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May 15, 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:

Attached for filing in the above-referenced docket is Idaho Power Company's Opening Brief ("Brief").

Please note that, because the only confidential information contained in the Brief is confidential medical information, there are only two versions of the Brief—the public version, which contains redactions, and the confidential version. The confidential version is being sent via encrypted zip file only to the Filing Center and Mr. Greg Larkin pursuant to Administrative Law Judge Mellgren's February 17, 2023 Ruling.

Please contact this office with any questions.

Thank you,

Alisha Till
Paralegal

Attachment

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

DOCKET PCN 5

In the Matter of

IDAHO POWER COMPANY'S

PETITION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

IDAHO POWER COMPANY'S

OPENING BRIEF

May 15, 2023

REDACTED

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I. INTRODUCTION

Idaho Power Company ("Idaho Power" or "Company") requests that the Public Utility Commission of Oregon ("Commission") grant the Company's Petition for a Certificate of Public Convenience and Necessity ("CPCN") for the construction of the Boardman to Hemingway Transmission Line Project ("B2H" or the "Project"), in order to provide urgently needed transmission capacity bridging the Mountain West and the Pacific Northwest.

Idaho Power has set a goal of providing its customers with 100 percent clean energy by 2045 while continuing to keep prices low and reliability high. Since 1996, the Company's firm peak-hour load has increased from 2,437 megawatts ("MW") to 3,751 MW—a new system peak hour record reached on June 30, 2021. Moreover, the Company anticipates adding approximately 13,300 customers each year throughout the next 20 years, including significant commercial and industrial growth. The anticipated load forecast for the entire system predicts summer peak-load requirements will grow nearly 55 MW per year, and the average energy requirement is forecast to grow about 30 average megawatts ("aMW") per year. To meet this growing demand, Idaho Power's 2021 Integrated Resource Plan ("IRP") includes the addition of 3,790 MW of new non-carbon emitting resources consisting of wind, solar, and storage technologies, the addition of B2H, and a variety of demand-side management resources.[1]

Once operational, B2H will provide the Company increased year-round access to reliable, clean, and low-cost market energy purchases from the Pacific Northwest. The Project has been a cost-effective resource identified in each of Idaho Power's IRPs since 2009 and is a cornerstone of the Company's 2021 IRP Preferred Portfolio.[2] In addition to the IRPs, B2H has been identified as a regionally significant project in the Northern Tier Transmission Group's ("NTTG") 2007, 2009,

[1] Idaho Power's Petition for a Certificate of Public Convenience and Necessity, [hereinafter, "Idaho Power's Petition for CPCN"], Attachment 14 (Idaho Power's 2021 IRP) at 19 of 214 (Sept. 30, 2022) [hereinafter "2021 IRP"].

[2] *See, e.g.*, 2021 IRP at 191-193 of 214 (identifying B2H in the Preferred Portfolio and Action Plan of the Company's 2021 IRP).

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2011, 2013, 2015, 2017, and 2019 biennial regional transmission plans, and in the NorthernGrid—NTTG's successor regional planning organization—2021 biennial regional transmission plan.[3]

The development and construction of high-voltage transmission lines, such as B2H, are critical to our region's and nation's clean energy future. In 2012, the White House identified B2H as one of seven lines critical to enhancing our nation's energy portfolio and fostering the growth of renewable energy resources.[4] Later, in 2021, Americans for a Clean Energy Grid identified B2H as one of the 22 shovel ready infrastructure projects needed to unlock and interconnect 60,000 MW of new renewable capacity.[5] B2H is necessary to integrate and balance variable energy resources, like wind and solar, by facilitating the transfer of geographically diverse renewable resources across the western grid,[6] and is in the public interest as the Project is the least-cost option for providing reliable energy to customers.[7]

Idaho Power has further demonstrated that the transmission line will be constructed, operated, and maintained in a manner that protects the public from danger and conforms with applicable Commission rules, and other applicable safety standards and best industry practices.[8] Idaho Power has designed the Project to meet or exceed the applicable engineering standards and has committed to designing, constructing, and operating the Project in accordance with the Commission's safety standards and best industry practices.[9] While intervenors have raised concerns about wind-loading design criteria, wildfire issues, and corona noise associated with the Project, Idaho Power has provided persuasive evidence responding to each of these issues. In particular, the wind loading criterion incorporated into the tower design is in excess of the code

[3] Idaho Power Company's Direct Testimony and Exhibits of Lindsay Barretto (Idaho Power/203, Barretto/479-899) (Sept. 30, 2022) (NTTG and NorthernGrid Regional Transmission Plans 2007-2021).
[4] Idaho Power's Petition for CPCN at 3 .
[5] Idaho Power's Petition for CPCN at 3.
[6] Idaho Power's Petition for CPCN at 3-4; *see also* 2021 IRP at 111-12 of 214 (describing the benefits of the B2H Project).
[7] 2021 IRP at 23, 26 of 214 ("B2H continues to be a least-cost resource"); *see also* OAR 860-025-0035(1)(a), (d).
[8] OAR 860-025-0035(1)(b).
[9] *See* Idaho Power/202 (Lindsay Barretto Declaration (Sept. 30, 2022)).

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requirements, and will ensure the tower design is robust and resilient—and protective of public health.[10] Additionally, the Company has shown, and the Energy Facility Siting Council ("EFSC") agreed, that there is a low probability of ignition associated with B2H, and the Wildfire Mitigation Plan, Fire Prevention and Suppression Plan, Right-of-Way Clearing Assessment, and Vegetation Management Plan are sufficient to ensure that the Project will not significantly increase wildfire hazards, fire suppression costs, or risks to fire suppression personnel within the surrounding area.[11] Finally, the evidence demonstrates that corona noise from the Project, which is characterized as library-room quiet, will not be of a level that would pose a public health risk.[12] For these reasons, the Project will be constructed, operated, and maintained in a safe manner.

In addition, the evidence demonstrates that B2H is practicable[13] as the Company has secured a site certificate for the Project, which the Oregon Supreme Court has already affirmed; Idaho Power and its contractors are experienced in constructing transmission lines and will efficiently and timely construct the Project, while implementing cost controls to construct the Project in a commercially reasonable manner.

Idaho Power has also provided compelling evidence demonstrating that the Project is justified and in the public interest when compared to feasible alternatives, and when weighing benefits and costs associated with the Project.[14] In particular, Idaho Power thoroughly considered alternative routes for B2H as well as alternatives to construction of a transmission line, all of which indicated that the Project is the most reasonable and cost-effective means of addressing the Company's anticipated resource needs. The record also shows that the Project will provide substantial benefits to customers of other utilities in Oregon—particularly PacifiCorp and the

[10] Idaho Power Company's Reply Testimony of Joseph Stippel (Idaho Power/1500, Stippel/9-14) (Feb. 21, 2023).
[11] Idaho Power Company's Reply Testimony of Christopher W. Lautenberger (Idaho Power/1300, Lautenberger/9) (Feb. 21, 2023).
[12] *See generally* Idaho Power Company's Reply Testimony of Dr. Jeffrey M. Ellenbogen (Idaho Power/1200-1220) (Feb. 22, 2023).
[13] OAR 860-025-0035(1)(c).
[14] OAR 860-025-0035(1)(d).

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Bonneville Power Administration ("BPA"). Additionally, the Project will increase connectivity between the Mountain West and the Pacific Northwest, thereby helping alleviate congestion on transmission systems in both regions and enabling generators in the Pacific Northwest to access additional markets to gain further value from their existing resources. In contrast, anticipated impacts associated with the Project, including to cultural resources and from corona noise generated by the transmission line, will be sufficiently addressed by proposed mitigation measures that are protective of the public interest. Finally, environmental justice considerations indicate that Idaho Power has gone to great lengths to avoid siting in proximity to population centers, and the analysis performed by the Bureau of Land Management ("BLM") as well as Idaho Power's analysis in this proceeding indicate that B2H does not unduly burden environmental justice communities.

Finally, Idaho Power has satisfied the Commission's land use requirements by obtaining the Site Certificate for the Project from EFSC, which has been upheld on appeal.

For these reasons, Idaho Power has demonstrated that B2H satisfies the criteria in ORS 758.015(2), OAR 860-025-0035(1)(a)–(e), and OAR 860-025-0040(7), and the Commission should grant a CPCN for the Project in accordance with Staff's recommendation.[15]

II. BACKGROUND

A. B2H

B2H is an approximately 296.6-mile-long, 500-kilovolt ("kV") electric transmission line between the proposed Longhorn Station near Boardman, Oregon, to the existing Hemingway Substation in southwest Idaho.[16] Approximately 272.8 miles of the transmission line are in Oregon and 23.8 miles are in Idaho.[17] The transmission line system is made up of right-of-way,

[15] Staff's Rebuttal Testimony and Exhibits of Sudeshna Pal (Staff/400, Pal/5) (Mar. 20, 2023).
[16] Idaho Power/1302, Lautenberger/7, 54 (Idaho Power's Response to Staff Data Request No. 26 – Attachment 1, Application for Site Certificate, Exhibit B).
[17] Idaho Power/1302, Lautenberger/7, 54 (Idaho Power's Response to Staff Data Request No. 26 – Attachment 1, Application for Site Certificate, Exhibit B). The Project in Oregon includes 270.8 miles of

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transmission and foundation structures, conductors, grounding system, communication station sites, and associated hardware.[18]

B. Partnership Agreements

As originally envisioned, Idaho Power, BPA, and PacifiCorp intended that they would each take an ownership share in B2H, dividing the capacity among them. Consistent with this intention, these parties entered into a Permit Funding Agreement, under which they were each responsible for permitting costs based on their respective ownership shares—which were set for the purposes of that agreement at approximately 54.55 percent for PacifiCorp, 21.21 percent for Idaho Power, and 24.24 percent for BPA.[19] In 2022, Idaho Power, PacifiCorp and BPA announced that they had agreed to negotiate a change in the anticipated ownership arrangements, such that BPA would transition out of its role as a permit funding participant and instead would utilize B2H's capacity to serve its customers by taking transmission service from Idaho Power. The parties also announced that they were working on certain asset exchanges to fully realize the benefits of B2H's capacity.[20]

In January 2023, after significant discussions and study efforts, Idaho Power, PacifiCorp, and BPA concluded negotiations on final agreements that address B2H ownership, transmission service considerations, and asset exchanges.[21] Under the agreements, Idaho Power increased its B2H ownership share from 21.21 percent to 45.45 percent by acquiring BPA's anticipated B2H

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single-circuit 500- kV electric transmission line, removal of 12 miles of existing 69-kV transmission line, rebuilding of 0.9 mile of a 230-kV transmission line, and rebuilding of 1.1 miles of an existing 138-kV transmission line. *Id.*

[18] Idaho Power/1302, Lautenberger/7-8, 55 (Idaho Power's Response to Staff Data Request No. 26 – Attachment 1, Application for Site Certificate, Exhibit B).

[19] *In re Idaho Power Co., 2017 Integrated Res. Plan*, Docket LC 68, Appendix D: B2H Supplement to the 2017 Integrated Resource Plan, Appendix D-3: B2H Permit Funding Agreement, Exhibit D at 127 of 175 (Dec. 8, 2017), *available at* https://apps.puc.state.or.us/edockets/edocs.asp?FileType=HAQ&FileName=lc68haq155535.pdf&DocketID=20890&numSequence=89; *see also* Idaho Power Company's Direct Testimony of Jared L. Ellsworth (Idaho Power/100, Ellsworth/3-5) (Sept. 30, 2022); Idaho Power Company's Reply Testimony of Jared L. Ellsworth (Idaho Power/500, Ellsworth/2) (Feb. 21, 2023).

[20] Idaho Power/100, Ellsworth/6-7.

[21] Idaho Power/500, Ellsworth/2.

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capacity.[22] Therefore, Idaho Power's final B2H ownership share is 45.45 percent, while PacifiCorp's ownership share will be 54.55 percent.[23] BPA, for its part, has agreed to execute two Network Integration Transmission Service Agreements to take winter-peaking transmission service on B2H from Idaho Power, complementing Idaho Power's summer-peaking usage.[24]

Moreover, as discussed above, Idaho Power and PacifiCorp have agreed to exchange transmission assets: (1) to allow for Idaho Power's ownership of 200 MW of bidirectional capacity between Populus, Mona, and Four Corners; (2) Idaho Power's ownership interest in identified Goshen area assets necessary to serve BPA load; (3) to facilitate PacifiCorp's 300 MW of west-to-east capacity between Midpoint and Borah; and (4) to enable PacifiCorp an additional 600 MW of east-to-west capacity between Borah and Hemingway.[25] Several of the agreements, including the necessary Transmission Service Agreements, the Purchase, Sale and Security Agreement, and the Joint Purchase and Sale Agreement, were executed in March 2023.[26] The parties will execute the remaining agreements prior to construction and upon energization.[27]

C. Permitting History

1. State

Idaho Power's corridor selection process and public outreach for B2H began in 2008.[28] In August 2008, Idaho Power submitted an initial Notice of Intent ("NOI") to the Oregon Department of Energy ("ODOE"), but due to public input, the Company withdrew the 2008 NOI and voluntarily

[22] Idaho Power/500, Ellsworth/2.
[23] Idaho Power/501, Ellsworth/1 (Construction, Ownership, Operation, Asset Exchanges and Service Agreements Necessary for B2H).
[24] Idaho Power/501, Ellsworth/1 (Construction, Ownership, Operation, Asset Exchanges and Service Agreements Necessary for B2H).
[25] Idaho Power/501, Ellsworth/3-4 (Construction, Ownership, Operation, Asset Exchanges and Service Agreements Necessary for B2H).
[26] *See* Idaho Power/500, Ellsworth/8-9; *see also* Idaho Power/501, Ellsworth/1-6 (Construction, Ownership, Operation, Asset Exchanges and Service Agreements Necessary for B2H) (identifying the agreements that Idaho Power, PacifiCorp, and/or BPA executed in March 2023).
[27] *See* Idaho Power/501, Ellsworth/1-6 (Construction, Ownership, Operation, Asset Exchanges and Service Agreements Necessary for B2H).
[28] Idaho Power Company's Reply Testimony and Exhibits of Mitch Colburn (Idaho Power/600, Colburn/10-11) (Feb. 21, 2023).

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initiated the Community Advisory Process ("CAP") to engage residents, property owners, business leaders, and local officials in the Project siting.[29] Through Phase One of the CAP—which included a two-year-long public engagement effort—Idaho Power partnered with communities and other stakeholders from Eastern Oregon to southwest Idaho to identify proposed and alternative corridors and station locations for the Project.[30] As a result, the Company submitted a NOI in 2010 with revised proposed and alternative segment routes.[31]

After Idaho Power filed the 2010 NOI, the Company worked steadily with ODOE, other state agencies, counties, and Tribal governments to ensure that the preliminary Application for Site Certificate ("ASC") would comply with EFSC's standards and all applicable state and local laws. Through regularly scheduled meetings, Idaho Power coordinated with ODOE to develop methodologies for studies and analyses, sharing results and making any necessary changes to ensure compliance with applicable standards and laws. On February 27, 2013, Idaho Power submitted its preliminary ASC to ODOE, after which Idaho Power again coordinated with relevant federal agencies and state, local, and Tribal governments over several years to address concerns and comments regarding the application. Prior to the BLM issuing its Record of Decision ("ROD") on November 17, 2017 (discussed in more detail below), Idaho Power submitted an amended preliminary ASC to ODOE on July 19, 2017, to incorporate discussion of most of the BLM's selected routes and other project modifications.[32] During ODOE's review of Idaho Power's amended preliminary ASC, the agency issued formal requests for additional information ("RAI") to Idaho Power from September 15, 2017 to September 21, 2018.[33] Idaho Power provided responses to all ODOE's RAIs and to all reviewing agency, local, and Tribal government comments and RAIs, and ODOE determined that the Company's application was complete on

[29] Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order) at 10 n.9 of 10603 (Oct. 7, 2022) [hereinafter "Final Order"].; *see also* Idaho Power/600, Colburn/10-11.
[30] Idaho Power/600, Colburn/11.
[31] Final Order at 10 n.9 of 10603; Idaho Power/600, Colburn/19.
[32] Final Order at 11-12 of 10603.
[33] Final Order at 12 of 10603.

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September 21, 2018.[34]

On September 28, 2018, Idaho Power submitted its complete ASC to EFSC.[35] In July 2020, ODOE issued its Proposed Order, recommending approval of the Project subject to certain conditions.[36] EFSC then initiated a two-year contested case hearing process that included exchange of discovery, depositions, motions for summary determination, submission of multiple rounds of written testimony, cross-examination hearings, and extensive briefing, culminating in a Proposed Contested Case Order, exceptions to that order, and a three-day Exceptions Hearing before EFSC.[37] Following the conclusion of the contested case, on September 27, 2022, EFSC voted unanimously in support of the Final Order, approving the Project subject to certain conditions.[38] The Final Order and Site Certificate include the land use approvals (and related conditions) for the Project, and in accordance with ORS 469.401(3), following issuance of the Site Certificate, the state and local agencies will issue the permits and land use permits governed by the Site Certificate without further hearings or other proceedings. After several parties appealed the Final Order, the Oregon Supreme Court affirmed EFSC's grant of the Site Certificate on March 9, 2023.[39]

2. Federal

Because portions of B2H cross stretches of land managed by the BLM, the Bureau of Reclamation ("BOR"), the Department of Defense ("DOD"), and the United States Forest Service ("USFS"), permitting for these segments is subject to federal permitting processes.[40] The BLM was the lead federal agency responsible for completing the National Environmental Policy Act

[34] Final Order at 12 of 10603; *see also* Idaho Power/600, Colburn/74.
[35] Final Order at 12 of 10603.
[36] Final Order at 15-16 of 10603.
[37] Final Order at 16-18 of 10603.
[38] *See generally* Final Order
[39] *STOP B2H Coal. v. Or. Dep't of Energy (In re Site Certificate)*, 370 Or 792, 821 (Mar. 9, 2023).
[40] B2H crosses 65.4 miles of BLM-managed land, 0.5-mile BOR-managed lands, 10.5 miles DOD managed-lands, 7.1 miles National Forest System lands, and 1.1 miles of State lands. *See* Final Order at 65 of 10603 (Table PF-2: Route Mileage Summary by Land Manager/Owner); Idaho Power Company's Reply Testimony and Exhibits of Kirk Ranzetta (Idaho Power/703, Ranzetta/17) (Feb. 21, 2023) (Idaho Power Response to Staff DR 15 – Attachment 1, Application for Site Certificate, Exhibit S).

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("NEPA") environmental impact analysis, which addressed, among other things, the potential cultural, historic, and archaeological impacts caused by B2H and compliance with Section 106 of the National Historic Preservation Act ("NHPA"), 54 U.S.C. § 306108.[41] The BLM issued its final Environmental Impact Statement ("Final EIS") in November 2016 and its ROD in November 2017.[42] The Final EIS and the ROD included the results of the BLM's government-to-government tribal consultations and consultations with other interested parties.[43]

Per the Programmatic Agreement, BLM, in consultation with the Idaho and Oregon State Historic Preservation Offices ("SHPO"), the Advisory Council on Historic Preservation ("ACHP"), as well as other parties to the Programmatic Agreement (including ODOE), is currently in the process of finalizing its Historic Properties Management Plan ("HPMP") as part of the federal Section 106 process.[44]

D. Procedural History of PCN 5

On September 1, 2022, Idaho Power provided its Notice of Intent to file its Petition for CPCN for B2H to the Commission and all landowners for which condemnation may be necessary—informing them of Idaho Power's plan to file the Petition, Idaho Power's proposed schedule for the proceeding, and how to participate in the proceeding.[45] On September 30, 2022, Idaho Power filed its Petition for CPCN for B2H before the Commission in accordance with the filing requirements under OAR 860-025-0030.[46] Following submission of the Petition, the Commission held several prehearing conferences to ensure that all parties had the opportunity to

[41] Idaho Power/703, Ranzetta/17 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).
[42] Idaho Power/703, Ranzetta/17 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S); Final Order at 11 of 10603.
[43] Idaho Power/703, Ranzetta/17 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S); Final Order at 11-12 of 10603.
[44] Idaho Power/700 Ranzetta/9-10.
[45] Idaho Power Company's Notice of Intent to File a Petition for Certificate of Public Convenience and Necessity (Sept. 1, 2022).
[46] Staff/400, Pal/7 ("Based on additional information provided by Idaho Power in response to Staff discovery and acknowledging that Idaho Power was the first to file a petition under the new requirements, I conclude that Idaho Power has now provided the information required for the purpose of Staff's analysis.").

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participate in the development of a schedule for the case. Moreover, in an effort to facilitate the informal exchange of information with interested parties, Idaho Power and the Commission led several workshops to provide information about B2H and to allow an opportunity for informal discussions. In addition, Public Comment Hearings were held on November 16, 2022, and December 5, 2022, to afford an opportunity for Idaho Power's customers, intervenors, and members of the public to offer comments to the Commission and Administrative Law Judge regarding their concerns about B2H.

In the course of this proceeding, Idaho Power, as well as PacifiCorp, responded to numerous data requests ("DR") from both Staff and intervenors. In particular, Idaho Power responded to 120 DRs from Staff, 118 DRs from Greg Larkin, 11 DRs from the STOP B2H Coalition ("STOP B2H"), three DRs from John Williams, and one DR from Wendy King. PacifiCorp responded to 14 DRs from Staff and nine DRs from Greg Larkin. This proceeding also included five rounds of written testimony followed by a two-day cross-examination hearing on April 19 and 20, 2023.

III. LEGAL STANDARD

Under ORS 758.015, an electric utility must petition the Commission for a CPCN when condemnation of land is necessary for the construction of an overhead transmission line. Before issuing a CPCN, the Commission must "determine the necessity, safety, practicability and justification in the public interest for the proposed transmission line[.]"[47] The Commission has

[47] ORS 758.015(2). Susan Geer argues that in accordance with ORS 35.235(3), Idaho Power must also demonstrate that the proposed route of the Project results in the "greatest public good and least private injury." Susan Geer's Amended Opening Testimony and Exhibits of Susan Geer (Susan Geer/100, Geer/5) (Feb. 1, 2023). However, this standard is not applicable to the Commission's consideration of the CPCN. ORS 35.235(3) is a subsection of Chapter 35 of the Oregon Revised Statutes relating to condemnation proceedings which provides that the commencement of condemnation proceedings by a private condemner creates three disputable presumptions: that the proposed use is necessary, the property is necessary for that proposed use, and the proposed use is planned or located in a manner which will be most compatible with the greatest public good and the least private injury. However, in the specific case of a transmission line, the CPCN functions as "conclusive evidence that the transmission line for which the land is required is a public use and necessary for public convenience." ORS 758.015(2). Indeed, in Docket UM 1495, the

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interpreted this statutory mandate to require demonstration of compliance with four separate elements; the petitioner must demonstrate that the proposed transmission line is necessary, safe, practicable, and justified, applying the plain, natural, and ordinary meanings of those terms.[48] The Commission considers the public interest when addressing each of those four elements.[49] Each element is addressed below in Sections IV(A)-(D).

Although the Commission must make its own investigation into these statutory criteria,[50] the Commission gives "due consideration" to other agencies' regulatory reviews and permitting approvals relating to the proposed transmission line.[51]

Finally, when making a determination, the Commission will "look at the evidence in the record as a whole" and base its decision on "the preponderance of the evidence."[52]

IV. ARGUMENT

A. Idaho Power's IRPs Demonstrate That B2H Provides the Company with Needed Capacity and Is Required for the Maintenance of Reliable Service.

In determining whether a new transmission line is "necessary" under ORS 758.015(2), the Commission must consider whether the line "will meet a demonstrated need for transmission of additional capacity or improved system reliability that enables the petitioner to provide or continue to provide adequate and reliable electricity service[.]"[53] Through its analysis in the 2021 IRP, and the IRPs going back to 2009, Idaho Power has demonstrated a need for the additional

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Commission considered similar arguments suggesting that ORS 35.235 should be the applicable standard for review of a CPCN and rejected them, instead affirming that the four factors set out in ORS 758.015(2)—necessity, safety, practicability, and justification—are the applicable standards. *In re PacifiCorp, dba Pac. Power, Petition for Certificate of Pub. Convenience and Necessity*, Docket UM 1495, Order No. 11-366 at 3-4 (Sept. 22, 2011); *see also* Docket UM 1495, Legal Comments of the Citizens' Utility Board at 9-10 (July 1, 2011), *available at* https://edocs.puc.state.or.us/efdocs/HAC/um1495hac131553.pdf.

[48] Order No. 11-366 at 4.

[49] Order No. 11-366 at 4. At times, the Commission has considered necessity and justification jointly because those terms "encompass intertwined issues relating to the purpose and rationale of the" proposed transmission line. *In re Umatilla Elec. Coop., Petition for Certification of Pub. Convenience and Necessity*, Docket PCN 4, Order No. 21-074 at 4-5 (Mar. 5, 2021).

[50] ORS 758.015(2).

[51] OAR 860-025-0035(2).

[52] *See, e.g.*, *In re Portland Gen. Elec. Co., Detailed Depreciation Study of Elec. Util. Properties*, Docket UM 2152, Order No. 21-463 at 8 (Dec. 15, 2021).

[53] OAR 860-025-0035(1)(a).

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capacity that will be provided by B2H ***and*** that B2H is needed to improve system reliability. Importantly, in each of these IRPs, this Commission has acknowledged that B2H is a key component of the Company's least cost, least risk resource portfolio[54]—a conclusion that was affirmed by regional studies.[55] In addition, evidence provided by both PacifiCorp and BPA demonstrates that B2H will provide needed capacity for their own systems. The record establishes without question that the necessity criterion has been met.

1. The Commission Has Acknowledged B2H as a Key Element of Idaho Power's IRP Preferred Portfolio in Each IRP Since 2009.

Idaho Power's status as a summer peaking utility is key to understanding its need for B2H. Because the majority of the utilities in the Pacific Northwest are winter peaking, the Company has historically been able to take advantage of the complementary needs of the regional utilities to meet its peak capacity needs with short-term power market purchases.[56] This approach relies on sufficient transmission capacity, which had been available in the past. However, by the end of the 1990s, Idaho Power began to experience transmission constraints, and therefore began analyzing transmission adequacy as part of the 2000 IRP.[57] Over the years, the results of the Company's analysis showed transmission deficiencies under low water conditions, increasing over the 10-year planning period in effect at that time.[58] As a result, the 2006 IRP's preferred portfolio selected a 230-kV transmission line (to provide 225 MW of capacity) connecting Idaho Power's service

[54] *In re Idaho Power Co., 2021 Integrated Res. Plan*, Docket LC 78, Order No. 23-004 at 7-12 (Jan. 13, 2023); *In re Idaho Power Co., 2019 Integrated Res. Plan*, Docket LC 74, Order No. 21-184 at 11, 14-17 (June 4, 2021); Docket LC 68, Order No. 18-176 at 9-11 (May 23, 2018); *In re Idaho Power Co., 2015 Integrated Res. Plan*, Docket LC 63, Order No. 16-160, App. A at 6 of 13 (Apr. 28, 2016); *In re Idaho Power Co., 2013 Integrated Res. Plan*, Docket LC 58, Order No. 14-253 at 5 (July 8, 2014); *In re Idaho Power Co., 2011 Integrated Res. Plan*, Docket LC 53, Order No. 12-177 at 4 (May 21, 2012); *In re Idaho Power Co., 2009 Integrated Res. Plan*, Docket LC 50, Order No. 10-392 at 9 (Oct. 11, 2010).
[55] *See* Idaho Power/203, Barretto/479-899 (NTTG and NorthernGrid Regional Transmission Plans 2007-2021) (The NTTG and NorthernGrid biennial regional transmission plans were provided as attachments to the Company's Response to Standard Data Request No. 5).
[56] Idaho Power/100, Ellsworth/17-18.
[57] Idaho Power/100, Ellsworth/18.
[58] Idaho Power/100, Ellsworth/18.

