Oregon Department of **ENERGY**

Energy Facility Siting Council Meeting

Gilbert Event Center
Eastern Oregon Univ.
La, Grande/WebEx

August 29-31, 2022

Day 1

OREGON DEPARTMENT OF ENERGY

Opening Items:

- Call to Order
- Roll Call
- Announcements

OREGON DEPARTMENT OF ENERGY

Announcements

- Please silence your cell phones
- Those participating via phone or WebEx, please mute your phone and if you receive a phone call, please hang up from this call and dial back in after finishing your other call
- For those signed onto the webinar, please do not broadcast your webcam
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and no not use the speakerphone feature, as it will create feedback.
- For those testifying on the B2H Agenda Item, please use the “Raise Your Hand” feature in WebEx to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.

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ENERGY

Announcements Cont'd.

- You may sign up for email notices by clicking the link on the agenda or the Council webpage.

- You are also welcome to access the online mapping tool and any documents by visiting our website.

- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.

Agenda Item A
(Action Item & Information Item)

Consent Calendar

August 29, 2021

- Meeting Minutes
  - June 23-24, 2022
  - July 22, 2022
- Council Secretary Report

OREGON DEPARTMENT OF ENERGY

Agenda Item B
(Information Item)

Boardman to Hemingway Transmission Line
Review of Proposed Order and Proposed Contested Case Order/Exceptions Hearing

August 29, 2022

Kellen Tardaewether, Senior Siting Analyst, Oregon Department of Energy
Jesse Ratcliffe, Senior Assistant Attorney General, Oregon Department of Justice

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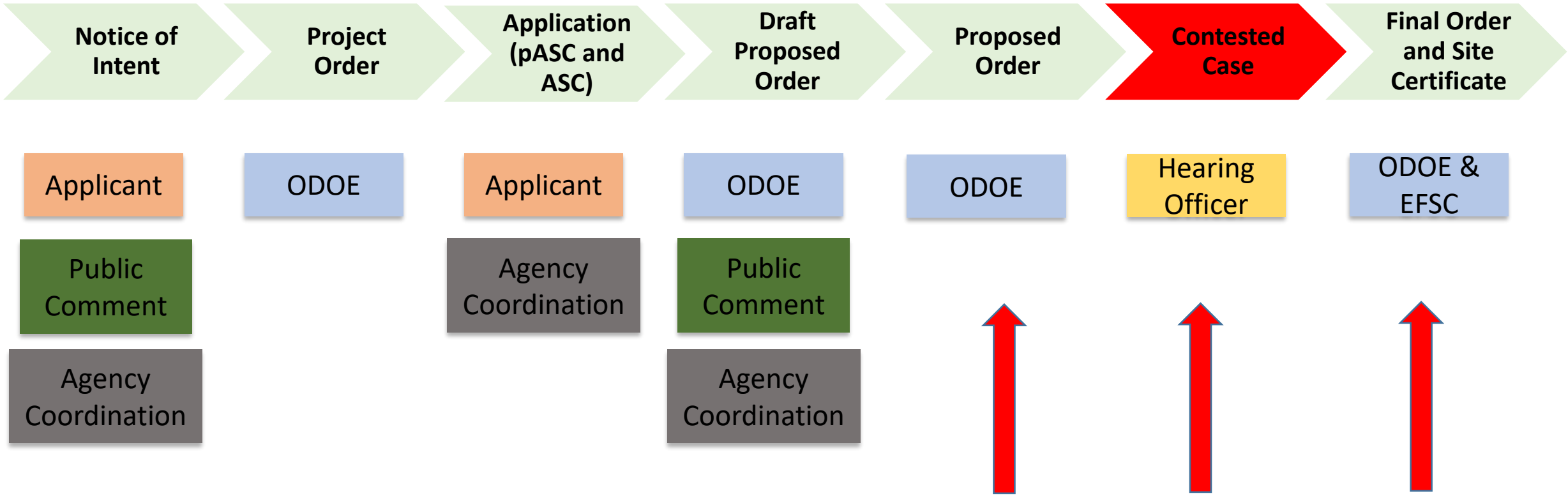
Overview of Agenda Item B

- Introduction and Proposed Order Review
  - Overview of Proposed Facility and Council's July Review of Proposed Order
  - Continuation of Council's Review of Proposed Order
  - Council deliberation and straw poll on any modifications
- Contested Case Issues where a Substantive Exception was Timely Filed
  - Overview of issue
  - Oral argument by limited party or parties who filed exception – 3 minutes
    - Look for labeled tab in paper packet materials or link in digital version
  - Idaho Power Corporation and Oregon Department of Energy response – 3 minutes each
    - Look for labeled tab in packet materials or link in digital version
- Council deliberation and straw poll on Proposed Order and Proposed Contested Case Order

OREGON DEPARTMENT OF ENERGY

Energy Facility Siting Process



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Procedural History (Recent)

Milestone	Responsible Party	Date
Proposed Order Issued	Department	July 2, 2020
Contested Case Process Initiated	Hearing Officer	July 2020
Proposed Contested Case Order (PCCO) Issued	Hearing Officer	May 31, 2022
Deadline to File Exceptions to PCCO	CC Parties	June 30, 2022
Deadline to File Responses to Exceptions	CC Parties	July 15, 2022
Review of Standards not Related to Contested Case	Council	July 22, 2022 Council Meeting
Review of Standards Related to Contested Case; Review of Exceptions; and Exceptions Hearing	Council	August 29-30-31, 2022
Draft Final Order Issuance	Department	Early September (potential)
Material Change Hearing and Hearing to Adopt Final Order	Council	September 27, 2022 Council Meeting (potential)

OREGON DEPARTMENT OF ENERGY

Timeline of Information Sent to Council

Date	Description
July 2, 2020	Council sent access to digital Proposed Order
June 21, 2022	Council sent access to digital Proposed Contested Case Order (PCCO)
July 8, 2022	Council sent printed copies of PCCO
July 15, 2022	Council sent access to digital PCCO Exceptions and Responses to Exceptions
August 12, 2022	Council sent digital access to PCCO, Exceptions and Responses in format that aligns with the August 29-31 meeting agenda. On this same day a printed version of this was also sent to Council members.

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Proposed Facility

Transmission Line System (Across 5 Counties)

- Approx. 300 mile 500 kV transmission line
- Remove 12 miles of 69 kV transmission line
- Rebuild 0.9 mile of 230 kV transmission line and 1.1 mile of 138 kV transmission line

Alternative Route Segments (33.3 miles)

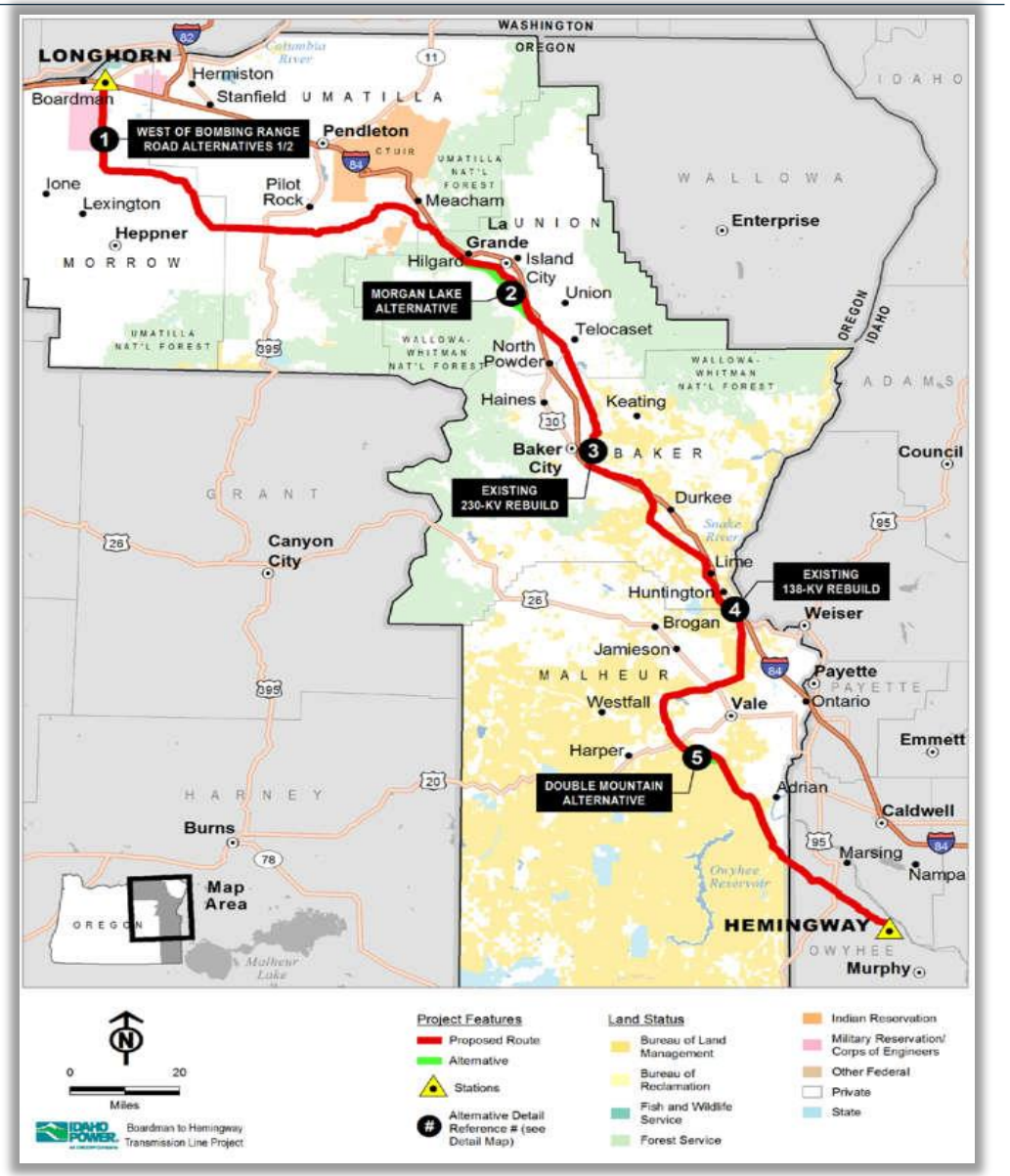
- 4 route segments, 3.7 – 18.5 miles, in Morrow, Union and Malheur counties

Station

- Longhorn Station

Communication System

- Optical Ground Wire
- Communication Station Sites



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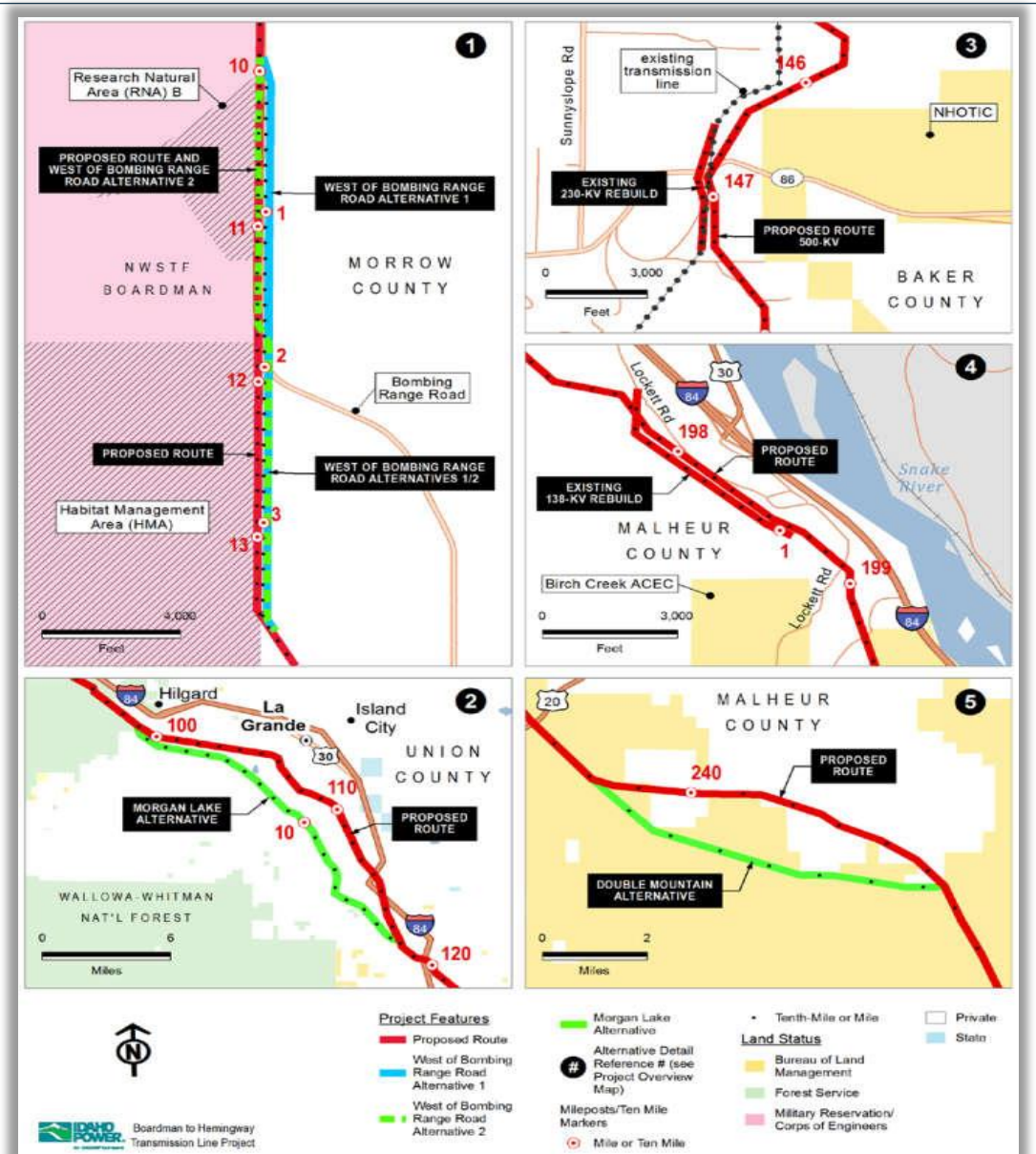
Proposed Facility – Alternative Routes

Route	County	Total Miles
Alternative Routes		
West of Bombing Range Road 1	Morrow	3.7
West of Bombing Range Road 2	Morrow	3.7
Morgan Lake	Union	18.5
Double Mountain	Malheur	7.4



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Proposed Order Standards Already Reviewed

- General Standard of Review
- Organizational Expertise
- Waste Minimization
- Siting Standards for Transmission Lines
- Removal Fill Law
- Water Rights

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Overview of Procedural and General Objections/Exceptions

- Council Review of Objections Filed during Exception Timeframe concerning:
  - Procedural elements of the contested case process, including objections to rulings on motions for summary determination (MSD), Limited Party Status, and Framing of Contested Case Issues
  - No substantive argument concerning specific contested case issues

Overview of Procedural and General Objections/Exceptions

Summary of Contested Case Issues – No Exception Filed

- Issues Dismissed on Motion for Summary Determination (25 issues):
  - FW-4, FW-9, FW-10, FW-11, FW-12, FW-13, HCA-2, HCA-5, LU-2, LU-3, LU-6, LU-7, LU-10, NC-5, RFA-3, SR-1, SR-4, SR-6, SP-2, SS-4, M-1, M-2, M-3, M-4, M-5, M-7
- Contested Case Issues (21 issues):
  - M-6, FW-5, HCA-4, HCA-6, LU-4, LU-8, LU-11, PS-1, PS-2, PS-3, PS-5, PS-7, PS-8, PS-9, PS-10, R-1, RFA-2, SR-2, SS-1, SS-2, SS-3

Council Review of Proposed Order

IV.C. Structural Standard: OAR 345-022-0020

(a) The applicant, through appropriate site-specific study, has adequately characterized the seismic hazard risk of the site.

