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TARDAEWETHER Kellen * ODOE

From: Jocelyn Pease <jocelyn@mrg-law.com>
Sent: Wednesday, June 5, 2024 5:33 PM
To: CORNETT Todd * ODOE; Stippel, Joe
Cc: ESTERSON Sarah * ODOE; Hilton, Julia; TARDAEWETHER Kellen * ODOE; Pugrud, Scott; Lynne Dzubow; Skylar Sumner
Subject: RE: B2H RFA2 Comment Response Deadline
Attachments: Idaho Power's RFA 2 DPO Comment Responses by Topic.pdf; Idaho Power's RFA 2 DPO Comment Responses - By Party .pdf; Attachment 1 - Idaho Power's Responses to Irene Gilbert RFA 2 DPO Comments re Site Certificate Conditions.pdf

Good evening:

Please see attached for Idaho Power's responses to DPO comments on RFA 2. The attached files include (1) RFA 2 DPO Comment responses organized by topic; (2) DPO Comment Responses organized by party; and (3) Attachment 1, which addresses Irene Gilbert's comments on the site certificate modifications that were presented in table format. Please let us know if you have any questions regarding this submittal.

Regards,
Jocelyn Pease

Jocelyn C. Pease

McDowell Rackner Gibson PC

419 SW 11th Ave, Suite 400, Portland, OR 97205

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Pronouns: she/her/hers

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-----Original Message-----

From: CORNETT Todd * ODOE <Todd.CORNETT@energy.oregon.gov>

Sent: Monday, June 3, 2024 1:08 PM

To: Stippel, Joe <jstippel@idahopower.com>

Cc: ESTERSON Sarah * ODOE <Sarah.ESTERSON@energy.oregon.gov>; Jocelyn Pease <jocelyn@mrg-law.com>; Hilton, Julia <JHilton@idahopower.com>; TARDAEWETHER Kellen * ODOE <kellen.tardaewether@energy.oregon.gov>

Subject: RE: B2H RFA2 Comment Response Deadline

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi Joe,

I appreciate the clarification. 11:59 pm on the 5th will be fine.

Todd

-----Original Message-----

From: Stippel, Joe <JStippel@idahopower.com>

Sent: Monday, June 3, 2024 1:01 PM

To: CORNETT Todd * ODOE <[Cc: ESTERSON Sarah * ODOE <\[https://urldefense.proofpoint.com/v2/url?u=http-3A__Sarah.ESTERSON-40energy.oregon.gov&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=SNbfs_9NSwKBjaBLKQpf9z3d9JIAebil8C hwqrolYEQ&e=>\]\(https://urldefense.proofpoint.com/v2/url?u=http-3A__Sarah.ESTERSON-40energy.oregon.gov&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=SNbfs_9NSwKBjaBLKQpf9z3d9JIAebil8C hwqrolYEQ&e=>\)>; Jocelyn Pease <jocelyn@mrg-law.com>; Hilton, Julia <JHilton@idahopower.com>; TARDAEWETHER Kellen * ODOE <Kellen.TARDAEWETHER@energy.oregon.gov>](https://urldefense.proofpoint.com/v2/url?u=http-3A__Todd.CORNETT-40energy.oregon.gov&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=hfoUTLJCM9Jie6iXwB4kUGnJnWT_BYI1Z4hUsRKJXW8&e=>></p></div><div data-bbox=)

Subject: Re: B2H RFA2 Comment Response Deadline

[You don't often get email from jstippel@idahopower.com. Learn why this is important at https://urldefense.proofpoint.com/v2/url?u=https-3A__aka.ms_LearnAboutSenderIdentification&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=BRQwUqbwPCChdoa5y6RxcZnDusIRrbT0RtzYwK5DEmk&e=]

Todd- thank you. We discussed this with staff and request the time be pushed to 11:59 pm. Thank you, Joe

Thanks,

Joe

From: CORNETT Todd * ODOE <https://urldefense.proofpoint.com/v2/url?u=http-3A__Todd.CORNETT-40energy.oregon.gov&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=hfoUTLJCM9Jie6iXwB4kUGnJnWT_BYI1Z4hUsRKJXW8&e=>>

Sent: Monday, June 3, 2024 1:07:46 PM

To: Stippel, Joe <JStippel@idahopower.com>

Cc: ESTERSON Sarah * ODOE <https://urldefense.proofpoint.com/v2/url?u=http-3A__Sarah.ESTERSON-40energy.oregon.gov&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=SNbfs_9NSwKBjaBLKQpf9z3d9JIAebil8C hwqrolYEQ&e=>>; Jocelyn Pease <jocelyn@mrg-law.com>; Hilton, Julia <JHilton@idahopower.com>; TARDAEWETHER Kellen * ODOE <Kellen.TARDAEWETHER@energy.oregon.gov>

Subject: [EXTERNAL] RE: B2H RFA2 Comment Response Deadline

Hi Joe, Your request to extend IPC's deadline to respond to DPO comments on request for amendment #2 from today at 5:00 PM until Wednesday June 5th at 5:00 PM is approved. Todd Cornett Assistant Director for Siting 550 Capitol St. NE | Salem,

Hi Joe,

Your request to extend IPC's deadline to respond to DPO comments on request for amendment #2 from today at 5:00 PM until Wednesday June 5th at 5:00 PM is approved.

[cid:image001.png@01DAB5AE.A3CEB1A0]<https://urldefense.proofpoint.com/v2/url?u=https-3A__urldefense.com_v3_-5F-5Fhttps-3A__www.oregon.gov_energy-5F-5F-3B-21-21E8pr-2DAEg9WE-21JS1UzpNDazlyFjEzwrDQ5S-5FNX8fseAyQVDi-2D-2Dc0C8ULblhfB-2D4-2DJGQiV4p3zzKmjhhpsGgM6nlMrvYZ5nQoewUSexV4LkMAJjs-24&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=HOHBzZC5UPolyRmocv7PuqQoAyTDtP AR8CTYGHVFI08&e=>

Todd Cornett
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From: Stippel, Joe <JStippel@idahopower.com>
Sent: Monday, June 3, 2024 11:18 AM
To: CORNETT Todd * ODOE <https://urldefense.proofpoint.com/v2/url?u=http-3A__Todd.CORNETT-40energy.oregon.gov&d=DwlGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0InGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=hfoUTLJCM9Jie6iXwB4kUGnjinWT_BYI1 Z4hUsRKJXW8&e=>

Cc: ESTERSON Sarah * ODOE <[Idaho Power is requesting to extend IPC's comment response deadline to Wednesday, June 5th. Thank you for your consideration.](https://urldefense.proofpoint.com/v2/url?u=http-3A__Sarah.ESTERSON-40energy.oregon.gov&d=DwIGaQ&c=euGZstcaTDllvimEN8b7jXrwqOf-v5A_CdpgnVfiiMM&r=ulqIKoUA4te1HDTaQN-q_8lyMHnWlmzmki-0UA9DIq4&m=xH-H2P0lnGnDaqhLD19E7iwKkpjNLn8VtKsWHbicuSVrvb_DenUDP3OdzhwOXyQP&s=SNbfs_9NSwKBjaBLKQpf9z3d9JIAebil8C hwqrolYEQ&e=>; Jocelyn Pease <jocelyn@mrg-law.com>; Hilton, Julia <JHilton@idahopower.com>; TARDAEWETHER Kellen * ODOE <Kellen.TARDAEWETHER@energy.oregon.gov>
Subject: B2H RFA2 Comment Response Deadline</p></div><div data-bbox=)

Joe Stippel, PE

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Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Reviewing Agency DPO Comments			
Oregon Department of Aviation (May 30, 2024)	ODAV and FAA Notice of Construction	1. The Boardman to Hemingway project was previously reviewed by ODAV, with associated aeronautical studies completed (aviation reference nos. 2023-ODAV-198-OE through 2023-ODAV-296-OE, 2023-ODAV-298-OE through 2023-ODAV-406-OE, and 2023-ODAV-555-OE through 2023-ODAV-598-OE). Any new or relocated transmission lines not previously reviewed by ODAV or the FAA may require the applicant to submit notice of construction to ODAV and the FAA. The applicant can use the FAA’s notice criteria tool to determine if the proposed amendment will require additional notices to be filed with the FAA and ODAV.	As described in the Draft Proposed Order (“DPO”) for Request for Amendment (“RFA”) 2, the locational adjustments of the proposed RFA 2 microsite area additions do not result in new or different air traffic safety providers not previously evaluated (i.e., no new or different airports within 5-miles of the proposed expanded site boundary). ¹ The Energy Facility Siting Council (“EFSC” or “Council”) previously imposed Public Services Condition 4 (PRE-PS-03) requiring that, prior to construction, the certificate holder submit a Notice of Proposed Construction or Alteration (FAA Form 7460-1) to the FAA and to the Oregon Department of Aviation (“ODAV”) prior to the construction of any transmission structures within 5-miles of a public airport or the use of any cranes exceeding 200-ft in height. Idaho Power has obtained No Hazard Determinations from the Federal Aviation Administration and ODAV for all facility structures within 5-miles of a public airport. This condition was originally adopted in the Final Order and is unchanged by RFA 2. ²
Oregon Department of Transportation (May 30, 2024)	ODOT Quarries	<p>This letter is in response to the Oregon Department of Energy’s (ODOE) April 16, 2024 notice requesting comments with the proposed expanded boundary for the project. The following comments identify sites where the project conflicts with Oregon Department of Transportation’s (ODOT) planned and current use of existing quarries. ODOT holds mineral rights at quarries for the construction and maintenance of public infrastructure.</p> <p align="center">* * *</p> <p>The quarries impacted by B2H are located in aggregate challenged locations, meaning there are few sources, and the haul to a project site can be quite lengthy. A lengthy haul results in an adverse effect or increase to ODOT’s overall carbon footprint and a significant cost increase to the agency. These sites are hard rock sites which require blasting to extract rock, followed by crushing to produce the required material. Thus, constructing foundations to support large transmission towers on and in the quarry likely creates a non-compatible use of ODOT’s resources in an already scarce aggregate environment.</p> <p>The ODOT Statewide Material Source Program manages a network of quarries across the state and by highway corridor to provide aggregate resources for construction and maintenance activities. Furthermore, this network of quarries ensures bidding competition on our projects thus preventing monopolies and balances market prices of aggregate. The ODOT Materials Source Program exemplifies stewardship for providing a long-term product for the exclusive use of public infrastructure and management of an irreplaceable natural resource. As such we have identified sites which are proposed to be impacted by the B2H project amendment, and are listed below:</p> <p>Love Reservoir Quarry; • Location: T15S R45E, E ½ S22, Baker County • Document where the overlap occurs: MAP 54 included below • Owned by: BLM & ODOT • ODOT Controlled through Deed of Mineral ROW #031973 • Affected area: 70 Acres • Coincident access: 50’ haul road easement (3 Acres) to I84 • Provides aggregate for construction and maintenance for I84</p> <p>Baldock Slough East Quarry: • Location: T8S R40E NE1/4 NE ¼ S24 (Tax Lot 200), Baker County • Document where the overlap occurs: MAP 40 • Owned by: ODOT • Affected area: 41 Acres • Currently funded for use • Shows a full take of the entire quarry parcel • Coincident access: the only source on OR203 with access to I84 • Provides aggregate for construction and maintenance for I84 and OR203</p> <p>Amendment 2 is also proposing to expand the site boundary very close to the following ODOT material source.</p>	<p>Idaho Power (“IPC” or the “Company”) has worked closely with both Oregon Department of Transportation (“ODOT”) leadership and technical staff to identify the areas where ODOT quarries may be impacted by project features. ODOT identified four potentially impacted quarries inside the Application for Site Certificate (“ASC”) and RFA 1 site boundary. IPC worked closely with ODOT to microsite away from two of the quarries, the Baldock Slough East and the Palmer/Denham quarries, to minimize the impact on ODOT. These microsite changes were made inside the current project site boundary. Idaho Power’s maps included a scrivener’s error omitting the modification inside the site boundary. IPC will provide an updated map to ODOT of the final design for confirmation that all project features were moved from the Baldock Slough East quarry. There are two remaining quarries, Pine Ridge and Durbin, that still have project features inside the quarry boundaries. IPC has worked closely with ODOT to develop a plan to minimize impacts to quarry operations while still protecting the integrity of this vital infrastructure.</p> <p>ODOT has identified two new quarries as potentially impacted by the proposed expanded site boundary. They also reidentified the Baldock Slough East quarry as potentially impacted.</p> <p><u>Love Reservoir Quarry</u> ODOT has identified the Love Reservoir Quarry as potentially impacted because there is overlap between the proposed expanded site boundary and the access road. This quarry is on Private and Bureau of Land Management (“BLM”) land. The Project design includes access roads that cross the Love Reservoir Quarry boundary. IPC and ODOT have agreed these access roads will not impact ODOT’s future use of the quarry. At this time, there are no anticipated project feature changes that would create new impacts to the quarry. If a change is required, IPC would submit an amendment determination request (“ADR”) to the Oregon Department of Energy (“ODOE” or the “Department”) for consideration and approval.</p> <p><u>Baldock Slough East Quarry</u> IPC has worked with ODOT on this location and has successfully microsite all project features away from the quarry boundary. At this time, there are no anticipated Project feature changes that would impact the quarry. The inclusion of the quarry is simply due to the expanded site boundary moved out ¼ mile from the centerline of the transmission line. If a change is required, IPC would submit an ADR to the Department for consideration and approval.</p> <p><u>South Adrian Quarry</u> There are no project features at or near the South Adrian Quarry. The quarry is outside of the newly proposed microsite corridor and expanded site boundary.</p>

¹ Draft Proposed Order on RFA 2 at 236-37 (Apr. 16, 2024).

² Final Order on ASC at 606-07 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>South Adrian Quarry: • Location: T21S R46E NW ¼ NE ¼ S27 and T21S R46E SW ¼ SE ¼ S22 • Owned by: ODOT • Affected area: 60 Acres • Provides aggregate for construction and maintenance for OR201 • This is an active, permitted quarry by Department of Geology and Mineral Industries (DOGAMI) • Potential impacts to development through utility coordination process. These impacts are in addition to the permanent impacts of the original siting order and amendment 1.</p> <p>Permanent impacts to the Pine Tree Creek Ridge and Durbin Creek quarries are being actively discussed with Idaho Power and the BLM. ODOT appreciates the opportunity to comment on the proposed amendment 2 actions. We look forward to building on our strong partnership with ODOE, BLM, and Idaho Power to seek mutually beneficial solutions for the citizens of Oregon.</p>	
Special Advisory Group DPO Comments			
Morrow County (May 15, 2024)	Proposed Expanded Site Boundary	<p>It is our understanding that the request includes an amendment to the site boundary and micrositing area to accommodate:</p> <ol style="list-style-type: none"> 1. Eleven transmission line alternative locations impacting several parcels in Morrow County 2. Refinement of the location of temporary work areas and roads. 3. Expansion of the Site Boundary and increasing the micro-siting corridor from 200 feet to 1.2 miles. 	<p>Idaho Power seeks to correct two statements in Morrow County’s comments.</p> <p>First, RFA 2 proposes only three transmission line micrositing area additions in Morrow County: (1) Ayers Canyon Alternative, (2) Boardman Junction Alternative, and (3) the Bombing Range SE Alternative, rather than the 11 transmission line alternative locations that the County mentions.</p> <p>Second, as proposed in RFA 2, the proposed expanded site boundary for transmission line routes would be 0.5 mile (2,640 feet) wide, or 0.25 mile (1,320 feet) from the center of the transmission line, with a micrositing area of 500 feet (the previously approved site boundary). The Company does not propose expanding either the proposed expanded site boundary or the micrositing area to 1.2 miles wide.</p>
Morrow County (May 15, 2024)	Proposed Expanded Site Boundary	<p>Morrow County wishes to highlight the substantial increase in acreage included in the Site Boundary. Staff could not find the calculated "Site Boundary" acreage increase specifically identified in the application materials, but in most locations the width of the site boundary will be widened from the approved 1-200 feet to 1.2 miles. It is not clear to what extent affected landowners were consulted and/or compensated for the additional impacts to private property.</p>	<p>As stated above, the proposed expanded site boundary would increase to 0.5 miles wide for transmission line routes, not 1.2 miles wide. Moreover, Idaho Power is not proposing to significantly expand the actual impact footprint of the Project—instead, the proposed expanded site boundary is intended to provide greater siting flexibility to address landowner concerns or sensitive resources that may be encountered during construction.</p> <p>Importantly, if approved, the proposed expanded site boundary area does not allow Idaho Power to begin construction in that area without further process. The narrower micrositing area has been approved for Idaho Power to begin construction subject to fulfilling any preconstruction commitments, but before building in the proposed expanded site boundary, Idaho Power would need to go through an Amendment Determination Process (“ADR”) pathway designated under OAR 345-027-0357.</p> <p>As to Morrow County’s comments regarding consultation with landowners and compensation, it is important to understand that the proposed expanded site boundary approach is primarily motivated by allowing greater flexibility to address landowner input without requiring an amendment. For example, if a landowner prefers that Idaho Power modify the location of an access road on their property, the proposed expanded site boundary will allow Idaho Power flexibility to accommodate such requests. Finally, compensation is outside the scope of the Council’s jurisdiction and of this proceeding. For properties where the Project will require a temporary or permanent use, compensation will be negotiated outside the Council’s proceedings.</p>
City of La Grande (May 30, 2024)	Proposed Expanded Site Boundary	<p>We are concerned that the proposed changes could create a much more significant impact than when we negotiated mitigation with B2H and are therefore opposed to the revision unless there are requirements that they come back to the table if they do deviate from what was originally envisioned in their application.</p>	<p>Idaho Power respectfully disagrees that the proposed changes to the micrositing area in Union County near the City of La Grande would create “much more significant impact” than previously discussed with the City of La Grande. As discussed in RFA 2, the proposed additions to the micrositing area in Union County are limited to the Baldy Alternative and Rock Creek Alternatives 1 and 2.³ Like the other micrositing area additions proposed in RFA 2, these additions provide alternatives for the Project in Union County, and will not substantially increase the length of the Project or anticipated impacts.</p> <p>Moreover, the Company will be required to “come back to the table” if it seeks to modify the areas proposed for construction, or micrositing areas from what EFSC has previously approved, either via an ADR pathway or an Amendment. Importantly, if approved, the proposed expanded site boundary area does not allow Idaho Power to begin construction in that area without further process. The narrower micrositing area that has been approved (or will be</p>

³ RFA 2 at 20-22 (Apr. 11, 2024).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
approved in RFA 2) allows Idaho Power to begin construction subject to fulfilling any preconstruction commitments, but before building in the proposed expanded site boundary, Idaho Power would need to go through an ADR pathway designated under OAR 345-027-0357. The Company does not propose any use on properties located within the proposed expanded site boundary but outside the micrositing area.			
Individual Commenters – Written Comments			
Amanda Baker			
Amanda Baker (Apr. 25, 2024)	Proposed Expanded Site Boundary	<p>I was told last year there wouldn't be transformers on or near my property, now I'm being notified it's going to be on or within 500' of my ranch!</p> <p>Your map DOES NOT include the portion going through HWY 86, Baker City, which I've been told lines are going through there & that's where my ranch is.</p> <p>I need a detailed/ zoomed in map of that area so I can see where the lines will actually be.</p>	<p>Ms. Baker’s parcel is identified on Maps 17 and 18 of Figure 9-1.⁴ As those maps show, the micrositing area for the Project does not cross Commenter’s property. However, Ms. Baker’s parcel is located within approximately 600 feet of the proposed expanded site boundary. The closest transmission tower will be about 1900 feet away from her property. There are no transformers that are proposed to be located anywhere near Ms. Baker’s parcel.</p> <p>Regarding the comments about Highway 86, it is shown at the bottom of Map 17 as the small line just above numbers 91 and 93.</p> <p>In response to Ms. Baker’s request, Idaho Power is providing a letter and mapping detailing the location of the Project with respect to Ms. Baker’s property.</p>
Meg Cooke			
Meg Cooke (May 30, 2024)	Proposed Expanded Site Boundary	<p>B2H has continuously and intentionally under-estimated the true costs of this project from the beginning. They under-estimated the amount of acres involved, now asking for an expansion from 24,000 to over 100,000, which is more than 4 times the original ask. They under-estimated the cost by offering only \$1.00 to landowners for the use of their land. Had B2H been honest about the true ecological and economic costs from the get go, this project would/should never have been approved. No More!</p> <p>The expansion from 24,000 to over 100,000 leaves the additional land vulnerable to ecological devastation without recourse to the same protections granted to the original ask. This new asks constitutes an expansion that far exceeds the original approval and should not be granted. B2H should be made to go back to the beginning and start over, if their project so far exceeds what was originally approved. Further, they have already slipped by a number of environmental protections by switching the route from a more ecologically sound route to a route with a much larger ecological impact. primarily to avoid lawsuits from wealthy landowners. The new landowners involved have less money to fight in court but as much or more investment in ecological diversity and overall health of the lands involved.</p> <p>Please do NOT approved of this latest expansion.</p>	<p>While Idaho Power has proposed the proposed expanded site boundary for the Project, Ms. Cooke incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p> <p>Idaho Power disagrees with the suggestion that the Company has underestimated the true costs of the Project. The Company has thoroughly assessed impacts and costs resulting from construction and operation of the Project.</p> <p>Additionally, Ms. Cooke states that Idaho Power has offered landowners \$1 for use of their land. While compensation for landowners is outside of the Council’s jurisdiction, Idaho Power nonetheless clarifies that this comment appears to be based on a misunderstanding. The Company’s Access Road Easement and Power Line Easement templates indicate access is granted or conveyed “for One Dollar and other valuable consideration.” This is standard boiler plate language to confirm that there was some consideration without revealing the actual amount paid to the landowner. It does not mean Idaho Power is only offering compensation in the amount of one dollar.</p>
Steven Corey o/b/o Cunningham Sheep Co.			
Steven Corey o/b/o Cunningham Sheep Co.	Proposed Expanded Site Boundary	<p>I write on behalf of our landowning companies in Union, Umatilla, and Morrow counties. We have worked with Idaho Power to make adjustments to the route to better suit our farming, logging, views, clean energy production, and other important land uses. We have spent several years of painstaking collaboration and negotiation with Idaho Power to reduce the impact of B2H on our landowners and their families.</p> <p>The RFAs benefit landowners including us. Opposing/appealing RFA2 jeopardizes these benefits. The landowners could lose the line adjustments they've negotiated with Idaho Power if the Oregon Supreme Court upholds any appeals. One danger is that the line may need to go back to the originally approved line to meet time schedules, something that would cause us and other landowners substantially more damage.</p> <p>Idaho Power has obtained most of the permits it needs for B2H. Appeals only delay the project and raise the cost of electricity for farms, homes, and businesses across Oregon and southern Idaho.</p>	<p>Idaho Power appreciates Mr. Corey’s supportive comment. The Company agrees that approval of the proposed expanded site boundary and use of the ADR process for future modifications will enable the Company with necessary flexibility to respond to landowner requests.</p>

⁴ RFA 2, Figure 9-1 at Maps 17 & 18 (Apr. 11, 2024).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Susan Geer			
Susan Geer (May 30, 2024)	Outside of Council’s Jurisdiction	<p>Approval of the Morgan Lake alternative signaled a tragedy for State Protected Areas, City Parks, and Conservation Easements, establishing a precedent of ignoring their status, downgrading their ecological integrity, and putting special status species further at risk. Morgan Lake alternative has the most forested acres of any route considered, contains unique wetlands and mesic grasslands, plant community types that are protected nowhere else in Oregon, and is home to several rare plant and animal species, as documented in my contested cases with EFSC and OPUC.</p> <p align="center">* * * * *</p> <p>EFSC erred in approving the Morgan Lake Alternative to go through Glass Hill SNA, and then in allowing additional access roads within Glass Hill SNA under RFA 1. The EFSC Protected Areas rule 345-022-040 before recent revision (December 2022) provided a list of Protected Areas as of 2007 (when the rule was written). The ALJ in the contested case process at the time, erred in ruling that only areas on that list would be protected, even though it was obvious that areas in certain categories which were designated after 2007 but before the new rule took effect in 2022, should be included and protected. It does not make any sense that Areas designated after 2007 would not be recognized until December 2022. I have suggested changes in the route to Joe Stippel, Site Manager of Idaho Power, but have no response. Therefore, I will be proposing an Amendment soon.</p> <p>Glass Hill SNA contains plant communities not protected elsewhere in Oregon’s natural areas program: In addition, the more time we have spent in the area, the more we realize how many ephemeral stream and unmapped wetlands there are. We plan to suggest new plant community categories to the Natural Areas program. The program currently does not recognize these wetland types representing the southern end of the Palouse prairie and open pine stands with inclusions of wet meadow unique to the region and found nowhere else in Oregon. The Zumwalt is more closely associated with the canyon grasslands. The Glass Hill and Morgan Lake area smaller remnant grasslands more closely aligned with the Palouse and a series of wet meadows due to the geology.</p>	<p>The Council approved the Morgan Lake Alternative in its Final Order on the ASC, and Ms. Geer’s attempts to challenge the Council’s order as legal error in this proceeding is untimely and a collateral attack on the Council’s Final Order. The appropriate venue to seek review of alleged legal errors in the Final Order on ASC was an appeal to the Supreme Court pursuant to ORS 469.403(3). Moreover, on appeal of the ASC, one of the parties to the contested case challenged the Company’s selection of routes proposed in the ASC, which included the Morgan Lake Alternative. On appeal, the Supreme Court concluded that the Council did not err when considering the routes proposed in the ASC.⁵</p> <p>Ms. Geer also asserts that the Morgan Lake Alternative should not have been approved because that route crosses property that is now included in the Glass Hill State Natural Area, and State Natural Areas are included in the Council’s definition of “Protected Areas.”⁶ However, the Protected Areas Standard as applied to Idaho Power’s ASC clearly did not include Glass Hill State Natural Area as a “protected area.” At the time of the contested case concerning the ASC, for protected areas designated under state programs, such as the Natural Areas Program, the Protected Areas Standard applied only to “designations in effect as of May 11, 2007[.]” Glass Hill was not designated as a State Natural Area until 2019, and therefore the Hearing Officer properly concluded that under the plain language of the rule Idaho Power was not required to analyze it as a protected area. However, the Company analyzed impacts to the area under other Council standards, such as the Fish and Wildlife Habitat Standard.</p> <p>On April 4, 2024, Ms. Geer sent Idaho Power an email requesting to move the project a substantial distance from the current project alignment. This route modification is outside of the proposed expanded site boundary, has not been studied, and impacts new landowners; therefore, this route modification is outside the scope of EFSC’s jurisdiction. The Council “is limited to reviewing the application” and cannot develop an alternative route that is not included in an application or corridor assessment process.⁷ Idaho Power is intent on working with landowners to minimize impacts on their own individual properties. Ms. Geer’s proposal is outside the proposed expanded site boundary, and it is not clear if it has landowner support for the properties it impacts. At this time, Idaho Power is unwilling to pursue this route alternative. It is important to note that Ms. Geer’s proposal is particularly challenging because it would result in impacts to other landowners. That being said, the Company continues to work with landowners to adjust the exact location of the Project <i>within</i> their property. Approval of the proposed expanded site boundary will facilitate consideration of future requests.</p> <p>Moreover, Ms. Geer’s challenge to the Council’s approval of RFA 1 is untimely. The appropriate venue to seek review of alleged errors in the Final Order on RFA 1 was an appeal to the Supreme Court pursuant to ORS 469.403(3), which requires that a petition for judicial review be filed within 60 days of the Council’s order.</p>
Susan Geer (May 30, 2024)	Protected Area Standard (OAR 345-022-0040)	<p>RFA2 proposed changes would introduce invasive plant species and impact the hydrology of Winn Meadows, an important wetland in Glass Hill SNA, protected under OAR 345-022-0040, thereby causing significant adverse impact.</p> <p>Proposed route changes in RFA2 would cut across the head of Winn Meadows. Refer to Figure 4-1, map 37 in “2024-04-11-FIG-4-1-RFA2-Micrositing-Additions-and-Expanded-Site-Boundary-MAPBOOKMajor disturbance and impacts were introduced under RFA1, and RFA2 exposes even more of the perimeter of Glass Hill SNA to disturbance and impacts of the construction and ongoing maintenance of the B2H. The cumulative impacts of the RFA 2 added to the disturbance permitted under the ASC and RFA 1 are profound. The wetland extends beyond the area mapped in National Wetland Inventory. Introductions of invasives and alteration of hydrology at the immediate boundary of the Protected area definitely negatively affect the quality of the wetland, the integrity of the natural area, the special wetland plant</p>	<p>Potential impacts to Winn Meadow were litigated in the contested case on the ASC, where Ms. Geer submitted evidence of potential the noxious weed impacts to Winn Meadow in relation to her Issue FW-6.⁸ The Hearing Officer concluded that the Company’s Noxious Weed Plan adequately established the measures the Company will take to control noxious weed species and prevent the introduction of these species during construction and operation of the Project,⁹ and the Council adopted the Hearing Officer’s conclusion.¹⁰</p> <p>Contrary to Ms. Geer’s assertion, RFA 2 is not anticipated to result in impacts to Winn Meadow, which is located within the Glass Hill State Natural Area. The proposed expanded site boundary in RFA 2 was limited to avoid crossing the Glass Hill State Natural Area, and the Company does not propose any modifications to the approved micrositing area within the Glass Hill State Natural Area.</p> <p>Finally, Ms. Geer’s comments regarding impacts from RFA 1 and the Morgan Lake Alternative are not at issue in RFA 2, because the Council has already approved RFA 1 and the Morgan Lake Alternative, and the deadlines for seeking review of the Council’s final orders have long passed.</p>

⁵ STOP B2H v. Dep’t of Energy, 370 Or 792, 811-15 (2023).

⁶ OAR 345-001-0010(26)(l).

⁷ STOP B2H v. Dep’t of Energy, 370 Or 792, 813 (2023).

⁸ Final Order on ASC, Attachment 6 at 8694, 8816-19 of 10586 (Sept. 27, 2022).

⁹ Final Order on ASC, Attachment 6 at 8801-02 of 20586 (Sept. 27, 2022).

¹⁰ Final Order on ASC at 28 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>community, and the livelihood of <i>Trifolium douglasii</i>, a Candidate for listing with Oregon’s rare plant program and Federal Species of Concern.</p> <p>The Council should find that RFA2 would result in significant adverse impact. The Council should also recognize that RFA1 and the Morgan Lake Alternative as approved, also result in significant adverse impact to Glass Hill SNA. The Council should call for an Amended Route between the Baldy Alternative and Hilgard State Park.</p> <p>Map 30 of Figure 8-1 2024-04-11-FIG-8-1-RFA2-RFA1-ASC-Expanded-Site-Boundary-Changes-MAPBOOK and Map 38 of 2024-04-11-FIG-4-1-RFA2-Micrositing-Additions-and-Expanded-Site-Boundary-MAPBOOK shows the proposed site boundary cutting through Glass Hill SNA in several places, fatally damaging the integrity of the natural area. Confusing additional access roads were added in RFA1. In the Winn Meadow area, “existing roads” are shown on a map, yet those roads no longer exist on the ground and have not been driven in over 40 years. This should never have been allowed under the EFSCs rules for Protected Areas.</p>	
Susan Geer (May 30, 2024)	Threatened and Endangered Species Standard (OAR 345-022-0070)	<p><i>Pyrrocoma scaberula</i> (rough goldenweed), an extremely rare plant, is now listed as Endangered under OAR 603-073-0070. The approved route should be shifted to avoid the Morgan Lake/Twin Lake area where it grows.</p> <p>The largest known occurrence of the species is known from within the RFA2 expanded Site boundary in and near Morgan Lake Park. Herbarium specimens have been submitted to OSU and WSU and siting forms are on their way to Oregon Biological Information Center. It grows only in unique mesic grasslands. It is likely that it occurs in the Morgan Lake Alternative original site boundary/micro siting area. Surveys are needed to document the extent. As of May 3, 2024, this species is listed as Endangered by the State of Oregon rare plant program.</p> <p>[quotation of OAR 345-022-0070 omitted]</p> <p>The species was declared Endangered after the ASC was issued, but before final Amendments or construction. The species had been a Candidate for several years, in fact this is the first time ODA has updated the rare plant list since the start of the program in 1987. ODA rare plant program is slowly working its way through the Candidate species since the program finally got funded in 2020. Listing was not unexpected. ODA funding problems prevented the required Periodic Review of State List 345-022-0070 from being done regularly but and it has finally been listed. <i>Trifolium douglasii</i> (Douglas clover) is another rare Candidate for State listing that grows in mesic grasslands in and around Morgan Lake Park and occurrences are found along the monocline from the park south to Winn Meadow, part of Glass Hill State Natural Area. The EFSC should be pro-active in recognizing Candidate species and doing all they can to protect them.</p>	<p>Ms. Geer’s comments regarding the route near Morgan Lake and Twin Lake is not specific to RFA 2 because the Council has already approved the route segments for the Project located in that area, the Morgan Lake Alternative, and the Company does not seek to modify the micrositing area for the Morgan Lake Alternative.</p> <p>Moreover, the Council has already determined that the Morgan Lake Alternative complies with the Threatened and Endangered (“T&E”) Species Standard.¹¹ Ms. Geer’s challenge to the Council’s conclusion in the Final Order on the ASC is untimely and an impermissible collateral attack on that order.</p> <p><i>Pyrrocoma scaberula</i> was added as an endangered species in 2024, after the Council had already approved the Morgan Lake Alternative. At the time of the Council’s consideration of the ASC, Idaho Power was not required to analyze potential impacts to that plant species under the Council’s T&E Species Standard because it was not listed as endangered at the time, and the fact that the Oregon Department of Agriculture (“ODAg”) updated the list of endangered species after the Council issued its Final Order on the ASC does not require additional analysis of that plant species.¹²</p> <p>Moreover, even if a threatened or endangered plant species were located within the micrositing area, that fact would not necessitate moving the transmission line. Threatened and Endangered Species Condition 2 requires that the Company give threatened and endangered plant species a 33-foot buffer if possible, and if not, to install temporary construction mats.¹³ In the DPO on RFA 2, the Department modifies Idaho Power’s requested revisions to Threatened & Endangered Species Condition 2. The Department consulted with ODAg and the proposed condition would require Idaho Power to submit a final micrositing evaluation that maximizes impact avoidance, subject to review and approval by the Department in consultation with ODAg. If the Department determines that complete avoidance is not possible, then Idaho Power must implement mitigation including but not limited to seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities.¹⁴ This is consistent with the Council’s T&E Species Standard, which allows the Council to consider mitigation.¹⁵</p>
Susan Geer (May 30, 2024)	Threatened and Endangered Species Standard (OAR 345-022-0070)	<p>Mitigation called for in RFA 2 - Attachment 4 “Draft T and E Plant Mitigation Plan” is NOT a substitute for occurrences of rare plants and their unique undisturbed habitat.</p> <p>This plan is all about seed banking and making plans for re-introduction. In fact it is over half a million dollars in seed banking. As Dr. Karen Antell demonstrated in her EFSC contested case, few if any cases of successful conversion of habitat exist. Instead of spending this money on seed banking, Idaho Power should spend this money re-routing B2H away from rare plants.</p>	<p>Ms. Geer’s comment challenges potential mitigation in the event that complete avoidance of threatened and endangered species is not possible. Ms. Geer appears to suggest that mitigation cannot address impacts to plant species. However, as discussed above the Council’s T&E Species Standard allows the Council to consider mitigation.¹⁶ Moreover, as discussed above, Idaho Power and the Department consulted with ODAg, and ODAg was directly involved in the development of the mitigation and concurs that it reasonably ensures that the impacts from the facility would not significantly impact the likelihood of survivability or recovery of the species.¹⁷ Consistent with ODAg’s consultation, the Council should approve the revised T&E Species Condition 2 as stated in the DPO.</p>

¹¹ Final Order on ASC at 424 of 10586 (Sept. 27, 2022).

¹² See ORS 469.401 (“The site certificate or amended site certificate shall require both parties to abide by local ordinances and state law and the rules of the council in effect on the date the site certificate or amended site certificate is executed[.]”).

¹³ Final Order on ASC at 423 of 10586 (Sept. 27, 2022).

¹⁴ Draft Proposed Order on RFA 2 at 198 (Apr. 16, 2024).

¹⁵ OAR 345-022-0070(1).

¹⁶ OAR 345-022-0070(1).

¹⁷ Draft Proposed Order on RFA 2, Attachment 5: Draft Threatened and Endangered (T&E) Plant Mitigation Plan, Consultation Summary with Oregon Department of Agriculture Native Plant Conservation Program at 3 (Apr. 16, 2024) (381 of 855).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Susan Geer (May 30, 2024)	Notice of RFA 2	<p>The Draft Proposed Order for RFA2 continues to mischaracterize the management of Glass Hill State Natural Area (SNA), a Protected Area under OAR 345-022-0040, and the managers of the Natural Area were not notified of RFA2.</p> <p>RFA 1 Draft Proposed Order mischaracterized the management of Glass Hill SNA as I wrote in Comments dated September 23, 2023 (Geer Comments on RFA1). RFA 2 makes no corrections. Preliminary Request for Amendment #2 Idaho Power Company for the Boardman to Hemingway Transmission Line, Attachment 7-2, page 37 lists Blue Mountain Land Trust as the manager. RFA 1 listed it as Blue Mountain Conservancy. Neither of these organizations is the manager, nor have they ever been. Owner Joel Rice and myself manage the land, with advice and assistance from Noell Bachellor of ORPD Natural Areas Program, and specialists from ODF, NRCS, and ODFW. I was not notified of either RFA 1 or RFA 2, even after submitting comments on RFA 1. Dr. Rice says that he was not notified either. Drafts of the 2022 Protected Areas rulemaking called for managers of Protected Areas to be notified, yet this wording was inexplicably omitted from the final version.</p>	As Ms. Geer acknowledges, the Council’s revised Protected Areas Standard does not include any additional notice requirement specifically for managers of protected areas. Consistent with OAR 345-027-0360(2)(a)(D), the Department provided notice to all property owners of record identified in RFA 2. For the Glass Hill State Natural Area, Joel Rice is identified as the landowner of record. ¹⁸ ODOE confirmed that Joel Rice was on the mailing list for notice for the RFA 2.
Susan Geer (May 30, 2024)	Protected Areas Standard (OAR 345-022-0040)	<p>General Conditions under the Protected Areas Standard 345-022-0040 should apply to Glass Hill State Natural Area.</p> <p>Attachment 6-1 Second Amended Site Certificate dated Sept. 22, 2023; page 32 should apply to Glass Hill SNA as well as Ladd Marsh Wildlife Area as follows:</p> <p>GEN-PA-01 During design and construction of the facility, the certificate holder must: a. Coordinate construction activities in Ladd Marsh Wildlife Area and Glass Hill SNA (Areas) with the Area managers. b. Provide evidence to ODFW of a determination of eligibility and findings of effect pursuant to Section 106 NRHP compliance for the facility and the final HPMP for the portion of the facility that would cross the Areas subject to confidential material submission materials. [Protected Areas Condition 1; Final Order on ASC]</p> <p>GEN-PA-02 During design and construction of the facility, if the Morgan Lake alternative route is selected, the certificate holder shall ensure that facility components are not sited within the boundary of the Areas. The certificate holder shall provide to the Department a final design map for Union County demonstrating that the site boundary microsites area and facility components are located outside of the protected area boundary. [Protected Areas Condition 2; Final Order on ASC]</p>	In the Final Order on the ASC, the Council adopted the Hearing Officer’s findings that because the Rice Glass Hill State Natural Area was not registered as a Natural Area at the time of the cut off date in the then-applicable rule (May 11, 2007), Idaho Power had no obligation to evaluate the Rice Glass Hill State Natural Area as a protected area in ASC Exhibit L. Because RFA 2 does not propose to modify the microsites area that is located within the Glass Hill State Natural Area, proposed revisions to the conditions in the Site Certificate relating to that segment of the microsites area are outside the scope of RFA 2. For this reason, Ms. Geer’s proposed conditions should not be adopted.
Susan Geer (May 30, 2024)	Threatened and Endangered Species Standard (OAR 345-022-0070)	<p>RFA2 Proposes changes to General Conditions (Attachment 6-1 Second Amended Site Certificate dated Sept. 22, 2023, page 61-62) under the Threatened and Endangered Species Standard OAR 345-022-0070 which are unacceptable and should be rejected by the Council.</p> <p>CON-TE-02 a. adds the words “where practical” leaving the interpretation wide open. CON-TE-02 b. is a new addition which allows IPC to destroy T and E plant species as long as there is “mitigation”. No “mitigation” is a replacement for T and E plants.</p>	<p>In this comment, it appears that Ms. Geer expresses concern with a proposal that Idaho Power made in its RFA 2. However, ODOE did not adopt the revised condition language precisely as the Company proposed. Instead, following consultation with ODAg, ODOE provided the following condition language in the RFA 2 DPO:</p> <p>Recommended Amended Threatened and Endangered Species Condition 2 (CON-TE-02):</p> <p>During construction, the certificate holder shall not conduct ground-disturbing activities within a 33-foot buffer around <u>state-listed</u> threatened or endangered (<u>T&E</u>) plant species, based on pre-construction field surveys required per site certificate condition Fish and Wildlife Habitat 16, subject to the following:</p> <p>a. <u>Certificate holder shall demonstrate that final facility design includes avoidance through microsites, consistent with the avoidance presented in RFA2 Attachment 7- 11. Prior to construction within 33-feet of documented T&E plant species occurrences, as presented in RFA2 Attachment 7-11 Table 1, certificate holder shall submit a final microsites evaluation that maximizes impact avoidance, subject to review and approval by the Department in consultation with ODAg. If the Department, in consultation with ODAg, determine that the certificate holder has demonstrated that</u> complete avoidance is not possible (for example, if the threatened or endangered plant species is located within 33 feet of an existing road where upgrades are authorized) <u>for the</u></p>

¹⁸ RFA 2, Figure 9-1 at Map 14 (Apr. 11, 2024).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p><u>RFA2 Attachment 7-11 occurrence locations or other areas affected by final facility location</u>, the certificate holder shall implement mitigation including but not limited to seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities. The mitigation agreement shall be substantially similar to the draft mitigation agreement provided in Attachment 5 of the Final Order on Amendment 2. shall install temporary construction mats over soils where the threatened or endangered plant species have been observed and where construction vehicles will be operated; and</p> <p>b. If herbicides are used to control weeds, the certificate holder shall follow agency guidelines including guidelines recommended by the herbicide manufacturer, in establishing buffer areas around confirmed populations of threatened or endangered plant species and refrain from using herbicides within those buffers. [Final Order on ASC, AMD2]</p> <p>Thus, CON-TE-02 precludes impacts within 33-feet of a delineated state-listed threatened or endangered plant population unless avoidance is not possible. If avoidance is not possible, the proposed condition modifications provide for mitigation, as described above. This condition is entirely consistent with the Council’s T&E Species Standard, which allows the Council to take into account mitigation for potential impacts to listed species.¹⁹</p>
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>The Council should reject Site boundary expansion and ask Idaho Power to apply for further Amendments instead, if they are needed. Alternatively, expansion should be subject to landowner approval and this should be a condition of the Site Certificate.</p> <p>RFA2 proposes expanding the site boundary to be ½ mile wide along the B2H transmission line and would add 101,600 additional acres not subject to survey. The expansion along the B2H line does not include expansions such as roads and facilities. If the site boundary is expanded as proposed, Idaho Power would have free-reign to micro-site within that half mile – rather than within the 500’ which was approved.</p>	<p>Contrary to Ms. Geer’s assertion, approval of RFA 2 would not give Idaho Power “free reign” to adjust the construction footprint for the Project. Rather, the Company would have to follow the ADR process and obtain approval from the Department and, if requested, the Council for any future modifications to the micrositing area. Ms. Geer proposes that Idaho Power obtain landowner approval prior to construction in the proposed expanded site boundary, and this suggestion is entirely consistent with the Company’s intent. Idaho Power seeks to adjust the micrositing area with landowner support. Most of the micrositing area additions the Company has secured in RFA 1 and proposes in RFA 2 are consistent with landowner requests. However, to memorialize the Company’s intent in a proposed condition, Idaho Power proposes the following new condition:</p> <p>At the time that Idaho Power submits an Amendment Determination Request to the Council for proposed construction outside the approved micrositing area but within the proposed expanded site boundary on private property, Idaho Power will submit to the Department documentation of landowner support or consent for the ADR on the landowners’ property.</p>
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>Morgan Lake Park and Protected Areas should not be subject to site boundary expansion</p> <p>An Amended route should be found which stays at least ¼ mile from Morgan Lake Park and Glass Hill SNA as well as other Protected Areas. Furthermore, these areas should not be subject to expansion.</p>	<p>Morgan Lake Park and Glass Hill State Natural Area are not included in the proposed expanded site boundary. Regarding Ms. Geer’s proposal to reroute the already approved Morgan Lake Alternative, such a request is outside the scope of the Council’s review of RFA 2. The Council “is limited to reviewing the application” and cannot develop an alternative route that is not included in an application or corridor assessment process.²⁰</p>
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>Idaho Power touts the expanded site boundary idea as giving more flexibility for landowner agreements. What they do not say is our rights may be weakened further in the future.</p> <p>Presumably if they want to change something again, they will NOT be required to go through the more rigorous Type A Amendment process but instead, they will only need to file an Amendment Determination Request. The Council should not allow this.</p>	<p>Idaho Power’s proposal is consistent with the Council’s rules, which include the ADR process for determining what review is appropriate when a certificate holder seeks to amend a facility in a manner that does not add area to the site. Idaho Power has not sought and does not seek in RFA 2 to expand the transmission line micrositing area on landowners’ property absent support from the landowner—and indeed, one of the key benefits of the proposed expanded site boundary is to increase Idaho Power’s ability to timely and efficiently accommodate landowner requests for minor modifications.</p>
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>Allowing an expanded site boundary without surveys would be in violation of OAR 345-027-0375(2)(a). The Council should not allow it.</p> <p>The proposed expanded site boundary in Union County especially on the area (monocline) between Winn Meadow and Morgan Lake contains many wetlands, both mapped and unmapped. There is no doubt that sandhill cranes and bald eagles’ nest at Twin Lake and Columbia spotted frogs are found there within the potential expanded site boundary. Additional rare plants would include <i>Pyrocoma scaberula</i> and <i>Trifolium douglasii</i> which grow in unique mesic grasslands, but there may be others as well. It has never been surveyed because it was outside of the site boundary in the past. This would be in violation of OAR 345-027-</p>	<p>The new proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis.</p> <p>Consistent with the Company’s practice in RFA 1 and RFA 2, Idaho Power will conduct additional surveys of any areas added to the micrositing area. As required by Condition PRE-FW-02, these surveys include biological surveys for fish and wildlife habitat and threatened and endangered plant species.</p> <p>Contrary to Ms. Geer’s assertion, Twin Lake is not within the proposed expanded site boundary. Twin Lake is within Morgan Lake Park, and Idaho Power modified the proposed expanded site boundary so that it borders but does not overlap with Morgan Lake Park.</p>

¹⁹ OAR 345-022-0070(1).

²⁰ *STOP B2H v. Dep’t of Energy*, 370 Or 792, 813 (2023).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		0375(2)(a), which states: “For a request for amendment proposing to add new area to the site boundary, the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application;” Since the wetland has never been surveyed, compliance with the Fish and Wildlife Habitat Standard (OAR 345-022-0060) cannot be determined, nor Threatened and Endangered Species (OAR 34-022-0070).	
Irene Gilbert			
Irene Gilbert (Apr. 26, 2024)	Party Status	<p>The Draft Proposed Order cannot designate all petitioners as Limited Parties other than the Applicant absent an evaluation of their requests for party status.</p> <p>Limiting all parties participation in the contested case procedure to only the issues they raised in their Comments on the DPO denies parties the opportunity to fully participate in the proceedings in the manner described in ORS 183 for full parties.</p> <p>The Draft Proposed Order limits all petitioners to Limited Party Status in Contested Case Proceedings absent conducting an evaluation regarding whether or not they should be granted full party status.</p> <p>This language is not consistent with OAR 137-003-0005(7) requirements that establish criteria which must be evaluated in determining a parties application to be a full party.</p> <p>It is also not consistent with the Oregon Supreme Court ruling in Stop B2H Coalition v. Dept of Energy, Pages 803-804. The court concluded that “EFSC (1) had authority to grant limited party status to Stop B2H and (2) considered the factors it was required to consider in making that determination.” The Oregon Supreme Court did not rule that EFSC has the authority to limit all petitioners to Limited Party Status in contested case proceedings with the exception of the developer absent evaluating and describing the justification for the limitation.</p>	<p>Ms. Gilbert asserts that the DPO’s statement of the issues that may be raised in a contested case is inconsistent with a provision of the Attorney General’s Model Rules of Procedure for Contested Cases (“Model Rules”). Specifically, Ms. Gilbert asserts that the Council must apply the factors listed in OAR 137-003-0005(7) when determining “whether or not [a petitioner] should be granted full party status.”</p> <p>However, the Council’s review of commenters’ requests for contested cases relating to an RFA is governed by OAR 345-027-0371.</p> <p>The language in the DPO that Ms. Gilbert challenges is a verbatim quotation of the OAR 345-027-0371(10)(a), and therefore accurately identifies the standards for review of such requests.</p> <p>Even if there were any inconsistency between OAR 345-027-0371(10)(a) and the Model Rule that Ms. Gilbert cites, the Council would apply OAR 345-027-0371(10)(a).²¹</p>
Irene Gilbert (May 8, 2024)	Party Status	<p>The Oregon Department of Energy and Energy Facility Siting Council are requiring parties requesting full party status to be designated as limited parties when more than one contested case is being heard. They are further denying limited parties the opportunity to respond to comments by other petitioners who have contested cases being heard. As a result, petitioners are required to submit comments on all issues which they do not agree with or wish to request a contested case on.</p> <p>The Oregon Department of Energy and Energy Facility Siting Council are requiring parties requesting full party status to be designated as limited parties when more than one contested case is being heard. They are further denying limited parties the opportunity to respond to comments by other petitioners who have contested cases being heard. As a result, petitioners are required to submit comments on all issues which they do not agree with or wish to request a contested case on.</p> <p>They have now interpreting Oregon Statutes and rules in a manner that is denying the public the submission of and use of comments by other commenters and references to comments of other petitioners. They are also refusing to accept results and documents provided in other agency actions relating to issues petitioners have, etc.</p>	<p>Ms. Gilbert’s primary contention appears to be that an individual who comments on the DPO for RFA 2 should be allowed to request a contested case to raise an issue that another commenter raised in separate comments on the DPO. Ms. Gilbert asserts that ODOE’s position is inconsistent with several statutes and regulations that establish evidentiary standards that Ms. Gilbert argues apply to the Council’s review of requests for contested cases. Based on that argument, Ms. Gilbert challenges a statement in footnote 27 on pages 39-40 of the DPO, which reads, in part:</p> <p>“Council does not consider incorporation by reference statements or comments made by other persons, (whether they are comments on the DPO, raised by other commenters for this facility or past proceedings, comments on another agency proceeding, or other external references) to meet the sufficient specificity requirement under ORS 469.370(3) and OAR 345-015-0016(3). Blanket incorporations by reference do not afford the Department, Council or certificate holder an adequate opportunity to respond to each issue as required under ORS 469.370(3) because they typically do not specify which portion(s) of the other person(s) comments are to be incorporated or how those comments relate to any alleged shortcoming in the subject DPO.”²²</p> <p>Procedurally, Ms. Gilbert’s comment appears premature, because Ms. Gilbert challenges a statement of how the Council <i>will consider</i> requests for contested cases. The Council is not yet considering requests for contested cases, but rather is considering comments on ODOE’s DPO, which may eventually be cited in requests for contested cases. Substantively, as discussed below, the challenged language is entirely consistent with the Council’s interpretation of its regulations</p>

²¹ See OAR 345-001-0005(3) (“In any conflict between the model rules and Council rules, the Council shall apply its own rules.”).

²² The footnote reads, in full: “Council does not consider incorporation by reference statements or comments made by other persons, (whether they are comments on the DPO, raised by other commenters for this facility or past proceedings, comments on another agency proceeding, or other external references) to meet the sufficient specificity requirement under ORS 469.370(3) and OAR 345-015-0016(3). Blanket incorporations by reference do not afford the Department, Council or certificate holder an adequate opportunity to respond to each issue as required under ORS 469.370(3) because they typically do not specify which portion(s) of the other person(s) comments are to be incorporated or how those comments relate to any alleged shortcoming in the subject DPO. Attempts to incorporate by reference comments made regarding a matter being considered by another agency do not inform the Council, Department or applicant/certificate holder of any alleged error in the subject DPO sufficient to allow for a response. Further, incorporations by reference of another person’s comments on the subject DPO, no matter how specific, are procedurally inefficient because they could result in multiple persons presenting evidence, examining witnesses, etc. regarding the same issue in a contested case. Council has also maintained that this position is consistent with the reasons why it is appropriate to limit the participation of persons seeking to participate in a contested case to the issues each properly raised in their respective DPO comments. B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 21.” Draft Proposed Order on RFA 2 at 39-40 n.27 (Apr. 16, 2024).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>The language and interpretation which is the subject of this comment are in the Draft Proposed Order and footnotes on pages 39 and 40 of that order which specifically states the intended restrictions regarding the evidence being accepted in the public comments supporting requests for contested cases in quasi-judicial hearings before the Energy Facility Siting Council. The language in ther Draft Proposed Order states the following:</p> <p>[quotation of DPO at 39 n.27 omitted]</p> <p>There are multiple laws being broken by their actions, however, two Statutes and one Rules being illegally interpreted follows:</p> <p>Quai-Judicial Procedures Ch. 17 17.24.200 Evidence. (1) All evidence offered and not objected to may be received unless excluded by the approval authority on its own motion. (2) Evidence received at any hearing shall be of a quality that reasonable persons rely upon in the conducting of their everyday affairs. (3) No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence. (4) Formal rules of evidence, as used in courts of law, shall not apply. (Ord. 2875 § 1.070.200, 2003)(9)</p> <p>ORS 197.797.(9)(b): “Evidence” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. [Formerly 197.763]”</p> <p>ORS 183.450(1) Evidence in contested cases.</p> <p>[quotation of ORS 183.450(1)-(2) omitted]</p> <p>The references stated by ODOE which they state allow them to interpret the law regarding their interpretation of acceptable evidence supporting a person’s comments and contested case requests do not provide them the authority to take the actions described in the draft proposed order. references are as follows:</p> <p>OAR 345-015-0016(3) [quotation omitted] and ORS 469.370(2)(e) and ORS 469,370(3) [quotations omitted].</p> <p>The above rules and statute do not provide ODOE or EFSC the authority to reinterpret the law:</p> <p>SUMMARY</p> <p>1. Public parties do not have the resources to research hundreds and often thousands of pages of documents in the average 30 days provided to review and comment on the application and draft proposed order in order to establish the right to a contested case. It is impossible for most members of the public to do the necessary review given the fact that they often have full time jobs and other responsibilities. 2. By their recent decision to only allow ODOE and the developers to be full parties to contested cases when there is more than one petitioner, they are requiring all petitioners to include comments on every issue they want to object to or present testimony on during a contested case proceeding.</p>	<p>governing requests for contested cases. Moreover, Ms. Gilbert’s reliance on evidentiary standards that apply in contested cases is misplaced, because Ms. Gilbert cites statutes that either do not apply to Council proceedings or apply only after the Council has begun a contested case.</p> <p><u>ODOE Properly Applied the Standard for Requests for Contested Cases</u></p> <p>Ms. Gilbert’s position is inconsistent with the Council’s interpretation of its own regulations governing requests for contested cases to review requests for amendments. Importantly, the footnote that Ms. Gilbert challenges is a direct quotation from the Council’s Final Order on RFA 1,²³ and is therefore consistent with the Council’s interpretation of the governing regulations.</p> <p>IPC seeks to address the legal errors Ms. Gilbert alleges in her comment. First, while the Council is subject to the Oregon Administrative Procedures Act (“APA”) (ORS Chapter 183), Ms. Gilbert incorrectly cites the evidentiary standard for contested cases, which is premature because RFA 2 is not the subject of a contested case.</p> <p>While Ms. Gilbert’s comment challenges language in the DPO relating to the standards the Council will apply to any requests for a contested case, Ms. Gilbert discusses only one regulation that applies to the Council’s consideration of petitions for party status. As an initial matter, the rule Ms. Gilbert discusses, OAR 345-015-0016, is specific to requests for party status relating to an application for a site certificate, not a request for an amendment. However, the rule identifying the standard for seeking contested cases relating to amendments to site certificates, OAR 345-027-0371(5), similarly requires that a person “have raised an issue with sufficient specificity” at the DPO hearing to request a contested case relating to that issue. For that reason, IPC responds to Ms. Gilbert’s comment applying OAR 345-027-0371(5).</p> <p>Moreover, Ms. Gilbert’s assertion that ODOE’s statement in the DPO is inconsistent with OAR 345-027-0371(5) is incorrect. OAR 345-027-0371(5) states that “[t]o have raised an issue with sufficient specificity, the person must have presented facts at the public hearing that support that person’s position on the issue.” ODOE correctly states in the DPO that an individual cannot simply incorporate by reference another person’s comment and then rely on those comments as the basis for a contested case request. ODOE’s statement is entirely consistent with OAR 345-027-0371(5), because if a commenter merely adopts general comments as their own, that person has not presented facts supporting their own position with sufficient specificity to allow IPC, the Department, or the Council to respond.</p> <p>Ms. Gilbert asserts that ODOE seeks to “interpret the law regarding what is acceptable as proof, evidence or support for comments in a manner that denies the public the use of material and references acceptable according to Oregon Statutes and Rules.” However, the provision of the DPO that Ms. Gilbert challenges does not reinterpret any governing law, but rather is entirely consistent with the Council’s rules. The Council’s rules require that any individual requesting a contested case first raise the issue in DPO comments with “sufficient specificity,” and states that “[t]o have raised an issue with sufficient specificity, the person must have presented facts at the public hearing that support that person’s position on the issue.”²⁴ As discussed above, the language Ms. Gilbert challenges directly quotes the Council’s interpretation of OAR 345-027-0371(5). Ms. Gilbert’s assertion that the DPO reinterprets the rules governing requests for contested cases is incorrect.</p> <p><u>Ms. Gilbert Cites Several Statutes That Do Not Govern Consideration of Requests for Contested Cases</u></p> <p>Much of Ms. Gilbert’s comment discusses statutes and regulations that do not apply in Council proceedings. Moreover, while Ms. Gilbert cites a provision of the Oregon APA that applies in contested case proceedings, Ms. Gilbert incorrectly suggests that the Council must apply this contested case standard before the Council has begun a contested case.</p> <p>It is not clear what Ms. Gilbert is referencing when she cites “17.24.200.” However, that provision does not appear to be a Council regulation or governing statute.</p>

²³ Final Order on RFA 1 at 22 (Sept. 22, 2023).

²⁴ OAR 345-027-0371(5).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>3. They are now attempting to interpret the law regarding what is acceptable as proof, evidence or support for comments in a manner that denies the public the use of material and references acceptable according to Oregon Statutes and Rules.</p> <p>4. ODOE and EFSC do not have the authority to reinterpret rules and statutes which provide the public access to due process under Oregon law and the US Constitution.</p> <p>Change needed to comp[l]y with Oregon law regarding evidence:</p> <p>Remove the discussion regarding petitioners not being able to submit and reference comments by other petitioners and acceptable documentation regarding issues. The proposed order needs to state that evidence allowed by ORS 183.450 and the Model Rules is acceptable to support an issue which is the subject of public comment and contested case requests.</p>	<p>ORS 197.797 applies to local quasi-judicial land use hearings. Any evidentiary standard identified in that statute would not apply to the Council’s DPO hearing.</p> <p>Finally, while ORS 183.450(1) applies in the Council’s contested cases, that statute does not identify any applicable standard for the Council’s review of petitions for party status prior to a contested case. Ms. Gilbert’s argument that the Council must apply the evidentiary standards in the Oregon APA is premature because the Council has not begun a contested case for RFA 2. Similarly, Ms. Gilbert’s assertion that ODOE has reinterpreted what constitutes evidence incorrectly relies on the standard identifying the evidentiary standard in contested cases. At this stage, the Council is not weighing evidence in a contested case proceeding. Rather, the Council is reviewing DPO comments to assess whether a commenter has raised an issue with sufficient specificity to support a potential request for a contested case under the Council’s rules.</p>
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>DPO for Amendment 2 changes the review requirements for the area added to the site boundary in a manner that conflicts with OAR 345-027-0375(2)(a). This rule requires that the review of the area added to the site complies with all standards that apply to an original site certificate. The change from requiring review of Council standards which apply to the site boundary to the area in the siting corridor/micrositing area conflicts with the Scope of Review that the Council must apply to add area to the site boundary. Council review no longer meets the council review requirements that apply to a new application.</p> <p>Council is precluded from issuing this site certificate without requiring compliance with the requirements of a new application. This includes providing the opportunity for the public to participate in the review. Doing so means that ODOE and EFSC cannot allow a type C review to approve future changes in the micrositing corridors or construction outside the micrositing corridors. Any future changes require either a Type A or Type B review. Doing otherwise conflicts with <i>Eng v. Wallowa County</i> 79 Or LUBA 421 (2019) A county may not defer a determination of compliance with applicable approval criteria to a future proceeding that does not allow for public participation merely because the deferred criteria require no interpretation or judgment.</p> <p>Use of this process also conflicts with the court’s decision in <i>Friends of the Columbia Gorge v. Energy Facility Siting Council</i> 365 Or 371 which states that Council does not have the authority to decide that the public cannot request a reconsideration by the Circuit Court when no opportunity is provided to access a contested case. The use of a Type C review process fails to provide notice and this opportunity to access due process.</p> <p>Statements that the developer will be required to complete the site reviews which are not being required as part of allowing a Type C change fails to comply with council rules and the above court decisions requiring the public to be allowed to participate in the decision making process.</p>	<p>Ms. Gilbert’s comment regarding an opportunity to participate in review of future proposed additions to the micrositing area misstates the scope of those changes. As stated in the DPO, upon receipt of an ADR, the Department will post a notice on the Department’s website.²⁵ This notice will allow for public review of the ADR.</p> <p>Ms. Gilbert’s reliance on <i>Eng v. Wallowa County</i> does not support an assertion that future challenges would require a Type A or Type B review. The Council’s review process is governed by ORS 469, which the Oregon Land Use Board of Appeals (“LUBA”) would not apply in its decisions. LUBA’s application of its procedural requirements would not govern EFSC’s application of its own amendment regulations.</p> <p>Ms. Gilbert also cites <i>Friends of the Columbia Gorge v. EFSC</i>, which she appears to interpret to limit the Council’s authority to prevent the public from seeking reconsideration at the circuit court. While Ms. Gilbert’s summary of the opinion is unclear, it appears that she asserts that the Council cannot limit judicial review of its orders in other than contested cases. This challenge to the DPO is irrelevant, because nowhere in the DPO does the Department propose limiting judicial review of future ADRs.</p>
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>The Draft Proposed Order waives the requirements of rules promulgated under the authority of ORS 469.501.</p> <p>--The change from the rule requirements being met for the area in the “site boundary” to only apply to the “micrositing area” is not a change in definition or interpretation. The definitions and application of the terms continue to be the same in EFSC rules, statutes and the original B2H Site Certificate as they were prior to Amendment 2. The change represents a unilateral change by the Oregon Department of Energy to allow the development to avoid meeting the requirements of the Oregon Statutes and rules which require identification, protection, and mitigation of the impacts of the transmission line on the resources of the state requiring a preponderance of evidence that the facility complies with EFSC standards.</p>	<p>Idaho Power disagrees with Ms. Gilbert’s characterization of the proposed expanded site boundary. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. If Idaho Power proposes future additions to the micrositing area, the Company will conduct additional detailed surveys of those areas, as the Company has for all micrositing additions proposed in RFA 2. As Ms. Gilbert acknowledges in her comment, developers propose the scope of the site boundary for a facility and also define the components that will be constructed within that site boundary.</p>

²⁵ Draft Proposed Order on RFA 2 at 53 (Apr. 16, 2024).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>During the Contested Case for the Wheatridge wind development, council interpreted the rules to allow developers to decide what items were to be included as part of the “facility”. Developers have the ability to define the area included within the facility site boundary consistent with the language of the rules defining “site boundary” so long as it includes all development they decided to include as part of the energy facility.</p> <p>The site boundary requirements for evaluating whether the development complies with EFSC standards are established in the Siting Standards in Chapter 21 and Chapter 22 of the EFSC rules as well as the 2nd amended project order. The requirements are not subject to change through this amendment.</p> <p>The following Council Standards and applicable regulations require field-based surveys, literature review and agency consultation for the entire site boundary to support Council review of compliance: Structural Standard (OAR 345-022-0020) (Analysis area is area within the site boundary) Fish and Wildlife Habitat (OAR 345-022-0060) Threatened and Endangered Species (OATR 345-022-0070) Historic, Cultural and archaeological Resources (OAR 345-022-0090) plus 5 miles from the site boundary. Oregon Removal-Fill Law (OAR 141-085-0500 through 141-085-0785, ORS 196.795-196.990)</p>	
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>EFSC rules reference the micrositing area and the site boundary to communicate requirements of Council Standards and where they are to occur. The importance and significance of the term “Site Boundary” is documented in the Final Order for the Boardman to Hemingway Transmission Line dated September 27, 2022. In that order, the term is used 213 times regarding the decision to approve the original site certificate for this development.</p> <p>As noted above, changing the evaluation of the area being added to the site to minimize review requirements impacts all future approvals and uses of the area added. Because of this, a site certificate must not be issued to extend the site boundary unless the evaluation of siting standards include the evaluation of the standards in the same manner as is required when an area is included in an original site certificate.</p> <p>An example of the egregious nature of adding area to the site boundary without requiring a full evaluation required by EFSC rules is described in ORS 469.320(5). This statute allows expansion within a site of a facility for which a site certificate has been issued. OAR 345-027-0351(4) allows the department and council to approve requests to make changes in the location of parts of a facility including structures and roads using the procedure outlined in OAR 345-027-0357. The procedure and requirements include the following:</p> <p>OAR 345-027-0357(2) allows ODOE and EFSC to amend a site certificate (Type C amendment) to authorize changes in the locations of facility components without requiring an amendment complying with the requirements of a Type A or Type B public amendment process when the changes will occur within an existing site boundary which has been documented to meet all council standards.</p> <p>This procedure allows ODOE and EFSC to amend the Site Certificate to allow changes including adding micrositing areas or other facilities without providing the public with notice or telling them they have a right to appeal the decision. The rule does not allow ODOE to authorize changes to areas within the site boundary which have never shown with a</p>	<p>Ms. Gilbert’s comment suggests that future micrositing area additions would be added without demonstrating compliance with applicable EFSC standards. This is incorrect. The Company will still be required to obtain approval before moving any part of the Project outside the micrositing corridor and into the proposed expanded site boundary.²⁶ The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. If the Company subsequently seeks to add alternative transmission line or access road locations within the proposed expanded site boundary, the Company would submit an ADR to the Department. However, the Company would have to obtain an amendment to the Site Certificate for any modification that could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource or interest protected by an applicable law or Council standard; could impair the certificate holder’s ability to comply with a site certificate condition; or could require a new condition or a change to a condition in the Site Certificate.²⁷</p> <p>Based on the Council’s rules, the Company may secure additions through the ADR process only if the addition will not result in a significant adverse impact that the Council has not addressed in an earlier order.</p>

²⁶ Draft Proposed Order for RFA 2 at 52-53 (Apr. 16, 2024).

²⁷ OAR 345-027-0350(4).

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		<p>preponderance of evidence that the area meets EFSC standards, and which have never been subject to public review or comment regarding all of the mandatory siting standards.</p> <p>The Draft Proposed Order for Amendment 2 Oof the B2H Site Certificate fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2)(a) stating that in order for Council to issue a site certificate which adds area to the site boundary Council must determine that the area added to the site complies with all laws ad Council standards applicable to an original site certificate application. Limiting reviews of some siting standards to the micrositing corridors rather than the site boundary fails to meet tis standard. Not all the land being added to the site boundary has been subject to the full evaluation required of a new facility site.</p>	
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>The following proposed site certificate conditions need to continue to require that actions occur within the entire expanded site boundary. recommended changes should not be implemented:</p> <p>GEN-FW-08: Should not change the requirements regarding reporting of avain fatalities from site to micro siting corridor</p> <p>GEN-FW-01 Remove change limiting area for required reporting to ODOE to micro-siting corridor. Leave it as “site boundary.”</p> <p>PRE-SS-01: Remove change that would limit sub surface ecological Surveys to the micrositing corridor and retain current wording requiring surveys within site boundary. This is a safety and health condition.</p> <p>PRE-FW-01: Allows developer to decide whether to complete biological surveys in either the site boundary or micrositing area. Should retain current language requiring surveys in site boundary.</p> <p>PRE-FW-02: Should retain current language requiring pre-construction surveys within the site boundary.</p> <p>CON-FW-03: Retain current language requiring identification of migratory bird nests and non-native raptor nests within site boundary.</p>	<p>In the RFA 2 DPO, there are revised conditions to reflect the distinctions between the proposed expanded site boundary and the micrositing areas. Ms. Gilbert’s proposed modifications to the modified site certificate conditions should be rejected. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. Direct impacts from the Project will occur within the micrositing area, but much of the area within the proposed expanded site boundary will experience no impacts, and for that reason these conditions requiring surveying and reporting of impacts should be appropriately limited to impacts within the micrositing areas.</p>
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>Site Certificate Condition One: Prior to approving a site boundary expansion developer must amend the site certificate using an approved Type A or Type B amendment to complete all requirements for analysis, surveys and activities required by Oregon EFSC statutes, rules if the area being added had been included in the initial request for a Site Certificate. This includes, but is not limited to meeting the requirements of Chapter 21, 22, 24, and 27.</p> <p>Site Certificate Condition Two: The developer may not make changes to the siting corridors or utilize a Type C review under OAR 345-027-0380 prior to completing and providing results of all surveys, reviews and certificate amendment activities required by chapter 21 ,Chapter 22, other EFSC rules identified in the 2nd Amended Project Order for the B2H Transmission during a public amendment process.</p>	<p>Ms. Gilbert’s proposed condition is unduly restrictive and should be denied. Ms. Gilbert’s proposal would arbitrarily deny the Company use of protocols that are wholly consistent with the Council’s regulations, including the ADR process. Consistent with the Council’s rules, all methods of amending the Site Certificate should be available to the Company as a certificate holder.</p>
Irene Gilbert (May 30, 2024)	Land Use Standard (OAR 345-022-0030)	<p>Article 20 Section 20.07 addresses Clear-Vision Areas on corners of all property at the intersection of two or more streets or a street and a railroad.</p> <p>This Article is a safety requirement which requires a clear-vision area of 30 feet where no temporary or permanent structures exceed 2.5 feet in height. (ORS 345-022-0110)</p> <p>Section 20.09 addresses Goal 5 Resource Areas</p>	<p>Union County did not identify UCZPSO Section 20.07 as applicable substantive criteria, and Ms. Gilbert has not provided any facts supporting her assertion that the proposed amendments in RFA 2 fail to comply with Section 20.07. Ms. Gilbert did not identify with specificity any locations where Section 20.07 may be at issue, and Idaho Power is not aware of any such areas. For these reasons, Ms. Gilbert’s comment does not raise an issue with sufficient specificity to provide the Company, the Department, or the Council an opportunity to respond.</p> <p>Contrary to Ms. Gilbert’s assertion, the Company has demonstrated compliance with Section 20.09. As ODOE explained in the DPO for RFA 2:</p>

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>The Multi-use Areas and other facility components are located within 1320 feet of Big game critical wildlife habitat areas, big game winter range Significant avian habitat, Significant wetlands including Ladd Marsh which requires a management plan developed in coordination with the responsible agency. (ORS 345-022-0040, ORS 345-022-0060, ORS 345-022-0070)</p> <p>Site Certificate Needed: Item One: Idaho Power will comply with the Union Conty Supplemental provisions, Article 20, Sections 20.07 and 20.09.</p>	<p>“In the Final Order on ASC, the Council found that the facility complies with UCZPSO 20.09, in part because the certificate holder had attempted to utilize existing roads and to limit the development of new roads in critical habitat and winter range overlay areas to the extent possible. Because the proposed RFA 2 micrositing area additions do not significantly change the nature of the previously approved facility or significantly increase the amount of roads located in Union County’s Winter Range areas, the Department recommends that the Council to rely on its previous findings.”²⁸</p> <p>For these reasons, Ms. Gilbert’s proposed site certificate condition is unnecessary and should be rejected.</p>
Irene Gilbert (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>The original site certificate for the B2H transmission line required bat surveys to be conducted for the site boundary. During the contested case process for the original site certificate, Idaho Power submitted a request for Summary Determination to remove the pre-construction surveys. Due to the fact that the hearings officer denied full party status to all petitioners, none of the parties to the contested case with the exception of ODOE were allowed to submit arguments regarding the request. The hearings officer refused to allow any arguments objecting to the request for Summary Determination. She then approved the request and removed the required pre-construction bat surveys In the memo to council for this meeting, Page 13 it states that CON-FW-02 requires a minimization and avoidance plan for locations identified during reconstruction surveys of sensitive bat species. These surveys are no longer requirement for reporting of pygmy rabbit colonies and bat surveys have been removed other than chance sitings during a general survey for all wildlife which is not a legitimate means of identifying the presence of or habitat for these nocturnal mammals. The North American Bat Monitoring Program (NABat) is the method supported and prepared through collaboration with Wildlife Conservation Society of Canada USDA Forest Service, US Army Corp of Engineers, National Park Service, Bat Call Identification, Inc. and others</p> <p>Under OAR 345-027-0375(2)(c) other changes such as those in the Draft Proposed Order for Amendment 2 require a review of whether the entire facility complies with the applicable laws or Council standards that protect a resource or interest that could be effected.</p> <p>There are multiple changes to site certificate conditions and the Draft Proposed Order initiated by both the developer and the Oregon Department of Energy which appear in red lettering in the two documents. These changes require a review of whether the entire facility now complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed changes.”</p> <p>Changes regarding the determination of compliance with OAR 345-22-0060 and OAR 345-022-0070 mean the impacts on bats must be addressed for the facility. The absence of pre-construction bat surveys fall under this review. OAR 35-021-0010)(p) requires biological and botanical surveys, identification of all fish and wildlife habitat in the analysis area, and a map showing habitat identification. Developer must do field study and literature review to identify all State Sensitive Species that might be present in the analysis area. They must then complete baseline surveys of the use of the habitat in the analysis area by species. And finally, a proposed monitoring plan to evaluate the success of the measures taken needs to be proposed.</p> <p>Based upon the definition of the study area in OAR 345-001-0010 Idaho Power needs to complete studies to determine the impact to fish and wildlife habitat for all areas within the site boundary ad one-half mile beyond.</p>	<p>This issue was fully litigated in the contested case on the ASC and Ms. Gilbert’s attempt to challenge the Council’s Final Order on the ASC as legal error in this proceeding is untimely and a collateral attack on the Council’s Final Order on the ASC. The appropriate venue to seek review of alleged legal errors in the Final Order on ASC was an appeal to the Supreme Court pursuant to ORS 469.403(3).</p> <p>As Idaho Power explained in that proceeding, the Company proposed Recommended Fish and Wildlife Condition 12 so that, if a bat roost is identified during the biological surveys set forth in the other conditions, Idaho Power would notify ODOE with the identification of the bat, the location of the roost, and any actions taken to avoid, minimize, or mitigate impacts to the roost.²⁹ After Idaho Power filed its ASC, ODOE requested additional information relating to pygmy rabbits and their habitat, and in response Idaho Power proposed modifications to its analysis of the Fish and Wildlife Habitat Standard to include surveys for pygmy rabbits. In comments on the DPO for the ASC, neither the Oregon Department of Fish and Wildlife (“ODFW”) nor any other commenter raised additional concerns about Fish and Wildlife Condition 12 or suggested Idaho Power would need to survey specifically for State Sensitive bat species. Although no commenter raised any concern about specific surveys for bat species, in the Proposed Order for the ASC, ODOE revised Recommended Fish and Wildlife Condition 16 to require protocol-level bat surveys prior to construction. However, in the contested case, ODOE agreed that its revision to Fish and Wildlife Condition 16 was erroneous, “because under recommended Fish and Wildlife Condition 12, the applicant would be required to document any State Sensitive bat species and unique habitat for bats (i.e. bat roosts) observed during other biological surveys, [and] it did not require that separate, protocol level surveys be conducted for State Sensitive bat species.”³⁰</p> <p>In the contested case on the ASC, Ms. Gilbert proposed to reincorporate ODOE’s erroneous addition to Fish and Wildlife Condition 16, the Hearing Officer and Council declined Ms. Gilbert’s proposal.³¹ Ms. Gilbert again proposes to do so here. The Council should again decline Ms. Gilbert’s proposal.</p>

²⁸ Draft Proposed Order on RFA 2 at 117 (Apr. 16, 2024).