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territory to the Pacific Northwest power markets, to be placed in service by 2012.[59] At the time, the line was envisioned as between the McNary substation and Boise.[60]

Following inclusion of the 230-kV transmission line in the preferred portfolio of the 2006 IRP, Idaho Power determined there was insufficient room at the existing McNary substation for major transmission expansion options.[61] In addition, as part of the regional transmission planning public review process conducted by the NTTG it was determined a 230-kV project would be unable to meet the Company's overall resource planning requirements and would underutilize a substantial transmission corridor.[62] Instead, the NTTG process selected a 300-mile, 500-kV transmission line that became known as B2H.[63] Since that time, the Project has been identified—and acknowledged by this Commission—as part of the preferred resource portfolio in Idaho Power's 2009, 2011, 2013, 2015, 2017, 2019 and most recently in the 2021 IRP.[64]

a. 2021 IRP

As the most recent IRP—and the only IRP analysis based on the final ownership structures and asset swaps discussed above—the 2021 IRP's results are the most relevant to the Commission's evaluation in this case. In the Second Amended 2019 IRP, and again with the 2021 IRP, Idaho Power first used a more sophisticated approach to develop and select IRP portfolios—the long-term capacity expansion model or LTCE.[65] The logic of the LTCE model optimizes resource additions and exits of generating units based on the performance of each zone defined within the Western Energy Coordinating Council region and develops resource portfolios under various future conditions, such as sensitivities for natural gas prices, carbon

[59] Idaho Power/100, Ellsworth/19; *see also In re Idaho Power Co., Application for Adoption of its 2006 Integrated Res. Plan*, Docket LC 41, Order No. 07-394 at 8 (Sept. 12, 2007).
[60] Idaho Power/100, Ellsworth/19.
[61] Idaho Power/100, Ellsworth/20.
[62] Idaho Power/100, Ellsworth/20.
[63] Idaho Power/100, Ellsworth/20-21.
[64] Idaho Power/100, Ellsworth/23; *see also* Order No. 23-004 at 7-12; Order No. 21-184 at 11, 14-17; Order No. 18-176 at 9-11; Order No. 16-160, App. A at 6 of 13; Order No. 14-253 at 5; Order No. 12-177 at 4; Order No. 10-392 at 9.
[65] Idaho Power/100, Ellsworth/24.

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costs, load growth and electrification, transmission and clean energy constraints and timelines.[66] The LTCE model applies a planning margin hurdle and regulation reserve requirements, and then optimizes resource selections around those constraints to determine a least-cost, least-risk portfolio.[67] In addition, for the 2021 IRP, the Company developed a branching scenario strategy to ensure the resulting portfolios reasonably identified an optimal solution specific to its customers.[68] The results of both the LTCE modeling and branching analysis confirmed that the portfolio with B2H best minimizes both cost and risk.[69] Comparing the net present value ("NPV") of the 2021 Preferred Portfolio, including B2H (Preferred Portfolio), with the best performing non-B2H portfolio (the Base without B2H PAC Bridger Alignment) resulted in a $266 million difference.[70]

In its Order acknowledging the construction of B2H in the 2021 IRP, the Commission expressed its confidence in the IRP's selection of B2H in the Preferred Portfolio, stating:

> Portfolios containing the B2H project have remained robust over the range of market and industry contexts and modeling approaches across what now is seven IRPs. This consistent presence in least cost, least risk portfolios speaks to the optionality of transmission as a resource, and leads to a reasonable expectation of continued value for utility customers into the long-term future.[71]

The Commission noted that the risk in this long history of evaluation is complacency, which could lead the parties to "assume without fresh scrutiny that past conclusions hold."[72] However, the Commission explained that it was "satisfied that the rigorous scrutiny" it had

[66] Idaho Power/100, Ellsworth/24.
[67] Idaho Power/100, Ellsworth/24.
[68] Idaho Power/100, Ellsworth/25.
[69] Idaho Power/100, Ellsworth/26.
[70] Idaho Power/100, Ellsworth/26 (Table 1), 28. To further validate transmission planning results, the Company performed additional robustness testing including various sensitivities and scenarios on the portfolios that included the Project, including one specific to the robustness of B2H, and testing capacity sensitivities, cost risks and timing. Idaho Power/100, Ellsworth/27. The results of all the sensitivities and scenarios performed validated and further verified that the results of the LTCE modeling identified optimal solutions for Idaho Power's customers. *Id.*
[71] Order No. 23-004 at 7.
[72] Order No. 23-004 at 7.

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applied in prior IRPs had been continued into the 2021 IRP through concerns raised by Staff and other parties, concluding:

> After reviewing these concerns carefully ourselves, we conclude that none of the continuing or new uncertainties are significant enough to erode fundamentally our confidence that the preferred portfolio and action plan containing the B2H project represent the "best combination of cost and risk for the utility and its customers * * * consistent with the long-run public interest as expressed in Oregon and federal energy policies."[73]

a. *Updates to the IRP Analysis.*

During the pendency of this proceeding, Idaho Power updated key inputs to the IRP analysis—most significantly, the estimated cost of the line—to further test the reasonableness of B2H's selection in the Preferred Portfolio.[74] The Company's updated costs and analysis confirm that B2H remains a least cost, least risk resource.

As detailed in the Supplemental Direct Testimony of Idaho Power 500-kV and Joint Projects Senior Manager, Lindsay Barretto, the estimate in Idaho Power's Petition for CPCN had been based on a 30 percent design package.[75] The current estimate, which is based on a 60 percent design package, incorporates site-specific data, more precise information about tower heights and access roads, and updated market information, and is therefore more accurate.[76] Due primarily to increased material and labor costs resulting from inflation and supply chain issues, the estimated costs of B2H have increased from those reflected in the 2021 IRP.[77] The direct B2H transmission and substation components for the Company have increased from $425 million, ***not including a contingency***, in the 2021 IRP to $603 million, ***including a contingency***.[78] The $603 million estimate includes costs for permitting, preconstruction, right-of-

[73] Order No. 23-004 at 8 (citing Order No. 21-184 at 2).
[74] Idaho Power's Supplemental Direct Testimony of Lindsay Barretto (Idaho Power/300, Barretto/2-3) (Dec. 30, 2022).
[75] Idaho Power/300, Barretto/2-3.
[76] Idaho Power/300, Barretto/2-3.
[77] Idaho Power/300, Barretto/3-4.
[78] Idaho Power/500, Ellsworth/23; *see also* Docket LC 78, 2021 IRP, Appendix D at 59 (Feb. 2022), *available at* https://edocs.puc.state.or.us/efdocs/HAQ/lc78haq15183.pdf [hereinafter, "2021 IRP, Appendix D"].

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way options, the transmission line itself, substation costs (now including the midline series capacitor station), overheads, contingency, and Idaho Power's Allowance for Funds Used During Construction and property tax.[79] The sum of ***all the components*** is approximately $668 million ($603 M B2H + $47 M interconnection + $17 M permitting payback) (see Table 1 below).[80]

As Mr. Ellsworth explained in his Reply Testimony, transmission costs in the 2021 IRP are incorporated in the model as a separate "bolt-on portfolio cost."[81] As a result, it was a straightforward exercise for Idaho Power to determine how incorporation of the updated B2H estimate would impact the cost of the Preferred Portfolio.[82] Idaho Power simply removed the prior transmission cost estimates and layered in the new estimates.[83] After doing this, the total cost of the Preferred Portfolio increased from $7,942 million in the 2021 IRP to $8,027 million with the latest estimate, which represented an $85 million NPV portfolio cost increase.[84]

To test whether B2H remains a least-cost, least-risk resource, even with this increase, Idaho Power analyzed the difference between the Preferred Portfolio with B2H and the least cost non-B2H portfolio. On this point, Idaho Power explained that costs have increased not only for B2H, but for all major electrical power infrastructure.[85] Moreover, it is important to recall that the 2021 IRP's best performing non-B2H portfolio, the Base without B2H PAC Bridger Alignment, included another transmission project—Gateway West.[86] Therefore, in order to create an apples-to-apples comparison, Idaho Power assumed the Gateway West cost-per-mile would be equivalent to the updated B2H cost-per-mile.[87] The table below shows the original and updated levelized total and NPV costs for the major transmission components included in the IRP analysis.

[79] Idaho Power/500, Ellsworth/23.
[80] Idaho Power/500, Ellsworth/24.
[81] Idaho Power/500, Ellsworth/25.
[82] Idaho Power/500, Ellsworth/25.
[83] Idaho Power/500, Ellsworth/25.
[84] Idaho Power/500, Ellsworth/25. In his Reply Testimony Mr. Ellsworth explained that while direct capital cost increased $183 million, the difference on an NPV basis is $85 million. *See id.*
[85] Idaho Power/500, Ellsworth/17.
[86] Idaho Power/500, Ellsworth/26.
[87] Idaho Power/500, Ellsworth/26.

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Table 1. Updated Levelized and Portfolio NPV Costs of Major Transmission Components[88]

Project Description	Total Cost	Levelized Cost	In-Service Year	Updated Portfolio NPV Cost	2021 IRP Portfolio NPV Cost
B2H (with local interconnection)	$668M	$35.6M	2026 (Preferred Portfolio)	$244.2M	$159.9M
Midpoint Transformer & Kinport Series Capacitor	$47M	$3.8M	2026 (Preferred Portfolio)	$25.8M	$25.8M
Gateway West (with local interconnection)	$284.9M	$22.0M	2027 (Non-B2H Portfolio)	$135.4M	$100.9M
Gateway West (without local interconnection)	$238M	$17.7M	2033 (Non-B2H Portfolio)	$49.4M	$36.8M
Midpoint Transformer & Kinport Series Capacitor (No PacifiCorp exchange)	$16.2M	$1.3M	2027 (Non-B2H Portfolio)	$8.2M	$8.2M

Table 1 reflects Idaho Power's updated Project costs. The Company completed this exercise, and the result was that the Base without B2H PAC Bridger Alignment portfolio cost increased from $8,208 million in the 2021 IRP to $8,255 million using the latest B2H estimate.[89]

Ultimately, the result of increased B2H transmission costs is that the difference between the least-cost B2H portfolio and the least-cost non-B2H portfolio is $8,027 million compared to $8,255 million—representing a $228 million difference.[90] For reference, the 2021 IRP was $7,942 million compared to $8,208 million—a $266 million difference.[91] In short, when considering only the updated transmission costs, the gap between the least-cost B2H portfolio and the least-cost non-B2H portfolio reduced from $266 million in the 2021 IRP to $228 million with the most recent

[88] This table was reproduced from Table 3 in Mr. Ellsworth's Reply Testimony. Idaho Power/500, Ellsworth/24-25.
[89] Idaho Power/500, Ellsworth/26.
[90] Idaho Power/500, Ellsworth/26.
[91] Idaho Power/500, Ellsworth/26; *see also* 2021 IRP, Appendix D at 8.

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estimate.[92] This analysis confirms that the least-cost B2H portfolio remains the optimal portfolio, even with updated costs.[93]

b. *Grid Reliability.*

B2H clearly increases the robustness and reliability of the regional transmission system by adding additional high-capacity bulk electric facilities designed with the most up-to-date engineering standards.[94] Major 500-kV transmission lines, such as B2H, substantially increase the grid's ability to recover from unexpected disturbances.[95] There are numerous examples of outages on Idaho Power's system that could have very significant adverse impacts on customers, however, the most challenging would be an outage on the Hemingway-Summer Lake 500-kV transmission line, the only 500-kV connection between the Pacific Northwest and Idaho Power.[96] Loss of this transmission line during peak summer load would reduce the transfer capability of the Idaho-to-Northwest path by over 700 MW in the west-to-east direction.[97] After the addition of the Project, there will be two major 500-kV connections between the Pacific Northwest and Idaho Power, which would substantially decrease the impact of such an event.[98] Mr. Ellsworth's testimony provides several additional contingencies that will be addressed with the addition of B2H.[99]

In addition to grid resilience, B2H adds resource reliability. As discussed above, B2H is included in the Preferred Portfolio as a supply-side resource. Forced outages on transmission lines are significantly lower than those for generation resources.[100] For example, the forced outage rates for generation resources range between two percent (for combined cycle gas

[92] Idaho Power/500, Ellsworth/26.
[93] Idaho Power/500, Ellsworth/25-26. As explained by Mr. Ellsworth, updating only transmission costs results in a conservative estimate. Idaho Power/500, Ellsworth/26-27.
[94] Idaho Power/100, Ellsworth/37.
[95] Idaho Power/100, Ellsworth/37.
[96] Idaho Power/100, Ellsworth/37.
[97] Idaho Power/100, Ellsworth/37.
[98] Idaho Power/100, Ellsworth/37.
[99] Idaho Power/100, Ellsworth/37-39.
[100] Idaho Power/100, Ellsworth/39.

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generation) to nine percent (for coal generation) depending on the type of resource.[101] In contrast, the forced outage rate for transmission resources is one-quarter of one percent.[102] It is true that a transmission line requires generating resources to provide energy to the line to serve load.[103] However, energy sold as "firm" must be backed up and delivered even if a source generator fails.[104] Therefore, firm energy purchases would have a forced outage rate equivalent to a transmission line, which renders Idaho Power's Preferred Portfolio with B2H significantly more reliable than a portfolio without B2H.[105]

To evaluate B2H's contribution to reliability from a more analytic perspective, Idaho Power believes that the best approach is to consider the system with and without B2H, and then evaluate reliability in terms of exposure and risk. From this standpoint, the loss of load expectation ("LOLE") analysis included in the 2021 IRP demonstrates the need for the capacity that B2H will provide, and the economic gap between the Preferred Portfolio and the best performing non-B2H portfolio demonstrates that B2H is the best resource to fill this capacity need.[106]

If Idaho Power were to remove B2H from the 2021 IRP Preferred Portfolio, an adequate LOLE would not be achieved, and other resources would be required to maintain adequate reliability.[107] While this fact alone indicates that B2H is necessary for reliability purposes, it is also important to consider the reliability of the 2021 IRP Preferred Portfolio as compared to reliability of the least-cost non-B2H portfolio.[108] The 2021 IRP Preferred Portfolio required 41 MW of additional fixed-capacity generation, spread over the last four years of the planning window (7 MW, 3 MW, 15 MW, and 16 MW starting in 2037), to meet reliability targets.[109] Idaho Power could have likely achieved that 41 MW with a combination of solar, wind, and storage, although

[101] Idaho Power/100, Ellsworth/39.
[102] Idaho Power/100, Ellsworth/39.
[103] Idaho Power/100, Ellsworth/39.
[104] Idaho Power/100, Ellsworth/39.
[105] Idaho Power/100, Ellsworth/39-40.
[106] Idaho Power/500, Ellsworth/29-33.
[107] Idaho Power/500, Ellsworth/29-30.
[108] Idaho Power/500, Ellsworth/30.
[109] Idaho Power/500, Ellsworth/30.

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those resources were beginning to become less effective toward the end of the IRP planning window.[110] In contrast, the least-cost non-B2H portfolio required 305 MW of additional fixed-capacity generation, starting with 200 MW in 2035.[111] Importantly however, a reasonable combination of wind, solar, and storage could not meet the 305 MW reliability gap.[112] Idaho Power has found when performing informational loss of load studies for internal analyses that, at a certain point, continued addition of wind, solar, and storage inside the Company footprint has significant diminishing returns on capacity contribution.[113] These diminishing returns are due to homogeneous weather patterns spread across the Idaho Power footprint causing simultaneous system-wide low wind, or low solar, or a combination of the two.[114] These findings are further supported by the Resource Adequacy in the Pacific Northwest report published by Energy+Environmental Economics.[115] For these reasons, and as evidenced in the 2021 IRP Preferred Portfolio, transmission between regions is the solution, and is necessary to meet reliability targets in a clean-energy future.[116]

2. Regional Transmission Plans Demonstrate a Need for B2H.

B2H has also been identified as a regionally significant project, producing a more efficient or cost-effective plan in NTTG's 2007, 2009, 2011, 2013, 2015, 2017, and 2019 biennial regional transmission plans, and in the NorthernGrid, NTTG's successor regional planning organization, 2021 biennial regional transmission plan.[117]

3. PacifiCorp's 2021 IRP Demonstrates a Need for B2H.

In addition to Idaho Power's need for B2H, the record in this case also establishes

[110] Idaho Power/500, Ellsworth/30.
[111] Idaho Power/500, Ellsworth/30.
[112] Idaho Power/500, Ellsworth/30.
[113] Idaho Power/500, Ellsworth/30.
[114] Idaho Power/500, Ellsworth/30.
[115] Idaho Power/500, Ellsworth/30; *see also* Idaho Power/506 (Energy and Envt'l Econs., Resource Adequacy in the Pacific Northwest at 56 (Mar. 2019)).
[116] Idaho Power/500, Ellsworth/30-32.
[117] Idaho Power/100, Ellsworth/23-24; *see also* Exhibit Idaho Power/203, Barretto/479-899 (NTTG and NorthernGrid Regional Transmission Plans 2007-2021).

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PacifiCorp's and BPA's need for the Project. PacifiCorp provided the testimony of Rick Link, Senior Vice President, Resource Planning, Procurement and Optimization, who summarized the results of PacifiCorp's 2021 IRP, where B2H was a key component of the least-cost least-risk portfolio.[118] PacifiCorp's 2021 IRP demonstrated that utility's need for B2H in 2026, to avoid a shortfall in load-serving capability, which, as Mr. Link explained, has only increased since the 2021 IRP was filed.[119] In addition, B2H will improve PacifiCorp's grid reliability and provide better operational control of the backbone transmission system by interconnecting PacifiCorp's East and West balancing authorities.[120]

Idaho Power further offered copies of BPA's Letter to the Region from January 9, 2023, and BPA's B2H Workshop Presentation from January 23, 2023.[121] While these documents do not provide the underlying analysis, they do establish BPA's conclusion that transmission capacity on B2H is needed to serve BPA's load.[122]

Based on all of the information provided in this case, Staff concluded that Idaho Power had demonstrated the necessity of B2H based on the need for additional capacity that would be met by B2H.[123] In addition, Staff found that other regional electricity providers, including PacifiCorp and BPA, had provided evidence of needs on their system that would be addressed in IRPs.[124] Staff concluded its analysis stating: "Staff believes that the need for reliable and affordable energy will continue to exist for Oregonians as it will for customers outside of Oregon.

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[118] PacifiCorp's Opening Testimony of Rick Link (PAC/100, Link/4) (Jan. 17, 2023).
[119] PAC/100, Link/4.
[120] PacifiCorp's Rebuttal Testimony and Exhibits of Rick Link (PAC/200, Link/7-8) (Mar. 20, 2023); PacifiCorp/100, Link/5. Mr. Link stated his opinion that the 2021 IRP does not fully capture the expected system reliability benefit associated with B2H. PAC/200, Link/7-8 In particular, Mr. Link explained that aspects of PacifiCorp's modeling may have underestimated the degree to which market purchases may be made during peak conditions on the company's system, and that B2H will make it more likely that purchases can be procured from market. *See id.*
[121] Idaho Power/502 (Updated BPA Letter to the Region Regarding B2H and Southeast Idaho Load Service (Jan. 9, 2023)); Idaho Power/503 (BPA B2H Workshop Presentation (Jan. 23, 2023)).
[122] The benefits that BPA calculated associated with B2H are discussed with respect to the "justification" criterion, in Section IV(D).
[123] Staff/400, Pal/4.
[124] Staff/400, Pal /11-12.

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Idaho Power has demonstrated that B2H will be used to meet that need."[125]

4. Responses to Staff Concerns.

While Staff agrees that B2H provides necessary capacity, Staff disagrees that Idaho Power has demonstrated that B2H is necessary to maintain the reliability of Idaho Power's system.[126] Staff noted that a showing of system reliability need is ***not*** required to satisfy the necessity standard, given that Idaho Power has demonstrated a need for B2H's additional capacity.[127] However, Idaho Power believes it may be helpful for the Commission to understand why the Company believes it has demonstrated a need not only for B2H's capacity, but also for the reliability it will bring to Idaho Power's system.

Staff opined that in order to show that B2H is necessary for system reliability, the Company needs to perform "an objective engineering analysis" where it identifies the risks to reliability and "examines the status of the grid in the area of study under different contingency scenarios."[128] Idaho Power agrees with Staff's view that a determination of necessity must be based on appropriate studies, but disagrees with Staff's view that such an analysis has not been performed. On the contrary, that is precisely the purpose of the LOLE study that was performed in the 2021 IRP. Staff has criticized Idaho Power's LOLE analysis because it incorporated a 0.05 event-day per year threshold as opposed to a 0.1 day per year threshold, which Staff stated is more standard in the industry.[129] The Company incorporated the 0.05 event day per year threshold given the more extreme weather it expects over the 20-year planning period.[130] Regardless, Idaho Power has demonstrated that the difference between outcomes using those two thresholds is not significant.[131]

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[125] Staff/400, Pal/12.
[126] Staff/400, Pal/8.
[127] Staff/400, Pal/8-9.
[128] Staff's Rebuttal Testimony and Exhibits of Yassir Rashid (Staff/500, Rashid/3) (Mar. 20, 2023).
[129] Staff/500, Rashid/4-5.
[130] Idaho Power Company's Surrebuttal Testimony of Jared Ellsworth (Idaho Power/1700, Ellsworth/7) (Apr. 7, 2023).
[131] Idaho Power/1700, Ellsworth/7-8.

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Moreover, in the Surrebuttal Testimony of Jared Ellsworth, Idaho Power's Transmission, Distribution & Resource Planning Director for the Planning, Engineering & Construction Department, the Company provided a detailed description of the NorthernGrid Regional Transmission Plan for the 2020-2021 NorthernGrid Planning Cycle ("2020-2021 RTP"), which clearly demonstrates the necessity for B2H to maintain system reliability.[132] The 2020-2021 RTP was developed under the regional transmission planning process, in accordance with each enrolled party's Open Access Transmission Tariff Attachment K.[133] The objective of the planning process is to identify the transmission projects that either cost-effectively or efficiently meet the needs of the NorthernGrid members[134] in a 10-year future.[135] Relying on data submitted by each NorthernGrid member, the study developed eight base cases, which formed the foundation for the selection of projects in the 2020-2021 RTP.[136] To identify the set of projects to be included in the 2020-2021 RTP, portions of the planned regional projects were removed from the base cases to ascertain if a subset of the proposed regional projects would meet the needs of the transmission system more cost-effectively or efficiently than the entire set.[137] In Mr. Ellsworth's Surrebuttal Testimony, Idaho Power offered the results of that analysis, which show that B2H is required for reliability purposes.[138]

5. Response to STOP B2H's Concerns.

STOP B2H challenged the contingency costs that Idaho Power included in the Company's

[132] Idaho Power/1700, Ellsworth/3-6.
[133] Idaho Power/1700, Ellsworth/3; Idaho Power/203, Barretto/862 (NTTG and NorthernGrid Regional Transmission Plans 2007-2021).
[134] 2020-2021 RTP members included Avista, BPA, Chelan Public Utility District ("PUD"), Grant County PUD, Idaho Power, BHE U.S. Transmission as the owner of the Montana Alberta Tie Line, NorthWestern Energy, PacifiCorp East and West, Portland General Electric, Puget Sound Energy, Seattle City Light, Snohomish PUD, and Tacoma Power. Idaho Power/203, Barretto/870 (NTTG and NorthernGrid Regional Transmission Plans 2007-2021).
[135] Idaho Power/1700, Ellsworth/3.
[136] Idaho Power/1700, Ellsworth/5.
[137] Idaho Power/1700, Ellsworth/5.
[138] Idaho Power/1700, Ellsworth/4-6.

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budgets,[139] and suggested that Idaho Power's contingency is not adequate to protect ratepayers from potential cost overruns.[140] However, STOP B2H's arguments are misplaced. As Idaho Power's witness, Ms. Barretto, explained at the hearing, Idaho Power's contingency is sufficient to address potential cost overruns.[141] While the contingency as a percentage of the overall budgeted costs decreased in more recent budget updates, this is because (1) Idaho Power's Project estimates have become more accurate as the Company finalizes the design of the Project;[142] and (2) the overall budget includes incurred costs to which it would not be appropriate to apply a contingency.[143]

B. Idaho Power Will Construct, Operate, and Maintain B2H in a Safe Manner that Protects the Public from Danger.

To meet the safety criterion, OAR 860-025-0035(1)(b), a "petitioner must show that the project will be constructed, operated, and maintained in a manner that protects the public from danger and conforms with applicable Commission rules, and other applicable safety standards and best industry practices."[144] In past cases, the Commission has relied on a petitioner's commitment to meet or exceed all applicable safety standards and rules to demonstrate compliance.[145] The Commission also considers a petitioner's record of operating its transmission system to assess whether the petitioner has done so safely.[146] Further, the Commission's rules require the applicant to "construct, operate, and maintain electrical supply and communication lines in compliance with the standards prescribed by the 2017 Edition of the National Electric

[139] STOP B2H's Rebuttal Testimony and Exhibits of Jim Kreider (STOP B2H/200, Kreider/10-11) (Mar. 20, 2023).
[140] Transcript of April 19-20, 2023 Evidentiary Hearing at 26, lines 11-24 (filed May 1, 2023) [hereinafter "Transcript"].
[141] Transcript at 27, line 14 – 29, line 17.
[142] Transcript at 28, lines 7-19.
[143] Transcript at 20, lines 1-12.
[144] Order No. 11-366 at 4.
[145] *In re Umatilla Elec. Coop., Petition for Certification of Pub. Convenience and Necessity*, Docket PCN 1, Order No. 17-111 at 4 (Mar. 21, 2017).
[146] *See, e.g.*, *In re Tillamook People's Util. Dist., Petition for Certificate of Pub. Convenience and Necessity*, Docket PCN 2, Order No. 19-293 at 16 (Sept. 10, 2019).

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Safety Code [("NESC")]."[147]

Idaho Power's long history of safely operating transmission lines demonstrates the Company's ability to safely construct, operate, and maintain B2H. Idaho Power has substantial experience constructing, operating, and maintaining transmission and distribution lines in Oregon and Idaho.[148] The Company was originally incorporated in 1915,[149] and currently operates 4,868 miles of transmission lines, including 692 miles in Oregon.[150] Idaho Power constructed or oversaw the construction of the entirety of its transmission system in Oregon and Idaho,[151] and EFSC found that the Company's experience designing, constructing, and operating its existing transmission system in a safe manner using a team of experienced professionals and comprehensive maintenance plans "demonstrates it has the experience and expertise required for construction, operations and maintenance of the facility in a manner that protects public health and safety."[152] Thus, Idaho Power satisfies the Commission's requirement of providing a history of safe construction, operation, and maintenance of existing transmission infrastructure.

The Commission's rules additionally require the petitioner to provide a sworn statement from an authorized representative affirming that the petitioner "will adhere to the applicable Commission rules and other applicable safety standards for construction operation and maintenance of the transmission line."[153] Idaho Power's witness, Ms. Barretto, provided a sworn declaration that the construction of B2H "will satisfy the Commission's safety criterion, because it will be constructed, operated, and maintained to meet or exceed all applicable National Electrical Safety Code standards, as well as all applicable federal state and local laws, regulations, and

[147] OAR 860-024-0010.
[148] Final Order at 105 of 10603.
[149] Final Order at 105 of 10603.
[150] Final Order at 105 of 10603.
[151] Final Order at 106-07 of 10603 ("The applicant [Idaho Power] … constructed or oversaw the construction of nearly the entirety of its 4,858-mile transmission system, including portions of the transmission system in Oregon.").
[152] Final Order at 106-09 of 10603; *see also* Idaho Power's Petition for CPCN at 29.
[153] OAR 860-025-0030(2)(i).

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ordinances."[154] In addition, as detailed below, Idaho Power has performed significant analysis and developed mitigation strategies to ensure that B2H is engineered to protect the public from the risk of high winds, earthquakes, fire, and noise-related health impacts. Thus, Idaho Power has provided compelling evidence to satisfy the Commission's safety criterion.

1. Idaho Power Will Construct B2H Using Standards That Meet or Exceed the Commission-Required Standards in the NESC and Address All Relevant Engineering Risks.

