

Control Number: 41606



Item Number: 1211

Addendum StartPage: 0

SOAH DOCKET NO. 473-13-5207
PUC DOCKET NO. 41606

2013 NOV 12 AM 10:26
PUBLIC UTILITY COMMISSION
FILED CLERK

JOINT APPLICATION OF § BEFORE THE STATE OFFICE
ELECTRIC TRANSMISSION TEXAS, §
LLC AND SHARYLAND UTILITIES, §
L.P. TO AMEND THEIR CERTIFICATES §
OF CONVENIENCE AND NECESSITY § OF
FOR THE PROPOSED NORTH §
EDINBURG TO LOMA ALTA DOUBLE- §
CIRCUIT 345 KV TRANSMISSION LINE §
IN HIDALGO AND CAMERON §
COUNTIES, TEXAS § ADMINISTRATIVE HEARINGS

**DIRECT TESTIMONY OF OTHAL E. BRAND, JR.,
PRESIDENT AND GENERAL MANAGER OF INTERVENOR
HIDALGO COUNTY WATER IMPROVEMENT DISTRICT NUMBER THREE**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGE:

Intervenor Hidalgo County Water Improvement District Number Three ("HCWID#3")
files the attached Direct Testimony of Othal E. Brand, Jr., President and General Manager of
HCWID#3. HCWID#3 stipulates that this Direct Testimony can be treated by all parties as if the
answers were filed under oath.

Respectfully submitted,

LAW OFFICE OF RANDOLPH KIMBLE
WHITTINGTON
2014 East Harrison Avenue
Harlingen, Texas 78550
Telephone -- (956) 423-7200
FAX -- (956) 423-7999
Email -- chagofuentes@rkwlaw.com

1211

By: 

R. K. Whittington

State Bar No. 21404500

Attorney for and Authorized
Representative of Intervenor Hidalgo
County Water Improvement District
Number Three

Certificate of Service

I, R. K. Whittington, attorney for and authorized representative of Intervenor Hidalgo County Water Improvement District Number Three, certify that a copy of this document will be served on all parties of record in this proceeding on November 8, 2013 in accordance with P.U.C. Proc. R. 22.74 and prior SOAH Orders entered in this proceeding.


R. K. Whittington

TABLE OF CONTENTS

INTRODUCTION.....	1
PURPOSE AND SCOPE OF TESTIMONY.....	2
DESCRIPTION OF HCWID#3.....	2
DESCRIPTION OF PROPERTY AND PROPOSED TRANSMISSION LINE'S IMPACT.....	3
CONCLUSION AND RECOMMENDATIONS.....	8
Exhibit 1 Survey of Right-of-Way for New Irrigation Line North of Balboa Acres.....	10
Exhibit 2 Aerial Maps of Links Impacting HCWID#3	11

INTRODUCTION

QUESTION: Please state your name, title, and address for the record.

ANSWER: My name is Othal E. Brand, Jr. I am the duly elected President of the board of directors of the Hidalgo County Water Improvement District No. 3 (HCWID#3) located in the cities of McAllen and Hidalgo and some adjacent unincorporated areas in Hidalgo County, Texas. I also serve as the general manager of the day-to-day operations of HCWID#3. The address of the principal office of HCWID#3 is 1325 Pecan, McAllen, Texas 78501.

QUESTION: Is HCWID#3 an intervenor in SOAH Docket No. 473-13-0846 and PUC Docket No. 41606?

ANSWER: Yes.

QUESTION: Are you testifying on behalf of HCWID#3 and in your capacities as President of the board of directors and general manager?

ANSWER: Yes and on behalf of the other elected members of the HCWID#3 board of directors.

QUESTION: Have you ever testified in a Public Utility Commission of Texas ("PUC" or "Commission") proceeding?

ANSWER: No, I have not.

QUESTION: Do you understand that the direct testimony you are giving in this PUC proceeding will be reduced to writing and filed in that proceeding?

ANSWER: Yes.

QUESTION: Do you also understand and agree that your direct testimony, whether or not it is signed by you, can and will be treated by all parties to the PUC proceeding as if the answers were filed under oath?

