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**SOAH DOCKET NO. 473-23-21216
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**REBUTTAL TESTIMONY OF
RUSSELL J. MARUSAK, WITNESS FOR
ONCOR ELECTRIC DELIVERY COMPANY LLC**

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1 **REBUTTAL TESTIMONY OF RUSSELL J. MARUSAK**

2 **I. PURPOSE OF REBUTTAL TESTIMONY**

3 Q. PLEASE STATE YOUR NAME, BUSINESS ADDRESS, AND CURRENT
4 EMPLOYMENT POSITION.

5 A. My name is Russell J. Marusak. I am employed by Halff Associates, Inc.
6 ("Halff"), an engineering consulting firm, as a Senior Project Manager. My
7 business address is 1201 North Bowser Road, Richardson, Texas 75081.

8 Q. ARE YOU THE SAME RUSSELL J. MARUSAK WHO PRESENTED
9 DIRECT TESTIMONY IN THIS DOCKET?

10 A. Yes.

11 Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?

12 A. The purpose of my rebuttal testimony is to respond to specific statements
13 and comments made by the Texas Parks and Wildlife Department
14 ("TPWD") in a letter filed in this docket on July 20, 2023 ("TPWD letter"),
15 regarding certain aspects of Oncor Electric Delivery Company LLC's
16 ("Oncor's") proposed Ramhorn Hill-Dunham 345 kV Transmission Line
17 Project ("Proposed Transmission Line Project"). In addition, as is
18 discussed in detail below, I respond to certain claims and issues raised in
19 the testimonies of various intervenors in this docket.

20 Q. PLEASE EXPLAIN HOW YOUR TESTIMONY RELATES TO THAT OF
21 OTHER WITNESSES SUPPORTING THIS CCN APPLICATION.

22 A. My rebuttal testimony addresses certain comments in the TPWD letter and
23 certain issues in the testimonies of the witnesses for various intervening
24 parties regarding the factors in Public Utility Regulatory Act ("PURA")
25 § 37.056(a)(4) and 16 Texas Administrative Code § 25.101(b)(3)(B). The
26 rebuttal testimonies of Oncor witnesses Mr. Harsh Naik, Ms. Brenda J.
27 Perkins, Ms. Amy L. Zapletal, and Dr. Edward P. Gelmann address the
28 other issues raised in intervenor direct testimony.

1 **II. REBUTTAL REGARDING THE TPWD LETTER**

2 Q. WHAT IS THE TPWD LETTER?

3 A. On July 20, 2023, the TPWD filed a letter to the Commission in this
4 docket, offering comments regarding the *Environmental Assessment and*
5 *Alternative Route Analysis for Oncor Electric Delivery Company LLC's*
6 *Proposed Ramhorn Hill to Dunham 345 kV Transmission Line Project in*
7 *Denton and Wise Counties, Texas* ("Environmental Assessment") filed as
8 Attachment 1 to Oncor's Application. Given that Oncor's Application,
9 including my direct testimony, was filed on June 8, 2023, I have not had
10 an opportunity to address TPWD's comments. Accordingly, I will respond
11 now to certain statements and comments made in the TPWD letter.

12 Q. IS THE TPWD LETTER THE FIRST TIME THAT TPWD HAS OFFERED
13 COMMENTS REGARDING THE PROPOSED TRANSMISSION LINE
14 PROJECT?

15 A. No. On October 7, 2022, TPWD provided information and
16 recommendations regarding the general study area for this project to Halff
17 for consideration in preparing the Environmental Assessment.

18 Q. DO YOU HAVE ANY GENERAL OBSERVATIONS REGARDING THE
19 CONTENT OF THE TPWD LETTER?

20 A. Yes, I have two general observations. First, in both its October 7, 2022,
21 and July 20, 2023, correspondence, TPWD generally provides reasonable
22 advice. Halff attempted to utilize many, if not all of the recommendations
23 in its study, and Halff has already taken into consideration several of the
24 recommendations offered by the TPWD. Second, consistent with the
25 agency's mission, the TPWD's recommendations focus on potential
26 impacts to fish and wildlife resources and recreational areas. Thus,
27 TPWD did not evaluate other factors the Commission must consider,
28 including length of route parallel to apparent property boundaries and
29 length of route parallel to existing compatible ROW.

1 Q. DOES THE TPWD LETTER RECOMMEND A SPECIFIC ROUTE?
2 A. Yes. TPWD recommends Route 137.
3 Q. WHAT IS THE BASIS FOR THIS RECOMMENDATION?
4 A. TPWD based this recommendation on its determination that Route 137
5 will have the least impact to fish and wildlife resources, due primarily to its:
6 (1) length parallel to existing transmission lines, railroads, public
7 roadways, and pipelines; (2) relatively short distance through upland
8 woodlands, riparian areas, potential wetlands, and streams; (3) relatively
9 high distance through commercial and industrial areas, cropland, hay
10 meadow, and rangeland pasture; (4) absence of any rare/unique plants
11 within the ROW; and (5) avoidance of the Northwest ISD Outdoor
12 Learning Center.
13 Q. DID THE TPWD LETTER MAKE ANY OBSERVATIONS REGARDING
14 ROUTE 179?
15 A. Yes. The TPWD letter observes that Route 179 ranks very similarly to
16 Route 137 and generally exhibits shorter lengths across natural resource
17 criteria than other routes.
18 Q. ON PAGE 2 OF THE TPWD LETTER, THE TPWD RECOMMENDS THAT
19 ONCOR REVIEW PREVIOUS RECOMMENDATIONS REGARDING THE
20 GENERAL STUDY AREA FOR THIS PROJECT. DID YOU REVIEW
21 THOSE RECOMMENDATIONS AND TAKE THOSE INTO
22 CONSIDERATION IN PREPARING THE ENVIRONMENTAL
23 ASSESSMENT AND ROUTING STUDY?
24 A. Yes. Halff reviewed the TPWD recommendation letter of October 7, 2022,
25 and took TPWD's recommendations into account in preparing the
26 Environmental Assessment. The recommendations addressed, among
27 other things, impacts to vegetation, rare and protected species, water
28 resources, and managed areas.