²⁹ Final Order on ASC at 380-82 of 10586 (Apr. 16, 2024).

³⁰ Final Order on ASC, Attachment 6 at 8971 of 10586 (Apr. 16, 2024).

³¹ Final Order on ASC, Attachment 6 at 8970-71 of 10586 (Apr. 16, 2024).

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		<p>Condition One: Prior to construction, the developer must complete bat surveys within the site boundary using the methods described in the USGS “A Guide processing Bat Acoustic for the North American Bat Monitoring Program (NABat) 2018 developed by the US Dept. of the Interior in collaboration with the USDA Forest Service, US Army Corps of Engineers, Illinois Natural History Survey, New Yor State Department of Environmental Conservation, National P ark Service and others.</p> <p>Condition Two:: Results of the bat surveys must be provided to the Oregon Department of Fish and Wildlife and EFSC along with a plan for the Monitoring and Mitigation of habitat impacts for their approval.</p>	
<p>Irene Gilbert (May 30, 2024)</p>	<p>Proposed Expanded Site Boundary</p>	<p>The design, construction, and operation of the facility in areas added to the site boundary proposed in RFA II are likely to result in significant adverse impacts to wildlife due to noise, increased traffic, electrocution, habitat destruction, nest site abandonment, the lack of complete pre-construction surveys, the lack of post construction monitoring, as well as dust and airborne contaminants from roads and concrete batch plants associated with the proposed Multi-use areas and road changes. Because the amended site certificate includes both adding areas to the site boundary as well as additional changes to the Site Certificate conditions requested by both the developer and the Oregon Department of Energy, the review requirements of both OAR 345-027-0375(2)(a) and (c) must be included in the council Scope of Review. Council must evaluate whether the entire “facility” will continue to comply with Council Standards that protect resources or interests that could be affected by the changes. Direct and indirect impacts of construction of roads, multi-use areas, contact with energized lines and ongoing operations such as keeping corridors clear of vegetation are all land and wildlife disturbing activities.</p> <p>In addition, there is a failure to survey or monitor impacts to the federal mitigation sites adjacent to the Ladd Marsh Wildlife Refuge which are identified as Project Number 20114 entitled “Securing Wildlife Mitigation Sites – Oregon, Ladd Marsh WMA Additions. These areas provide compensation for the Columbia River Dams targeted toward mallard, Canada goose, mink, western meadowlark, spotted sandpiper, yellow warbler, downy woodpecker and California quail. The Project also identifies the following protected and species of concern near the project sites: Bald eagle, peregrine falcon, Bobolink, greater sandhill crane, Swainson’s hawk, painted turtle, steelhead and chinook salmon. There is also an Oregon Department of Transportation Mitigation Site adjacent to the LMWA and the Glass Hill Preserve. Ladd Marsh Refuge and established mitigation areas for federal and state projects require compliance with OAR 345-022-0040, 345-022-0070, ORS 345-022-0060, ORS 345-022-0080 and OAR 345-021-0010(l)(t)(A). Idaho Power recognized in their ASC, Page T-14 that Ladd Marsh is “irreplaceable”. They stated, “As explained in Attachment T-3 Table T-3-1, Ladd Marsh WA is an important opportunity because of its designation status, high level of use, rareness, and irreplaceable character per OAR 345-021-0010(l)(t)(A)”</p> <p>* * * * *</p> <p>The different habitats, habits, survey requirements for different bird species precludes reliance on generic surveys which fail to focus on indicators of specific species presence. The Oregon Sensitive Species List identifies 22 species of birds that occur in the Blue Mountains or Columbia Plateau Ecoregions which are crossed by the B2H transmission line which are either Sensitive or Sensitive/Critical. The protected areas in Union County provide habitat for many of these species of birds.</p> <p>The developer must provide detailed pre-construction surveys of the protected areas in Union county as well as the adjacent habitat utilized by species present to establish locations and</p>	<p>Ms. Gilbert misstates the scope of the Council’s review of an RFA. Because RFA 2 proposes adding area to the site boundary, OAR 345-027-0375(2)(a) requires that the Company demonstrate that the newly added area complies with all applicable standards. However, an RFA does not trigger reconsideration of the previously approved site certificate. To the extent Ms. Gilbert’s comment challenges areas that were surveyed and analyzed in the Company’s ASC or RFA 1, these challenges are outside the scope of the Council’s review of RFA 2.</p> <p>As demonstrated by the analysis in RFA 2, the Company has thoroughly analyzed the potential impacts resulting from the Project and demonstrated that, taking into account mitigation, the impacts are not likely to be significant. This included thorough analysis both in the ASC and in RFA 2 of potential impacts to Ladd Marsh and surrounding wildlife habitat.</p> <p>The new proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. That further analysis will include detailed surveys similar to those completed for the proposed micro-siting area additions in RFA 2.</p> <p>Potential impacts to Ladd Marsh are addressed in the DPO on RFA 2: “Protected Areas Condition 1 (Condition GEN-PA-01) requires that the certificate holder coordinate construction activities in Ladd Marsh Wildlife Area within ODFW’s wildlife area manager, Protected Areas Condition 2 (Condition GEN-PA-02) requires that the final facility design avoid Ladd Marsh. These conditions apply to the certificate holder but are not implicated by the proposed RFA2 micro-siting area additions.”³²</p> <p>Moreover, all protected areas in Union County, including Ladd Marsh, were thoroughly analyzed in the ASC, where the Council determined that the Company adequately analyzed potential noise, traffic, and visual impacts to all protected areas and demonstrated “subject to compliance with the conditions of approval, the Council concludes that, taking into account mitigation, the design, construction and operation of the proposed facility, including approved route and approved alternative routes, is not likely to result in significant adverse impacts to any protected areas, in compliance with the Council’s Protected Areas standard.”³³</p> <p>Ms. Gilbert’s assertion that the Company did not analyze noise impacts to protected areas resulting from construction is incorrect. As the Council found:</p> <p>“Construction of the proposed facility, including approved route and alternative routes, would cause short-term noise impacts to nearby protected areas. Construction activities that would cause noise impacts at protected areas include blasting and rock breaking, implosive devices used during conductor stringing, helicopter operations, and vehicular traffic. The construction activities would progress along the corridor of the proposed transmission line, and no area would be exposed to construction noise for the entire construction period.</p> <p>At a distance of half-mile or less, these areas would experience noise impacts during facility construction. However, noise would attenuate with distance, topography, and vegetative screening so it is possible that the decibel volume represented in Table PA-2 may be lower during actual facility construction. Helicopter use during construction would be audible at nearby protected areas and would cause a short-term impact to users of protected areas at those areas near the</p>

³² Draft Proposed Order on RFA 2 at 145 (Apr. 16, 2024).

³³ Final Order on ASC at 333 of 10586 (Sept. 27, 2022).

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		<p>protective measures for birds and other wildlife utilizing Ladd Marsh and the surrounding protected and forest areas.</p> <p>* * * * *</p> <p>Noise impacts have been addressed in relation to corona noise from the transmission line impacts on citizens, however, no evaluation has occurred regarding the impacts related to the construction and use of multi-use areas in close proximity to protected areas and ongoing noise from the transmission line. Ladd Marsh is protected through OAR 635-008-0120.</p> <p>Citizen impacts include noise and safety risks resulting from equipment and vehicles moving in and out of the multi-use areas and restricting citizen access to schools, work, health care facilities, as well as denying them access to recreational opportunities which currently exist for hiking, walking, biking along the roadways being inundated by heavy equipment, large vehicles, and additional traffic.</p>	<p>helicopter fly-yards and MUAs, and during facility transmission line construction at times of helicopter use. However, construction noise including helicopter use would only occur during facility construction, which is a short-term impact likely only over a period of months at any one location.”³⁴</p> <p>The Council ultimately determined that these temporary impacts are not likely to be significant.</p>
Irene Gilbert (May 30, 2024)	Protected Area Standard (OAR 345-022-0040)	<p>Condition One: Traffic and equipment moving from multi-use areas to locations on the site will not travel across existing roads in areas where roads are located on Ladd Marsh or Ladd Marsh Additions .</p> <p>Condition Two: Developer will complete pre-construction wildlife surveys on areas within the site boundary and areas within one half mile of the site boundary including Protected Areas and adjacent land. (OAR 345-022-0040 and OAR 345-022-0060).</p> <p>Condition Three: Idaho Power will develop a Monitoring Plan including ground surveys for approval of ODFW to determine impact of transmission line facility on birds. The survey area will be large enough to include most carcasses as determined by ODFW.</p> <p>Condition Four: Idaho Power will assure that their activities during construction and operation of the transmission line do not damage or degrade resources protected under the Ladd Marsh Wildlife Area Management Plan dated 2018.</p>	<p>Ms. Gilbert’s proposed site certificate conditions should be rejected as unnecessary and/or redundant of existing site certificate conditions. Ms. Gilbert’s proposal not to use existing roads in Ladd Marsh is not supported by any Council standard and would unnecessarily require construction of additional roads as supporting facilities.</p> <p>Finally, in the ASC, the Company provided the Avian Protection Plan for the Project, which identifies the permits that would be required from ODFW and the U.S. Fish and Wildlife Service (“USFWS”), which would include requirements to report avian fatalities and communicate with the agencies on retrofit actions the applicant proposes to implement in response to collision or electrocution related avian fatalities; and provides an opportunity for ODFW to provide input on retrofit technologies such as ultraviolet light technology, as recommended by ODFW for implementation in areas of Sandhill crane nocturnal migration (e.g., Ladd Marsh Wildlife Area).³⁵ The Council also required “that the applicant report avian fatalities where the causal factor is assumed to be electrocution or collision and consult on suitable retrofit technologies or other adaptive management strategies to minimize future risks to avian species.”³⁶</p>
Irene Gilbert (May 30, 2024)	Roads	<p>The RFA2 B2H Draft Site Certificate fails to include conditions that would require compliance with EFSC standards identified in their document entitled, “ Version 2: July 2005 providing Guidance for Oregon Cities and Counties on Siting Energy Developments” Page 19 and 20 of the document identifies conditions for access roads in order to provide for safety of users and to minimize environmental damages to meet and comply with EFSC and Council Rules: Rules which apply to the construction of roads include OAR 345-022-00030 Land Use Rules; ORS 345-022-0110 Public Service Condition providing that the development will not preclude the ability of public and private providers to provide storm water drainage, traffic safety, fire prevention and health care; ORS 345-022-0115 Wildfire.</p>	<p>The document Ms. Gilbert cites is a guidance document for local governments. As stated therein, ODOE’s purpose in promulgating the document was “to engender discussion of the issues that may arise for local governments in planning the development of energy projects.” These suggestions to city and county governments are not siting standards, and even if there were standards identified therein, those standards were not included in the Project Order for the Project and, for that reason, the Company is not required to demonstrate compliance with those standards.</p> <p>As related or supporting facilities of the Project, access roads that will be constructed or substantially modified for the Project were included in the analysis of potential impacts, which the Council has determined comply with the Council’s siting standards, including the Land Use and Public Services Standards.³⁷</p>
Irene Gilbert (May 30, 2024)	Roads	<p>The DPO states that the developer will not be required to restore the natural grade of temporary access roads and includes no timeline for revegetation of the areas once the temporary road is no longer in use. The DPO on Page 7 states that the developer will be creating over 120 miles of new bladed roads and an equal number of New Primitive Roads. Failure to restore the locations of these temporary roads including the natural grade and revegetation will create a permanent blight on the landscape, increase the likelihood that these temporary roads will become de facto roads and access points for intrusions into wildlife habitat and illegal access to areas, which will increase the potential for human caused wildfire as well as create new erosion</p>	<p>Idaho Power has not identified any temporary access roads. All roads proposed for the project will be permanent paths that will be used during construction. These access roads are crucial for the operation, inspection, and maintenance of the transmission line after construction is completed. The permanent access roads will be re-seeded for stabilization.</p> <p>For the above reasons, Ms. Gilbert’s proposed site certificate regarding temporary access roads is unnecessary.</p>

³⁴ Final Order on ASC at 308 of 10586 (Sept. 27, 2022).

³⁵ Final Order on ASC at 376 of 10586 (Sept. 27, 2022).

³⁶ Final Order on ASC at 376 of 10586 (Sept. 27, 2022).

³⁷ See, e.g., Final Order on ASC at 296, 627 of 10586 (Sept. 27, 2022).

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		<p>impacts placing land and wildlife habitat at risk. The lack of specific timeframes for restoration to occur means the restoration may not commence until the line is energized.</p> <p>temporary access road condition language recommended by ODOE in the EFSC model ordinance</p> <p>“Restore the natural grade and revegetate any temporary access roads, equipment staging areas and field office sites used during construction of the energy project.” The applicant must specify a “timeline to complete this work.”</p> <p>RECOMMENDED SITE CERTIFICATE CONDITION ONE: “Temporary roads will be restored to as close as possible to their natural grade and revegetated commencing within a year of the time they are no longer in use. Restoration will incorporate best management practices to control erosion and runoff from the sites and include monitoring of sites until the area is revegetated and the ground is stabilized.”</p>	
Irene Gilbert (May 30, 2024)	Roads	<p>ODOE states in their document there is a need to specify requirements to assure emergency vehicle access ,provide for public safety and preclude environmental damages beyond the road surface.</p> <p>EFSC has recommended that Counties and Cities require the developer to “Construct and maintain access roads for all-weather use to assure adequate, safe and efficient emergency vehicle and maintenance vehicle access to the site. (Model Ordinance Page 20)</p> <p>This site certificate condition is especially necessary in Union County given concerns regarding the potential for wildfire combined with the data provided by Idaho Power in their application regarding the number of days the La Grande weather station reported that there was foul weather involving precipitation during a 4 year period. Their application states that the average for foul weather over the four year period was 22% of the time or 80 days per year. (Page 26 of Exhibit X of the application) Construction of roads to provide for all weather use will provide for the safety of users as well as assuring that use does not result in significant ruts or environmental damages from unplanned vehicle intrusion outside the roadway.</p> <p>Recommended site certificate condition two to provide for safety and minimize environmental impacts ‘All access roads being Improved or newly constructed as permanent or temporary access will be constructed to best management standards allowing for all weather use by employees and emergency vehicles’</p>	<p>Emergency access was discussed thoroughly in the Company’s ASC for the Project, and one aspect of the Company’s Transportation and Traffic Plan seeks to maintain emergency vehicle access to private property.³⁸ For new access roads, the design of higher-standard roads will conform to the most current edition of AASHTO’s Guidelines for Geometric Design of Very Low-Volume Local Roads, for access roads with an anticipated average daily traffic of less than 400 vehicles.³⁹ Compliance with these requirements will reduce the possibility of impacts to emergency vehicle access.</p> <p>Bladed access roads are by their very nature not sufficient to accommodate all-weather use because the roadway surface is not capped with gravel or other material or compacted. As a matter of practice, the Company does not construct all-weather roads to support transmission infrastructure and the Company does not propose that primitive access roads be constructed to accommodate all-weather use for the Project as it is unnecessary for public safety and will result in greater environmental impacts. Most of these access roads are on private land and will be used to access the line after construction, and therefore no emergency access would be required for public traffic and safety. Moreover, contrary to Ms. Gilbert’s assertions, requiring that primitive roads be constructed to accommodate all-weather use is more disruptive, will result in greater environmental impacts, and will require additional restoration efforts.</p>
Irene Gilbert (May 30, 2024)	Roads	<p>The RFA2 Draft Proposed Order removed the requirement that Road Names be provided. The failure to require this information directly conflicts with Oregon Statute requiring state agencies to provide documents in a clear understandable manner. Road names are provided in the County Transportation System Plans. These plans provide detailed information regarding the standards required for roads, and whether or not the roads are currently constructed to comply with those standards. The developer states that they are assuming that roads are constructed to meet the designations such as “Collector”, “Local”, “Arterial” and basing their decisions regarding whether or not the roads can withstand the level of use, weight and length of their vehicles and equipment. The County Transportation Plans contain information regarding roads which do not conform to the identified standards. In the case of Union County, the plan states that “many Union County roads can be identified as deficient”. The deficiencies are “related to existing geometric problems and safety related issues.”</p>	<p>Table 2 (Access Road GIS Attributes) in the Draft Proposed Order for RFA 2 contains an attribute column titled “Unique ID.” This is a road-specific label (an alpha-numeric name) which allows for individual identification of each access road.⁴⁰ Many access roads will not have “common names;” rather, the “Unique ID” will be the only name for access roads that are not pre-existing county roads. County road use agreements will identify existing county roads used for the Project with “common names” as applicable.</p> <p>While Public Services Condition 2 (PRE-PS-02) requires that the Company include in its final Road Classification and Access Control Plan applicable road segment maps with road names for existing public roads, the stricken language that Ms. Gilbert cites removes only the requirement to include the common names of public roads that have some type of access control associated with them in the Company’s GIS database of access roads. PRE-PS-02 is only revised to refer to the Attachment B-5 Road Classification Guide and Access Control Plan attached to the Final Order on RFA 2, and does not change the requirement to “[i]nclude applicable road segment maps with road names for existing public roads,</p>

³⁸ Final Order on ASC at 599 of 10586 (Sept. 27, 2022).

³⁹ Final Order on ASC at 600 of 10586 (Sept. 27, 2022).

⁴⁰ Draft Proposed Order for RFA 2 at 16 (Apr. 16, 2024) (“The unique identification for each road segment. The identification contains a two-letter acronym for the county where it occurs (BA=Baker, MA=Malheur, etc.), and a sequential number based on the northing coordinate of the midpoint of the road segment (ordered from north to south). Example: BA126.”).

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			road names in Appendix A: Access Road Segment Attribute Table, road improvements designations, and final access control device description and locations[.]” ⁴¹ Importantly, the GIS dataset in Appendix A (Access Road Segments Attribute Table) of the Final Order on ASC was formatted in the same manner as the GIS database in RFA 2 with only the “Unique ID” alpha-numeric name. ⁴² Ms. Gilbert has provided no reasonable rationale why the “Unique ID” alpha-numeric name of the access road, which in many cases is the <i>only</i> name available, is not sufficient to locate the access road when the GIS database provides the related Map Number on the same row.
Irene Gilbert (May 30, 2024)	Roads	<p>Item 5: A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.</p> <p>The application for Amendment II of the Site Certificate includes no information regarding the grades of the planned access roads to determine impacts of the expanded construction areas nor is it clear how far roads and structures will be from wetlands, streams and other water resources. There is a lack of detailed information regarding how vehicles from the newly added multi-use areas and other developments and changes included in RFA2 will access the site. The route of access from these new and changed developments will have a significant impact on existing uses of roads. They will impact citizen access to medical providers, churches, school buses, pedestrians, emergency vehicles, bicycle use of roads, etc.</p> <p>The roads in Union County must comply with the Union County Transportation System Plan Final, Dated August 1999 requirements. The developer states that they “assume” that the roads identified as “arterial”, “collector”, “local” meet the requirements for construction under the standards that apply to those designations and will support their use of the roads absent upgrades or construction required. The Union County Transportation Plan identifies multiple roads the developer intends to use which do not comply with these standards and will need upgrades to accommodate the uses identified by Idaho Power in their application and the Draft Proposed Order. In addition, the public works director for Union County has documented that several roads that are planned for use definitely will require upgrades prior to use by the developer.</p> <p>SITE CERTIFICATE CODITION: Condition One: The developer will confirm with local planning departments that all county and city roads being used to transport heavy equipment and machinery are constructed in a manner that will accommodate the planned use without creating substantial damages to the road surfaces.</p> <p>Condition Two: In the event that roads are not constructed for the kinds of vehicle use the developer will need, they must be upgraded to meet the standards required by ODOT for the planned use.</p>	<p>Ms. Gilbert’s comment appears to discuss existing public roads that will not require substantial modification and, for that reason, are not part of the Project site. Idaho Power does not propose substantially modifying these roads, and for that reason the Council need not include these roads in its consideration of RFA 2.</p> <p>Ms. Gilbert’s proposed site certificate condition to require conferral with local planning departments is redundant and unnecessary. Public Services Condition 2 (PRE-PS-02) requires the Company to prepare county-specific Transportation and Traffic Plans, which the Department will review in consultation with the applicable county. Public Services Condition 2 also requires that the Company execute a formally binding agreement with the county for use of and potential impacts to roads during construction.⁴³ Through these processes, the Company will confer with local planning departments regarding the use of public roads during construction.</p>
Irene Gilbert (May 31, 2024)	Soil Protection Standard (OAR 345-022-0020)	<p>The original approved site certificate for the Boardman to Hemingway Transmission Line had a process for approving the Plan for Blasting during the construction of the Boardman to Hemingway Transmission Line. The condition included review and input from the Counties in evaluation and approval of the plan to assure it provided for the safety of citizens, qualified personnel, notice and other requirements.</p> <p>During the Amendment I of the site certificate the Site Certificate Order removed the review process for both the Counties and the Oregon Department of Energy. The department changed the requirement to just require a copy of whatever procedure the developer designed be</p>	<p>The Council approved Soil Protection Condition 4 (GEN-SP-04) in its Final Order on the ASC, which provided that prior to construction, Idaho Power must finalize, and submit to the Department for approval, a final Blasting Plan. The final Blasting Plan is required to meet all applicable federal, state and local requirements related to the transportation, storage, and use of explosives.⁴⁴</p> <p>In its Final Order on RFA 1, the Council amended GEN-SP-04 to remove the final agency review and approval process because “there are no specific local permits or local or state regulatory requirements within Council’s [or reviewing agencies’] jurisdiction that apply to blasting or use of explosives.”⁴⁵ The plan would still be required to be finalized prior to blasting activities; would be required to maintain all requirements described above; and would be required to be</p>

⁴¹ Draft Proposed Order for RFA 2 at 54-55 (Apr. 16, 2024).

⁴² Final Order on ASC at 9027 of 10586 (Sept. 27, 2022) (Table 2 only requiring a Unique ID); *see also* Final Order on ASC at 9036 of 10586 (Appendix A – Access Road Segments Attribute Table).

⁴³ Final Order on ASC at 225 of 10586 (Sept. 27, 2022).

⁴⁴ Final Order on ASC at 768 of 10586 (Sept. 27, 2022).

⁴⁵ Final Order on RFA 1 at 59 (Sept. 22, 2023).

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		<p>provided to the Oregon Department of Energy and removed county involvement in review of the plan. They based this change on a statement that the department lacked the expertise to review the plan and their belief that the counties also lacked this expertise.</p> <p>I was concerned about this issue and would have pursued it at the time, however, I was told that there was going to be no blasting. ODOE staff also stated in an email to Wendy King that there was going to be no blasting during the construction of the B2H Transmission Line. Mr. Stipple of Idaho Power made the same statement when on a field visit including Joann Rode, Greg Larkin, Mr.Larkins attorney and Jim Kreider 2 or 3 weeks ago.</p> <p>Blasting continues to be listed in the Draft Proposed Order for Amendment 2 with no requirement for county review or approval of the Blasting Plan. It is stated on Page 13 of the DPO that it is one of the activities which will be occurring during construction.</p> <p>Blasting is an activity that can have catastrophic consequences if not done right and if proper procedures are not followed. This transmission line will be constructed across areas with unstable ground, existing faults close to residences and across sensitive wildlife habitat. Adding the risks associated with blasting to the activities being performed absent planning and oversight is not a risk that should be allowed. Oregon OSHA is the primary agency which addresses and has rules regarding construction blasting in Oregon.</p> <p>One of two site certificate actions should be taken. 1. Remove Blasting as a process to be used during the construction of the B2H Transmission Line. (or) add the following Site Certificate Condition: 2. “The developer will draft a Blasting Plan which addresses the elements in OSHA, Division 3, Subpart U “Blasting and Use of Explosives” for review and input from local counties prior to the use of Blasting in Construction of the transmission line. “</p>	<p>adhered to during all construction-related blasting activities.⁴⁶ The condition amendment only removed the process of final review and approval for elements of the plan for which neither the Department nor reviewing agencies have technical expertise or jurisdictional authority.</p> <p>No changes to GEN-SP-04 have been proposed in RFA 2.</p> <p>Ms. Gilbert’s attempts to challenge the Council’s Final Order on RFA 1 as legal error in this proceeding is untimely and a collateral attack on the Council’s Final Order on RFA 1. The appropriate venue to seek review of alleged legal errors in the Final Order on RFA 1 was an appeal to the Supreme Court pursuant to ORS 469.403(3).</p> <p>Finally, Idaho Power does not currently anticipate blasting, but blasting may become necessary due to site-specific conditions.</p> <p>For these reasons, the Council should not adopt Ms. Gilbert’s proposal to either prohibit blasting activities during the construction of B2H or to require that Idaho Power’s final Blasting Plan be subject to approval by local counties that do not have any local explosive regulations that would afford jurisdiction or expertise to review the plan.</p>
Irene Gilbert (May 31, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>The council must require a bond amount consistent with the requirements of the rules and EFSC actions prior to and after issuance of the Boardman to Hemingway Transmission Line Site Certificate. This comment is addressing the requirement in the plain language of the mandatory rules requiring a bond or letter of credit adequate to restore the site of the development.</p> <p>The Mandatory condition does not provide for exceptions to the requirements contained in the rule regarding the amount and form of the bond or letter of credit. The Oregon Department of Energy and Energy Facility Siting Council are exceeding their authority by allowing bond amounts that are not consistent with the plain language of the rule or amounts required of other developments prior to and after the issuances of the original and amended site certificates for B2H.</p> <p>OAR 345-027-0375 requires the council to determine whether the preponderance of evidence on the record supports the conclusion that the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.</p> <p>The plain language of OAR 345-025-0006(8) requires the bond to be submitted prior to the start of construction in an amount adequate “to restore the site to a useful, non-hazardous condition”. OAR 345-025-0006(16) supports the plain language of OAR 345-025-0006(8) by</p>	<p>There is no change to the bonding approach that is being proposed in connection with RFA 2 other than updating the amount of the bond to include the facilities included as part of RFA 2 and to update the cost estimate to reflect Q1 2024 dollars rather than Q3 2016 dollars. The remainder of the proposed bond conditions are unchanged. Nonetheless, for the background for the Council regarding how the issue was previously addressed, Idaho Power provides the following context.</p> <p>As part of the Council’s consideration of the ASC, Ms. Gilbert and other parties litigated the Company’s proposed bonding approach, and the Council adopted the Hearing Officer’s findings that:</p> <p>In the Proposed Order, based on information presented in the ASC, the Department found that a 100-year lifetime is a reasonable estimated useful life for the proposed facility. The Department also found that, while some level of risk exists, the likelihood that Idaho Power would abandon the proposed facility during the first 50 years of operation is very low. The Department agreed that the risk of facility abandonment or retirement will increase after the first 50 years, as future unforeseen technological and electricity market changes could affect Idaho Power’s financial condition or the facility’s continued viability. The Department also agreed that Idaho Power’s proposed financial assurance methodology, i.e., incrementally increasing the bond/letter of credit on an annual basis after the facility has been in service for 50 years, is a reasonable approach to accounting for the possibility that the facility may eventually be retired. Furthermore, as provided in Recommended RFA Condition 5, and to account for conditions that could impact the facility’s viability in the first 50 years of operation, the Department adopted Idaho Power’s proposal to report on the facility’s continued</p>

⁴⁶ Final Order on RFA 1, Attachment G-5 Amended Framework Blasting Plan at 263-64 of 722 (Sept. 22, 2023) (“The Construction Contractor(s) will be responsible for preparing and implementing the Blasting Plan and must comply with all applicable federal, state, and local laws and regulations. No blasting operations will be undertaken until approval and appropriate permits have been obtained from the applicable agencies. Failure to comply with such laws could result in substantial financial penalty and/or imprisonment. The Construction Contractor(s) will use qualified, experienced, and licensed blasting personnel who will perform blasting using current and professionally accepted methods, products, and procedures to maximize safety during blasting operations. Blasting procedures will be carried out according to, and in compliance with, applicable laws and will be closely monitored by the CIC.”).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>stating that if the developer does not retire the facility according to a final retirement plan approved by Council, the Council may draw upon the bond or letter of credit to restore the site.</p> <p>The council has determined that it will require \$170,276,273 to restore the site. In order to take the actions included in Mandatory condition OAR 345-025-0006(16), the amount of the bond must be equal to the cost the council determined would be required to restore the site.</p> <p>I am requesting a site certificate condition which is substantially the same as PRE-RT-02, Page 22 and 23 of the Bakeoven Solar Project Site Certificate, Dated April, 2020. That site certificate uses the council figures for the cost of restoration of the site or use the language of the requirement for a bond complying with the mandatory condition contained in other developments which require the bond to be consistent with the amount the council determined it would cost to restore the site.</p> <p>The purpose of the bond is to protect the public, including electric customers and the State of Oregon from being required to restore the site in the event the developer fails to do so. The plain language of the rule is not subject to interpretation . Both the Oregon and Federal Courts only extend the authority to interpret rules when they are ambiguous. There is no ambiguity in OAR 345-025-0006(8) or OAR 345-025-0006(16). It states that the bond amount is to be in an amount adequate to restore the site.</p> <p>* * * * *</p> <p>[Sarah Esterson] references the fact that the council determined that reduction of bond amounts would more appropriately be dealt with through rulemaking, where information and expertise of subject matter experts could be considered, rather than relying solely on information provided by the applicant.</p>	<p>viability and the Company’s financial condition on the fifth anniversary of the in-service date and every five years thereafter</p> <p>The limited parties have presented no evidence to support their claims that the \$1 bond for the first 50 years of facility operation is insufficient, that the facility is likely to become obsolete or unnecessary in that time frame, and/or that Idaho Power will become insolvent during that time. They have not countered Idaho Power’s evidence that a 500 kV transmission line is an extremely valuable asset and the Company is developing and constructing the facility with the expectation that it will operate in perpetuity. The limited parties also have not shown that Wells Fargo’s letter of willingness (updated as of October 2021 for a period not to exceed five years) to arrange a syndicated letter of credit in an amount up to \$141 million during the construction phase fails to satisfy the Council’s RFA requirements. Furthermore, to the extent the limited parties compare the financing and operation of the proposed transmission line to recent solar projects (i.e., Bakeoven Solar and Obsidian Solar Center), these comparisons are misplaced. As Idaho Power’s expert Randy Mills testified, the financial and operational risks associated with these solar facilities are entirely distinct from those associated with a major transmission line proposed by a regulated utility.⁴⁷</p> <p>In the two years since the Proposed Contested Case Order was issued, the need for transmission has become even more acute as utilities see increasing loads and require more flexibility to integrate renewable energy to achieve the State of Oregon’s mandated greenhouse gas emissions reductions.</p> <p>Additionally, Idaho Power estimates that the annual cost of maintaining a bond is approximately \$750,000. Over 50 years and assuming 3% inflation, requiring Idaho Power to carry the full amount would add \$84,600,000 to the total Project costs—which is significant in light of the very low risk of early retirement of the facility.</p> <p>Regarding Ms. Gilbert’s proposal to use a site certificate condition imposed on the Bakeoven Project, the Council specifically considered this request in the ASC contested case. As Idaho Power explained in the contested case, there is an important distinction between B2H and the solar projects. When denying Bakeoven Solar’s phased-in approach, the Council emphasized that the potential risk associated with Bakeoven Solar is elevated because “the developer is an independent power producer, and not a public utility, which would have access to rate recovery authorization from a state [Public Utility Commission] to dismantle and restore a facility site.”⁴⁸</p> <p>In rejecting Ms. Gilbert’s arguments, the Hearing Officer concluded that the Council has the authority to determine the form and amount of the bond as it deems appropriate, including for less than the full cost of site restoration:</p> <p>Contrary to Ms. Gilbert’s contention, the Council’s rules require the certificate holder to have a bond/letter of credit “in a form and amount satisfactory to the Council” to restore the site. OAR 345-022-0050(2); OAR 345-025-0006(8). Accordingly, the rules give the Council the discretion to approve a bond/letter of credit in an amount less than the full cost of site restoration as long as that amount is satisfactory to the Council. The plain text of the rules allows the Council to exercise reasonable judgment in determining the appropriate form and amount of the bond/letter of credit. Indeed, OAR 345-025-0006(8) (Mandatory Condition 8), specifically authorizes the Council to “specify different amounts for the bond or letter of credit during construction and during operation of the facility.” Had the Council intended to require that a certificate holder maintain a bond/letter of credit for the full decommissioning cost at all times, then it could and would have so stated in its rules.⁴⁹</p> <p>Additionally, the Council carefully considered Idaho Power’s proposal and input from limited parties at the Council’s exceptions hearing and before issuing the Final Order. To address the concerns that limited parties (including Irene Gilbert) had raised, the Council added a process by which it would periodically review the amount of the bond, and also noted that it had authority at any time to ask for an update and to revisit the bonding amount. Specifically, Retirement and Financial Assurance Condition 5 requires Idaho Power to provide EFSC and ODOE a report every five years on: (a) the physical condition of the facility; (b) any evolving transmission or electrical technologies that could impact the</p>

⁴⁷ Final Order on ASC, Attachment 6 at 8918-19 of 10586 (Sept. 27, 2022).

⁴⁸ *In the Matter of the Application for Site Certificate For the Bakeoven Solar Project*, Final Order on ASC at 141 (Apr. 24, 2020).

⁴⁹ Final Order on ASC, Attachment 6 at 8919 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			continued viability of the facility; (c) the facility’s performance in the context of the larger Northwest power grid; and (d) the certificate holder’s financial condition, including the certificate holder’s credit rating at that time. Additionally, under the condition, EFSC may request the report on an off-cycle year if requested. Moreover, the condition allows EFSC to consider whether or not the approach towards the financial assurance instrument remains appropriate and would account for unforeseen shifts in the power grid or the Idaho Power’s financial condition. ⁵⁰
Irene Gilbert (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>Even if there were the opportunity to make the kinds of adjustments planned in the Idaho Power Site Certificate, which there is not, Idaho Power with a 45% interest in the transmission line and the major owner, PacifiCorp present risks that would preclude a reduction in the bond amount.</p> <p>There is substantial documentation regarding the fact that PacifiCorp inserts a significant risk not previously considered in evaluation of the application for a site certificate which may result in having to draw on the bond in the future.</p> <p>Idaho Power is a much smaller utility than PacifiCorp or PGE but subject to similar financial risks due to wildfires and the construction of the B2H transmission line will increase the risk significantly.</p>	<p>The issue raised by Ms. Gilbert was also raised by Ms. Gilbert and STOP B2H in RFA 1, and rejected by the Council in their consideration of RFA 1. For additional context, in the RFA 1 DPO Comment Responses, Idaho Power explained that the issues concerning the bonding approach were resolved as part of the contested case on the ASC, that Idaho Power (not PacifiCorp) is responsible for obtaining a bond or letter of credit, and that the Council included provisions in Retirement and Financial Assurances Condition 5 to address any future changes in conditions:</p> <p>As an initial matter, STOP B2H’s arguments were already litigated in the EFSC proceeding for the ASC, and EFSC found that the estimated cost of restoration was reasonable and Idaho Power provided sufficient information about its financial capability to demonstrate that it could obtain a bond or letter of security to cover required decommissioning and restoration costs. While STOP B2H focuses on ongoing wildfire litigation related to PacifiCorp and implies that PacifiCorp is at risk of filing for bankruptcy, Idaho Power—as the certificate holder—is responsible for the bond to cover the decommissioning and restoration costs associated with retirement of the facility per Retirement and Financial Assurance Conditions 2 through 5. Moreover, as stated above, EFSC has already concluded that Idaho Power is financially capable of obtaining a bond in the amount necessary to restore the facility site to a useful non-hazardous condition. Finally, if there are any changes that would require adjustment of the bond amount, Retirement and Financial Assurance Condition 5 requires Idaho Power to provide EFSC and ODOE a report every five years on: (a) the physical condition of the facility; (b) any evolving transmission or electrical technologies that could impact the continued viability of the facility; (c) the facility’s performance in the context of the larger Northwest power grid; and (d) the certificate holder’s financial condition, including the certificate holder’s credit rating at that time. Importantly, under the condition, EFSC may request the report on an off-cycle year if requested. Moreover, the condition allows EFSC to consider whether or not the approach towards the financial assurance instrument remains appropriate and would account for unforeseen shifts in the power grid or the Idaho Power’s financial condition.⁵¹</p>
Irene Gilbert (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>Condition One: A bond or letter of credit must be provided by Idaho Power from an EFSC approved financial institution and approved by Council prior to the start of construction.</p> <p>Condition Two: During the construction period, the bond may be increased to reflect the value of the development as construction proceeds.</p> <p>Condition Three: Prior to the start of operations, the bond must be the amount identified by council in the site certificate necessary to restore the site. For this development, the amount would be \$170,276,000 after rounding off the figure.</p>	<p>Although the amount of the bond was updated in RFA 2, the remainder of Ms. Gilbert’s proposed site certificate conditions are not specifically tied to RFA 2. Instead, it appears that Ms. Gilbert is arguing for modifications to the conditions addressing the Retirement and Financial Assurances Standard that were fully litigated in the ASC.</p> <p>Idaho Power also notes that Ms. Gilbert’s proposed conditions are internally inconsistent, in that Conditions 1 and 3 appear to contemplate a bond being obtained prior to the start of construction in the full amount of site restoration costs, while Condition 2 contemplates increasing the bond amount during construction.</p> <p>The approach of increasing the bond amount during construction is already captured in Retirement and Financial Assurances Condition 4, and Ms. Gilbert has not articulated any basis for modifying the Retirement and Financial Assurances conditions, and specifically none related to the changes proposed in RFA 2.</p>
Irene Gilbert (May 31, 2024)	Site Certificate Conditions	Please see Attachment 1.	Idaho Power prepared Attachment 1 to these DPO on RFA 2 Comment Responses addressing Ms. Gilbert’s comments regarding the modified site certificate conditions.
Greater Hells Canyon Council			
Greater Hells Canyon Council (May 30, 2024)	Proposed Expanded Site Boundary	The proposed Amendment RFA2 would significantly add to the environmental impacts of the B2H project. The environmental impacts resulting from Idaho Power’s original application for B2H already create serious environmental problems. RFA2 would allow additional detrimental impacts over a 300 mile long transmission line without additional surveys or analysis.	Idaho Power disagrees with the Greater Hells Canyon Council’s assertion that the proposals in RFA 2 would substantially increase the environmental impacts of the Project. While Idaho Power has proposed the proposed expanded site boundary for the Project, the Greater Hells Canyon Council incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand the Project footprint (and related Project impacts) in size. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis.

⁵⁰ First Amended Site Certificate at 60-62 (Sept. 22, 2023).

⁵¹ Idaho Power’s Responses to Comments on the DPO for RFA 1 at 16-17 (July 19, 2023).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Greater Hells Canyon Council (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>Please consider the likelihood that important wildlife or botanical features are located within the new pathways that would be authorized by RFA2. For example, an eagle nest, elk calving grounds, a wetland, or a unique botanical site would be negatively impacted or destroyed by construction, transportation, or other activities related to the powerline. Fish and wildlife habitat are valuable resources to be protected, not treated as an afterthought.</p> <p align="center">* * * * *</p> <p>Damages to wildlife habitat related to B2H are significant, widespread, and harmful. These negative impacts to wildlife habitat, forests and grasslands have very real consequences for important aspects of our local economy including outdoor recreation, tourism, and hunting as well as our overall quality of life. RFA2 or any other Amendments must thoroughly survey for all additional potential impacts that may affect wildlife, fish, and their habitats!</p>	<p>Idaho Power has completed detailed surveys of all micro-siting area additions, including habitat for fish and wildlife proposed in RFA 2 and demonstrated that the additions comply with the Council’s Fish and Wildlife Habitat Standard.⁵² As the Department explained in the DPO on RFA 2, “the proposed RFA2 micro-siting area additions would result in temporary, temporal and permanent impacts to Categories 2, 3, 4 and 5 habitats.”⁵³ The Company has proposed mitigation for these impacts that “is consistent with all mitigation goals per category under the standard and ODFW’s Fish and Wildlife Habitat Mitigation Policy.”⁵⁴</p> <p>To the extent that commenter refers to the areas within the proposed expanded site boundary, additional surveys and analysis of potential habitat impacts would be completed as part of an ADR process.</p>
Greater Hells Canyon Council (May 30, 2024)	Outside of Council’s Jurisdiction	<p>As proposed, B2H will cause negative economic and environmental justice impacts to the communities of eastern Oregon. These are the lowest-income counties in Oregon and they would be negatively impacted by B2H. These same counties would receive little or no economic benefits from B2H. These economic and social justice impacts must not be ignored.</p> <p>A recent “Socioeconomic Report” was commissioned by Eastern Oregon Counties Association, the US Forest Service, Wallowa Resources, and Eastern Oregon University. As reported in La Grande’s newspaper The Observer on December 3, 2022, “Economic data indicates that if the 10 Eastern Oregon counties in the region were a state, it would rank as the 48th poorest in the United States, with a median household income of \$49,853.50, ahead of only Mississippi and West Virginia.”</p> <p>Constructing B2H through this region for the benefit of an out-of-state, investor-owned, for-profit corporation is the opposite of a “public benefit” for the communities of eastern Oregon. It is also the opposite of “environmental justice.” We urge the Department of Energy to seriously consider the negative economic and environmental justice impacts of the B2H proposal and deny RFA2.</p>	<p>The Greater Hells Canyon Council’s comments do not appear specific to the proposed changes in RFA 2, but rather seem to disagree with the approved Project. As an initial matter, economic issues such as those raised in this comment are outside the Council’s jurisdiction and not related to a siting standard.⁵⁵</p> <p>That being said, environmental justice concerns were investigated and litigated at the Public Utility Commission of Oregon (“OPUC”) in the docket pertaining to Idaho Power’s petition for a certificate of public convenience and necessity (“CPCN”). As the OPUC concluded: “We do not see how the B2H project, nor for that matter any needed and well-justified transmission connecting distant market hubs in the West, could avoid impacting rural communities more than densely populated communities. In addition, we do not see evidence that Idaho Power improperly concentrated impacts; the record reflects route changes were made, where feasible, in response to public and tribal comments, micro-siting adjustments have minimized landowner impacts but not preferentially shifted impacts from large landowners to smaller landowners, and that the company struck a reasonable, if difficult, balance in siting the line. We conclude that, despite the inevitable impacts of large-scale transmission on rural landscapes, which should be considered in planning for the regional electricity grid going forward, no environmental justice communities were improperly burdened by the siting of the B2H project.”⁵⁶</p>
Wendy King			
Wendy King (May 30, 2024)	Proposed Expanded Site Boundary	<p>Idaho power would have us believe that the expansion of the ASC approved site boundary is an effort to streamline additional landowner requests. However, the recent letter titled B2H UPDATE by Idaho Power states, “We will make these changes only when landowners request them or they’re necessary for engineering or construction purposes.” Their language leaves the door wide open to make changes based only on Idaho Power’s needs.</p> <p>I am very concerned that Idaho Power will use an Amendment Determination Request (ADR) to achieve their own refinements for engineering or construction purposes alone, leaving landowners out of the process. I strongly suggest that the EFSC require all ADR’s be approved by the landowners and the public that will be impacted.</p>	<p>Idaho Power will not seek to adjust the micro-siting area without landowner support, and most of the micro-siting area additions the Company has secured in RFA 1 and proposes in RFA 2 are consistent with landowner requests. However, to memorialize the Company’s intent in a proposed condition, Idaho Power proposes the following new condition:</p> <p align="center">At the time that Idaho Power submits an Amendment Determination Request to the Council for proposed construction outside the approved micro-siting area but within the proposed expanded site boundary, Idaho Power will submit to the Department documentation of landowner support or consent for the ADR on the landowners’ property.</p>
Wendy King (May 30, 2024)	Midline Capacitor	<p>Because Idaho Power has had their shot at engineering B2H for many years, and achieved their certificate, it seems unimaginable that they have further adjustments that weren’t accounted for in the approved route, especially the midline capacitor station. The correction to road widths is another reason to contemplate their ability to design and construct a transmission facility. This very issue shows to me either the lack of accurate engineering or a total manipulation of the site certificate process to work in their favor.</p>	<p>Idaho Power strongly disagrees with Ms. King’s characterization of the Company’s efforts to site the Project. The Project is over 300 miles long and crosses widely diverse regions within the State. As with any large-scale project, modifications are likely as the Company finalizes engineering and comes closer to construction, and some features may even require modification after construction has begun if unanticipated resources or site challenges are discovered once on-site. Given the scale and complexity of the Project, modifications are expected as the design approaches finalization and are common on projects of this scale and magnitude.</p>

⁵² Draft Proposed Order on RFA 2 at 182 (Apr. 16, 2024).

⁵³ Draft Proposed Order on RFA 2 at 182 (Apr. 16, 2024).

⁵⁴ Draft Proposed Order on RFA 2 at 184 (Apr. 16, 2024).

⁵⁵ Final Order on ASC at 9 of 10586 n.5 (Sept. 27, 2022).

⁵⁶ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 42 (June 29, 2023).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Wendy King (May 30, 2024)	Outside of Council’s Jurisdiction	Our family in Morrow County asked for a re-route in April of 2023, and were given no consideration. Since then, there have been no landowner consultations with our family. The ayers canyon alternate in Morrow County Oregon is the perfect springboard to move the line into the Wheatridge transmission Corridor and spare multiple EFU croplands. Because ODOE and EFSC cannot even suggest this relocation, it is likely Idaho Power will never study or offer it as an amendment.	<p>In this way, studies were recently finalized and project partners identified the desire and need to have the Midline Capacitor Station to direct flow onto B2H.</p> <p>As Ms. King acknowledges, transmission line routes that are not proposed by the certificate holder are outside the scope of the Council’s review. With respect to the Wheatridge transmission corridor, in the PCN 5 proceeding with the OPUC, Idaho Power analyzed Ms. King’s proposal in comparison with the Company’s proposed route and determined that Ms. King’s proposal would likely result in additional impacts to other landowners and resources. The OPUC concluded: “While additional route alternatives may exist in Morrow County, we do not agree that their existence alters our conclusion that Idaho Power’s proposed route is practicable, feasible, and commercially reasonable. In particular, we determine that the proposed alternative route using the Wheatridge interconnection corridor would impact more landowners, increase the length of the route and thereby increase costs, and result in significant project delays and additional costs to seek new approvals for a new route. Idaho Power analyzed potential routes that would avoid exclusive farm use lands but concluded it could not route the project in eastern Oregon without crossing exclusive farm use lands.”⁵⁷</p> <p>It is important to note that Ms. King’s proposal is particularly challenging because it would result in impact to other landowners, and in particular, certain landowners expressed opposition to her proposal in Docket PCN 5.⁵⁸ That being said, the Company continues to work with landowners to adjust the exact location of the Project <i>within</i> their property. Approval of the proposed expanded site boundary will facilitate consideration of future requests.</p>
Wendy King (May 30, 2024)	Outside of Council’s Jurisdiction	Landowners wanting line relocation on their property may have to face discounted easement compensation in order for Idaho Power to consider it. This tactic is of course outside EFSC jurisdiction but shows how Idaho Power operates in their own best interest.	As an initial matter, landowner compensation is outside of the Council’s jurisdiction. Nonetheless, Idaho Power still clarifies that Ms. King’s comment is entirely based on conjecture. Idaho Power negotiates in good faith with all landowners to reach a fair value for Project-related easements.
Wendy King (May 30, 2024)	Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090)	<p>Expanding the site boundary with the possibility of moving the transmission line over additional areas of our farm has the potential of adversely impacting our multi-generational families. The revised route may result in unacceptable noise levels at our homestead, may be strung over our high value cropland, impacting the great horned owls (which is in direct conflict with the Migratory Bird Treaty Act) that reside in our hay sheds, and may justify carving additional roads through our homestead location. If this is allowed without adequate studies it may impose significant changes to our accepted farm practices and significantly increase the cost of accepted farm practices like aerial chemical application and movement of products from field to storage and market. By allowing the expanded site boundary, Idaho Power may justify moving the line through yet more fields and disregard the usual constraints of siting along the edges of fields, existing roadways, or natural boundaries, (rather than through existing fields) because they only have to show they did so generally. The ORS 215.275 does not require the complete avoidance or elimination of impacts to accepted farm practices. Idaho Power can simply move its transmission line within yet another of our fields as they did in the original siting, and we have no recourse, no advocacy, just land added to our condemnation trial.</p> <p>Historic, Cultural and Archaeological Resources OAR • 345-022-0090 The Bartholomew-Myers Farm is a historical resource. It was adopted into the Century Farm and Ranch Program (CFR1093) and is NRHP Eligible (Criterion A). The original CFR application, completed in 2005 reflects: “While farming challenges remain, all of those on the farm enjoy the beautiful countryside and respect the great heritage that we have on the Bartholomew-Myers Farm.” The B2H approved route north of our homestead is already an eye-sore in the viewshed of our historical farm. If B2H were to be relocated closer to our homestead, we would contest. We formally request access to the Confidential Attachment S-10 Intensive level survey- visual assessment of historic properties report in Exhibit S of the</p>	<p>The proposed expanded site boundary is primarily intended to provide more flexibility concerning the location of access roads, and to address landowner request and engineering and constructability constraints. At this time, Idaho Power does not have any planned modifications to the transmission line alignment. Specific to the concerns about the Bartholomew-Myers Farm, Idaho Power does not currently propose or anticipate any changes to the route on the Bartholomew-Myers Farm. Moreover, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent, and accordingly, there is no basis for the concerns raised in Ms. King’s comments regarding potential impacts resulting from the proposed expanded site boundary. With respect to potential noise impacts, the Bartholomew-Myers Farm is not identified as a noise sensitive receptor (“NSR”). The Project will lie in the foreground distance zone and will be located approximately 2600 feet from the Bartholomew-Myers Farm.</p> <p>Idaho Power is aware of the designation of the Bartholomew-Myers Farm as a Century Farm eligible for listing on the National Register of Historic Places (“NRHP”) under Criterion A and fully assessed potential impacts to Mr. Myers’ farm and analyzed potential impacts to the farm as a historic resource in the Company’s ASC at EFSC.⁵⁹ According to Table S-2 (Cultural Resources in the Analysis Area) of Exhibit S to the ASC, CFR 1093 (Thomson Myers Farm) is in the Visual Assessment Analysis Area and no adverse direct or visual impacts to CFR 1093 as a historic resource are anticipated.⁶⁰ EFSC ultimately concluded that the Project, taking into account mitigation, is not likely to result in significant adverse impacts to any historic resources.⁶¹</p> <p>However, Idaho Power concluded that certain impacts to the agricultural operations of the farm were unavoidable. EFSC specifically considered these impacts to Mr. Myers’ farm before adopting the Hearing Officer’s conclusion as follows:</p> <p>“[A]lthough the proposed project may impact Mr. Myers’ agricultural operations, a preponderance of the evidence demonstrates that Idaho Power sited the project in a manner that will generally reduce the intensity and frequency of impacts to farmlands, and that the Company will further minimize and mitigate the specific impacts to Mr. Myers’</p>

⁵⁷ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 29-30 (June 29, 2023).

⁵⁸ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Lindsay Comments (Apr. 27, 2023) (available at <https://edocs.puc.state.or.us/efdocs/HAC/pcn5hac151229.pdf>).

⁵⁹ Idaho Power’s ASC, Exhibit S at S-166 (Sept. 28, 2018) (CFR 1093); *see also* CFR1093, Century Farm & Ranch Viewer, <https://ocfrp.library.oregonstate.edu/node/30476> (last visited June 5, 2024).

⁶⁰ Idaho Power’s ASC, Exhibit S at S-31 (Sept. 28, 2018) (CFR 1093).

⁶¹ Final Order on ASC at 547 of 10586 (Sept. 27, 2022).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>original B2H application as it includes information about our property, how it was studied, and how line relocation might impact the results.</p> <p>Ultimately, Idaho Power’s request for an expanded site boundary presents all parties with a vague proposal and yet, we are supposed to respond with specificity. We cannot guess what Idaho Powers’ intentions are nor can the EFSC. Moving forward, our family has tremendous concern that an expanded site boundary will give way to a second or third transmission line without consultations with us or other landowners.</p>	<p>operations when negotiating an easement with him. Idaho Power has shown that the project complies with the Land Use standard notwithstanding the impact the project may have on Mr. Myers’ farm practices.”⁶²</p> <p>Idaho Power cannot provide Confidential Attachment S-10 (Intensive Level Survey – Visual Assessment of Historic Properties Report) to Ms. King. Disclosure of the site locations for historic, archaeological, and cultural resources is prohibited under 43 CFR 7.18. Any location information contained in maps and other documents related to cultural and historic resources is confidential and access to this information is restricted by the National Historic Preservation Act of 1966 (as amended) and the Archaeological Resources Protection Act of 1979 (as amended). Idaho Power is in the process of reviewing whether it can provide excerpts and summaries of cultural resource surveys, as available, to the relevant property owner.</p>
Wendy King (May 30, 2024)	Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	<p>Even though Idaho Power has a Wildfire Mitigation Plan on file at OPUC in UM 2209, our family has concerns that RFA-2 is not in compliance with the new: Wildfire Prevention and Risk Mitigation standard 345-022-0115 (a)(D). Because the line is routed through the Butter Creek Wildland Urban Interface, any line relocation within that zone will potentially impose elevated risk. Myers farm is within the Butter Creek Wildland Urban Interface as identified in the Morrow County Community Wildfire Protection Plan 2018-2019 Update.</p>	<p>Contrary to Ms. King’s assertion, as a matter of law, the Council may find that Idaho Power’s Wildfire Mitigation Plan complies with the Council’s Wildfire Prevention and Risk Mitigation Standard. Under OAR 345-022-0115(2), the Council may rely on an OPUC-approved Wildfire Mitigation Plan for compliance with EFSC’s rules. The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan,⁶³ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly.</p> <p>As added context, utility Wildfire Mitigation Plans at the OPUC undergo rigorous annual review by the OPUC’s Safety Staff and are closely analyzed by an OPUC-contracted independent evaluator. The Wildfire Mitigation Plans are updated annually. Because they undergo annual review, utilities continuously update Wildfire Mitigation Plans to take into account fire risk zones based on the applicable criteria in the Wildfire Mitigation Plans and to include new risk mitigation strategies and technologies.</p> <p>Mr. Myers also raises a concern regarding a specific Wildland Urban Interface (“WUI”) in Morrow County. While this specific WUI has not been addressed in the Wildfire Mitigation Plan, wildfire risk in Morrow County was thoroughly litigated in the CPCN proceedings before the OPUC. In that docket, Idaho Power’s witness discussed the fire history in Morrow County and explained that the majority of fire history in Morrow County is in the southern part of the county in the Blue Mountains. There is very little history of fire along the Project route in Morrow County or near Mr. Myers’ property. In its Order No. 23-225 approving the CPCN, the OPUC provided the following additional context regarding the OPUC’s oversight of Wildfire Mitigation Plans:</p> <p style="padding-left: 40px;">We appreciate the data and additional information provided by intervenors on fire risk. The firsthand experiences of individuals living along or near the proposed B2H transmission line route, including the reality of fire suppression activities in rural Oregon, will be considered in our [Wildfire Mitigation Plan] process and we encourage intervenors to continue to participate in those future processes to ensure we continue to be apprised of that localized knowledge. ⁶⁴</p> <p>In fact, several commenters in this proceeding—including Wendy King, Sam Myers, and Jim Kreider—have provided public comment on Idaho Power’s Wildfire Mitigation Plan in the OPUC docket UM 2209, and Idaho Power understands that one or more of these commenters have also directly reached out to OPUC Staff to make their concerns known. Thus, the appropriate venue for these parties to provide comment on the Company’s Wildfire Mitigation Plan is at the OPUC, and it is Idaho Power’s understanding that they are fully aware of and engaged in that process.</p> <p>Additionally, Idaho Power must comply with the OPUC’s Minimum Vegetation Clearance Requirements, which require which will require the Company to maintain vegetation clearances from the Project of at least 10 feet under reasonably anticipated operational conditions.⁶⁵ The OPUC annually evaluates the vegetation management programs across the state for the investor-owned electric utilities, including Idaho Power, for compliance with these regulations. Additionally, on a 3-year cycle, the OPUC inspects vegetation as part of the National Electrical Safety Code (“NESC”) inspection for consumer-owned utilities. NESC is a minimum standard in Oregon for installation, operation, and maintenance of electric utility and communication lines.</p>

⁶² Final Order on ASC, Attachment 6 at 8856-57 of 10586 (Sept. 27, 2022).

⁶³ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

⁶⁴ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 22 (June 29, 2023).

⁶⁵ OAR 860-024-0016(4)(a).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p>The OPUC also specifically considered Wendy King and Sam Myers’ arguments regarding wildfire-related concerns on the Myers property, and concluded that the risk of ignition associated with B2H is low:</p> <p style="padding-left: 40px;">The evidence in the record makes us conclude that Idaho Power has shown there is a low probability of fire ignition from the operation of the B2H transmission line and that Idaho Power’s fire-related planning and mitigation documents will effectively reduce the probability of fire ignition during construction of the line. We note we approved Idaho Power’s 2022 and 2023WMPs and we expect Idaho Power will continue submitting WMPs that will evolve as the B2H transmission line is constructed and once it is operational. The evolving nature of WMPs ensures that Idaho Power will respond to new information and threats that emerge during the life of the B2H transmission line. In combination with Idaho Power’s FPSP, Right-of-Way Clearing Assessment, and Vegetation Management Plan, we conclude these plans will ensure public safety during the construction, operation, and maintenance of the B2H transmission line.</p> <p style="padding-left: 40px;">We also conclude that Idaho Power’s fire expert has explained the low risk of arcing related to dust/chaff clouds and we agree that the safety mechanisms in place for the B2H transmission line should prevent any such events. We also conclude that Idaho Power’s fire expert’s model for assessing fire risk is reasonable and while other models may exist, we are satisfied with the adequacy of Idaho Power’s fire risk modeling. We recognize that the consequence element of fire risk modeling centers on human life and structure loss, rather than loss of other resources and that this deeply troubles intervenors. However, the record demonstrates Idaho Power’s design and fire mitigation planning still seek to minimize the risk of ignition, despite the characterization of the consequences of an ignition. Furthermore, we find no evidence in this record to contradict Idaho Power’s ability to maintain the B2H transmission line in a manner that will continue to keep the risk of ignition low.⁶⁶</p> <p>Finally, Idaho Power strongly urges the Council to avoid creating any additional requirements that may potentially conflict with the OPUC-approved Wildfire Mitigation Plan or otherwise create confusion about which requirements should apply. In implementing a Wildfire Mitigation Plan, it is critical to have certainty and clarity about which requirements apply to guide decisions—and particularly so in emergency circumstance that may arise during fire season. From an operational perspective, Idaho Power urges that the OPUC-approved Wildfire Mitigation Plan should continue to guide the Company’s wildfire mitigation efforts.</p>
Wendy King (May 30, 2024)	Proposed Expanded Site Boundary	<p>The Draft Proposed Order for RFA-2 of the B2H Site Certificate fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2)(a) by limiting reviews of siting standards to micrositing corridors rather than the site boundary. The site boundary cannot be expanded without completing the evaluation required to show with a preponderance of evidence that the area added complies with all requirements applicable to an initial application.</p> <p>The Draft Site Certificate allows expansion and changes to the areas of the “micrositing corridors” into other areas of the site that have not met the review requirements to include the areas in the “site boundary.”</p> <p>Prior to authorizing the requested site boundary expansion, the developer must complete all analysis of surveys and other activities required by the Oregon Administrative Rules. This includes, but is not limited to meeting the requirements of Chapter 21, 22, 24, and 27.</p> <p>The developer may not utilize a Type C review under OAR 345-027-0380 prior to completing and providing results of all surveys, reviews, and certificate amendment activities required by Chapter 21, Chapter 22, EFSC rules, and those identified in the Second Amended Project Order for B2H Transmission line during a public process.</p>	<p>Ms. King’s comment misstates the record of RFA 2. The new proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. Additionally, Idaho Power provided detailed survey results for all proposed additions to the micrositing area and will provide similarly detailed analysis of any future proposed micrositing area additions.</p> <p>Idaho Power has not proposed utilizing the Type C review process for RFA 2. Rather, the Department reviewed RFA 2 under the Type A review process.⁶⁷ If RFA 2 is approved, the Company may pursue future micrositing area additions using the ADR process, which will require that the Company provide all necessary information to the Department to determine whether the proposed addition could result in a significant adverse impact to a resource or interest protected by an applicable law or Council standard that the Council has not addressed in an earlier order. Importantly, if the review under the ADR process concludes that an amendment is required, Idaho Power would then pursue the amendment under the Type A, B, or C process based on the nature and scope of the proposed amendment.</p>
Greg Larkin			

⁶⁶ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 22 (June 29, 2023).

⁶⁷ Draft Proposed Order on RFA 2 at 34 (Apr. 16, 2024).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Greg Larkin (May 30, 2024)	Noise	My residence, which is in a particularly quiet area, is located near several of the B2H towers/power lines. Idaho Power Company (IPC) sent me a map of the B2H project in 2007. The first formal correspondence that I received from IPC identifying and addressing my status as Noise Sensitive Receptor (NSR {residence}) was on February 24, 2024 when I received the Operational Noise Complaint Response Plan. I was informed in the cover letter that although IPC has modeled the corona noise impacts at my residence and does not expect that they’ll exceed regulatory levels , they’d send me information to respond to the Noise Complaint Process just in case. which I have no recourse to oppose, report or complain. ORS 340-035-0035 (1) and ORS 467.010.	Mr. Larkin was formally identified as a property owner of a noise sensitive receptor (“NSR”) in Attachment X-7 (Owners of Noise Sensitive Properties) to Exhibit X to the Final ASC in September 2018. ⁶⁸ Because Noise Control Condition 1 (GEN-NC-01) identifies Mr. Larkin as a property owner of an NSR for which it has estimated exceedances of the ambient antidegradation standard may occur (NSR 125), Idaho Power is required to contact Mr. Larkin prior to construction to develop a Noise Exceedance Mitigation Plan. ⁶⁹ On August 7, 2023, Idaho Power sent a letter to Mr. Larkin explaining that “Idaho Power’s proposed Boardman to Hemingway transmission line project could exceed certain standards at your residence,” and that Mr. Larkin is “entitled to receive noise mitigation improvements to reduce the impacts of that noise. Idaho Power’s noise consultant Harris Miller Miller & Hanson Inc. (HMMH) will contact you shortly to discuss noise mitigation improvements that are appropriate for your property.” Mr. Larkin was also mistakenly sent the February 2024 letter to landowners within one mile of the micrositing areas that are not anticipated to exceed the ambient antidegradation standard. Idaho Power is sending a letter to Mr. Larkin to address this inadvertent miscommunication. Additionally, after Idaho Power has made all final updates to Attachment X-7 (Owners of Noise Sensitive Properties), the Company will send out another notice per Noise Control Condition 2, GEN-NC-02(a).
Greg Larkin (May 30, 2024)	Noise	My residence is/will be approximately 627 feet from the power lines when it is built. I predict the corona noise it produces will be in exceedance of the Department of Environmental Quality (DEQ) standards, above 20 dBA . Inclement weather produced by high elevation (~4600') very windy mountain ridges, wet and rainy Spring and Fall seasons and Winters that produce copious amounts of snow. All make corona noise worse which I predict will harm my quality of life . I will also be exposed to the noise pollution/intrusion of the line construction	<p>Although Mr. Larkin claims without evidence that he predicts corona noise at his house will produce exceedances above 20 dBA, this is contrary to Idaho Power’s modeling and the record of RFA 2. The foul weather increase of corona noise over the late night baseline modeled at Mr. Larkin’s residence (NSR 125) was modeled to be 12 dBA.⁷⁰</p> <p>To the extent Mr. Larkin raises concerns that corona noise from the Project will harm his quality of life or otherwise pose a safety hazard, EFSC already concluded in the Final Order on ASC that—with the protective conditions and mitigation included in the Site Certificate—granting the exception for predicted corona noise exceedances of the ambient antidegradation standard “would not preclude the protection of health, safety, and welfare of Oregon citizens otherwise afforded through compliance with” DEQ’s Noise Rules.⁷¹</p> <p>The issue regarding Mr. Larkin’s health concerns <i>in particular</i> was also thoroughly litigated and considered by the OPUC, which determined that “the evidence before us does not lead us to conclude that the B2H transmission line will jeopardize public health and safety.”⁷²</p> <p>As these arguments were already thoroughly addressed by both the Council and the OPUC, the Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	<p>It is important to state that ALL NSRs on the B2H line need assigned baseline dBAs, as well as ongoing monitoring. Changes to the site certificate conditions regarding the location and numbers of noise sensitive properties mean that there needs to be a review of noise impacts to private residences. The requirements regarding noise sensitive properties do not comply with ORS 467.030, Oregon Administrative Rule 340, Division 035 and the Oregon Sound Measurement Procedures Manual. which all continue to be in force as state law.</p> <p>EFSC has historically evaluated noise by following the requirements of the above statutes and rules, however, they have used different methods, interpretations, and procedures to evaluate noise in the Site Certificate for the Boardman to Hemingway Transmission line.</p>	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. Over parties’ arguments that additional baseline monitoring is needed, the Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁷³</p> <p>Mr. Larkin also appears to challenge the noise control conditions in the Site Certificate that the Council approved in its Final Order on the ASC. These noise conditions were fully litigated in the contested case on the ASC, where Idaho Power, ODOE, and several limited parties to the contested case provided analysis and argument regarding the noise conditions. The Council painstakingly reviewed and subsequently approved the conditions that were included in the</p>

⁶⁸ Idaho Power’s ASC, Exhibit X, Attachment X-7 (Owners of Noise Sensitive Properties) (Sept. 28, 2018), <https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2018-09-28-B2H-ASC-Exhibit-X.pdf> (NSR 119). NSR 119 and 121 were originally identified as an NSR but subsequent inspection identified theses as a Structure/Multi-purpose shed, therefore not an NSR. See Final Order on ASC at 684 n.755 of 10586 (Sept. 27, 2022). The residence on Mr. Larkin’s property is NSR 125. Final Order on ASC, Attachment X-1 (Noise Sensitive Receptors) at 10562 of 10586 (Sept. 27, 2022).

⁶⁹ Final Order on ASC at 784 of 10586 (Sept. 27, 2022).

⁷⁰ Final Order on ASC, Attachment X-4 at 10541 of 10586 (Sept. 27, 2022).

⁷¹ Final Order on ASC at 696 of 10586 (Sept. 27, 2022).

⁷² *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket No. PCN 5, Order No. 23-225 at 23-24 (June 29, 2023) (“Intervenors argue that ORS 467.010 establishes that noise standard exceedances are, by definition, a safety hazard. We disagree. We recognize that the B2H transmission line required a noise variance on account of an exceedance of ambient noise standards, however, we disagree with intervenors that the presence of a noise variance creates a safety hazard. We are persuaded by the fact that the transmission line is not expected to create sounds that violate the maximum allowable noise limit or at levels that may result in hearing loss, but rather will increase ambient noise levels in places along the transmission line’s proposed route at certain times, potentially in times of extremely low ambient noise. Based on the evidence, including Staff’s assessment that it is unaware of any conclusive evidence that properly constructed transmission lines pose a health risk to humans living in proximity to those lines, we are unpersuaded that the anticipated increased noise from the B2H transmission line presents danger to the public.”).

⁷³ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>It should not be the burden of land owners to prove what the dBa is at their residence or demand monitoring and mitigations. IPC has the burden of proving what they're saying with preponderance of evidence that the B2H power line will not harm the NSR residents. ORS 340-035-0035 (1). It is imperative that all NSR's are informed, protected, and future mitigation followed. Then, once the actual baselines are known, the negotiations can begin with the NSRs. To NOT do so before hand, disadvantages the NSR because the extent or degree of impact is not really confirmed. For example, If windows were a mitigation measure that the NSR was agreeable too, not knowing the real extent of the exceedance hampers the ability to negotiate the type of window’s sound ratings.</p>	<p>Final Order on the ASC.⁷⁴ Idaho Power has not proposed any substantive modifications to those conditions in RFA 2 that would alter the process for establishing a Noise Exceedance Mitigation Plan at a property or the noise complaint process. The only change to GEN-NC-01 is the inclusion of seven additional NSRs to reflect the proposed micro-siting area additions in RFA 2. GEN-NC-02 now specifies that the complaint process applies to those owners of an NSR within one mile of the micro-siting areas (i.e., the previous site boundary). The arguments that Mr. Larkin raises were addressed in the contested case on the ASC and the Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	<p>Also, the Monitoring Posts used for the noise studies IPC chose for residences dBAs are not representative of my property or an NSR property, therefore all NSRs should get the Site Specific monitoring (as required by the DEQ manual, 340-035-0005) and it needs to be paid by the developer using an Acoustical Engineer agreeable to all parties.</p> <p>The evidence is such: At my residence on September 12, 2021, Kerrie Standlee , P.E., at DSA Acoustical Engineers, Inc., conducted sample noise monitoring which resulted in approximately 21 dBA. IPC performed a sample noise dBA at monitoring site MP 100 (on the windy ridge near Morgan Lake Park .8 mile from my residence) and it registered at 31dBA-- NOT representative! Standlee’s was only a quick sample to meet the ALJ deadlines for testimony. (Exhibit 1). Therefore, a follow up and more accurate monitoring measurement must be taken BEFORE (not after) my negotiation on Noise mitigation.</p>	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁷⁵ In particular, the evidence from Mr. Kerrie Standlee that Mr. Larkin references was submitted in the record of the contested case and addressed in that case. Mr. Larkin argued that Mr. Standlee’s “spot check” monitoring at Mr. Larkin’s residence demonstrates that ambient sound levels at NSRs are lower than those measured by Idaho Power at representative monitoring positions (“MP”). However, this argument is without merit and was already rejected in the Contested Case Order, which was adopted by EFSC: “Mr. Standlee’s monitoring at Mr. Larkin’s residence is not persuasive evidence that the ambient sound levels at NSRs in the vicinity of Morgan Lake are likely 10 to 12 decibels lower than the 32 dBA measured at MP 11 (or the 31 dBA measured at MP 100). As Mr. Standlee conceded in his Surrebuttal Report (STOP B2H Surrebuttal Exhibit A at 7), the results from one night of measurements at the residence should not be used to determine representative ambient noise levels for the residence. Simply stated, the dataset from the Larkin residence is simply too small to prove anything with regard to the average ambient sound levels for NSRs along the Mill Creek or the Morgan Lake Alternative routes. Similarly, the data from the Larkin residence does not establish that Idaho Power’s methodology for determining average ambient sound levels was flawed or otherwise inappropriate.”⁷⁶</p>
Greg Larkin (May 30, 2024)	Noise	<p>In the Operational Noise Complaint Response Plan am particularly concerned with the reference to a 12 month “burn in” period. There is no reference or exception in Oregon law which would require me to be subjected to a year of noise trespass on the use of my home and property. The complaint process is flawed.</p>	<p>The Council fully considered the possibility of a 12-month “burn-in period” in the Final Order on ASC.⁷⁷ Recognizing the temporary nature of the burn-in period, the Council adopted GEN-NC-02(e)(i), which provides special instructions for the complaint process during that 12-month period. If the exceedance occurs during the burn-in period, and if the certificate holder complies with the requirements of GEN-NC-02 (i.e., the certificate holder has taken all appropriate measures near that NSR to minimize corona noise that may occur during the burn-in period), the certificate holder will not be found to be in violation of its site certificate because of the exceedance. The Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	<p>How, practically speaking, can an impacted NSR measure the exceedance? Saying the time, date, weather patterns, doesn’t necessarily confirm anything. Once there is a complaint, IPC needs to take action to monitor, measure, and work with the NSR owner for resolutions or changes to the noise easement. The steps as proposed are complex and delay the company’s response, putting most of the burden on the property owner which is NOT what we believe the EFSC or State of Oregon wants.</p>	<p>Mr. Larkin’s comment challenges noise control conditions that were fully litigated in the contested case on the ASC for the Project and that the Council approved in the Final Order on the ASC. As discussed above, Idaho Power does not propose any substantive changes to GEN-NC-01 or GEN-NC-02 in RFA 2. The Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	<p>SITE CERTIFICATE CONDIITION: Idaho Power will perform on site noise measurements to establish actual current ambient noise levels prior to the start of construction where it is projected that noise levels are predicted to increase by 15 dB or more. Follow-up monitoring will occur on an annual basis if requested by the property owner during the first ten years of operation.</p>	<p>Mr. Larkin proposes a new condition regarding baseline noise measurements; however, this issue was fully litigated in the contested case on the ASC for the Project. In particular, in the contested case, STOP B2H proposed a similar condition that Idaho Power be required to conduct new baseline sound measurements at each NSR to determine the extent of potential exceedances of the ambient antidegradation standard.⁷⁸ The Hearing Officer agreed with the Department and Idaho Power that a new baseline study was unnecessary because “a preponderance of the evidence establishe[d] that Idaho Power’s methodology was appropriate and that the original and supplemental monitoring</p>

⁷⁴ EFSC Meeting Day 3 Transcript at 613 (Aug. 31, 2022) (“We’ve also proposed that -- to some additional monitoring to verify whether the baseline levels really are accurate.”) (Karl Anuta on behalf of STOP B2H); *see also* EFSC Meeting Day 3 Transcript at 675-81 (Aug. 31, 2022) (Council rejecting STOP B2H’s proposed condition that would require Idaho Power to monitor corona noise at each NSR).

⁷⁵ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

⁷⁶ Final Order on ASC, Attachment 6 at 8872 of 10586 (Sept. 27, 2022).

⁷⁷ Final Order on ASC at 667 of 586 (Sept. 27, 2022) (“As explained in ASC Exhibit X, other sources of corona may include a ‘burn in period,’ which typically occurs within a year of the transmission line being operational, in which dirt or oil from construction wears off. Corona noise generated during the ‘burn-in period’ would be minimized through conductor design, using a non-specular finish which is a method of sandblasting to artificially ‘age’ the conductor to make it less reflective.”).

⁷⁸ Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p>adequately represents the baseline ambient sound levels.”⁷⁹ Consequently, the Hearing Officer rejected STOP B2H’s proposed condition. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁸⁰</p> <p>Because the Council has already determined that the Company’s methodology for assessing baseline noise levels was reasonable, Idaho Power requests that the Council not adopt Mr. Larkin’s proposed site certificate condition.</p>
<p>Greg Larkin (May 30, 2024)</p>	<p>Noise</p>	<p>SUMMARY: EFSC rules also require ongoing monitoring to assure that there is compliance with the standards set including the 20 dB limit on increases in the current ambient noise levels. There are many residences where the projected noise level increases will be 15 dB or greater. In all these instances, there is a significant likelihood that the assigned noise levels may not be accurate and noise levels could increase by more than the 20dB exception allowed. The burden of proving that there are not exceedances lies with the developer, not the property owner. This responsibility is even greater due to the many areas where procedures used did not follow the state noise rule requirements and there was no study completed to validate that the results would be the same with the changed procedures.</p> <p>Only when the procedures used are equal to or stricter than the state noise rules can counties or cities implement noise rules using different procedures than those in the state rules. This standard would also apply to EFSC. Even if it were determined that the multiple instances where the procedures used failed to follow those in the state rules were determined to be “equal to or stricter”, it does not waive the requirements of the Oregon Statutes. ORS 469.507 requires ongoing monitoring of environmental and ecological effects of construction and operation of the development and ORS 469.597(2) states that the site certificate holder shall perform the testing and sampling necessary for the monitoring program or require the operator of the plant to perform the necessary testing or sampling.</p>	<p>Mr. Larkin states there are “many” exceedances where projected noise level increases will be 15 dBA or greater. This is not accurate. Depending on the final selected route, there are at maximum 10 NSRs where corona noise levels are modeled to increase by 15 dBA or greater over ambient (with the greatest increase being 18 dBA).⁸¹</p> <p>The Council has already approved the Site Certificate for the Project with conditions requiring the Company to respond to complaints regarding alleged exceedances of the DEQ Noise Rules [GEN-NC-02]. Idaho Power does not propose any substantive changes to this condition in RFA 2. The Council should not revise its conclusions in this case.</p> <p>Mr. Larkin’s comment arguing that ongoing noise monitoring is required was fully considered by EFSC in the contested case on the ASC for the Project and found to be unpersuasive.⁸² Mr. Larkin now challenges the noise control conditions that the Council approved in the Final Order on the ASC. As discussed above, Idaho Power does not propose any substantive changes to GEN-NC-01 or GEN-NC-02 in RFA 2. Because the Council has already determined that ongoing monitoring is not required and a fulsome complaint process affords appropriate protections to landowners, the Council should not revise its conclusions in this case.</p>
<p>Greg Larkin (May 30, 2024)</p>	<p>Noise</p>	<ol style="list-style-type: none"> 1. The sound measurements used to establish Ambient Noise Level calculations required in 4.6.1(e) require the removal of noise readings from external sources such as sounds from passing vehicles, traffic, aircraft, or trains. 2. Sound measurements to establish the existing Noise Level were not completed at the individual residences. 3. Sound measurements were taken outside and the Noise rules require the determination of noise exceedances to occur at the same location as the initial noise measurement. Idaho Power used noise measurements outside the home to determine the noise level before the transmission line was energized and have made predictions comparing those measurements with noise levels inside the house after the transmission line is energized to decide if there will be exceedances to the 10 decibel Ambient Noise Standard in Oregon law. 	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. Because neither the Noise Rules nor DEQ’s Sound Measurement Procedures Manual (“NPCS-1”) require specific methodologies for establishing baseline sound levels for large <i>linear</i> projects, Idaho Power and Tetra Tech developed a monitoring plan in consultation with ODOE, which was consistent with the monitoring requirements for measuring ambient sound level as laid out in NPCS-1 and conducted measurements over a period of two to four weeks at representative locations.</p>

⁷⁹ Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

⁸⁰ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”); *see also* EFSC Meeting Day 3 Transcript at 613 (Aug. 31, 2022) (“We’ve also proposed that -- to some additional monitoring to verify whether the baseline levels really are accurate.”) (Karl Anuta on behalf of STOP B2H); *see also* EFSC Meeting Day 3 Transcript at 675-81 (Aug. 31, 2022) (Council rejecting STOP B2H’s proposed condition that would require Idaho Power to monitor corona noise at each NSR).

