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February 21, 2023

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Filing Center
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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 Reply Testimony and Exhibits of Jake Weigler (Idaho Power/1000-1004).

Please contact this office with any questions.

Thank you,

Alisha Till
Paralegal

Attachments

DOCKET PCN 5 - CERTIFICATE OF SERVICE

I hereby certify that on February 21, 2023 Idaho Power Company's Reply Testimony of Jake Weigler 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: February 21, 2023

/s/ Alisha Till
Alisha Till
Paralegal

Idaho Power/1000
Witness: Jake Weigler

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

REPLY TESTIMONY

OF

JAKE WEIGLER

FEBRUARY 21, 2023

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Exhibit List

- Idaho Power/1001 - Curriculum Vitae of Jake Weigler
- Idaho Power/1002 - Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report
- Idaho Power/1003 - Metadata for EJ Communities Mapping
- Idaho Power/1004 - EFSC Rebuttal Testimony of Kurtis Funke

Q. Please state your name, your place of employment, and your position.

A. My name is Jake Weigler. I am a Partner at Praxis Political. I have been retained in this case as an expert witness on behalf of Idaho Power Company ("Idaho Power" or the "Company").

Q. Please describe your educational and professional experience.

A. I have a Bachelor of Arts from New York University with a double major in politics and women's studies. I also have a Master of Arts from the University of Texas-Austin in Government. My CV is included as Exhibit Idaho Power/1001 to this testimony.

Q. What are your qualifications relevant to environmental justice associated with the development of utility infrastructure?

A. I have worked in Oregon government and public affairs for the past 17 years. During that time, my work has included clean energy infrastructure development, community engagement on public infrastructure projects, environmental advocacy, and advancing racial equity. Our firm works for and with community and culturally specific organizations dedicated to addressing racial and social inequality, as well as supporting diversity, equity, and inclusion in the public policy landscape.

Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to respond to the Public Utility Commission of Oregon ("OPUC" or the "Commission") Staff's ("Staff") Opening Testimony regarding the Environmental Justice ("EJ") implications of the proposed Boardman to Hemingway Transmission Line Project ("B2H" or "Project"). I describe the analysis of EJ impacts that has previously been performed by the Bureau of Land Management ("BLM") and also describe the additional analysis Idaho Power performed in response to Data Requests ("DR") from Staff.

Q. Please summarize your testimony.

A. Throughout the development of B2H, Idaho Power has engaged extensively and intentionally with impacted communities in Eastern Oregon. As a result of this collaboration with the general public, Native American tribal governments, federal, state, and, local agencies, as well as landowners and community organizations, Idaho Power has undertaken significant efforts to reduce and mitigate the impacts of the proposed transmission line on these communities. Additionally, the BLM performed an EJ and Socioeconomic Impact analysis for the Project and determined that B2H would not have disproportionate impacts on EJ communities as defined by the federal standards. In this proceeding, Staff has requested further information about the Project's impact on EJ communities as they are defined under Oregon law. In my testimony, I explain Idaho Power's approach to this analysis and the limitations of the data available. In particular, there is no parcel-specific data available regarding EJ communities, and instead that data is available at a census block-level. The mapping included as figures throughout my testimony details the geographic relationship between the B2H route and these communities. Although the mapping of EJ communities is not parcel-specific, as shown by the population density mapping, the proposed route avoids the most densely populated areas.

Finally, I discuss some of the potential benefits and impacts of B2H on EJ communities and Idaho Power's efforts to collaborate with landowners to mitigate those impacts. I detail how B2H will create opportunities for expansion of clean energy in Oregon which will help to mitigate the environmental impacts of energy production on EJ communities. I further discuss the economic benefits of B2H, including the expected investments in EJ communities during construction and the long-term tax benefits. Next, I explain some of the possible impacts of B2H on these communities, especially to the agricultural lands that are prevalent in many of the communities near B2H. However, as I note, Idaho Power has already performed extensive analysis of agricultural impacts and

sited the B2H route to minimize impacts to agricultural lands. Furthermore, the possible impacts to agricultural lands in EJ communities will be mitigated. This comparison of the expected benefits and impacts of B2H on EJ communities shows that the benefits are significant while the impacts, where they may exist, are minimal and addressed by mitigation. Therefore, my overall conclusion is in line with the conclusion of BLM that B2H will not cause any disproportionate harm to EJ communities in Oregon.

I. BACKGROUND

Q. Please describe the relevant Oregon statutes addressing EJ issues.

A. Although I am not an attorney, I have reviewed the relevant statutes and developed an understanding of the statutes addressing EJ issues in Oregon. The Commission is required to consider the effects of any actions on "environmental justice issues."[1] ORS 756.010(4) defines environmental justice as "equal protection from environmental and health hazards and meaningful public participation in decisions that affect the environment in which people live, work, learn, practice spirituality and play." Of particular note in my testimony is the definition of "Environmental justice communities" in ORS 756.010(5).

Q. Please describe the different communities that are defined as EJ Communities in the statute.

A. ORS 756.010(5) provides that EJ communities include several categories: "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."[2] Idaho Power's analysis of EJ communities includes consideration of

[1] ORS 182.545.
[2] ORS 756.010(5)

each category except coastal communities, as none of B2H would pass near the Oregon coast, and people with disabilities, as that data was not available.

Q. Does the Commission have established standards for evaluating environmental justice issues in its consideration of a Certificate of Public Convenience and Necessity ("CPCN")?

A. No, not to my knowledge. Based on my review of relevant statutes and rulemaking, I understand that certain stakeholders proposed that EJ criteria be added to the Commission's rules governing CPCNs. However, in Order No. 22-351, the Commission declined to adopt any specific environmental justice requirements in its administrative rules. Instead, the Commission directed Staff to include an EJ analysis as part of standard data requests for petitions for a CPCN. As such, my testimony is informed by Staff's DRs regarding EJ issues and the analysis Idaho Power performed to respond to those DRs.

II. IDAHO POWER'S HISTORY OF ENGAGEMENT WITH COMMUNITIES IN EASTERN OREGON

Q. Did you participate directly in Idaho Power's engagement with communities during the siting of B2H?

A. No. However, I am familiar with the Company's history of engagement as is described in the 2011 B2H Community Advisory Process Final Report, included with my testimony as Exhibit Idaho Power/1002. Additionally, Idaho Power witness Mitch Colburn provides testimony addressing stakeholder input through various stages of the community engagement process that informed the siting history for the project.[3]

Q. Please describe Idaho Power's history of engagement with potentially impacted communities.

[3] *See generally* Idaho Power/600.

A. Idaho Power engaged in a community advisory process ("CAP") throughout the development of B2H. Starting in 2008 at the conclusion of a year of public scoping, Idaho Power paused the federal and state review processes and initiated the CAP to solicit more input on the project.[4]

Q. How many meetings did Idaho Power hold as part of the CAP?

A. Idaho Power hosted 27 Project Advisory Team meetings, 15 public meetings, and 7 special topic meetings as part of the CAP. In total, nearly 1,000 people were involved in the CAP.[5]

Q. What were the CAP's objectives and steps?

A. The CAP had four objectives and steps: (1) identify community issues and concerns, (2) develop a range of possible routes that address community issues and concerns, (3) recommend proposed and alternate routes, (4) follow through with communities during the federal and state review processes.[6]

Q. What did Idaho Power do to fulfill the first CAP step?

A. To identify community concerns, Idaho Power met with the five Project Advisory Teams in Ontario, Boardman, Baker City, Canyon City, and Burns.[7] Idaho Power collaborated with the community members on these teams to identify various concerns with B2H and develop alternative routes to mitigate potential impacts.[8] The Company held public meetings in Oregon and Idaho in the cities of Baker City, La Grande, Pilot Rock,

[4] Idaho Power/1002, Weigler/4 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[5] Idaho Power/1002, Weigler/4 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[6] Idaho Power/1002. Weigler/4 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[7] Idaho Power/1002, Weigler/13 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[8] Idaho Power/1002, Weigler/15-17 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

Boardman, Ontario, John Day, Burns, Parma, and Marsing.[9] Invitations were sent to residents, stakeholders, and those who had previously engaged in this and other federal and state review processes. Over 600 people attended the meetings.[10]

Q. What did Idaho Power do to fulfill the second CAP step?

A. The Project Advisory Teams utilized the feedback from community meetings to develop a series of possible routes for B2H.[11] Idaho Power and Tetra Tech, Idaho Power's environmental consulting firm, analyzed each route for permitting difficultly, engineering criteria, and mitigation cost.[12] Idaho Power identified three routes which met these criteria and the criteria developed by the Project Advisory Teams.[13]

Q. What did Idaho Power do to fulfill the third CAP step?

A. Idaho Power held two rounds of Project Advisory Team meetings where the Company first presented its analysis of the three alternative routes and which were selected based on feedback from Project Advisory Team members.[14] The Company later hosted community meetings to present the proposed route and began meeting with affected property owners.[15]

Q. What did Idaho Power do to fulfill the fourth CAP step?

[9] Idaho Power/1002, Weigler/17-18 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[10] Idaho Power/1002, Weigler/18 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[11] Idaho Power/1002, Weigler/19-20 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[12] Idaho Power/1002, Weigler/21 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[13] Idaho Power/1002, Weigler/22 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[14] Idaho Power/1002, Weigler/26-28 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[15] Idaho Power/1002, Weigler/28-29 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

A. After finalizing the proposed route, Idaho Power committed to engaging with communities throughout the EFSC process.[16] Section II of the testimony of Mitch Colburn, Idaho Power/600, provides a more detailed discussion of the development of the B2H route.

Q. At that time, did Idaho Power consider the engagement with communities to be an environmental justice inquiry?

A. No, not specifically. However, Idaho Power was committed to working with communities to understand their concerns and take them into account in siting the Project to the extent feasible.[17]

Q. Was Idaho Power required to perform this level of community outreach and engagement as part of the EFSC or BLM process?

A. No. Idaho Power undertook the CAP process voluntarily after hearing concerns voiced by community members in the initial scoping outreach to communities, which included concerns that Idaho Power had not yet adequate engaged with communities and that important land-use issues were not taken into account.[18]

Q. Following the CAP, did the Company continue to engage with the impacted communities?

A. Yes. Idaho Power provides additional discussion of the route refinement following the CAP in Mitch Colburn's Reply Testimony, Section II. Additionally, as shown in Figure 1, Idaho Power has continued to engage with impacted communities even after the CAP and initial siting input was completed. Figure 1 shows that the Company participated in more than 400 meetings over a decade to continue engaging with communities.

[16] Idaho Power/1002, Weigler/30 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

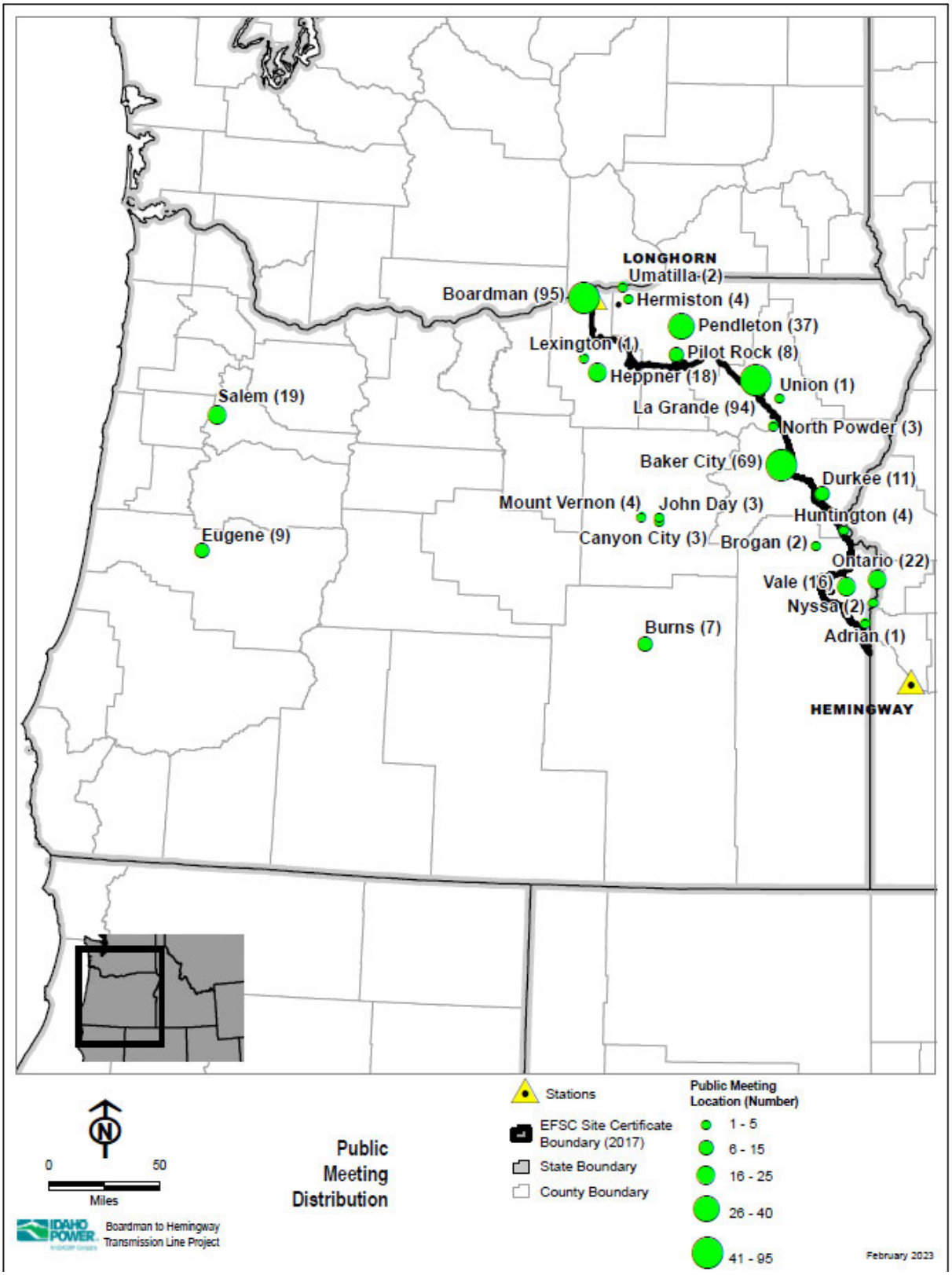
[17] *See* Idaho Power/1002, Weigler/31 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

[18] Idaho Power/1002, Weigler/5 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report).

Q. Did Idaho Power prepare a map showing the locations of the meetings over the years?

A. Yes. I have included Figure 1 below to show the locations of the meetings with communities over the years. This map indicates that Idaho Power hosted numerous meetings in the communities near the proposed routes that would be most affected by the Project.

Figure 1. Public Meeting Distribution



III. BLM'S EJ ANALYSIS

Q. Has there previously been an analysis of the EJ implications of the Project?

A. Yes. During the BLM's development of its Final Environmental Impact Statement ("FEIS") for the facility, BLM assessed the effect of B2H on social and economic conditions in EJ communities within the B2H analysis area.[19]

Q. Is the definition of EJ communities applied by the BLM the same as the definition provided in ORS 756.010(5)?

A. No. BLM applied the definition of EJ from Executive Order 12898, which requires each federal agency to "make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority populations and low-income populations in the United States . . . ."[20]

Q. Please describe this analysis and its conclusions.

A. BLM analyzed whether B2H would result in "disproportionately high and adverse" impacts on minority and/or low-income populations.[21] BLM utilized data from the U.S. Census Bureau ("Census") and analyzed the Project in two steps: (1) identifying whether any EJ communities were present in the analysis area and (2) if those communities were present, analyzing any disproportionate impacts to health or the environment in those areas.[22] BLM identified minority and low-income communities in areas where B2H could be sited and suggested that there may be some minimal impacts on these populations during the construction of the line.[23] However, after considering the proposed route and alternative route segments and the impacts of construction and operation on local populations, BLM

[19] Staff/302, Lockwood/84.
[20] Staff/302, Lockwood/8 (citing Exec. Order No. 12,898, 59 Fed. Reg. 32 (Feb. 11, 1994)).
[21] Staff/302, Lockwood/87.
[22] Staff/302, Lockwood/86.
[23] Staff/302, Lockwood/115.

concluded that B2H would not result in disproportionate adverse impacts to EJ populations.[24]

IV. IDAHO POWER'S ANALYSIS OF EJ COMMUNITIES IN THE PROJECT AREA

Q. Have you reviewed Staff's opening testimony?

A. Yes, I have.

Q. Does Staff suggest any definitions for the various EJ Communities in ORS 756.010?

A. Yes. Staff suggests that data from the Census be used to define communities of color and communities experiencing lower incomes for the purpose of Idaho Power's analysis.[25] Staff notes that there is no set definition of rural communities, but suggests that the definition from the Oregon Office of Rural Health, in partnership with Oregon Health and Science University, be used.[26] Further, Staff suggests that the definition of tribal community include not only tribal members whose reservation land may be affected, but also communities that may consider portions of the project area as part of their aboriginal territory or traditional use zone.[27] Staff did not suggest definitions for the other communities listed under the statute.

Q. What did Staff's witness say about the impact on EJ communities?

A. The testimony from Staff's witness discusses the EJ implications of the B2H line and the particular impacts on EJ communities as defined in the statute.[28]

Q. Did Staff previously request information from Idaho Power about EJ?

A. Yes. Staff issued several DRs which asked Idaho Power to provide data and analysis relevant to impacts of B2H on EJ communities.[29] Idaho Power's responses to these DRs

[24] Staff/302, Lockwood/115.
[25] Staff/300, Lockwood/9-10 (Jan. 17, 2023).
[26] Staff/300, Lockwood/12 (Jan. 17, 2023).
[27] Staff/300, Lockwood/16 (Jan. 17, 2023).
[28] *See generally* Staff/300 (Jan. 17, 2023)
[29] *See* Staff/302, Lockwood/1-2, 6-7, 168, 169, 170-174, 179. Note that Idaho Power provided a Supplemental Response to Staff's Data Request No. 47 on February 14, 2023.

included information about BLM's EJ analysis in the FEIS and data about the EJ communities in the census blocks through which B2H will pass. Idaho Power also supplemented its responses to these DRs to provide mapping regarding impacts to EJ communities on February 14, 2023.

Q. What was Staff's response to these initial responses?

A. Staff expressed concern that Idaho Power's responses to the DRs did not provide sufficient information regarding the overall impact of the line on EJ communities, especially communities of color.[30] Staff requested further information about all "baseline impacts" of B2H on several EJ communities.[31]

Q. What is Idaho Power's understanding of this request?

A. In Staff's DRs, Staff requested detailed location- and household-specific demographic data. Because this data is not publicly available at such a granular level, Idaho Power conferred with Staff to consider alternative approaches for addressing Staff's request for information. After this discussion, Staff and Idaho Power determined it could be possible to provide a spatial analysis using demographic data at a census block level from the Environmental Protection Agency ("EPA") EJ Screen tool to demonstrate the Project's geographic relationship with EJ Communities using Geographic Information Systems ("GIS") software to produce a map set.

Q. What further analysis has Idaho Power performed to demonstrate the location the line on EJ communities?

A. Idaho Power contracted with Eric Lubell, a GIS Analyst with Custom Geospatial Solutions, to develop a series of maps which showed the relationship between B2H and EJ communities in the area. This map set is included in this testimony below as Figures 2-13, and the metadata is included as Exhibit Idaho Power/1003.

[30] Staff/300, Lockwood/7 (Jan. 17, 2023).
[31] Staff/300, Lockwood/8 (Jan. 17, 2023).

Q. Have you reviewed the map set and Figures 2-13?

A. Yes, I have.

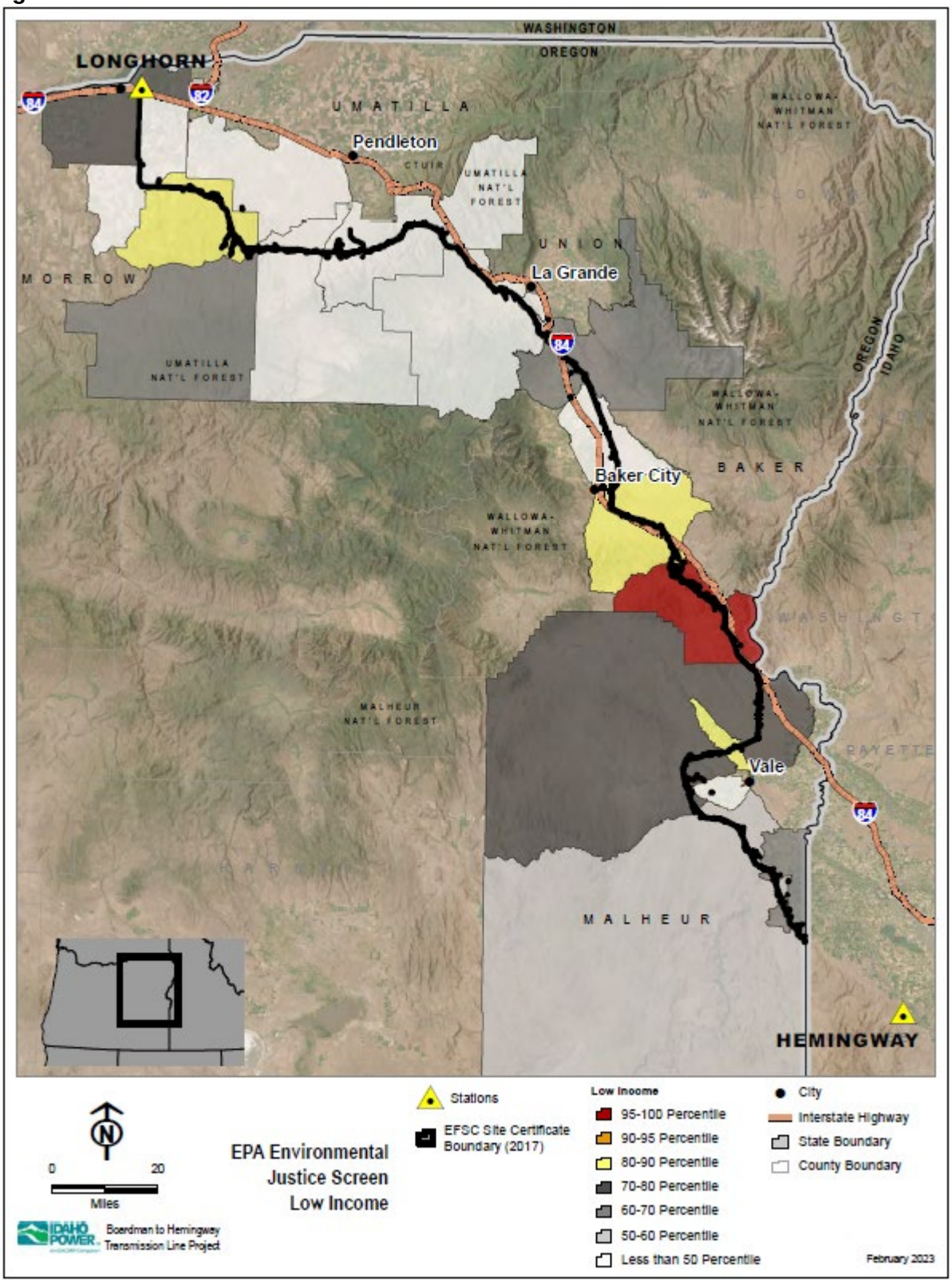
Q. Please provide an overview of the information depicted in the map set.

A. The maps generally show the location of the B2H transmission line, the census blocks that the transmission line crosses, and the percentile of the EJ communities defined in ORS 756.010(5) for each census block compared to the state average for that population. As I have already discussed, there is no statutory definition of these communities in Oregon and thus Idaho Power sought out data from various sources to create maps which could represent the relationship between EJ communities and the transmission route. The maps in Figures 2-4 use data from the EPA EJ Screen tool, which shows the concentration of various groups in census blocks using Census data. The blocks are color coded according to the percentile that the proportion of that group falls into compared to other census blocks in Oregon. Figure 5 shows the locations of Native American reservation lands near B2H. Figure 6 shows the ZIP Codes that are defined by the Oregon Office of Rural Health ("ORH") as "rural" and Figure 7 shows the areas that are designated by the Census as "rural." Figures 8-13 show the concentration of population by square kilometer across Eastern Oregon.

Q What do you conclude from your review of Figure 2: EPA EJ Screen Low Income?

A. As is indicated by that map, there are areas of relatively higher concentrations of low-income individuals along the B2H route. Those are in Morrow, Baker, and Malheur counties. Only one census block in southern Baker County is in the highest percentile. It is also worth noting that census blocks cover approximately 400 households and, as the map demonstrates, each of these blocks covers a significant amount of geography given the low population density of most areas along the route.

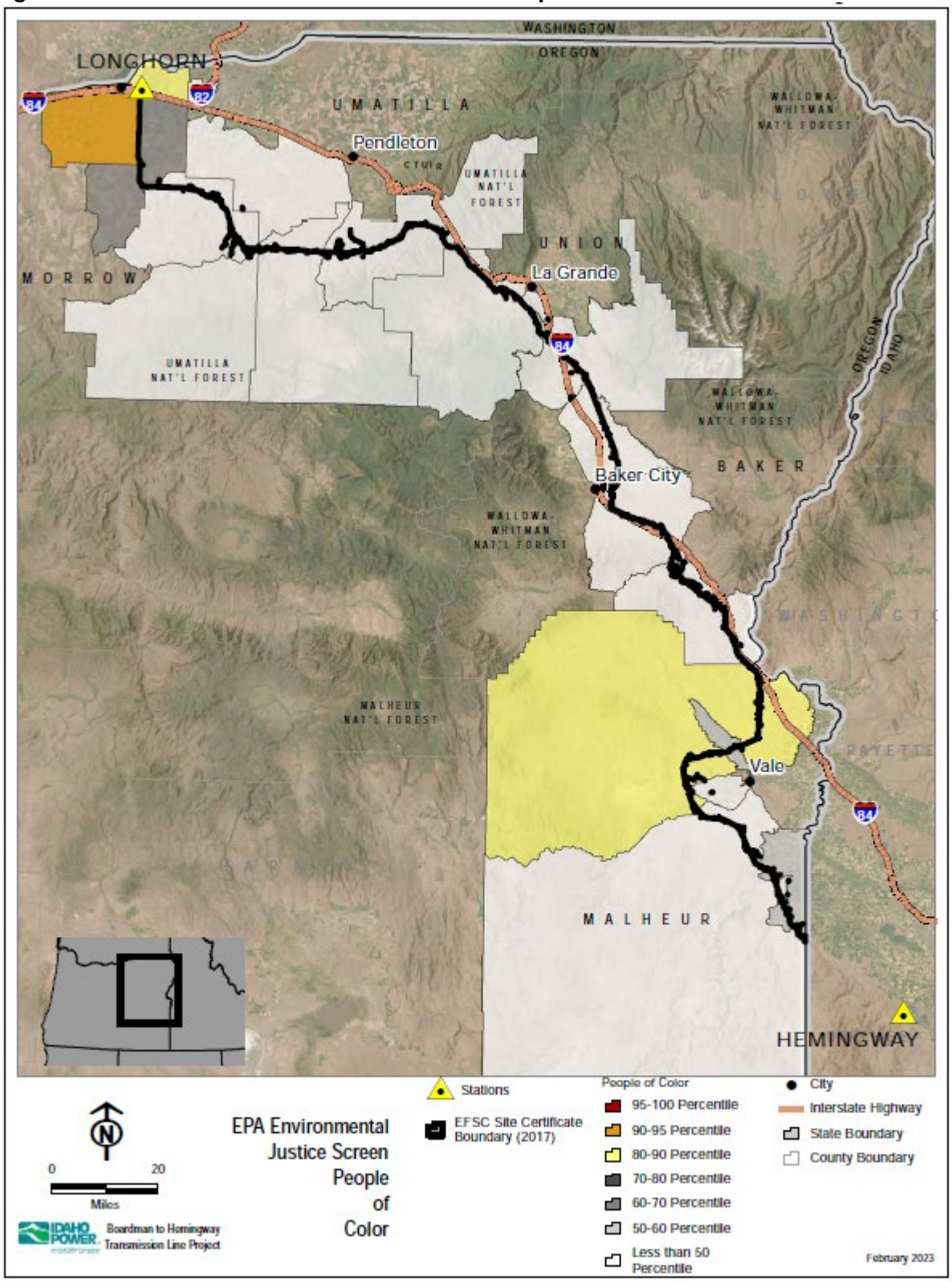
Figure 2. EPA Environmental Justice Screen Low Income



Q What do you conclude from your review of Figure 3: EPA Environmental Justice Screen People of Color?

