

MOUNTAIN GREEN SEWER IMPROVEMENT DISTRICT
5455 West Old Highway Road, Mountain Green, Utah 84050
Minutes of the Emergency Board of Trustees Meeting
Wednesday, March 11, 2015 @ 7:00 PM

Board Members Present: Mark Devoe, Zane Gray, Wendy Eliason, Tina Kelley, Shane Rice and Blair Larsen **Excused:** Lynn Peterson **Employees Present:** Robert Volk and Janet Boudrero **Guests Present:** None

Invocation: Zane Gray

Chair: Mark Devoe welcomed those present and conducted the Board Meeting.

Item #1: Discussion/Decision: Install the remaining 345' of 18" trunk line from SSMH7 to the east fence line at the Baxter property (tabled - 03/05/2015 Meeting). Should the District, at the District's expense, install the remaining 345' section of 18" trunk line while the final work for the service road installation is being done? E.K. Bailey has provided a rough estimate of \$25,398 to install this last section of line, which includes \$5,200 for the service road above it. It would be an 18" line that is capped at the fence line (end of easement-no manhole). The money for the installation of this section would come from expansion funds (impact fees). There is no planned development to the east of the Johnson's property at this time.

Robert let the Board know that Benson Whitney with Oakwood Homes and Stantec Engineering had contacted him that afternoon to let the District know that they are preparing to install the water line in the Highlands Water Easement on the Johnson property. In 2008, the sewer easement had been overlaid onto the existing water easement on the east side of the Johnson's property. This means that there is potential for Oakwood Homes and Highlands Water to dig up the road the District is in the process of installing. Robert said he would work with Benson to try and coordinate the processes so that we are not undoing and duplicating each other's work.

The installation of the District's service road and this potential extra section of line had been pushed forward on the Agenda due to Wayne Johnson's request to try and get the final road work done before he begins his farming operations for this year. Wayne had come into the office to discuss this and indicated he would be starting his plowing and irrigation around the beginning of April due to the unusually early warm and dry weather. The Easement agreement with Mr. Johnson states that the construction shall not adversely affect the Johnson's farming operations, so Robert was trying to get everything in motion to meet Wayne's request. Wayne has since started plowing his fields and the Board is still debating the extra section of 18" line, so there is no longer a need to rush into any decisions. Robert detailed the reason for the sudden rush but now recommended that the District now hold off on the final work until July 2015 when the current deadline is set. This delay might give Oakwood Homes time to get their work completed, as well.

Tina asked Robert to update the Board on the potential access on the east end of our easement. At the previous Board Meeting, it had been suggested that there was a gate on the east end of our easement that could be accessed from the rest stop, through a gate into Mr. Baxter's property. Robert had driven down to the rest stop and could find no gate between the rest stop and any of the properties on the north side. He did find a solid barbed wire fence that separated the properties in question with no visible access point. Using Google Maps, Robert found an access from Old Highway behind the dentist's office that wound through several properties that ended at a loose farm gate at the east end of our easement.

The problem is that county records indicate that the property on the east end of our easement is owned by Union Pacific Land Resources and not Mr. Baxter. This means that Mr. Baxter does not have the authority to allow access to or to make agreements covering that tract of land. To complicate matters more, District vehicles would have to cross land owned by J. B. Parsons, Mr. Baxter, Mr. Johnson and Union Pacific in order to get to the suggested access point for our easement. Mr. Johnson had already stated he would not allow the District permanent access across his land and we have no agreements in place for the other property owners. Robert had invited a few Board members to accompany him in order to view this access, and Tina and Zane had joined him for a drive over to see it.

Tina and Blair stated that the county plats are not accurate because she and Blair both know that Mr. Baxter owned the land that connected to the District easement. They both stated that know Mr. Baxter had purchased that land long ago and this should not be an issue. Robert explained that as the District's Manager, he has to abide by what is on record at the county and not hearsay. He added that his motivation is to keep the District from making errors that could be costly, such as installing a sewer main onto the Union Pacific property without permission. Tina asked Robert to check with the county again and verify the sales and property tax records for Mr. Baxter. Blair reiterated that he had discussed the ownership of this property with Mr. Baxter on other occasions and he is positive that Mr. Baxter owns that property.