1 ANSWER: Yes, I do understand, and I do agree.

2 QUESTION: Do you also understand that you may be subject to cross-examination by one or
3 more of the parties to the PUC proceeding with respect to the subject matter of your direct
4 testimony?

5 ANSWER: Yes.

6 **PURPOSE AND SCOPE OF TESTIMONY**

7 QUESTION: What is the purpose and scope of your testimony?

8 ANSWER: The purpose of my testimony is to (a) describe HCWID#3 and its duties and
9 responsibilities as a political subdivision of the State of Texas, (b) describe the property of
10 HCWID#3 which will be impacted and adversely affected by the proposed transmission line if it
11 is constructed along certain of the routes proposed by Applicants for selection by PUC and the
12 use of HCWID#3's property, (c) describe the expected impact on HCWID#3's property of the
13 proposed transmission line along those particular routes, (d) describe adjustments in those
14 proposed routes which would eliminate or minimize the impact and adverse effect on
15 HCWID#3's property if any of those routes are selected by PUC, and (e) express the opposition
16 of HCWID#3 against any route of the proposed transmission line that uses Links 102, 104, 105,
17 106, 107, 108, 109, 110, 111, 113, 114, or 115, or any combination of such links, unless the
18 adjustments to Links 102, 111, 113 and 115 described in this testimony are made.

19 **DESCRIPTION OF HCWID#3**

20 QUESTION: What is HCWID#3?

21 ANSWER: HCWID#3 is a water improvement district and, as such, is a political subdivision
22 of the State of Texas which was created and organized in 1921 pursuant to the applicable
23 provisions of the Texas constitution. HCWID#3 exercises those rights and powers and performs

1 those duties and responsibilities of a water improvement district as are set forth in the applicable
2 provisions of the Texas Water Code. Since 1921, HCWID#3 has continuously maintained and
3 operated a complete irrigation system consisting of a pumping station at the Rio Grande, a main
4 reservoir and canal and other canals, laterals, ditches and irrigation water lines, as well as
5 pumping and transmission equipment. HCWID#3 supplies irrigation water to agricultural,
6 residential, and other users of irrigation water both within and outside of its boundaries and is
7 one of the principal suppliers of water to the City of McAllen, Texas and its Public Utilities
8 Board.

9 **DESCRIPTION OF PROPERTY AND PROPOSED TRANSMISSION LINE'S IMPACT**

10 QUESTION: Are you personally familiar with the property and irrigation system owned and
11 operated by HCWID#3?

12 ANSWER: Yes.

13 QUESTION: Will any of the property or irrigation system of HCWID#3 be impacted or
14 adversely affected by the proposed transmission line?

15 ANSWER: Yes, if certain links of proposed routes are selected by PUC.

16 QUESTION: Please describe the property of HCWID#3 which will be impacted by the
17 proposed transmission line and where that property is located.

18 ANSWER: The source of all of the water supplied by HCWID#3 to its farmers and other
19 customers, including the City of McAllen, Texas, is the Rio Grande, the river located between
20 the southern boundary of Texas and the United States and the northern boundary of Mexico. The
21 water is diverted from HCWID#3's pumping station on the bank of the Rio Grande into
22 HCWID#3's reservoir located on South 23rd Street or International Boulevard (State Highway
23 115) approximately three miles north of the international bridge between the City of Hidalgo,

1 Texas and Reynosa, Tamaulipas and approximately five and one-half miles south of U.S.
2 Expressway 83 in the City of McAllen, Texas. From that reservoir, irrigation water is pumped
3 into and through HCWID#3's main canal into the rest of the irrigation system. The main canal is
4 located in a strip of land two hundred feet in width which runs in a generally northerly direction
5 parallel to and approximately three-tenths (0.3) of a mile east of State Highway 115. In the area
6 between Olmos Road on the south and Balboa Acres on the north, HCWID#3's irrigation system
7 includes numerous smaller open canals, laterals and underground irrigation water lines which
8 branch off of the main canal and laterals. Those include HCWID#3's Laterals F, B, A, and A-1
9 as well as underground water lines branching off each of those Laterals. In addition, a portion of
10 HCWID#3's irrigation system passes through the Balboa Acres subdivision. Because of the
11 residential development in that area, HCWID#3 received a grant to acquire right-of-way and
12 construct a new irrigation line branching off its main canal in a westerly direction and located
13 immediately north of Balboa Acres. HCWID#3 has acquired most of the right-of-way necessary
14 to construct those lines. The area of the relocated irrigation line lies within Link 102 and is
15 depicted in Exhibit 1 attached to this direct testimony.