A. This map shows that few of the census blocks crossed by B2H contain a significant concentration of people of color compared to the rest of Oregon. None of the census blocks are in the highest percentile, and only two regions in Morrow County and Malheur County include a relatively higher percentile. The two blocks identified in Morrow County are adjacent to those on the proposed route, meaning the project does not risk geographically dividing a community of color. In addition, when compared to the population density map of Malheur County, Figure 13, we see the Malheur County block has exceptionally low population density with the vast majority of residents in the block living on its eastern boundary—close to Ontario and farther from the proposed route.

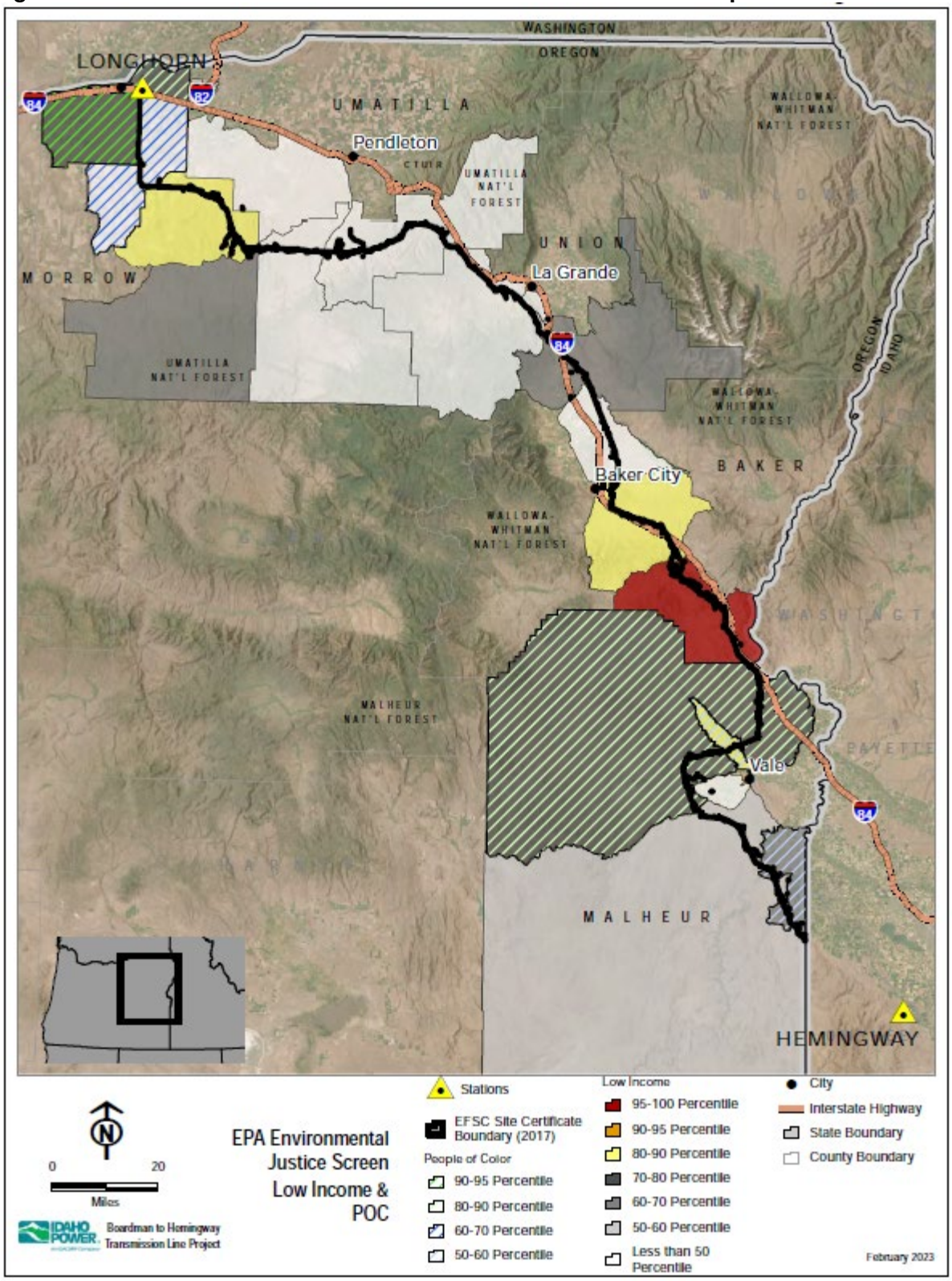
Figure 3. EPA Environmental Justice Screen People of Color



Q What do you conclude from your review of Figure 4: EPA Environmental Justice Screen Low Income and People of Color?

A. As is seen by this map, the greatest overlap of relatively higher concentrations of these two different EJ community groups is located near the Boardman in Morrow County. However, as is shown further in Figure 9, the portion of the line that passes through this area generally avoids any population areas and thus mitigates any potential impact on these communities. It is also worth noting that this section of the transmission line will run adjacent to the Naval Weapons System Training Facility Boardman, providing another physical buffer between the project and EJ populations.

Figure 4. EPA Environmental Justice Screen Low Income and People of Color

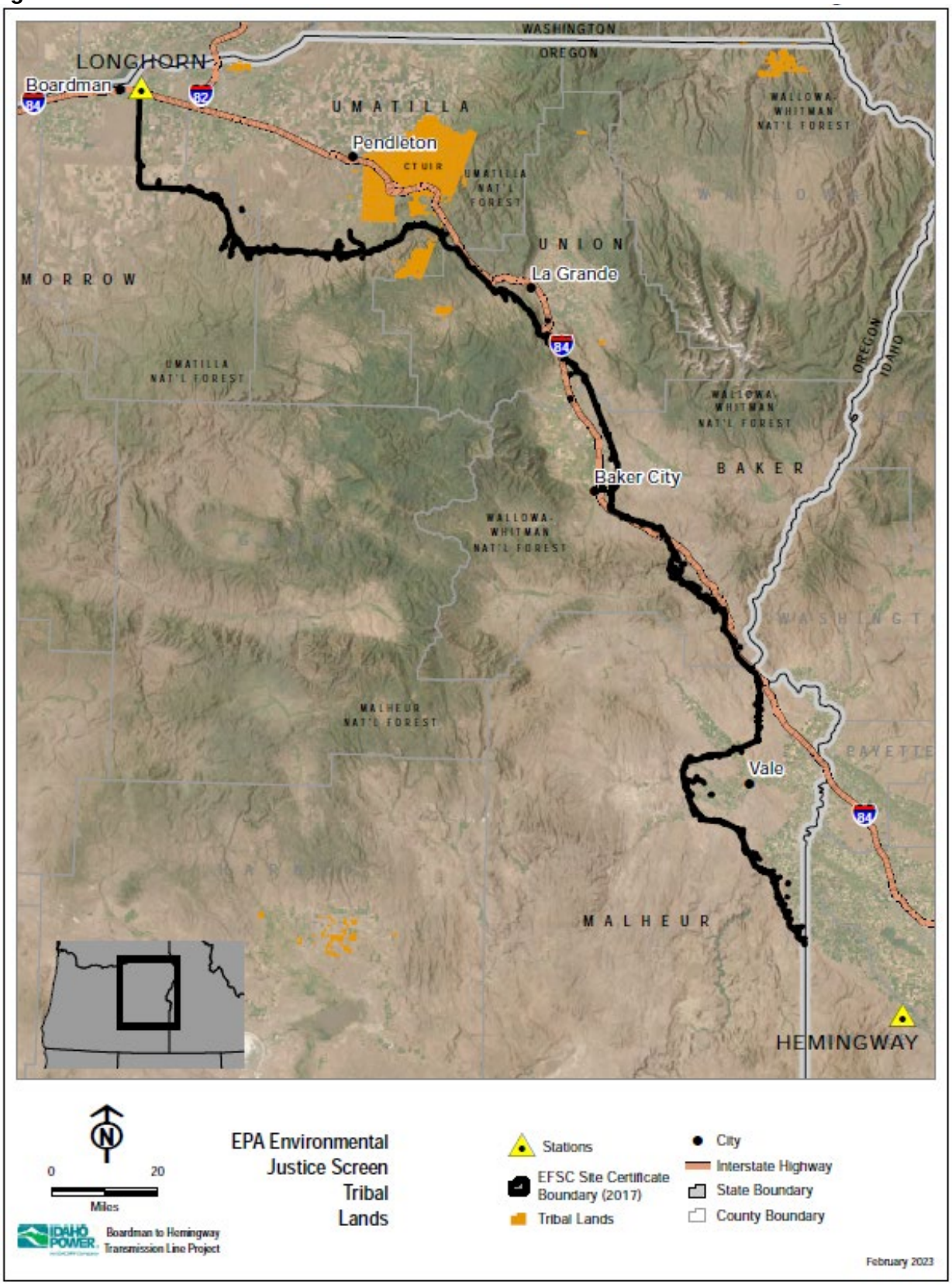


Q What do you conclude from your review of Figure 5: EPA Environmental Justice Screen Tribal Lands?

A. This map shows the tribal reservation lands in the map area. As the map shows, the Project will pass near the lands of the Confederated Tribes of the Umatilla Indian ("CTUIR"). However, the proposed route will not pass over any tribal reservation lands. Testimony from Staff identified questions on how the project would impact indigenous uses of the areas impacted by the project, suggesting an EJ analysis should focus on engagement with tribal governments and communities to assess those potential impacts.[32] The testimony of Shane Baker describes Idaho Power's consultation with tribes to mitigate any possible impact to tribal resources.[33]

[32] Staff/300, Lockwood/15-16 (Jan. 17, 2023).
[33] *See generally* Idaho Power/900.

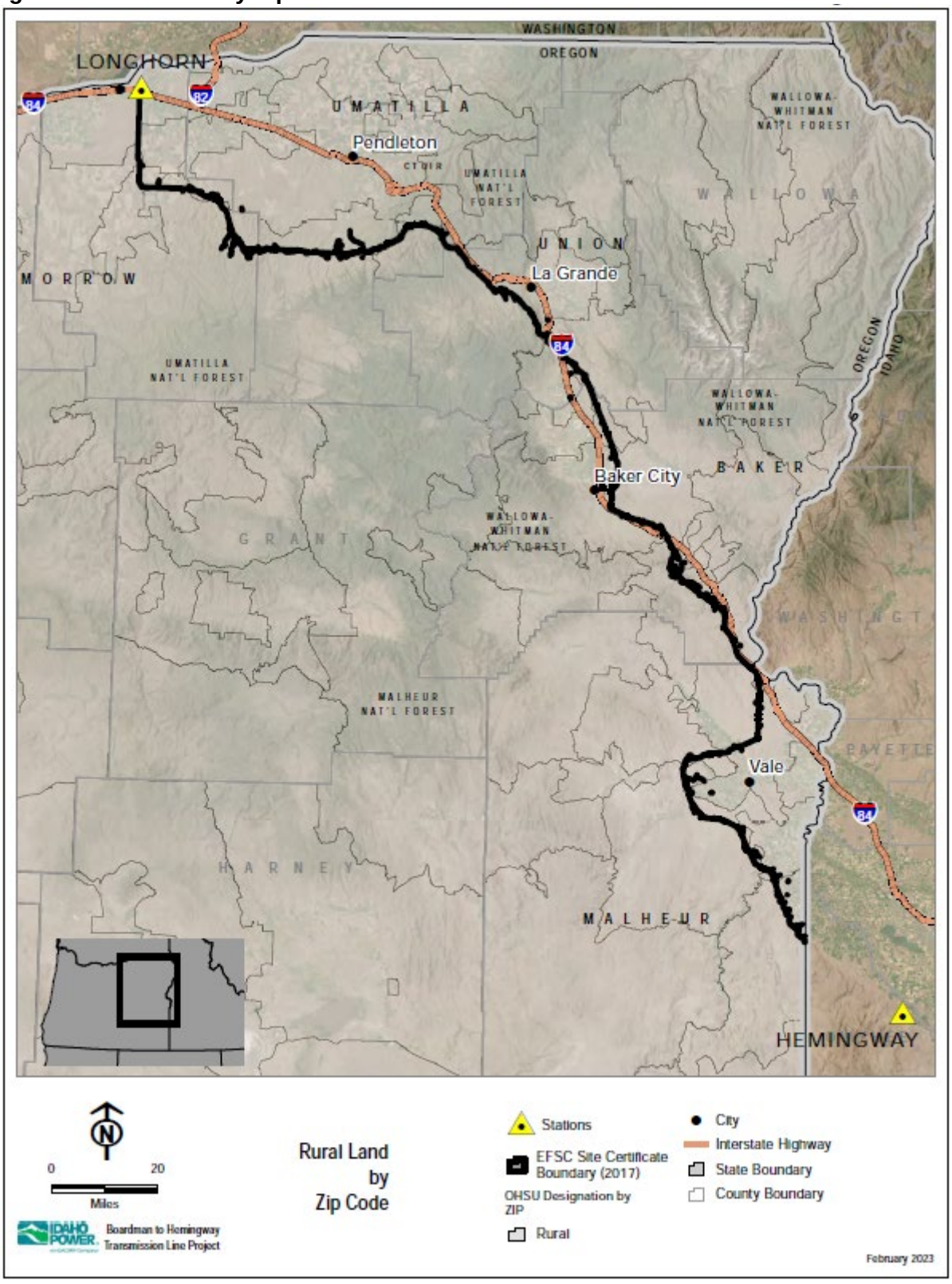
Figure 5. EPA Environmental Justice Screen Tribal Lands



Q What do you conclude from your review of Figure 6: Rural Lands by ZIP Code?

A. This map shows that every ZIP code through which the line will pass is classified as "rural" by the State of Oregon based on the criteria identified by Staff. However, as the additional maps produced for this analysis show, there are centers of population in these rural areas that B2H has been designed to avoid.

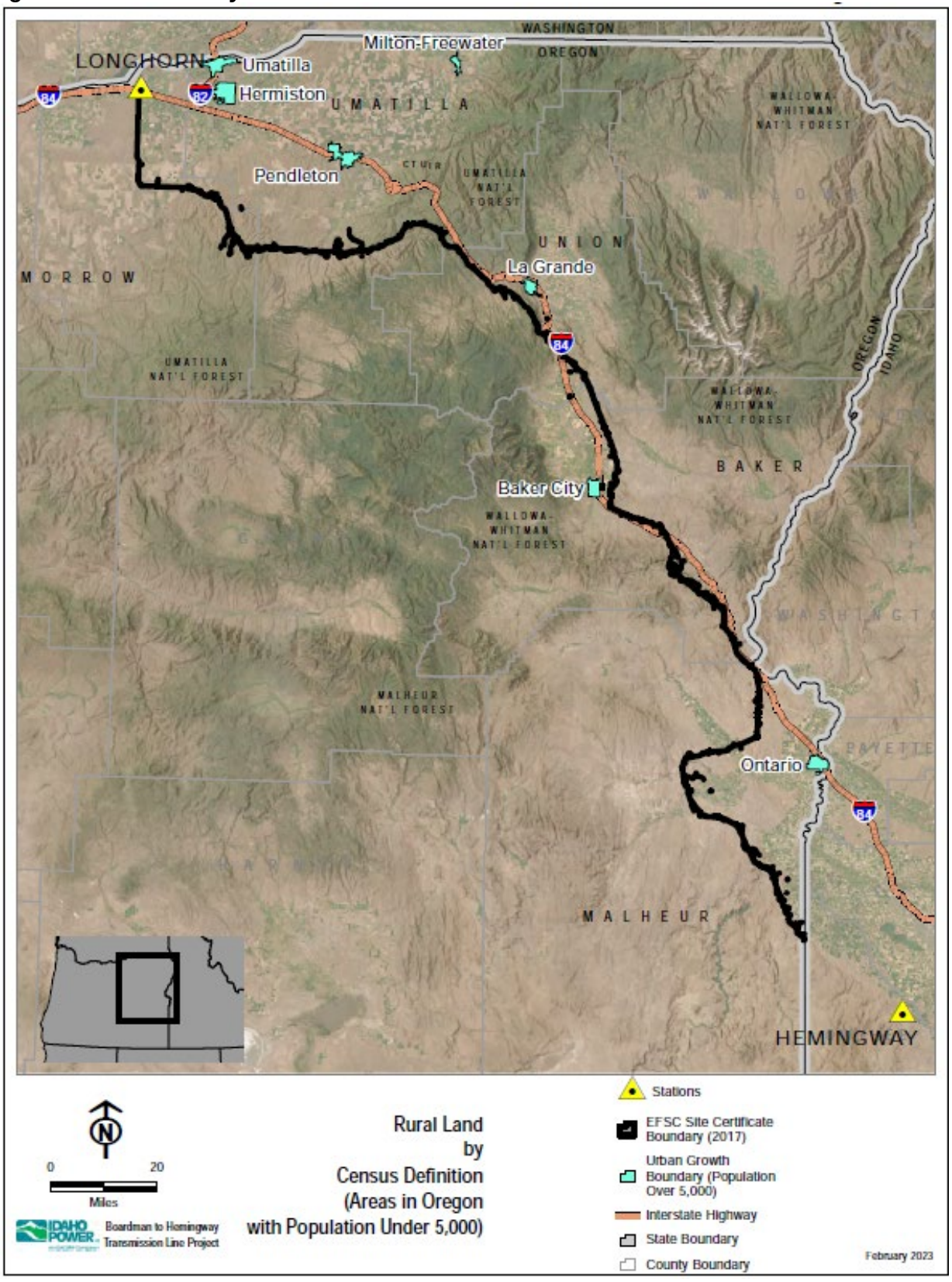
Figure 6. Rural Land by Zip Code



Q What do you conclude from your review of Figure 7: Rural Lands by Census Definition?

A. This map differs from the ZIP code map because it uses the Census definition of rural (areas with under 5,000 people). It still shows, however, that the transmission line will pass only through areas of Oregon that are considered rural.

Figure 7. Rural Land by Census Definition

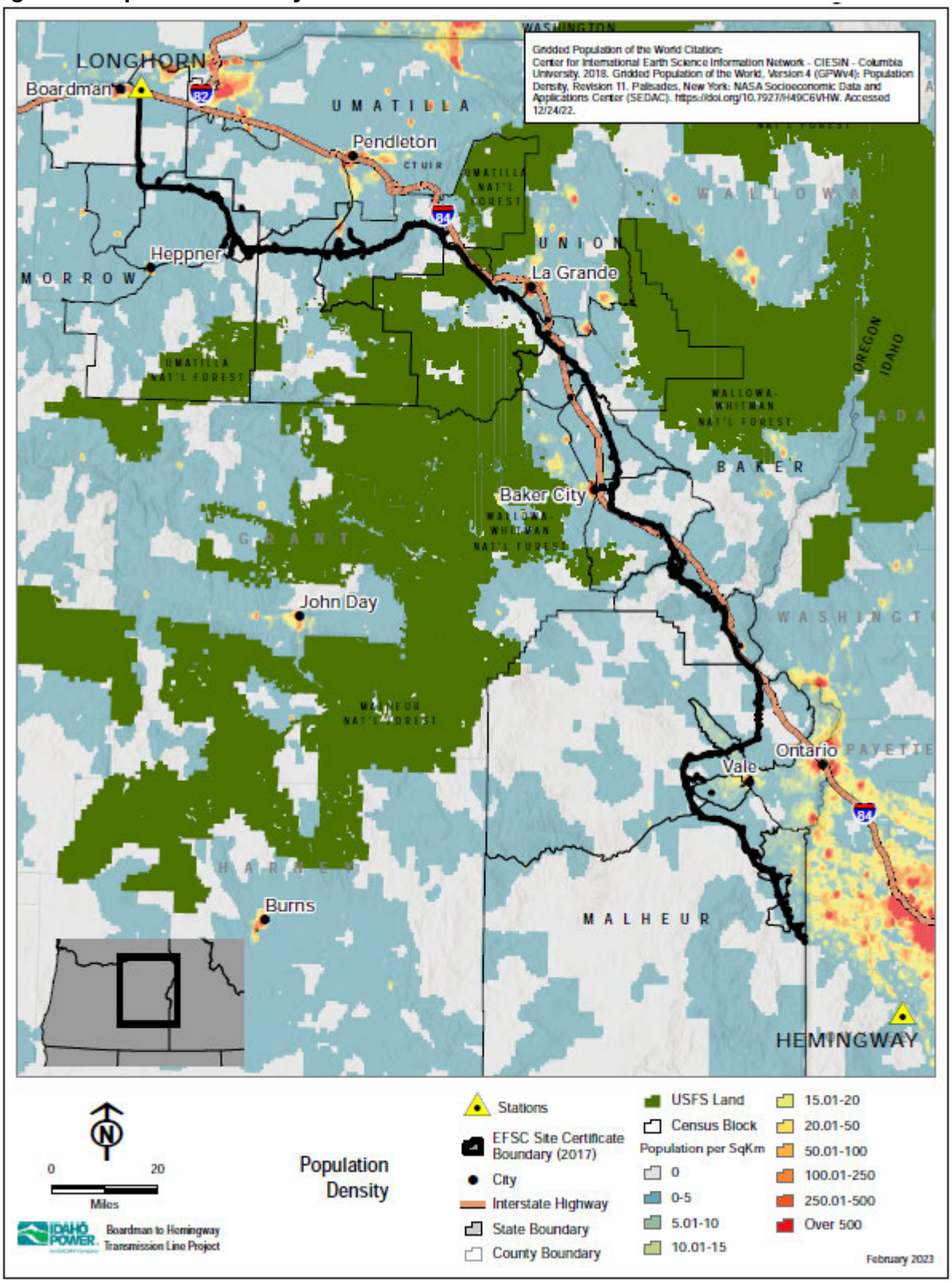


Q What do you conclude from your review of Figure 8: Population Density?

A. This map shows that B2H will generally avoid major population centers in Eastern Oregon. While the line will be exclusively in rural areas, the route was selected to avoid areas of high population as much as feasible. It is noteworthy that this was a criterion developed by community members through the Community Advisory Process and that was honored in the route selection process carried out in the CAP.[34] The subsequent maps show in greater detail the route's circumvention of populated areas in rural Eastern Oregon.

[34] *See* Idaho Power/1002, Weigler/7, 14 (Idaho Power's Response to Staff Data Request 24, Attachment 4, 2011 B2H Community Advisory Report) (describing community members' suggestion for the line to "avoid urban areas" and the final proposed route which differed from the original route to avoid "city impact areas").

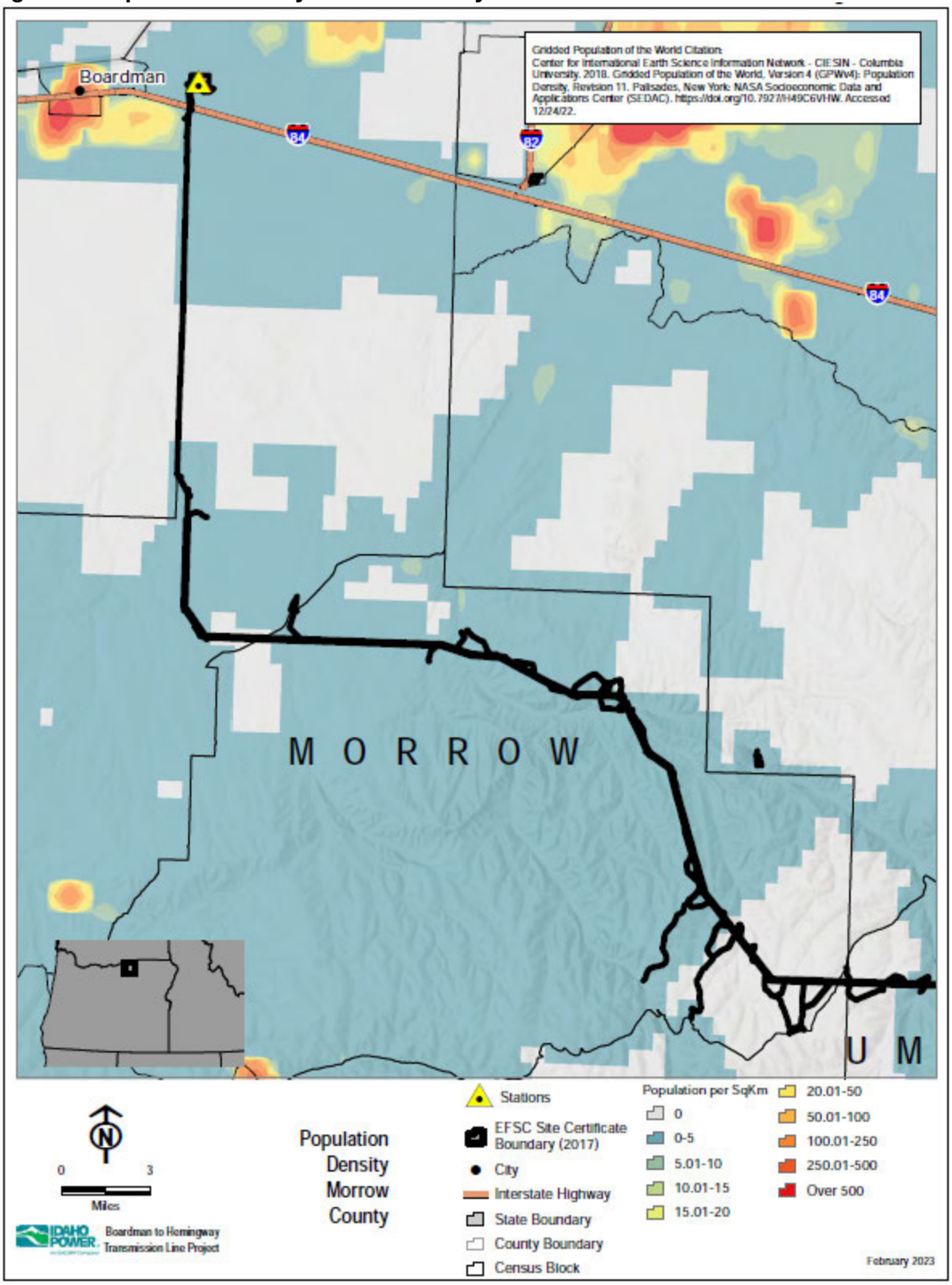
Figure 8. Population Density



Q What do you conclude from your review of Figure 9: Population Density Morrow County?

A. This map shows that in Morrow County, B2H is not routed near any population centers until it meets the Boardman substation. In addition, as I previously noted, the census block with the highest percentage of people of color and low-income individuals in the project area is located in Morrow County, the map shows that most of the line will not be located in close proximity to the more densely populated areas in that community and that the route never bisects an area of concentrated population.