Blair then added that the access referred to in the last meeting is at the beginning of the off ramp to the rest area, and not in the rest area itself. Blair used the google map on the screen to indicate a dirt road that connects to the off ramp just as it comes off the freeway. He said the gate is located there and the access would wind east then north in across the Baxter (and Union Pacific) properties behind the hills in order to get to the access gate in question. Blair stated that he would negotiate the passage from the entrance gate at the off ramp to the end of the District easement with Mr. Baxter because he is the legal owner to all of the property in question.

Robert replied that as long as the access we are discussing is both legal and viable, meaning that will handle a fully loaded cleaning pumper truck, then it will work. Tina added that she is not overly concerned with the access issue right now because the Development Agreement that Duane Johnson registered with the county shows there will eventually be roads into these areas. Tina does understand that the District will probably need access sooner if the District is required to do weed control, but she asked Robert to verify our maintenance requirements with Jon Call first because she does not believe that weed control on the easement will be the District's responsibility.

The discussion then shifted to the possible bridge that would allow access to the west section of the trunk line. Previous discussions centered on using a flat rail car for a bridge, which a few Board Members declared been done at many locations in the county. Robert said that such installations on private property might be allowed, but he would have to check on the requirements that MGSID would have to follow as a Special Services District. He has already checked with Mike Grow at EK Bailey and was told that their company could install a rail car bridge for the District and would be happy to prepare quotes on request.

Blair asked for a little time to share his discussions and emails with Mr. Baxter and his attorney (copies of the notes, emails and maps that Blair provided have been scanned and attached to the back of these minutes). Blair then passed out copies of a map he had traced over Morgan County's GIS address map, with notes added for clarification. He continued by reading his notes and emails that describe the situation to Mr. Baxter which included asking him if he would grant the District an easement for access across his property along with approving a 'payback agreement' that would reimburse the District for the expense of installing this extra 345' of 18" trunk line. Mr. Baxter's responded with a yes to both questions and asked Blair to send over any necessary documents.

Blair recommended to the Board that if it approves this extension then it should go 20' or more beyond the fence line and terminate into a manhole. This would increase the cost of the line but Blair assured the Board that Mr. Baxter would have no problem with the additional costs.

Mark then read Item #1. Blair made a motion to move forward with the installation of the line 360' east into adjoining property from SSMH7 terminating in a manhole, pursuant to property owner showing written proof of ownership on railroad property in question and provide a signed payback agreement including the incurred costs, i.e. installation, ingress/egress easement from point A to point B, easement recordation and payback documentation. Zane seconded the motion. Motion approved.

Item # 2: Discussion / Decision: Review and approval of March 5, 2015 Minutes

Tina made a motion to accept the March 5, 2015 minutes with corrections. Shane seconded the motion. Motion approved.

Item # 3: Discussion: Next Board Meeting on April 2, 2015

The next regular Board Meeting is scheduled for Thursday, April 2, 2015 at 7:00 PM.

Adjourned: 8:50 PM

Signed: _____



BLAIR'S
ORIGINAL

March 11, 2015

Attachment to the minutes of emergency meeting March 11, 2015.

Copy of preliminary negotiation of Easement and Pay back Agreement

J. Blair Larsen, representing the MGSID

And

C. Scott Baxter, Manager and Operator on behalf of the property owners Baxter Enterprises and Mountain Green Associates

ENSEMBLE!