16 QUESTION: How long has HCWID#3 owned the property you have described?

17 ANSWER: HCWID#3 acquired the area of the pumping station, reservoir, main canal,
18 laterals, and irrigation system in 1921 and has owned the fee simple title to that property
19 continuously for the more than ninety years since then. The right-of-way located immediately
20 north of Balboa Acres has been acquired within the last year but prior to the initiation of this
21 PUC proceeding. Negotiations are ongoing for the acquisition of some remaining portions of the
22 proposed right-of-way.

1 QUESTION: Is any of the HCWID#3 property you have described located along or within the
2 alternate routes of the proposed transmission line and, if so, which links of those alternate
3 routes?

4 ANSWER: Yes. Links 102, 104, 105, 106, 107, 108, 109, 110, 111, 113, 114, and 115 each
5 either include, overlap, cross, or intersect portions of the HCWID#3 property and its main canal,
6 laterals, or irrigation system. The portions of HCWID#3's property impacted by those links are
7 depicted on the six (6) aerial maps included in Exhibit 2 to this direct testimony.

8 QUESTION: Are there any habitable structures on the property owned by HCWID#3?

9 ANSWER: There are no habitable structures on those portions of the HCWID#3 property
10 which is included in one or more of the alternate routes of the proposed transmission line.

11 QUESTION: Please describe the terrain of the HCWID#3 property.

12 ANSWER: Except within the confines of the elevated main canal and laterals described
13 below, the property is generally flat and level surfaces. Except in the residential area of Balboa
14 Acres located to the south and west of Link 102 and the commercial areas located to the west of
15 Links 108, 109, and 115 and to the north and south of Links 113 and 114 (all of which are
16 outside of HCWID#3's property), the property located to the east and west of HCWID#3's main
17 canal is flat and unoccupied agricultural land.

18 QUESTION: Please describe HCWID#3's main canal and laterals in this area.

19 ANSWER: The main canal is open with elevated embankments. The canal itself varies in
20 width but generally ranges between twenty-five and forty feet in width. The canal embankments
21 on either side are approximately fifteen feet in height above level ground. The distance from the
22 bank of the canal to the toe or outer edge of the embankment is twenty-five to thirty feet so that
23 the entire width of the canal from the toe-to-toe of the embankments on either side ranges from

1 approximately seventy-five to one hundred feet. The tops of the embankments on either side of
2 the main canal are sufficiently wide to accommodate HCWID#3 vehicles used for maintenance
3 and operation of the irrigation system. The laterals in this area are open and concrete-lined, and
4 the banks are elevated approximately five to six feet above level ground.

5 QUESTION: Are there any existing transmission or distribution lines on or crossing
6 HCWID#3's property?

7 ANSWER: Yes, there is an existing overhead 138 kV electric transmission line which runs
8 along HCWID#3's western boundary line and parallel to the main canal from a point in Link 102
9 and continuing through Links 108, 109, 110 and 115. There is also an existing overhead 138 kV
10 electric transmission line which crosses the main canal at a point in Link 102.

11 QUESTION: Do any of the alternate routes of the proposed transmission line impact or
12 adversely affect the property and irrigation system you have described?

13 ANSWER: Yes.

14 QUESTION: Please describe which links of the proposed routes either impact or adversely
15 affect HCWID#3's property and irrigation system.