⁸¹ Draft Proposed Order on RFA2 at 260-62 (Apr. 16, 2024) (showing total of six NSRs with increase of 15 dBA or greater: NSR 96, NSR 98, NSR 101, NSR 102, NSR 105, and NSR 662); Final Order on RFA1 at 243 (Sept. 22, 2023) (showing zero NSRs with increase of 15 dBA or greater); Final Order on ASC, Attachment X-4 at 10537-42 of 10586 (Sept. 27, 2022) (showing total of eight NSRs with increase of 15 dBA or greater: NSR 5010, NSR 98, NSR 101, NSR 102, NSR 105, NSR 5011, NSR 133, and NSR 115). In addition to the eight NSRs identified in the Final Order on ASC as having an increase of 15 dBA or greater, RFA2 also identified NSR 96 and NSR 662 as having an increase of 15 dBA or greater. Accordingly, the maximum number of NSRs with an increase of 15 dBA or greater is 10 NSRs. However, the number of NSRs with an increase of 15 dBA or greater is likely lower based on alternative route selection. For example, while NSR 5010 was identified with an increase of 17 dBA in the Final Order on ASC, that modeled increase in corona noise levels decreased to 13 dBA in RFA1.

⁸² Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (“In the PCCO, Hearing Officer found the proposed mitigation and recommended Noise Control Conditions (as amended herein) adequately protect the public health, safety, and welfare. PCCO, pg. 140. Stop B2H timely filed exceptions on this issue. After hearing argument, the Council agreed with the with the findings of facts, conclusions of law and conditions of approval in the PCCO, with the modification that Noise Control Condition 2 be amended.”); Final Order on ASC, Attachment 6 at 8884 of 10586 (“The Department and Idaho Power contend that these proposed revisions/additions are unnecessary, and the ALJ agrees. Recommended Noise Control Condition 3 already requires Idaho Power to use a triple bundled conductor configuration and to protect the conductor surface to minimize scratching or nicking. Other recommended site certificate conditions (e.g., Recommended Organizational Expertise Condition 1, addressing the Transmission Maintenance Inspection Plan) already require Idaho Power to inspect, monitor, and maintain the facility. Therefore, it is not necessary to add this requirement to Noise Control Condition 3. Furthermore, given the recommended revisions to Noise Control Condition 1 (noise mitigation plans) and Noise Control Condition 2 (noise complaint response plan) discussed above, and considering that exceedances of the antidegradation standard are predicted to occur only infrequently, the ALJ finds it unnecessary to require Idaho Power to monitor for corona noise at key NSRs on a periodic basis for the life of the project. For these reasons, the ALJ declines to adopt STOP B2H’s proposed revisions to Noise Control Condition 3.”).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>4. No evaluation was conducted to assure that the changed procedures resulted in outcomes which are consistent with those obtained through compliance with the plain language of the Oregon Noise Rules.</p>	<p>The ODEQ Noise Rules require that sound monitoring be analyzed using either the L10 or the L50 metric. Idaho Power decided to use the L50 metric to calculate noise levels as it was the more conservative approach.⁸³ The L50 is a statistical metric that represents the sound level that is exceeded for 30 minutes of every hour (i.e., 10 median sound level). The L50 is therefore unaffected by intermittent “pass-by” sounds that do not occur for more than 30 minutes in the hour, be it a train, truck, or jet aircraft. In other words, intermittent sounds that persist for fewer than 30 minutes of each hour (such as the sound of a passing train or sporadic vehicles) do not result in a higher baseline L50 sound level. Accordingly, such intermittent sounds were effectively screened out.</p> <p>Due to the large number of NSRs in the analysis area, it was not feasible to conduct baseline monitoring at every NSR. Therefore, the Company’s methodology involved a representative sampling approach based on acoustic groupings of NSRs. When multiple MPs were in proximity to NSRs, the Company selected the MPs with the lower ambient sound level to provide more conservative representative ambient sound levels. In addition, the MPs selected by the Company were generally located further from existing ambient sound sources than the NSRs, further contributing to the conservative nature of the baseline ambient sound measurements.</p> <p>Mr. Larkin is correct that Idaho Power’s noise study modeled the level of corona sound that would be perceptible outside. It can be fairly assumed, however, that in most cases, persons present at NSRs during times of foul weather will be inside homes or dwellings with the windows closed, thus further attenuating the effect of any sound on persons inside. Structures such as residential buildings typically provide significant sound attenuation. According to the Federal Highway Administration, structures attenuate sound by approximately 10 dBA with windows open and by 20 dBA and greater with windows closed, dependent on structure quality and window type.⁸⁴ Accordingly, measuring corona noise outside was conservative and likely overestimated the number and magnitude of potential exceedances.</p> <p>Mr. Larkin is mistaken that no independent evaluation was conducted to evaluate Idaho Power’s noise monitoring methodology. The Department retained the engineering firm Golder Associates Inc. (“Golder Associates”) to provide advice regarding Idaho Power’s protocol for conducting sound monitoring to determine the baseline ambient sound levels applicable to NSRs along the B2H route. Golder Associates reviewed Idaho Power’s methodology and provided a technical memorandum stating that, “...sound measurement procedures... found the baseline noise analysis to be properly performed from a technical standpoint and the use of the ‘late night’ noise level to be conservative in nature for use as the baseline noise level for comparison to the ambient antidegradation standard.”⁸⁵</p> <p>In the contested case, the Hearing Officer agreed with the Department and Idaho Power that a new baseline study was unnecessary because “a preponderance of the evidence establishe[d] that Idaho Power’s methodology was appropriate and that the original and supplemental monitoring adequately represents the baseline ambient sound levels.”⁸⁶ The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁸⁷ The Council should not revise its conclusions in this case.</p>
<p>Greg Larkin (May 30, 2024)</p>	<p>Noise</p>	<p>5. Oregon Noise rules state that to decide if the level of noise is “infrequent”, you determine how many days noise exceedances are likely to occur by considering how many days in a year the noise level is predicted to be higher than the standard during one or more hrs. during a 24 hr. day. The Oregon Department of Energy and Energy Facility Siting Council reinterpreted the rule to state that noise exceedances were “infrequent” by comparing the total number of hrs. of high noise level in a year as a block of time compared to the number of hrs. in a 365 day year.</p>	<p>The issue Mr. Larkin raises in this comment was fully litigated in the contested case on the ASC for the Project, and was subsequently appealed to the Oregon Supreme Court. The Oregon Supreme Court affirmed EFSC’s Final Order on the ASC and interpretation of the term “infrequent”:</p> <p align="center">EFSC determined that noise exceedances would be unusual or infrequent based on the evidence showing that exceedances may occur only in less than two percent of the total hours in a year. To the extent Stop B2H contends that EFSC committed a legal error in interpreting what is meant by ‘unusual or infrequent’ under the</p>

⁸³ The L10 metric represents the sound level that is equaled or exceeded 10 percent of the time (thereby screening out the louder sounds that are present for fewer than six minutes) whereas the L50 measurement represents the sound level equaled or exceeded 50 percent of the time (thereby screening out louder sounds that are present for fewer than 30 minutes). As such, the L50 is the more conservative measure as it is likely to result in a lower ambient average sound level, thereby increasing the possibility of an exceedance. ⁸³ For example, an L₁₀ of 32 dBA would indicate that, in any hour of the day, sounds equaling or exceeding 32 dBA only occur ten percent of the time. An L₅₀ of 32 dBA, on the other hand, would indicate that sound levels are below 32 dBA for fifty percent of the hour and equal or above 32 dBA for fifty percent of the hour.

⁸⁴ Final Order on ASC at 690 of 10586 (Sept. 27, 2022); *see also* Idaho Power’s ASC, Exhibit X at 32 of 371 (Sept. 28, 2018).

⁸⁵ Final Order on ASC at 8391 of 10586 (Sept. 27, 2022) (Golder Associates Memorandum (Dec. 19, 2017)); *see also* Final Order on ASC at 680 of 10586 (Sept. 27, 2022).

⁸⁶ Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

⁸⁷ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			rule, we see no error. Nothing in the rule or statute required EFSC to use the number of days instead of the percentage of hours in assessing whether noise exceedances would be unusual or infrequent. ⁸⁸
Greg Larkin (May 30, 2024)	Noise	6. The Site Certificate uses figures regarding how often weather would create corona noise above the Noise standard by looking at the hrs. between 12:00 midnight and 5:00 a.m. This is not done in the Oregon Noise rules.	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that neither the Company nor the Department limited its analysis of potential noise exceedances to the 12:00 a.m. to 5:00 a.m. timeframe. Rather, the potential noise exceedance analysis was based on data from all hours of the day, throughout the entire year.⁸⁹</p> <p>Moreover, Mr. Larkin misrepresents Idaho Power’s methodology for assessing baseline noise levels. Idaho Power used the hours between 12:00 midnight and 5:00 a.m. to assess the baseline ambient noise levels.⁹⁰ This conservative approach used the quietest time of day to select the baseline hours. The use of these hours to measure the baseline did not limit the hours during which an exceedance might occur.</p> <p>For these reasons, the Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	7. For the areas where Idaho Power did actual sound measurements to determine the existing noise level, they included periods of high wind , The Oregon noise rules state that sound measurements are to be removed from the calculation any time the wind speed is higher than 10 mph.	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. Idaho Power used the baseline measurements conducted to calculate the representative existing L50 (median) sound levels. The average of the measured L50 was calculated for periods of low winds (less than 10 mph) and additionally for periods of low winds during the late nighttime period (12:00 a.m. to 5:00 a.m.). This established the ambient sound level and resulting compliance thresholds to assess conformance with the ambient antidegradation standard. Contrary to Mr. Larkin’s assertion, measurements taken during periods when winds were higher than 10 mph were removed from this calculation.</p> <p>In the contested case, the Hearing Officer agreed with the Department and Idaho Power that a new baseline study was unnecessary because “a preponderance of the evidence establishe[d] that Idaho Power’s methodology was appropriate and that the original and supplemental monitoring adequately represents the baseline ambient sound levels.”⁹¹ The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁹² For these reasons, the Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	8. A google search for: “Can a person file a civil claim after an Oregon Agency approves an exemption from the noise rules”: returned the following information: “In Oregon, a person who has been exposed to noise exceedances may have legal options even after an agency approves a noise exception.” “If an agency approves a noise exception (such as granting a variance), it does not necessarily prevent affected individuals from seeking legal recourse. Civil suits can be filed by individuals who believe their rights have been violated due to excessive noise. The statute of limitations for personal injury cases in Oregon generally gives an injured person two years from the date of the injury to file a lawsuit. Therefore, if someone has suffered harm or nuisance due to noise exceedances, they may consider pursuing a civil suit against the responsible party or agency.”	As an initial matter, Mr. Larkin provides no reference or citation for the statements other than a “Google search,” and a Google search performed on June 2, 2024 using Mr. Larkin’s terms do not confirm the results he claims to have received. Moreover, Mr. Larkin’s comment is not specific to the Draft Proposed Order for RFA 2 or raise any issue related to RFA 2 with sufficient specificity to afford the Council, ODOE, or certificate holder the opportunity to respond.
Greg Larkin (May 30, 2024)	Noise	OAR 340-035-0035 requires that the council include in the site certificate conditions in the site certificate to ensure compliance with the statutes, standards and rules described in ORS 469.501 and ORD 469.503. Council must implement this statutory framework by adopting findings of fact, conclusions of law, and conditions of approval concerning the facilities compliance with the EFSC Standards for Siting Facilities at OAR 345, Divisions 22, 24, 26 and 27. (Final Order on the ASC for the B2H Transmission Line 9/27/22, Page 88).	Mr. Larkin’s statement does not identify any error in the Draft Proposed Order and does not raise any issue that the Council should assess when considering whether to approve RFA 2.

⁸⁸ *STOP B2H Coal. v. Dep’t of Energy*, 370 Or 792, 807-808 (2023).

⁸⁹ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-5).

⁹⁰ Final Order on ASC at 681 of 10586 (Sept. 27, 2022).

⁹¹ Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

⁹² Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Greg Larkin (May 30, 2024)	Noise	ORS 467.010. Intent of the State of Oregon’s “legislative policy” on noise pollution and control, as it not providing protection per: “The Legislative Assembly finds that the increasing incidence of noise emissions in this state at unreasonable levels is as much a threat to the environmental quality of life in this state and the health, safety and welfare of the people of this state as is pollution of the air and waters of this state. To provide protection of the health, safety and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions, it is hereby declared that the State of Oregon has an interest in the control of such pollution, and that a program of protection should be initiated. To carry out this purpose, it is desirable to centralize in the Environmental Quality Commission the authority to adopt reasonable statewide standards for noise emissions permitted within this state and to implement and enforce compliance with such standards. [1971 c.452 §1]”	Mr. Larkin has not explained his concern with sufficient specificity for the Council, ODOE, or the certificate holder to respond. While not entirely clear, it appears the issue that Mr. Larkin may be raising is consistency with ORS 467.010. If so, this issue was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that the Department’s recommendations regarding the noise variance/exception were consistent with the legislative policy established in ORS 467.010. ⁹³ Mr. Larkin has not articulated any basis for the Council to revise its conclusions.
Greg Larkin (May 30, 2024)	Noise	Oregon Statute ORS 467.030 Adoption of noise control rules, levels and standards: (1) In accordance with the applicable provisions of ORS chapter 183, the Environmental Quality Commission shall adopt rules relating to the control of levels of noise emitted into the environment of this state and including the following: (b) Requirements and specifications for equipment to be used in the monitoring of noise emissions. (c) Procedures for the collection, reporting, interpretations and use of data obtained from noise monitoring activities. 2) The Environmental Quality Commission shall investigate and, after appropriate public notice and hearing, shall establish maximum permissible levels of noise emission for each category established, as well as the method of measurement of the levels of noise emission.	Mr. Larkin’s comment does not identify any error in the Draft Proposed Order and does not raise any issue that the Council should assess when considering whether to approve RFA 2.
Greg Larkin (May 30, 2024)	Noise	OAR 345-035-0035 (3) Measurement: (a) Sound measurements procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1) , or to such other procedures as are approved in writing by the Department ; (b) Unless otherwise specified, the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source: (A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source; (B) That point on the noise sensitive property line nearest the noise source. Note: Required measurement point is located outside the home. New Sources Located on Previously Unused Site: (i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour , or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule, ... Note: The plain language specifically states that an exceedance occurs when the noise increases 10 dBA “in any one hour” which is defined in the rule above as meaning a period of 60 minutes in a 24 hr. period. (ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly	The issue that Mr. Larkin seems to be raising regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable. ⁹⁴ For these reasons, the Council should not revise its conclusions in this case.

⁹³ Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-2); Final Order on ASC, Attachment 6 at 8869 of 10586 (“In short, the limited parties raised arguments, but have not provided any persuasive evidence to support their position that the Department erred in recommending that the Council grant the proposed facility a variance and/or exception. A preponderance of the evidence establishes that the Department’s recommendations in this regard are consistent with the legislative policy established in ORS 467.010. The construction and operation of the proposed facility does not threaten the environmental quality of life in this state and the health, safety and welfare of the people of Oregon.”).

⁹⁴ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

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		caused by or attributable to that source including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsections (5)(b)–(f), (j), and (k) of this rule, shall not be excluded from this ambient measurement. [Red text in original]	
Greg Larkin (May 30, 2024)	Noise	The ODOE AND EFSC approved an exception and a variance to the stature and rules for complying with the site certificate. The Oregon DEQ no longer approves exceptions, variances, or other requests for things such as designating areas as “quiet areas” where noise levels should be lower than the standard, etc..	The Council’s authority to issue an exception and variance to the DEQ Noise Rules was fully litigated in the contested case on the ASC for the Project and in the appeal of the Council’s Final Order on the ASC. As the Supreme Court affirmed the authority of the Council to issue an exception or variance in its opinion: “We conclude that EFSC had the authority to grant (1) an exception to the noise standards under OAR 340-035-0035(6)(a), and (2) a variance under OAR 340-035-0100 and ORS 467.060.” ⁹⁵ In reaching that conclusion, the Supreme Court specifically noted the fact that DEQ no longer issues exceptions or variances, finding that “Under those circumstances, it would have been futile for EFSC to refer Idaho Power’s exception/variance requests to EQC and DEQ.” ⁹⁶
John Luciani			
John Luciani (May 30, 2024)	Outside of Council’s Jurisdiction	The B2H line is illegal. By law it needs to be built in the energy corridor. Both Idaho Power and ODOE know this and continue anyway. *** This additional land grab cannot go forward. *** EFSC should not approve Amendment 2. No one from Idaho Power has talked to me. I have not seen a map.	Mr. Luciani’s assertion that the Project must be sited in an existing energy corridor is incorrect. Rather, the Council may consider any route proposed by an applicant, and transmission line routes that are not proposed by the certificate holder are outside the scope of the Council’s review. With respect to the unidentified energy corridor identified in Mr. Luciani’s comment, in the PCN 5 proceeding with the OPUC, Idaho Power analyzed a similar proposal from Ms. King proposal in comparison with the Company’s proposed route and determined that Ms. King’s proposal would likely result in additional impacts to other landowners and resources. The OPUC concluded: “While additional route alternatives may exist in Morrow County, we do not agree that their existence alters our conclusion that Idaho Power’s proposed route is practicable, feasible, and commercially reasonable. In particular, we determine that the proposed alternative route using the Wheatridge interconnection corridor would impact more landowners, increase the length of the route and thereby increase costs, and result in significant project delays and additional costs to seek new approvals for a new route. Idaho Power analyzed potential routes that would avoid exclusive farm use lands but concluded it could not route the project in eastern Oregon without crossing exclusive farm use lands.” ⁹⁷ Idaho Power has not proposed any “land grab.” While Idaho Power has proposed the proposed expanded site boundary for the Project, Mr. Luciani incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size. Idaho Power is not proposing any changes to the route in RFA 2 that would impact Mr. Luciani’s property, and the Company still anticipates using the original route approved in the Final Order on ASC along Mr. Luciani’s property. Idaho Power attempted to communicate with Mr. Luciani in early 2022 and has been in contact with Mr. Luciani’s counsel on an ongoing basis to facilitate property access as needed to support final surveys.
John Luciani (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060); Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	Idaho Power has no weed or fire prevention plan in place. This cannot continue.	Mr. Luciani’s comment is incorrect. Consistent with the approved Site Certificate for the Project, Idaho Power is preparing a Noxious Weed Plan, as required by Fish and Wildlife Condition 3, and a Fire Prevention and Suppression Plan, as required by Public Services Condition 6. The Department’s DPO for RFA 2 would not change either of those conditions and the Company will remain obligated to finalize and comply with those plans. In addition, the Project will continue to be evaluated and governed by the Company’s OPUC-approved Wildfire Mitigation Plan, as required by Wildfire Prevention and Risk Mitigation Condition 1 of the Site Certificate. The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan, ⁹⁸ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly.

⁹⁵ *STOP B2H Coal. v. Dep’t of Energy*, 370 Or 792, 806 (2023).

⁹⁶ *STOP B2H Coal. v. Dep’t of Energy*, 370 Or 792, 806 (2023).

⁹⁷ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 29-30 (June 29, 2023).

⁹⁸ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
John Luciani (May 30, 2024)	Application for Site Certificate	I was kicked out early of the ODOE contested case and my concerns were never heard.	<p>A Noxious Weed Plan and a Fire Prevention and Suppression Plan have been prepared for the Project. Both plans have been approved by ODOE and applicable counties.</p> <p>As an initial matter, Mr. Luciani’s statement relates to the contested case for the ASC, and not to RFA 2. Mr. Luciani asserts that he was excluded from the contested case for the Project. However, it is important to note that the Council reviewed and affirmed that Mr. Luciani’s petition for party status in that proceeding was deficient and properly rejected by the Hearing Officer.</p> <p>In her order reviewing petitions for party status, the Hearing Officer included the following conclusion regarding Mr. Luciani’s petition:</p> <p style="padding-left: 40px;">Although Mr. Luciani listed numerous concerns about the proposed facility, he did not tie these concerns to applicable siting standards. He did not challenge any specific findings or determinations in the DPO or Proposed Order, and did not present facts or argument on the record of the DPO to support his concerns. Furthermore, diminished property values, private property access, and individual health concerns are not matters within Council’s jurisdiction. Accordingly, Mr. Larkin did not raise an issue at the public hearing related to a siting standard or applicable statute with sufficient specificity to allow for a response. He has not established standing to participate as a party or limited party in the contested case. OAR 345-015-0016(3).⁹⁹</p> <p>Mr. Luciani timely appealed the Hearing Officer’s order and, after review, the Council affirmed the Hearing Officer’s conclusion.¹⁰⁰</p>
Christopher and Margie Lyon			
Christopher and Margie Lyon (May 30, 2024)	Proposed Expanded Site Boundary	<p>Our land was originally slated for miles of road construction and permanent easement to access the Transmission Line which will lie just outside our property lines. We were able to show Idaho Power that there was another, easier way to access the corridor from west of our property on BLM land, which would mean they had less road to build, on the other side of the original corridor. We came to an agreement with Idaho Power and they removed our land from a portion of the corridor and will not request any easement over our land. We were very pleased with the Idaho Power representatives that agreed to work with us to reroute that access road away from our property.</p> <p>Then the RFA2 was proposed, which now includes nearly half of our 230+ acre property, including our home and much of our irrigated crop land. We have been told, in writing, that no facilities will be placed on our property and that the boundary will be "reduced: on property not affected. However, we are asking that the expanded site boundary be removed entirely from our land. This should be done for all landowners, not affected by the line, but still falling within the expanded site boundary. The corrected maps and legal description should then be on file with the Oregon Department of Energy. If this is not done, and our land is still included in the expanded site boundary, our property will be worth nearly nothing. As it stands we will still be impacted greatly because of the line being built adjacent to our property, with the devaluation and ruined viewshed that the towers and visible construction and access roads will cause.</p> <p>It seems that Idaho Power is asking to increase the acreage of the line by over 4 times, "in case" they want to change something in the future. After all these years this should have been completed and not be allowed to be a land grab "just in case". Their many years of planning should have foreseen all the areas needed for this line and micrositing, and we are worried that they will have too much power and too little oversight if they choose to expand into more private property later.</p>	<p>Contrary to Mr. and Ms. Lyons’ assertions, Idaho Power has not proposed any “land grab.” While IPC has proposed the proposed expanded site boundary for the Project, Mr. and Ms. Lyon incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p> <p>By providing the Company with flexibility to microsite Project features, the proposed expanded site boundary will benefit impacted landowners. Idaho Power works closely with private landowners, and to date the Company has requested two amendments to the site certificate to incorporate discrete adjustments to the transmission line route and access roads, primarily in response to requests from landowners and to further reduce Project impacts to protected resources.</p> <p>Because Idaho Power does not plan to site any Project feature on the Lyon’s property, and has committed that it will not site any Project feature on the Lyon’s property, Idaho Power commits to “clip” the proposed expanded site boundary to exclude the Lyon’s property.</p>
Kevin March			

⁹⁹ Order on Petitions for Party Status, Authorized Representatives and Issues for Contested Case at 18 (Oct. 29, 2020).

¹⁰⁰ Energy Facility Siting Council Order on Appeals of Hearing Officer Order on Party Status, Authorized Representatives and Issues at 16 (Nov. 25, 2020).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Kevin March (May 30, 2024)	Proposed Expanded Site Boundary	<p>Idaho Power’s RFA2 with its substantial increase in access roads, the increase of site boundaries to potentially ½ mile, as well as the proposed widening of roads on slopes could and would do great harm to the uplands, and specifically to the ephemeral streams and associated wetlands of our Northeast Oregon rivers that these power lines and roads would cross and despoil.</p> <p>Ephemeral streams are critical to intermittent and perennial stream health. They are important for water quality for all downstream and instream water users.. Ephemeral streams are critical components of anadromous and native local fish habitat health. Yet ephemeral streams are highly understudied and undercounted, and are not acknowledged by Idaho Power in RFA2.</p> <p>Idaho Power, at best, studied and mapped a very limited number of ephemeral streams within the original ASC. RFA2, without adequate studies, would only increase the potential impact to and the potential degradation of ephemeral streams and their habitat. Idaho Power is in violation of ORSs and OARS by treating these important waters as dirt rather than the essential component of watershed and fish habitat health that they are.</p>	<p>As an initial matter, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2. Mr. March was a limited party to the contested case for the ASC and fully litigated issues relating to fish habitat.¹⁰¹</p> <p>Specific to RFA 2, Idaho Power has performed biological surveys on the Proposed Micrositing Area Additions following the protocols presented in Attachment P1-2 of Exhibit P1 of the ASC and per the Site Certificate conditions PRE-FW-01 and PRE-FW-02.¹⁰² Idaho Power performed habitat categorization per OAR 635-415-0025 by using survey data in combination with an existing landcover dataset (USGS 2011) as the basis for habitat mapping within the Proposed Micrositing Area Additions.¹⁰³ As the Department found in the DPO, the design, construction and operation are consistent with ODFW’s fish and wildlife habitat mitigation goals, based on category of habitat impacted.¹⁰⁴</p> <p>To identify ephemeral streams in the ASC, Idaho Power considered existing ODFW (and other agency) data sets and took into account historic fish distribution data to determine which streams were likely to be fish-bearing. Idaho Power’s fish-presence determinations were sent to ODFW for review, comment and eventual concurrence. Idaho Power included in its analysis ephemeral and intermittent streams.</p>
Kevin March (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>Idaho Power has used the Division of State Lands definition of ephemeral streams, which is that they are not streams; by this definition they are nothing more than dirt. Idaho Power identifies 0.3 acres of category 2 ephemeral stream habitat that will be disturbed, and 0 acres of category 3 ephemeral stream habitat that will be disturbed in the entire route. They identified 0 acres of ephemeral streams on the alternative route that will be disturbed.</p> <p>This is an absurd number. This analysis was flawed in the original ASC, but it is even more so with Idaho Power’s proposed increase in the site boundaries to ½ mile and the proposed increase in the number of access roads and the size of roads constructed on slopes.</p>	<p>As discussed immediately above, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2. Fish passage issues and issues related to fish habitat were thoroughly litigated in the contested case on the ASC, and the Council concluded that the Project, taking into account mitigation and the conditions in the Site Certificate, would comply with the applicable standards.¹⁰⁵ Moreover, while Idaho Power has proposed the proposed expanded site boundary for the Project, Mr. March incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p>
Kevin March (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>ODOE asks of Idaho Power in regards to ephemeral streams: “The Department has requested in previous reviews of Table PI-2 Exhibits P and Q that ephemeral streams be surveyed during the analysis of fish habitat and fish presence.” (emphasis added)</p> <p>The above is very important. ODOE asks that ephemeral streams be surveyed for fish habitat and presence. How and what did Idaho Power do for this “analysis?”</p> <p>* * *</p> <p>What does this even mean? What does Idaho Power mean by “as needed” and who determined “select representative streams”? Did Idaho Power analyze any ephemeral streams? For that matter, how did Idaho Power select the “representative” streams determined to be intermittent or perennial in the Application?</p> <p>SDAM’s manual states that “Performance of the current method does vary somewhat in different hydrological settings and at different times; for instance, it performs better during the spring for semiarid and very wet climate classes.”</p>	<p>In this comment, Mr. March raises concerns solely relating to the analysis in the ASC. As discussed immediately above, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2.</p>
Kevin March (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>I did brief surveys of land near Morgan Lake, just west of La Grande in an area the lines and access roads will traverse. According to the landowner, Idaho Power has not been on his land to survey. To our knowledge this area has not been included in Idaho Power’s “select analysis” of streamflows and SDAM has not been followed.</p> <p>This is what I found (on 5/21/2024) near or at a site where a tower is slated to be constructed. FN: Coordinates: 45.29983 N, 118.14634 W. It is rather obviously an amphibian: [photo omitted]. This was found at the same location: [photo omitted] These photos satisfy SDAM’s</p>	<p>While not clear, as Mr. March did not name the property owner in his comments, it appears that Mr. March may be referring to John Williams’ property. That property was surveyed for wetlands and streams in 2022. Select areas include places where potential wetlands and/or waters occur within the temporary and/or permanent construction footprint including but not limited to access roads, structure work areas, and pulling and tensioning sites. A desktop analysis utilizing aerial imagery, the National Hydrography Dataset, and the National Wetlands Inventory were used to determine survey areas.</p>

¹⁰¹ Final Order on ASC at 28 of 10586 (Sept. 27, 2022) (discussing Issue FW-7).

¹⁰² RFA 2 at 96 (Apr. 11, 2024).

¹⁰³ RFA 2 at 100 (Apr. 11, 2024).

¹⁰⁴ Draft Proposed Order on RFA 2 at 184 (Apr. 16, 2024).

¹⁰⁵ Final Order on ASC at 732-35 of 10586 (Sept. 27, 2022).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>criteria for at least intermittent, if not perennial stream designations. They show amphibians and macroinvertebrate damselflies (Calopterygidae). Yet on Idaho Power’s maps, there are no streams or wetlands of any kind shown at this location. The water from this location flows directly into Sheep Creek, a stream designated as Essential Salmonid Habitat by DSL, and a stream with resident and listed species present.</p> <p>This next photo (from 5/28/2024) of a pebble snail (Pleuroceridae,) is from a nearby location. FN. Coordinates 45.31061 N, 118.17275 W. Again, Idaho Power apparently has the stream that contains this designated as dirt: [photo omitted]</p> <p>I also have a video from the same day showing riffle beetles (Elmidae), water plants and water striders (Gerridae), though I was not able to embed the video in a PDF. This video is on the same day and identified by the same coordinates as the pebble snail above. I plan to submit this video as evidence during the proceedings if I am allowed a contested case. The video can be furnished with a request to kmarch1961@gmail.com</p> <p>These photos and the video satisfy the criteria for this water as, at minimum, an intermittent stream according to SDAM, and potentially a perennial stream. This stream is not on Idaho Power’s map. Idaho Power has not satisfied SDAM and could potentially put a road right over or through this stream because they have not followed the criteria specified in SDAM to differentiate and map the stream types.</p> <p>The waters from this stream flow into Sheep Creek, just above the confluence of Sheep Creek and Rock Creek. This unmapped water is contiguous with native and anadromous fish bearing streams, and most likely support the cold water refugia and safe protective habitat most needed by juvenile fish as stated earlier in this paper.</p> <p>Because they support such important anadromous fish habitat, Rock Creek and Sheep Creek (tributaries to the Grande Ronde River) have had a tremendous amount of work done for fish habitat improvement, a project called the Rock Creek Project. “This Rock Creek Project encompasses nearly 16 miles of fish habitat on Rock, Little Rock, Sheep, Graves, and Little Graves creeks within the UGC-2 and UGS-16 recovery plan assessment units. UGS-16 has been identified by the BiOp Expert Panel as one of the highest priority geographic units to protect and restore summer steelhead habitat.</p> <p>UGC-2 is identified as having high intrinsic potential for Chinook in the lower reaches of Rock Creek and low to medium intrinsic potential for Chinook within upper stream reaches.”</p>	<p>The coordinates 45.29983 N, 118.14634 W are located within the structure work area for structure 105/2. The survey identified an emergent (PEM) wetland (UN-W-509) at this site that will be temporarily and permanently disturbed. IPC has filed for a removal/fill permit at this location. The Department of State Lands (“DSL”) wetland evaluation process utilized to prepare the application to DSL takes into account the Streamflow Duration Assessment Methods (“SDAM”) protocols. The survey did not identify an intermittent or perennial stream associated with this wetland.</p> <p>The coordinates 45.31061 N, 118.17275 W are located in between structures 103/3 and 104/1. No construction is planned for this area, so surveys were not performed at this location. This coordinate is located underneath the transmission line and will be spanned with no ground disturbance.</p>
Kevin March (May 30, 2024)	Fish Passage	Oregon fish passage criteria for OAR 635-412-0035 are not satisfied if ephemeral streams are considered dirt and have not been analyzed. Fish passage criteria are not met if only “select” intermittent streams were studied, and are not satisfied if SDAM forms were not filled out for all intermittent and perennial streams. Fish passage OARs are not satisfied if Idaho Power can have a half mile wide corridor with which to build roads, install powerline towers, and damage habitat while severing connectivity within this extremely important habitat.	<p>Mr. March’s concern is outside the scope of RFA 2. As discussed immediately above, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2.</p> <p>Moreover, Idaho Power proposed that any fish passage approvals associated with RFA 2 not be governed by the Site Certificate. The Company is coordinating with ODFW to incorporate new crossings into a final Fish Passage Plan for any RFA 2 fish passage approvals.</p>
Kevin March (May 30, 2024)	Threatened and Endangered Species Standard (OAR 345-022-0070)	Idaho Power also does not have a list of threatened species in these intermittent and ephemeral waters to satisfy OAR 345-021-0010. It does not have a complete list because it did not study them, or if the “select representative” streams were actually studied, but during the latter part of the summer during an extended period of drought.	As discussed above, to identify ephemeral streams in the ASC, Idaho Power considered existing ODFW (and other agency) data sets and took into account historic fish distribution data to determine which streams were likely to be fish-bearing. Idaho Power’s fish-presence determinations were sent to ODFW for review, comment and eventual concurrence. Idaho Power included in its analysis ephemeral and intermittent streams. Review of these data sets identified streams that were likely to provide fish habitat, including habitat for threatened and endangered species.

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			<p>These surveys identified Snake River Spring/Summer Chinook Salmon in the analysis area for the ASC.¹⁰⁶ The Council reviewed Idaho Power’s analysis of potential impacts to this species and concluded that the Company had demonstrated compliance with the T&E Species Standard.¹⁰⁷</p>
<p>Kevin March (May 30, 2024)</p>	<p>Fish and Wildlife Habitat Standard (OAR 345-022-0060)</p>	<p>Idaho Power has stated that they would use “mitigation banking” to make up for the loss of habitat, but if they do not have accurate data reflecting the true amount of ephemeral and intermittent streams affected by this project, they can not possibly know how much “banking” is needed.</p> <p>If ephemeral streams are not identified as habitat, the proposed mitigation is not adequate. The mitigation plan is in error because the habitat has not been fully quantified. It omits most ephemeral streams, and some intermittent streams in the habitat quantification that sustains our threatened fish and fisheries. Therefore, the metrics used for the mitigation banking are not accurate and must be reviewed and revised before approval of the site condition, with its mitigation banking, can be granted.</p>	<p>As discussed above, to identify ephemeral streams in the ASC, Idaho Power considered existing ODFW (and other agency) data sets and took into account historic fish distribution data to determine which streams were likely to be fish-bearing. Idaho Power’s fish-presence determinations were sent to ODFW for review, comment and eventual concurrence. Idaho Power included in its analysis ephemeral and intermittent streams. ODFW concurred with Idaho Power’s survey of fish habitat and categorization of that habitat consistent with ODFW regulations.¹⁰⁸</p> <p>Consistent with the identification of habitat and potential impacts as reviewed by ODFW, Idaho Power will provide sufficient mitigation for Project-related impacts to habitat.</p>
<p>Kevin March (May 30, 2024)</p>	<p>Fish and Wildlife Habitat Standard (OAR 345-022-0060)</p>	<ul style="list-style-type: none"> ● Ephemeral streams are a critical component of the uplands of a watershed as per OAR 635-415-0005 ● Ephemeral streams are critical habitat during periods of low flow for our states indigenous fish species, whether they are endangered and threatened anadromous fish, or local native species ● Ephemeral streams, even when appearing dry, can have subsurface flows and connectivity to downstream waters, which is important in maintaining cold water refugia for our local and anadromous fish species ● Ephemeral streams are not dirt. They are a vital part of our river systems, and integral to the ecology and habitat of our watersheds ● Mapping and hydrological analysis of ephemeral streams is poor at best and non-existent at worst, and better mapping techniques are now available. Idaho Power could and should have used these techniques to better assess streams in the watersheds spanned by the Route ● Access roads, towers, and the equipment associated with their construction in RFA2 could and would destroy many of these streams, severing connectivity to their associated perennial streams and the native fish species sustained by them ● Idaho Power’s maps of streams in the small area I analyzed are inaccurate and brings into question the accuracy of stream analysis on the entire proposed route ● Idaho Power’s “select” analysis of ephemeral, intermittent and perennial streams and wetlands were performed during a multi-year period of drought with many areas “studied” during the driest period of the year and does not give a true picture of morphology and habitat ● Idaho Power did not follow the guidelines within the SDAM manual, Idaho Power’s reference for the study of and clarification/distinction of ephemeral streams, intermittent and perennial streams ● RAF2 will not meet the requirements set forth in ORS 509.585 and OAR 635-412-0020 until a more complete analysis of the ephemeral streams throughout the project is undertaken ● RAF2 will not meet the requirements set forth in OAR 345-021-0010(1)(p) until a more complete analysis of the fish and habitat within ephemeral streams and their contiguity with intermittent and perennial streams is undertaken ● RAF2 will not meet the requirements set forth in OAR 345-021-0010(1)(q) until a more complete analysis of the fish and habitat within ephemeral streams and their contiguity with intermittent and perennial streams is undertaken ● RAF2 will not meet the requirements set forth in OAR 635-415-000 and OAR 635-415-0005 if ephemeral stream habitat loss for the watersheds within the entire Project are not included in the proposed mitigation measures 	<p>The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. If the Council approves the proposed expanded site boundary in RFA 2, then if Idaho Power proposes any additions to the micrositing area the Company will assess, in consultation with ODFW, any potential stream crossings required for the addition. The Company will complete ODFW’s fish passage approval process at that time before final route selection.</p> <p>New stream crossing locations proposed within the proposed expanded site boundary will be assessed for historic fish distribution by reviewing agency data sets and by engaging in consultation with ODFW. The assessment will occur on all streams regardless of their mapping as either ephemeral, intermittent or perennial. If the assessment finds that the stream crossing requires ODFW Fish Passage approval, IPC will apply for that permit and obtain ODFW Fish Passage approval for the site.</p>

¹⁰⁶ Final Order on ASC at 413 of 10586 (Sept. 27, 2022).

¹⁰⁷ Final Order on ASC at 419-21, 24 of 10586 (Sept. 27, 2022).

¹⁰⁸ Final Order on ASC at 351 of 10586 (Sept. 27, 2022).

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Sue McCarthy			
Sue McCarthy (Apr. 25, 2024)	Proposed Expanded Site Boundary	<p>The proposed site boundary show in figure 8, map 29 of Union County includes part of Morgan Lake Park, including all of Twin lake and part of Morgan Lake itself. Both these are important for wildlife habitat and public recreation.</p> <p>The movement of the boundary just a small distance would help remove this issue.</p>	<p>Ms. McCarthy has identified a scrivener’s error in the mapping included in Figure 8-1, which shows the proposed expanded site boundary though not the micrositing area, crossing Morgan Lake Park. The correct proposed expanded site boundary is shown in Figure 4-1, showing that the proposed expanded site boundary borders and does not enter Morgan Lake Park.</p> <p>As stated in the Final Order on the ASC, no Project components are proposed within Morgan Lake Park.</p>
John Milbert			
John Milbert (May 24, 2024)	Proposed Expanded Site Boundary	<p>Idaho Power's application to amend the B2H site boundaries is an egregious, unwarranted land grab! The proposed increase would add more than 100,000 acres to the existing boundaries, an increase of more than 400%, making it more than five times as large as is currently approved! This unconscionable action is a prime example of Idaho Power's ongoing policy of deception regarding the proposed transmission line! They recognize the truth only as an obstacle to be overcome! Greed before need!</p>	<p>While IPC has proposed the proposed expanded site boundary for the Project, Mr. Milbert incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p> <p>Prior to construction in the proposed expanded site boundary, any proposed addition to the micrositing area would be evaluated for resources under Council standard under the ADR pathway designated under OAR 345-027-0357. While Idaho Power has proposed several discrete micrositing area adjustments in RFA 2, the Company does not propose to substantially increase overall size of the Project.</p>
Sam Myers			
Sam Myers (May 30, 2024)	Proposed Expanded Site Boundary	<p>The B2H transmission line has already been moved in some areas as landowners requested changes, in those negotiated moves so far if the transmission line moved out of its original site boundary those new areas should be fully studied and vetted to make sure impacts are not made. In this current B2H update it seems they're asking for a blank slate to do whatever they deem necessary. In the update letter we received we take note that IPC will make these changes only when landowners request them or they're “necessary for engineering or construction purposes.” This is way too vague of an explanation and it offers Idaho Power way too much power to move and exert itself out of the site boundary without proper oversight and approval.</p> <p align="center">* * * * *</p> <p>I'm concerned that Idaho Power will use this amendment to steamroll over landowners without proper consultation or approval. I strongly suggest that EFSC require all ADR’s to be approved by the landowners and the public. In my case this site boundary revision has created anxiety for myself because I have no idea what is going to happen with the transmission line routing concerning access roads and what Idaho Power may choose to change. It is extremely unsettling because our farm is already going to be severely negatively impacted by this transmission line.</p>	<p>As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent.</p>
Sam Myers (May 30, 2024)	Midline Capacitor	<p>I would contend that Idaho Power has failed to demonstrate the ability to design transmission lines. Based on my earlier OPUC findings I proved that Idaho Power has not engineered the towers to a level of enhanced reliability standards (data which was ultimately not considered because the OPUC staff was not compelled by my evidence). I have also noticed that a midline capacitor station needs to be added to the project and that some access roads were improperly designed. These issues demonstrate IPC's lack of ability to design. It also points out they seem to have a lack of technical expertise to know specifications used in all facets of the design and construction of a transmission line.</p> <p align="center">* * *</p> <p>Further on the subject of Idaho Powers selection of contractors; they chose contractors to conduct B2H site surveys that provided inaccurate results which had to be re-surveyed by different contractors. I’m concerned that Idaho Power hired powerline contractors that offered the lowest bid or chose them because other contractors have passed on the opportunity due to the design or route?</p>	<p>Idaho Power strongly disagrees with Mr. Myers’ characterization of the Company’s design. The Project is over 300 miles long and crosses widely diverse regions within the state. As with any large-scale project, modifications are likely as the Company comes closer to construction, and some features may even require modification after construction has begun if unanticipated resources or site challenges are discovered once on-site. Given the scale and complexity of the Project, modifications as the design approaches finalization should be expected.</p> <p>As Mr. Myers acknowledges, his engineering concerns were raised in the OPUC proceedings and Idaho Power addressed Mr. Myers’ allegations. Regarding Mr. Myers’ alleged engineering flaws, the OPUC concluded: “Regarding the engineering behind B2H towers and transmission lines, we conclude that the record does not support a finding that Idaho Power’s engineering is flawed. On the record before us, we find that Idaho Power selected a tower design that has been thoroughly studied and meets or exceeds all applicable and relevant standards. Indeed, the selected lattice towers are used throughout the Pacific Northwest and exceed tower design requirements, including for minimum loading criteria. The BPA lattice towers have wind loading of 120 miles per hour while the wire has wind loading of 100 miles per hour. With that wind loading, the MRI, which refers to how often a weather event is likely to occur, is between 700</p>

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			<p>and 10,000 years, while the NESC design requirement is for an MRI of greater than 50 years. While intervenors assert these wind loading calculations are flawed, we disagree.”¹⁰⁹</p> <p>Idaho Power is thoughtful and thorough in engaging contractors. For B2H, Idaho Power has hired a qualified construction manager with expertise in the field and is following a thorough evaluation process during the hiring process for all its contractors.</p>
Sam Myers (May 30, 2024)	Proposed Expanded Site Boundary	<p>*In reference to: IPC finds that the change in site boundary requested in RFA2 is consistent with OAR 345-027-0050(1). The proposed site boundary change is also similar in nature and consistent with other ODOE project authorizations, including: the Montague Wind Power Facility and the Wheatridge Renewable Energy Facility II. (Attachment 4-2 Site Boundary Memo)</p> <p>*The precedence that IPC uses in support of their request for the site boundary expansion is not an adequate comparison and does not compare to the number of acres in this project (101,600 acres). I may be mistaken, but WheatRidge and Montague are facilities using favorable landowner properties and B2H is using lands subject to condemnation and I fail to see these as accurate comparisons.</p>	<p>As demonstrated in the DPO, Idaho Power’s RFA 2 is consistent with the Council’s prior interpretation of its regulations. Moreover, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micro-siting area within the proposed expanded site boundary without prior landowner notice and consent.</p>
Sam Myers (May 30, 2024)	Outside of Council’s Jurisdiction	<p>B2H impacts me personally as I am trying to farm on ground that the transmission line traverses. Idaho Power has not contacted us personally to consult with us on any items and we have not spoken with them since the OPUC contested case which ended almost 1 year ago, it is my assertion that Idaho Power does not have the expertise to properly consult with landowners. These communications are outlined in the most recent federal MOU, which are the suggested federal guidelines for transmission placement and construction. The MOU guidelines specifically request that engagement begin early and continue with all parties involved in the project until the very end. Idaho Power seems to be shortcutting this MOU because of a lack of proper Staffing and continues to Short Circuit the process with legal maneuvers.</p> <p>The contested case process has left us with unmitigated impacts because Idaho Power chose to ignore our fire risk and soil damage concerns from the beginning. This site revision Amendment only serves to make matters worse by potentially crossing through fields instead of maintaining a boundary edge. The standard I cannot underscore enough is that any extension from the site boundary not in the original certificate should be treated as a brand new project where parties can adequately and publicly cite their concerns and proper mitigation can happen.</p>	<p>Mr. Myers has not raised a concern with RFA 2 with sufficient specificity for the Council, Department, or certificate holder to respond. To the extent that the concern is directed toward the proposed expanded site boundary, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micro-siting area within the Proposed expanded site boundary without prior landowner notice and consent.</p> <p>Mr. Myers comments about the Company’s landowner engagement process and about the contested case on the ASC are not specific to RFA 2, but Idaho Power nonetheless acknowledges that the Project is routed through Mr. Myers’ farm. Additionally, contrary to Mr. Myers’ assertion, the concerns he raised regarding fire risk and soil impacts were fully litigated in the contested case.¹¹⁰ Idaho Power concluded that certain impacts to the agricultural operations of the farm were unavoidable. EFSC specifically considered these impacts to Mr. Myers’ farm before adopting the Hearing Officer’s conclusion as follows:</p> <p>“[A]lthough the proposed project may impact Mr. Myers’ agricultural operations, a preponderance of the evidence demonstrates that Idaho Power sited the project in a manner that will generally reduce the intensity and frequency of impacts to farmlands, and that the Company will further minimize and mitigate the specific impacts to Mr. Myers’ operations when negotiating an easement with him. Idaho Power has shown that the project complies with the Land Use standard notwithstanding the impact the project may have on Mr. Myers’ farm practices.”¹¹¹</p>
Sam Myers (May 30, 2024)	Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090)	<p>Our farm has historical significance; it was adopted into the Century Farm and Ranch program in 2005. The B2H route is just North of our Homestead and is already going to devastate the landscape that we know currently. We are concerned that further erosion of our landscape with unknown changes in the site boundary is simply unacceptable to us .</p>	<p>Idaho Power is aware of the designation of the Bartholomew-Myers Farm as a Century Farm that is eligible for listing on the NRHP under Criterion A and fully assessed potential impacts to Mr. Myers’ farm and analyzed potential impacts to the farm as a historic resource in the Company’s ASC at EFSC.¹¹² According to Table S-2 (Cultural Resources in the Analysis Area) of Exhibit S to the ASC, CFR 1093 (Thomson Myers Farm) is in the Visual Assessment Analysis Area and no adverse direct or visual impacts to CFR 1093 as a historic resource are anticipated.¹¹³ EFSC ultimately concluded that the Project, taking into account mitigation, is not likely to result in significant adverse impacts to any historic resources.¹¹⁴ However, Idaho Power concluded that certain impacts to the agricultural operations of the farm were unavoidable.</p>
Sam Myers (May 30, 2024)	Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	<p>Idaho Power currently has a wildfire mitigation plan on file at OPUC this current plan is frankly unacceptable and leaves out significant cropland impacts from fire. It is an exceedingly underdeveloped plan. We are concerned that the RFA-2 is not in compliance with the new Wildfire prevention and risk mitigation standard. Much work needs to be done to reconcile this new Wildfire standard. I am confused about how that is going to happen. Proper Wildfire</p>	<p>The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan,¹¹⁵ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly. Idaho Power responded above to nearly identical comments raised by Wendy King, and incorporates that response here by reference.</p>

¹⁰⁹ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 23 (June 29, 2023).

¹¹⁰ Final Order on ASC at 28 (Sept. 27, 2022) (discussing Mr. Myers’ Issue LU-9).

¹¹¹ Final Order on ASC, Attachment 6 at 8856-57 of 10586 (Sept. 27, 2022).

¹¹² Idaho Power’s ASC, Exhibit S at S-166 (Sept. 28, 2018) (CFR 1093).

¹¹³ Idaho Power’s ASC, Exhibit S at S-31 (Sept. 28, 2018) (CFR 1093).

¹¹⁴ Final Order on ASC at 547 of 10586 (Sept. 27, 2022).

¹¹⁵ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>Policy seems much more Paramount in this process than granting more authority to Idaho Power without proper; review, transparency and regulation.</p> <p>Morrow County authorities have designated this Butter Creek area as ‘Wildland Urban interface’, unfortunately the current B2H route traverses directly through this Urban interface Zone and remains in close proximity making it highly impacting for many homes and Farms, any relocation or revisions need to be fully scrutinized in this area because of those heightened impacts.</p>	
Sam Myers (May 30, 2024)	Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	I am very cautious of Idaho Power’s ability to maintain the entire project because of their actions that led to the Powerline and Lime Hill fires in which their \$1.5 million settlement was not an admission of liability.	As Mr. Myers acknowledges, Idaho Power did not admit fault regarding the cause of these fires in the Company’s settlement agreements. Moreover, it should be noted that the lines alleged to have caused these fires were 230-kV transmission lines. The fire risk of a 500-kV transmission line was thoroughly litigated in the contested case on the ASC, where the Company demonstrated 500 kV transmission lines rarely ignite fires, and in fact have caused fewer fires than lower-voltage transmission lines because 500-kV lines are subject to wider right-of-way widths, stricter vegetation clearing requirements, and tower taller structures. ¹¹⁶
Sam Myers (May 30, 2024)	Proposed Expanded Site Boundary	<p>The Draft Proposed Order for RFA-2 of the B2H Site Certificate fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2)(a) by limiting reviews of siting standards to micrositing corridors rather than the site boundary. The site boundary cannot be expanded without completing the evaluation required to show with a preponderance of evidence that the area added complies with all requirements applicable to an initial application.</p> <p>This draft site certificate seeks to make changes well beyond the current micrositing corridors rules, making changes well outside the original site boundary. This level of expansion is unprecedented and should not be allowed; only the original micro sighting rules should remain applicable in this project</p> <p>I strongly suggest that this RFA-2 amendment is rejected because any changes outside the site boundary should go through the type A amendment process. I’m concerned that Idaho Power is seeking to provide unsupported claims in its public explanation of this amendment. It is extremely disappointing to me that Idaho Power continues to get away with distorting the facts to the public while it seeks to maximize its own profits by creating a legal Short Circuit in the process. Idaho Power has a poor record of public involvement a poor record of land owner negotiation, we have heard of local examples where Idaho Power distorted the facts in an effort to expedite the process it's too bad that Idaho Power can not be held more accountable and frankly needs to be held more accountable, not less in each step along the way to constructing B2H</p>	<p>Idaho Power provided detailed survey results for all proposed additions to the micrositing area and will provide similarly detailed analysis of any future proposed micrositing area additions. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis.</p> <p>Moreover, Mr. Myers’ proposal that future amendments should all go through the Type A review is inconsistent with the Council’s rules and misstates the Company’s proposal. If RFA 2 is approved, the Company may pursue future micrositing area additions using the ADR process, which will require that the Company provide all necessary information to the Department to determine whether the proposed addition could result in a significant adverse impact to a resource or interest protected by an applicable law or Council standard that the Council has not addressed in an earlier order. Importantly, if the review under the ADR process concludes that an amendment is required, Idaho Power would then pursue the amendment under the Type A, B, or C process based on the nature and scope of the proposed amendment.</p>
Sam Myers (May 30, 2024)	Outside the Council’s Jurisdiction	I would also like to note that this is my opinion; Idaho Power seems to have a history of shedding its responsibility in a number of aspects having to do with B2H. Idaho Power shed its responsibility to negotiate with landowners for a right of entry on to landowners property for surveying purposes; rather than make the effort to create Right of Entry documents for landowners they subpoenaed landowners to court proceedings to force access onto private property. This initial interaction with Idaho Power was extremely frustrating, requiring legal counsel expenses and led to much anxiety placed upon us. It was a horrible first step in dealing with Idaho Power’s legal maneuvering. Idaho Power chose the legal system to gain entry onto private property. Idaho Power has shed its responsibility to limit project related fires, which places local firefighters and responders into additional danger which is likely to occur in rural locations. Idaho Power shed their responsibility through legal maneuvers to remove themselves from any responsibility of soil damage from fires occurring because of B2H. Idaho Power shed its responsibility to incorporate elevated reliability standards into its structural design of B2H.	<p>As an initial matter, this comment is not specific to RFA 2, and does not raise any issue regarding RFA 2 with sufficient specificity for the Council, ODOE, and the certificate holder to respond. Nonetheless, Idaho Power explains that it has sought to work directly with landowners to negotiate right of entry for surveys; however, where landowners have denied Idaho Power’s request for right of entry for surveys, the Company has in some cases needed to pursue pre-condemnation right of entry to complete surveys.</p> <p>As detailed in responses to comments above, 500-kV transmission lines have a low probability of ignition, and the Company’s responsibilities for fire prevention and mitigation are detailed in the Fire Prevention and Suppression Plan, as required by Public Services Condition 6. The Department’s DPO for RFA 2 would not change either of those conditions and the Company will remain obligated to finalize and comply with those plans. In addition, the Project will continue to be evaluated and governed by the Company’s OPUC-approved Wildfire Mitigation Plan, as required by Wildfire Prevention and Risk Mitigation Condition 1 of the Site Certificate. The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan,¹¹⁷ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly.</p>

¹¹⁶ Final Order on ASC, Attachment 6 at 8763, 8847 of 10586 (Sept. 27, 2022).

¹¹⁷ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
STOP B2H			
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>The company is trying to strategically position themselves (gaming the EFSC rules) to either cut corners or violate landowners (and the public’s) due process rights in the future (addressed under Issues 1 and 2).</p> <p>STOP believes its intent is to speed up sensitive negotiations with landowners, in order to cut corners and the landowner out of the process.</p> <p>The applicant using Type B or C Amendments, without public input, will range freely working with an agency charged to hurry up and site these facilities quicker. The landowner need not know about changes on their land. The public must have a seat at the table to moderate the utility’s lust for profit and an agencies pressure to move faster.</p> <p align="center">* * * * *</p> <p>Unfortunately, there are many areas in the site boundary that greatly exceed the .5 mile with discretion limits. In the map below the site boundary is 1.45 miles wide. Combining the .5 mile for the approved and alternate routes gives 1 mile. That is still about ½ beyond the combined limit. If google earth pro was used to fly down the B2H line at altitude the excess taking of the site boundary would be clear. Remember, IPC was fine with site certificate boundaries for over a decade. The suggestion is that this extra distance is needed to accommodate landowners.</p>	<p>STOP B2H wholly misrepresents the Company’s position in RFA 2. The Company does not seek to affect negotiations with landowners or to avoid any analysis of the Project. As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent. Moreover, consistent with the Council’s regulations, any ADR request would be posted on the Department’s website for public review.</p> <p>STOP B2H also misrepresents the scale of the Company’s proposed expanded site boundary. The example STOP B2H provides includes the transmission line and multiple access roads. In the particular location referenced by STOP B2H, the proposed expanded site boundary for the transmission line and each access road overlap with each other, creating an overall site boundary that is greater than the 0.5 mile proposed expanded site boundary proposed for each component.</p>
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>The December 20,2023 decision memo does not interpret the OAR’s cited correctly therefore the Written Approval of Revised Analysis Areas under OAR 345-027-0360 is incorrect and invalid. Authorization to change a site boundary is not allowed under 345-027-0360(3) nor ORS 469.300(22).</p> <p>The decision memo does not tie the legal logic together to understand the justification of the site boundary expansion. That leaves the reader to map out and connect the sections of the OAR’s and ORS’s cited to attempt to understand the logic used to justify the authority to redefine the term “site boundary.” This decision increases and redefines site boundary, micrositing area, study area, corridor, and assorted combinations of these words.</p> <p>ODOE cites authority to make changes in 345-027-0360(3)12. This section states, “(3) For any Council standard that requires evaluation of impacts within an analysis area, the analysis area is the larger of either the study areas, as defined in OAR 345-001-0010 (Definitions)(59), or the analysis areas described in the project order for the application for site certificate, unless otherwise approved in writing by the Department following a pre-amendment conference.’</p> <p>The first section discusses the analysis area in relation to the study area. The study area is further defined by OAR 345-001-0010 (Definitions)(59) which states, “the study area is an area that includes all the area within the site boundary and the area within the following distances from the site boundary.” It goes on to list distances from the site boundary for particular resources. The last item states, “unless otherwise approved in writing by the Department following a pre-amendment conference.” No preconference approval has been offered to justify a site boundary expansion. Therefore, this decision memo has no basis of fact to support the department’s decision to authorize the applicant to extend the site boundary or micrositing area by ¼ mile either side of the centerline (half-mile total width increase).</p> <p>Additionally, the ODOE memo of 12/20/2023¹¹⁸ approving the changes, states that the changing definitions of site boundary and micrositing corridors has been used in the past on wind projects. The B2H is a 300-mile linear facility consuming about 96,000 acres of very varied climate and terrain. Applying EFSC standards to a nearly 300-mile, 96,000-acre linear</p>	<p>STOP B2H conflates two separate decisions. STOP B2H misinterprets ODOE’s citation to OAR 345-027-0360 as a basis for the Department to expand the site boundary, which is not what the Department indicated in its December 20, 2023 Letter. Rather, Idaho Power, as the certificate holder, proposed an amendment to its Site Certificate to expand the site boundary. A site certificate holder may seek an amendment to its site certificate with approval from the Council.¹¹⁸</p> <p>To assess the Company’s request for an amendment, the Department cited its authority in OAR 345-027-0360 to identify the study areas for Council standards.</p> <p>STOP B2H also takes issue with the Department’s citation to the Council’s interpretation of its regulations in prior cases on the basis that those cases involved smaller facilities. However, this factual distinction does not change the fact that the Council’s regulations authorize the Council to approve a site boundary that differs from the perimeter of the micrositing corridor.</p>

¹¹⁸ ORS 469.405.

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>facility is very different than applying them to a stationary facility like a wind or solar farm. No examples of the circumstances or decision memos have been offered to justify the metrics of the comparison between wind farms and a 300-mile 500 kV transmission line. STOP urges Council to acquire and review these precedent setting wind farm examples and explain how these names/terms have changed for wind farms and evaluate those conditions on a linear facility.</p>	
<p>STOP B2H (May 30, 2024)</p>	<p>Proposed Expanded Site Boundary</p>	<p>IPC tried to explain it in their “Terminological Note to Attachments” (below) but it further confuses and does not clarify.</p> <p>To further muddy the waters of understanding, in the first pRFA2 submitted in June 2023, there were proposed micro-siting changes but terminology remained intact from the ASC, Contested Case, Final Order, and Site Certificate and Conditions. However, in this pRFA2 and the DPO, in order to accommodate the developer’s land grab, we are faced with a Chef’s “word salad” to decipher.</p> <p>[Quote of Terminological Note to Attachments omitted]</p>	<p>STOP B2H’s comment raises concerns regarding a note the Company included in RFA 2 intended to assist in reading and reviewing the attachments to the Company’s Site Certificate explaining the distinction between the approved micrositing area and the proposed expanded site boundary. For context, the note reads in its entirety:</p> <p>Idaho Power Company is proposing to redefine the term “site boundary” as part of RFA2. The site boundary would be expanded to include the area within 0.25 mile of either side of the transmission line centerline and within 0.25 mile of either side of access road centerlines. This generally creates a 0.5-mile-wide site boundary.</p> <p>The previously approved site boundary, as described in the ASC Exhibit C, is now referred to as the “micrositing area.” RFA2 includes proposed micrositing area additions as well as the expanded site boundary. Additional details regarding the definition of site boundary and micrositing area are included in Attachment 6-1.</p> <p>The terminology used in these attachments does not reflect the changes in terminology proposed in RFA2. In general, when reading these attachments (with a few exceptions noted below), the term “site boundary” should be read as “micrositing area.” For Attachment 6-1, Redline Site Certificate, IPC made the terminology changes throughout that document and the remaining uses of “site boundary” in that attachment refer to the expanded site boundary proposed in RFA2. For cultural resources attachments (7-13 and 7-14), the term “site boundary” is used to refer to the Project location as well as the location of cultural resources identified during surveys. The terminology change described here only applies to the use of “site boundary” in reference to the Project location.</p> <p>Idaho Power provided this explanation to assist in reviewing draft plans and attachments that were already in the record for the Project. Whereas in previous iterations the site boundary and micrositing area had been coextensive, RFA 2 included the proposed expanded site boundary which extends beyond the micrositing area. If RFA 2 is approved, the Company will update the preconstruction plans as required for the Project, making clear which actions will be taken to mitigate and/or minimize direct impacts within the micrositing area.</p>
<p>STOP B2H (May 30, 2024)</p>	<p>Outside of Council’s Jurisdiction</p>	<p>The roots of this scheme are the known facts that IPC is still negotiating with landowners and continuing to re-design various components of the facility and support facilities like access roads. In Union County alone, they still have not determined which alternative route in a number of areas, and other people are still negotiating with the company over land access.</p> <p>STOP and our members are/were participating in several ODOE rulemaking processes and amendments. We knew that landowner negotiations were underway and amendments would likely be coming in. And Idaho Power said that they would work with landowners in good faith. In the OPUC’s docket on the CPCN Idaho Power convinced the Commissioners that they wouldn’t need more land parcels and that while amendments would occur, they will not be a constraint to the project, as demonstrated in the OPUC Order: “Idaho Power explains that the requested site certificate amendment does not require condemnation of new land parcels and that its phased construction approach allows it to proceed with construction elsewhere in the event of any delays from the amendment process.” p. 27</p>	<p>As STOP B2H acknowledges, the Company continues to negotiate with landowners regarding the use of specific parcels for the Project. As evidenced by the micrositing area modifications approved in RFA 1 and the additions proposed in RFA 2, the Company has sought to amend the route for the Project in response to landowner concerns when feasible.</p> <p>The Company will continue to work with landowners in good faith. As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent.</p>
<p>STOP B2H (May 30, 2024)</p>	<p>Proposed Expanded Site Boundary</p>	<p>Finally, and possibly the most significant problem if RFA2 if approved as proposed, is the future uncertainty it opens. All decision power is vested in the company and the department--while the public, local governments, and private landowners, can be cut-out completely. The reason this may occur is because this amendment will allow an ADR or Type C Amendment process,18 which could violate due process rights, particularly of the landowners; but the counties, cities, and public, as well.</p> <p>* * * * *</p>	<p>Idaho Power disagrees with STOP B2H’s assertion that the ADR process does not adequately protect landowners’ and the public’s due process rights. Moreover, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent. This condition will ensure that landowners are involved in and support future amendments that are proposed through the ADR process.</p>

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		ADR process runs so quickly and administratively that the public and local officials will never know in time. Landowners may not even know it’s happening on their property – yet the state and developer could decide. This is Not right!	
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	Site Certificate Conditions - Recommendation 1: Prior to approving a site boundary expansion or amendment of the site certificate, the developer must complete all requirements to amend an approved site certificate, using a Type A amendment process for analysis, surveys, and activities required by Oregon EFSC statutes and rules. This includes, but is not limited to meeting the requirements of Chapter 22, 24, and 27, and providing landowners and the public with necessary specificity of maps, surveys, and additional information upon request and in a timely manner to be able to meaningfully participate in the amendment process.	STOP B2H’s proposed condition is unduly restrictive and should be denied. STOP B2H’s proposal would arbitrarily deny the Company use of protocols that are wholly consistent with the Council’s regulations, including the ADR process. Consistent with the Council’s rules, all methods of amending the site certificate should be available to the Company as a certificate holder. If RFA 2 is approved, the Company may pursue future micrositing area additions using the ADR process, which will require that the Company provide all necessary information to the Department to determine whether the proposed addition could result in a significant adverse impact to a resource or interest protected by an applicable law or Council standard that the Council has not addressed in an earlier order. Importantly, if the review under the ADR process concludes that an amendment is required, Idaho Power would then pursue the amendment under the Type A, B, or C process based on the nature and scope of the proposed amendment.
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	Site Certificate Conditions - Recommendation 2: If amendments are proposed to the site boundary and/or micrositing corridor using an Amendment Determination Request (ADR process) 345-027-0357, an agreement or letter of concurrence from the landowner or land/property manager, must be included in the application to the Department, under subsection (4)(d); and a public comment period will commence for 60 days.	As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent. However, Idaho Power opposes STOP B2H’s proposed 60-day public comment period. Consistent with the Council’s regulations, the Department will review any ADR and publish notice of the ADR on the Department’s website. Council rules do not require a public comment period for every ADR and STOP B2H’s proposal to add that requirement should be rejected.
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	Site Certificate Conditions - Recommendation 3: Once there is an agreement and decision about a the new Micrositing Corridor, the remaining land (the .5 mile) will be removed from the “RFA2 Site Boundary,” returning the Site Boundary width to the original ASC, the Final Order on B2H, and Final Order on AMD1, that is: a 500’-wide site boundary corridor with a 250’-wide micro-sited corridor. ²⁶ All maps, property and site descriptions, including legal references, will be updated, provided to the landowner, and filed with the department within 60 days from Council’s approval. Anything wider or larger than what is absolutely necessary to “accommodate land owners’ interests” (as IPC states) is simply unjust and unfair. Yet, the DPO insists that accommodating landowners is the reason that this RFA2 is needed and that everything will go back to the narrower corridors once the micrositing has been finalized. Therefore, this condition is important, protective, and not unreasonable to include given the rationale provided by IPC and the department to approve this RFA2.	Idaho Power opposes STOP B2H’s proposed site certificate condition because it is unduly restrictive and would add unnecessary hurdles to future negotiations with landowners. The proposed expanded site boundary will facilitate future negotiations by enabling flexibility to relocate Project components in response to landowner requests. STOP B2H’s proposed condition could limit that flexibility by reducing the area to which the Company may relocate Project components. STOP B2H’s proposed condition is also unnecessary because the proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. Landowners will not be impacted solely as a result of owning land within the proposed expanded site boundary. However, as discussed immediately above, the proposed expanded site boundary will maintain flexibility to respond to future landowner requests.
STOP B2H (May 30, 2024)	Proposed Site Boundary Expansion	The company is also gaming the public and public officials by not providing adequate maps from which a person could meaningfully participate and for landowners to even understand what is happening on their land! The maps supplied in RFA 2 do not show all areas that will be disturbed as required in this OAR. Private, county, state, and federal roads that will be used in constructing the B2H, that are outside the site boundary, are not shown on the maps provided. These communities that support the construction of B2H will be temporarily disturbed during construction and those disruptions are not clearly noted. In Union County, a person can no longer call the Public Works Director to ask what permits IPC has filed for. We now need to initiate a Freedom of Information (FOI) request to get that information. STOP wants the public to know the impacts on their neighborhood and lands but we/they cannot get that information, or at least not quickly. Thus, the applicant is non-compliant with this section of the rule and the maps should be re-done and distributed to the public for comments before this RFA is considered by Council. Inside the site boundary the same situation is occurring.	STOP B2H’s concerns regarding Idaho Power’s mapping do not allege noncompliance with any Council requirement. First, STOP B2H asserts that various roads that Idaho Power personnel may use are not located within the site boundary. This is to be expected; the site boundary includes only the Project and its related or supporting facilities. Only new roads and existing roads that will be substantially modified are considered related or supporting facilities. ¹¹⁹ All other existing roads are not part of the Project site and are correctly not included within the site boundary. Additionally, Public Services Condition 2 will require the Company to complete a county-specific Transportation and Traffic Plan, which will include the final access and haul routes for the Project. This will identify the roads within Union County that will be used to reach the Project site. STOP B2H also misstates the request in RFA 2. While Idaho Power’s request includes the proposed expanded site boundary, the Company has also proposed various additions to the micrositing area within that proposed expanded site boundary. The table that STOP B2H references, Table 2: RFA2 Proposed Transmission Line Route, Access Road, and Work Area Additions” pp. 31-33 of 855, lists only the proposed micrositing area additions, which are properly listed and total approximately 3,918.1-4,142.3 acres.

¹¹⁹ ORS 469.300(24).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>RFA 2 does not state the correct increase in the number of the acres being added to the site boundary. The approved site boundary is approximately 24,000 acres and now, an estimated total of 96,000 of acres are proposed (see Attachment 1). Yet, in the DPO, Table 2: RFA2 Proposed Transmission Line Route, Access Road, and Work Area Additions” pp. 31-33 of 855, the total addition stated is only 4,000 acres approximately. This is grossly misleading because the amendment seeks a site boundary addition—not a micrositing addition as the table is apparently displaying.</p> <p>OAR 345-001-0010(55) as sited in the Application for site certificate Exhibit C 2.0 and 3.0 and the Second Amended Project Order, Section III(c) states, “shall indicate the “site boundary” as defined in OAR 345-001-0010(55).</p> <p>OAR 345-001-0010(55) does not define site boundary therefore this section and any parts of the RFA 2 (and all prior amendments, the site certificate, site conditions, and ASC) that rely on this definition are invalid;</p> <p>The roads on the maps in Figure 4-1 RFA 2 Proposed Micrositing Area Additions, except I-84, are not labeled in the Union County section. On map 39 between blue and orange outlined and non-outlined road sections segments starting with UN-*** and 2/*** are well labeled. Glass Hill Road, the only county road in the area, is not on the map so is not labeled. Logically it would be a major support road to get materials to the construction sites but it is not on the map. Therefore, it is difficult to know the impacts of the B2H on these roads. Many of the other maps in Union County exhibit the same lack of detail.</p>	<p>STOP B2H also challenges Exhibit C of the Company’s ASC, which STOP B2H asserts refers to an incorrect definition. This challenge is an untimely challenge to the adequacy of Idaho Power’s ASC and does not relate specifically to RFA 2. Moreover, STOP B2H’s challenge to the definition cited in the ASC fails to account for the fact that the rule has been modified since the ASC and that citation was correct at the time of the ASC. Finally, STOP B2H’s assertion that subsequent amendments not citing the amended rule are “invalid” is incorrect and has no basis in law. EFSC amending its definitions after approval of the ASC does not affect the validity of the Council’s prior approval of that ASC or its consideration of future amendments.</p> <p>IPC’s maps clearly show the locations of Project-related roads within the micrositing area, as required by EFSC rules.¹²⁰</p>
STOP B2H (May 30, 2024)	Site Certificate Conditions	<p>Site Condition Recommendation 4: All maps and layers that the applicant has developed will be distributed to the department and the public in electronic form and in file formats that are readable by free publicly available software in order for an application to be deemed complete. These layers will include but not be limited to: stations, towers, communication distribution lines, Access, ROW, routes, site boundary, disturbance, wetlands, geology, protected areas, fish and wildlife habitat, scenic areas, cultural, recreational, noise, soils, zoning, waters and wetlands, fish and wildlife habitat, property owners of record.</p>	<p>STOP B2H’s proposed site certificate condition is unnecessary and excessive. No applicable Council standard requires a certificate holder to make all map layers available to the public. Moreover, Idaho Power’s mapping includes information that is deemed critical energy infrastructure information, which cannot be disclosed publicly.</p> <p>While Idaho Power cannot provide all the information that STOP B2H has sought in this site certificate condition, the Company has published all mapping information that it can on its website, and an interactive map with that information is available at the following link: https://ipc.maps.arcgis.com/apps/webappviewer/index.html?id=a8fe06e348024dfbb74f2c0094dc9f37.</p> <p>Finally, while the Company cannot make all its mapping information for the entire Project publicly available, Idaho Power has demonstrated through its interactions with landowners that the Company is responsive to individual landowner inquiries for more detailed mapping on their property.</p>
STOP B2H (May 30, 2024)	Protected Area Standard (OAR 345-022-0040)	<p>The EFSC rules on Protected Areas were amended in 2022, finally allowing the acknowledgement of protected areas designated after 2007. The new rule is in effect -- and it has been in effect well before the pRFA2 application was deemed “complete” (even before it was received). Regardless, Idaho Power has been aware of this protected area for a long time. Therefore, IPC and the recommended DPO is out of compliance with OAR 345-022-0040-Protected Areas standard. The specific area out of compliance is also called the Glass Hill State Natural Area of Union County.</p> <p>There may be other protected areas of out compliance as well, considering that there are 88 protected areas within the “analysis areas of ASC, RFA1, and RFA2.”³⁴ For example, in “Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved Micrositing Area Additions, Proposed RFA2 Micrositing Area Additions”³⁵ includes legend-type footnotes on p. 156: #3 states: “Potential impacts from approved routes in Final Order on ASC not evaluated for protected area.” (emphasis included). Therefore, once deeper analysis is available, there may be more noncompliance issues that surface and amendments needed.</p>	<p>STOP B2H’s assertion that the DPO fails to assess compliance with the Protected Areas Standard because of potential impacts to the Glass Hill State Natural Area is incorrect. RFA 2 does not propose any additional facilities within the Glass Hill State Natural Area, and the proposed expanded site boundary has not been extended into the Glass Hill State Natural Area. While a segment of the Project’s micrositing area is located within the Glass Hill State Natural Area, this segment was part of the Company’s ASC and was approved in the Final Order. As the Hearing Officer concluded in that contested case, the Protected Areas Standard as applied to Idaho Power’s ASC clearly did not include Glass Hill State Natural Area as a “protected area.” At the time of the contested case concerning the ASC, for protected areas designated under state programs, such as the Natural Areas Program, the Protected Areas Standard applied only to “designations in effect as of May 11, 2007[.]” Glass Hill was not designated as a State Natural Area until 2019, and therefore the Hearing Officer properly concluded that, under the plain language of the rule, Idaho Power was not required to analyze it as a protected area. However, the Company analyzed impacts to the area under other Council standards, such as the Fish and Wildlife Habitat Standard.</p> <p>STOP B2H argues without evidence that there may be additional protected areas that have not been analyzed. STOP B2H has not provided any factual support for this assertion, and it should be given no weight.</p>

¹²⁰ OAR 345-027-0360(1)(b)(C).

