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May 9, 2023

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Filing Center
P.O. Box 1088
201 High Street S.E., Suite 100
Salem, OR 97308-1088

Re: Docket No. PCN 5 – In the Matter of Idaho Power Company’s Petition for Certificate of Public Convenience and Necessity.

Attention Filing Center:

In accordance with Judge Mellgren’s May 8, 2023 Ruling, Idaho Power Company (“Idaho Power”) submits Idaho Power’s Responses to Greg Larkin’s Data Requests Nos. 26-61 and Nos. 62-84 for filing in the above-referenced docket. Confidential copies are being sent via encrypted zip file to the Filing Center and parties who have signed Protective Order No. 22-309.

Please contact this office with any questions.

Sincerely,

Suzanne Prinsen
Legal Assistant

Attachment

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket PCN 5

In the Matter of

IDAHO POWER COMPANY'S
PETITION FOR CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY

Idaho Power's Responses to Greg Larkin's Data Requests Nos. 26-61

May 9, 2023

Subject: Noise / Bastach Testimony

GREG LARKIN'S DATA REQUEST NO. 26:

Is it true that the DEQ Noise Control Program statutes and administrative rules remain in force?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 26:

Idaho Power objects to Mr. Larkin's Data Request No. 26 as it is vague and ambiguous with respect to the meaning of "remain in force" and to the extent that it calls for a legal conclusion. Without waiving those objections, Idaho Power understands that the Oregon Department of Environmental Quality ("ODEQ") Noise Rules continue to appear in the Oregon Administrative Rules, however, ODEQ no longer administers the program.

GREG LARKIN'S DATA REQUEST NO. 27:

Is EFSC required to “ensure that proposed facilities meet the State noise regulations”? (Idaho Power Exhibit 1102: ODEQ Staff Guidance on Noise Control Issues (July, 2003).

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 27:

Idaho Power objects to Mr. Larkin's Data Request No. 27 to the extent that it calls for a legal conclusion. Without waiving that objection, Idaho Power's understanding is that consistent with the Energy Facility Siting Council's (“EFSC”) General Standard of Review (OAR 345-022-0000), EFSC is required to determine whether proposed facilities are in compliance with applicable state statutes and rules, and for that reason has historically evaluated whether projects comply with the Oregon Department of Environmental Quality Noise Rules.

GREG LARKIN'S DATA REQUEST NO. 28:

Did the above memo, or any other document, rule, statute or court decision you are aware of provide local governments or other agencies the authority to interpret or take any action other than applying and enforcing DEQ in OAR 345-035-0035 including the ODEQ Sound Measurement Procedure Manual or as required by ORS 467.030? Are you aware of any exception other than entities were allowed to develop and enforce their own rules so long as they are app at least as strict as the state rules? Examples would include such things as determining alternative method, interpretations or procedures.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 28:

Idaho Power objects to Mr. Larkin's Data Request No. 28 to the extent it calls for a legal interpretation and/or legal conclusion and further objects to the question as vague and ambiguous in its reference to the "above memo." Assuming that the "above memo" refers to the Oregon Department of Environmental Quality ("ODEQ") Staff Guidance attached as Exhibit 1102 to Mr. Bastasch's Reply Testimony, and without waiving its objections, Idaho Power provides the following response:

Idaho Power notes that ODEQ's Staff Guidance specifically states that "[a]lthough DEQ's Noise Control Program has been terminated, the noise statutes and administrative rules remain in force."²³ The document further provides that "[e]nforcement now falls under the responsibility of local governments, and in some cases, other agencies."²⁴

The Oregon Supreme Court also concluded that the Energy Facility Siting Council had authority to grant variances from and exceptions to ODEQ's Noise Rules.²⁵

²³ Idaho Power/1102, Bastasch/2 (Feb. 21, 2023).

²⁴ Idaho Power/1102, Bastasch/2 (Feb. 21, 2023).

²⁵ STOP B2H Coalition v. Or. Dep't of Energy (In re Site Certificate), 370 Or 792 at 16-17, 2023 Ore. LEXIS 133 at *21 (Mar. 9, 2023) ("We conclude that EFSC had the authority to grant (1) an exception to the noise standards under OAR 340-035-0035(6)(a), and (2) a variance under OAR 340-035-0100 and ORS 467.060.").

GREG LARKIN'S DATA REQUEST NO. 29:

Do you agree that the rules contained in OAR 345-035 and the ODEQ Sound Measurement Procedure Manual (Sept. 4, 19874)(Idaho Power Exhibit/1105) are the rules that were promulgated to meet the requirements of ORS 467.030?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 29:

Idaho Power objects to Mr. Larkin's Data Request No. 29 as the question requires a legal conclusion.

GREG LARKIN'S DATA REQUEST NO. 30:

Did the methods, procedures and interpretations used by Idaho Power comply with the Sound Measurement Procedures Manual NPC-1 incorporated into the DEQ noise rules?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 30:

Under OAR 340-035-0035(3)(a), “[s]ound measurements procedures shall conform to those procedures which are adopted by the Commission and set forth in Sound Measurement Procedures Manual (NPCS-1), *or to such other procedures as are approved in writing by the Department[.]*” (Emphasis added.)

The methodology employed by Idaho Power was generally consistent with the Sound Measurements Procedures Manual (NPCS-1). The manual was developed in 1974 and has not been updated since then. As a result, the manual does not contemplate current technology; for instance, the manual contemplates that data will be hand tallied. The manual also contemplates much shorter measurement periods than the two to three weeks of monitoring that Idaho Power employed, as required by the Oregon Department of Energy (“ODOE”). For these reasons, Idaho Power needed to adjust certain procedures. Importantly, consistent with the rule noted above, Idaho Power worked directly with ODOE and its consultants to develop its monitoring procedures, and the methodology employed was approved by ODOE and its consultants, Golder Associates.

Please note that the rule cited above refers to a methodology approved by the Oregon Department of Environmental Quality (“ODEQ”).²⁶ In this case, the agency providing approval was ODOE given that ODEQ was not implementing the Noise Rules at that time.

A. Did the Ambient Noise Level calculations include the requirements of 4.6.1(e) requiring the removal of noise readings from external sources such as sounds from such things as passing vehicles, traffic, aircraft, and in the case of MP-11 passing trains as required by 4.6.1(e) of [the manual?]

Section 4.6.1 of the Sound Measurements Procedures Manual (NPCS-1) relates to procedures to determine the sound level from a specific source during a post-construction operational compliance assessment.²⁷ During these assessments the focus is on determining the sound level attributable to the specific source being investigated; thus one would exclude extraneous sources. On the other hand, the noise monitoring conducted by Idaho Power was used to determine the baseline ambient sound level for specific noise sensitive receptors (“NSRs”) being studied. As noted in Section 4.5.6 of the manual, “ambient noise level is a composite of sounds from many sources near and afar.”²⁸ OAR 340-035-0015(5) similarly defines “ambient noise” as “the all-encompassing noise associated with a given environment, being usually a composite of sounds from many sources near and far.” Therefore, the direction to remove certain noise readings from external sources would not apply.

B. Were sound readings from external sources such as those described above included in the statistical noise level calculations for Ambient Noise Levels at the Monitoring locations?

²⁶ OAR 340-035-0015(12) (“Department’ means the Department of Environmental Quality”).

²⁷ Idaho Power/1105, Bastasch/26-28 (Feb. 21, 2023).

²⁸ Idaho Power/1105, Bastasch/13 (Feb. 21, 2023).

Yes, which is consistent with Section 4.5.6 of the Sound Measurements Procedures Manual (NPCS-1) and OAR 340-035-0015(5) defining ambient sound levels.²⁹ See Idaho Power's Response to Greg Larkin's Data Request No. 30(A) above.

C. Do you agree that removal of the noise from external sources such as those indicated in Question A. above and listed on Page 30 of Tetra Tech's August 2013 Supplemental Baseline Sound Survey for the Tub Mountain, Burnt River and East of Bombing Range Road Alternat Corridors could result in a lower Ambient Sound level but not a greater Ambient Sound level where these "external sounds" occur?

No. See Idaho Power's Response to Greg Larkin's Data Request No. 30(A) above.

D. Would lower baseline noise levels result in more NSR's exceeding the Ambient Degradation Standard?

Theoretically yes. As a general matter, the lower the ambient sound level, the greater chance that noise from a new source will result in an exceedance of the ambient antidegradation standard.

E. Does the Ambient Degradation Standard apply only to the late nighttime period from 12;00 a.m. till 5:00 a.m.?

No.

²⁹ Idaho Power/1105, Bastasch/12-15 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 31:

How does mitigation involving such things as sound reducing windows address exceedances of the Ambient Degradation Standard outside residences where the exceedances are projected to occur?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 31:

Sound reducing windows are intended to mitigate the potential impact of exceedances on owners of noise sensitive receptor ("NSR") properties, when exceedances are most likely to occur—during foul weather, particularly foul weather occurring during the nighttime—when it is most likely that NSR property owners will be indoors. Sound reducing windows are not intended to, and do not, reduce sound levels outdoors.

GREG LARKIN'S DATA REQUEST NO. 32:

If the baseline sound measurements had been taken inside the homes and the projected noise levels also completed for noise levels inside the home, is it reasonable to believe that the Ambient Degradation Standard requiring the increase in sound not exceed 10 dBA over the sound level prior to constructing the transmission line would also show the standard as being exceeded?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 32:

No, it would not be reasonable to assume that a decrease to corona noise as measured inside the dwelling, means an equivalent decrease to ambient sound levels. If, theoretically, the baseline ambient sound measurements had been conducted inside of the noise sensitive receptor dwelling, any reduction to outdoor sounds that make up the outdoor baseline ambient readings might be offset by sounds from inside the home—most typically from appliances, television or radio, as well as heating or air conditioning systems—not to mention human activity. Therefore, the degree to which the structure reduces outdoor sounds would not necessarily imply a corresponding reduction to an “ambient sound level” as measured inside of the home.

GREG LARKIN'S DATA REQUEST NO. 33:

Is it your contention that the legislature intended that people would be required to stay inside their homes when corona noise events occur?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 33:

No.

GREG LARKIN'S DATA REQUEST NO. 34:

Please identify areas where the procedures, outcomes and interpretations used to establish the ambient measurements did not apply the plain language of the DEQ handbook incorporated into their rules. Include items which were or were not complied with. If not complied with, state the reasons and describe how it was determined that the procedures used were equal to the statutorily required rules contained in the Noise Procedures Manual, Page 1, Section 1.2 listing the Authority to provide the direction contained in NPCCS-1. Include in your comments the following items from the NPCCS-I Handbook requirements:

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 34:

As discussed in Idaho Power's Response to Greg Larkin's Data Request No. 30, Idaho Power's methodology to establish ambient sound levels was in accordance with OAR 340-035-0035(3)(a) as the methodology was approved by the Oregon Department of Energy.

A. Basis for including information regarding noise levels inside peoples homes when the noise measurements are to occur outside the homes. NPCCS-I, Page 5, Site 4.2.1.

Idaho Power objects to this question as vague and ambiguous. Without waiving this objection, Idaho Power states that the sound monitoring used to determine the baseline ambient sound levels was conducted outdoors and not inside people's homes.

B. Were measurements included when the wind speed exceeded 10 mph? NPCCS-I, Page 7, Section 4.5.2(a).

While the monitoring equipment did record data related to wind speeds above 10 mph, that data was excluded from the determination of baseline ambient sound levels.

C. Were measurements included when precipitation would affect results? NPCCS-I, Page 7, Section 4.5.2(b)

Idaho Power objects to this question as vague and ambiguous. Without waiving this objection, periods of precipitation were excluded from the analysis.

D. Were ambient sound measurements, projected future sound levels, and frequency of exceedances based upon results for impacts occurring during "any consecutive 60 minute period" of each day? NPCCS-I, Page 8, Section 4.5.5.

Yes. Ambient sound levels were measured for 60-minute intervals.

E. Was the ambient noise level determined for consecutive 60 minute periods that included weekends, different time periods and different days? If so, please explain how this resulted in baseline data that did not emphasize either noise peaks or unusual quiet. NPCCS-I, Pages 8-9, Section 4.5.6

The noise monitoring did include different days and weekends. That said, per the Oregon Department of Energy's directions, the calculation of baseline ambient relied on recordings taken during the late-night hours and utilized the L₅₀ metric, which filters out intermittent sources of noise.

F. Were the baseline noise measurements for MP-11 taken during snow conditions where there may have been snow accumulation or wet streets? Were other noise measurements taken during snowy conditions? NPCS-1 Page 9, Section 4.5.6

Yes. Snow accumulation was present. However, as a comparison, no snow accumulation was present when baseline ambient sound measurements were recorded during the supplemental monitoring at monitoring positions ("MPs") 100-103—conducted to confirm the results of MP 11.