Idaho Power is required to construct, operate, and maintain its electrical facilities in compliance with the Commission's Safety Rules,[155] which mean the NESC, as modified or supplemented in OAR Chapter 860, Division 024,[156] as well as any additional applicable rules and best industry practices.[157] As an initial matter, as discussed above, Idaho Power has declared that it will construct, operate, and maintain B2H to meet or exceed all applicable NESC standards.[158] Furthermore, the record establishes that Idaho Power has designed B2H to meet or exceed all other relevant requirements, standards, and codes including, but not limited to: American Society of Civil Engineers ("ASCE") 7-22 Minimum Design Loads for Buildings ("ASCE 7"), ASCE Manual 74 Guidelines for Electrical Transmission Line Structural Loading ("ASCE Manual 74"), and the Bonneville Power Administration ("BPA"), STD-DT-000035, "Transmission Tower Loading Policy" ("BPA 35").[159]

Intervenor Sam Myers cited to several alternative engineering standards—including the Oregon Building Code, the National Institute of Standards and Technology standards, the ANSI/TIA-22 standards for telecommunications structures, and general engineering standards for agricultural building design—and has argued that these standards should be applied to B2H in

[154] *See* Idaho Power/202 (Declaration of Lindsay Barretto (Sept. 30, 2022)).
[155] OAR 860-024-0011(1)(a).
[156] OAR 860-024-0001(1).
[157] *See generally* OAR Chapter 860, Division 024.
[158] Idaho Power/200, Barretto/4; Idaho Power/202 (Declaration of Lindsay Barretto (Sept. 30, 2022)).
[159] Idaho Power/1500, Stippel/10. A list of all the standards for which the structure of the transmission line is designed is provided in the Direct Testimony of Lindsay Barretto. *See* Idaho Power/200, Barretto/3-4.

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place of the NESC and ASCE standards.[160] However, Idaho Power's expert witness, Joseph Stippel—the Principal Project Manager in the Company's 500-kV Projects Group and Project Manager for B2H—established that the standards cited by Mr. Myers are not applicable to transmission line design in Oregon.[161] Thus, these alternative standards are not only not required under the Commission's rules, but also are inapplicable to B2H and transmission lines in general.

Mr. Myers has also asserted that Idaho Power did not properly assess the wind speeds in the Project area near his family's property in Morrow County, and thus the Company has not chosen a tower design that will operate safely in localized high wind events,[162] and further claimed that local wind data shows gusts of up to 88.4 miles-per-hour ("mph") near the Project area.[163] Mr. Myers' assertions are without merit, and his concerns regarding wind gusts of up to 88.4 mph are addressed by Idaho Power's conservative engineering approach for B2H. Idaho Power analyzed wind speeds using the applicable standards from the ASCE-7 and determined that the applicable 100-year Mean Recurrence Interval ("MRI") is 85 mph for the B2H area in Morrow County, which represents that in any given year there is a one percent probability that a three-second wind event of 85 mph or higher will occur.[164] Moreover, Idaho Power selected a BPA tower design that has a wind loading capacity of 120 mph on the towers and 100 mph on the wires—which exceeds both the applicable standards and the wind gust speeds Mr. Myers alleged.[165] Indeed, the BPA towers used in the design for B2H have an MRI of between 700 and 10,000 years in the Morrow County area.[166] Therefore, Idaho Power has chosen an appropriately conversative transmission tower and wire design that will far exceed the minimum criteria for wind

[160] Rebuttal Testimony of Sam Myers at 3, 10 of 20 (Mar. 20, 2023).
[161] Idaho Power's Surrebuttal Testimony and Exhibits of Joseph Stippel (Idaho Power/1900, Stippel/4) (Apr. 7, 2023).
[162] Rebuttal Testimony of Sam Myers at 2 of 20 (Mar. 20, 2023).
[163] Rebuttal Testimony of Sam Myers at 2 of 20 (Mar. 20, 2023).
[164] Idaho Power/1500, Stippel/11, 13.
[165] Idaho Power/1500, Stippel/13.
[166] Idaho Power/1500, Stippel 13. A 700-year MRI of 100 mph means that in any given year there is a 0.14 percent chance that a three-second wind event of 100 mph or higher will occur. *See* Idaho Power/1500, Stippel/11; Sam Myers' Cross-Examination Testimony, Cross-Examination Exhibit, ASCE Manual 74, Table 1-1: Exceedance Probability for Various MRIs at 8 of 12 (Apr. 12, 2023).

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loading in the Project area. Importantly, by using a standard BPA transmission tower design for this Project, Idaho Power is relying on a design with a proven safety record that is consistent with industry standards.[167]

Relatedly, Mr. Myers also suggested that Idaho Power should conduct additional analysis of the transmission towers using a fragility analysis or an analysis of wind coupling vibration.[168] However, these types of analyses are not applicable to the B2H towers or the Project area,[169] and thus it would be inappropriate to require the Company to perform these additional, unnecessary analyses. In particular, fragility analyses are limited to regions that experience extreme weather loading.[170] Per the NESC, regions with the combination of both heavy ice and extreme wind or "heavy" loading districts are defined to be in the Midwest and Northeastern regions of the United States.[171] In contrast, per the NESC, B2H is located within the "medium" loading district for ice/wind combinations.[172] In addition, wind-induced coupling dynamics are not a basis for the design requirements as identified by the ASCE codes.[173] Should any outlier vibration events caused by high winds occur, historically they are limited in size, highly unlikely for lattice towers, and cascading failures are contained between more robust dead-end towers.[174] For these reasons, additional fragility and wind coupling vibration analyses for B2H are neither required nor necessary.

Mr. Myers further argued that Idaho Power did not adequately analyze risks associated with tornados or earthquakes.[175] However, the only recorded tornados in the region around B2H have been category EF0 (three-second gusts of 65 to 85 mph) or EF1 (three-second gusts of 86

[167] Idaho Power/1500, Stippel/12 ("BPA has extensive experience with tower loading specifically in the Pacific Northwest area for more than 100 years.").
[168] Rebuttal Testimony of Sam Myers at 5 of 20 (Mar. 20, 2023).
[169] Idaho Power/1900, Stippel/9-10.
[170] Idaho Power/1900, Stippel/9.
[171] Idaho Power/1900, Stippel/9.
[172] Idaho Power/1900, Stippel/9.
[173] Idaho Power/1900, Stippel/9.
[174] Idaho Power/1900, Stippel/9-10.
[175] Rebuttal Testimony of Sam Myers at 8 of 20 (Mar. 20, 2023).

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to 110 mph); as the Project is built to withstand wind gusts of up to 120 mph, even an EF1 tornado would likely not have sufficient wind speed to threaten the integrity of B2H towers.[176] Furthermore, Idaho Power provided a summary of its analysis of seismic risk, which concluded that B2H is designed to withstand the seismic conditions in the Project area and any impact from the Cascadia Subduction Zone earthquake would be minimal along the route.[177] Importantly, EFSC determined that Idaho Power, in coordination with the Department of Geology and Mineral Industries, had adequately characterized seismic and non-seismic geological risk, in accordance with the Council's Structural Standard,[178] and that Idaho Power will design, engineer, and construct B2H to avoid dangers to human safety and the environment presented by any seismic or non-seismic geological hazards.[179] As such, Idaho Power has provided sufficient evidence of its analysis of risk factors for the Project and is prepared to address all relevant risks using applicable engineering standards.

In summary, Idaho Power provided ample evidence showing that B2H will meet or exceed all applicable engineering standards for transmission tower design and provided a sworn statement to that effect as required by the Commission's rules. Idaho Power will comply with the applicable standards required under the Commission's rules and has engineered B2H to exceed those standards where possible. The Company's engineering analyses are consistent with industry standards for the development of transmission infrastructure.

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[176] Idaho Power/1900, Stippel/6; *see also* Idaho Power/1905 (National Oceanic and Atmospheric Administration Storm Events Database – Tornadoes in Oregon from 01/01/1950 to 12/31/2022); Idaho Power/1904, Stippel/16, Table 6 (Report from the National Weather Service on the Enhanced Fujita ("EF") Scale).

[177] Idaho Power/1900, Stippel/8.

[178] Final Order at 124 of 10603 ("Based upon consultation with [the Department of Geology and Mineral Industries] on the investigation methods utilized to evaluate potential seismic and non-seismic risks of the site, and based on the summary of measures and outcomes provided above and as further described in ASC Exhibit H, the Council finds that the applicant has adequately characterized the seismic and non-seismic risks of the site.").

[179] Final Order at 133-36 of 10603 ("the Council finds that the facility, including the approved route and approved alternative routes, would comply with the Council's Structural Standard.").

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2. The Probability of Fire Ignition Associated with B2H Is Low, and Idaho Power's Fire-Related Plans Will Further Reduce the Probability of Ignition.

As part of its analysis of possible risks associated with B2H, and consistent with industry standards, Idaho Power assessed the risk of B2H igniting a wildfire. To understand Idaho Power's analysis of fire risk, it is important to first describe how Idaho Power measures that risk. The Company assesses risk by considering both the probability of fire and its potential consequence.[180] Idaho Power's analysis of fire ignition data and engineering reports concluded that 500-kV lines such as B2H have a low probability of ignition.[181] Although the probability of a Project-ignited fire is low,[182] as part of its risk modeling, Idaho Power also analyzed the potential consequence of such a fire, with a focus on potential fire size and impacts to structures from fires starting under powerlines.[183]

Contrary to various assertions from intervenors, Idaho Power did not claim that the risk of fire from B2H, or from any transmission line, is zero.[184] However, the record demonstrates that the probability of ignition associated with B2H is low and represents only a nominal increase over the background rate of ignition—or the existing possible causes of wildfires absent the addition of B2H on the landscape—in the Project area.[185]

a. The Probability of Ignition Associated with B2H Is Low.

As Idaho Power's expert witness, Dr. Christopher Lautenberger, explained, 500-kV transmission lines like the Project are unlikely to cause fires.[186] Contrary to the assertions intervenors raised in their comments and testimonies,[187] the probability of ignition is actually

[180] Idaho Power's Surrebuttal Testimony and Exhibits of Christopher Lautenberger (Idaho Power/2300, Lautenberger/12) (Apr. 7, 2023).
[181] Idaho Power/1300, Lautenberger/3.
[182] Idaho Power/1300, Lautenberger/23.
[183] Idaho Power/2300, Lautenberger/12.
[184] Idaho Power/2300, Lautenberger/7.
[185] Idaho Power/1300, Lautenberger/46-47.
[186] Idaho Power/1300, Lautenberger/59-60.
[187] *See, e.g.*, 3 Timothy Proesch & Miranda Aston-Proesch Opening Testimony and Exhibits at 5-6 of 19 (Jan. 17, 2023) (Exhibit 3) (commenting that the fire risk of the Project is greater than lower voltage transmission lines).

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reduced with a higher voltage line because extra-high-voltage transmission lines—defined as 345-kV to 765-kV[188]—have stricter requirements on minimum tower height, right-of-way width, and vegetation encroachment than lower voltage transmission lines.[189] Tower heights for extra-high-voltage transmission lines are up to 200 feet compared to approximately 50 feet for subtransmission lines.[190] The rights-of-way for extra-high-voltage transmission lines, usually between 150 feet and 250 feet, are wider relative even to high voltage transmission lines,[191] which typically use rights-of-way no wider than 150 feet.[192] This reduces the potential for tree line contact or conductor clashing to cause fires, since aluminum particles are likely to burn to completion before contacting the ground.[193] The potential for tree line contact is further reduced by the stricter vegetation encroachment standards. The Minimum Vegetation Clearance Distance, which is the minimum clearance that should be maintained from conductors at all times,[194] for 500-kV transmission lines is 8.5 feet, compared to 2.4 feet for 115-kV transmission lines.[195] Furthermore, 500-kV lines are typically mounted on steel lattice towers, which are stronger than the single-pole steel or wooden poles used for lower voltages.[196]

This low probability of ignition from a 500-kV transmission line must also be considered in the context of the existing conditions near the Project site. Dr. Lautenberger analyzed historical ignitions within a one-mile buffer around the B2H route,[197] and determined that between 1992 and 2020 there were 211 ignitions within one mile of the B2H route, but none of those fires were caused by powerlines.[198] Additionally, these ignitions were contained and extinguished while they

[188] Idaho Power/1300, Lautenberger/10-11.
[189] Idaho Power/1300, Lautenberger/15.
[190] Idaho Power/1300, Lautenberger/13, 17.
[191] Idaho Power/1300, Lautenberger/16.
[192] Idaho Power/1300, Lautenberger/14.
[193] Idaho Power/1300, Lautenberger/16.
[194] Final Order, Attachment P1-4, Draft Vegetation Management Plan, Appendix A at 9986-9987 of 10603 [hereinafter, "Final Order, Attachment P1-4].
[195] Final Order, Attachment P1-4, Appendix A at 9986 of 10603.
[196] Idaho Power/1300, Lautenberger/16.
[197] Idaho Power/1300, Lautenberger/54.
[198] Idaho Power/1300, Lautenberger/54.

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were still small.[199] For these reasons, any increase in ignition probability associated with the B2H line is small in comparison to the background rate of fire ignition.[200]

Idaho Power also analyzed available data regarding prior fires that were reported to be associated with transmission lines; Dr. Lautenberger's analysis concluded that these fires either were not caused by 500-kV lines, were associated with environmental factors such as offshore winds that are not present in the Project area, or were associated with engineering failures that have been adequately addressed by Idaho Power's design and engineering plans.[201] In particular, the California Public Utilities Commission requires the three largest investor-owned utilities in the state—Pacific Gas & Electric, Southern California Edison, and San Diego Gas & Electric—to report, on an annual basis, fire ignitions that were caused by their equipment.[202] Dr. Lautenberger reviewed the most recent data from these filings detailing fires reported in 2014-2021.[203] Of the 4,462 total ignitions reported during that period, only four were associated with 500-kV transmission lines.[204] Dr. Lautenberger distinguished the Project from the transmission lines and/or conditions that resulted in those other 500-kV transmission line fires to further demonstrate that B2H is unlikely to cause fires.[205]

Intervenors Sam Myers and Wendy King also provided descriptions of previous fires, some of which were allegedly caused by transmission lines.[206] Both intervenors argued that these fires indicate that the Company did not adequately assess the risk of fire in the Project area. Idaho Power's expert witness analyzed the specific fires in the Project areas and determined that, where

[199] Idaho Power/1300, Lautenberger/53.
[200] Idaho Power/1300, Lautenberger/54.
[201] Idaho Power/2300, Lautenberger/5-6, 17-18.
[202] Idaho Power/1300, Lautenberger/21.
[203] Idaho Power/1300, Lautenberger/21; *see also* Idaho Power/1307 (PG&E Fire Incident Data from 2014-2021); Idaho Power/1308 (SCE Fire Incident Report Data Compiled from 2014-2021); Idaho Power/1309 (SDG&E Fire Incident Report Data Compiled from 2014-2021).
[204] Idaho Power/1300, Lautenberger/21-22.
[205] Idaho Power/2300, Lautenberger/4-6.
[206] *See* Wendy King's Rebuttal Testimony and Exhibits of Wendy King (Wendy King/200, King/2-4) (Mar. 20, 2023); Amended Opening Testimony of Sam Myers at 1-2 of 3 (Feb. 3, 2023) (Statement of Steven C. Rhea).

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information was available, the fires either were not definitively caused by transmission lines or caused minor damage and were quickly suppressed.[207] Further, in response to intervenors' testimony regarding major fires such as the Labor Day 2020 fires which were allegedly caused by transmission lines, Idaho Power provided a summary of the allegations surrounding those fires as well as the environmental differences between the locations of those fires and the Project area.[208] The fact that these previous fires occurred does not have any bearing on Idaho Power's ability to safely operate B2H and to mitigate the possibility of wildfire ignition.

Additionally, Mr. Myers and Ms. King have expressed concern about the probability of ignition in Morrow County near My. Myers' farm.[209] However, during the cross-examination hearing, Dr. Lautenberger responded to questions from Ms. King and Mr. Myers by explaining that none of the fires those parties raised were in Morrow County—where Mr. Myers' farm is located.[210] Dr. Lautenberger further discussed the fire history in Morrow County and explained that the majority of fire history in Morrow County is in the southern part of the county in the Blue Mountains.[211] There is very little history of fire along the Project route in Morrow County or near Mr. Myers' property.[212] Given this limited fire history and the low probability of a Project-related fire, the probability of ignition relating to the Project in Morrow County is low.

Finally, Mr. Myers asserted that dust or chaff clouds arising from agricultural activities, such as combine harvesting, may contact the transmission line and ignite a fire through arcing.[213] In response, Dr. Lautenberger analyzed data from the Homeland Infrastructure Foundation Level

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[207] Idaho Power/2300, Lautenberger/16-24.
[208] Idaho Power/2300, Lautenberger/16-19.
[209] Wendy King/200, King/5; Sam Myers' Amended Rebuttal Testimony and Exhibits at 6 of 12 (Mar. 20, 2023).
[210] Transcript at 239, lines 7-19.
[211] Transcript at 242, lines 5-7.
[212] Transcript at 242, lines 7-9.
[213] Amended Opening Testimony of Sam Myers at 1-2 of 3 (Feb. 3, 2023) (Statement of Steven C. Rhea). Mr. Myers raised a similar issue in the EFSC proceedings, and EFSC adopted the Hearing Officer's conclusion that "the probability that a whirlwind or dust devil would ignite a fire along the transmission line is very small." Final Order, Attachment 6, Contested Case Order (CCO), as Amended and Adopted by Council at 8754 of 10603 [hereinafter, "Final Order, Attachment 6"].

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Dataset and determined that, as of December 2021, there were 400 miles of transmission lines—meaning lines with voltages of 69-kV or greater—in Morrow County, including about 90 miles of 500-kV transmission lines.[214] After cross-referencing the location of these lines with ignition locations, Dr. Lautenberger determined that none of the fires in Morrow County could have been caused by the type of event described by Mr. Myers.[215] Moreover, B2H will be equipped with protective devices, including high-speed, low latency communications, that will automatically treat any arcing as a fault.[216] These technologies will automatically de-energize the line while the fault is cleared.[217] Thus, even if arcing were to occur, the protective equipment will minimize risk associated with arcing and ensure safe operations of the transmission line.[218]

b. *Idaho Power Has Proposed Robust Mitigation Plans to Further Reduce the Probability of Ignition Associated with B2H.*

The probability of ignition is further reduced by Idaho Power's mitigation efforts. In the EFSC proceeding, Idaho Power committed to implementing fire risk reduction measures, including the Fire Prevention and Suppression Plan ("FPSP"), Right of Way Clearing Assessment, and Vegetation Management Plan.[219] In accordance with the conditions in the Site Certificate, Idaho Power is required to abide by these plans during construction and operation of the Project.[220] Further, the 2023 Wildfire Mitigation Plan ("WMP"), which is currently under consideration by the Commission in docket UM 2209, provides additional mitigation measures along the Project route and throughout Idaho Power's service territory, including a Public Safety

[214] Idaho Power/1300, Lautenberger/48-49.
[215] Idaho Power/1300, Lautenberger/49.
[216] Idaho Power/1300, Lautenberger/50-51.
[217] Idaho Power/1300, Lautenberger/51.
[218] Idaho Power/1300, Lautenberger/50-51.
[219] See Idaho Power/1300, Lautenberger/3.
[220] Final Order at 619-20 of 10603 ("**Public Services Condition 6**: . . . (c) All work must be conducted in compliance with the approved [FPSP] during construction and operation, as applicable, of the facility."); Final Order at 276 of 10603 ("**Land Use Condition 16**: . . . b. During construction, the certificate holder shall conduct all work in compliance with the final Right-of-Way Clearing Assessment."); Final Order at 359 of 10603 ("**Fish and Wildlife Condition 2**: . . . b. During construction, the certificate holder shall conduct all work in compliance with the final Vegetation Management Plan referenced in sub(a) of this condition. c. During operation, the certificate holder shall conduct all work in compliance with the final Vegetation Management Plan referenced in sub(a) of this condition.").

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Power Shutoff Plan.[221] Importantly, because of the Commission's statutory and rule-based oversight of WMPs, the Commission has continued involvement in the Company's WMPs throughout the life of the Project, even beyond the 2023 WMP.[222] Recognizing the low probability of ignition and the Company's extensive mitigation strategies, Staff determined that with the combination of WMP and FPSP, Idaho Power has presented sufficient mitigation strategies for the risk of fire from B2H.[223]

In particular, the Fire Potential Index ("FPI"), as part of the WMP, is indicative of the Company's ability to continually assess the fire risk along the line and quickly respond to any changes in conditions. The FPI was developed based on similar indices from utilities in California[224] and is thus consistent with industry practices. Several intervenors asserted that Idaho Power did not fully analyze the risk of a fire ignition from B2H in developing the FPI, and made baseless assertions that Idaho Power will manipulate the data to reduce its liability should a fire occur.[225] This concern is unfounded. As Dr. Lautenberger explained at the cross-examination hearing, the data used to create the FPI comes from the Company's internal Weather Research and Forecasting ("WRF") model, which is a mesoscale meteorology numerical weather prediction model, and it is used to generate seven-day forecasts across Idaho Power's service territory.[226] The WRF is a gridded model, which is analogous to incorporated data from weather stations distributed approximately every half-mile on a grid.[227] This modeling allows Idaho Power to rely on more granular data than would be available from any particular weather station.[228] After

[221] *See generally* Idaho Power/1310 (Docket UM 2209, Idaho Power Company's 2023 Wildfire Mitigation Plan (Dec. 29, 2022)).
[222] ORS 757.963(2) ("A public utility that provides electricity shall regularly update a risk-based wildfire protection plan on a schedule determined by the commission."); OAR 860-300-0020(2) ("Wildfire Mitigation Plans must be updated annually and filed with the Commission no later than December 31 of each year.").
[223] Staff/500, Rashid/7
[224] Idaho Power/1310, Lautenberger/59 (Docket UM 2209, Idaho Power Company's 2023 Wildfire Mitigation Plan (Dec. 29, 2022)); Idaho Power/2300, Lautenberger/8.
[225] Rebuttal Testimony of Sam Myers at 19 of 20 (Mar. 20, 2023).
[226] Transcript at 209, line 25 – 210, line 5.
[227] Transcript at 210, lines 14-22.
[228] Transcript at 210, line 22 – 211, line 5.

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incorporating this granular data, Idaho Power may modify the FPI based on specific local knowledge regarding typical conditions.[229] As such, the FPI will allow Idaho Power to respond to changing fire risk and is indicative of Idaho Power's substantial wildfire mitigation strategies and ability to operate the line safely.

In summary, Idaho Power has determined, based on the evidence presented, that the probability of B2H causing a fire is low. Staff agreed with Idaho Power's conclusion that the aforementioned mitigation plans will adequately reduce this risk. The Company assessed all reasonable causes of fire ignition and consequences from a fire and provided mitigation where appropriate. The final mitigation strategies are consistent with industry standards and best practices for fire mitigation.

c. Responses to Mr. Myers' and Ms. King's Comments Regarding Agricultural Lands.

Intervenors asserted that Idaho Power did not properly include in its analysis of fire risk the risk of fire to agricultural lands.[230] As discussed above, risk is the product of probability of ignition and the consequence of the ignition, with the consequence-side of the equation focusing on loss of life and loss of structures. Dr. Lautenberger, Idaho Power's expert witness, confirmed that current industry standards do not specifically include agricultural lands in an assessment of consequence,[231] and consistent with those standards, Idaho Power appropriately focused its risk analysis on the potential for loss of life and structures, rather than agricultural lands.[232]

Mr. Myers expressed concerns that fire from the Project will damage his agricultural soils, and proposed that Idaho Power develop a plan to remediate fire-damaged soils[233]—however, these issues were fully litigated and resolved in the EFSC proceeding.[234] In that proceeding, after

[229] Transcript at 211, line 24 – 212, line 8.
[230] Rebuttal Testimony of Sam Myers at 10-11 of 20 (Mar. 20, 2023).
[231] Transcript at 206, line 16 – 207, line 9.
[232] *See* Idaho Power/2300, Lautenberger/12-13.
[233] Amended Opening Testimony of Sam Myers at 5-7 of 9 (Feb. 1, 2023); Rebuttal Testimony of Sam Myers at 11 of 20 (Mar. 20, 2023).
[234] Final Order, Attachment 6 at 8843-8844 of 10603.

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considering the evidence presented, the Hearing Officer determined (1) that if a fire were to occur on or near Mr. Myers' property, the fire would likely move quickly through the fields and not cause significant damage to soils,[235] and (2) given the low probability of a fire ignition associated with the Project, no soil remediation plan would be warranted.[236]

3. Corona Noise from B2H Does Not Pose a Public Health Risk.

The issue of compliance with the Oregon Department of Environmental Quality's ("ODEQ") Noise Control Regulations under OAR Chapter 340, Division 035 ("ODEQ's Noise Rules" or "Noise Rules")—specifically as to corona noise generated by the transmission line—was one of the most contentious issues raised during the EFSC proceeding. After a comprehensive analysis that was approved by ODOE and its noise consultants, and a two-year contested case process, EFSC found that corona noise from B2H poses no threat to the public health.[237] In this case, two intervenors have attempted to reprise the same arguments rejected by EFSC.[238] Because the intervenors have provided no persuasive evidence, the Commission should reject their arguments.

ODEQ's Noise Rules impose two limitations on new noise sources. The first is the maximum "Table 8" sound level standards—the most conservative of which prohibits noise levels from new industrial sources from exceeding 50 A-weighted decibels ("dBA") during night-time hours.[239] In addition, the rules impose an "ambient antidegradation standard," which prohibits a new industrial noise source from increasing sound above the existing (or ambient) sound level more than 10 dBA.[240] For the purposes of these rules, sound levels are determined by measurements at noise sensitive receptors ("NSR"), otherwise known as "noise sensitive

[235] Final Order, Attachment 6 at 8725 of 10603.
[236] Final Order, Attachment 6 at 8843 of 10603.
[237] Final Order at 688-96 of 10603.
[238] Final Order at 37-39 of 10603 (summaries of EFSC conclusions regarding noise issues in EFSC proceeding).
[239] OAR 340-035-0035(1)(b)(B)(i); Idaho Power Company's Reply Testimony and Exhibits of Mark Bastasch (Idaho Power/1104) (Feb. 21, 2023) (OAR 340-035-0035 – Table 8).
[240] OAR 340-035-0035(1)(b)(B)(i).

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properties," which are "real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries."[241] The Noise Rules allow for variances and exceptions to be granted under appropriate circumstances.[242]

High-voltage transmission lines such as B2H emit a low humming or crackling noise that is referred to as corona noise.[243] While corona noise is relatively quiet during fair weather conditions, it does increase during foul weather conditions, when conductors are wet.[244] No party has ever contested the fact that corona noise emitted by B2H will never exceed ODEQ's Table 8 sound level standard of 50 dBA.[245] In fact, as experienced by homeowners and other residents who live along the line, the maximum predicted sound levels due to corona noise of 46 dBA will be "library-room quiet"[246]—far below any level that could pose a health risk.[247] However, because the ambient sound levels are very low in some of the rural areas crossed by B2H, exceedances of the ambient antidegradation standard due to corona noise during foul weather are expected at certain locations.[248] For this reason, and because EFSC found that exceedances would be infrequent and would not be detrimental to the public, EFSC granted B2H both an exception to and variance from the ambient antidegradation standard applicable to foul weather conditions, and subject to strict mitigation conditions.[249]

Both STOP B2H and Greg Larkin argued that corona noise is a threat to public safety. Mr. Larkin claimed that corona noise from the transmission line will provoke or exacerbate a variety of health problems for individuals along the transmission line, including himself.[250] STOP

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[241] OAR 340-035-0015(38).
[242] OAR 340-035-0010 (Exceptions); OAR 340-035-0035(6) (Exceptions); OAR 340-035-0100 (Variances).
[243] Idaho Power/1100, Bastasch/8-9.
[244] Idaho Power/1100 Bastasch/10 ("The highest levels of corona and, hence, audible noise will occur during rain when the line conductors are wet.").
[245] Idaho Power/1100, Bastasch/13-14; *see also* OAR 340-035-0035(1)(b)(B)(i); Idaho Power/1104 (OAR 340-035-0035 – Table 8).
[246] Idaho Power/1200, Ellenbogen/11, 37.
[247] Idaho Power/1200, Ellenbogen/23-25.
[248] Final Order at 683-87.
[249] Final Order at 688-96, 702-06.
[250] Amended Opening Testimony and Exhibits of Greg Larkin (Greg Larkin/100, Larkin/16-21) (Feb. 1, 2023).

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B2H argued that: (1) Idaho Power's noise monitoring methodology and analysis were flawed;[251] (2) EFSC erred in granting B2H a variance and exception from ODEQ's Noise Rules for the entire transmission line;[252] (3) EFSC erred in finding that exceedances of the ambient antidegradation standard would be "infrequent";[253] and (4) mitigation of corona noise is impossible and placed an unreasonable burden on landowners.[254] Contrary to intervenors' unsubstantiated arguments, EFSC has properly found and Idaho Power has further demonstrated that corona noise from B2H will not endanger public health and safety.

a. *Corona Noise Will Not Endanger Public Health and Safety.*

Contrary to Mr. Larkin's and STOP B2H's assertions, predicted corona noise levels from B2H will not pose a health risk, even for those individuals with underlying health conditions.