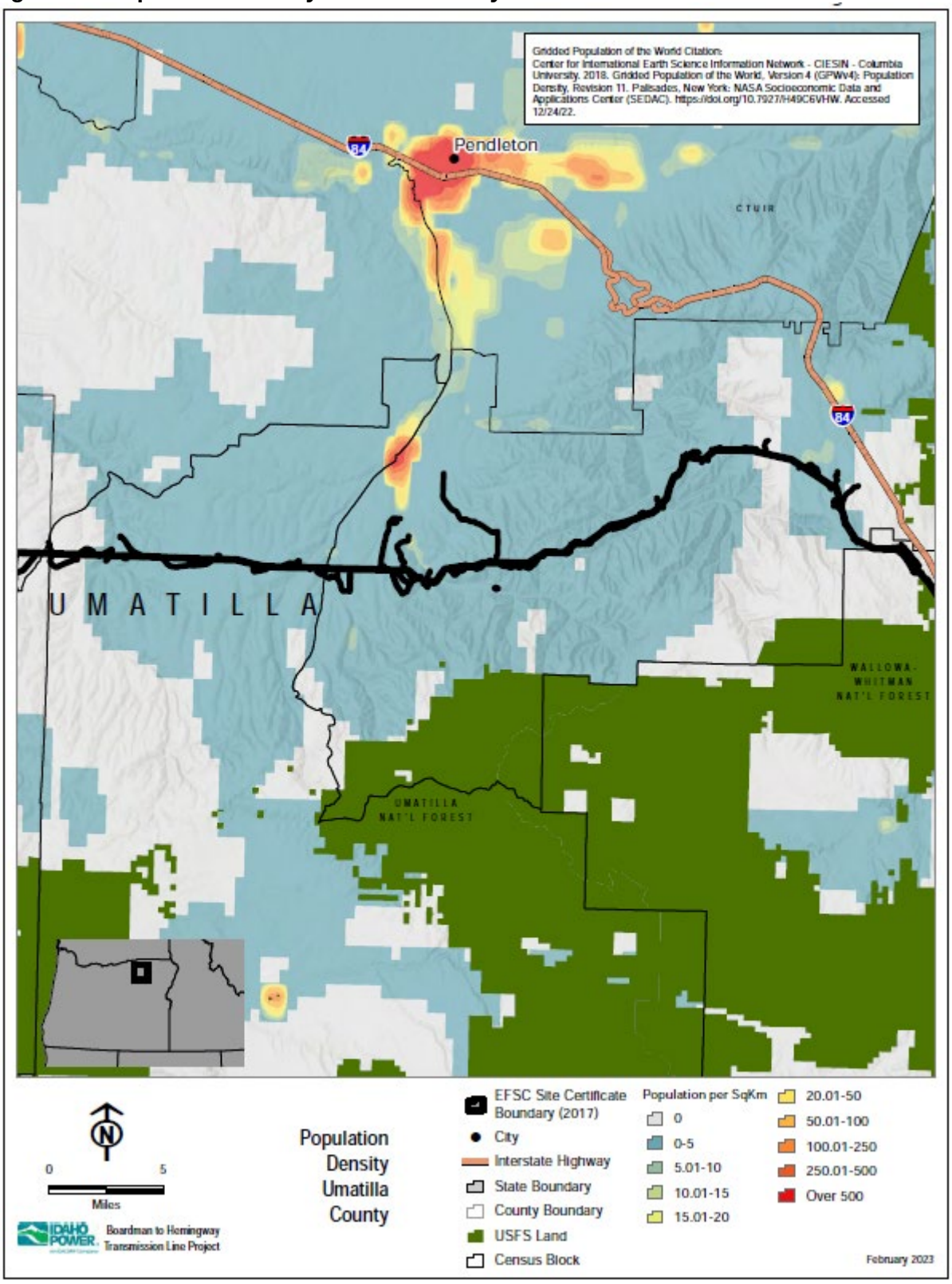
Figure 9. Population Density Morrow County



Q What do you conclude from your review of Figure 10: Population Density Umatilla County?

A. As is indicated by this map, the transmission line will avoid the most populated areas around the cities of Pendleton and Pilot Rock.

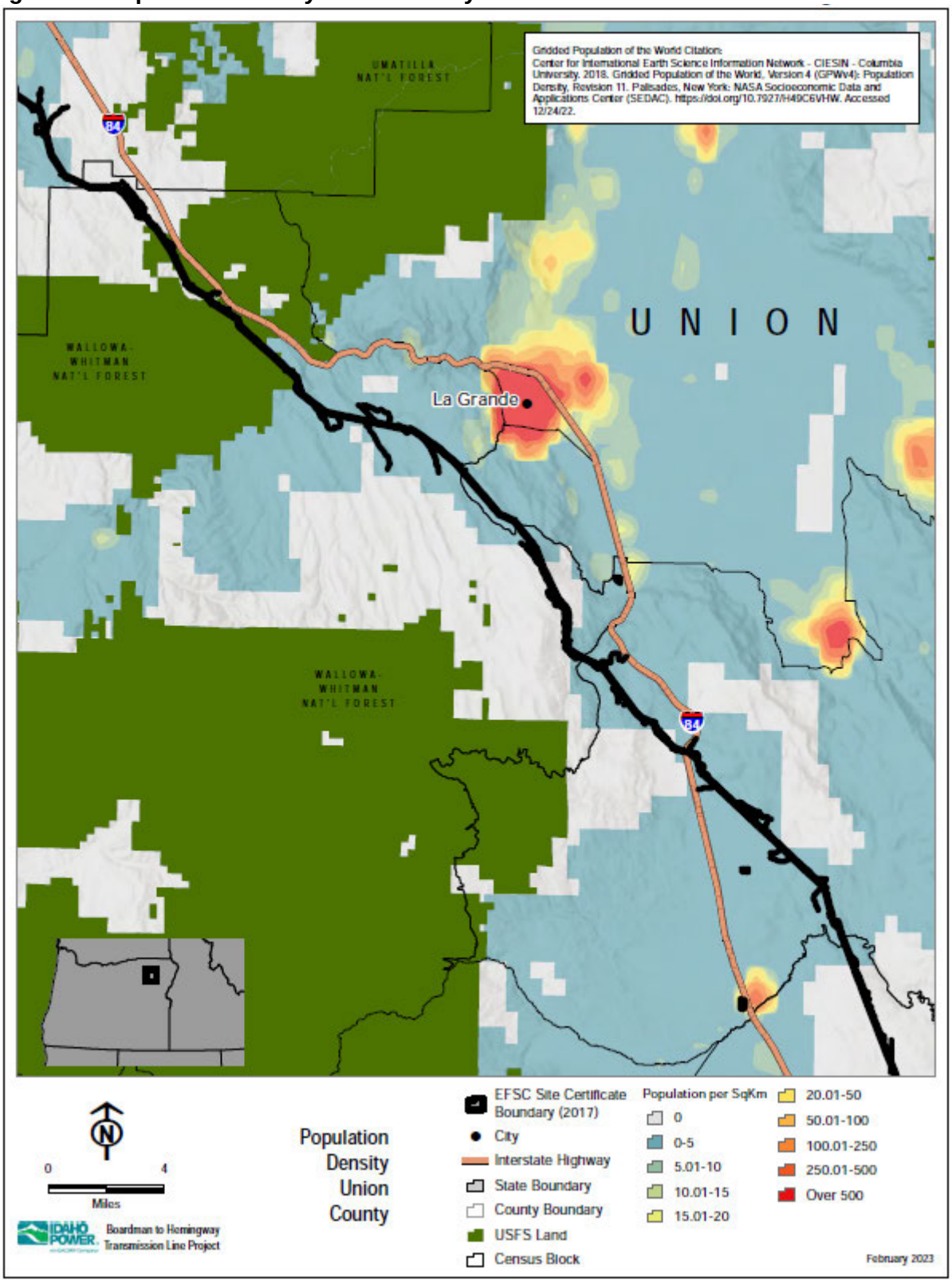
Figure 10. Population Density Umatilla County



Q What do you conclude from your review of Figure 11: Population Density Union County?

A. This map shows that B2H will generally follow the route of Interstate 84 and avoids the population center of La Grande.

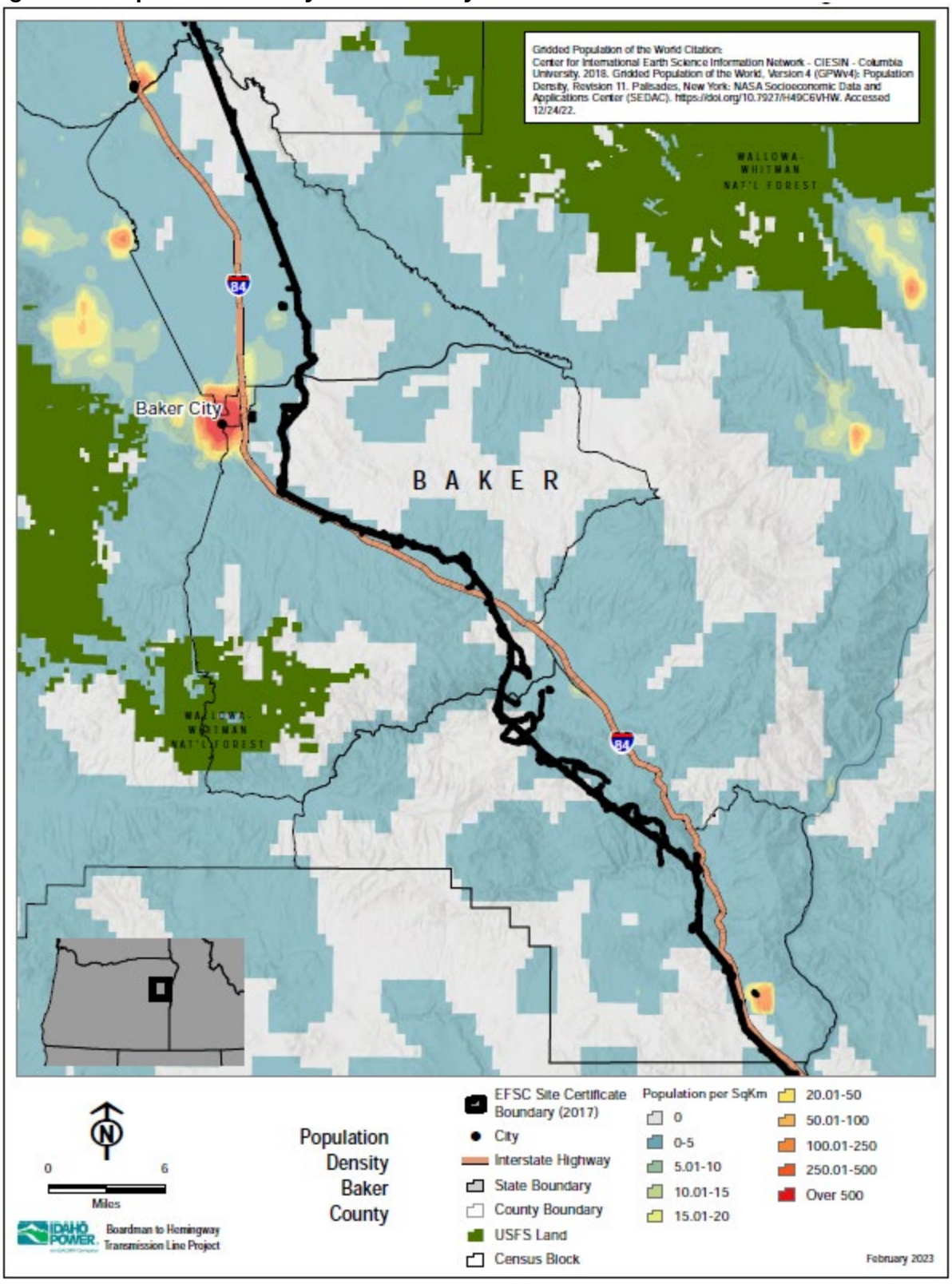
Figure 11. Population Density Union County



Q What do you conclude from your review of Figure 12: Population Density Baker County?

A. This map also shows the line following Interstate 84 and avoiding the population center of Baker City and other area of higher population density.

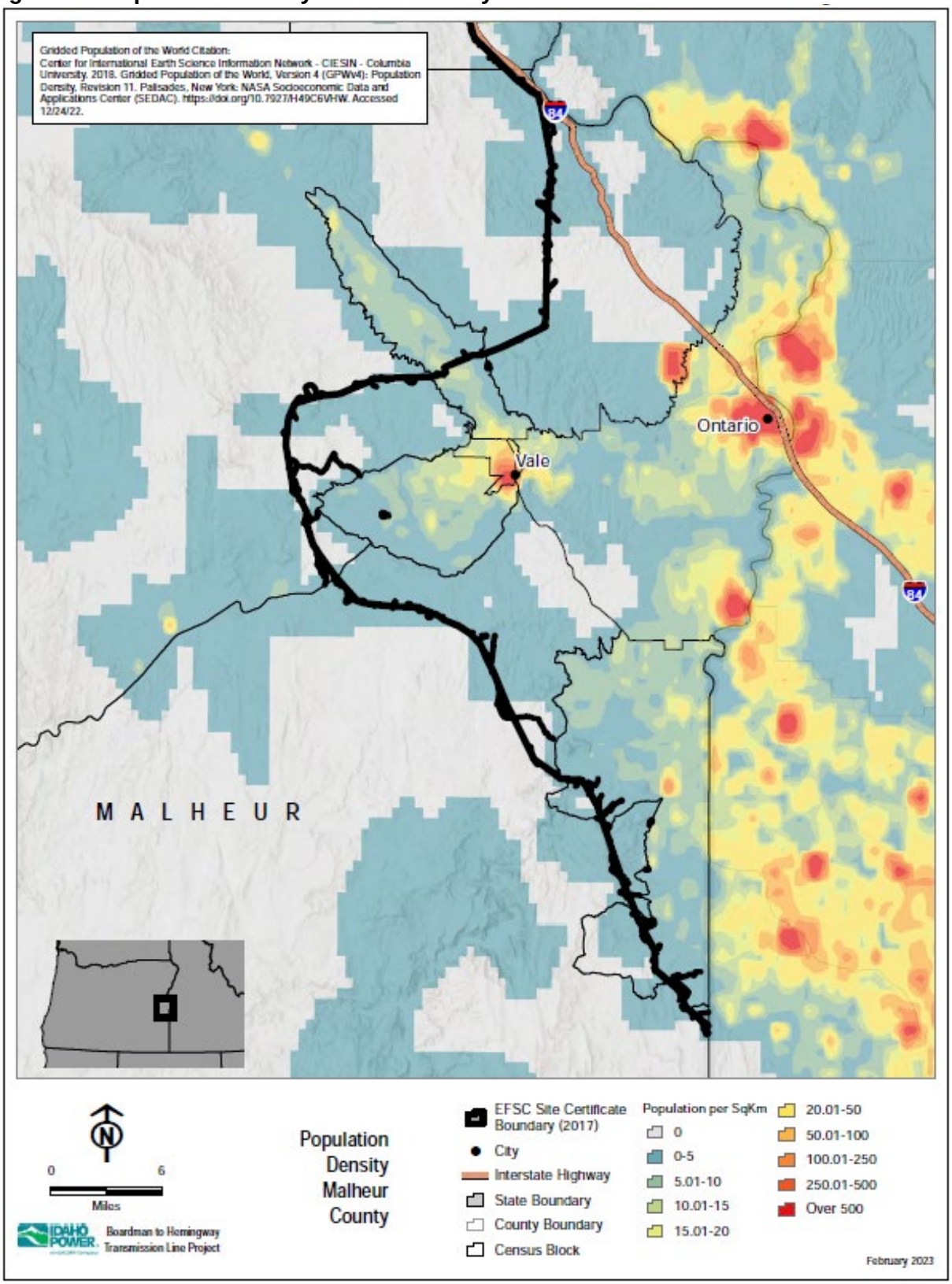
Figure 12. Population Density Baker County



Q What do you conclude from your review of Figure 13: Population Density Malheur County below show?

A. This map shows the significant diversion the route takes to avoid the agricultural areas and population centers of Vale and Ontario.

Figure 13. Population Density Malheur County



Q. Please describe your general conclusions from the population density maps.

A. As described above, rural communities are part of the definition of EJ communities. The population maps indicate that the entirety of the B2H route will pass through rural communities in Eastern Oregon. This is an inevitable impact of siting a more than 300-mile-long transmission project connecting substations in Boardman and Hemingway, two rural communities with large areas of rural land in between. Indeed, it would be impossible for Idaho Power to site this needed transmission line in urban areas without intersecting rural areas as there are no major urban areas between the two substations. In addition, altering the route to bisect the urban areas in Eastern Oregon would not only do little to reduce the mileage of the route passing through rural communities but would present further siting challenges and impacts to EJ communities in those towns. As I discussed, B2H generally avoids the more densely populated rural areas, thus reducing potential impacts to these EJ communities. In addition, as detailed elsewhere in the testimony of Lindsay Barretto and Mitch Colburn,[35] Idaho Power has undertaken significant efforts to prevent and mitigate impacts on agriculture, timber, grazing, and other economic activities in these areas.

Q. From your perspective, is there a distinction to performing an EJ impact analysis for a linear resource like a transmission line as compared to a more localized resource like a wind farm?

A. Yes. When siting a resource like a wind farm, the facility will have a more localized impact and the developer can avoid any EJ impacts by locating the project farther away from EJ communities. There is also more flexibility in that type of siting compared to a project that must connect two fixed geographies. On the other hand, when balancing numerous competing constraints—as is discussed in greater detail in the testimony of Mitch

[35] *See generally* Idaho Power/400; Idaho Power/600.

Colburn—a long, linear resource may more likely impact important resources or EJ communities to some degree. As is described in my testimony, Idaho Power extensively analyzed various routes for the facility and chose the final route after seeking community input and engagement, and while also balancing competing siting constraints.

Q. Please summarize your conclusions based on your review of the attached maps.

A. Concerns about environmental justice and impacts on vulnerable communities are important elements of assessing proposed new energy infrastructure, particularly when Oregon has committed to adding the infrastructure necessary to transform itself into a clean energy economy over the next twenty years. Similarly, ensuring that we can successfully achieve that transformation is one of the critical concerns from an environmental justice perspective given the disparate impacts of climate change on EJ populations. The information presented in the maps and in the Colburn and Barretto testimony shows that B2H will have modest impacts on EJ populations and that significant efforts were taken to avoid or mitigate those impacts. Those efforts included an extended and intentional community engagement program that solicited and incorporated significant input into the selection of the transmission route, as well as engaging community and stakeholders' concerns about the project. The resulting proposed route avoids areas of higher concentration of low-income or persons of color in the identified census blocks.

V. ANTICIPATED BENEFITS AND IMPACTS OF B2H

Q. Has Idaho Power performed a household by household assessment of the benefits and impacts of B2H on members of EJ communities?

A. Given the lack of available data, no, Idaho Power has not performed this assessment. Evaluating the actual impacts of a project at the scale of B2H on members of EJ communities is not possible without more granular data on the locations of members of these communities as well as a more extensive study of individualized impacts. As such,

Idaho Power's analysis and my testimony focus on the impacts and benefits that can be clearly established to the general community.

A. Project Benefits

Q. What are some of the projected environmental benefits of B2H?

A. B2H will facilitate an increased integration of clean energy onto Idaho Power's system.[36] As part of the Company's commitment to provide 100 percent clean energy by 2045 without diminishing affordability and reliability, the new transmission line will provide an incremental 1,000 MW bidirectional connection to provide value to customers and the region.[37] Transitioning off fossil fuels provides clear benefits for all populations and EJ communities in particular, given that some of those related energy facilities have historically been located in EJ communities. The benefits associated with integrating additional renewable energy will also flow to EJ communities in the project area and across Oregon.

Q. What are the projected economic benefits of B2H?

A. As described in the Direct Testimony of Jared Ellsworth, 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.[38] Additionally, the Project may spur new investment in communities across Eastern Oregon that would be served by more reliable clean energy.[39]

Q. Will the EJ communities near the Project area receive some of this benefit?

A. Yes. These communities will benefit from the system-wide increase in reliability and the investment in the local economy. Please see the Reply Testimony of Jared Ellsworth for

[36] *See* Idaho Power/100, Ellsworth/34-35 (Sep. 30, 2022).
[37] Idaho Power/100, Ellsworth/34-35.
[38] Idaho Power/100, Ellsworth/44.
[39] Idaho Power/100, Ellsworth/45.

a further discussion of local and statewide benefits from B2H, as well as mapping addressing these benefits.[40]

B. Project Impacts

Q. What did Staff's witness say about potential impacts of the Project on EJ communities?

A. Staff's witness expressed concern that BLM's analysis of potential impacts of the line in its FEIS was insufficient to fully understand the impacts of the line on low-income communities, communities of color, rural communities, and tribal communities.[41] Staff focused on the potential impacts on agricultural lands.[42]

Q. Has Idaho Power performed an evaluation of the agricultural impacts?

A. Yes, during the EFSC proceeding, Idaho Power provided testimony from Company witness Kurtis Funke, which described the Company's Agricultural Lands Assessment.[43]

Q. Have you reviewed this testimony?

A. Yes, I have.

Q. What are your conclusions based on this testimony?

A. The testimony of Mr. Funke, along with the Agricultural Lands Assessment, indicate that Idaho Power extensively evaluated potential agricultural impacts from the transmission line and developed a comprehensive plan to work with landowners to mitigate these impacts.[44] The Assessment identified temporary impacts such as incursion of construction equipment on agricultural lands[45] and permanent impacts, including direct

[40] *See generally* Idaho Power/500, Ellsworth, Section IV.
[41] Staff/300, Lockwood/6-17 (Jan. 17, 2023).
[42] *See* Staff/300, Lockwood/10 (Jan. 17, 2023).
[43] *See* Idaho Power/1004, Weigler/13-15 (EFSC Idaho Power Company Rebuttal Testimony of Kurtis Funke); Idaho Power's Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment K-1) at 9596 of 10603 (Oct. 7, 2023) [hereinafter, "Final Order, Attachment K-1"].
[44] Idaho Power/1004, Weigler/19-23 (EFSC Idaho Power Company Rebuttal Testimony of Kurtis Funke).
[45] Idaho Power/1004, Weigler/18-19 (EFSC Idaho Power Company Rebuttal Testimony of Kurtis Funke); Final Order, Attachment K-1 at 9626 of 10603.

loss of approximately 860 acres of agricultural lands and indirect impacts to the pattern of land use, population density, or growth rate.[46] To mitigate these impacts, Idaho Power rerouted the line to avoid irrigated areas and sited towers along agricultural field boundaries where feasible.[47] Given that a vast majority of the Project area includes agricultural lands, to the extent there is overlap among members of the EJ communities and the agricultural landowners, Idaho Power has proposed mitigation for impacts to agricultural practices.

Q. Does this conclude your testimony?

A. Yes, it does.

[46] Idaho Power/1004, Weigler/19 (EFSC Idaho Power Company Rebuttal Testimony of Kurtis Funke); Final Order, Attachment K-1 at 9626 of 10603.

[47] Idaho Power/1004, Weigler/21 (EFSC Idaho Power Company Rebuttal Testimony of Kurtis Funke); Final Order, Attachment K-1 at 9629 of 10603.

Idaho Power/1001
Witness: Jake Weigler

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket PCN 5

In the Matter of

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

Curriculum Vitae of Jake Weigler

February 21, 2023

JACOB WEIGLER

5933 SE Ash St.
Portland, OR 97215
(503) 432-6580 (c)
Jake@praxispolitical.com

SUMMARY

Twenty years of experience in national and state politics, strategic planning, and public advocacy. Adept at project management, public relations, content production, and community engagement. Love finding innovative solutions to complex problems and the right message to move an audience.

PROFESSIONAL EXPERIENCE

Co-Owner **2020 – Present**
Praxis Political, Portland, OR

- Founder of public affairs firm committed to ensuring our clients meet their strategic goals.

Partner **2015 – 2020**
Hilltop Public Solutions, Portland, OR

- Office's lead for marketing, business development, team leadership, and campaign services.

Principal **2013 – 2014**
Path to Victory LLC, Portland, OR

- Sole proprietor firm specializing in campaigns and communications.

Communications Director (Oregon) **2011 – 2013**
Strategies 360, Portland, OR

- Account executive for a host of public, private, and non-profit clients.

Campaign Manager **2010**
Wyden for Senate, Portland, OR

- Secured reelection for Oregon's senior U.S. Senator with over 57% in a GOP-wave election.

Communications Director **2009 – 2010**
Oregon Department of Education, Salem, OR

- Executive staff member, press contact for all areas of Department activities.

Campaign Director **2008**
Healthy Climate Partnership, Portland, OR

- Coordinated statewide coalition of over 120 groups to pass state's low carbon fuel standard.

Executive Assistant to the Attorney General **2008**
Oregon Department of Justice, Salem, OR

- Attorney General's executive team. Department's lobbyist and communications director.

Campaign Manager **2007 – 2008**
Novick for U.S. Senate, Portland, OR

- Led upstart campaign for progressive activist, first-time candidate, raising $1.3 million.

Deputy Communications Director **2006 – 2007**
Governor Ted Kulongoski, Salem, OR

- Spokesperson; speechwriting; and coordination with state agencies and stakeholders.

Research Director **2005 – 2006**
Media Matters for America, Washington, D.C.

- Managed research team; drafted daily content calendar; edited items for accuracy and clarity.

Research Associate **2003 – 2005**
Democratic National Committee, Washington, D.C.

- Responsible for opposition research used in rapid response, ad releases, and debate rebuttals.

Policy Analyst **2002**
Tony Sanchez for Governor Campaign, Austin, TX

- Researched and composed content for campaign's policy proposals on economic development, transportation, women's issues, and higher education.

COMMUNITY SERVICE/PUBLIC SPEAKING

Board Chair, Portland Urban Debate League
Equity-driven nonprofit providing high school students and teachers with the support and structure to compete in researched debate in the Portland Metro area.

Presenter and Trainer on Communications, Advocacy, and Campaigns
American Bar Institute Leadership Institute, Oregon State Bar Board of Governors, Bus Project Politicorps, Emerge Oregon, PSRA-Oregon, Portland Business Alliance Leadership Program, Oregon School Boards Association

EDUCATION

M.A. Government, U. of Texas-Austin
- Political Economy & Comparative Politics
- Organizer for Texas State Employees Union

B.A. Politics, Women's Studies, N.Y.U.
- Presidential Service Award for Leadership
- Founder of NYU Policy Debate Program

International Studies, Lincoln High School
(Portland, Oregon)

Idaho Power/1002
Witness: Jake Weigler

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket PCN 5

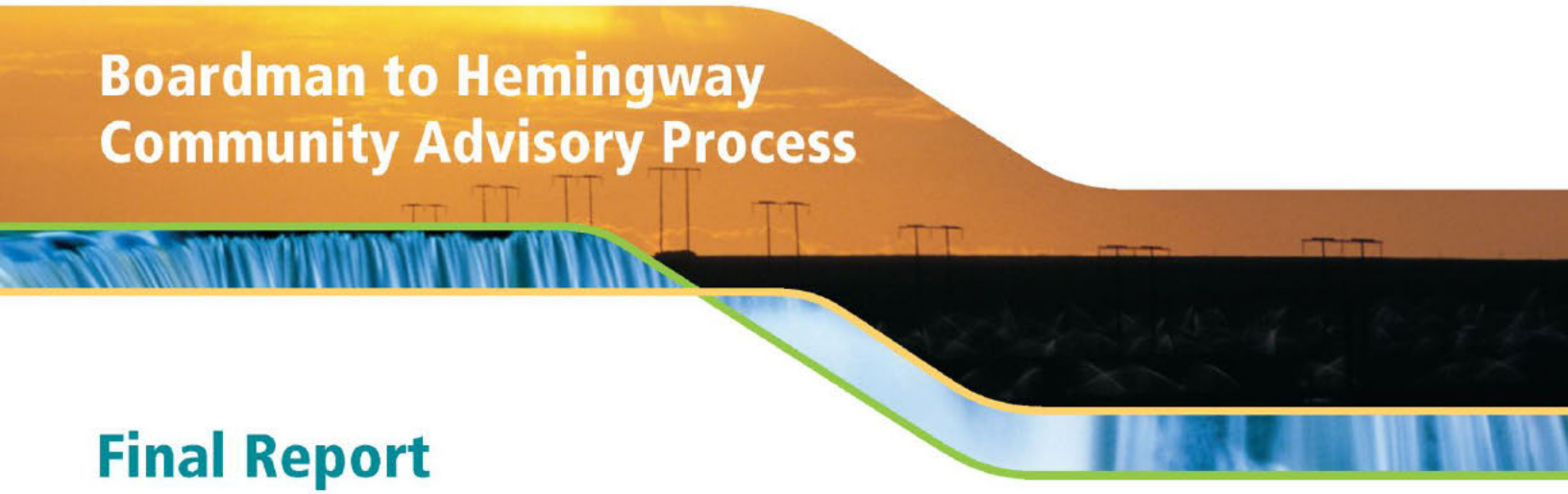
In the Matter of

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

Idaho Power's Response to Staff Data Request No. 24
Attachment 4, 2011 Community Advisory Report

February 21, 2023

IDAHO POWER®
An IDACORP Company



Boardman to Hemingway Community Advisory Process

Final Report

Purpose of Process: *Community partnership and collaborative effort to identify a proposed route for the Boardman to Hemingway Transmission Line Project.*

Prepared by
Delivery Planning Department
and
Rosemary B. Curtin, Inc.