- 1 Q. ON PAGE 7 OF THE TPWD LETTER, TPWD PROVIDES A
2 RECOMMENDATION REGARDING ADHERENCE TO TEXAS PARKS
3 AND WILDLIFE CODE ("PWC") CHAPTER 26. PLEASE EXPLAIN HOW
4 THE ROUTING FOR THE PROPOSED TRANSMISSION LINE PROJECT
5 IMPLICATES PWC CHAPTER 26.
- 6 A. PWC Chapter 26 requires notice and hearing to be provided and requires
7 that certain findings be made before a political subdivision of the state
8 may approve any project that requires the use or taking of land designated
9 as a public park or recreational area. The Commission and two Texas
10 appellate courts have previously found that PWC Chapter 26 does not
11 apply where there is a change in use from one park use to another. In
12 other words, PWC Chapter 26 only applies where the proposed project
13 would result in the land at issue being used for something *other than* a
14 park or recreation area. Recently, the Commission affirmed this
15 interpretation in Project No. 54392, finding that the presence of a
16 transmission line through a park—even if structures are installed on the
17 parkland—does not change the use of the property because the land as a
18 whole is still used as a park. Thus, PWC Chapter 26 would only be
19 implicated if the Proposed Transmission Line Project would result in land
20 designated as a park or recreation area being taken and used for a
21 different purpose.
- 22 Q. WILL ANY OF THE PROPOSED ROUTING ALTERNATIVES RESULT IN
23 PARKS OR RECREATION AREAS BEING TAKEN AND USED FOR A
24 DIFFERENT PURPOSE?
- 25 A. No. While several of the proposed routing alternatives would cross parks
26 and recreational areas, none would result in the property being put to any
27 different use than it currently enjoys.
- 28 Q. DOES THE TPWD LETTER MAKE ANY OTHER RECOMMENDATIONS?

1 A. Yes. The TPWD letter provides a list of beneficial management practices
2 ("BMPs") and recommends that Oncor utilize the BMPs that are
3 specifically applicable to the Proposed Transmission Line Project.

4 **III. REBUTTAL REGARDING CROSSING USACE PROPERTY**

5 Q. SEVERAL INTERVENORS, INCLUDING DAVID A. RETTIG ON BEHALF
6 OF THE TOWN OF NORTHLAKE (PAGES 7-8, LINES 119-127);
7 JEREMY AND KATIE YOUNG (PAGE 12); AND DEBORAH N. DALLAS
8 (PAGE 3) SUGGEST THAT THE PROPOSED TRANSMISSION LINE
9 PROJECT SHOULD UTILIZE LAND OWNED BY THE UNITED STATES
10 ARMY CORPS OF ENGINEERS ("USACE"). DID HALFF DEVELOP
11 ROUTE ALTERNATIVES THAT UTILIZE USACE LAND?

12 A. Yes. As documented in the Environmental Assessment, Section 4.1,
13 Page 4-3, Halff developed Link G2, which crosses a very small amount of
14 USACE land near the IH-35W crossing of Denton Creek. This link was
15 developed early in the routing study process and is utilized in 23 of the 74
16 routes filed by Oncor.

17 Q. DID HALFF CONSIDER ANY OTHER CROSSINGS OF USACE
18 PROPERTY BESIDES LINK G2?

19 A. Yes. Section 6.3 of the Environmental Assessment outlines Halff's and
20 Oncor's efforts to meet with local officials and the USACE to discuss
21 alternatives that might utilize USACE lands and provide a southern
22 alternative, as suggested during the public meetings and in the intervenor
23 testimonies previously mentioned.

24 Q. PLEASE EXPLAIN HALFF'S DECISION-MAKING PROCESS IN
25 CONSIDERING POTENTIAL ROUTES THAT CROSSED THE USACE
26 PROPERTY.

27 A. The recognition of USACE property as a constraint is addressed in
28 different contexts in Sections 3.7.2, 3.7.4, 4.1, 4.2, 6.3, and 7.7.2 of the
29 Environmental Assessment. Part V of my direct testimony documents the

1 federal policy regarding the use of USACE-owned lands, Halff's prior
2 project experience attempting to cross USACE lands, Halff's coordination
3 with the USACE regarding the Proposed Transmission Line Project, and
4 research of the Grapevine Lake Master Plan. In essence, the relevant
5 federal regulations state that the USACE will not approve a route across
6 USACE property unless: (1) no viable alternative exists (irrespective of
7 cost concerns associated with such alternatives); or (2) there is a direct
8 benefit to the federal government.

9 Halff engaged in extensive discussions with the USACE, as well as
10 other local, state, and federal officials, and Oncor conducted substantial
11 analysis regarding potential crossings of the USACE property, as detailed
12 in Ms. Zapletal's direct testimony. Ultimately, these efforts led to the
13 conclusion that the USACE property does not provide any feasible routing
14 options (other than Link G2), especially in light of the numerous viable
15 alternatives.

16 Q. WHY ARE ROUTES ACROSS USACE PROPERTY INFEASIBLE?

17 A. A crossing of the USACE property would require federal approval, and
18 USACE representatives indicated to Oncor that a crossing outside of Link
19 G2 or one of the designated utility corridors would be denied. Detailed
20 analysis of potential USACE crossings that were considered is provided in
21 the Environmental Assessment, my direct testimony, and the direct
22 testimonies of Oncor witnesses Ms. Zapletal and Mr. Naik. To briefly
23 summarize, generally, obtaining federal approval for a USACE crossing
24 requires a review under the National Environmental Policy Act ("NEPA")
25 which is a months- to years-long process that may result in denial of the
26 requested crossing if the applicable standards are not met (i.e., if there are
27 (1) viable alternatives, and (2) no direct benefit to the federal government).

28 After much dialogue with the USACE, it became clear that any
29 crossing outside of the designated utility corridors on the USACE property

1 would likely require a full NEPA review. This would delay this critical
2 reliability project, potentially for years. Requirements governing the use of
3 the designated utility corridors and existing facilities that already occupy
4 the corridors make the designated utility corridors unsuitable for the
5 Proposed Transmission Line Project. Moreover, due to the dense urban
6 development south and west of the USACE property, even if such a
7 crossing within one or more designated utility corridors were approved, it
8 would essentially lead to a dead-end from a routing perspective, due to
9 engineering constraints addressed in Ms. Zapletal's direct testimony.
10 Accordingly, Oncor discontinued consideration of routes crossing USACE
11 property.

12 Oncor's coordination with the USACE is detailed in pages A-202 to
13 A-244 (Appendix A) of the Environmental Assessment. Appendix G of
14 the Environmental Assessment provides Oncor's analysis of the routing,
15 engineering, and planning constraints associated with a USACE crossing.
16 Additional analysis is provided in my direct testimony (pages 8-10, 14-22
17 and Exhibits RJM-4 through RJM-6) and in the direct testimonies of Oncor
18 witnesses Ms. Zapletal (pages 11-19, 25-50 and Exhibits ALZ-2 through
19 ALZ-4) and Mr. Harsh Naik (pages 15-18).

20 Q. WHY DID HALFF INCLUDE LINK G2 BUT NOT OTHER LINKS
21 CROSSING USACE PROPERTY?

22 A. The Environmental Assessment includes an email from the Grapevine
23 Lake Manager, who oversees the USACE lands in the study area,
24 suggesting preliminary approval of this crossing. That communication is
25 shown on page A-225 (Appendix A). The USACE Fort Worth District
26 Chief of Operations Division expressed similar support for this crossing, as
27 shown on page A-242 of the Environmental Assessment.