G. Did the projected ambient statistical noise levels projected for the transmission line include all noise sources generated by the noise source? NPCS-I, Page 9, Paragraph 4.

Idaho Power objects to this question as vague and ambiguous. Without waiving this objection, projected Project sound levels (which are distinct from baseline ambient sound levels) were based on the modeling of corona noise. Other sources of noise associated with the Project are related to operation and maintenance activities. These are both described in Exhibit X.³⁰

H. Did the current Ambient Noise Level measurements identify and exclude the external or extraneous noise sources such as passing vehicles, trains or other sources which could have contaminated the results? NPCS1, Page 21 Section 4.6.1(c) and example on Page 28 identifying readings excluded and why.

Idaho Power objects to this question to the extent it suggests that certain extraneous noises "contaminated the results". Without waiving this objection, please see Idaho Power's Response to Greg Larkin's Data Request No. 30(A). Note that the example on page 28 of the Sound Measurements Procedures Manual (NPCS-1) was specifically evaluating the Acme Wood Products operation of "debarker, saw, chipper".³¹

³⁰ Idaho Power/1103, Bastasch/9-18 (Feb. 21, 2023).

³¹ Idaho Power/1105, Bastasch/33 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 35:

How many monitoring locations were originally completed in the Morgan Lake Area?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 35:

In its original baseline ambient sound monitoring for the Morgan Lake Area, Idaho Power used monitoring position ("MP") 11 to represent the noise sensitive receptors ("NSRs") in that area. In the supplemental monitoring Idaho Power used four monitoring positions (MPs 100-103) to determine ambient sound levels for those NSRs previously represented by MP 11.

GREG LARKIN'S DATA REQUEST NO. 36:

Please compare the baseline noise results from each of the supplemental monitoring locations with the 32 dBA baseline noise level assigned to the 63 residences where MP-11 results were assigned. Did you find that the results from the supplemental monitoring locations provided a consistent reading for baseline noise amounts which supported assigning the same baseline noise level to the 63 locations assigned the baseline noise level of MP-11?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 36:

Idaho Power objects to Mr. Larkin's Data Request No. 36 as vague and ambiguous. Without waiving this objection, Idaho Power believes that the information that Mr. Larkin seeks may be included in Exhibit 1106 to Mark Bastasch's Reply Testimony (Reanalysis of MP 11 Area – Morgan Lake Alternative)³² and in Exhibits C and D of Mark Bastasch's Sur-Sur-Rebuttal Testimony during the Energy Facility Siting Council Proceeding (Reanalysis of MP 11 Area – Mill Creek – Maps 1 and 2)—provided as Attachments 1 and 2 to this response. The results from the supplemental monitoring did show some variations from the results from monitoring position ("MP") 11, which variation confirmed that MP 11 was not only a reasonable, but also a generally conservative choice.

³² Idaho Power/1106 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 37:

The plain language of the procedures in the Noise Handbook indicate that the Baseline Noise level is to be determined by removing all external noise sources such as traffic, railroads, removing readings when wind speed is above 10 mph and when moisture could impact results. Please predict how many residences would exceed the Ambient Degradation Standard if all external noise sources, readings with wind above 10 mph and when moisture could have impacted results were removed from the Baseline Noise Level. Compare the results with a projected noise level of 2 dBA less than was used in the application (2dBA is the noise reduction you indicated would have been in place had the projected noise been based upon typical operating loads.)

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 37:

Idaho Power objects to Mr. Larkin's Data Request No. 37 as vague and ambiguous, and further objects because Idaho Power is not required to prepare a new analysis for Mr. Larkin. And in any event, Idaho Power cannot perform a new analysis with the data from the noise monitoring. Without waiving these objections, Idaho Power directs Mr. Larkin to Idaho Power's Response to Greg Larkin's Data Request No. 30.

GREG LARKIN'S DATA REQUEST NO. 38:

Who is authorized to grant variances under DEQ statutes and rules? Is any other agency granted this authority in statute, rule, court decisions that you are aware of?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 38:

Idaho Power objects to Mr. Larkin's Data Request No. 38 to the extent the question is calling for a legal conclusion. Without waiving this objection, the Oregon Supreme Court has concluded that Energy Facility Siting Council is authorized to grant variances from and exceptions to Oregon Department of Environmental Quality's Noise Rules.³³

³³ *STOP B2H Coalition v. Or. Dep't of Energy (In re Site Certificate)*, 370 Or 792 at 16-17, 2023 Ore. LEXIS 133 at *21 (Mar. 9, 2023) ("We conclude that EFSC had the authority to grant (1) an exception to the noise standards under OAR 340-035-0035(6)(a), and (2) a variance under OAR 340-035-0100 and ORS 467.060.").

GREG LARKIN'S DATA REQUEST NO. 39:

Could Idaho Power develop alternate facilities or methods of operating such as developing energy projects in Idaho or undergrounding transmission lines to avoid the need for a variance to the noise rules?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 39:

No. Please see generally the Reply Testimonies of Joe Stippel and Mitch Colburn.³⁴

³⁴ See *generally* Idaho Power/600 (Feb. 21, 2023); Idaho Power/1500 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 40:

According to ODEQ rules, what agency or group is allowed to authorize an exception?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 40:

Idaho Power objects to Mr. Larkin's Data Request No. 40 to the extent this question is calling for a legal conclusion. Without waiving that objection, the Oregon Supreme Court has concluded that Energy Facility Siting Council is authorized to grant variances from and exceptions to Oregon Department of Environmental Quality's Noise Rules.³⁵

³⁵ *STOP B2H Coalition v. Or. Dep't of Energy (In re Site Certificate)*, 370 Or 792 at 16-17, 2023 Ore. LEXIS 133 at *21 (Mar. 9, 2023) ("We conclude that EFSC had the authority to grant (1) an exception to the noise standards under OAR 340-035-0035(6)(a), and (2) a variance under OAR 340-035-0100 and ORS 467.060.").

GREG LARKIN'S DATA REQUEST NO. 41:

In your expert's opinion, noise exceedances of the Ambient Degradation Standard occurring during a portion of how many days per year would be considered "infrequent".

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 41:

Please see Mr. Bastasch's Reply Testimony at pages 32 to 33, which explains that counting the number of days where an exceedance may exist does not consider the duration of the exceedance and is therefore an inappropriate measure of frequency.³⁶

³⁶ Idaho Power/1100, Bastasch/32-33 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 42:

On Page 17 Mr. Bastasch gives the percentage of the time when foul weather occurred at the weather monitoring stations during the 4 year period analyzed. Is the Ambient Degradation Standard based upon the percentage of time during a year when exceedances occur, or the number of days during which corona noise would exceed the standard during at least one hr. of the 24 hr. day? Please provide a rule or statute reference to support your answer.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 42:

Neither. An exceedance under the ambient antidegradation standard occurs when the new noise source increases sound levels by more than 10 dBA.³⁷ The ambient antidegradation standard does not require that the exceedance occur for a particular percentage of time or number of days. The issue of frequency arises under the exception rule, which allows for an exception during unusual and infrequent events.³⁸ Please see OAR 340-035-0035.

³⁷ OAR 340-035-0035(1)(b)(B)(i).

³⁸ OAR 340-035-0035(6)(a).

GREG LARKIN'S DATA REQUEST NO. 43:

Is the percentage of foul weather occurring during a 365 day year used to establish whether and how often the Ambient Degradation Standard is exceeded? Please provide a rule or statute reference to support your statement.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 43:

Please see Idaho Power's Response to Greg Larkin's Data Request No. 42.

GREG LARKIN'S DATA REQUEST NO. 44:

Is it true that the figure used for determining the Ambient Degradation Standard Exceedances is the amount stated in the last line of Page 17, "The frequency of days with one hour or more of foul weather was 13 percent for the entire Project area and 22 percent for La Grande."

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 44:

No. Although the percentages of days referred to in Mr. Larkin's Data Request No. 44 are relevant to the frequency of potential exceedances, Mr. Bastasch's conclusion that exceedances will be infrequent is based on the totality of the analysis results, including the percentage of total hours when foul weather is expected.

GREG LARKIN'S DATA REQUEST NO. 45:

Do you consider an average of 47 days per year or in the case of La Grande, 80 days per year noise levels exceeding the standard to be "infrequent"?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 45:

Idaho Power objects to Mr. Larkin's Data Request No. 45 as the question incorrectly implies that Mr. Bastasch has concluded that the frequency of exceedances is best described by the numbers of days with one hour or more of foul weather. Please see Idaho Power's Responses to Greg Larkin's Data Request Nos. 41 and 44, as well as pages 32-33 of Mark Bastasch's Reply Testimony where this topic is addressed in more detail.³⁹

³⁹ Idaho Power/1100, Bastasch/32-33 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 46:

On Page 18 of Mr. Bastasch's testimony, he gives figures for how often weather would indicate there would be noise exceedances between 12:00 a.m. and 5:00 a.m. Does the Ambient Degradation Standard only apply to the hrs. from 12:00 a.m. till 5:00 a.m.? If not, please explain how this figure has any meaning in relation to whether there are exceedances to the Ambient Degradation Standard during at least one hr. of a 24 hr. day.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 46:

Please see Idaho Power's Responses to Greg Larkin's Data Requests Nos. 30(E), 41, and 44.

GREG LARKIN'S DATA REQUEST NO. 47

On Page 19, Mr. Bastasch states that Idaho Power was conservative in the use of late-night period, not using all wind conditions and makes several statements regarding the impact of wind on baseline sound levels. Q.-47: Is it true that for the monitoring positions, the average difference between night time and late-night baseline noise levels is less than 1 dBA, in 7 instances there was no change, and in two instances there was an increase of 1 dBA during late night as opposed to all night measurements? (Table 1.5 pf Exhibit X Application for Site Certificate) How many additional exceedances of the Ambient Degradation Standard occurred during the late-night baseline noise levels and the nighttime noise levels?

IDAHO POWER COMPANY'S REVISED RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 47 (April 14, 2023)

Without waiving its objections, Idaho Power provides the following clarification to its March 14, 2023 Response to Mr. Larkin's Data Request No. 47.

Table 5-1 (Description of Monitoring Positions, Measurement Durations and Results (March 6, 2012 to May 10, 2012)) from Idaho Power's Baseline Sound Survey—Attachment X-2 to Exhibit X to the Application for Site Certificate ("ASC")¹—contained ambient sound level data that had been revised at the request of the Oregon Department of Energy ("ODOE") and its consultants for the purposes of Exhibit X to the ASC. The updated late-night L₅₀ sound levels are included in Table X-4 (Description of Monitoring Positions, Measurement Durations, and Results) in Exhibit X to the ASC.² Similar to Table 5-1, Table X-4 shows that the late-night L₅₀ sound levels (with low wind conditions) are considered the most conservative as they were in most instances lower than the L₅₀ sound levels during low wind conditions for the entire day (i.e., 24 hours).³

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 47 (March 14, 2023)

Idaho Power objects to Mr. Larkin's Data Request No. 47 as the question is vague and ambiguous. To the extent Mr. Larkin is actually referencing Table 5-1 (Description of Monitoring Positions, Measurement Durations and Results (March 6, 2012 to May 10, 2012)) from Idaho Power's January 2013 Baseline Sound Survey, Idaho Power provides the following response:

Mr. Bastasch's statement, that Idaho Power's baseline ambient sound monitoring methodology was conservative, was not based on a comparison between late-night and nighttime measurements but rather between late-night measurements and the measurements of sound levels during all other times. As can be seen in Table 5-1, the late-night L₅₀ sound levels are considered the most conservative as they were in most instances lower than the daytime L₅₀ sound levels.⁴

Finally, with respect to Mr. Larkin's request that Idaho Power perform an additional analysis, the request is unduly burdensome, and Idaho Power is not required to perform a new analysis to respond to data requests.

¹ Idaho Power/1103, Bastasch/191-193 (Feb. 21, 2023) (Table 5-1).

² Idaho Power/1103, Bastasch/21-22 (Feb. 21, 2023) (Table X-4).

³ Idaho Power/1103, Bastasch/21-22 (Feb. 21, 2023) (Table X-4).

⁴ Idaho Power/1103, Bastasch/191-93 (Feb. 21, 2023) (Table 5-1).