16 ANSWER: Links 102, 108, 109, 110, and 115 are parallel to and overlap HCWID#3's main
17 canal for a distance of approximately 3.7 miles and also either cross, intersect and/or overlap
18 HCWID#3's Laterals A, A-1, B and F. Links 104, 106, 107 and 111 either cross, intersect,
19 and/or overlap HCWID#3's main canal as well as Laterals A, A-1, B and F, as well as
20 underground waterlines branching off those Laterals. The east-west portion of Link 102 is
21 parallel to and overlaps the right-of-way recently acquired by HCWID#3 for the relocation of its
22 water lines to the north of Balboa Acres subdivision.

1 QUESTION: How would the proposed transmission line impact or adversely affect
2 HCWID#3's property and its operations?

3 ANSWER: HCWID#3's property in the area in question is only two hundred feet in width
4 along the main canal and approximately seventy-five feet or less in width along the laterals and
5 subsidiary canals and water lines. To the extent that the boundaries of the easement for the
6 proposed transmission line either includes or overlaps HCWID#3's property, both the
7 construction and maintenance of the proposed transmission line and the actual footprint of the
8 pole structures would necessarily be located within the main canal or laterals, on the sloped
9 embankments of the main canal or laterals, in the vehicle-traffic areas for maintenance and
10 operation of the main canal, or on top of HCWID#3's underground water lines. Overlapping
11 location of the proposed transmission line and pole structures would interfere with the flow and
12 supply of irrigation water to all of HCWID#3's irrigation water customers and the entire City of
13 McAllen, Texas. The main canal is in effect the "straw" and only available route through which
14 all water flows from HCWID#3's pumping station and reservoir to its entire irrigation system
15 and customers. The severance or "pinching" of that straw would cut off the only access to
16 HCWID#3's water source at the Rio Grande and prevent HCWID#3 from carrying out its
17 constitutional and statutory duties and responsibilities to its customers. In addition, if any of the
18 links which include, overlap, intersect or cross HCWID#3's property are included in the route
19 selected by PUC, the transmission line will necessarily have to cross HCWID#3's main canal
20 and perhaps one or more of its laterals. Because the main canal, in particular, and the laterals are
21 elevated with sloped embankments, periodic maintenance, cleaning, and dredging requires the
22 use of cranes and other equipment with clearances of substantial heights. At any points where
23 the transmission line crosses over the main canal or laterals, the elevation of the transmission line

1 itself will have to be sufficient to maintain required separation and clearances for HCWID#3's
2 maintenance equipment.

3 QUESTION: Have you or any other HCWID#3 representatives conferred with the Applicants
4 regarding your concerns since the initiation of this PUC proceeding?

5 ANSWER: Yes. Our legal counsel, our district engineer, and I have met with a representative
6 of the Applicants and reviewed our concerns, maps of the alternate routes and links which impact
7 HCWID#3's property and irrigation system, and proposed shifting of and adjustments to the
8 boundaries of the various links to eliminate or minimize overlap with the boundaries and sloped
9 embankments of HCWID#3's narrow property and main canal, laterals, and underground water
10 lines. Subject to completion of actual surveys and exchange of information regarding elevations
11 and heights, HCWID#3 and Applicants should be able to shift boundaries of links to prevent
12 overlap of Applicants' easement and HCWID#3's property or embankments of the main canal
13 and laterals or underground water lines.

14 **CONCLUSION AND RECOMMENDATIONS**

15 QUESTION: How would you summarize the position of HCWID#3 in this PUC proceeding
16 regarding the Applicants' recommended Route 32 and proposed alternate routes?

17 ANSWER: HCWID#3 is not opposed to Applicants' recommended Route 32 provided that
18 (a) the elevation of the transmission line is sufficient to provide adequate clearance above
19 HCWID#3's main canal at the point of crossing and (b) the pole structures and their footprint are
20 spaced so as to avoid HCWID#3's main canal and the sloped embankment on either side.
21 HCWID#3 is not opposed to the selection of any other alternate route of the proposed
22 transmission line which incorporates Links 102, 104, 105, 106, 107, 108, 109, 110, 111, 113,
23 114, or 115 provided that (a) adequate elevation clearances exist at points crossing HCWID#3's

1 main canal and laterals and (b) the boundaries of the applicable links are shifted to avoid overlap
2 with the narrow property of HCWID#3 or, at a minimum, to avoid overlap with the sloped
3 embankments of HCWID#3's main canal, laterals, underground water lines, and the right-of-way
4 required to move portions of its irrigation system out of Balboa Acres subdivision to the location
5 immediately north of that subdivision.