28 Q. INTERVENORS JEREMY AND KATIE YOUNG INDICATE THAT
29 REPRESENTATIVE BURGESS AGREED TO "FAST-TRACK"

1 APPROVAL OF A CERTAIN ROUTE ACROSS THE USACE
2 PROPERTY. HOW DO YOU RESPOND?

3 A. This is incorrect. As detailed in pages A-202 through A-244 (Appendix A)
4 of the Environmental Assessment, Oncor met with Rep. Burgess and
5 others from his office on multiple occasions. The Congressman facilitated
6 discussions with the USACE and local officials and participated in a field
7 visit to the USACE property. On February 14, 2023, Halff and Oncor held
8 a meeting with Rep. Burgess's office, the USACE, and others, where the
9 USACE provided a "best-case" timeline for NEPA approval, which may be
10 what Mr. and Ms. Young are referencing. Regardless, following that
11 meeting, the USACE indicated that it could not approve the southern
12 alternative through the USACE property, which many intervenors
13 advocate in their direct testimony. This communication is provided in
14 page A-242 (Appendix A) of the Environmental Assessment.

15 Q. DOES THE USACE'S REFUSAL TO APPROVE A SOUTHERN
16 ALTERNATIVE ACROSS USACE PROPERTY RELATE TO ANY OTHER
17 CONCERNS EXPRESSED BY INTERVENORS?

18 A. Yes. Several intervenors, including the Town of Northlake, Sara and Alan
19 Yarbrough, James and Holly Lewis, Viktor and Anzhela Chopovenko,
20 among others, expressed concern over the effects of the project on
21 wildlife, stemming from the clear-cutting of the project ROW and bird
22 mortality. Halff and Oncor acknowledge potential impacts to wildlife during
23 clearing of the ROW and after construction (Environmental Assessment,
24 Section 7.4.2.1, Page 7-9). The decision to not include southern
25 alternative routes is consistent with the expressed concerns for wildlife.
26 Because the USACE property consists primarily of land designated as
27 environmentally sensitive area in the USACE's Grapevine Lake Master
28 Plan, crossing the USACE property would likely require removal of many
29 acres of wooded habitat.

1 **IV. REBUTTAL REGARDING THE COMMISSION'S ROUTING FACTORS**

2 Q. MANY INTERVENORS MAKE ARGUMENTS RELATING TO THE
3 COMMISSION'S ROUTING FACTORS, INCLUDING WAYNE
4 WILKERSON, ON BEHALF OF HIMSELF AND NORMA WILKERSON
5 (PAGE 4, LINES 6-9); EDGAR BRENT WATKINS AND MARY ANN
6 LIVENGOOD (PAGE 4, LINE 12 TO PAGE 5, LINE 7); T. BRIAN ALMON,
7 ON BEHALF OF MR. WATKINS AND MS. LIVENGOOD (PAGE 11, LINE
8 19 TO PAGE 16, LINE 5); TOMMY CANSLER, ON BEHALF OF TCCI
9 RANGE-MEAD 2021 LLC (PAGE 8, LINE 9 TO PAGE 9, LINE 21); AND
10 OTHERS. WHAT ROUTING FACTORS MUST THE COMMISSION
11 CONSIDER IN APPROVING THE PROPOSED TRANSMISSION LINE
12 PROJECT?

13 A. PURA and the Commission's substantive rules provide a number of
14 routing factors that the Commission must consider when determining
15 whether to grant a CCN for a new transmission line. PURA's routing
16 factors include community values, recreational and park areas, historical
17 and aesthetic values, and environmental integrity. The Commission's
18 substantive rules require consideration of whether the routes parallel or
19 utilize existing compatible rights-of-way ("ROW"), including existing
20 transmission facilities, roads, highways, railroads, or telephone utility
21 ROW; whether the routes parallel property lines or other natural or cultural
22 features; and whether the routes conform with the Commission's policy of
23 prudent avoidance, which Commission rules define as "[t]he limiting of
24 exposures to electric and magnetic fields that can be avoided with
25 reasonable investments of money and effort."

26 Q. HOW DO YOU RESPOND TO THESE PARTIES' CONCERNS
27 REGARDING THE COMMISSION'S ROUTING FACTORS?

28 A. First, I will echo comments provided in these and other intervenors'
29 testimony, calling attention to the dynamic development occurring in the

1 study area. One consequence of this development is that the Proposed
2 Transmission Line Project's environmental and land-use data will continue
3 to change in the near future. The construction of new residences,
4 businesses, and roadways, or the expansion of existing infrastructure, will
5 modify the counts and measurements for certain collected data. This is
6 the basis of many concerns raised by intervenors regarding, for example,
7 impacts to habitable structures.

8 As the unoccupied corridors traversing the study area experience
9 new development, available routing opportunities will diminish in turn. To
10 the extent possible, the routing for the Proposed Transmission Line
11 Project attempted to identify and utilize the unoccupied corridors that exist
12 today. But many such corridors may be occupied soon, and reaching
13 them often requires routing through already-developed areas.

14 Q. WHAT IS THE PRIMARY GOAL OF THE ROUTING PROCESS?

15 A. The primary goal of the routing process is to identify an adequate number
16 of geographically diverse routes that connect the project's endpoints, while
17 minimizing the impacts to the study area, as measured by the
18 Commission's routing factors. The Environmental Assessment quantifies
19 these impacts so the Commission can evaluate the routes and select the
20 route that best meets the requirements of PURA and the Commission's
21 rules as a whole. Given the range of factors the Commission must
22 consider, this process generally requires the Commission to strike a
23 balance between community impacts, costs, routing feasibility, and many
24 other factors.

25 Q. DO YOU HAVE ANYTHING ELSE TO ADD REGARDING THESE
26 GENERAL ROUTING CONCERNS?

27 A. Yes. Several intervenors filed testimony raising concerns about a
28 particular link or links being located near specific structures/developments,
29 bisecting specific properties, or diverging from existing compatible

1 corridors. Often, these concerns are factual but fail to take into
2 consideration the overall routing for the Proposed Transmission Line
3 Project. While these are valid concerns for the Commission to consider,
4 they often do not account for constraints at other points along the route.

5 Due to the nature of the study area, all of the proposed routes at
6 some point will approach habitable structures, deviate from property
7 boundaries, and diverge from existing compatible corridors. This is a
8 necessity of routing almost all transmission lines, especially through such
9 a densely populated area. Halff's routing process adopts a holistic view of
10 the proposed routing alternatives and the constraints identified throughout
11 the study area to determine which alternatives best meet the requirements
12 of PURA and the Commission's substantive rules when taken as a whole.
13 This simply cannot be accomplished by focusing on one link's impacts to a
14 single property.

15 **V. REBUTTAL REGARDING PARALLELING EXISTING COMPATIBLE ROW**

16 Q. SOME INTERVENORS, INCLUDING JEFFREY SCOTT BROOKS (PAGE
17 1); SARA YARBROUGH (PAGE 6); AND MR. WATKINS AND MS.
18 LIVENGOD (PAGE 4, LINES 12-27), CLAIM CERTAIN LINKS DO NOT
19 PARALLEL EXISTING COMPATIBLE ROW. HOW DO YOU RESPOND?