GREG LARKIN'S DATA REQUEST NO. 47:

On Page 19, Mr. Bastasch states that Idaho Power was conservative in the use of late-night period, not using all wind conditions and makes several statements regarding the impact of wind on baseline sound levels. Is it true that for the monitoring positions, the average difference between night time and late-night baseline noise levels is less than 1 dBA , in 7 instances there was no change, and in two instances there was an increase of 1 dBA during late night as opposed to all night measurements? (Table 1.5 pf Exhibit X Application for Site Certificate) How many additional exceedances of the Ambient Degradation Standard occurred during the late-night baseline noise levels and the nighttime noise levels?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 47:

Idaho Power objects to Mr. Larkin's Data Request No. 47 as the question is vague and ambiguous. To the extent Mr. Larkin is actually referencing Table 5-1 (Description of Monitoring Positions, Measurement Durations and Results (March 6, 2012 to May 10, 2012)) from Idaho Power's January 2013 Baseline Sound Survey, Idaho Power provides the following response:

Mr. Bastasch's statement, that Idaho Power's baseline ambient sound monitoring methodology was conservative, was not based on a comparison between late-night and nighttime measurements but rather between late-night measurements and the measurements of sound levels during all other times. As can be seen in Table 5-1, the late-night L₅₀ sound levels are considered the most conservative as they were in most instances lower than the daytime L₅₀ sound levels.⁴⁰

Finally, with respect to Mr. Larkin's request that Idaho Power perform an additional analysis, the request is unduly burdensome, and Idaho Power is not required to perform new analysis to respond to data requests.

⁴⁰ Idaho Power/1103, Bastasch/191-93 (Feb. 21, 2023) (Table 5-1).

GREG LARKIN'S DATA REQUEST NO. 48:

How is it considered a "conservative estimate" when you use the period from 12:00 till 5:00 a.m. to establish baseline noise and only consider weather creating corona noise occurring during the period from 12:00 a.m. till 5:00 a.m.? Please provide a reference from the DEQ rules indicating this is the timeframe for establishing baseline noise. Please provide a rule reference allowing consideration of only the exceedances between 12:00 a.m. and 5:00 a.m. to be considered in determining exceedances of the noise Ambient Degradation Standard. Include in your answer the following references upon which you based your conclusions:

- a. Areas in your testimony which used only the exceedances between 12:00 and 5:00 a.m.
- b. Areas in your testimony where you used "average" exceedances to support your testimony rather than addressing noise at specific locations.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 48:

Idaho Power objects to Mr. Larkin's Data Request No. 48 as the request is argumentative and vague and ambiguous, and because it incorporates incorrect assumptions. In addition, the request is overly burdensome, and Mr. Bastasch's Reply Testimony speaks for itself.

Without waiving these objections, Idaho Power notes that Oregon Department of Energy directed Idaho Power to determine ambient sound levels using late-night periods because those time periods represent the quietest time of the day. On the other hand, Idaho Power's projected Project sound levels are applicable to **any** hour of the day. Therefore, it is only the baseline sound levels that were based on data recorded from the period between midnight and 5:00 a.m.

GREG LARKIN'S DATA REQUEST NO. 49:

Please provide documentation regarding the number of NSR's who will exceed the Ambient Degradation Standard when using the procedures required by the DEQ rules. Use the noise levels when the transmission line is functioning at typical voltage levels (2 dBA less than that used). Provide the baseline noise levels using the entire day, but excluding the times when the wind speed exceeds 10 mph, when the precipitation is greater than 5 mm/hr and excluding the items identified in Section 4.6.1(e) of the Sound Measurement Procedures Manual (See Table B-1, Test Engineers Log, Tetra Tech, January 2013, B-1, B-2 & B-3 of Idaho Power's Site Certificate Application)

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 49:

Idaho Power objects to Mr. Larkin's Data Request No. 49 as vague and ambiguous, and unduly burdensome. And in any event, Idaho Power is not required to perform new analysis to respond to data requests.

GREG LARKIN'S DATA REQUEST NO. 50:

Do you agree that the DEQ rules support the use of the number of 24 hr days during a 365 day year when there is at least one hr. during the day when the Ambient Degradation Standard is not being met? If not, please provide the statute or rule reference to support this.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 50:

Idaho Power objects to Mr. Larkin's Data Request No. 50 as the request is vague and ambiguous. Without waiving this objection, please see Idaho Power's Responses to Greg Larkin's Data Request Nos. 8 and 42.

GREG LARKIN'S DATA REQUEST NO. 51:

Is a low ambient noise environment and the transmission line operating at full capacity a necessary prerequisite to exceedances of the Ambient Degradation Standard or is it simply a situation where the existing baseline noise level is exceeded by 10 dBA or more during a portion of a day? Please include in your response whether or not exceedances at my property could occur when the transmission line is running at less than full capacity.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 51:

Idaho Power objects to Mr. Larkin's Data Request No. 51 as the question is vague and ambiguous. Without waiving this objection, Idaho Power provides the following response:

The ambient antidegradation standard is exceeded anytime the Project sound level results in the ambient baseline sound level being exceeded by more than 10 dBA in any hour. The ambient baseline sound levels for each monitoring position was determined by monitoring at representative monitoring locations and calculated for the late-night hours. The Project sound levels were determined by modeling, which assumed the transmission line was operating at 550 kilovolts ("kV").

Whether or not an exceedance could occur when the transmission line is not operating at full capacity will depend upon the specific voltage at which the transmission line is operating, all else being equal. Under typical conditions, the Boardman to Hemingway Transmission Line will be operated at 525 kV, which is 25 kV below the maximum voltage of 550 kV. The corona sound level at 525 kV will be 2 dBA less than under the conservative high voltage conditions (i.e. 550 kV) used for Idaho Power's noise analysis.⁴¹ Because the modeled exceedance at Mr. Larkin's residence is only 2 dBA over the ambient antidegradation standard threshold (NSR 125), an exceedance is not anticipated at Mr. Larkin's residence under typical operating conditions (i.e., 525 kV) for the transmission line.

⁴¹ Idaho Power/1100, Bastasch/15, 15 n. 62 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 52:

On page 22 Mr. Bastasch discusses Noise Rules as they are applied to BPA. Is it true that NEPA reviews based upon Federal statutes and rules do not include a determination regarding the Ambient Degradation Standard requirements? Please provide documentation that these discussions included the Ambient Degradation Standard if you believe they also were intended to apply to the Ambient Degradation Standard.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 52:

Idaho Power objects to Mr. Larkin's Data Request No. 52 to the extent the question requires a legal conclusion as to what the National Environmental Policy Act requires, and further objects to the question as vague and ambiguous. Without waiving these objections, Idaho Power provides the following response:

In the Bonneville Power Administration's ("BPA") 2005 Transmission Line Business Policy, BPA adopted a comprehensive compliance strategy that does not apply an ambient antidegradation standard, but rather BPA has established a transmission line design criterion for corona-generated noise of 50 dBA (L₅₀) at the edge of the right-of-way for new transmission lines.⁴² Please also see the Reply Testimony of Mark Bastasch at page 22.⁴³

⁴² BPA, Audible Noise Policy at 4 of 6 (Oct. 2005) (included as Attachment 1).

⁴³ Idaho Power/1100, Bastasch/22 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 53:

Do the DEQ rules state that noise measurements are to occur outside the home?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 53:

Idaho Power objects to Mr. Larkin's Data Request No. 53 to the extent that the question requires a legal conclusion. Without waiving that objection, OAR 340-035-0035(3)(b) provides that:

Unless otherwise specified, the appropriate measurement point shall be that point on the noise sensitive property, described below, which is further from the noise source:

- (A) 25 feet (7.6 meters) toward the noise source from that point on the noise sensitive building nearest the noise source;
- (B) That point on the noise sensitive property line nearest the noise source.

GREG LARKIN'S DATA REQUEST NO. 54:

Is there any place in DEQ rules or statutes that indicate that noise levels are to be considered at any location other than the location outside the home where the measurements are taken? Page 23, Statement that EFSC considered protection of Health, safety and welfare of Oregon citizens, feasibility and cost of noise abatement, past, present, and future patterns of land use, relative timing of land use changes and other legal constraints and determined these factors all supported the granting of an exception.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 54:

Idaho Power objects to Mr. Larkin's Data Request No. 54 as the question is vague and ambiguous. Without waiving that objection, Idaho Power provides the following response:

Please see Idaho Power's Responses to Greg Larkin's Data Request Nos. 30 and 53.

GREG LARKIN'S DATA REQUEST NO. 55:

Did EFSC require Idaho Power to determine the health and safety conditions of the individuals exposed to noise exceedances prior to determining this issue supported the granting of an exception? If so, how was that accomplished?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 55:

Idaho Power objects to Mr. Larkin's Data Request No. 55 as the question is vague and ambiguous. Without waiving this objection, please see Idaho Power's Response to Greg Larkin's Data Request No. 2.

GREG LARKIN'S DATA REQUEST NO. 56:

Were the actual costs of abatement procedures ever determined? Please indicate the costs of the abatement procedures that are being proposed to address the noise exceedances.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 56:

Idaho Power objects to Mr. Larkin's Data Request No. 56 as the question is vague and ambiguous as to what "abatement" costs refers to. Assuming that Mr. Larkin is asking whether the cost of the noise mitigation required by the Energy Facility Siting Council has been determined by Idaho Power, the answer is no. Idaho Power cannot determine the cost of mitigation measures until such mitigation measures have been individually agreed upon by the owners of noise sensitive receptor properties.

GREG LARKIN'S DATA REQUEST NO. 57:

Did the Energy Facility Siting Council or EFSC evaluate the timing and impact of future land use changes with and without the transmission line prior to authorizing an exception? Where was this done?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 57:

Idaho Power refers Mr. Larkin to the Final Order, which speaks for itself.⁴⁴

⁴⁴ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 688-702 of 10603 (Oct. 7, 2022).

GREG LARKIN'S DATA REQUEST NO. 58:

What noise abatement procedures were considered and what was the cost assigned to those procedures?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 58:

Please see Idaho Power's Response to Greg Larkin's Data Request No. 56.

GREG LARKIN'S DATA REQUEST NO. 59:

Was there a determination regarding whether the transmission line would impact future changes in land use beyond what would be expected without the transmission line? Please include potential for the creation of an "energy corridor" and how that will impact citizens and costs to citizens and the state.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 59:

Idaho Power objects to Mr. Larkin's Data Request No. 59 as the question is vague and ambiguous. To the extent that the question asks what the Energy Facility Citing Council ("EFSC") determined, Idaho Power refers Mr. Larkin to EFSC's Final Order, which speaks for itself.⁴⁵

⁴⁵ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 688-702 of 10603 (Oct. 7, 2022).

GREG LARKIN'S DATA REQUEST NO. 60:

What other legal constraints were considered relevant to a decision to allow a variance?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 60:

Idaho Power objects to Mr. Larkin's Data Request No. 60 as the question is vague and ambiguous. To the extent that the question asks what the Energy Facility Siting Council ("EFSC") determined, Idaho Power refers Mr. Larkin to EFSC's Final Order which speaks for itself.⁴⁶

⁴⁶ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 702-06 of 10603 (Oct. 7, 2022).

GREG LARKIN'S DATA REQUEST NO. 61:

Last paragraph on this page 5: You state that there are no designated quiet areas within the site boundary or within the vicinity of the Project. Does the Management Plan for the Morgan Lake Park specifically state that the park is to provide quiet, peaceful or other terms that would indicate it is by definition in the DEQ rules a "Quiet Area"? Do the Protected Areas that the transmission line is going to cross qualify as "quiet areas" according to the definition in the DEQ noise rules?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 61:

Idaho Power objects to Mr. Larkin's Data Request No. 61 on two bases. With respect to the first part of the question, the Management Plan for the Morgan Lake Park speaks for itself. With respect to whether Morgan Lake Park could be qualified as a "quiet area," that question calls for a legal conclusion and Idaho Power notes that there is no evidence to suggest that Morgan Lake Park is currently designated as a "quiet area".

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket PCN 5

In the Matter of

IDAHO POWER COMPANY'S
PETITION FOR CERTIFICATE OF PUBLIC CONVENIENCE
AND NECESSITY

REDACTED

Idaho Power's Responses to Greg Larkin's Data Requests Nos. 62-84

May 9, 2023

Subject: Route Selection

Question regarding Idaho Power response to Staff Data Request No. 90: In their response, Idaho Power states that "The Union County B2H Advisory Council and the BLM NEPA process both provided opportunities for input into the preferred routing and minimization of impacts" Please reference sworn statement of Irene Gilbert (Exhibit 401) in responding to these questions:

GREG LARKIN'S DATA REQUEST NO. 62:

To your knowledge, was the B2H Citizens Advisory Committee provided opportunity to provide input on any route other than the 230 Route and the Mill Creek Route?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 62:

The B2H Citizens Advisory Committee was formed and administered by Union County. Idaho Power is not aware of which routes citizens were given the opportunity to provide input.