(b) The applicant can design, engineer, and construct the facility to avoid dangers to human safety and the environment presented by seismic hazards affecting the site, as identified in subsection (1)(a)

(c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and

(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety and the environment presented by the hazards identified in subsection (c)

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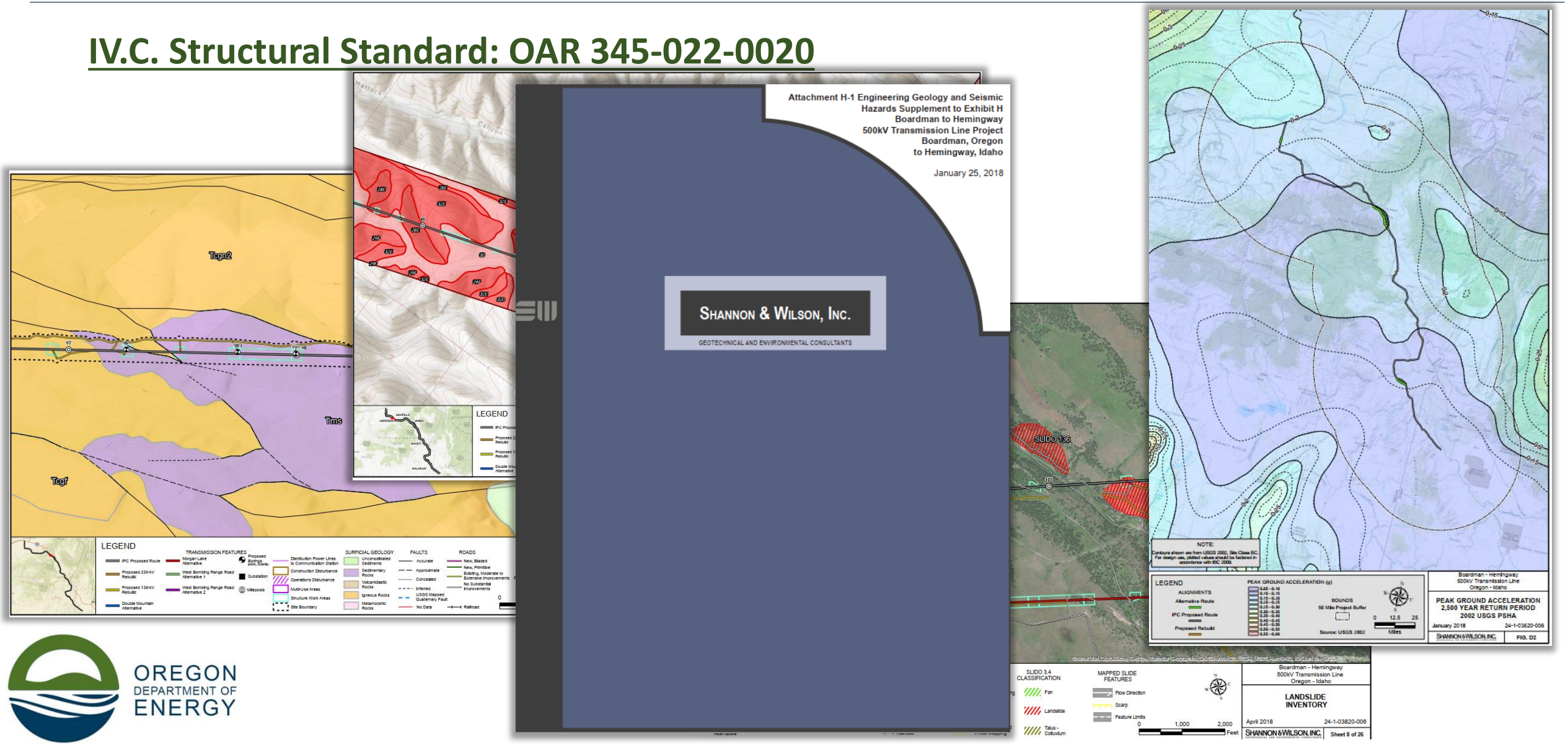
Proposed Order page 72

Council Review of Proposed Order

IV.C. Structural Standard: OAR 345-022-0020



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.C. Structural Standard: OAR 345-022-0020

Recommended Structural Standard Condition 1: At least 90 days prior to construction of a phase or segment of the facility, requires the applicant to submit:

- An investigation plan for the pre-construction site-specific geologic and geotechnical investigation to the Department for review in consultation with DOGAMI.

- A pre-construction site-specific geological and geotechnical investigation report, prepared by a professional engineer or geologist licensed in Oregon, demonstrating that the facility site has been adequately characterized and the facility and temporary construction activities have been designed and located to avoid seismic, soil and geologic hazards.

- The facility must then be designed and sited based on the results and recommendations from the site-specific investigation.

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue S-5

Whether Applicant has adequately evaluated construction-related blasting in Union County, City of La Grande, under the Structural Standard. Specifically, whether Applicant should be required to conduct site-specific geotechnical surveys to characterize risks from slope instability and radon emissions.

PCCO Page References:

- Findings of Fact - 168
- Opinion - 269
- Conclusions of Law - 148

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Johnathan White – 3 Minutes
- Idaho Power – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on Structural Standard and Contested Case Issue S-5

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.G. Retirement and Financial Assurance Standard: OAR 345-022-0050

(1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.

(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.

OREGON DEPARTMENT OF ENERGY

Proposed Order page 292

Council Review of Proposed Order

IV.G. Retirement and Financial Assurance Standard: OAR 345-022-0050

Table RFA-1: Applicant's Decommissioning and Site Restoration Cost Estimate		
General Costs		
A. PERMITS		$49,183
B. MOBILIZATION		$5,226,223
C. ENGINEERING		$188,799
D. PROJECT OVERHEAD		$1,739,946
E. HAZARDOUS MATERIALS INSPECTIONS		$60,000
F. PROTECTION		$173,320
General Costs Subtotal		$7,437,471
Site Construction		
A. UTILITY DISCONNECTS		$64,692
B. PRELIMINARY WORK		$71,100
C. SITE GRADING		$10,698,452
C. UNDERGROUND UTILITY REMOVAL		$41,212
Site Construction Subtotal		$10,875,456
Concrete Wrecking		
A. REINFORCED CONCRETE		$3,791,302
B. NON-REINFORCED CONCRETE		$0
Concrete Wrecking Subtotal		$3,791,302
Building Wrecking		$95,337
Steel Wrecking		$59,658,800
Timber Wrecking		$0
Equipment Wrecking		$22,062,320
Load & Haul		$5,830,000
Costs Subtotal		$109,750,686
Specialty Contracts (subcontracted work)		$485,400
Subtotal		$110,236,086
Subtotal Adjusted to Current Dollars		$112,407,253
Performance Bond @ 1%		$1,124,073
Gross Cost (Adjusted)		$113,531,326
Administration and Project Management @ 4%		$4,541,253
Future Developments Contingency @ 20%		$22,706,265
Hazardous Materials Management Contingency		$0
Total Site Restoration Cost (Q3 2016 dollars)		$140,778,844
Total Site Restoration Cost (rounded to nearest $1,000)		$140,779,000

Proposed Order page 296

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.G. Retirement and Financial Assurance Standard: OAR 345-022-0050

- **Recommended Retirement and Financial Assurance Condition 4:** Consistent with Mandatory Condition OAR 345-025-0006(8), before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or letter of credit naming the State of Oregon, acting by and through the Council, as beneficiary or payee. During the construction phase (defined as the period of time from the beginning of construction as defined in ORS 469.300(6) to the date when the facility is placed in service), the certificate holder shall adjust the amount of the bond or letter of credit on a quarterly basis…

OREGON DEPARTMENT OF ENERGY

Proposed Order page 302

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue RFA-1

Whether the $1 bond amount adequately protects the public from facility abandonment and provides a basis for the estimated useful life of the facility.

PCCO Page References:

- Findings of Fact - 118
- Opinion - 243
- Conclusions of Law - 142

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Irene Gilbert – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on R&FA Standard and Contested Case Issue RFA-1

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.I. Threatened & Endangered Species Standard: OAR 345-022-0070

(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction and operation of the proposed facility, taking into account mitigation:

(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or

(b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and

(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172(2), the design, construction and operation of the proposed facility, taking into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.

OREGON DEPARTMENT OF ENERGY

Proposed Order page 367

Council Review of Proposed Order

IV.I. Threatened & Endangered Species Standard: OAR 345-022-0070

Table TE-1: Field Surveys Related to Threatened or Endangered Species (Page 370)
Table TE-2: State-listed Threatened or Endangered Species Potentially Present in Analysis Area (Page 373)

Table TE-2: State-listed Threatened or Endangered Species Potentially Present in Analysis Area

Common Name *Scientific Name*	State Status	Documented Use of Analysis Area[1]
WILDLIFE		
Wolverine *Gulo*	Threatened	No records in existing databases. Not found during surveys. Potential habitat in analysis area.
Washington Ground Squirrel *Urocitellus washingtoni*	Endangered	Multiple records in existing databases, mostly along the Boardman Bombing Range; three active colonies identified in the analysis area during surveys.
FISH		
Snake River Spring/Summer Chinook Salmon *Oncorhynchus tshawytscha*	Threatened	ORBIC record in the Grande Ronde River. Current literature states that this species occurs in streams or drainages within the analysis area.

OREGON DEPARTMENT OF ENERGY

Proposed Order page 367

Council Review of Proposed Order

IV.I. Threatened & Endangered Species Standard: OAR 345-022-0070

- **Recommended Threatened and Endangered Species Condition 1:** During construction, the certificate holder shall not conduct ground-disturbing activities within Category 1 Washington ground squirrel (WAGS) habitat
- **Recommended Fish and Wildlife Condition 16:** Prior to construction of a phase or segment of the facility, the certificate holder shall conduct, as applicable, the following biological surveys on all portions of the site boundary…:
- a. Washington ground squirrels;
- b. Raptor nests;
- c. Pygmy rabbits;
- d. State Sensitive bat species;
- ***
- f. Greater sage-grouse..

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue TE-1

Whether Applicant was required to have an Oregon Department of Agriculture botanist review the ASC

PCCO Page References:

- Dismissed on Motion for Summary Determination - 28
- Admitted Evidence - 328

Exception Hearing

- Susan Geer – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on T&E Standard and Contested Case Issue TE-1

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.D. Soil Protection Standard: OAR 345-022-0022

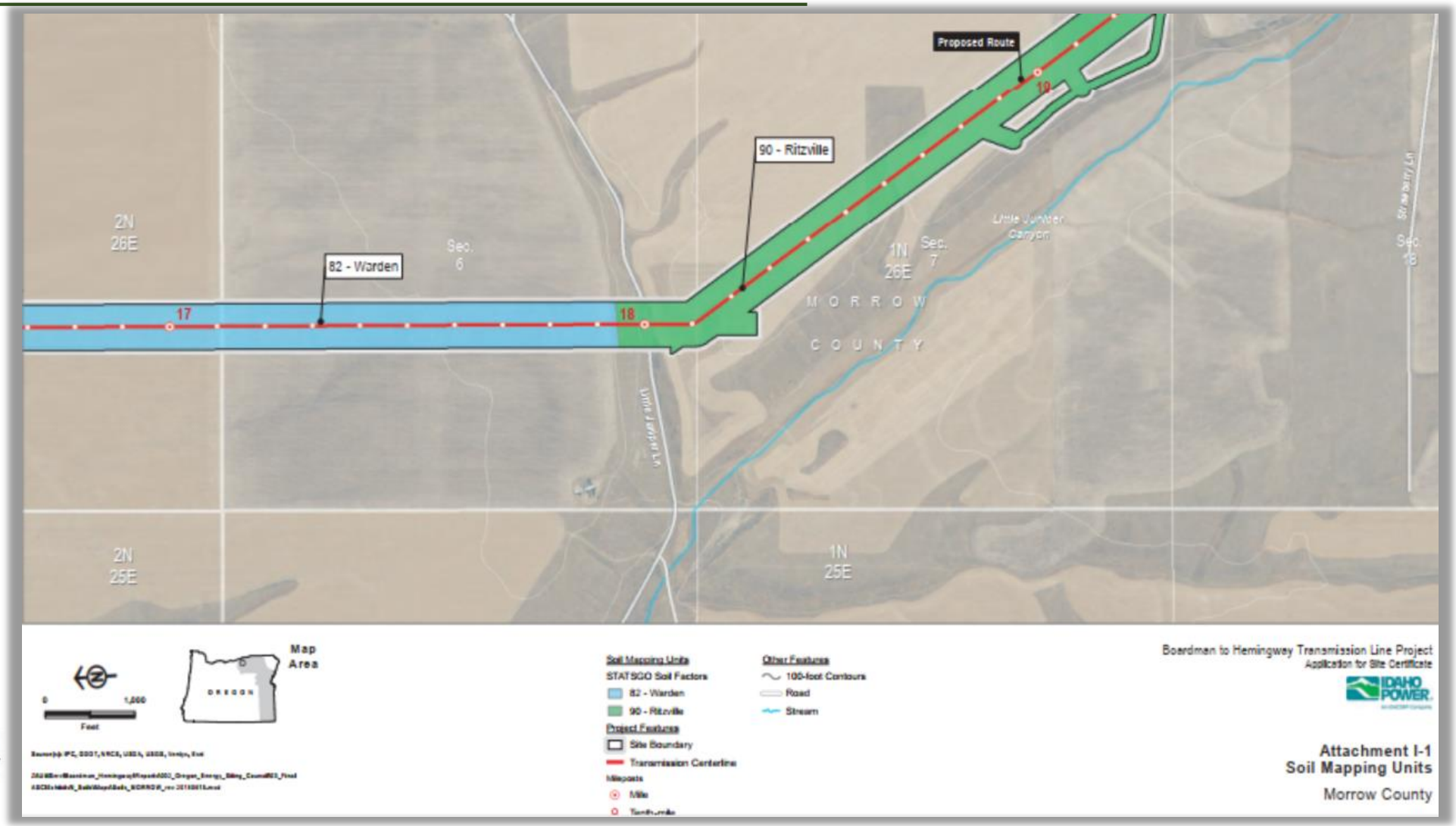
To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

OREGON DEPARTMENT OF ENERGY

Proposed Order page 92

Council Review of Proposed Order

IV.D. Soil Protection Standard: OAR 345-022-0022



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.D. Soil Protection Standard: OAR 345-022-0022

Recommended Soil Protection Condition 1: The certificate holder shall:

a. Prior to construction of the facility, submit to the Department a final copy of an ODEQ-issued NPDES 1200-C General Construction Permit, including the final Erosion Sediment Control Plan (ESCP)…

b. During construction of the facility, the certificate holder shall conduct all work in compliance with the NPDES 1200-C General Construction Permit and ESCP.