To address the intervenors' health concerns, Idaho Power offered the testimony of Dr. Jeffrey Ellenbogen, a neurologist and researcher focusing on noise and its impact on sleep and overall health. After reviewing Idaho Power's analysis of corona noise, as well as EFSC's evaluation of the issue, Dr. Ellenbogen confirmed EFSC's conclusion that expected corona noise from B2H will not pose a risk to public health and safety. Dr. Ellenbogen explained that homeowners and other residents who live along the line will likely experience predicted corona noise during foul weather conditions as a "library-room quiet" sound, if they are able to perceive the noise at all,[255] and he confirmed that, even when corona noise is at its highest level, during foul weather, it will not provoke or exacerbate a health risk (e.g., hearing loss, tinnitus, migraines, dizziness, sleep disturbance and sleep disorders such as insomnia, stress and anxiety).[256] In support of his testimony, Dr. Ellenbogen cited the most recent and comprehensive study of noise

[251] STOP B2H/200, Kreider/22-27.
[252] STOP B2H's Amended Opening Testimony and Exhibits of Jim Kreider (STOP B2H/100, Kreider/12) (Feb. 1, 2023); *see also* STOP B2H/200, Kreider/19-20.
[253] STOP B2H/100, Kreider/13-14 (Feb. 1, 2023); *see also* STOP B2H/200, Kreider/20-22.
[254] STOP B2H/100, Kreider/14 (Feb. 1, 2023); *see also* STOP B2H/200, Kreider/27-29.
[255] (Idaho Power/1200, Ellenbogen/11, 37.
[256] Idaho Power/1200, Ellenbogen/6-12, 23-28.

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impacts on human health by Health Canada,[257] which found no health impacts at all from noise generated by wind turbines at or below 46 dBA.[258] Dr. Ellenbogen also relied on the Occupational Safety and Health Administration's ("OSHA") noise exposure guidelines to confirm that the predicted levels of corona noise are magnitudes below the levels that raise potential health concerns; for example, OSHA allows up to eight hours of steady-state noise exposure at 90 dBA, while corona noise is not expected to exceed 46 dBA.[259] Moreover, Dr. Ellenbogen noted EFSC's finding that on average, over the entire Project area foul weather events causing corona noise are expected to occur only 1.3 percent of the hours in a year, with the highest regional frequency being 2.7 percent of the hours in a year in the La Grande area, where Mr. Larkin lives.[260]

Dr. Ellenbogen also pointed out that on foul-weather nights when ambient sound levels are lowest and therefore corona noise may be the most audible, residents are anticipated to be indoors, with windows partly or fully closed, which would substantially decrease the level of corona noise indoors.[261] In fact, taking into account Federal Highway Administration guidance, EFSC noted that it is expected that NSRs would "experience noise levels inside their houses 10 dBA (with windows open) to 20 dBA (with windows closed) lower than modeled in ASC Exhibit X due to noise attenuation and absorption by residential structures."[262]

And finally, Dr. Ellenbogen noted that corona levels indoors may be reduced even further

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[257] The department of the Government of Canada responsible for national health policy. Idaho Power/1200, Ellenbogen/7.
[258] Idaho Power/1200, Ellenbogen/6-12, 22-28.
[259] *See* Idaho Power/1200, Ellenbogen/9-12.
[260] Idaho Power/1200, Ellenbogen/23-25; Idaho Power/1103, Bastasch/28, Table X-6 (Idaho Power's Response to Staff Data Request 26, Attachment 5, ASC, Exhibit X); *see also* Final Order at 690 of 10603 ("Potential impacts from the ambient antidegradation standard exceedance along the proposed transmission line and at 41 [noise sensitive receptor ("NSR"] locations would be infrequent[.]").
[261] Idaho Power/1200, Ellenbogen/25; *see also* Final Order at 690 of 10603 ("Further, actual noise-related impacts are anticipated to be minimal as residents are assumed to be indoors at the time of the exceedance during late night and very early mornings (12:00 a.m. to 5:00 a.m.) and during foul weather (i.e. when it is raining).").
[262] Final Order at 690 of 10603; *see also* Idaho Power/1100, Bastasch/23-24. Dr. Ellenbogen noted in his testimony that in a 2018 report by the World Health Organization ("WHO"), the WHO explained that "the differences between indoor and outdoor levels are usually estimated at around 10 dB for open, 15 dB for tilted or half-open and about 25 dB for closed windows." Idaho Power/1200, Ellenbogen /25 (citing Idaho Power/1214, Ellenbogen/29 (WHO, Environmental Noise Guidelines for the European Region (2018))).

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due to mitigation measures required by Noise Control Condition 1 of the Site Certificate for NSRs expected to exceed the ambient antidegradation standard. Under Noise Control Condition 1, Idaho Power must work with impacted landowners to develop an agreed-upon noise mitigation plan that may include, among other measures, noise attenuating windows, air-sealing of the NSR residence, planting trees, or installing insulation.[263] All of these mitigation measures would reduce corona noise levels indoors.

Taken together, during most hours of the year, corona noise is faint and likely inaudible regardless of whether an individual is indoors or outdoors.[264] During foul-weather conditions, corona noise might be audible, and might exceed ODEQ's ambient antidegradation standard, but even in these circumstances, testimony and evidence in the record demonstrates that corona noise for B2H is not at a level posing a health risk, even among the 39 NSRs[265] that are anticipated to exceed the ambient antidegradation standard and for those individuals experiencing underlying health conditions.[266] Sound attenuation of a residential structure and mitigation measures required by the Site Certificate will further reduce corona noise levels indoors where residents are expected to be located when an exceedance of the ambient antidegradation standard is anticipated to occur during late night and very early mornings (i.e., 12:00 a.m. to 5:00 a.m.) and during foul weather (e.g., when it is raining). For the above reasons, Idaho Power will operate

[263] Final Order, Attachment 1, Site Certificate at 785-86 of 10603 (Noise Control Condition 1) [hereinafter, "Final Order, Attachment 1"]; *see also* Idaho Power/1100, Bastasch/27-28.
[264] Idaho Power/1200, Ellenbogen/25. Dr. Ellenbogen noted that high wind (above 10 mph), precipitation, and other natural features not taken into account in Idaho Power's conservative modeling of ambient background sound levels may mask corona noise during foul weather events outdoors if such sounds are of similar or higher levels than the corona noise itself. Idaho Power/1200, Ellenbogen /9, 14-15, 24-25.
[265] Note that there are 39 NSRs anticipated to exceed the ambient antidegradation standard, not 41 NSRs as identified in the Final Order, due to removal of two NSRs (NSR 46 and NSR 5004) along the Mill Creek Route, which was not selected by Idaho Power for the purposes of the Company's Petition for a CPCN. Idaho Power's Petition for CPCN at 15-16; *see also* Final Order, Attachment X-4, Noise Analysis Results by NSR Location.
[266] Idaho Power/1200, Ellenbogen/25-26 ("Given the predicted corona noise levels from B2H, the overly conservative ambient background sound levels, the assumption that people close their windows during foul weather (i.e., when corona noise is predicted to be at its worst), and that Idaho Power will mitigate noise impacts at NSRs with predicted exceedances, I expect that corona noise from the transmission line will have no impact on human health, even among those with underlying conditions."); *see also* Final Order, Attachment X-4, Noise Analysis Results by NSR Location.

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and maintain B2H in a manner such that corona noise from the transmission line will not endanger public health and safety.

b. Idaho Power's Noise Monitoring Methodology and Analysis Were Appropriate.

Contrary to STOP B2H's assertions, Idaho Power's noise monitoring and analysis—including both its initial and supplemental noise monitoring and analysis—were generally consistent with ODEQ's Sound Measurement Procedure Manual (NPCS-1) ("Sound Manual").[267] As EFSC noted, portions of the Sound Manual are outdated or were deemed inapplicable, and to the extent Idaho Power did make changes to its protocols, such changes were approved by ODOE and its consultants consistent with OAR 340-035-0035(3)(a),[268] which allows such departures "where approved in writing by the [ODEQ] [.]"[269] In its Final Order, EFSC found that Idaho Power's "multi-step methodology is a reasonable and appropriate approach to evaluating the facility's compliance with the Noise Control rules[.]"[270]

To the extent STOP B2H has claimed Idaho Power underestimated the number of NSRs that would experience an exceedance of the ambient antidegradation standard because Idaho

[267] Final Order at 668-69 of 10603; *see also* Idaho Power Company's Surrebuttal Testimony of Mark Bastasch (Idaho Power/2000, Bastasch/5, 8) (Apr. 7, 2023) (testifying that initial and supplemental noise monitoring methodology and analysis were consistent with the Sound Manual and approved by ODOE). Importantly, in many instances in its Rebuttal Testimony, STOP B2H acknowledged that Idaho Power's noise monitoring methodology was consistent with the Sound Manual. *See, e.g.*, STOP B2H/200, Kreider/22 ("That's in accordance with the NPCS-1 Manual; no emphasis needed.").

[268] *See* Final Order at 668-69 of 10603 ("Neither the rule nor the Manual address or provide methods for establishing ambient noise levels specific to a linear facility. Therefore, the applicant's noise consultant developed its own methodology to specify other ambient measurement points and other measurement procedures, … which was repeatedly vetted with the Department and two noise consultants' acoustical engineers, Standlee and Associates and Golder Associates. In preparation of the ASC, based on recommendations obtained from Standlee and Associates, the Department reviewed and concurred with the applicant's noise analysis methodology.").

[269] OAR 340-035-0035(3)(a) refers to a methodology approved by ODEQ. *See* OAR 340-035-0015(12) ("'Department' means the Department of Environmental Quality"). Note that in this instance, ODOE was the entity responsible for approving Idaho Power's noise monitoring methodology and analysis given that ODEQ was not implementing the Noise Rules. In 1991, ODEQ terminated its noise control program due to funding constraints. *See* Idaho Power/1102, Bastasch/1-2 (ODEQ, Staff Guidance on Noise Control Issues (July 2003)) (explaining that enforcement now falls under the responsibility of local governments, and in some cases, other agencies, such as ODOE/EFSC).

[270] Final Order at 669 of 10603.

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Power did not employ a +/- 2 dBA margin of error, that argument is without merit.[271] Under OAR 340-035-0035(1)(b)(B)(i), an exceedance of the ambient antidegradation standard ***only*** occurs when the predicted noise from the Project is more than 10 dBA above ambient sound levels. The ambient antidegradation standard does not contemplate a margin of error, but rather employs a bright-line threshold.

STOP B2H also claimed that Idaho Power underestimated the number of NSRs because there are several modeled exceedances of recreational day-use areas in Morgan Lake Park, and these types of areas have separate noise standards that must be acknowledged.[272] This argument is without merit for several reasons. First, EFSC found that recreational ***day-use*** areas in Morgan Lake Park do not meet the criteria for being designated as NSRs (i.e., typically used for sleeping) and are therefore not subject to ODEQ's Noise Rules.[273] Second, to the extent STOP B2H has referred to the noise level standards for "Quiet Areas"[274] in its Rebuttal Testimony, those

[271] STOP B2H/200, Kreider/24. STOP B2H, as well as Mr. Larkin, argue that Kerrie Standlee's "spot check" monitoring at Mr. Larkin's residence demonstrates that ambient sound levels at NSRs are lower than those measured by Idaho Power at representative monitoring positions ("MP"), and therefore Idaho Power underestimated the number of NSRs predicted to experience exceedances of the ambient antidegradation standard. *See, e.g.*, STOP B2H/200, Kreider/24-25. However, this argument is without merit and was already rejected in the Contested Case Order, which was adopted by EFSC: "Mr. Standlee's monitoring at Mr. Larkin's residence is not persuasive evidence that the ambient sound levels at NSRs in the vicinity of Morgan Lake are likely 10 to 12 decibels lower than the 32 dBA measured at MP 11 (or the 31 dBA measured at MP 100). As Mr. Standlee conceded in his Surrebuttal Report (STOP B2H Surrebuttal Exhibit A at 7), the results from one night of measurements at the residence should not be used to determine representative ambient noise levels for the residence. Simply stated, the dataset from the Larkin residence is simply too small to prove anything with regard to the average ambient sound levels for NSRs along the Mill Creek or the Morgan Lake Alternative routes. Similarly, the data from the Larkin residence does not establish that Idaho Power's methodology for determining average ambient sound levels was flawed or otherwise inappropriate." Final Order, Attachment 6 at 8860 of 10603.

[272] STOP B2H/200, Kreider/27.

[273] Final Order at 684 n.754 of 10603 ("In its supplemental noise evaluation, the applicant modeled H-frame towers for the Morgan Lake alternative resulting in predicted noise exceedances at campgrounds at Morgan Lake Park, identified as NSRs: 142 through 157. However, based on consultation with City of La Grande, the Department verified that the identified NSR locations 142-157 are day use areas and not campgrounds, and therefore would not be considered a property 'normally used for sleeping,' which defines an NSR under the DEQ noise rules.").

[274] OAR 340-035-0035(1)(c) (Table 9 sound level standards for Quiet Areas); *see also* Idaho Power/2002 (OAR 340-035-0035 – Table 9). "Quiet Area" means "any land or facility designated by the EQC as an appropriate area where the qualities of serenity, tranquility, and quiet are of extraordinary significance and serve an important public need, such as, without being limited to, a wilderness area, national park, state park, game reserve, wildlife breeding area, or amphitheater. [ODEQ] shall submit areas suggested by the public as quiet areas, to the [EQC], with the [ODEQ's] recommendation." OAR 340-035-0015(50).

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standards are not applicable to the recreational day-use areas in Morgan Lake Park as Quiet Areas are officially designated as such by the Environmental Quality Commission ("EQC") and there is no indication that there are designated Quiet Areas within the site boundary or within the vicinity of the Project.[275]

c. EFSC Did Not Err in Granting a Variance from and Exception to the Ambient Antidegradation Standard for the Entire Transmission Line.

Contrary to STOP B2H's argument, EFSC did not err in granting a variance from and exception to the ambient antidegradation standard for the entire transmission line. As an initial matter, EFSC specifically addressed this issue in the Final Order and found that it was appropriate to issue an exception and variance for the line as a whole rather than on an NSR-by-NSR basis due to (1) the applicability of the ambient antidegradation standard to the noise source itself rather than the NSR, and (2) the linear nature of the transmission line.[276] Importantly, neither the exception nor variance provisions of the Noise Rules requires granting of an exception/variance on an NSR-by-NSR basis, but rather for the facility as a whole.[277] Moreover, requiring an exception or variance on an NSR-by-NSR basis prior to operations is completely impractical for a linear project such as B2H which is approximately 300 miles long. In fact, EFSC precedent demonstrates that when considering the appropriateness of a variance for a wind facility, EFSC considered the variance for the facility as a whole even though the facility would act as multiple point sources of noise.[278] B2H involves a single sound source, a transmission line, and an exceedance along that single sound source would prompt the need for either an exception or a variance that applies to the Project as a whole regardless of the location of the exceedance. With

[275] Idaho Power/2000, Bastasch/12-13; *see also* Idaho Power/1100, Bastasch/5.
[276] Final Order at 687 of 10603.
[277] OAR 340-035-0035(6); OAR 340-035-0100(1).
[278] *In re the Request for Amendment #2 of the Site Certificate for the Stateline Wind Project*, EFSC Final Order on Amendment #2 at 100-101 (June 2003), available at https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/SWP_final_order_amend_2_060603.pdf ("[T]he Council finds that the special circumstances and characteristics of wind facilities warrant consideration and issuance of a variance, if it were necessary for an applicant to request a variance in a particular case."). Idaho Power asks that the Commission take official notice of this document in accordance with OAR 860-001-0460(1)(b) since it was not previously submitted prior to the close of the record.

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respect to any additional NSRs that are built or otherwise developed after construction of B2H, it is reasonable and appropriate that any future exceedances at such properties should further be subject to an exception/variance for the reasons described above.

d. EFSC Had Authority to and Properly Granted B2H a Variance and Exception.

STOP B2H asserted that EFSC erred in granting B2H a variance from and exception to the ambient antidegradation standard because: (i) EFSC did not have authority to grant variances from and exceptions to ODEQ's Noise Rules;[279] and (ii) EFSC erred in granting an exception to the ambient antidegradation standard because its determination that exceedances would be infrequent was based on the percent of total hours in a year when foul weather would occur rather than the percentage of days in a year when foul weather would occur for one hour or more.[280] These arguments, which are repeated from the contested case proceeding before EFSC, were expressly rejected by the Oregon Supreme Court where the court ruled that EFSC had authority to grant exceptions to and variances from ODEQ's Noise Rules,[281] and that EFSC did not err in using the percentage of hours in assessing whether noise exceedances would be unusual or infrequent rather than the percentage of days.[282]

[279] STOP B2H/100, Kreider/12 (Feb. 1, 2023).

[280] STOP B2H/200, Kreider/21-23. STOP B2H actually states that it is objecting to EFSC's grant of a variance for B2H, and not an exception, on this basis, but the context makes clear that STOP B2H is referring to EFSC's grant of an exception. Frequency of foul weather was not used by EFSC to determine the appropriateness of granting a variance from the ambient antidegradation standard, but rather for determining whether to grant an exception to the ambient antidegradation standard under OAR 340-035-0035(6)(a) for "[u]nusual and/or infrequent events." Final Order at 688-89 of 10603.

[281] *STOP B2H Coal.*, 370 Or at 805-07 ("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.").

[282] *STOP B2H Coal.*, 370 Or at 807-08 ("EFSC determined that noise exceedances would be unusual or infrequent based on the evidence showing that exceedances may occur only in less than two percent of the total hours in a year. To the extent Stop B2H contends that EFSC committed a legal error in interpreting what is meant by 'unusual or infrequent' under the rule, we see no error. Nothing in the rule or statute required EFSC to use the number of days instead of the percentage of hours in assessing whether noise exceedances would be unusual or infrequent.").

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e. Noise Mitigation Provided in the Site Certificate Is Sufficiently Protective of Public Health and Safety.

Contrary to STOP B2H's assertions, the Noise Control Conditions in the Site Certificate are sufficiently protective of public health and safety as they require that Idaho Power use certain design standards to reduce corona noise at the source (Noise Control Condition 3),[283] that Idaho Power enter negotiations with NSR property owners to develop an agreed-upon noise mitigation plan (Noise Control Condition 1),[284] and prescribe a robust complaint process for landowners of properties that were not previously designated as NSRs but nevertheless believe that exceedances of the ambient antidegradation standard are occurring at their properties (Noise Control Condition 2).[285] Based on these conditions, EFSC concluded that "granting the exception would not preclude the protection of health, safety, and welfare of Oregon citizens otherwise afforded through compliance with" ODEQ's Noise Rules.[286]

STOP B2H argued that Noise Control Condition 3 should be revised to require the transmission line to undergo upgrades for "new masking technologies" as they become available, and that regular transmission line inspections and maintenance should be incorporated into the condition.[287] However, EFSC explicitly rejected these same changes to Noise Control Condition 3 as unnecessary at the Exceptions Hearing because Organizational Expertise Condition 1 already requires routine inspections and maintenance of the transmission line,[288] and upgrading the approximately 300-mile transmission line for new noise masking technologies as they become available would be impractical.[289] For these same reasons, STOP B2H's proposed changes to Noise Control Condition 3 are still unnecessary.

STOP B2H also mistakenly claimed that Noise Control Condition 2 is insufficient because

[283] Final Order at 696 of 10603.
[284] Final Order at 691-92 of 10603.
[285] Final Order at 692-95 of 10603.
[286] Final Order at 696 of 10603.
[287] STOP B2H/200, Kreider/27-28.
[288] Final Order, Attachment 1 at 807-08 of 10603.
[289] Idaho Power/2003, Bastasch/130-39 (EFSC Exceptions Hearing – Day 3 (Aug. 31, 2022)).

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the condition places the burden on landowners to bear the cost of employing an acoustical engineer to prove there is an exceedance at properties that were not previously identified as NSRs in Noise Control Condition 1.[290] However, under Noise Control Condition 2, a landowner need only provide in their complaint the following:

> the date the certificate holder [Idaho Power] received the complaint, the nature of the complaint, weather conditions of the date for which the complaint is based (such as wind speed, temperature, relative humidity, and precipitation), duration of perceived noise issue, the complainant's contact information, and the location of the affected property.[291]

The landowner needs to provide alternative noise measurement data ***only if they disagree with modeling already provided by Idaho Power.***[292] And, if the complainant voluntarily provides alternative noise data, the complaint will be verified through site-specific sound monitoring conducted by an Oregon-registered Professional Engineer, Board Certified by the Institute of Noise Control Engineering noise specialist, ***employed or contracted by Idaho Power***.[293] Nothing in Noise Control Condition 2 requires landowners to hire an acoustical engineer or buy expensive noise monitoring equipment. It is EFSC's understanding that alternative noise monitoring data using inexpensive, readily accessible tools would be sufficient under Noise Control Condition 2.[294] For that reason, EFSC did not find it necessary to revise Noise Control Condition 2.

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[290] STOP B2H/200, Kreider/29.
[291] Final Order, Attachment 1 at 786-87 of 10603 (Noise Control Condition 2).
[292] Final Order, Attachment 1 at 788 of 10603 ("If the complainant's NSR property or properties are not included in Attachment X-5 of the Final Order on the ASC, the certificate holder [Idaho Power] shall model the sound level increases using the methods set forth in ASC Exhibit X, unless the complainant voluntarily provides alternative noise data.").
[293] Final Order, Attachment 1 at 788 of 10603 ("If the complainant voluntarily provides alternative noise data and the data suggests an exceedance that had not previously been identified and mitigated, and/or an exceedance not otherwise allowed under Noise Control Condition 4 or Noise Control Condition 5, the complaint shall be verified through site specific sound monitoring conducted by an Oregon registered Professional Engineer, Board Certified by the Institute of Noise Control Engineering noise specialist, employed or contracted by the certificate holder [Idaho Power], in accordance with NPCS-1 unless otherwise approved by the [ODOE]. If site specific sound monitoring is not authorized by the complainant, the certificate holder's modeling results may be relied upon to determine compliance.").
[294] *See* Idaho Power/2003, Bastasch/111-115 (EFSC Exceptions Hearing – Day 3 (Aug. 31, 2022)).

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f. *Idaho Power's Response to Greg Larkin's Claims.*

In Mr. Larkin's testimony he discussed his own preexisting medical conditions and expressed the concern that B2H would exacerbate them. However, Dr. Ellenbogen reviewed Mr. Larkin's medical records and found no basis for Mr. Larkin's claims.

First, Mr. Larkin pointed to the fact that he has tinnitus, which he claimed makes him particularly sensitive to noise.[295] However, Dr. Ellenbogen's review of Mr. Larkin's medical records found no support for this claim.[296] In fact, to the contrary, **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** Moreover, as noted above, the corona noise from the B2H transmission line at Mr. Larkin's home will be orders of magnitude below any concern for noise-induced hearing loss that may exacerbate tinnitus.[298]

With respect to Mr. Larkin's unsubstantiated claim that corona noise will contribute to his preexisting insomnia,[299] **[BEGIN CONFIDENTIAL]** [redacted]

[295] Greg Larkin/100, Larkin/19 (Feb. 1, 2023).
[296] Idaho Power/1200, Ellenbogen/32.
[297] Idaho Power/1216, Ellenbogen/9 (Greg Larkin's Response to Idaho Power Company's First Set of Data Requests (Feb. 8, 2023)) (Confidential).
[298] Idaho Power/1200, Ellenbogen/33.
[299] Greg Larkin/100, Larkin/18-19 (Feb. 1, 2023).
[300] Idaho Power/1200, Ellenbogen/35.
[301] Idaho Power/1200, Ellenbogen/35.
[302] Idaho Power/1200, Ellenbogen/27-28, 39.

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[redacted] **[END CONFIDENTIAL]**

Finally, to the extent Mr. Larkin argues that his home will become uninhabitable as he believes increased stress from the Project will lead to higher blood pressure, stroke, heart attack, etc.,[304] **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**

In sum, after a thorough review of Mr. Larkin's medical records, Dr. Ellenbogen concludes that he did not see **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]** Moreover, Dr. Ellenbogen clarifies that corona noise is not of a sound pressure level that would pose a risk to public health, even for those with underlying conditions.[307] For the above reasons, Mr. Larkin has failed to demonstrate by a preponderance of evidence that corona noise from B2H will endanger his health.

C. The Evidence in the Record Demonstrates the Project Is Practicable.

To establish that a proposed transmission line is practicable, "the petitioner must show the project is feasible and will be effectively and efficiently constructed."[308] To assess this criterion, the Commission considers:

> Whether the transmission line using petitioner's proposed route is practicable and feasible, [and] whether it will be effectively and efficiently constructed in a

[303] Idaho Power/1200, Ellenbogen/42 **[BEGIN CONFIDENTIAL]** [redacted] **[END CONFIDENTIAL]**.
[304] Greg Larkin/100, Larkin/18-19 (Feb. 1, 2023).
[305] Idaho Power/1200, Ellenbogen/38-39, 41.
[306] Idaho Power/1200, Ellenbogen/38-40.
[307] Idaho Power/1200, Ellenbogen/25-26.
[308] Order No. 11-366 at 4.

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commercially reasonable manner[.][309]

In past cases, the Commission has indicated that if a petitioner has already secured land use approvals, those approvals provide evidence that the proposed line is feasible—particularly if those approvals have been affirmed on appeal.[310] The Commission has also considered whether the applicant has the "experience and resources necessary to effectively and efficiently complete the" proposed transmission line.[311] In this case, the evidence demonstrates, and Staff agrees,[312] that this standard is met.

1. The Project Route Is Practicable and Feasible, as Demonstrated by the Fact That Idaho Power Has Already Obtained Land Use Approvals for the Project.

In PCN 2, the Commission noted that the applicant had demonstrated the feasibility of the proposed transmission line because local land use approvals for the proposed line had been approved and upheld on appeal.[313] Similarly, Idaho Power has already secured the most extensive land use approval for the Project, the Site Certificate from EFSC,[314] and the Oregon Supreme Court has affirmed EFSC's Final Order issuing that Site Certificate.[315]

Importantly, the Site Certificate issued by EFSC evaluated the Project's compliance not only with all state laws, but also with applicable substantive criteria from ***all*** affected local governments' acknowledged comprehensive plan and land use regulations.[316] Because EFSC has already determined that the Project complies with the local governments' land use

[309] OAR 860-025-0035(1)(c).
[310] Order No. 19-293 at 18 ("Finally, we note that the project has been approved by Tillamook County and upheld twice on appeal. Thus, [applicant] has already obtained the necessary land use permitting required to construct the line, and demonstrated its feasibility.").
[311] Order No. 17-111 at 5.
[312] Staff/400, Pal/4-5.
[313] Order No. 19-293 at 18.
[314] *See generally* Final Order; *see also* Final Order, Attachment 1.
[315] *STOP B2H Coal.*, 370 Or at 821 ("EFSC did not err in any of the ways contended by petitioners . . . . The final order of the Energy Facility Siting Council is affirmed.").
[316] Final Order at 279-80 of 10603; *see also* ORS 469.504(1)(b)(A) ("A proposed facility shall be found in compliance with the statewide planning goals under ORS 469.503 (4) if: . . . The Energy Facility Siting Council determines that: . . . The facility complies with applicable substantive criteria from the affected local government's acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted[.]").

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regulations, the local governments must now "promptly issue" the land use permits "without hearings or other proceedings" as soon as Idaho Power submits an application for those permits and pays any fees.[317] In fact, Idaho Power has already submitted these applications and has secured land use permits from all five affected Oregon counties.[318] Individual zoning permits, for affected Morrow and Umatilla County parcels, are still outstanding and will be obtained prior to construction on the affected parcels.[319]

Like the applicant in PCN 2, Idaho Power has obtained and defended on appeal the land use approvals for the Project. These approvals demonstrate that Idaho Power's selected route for the Project is feasible and practicable.

2. Idaho Power and Its Contractors Are Experienced in Constructing and Operating Extra-High-Voltage Transmission Lines Like the Project.

To further demonstrate the practicability and feasibility of the Project, Idaho Power has provided evidence of its extensive experience in constructing, operating, and maintaining transmission lines in a safe, efficient manner.[320] Additionally, the Company has contracted with several companies to utilize those companies' experience in constructing transmission lines like the Project.