GREG LARKIN'S DATA REQUEST NO. 63:

Please describe the citizens input opportunity which was held at the Union County Armory during 2009. Include in your response the outcome of the public input meeting including the size of the crowd, whether the citizens were supportive of the B2H transmission line and what information from that meeting was incorporated and considered by Idaho Power in their route choices and decision to build the transmission line.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 63:

Idaho Power has not retained documentation specific to the Union County Armory meeting referenced in Data Request No. 63. However, an excerpt of the Supplemental Siting Study included as Attachment 1 to Idaho Power's Response to Data Request No. 90 details the results of the Community Advisory Process, and specifically notes that "[i]n the Glass Hill area, routing has been very difficult due to competing landowner opinions, environmental resource issues, visual impact concerns, and difficult construction conditions." Additionally, the Reply Testimony of Mitch Colburn provides additional detail regarding the considerations informing route selection in Union County.

GREG LARKIN'S DATA REQUEST NO. 64:

Please identify who organized the Glass Hill Coalition and state whether those signing the petition were aware of the existence of and potential for using the "Morgan Lake Route".

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 64:

According to the Draft Environmental Impact Statement comments submitted by the Glass Hill Coalition, included as Attachment 1, the group was represented by Dan Turley. Idaho Power cannot speak to whether or not those signing the petition were or were not aware of the Morgan Lake Route.

GREG LARKIN'S DATA REQUEST NO. 65:

Did Idaho Power originally refer to the "Morgan Lake Route" as the "Brad Allen Route"?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 65:

Idaho Power has previously referred to the Morgan Lake Alternative as the Brad Allen Route. As detailed in the Reply Testimony Mitch Colburn, Idaho Power worked primarily with one landowner of a large parcel to develop the Morgan Lake Alternative⁴⁷ —and the landowner involved was Brad Allen. As further explained in the Reply Testimony:

First, the impacted landowner and others formed the Glass Hill Coalition to oppose the Glass Hill Alternative, and thus it was not a single landowner driving the need to develop an alternative, but rather was a coordinated group of over 100 landowners. Second, the coordination with the impacted landowner concerned the location of the Project on that landowners' property, and did not involve moving the Project entirely off his property and onto his neighbors' property. Idaho Power works with landowners to attempt to minimize impacts where possible, and the coordination with this particular landowner is consistent with Idaho Power's practices.⁴⁸

⁴⁷ Idaho Power/600, Colburn/51-52.

⁴⁸ Idaho Power/600, Colburn/51-52.

GREG LARKIN'S DATA REQUEST NO. 66:

Follow-up regarding Staff Data Request No. 91: Idaho Power was to provide daily data as was provided for April 6, 2022 and January 3, 2023 for the Mid-C and Mona from January 1, 2018 to present. This information would be required for Jared Ellsworth to document comments regarding the transmission value of the B2H Line. The daily information was not provided with the response.

Please provide in table format the daily data for the Mid-C and Mona for the time period from January 1, 2018 to present as previously requested.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 66:

Please see the Company's Response to Staff's Data Request No. 91. Idaho Power has not completed specific analysis, or commissioned specific analysis, related to historical pricing differentials between Mid-C and Mona as detailed in Staff's request and therefore the Company does not have the daily data for Mid-C and Mona available.

Subject: Weed Impacts and Environmental Impacts

GREG LARKIN'S DATA REQUEST NO. 67:

Does EFSC allowing the transmission line to follow a given route preclude the requirements to provide mitigation for impacts due to noxious weeds on the site spreading to surrounding forest areas including the State Natural Area referenced in [Idaho Power's Response to Staff's Request] 110?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 67:

Idaho Power objects to Mr. Larkin's Data Request No. 67 to the extent that Mr. Larkin seeks a legal conclusion. Idaho Power also objects to the question as vague and ambiguous. To the extent that the question asks what the Energy Facility Siting Council ("EFSC") determined, Idaho Power refers Mr. Larkin to EFSC's Final Order which speaks for itself. Specifically, the Final Order includes the Company's Noxious Weed Plan, which the Site Certificate requires the Company to finalize and comply with throughout the construction and operation of the Project.⁴⁹

⁴⁹ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment 1) at 777 of 10603.

GREG LARKIN'S DATA REQUEST NO. 68:

Did EFSC include in their evaluation or conditions requirements to comply with ORS 569 and any other state laws regarding the monitoring and control of noxious weeds?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 68:

To the extent that the question asks what the Energy Facility Siting Council ("EFSC") determined, Idaho Power refers Mr. Larkin to EFSC's Final Order which speaks for itself. As detailed in the Final Order, EFSC considers impacts resulting from Project-related noxious weeds under its siting standards, including EFSC's Fish and Wildlife Habitat Standard.⁵⁰ EFSC concluded that Idaho Power's Noxious Weed Plan is sufficient to address all Project-related noxious weeds and thereby comply with the applicable EFSC siting standards.⁵¹ The Site Certificate includes a condition that will require Idaho Power to comply with the Noxious Weed Plan, thereby ensuring that the Company will address all Project-related noxious weeds.⁵²

EFSC did not include in the Site Certificate conditions requiring compliance with ORS Chapter 569 because EFSC is not the body that enforces those statutes. Rather, as the Hearing Officer determined in her Contested Case Order, which EFSC adopted:

Idaho Power is not required to demonstrate compliance with ORS Chapter 569 to satisfy the Council's siting standards generally or the Fish and Wildlife Habitat standard in particular. This is because there is no specific requirement under ORS 469.510 or under OAR 346-021-0010 to address weed control in the ASC and the Department did not identify ORS Chapter 569 as applicable to the proposed facility in the Project Order. Furthermore, the Council is not responsible for enforcing Oregon's Weed Control laws, as per ORS 569.400 that enforcement responsibility lies with the county courts.⁵³

The Council further affirmed the Hearing Officer's legal conclusions in the Final Order.⁵⁴

⁵⁰ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment 6) at 8797 of 10603 [hereinafter, "Final Order"].

⁵¹ Final Order, Attachment 6 at 8797 of 10603.

⁵² Final Order, Attachment 1 at 777 of 10603.

⁵³ Final Order at 8797 of 10603.

⁵⁴ Final Order at 27 of 10603.

GREG LARKIN'S DATA REQUEST NO. 69:

Are there any situations or areas where EFSC does not require noxious weeds located within the boundary of the transmission line, roads and other areas within the site boundary to be monitored, and all noxious weeds to be destroyed or not allowed to go to seed? Include in your answer:

- A. Any areas where ORS 569 requires stricter management than EFSC.
- B. Any situations where Idaho Power can be exempted from annual monitoring and control of noxious weeds for the life of the project.
- C. A response to comments of Mark Darrach (Exhibit 402).
- D. Whether testimony in the EFSC files from Mr. Butler, manager of Noxious Weed Program for Oregon Department of Agriculture, his employee or Mr. Mosiman state in the EFSC files that the Draft Noxious Weed Plan would comply with state law or that it was adequate to control noxious weeds or keep them from dispersing from the site to areas surrounding the transmission line?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 69:

Idaho Power objects to Mr. Larkin's Data Request No. 69 to the extent that Mr. Larkin seeks a legal conclusion. Without waiving this objection, Idaho Power provides the following response:

The Energy Facility Siting Council's ("EFSC") Final Order and Site Certificate requires Idaho Power to control all noxious weeds within Project rights-of-way that result from the Company's surface-disturbing activities during construction and operation of the Project.⁵⁵ EFSC did not require Idaho Power to ensure that no noxious weeds are allowed to go to seed because no EFSC standard requires an applicant to do so.⁵⁶

- A. Idaho Power objects to the extent this question calls for a legal conclusion or interpretation as to whether ORS Chapter 569 is "stricter" than the requirements of EFSC. Without waiving this objection, Idaho Power refers Mr. Larkin to the Final Order, in which EFSC explained: "ORS Chapter 569 may impose additional obligations on Idaho Power as a landowner or occupant to control non-project-related noxious weed infestations, but . . . those obligations are independent from and not a requirement of demonstrating compliance with the Council's siting standards."⁵⁷ To the extent that ORS Chapter 569 may impose additional obligations on Idaho Power, the counties will enforce these obligations.⁵⁸
- B. Idaho Power objects to the question as vague and ambiguous, as it asks about an "exemption" without referencing any specific regulatory requirements. Without waiving this objection, Idaho Power responds that it is not aware of any statutory or regulatory requirement to annually monitor and control noxious weeds for the life of the Project, and thus Idaho Power has not been exempted from any such requirement.

Moreover, EFSC's Final Order requires extensive monitoring of noxious weeds. As discussed above, EFSC requires Idaho Power to address all Project-related noxious weed

⁵⁵ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 8801 of 10603 [hereinafter, "Final Order"].

⁵⁶ *Id.* at 8798 of 10603.

⁵⁷ *Id.* at 8797 of 10603.

⁵⁸ *Id.* at 8801 of 10603 ("Enforcement of the weed eradication laws lies with the county court."); *see also* ORS 569.400(1) ("The county court shall at once take necessary steps for enforcement of ORS 569.360 to 569.495.").

infestations.⁵⁹ To accomplish that, Idaho Power's Noxious Weed Plan includes the following monitoring requirements:

Noxious weed control efforts will occur at least once annually for the first 5 years postconstruction. When it is determined that an area of the Project has successfully controlled noxious weeds at any point during the first 5 years of control and monitoring, IPC will request concurrence from ODOE. If ODOE concurs, IPC will continue to monitor the sites as described below in Section 6.1, but will cease treatment unless determined to be necessary through subsequent monitoring. If control of noxious weeds is deemed unsuccessful after 5 years of monitoring and noxious weed control actions, IPC will coordinate with ODOE regarding appropriate steps forward. At this point, IPC may suggest additional noxious weed control techniques or strategies, or monitoring, or IPC may propose mitigation to compensate for any permanent habitat loss.⁶⁰

As EFSC further explained in its Final Order, after the first five years:

The plan requires agency consultation to establish frequency for long-term monitoring, which would be site-specific. In other words – there may be increased long-term monitoring frequency in disturbance areas with identified noxious weed infestations, and decreased monitoring frequency in disturbance areas without infestations.⁶¹

- C. The question asks for a response to comments by Mark Darrach, which are referenced as Exhibit 402. To Idaho Power's knowledge, comments by Mark Darrach have not been filed in the record in this proceeding. However, Mr. Larkin included attachments with his discovery requests, including one which he labeled Exhibit 402. A limited party in the EFSC proceeding, Ms. Susan Geer, filed Mr. Darrach's declaration in the EFSC contested case proceeding, which appears to be the same substantively as the Exhibit 402 referenced in this request.⁶² Idaho Power's witness, Ms. Jessica Taylor, responded to Mr. Darrach's declaration in her Rebuttal Testimony. Ms. Taylor's testimony responding to Mr. Darrach's declaration is included as Attachment 1 to this response.⁶³
- D. Idaho Power objects to the question as vague and ambiguous and further objects to the extent the question asks for a legal conclusion based on testimony filed in the EFSC proceeding. Without waiving these objections, Idaho Power refers Mr. Larkin to the Final Order, which speaks for itself. Based on the record of the contested case proceeding, EFSC determined that the Noxious Weed Plan complies with EFSC's Fish and Wildlife Habitat Standard and is sufficient to address all Project-related noxious weed infestations.⁶⁴ To the extent Mr. Larkin's Data Request No. 69(D) relates to compliance with ORS Chapter 569, as discussed above EFSC does not enforce compliance with

⁵⁹ Final Order, Attachment 6 at 8797 of 10603.

⁶⁰ Final Order, Attachment P1-5 at 10057 of 10603.

⁶¹ Final Order at 360 of 10603.

⁶² Final Order, Attachment 6 at 8972 of 10603.

⁶³ EFSC Rebuttal Testimony of Jessica Taylor (attached hereto as Attachment 1).

⁶⁴ *Id.* at 8799 of 10603.

ORS Chapter 569 as part of the site certificate. Instead, the counties will enforce any additional obligations under ORS Chapter 569 outside the EFSC site certificate.

GREG LARKIN'S DATA REQUEST NO. 70:

The Weed Supervisors in several counties developed a list of requirements for controlling noxious weeds in their counties. (Exhibit 403) Please state which of their requirements are included in the Draft Noxious Weed Plan.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 70:

The question refers to a list of requirements for controlling noxious weeds from county weed supervisors, which are referenced as Exhibit 403. To Idaho Power's knowledge, the referenced Exhibit 403 has not been provided in the record in this proceeding. However, Mr. Larkin included attachments with his discovery requests, including one which he labeled Exhibit 403, which is a document on Union County letterhead titled "B2H Noxious Weed Plan Comments."