20 A. Under the Commission's rules, "existing compatible rights-of-way" include
21 existing transmission lines, roads, highways, railroads, and telephone
22 utility ROW. Halff attempted to provide proposed routing alternatives that
23 parallel existing compatible corridors to the maximum extent feasible.
24 However, that is only one factor the Commission must consider, and it is
25 often at odds with others.

26 For example, Mr. Brooks, Mr. Watkins, and Ms. Livengood argue
27 that Link V2 does not parallel existing compatible ROW and argue that the
28 Commission should instead select a route that uses Link V1. Link V1
29 parallels a railroad for most of its length and therefore parallels existing

1 compatible corridors to a greater extent than Link V2. Conversely, Link V1
2 is in the foreground visual zone of US Highways 81 and 287 for most of its
3 length and therefore has a greater aesthetic impact than Link V2. All of
4 the proposed routing alternatives have trade-offs like this, which is why
5 Halff evaluates proposed routing alternatives based on a holistic review of
6 each route. Each of the routing alternatives proposed in Oncor's CCN
7 application parallels existing compatible corridors to a reasonable extent
8 when viewed as a whole.

9 **VI. REBUTTAL REGARDING PARALLELING PROPERTY LINES**

10 Q. SOME INTERVENORS, INCLUDING: FINLEY EWING, ON BEHALF OF
11 LA ESTANCIA INVESTMENTS L.P. ("LA ESTANCIA") (PAGE 6); MR.
12 WATKINS AND MS. LIVENGOOD (PAGE 5, LINE 4); MATTHEW
13 SPAETHE (PAGE 5, LINES 21-29, AND PAGE 9, LINES 13-18); PEGGY
14 LOGAN MCCURDY (PAGE 8, LINES 23-28), AND OTHERS, FILED
15 TESTIMONY REGARDING LINKS THAT DO NOT PARALLEL
16 PROPERTY LINES AND/OR BISECT THEIR PROPERTIES. DO YOU
17 HAVE ANY OBSERVATIONS ABOUT THE CONTENT OF THEIR
18 TESTIMONIES?

19 A. As described in my direct testimony, for many reasons, paralleling
20 property lines is not possible in every instance. Paralleling of property
21 lines is one factor the Commission must consider, not an absolute
22 requirement. The decision to parallel a property line involves
23 consideration of the boundaries of several properties in a general location
24 to determine whether an opportunity exists to parallel property lines for an
25 extended length in the absence of other compatible corridors. Constraints
26 on preceding links and irregular property boundaries along a given route
27 often make it difficult to reach and follow property boundaries, and to do
28 so would often require the addition of multiple turning structures.

1 The decision to parallel property boundaries can also increase
2 impacts to habitable structures and other features identified in the
3 Commission's routing criteria. For example, Link M8 is offset from the
4 property boundaries to its south to provide a buffer between the link and a
5 pipeline corridor that runs parallel to the property line. Multiple habitable
6 structures are located on the properties immediately to the south, such
7 that moving the link closer to the property boundaries would increase the
8 impacts to habitable structures. This dilemma is explicitly noted in the
9 direct testimony of Wayne Wilkerson on behalf of himself and Norma
10 Wilkerson.

11 Link V2, cited in Mr. Watkins and Ms. Livengood's direct testimony,
12 is another example that demonstrates the need for a holistic routing
13 approach. Link V2 is a distinct alternative to Link V3 that originates at the
14 node of Links V2 and R4. Link R4 parallels a property line. From that
15 node, routing Link V2 along the property boundary to its south would
16 impact over 30 new habitable structures, again illustrating the relationship
17 between paralleling property boundaries and proximity to habitable
18 structures. Alternatively, if after crossing US 287, Link V2 headed to the
19 northwest to parallel Ramhorn Hill Road, the link would be located along
20 the highway frontage, which Mr. Watkins's testimony claims would
21 become extremely valuable after US 287 improvements.

22 Q. ARE THERE OTHER EXAMPLES OF SITUATIONS WHERE
23 PARALLELING PROPERTY BOUNDARIES WOULD LEAD TO
24 UNDESIRABLE OUTCOMES?

25 A. Yes. South County Line Road near Link Q1 and Q2 presented an
26 opportunity to parallel a property boundary along the road from the
27 northern extents of Link Q2 south to Links P7 and P3. However, new
28 structures identified during the route-development process would have
29 necessitated the use of several turning structures to reach the property

1 line. This would have increased the cost of the project and the length and
2 number of structures on the landowners' properties. Therefore, Halff
3 chose to offset Links Q1 and Q2 from the property boundary. This
4 situation again illustrates the relationship between paralleling property
5 boundaries and proximity to habitable structures. Paralleling South
6 County Line Road would have directly affected over 20 newly constructed
7 habitable structures on the east side of the road.

8 **VII. REBUTTAL REGARDING HABITABLE STRUCTURES**

9 R. A NUMBER OF INTERVENORS, INCLUDING LA ESTANCIA (PAGE 10,
10 LINES 5-9) AND THE TOWN OF NORTHLAKE (PAGE 9, LINES 151-167)
11 VOICE CONCERNS ABOUT HABITABLE STRUCTURE
12 IDENTIFICATION AS IT RELATES TO PENDING DEVELOPMENT AND
13 AREAS CURRENTLY UNDER DEVELOPMENT, RESPECTIVELY.
14 PLEASE DESCRIBE THE PROCESS HALFF USED TO IDENTIFY
15 HABITABLE STRUCTURES.

16 A. Halff employs a robust process to identify habitable structures. To
17 determine the location of habitable structures, Halff reviews high-
18 resolution aerial imagery and records the location of habitable structures
19 potentially located within 520 feet of any link in ArcGIS shapefile format. A
20 distance of 520 feet—rather than 500 feet, as required under Commission
21 rules—is used to provide a buffer to account for photographic
22 interpretation limitations such as shadows, tree canopies, and the margin
23 of error associated with the horizontal accuracy of the aerial imagery, to
24 ensure that Halff captured all habitable structures actually located within
25 500 feet of the route centerlines.

26 Halff utilizes a licensed imagery platform (Nearmap), which
27 provides frequent aerial updates in larger urban areas across the United
28 States, to help ensure that Halff has the most recent aerial imagery
29 available. Preparation of the Environmental Assessment included the use

1 of imagery dated May 2022; October 2022; and January 2023. The most
2 recent imagery from January 2023 was used in the Environmental
3 Assessment's final constraints mapping.

