

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

IN THE MATTER OF IDAHO POWER COMPANY'S	Docket: PCN 5
PETITION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY	Reply Brief
	Intervenor: Sam Myers

Date: May 30, 2023

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Introduction:

Mr. Myers will point out the many mischaracterizations along with errors and omissions in the Opening Brief of both the; OPUC Staff and IPC.

Mr. Myers would like to point out on page 26 of IPC's opening brief paragraph. IPC is now characterizing their engineering standards as meeting "minimum requirements" and actually exceeding some. This new characterization of standards is drastically different from those used in the IPC's application to the PUC. In the application to the OPUC, IPC described their standards as "stringent" and meeting the most extreme weather conditions; however, now it seems that IPC has had to recharacterize the degree of their standards because they were forced to reveal what they really are, which are mostly "minimums". This showcases the unprofessional tendencies of IPC. It also reveals the poor level of "Good Faith effort". It also undermines the public trust of IPC. Mr. Myers is very concerned that IPC lied to the OPUC, petitioners, and the ALJ by mischaracterizing the engineering standards used for B2H.

Mr. Myers will refer to page 26 of IPC's opening brief where they refer to the use of alternative engineering standards, these standards were brought to their attention only as an example that structures and Towers of critical importance should be designed to have exceedingly high reliability. B2H has been characterized as "critical" in nature as infrastructure. B2H deserves to have more structural reliability built into the design but IPC fails to use any of the "Elevated Reliability" standards listed within the ASCE Manual 74, 4th edition.

IPC claims on page 27 of their opening brief that the evidence of local wind data reading of 88.4 miles an hour is without merit. I strenuously object to this characterization. IPC has shown no evidence whatsoever to make that claim. IPC has presented no other data for the area, nor does IPC seem to know anything about the wind metering tower. IPC has never asked about specific information from the metering tower. IPC's claims that this data is without merit is unfounded and reveals a lack of responsibility towards providing safety for those people around B2H and for lives and property underneath B2H. In fact, IPC should have embraced this data as recommended in the ASCE manual 74, 4th edition and sought to properly design the towers with the newer methods from the ASCE to incorporate these accurate localized wind speeds. Mr. Myers now references PUC rules; 860-024-0001, Division 24, (3) This rule requires utilities to use "facts reasonably discernible at the time and given applicable local conditions". IPC should be forced to use the wind data that Mr. Myers has provided. Mr. Myers has come upon this data through commercial wind metering devices which are identical to equipment used throughout the nation to discover and publish elevated wind speeds. Mr. Myers asserts this rule directs utilities to use local conditions whenever possible. PUC must enforce this rule; for the safety and reliability of B2H.

Furthermore, on page 27 of IPC 's Opening Brief, IPC claims Mr. Myers' assertion that the tower design they have chosen will not operate safely is without merit. IPC makes this claim only because they continue to reject the elevated wind data that Mr. Myers has provided. IPC has NO local empirical wind data to confirm the standardization choices they have made. IPC only uses the charting from ASCE 7-16, using the 100 year MRI wind speed map. IPC can

select this wind speed map to choose a design wind speed, but this is old charting from prior editions which do not include localized wind speeds. Our localized wind speeds have been clearly documented to eclipse the charting data, thus proving it unreliable. IPC has chosen to double down on their standard choices. IPC at this point is not following “Best Industry Standards”, thus placing lives and property at risk. IPC claims that the design for B2H will have a loaded MRI of between 700 and 10,000 years for Morrow County; however, this is from old standardized ASCE chartings that are basically irrelevant when localized wind data are incorporated into the design. IPC claims they are using MRIs that seem very high when in fact they are not that high at all. This is a convenient way for Idaho Power to look like they've embraced high standards when in fact they are not meeting the most basic standard.

Idaho Power claims on page 28 of their opening brief that fragility analysis and coupling vibration studies are not applicable to B2H. IPC is ignoring elevated reliability and is NOT preparing for the most extreme contingencies possible. Mr. Myers has pointed out studies that prove fragility tests provide the safety measures needed to verify the structural capabilities and capacities of transmission line Towers. His filings have shown multiple Tower failures from failing to recognize both wind angle and also show misguided wind speed capacities for some Bonneville Towers. Mr. Myers asserts that if IPC was concerned about safety and reliability they would perform all available tests to verify that specific wind attack angles are not an issue with the Bonneville Towers they have selected. Best industrial practices should be employed in order to verify and/or discover the possible weaknesses of the B2H towers; all contingencies should be covered. Mr. Myers would like to refer to the OPUC rules 860-025-0030. 2. (o). This rule

requires the applicant to have performed all “Reliability and Resiliency Studies” known to the petitioner at the time the petition is submitted. Mr. Myers asserts that a number of important design studies have not been performed on the B2H towers. IPC should have known about these newer testing capabilities and requested BPA to perform the latest tests to verify tower design capabilities under all circumstances. IPC claims they are not required to perform these newer testing procedures but OPUC needs to force IPC to fully comply with this rule to ensure the safety of Oregon Citizens.

IPC contradicts itself in its response to Mr. Myers claims of IPC having an inadequate analysis of tornadoes and earthquakes. On page 28-29 IPC admits to one of the tornadoes that occurred in our region. IPC makes a significant omission in their testimony. The calculated 3 second wind gusts are placed at between 88-110 mph for a tornado. IPC claims that the TOWERS would remain upright; however, they fail to mention that the wind gusts are higher than the maximum wind gust limit for the B2H conductors. The omission represents contradiction to their assertion that the line would survive a tornado or extreme weather event. Mr. Myers asserts that the conductors could actually fail at this wind speed, and break off the line causing a massive fault. IPC has only designed the conductors to handle max loaded wind speed of 100 MPH. This omission presents the problem B2H has when it comes to withstanding extreme events. IPC can not provide a structural loading buffer that ensures safety and reliability. In the cross-examination hearing, Mr. Stipple offered an incoherent excuse for the low wind rating on B2H’s conductors. Mr. Stipple’s response did not provide any empirical data about loading coefficients and offered a personal opinion of conductor reliability. It should be noted that in roughly the last 100 years the B2H route would have experienced 2 and possibly 3 tornadoes.