As an initial matter, the referenced comments were provided in 2017 and were directed to a prior iteration of Idaho Power's Noxious Weed Plan. Since the time those comments were provided, the Noxious Weed Plan has been revised three times—(1) as revised by Idaho Power as part of Idaho Power's Complete Application for Site Certificate in September 2018; (2) as revised by the Oregon Department of Energy ("ODOE") in June 2020 as part of issuance of the Proposed Order; and (3) as revised by Idaho Power in November 2021 during the Energy Facility Siting Council ("EFSC") contested case proceeding to respond to concerns raised by limited parties. Additionally, at the EFSC cross-examination hearing, an Oregon Department of Agriculture witness, Mr. Mark Porter, provided important context regarding the weed supervisors' list. As Mr. Porter testified, he was involved in the supervisors' conversations preparing that list of recommendations.⁶⁵ Mr. Porter explained that the supervisors at the time lacked an "understanding of the difference between" noxious weed control for purposes of the EFSC process and the general processes under ORS Chapter 569.⁶⁶ Mr. Porter specifically testified that he did not believe "anyone in the room understood in the same way that we do now . . . the parallel process of EFSC and ODOE's jurisdiction in that process."⁶⁷ For that reason, to the extent the proposals were not specific to compliance with the EFSC standards, there was no requirement to include those proposals in the EFSC-specific Noxious Weed Plan.

Additionally, Mr. Larkin's question suggests that the supervisors identified additional requirements that must be incorporated into the Noxious Weed Plan. This is not correct; instead, the supervisors' comments included 31 numbered statements, and several of those statements expressed support for what was already in Idaho Power's plan.⁶⁸

One of the limited parties in the EFSC contested case, Ms. Irene Gilbert, referenced this list of proposals, and Idaho Power's witness, Ms. Jessica Taylor, explained that "the Company has addressed several of the weed supervisors' concerns in the draft Noxious Weed Plan[.]"⁶⁹ As an example, Ms. Taylor testified that "the county weed supervisors included in their comments a suggestion that Idaho Power should coordinate with county weed supervisors to ensure the Company's noxious weed lists are consistent with the up-to-date county lists; Idaho Power's draft

⁶⁵ See EFSC Cross Examination Hearing, Day 7 Transcript at 35 of 109 (attached hereto as Attachment 1).

⁶⁶ *Id.*

⁶⁷ *Id.* at 83.

⁶⁸ See, e.g., Greg Larkin/403, Larkin/2 (Item 11 "Pg. 18 In 3-7: excellent idea.").

⁶⁹ EFSC Rebuttal Testimony of Jessica Taylor at 108 of 114 (attached to Idaho Power's Response to Greg Larkin's Data Request No. 69 as Attachment 1).

Noxious Weed Plan addresses this concern by requiring that the Company review those lists annually 'to ensure that monitoring and control actions are targeting the appropriate species.'⁷⁰ Additionally, if the weed supervisors still have concerns regarding Idaho Power's Noxious Weed Plan, they will have an additional opportunity to provide feedback on Idaho Power's plan when the Company finalizes its Noxious Weed Plan pursuant to the Agency Review Process for that plan.⁷¹

Finally, although the supervisors' recommendations were not specific to compliance with EFSC standards, several of their concerns will be addressed in Idaho Power's Noxious Weed Plan. Included below is a table with each of the supervisors' comments and Idaho Power's response explaining whether the Company addressed each comment in its revised Noxious Weed Plan. Finally, as explained above, the County Weed Supervisor comments were provided in 2017, and should not be construed as providing input on the current iteration of the Noxious Weed Plan.

Supervisors' Comment	Idaho Power's Response
1. Pg. 2 In 15-19: This is the #- priority of the Noxious Weed Plan and needs to supersede all other sections of this document in the case of contradiction. Many sections of this document do not adhere to state and county weed laws. I have listed the areas of concern for the county weed supervisors below. In the end, every landowner and land manager is responsible for the control of ALL state and county listed noxious weeds on their property/ ROW. Whether the weeds have been here for 50 years or don't show up till the 20 th year of Operation, IPC will be held responsible for the control of noxious weeds in the areas they manage-the same as everyone else.	Comment relates to compliance with ORS Chapter 569, and is outside the scope of EFSC's siting standards, which require only that the Company address all Project-related noxious weeds. To the extent that ORS Chapter 569 may impose additional obligations outside the EFSC process, such obligations will be enforced by the counties and not by EFSC, and for that reason this recommendation was not incorporated into the EFSC-specific Noxious Weed Plan.
2. Pg. 2 In 44-45: Change to "...IPC will be responsible for control of noxious weeds that are within the entire final Project Site Boundary as well as all disturbed roads and any other disturbed areas including (but not limited to) communication station sites, multi-use areas and fly yards."	Comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.
3. Pg. 2 In 46 to Pg3 In 3: Remove "...and are a result of their construction- or operation-related, surface-disturbing activities- IPC is not responsible for controlling noxious weeds...that were present prior to the Project " This is incorrect IPC will be held responsible for controlling all state and county listed	Comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.

⁷⁰ *Id.*

⁷¹ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment P1-5) at 10028-10029 of 10603 [hereinafter, "Final Order"].

<p>noxious weeds on lands they manage or hold right of way on regardless of cause or preexistence, the same as any other landowner or manager.</p>	
<p>4. Pg. 3 In 19-20: "Coordinate and consult with land management personnel..." This is excellent. IPC needs to work in conjunction with each counties weed department to ensure seamless control and alert counties of any potential problem areas or issues.</p>	<p>Statement of support; no recommendation to incorporate into the Noxious Weed Plan.</p>
<p>5. Pg. 3 In 16-18: [Threatened and Endangered, or] T& E species- it is important to preserve T& E species, and the best way to do that is to control the noxious weeds encroaching into their habitat. It's also important to note that the presence of T& E species does not absolve the land manager of noxious weed control responsibilities. If IPC determines that herbicide treatments are likely to cause an unacceptable take of a T& E species population, then a site-specific manual or biological control plan needs to be developed through consultation with the local county weed supervisor with IPC still being the responsible party.</p>	<p>The Noxious Weed Plan includes a goal of "Ensuring any occurrences of threatened and endangered plants along the transmission line are not negatively impacted by noxious weed-control activities by including site-specific planning where needed[.]"⁷²</p> <p>The Noxious Weed Plan further requires that: "Herbicide applications will follow all label and land manager guidelines, especially for treatments near threatened and endangered species and waterbodies."⁷³</p>
<p>6. Pg. 4: IPC needs to coordinate with each county weed supervisor annually to ensure they are operating off of the most recent county Weed List, as these often change slightly each year.</p>	<p>Addressed in Updated Draft Noxious Weed Plan:</p> <p>"IPC will review the state and county lists annually to ensure that monitoring and control actions are targeting the appropriate species."⁷⁴</p>
<p>7. Pg. 5: IPC needs to ensure they are working off of the most recent USFS and BLM EIS, as the list of approved herbicides has changed since the writing of this document.</p>	<p>Addressed in Updated Draft Noxious Weed Plan:</p> <p>"Revisions to the approved pesticide list will occur in conjunction with agency-approved pesticide list updates."⁷⁵ Additionally, "IPC will coordinate with federal land-managing agencies annually to review any potential revisions to the agencies' lists of approved herbicides."⁷⁶</p>
<p>8. Pg. 13: The inventory contractor needs to coordinate with each county weed supervisor</p>	<p>The Updated Draft Noxious Weed Plan requires coordinating with county weed</p>

⁷² *Id.* at 10035 of 10603.

⁷³ *Id.* at 10056 of 10603.

⁷⁴ *Id.* at 10036 of 10603.

⁷⁵ *Id.* at 10055 of 10603.

⁷⁶ *Id.* at 10056 of 10603.

<p>prior to and after the preconstruction noxious weed inventory. We will provide them with weed location data and ensure they know what to look for.</p>	<p>supervisors before conducting noxious weed inventories:</p> <p>“Prior to commencing preconstruction noxious weed surveys, IPC will contact all appropriate land management agencies to review noxious weed lists, discuss noxious weed identification, and exchange existing data on known noxious weed locations. . . . Surveyors will be trained to identify Oregon flora, specifically native plants, noxious weeds and T&E plant species.”⁷⁷</p>
<p>9. Pg. 15-17: The acres and list of weeds present in the survey data for each county suggests meeting with the inventory contractor and verifying that they know what to look for is vital. These numbers are not in keeping with what we know to exist in our counties, and several species known to exist in the project Site Boundary are not on this list.</p>	<p>Idaho Power updated these lists in the Updated Draft Noxious Weed Plan.⁷⁸</p>
<p>10. Pg. 17 In 16 to Pg. 18 In 1: While inventory maps are very useful for developing a treatment plan, delineating which weeds IPC is responsible for is simple- IPC will be held responsible for ALL state and county listed noxious weeds on areas they disturb hold right of way on, or manage.</p>	<p>Comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.</p>
<p>11. Pg. 18 In 3-7: excellent idea.</p>	<p>Statement of support; no recommendation to incorporate into the Noxious Weed Plan.</p>
<p>12. Pg.18 In 8-11: GIS data for weed surveys needs to be provided to each county weed supervisor or federal agency with a minimum of the following data: location, weed species present, size of infestation, and density of infestation.</p>	<p>Idaho Power will provide in the Final Noxious Weed Plan maps identifying the results of the preconstruction surveys.⁷⁹ Additionally, the annual reports made available to county weed supervisors will include GIS data.⁸⁰</p>
<p>13. Pg. 18 In 66-27: Remove this section. As stated above, IPC is responsible for ALL state and county listed noxious weeds on areas they disturb hold right of way on, or manage for the entire life of the Construction and O & M timeframe. This includes both new and pre-existing roads where disturbance has occurred as well as the entire final project site</p>	<p>Comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.</p>

⁷⁷ *Id.* at 10050 of 10603.

⁷⁸ *Id.* at 10039-10044 of 10603.

⁷⁹ *Id.* at 10051 of 10603.

⁸⁰ *Id.* at 10059 of 10603.

<p>boundary. Roadside control will be required until the county weed managers deem that revegetation efforts have succeeded and noxious weeds are no longer likely to invade the disturbed soil. Land managers are responsible for their noxious weeds, even if inherited from a previous owner/manager.</p>	
<p>14. Pg. 19 In 5-8: Specialists need to be familiar with any and all weed species they may encounter in the project. They must be familiar with the weed species in this area, not just noxious weeds in general. Possession of a Commercial Applicator License or Trainee licensee if supervised will be sufficient for this work as well.</p>	<p>Addressed in Updated Draft Noxious Weed Plan:</p> <p>"IPC will ensure that noxious weed management actions will be carried out by specialists with the following qualifications: . . . Experience in native plant, non-native and invasive plants, and noxious weed identification specific to listed noxious weeds per affected county; . . . If chemical control is used, specialists must possess a Commercial or Public Pesticide Applicator License from the ODA or possess an Immediately Supervised Pesticide Trainee License and be supervised by a licensed applicator[.]"⁸¹</p>
<p>15. Pg. 19 In 16-25: All vehicles need to be cleaned prior to and following construction activities as well as EVERY time the vehicles move from site to site. Vehicle cleaning needs to be conducted on-site, not at multi-use areas to best stop the spread of noxious weeds. Vehicles used after Construction during the Operation and Maintenance timeframe need to be cleaned prior to entering sites as well.</p>	<p>Idaho Power will ensure vehicles and equipment are washed prior to arriving at work sites each day.⁸² Vehicles and equipment will be washed at on-site multi-use areas.⁸³ Idaho Power also intends to add "additional protocols for frequency of cleaning vehicles as construction progresses along the ROW."⁸⁴ Finally, Idaho Power will wash vehicles and equipment "when moving from noxious weed-contaminated areas to other areas along the transmission line ROW[.]"⁸⁵</p>
<p>16. Pg. 20 In 25: Seed mixes used for this project need to "Oregon Certified Seed" or all states weed free seed- meaning the mix cannot contain seeds from any plant on Any of the 50 U.S. state weed lists. This helps protect us from invasion of new weeds that may not be currently present within the project area.</p>	<p>Addressed in Updated Draft Noxious Weed Plan:</p> <p>"[Reclamation] includes reseeding significantly disturbed areas with a non-invasive seed mix approved by the applicable land management agency, ODOE, or landowner and the Oregon Seed Certification Service."⁸⁶</p>

⁸¹ *Id.* at 10052 of 10603.

⁸² *Id.*

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.* at 10054 of 10603.

