

**WASHINGTON AFFILIATED INTEREST FILING**

**ATTACHMENT A**

**NON-EXCLUSIVE TEMPORARY USE PERMIT**

## NON-EXCLUSIVE TEMPORARY USE PERMIT

THIS NON-EXCLUSIVE TEMPORARY USE PERMIT (the "Permit"), including all attached Exhibits, is entered into by and between PACIFICORP, an Oregon corporation ("PacifiCorp"), and **KERN RIVER GAS TRANSMISSION COMPANY** of 2755 E Cottonwood Parkway, Suite 300, Cottonwood Heights, UT 844121 (the "Permittee"), each a "Party" and together the "Parties".

### RECITALS

A. PacifiCorp owns certain parcels located in Salt Lake County, Utah, known as parcels 26-11-401-007, 26-23-200-002 & 26-24-300-009 located in SE ¼ of section 11, NE ¼ section 23 and NW ¼ section 24, T. 3 S., R. 2 W S.L.M. (the "Property").

B. Permittee seeks PacifiCorp's permission to use a portion of the Property for temporary workspace that will be used to transport, stage, assemble and install project material for the construction of a new segment of pipeline. The work will include the use of excavators, side booms, pipe bending machines, frac tanks, water trucks, pipe stringing trucks, material delivery vehicles, construction pickup trucks and other general construction equipment.

C. PacifiCorp agrees to grant Permittee limited use of the Property for access purposes subject to the terms and conditions contained herein.

### TERMS AND CONDITIONS:

1. Premises: That portion of the Property more particularly shown in **Exhibit A** (the "Premises").

2. Use: Permittee may use the Premises solely for temporary workspace that will be used to transport, stage, assemble and install project material for the construction of a new segment of pipeline. The work will include the use of excavators, side booms, pipe bending machines, frac tanks, water trucks, pipe stringing trucks, material delivery vehicles, construction pickup trucks and other general construction equipment. At no time shall Permittee place any equipment or materials of any kind that exceed twelve (12) feet in height, or that create a material risk of endangering PacifiCorp's facilities, or that may pose a risk to human safety underneath the powerlines/ structures or any of PacifiCorp's equipment. Permittee's use of the Area shall comply with OSHA and Utah High Voltage Act Safety Clearance Standards. This Permit is non-exclusive and in no way authorizes Permittee to access any PacifiCorp lands not specifically referenced herein or to any property not owned by PacifiCorp. Permittee's employees, invitees, lessees and agents ("Permittee's Representatives") may participate in the use of the Premises, provided Permittee's Representatives abide by the terms and conditions of this Permit as are applicable to Permittee. Permittee hereby assumes all responsibility for the acts and omission of Permittee's Representatives and their compliance with the terms of this Permit.

3. Term: This Permit commences on April 4, 2023 and terminates on July 14, 2023.

4. Payment: Permittee shall pay to PacifiCorp fee payment in the amount of TWENTY FIVE THOUSAND, SEVEN HUNDRED SIXTEEN DOLLARS AND 93/100 (\$25,716.93) for the term of the Permit. The payment shall be due and payable upon execution of this Permit.

5. Compliance with Laws: In its use of the Premises, Permittee agrees to comply with (i) all applicable federal, state and local laws and regulations, and (ii) any safety rules instituted by PacifiCorp.

6. Reserved Rights:

a) PacifiCorp, its successors and assigns, reserve the right at all times to enter upon and occupy the Premises or any part thereof for any purpose. Permittee's use of the Premises must not interfere with such use by PacifiCorp

7. Condition of the Property: PacifiCorp makes no representation or warranty as to the condition of the Premises. Permittee accepts the Premises AS-IS/WHERE-IS and with all faults.

8. Improvements: Permittee must not make any improvements or changes to the Premises other than grading which is required for the access road, as such access road is depicted on **Exhibit A**. Access roads will maintain existing ground elevation beneath any overhead powerlines. Temporary excavation of Permittee's easement will occur to conduct the pipe replacement. Permittee agrees to keep and maintain all existing improvements if any, in good condition. Permittee must not remove, or allow any other person to remove, any existing improvements

9. Restoration of Premises: Upon or before termination of this Permit or any other activities that disturb the surface of the Premises, Permittee shall promptly restore such land to the condition it was in immediately prior to such disturbance or as otherwise reasonably required by PacifiCorp. Any damage to the Premises caused by Permittee shall, within a reasonable period of time, be repaired to its pre-construction condition and to PacifiCorp's satisfaction. If Permittee fails to do so within a reasonable amount of time, PacifiCorp may perform the restoration work at Permittee's expense. The obligations of this Section will survive expiration or termination of this Permit.