4 Halff supplements this process by holding discussions with
5 landowners at public participation meetings and conducting numerous
6 reconnaissance surveys of the study area consisting of visual
7 observations from public roads and other public ROW. The purpose of
8 these surveys is to confirm the findings of Halff's data-collection activities
9 and identify existing conditions or constraints that were not previously
10 noted. As explained in Section 2.2.2 of the Environmental Assessment,
11 Halff conducted reconnaissance surveys of the study area on the following
12 dates prior to Oncor's filing of the CCN application:

- 13 • September 4, 2022;
- 14 • November 23, 2022;
- 15 • December 7, 2022;
- 16 • December 8, 2022;
- 17 • January 14, 2023;
- 18 • February 16, 2023;
- 19 • March 4, 2023; and
- 20 • April 25, 2023.

21 Halff conducted an additional reconnaissance survey of the study area
22 after Oncor filed its CCN application, on August 14, 2023.

23 Q. HOW DO YOU RESPOND TO THE STATEMENTS IN THE DIRECT
24 TESTIMONY OF MR. RETTIG ON BEHALF OF THE TOWN OF
25 NORTHLAKE (PAGE 9, LINES 165-167) THAT AN APARTMENT
26 COMPLEX WAS NOT IDENTIFIED IN THE ROUTING ANALYSIS?

27 A. Halff identified these apartments under construction at the earliest stages
28 of the constraints mapping process, and field reconnaissance monitored
29 their progress up to finalizing the Environmental Assessment. As of April

1 25, 2023, Halff determined that none of the apartment complex units were
2 completed to satisfy the habitable structure definition under 16 Texas
3 Administrative Code § 25.101(a)(3). Therefore, Halff did not identify them
4 as habitable structures on Figure 3-1C or in Table 7-4 of the
5 Environmental Assessment. Mr. Rettig's testimony confirms on Page 9,
6 Line 156 that they will not be completed until the end of the year. Section
7 7.7.1, Page 7-16 of the Environmental Assessment, acknowledges that
8 several links are near residential neighborhoods in different stages of
9 development, and that additional habitable structures will ultimately be
10 within 500 feet of many routes as a result.

11 Q. ARE THERE OTHER DEVELOPMENTS WITHIN THE STUDY AREA
12 THAT APPEAR LIKELY TO BUILD HABITABLE STRUCTURES IN THE
13 NEAR FUTURE?

14 A. Yes, there are several other developing residential areas that, within the
15 next few months, may increase the number of habitable structures within
16 500 feet of certain Proposed Transmission Line Project links. Many of
17 these are called out in Section 5.0 of the Environmental Assessment. As
18 part of its process, Halff identified several habitable structures, assigning a
19 numeric identifier to each during the latter stages of the study. As shown
20 in Exhibit RJM-R-1, the last field reconnaissance exercise (April 25, 2023)
21 for the Environmental Assessment added several habitable structures (as
22 indicated by the .01-.03 suffix) in a developing subdivision south of Link I2.
23 Updated aerial imagery from May 31, 2023, supports that additional
24 houses that were in the latter stages of completion at the time may be now
25 completed and occupied. Halff monitored other developing neighborhoods
26 near Links J22, J4, L1, M1, M3, M6, O6, and P3 to verify and confirm the
27 presence of habitable structures. However, only one structure was added
28 near Link J2 (HS 555.01) after the April 25, 2023, field reconnaissance.
29 As shown on Exhibit RJM-R-1, there may also be additional habitable

1 structures completed east of HS 569.

2 Q. INTERVENOR JEFFREY BROOKS (PAGE 1) AND OTHERS SUGGEST
3 THAT HALFF'S IDENTIFICATION AND MAPPING OF HABITABLE
4 STRUCTURES MAY HAVE OMITTED PRIMARY RESIDENCES. HOW
5 DO YOU RESPOND?

6 A. Halff identified and included in its habitable structure count all structures
7 located within 500 feet of the centerline of an alternative route that appear
8 to meet the Commission's definition of a habitable structure. In some
9 instances, structures that intervenors report as having been omitted were
10 more than 520 feet from a route centerline; hence, these structures are
11 not shown on the maps and tables. For example, Mr. Brooks provided
12 testimony that a new structure identified as a primary residence has been
13 constructed near Link V2. Halff acknowledges that a new structure has
14 been constructed adjacent to Ramhorn Hill Road on Tract 2560, as
15 described in Mr. Brooks's testimony. However, this structure is not within
16 520 feet of the route centerline for Link V2 and therefore was not included
17 in the habitable structure counts.

18 **VIII. REBUTTAL REGARDING RECREATIONAL AND PARK AREAS AND**
19 **AESTHETIC VALUES**

20 Q. A NUMBER OF INTERVENORS, INCLUDING PETER J. WANGOE II, ON
21 BEHALF OF JUSTIN TOWN CENTER, LTD. AND JTS 3.8, LLC (PAGE 3,
22 LINES 41-46), L. RUSSELL LAUGHLIN ON BEHALF OF THE
23 HILLWOOD PARTIES (PAGE 14, LINE 18 TO PAGE 15, LINE 7), AND
24 JAMES CLARK, ON BEHALF OF THE CITY OF JUSTIN (PAGE 8, LINES
25 13-23 AND PAGE 9, LINE 21 TO PAGE 10, LINE 6), EXPRESS
26 CONCERNS WITH THE IMPACT OF CERTAIN LINKS OR ROUTES ON
27 PARKS AND RECREATIONAL AREAS. HOW DO YOU RESPOND?

28 A. Halff attempted to avoid parks and recreational areas where feasible in
29 developing the proposed routing alternatives. But a substantial number of

1 parks and recreational areas are scattered throughout the study area, so
2 crossing them was unavoidable in certain locations. Where links do cross
3 parks and recreation areas, Halff routed the links to minimize disruption to
4 the community's use and enjoyment of the area. Park areas and
5 transmission lines coexist throughout Oncor's service territory, including in
6 locations within the study area. The presence of the Proposed
7 Transmission Line Project will not prevent residents from making use of
8 any designated parks or recreational areas. Ms. Perkins addresses the
9 compatibility of parks and recreational areas—particularly with respect to
10 walking, hiking, and biking trails—in her rebuttal testimony.

11 Q. INTERVENORS JUSTIN TOWN CENTER, LTD, JTS 3.8, LLC, AND THE
12 CITY OF JUSTIN TAKE ISSUE WITH THE LINK J4 CROSSING OF
13 BISHOP PARK, INCLUDING A CLAIM BY JAMES CLARK, ON BEHALF
14 OF THE CITY OF JUSTIN, THAT A PORTION OF BISHOP PARK WILL
15 "BE DESTROYED" BY LINK J4. DO YOU AGREE?

16 A. No. As shown in Figure 3-1B (Appendix H) of the Environmental
17 Assessment, Link J4 would traverse the far northern edge of Bishop Park
18 along Trail Creek. No park structures or facilities are located in this part of
19 the park that would have their use disrupted by Link J4. Moreover,
20 existing electric distribution lines already run north-to-south within Bishop
21 Park, parallel to SH 156.