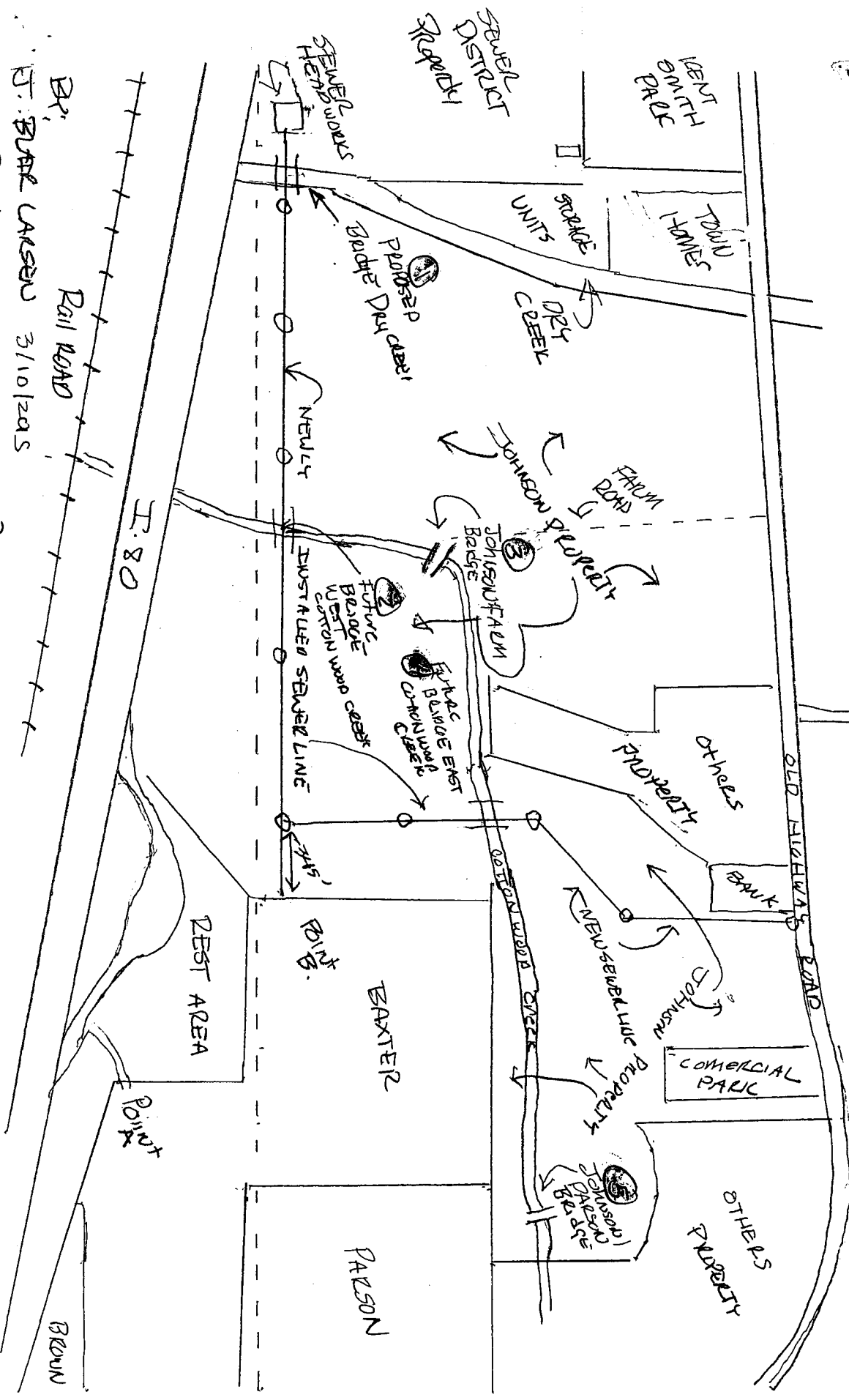
BRIDGES FROM WEST TO EAST

- PROPOSED PLC CREEK BRIDGE
- FUTURE WEST COTTONWOOD CREEK BRIDGE
- JOHNSON FARM BRIDGE
- FUTURE EAST COTTONWOOD CREEK BRIDGE
- JOHNSON / PARSON BRIDGE

NORTH ↑

TRAPPED LEAD
← ROAD

NEW CONSTRUCTED LINE NEEDING MAINTENANCE ACCESS



BR: BLUE LANSER 3/10/2025
 801-498-0002 JBU@PLUTSEADMSN.COM

From: jblairlarsen <jblairlarsen@msn.com>
Date: Tuesday, March 10, 2015 at 3:48 PM
To: Scott Baxter >
Cc: "jblairlarsen@msn.com" <jblairlarsen@msn.com>
Subject: Easement Diagram 3-10-2015

Mr. Baxter,

I arrived in Chicago and came to FedEx while I was waiting for my load and sketched this diagram.

When you get a chance to study it and have a time to discuss this, call me. I will make it a point to pull over so we don't get dropped.