Recommended Soil Protection Condition 5: During operation, the certificate holder shall inspect the facility components for soil impacts as part of the certificate holder's regular transmission line inspection process and shall implement corrective action and mitigation measures, if necessary.

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue SP-1

Whether the Soil Protection Standard and General Standard of Review require an evaluation of soil compaction, loss of soil structure and infiltration, and loss of stored carbon in the soil and loss of soil productivity as a result of the release of stored carbon in soils

PCCO Page References:

- Findings of Fact - 124
- Opinion - 258
- Conclusions of Law - 142

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Suzanne Fouty – 3 Minutes
- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll Soil Protection Standard and Contested Case Issue SP-1

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.O. Need for a Facility: OAR 345-023-0005

(1) For electric transmission lines under the least-cost plan rule, OAR 345-023-0020(1), or the system reliability rule for transmission lines, OAR 345-023-0030, or by demonstrating that the transmission line is proposed to be located within a "National Interest Electric Transmission Corridor" designated by the U.S. Department of Energy under Section 216 of the Federal Power Act;

***

OREGON DEPARTMENT OF ENERGY

Proposed Order page 593

Council Review of Proposed Order

IV.O. Need for a Facility: OAR 345-023-0005

Least Cost Plan Rule (OAR 345-023-0020):

- Section (2) states that the Council shall find that a least-cost plan meets the criteria of an energy resource plan described in Section (1) if the Oregon Public Utility Commission (OPUC) has acknowledged the least cost plan.
- OPUC Order No. 18-176 (OPUC acknowledgement of the applicant's 2-017 IRP) acknowledges both the ongoing permitting, planning, and regulatory filings and to conduct preliminary construction activities, acquire long-lead materials, and to construct the proposed facility.

Council Review of Proposed Order

IV.O. Need for a Facility: OAR 345-023-0005

System Reliability Rule (OAR 345-023-0030):

- 2. The facility is consistent with the applicable mandatory and enforceable North American Electric Reliability Corporation (NERC) Reliability Standards in effect as of September 18, 2015 as they apply either internally or externally to a utility system;
  - NERC transmission planning (TPL) and WECC performance and reliability criteria
- 3. Construction and operation of the facility is an economically reasonable method of meeting the requirements of sections (1) and (2) compared to the alternatives evaluated in the application for a site certificate.
  - OPUC Order acknowledging the 2017 IRP, the OPUC stated that “we acknowledge Idaho Power's selection of the B2H project as a least cost, least risk resource to meet the needs of its customers.”

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue N-1

Whether the Department erred in defining capacity in terms of kilovolts instead of megawatts.

PCCO Page References:

- Dismissed on Motion for Summary Determination - 25
- Admitted Evidence - 328

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order and Proposed Contested Case Order

Council Straw Poll on Contested Case Issue N-1

HOLD UNTIL REVIEW OF N-3 DUE TO OVERLAP IN FINDINGS/CONDITIONS

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue N-3

Whether Applicant demonstrated need for the proposed facility when Applicant has only shown that its needs represent 21 percent of the total capacity

PCCO Page References:

- Dismissed on Motion for Summary Determination - 25
- Admitted Evidence - 328

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issues N-1 and N-3

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue N-2

Whether in evaluating capacity, the Department applied balancing considerations in contravention of OAR 345-022-0000(3)(d).

PCCO Page References:

- Dismissed on Motion for Summary Determination - 25
- Admitted Evidence - 328

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on Need Standard and Contested Case Issue N-2

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Recess Until Tomorrow at 8:00 AM

OREGON DEPARTMENT OF ENERGY

Oregon Department of **ENERGY**

Energy Facility Siting Council Meeting

Gilbert Event Center
Eastern Oregon Univ.
La, Grande/WebEx

August 29-31, 2022

Day 2

OREGON DEPARTMENT OF ENERGY

Opening Items:

- Call to Order
- Roll Call
- Announcements

OREGON DEPARTMENT OF ENERGY

Announcements

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OREGON DEPARTMENT OF ENERGY

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Agenda Item B – Cont'd. (Information Item)

Boardman to Hemingway Transmission Line
Review of Proposed Order and Proposed Contested Case Order and Exception Hearing

August 30, 2022

Kellen Tardaewether, Senior Siting Analyst, Oregon Department of Energy
Jesse Ratcliffe, Senior Assistant Attorney General, Oregon Department of Justice

OREGON DEPARTMENT OF ENERGY

Agenda Item C

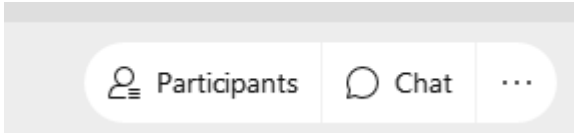
PUBLIC COMMENT

This time is reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment, which includes:

- The Boardman to Hemingway Transmission Line Proposed Order and Proposed Contested Case Order
- The Protected Areas, Scenic Resources, and Recreation Resources Standards Rulemaking

OREGON DEPARTMENT OF ENERGY

How to Raise Your Hand in Webex:



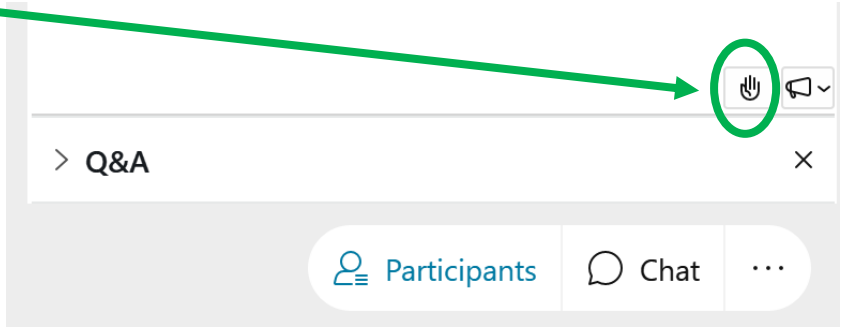
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

Press *3 again on your telephone keypad to lower your hand.

OREGON DEPARTMENT OF ENERGY

Agenda Item B – Cont'd. (Information Item)

Boardman to Hemingway Transmission Line
Review of Proposed Order and Proposed Contested Case Order and Exception Hearing

August 30, 2022

Kellen Tardaewether, Senior Siting Analyst, Oregon Department of Energy
Jesse Ratcliffe, Senior Assistant Attorney General, Oregon Department of Justice

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.M. Public Services Standard: OAR 345-022-0110

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.

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OREGON DEPARTMENT OF ENERGY

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Council Review of Proposed Order

IV.M. Public Services Standard: OAR 345-022-0110

- *Water Service Providers*:

City of Boardman, City of Pendleton, City of La Grande, Baker City, and the City of Ontario, the Owyhee Irrigation District, and Bureau of Reclamation.

- *Housing*:

Table PS-5: Total Temporary Workers Needing Housing Compared to Available Housing Options

Construction Spread-Counties	Estimated workers move to analysis area[1]	Total Combined Available Housing Options for Temporary Workers[2]	Estimated Impact of Workers on Available Rental Options[3]
Construction Spread 1	182	1916	9.5%
Morrow County			
Umatilla County			
Union County			
Baker County			
Construction Spread 2	146	794	18.4%
Baker County			
Malheur County			

[1] Includes workers who move alone and with families for the proposed route.
[2] Numbers derived from Table PS-4
[3] Estimated Temporary workers divided by total combined available housing options provides an estimate for the impact of construction of the proposed facility on the total available rentals in the analysis area for each construction spread.

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.M. Public Services Standard: OAR 345-022-0110

- Traffic:
  - **Recommended Public Services Condition 2** requires the finalization of County-specific transportation management plans.
  - **Recommended Public Services Condition 3** requires the submission of a Helicopter Use Plan prior to helicopter use.

Table PS-1: Vehicle Trips per Day per Construction Spread

Construction Crew Type	Personal Vehicles	Light Construction Vehicles	Heavy Construct Vehicles
	Total One- way Trips (per day)	Total One- way Trips (per day)	Total One- way T (per day)
Substation Construction	98	40	10
ROW Clearing	18	36	20
Road/Pads Grading	18	36	18
Foundations	22	18	40
Tower Lacing (assembly)	108	54	0
Tower Setting (erection)	54	40	0
Wire Stringing	58	36	36
Restoration	10	6	0
Blasting	10	20	0
Materials Management	20	160	24
Mechanic & Equipment Management	10	30	0
Refueling	10	0	20
Dust Control	10	0	20
Construction Inspection	10	40	0
Materials Testing	10	20	0
Environmental Compliance	10	54	0
Surveyors	10	30	0
Total	**486**	**620**	**188**
Total Estimated Maximum Daily Trips Associated with each Construction Spread:			**1,294**

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue PS-4

Fire Protection: Whether Applicant adequately analyzed the risk of wildfire arising out of operation of the proposed facility and the ability of local firefighting service providers to respond to fires.

PCCO Page References:

- Findings of Fact - 92
- Opinion - 225
- Conclusions of Law - 141

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Matt Cooper – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue PS-4

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue PS-6

Traffic Safety: Whether Applicant adequately evaluated the potential traffic impacts and modifications needed on Hawthorne Drive and Modelaire Drive (Hawthorne Loop).

PCCO Page References:

- Findings of Fact - 92
- Opinion - 213
- Conclusions of Law - 141

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Joe Horst & Anna Cavinato – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on Public Services Standard and Contested Case Issue PS-6

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.K. Historic, Cultural and Archeological Resources Standard: OAR 345-022-0090

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:

(a) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;

(b) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and

(c) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).

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OREGON DEPARTMENT OF ENERGY

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Council Review of Proposed Order

Historic, Cultural and Archeological Resources Standard: OAR 345-022-0090

- Analysis area, Area of Potential Effects, and Visual Assessment Area
- Surveys Completed and Planned to be Completed

Table HCA-1: Historic, Cultural, and Archaeological Resource Studies

Study	Description	Completed/ To Be Completed
Archaeological Survey Plan (ASP) – (Attachment S-1)	Survey plan for archaeological studies.	Completed (2012)
Visual Assessment of Historic Properties Study Plan (VAHP) – (Attachment S-2)	Survey plan for aboveground/built environment sites.	Completed (2013)
High Probability Areas Assessment – (Attachment S-4 Confidential)	Identifies areas of high sediment deposition or poor ground surface visibility with increased likelihood of subsurface archaeological resources. High Probability Areas will be systematically probed subsurface during the Enhanced Archaeological Survey.	Completed (2017) Subject to change based on CTUIR and SHPO input.
Cultural Resources Technical Report (Technical Report) – (Attachment S-6 Confidential)	Report of cultural resources identified in pedestrian survey area (i.e., Proposed and alternative routes, roads, and attendant facilities with buffers defined by the Programmatic Agreement [PA]). Preliminary report completed 2017. Will be amended with results of the Enhanced Archaeological Survey after the site certificate, prior to construction. To avoid unnecessary ground disturbance of archaeological resources, the enhanced archaeological survey will be conducted within the selected route only.	Completed (2017) / Update after site certificate issuance, prior to construction
Reconnaissance Level Survey – Visual Assessment of Historic Properties (RLS) – (Attachment S-7 Confidential)	Report of previously recorded built environment sites (buildings, structures, and trails) as well as traditional cultural properties and archaeological sites with above-ground features (such as cairns, trails, and intact water conveyance features) within the Visual Assessment analysis area.	Completed (2015) (Additional RLS work required on CTUIR tribal lands, anticipated in September-November 2018.)
National Historic Trails Study (NHT Study) – (Attachment S-8)	Report of federally designated NHT resources on federal lands in Visual Assessment analysis.	Completed (2014). (Additional information on non- NHT trails presented in ILS Report).
Historic Properties Management Plan (HPMP with Inadvertent Discovery Plan) – (Attachment S-9)	Management and mitigation plan for avoiding, minimizing, and mitigating resources.	To be completed prior to facility construction.
Intensive Level Survey – Visual Assessment of Historic Properties (ILS) – (Attachment S-10 Confidential)	Report providing detailed analysis of those resources from the RLS that have sufficient integrity, for which an NRHP criterion might apply, and have the potential to be affected by the Project. Preliminary Report completed in 2017. Will be amended when RLS and ILS of CTUIR tribal lands are completed.	Completed (2017) (Additional ILS work required on CTUIR tribal lands, anticipated in September-November 2018.)
Enhanced Archaeological Survey	Report of subsurface probing in high probability areas, archaeological site boundary probing, isolated find probing, and National Register of Historic Places (NRHP) eligibility testing. Anticipated to be presented as amendment to Technical Report. To avoid unnecessary ground disturbance of archaeological resources, the enhanced archaeological survey will be conducted within the selected route only.	After site certificate, prior to construction

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.K. Historic, Cultural and Archeological Resources Standard: OAR 345-022-0090

Potential Impacts to Historic, Cultural, and Archaeological Resources Under OAR 345-022-0090(1)(a):

- **Oregon Trail and National Historic Trails**
  - (Table HCA-2: Oregon Trail/NHT Inventory in Analysis Area with Avoided/No Impacts) and
  - (Table HCA-3: NRHP-Eligible Oregon Trail/NHT Inventory in Analysis Area with Potential Indirect Impacts)
- **Tribal Resources** - Confederated Tribes of the Umatilla Indian Reservation, Confederated Tribes of the Warm Springs Indian Reservation of Oregon, Burns Paiute Tribe
  - (Table HCA-6: Exhibit S Historic Properties of Religious and Cultural Significance to Indian Tribes)

Council Review of Proposed Order

IV.K. Historic, Cultural and Archeological Resources Standard: OAR 345-022-0090

Potential Impacts to Historic, Cultural, and Archaeological Resources Under OAR 345-022-0090(1)(a):

- Other Resources Potentially Impacted

Table HCA-7: Potentially Impacted Resources under OAR 345-022-0090(1)(a)

Temporary Resource #: Ped. Survey/Visual Assessment OR Assigned Trinomial	County	Generalized Resource Description/ Resource Type	NRHP Recommendation	Project Route(s)	Project Component	Land ownership	Applicable EFSC Standard	Project Impacts and Management Comments
Segment 4B2H-EK-26/ OWR&N Roundhouse and OWR&N/OSL Joint Railyard	Baker	Railroad Segment & Structure/ Historic Archaeological Site	Unevaluated (Criterion D); Not Eligible (Criteria A, B, and C)	Proposed Route	Direct Analysis Area (Construction Footprint); Visual Assessment analysis area	PV	a) Potential Historic Property; b) Archaeological site on private land	Potential direct/indirect impact. Avoid direct impact until eligibility determined. Testing Needed.
6B2H-SA-12	Baker	Homestead / Historic Archaeological Site	Unevaluated (Criteria A, B, and D); Not Eligible (Criterion C)	Proposed Route	Direct Analysis Area (Construction Footprint)	PV	a) Potential Historic Property; b) Archaeological site on private land	Potential direct/indirect impact. Avoid direct impact until eligibility determined. Testing Needed.
6B2H-SA-16	Baker	Ranching / Historic Archaeological Site	Unevaluated (Criteria A, B, and D); Not Eligible (Criterion C)	Proposed Route	Direct Analysis Area (Construction Footprint)	PV	a) Potential Historic Property; b) Archaeological site on private land	Potential direct/indirect impact. Avoid direct impact until eligibility determined. Testing Needed.
0503050334SI	Baker	Cairn(s)/ Undetermined Archaeological Site	Unevaluated	Proposed Route	Visual Assessment analysis area	BLM	a) Potential Historic Property	Potential cumulative visual impact