Mr. Myers documented the 1888 cyclone in his filing: Intervenor Cross-answering and rebuttal Testimony, page 7. The referred cyclone is probably not recorded in the State records. The 3rd possible event occurred in 1995, also documented in Mr. Myers' briefing; Opening Brief, page 517. This irrefutable evidence proves that IPC has developed an under-designed Transmission line in a wind zone that is totally misunderstood.

Mr. Myers objects to the reference on page 29, of IPC Opening Brief. that they have applied adequate coefficients to protect B2H from the upcoming Cascadia Event. Absolutely no empirical data has been shown to make that assertion. The Cascadia Event will have almost 2x longer sustained movement than historical seismic events. IPC offers no real data that it can withstand that kind of seismic activity. IPC should not be allowed to refer to some obscure standard and not provide additional design coefficients for this most critical event.

Mr. Myers objects to the OPUC Staff decision to approve the B2H transmission line structural loading. On page 9 of the "Staff's Opening Brief", the staff use multiple paragraphs to review the selection of standards. Mr. Myers has repeatedly cited the need for elevated reliability standards for B2H. The B2H project area within Morrow County has experienced many weather events that do not fit into the charting of the ASCE or NESC basic charts. The OPUC Staff is making a huge mistake by continuing the "Status Quo", business as usual choice. The absence of any demand for IPC to use; Elevated Reliability standards, will lead to more fires, tower failures and conductor failures. Nothing changes by this approach. The same disasters continue to happen.

Mr. Myers objects to IPC claims that fire will not damage soils under B2H. On page 36, IPC claims that the damage soil remediation issues were fully litigated and resolved in the EFSC proceedings. I would like to point out that any proceedings from the EFSC does not provide cover for IPC when it comes to meeting the OPC rules 860. OPUC is obligated to follow its own rules to prove safety. Mr. Myers asserts that Mark Madison's testimony has been discredited by his own inconsistent testimony. Mr. Myers would assert that Mark Madison has never issued any scientific studies or admitted any evidence using the soils, the climate, and the cropping systems that occur in Morrow County under B2H. Mr Mark Madison's testimony has been opinion driven without any other substantiation. Mr. Madison has NOT shown any evidence that if a fire did move through our wheat fields it would have no impact on the soil. Mr Madison does not have any evidence to substantiate that a fire-burned soil in our area will continue to yield the same as a non fire-burned soil. Those such studies simply do not exist. Mr. Myers has provided multiple testimonies, first hand experiences, and scientific documentation from journals that indicate fire damage is a very real problem that has very real consequences on soils. In his testimony he points out long-term side effects from fires that go well beyond the immediate year losses. Yield reductions by burned soils will have huge financial impacts by reducing the 10-year insurance yield averages which lower the yield income potential. Mr. Myers has sought to bring this issue to light many times.

Mr. Myers would like to point out for the record that EFSC rulings do have multiple controversies. For the record, I have introduced Suzanne Foughty's Appendix A. In these documents, which were introduced as a Public Comment in the Docket dated January 10, 2023, Suzanne Faughty provides evidence of the probable failures within the soil analysis studies that

IPC performed. She pointed out the failures from both the IPC studies and how the ALJ ruling further contributed to covering up the problems she discovered. Suzanne Foughty asserts that; EFSC, ODOE and Administrative Law Judge Greene Webster (ALJ) did NOT do a Fair, proper, unbiased, thorough and accurate process concerning the soil analysis that IPC used in the soil protection standard computations. The preponderance of evidence that Mrs. Foughty presented is undeniable. This testimony sheds light on the soil issue in general and substantiates my assertion that IPC is dodging the responsibility they have to recognise these soil issues.

Mr. Myers rejects the conclusion that Mr Lautenburger reaches on page 34. Mr. Myers asserts that dust/chaff clouds can pose significant risks for fire ignition through conductor faulting. Lautenburger fails to describe how many miles of 500 kv lines are currently located over dryland wheat fields located in the most fire prone region of Morrow County. Mr. Lautenburger fails to bring perspective to the argument by NOT counting the current number of combines interface with 500 kv conductors in this dry region of Morrow County. The current number of combine interfaces with 500 kv conductors in this fire prone region of Morrow County is near zero. B2H will traverse the most fire prone region where low humidity can allow sparks to travel much further than other more humid regions. Mr. Lautenburger has a history of distorting facts about fires in Morrow county and the size of fire ignitions in the area. Hundreds of acres will be harvested by extremely large combines creating dust/chaff clouds as they seek to harvest grain for profit. My point is that with the introduction of B2H we will have hundreds more opportunities during the harvest each year to have faulting occur. This phenomenon has introduced a new risk to a community who has never experienced this risk before, and it is very likely to incur ignitions as the wind shifts unexpectedly while harvesting. Mr. Lautenberger is

not forthright about the current dryland acres being covered by the 500 kv lines, thus his conclusion is irrelevant because the number of combine interfaces under conductors are increased by a factor of 50 or more. Mr. Lautenberger presents an oversimplified and misleading conclusion about dust/chaff risks. The testimony of the fire chief Steve Rhea, describes the potential chaff fault event on page 1 of my Amended Opening Testimony, dated Feb. 3, 2023. Mr. Rhea's testimony 2nd Event, describes events which leads us to conclude that the most probable cause of fire ignition for the event was a transmission line fault though a combine produced chaff cloud.

Mr. Myers would like to address the OPUC Staff in the matter of ROW compensation. In the Staff's Opening Brief page 19, the Staff makes references to crop land (EFU) financial impacts during the construction phase of the project. This is significant; but long term costs can be significantly larger. The true long term financial impacts landowners and tenants will face when B2H is placed on EFU zone crop lands must be considered. The OPUC Staff also admits on page 20, lines 1- 4, that it is unlikely that some impacts can be entirely eliminated. Below is a financial calculation for these impacts that are not entirely eliminated. The true impacts Mr. Myers farm will experience over the life of the proposed project are as follows:

1. Soil damage and lost grain sales from transmission line fires: \$1,500,000.00 per mile of ROW. Prorated based on percent impacted per property owner impacted.
2. Lost use of airstrip. New Airstrip construction costs: \$100,000.00.
3. New hangar construction: \$80,000.00
4. Lost ability to use crop dusters in irrigation field and resulting need for drone applications:
 - A. Drone costs: \$80,000.00