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		<p>The Glass Hill Preserve (aka Glass Hill State Natural Area), is being crossed by the B2H line in a very sensitive area on two sides of Winn Meadow, a high mountain wetland with Trifolium douglasii Federal species of Concern that is a candidate for State listing. The rule does not allow a transmission crossing in a protected area unless: an existing transmission line is within 500 feet, which is not the case here; or if there is no viable alternative, which there are.</p> <p>ODOE and EFSC may claim that this issue has already been litigated; but things have changed. First, the rule! The back story on the rule and rulemaking process, when IPC attorneys communicated in an exparte manner, during the parallel contested case process, is complicated. However, it is resolved with the amended rule on protected areas--and IPC knows very well about the area. Fast-forward to present, IPC will say that if RFA2 is not approved, they will revert back to the old route/version (the site certificate). This veers on blackmail and should not be allowed.</p> <p>Second, the Glass Hill Preserve landowners and Whitetail Forest, LLC have presented alternatives specifically for the area. And more recently, in an attempt to prevent serious damages, particularly to the Winn Meadow wetland and its hydrological conditions/features, as well as Federal Species of Concern/State Candidate plant species, they have been in verbal and email communication with Joe Stippel (IPC Project Manager) to find a resolution without impacting neighboring landowners.</p>	<p>Finally, STOP B2H’s assertion that using the previously approved corridor for the Project is akin to blackmail is absurd on its face. The Council has approved the use of a site that includes the micrositing corridor currently located within the Glass Hill State Natural Area. Lawful use of an approved corridor is precisely what a site certificate enables a certificate holder to do.</p> <p>STOP B2H also raises a potential alternative route that landowners have proposed near the Glass Hill State Natural Area. On April 4, 2024, Ms. Geer, sent Idaho Power an email requesting to move the project a substantial distance from the current project alignment. This route modification is outside of the proposed expanded site boundary, has not been studied, and impacts new landowners. Idaho Power is intent on working with landowners to minimize impacts on their own individual properties. Ms. Geer’s proposal is outside the proposed expanded site boundary and it is not clear if it has landowner support for the properties it impacts. At this time, Idaho Power is unwilling to pursue this route alternative. It is important to note that Ms. Geer’s proposal is particularly challenging because it would result in impacts to other landowners. That being said, the Company continues to work with landowners to adjust the exact location of the Project within their property. Approval of the Proposed expanded site boundary will facilitate consideration of future requests.</p>
STOP B2H (May 30, 2024)	Midline Capacitor	Then there is the mid-line capacitor station. IPC encompasses its footprint inside the approved site boundary however there has never been mention of this supporting facility until now and all support facilities should have been identified a long time ago. In RFA 2, a new never before mentioned mid-line capacitor station is taking up 10 acres in Union County. After all these years of study, “what should they have known, and when should they have known it?” ⁶ This is a “boundary creep” strategy by utilities: i.e.: go in with a small foot print then use amendments to expand the footprint and build larger facilities, creating more negative impacts.	<p>Idaho Power strongly disagrees with STOP B2H’s characterization of the timing for the Company’s proposal to add the Midline Capacitor Station. As with any large-scale project, modifications are likely as the Company comes closer to construction, and some features may even require modification after construction has begun if unanticipated resources or site challenges are discovered once on-site. Given the scale and complexity of the Project, modifications are expected as the design approaches finalization.</p> <p>Additionally, STOP B2H incorrectly characterizes Idaho Power’s proposed Midline Capacitor Station as an expansion of the Project footprint. As stated in RFA 2, the proposed Midline Capacitor Station would be located entirely within the previously approved site boundary/micrositing area. Therefore, addition of this substation would not increase the Project boundaries.</p>
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>The bond or letter of credit required under OAR 345-022-0050 (Retirement and Financial Assurance Standard) and OAR 345-025-0006(8) (Mandatory Site Conditions) is not adequate given the increased financial risks of the partners and the company (discussed below under Issue 5). During the first contested case, Council made it clear that they wanted to be able to review the Bond issue from time to time and as may be necessary, given any changing circumstances. This is a good time to review the fiscal stability and risk of the project between the partners.</p> <p>The updated cost estimate to retire the facility, with proposed RFA2 changes, is \$170,276,273 (in Q1 2024 dollars). An increase of approximately \$30 million since the original Site Certificate. The issue of an adequate bond or letter of credit continues to be raised as a significant issue in the B2H project siting because non-compliance with this standard puts the entire State of Oregon, taxpayers and rate payers at risk. This is why it is also one of the Standards whereby the Council cannot apply its balancing determination. Council must comply with OAR 345-027-0375(2)(d) which requires a review of the requirements of OAR 345-022-0050.</p> <p>[Quotation of OAR 345-022-0050 omitted]</p> <p>There are also Mandatory Conditions for all Site certificates. OAR 345-025-0006(8) states that this assurance: bond or letter of credit, must be maintained for the life of the project. While Council may adjust some of the conditions, such as varying amounts for construction vs. operational periods, STOP believes that it is imperative that Council review this issue more frequently than every five years (per current Condition 5). We also urge Council to seek advice of an independent expert on the matter routinely.</p>	As noted by STOP B2H and discussed above in response to Irene Gilbert’s related comments, the conditions related to the Retirement and Financial Assurances were litigated in the contested case on the ASC and were carefully considered by the Council. Idaho Power incorporates by reference the above response to Ms. Gilbert’s arguments and discussion of how bonding was addressed in the contested case on the ASC and RFA 1.

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		<p>Per the two-part series of presentations to Council regarding, bonds, letters of credit, Council rules and practices, templates, and more, by staff,⁴³ Christopher Clark provides background[.]</p> <p>* * * * *</p> <p>He goes further explaining that: “The lack of a clear and effective mechanism to ensure that a certificate holder maintains a bond or letter of credit until the facility has been retired could expose the State to unacceptable risk.” (p. 3 of 4, same memo as above).</p> <p>In the Final Order and original Site Certificate, Council chose to follow Idaho Power’s suggested method/mechanism for meeting the bond requirements (see Conditions 4 and 5). STOP continues to contend that this method is not protective of Oregonians; and ODOE and the Council will claim that this issue has been litigated already. However, clear from the deliberations of Council during the “exceptions hearings,” Council expressed concerns as well. After the very lengthy hearing and discussions, Council decided that they would:</p> <p>“[R]etain the authority to adjust the bond or letter of credit amount up to the full amount at any time under the terms of the site certificate. Further, as directed by Council, the condition requires that the 5-year report be presented to Council and include an evaluation and recommendation, based on review of report results, by the Department and, if appropriate, a third-party consultant. The condition allows the Council to consider whether or not the approach towards the financial assurance instrument remains appropriate and would account for unforeseen shifts in the power grid or the certificate holder’s financial condition.”</p>	
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>The DPO does not make recommendations for change to the financial assurance conditions with the exception of updated amounts/costs necessary to restore the site. The narrative infers that the mid-line capacitor is the only substantial change and laments that the bond issue has been addressed already.</p> <p>Additionally, the department emphasizes that: since “the certificate holder is a regulated utility by the Oregon Public Utility Commission and [...] if necessary, the utility could recover costs from its ratepayers...” This is insulting to eastern Oregon ratepayers and irresponsible from a fiduciary standpoint. There is not a guarantee that the OPUC would grant rate recovery. That comes later in the OPUC processes during prudence review and rate cases.</p>	<p>Contrary to STOP B2H’s assertion, the Department discusses in the DPO impacts to the bond requirement resulting from other proposed changes in RFA 2. The Department finds: “the transmission line routes proposed in RFA2 were selected for construction and operation, this would reduce the overall length of the approved facility by 0.4 miles. Applying the same logic that was approved in the Final Order on RFA1, because the overall length (and facility components) would be reduced, the previously approved cost estimate should still remain adequate.”¹²¹ The Company also provided an updated cost estimate that included the Midline Capacitor Station to provide an accurate cost estimate for the Project as proposed in RFA 2.</p> <p>The language that STOP B2H challenges regarding rate recovery is a quotation from the Council’s Final Order on the ASC, which is outside the scope of RFA 2.</p>

¹²¹ Draft Proposed Order on RFA 2 at 170 (Apr. 16, 2024).

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STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>PacifiCorp (PAC) is the 55% partner in this project. PAC poses increasing risk due to alternative company investments and mounting liability costs from pay-outs and court settlements from wildfires. Regardless of the EFSC orders, siting process, and conditions, the bottom line is that the developers will decide in their “iterative processes” what capital investments and infrastructure projects that they will choose to invest in. Let’s be clear, PAC is the controlling interest here, and Council and staff should not be putting blinders on their eyes.</p> <p>Within the partnership, and the “Joint Funding Agreement,” there is a decision-making entity called, the “Construction Funding Committee” who will have ultimate authority in decision-making for the project. In this group the voting rights align with the % of partners’ investments; hence, PAC is the majority decider at 55%. Idaho Power has had difficulties in the past with partner relations and commitments, PAC in particular has been very slow to commit to the Joint Funding Agreement. It would be prudent for Council to change and update this financial assurance site condition to maintain a closer eye and view on this rapidly changing situation.</p> <p>Recently, PAC’s 10-K filing with the Security and Exchange Commission (SEC), p. 88, states: “PacifiCorp’s litigation risk associated with the Wildfires is inherently uncertain and the ultimate outcomes of the associated claims could materially and adversely affect PacifiCorp’s financial condition and results of operations and its ability to obtain financing, to fund its operations, capital investments and settlements arising from the Wildfires, and to obtain and fund third-party liability insurance coverage.”</p> <p>With regards to wildfire insurance, on page 93 of the SEC filing it warns: “[t]he Registrants are subject to increasing risks from catastrophic wildfires and may be unable to obtain enough third-party liability insurance coverage at a reasonable cost or at all and insurance coverage on existing wildfire claims could be insufficient to cover all losses, all of which could materially affect the Registrants financial results and liquidity.”</p> <p>PAC is not alone when it comes to wildfire risks. In Idaho Power’s IDACORP 10-K Annual report 2023, it states: “Liability from fires could adversely impact IDACORP’s and Idaho Power’s business, financial condition, and results of operations, and Idaho Power’s WMP [wildfire mitigation plans] and other protocols may not prevent such liability.”</p> <p>Idaho Power’s SEC report also addresses the partners’ risks and how they may impose more: “Co-owners of Idaho Power’s generation and transmission assets may have unaligned goals and positions due to the effects of legislation, regulations, capital requirements, load growth amounts, changes in our industry, or other factors, which could at times adversely impact Idaho Power’s ability to construct and operate those facilities in a manner most suitable to Idaho Power.”</p> <p>It also notes that differences in co-owners’ willingness or ability to continue participation or the timing of facility construction, modification, or decommissioning could lead to operational restrictions, financial impacts, and uncertainty regarding cost recovery of such assets. This highlights the complexity of joint ownership, and STOP believes that ODOE/EFSC has been indifferent to the fact that the applicant is not the only risk factor in play.</p>	<p>Ms. Gilbert also provided comments regarding PacifiCorp’s ownership interest in B2H as it relates to the Retirement and Financial Assurances Standard, and Idaho Power incorporates the response to Ms. Gilbert’s comments by reference.</p>
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>All Investor-owned utilities in Oregon, like PAC, are seeking very high-rate increases and Idaho Power is among them as well. The Idaho PUC denied the company’s full rate request increase and reduced the amount; the rate increase case at the OPUC is pending until October.</p> <p>In an April 19, 2024 memo IPC informed the OPUC that the energization date of the B2H had to be pushed back from summer to fall 2026. This is increasing the net present value (NPV) of the B2H compared to other portfolios making it less competitive. The Company stated: “Due to the increased level of uncertainty surrounding several important near-term decisions, the 2023 IRP has been prepared in a manner intended to provide the flexibility and adaptability</p>	<p>PacifiCorp and Idaho Power’s pending general rate case proceedings at the OPUC have no direct relation to RFA 2.</p> <p>Similarly, Idaho Power’s 2023 Integrated Resource Plan is not at issue in RFA 2. Nonetheless, for additional context regarding the timing for the B2H in-service date, OPUC Staff commented that the change in the in-service date did not significantly increase costs, and did not alter the portfolio selection:</p> <p align="center">In a recent letter filed by the Company, Idaho Power informed the Commission that the online date of the Boardman to Hemingway (B2H) transmission line is delayed from July 2026 to November 2026 due to pending approvals from several federal and state government agencies. Staff can confirm that Staff’s Final Comments</p>

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		<p>necessary to inform decisions as more information becomes known before the next planning cycle.”</p> <p>While this may not be of interest to EFSC, it will be important in OPUC decision making in terms of rate recovery (mentioned more below) and seemingly OPUC rate recovery is being relied on as a financial assurance, per comments in meetings and in the DPO.</p>	<p>would not change because of this delay due to the large cost difference between the Preferred Portfolio with B2H in-service in July 2026 and the no B2H portfolio. The relatively low additional cost of the delayed November 2026 in-service date compared to the July 2026 in-service date does not alter the portfolio selection in the IRP process and the portfolio with B2H online in November 2026 becomes the Preferred Portfolio in this document.¹²²</p>
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>Idaho Power presented an updated letter from Wells Fargo which states: “Based upon Idaho Power’s current credit ratings, profile, and information we have as of the date hereof, and subject to acceptable pricing, terms, and requisite internal approvals, and assuming no market disruption, Wells Fargo confirms to you that it would be highly interested in arranging (as administrative agent under the existing credit facility or otherwise), and believes it would be successful at arranging, a syndicated letter of credit in an amount up to \$180 million (the “LC Facility”) for a period not to exceed five years (the tenor of the \$400 million credit facility) for the purpose of ensuring Idaho Power’s obligation that the site of the Boardman-to-Hemingway transmission project be restored to a useful and non-hazardous condition.”</p> <p>This letter may be an improvement from the last letter in 2018, during the original application for site certificate (ASC), in which they said the likelihood for credit would be for \$141 million and only for up to 3 years. Now the letter reads that they believe they would be successful at arranging credit for \$180 million for up to five years. However, five years is still not sufficient for the life of the project per the EFSC standard.</p> <p>Given the risks discussed above, the short-term nature of the Wells Fargo letter, and that the OPUC is not offering financial assurance that IPC so confidently claims, STOP urges the Council to make condition changes to implement one or more of the following: 1) insist on the letter of credit (per the rule) – not a “likelihood” letter from Wells Fargo; 2) insist on a more robust timeframe that complies with OAR 345-022-0050(2) and the Mandatory Condition OAR 345-025-0006(8), i.e.: the duration. The ratepayers, and tax payers deserve this level of protection given the financial risks created from the wildfire litigations and the changing energy landscape (technologies and investments) of the NW grid and partner investments.</p>	<p>While not totally clear, it appears that STOP B2H is suggesting that Idaho Power obtain a letter of credit now as proof that it can obtain a letter of credit. Idaho Power estimates that it would cost about \$750,000 per year to maintain a letter of credit in the full amount of \$170,276,273, and maintains that it is not necessary to maintain a letter of credit in any amount until the Company begins construction. Idaho Power presented the Wells Fargo letter as evidence that it can obtain a letter of credit to satisfy its obligation under the Retirement and Financial Assurances conditions, which is similar to evidence that the Council previously accepted in the contested case on the ASC.</p>
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>Site Condition Recommendation 5:</p> <p>1) In lieu of a bond, a formal letter of credit must be obtained by Idaho Power by an EFSC approved financial institution(s) and approved by Council before construction begins and maintained throughout the life of the project (per Mandatory Condition). Alternatively, if the “1/16th” method of paying the bond over four-year construction period (Condition 4) is retained by EFSC because Council is authorized to vary the amounts between construction and operation, STOP recommends that the full amount attained by year-four remain in place for the life of the project to ensure compliance.</p> <p>2) OPR-RT-01 (Condition 5) d. should be changed to more frequent intervals, no more than every 2-3 years. This will assist the Council in maintaining their fiduciary responsibilities and due diligence.</p> <p>3) Documentation of proper insurance should be included in the required report to the Council, as a bond is not the only assurance instrument available.</p> <p>The recommendations above, if adopted, would need to be edited/incorporated into the already lengthy Site Conditions 4 and/or 5.</p>	<p>As detailed above, the only changes in the RFA 2 related to the letter of credit involve the amount, and no other changes are proposed to the conditions. In the contested case on the ASC, the Council already grappled with the Retirement and Financial Assurances conditions, and created a framework that recognizes the very low probability that a transmission line will be retired in the next 100 years and keeps costs low by not requiring the Company to maintain a letter of credit for the full amount of site restoration over that time. Importantly, however, in response to concerns raised by STOP B2H and Ms. Gilbert, the Council recognized the possibility that circumstances could change in the future and built in a periodic review process and made clear that it has the authority to demand a letter of credit in the full amount at any time. The details concerning this condition are provided above in response to Ms. Gilbert’s related comments. Because the Council has already struck the appropriate balance, Idaho Power urges the Council to reject STOP B2H’s proposed conditions as unnecessary.</p>
STOP B2H (May 30, 2024)	Noise	<p>Issue 6: Site Conditions Recommendation for Noise Control. Conditions NC-01, NC-02, and NC-03 do not mitigate adequately for protection of public health, safety and welfare of Oregonians, and therefore are noncompliant with ORS 467.010, OAR 340-035-0005</p>	<p>Exception/Variance to DEQ Noise Rules STOP B2H’s comments are not specific to RFA 2. Instead, STOP B2H raises a generalized issue regarding the exception and variance to DEQ’s Noise Rules granted by EFSC in the Final Order on ASC, which remain unchanged in</p>

¹²² OPUC Docket LC 84, Staff’s Final Comments (Apr. 25, 2024).

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		<p>(policy), OAR 345-035-0015 (definitions) and OAR 345-035-0035 (measurements), and ORS 469.507 and ORS 469.507(2) and (mitigation monitoring).</p> <p>NSR’s or Noise Sensitive Receptors, need special (and customized) mitigation and consideration given the fact they will experience unwelcomed noise pollution intrusions into their lives, forever. Therefore, to be the most protective of their health, safety and welfare, mitigation plans need to work—and be monitored for compliance.</p> <p>Idaho Power could not meet Oregon’s noise control standards for the project; and EFSC granted them a blanket exception and variance to the rules in the Final Order (see NC-04 and NC-05). Elaborate mitigation and complaint processes were created but they fall short in two major ways: 1) they lack of an accurate starting point (baseline) from which to create the mitigation plan; and 2) IPC once again obfuscates the complaint process (length and complexity) and inserts unrealistic conditions (NSR burdened with costs and strapped with the burden of proving exceedances). These conditions are not practical or fair, and the complaint process conclude without any resolution steps or appeal steps.</p>	<p>RFA 2. In particular, STOP B2H seems to argue that the exception and variance are not supported by accurate monitoring baselines and data. This same argument was dismissed by the Oregon Supreme Court:</p> <p>[W]e conclude that there was substantial evidence supporting the grant of an exception. EFSC explained in its final order its reason for granting an exception for unusual or infrequent events:</p> <p>‘* * * Council finds that exceedances along the transmission line would be an infrequent event because exceedances are expected to occur less than two percent of the total hours in a given year (because they are projected to occur during foul weather, and foul weather events are infrequent in the project area, and other circumstances need to occur simultaneously to result in an exceedance, i.e., low ambient noise environment and transmission line operating at full capacity). Therefore, under OAR 340-035-0035(6)(a)[,] Council grants an exception to the facility, subject to the noise control conditions described in this Order.’</p> <p>That conclusion was based on weather data evaluated by a meteorologist and detailed sound measurement studies summarized in the final order. That evidence constitutes substantial evidence supporting EFSC’s conclusion that noise exceedances would be ‘unusual or infrequent,’ thereby justifying an exception under OAR 340-035-0035(6)(a).</p> <p>Second, we also conclude that there was substantial evidence to support granting a variance. Idaho Power had requested a variance from the ‘ambient antidegradation standard’ in OAR 340-035-0100. Based on the noise analysis studies and weather data summarized in the final order, EFSC granted a variance to the ambient antidegradation standard for the transmission line ‘at any time of day or night during foul weather events (defined as a rain rate of 0.8 to 5 millimeters per hour).’ EFSC’s final order first explains that ‘ambient antidegradation standard exceedance[s] are predicted during foul weather conditions’ and Idaho Power ‘cannot be accountable for weather conditions that may cause audible corona noise, as the weather is a condition beyond its control.’ EFSC also found that ‘strict compliance with the ambient antidegradation standard in DEQ rule is inappropriate, unreasonable, or impractical because of special physical conditions and special circumstances contributed to the applicant’s proposed transmission line location relating to NSRs [noise-sensitive receptors] that may experience noise exceedances.’ Finally, EFSC found that strict compliance with the rule ‘would result in substantial curtailment or closing down (never building) the proposed transmission line and that * * * there is not another alternative facility available.’</p> <p>Stop B2H disagrees with EFSC’s findings and conclusions, but it has not demonstrated that the findings are unsupported by substantial evidence given the studies and analyses summarized in the final order, and it has not persuaded us that EFSC’s conclusions are legally erroneous in any respect.¹²³</p> <p>STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and the Oregon Supreme Court and thoroughly litigated. Additionally, STOP B2H’s comments are not specific to RFA 2. For these reasons, the Council should not revise its conclusions in this case.</p> <p><u>Baseline Monitoring</u></p> <p>The issue that STOP B2H raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.¹²⁴ For these reasons, the Council should not revise its conclusions in this case.</p> <p><u>Noise Control Conditions (Mitigation Plan and Noise Complaint Process)</u></p> <p>STOP B2H also appears to challenge the noise control conditions in the Site Certificate that the Council approved in its Final Order on the ASC. These noise conditions were fully litigated in the contested case on the ASC and Idaho Power has not proposed any substantive modifications to those conditions in RFA 2 that would alter the process for</p>

¹²³ STOP B2H Coalition v. Or. Dep’t of Energy (In re Site Certificate), 370 Or 792, 808-09 (2023).

¹²⁴ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
STOP B2H – Noise (May 30, 2024)	Noise	<p>Baselines, monitoring representation, modeling, and mitigation plans.</p> <p>It is important to state that ALL NSRs on the B2H line need an accurate assigned baseline dBA, before negotiations begin, as well as ongoing monitoring as the project ages. Changes to the site certificate conditions have increased the number of predicted NSRs along the route—particularly in Malheur County where there are noise sensitive clusters. There needs to be a monitoring to establish baseline for these new NSRs. While ODOE will say this has been litigated, STOP contends that the requirements regarding noise sensitive properties do not fully comply with ORS 467.030, ORS 467.030, OAR 340-035 and the Oregon Sound Measurement Procedures Manual NPC-1 which all continue to be in force as state law.</p> <p>EFSC has historically evaluated noise by following the requirements of the above statutes and rules, however, they have used different methods, interpretations, and procedures to evaluate noise in the Site Certificate for the Boardman to Hemingway Transmission line. These were litigated in the contested case, however, basic requirements such as accurate baselines, good faith negotiations, and effective monitoring remain as components of compliance. It should not be the burden of land owners to prove what the dBA is at their residence or to have to demand site-specific monitoring and mitigations. IPC has the burden of proving what they’re saying with preponderance of evidence that the B2H line will not harm the NSR residents. It is imperative that all NSR’s are informed, protected, treated and negotiated with in good faith, and future mitigation followed. Once the actual baselines are known, the negotiations can begin with the NSRs. To NOT do so before hand, disadvantages the NSR because the extent or degree of impact is not really confirmed. For example, if windows were a mitigation measure that the NSR was agreeable too, not knowing the real extent of the predicted exceedance hampers the ability to negotiate for the proper type of window sound ratings.</p> <p>The Monitoring Posts (MP’s) used for the IPC noise studies may not be representative of various properties assigned to a particular MP due to terrain and other micro-siting adjustments that are occurring now with landowners. Although representative modeling was allowed/upheld in the contested case, when the rubber meets the road: all NSRs with predicted exceedances (unless requested otherwise) should get the “site-specific monitoring” to determine their true baseline; and the baseline monitoring needs to be paid by the developer using an Acoustical Engineer agreeable to all parties.</p>	<p>establishing a Noise Exceedance Mitigation Plan at a property or the noise complaint process. For these reasons, the Council should not revise its conclusions in this case.</p> <p>As STOP B2H acknowledges, the issue that STOP B2H raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. While STOP B2H is now shifting its focus from Union County to Malheur County, corona noise within the proposed RFA 2 micro-siting area additions was evaluated through the same modeling, use of ambient monitoring data from locations identified as reasonably representative for conditions at the specific NSR location, and under foul weather conditions to establish conservative baselines as in the ASC. That is, Idaho Power used the same methodologies for identifying NSRs, monitoring ambient noise conditions and correlating monitored ambient noise data to NSR location, based on environmental conditions, that were previously reviewed and approved by the Council.¹²⁵ In the Final Order on the ASC, the Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable and appropriate.¹²⁶</p> <p>In addition, the Council has already rejected STOP B2H’s argument that Idaho Power’s use of monitoring positions (“MP”) to establish baselines is not representative. With respect to Idaho Power’s use of MPs, the Council found that: “the applicant’s multi-step methodology is a reasonable and appropriate approach to evaluating the facility’s compliance with the Noise Control rules, and specific to using representative Monitoring Positions (MP), the methodology is reasonable because where there were multiple monitoring positions in proximity to NSRs, the applicant selected the MPs with the lower ambient sound level and that were generally located further from existing ambient sound sources than the NSRs to provide more conservative representative ambient sound levels.”¹²⁷</p> <p>As Idaho Power explained in RFA 2, because the micro-siting area additions in RFA 2 are minor, the previous determined representative MPs for the NSRs associated with the proposed alternatives do not need to be altered.¹²⁸ Based on Idaho Power’s review of acoustic environments of MPs compared to the respective NSR groups the acoustic environment of the MP represent locations with similar noise sources but located at greater distances than NSRs to noise sources and therefore a more conservative and acceptable ambient noise level for use in the evaluation of compliance with the DEQ Noise Rules.¹²⁹</p> <p>STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated. For these reasons, the Council should not revise its conclusions in this case.</p>
STOP B2H (May 30, 2024)	Noise	<p>The complaint process is flawed and essentially amounts to a reporting and filing process. (See Attachment 3) How, practically-speaking, can an impacted NSR measure the exceedance and provide their own data? They do not have the expensive and highly-calibrated acoustical monitoring devices, and those commercially available for rent do not measure lower than 30 dBA. Reporting the time, date, weather patterns, for the complaint doesn’t necessarily confirm anything. Although it could inform rainfall amounts on those days which in turn could predict if the exception NC-04 and variance NC-05 could be applied? Still, once there is a complaint, IPC needs to take action to monitor/measure and work with the NSR owner for resolutions or changes to the noise mitigation plan/easement. The steps in the complaint process, as proposed, are complex, bureaucratic, and delay the company’s response, putting most of the burden on the property owner once again, which is NOT what we believe EFSC wanted nor complaint</p>	<p>STOP B2H does not challenge any new or different proposal included in RFA 2, and instead STOP B2H’s arguments regarding the complaint process are the same arguments raised, litigated, and thoroughly considered by the Council in the contested case on the ASC. As discussed above, Idaho Power does not propose any substantive changes to Noise Control Condition 2 (GEN-NC-02) in RFA 2.</p> <p>Under the complaint process, the complainant must describe the nature of the complaint, and include certain information: the weather conditions of the date for which the complaint is based (such as wind speed, temperature, relative humidity, and precipitation), duration of perceived noise issue, the complainant’s contact information, and the location of the affected property.¹³⁰ This information is necessary for assessing the conditions related to the perceived noise issue and whether an exceedance may have occurred, and is generally available online from sources such as the National Weather Service.</p>

¹²⁵ Draft Proposed Order on Request for Amendment 2 at 258, 258 n. 295 (Apr. 16, 2024).

¹²⁶ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

¹²⁷ Final Order on ASC at 669 of 10586 (Sept. 27, 2022).

¹²⁸ RFA 2 at 122 (Apr. 11, 2024) (“The Proposed Micrositing Area Additions are minor and do not alter the previous determined representative monitoring points for the NSRs associated with the proposed alternatives.”).

¹²⁹ RFA 2 at 122 (Apr. 11, 2024).

¹³⁰ Final Order on ASC at 786 of 10586 (Sept. 27, 2022).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		with the intent of the State of Oregon’s “legislative policy” on noise pollution and control, as it not providing protection ...	<p>If the complainant voluntarily provides alternative noise data and the data suggests an exceedance that had not previously been identified and mitigated, and/or an exceedance not otherwise allowed under Noise Control Condition 4 or Noise Control Condition 5, the complaint shall be verified through site specific sound monitoring conducted by an Oregon registered Professional Engineer, Board Certified by the Institute of Noise Control Engineering noise specialist, employed or contracted by Idaho Power, in accordance with NPC-1 unless otherwise approved by the Department. If site specific sound monitoring is not authorized by the complainant, the certificate holder’s modeling results may be relied upon to determine compliance.¹³¹ A complainant does not have to use expensive equipment to voluntarily provide data or show that an exceedance may have occurred.¹³²</p> <p>STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated. For these reasons, the Council should not revise its conclusions in this case.</p>
STOP B2H (May 30, 2024)	Noise	<p>EFSC rules also require ongoing mitigation monitoring to assure that there is compliance with the noise control standards--including the 20 dBA limit on increases in the current ambient noise levels. As ODOE explains in the DPO and cited in the Final Order, the line will sag over time, conductors and other protective surface coatings will age and the potential of increased corona noise will occur over time as the project ages. But at this time, there are no sound mitigation technologies that are effective:</p> <p>“The Council previously found that typical noise abatement technologies, such as insulators, silencers, and shields, are not reasonable technologies for transmission lines due to length; and safety and operational limitations. Council imposed Noise Control 1 Condition 3 (CON-NC-01) requiring that the transmission line be designed in a manner that would reduce the potential for corona noise, including a requirement that the design include a triple bundled configuration with sufficient subconductor spacing (results in reduction in audible corona noise and radio interference).”</p> <p>“Noise Control Condition 3 requires the certificate holder to construct the proposed transmission line using materials to reduce corona noise such as the use of a triple bundled conductor configuration for 500 kV transmission lines, maintain tension on all insulator assemblies to ensure positive contact between insulators, maintain tension on all insulator assemblies to ensure positive contact between insulators, and to protect conductor surface to minimize scratching or nicking.”</p> <p>Therefore, given the life of the project—into perpetuity or 100-year estimate, the NC-03 condition will need assurance that this mitigation measure (site condition NC-03) is and continues to be in compliance.</p> <p>Hence, a mitigation monitoring plan must be included in the protective site conditions, which it is not, in order to comply with ORS 469.507 (requires ongoing monitoring).</p>	<p>STOP B2H does not challenge any new or different proposal included in RFA 2, and instead STOP B2H’s argument that ongoing noise monitoring is required was fully considered by EFSC in the contested case on the ASC for the Project and found to be unpersuasive.¹³³ STOP B2H now challenges the noise control conditions that the Council approved in the Final Order on the ASC. As discussed above, Idaho Power does not propose any substantive changes to Noise Control Condition 1 (GEN-NC-01) or Noise Control Condition 2 (GEN-NC-02) in RFA 2. Because the Council has already determined that ongoing monitoring is not required and a fulsome complaint process affords appropriate protections to landowners, the Council should not revise its conclusions in this case.</p>

¹³¹ Final Order on ASC at 787 of 10586 (Sept. 27, 2022).

¹³² EFSC Meeting Day 3 Transcript at 652 (Aug. 31, 2022) (“I think there is a phone app -- actually, I think I've used it -- that measures decibels. And then if that’s enough, if that is what Idaho Power would accept, then hopefully the people impacted would know that that a measure -- you know, I think if the public reads monitoring or whatever, they might think, Oh, my gosh, I have to, you know, buy monitoring equipment, whatever. I just think the public should be made aware this is what we'll accept. So because we’re -- or, at least, I’m thinking given this conversation that that’s acceptable. You know, a phone app or some – something less than.”) (Councilmember Condon); *see also* EFSC Meeting Day 3 Transcript at 653 (Aug. 31, 2022) (“That was the idea that our modeling that we did to our mind -- not that this is legal -- legally the case, but kind of created this rebuttable presumption that there wasn't no exceedance at this NSR. But if the person at the NSR is able to show in any way, like, no, we really think that the ambient anti-degradation standard has been exceeded by more than 10 dBA, whether it's a cell phone monitoring, then it would be incumbent upon Idaho Power to present its own monitoring data.”) (Lisa Rackner on behalf of Idaho Power).

¹³³ Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (“In the PCCO, Hearing Officer found the proposed mitigation and recommended Noise Control Conditions (as amended herein) adequately protect the public health, safety, and welfare. PCCO, pg. 140. Stop B2H timely filed exceptions on this issue. After hearing argument, the Council agreed with the with the findings of facts, conclusions of law and conditions of approval in the PCCO, with the modification that Noise Control Condition 2 be amended.”); Final Order on ASC, Attachment 6 at 8884 of 10586 (Sept. 27, 2022) (“The Department and Idaho Power contend that these proposed revisions/additions are unnecessary, and the ALJ agrees. Recommended Noise Control Condition 3 already requires Idaho Power to use a triple bundled conductor configuration and to protect the conductor surface to minimize scratching or nicking. Other recommended site certificate conditions (e.g., Recommended Organizational Expertise Condition 1, addressing the Transmission Maintenance Inspection Plan) already require Idaho Power to inspect, monitor, and maintain the facility. Therefore, it is not necessary to add this requirement to Noise Control Condition 3. Furthermore, given the recommended revisions to Noise Control Condition 1 (noise mitigation plans) and Noise Control Condition 2 (noise complaint response plan) discussed above, and considering that exceedances of the antidegradation standard are predicted to occur only infrequently, the ALJ finds it unnecessary to require Idaho Power to monitor for corona noise at key NSRs on a periodic basis for the life of the project. For these reasons, the ALJ declines to adopt STOP B2H’s proposed revisions to Noise Control Condition 3.”).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
STOP B2H (May 30, 2024)	Noise	There are many residences where the projected noise level increases will be 15 dBA or greater. In all these instances, there is a significant likelihood that the assigned noise levels may not be accurate and noise levels could increase by more than the 20 dBA exception allowed. The burden of proving that there are not exceedances lies with the developer, not the property owner. This responsibility is even greater due to the fact that many areas were assigned background measurements. To date there has not been any confirmation of the background ambient sound measurement at the individual NSRs with the exception of the 17 actual MPs used in the study	<p>STOP B2H states there are “many” exceedances where projected noise level increases will be 15 dBA or greater. This is not accurate. Depending on the final selected route, there are at maximum 10 NSRs where corona noise levels are modeled to increase by 15 dBA or greater over ambient (with the greatest increase being 18 dBA).¹³⁴</p> <p>To the extent STOP B2H is again arguing that Idaho Power’s use of MPs to establish baselines is not representative, the Council has already rejected STOP B2H’s argument after thorough consideration. With respect to Idaho Power’s use of MPs, the Council found that: “the applicant’s multi-step methodology is a reasonable and appropriate approach to evaluating the facility’s compliance with the Noise Control rules, and specific to using representative Monitoring Positions (MP), the methodology is reasonable because where there were multiple monitoring positions in proximity to NSRs, the applicant selected the MPs with the lower ambient sound level and that were generally located further from existing ambient sound sources than the NSRs to provide more conservative representative ambient sound levels.”¹³⁵</p> <p>As Idaho Power explained in RFA 2, because the micrositing area additions in RFA 2 are minor, the previous determined representative MPs for the NSRs associated with the proposed alternatives do not need to be altered.¹³⁶ Based on Idaho Power’s review of acoustic environments of MPs compared to the respective NSR groups, the acoustic environment of the MPs represents locations with similar noise sources but are located at greater distances than NSRs to noise sources and therefore represents a more conservative and acceptable ambient noise level for use in the evaluation of compliance with the DEQ Noise Rules.¹³⁷</p> <p>Furthermore, STOP B2H misstates the record. The final acoustic noise analysis relied on 21 MPs, not 17 MPs.¹³⁸ Moreover, it is inaccurate to imply that there has not been any objective review or supplemental analysis of the ambient baselines at the MPs.¹³⁹ The Department relied upon its third-party consultant, Golder Associates, to review the noise monitoring protocol. Based on review, Golder Associates confirmed that the sound measurement procedures and baseline noise measurements were technically accurate.¹⁴⁰</p> <p>Finally, in addition to the fact that Idaho Power selected MPs with lower ambient background levels as a conservative measure, the Company’s noise monitoring methodology included additional conservative assumptions.</p> <p>First, the ODEQ Noise Rules require that sound monitoring be analyzed using either the L10 or the L50 metric. Idaho Power decided to use the L50 metric to calculate noise levels as it was the more conservative approach.¹⁴¹ The L50 is a statistical metric that represents the sound level that is exceeded for 30 minutes of every hour (i.e., 10 median sound level). The L50 is therefore unaffected by intermittent “pass-by” sounds that do not occur for more than 30 minutes in the hour, be it a train, truck, or jet aircraft. In other words, intermittent sounds that persist for fewer than 30 minutes of each hour (such as the sound of a passing train or sporadic vehicles) do not result in a higher baseline L50 sound level. Accordingly, such intermittent sounds were effectively screened out.</p>

¹³⁴ DPO on RFA2 at 260-62 (Apr. 16, 2024) (showing total of six NSRs with increase of 15 dBA or greater: NSR 96, NSR 98, NSR 101, NSR 102, NSR 105, and NSR 662); Final Order on RFA1 at 243 (Sept. 22, 2023) (showing zero NSRs with increase of 15 dBA or greater); Final Order on ASC, Attachment X-4 at 10537-42 of 10586 (Sept. 27, 2022) (showing total of eight NSRs with increase of 15 dBA or greater: NSR 5010, NSR 98, NSR 101, NSR 102, NSR 105, NSR 5011, NSR 133, and NSR 115). In addition to the eight NSRs identified in the Final Order on ASC as having an increase of 15 dBA or greater, RFA2 also identified NSR 96 and NSR 662 as having an increase of 15 dBA or greater. Accordingly, the maximum number of NSRs with an increase of 15 dBA or greater is 10 NSRs. However, the number of NSRs with an increase of 15 dBA or greater is likely lower based on alternative route selection. For example, while NSR 5010 was identified with an increase of 17 dBA in the Final Order on ASC, that modeled increase in corona noise levels decreased to 13 dBA in RFA1.

¹³⁵ Final Order on ASC at 669 of 10586 (Sept. 27, 2022).

¹³⁶ RFA 2 at 122 (Apr. 11, 2024) (“The Proposed Micrositing Area Additions are minor and do not alter the previous determined representative monitoring points for the NSRs associated with the proposed alternatives.”).

¹³⁷ RFA 2 at 122 (Apr. 11, 2024).

¹³⁸ Final Order on ASC at 670, 72-77 of 10586 (Sept. 27, 2022) (Table NC-3: Department Evaluation of Acoustic Noise Environments of Ambient Noise Monitoring Positions and NSR Groups).

¹³⁹ During the contested case, Idaho Power provided supplemental monitoring at MP 100, MP 101, MP 102 and MP 103, to represent NSRs nearer to Morgan Lake and, for MP 103, in the La Grande valley closer to I-84. Idaho Power applied the same methodologies used in its initial monitoring, and established the baseline noise levels based on the quiet late-night period of midnight to 5:00 a.m. with calm winds. In this supplemental monitoring, the mean L50 was 31 dBA at MP 100; 36 dBA at MP 101; 32 dBA at MP 102; and 43 dBA at MP 103. The one decibel difference between MP 100 and MP 11 (31 dBA vs 32 dBA) is so subtle that it is not perceivable by the human ear. Consequently, the Council found that the sound levels measured at MP 100 did not invalidate Idaho Power’s initial selection of MP 11 as representative of the area, nor did the supplemental monitoring results impact or alter the Council’s evaluation of the facility’s compliance with the DEQ Noise Rules. Final Order on ASC at 672 n.740 of 10586 (Sept. 27, 2022).

¹⁴⁰ Final Order on ASC at 680 of 10586 (Sept. 27, 2022); *see also* Final Order on ASC at 8391-93 of 10586 (Sept. 27, 2022) (Golder Associates Memorandum (Dec. 19, 2017)).

¹⁴¹ The L10 metric represents the sound level that is equaled or exceeded 10 percent of the time (thereby screening out the louder sounds that are present for fewer than six minutes) whereas the L50 measurement represents the sound level equaled or exceeded 50 percent of the time (thereby screening out louder sounds that are present for fewer than 30 minutes). As such, the L50 is the more conservative measure as it is likely to result in a lower ambient average sound level, thereby increasing the possibility of an exceedance. ¹⁴¹ For example, an L₁₀ of 32 dBA would indicate that, in any hour of the day, sounds equaling or exceeding 32 dBA only occur ten percent of the time. An L₅₀ of 32 dBA, on the other hand, would indicate that sound levels are below 32 dBA for fifty percent of the hour and equal or above 32 dBA for fifty percent of the hour.

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			<p>Second, the volume of corona sound levels increases in relation to the amount of current on a transmission line, with higher levels of current producing higher levels of corona. Idaho Power estimated the level of corona sound modeling that would be produced by B2H by incorporating an assumption that B2H is operating the voltage of the 500-kV circuits at the maximum operational voltage of 550 kV. In fact, however, during typical operations, B2H will be operated at a substantially lower voltage, and is expected to be operated at 550-kV only 0.01 percent of the time.¹⁴² Therefore, exceedances are likely to be less frequent and lower than estimated.</p> <p>Third, actual exceedances are estimated to occur only during periods where ambient sound levels are lowest, which typically occur during the late-night hours.¹⁴³ Because Idaho Power’s model assumes that an exceedance occurs during any foul weather event—whether it occurs during day or night—the Company’s analysis necessarily produces more exceedances than will actually occur.¹⁴⁴</p> <p>Fourth, in calculating exceedances, Idaho Power’s model assumes a late-night ambient sound level, which, as noted above, is assumed to be the quietest time of the day. However, during those foul weather events that include moderate or heavy rain, the sound of droplets hitting foliage will increase the actual ambient sound levels present, thus masking any corona noise and decreasing the chance of an exceedance. This masking phenomenon represents yet another reason why Idaho Power’s analysis overstates the occurrence of exceedances.¹⁴⁵</p> <p>Fifth, in estimating ambient sound levels, Idaho Power removed from the calculation any hour in which wind was greater than 10 mph, which is closely correlated to higher ambient sound levels.¹⁴⁶ The Company also removed other atypical sources of sound, such as sound produced by field crews setting up or calibrating the equipment and sound produced by rain, which can also increase ambient sound levels.¹⁴⁷</p> <p>Sixth, Idaho Power’s noise study modeled the level of corona sound that would be perceptible <i>outside</i>. It can be fairly assumed, however, that in most cases, persons present at NSRs during times of foul weather will be inside homes or dwellings with the windows closed, thus further attenuating the effect of any sound on persons inside. Structures such as residential buildings typically provide significant sound attenuation. According to the Federal Highway Administration, structures attenuate sound by approximately 10 dBA with windows open and by 20 dBA and greater with windows closed, dependent on structure quality and window type.¹⁴⁸</p> <p>For the reasons discussed above, the ambient sound level assumed for Idaho Power’s modeling is likely lower than actual conditions, which will result in modeling more and higher exceedances than will actually occur and be experienced by landowners.</p> <p>The Council previously considered these conservative assumptions in finding the Company’s modeling and analysis to be adequate. STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated. For these reasons, the Council should not revise its conclusions in this case.</p>
STOP B2H (May 30, 2024)	Noise	To be edited under NC-01: <i>All new NSRs (per RFA2) and any existing NSR designees, upon request, will be offered site-specific noise monitoring for a two-week period, paid by the developer, to determine the</i>	STOP B2H’s proposed site condition edits are not specific to the DPO for RFA 2. STOP B2H’s proposed edits to Noise Control Condition 1 (GEN-NC-01) are unnecessary in light of the Council’s finding that Idaho Power’s use of MPs to establish baselines is reasonably representative and appropriate. ¹⁴⁹ The same methodology was used in assessing the

¹⁴² Final Order on ASC at 682 of 10586 (Sept. 27, 2022) (“The applicant modeled sound levels from the proposed transmission line using the maximum voltage levels of 550 kV, representing the maximum operational corona noise. However, the applicant explains that it expects the proposed transmission line would operate at the normal operating voltage of 525 kV approximately 50 percent of the time, with the voltage reaching 550 kV only approximately 0.01 percent of the time and that operating conditions at 525 kV would yield approximately 2 dBA less noise than 550 kV, which was used in the noise modeling.”).

¹⁴³ Final Order on ASC at 681 of 10586 (Sept. 27, 2022) (“The representative existing L50 sound levels were calculated by taking the average of the measured L50 sound levels for the late nighttime period (12:00 a.m. to 5:00 a.m.). This late nighttime period demonstrates the quietest time period and is conservatively assumed to be present at all times of the day.”).

¹⁴⁴ Final Order on ASC at 681 of 10586 (Sept. 27, 2022) (“Sound source characteristics for noise modeling of the transmission line during foul weather conditions were determined. The highest audible noise levels occur in conditions of foul weather, therefore, to the applicant compared the maximum corona sound level expected during meteorological conditions conducive to corona generation background and sound levels must be presented as a function of meteorological conditions.”).

¹⁴⁵ Final Order on ASC, Attachment 6 at 8744 of 10586 (Sept. 27, 2022).

¹⁴⁶ Final Order on ASC at 681-82 of 10586 (“Atypical sources of extraneous sound, such as sound produced by field crews setting up or calibrating the equipment and periods when the wind speed exceeded 10 miles per hour (mph), were removed from the dataset.”); *see also* Final Order on ASC, Attachment 6 at 8744 of 10586 (Sept. 27, 2022).

¹⁴⁷ Final Order on ASC at 681-82 of 10586 (Sept. 27, 2022).

¹⁴⁸ Final Order on ASC at 690 of 10586 (Sept. 27, 2022); *see also* Idaho Power’s ASC, Exhibit X at 32 of 371 (Sept. 28, 2018).

¹⁴⁹ Final Order on ASC at 669 of 10586 (Sept. 27, 2022).

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STOP B2H (May 30, 2024)	Noise	<p><i>accurate--not representative--ambient noise background level for that NSR. The updated and accurate (site-specific) baseline data will be used for negotiations on the individualized noise mitigation plans.</i></p> <p>To be edited under NC-02: <i>a) If subsequent noise monitoring (following a complaint investigation) would inform or resolve a noise complaint, then the developer will retain and pay for the mutually agreed upon acoustical engineer to conduct on-site monitoring to inform the complaint resolution. This needs to be in place of the two parties coming up with their own sound measurement data, currently in the complaint process.</i> <i>b) A conclusion to the complaint process will be added that mentions an appeal process or guidance: e.g.: referred to the Council (not department), or an alternative court resolution process, or if still no agreement found, a court remedy may be needed for final appeal and resolution.</i></p>	<p>NSRs in RFA 2 and the ASC, and STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated regarding this topic. For these reasons, the Council should not adopt STOP B2H’s proposed changes to GEN-NC-01.</p> <p>STOP B2H’s proposed site condition edits are not specific to the Draft Proposed Order for RFA 2. STOP B2H’s proposed edits to Noise Control Condition 2 (GEN-NC-02) are unnecessary and were already thoroughly litigated and considered in the contested case on the ASC.¹⁵⁰ As an initial matter, STOP B2H’s first recommendation that Idaho Power retain a mutually agreed upon acoustical engineer to conduct on-site monitoring to inform the complaint resolution based on nothing but the complainant’s request is unreasonable, overly burdensome, and would not require any initial objective indication that there was a possible noise exceedance at the complainant’s property justifying the in-depth monitoring by the Company. As stated above, subpart (e)(iv) of GEN-NC-02 already provides that if the complainant voluntarily provides alternative noise data and the data suggests an exceedance that had not previously been identified and mitigated, and/or an exceedance not otherwise allowed under Noise Control Condition 4 or Noise Control Condition 5, the complaint must be verified through site specific sound monitoring conducted by an Oregon registered Professional Engineer, Board Certified by the Institute of Noise Control Engineering noise specialist, employed or contracted by Idaho Power, in accordance with NPCS-1 unless otherwise approved by the Department.¹⁵¹</p> <p>STOP B2H’s second recommended change regarding an appeal process or alternative resolution process if no agreement is found is also unnecessary as GEN-NC-02 already provides guidance when there is a dispute. First, subpart (e)(v) of GEN-NC-02 already provides that in the event of a dispute regarding complainant’s noise data and the certificate holder’s data from site specific sound monitoring, Idaho Power must request that EFSC, in consultation with the Department’s noise consultant, if necessary, make the final determination regarding which data will be used to determine whether corona noise exceeds the ambient antidegradation standard and/or in a manner not allowed under Noise Control Condition 4 or Noise Control Condition 5. The EFSC Chair may direct the Department to make this determination.¹⁵²</p> <p>In addition, under subpart (f)(iii) of GEN-NC-02, if an agreement between certificate holder and NSR property owner is not obtained after the complaint process, Idaho Power must concurrently notify the Department and NSR property owner of the dispute and of Council review of the dispute to occur at the next regularly scheduled Council meeting, to the extent possible, from the date of the certificate holder’s notice. The notice shall explain that the NSR property owner will be given an opportunity to provide comments to the Council on the dispute, unless the Council defers the dispute review to the Department. Review of the dispute will be based on the information per subpart (f)(iv) and any other relevant facts provided by the NSR property owner and will result in a determination of the appropriate mitigation measure(s), proportional to the facility operational noise levels in excess of the ambient degradation standard, as determined to occur at the NSR property. Importantly, GEN-NC-02 clarifies that the Council or Department’s determination of appropriate mitigation is not binding on the NSR property owner or certificate holder if NSR property owner opts not to accept the mitigation.</p>
STOP B2H (May 30, 2024)	Noise	<p>To be edited under NC-03: <i>A deliberate mitigation monitoring plan must be added to the Noise Control conditions. This was partially litigated previously during the contested case, but not in the context of compliance with ORS 469.507. It was mentioned by STOP as a good type of “best practice” considering that new masking technologies may come into existence over the life of the project (50-100 years). However, upon reflection, in the absence of a mitigation monitoring condition, there is NOT compliance with the Oregon statute and this condition needs to remedy the situation.</i></p>	<p>STOP B2H’s comment is not specific to the DPO for RFA 2, but rather raises an issue that was already thoroughly litigated and considered in the contested case on ASC. STOP B2H mischaracterizes the issue as being “partially”</p>

¹⁵⁰ Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (“In the PCCO, Hearing Officer found the proposed mitigation and recommended Noise Control Conditions (as amended herein) adequately protect the public health, safety, and welfare. PCCO, pg. 140. Stop B2H timely filed exceptions on this issue. After hearing argument, the Council agreed with the with the findings of facts, conclusions of law and conditions of approval in the PCCO, with the modification that Noise Control Condition 2 be amended.”).

¹⁵¹ Final Order on ASC at 787 of 10586 (Sept. 27, 2022).

¹⁵² Final Order on ASC at 787 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p>litigated in the contested case on the ASC. This exact same argument, in the context of compliance with ORS 469.507,¹⁵³ was raised in both public comments¹⁵⁴ and in the contested case to the ASC.</p> <p>In particular, in the contested case, Ms. Gilbert proposed a site certificate condition based on ORS 469.507 that provided that once the transmission line was energized, Idaho Power was required to perform testing or sampling showing ongoing compliance with the Noise Rules at each NSR.¹⁵⁵ The Hearing Officer summarized the positions of the Department and Idaho Power, which are still relevant here:</p> <p>“Both the Department and Idaho Power oppose this proposed condition as unsupported and unnecessary. Idaho Power argues that ORS 469.507 does not specify the type of monitoring required to comply with Council standards, and does not require the testing and sampling described in Ms. Gilbert’s proposed condition. Idaho Power further asserts that because the proposed facility will comply with the Noise Rules, either directly or through an exception or variance, it did not propose any monitoring. Rather, during operations, as required by Amended Recommended Noise Control Condition 2, Idaho Power will implement a complaint response plan to address noise complaints.”¹⁵⁶</p> <p>The Hearing Officer rejected Ms. Gilbert’s proposed site certificate condition, stating that “Ms. Gilbert has not established that this proposed condition requiring ongoing monitoring at noise sensitive locations is necessary or appropriate. Idaho Power has explained why the proposed condition is unnecessary.”¹⁵⁷</p> <p>Similarly here, STOP B2H has not established why ORS 469.507 requires the specific ongoing monitoring as proposed by STOP B2H as opposed to the comprehensive noise complaint process in Noise Control Condition 2 (GEN-NC-02).</p>
Individual Commenters - Oral Comments			
Idaho Power has prepared these responses based on the Company’s notes from the hearing. While Idaho Power quickly documented the comments, these are not verbatim quotations from a transcript of the comments. Moreover, Idaho Power has not included below all commenters and instead addresses only comments that were not also raised in written comments.			
Sam Myers	Roads	The other thing is, you talked about a road being 50’ wide. I talked w/ the Morrow County weeds guy and he was having a fit because there’s all these roads and IPC doesn’t care and they just dump responsibility on Morrow County. But now in some places they’re going to make it even wider. How is that going to impact the noxious weed control? You just doubled or tripled the miles. You turn an area of the edge of the road from 2-3 feet on each side to now having to control how much? Where’s the plan? Where’s the impact to the Morrow County weeds guy?	Mr. Myers’ comment relates to the Company’s proposal to expand the construction footprint of certain Project-related access roads. Idaho Power has proposed expanding the construction footprint of some roads in the Project area. As stated in RFA 2, the Company proposes to revise construction road widths for roads on slopes greater than 8 percent. ¹⁵⁸ As explained in the DPO, wider widths would be necessary in areas where there is a steeper slope, so that the road width can accommodate construction equipment movement. ¹⁵⁹ Idaho Power proposes expanding the construction footprint for these roads depending on the traversed slope. For example, for new bladed roads, the construction footprint would remain 30 feet for roads with a slope of up to 8 percent, but increase to 45 feet for roads crossing slopes of 8-15 percent, 75 feet for roads crossing slopes of 15-30 percent, and 120 feet for roads with a slope of greater than 30 percent. ¹⁶⁰ However, the operational footprint of these roads remains unchanged at 14 feet. The impact of this proposed

¹⁵³ ORS 469.507 states as follows:

(1) The site certificate holder shall establish programs for monitoring the environmental and ecological effects of the construction and operation of facilities subject to site certificates to assure continued compliance with the terms and conditions of the certificate. The programs shall be subject to review and approval by the Energy Facility Siting Council.

(2) The site certificate holder shall perform the testing and sampling necessary for the monitoring program or require the operator of the plant to perform the necessary testing or sampling pursuant to guidelines established by the Energy Facility Siting Council or its designee. The council and the Director of the State Department of Energy shall have access to operating logs, records and reprints of the certificate holder, including those required by federal agencies.

(3) The monitoring program may be conducted in cooperation with any federally operated program if the information available from the federal program is acceptable to the council, but no federal program shall be substituted totally for monitoring supervised by the council or its designee.

(4) The monitoring program shall include monitoring of the transportation process for all radioactive material removed from any nuclear fueled thermal power plant or nuclear installation.

¹⁵⁴ Final Order on ASC at 7518 of 10586 (Sept. 27, 2022) (Public comment stating that “[o]nce the development is completed, ORS 469.507 requires testing or sampling to show ongoing compliance with the standard.”).

¹⁵⁵ Final Order on ASC, Attachment 6 at 8964 of 10586 (Sept. 27, 2022).

¹⁵⁶ Final Order on ASC, Attachment 6 at 8964 of 10586 (Sept. 27, 2022).

¹⁵⁷ Final Order on ASC, Attachment 6 at 8965 of 10586 (Sept. 27, 2022).

¹⁵⁸ RFA 2 at 1 (Apr. 11, 2024).

¹⁵⁹ Draft Proposed Order on RFA 2 at 76 (Apr. 16, 2024).

¹⁶⁰ Draft Proposed Order on RFA 2 at 77 (Apr. 16, 2024).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>They say Morrow will take care of it. But they had to negotiate for months to get a plan for the old site certificate. Now you’re going to carve up a mountain that’s 50’ wide and you’ve got a bank that’s 30’ wide and someone’s going to spray down there?</p>	<p>modification will be limited to areas where Project roads have a slope exceeding 8 percent. For example, Idaho Power estimates that the areas where road slopes may be up to 30 percent and need to be widened further would only occur in approximately 3 percent of all facility access roads (new and existing).¹⁶¹</p> <p>Mr. Myers raises a specific concern that the increased construction disturbance for these sloped roads will increase noxious weed impacts of the Project. Mr. Myers’ concern appears to be that the Company will not address noxious weeds resulting from construction of these roads and that the counties will have to address any such weeds. Mr. Myers’ assertion is incorrect.</p> <p>Responsibility for controlling noxious weeds was thoroughly litigated in the contested case on the ASC for the Project. As the Hearing Officer concluded in the Proposed Contested Case Order, Council rules require that Idaho Power address noxious weed infestations resulting from the project and that the Company prevent or mitigate those project-related adverse impacts.¹⁶² The Company has prepared its Noxious Weed Plan to detail the actions Idaho Power will take to address Project-related noxious weeds.¹⁶³ The Council adopted the Hearing Officer’s conclusion that the Noxious Weed Plan adequately the measures Idaho Power will take to control noxious weed species and prevent the introduction of these species during construction and operation of the Project.¹⁶⁴ Because the Noxious Weed Plan will apply to the expanded construction footprints proposed in RFA 2 for certain access roads, Mr. Myers’ assertion that these expanded roads will place an additional burden on Morrow County weed managers is incorrect.</p>
Irene Gilbert	Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090)	<p>The other one I wanted to comment on was cultural surveys. I noticed that you’re planning on removing the requirement for cultural surveys required by rule and statute which require not just review of federally listed protected sites. On private property they’re also supposed to look at locations and objects in addition to registered historic properties. That’s going to be a big issue because you’re not complying with Oregon laws. Reliance on federal rules and ignoring state rules has been a problem because the developer is just looking where the transmission line is damaging things instead of damaging things. Someone said when the line goes over the Oregon Trail it’s not considered an impact.</p> <p>The problem goes beyond just here. The federal Department of Interior is going to take a look at B2H in terms of problems with their cultural surveys. It just came out. I would say that people like me asking feds to look at this programmatic agreement hopefully got the attention of someone in DC.</p>	<p>Mr. Gilbert’s comment is raising generalized concerns not specific to the DPO for RFA 2 and does not raise any issue related to RFA 2 with sufficient specificity to afford the Council, ODOE, or certificate holder the opportunity to respond.</p> <p>EFSC previously approved Historic, Cultural, and Archaeological Resources Condition 2 (GEN-HC-02) in the Final Order on ASC,¹⁶⁵ which reflects the Council’s commitment to conduct its review, including its review of the proposed micro-siting area additions in RFA2, consistent with ORS 469.370(13) to the maximum extent feasible, in a manner that is consistent with and does not duplicate the federal agency review. And because OAR 345-022-0090(a) relies upon NRHP eligibility, Council previously found that it could rely on the determinations resulting from the Section 106 review and that the final determinations and mitigation may be provided prior to construction of a phase or segment of the facility.¹⁶⁶ Importantly, Idaho Power’s EFSC-specific Historic Properties Management Plan (“HPMP”) addresses both private and state cultural resources (e.g., archaeological sites and objects on private lands, regardless of NRHP-eligibility status)—Attachment S-9 to the Final Order.¹⁶⁷</p> <p>Contrary to Ms. Gilbert’s unfounded assertion, the DPO on RFA 2 does not remove the requirement for surveys of cultural and historic resources, including those not previously listed on the NRHP on private properties. In preparation of RFA 2, and consistent with survey methods approved in the Final Order on ASC and RFA 1, archaeological surveys are being conducted in two phases. Phase 1 consists of completed surveys of an intensive pedestrian inventory of the entire direct analysis area to which Idaho Power had right of entry to access for surveys. As of the date of the DPO on RFA 2, 17 acres (82 percent)¹⁶⁸ of the proposed RFA 2 micro-siting area additions have been surveyed for cultural resources. Any additional surveys required to complete an inventory of 100 percent of the final selected route, as well as any necessary subsurface inventory or evaluation efforts, would be conducted during Phase 2. Phase 2 is anticipated to occur after the amended site certificate has been issued, but prior to construction, when site access has been secured for all properties as captured in Historic, Cultural, and Archaeological Resources Condition 2. Continued survey efforts</p>

¹⁶¹ Draft Proposed Order on RFA 2 at 31 (Apr. 16, 2024).

¹⁶² Final Order on ASC, Attachment 6 at 8808-16 of 10586 (Sept. 27, 2022).

¹⁶³ Final Order on ASC, Attachment P1-5 at 10018 of 10586 (Sept. 27, 2022).

¹⁶⁴ Final Order on ASC at 28 of 10586 (Sept. 27, 2022).

¹⁶⁵ Final Order on ASC at 779 of 10586 (Sept. 27, 2022).

¹⁶⁶ See Draft Proposed Order on RFA 2 at 208-09 (Apr. 16, 2024).

¹⁶⁷ More specifically, these resources include historic properties listed on or likely to be listed on the NRHP (NRHP-eligible properties, including sites determined significant in writing by a Native American tribe), archaeological sites on public or private land, and archaeological objects on private land within the Project micro-siting areas. Final Order on ASC, Attachment S-9 at 10322 of 10603. Under ORS 358.905(1)(c)(A), an “archaeological site” is a “geographic locality in Oregon...that contains archaeological objects.” A “site of archaeological significance” is defined as “[a]ny archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer” or “[a]ny archaeological site that has been determined significant in writing by an Indian tribe.” ORS 358.905(1)(b).

¹⁶⁸ Currently, cultural resource surveys have occurred over 97 percent of the B2H micro-siting corridor. The remaining area will be surveyed for cultural resources after right of access has been granted by the property owner.

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Commenter

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p>would focus on high probability areas, confirming archaeological site boundaries, confirming archaeological isolated finds, NRHP-eligibility testing, and 100 percent inventory of the proposed micro-siting area additions.¹⁶⁹ Idaho Power’s cultural surveys were indeed not limited to NRHP-listed resources as demonstrated by the fact that new resources (archaeological sites and objects) on private properties were surveyed and assessed <i>for</i> potential listing on the NRHP.¹⁷⁰</p> <p>Furthermore, Ms. Gilbert misrepresents how Idaho Power categorizes potential impacts to Oregon Trail resources. Potential impacts can be direct (i.e., physical) or indirect (i.e., visual). Per Historic, Cultural, and Archaeological Resources Condition 1 (GEN-HC-01) in the Final Order on ASC, during final design and construction of the facility, Idaho Power must design and locate facility components to avoid direct impacts to Oregon Trail/National Historic Trail resources consistent with the HPMP.¹⁷¹ Accordingly, the transmission line must span Oregon Trail resources. In these cases, there are no direct/physical impacts, although there may be indirect/visual impacts. Idaho Power developed a list of potential mitigation measures for visual impacts to Oregon Trail resources. Mitigation methods for unavoidable indirect impacts may include, but are not limited to, historic documentation, photographic documentation (modern and historic), collection of oral histories, or architectural, landscape, or engineering documentation. In certain areas, Idaho Power is also required to use shorter H-frame towers instead of the taller lattice towers in compliance with Recreation Condition 1 (GEN-RC-01),¹⁷² which is also an acceptable form of mitigation for visual impacts to cultural resources under the EFSC HPMP.¹⁷³</p> <p>Before completion of the Section 106 process, the Bureau of Land Management (“BLM”) launched a confirmation verification program, with field verification of cultural resource surveys completed for the Project. The review process is a “spot check” intended to allow BLM to produce a defensible record that “will allow us to proceed through to construction and bring that transmission online.” To complete the cultural resource work to date on the project, a team of archaeologists employed by Idaho Power and its consultants logged nearly 100,000 hours scouring and researching the project corridor. Due to the thorough nature of the prior studies, Idaho Power does not anticipate that the BLM will discover any significant errors and/or omissions. Regardless, Idaho Power will ensure that the Project complies with the Section 106 process and all requirements of the BLM.</p>
Irene Gilbert	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	Not doing preconstruction traffic studies on sage grouse so they have nothing to compare it with if there are impacts to sage grouse	Ms. Gilbert’s comment references the proposed modifications to Fish and Wildlife Conditions 17, 19, and 22, which modify the Company’s required studies for sage grouse habitat and clarify that indirect impacts from new and substantially modified roads would be evaluated through a post-construction access control study, and not through a pre- and post-construction evaluation. ¹⁷⁴ As the Department explained in the DPO on RFA 2, the Department consulted with ODFW—the agency whose regulations govern sage grouse habitat protections—and based on those consultations concurred with the proposed amendments to the Site Certificate conditions listed above. The proposed amendments will better protect sage grouse habitat and comply with all ODFW sage grouse protections because the Habitat Quantification Tool (“HQT”), which is already required for use in quantifying sage-grouse mitigation, already accounts for direct and indirect impacts from new and substantially modified roads. For accounting purposes, the HQT is more conservative than a preconstruction survey, and the post-construction true-up of indirect impacts from new and substantially modified roads (21-100 percent modification) is still required to adjust the mitigation obligation of the certificate holder based on actual impacts.
Jim Kreider	Outside of Council Jurisdiction	<p>Landowners are not NIMBYs. They’re conservationists. The landowners pushing back truly care. One of the landowners I’m working with is offering to move the line away from Morgan Lake Park so individuals are not impacted and certain artifacts are not disturbed. He’s taking a hit on his land to preserve some of it.</p> <p>Another neighbor that I’ve worked with worked with IPC, proposed an alternative route within the new site boundary, IPC came out, had the laptop, walked, GIS mapped the area, sent back</p>	<p>As STOP B2H acknowledges, landowner compensation is outside of the Council’s jurisdiction. Nonetheless, Idaho Power still clarifies that the Company negotiates in good faith with all landowners to reach a fair value for Project-related easements.</p> <p>Idaho Power cannot comment on the specifics of pending negotiations between the Company and landowners.</p>

¹⁶⁹ See Draft Proposed Order on RFA 2 at 208-09 (Apr. 16, 2024).

¹⁷⁰ For example, in Table 31 of the DPO on RFA 2, pre-contact debitage (8B2H-DM-ISO-10) was considered under subsection (a) (NRHP) and subsection (b) (archaeological object on private lands) of EFSC’s standards. Although the resource is unevaluated for listing on the NRHP, Idaho Power avoided direct impacts to the resource and provided that additional protection measures were to be determined in consultation with Parties to the Section 106 Programmatic Agreement. See Draft Proposed Order on RFA 2 at 214-15 (Apr. 16, 2024).

¹⁷¹ Final Order on ASC at 779 of 10586 (Sept. 27, 2022).

¹⁷² Final Order on ASC at 780 of 10586 (Sept. 27, 2022) (Recreation Standard 1).

¹⁷³ Final Order on ASC, Attachment S-9 at 10392 of 10586 (Sept. 27, 2022) (requiring design modification for each visually impacted NHRP-Eligible Oregon Trail/NHT segment); see also OAR 345-001-0010(22) (definition of mitigation).

¹⁷⁴ Draft Proposed Order on RFA 2 at 192 (Apr. 16, 2024).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>maps asking how it looked, and then last Thursday they called this landowner and said “I need an offer by tomorrow and I need to know what discount you are willing to offer me on the rate we will pay you for the easement.” It was not a percentage. It was a fixed value. And the assessments for the land had not been done yet. But IPC sent to these neighbors, these landowners, two weeks prior a good neighbor letter explaining how this process was good for them and that they should support it. Meanwhile, this is what they’re doing. And IPC is telling you the landowners want this; have any of you asked for any names? Is it one landowner or ten? We don’t know. When I have asked IPC for this info it is privileged between the Company and the landowner.</p> <p>I also know that this is outside your jurisdiction. That’s what we’ve been told when we talk about IPC’s fancy footwork and bullying. But what they’re doing is the people, what you’re doing by saying this is not your responsibility, you’re leaving people out to dry and let a corporation blackmail them. If you want to represent citizens of the state, you will deny this request and you will vote in favor of a process that involves the public from the get-go. You guys do a good job but there is a better way to do it.</p>	<p>STOP B2H asks whether landowners support the Company’s proposed modifications to the Project. As evidenced by the modifications included in RFA 1 and the proposed additions to the micrositing area in RFA 2, Idaho Power has worked with several landowners to site the Project on areas within those landowners’ property that will reduce impacts. The Company has sought amendments at landowners’ request, and, as Mr. Corey summarizes in his comments on behalf of companies owning land in Union, Umatilla, and Morrow Counties, approval of RFA 2 will grant the Company enhanced flexibility to continue working with landowners to incorporate these revisions.</p>

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Idaho Power has attempted to group comments by Council standard or topic as best as possible, but notes that in some cases comments may address more than one subject matter. The organization below is provided for the Department and Council’s convenience.

Council Standards

Soil Protection Standard (OAR 345-022-0020)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Irene Gilbert (May 31, 2024)	Soil Protection Standard (OAR 345-022-0020)	<p>The original approved site certificate for the Boardman to Hemingway Transmission Line had a process for approving the Plan for Blasting during the construction of the Boardman to Hemingway Transmission Line. The condition included review and input from the Counties in evaluation and approval of the plan to assure it provided for the safety of citizens, qualified personnel, notice and other requirements.</p> <p>During the Amendment I of the site certificate the Site Certificate Order removed the review process for both the Counties and the Oregon Department of Energy. The department changed the requirement to just require a copy of whatever procedure the developer designed be provided to the Oregon Department of Energy and removed county involvement in review of the plan. They based this change on a statement that the department lacked the expertise to review the plan and their belief that the counties also lacked this expertise.</p> <p>I was concerned about this issue and would have pursued it at the time, however, I was told that there was going to be no blasting. ODOE staff also stated in an email to Wendy King that there was going to be no blasting during the construction of the B2H Transmission Line. Mr. Stipple of Idaho Power made the same statement when on a field visit including Joann Rode, Greg Larkin, Mr.Larkins attorney and Jim Kreider 2 or 3 weeks ago.</p> <p>Blasting continues to be listed in the Draft Proposed Order for Amendment 2 with no requirement for county review or approval of the Blasting Plan. It is stated on Page 13 of the DPO that it is one of the activities which will be occurring during construction.</p> <p>Blasting is an activity that can have catastrophic consequences if not done right and if proper procedures are not followed. This transmission line will be constructed across areas with unstable ground, existing faults close to residences and across sensitive wildlife habitat. Adding the risks associated with blasting to the activities being performed absent planning and oversight is not a risk that should be allowed. Oregon OSHA is the primary agency which addresses and has rules regarding construction blasting in Oregon.</p> <p>One of two site certificate actions should be taken. 1. Remove Blasting as a process to be used during the construction of the B2H Transmission Line. (or) add the following Site Certificate Condition: 2. “The developer will draft a Blasting Plan which addresses the elements in OSHA, Division 3, Subpart U “Blasting and Use of Explosives” for review and input from local counties prior to the use of Blasting in Construction of the transmission line. “</p>	<p>The Council approved Soil Protection Condition 4 (GEN-SP-04) in its Final Order on the ASC, which provided that prior to construction, Idaho Power must finalize, and submit to the Department for approval, a final Blasting Plan. The final Blasting Plan is required to meet all applicable federal, state and local requirements related to the transportation, storage, and use of explosives.¹</p> <p>In its Final Order on RFA 1, the Council amended GEN-SP-04 to remove the final agency review and approval process because “there are no specific local permits or local or state regulatory requirements within Council’s [or reviewing agencies’] jurisdiction that apply to blasting or use of explosives.”² The plan would still be required to be finalized prior to blasting activities; would be required to maintain all requirements described above; and would be required to be adhered to during all construction-related blasting activities.³ The condition amendment only removed the process of final review and approval for elements of the plan for which neither the Department nor reviewing agencies have technical expertise or jurisdictional authority.</p> <p>No changes to GEN-SP-04 have been proposed in RFA 2.</p> <p>Ms. Gilbert’s attempts to challenge the Council’s Final Order on RFA 1 as legal error in this proceeding is untimely and a collateral attack on the Council’s Final Order on RFA 1. The appropriate venue to seek review of alleged legal errors in the Final Order on RFA 1 was an appeal to the Supreme Court pursuant to ORS 469.403(3).</p> <p>Finally, Idaho Power does not currently anticipate blasting, but blasting may become necessary due to site-specific conditions.</p> <p>For these reasons, the Council should not adopt Ms. Gilbert’s proposal to either prohibit blasting activities during the construction of B2H or to require that Idaho Power’s final Blasting Plan be subject to approval by local counties that do not have any local explosive regulations that would afford jurisdiction or expertise to review the plan.</p>

¹ Final Order on ASC at 768 of 10586 (Sept. 27, 2022).

² Final Order on RFA 1 at 59 (Sept. 22, 2023).

³ Final Order on RFA 1, Attachment G-5 Amended Framework Blasting Plan at 263-64 of 722 (Sept. 22, 2023) (“The Construction Contractor(s) will be responsible for preparing and implementing the Blasting Plan and must comply with all applicable federal, state, and local laws and regulations. No blasting operations will be undertaken until approval and appropriate permits have been obtained from the applicable agencies. Failure to comply with such laws could result in substantial financial penalty and/or imprisonment. The Construction Contractor(s) will use qualified, experienced, and licensed blasting personnel who will perform blasting using current and professionally accepted methods, products, and procedures to maximize safety during blasting operations. Blasting procedures will be carried out according to, and in compliance with, applicable laws and will be closely monitored by the CIC.”).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Land Use Standard (OAR 345-022-0030)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Irene Gilbert (May 30, 2024)	Land Use Standard (OAR 345-022-0030)	<p>Article 20 Section 20.07 addresses Clear-Vision Areas on corners of all property at the intersection of two or more streets or a street and a railroad.</p> <p>This Article is a safety requirement which requires a clear-vision area of 30 feet where no temporary or permanent structures exceed 2.5 feet in height. (ORS 345-022-0110)</p> <p>Section 20.09 addresses Goal 5 Resource Areas The Multi-use Areas and other facility components are located within 1320 feet of Big game critical wildlife habitat areas, big game winter range Significant avian habitat, Significant wetlands including Ladd Marsh which requires a management plan developed in coordination with the responsible agency. (ORS 345-022-0040, ORS 345-022-0060, ORS 345-022-0070)</p> <p>Site Certificate Needed: Item One: Idaho Power will comply with the Union Conty Supplemental provisions, Article 20, Sections 20.07 and 20.09.</p>	<p>Union County did not identify UCZPSO Section 20.07 as applicable substantive criteria, and Ms. Gilbert has not provided any facts supporting her assertion that the proposed amendments in RFA 2 fail to comply with Section 20.07. Ms. Gilbert did not identify with specificity any locations where Section 20.07 may be at issue, and Idaho Power is not aware of any such areas. For these reasons, Ms. Gilbert’s comment does not raise an issue with sufficient specificity to provide the Company, the Department, or the Council an opportunity to respond.</p> <p>Contrary to Ms. Gilbert’s assertion, the Company has demonstrated compliance with Section 20.09. As ODOE explained in the DPO for RFA 2:</p> <p>“In the Final Order on ASC, the Council found that the facility complies with UCZPSO 20.09, in part because the certificate holder had attempted to utilize existing roads and to limit the development of new roads in critical habitat and winter range overlay areas to the extent possible. Because the proposed RFA 2 micro-siting area additions do not significantly change the nature of the previously approved facility or significantly increase the amount of roads located in Union County’s Winter Range areas, the Department recommends that the Council to rely on its previous findings.”⁴</p> <p>For these reasons, Ms. Gilbert’s proposed site certificate condition is unnecessary and should be rejected.</p>

Protected Area Standard (OAR 345-022-0040)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Susan Geer (May 30, 2024)	Protected Area Standard (OAR 345-022-0040)	<p>RFA2 proposed changes would introduce invasive plant species and impact the hydrology of Winn Meadows, an important wetland in Glass Hill SNA, protected under OAR 345-022-0040, thereby causing significant adverse impact.</p> <p>Proposed route changes in RFA2 would cut across the head of Winn Meadows. Refer to Figure 4-1, map 37 in “2024-04-11-FIG-4-1-RFA2-Micrositing-Additions-and-Expanded-Site-Boundary-MAPBOOKMajor disturbance and impacts were introduced under RFA1, and RFA2 exposes even more of the perimeter of Glass Hill SNA to disturbance and impacts of the construction and ongoing maintenance of the B2H. The cumulative impacts of the RFA 2 added to the disturbance permitted under the ASC and RFA 1 are profound. The wetland extends beyond the area mapped in National Wetland Inventory. Introductions of invasives and alteration of hydrology at the immediate boundary of the Protected area definitely negatively affect the quality of the wetland, the integrity of the natural area, the special wetland plant community, and the livelihood of Trifolium douglasii, a Candidate for listing with Oregon’s rare plant program and Federal Species of Concern.</p> <p>The Council should find that RFA2 would result in significant adverse impact. The Council should also recognize that RFA1 and the Morgan Lake Alternative as approved, also result in significant adverse impact to Glass Hill SNA. The Council should call for an Amended Route between the Baldy Alternative and Hilgard State Park.</p>	<p>Potential impacts to Winn Meadow were litigated in the contested case on the ASC, where Ms. Geer submitted evidence of potential the noxious weed impacts to Winn Meadow in relation to her Issue FW-6.⁵ The Hearing Officer concluded that the Company’s Noxious Weed Plan adequately established the measures the Company will take to control noxious weed species and prevent the introduction of these species during construction and operation of the Project,⁶ and the Council adopted the Hearing Officer’s conclusion.⁷</p> <p>Contrary to Ms. Geer’s assertion, RFA 2 is not anticipated to result in impacts to Winn Meadow, which is located within the Glass Hill State Natural Area. The proposed expanded site boundary in RFA 2 was limited to avoid crossing the Glass Hill State Natural Area, and the Company does not propose any modifications to the approved micro-siting area within the Glass Hill State Natural Area.</p> <p>Finally, Ms. Geer’s comments regarding impacts from RFA 1 and the Morgan Lake Alternative are not at issue in RFA 2, because the Council has already approved RFA 1 and the Morgan Lake Alternative, and the deadlines for seeking review of the Council’s final orders have long passed.</p>

⁴ Draft Proposed Order on RFA 2 at 117 (Apr. 16, 2024).