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.K. Historic, Cultural and Archeological Resources Standard: OAR 345-022-0090

Potential Impacts to Historic, Cultural, and Archaeological Resources Under OAR 345-022-0090(1)(b) and (c):

Table HCA-8: Inventoried Resources under OAR 345-022-0090(1)(b)

Cultural Resources Pedestrian Survey Temporary Resource #	County	Resource Type	Generalized Resource Description (Attachment S-6)	Project Route(s)	Project Component	Protected Under OAR 345-022-0090(1)(b)	Potential Impact	Management Recommendation
35BA1351 / B2H-JF-13	Baker	Archaeological Site	Historic /Ranching: Vegetated wooden corral -concentration of manufactured metal and wood parts, metal truck/ tractor cab - manual pump to well head replaced with electric pump- appears to still be in use for cattle.	Proposed Route	Direct Analysis Area (Construction Footprint)	No	May be directly impacted	No further management.
6B2H-RP ISO-01	Baker	IF/ Archaeological Object	Pre-Contact /Utilized Flake(s): Isolated Find consists of single piece of pre-contact debitage, a secondary obsidian flak	Proposed Route	Direct Analysis Area (Construction Footprint)	No	May be directly impacted	Shovel probe to confirm isolated nature.
6B2H-RP ISO-02	Baker	IF/ Archaeological Object	Pre-Contact /Debitage: Isolated Find consists of three pieces of pre-contact debitage, all tertiary chert flakes	Proposed Route	Direct Analysis Area (Construction Footprint)	No	Will be directly impacted	Shovel probe to confirm isolated nature.
6B2H-RP ISO-03	Baker	IF/ Archaeological Object	Pre-Contact /Debitage: Isolated Find consists of a pre-contact obsidian bifacial thinning flake. The flake appears medially fractured.	Proposed Route	Direct Analysis Area (Construction Footprint)	No	May be directly impacted	Shovel probe to confirm isolated nature.
6B2H-SA ISO-05	Baker	IF/ Archaeological Object	Historic/ Refuse: Isolated Find includes [illegible]	Proposed Route	Direct Analysis Area (Construction Footprint)	No	May be directly impacted	Shovel probe to confirm isolated nature.

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue HCA-7

Whether Applicant adequately evaluated archeological resource "Site 6B2H-MC-10" on Mr. Williams' property, Parcel 03S37E01300.

PCCO Page References:

- Findings of Fact - 55
- Opinion - 169
- Conclusions of Law - 139

Exception Hearing

- John Williams – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON
DEPARTMENT OF
ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue HCA-7

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue HCA-3

Whether Historic, Cultural and Archeological Resources Condition 1 (HPMP) related to mitigation for crossings of Oregon Trail resources provides adequate mitigation for visual impacts and sufficient detail to allow for public participation.

PCCO Page References:

- Findings of Fact - 55
- Opinion - 162
- Conclusions of Law - 139

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Irene Gilbert – 3 Minutes
- JoAnn Marlette – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on HCA Standard and Contested Case Issue HCA-3

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.F. Protected Areas Standard: OAR 345-022-0040

Table PA-1: Protected Areas within Analysis Area and Distance from Proposed and Alternative Transmission Line Routes

Protected Areas	Protected Area Category	County	Proposed Route		Alternative Route	
			Distance	Direction	Distance	Direction
Irrigon Hatchery	National and State Fish Hatcheries	Morrow	6.6 mi	N	14.7 mi	NE
Jump Creek Canyon ACEC	BLM ACECs	Idaho	6.8 mi	SE	-	-
Rogers WA	State Wildlife Areas and Management Areas	Malheur	7.1 mi	E	12.0 mi	SE
Columbia Basin - Irrigon WA	State Wildlife Areas and Management Areas	Morrow, Umatilla	7.4 mi	NE	14.9 mi	NE
Elkhorn - North Powder WA Tract	State Wildlife Areas and Management Areas	Baker, Union	7.5 mi	W	7.8 mi	S
Catherine Creek State Park	State Parks and Waysides	Union	7.7 mi	NE	-	-
Elkhorn - Auburn WA Tract	State Wildlife Areas and Management Areas	Baker	7.9 mi	SW	-	-
Starkey Experimental Forest/Game Management Area	Experiment Area	Umatilla, Union	8.0 mi	S	12.8 mi	W
Battle Mountain Forest State Scenic Corridor	State Parks and Waysides	Umatilla	8.0 mi	S	-	-
McKay Creek National Wildlife Refuge	National and State Wildlife Refuge	Umatilla	9.7 mi	N	-	-
Unity Forest State Scenic Corridor	State Parks and Waysides	Baker	10 mi	W	-	-
Upper Grande Ronde River (Recreational)	Scenic Waterway	Union	10.9 mi	SW	10.6 mi	S
Oregon Trail ACEC - Echo Meadows Parcel	BLM ACECs	Umatilla	11.1 mi	NE	15.2 mi	E
Keating Riparian ACEC/RNA	BLM ACECs	Baker	11.2 mi	E	-	-
North Fork Catherine Creek (Recreational)	Scenic Waterway	Union	11.3 mi	E	17.2 mi	E
Honeycombs RNA	BLM ACECs	Malheur	11.3 mi	SW	-	-
Squaw Creek RNA	BLM ACECs	Idaho	11.4 mi	SE	-	-

Table PA-1: Protected Areas within Analysis Area and Distance from P

Protected Areas	Protected Area Category					
Oregon Trail ACEC - Powell Creek Parcel	BLM ACECs	Baker				
Umatilla National Wildlife Refuge	National and State Wildlife Refuge	Morr				
Powder River WSR (Scenic)	Scenic Waterway	Baker				
Powder River Canyon ACEC	BLM ACECs	Baker				
Lindsay Prairie Preserve/ SNHA	State Natural Heritage Areas	Morr				
Five Points Creek (Wild)	Scenic Waterway	Umat				
South Alkali Sand Hills ACEC	BLM ACECs	Malh				
Oregon Trail ACEC - White Swan Parcel	BLM ACECs	Baker				
Emigrant Springs State Heritage Area	State Parks and Waysides	Umat				
Succor Creek State Natural Area/SNA	State Parks and Waysides	Malh				
Red Bridge State Wayside	State Parks and Waysides	Union				
Owyhee Views ACEC	BLM ACECs	Malh				
Umatilla Hatchery	National and State Fish Hatcheries	Morr				
Oregon Trail ACEC - Keeney Pass Parcel	BLM ACECs	Malh				
Lake Owyhee State Park	State Parks and Waysides	Malh				
Eastern Oregon Ag Research Station	Agricultural Experimental Station	Union	6.4 mi	NE	7.0 mi	E
Irrigon Hatchery	National and State Fish Hatcheries	Morrow	6.6 mi	N	14.7 mi	NE

Table PA-1: Protected Areas within Analysis Area and Distance from Proposed and Alternative Transmission Line Rou

Protected Areas	Protected Area Category	County	Proposed Route		Alternat	
			Distance	Direction	Distance	
Blue Mountain Forest State Scenic Corridor	State Parks and Waysides	Umatilla, Union	0 mi		3.7 mi	
Ladd Marsh WA/SNHA	S					
Oregon Trail ACEC[228] - NHOTIC Parcel	B					
Owyhee River Below the Dam ACEC	B					
Oregon Trail ACEC - Straw Ranch 1 Parcel	B					
Oregon Trail ACEC - Birch Creek parcel	B					
Hilgard Junction State Recreation Area	S					
Deer Flat National Wildlife Refuge (including Snake River Island Units)	N F					
Oregon Trail ACEC - Tub Mountain Parcel	B					
Columbia Basin - Coyote Springs WA	S N					
Farewell Bend State Recreation Area	S					
Oregon Trail ACEC - Blue Mountain Parcel	B					
Oregon Trail ACEC - Straw Ranch 2 Parcel	B					

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.J. IV.F. Protected Areas Standard: OAR 345-022-0040

- Ladd Marsh Wildlife Area/State Natural Heritage Area (SNHA)

Recommended Protected Areas Condition 1: During design and construction of the facility, the certificate holder must:

a. Coordinate construction activities in Ladd Marsh Wildlife Area with the Wildlife Area manager.
b. Provide evidence to ODFW of a determination of eligibility and findings of effect pursuant to Section 106 NRHP compliance for the facility…

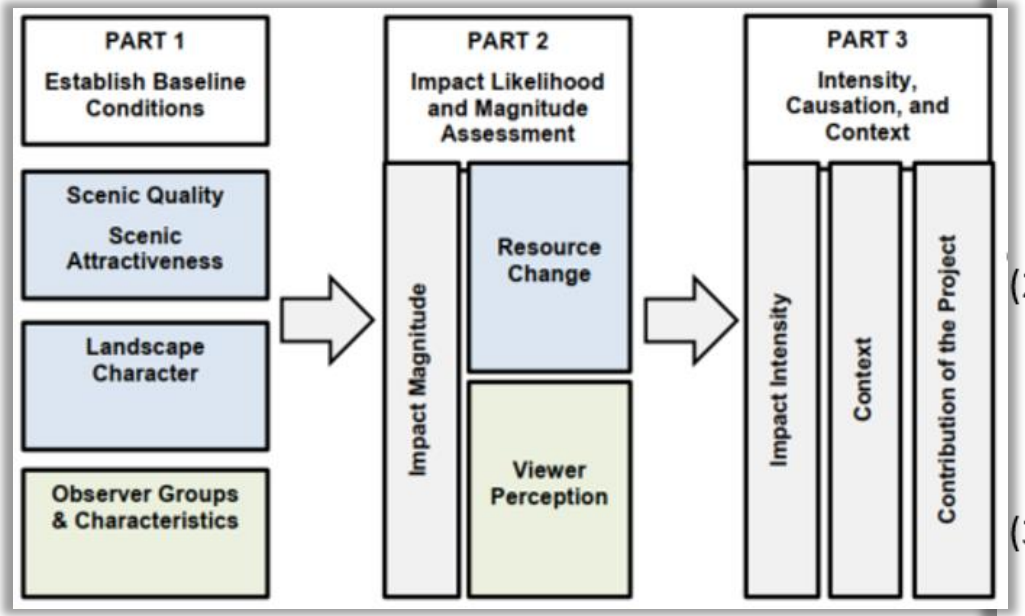
Recommended Protected Areas Condition 2: During design and construction of the facility, if the Morgan Lake alternative route is selected, the certificate holder shall ensure that facility components are not sited within the boundary of the Ladd Marsh Wildlife Area. The certificate holder shall provide to the Department a final design map for Union County demonstrating that the site boundary and facility components are located outside of the protected area boundary.

Council Review of Proposed Order

IV.J. IV.F. Protected Areas Standard: OAR 345-022-0040

- Visual Impacts:

Methodology (Scenic/Recreation)



(1) Evaluation of baseline conditions, which involved collecting information related to:
   a. Scenic Quality and Attractiveness. The characteristic is assigned a score or ranking, based on the BLM and USFS methods.
   b. Landscape Character. This is a USFS system. The BLM does not use a "landscape character" classification, so this information was assessed for all protected areas based on the USFS system.
   c. Viewer groups and characteristics.

(2) Impact likelihood and assessment, which involved the following assessment criteria:
   a. Likelihood of impact;
   b. Magnitude of impact – duration;
   c. Magnitude of impact – visual contrast and scale domination; and
   d. Magnitude of impact – resource change and viewer perception.

(3) Consideration of intensity, causation, and context (based upon Council's definition of "significant" OAR 345-001-0010(53).
   a. Impact intensity
   b. Degree to which the possible impacts are caused by the proposed action
   c. Context
   d. Potential significance. "significance" was determined based on if the valued scenic attributes of the protected area could persist, or not, based on the proposed facility's potential impact.

OREGON DEPARTMENT OF ENERGY


When transmission structures are viewed in front of a dark colored background like the tree-covered hills in this photograph, individual structures greater than 2 miles away are typically indescernible.
1.87 Miles Away
1.04 Miles Away
0.44 Miles Away
When transmission structures are viewed in front of a light-colored background or are visible above the horizon as they are in this photograph, individual structures greater than 8 miles away may still be visible.
4.45 Miles Away
8.37 Miles Away
2.65 Miles Away
0.94 Miles Away
0.35 Miles Away

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.J. Scenic Resources Standard: OAR 345-022-0080

(1) Except for facilities described in section (2), to issue
find that the design, construction and operation of
mitigation, are not likely to result in significant adve
and values identified as significant or important in l
management plans and federal land management p
the analysis area described in the project order.
*****

- The comprehensive plans for the five counties crossed in Oregon: Morrow, Umatilla, Union, Baker, and Malheur.
- Comprehensive plans for three counties in Idaho and one county in Washington that are within the analysis area: Owyhee, Canyon, and Washington in Idaho, and Benton County in Washington state.
- Comprehensive plans for multiple cities in Oregon that are within the analysis area:
  - Boardman
  - Ione
  - Hermiston
  - Pilot Rock
  - La Grande
  - Union
  - Haines
  - Huntington
  - Adrian
  - Irrigon
  - Umatilla
  - Stanfield
  - Pendleton
  - Island City
  - North Powder
  - Baker City
  - Vale

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Table SR-1: Scenic Resources within Analysis Area