B. Additional drone flight costs including training and equipment purchases:
\$50,000.00

C. Long term dryland drone application costs: \$100,000.00.

5. Reduced land value costs: \$750,000.00

6. Increased weed control costs over the life of the project: \$200,000.00

7. Increased labor costs from tower avoidance and fault avoidance activities, over the life time of the project: \$800,000.00

8. Transmission line induced communications failures, including cell data service interruptions, local 2-way radio interruption and GPS interruptions. These interruptions will cause labor and farm activity delays along with the restrictions on instructional capabilities will cause confusion and resulting ineffective use of labor. All these issues will lead to major delays in farming activities. Farm activities depend on timely completion of the many tasks per year. The inevitable delays caused by B2H can become financially burdensome. These costs are \$600,000.00

9. Additional administration and legal costs involved with all the various IPC interactions; \$100,000.00

10. Loss on crop production during construction time period; \$30,000.00

Detailed review of cost analysis predictions are available on request.

These are the cumulative costs involved with our specific farm. These estimates might seem exorbitant at first glance but considering the continued impacts year after year for the next 100 years the costs become very realistic. Mr. Myers would point out that the OPUC Staff has never reached out to the local farmers in our area to get a realistic perspective of the true interruptions that B2H will have on farming operations for the next 100 years. These impacts are things that we did not have to deal with prior to B2H but from now on Mr. Myers' workload is significantly increased just to maintain his current financial stability. OPUC staff has failed to adequately quantify the exorbitant financial impacts to our farming activities. Simply put, IPC

has brought these financial burdens upon the community for the purpose of IPC's profit. IPC should be prepared to fully compensate Mr. Myers for any financial burdens he will now face. IPC has NOT offered any type of compensation to mitigate these matters.

Mr. Myers would like to address the OPUC Staff in the matter of Alternative Routes. On page 22 of the Staff's Opening brief, they refer to the approval of either the: Proposed or Alternative Route. Mr. Myers would like to know which Alternative Route OPUC approves. Clarity is very important.

Mr. Myers would also question the OPUC Staff as to why they gave no apparent preference or consideration to require IPC to exercise the statute; OAR 345-021-00109 (1) (b) (D) i-viii, which states as follows: "Least percentage of the total length of pipeline or transmission line that would be located within lands zoned for exclusive farm use". This particular statute has been largely ignored by all parties involved. Mr. Myers and Mrs. King have REPEATEDLY referenced this statute to exercise for numerous reasons. The benefits of the statute are enormous if utilized. I believe that the OPUC Staff has failed to place this statute as a guiding principle within this contested case.

Mr. Myers refers to the Cross Examination of Mr. Colburn on page 106-108. Mr. Colburn does not show any respect for the statute mentioned above. Mr. Colburn admits that IPC will not review the possibility of considering an alternative route to execute or exercise the statute in any

way. This refusal of IPC to reconsider this statute at this point shows continued indifference to Oregon Statutes, local environmental concerns, local farming practices, and the livelihoods of those impacted. It is most disappointing that OPUC does not represent and become an advocate for negatively impacted citizens. Statute enforcement, especially in this case, could provide protections for miles of EFU zoned lands. EFU designated lands are extremely important, and should be afforded the premium status and protections that an EFU designation should provide.

conclusion

IPC has not proven itself capable of constructing or operating B2H. The structural design failures, fire mitigation plan failures, fire contingency failures, misguided recognition of local fire risk conditions, refusal to incorporate applicable EFU zone statutes and incomplete required studies prove the inability of IPC to properly construct and operate such a project without placing the general public in severe danger. It also seems as though the OPUC is actually advocating for the IPC not the actual public consumers defined within its guiding Mission Statement. Allowing IPC to have this Certificate gives birth to the next episode of “Engineering Disasters”, Please do not let this happen. IPC has not proved themselves worthy.

I have shown with a preponderance of evidence the; inadequacies and failures of IPC. I stand behind my filings and research; believing it to be as true and accurate as possible with the given time restraints that were placed upon me. Without any doubt a better, safer version of B2H exists. That version will ONLY happen if OPUC flexes its regulatory muscles and forces IPC to reapply using safer strategies on all the issues I have exposed.

DECLARATION

I hereby declare under penalty of perjury under the laws of the State of Oregon that I prepared the above Reply Brief for the PCN5 docket, and that to the best of my knowledge and belief, declare the statements, testimony and exhibits to be true and that they were made for use by the Commission as evidence in this proceeding.

Dated this thirtieth (30) day of May, 2023.

/s/ Sam Myers

Sam Myers

Intervenor, PCN-5

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

IN THE MATTER OF IDAHO POWER COMPANY'S PETITION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY	Docket: PCN 5 Appendix A, for Reply Brief of Sam Myers Intervenor Sam Myers
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Date: May 30, 2023

Sam Myers, Intervenor

Public Comment offered to OPUC Dated Jan. 10, 2023

Suzanne Fouty, PhD 2818 Valley Avenue Baker City, OR

January 9, 2022

RE: B2H transmission line request for certificate

Dear Administrative Law Judge Mellgren and Public Utilities Commissioners (PUC):

My comments will draw on my review of IPC's soils analysis as it applies to determining the "necessity, safety, practicability and justification in the public interest for the proposed transmission line."

I am a retired Forest Service hydrologist and soils specialist and have a PhD from the University of Oregon and a Masters from the University of Arizona. Both research projects had soil components. My job for the Forest Service involved evaluating impacts to soil and water from various projects and making recommendations on how to minimize or eliminate impact. I was therefore familiar with many of the sources IPC used and have a strong working knowledge of the published soils literature. Based on my extensive review of the IPC documents and knowledge of the area where the transmission line is proposed I urge you to deny IPC's request for a certificate of public convenience and necessity. It is neither.