Is it a possibility that you could respond on the email or text that you received this diagram being this is the first time I've used your email address?

Blair.

Both attachments are the same. They have been taken in different light. Choose the one that works the best for you.

03-11-2015

Re: Easement Diagram 3-10-2015

To: jblairlarsen Cc: Keven M. Rowe, Kristen Baxter, Scott Baxter



Hi Blair,

I have reviewed your enclosed drawings, thank you so much for sending them. We are opposed to two bridges, #4 and #5, and the location of certain sewer easements and request revised locations for all three. We would like bridge #4 to be built directly south from old highway along the initial sewer line directly back to the boundary of our property and Johnson's bridging the creek and bridging both our properties so neither property is excluded and both are included and have potential right a way and build out with both above ground and below ground right a ways. Same for bridge #5, we oppose its current location and want it bridging both the Baxter and Parson boundary's so again, both property owners have sewer and above ground easements for development. We appealed the prior location of the sewer line on Johnson East/Baxter West boundary and requested then the sewer line be brought North/South along the Johnson East/Baxter West boundary. This request was ignored by all parties including the sewer district, the Gardners and the Johnsons. We request again, that a sewer line be brought over and onto Baxter property for future potential development for the benefit of the county and ALL surrounding property owners. What is apparent to us is the Johnson ownership continues an effort to exclude us from potential future development. We hope and trust more prudent minds of integrity within the county will prevail.

Thanks,

Scott Baxter

Manager and Operator on behalf of Baxter Enterprises and Mountain Green Associates property

Mr. Baxter,

The Johnson easement that is the subject of the diagram, was granted and recorded two years ago. The installation of the pipe and manholes in the entire easement, with the exception of the 435 feet that connects your property, which is represented in yellow on the diagram, was installed and placed last fall.

Perhaps a little history will serve here. Several years ago the Gardner's began to develop East and North of the existing clusters of housing. The sewer main on old highway road was used to facilitate the transfer effluent from there development to the district treatment facility. With the magnitude of their plans to build it became clear that the trunk line on Old Highway Road would soon maximize its capacity.

The district required the Gardeners to construct and install, at their expense, a sewer transmission line that parallel to the existing sewer transmission line on old highway road. This they did several years ago also. The line parallels the Old Highway Road from the fire station to the bank.

At that point the district suggested that the line run through Mr. Johnson's property to better serve future residents that have properties East Mr. Johnson's property. Mr. Johnson was agreeable so long as he could determine where the line ran. So he chose the path and the district insisted that the 345 feet that is yellow on the diagram was included in the easement.

The Gardner's have paid for the construction of these lines. They will be reimbursed through future impact fees that are assessed to the people they sell lots. The fees are collected by the Sewer District and in turn passed on to the Gardner's when the lot is closed on . That is because the sewer district's policy is that new growth pay for itself.

The point of all this history is to explain that Mr. Johnson is not developing his property at this time. He is enabling the Gardner's to continue their development process. Your initial response to the diagram that I've received yesterday would be better presented at the time Mr Johnson does begin the planning process for all or part of his property. At that time he will go through the process of the planning and development staff, then the Planning Commission, public hearings, and ratification of the plans and decisions of all entities by the County Council at the final stage of each phase. Sewer district is involved have in this process and have a authority to require that the plans accommodate the policies of the district. The concerns and desires hope your response yesterday will be better address at that time.

So what brings me to have this conversation with you is the following. The Gardeners refuse to pay for the 345. Their reasoning is it does not benefit them. As separate issue from that is that when the Sewer District negotiated the easement and with Mr. Johnson they did not negotiate a bridge to access the sewer line on the south side of the Cottonwood Creek. After the sewer main was installed Mr. Johnson brought up the issue that in order to access the South portion of the easement would require using his farm road and bridge. He said that there was no egress ingress easement for that at this time. He then offered to allow access in exchange for relinquishing the 345' of the easement marked in yellow on the diagram.

The Sewer District voted in their meeting on last Thursday evening NOT to relinquish the portion and continue to work out a solution having you grant an easement across your property to facilitate the need of the district or working something out with Mr. Johnson.