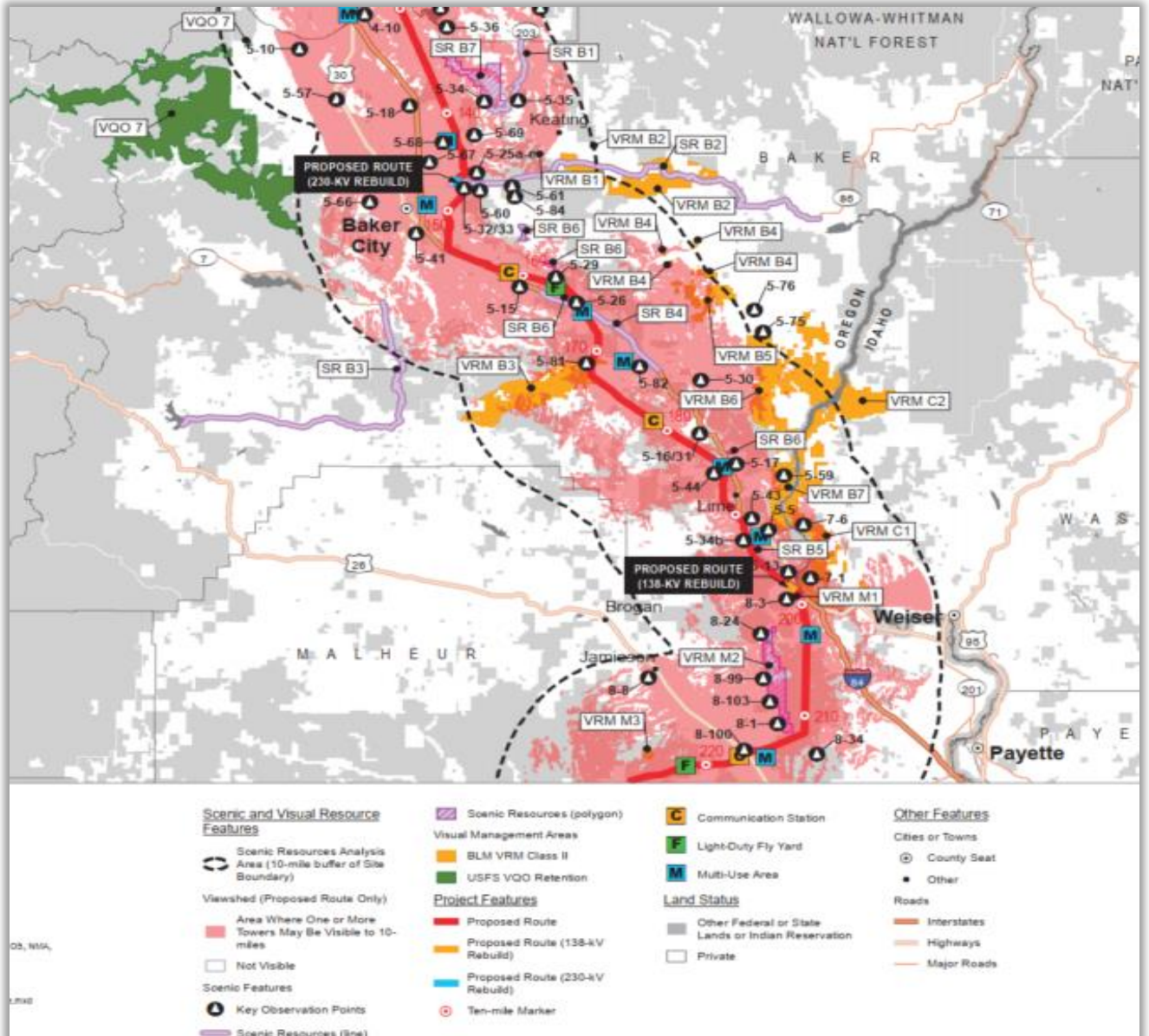
Scenic Resource	Distance to Proposed Route	Designating Plan
Blue Mountain Forest Wayside (SR U1)	Crossed	Union County Comprehensive -Plan and Oregon Parks and Recreation Department
OR Highway 203 (SR B1)	3.3 miles	Baker County Comprehensive Plan
OR Highway 86 (SR B2)	Crossed	Baker County Comprehensive Plan
OR Highway 245 (SR B3)	7 miles	Baker County Comprehensive Plan
Interstate 84, Pleasant Valley Durkee area (SR B4)	Crossed	Baker County Comprehensive Plan
Interstate 84, Huntington to Baker/Malheur County line (SR B5)	0.2 mile	Baker County Comprehensive Plan
Hells Canyon Scenic Byway	Crossed	ODOT Hells Canyon Scenic Byway Management Plan
Grande Tour Route	0.2 miles	ODOT Grande Tour Route Management Plan
Powder River Canyon – Keating (VRM B2)	5.7 miles	BLM – Vale District, Baker Resource Area Management Plan
Burnt River Canyon (VRM B3)	Crossed	BLM – Vale District, Baker Resource Area Management Plan
Brownlee Reservoir West (VRM B7)	2.1 miles	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Blue Mountain Parcel (SR B6)	0.9 mile	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – NHOTIC Parcel (SR B6)	0.02 mile	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – White Swan Parcel (SR B6)	2.9 miles	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Straw Ranch 2 Parcel (SR B6)	1.1 mile	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Straw Ranch 1 Parcel (SR B6)	0.1 mile	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Powell Creek Parcel (SR B6)	1.2 mile	BLM – Vale District, Baker Resource Area Management Plan
Powder River Canyon ACEC and WSR (SR B7)	1.4 mile	BLM – Vale District, Baker Resource Area Management Plan
Oregon Trail ACEC – Birch Creek parcel (VRM M1)	0.2	BLM, Vale District, Malheur Resource Area Management Plan

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.J. Scenic Resources Standard: OAR 345-022-0080

- Viewshed Maps



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.J. Scenic Resources Standard: OAR 345-022-0080

Recommended Scenic Resources Condition 2: If, at final facility design, the transmission line route crosses Ladd Marsh Wildlife Management Area in Union County, the certificate holder shall select transmission structures to be constructed between approximately Milepost 108 and Milepost 113 with design modifications including Lattice-frames with a Natina finish.

Recommended Scenic Resources Condition 4: At final facility design, the certificate holder shall select transmission structures, to be constructed in the vicinity of Birch Creek Area of Critical Environmental Concern between approximately Milepost 197.9 and Milepost 199.1, with design modifications including H-frame structures, with structure height not to exceed 100 feet.

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue SR-3

Whether Applicant adequately assessed the visual impact of the proposed project in the vicinity of the NHOTIC and properly determined the impact would be less than significant.

PCCO Page References:

- Findings of Fact - 102
- Opinion - 252
- Conclusions of Law - 142

Exception Hearing

- Whit Deschner – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Contested Case Issue SR-3

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue SR-7

Whether the methods used to determine the extent of an adverse impact of the proposed facility on scenic resources, protected area and recreation along the Oregon Trail were flawed and developed without peer review on public input. Specifically, whether Applicant erred in applying numeric values to the adverse impact and whether Applicant used unsatisfactory measurement locations/observation points in its visual impact assessment.

PCCO Page References:

- Findings of Fact - 102
- Opinion - 255
- Conclusions of Law - 142

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Contested Case Issue SR-7

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue SR-5

Whether the Rice Glass Hill Natural Area should be evaluated as a Protected Area.

PCCO Page References:

- Dismissed on Motion for Summary Determination - 27
- Admitted Evidence - 328

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Susan Geer – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue SR-5

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue SR-6

Whether Applicant's visual impact assessments are invalid because Applicant did not incorporate Oregonians' subjective evaluation of their resources to evaluated visual impacts, thereby invalidating the visual impact analysis for Morgan Lake Park and other protected areas, scenic resources and important recreational opportunities.

PCCO Page References:

- Dismissed on Motion for Summary Determination - 27
- Admitted Evidence - 328

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Lois Barry – 3 Minutes
- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on Scenic and Protected Areas standards; and Contested Case Issue SR-6

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.L. Recreation Standard: OAR 345-022-0100

(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities in the analysis area as described in the project order. The Council shall consider the following factors in judging the importance of a recreational opportunity:

(a) Any special designation or management of the location;
(b) The degree of demand;
(c) Outstanding or unusual qualities;
(d) Availability or rareness;
(e) Irreplaceability or irretrievability of the opportunity.

Council Review of Proposed Order

IV.L. Recreation Standard: OAR 345-022-0100

- **Direct Loss:** Four recreational opportunities would be crossed by the proposed facility: The Blue Mountain Corridor, Grande Tour Scenic Bikeway, Burnt River Extensive Recreation Management Area (ERMA), and the Ladd Marsh Wildlife Area.

Table R-1: Important Recreation Opportunities

Important Recreational Opportunity	Distance to Route Centerline	County
Blue Mountain Forest State Scenic Corridor	Crossed (proposed route)	Union
Ladd Marsh Wildlife Area	Crossed (proposed route)	Union
Burnt River Extensive Recreation Management Area	Crossed (proposed route)	Baker
Grande Tour Scenic Bikeway	Crossed (proposed route)	Union and Baker
Blue Mountain Scenic Bikeway	Crossed (proposed route)	Morrow and Umatilla
Oregon Trail Area of Critical Environmental Concern – National Historic Oregon Trail Interpretive Center Parcel	106 feet (proposed route)	Baker
Ladd Marsh Wildlife Area	208 feet (Morgan Lake alternative)	Union
Owyhee River Below Dam Special Recreation Management Area	250 feet (proposed route)	Malheur
Morgan Lake Park	0.2 mile (Morgan Lake alternative)	Union
Oregon Trail Birch Creek Special Recreation Management Area	0.2 mile (proposed route)	Malheur
Hilgard Junction State Park	0.3 mile (proposed route)	Union
Hilgard Junction State Park	0.4 mile (Morgan Lake alternative)	Union
Deer Flat National Wildlife Refuge – Snake Island Unit	0.4 mile (proposed route)	Malheur
Weiser Dunes Off-highway Vehicle Play Area	0.5 mile (proposed route)	Washington County (Idaho)
Oregon Trail Tub Mountain Special Recreation Management Area	0.5 mile (proposed route)	Malheur
Morgan Lake Park	0.6 mile (proposed route)	Union
Bully Creek Reservoir	0.7 mile (proposed route)	Malheur
Farewell Bend State Recreation Area	0.7 miles (proposed route)	Baker
Snake River Breaks Extensive Recreation Management Area	0.8 mile (proposed route)	Baker
Snake River Islands (Huffman Island) Wildlife Area	0.9 mile (proposed route)	Malheur
Oregon Trail Interpretive Park at Blue Mountain Crossing	1.0 mile (Proposed Route)	Union
Umatilla National Wildlife Refuge	1.3 miles (Proposed Route)	Morrow
Powder River WSR, Area of Critical Environmental Concern	1.4 miles (proposed route)	Union and Baker

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.L. Recreation Standard: OAR 345-022-0100

- **Indirect Loss:**
  - Construction and operational noise
  - Construction and operational Traffic
  - Visual impacts from permanent facility

Important Recreational Opportunity	Distance to Route Centerline	KOPs Associated with Recreation Opportunity	Loss of Opportunity	Noise Impacts	Traffic Impacts	Visual Impacts	Overall Recreation Impact
Blue Mountain Forest State Scenic Corridor	Crossed (Proposed Route)	4-5	Less than significant, temporary intermittent changes to access possible during construction; no long-term loss of opportunity.	Less than significant temporary construction-related noise impacts due to proximity of the Proposed Route to this recreation site, and the location where this recreation site is crossed. Areas near haul routes and multi-use areas may experience traffic-related noise; however, impacts will be temporary and episodic.	Less than significant temporary traffic impacts possible during construction as a result of nearby Preliminary Haul Roads including I 84, other access roads, and multi-use area UM-07; no or negligible impacts during operation.	Steep viewing angles, tall mature vegetation, and topography will screen views of the Project. Viewers will have primarily intermittent and peripheral views and landscape character and scenic integrity and attractiveness will not change. Impacts will be low intensity and less than significant (see visual simulation in Attachment T-5).	Impacts limited to temporary access and traffic impacts and low intensity visual impacts. Overall impacts less than significant.
Hilgard Junction State Park	0.3 mile (Proposed Route)	4-19	Less than significant, temporary intermittent access delays possible during construction for some visitors; no long-term loss of opportunity.	Negligible construction-related noise impacts construction-related noise impacts due to proximity of recreation site to I-84.	Less than significant, temporary traffic impacts possible during construction due to close proximity of Proposed Route, Preliminary Hauling Roads, and access roads; nearest multi-use area (UN-01) is about 7 miles away. No or negligible impacts during operation.	Partially screened Project facilities likely visible at middleground distance, but not visible from camping area or areas near the river where recreation use will be highest. Impacts will be low intensity and less than significant.	Impacts limited to temporary access and traffic delays near the park entrance and low intensity visual impacts. Overall impacts less than significant.

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue R-2

Whether the visual impacts of the proposed facility structures in the viewshed of Morgan Lake Park are inconsistent with the objectives of the Morgan Lake Park Recreational Use and Development Plan and should therefore be reevaluated.

PCCO Page References:

- Findings of Fact - 111
- Opinion - 240
- Conclusions of Law - 142

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Lois Barry – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue R-2

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue R-4

Whether Applicant's visual impact assessment for Morgan Lake Park adequately evaluates visual impacts to the more than 160 acres of undeveloped park land and natural surroundings, as visual simulations were only provided for high-use areas.

PCCO Page References:

- Findings of Fact - 111
- Opinion - 240
- Conclusions of Law - 142

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Lois Barry – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue R-4

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue R-3

Whether the mitigation proposed to minimize the visual impacts of the proposed facility structures at Morgan Lake Park ($100,000 for recreational facility improvements) is insufficient because the park's remote areas will not benefit from the proposed mitigation.

PCCO Page References:

- Findings of Fact - 111
- Opinion - 238
- Conclusions of Law - 141

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Lois Barry – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on Recreation Standard and Contested Case Issue R-3

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.H. Fish and Wildlife Standard: OAR 345-022-0060

To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are consistent with:

(1) the general fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025(1) through (6) in effect as of February 24, 2017,

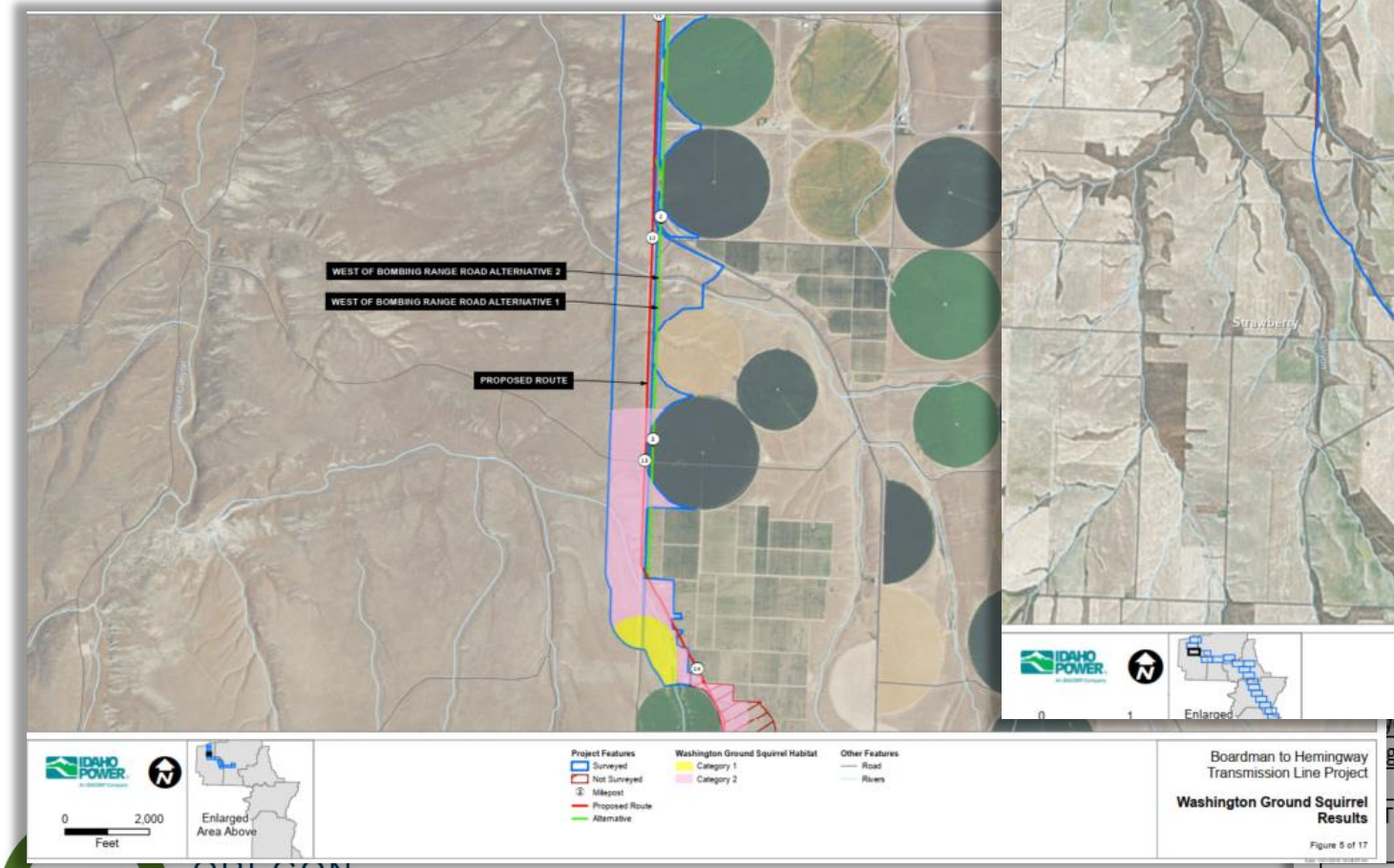
(2) and for energy facilities that impact sage-grouse habitat, the sage-grouse specific habitat mitigation requirements of the Greater Sage-Grouse Conservation Strategy for Oregon at OAR 635-415-0025(7) and OAR 635-140-0000 through -0025 in effect as of February 24, 2017.