10. Assignment of Permit: Permittee may not assign this Permit without PacifiCorp's prior written consent.

11. Environmental Liability: Permittee must not install, use, generate, store or dispose of on or about the Premises any hazardous substances, toxic chemicals, pollutants or such other materials (collectively "Hazardous Materials"), subject to regulation by or under any federal, state and local laws and ordinances relating to the protection of the environment or the keeping, use or disposition of environmentally hazardous materials, substances, or wastes, presently in effect or hereafter adopted, all amendments to any of them, and all rules and regulations issued pursuant to any of such laws or ordinances (collectively, "Environmental

Laws"). Permittee agrees to indemnify, defend and hold harmless PacifiCorp, its officers, directors, partners, members, employees, agents, successors and assigns ("PacifiCorp Indemnified Parties") from and against any and all liability, loss or expense, including reasonable attorneys' fees, arising in connection with any federal or state statute, law, ordinance, regulation or judgment related to the existence, disposal or release of contaminants or pollutants brought onto the Premises by Permittee, or Permittee's Representatives.

12. General Indemnity: To the fullest extent permitted by law, Permittee specifically and expressly agrees to indemnify, defend, protect, and hold harmless PacifiCorp, all affiliates, and their officers, directors, employees and agents (hereinafter collectively "Indemnitees") against and from any and all claims, demands, suits, losses, judgments, costs, expenses and damages of every kind and description, including reasonable attorneys' fees and/or litigation expenses, brought or made against or incurred by any of the Indemnitees resulting from or arising out of, in whole or in part, Permittee's use of the Property, the acts, errors, omissions, or willful misconduct of Permittee, its employees, agents, representatives or any personnel of any tier, their employees, agents or representatives in the performance or nonperformance of Permittee's obligations under this Permit or in any way related to this Permit. The indemnity obligations under this Section shall include without limitation:

- a) Loss of or damage to any property of PacifiCorp, Permittee or any third party;
- b) Bodily injury to, or death of any person(s), including without limitation employees of PacifiCorp, or of Permittee or its contractors of any tier; and
- c) Claims arising out of workers' compensation, unemployment compensation, disability, or similar such laws or obligations applicable to employees of Permittee or its personnel of any tier, including claims that such Permittee or personnel of any tier are employees of PacifiCorp.

Permittee's indemnity obligations owing to Indemnitees under this Article are not limited by any applicable insurance coverage identified in Section 13, Insurance. Permittee's indemnity obligation under this Section shall not extend to the extent any liability is caused by the negligence or willful misconduct of any of the Indemnitees.

The invalidity, in whole or in part, of any of the foregoing paragraphs will not affect the remainder of such paragraph or any other paragraphs in this Section

13. Insurance: Without limiting any liabilities or any other obligations of Permittee, Permittee shall, prior to commencing any work, secure and continuously carry with insurers having an A.M. Best Insurance Reports rating of A:-VII or better such insurance as will protect Permittee from liability and claims for injuries and damages which may arise out of or result from Permittee's performance and operations under the Permit and for which Permittee may be legally liable, whether such performance and operations are by Permittee or a contractor (of any tier) or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. Permittee shall insure the risks associated with its work and this Permit with the coverage and limits as set forth below:

Workers' Compensation. Permittee shall comply with all applicable workers' compensation laws and shall furnish proof thereof to PacifiCorp prior to commencing Work.

Employers' Liability. Permittee shall maintain employers' liability insurance with a single limit of \$1,000,000 each accident, \$1,000,000 disease each employee, and \$1,000,000 disease policy limit, and covering locations of all work places involved in this Permit.