22 Q. THE CITY OF JUSTIN ALSO CLAIMS THAT THE PROPOSED
23 TRANSMISSION LINE PROJECT WILL "TAKE AWAY FROM THE
24 NATURAL AESTHETIC AND COMMUNITY'S USE OF THE [JUSTIN
25 COMMUNITY] PARK" DO YOU AGREE WITH THIS STATEMENT?

26 A. No, I do not. The Justin Community Park includes two recreational soccer
27 fields and four baseball fields. Each baseball field includes numerous
28 lighting fixtures atop monopole structures high enough to illuminate the
29 entirety of each field for nighttime use. The addition of monopole

1 transmission structures, mostly on the opposite side of Trail Creek, will not
2 impact this use.

3 Q. WILL THE PROPOSED TRANSMISSION LINE PROJECT CAUSE ANY
4 PARKS OR RECREATION AREAS TO NO LONGER BE USED AS A
5 PARK OR RECREATIONAL AREA?

6 A. No.

7 **IX. REBUTTAL REGARDING HISTORICAL VALUES**

8 Q. INTERVENORS CHARLES DEE AND GRETCHEN BROWN (PAGE 2)
9 RAISE CONCERNS ABOUT THE IMPACT OF LINK U2 ON A MORE-
10 THAN-50-YEAR-OLD STRUCTURE THAT SERVES AS AN ANIMAL
11 SHELTER. HOW DID THE ROUTE-DEVELOPMENT PROCESS
12 ACCOUNT FOR THIS STRUCTURE?

13 A. Halff identified this structure during the routing process. However, it is not
14 formally designated as a historical structure and does not fall within the
15 definition of a habitable structure under the Commission's rules. This is
16 the reason it is not addressed in the Environmental Assessment. During
17 the route-development process, Halff relied on information from the Texas
18 Historical Commission's ("THC's") Texas Archaeological Sites Atlas
19 database, which contains data on prior cultural resources surveys, to
20 identify historic cultural resource sites. Halff also consulted with the THC
21 during the agency coordination process. Based on a review of the
22 relevant data, Link U2 is not located within 1,000 feet of any recorded
23 historical cultural resource sites.

24 As detailed in Section 7.8 of the Environmental Assessment, once
25 the Commission approves a route, Oncor will conduct a cultural resources
26 survey in accordance with the pre-approved research design for new
27 transmission line projects that was developed by Oncor and the THC. The
28 purpose of this survey is to identify areas of significance and determine

1 what impact, if any, the transmission line would have on historic and
2 archaeological cultural resources.

3 **X. REBUTTAL REGARDING ENVIRONMENTAL INTEGRITY**

4 Q. SEVERAL INTERVENORS, INCLUDING HARVEY H. MUELLER, II, ON
5 BEHALF OF H3M PROPERTY HOLDINGS, LP (PAGE 3, LINES 15-17);
6 THE TOWN OF NORTHLAKE (PAGE 9, LINE 168 TO PAGE 10, LINE
7 205); DANIEL DENNIS (PAGE 1); ALAN YARBROUGH (PAGE 3); ANA
8 AND TIMOTHY SIMMONS (PAGE 2, LINE 17, TO PAGE 3, LINE 6); AND
9 OTHERS, VOICE ENVIRONMENTAL CONCERNS REGARDING
10 IMPACTS TO WILDLIFE AND EXISTING NATURAL HABITAT. HOW DO
11 YOU RESPOND?

12 A. In general, these intervenors' testimony regarding impacts to existing
13 natural habitat relates to potential impacts to a broad range of wildlife
14 species. Potential impacts to plants and wildlife are acknowledged and
15 addressed in great detail in Section 3.0 of the Environmental Assessment.
16 While Halff recognizes potential impacts to wildlife and their habitat, my
17 understanding is that once the Commission approves a route and an on-
18 the-ground survey is conducted, Oncor will work with landowners to
19 address mitigation measures to lessen the impact of the Proposed
20 Transmission Line Project, including, for example, by implementing
21 particular revegetation measures, informing employees and contractors of
22 the potential presence of sensitive species, and making efforts not to
23 disturb such species if they are encountered.

24 The TPWD letter, which evaluated the proposed routing
25 alternatives specifically with regard to the impacts to wildlife and other
26 natural resources, found that the "best-meets" route, Route 179, performs
27 similarly to TPWD's recommended route from an environmental
28 perspective. Mr. Jason E. Buntz, an environmental consultant who

1 provided testimony on behalf of DHL Supply Chain, echoes this sentiment
2 in his direct testimony.

3 Q. INTERVENORS THE CITY OF JUSTIN (PAGE 10, LINES 9-15), AMELIA
4 MCCURDY (PAGE 9, LINES 9-11); AND PEGGY LOGAN MCCURDY
5 (PAGE 9, LINES 7-9) RAISE CONCERNS REGARDING EROSION AND
6 POTENTIAL DEGRADATION TO WATER QUALITY AS A RESULT OF
7 THE PROPOSED TRANSMISSION LINE PROJECT. HOW DO YOU
8 RESPOND?

9 A. Erosion is a potential concern on all construction projects. For
10 transmission line projects, the potential for soil erosion is greatest during
11 the initial clearing of the ROW until vegetation cover reestablishes.
12 Section 7.2.1 of the Environmental Assessment details the erosion-
13 mitigation measures Oncor will implement to prevent sedimentation and
14 degradation to water quality. In light of these protective measures, the
15 Proposed Transmission Line Project's contribution to soil erosion in the
16 area will be minimal, especially relative to the overall development
17 occurring in the study area.

18 **XI. REBUTTAL REGARDING AIRPORT IDENTIFICATION**

19 Q. SEVERAL INTERVENORS, INCLUDING JANET ZELNIK (PAGE 1); MR.
20 AND MRS. WILKERSON (PAGE 2, LINES 14-17); MR. SPAETHE (PAGE
21 5, LINES 25-29, AND PAGE 8, LINES 14-16); AND THE TOWN OF
22 NORTHLAKE (PAGE 8, LINES 144-146, AND PAGES 12-14, LINES 265-
23 306) MAKE CLAIMS REGARDING THE PROXIMITY OF AIRPORTS TO
24 CERTAIN PROPOSED LINKS. DID YOU REVIEW THEIR TESTIMONY?

25 A. Yes. My rebuttal testimony will address these issues from a routing
26 perspective, but issues regarding the operational and engineering aspects
27 of their testimonies are addressed in Ms. Zapletal's rebuttal testimony.

28 Q. WHAT PROCESS DID HALFF USE TO DETERMINE WHERE
29 AIRPORTS OR AIRSTRIPS ARE LOCATED?

1 A. As documented in Section 2.3 of the Environmental Assessment,
2 airport/airstrip constraints data are researched early in the routing study
3 process. Airport GIS shapefile data were initially downloaded in August
4 2022, after which research of individual facility data using various sources
5 began in September 2022. Over the course of project development, Halff
6 utilized feedback from landowners, continuous review of aerial imagery,
7 and field inspections of the study area to verify the physical limits of
8 aircraft landing facilities and to search for changes that may have
9 indicated the presence potential new constraints. Halff and Oncor made
10 route modifications based on the confirmation of physical constraints (e.g.,
11 active construction) after the initial records research.