February 2011

Table of Contents

List of Appendices

Executive Summary

Idaho Power proposes to construct, operate and maintain a new 500 kilovolt, single-circuit, electric transmission line from a proposed substation near Boardman, Oregon to the Hemingway Substation near Melba, Idaho – known as the Boardman to Hemingway Transmission Line Project. The Boardman to Hemingway Transmission Line Project will improve the delivery of electricity to Idaho Power's customers and enhance bulk electrical system reliability throughout the Northwest.

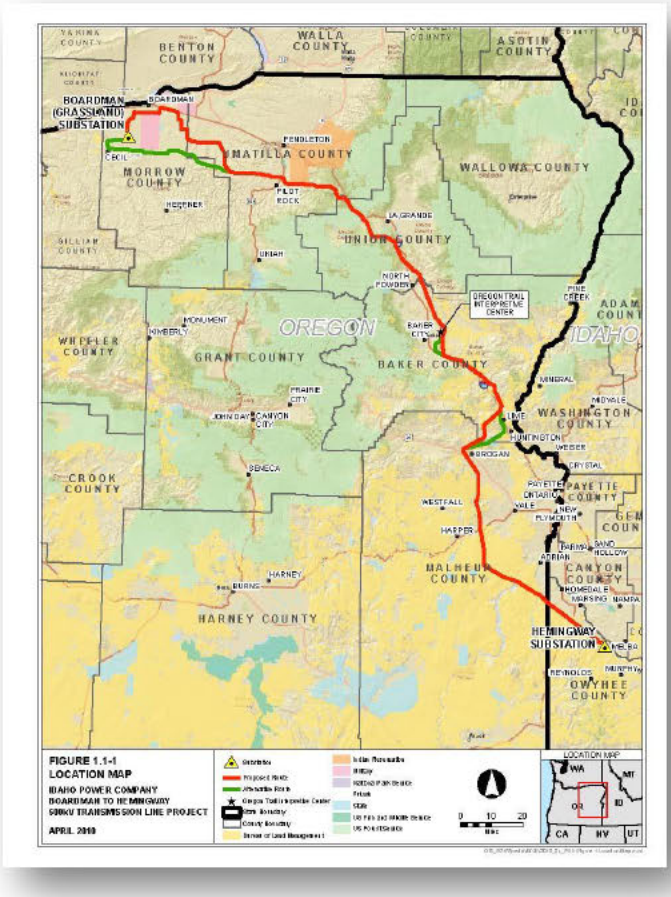
Following a year-long comprehensive public process, Idaho Power has selected a proposed route for the transmission line, which is now subject to federal and state review. The initial process of identifying a route began in late 2007 when Idaho Power submitted documents to the Bureau of Land Management, U.S. Forest Service and Oregon Department of Energy–Energy Facility Siting Council. After initial public involvement activities held in October 2008, Idaho Power determined there was a large amount of opposition to the original route for the Boardman to Hemingway Transmission Line Project. In response, Idaho Power paused the federal and state review processes and implemented the comprehensive public process to gather more input.

Idaho Power hired a local public-involvement consulting firm, Rosemary B. Curtin, Inc. (RBCI), to help develop and facilitate a strategic public process to find a route that would be acceptable to both Idaho Power and the communities in eastern Oregon and southwestern Idaho.

The four objectives and steps of the Community Advisory Process were to:

1. **Identify community issues and concerns.**
2. **Develop a range of possible routes that address community issues and concerns.**
3. **Recommend proposed and alternate routes.**
4. **Follow through with communities during the federal and state review processes.**

Through the Community Advisory Process, Idaho Power hosted 27 Project Advisory Team meetings, 15 public meetings and 7 special topic meetings. In all, nearly 1,000 people were involved in the Community Advisory Process either through Project Advisory Team activities or public meetings. Additionally, numerous meetings with individuals and advocacy groups were held. Idaho Power extends a sincere thank you to everyone involved in the Community Advisory Process.



Introduction

The Boardman to Hemingway Transmission Line Project (B2) as proposed by Idaho Power Company will be a 300 mile long, single circuit, 500 kilovolt overhead transmission line from a proposed substation near Boardman, Oregon to the Hemingway Substation near Melba, Idaho. The initial process of identifying a route began in 2007 when Idaho Power submitted documents to the Bureau of Land Management (BLM), U.S. Forest Service (USFS) and the Oregon Department of Energy-Energy Facility Siting Council (EFSC). After public scoping meetings held in October 2008, Idaho Power determined that a more extensive public outreach program should be used to determine the transmission line route.

In spring 2009, Idaho Power and RBCI met one-on-one with community members potentially impacted by the Boardman to Hemingway Transmission Line project. During these meetings, Idaho Power learned that many community members had strong concerns about the proposed transmission line project, including:

- The transmission line was not needed.
- Technical data and analysis used to site the original route were not accurate.
- The transmission line was being forced upon communities without listening to their input or including them in the decision-making process.
- Important land-use issues were not taken into consideration when siting the original route.

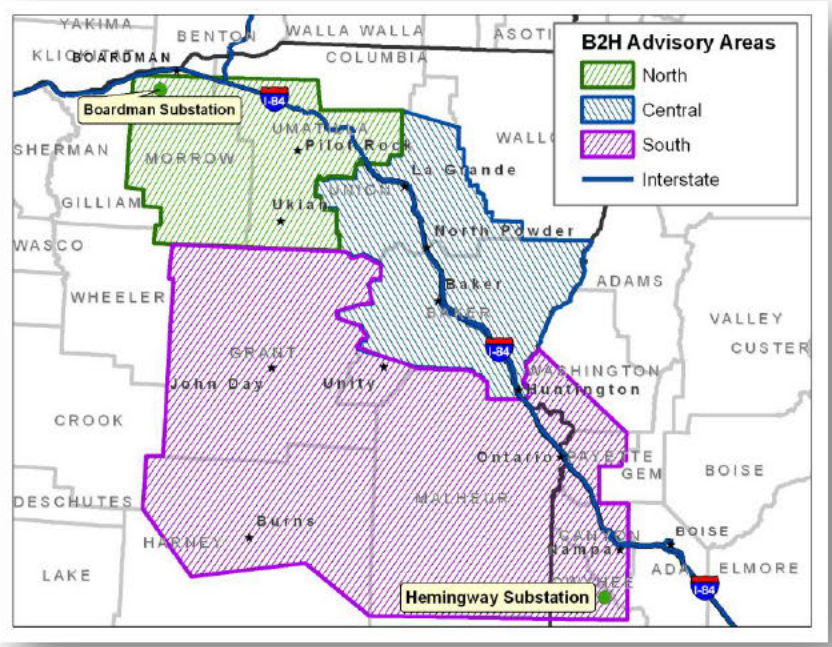
Idaho Power and RBCI developed the Community Advisory Process (CAP) to address each of these perceptions in order to the reach the goal of identifying a proposed route for the Boardman to Hemingway Transmission line that would be acceptable to both Idaho Power and the public.

Before Idaho Power could ask the communities to help in the development of a proposed route for the transmission line, public trust had to be enhanced, data and processes had to be fully disclosed and issues important to communities had to be identified for developing the proposed route.

The first step of the Community Advisory Process was to build public trust. Idaho Power gave community members a forum to openly share their feelings and concerns about the project directly with Idaho Power. Based on this information Idaho Power developed community criteria and committed to using these criteria along with regulatory and engineering criteria when developing the proposed routes.

Project Advisory Teams

The core activity of the Community Advisory Process was Idaho Power's intense work with Project Advisory Teams. In order to work with communities at the level of detail necessary to develop a 300-mile proposed route for the transmission line, Idaho Power formed several small groups throughout the project area. Local working groups comprised of residents, property owners, business leaders, local officials and many others from each county in the project area became known as the Project Advisory Teams.



For over a year approximately 450 Project Advisory Team members worked at the county level and gave a tremendous amount of time and input into the development of the proposed route. They learned about the federal and state siting processes and regulatory criteria the route would have to meet in order to be permitted. Technical experts explained to the Project Advisory Teams that even though their community criteria were important, laws could conflict with community criteria. Idaho Power ultimately has to follow federal and state laws when selecting a route to submit for review.

During the Community Advisory Process, the Project Advisory Teams:

- Identified community issues and concerns.
- Learned about agency roles, regulations and routing criteria.
- Confirmed criteria for selecting routes, using input from the broader public.
- Reviewed data that would be used to develop potential routes.
- Developed a range of possible routes that addressed community issues and concerns.
- Recommended proposed and alternative routes that would meet regulatory requirements and be acceptable to Idaho Power and communities.

Public Meetings

Idaho Power recognized not all community members had the time to participate on a Project Advisory Team. Therefore, Idaho Power presented the outcomes from the Project Advisory Team meetings to the public for review and comment. During the Community Advisory Process,

Idaho Power held two series of open houses to give the general public the opportunity to review and provide input on:

- Community, regulatory and engineering criteria that would be used to identify routes for the proposed transmission line.
- Idaho Power's proposed and alternative routes developed with the help of the Project Advisory Teams.

Comments submitted at the public meetings showed that the concerns of the general public were closely aligned with those of the Project Advisory Team members.

Outcome

The level of effort put into the Community Advisory Process by Project Advisory Team members and Idaho Power resulted in the following significant changes to the original route that was proposed in 2008:

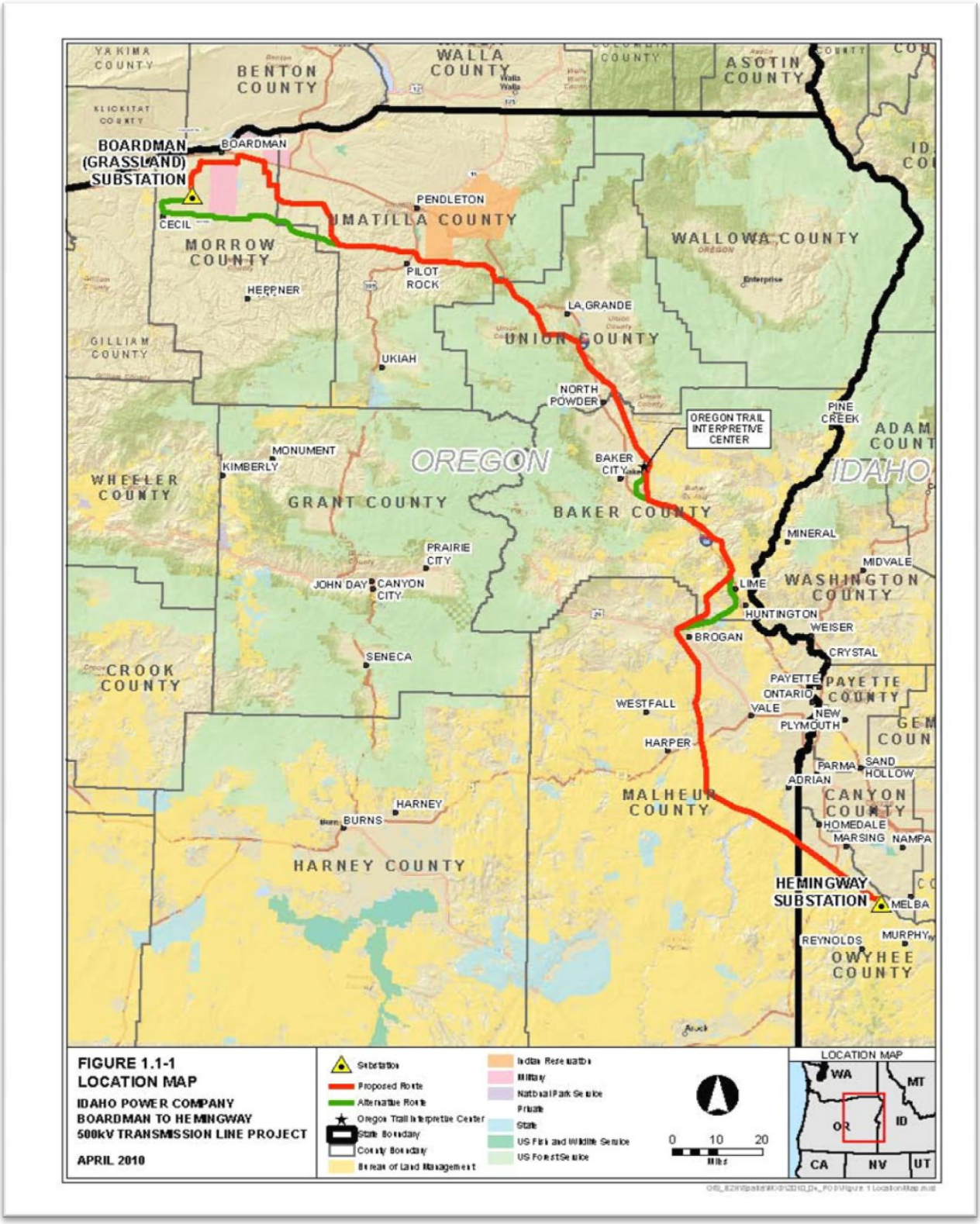
- The proposed route primarily avoids irrigated farmland in Idaho and Exclusive Farm Use land in Malheur County Oregon. The proposed route also avoids city impact areas and parallels an existing 500 kilovolt transmission line for approximately 38 miles.
- The proposed route avoids the view shed as much as possible from the front of the National Historic Oregon Trail Interpretive Center, avoids Exclusive Farm Use land in Baker County and now runs along the eastern part of the Durkee Valley.
- An alternate route is still being evaluated in the Boardman area around the U.S. Naval bombing range. Idaho Power is working with other utilities to coordinate the location of the Boardman to Hemingway transmission line with other proposed transmission lines in this area.

Next Steps

Idaho Power has submitted a proposed route, which was developed through the Community Advisory Process, to federal and state agencies for review. Federal and state agencies will conduct a thorough review of Idaho Power's proposed route and may make changes to the route. The line cannot be constructed until permits have been obtained from federal and state agencies.

To meet engineering and design requirements, Idaho Power will likely make adjustments to its proposed route throughout the siting process. Idaho Power will work one-on-one with landowners to determine where the line will be sited on private land.

Idaho Power will continue to keep communities involved throughout the federal and state review processes.



Boardman to Hemingway Proposed Route

Idaho Power's Community Advisory Process Goals

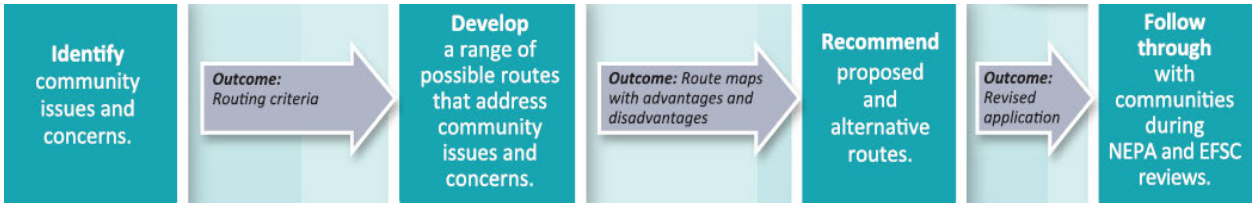
Idaho Power set goals with measurable criteria for the Community Advisory Process:

- **Trust and Cooperation:** Gain the public's trust and cooperation in siting the Boardman to Hemingway 500 kV transmission line.
    - Give the public ownership of the siting process.
    - Develop a collaborative process that respects different perspectives and gives ear to concerns.
    - Respect environmental and cultural concerns not covered by the NEPA process.
- **Acceptable Line Routes:** Develop line routes for the Boardman to Hemingway 500 kV transmission line that are acceptable to the public at-large and adhere to NEPA and Oregon EFSC siting principles.
    - Ensure that committee representation is broad enough that all key stakeholders are involved.
    - Include appropriate government agencies at both the state and federal level.
    - Ensure that the public process is run such that it does not violate any principles associated with the NEPA siting process.
    - Develop a collaborative process that promotes cooperation between the counties and cities through which the transmission line must cross
- **Project Cost:** Minimize project cost increases due to line route changes.
    - Propose line routes that do not significantly add to the cost of the Boardman to Hemingway project cost
    - Propose substation costs that do not significantly add to the cost of the project.
- **Reliability:** Ensure that recommended routes adhere to Idaho Power's reliability criteria and serve the line's purpose.

Community Advisory Process

Idaho Power initiated the Community Advisory Process (CAP) to build public support for an informed decision on the location of the Boardman to Hemingway transmission line. The comprehensive public process demonstrated Idaho Power's commitment to taking community issues and concerns into account throughout each step of the siting process.

Idaho Power began the Community Advisory Process in May 2009 by forming Project Advisory Teams in each geographic area of the project. The work completed by these teams was a key part of the process. Community members who chose to participate on a Project Advisory Team devoted an extensive amount of time to reviewing information about the siting process and discussing community issues.



Community Advisory Process (Detailed flowchart available in Appendix A)

Identify issues and concerns: Through the Project Advisory Teams and public meetings, community criteria were developed in each region for evaluating possible routes. The community criteria were integrated with regulatory requirements to give a more holistic, community centered evaluation methodology for the line route.

Develop a range of possible routes that address community issues and concerns: Once team members had a thorough understanding of the routing criteria and how these criteria would be applied, they worked with technical experts to recommend a proposed route and alternate routes for the transmission line. Routes not meeting the regulatory and community criteria were removed from consideration.

Recommend proposed and alternate routes: Using the routes identified in the mapping sessions, a proposed route was identified which will be carried through the federal and state permitting processes.

Follow through with communities during the state and federal permitting process: Idaho Power will continue to communicate with communities throughout the federal and state review processes. A final location will not be determined until the federal and state review processes are complete.

Idaho Power and RBCI, Idaho Power's public involvement consulting firm, strategized a series of actions to accomplish each objective of the Community Advisory Process. The following section of this document:

- Outlines how and why the Community Advisory Process was developed.

- Identifies the four steps of the Community Advisory Process.
- Explains strategic actions that were taken to build public trust and engage community members in siting a proposed route.
- Describes how each outcome of these actions contributed to a successful, comprehensive public process.

Project Advisory Team Formation

In April and May 2009, Idaho Power and RBCI conducted a series of one-on-one meetings with community members throughout the project area. Interviews were conducted with elected officials, business owners, Boardman to Hemingway opposition groups, landowners, environmental groups and concerned community members. Questions that were asked during the one-on-one meetings are available in Appendix B.

During these initial meetings participants were asked to join a Project Advisory Team and/or recommend other potential members. When the one-on-one meetings concluded, Idaho Power developed a list of stakeholders and sent invitations to the first series of Project Advisory Team meetings to those community members who indicated they wanted to participate.

Project Advisory Team members generally included elected officials, property owners and residents within each geographic area. In addition, representatives from economic development organizations, irrigation districts, businesses, community organizations, resource agencies and advocacy groups were asked to participate.

The South PAT included representatives from the following counties:

- Malheur County
- Harney County
- Grant County
- Owyhee County
- Canyon County
- Payette County
- Washington County

The Central PAT included representatives from the following counties:

- Baker County
- Union County

The North PAT included representatives from the following counties:

- Morrow County
- Umatilla County

Idaho Power invited community leaders from Grant and Harney counties to participate in the Community Advisory Process in spring 2009. Community leaders attended the Central and

South PAT meetings and informed Idaho Power they would become more involved in the Community Advisory Process if the North, South or Central teams developed routes that affected their counties.

Later in the process, team members from the North, South and Central areas did ask Idaho Power to evaluate possible routes in Grant and Harney County. As a result, Idaho Power developed project advisory teams in both counties in fall 2009.

During the first meeting in each geographic area, Idaho Power also asked team members to identify who was missing from each Project Advisory Team. Idaho Power reviewed these suggestions and added members to the project advisory teams.

Throughout the Community Advisory Process, if a new person attended a Project Advisory Team meeting, they were considered a team member and began receiving invitations to following meetings. Idaho Power did not limit attendance at Project Advisory Team meetings.

Community Advisory Process Step #1

Action: Develop community criteria

Idaho Power hosted the first series of Project Advisory Team meetings to identify community issues and concerns about the Boardman to Hemingway Transmission Line project. The purpose of these meetings was to:

- Review work to date, project status and how the Community Advisory Process would proceed.
- Discuss the purpose and need for the Boardman to Hemingway Transmission Line Project.
- Ask for community concerns and suggestions for siting the transmission line.

Meetings Dates and Locations

South Project Advisory Team – May 21, 2009, Ontario, Oregon
North Project Advisory Team – May 29, 2009, Boardman, Oregon
Central Project Advisory Team – June 4, 2009, Baker City, Oregon
Harney County Project Advisory Team – November 4, 2009, Canyon City, Oregon
Grant County Project Advisory Team – November 5, 2009, Burns, Oregon

At the first series of meetings Senior Vice President of Delivery, Dan Minor, and Vice President of Engineering and Operations, Lisa Grow, welcomed team members. The Boardman to Hemingway project team then presented information about the background, status and purpose of the project.

After the Idaho Power presentations, the meeting attendees were divided into working groups. The purpose of the working group discussions was to identify community concerns and suggestions for siting the transmission line. The community members worked independently with third-party facilitators. Afterwards, Idaho Power representatives joined the groups to answer questions. Working groups were limited to 15 to 20 members.

During the first set of Project Advisory Team meetings the concerns most often raised by community members included:

- **Disruption to agriculture and farming.** Specific comments included:
  - Exclusive Farm Use (EFU) land should be protected.
  - The transmission line could reduce farming efficiency and productivity.
  - The transmission line could adversely affect irrigation infrastructure.

- **Honesty and credibility of Idaho Power.** Specific comments included:
    - Some property owners do not trust Idaho Power.
    - Some community members were concerned that Idaho Power would not use their input.
- **Property values.** Specific comments included:
    - Placing the transmission line on farmland will decrease property value
    - The transmission line will destroy future land development
- **Negative impacts to scenic beauty and wildlife.** Specific comments included:
    - The view shed from the Oregon Trail Interpretive Center should remain unobstructed. Scenic areas should be taken into consideration when siting the line.
    - Sage grouse would be affected.
- **Relationship between this line and other utility projects planned for the Morrow County area.** Specific comments included:
    - Multiple other transmission lines are planned for the area.
    - Idaho Power should coordinate with the other utilities that are proposing transmission lines in the area.
    - Uncertainty of where the substation will be located.
    - The line will encourage many spin-offs (lines from smaller electrical companies and/or wind farms).

Suggestions from community members on where to site the transmission line included:

- **Avoid Exclusive Farm Use (EFU) land in Oregon and irrigated farmland in Idaho.**
- **Take view sheds into consideration.**
- **Avoid building the line anywhere near the Oregon Trail Interpretive Center.**
- **Use existing energy corridors.**
- **Avoid water resources and wetlands.**
- **Site the line on public and federal land.**
- **Avoid historic landmarks.**
- **The line should follow I-84.**
- **Avoid new growth and city impact areas.**
- **Shadow an existing line.**
- **Follow land boundaries as much as possible.**
- **Avoid urban areas, children, and schools.**
- **Consider wildlife areas.**

Outcome

Idaho Power recorded concerns and suggestions identified by community members and developed them into *community criteria* for each region. Project Advisory Teams later used these community criteria, along with environmental, engineering and regulatory criteria to develop a range of possible routes for the transmission line. See Appendix C for community criteria from all five regions.

Action: Provide thorough information about purpose and need for the project

During the first South and Central Project Advisory Team meetings, team members expressed concern about the purpose and need of the proposed transmission line and requested that Idaho Power hold meetings to further discuss this subject. To address this concern Idaho Power hosted an informal meeting to:

- Present information about the status, purpose and need of the Boardman to Hemingway Transmission Line Project.
- Answer questions and discuss concerns with Project Advisory Team members.

Meeting Dates and Locations

South Project Advisory Team – July 8, 2009, Ontario, Oregon
Central Project Advisory Team – July 8, 2009, Baker City Oregon

Idaho Power's Manager of Power Supply Planning, Mark Stokes, and Manager of Delivery Planning, Dave Angell, attended these meetings to present information and answer questions from PAT members.

Outcome

Team members were provided in-depth information about the purpose and need of the project and all questions were answered. Once team members had a better understanding of why the transmission line project was needed, they were more willing to work with Idaho Power to find an acceptable location for the line.

Action: Provide thorough information to community members about regulatory and engineering criteria

The purpose of the second set of Project Advisory Team meetings was to provide team members a better understanding of:

- The federal, state and public processes involved in the project.
- The regulatory and engineering criteria that would be used to develop routes for the transmission line.
- The requirements and regulations the project would have to meet.

Meeting Dates and Locations

South Project Advisory Team – July 28, 2009, Ontario, Oregon
Central Project Advisory Team – July 29, 2009, Baker City, Oregon

North Project Advisory Team – July 30, 2009, Hermiston, Oregon
(No panel discussion was held for the Grant County or Harney County Project Advisory Teams. For these two teams, the information about regulatory criteria review processes was included in their first meeting.)

Identifying a route involves multiple processes and jurisdictions, agencies and communities. To help team members better understand how the review processes for permitting would proceed, Idaho Power and RBCI, Idaho Power's public involvement firm, developed a siting process background paper that outlined the federal, state and public processes and addressed key issues that may arise as the processes work together. Idaho Power and Tetra Tech, Idaho Power's environmental consulting firm, also developed material to help team members fully understand the regulatory, environmental and engineering criteria that would later be used to develop possible routes.

The materials were distributed to team members in advance of the second set of meetings. These materials included:

- Siting process background paper
- Routing consideration definitions
- Preliminary list of exclusion, avoidance and placement opportunities
- Routing criteria table
- Regulatory framework table

Regulatory criteria materials are available in Appendix D.

Community criteria that were developed from the concerns and suggestions submitted at the first series of Project Advisory Team meetings were also presented to team members for review and comment. All comments submitted by team members at these meetings were incorporated into the community criteria.

Representatives from the Bureau of Land Management, Oregon Department of Energy-Energy Facility Siting Council, U.S. Forest Service and Oregon Department of Fish and Wildlife attended the second series of meetings to participate in an informative panel discussion and present their agency's review processes.

Each panelist gave a presentation that outlined their agency's review process and addressed key issues that could arise as the processes worked together. Project Advisory Team members were given the opportunity to ask questions about the regulatory criteria that would be used during the siting process.

Outcome

It was important to give team members thorough information about the regulatory, environmental and engineering criteria before they began developing routes. The information provided by the panelists from the resource agencies helped team members recognize that the permitting and review processes for siting a transmission line are complex and involve multiple requirements, jurisdictions, agencies and communities.

The panel discussion provided team members with an opportunity to learn more about regulatory criteria and ask questions directly of the federal and state agencies involved with authorizing the Boardman to Hemingway Transmission Line Project.

Between May and August of 2009 the Project Advisory Teams:

- Reviewed and discussed the purpose and need for the project.
- Documented the criteria important to communities when identifying potential routes.
- Reviewed and discussed regulatory and engineering criteria that must be considered when identifying potential routes.

Action: Hold public meetings to present the project and routing criteria to the public

In August 2009, seven public meetings were held in the North, Central and South advisory areas. Public meetings were held in Grant and Harney counties in fall 2009. The open houses were intended to give an overview of the project, share the outcomes of the Project Advisory Team meetings and allow community members to ask questions and provide input on regulatory, engineering and community criteria for siting the transmission line.