As far as the bridges are concerned, Bridge number 1 is already negotiated and will be at some point in the future constructed and installed at the cost of the district. Bridge numbers 2 & 4 will be installed at some point as at the point in time when the Mr. Johnson develops his land. The district will require the easement to be contained within the road right of way. Bridges 3 & 5 belong to Mr. Johnson and are not part of the negotiation other than Bridge 3 serves as utility for my obtaining access to the South portion which causes this whole discussion.

Two points discussion now.

1. Is it a possibility that will you grant the sewer district an easement from point "A" to point "B" on the diagram? This easement would be in place until permanent access is established.

2. If the district was agreeable to pay for the installation of the three 345 feet sewer line to your property, now, (to avoid hassle and negotiation and turmoil at some future point in time when in the course of time and due to the nature and turnover public, lay citizens serving, the information is lost and clouded once more), would you be interested in signing a payback, whip Sewer District, for the installation of the line now, until such a time in the future when did you sell your property to another party or develop the property yourself? At that time the note would be due and payable or other arrangements should be negotiated for payment if you have an interest.

The size of the line is 18 inches. The cost of the line is \$24,000. The contractor, EK Bailey, that did the work last fall, will be installing gravel on easement for access soon this spring. The trenches have been given the opportunity to settle during the winter and he would like to complete the road work on these easements soon. He is willing to install the 345 feet as he originally bid the project and complete the 345' for the same cost.

The Sewer District will be having a special meeting this evening at 7 p.m. to decide what to do. If you are interested either of these proposals and would like some time to work them through it is auction for the district to table the decision.

The guiding philosophy of the district is that new growth pays for itself. Also part of that philosophy is the district does not purchase easements.

Both of these issues would serve to insure the district policy is followed.

Should you decline on either of these offers, the district to either put the line in at the district expense going contrary to the policy of new growth must pay for itself?

The board discussion will likely go like this:

Board members who are pro installation now say, that feel that the money that would be used to pay for this construction and installation comes from other impact fees so the district would not really be paying for installation.

The board members on the other side will say, that they categorize the impact fees of each development and the impact fee from that development should go back to the developer and feel that the cost of this 345 feet should be paid for by those who will use it in the future.

Should the majority go with those in favor of installation the line will be installed this spring?

Should he vote go with those who did not wish to spend others money at this time, feeling it is contrary to the overriding policy of the district, and require that the actual future residents of the future companies pay their own way and put the line in, the line will not be put in and will be left alone such future time as the developer of your property and those easterly move to develop.

As a board member I would be voting for the latter at this moment. I am however always open for new information and its consideration.

I have prepared this response while bouncing around in my truck in the sleeper. I have lost it several times and have to re construct over, all this on my cell phone. I get that there may be some grammar errors and maybe some miss spoken words, but rest assured that I have done my best here to communicate situation. It is well to know also that all of this communication of the history is my personal recollection and or opinion. It does not necessarily mean that what I have communicated here could be turned up in the minutes with exact accuracy should details of this be questioned. This was meant for just a general overview to serve you to aid in the process of considering possibility of our request.

Thank you.

Blair

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RE: Easement 3-11-2015

----- Original message -----

From: C Scott Baxter

Date: 03/11/2015 2:28 PM (GMT-07:00)

To: "J. Blair Larsen"

Cc: Kristen Baxter , Scott Gmail Baxter , "Keven M. Rowe"

Subject: Re: Easement 3-11-2015

Hi Blair,

Thank you for the detailed explanation. The answers to your two questions are:

#1: yes, approved. Please forward legal docs.

#2: yes, approved. Please forward legal docs.

Please call me if you need anything else prior to tonight's meeting.

Warmest regards,

Scott Baxter

Manager and Operator on behalf of property owners Baxter Enterprises and Mountain Green Associates

RE: Easement 3-11-2015

Thank you for your response. I will advise the Board of our conversations and your determination. We will move in that direction and I will keep you informed as the process proceeds.