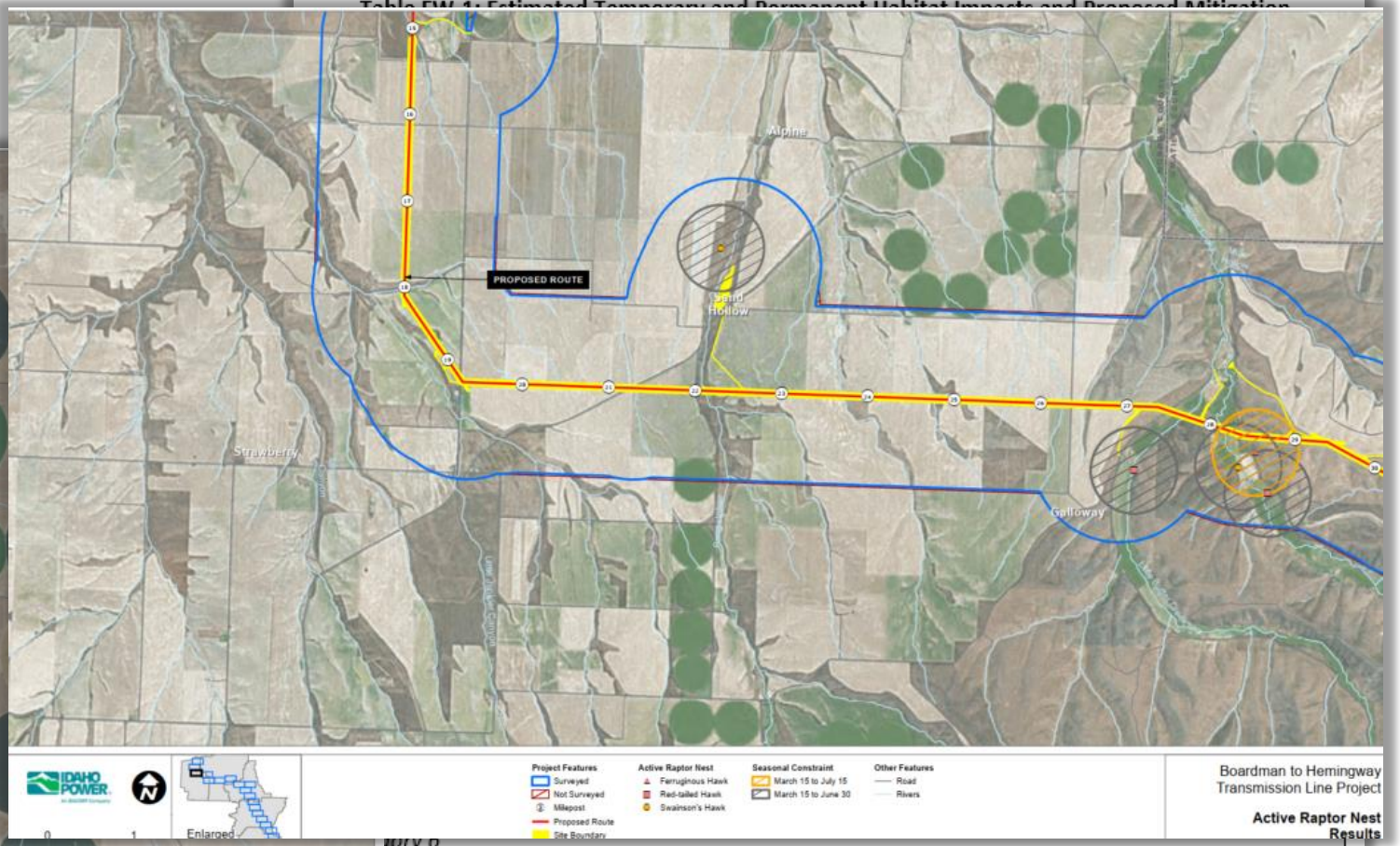
OREGON DEPARTMENT OF ENERGY

Proposed Order page 305

Council Review of Proposed Order

IV.H. Fish and Wildlife Standard: OAR 345-022-0060





griculture/Developed	310.5	259.8	0	0
Subtotal =	310.5	259.8	0	0
Total Estimated Habitat Mitigation Area (Cat 2, 3, 4 and 5) =	> 4,403 Acres			

Notes:
2. Category 2 agriculture habitat type includes areas that appear to be in CRP within elk or mule deer winter range.
3. The applicant proposes compensatory mitigation, in addition to revegetation, to mitigate for temporal habitat loss, regardless of habitat recovery period.

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.H. Fish and Wildlife Standard: OAR 345-022-0060

Recommended Fish and Wildlife Condition 1: Reclamation and Revegetation Plan (Attachment P1-3)

Recommended Fish and Wildlife Condition 3: Noxious Weed Plan(s) (Attachment P1-5)

Recommended Fish and Wildlife Condition 4: Fish and Wildlife Habitat Mitigation Plan (Attachment P-6)

Recommended Fish and Wildlife Condition 15 and 16: Fish and wildlife surveys according to Attachment P1-2 Revised Final Biological Survey Work Plan

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue FW-7

Whether Applicant's Fish Passage Plans, including 3A 3B designs, complies with the Fish and Wildlife Habitat standard's Category 2 mitigation requirements; whether Applicant must revisit its plans because threatened Steelhead redds have been identified in the watershed

PCCO Page References:

- Findings of Fact - 48
- Opinion - 156
- Conclusions of Law - 139

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Anne and Kevin March – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue FW-7

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue FW-1

Whether Applicant adequately analyzed sage grouse habitat connectivity in the Baker and Cow Valley Priority Areas of Conservation (PAC), the potential indirect impacts of the proposed facility on sage grouse leks, and the existing number of sage grouse in the Baker and Cow Valley PACs.

PCCO Page References:

- Dismissed on Motion for Summary Determination - 22
- Admitted Evidence - 328

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue FW-1

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue FW-3

Whether the Draft Noxious Weed Plan (Proposed Order Attachment P1-5) adequately ensures compliance with the weed control laws, ORS 569.390, ORS 569.400, and ORS 569.445.

PCCO Page References:

- Findings of Fact - 43
- Opinion - 144
- Conclusions of Law - 138

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Irene Gilbert – 3 Minutes
- Susan Geer – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue FW-3

HOLD UNTIL REVIEW OF FW-6 DUE TO OVERLAP IN FINDINGS/CONDITIONS

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue FW-6

Whether the Noxious Weed Plan provides adequate mitigation for potential loss of habitat due to noxious weeds when it appears to relieve Applicant of weed monitoring and control responsibilities after five years and allows for compensatory mitigation if weed control is unsuccessful.

PCCO Page References:

- Findings of Fact - 43
- Opinion - 144
- Conclusions of Law - 138

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Susan Geer – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on F&W Habitat Standard; and Contested Case Issues FW-3 and FW-6

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Recess Until Tomorrow at 8:00 AM

OREGON DEPARTMENT OF ENERGY

Oregon Department of **ENERGY**

Energy Facility Siting Council Meeting

Gilbert Event Center
Eastern Oregon Univ.
La, Grande/WebEx

August 29-31, 2022

Day 3

OREGON DEPARTMENT OF ENERGY

Opening Items:

- Call to Order
- Roll Call
- Announcements

OREGON DEPARTMENT OF ENERGY

Announcements

- Please silence your cell phones
- Those participating via phone or webinar, please mute your phone and if you receive a phone call, please hang up from this call and dial back in after finishing your other call
- For those signed onto the webinar, please do not broadcast your webcam
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and no not use the speakerphone feature, as it will create feedback.
- For those testifying on the B2H Agenda Item, please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.

OREGON
DEPARTMENT OF
ENERGY

Announcements Cont'd.

- You may sign up for email notices by clicking the link on the agenda or the Council webpage.

- You are also welcome to access the online mapping tool and any documents by visiting our website.

- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.

Agenda Item B – Cont'd. (Information Item)

Boardman to Hemingway Transmission Line
Review of Proposed Order and Proposed Contested Case Order/Exception Hearing

August 31, 2022

Kellen Tardaewether, Senior Siting Analyst, Oregon Department of Energy
Jesse Ratcliffe, Senior Assistant Attorney General, Oregon Department of Justice

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.Q. Noise Control Regulations:

OAR 340-035-0035, OAR 340-035-0010 and OAR 340-035-0100

*(1) Standards and Regulation***

*(B) 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***

*(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***

OREGON DEPARTMENT OF ENERGY

Proposed Order page 616

Council Review of Proposed Order

IV.Q. Noise Control Regulations:

OAR 340-035-0035, OAR 340-035-0010 and OAR 340-035-0100

(5) Exemptions: Except as otherwise provided in subparagraph (1)(b)(B)(ii) of this rule, the rules in section (1) of this rule shall not apply to:

****

(g) Sounds that originate on construction sites.

*(h) Sounds created in construction or maintenance of capital equipment***

(6)Exceptions: Upon written request from the owner or controller of an industrial or commercial noise source, the Department may authorize exceptions to section (1) of this rule, pursuant to rule 340-035-0010, for:

*(a)Unusual and/or infrequent events***

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.Q. Noise Control Regulations:

OAR 340-035-0035, OAR 340-035-0010 and OAR 340-035-0100

OAR 340-035-0010: Exceptions

(1) Upon written request from the owner or controller of a noise source, the Department may authorize exceptions as specifically listed in these rules.

*****

OAR 340-035-0100: Variances

*(1) Conditions for Granting. The Commission may grant specific variances from the particular requirements of any rule, regulation, or order to such specific persons or class of persons or such specific noise source upon such conditions as it may deem necessary to protect the public health and welfare, if it finds that strict compliance with such rule, regulation, or order is inappropriate because of conditions beyond the control of the persons granted such variance or because of special circumstances which would render strict compliance unreasonable****

OREGON DEPARTMENT OF ENERGY

Proposed Order page 616

Council Review of Proposed Order

IV.Q. Noise Control Regulations:
OAR 340-035-0035, OAR 340-035-0010 and OAR 340-035-0100

- Maximum allowable noise standard:

Table NC-2: Statistical Noise Limits for Industrial and Commercial Noise Sources

Statistical Descriptor[1]	Maximum Allowable Noise Standards (dBA)	
	Daytime (7:00 AM - 10:00 PM)	Nighttime (10:00 PM - 7:00 AM)
L50	55	50
L10	60	55
L1	75	60

Notes:

1. The hourly L50, L10 and L1 noise levels are defined as the noise levels equaled or exceeded 50 percent, 10 percent, and 1 percent of the hour, respectively.

Source: OAR 340-035-0035, Table 8

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue NC-1

Whether the Department improperly modified/reduced the noise analysis area in Exhibit X from one mile of the proposed site boundary to ½ mile of the proposed site boundary and whether OAR 345-021-0010(1)(x)(E) requires notification to all owners of noise sensitive property within one mile of the site boundary.

PCCO Page References:

- Findings of Fact - 73
- Opinion - 190
- Conclusions of Law - 140

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue NC-1

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue NC-2

Whether the Department erred in recommending that Council grant a variance/exception from the Oregon DEQ's Noise Rules, OAR 340-035-0035, and whether the variance/exception is inconsistent with ORS 467.010.

PCCO Page References:

- Findings of Fact - 73
- Opinion - 192
- Conclusions of Law - 140

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Irene Gilbert – 3 Minutes
- Joe Horst and Anna Cavinato – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue NC-2

HOLD UNTIL REVIEW OF NC-3 and NC-4 DUE TO OVERLAP IN FINDINGS/CONDITIONS

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue NC-3

Whether the methodologies used for the noise analysis to evaluate compliance with OAR 340-035-0035 were appropriate and whether the ODOE erred in approving the methodology used to evaluate compliance with OAR 340-035- 0035.

PCCO Page References:

- Findings of Fact - 73
- Opinion - 199
- Conclusions of Law - 140

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Noise Control Regulations Contested Case Issue 3

HOLD UNTIL REVIEW OF NC-4 DUE TO OVERLAP IN FINDINGS/CONDITIONS

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue NC-4

Whether the mitigation/proposed site conditions adequately protect the public health, safety and welfare.

PCCO Page References:

- Findings of Fact - 73
- Opinion - 204
- Conclusions of Law - 140

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Stop B2H Coalition – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order and Proposed Order

Council Straw Poll on Noise Control Regulation and Contested Case Issues NC-2, NC-3 and NC-4

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order and Proposed Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.E. Land Use Standard: OAR 345-022-0030

(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.