<p>17. Pg.20 In 27-29: As certified weed free gravel and mulch are not available in Oregon, IPC will coordinate with County Weed Supervisors to conduct pre-construction inventory and treatments of gravel pits where material will be drawn from.</p>	<p>The Updated Draft Noxious Weed Plan requires agency approval of alternative materials whenever certified weed-free materials are not available.⁸⁷</p>
<p>18. Pg. 21 In 39-46: Add "IPC will coordinate with each County weed supervisor to determine where biological control methods should be utilized to provide the most appropriate/ effective control of noxious weeds."</p>	<p>The Updated Draft Noxious Weed Plan requires: "Biological controls will be utilized where appropriate along the Project ROW in coordination with county weed supervisors or appropriate land management agency."⁸⁸</p>
<p>19. Pg. 22 In 26-27: Written approval for herbicide use should be for entire life of project unless the land is sold to decrease the chance of approval letters getting lost or forgotten and/or approval not happening in time for proper timing of herbicide application. IPC will be held responsible for weed control even if herbicide use is not approved, so getting long term agreements will decrease costs to IPC. IPC needs to notify each county weed supervisor annually of any landowners not allowing herbicide treatments.</p>	<p>Updated Draft Noxious Weed Plan requires Idaho Power to always obtain written approval before using herbicides:</p> <p>"Herbicide will not be applied prior to notification and receipt of written approval from the applicable land management agency, ODOE, or private landowner."⁸⁹</p> <p>However, the Company did not incorporate a requirement to inform county supervisors when landowners refused approval.</p>
<p>20. pg. 22 In 29: Change "applicator" to "operator" Or if work is done by IPC staff, add "...applicator or supervised trainee..."</p>	<p>Addressed in Updated Draft Noxious Weed Plan:</p> <p>"A licensed commercial pesticide (herbicide) operator (or IPC staff licensed applicator or supervised trainee), certified by the ODA, will perform the application using herbicides selected and approved by the appropriate land management agency and ODOE in accordance with applicable laws, regulations, and permit stipulations."⁹⁰</p>
<p>21. Pg. 23 In 4: Add "...or any other state/ land manager approved method." This will allow the use of equipment like mule sprayers or aircraft in areas where they could increase effectiveness and decrease costs.</p>	<p>Addressed in Updated Draft Noxious Weed Plan:</p> <p>"Herbicides may be applied using a broadcast applicator mounted on a truck or all-terrain vehicle, backpack sprayers, hand</p>

⁸⁷ *Id.* ("If certified weed-free materials are not available, then alternative materials will be used with agency approval. For example, certified weed-free gravel is not available in Oregon.")

⁸⁸ *Id.* at 10055 of 10603.

⁸⁹ *Id.* at 10056 of 10603.

⁹⁰ *Id.*

	sprayers, or any other agency-approved method as conditions dictate.” ⁹¹
22. Pg. 23 In 10-12: Change to "Herbicide applications will follow all label and land manager guidelines especially in regards to treatments near Threatened and Endangered species and waterbodies." The 100 ft. buffer is excessive and completely unnecessary nor is it in keeping with any federal or state guidelines. As IPC will be held responsible for all noxious weed control in the project site boundary regardless of proximity to special status plants or water bodies, it is in IPCs best interest to follow labels- and not impose arbitrary buffers. If IPC deems herbicide too dangerous in an area, then they will be required to control weeds through manual or biological control methods-as per consultation with the county weed supervisor.	The buffer identified in this recommendation was removed in the Updated Draft Noxious Weed Plan: “All pesticide applications must follow Environmental Protection Agency label instructions, as well as federal, state, and/or county regulation, BLM and USFS recommendations, and landowner agreements.” ⁹²
23. Pg.23 In28-30: Remove this sentence. There will be no limiting of weeds to be controlled. – IPC will be held responsible for controlling all state and county listed noxious weeds on lands they disturb, manage, or hold right of way on regardless of cause or pre-existence.	Comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.
24. Pg 23 In 35-42: While IPC is responsible for control of ALL noxious weeds on lands they disturb, manage, or hold right of way on; IPC may consult with County weed supervisors to determine the extent and type of treatments needed, especially in regards to widespread B list weeds. IPC is also encouraged to attend county weed board meetings to voice any noxious weed concerns to best facilitate working together.	The Updated Draft Noxious Weed Plan requires Idaho Power to comply with all treatment obligations for Oregon’s Class A, B, and T lists; Baker, Malheur, Morrow, Umatilla, and Union county Class A and B lists; and priority invasive plant species on the Wallowa- Whitman National Forest. For other noxious weed species Idaho Power will decide on treatments “based on the nature and extent of the infestation, surrounding conditions (e.g., the predominance and density of infestations noxious weeds adjacent to the ROW), landowner permission, land-managing agency requests, timeliness of land-managing agency approval, and the construction schedule.”
25. Pg.23 Ln 45: Excellent! GIS data also needs to be shared annually with the county weed supervisors. Data sent should include:	Statement of support; no recommendation to incorporate into the Noxious Weed Plan.

⁹¹ *Id.*

⁹² *Id.*

<p>weed locations, species present, size of infestation, and density of weeds.</p>	<p>Idaho Power's annual reports provided to ODOE and made available to county weed supervisors "will include geographic information systems data."⁹³</p>
<p>26. Pg.24 Ln 23: While ODOE concurrence is important, it in no way absolves IPC of responsibility for noxious weed control. Also, control "at any point during first 5 years" is not control- it simply shows a temporary absence of weed species. IPC is responsible for noxious weed control throughout the entire Operation and Maintenance timeframe, in addition to the Construction period. See Pg. 26 Ln 6-8.</p>	<p>For context, the Updated Draft Noxious Weed Plan states: "When it is determined that an area of the Project has successfully controlled noxious weeds at any point during the first 5 years of control and monitoring, IPC will request concurrence from ODOE. If ODOE concurs, IPC will continue to monitor the sites as described below in Section 6.1, but will cease treatment unless determined to be necessary through subsequent monitoring."⁹⁴</p> <p>ODOE concurrence is specific to continued treatment necessary for compliance with EFSC standards. Consistent with EFSC's Final Order,⁹⁵ Idaho Power will continue monitoring noxious weeds within a location even if the Company suspends treatments pursuant to ODOE's concurrence that a specific noxious weed population has been controlled.</p> <p>The remainder of the supervisors' comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.</p>
<p>27. Pg.24 Ln 28: There will be NO waiver option. Even if ODOE no longer requires IPC to control their weeds, both Oregon state and county weed laws require it.</p>	<p>Idaho Power removed any discussion of waiver from the Updated Draft Noxious Weed Plan.</p>
<p>28. Pg. 25 Ln 31: As stated above IPC is responsible for controlling all state and county listed noxious weeds on lands they manage or hold right of way on throughout the entire Construction, Operation, and Maintenance timeframes. See Pg. 26 Ln 6-8.</p>	<p>Comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.</p>
<p>29. Pg.26 Ln 6-8: Excellent! This paragraph correctly defines IPCs responsibility with the sole change needed of "ROW" to 'Site boundary disturbed areas, etc.' IPC IS</p>	<p>Comment relates to compliance with ORS Chapter 569, and as discussed above is outside the scope of the EFSC-specific Noxious Weed Plan.</p>

⁹³ *Id.* at 10059 of 10603.

⁹⁴ *Id.* at 10057 of 10603.

⁹⁵ Final Order at 360 of 10603 ("The [Noxious Weed P]lan requires agency consultation to establish frequency for long-term monitoring, which would be site-specific.")

<p>responsible for "...monitoring and focused control of noxious weed infestations, as needed, for the life of the ODOE Site Certificate, etc...."</p>	
<p>30. Pg. 27 In 8: Remove "less than 20 gallons per year" This is an arbitrary number and may not reflect actual work done on the ground.</p>	<p>Idaho Power did not incorporate this recommendation into the Updated Draft Noxious Weed Plan. For context, this section of the Noxious Weed Plan reads:</p> <p>"During operations, small amounts [of herbicides] (less than 20 gallons per year) will be used to control vegetation."⁹⁶</p>
<p>31. Pg. A-1: Update to current federal lists. Milestone needs to be added to both lists.</p>	<p>In the Updated Draft Noxious Weed Plans, Idaho Power commits to "coordinate with federal land-managing agencies annually to review any potential revisions to the agencies' lists of approved herbicides."⁹⁷</p>

⁹⁶ Final Order, Attachment P1-5 at 10060 of 10603.

⁹⁷ *Id.* at 10056 of 10603.

Subject: Fire and Risk Response

GREG LARKIN'S DATA REQUEST NO. 71:

Please provide an estimate of the lost value of Oregon habitat, farm and forest lands due to the spread of noxious weeds that EFSC is not requiring Idaho Power to monitor, manage and control. Include in your response references to the following:

--(Exhibit 404 "Economic Impact From Selected Noxious Weeds in Oregon, Version 2.2, The Research Group, LLC, prepared for the Oregon Department of Agriculture Noxious Weed Control Program, December, 2014) Section II-9, II-10, II-11, II-12 data supporting the study results and Section III-6 Estimated Oregon Noxious Weed Control costs per acre for the number of acres that will be impacted by the transmission line noxious weed distribution.

-An estimate of the increased costs to landowners and the state of Oregon due to increased noxious weeds resulting from the development of transmission line over the life of the development and the methods of compensation for the losses to Oregon landowners and the state.

--The costs of Noxious Weed management and mitigation which was included in the B2H budget.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 71:

Idaho Power objects to the premise of the question, as it assumes facts not evidence. Without waiving this objection, Idaho Power responds that consistent with the Energy Facility Siting Council ("EFSC") siting standards, the Final Order and Site Certificate require Idaho Power to address all Project-related noxious weeds. EFSC adopted the Hearing Officer's finding that the Company's Noxious Weed Plan adequately addresses those noxious weeds.⁹⁸ EFSC's Final Order requires Idaho Power to control noxious weeds to the fullest extent of EFSC's jurisdiction. Moreover, Idaho Power will still be subject to the additional obligations of ORS Chapter 569. Because the Noxious Weed Plan will adequately address all noxious weeds resulting from the Project and the counties will enforce any additional weed-control obligations, the Company will provide noxious weed control as required by law, and accordingly, the Project is not expected to result in any lost value of Oregon habitat, farm and forest lands resulting from noxious weeds.

Additionally, in the EFSC contested case limited party Ms. Irene Gilbert filed the report titled Economic Impact From Selected Noxious Weeds in Oregon as an exhibit to her testimony. Idaho Power's witness, Ms. Jess Taylor, addressed the report in her Rebuttal Testimony, a copy of which is included as Attachment 1 to Idaho Power's Response to Greg Larkin's Data Request No. 69. As Ms. Taylor explained, that report does not include any analysis specific to the Project and Ms. Gilbert's analysis of the report was based on an inaccurate assumption that Idaho Power would fail to control Project-related noxious weeds.⁹⁹ Similarly, as discussed above, Mr. Larkin's Data Request No. 71 incorrectly assumes that Idaho Power will fail to control noxious weeds.

Because Idaho Power has not yet finalized its budget for noxious weed control and mitigation, it is currently included as a component of the total construction budget and cannot be identified

⁹⁸ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment 6) at 8799 of 10603.

⁹⁹ EFSC Rebuttal Testimony of Jessica Taylor at 75-76 of 114 (attached to Idaho Power's Response to Greg Larkin's Data Request No. 69 as Attachment 1).

separately. However, if this budget is finalized before the close of the evidentiary record in this proceeding, Idaho Power will supplement this response.

GREG LARKIN'S DATA REQUEST NO. 72:

Please provide a list of the negotiated settlements and court ordered restitution regarding fires attributed to transmission lines owned or operated by Idaho Power. Is it your claim that the Draft Fire Mitigation Plan being proposed by Idaho Power will assure that there will be ongoing monitoring and mitigation to avoid the increased risk of wildfires either caused by the transmission line or human access opportunities which the transmission line will provide.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 72:

The following is a list of negotiated settlements and court ordered restitution regarding fires attributed to transmission lines owned or operated by Idaho Power for which the Company has retained documentation over approximately the last 20 years:

- Lime Hill Fire/Powerline Fire – 2022 (Lime Hill Fire occurred on August 5, 2015, and the Powerline Fire occurred on July 31, 2014). *United States of America v. Idaho Power Company*, Oregon federal case number 2:20-cv-02282. Idaho Power was sued by the United States in Oregon federal court for fire trespass seeking damages for fire suppression costs and environmental rehabilitation costs. In addition, Idaho Power received a claim by private property owner Gary Davis for property damage related to these fires. The Company denied contentions but agreed to settlements of \$1.5 million and \$ [REDACTED], respectively.
- Micron Fire/Ten Mile Fire – 2015 (Micron Fire occurred on July 24, 2012, and the Ten Mile Fire occurred on September 20, 2009). The Company received claims from the United States for fire suppression costs for these two fires. Idaho Power denied contentions but agreed to settlements with the United States of [REDACTED] to resolve the fire claim and also committed to spending an additional [REDACTED].