As discussed in greater detail above in Section IV(B), Idaho Power has substantial experience constructing and operating its extensive transmission system, and EFSC found that the Company's experience designing, constructing, and operating its existing transmission system in a safe manner using a team of experienced professionals and comprehensive maintenance plans "demonstrates it has the experience and expertise required for construction, operations and maintenance of the facility in a manner that protects public health and safety."[321]

[317] ORS 469.401(3).
[318] Idaho Power Company's Surrebuttal Testimony and Exhibits of Lindsay Barretto (Idaho Power/1601, Barretto/1) (Apr. 7, 2023) (Updated Permit Status Chart).
[319] Idaho Power/1601, Barretto/1 (Updated Permit Status Chart).
[320] *See, e.g.*, Idaho Power/202, Barretto/1 (Declaration of Lindsay Barretto (Sept. 30, 2022)).
[321] Final Order at 106-09 of 10603; *see also* Idaho Power's Petition for CPCN at 29.

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Moreover, the Company retained a number of highly experienced contractors for various Project-related tasks.

Idaho Power contracted with HDR, Inc. ("HDR") as a third-party owner's engineer for the Project and to prepare the early B2H transmission line cost estimate.[322] HDR has extensive industry experience, including experience serving as an owner's engineer for BPA for the last seven years.[323] HDR used utility industry experience and current market values for materials, equipment, and labor plus their experience with the specific BPA towers and conductors that the Project is using to develop a cost estimate for B2H.[324] HDR continues to be involved as Idaho Power's owner's engineer.

Idaho Power also engaged a constructability consultant, Quanta Infrastructure Solutions Group ("QISG"), to aid in certain preconstruction reviews and tasks, including constructability feedback, identification of risks and opportunities to economize the design, and providing revised cost estimates as the Company received more detailed design packages for the Project.[325] QISG has significant and recent experience overseeing and managing construction of extra-high-voltage transmission projects, including the Gateway South, SunZia, and Aeolus to Jim Bridger projects.[326]

Finally, the Company hired the firm Leidos Engineering, LLC ("Leidos"), to provide engineering services to develop the detailed transmission line design for the Project.[327] Leidos provided a 90 percent detailed design package to the Company, which Idaho Power reviewed and submitted to QISG for further constructability review.[328] These contractors have extensive experience in constructing transmission lines like the Project,[329] and Idaho Power relied on these

[322] Idaho Power/100, Ellsworth/30.
[323] Idaho Power/100, Ellsworth/30.
[324] Idaho Power/100, Ellsworth/30.
[325] Idaho Power/200, Barretto/26; Idaho Power/300, Barretto/2-3; Transcript at 28, line 23 – 29, line 7.
[326] Idaho Power/400, Barretto/9.
[327] Idaho Power/200, Barretto/9.
[328] Idaho Power/1600, Barretto/3.
[329] Idaho Power/100, Ellsworth/30.

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contractors' expertise in addition to the Company's own experience when planning and developing the Project.

Accordingly, the record demonstrates that the Company and its contractors have the experience and resources necessary to construct and operate the Project.

3. Idaho Power Will Construct the Project in a Timely and Efficient Manner.

While Staff agrees that the Project is practicable,[330] Staff has raised concerns that the schedule is ambitious.[331] Idaho Power acknowledges that construction of an approximately 300-mile 500-kV line represents a significant undertaking. Nevertheless, the evidence demonstrates that Idaho Power will efficiently and timely construct the Project. As discussed above, Idaho Power's 2021 IRP indicates a need for B2H in 2026,[332] and the Company's testimony and exhibits show how Idaho Power intends to accomplish that goal.

Idaho Power's construction consultant, QISG, developed a detailed "Time and Location" schedule ("TiLOS"), which utilizes a linear scheduling method that is one of the most effective ways to plan and execute complex linear projects.[333] In order to accommodate potential constructability and permitting restrictions, the draft B2H TiLOS contemplates that the Company will construct the Project in multiple segments,[334] starting in Summer 2023.[335] The schedule

[330] Staff/500, Rashid/13 ("[T]he route Idaho Power has identified and EFSC has approved is practicable and feasible for the transmission line."); *see also* Staff/500, Rashid/11 ("[A] delay in [the Project's] in service date doesn't eliminate its value to Idaho Power's resource stack; it just delays when it will become valuable.").
[331] *See* Staff/500, Rashid/11.
[332] 2021 IRP at 168 of 214 ("[T]he 2021 IRP identifies capacity deficits beginning in 2023 and growing each year until 2026—when B2H is expected to be operational."); *see also* Idaho Power/200, Barretto/29 ("The B2H project is moving into the preliminary construction phase and construction must start in the summer of 2023 to ensure energization in time to meet the 2026 resource deficit identified in Idaho Power's 2021 [IRP].").
[333] Idaho Power/404 (Time and Location Schedule (Confidential)); Idaho Power/400, Barretto/22-23.
[334] Idaho Power/404 (Time and Location Schedule (Confidential)); *see also* Transcript at 32, line 17 – 33, line 1 ("Part of the -- the -- I guess, a key philosophy for construction of this project is to construct in segments, and so we'll have a partial notice to proceed from the BLM and kind of similar partial state approval, and with the construction schedule, you know, there are -- there are environmental like seasonal, cultural easements and other constraints in the project schedule, and so we -- it's key that flexibility is built into the plan for construction.").
[335] Idaho Power/400, Barretto/23.

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shows how Idaho Power intends to complete construction of the Project within 34 months to meet its target in-service date.[336] Idaho Power remains confident that the Company will complete construction in time to place the Project in-service by 2026.[337]

Mr. Yassir Rashid correctly pointed out that substantial work remains before construction may begin.[338] However, the Company has already demonstrated its commitment and ability to efficiently complete preconstruction tasks. During the pendency of this docket, Idaho Power has continued to secure additional local, state, and federal permits.[339] Additionally, the Company has continued to finalize its federal and state mitigation plans to address potential impacts from the Project.[340] As of the filing of Idaho Power's Surrebuttal Testimony on April 7, 2023, Idaho Power submitted final drafts of 19 of the mitigation plans EFSC required in its Site Certificate, including the Removal-Fill Compensatory Wetland Non-Wetland Mitigation Plan, the Noxious Weed Plan, and the Fire Prevention and Suppression Plan.[341] Finally, Idaho Power has continued to negotiate easements from affected landowners, thereby reducing the number of parcels for which it will need to commence condemnation.[342]

The evidence in the record demonstrates that Idaho Power has thoroughly planned each phase of the construction of the Project to ensure timely and efficient development, and will continue to work diligently and efficiently to meet its in-service date.

4. Idaho Power Will Construct the Project in a Commercially Reasonable Manner.

The Commission's regulations require an applicant to demonstrate that the proposed transmission line will be "constructed in a commercially reasonable manner[.]"[343] While this term is not further defined in the Commission's rules, Idaho Power considered commercial

[336] Idaho Power/404 (Time and Location Schedule (Confidential)).
[337] Idaho Power/1600, Barretto/32.
[338] Staff/500, Rashid/11; Idaho Power/1600, Barretto/32.
[339] Idaho Power/1601 (Updated Permit Status Chart).
[340] Idaho Power/1602 (Updated ODOE Plans Tracking Table); Idaho Power/1603 (BLM Construction Plan of Development Tracking Table); Idaho Power/1600, Barretto/7-10.
[341] Idaho Power/1602, Barretto/1 (Updated ODOE Plans Tracking Table).
[342] Idaho Power/1604 (Updated Landowner List); Idaho Power/1600, Barretto/32-33.
[343] OAR 860-025-0035(1)(c).

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reasonableness in terms of the cost controls that Idaho Power has negotiated into its contracts with third parties. Idaho Power has implemented strict cost controls for both internal and external personnel, which involve monthly forecast updates, including the tracking of budgets and schedules.[344] As the Project transitions into the construction phase, all transmission line material and construction services will be competitively bid and pulled into a guaranteed maximum price ("GMP") that will serve as the construction pricing if awarded.[345] This GMP will be tied to a schedule that both Idaho Power and the construction manager will be responsible for meeting.[346] Milestone dates will be tied to monetary penalties for the construction manager if key dates slip.[347]

D. The Evidence in the Record Demonstrates the Project Is Justified Compared to Alternatives.

To establish that a proposed transmission line is justified, "the petitioner must show sufficient reason for the project to be built" considering "the public benefits and costs of the project."[348] The Commission's rules elaborate on this criterion by requiring that the Commission determine:

> Whether petitioner has justified construction of the proposed transmission line as in the public interest, as compared with feasible alternatives for meeting the identified need, considering the public benefits and costs of the project, as they relate to the interests in land proposed to be condemned, petitioner's existing facilities and equipment, petitioner's Oregon customers, and other considerations that may be relevant to the public interest. Other such considerations include, but are not limited to, the benefits and costs to other Oregon utilities, their customers, and all Oregonians, the value of connections to regional and inter-regional electricity grids and to a petitioner's non-Oregon service territories, and all Oregonians[.][349]

The Commission has stated that it will rely on benefits and costs that can be quantified in economic terms when possible.[350] However, the Commission has considered non-quantifiable

[344] Idaho Power/200, Barretto/26.
[345] Idaho Power/200, Barretto/26.
[346] Idaho Power/200, Barretto/26.
[347] Idaho Power/200, Barretto/26.
[348] Order No. 11-366 at 4.
[349] OAR 860-025-0035(1)(d).
[350] Order No. 11-366 at 4.

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benefits when those benefits were "tangible and [could] not be achieved more efficiently or cheaply."[351] The Commission has previously issued a CPCN based on a demonstration of a "reasonable likelihood" that a proposed transmission line's benefits will exceed its costs.[352]

In this case, Idaho Power has provided persuasive evidence demonstrating that the Project is justified when compared to feasible alternatives. As discussed above in Section (IV)(A)(1), the Project has consistently been identified as the least-cost, least-risk means of addressing anticipated resource deficits when compared to alternatives. Moreover, as explained in greater detail below, Idaho Power thoroughly considered alternative routes for the Project. In the end, B2H, as currently proposed, has consistently proven to be the most cost-effective and reasonable means of addressing the Company's anticipated resource needs.

In addition to considering alternatives, Idaho Power's analysis assessed various other public benefits of the Project. The evidence in the record shows that the Project will provide substantial benefits to customers of other utilities in Oregon—particularly PacifiCorp and BPA. Additionally, the Project will increase transmission connection between the Mountain West and the Pacific Northwest, thereby helping alleviate congestion on transmission systems in both regions and enabling generators in the Pacific Northwest to access additional markets to gain further value from their existing resources.

Finally, several intervenors have raised concerns regarding what they believe to be public costs of the Project, including for example, impacts to historic, cultural, and archaeological resources. As discussed in detail below, these concerns are misplaced and do not undermine the significant benefits that will be realized from the operation of B2H.

[351] Order No. 17-111 at 5-6.
[352] Order No. 11-366 at 8.

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1. Idaho Power Comprehensively Considered Alternative Routes and Alternatives to the Project, Determined that B2H Is the Best Resource to Meet Idaho Power's Needs, and Balanced Competing Constraints to Select a Route That Is Justified and in the Public Interest.

The Commission's rules require an analysis comparing the proposed transmission line to "feasible alternatives for meeting the identified need[.]"[353] The petition requirements for a CPCN further clarify that the Commission seeks an analysis both of alternatives to constructing the transmission line—such as conservation measures and adding more renewable resources—and alternative routes for the transmission line.[354] However, the Commission has stated that its review of a petition for CPCN does not include "decid[ing] between these two options or other potential alternatives."[355] Rather, the Commission considers the petitioner's analysis of alternatives as a factor when determining whether the petitioner has sufficiently demonstrated compliance with the statutory requirements for a CPCN.[356]

The record shows that Idaho Power analyzed potential alternatives to the Project, primarily in its IRPs, and a portfolio including B2H has consistently proven to be the least-cost, least-risk portfolio. Additionally, Idaho Power considered hundreds of miles of alternative routes in its corridor selection process in an effort to reduce impacts and EFSC concluded that the selected route, taking into account mitigation, will not result in significant adverse impacts to the resources considered under EFSC's rules—including scenic resources, important recreation opportunities, and historic and cultural resources—and that habitat impacts will be consistent with the Oregon

[353] OAR 860-025-0035(1)(d).
[354] OAR 860-025-0030(2)(g), (n) ("Petitions under ORS 758.015 must contain . . . A statement and explanation . . . for possible alternative routes analyzed by petitioner; . . . An evaluation of available alternatives to construction of the transmission line, including but not limited to conservation measures, non-wires alternatives, and construction of one or more lower-voltage single or multi-circuit lines.").
[355] Order No. 19-293 at 7.
[356] Order No. 19-293 at 7. In past Commission decisions, the Commission has weighed alternatives when determining practicability and justification. Order No. 11-366 at 7 (petitioner established practicability by "explor[ing] alternative routes and construction scenarios and select[ing] the most cost-effective option"); Order No. 19-293 at 14 (finding that the proposed transmission line is "justified because it provides greater capacity, more cost-efficiently" than the alternatives).

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Department of Fish and Wildlife's ("ODFW") general fish and wildlife habitat mitigation goals.[357]

a. The Project Is More Effective Than Alternatives to Construction.

Idaho Power has considered alternatives to the Project through the Company's IRPs but determined that B2H is a component of the least-cost, least-risk portfolio to serve customers. Additionally, the alternatives that intervenors in this docket have raised would not effectively serve Idaho Power's customers.

i. Idaho Power Adequately Analyzed Alternatives to B2H in the Company's IRPs.

As discussed above, B2H has consistently been identified as a component of the least-cost, least-risk portfolio in Idaho Power's IRPs.[358] The goal of the IRP is to ensure Idaho Power's system has sufficient resources to reliably serve customer demand and flexible capacity needs over a 20-year planning period while also selecting a resource portfolio that balances cost, risk, and environmental concerns.[359] By default, the IRP process evaluates available alternatives to construction of B2H.

When identifying and evaluating portfolios, Idaho Power built portfolios that selected from a broad range of resource types—including additional wind, solar, and standalone storage—as well as varied amounts of nameplate generation additions.[360] After considering these diverse portfolios, the IRP analysis concluded that B2H is a crucial component of the least-cost, least-risk portfolio. The economic gap between the 2021 IRP Preferred Portfolio, including B2H using the most recent cost estimate, and the least-cost non-B2H portfolio is $228 million.[361] This analysis demonstrates that B2H results in substantial net benefits to Idaho Power's customers compared

[357] EFSC's siting standards require an assessment of potential impacts to: soils; protected areas such as National Parks and National Wildlife Refuges; fish and wildlife habitat; state-listed threatened and endangered species; significant or important scenic resources; historic, cultural, and archaeological resources; important recreational opportunities; and public service providers. OAR 345-022-0022; OAR 345-022-0040; OAR 345-022-0060; OAR 345-022-0070; OAR 345-022-0080; OAR 345-022-0090; OAR 345-022-0100; OAR 345-022-0110.
[358] *See supra* Section IV(A)(IV.1).
[359] 2021 IRP at 29 of 214.
[360] 2021 IRP at 151-52 of 214.
[361] Idaho Power/500, Ellsworth/26.

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to any non-B2H alternative.

ii. Idaho Power Cannot Serve Its Growing Load Solely through Additional Renewable Generation Constructed in Idaho.

Intervenors have suggested that Idaho Power could serve its customers' load through the construction of renewable generation in Idaho.[362] However, the evidence demonstrates that renewable generation in the geographically limited area of Idaho alone could not serve Idaho Power's customers' growing load.

Idaho Power conducted internal analyses studying the effectiveness of constructing additional solar generation within Idaho Power's service territory.[363] Idaho Power's internal studies showed that, at a certain point, continued addition of wind, solar, and storage inside the Idaho Power footprint has significant diminishing returns on capacity contribution.[364] These diminishing returns are due to homogeneous weather patterns spread across the Idaho Power footprint causing simultaneous system-wide low wind, or low solar, or a combination of the two.[365] Conversely, B2H will not experience these diminishing returns because the Project will connect Idaho Power's service territory to geographically diverse generation in the Pacific Northwest.[366]

Importantly, because the Project provides bi-directional capacity, this connection between Idaho Power's service territory and the Pacific Northwest will also allow Oregon to import clean energy generation to meet the state's goals.[367] B2H will initially provide 1,000 MW of additional Oregon import capacity, and with the addition of Gateway West, which will increase southern market access and provide access to Wyoming wind, the Oregon import capacity will increase to 2,000 MW.[368] Like Idaho, Oregon is small enough geographically that a singular weather pattern

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[362] *See, e.g.*, STOP B2H/100, Kreider/16 n.31 (Feb. 1, 2023) ("Plus, with coal plants being converted to natural gas and new renewables being built in Idaho, the pressure for urgent needs has been eliminated.").
[363] Idaho Power/500, Ellsworth/30.
[364] Idaho Power/500, Ellsworth/30.
[365] Idaho Power/500, Ellsworth/30.
[366] Idaho Power/100, Ellsworth/47 ("Constructing the B2H project will . . . add 1,050 MW of total transfer capability between the Pacific Northwest and the Intermountain West region.").
[367] Idaho Power/500, Ellsworth/39-40.
[368] Idaho Power/500, Ellsworth/40.

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can impact the entire state and reduce the energy output of wind and solar resources for extended periods.[369] Considering a future power system dominated by clean energy resources, and the need to plan for and overcome extreme weather patterns, transmission connections to diverse regions are a necessity both for Idaho Power and for other utilities in the Pacific Northwest.[370]

Because of the necessity to connect geographically diverse clean energy resources, the Project is a more effective means of serving Idaho Power's customers compared to relying solely on renewable generation in Idaho.

iii. A Portfolio Including the Project Is a More Cost-Effective Means of Serving the Company's Customers Compared to a Non-Project Portfolio including Gateway West.

STOP B2H has suggested that Idaho Power should analyze whether another transmission line that the Company and PacifiCorp seek to construct, Gateway West, would provide a lower-cost means of serving the Company's load.[371] STOP B2H cited a table in Idaho Power's testimony and asserted that Gateway West "is the lowest cost of the major transmission components" of Idaho Power's IRP.[372]

However, simply comparing the costs of B2H to the costs of Gateway West does not accurately identify the least-cost means of serving Idaho Power's customers. B2H will act as a standalone resource by providing Idaho Power additional access to the Mid-Columbia market hub, meaning B2H alone will provide additional energy to serve Idaho Power's load.[373] In contrast, Gateway West would not serve as a standalone resource, but rather would enable new resources to be integrated onto the Company's system by relieving transmission constraints to the east of the Treasure Valley where these new resources would be located.[374] The costs of these new resources must also be considered when considering how to serve Idaho Power's

[369] Idaho Power/500, Ellsworth/40.
[370] Idaho Power/500, Ellsworth/40.
[371] STOP B2H/200, Kreider/5, 9.
[372] STOP B2H/200, Kreider/9.
[373] Idaho Power/1700, Ellsworth/13.
[374] Idaho Power/1700, Ellsworth/13; *see also* 2021 IRP, Appendix D at 51; 2021 IRP at 118-119 of 214.

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customers.

For this reason, directly comparing the standalone cost of Gateway West to the standalone cost of B2H does not provide a valid comparison of expected costs to meet future resource needs. An accurate comparison would be the full portfolio analysis the Company performed in its 2021 IRP, which clearly demonstrated that the Preferred Portfolio, the Base with B2H portfolio, outperformed portfolios that did not include B2H but did include the construction of Gateway West to facilitate the addition of new resources east of the Treasure Valley load center.[375] While the ability of Gateway West to facilitate the addition of resources east of the Treasure Valley was evaluated in the 2021 IRP, ultimately the least-cost, least-risk portfolio did not include this project.[376]

Based on this analysis, B2H is justified as a more cost-effective means to address the Company's resource needs compared to Gateway West.

b. After a Thorough Analysis of Alternative Routes, Idaho Power Selected a Route That Minimizes Impacts and Balances the Interests Affected by the Project.

Throughout the route selection process for B2H, Idaho Power sought to avoid impacts wherever feasible and to minimize impacts resulting from the Project.[377] The Company's consideration of alternative routes was detailed in the EFSC process. EFSC primarily discussed Idaho Power's assessment of alternatives in relation to EFSC's corridor selection requirements and when applying ORS 215.275—which governs the siting of utility facilities in Exclusive Farm Use ("EFU")-zoned lands.

i. Idaho Power's Corridor Selection Process Considered Myriad Route Options.

As detailed in EFSC's Final Order, Idaho Power conducted a thorough consideration of potential alternative routes in the Company's corridor selection process over four distinct

[375] Idaho Power/1700, Ellsworth/13; 2021 IRP at 193 of 214.
[376] Idaho Power/1700, Ellsworth/14.
[377] Idaho Power/600, Colburn/79-81.

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phases.[378] Idaho Power presented its originally proposed corridor in 2008.[379] However, due to the level of public interest, corridor suggestions, and opposition to the originally proposed corridor, Idaho Power initiated the CAP to engage residents, property owners, business leaders, and local officials in siting the Project.[380] The CAP was a crucial component of Idaho Power's initial siting phase, and through that process the Company identified more than 225 constraints to and opportunities for siting between the proposed terminals for the transmission line.[381] The constraints that Idaho Power sought to avoid through the siting process included irrigated and dryland agricultural areas, sage-grouse habitat, and the Oregon National Historic Trail.[382] Idaho Power also sought to avoid sites designated as "protected areas" under the EFSC standards,[383] which include, among others, BLM Areas of Critical Environmental Concern ("ACEC"), wilderness study areas, and wild and scenic rivers.[384]

During the CAP, Idaho Power convened Project Advisory Teams ("PAT") representing five geographic areas for the purpose of identifying, developing, and recommending proposed and alternative corridors for the Project.[385] The PATs identified routing issues and concerns, and through their analysis of those concerns developed 48 potential corridors and segments.[386] Idaho Power analyzed all 48 corridors and corridor segments proposed by the PATs, and identified three corridors as most constructible, least difficult to permit, and most likely to incur the lowest overall cost.[387] Idaho Power evaluated the three possible corridors, presented those corridors to the PATs for comment, and based on that input the Company selected a proposed corridor.[388]

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[378] Final Order at 54-59 of 10603.
[379] Idaho Power/600, Colburn/10.
[380] Idaho Power/600, Colburn/10-11.
[381] Final Order at 56 of 10603.
[382] Idaho Power/600, Colburn/11-12.
[383] *See former* OAR 345-022-0040(1). The Protected Areas Standard was recently revised. The version of the standard that EFSC applied in its analysis of the Project can be found at Final Order at 294-96 of 10603.
[384] Idaho Power/600, Colburn/11-12.
[385] Idaho Power/600, Colburn/17.
[386] Idaho Power/600, Colburn/17.
[387] Idaho Power/600, Colburn/17.
[388] Idaho Power/600, Colburn/17.

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The second phase of siting began after Idaho Power submitted its NOI to apply for a site certificate for the Project in July 2010.[389] ODOE convened public informational meetings to discuss the proposed corridor in August 2010.[390] In this study, Idaho Power analyzed revisions that the BLM had identified for study in the Environmental Impact Statement ("EIS"), including a revised proposed route, 10 new alternatives, and one modified version of an alternative that had been studied in the previous phase.[391] Idaho Power also assessed route adjustments resulting from the Company's discussions with affected landowners.[392] Route adjustments identified for further analysis in the 2012 Siting Study included modifying the western terminus to the Longhorn substation;[393] route modifications in Union County in response to engineering review;[394] and modifying the proposed route in Malheur County to use an alternate segment of the Vale Utility District to avoid the portions of the Malheur Resource Area that the BLM had studied in its Wilderness Characteristics Inventory.[395] In total, this second phase resulted in over 48 adjustments to Idaho Power's proposed route and the alternative route segments.[396]

The third phase of siting began after Idaho Power submitted its preliminary ASC.[397] Idaho Power identified a need to further analyze and refine the siting for the Project, which resulted in the addition of alternatives and the determination not to carry some alternative route segments forward into the amended ASC.[398] Idaho Power made these changes primarily because of BLM's identification of a preliminary preferred route on BLM land; guidance from ODFW on the need to avoid or minimize impacts to sage-grouse habitat; and continued engineering to minimize impacts

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[389] Idaho Power/600, Colburn/19. This was Idaho Power's second NOI. The Company had initially filed a NOI in August 2008, but after revising the route through Phase One of the siting process, Idaho Power withdrew the initial NOI and submitted the second NOI with revised proposed and alternative route segments. Final Order at 10 n.9 of 10603.
[390] Idaho Power/600, Colburn/19.
[391] Idaho Power/603, Colburn/6 (2012 Supplemental Siting Study).
[392] Idaho Power/603, Colburn/8 (2012 Supplemental Siting Study).
[393] Idaho Power/603, Colburn/9 (2012 Supplemental Siting Study).
[394] Idaho Power/603, Colburn/20-21 (2012 Supplemental Siting Study).
[395] Idaho Power/603, Colburn/33-36 (2012 Supplemental Siting Study).
[396] Idaho Power/600, Colburn/19.
[397] Idaho Power/600, Colburn/19-20.
[398] Idaho Power/600, Colburn/19-20.

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and improve design.[399]

Finally, Idaho Power conducted the fourth phase following the BLM's development of a revised agency preferred alternative route in the Final EIS.[400] Idaho Power further modified the Project corridor based on the input BLM received from stakeholders during the NEPA process.[401]

At the end of this lengthy siting process, Idaho Power included in its ASC a proposed route and four alternative route segments.[402] EFSC concluded in its Final Order that the proposed route and all alternative segments—including the route for which Idaho Power now seeks a CPCN—complied with EFSC's standards and all other applicable Oregon statutes and rules.[403]

ii. Idaho Power Considered Non-Exclusive-Farm-Use Alternatives as Required by ORS 215.275.

At the cross-examination hearing, intervenor Wendy King raised concerns as to whether Idaho Power applied the factors listed in ORS 215.275 when siting the Project within farmlands zoned as EFU and suggested that an alternative route using the Wheatridge intraconnection transmission corridor may affect fewer acres of EFU land.[404] The route that Ms. King proposed using the Wheatridge intraconnection corridor is discussed in greater detail below in Section IV(D)(c)(i). Consistent with ORS 215.275, in the Final Order, EFSC reviewed Idaho Power's alternatives analysis for segments routed through EFU-zoned lands and determined that the Project can be sited in those areas as a "utility facility necessary for public service[.]"[405]

As background, transmission lines like the Project are permitted in EFU-zoned lands as a utility facility necessary for public service, but an applicant must first evaluate reasonable alternatives to determine whether the proposed transmission line and its related or supporting facilities may be sited on land other than EFU-zoned land.[406] Idaho Power's analysis in Exhibit K

[399] Idaho Power/600, Colburn/20.
[400] Final Order at 59 of 10603.
[401] Idaho Power/600, Colburn/20.
[402] Final Order at 59 of 10603.
[403] Final Order at 736 of 10603.
[404] Transcript at 93, lines 3-5.
[405] Final Order at 251-56 of 10603.
[406] ORS 215.275(2).

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of the ASC showed that EFU lands cover approximately 77 percent of the seven-county study area in Oregon, and the only way to avoid EFU lands was to site entirely outside of Oregon—and EFSC agreed with Idaho Power's conclusion.[407] EFSC considered Idaho Power's ORS 215.275 alternatives analysis and concluded that the Project must be sited in EFU lands because it is locationally dependent (meaning it must cross EFU-zoned land to achieve a reasonably direct route), there is a lack of available non-resource lands, and because siting the Project in EFU lands would utilize existing federal rights of way such as the BLM Vale District Utility Corridor, the West-wide Energy Corridor, and the Wallowa-Whitman National Forest Utility Corridor.[408]

c. The Route Segments Intervenors Propose Are Not Preferable to the Project Route in Idaho Power's Petition.

Intervenors have challenged Idaho Power's selected route in Morrow, Union, and Malheur Counties.[409] As discussed below, Idaho Power's selected route is consistent with all siting requirements and reduces impacts to a wide range of resources and stakeholders.

i. The Wheatridge Intraconnection Corridor Is Not Preferable to Idaho Power's Route through Morrow County.