The public meetings were held after Project Advisory Teams met twice to formulate community criteria for siting routes for the proposed transmission line. Idaho Power consulted Project Advisory Team members when organizing the first set of public meetings. At a planning meeting in July, team members discussed preferred times, dates, locations and notification processes for the public meetings. They also discussed what information should be presented at the public meetings.

Based on input from the teams, the public meetings were scheduled from 4 p.m. to 8 p.m. in seven locations:

- *Central Advisory Area:* Baker City, Oregon on Aug. 12; La Grande, Oregon on Aug. 13
- *North Advisory Area:* Pilot Rock, Oregon on Aug. 19; Boardman, Oregon on Aug. 20
- *South Advisory Area:* Parma, Idaho on Aug. 25; Marsing, Idaho on Aug. 26; Ontario, Oregon on Aug. 27

A total of 88,520 invitations were mailed to residents in the project area in Oregon and Idaho.

- *Central advisory area:* 19,602 invitations
- *North advisory area:* 28,573 invitations
- *South advisory area:* 40,345 invitations

Invitations were also mailed to a stakeholder database of Idaho Power and Oregon Department of Energy contacts. This database includes 2,766 elected officials, individuals living outside the project area, and people involved in the 2008 federal and state review processes.

Another 1,815 invitations were mailed to individuals on the BLM mailing database, which includes the agency's cooperating agencies list, BLM National Environmental Policy Act notifications list, scoping participants and other BLM contacts.

Electronic copies of the public meeting invitations were sent to individuals on the BLM mailing database, as well as the Oregon Department of Energy and Idaho Power combined stakeholder database. A total of 1,050 invitations were e-mailed to the contacts on these lists.

When the South, Central and North Project Advisory Team members identified possible routes in Grant and Harney counties, a series of public meetings were held in these areas in these areas. The public meetings were scheduled from 4 p.m. to 7 p.m. in two locations:

- *Grant County:* John Day, Oregon on Oct. 21, 2009
- *Harney County:* Burns, Oregon on Oct. 22, 2009

A total of 8,137 invitations were mailed to residents in Grant and Harney counties.

Outcome

A total of 501 people attended the August 2009 Community Advisory Process public open houses and 171 comments were submitted. An additional 106 people attended the fall 2009 meetings in Grant and Harney counties and 41 comments were submitted.

Comments submitted at the public meetings indicated the public generally agreed with the project advisory teams and the criteria that would be used to site the transmission line.

Community Advisory Process Step #2

Action: Mapping workshops

In fall 2009 a series of mapping workshops were held throughout the project area to identify a range of possible routes for the Boardman to Hemingway Transmission Line. The mapping workshops began with an evening meeting and ended with a drop-in mapping workshop the next day. Note, for the Grant and Harney PATs, the evening meeting and drop in mapping workshop were combined into a single session.

Meeting Dates and Locations

Central Project Advisory Team – Sept. 16 and 17, 2009, Baker City, Oregon
North Project Advisory Team – Sept. 23 and 24, 2009, Boardman, Oregon
South Project Advisory Team – Sept. 30 and October 1, 2009, Ontario, Oregon
Harney County Project Advisory Team – Nov. 18, 2009, Burns, Oregon
Grant County Project Advisory Team – Nov. 19, 2009, Mount Vernon, Oregon

The purpose of the evening meeting was to prepare team members for the mapping workshop. At the evening meeting team members:

- Received instruction on how the mapping workshop would proceed.
- Reviewed the regulatory, engineering and community criteria that would be used to map possible routes for the proposed transmission line.
- Learn about the Geographic Information System (GIS) that would be used during mapping.
- Reviewed the outcomes of the seven public meetings held in August.

The all day, drop-in mapping workshop was divided into three sessions to make the best use of attendees' time. Team members had the choice of mapping their routes on paper maps or working with GIS operators to lay out routes at computer stations. The GIS contained regulatory, environmental and engineering data, such as environmental constraints, land-uses and existing utility corridors. Idaho Power staff and technical experts from other organizations were available to answer questions. County planners from each county in the project area also attended the mapping workshop.

Idaho Power kept a detailed record of all routes developed by team members. Additionally, team members were asked to provide a written description and comments for each route they identified. The written comments provided by team members documented the location and

reasoning behind each route. Throughout the route analysis, technical analysts referred to these comments to ensure the community criteria were upheld.

Outcome

Overall, the five Project Advisory Teams developed a total of 49 routes or route segments. The routes provided valuable information about areas the community felt should be avoided and areas that should be considered placement opportunities. A map of the routes developed by the project advisory teams is available on page 23.

After the mapping session, Idaho Power analyzed each route using regulatory, engineering and community criteria. The goal of the analysis was to find several cost-effective, reasonable routes that could be permitted and built.

Action: Provide information about the Oregon Department of Energy's Project Order and analysis of routes east of Boise

Members of the South PAT requested a special session to discuss the Oregon Energy Facility Siting Council's Project Order and also to hear from Idaho agencies about routing issues specific to the state of Idaho. Idaho Power invited the ODOE Project Manager, Adam Bless, to attend this meeting and discuss these issues and answer questions. In addition to the requested topics, Idaho Power discussed issues surrounding routing to the east of Boise. This meeting was held in Parma, Idaho, on Nov. 30, 2009.

Project Order – In the Oregon Energy Facility Siting Council process, after a project proponent has submitted a Notice of Intent describing the project, the Oregon Department of Energy issues a Project Order. The Project Order identifies applicable statutes, rules and ordinances and defines the impact analysis areas. In the Project Order issued for the Boardman to Hemingway project in January 2009, there were references to land classified as Exclusive Farm Use in Oregon. Some confusion existed as to the meaning of these references. Idaho Power invited the ODOE Project Manager, Adam Bless, to attend this meeting and discuss these questions.

East of Boise Routing – One of the issues Idaho Power evaluated after the mapping workshops was routes the communities had recommended that went to the east of Boise. Analysis by Idaho Power Delivery Planning indicated that the routes to the east of Boise would result in a significant increase in the scope and risk of the Boardman to Hemingway project because it would essentially join the Boardman to Hemingway project to the Gateway West Transmission Project.

Outcome

Questions about the Project Order were answered and information about statues in the Project Order was clarified. The team members were presented the analysis of the routes east of Boise. After explaining the analysis Idaho Power informed team members that it would not be willing to build the routes to the east of Boise. See Appendix E for a more detailed description of the east-of-Boise analysis.

Action: Analysis of routes developed by the Project Advisory Teams

Between September and December 2009, engineers from Idaho Power and staff from Tetra Tech, Idaho Power's environmental consulting firm, recorded and labeled all routes developed by community members. They analyzed each route using regulatory, engineering and community criteria and determined the opportunity, avoidance and exclusion areas crossed by each route. The routes were then revised to avoid environmental and engineering constraints, while also keeping community criteria in consideration. Detailed information from the route analysis is available in Appendices F and G.

The range of revised routes was presented to the Project Advisory Teams in December 2009 at the fourth series of Project Advisory Team meetings. A map of the revised routes is available on page 24.

Meeting Dates and Locations

South Project Advisory Team – Dec. 8, 2009, Ontario, Oregon
North Project Advisory Team – Dec. 9, 2009, Boardman, Oregon
Central Project Advisory Team – Dec. 17, 2009, Baker City, Oregon
Grant County Project Advisory Team – Jan. 19, 2010, Canyon City, Oregon
Harney County Project Advisory Team – Jan. 20, 2010, Burns, Oregon

After the fourth series of meetings Tetra Tech continued to analyze each revised route for the following factors:

- Permitting difficulty – Community criteria and relative difficulty of gaining necessary permits from the federal, state and local governments.
- Engineering criteria – The relative difficulty associated with building the line in a given route. Considerations include terrain, road construction, clearing, equipment movement and accessibility.
- Mitigation cost – The relative cost associated with mitigation actions required by permitting authorities necessary to permit a route.

During the analysis, Tetra Tech divided the project area into 14 regions, which are listed below. The routes in each region were evaluated for difficulty of permitting, constructability and mitigation costs. After these three factors were determined for each route, the routes in each region were compared and the most reasonable route for each region was identified. Regional analysis tables are available in Appendix G.

Blue Mountain	Boardman	Burnt River
Interpretive Center	Ione	Lime
Onion Creek	Pilot Rock	Snake River Valley
Southwest Region	Umatilla National Forest	Weatherby
West of FS Utility	West of Vale	

Outcome

From the analysis three route alternatives were determined to be reasonable. These three routes were labeled the eastern route alternative, central route alternative and western route alternative.

A map of the three route alternatives is available on page 25. Below is a brief description of each route alternative:

Western Route Alternative

The western route alternative was 275 miles long, making it the shortest of the three alternative routes. However, the western route alternative would require creating the most amount of new transmission line corridor.

The western route alternative required crossing high-quality streams, rugged terrain, and two national forests that do not have any existing utility corridors. Throughout the analysis, Idaho Power consulted with resource agencies and learned that the Forest Service would be required to accept an application from Idaho Power for any of its routes under their Federal Land Policy and Management Act and other regulations. Idaho Power determined it would have been unlikely for the Forest Service to approve a new corridor through a national forest if the corridor through the Wallowa-Whitman National Forest still has capacity for transmission lines.

Central Route Alternative

The central route alternative was 284 miles long, and required crossing more rugged terrain and streams than the western route alternative. The main difference between the western alternative and the central alternative was that the central alternative was located within the Baker Valley. The central route alternative also had a very high level of construction difficulty.

Eastern Route Alternative

The eastern route alternative was the longest of the three proposed alternative routes by approximately 25 miles. The eastern route alternative ran parallel to I-84 for 44 miles and also ran parallel to existing transmission lines for 111 miles.

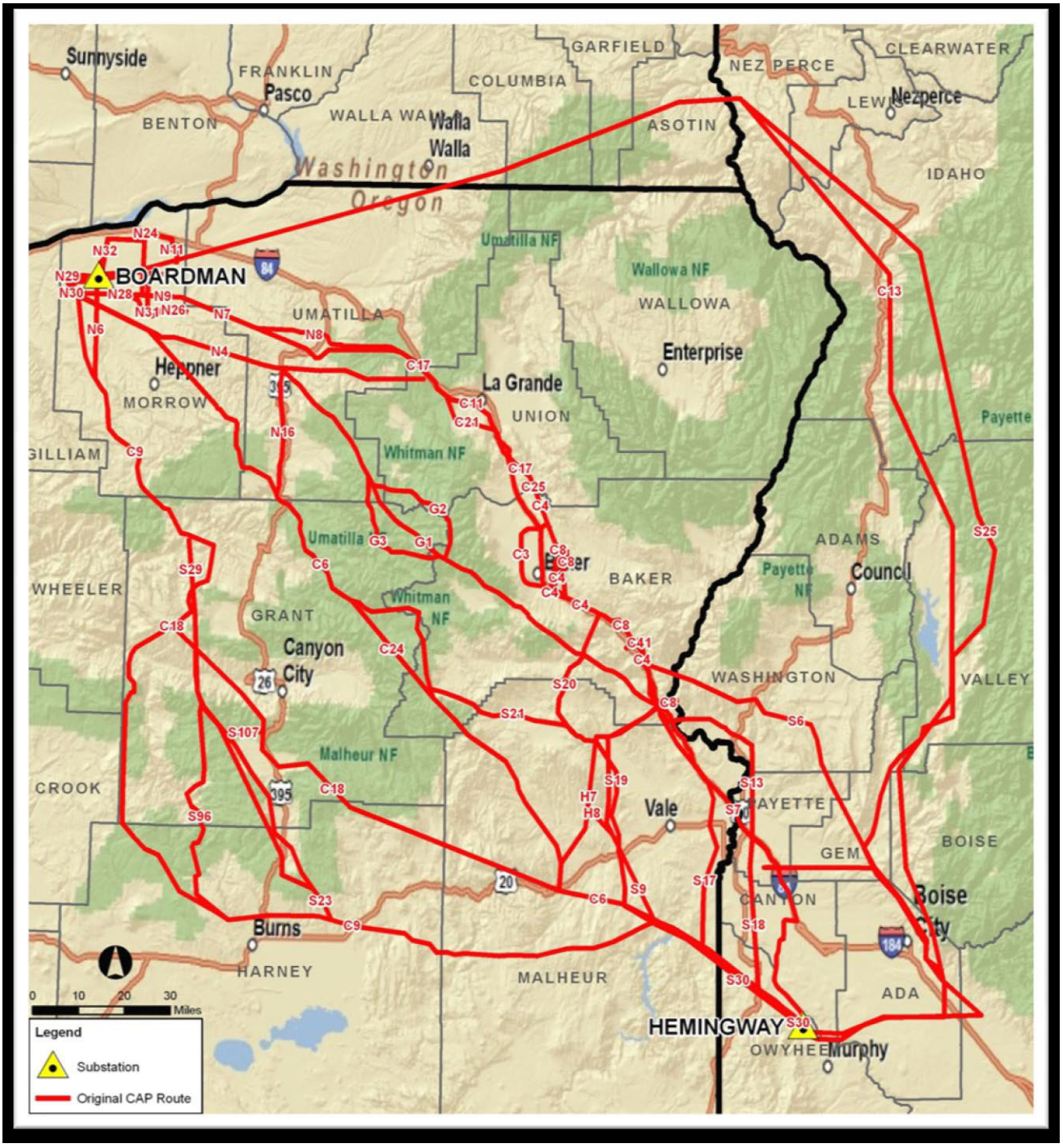
The eastern route alternative required the least amount of new corridor (188 miles) and would be the least difficult route to construct. However, a disadvantage of the eastern route alternative was that it could create concerns around the National Historic Oregon Trail Interpretive Center.

Action: Review possible routes and discuss options for alternate routes in Idaho

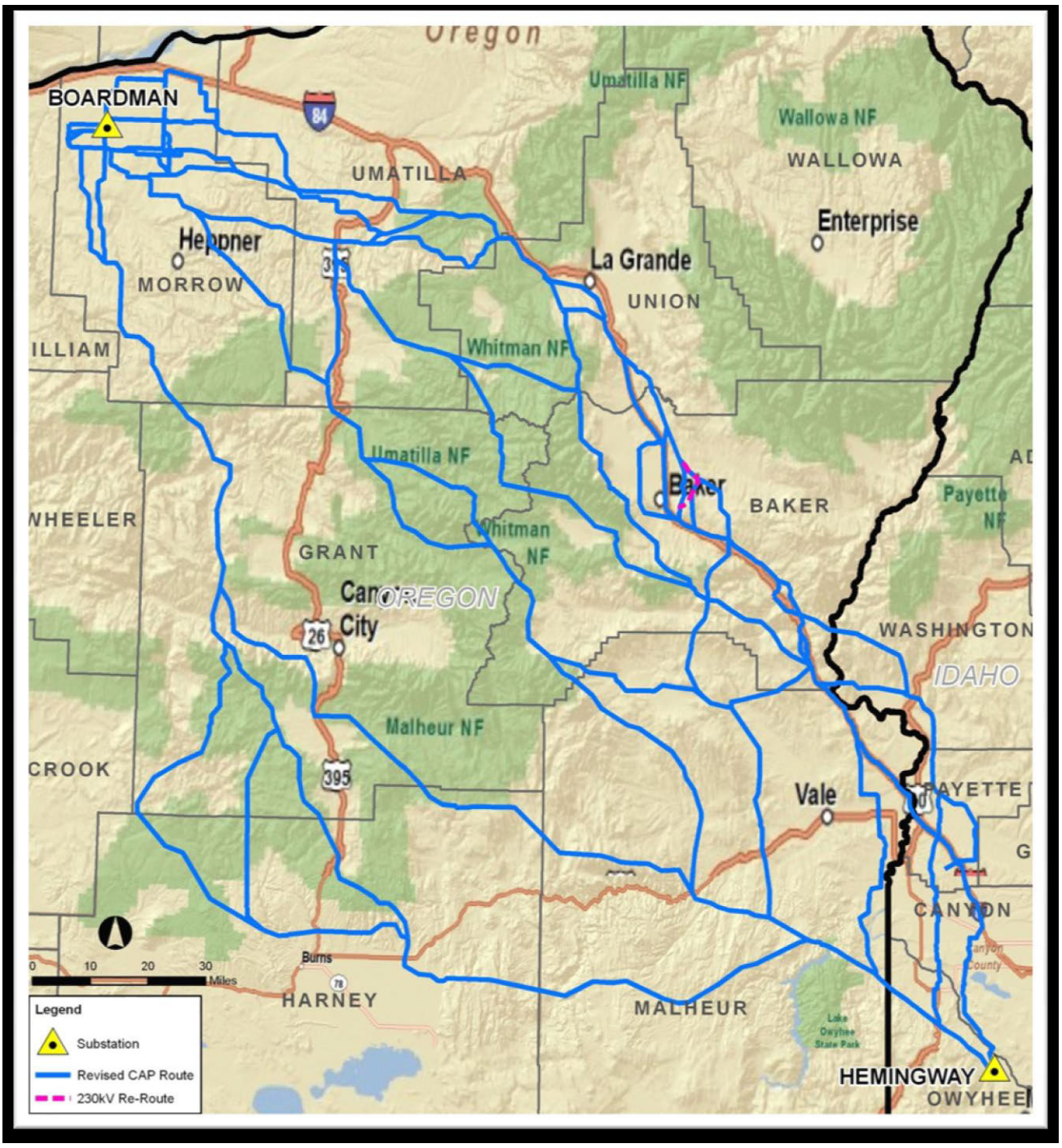
At the suggestion of some team members, Idaho Power invited the South Project Advisory Team members from Idaho to a special session to discuss the potential for routing more of the transmission line through Idaho. The Idaho members were provided with GIS capability to evaluate the regulatory and community criteria that were at issue with routing through Canyon and Payette counties in Idaho.

Outcome

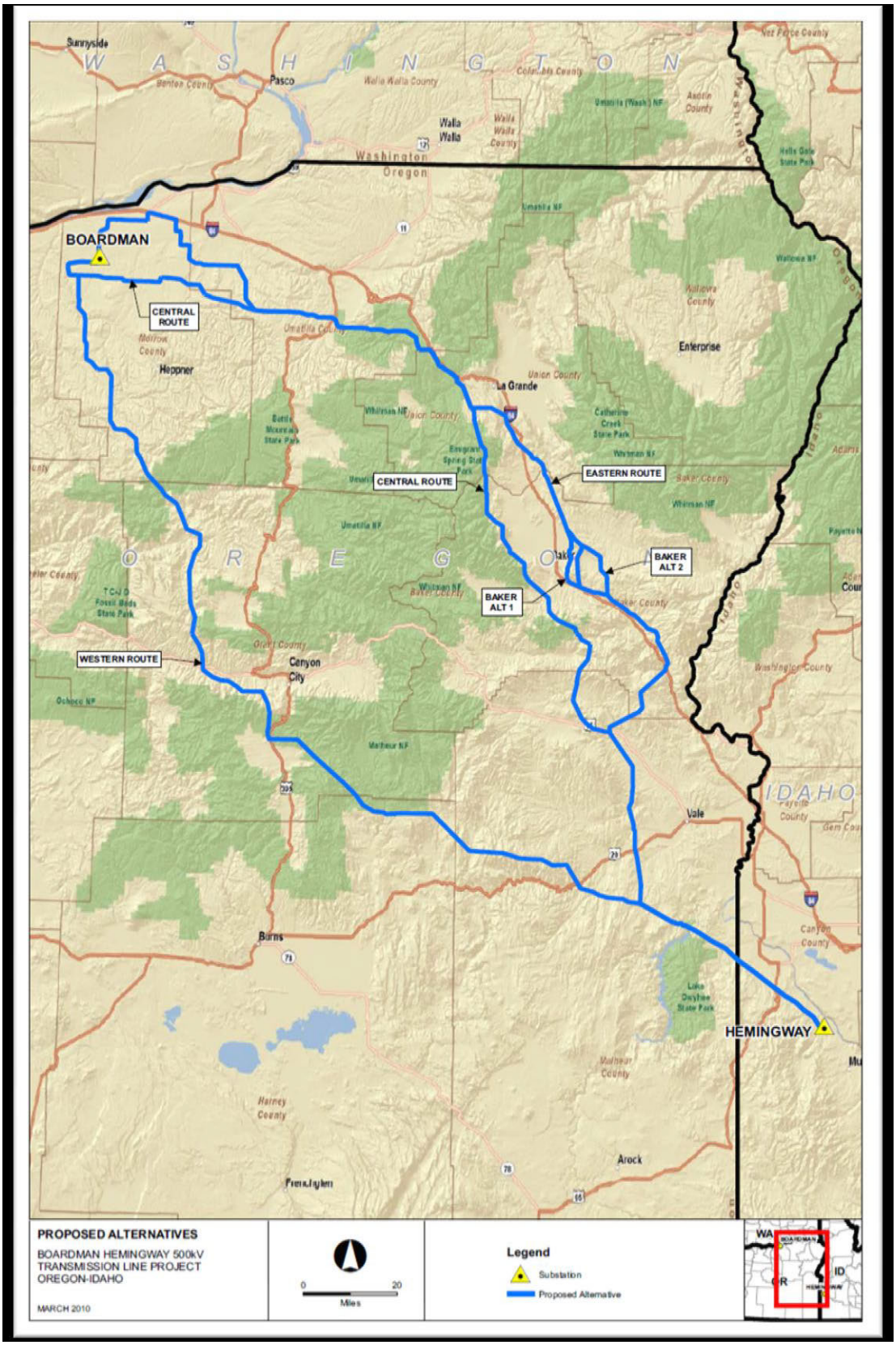
After evaluation, the Idaho Project Advisory Team members could find no additional routes in Idaho that would not violate the community criteria that were developed by the South Project Advisory Team.



Routes Developed by Project Advisory Teams

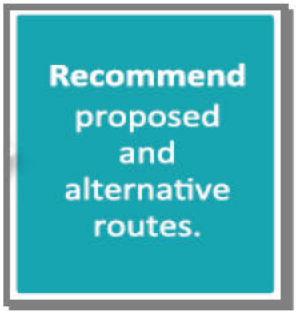


Revised Routes Resulting from Technical Analysis



Eastern, Central and Western Route Alternatives

Community Advisory Process Step #3



Action: Present analysis of routes to Project Advisory Team members and gather input

At the fifth set of Project Advisory Team meetings Idaho Power presented the analysis of the eastern, central and western route alternatives.

Meeting Dates and Locations

Grant County Project Advisory Team – March 2, 2010, Canyon City, Oregon
Central Project Advisory Team – March 3, 2010, Boardman, Oregon
North Project Advisory Team – March 4, 2010, Baker City, Oregon
South County Project Advisory Team – March 9, 2010, Canyon City, Oregon
Harney County Project Advisory Team – March 10, 2010, Burns, Oregon

At this series of meetings team members were given the opportunity to give input on the route alternatives and a possible proposed route. A series of five comment forms were provided to team members at the meeting. Questions on the comment form were intended to measure:

- The level of support for each route (western, south or central).
- What PAT members liked and disliked about each route.
- Whether any of the three route alternatives would be supported by the public as a proposed route.
- Whether there was a route that had not been considered in the analysis.

Team members were encouraged to complete the comment forms and return them to Idaho Power before March 25, 2010. Some team members wrote letters or e-mails rather than filling out comment forms. In all, Idaho Power received nearly 400 comments. All comments were documented as completely and accurately as possible.

Outcome

As the comments were being reviewed, the following themes emerged:

- Support was divided between the western and eastern routes.
- Fewer people supported or opposed the central route.

- Community members did not identify another complete route between Boardman and Hemingway that should have been considered along with the western, central and eastern routes.

Once all comments were documented and reviewed, Idaho Power selected the eastern route alternative as the proposed route based on a variety of factors such as:

- Regulatory criteria from the BLM, Forest Service, Oregon Department of Energy, Oregon Department of Fish and Wildlife and Idaho Department of Fish and Game
- Results of the technical analysis of the three proposed route alternatives and segments
- Community criteria
- Difficulty of construction
- Placement opportunities and avoidance and exclusion categories
- Mitigation costs were considered, but did not impact the decision

Action: Present the proposed route to Project Advisory Team members for comment

In spring 2010 Idaho Power hosted a final series of Project Advisory Team meetings.

Meeting Dates and Locations

South Project Advisory Team – April 27, 2010, Ontario, Oregon
North Project Advisory Team – April 29, 2010, Boardman, Oregon
Central Project Advisory Team – May 5, 2010, Baker City, Oregon
Grant County Project Advisory Team – May 6, Mount Vernon, Oregon

The purpose of the final series of meetings was to:

- Present the proposed route Idaho Power would be submitting in its revised applications to the federal and state siting processes.
- Discuss how and why the proposed route was selected.
- Discuss next steps in the siting process.

At these meetings Idaho Power explained it would host several Community Advisory Process public open house meetings throughout the project area in summer 2010 to present and gather input on the proposed route. Idaho Power also explained that it had submitted its revised SF-299 application to the BLM to restart the NEPA process.

Outcome

The following input was provided about the proposed route at the last set of Project Advisory Team meetings:

- The South Project Advisory was not opposed to the proposed route and said the route would be supported by communities as long as it stays off of Exclusive Farm Use land in Oregon and irrigated farmland in Idaho. The South Project Advisory Team also

recommended the route be moved farther away from the National Oregon Trail Interpretive Center in the Baker City area.

- The Central Project Advisory Team was concerned that the proposed route was still too close to the National Oregon Trail Interpretive Center. In response, Idaho Power developed another alternate route that would go three miles to the east of the Interpretive Center. However, this alternate route may be difficult to permit due to wildlife areas (i.e., sage grouse leks).
- The North Project Advisory Team supported the proposed route, but had concerns about the alternate route around the bombing range and Nature Conservancy preserve. It is still uncertain whether the U.S. Navy will allow Idaho Power avoid private land by locating the transmission line on the bombing range. Idaho Power is continuing to work on this issue with other utilities that are proposing transmission lines in the Morrow County area.
- The Grant County Project Advisory Team was supportive of the proposed route because it follows the I-84 corridor. Although the proposed route does not go through Grant County, Idaho Power encouraged the residents of Grant County to stay involved in the federal and state review processes.

All four Project Advisory Teams requested that Idaho Power keep them involved throughout the federal and state review processes.

Action: Present proposed route to the public and begin meeting with affected property owners and stakeholders

After submitting applications to federal and state agencies to begin the review processes, Idaho Power hosted a series of six public open houses throughout eastern Oregon and southwestern Idaho. Public open houses were held in:

- *Brogan, Oregon* – July 13, 2010
- *La Grande, Oregon* – July 14, 2010
- *Marsing, Idaho* – July 15, 2010
- *Baker City, Oregon* – July 20, 2010
- *Pilot Rock, Oregon* – July 21, 2010
- *Boardman, Oregon* – July 22, 2010

A total of 366 affected landowners who lived within 2,000 feet of the proposed and alternate routes were sent a personal notification letter to let them know the transmission line would cross or come near their property. Postcard invitations were also mailed to over 7,600 people that either participated on a Project Advisory Team, attended an August 2009 public meeting, or had participated in the 2008 federal and state review process for the original route. The purpose of the public open houses was to:

- Present the proposed route and provide information about the project.
- Give key stakeholders and property owners the opportunity to learn about the transmission line project.

- Give impacted property owners along the proposed route the opportunity to meet Idaho Power.
- Begin discussions with property owners that may be willing to negotiate easements.
- Ensure all affected property owners are aware of the proposed route by conducting a parcel-level notification process.
- Continue to build relationships with communities outside the permitting process.

Outcome

The public open houses made the communities aware of the Boardman to Hemingway project before the federal and state agencies began gathering public input for their review processes. The public open houses gave Idaho Power the opportunity to specifically meet with those property owners who did not participate in the Community Advisory Process and were unfamiliar with the transmission line project.