In addition, although the documentation does not indicate if the fires were specific to distribution or transmission lines, in 2009, Idaho Power reached a Compromise Agreement with the Bureau of Land Management with respect to potential fire trespass claims from a number of fires in which, although the Company denied contentions, a settlement of [REDACTED] was paid.

To clarify, Idaho Power has submitted a Draft Fire Prevention and Suppression Plan and a Wildfire Mitigation Plan, not a "Fire Mitigation Plan." In response to the question about whether the Wildfire Mitigation Plan being proposed by Idaho Power will assure that there will be ongoing monitoring and mitigation to avoid the increased risk of wildfires, Idaho Power responds that both the Draft Fire Prevention and Suppression Plan, submitted to the Oregon Department of Energy on March 7, 2023, and the Wildfire Mitigation Plan will ensure that ongoing monitoring and mitigation will be performed to reduce the likelihood of fire ignition and reduce risk of wildfires. Specifically, concerning the Fire Prevention and Suppression Plan, Section 3.0 outlines operation and maintenance efforts:

3.1 Operation. During transmission line operation, the risk of fire danger is minimal. The primary causes of fire on the ROW result from unauthorized entry by individuals for recreational purposes and from fires started outside the ROW. In the latter case, authorities can use the ROW as a potential firebreak or point of attack. During transmission line operation, access to the ROW will be restricted in accordance with jurisdictional agency or landowner requirements to minimize recreational use of the ROW.

A contact number directly to Idaho Power's 24/7 dispatch center will be provided to all necessary agencies for notification purposes. Upon being notified of a fire, Idaho Power dispatch will gather as much information as possible and immediately dispatches appropriate personnel to monitor the fire and/or coordinate with onsite emergency agencies. Once onsite, and if requested, Idaho Power personnel will confirm facilities to be removed from service for safety of fire personnel and communicates this back to Idaho Power dispatch. Idaho Power dispatch then removes the line from service, relaying that information to the Idaho Power onsite personnel, who in turn communicates the condition to onsite emergency agencies.

Response time will vary, based on initial notification times to Idaho Power dispatch. Once onsite, Idaho Power personnel requesting a line outage for safety concerns can expect a line outage within a few minutes. The line would then be considered unavailable to return to service until onsite Idaho Power personnel are able to verify with onsite emergency agencies that all personnel and equipment are no longer in danger of electrical contact. IPC offers a free on line training course for emergency responders, Responding to Utility Emergencies, <https://idaho-power.rtueonline.com/>, which will help emergency responders learn how to recognize potential hazards involving electricity. This training will also address necessary guidelines that help ensure the safety of responders and the general public.

3.2 Maintenance. During maintenance operations, IPC or its Contractor will equip personnel with basic fire-fighting equipment, including fire extinguishers and shovels as described in Section 2.1.5, Equipment. Maintenance crews will also carry emergency response/fire control phone numbers.

IPC and/or a Contractor will implement the following measures during maintenance activities:

- Conduct inspections of the vehicle undercarriage before entering or exiting the project area to clear vegetation that may have accumulated near the vehicle's exhaust system.
- During BLM's Stage II Fire Restrictions, obtain an appropriate waiver and take appropriate precautions when conducting routine maintenance activities that involve an internal combustion engine, involve generating a flame, involve driving over or parking on dry grass, involve the possibility of dropping a line to the ground, or involve explosives. Precautions include a Fire Prevention Watch Person who will remain in the area for one hour following the cessation of that activity.

Vegetation Management

Trees growing into or near power lines are a concern for IPC because they can create safety and service reliability risks. Branches touching power lines can spark and start fires and cause interruptions in electric supply. Therefore, IPC will conduct vegetation management within the Project ROW to reduce the potential for vegetation to come into contact with the transmission line. Vegetation management will be conducted in accordance with the Project's vegetation management plan.¹⁰⁰ In addition, transmission

¹⁰⁰ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment P1-4, Draft Vegetation Management Plan) at 9887 of 10603 (Oct. 7, 2022).

line protection and control systems will be incorporated into the system and are designed to detect faults (such as arcing from debris contacting the line) and will rapidly shut off power flow (in 1/60th to 3/60th of a second) if arcing is detected.

Further, Idaho Power's Wildfire Mitigation Plan 2023, Section 4.4.5.1¹⁰¹ provides insight into the Company's consideration and selection of certain mitigation and hardening practices. The following describes the transmission-related wildfire mitigation efforts:

4.4.5.1 Annual T&D Patrol, Maintenance, and Repairs. Visual inspections are a critical component of T&D line-related wildfire mitigation efforts. On an annual basis, Idaho Power uses helicopters for visual aerial inspection of transmission lines that are Western Electricity Coordinating Council (WECC) path lines. Under the WMP, Idaho Power will continue to use this method of line inspection for all transmission lines located in Red Risk Zones. Idaho Power strives to complete these inspections prior to the start of the wildfire season; however, spring weather and snow levels may create access issues and delay the completion until June 15 in some areas. . . The company will continue to explore the expanded use of UAVs, as the detailed images and data collected through high-resolution aerial inspections can provide several co-benefits, including more granular data on vegetation growth and line and facility conditions.

¹⁰¹ See Idaho Power/1310, Lautenberger/51.

GREG LARKIN'S DATA REQUEST NO. 73:

Please list any negotiated settlements or court ordered restitution regarding fires attributed to transmission lines owned or operated by your partner, PacifiCorp. Did Idaho Power consider the wildfire record of PacifiCorp prior to requesting that they partner with Idaho Power in the construction of the B2H transmission line?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 73:

Idaho Power does not maintain a list of negotiated settlements or court ordered restitution regarding fires attributable to transmission lines owned or operated by PacifiCorp. However, as described in Idaho Power/1300, Lautenberger/19-20, the Company is aware of one fire since 2008 that was ignited near the base of a PacifiCorp 500-kV line northwest of Eagle Point, Oregon which investigators contended was caused by the failure of a connector on a transmission structure. PacifiCorp denied the contentions but agreed to a settlement.

As joint owners and operators in the Boardman to Hemingway Transmission Line ("B2H"), the authority and expectation of each party as an operator of each of the transmission facilities associated with the project will be clearly defined in the Second Amended and Restated Joint Ownership and Operating Agreement ("JOOA"), as described in Idaho Power/501, Ellsworth/4. As outlined in the existing JOOA, Idaho Power and PacifiCorp currently jointly operate certain transmission facilities, and the success of this relationship was considered when evaluating a partnership for B2H.

GREG LARKIN'S DATA REQUEST NO. 74:

How is responsibility for transmission line safety and health regarding assuring that trees or other objects do not encroach on transmission lines and the control of trespassing onto the line right of way being divided between Idaho Power and PacificCorp? Who is responsible and accountable for what activities and the timelines for completing the activities for the life of the line?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 74:

Please see the Company's Response to Greg Larkin's Data Requests Nos. 72 and 73. Idaho Power will conduct vegetation management within the Project right-of-way to reduce the potential for vegetation to come into contact with the transmission line, in accordance with the Project's Vegetation Management Plan.¹⁰² In addition, operation and maintenance of the Boardman to Hemingway Transmission Line will be defined in the JOOA between Idaho Power and PacificCorp.

¹⁰² Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment P1-4, Draft Vegetation Management Plan) at 9887 of 10603 (Oct. 7, 2022).

Follow up questions regarding Idaho Power response to Staff's Data Request No. 104 and 105 referencing limited risk of lightening in western United States.

GREG LARKIN'S DATA REQUEST NO. 75:

What area is included in the area of "Western United States" referenced in your response? Idaho Power

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 75:

The reference to rarely issued Red Flag Warnings in Idaho Power's Response to Staff's Data Request Nos. 104 and 105 pertaining to lightning in the western United States was to those areas west of the Rocky Mountains. The comparative statement was made by a National Weather Service ("NWS") fire forecaster when identifying those NWS Fire Weather Zones for which Red Flag Warnings were issued primarily for lightning, indicating that because of the rougher terrain in the Western United States the thunderstorms tended to not be as organized as those in the eastern United States and therefore lightning is not as intense.

GREG LARKIN'S DATA REQUEST NO. 76:

Please refer to the Oregon Natural Hazards Mitigation Plan and the Union County Community Wildfire Protection Plan (Exhibit 405) (Pages 11 and 14) when responding to the following questions:

Please explain your responses to Staff Data Requests 104 and 105 in relation to Page 11 of the Union County Community Wildfire Protection Plan statements that wildfires are a common and widespread natural occurrence in Oregon and that 30 percent of those fires are lightning caused.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 76:

With respect to wildfires caused by lightning, the Company's Response to Staff's Data Request Nos. 104 and 105 compared the Red Flag Warnings in the Western United States with those issued in the Eastern United States. The reference in Mr. Larkin's Data Request No. 76 is to Page 14 of Exhibit 405, which appears to provide a comparison of lightning-caused fires in Eastern and Western Oregon. As explained in the Company's Response to Greg Larkin's Data Request No. 75, fewer Red Flag Warnings are issued in the Western United States when compared to the Eastern United States.

GREG LARKIN'S DATA REQUEST NO. 77:

Would you describe the risk of fire in areas containing grain crops as low, medium or high?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 77:

Idaho Power objects to this data request as vague and ambiguous, as the question does not define "risk," does not contain any limiting parameters, and is not specific as to any comparator for risk. Without waiving this objection, Idaho Power responds as follows:

As explained in Dr. Lautenberger's testimony, "risk is assessed by considering both the probability of fire and its potential consequence. . . . [I]t is unlikely that a 500 kV transmission line would cause a fire. On the consequence side of the equation, Idaho Power considers potential fire size and structure impacts from fires starting under powerlines. Accordingly, considering both probability and consequence, constructing and operating B2H . . . would not significantly increase fire risk"¹⁰³ Additionally, Idaho Power has proposed robust mitigation measures to reduce probability of ignition and minimize the consequences of a fire should one ignite.¹⁰⁴ Finally, without more specific geographic parameters concerning the grain crops referenced in the question and without a specific comparator, Idaho Power cannot provide a specific conclusion as to whether risk is "low, medium, or high."

¹⁰³ See Idaho Power/1300, Lautenberger/48.

¹⁰⁴ See Idaho Power/1300, Lautenberger/23-24.

GREG LARKIN'S DATA REQUEST NO. 78:

Do you agree that most wildland fires (approx.. 70%) are human caused?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 78:

Without additional information or a citation, Idaho Power cannot confirm or deny this statistic. The percentage of wildfires that are human-caused in a particular area may vary depending on a number of factors, including population density, number and frequency of visitors, climate, and the frequency of the occurrence of natural factors that may cause fires, among other factors.

GREG LARKIN'S DATA REQUEST NO. 79:

Will the creation of a corridor through previously inaccessible or difficult to access areas of the state increase the likelihood of human caused fires?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 79:

Idaho Power disputes the premise of this question, because as Dr. Lautenberger testified, "Idaho Power will address the fire risk from unauthorized entry through the strategic placement of access controls (e.g., gates) on roads accessing the site in accordance with the Road Classification Guide and Access Control Plan."¹⁰⁵ The planned access control measures will generally preclude motorized vehicles from entering any new roads constructed as part of the Boardman to Hemingway project. To the extent that the creation of the corridor may increase risk, it would only be a negligible increase over the background rate of ignition.¹⁰⁶

¹⁰⁵ Idaho Power/1300, Lautenberger/31-32.

¹⁰⁶ Idaho Power/1300, Lautenberger/54-55.

GREG LARKIN'S DATA REQUEST NO. 80:

Does Idaho Power claim that gates and "No Trespassing" signs will remove the increased risk of human access, travel and human caused fires along the transmission line right of way? Include in your response what additional mitigation methods Idaho Power intends to implement that will assure that the opportunities provided for on foot as well as motorized trespassers do not increase the fire risk due to the development of the transmission line.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 80:

These measures will reduce the risk of human caused fires along the right of way but will not entirely eliminate such risk. As Dr. Lautenberger testified, "During operation, the primary causes of fire in the right-of-way are likely to result from unauthorized entry by individuals for recreational purposes . . . Idaho Power will address the fire risk from unauthorized entry through the strategic placement of access controls (e.g., gates) on roads accessing the site in accordance with the Road Classification Guide and Access Control Plan."¹⁰⁷ The specific nature of access control measures has yet to be determined, and will be informed by input from the landowner. Idaho Power's Road Classification Guide and Access Control Plan¹⁰⁸ lays out the typical types of access control measures, including fencing, gates, barriers, and/or signage as preferred by the landowner or agency while maintaining effectiveness. These types of controls are consistent with industry standards. Additionally, if any landowner has proposals for additional measures to reduce the risk of trespass, Idaho Power will consider implementing those measures to the extent practicable.