Commercial General Liability. Permittee shall maintain commercial general liability insurance on the most recently approved ISO policy form, or its functional equivalent with \$1,000,000 per occurrence/\$2,000,000 general aggregate limits and shall include the following coverage:

- a. Premises and operations coverage
- b. No independent Permittee's exclusion
- c. Blanket contractual liability
- d. Products and completed operations coverage through the statute of limitations or statute of repose, whichever is longer, and including any tolling extension of each state
- e. No exclusion for explosion, collapse, and underground property damage
- f. Broad form property damage liability
- g. Personal and advertising injury liability, with the contractual exclusion removed
- h. Sudden and accidental pollution liability, as applicable
- i. No subsidence or earth movement exclusion
- j. Liability arising from wildfire
- k. Operations on or adjacent to a railroad or railroad right of way, as applicable

Business Automobile Liability. Permittee shall maintain business automobile liability insurance on the most recently approved ISO policy form, or its functional equivalent, with a single limit of \$1,000,000 each accident for bodily injury and property damage including pollution liability resulting from an accident, with respect to Permittee's vehicles whether owned, leased, hired or non-owned, assigned to or used in the performance of the work. If applicable, the automobile liability policy will include pollution liability coverage equivalent to that provided under the ISO Pollution Liability Broadened Coverage for Covered Autos endorsement (CA9948) and Motor Carrier Act endorsement (MCS90) shall be attached.

Umbrella or Excess Liability. Permittee shall maintain umbrella or excess liability insurance with a limit of \$5,000,000 each occurrence/aggregate where applicable on a following form basis and include drop-down coverage in the event the underlying limits are eroded, to be excess of the insurance coverage and limits required in employers' liability insurance, commercial general liability insurance and business automobile liability insurance above. If at any time the full umbrella limit required under this Permit is not available, Permittee will ensure coverage of additional limits, if requested by PacifiCorp.

Permittee's Pollution Liability. Permittee shall maintain Permittee's pollution liability insurance on the most recently approved ISO policy form, or its functional equivalent, with a limit of \$3,000,000 per occurrence and \$5,000,000 annual aggregate.

PacifiCorp does not represent that the insurance coverage specified herein (whether in scope of coverage or amounts of coverage) are adequate to protect the obligations of Permittee, and Permittee shall be solely responsible for any deficiencies thereof.

Except for workers' compensation, the policies required herein shall include provisions or endorsements including PacifiCorp, its affiliates, parent organization, divisions, subsidiary companies, co-lessees, co-venturers, and the officers, directors, agents, employees, servants and insurers of the same as additional insured subject to policy terms and conditions. The commercial general liability additional insured endorsement shall be ISO Form CG 20 10 and CG 20 37 or their factual equivalent, including additional insured coverage for both on-going and completed operations, subject to policy terms and conditions.

All policies required by this Permit shall include: (i) provisions that such insurance is primary insurance with respect to the interests of PacifiCorp and that any other insurance maintained by PacifiCorp is excess and not contributory insurance with the insurance required hereunder; and (ii) provisions that the policy contain a cross liability or severability of interest clause or endorsement in the commercial general liability, automobile liability and umbrella or excess liability coverage; and (iii) provisions that such policies not be canceled or their limits of liability reduced without: (a) ten (10) days prior written notice to PacifiCorp if canceled for nonpayment of premium; or (b) thirty (30) days prior written notice to PacifiCorp if canceled for any other reason. Should any of the above required policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions. Unless prohibited by applicable law, all required insurance policies shall contain provisions that the insurer will have no right of recovery or subrogation against PacifiCorp, its parent, divisions, affiliates, subsidiary companies, co-lessees or co-venturers, agents, directors, officers, employees, servants, and insurers, subject to policy terms and conditions, it being the intention of the Parties that the insurance as effected shall protect all of the above-referenced entities evidenced by waiver of subrogation wording.

Permittee is solely responsible for any deductibles or self-insured retentions associated with all policies required by this Permit.

A certificate of insurance and/or self-insured letter shall be furnished to PacifiCorp confirming the issuance of such insurance prior to commencement of any work by Permittee and upon the renewal or replacement of any required policy.

Permittee shall require contractors who perform work on the Premises to carry industry standard liability insurance.

