

January 6, 2023

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

VIA EMAIL: puc.filingcenter@puc.oregon.gov

RE: Reply to ALJ Mellgren's Memorandum issued December 19, 2022 (PCN-5)

Dear Filing Center,

Attached for filing in the docket PCN 5 is the Stop B2H Coalition's Response to ALJ Mellgren's Memorandum issued December 19, 2022. The memorandum and reply is in reference to the pending appeal at the Oregon Supreme Court in the matter of the Boardman to Hemingway transmission project.

Please feel free to contact me if you have any questions. Thank You.

Enclosed: Reply letter to Judge Mellgren and Certificate of Service.

Submitted by:



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January 6, 2023

Dear Judge Mellgren,

Per the pending appeals of the Energy Facility Siting Council's (EFSC) site certificate for the Boardman to Hemingway Transmission line (B2H project), your Memorandum ISSUED: December 19, 2022, stated:

Because the outcome of these appeals may impact this proceeding, I request that any party wishing to provide their perspective on the impact of the appeals on the schedule for PCN 5 or the Commission's consideration of Idaho Power's Petition for a Certificate of Public Convenience and Necessity file comments by 3:00 p.m. on January 6, 2023... I am particularly interested in hearing from the parties on the specific issues on appeal and how the issues on appeal may impact the PUC's review of Idaho Power's petition in this matter, if at all.

Thank you for the opportunity to comment and provide perspective on the EFSC appeal to the Oregon Supreme Court and its potential impacts in this docket. Response briefs have just been filed and oral arguments are scheduled for January 18th. EFSC cases at the Oregon Supreme Court are also expedited; the decision is expected by June 2023. So we know that it will not be a long, protracted judicial review like the contested case at EFSC was.

There are various possibilities that could impact the PCN 5 docket based on the relief that petitioners' are seeking. These might be: a) the whole case is remanded, and then the EFSC Site Certificate could be invalidated. In this scenario, the PCN docket as currently configured would be moot; or b) certain components or issues are remanded back to EFSC for further proceedings consistent with the court's conclusions. This most likely would alter critical information in OPUC's decision making forcing an OPUC reconsideration or recalibration of information used in decision making; or c) the whole case is ruled in favor of EFSC and Idaho Power. In this scenario, PCN 5 will go forward unaltered.

If *some issues* are remanded, EFSC may need to conduct proceedings or other remedies based on the court's conclusions and decision. For example, but not limited to: directing the Oregon Department of Energy (ODOE) or IPC to complete certain surveys or analyses that are still incomplete, e.g.: cultural/archeological (petitioner Gilbert), or a comparative NEPA analysis (petitioner McAllister). They could remand for additional reviews by appropriate legal authorities (noise control, petitioner STOP); or to repeat certain procedural steps in the contested case, e.g.: ordering a full hearing on issues that were inappropriately dismissed on summary determination; or to allow STOP to argue evidence on other issues as a "full party." Another outcome could be that certain site conditions (mitigations) are remanded by the court back to EFSC. This could potentially result in further necessary analysis and review; and/or, it could cause the developer (IPC) to propose changes which would need "site certificate amendments." All amendments to the site certificate must go through another EFSC process (OAR 345-027-0363 *et seq.*).

It must be noted that **amendments to the site certificate have already been filed by IPC** and noticed by ODOE. ODOE's [Receipt of Preliminary Request for Amendment 1 of Site Certificate](#) indicates it will be a

type A process including public comment and a contested case. This amendment involves an additional 952.5 acres, 7.2 miles of 500-kV transmission line alternatives, and 33.8 miles of access road changes. The amendment process has barely begun, and STOP has identified at least 2 other additional amendments that will likely be forthcoming. One of those involves an additional support facility (i.e.: a mid-line capacitor station, at a still undetermined location). STOP believes that this whole amendment situation could potentially impact on PCN 5 as much (or possibly more) than the Supreme Court case.

If any one of the issues being appealed are remanded resulting in: new or different properties being impacted, new landowners needing to be informed, new protected areas needing to be avoided, different mitigation plans developed, the site certificate will need to be voided and/or amendments proposed -- all impacting decision making in PCN 5.

As Stop B2H and many members of the public have stated numerous times, the PCN 5 docket seems premature and too expedited. IPC says they are in need for energy in 2026 when they retire some Jim Bridger units. They have said this with assorted retirement dates since the 2017 IRP. The 2 coal units without scrubbers that were to be retiring this year or next are being converted to natural gas. Now they are saying they will early retire the other 2 units that have scrubbers and that meet environmental code to their end of life in 2035. They will need this energy and not retire them in STOP's opinion. Why should we let this artificial deadline that has changed every year since 2017 drive an expedited timeline? Please do not make the same mistake as EFSC made in approving a certificate when there are so many incomplete and unresolved issues, as well as pending mitigation plans.

STOP believes that you, the OPUC, and the (known and not-yet-known) impacted landowners, would want more certainty of the exact routing before the CPCN process goes any further. This is why the OPUC staff, years ago, recommended the CPCN as the final cap-stone in the decision making process at the OPUC.

The risk of proceeding with PCN 5 at this time is the potential waste of time and resources for all: the state, the taxpayers, the developer, and most importantly, the impacted people who also carry the prolonged emotional burdens effecting their health, finances and future life decisions.

We urge you to please pause or terminate this docket until more is known about the final routing, mitigations, and impacted lands and people.

Thank you for your request and consideration of our response,

Jim Kreider, Co-Chairperson
Stop B2H Coalition
jim@stopb2h.org

DOCKET PCN 5 - CERTIFICATE OF SERVICE

I hereby certify that on January 6, 2023, Jim Kreider filed a copy of: **Reply to ALJ Mellgren's Memorandum issued December 19, 2022 (PCN-5)**, to the filing center for Docket PCN-5 and a copy was served by USPS First Class Mail to said person(s) at his address(es) as indicated below:

By: USPS First Class Mail:

John C. Williams
PO Box 1384
La Grande, OR 97850

DATED: January 6, 2023

Submitted by:

/s/ Jim Kreider

Jim Kreider, Co-Chairperson
Stop B2H Coalition