You are deciding if B2H is in the public's best interest based on if it is necessary, safe, practical, and justified. You have said that you are relying on the EFSC's findings and therefore will not be revisiting them when considering the requested certificate. Embedded in this approach is the assumption that EFSC, ODOE, and Administrative Law Judge Greene Webster (ALJ) have all done a proper and unbiased review of the project, that the public process was fair, and that IPC's application was complete, thorough, and accurate. This assumption is completely false as shown by examples in Appendix A of key errors found in IPC's soils analysis and by the two ALJ rulings below. If the PUC chooses to work from this flawed assumption that all is well because EFSC and ODOE have signed off, it will set a dangerous precedent because this application only arrives at your desk due to rulings like these by the ALJ:

Neither the ASC content rule nor the Soil Protection standard require that the applicant present the highest level of detail, from the most current sources, or the best available science.” (Proposed Contested Case Order, 5/31/2022, p. 260/377 under Scope of the Soil Protection Standard)

The ALJ ruled this way in order to move the process forward because my review of IPC's soils analysis and whether it complied with the Soil Protection Standard (OAR 345-022-0022) found that it did not use best available science, the most current data, or the appropriate level of detail, and failed to meet the requirements of the standard. The ALJ also ruled:

A citation to, or excerpt from, a database, report, or management plan in the ASC or Proposed Order does not make the entirety of that database, report, or management plan part of the evidentiary record of the contested case.” (Proposed Contested Case Order, 5/31/2022: Ruling on Idaho Power's Motion to Strike Portions of Dr. Fouty's Response Brief on Issue SP-1, p. 265/337)

The documents I was denied use of, leading to large portions of my brief struck from the record, were the Forest Service and BLM Resource Management Plans, Natural Resources Conservation Service soils databases, and Third Oregon Climate Assessment Report. All of these sources were cited by IPC and by its expert witness, and were key elements of its soils analysis. Denying use of cited documents is not standard protocol. These sources are by default part of the record and available for use. Only then can the public be assured that the information is correctly stated and in context. Like the ruling that IPC did not have to use best available science, current information, or the highest level of detail, the ruling to deny access to cited sources was made because a review of the cited sources found that IPC had seriously misrepresented the information contained within and in some cases, contradicted what the source said or approach used.

These are but two examples of a process that was flawed and not in the public interest. Therefore, if the PUC provides IPC with a certificate, then the above rulings stand and you have set precedent for future applicants. Future applicants will not have to use best available science, or most current information, or the highest (i.e., appropriate) level of detail. In addition, an applicant and/or its expert witnesses can cite any source in support of its application, but those sources are off limits to those reviewing the application unless one knows that one must state

“please include all cited sources used in this application in their entirety as part of the evidentiary record.”

The above discussion is relevant to the question of whether to issue a certificate or not because it shows the lengths that the applicant went to, with the assistance of the ALJ, ODOE, and EFSC, to get to this point. It is appropriate therefore to be skeptical of the accuracy and appropriateness of the information before you. It is likely wrong, out of date, and poorly supported by science and economics if at all. The very uncertainty in its quality makes the project most definitely not in the public interest, especially under a rapidly changing climate, increased threats of sabotage, and emerging, new technologies. In addition, other reasons are presented as to why the project does not meet the criteria of “necessity, safety, practicability and justification in the public interest” and why the certificate should be denied.

1. 270.8 miles of high voltage transmission line would be placed in a landscape prone to multi-year droughts (Appendix B).

Drought limits vegetative growth making recovery after disturbance difficult. In the absence of above ground vegetation there is increased soil warming and the rate of below ground carbon decomposition and emission back into the atmosphere increases. This contribute to climate change as soils are a major carbon capture and storage zones and will decrease soil productivity making vegetative and soil recovery after disturbance more difficult. Drought-prone landscapes also have high likelihoods of large-scale, high intensity and severity wildfires and recover much more slowly post fire. Transmission lines have been responsible for initiating or exacerbating wildfires and the potential to do so in this landscape is high. According to the Third Oregon Climate Assessment, cited by IPC, predictions for this area are for more extreme conditions.

Climate Change¹

Based on a review of the Third Oregon Climate Assessment Report and literature on how climate change may impact soil erosion rates, the applicant determined that climate change is anticipated to change conditions in eastern Oregon by increasing drought, increasing wildfires, reducing summertime water supply, and increasing forest

1 ODOE - B2HAPPDoc2-1 Proposed Order on ASC w Hyperlink Attachments 2019-07-02.
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disturbance from disease, drought, and wildfire. Increased wildfire and forest disturbances may result in decreased vegetative cover on steep slopes, thereby increasing runoff and erosion rates. Extreme precipitation events are also expected to increase, resulting in an increased risk of flooding, runoff, soil erosion, landslides, and mass wasting events.

2. The high voltage transmission line is a technology that is already becoming obsolete.

Energy technologies are rapidly changing and becoming smaller scale, less centralized, more efficient, and less invasive. The large-scale and centralized nature of these lines makes them vulnerable to sabotage which can impact large numbers of people. This type of vandalism may be on the rise and infrastructure needs to be more dispersed and easily disconnected from larger grids to minimize damage from vandalism and/or climate events. A large-scale, fixed project

using a technology that will likely be obsolete either before completion or soon afterwards, lack flexibility and leaves the public with a bill, high wildfire risk, and less energy security than if energy needs were met with newer technologies, increased efficiencies, and less use.

Executive Order 20-04 (Appendix D)

3. The high voltage transmission line project fails to meet the goals of Executive Order 20-04 related to carbon sequestration and storage.

The Executive Order states “WHEREAS, all agencies with jurisdiction over natural and working landscapes in Oregon will need to prepare and plan for the impacts of climate change and take actions to encourage carbon sequestration and storage; (p. 3).

The Executive Order also states on p. 13, Section 12 (A), “the Oregon Global Warming Commission is directed to submit a proposal to the Governor for consideration of adoption of state goals for carbon sequestration and storage by Oregon’s natural and working landscapes, including forests, wetlands, and agricultural lands, based on best available science.” Note that the best available science is required in contrast to the ALJ’s ruling that IPC did not have to use best available science, again placing the project in opposition to the Executive Order.

Carbon sequestration and storage in soils is a critical component of any climate change strategy. Active carbon drawdown occurs as carbon is taken out of the atmosphere via plants during photosynthesis and stored in above and below ground biomass. Increased organic matter in the soil improves soil productivity and the soils’ water-holding capacity – critical given anticipated droughts in the area. The reverse occurs during disturbance of new ground and vegetation removal.