Overall, 220 people attended the public open houses and Idaho Power was able to meet one-on-one with 50 affected property owners that lived along the route. From the comments collected, Idaho Power was able to begin setting up meetings with property owners to discuss the right-of-way process and easement options.

Community Advisory Process Step #4

As a result of the Community Advisory Process, Idaho Power was able to develop a proposed route that has relatively strong support from communities in the project area. Idaho Power submitted its proposed route to federal and state agencies in July 2010 and will continue to keep communities involved throughout the siting process.

The Bureau of Land Management, U.S. Forest Service and Oregon Department of Energy – Energy Facility Siting Council will conduct thorough review processes and may make changes to the route. The line cannot be constructed until permits have been obtained from federal and state agencies.

To meet engineering and design requirements, Idaho Power will likely make adjustment to the route throughout the siting process. Idaho Power will work one-on-one with landowners to determine where the line will be sited on private land. Idaho Power has a long history of working collaboratively with property owners to ensure equally satisfactory terms are reached between both parties. Easement compensation, terms and conditions will be negotiated individually with each property owner.

Conclusion

As a result of the Community Advisory Process, Idaho Power was able to develop a proposed route that has relatively strong support from communities in the project area. Idaho Power submitted its proposed route to federal and state agencies in July 2010 and will continue to keep communities involved throughout the siting process.

Through the Community Advisory Process Idaho Power was able to:

- Develop a proposed route that is, generally, supported by the public.
- Build trust with affected communities.
- Educate the public about complex information related to the siting process (i.e., regulatory criteria, federal and state review processes).
- Effectively engage the public in the siting process.

A key component of the Community Advisory Process was listening to community concerns and developing these concerns into a set of criteria that was placed on the same level of importance as regulatory and engineering criteria. For community members to understand why the transmission line could not be located in certain locations, and why other locations were preferred, Idaho Power provided thorough information about the complexities of siting a transmission line (i.e., regulatory criteria, environmental constraints and multiple permitting review processes).

The overall success of the Community Advisory Process was based on providing stakeholders effective mechanisms that ensured they were appropriately informed, their views were heard and that they had the opportunity to influence the decisions that affected them. Through the Community Advisory Process, Idaho Power was able to rebuild public trust and establish a working relationship with communities and individuals affected by the route.

Maintaining the relationships that were developed through the Community Advisory Process will result in support for the Boardman to Hemingway project as it continues to move forward in the siting process.

Idaho Power/1003
Witness: Jake Weigler

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket PCN 5

In the Matter of

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

Metadata for EJ Communities Mapping

February 21, 2023

Environmental Justice GIS Analysis Source Data and Metadata

1. Low Income
    a. EPA EJScreen showing the percent of individuals in a block group who list their racial status as a race other than white alone and/or list their ethnicity as Hispanic or Latino. That is, all people other than non-Hispanic white-alone individuals. The word "alone" in this case indicates that the person is of a single race, not multiracial.
2. People of Color
    a. EPA EJScreen showing the percent of individuals whose ratio of household income to poverty level in the past 12 months was less than 2 (as a fraction of individuals for whom ratio was determined).
3. Low Income and People of Color Combo
    a. Overlay of two EPA EJScreen categories.
4. Tribal
    a. Tribal Lands extracted from statewide data compiled by the Oregon Department of Forestry. https://oregon-department-of-forestry-geo.hub.arcgis.com/search?tags=boundary
5. Rural Zip Code
    a. Utilized the Urban/Rural designations for each county in Oregon as identified by the Oregon Office of Rural Health. https://www.oregon.gov/oha/HSD/AMHPAC/Documents/OR-Zip-Codes-Urban-Rural-Designations.pdf
6. Rural Census Based
    a. From the Federal Register Federal Register / Vol. 87, No. 57 / Thursday, March 24, 2022. An area will qualify as urban if it contains at least 2,000 housing units or has a population of at least 5,000.
    b. Utilized Oregon.Gov Open Data Portal layer for Urban Growth Boundaries to give spatial definition to cities with over 5,000 people. All other areas are considered rural. https://data.oregon.gov/dataset/Urban-Growth-Boundaries/652w-9hjf
7. Population Density
    a. NASA Socioeconomic Data and Applications Center. 2020 Population Density Model: https://sedac.ciesin.columbia.edu/data/set/gpw-v4-population-density-rev11
8. Public Meeting Distribution
    a. Tabular data from Idaho Power document “CPCN - Staff Data Request No. 24 - Attachment 2 - 2009-2021 B2H Outreach Summary” mapped by city location.

EPA EJScreen Mapping Tool: https://ejscreen.epa.gov/mapper/. Data utilized when “Compare to State” radio button was checked.

EPA EJScreen Metadata: https://www.epa.gov/ejscreen/ejscreen-map-descriptions

Idaho Power/1004
Witness: Jake Weigler

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket PCN 5

In the Matter of

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

EFSC Rebuttal Testimony of Kurtis Funke

February 21, 2023

BEFORE THE ENERGY FACILITY SITING COUNCIL

OF THE STATE OF OREGON

IN THE MATTER OF THE APPLICATION FOR SITE CERTIFICATE FOR THE BOARDMAN TO HEMINGWAY TRANSMISSION LINE	OAH Case No. 2019-ABC-02833

IDAHO POWER COMPANY

REBUTTAL TESTIMONY

OF

KURTIS FUNKE

ISSUES LU-9 AND LU-11

November 11, 2021

Table of Contents

Attached Exhibits

- Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit A, Curriculum Vitae of Kurtis Funke

- Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit B, Gibbings, et al., Assessing the Accuracy and Integrity of RTK GPS Beneath High Voltage Power Lines (2001)

- Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 /Exhibit C, Updated Table 5-7 from Idaho Power's Agricultural Lands Assessment

I. INTRODUCTION

Q. Please state your name, your place of employment, and your position.

A. My name is Kurtis Funke. I am employed with Idaho Power Company ("Idaho Power" or the "Company"), as a Senior Real Estate Specialist.

Q. Please describe your educational and professional experience.

A. I obtained my degree in Drafting and Design from Boise State University in 1995. I have worked in my current role for Idaho Power since 2016, and before that I was a regional manager for a multi-state land title company serving Idaho, Oregon, Montana, Wyoming, and Washington for 19 years. I have held a real estate license in Idaho since 1996, which is currently on inactive status.

I have been active in farming and ranching all of my life and currently own, operate, and manage just under 200 acres of crop-production ground in the Treasure Valley in southwest Idaho and lease another 120 acres of grazing ground in the Treasure Valley. We produce twenty varieties of crops to fulfill seed contracts annually ranging from ancient grain to flowers, vegetables and alfalfa. We currently raise cattle and have a lot of experience with general agricultural practices.[1]

Q. Please explain your qualifications and experience relevant to the agricultural impacts issues in this contested case.

A. I personally farm directly under and around an Idaho Power transmission line on part of my property. I use global positioning system ("GPS") real time kinematics receiver on my tractors in close proximity to the Idaho Power transmission lines and structures, and rely

[1] Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit A, Curriculum Vitae of Kurtis Funke.

on satellite communication to control and reliably operate my pivots for irrigation and chemigation close to the same transmission lines. Additionally, I have been tasked with easement acquisitions for the Boardman to Hemingway Transmission Line Project ("B2H" or "Project"), and in that role I have become familiar with the route of the proposed line as well as the types of land use, terrain and agricultural practices along the route and project impact areas.

Q. What is the purpose of your testimony in this proceeding?

A. The purpose of my testimony is to provide an overview of Idaho Power's land use evaluation for the Project with respect to agricultural issues.

Q. Did you personally perform the land use analysis for the Company?

A. No. Idaho Power retained the consulting firm SWCA to perform a field study of agricultural uses in the project area and to develop the Agricultural Lands Assessment included with Exhibit K to the Company's Application for Site Certificate ("ASC").

Q. Which contested case issues do you address in your testimony?

A. My testimony addresses two contested case issues addressing Goal 3 agricultural lands:[2]

- *LU-9: Whether Applicant adequately analyzed the risk of wildfires from operation of the proposed transmission lines, especially during "red flag" warning weather conditions, and the impact the proposed transmission lines will have on Mr. Myer's ability to use an aerial applicator on his farmland.*

[2] Eleven contested case issues relating to the Council's Land Use Standard were originally certified; however, the Hearings Officer granted Idaho Power's Motions for Summary Determination on LU-2, LU-3, LU-5, LU-6 and LU-10. *See* Ruling and Order on Motion for Summary Determination of Contested Case Issues LU-2, LU-3, LU-5 and LU-6 (July 21, 2021); Ruling and Order on Idaho Power Company's Motion for Summary Determination on Contested Case Issues FW-9, FW-10, FW-11 and LU-10 (Aug. 17, 2021). Additionally, the only party with limited party status to raise LU-1, Eastern Oregon University, withdrew from this contested case. Acknowledgment of Withdrawal of Limited Party and Contested Case Issues LU-1 and FW-2 (June 29, 2021). Furthermore, because Jim and Kaye Foss did not present direct testimony, new evidence or a proposed site certificate condition pertaining to LU-4, Idaho Power has no testimony, evidence or proposed condition to rebut. *See* Ruling on Idaho Power Company's Motion to Dismiss Issues FW-5, HCA-6, LU-4, LU-7, LU-8, PS-1, PS-5, SS-1, and SS-2, at 13-14 (Nov. 2, 2021). Similarly, because Ms. Irene Gilbert did not submit any direct testimony or new evidence in support of LU-7 and LU-8, Idaho Power has no testimony or evidence to rebut for those issues. *See id.* at 14.

- *LU-11: Whether the impacts from the proposed facility on accepted farm practices and the cost of accepted farm practices have been adequately evaluated or mitigated.*

Q. Regarding LU-9, do you address risk of wildfire or impacts to soils in your testimony?

A. No. My understanding is that Idaho Power is submitting separate testimony from Dr. Christopher Lautenberger that addresses wildfire risks, as well as separate testimony from Mark Madison addressing soils issues.

Q. Please summarize your testimony.

A. In my rebuttal testimony, I first provide a detailed summary of the statutory and regulatory provisions that require Idaho Power to assess potential impacts to accepted farm practices on farmlands surrounding the Project. Next, I summarize Idaho Power's analysis of compliance with the applicable regulatory provisions, and describe in detail the Company's analysis in the Agricultural Lands Assessment and explain how the assessment of potential impacts to farm practices and Idaho Power's proposed mitigation actions ensure that the Project will not force a significant change in or substantially increase the cost of accepted farm practices. Finally, I address the specific assertions that the limited parties raise in their direct testimony regarding LU-11 and LU-9.

II. BACKGROUND

A. Applicable Standards and Rules

Q. Please describe the applicable standards in this contested case governing land use as it relates to agricultural issues.

A. The Energy Facility Siting Council's ("EFSC" or the "Council") Land Use Standard requires the Council to determine that a proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission

("LCDC"), with any land use statutes or LCDC regulations directly applicable to the facility, and with "applicable substantive criteria" from the affected local governments' comprehensive plans and land use ordinances.[3] Similarly, pursuant to ORS 469.504(1)(b)(A), EFSC must find that the Project complies with the statewide planning goals adopted by the LCDC.

Q. Which LCDC statewide planning goals are relevant to your testimony?

A. As relevant to agricultural lands, Statewide Planning Goal 3 is: "To preserve and maintain agricultural lands."[4]

Q. What statutes relating to agricultural lands are directly applicable to the Project?

A. ORS Chapter 215 provides the statewide statutory requirements for land use and development within exclusive farm use ("EFU") zones. ORS 215.283(1)(c) establishes that a "utility facility necessary for public service" is a use permitted in EFU-zoned land subject to compliance with ORS 215.275. Specifically, ORS 215.283(1) provides, in relevant part:

> (1) The following uses may be established in any area zoned for exclusive farm use:
>
> * * * * *
>
> (c) Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. A utility facility necessary for public service may be established as provided in
>
> (A) ORS 215.275[.]

ORS 215.275, in turn, provides in relevant part:

> (1) A utility facility established under ORS 215.213(1(c)(A) or 215.283(1)(c)(A) is necessary for public service if the facility must be sited in an exclusive farm use zone in order to provide the service.

[3] If a proposed facility does not comply with an applicable substantive criterion, OAR 345-022-0030(2)(b)(B) requires the applicant to establish that an 'exception' to the applicable statewide planning goal is justified.
[4] OAR 660-015-0000(3).

> (2) To demonstrate that a utility facility is necessary, an applicant for approval under ORS 215.213(1(c)(a) or 215.283(1)(c)(A) must show that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone due to one or more of the following factors:
>
> (a) Technical and engineering feasibility;
>
> (b) The proposed facility is locationally dependent. A utility facility is locationally dependent if it must cross land in one or more areas zoned for exclusive farm use in order to achieve a reasonably direct route or to meet unique geographical needs that cannot be satisfied on other lands;
>
> (c) Lack of available urban and nonresource lands;
>
> (d) Availability of existing rights of way;
>
> (e) Public health and safety; and
>
> (f) Other requirements of state or federal agencies.
>
> (3) Costs associated with any of the factors listed in subsection (2) of this section may be considered, but cost alone may not be the only consideration in determining that a utility facility is necessary for public service. Land costs shall not be included when considering alternative locations for substantially similar utility facilities. The Land Conservation and Development Commission shall determine by rule how land costs may be considered when evaluating the siting of utility facilities that are not substantially similar.
>
> (4) The owner of a utility facility approved under ORS 215.213(1)(c)(A) or 215.283(1)(c)(A) shall be responsible for restoring, as nearly as possible, to its former condition, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair or reconstruction of the facility. Nothing in this section shall prevent the owner of the utility facility from requiring a bond or other security from a contractor or otherwise imposing on a contractor the responsibility for restoration.
>
> (5) The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213(1)(c)(A) or 215.283(1)(c)(A) to mitigate and minimize the impacts of the purposed facility, if any, on surrounding lands devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farms."

In addition, ORS 215.276(2) requires:

> If the criteria described in ORS 215.275 for siting a utility facility on land zoned for exclusive farm use are met for a utility facility that is a transmission line * * * the utility provider shall, after the route is approved by the siting authorities and before construction of the transmission line begins, consult the record owner of high value farmland in the planned route

> for the purpose of locating and constructing the transmission line in a manner that minimizes the impact on farming operations on high-value farmland. If the record owner does not respond within two weeks after the first documented effort to consult the record owner, the utility provider shall notify the record owner by certified mail of the opportunity to consult. If the record owner does not respond within two weeks after the certified mail is sent, the utility provider has satisfied the provider's obligation to consult."

B. Idaho Power's Compliance with the Applicable Standards and Rules

Q. How did Idaho Power evaluate the Project for compliance with the applicable standards and rules?

A. To determine compliance with the land use standard as it relates to Goal 3, Idaho Power evaluated the entire length of the transmission line for compliance with the statutory and regulatory standards in ORS 215.283, 215.275 and 215.276.[5] In addition, Idaho Power performed a county-specific evaluation of the proposed transmission line for compliance with that county's acknowledged comprehensive plans and land use ordinances.[6] However, it is my understanding that any requirements in the counties' plans and ordinances beyond those consistent with ORS 215.275 are not applicable to the Project, because as a utility facility necessary for public service under ORS 215.283(1), the Project is permitted subject only to the requirements of ORS 215.275 and the counties cannot impose additional approval criteria.

Q. What was Idaho Power's conclusion?

A. Idaho Power determined that the proposed transmission line is a "utility facility necessary for public service" as defined under ORS 215.283 and, therefore, is permitted in each of

[5] *See generally* ASC, Exhibit K § 4 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 21 of 614) (discussing Idaho Power's assessment of statutory EFU Zone Siting Requirements).
[6] *See generally* ASC Exhibit K, § 6 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 57 of 614).

the county's EFU zones, subject to compliance with the requirements of ORS 215.275 and 215.276.[7] Based on its detailed analysis of the Project under each county's acknowledged plans and ordinances, Idaho Power concluded that the Project complies with each applicable county criterion.[8] Based on its analysis of the entire length of the transmission line, Idaho Power determined that it complies with each of the requirements of ORS 215.275,[9] and that its draft Agricultural Lands Assessment includes the consultation requirements required under ORS 215.276.[10]

1. Compliance with ORS 215.275

Q. ORS 215.275(2) requires an alternative sites analysis to demonstrate that reasonable alternatives have been considered and that the facility must be sited in an exclusive farm use zone. Did Idaho Power conduct that analysis?

A. Yes, as fully described in Exhibit K of the ASC and addressed in Section IV.E of the Proposed Order, Idaho Power conducted an alternative sites analysis in compliance with ORS 215.275(2) and determined that no alternative sites that did not require use of EFU land were available to site the proposed facility.[11]

Q. Has Idaho Power's compliance with ORS 215.275(2) been challenged through this contested case?

A. Yes, through LU-6. That issue asked:

[7] ASC Exhibit K at K-19 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 28 of 614).
[8] ASC Exhibit K at K-372 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 381 of 614).
[9] ASC Exhibit K at K-32 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 41 of 614).
[10] ASC Exhibit K at K-33 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 42 of 614).
[11] ASC Exhibit K at K-12 through K-18 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 21-27 of 614).

Whether the alternatives analysis under ORS 215.275 included all relevant farmland.

My understanding is that LU-6 was resolved in Idaho Power's favor through the motion for summary determination process in this case.[12]

Q. ORS 215.275(4) states that the owner of a utility is responsible for restoring, as nearly as possible, to its former condition, any agricultural land and associated improvements that are damaged or otherwise disturbed by the siting, maintenance, repair, or reconstruction of the facility. Does the Project comply with this statutory mandate?

A. Yes, as discussed in Exhibit K of the ASC, and evaluated in detail in the Agricultural Lands Assessment and Mitigation Plan, land used during construction of the transmission line will be restored, as nearly as possible, to former productivity.[13] Crop reestablishment, where permissible, and crop production are expected to resume following construction.[14] Structures (drainage systems, irrigation systems, fences, etc.) will be repaired, or landowners will be compensated to make repairs. Damage to crops and other crop losses due to construction of the transmission line will be assessed, and compensation will be paid at fair market rates.[15] Specific measures to minimize and mitigate impacts to agricultural lands, both during the construction and operational phases, are included in the Agricultural

[12] Ruling and Order on Motion for Summary Determination on Contested Case Issues LU-2, LU-3, LU-5 and LU-6 at 23-24 (July 21, 2021).
[13] ASC Exhibit K at K-27 through K-28 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 36-37 of 614); Proposed Order, Attachment K-1 at 35 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).
[14] Proposed Order Attachment K-1 at 35 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).
[15] Proposed Order Attachment K-1 at 35 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).

Lands Assessment and Mitigation Plan.[16] Idaho Power also includes in Exhibit K of the ASC a county-level analysis for each county, including discussion of measures to minimize and mitigate operational impacts to agricultural lands in the context of each county's local criteria.[17]

In addition to Idaho Power's obligations under ORS 215.275(4) for restoration of lands as a result of siting, maintenance, repair and restoration, Idaho Power's retirement obligations are discussed in detail under its Retirement and Financial Assurance obligations in Exhibit W of the ASC. Those obligations are independent of and in addition to the obligations ORS 215.275(4), and require that, at such time as the Project is decommissioned, Idaho Power is obligated to restore all lands to a useful, nonhazardous condition.[18] To ensure compliance with that obligation, Idaho Power must establish that the Company has a reasonable likelihood of securing a bond or letter of credit in a form and amount satisfactory to ensure that lands are returned to pre-construction conditions.[19]

Q. Is compliance with ORS 215.275(4) at issue in this Contested Case?

A. Although no limited party challenged compliance with ORS 215.275(4) in their petitions for party status, as discussed below Ms. Irene Gilbert raises a concern regarding Idaho Power's restoration of agricultural properties in her testimony on LU-11.

Q. ORS 215.275(5) requires the relevant governing body to impose "clear and objective conditions . . . to mitigate and minimize the impacts of the proposed facility on surrounding [farmlands] . . . to prevent a significant change in accepted farm

[16] *See generally* Proposed Order Attachment K-1, Section 7.0 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).
[17] *See generally* ASC, Exhibit K, Section 6.0 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 57 of 614).
[18] OAR 345-022-0050(1).
[19] OAR 345-022-0050(2).

practices or a significant increase in the cost of farm practices on the surrounding farms." Can you explain how the Project complies with this statutory requirement?

A. Idaho Power's detailed Agricultural Lands Assessment and Mitigation Plan extensively identifies and evaluates the accepted farm practices within the Site Boundary[20] and within 500 feet of the site Boundary ("the Agricultural Lands Assessment Area")[21] and establishes measures that the Company will implement in order to minimize and mitigate impacts of the facility on those practices.[22] As discussed below, the Proposed Order includes a clear and objective condition requiring compliance with this Plan, as finalized.[23]

Q. Has there been any challenge to the identification of the Site Boundary or Agricultural Lands Assessment area for purposes of compliance with ORS 215.275(5)?

A. No limited party challenges the site boundary, however in her direct testimony Ms. Gilbert raises a concern regarding the 500-foot Agricultural Lands Assessment Area.[24]

Q. How did Idaho Power identify the land and determine the agricultural uses within the Site Boundary and Agricultural Lands Assessment Area?

A. The Agricultural Lands Assessment Area includes approximately 88,759 acres that are considered agricultural lands.[25] These lands include both irrigated and non-irrigated

[20] OAR 345-001-0010(54) defines "Site Boundary" as "the perimeter of the site of a proposed energy facility, its related or supporting facilities, all temporary laydown and staging areas, and all corridors and micrositing corridors proposed by the applicant."
[21] ASC Exhibit K at K-158 (ODOE - B2HAPPDoc3-19 ASC 11_Exhibit K_Land Use_ASC 2018-09-28. Page 167 of 614).
[22] *See generally* Proposed Order, Attachment K-1, Agricultural Lands Assessment (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8874 of 10016).
[23] Proposed Order, Attachment 1, Draft Site Certificate at 18 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 722 of 10016).
[24] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 23-24 of 24.
[25] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 16 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8897 of 10016).

cropland as well as rangeland, pasture and Conservation Reserve Program ("CRP") land.[26] The majority of the agricultural land within the Agricultural Lands Assessment area is cropland, with approximately 2,421 acres of irrigated agricultural cropland and 78,065 acres of non-irrigated cropland.[27]

The Agricultural Lands Assessment and Mitigation Plan describes, in detail, how Idaho Power identified and evaluated all the land subject to the Agricultural Lands Assessment and includes a detailed description of each of the identified accepted farm practices.[28] Briefly, Idaho Power visually surveyed areas potentially containing agricultural land, first with aerial imagery, then with on-the-ground field surveys. Idaho Power also conducted a survey of agricultural landowners.[29] Of the 344 parcels identified to have agricultural land uses in 2011, survey data were obtained on 211 of those parcels (61.3 percent).[30] Section 3 of the Agricultural Lands Assessment includes a detailed discussion of the agricultural uses in each of the affected five counties.[31] For ease of reference, Tables 5-1 through 5-6 of the Agricultural Lands Assessment include the estimated temporary and permanent impact acreage by agricultural practice for each county and for the entire five-county area;[32] and Table 5-7 includes a summary of the temporary and permanent disturbance areas, broken down by project component, for the entire length

[26] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 16 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8897 of 10016).
[27] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 16 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8897 of 10016).
[28] Proposed Order, Attachment K-1, Agricultural Lands Assessment (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8873 of 10016).
[29] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 4 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8885 of 10016).
[30] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 5 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8886 of 10016).
[31] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 8-10 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8889-91 of 10016).
[32] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 17-18 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8898-99 of 10016).

of the Project.[33]

Q. Has the information in Tables 5-1 through 5-7 been challenged as a contested case issue?

A. No limited party has challenged Tables 5-1 through 5-6. However, as discussed below, Ms. Gilbert raises a concern regarding Table 5-7 in her testimony on LU-11.

Q. How did Idaho Power determine the accepted farm practices for the agricultural crops?

A. Section 4 of the Agricultural Lands Assessment details the agricultural crop practices for the entire Agricultural Lands Assessment area.[34] Those practices were determined based on visual surveys of the route and from landowner surveys.[35] As described in detail in that section, the agricultural practices vary based on location, equipment types used, variety of crops grown, seasonal weather conditions, technology, market demands and other factors.[36] Section 4 provides an extensive analysis of the accepted farm practices for the establishment of the wide variety of field crops, livestock operations and pasture and rangeland uses with the entire analysis area.[37]

Q. Has there been any challenge to Idaho Power's identification of the accepted farming practices within the analysis area for purposes of compliance with ORS 215.275(5)?

A. Yes. As discussed below, Ms. Gilbert raises in her testimony on LU-11 several purported

[33] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 19 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8900 of 10016).
[34] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 11 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8892 of 10016).
[35] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 11 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8892 of 10016).
[36] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 11 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8892 of 10016).
[37] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 11 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8892 of 10016).

accepted farm practices that she alleges Idaho Power failed to adequately analyze.

Q. Could you briefly summarize the range of accepted farm practices within the analysis area?

A. Section 4.1 of the Agricultural Lands Assessment includes a detailed list of accepted farm practices.[38] Briefly, these practices include aerial spraying; field burning; irrigation including center-pivot and wheel-line style, flood, mechanical center-pivot and GPS-operated center-pivot irrigation; and livestock operations.[39] Most of the agricultural lands within the Agricultural Lands Assessment Area are suitable for the production of field crops.[40] Accepted farm practices for establishing field crops include weed control; field preparation including mowing, chopping, or using a plow, disc, field chisel, or harrow; seed bed preparation; fertilization using ground-based equipment, a broadcast spreader, aerially or by injection through irrigation lines (chemigation); herbicide application; and seeding or planting using a seed drill of the crop.[41]

Q. Based on its assessment, what impacts did Idaho Power determine the Project could have on those accepted farm practices?