(2) The Council shall find that a proposed facility complies with section (1) if:

*****

(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:

****

*(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. **the Council may take an exception to a goal if the Council finds***

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.E. Land Use Standard: OAR 345-022-0030

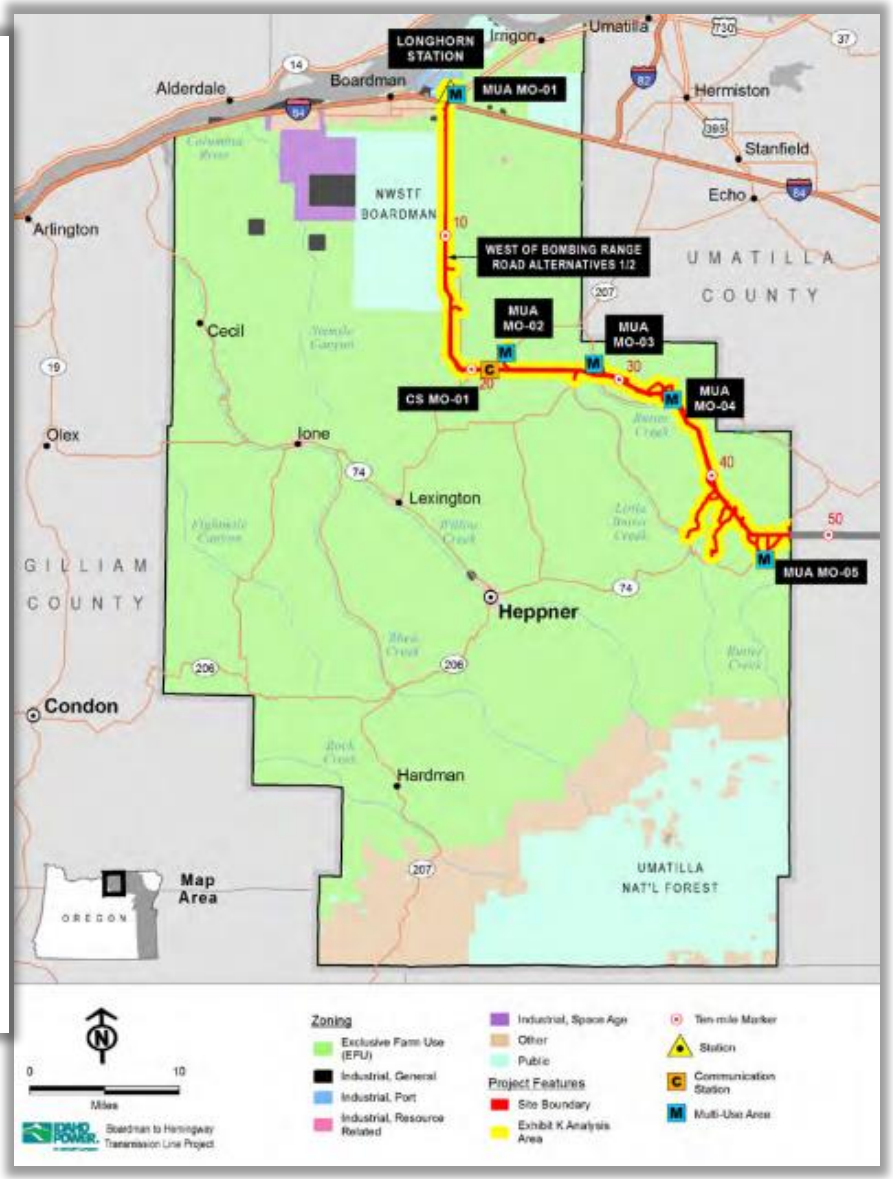
- **Morrow County**: Facility would cross Exclusive Farm Use (EFU), General Industrial, Port Industrial, Rights-of-Way and Federal lands
- The proposed facility would comply with all applicable substantive criteria within Morrow County.

Table LU-1: Applicable Substantive Criteria for Proposed Facility Components in Morrow County

Morrow County Zoning Ordinance (MCZO)[1]	
Article 3 – Use Zones	
Section 3.010	**Exclusive Farm Use, EFU Zone**
Section D	Conditional Uses Permitted
Section 3.070	**General Industrial Zone**
Section A	Uses Permitted Outright
Section C	Use Limitations
Section D	Dimensional Standards
Section E	Traffic Impact Analysis
Section 3.073	**Port Industrial Zone**
Section A	Uses Permitted Outright
Section C	Use Limitations
Section D	Dimensional Standards
Section G	Traffic Impact Analysis
Section 3.100	**Flood Plain Overlay Zone**
Section 4.1-1	Development Permit
Section 5.1-1	Anchoring
Section 5.1-2	Construction Materials and Methods
Section 3.200	**Significant Resource (Goal 5) Sites**
Section D	Review Criteria
Section E	List of Conflicting Uses and Activities
Morrow County Comprehensive Plan[2]	
Agricultural Lands Element Policy 1 Natural Hazards Element Utility Finding C; Policy C Goal 5 Resources	

Notes:

1. ASC Exhibit K Table K-9 includes "potentially applicable substantive criteria" identified by the SAG and the applicant. The evaluation of applicable substantive criteria is based on the table above, and omits some potentially applicable substantive criteria identified by the applicant. Specifically, MCZO Sections 3.010(C) (utility and transmission towers), (G) (dimensional standards) and (H) (yard setbacks) were omitted because under ORS 215.283(1)~~(s)~~, a utility facility necessary for public service is permitted subject only to the requirements of ORS 215.275 and the county cannot impose additional approval criteria; ORS 215.283 and 215.275 requirements are addressed later in this order. MCZO Article 4 provisions have not been included in this table, as Article 4 contains ministerial reviews for site plans and access (road, utility) permits to be conducted and issued directly by the county.
2. MCCP elements, findings and policies omitted from this table include those that are not related to the proposed facility, including the Energy Conservation element (applies to projects serving the county), Finding 19 of the Agricultural Lands Element (applies to hydro-electric power and irrigated agriculture), General Policy



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.E. Land Use Standard: OAR 345-022-0030

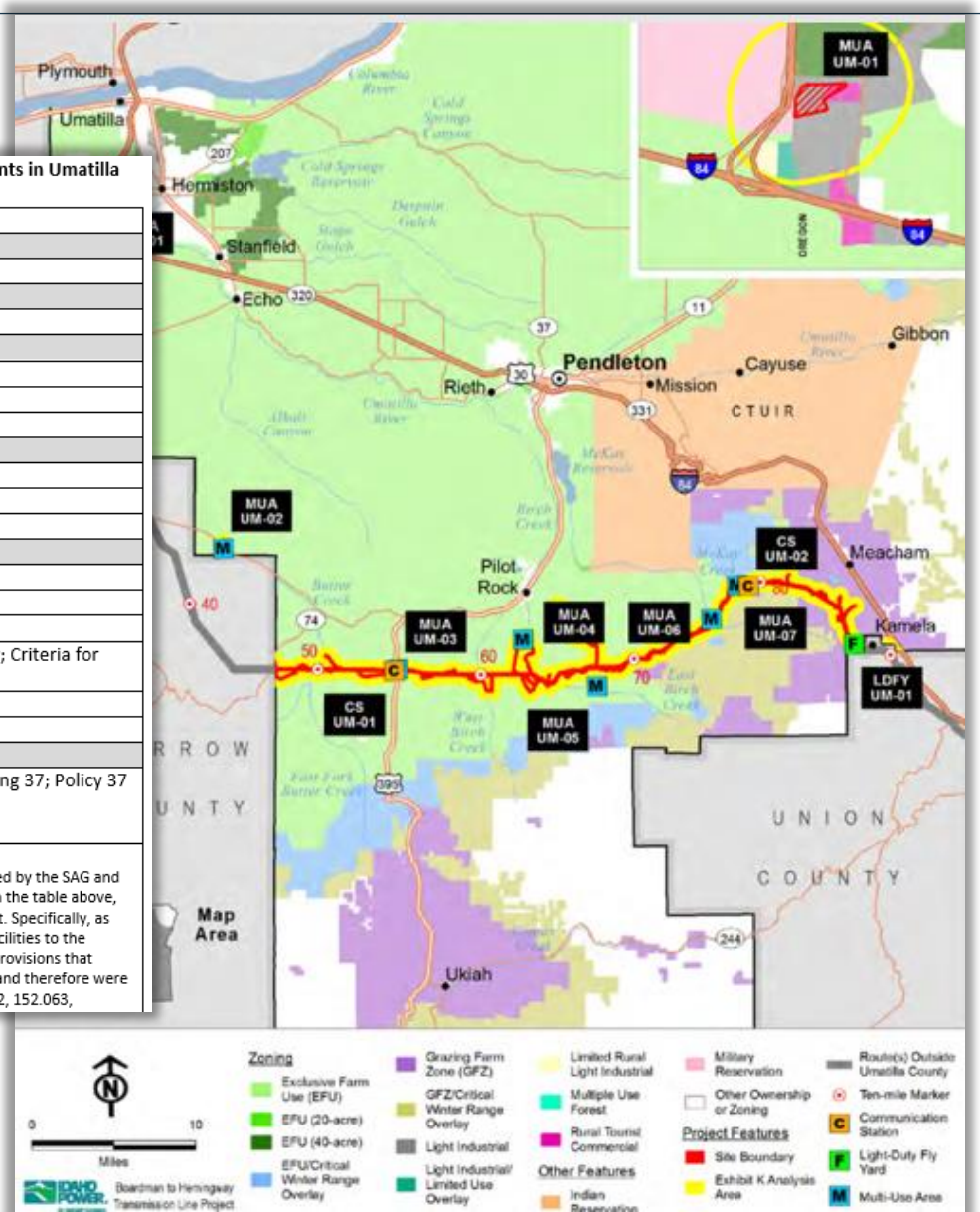
- **Umatilla County**: Facility would cross UFU, Grazing Farm, Light Industrial, Rural Tourist Commercial
- The proposed facility would comply with all applicable substantive criteria within Umatilla County, except for the 100-foot right of way limitation within forest zoned lands in Union and Umatilla counties (addressed under Goal Exception)

Table LU-2: Applicable Substantive Criteria for Proposed Facility Components in Umatilla County

Umatilla County Development Code (UCDC)[1]	
Exclusive Farm Use Zone	
Section 152.059	Land Use Decisions
Grazing Farm Zone	
Section 152.085	Conditional Uses Permitted
Light Industrial Zone	
Section 152.303	Conditional Uses Permitted
Section 152.304	Limitations on Use
Section 152.306	Dimensional Standards
Rural Tourist Commercial Zone	
Section 152.283	Conditional Uses Permitted
Section 152.284	Limitations on Use
Section 152.286	Dimensional Standards; Setbacks
General Provisions	
Section 152.010	Access to Buildings
Section 152.016	Riparian Vegetation
Section 152.017	Conditions for Development Proposals
Section 152.439	Historical, Archeological or Cultural Site/Structure Overlay; Criteria for Review
Section 152.456	Critical Winter Range Overlay; Applicability
Goal 5	Technical Report D-63
Umatilla County Comprehensive Plan	
Open Space, Scenic and Historic Areas, and Natural Resources Element - Finding 37; Policy 37 Public Facilities and Services Element - Finding 19; Policy 19 Transportation Element - Finding 20; Policy 20	

Notes:

1. ASC Exhibit K Table K-9 includes "potentially applicable substantive criteria" identified by the SAG and the applicant. The evaluation of applicable substantive criteria by county is based on the table above, and omits some potentially applicable substantive criteria identified by the applicant. Specifically, as evaluated in this section, the Department recommends Council find that ancillary facilities to the transmission line be evaluated as part of the utility facility, and therefore separate provisions that would apply to helipads, roads and batch plant, as individual uses, would not apply and therefore were not evaluated including UCDC 152.060, 152.061, 152.086, 152.616, 152.617, 152.062, 152.063,



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.E. Land Use Standard: OAR 345-022-0030

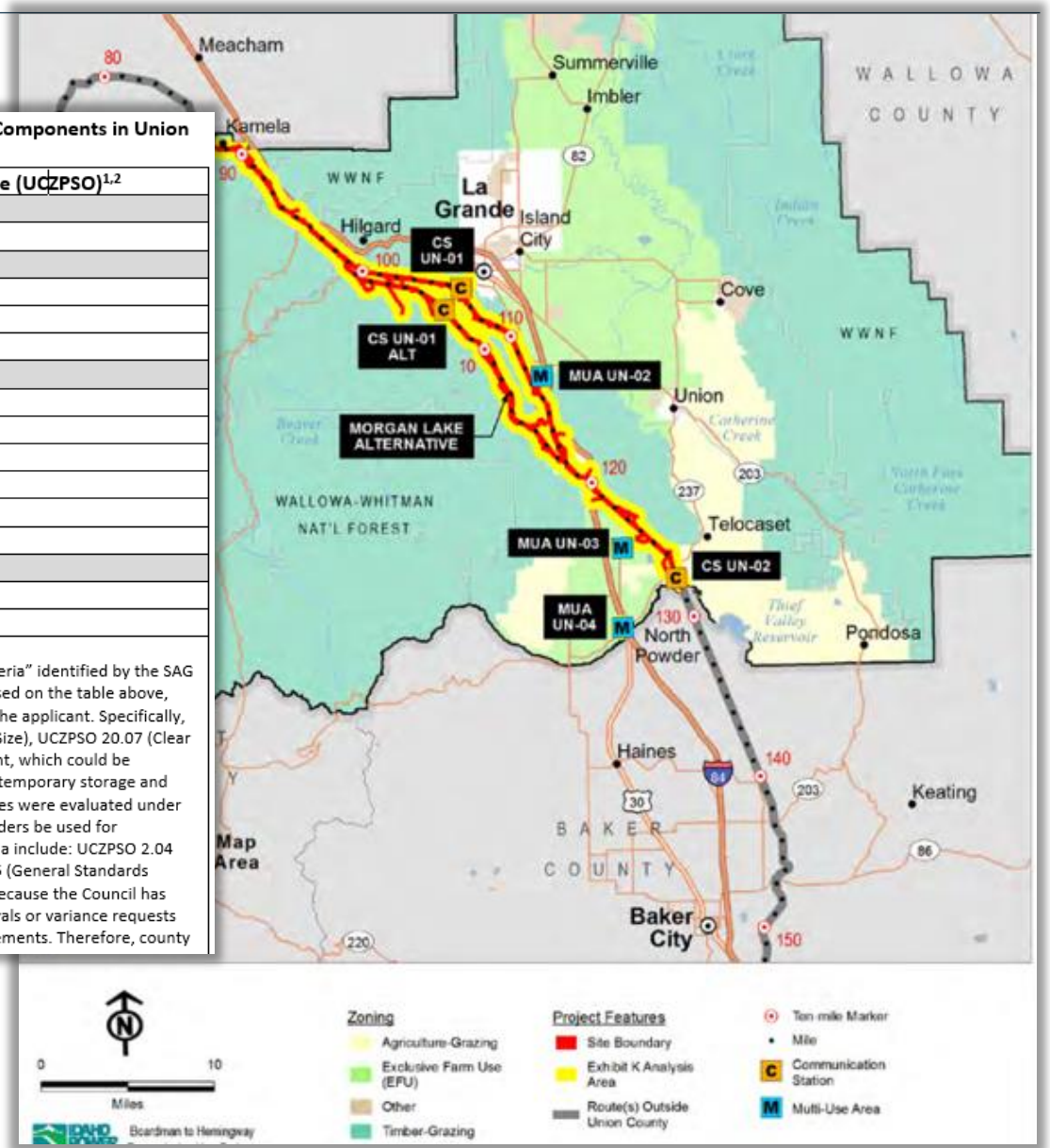
- **Union County**: Facility would cross EFU, Agricultural Grazing, Timber Grazing.
- The proposed facility would comply with all applicable substantive criteria within Union County, except for the 100-foot right of way limitation within forest zoned lands in Union and Umatilla counties (addressed under Goal Exception)

Table LU-3: Applicable Substantive Criteria for Proposed Facility Components in Union County

Union County Zoning, Partition, and Subdivision Ordinance (UCZPSO)[1,2]	
Exclusive Farm Use Zone	
Section 2.03	Administrative Uses
Agricultural-Grazing Zone	
Section 3.03	Administrative Uses
Section 3.07	Development Standards
Section 3.08	Development and Fire Siting Standards
Timber-Grazing Zone	
Section 5.03	Administrative Uses
Section 5.04	Predominately Forestland Conditional Uses
Section 5.06	Minimum Parcel Sizes
Section 5.07	Siting Standards for Dwellings and Structures
Section 5.08	Development and Fire Siting Standards
Section 21.06	General Standards Governing Conditional Uses
Supplementary Provisions	
Section 20.08	Riparian Zone Setbacks
Section 20.09	Significant Goal 5 Resource Areas