⁵ Final Order on ASC, Attachment 6 at 8694, 8816-19 of 10586 (Sept. 27, 2022).

⁶ Final Order on ASC, Attachment 6 at 8801-02 of 20586 (Sept. 27, 2022).

⁷ Final Order on ASC at 28 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>Map 30 of Figure 8-1 2024-04-11-FIG-8-1-RFA2-RFA1-ASC-Expanded-Site-Boundary-Changes-MAPBOOK and Map 38 of 2024-04-11-FIG-4-1-RFA2-Micrositing-Additions-and-Expanded-Site-Boundary-MAPBOOK shows the proposed site boundary cutting through Glass Hill SNA in several places, fatally damaging the integrity of the natural area. Confusing additional access roads were added in RFA1. In the Winn Meadow area, “existing roads” are shown on a map, yet those roads no longer exist on the ground and have not been driven in over 40 years. This should never have been allowed under the EFSCs rules for Protected Areas.</p>	
<p>Susan Geer (May 30, 2024)</p>	<p>Protected Areas Standard (OAR 345-022-0040)</p>	<p>General Conditions under the Protected Areas Standard 345-022-0040 should apply to Glass Hill State Natural Area.</p> <p>Attachment 6-1 Second Amended Site Certificate dated Sept. 22, 2023; page 32 should apply to Glass Hill SNA as well as Ladd Marsh Wildlife Area as follows:</p> <p>GEN-PA-01 During design and construction of the facility, the certificate holder must: a. Coordinate construction activities in Ladd Marsh Wildlife Area and Glass Hill SNA (Areas) with the Area managers. b. Provide evidence to ODFW of a determination of eligibility and findings of effect pursuant to Section 106 NRHP compliance for the facility and the final HPMP for the portion of the facility that would cross the Areas subject to confidential material submission materials. [Protected Areas Condition 1; Final Order on ASC]</p> <p>GEN-PA-02 During design and construction of the facility, if the Morgan Lake alternative route is selected, the certificate holder shall ensure that facility components are not sited within the boundary of the Areas. The certificate holder shall provide to the Department a final design map for Union County demonstrating that the site boundary micrositing area and facility components are located outside of the protected area boundary. [Protected Areas Condition 2; Final Order on ASC]</p>	<p>In the Final Order on the ASC, the Council adopted the Hearing Officer’s findings that because the Rice Glass Hill State Natural Area was not registered as a Natural Area at the time of the cut off date in the then-applicable rule (May 11, 2007), Idaho Power had no obligation to evaluate the Rice Glass Hill State Natural Area as a protected area in ASC Exhibit L. Because RFA 2 does not propose to modify the micrositing area that is located within the Glass Hill State Natural Area, proposed revisions to the conditions in the Site Certificate relating to that segment of the micrositing area are outside the scope of RFA 2. For this reason, Ms. Geer’s proposed conditions should not be adopted.</p>
<p>Irene Gilbert (May 30, 2024)</p>	<p>Protected Area Standard (OAR 345-022-0040)</p>	<p>Condition One: Traffic and equipment moving from multi-use areas to locations on the site will not travel across existing roads in areas where roads are located on Ladd Marsh or Ladd Marsh Additions .</p> <p>Condition Two: Developer will complete pre-construction wildlife surveys on areas within the site boundary and areas within one half mile of the site boundary including Protected Areas and adjacent land. (OAR 345-022-0040 and OAR 345-022-0060).</p> <p>Condition Three: Idaho Power will develop a Monitoring Plan including ground surveys for approval of ODFW to determine impact of transmission line facility on birds. The survey area will be large enough to include most carcasses as determined by ODFW.</p> <p>Condition Four: Idaho Power will assure that their activities during construction and operation of the transmission line do not damage or degrade resources protected under the Ladd Marsh Wildlife Area Management Plan dated 2018.</p>	<p>Ms. Gilbert’s proposed site certificate conditions should be rejected as unnecessary and/or redundant of existing site certificate conditions. Ms. Gilbert’s proposal not to use existing roads in Ladd Marsh is not supported by any Council standard and would unnecessarily require construction of additional roads as supporting facilities.</p> <p>Finally, in the ASC, the Company provided the Avian Protection Plan for the Project, which identifies the permits that would be required from ODFW and the U.S. Fish and Wildlife Service (“USFWS”), which would include requirements to report avian fatalities and communicate with the agencies on retrofit actions the applicant proposes to implement in response to collision or electrocution related avian fatalities; and provides an opportunity for ODFW to provide input on retrofit technologies such as ultraviolet light technology, as recommended by ODFW for implementation in areas of Sandhill crane nocturnal migration (e.g., Ladd Marsh Wildlife Area).⁸ The Council also required “that the applicant report avian fatalities where the causal factor is assumed to be electrocution or collision and consult on suitable retrofit technologies or other adaptive management strategies to minimize future risks to avian species.”⁹</p>
<p>STOP B2H (May 30, 2024)</p>	<p>Protected Area Standard (OAR 345-022-0040)</p>	<p>The EFSC rules on Protected Areas were amended in 2022, finally allowing the acknowledgement of protected areas designated after 2007. The new rule is in effect -- and it has been in effect well before the pRFA2 application was deemed “complete” (even before it was received). Regardless, Idaho Power has been aware of this protected area for a long time. Therefore, IPC and the recommended DPO is out of compliance with OAR 345-022-0040-</p>	<p>STOP B2H’s assertion that the DPO fails to assess compliance with the Protected Areas Standard because of potential impacts to the Glass Hill State Natural Area is incorrect. RFA 2 does not propose any additional facilities within the Glass Hill State Natural Area, and the proposed expanded site boundary has not been extended into the Glass Hill State Natural Area. While a segment of the Project’s micrositing area is located within the Glass Hill State Natural Area, this segment was part of the Company’s ASC and was approved in the Final Order. As the Hearing Officer concluded in that contested case, the Protected Areas Standard as applied to Idaho Power’s ASC clearly did not include Glass Hill State</p>

⁸ Final Order on ASC at 376 of 10586 (Sept. 27, 2022).

⁹ Final Order on ASC at 376 of 10586 (Sept. 27, 2022).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>Protected Areas standard. The specific area out of compliance is also called the Glass Hill State Natural Area of Union County.</p> <p>There may be other protected areas of out compliance as well, considering that there are 88 protected areas within the “analysis areas of ASC, RFA1, and RFA2.”³⁴ For example, in “Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved Micrositing Area Additions, Proposed RFA2 Micrositing Area Additions”³⁵ includes legend-type footnotes on p. 156: #3 states: “Potential impacts from approved routes in Final Order on ASC not evaluated for protected area.” (emphasis included). Therefore, once deeper analysis is available, there may be more noncompliance issues that surface and amendments needed.</p> <p>The Glass Hill Preserve (aka Glass Hill State Natural Area), is being crossed by the B2H line in a very sensitive area on two sides of Winn Meadow, a high mountain wetland with <i>Trifolium douglasii</i> Federal species of Concern that is a candidate for State listing. The rule does not allow a transmission crossing in a protected area unless: an existing transmission line is within 500 feet, which is not the case here; or if there is no viable alternative, which there are.</p> <p>ODOE and EFSC may claim that this issue has already been litigated; but things have changed. First, the rule! The back story on the rule and rulemaking process, when IPC attorneys communicated in an exparte manner, during the parallel contested case process, is complicated. However, it is resolved with the amended rule on protected areas--and IPC knows very well about the area. Fast-forward to present, IPC will say that if RFA2 is not approved, they will revert back to the old route/version (the site certificate). This veers on blackmail and should not be allowed.</p> <p>Second, the Glass Hill Preserve landowners and Whitetail Forest, LLC have presented alternatives specifically for the area. And more recently, in an attempt to prevent serious damages, particularly to the Winn Meadow wetland and its hydrological conditions/features, as well as Federal Species of Concern/State Candidate plant species, they have been in verbal and email communication with Joe Stippel (IPC Project Manager) to find a resolution without impacting neighboring landowners.</p>	<p>Natural Area as a “protected area.” At the time of the contested case concerning the ASC, for protected areas designated under state programs, such as the Natural Areas Program, the Protected Areas Standard applied only to “designations in effect as of May 11, 2007[.]” Glass Hill was not designated as a State Natural Area until 2019, and therefore the Hearing Officer properly concluded that, under the plain language of the rule, Idaho Power was not required to analyze it as a protected area. However, the Company analyzed impacts to the area under other Council standards, such as the Fish and Wildlife Habitat Standard.</p> <p>STOP B2H argues without evidence that there may be additional protected areas that have not been analyzed. STOP B2H has not provided any factual support for this assertion, and it should be given no weight.</p> <p>Finally, STOP B2H’s assertion that using the previously approved corridor for the Project is akin to blackmail is absurd on its face. The Council has approved the use of a site that includes the micrositing corridor currently located within the Glass Hill State Natural Area. Lawful use of an approved corridor is precisely what a site certificate enables a certificate holder to do.</p> <p>STOP B2H also raises a potential alternative route that landowners have proposed near the Glass Hill State Natural Area. On April 4, 2024, Ms. Geer, sent Idaho Power an email requesting to move the project a substantial distance from the current project alignment. This route modification is outside of the proposed expanded site boundary, has not been studied, and impacts new landowners. Idaho Power is intent on working with landowners to minimize impacts on their own individual properties. Ms. Geer’s proposal is outside the proposed expanded site boundary and it is not clear if it has landowner support for the properties it impacts. At this time, Idaho Power is unwilling to pursue this route alternative. It is important to note that Ms. Geer’s proposal is particularly challenging because it would result in impacts to other landowners. That being said, the Company continues to work with landowners to adjust the exact location of the Project within their property. Approval of the Proposed expanded site boundary will facilitate consideration of future requests.</p>

Retirement and Financial Assurance Standard (OAR 345-022-0050)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Irene Gilbert (May 31, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>The council must require a bond amount consistent with the requirements of the rules and EFSC actions prior to and after issuance of the Boardman to Hemingway Transmission Line Site Certificate. This comment is addressing the requirement in the plain language of the mandatory rules requiring a bond or letter of credit adequate to restore the site of the development.</p> <p>The Mandatory condition does not provide for exceptions to the requirements contained in the rule regarding the amount and form of the bond or letter of credit. The Oregon Department of Energy and Energy Facility Siting Council are exceeding their authority by allowing bond amounts that are not consistent with the plain language of the rule or amounts required of other developments prior to and after the issuances of the original and amended site certificates for B2H.</p> <p>OAR 345-027-0375 requires the council to determine whether the preponderance of evidence on the record supports the conclusion that the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.</p>	<p>There is no change to the bonding approach that is being proposed in connection with RFA 2 other than updating the amount of the bond to include the facilities included as part of RFA 2 and to update the cost estimate to reflect Q1 2024 dollars rather than Q3 2016 dollars. The remainder of the proposed bond conditions are unchanged. Nonetheless, for the background for the Council regarding how the issue was previously addressed, Idaho Power provides the following context.</p> <p>As part of the Council’s consideration of the ASC, Ms. Gilbert and other parties litigated the Company’s proposed bonding approach, and the Council adopted the Hearing Officer’s findings that:</p> <p>In the Proposed Order, based on information presented in the ASC, the Department found that a 100-year lifetime is a reasonable estimated useful life for the proposed facility. The Department also found that, while some level of risk exists, the likelihood that Idaho Power would abandon the proposed facility during the first 50 years of operation is very low. The Department agreed that the risk of facility abandonment or retirement will increase after the first 50 years, as future unforeseen technological and electricity market changes could affect Idaho Power’s financial condition or the facility’s continued viability. The Department also agreed that Idaho Power’s proposed financial assurance methodology, i.e., incrementally increasing the bond/letter of credit on an annual basis after the facility has been in service for 50 years, is a reasonable approach to</p>

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>The plain language of OAR 345-025-0006(8) requires the bond to be submitted prior to the start of construction in an amount adequate “to restore the site to a useful, non-hazardous condition”. OAR 345-025-0006(16) supports the plain language of OAR 345-025-0006(8) by stating that if the developer does not retire the facility according to a final retirement plan approved by Council, the Council may draw upon the bond or letter of credit to restore the site.</p> <p>The council has determined that it will require \$170,276,273 to restore the site. In order to take the actions included in Mandatory condition OAR 345-025-0006(16), the amount of the bond must be equal to the cost the council determined would be required to restore the site.</p> <p>I am requesting a site certificate condition which is substantially the same as PRE-RT-02, Page 22 and 23 of the Bakeoven Solar Project Site Certificate, Dated April, 2020. That site certificate uses the council figures for the cost of restoration of the site or use the language of the requirement for a bond complying with the mandatory condition contained in other developments which require the bond to be consistent with the amount the council determined it would cost to restore the site.</p> <p>The purpose of the bond is to protect the public, including electric customers and the State of Oregon from being required to restore the site in the event the developer fails to do so. The plain language of the rule is not subject to interpretation . Both the Oregon and Federal Courts only extend the authority to interpret rules when they are ambiguous. There is no ambiguity in OAR 345-025-0006(8) or OAR 345-025-0006(16). It states that the bond amount is to be in an amount adequate to restore the site.</p> <p align="center">* * * * *</p> <p>[Sarah Esterson] references the fact that the council determined that reduction of bond amounts would more appropriately be dealt with through rulemaking, where information and expertise of subject matter experts could be considered, rather than relying solely on information provided by the applicant.</p>	<p>accounting for the possibility that the facility may eventually be retired. Furthermore, as provided in Recommended RFA Condition 5, and to account for conditions that could impact the facility’s viability in the first 50 years of operation, the Department adopted Idaho Power’s proposal to report on the facility’s continued viability and the Company’s financial condition on the fifth anniversary of the in-service date and every five years thereafter</p> <p>The limited parties have presented no evidence to support their claims that the \$1 bond for the first 50 years of facility operation is insufficient, that the facility is likely to become obsolete or unnecessary in that time frame, and/or that Idaho Power will become insolvent during that time. They have not countered Idaho Power’s evidence that a 500 kV transmission line is an extremely valuable asset and the Company is developing and constructing the facility with the expectation that it will operate in perpetuity. The limited parties also have not shown that Wells Fargo’s letter of willingness (updated as of October 2021 for a period not to exceed five years) to arrange a syndicated letter of credit in an amount up to \$141 million during the construction phase fails to satisfy the Council’s RFA requirements. Furthermore, to the extent the limited parties compare the financing and operation of the proposed transmission line to recent solar projects (i.e., Bakeoven Solar and Obsidian Solar Center), these comparisons are misplaced. As Idaho Power’s expert Randy Mills testified, the financial and operational risks associated with these solar facilities are entirely distinct from those associated with a major transmission line proposed by a regulated utility.¹⁰</p> <p>In the two years since the Proposed Contested Case Order was issued, the need for transmission has become even more acute as utilities see increasing loads and require more flexibility to integrate renewable energy to achieve the State of Oregon’s mandated greenhouse gas emissions reductions.</p> <p>Additionally, Idaho Power estimates that the annual cost of maintaining a bond is approximately \$750,000. Over 50 years and assuming 3% inflation, requiring Idaho Power to carry the full amount would add \$84,600,000 to the total Project costs—which is significant in light of the very low risk of early retirement of the facility.</p> <p>Regarding Ms. Gilbert’s proposal to use a site certificate condition imposed on the Bakeoven Project, the Council specifically considered this request in the ASC contested case. As Idaho Power explained in the contested case, there is an important distinction between B2H and the solar projects. When denying Bakeoven Solar’s phased-in approach, the Council emphasized that the potential risk associated with Bakeoven Solar is elevated because “the developer is an independent power producer, and not a public utility, which would have access to rate recovery authorization from a state [Public Utility Commission] to dismantle and restore a facility site.”¹¹</p> <p>In rejecting Ms. Gilbert’s arguments, the Hearing Officer concluded that the Council has the authority to determine the form and amount of the bond as it deems appropriate, including for less than the full cost of site restoration:</p> <p align="center">Contrary to Ms. Gilbert’s contention, the Council’s rules require the certificate holder to have a bond/letter of credit “in a form and amount satisfactory to the Council” to restore the site. OAR 345-022-0050(2); OAR 345-025-0006(8). Accordingly, the rules give the Council the discretion to approve a bond/letter of credit in an amount less than the full cost of site restoration as long as that amount is satisfactory to the Council. The plain text of the rules allows the Council to exercise reasonable judgment in determining the appropriate form and amount of the bond/letter of credit. Indeed, OAR 345-025-0006(8) (Mandatory Condition 8), specifically authorizes the Council to “specify different amounts for the bond or letter of credit during construction and during operation of the facility.” Had the Council intended to require that a certificate holder maintain a bond/letter of credit for the full decommissioning cost at all times, then it could and would have so stated in its rules.¹²</p> <p>Additionally, the Council carefully considered Idaho Power’s proposal and input from limited parties at the Council’s exceptions hearing and before issuing the Final Order. To address the concerns that limited parties (including Irene Gilbert) had raised, the Council added a process by which it would periodically review the amount of the bond, and also</p>

¹⁰ Final Order on ASC, Attachment 6 at 8918-19 of 10586 (Sept. 27, 2022).

¹¹ *In the Matter of the Application for Site Certificate For the Bakeoven Solar Project*, Final Order on ASC at 141 (Apr. 24, 2020).

¹² Final Order on ASC, Attachment 6 at 8919 of 10586 (Sept. 27, 2022).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p>noted that it had authority at any time to ask for an update and to revisit the bonding amount. Specifically, Retirement and Financial Assurance Condition 5 requires Idaho Power to provide EFSC and ODOE a report every five years on: (a) the physical condition of the facility; (b) any evolving transmission or electrical technologies that could impact the continued viability of the facility; (c) the facility’s performance in the context of the larger Northwest power grid; and (d) the certificate holder’s financial condition, including the certificate holder’s credit rating at that time. Additionally, under the condition, EFSC may request the report on an off-cycle year if requested. Moreover, the condition allows EFSC to consider whether or not the approach towards the financial assurance instrument remains appropriate and would account for unforeseen shifts in the power grid or the Idaho Power’s financial condition.¹³</p>
Irene Gilbert (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>Even if there were the opportunity to make the kinds of adjustments planned in the Idaho Power Site Certificate, which there is not, Idaho Power with a 45% interest in the transmission line and the major owner, PacifiCorp present risks that would preclude a reduction in the bond amount.</p> <p>There is substantial documentation regarding the fact that PacifiCorp inserts a significant risk not previously considered in evaluation of the application for a site certificate which may result in having to draw on the bond in the future.</p> <p>Idaho Power is a much smaller utility than PacifiCorp or PGE but subject to similar financial risks due to wildfires and the construction of the B2H transmission line will increase the risk significantly.</p>	<p>The issue raised by Ms. Gilbert was also raised by Ms. Gilbert and STOP B2H in RFA 1, and rejected by the Council in their consideration of RFA 1. For additional context, in the RFA 1 DPO Comment Responses, Idaho Power explained that the issues concerning the bonding approach were resolved as part of the contested case on the ASC, that Idaho Power (not PacifiCorp) is responsible for obtaining a bond or letter of credit, and that the Council included provisions in Retirement and Financial Assurances Condition 5 to address any future changes in conditions:</p> <p>As an initial matter, STOP B2H’s arguments were already litigated in the EFSC proceeding for the ASC, and EFSC found that the estimated cost of restoration was reasonable and Idaho Power provided sufficient information about its financial capability to demonstrate that it could obtain a bond or letter of security to cover required decommissioning and restoration costs. While STOP B2H focuses on ongoing wildfire litigation related to PacifiCorp and implies that PacifiCorp is at risk of filing for bankruptcy, Idaho Power—as the certificate holder—is responsible for the bond to cover the decommissioning and restoration costs associated with retirement of the facility per Retirement and Financial Assurance Conditions 2 through 5. Moreover, as stated above, EFSC has already concluded that Idaho Power is financially capable of obtaining a bond in the amount necessary to restore the facility site to a useful non-hazardous condition. Finally, if there are any changes that would require adjustment of the bond amount, Retirement and Financial Assurance Condition 5 requires Idaho Power to provide EFSC and ODOE a report every five years on: (a) the physical condition of the facility; (b) any evolving transmission or electrical technologies that could impact the continued viability of the facility; (c) the facility’s performance in the context of the larger Northwest power grid; and (d) the certificate holder’s financial condition, including the certificate holder’s credit rating at that time. Importantly, under the condition, EFSC may request the report on an off-cycle year if requested. Moreover, the condition allows EFSC to consider whether or not the approach towards the financial assurance instrument remains appropriate and would account for unforeseen shifts in the power grid or the Idaho Power’s financial condition.¹⁴</p>
Irene Gilbert (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>Condition One: A bond or letter of credit must be provided by Idaho Power from an EFSC approved financial institution and approved by Council prior to the start of construction.</p> <p>Condition Two: During the construction period, the bond may be increased to reflect the value of the development as construction proceeds.</p> <p>Condition Three: Prior to the start of operations, the bond must be the amount identified by council in the site certificate necessary to restore the site. For this development, the amount would be \$170,276,000 after rounding off the figure.</p>	<p>Although the amount of the bond was updated in RFA 2, the remainder of Ms. Gilbert’s proposed site certificate conditions are not specifically tied to RFA 2. Instead, it appears that Ms. Gilbert is arguing for modifications to the conditions addressing the Retirement and Financial Assurances Standard that were fully litigated in the ASC.</p> <p>Idaho Power also notes that Ms. Gilbert’s proposed conditions are internally inconsistent, in that Conditions 1 and 3 appear to contemplate a bond being obtained prior to the start of construction in the full amount of site restoration costs, while Condition 2 contemplates increasing the bond amount during construction.</p> <p>The approach of increasing the bond amount during construction is already captured in Retirement and Financial Assurances Condition 4, and Ms. Gilbert has not articulated any basis for modifying the Retirement and Financial Assurances conditions, and specifically none related to the changes proposed in RFA 2.</p>
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>The bond or letter of credit required under OAR 345-022-0050 (Retirement and Financial Assurance Standard) and OAR 345-025-0006(8) (Mandatory Site Conditions) is not adequate given the increased financial risks of the partners and the company (discussed below under Issue 5). During the first contested case, Council made it clear that they wanted to be able to review the Bond issue from time to time and as may be necessary, given any changing circumstances. This is a good time to review the fiscal stability and risk of the project between the partners.</p> <p>The updated cost estimate to retire the facility, with proposed RFA2 changes, is \$170,276,273 (in Q1 2024 dollars). An increase of approximately \$30 million since the original Site</p>	<p>As noted by STOP B2H and discussed above in response to Irene Gilbert’s related comments, the conditions related to the Retirement and Financial Assurances were litigated in the contested case on the ASC and were carefully considered by the Council. Idaho Power incorporates by reference the above response to Ms. Gilbert’s arguments and discussion of how bonding was addressed in the contested case on the ASC and RFA 1.</p>

¹³ First Amended Site Certificate at 60-62 (Sept. 22, 2023).

¹⁴ Idaho Power’s Responses to Comments on the DPO for RFA 1 at 16-17 (July 19, 2023).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>Certificate. The issue of an adequate bond or letter of credit continues to be raised as a significant issue in the B2H project siting because non-compliance with this standard puts the entire State of Oregon, taxpayers and rate payers at risk. This is why it is also one of the Standards whereby the Council cannot apply its balancing determination. Council must comply with OAR 345-027-0375(2)(d) which requires a review of the requirements of OAR 345-022-0050.</p> <p>[Quotation of OAR 345-022-0050 omitted]</p> <p>There are also Mandatory Conditions for all Site certificates. OAR 345-025-0006(8) states that this assurance: bond or letter of credit, must be maintained for the life of the project. While Council may adjust some of the conditions, such as varying amounts for construction vs. operational periods, STOP believes that it is imperative that Council review this issue more frequently than every five years (per current Condition 5). We also urge Council to seek advice of an independent expert on the matter routinely.</p> <p>Per the two-part series of presentations to Council regarding, bonds, letters of credit, Council rules and practices, templates, and more, by staff,⁴³ Christopher Clark provides background[.]</p> <p>* * * * *</p> <p>He goes further explaining that: “The lack of a clear and effective mechanism to ensure that a certificate holder maintains a bond or letter of credit until the facility has been retired could expose the State to unacceptable risk.” (p. 3 of 4, same memo as above).</p> <p>In the Final Order and original Site Certificate, Council chose to follow Idaho Power’s suggested method/mechanism for meeting the bond requirements (see Conditions 4 and 5). STOP continues to contend that this method is not protective of Oregonians; and ODOE and the Council will claim that this issue has been litigated already. However, clear from the deliberations of Council during the “exceptions hearings,” Council expressed concerns as well. After the very lengthy hearing and discussions, Council decided that they would:</p> <p>“[R]etain the authority to adjust the bond or letter of credit amount up to the full amount at any time under the terms of the site certificate. Further, as directed by Council, the condition requires that the 5-year report be presented to Council and include an evaluation and recommendation, based on review of report results, by the Department and, if appropriate, a third-party consultant. The condition allows the Council to consider whether or not the approach towards the financial assurance instrument remains appropriate and would account for unforeseen shifts in the power grid or the certificate holder’s financial condition.”</p>	
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>The DPO does not make recommendations for change to the financial assurance conditions with the exception of updated amounts/costs necessary to restore the site. The narrative infers that the mid-line capacitor is the only substantial change and laments that the bond issue has been addressed already.</p> <p>Additionally, the department emphasizes that: since “the certificate holder is a regulated utility by the Oregon Public Utility Commission and [...] if necessary, the utility could recover costs from its ratepayers...” This is insulting to eastern Oregon ratepayers and irresponsible from a fiduciary standpoint. There is not a guarantee that the OPUC would grant rate recovery. That comes later in the OPUC processes during prudency review and rate cases.</p>	<p>Contrary to STOP B2H’s assertion, the Department discusses in the DPO impacts to the bond requirement resulting from other proposed changes in RFA 2. The Department finds: “the transmission line routes proposed in RFA2 were selected for construction and operation, this would reduce the overall length of the approved facility by 0.4 miles. Applying the same logic that was approved in the Final Order on RFA1, because the overall length (and facility components) would be reduced, the previously approved cost estimate should still remain adequate.”¹⁵ The Company also provided an updated cost estimate that included the Midline Capacitor Station to provide an accurate cost estimate for the Project as proposed in RFA 2.</p> <p>The language that STOP B2H challenges regarding rate recovery is a quotation from the Council’s Final Order on the ASC, which is outside the scope of RFA 2.</p>
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	PacifiCorp (PAC) is the 55% partner in this project. PAC poses increasing risk due to alternative company investments and mounting liability costs from pay-outs and court settlements from wildfires. Regardless of the EFSC orders, siting process, and conditions, the bottom line is that the developers will decide in their “iterative processes” what capital	Ms. Gilbert also provided comments regarding PacifiCorp’s ownership interest in B2H as it relates to the Retirement and Financial Assurances Standard, and Idaho Power incorporates the response to Ms. Gilbert’s comments by reference.

¹⁵ Draft Proposed Order on RFA 2 at 170 (Apr. 16, 2024).

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		<p>investments and infrastructure projects that they will choose to invest in. Let’s be clear, PAC is the controlling interest here, and Council and staff should not be putting blinders on their eyes.</p> <p>Within the partnership, and the “Joint Funding Agreement,” there is a decision-making entity called, the “Construction Funding Committee” who will have ultimate authority in decision-making for the project. In this group the voting rights align with the % of partners’ investments; hence, PAC is the majority decider at 55%. Idaho Power has had difficulties in the past with partner relations and commitments, PAC in particular has been very slow to commit to the Joint Funding Agreement. It would be prudent for Council to change and update this financial assurance site condition to maintain a closer eye and view on this rapidly changing situation.</p> <p>Recently, PAC’s 10-K filing with the Security and Exchange Commission (SEC), p. 88, states: “PacifiCorp's litigation risk associated with the Wildfires is inherently uncertain and the ultimate outcomes of the associated claims could materially and adversely affect PacifiCorp's financial condition and results of operations and its ability to obtain financing, to fund its operations, capital investments and settlements arising from the Wildfires, and to obtain and fund third-party liability insurance coverage.”</p> <p>With regards to wildfire insurance, on page 93 of the SEC filing it warns: “[t]he Registrants are subject to increasing risks from catastrophic wildfires and may be unable to obtain enough third-party liability insurance coverage at a reasonable cost or at all and insurance coverage on existing wildfire claims could be insufficient to cover all losses, all of which could materially affect the Registrants financial results and liquidity.”</p> <p>PAC is not alone when it comes to wildfire risks. In Idaho Power’s IDACORP 10-K Annual report 2023, it states: “Liability from fires could adversely impact IDACORP's and Idaho Power's business, financial condition, and results of operations, and Idaho Power's WMP [wildfire mitigation plans] and other protocols may not prevent such liability.”</p> <p>Idaho Power’s SEC report also addresses the partners’ risks and how they may impose more: “Co-owners of Idaho Power’s generation and transmission assets may have unaligned goals and positions due to the effects of legislation, regulations, capital requirements, load growth amounts, changes in our industry, or other factors, which could at times adversely impact Idaho Power’s ability to construct and operate those facilities in a manner most suitable to Idaho Power.”</p> <p>It also notes that differences in co-owners’ willingness or ability to continue participation or the timing of facility construction, modification, or decommissioning could lead to operational restrictions, financial impacts, and uncertainty regarding cost recovery of such assets. This highlights the complexity of joint ownership, and STOP believes that ODOE/EFSC has been indifferent to the fact that the applicant is not the only risk factor in play.</p>	
STOP B2H (May 30, 2024)	Retirement and Financial Assurance Standard (OAR 345-022-0050)	<p>All Investor-owned utilities in Oregon, like PAC, are seeking very high-rate increases and Idaho Power is among them as well. The Idaho PUC denied the company’s full rate request increase and reduced the amount; the rate increase case at the OPUC is pending until October.</p> <p>In an April 19, 2024 memo IPC informed the OPUC that the energization date of the B2H had to be pushed back from summer to fall 2026. This is increasing the net present value (NPV) of the B2H compared to other portfolios making it less competitive. The Company stated: “Due to the increased level of uncertainty surrounding several important near-term decisions, the 2023 IRP has been prepared in a manner intended to provide the flexibility and adaptability necessary to inform decisions as more information becomes known before the next planning cycle.”</p>	<p>PacifiCorp and Idaho Power’s pending general rate case proceedings at the OPUC have no direct relation to RFA 2.</p> <p>Similarly, Idaho Power’s 2023 Integrated Resource Plan is not at issue in RFA 2. Nonetheless, for additional context regarding the timing for the B2H in-service date, OPUC Staff commented that the change in the in-service date did not significantly increase costs, and did not alter the portfolio selection:</p> <p>In a recent letter filed by the Company, Idaho Power informed the Commission that the online date of the Boardman to Hemingway (B2H) transmission line is delayed from July 2026 to November 2026 due to pending approvals from several federal and state government agencies. Staff can confirm that Staff’s Final Comments would not change because of this delay due to the large cost difference between the Preferred Portfolio with B2H in-service in July 2026 and the no B2H portfolio. The relatively low additional cost of the delayed November 2026 in-service date compared to the July</p>

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		<p>While this may not be of interest to EFSC, it will be important in OPUC decision making in terms of rate recovery (mentioned more below) and seemingly OPUC rate recovery is being relied on as a financial assurance, per comments in meetings and in the DPO.</p>	<p>2026 in-service date does not alter the portfolio selection in the IRP process and the portfolio with B2H online in November 2026 becomes the Preferred Portfolio in this document.¹⁶</p>
<p>STOP B2H (May 30, 2024)</p>	<p>Retirement and Financial Assurance Standard (OAR 345-022-0050)</p>	<p>Idaho Power presented an updated letter from Wells Fargo which states: “Based upon Idaho Power’s current credit ratings, profile, and information we have as of the date hereof, and subject to acceptable pricing, terms, and requisite internal approvals, and assuming no market disruption, Wells Fargo confirms to you that it would be highly interested in arranging (as administrative agent under the existing credit facility or otherwise), and believes it would be successful at arranging, a syndicated letter of credit in an amount up to \$180 million (the “LC Facility”) for a period not to exceed five years (the tenor of the \$400 million credit facility) for the purpose of ensuring Idaho Power’s obligation that the site of the Boardman-to-Hemingway transmission project be restored to a useful and non-hazardous condition.”</p> <p>This letter may be an improvement from the last letter in 2018, during the original application for site certificate (ASC), in which they said the likelihood for credit would be for \$141 million and only for up to 3 years. Now the letter reads that they believe they would be successful at arranging credit for \$180 million for up to five years. However, five years is still not sufficient for the life of the project per the EFSC standard.</p> <p>Given the risks discussed above, the short-term nature of the Wells Fargo letter, and that the OPUC is not offering financial assurance that IPC so confidently claims, STOP urges the Council to make condition changes to implement one or more of the following: 1) insist on the letter of credit (per the rule) – not a “likelihood” letter from Wells Fargo; 2) insist on a more robust timeframe that complies with OAR 345-022-0050(2) and the Mandatory Condition OAR 345-025-0006(8), i.e.: the duration. The ratepayers, and tax payers deserve this level of protection given the financial risks created from the wildfire litigations and the changing energy landscape (technologies and investments) of the NW grid and partner investments.</p>	<p>While not totally clear, it appears that STOP B2H is suggesting that Idaho Power obtain a letter of credit now as proof that it can obtain a letter of credit. Idaho Power estimates that it would cost about \$750,000 per year to maintain a letter of credit in the full amount of \$170,276,273, and maintains that it is not necessary to maintain a letter of credit in any amount until the Company begins construction. Idaho Power presented the Wells Fargo letter as evidence that it can obtain a letter of credit to satisfy its obligation under the Retirement and Financial Assurances conditions, which is similar to evidence that the Council previously accepted in the contested case on the ASC.</p>
<p>STOP B2H (May 30, 2024)</p>	<p>Retirement and Financial Assurance Standard (OAR 345-022-0050)</p>	<p>Site Condition Recommendation 5:</p> <p>1) In lieu of a bond, a formal letter of credit must be obtained by Idaho Power by an EFSC approved financial institution(s) and approved by Council before construction begins and maintained throughout the life of the project (per Mandatory Condition). Alternatively, if the “1/16th” method of paying the bond over four-year construction period (Condition 4) is retained by EFSC because Council is authorized to vary the amounts between construction and operation, STOP recommends that the full amount attained by year-four remain in place for the life of the project to ensure compliance.</p> <p>2) OPR-RT-01 (Condition 5) d. should be changed to more frequent intervals, no more than every 2-3 years. This will assist the Council in maintaining their fiduciary responsibilities and due diligence.</p> <p>3) Documentation of proper insurance should be included in the required report to the Council, as a bond is not the only assurance instrument available.</p> <p>The recommendations above, if adopted, would need to be edited/incorporated into the already lengthy Site Conditions 4 and/or 5.</p>	<p>As detailed above, the only changes in the RFA 2 related to the letter of credit involve the amount, and no other changes are proposed to the conditions. In the contested case on the ASC, the Council already grappled with the Retirement and Financial Assurances conditions, and created a framework that recognizes the very low probability that a transmission line will be retired in the next 100 years and keeps costs low by not requiring the Company to maintain a letter of credit for the full amount of site restoration over that time. Importantly, however, in response to concerns raised by STOP B2H and Ms. Gilbert, the Council recognized the possibility that circumstances could change in the future and built in a periodic review process and made clear that it has the authority to demand a letter of credit in the full amount at any time. The details concerning this condition are provided above in response to Ms. Gilbert’s related comments. Because the Council has already struck the appropriate balance, Idaho Power urges the Council to reject STOP B2H’s proposed conditions as unnecessary.</p>

¹⁶ OPUC Docket LC 84, Staff’s Final Comments (Apr. 25, 2024).

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Fish and Wildlife Habitat Standard (OAR 345-022-0060)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Irene Gilbert (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>The original site certificate for the B2H transmission line required bat surveys to be conducted for the site boundary. During the contested case process for the original site certificate, Idaho Power submitted a request for Summary Determination to remove the pre-construction surveys. Due to the fact that the hearings officer denied full party status to all petitioners, none of the parties to the contested case with the exception of ODOE were allowed to submit arguments regarding the request. The hearings officer refused to allow any arguments objecting to the request for Summary Determination. She then approved the request and removed the required pre-construction bat surveys. In the memo to council for this meeting, Page 13 it states that CON-FW-02 requires a minimization and avoidance plan for locations identified during reconstruction surveys of sensitive bat species. These surveys are no longer requirement for reporting of pygmy rabbit colonies and bat surveys have been removed other than chance sightings during a general survey for all wildlife which is not a legitimate means of identifying the presence of or habitat for these nocturnal mammals. The North American Bat Monitoring Program (NABat) is the method supported and prepared through collaboration with Wildlife Conservation Society of Canada USDA Forest Service, US Army Corp of Engineers, National Park Service, Bat Call Identification, Inc. and others</p> <p>Under OAR 345-027-0375(2)(c) other changes such as those in the Draft Proposed Order for Amendment 2 require a review of whether the entire facility complies with the applicable laws or Council standards that protect a resource or interest that could be effected.</p> <p>There are multiple changes to site certificate conditions and the Draft Proposed Order initiated by both the developer and the Oregon Department of Energy which appear in red lettering in the two documents. These changes require a review of whether the entire facility now complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed changes.”</p> <p>Changes regarding the determination of compliance with OAR 345-22-0060 and OAR 345-022-0070 mean the impacts on bats must be addressed for the facility. The absence of pre-construction bat surveys fall under this review. OAR 35-021-0010)(p) requires biological and botanical surveys, identification of all fish and wildlife habitat in the analysis area, and a map showing habitat identification. Developer must do field study and literature review to identify all State Sensitive Species that might be present in the analysis area. They must then complete baseline surveys of the use of the habitat in the analysis area by species. And finally, a proposed monitoring plan to evaluate the success of the measures taken needs to be proposed.</p> <p>Based upon the definition of the study area in OAR 345-001-0010 Idaho Power needs to complete studies to determine the impact to fish and wildlife habitat for all areas within the site boundary ad one-half mile beyond.</p> <p>Condition One: Prior to construction, the developer must complete bat surveys within the site boundary using the methods described in the USGS “A Guide processing Bat Acoustic for the North American Bat Monitoring Program (NABat) 2018 developed by the US Dept. of the Interior in collaboration with the USDA Forest Service, US Army Corps of Engineers, Illinois Natural History Survey, New Yor State Department of Environmental Conservation, National P ark Service and others.</p>	<p>This issue was fully litigated in the contested case on the ASC and Ms. Gilbert’s attempt to challenge the Council’s Final Order on the ASC as legal error in this proceeding is untimely and a collateral attack on the Council’s Final Order on the ASC. The appropriate venue to seek review of alleged legal errors in the Final Order on ASC was an appeal to the Supreme Court pursuant to ORS 469.403(3).</p> <p>As Idaho Power explained in that proceeding, the Company proposed Recommended Fish and Wildlife Condition 12 so that, if a bat roost is identified during the biological surveys set forth in the other conditions, Idaho Power would notify ODOE with the identification of the bat, the location of the roost, and any actions taken to avoid, minimize, or mitigate impacts to the roost.¹⁷ After Idaho Power filed its ASC, ODOE requested additional information relating to pygmy rabbits and their habitat, and in response Idaho Power proposed modifications to its analysis of the Fish and Wildlife Habitat Standard to include surveys for pygmy rabbits. In comments on the DPO for the ASC, neither the Oregon Department of Fish and Wildlife (“ODFW”) nor any other commenter raised additional concerns about Fish and Wildlife Condition 12 or suggested Idaho Power would need to survey specifically for State Sensitive bat species. Although no commenter raised any concern about specific surveys for bat species, in the Proposed Order for the ASC, ODOE revised Recommended Fish and Wildlife Condition 16 to require protocol-level bat surveys prior to construction. However, in the contested case, ODOE agreed that its revision to Fish and Wildlife Condition 16 was erroneous, “because under recommended Fish and Wildlife Condition 12, the applicant would be required to document any State Sensitive bat species and unique habitat for bats (i.e. bat roosts) observed during other biological surveys, [and] it did not require that separate, protocol level surveys be conducted for State Sensitive bat species.”¹⁸</p> <p>In the contested case on the ASC, Ms. Gilbert proposed to reincorporate ODOE’s erroneous addition to Fish and Wildlife Condition 16, the Hearing Officer and Council declined Ms. Gilbert’s proposal.¹⁹ Ms. Gilbert again proposes to do so here. The Council should again decline Ms. Gilbert’s proposal.</p>

¹⁷ Final Order on ASC at 380-82 of 10586 (Apr. 16, 2024).

¹⁸ Final Order on ASC, Attachment 6 at 8971 of 10586 (Apr. 16, 2024).

¹⁹ Final Order on ASC, Attachment 6 at 8970-71 of 10586 (Apr. 16, 2024).

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		Condition Two:: Results of the bat surveys must be provided to the Oregon Department of Fish and Wildlife and EFSC along with a plan for the Monitoring and Mitigation of habitat impacts for their approval.	
Greater Hells Canyon Council (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>Please consider the likelihood that important wildlife or botanical features are located within the new pathways that would be authorized by RFA2. For example, an eagle nest, elk calving grounds, a wetland, or a unique botanical site would be negatively impacted or destroyed by construction, transportation, or other activities related to the powerline. Fish and wildlife habitat are valuable resources to be protected, not treated as an afterthought.</p> <p>* * * * *</p> <p>Damages to wildlife habitat related to B2H are significant, widespread, and harmful. These negative impacts to wildlife habitat, forests and grasslands have very real consequences for important aspects of our local economy including outdoor recreation, tourism, and hunting as well as our overall quality of life. RFA2 or any other Amendments must thoroughly survey for all additional potential impacts that may affect wildlife, fish, and their habitats!</p>	<p>Idaho Power has completed detailed surveys of all micrositeing area additions, including habitat for fish and wildlife proposed in RFA 2 and demonstrated that the additions comply with the Council’s Fish and Wildlife Habitat Standard.²⁰ As the Department explained in the DPO on RFA 2, “the proposed RFA2 micrositeing area additions would result in temporary, temporal and permanent impacts to Categories 2, 3, 4 and 5 habitats.”²¹ The Company has proposed mitigation for these impacts that “is consistent with all mitigation goals per category under the standard and ODFW’s Fish and Wildlife Habitat Mitigation Policy.”²²</p> <p>To the extent that commenter refers to the areas within the proposed expanded site boundary, additional surveys and analysis of potential habitat impacts would be completed as part of an ADR process.</p>
John Luciani (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060); Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	Idaho Power has no weed or fire prevention plan in place. This cannot continue.	<p>Mr. Luciani’s comment is incorrect. Consistent with the approved Site Certificate for the Project, Idaho Power is preparing a Noxious Weed Plan, as required by Fish and Wildlife Condition 3, and a Fire Prevention and Suppression Plan, as required by Public Services Condition 6. The Department’s DPO for RFA 2 would not change either of those conditions and the Company will remain obligated to finalize and comply with those plans.</p> <p>In addition, the Project will continue to be evaluated and governed by the Company’s OPUC-approved Wildfire Mitigation Plan, as required by Wildfire Prevention and Risk Mitigation Condition 1 of the Site Certificate. The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan,²³ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly.</p> <p>A Noxious Weed Plan and a Fire Prevention and Suppression Plan have been prepared for the Project. Both plans have been approved by ODOE and applicable counties.</p>
Kevin March (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>Idaho Power has used the Division of State Lands definition of ephemeral streams, which is that they are not streams; by this definition they are nothing more than dirt. Idaho Power identifies 0.3 acres of category 2 ephemeral stream habitat that will be disturbed, and 0 acres of category 3 ephemeral stream habitat that will be disturbed in the entire route. They identified 0 acres of ephemeral streams on the alternative route that will be disturbed.</p> <p>This is an absurd number. This analysis was flawed in the original ASC, but it is even more so with Idaho Power’s proposed increase in the site boundaries to ½ mile and the proposed increase in the number of access roads and the size of roads constructed on slopes.</p>	<p>As discussed immediately above, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2. Fish passage issues and issues related to fish habitat were thoroughly litigated in the contested case on the ASC, and the Council concluded that the Project, taking into account mitigation and the conditions in the Site Certificate, would comply with the applicable standards.²⁴ Moreover, while Idaho Power has proposed the proposed expanded site boundary for the Project, Mr. March incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p>
Kevin March (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>ODOE asks of Idaho Power in regards to ephemeral streams: “The Department has requested in previous reviews of Table PI-2 Exhibits P and Q that ephemeral streams be surveyed during the analysis of fish habitat and fish presence.” (emphasis added)</p> <p>The above is very important. ODOE asks that ephemeral streams be surveyed for fish habitat and presence. How and what did Idaho Power do for this “analysis?”</p> <p>* * *</p> <p>What does this even mean? What does Idaho Power mean by “as needed” and who determined “select representative streams”? Did Idaho Power analyze any ephemeral streams? For that matter, how did Idaho Power select the “representative” streams determined to be intermittent or perennial in the Application?</p>	<p>In this comment, Mr. March raises concerns solely relating to the analysis in the ASC. As discussed immediately above, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2.</p>

²⁰ Draft Proposed Order on RFA 2 at 182 (Apr. 16, 2024).

²¹ Draft Proposed Order on RFA 2 at 182 (Apr. 16, 2024).

²² Draft Proposed Order on RFA 2 at 184 (Apr. 16, 2024).

²³ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

²⁴ Final Order on ASC at 732-35 of 10586 (Sept. 27, 2022).

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Kevin March (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	<p>SDAM’s manual states that “Performance of the current method does vary somewhat in different hydrological settings and at different times; for instance, it performs better during the spring for semiarid and very wet climate classes.”</p> <p>I did brief surveys of land near Morgan Lake, just west of La Grande in an area the lines and access roads will traverse. According to the landowner, Idaho Power has not been on his land to survey. To our knowledge this area has not been included in Idaho Power’s “select analysis” of streamflows and SDAM has not been followed.</p> <p>This is what I found (on 5/21/2024) near or at a site where a tower is slated to be constructed. FN: Coordinates: 45.29983 N, 118.14634 W. It is rather obviously an amphibian: [photo omitted]. This was found at the same location: [photo omitted] These photos satisfy SDAM’s criteria for at least intermittent, if not perennial stream designations. They show amphibians and macroinvertebrate damselflies (Calopterygidae). Yet on Idaho Power’s maps, there are no streams or wetlands of any kind shown at this location. The water from this location flows directly into Sheep Creek, a stream designated as Essential Salmonid Habitat by DSL, and a stream with resident and listed species present.</p> <p>This next photo (from 5/28/2024) of a pebble snail (Pleuroceridae,) is from a nearby location. FN. Coordinates 45.31061 N, 118.17275 W. Again, Idaho Power apparently has the stream that contains this designated as dirt: [photo omitted]</p> <p>I also have a video from the same day showing riffle beetles (Elmidae), water plants and water striders (Gerridae), though I was not able to embed the video in a PDF. This video is on the same day and identified by the same coordinates as the pebble snail above. I plan to submit this video as evidence during the proceedings if I am allowed a contested case. The video can be furnished with a request to kmarch1961@gmail.com</p> <p>These photos and the video satisfy the criteria for this water as, at minimum, an intermittent stream according to SDAM, and potentially a perennial stream. This stream is not on Idaho Power’s map. Idaho Power has not satisfied SDAM and could potentially put a road right over or through this stream because they have not followed the criteria specified in SDAM to differentiate and map the stream types.</p> <p>The waters from this stream flow into Sheep Creek, just above the confluence of Sheep Creek and Rock Creek. This unmapped water is contiguous with native and anadromous fish bearing streams, and most likely support the cold water refugia and safe protective habitat most needed by juvenile fish as stated earlier in this paper.</p> <p>Because they support such important anadromous fish habitat, Rock Creek and Sheep Creek (tributaries to the Grande Ronde River) have had a tremendous amount of work done for fish habitat improvement, a project called the Rock Creek Project. “This Rock Creek Project encompasses nearly 16 miles of fish habitat on Rock, Little Rock, Sheep, Graves, and Little Graves creeks within the UGC-2 and UGS-16 recovery plan assessment units. UGS-16 has been identified by the BiOp Expert Panel as one of the highest priority geographic units to protect and restore summer steelhead habitat.</p> <p>UGC-2 is identified as having high intrinsic potential for Chinook in the lower reaches of Rock Creek and low to medium intrinsic potential for Chinook within upper stream reaches.”</p>	<p>While not clear, as Mr. March did not name the property owner in his comments, it appears that Mr. March may be referring to John Williams’ property. That property was surveyed for wetlands and streams in 2022. Select areas include places where potential wetlands and/or waters occur within the temporary and/or permanent construction footprint including but not limited to access roads, structure work areas, and pulling and tensioning sites. A desktop analysis utilizing aerial imagery, the National Hydrography Dataset, and the National Wetlands Inventory were used to determine survey areas.</p> <p>The coordinates 45.29983 N, 118.14634 W are located within the structure work area for structure 105/2. The survey identified an emergent (PEM) wetland (UN-W-509) at this site that will be temporarily and permanently disturbed. IPC has filed for a removal/fill permit at this location. The Department of State Lands (“DSL”) wetland evaluation process utilized to prepare the application to DSL takes into account the Streamflow Duration Assessment Methods (“SDAM”) protocols. The survey did not identify an intermittent or perennial stream associated with this wetland.</p> <p>The coordinates 45.31061 N, 118.17275 W are located in between structures 103/3 and 104/1. No construction is planned for this area, so surveys were not performed at this location. This coordinate is located underneath the transmission line and will be spanned with no ground disturbance.</p>
Kevin March (May 30, 2024)	Fish and Wildlife Habitat Standard (OAR 345-022-0060)	Idaho Power has stated that they would use “mitigation banking” to make up for the loss of habitat, but if they do not have accurate data reflecting the true amount of ephemeral and intermittent streams affected by this project, they can not possibly know how much “banking” is needed.	As discussed above, to identify ephemeral streams in the ASC, Idaho Power considered existing ODFW (and other agency) data sets and took into account historic fish distribution data to determine which streams were likely to be fish-bearing. Idaho Power’s fish-presence determinations were sent to ODFW for review, comment and eventual

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		<p>If ephemeral streams are not identified as habitat, the proposed mitigation is not adequate. The mitigation plan is in error because the habitat has not been fully quantified. It omits most ephemeral streams, and some intermittent streams in the habitat quantification that sustains our threatened fish and fisheries. Therefore, the metrics used for the mitigation banking are not accurate and must be reviewed and revised before approval of the site condition, with its mitigation banking, can be granted.</p>	<p>concurrency. Idaho Power included in its analysis ephemeral and intermittent streams. ODFW concurred with Idaho Power’s survey of fish habitat and categorization of that habitat consistent with ODFW regulations.²⁵</p> <p>Consistent with the identification of habitat and potential impacts as reviewed by ODFW, Idaho Power will provide sufficient mitigation for Project-related impacts to habitat.</p>
<p>Kevin March (May 30, 2024)</p>	<p>Fish and Wildlife Habitat Standard (OAR 345-022-0060)</p>	<ul style="list-style-type: none"> ● Ephemeral streams are a critical component of the uplands of a watershed as per OAR 635-415-0005 ● Ephemeral streams are critical habitat during periods of low flow for our states indigenous fish species, whether they are endangered and threatened anadromous fish, or local native species ● Ephemeral streams, even when appearing dry, can have subsurface flows and connectivity to downstream waters, which is important in maintaining cold water refugia for our local and anadromous fish species ● Ephemeral streams are not dirt. They are a vital part of our river systems, and integral to the ecology and habitat of our watersheds ● Mapping and hydrological analysis of ephemeral streams is poor at best and non-existent at worst, and better mapping techniques are now available. Idaho Power could and should have used these techniques to better assess streams in the watersheds spanned by the Route ● Access roads, towers, and the equipment associated with their construction in RFA2 could and would destroy many of these streams, severing connectivity to their associated perennial streams and the native fish species sustained by them ● Idaho Power’s maps of streams in the small area I analyzed are inaccurate and brings into question the accuracy of stream analysis on the entire proposed route ● Idaho Power’s “select” analysis of ephemeral, intermittent and perennial streams and wetlands were performed during a multi-year period of drought with many areas “studied” during the driest period of the year and does not give a true picture of morphology and habitat ● Idaho Power did not follow the guidelines within the SDAM manual, Idaho Power’s reference for the study of and clarification/distinction of ephemeral streams, intermittent and perennial streams ● RAF2 will not meet the requirements set forth in ORS 509.585 and OAR 635-412- 0020 until a more complete analysis of the ephemeral streams throughout the project is undertaken ● RAF2 will not meet the requirements set forth in OAR 345-021-0010(1)(p) until a more complete analysis of the fish and habitat within ephemeral streams and their contiguity with intermittent and perennial streams is undertaken ● RAF2 will not meet the requirements set forth in OAR 345-021-0010(1)(q) until a more complete analysis of the fish and habitat within ephemeral streams and their contiguity with intermittent and perennial streams is undertaken ● RAF2 will not meet the requirements set forth in OAR 635-415-000 and OAR 635-415-0005 if ephemeral stream habitat loss for the watersheds within the entire Project are not included in the proposed mitigation measures ● RAF2 will not meet the requirements set forth in OAR 635-412-0035 if access roads are built through streams prior to a Fish Passage analysis ● RAF2 will not sustain Essential Salmonid Habitat as recognized in OAR 635-415-0005 	<p>The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. If the Council approves the proposed expanded site boundary in RFA 2, then if Idaho Power proposes any additions to the micrositing area the Company will assess, in consultation with ODFW, any potential stream crossings required for the addition. The Company will complete ODFW’s fish passage approval process at that time before final route selection.</p> <p>New stream crossing locations proposed within the proposed expanded site boundary will be assessed for historic fish distribution by reviewing agency data sets and by engaging in consultation with ODFW. The assessment will occur on all streams regardless of their mapping as either ephemeral, intermittent or perennial. If the assessment finds that the stream crossing requires ODFW Fish Passage approval, IPC will apply for that permit and obtain ODFW Fish Passage approval for the site.</p>
<p>Irene Gilbert</p>	<p>Fish and Wildlife Habitat Standard (OAR 345-022-0060)</p>	<p>Not doing preconstruction traffic studies on sage grouse so they have nothing to compare it with if there are impacts to sage grouse</p>	<p>Ms. Gilbert’s comment references the proposed modifications to Fish and Wildlife Conditions 17, 19, and 22, which modify the Company’s required studies for sage grouse habitat and clarify that indirect impacts from new and substantially modified roads would be evaluated through a post-construction access control study, and not through a pre- and post-construction evaluation.²⁶ As the Department explained in the DPO on RFA 2, the Department consulted with ODFW—the agency whose regulations govern sage grouse habitat protections—and based on those consultations</p>

²⁵ Final Order on ASC at 351 of 10586 (Sept. 27, 2022).

²⁶ Draft Proposed Order on RFA 2 at 192 (Apr. 16, 2024).

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			concurring with the proposed amendments to the Site Certificate conditions listed above. The proposed amendments will better protect sage grouse habitat and comply with all ODFW sage grouse protections because the Habitat Quantification Tool (“HQT”), which is already required for use in quantifying sage-grouse mitigation, already accounts for direct and indirect impacts from new and substantially modified roads. For accounting purposes, the HQT is more conservative than a preconstruction survey, and the post-construction true-up of indirect impacts from new and substantially modified roads (21-100 percent modification) is still required to adjust the mitigation obligation of the certificate holder based on actual impacts.

Threatened and Endangered Species Standard (OAR 345-022-0070)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Susan Geer (May 30, 2024)	Threatened and Endangered Species Standard (OAR 345-022-0070)	<p><i>Pyrrocoma scaberula</i> (rough goldenweed), an extremely rare plant, is now listed as Endangered under OAR 603-073-0070. The approved route should be shifted to avoid the Morgan Lake/Twin Lake area where it grows.</p> <p>The largest known occurrence of the species is known from within the RFA2 expanded Site boundary in and near Morgan Lake Park. Herbarium specimens have been submitted to OSU and WSU and siting forms are on their way to Oregon Biological Information Center. It grows only in unique mesic grasslands. It is likely that it occurs in the Morgan Lake Alternative original site boundary/micro siting area. Surveys are needed to document the extent. As of May 3, 2024, this species is listed as Endangered by the State of Oregon rare plant program.</p> <p>[quotation of OAR 345-022-0070 omitted]</p> <p>The species was declared Endangered after the ASC was issued, but before final Amendments or construction. The species had been a Candidate for several years, in fact this is the first time ODA has updated the rare plant list since the start of the program in 1987. ODA rare plant program is slowly working its way through the Candidate species since the program finally got funded in 2020. Listing was not unexpected. ODA funding problems prevented the required Periodic Review of State List 345-022-0070 from being done regularly but and it has finally been listed. <i>Trifolium douglasii</i> (Douglas clover) is another rare Candidate for State listing that grows in mesic grasslands in and around Morgan Lake Park and occurrences are found along the monocline from the park south to Winn Meadow, part of Glass Hill State Natural Area. The EFSC should be pro-active in recognizing Candidate species and doing all they can to protect them.</p>	<p>Ms. Geer’s comments regarding the route near Morgan Lake and Twin Lake is not specific to RFA 2 because the Council has already approved the route segments for the Project located in that area, the Morgan Lake Alternative, and the Company does not seek to modify the micrositing area for the Morgan Lake Alternative.</p> <p>Moreover, the Council has already determined that the Morgan Lake Alternative complies with the Threatened and Endangered (“T&E”) Species Standard.²⁷ Ms. Geer’s challenge to the Council’s conclusion in the Final Order on the ASC is untimely and an impermissible collateral attack on that order.</p> <p><i>Pyrrocoma scaberula</i> was added as an endangered species in 2024, after the Council had already approved the Morgan Lake Alternative. At the time of the Council’s consideration of the ASC, Idaho Power was not required to analyze potential impacts to that plant species under the Council’s T&E Species Standard because it was not listed as endangered at the time, and the fact that the Oregon Department of Agriculture (“ODAg”) updated the list of endangered species after the Council issued its Final Order on the ASC does not require additional analysis of that plant species.²⁸</p> <p>Moreover, even if a threatened or endangered plant species were located within the micrositing area, that fact would not necessitate moving the transmission line. Threatened and Endangered Species Condition 2 requires that the Company give threatened and endangered plant species a 33-foot buffer if possible, and if not, to install temporary construction mats.²⁹ In the DPO on RFA 2, the Department modifies Idaho Power’s requested revisions to Threatened & Endangered Species Condition 2. The Department consulted with ODAg and the proposed condition would require Idaho Power to submit a final micrositing evaluation that maximizes impact avoidance, subject to review and approval by the Department in consultation with ODAg. If the Department determines that complete avoidance is not possible, then Idaho Power must implement mitigation including but not limited to seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities.³⁰ This is consistent with the Council’s T&E Species Standard, which allows the Council to consider mitigation.³¹</p>
Susan Geer (May 30, 2024)	Threatened and Endangered Species Standard (OAR 345-022-0070)	<p>Mitigation called for in RFA 2 - Attachment 4 “Draft T and E Plant Mitigation Plan” is NOT a substitute for occurrences of rare plants and their unique undisturbed habitat.</p> <p>This plan is all about seed banking and making plans for re-introduction. In fact it is over half a million dollars in seed banking. As Dr. Karen Antell demonstrated in her EFSC contested case, few if any cases of successful conversion of habitat exist. Instead of spending this money on seed banking, Idaho Power should spend this money re-routing B2H away from rare plants.</p>	<p>Ms. Geer’s comment challenges potential mitigation in the event that complete avoidance of threatened and endangered species is not possible. Ms. Geer appears to suggest that mitigation cannot address impacts to plant species. However, as discussed above the Council’s T&E Species Standard allows the Council to consider mitigation.³² Moreover, as discussed above, Idaho Power and the Department consulted with ODAg, and ODAg was directly involved in the development of the mitigation and concurs that it reasonably ensures that the impacts from the facility would not significantly impact the likelihood of survivability or recovery of the species.³³ Consistent with ODAg’s consultation, the Council should approve the revised T&E Species Condition 2 as stated in the DPO.</p>
Susan Geer (May 30, 2024)	Threatened and Endangered Species	RFA2 Proposes changes to General Conditions (Attachment 6-1 Second Amended Site Certificate dated Sept. 22, 2023, page 61-62) under the Threatened and Endangered Species Standard OAR 345-022-0070 which are unacceptable and should be rejected by the Council.	In this comment, it appears that Ms. Geer expresses concern with a proposal that Idaho Power made in its RFA 2. However, ODOE did not adopt the revised condition language precisely as the Company proposed. Instead, following consultation with ODAg, ODOE provided the following condition language in the RFA 2 DPO:

²⁷ Final Order on ASC at 424 of 10586 (Sept. 27, 2022).

²⁸ See ORS 469.401 (“The site certificate or amended site certificate shall require both parties to abide by local ordinances and state law and the rules of the council in effect on the date the site certificate or amended site certificate is executed[.]”).

²⁹ Final Order on ASC at 423 of 10586 (Sept. 27, 2022).

³⁰ Draft Proposed Order on RFA 2 at 198 (Apr. 16, 2024).

³¹ OAR 345-022-0070(1).

³² OAR 345-022-0070(1).

³³ Draft Proposed Order on RFA 2, Attachment 5: Draft Threatened and Endangered (T&E) Plant Mitigation Plan, Consultation Summary with Oregon Department of Agriculture Native Plant Conservation Program at 3 (Apr. 16, 2024) (381 of 855).

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	Standard (OAR 345-022-0070)	CON-TE-02 a. adds the words “where practical” leaving the interpretation wide open. CON-TE-02 b. is a new addition which allows IPC to destroy T and E plant species as long as there is “mitigation”. No “mitigation” is a replacement for T and E plants.	<p>Recommended Amended Threatened and Endangered Species Condition 2 (CON-TE-02):</p> <p>During construction, the certificate holder shall not conduct ground-disturbing activities within a 33-foot buffer around <u>state-listed</u> threatened or endangered (<u>T&E</u>) plant species, based on pre-construction field surveys required per site certificate condition Fish and Wildlife Habitat 16, subject to the following:</p> <p>a. <u>Certificate holder shall demonstrate that final facility design includes avoidance through micro-siting, consistent with the avoidance presented in RFA2 Attachment 7- 11. Prior to construction within 33-feet of documented T&E plant species occurrences, as presented in RFA2 Attachment 7-11 Table 1, certificate holder shall submit a final micro-siting evaluation that maximizes impact avoidance, subject to review and approval by the Department in consultation with ODAg. If the Department, in consultation with ODAg, determine that the certificate holder has demonstrated that</u> complete avoidance is not possible (for example, if the threatened or endangered plant species is located within 33 feet of an existing road where upgrades are authorized) <u>for the RFA2 Attachment 7-11 occurrence locations or other areas affected by final facility location</u>, the certificate holder <u>shall implement mitigation including but not limited to seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities. The mitigation agreement shall be substantially similar to the draft mitigation agreement provided in Attachment 5 of the Final Order on Amendment 2, shall install temporary construction mats over soils where the threatened or endangered plant species have been observed and where construction vehicles will be operated;</u> and</p> <p>b. If herbicides are used to control weeds, the certificate holder shall follow agency guidelines including guidelines recommended by the herbicide manufacturer, in establishing buffer areas around confirmed populations of threatened or endangered plant species and refrain from using herbicides within those buffers. [Final Order on ASC, AMD2]</p> <p>Thus, CON-TE-02 precludes impacts within 33-feet of a delineated state-listed threatened or endangered plant population unless avoidance is not possible. If avoidance is not possible, the proposed condition modifications provide for mitigation, as described above. This condition is entirely consistent with the Council’s T&E Species Standard, which allows the Council to take into account mitigation for potential impacts to listed species.³⁴</p>
Kevin March (May 30, 2024)	Threatened and Endangered Species Standard (OAR 345-022-0070)	Idaho Power also does not have a list of threatened species in these intermittent and ephemeral waters to satisfy OAR 345-021-0010. It does not have a complete list because it did not study them, or if the “select representative” streams were actually studied, but during the latter part of the summer during an extended period of drought.	<p>As discussed above, to identify ephemeral streams in the ASC, Idaho Power considered existing ODFW (and other agency) data sets and took into account historic fish distribution data to determine which streams were likely to be fish-bearing. Idaho Power’s fish-presence determinations were sent to ODFW for review, comment and eventual concurrence. Idaho Power included in its analysis ephemeral and intermittent streams. Review of these data sets identified streams that were likely to provide fish habitat, including habitat for threatened and endangered species.</p> <p>These surveys identified Snake River Spring/Summer Chinook Salmon in the analysis area for the ASC.³⁵ The Council reviewed Idaho Power’s analysis of potential impacts to this species and concluded that the Company had demonstrated compliance with the T&E Species Standard.³⁶</p>

Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Wendy King (May 30, 2024)	Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090)	Expanding the site boundary with the possibility of moving the transmission line over additional areas of our farm has the potential of adversely impacting our multi-generational families. The revised route may result in unacceptable noise levels at our homestead, may be strung over our high value cropland, impacting the great horned owls (which is in direct conflict with the Migratory Bird Treaty Act) that reside in our hay sheds, and may justify carving additional roads through our homestead location. If this is allowed without adequate studies it may impose significant changes to our accepted farm practices and significantly increase the cost of accepted farm practices like aerial chemical application and movement of	The proposed expanded site boundary is primarily intended to provide more flexibility concerning the location of access roads, and to address landowner request and engineering and constructability constraints. At this time, Idaho Power does not have any planned modifications to the transmission line alignment. Specific to the concerns about the Bartholomew-Myers Farm, Idaho Power does not currently propose or anticipate any changes to the route on the Bartholomew-Myers Farm. Moreover, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micro-siting area within the proposed expanded site boundary without prior landowner notice and consent, and accordingly, there is no basis for the concerns raised in Ms. King’s comments regarding potential impacts resulting from the proposed expanded site boundary. With respect to potential noise impacts,

³⁴ OAR 345-022-0070(1).

³⁵ Final Order on ASC at 413 of 10586 (Sept. 27, 2022).

³⁶ Final Order on ASC at 419-21, 24 of 10586 (Sept. 27, 2022).

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		<p>products from field to storage and market. By allowing the expanded site boundary, Idaho Power may justify moving the line through yet more fields and disregard the usual constraints of siting along the edges of fields, existing roadways, or natural boundaries, (rather than through existing fields) because they only have to show they did so generally. The ORS 215.275 does not require the complete avoidance or elimination of impacts to accepted farm practices. Idaho Power can simply move its transmission line within yet another of our fields as they did in the original siting, and we have no recourse, no advocacy, just land added to our condemnation trial.</p> <p>Historic, Cultural and Archaeological Resources OAR • 345-022-0090 The Bartholomew-Myers Farm is a historical resource. It was adopted into the Century Farm and Ranch Program (CFR1093) and is NRHP Eligible (Criterion A). The original CFR application, completed in 2005 reflects: “While farming challenges remain, all of those on the farm enjoy the beautiful countryside and respect the great heritage that we have on the Bartholomew-Myers Farm.” The B2H approved route north of our homestead is already an eye-sore in the viewshed of our historical farm. If B2H were to be relocated closer to our homestead, we would contest. We formally request access to the Confidential Attachment S-10 Intensive level survey- visual assessment of historic properties report in Exhibit S of the original B2H application as it includes information about our property, how it was studied, and how line relocation might impact the results.</p> <p>Ultimately, Idaho Power’s request for an expanded site boundary presents all parties with a vague proposal and yet, we are supposed to respond with specificity. We cannot guess what Idaho Powers’ intentions are nor can the EFSC. Moving forward, our family has tremendous concern that an expanded site boundary will give way to a second or third transmission line without consultations with us or other landowners.</p>	<p>the Bartholomew-Myers Farm is not identified as a noise sensitive receptor (“NSR”). The Project will lie in the foreground distance zone and will be located approximately 2600 feet from the Bartholomew-Myers Farm.</p> <p>Idaho Power is aware of the designation of the Bartholomew-Myers Farm as a Century Farm eligible for listing on the National Register of Historic Places (“NRHP”) under Criterion A and fully assessed potential impacts to Mr. Myers’ farm and analyzed potential impacts to the farm as a historic resource in the Company’s ASC at EFSC.³⁷ According to Table S-2 (Cultural Resources in the Analysis Area) of Exhibit S to the ASC, CFR 1093 (Thomson Myers Farm) is in the Visual Assessment Analysis Area and no adverse direct or visual impacts to CFR 1093 as a historic resource are anticipated.³⁸ EFSC ultimately concluded that the Project, taking into account mitigation, is not likely to result in significant adverse impacts to any historic resources.³⁹</p> <p>However, Idaho Power concluded that certain impacts to the agricultural operations of the farm were unavoidable. EFSC specifically considered these impacts to Mr. Myers’ farm before adopting the Hearing Officer’s conclusion as follows:</p> <p>“[A]lthough the proposed project may impact Mr. Myers’ agricultural operations, a preponderance of the evidence demonstrates that Idaho Power sited the project in a manner that will generally reduce the intensity and frequency of impacts to farmlands, and that the Company will further minimize and mitigate the specific impacts to Mr. Myers’ operations when negotiating an easement with him. Idaho Power has shown that the project complies with the Land Use standard notwithstanding the impact the project may have on Mr. Myers’ farm practices.”⁴⁰</p> <p>Idaho Power cannot provide Confidential Attachment S-10 (Intensive Level Survey – Visual Assessment of Historic Properties Report) to Ms. King. Disclosure of the site locations for historic, archaeological, and cultural resources is prohibited under 43 CFR 7.18. Any location information contained in maps and other documents related to cultural and historic resources is confidential and access to this information is restricted by the National Historic Preservation Act of 1966 (as amended) and the Archaeological Resources Protection Act of 1979 (as amended). Idaho Power is in the process of reviewing whether it can provide excerpts and summaries of cultural resource surveys, as available, to the relevant property owner.</p>
Sam Myers (May 30, 2024)	Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090)	Our farm has historical significance; it was adopted into the Century Farm and Ranch program in 2005. The B2H route is just North of our Homestead and is already going to devastate the landscape that we know currently. We are concerned that further erosion of our landscape with unknown changes in the site boundary is simply unacceptable to us .	Idaho Power is aware of the designation of the Bartholomew-Myers Farm as a Century Farm that is eligible for listing on the NRHP under Criterion A and fully assessed potential impacts to Mr. Myers’ farm and analyzed potential impacts to the farm as a historic resource in the Company’s ASC at EFSC. ⁴¹ According to Table S-2 (Cultural Resources in the Analysis Area) of Exhibit S to the ASC, CFR 1093 (Thomson Myers Farm) is in the Visual Assessment Analysis Area and no adverse direct or visual impacts to CFR 1093 as a historic resource are anticipated. ⁴² EFSC ultimately concluded that the Project, taking into account mitigation, is not likely to result in significant adverse impacts to any historic resources. ⁴³ However, Idaho Power concluded that certain impacts to the agricultural operations of the farm were unavoidable.
Irene Gilbert (oral comments)	Historic, Cultural and Archaeological Resources Standard (OAR 345-022-0090)	The other one I wanted to comment on was cultural surveys. I noticed that you’re planning on removing the requirement for cultural surveys required by rule and statute which require not just review of federally listed protected sites. On private property they’re also supposed to look at locations and objects in addition to registered historic properties. That’s going to be a big issue because you’re not complying with Oregon laws. Reliance on federal rules and ignoring state rules has been a problem because the developer is just looking where the transmission line is damaging things instead of damaging things. Someone said when the line goes over the Oregon Trail it’s not considered an impact.	Mr. Gilbert’s comment is raising generalized concerns not specific to the DPO for RFA 2 and does not raise any issue related to RFA 2 with sufficient specificity to afford the Council, ODOE, or certificate holder the opportunity to respond. <p>EFSC previously approved Historic, Cultural, and Archaeological Resources Condition 2 (GEN-HC-02) in the Final Order on ASC,⁴⁴ which reflects the Council’s commitment to conduct its review, including its review of the proposed micro-siting area additions in RFA2, consistent with ORS 469.370(13) to the maximum extent feasible, in a manner that is consistent with and does not duplicate the federal agency review. And because OAR 345-022-0090(a) relies upon NRHP eligibility, Council previously found that it could rely on the determinations resulting from the Section 106</p>

³⁷ Idaho Power’s ASC, Exhibit S at S-166 (Sept. 28, 2018) (CFR 1093); *see also* CFR1093, Century Farm & Ranch Viewer, <https://ocfrp.library.oregonstate.edu/node/30476> (last visited June 5, 2024).

³⁸ Idaho Power’s ASC, Exhibit S at S-31 (Sept. 28, 2018) (CFR 1093).

³⁹ Final Order on ASC at 547 of 10586 (Sept. 27, 2022).

⁴⁰ Final Order on ASC, Attachment 6 at 8856-57 of 10586 (Sept. 27, 2022).

⁴¹ Idaho Power’s ASC, Exhibit S at S-166 (Sept. 28, 2018) (CFR 1093).

⁴² Idaho Power’s ASC, Exhibit S at S-31 (Sept. 28, 2018) (CFR 1093).

⁴³ Final Order on ASC at 547 of 10586 (Sept. 27, 2022).

⁴⁴ Final Order on ASC at 779 of 10586 (Sept. 27, 2022).

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		<p>The problem goes beyond just here. The federal Department of Interior is going to take a look at B2H in terms of problems with their cultural surveys. It just came out. I would say that people like me asking feds to look at this programmatic agreement hopefully got the attention of someone in DC.</p>	<p>review and that the final determinations and mitigation may be provided prior to construction of a phase or segment of the facility.⁴⁵ Importantly, Idaho Power’s EFSC-specific Historic Properties Management Plan (“HPMP”) addresses both private and state cultural resources (e.g., archaeological sites and objects on private lands, regardless of NRHP-eligibility status)—Attachment S-9 to the Final Order.⁴⁶</p> <p>Contrary to Ms. Gilbert’s unfounded assertion, the DPO on RFA 2 does not remove the requirement for surveys of cultural and historic resources, including those not previously listed on the NRHP on private properties. In preparation of RFA 2, and consistent with survey methods approved in the Final Order on ASC and RFA 1, archaeological surveys are being conducted in two phases. Phase 1 consists of completed surveys of an intensive pedestrian inventory of the entire direct analysis area to which Idaho Power had right of entry to access for surveys. As of the date of the DPO on RFA 2, 17 acres (82 percent)⁴⁷ of the proposed RFA 2 micro-siting area additions have been surveyed for cultural resources. Any additional surveys required to complete an inventory of 100 percent of the final selected route, as well as any necessary subsurface inventory or evaluation efforts, would be conducted during Phase 2. Phase 2 is anticipated to occur after the amended site certificate has been issued, but prior to construction, when site access has been secured for all properties as captured in Historic, Cultural, and Archaeological Resources Condition 2. Continued survey efforts would focus on high probability areas, confirming archaeological site boundaries, confirming archaeological isolated finds, NRHP-eligibility testing, and 100 percent inventory of the proposed micro-siting area additions.⁴⁸ Idaho Power’s cultural surveys were indeed not limited to NRHP-listed resources as demonstrated by the fact that new resources (archaeological sites and objects) on private properties were surveyed and assessed <i>for</i> potential listing on the NRHP.⁴⁹</p> <p>Furthermore, Ms. Gilbert misrepresents how Idaho Power categorizes potential impacts to Oregon Trail resources. Potential impacts can be direct (i.e., physical) or indirect (i.e., visual). Per Historic, Cultural, and Archaeological Resources Condition 1 (GEN-HC-01) in the Final Order on ASC, during final design and construction of the facility, Idaho Power must design and locate facility components to avoid direct impacts to Oregon Trail/National Historic Trail resources consistent with the HPMP.⁵⁰ Accordingly, the transmission line must span Oregon Trail resources. In these cases, there are no direct/physical impacts, although there may be indirect/visual impacts. Idaho Power developed a list of potential mitigation measures for visual impacts to Oregon Trail resources. Mitigation methods for unavoidable indirect impacts may include, but are not limited to, historic documentation, photographic documentation (modern and historic), collection of oral histories, or architectural, landscape, or engineering documentation. In certain areas, Idaho Power is also required to use shorter H-frame towers instead of the taller lattice towers in compliance with Recreation Condition 1 (GEN-RC-01),⁵¹ which is also an acceptable form of mitigation for visual impacts to cultural resources under the EFSC HPMP.⁵²</p> <p>Before completion of the Section 106 process, the Bureau of Land Management (“BLM”) launched a confirmation verification program, with field verification of cultural resource surveys completed for the Project. The review process is a “spot check” intended to allow BLM to produce a defensible record that “will allow us to proceed through to construction and bring that transmission online.” To complete the cultural resource work to date on the project, a team of archaeologists employed by Idaho Power and its consultants logged nearly 100,000 hours scouring and researching the project corridor. Due to the thorough nature of the prior studies, Idaho Power does not anticipate that the BLM will</p>

⁴⁵ See Draft Proposed Order on RFA 2 at 208-09 (Apr. 16, 2024).