Sam Myers and Wendy King have proposed an alternative route segment in Morrow County that would utilize the east-to-west intraconnection transmission line corridor for the Wheatridge Wind Energy Facility ("Wheatridge"),[410] which is a corridor within the Wheatridge site that will contain the transmission line connecting the multiple groups of turbines that comprise the various Wheatridge wind generation facilities.[411] The Wheatridge *inter*connection line, on the other hand, is a north-to-south transmission line that connects the Wheatridge facility to the

[407] Final Order at 252-53 of 10603 ("[U]nless the route were located almost entirely outside of the state of Oregon, no route could avoid EFU zoned land entirely[.]").
[408] Final Order at 252-54 of 10603.
[409] *See generally* Idaho Power/600, Colburn/21-73.
[410] Sam Myers' Amended Rebuttal Testimony and Exhibits at 2-5 of 12 (Mar. 20, 2023).
[411] Idaho Power Company's Surrebuttal Testimony and Exhibits of Mitch Colburn (Idaho Power/1801, Colburn/13) (Apr. 7, 2023) (*In re Application for a Site Certificate for the Wheatridge Wind Energy Facility*, Final Order (Apr. 2017)).

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transmission grid.[412] Mr. Myers argued that collocating the Project with the Wheatridge intraconnection corridor would avoid impacts to certain EFU lands and seismic risks, cross fewer streams, and reduce costs.[413] Mr. Myers also erroneously asserted that his proposed alternative would follow an existing Green Energy Corridor.[414] Similarly, Ms. King asserted that it would be "simpler" to collocate the Project with the Wheatridge intraconnection corridor.[415] However, the record does not support their view that that corridor represents a reasonable alternative, particularly given that this proposal comes at such a late date.

After Mr. Myers and Ms. King proposed a route segment following the Wheatridge intraconnection corridor, Idaho Power's consultant, Tetra Tech, conducted a desktop comparison of the B2H route to an alternative following the Wheatridge intraconnection corridor using publicly available information.[416] Idaho Power concluded that, contrary to the intervenors' assertions, a route following the Wheatridge intraconnection corridor would be substantially longer than the Project route, replacing a 14-mile segment of the Project route with an alternative that is approximately 21 miles long.[417] Additionally, the Wheatridge route would impact 19 separate parcels, compared to the 17 parcels crossed by the Project route, and would involve new

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[412] *See* Idaho Power/1801, Colburn/19 (*In re Application for a Site Certificate for the Wheatridge Wind Energy Facility*, Final Order (Apr. 2017)) (explaining that the gen-tie line for the Project would run to BPA stations north of the Wheatridge site).
[413] Sam Myers' Amended Rebuttal Testimony and Exhibits at 2-5 of 12 (Mar. 20, 2023).
[414] Sam Myers' Amended Rebuttal Testimony and Exhibits at 2-3 of 12 (Mar. 20, 2023). Mr. Myers further argued that the Commission should consider his proposed alternative route because the "EFSC process does not require a Wildfire risk assessment of the selected routes prior to approving the certificate[.]" *Id.* at 6 of 12. However, EFSC thoroughly analyzed the risk of wildfire during the contested case proceeding for the Project and concluded that Idaho Power had thoroughly assessed the risk of fire in the Company's mitigation plans. Final Order at 35 of 10603 ("Hearing Officer found that applicant adequately analyzed the risk of wildfires from operation of the proposed transmission lines, especially during 'red flag' warning weather conditions and the impact the proposed transmission line may have on Mr. Myers' ability to utilize aerial application on his farmland.…Mr. Meyers timely filed exceptions on the [Proposed Contested Case Order]. After hearing argument, the Council agreed with the with the findings of facts, conclusions of law and conditions of approval in the [Proposed Contested Case Order].") (internal citations omitted); *see also* Final Order, Attachment 6 at 8842-46 of 10603 (addressing Mr. Myers' contested case issue relating to wildfire risk during operation of the Project).
[415] Transcript at 82, lines 22-24.
[416] Idaho Power/1800, Colburn/7.
[417] Idaho Power/1800, Colburn/7.

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landowners who were not involved in the B2H EFSC proceeding or this proceeding.[418]

Moreover, because the Wheatridge route segment was proposed for the first time in this CPCN proceeding after Idaho Power had completed the siting process for the Project[419]—***and only proposed with specificity for the first time in Rebuttal Testimony on March 20, 2023***—incorporating this new route segment is not a viable option at this late stage of the process, and would jeopardize the in-service date for the Project.[420] As Idaho Power's witness, Joseph Stippel, testified at the hearing, because Idaho Power intends to begin construction soon in order to meet the 2026 in-service date for the Project, reviewing "major changes" to the Project route "would put [the Project's] in-service date at a very high risk[.]"[421] Due to the late stage at which Mr. Myers and Ms. King proposed this route revision, Idaho Power could not likely complete feasibility studies, environmental surveys, EFSC approval, and the right-of-way acquisitions in time to begin construction.[422] Additionally, because this alternative route would involve new landowners, if condemnation were necessary for any of the parcels impacted by this new proposed route, Idaho Power would have to complete yet another CPCN proceeding to obtain the necessary property interests through condemnation.[423] Importantly, potentially impacted landowners filed comments on April 27, 2023 indicating opposition to these alternative routes[424]—suggesting that condemnation could likely be necessary for Ms. King and Mr. Myers' alternative proposal.

Finally, contrary to Mr. Myers' assertion, the Project route segment in Morrow County already follows the only Green Energy Corridor located within the County.[425] Mr. Myers asserted

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[418] Idaho Power/1800, Colburn/7.
[419] Idaho Power/1800, Colburn/5 ("Idaho Power did not consider this routing option because the Wheatridge right-of-way did not exist when Idaho Power conducted its corridor assessment—both Wheatridge and B2H proceeded through the EFSC site certificate process at roughly the same time. Additionally, no commenters during the public comment processes for the Project proposed routing the Project along the Wheatridge corridor.").
[420] Transcript at 186, line 23 – 187, line 12.
[421] Transcript at 186, line 23 – 187, line 12.
[422] Transcript at 186, line 23 – 187, line 12.
[423] Transcript at 186, line 23 – 187, line 12.
[424] Docket PCN 5, Comments of Turner Ranch Inc, *et al.* (Apr. 28, 2023), *available at* https://edocs.puc.state.or.us/efdocs/HAC/pcn5hac151229.pdf.
[425] Transcript at 115, lines 18-22.

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in his testimony that his proposed alternative—the east-to-west Wheatridge intraconnection corridor—would make use of an existing Green Energy Corridor that is located south of Gleason Butte.[426] Mr. Myers is mistaken. The Green Energy Corridor in Morrow County is a north-to-south transmission corridor, which includes the *interconnection* corridor connecting Wheatridge to the grid.[427] Importantly, to establish the route that was ultimately identified as a Green Energy Corridor, Idaho Power engaged in a collaborative, multi-year effort with landowners, representatives from local, state, and federal governments, and with BPA and Umatilla Electric Cooperative to consolidate B2H and other needed transmission infrastructure and to reduce impacts to agricultural lands in that area.[428] That portion of the B2H route (and including a portion of the Wheatridge interconnection corridor) was ultimately designated as a Green Energy Corridor by a committee that included representatives of farms and utilities, officials from Umatilla, Morrow and Gilliam Counties, and members of the Oregon Legislature.[429] Thus, intervenors' argument that Idaho Power has failed to take advantage of a Green Energy Corridor is simply wrong and ignores the substantial work that resulted in the Morrow County route approved by EFSC and reflected in this CPCN.

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[426] Sam Myers' Amended Rebuttal Testimony and Exhibits at 2-3 of 12 (Mar. 20, 2023).

[427] *See* Idaho Power/1803, Colburn/4 (George Plaven, Green Energy Corridor, Eastern Oregonian News Article (May 18, 2017)) (describing the Green Energy Corridor that would "would run along Bombing Range Road connecting wind and solar developments at the south end of the county to electrical substations at the north end"). Mr. Myers purportedly quotes from Exhibit K of Request for Amendment 4 to Wheatridge's site certificate. Sam Myers' Amended Rebuttal Testimony and Exhibits at 2-3 of 12 (Mar. 20, 2023). However, Mr. Myers did not submit a copy of this exhibit into the record with his testimony. Moreover, the excerpt that Mr. Myers quotes states that several organizations, including Idaho Power, "have engaged in efforts that ultimately support a green energy corridor[.]" *Id.* The only Green Energy Corridor in Morrow County that Idaho Power worked to establish is the corridor along the west side of Bombing Range Road where the Project route is currently sited. *See* Idaho Power/1800, Colburn/6 (discussing "the proposal that B2H be sited on the west side of Bombing Range Road in Morrow County—which was ultimately designated as a Green Energy Corridor"). Idaho Power is not aware of any existing Green Energy Corridor located south of Gleason Butte. Transcript at 115, line 23 – 116, line 1 (statement of Mitch Colburn during redirect examination) ("Q. And to your knowledge, has Morrow County designated any other Green Energy Corridors besides the corridor the B2H is located in? A. Not to my knowledge.").

[428] Idaho Power/1800, Colburn/6.

[429] Idaho Power/1803, Colburn/3 (George Plaven, Green Energy Corridor, Eastern Oregonian News Article (May 18, 2017)).

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ii. The Glass Hill Alternative Is Not Preferable to the Morgan Lake Alternative.

STOP B2H argued that Idaho Power's consideration of alternatives is inadequate and the Company's Petition failed to comply with Commission rules because the Company does not propose the Glass Hill Alternative, which the BLM identified as part of its Agency-Preferred Alternative.[430] Similarly Susan Geer's witness, Michael McAllister, argued that Idaho Power was required to propose the Glass Hill Alternative in the EFSC process.[431] Intervenor Susan Geer argued that the Company should not have selected the Morgan Lake Alternative, which Ms. Geer asserted is the "most environmentally impactful" of the route options that Idaho Power considered,[432] but instead should have selected the Glass Hill Alternative.[433] Mr. McAllister further asserted that there is community support for the Glass Hill Alternative, but Idaho Power manipulated Union County into stating a preference for the Morgan Lake Alternative by choosing not to propose the Glass Hill Alternative in the Company's ASC.[434] Contrary to STOP B2H's, Mr. McAllister's, and Ms. Geer's assertions, Idaho Power selected its route in Union County based on comments identifying a preference for the Morgan Lake Alternative; the Company is not required to include the Glass Hill Alternative in the Project route; and the evidence shows that the potential environmental impacts resulting from the Morgan Lake Alternative would be comparable to the impacts of the Glass Hill Alternative.[435]

Finally, Ms. Geer has suggested that Idaho Power should not construct the Project using the Morgan Lake Alternative because a portion of that route is located within the privately-owned Rice Glass Hill Natural Area.[436] However, the designation of Rice Glass Hill as a Natural Area

[430] STOP B2H/100, Kreider/7-11 (Feb. 1, 2023).
[431] Susan Geer/200, Geer/21-22.
[432] Susan Geer/100, Geer/6 (Feb. 1, 2023).
[433] Susan Geer/100, Geer/6 (Feb. 1, 2023).
[434] Susan Geer/200, Geer/22.
[435] *See* Idaho Power/600, Colburn/44-54; *STOP B2H Coal.*, 370 Or at 811-15 ("Idaho Power was not required to include the environmentally preferable alternative in its application, and ORS 469.370(13) did not require EFSC to order Idaho Power to amend its application to include that alternative.").
[436] Susan Geer/200, Geer/14-15.

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does not preclude constructing the Project using the Morgan Lake Alternative.[437]

(a) Idaho Power Selected Its Route in Union County Based on Pushback to the Route Options on Glass Hill and Stakeholder Comments Preferring the Morgan Lake Alternative over the Mill Creek Alternative.

Mr. McAllister argued that public comments in Union County indicated support for siting the Project along the Glass Hill Alternative.[438] However, that support was by no means unanimous or stable. On the contrary, although Idaho Power worked hard to determine a route through Union County that would be generally acceptable,[439] landowner preferences were not aligned around a single route and some stakeholders' preferences shifted throughout the extensive siting process.

The Company initially considered two routes in an area known as "Glass Hill," which the Company has referred to in this docket as the Glass Hill Route and the Glass Hill Alternative.[440] However, multiple stakeholders—including Union County—opposed those routes and requested that Idaho Power instead site the Project along an existing 230-kV transmission line near the City of La Grande.[441] In response, through the BLM NEPA process, two new routes were developed—the Mill Creek Alternative and the Morgan Lake Alternative.[442] The Mill Creek Alternative was proposed as an option to site the Project near the existing 230-kV transmission line, as Union County had requested.[443] Idaho Power developed the Morgan Lake Alternative[444] in response to the substantial opposition to the Glass Hill Route and Glass Hill Alternative from landowners in the area—including the Confederated Tribes of the Umatilla Indian Reservation's ("CTUIR")

[437] *See* Idaho Power/600, Colburn/73-79.
[438] Susan Geer/200, Geer/22.
[439] Idaho Power/600, Colburn/36.
[440] Idaho Power/600, Colburn/36-37.
[441] Idaho Power/600, Colburn/37-38; Idaho Power/601, Colburn/14 (Idaho Power Response to Staff Data Request No. 60 and Referenced Attachments) (comments from Union County).
[442] Idaho Power/600, Colburn/38. Idaho Power's selected route in this docket includes the Morgan Lake Alternative. Idaho Power's Petition for CPCN at 15-16.
[443] Idaho Power/600, Colburn/38.
[444] Idaho Power developed this route working with a landowner who sought to locate the route closer to the border of their property rather than bisecting it—as the Glass Hill Route would have done. Idaho Power/600, Colburn/38.

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opposition to the Glass Hill Alternative.[445] Idaho Power included both the Morgan Lake Alternative and the Mill Creek Route in its ASC at EFSC.[446]

From a construction and permitting perspective, Idaho Power understood that, although there were tradeoffs among the three routes in terms of impacts, all three routes would likely be possible to construct and permittable in accordance with Oregon state law.[447] Indeed, both the Morgan Lake Alternative and the Mill Creek Alternative were found to comply with EFSC standards and relevant Oregon law as detailed in the Final Order approving the Site Certificate for B2H.[448] Because all three routes were likely capable of being permitted, the input from stakeholders—including input from the CTUIR and local governments—was the primary factor in determining which routes to pursue.[449]

To that end, Idaho Power took into account the comments stakeholders had provided opposing the Glass Hill Route and the Glass Hill Alternative, and comments from government entities stating a preference for the Morgan Lake Alternative over the Mill Creek Route. Over 100 individuals, including landowners in the area, formed the Glass Hill Coalition to oppose both the Glass Hill Route and the Glass Hill Alternative.[450] Similarly, the CTUIR opposed the Glass Hill Alternative throughout the NEPA process.[451] During the EFSC process, Idaho Power worked with the CTUIR to address their concerns regarding both the Mill Creek Route and the Morgan Lake Alternative sufficiently such that the CTUIR filed a letter stating that "the CTUIR's concerns have been addressed and will be mitigated by Idaho Power pursuant to a confidential mitigation agreement between the CTUIR and Idaho Power."[452]

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[445] Idaho Power/600, Colburn/37-38, 51-52.
[446] Final Order at 71-73 of 10603.
[447] Idaho Power/600, Colburn/41.
[448] Final Order at 736 of 10603.
[449] Idaho Power/600, Colburn/41-42.
[450] Idaho Power/609, Colburn/50-56 (Letter from the Glass Hill Coalition (Dec. 12, 2016)).
[451] Idaho Power/601, Colburn/10 (Letter from CTUIR to BLM (Mar. 19, 2015)); Idaho Power/606, Colburn/2 (Letter of Protest and Objection from CTUIR to BLM (Dec. 27, 2016)).
[452] Final Order at 511 of 10603 (quoting the April 19, 2019 letter from the CTUIR); Idaho Power/704, Ranzetta/2-3 (Letter from Gary Burke to ODOE (Apr. 19, 2019)).

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The City of La Grande consistently stated a preference for the Morgan Lake Alternative over the Mill Creek Route.[453] Similarly, although Union County initially requested a route similar to the Mill Creek Route,[454] the County subsequently preferred the Morgan Lake Alternative.[455] To further address the City of La Grande's concerns about potential impacts to Morgan Lake Park, Idaho Power and the City executed an agreement which will require the Company to fund recreational improvements at the park.[456] Additionally, consistent with a previous request from the City of La Grande,[457] Idaho Power proposed the use of H-frame towers near Morgan Lake Park to mitigate visual impacts and EFSC incorporated Idaho Power's proposal into a mandatory condition in the Site Certificate for the Project.[458]

Based on this substantial feedback from affected landowners and local governments, Idaho Power now plans to construct the Morgan Lake Alternative.[459] Although no routing option had unanimous support in Union County, the Morgan Lake Alternative balances the myriad interests in siting the Project and incorporates preferences from local governments. These stakeholder preferences for the Morgan Lake Alternative compared to alternative routes further justify construction of the Project.

(b) *The Potential Environmental Impacts from the Morgan Lake Alternative are Comparable to the Potential Impacts of the Glass Hill Alternative.*

[453] *See, e.g.*, Idaho Power/601, Colburn/17 (Letter from Robert Strope to ODOE (Apr. 27, 2018)).
[454] Idaho Power/601, Colburn/14 (Letter from Union County to BLM (Mar. 10, 2015)).
[455] Idaho Power/601, Colburn/15-16 (Letter from Union County to ODOE (Nov. 21, 2018)); Final Order at 1069-70 of 10603 (Attachment 2, DPO Comment Index and DPO Comments) [hereinafter, "Final Order, Attachment 2"] (Union County Draft Proposed Order Comments (Aug. 21, 2019)).
[456] Final Order, Attachment 2 at 1086 of 10603.
[457] Idaho Power/601, Colburn/18 (Letter from Robert Strope to ODOE (Apr. 27, 2018)).
[458] *See* Final Order at 562-64 of 10603; Final Order, Attachment 1 at 781 of 10603 (Recreation Condition 1) ("**Recreation Condition 1**: If the Morgan Lake alternative facility route is selected, the certificate holder shall construct the facility using tower structures that meet the following criteria for the transmission line that would be visible from Morgan Lake Park, specifically between milepost (MP) 5.0 to MP 8.0 of the Morgan Lake alternative, as shown on ASC Exhibit C, Attachment C-3, Map 8.
a. H-frames;
b. Tower height no greater than 130 feet; and
c. Weathered steel (or an equivalent coating).").
[459] Idaho Power's Petition for CPCN at 15-16.

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Ms. Geer argued that the Morgan Lake Alternative will affect more sensitive habitat for important species than the Glass Hill Alternative.[460] Ms. Geer specifically raised concerns regarding impacts to Twin Lake and the Winn Meadow area within the Rice Glass Hill State Natural Area.[461] However, Idaho Power's consultant, Tetra Tech, prepared a desktop study of both the Morgan Lake Alternative and the Glass Hill Alternative and determined that the extent of habitat along the two routes is comparable.[462] In particular, Tetra Tech's review showed that the Morgan Lake Alternative affects slightly more forested acres, but the Glass Hill Alternative crosses more hydrologic and wetland features.[463] Additionally, the same occurrences of identified habitat for threatened or endangered fish species occurred on both routes.[464]

Moreover, as Idaho Power demonstrated, no Project feature is proposed within either Twin Lake or the delineated wetland within Winn Meadow, and therefore the Project will not directly impact habitat in either location.[465] Although Winn Meadow may extend beyond the specific boundaries of the delineated wetland, the Project features proposed near Winn Meadow are located upland from the meadow in a drier location without any vegetation indicative of a wetland.[466]

(c) The Commission Should Give Greater Weight to EFSC's Approval of the Morgan Lake Alternative Than to BLM's Selection of the Glass Hill Alternative as the Agency-Preferred Alternative.

STOP B2H asserted that Idaho Power's petition failed to comply with the Commission's

[460] Susan Geer/100, Geer/8 (Feb. 1, 2023).
[461] Susan Geer/100, Geer/8-9 (Feb. 1, 2023); Susan Geer/200, Geer/6.
[462] Idaho Power Company's Reply Testimony and Exhibits of Michael Ottenlips (Idaho Power/1400, Ottenlips/10) (Feb. 21, 2023).
[463] Idaho Power/1400, Ottenlips/10-11.
[464] Both routes are near habitat for bull trout, chinook, and steelhead. Idaho Power/1400, Ottenlips/10-11.
[465] Idaho Power/1400, Ottenlips/6-8, 12-15. Ms. Geer also raised a concern regarding indirect impacts, but indirect impacts to habitat were thoroughly analyzed in the Company's ASC. *See* Susan Geer/200, Geer/5-6; Idaho Power Company's Surrebuttal Testimony and Exhibits of Michael Ottenlips (Idaho Power/2400, Ottenlips/2-4, 5) (Apr. 7, 2023).
[466] Idaho Power/2400, Ottenlips/8-10. An existing road within the site boundary parallels Sheep Creek, an intermittent stream that drains into Winn Meadow. Idaho Power/2400, Ottenlips/10. It is possible that some wetland plants may be present within the channel of Sheep Creek. *Id.*

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filing requirements because the Company did not include a route segment that the BLM identified as the Agency Preferred Alternative.[467] Specifically, STOP B2H asserted that Idaho Power's decision to seek a CPCN for a different route is inconsistent with OAR 860-025-0035(2),[468] which allows the Commission to give "due consideration to related regulatory reviews and permitting approvals as pertinent to the proposed transmission line, if the transmission line has already been acknowledged or approved by regulatory or permitting authorities."[469] However, STOP B2H's interpretation of the Commission rules is incorrect, as the provision cited is not a petition requirement, but rather provides the Commission authority to consider other regulatory and permitting reviews, and give them the weight they are due.

In particular, STOP B2H argued that the Commission should give "due consideration" to the BLM's decision identifying the Glass Hill Alternative as the Agency-Preferred Alternative.[470] Although the Commission's rules state the Commission will give due consideration to related regulatory reviews of a proposed transmission line, the Commission should give greater consideration to EFSC's approval of the Morgan Lake Alternative than the BLM's identification of the Glass Hill Alternative as the Agency-Preferred Route because: (1) the BLM's recommended routes are binding on federal lands where a BLM right-of-way is required, however, BLM's recommendations are not binding on non-federal lands,[471] and (2) similar questions have already been raised in federal and state courts, which have affirmed, respectively, that Idaho Power was

[467] STOP B2H/100, Kreider/7-11 (Feb. 1, 2023).
[468] STOP B2H/100, Kreider/10-11 (Feb. 1, 2023).
[469] Similarly, Mr. McAllister argued that Idaho Power "defie[d] ORS 469.370(13)" because the Company did not propose the Glass Hill Alternative. Susan Geer/200, Geer/22. ORS 469.370(13) governs EFSC's review of an ASC and requires that, when a proposed facility is also subject to NEPA review, EFSC must "conduct its site certificate review, to the maximum extent feasible, in a manner that is consistent with and does not duplicate the federal agency review." However, Mr. McAllister raised this same argument in his appeal of EFSC's Final Order issuing the Site Certificate for the Project, and the Oregon Supreme Court rejected his interpretation of the statute, concluding that "Idaho Power was not required to include the environmentally preferable alternative in its application, and ORS 469.370(13) did not require EFSC to order Idaho Power to amend its application to include that alternative." *STOP B2H Coal.*, 370 Or at 815.
[470] STOP B2H/100, Kreider/11 (Feb. 1, 2023).
[471] *See* 43 USC § 1761(a)(4) (authorizing agencies within the Department of the Interior to grant rights-of-way for transmission lines over federal lands).

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free to propose a different route than the Agency-Preferred Alternative, and that Idaho Power was not required to propose the BLM's Agency-Preferred Route in the ASC.[472]

First, the alternative routes at issue in Union County are all located on private lands. The BLM's recommended routes are binding on ***federal*** lands where a BLM right-of-way is required, however, BLM's recommendations are not binding on ***private*** lands. Because the BLM's recommendations are not binding, as the Commission considers what "due consideration" may apply, the Commission should give these non-binding recommendations from BLM less weight than the routes that were approved and vetted through the EFSC process—which EFSC determined complied with its own standards and applicable Oregon law.

Second, the issue of whether Idaho Power should have further pursued the Glass Hill Alternative has already been resolved in federal court and again at the Oregon Supreme Court. In federal court, STOP B2H brought suit seeking to require a supplemental EIS on the basis that Idaho Power had proposed the Mill Creek Route and Morgan Lake Alternative in its ASC, but not the BLM's Agency-Preferred Alternative—the Glass Hill Alternative.[473] However, the district court rejected STOP B2H's argument, concluding that the Company "was free to apply to the EFSC for a route other than the [Agency-Preferred] Alternative and thus the fact that Idaho Power did so is not significant new information" that would require a supplemental EIS.[474]

Similarly, after EFSC issued its Site Certificate, Mr. McAllister—a limited party in the EFSC contested case—appealed EFSC's order to the Oregon Supreme Court, arguing that Idaho Power was required to propose the Glass Hill Alternative in the Company's ASC.[475] However, the Oregon Supreme Court affirmed EFSC's Final Order, concluding that Mr. McAllister had not

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[472] *See, e.g.*, *STOP B2H Coal.*, 370 Or at 815 ("[I]dentifying an 'environmentally preferable' alternative under NEPA does not mean that selecting that alternative is a condition for approval, even for a federal project…. Idaho Power was not required to include the environmentally preferable alternative in its application[.]").
[473] *STOP B2H Coal. v. Bureau of Land Mgmt.*, 552 F Supp 3d 1101, 1117, 1122 (D Or 2021).
[474] *STOP B2H Coal.,* 552 F Supp 3d at 1124.
[475] *STOP B2H Coal.*, 370 Or at 812.

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identified any condition requiring an applicant to propose a route that the BLM identified as the "environmentally preferable" route.[476] Because both the state and federal courts have affirmed that Idaho Power was not required to include the Glass Hill Alternative in the Company's ASC, the Commission should give greater weight to EFSC's Final Order issuing the Site Certificate for the Project and determining that, taking into account conditions and mitigation, the route Idaho Power has selected complies with all applicable state standards.

(d) The Designation of the Rice Glass Hill Property as a Natural Area Does Not Preclude Constructing the Project Using the Morgan Lake Alternative.

Ms. Geer has suggested that the Project should not be routed through the Rice Glass Hill State Natural Area because Rice Glass Hill is a dedicated Natural Area.[477] The State Natural Area Program[478] is a register of "Natural Area" locations throughout Oregon that have substantially retained their natural character, or, if altered in character, are also valuable as habitat for plant and animal species or for the study and appreciation of the natural features.[479]

Ms. Geer is correct that the privately-owned Rice Glass Hill property is a dedicated Natural Area.[480] However, the designation of that property does not create any regulatory prohibition on constructing the Project through Rice Glass Hill. As the Oregon Parks and Recreation Department, who oversees the Natural Areas Program, confirmed in a letter filed in this docket, the Natural Areas Program is entirely voluntary and, as a result, "[t]here are no regulatory requirements or limitations imposed on the use of the property by this program's rules as a result of the designation."[481]

That being said, it is important to note that the Project has been routed to minimize impacts

[476] *STOP B2H Coal.*, 370 Or at 815.
[477] Susan Geer/100, Geer/4 (Feb. 1, 2023); Susan Geer/200, Geer/6-7, 11-13, 14-15.
[478] ORS 273.563 – ORS 273.711.
[479] ORS 273.563(7).
[480] *See* Geer/113 (Dedication Agreement for Glass Hill as a State Natural Area (Nov. 8, 2020)).
[481] Staff/401, Pal/21 (Letter from Oregon Parks and Recreation Department to Idaho Power (Mar. 13, 2023).

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to habitat, including habitat located within the Rice Glass Hill Natural Area.[482] For example, Ms. Geer raised concerns regarding potential impacts to Winn Meadow, which she described as the "most pristine" meadow on the property.[483] Idaho Power routed the Project to avoid the delineated wetland features in Winn Meadow and instead located the transmission line route upland from the meadow in a drier area with no wetland features.[484] As another example, Ms. Geer raised concerns regarding impacts to Douglas clover (*Trifolium douglasii*)—which is an Oregon Biodiversity Information Center ("ORBIC") List 1 Species—located in the Rice Glass Hill parcel.[485] Although this species is not a state- or federally-listed threatened or endangered species, and thus avoidance is not required, Idaho Power made the following commitment regarding *Trifolium douglasii*:

> If a landowner identifies discrete populations of *Trifolium douglasii*, commonly known as Douglas clover, within the segment of the Project site located on the landowner's parcel, the certificate holder will attempt to avoid direct impacts to the identified populations by micro-siting Project features outside the boundaries of the populations, if practicable. Nothing herein shall require the certificate holder to site any Project features outside the site boundary to comply with this condition.[486]

iii. Idaho Power Utilized Existing Utility Corridors in Malheur County When Practicable.