12 Q. WHAT ARE THE LIMITATIONS ON THE AIRPORT-IDENTIFICATION
13 PROCESS?

14 A. The primary limitation is that there may be existing or planned private
15 airstrips that are not registered with the FAA. If an airstrip is unregistered
16 and conditions on the ground do not indicate the presence of an airstrip,
17 either in aerial photography or during on-the-ground reconnaissance
18 surveys, Halff has extremely limited ability to verify the presence an such
19 a facility.

20 Q. MR. SPAETHE TESTIFIES REGARDING A PLANNED, FAA-
21 REGISTERED AIRSTRIP THAT IS NOT INCLUDED ON ONCOR'S
22 MAPS. IS HALFF AWARE OF THE PLANS FOR THIS AIRSTRIP?

23 A. Yes. Mr. Spaethe informed me of his plans for an airstrip at the public
24 participation meetings held on December 7 and 8, 2022. However, at that
25 time, the airstrip was not registered with the FAA. After the public
26 meeting, Halff routinely searched for signs of activity that would indicate
27 an airstrip was being constructed. Aerial photography as of May 31, 2023,
28 and Halff's reconnaissance survey conducted on August 14, 2023,
29 indicate that the airstrip has apparently not progressed beyond the

1 planning stage. Please see Exhibit RJM-R-2 for recent aerial imagery
2 showing the undisturbed site of the planned airstrip.

3 Q. MR. AND MRS. WILKERSON (PAGE 6, LINE 15 TO PAGE 7, LINE 19)
4 AND OTHER INTERVENORS EXPRESS CONCERNS REGARDING
5 THE PROXIMITY OF LINK M8 TO PROPWASH AIRPORT. THEY
6 ALLEGE THAT THE PROPOSED TRANSMISSION LINE WILL POSE A
7 HAZARD TO AIR NAVIGATION AND QUESTION THE CONCLUSION IN
8 THE ENVIRONMENTAL ASSESSMENT THAT "NO SUBSTANTIAL
9 IMPACT IS ANTICIPATED TO AIRPORTS OR HELIPORTS FROM THE
10 PROPOSED PROJECT." HOW DO YOU RESPOND?

11 A. As stated in Section 7.7.5 of the Environmental Assessment, Halff
12 coordinated with the Federal Aviation Administration ("FAA") during the
13 route-development process. The FAA responded with a letter requesting
14 compliance with its guidelines for the construction of structures that may
15 affect navigable airspace. The conclusion that no substantial impacts to
16 airports are anticipated is based on (1) my conversations with Oncor
17 personnel indicating that Oncor will comply with any and all FAA
18 requirements, and (2) my discussions with Oncor engineers, who informed
19 me that, from an engineering standpoint, Link M8 can be constructed at
20 the proposed location without violating the FAA's obstruction standards.
21 As noted in Mr. Wilkerson's direct testimony, the 20:1 glide slope Oncor
22 used to assess potential impacts is consistent with the FAA's obstruction
23 standards. Ms. Zapletal addresses the engineering aspects of this claim
24 in her rebuttal testimony.

25 **XII. REBUTTAL REGARDING OIL AND GAS OPERATIONS**

26 Q. INTERVENORS, INCLUDING DENTON COUNTY LAND & CATTLE
27 (PAGE 2); ALLIANCE WEST, L.P. (PAGE 2); DHL SUPPLY CHAIN
28 (PAGE 8, LINES 19-24); AND BOBBY SAMUEL, ON BEHALF OF GRBK
29 EDGEWOOD LLC AND GBTM SENDERA LLC (PAGE 8, LINES 14-22),

1 CLAIM THAT CERTAIN LINKS CROSS DIRECTLY OVER EXISTING
2 NATURAL GAS WELLS AND PAD SITES. HOW DO YOU RESPOND?

3 A. Halff reviewed the areas where intervenors claim a natural gas well or pad
4 site would be located within the ROW. All of these sites appear to be
5 either inactive or located outside the ROW. Ms. Zapletal discusses
6 Oncor's ability to operate the Proposed Transmission Line Project in close
7 proximity to oil and gas operations in her rebuttal testimony.

8 **XIII. CONCLUSION**

9 Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?


10 A. Yes, it does.

AFFIDAVIT

STATE OF TEXAS §
§
COUNTY OF DALLAS §

BEFORE ME, the undersigned authority, on this day personally appeared Russell J. Marusak, who, having been placed under oath by me, did depose as follows:

My name is Russell J. Marusak. I am of legal age and a resident of the State of Texas. The foregoing rebuttal testimony offered by me is true and correct, and the opinions stated therein are accurate, true, and correct, to the best of my knowledge.



Russell J. Marusak

SUBSCRIBED AND SWORN TO BEFORE ME by the said Russell J. Marusak this 21 day of August, 2023.