6 QUESTION: Does this conclude your testimony?

7 ANSWER: Yes.



Exhibit 2

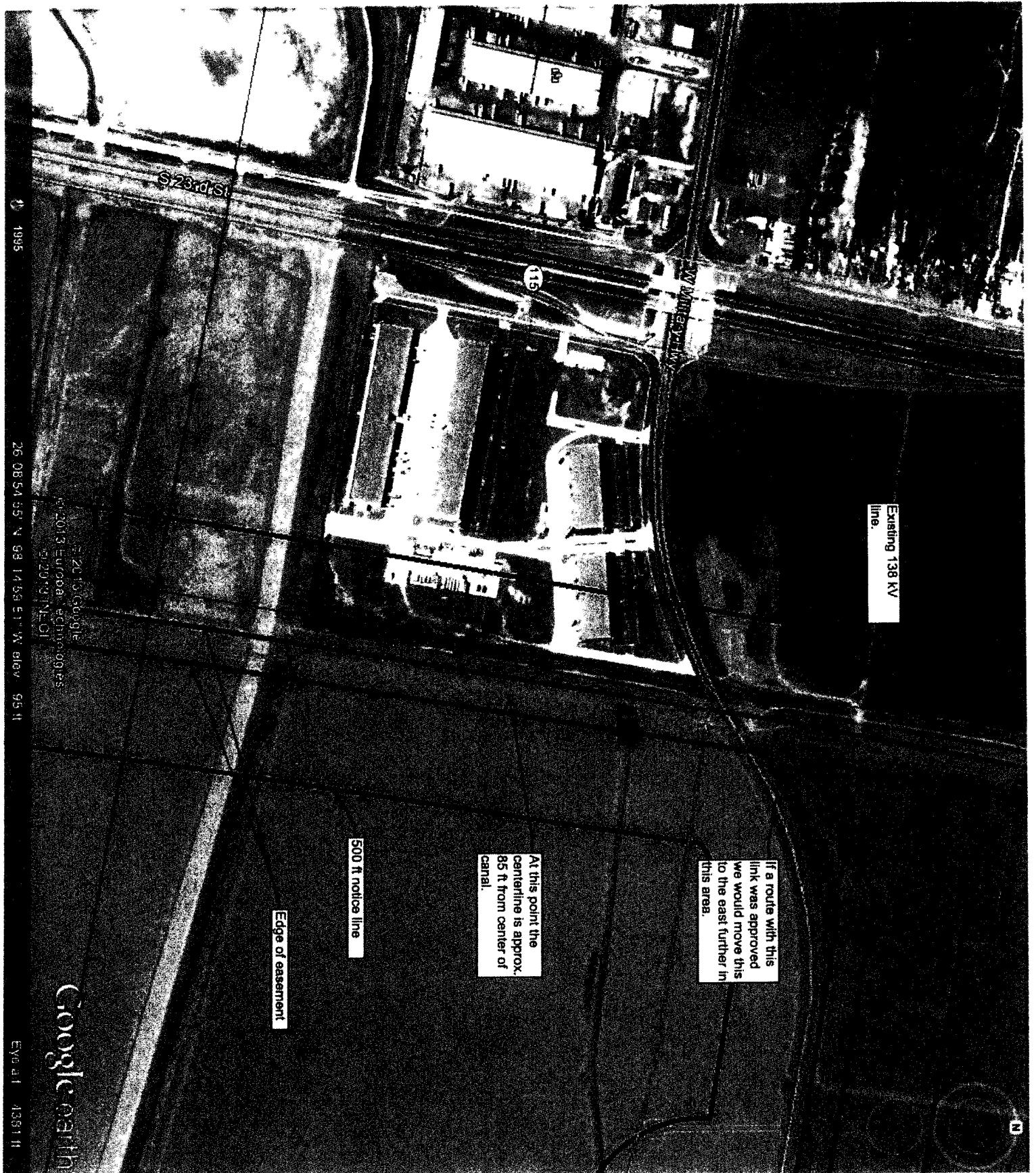


Exhibit 2



Exhibit 2

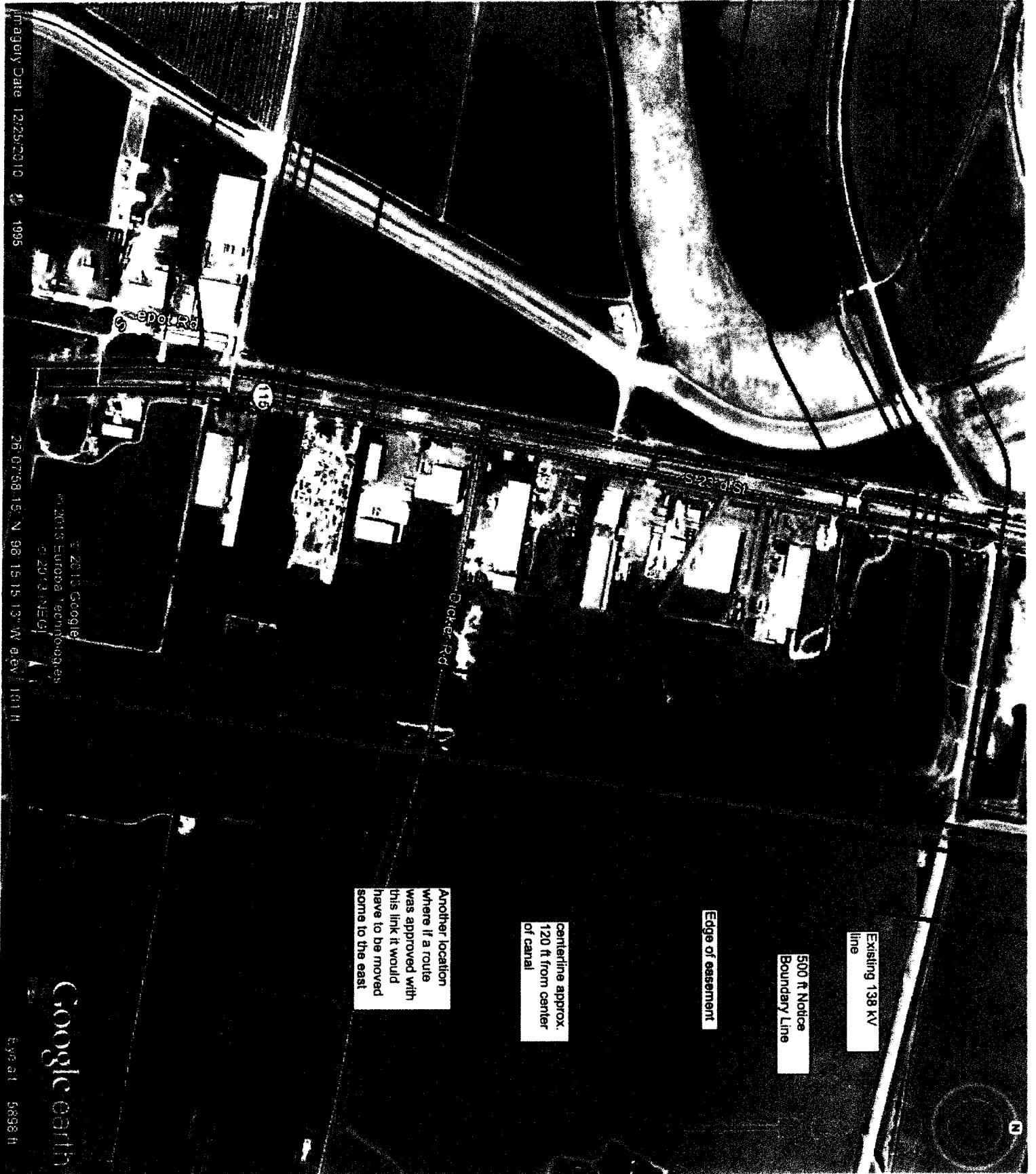