⁴⁶ More specifically, these resources include historic properties listed on or likely to be listed on the NRHP (NRHP-eligible properties, including sites determined significant in writing by a Native American tribe), archaeological sites on public or private land, and archaeological objects on private land within the Project micro-siting areas. Final Order on ASC, Attachment S-9 at 10322 of 10603. Under ORS 358.905(1)(c)(A), an “archaeological site” is a “geographic locality in Oregon...that contains archaeological objects.” A “site of archaeological significance” is defined as “[a]ny archaeological site on, or eligible for inclusion on, the National Register of Historic Places as determined in writing by the State Historic Preservation Officer” or “[a]ny archaeological site that has been determined significant in writing by an Indian tribe.” ORS 358.905(1)(b).

⁴⁷ Currently, cultural resource surveys have occurred over 97 percent of the B2H micro-siting corridor. The remaining area will be surveyed for cultural resources after right of access has been granted by the property owner.

⁴⁸ See Draft Proposed Order on RFA 2 at 208-09 (Apr. 16, 2024).

⁴⁹ For example, in Table 31 of the DPO on RFA 2, pre-contact debitage (8B2H-DM-ISO-10) was considered under subsection (a) (NRHP) and subsection (b) (archaeological object on private lands) of EFSC’s standards. Although the resource is unevaluated for listing on the NRHP, Idaho Power avoided direct impacts to the resource and provided that additional protection measures were to be determined in consultation with Parties to the Section 106 Programmatic Agreement. See Draft Proposed Order on RFA 2 at 214-15 (Apr. 16, 2024).

⁵⁰ Final Order on ASC at 779 of 10586 (Sept. 27, 2022).

⁵¹ Final Order on ASC at 780 of 10586 (Sept. 27, 2022) (Recreation Standard 1).

⁵² Final Order on ASC, Attachment S-9 at 10392 of 10586 (Sept. 27, 2022) (requiring design modification for each visually impacted NHRP-Eligible Oregon Trail/NHT segment); see also OAR 345-001-0010(22) (definition of mitigation).

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			discover any significant errors and/or omissions. Regardless, Idaho Power will ensure that the Project complies with the Section 106 process and all requirements of the BLM.

Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Wendy King (May 30, 2024)	Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	Even though Idaho Power has a Wildfire Mitigation Plan on file at OPUC in UM 2209, our family has concerns that RFA-2 is not in compliance with the new: Wildfire Prevention and Risk Mitigation standard 345-022-0115 (a)(D). Because the line is routed through the Butter Creek Wildland Urban Interface, any line relocation within that zone will potentially impose elevated risk. Myers farm is within the Butter Creek Wildland Urban Interface as identified in the Morrow County Community Wildfire Protection Plan 2018-2019 Update.	<p>Contrary to Ms. King’s assertion, as a matter of law, the Council may find that Idaho Power’s Wildfire Mitigation Plan complies with the Council’s Wildfire Prevention and Risk Mitigation Standard. Under OAR 345-022-0115(2), the Council may rely on an OPUC-approved Wildfire Mitigation Plan for compliance with EFSC’s rules. The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan,⁵³ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly.</p> <p>As added context, utility Wildfire Mitigation Plans at the OPUC undergo rigorous annual review by the OPUC’s Safety Staff and are closely analyzed by an OPUC-contracted independent evaluator. The Wildfire Mitigation Plans are updated annually. Because they undergo annual review, utilities continuously update Wildfire Mitigation Plans to take into account fire risk zones based on the applicable criteria in the Wildfire Mitigation Plans and to include new risk mitigation strategies and technologies.</p> <p>Mr. Myers also raises a concern regarding a specific Wildland Urban Interface (“WUI”) in Morrow County. While this specific WUI has not been addressed in the Wildfire Mitigation Plan, wildfire risk in Morrow County was thoroughly litigated in the CPCN proceedings before the OPUC. In that docket, Idaho Power’s witness discussed the fire history in Morrow County and explained that the majority of fire history in Morrow County is in the southern part of the county in the Blue Mountains. There is very little history of fire along the Project route in Morrow County or near Mr. Myers’ property. In its Order No. 23-225 approving the CPCN, the OPUC provided the following additional context regarding the OPUC’s oversight of Wildfire Mitigation Plans:</p> <p style="padding-left: 40px;">We appreciate the data and additional information provided by intervenors on fire risk. The firsthand experiences of individuals living along or near the proposed B2H transmission line route, including the reality of fire suppression activities in rural Oregon, will be considered in our [Wildfire Mitigation Plan] process and we encourage intervenors to continue to participate in those future processes to ensure we continue to be apprised of that localized knowledge.⁵⁴</p> <p>In fact, several commenters in this proceeding—including Wendy King, Sam Myers, and Jim Kreider—have provided public comment on Idaho Power’s Wildfire Mitigation Plan in the OPUC docket UM 2209, and Idaho Power understands that one or more of these commenters have also directly reached out to OPUC Staff to make their concerns known. Thus, the appropriate venue for these parties to provide comment on the Company’s Wildfire Mitigation Plan is at the OPUC, and it is Idaho Power’s understanding that they are fully aware of and engaged in that process.</p> <p>Additionally, Idaho Power must comply with the OPUC’s Minimum Vegetation Clearance Requirements, which require which will require the Company to maintain vegetation clearances from the Project of at least 10 feet under reasonably anticipated operational conditions.⁵⁵ The OPUC annually evaluates the vegetation management programs across the state for the investor-owned electric utilities, including Idaho Power, for compliance with these regulations. Additionally, on a 3-year cycle, the OPUC inspects vegetation as part of the National Electrical Safety Code (“NESC”) inspection for consumer-owned utilities. NESC is a minimum standard in Oregon for installation, operation, and maintenance of electric utility and communication lines.</p> <p>The OPUC also specifically considered Wendy King and Sam Myers’ arguments regarding wildfire-related concerns on the Myers property, and concluded that the risk of ignition associated with B2H is low:</p>

⁵³ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

⁵⁴ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 22 (June 29, 2023).

⁵⁵ OAR 860-024-0016(4)(a).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p>The evidence in the record makes us conclude that Idaho Power has shown there is a low probability of fire ignition from the operation of the B2H transmission line and that Idaho Power’s fire-related planning and mitigation documents will effectively reduce the probability of fire ignition during construction of the line. We note we approved Idaho Power’s 2022 and 2023 WMPs and we expect Idaho Power will continue submitting WMPs that will evolve as the B2H transmission line is constructed and once it is operational. The evolving nature of WMPs ensures that Idaho Power will respond to new information and threats that emerge during the life of the B2H transmission line. In combination with Idaho Power’s FPSP, Right-of-Way Clearing Assessment, and Vegetation Management Plan, we conclude these plans will ensure public safety during the construction, operation, and maintenance of the B2H transmission line.</p> <p>We also conclude that Idaho Power’s fire expert has explained the low risk of arcing related to dust/chaff clouds and we agree that the safety mechanisms in place for the B2H transmission line should prevent any such events. We also conclude that Idaho Power’s fire expert’s model for assessing fire risk is reasonable and while other models may exist, we are satisfied with the adequacy of Idaho Power’s fire risk modeling. We recognize that the consequence element of fire risk modeling centers on human life and structure loss, rather than loss of other resources and that this deeply troubles intervenors. However, the record demonstrates Idaho Power’s design and fire mitigation planning still seek to minimize the risk of ignition, despite the characterization of the consequences of an ignition. Furthermore, we find no evidence in this record to contradict Idaho Power’s ability to maintain the B2H transmission line in a manner that will continue to keep the risk of ignition low.⁵⁶</p> <p>Finally, Idaho Power strongly urges the Council to avoid creating any additional requirements that may potentially conflict with the OPUC-approved Wildfire Mitigation Plan or otherwise create confusion about which requirements should apply. In implementing a Wildfire Mitigation Plan, it is critical to have certainty and clarity about which requirements apply to guide decisions—and particularly so in emergency circumstance that may arise during fire season. From an operational perspective, Idaho Power urges that the OPUC-approved Wildfire Mitigation Plan should continue to guide the Company’s wildfire mitigation efforts.</p>
Sam Myers (May 30, 2024)	Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	<p>Idaho Power currently has a wildfire mitigation plan on file at OPUC this current plan is frankly unacceptable and leaves out significant cropland impacts from fire. It is an exceedingly underdeveloped plan. We are concerned that the RFA-2 is not in compliance with the new Wildfire prevention and risk mitigation standard. Much work needs to be done to reconcile this new Wildfire standard. I am confused about how that is going to happen. Proper Wildfire Policy seems much more Paramount in this process than granting more authority to Idaho Power without proper; review, transparency and regulation.</p> <p>Morrow County authorities have designated this Butter Creek area as ‘Wildland Urban interface’, unfortunately the current B2H route traverses directly through this Urban interface Zone and remains in close proximity making it highly impacting for many homes and Farms, any relocation or revisions need to be fully scrutinized in this area because of those heightened impacts.</p>	The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan, ⁵⁷ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly. Idaho Power responded above to nearly identical comments raised by Wendy King, and incorporates that response here by reference.
Sam Myers (May 30, 2024)	Wildfire Prevention and Risk Mitigation (OAR 345-022-0115)	I am very cautious of Idaho Power’s ability to maintain the entire project because of their actions that led to the Powerline and Lime Hill fires in which their \$1.5 million settlement was not an admission of liability.	As Mr. Myers acknowledges, Idaho Power did not admit fault regarding the cause of these fires in the Company’s settlement agreements. Moreover, it should be noted that the lines alleged to have caused these fires were 230-kV transmission lines. The fire risk of a 500-kV transmission line was thoroughly litigated in the contested case on the ASC, where the Company demonstrated 500 kV transmission lines rarely ignite fires, and in fact have caused fewer fires than lower-voltage transmission lines because 500-kV lines are subject to wider right-of-way widths, stricter vegetation clearing requirements, and tower taller structures. ⁵⁸

⁵⁶ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 22 (June 29, 2023).

⁵⁷ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

⁵⁸ Final Order on ASC, Attachment 6 at 8763, 8847 of 10586 (Sept. 27, 2022).

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Other Rules

Fish Passage

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Kevin March (May 30, 2024)	Fish Passage	Oregon fish passage criteria for OAR 635-412-0035 are not satisfied if ephemeral streams are considered dirt and have not been analyzed. Fish passage criteria are not met if only “select” intermittent streams were studied, and are not satisfied if SDAM forms were not filled out for all intermittent and perennial streams. Fish passage OARs are not satisfied if Idaho Power can have a half mile wide corridor with which to build roads, install powerline towers, and damage habitat while severing connectivity within this extremely important habitat.	Mr. March’s concern is outside the scope of RFA 2. As discussed immediately above, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2. Moreover, Idaho Power proposed that any fish passage approvals associated with RFA 2 not be governed by the Site Certificate. The Company is coordinating with ODFW to incorporate new crossings into a final Fish Passage Plan for any RFA 2 fish passage approvals.

Noise

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Greg Larkin (May 30, 2024)	Noise	My residence, which is in a particularly quiet area, is located near several of the B2H towers/power lines. Idaho Power Company (IPC) sent me a map of the B2H project in 2007. The first formal correspondence that I received from IPC identifying and addressing my status as Noise Sensitive Receptor (NSR {residence}) was on February 24, 2024 when I received the Operational Noise Complaint Response Plan. I was informed in the cover letter that although IPC has modeled the corona noise impacts at my residence and does not expect that they’ll exceed regulatory levels , they’d send me information to respond to the Noise Complaint Process just in case. which I have no recourse to oppose, report or complain. ORS 340-035-0035 (1) and ORS 467.010.	Mr. Larkin was formally identified as a property owner of a noise sensitive receptor (“NSR”) in Attachment X-7 (Owners of Noise Sensitive Properties) to Exhibit X to the Final ASC in September 2018. ⁵⁹ Because Noise Control Condition 1 (GEN-NC-01) identifies Mr. Larkin as a property owner of an NSR for which it has estimated exceedances of the ambient antidegradation standard may occur (NSR 125), Idaho Power is required to contact Mr. Larkin prior to construction to develop a Noise Exceedance Mitigation Plan. ⁶⁰ On August 7, 2023, Idaho Power sent a letter to Mr. Larkin explaining that “Idaho Power’s proposed Boardman to Hemingway transmission line project could exceed certain standards at your residence,” and that Mr. Larkin is “entitled to receive noise mitigation improvements to reduce the impacts of that noise. Idaho Power’s noise consultant Harris Miller Miller & Hanson Inc. (HMMH) will contact you shortly to discuss noise mitigation improvements that are appropriate for your property.” Mr. Larkin was also mistakenly sent the February 2024 letter to landowners within one mile of the micrositing areas that are not anticipated to exceed the ambient antidegradation standard. Idaho Power is sending a letter to Mr. Larkin to address this inadvertent miscommunication. Additionally, after Idaho Power has made all final updates to Attachment X-7 (Owners of Noise Sensitive Properties), the Company will send out another notice per Noise Control Condition 2, GEN-NC-02(a).
Greg Larkin (May 30, 2024)	Noise	My residence is/will be approximately 627 feet from the power lines when it is built. I predict the corona noise it produces will be in exceedance of the Department of Environmental Quality (DEQ) standards, above 20 dBa . Inclement weather produced by high elevation (~4600') very windy mountain ridges, wet and rainy Spring and Fall seasons and Winters that produce copious amounts of snow. All make corona noise worse which I predict will harm my quality of life . I will also be exposed to the noise pollution/intrusion of the line construction	Although Mr. Larkin claims without evidence that he predicts corona noise at his house will produce exceedances above 20 dBA, this is contrary to Idaho Power’s modeling and the record of RFA 2. The foul weather increase of corona noise over the late night baseline modeled at Mr. Larkin’s residence (NSR 125) was modeled to be 12 dBA. ⁶¹ To the extent Mr. Larkin raises concerns that corona noise from the Project will harm his quality of life or otherwise pose a safety hazard, EFSC already concluded in the Final Order on ASC that—with the protective conditions and mitigation included in the Site Certificate—granting the exception for predicted corona noise exceedances of the ambient antidegradation standard “would not preclude the protection of health, safety, and welfare of Oregon citizens otherwise afforded through compliance with” DEQ’s Noise Rules. ⁶² The issue regarding Mr. Larkin’s health concerns <i>in particular</i> was also thoroughly litigated and considered by the OPUC, which determined that “the evidence before us does not lead us to conclude that the B2H transmission line will jeopardize public health and safety.” ⁶³

⁵⁹ Idaho Power’s ASC, Exhibit X, Attachment X-7 (Owners of Noise Sensitive Properties) (Sept. 28, 2018), <https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2018-09-28-B2H-ASC-Exhibit-X.pdf> (NSR 119). NSR 119 and 121 were originally identified as an NSR but subsequent inspection identified theses as a Structure/Multi-purpose shed, therefore not an NSR. See Final Order on ASC at 684 n.755 of 10586 (Sept. 27, 2022). The residence on Mr. Larkin’s property is NSR 125. Final Order on ASC, Attachment X-1 (Noise Sensitive Receptors) at 10562 of 10586 (Sept. 27, 2022).

⁶⁰ Final Order on ASC at 784 of 10586 (Sept. 27, 2022).

⁶¹ Final Order on ASC, Attachment X-4 at 10541 of 10586 (Sept. 27, 2022).

⁶² Final Order on ASC at 696 of 10586 (Sept. 27, 2022).

⁶³ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket No. PCN 5, Order No. 23-225 at 23-24 (June 29, 2023) (“Intervenors argue that ORS 467.010 establishes that noise standard exceedances are, by definition, a safety hazard. We disagree. We recognize that the B2H transmission line required a noise variance on account of an exceedance of ambient noise standards, however, we disagree with intervenors that the presence of a noise variance creates a safety hazard. We are persuaded by the fact that the transmission line is not expected to create sounds that violate the maximum allowable noise limit or at levels that may result in hearing loss, but rather will increase ambient noise levels in places along the transmission line’s proposed route

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			As these arguments were already thoroughly addressed by both the Council and the OPUC, the Council should not revise its conclusions in this case.
Greg Larkin (May 30, 2024)	Noise	<p>It is important to state that ALL NSRs on the B2H line need assigned baseline dBAs, as well as ongoing monitoring. Changes to the site certificate conditions regarding the location and numbers of noise sensitive properties mean that there needs to be a review of noise impacts to private residences. The requirements regarding noise sensitive properties do not comply with ORS 467.030, Oregon Administrative Rule 340, Division 035 and the Oregon Sound Measurement Procedures Manual. which all continue to be in force as state law.</p> <p>EFSC has historically evaluated noise by following the requirements of the above statutes and rules, however, they have used different methods, interpretations, and procedures to evaluate noise in the Site Certificate for the Boardman to Hemingway Transmission line.</p> <p>It should not be the burden of land owners to prove what the dBa is at their residence or demand monitoring and mitigations. IPC has the burden of proving what they’re saying with preponderance of evidence that the B2H power line will not harm the NSR residents. ORS 340-035-0035 (1). It is imperative that all NSR’s are informed, protected, and future mitigation followed. Then, once the actual baselines are known, the negotiations can begin with the NSRs. To NOT do so before hand, disadvantages the NSR because the extent or degree of impact is not really confirmed. For example, If windows were a mitigation measure that the NSR was agreeable too, not knowing the real extent of the exceedance hampers the ability to negotiate the type of window’s sound ratings.</p>	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. Over parties’ arguments that additional baseline monitoring is needed, the Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁶⁴</p> <p>Mr. Larkin also appears to challenge the noise control conditions in the Site Certificate that the Council approved in its Final Order on the ASC. These noise conditions were fully litigated in the contested case on the ASC, where Idaho Power, ODOE, and several limited parties to the contested case provided analysis and argument regarding the noise conditions. The Council painstakingly reviewed and subsequently approved the conditions that were included in the Final Order on the ASC.⁶⁵ Idaho Power has not proposed any substantive modifications to those conditions in RFA 2 that would alter the process for establishing a Noise Exceedance Mitigation Plan at a property or the noise complaint process. The only change to GEN-NC-01 is the inclusion of seven additional NSRs to reflect the proposed micro siting area additions in RFA 2. GEN-NC-02 now specifies that the complaint process applies to those owners of an NSR within one mile of the micro siting areas (i.e., the previous site boundary). The arguments that Mr. Larkin raises were addressed in the contested case on the ASC and the Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	<p>Also, the Monitoring Posts used for the noise studies IPC chose for residences dBAs are not representative of my property or an NSR property, therefore all NSRs should get the Site Specific monitoring (as required by the DEQ manual, 340-035-0005) and it needs to be paid by the developer using an Acoustical Engineer agreeable to all parties.</p> <p>The evidence is such: At my residence on September 12, 2021, Kerrie Standlee , P.E., at DSA Acoustical Engineers, Inc., conducted sample noise monitoring which resulted in approximately 21 dBA. IPC performed a sample noise dBA at monitoring site MP 100 (on the windy ridge near Morgan Lake Park .8 mile from my residence) and it registered at 31dBA-- NOT representative! Standlee’s was only a quick sample to meet the ALJ deadlines for testimony. (Exhibit 1). Therefore, a follow up and more accurate monitoring measurement must be taken BEFORE (not after) my negotiation on Noise mitigation.</p>	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁶⁶ In particular, the evidence from Mr. Kerrie Standlee that Mr. Larkin references was submitted in the record of the contested case and addressed in that case. Mr. Larkin argued that Mr. Standlee’s “spot check” monitoring at Mr. Larkin’s residence demonstrates that ambient sound levels at NSRs are lower than those measured by Idaho Power at representative monitoring positions (“MP”). However, this argument is without merit and was already rejected in the Contested Case Order, which was adopted by EFSC: “Mr. Standlee’s monitoring at Mr. Larkin’s residence is not persuasive evidence that the ambient sound levels at NSRs in the vicinity of Morgan Lake are likely 10 to 12 decibels lower than the 32 dBA measured at MP 11 (or the 31 dBA measured at MP 100). As Mr. Standlee conceded in his Surrebuttal Report (STOP B2H Surrebuttal Exhibit A at 7), the results from one night of measurements at the residence should not be used to determine representative ambient noise levels for the residence. Simply stated, the dataset from the Larkin residence is simply too small to prove anything with regard to the average ambient sound levels for NSRs along the Mill Creek or the Morgan Lake Alternative routes. Similarly, the data from the Larkin residence does not establish that Idaho Power’s methodology for determining average ambient sound levels was flawed or otherwise inappropriate.”⁶⁷</p>
Greg Larkin (May 30, 2024)	Noise	<p>In the Operational Noise Complaint Response Plan am particularly concerned with the reference to a 12 month “burn in” period. There is no reference or exception in Oregon law which would require me to be subjected to a year of noise trespass on the use of my home and property. The complaint process is flawed.</p>	<p>The Council fully considered the possibility of a 12-month “burn-in period” in the Final Order on ASC.⁶⁸ Recognizing the temporary nature of the burn-in period, the Council adopted GEN-NC-02(e)(i), which provides special instructions for the complaint process during that 12-month period. If the exceedance occurs during the burn-in period, and if the certificate holder complies with the requirements of GEN-NC-02 (i.e., the certificate holder has taken all appropriate</p>

at certain times, potentially in times of extremely low ambient noise. Based on the evidence, including Staff’s assessment that it is unaware of any conclusive evidence that properly constructed transmission lines pose a health risk to humans living in proximity to those lines, we are unpersuaded that the anticipated increased noise from the B2H transmission line presents danger to the public.”).

⁶⁴ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

⁶⁵ EFSC Meeting Day 3 Transcript at 613 (Aug. 31, 2022) (“We’ve also proposed that -- to some additional monitoring to verify whether the baseline levels really are accurate.”) (Karl Anuta on behalf of STOP B2H); *see also* EFSC Meeting Day 3 Transcript at 675-81 (Aug. 31, 2022) (Council rejecting STOP B2H’s proposed condition that would require Idaho Power to monitor corona noise at each NSR).

⁶⁶ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

⁶⁷ Final Order on ASC, Attachment 6 at 8872 of 10586 (Sept. 27, 2022).

⁶⁸ Final Order on ASC at 667 of 586 (Sept. 27, 2022) (“As explained in ASC Exhibit X, other sources of corona may include a ‘burn in period,’ which typically occurs within a year of the transmission line being operational, in which dirt or oil from construction wears off. Corona noise generated during the ‘burn-in period’ would be minimized through conductor design, using a non-specular finish which is a method of sandblasting to artificially ‘age’ the conductor to make it less reflective.”).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			measures near that NSR to minimize corona noise that may occur during the burn-in period), the certificate holder will not be found to be in violation of its site certificate because of the exceedance. The Council should not revise its conclusions in this case.
Greg Larkin (May 30, 2024)	Noise	How, practically speaking, can an impacted NSR measure the exceedance? Saying the time, date, weather patterns, doesn’t necessarily confirm anything. Once there is a complaint, IPC needs to take action to monitor, measure, and work with the NSR owner for resolutions or changes to the noise easement. The steps as proposed are complex and delay the company’s response, putting most of the burden on the property owner which is NOT what we believe the EFSC or State of Oregon wants.	Mr. Larkin’s comment challenges noise control conditions that were fully litigated in the contested case on the ASC for the Project and that the Council approved in the Final Order on the ASC. As discussed above, Idaho Power does not propose any substantive changes to GEN-NC-01 or GEN-NC-02 in RFA 2. The Council should not revise its conclusions in this case.
Greg Larkin (May 30, 2024)	Noise	SITE CERTIFICATE CONDITION: Idaho Power will perform on site noise measurements to establish actual current ambient noise levels prior to the start of construction where it is projected that noise levels are predicted to increase by 15 dB or more. Follow-up monitoring will occur on an annual basis if requested by the property owner during the first ten years of operation.	Mr. Larkin proposes a new condition regarding baseline noise measurements; however, this issue was fully litigated in the contested case on the ASC for the Project. In particular, in the contested case, STOP B2H proposed a similar condition that Idaho Power be required to conduct new baseline sound measurements at each NSR to determine the extent of potential exceedances of the ambient antidegradation standard. ⁶⁹ The Hearing Officer agreed with the Department and Idaho Power that a new baseline study was unnecessary because “a preponderance of the evidence establishe[d] that Idaho Power’s methodology was appropriate and that the original and supplemental monitoring adequately represents the baseline ambient sound levels.” ⁷⁰ Consequently, the Hearing Officer rejected STOP B2H’s proposed condition. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable. ⁷¹ Because the Council has already determined that the Company’s methodology for assessing baseline noise levels was reasonable, Idaho Power requests that the Council not adopt Mr. Larkin’s proposed site certificate condition.
Greg Larkin (May 30, 2024)	Noise	SUMMARY: EFSC rules also require ongoing monitoring to assure that there is compliance with the standards set including the 20 dB limit on increases in the current ambient noise levels. There are many residences where the projected noise level increases will be 15 dB or greater. In all these instances, there is a significant likelihood that the assigned noise levels may not be accurate and noise levels could increase by more than the 20dB exception allowed. The burden of proving that there are not exceedances lies with the developer, not the property owner. This responsibility is even greater due to the many areas where procedures used did not follow the state noise rule requirements and there was no study completed to validate that the results would be the same with the changed procedures. Only when the procedures used are equal to or stricter than the state noise rules can counties or cities implement noise rules using different procedures than those in the state rules. This standard would also apply to EFSC. Even if it were determined that the multiple instances where the procedures used failed to follow those in the state rules were determined to be “equal	Mr. Larkin states there are “many” exceedances where projected noise level increases will be 15 dBA or greater. This is not accurate. Depending on the final selected route, there are at maximum 10 NSRs where corona noise levels are modeled to increase by 15 dBA or greater over ambient (with the greatest increase being 18 dBA). ⁷² The Council has already approved the Site Certificate for the Project with conditions requiring the Company to respond to complaints regarding alleged exceedances of the DEQ Noise Rules [GEN-NC-02]. Idaho Power does not propose any substantive changes to this condition in RFA 2. The Council should not revise its conclusions in this case. Mr. Larkin’s comment arguing that ongoing noise monitoring is required was fully considered by EFSC in the contested case on the ASC for the Project and found to be unpersuasive. ⁷³ Mr. Larkin now challenges the noise control conditions that the Council approved in the Final Order on the ASC. As discussed above, Idaho Power does not propose any substantive changes to GEN-NC-01 or GEN-NC-02 in RFA 2. Because the Council has already determined that ongoing monitoring is not required and a fulsome complaint process affords appropriate protections to landowners, the Council should not revise its conclusions in this case.

⁶⁹ Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

⁷⁰ Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

⁷¹ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”); *see also* EFSC Meeting Day 3 Transcript at 613 (Aug. 31, 2022) (“We’ve also proposed that -- to some additional monitoring to verify whether the baseline levels really are accurate.”) (Karl Anuta on behalf of STOP B2H); *see also* EFSC Meeting Day 3 Transcript at 675-81 (Aug. 31, 2022) (Council rejecting STOP B2H’s proposed condition that would require Idaho Power to monitor corona noise at each NSR).

⁷² Draft Proposed Order on RFA2 at 260-62 (Apr. 16, 2024) (showing total of six NSRs with increase of 15 dBA or greater: NSR 96, NSR 98, NSR 101, NSR 102, NSR 105, and NSR 662); Final Order on RFA1 at 243 (Sept. 22, 2023) (showing zero NSRs with increase of 15 dBA or greater); Final Order on ASC, Attachment X-4 at 10537-42 of 10586 (Sept. 27, 2022) (showing total of eight NSRs with increase of 15 dBA or greater: NSR 5010, NSR 98, NSR 101, NSR 102, NSR 105, NSR 5011, NSR 133, and NSR 115). In addition to the eight NSRs identified in the Final Order on ASC as having an increase of 15 dBA or greater, RFA2 also identified NSR 96 and NSR 662 as having an increase of 15 dBA or greater. Accordingly, the maximum number of NSRs with an increase of 15 dBA or greater is 10 NSRs. However, the number of NSRs with an increase of 15 dBA or greater is likely lower based on alternative route selection. For example, while NSR 5010 was identified with an increase of 17 dBA in the Final Order on ASC, that modeled increase in corona noise levels decreased to 13 dBA in RFA1.

⁷³ Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (“In the PCCO, Hearing Officer found the proposed mitigation and recommended Noise Control Conditions (as amended herein) adequately protect the public health, safety, and welfare. PCCO, pg. 140. Stop B2H timely filed exceptions on this issue. After hearing argument, the Council agreed with the with the findings of facts, conclusions of law and conditions of approval in the PCCO, with the modification that Noise Control Condition 2 be amended.”); Final Order on ASC, Attachment 6 at 8884 of 10586 (“The Department and Idaho Power contend that these proposed revisions/additions are unnecessary, and the ALJ agrees. Recommended Noise Control Condition 3 already requires Idaho Power to use a triple bundled conductor configuration and to protect the conductor surface to minimize scratching or nicking. Other recommended site certificate conditions (e.g., Recommended Organizational Expertise Condition 1, addressing the Transmission Maintenance Inspection Plan) already require Idaho Power to inspect, monitor, and maintain the facility. Therefore, it is not necessary to add this requirement to Noise Control Condition 3. Furthermore, given the recommended revisions to Noise Control Condition 1 (noise mitigation plans) and Noise Control Condition 2 (noise complaint response plan) discussed above, and considering that exceedances of the antidegradation standard are predicted to occur only infrequently, the ALJ finds it unnecessary to require Idaho Power to monitor for corona noise at key NSRs on a periodic basis for the life of the project. For these reasons, the ALJ declines to adopt STOP B2H’s proposed revisions to Noise Control Condition 3.”).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

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		to or stricter”, it does not waive the requirements of the Oregon Statutes. ORS 469.507 requires ongoing monitoring of environmental and ecological effects of construction and operation of the development and ORS 469.597(2) states that the site certificate holder shall perform the testing and sampling necessary for the monitoring program or require the operator of the plant to perform the necessary testing or sampling.	
Greg Larkin (May 30, 2024)	Noise	<p>1. The sound measurements used to establish Ambient Noise Level calculations required in 4.6.1(e) require the removal of noise readings from external sources such as sounds from passing vehicles, traffic, aircraft, or trains.</p> <p>2. Sound measurements to establish the existing Noise Level were not completed at the individual residences.</p> <p>3. Sound measurements were taken outside and the Noise rules require the determination of noise exceedances to occur at the same location as the initial noise measurement. Idaho Power used noise measurements outside the home to determine the noise level before the transmission line was energized and have made predictions comparing those measurements with noise levels inside the house after the transmission line is energized to decide if there will be exceedances to the 10 decibel Ambient Noise Standard in Oregon law.</p> <p>4. No evaluation was conducted to assure that the changed procedures resulted in outcomes which are consistent with those obtained through compliance with the plain language of the Oregon Noise Rules.</p>	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. Because neither the Noise Rules nor DEQ’s Sound Measurement Procedures Manual (“NPCS-1”) require specific methodologies for establishing baseline sound levels for large <i>linear</i> projects, Idaho Power and Tetra Tech developed a monitoring plan in consultation with ODOE, which was consistent with the monitoring requirements for measuring ambient sound level as laid out in NPCS-1 and conducted measurements over a period of two to four weeks at representative locations.</p> <p>The ODEQ Noise Rules require that sound monitoring be analyzed using either the L10 or the L50 metric. Idaho Power decided to use the L50 metric to calculate noise levels as it was the more conservative approach.⁷⁴ The L50 is a statistical metric that represents the sound level that is exceeded for 30 minutes of every hour (i.e., 10 median sound level). The L50 is therefore unaffected by intermittent “pass-by” sounds that do not occur for more than 30 minutes in the hour, be it a train, truck, or jet aircraft. In other words, intermittent sounds that persist for fewer than 30 minutes of each hour (such as the sound of a passing train or sporadic vehicles) do not result in a higher baseline L50 sound level. Accordingly, such intermittent sounds were effectively screened out.</p> <p>Due to the large number of NSRs in the analysis area, it was not feasible to conduct baseline monitoring at every NSR. Therefore, the Company’s methodology involved a representative sampling approach based on acoustic groupings of NSRs. When multiple MPs were in proximity to NSRs, the Company selected the MPs with the lower ambient sound level to provide more conservative representative ambient sound levels. In addition, the MPs selected by the Company were generally located further from existing ambient sound sources than the NSRs, further contributing to the conservative nature of the baseline ambient sound measurements.</p> <p>Mr. Larkin is correct that Idaho Power’s noise study modeled the level of corona sound that would be perceptible outside. It can be fairly assumed, however, that in most cases, persons present at NSRs during times of foul weather will be inside homes or dwellings with the windows closed, thus further attenuating the effect of any sound on persons inside. Structures such as residential buildings typically provide significant sound attenuation. According to the Federal Highway Administration, structures attenuate sound by approximately 10 dBA with windows open and by 20 dBA and greater with windows closed, dependent on structure quality and window type.⁷⁵ Accordingly, measuring corona noise outside was conservative and likely overestimated the number and magnitude of potential exceedances.</p> <p>Mr. Larkin is mistaken that no independent evaluation was conducted to evaluate Idaho Power’s noise monitoring methodology. The Department retained the engineering firm Golder Associates Inc. (“Golder Associates”) to provide advice regarding Idaho Power’s protocol for conducting sound monitoring to determine the baseline ambient sound levels applicable to NSRs along the B2H route. Golder Associates reviewed Idaho Power’s methodology and provided a technical memorandum stating that, “...sound measurement procedures... found the baseline noise analysis to be properly performed from a technical standpoint and the use of the ‘late night’ noise level to be conservative in nature for use as the baseline noise level for comparison to the ambient antidegradation standard.”⁷⁶</p> <p>In the contested case, the Hearing Officer agreed with the Department and Idaho Power that a new baseline study was unnecessary because “a preponderance of the evidence establishe[d] that Idaho Power’s methodology was appropriate and that the original and supplemental monitoring adequately represents the baseline ambient sound levels.”⁷⁷ The</p>

⁷⁴ The L10 metric represents the sound level that is equaled or exceeded 10 percent of the time (thereby screening out the louder sounds that are present for fewer than six minutes) whereas the L50 measurement represents the sound level equaled or exceeded 50 percent of the time (thereby screening out louder sounds that are present for fewer than 30 minutes). As such, the L50 is the more conservative measure as it is likely to result in a lower ambient average sound level, thereby increasing the possibility of an exceedance. ⁷⁴ For example, an L₁₀ of 32 dBA would indicate that, in any hour of the day, sounds equaling or exceeding 32 dBA only occur ten percent of the time. An L₅₀ of 32 dBA, on the other hand, would indicate that sound levels are below 32 dBA for fifty percent of the hour and equal or above 32 dBA for fifty percent of the hour.

⁷⁵ Final Order on ASC at 690 of 10586 (Sept. 27, 2022); *see also* Idaho Power’s ASC, Exhibit X at 32 of 371 (Sept. 28, 2018).

⁷⁶ Final Order on ASC at 8391 of 10586 (Sept. 27, 2022) (Golder Associates Memorandum (Dec. 19, 2017)); *see also* Final Order on ASC at 680 of 10586 (Sept. 27, 2022).

⁷⁷ Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

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Greg Larkin (May 30, 2024)	Noise	5. Oregon Noise rules state that to decide if the level of noise is “infrequent”, you determine how many days noise exceedances are likely to occur by considering how many days in a year the noise level is predicted to be higher than the standard during one or more hrs. during a 24 hr. day. The Oregon Department of Energy and Energy Facility Siting Council reinterpreted the rule to state that noise exceedances were “infrequent” by comparing the total number of hrs. of high noise level in a year as a block of time compared to the number of hrs. in a 365 day year.	<p>Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁷⁸ The Council should not revise its conclusions in this case.</p> <p>The issue Mr. Larkin raises in this comment was fully litigated in the contested case on the ASC for the Project, and was subsequently appealed to the Oregon Supreme Court. The Oregon Supreme Court affirmed EFSC’s Final Order on the ASC and interpretation of the term “infrequent”:</p> <p style="padding-left: 40px;">EFSC determined that noise exceedances would be unusual or infrequent based on the evidence showing that exceedances may occur only in less than two percent of the total hours in a year. To the extent Stop B2H contends that EFSC committed a legal error in interpreting what is meant by ‘unusual or infrequent’ under the rule, we see no error. Nothing in the rule or statute required EFSC to use the number of days instead of the percentage of hours in assessing whether noise exceedances would be unusual or infrequent.⁷⁹</p>
Greg Larkin (May 30, 2024)	Noise	6. The Site Certificate uses figures regarding how often weather would create corona noise above the Noise standard by looking at the hrs. between 12:00 midnight and 5:00 a.m. This is not done in the Oregon Noise rules.	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that neither the Company nor the Department limited its analysis of potential noise exceedances to the 12:00 a.m. to 5:00 a.m. timeframe. Rather, the potential noise exceedance analysis was based on data from all hours of the day, throughout the entire year.⁸⁰</p> <p>Moreover, Mr. Larkin misrepresents Idaho Power’s methodology for assessing baseline noise levels. Idaho Power used the hours between 12:00 midnight and 5:00 a.m. to assess the baseline ambient noise levels.⁸¹ This conservative approach used the quietest time of day to select the baseline hours. The use of these hours to measure the baseline did not limit the hours during which an exceedance might occur.</p> <p>For these reasons, the Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	7. For the areas where Idaho Power did actual sound measurements to determine the existing noise level, they included periods of high wind , The Oregon noise rules state that sound measurements are to be removed from the calculation any time the wind speed is higher than 10 mph.	<p>The issue that Mr. Larkin raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. Idaho Power used the baseline measurements conducted to calculate the representative existing L50 (median) sound levels. The average of the measured L50 was calculated for periods of low winds (less than 10 mph) and additionally for periods of low winds during the late nighttime period (12:00 a.m. to 5:00 a.m.). This established the ambient sound level and resulting compliance thresholds to assess conformance with the ambient antidegradation standard. Contrary to Mr. Larkin’s assertion, measurements taken during periods when winds were higher than 10 mph were removed from this calculation.</p> <p>In the contested case, the Hearing Officer agreed with the Department and Idaho Power that a new baseline study was unnecessary because “a preponderance of the evidence establishe[d] that Idaho Power’s methodology was appropriate and that the original and supplemental monitoring adequately represents the baseline ambient sound levels.”⁸² The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁸³ For these reasons, the Council should not revise its conclusions in this case.</p>
Greg Larkin (May 30, 2024)	Noise	8. A google search for: “Can a person file a civil claim after an Oregon Agency approves an exemption from the noise rules”: returned the following information: “In Oregon, a person who has been exposed to noise exceedances may have legal options even after an agency approves a noise exception.” “If an agency approves a noise exception (such as granting a variance), it does not necessarily prevent affected individuals from seeking legal recourse. Civil suits can be filed by individuals who believe their rights have been violated due to excessive noise. The statute of limitations for personal injury cases in Oregon generally gives an injured person two years from the date of the injury to file a lawsuit. Therefore, if	<p>As an initial matter, Mr. Larkin provides no reference or citation for the statements other than a “Google search,” and a Google search performed on June 2, 2024 using Mr. Larkin’s terms do not confirm the results he claims to have received. Moreover, Mr. Larkin’s comment is not specific to the Draft Proposed Order for RFA 2 or raise any issue related to RFA 2 with sufficient specificity to afford the Council, ODOE, or certificate holder the opportunity to respond.</p>

⁷⁸ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

⁷⁹ *STOP B2H Coal. v. Dep’t of Energy*, 370 Or 792, 807-808 (2023).

⁸⁰ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-5).

⁸¹ Final Order on ASC at 681 of 10586 (Sept. 27, 2022).

⁸² Final Order on ASC, Attachment 6 at 8874 of 10586 (Sept. 27, 2022).

⁸³ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

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Greg Larkin (May 30, 2024)	Noise	someone has suffered harm or nuisance due to noise exceedances, they may consider pursuing a civil suit against the responsible party or agency.” OAR 340-035-0035 requires that the council include in the site certificate conditions in the site certificate to ensure compliance with the statutes, standards and rules described in ORS 469.501 and ORD 469.503. Council must implement this statutory framework by adopting findings of fact, conclusions of law, and conditions of approval concerning the facilities compliance with the EFSC Standards for Siting Facilities at OAR 345, Divisions 22, 24, 26 and 27. (Final Order on the ASC for the B2H Transmission Line 9/27/22, Page 88).	Mr. Larkin’s statement does not identify any error in the Draft Proposed Order and does not raise any issue that the Council should assess when considering whether to approve RFA 2.
Greg Larkin (May 30, 2024)	Noise	ORS 467.010. Intent of the State of Oregon’s “legislative policy” on noise pollution and control, as it not providing protection per: “The Legislative Assembly finds that the increasing incidence of noise emissions in this state at unreasonable levels is as much a threat to the environmental quality of life in this state and the health, safety and welfare of the people of this state as is pollution of the air and waters of this state. To provide protection of the health, safety and welfare of Oregon citizens from the hazards and deterioration of the quality of life imposed by excessive noise emissions, it is hereby declared that the State of Oregon has an interest in the control of such pollution, and that a program of protection should be initiated. To carry out this purpose, it is desirable to centralize in the Environmental Quality Commission the authority to adopt reasonable statewide standards for noise emissions permitted within this state and to implement and enforce compliance with such standards. [1971 c.452 §1]”	Mr. Larkin has not explained his concern with sufficient specificity for the Council, ODOE, or the certificate holder to respond. While not entirely clear, it appears the issue that Mr. Larkin may be raising is consistency with ORS 467.010. If so, this issue was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that the Department’s recommendations regarding the noise variance/exception were consistent with the legislative policy established in ORS 467.010. ⁸⁴ Mr. Larkin has not articulated any basis for the Council to revise its conclusions.
Greg Larkin (May 30, 2024)	Noise	Oregon Statute ORS 467.030 Adoption of noise control rules, levels and standards: (1) In accordance with the applicable provisions of ORS chapter 183, the Environmental Quality Commission shall adopt rules relating to the control of levels of noise emitted into the environment of this state and including the following: (b) Requirements and specifications for equipment to be used in the monitoring of noise emissions. (c) Procedures for the collection, reporting, interpretations and use of data obtained from noise monitoring activities. 2) The Environmental Quality Commission shall investigate and, after appropriate public notice and hearing, shall establish maximum permissible levels of noise emission for each category established, as well as the method of measurement of the levels of noise emission.	Mr. Larkin’s comment does not identify any error in the Draft Proposed Order and does not raise any issue that the Council should assess when considering whether to approve RFA 2.
Greg Larkin (May 30, 2024)	Noise	OAR 345-035-0035 (3) Measurement: (a) Sound measurements procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1) , or to such other procedures as are approved in writing by the Department ; (b) Unless otherwise specified, the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source: (A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source; (B) That point on the noise sensitive property line nearest the noise source. Note: Required measurement point is located outside the home. New Sources Located on Previously Unused Site: (i) No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the	The issue that Mr. Larkin seems to be raising regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable. ⁸⁵ For these reasons, the Council should not revise its conclusions in this case.

⁸⁴ Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-2); Final Order on ASC, Attachment 6 at 8869 of 10586 (“In short, the limited parties raised arguments, but have not provided any persuasive evidence to support their position that the Department erred in recommending that the Council grant the proposed facility a variance and/or exception. A preponderance of the evidence establishes that the Department’s recommendations in this regard are consistent with the legislative policy established in ORS 467.010. The construction and operation of the proposed facility does not threaten the environmental quality of life in this state and the health, safety and welfare of the people of Oregon.”).

⁸⁵ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

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		<p>ambient statistical noise levels, L10 or L50, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point, as specified in subsection (3)(b) of this rule, ...</p> <p>Note: The plain language specifically states that an exceedance occurs when the noise increases 10 dBA “in any one hour” which is defined in the rule above as meaning a period of 60 minutes in a 24 hr. period.</p> <p>(ii) The ambient statistical noise level of a new industrial or commercial noise source on a previously unused industrial or commercial site shall include all noises generated or indirectly caused by or attributable to that source including all of its related activities. Sources exempted from the requirements of section (1) of this rule, which are identified in subsections (5)(b)–(f), (j), and (k) of this rule, shall not be excluded from this ambient measurement.</p> <p>[Red text in original]</p>	
<p>Greg Larkin (May 30, 2024)</p>	<p>Noise</p>	<p>The ODOE AND EFSC approved an exception and a variance to the stature and rules for complying with the site certificate. The Oregon DEQ no longer approves exceptions, variances, or other requests for things such as designating areas as “quiet areas” where noise levels should be lower than the standard, etc..</p>	<p>The Council’s authority to issue an exception and variance to the DEQ Noise Rules was fully litigated in the contested case on the ASC for the Project and in the appeal of the Council’s Final Order on the ASC. As the Supreme Court affirmed the authority of the Council to issue an exception or variance in its opinion:</p> <p>“We conclude that EFSC had the authority to grant (1) an exception to the noise standards under OAR 340-035-0035(6)(a), and (2) a variance under OAR 340-035-0100 and ORS 467.060.”⁸⁶</p> <p>In reaching that conclusion, the Supreme Court specifically noted the fact that DEQ no longer issues exceptions or variances, finding that “Under those circumstances, it would have been futile for EFSC to refer Idaho Power’s exception/variance requests to EQC and DEQ.”⁸⁷</p>
<p>STOP B2H (May 30, 2024)</p>	<p>Noise</p>	<p>Issue 6: Site Conditions Recommendation for Noise Control. Conditions NC-01, NC-02, and NC-03 do not mitigate adequately for protection of public health, safety and welfare of Oregonians, and therefore are noncompliant with ORS 467.010, OAR 340-035-0005 (policy), OAR 345-035-0015 (definitions) and OAR 345-035-0035 (measurements), and ORS 469.507 and ORS 469.507(2) and (mitigation monitoring).</p> <p>NSR’s or Noise Sensitive Receptors, need special (and customized) mitigation and consideration given the fact they will experience unwelcomed noise pollution intrusions into their lives, forever. Therefore, to be the most protective of their health, safety and welfare, mitigation plans need to work—and be monitored for compliance.</p> <p>Idaho Power could not meet Oregon’s noise control standards for the project; and EFSC granted them a blanket exception and variance to the rules in the Final Order (see NC-04 and NC-05). Elaborate mitigation and complaint processes were created but they fall short in two major ways: 1) they lack of an accurate starting point (baseline) from which to create the mitigation plan; and 2) IPC once again obfuscates the complaint process (length and complexity) and inserts unrealistic conditions (NSR burdened with costs and strapped with the burden of proving exceedances). These conditions are not practical or fair, and the complaint process conclude without any resolution steps or appeal steps.</p>	<p>Exception/Variance to DEQ Noise Rules</p> <p>STOP B2H’s comments are not specific to RFA 2. Instead, STOP B2H raises a generalized issue regarding the exception and variance to DEQ’s Noise Rules granted by EFSC in the Final Order on ASC, which remain unchanged in RFA 2. In particular, STOP B2H seems to argue that the exception and variance are not supported by accurate monitoring baselines and data. This same argument was dismissed by the Oregon Supreme Court:</p> <p>[W]e conclude that there was substantial evidence supporting the grant of an exception. EFSC explained in its final order its reason for granting an exception for unusual or infrequent events:</p> <p>“* * * Council finds that exceedances along the transmission line would be an infrequent event because exceedances are expected to occur less than two percent of the total hours in a given year (because they are projected to occur during foul weather, and foul weather events are infrequent in the project area, and other circumstances need to occur simultaneously to result in an exceedance, i.e., low ambient noise environment and transmission line operating at full capacity). Therefore, under OAR 340-035-0035(6)(a)[,] Council grants an exception to the facility, subject to the noise control conditions described in this Order.’</p> <p>That conclusion was based on weather data evaluated by a meteorologist and detailed sound measurement studies summarized in the final order. That evidence constitutes substantial evidence supporting EFSC’s conclusion that noise exceedances would be ‘unusual or infrequent,’ thereby justifying an exception under OAR 340-035-0035(6)(a).</p> <p>Second, we also conclude that there was substantial evidence to support granting a variance. Idaho Power had requested a variance from the ‘ambient antidegradation standard’ in OAR 340-035-0100. Based on the noise analysis studies and weather data summarized in the final order, EFSC granted a variance to the ambient antidegradation standard for the transmission line ‘at any time of day or night during foul weather events (defined as a rain rate of 0.8 to 5 millimeters per hour).’ EFSC’s final order first explains that ‘ambient antidegradation standard exceedance[s] are predicted during foul weather conditions’ and Idaho Power ‘cannot be accountable for weather conditions that may cause audible corona noise, as the weather is a condition</p>

⁸⁶ STOP B2H Coal. v. Dep’t of Energy, 370 Or 792, 806 (2023).

⁸⁷ STOP B2H Coal. v. Dep’t of Energy, 370 Or 792, 806 (2023).

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			<p>beyond its control.’ EFSC also found that ‘strict compliance with the ambient antidegradation standard in DEQ rule is inappropriate, unreasonable, or impractical because of special physical conditions and special circumstances contributed to the applicant’s proposed transmission line location relating to NSRs [noise-sensitive receptors] that may experience noise exceedances.’ Finally, EFSC found that strict compliance with the rule ‘would result in substantial curtailment or closing down (never building) the proposed transmission line and that * * * there is not another alternative facility available.’</p> <p>Stop B2H disagrees with EFSC’s findings and conclusions, but it has not demonstrated that the findings are unsupported by substantial evidence given the studies and analyses summarized in the final order, and it has not persuaded us that EFSC’s conclusions are legally erroneous in any respect.⁸⁸</p> <p>STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and the Oregon Supreme Court and thoroughly litigated. Additionally, STOP B2H’s comments are not specific to RFA 2. For these reasons, the Council should not revise its conclusions in this case.</p> <p><u>Baseline Monitoring</u> The issue that STOP B2H raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. The Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable.⁸⁹ For these reasons, the Council should not revise its conclusions in this case.</p> <p><u>Noise Control Conditions (Mitigation Plan and Noise Complaint Process)</u> STOP B2H also appears to challenge the noise control conditions in the Site Certificate that the Council approved in its Final Order on the ASC. These noise conditions were fully litigated in the contested case on the ASC and Idaho Power has not proposed any substantive modifications to those conditions in RFA 2 that would alter the process for establishing a Noise Exceedance Mitigation Plan at a property or the noise complaint process. For these reasons, the Council should not revise its conclusions in this case.</p>
STOP B2H – Noise (May 30, 2024)	Noise	<p>Baselines, monitoring representation, modeling, and mitigation plans.</p> <p>It is important to state that ALL NSRs on the B2H line need an accurate assigned baseline dBA, before negotiations begin, as well as ongoing monitoring as the project ages. Changes to the site certificate conditions have increased the number of predicted NSRs along the route—particularly in Malheur County where there are noise sensitive clusters. There needs to be a monitoring to establish baseline for these new NSRs. While ODOE will say this has been litigated, STOP contends that the requirements regarding noise sensitive properties do not fully comply with ORS 467.030, ORS 467.030, OAR 340-035 and the Oregon Sound Measurement Procedures Manual NPC5-1 which all continue to be in force as state law.</p> <p>EFSC has historically evaluated noise by following the requirements of the above statutes and rules, however, they have used different methods, interpretations, and procedures to evaluate noise in the Site Certificate for the Boardman to Hemingway Transmission line. These were litigated in the contested case, however, basic requirements such as accurate baselines, good faith negotiations, and effective monitoring remain as components of compliance. It should not be the burden of land owners to prove what the dBA is at their residence or to have to demand site-specific monitoring and mitigations. IPC has the burden of proving what they're saying with preponderance of evidence that the B2H line will not harm the NSR residents. It is</p>	<p>As STOP B2H acknowledges, the issue that STOP B2H raises regarding baseline noise measurements was fully litigated in the contested case on the ASC for the Project. While STOP B2H is now shifting its focus from Union County to Malheur County, corona noise within the proposed RFA 2 micrositing area additions was evaluated through the same modeling, use of ambient monitoring data from locations identified as reasonably representative for conditions at the specific NSR location, and under foul weather conditions to establish conservative baselines as in the ASC. That is, Idaho Power used the same methodologies for identifying NSRs, monitoring ambient noise conditions and correlating monitored ambient noise data to NSR location, based on environmental conditions, that were previously reviewed and approved by the Council.⁹⁰ In the Final Order on the ASC, the Council adopted the Hearing Officer’s conclusion that Idaho Power’s methodology for assessing baseline noise levels was reasonable and appropriate.⁹¹</p> <p>In addition, the Council has already rejected STOP B2H’s argument that Idaho Power’s use of monitoring positions (“MP”) to establish baselines is not representative. With respect to Idaho Power’s use of MPs, the Council found that: “the applicant’s multi-step methodology is a reasonable and appropriate approach to evaluating the facility’s compliance with the Noise Control rules, and specific to using representative Monitoring Positions (MP), the methodology is reasonable because where there were multiple monitoring positions in proximity to NSRs, the applicant selected the MPs with the lower ambient sound level and that were generally located further from existing ambient sound sources than the NSRs to provide more conservative representative ambient sound levels.”⁹²</p>

⁸⁸ STOP B2H Coalition v. Or. Dep’t of Energy (In re Site Certificate), 370 Or 792, 808-09 (2023).

⁸⁹ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

⁹⁰ Draft Proposed Order on Request for Amendment 2 at 258, 258 n. 295 (Apr. 16, 2024).

⁹¹ Final Order on ASC at 39 of 10586 (Sept. 27, 2022) (discussing contested case issue NC-6, “In the PCCO, Hearing Officer found that applicant’s methodology for assessing baseline noise levels reflect reasonable baseline noise estimates for residents of the Morgan Lake area”).

⁹² Final Order on ASC at 669 of 10586 (Sept. 27, 2022).

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		<p>imperative that all NSR's are informed, protected, treated and negotiated with in good faith, and future mitigation followed. Once the actual baselines are known, the negotiations can begin with the NSRs. To NOT do so before hand, disadvantages the NSR because the extent or degree of impact is not really confirmed. For example, if windows were a mitigation measure that the NSR was agreeable too, not knowing the real extent of the predicted exceedance hampers the ability to negotiate for the proper type of window sound ratings.</p> <p>The Monitoring Posts (MP's) used for the IPC noise studies may not be representative of various properties assigned to a particular MP due to terrain and other micro-siting adjustments that are occurring now with landowners. Although representative modeling was allowed/upheld in the contested case, when the rubber meets the road: all NSRs with predicted exceedances (unless requested otherwise) should get the “site-specific monitoring” to determine their true baseline; and the baseline monitoring needs to be paid by the developer using an Acoustical Engineer agreeable to all parties.</p>	<p>As Idaho Power explained in RFA 2, because the micrositing area additions in RFA 2 are minor, the previous determined representative MPs for the NSRs associated with the proposed alternatives do not need to be altered.⁹³ Based on Idaho Power’s review of acoustic environments of MPs compared to the respective NSR groups the acoustic environment of the MP represent locations with similar noise sources but located at greater distances than NSRs to noise sources and therefore a more conservative and acceptable ambient noise level for use in the evaluation of compliance with the DEQ Noise Rules.⁹⁴</p> <p>STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated. For these reasons, the Council should not revise its conclusions in this case.</p>
STOP B2H (May 30, 2024)	Noise	<p>The complaint process is flawed and essentially amounts to a reporting and filing process. (See Attachment 3) How, practically-speaking, can an impacted NSR measure the exceedance and provide their own data? They do not have the expensive and highly-calibrated acoustical monitoring devices, and those commercially available for rent do not measure lower than 30 dBA. Reporting the time, date, weather patterns, for the complaint doesn’t necessarily confirm anything. Although it could inform rainfall amounts on those days which in turn could predict if the exception NC-04 and variance NC-05 could be applied? Still, once there is a complaint, IPC needs to take action to monitor/measure and work with the NSR owner for resolutions or changes to the noise mitigation plan/easement. The steps in the complaint process, as proposed, are complex, bureaucratic, and delay the company’s response, putting most of the burden on the property owner once again, which is NOT what we believe EFSC wanted nor complaint with the intent of the State of Oregon’s “legislative policy” on noise pollution and control, as it not providing protection ...</p>	<p>STOP B2H does not challenge any new or different proposal included in RFA 2, and instead STOP B2H’s arguments regarding the complaint process are the same arguments raised, litigated, and thoroughly considered by the Council in the contested case on the ASC. As discussed above, Idaho Power does not propose any substantive changes to Noise Control Condition 2 (GEN-NC-02) in RFA 2.</p> <p>Under the complaint process, the complainant must describe the nature of the complaint, and include certain information: the weather conditions of the date for which the complaint is based (such as wind speed, temperature, relative humidity, and precipitation), duration of perceived noise issue, the complainant’s contact information, and the location of the affected property.⁹⁵ This information is necessary for assessing the conditions related to the perceived noise issue and whether an exceedance may have occurred, and is generally available online from sources such as the National Weather Service.</p> <p>If the complainant voluntarily provides alternative noise data and the data suggests an exceedance that had not previously been identified and mitigated, and/or an exceedance not otherwise allowed under Noise Control Condition 4 or Noise Control Condition 5, the complaint shall be verified through site specific sound monitoring conducted by an Oregon registered Professional Engineer, Board Certified by the Institute of Noise Control Engineering noise specialist, employed or contracted by Idaho Power, in accordance with NPCS-1 unless otherwise approved by the Department. If site specific sound monitoring is not authorized by the complainant, the certificate holder’s modeling results may be relied upon to determine compliance.⁹⁶ A complainant does not have to use expensive equipment to voluntarily provide data or show that an exceedance may have occurred.⁹⁷</p> <p>STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated. For these reasons, the Council should not revise its conclusions in this case.</p>
STOP B2H (May 30, 2024)	Noise	<p>EFSC rules also require ongoing mitigation monitoring to assure that there is compliance with the noise control standards—including the 20 dBA limit on increases in the current ambient noise levels. As ODOE explains in the DPO and cited in the Final Order, the line will sag over</p>	<p>STOP B2H does not challenge any new or different proposal included in RFA 2, and instead STOP B2H’s argument that ongoing noise monitoring is required was fully considered by EFSC in the contested case on the ASC for the Project and found to be unpersuasive.⁹⁸ STOP B2H now challenges the noise control conditions that the Council approved in the</p>

⁹³ RFA 2 at 122 (Apr. 11, 2024) (“The Proposed Micrositing Area Additions are minor and do not alter the previous determined representative monitoring points for the NSRs associated with the proposed alternatives.”).

⁹⁴ RFA 2 at 122 (Apr. 11, 2024).

⁹⁵ Final Order on ASC at 786 of 10586 (Sept. 27, 2022).

⁹⁶ Final Order on ASC at 787 of 10586 (Sept. 27, 2022).

⁹⁷ EFSC Meeting Day 3 Transcript at 652 (Aug. 31, 2022) (“I think there is a phone app -- actually, I think I've used it -- that measures decibels. And then if that’s enough, if that is what Idaho Power would accept, then hopefully the people impacted would know that that a measure -- you know, I think if the public reads monitoring or whatever, they might think, Oh, my gosh, I have to, you know, buy monitoring equipment, whatever. I just think the public should be made aware this is what we'll accept. So because we’re -- or, at least, I’m thinking given this conversation that that’s acceptable. You know, a phone app or some – something less than.”) (Councilmember Condon); *see also* EFSC Meeting Day 3 Transcript at 653 (Aug. 31, 2022) (“That was the idea that our modeling that we did to our mind -- not that this is legal -- legally the case, but kind of created this rebuttable presumption that there wasn't no exceedance at this NSR. But if the person at the NSR is able to show in any way, like, no, we really think that the ambient anti-degradation standard has been exceeded by more than 10 dBA, whether it's a cell phone monitoring, then it would be incumbent upon Idaho Power to present its own monitoring data.”) (Lisa Rackner on behalf of Idaho Power).

⁹⁸ Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (“In the PCCO, Hearing Officer found the proposed mitigation and recommended Noise Control Conditions (as amended herein) adequately protect the public health, safety, and welfare. PCCO, pg. 140. Stop B2H timely filed exceptions on this issue. After hearing argument, the Council agreed with the with the findings of facts, conclusions of law and conditions of approval in the PCCO, with the modification that Noise Control Condition 2 be amended.”); Final Order on ASC, Attachment 6 at 8884 of 10586 (Sept. 27, 2022) (“The Department and Idaho Power contend that these proposed revisions/additions are unnecessary, and the ALJ agrees. Recommended Noise Control Condition 3 already requires Idaho Power to use a triple bundled conductor configuration and to protect the conductor surface to minimize scratching or nicking. Other recommended site certificate conditions (e.g., Recommended Organizational Expertise Condition 1, addressing the Transmission Maintenance Inspection Plan) already

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		<p>time, conductors and other protective surface coatings will age and the potential of increased corona noise will occur over time as the project ages. But at this time, there are no sound mitigation technologies that are effective:</p> <p>“The Council previously found that typical noise abatement technologies, such as insulators, silencers, and shields, are not reasonable technologies for transmission lines due to length; and safety and operational limitations. Council imposed Noise Control 1 Condition 3 (CON-NC-01) requiring that the transmission line be designed in a manner that would reduce the potential for corona noise, including a requirement that the design include a triple bundled configuration with sufficient subconductor spacing (results in reduction in audible corona noise and radio interference).”</p> <p>“Noise Control Condition 3 requires the certificate holder to construct the proposed transmission line using materials to reduce corona noise such as the use of a triple bundled conductor configuration for 500 kV transmission lines, maintain tension on all insulator assemblies to ensure positive contact between insulators, maintain tension on all insulator assemblies to ensure positive contact between insulators, and to protect conductor surface to minimize scratching or nicking.”</p> <p>Therefore, given the life of the project—into perpetuity or 100-year estimate, the NC-03 condition will need assurance that this mitigation measure (site condition NC-03) is and continues to be in compliance.</p> <p>Hence, a mitigation monitoring plan must be included in the protective site conditions, which it is not, in order to comply with ORS 469.507 (requires ongoing monitoring).</p>	<p>Final Order on the ASC. As discussed above, Idaho Power does not propose any substantive changes to Noise Control Condition 1 (GEN-NC-01) or Noise Control Condition 2 (GEN-NC-02) in RFA 2. Because the Council has already determined that ongoing monitoring is not required and a fulsome complaint process affords appropriate protections to landowners, the Council should not revise its conclusions in this case.</p>
STOP B2H (May 30, 2024)	Noise	<p>There are many residences where the projected noise level increases will be 15 dBA or greater. In all these instances, there is a significant likelihood that the assigned noise levels may not be accurate and noise levels could increase by more than the 20 dBA exception allowed. The burden of proving that there are not exceedances lies with the developer, not the property owner. This responsibility is even greater due to the fact that many areas were assigned background measurements. To date there has not been any confirmation of the background ambient sound measurement at the individual NSRs with the exception of the 17 actual MPs used in the study</p>	<p>STOP B2H states there are “many” exceedances where projected noise level increases will be 15 dBA or greater. This is not accurate. Depending on the final selected route, there are at maximum 10 NSRs where corona noise levels are modeled to increase by 15 dBA or greater over ambient (with the greatest increase being 18 dBA).⁹⁹</p> <p>To the extent STOP B2H is again arguing that Idaho Power’s use of MPs to establish baselines is not representative, the Council has already rejected STOP B2H’s argument after thorough consideration. With respect to Idaho Power’s use of MPs, the Council found that: “the applicant’s multi-step methodology is a reasonable and appropriate approach to evaluating the facility’s compliance with the Noise Control rules, and specific to using representative Monitoring Positions (MP), the methodology is reasonable because where there were multiple monitoring positions in proximity to NSRs, the applicant selected the MPs with the lower ambient sound level and that were generally located further from existing ambient sound sources than the NSRs to provide more conservative representative ambient sound levels.”¹⁰⁰</p> <p>As Idaho Power explained in RFA 2, because the micrositing area additions in RFA 2 are minor, the previous determined representative MPs for the NSRs associated with the proposed alternatives do not need to be altered.¹⁰¹ Based on Idaho Power’s review of acoustic environments of MPs compared to the respective NSR groups, the acoustic environment of the MPs represents locations with similar noise sources but are located at greater distances than NSRs to</p>

require Idaho Power to inspect, monitor, and maintain the facility. Therefore, it is not necessary to add this requirement to Noise Control Condition 3. Furthermore, given the recommended revisions to Noise Control Condition 1 (noise mitigation plans) and Noise Control Condition 2 (noise complaint response plan) discussed above, and considering that exceedances of the antidegradation standard are predicted to occur only infrequently, the ALJ finds it unnecessary to require Idaho Power to monitor for corona noise at key NSRs on a periodic basis for the life of the project. For these reasons, the ALJ declines to adopt STOP B2H’s proposed revisions to Noise Control Condition 3.”).

⁹⁹ DPO on RFA2 at 260-62 (Apr. 16, 2024) (showing total of six NSRs with increase of 15 dBA or greater: NSR 96, NSR 98, NSR 101, NSR 102, NSR 105, and NSR 662); Final Order on RFA1 at 243 (Sept. 22, 2023) (showing zero NSRs with increase of 15 dBA or greater); Final Order on ASC, Attachment X-4 at 10537-42 of 10586 (Sept. 27, 2022) (showing total of eight NSRs with increase of 15 dBA or greater: NSR 5010, NSR 98, NSR 101, NSR 102, NSR 105, NSR 5011, NSR 133, and NSR 115). In addition to the eight NSRs identified in the Final Order on ASC as having an increase of 15 dBA or greater, RFA2 also identified NSR 96 and NSR 662 as having an increase of 15 dBA or greater. Accordingly, the maximum number of NSRs with an increase of 15 dBA or greater is 10 NSRs. However, the number of NSRs with an increase of 15 dBA or greater is likely lower based on alternative route selection. For example, while NSR 5010 was identified with an increase of 17 dBA in the Final Order on ASC, that modeled increase in corona noise levels decreased to 13 dBA in RFA1.

¹⁰⁰ Final Order on ASC at 669 of 10586 (Sept. 27, 2022).

¹⁰¹ RFA 2 at 122 (Apr. 11, 2024) (“The Proposed Micrositing Area Additions are minor and do not alter the previous determined representative monitoring points for the NSRs associated with the proposed alternatives.”).

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			<p>noise sources and therefore represents a more conservative and acceptable ambient noise level for use in the evaluation of compliance with the DEQ Noise Rules.¹⁰²</p> <p>Furthermore, STOP B2H misstates the record. The final acoustic noise analysis relied on 21 MPs, not 17 MPs.¹⁰³ Moreover, it is inaccurate to imply that there has not been any objective review or supplemental analysis of the ambient baselines at the MPs.¹⁰⁴ The Department relied upon its third-party consultant, Golder Associates, to review the noise monitoring protocol. Based on review, Golder Associates confirmed that the sound measurement procedures and baseline noise measurements were technically accurate.¹⁰⁵</p> <p>Finally, in addition to the fact that Idaho Power selected MPs with lower ambient background levels as a conservative measure, the Company’s noise monitoring methodology included additional conservative assumptions.</p> <p>First, the ODEQ Noise Rules require that sound monitoring be analyzed using either the L10 or the L50 metric. Idaho Power decided to use the L50 metric to calculate noise levels as it was the more conservative approach.¹⁰⁶ The L50 is a statistical metric that represents the sound level that is exceeded for 30 minutes of every hour (i.e., 10 median sound level). The L50 is therefore unaffected by intermittent “pass-by” sounds that do not occur for more than 30 minutes in the hour, be it a train, truck, or jet aircraft. In other words, intermittent sounds that persist for fewer than 30 minutes of each hour (such as the sound of a passing train or sporadic vehicles) do not result in a higher baseline L50 sound level. Accordingly, such intermittent sounds were effectively screened out.</p> <p>Second, the volume of corona sound levels increases in relation to the amount of current on a transmission line, with higher levels of current producing higher levels of corona. Idaho Power estimated the level of corona sound modeling that would be produced by B2H by incorporating an assumption that B2H is operating the voltage of the 500-kV circuits at the maximum operational voltage of 550 kV. In fact, however, during typical operations, B2H will be operated at a substantially lower voltage, and is expected to be operated at 550-kV only 0.01 percent of the time.¹⁰⁷ Therefore, exceedances are likely to be less frequent and lower than estimated.</p> <p>Third, actual exceedances are estimated to occur only during periods where ambient sound levels are lowest, which typically occur during the late-night hours.¹⁰⁸ Because Idaho Power’s model assumes that an exceedance occurs during any foul weather event—whether it occurs during day or night—the Company’s analysis necessarily produces more exceedances than will actually occur.¹⁰⁹</p> <p>Fourth, in calculating exceedances, Idaho Power’s model assumes a late-night ambient sound level, which, as noted above, is assumed to be the quietest time of the day. However, during those foul weather events that include moderate or heavy rain, the sound of droplets hitting foliage will increase the actual ambient sound levels present, thus masking</p>

¹⁰² RFA 2 at 122 (Apr. 11, 2024).

¹⁰³ Final Order on ASC at 670, 72-77 of 10586 (Sept. 27, 2022) (Table NC-3: Department Evaluation of Acoustic Noise Environments of Ambient Noise Monitoring Positions and NSR Groups).

¹⁰⁴ During the contested case, Idaho Power provided supplemental monitoring at MP 100, MP 101, MP 102 and MP 103, to represent NSRs nearer to Morgan Lake and, for MP 103, in the La Grande valley closer to I-84. Idaho Power applied the same methodologies used in its initial monitoring, and established the baseline noise levels based on the quiet late-night period of midnight to 5:00 a.m. with calm winds. In this supplemental monitoring, the mean L50 was 31 dBA at MP 100; 36 dBA at MP 101; 32 dBA at MP 102; and 43 dBA at MP 103. The one decibel difference between MP 100 and MP 11 (31 dBA vs 32 dBA) is so subtle that it is not perceivable by the human ear. Consequently, the Council found that the sound levels measured at MP 100 did not invalidate Idaho Power’s initial selection of MP 11 as representative of the area, nor did the supplemental monitoring results impact or alter the Council’s evaluation of the facility’s compliance with the DEQ Noise Rules. Final Order on ASC at 672 n.740 of 10586 (Sept. 27, 2022).

¹⁰⁵ Final Order on ASC at 680 of 10586 (Sept. 27, 2022); *see also* Final Order on ASC at 8391-93 of 10586 (Sept. 27, 2022) (Golder Associates Memorandum (Dec. 19, 2017)).

¹⁰⁶ The L10 metric represents the sound level that is equaled or exceeded 10 percent of the time (thereby screening out the louder sounds that are present for fewer than six minutes) whereas the L50 measurement represents the sound level equaled or exceeded 50 percent of the time (thereby screening out louder sounds that are present for fewer than 30 minutes). As such, the L50 is the more conservative measure as it is likely to result in a lower ambient average sound level, thereby increasing the possibility of an exceedance. ¹⁰⁶ For example, an L₁₀ of 32 dBA would indicate that, in any hour of the day, sounds equaling or exceeding 32 dBA only occur ten percent of the time. An L₅₀ of 32 dBA, on the other hand, would indicate that sound levels are below 32 dBA for fifty percent of the hour and equal or above 32 dBA for fifty percent of the hour.

¹⁰⁷ Final Order on ASC at 682 of 10586 (Sept. 27, 2022) (“The applicant modeled sound levels from the proposed transmission line using the maximum voltage levels of 550 kV, representing the maximum operational corona noise. However, the applicant explains that it expects the proposed transmission line would operate at the normal operating voltage of 525 kV approximately 50 percent of the time, with the voltage reaching 550 kV only approximately 0.01 percent of the time and that operating conditions at 525 kV would yield approximately 2 dBA less noise than 550 kV, which was used in the noise modeling.”).

¹⁰⁸ Final Order on ASC at 681 of 10586 (Sept. 27, 2022) (“The representative existing L50 sound levels were calculated by taking the average of the measured L50 sound levels for the late nighttime period (12:00 a.m. to 5:00 a.m.). This late nighttime period demonstrates the quietest time period and is conservatively assumed to be present at all times of the day.”).

¹⁰⁹ Final Order on ASC at 681 of 10586 (Sept. 27, 2022) (“Sound source characteristics for noise modeling of the transmission line during foul weather conditions were determined. The highest audible noise levels occur in conditions of foul weather, therefore, to the applicant compared the maximum corona sound level expected during meteorological conditions conducive to corona generation background and sound levels must be presented as a function of meteorological conditions.”).

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			<p>any corona noise and decreasing the chance of an exceedance. This masking phenomenon represents yet another reason why Idaho Power’s analysis overstates the occurrence of exceedances.¹¹⁰</p> <p>Fifth, in estimating ambient sound levels, Idaho Power removed from the calculation any hour in which wind was greater than 10 mph, which is closely correlated to higher ambient sound levels.¹¹¹ The Company also removed other atypical sources of sound, such as sound produced by field crews setting up or calibrating the equipment and sound produced by rain, which can also increase ambient sound levels.¹¹²</p> <p>Sixth, Idaho Power’s noise study modeled the level of corona sound that would be perceptible <i>outside</i>. It can be fairly assumed, however, that in most cases, persons present at NSRs during times of foul weather will be inside homes or dwellings with the windows closed, thus further attenuating the effect of any sound on persons inside. Structures such as residential buildings typically provide significant sound attenuation. According to the Federal Highway Administration, structures attenuate sound by approximately 10 dBA with windows open and by 20 dBA and greater with windows closed, dependent on structure quality and window type.¹¹³</p> <p>For the reasons discussed above, the ambient sound level assumed for Idaho Power’s modeling is likely lower than actual conditions, which will result in modeling more and higher exceedances than will actually occur and be experienced by landowners.</p> <p>The Council previously considered these conservative assumptions in finding the Company’s modeling and analysis to be adequate. STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated. For these reasons, the Council should not revise its conclusions in this case.</p>
STOP B2H (May 30, 2024)	Noise	To be edited under NC-01: <i>All new NSRs (per RFA2) and any existing NSR designees, upon request, will be offered site-specific noise monitoring for a two-week period, paid by the developer, to determine the accurate--not representative--ambient noise background level for that NSR. The updated and accurate (site-specific) baseline data will be used for negotiations on the individualized noise mitigation plans.</i>	STOP B2H’s proposed site condition edits are not specific to the DPO for RFA 2. STOP B2H’s proposed edits to Noise Control Condition 1 (GEN-NC-01) are unnecessary in light of the Council’s finding that Idaho Power’s use of MPs to establish baselines is reasonably representative and appropriate. ¹¹⁴ The same methodology was used in assessing the NSRs in RFA 2 and the ASC, and STOP B2H does not offer any new evidence, rationale, or legal argument that was not already considered by EFSC and thoroughly litigated regarding this topic. For these reasons, the Council should not adopt STOP B2H’s proposed changes to GEN-NC-01.
STOP B2H (May 30, 2024)	Noise	To be edited under NC-02: <i>a) If subsequent noise monitoring (following a complaint investigation) would inform or resolve a noise complaint, then the developer will retain and pay for the mutually agreed upon acoustical engineer to conduct on-site monitoring to inform the complaint resolution. This needs to be in place of the two parties coming up with their own sound measurement data, currently in the complaint process.</i> <i>b) A conclusion to the complaint process will be added that mentions an appeal process or guidance: e.g.: referred to the Council (not department), or an alternative court resolution process, or if still no agreement found, a court remedy may be needed for final appeal and resolution.</i>	<p>STOP B2H’s proposed site condition edits are not specific to the Draft Proposed Order for RFA 2. STOP B2H’s proposed edits to Noise Control Condition 2 (GEN-NC-02) are unnecessary and were already thoroughly litigated and considered in the contested case on the ASC.¹¹⁵ As an initial matter, STOP B2H’s first recommendation that Idaho Power retain a mutually agreed upon acoustical engineer to conduct on-site monitoring to inform the complaint resolution based on nothing but the complainant’s request is unreasonable, overly burdensome, and would not require any initial objective indication that there was a possible noise exceedance at the complainant’s property justifying the in-depth monitoring by the Company. As stated above, subpart (e)(iv) of GEN-NC-02 already provides that if the complainant voluntarily provides alternative noise data and the data suggests an exceedance that had not previously been identified and mitigated, and/or an exceedance not otherwise allowed under Noise Control Condition 4 or Noise Control Condition 5, the complaint must be verified through site specific sound monitoring conducted by an Oregon registered Professional Engineer, Board Certified by the Institute of Noise Control Engineering noise specialist, employed or contracted by Idaho Power, in accordance with NPCS-1 unless otherwise approved by the Department.¹¹⁶</p> <p>STOP B2H’s second recommended change regarding an appeal process or alternative resolution process if no agreement is found is also unnecessary as GEN-NC-02 already provides guidance when there is a dispute. First, subpart (e)(v) of GEN-NC-02 already provides that in the event of a dispute regarding complainant’s noise data and the certificate</p>

¹¹⁰ Final Order on ASC, Attachment 6 at 8744 of 10586 (Sept. 27, 2022).