The insurance requirements may be satisfied in whole or part through self-insurance by Permittee. If Permittee elects to be self-insured, Permittee shall deliver a letter to PacifiCorp stating that the Permittee self-insures and describing the extent of such self-insurance. If Permittee ceases to self-insure at any time during the Permit term, Permittee shall immediately notify PacifiCorp in writing and the provisions of this Section, regarding commercial general liability, automobile liability, excess liability and such additional insurance as may be required by the applicable laws, rules or regulations shall be reinstated. Permittee shall, at that time, be required to furnish certificates of insurance to PacifiCorp evidencing such required insurance.

14. Waiver. The failure of PacifiCorp to enforce any provision of this Permit or the waiver thereof in any instance shall not be construed as a general waiver or relinquishment on the part of any such provision, but the same remains in full force and effect.

15. Notice: Wherever in this Permit notice is provided or required to be given by one Party to another, such notice must be in writing and transmitted by United States mail, national express carrier (such as UPS or Federal Express) or by personal delivery to at the following addresses, or such other address as either Party may, from time to time, designate for that purpose by notice provided in accordance with this Section:

**PacifiCorp:**

PacifiCorp  
Attn: Chris Jorgensen  
1407 W North Temple,  
Suite 110  
Salt Lake City, UT 84116  
801-220-2252

**Permittee:**

Jessica Hunter  
Land Representative  
Kern River Gas Transmission Company  
2755 E. Cottonwood Parkway | Suite 300  
Cottonwood Heights, UT 84121  
Jessica.hunter@kernrivergas.com  
(O) 801.937.6106 (C) 801.419.3070

17. Termination: This Permit may be terminated upon the happening of any of the following events:

17.1 Breach If Permittee breaches any of the terms, covenants or provisions of this Permit, PacifiCorp, at its option, may terminate this Permit and immediately re-enter and repossess the Premises either with or without legal process and without giving notice to quit to Permittee, which notice is expressly waived by Permittee in case of such breach.

17.2 Termination by Notice: Either Party may terminate this Permit prior to expiration upon thirty (30) days' written notice to the other Party.

17.3 Surrender of Premises Upon Expiration or Termination: Permittee must repair, at its sole cost and expense, any damage it causes to the Premises and/or Property. and, prior to the termination or expiration of the Term, remediate any condition on the Premises and/or Property resulting from the use as necessary to return the Premises and/or Property to the condition it was in immediately prior to the commencement of the Term. In the event Permittee fails to make such repairs and/or perform such remediation in a reasonably satisfactory manner to PacifiCorp, PacifiCorp may make such repairs and/or perform such remediation and bill Permittee for the actual costs of the repairs and/or remediation so performed. Permittee's obligation to repair/remediate and/or reimburse such costs will survive expiration or termination of this Permit

18. Authority: Each individual executing this Permit warrants that he or she has been duly authorized to sign this Permit in the capacity and for the entity where he or she signs.

19. Jury Waiver: To the fullest extent permitted by law, each of the parties hereto waives any right it may have to a trial by jury in respect of litigation directly or indirectly arising

out of, under or in connection with this Permit. Each party further waives any right to consolidate, or to request the consolidation of, any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. This Section shall survive the termination of this Permit.

20. Execution in Counterparts; Digital Signature; Electronic Transmittal: This Permit may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Said counterparts may be signed with digital signatures and be transmitted by one Party to the other by electronic mail.

IN WITNESS WHEREOF, the Parties to this Permit have executed this Permit on the last date indicated below.