Exhibit 2

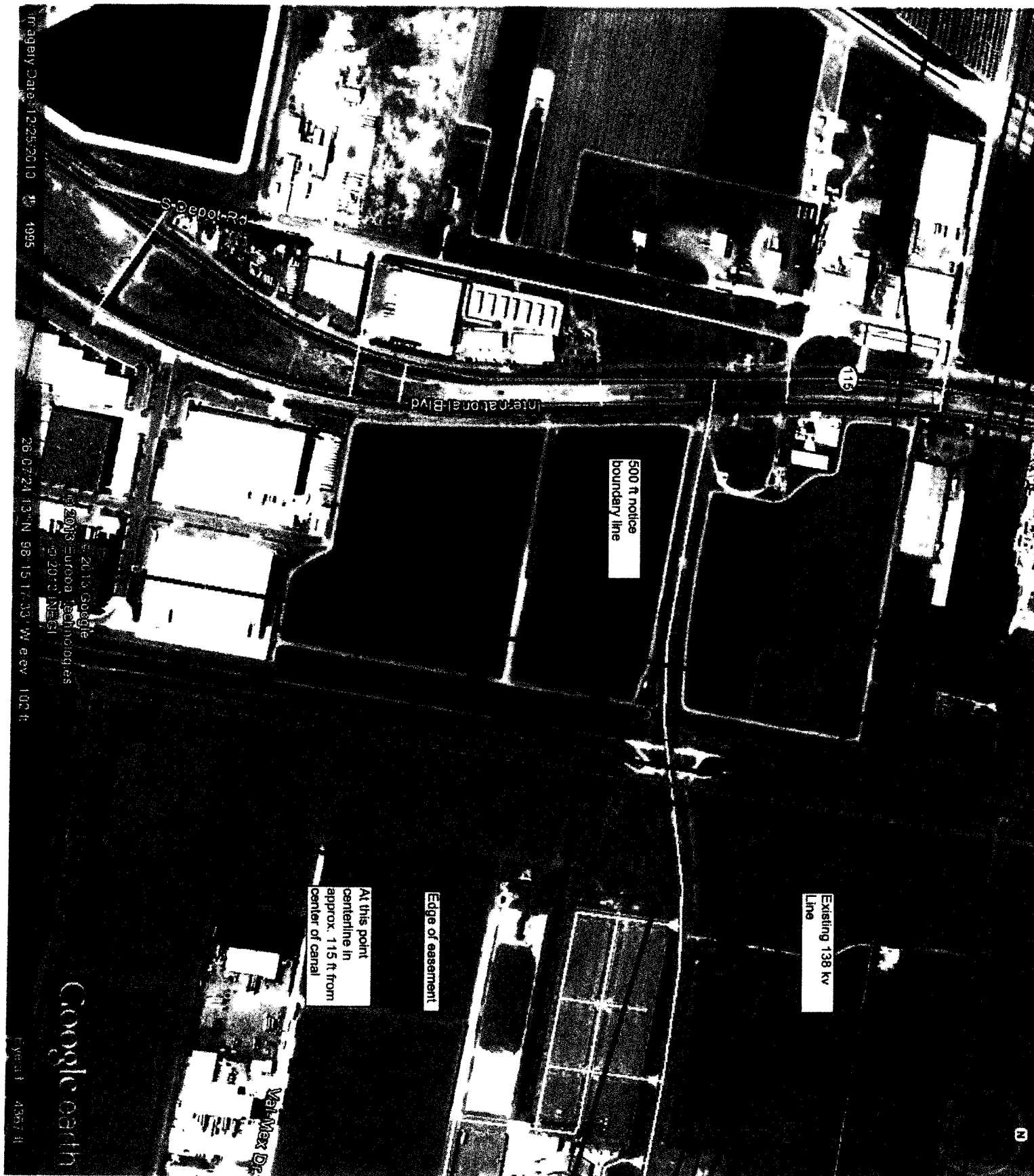


Exhibit 2