¹¹¹ Final Order on ASC at 681-82 of 10586 (“Atypical sources of extraneous sound, such as sound produced by field crews setting up or calibrating the equipment and periods when the wind speed exceeded 10 miles per hour (mph), were removed from the dataset.”); see also Final Order on ASC, Attachment 6 at 8744 of 10586 (Sept. 27, 2022).

¹¹² Final Order on ASC at 681-82 of 10586 (Sept. 27, 2022).

¹¹³ Final Order on ASC at 690 of 10586 (Sept. 27, 2022); see also Idaho Power’s ASC, Exhibit X at 32 of 371 (Sept. 28, 2018).

¹¹⁴ Final Order on ASC at 669 of 10586 (Sept. 27, 2022).

¹¹⁵ Final Order on ASC at 38 of 10586 (Sept. 27, 2022) (“In the PCCO, Hearing Officer found the proposed mitigation and recommended Noise Control Conditions (as amended herein) adequately protect the public health, safety, and welfare. PCCO, pg. 140. Stop B2H timely filed exceptions on this issue. After hearing argument, the Council agreed with the with the findings of facts, conclusions of law and conditions of approval in the PCCO, with the modification that Noise Control Condition 2 be amended.”).

¹¹⁶ Final Order on ASC at 787 of 10586 (Sept. 27, 2022).

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			<p>holder’s data from site specific sound monitoring, Idaho Power must request that EFSC, in consultation with the Department’s noise consultant, if necessary, make the final determination regarding which data will be used to determine whether corona noise exceeds the ambient antidegradation standard and/or in a manner not allowed under Noise Control Condition 4 or Noise Control Condition 5. The EFSC Chair may direct the Department to make this determination.¹¹⁷</p> <p>In addition, under subpart (f)(iii) of GEN-NC-02, if an agreement between certificate holder and NSR property owner is not obtained after the complaint process, Idaho Power must concurrently notify the Department and NSR property owner of the dispute and of Council review of the dispute to occur at the next regularly scheduled Council meeting, to the extent possible, from the date of the certificate holder’s notice. The notice shall explain that the NSR property owner will be given an opportunity to provide comments to the Council on the dispute, unless the Council defers the dispute review to the Department. Review of the dispute will be based on the information per subpart (f)(iv) and any other relevant facts provided by the NSR property owner and will result in a determination of the appropriate mitigation measure(s), proportional to the facility operational noise levels in excess of the ambient degradation standard, as determined to occur at the NSR property. Importantly, GEN-NC-02 clarifies that the Council or Department’s determination of appropriate mitigation is not binding on the NSR property owner or certificate holder if NSR property owner opts not to accept the mitigation.</p>
STOP B2H (May 30, 2024)	Noise	To be edited under NC-03: <i>A deliberate mitigation monitoring plan must be added to the Noise Control conditions.</i> This was partially litigated previously during the contested case, but not in the context of compliance with ORS 469.507. It was mentioned by STOP as a good type of “best practice” considering that new masking technologies may come into existence over the life of the project (50-100 years). However, upon reflection, in the absence of a mitigation monitoring condition, there is NOT compliance with the Oregon statute and this condition needs to remedy the situation.	<p>STOP B2H’s comment is not specific to the DPO for RFA 2, but rather raises an issue that was already thoroughly litigated and considered in the contested case on ASC. STOP B2H mischaracterizes the issue as being “partially” litigated in the contested case on the ASC. This exact same argument, in the context of compliance with ORS 469.507,¹¹⁸ was raised in both public comments¹¹⁹ and in the contested case to the ASC.</p> <p>In particular, in the contested case, Ms. Gilbert proposed a site certificate condition based on ORS 469.507 that provided that once the transmission line was energized, Idaho Power was required to perform testing or sampling showing ongoing compliance with the Noise Rules at each NSR.¹²⁰ The Hearing Officer summarized the positions of the Department and Idaho Power, which are still relevant here:</p> <p>“Both the Department and Idaho Power oppose this proposed condition as unsupported and unnecessary. Idaho Power argues that ORS 469.507 does not specify the type of monitoring required to comply with Council standards, and does not require the testing and sampling described in Ms. Gilbert’s proposed condition. Idaho Power further asserts that because the proposed facility will comply with the Noise Rules, either directly or through an exception or variance, it did not propose any monitoring. Rather, during operations, as required by Amended Recommended Noise Control Condition 2, Idaho Power will implement a complaint response plan to address noise complaints.”¹²¹</p>

¹¹⁷ Final Order on ASC at 787 of 10586 (Sept. 27, 2022).

¹¹⁸ ORS 469.507 states as follows:

(1) The site certificate holder shall establish programs for monitoring the environmental and ecological effects of the construction and operation of facilities subject to site certificates to assure continued compliance with the terms and conditions of the certificate. The programs shall be subject to review and approval by the Energy Facility Siting Council.

(2) The site certificate holder shall perform the testing and sampling necessary for the monitoring program or require the operator of the plant to perform the necessary testing or sampling pursuant to guidelines established by the Energy Facility Siting Council or its designee. The council and the Director of the State Department of Energy shall have access to operating logs, records and reprints of the certificate holder, including those required by federal agencies.

(3) The monitoring program may be conducted in cooperation with any federally operated program if the information available from the federal program is acceptable to the council, but no federal program shall be substituted totally for monitoring supervised by the council or its designee.

(4) The monitoring program shall include monitoring of the transportation process for all radioactive material removed from any nuclear fueled thermal power plant or nuclear installation.

¹¹⁹ Final Order on ASC at 7518 of 10586 (Sept. 27, 2022) (Public comment stating that “[o]nce the development is completed, ORS 469.507 requires testing or sampling to show ongoing compliance with the standard.”).

¹²⁰ Final Order on ASC, Attachment 6 at 8964 of 10586 (Sept. 27, 2022).

¹²¹ Final Order on ASC, Attachment 6 at 8964 of 10586 (Sept. 27, 2022).

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			<p>The Hearing Officer rejected Ms. Gilbert’s proposed site certificate condition, stating that “Ms. Gilbert has not established that this proposed condition requiring ongoing monitoring at noise sensitive locations is necessary or appropriate. Idaho Power has explained why the proposed condition is unnecessary.”¹²²</p> <p>Similarly here, STOP B2H has not established why ORS 469.507 requires the specific ongoing monitoring as proposed by STOP B2H as opposed to the comprehensive noise complaint process in Noise Control Condition 2 (GEN-NC-02).</p>

Site Certificate Conditions

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Irene Gilbert (May 31, 2024)	Site Certificate Conditions	Please see Attachment 1.	Idaho Power prepared Attachment 1 to these DPO on RFA 2 Comment Responses addressing Ms. Gilbert’s comments regarding the modified site certificate conditions.
STOP B2H (May 30, 2024)	Site Certificate Conditions	<p>Site Condition Recommendation 4: All maps and layers that the applicant has developed will be distributed to the department and the public in electronic form and in file formats that are readable by free publicly available software in order for an application to be deemed complete. These layers will include but not be limited to: stations, towers, communication distribution lines, Access, ROW, routes, site boundary, disturbance, wetlands, geology, protected areas, fish and wildlife habitat, scenic areas, cultural, recreational, noise, soils, zoning, waters and wetlands, fish and wildlife habitat, property owners of record.</p>	<p>STOP B2H’s proposed site certificate condition is unnecessary and excessive. No applicable Council standard requires a certificate holder to make all map layers available to the public. Moreover, Idaho Power’s mapping includes information that is deemed critical energy infrastructure information, which cannot be disclosed publicly.</p> <p>While Idaho Power cannot provide all the information that STOP B2H has sought in this site certificate condition, the Company has published all mapping information that it can on its website, and an interactive map with that information is available at the following link: https://ipc.maps.arcgis.com/apps/webappviewer/index.html?id=a8fe06e348024dfbb74f2c0094dc9f37.</p> <p>Finally, while the Company cannot make all its mapping information for the entire Project publicly available, Idaho Power has demonstrated through its interactions with landowners that the Company is responsive to individual landowner inquiries for more detailed mapping on their property.</p>

Proposed Expanded Site Boundary

To address stakeholder concerns regarding the proposed expanded site boundary, Idaho Power clarifies that it will seek to adjust the micrositing area within the proposed expanded site boundary only with landowner support. Most of the micrositing area additions the Company has secured in RFA 1 and proposes in RFA 2 are consistent with landowner requests. However, to memorialize the Company’s intent in a proposed condition, Idaho Power proposes the following new condition:

At the time that Idaho Power submits an Amendment Determination Request to the Council for proposed construction outside the approved micrositing area but within the Proposed Expanded Site Boundary on private property, Idaho Power will submit to the Department documentation of landowner support or consent for the ADR on the landowners’ property.

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Morrow County (May 15, 2024)	Proposed Expanded Site Boundary	<p>It is our understanding that the request includes an amendment to the site boundary and micrositing area to accommodate:</p> <ol style="list-style-type: none"> Eleven transmission line alternative locations impacting several parcels in Morrow County Refinement of the location of temporary work areas and roads. Expansion of the Site Boundary and increasing the micro-siting corridor from 200 feet to 1.2 miles. 	<p>Idaho Power seeks to correct two statements in Morrow County’s comments.</p> <p>First, RFA 2 proposes only three transmission line micrositing area additions in Morrow County: (1) Ayers Canyon Alternative, (2) Boardman Junction Alternative, and (3) the Bombing Range SE Alternative, rather than the 11 transmission line alternative locations that the County mentions.</p> <p>Second, as proposed in RFA 2, the proposed expanded site boundary for transmission line routes would be 0.5 mile (2,640 feet) wide, or 0.25 mile (1,320 feet) from the center of the transmission line, with a micrositing area of 500 feet (the previously approved site boundary). The Company does not propose expanding either the proposed expanded site boundary or the micrositing area to 1.2 miles wide.</p>

¹²² Final Order on ASC, Attachment 6 at 8965 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Morrow County (May 15, 2024)	Proposed Expanded Site Boundary	Morrow County wishes to highlight the substantial increase in acreage included in the Site Boundary. Staff could not find the calculated "Site Boundary" acreage increase specifically identified in the application materials, but in most locations the width of the site boundary will be widened from the approved 1-200 feet to 1.2 miles. It is not clear to what extent affected landowners were consulted and/or compensated for the additional impacts to private property.	<p>As stated above, the proposed expanded site boundary would increase to 0.5 miles wide for transmission line routes, not 1.2 miles wide. Moreover, Idaho Power is not proposing to significantly expand the actual impact footprint of the Project—instead, the proposed expanded site boundary is intended to provide greater siting flexibility to address landowner concerns or sensitive resources that may be encountered during construction.</p> <p>Importantly, if approved, the proposed expanded site boundary area does not allow Idaho Power to begin construction in that area without further process. The narrower micrositing area has been approved for Idaho Power to begin construction subject to fulfilling any preconstruction commitments, but before building in the proposed expanded site boundary, Idaho Power would need to go through an Amendment Determination Process (“ADR”) pathway designated under OAR 345-027-0357.</p> <p>As to Morrow County’s comments regarding consultation with landowners and compensation, it is important to understand that the proposed expanded site boundary approach is primarily motivated by allowing greater flexibility to address landowner input without requiring an amendment. For example, if a landowner prefers that Idaho Power modify the location of an access road on their property, the proposed expanded site boundary will allow Idaho Power flexibility to accommodate such requests. Finally, compensation is outside the scope of the Council’s jurisdiction and of this proceeding. For properties where the Project will require a temporary or permanent use, compensation will be negotiated outside the Council’s proceedings.</p>
City of La Grande (May 30, 2024)	Proposed Expanded Site Boundary	We are concerned that the proposed changes could create a much more significant impact than when we negotiated mitigation with B2H and are therefore opposed to the revision unless there are requirements that they come back to the table if they do deviate from what was originally envisioned in their application.	<p>Idaho Power respectfully disagrees that the proposed changes to the micrositing area in Union County near the City of La Grande would create “much more significant impact” than previously discussed with the City of La Grande. As discussed in RFA 2, the proposed additions to the micrositing area in Union County are limited to the Baldy Alternative and Rock Creek Alternatives 1 and 2.¹²³ Like the other micrositing area additions proposed in RFA 2, these additions provide alternatives for the Project in Union County, and will not substantially increase the length of the Project or anticipated impacts.</p> <p>Moreover, the Company will be required to “come back to the table” if it seeks to modify the areas proposed for construction, or micrositing areas from what EFSC has previously approved, either via an ADR pathway or an Amendment. Importantly, if approved, the proposed expanded site boundary area does not allow Idaho Power to begin construction in that area without further process. The narrower micrositing area that has been approved (or will be approved in RFA 2) allows Idaho Power to begin construction subject to fulfilling any preconstruction commitments, but before building in the proposed expanded site boundary, Idaho Power would need to go through an ADR pathway designated under OAR 345-027-0357. The Company does not propose any use on properties located within the proposed expanded site boundary but outside the micrositing area.</p>
Amanda Baker (Apr. 25, 2024)	Proposed Expanded Site Boundary	<p>I was told last year there wouldn't be transformers on or near my property, now I'm being notified it's going to be on or within 500' of my ranch!</p> <p>Your map DOES NOT include the portion going through HWY 86, Baker City, which I've been told lines are going through there & that's where my ranch is.</p> <p>I need a detailed/ zoomed in map of that area so I can see where the lines will actually be.</p>	<p>Ms. Baker’s parcel is identified on Maps 17 and 18 of Figure 9-1.¹²⁴ As those maps show, the micrositing area for the Project does not cross Commenter’s property. However, Ms. Baker’s parcel is located within approximately 600 feet of the proposed expanded site boundary. The closest transmission tower will be about 1900 feet away from her property. There are no transformers that are proposed to be located anywhere near Ms. Baker’s parcel.</p> <p>Regarding the comments about Highway 86, it is shown at the bottom of Map 17 as the small line just above numbers 91 and 93.</p> <p>In response to Ms. Baker’s request, Idaho Power is providing a letter and mapping detailing the location of the Project with respect to Ms. Baker’s property.</p>
Meg Cooke (May 30, 2024)	Proposed Expanded Site Boundary	B2H has continuously and intentionally under-estimated the true costs of this project from the beginning. They under-estimated the amount of acres involved, now asking for an expansion from 24,000 to over 100,000, which is more than 4 times the original ask. They under-estimated the cost by offering only \$1.00 to landowners for the use of their land. Had B2H been honest about the true ecological and economic costs from the get go, this project would/should never have been approved. No More!	<p>While Idaho Power has proposed the proposed expanded site boundary for the Project, Ms. Cooke incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p> <p>Idaho Power disagrees with the suggestion that the Company has underestimated the true costs of the Project. The Company has thoroughly assessed impacts and costs resulting from construction and operation of the Project.</p>

¹²³ RFA 2 at 20-22 (Apr. 11, 2024).

¹²⁴ RFA 2, Figure 9-1 at Maps 17 & 18 (Apr. 11, 2024).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>The expansion from 24,000 to over 100,000 leaves the additional land vulnerable to ecological devastation without recourse to the same protections granted to the original ask. This new asks constitutes an expansion that far exceeds the original approval and should not be granted. B2H should be made to go back to the beginning and start over, if their project so far exceeds what was originally approved. Further, they have already slipped by a number of environmental protections by switching the route from a more ecologically sound route to a route with a much larger ecological impact. primarily to avoid lawsuits from wealthy landowners. The new landowners involved have less money to fight in court but as much or more investment in ecological diversity and overall health of the lands involved.</p> <p>Please do NOT approved of this latest expansion.</p>	<p>Additionally, Ms. Cooke states that Idaho Power has offered landowners \$1 for use of their land. While compensation for landowners is outside of the Council’s jurisdiction, Idaho Power nonetheless clarifies that this comment appears to be based on a misunderstanding. The Company’s Access Road Easement and Power Line Easement templates indicate access is granted or conveyed “for One Dollar and other valuable consideration.” This is standard boiler plate language to confirm that there was some consideration without revealing the actual amount paid to the landowner. It does not mean Idaho Power is only offering compensation in the amount of one dollar.</p>
Steven Corey o/b/o Cunningham Sheep Co.	Proposed Expanded Site Boundary	<p>I write on behalf of our landowning companies in Union, Umatilla, and Morrow counties. We have worked with Idaho Power to make adjustments to the route to better suit our farming, logging, views, clean energy production, and other important land uses. We have spent several years of painstaking collaboration and negotiation with Idaho Power to reduce the impact of B2H on our landowners and their families.</p> <p>The RFAs benefit landowners including us. Opposing/appealing RFA2 jeopardizes these benefits. The landowners could lose the line adjustments they've negotiated with Idaho Power if the Oregon Supreme Court upholds any appeals. One danger is that the line may need to go back to the originally approved line to meet time schedules, something that would cause us and other landowners substantially more damage.</p> <p>Idaho Power has obtained most of the permits it needs for B2H. Appeals only delay the project and raise the cost of electricity for farms, homes, and businesses across Oregon and southern Idaho.</p>	<p>Idaho Power appreciates Mr. Corey’s supportive comment. The Company agrees that approval of the proposed expanded site boundary and use of the ADR process for future modifications will enable the Company with necessary flexibility to respond to landowner requests.</p>
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>The Council should reject Site boundary expansion and ask Idaho Power to apply for further Amendments instead, if they are needed. Alternatively, expansion should be subject to landowner approval and this should be a condition of the Site Certificate.</p> <p>RFA2 proposes expanding the site boundary to be ½ mile wide along the B2H transmission line and would add 101,600 additional acres not subject to survey. The expansion along the B2H line does not include expansions such as roads and facilities. If the site boundary is expanded as proposed, Idaho Power would have free-reign to micro-site within that half mile – rather than within the 500’ which was approved.</p>	<p>Contrary to Ms. Geer’s assertion, approval of RFA 2 would not give Idaho Power “free reign” to adjust the construction footprint for the Project. Rather, the Company would have to follow the ADR process and obtain approval from the Department and, if requested, the Council for any future modifications to the micrositing area. Ms. Geer proposes that Idaho Power obtain landowner approval prior to construction in the proposed expanded site boundary, and this suggestion is entirely consistent with the Company’s intent. Idaho Power seeks to adjust the micrositing area with landowner support. Most of the micrositing area additions the Company has secured in RFA 1 and proposes in RFA 2 are consistent with landowner requests. However, to memorialize the Company’s intent in a proposed condition, Idaho Power proposes the following new condition:</p> <p align="center">At the time that Idaho Power submits an Amendment Determination Request to the Council for proposed construction outside the approved micrositing area but within the proposed expanded site boundary on private property, Idaho Power will submit to the Department documentation of landowner support or consent for the ADR on the landowners’ property.</p>
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>Morgan Lake Park and Protected Areas should not be subject to site boundary expansion</p> <p>An Amended route should be found which stays at least ¼ mile from Morgan Lake Park and Glass Hill SNA as well as other Protected Areas. Furthermore, these areas should not be subject to expansion.</p>	<p>Morgan Lake Park and Glass Hill State Natural Area are not included in the proposed expanded site boundary. Regarding Ms. Geer’s proposal to reroute the already approved Morgan Lake Alternative, such a request is outside the scope of the Council’s review of RFA 2. The Council “is limited to reviewing the application” and cannot develop an alternative route that is not included in an application or corridor assessment process.¹²⁵</p>
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>Idaho Power touts the expanded site boundary idea as giving more flexibility for landowner agreements. What they do not say is our rights may be weakened further in the future.</p> <p>Presumably if they want to change something again, they will NOT be required to go through the more rigorous Type A Amendment process but instead, they will only need to file an Amendment Determination Request. The Council should not allow this.</p>	<p>Idaho Power’s proposal is consistent with the Council’s rules, which include the ADR process for determining what review is appropriate when a certificate holder seeks to amend a facility in a manner that does not add area to the site. Idaho Power has not sought and does not seek in RFA 2 to expand the transmission line micrositing area on landowners’ property absent support from the landowner—and indeed, one of the key benefits of the proposed expanded site boundary is to increase Idaho Power’s ability to timely and efficiently accommodate landowner requests for minor modifications.</p>

¹²⁵ STOP B2H v. Dep’t of Energy, 370 Or 792, 813 (2023).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Susan Geer (May 30, 2024)	Proposed Expanded Site Boundary	<p>Allowing an expanded site boundary without surveys would be in violation of OAR 345-027-0375(2)(a). The Council should not allow it.</p> <p>The proposed expanded site boundary in Union County especially on the area (monocline) between Winn Meadow and Morgan Lake contains many wetlands, both mapped and unmapped. There is no doubt that sandhill cranes and bald eagles’ nest at Twin Lake and Columbia spotted frogs are found there within the potential expanded site boundary. Additional rare plants would include <i>Pyrocoma scaberula</i> and <i>Trifolium douglasii</i> which grow in unique mesic grasslands, but there may be others as well. It has never been surveyed because it was outside of the site boundary in the past. This would be in violation of OAR 345-027-0375(2)(a), which states: “For a request for amendment proposing to add new area to the site boundary, the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application;” Since the wetland has never been surveyed, compliance with the Fish and Wildlife Habitat Standard (OAR 345-022-0060) cannot be determined, nor Threatened and Endangered Species (OAR 34-022-0070).</p>	<p>The new proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis.</p> <p>Consistent with the Company’s practice in RFA 1 and RFA 2, Idaho Power will conduct additional surveys of any areas added to the micrositing area. As required by Condition PRE-FW-02, these surveys include biological surveys for fish and wildlife habitat and threatened and endangered plant species.</p> <p>Contrary to Ms. Geer’s assertion, Twin Lake is not within the proposed expanded site boundary. Twin Lake is within Morgan Lake Park, and Idaho Power modified the proposed expanded site boundary so that it borders but does not overlap with Morgan Lake Park.</p>
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>DPO for Amendment 2 changes the review requirements for the area added to the site boundary in a manner that conflicts with OAR 345-027-0375(2)(a). This rule requires that the review of the area added to the site complies with all standards that apply to an original site certificate. The change from requiring review of Council standards which apply to the site boundary to the area in the siting corridor/micrositing area conflicts with the Scope of Review that the Council must apply to add area to the site boundary. Council review no longer meets the council review requirements that apply to a new application.</p> <p>Council is precluded from issuing this site certificate without requiring compliance with the requirements of a new application. This includes providing the opportunity for the public to participate in the review. Doing so means that ODOE and EFSC cannot allow a type C review to approve future changes in the micrositing corridors or construction outside the micrositing corridors. Any future changes require either a Type A or Type B review. Doing otherwise conflicts with <i>Eng v. Wallowa County</i> 79 Or LUBA 421 (2019) A county may not defer a determination of compliance with applicable approval criteria to a future proceeding that does not allow for public participation merely because the deferred criteria require no interpretation or judgment.</p> <p>Use of this process also conflicts with the court’s decision in <i>Friends of the Columbia Gorge v. Energy Facility Siting Council</i> 365 Or 371 which states that Council does not have the authority to decide that the public cannot request a reconsideration by the Circuit Court when no opportunity is provided to access a contested case. The use of a Type C review process fails to provide notice and this opportunity to access due process.</p> <p>Statements that the developer will be required to complete the site reviews which are not being required as part of allowing a Type C change fails to comply with council rules and the above court decisions requiring the public to be allowed to participate in the decision making process.</p>	<p>Ms. Gilbert’s comment regarding an opportunity to participate in review of future proposed additions to the micrositing area misstates the scope of those changes. As stated in the DPO, upon receipt of an ADR, the Department will post a notice on the Department’s website.¹²⁶ This notice will allow for public review of the ADR.</p> <p>Ms. Gilbert’s reliance on <i>Eng v. Wallowa County</i> does not support an assertion that future challenges would require a Type A or Type B review. The Council’s review process is governed by ORS 469, which the Oregon Land Use Board of Appeals (“LUBA”) would not apply in its decisions. LUBA’s application of its procedural requirements would not govern EFSC’s application of its own amendment regulations.</p> <p>Ms. Gilbert also cites <i>Friends of the Columbia Gorge v. EFSC</i>, which she appears to interpret to limit the Council’s authority to prevent the public from seeking reconsideration at the circuit court. While Ms. Gilbert’s summary of the opinion is unclear, it appears that she asserts that the Council cannot limit judicial review of its orders in other than contested cases. This challenge to the DPO is irrelevant, because nowhere in the DPO does the Department propose limiting judicial review of future ADRs.</p>
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>The Draft Proposed Order waives the requirements of rules promulgated under the authority of ORS 469.501.</p> <p>--The change from the rule requirements being met for the area in the “site boundary” to only apply to the “micrositing area” is not a change in definition or interpretation. The definitions and application of the terms continue to be the same in EFSC rules, statutes and the original B2H Site Certificate as they were prior to Amendment 2. The change represents a unilateral change by the Oregon Department of Energy to allow the development to avoid meeting the requirements of the Oregon Statutes and rules which require identification, protection, and</p>	<p>Idaho Power disagrees with Ms. Gilbert’s characterization of the proposed expanded site boundary. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. If Idaho Power proposes future additions to the micrositing area, the Company will conduct additional detailed surveys of those areas, as the Company has for all micrositing additions proposed in RFA 2. As Ms. Gilbert acknowledges in her comment, developers propose the scope of the site boundary for a facility and also define the components that will be constructed within that site boundary.</p>

¹²⁶ Draft Proposed Order on RFA 2 at 53 (Apr. 16, 2024).

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		<p>mitigation of the impacts of the transmission line on the resources of the state requiring a preponderance of evidence that the facility complies with EFSC standards.</p> <p>During the Contested Case for the Wheatridge wind development, council interpreted the rules to allow developers to decide what items were to be included as part of the “facility”. Developers have the ability to define the area included within the facility site boundary consistent with the language of the rules defining “site boundary” so long as it includes all development they decided to include as part of the energy facility.</p> <p>The site boundary requirements for evaluating whether the development complies with EFSC standards are established in the Siting Standards in Chapter 21 and Chapter 22 of the EFSC rules as well as the 2nd amended project order. The requirements are not subject to change through this amendment.</p> <p>The following Council Standards and applicable regulations require field-based surveys, literature review and agency consultation for the entire site boundary to support Council review of compliance: Structural Standard (OAR 345-022-0020) (Analysis area is area within the site boundary) Fish and Wildlife Habitat (OAR 345-022-0060) Threatened and Endangered Species (OATR 345-022-0070) Historic, Cultural and archaeological Resources (OAR 345-022-0090) plus 5 miles from the site boundary. Oregon Removal-Fill Law (OAR 141-085-0500 through 141-085-0785, ORS 196.795-196.990)</p>	
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>EFSC rules reference the micrositing area and the site boundary to communicate requirements of Council Standards and where they are to occur. The importance and significance of the term “Site Boundary” is documented in the Final Order for the Boardman to Hemingway Transmission Line dated September 27, 2022. In that order, the term is used 213 times regarding the decision to approve the original site certificate for this development.</p> <p>As noted above, changing the evaluation of the area being added to the site to minimize review requirements impacts all future approvals and uses of the area added. Because of this, a site certificate must not be issued to extend the site boundary unless the evaluation of siting standards include the evaluation of the standards in the same manner as is required when an area is included in an original site certificate.</p> <p>An example of the egregious nature of adding area to the site boundary without requiring a full evaluation required by EFSC rules is described in ORS 469.320(5). This statute allows expansion within a site of a facility for which a site certificate has been issued. OAR 345-027-0351(4) allows the department and council to approve requests to make changes in the location of parts of a facility including structures and roads using the procedure outlined in OAR 345-027-0357. The procedure and requirements include the following:</p> <p>OAR 345-027-0357(2) allows ODOE and EFSC to amend a site certificate (Type C amendment) to authorize changes in the locations of facility components without requiring an amendment complying with the requirements of a Type A or Type B public amendment process when the changes will occur within an existing site boundary which has been documented to meet all council standards.</p> <p>This procedure allows ODOE and EFSC to amend the Site Certificate to allow changes including adding micrositing areas or other facilities without providing the public with notice</p>	<p>Ms. Gilbert’s comment suggests that future micrositing area additions would be added without demonstrating compliance with applicable EFSC standards. This is incorrect. The Company will still be required to obtain approval before moving any part of the Project outside the micrositing corridor and into the proposed expanded site boundary.¹²⁷ The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. If the Company subsequently seeks to add alternative transmission line or access road locations within the proposed expanded site boundary, the Company would submit an ADR to the Department. However, the Company would have to obtain an amendment to the Site Certificate for any modification that could result in a significant adverse impact that the Council has not addressed in an earlier order and the impact affects a resource or interest protected by an applicable law or Council standard; could impair the certificate holder’s ability to comply with a site certificate condition; or could require a new condition or a change to a condition in the Site Certificate.¹²⁸</p> <p>Based on the Council’s rules, the Company may secure additions through the ADR process only if the addition will not result in a significant adverse impact that the Council has not addressed in an earlier order.</p>

¹²⁷ Draft Proposed Order for RFA 2 at 52-53 (Apr. 16, 2024).

¹²⁸ OAR 345-027-0350(4).

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		<p>or telling them they have a right to appeal the decision. The rule does not allow ODOE to authorize changes to areas within the site boundary which have never shown with a preponderance of evidence that the area meets EFSC standards, and which have never been subject to public review or comment regarding all of the mandatory siting standards.</p> <p>The Draft Proposed Order for Amendment 2 Oof the B2H Site Certificate fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2)(a) stating that in order for Council to issue a site certificate which adds area to the site boundary Council must determine that the area added to the site complies with all laws ad Council standards applicable to an original site certificate application. Limiting reviews of some siting standards to the micrositing corridors rather than the site boundary fails to meet tis standard. Not all the land being added to the site boundary has been subject to the full evaluation required of a new facility site.</p>	
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>The following proposed site certificate conditions need to continue to require that actions occur within the entire expanded site boundary. recommended changes should not be implemented:</p> <p>GEN-FW-08: Should not change the requirements regarding reporting of avain fatalities from site to micro siting corridor</p> <p>GEN-FW-01 Remove change limiting area for required reporting to ODOE to micro-siting corridor. Leave it as “site boundary.”</p> <p>PRE-SS-01: Remove change that would limit sub surface ecological Surveys to the micrositing corridor and retain current wording requiring surveys within site boundary. This is a safety and health condition.</p> <p>PRE-FW-01: Allows developer to decide whether to complete biological surveys in either the site boundary or micrositing area. Should retain current language requiring surveys in site boundary.</p> <p>PRE-FW-02: Should retain current language requiring pre-construction surveys within the site boundary.</p> <p>CON-FW-03: Retain current language requiring identification of migratory bird nests and non-native raptor nests within site boundary.</p>	<p>In the RFA 2 DPO, there are revised conditions to reflect the distinctions between the proposed expanded site boundary and the micrositing areas. Ms. Gilbert’s proposed modifications to the modified site certificate conditions should be rejected. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. Direct impacts from the Project will occur within the micrositing area, but much of the area within the proposed expanded site boundary will experience no impacts, and for that reason these conditions requiring surveying and reporting of impacts should be appropriately limited to impacts within the micrositing areas.</p>
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>Site Certificate Condition One: Prior to approving a site boundary expansion developer must amend the site certificate using an approved Type A or Type B amendment to complete all requirements for analysis, surveys and activities required by Oregon EFSC statutes, rules if the area being added had been included in the initial request for a Site Certificate. This includes, but is not limited to meeting the requirements of Chapter 21, 22, 24, and 27.</p> <p>Site Certificate Condition Two: The developer may not make changes to the siting corridors or utilize a Type C review under OAR 345-027-0380 prior to completing and providing results of all surveys, reviews and certificate amendment activities required by chapter 21 ,Chapter 22, other EFSC rules identified in the 2nd Amended Project Order for the B2H Transmission during a public amendment process.</p>	<p>Ms. Gilbert’s proposed condition is unduly restrictive and should be denied. Ms. Gilbert’s proposal would arbitrarily deny the Company use of protocols that are wholly consistent with the Council’s regulations, including the ADR process. Consistent with the Council’s rules, all methods of amending the Site Certificate should be available to the Company as a certificate holder.</p>
Irene Gilbert (May 30, 2024)	Proposed Expanded Site Boundary	<p>The design, construction, and operation of the facility in areas added to the site boundary proposed in RFA II are likely to result in significant adverse impacts to wildlife due to noise, increased traffic, electrocution, habitat destruction, nest site abandonment, the lack of complete pre-construction surveys, the lack of post construction monitoring, as well as dust and airborne contaminants from roads and concrete batch plants associated with the proposed Multi-use areas and road changes. Because the amended site certificate includes both adding areas to the site boundary as well as additional changes to the Site Certificate conditions requested by both</p>	<p>Ms. Gilbert misstates the scope of the Council’s review of an RFA. Because RFA 2 proposes adding area to the site boundary, OAR 345-027-0375(2)(a) requires that the Company demonstrate that the newly added area complies with all applicable standards. However, an RFA does not trigger reconsideration of the previously approved site certificate. To the extent Ms. Gilbert’s comment challenges areas that were surveyed and analyzed in the Company’s ASC or RFA 1, these challenges are outside the scope of the Council’s review of RFA 2.</p>

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>the developer and the Oregon Department of Energy, the review requirements of both OAR 345-027-0375(2)(a) and (c) must be included in the council Scope of Review. Council must evaluate whether the entire “facility” will continue to comply with Council Standards that protect resources or interests that could be affected by the changes. Direct and indirect impacts of construction of roads, multi-use areas, contact with energized lines and ongoing operations such as keeping corridors clear of vegetation are all land and wildlife disturbing activities.</p> <p>In addition, there is a failure to survey or monitor impacts to the federal mitigation sites adjacent to the Ladd Marsh Wildlife Refuge which are identified as Project Number 20114 entitled “Securing Wildlife Mitigation Sites – Oregon, Ladd Marsh WMA Additions. These areas provide compensation for the Columbia River Dams targeted toward mallard, Canada goose, mink, western meadowlark, spotted sandpiper, yellow warbler, downy woodpecker and California quail. The Project also identifies the following protected and species of concern near the project sites: Bald eagle, peregrine falcon, Bobolink, greater sandhill crane, Swainson’s hawk, painted turtle, steelhead and chinook salmon. There is also an Oregon Department of Transportation Mitigation Site adjacent to the LMWA and the Glass Hill Preserve. Ladd Marsh Refuge and established mitigation areas for federal and state projects require compliance with OAR 345-022-0040, 345-022-0070, ORS 345-022-0060, ORS 345-022-0080 and OAR 345-021-0010(l)(t)(A). Idaho Power recognized in their ASC, Page T-14 that Ladd Marsh is “irreplaceable”. They stated, “As explained in Attachment T-3 Table T-3-1, Ladd Marsh WA is an important opportunity because of its designation status, high level of use, rareness, and irreplaceable character per OAR 345-021-0010(l)(t)(A)”</p> <p>* * * * *</p> <p>The different habitats, habits, survey requirements for different bird species precludes reliance on generic surveys which fail to focus on indicators of specific species presence. The Oregon Sensitive Species List identifies 22 species of birds that occur in the Blue Mountains or Columbia Plateau Ecoregions which are crossed by the B2H transmission line which are either Sensitive or Sensitive/Critical. The protected areas in Union County provide habitat for many of these species of birds.</p> <p>The developer must provide detailed pre-construction surveys of the protected areas in Union county as well as the adjacent habitat utilized by species present to establish locations and protective measures for birds and other wildlife utilizing Ladd Marsh and the surrounding protected and forest areas.</p> <p>* * * * *</p> <p>Noise impacts have been addressed in relation to corona noise from the transmission line impacts on citizens, however, no evaluation has occurred regarding the impacts related to the construction and use of multi-use areas in close proximity to protected areas and ongoing noise from the transmission line. Ladd Marsh is protected through OAR 635-008-0120.</p> <p>Citizen impacts include noise and safety risks resulting from equipment and vehicles moving in and out of the multi-use areas and restricting citizen access to schools, work, health care facilities, as well as denying them access to recreational opportunities which currently exist for hiking, walking, biking along the roadways being inundated by heavy equipment, large vehicles, and additional traffic.</p>	<p>As demonstrated by the analysis in RFA 2, the Company has thoroughly analyzed the potential impacts resulting from the Project and demonstrated that, taking into account mitigation, the impacts are not likely to be significant. This included thorough analysis both in the ASC and in RFA 2 of potential impacts to Ladd Marsh and surrounding wildlife habitat.</p> <p>The new proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. That further analysis will include detailed surveys similar to those completed for the proposed micrositing area additions in RFA 2.</p> <p>Potential impacts to Ladd Marsh are addressed in the DPO on RFA 2: “Protected Areas Condition 1 (Condition GEN-PA-01) requires that the certificate holder coordinate construction activities in Ladd Marsh Wildlife Area within ODFW’s wildlife area manager, Protected Areas Condition 2 (Condition GEN-PA-02) requires that the final facility design avoid Ladd Marsh. These conditions apply to the certificate holder but are not implicated by the proposed RFA2 micrositing area additions.”¹²⁹</p> <p>Moreover, all protected areas in Union County, including Ladd Marsh, were thoroughly analyzed in the ASC, where the Council determined that the Company adequately analyzed potential noise, traffic, and visual impacts to all protected areas and demonstrated “subject to compliance with the conditions of approval, the Council concludes that, taking into account mitigation, the design, construction and operation of the proposed facility, including approved route and approved alternative routes, is not likely to result in significant adverse impacts to any protected areas, in compliance with the Council’s Protected Areas standard.”¹³⁰</p> <p>Ms. Gilbert’s assertion that the Company did not analyze noise impacts to protected areas resulting from construction is incorrect. As the Council found:</p> <p>“Construction of the proposed facility, including approved route and alternative routes, would cause short-term noise impacts to nearby protected areas. Construction activities that would cause noise impacts at protected areas include blasting and rock breaking, implosive devices used during conductor stringing, helicopter operations, and vehicular traffic. The construction activities would progress along the corridor of the proposed transmission line, and no area would be exposed to construction noise for the entire construction period.</p> <p>At a distance of half-mile or less, these areas would experience noise impacts during facility construction. However, noise would attenuate with distance, topography, and vegetative screening so it is possible that the decibel volume represented in Table PA-2 may be lower during actual facility construction. Helicopter use during construction would be audible at nearby protected areas and would cause a short-term impact to users of protected areas at those areas near the helicopter fly-yards and MUAs, and during facility transmission line construction at times of helicopter use. However, construction noise including helicopter use would only occur during facility construction, which is a short-term impact likely only over a period of months at any one location.”¹³¹</p> <p>The Council ultimately determined that these temporary impacts are not likely to be significant.</p>
Greater Hells Canyon Council	Proposed Expanded Site Boundary	The proposed Amendment RFA2 would significantly add to the environmental impacts of the B2H project. The environmental impacts resulting from Idaho Power’s original application for	Idaho Power disagrees with the Greater Hells Canyon Council’s assertion that the proposals in RFA 2 would substantially increase the environmental impacts of the Project. While Idaho Power has proposed the proposed expanded

¹²⁹ Draft Proposed Order on RFA 2 at 145 (Apr. 16, 2024).

¹³⁰ Final Order on ASC at 333 of 10586 (Sept. 27, 2022).

¹³¹ Final Order on ASC at 308 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
(May 30, 2024)		B2H already create serious environmental problems. RFA2 would allow additional detrimental impacts over a 300 mile long transmission line without additional surveys or analysis.	site boundary for the Project, the Greater Hells Canyon Council incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand the Project footprint (and related Project impacts) in size. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis.
Wendy King (May 30, 2024)	Proposed Expanded Site Boundary	<p>Idaho power would have us believe that the expansion of the ASC approved site boundary is an effort to streamline additional landowner requests. However, the recent letter titled B2H UPDATE by Idaho Power states, “We will make these changes only when landowners request them or they’re necessary for engineering or construction purposes.” Their language leaves the door wide open to make changes based only on Idaho Power’s needs.</p> <p>I am very concerned that Idaho Power will use an Amendment Determination Request (ADR) to achieve their own refinements for engineering or construction purposes alone, leaving landowners out of the process. I strongly suggest that the EFSC require all ADR’s be approved by the landowners and the public that will be impacted.</p>	<p>Idaho Power will not seek to adjust the micrositing area without landowner support, and most of the micrositing area additions the Company has secured in RFA 1 and proposes in RFA 2 are consistent with landowner requests. However, to memorialize the Company’s intent in a proposed condition, Idaho Power proposes the following new condition:</p> <p>At the time that Idaho Power submits an Amendment Determination Request to the Council for proposed construction outside the approved micrositing area but within the proposed expanded site boundary, Idaho Power will submit to the Department documentation of landowner support or consent for the ADR on the landowners’ property.</p>
Wendy King (May 30, 2024)	Proposed Expanded Site Boundary	<p>The Draft Proposed Order for RFA-2 of the B2H Site Certificate fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2)(a) by limiting reviews of siting standards to micrositing corridors rather than the site boundary. The site boundary cannot be expanded without completing the evaluation required to show with a preponderance of evidence that the area added complies with all requirements applicable to an initial application.</p> <p>The Draft Site Certificate allows expansion and changes to the areas of the “micrositing corridors” into other areas of the site that have not met the review requirements to include the areas in the “site boundary.”</p> <p>Prior to authorizing the requested site boundary expansion, the developer must complete all analysis of surveys and other activities required by the Oregon Administrative Rules. This includes, but is not limited to meeting the requirements of Chapter 21, 22, 24, and 27.</p> <p>The developer may not utilize a Type C review under OAR 345-027-0380 prior to completing and providing results of all surveys, reviews, and certificate amendment activities required by Chapter 21, Chapter 22, EFSC rules, and those identified in the Second Amended Project Order for B2H Transmission line during a public process.</p>	<p>Ms. King’s comment misstates the record of RFA 2. The new proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. Additionally, Idaho Power provided detailed survey results for all proposed additions to the micrositing area and will provide similarly detailed analysis of any future proposed micrositing area additions.</p> <p>Idaho Power has not proposed utilizing the Type C review process for RFA 2. Rather, the Department reviewed RFA 2 under the Type A review process.¹³² If RFA 2 is approved, the Company may pursue future micrositing area additions using the ADR process, which will require that the Company provide all necessary information to the Department to determine whether the proposed addition could result in a significant adverse impact to a resource or interest protected by an applicable law or Council standard that the Council has not addressed in an earlier order. Importantly, if the review under the ADR process concludes that an amendment is required, Idaho Power would then pursue the amendment under the Type A, B, or C process based on the nature and scope of the proposed amendment.</p>
Christopher and Margie Lyon (May 30, 2024)	Proposed Expanded Site Boundary	<p>Our land was originally slated for miles of road construction and permanent easement to access the Transmission Line which will lie just outside our property lines. We were able to show Idaho Power that there was another, easier way to access the corridor from west of our property on BLM land, which would mean they had less road to build, on the other side of the original corridor. We came to an agreement with Idaho Power and they removed our land from a portion of the corridor and will not request any easement over our land. We were very pleased with the Idaho Power representatives that agreed to work with us to reroute that access road away from our property.</p> <p>Then the RFA2 was proposed, which now includes nearly half of our 230+ acre property, including our home and much of our irrigated crop land. We have been told, in writing, that no facilities will be placed on our property and that the boundary will be "reduced: on property not affected. However, we are asking that the expanded site boundary be removed entirely from our land. This should be done for all landowners, not affected by the line, but still falling within the expanded site boundary. The corrected maps and legal description should then be on file with the Oregon Department of Energy. If this is not done, and our land is still included in the expanded site boundary, our property will be worth nearly nothing. As it stands we will still be impacted greatly because of the line being built adjacent to our property, with the</p>	<p>Contrary to Mr. and Ms. Lyons’ assertions, Idaho Power has not proposed any “land grab.” While IPC has proposed the proposed expanded site boundary for the Project, Mr. and Ms. Lyon incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p> <p>By providing the Company with flexibility to microsite Project features, the proposed expanded site boundary will benefit impacted landowners. Idaho Power works closely with private landowners, and to date the Company has requested two amendments to the site certificate to incorporate discrete adjustments to the transmission line route and access roads, primarily in response to requests from landowners and to further reduce Project impacts to protected resources.</p> <p>Because Idaho Power does not plan to site any Project feature on the Lyon’s property, and has committed that it will not site any Project feature on the Lyon’s property, Idaho Power commits to “clip” the proposed expanded site boundary to exclude the Lyon’s property.</p>

¹³² Draft Proposed Order on RFA 2 at 34 (Apr. 16, 2024).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>devaluation and ruined viewshed that the towers and visible construction and access roads will cause.</p> <p>It seems that Idaho Power is asking to increase the acreage of the line by over 4 times, "in case" they want to change something in the future. After all these years this should have been completed and not be allowed to be a land grab "just in case". Their many years of planning should have foreseen all the areas needed for this line and micrositing, and we are worried that they will have too much power and too little oversight if they choose to expand into more private property later.</p>	
Kevin March (May 30, 2024)	Proposed Expanded Site Boundary	<p>Idaho Power’s RFA2 with its substantial increase in access roads, the increase of site boundaries to potentially ½ mile, as well as the proposed widening of roads on slopes could and would do great harm to the uplands, and specifically to the ephemeral streams and associated wetlands of our Northeast Oregon rivers that these power lines and roads would cross and despoil.</p> <p>Ephemeral streams are critical to intermittent and perennial stream health. They are important for water quality for all downstream and instream water users.. Ephemeral streams are critical components of anadromous and native local fish habitat health. Yet ephemeral streams are highly understudied and undercounted, and are not acknowledged by Idaho Power in RFA2.</p> <p>Idaho Power, at best, studied and mapped a very limited number of ephemeral streams within the original ASC. RFA2, without adequate studies, would only increase the potential impact to and the potential degradation of ephemeral streams and their habitat. Idaho Power is in violation of ORSs and OARs by treating these important waters as dirt rather than the essential component of watershed and fish habitat health that they are.</p>	<p>As an initial matter, to the extent Mr. March’s comment challenges the Company’s analysis in the ASC and the Council’s approval in the Final Order on the ASC, those challenges are outside the scope of RFA 2. Mr. March was a limited party to the contested case for the ASC and fully litigated issues relating to fish habitat.¹³³</p> <p>Specific to RFA 2, Idaho Power has performed biological surveys on the Proposed Micrositing Area Additions following the protocols presented in Attachment P1-2 of Exhibit P1 of the ASC and per the Site Certificate conditions PRE-FW-01 and PRE-FW-02.¹³⁴ Idaho Power performed habitat categorization per OAR 635-415-0025 by using survey data in combination with an existing landcover dataset (USGS 2011) as the basis for habitat mapping within the Proposed Micrositing Area Additions.¹³⁵ As the Department found in the DPO, the design, construction and operation are consistent with ODFW’s fish and wildlife habitat mitigation goals, based on category of habitat impacted.¹³⁶</p> <p>To identify ephemeral streams in the ASC, Idaho Power considered existing ODFW (and other agency) data sets and took into account historic fish distribution data to determine which streams were likely to be fish-bearing. Idaho Power’s fish-presence determinations were sent to ODFW for review, comment and eventual concurrence. Idaho Power included in its analysis ephemeral and intermittent streams.</p>
Sue McCarthy (Apr. 25, 2024)	Proposed Expanded Site Boundary	<p>The proposed site boundary show in figure 8, map 29 of Union County includes part of Morgan Lake Park, including all of Twin lake and part of Morgan Lake itself. Both these are important for wildlife habitat and public recreation.</p> <p>The movement of the boundary just a small distance would help remove this issue.</p>	<p>Ms. McCarthy has identified a scrivener’s error in the mapping included in Figure 8-1, which shows the proposed expanded site boundary though not the micrositing area, crossing Morgan Lake Park. The correct proposed expanded site boundary is shown in Figure 4-1, showing that the proposed expanded site boundary borders and does not enter Morgan Lake Park.</p> <p>As stated in the Final Order on the ASC, no Project components are proposed within Morgan Lake Park.</p>
John Milbert (May 24, 2024)	Proposed Expanded Site Boundary	<p>Idaho Power's application to amend the B2H site boundaries is an egregious, unwarranted land grab! The proposed increase would add more than 100,000 acres to the existing boundaries, an increase of more than 400%, making it more than five times as large as is currently approved! This unconscionable action is a prime example of Idaho Power's ongoing policy of deception regarding the proposed transmission line! They recognize the truth only as an obstacle to be overcome! Greed before need!</p>	<p>While IPC has proposed the proposed expanded site boundary for the Project, Mr. Milbert incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p> <p>Prior to construction in the proposed expanded site boundary, any proposed addition to the micrositing area would be evaluated for resources under Council standard under the ADR pathway designated under OAR 345-027-0357. While Idaho Power has proposed several discrete micrositing area adjustments in RFA 2, the Company does not propose to substantially increase overall size of the Project.</p>
Sam Myers (May 30, 2024)	Proposed Expanded Site Boundary	<p>The B2H transmission line has already been moved in some areas as landowners requested changes, in those negotiated moves so far if the transmission line moved out of its original site boundary those new areas should be fully studied and vetted to make sure impacts are not made. In this current B2H update it seems they're asking for a blank slate to do whatever they deem necessary. In the update letter we received we take note that IPC will make these changes only when landowners request them or they're “necessary for engineering or construction purposes.” This is way too vague of an explanation and it offers Idaho Power way too much power to move and exert itself out of the site boundary without proper oversight and approval.</p> <p align="center">* * * * *</p>	<p>As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent.</p>

¹³³ Final Order on ASC at 28 of 10586 (Sept. 27, 2022) (discussing Issue FW-7).

¹³⁴ RFA 2 at 96 (Apr. 11, 2024).

¹³⁵ RFA 2 at 100 (Apr. 11, 2024).

¹³⁶ Draft Proposed Order on RFA 2 at 184 (Apr. 16, 2024).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>I'm concerned that Idaho Power will use this amendment to steamroll over landowners without proper consultation or approval. I strongly suggest that EFSC require all ADR's to be approved by the landowners and the public. In my case this site boundary revision has created anxiety for myself because I have no idea what is going to happen with the transmission line routing concerning access roads and what Idaho Power may choose to change. It is extremely unsettling because our farm is already going to be severely negatively impacted by this transmission line.</p>	
<p>Sam Myers (May 30, 2024)</p>	<p>Proposed Expanded Site Boundary</p>	<p>*In reference to: IPC finds that the change in site boundary requested in RFA2 is consistent with OAR 345-027-0050(1). The proposed site boundary change is also similar in nature and consistent with other ODOE project authorizations, including: the Montague Wind Power Facility and the Wheatridge Renewable Energy Facility II. (Attachment 4-2 Site Boundary Memo) *The precedence that IPC uses in support of their request for the site boundary expansion is not an adequate comparison and does not compare to the number of acres in this project (101,600 acres). I may be mistaken, but WheatRidge and Montague are facilities using favorable landowner properties and B2H is using lands subject to condemnation and I fail to see these as accurate comparisons.</p>	<p>As demonstrated in the DPO, Idaho Power’s RFA 2 is consistent with the Council’s prior interpretation of its regulations. Moreover, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent.</p>
<p>Sam Myers (May 30, 2024)</p>	<p>Proposed Expanded Site Boundary</p>	<p>The Draft Proposed Order for RFA-2 of the B2H Site Certificate fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2)(a) by limiting reviews of siting standards to micrositing corridors rather than the site boundary. The site boundary cannot be expanded without completing the evaluation required to show with a preponderance of evidence that the area added complies with all requirements applicable to an initial application.</p> <p>This draft site certificate seeks to make changes well beyond the current micrositing corridors rules, making changes well outside the original site boundary. This level of expansion is unprecedented and should not be allowed; only the original micro sighting rules should remain applicable in this project</p> <p>I strongly suggest that this RFA-2 amendment is rejected because any changes outside the site boundary should go through the type A amendment process. I'm concerned that Idaho Power is seeking to provide unsupported claims in its public explanation of this amendment. It is extremely disappointing to me that Idaho Power continues to get away with distorting the facts to the public while it seeks to maximize its own profits by creating a legal Short Circuit in the process. Idaho Power has a poor record of public involvement a poor record of land owner negotiation, we have heard of local examples where Idaho Power distorted the facts in an effort to expedite the process it's too bad that Idaho Power can not be held more accountable and frankly needs to be held more accountable, not less in each step along the way to constructing B2H</p>	<p>Idaho Power provided detailed survey results for all proposed additions to the micrositing area and will provide similarly detailed analysis of any future proposed micrositing area additions. The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis.</p> <p>Moreover, Mr. Myers’ proposal that future amendments should all go through the Type A review is inconsistent with the Council’s rules and misstates the Company’s proposal. If RFA 2 is approved, the Company may pursue future micrositing area additions using the ADR process, which will require that the Company provide all necessary information to the Department to determine whether the proposed addition could result in a significant adverse impact to a resource or interest protected by an applicable law or Council standard that the Council has not addressed in an earlier order. Importantly, if the review under the ADR process concludes that an amendment is required, Idaho Power would then pursue the amendment under the Type A, B, or C process based on the nature and scope of the proposed amendment.</p>
<p>STOP B2H (May 30, 2024)</p>	<p>Proposed Expanded Site Boundary</p>	<p>The company is trying to strategically position themselves (gaming the EFSC rules) to either cut corners or violate landowners (and the public’s) due process rights in the future (addressed under Issues 1 and 2).</p> <p>STOP believes its intent is to speed up sensitive negotiations with landowners, in order to cut corners and the landowner out of the process.</p> <p>The applicant using Type B or C Amendments, without public input, will range freely working with an agency charged to hurry up and site these facilities quicker. The landowner need not know about changes on their land. The public must have a seat at the table to moderate the utility’s lust for profit and an agencies pressure to move faster.</p> <p>* * * * *</p>	<p>STOP B2H wholly misrepresents the Company’s position in RFA 2. The Company does not seek to affect negotiations with landowners or to avoid any analysis of the Project. As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent. Moreover, consistent with the Council’s regulations, any ADR request would be posted on the Department’s website for public review.</p> <p>STOP B2H also misrepresents the scale of the Company’s proposed expanded site boundary. The example STOP B2H provides includes the transmission line and multiple access roads. In the particular location referenced by STOP B2H, the proposed expanded site boundary for the transmission line and each access road overlap with each other, creating an overall site boundary that is greater than the 0.5 mile proposed expanded site boundary proposed for each component.</p>

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>Unfortunately, there are many areas in the site boundary that greatly exceed the .5 mile with discretion limits. In the map below the site boundary is 1.45 miles wide. Combining the .5 mile for the approved and alternate routes gives 1 mile. That is still about ½ beyond the combined limit. If google earth pro was used to fly down the B2H line at altitude the excess taking of the site boundary would be clear. Remember, IPC was fine with site certificate boundaries for over a decade. The suggestion is that this extra distance is needed to accommodate landowners.</p> <p>The December 20,2023 decision memo does not interpret the OAR’s cited correctly therefore the Written Approval of Revised Analysis Areas under OAR 345-027-0360 is incorrect and invalid. Authorization to change a site boundary is not allowed under 345-027-0360(3) nor ORS 469.300(22).</p> <p>The decision memo does not tie the legal logic together to understand the justification of the site boundary expansion. That leaves the reader to map out and connect the sections of the OAR’s and ORS’s cited to attempt to understand the logic used to justify the authority to redefine the term “site boundary.” This decision increases and redefines site boundary, micrositing area, study area, corridor, and assorted combinations of these words.</p> <p>ODOE cites authority to make changes in 345-027-0360(3)12. This section states, “(3) For any Council standard that requires evaluation of impacts within an analysis area, the analysis area is the larger of either the study areas, as defined in OAR 345-001-0010 (Definitions)(59), or the analysis areas described in the project order for the application for site certificate, unless otherwise approved in writing by the Department following a pre-amendment conference.’</p> <p>The first section discusses the analysis area in relation to the study area. The study area is further defined by OAR 345-001-0010 (Definitions)(59) which states, “the study area is an area that includes all the area within the site boundary and the area within the following distances from the site boundary.” It goes on to list distances from the site boundary for particular resources. The last item states, “unless otherwise approved in writing by the Department following a pre-amendment conference.” No preconference approval has been offered to justify a site boundary expansion. Therefore, this decision memo has no basis of fact to support the department’s decision to authorize the applicant to extend the site boundary or micrositing area by ¼ mile either side of the centerline (half-mile total width increase).</p> <p>Additionally, the ODOE memo of 12/20/2023¹³⁷ approving the changes, states that the changing definitions of site boundary and micrositing corridors has been used in the past on wind projects. The B2H is a 300-mile linear facility consuming about 96,000 acres of very varied climate and terrain. Applying EFSC standards to a nearly 300-mile, 96,000-acre linear facility is very different than applying them to a stationary facility like a wind or solar farm. No examples of the circumstances or decision memos have been offered to justify the metrics of the comparison between wind farms and a 300-mile 500 kV transmission line. STOP urges Council to acquire and review these precedent setting wind farm examples and explain how these names/terms have changed for wind farms and evaluate those conditions on a linear facility.</p>	<p>STOP B2H conflates two separate decisions. STOP B2H misinterprets ODOE’s citation to OAR 345-027-0360 as a basis for the Department to expand the site boundary, which is not what the Department indicated in its December 20, 2023 Letter. Rather, Idaho Power, as the certificate holder, proposed an amendment to its Site Certificate to expand the site boundary. A site certificate holder may seek an amendment to its site certificate with approval from the Council.¹³⁷</p> <p>To assess the Company’s request for an amendment, the Department cited its authority in OAR 345-027-0360 to identify the study areas for Council standards.</p> <p>STOP B2H also takes issue with the Department’s citation to the Council’s interpretation of its regulations in prior cases on the basis that those cases involved smaller facilities. However, this factual distinction does not change the fact that the Council’s regulations authorize the Council to approve a site boundary that differs from the perimeter of the micrositing corridor.</p>
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>IPC tried to explain it in their “Terminological Note to Attachments” (below) but it further confuses and does not clarify.</p> <p>To further muddy the waters of understanding, in the first pRFA2 submitted in June 2023, there were proposed micro-siting changes but terminology remained intact from the ASC, Contested Case, Final Order, and Site Certificate and Conditions. However, in this pRFA2 and the DPO, in order to accommodate the developer’s land grab, we are faced with a Chef’s “word salad” to decipher.</p>	<p>STOP B2H’s comment raises concerns regarding a note the Company included in RFA 2 intended to assist in reading and reviewing the attachments to the Company’s Site Certificate explaining the distinction between the approved micrositing area and the proposed expanded site boundary. For context, the note reads in its entirety:</p> <p>Idaho Power Company is proposing to redefine the term “site boundary” as part of RFA2. The site boundary would be expanded to include the area within 0.25 mile of either side of the transmission line centerline and within 0.25 mile of either side of access road centerlines. This generally creates a 0.5-mile-wide site boundary.</p>

¹³⁷ ORS 469.405.

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		[Quote of Terminological Note to Attachments omitted]	<p>The previously approved site boundary, as described in the ASC Exhibit C, is now referred to as the “micrositing area.” RFA2 includes proposed micrositing area additions as well as the expanded site boundary. Additional details regarding the definition of site boundary and micrositing area are included in Attachment 6-1.</p> <p>The terminology used in these attachments does not reflect the changes in terminology proposed in RFA2. In general, when reading these attachments (with a few exceptions noted below), the term “site boundary” should be read as “micrositing area.” For Attachment 6-1, Redline Site Certificate, IPC made the terminology changes throughout that document and the remaining uses of “site boundary” in that attachment refer to the expanded site boundary proposed in RFA2. For cultural resources attachments (7-13 and 7-14), the term “site boundary” is used to refer to the Project location as well as the location of cultural resources identified during surveys. The terminology change described here only applies to the use of “site boundary” in reference to the Project location.</p> <p>Idaho Power provided this explanation to assist in reviewing draft plans and attachments that were already in the record for the Project. Whereas in previous iterations the site boundary and micrositing area had been coextensive, RFA 2 included the proposed expanded site boundary which extends beyond the micrositing area. If RFA 2 is approved, the Company will update the preconstruction plans as required for the Project, making clear which actions will be taken to mitigate and/or minimize direct impacts within the micrositing area.</p>
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>Finally, and possibly the most significant problem if RFA2 if approved as proposed, is the future uncertainty it opens. All decision power is vested in the company and the department--while the public, local governments, and private landowners, can be cut-out completely. The reason this may occur is because this amendment will allow an ADR or Type C Amendment process,¹⁸ which could violate due process rights, particularly of the landowners; but the counties, cities, and public, as well.</p> <p>* * * * *</p> <p>ADR process runs so quickly and administratively that the public and local officials will never know in time. Landowners may not even know it’s happening on their property – yet the state and developer could decide. This is Not right!</p>	<p>Idaho Power disagrees with STOP B2H’s assertion that the ADR process does not adequately protect landowners’ and the public’s due process rights. Moreover, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent. This condition will ensure that landowners are involved in and support future amendments that are proposed through the ADR process.</p>
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>Site Certificate Conditions - Recommendation 1: Prior to approving a site boundary expansion or amendment of the site certificate, the developer must complete all requirements to amend an approved site certificate, using a Type A amendment process for analysis, surveys, and activities required by Oregon EFSC statutes and rules. This includes, but is not limited to meeting the requirements of Chapter 22, 24, and 27, and providing landowners and the public with necessary specificity of maps, surveys, and additional information upon request and in a timely manner to be able to meaningfully participate in the amendment process.</p>	<p>STOP B2H’s proposed condition is unduly restrictive and should be denied. STOP B2H’s proposal would arbitrarily deny the Company use of protocols that are wholly consistent with the Council’s regulations, including the ADR process. Consistent with the Council’s rules, all methods of amending the site certificate should be available to the Company as a certificate holder.</p> <p>If RFA 2 is approved, the Company may pursue future micrositing area additions using the ADR process, which will require that the Company provide all necessary information to the Department to determine whether the proposed addition could result in a significant adverse impact to a resource or interest protected by an applicable law or Council standard that the Council has not addressed in an earlier order. Importantly, if the review under the ADR process concludes that an amendment is required, Idaho Power would then pursue the amendment under the Type A, B, or C process based on the nature and scope of the proposed amendment.</p>
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>Site Certificate Conditions - Recommendation 2: If amendments are proposed to the site boundary and/or micrositing corridor using an Amendment Determination Request (ADR process) 345-027-0357, an agreement or letter of concurrence from the landowner or land/property manager, must be included in the application to the Department, under subsection (4)(d); and a public comment period will commence for 60 days.</p>	<p>As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent. However, Idaho Power opposes STOP B2H’s proposed 60-day public comment period. Consistent with the Council’s regulations, the Department will review any ADR and publish notice of the ADR on the Department’s website. Council rules do not require a public comment period for every ADR and STOP B2H’s proposal to add that requirement should be rejected.</p>
STOP B2H (May 30, 2024)	Proposed Expanded Site Boundary	<p>Site Certificate Conditions - Recommendation 3: Once there is an agreement and decision about a the new Micrositing Corridor, the remaining land (the .5 mile) will be removed from the “RFA2 Site Boundary,” returning the Site Boundary width to the original ASC, the Final Order on B2H, and Final Order on AMD1, that is: a 500’-wide site boundary corridor with a 250’-wide micro-sited corridor.²⁶ All maps,</p>	<p>Idaho Power opposes STOP B2H’s proposed site certificate condition because it is unduly restrictive and would add unnecessary hurdles to future negotiations with landowners. The proposed expanded site boundary will facilitate future negotiations by enabling flexibility to relocate Project components in response to landowner requests. STOP B2H’s proposed condition could limit that flexibility by reducing the area to which the Company may relocate Project components.</p>

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>property and site descriptions, including legal references, will be updated, provided to the landowner, and filed with the department within 60 days from Council’s approval.</p> <p>Anything wider or larger than what is absolutely necessary to “accommodate land owners’ interests” (as IPC states) is simply unjust and unfair. Yet, the DPO insists that accommodating landowners is the reason that this RFA2 is needed and that everything will go back to the narrower corridors once the micrositing has been finalized. Therefore, this condition is important, protective, and not unreasonable to include given the rationale provided by IPC and the department to approve this RFA2.</p>	<p>STOP B2H’s proposed condition is also unnecessary because the proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. Landowners will not be impacted solely as a result of owning land within the proposed expanded site boundary. However, as discussed immediately above, the proposed expanded site boundary will maintain flexibility to respond to future landowner requests.</p>
STOP B2H (May 30, 2024)	Proposed Site Boundary Expansion	<p>The company is also gaming the public and public officials by not providing adequate maps from which a person could meaningfully participate and for landowners to even understand what is happening on their land!</p> <p>The maps supplied in RFA 2 do not show all areas that will be disturbed as required in this OAR. Private, county, state, and federal roads that will be used in constructing the B2H, that are outside the site boundary, are not shown on the maps provided. These communities that support the construction of B2H will be temporarily disturbed during construction and those disruptions are not clearly noted. In Union County, a person can no longer call the Public Works Director to ask what permits IPC has filed for. We now need to initiate a Freedom of Information (FOI) request to get that information. STOP wants the public to know the impacts on their neighborhood and lands but we/they cannot get that information, or at least not quickly. Thus, the applicant is non-compliant with this section of the rule and the maps should be re-done and distributed to the public for comments before this RFA is considered by Council. Inside the site boundary the same situation is occurring.</p> <p>RFA 2 does not state the correct increase in the number of the acres being added to the site boundary. The approved site boundary is approximately 24,000 acres and now, an estimated total of 96,000 of acres are proposed (see Attachment 1). Yet, in the DPO, Table 2: RFA2 Proposed Transmission Line Route, Access Road, and Work Area Additions” pp. 31-33 of 855, the total addition stated is only 4,000 acres approximately. This is grossly misleading because the amendment seeks a site boundary addition—not a micrositing addition as the table is apparently displaying.</p> <p>OAR 345-001-0010(55) as sited in the Application for site certificate Exhibit C 2.0 and 3.0 and the Second Amended Project Order, Section III(c) states, “shall indicate the “site boundary” as defined in OAR 345-001-0010(55).</p> <p>OAR 345-001-0010(55) does not define site boundary therefore this section and any parts of the RFA 2 (and all prior amendments, the site certificate, site conditions, and ASC) that rely on this definition are invalid;</p> <p>The roads on the maps in Figure 4-1 RFA 2 Proposed Micrositing Area Additions, except I-84, are not labeled in the Union County section. On map 39 between blue and orange outlined and non-outlined road sections segments starting with UN-*** and 2/*** are well labeled. Glass Hill Road, the only county road in the area, is not on the map so is not labeled. Logically it would be a major support road to get materials to the construction sites but it is not on the map. Therefore, it is difficult to know the impacts of the B2H on these roads. Many of the other maps in Union County exhibit the same lack of detail.</p>	<p>STOP B2H’s concerns regarding Idaho Power’s mapping do not allege noncompliance with any Council requirement. First, STOP B2H asserts that various roads that Idaho Power personnel may use are not located within the site boundary. This is to be expected; the site boundary includes only the Project and its related or supporting facilities. Only new roads and existing roads that will be substantially modified are considered related or supporting facilities.¹³⁸ All other existing roads are not part of the Project site and are correctly not included within the site boundary.</p> <p>Additionally, Public Services Condition 2 will require the Company to complete a county-specific Transportation and Traffic Plan, which will include the final access and haul routes for the Project. This will identify the roads within Union County that will be used to reach the Project site.</p> <p>STOP B2H also misstates the request in RFA 2. While Idaho Power’s request includes the proposed expanded site boundary, the Company has also proposed various additions to the micrositing area within that proposed expanded site boundary. The table that STOP B2H references, Table 2: RFA2 Proposed Transmission Line Route, Access Road, and Work Area Additions” pp. 31-33 of 855, lists only the proposed micrositing area additions, which are properly listed and total approximately 3,918.1-4,142.3 acres.</p> <p>STOP B2H also challenges Exhibit C of the Company’s ASC, which STOP B2H asserts refers to an incorrect definition. This challenge is an untimely challenge to the adequacy of Idaho Power’s ASC and does not relate specifically to RFA 2. Moreover, STOP B2H’s challenge to the definition cited in the ASC fails to account for the fact that the rule has been modified since the ASC and that citation was correct at the time of the ASC. Finally, STOP B2H’s assertion that subsequent amendments not citing the amended rule are “invalid” is incorrect and has no basis in law. EFSC amending its definitions after approval of the ASC does not affect the validity of the Council’s prior approval of that ASC or its consideration of future amendments.</p> <p>IPC’s maps clearly show the locations of Project-related roads within the micrositing area, as required by EFSC rules.¹³⁹</p>

¹³⁸ ORS 469.300(24).

¹³⁹ OAR 345-027-0360(1)(b)(C).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Miscellaneous

Application for Site Certificate

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
John Luciani (May 30, 2024)	Application for Site Certificate	I was kicked out early of the ODOE contested case and my concerns were never heard.	<p>As an initial matter, Mr. Luciani’s statement relates to the contested case for the ASC, and not to RFA 2. Mr. Luciani asserts that he was excluded from the contested case for the Project. However, it is important to note that the Council reviewed and affirmed that Mr. Luciani’s petition for party status in that proceeding was deficient and properly rejected by the Hearing Officer.</p> <p>In her order reviewing petitions for party status, the Hearing Officer included the following conclusion regarding Mr. Luciani’s petition:</p> <p style="padding-left: 40px;">Although Mr. Luciani listed numerous concerns about the proposed facility, he did not tie these concerns to applicable siting standards. He did not challenge any specific findings or determinations in the DPO or Proposed Order, and did not present facts or argument on the record of the DPO to support his concerns. Furthermore, diminished property values, private property access, and individual health concerns are not matters within Council’s jurisdiction. Accordingly, Mr. Larkin did not raise an issue at the public hearing related to a siting standard or applicable statute with sufficient specificity to allow for a response. He has not established standing to participate as a party or limited party in the contested case. OAR 345-015-0016(3).¹⁴⁰</p> <p>Mr. Luciani timely appealed the Hearing Officer’s order and, after review, the Council affirmed the Hearing Officer’s conclusion.¹⁴¹</p>

Party Status

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Irene Gilbert (Apr. 26, 2024)	Party Status	<p>The Draft Proposed Order cannot designate all petitioners as Limited Parties other than the Applicant absent an evaluation of their requests for party status.</p> <p>Limiting all parties participation in the contested case procedure to only the issues they raised in their Comments on the DPO denies parties the opportunity to fully participate in the proceedings in the manner described in ORS 183 for full parties.</p> <p>The Draft Proposed Order limits all petitioners to Limited Party Status in Contested Case Proceedings absent conducting an evaluation regarding whether or not they should be granted full party status.</p> <p>This language is not consistent with OAR 137-003-0005(7) requirements that establish criteria which must be evaluated in determining a parties application to be a full party.</p> <p>It is also not consistent with the Oregon Supreme Court ruling in Stop B2H Coalition v. Dept of Energy, Pages 803-804. The court concluded that “EFSC (1) had authority to grant limited party status to Stop B2H and (2) considered the factors it was required to consider in making that determination.” The Oregon Supreme Court did not rule that EFSC has the authority to limit all petitioners to Limited Party Status in contested case proceedings with the exception of the developer absent evaluating and describing the justification for the limitation.</p>	<p>Ms. Gilbert asserts that the DPO’s statement of the issues that may be raised in a contested case is inconsistent with a provision of the Attorney General’s Model Rules of Procedure for Contested Cases (“Model Rules”). Specifically, Ms. Gilbert asserts that the Council must apply the factors listed in OAR 137-003-0005(7) when determining “whether or not [a petitioner] should be granted full party status.”</p> <p>However, the Council’s review of commenters’ requests for contested cases relating to an RFA is governed by OAR 345-027-0371.</p> <p>The language in the DPO that Ms. Gilbert challenges is a verbatim quotation of the OAR 345-027-0371(10)(a), and therefore accurately identifies the standards for review of such requests.</p> <p>Even if there were any inconsistency between OAR 345-027-0371(10)(a) and the Model Rule that Ms. Gilbert cites, the Council would apply OAR 345-027-0371(10)(a).¹⁴²</p>
Irene Gilbert (May 8, 2024)	Party Status	The Oregon Department of Energy and Energy Facility Siting Council are requiring parties requesting full party status to be designated as limited parties when more than one contested	Ms. Gilbert’s primary contention appears to be that an individual who comments on the DPO for RFA 2 should be allowed to request a contested case to raise an issue that another commenter raised in separate comments on the DPO.

¹⁴⁰ Order on Petitions for Party Status, Authorized Representatives and Issues for Contested Case at 18 (Oct. 29, 2020).

¹⁴¹ Energy Facility Siting Council Order on Appeals of Hearing Officer Order on Party Status, Authorized Representatives and Issues at 16 (Nov. 25, 2020).