In Malheur County, intervenors Timothy Proesch, Miranda Aston-Proesch, Carl and Julie Morton, and Jim and Kaye Foss argued that Idaho Power should have routed the Project through an existing utility corridor on BLM-managed land for the segment of the Project crossing the Owyhee River.[487] The Commission should reject this argument.

Idaho Power's selected route utilizes existing utility corridors on federally-managed lands

[482] Idaho Power/600, Colburn/76 (stating that, even though Idaho Power was not required to analyze Rice Glass Hill under EFSC's Protected Areas Standard, "Idaho Power analyzed impacts to the Glass Hill area under all other applicable EFSC standards, including the Fish and Wildlife Habitat Standard").
[483] Susan Geer/100, Geer/9 (Feb. 1, 2023).
[484] Idaho Power/2400, Ottenlips/9-10.
[485] Susan Geer/100, Geer/11 (Feb. 1, 2023).
[486] Idaho Power/1500, Stippel/15-16.
[487] *See, e.g.*, Timothy Proesch & Miranda Aston-Proesch Opening Testimony and Exhibits (Timothy Proesch & Miranda Aston-Proesch /102, Proesch/3-4) (Jan. 17, 2023).

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within Malheur County for approximately 20.7 miles.[488] However for the specific segment of B2H crossing the Owyhee River, the BLM developed an alternative route segment that moved the Project segment crossing the Owyhee River to private lands adjacent to (but outside of) the existing utility corridor, in order to avoid impacts to an existing ACEC and a portion of the river that was being considered for designation as a Wild and Scenic River.[489] The BLM determined that this route would reduce impacts compared to siting within the existing corridor and identified this alternative crossing as the Agency Preferred Alternative.[490] Due to BLM's decision to route the Project outside the existing utility corridor, the Company cannot unilaterally re-route the Project into the corridor without first obtaining a new right-of-way authorization from BLM.[491] For these reasons, Idaho Power's selected route in Malheur County is justified in the public interest.

2. PacifiCorp and BPA Have Demonstrated That B2H Will Provide Their Customers with Substantial Benefits.

One of the factors that the Commission considers when determining whether a transmission line is justified is the "benefits and costs to other Oregon utilities[.]"[492] The evidence in this record demonstrates that the Project will provide significant benefits to customers of both PacifiCorp and BPA.

PacifiCorp will own a 54.55 percent stake of the Project.[493] PacifiCorp identified three general categories of Project benefits for their system: (1) B2H will increase the bidirectional transfer capability between PacifiCorp's east and west balancing authority areas; (2) B2H enables lower-cost and more reliable transmission service to PacifiCorp's central Oregon loads; and (3) B2H allows for lower cost transmission service to PacifiCorp loads in the vicinity of BPA's planned

[488] Idaho Power/600, Colburn/60 ("The Proposed Route is sited within the Vale District Utility Corridor for approximately 16.8 miles. The Proposed Route is sited within the WWE corridor for approximately 3.9 miles in Baker and Malheur counties.").
[489] Idaho Power/600, Colburn/59-60, 61, 65-68.
[490] Idaho Power/600, Colburn/65-67.
[491] Idaho Power/600, Colburn/69-70.
[492] OAR 860-025-0035(1)(d).
[493] PAC/201, Link/24 (B2H Term Sheet Dated January 18, 2022).

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Longhorn substation, which is the western terminus of B2H.[494] PacifiCorp anticipates that the Project will result in $1.713 billion in risk-adjusted net benefits during a study horizon of 2023 through 2042.[495]

During the first part of the permitting process, BPA anticipated that it would take an ownership interest in the completed project. However, in 2022, BPA decided to instead transfer its anticipated ownership stake to Idaho Power and execute transmission service agreements with the Company for service to BPA's customers in southeast Idaho.[496] As part of its required notice proceedings, BPA held a public comment period relating to the B2H negotiations.[497] In its notices, BPA explained that wheeling over B2H would benefit BPA customers because it would enable BPA to serve its customers in southeast Idaho using only one wheel of transmission beyond the BPA transmission system, which currently requires two wheels.[498] BPA identified the following benefits resulting from construction of B2H:

> Key benefits include elimination of today's reliance on conditional firm [point-to-point ("PTP")] service for deliveries of BPA resources to the [Southeast Idaho Load Service ("SILS")] customers' loads, migration of SILS customer loads to firm network transmission service, financial benefits of having a single wheel of transmission for service to the SILS customer and incremental revenues from new PTP sales, congestion relief that benefits BPA's deliveries for all Southern and Southeast Idaho customers, and eliminating today's interim service's reliance on market purchases that carry cost, availability, and carbon-content risks.[499]

BPA estimates that B2H will provide an estimated $720 million of cost savings compared to BPA's current plan of service.[500]

The benefits to PacifiCorp and BPA further support the conclusion that the Project is

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[494] PAC/200, Link/4.
[495] PAC/200, Link/4.
[496] Idaho Power/502, Ellsworth/2 (Updated BPA Letter to the Region re: B2H and Southeast Idaho Load Service (Jan. 9, 2023)).
[497] *See* Idaho Power/502, Ellsworth/3 (Updated BPA Letter to the Region re: B2H and Southeast Idaho Load Service (Jan. 9, 2023)).
[498] Idaho Power/502, Ellsworth/3 (Updated BPA Letter to the Region re: B2H and Southeast Idaho Load Service (Jan. 9, 2023)).
[499] Idaho Power/502, Ellsworth/3 (Updated BPA Letter to the Region re: B2H and Southeast Idaho Load Service (Jan. 9, 2023)).
[500] Idaho Power/502, Ellsworth/13 (Updated BPA Letter to the Region re: B2H and Southeast Idaho Load Service (Jan. 9, 2023)).

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justified.

3. The Project Will Increase Connections between the Pacific Northwest and the Mountain West, Thereby Reducing Congestion on Transmission in Both Regions and Increasing the Integration of Renewable Resources.

The Commission also considers "the value of connections to regional and inter-regional electricity grids" under the justification criterion.[501] The evidence in this case demonstrates that the Project will help alleviate congestion and enable generators in the Pacific Northwest to gain further value from their existing resources, and load-serving entities in the Mountain West region will be able to meet load service needs at a lower cost.[502]

Major 500-kV transmission lines, such as B2H, substantially increase the grid's ability to recover from unexpected disturbances.[503] This increased recovery capability is particularly important in the case of B2H, because there is only one 500-kV transmission line between the Pacific Northwest and Idaho Power's service territory in Idaho—the Hemingway–Summer Lake transmission line.[504] In Idaho Power's contingency scenarios, the loss of the Hemingway–Summer Lake 500-kV transmission line during peak summer load is one of the worst possible contingencies the Company's transmission system can experience.[505] Once the Hemingway–Summer Lake 500-kV transmission line disconnects, the transfer capability of the Idaho to Northwest path is reduced by over 700 MW in the west-to-east direction.[506] After the addition of B2H, there will be two major 500-kV connections between the Pacific Northwest and Idaho Power, reducing risk by increasing redundancy.[507] Additional contingencies that would be ameliorated by addition of the Project are the potential loss on the same Hemingway-Summer Lake 500-kV line (east-to-west), and the loss of a single 230-kV transmission tower in the Hells Canyon area.[508]

[501] OAR 860-025-0035(1)(d).
[502] Idaho Power/100, Ellsworth/36.
[503] Idaho Power/100, Ellsworth/37.
[504] Idaho Power/100, Ellsworth/37.
[505] Idaho Power/100, Ellsworth/37.
[506] Idaho Power/100, Ellsworth/37.
[507] Idaho Power/100, Ellsworth/37.
[508] Idaho Power/100, Ellsworth/37-38.

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The Project will also improve integration of renewable generation by increasing capacity to economically move power between regions.[509] Historically, during peak summer conditions, the Idaho to Northwest path in the west-to-east direction can often become constrained and power prices in Idaho and to the east can generally be higher than power prices in the Pacific Northwest, a market inefficiency caused by inadequate transmission capacity to economically move power between regions.[510] The additional capacity created by the Project will help alleviate this constraint and enable generators in the Pacific Northwest to gain further value from their existing resources, and load-serving entities in the Mountain West region will be able to meet load service needs at a lower cost.[511]

These benefits from an interconnected grid provide further justification for the Project.

4. The Public Interest in Historic, Cultural, and Archaeological Resources Will Be Sufficiently Protected.

Concerns regarding impacts to historic, cultural, and archaeological resources (hereinafter referred to as simply "cultural resources") were raised in the EFSC contested case process. After evaluating extensive testimony and argument, EFSC found that, subject to the conditions in the Site Certificate and taking into account mitigation, the construction and operation of B2H "is not likely to result in significant adverse impacts to any historic, cultural, or archaeological resources[.]"[512] Two intervenors in this case have raised arguments similar to those rejected by EFSC.[513] Because the intervenors have provided no persuasive evidence, the Commission should reject their arguments.

Under EFSC's Cultural Resources Standard, Idaho Power is required to evaluate and provide mitigation plans for three categories of resources: (a) historic, cultural or archaeological

[509] Idaho Power/100, Ellsworth/36.
[510] Idaho Power/100, Ellsworth/36.
[511] Idaho Power/100, Ellsworth/36.
[512] Final Order at 547 of 10603.
[513] Final Order at 30-33 of 10603 (summaries of EFSC's conclusions regarding cultural resource issues raised during the EFSC proceeding).

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resources that have been listed on, or would likely be listed on the National Register of Historic Places ("NRHP"); (b) on private land, archaeological objects, as defined in ORS 358.905(1)(a),[514] or archaeological sites, as defined in ORS 358.905(1)(c);[515] and (c) on public land, archaeological sites, as defined in ORS 358.905(1)(c).[516] In addition, because B2H crosses land managed by the BLM and other federal agencies, the Project is required to undergo a NEPA environmental impact analysis, which addresses, among other things, the potential cultural, historic, and archaeological impacts caused by B2H and compliance with Section 106 of the NHPA, 54 U.S.C. § 306108.[517] While Idaho Power has evaluated cultural resources where access was permitted and made recommendations regarding NRHP eligibility for cultural resources along the transmission line route, the BLM is the entity ultimately responsible for making final NRHP eligibility determinations under the federal Section 106 process.[518] Because Idaho Power's mitigation plans for impacts caused by B2H must be coordinated with the BLM's final determinations concerning eligibility for listing on the NRHP (as well as other reasons), EFSC approved a phased approach to Idaho Power's cultural resources surveys and mitigation plans

[514] An archaeological object is defined as an object that: (a) is at least 75 years old; (b) is part of the physical record of an indigenous or other culture found in the state or waters of the state; and (c) is material remains of past human life or activity that are of ***archaeological significance*** including, but not limited to, monuments, symbols, tools, facilities, technological by-products and dietary by-products. ORS 358.905(1)(a) (emphasis added). A "site of archaeological significance" means (a) any archaeological site on, or eligible for inclusion on, the NRHP as determined in writing by the State Historic Preservation Officer; or (b) any archaeological site that has been determined significant in writing by an Indian tribe. ORS 358.905(1)(b). Moreover, although ORS 358.905(1)(a) requires archaeological resources to be at least 75 years old, as a conservative measure, Idaho Power considered archaeological resources of at least 50 years old, consistent with the federal regulations for the Project and the Archaeological Survey Plan. *See* Idaho Power/700, Ranzetta/7.

[515] "Archaeological site" is defined as a geographic locality in Oregon, including but not limited to submerged and submersible lands and the bed of the sea within the state's jurisdiction, that contains archaeological objects and the contextual associations of the archaeological objects with: (i) each other; or (ii) biotic or geological remains or deposits. ORS 358.905(1)(c)(A). Examples of archaeological sites include, but are not limited to shipwrecks, lithic quarries, house pit villages, camps, burials, lithic scatters, homesteads and townsites. ORS 358.905(1)(c)(B).

[516] OAR 345-022-0090(1).

[517] Idaho Power/700, Ranzetta/9.

[518] Idaho Power/700, Ranzetta/25 ("The BLM is responsible for making the final NRHP-eligibility determinations, in consultation with SHPO. If SHPO disagrees with the BLM's determination, the final arbiter for NRHP-eligibility (within the context of the federal Section 106 process) is the National Park Service per 36 CFR 800.4(c)(2).").

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whereby Idaho Power is required to submit the final mitigation plans—referred to as the HPMP[519]—to ODOE for its review and approval after BLM has completed the Section 106 process.[520]

As part of the federal Section 106 process, BLM, in consultation with the Idaho and Oregon SHPOs, the ACHP, as well as other parties to the Section 106 Programmatic Agreement (including ODOE), is currently in the process of finalizing the HPMP for B2H, which will take into account NRHP-eligibility recommendations/determinations made in the Class III Report and Visual Assessment of Historic Properties Intensive Level Survey Report, as well as recommended mitigation measures through implementation of property-specific mitigation and monitoring plans.[521] Once the HPMP is approved by the BLM and the consulting parties to the Programmatic Agreement, the Site Certificate requires Idaho Power to submit the final HPMP to ODOE for its review and approval, in consultation with the SHPOs and applicable Tribal governments.[522] Per the Programmatic Agreement, where cultural resources of archaeological significance are identified in the analysis area (otherwise known as the "Area of Potential Effects" or "APE")[523] for a particular transmission line construction segment, all surveys and mitigation plans for such resources must be completed prior to construction of that segment.[524] Accordingly, the

[519] Note that while initially two HPMPs were envisioned—one to address cultural resources under the EFSC standards and one prepared for BLM under the federal Section 106 process—discussions are underway to determine whether the BLM HPMP and the EFSC HPMP should be merged into one document to avoid duplication of efforts. *See* Idaho Power Company's Surrebuttal Testimony of Kirk Ranzetta (Idaho Power/2100, Ranzetta/4 n.8) (Apr. 7, 2023); *see also* Idaho Power/700, Ranzetta/13 ("Idaho Power prepared the EFSC HPMP specifically for ODOE and to comply with the EFSC certification process. Idaho Power is able to modify the EFSC HPMP as necessary following completion of the BLM's HPMP or to incorporate the plan as appropriate into the BLM's HPMP through BLM's consultation with ODOE as a party to the Programmatic Agreement.").
[520] Idaho Power/700, Ranzetta/5.
[521] Idaho Power/700, Ranzetta/9-10.
[522] *See* Idaho Power/700, Ranzetta/38; *see also* Final Order, Attachment 1, at 780-81 of 10603 (discussing Historic, Cultural and Archaeological Resources Condition 2).
[523] Note that the Direct Analysis Area and Visual Assessment Analysis Area generally equate to the "Area of Potential Effects" or "APE" as used in the federal Section 106 process. Idaho Power/700, Ranzetta/13.
[524] Idaho Power/2100, Ranzetta/11-12. As noted below, the BLM may issue Notices to Proceed ("NTP") for construction segments under certain conditions prescribed by the Programmatic Agreement. In particular, the BLM may issue an NTP for an individual construction segment where: (1) construction of the segment

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Commission may be assured that there are sufficient protections and oversight in place to adequately protect and/or record the cultural resources along the transmission line route.

Intervenors John Williams and Mr. Larkin have argued that B2H is not in the public interest because Idaho Power's surveys for cultural resources are not complete, and the NRHP-eligibility determinations and mitigation plans for cultural resources are not finalized. In particular, Mr. Williams claimed that Idaho Power's Petition for a CPCN is premature because NRHP-eligibility determinations and mitigation plans have not yet been finalized for two cultural resources identified on his property as part of the Phase 2 surveys, a lithic and tool scatter within the Direct Analysis Area/APE[525] that resembles an open campsite (8B2H-DM-52) and a stacked rock feature within the Direct Analysis Area/APE that resembles a pre-contact hunting blind (8B2H-DM-47).[526] Mr. Larkin argued that a number of reports and mitigation plans need to be completed before the BLM can issue any Notices to Proceed ("NTPs")—and suggested that all mitigation plans need to be completed before any portion of B2H can be constructed.[527] Finally, Mr. Williams argued that B2H is not in the public interest because the BLM's preferred NEPA route segment in Union County (the Glass Hill Alternative)[528] would avoid the cultural resources on his property and registered segments of the Oregon Trail.[529] Intervenors made similar arguments in the contested case proceeding before EFSC, all of which were rejected, and there

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will not restrict re-routing of the right-of-way or affiliated ancillary features to avoid, minimize, or mitigate adverse effects on cultural resources; and (2) the permitting agencies, in consultation with the parties to the Programmatic Agreement, have determined that all surveys have been completed for the construction segment and no cultural resources have been identified through the Class III inventories within the APEs for the construction segment. *See* Idaho Power/703, Ranzetta/348 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).

[525] The Direct Analysis Area/APE is 250 feet on each side of the centerline of the proposed route (i.e., 500 feet wide total). Idaho Power Company's Reply Testimony and Exhibit of Stephen Anderson (Idaho Power/800, Anderson/4) (Feb. 21, 2023).

[526] John Williams' Amended Opening Testimony and Exhibits (John C. Williams/100, Williams/3) (Feb. 1, 2023).

[527] Greg Larkin's Rebuttal Testimony and Exhibits (Greg Larkin/700, Larkin/3-4) (Mar. 20, 2023). Mr. Larkin labeled his testimony "Surrebuttal Testimony." However, only Idaho Power filed surrebuttal testimony in this docket. Mr. Larkin's March 20, 2023, filing was filed as his rebuttal testimony.

[528] In the Final EIS, BLM refers to this route as the Glass Hill Variation S2-D2. *See* Idaho Power/611, Colburn/141, 194-95, 209 (BLM Final EIS, Chapter 2).

[529] John C. Williams/100, Williams/4 (Feb. 1, 2023).

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is no evidence in this case supporting a contrary decision.

a. Idaho Power Has Appropriately Surveyed and Made NRHP Recommendations for the Cultural Resources on Mr. Williams' Property, and the Commission Can Be Assured That the Federal Section 106 Process Will Provide for Appropriate Findings and Mitigation.

In arguing that Idaho Power's Petition for a CPCN is premature, Mr. Williams has made two distinct points. First, Mr. Williams claimed that the Company did not perform an adequate assessment of the resources on his property.[530] Second, Mr. Williams suggested that until specific NRHP designations and mitigation plans for these resources have been adopted, the Commission cannot make a determination that the public interest will be protected.[531] Neither of these claims is true.

In fact, Idaho Power has completed all required investigations and assessments of the resources in question. As detailed in the Reply Testimonies of Stephen Anderson and Kirk Ranzetta, Idaho Power has met with Mr. Williams and investigated the potential open campsite and hunting blind on several occasions.[532] Based on these assessments, Idaho Power has recommended NRHP-eligibility designations[533] and certain mitigation measures to the BLM for its final determinations in the federal Section 106 process.

With respect to cultural resource 8B2H-DM-52 (potential open campsite), Idaho Power has recommended the site as eligible for listing on the NRHP.[534] Idaho Power acknowledges that this resource will be directly impacted by the placement of a transmission tower[535]—an impact

[530] John C. Williams/100, Williams/2-3 (Feb. 1, 2023).
[531] John C. Williams/100, Williams/3 (Feb. 1, 2023).
[532] Idaho Power/800, Anderson/6-7.
[533] Note that a resource designation of "unevaluated," as used for the potential hunting blind, indicates that the resource may have been investigated, however, additional investigations or evaluations are recommended that may unnecessarily disturb the site; therefore, the resource is assumed to be likely eligible for listing on the NRHP. Idaho Power/700, Ranzetta/43; Final Order at 474 of 10603. Upon the BLM's final determinations, cultural resources may remain with the designation of "unevaluated" if there are no potential impacts from the proposed facility. Idaho Power/700, Ranzetta/43; Final Order at 474 of 10603.
[534] Idaho Power/800, Anderson/7.
[535] Idaho Power/800, Anderson/9.

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that cannot be avoided due to separate mitigation required by EFSC.[536] For that reason, Idaho Power will recommend data recovery for these impacts, which is an acceptable approach under both the draft HPMP and the Programmatic Agreement.[537] Data recovery for pre-contact and historic era archaeological resources may include surface collection or in-field artifact analysis and recording; detailed surface mapping; controlled scientific excavation; photo documentation; archival research; geomorphological studies; laboratory analysis; and curation.[538] Moreover, in the area of the potential campsite, Idaho Power can use protective matting that will shield the ground from impacts from heavy equipment.[539] If such protective matting is used, any direct disturbance to the potential open campsite may be limited to the locations of the tower foundations themselves[540]—which are 8 feet in diameter for each of the two H-frame poles.[541]

With respect to the potential hunting blind, Idaho Power has designated that resource as "unevaluated."[542] However, because Idaho Power assumes that "unevaluated" resources are eligible for listing on the NRHP, the Company will propose mitigation for any impacts to that resource.[543] Ultimately, the BLM will make the final eligibility determination for the site if necessary as part of the federal Section 106 process.[544] And while the potential hunting blind is not anticipated to be directly impacted by the placement of transmission towers, Idaho Power acknowledges that the resource is within the Direct Analysis Area/APE of B2H due to current access road alignment.[545] The Company has agreed to move the access road further away from

[536] Idaho Power/1500, Stippel/7-8; Final Order, Attachment 1 at 781 of 10603 (Recreation Condition 1).
[537] Idaho Power Company's Surrebuttal Testimony of Stephen Anderson (Idaho Power/2200, Anderson/5) (Apr. 7, 2023); *see also* Final Order, Attachment S-9, Draft Historic Properties Management Plan at 10364-67 of 10603 [hereinafter, "Final Order, Attachment S-9"]; Idaho Power/703, Ranzetta/342 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S) (Programmatic Agreement).
[538] Idaho Power/2200, Anderson/5; Final Order, Attachment S-9 at 10364, Table 6-1 of 10603.
[539] Idaho Power/2200, Anderson/5.
[540] Idaho Power/2200, Anderson/5.
[541] Final Order, Attachment 1 at 752 of 10603.
[542] Idaho Power/2200 Anderson/4; Idaho Power/800, Anderson/8.
[543] Idaho Power/2200 Anderson/4; Idaho Power/800, Anderson/8.
[544] Idaho Power/2200, Anderson/4.
[545] Idaho Power/1500, Stippel/8.

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the resource, which may address this issue.[546] It is also possible that the integrity[547] of the potential hunting blind—specifically as to the setting, feeling, and association of the site—will be adversely impacted by visual elements related to B2H.[548] However, any such impacts will in fact be mitigated, consistent with state and federal law, as well as the Programmatic Agreement and Site Certificate,[549] which is precisely the reason why the Commission can be assured that the public interest will be protected.

As discussed above, through the federal Section 106 process, the BLM is responsible for determining appropriate mitigation measures to be detailed in the HPMP and as stipulated in a property-specific mitigation and monitoring plan prepared in consultation with parties to the Programmatic Agreement, including SHPO and Tribal governments.[550] Moreover, per the Site Certificate, ODOE will also have the opportunity to review and approve the mitigation and monitoring plans for the site, in consultation with SHPO and applicable Tribal governments.[551] For the above reasons, Idaho Power has adequately assessed the cultural resources identified on Mr. Williams' property during its Phase 2 surveys, and such resources will be adequately protected as property-specific mitigation plans for the sites must be approved by the BLM and ODOE separately before construction can commence for the segment on Mr. Williams' property. With those structural protections in place, there is no reason for the Commission to delay issuance of the CPCN.

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[546] Idaho Power/1500, Stippel/8.
[547] Determination of eligibility for listing on the NRHP is in part based on the site's "integrity," which includes several factors of consideration—the site's location, design, setting, materials, workmanship, feeling, and association. 36 CFR 60.4 ("The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and…."). Idaho Power/2100, Ranzetta/8 n.34.
[548] Idaho Power/2100, Ranzetta/8; *see also* 36 CFR 800.5(a)(2)(v) ("Adverse effects on historic properties include, but are not limited to…[i]ntroduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features[.]").
[549] Idaho Power/700, Ranzetta/36-37; Final Order, Attachment 1 at 781 of 10603.
[550] Idaho Power/2100, Ranzetta/8; Idaho Power/703, Ranzetta/338 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).
[551] Final Order, Attachment 1 at 780-81 of 10603 (Historic, Cultural and Archaeological Resources Condition 2).

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b. *The BLM May Issue NTPs on a Segment-by-Segment Basis.*

Mr. Larkin is mistaken that *all* reports and mitigation plans need to be completed before the BLM can issue any NTPs.[552] Per the Programmatic Agreement, the final HPMP, including protection measures, property-specific mitigation plans, and monitoring plans must be finalized prior to the issuance of NTPs.[553] However, NTPs may be issued to Idaho Power for individual construction segments under certain conditions.[554] In particular, as discussed above, the BLM may issue an NTP for an individual construction segment where: (1) construction of the segment will not restrict re-routing of the right-of-way or affiliated ancillary features to avoid, minimize, or mitigate adverse effects on cultural resources; and (2) the permitting agencies, in consultation with the parties to the Programmatic Agreement, have determined that all surveys have been completed for the construction segment and no cultural resources have been identified through the Class III inventories within the APEs for the construction segment.[555]

c. *Impacts to Cultural Resources Would Not Be Avoided Using the Glass Hill Alternative.*

Finally, Mr. Williams has argued that Idaho Power could have selected the Glass Hill Alternative (as opposed to the Morgan Lake Alternative), which would have avoided cultural resources on Mr. Williams' property.[556] This argument, however, ignores the fact that Idaho Power's decision to drop the Glass Hill Alternative in favor of the Morgan Lake Alternative was the result of a careful balancing of numerous interests and resources—not just a consideration of the cultural resources.[557] Moreover, while the Glass Hill Alternative would have avoided

[552] *See* Greg Larkin/700, Larkin/3-4.
[553] Idaho Power/2100, Ranzetta/11; Idaho Power/703, Ranzetta/341, 348 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).
[554] Idaho Power/2100, Ranzetta/11-12; Idaho Power/703, Ranzetta/348 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).
[555] Idaho Power/2100, Ranzetta/12; Idaho Power/703, Ranzetta/348 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).
[556] John C. Williams/100, Williams/4 (Feb. 1, 2023).
[557] *See* Idaho Power/600, Colburn/7-8, 11-16, 35-41.

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Mr. Williams' property,[558] it would have impacted other cultural resources, which is the precise reason that the CTUIR objected to the Glass Hill Alternative.[559] For this reason, the Commission should reject Mr. Williams' argument that the Glass Hill Alternative would have been a more reasonable choice for siting B2H.

d. Tribal Consultation Is Ongoing.

As part of its analysis of the impact on cultural resources from B2H, both the BLM and Idaho Power engaged in consultation with tribal leaders throughout the development of the Project.[560] Idaho Power provided evidence detailing the history of the consultation process, and explained that the BLM was the lead agency for tribal consultations.[561] In particular, the BLM's government-to-government consultation was mandated by federal law and informed the HPMP and the Programmatic Agreement.[562] Idaho Power also consulted with the Tribes throughout the EFSC proceeding,[563] which involved providing information on and soliciting comments regarding the ASC.[564] Although the EFSC process has concluded, the consultation process is ongoing and ensures that Tribal governments have adequate opportunity to express concerns regarding the Project's potential impacts on cultural resources.[565]

[558] While selection of the Glass Hill Alternative would avoid direct (i.e., physical) impacts to cultural resource on Mr. William's property, it would only reduce indirect (i.e., visual) impacts to such resources on Mr. Williams' property. Idaho Power/700, Ranzetta/39 ("Mr. Williams is correct that the Glass Hill Alternative would have avoided his property and therefore would avoid direct impacts to the cultural resources located there.…With respect to the Glass Hill Alternative, there could also be visual effects to cultural resources (including Oregon Trail segments) on Mr. Williams' property—although they would be minimized by distance and intervening vegetation.").
[559] Idaho Power/600, Colburn/47; Idaho Power/606, Colburn/2-3 (Letter of Protest and Objection from CTUIR to BLM (Dec. 27, 2016)).
[560] Idaho Power/900, Baker/2-3.
[561] Idaho Power/900, Baker/3.
[562] Idaho Power/900, Baker/8.
[563] *See* OAR 345-001-0010(28)(o) ("'Reviewing agency' means any of the following officers, agencies or tribes: . . . Any tribe identified by the Legislative Commission on Indian Services as affected by the proposed facility[.]").
[564] Idaho Power/900, Baker/11-12.
[565] Idaho Power/900, Baker/13, 16.

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5. Idaho Power Analyzed the Environmental Justice Impacts of the Facility and Determined that Impacts to Environmental Justice Communities Would be Minimal.