Contrary to IP’s statements that OAR 345-022-000 and 345-022-0022 did not require it to consider carbon sequestration as a result soil impacts due to its project, the phrase “including, but not limited to,” in both OARs makes clear that they do. Just as energy technology changes, so too does our understanding of soils and what impacts their productivity and how they are interconnected with the larger system, including the atmosphere. IPC has not done this analysis. IPC’s expert attempted to rectify that situation in his rebuttal (11/12/2021, p. 82). While I asked for and received the raw data used to create his Table 3 from IPC, the errors in the data set were obvious, making his conclusions in error. Despite IPC’s expert using this uncited information to argue that carbon loss would be minimal and short lived, the ALJ ruled that the raw data used to generate the numbers in his table were NOT part of the evidentiary record and could not be discussed.

4. The high voltage transmission line fails to meet the goals of Executive Order 20-04 related to addressing wildfire risks, public safety, and energy system resilience.

Wildfire suppression costs of wildfire in Oregon from 2013-2022 alone are in the 10s to 100s of millions of dollars (Appendix C). Additional recovery and restoration costs further increase the economic costs to Oregonians. As noted under #1, the line would go through a landscape that is prone to multi-year droughts which are expected to be more severe with climate change. The area is also predicted to see increased wildfires. The risk the project creates in a rural, lower-income household part of the state by placing a new wildfire ignition source through miles

and miles of eastern Oregon is great. Placing an ignition or wildfire exacerbation source in this area will NOT, as intended by the executive order, “avoid higher mitigation and adaptation costs in the future (p. 3).” It will in fact increase those mitigation costs. Consequently, the project would NOT protect public safety, reduce risks to utility customers, or promote energy system resilience in the face of increased wildfire frequency and severity (p. 8, Section 5(B)(4)). It would do the opposite.

5. The high voltage transmission line project fails to meet the goals of Executive Order 20-04 related to GHG emissions.

There is nothing in this executive order that limits how state agencies reduce GHG emissions or excludes consideration of carbon emissions as a result of soil degradation (p.3). A project that removes existing store carbon above ground, contributes to the degradation of below ground carbon, and creates conditions where wildfire and thus soil erosion risks are elevated would significantly contribute to carbon released into the atmosphere. This makes the project out of step with the executive order, especially given all the other issues with the project.

In summary, the project occurs in a drought-prone rural, low-income area in which climate predictions are for greater drought and wildfire severity. It is largely an agricultural area and high severity wildfire can alter the soils to the extent that crops yields drop and erosion increases. Providing IPC with a certificate of necessity and public convenience would set the wrong precedent for what is expected of future applicants. An applicant that did not use best available science, the most current information, or the appropriate level of detail and was given a pass on doing so by the ALJ, ODOE, and EFSC is not an applicant who can be trusted to provide you or the public with accurate information or follow through on statement commitments. An applicant that asks that information it used be excluded from the evidentiary record and therefore unavailable for review is not an applicant who can be trusted. Finally, the technology is becoming obsolete and fails to set Oregon and this rural, low-income area on a more sustainable, low impact, diverse energy path. I urge you to deny the certification.

Thank you for your time. Sincerely,

Suzanne Fouty, PhD Hydrologist/Soils specialist retired USDA Forest Service

EXECUTIVE ORDER NO. 20-04**DIRECTING STATE AGENCIES TO TAKE ACTIONS TO REDUCE AND
REGULATE GREENHOUSE GAS EMISSIONS**

WHEREAS, climate change and ocean acidification caused by greenhouse gas (GHG) emissions are having significant detrimental effects on public health and on Oregon's economic vitality, natural resources, and environment; and

WHEREAS, climate change has a disproportionate effect on the physical, mental, financial, and cultural wellbeing of impacted communities, such as Native American tribes, communities of color, rural communities, coastal communities, lower-income households, and other communities traditionally underrepresented in public processes, who typically have fewer resources for adapting to climate change and are therefore the most vulnerable to displacement, adverse health effects, job loss, property damage, and other effects of climate change; and

WHEREAS, climate change is contributing to an increase in the frequency and severity of wildfires in Oregon; endangering public health and safety and damaging rural economies; and

WHEREAS, the world's leading climate scientists, including those in the Oregon Climate Change Research Institute, predict that these serious impacts of climate change will worsen if prompt action is not taken to curb emissions; and

WHEREAS, the Intergovernmental Panel on Climate Change has identified limiting global warming to 2 degrees Celsius or less as necessary to avoid potentially catastrophic climate change impacts, and remaining below this threshold requires accelerated reductions in GHG emissions to levels at least 80 percent below 1990 levels by 2050; and

WHEREAS, Oregon, as a member of the U.S. Climate Alliance, has committed to implementing policies to advance the emissions reduction goals of the international Paris Agreement; and

WHEREAS, GHG emissions present a significant threat to Oregon's public health, economy, safety, and environment; and

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WHEREAS, the transition from fossil fuels to cleaner energy resources can significantly reduce emissions and increase energy security and the resilience of Oregon communities in the face of climate change; and

WHEREAS, emissions from the transportation sector are the single largest source of GHG emissions in Oregon; and

WHEREAS, actions to reduce GHG emissions in Oregon's transportation sector will provide substantial public health co-benefits by reducing air pollutants from the combustion of gasoline and diesel fuel that are harmful to human health; and

WHEREAS, the rapid transition from internal combustion engines to zero-emission vehicles will play a key role in reducing emissions from the transportation sector and advancing the state's GHG emissions reduction goals; and

WHEREAS, zero-emission vehicles provide multiple benefits to Oregonians, including lower operating, maintenance, and fuel costs, and lower emissions of GHGs and other pollutants; and

WHEREAS, the Legislature established ambitious goals for the adoption of zero-emission vehicles in Senate Bill 1044 (2019); and

WHEREAS, rapid actions and investments by Oregon's utility sector to reduce GHG emissions and improve the resilience of the energy system in the face of climate change and wildfire risk can reduce risks for utility customers; and

WHEREAS, transitioning the traditional natural gas supply to renewable natural gas can significantly reduce GHG emissions; and

WHEREAS, energy efficiency standards in the built environment can reduce operating costs, save renters and homeowners money on their utility bills, improve the comfort and habitability of dwellings, and reduce GHG emissions; and

WHEREAS, product energy efficiency standards reduce costs for consumers, save energy, and reduce GHG emissions; and