Blair

C Scott Baxter (cscottbaxter1@gmail.com)

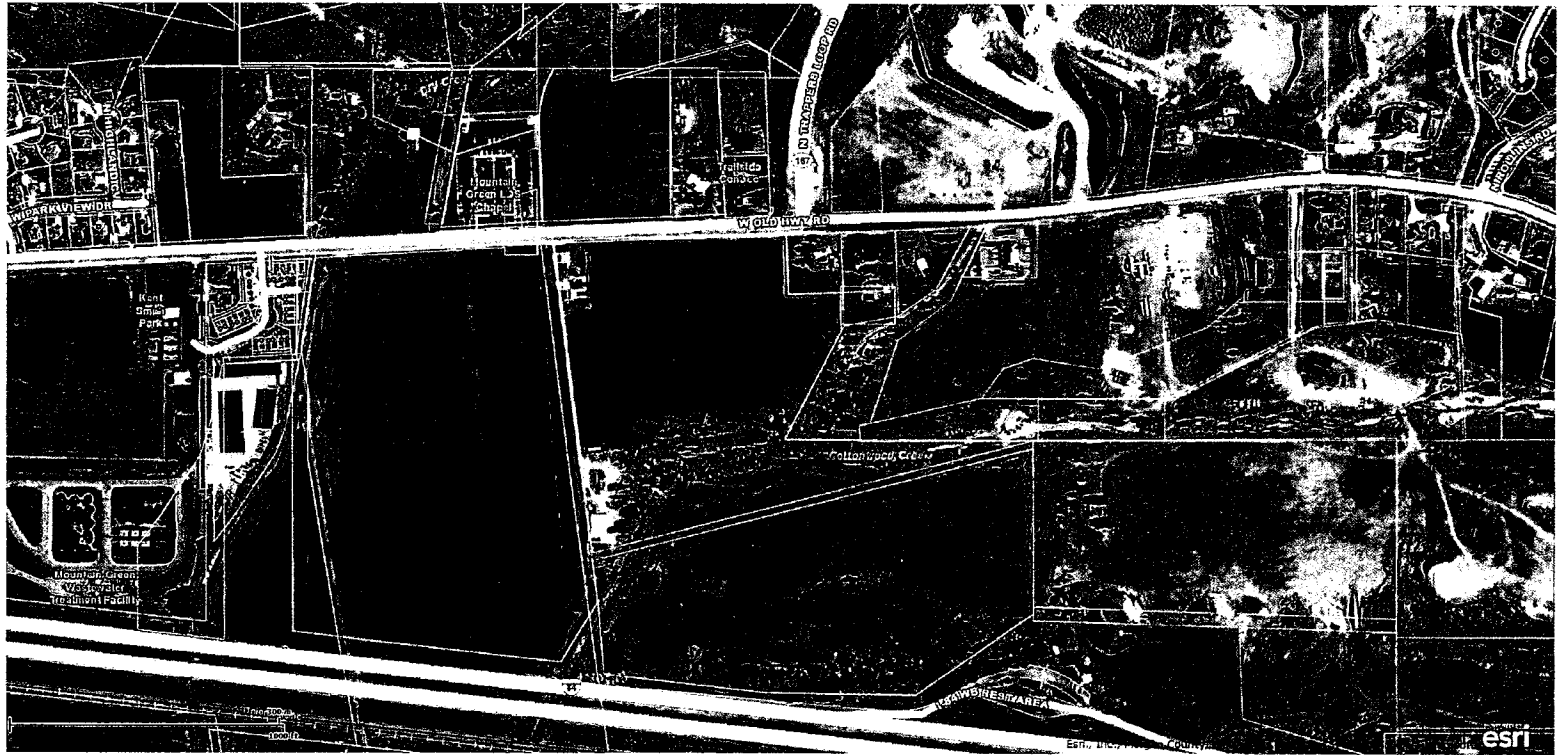
[Add to contacts](#)

2:47 PM

To: J. Blair Larsen Cc: Kristen Baxter, Keven M. Rowe

Sounds great, thank you.

Eaeseement Subject Area



Tue Mar 10 2015 02:07:34 PM.

move forward w/ installation of 360' of line
into adjoining property from SAJ MH7 pursuant to property owner showing ^{permanent} ~~ownership~~ ^{manually} ~~ownership~~
of ownership in property which ~~will be given~~ ^{in question} ~~copy~~
② a signed payback agreement including
incurred costs i.e. ^{fuel} installation, equipment +
+ payback documents ~~at~~ ~~reduction~~

a-b
inquest/press
easement