A. The Agricultural Lands Assessment includes detailed descriptions of both temporary and permanent, direct and indirect impacts to accepted farm practices within the analysis area.[42] To summarize, those impacts include temporary impacts to field crops from the

[38] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 12-15 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8893-96 of 10016).
[39] *See generally* Proposed Order, Attachment K-1 §§ 5.6 through 5.14 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905-14 of 10016) (discussing potential impacts to farming practices).
[40] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 12 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8893 of 10016).
[41] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 12 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8893 of 10016).
[42] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 21 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8902 of 10016).

transmission line construction; permanent impacts to field crops from transmission line construction; impacts to use of aircraft for farming activities; impacts to field burning; impacts to crop production and irrigation; impacts to livestock operations; impacts to pasture/rangeland; impacts to fencing; impacts to organic farming; impacts to agricultural works; impacts from helicopter operations related to transmission line construction; and impacts to future development, crops, and practices.[43]

Q. Could you further describe how Idaho Power evaluated those impacts as it relates to cropland?

A. As it relates to cropland, impacts to accepted farm practices will depend, in part, on whether an agricultural field is irrigated or non-irrigated, with most impacted acreage consisting of irrigated fields.[44] Therefore, to determine and evaluate potential impacts, Idaho Power first distinguished between the irrigated and non-irrigated agricultural parcels within the site boundary.[45] Approximately 104 of the total 993 parcels within the site boundary are irrigated using a variety of methods.[46]

Q. What types of agricultural uses are present in the analysis area on irrigated lands?

A. Section 4 of the Agricultural Lands Assessment provides an extensive discussion of the types of crops grown on irrigated lands. To summarize, field crops include a variety of different crop types, and include all plants grown for agricultural purposes in cultivated

[43] Proposed Order, Attachment K-1, §§ 5.3-5.14 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8903-14 of 10016).
[44] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 17 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8898 of 10016).
[45] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 26 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8907 of 10016).
[46] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 26 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8907 of 10016).

fields.[47] As discussed in Section 4, the most common field crops grown within the assessment area are field seed and grass seed crops, wheat and alfalfa hay, onions, berries, and canola.[48]

Q. What types of crops or agricultural uses are present on the non-irrigated lands?

A. Again, Section 4 of the Agricultural Lands Assessment provides an extensive discussion of the types of crops grown on non-irrigated lands. To summarize, crops and uses within non-irrigated agricultural lands include rangeland; rangeland timber; wheat; CRP; fallow; pasture; and livestock.[49]

Q. Please elaborate on the potential impacts to irrigated fields.

A. Potential impacts to accepted farm practices on irrigated cropland would primarily be temporary disturbance from construction activities, but would also result in some permanent impacts.[50] Potential impacts include both direct and indirect impacts.[51]

Q. Could you please describe the temporary, construction-related impacts?

A. Temporary direct impacts to crops will primarily occur during the construction phase. For example, temporary work sites used during construction, including multi-use areas, light duty fly yards, pulling and tensioning sites, and structure work areas, would temporarily disturb approximately 3,684 acres of agricultural land.[52] Direct temporary impacts to field

[47] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 12 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8893 of 10016).
[48] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 12 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8893 of 10016).
[49] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 7 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8888 of 10016).
[50] Proposed Order at 219 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 226 of 10016).
[51] Proposed Order at 219 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 226 of 10016).
[52] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 21 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8902 of 10016).

crops would arise from construction dust, damage to standing crops, compaction from construction equipment, temporary access restrictions to farm equipment or livestock, temporary disruptions of irrigation equipment, and disruptions to farm practices such as harvesting, field preparation, spraying and fertilization.[53]

Q. Could you please explain the impacts that will be permanent?

A. Permanent impacts include both direct and indirect impacts.[54] Direct impacts result from the placement of Project features such as transmission towers and access roads on agricultural lands; the Project is likely to permanently disturb approximately 860 acres, although this total area may be further reduced through micrositing.[55] Indirect impacts, on the other hand, include changes in the pattern of land use, population density or growth rate, and the related effects of those changes on agriculture and other, construction-related impacts to accepted farming practices.[56] Permanent impacts may include:

- Loss of farmable acreage due to direct impacts from permanent access roads and transmission line towers
- Loss of farmable acreage due to indirect impacts from access roads and transmission line towers (due to maneuverability issues with farm equipment)
- Soil compaction
- Damage to drainage systems (drain tiles)
- Restricted range of irrigation systems
- Soil erosion
- Movement of soil-borne pathogens
- Dust from vehicles during maintenance activities
- Restrictions on certain crop types that can be grown under the conductor such as pulpwood trees
- Restrictions on certain equipment that can be used
- Safety issues for farmers and ranchers

[53] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 22 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8903 of 10016).
[54] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[55] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[56] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 22 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8903 of 10016).

- Yield loss due to water restrictions.[57]

Q. How is Idaho Power committed to working with farmers to minimize the impacts to their farming operations?

A. Idaho Power will work with individual landowners of agricultural land during the right-of-way acquisition process to locate towers and access roads to minimize the impacts to cultivated and irrigated fields. There are many instances where irrigated farmland coexists with power lines of this nature.

Q. Could you explain how Idaho Power evaluated the costs from impacts to accepted farm practices?

A. The presence of the transmission towers and transmission line may result in an increase in farming costs, which may be "one-time" costs or recurring costs.[58] "One-time" costs depend on the crops grown and the month that construction begins in the relevant area.[59] Recurring costs will arise through loss of crops in tower footprint or access roads, as well as from added difficulty in traversing land around the towers.[60] Economic impacts can relate to crop production values and crop production costs.[61] Each of those economic impacts is evaluated in Idaho Power's Agricultural Lands Assessment.[62]

Q. Could you describe how Idaho Power proposes to reduce impacts to and the costs of

[57] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[58] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 34 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8915 of 10016).
[59] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 34 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8915 of 10016).
[60] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 34 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8915 of 10016).
[61] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 33-34 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8914-15 of 10016).
[62] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 33-34 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8914-15 of 10016).

these accepted farm practices?

A. Idaho Power has made a tremendous effort to design the route of the transmission line to avoid irrigated areas and has sited towers along agricultural field boundaries where feasible.[63] Of the 1,461 transmission towers along the proposed route, only 26 are proposed to be located within an irrigated portion of an agricultural field, and Idaho Power may be able to further reduce this total number through micrositing.[64] Idaho Power is committed to working with each land owner to try to minimize impacts to farming operations where feasible for the construction of the line.

Q. Is Idaho Power going to try to reduce the number of structure locations proposed within an irrigated portion of the field?

A. Yes. As stated earlier, Idaho Power is committed to working with each landowner during right-of-way negotiations to minimize impacts to farming practices. This will include moving structures out of cultivated fields where practical.

Q. For the 26 towers that must be located on irrigated cropland, how will the presence of transmission towers themselves impact accepted agricultural practices on cropland?

A. Once the towers are constructed, the presence of transmission towers will not limit the types of field crops that may be cultivated directly below the transmission line, though the presence of transmission towers could result in some ongoing impacts to agricultural practices.[65] While most types of agricultural operations will resume after construction is

[63] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25, 38 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906, 8919 of 10016).
[64] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 26 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8907 of 10016).
[65] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 22-23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8903-04 of 10016).

complete, there may be some ongoing, direct impacts to crops during the operations phase.[66] For example, use of equipment taller than 15 feet would be restricted under transmission towers, and field burning would not be allowed within the right-of-way.[67]

Q. How will Idaho Power minimize the impacts to that affected cropland?

A. Idaho Power will negotiate with landowners to minimize and mitigate impacts related to the placement of transmission towers, and when the preliminary design is complete landowners will have an opportunity to review the proposed tower locations.[68] Idaho Power will also consult with landowners as to the timing of the construction schedule, which will allow landowners to alter crop practices to minimize potential soil damage.[69] Idaho Power will also coordinate with landowners regarding the use of helicopters and Idaho Power will minimize helicopter use in areas where tall crops are sensitive to rotor blow.[70] In addition, fly yards will be sited in areas free from tall agricultural crops.[71]

Q. What other measures will Idaho Power take to minimize impacts?

A. The Agricultural Lands Assessment and Mitigation Plan includes a description of Idaho Power's extensive efforts to minimize impacts to agricultural lands and mitigation measures to reduce impacts to and the costs of accepted farm practices. In addition to mitigation actions related to tower placement, construction schedule, and related helicopter

[66] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 22-23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8903-04 of 10016).
[67] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[68] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 38 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8919 of 10016).
[69] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 38-39 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8919-20 of 10016).
[70] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 39 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8920 of 10016).
[71] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 39 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8920 of 10016).

operations, the assessment describes mitigation for damaged and adversely affected drainage tiles; installation of additional tiles; construction debris; compaction; rutting, fertilization and soil restoration; damaged soil conservation practices; weed control; irrigation systems; ingress and egress routes; temporary roads; topsoil separation and storage; excess rock; construction in wet conditions; dust control; prevention of soil erosion; induced voltage; and livestock operations.[72]

Q. Turning to specific impacts to accepted farm practices, could you first discuss how the transmission line may impact weed control?

A. As described in the Agricultural Lands Assessment and Mitigation Plan, on permanent right-of-way areas where Idaho Power has control of the surface use of the land, such as towers, access roads, or substations, Idaho Power will provide for weed control in a manner that does not allow the spread of weeds to adjacent lands used for agriculture.[73] Herbicide application on such areas will be conducted by an applicator licensed by the State of Oregon, in a manner mutually agreed upon with the landowner or landowner's designee.[74] To prevent the introduction of weeds from other geographic regions, Idaho Power will require contractors to thoroughly clean construction equipment with high-pressure washing prior to the initial move of those units to the Project construction site.[75] Construction equipment will also be cleaned periodically, especially when operating in areas with an abundance of noxious weeds, prior to moving equipment to the next construction

[72] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 39-43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8920-24 of 10016).
[73] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016).
[74] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016).
[75] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016).

location.[76]

Q. Does Idaho Power have specific plans to address the impacts from noxious weeds?

A. Yes. Idaho Power has developed a draft Noxious Weed Plan detailing the measures that Idaho Power will implement to prevent the introduction and spread of noxious weeds resulting from the Project.[77] As implemented through that detailed plan, Idaho Power will be responsible for controlling noxious weeds that are within the Project's rights-of-way and that are a result of the Company's construction- or operation-related, surface disturbing activities along the transmission line, along new roads and the rights-of-way and/or easements of existing roads needing substantial improvement, in areas involving ground-disturbing construction and/or improvement; at communication stations, multiuse areas, and pulling and tensioning sites.[78]

Q. How will the transmission line impact organic farming?

A. As described in Section 5.1 of the Agricultural Lands Assessment and Mitigation Plan, organic farms use practices similar to conventional farming and livestock husbandry typically do not use pesticides, herbicides, fertilizers (non-organic) or other chemicals in their operations.[79] These operations can be especially sensitive to impacts from construction activities such as the introduction of noxious weeds from road building, dust from construction equipment, and soil compaction.[80] For organic farms within the

[76] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016).
[77] Proposed Order, Attachment P1-5 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 9305 of 10016).
[78] Proposed Order, Attachment P1-5 at 17-18 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 9328-29 of 10016).
[79] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 31 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8912 of 10016).
[80] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 31 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8912 of 10016).

Agricultural Lands Assessment Area, Idaho Power will develop a specific Organic Systems Plan with each organic farm landowner to identify site-specific construction practices that will minimize the potential for decertification as a result of construction activities.[81] Possible practices may include equipment cleaning, planting a deep-rooted cover crop in lieu of mechanical decompaction, applying aged manure or rock phosphate, preventing the introduction of disease vectors from tobacco use, restoring and replacing beneficial bird and insect habitat, maintaining organic buffer zones, and using organic or non-treated seeds for any cover crop per current United States Department of Agriculture ("USDA") organic regulations.[82]

Q. How will the Project impact soils on the affected farmland?

A. Idaho Power has analyzed impacts to soil productivity, and those impacts are discussed in detailed in Exhibit I to the ASC and addressed in Section IV.D of the Proposed Order. In addition, the Agricultural Lands Assessment and Mitigation Plan includes detailed information on the agricultural practices that could be impacted, which includes soil productivity, soil damage, erosion, and compaction.[83]

Q. Do any other Idaho Power witnesses address potential impacts of the Project to agricultural soils?

A. Yes, my understanding is that Idaho Power's expert witness Mark Madison addresses potential soils impacts.

Q. Next, could you please discuss how the transmission line may impact irrigation of

[81] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 31 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8912 of 10016).
[82] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 31 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8912 of 10016).
[83] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016).

agricultural areas?

A. Section 5.7 of the Agricultural Lands Assessment includes a detailed assessment and evaluation of the impacts of the transmission line to crop production and irrigation.[84] Mechanical irrigation, automated farming methods, and farm equipment with large spans are all affected by overhead conductors and support structures.[85] Acreages are taken out of production around the base of support structures, and the support structures are in the way of all equipment.[86] Production costs may increase as farmers need to divert their equipment around structures, make additional passes, take additional time to maneuver, skip acres, or retreat acres.[87]

Q. How will Idaho Power avoid or minimize impacts to irrigation equipment?

A. As I mentioned previously, Idaho Power's first priority is to avoid impacts to irrigation equipment by avoiding irrigated areas.[88] Idaho Power has and will continue to make extraordinary efforts to avoid irrigated areas when siting transmission towers.[89] Many of the towers are proposed at the edge of irrigated areas and along agricultural field boundaries in order to avoid or reduce impacts to irrigation techniques.[90] During project design, Idaho Power's engineering, rights-of-way, and permitting staff will work with landowners to

[84] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25-29 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906-10 of 10016).
[85] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).
[86] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).
[87] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).
[88] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 26 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8907 of 10016).
[89] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 26 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8907 of 10016).
[90] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 38 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8919 of 10016).

address tower placement, where feasible.[91] Sensitive areas, such as those with the potential to interrupt irrigation equipment and other areas identified by landowners, will be avoided, where feasible.[92] When the preliminary design is complete, the land rights agents will review the staked tower locations with landowners.[93]

Nonetheless, some towers are likely to interfere with current irrigation practices and will likely result in a reduction in overall crop yield.[94] To the extent the tower locations will impact irrigation practices, Section 7.3.10 of the Agricultural Lands Assessment identifies the specific mitigation actions, including restoration and compensation, as appropriate, that Idaho Power has committed to take in order to address the potential impact to irrigation on surrounding farmlands even to the extent of relocation of center-pivots and access roads.[95]

Q. I would now like you to address one specific irrigation practice, which involves the use of GPS-operated agricultural equipment, such as GPS-operated pivot irrigation systems. Could you explain how the transmission line could impact the accuracy of GPS equipment?

A. GPS accuracy can be impacted by many factors, including atmospheric conditions; satellite constellation and geometry; the design, quality, and position of GHPS antennas and

[91] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 38 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8919 of 10016).
[92] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 38 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8919 of 10016).
[93] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 38 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8919 of 10016).
[94] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 26 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8907 of 10016).
[95] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016).

receivers; signal interference; and multipath.[96] Of these possible effects to GPS accuracy, a transmission line and its structures could theoretically contribute to signal interference and multipath.[97]

Q. Could you explain those two terms?

A. Signal interference occurs when other signals at the same frequency as the satellite signal are present.[98] Multipath occurs when objects such as buildings, structures, or tractor parts reflect a GPS satellite signal, causing the satellite signal to arrive at the receiver later than it would have if it followed a straight line from the satellite.[99]

Q. How likely is it that the proposed transmission line will interfere with GPS-operated agricultural equipment?

A. Based on Idaho Power's experience, the Company is not aware of any actual interference with GPS equipment resulting from transmission lines.[100] And, based on a literature review that Idaho Power performed, the transmissions lines are not likely to interfere with GPS-operated agricultural equipment.[101]

Q. Could you please explain how you reached that conclusion?

A. First, I should note that Idaho Power does not specifically track interference with GPS tractor navigation systems.[102] However, these systems are widely used in other locations

[96] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[97] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[98] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[99] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[100] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[101] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[102] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).

in Idaho Power's service area and several existing transmission lines up to 500 kV cross the area.[103] Over the last 10 years, Idaho Power has not been contacted about interference with tractor GPS navigation systems.[104] Users of these systems have expressed concerns about the possibility of interference, but no specific examples have been reported.[105]

Q. Given that Idaho Power does not specifically track GPS interference, how can Idaho Power ensure that the transmission lines will not significantly interfere with their use or increase the cost of this accepted farm practice?

A. Idaho Power conducted a literature review to evaluate the potential for a facility to interfere with GPS-operated agricultural equipment.[106] Based on that review, Idaho Power determined that, while a transmission line and its structures could theoretically contribute to signal interference and multipath, those impacts can be minimized or mitigated.[107] One study that Idaho Power reviewed compared the accuracy of real-time kinematic GPS receivers at different locations to transmission lines and towers.[108] That study concluded that multipath from transmission towers could result in GPS-initialization errors (where the system reports the wrong stating location) 1.1 to 2.3 percent of the time.[109] That study also reported that GPS software was able to identify and correct those initialization errors within

[103] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[104] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[105] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[106] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[107] Proposed Order, Attachment 4 at 226 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 7764 of 10016).
[108] Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit B, Gibbings, *et al.*, *Assessing the Accuracy and Integrity of RTK GPS Beneath High Voltage Power Lines* (2001).
[109] Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit B, Gibbings, *et al.*, *Assessing the Accuracy and Integrity of RTK GPS Beneath High Voltage Power Lines* (2001), p. 9 of 12.

the normal startup time.[110] In addition, that study reported initialization errors due to electromagnetic interference from energized overhead transmission lines when the GPS receiver was located outside the vehicle but concluded that most, if not all, of this effect can be eliminated by shielding the receiver and cables.[111] Placing the receiver inside the vehicle significantly reduced initialization errors.[112]

Q. Have you reviewed the studies Idaho Power relied on and do you agree with its decisions based on those studies?

A. Yes, I have reviewed those studies, and I agree that by shielding the receiver and cables, electromagnetic interference can be avoided and that the transmissions lines will not interfere with GPS-operated agricultural equipment.

Q. I would like to turn now to another accepted farm practice, that of aerial application of chemical fertilizer. Could you discuss that practice?

A. Aerial application of chemicals through helicopter or airplane is an accepted farm practice may be affected by the Project.[113] Farmers frequently use helicopters and/or airplanes to aerially apply chemicals to a crop rather than using traditional ground-based equipment for application.[114] Aerial application of chemicals is useful to avoid soil damage if the soils are wet, or when crops are close to maturity and the use of heavy equipment could damage

[110] Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit B, Gibbings, *et al.*, *Assessing the Accuracy and Integrity of RTK GPS Beneath High Voltage Power Lines* (2001), p. 7 of 12.
[111] Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit B, Gibbings, *et al.*, *Assessing the Accuracy and Integrity of RTK GPS Beneath High Voltage Power Lines* (2001), p. 10 of 12.
[112] Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 / Exhibit B, Gibbings, *et al.*, *Assessing the Accuracy and Integrity of RTK GPS Beneath High Voltage Power Lines* (2001), p. 10 of 12.
[113] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[114] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).

crop quality.[115] Some crops receive aerial applications of chemicals five to six times per year.[116]

Q. How might the Project affect this practice?

Impacts to aerial application of chemical fertilizer can occur during both construction and operation of the Project.[117] The presence of transmission lines prevents aerial access to crops directly beneath the lines, potentially decreasing crop yields.[118] The transmission towers may also affect other areas of agricultural property depending on factors such as tower orientation and wind direction.[119] In addition, herbicides that control weeds around the base of the towers may need to be applied by hand, potentially increasing costs to the farmer, including acquisition of specialized equipment and increased labor costs.[120]

Aerial spraying near hills and ridges can cause downdrafts and updrafts, which means increased risks to the applicator if transmission lines are located near that type of terrain.[121] Spray coverage uniformity could be affected by the presence of transmission lines.[122] In order to fly safely, a safe distance between the aircraft and the line must be maintained, which may result in less-than optimal coverage or application rate.[123] Adverse

[115] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[116] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[117] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[118] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[119] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[120] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[121] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[122] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[123] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).

effects on the ability of aerial applicators to provide uniform coverage could increase costs by reducing efficiency and decreasing crop yields.[124]

The construction of the transmission line could also have a minor effect on crop spraying when applicators need to modify spraying patters on the unaffected portion of a cultivated field or adjacent fields.[125] The presence of construction workers in the area could also delay applications.[126]

Q. How will Idaho Power avoid or minimize impacts to aerial fertilizer application?

A. Idaho Power will minimize potential impacts to aerial spraying by siting the transmission lines as much as possible along the edges of fields, existing roadways, or natural boundaries, rather than through existing fields, which will result in less risk to the applicator and more efficiency to the producer.[127] While the presence of a transmission line increases the risk to aerial applicators, the Project's large high-voltage transmission lines are easier to see and provide more clearance than smaller distribution lines.[128] To further reduce risk to aerial applicators, the transmission lines will not use tower guy wires, which is a safety advantage to aerial applicators because guy wires are difficult to see and cover a larger ground space than towers without them.[129]

Q. For any of the unavoidable impacts to accepted farm practices, could you please

[124] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[125] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[126] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[127] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[128] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[129] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).

describe how the Agricultural Lands Assessment and Mitigation Plan relates to mitigation for specific properties?

A. The Agricultural Lands Assessment and Mitigation Plan specifically identifies economic impacts that will be assessed on specific properties.[130] Components include: annual costs, including fixed costs, lost profit and weed control in the tower footprint area, plus the duplication of operations for the extra costs of farming around towers; the annual per-acre costs for land taken out of production other than that in the tower footprint area, including land unable to be irrigated because of field obstructions; and the costs of reorganizing irrigation systems, including increased labor requirements.[131] Idaho Power may also request the annual farm base records from the USDA to assist in this valuation. The Agricultural Lands Assessment and Mitigation Plan establishes procedures for determining construction- and operations-related damages and for providing landowner compensation.[132]

Q. Could you explain the measures Idaho Power will take to mitigate those impacts?

A. As described in detail in the Agricultural Lands Assessment and Mitigation Plan, most agricultural impacts will be temporary; however, impacts to certain portions of agricultural lands will be permanent. Where possible, Idaho Power will purchase a perpetual easement and associated temporary workspace on private lands through a negotiated settlement, and payment will be based on a certified appraisal and negotiation with the landowner. As discussed above in relation to compliance with ORS 215.275(4), lands used during

[130] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 35 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).
[131] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 35 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).
[132] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8924 of 10016).

construction will be restored, as nearly as possible, to former productivity.

Q. Could you explain how the mitigation plan will be implemented for individual landowners whose accepted farm practices may be impacted by the transmission line?

A. Prior to construction, Idaho Power, together with the landowner or the landowner's designee, will examine each affected property to inventory crops, livestock, fences, irrigation systems, drain tiles, roads and other features that could be impacted.[133] Negotiations between Idaho Power and any affected landowner and/or the landowner's designee will be voluntary and no party is obligated to follow any particular method for computing the amount of loss for which compensation is sought or paid.[134] Landowners or their designee may elect to settle damages with Idaho Power in advance of construction on a mutually acceptable basis or settle after construction based on a mutually agreeable determination of actual damages.[135] If construction or operation-related damages occur or are expected to occur, Idaho Power and the landowner or designee may agree to monetary or other compensation in lieu of implementing the mitigation actions that are detailed in Section 7 of the Agricultural Lands Assessment.[136]

Q. The Agricultural Lands Assessment and Mitigation Plan, as it is presented in the Proposed Order, is in draft form. What does that mean and why hasn't Idaho Power presented a final Plan?

A. The Agricultural Lands Assessment and Mitigation Plan includes the detailed assessment

[133] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8924 of 10016).
[134] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8924 of 10016).
[135] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8924 of 10016).
[136] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8924 of 10016).

of the agricultural impacts of the transmission line and how Idaho Power will minimize and mitigate for those impacts. All the substance of Idaho Power's mitigation plan is included in this draft. The Agricultural Lands Assessment and Mitigation Plan will be finalized to reflect final facility design and construction plans, which are pending the issuance of the site certificate.[137] None of the essential elements of the Plan will change when it is finalized.

Q. How can the public have assurance that the Agricultural Lands Assessment and Mitigation Plan will not be changed substantially or that the mitigation included in the plan will not be reduced?

A. The Proposed Order incorporates the Agricultural Lands Assessment and Mitigation Plan. As I discuss below, Recommended Land Use Condition 14 in the Proposed Order requires that the Draft Agricultural Lands Assessment and Mitigation Plan be finalized, in accordance with the Agency Review Process, which is detailed at the beginning of that Plan.[138] In addition, the final plan will be subject to EFSC's approval.[139]

Q. Based on Idaho Power's assessment of the accepted farm practices and the impacts the Project may have on those practices, do you believe Idaho Power's plan to mitigate and minimize those impacts will prevent a significant change in those practices or the cost of those practices.

A. Yes. Idaho Power's implementation of the measures provided in the Agricultural Lands Assessment and Mitigation Plan will minimize the impacts of the Project on surrounding

[137] Proposed Order, Attachment K-1, Agricultural Lands Assessment (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8875 of 10016).
[138] Proposed Order, Attachment 1, Draft Site Certificate at 18 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 722 of 10016).
[139] OAR 345-025-0016.

farmlands and prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices**.**

2. Compliance with ORS 215.276

Q. In addition to compliance with ORS 215.283 and ORS 215.275, Idaho Power must establish that the Project complies with ORS 215.276. Could you address the requirements of that statute?

A. ORS 215.276 requires that the utility provider (i.e., the certificate holder) consult with record-owners of high value farmland prior to construction to locate and construct the transmission line in a manner that minimizes impacts on high-value farmland operations.[140]

Q. Does the Project comply with ORS 215.276?

A. As I addressed previously, the Agricultural Lands Assessment establishes that Idaho Power will approach, notify, and coordinate with landowners in an effort to minimize and mitigate potential agricultural impacts on all farmland, including high-value farmland.[141]

Q. Did any party raise a contested case issue regarding Idaho Power's compliance with ORS 215.276?

A. Yes. Idaho Power had raised an issue, LU-10, which asks:

> *Whether the Department-proposed revisions to the Proposed Order requiring landowner consultation pursuant to ORS 215.276 are unnecessarily specific as to high-value farmland owners.*

Through this issue, Idaho Power proposed to modify a condition in the Proposed Order that required identification of landowners of high value farmland and consultation regarding micrositing to instead provide that Idaho Power would not have to identify such landowners

[140] ORS 215.276(2).
[141] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 36 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8917 of 10016).

because it would consult with all landowners regarding micrositing.[142] My understanding is that Idaho Power filed a motion for summary determination on this issue, which was granted by the Hearing Officer in this case.[143]

C. ODOE's Recommendation regarding Compliance with the Applicable Standards and Rules

Q. What is ODOE's recommendation regarding compliance with Goal 3?

A. The Department has recommended that the Council find that the Project complies with all the applicable substantive criteria from each of the affected counties' comprehensive plans and land use ordinances, and with the requirements of ORS 215.283, 215.275 and 215.276.[144] Therefore, ODOE recommends that the Council find the Project satisfies Goal 3.[145]

Q. Regarding ORS 215.275(5), which relates to the impacts on accepted farm practices and the costs of those practices, what was ODOE's specific recommendation?

A. ODOE recommended that the "Council find that the facility would not result in significant adverse impacts to accepted farm practices nor result in a significant increase in the cost of accepted farm practices within the surrounding area and therefore would satisfy the requirements of ORS 215.275(5)."[146] In describing the basis for its recommendation, ODOE stated that:

> The Agricultural Lands Assessment proposes specific measures to avoid, mitigate, and minimize impacts to agricultural practices and uses on land within the site boundary. These measures are based upon the assessment of

[142] Idaho Power's Petition Identifying Contested Case Issues at 4-6 (Aug. 27, 2020).
[143] Ruling and Order on Idaho Power Company's Motion for Summary Determination on Contested Case Issues FW-9, FW-10, FW-11 and LU-10 at 10-11 (Aug. 17, 2021).
[144] Proposed Order at 227-28 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 234-35 of 10016).
[145] Proposed Order at 227-28 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 234-35 of 10016).
[146] Proposed Order at 224 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 231 of 10016).

> all agricultural crops and practices on lands within the analysis area of the Agricultural Lands Assessment * * *. The Department agrees that compliance with these measures would "prevent a significant change in accepted farm practices or increase in the cost of farm practices on surrounding farmlands" as required under ORS 215.275(5).[147]

To ensure compliance with the requirements of the Agricultural Lands Assessment, ODOE recommended that the Council adopt Recommended Land Use Condition 14.[148]

Q. What specifically does that condition require?

A. Recommended Land Use Condition 14 states:

The certificate holder shall:

> (a) Prior to construction of any phase or segment of the facility, in accordance with OAR 345-025-0016 agency consultation process outlined in the draft Agriculture Assessment and Mitigation Plan (Attachment K-1 of the Final Order on the ASC), submit to the Department a final Agricultural Lands Assessment and Mitigation Plan.
> (b) During construction and operation of any phase or segment of the facility, implement the Agricultural Mitigation Plan as finalized per sub(a) of this condition.
> (c). During operation, implement a post-construction monitoring plan to identify any remaining soil and agricultural impacts associated with construction that require additional restoration or mitigation, in accordance with Section 7.0 of the Agricultural Mitigation Plan, Attachment K-1 of the Final Order on the ASC.[149]

Q. Does Idaho Power agree with ODOE's recommended Land Use Condition 14?

A. Yes, Idaho Power fully agrees with ODOE's recommendation.

III. RESPONSE TO CONCERNS RAISED BY PARTIES

Q. Did any limited parties raise issues in this contested case relating to potential impacts to farm practices?

[147] Proposed Order at 224-25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 231-32 of 10016).
[148] Proposed Order at 225 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 232 of 10016).
[149] Proposed Order, Attachment 1, Draft Site Certificate at 18 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 722 of 10016).

A. Yes. Ms. Irene Gilbert and Mr. Sam Myers raised issues relating to Idaho Power's assessment of accepted farm practices.