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WHEREAS, in the absence of effective federal engagement on these issues, it is the responsibility of individual states to take immediate actions to address climate change and ocean acidification; and

WHEREAS, after thorough hearings within the Oregon Legislature, a majority of both chambers support addressing climate change, and the failure of the Oregon Legislature to attain quorum has thwarted legislative action to achieve science-based GHG emissions reduction goals; and

WHEREAS, given the urgency and severity of the risks from climate change and ocean acidification, and the failure of the Legislature to address these immediate harms, the executive branch has a responsibility to the electorate, and a scientific, economic, and moral imperative to reduce GHG emissions and to reduce the worst risks of climate change and ocean acidification for future generations, to the greatest extent possible within existing laws; and

WHEREAS, existing laws grant authority to state agencies to take actions to regulate and encourage a reduction of GHG emissions in a variety of circumstances; and

WHEREAS, the Legislature through the Emergency Board took action on March 9, 2020, to provide permanent funding to the executive branch to pursue executive action on reducing GHG emissions; and

WHEREAS, considering climate change in agency planning and decision making will help inform decisions regarding climate change risks and avoid higher mitigation and adaptation costs in the future; and

WHEREAS, all agencies with jurisdiction over the sources of GHG emissions will need to continue to develop and implement programs that reduce emissions to reach the state's GHG goals; and

WHEREAS, all agencies with jurisdiction over natural and working landscapes in Oregon will need to prepare and plan for the impacts of climate change and take actions to encourage carbon sequestration and storage; and

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WHEREAS, the Legislature previously established the goal of achieving GHG levels "at least 75 percent below 1990 levels" by 2050, and our State has an urgent, moral obligation to set and achieve more ambitious GHG reduction goals.

NOW, THEREFORE, IT IS HEREBY DIRECTED AND ORDERED:

- I. **State Agencies.** The following state commissions and state agencies are subject to the directives set forth in this Executive Order:
 - A. Business Oregon;
 - B. Department of Administrative Services (DAS);
 - C. Department of Consumer and Business Services Building Codes Division (BCD);
 - D. Department of Land Conservation and Development (DLCD) and Land Conservation and Development Commission (LCDC);
 - E. Environmental Justice Task Force;
 - F. Environmental Quality Commission (EQC) and Department of Environmental Quality (DEQ);
 - G. Oregon Department of Agriculture (ODA);
 - H. Oregon Department of Energy (ODOE);
 - I. Oregon Department of Fish and Wildlife (ODFW);
 - J. Oregon Department of Forestry (ODF);
 - K. Oregon Department of Transportation (ODOT) and Oregon Transportation Commission (OTC);
 - L. Oregon Global Warming Commission;
 - M. Oregon Health Authority (OHA);
 - N. Oregon Water Resources Department (OWRD);
 - O. Oregon Watershed Enhancement Board (OWEB); and
 - P. Public Utility Commission of Oregon (PUC).

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2. **GHG Emissions Reduction Goals.** Consistent with the minimum GHG reduction goals set forth in ORS 468A.205(1)(c), this Executive Order establishes science-based GHG emissions reduction goals, and calls for the State of Oregon to reduce its GHG emissions (1) at least 45 percent below 1990 emissions levels by 2035; and (2) at least 80 percent below 1990 emissions levels by 2050.
3. **General Directives to State Agencies.** From the date of this Executive Order, the state commissions and state agencies listed in paragraph 1 are directed to take the following actions:
 - A. **GHG Reduction Goals.** Agencies shall exercise any and all authority and discretion vested in them by law to help facilitate Oregon's achievement of the GHG emissions reduction goals set forth in paragraph 2 of this Executive Order.
 - B. **Expedited Agency Processes.** To the full extent allowed by law, agencies shall prioritize and expedite any processes and procedures, including but not limited to rulemaking processes and agency dockets, that could accelerate reductions in GHG emissions.
 - C. **Agency Decisions.** To the full extent allowed by law, agencies shall consider and integrate climate change, climate change impacts, and the state's GHG emissions reduction goals into their planning, budgets, investments, and policy making decisions. While carrying out that directive, agencies are directed to:
 - (1) Prioritize actions that reduce GHG emissions in a cost-effective manner;
 - (2) Prioritize actions that will help vulnerable populations and impacted communities adapt to climate change impacts; and
 - (3) Consult with the Environmental Justice Task Force when evaluating climate change mitigation and adaptation priorities and actions.
 - D. **Report on Proposed Actions.** The following agencies are directed to report to the Governor by May 15, 2020, on proposed actions within their statutory authority to reduce GHG emissions and mitigate climate change impacts: DEQ, DLCD, ODA, ODOE, ODFW, ODF, ODOT, OWRD, OWEB, and PUC.

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- E. Participation in Interagency Workgroup on Climate Impacts to Impacted Communities. The Governor's Office will convene an interagency workgroup on climate impacts to impacted communities to develop strategies to guide state climate actions, with participation by the following agencies and commissions: DEQ, DLCD, ODA, ODF, ODFW, ODOE, ODOT, OHA, OWEB, OWRD, PUC, Environmental Justice Task Force, Oregon Global Warming Commission, Oregon Parks and Recreation Department, and Oregon Sustainability Board.
4. Directives to the Environmental Quality Commission and the Department of Environmental Quality. In addition to the general directives set forth in paragraph 3, the EQC and DEQ are directed to take the following actions:
- A. Oregon's Clean Fuel Standards. Pursuant to its authority under ORS 468A.265 *et seq.* and other applicable laws, the EQC and DEQ shall take actions necessary to amend the low carbon fuel standards, and the schedule to phase in implementation of those standards, with the goal of reducing the average amount of GHG emissions per unit of fuel energy by 20 percent below 2015 levels by 2030, and 25 percent below 2015 levels by 2035.
- B. Clean Fuel Credits for Electrification. The EQC and DEQ are directed to advance methods accelerating the generation and aggregation of clean fuels credits by utilities that can advance the transportation electrification goals set forth in Senate Bill 1044 (2019).
- C. Sector-specific GHG Cap and Reduce Program. Pursuant to its authority under ORS 468A.005 *et seq.* and other applicable laws, the EQC and DEQ shall take actions necessary to:
- (1) Cap and reduce GHG emissions from large stationary sources of GHG emissions, consistent with the science-based emissions reduction goals set forth in paragraph 2 of this Executive Order;
 - (2) Cap and reduce GHG emissions from transportation fuels, including gasoline and diesel fuel, consistent with the science-based emissions reduction goals set forth in paragraph 2 of this Executive Order; and