Notes:

1. ASC Exhibit K Table K-19 includes "potentially applicable substantive criteria" identified by the SAG and the applicant. The evaluation of applicable substantive criteria is based on the table above, and omits some potentially applicable substantive criteria identified by the applicant. Specifically, UCZPSO 2.07 (Development Standards), UCZPSO 2.06 (Minimum Parcel Size), UCZPSO 20.07 (Clear Vision Areas). While the applicant argues that the helipad and batch plant, which could be operated at multi-use areas, are ancillary facilities to the primary use of temporary storage and processing, an evaluation of criteria that could apply if these ancillary uses were evaluated under separate land use categories was provided, which the Department considers be used for information purposes rather applicable substantive criteria. These criteria include: UCZPSO 2.04 (Conditional Uses with General Review Criteria), 1.08 (Definitions), 21.06 (General Standards Governing Conditional Uses), 21.05 (Time Limit on a Conditional Use). Because the Council has jurisdiction over the site certificate, any required site plan or plat approvals or variance requests would be subject to Council, rather than County, procedures and requirements. Therefore, county



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.E. Land Use Standard: OAR 345-022-0030

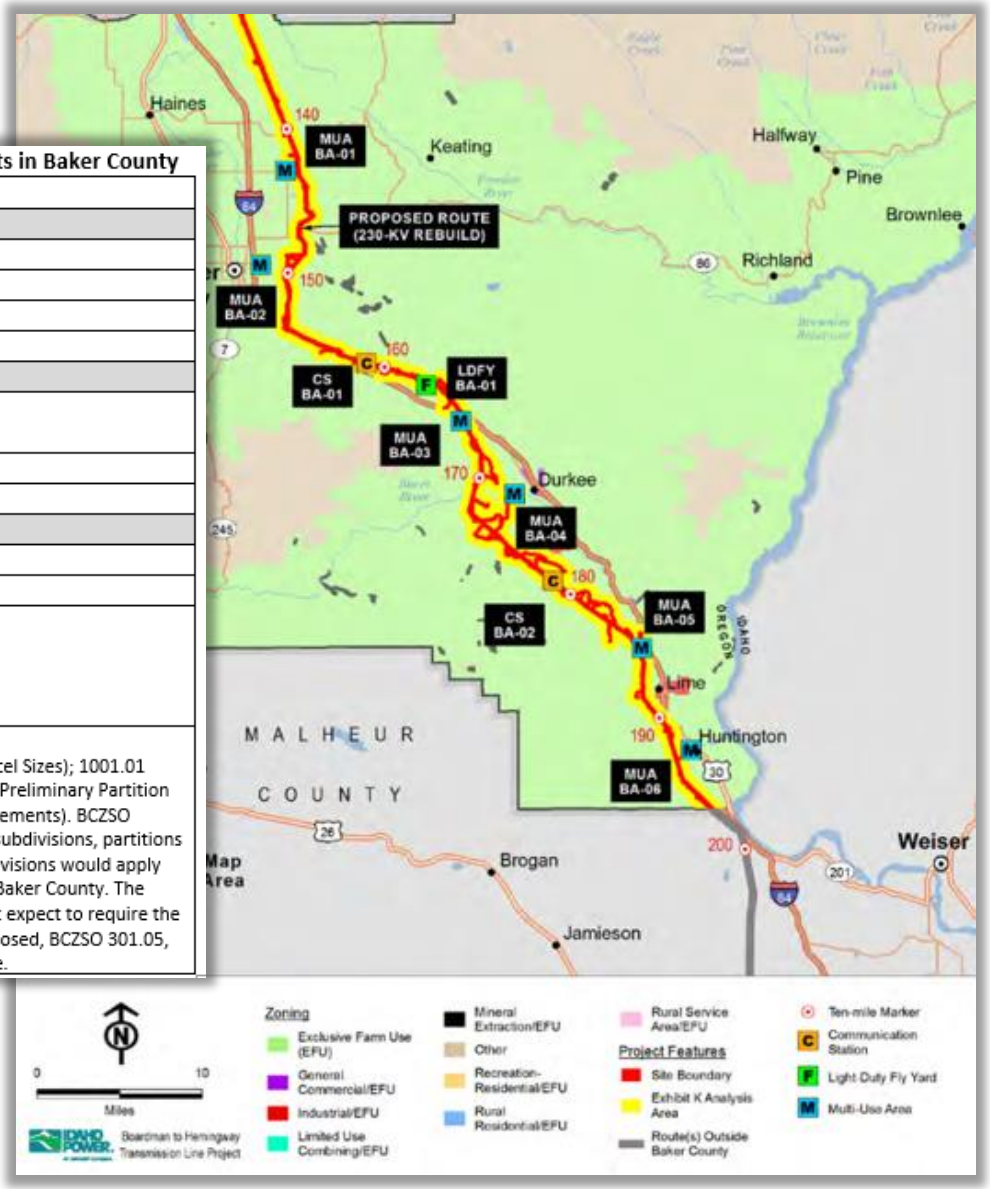
- **Baker County**: Facility would cross EFU and Rural Service Area
- The proposed facility would comply with all applicable substantive criteria within Baker County.

Table LU-6: Applicable Substantive Criteria for Proposed Facility Components in Baker County

Baker County Zoning and Subdivision Ordinance (BCZSO)[1]	
Article 3: Use Zones	
Section 301 Exclusive Farm Use Zone	
301.02	Conditional Uses
Section 305 Rural Service Area	
305.02	Conditional Uses
Article 4: Supplementary Provisions	
Section 401	Setbacks and Frontage Road Requirements Flood Plain Development
Section 412	Historic/Cultural and Natural Area Protection Procedure
Section 410	Flood Plain Provisions
Article 6: Conditional Uses	
Section 602	Standards for Granting a Conditional Use
Baker County Comprehensive Land Use Plan (BCCP)[2]	
Goal V Open Space, Scenic and Historic Areas and Natural Resources Open Spaces and Scenic Areas Natural Areas Historic and Cultural Sites, Structures, Districts	

Notes:

1. Omitted zoning provisions include: 301.02 (Conditional Uses); 301.05 (Minimum Parcel Sizes); 1001.01 (Purpose), 1002 (Applications for Approval of Tentative Plans); 1006.01 (Approval of Preliminary Partition Plans); 1006.02 (Approval of Final Partition Plan); 1006.03 (Land Partition Flat Requirements). BCZSO 401(B)(1) requires minimum parcel widths; and BCZO 1001, 1002 and 1006 address subdivisions, partitions and lot line adjustments and the county's tentative plan approval process. Those provisions would apply only if the applicant were to require a partition of any of the EFU-zoned property in Baker County. The applicant explains that it intends to secure easements where necessary and does not expect to require the partitioning of any parcel zoned EFU in Baker County. Because no partitions are proposed, BCZSO 301.05, BCZSO 401(B)(1) and BCZO 1001 are not applicable to the proposed transmission line.



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.E. Land Use Standard: OAR 345-022-0030

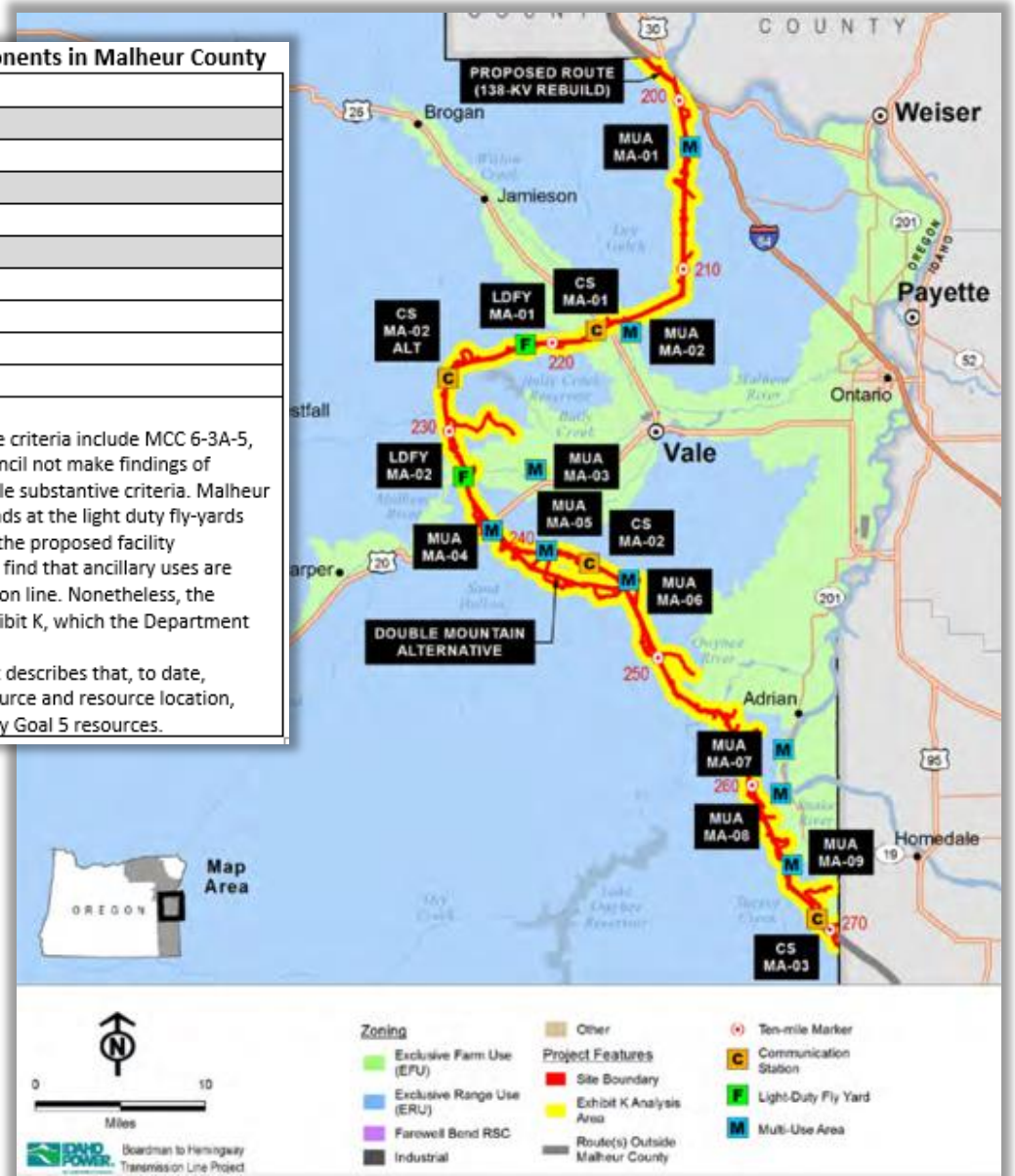
- **Malheur County**: Facility would cross EFU, Exclusive Range Use and Heavy Industrial
- The proposed facility would comply with all applicable substantive criteria within Malheur County.

Table LU-7: Applicable Substantive Criteria for Proposed Facility Components in Malheur County

Malheur County Code (MCC)[1,2]	
Exclusive Farm Use and Exclusive Range Use	
MCC 6-3A-2	Permitted Uses
Heavy Industrial Use	
MCC 6-31-4	Performance Standards
Flood Plain Management Zone	
MCC 6-3K-3	Flood Plain Development Standards
MCC 5-2-5-1; 5-2-5-2	Flood Hazard Reduction
Malheur County Comprehensive Plan	
Goal 3 Agricultural Lands, Policies 2, 7, 8 and 9	

Notes:

1. Code provisions identified by the applicant as potentially applicable substantive criteria include MCC 6-3A-5, 6-3A-6(A), and MCC 6-6-7. Based on review, the Department recommends Council not make findings of compliance with these requirements because they are not considered applicable substantive criteria. Malheur County identified MCC 6-3A-3(I) as applicable substantive criteria for the helipads at the light duty fly-yards and multi-use areas. However, the Department recommends Council evaluate the proposed facility comprehensively under one land use category – for the transmission line – and find that ancillary uses are necessarily evaluated as part of the land use category applied to the transmission line. Nonetheless, the applicant provides a compliance demonstration for these provisions in ASC Exhibit K, which the Department reviewed and considers representative of code provision consistency.
2. In ASC Exhibit K Section 6.10.4 Malheur County Goal 5 Resources, the applicant describes that, to date, Malheur County has not responded to requests for confirmation of Goal 5 resource and resource location, and provides an assessment concluding that the County has not inventoried any Goal 5 resources.



OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Order

IV.E. Land Use Standard: OAR 345-022-0030

Recommended Land Use Condition 15: The certificate holder shall limit its transmission line right-of-way in Goal 4 forest lands to no wider than 300 feet.

a. During construction, the certificate holder shall limit its use of the portion of the transmission line right-of-way located beyond the center 100 feet to vegetation maintenance activities.
b. During operation, the certificate holder shall limit its use of the portion of the transmission line right-of-way located beyond the center 100 feet to vegetation maintenance activities.

Recommended Land Use Condition 16: The certificate holder shall:

a. Prior to construction, in accordance with the OAR 345-025-0016 agency consultation process outlined in the draft Right-of-Way Clearing Assessment (Attachment K-2 of the Final Order on the ASC), finalize and submit to the Department for its approval, a final Right-of-Way Clearing Assessment…
b. During construction, the certificate holder shall conduct all work in compliance with the final Right-of-Way Clearing Assessment.

Council Review of Proposed Order

Council Deliberation and Straw Poll on Any Modifications

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue LU-9

Whether Applicant adequately analyzed the risk of wildfires from operation of the proposed transmission lines, especially during “red flag” warning weather conditions, and the impact the proposed transmission lines will have on Mr. Myers’s ability to use an aerial applicator on his farmland.

PCCO Page References:

- Findings of Fact - 64
- Opinion - 204
- Conclusions of Law - 140

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Sam Myers – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue LU-9

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Overview of CC Issue

Contested Case Issue LU-5

Whether calculation of forest lands must be based on soil class or whether it is sufficient to consider acreage where forest is predominant use.

PCCO Page References:

- Dismissed on Motion for Summary Determination - 24
- Admitted Evidence - 328

OREGON DEPARTMENT OF ENERGY

Exception Hearing

- Irene Gilbert – 3 Minutes
- Idaho Power Corporation – 3 Minutes
- Oregon Department of Energy – 3 Minutes

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

Council Straw Poll on Contested Case Issue LU-5

1. Agree with findings of facts, conclusions of law and conditions of approval in the Proposed Contested Case Order; or

2. Indicate any specific changes in findings of facts, conclusions of law or conditions of approval

OREGON DEPARTMENT OF ENERGY

Council Review of Proposed Contested Case Order

- Placeholder for any other items not already covered

OREGON DEPARTMENT OF ENERGY

B2H Review – Next Steps

- ODOE will issue a Notice of Hearing to Adopt Final Order (Material Change Hearing) and include a draft of the Final Order based on straw polls

- Council will hold a Material Change Hearing and Hearing to Adopt Final Order

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Adjourn

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