following described tract of land in Salt Lake County, State of Utah: Beginning at a point which is West 1320 feet and North 650 feet from the Southeast corner of Section 2, Township 4 South, Range 1 West, Salt Lake Base and Meridian, which point the intersection of grantor's property line with the Southeast right of way line of the Denver & Rio Grande Western Railroad; thence South along said property line 260 feet to a point on a curve of the East side of a 66 foot wide road, the vertex of which bears South 79° East 1284 feet; thence Northeasterly around curve to the right 400 feet to the point of tangency; thence running parallel to and 66 feet from the Denver and Rio Grande Western Railroad's Southeast right of way line North 28° 29' East 4880 feet to a point on Grantor's North property line; thence West along said North line 75.08 feet to a point on the Denver and Rio Grande Western Railroad's Southeast right of way line; thence along said right of way line South 28° 29' West 5000 feet to the point of beginning.

it being the intention of said party of the first part to donate said right-of-way to said Salt Lake County for the use of the public as a highway.

WITNESS, the hand of said grantors, this 11th day of November

A. D. one thousand nine hundred and forty three

Signed in the presence of:

STATE OF UTAH

[Signature]

[Signature]

STATE OF UTAH, } ss. County of Salt Lake.

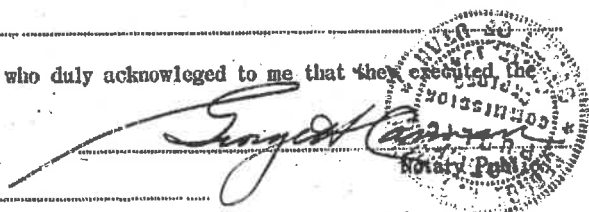
Chairman, Utah State Board of Corrections

On the 11th day of November A. D. one thousand nine hundred and forty three, personally appeared before me

Samuel W. Stewart

the signers of the above instruments, who duly acknowledged to me that they executed the same.

My Commission expires



This is to certify that Salt Lake County, the party of the second part in the above instrument, acting in accordance with a resolution of its Board of County Commissioners, adopted the 3rd day of July A. D. 1944, hereby accepts the right-of-way conveyed by said instrument.

APPROVED AS TO FORM GROVER A. GILLS, ATTORNEY GENERAL [Signature] DEPUTY

By [Signature] Chairman of the Board of County Commissioners of Salt Lake County.

VTDI 33-02-200-017-0000 DIST 55 TOTAL ACRES 16.81
 STATE OF UTAH DEPARTMENT TAX CLASS UPDATE REAL ESTATE
 OF TRANSPORTATION OE LEGAL BUILDINGS
 % MONE WARDLE PRINT TOTAL VALUE
 PO BOX 148420 NO:
 SALT LAKE CITY UT 841148420 EDIT 1 FACTOR BYPASS
 LOC: 14425 S BITTERBRUSH LN EDIT 0 BOOK 10088 PAGE 6508 DATE 12/20/2012
 SUB: SEC 01 TOWNSHIP 4S RING 1W TYPE SECT PLAT

02/25/2019 PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY
 BEG S 89^58'34" E ALG SEC LINE 1152.39 FT FR NW COR SEC 1,
 T4S, R1W, SLM; S 89^58'34" E 193.88 FT TO NE COR OF W 1/2 OF
 THE NW 1/4 SD SEC 1; S 0^56'17" W 552.98 FT; N 89^49'27" W
 105.99 FT; S 0^10'33" W 72 FT; S 89^49'27" E 105.03 FT; S
 0^56'17" W 1331.21 FT TO N LINE OF BANGERTER HWY; S
 45^00'12" W 1749.64 FT; S 54^10'13" W 569.71 FT; S 63^31'12"
 W 310.33 FT; S 77^46'48" W 228.51 FT TO E LINE OF RR; N
 28^45'51" E 4236.05 FT TO BEG. LESS THAT PORTION LYING NORTH
 OF THE SOUTH LINE OF 13800 S ST. ALSO LESS HWYS, CANALS &
 RIGHT-OF-WAYS. 16.81 AC M OR L. 7778-1370 THRU 1387
 7937-2048 8486-0087 8529-6742 8563-4290 9818-3155