¹⁰⁷ Idaho Power/1300, Lautenberger/31-32.

¹⁰⁸ Idaho Power's Petition for CPCN, Attachment 1 (Final Order, Attachment B-5, Road Classification Guide and Access Control Plan) at 9015-16 of 10603.

GREG LARKIN'S DATA REQUEST NO. 81:

Did you receive specific requests from both Baker County and Union County (Exhibit 406) for specific resources to address the increased risk of fire as a result of the B2H transmission line?. If so, please include the following in your response:

- A. Did you include these resources in your Fire Management Plan?
- B. Since Oregon citizens and landowners will have no involvement in the finalization of the Fire Management Plan, what assurance do they have that they will not be assuming costs of providing firefighting resources to Idaho Power and PacificCorp beyond the costs already being born by them to provide existing firefighting resources?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 81:

Idaho Power received specific requests from Baker County, but not Union County. Officials from Baker County submitted comments on the final Application for Site Certificate noting concern about the initial Draft Fire Prevention and Suppression Plan's conclusions regarding the local fire departments' capacity to respond to a fire on the transmission line.¹⁰⁹

- A. To clarify, Idaho Power has submitted a Draft Fire Prevention and Suppression Plan, not a "Fire Management Plan." This plan does not identify specific resources for distribution to fire departments. Idaho Power consulted with local fire response organizations who indicated that the Boardman to Hemingway Transmission Line ("B2H") would create minimal impact on their organizations.¹¹⁰ Additionally, Idaho Power has committed to further consultation between the Company, Oregon Department of Energy, and the affected counties while finalizing the Fire Prevention and Suppression Plan, and thus these agencies will have additional opportunities to provide input.¹¹¹
- B. Idaho Power objects to subpart B of this question as argumentative. Additionally, Idaho Power objects to the assumption embedded in Mr. Larkin's Data Request 81(B) that landowners will assume additional costs associated with fire suppression, as this assumption is contrary to the evidence in the record. Without waiving these objections, the Company provides the following response: See the part (A). It is inaccurate to state that citizens and landowners have "no involvement" in the development of the Final Fire Prevention and Suppression Plan, as interested citizens had opportunities to provide comment as part of the EFSC proceeding, and because county representatives will have the opportunity to participate in the finalization of this plan. Moreover, during the construction of B2H, the Fire Prevention and Suppression Plan includes robust measures to suppress fires, as detailed in Dr. Lautenberger's Reply Testimony. During operation, to the extent that B2H may increase the likelihood of ignition, it would only be a negligible increase over the background rate of ignition.¹¹²

¹⁰⁹ Idaho Power/1300, Lautenberger/58-59.

¹¹⁰ Idaho Power/1300, Lautenberger/58.

¹¹¹ Idaho Power/1300, Lautenberger/59; Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 578 of 10603.

¹¹² Idaho Power/1300, Lautenberger/54-55.

GREG LARKIN'S DATA REQUEST NO. 82:

Please provide the following information regarding the resources you identified:

- A. The number of relied upon resources which provide structural fire protection in Union County and along the length of the transmission line in Oregon.
- B. The number of relied upon resources which provide wildland fire protection in Union County and along the length of the transmission line in Oregon.
- C. The percentage of firefighting personnel being relied upon who are volunteers.
- D. Any actions which Idaho Power is required to take to assure that all firefighting personnel are trained and continue to receive the training and experience necessary to fight fires located in wildlands and adjacent to electric transmission lines.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 82:

Idaho Power objects to this question and its subparts on the basis of vagueness as the term "resources" is not defined. Without waiving this objection, a response is included below:

- A. Assuming the "relied upon resources" refers to fire protection resources in the area around the transmission corridor, Idaho Power has already detailed the local fire response organizations it has collaborated with in the Draft Fire Prevention and Suppression Plan.¹¹³ As shown in the Final Order, Table PS-9, the number of fire response organizations involved is 14, although Idaho Power may also seek to retain the services of private fire response organizations. In Union County, the number of fire response organizations is 3. As Dr. Lautenberger explained in his Reply Testimony, Idaho Power will coordinate with local fire departments to provide a free training course for responding to potential fires along the transmission line and engage in ongoing communication to address fires.¹¹⁴ Importantly, however, there are already transmission and distribution lines in the vicinity of the Boardman to Hemingway Transmission Line ("B2H") route, and thus the fire response organizations that would respond to a fire in the vicinity of B2H will likely already possess the necessary training in responding to wildland and structural fires that threaten powerlines. The fire response districts provide fire response services within the boundaries of their fire response districts (shown in the Final Order, page 607, Figure 12). Based on analysis of the vehicle types listed in Table PS-9, it is Idaho Power's understanding that five of the response organizations are wildland fire response organizations, seven respond to both wildland and structural fires, and two are unknown.
- B. See answer to 82(A).
- C. Idaho Power reported the number of volunteer firefighters in each fire department, rural fire protection district, and rangeland fire protection associations that respond to incidents on privately-owned lands within the analysis area.¹¹⁵ This table indicates that of the 329-349 total firefighters, 227-247 of them are volunteers.
- D. See answer to 82(A).

¹¹³ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment U-3, Draft Fire Suppression and Management Plan) at 10524-25 of 10603; see also Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 611-13 of 10603.

¹¹⁴ Idaho Power/1300, Lautenberger/57; Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment U-3, Draft Fire Suppression and Management Plan) at 10526 of 10603.

¹¹⁵ See Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 611-13 of 10603.

GREG LARKIN'S DATA REQUEST NO. 83:

[In its Response to] Staff Data Request No. 99 Idaho Power states in their response that they intend to provide mitigation for Noise Impacts as listed in the "Final Order 684-685, Idaho Power's Supplement to Petition for CPCN, Attachment 1 at 691-692 if 10603.

Please describe the mitigation planned in these documents and the average cost of each of the planned mitigation methods. Include in your response whether Idaho Power stated cost of abatement of noise exceedances was a reason for requesting a variance or exception?

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 83:

Regarding mitigation for noise, please refer to Idaho Power's Responses to Greg Larkin's Data Request Nos. 13 and 56.

Regarding noise abatement, Idaho Power explained the following in Exhibit X to the Application for Site Certificate regarding additional considerations for an exception to the ambient antidegradation standard:

IPC can work with owners of individual NSRs to help resolve concerns about noise exceedances when appropriate. However, IPC cannot reasonably prevent the potential exceedances *at the source*. While many types of industrial noise sources may be mitigated at the source through the installation of insulation or silencers, transmission lines produce corona noise all along their length, and as such cannot reasonably be enclosed, insulated, or shielded. As such, corona noise generated by the Project cannot reasonably be mitigated at the source.¹¹⁶

While this explanation above does not specifically point to economic feasibility, the heading immediately preceding this explanation ("The exceedances that occur cannot reasonably be mitigated at the source in a cost-effective manner") suggests that economic feasibility was a factor of consideration.

¹¹⁶ Idaho Power/1103, Bastasch/32-33 (Feb. 21, 2023).

GREG LARKIN'S DATA REQUEST NO. 84:

As has been noted in multiple documents filed by the public in the EFSC Contested Case Process, and the Oregon Supreme Court appeal (Exhibit 106 Ann Morrison brief), the public lacks confidence that the Oregon Department Energy will protect the public from significant financial damages due to approving Mitigation Plans which do not require Idaho Power to assume the costs of the damages caused by the Boardman to Hemingway Transmission Line. Since Oregon citizens and landowners are not being allowed to participate or object to the conditions in the final Mitigation Plans for Noxious Weeds, Wildfire Mitigation, Habitat Mitigation, and Habitat Restoration, please provide an estimate of the costs to Oregon landowners and citizens due to the following impacts of the transmission line:

A. Unmitigated costs of lost production of timber and agricultural products for the life of the transmission line.

B. Unmitigated costs of the management and control of noxious weeds beyond the boundary of the transmission line and access road boundaries.

C. Unmitigated costs of the loss of habitat, crop production due to the spread of noxious weeds beyond the boundaries of the transmission line right of way and road boundaries.

D. Unmitigated costs of wildfires and costs of fighting wildfires by local firefighting resources.

IDAHO POWER COMPANY'S RESPONSE TO GREG LARKIN'S DATA REQUEST NO. 84:

Idaho Power objects to the premise of this question, as it assumes facts not in evidence. Without waiving this objection, Idaho Power responds that it disagrees that there will be unmitigated damages resulting from the construction and operation of the Boardman to Hemingway ("B2H") Project. To the contrary, the mitigation plans included as part of the Final Order and Site Certificate have been informed by the reviewing state agencies and local government entities, Oregon Department of Energy, and Energy Facility Siting Council ("EFSC"), and also were informed by input from the limited parties in the EFSC contested case proceeding. These plans provide robust mitigation measures and will ensure that there are no "unmitigated" damages.

A. As detailed in the Final Order, impacts to farm and forest land will not be "unmitigated."¹¹⁷ Instead, the Agricultural Lands Assessment (Attachment K-1)¹¹⁸ and the Right-of-Way Clearing Assessment (Attachment K-2) detail the potential impacts to and mitigation for agricultural and forest lands.¹¹⁹ Additionally, as explained in the Reply Testimony of Mitch Colburn, Idaho Power remains committed to working with landowners to microsite the Project where possible to reduce impacts and work with landowners to determine appropriate mitigation for impacts to agricultural and forest lands.¹²⁰ For additional discussion of Idaho Power's plans

¹¹⁷ Final Order at 266 of 10603 ("Compliance with these [mitigation] measures [in the Agricultural Lands Assessment] would 'prevent a significant change in accepted farm practices or increase in the cost of farm practices on surrounding farmlands' as required under ORS 215.275(5)."); see also id. at 277 of 10603 ("[EFSC] finds that the proposed facility would not result in significant adverse impacts to accepted forest practices nor result in a significant increase in the cost of accepted forest practices within the surrounding area and therefore would satisfy the requirements of OAR 660-006-0025(5)(a).").

¹¹⁸ Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment K-1) at 9595-9796 of 10603 [hereinafter, "Final Order, Attachment K-1"].

¹¹⁹ Final Order, Attachment K-2 at 9798 of 10603.

¹²⁰ Idaho Power/600, Colburn/64.

to compensate impacted landowners through the easement negotiation process for unavoidable impacts on agricultural and forest lands, please see the Reply Testimony of Lindsay Barretto.¹²¹

B. As detailed in the Company's Response to Greg Larkin's Data Request No. 71, consistent with EFSC siting standards, the Final Order and Site Certificate require Idaho Power to address all Project-related noxious weeds as detailed in the Noxious Weed Plan.¹²² Idaho Power will control noxious weeds on-site through spraying, cleaning stations, etc. so noxious weeds do not spread beyond the Project boundary.¹²³ A budget has not been developed for off-site noxious weed spreading because (1) the plan is to treat noxious weeds on-site so they do not spread; and (2) whether and to what extent weeds may spread off-site is too speculative to allow the Company to identify a cost estimate for controlling such a spread. If it is shown that noxious weeds resulting from the Project have spread off-site, Idaho Power will work with the affected landowners and the county weed managers to determine necessary steps, if any.

C. See (B) above.

D. See Response to Greg Larkin's Data Request No. 81(B).

¹²¹ Idaho Power/400, Barretto/25-30.

¹²² Final Order, Attachment 6 at 8799 of 10603.

¹²³ See *generally* Final Order, Attachment P1-5 at 10052, 10054-10057 of 10603 (detailing the vehicle cleaning and treatment requirements in the Updated Draft Noxious Weed Plan).

DOCKET PCN 5 - CERTIFICATE OF SERVICE

I hereby certify that I served a true and correct copy of the confidential pages of Idaho Power Company's Responses to Greg Larkin's Data Requests Nos. 26-61 and Nos. 62-84 on the date indicated below by email addressed to said person(s) at his or her last-known address(es) indicated below.

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I also hereby certify that on May 9, 2023 Idaho Power Company's Responses to Greg Larkin's Data Requests Nos. 26-61 and Nos. 62-84 was served by USPS First Class Mail and Copy Center to said person(s) at his or her last-known address(es) as indicated below:

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DATED: May 9, 2023

/s/ Suzanne Prinsen

Suzanne Prinsen
Legal Assistant