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- (3) Cap and reduce GHG emissions from all other liquid and gaseous fuels, including natural gas, consistent with the science-based emissions reduction goals set forth in paragraph 2 of this Executive Order.
 - D. Regulation of Landfill Methane Emissions. The EQC and DEQ shall take actions necessary to reduce methane gas emissions from landfills, as defined in ORS 459.005(14), that are aligned with the most stringent standards and requirements for reducing methane gas emissions from landfills adopted among the states having a boundary with Oregon.
 - E. Reduction of Food Waste. The EQC and DEQ are directed to take actions necessary to prevent and recover food waste, with the goal of reducing food waste by 50 percent by 2030, to reduce GHG emissions resulting from such waste, including but not limited to engaging with states and other jurisdictions, industry, food retailers, and brand manufacturers to develop and implement strategies to prevent and recover food waste.
 - F. Timeline and Implementation.
 - (1) No later than May 15, 2020, DEQ shall submit a report to the Governor regarding an estimated timeline for rulemaking necessary for implementing the directives of paragraph 4(A)-(B) and paragraph 4(D)-(E), above.
 - (2) DEQ shall submit a preliminary report to the Governor by May 15, 2020, regarding program options to cap and reduce emissions from large stationary sources, transportation fuels, and other liquid and gaseous fuels that can commence no later than January 1, 2022. A final report shall be due by June 30, 2020.
 - (3) Reports submitted pursuant to paragraph 4 of this Executive Order also should detail DEQ's plans to engage impacted communities during the rulemaking process, in a manner consistent with ORS chapter 183.
5. Directives to the Public Utility Commission of Oregon. In addition to the general directives set forth in paragraph 3, the PUC is directed to consider the following factors and values, consistent with state law:

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- A. **Statement of Public Interest.** It is in the interest of utility customers and the public generally for the utility sector to take actions that result in rapid reductions of GHG emissions, at reasonable costs, to levels consistent with the GHG emissions reduction goals set forth in paragraph 2 of this Executive Order, including transitioning to clean energy resources and expanding low carbon transportation choices for Oregonians.
- B. **Regulatory Considerations.** Executive Order 00-06, which ensures that the PUC maintains its independence in decision making, is reaffirmed. The directives in this Executive Order are consistent with Executive Order 00-06. When carrying out its regulatory functions, the PUC is directed to:
- (1) Determine whether utility portfolios and customer programs reduce risks and costs to utility customers by making rapid progress towards reducing GHG emissions consistent with Oregon's reduction goals;
 - (2) Encourage electric companies to support transportation electrification infrastructure that supports GHG reductions, helps achieve the transportation electrification goals set forth in Senate Bill 1044 (2019), and is reasonably expected to result in long-term benefit to customers;
 - (3) Prioritize proceedings and activities, to the extent consistent with other legal requirements, that advance decarbonization in the utility sector, and exercise its broad statutory authority to reduce GHG emissions, mitigate energy burden experienced by utility customers, and ensure system reliability and resource adequacy;
 - (4) Evaluate electric companies' risk-based wildfire protection plans and planned activities to protect public safety, reduce risks to utility customers, and promote energy system resilience in the face of increased wildfire frequency and severity, and in consideration of the recommendations made by the Governor's Council on Wildfire Response 2019 Report and Recommendations;

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- (5) Convening periodic workshops for purposes of assisting electric companies, consumer-owned utilities, and operators of electrical distribution systems to develop and share best practices for mitigating wildfire risk; and
 - (6) In cooperation with Oregon Housing and Community Services, establish a public process to address and mitigate differential energy burdens and other inequities of affordability and environmental justice, including rate design and other programs to mitigate energy burden.
6. **Directives to the Department of Consumer and Business Services Building Codes Division.** In addition to the general directives set forth in paragraph 3, BCD is directed to take the following actions:
 - A. **Energy Efficiency Goal for New Construction.** BCD, through its advisory boards and committees, and in cooperation with ODOE, is directed to adopt building energy efficiency goals for 2030 for new residential and commercial construction. That goal shall represent at least a 60 percent reduction in new building annual site consumption of energy, excluding electricity used for transportation or appliances, from the 2006 Oregon residential and commercial codes.
 - B. **Code Progress and Updates.** BCD, through its advisory boards and committees, and in cooperation with ODOE, is directed to evaluate and report on Oregon's current progress toward achieving the goal for new residential and commercial buildings, pursuant to paragraph 6(A) of this Executive Order, and options for achieving steady progress toward the goal over the next three code cycles (2023, 2026, and 2029). Pursuant to its authority under ORS 455.500, BCD also is directed to update the Reach Code on the same timeline. No later than September 15, 2020, BCD should submit a report to the Governor on current progress and options for achieving the goals over the next three code cycles. The report should be updated every three years thereafter.
 - C. **Baseline Metrics and Reductions.** BCD, in cooperation with ODOE, is directed to agree on metrics, based on best practice and academic research, to inform the baseline and reductions associated with the code updates set forth in paragraph 6(B).

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7. **Directives to the Oregon Department of Energy.** In addition to the general directives set forth in paragraph 3, ODOE is directed to take the following actions:
- A. **Energy Efficiency Standards.** ODOE is directed to pursue emissions reductions by establishing and updating energy efficiency standards for products at least to levels equivalent to the most stringent standards among West Coast jurisdictions, including grid-connected appliances that can be utilized to manage end-use flexible electrical loads. ODOE also is directed to periodically evaluate and update those standards, as practicable, to remain at least equivalent to the most stringent standards among West Coast jurisdictions.
 - B. **Rulemaking.** ODOE is directed to take actions necessary to establish and update energy efficiency standards for products sold or installed in Oregon that include but are not limited to the following:
 - (1) High CRI fluorescent lamps;
 - (2) Computers and computer monitors;
 - (3) Faucets;
 - (4) Shower heads;
 - (5) Commercial fryers;
 - (6) Commercial dishwashers;
 - (7) Commercial steam cookers;
 - (8) Residential ventilating fans;
 - (9) Electric storage water heaters; and
 - (10) Portable electric spas.
 - C. **Timeline.** Any rulemaking necessary to implement the directives set forth in paragraph 7(B) should be completed by September 1, 2020.
 - D. **Third-Party Validation for Cost Savings.** ODOE, in cooperation with BCD, is directed to contract with a third party consulting firm to assess cost implications, including long-term energy cost savings, of the energy efficiency and building code actions set forth in paragraph 6(A)-(B) of this Executive Order.

