

152 (B) a new overhead transmission line that is parallel to and abutting an existing
 153 overhead transmission line or collocated within an existing overhead transmission line right of
 154 way; or

155 (iii) the Department of Transportation may exercise eminent domain for the purpose of
 156 the construction of the West Davis Highway.

157 (b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the
 158 electric utility shall demonstrate that:

159 (i) the proposed condemnation would not have an unreasonable adverse effect on the
 160 preservation, use, and enhancement of the migratory bird production area; and

161 (ii) there is no reasonable alternative to constructing the power line within the
 162 boundaries of a migratory bird production area.

163 (5) If the intended public purpose is for a mining use, a ~~H~~→ private ←~~H~~ person may not
 163a exercise the
 164 power of eminent domain over property, or an interest in property, that is already used for a
 165 mining use within the boundary of:

166 (a) a permit area, as defined in Section 40-8-4;

167 (b) an area for which a permit has been issued by the Division of Water Quality, as part
 168 of the underground injection control program, under rules made by the Water Quality Board in
 169 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

170 (c) private property; or

171 (d) an area under a state or federal lease.

172 Section 2. Section **78B-6-502** is amended to read:

173 **78B-6-502. Estates and rights that may be taken.**

174 [The] Except as provided in Subsection 78B-6-501(3), (4), or (5), the following estates
 175 and rights in lands are subject to being taken for public use:

176 (1) a fee simple, when taken for:

177 (a) public buildings or grounds;

178 (b) permanent buildings;

179 (c) reservoirs and dams, and permanent flooding occasioned by them;

180 (d) any permanent flood control structure affixed to the land;

181 (e) an outlet for a flow, a place for the deposit of debris or tailings of a mine, mill,
 182 smelter, or other place for the reduction of ores; and