As a natural resource agency,[566] the Commission is required to consider the effects of B2H on "environmental justice issues,"[567] and in particular, the impact of the Project on environmental justice communities.[568] Environmental justice communities are defined to include:

> communities of color, communities experiencing lower incomes, tribal communities, rural communities, coastal communities, communities with limited infrastructure and other communities traditionally underrepresented in public processes and adversely harmed by environmental and health hazards, including but not limited to seniors, youth and persons with disabilities.[569]

While the Commission has not established any specific environmental justice rules, in Order No. 22-351 of the CPCN rulemaking, docket AR 626, the Commission directed Staff to request an environmental justice analysis from applicants as part of standard data requests ("SDR") during a petition for CPCN.[570] As such, Idaho Power performed an analysis of the environmental justice impacts of B2H in response to Staff's DRs, and focused its analysis on the environmental justice communities defined by the statute and for which census data was available.

First, Idaho Power described the BLM's analysis of environmental justice communities, which consistent with federal standards, focused primarily on communities of color and low-income communities.[571] The BLM considered impacted populations and determined as part of its Final EIS that the Project would have no disproportionate impacts on environmental justice

[566] ORS 182.535.
[567] ORS 182.545(1) ("In order to provide greater public participation and to ensure that all persons affected by decisions of the natural resource agencies have a voice in those decisions, each natural resource agency shall . . . In making a determination whether and how to act, consider the effects of the action on environmental justice issues.").
[568] ORS 756.010(5).
[569] ORS 756.010(5).
[570] *In re Rulemaking Regarding Certificate of Pub. Convenience and Necessity*, Docket AR 626, Order No. 22-351 at 1-2 (Sept. 26, 2022).
[571] Idaho Power Company's Reply Testimony and Exhibits of Jake Weigler (Idaho Power/1000, Weigler/10-11) (Feb. 21, 2023).

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communities.[572]

Second, in response to Staff's DRs and in Idaho Power's Reply Testimony of its expert witness, Jake Weigler, Idaho Power provided a history of its engagement with communities in proximity to the Project area through the CAP.[573] Although the CAP was not specifically focused on environmental justice communities, the process sought to engage potentially impacted landowners and stakeholders in the Project area to solicit community input regarding routing.[574] Idaho Power also provided mapping using census data showing the approximate locations of environmental justice communities in Eastern Oregon and the location of the Project,[575] and further demonstrated that the Project will avoid major population centers and thus mitigate impacts on environmental justice communities.[576] In particular, the transmission line would avoid bisecting areas of concentrated population in Morrow County,[577] Umatilla County,[578] Union County,[579] Baker County,[580] and Malheur County,[581] and the B2H route will not pass over any tribal reservation lands.[582] While Idaho Power acknowledged that the Project would pass through rural communities in Eastern Oregon, which are defined as environmental justice communities, such impacts are an inevitable consequence of siting an approximately 300-mile-long transmission line with terminals located in Boardman, Oregon, and the Hemingway Station in southwest Idaho.[583] Moreover, re-routing the transmission line to avoid rural communities and instead bisect the urban areas in Eastern Oregon would not only do little to reduce the mileage of the transmission line route passing through rural communities but would present further siting

[572] Idaho Power/1000, Weigler/10-11.
[573] Idaho Power/1000, Weigler/4-9.
[574] Idaho Power/1000, Weigler/7.
[575] Idaho Power/1000, Weigler/11-38.
[576] Idaho Power/1000, Weigler/37.
[577] Idaho Power/1000, Weigler/27-28.
[578] Idaho Power/1000, Weigler/29-30.
[579] Idaho Power/1000, Weigler/31-32.
[580] Idaho Power/1000, Weigler/33-34.
[581] Idaho Power/1000, Weigler/35-36.
[582] Idaho Power/1000, Weigler/19-20.
[583] Idaho Power/1000, Weigler/37.

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challenges and impacts to environmental justice communities in those towns.[584]

Finally, Idaho Power detailed the anticipated benefits and potential impacts of the Project on environmental justice communities.[585] The Company noted that B2H will facilitate an increased integration of clean energy onto Idaho Power's system, and transitioning off fossil fuels provides benefits for all populations and environmental justice communities in particular, given that fossil fuel energy facilities have historically been located in environmental justice communities.[586] Further, the Project will provide short-term economic benefits through construction jobs and local spending on lodging and food throughout the line's construction as well as an estimated increase of $5.8 million in annual tax benefits to the counties for Project-specific tax dollars, of which environmental justice communities will be able to partake.[587] With respect to impacts on environmental justice communities, Idaho Power noted that there will be both temporary and permanent impacts on agricultural land, and to the extent there is overlap among members of the environmental justice communities and agricultural landowners, Idaho Power has proposed mitigation for impacts to agricultural practices.[588]

In response, Staff observed that Idaho Power's environmental justice analysis was constrained by the limitations of the data available but concluded that Idaho Power demonstrated the extent of impacts to environmental justice communities and proposed reasonable mitigation measures where needed.[589] While Idaho Power was not able to identify the exact locations of members of environmental justice communities relative to B2H, the Company's analysis was reasonable and appropriate considering the available data. Therefore, Idaho Power has demonstrated that impacts to population centers along the Project route where environmental

[584] Idaho Power/1000, Weigler/37.
[585] Idaho Power/1000, Weigler/38-41.
[586] Idaho Power/1000, Weigler/39.
[587] Idaho Power/1000, Weigler/39-40.
[588] Idaho Power/1000, Weigler/40-41.
[589] *See* Staff's Rebuttal Testimony and Exhibits of Charles Lockwood (Staff/600, Lockwood/3, 9) (Mar. 20, 2023).

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justice communities likely reside have been minimized, reducing the possible burden on environmental justice communities.

E. Idaho Power Has Demonstrated Compliance with the Statewide Land Use Planning Goals through the EFSC Process.

When reviewing a petition for a CPCN, the Commission must "adopt findings which assure the proposed transmission project complies with the Statewide Planning Goals and is compatible with the acknowledged comprehensive plan(s) and land use regulations of each local government where the project is to be located."[590] In cases where the proposed transmission line is subject to EFSC's jurisdiction, the Commission will adopt the findings made as a part of the EFSC-issued Site Certificate.[591]

Idaho Power has secured a site certificate from EFSC.[592] In its Final Order, EFSC determined that the Project, subject to compliance with the conditions in the Site Certificate, would comply with the applicable substantive criteria from the local governments' acknowledged comprehensive plans and land use regulations for each affected local government,[593] directly applicable state laws,[594] and the Statewide Planning Goals.[595] Pursuant to OAR 860-025-0040(7), the Commission should adopt these findings from EFSC's Final Order which assure that B2H complies with the Statewide Planning Goals and with the substantive criteria of the affected local governments' comprehensive plans and land use regulations.

F. Other Issues Raised by Intervenors Do Not Provide a Basis to Reject the Company's Petition.

Certain issues that intervenors raised in this matter do not specifically relate to the statutory criteria discussed above, and Idaho Power responds to those issues in this section. As explained in greater detail below, none of these issues provide a basis to deny the Company's

[590] OAR 860-025-0040(1).
[591] OAR 860-025-0040(7).
[592] *See generally*, Final Order.
[593] Final Order at 151-249 of 10603.
[594] Final Order at 251-79 of 10603.
[595] Final Order at 279-94 of 10603.

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Petition for a CPCN.

1. Idaho Power Is Not Required to Finalize Mitigation Plans Before the Commission Issues a CPCN.

Mr. Larkin argued that the Commission should not issue a CPCN because Idaho Power has not finalized all the mitigation plans that EFSC requires in its Site Certificate.[596] However, the Oregon Supreme Court has already determined that EFSC properly delegated the future finalization of Idaho Power's mitigation plans to ODOE.[597] Mr. Larkin's authorized representative, Irene Gilbert, challenged EFSC's Final Order on the basis that "EFSC cannot approve a site certificate subject to ODOE's future review and approval of" mitigation plans.[598] The Oregon Supreme Court rejected Ms. Gilbert's argument, concluding that EFSC's governing statutes expressly allow EFSC to do so.[599] Because the Oregon Supreme Court has affirmed that the phased approach allowing ODOE to finalize mitigation plans after issuance of a site certificate is sufficient to conclude that impacts will be less than significant, the Commission should give due consideration to EFSC's Final Order—which relied on the future finalization of the Company's mitigation plans to reach that conclusion.[600]

2. Idaho Power Will Control Erosion At Stream Crossings That Require a Fish Passage Plan and Minimize Impacts to Fish Habitat.

Mr. Larkin challenged Idaho Power's Fish Passage Plans on the basis that those plans do not identify the specific "effective erosion control measures and sediment barriers" that the Company will implement, which Mr. Larkin argued are crucial to protect habitat for federally-listed

[596] Greg Larkin/700, Larkin/10-12.
[597] *STOP B2H Coal.*, 370 Or at 817-18.
[598] *STOP B2H Coal.*, 370 Or at 817.
[599] *STOP B2H Coal.*, 370 Or at 817 ("That argument fails because ORS 469.402 expressly authorizes EFSC to delegate future review and approval to ODOE[.]"); *see also* ORS 469.402 ("If the Energy Facility Siting Council elects to impose conditions on a site certificate or an amended site certificate, that require subsequent review and approval of a future action, the council may delegate the future review and approval to the State Department of Energy if, in the council's discretion, the delegation is warranted under the circumstances of the case.").
[600] *See, e.g.*, Final Order at 328 of 10603 (relying on Idaho Power's HPMP to determine that impacts to EFSC Protected Areas will be less than significant).

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threatened or endangered fish species.[601] However, Mr. Larkin's challenges to the Fish Passage Plans are not supported by the evidence in the record.

As an initial matter, although this exact concern regarding erosion at Project-related stream crossings was not raised in the EFSC process, limited parties raised issues relating to the adequacy of Idaho Power's Fish Passage Plans and their challenges were thoroughly addressed.[602] EFSC adopted the Hearing Officer's conclusion that Idaho Power's Fish Passage Plans complied with ODFW's Fish Passage Rules and with ODFW's general fish habitat mitigation goals and standards.[603]

Moreover, contrary to Mr. Larkin's claims, very few of the stream crossings made by B2H will require a Fish Passage Plan. Under ODFW's regulations, a Fish Passage Plan is required only when the Company seeks to construct or replace an artificial obstruction in a fish-bearing stream.[604] In the vast majority of cases, Idaho Power will use existing crossings and therefore will not trigger the Fish Passage Rules.[605] Moreover, Idaho Power has prepared Fish Passage Plans for the few crossings that require one, and ODFW has already approved all but one of Idaho Power's plans.[606] If needed, additional erosion control information will be included in the updated Fish Passage Plans and Designs with a target date of being submitted to ODFW by June 29,

[601] Greg Larkin/700, Larkin/14-15.
[602] Final Order at 28 of 10603 ("Hearing Officer found that Idaho Power's Fish Passage Plan complies with the Fish and Wildlife Habitat standard's Category 2 mitigation requirements…. Limited Parties timely filed exceptions to the [Proposed Contested Case Order] on this issue. After hearing argument, the Council agreed with the findings of facts, conclusions of law and conditions of approval in the [Proposed Contested Case Order].").
[603] Final Order at 28 of 10603; *see also* Final Order, Attachment 6 at 8810-16 of 10603.
[604] OAR 635-412-0020(3)(a) ("If the Department determines, or the owner or operator assumes, that native migratory fish are or were historically present in the waters, prior to construction, fundamental change in permit status, or abandonment of the artificial obstruction the person owning or operating the artificial obstruction shall either: (a) Obtain from the Department an approval determination of a fish passage plan that meets the requirements of OAR 635-412-0035 for the specific artificial obstruction[.]"). For purposes of the ODFW fish passage regulations, "construction" means both original construction and major replacement. OAR 635-412-0005(10).
[605] Final Order, Attachment BB-2, Fish Passage Plans and Designs at 9248 of 10603 [hereinafter, "Final Order, Attachment BB-2"] (only seven sites will require ODFW review).
[606] Final Order, Attachment BB-2 at 9251-52 of 10603.

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2023.[607] For these reasons, Mr. Larkin's assertion that Idaho Power's Fish Passage Plans will fail to comply with state standards is incorrect.

Mr. Larkin also asserted that Idaho Power's Fish Passage Plans fail to mitigate impacts to federally-listed threatened or endangered fish species because the plans do not identify where impacts will occur or specifically identify the measures Idaho Power will implement to mitigate potential impacts.[608] However, Mr. Larkin's assertions are again incorrect, and contrary to the evidence in the record. Idaho Power explained how the Company will mitigate any impacts to fish species in its Fish and Wildlife Habitat Mitigation Plan.[609] The Company's Site Certificate further requires Idaho Power to consult with ODFW on construction methods and measures to minimize riparian impacts prior to construction near any streams inventoried under Oregon Statewide Planning Goal 5.[610] For these reasons, the evidence in the record demonstrates where and how Idaho Power will minimize impacts to fish habitat, including habitat for federally-listed species.

3. The Record Demonstrates That Idaho Power Will Control Project-Related Noxious Weeds.

Mr. Larkin argued that Idaho Power's Noxious Weed Plan does not address all noxious weed obligations required under Oregon law, and for that reason Idaho Power has not fully considered the costs of controlling noxious weeds.[611] Mr. Larkin further asserted that any failure to control noxious weeds will burden landowners with costs to address those noxious weeds.[612] However, the evidence in the record demonstrates that Idaho Power will control all Project-related

[607] Idaho Power/1600, Barretto/19.
[608] Greg Larkin/700, Larkin/15.
[609] Final Order, Attachment P1-6, Draft Fish and Wildlife Habitat Mitigation Plan at 10087 of 10603 (quantifying habitat impacts from the Project).
[610] *See, e.g.*, Final Order, Attachment 1 at 769-70 of 10603 ("For facility components in Morrow County, the certificate holder shall: . . . Prior to construction of a stream crossing at, or substantial road modification adjacent to, a Goal 5 stream including Sand Hollow Creek, Little Butter Creek, Butter Creek, and Matlock Creek, consult with ODFW on construction methods, measures to minimize riparian impacts, and measures to evaluate and monitor riparian impacts in order to demonstrate maintenance of 75 percent of vegetation layers or strata within the defined riparian zone.").
[611] Greg Larkin/700, Larkin/16-17.
[612] Greg Larkin/700, Larkin/16-17.

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noxious weeds, and therefore landowners will not be required to absorb additional costs to control those weeds.

Mr. Larkin's authorized representative, Ms. Gilbert, raised this same issue regarding compliance in the EFSC proceedings.[613] As Idaho Power explained in those proceedings, the Noxious Weed Plan was drafted to demonstrate compliance with the standards that EFSC enforces, which require the Company to control all noxious weeds located within the Project rights-of-way resulting from Project-related construction or operation-related, surface-disturbing activities.[614] Although EFSC's standards do not require Idaho Power to control noxious weed infestations located outside of the right-of-way or that were present prior to construction of the Project, Idaho Power recognized that ORS Chapter 569 imposes certain obligations onto occupiers of land within a weed district to control and prevent noxious weeds.[615] However, these obligations will be enforced by the county courts outside of EFSC's review,[616] and for that reason Idaho Power's EFSC-specific Noxious Weed Plan did not address compliance with those obligations.

EFSC adopted the Hearing Officer's conclusion that Idaho Power's Noxious Weed Plan complies with the EFSC Fish and Wildlife Habitat standard and adequately identifies the measures Idaho Power will implement to prevent the introduction and spread of Project-related noxious weeds.[617] Therefore, contrary to Mr. Larkin's assertion, the record demonstrates that

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[613] Final Order at 27 of 10603.
[614] Final Order, Attachment 6 at 8695 of 10603.
[615] Final Order, Attachment 6 at 8695 of 10603.
[616] Final Order, Attachment 6 at 8698 of 10603; *see also* ORS 569.400(1) ("If the owner or occupant of the land fails or refuses to immediately destroy or cut the noxious weeds in accordance with ORS 569.360 to 569.495, the weed inspector shall at once notify the county court. The county court shall at once take necessary steps for enforcement of ORS 569.360 to 569.495.").
[617] Final Order at 27 of 10603 ("In the [Proposed Contested Case Order], the Hearing Officer found the draft Noxious Weed Plan complies with the Council's standards and that applicant was not required to demonstrate compliance with the Weed Control Laws to satisfy the Fish and Wildlife Habitat Standard. The Council is not the agency responsible for enforcing compliance with the Weed Control Laws. Ms. Gilbert and Ms. Geer timely filed exceptions to the [Proposed Contested Case Order] on this issue. After hearing argument, the Council agreed with the findings of facts, conclusions of law and conditions of approval in the [Proposed Contested Case Order]."); Final Order, Attachment 6 at 8806 of 10603 ("In summary, a

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Idaho Power's Noxious Weed Plan will be adequate to control Project-related noxious weeds, and thus, B2H will not result in additional noxious weed impacts that landowners will bear the cost of addressing.

4. Idaho Power's Compensatory Wetland Non-Wetland Mitigation Plan Is Consistent with Applicable Standards.

Mr. Larkin has asserted that Idaho Power's Compensatory Wetland Non-Wetland Mitigation Plan ("CWNWMP") does not comply with the federal requirements to provide compensation for impacts to Riparian Conservation Areas such as riparian areas located in conifer forest types.[618] However, Mr. Larkin has not provided any evidence to support his assertion or identified any specific provisions of the CWNWMP that he believes are inadequate. Moreover, the CWNWMP was developed under guidance of the Oregon Department of State Lands ("DSL"), whose rules and regulations meet the federal wetland and non-wetland mitigation standards.[619] DSL reviewed Idaho Power's CWNWMP and concluded that it is "well done and meets [DSL's] requirements."[620] Idaho Power's CWNWMP will also comply with federal wetland and non-wetland mitigation requirements.[621]

Additionally, the CWNWMP is not the only plan addressing compliance with federal rules regarding impacts to waterbodies. Idaho Power is also completing a federal Water Resources Protection Plan.[622] The Company has submitted its draft to the BLM for review and will finalize this plan prior to construction.[623] For these reasons, Mr. Larkin's general challenge to the CWNWMP does not demonstrate any inadequacy in that plan.

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preponderance of the evidence establishes that the updated draft Noxious Weed Plan is adequate to serve its intended purpose, setting out the measures the Company will take to control noxious weed species and prevent the introduction of these species during construction and operation of the project.").

[618] Greg Larkin/700, Larkin/10.

[619] Final Order, Attachment J-1, Draft Removal-Fill Compensatory Wetland Non-Wetland Mitigation Plan at 9525 of 10603 [hereinafter "Final Order, Attachment J-1"].

[620] Final Order at 714 of 10603.

[621] Final Order, Attachment J-1 at 9525 of 10603.

[622] Idaho Power/1603, Barretto/1 (BLM Construction Plan of Development Tracking Table).

[623] Idaho Power/1603, Barretto/1 (BLM Construction Plan of Development Tracking Table).

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5. The Federal Notice to Proceed Is a Separate Proceeding That Idaho Power Will Complete Prior to Construction.

Intervenor Greg Larkin asserted that Idaho Power's discussion of the federal approval for the Project is "misleading" because the Company has not secured the NTP from the BLM.[624] Mr. Larkin further asserted that several of the NTP requirements "relate directly to the ability of the Public Utility Commission to evaluate whether or not a Certificate of Public Convenience and Necessity should be issued[.]"[625] However, the federal NTP is a separate process that Idaho Power will complete immediately prior to construction and has no bearing on whether the Commission should issue a CPCN.

A federal NTP is a written authorization that must be obtained from the agencies administering the federal right-of-way grant before Idaho Power may commence surface disturbing activities in a particular area.[626] In general, Idaho Power must complete all applicable environmental protection and mitigation plans and secure all federal, state, and local permits before the BLM will issue an NTP.[627] Importantly, however, a partial NTP may be issued for an individual construction segment under certain conditions pursuant to the Programmatic Agreement.[628] Consistent with this approach, Idaho Power does not intend to seek one single NTP for the entire Project, but rather, will request multiple partial NTPs for various Project segments.[629]

Mr. Larkin suggested that the Commission should not issue the CPCN because Idaho Power has not yet completed all necessary requirements for the BLM to issue an NTP.[630] However, the NTP process is an entirely separate process governed by different standards than

[624] Greg Larkin/700, Larkin/2-3.
[625] Greg Larkin/700, Larkin/3.
[626] Idaho Power/1600, Barretto/9.
[627] Greg Larkin/701, Larkin/3-4 (Appendix B - Mitigation and Monitoring Plan of Record of Decision for B2H); Idaho Power/2100, Ranzetta/11; Idaho Power/703, Ranzetta/341, 348 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).
[628] Idaho Power/2100, Ranzetta/11-12; Idaho Power/703, Ranzetta/348 (Idaho Power Response to Staff DR 15 - Attachment 1, Application for Site Certificate, Exhibit S).
[629] Idaho Power/1600, Barretto/9.
[630] Greg Larkin/701, Larkin/3 (Appendix B - Mitigation and Monitoring Plan of Record of Decision for B2H).

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the Commission's consideration of a CPCN. Idaho Power has demonstrated that the Company is progressing towards completing all requirements for issuance of an NTP,[631] but an NTP will be issued only *after* Idaho Power secures all the federal, state, and local land use approvals.[632] Because an NTP is the final approval issued prior to construction, the fact that Idaho Power has not yet secured final NTPs does not affect the Commission's consideration of the Company's Petition for a CPCN.

6. Idaho Power Properly Identified Forest Land Acres Impacted by the Project, and Values for Such Lands Will Be Determined by Appraisal.

Mr. Larkin argued that Idaho Power both undercounted and undervalued acres of forest land impacted by the Project.[633] Mr. Larkin asserted that the Company was required to assess the soil capacity to produce timber when identifying forest lands in Union County, but the Company failed to do so and thereby did not properly identify all forest lands.[634] Mr. Larkin further asserted that Idaho Power undervalued the forest land that would be removed from timber harvest for the Project right-of-way because the Company's assessments are not based on the per-acre value of forest land identified in EFSC's Final Order.[635] However, both of Mr. Larkin's assertions misstated the record.

The first issue—whether Idaho Power assessed the soil capacity when identifying forest lands—was litigated as part of the EFSC proceeding. In that proceeding, Ms. Gilbert raised the same arguments that Mr. Larkin has raised in his testimony and the Hearing Officer concluded: Union County forest lands impacted by the Project are in a hybrid farm-forest zone referred to as the Timber-Grazing zone;[636] in accordance with the Union County Zoning, Partition and Subdivision Ordinance ("UCZPSO") requirements, Idaho Power properly determined the

[631] Idaho Power/1603, Barretto/1 (BLM Construction Plan of Development Tracking Table).
[632] Greg Larkin/701, Larkin/4 (Appendix B - Mitigation and Monitoring Plan of Record of Decision for B2H).
[633] Greg Larkin/100, Larkin/8, 25-27 (Feb. 1, 2023).
[634] Greg Larkin/100, Larkin/25-26 (Feb. 1, 2023).
[635] Greg Larkin/100, Larkin/26-27 (Feb. 1, 2023).
[636] Final Order, Attachment 6 at 8832 of 10603.

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predominant use of the hybrid-zoned parcels by using soil maps and Soil Survey Geographic data to determine soil designations and capabilities;[637] and contrary to Ms. Gilbert's assertions, Idaho Power did not err by applying the UCZPSO to identify the amount of forestland in Union County potentially impacted by the proposed facility because the standards that the limited party relied on apply only when an applicant seeks an amendment to the local government's comprehensive plan, and Idaho Power did not seek such an amendment in Union County.[638]

The second issue, regarding the valuation of forest lands, relates to the amount of compensation that will be paid to landowners as part of the right-of-way acquisition, and thus is not properly before the Commission as it will be determined in individual negotiations or by a court in condemnation proceedings. Although the compensation paid to landowners has no direct bearing on the Commission's consideration of Idaho Power's Petition, the Company nonetheless responds to ensure the record is clear on these issues. In short, Mr. Larkin has mischaracterized the EFSC record. He argued that EFSC identified $401 per acre as the amount that Idaho Power must pay to forest land owners as "mitigation."[639] However, the figures that Mr. Larkin identified do not relate to mitigation. Rather, Mr. Larkin cited estimates of forestland economic base that Idaho Power cited in the ASC and ODOE revised in its Proposed Order.[640] These estimates merely provide context for the total impacts resulting from the Project and are not related to the actual values that the Company will pay for easements through impacted forestlands. As EFSC explained in the Final Order, "the actual value of a particular landowner's timber would be valued based on a timber appraisal completed at the time of land acquisition."[641] Consistent with EFSC's statement, Idaho Power will not rely on the broader county-based economic estimates when valuing just compensation for the use of specific forest parcels and will instead rely on a timber

[637] Final Order, Attachment 6 at 8832-8833 of 10603.
[638] Final Order, Attachment 6 at 8833-8834 of 10603.
[639] Greg Larkin/100, Larkin/26 (Feb. 1, 2023).
[640] Final Order at 272-73 of 10603.
[641] Final Order at 273 of 10603.

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appraisal of the specific parcel in question completed at the time that Idaho Power seeks to acquire the parcel.[642] Idaho Power will not rely on the zoning of an affected parcel alone, because the actual use of the parcel varies for different parcels within the same zone.[643] Through this parcel-specific appraisal process, Idaho Power will pay fair-market value for each affected parcel.

7. Idaho Power Will Be Able to Seek a Plan for an Alternate Practice as Holder of an Interest in the Affected Properties.

Mr. Larkin has asserted that Idaho Power will not be able to obtain a Plan for an Alternate Practice for the Project under OAR 629-610-0090 because that regulation allows only landowners to apply for an Alternate Practice, and Idaho Power will not own the affected parcels.[644] This argument is incorrect.

Oregon's Forest Practices Reforestation Rules generally require a landowner to replant (or ensure natural regeneration of) the forest after a timber harvest and maintain the seedlings to the point that they are "free to grow" at a stocking level that meets the Forest Practices Act's minimum stocking standards.[645] If forestlands will be converted to a use not compatible with maintaining forest tree cover, the landowner must obtain written approval of a Plan for an Alternate Practice from the State Forester providing an exemption from those reforestation requirements.[646]

Because the Project will require permanent clearing of forestland, Idaho Power submitted a draft Plan for Alternate Practice to EFSC and the State Forester.[647] Idaho Power will finalize this plan prior to construction in forest lands.[648]

Contrary to Mr. Larkin's assertion, Idaho Power will be able to seek a Plan for an Alternate Practice as the holder of an interest in the parcels to which the Plan for an Alternate Practice would apply. For purposes of the Forest Practices Act, "landowner" means "any individual,

[642] Idaho Power/400, Barretto/30.
[643] Idaho Power/400, Barretto/29.
[644] Greg Larkin/700, Larkin/12.
[645] *See* OAR 629-610-0000.
[646] *See* OAR 629-610-0090(1).
[647] Final Order at 291 of 10603.
[648] Final Order, Attachment BB-1, Plan for an Alternate Practice at 9209 of 10603.

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combination of individuals, partnership, corporation or association of whatever nature that holds an ownership interest in forestland[.]"[649] For parcels where the Company cannot negotiate an easement option, the Company will obtain the necessary property interest through the condemnation process.[650] As a result, through those proceedings, Idaho Power will secure possession and title to the property interest necessary for construction and operation of the Project,[651] and as a possessor or title holder for an interest in the condemned property, Idaho Power will be able to obtain the Plan for an Alternate Practice.[652]

V. CONCLUSION

Based on the compelling evidence in the record in this proceeding, the Commission can find that Idaho Power has met the legal requirements under ORS 758.015, OAR 860-025-035(1), and OAR 860-025-0040(7) for granting a CPCN. Idaho Power respectfully requests that the Commission grant its Petition for a CPCN.

DATED: May 15, 2023

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[649] ORS 527.620(11).
[650] Idaho Power/400, Barretto/26.
[651] ORS 35.325 ("Upon the assessment of the compensation by the jury, the court shall give judgment appropriating the property in question to the condemner, conditioned upon the condemner's paying into court the compensation assessed by the jury; and, after the making of such payment, the judgment shall become effective to convey the property, and the right of possession thereof to the condemner if not previously acquired."); *see also* ORS 35.215(5) (defining "property" as "real or personal property or any interest therein of any kind or nature that is subject to condemnation").
[652] Idaho Power is also submitting the Plan for an Alternate Practice to ODOE for review. Idaho Power/1602, Barretto/1.

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 Opening Brief 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 15, 2023 the redacted version of Idaho Power Company's Opening Brief 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 15, 2023

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