¹⁴² See OAR 345-001-0005(3) (“In any conflict between the model rules and Council rules, the Council shall apply its own rules.”).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>case is being heard. They are further denying limited parties the opportunity to respond to comments by other petitioners who have contested cases being heard. As a result, petitioners are required to submit comments on all issues which they do not agree with or wish to request a contested case on.</p> <p>The Oregon Department of Energy and Energy Facility Siting Council are requiring parties requesting full party status to be designated as limited parties when more than one contested case is being heard. They are further denying limited parties the opportunity to respond to comments by other petitioners who have contested cases being heard. As a result, petitioners are required to submit comments on all issues which they do not agree with or wish to request a contested case on.</p> <p>They have now interpreting Oregon Statutes and rules in a manner that is denying the public the submission of and use of comments by other commenters and references to comments of other petitioners. They are also refusing to accept results and documents provided in other agency actions relating to issues petitioners have, etc.</p> <p>The language and interpretation which is the subject of this comment are in the Draft Proposed Order and footnotes on pages 39 and 40 of that order which specifically states the intended restrictions regarding the evidence being accepted in the public comments supporting requests for contested cases in quasi-judicial hearings before the Energy Facility Siting Council. The language in ther Draft Proposed Order states the following:</p> <p>[quotation of DPO at 39 n.27 omitted] There are multiple laws being broken by their actions, however, two Statutes and one Rules being illegally interpreted follows:</p> <p>Quai-Judicial Procedures Ch. 17 17.24.200 Evidence. (1) All evidence offered and not objected to may be received unless excluded by the approval authority on its own motion. (2) Evidence received at any hearing shall be of a quality that reasonable persons rely upon in the conducting of their everyday affairs. (3) No person shall present irrelevant, immaterial, or unduly repetitious testimony or evidence. (4) Formal rules of evidence, as used in courts of law, shall not apply. (Ord. 2875 § 1.070.200, 2003)(9)</p> <p>ORS 197.797.(9)(b): “Evidence” means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. [Formerly 197.763]”</p> <p>ORS 183.450(1) Evidence in contested cases.</p> <p>[quotation of ORS 183.450(1)-(2) omitted]</p>	<p>Ms. Gilbert asserts that ODOE’s position is inconsistent with several statutes and regulations that establish evidentiary standards that Ms. Gilbert argues apply to the Council’s review of requests for contested cases. Based on that argument, Ms. Gilbert challenges a statement in footnote 27 on pages 39-40 of the DPO, which reads, in part:</p> <p>“Council does not consider incorporation by reference statements or comments made by other persons, (whether they are comments on the DPO, raised by other commenters for this facility or past proceedings, comments on another agency proceeding, or other external references) to meet the sufficient specificity requirement under ORS 469.370(3) and OAR 345-015-0016(3). Blanket incorporations by reference do not afford the Department, Council or certificate holder an adequate opportunity to respond to each issue as required under ORS 469.370(3) because they typically do not specify which portion(s) of the other person(s) comments are to be incorporated or how those comments relate to any alleged shortcoming in the subject DPO.”¹⁴³</p> <p>Procedurally, Ms. Gilbert’s comment appears premature, because Ms. Gilbert challenges a statement of how the Council <i>will consider</i> requests for contested cases. The Council is not yet considering requests for contested cases, but rather is considering comments on ODOE’s DPO, which may eventually be cited in requests for contested cases. Substantively, as discussed below, the challenged language is entirely consistent with the Council’s interpretation of its regulations governing requests for contested cases. Moreover, Ms. Gilbert’s reliance on evidentiary standards that apply in contested cases is misplaced, because Ms. Gilbert cites statutes that either do not apply to Council proceedings or apply only after the Council has begun a contested case.</p> <p><u>ODOE Properly Applied the Standard for Requests for Contested Cases</u></p> <p>Ms. Gilbert’s position is inconsistent with the Council’s interpretation of its own regulations governing requests for contested cases to review requests for amendments. Importantly, the footnote that Ms. Gilbert challenges is a direct quotation from the Council’s Final Order on RFA 1,¹⁴⁴ and is therefore consistent with the Council’s interpretation of the governing regulations.</p> <p>IPC seeks to address the legal errors Ms. Gilbert alleges in her comment. First, while the Council is subject to the Oregon Administrative Procedures Act (“APA”) (ORS Chapter 183), Ms. Gilbert incorrectly cites the evidentiary standard for contested cases, which is premature because RFA 2 is not the subject of a contested case.</p> <p>While Ms. Gilbert’s comment challenges language in the DPO relating to the standards the Council will apply to any requests for a contested case, Ms. Gilbert discusses only one regulation that applies to the Council’s consideration of petitions for party status. As an initial matter, the rule Ms. Gilbert discusses, OAR 345-015-0016, is specific to requests for party status relating to an application for a site certificate, not a request for an amendment. However, the rule identifying the standard for seeking contested cases relating to amendments to site certificates, OAR 345-027-0371(5), similarly requires that a person “have raised an issue with sufficient specificity” at the DPO hearing to request a contested case relating to that issue. For that reason, IPC responds to Ms. Gilbert’s comment applying OAR 345-027-0371(5).</p> <p>Moreover, Ms. Gilbert’s assertion that ODOE’s statement in the DPO is inconsistent with OAR 345-027-0371(5) is incorrect. OAR 345-027-0371(5) states that “[t]o have raised an issue with sufficient specificity, the person must have presented facts at the public hearing that support that person’s position on the issue.” ODOE correctly states in the DPO that an individual cannot simply incorporate by reference another person’s comment and then rely on those comments as the basis for a contested case request. ODOE’s statement is entirely consistent with OAR 345-027-0371(5), because if a</p>

¹⁴³ The footnote reads, in full: “Council does not consider incorporation by reference statements or comments made by other persons, (whether they are comments on the DPO, raised by other commenters for this facility or past proceedings, comments on another agency proceeding, or other external references) to meet the sufficient specificity requirement under ORS 469.370(3) and OAR 345-015-0016(3). Blanket incorporations by reference do not afford the Department, Council or certificate holder an adequate opportunity to respond to each issue as required under ORS 469.370(3) because they typically do not specify which portion(s) of the other person(s) comments are to be incorporated or how those comments relate to any alleged shortcoming in the subject DPO. Attempts to incorporate by reference comments made regarding a matter being considered by another agency do not inform the Council, Department or applicant/certificate holder of any alleged error in the subject DPO sufficient to allow for a response. Further, incorporations by reference of another person’s comments on the subject DPO, no matter how specific, are procedurally inefficient because they could result in multiple persons presenting evidence, examining witnesses, etc. regarding the same issue in a contested case. Council has also maintained that this position is consistent with the reasons why it is appropriate to limit the participation of persons seeking to participate in a contested case to the issues each properly raised in their respective DPO comments. B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 21.” Draft Proposed Order on RFA 2 at 39-40 n.27 (Apr. 16, 2024).

¹⁴⁴ Final Order on RFA 1 at 22 (Sept. 22, 2023).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>The references stated by ODOE which they state allow them to interpret the law regarding their interpretation of acceptable evidence supporting a person’s comments and contested case requests do not provide them the authority to take the actions described in the draft proposed order. references are as follows:</p> <p>OAR 345-015-0016(3) [quotation omitted] and ORS 469.370(2)(e) and ORS 469,370(3) [quotations omitted].</p> <p>The above rules and statute do not provide ODOE or EFSC the authority to reinterpret the law:</p> <p>SUMMARY</p> <ol style="list-style-type: none"> Public parties do not have the resources to research hundreds and often thousands of pages of documents in the average 30 days provided to review and comment on the application and draft proposed order in order to establish the right to a contested case. It is impossible for most members of the public to do the necessary review given the fact that they often have full time jobs and other responsibilities. By their recent decision to only allow ODOE and the developers to be full parties to contested cases when there is more than one petitioner, they are requiring all petitioners to include comments on every issue they want to object to or present testimony on during a contested case proceeding. They are now attempting to interpret the law regarding what is acceptable as proof, evidence or support for comments in a manner that denies the public the use of material and references acceptable according to Oregon Statutes and Rules. ODOE and EFSC do not have the authority to reinterpret rules and statutes which provide the public access to due process under Oregon law and the US Constitution. <p>Change needed to comp[ly] with Oregon law regarding evidence:</p> <p>Remove the discussion regarding petitioners not being able to submit and reference comments by other petitioners and acceptable documentation regarding issues. The proposed order needs to state that evidence allowed by ORS 183.450 and the Model Rules is acceptable to support an issue which is the subject of public comment and contested case requests.</p>	<p>commenter merely adopts general comments as their own, that person has not presented facts supporting their own position with sufficient specificity to allow IPC, the Department, or the Council to respond.</p> <p>Ms. Gilbert asserts that ODOE seeks to “interpret the law regarding what is acceptable as proof, evidence or support for comments in a manner that denies the public the use of material and references acceptable according to Oregon Statutes and Rules.” However, the provision of the DPO that Ms. Gilbert challenges does not reinterpret any governing law, but rather is entirely consistent with the Council’s rules. The Council’s rules require that any individual requesting a contested case first raise the issue in DPO comments with “sufficient specificity,” and states that “[t]o have raised an issue with sufficient specificity, the person must have presented facts at the public hearing that support that person’s position on the issue.”¹⁴⁵ As discussed above, the language Ms. Gilbert challenges directly quotes the Council’s interpretation of OAR 345-027-0371(5). Ms. Gilbert’s assertion that the DPO reinterprets the rules governing requests for contested cases is incorrect.</p> <p><u>Ms. Gilbert Cites Several Statutes That Do Not Govern Consideration of Requests for Contested Cases</u></p> <p>Much of Ms. Gilbert’s comment discusses statutes and regulations that do not apply in Council proceedings. Moreover, while Ms. Gilbert cites a provision of the Oregon APA that applies in contested case proceedings, Ms. Gilbert incorrectly suggests that the Council must apply this contested case standard before the Council has begun a contested case.</p> <p>It is not clear what Ms. Gilbert is referencing when she cites “17.24.200.” However, that provision does not appear to be a Council regulation or governing statute.</p> <p>ORS 197.797 applies to local quasi-judicial land use hearings. Any evidentiary standard identified in that statute would not apply to the Council’s DPO hearing.</p> <p>Finally, while ORS 183.450(1) applies in the Council’s contested cases, that statute does not identify any applicable standard for the Council’s review of petitions for party status prior to a contested case. Ms. Gilbert’s argument that the Council must apply the evidentiary standards in the Oregon APA is premature because the Council has not begun a contested case for RFA 2. Similarly, Ms. Gilbert’s assertion that ODOE has reinterpreted what constitutes evidence incorrectly relies on the standard identifying the evidentiary standard in contested cases. At this stage, the Council is not weighing evidence in a contested case proceeding. Rather, the Council is reviewing DPO comments to assess whether a commenter has raised an issue with sufficient specificity to support a potential request for a contested case under the Council’s rules.</p>

Midline Capacitor

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Wendy King (May 30, 2024)	Midline Capacitor	Because Idaho Power has had their shot at engineering B2H for many years, and achieved their certificate, it seems unimaginable that they have further adjustments that weren’t accounted for in the approved route, especially the midline capacitor station. The correction to road widths is another reason to contemplate their ability to design and construct a transmission facility. This very issue shows to me either the lack of accurate engineering or a total manipulation of the site certificate process to work in their favor.	Idaho Power strongly disagrees with Ms. King’s characterization of the Company’s efforts to site the Project. The Project is over 300 miles long and crosses widely diverse regions within the State. As with any large-scale project, modifications are likely as the Company finalizes engineering and comes closer to construction, and some features may even require modification after construction has begun if unanticipated resources or site challenges are discovered once on-site. Given the scale and complexity of the Project, modifications are expected as the design approaches finalization and are common on projects of this scale and magnitude.
Sam Myers (May 30, 2024)	Midline Capacitor	I would contend that Idaho Power has failed to demonstrate the ability to design transmission lines. Based on my earlier OPUC findings I proved that Idaho Power has not engineered the towers to a level of enhanced reliability standards (data which was ultimately not considered because the OPUC staff was not compelled by my evidence). I have also noticed that a midline	Idaho Power strongly disagrees with Mr. Myers’ characterization of the Company’s design. The Project is over 300 miles long and crosses widely diverse regions within the state. As with any large-scale project, modifications are likely as the Company comes closer to construction, and some features may even require modification after construction has

¹⁴⁵ OAR 345-027-0371(5).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>capacitor station needs to be added to the project and that some access roads were improperly designed. These issues demonstrate IPC's lack of ability to design. It also points out they seem to have a lack of technical expertise to know specifications used in all facets of the design and construction of a transmission line.</p> <p>* * *</p> <p>Further on the subject of Idaho Powers selection of contractors; they chose contractors to conduct B2H site surveys that provided inaccurate results which had to be re-surveyed by different contractors. I’m concerned that Idaho Power hired powerline contractors that offered the lowest bid or chose them because other contractors have passed on the opportunity due to the design or route?</p>	<p>begun if unanticipated resources or site challenges are discovered once on-site. Given the scale and complexity of the Project, modifications as the design approaches finalization should be expected.</p> <p>As Mr. Myers acknowledges, his engineering concerns were raised in the OPUC proceedings and Idaho Power addressed Mr. Myers’ allegations. Regarding Mr. Myers’ alleged engineering flaws, the OPUC concluded: “Regarding the engineering behind B2H towers and transmission lines, we conclude that the record does not support a finding that Idaho Power’s engineering is flawed. On the record before us, we find that Idaho Power selected a tower design that has been thoroughly studied and meets or exceeds all applicable and relevant standards. Indeed, the selected lattice towers are used throughout the Pacific Northwest and exceed tower design requirements, including for minimum loading criteria. The BPA lattice towers have wind loading of 120 miles per hour while the wire has wind loading of 100 miles per hour. With that wind loading, the MRI, which refers to how often a weather event is likely to occur, is between 700 and 10,000 years, while the NESC design requirement is for an MRI of greater than 50 years. While intervenors assert these wind loading calculations are flawed, we disagree.”¹⁴⁶</p> <p>Idaho Power is thoughtful and thorough in engaging contractors. For B2H, Idaho Power has hired a qualified construction manager with expertise in the field and is following a thorough evaluation process during the hiring process for all its contractors.</p>
STOP B2H (May 30, 2024)	Midline Capacitor	Then there is the mid-line capacitor station. IPC encompasses its footprint inside the approved site boundary however there has never been mention of this supporting facility until now and all support facilities should have been identified a long time ago. In RFA 2, a new never before mentioned mid-line capacitor station is taking up 10 acres in Union County. After all these years of study, “what should they have known, and when should they have known it?” ⁶ This is a “boundary creep” strategy by utilities: i.e.: go in with a small foot print then use amendments to expand the footprint and build larger facilities, creating more negative impacts.	<p>Idaho Power strongly disagrees with STOP B2H’s characterization of the timing for the Company’s proposal to add the Midline Capacitor Station. As with any large-scale project, modifications are likely as the Company comes closer to construction, and some features may even require modification after construction has begun if unanticipated resources or site challenges are discovered once on-site. Given the scale and complexity of the Project, modifications are expected as the design approaches finalization.</p> <p>Additionally, STOP B2H incorrectly characterizes Idaho Power’s proposed Midline Capacitor Station as an expansion of the Project footprint. As stated in RFA 2, the proposed Midline Capacitor Station would be located entirely within the previously approved site boundary/micrositing area. Therefore, addition of this substation would not increase the Project boundaries.</p>

ODAV and FAA Notice of Construction

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Oregon Department of Aviation (May 30, 2024)	ODAV and FAA Notice of Construction	1. The Boardman to Hemingway project was previously reviewed by ODAV, with associated aeronautical studies completed (aviation reference nos. 2023-ODAV-198-OE through 2023-ODAV-296-OE, 2023-ODAV-298-OE through 2023-ODAV-406-OE, and 2023-ODAV-555-OE through 2023-ODAV-598-OE). Any new or relocated transmission lines not previously reviewed by ODAV or the FAA may require the applicant to submit notice of construction to ODAV and the FAA. The applicant can use the FAA’s notice criteria tool to determine if the proposed amendment will require additional notices to be filed with the FAA and ODAV.	<p>As described in the Draft Proposed Order (“DPO”) for Request for Amendment (“RFA”) 2, the locational adjustments of the proposed RFA 2 micrositing area additions do not result in new or different air traffic safety providers not previously evaluated (i.e., no new or different airports within 5-miles of the proposed expanded site boundary).¹⁴⁷</p> <p>The Energy Facility Siting Council (“EFSC” or “Council”) previously imposed Public Services Condition 4 (PRE-PS-03) requiring that, prior to construction, the certificate holder submit a Notice of Proposed Construction or Alteration (FAA Form 7460-1) to the FAA and to the Oregon Department of Aviation (“ODAV”) prior to the construction of any transmission structures within 5-miles of a public airport or the use of any cranes exceeding 200-ft in height. Idaho Power has obtained No Hazard Determinations from the Federal Aviation Administration and ODAV for all facility structures within 5-miles of a public airport. This condition was originally adopted in the Final Order and is unchanged by RFA 2.¹⁴⁸</p>

¹⁴⁶ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 23 (June 29, 2023).

¹⁴⁷ Draft Proposed Order on RFA 2 at 236-37 (Apr. 16, 2024).

¹⁴⁸ Final Order on ASC at 606-07 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

ODOT Quarries

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
<p>Oregon Department of Transportation (May 30, 2024)</p>	<p>ODOT Quarries</p>	<p>This letter is in response to the Oregon Department of Energy’s (ODOE) April 16, 2024 notice requesting comments with the proposed expanded boundary for the project. The following comments identify sites where the project conflicts with Oregon Department of Transportation’s (ODOT) planned and current use of existing quarries. ODOT holds mineral rights at quarries for the construction and maintenance of public infrastructure. * * *</p> <p>The quarries impacted by B2H are located in aggregate challenged locations, meaning there are few sources, and the haul to a project site can be quite lengthy. A lengthy haul results in an adverse effect or increase to ODOT’s overall carbon footprint and a significant cost increase to the agency. These sites are hard rock sites which require blasting to extract rock, followed by crushing to produce the required material. Thus, constructing foundations to support large transmission towers on and in the quarry likely creates a non-compatible use of ODOT’s resources in an already scarce aggregate environment.</p> <p>The ODOT Statewide Material Source Program manages a network of quarries across the state and by highway corridor to provide aggregate resources for construction and maintenance activities. Furthermore, this network of quarries ensures bidding competition on our projects thus preventing monopolies and balances market prices of aggregate. The ODOT Materials Source Program exemplifies stewardship for providing a long-term product for the exclusive use of public infrastructure and management of an irreplaceable natural resource. As such we have identified sites which are proposed to be impacted by the B2H project amendment, and are listed below:</p> <p>Love Reservoir Quarry; • Location: T15S R45E, E ½ S22, Baker County • Document where the overlap occurs: MAP 54 included below • Owned by: BLM & ODOT • ODOT Controlled through Deed of Mineral ROW #031973 • Affected area: 70 Acres • Coincident access: 50’ haul road easement (3 Acres) to I84 • Provides aggregate for construction and maintenance for I84</p> <p>Baldock Slough East Quarry: • Location: T8S R40E NE1/4 NE ¼ S24 (Tax Lot 200), Baker County • Document where the overlap occurs: MAP 40 • Owned by: ODOT • Affected area: 41 Acres • Currently funded for use • Shows a full take of the entire quarry parcel • Coincident access: the only source on OR203 with access to I84 • Provides aggregate for construction and maintenance for I84 and OR203</p> <p>Amendment 2 is also proposing to expand the site boundary very close to the following ODOT material source.</p> <p>South Adrian Quarry: • Location: T21S R46E NW ¼ NE ¼ S27 and T21S R46E SW ¼ SE ¼ S22 • Owned by: ODOT • Affected area: 60 Acres • Provides aggregate for construction and maintenance for OR201 • This is an active, permitted quarry by Department of Geology and Mineral Industries (DOGAMI) • Potential impacts to development through utility coordination process. These impacts are in addition to the permanent impacts of the original siting order and amendment 1.</p> <p>Permanent impacts to the Pine Tree Creek Ridge and Durbin Creek quarries are being actively discussed with Idaho Power and the BLM. ODOT appreciates the opportunity to comment on the proposed amendment 2 actions. We look forward to building on our strong partnership with ODOE, BLM, and Idaho Power to seek mutually beneficial solutions for the citizens of Oregon.</p>	<p>Idaho Power (“IPC” or the “Company”) has worked closely with both Oregon Department of Transportation (“ODOT”) leadership and technical staff to identify the areas where ODOT quarries may be impacted by project features. ODOT identified four potentially impacted quarries inside the Application for Site Certificate (“ASC”) and RFA 1 site boundary. IPC worked closely with ODOT to microsite away from two of the quarries, the Baldock Slough East and the Palmer/Denham quarries, to minimize the impact on ODOT. These micrositing changes were made inside the current project site boundary. Idaho Power’s maps included a scrivener’s error omitting the modification inside the site boundary. IPC will provide an updated map to ODOT of the final design for confirmation that all project features were moved from the Baldock Slough East quarry. There are two remaining quarries, Pine Ridge and Durbin, that still have project features inside the quarry boundaries. IPC has worked closely with ODOT to develop a plan to minimize impacts to quarry operations while still protecting the integrity of this vital infrastructure.</p> <p>ODOT has identified two new quarries as potentially impacted by the proposed expanded site boundary. They also reidentified the Baldock Slough East quarry as potentially impacted.</p> <p><u>Love Reservoir Quarry</u> ODOT has identified the Love Reservoir Quarry as potentially impacted because there is overlap between the proposed expanded site boundary and the access road. This quarry is on Private and Bureau of Land Management (“BLM”) land. The Project design includes access roads that cross the Love Reservoir Quarry boundary. IPC and ODOT have agreed these access roads will not impact ODOT’s future use of the quarry. At this time, there are no anticipated project feature changes that would create new impacts to the quarry. If a change is required, IPC would submit an amendment determination request (“ADR”) to the Oregon Department of Energy (“ODOE” or the “Department”) for consideration and approval.</p> <p><u>Baldock Slough East Quarry</u> IPC has worked with ODOT on this location and has successfully micrositied all project features away from the quarry boundary. At this time, there are no anticipated Project feature changes that would impact the quarry. The inclusion of the quarry is simply due to the expanded site boundary moved out ¼ mile from the centerline of the transmission line. If a change is required, IPC would submit an ADR to the Department for consideration and approval.</p> <p><u>South Adrian Quarry</u> There are no project features at or near the South Adrian Quarry. The quarry is outside of the newly proposed micrositing corridor and expanded site boundary.</p>

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Roads

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Irene Gilbert (May 30, 2024)	Roads	The RFA2 B2H Draft Site Certificate fails to include conditions that would require compliance with EFSC standards identified in their document entitled, “ Version 2: July 2005 providing Guidance for Oregon Cities and Counties on Siting Energy Developments” Page 19 and 20 of the document identifies conditions for access roads in order to provide for safety of users and to minimize environmental damages to meet and comply with EFSC and Council Rules: Rules which apply to the construction of roads include OAR 345-022-00030 Land Use Rules; ORS 345-022-0110 Public Service Condition providing that the development will not preclude the ability of public and private providers to provide storm water drainage, traffic safety, fire prevention and health care; ORS 345-022-0115 Wildfire.	The document Ms. Gilbert cites is a guidance document for local governments. As stated therein, ODOE’s purpose in promulgating the document was “to engender discussion of the issues that may arise for local governments in planning the development of energy projects.” These suggestions to city and county governments are not siting standards, and even if there were standards identified therein, those standards were not included in the Project Order for the Project and, for that reason, the Company is not required to demonstrate compliance with those standards. As related or supporting facilities of the Project, access roads that will be constructed or substantially modified for the Project were included in the analysis of potential impacts, which the Council has determined comply with the Council’s siting standards, including the Land Use and Public Services Standards. ¹⁴⁹
Irene Gilbert (May 30, 2024)	Roads	The DPO states that the developer will not be required to restore the natural grade of temporary access roads and includes no timeline for revegetation of the areas once the temporary road is no longer in use. The DPO on Page 7 states that the developer will be creating over 120 miles of new bladed roads and an equal number of New Primitive Roads. Failure to restore the locations of these temporary roads including the natural grade and revegetation will create a permanent blight on the landscape, increase the likelihood that these temporary roads will become de facto roads and access points for intrusions into wildlife habitat and illegal access to areas, which will increase the potential for human caused wildfire as well as create new erosion impacts placing land and wildlife habitat at risk. The lack of specific timeframes for restoration to occur means the restoration may not commence until the line is energized. temporary access road condition language recommended by ODOE in the EFSC model ordinance “Restore the natural grade and revegetate any temporary access roads, equipment staging areas and field office sites used during construction of the energy project.” The applicant must specify a “timeline to complete this work.” RECOMMENDED SITE CERTIFICATE CONDITION ONE: “Temporary roads will be restored to as close as possible to their natural grade and revegetated commencing within a year of the time they are no longer in use. Restoration will incorporate best management practices to control erosion and runoff from the sites and include monitoring of sites until the area is revegetated and the ground is stabilized.”	Idaho Power has not identified any temporary access roads. All roads proposed for the project will be permanent paths that will be used during construction. These access roads are crucial for the operation, inspection, and maintenance of the transmission line after construction is completed. The permanent access roads will be re-seeded for stabilization. For the above reasons, Ms. Gilbert’s proposed site certificate regarding temporary access roads is unnecessary.
Irene Gilbert (May 30, 2024)	Roads	ODOE states in their document there is a need to specify requirements to assure emergency vehicle access ,provide for public safety and preclude environmental damages beyond the road surface. EFSC has recommended that Counties and Cities require the developer to “Construct and maintain access roads for all-weather use to assure adequate, safe and efficient emergency vehicle and maintenance vehicle access to the site. (Model Ordinance Page 20) This site certificate condition is especially necessary in Union County given concerns regarding the potential for wildfire combined with the data provided by Idaho Power in their application regarding the number of days the La Grande weather station reported that there was foul weather involving precipitation during a 4 year period. Their application states that the average for foul weather over the four year period was 22% of the time or 80 days per year. (Page 26 of Exhibit X of the application) Construction of roads to provide for all weather use	Emergency access was discussed thoroughly in the Company’s ASC for the Project, and one aspect of the Company’s Transportation and Traffic Plan seeks to maintain emergency vehicle access to private property. ¹⁵⁰ For new access roads, the design of higher-standard roads will conform to the most current edition of AASHTO’s Guidelines for Geometric Design of Very Low-Volume Local Roads, for access roads with an anticipated average daily traffic of less than 400 vehicles. ¹⁵¹ Compliance with these requirements will reduce the possibility of impacts to emergency vehicle access. Bladed access roads are by their very nature not sufficient to accommodate all-weather use because the roadway surface is not capped with gravel or other material or compacted. As a matter of practice, the Company does not construct all-weather roads to support transmission infrastructure and the Company does not propose that primitive access roads be constructed to accommodate all-weather use for the Project as it is unnecessary for public safety and will result in greater environmental impacts. Most of these access roads are on private land and will be used to access the line after construction, and therefore no emergency access would be required for public traffic and safety. Moreover, contrary to Ms. Gilbert’s assertions, requiring that primitive roads be constructed to accommodate all-weather use is more disruptive, will result in greater environmental impacts, and will require additional restoration efforts.

¹⁴⁹ See, e.g., Final Order on ASC at 296, 627 of 10586 (Sept. 27, 2022).

¹⁵⁰ Final Order on ASC at 599 of 10586 (Sept. 27, 2022).

¹⁵¹ Final Order on ASC at 600 of 10586 (Sept. 27, 2022).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>will provide for the safety of users as well as assuring that use does not result in significant ruts or environmental damages from unplanned vehicle intrusion outside the roadway.</p> <p>Recommended site certificate condition two to provide for safety and minimize environmental impacts ‘All access roads being Improved or newly constructed as permanent or temporary access will be constructed to best management standards allowing for all weather use by employees and emergency vehicles’</p>	
Irene Gilbert (May 30, 2024)	Roads	<p>The RFA2 Draft Proposed Order removed the requirement that Road Names be provided. The failure to require this information directly conflicts with Oregon Statute requiring state agencies to provide documents in a clear understandable manner. Road names are provided in the County Transportation System Plans. These plans provide detailed information regarding the standards required for roads, and whether or not the roads are currently constructed to comply with those standards. The developer states that they are assuming that roads are constructed to meet the designations such as “Collector”, “Local”, “Arterial” and basing their decisions regarding whether or not the roads can withstand the level of use, weight and length of their vehicles and equipment. The County Transportation Plans contain information regarding roads which do not conform to the identified standards. In the case of Union County, the plan states that “many Union County roads can be identified as deficient”. The deficiencies are “related to existing geometric problems and safety related issues.”</p>	<p>Table 2 (Access Road GIS Attributes) in the Draft Proposed Order for RFA 2 contains an attribute column titled “Unique ID.” This is a road-specific label (an alpha-numeric name) which allows for individual identification of each access road.¹⁵² Many access roads will not have “common names;” rather, the “Unique ID” will be the only name for access roads that are not pre-existing county roads. County road use agreements will identify existing county roads used for the Project with “common names” as applicable.</p> <p>While Public Services Condition 2 (PRE-PS-02) requires that the Company include in its final Road Classification and Access Control Plan applicable road segment maps with road names for existing public roads, the stricken language that Ms. Gilbert cites removes only the requirement to include the common names of public roads that have some type of access control associated with them in the Company’s GIS database of access roads. PRE-PS-02 is only revised to refer to the Attachment B-5 Road Classification Guide and Access Control Plan attached to the Final Order on RFA 2, and does not change the requirement to “[i]nclude applicable road segment maps with road names for existing public roads, road names in Appendix A: Access Road Segment Attribute Table, road improvements designations, and final access control device description and locations[.]”¹⁵³ Importantly, the GIS dataset in Appendix A (Access Road Segments Attribute Table) of the Final Order on ASC was formatted in the same manner as the GIS database in RFA 2 with only the “Unique ID” alpha-numeric name.¹⁵⁴ Ms. Gilbert has provided no reasonable rationale why the “Unique ID” alpha-numeric name of the access road, which in many cases is the <i>only</i> name available, is not sufficient to locate the access road when the GIS database provides the related Map Number on the same row.</p>
Irene Gilbert (May 30, 2024)	Roads	<p>Item 5: A transportation plan showing how vehicles would access the site and describing the impacts of the proposed energy project on the local and regional road system during construction and operation.</p> <p>The application for Amendment II of the Site Certificate includes no information regarding the grades of the planned access roads to determine impacts of the expanded construction areas nor is it clear how far roads and structures will be from wetlands, streams and other water resources. There is a lack of detailed information regarding how vehicles from the newly added multi-use areas and other developments and changes included in RFA2 will access the site. The route of access from these new and changed developments will have a significant impact on existing uses of roads. They will impact citizen access to medical providers, churches, school buses, pedestrians, emergency vehicles, bicycle use of roads, etc.</p> <p>The roads in Union County must comply with the Union County Transportation System Plan Final, Dated August 1999 requirements. The developer states that they “assume” that the roads identified as “arterial”, “collector”, “local” meet the requirements for construction under the standards that apply to those designations and will support their use of the roads absent upgrades or construction required. The Union County Transportation Plan identifies multiple roads the developer intends to use which do not comply with these standards and will need upgrades to accommodate the uses identified by Idaho Power in their application and the Draft Proposed Order. In addition, the public works director for Union County has documented that</p>	<p>Ms. Gilbert’s comment appears to discuss existing public roads that will not require substantial modification and, for that reason, are not part of the Project site. Idaho Power does not propose substantially modifying these roads, and for that reason the Council need not include these roads in its consideration of RFA 2.</p> <p>Ms. Gilbert’s proposed site certificate condition to require conferral with local planning departments is redundant and unnecessary. Public Services Condition 2 (PRE-PS-02) requires the Company to prepare county-specific Transportation and Traffic Plans, which the Department will review in consultation with the applicable county. Public Services Condition 2 also requires that the Company execute a formally binding agreement with the county for use of and potential impacts to roads during construction.¹⁵⁵ Through these processes, the Company will confer with local planning departments regarding the use of public roads during construction.</p>

¹⁵² Draft Proposed Order for RFA 2 at 16 (Apr. 16, 2024) (“The unique identification for each road segment. The identification contains a two-letter acronym for the county where it occurs (BA=Baker, MA=Malheur, etc.), and a sequential number based on the northing coordinate of the midpoint of the road segment (ordered from north to south). Example: BA126.”).

¹⁵³ Draft Proposed Order for RFA 2 at 54-55 (Apr. 16, 2024).

¹⁵⁴ Final Order on ASC at 9027 of 10586 (Sept. 27, 2022) (Table 2 only requiring a Unique ID); *see also* Final Order on ASC at 9036 of 10586 (Appendix A – Access Road Segments Attribute Table).

¹⁵⁵ Final Order on ASC at 225 of 10586 (Sept. 27, 2022).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>several roads that are planned for use definitely will require upgrades prior to use by the developer.</p> <p>SITE CERTIFICATE CODITION: Condition One: The developer will confirm with local planning departments that all county and city roads being used to transport heavy equipment and machinery are constructed in a manner that will accommodate the planned use without creating substantial damages to the road surfaces.</p> <p>Condition Two: In the event that roads are not constructed for the kinds of vehicle use the developer will need, they must be upgraded to meet the standards required by ODOT for the planned use.</p>	
Sam Myers (oral comments)	Roads	<p>The other thing is, you talked about a road being 50’ wide. I talked w/ the Morrow County weeds guy and he was having a fit because there’s all these roads and IPC doesn’t care and they just dump responsibility on Morrow County. But now in some places they’re going to make it even wider. How is that going to impact the noxious weed control? You just doubled or tripled the miles. You turn an area of the edge of the road from 2-3 feet on each side to now having to control how much? Where’s the plan? Where’s the impact to the Morrow County weeds guy?</p> <p>They say Morrow will take care of it. But they had to negotiate for months to get a plan for the old site certificate. Now you’re going to carve up a mountain that’s 50’ wide and you’ve got a bank that’s 30’ wide and someone’s going to spray down there?</p>	<p>Mr. Myers’ comment relates to the Company’s proposal to expand the construction footprint of certain Project-related access roads. Idaho Power has proposed expanding the construction footprint of some roads in the Project area. As stated in RFA 2, the Company proposes to revise construction road widths for roads on slopes greater than 8 percent.¹⁵⁶ As explained in the DPO, wider widths would be necessary in areas where there is a steeper slope, so that the road width can accommodate construction equipment movement.¹⁵⁷ Idaho Power proposes expanding the construction footprint for these roads depending on the traversed slope. For example, for new bladed roads, the construction footprint would remain 30 feet for roads with a slope of up to 8 percent, but increase to 45 feet for roads crossing slopes of 8-15 percent, 75 feet for roads crossing slopes of 15-30 percent, and 120 feet for roads with a slope of greater than 30 percent.¹⁵⁸ However, the operational footprint of these roads remains unchanged at 14 feet. The impact of this proposed modification will be limited to areas where Project roads have a slope exceeding 8 percent. For example, Idaho Power estimates that the areas where road slopes may be up to 30 percent and need to be widened further would only occur in approximately 3 percent of all facility access roads (new and existing).¹⁵⁹</p> <p>Mr. Myers raises a specific concern that the increased construction disturbance for these sloped roads will increase noxious weed impacts of the Project. Mr. Myers’ concern appears to be that the Company will not address noxious weeds resulting from construction of these roads and that the counties will have to address any such weeds. Mr. Myers’ assertion is incorrect.</p> <p>Responsibility for controlling noxious weeds was thoroughly litigated in the contested case on the ASC for the Project. As the Hearing Officer concluded in the Proposed Contested Case Order, Council rules require that Idaho Power address noxious weed infestations resulting from the project and that the Company prevent or mitigate those project-related adverse impacts.¹⁶⁰ The Company has prepared its Noxious Weed Plan to detail the actions Idaho Power will take to address Project-related noxious weeds.¹⁶¹ The Council adopted the Hearing Officer’s conclusion that the Noxious Weed Plan adequately the measures Idaho Power will take to control noxious weed species and prevent the introduction of these species during construction and operation of the Project.¹⁶² Because the Noxious Weed Plan will apply to the expanded construction footprints proposed in RFA 2 for certain access roads, Mr. Myers’ assertion that these expanded roads will place an additional burden on Morrow County weed managers is incorrect.</p>

¹⁵⁶ RFA 2 at 1 (Apr. 11, 2024).

¹⁵⁷ Draft Proposed Order on RFA 2 at 76 (Apr. 16, 2024).

¹⁵⁸ Draft Proposed Order on RFA 2 at 77 (Apr. 16, 2024).

¹⁵⁹ Draft Proposed Order on RFA 2 at 31 (Apr. 16, 2024).

¹⁶⁰ Final Order on ASC, Attachment 6 at 8808-16 of 10586 (Sept. 27, 2022).

¹⁶¹ Final Order on ASC, Attachment P1-5 at 10018 of 10586 (Sept. 27, 2022).

¹⁶² Final Order on ASC at 28 of 10586 (Sept. 27, 2022).

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Notice of RFA 2

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Susan Geer (May 30, 2024)	Notice of RFA 2	<p>The Draft Proposed Order for RFA2 continues to mischaracterize the management of Glass Hill State Natural Area (SNA), a Protected Area under OAR 345-022-0040, and the managers of the Natural Area were not notified of RFA2.</p> <p>RFA 1 Draft Proposed Order mischaracterized the management of Glass Hill SNA as I wrote in Comments dated September 23, 2023 (Geer Comments on RFA1). RFA 2 makes no corrections. Preliminary Request for Amendment #2 Idaho Power Company for the Boardman to Hemingway Transmission Line, Attachment 7-2, page 37 lists Blue Mountain Land Trust as the manager. RFA 1 listed it as Blue Mountain Conservancy. Neither of these organizations is the manager, nor have they ever been. Owner Joel Rice and myself manage the land, with advice and assistance from Noell Bachellor of ORPD Natural Areas Program, and specialists from ODF, NRCS, and ODFW. I was not notified of either RFA 1 or RFA 2, even after submitting comments on RFA 1. Dr. Rice says that he was not notified either. Drafts of the 2022 Protected Areas rulemaking called for managers of Protected Areas to be notified, yet this wording was inexplicably omitted from the final version.</p>	<p>As Ms. Geer acknowledges, the Council’s revised Protected Areas Standard does not include any additional notice requirement specifically for managers of protected areas. Consistent with OAR 345-027-0360(2)(a)(D), the Department provided notice to all property owners of record identified in RFA 2. For the Glass Hill State Natural Area, Joel Rice is identified as the landowner of record.¹⁶³ ODOE confirmed that Joel Rice was on the mailing list for notice for the RFA 2.</p>

Outside of Council’s Jurisdiction

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
Susan Geer (May 30, 2024)	Outside of Council’s Jurisdiction	<p>Approval of the Morgan Lake alternative signaled a tragedy for State Protected Areas, City Parks, and Conservation Easements, establishing a precedent of ignoring their status, downgrading their ecological integrity, and putting special status species further at risk. Morgan Lake alternative has the most forested acres of any route considered, contains unique wetlands and mesic grasslands, plant community types that are protected nowhere else in Oregon, and is home to several rare plant and animal species, as documented in my contested cases with EFSC and OPUC.</p> <p align="center">* * * * *</p> <p>EFSC erred in approving the Morgan Lake Alternative to go through Glass Hill SNA, and then in allowing additional access roads within Glass Hill SNA under RFA 1. The EFSC Protected Areas rule 345-022-040 before recent revision (December 2022) provided a list of Protected Areas as of 2007 (when the rule was written). The ALJ in the contested case process at the time, erred in ruling that only areas on that list would be protected, even though it was obvious that areas in certain categories which were designated after 2007 but before the new rule took effect in 2022, should be included and protected. It does not make any sense that Areas designated after 2007 would not be recognized until December 2022. I have suggested changes in the route to Joe Stippel, Site Manager of Idaho Power, but have no response. Therefore, I will be proposing an Amendment soon.</p> <p>Glass Hill SNA contains plant communities not protected elsewhere in Oregon’s natural areas program: In addition, the more time we have spent in the area, the more we realize how many ephemeral stream and unmapped wetlands there are. We plan to suggest new plant community categories to the Natural Areas program. The program currently does not recognize these wetland types representing the southern end of the Palouse prairie and open pine stands with inclusions of wet meadow unique to the region and found nowhere else in Oregon. The</p>	<p>The Council approved the Morgan Lake Alternative in its Final Order on the ASC, and Ms. Geer’s attempts to challenge the Council’s order as legal error in this proceeding is untimely and a collateral attack on the Council’s Final Order. The appropriate venue to seek review of alleged legal errors in the Final Order on ASC was an appeal to the Supreme Court pursuant to ORS 469.403(3). Moreover, on appeal of the ASC, one of the parties to the contested case challenged the Company’s selection of routes proposed in the ASC, which included the Morgan Lake Alternative. On appeal, the Supreme Court concluded that the Council did not err when considering the routes proposed in the ASC.¹⁶⁴</p> <p>Ms. Geer also asserts that the Morgan Lake Alternative should not have been approved because that route crosses property that is now included in the Glass Hill State Natural Area, and State Natural Areas are included in the Council’s definition of “Protected Areas.”¹⁶⁵ However, the Protected Areas Standard as applied to Idaho Power’s ASC clearly did not include Glass Hill State Natural Area as a “protected area.” At the time of the contested case concerning the ASC, for protected areas designated under state programs, such as the Natural Areas Program, the Protected Areas Standard applied only to “designations in effect as of May 11, 2007[.]” Glass Hill was not designated as a State Natural Area until 2019, and therefore the Hearing Officer properly concluded that under the plain language of the rule Idaho Power was not required to analyze it as a protected area. However, the Company analyzed impacts to the area under other Council standards, such as the Fish and Wildlife Habitat Standard.</p> <p>On April 4, 2024, Ms. Geer sent Idaho Power an email requesting to move the project a substantial distance from the current project alignment. This route modification is outside of the proposed expanded site boundary, has not been studied, and impacts new landowners; therefore, this route modification is outside the scope of EFSC’s jurisdiction. The Council “is limited to reviewing the application” and cannot develop an alternative route that is not included in an application or corridor assessment process.¹⁶⁶ Idaho Power is intent on working with landowners to minimize impacts on their own individual properties. Ms. Geer’s proposal is outside the proposed expanded site boundary, and it is not clear if it has landowner support for the properties it impacts. At this time, Idaho Power is unwilling to pursue this route alternative. It is important to note that Ms. Geer’s proposal is particularly challenging because it would result in impacts to other landowners. That being said, the Company continues to work with landowners to adjust the exact</p>

¹⁶³ RFA 2, Figure 9-1 at Map 14 (Apr. 11, 2024).

¹⁶⁴ *STOP B2H v. Dep’t of Energy*, 370 Or 792, 811-15 (2023).

¹⁶⁵ OAR 345-001-0010(26)(l).

¹⁶⁶ *STOP B2H v. Dep’t of Energy*, 370 Or 792, 813 (2023).

Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate – By Topic

Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
		<p>Zumwalt is more closely associated with the canyon grasslands. The Glass Hill and Morgan Lake area smaller remnant grasslands more closely aligned with the Palouse and a series of wet meadows due to the geology.</p>	<p>location of the Project <i>within</i> their property. Approval of the proposed expanded site boundary will facilitate consideration of future requests.</p> <p>Moreover, Ms. Geer’s challenge to the Council’s approval of RFA 1 is untimely. The appropriate venue to seek review of alleged errors in the Final Order on RFA 1 was an appeal to the Supreme Court pursuant to ORS 469.403(3), which requires that a petition for judicial review be filed within 60 days of the Council’s order.</p>
<p>Greater Hells Canyon Council (May 30, 2024)</p>	<p>Outside of Council’s Jurisdiction</p>	<p>As proposed, B2H will cause negative economic and environmental justice impacts to the communities of eastern Oregon. These are the lowest-income counties in Oregon and they would be negatively impacted by B2H. These same counties would receive little or no economic benefits from B2H. These economic and social justice impacts must not be ignored.</p> <p>A recent “Socioeconomic Report” was commissioned by Eastern Oregon Counties Association, the US Forest Service, Wallowa Resources, and Eastern Oregon University. As reported in La Grande’s newspaper The Observer on December 3, 2022, “Economic data indicates that if the 10 Eastern Oregon counties in the region were a state, it would rank as the 48th poorest in the United States, with a median household income of \$49,853.50, ahead of only Mississippi and West Virginia.”</p> <p>Constructing B2H through this region for the benefit of an out-of-state, investor-owned, for-profit corporation is the opposite of a “public benefit” for the communities of eastern Oregon. It is also the opposite of “environmental justice.” We urge the Department of Energy to seriously consider the negative economic and environmental justice impacts of the B2H proposal and deny RFA2.</p>	<p>The Greater Hells Canyon Council’s comments do not appear specific to the proposed changes in RFA 2, but rather seem to disagree with the approved Project. As an initial matter, economic issues such as those raised in this comment are outside the Council’s jurisdiction and not related to a siting standard.¹⁶⁷</p> <p>That being said, environmental justice concerns were investigated and litigated at the Public Utility Commission of Oregon (“OPUC”) in the docket pertaining to Idaho Power’s petition for a certificate of public convenience and necessity (“CPCN”). As the OPUC concluded: “We do not see how the B2H project, nor for that matter any needed and well-justified transmission connecting distant market hubs in the West, could avoid impacting rural communities more than densely populated communities. In addition, we do not see evidence that Idaho Power improperly concentrated impacts; the record reflects route changes were made, where feasible, in response to public and tribal comments, micro-siting adjustments have minimized landowner impacts but not preferentially shifted impacts from large landowners to smaller landowners, and that the company struck a reasonable, if difficult, balance in siting the line. We conclude that, despite the inevitable impacts of large-scale transmission on rural landscapes, which should be considered in planning for the regional electricity grid going forward, no environmental justice communities were improperly burdened by the siting of the B2H project.”¹⁶⁸</p>
<p>Wendy King (May 30, 2024)</p>	<p>Outside of Council’s Jurisdiction</p>	<p>Our family in Morrow County asked for a re-route in April of 2023, and were given no consideration. Since then, there have been no landowner consultations with our family. The ayers canyon alternate in Morrow County Oregon is the perfect springboard to move the line into the Wheatridge transmission Corridor and spare multiple EFU croplands. Because ODOE and EFSC cannot even suggest this relocation, it is likely Idaho Power will never study or offer it as an amendment.</p>	<p>As Ms. King acknowledges, transmission line routes that are not proposed by the certificate holder are outside the scope of the Council’s review. With respect to the Wheatridge transmission corridor, in the PCN 5 proceeding with the OPUC, Idaho Power analyzed Ms. King’s proposal in comparison with the Company’s proposed route and determined that Ms. King’s proposal would likely result in additional impacts to other landowners and resources. The OPUC concluded: “While additional route alternatives may exist in Morrow County, we do not agree that their existence alters our conclusion that Idaho Power’s proposed route is practicable, feasible, and commercially reasonable. In particular, we determine that the proposed alternative route using the Wheatridge interconnection corridor would impact more landowners, increase the length of the route and thereby increase costs, and result in significant project delays and additional costs to seek new approvals for a new route. Idaho Power analyzed potential routes that would avoid exclusive farm use lands but concluded it could not route the project in eastern Oregon without crossing exclusive farm use lands.”¹⁶⁹</p> <p>It is important to note that Ms. King’s proposal is particularly challenging because it would result in impact to other landowners, and in particular, certain landowners expressed opposition to her proposal in Docket PCN 5.¹⁷⁰ That being said, the Company continues to work with landowners to adjust the exact location of the Project <i>within</i> their property. Approval of the proposed expanded site boundary will facilitate consideration of future requests.</p>
<p>Wendy King (May 30, 2024)</p>	<p>Outside of Council’s Jurisdiction</p>	<p>Landowners wanting line relocation on their property may have to face discounted easement compensation in order for Idaho Power to consider it. This tactic is of course outside EFSC jurisdiction but shows how Idaho Power operates in their own best interest.</p>	<p>As an initial matter, landowner compensation is outside of the Council’s jurisdiction. Nonetheless, Idaho Power still clarifies that Ms. King’s comment is entirely based on conjecture. Idaho Power negotiates in good faith with all landowners to reach a fair value for Project-related easements.</p>
<p>John Luciani (May 30, 2024)</p>	<p>Outside of Council’s Jurisdiction</p>	<p>The B2H line is illegal. By law it needs to be built in the energy corridor. Both Idaho Power and ODOE know this and continue anyway. *** This additional land grab cannot go forward. *** EFSC should not approve Amendment 2. No one from Idaho Power has talked to me. I have not seen a map.</p>	<p>Mr. Luciani’s assertion that the Project must be sited in an existing energy corridor is incorrect. Rather, the Council may consider any route proposed by an applicant, and transmission line routes that are not proposed by the certificate holder are outside the scope of the Council’s review. With respect to the unidentified energy corridor identified in Mr. Luciani’s comment, in the PCN 5 proceeding with the OPUC, Idaho Power analyzed a similar proposal from Ms. King proposal in comparison with the Company’s proposed route and determined that Ms. King’s proposal would likely result in additional impacts to other landowners and resources. The OPUC concluded: “While additional route alternatives may exist in Morrow County, we do not agree that their existence alters our conclusion that Idaho Power’s</p>

¹⁶⁷ Final Order on ASC at 9 of 10586 n.5 (Sept. 27, 2022).

¹⁶⁸ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 42 (June 29, 2023).

¹⁶⁹ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 29-30 (June 29, 2023).

¹⁷⁰ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Lindsay Comments (Apr. 27, 2023) (available at <https://edocs.puc.state.or.us/efdocs/HAC/pcn5hac151229.pdf>).

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Commenter	Topic(s)	RFA 2 DPO Comment	Idaho Power’s Response
			<p>proposed route is practicable, feasible, and commercially reasonable. In particular, we determine that the proposed alternative route using the Wheatridge interconnection corridor would impact more landowners, increase the length of the route and thereby increase costs, and result in significant project delays and additional costs to seek new approvals for a new route. Idaho Power analyzed potential routes that would avoid exclusive farm use lands but concluded it could not route the project in eastern Oregon without crossing exclusive farm use lands.”¹⁷¹</p> <p>Idaho Power has not proposed any “land grab.” While Idaho Power has proposed the proposed expanded site boundary for the Project, Mr. Luciani incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size.</p> <p>Idaho Power is not proposing any changes to the route in RFA 2 that would impact Mr. Luciani’s property, and the Company still anticipates using the original route approved in the Final Order on ASC along Mr. Luciani’s property. Idaho Power attempted to communicate with Mr. Luciani in early 2022 and has been in contact with Mr. Luciani’s counsel on an ongoing basis to facilitate property access as needed to support final surveys.</p>
Sam Myers (May 30, 2024)	Outside of Council’s Jurisdiction	<p>B2H impacts me personally as I am trying to farm on ground that the transmission line traverses. Idaho Power has not contacted us personally to consult with us on any items and we have not spoken with them since the OPUC contested case which ended almost 1 year ago, it is my assertion that Idaho Power does not have the expertise to properly consult with landowners. These communications are outlined in the most recent federal MOU, which are the suggested federal guidelines for transmission placement and construction. The MOU guidelines specifically request that engagement begin early and continue with all parties involved in the project until the very end. Idaho Power seems to be shortcutting this MOU because of a lack of proper Staffing and continues to Short Circuit the process with legal maneuvers.</p> <p>The contested case process has left us with unmitigated impacts because Idaho Power chose to ignore our fire risk and soil damage concerns from the beginning. This site revision Amendment only serves to make matters worse by potentially crossing through fields instead of maintaining a boundary edge. The standard I cannot underscore enough is that any extension from the site boundary not in the original certificate should be treated as a brand new project where parties can adequately and publicly cite their concerns and proper mitigation can happen.</p>	<p>Mr. Myers has not raised a concern with RFA 2 with sufficient specificity for the Council, Department, or certificate holder to respond. To the extent that the concern is directed toward the proposed expanded site boundary, as detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micro-siting area within the Proposed expanded site boundary without prior landowner notice and consent.</p> <p>Mr. Myers comments about the Company’s landowner engagement process and about the contested case on the ASC are not specific to RFA 2, but Idaho Power nonetheless acknowledges that the Project is routed through Mr. Myers’ farm. Additionally, contrary to Mr. Myers’ assertion, the concerns he raised regarding fire risk and soil impacts were fully litigated in the contested case.¹⁷² Idaho Power concluded that certain impacts to the agricultural operations of the farm were unavoidable. EFSC specifically considered these impacts to Mr. Myers’ farm before adopting the Hearing Officer’s conclusion as follows:</p> <p>“[A]lthough the proposed project may impact Mr. Myers’ agricultural operations, a preponderance of the evidence demonstrates that Idaho Power sited the project in a manner that will generally reduce the intensity and frequency of impacts to farmlands, and that the Company will further minimize and mitigate the specific impacts to Mr. Myers’ operations when negotiating an easement with him. Idaho Power has shown that the project complies with the Land Use standard notwithstanding the impact the project may have on Mr. Myers’ farm practices.”¹⁷³</p>
Sam Myers (May 30, 2024)	Outside the Council’s Jurisdiction	<p>I would also like to note that this is my opinion; Idaho Power seems to have a history of shedding its responsibility in a number of aspects having to do with B2H. Idaho Power shed its responsibility to negotiate with landowners for a right of entry on to landowners property for surveying purposes; rather than make the effort to create Right of Entry documents for landowners they subpoenaed landowners to court proceedings to force access onto private property. This initial interaction with Idaho Power was extremely frustrating, requiring legal counsel expenses and led to much anxiety placed upon us. It was a horrible first step in dealing with Idaho Power’s legal maneuvering. Idaho Power chose the legal system to gain entry onto private property. Idaho Power has shed its responsibility to limit project related fires, which places local firefighters and responders into additional danger which is likely to occur in rural locations. Idaho Power shed their responsibility through legal maneuvers to remove themselves from any responsibility of soil damage from fires occurring because of B2H. Idaho Power shed its responsibility to incorporate elevated reliability standards into its structural design of B2H.</p>	<p>As an initial matter, this comment is not specific to RFA 2, and does not raise any issue regarding RFA 2 with sufficient specificity for the Council, ODOE, and the certificate holder to respond. Nonetheless, Idaho Power explains that it has sought to work directly with landowners to negotiate right of entry for surveys; however, where landowners have denied Idaho Power’s request for right of entry for surveys, the Company has in some cases needed to pursue pre-condemnation right of entry to complete surveys.</p> <p>As detailed in responses to comments above, 500-kV transmission lines have a low probability of ignition, and the Company’s responsibilities for fire prevention and mitigation are detailed in the Fire Prevention and Suppression Plan, as required by Public Services Condition 6. The Department’s DPO for RFA 2 would not change either of those conditions and the Company will remain obligated to finalize and comply with those plans. In addition, the Project will continue to be evaluated and governed by the Company’s OPUC-approved Wildfire Mitigation Plan, as required by Wildfire Prevention and Risk Mitigation Condition 1 of the Site Certificate. The OPUC has approved Idaho Power’s 2023 Wildfire Mitigation Plan,¹⁷⁴ and the Company anticipates that the OPUC will also approve the Company’s 2024 Wildfire Mitigation Plan shortly.</p>

¹⁷¹ *In the Matter of Idaho Power Co., Petition for Certificate of Pub. Convenience & Necessity*, OPUC Docket PCN 5, Order No. 23-225 at 29-30 (June 29, 2023).

¹⁷² Final Order on ASC at 28 (Sept. 27, 2022) (discussing Mr. Myers’ Issue LU-9).

¹⁷³ Final Order on ASC, Attachment 6 at 8856-57 of 10586 (Sept. 27, 2022).

¹⁷⁴ *In the Matter of Idaho Power Co. 2023 Wildfire Protection Plan*, OPUC Docket UM 2209, Order No. 23-222 (June 26, 2023).

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STOP B2H (May 30, 2024)	Outside of Council’s Jurisdiction	<p>The roots of this scheme are the known facts that IPC is still negotiating with landowners and continuing to re-design various components of the facility and support facilities like access roads. In Union County alone, they still have not determined which alternative route in a number of areas, and other people are still negotiating with the company over land access.</p> <p>STOP and our members are/were participating in several ODOE rulemaking processes and amendments. We knew that landowner negotiations were underway and amendments would likely be coming in. And Idaho Power said that they would work with landowners in good faith. In the OPUC’s docket on the CPCN Idaho Power convinced the Commissioners that they wouldn’t need more land parcels and that while amendments would occur, they will not be a constraint to the project, as demonstrated in the OPUC Order: “Idaho Power explains that the requested site certificate amendment does not require condemnation of new land parcels and that its phased construction approach allows it to proceed with construction elsewhere in the event of any delays from the amendment process.” p. 27</p>	<p>As STOP B2H acknowledges, the Company continues to negotiate with landowners regarding the use of specific parcels for the Project. As evidenced by the micrositing area modifications approved in RFA 1 and the additions proposed in RFA 2, the Company has sought to amend the route for the Project in response to landowner concerns when feasible.</p> <p>The Company will continue to work with landowners in good faith. As detailed above in Idaho Power’s related proposed site condition, Idaho Power does not plan to propose adjustments to the micrositing area within the proposed expanded site boundary without prior landowner notice and consent.</p>
Jim Kreider	Outside of Council Jurisdiction	<p>Landowners are not NIMBYs. They’re conservationists. The landowners pushing back truly care. One of the landowners I’m working with is offering to move the line away from Morgan Lake Park so individuals are not impacted and certain artifacts are not disturbed. He’s taking a hit on his land to preserve some of it.</p> <p>Another neighbor that I’ve worked with worked with IPC, proposed an alternative route within the new site boundary, IPC came out, had the laptop, walked, GIS mapped the area, sent back maps asking how it looked, and then last Thursday they called this landowner and said “I need an offer by tomorrow and I need to know what discount you are willing to offer me on the rate we will pay you for the easement.”” It was not a percentage. It was a fixed value. And the assessments for the land had not been done yet. But IPC sent to these neighbors, these landowners, two weeks prior a good neighbor letter explaining how this process was good for them and that they should support it. Meanwhile, this is what they’re doing. And IPC is telling you the landowners want this; have any of you asked for any names? Is it one landowner or ten? We don’t know. When I have asked IPC for this info it is privileged between the Company and the landowner.</p> <p>I also know that this is outside your jurisdiction. That’s what we’ve been told when we talk about IPC’s fancy footwork and bullying. But what they’re doing is the people, what you’re doing by saying this is not your responsibility, you’re leaving people out to dry and let a corporation blackmail them. If you want to represent citizens of the state, you will deny this request and you will vote in favor of a process that involves the public from the get-go. You guys do a good job but there is a better way to do it.</p>	<p>As STOP B2H acknowledges, landowner compensation is outside of the Council’s jurisdiction. Nonetheless, Idaho Power still clarifies that the Company negotiates in good faith with all landowners to reach a fair value for Project-related easements.</p> <p>Idaho Power cannot comment on the specifics of pending negotiations between the Company and landowners.</p> <p>STOP B2H asks whether landowners support the Company’s proposed modifications to the Project. As evidenced by the modifications included in RFA 1 and the proposed additions to the micrositing area in RFA 2, Idaho Power has worked with several landowners to site the Project on areas within those landowners’ property that will reduce impacts. The Company has sought amendments at landowners’ request, and, as Mr. Corey summarizes in his comments on behalf of companies owning land in Union, Umatilla, and Morrow Counties, approval of RFA 2 will grant the Company enhanced flexibility to continue working with landowners to incorporate these revisions.</p>

Attachment 1 to Idaho Power’s Responses to Public Comments on the Draft Proposed Order for Request for Amendment 2 of the Boardman to Hemingway Transmission Line Site Certificate

Irene Gilbert provided comments on the proposed changes to site certificate conditions in a table format. Idaho Power’s responses to Ms. Gilbert’s comments are provided in the far right column; the text in the other columns are taken from Ms. Gilbert’s comments.

	CONDITION	CHANGE	IMPACT	REQUESTOR	Idaho Power’s Rationale for Modified Condition
1.	GEN-FW-06	Removes Flagging Requirements for State Protected Plants	Substantially increases likelihood of destruction of plants.	ODOE OAR 345-022-0070	<p>Idaho Power will make efforts to avoid many threatened and endangered (“T&E”) plant populations, and where avoidance is planned, T&E plant populations will still be flagged to aid construction crews in avoidance.</p> <p>Since Request for Amendment (“RFA”) 2 proposes amending the Site Certificate to not require avoidance of all T&E plant populations, requiring Idaho Power to flag all T&E plant populations would be excessive and is unnecessary.</p>

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	CONDITION	CHANGE	IMPACT	REQUESTOR	Idaho Power’s Rationale for Modified Condition
2.	GEN-FW-08	Changes area for implementing avian-safe design standards when Fatalities identified within site boundary to micrositing corridor.	Limits identification and mitigation required for avian fatalities to micrositing corridor and provides for no formal monitoring to identify fatalities.	NOT IDENTIFIED. OAR 345-022-0060	<p>No facilities or work areas are currently planned in the proposed expanded site boundary. The proposed revision to GEN-FW-08 was simply a change in terminology to maintain consistency throughout the document.</p> <p>Any facilities or work areas that are constructed in the proposed expanded site boundary would have to go through the Amendment Determination Request (“ADR”) process. Idaho Power would demonstrate compliance with the condition and implement avian-safe design standards in areas affected by any future proposed micrositing addition.</p>
3.	GEN-HC-01	Changes Historic Properties Management Plan from the original site certificate to the RFA2 revision	NOT LISTED AS A CHANGE	NOT IDENTIFIED OAR 345-022-0090	<p>The Draft Proposed Order (“DPO”) on RFA 2 does not propose any substantive changes to this condition. The only revision to this condition updates the condition with reference to the updated Historic Properties Management Plan (“HPMP”) included with RFA 2. Consistent with this revision, any additional facilities within RFA 2 would comply with the HPMP.</p>

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	CONDITION	CHANGE	IMPACT	REQUESTOR	Idaho Power’s Rationale for Modified Condition
4.	GEN-HC-02	Changes requirements for Historic Properties Management Plan		OAR 345-022-0090	The DPO on RFA 2 does not propose any substantive modifications to this condition and instead updates references to the inventory tables prepared for RFA 2. Any additional facilities within RFA 2 would comply with the HPMP.
5.	GEN-FW-01	Changes area notice to ODFW for providing and requesting information from ODFW from Site Boundary to Micrositing Corridor when there may be new impacts.	ODFW will not be notified of changes that could require changes to Fish Passage plan or other protections for threatened or endangered fish species.	NOT IDENTIFIED- OAR 345-022-0060 and OAR 345-022-0070	<p>No facilities or work areas are currently planned in the proposed expanded site boundary. This proposed revision was simply a change in terminology to maintain consistency throughout the document.</p> <p>In order to construct outside the micrositing corridor and in the proposed expanded site boundary, Idaho Power must file an ADR with the Oregon Department of Energy (“ODOE”). In these instances, Idaho Power will document compliance with all conditions including fish passage plans and protections for T&E species in these areas. The Oregon Department of Fish & Wildlife (“ODFW”) would be notified of the changes in this scenario.</p>

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	CONDITION	CHANGE	IMPACT	REQUESTOR	Idaho Power’s Rationale for Modified Condition
6.	GEN-NC-02	CANNOT LOCATE THIS CONDITION			<p>No facilities or work areas are currently planned in the proposed expanded site boundary. This proposed revision was simply a change in terminology to maintain consistency throughout the document.</p> <p>In order to construct outside the micro-siting corridor and in the expanded Site Boundary, Idaho Power must file an ADR with ODOE. In these instances, Idaho Power must document compliance with all conditions in newly added areas including Noise Control Condition 2 (GEN-NC-02). <i>See</i> Draft Proposed Order on RFA 2 at 334-37 of 855 (Apr. 16, 2024).</p>
7.	PRE-SS-01	Changes the requirements for subsurface soil and geological conditions from the site to the micro-siting area	Creates a significant risk to the safety and health of citizens due to the unstable nature of areas being crossed by this transmission line as has been previously documented in the file material for the Site Certificate.	NOT IDENTIFIED	<p>No facilities or work areas are currently planned in the proposed expanded site boundary. This proposed revision was simply a change in terminology to maintain consistency throughout the document.</p> <p>In order to construct outside the micro-siting corridor and in the proposed expanded site boundary, Idaho Power will have to file an ADR with ODOE. In these instances, Idaho Power will document compliance with all conditions including PRE-SS-01 to avoid seismic, soil and geologic hazards in newly added areas.</p>

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	CONDITION	CHANGE	IMPACT	REQUESTOR	Idaho Power’s Rationale for Modified Condition
8.	PRE-FW-01	Allows option of completion of biological surveys based upon either the site boundary or the micrositing area.	Reduces the area requiring surveys for Fails to require pre construction wildlife surveys in a large enough area to provide identification and mitigation for 4 specific avian species, multiple additional wildlife species, fish presence, and wetlands. The area does not identify species or wetlands requiring setbacks that are located outside the micrositing corridor.	NOT IDENT- IIED OAR 345-022-0060 and OAR 345-022-0070	No facilities or work areas are currently planned in the proposed expanded site boundary. This proposed revision was simply a change in terminology to maintain consistency throughout the document. In order to construct outside the micrositing corridor and in the proposed expanded site boundary, Idaho Power must file an ADR with ODOE. In these instances, Idaho Power will document compliance with all conditions including PRE-FW-01. As part of the ADR process, Idaho Power would complete pre-construction environmental surveys within any areas (and their appropriate buffers) being considered for construction.
9.	PRE-FW-02	Changes the required pre- construction surveys from the site boundary to the micrositing corridor.	Limits the area requiring surveys for Washington Ground Squirrels, Raptor Nests, Pygmy rabbits, State-listed Threatened and Endangered Plants, Greater Sage Grouse. The area will not include species Outside the micrositing Corridor requiring setbacks to protect the species	NOT IDENT- IFIED OAR 345- 022-0060 and OAR 345-022-0070	No facilities or work areas are currently planned in the proposed expanded site boundary. This proposed revision was simply a change in terminology to maintain consistency throughout the document. In order to construct outside the micrositing corridor and in the proposed expanded site boundary, Idaho Power will have to file an ADR with ODOE. In these instances, Idaho Power will document compliance with all conditions including PRE-FW-02. As part of the ADR process,

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	CONDITION	CHANGE	IMPACT	REQUESTOR	Idaho Power's Rationale for Modified Condition
					Idaho Power would complete pre-construction environmental surveys within any areas (and their appropriate buffers) being considered for construction.

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	CONDITION	CHANGE	IMPACT	REQUESTOR	Idaho Power’s Rationale for Modified Condition
10.	PRE-FW-03	Changes the requirements for mitigation for impacts to Sage- Grouse Habitat to remove the requirement for pre-construction traffic studies and removes the requirement for identification and mitigation for indirect impacts from substantially modified roads.	Changes designed to avoid documentation and required mitigation resulting from changes in traffic and road impacts as a result of this development may result in listing Sage Grouse as Endangered which will have devastating consequences for the citizens and economic stability of Eastern Oregon.	IP OAR 345- 022-0060 and OAR 345-022-0070	<p>Idaho Power prepared a memorandum to ODOE and ODFW dated December 13, 2023 that serves as a record regarding the details of the post-construction access control study in Sage Grouse habitat. Idaho Power is proposing to replace the traffic study in Sage Grouse habitat.</p> <p>The Sage Grouse Habitat Mitigation Plan (PRE-FW-03) utilized the ODFW Habitat Quantification Tool (“HQT”) to determine appropriate debits/credits related to Sage Grouse mitigation. The HQT included all new roads and existing roads substantially modified (71-100 percent) in both the direct and indirect impact analysis. This analysis did not consider whether the roads were access controlled or not. Existing roads substantially modified (21-70 percent) were omitted from the HQT evaluation because ODFW did not believe that the improvements made to these roads would result in increased usage.</p> <p>Idaho Power has currently mitigated for the impacts from three of the four road classifications regardless of their access control designation. Since the HQT methods do not differentiate impacts from roads based on traffic volume, and since Idaho Power has fully mitigated for a majority of the access road network,</p>

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					quantifying the change in traffic volume is not needed. Therefore, ODFW only requires an understanding of the effectiveness of access control devices in sage grouse habitat.
11.	PRE-FW-04	Removes the requirement for pre-construction traffic studies for sage grouse habitat with high population richness, core area habitat, low density habitat and general habitat based upon ODFW maps.	This change removes the data necessary to determine the impact of the Transmission Line on the survival and listing of Sage Grouse as Endangered or Threatened and risks the results identified in PRE-FW-03 listed above as only a portion of the consequences.	IP OAR 345-022-0060 and OAR 345-022-0070	Idaho Power incorporates by reference the response above, which addressed site certificate condition PRE-FW-03, which similarly concerned pre-construction traffic studies.
12.	CON-FW-02	Removed the requirement that IP report active pygmy rabbit colonies or the roost of a State Sensitive bat species observed during biological surveys required by FW Conditions 15 and 16 which	Removes the requirement to report these at risk wildlife species during the surveys which will occur prior to the start of construction. Only when Construction is actually underway is there a requirement to report and apparently the assumption that construction will stop	NOT LISTED AS A CHA OAR 345-022-0060 and OAR 345-022-0070NGE!	Ms. Gilbert misstates the proposed changes to site certificate condition CON-FW-02. Idaho Power is still required to report active pygmy rabbit and state sensitive bat species. If Idaho Power proposes any future micro-siting area additions within habitat for these species, the Company will conduct surveys as part of the ADR process.

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		were renumbered to PRE-FW-01 and PRE-FW-02 in RFA2	until the Department is notified of the siting and consult with ODFW regarding the impacts. There is no proposed monitoring being required to assure that the reporting occurs and construction stop until the impacts are addressed.		
13.	CON-FW- 03	Changes requirements for identification of non-raptor native migratory bird species nests from the site boundary to the micrositing corridor.	Limiting the survey requirements to the micrositing corridor fails to provide information that allows for setbacks from the nesting species of these federally protected birds.	NOT IDENTIFIED OAR 345-022-0060 and OAR 345-022-0070D	<p>No facilities or work areas are currently planned in the proposed expanded site boundary. This proposed revision was simply a change in terminology to maintain consistency throughout the document.</p> <p>In order to construct outside the micrositing corridor and in the proposed expanded site boundary, Idaho Power will have to file an ADR with ODOE. In these instances, Idaho Power will document compliance with all conditions including CON-FW-03. As part of the ADR process, Idaho Power would complete pre-construction environmental surveys within any areas (and their appropriate buffers) being considered for construction.</p>

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14.	CON-TE-02	Changes the requirements for protection of Threatened and Endangered Plants to only include state listed T&E Plants	Changes a significant amount of additional language and I am unclear if this is an improvement or reduction in protections.	IP and ODOE OAR 345-022-0060 and OAR 345-022-0070	<p>CON-TE-02 has only ever included considerations for state-listed species. No federally-listed plant species are known to occur on the Project site, and if any are identified then those populations would be governed under the federal Endangered Species Act. Howell’s Spectacular Thelopathy (<i>Thelypodium howellii ssp. spectabilis</i>) is the only federally-listed plant species with the potential to occur near the Project. It has not been found in pre-construction surveys but will be surveyed for where applicable for any ADR.</p> <p>The changes in CON-TE-O2 allow for mitigation instead of a complete avoidance of state-listed T&E plant species. Populations would still be avoided where possible, but where impacts are unavoidable Idaho Power has worked with the Oregon Department of Agriculture to determine appropriate mitigation.</p>
15.	OPR-FW-03	Removes required data from pre- construction traffic studies required by Condition 21 in Sage Grouse Habitat report. Condition 21	Removing data from pre-construction traffic surveys in Sage Grouse habitat makes it impossible to determine the impacts and necessary mitigation to compensate for impacts of the	IP OAR 345-022-0060 and OAR 345-022-0070	Please see Idaho Power’s responses to comments 10 and 11. ODFW has determined that a post-construction access control study is the only necessary data needed to determine impacts to Sage Grouse from Project roads.

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		removed the required pre-construction traffic studies in Sage Grouse habitat.	development on Sage Grouse habitat and species survival.		
16.	OPR-FW-04	Removes reference to pre-construction traffic studies in Sage Grouse habitat.	Removing pre-construction traffic studies means there is no baseline data to make any determination regarding the impacts of this development on sage grouse habitat either directly or indirectly.	<i>IP</i>	Please see Idaho Power’s responses to comments 10 and 11. ODFW has determined that a post-construction access control study is the only necessary data needed to determine impacts to Sage Grouse from project roads

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ITEM AND NEGATIVE IMPACT

NUMBER	Negative Impact	Statute or Rule	Idaho Power’s Response to Gilbert’s Concerns
1	Employees will have no visual reminder of location of protected plants which will significantly increase the likelihood that they will be destroyed.	OAR 345-022-0060	Where avoidance is planned, Idaho Power will flag populations of T&E plant species.
2.	<p>Previous site certificate required reporting of avian fatalities within the site boundary. Limits area for reporting avian fatalities to the micrositing area and provides for no formal monitoring to identify avian fatalities.</p> <p>The micrositing corridor extends only 250 feet from the center of the transmission line. Avian fatalities are likely to move beyond this narrow area even when fatally injured due to forward movement of species. Monitoring required by Oregon Statutes cannot be limited to incidental discoveries</p>	OAR345-022-0000 General requirements	<p>No facilities or work areas are currently planned in the proposed expanded site boundary. This proposed revision was simply a change in terminology to maintain consistency throughout the document.</p> <p>Any facilities or work areas that are constructed in the proposed expanded site boundary would have to go through the ADR process and Idaho Power would demonstrate compliance with the condition and implement avian-safe design standards.</p>

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	<p>provides for no formal monitoring to identify avian fatalities.</p> <p>The micrositing corridor extends only 250 feet from the center of the transmission line. Avian fatalities are likely to move beyond this narrow area even when fatally injured due to forward movement of species. Monitoring required by Oregon Statutes cannot be limited to incidental discoveries</p>	<p>that mandate the council include conditions that provide for the public's safety. OAR 345-022-0060 and OAR 345-022-0070</p>	

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NUMBER	Negative Impact	Statute or Rule	Idaho Power’s Response to Gilbert’s Concerns
3 & 4	<p>The Cultural Resources and Historic Properties Plan fails to identify and provide mitigation for sites and objects located outside the direct impact area of the development facilities. This standard requires direct and indirect impacts to Historic Properties including sites and objects on private property. The Oregon Supreme Court in their order in the StopB2H v EFSC case stated that the developer would be addressing this and The Department of Interior is initiating a review of the treatment of Historic Properties in the B2H development. The information in the DPO fails to address and mitigate for indirect impacts to non-listed sites and objects.</p>	OAR345-022-0090	<p>The process of identifying cultural resources (including both archaeological sites and objects on private properties other than cultural resources already listed on the National Register of Historic Places), evaluating for those resources for significance, and evaluating for Project effects is governed by both the requirements of the Programmatic Agreement (“PA”) and the HPMP, implemented under the PA. The HPMP and the PA address both direct and indirect effects. There is an Area of Potential Effect (“APE”) identified for the direct effects where construction will take place (towers, roads, Multi-use Area (“MUAs”), pulling and tensioning areas, etc.) and there is a 5-mile analysis area on each side of the centerline (10-mile total indirect APE) for indirect effects. The PA provides direction on how cultural resources were identified and evaluated within that indirect APE. All requirements of the PA were followed. The cultural resource identification and evaluation effort covered both public and private lands within both the direct and indirect APEs subject to private landowner authorization. The Property-Specific Mitigation and Monitoring Plans (“PSMMPs”) do provide mitigation measures for historic properties affected both directly and indirectly, and across all land ownerships. The HPMP provides detailed</p>

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			<p>guidance on how resources will be treated throughout the Project, including inadvertent discoveries that may occur after construction begins.</p> <p>With respect to EFSC’s treatment of historic sites, the Oregon Supreme Court found that Ms. Gilbert failed to “identify any specific sites that were omitted from the final order, or for which the proposed mitigation is insufficient. We see no error in the final order regarding the specificity of EFSC’s assessment of impacts on historic sites and mitigation requirements.” <i>STOP B2H Coalition v. Or. Dep’t of Energy (In re Site Certificate)</i>, 370 Or 792, 815-20 (2023).</p> <p>With respect to the Department of Interior’s verification program, please see Idaho Power’s response to Ms. Gilbert’s comments.</p>
5.	Change from using the site boundary to using the siting corridor minimizes the number of instances that will be reported and will result in avian impacts not being reported or mitigated for	OAR 345-022-0060 and OAR 345-022-0070	The micrositing corridor is the same buffer on Project features as the original site boundary, therefore the avian impact reporting area remains the same.
7.	The rule requires these studies to be done for the entire site and the surrounding area. That is the requirement for an initial application and needs to apply to the amendment adding land to the site.	OAR 345-022-0022	The micrositing corridor is the same buffer on Project features as the original site boundary, therefore study area remains the same.

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8.	Providing either site boundary or micro-siting area for surveys fails to comply with the standard requiring	OAR 345-022-0060	The micro-siting corridor is the same buffer on Project features as the original site boundary, therefore the survey areas remain the same. Any use of the proposed expanded site boundary will require an ADR where Idaho Power must demonstrate compliance with conditions.

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NUMBER	Negative Impact	Statute or Rule	Idaho Power’s Response to Gilbert’s Concerns
	wildlife habitat impacts to be identified for the site and the area within one half mile of the site boundary. Failure to do this will mean that wildlife resources will not be identified that need to be avoided resulting in the loss of habitat and destruction of Threatened and Endangered Species.	and OAR 345-022-0070	
9.	Change in review from considering site boundary to considering only the micrositing corridor will mean that species requiring setbacks will not be identified and there will be damages not identified, avoided or mitigated for	OAR 345—022-0060 and OAR 345-022-0070	The micrositing corridor is the same buffer on Project features as the original site boundary, therefore required setbacks are unchanged.
10.	When there are no pre-construction traffic studies, there is no basis for determining the impacts the development is having on Sage Grouse or to determine the need for mitigation.	OAR-022-0060 and OAR 345-022-0070	The HQT (i.e., the tool used to determine sage-grouse habitat) does not utilize traffic data. ODFW has determined that a post-construction access control study is the only necessary data needed to determine impacts to Sage Grouse from Project roads.
11	See Number 10 removing pre-construction studies.		See above.
12	I provided extensive comments regarding the problems with not requiring pre-construction survey. There is no monitoring when developers are expected to report wildlife habitat identified during the course of construction and it is questionable that contractors will stop construction and report all instances of identified habitat or animals	OAR 345-022-0070	No pre-construction survey requirements have been removed from the Project.

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13	Limiting raptor nest identified to the microsite boundary instead of the site boundary is not consistent with EFSC rules requiring the study area to contain the area within the site boundary and ½ mile beyond the site boundary	OAR 345-022-0060 and 345-022-0070	The microsite corridor is the same buffer on Project features as the original site boundary, therefore the study area for raptor nests has not changed.