VTDI 33-01-151-001-0000 DIST 55E TOTAL ACRES 31.92
 UTAH DEPARTMENT OF TAX CLASS UPDATE N REAL ESTATE
 TRANSPORTATION LEGAL N BUILDINGS
 PRINT I TOTAL VALUE

PO BOX 148420 RIGHT OF WA NO:
 SALT LAKE CITY UT 84114842020 EDIT 1 FACTOR BYPASS
 LOC: 496 W 13490 S EDIT 1 BOOK 10688 PAGE 3074 DATE 07/06/2018
 SUB: SEC 01 TOWNSHIP 4S RING 1W TYPE SECT PLAT

02/25/2019 PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY
 BEG S 89-58'34" E 1346.27 FT & S 00-56'05" W 696.58 FT FR NW
 COR OF SEC 1, T4S, R1W, SLM; N 0-55'59" E 67.06 FT M OR L; N
 89-49'27" W 105.03 FT; N 0-10'32" E 72 FT; S 89-49'18" E 71
 FT; N 0-55'59" E 354.52 FT; N 89-58'51" W 266.51 FT TO
 RAILROAD R/W; ALG SD R/W, S 28-45'42" W 2700.01 FT M OR L; S
 89-36'15" E 952.59 FT M OR L; N 45-01'16" E 875.87 FT M OR
 L; N 0-55'59" E 78.30 FT M OR L; S 56-34'27" W 647.94 FT; N
 84-40'05" W 108.97 FT; NW'LY ALG 750 FT RADIUS CURVE TO R,
 177.56 FT (CHD N 10-42'11" W); NE'LY ALG 750 FT RADIUS CURVE
 TO R, 355.71 FT (CHD N 9-40' E); N 23-15'14" E 413.67 FT; N
 11-56'38" E 61.19 FT; N 23-15'14" E 207.36 FT; NE'LY ALG 709
 FT RADIUS CURVE TO R, 552.22 FT (CHD N 45-34'01" E) TO BEG.
 LESS HWYS, CANALS & ROW'S. 31.92 AC M OR L.

VTDI 33-02-400-005-0000 DIST 55 TOTAL ACRES 3.50
 UTAH DEPARTMENT OF TAX CLASS UPDATE REAL ESTATE
 TRANSPORTATION OE LEGAL BUILDINGS
 % UDOT RIGHT OF WAY PRINT TOTAL VALUE
 PO BOX 148420 NO:
 SALT LAKE CITY UT 841148420 EDIT 1 FACTOR BYPASS
 LOC: 940 W BANGERTER HWY EDIT 0 BOOK 08715 PAGE 0001 DATE 02/24/2004
 SUB: SEC 02 TOWNSHIP 4S RANG 1W TYPE SECT PLAT

02/26/2019 PROPERTY DESCRIPTION FOR TAXATION PURPOSES ONLY
 BEG S 89-35'48" E 511.65 FT ALG THE 1/4 SEC LINE & 189.92 FT
 S FR THE W 1/4 COR OF SEC 1, T 4S, R 1W, SLM; S 45- W 78.88
 FT; N 76-51'10" W 661.54 FT; W'LY ALG A 213.05 FT RADIUS
 CURVE TO L 126.52 FT; S 69-07'28" W 767.44 FT; S 66-50'33" W
 541.15 FT; SW'LY ALG A 131.06 FT RADIUS CURVE TO L 71.21 FT;
 S 35-42'34" W 706.25 FT; W 81.28 FT; N 35-42'35" E 753.70
 FT; NE'LY ALG A 197.04 FT RADIUS CURVE TO R 107.07 FT; N
 66-50'42" E 542.46 FT; N 69-07'21" E 768.75 FT; E'LY ALG A
 279.03 FT RADIUS CURVE TO R 165.71 FT; S 76-51'11" E 660.90
 FT; S 78-12'36" E 42.28 FT TO BEG. LESS & EXCEPT RAILROAD.
 3.50 AC M OR L. 8802-8104

PFKEYS: 1=RXPH 4=VTAU 6=NEXT 7=RTRN VTAS 8=RXMU 10=VTBK 11=RXPN 12=PREV