Notary Public, State of Texas

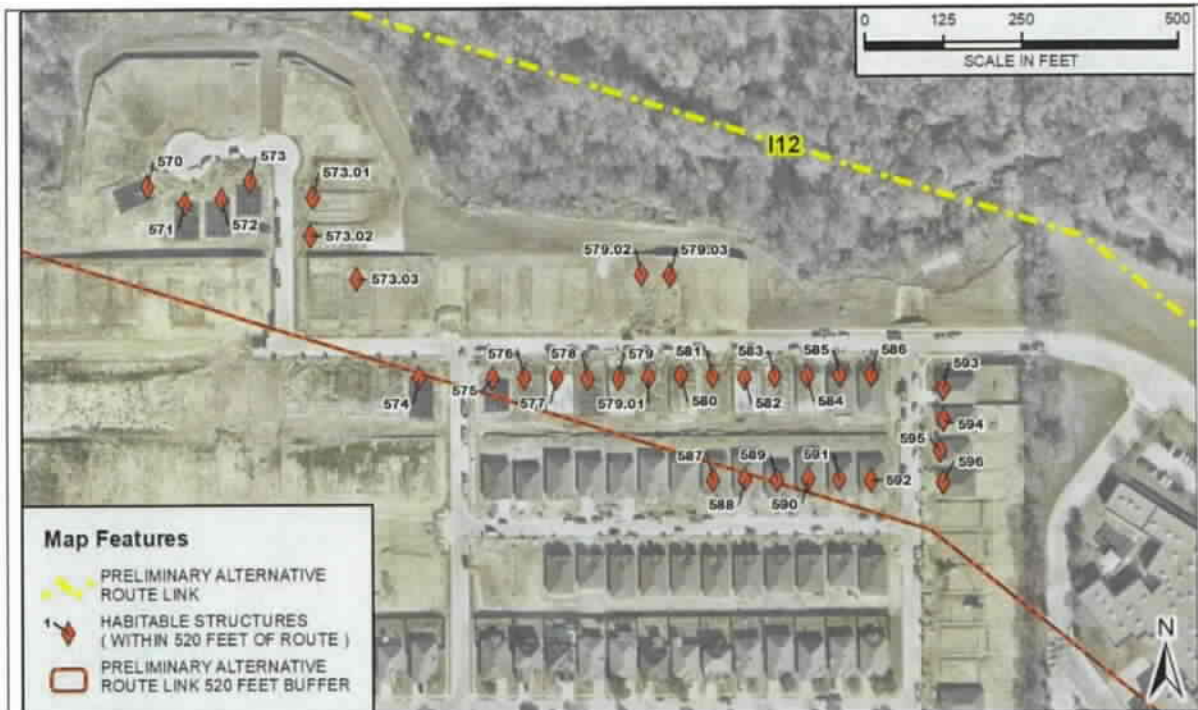
My Commission Expires

3-13-2027



SOAH DOCKET NO. 473-23-21216
PUC Docket No. 55067

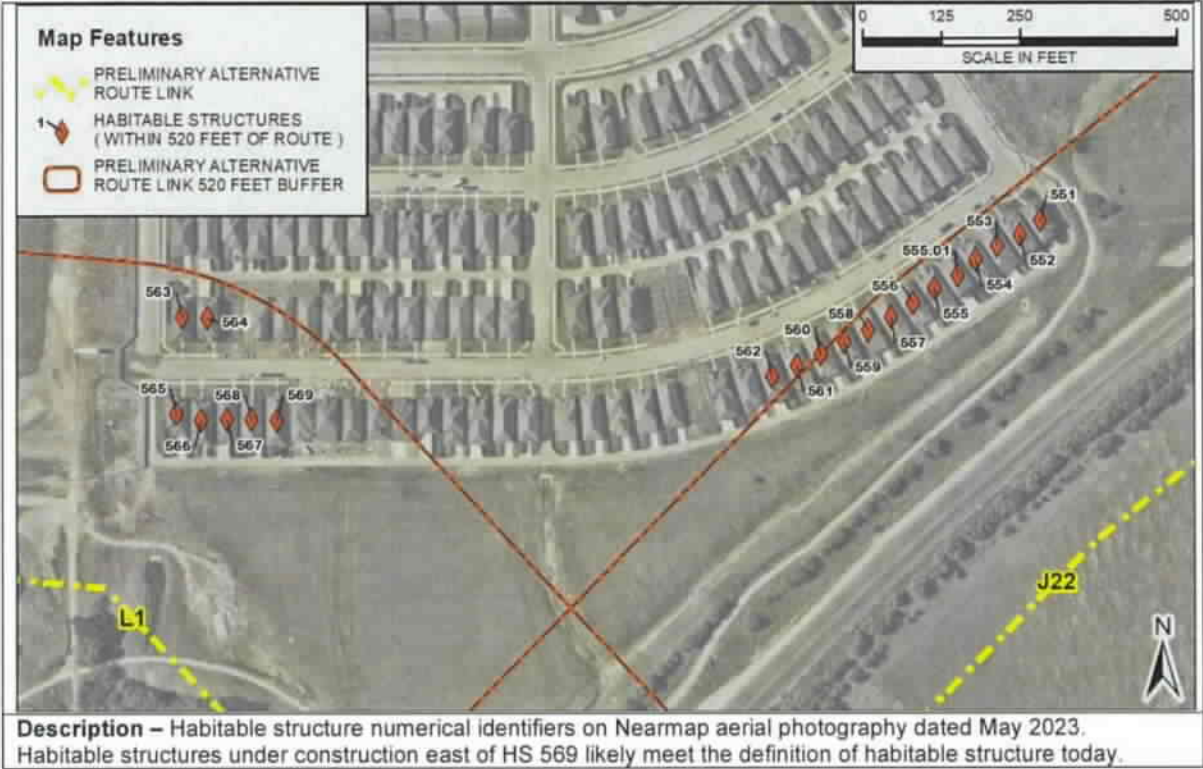
Marusak – Rebuttal
Oncor Electric Delivery Company LLC
Ramhorn Hill-Dunham 345 kV CCN



Description – Habitable structure numerical identifiers on Nearmap aerial photography dated January 2023 which was included in the Environmental Assessment. Identifiers with .0# suffixes (e.g., 573.01, 579.02) demonstrate the last field verification of habitable structures during the Environmental Assessment preparation.



Description – Same data overlay on Nearmap aerial photography (May 2023) generated after completion of the environmental assessment. Additional structures have been completed and would appear to meet the definition of a habitable structure.



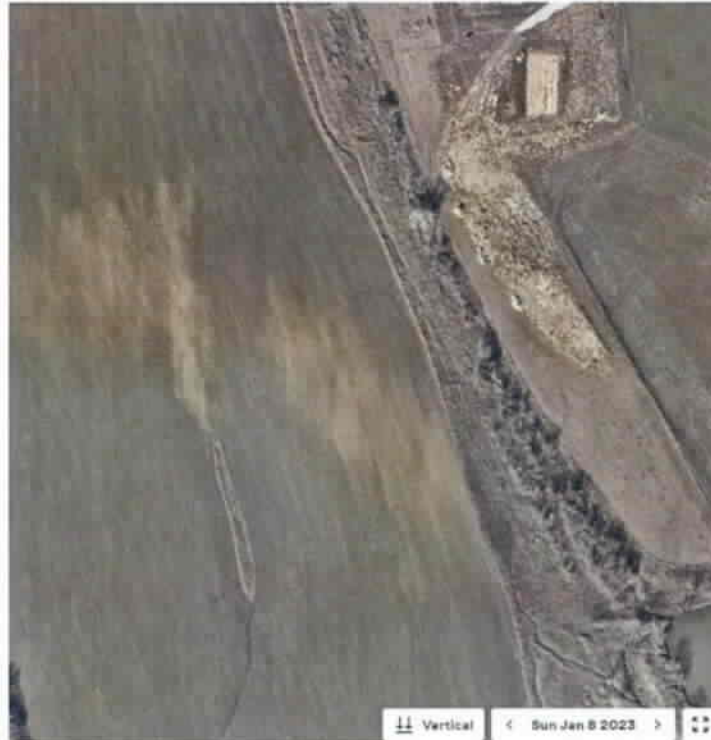


Figure 1: Aerial Imagery of the Planned Future Location of Freedom (XS05) Airstrip on Property Owned by Matthew Spaethe, as of January 8, 2023 (Source: NearMap)



Figure 2: Aerial Imagery of the Planned Future Location of Freedom (XS05) Airstrip on Property Owned by Matthew Spaethe, as of May 31, 2023 (Source: NearMap)