**PacifiCorp**  
**PACIFICORP,**  
an Oregon corporation

By: David Holt  
Name: David Holt  
Title: Manager  
Date: 2/10/23

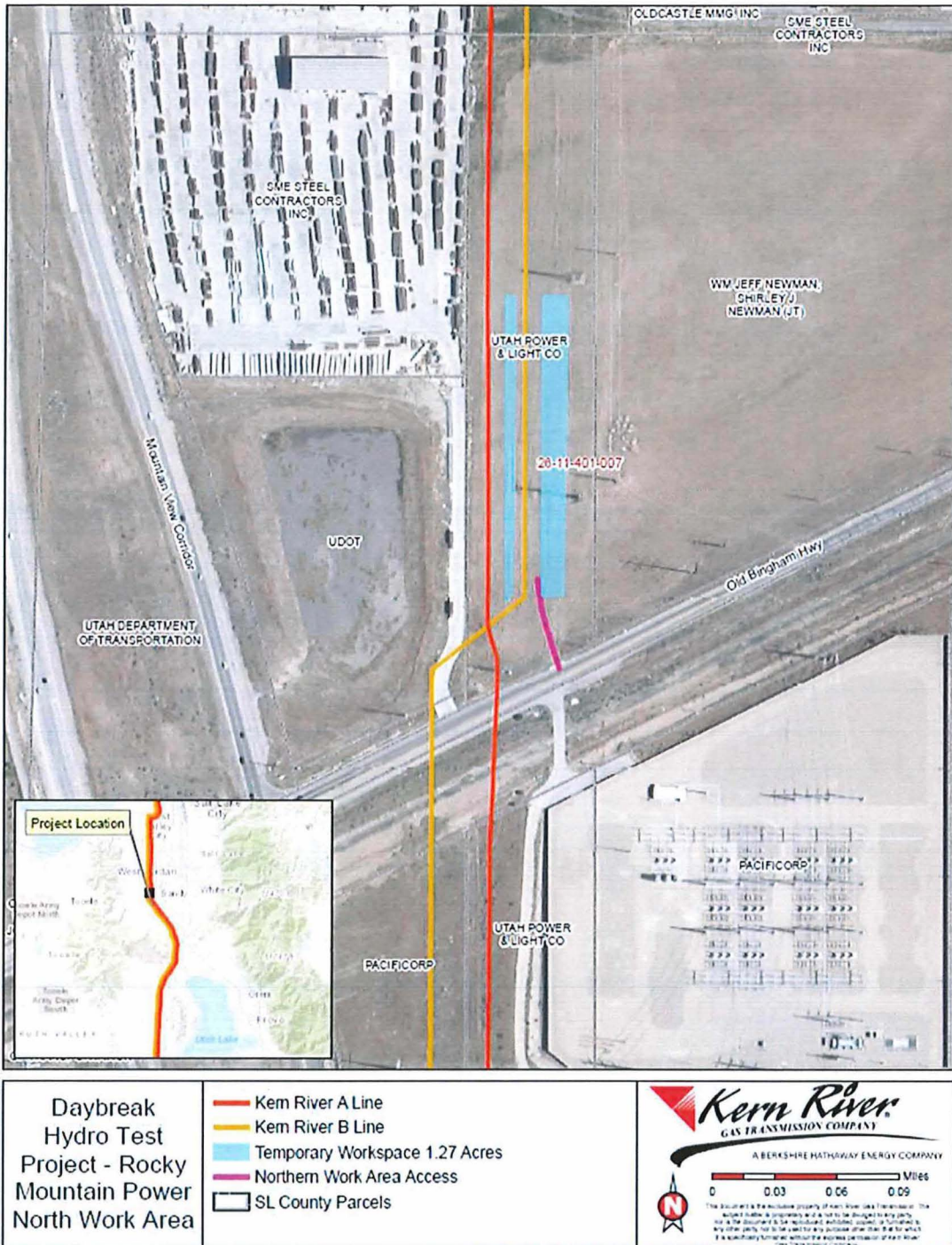
**Permittee**  
**KERN RIVER GAS TRANSMISSION**  
**COMPANY**

By: [Signature]  
Name: Robert S. Checketts  
Title: Vice President Operations + Engineering  
Date: Feb. 8, 2023