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8. **Directives to the Department of Administrative Services.** In addition to the general directives set forth in paragraph 3, DAS is directed to take the following actions:
 - A. **Procurement Model for Zero-Emission Vehicles.** DAS is directed to develop a statewide policy and plan for state agencies to follow for procuring zero-emission vehicles, which local governments and special government bodies may use as a model program for furthering adoption of zero-emission vehicles for their fleets. The model program shall provide for a rate of procurement of zero-emission vehicles consistent with the findings and goals set forth in ORS 283.398 and the provisions of ORS 283.327. The model program may provide for DAS to participate in, sponsor, conduct, or administer cooperative procurements in accordance with ORS 279A.200 to ORS 279A.225, under which DAS, local governments, and special government bodies may procure zero-emission vehicles.
 - B. **GHG Implications of Contracting.** DAS is directed to review existing state procurement laws and practices to identify potential improvements that can reduce GHG emissions, consistent with the GHG reduction goals set forth in paragraph 2 of this Executive Order. DAS shall provide a report to the Governor no later than September 15, 2020, detailing options.
 - C. **GHG Reduction Goals and Electrification Goals.** DAS is directed to support the state in meeting the GHG reduction goals set forth in paragraph 2 of this Executive Order, and the zero-emission vehicle adoption goals set forth in Senate Bill 1044 (2019), through the rapid conversion of state fleets to zero-emission vehicles, and the expansion of electric vehicle charging infrastructure for public buildings. DAS shall provide a report to the Governor no later than September 15, 2020, detailing its plan.
9. **Directives to the Oregon Transportation Commission, Oregon Department of Transportation, Land Conservation and Development Commission, Environmental Quality Commission, and Oregon Department of Energy.**

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- A. In a letter from the Governor, dated September 23, 2019, the OTC, LCDC, EQC, and ODOE were directed to prioritize implementation of the Statewide Transportation Strategy, adopted by the OTC. Those agencies are further directed to include the following elements in their implementation of the Statewide Transportation Strategy:
 - (1) Establishment of GHG emissions reduction performance metrics; and
 - (2) Amendments to the Transportation Planning Rule that direct changes to the transportation plans of metropolitan planning areas to meet GHG reduction goals.
 - B. ODOT and DLCD are directed to identify and implement means to provide financial and technical assistance to metropolitan planning areas for amendment to transportation and land use plans that meet the state GHG reduction goals, or more stringent goals adopted by a metropolitan planning area.
 - C. Implementation of the directives set forth in paragraph 9(A)-(B) shall be at the highest level within the agencies, with regular and direct reporting to the Governor. The first report shall be made to the Governor no later than June 30, 2020.
10. **Directives to the Oregon Department of Transportation.** In addition to the general directives set forth in paragraph 3, ODOT is directed to take the following actions:
- A. In consultation with DEQ, ODOE, other appropriate state agencies, and public utilities, ODOT is directed to conduct a statewide transportation electrification infrastructure needs analysis, with particular focus on rural areas of the state, across use types and vehicle classes, to facilitate the transportation electrification goals set forth in Senate Bill 1044 (2019). The study should be completed no later than June 30, 2021.
 - B. ODOT is directed to develop and apply a process for evaluating the GHG emissions implications of transportation projects as part of its regular capital planning and Statewide Transportation Improvement Program planning processes. ODOT shall provide a report on the process to the Governor no later than June 30, 2021.

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11. **Directives to Oregon Health Authority.** In addition to the general directives set forth in paragraph 3, OHA is directed to take the following actions:
 - A. OHA is directed to deliver a report to the Governor, the Oregon Global Warming Commission, and the Environmental Justice Task Force no later than September 1, 2020, on the public health impacts of climate change in Oregon, with particular emphasis on the risks faced by vulnerable communities, including Oregon's nine federally recognized Native American tribes, communities of color, low income communities, and rural communities. OHA is directed to update the report annually.
 - B. OHA is directed to study the impacts of climate change on youth depression and mental health in Oregon and deliver a report to the Governor no later than June 30, 2021.
 - C. OHA and the Oregon Occupational Safety and Health Administration (OSHA) are directed to jointly develop a proposal for standards to protect workplace employees from exposure to wildfire smoke and excessive heat. The proposal should be completed no later than June 30, 2021.
12. **Directives to Oregon Global Warming Commission.** In addition to the general directives set forth in paragraph 3, the Global Warming Commission is directed to take the following actions:
 - A. In coordination with ODA, ODF, and OWEB, the Oregon Global Warming Commission is directed to submit a proposal to the Governor for consideration of adoption of state goals for carbon sequestration and storage by Oregon's natural and working landscapes, including forests, wetlands, and agricultural lands, based on best available science. The proposal shall be submitted no later than June 30, 2021.
 - B. Consistent with its reporting requirements in House Bill 3543 (2007), the Oregon Global Warming Commission shall also include reporting on progress toward the GHG reduction goals set forth in paragraph 2 of this Executive Order, and the zero-emission vehicle adoption goals set forth in SB 1044 (2019).

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13. **Effectiveness.** This Executive Order will remain in effect unless and until it is superseded by statute or another Executive Order.

Done at Salem, Oregon, this 10th day of March, 2020.





Kate Brown
GOVERNOR

ATTEST:



Bev Clarno
SECRETARY OF STATE

DECLARATION

I hereby declare under penalty of perjury under the laws of the State of Oregon that I prepared the above Reply Brief for the PCN5 docket, and that to the best of my knowledge and belief, declare the statements, testimony and exhibits to be true and that they were made for use by the Commission as evidence in this proceeding.

Dated this thirtieth (30) day of May, 2023.

/s/ Sam Myers

Sam Myers, Intervenor