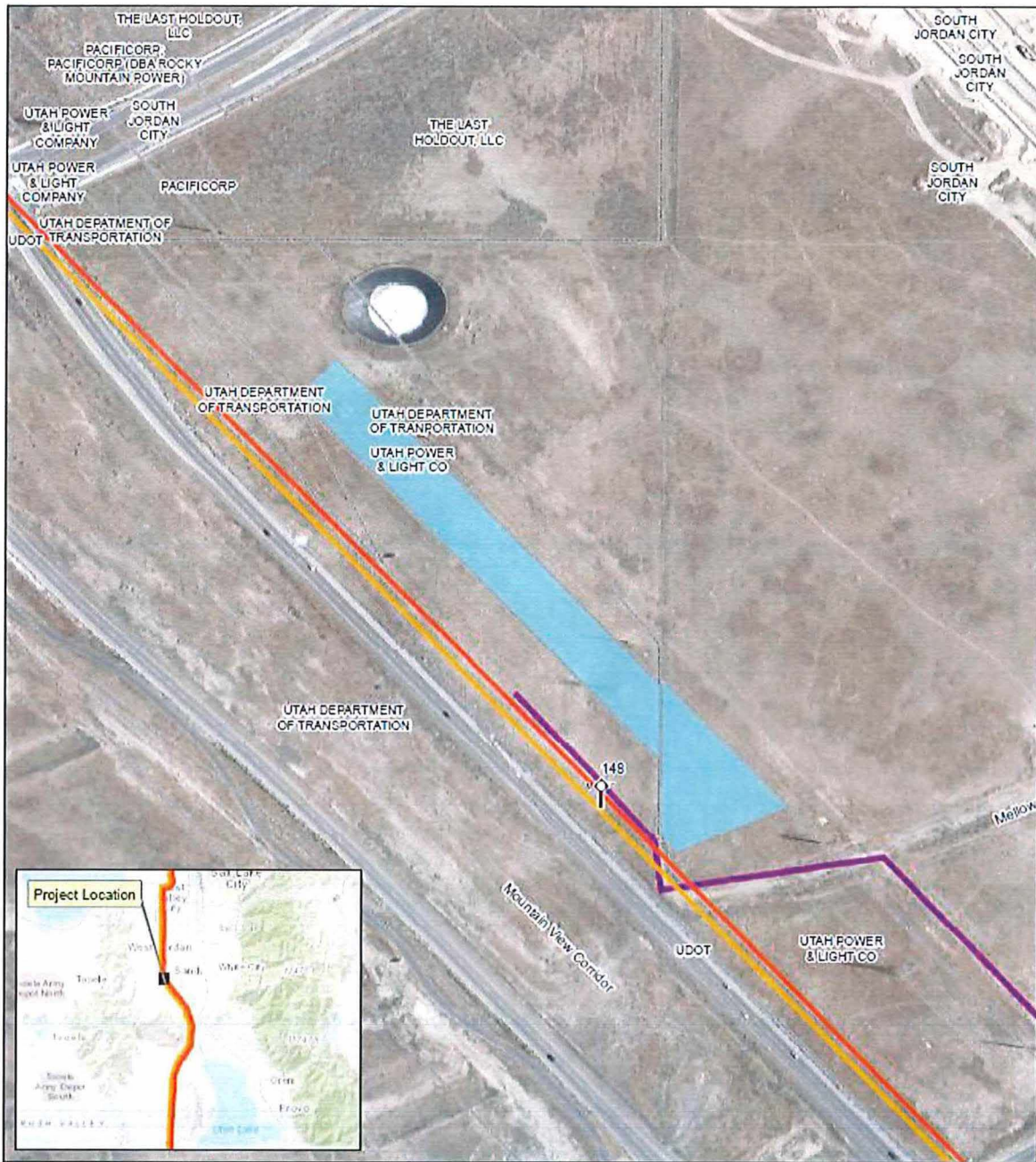
DB 2.3.23



# EXHIBIT A Depiction of Premises



V:\19-2023\0\Kern\Projects\2022\_Projects\DayBreak\Hydro\10\_24\_2022\UP&L\_Land\_No\_Rev1.mxd 11/06/23



<p><b>Daybreak Hydro Test Project - Rocky Mountain Power South Work Area</b></p>	<ul style="list-style-type: none"> <li> Mileposts</li> <li> Kern River A Line</li> <li> Kern River B Line</li> <li> Temporary Workspace 3.45 Acres</li> <li> South Work Area Access</li> <li> SL County Parcels</li> </ul>	<p><b>Kern River</b> GAS TRANSMISSION COMPANY</p> <p>A BERKSHIRE HATHAWAY ENERGY COMPANY</p> <p>0 0.03 0.06 0.09 Miles</p> <p><small>The document is the exclusive property of Kern River Gas Transmission Company. This document and its contents are not to be divulged to any party, nor is the document to be reproduced, modified, copied, or transmitted by any other party, nor to be used for any purpose other than that for which it is specifically furnished, without the express permission of Kern River Gas Transmission Company.</small></p>
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