Q. Will you be addressing those issues in your rebuttal testimony?

A. Yes. However, in responding to their testimony I want to be clear that I am not an attorney, and so I do not claim to be offering a legal interpretation of the Council's Land Use Standard or the related land use statutes. Accordingly, in this testimony I am offering my understanding of the requirements relevant to compliance with Goal 3. I understand that Idaho Power will have an opportunity to provide its legal analysis of this issue in briefing to be filed later in this case.

A. <u>Issue LU-11</u>

Q. What is LU-11?

A. LU-11 asks:

> *Whether the impacts from the proposed facility on accepted farm practices and the cost of accepted farm practices have been adequately evaluated or mitigated.*[150]

Q. Which limited party raised LU-11?

A. Irene Gilbert raised LU-11.[151]

Q. Did Ms. Gilbert submit direct testimony regarding LU-11?

A. Yes. Ms. Gilbert submitted direct testimony on this issue.

Q. What does Ms. Gilbert assert in her testimony?

A. Ms. Gilbert raises multiple challenges to Idaho Power's analysis of potential impacts to farm practices. First, Ms. Gilbert asserts that Idaho Power must consider the financial and economic status of the farmers in the area when assessing the significance of potential

[150] Second Order on Case Management at 5 (Aug. 31, 2021).
[151] Irene Gilbert's Petition for Party Status at 8-12 (Aug. 27, 2020).

impacts to farm practices.[152] Next, Ms. Gilbert alleges that the mitigation in the Agricultural Lands Assessment does not include sufficiently clear and objective conditions and that there is not adequate opportunity for public review of the final Agricultural Lands Assessment.[153] Ms. Gilbert also asserts that the Project will result in increased costs to agricultural landowners resulting from increased noxious weeds and fire-response requirements,[154] and that the Proposed Order does not ensure adequate restoration of farmlands following retirement of the Project.[155] Finally, Ms. Gilbert identifies potential impacts to farm practices which she alleges are likely to result and that Idaho Power has not adequately assessed.[156] I address each of these issues and alleged impacts below.

Q. Before turning to Ms. Gilbert's specific challenges to Idaho Power's Agricultural Lands Assessment, how do you respond to Ms. Gilbert's general allegation that Idaho Power has not adequately evaluated the impacts to accepted farm practices?

A. In short, I disagree with Ms. Gilbert and believe there is no merit to her allegations. Idaho Power has thoroughly evaluated the potential impacts of the Project on accepted farm practices and the cost of those practices and has proposed mitigation to address those impacts. As I previously explained, Idaho Power's Agricultural Lands Assessment and Mitigation Plan thoroughly describes the accepted farm practices along the entire route of the Project and evaluates the potential or actual impacts of the transmission line on each of those practices. The Agricultural Lands Assessment also describes how Idaho Power will avoid or minimize those impacts where possible and will mitigate unavoidable impacts or

[152] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 22-23 of 24.
[153] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 3-4 of 24.
[154] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 3-4 of 24.
[155] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 5-6 of 24.
[156] *See, e.g.*, Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 22-23 of 24 (listing 23 potential impacts that Ms. Gilbert believes have not been addressed).

compensate the impacted landowner.

1. Economic Status of Farmers in the Region

Q. What concern does Ms. Gilbert raise regarding the financial and economic status of agricultural landowners in the area?

A. Ms. Gilbert asserts that most Oregon farmers are economically disadvantaged and argues that Idaho Power must consider these farmers' limited means when assessing whether a potential increase in the cost of accepted farm practices will be significant.[157]

Q. How do you respond to Ms. Gilbert's assertion?

A. Idaho Power is committed to minimizing and mitigating any potential impacts to farm practices that may result and the Company has detailed the steps it will take to mitigate those potential impacts in the Agricultural Lands Assessment.[158] To the extent Ms. Gilbert's assertion is a legal interpretation of the analysis required under ORS 215.275, my understanding is that Idaho Power will address this assertion in greater detail in the Company's post-hearing closing arguments.

2. Clear and Objective Conditions

Q. What concern does Ms. Gilbert raise regarding clear and objective conditions?

A. Ms. Gilbert asserts that the Agricultural Lands Assessment and Mitigation Plan does not contain sufficient clear and objective conditions to avoid or mitigate potential impacts resulting from the Project.[159] Ms. Gilbert asserts that these conditions must be included before EFSC issues a site certificate, because there is no process for public review of the

[157] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 2 of 24.
[158] *See generally* Proposed Order Attachment K-1, Section 7.0 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).
[159] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 3 of 24.

final Agricultural Lands Assessment and the plan will be finalized after the contested case process has ended.[160]

Q. Does Ms. Gilbert provide any specific basis to assert that the Agricultural Lands Assessment lacks clear and objective conditions?

A. No. Ms. Gilbert raises only the general challenge that the Proposed Order requires "minimal information" for inclusion in the final plan and that the draft Plan is not sufficiently detailed to allow adequate public review.[161] Ms. Gilbert raises specific challenges elsewhere in her testimony, but I address each of those assertions below.

Q. How do you respond to the assertion that there are no clear and objective conditions regarding potential impacts to accepted farm practices?

A. I disagree with Ms. Gilbert's assertion. Recommended Land Use Condition 14 in the Proposed Order requires implementation of the Agricultural Lands Assessment and Mitigation Plan,[162] which contains a clear discussion of the potential agricultural impacts and the actions that Idaho Power will take to avoid and minimize those impacts.[163]

Ms. Gilbert appears to assert that Idaho Power's proposed mitigation for potential impacts to farm practices is not sufficiently clear and objective, but Ms. Gilbert has not explained what exactly is lacking in Idaho Power's proposals. As discussed above, Idaho Power included in Section 7.3 of the Agricultural Lands Assessment a detailed list of each of the actions Idaho Power will take to mitigate the specific impacts to farm practices that

[160] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 3-4 of 24.
[161] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 3 of 24.
[162] Proposed Order, Attachment 1, Draft Site Certificate at 18 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 722 of 10016).
[163] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 35 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).

the Company identified.[164] Moreover, that Plan is extremely detailed, both in its extensive discussion of the potential impacts to accepted farm practices and its plans to minimize and mitigate for those impacts.

Q. On what basis does Ms. Gilbert assert that the Agricultural Lands Assessment must contain more specific conditions?

A. Ms. Gilbert cites a case from the Oregon Court of Appeals, *Gould v. Deschutes County*,[165] for the proposition that a developer's mitigation proposal must be adequately developed to allow adequate assessment or, in the alternative, the reviewing agency must defer assessment of the mitigation proposal until the developer prepares a detailed plan.[166] If the agency defers until the developer prepares a more detailed plan, Ms. Gilbert argues that the agency must allow full public participation in the review of that final plan.[167]

Q. Does *Gould* support Ms. Gilbert's assertion?

A. I am not an attorney, but my understanding is Idaho Power disagrees with Ms. Gilbert's interpretation of *Gould*. However, because Ms. Gilbert's assertion raises a legal argument regarding the interpretation of case law, my understanding is that Idaho Power will address this assertion in the Company's written closing arguments.

Q. Ms. Gilbert also alleges that there is no opportunity for public participation in finalizing the Agricultural Lands Assessment and Mitigation Plan.[168] Please explain the process for finalizing the Agricultural Lands Assessment.

A. As I discussed above, the Plan is essentially complete at this point and changes in the

[164] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 37-43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8918-24 of 10016).
[165] 216 Or App 150 (2007).
[166] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 3 of 24.
[167] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 3 of 24.
[168] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 3-4 of 24.

finalization process will primarily reflect the final design and construction plans.[169] Additionally, the Agricultural Lands Assessment includes a detailed agency review process through which Idaho Power will consult with all appropriate state and local agencies when finalizing the plan.[170] This agency review process will ensure that the final Agricultural Lands Assessment is consistent with all state and local requirements.

Q. Ms. Gilbert's concern appears to be that, even if Idaho Power consults with state and local agencies, the Company does not propose to submit the final Agricultural Lands Assessment for comment from the general public. Is this true?

A. Ms. Gilbert's assertion is true. However, I am not aware of any requirement for the final Agricultural Lands Assessment to be submitted for public comment. Additionally, as I said above, Idaho Power will negotiate with landowners regarding farm practices specific to their own land, so if any impacted landowner has additional concerns Idaho Power will address those concerns through the negotiation process.

Q. Ms. Gilbert also raises a concern that impacted landowners will not be able to challenge Idaho Power's final mitigation determinations because Idaho Power will determine specific mitigation after the close of this contested case.[171] How do you respond?

A. Ms. Gilbert's assertion is not accurate. Although Idaho Power will not determine final mitigation until after this contested case has ended, Idaho Power will negotiate those mitigation decisions with the impacted agricultural landowners. As a result, any additional

[169] Proposed Order, Attachment K-1 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8875 of 10016).
[170] Proposed Order, Attachment K-1 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8875 of 10016).
[171] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 3-4 of 24.

concerns will be addressed outside of the contested case process.[172]

3. Increased Costs from Noxious Weeds and Fire Preventions

Q. You mentioned that Ms. Gilbert raises concerns regarding impacts from noxious weeds. What does Ms. Gilbert assert?

A. Ms. Gilbert states that Idaho Power has not adequately addressed the potential impacts resulting from noxious weeds.[173] As a result, Ms. Gilbert is concerned that farmland may become contaminated with noxious weeds and result in farmers' crops being quarantined.[174]

Q. Does Ms. Gilbert make any specific assertions as to how Idaho Power's noxious weed program is inadequate?

A. Yes. Ms. Gilbert raises several specific challenges, including that Idaho Power has not committed to treating all noxious weeds and that the Proposed Order fails to require noxious weed control within the entire Project site.[175]

Q. Will you be addressing each of Ms. Gilbert's specific noxious weed concerns?

A. No. Ms. Gilbert has been granted limited party status for an issue that is specific to noxious weeds, FW-3. Ms. Gilbert simply copied the testimony that she submitted in support of FW-3 into her testimony for LU-11.[176] My understanding is that Idaho Power has sponsored testimony from another witness, Jessica Taylor, to address Ms. Gilbert's testimony on FW-3. To avoid unnecessary repetition, I will not respond to those assertions

[172] *See* Proposed Order at 2 n. 5 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 9 of 10016) (stating that Idaho Power's "process for negotiating with landowners for access agreements, utility easements, eminent domain, proprietary matters, and greater economic issues" are outside of EFSC's jurisdiction).
[173] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 7 of 24.
[174] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 7 of 24.
[175] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 7 of 24.
[176] *See* Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 8 of 24. In her testimony regarding LU-11, Ms. Gilbert states that she is copying her testimony submitted in relation to FW-4. However, Ms. Gilbert submitted her noxious weed testimony in support of her position in FW-3, not FW-4.

here. That being said, Idaho Power has developed a detailed Noxious Weed Plan which details the actions that Idaho Power will take to prevent the introduction and spread of noxious weeds resulting from the Project's ground-disturbing activities.[177] As implemented through that detailed plan, Idaho Power will be responsible for controlling noxious weeds that are within the project's rights-of-way and that result from the Company's construction- or operation-related surface-disturbing activities.[178]

Q. How do you respond to Ms. Gilbert's general assertion that noxious weed infestations could result in quarantining local farmland?

A. In the Agricultural Lands Assessment, Idaho Power identified the distribution of noxious weeds as a potential impact to farm practices and identified the actions that Idaho Power will take to avoid that potential impact.[179] Idaho Power's proposed mitigation actions include application of herbicides, washing vehicles prior to arrival on the Project site, and monitoring of disturbed areas for noxious weed infestations.[180] As discussed in further detail in Ms. Taylor's testimony, Idaho Power takes very seriously its obligation to avoid the introduction or spread of noxious weeds resulting from the Project.

Q. Ms. Gilbert also contends that Idaho Power is pushing the costs of fire prevention onto agricultural landowners.[181] What is Ms. Gilbert's concern?

A. Ms. Gilbert asserts that the Proposed Order requires landowners, not Idaho Power, to address the prevention and suppression of fires resulting from the Project, including fires

[177] Proposed Order, Attachment P1-5 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 9305 of 10016).
[178] Proposed Order, Attachment P1-5 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 9305 of 10016).
[179] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23, 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904, 8921 of 10016).
[180] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016).
[181] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 16 of 24.

occurring due to increased vehicle usage on access roads.[182] Ms. Gilbert also raises various specific concerns regarding Idaho Power's Fire Prevention and Suppression Plan.[183]

Q. Will you be addressing Ms. Gilbert's challenges to the Fire Prevention and Suppression Plan?

A. No. I am not an expert on fire prevention and suppression. My understanding is that Idaho Power is submitting testimony from another witness, Douglas Dockter, that addresses fire issues.

4. Facility Retirement

Q. Ms. Gilbert raises a concern regarding site restoration. Can you please explain that concern?

A. Ms. Gilbert alleges that the Proposed Order does not require that the site be "restored as nearly as possible to its prior condition" because the Proposed Order requires only that the site be restored to a useful, non-hazardous condition.[184] According to Ms. Gilbert, this "leaves the agricultural landowner with the costs to finish the restoration in order to return the site to a condition allowing them to farm it."[185] Ms. Gilbert also raises a specific concern regarding the unlikely retirement of the facility, stating that, in the event that the Project is decommissioned at some point in the future, the Project's foundations should be removed to a depth of three feet.[186]

Q. How do you respond to Ms. Gilbert's assertions?

A. As an initial matter, Ms. Gilbert appears to be conflating two separate standards. The

[182] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 16 of 24.
[183] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 17 of 24.
[184] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 5 of 24.
[185] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 5 of 24.
[186] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 5 of 24.

language that Ms. Gilbert quotes from the Proposed Order regarding the removal of concrete foundations relates to Idaho Power's compliance with EFSC's Retirement and Financial Assurances ("RFA") Standard. My understanding is that under the RFA Standard Idaho Power must demonstrate that the Project site "can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility."[187] On the other hand, under the Land Use Standard and ORS 215.275, Ms. Gilbert is correct that Idaho Power must restore impacted agricultural lands as nearly as possible to their former productivity.[188] Contrary to Ms. Gilbert's assertion that site restoration for agricultural lands is not addressed in the Proposed Order, Idaho Power addresses this requirement in the Agricultural Lands Assessment, which is attached to the Proposed Order.[189] Furthermore, as I discussed above, the Agricultural Lands Assessment and Mitigation Plan provides that Idaho Power will work with landowners to address specific mitigation actions to the extent the construction or operation—including maintenance, repair or reconstruction—of the Project impacts accepted farm practices or the cost of those practices.[190] Idaho Power specifically commits that lands used during construction will be restored, as nearly as possible, to former productivity.[191] Ms. Gilbert has provided no evidence to substantiate her claim that Idaho Power's mitigation methods will be inadequate to mitigate impacts to affected agricultural lands.

[187] OAR 345-022-0050(1).
[188] Proposed Order at 215 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 222 of 10016).
[189] Proposed Order at 215 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 222 of 10016).
[190] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 37 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8918 of 10016).
[191] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 35 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).

Q. Ms. Gilbert alleges that the bond required as part of Idaho Power's plan to retire the Project is inadequate to the cost of restoring farmlands if the Project is removed or abandoned and/or the bond cannot be treated as mitigation unless the bond provides necessary funding to restore the site, which she claims the bond would not do.[192] How do you respond to that allegation?

A. The bond that Ms. Gilbert challenges is required to demonstrate compliance with the RFA Standard, not the Land Use Standard.[193] For that reason, Ms. Gilbert's challenges to the bond requirements are outside the scope of LU-11.

That being said, Ms. Gilbert has also been granted limited party status to raise an issue relating to compliance with the RFA Standard, RFA-1.[194] I am not an expert on the retirement of energy facilities, but my understanding is that Idaho Power is submitting testimony from another witness, Jared Ellsworth, which addresses issues relating to compliance with the RFA standard.

5. Specific Challenges to the Agricultural Lands Assessment

Q. You said that Ms. Gilbert also raises specific challenges to Idaho Power's Agricultural Lands Assessment. What are those challenges?

A. Throughout her testimony, Ms. Gilbert identifies various potential impacts to farm practices that she alleges Idaho Power failed to adequately assess. I will address these issues in turn.

[192] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 5-6 of 24.
[193] *See* Proposed Order at 292 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 299 of 10016) ("[The RFA Standard] requires a demonstration that the applicant can obtain a bond or letter of credit to 19 restore the site to a useful, non-hazardous condition.").
[194] Second Order on Case Management at 6 (Aug. 31, 2021) (RFA-1 asks: "Whether the $1 bond amount adequately protects the public from facility abandonment and provides a basis for the estimated useful life of the facility.").

Q. Turning to Ms. Gilbert's specific allegations, Ms. Gilbert asserts that the 500-foot Agricultural Lands Assessment area is inadequate to evaluate accepted farm practices that may be impacted by the Project.[195] How do you respond?

A. As discussed above and in detail in the Agricultural Lands Assessment and Mitigation Plan, Idaho Power evaluated all farm practices either observed or expected on lands within the site boundary and on surrounding lands within 500 feet of the site boundary.[196] Importantly, Idaho Power applied a 500-foot analysis area in response to a request from ODOE.[197] In her testimony, Ms. Gilbert does not provide any specific basis to assert that this analysis area is insufficient, but rather makes a conclusory statement that this analysis area does not adequately evaluate the extent of potential impacts.[198] Without any specific alleged shortcoming, Ms. Gilbert has not identified any sufficient basis to conclude that the analysis area is inadequate.

Q. Ms. Gilbert also raises agritourism in her testimony. What does Ms. Gilbert state about agritourism?

A. In her testimony Ms. Gilbert mentions agritourism but does not raise any specific concern regarding Idaho Power's analysis of agritourism.[199]

Q. Does Idaho Power address agritourism in the Agricultural Lands Assessment?

A. Idaho Power did not specifically discuss agritourism in the Agricultural Lands Assessment.

[195] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 23-24 of 24.
[196] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 4 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8885 of 10016).
[197] Request for Additional Information RAI-2-K15 (ODOE - B2HAPPDoc1-11.1 ApASC Exhibit K_Land Use_Part 1-Includes RAIs 2013-2016_2017-06-28. Page 5 of 381) ("Please provide a revised agricultural assessment that identifies all lands devoted to farm use within the site boundary (including roads and other related and supporting facilities). The department recommends that IPC include surrounding lands within 500 feet of any site boundary, in addition to those lands within the site boundary.").
[198] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 23 of 24.
[199] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 3 of 24.

However, if any specific landowner maintains an agritourism business on their farm and is concerned about potential impacts resulting from the Project, Idaho Power will work with that landowner to attempt to minimize and mitigate any potential impacts to that business.

Q. Ms. Gilbert alleges that the Proposed Order fails to identify the amount of farmland that will be permanently and temporarily impacted, and specifically alleges that Table 5-7 "contains multiple errors in addition to a failure to include all land that will be subject to permanent and construction impacts."[200] How do you respond to that allegation?

A. As an initial matter, LU-11 relates to compliance with ORS 215.275(5). Although I am not an attorney, my understanding of ORS 215.275(5) is that it requires an analysis of potential changes to accepted farm practices on lands *surrounding* a utility facility, not on lands within the facility itself.[201] Idaho Power will address this legal argument in greater detail in the Company's post-hearing closing arguments.

Furthermore, I would like to note that LU-11 relates to impacts to accepted farm *practices*, not the acreage of farmland permanently or temporarily impacted by the Project. However, to the extent her allegations can be construed to relate to LU-11, there is no merit to any of her allegations.

Q. What are Ms. Gilbert's specific allegations regarding alleged deficiencies in the information provided in Table 5-7?

A. Ms. Gilbert alleges that the construction disturbance area does not account for all

[200] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 20-21 of 24.
[201] ORS 215.275(5) ("The governing body of the county or its designee shall impose clear and objective conditions on an application for utility facility siting under ORS 215.213 (1)(c)(A) or 215.283 (1)(c)(A) to mitigate and minimize the impacts of the proposed facility, if any, *on surrounding lands* devoted to farm use in order to prevent a significant change in accepted farm practices or a significant increase in the cost of farm practices on the surrounding farmlands.").

potentially impacted areas, and specifically asserts that Idaho Power has failed to account for a 20-foot graveled area around structures, failed to account for disturbance within the transmission line centerline, and notes several errors in the presentation of the acres impacted for five structure types presented in Table 5-7.[202]

Q. How do you respond to Ms. Gilbert's allegation that Idaho Power failed to account for a 20-foot graveled area around tower structures?

A. Idaho Power is not proposing a 20-foot graveled area around all structures. Ms. Gilbert did not provide a specific reference to support her claim, and accordingly Idaho Power is not certain what Ms. Gilbert is referring to when she discusses the 20-foot graveled area. In any event, Idaho Power can confirm now that its plans ***do not*** include a 20-foot graveled area around all structures.

Q. How do you respond to Ms. Gilbert's assertion that Table 5-7 does not include construction disturbance along the right-of-way?

A. All Project-related construction disturbance is limited to the areas captured in Table 5-7, which includes tower pads, roads, communication stations, pulling and tensioning sites, etc. Unless there is a road directly along the centerline, there will be no disturbance between each tower site other than access roads to each tower location which may not follow the centerline directly. Accordingly, Idaho Power appropriately included the features that would result in construction disturbance in Table 5-7.

Q. How do you respond to Ms. Gilbert's assertion that Table 5-7 includes errors in the presentation of acres impacted for five different structure types?

A. Idaho Power appreciates Ms. Gilbert's diligence in bringing this issue to our attention, and

[202] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 20-21 of 24.

agrees that there were typographical errors in Table 5-7. Idaho Power has prepared an updated Table 5-7 which is included as Exhibit C to my testimony.[203]

Q. Ms. Gilbert also raises a question in her testimony about whether hybrid zoned lands were considered in the analysis of EFU lands, and alleges that hybrid lands were omitted from the EFU analysis.[204] How do you respond?

A. My understanding is that Ms. Gilbert is providing testimony related to LU-6, which was already resolved in this case through the motion for summary determination process. The Hearing Officer's Ruling summarizes Idaho Power's motion for summary determination as follows:

> Idaho Power explains Ms. Gilbert's contention that Idaho Power did not include land zoned rangeland/farmland in its review is based on a misunderstanding of Idaho Power's EFU analysis in ASC Exhibit K. Idaho Power notes that it took a conservative approach, as recommended by DLCD staff, and did not include hybrid-zoned land with a predominant use of rangeland in the first step of its analysis (evaluating non-EFU alternatives), but in the second step of its analysis (assessing the necessity for siting the facility in a EFU zone due under the factors set out in ORS 215.275(2)) it included all EFU land, rangeland, and hybrid-zoned land (except forest land).[205]

In her ruling, the Hearing Officer concluded that Idaho Power appropriately excluded range land when considering reasonable non-EFU alternatives and appropriately included all relevant farmland (all EFU, range, and hybrid-zoned land except forest land) when evaluating the need for siting the facility in EFU lands pursuant to ORS 215.275(2).[206]

[203] Idaho Power / Rebuttal Testimony of Kurtis Funke / Issues LU-9 and LU-11 /Exhibit C, Updated Table 5-7 from Idaho Power's Agricultural Lands Assessment.
[204] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 20-21 of 24.
[205] Ruling and Order on Motion for Summary Determination on Contested Case Issues LU-2, LU-3, LU-5 and LU-6 at 23-24 (July 21, 2021).
[206] Ruling and Order on Motion for Summary Determination on Contested Case Issues LU-2, LU-3, LU-5 and LU-6 at 24 (July 21, 2021).

Q. Ms. Gilbert raises a concern regarding testing of water sources. What is her specific allegation?

A. Ms. Gilbert alleges that there is no requirement in the Proposed Order that Idaho Power test water sources prior to construction and compare the results to tests after construction.[207] Ms. Gilbert asserts that this testing is necessary to determine whether the construction of the Project has impacted these water sources.[208]

Q. How do you respond to that assertion?

A. Ms. Gilbert's assertion appears to relate to a separate issue, SS-3, for which Ms. Gilbert has not been granted limited party status.[209] My understanding is that Idaho Power is submitting evidence for SS-3 from a different witness, Mr. Robert Cummings, which addresses Idaho Power's agreement to incorporate a modified version of Design Feature 32 from the Draft Framework Blasting Plan into Soil Protection Condition 4. To the extent that any potentially impacted landowner is concerned about damage to a specific water source, Idaho Power has agreed in its proposed Soil Protection Condition 4 to consult with landowners prior to construction and discuss any blasting that the Company plans to conduct on the landowner's property. If the landowner identifies a natural spring or well on the property, Idaho Power will notify the landowner that, at the landowner's request, the Company will conduct pre-blasting baseline flow and water quality measurements. If after blasting a landowner submits a complaint about blasting impacts to the Company, Idaho Power will investigate the complaint which, depending on the nature of the

[207] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 18 of 24.
[208] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 18 of 24.
[209] SS-3 asks: "Whether Applicant should be required to test water quality of private water wells to ensure that construction-related activities are not impacting water quality and quantity." Second Order on Case Management at 7 (Aug. 31, 2021).

complaint, may include post-blasting well and spring testing for a reasonable period of time. Further, Idaho Power is liable to compensate the landowner for adequate repair or replacement if damages to the flow or quality of the natural spring or well occur solely as a result of blasting. As discussed in Mr. Cummings' testimony, this testing protocol is particular to blasting because construction and construction-related traffic for B2H will not be capable of producing vibrations at an intensity necessary to damage wells or springs.

Q. Ms. Gilbert alleges that construction of the Project will likely result in the creation of a utility corridor that will be used by additional power lines in the future.[210] How do you respond to that concern?

A. Ms. Gilbert appears to raise a legal argument regarding Idaho Power's obligation to assess cumulative impacts resulting from future energy facilities. I am not an attorney, but my understanding is that Idaho Power will address this concern in the Company's post-hearing closing arguments.

Q. Ms. Gilbert alleges that Idaho Power has not provided "objective information" on a list of 23 different alleged impacts she claims the transmission line will have on areas that she claims are accepted farm practices that will be impacted by the transmission line. What alleged impacts does Ms. Gilbert raise in her testimony?

A. Ms. Gilbert raises the following alleged impacts:

1. Transmission lines will require avoidance of the 20 foot gravel area around the base of the support structures.

2. Interfering with the circular use of pivotal irrigation systems will result in an inefficient placement of irrigation pivots.

[210] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 18 of 24.

3. Breaking a field up into two units as opposed to one larger one is inefficient.

4. Limiting the use of aircraft for predator control will increase costs and require increased time to locate and address predators.

5. Remote farms who use aircraft to travel for supplies are not provided a safe runway approach in the site certificate condition.

6. Soil Protection Plan fails to address erosion occurring on agricultural land outside the site boundary and will require the landowner to address erosion resulting from runoff from the transmission line which will be increased due to concrete pads and compaction of the soil along the transmission line path. Gen-SP-02

8. Farmers will be unable to work under the transmission lines with tall equipment and will have to find ways to move equipment around the lines

9. Most farmers restrict vehicle use in fields due to the fact that it breaks through the crust on the soil and results in increased weeds and erosion. In areas like Morrow County, one of the reasons for using aerial methods of taking care of the application of chemicals is the fact that using ground equipment results in large dust clouds and provides for significant amounts of wind eroded soil.

10. Increase in fire hazard and developer has not identified methods of mitigating the costs for insurance, fire personnel and equipment.

11. Risk of aerial spray activities resulting in colliding with poles or guy wires. 12. Increases in soil erosion in the event that snow and wind breaks are removed.

13. Interference with future land uses such as construction of agricultural buildings, a second homesite (depending upon acreage).

14. Hinderance of consolidation of farm fields.

15. The creation of restrictions or elimination of the ability for the landowner to subdivide their land.

16. Reduced land value and opportunities for sale of the land for farm consolidation or as collateral for obtaining working capitol.

17. Pesticide contamination interference with future or current organic farming.

18. Reduce soil productivity

19. Soil compaction due to construction and ongoing vehicle and equipment movement along portions of the transmission line that the developer will not be providing mitigation for (only provides mitigation for bases of structures and claims that restoration of vegetation along transmission line removes the4 need for mitigation of other impact areas. Soils need to be tested in the ROW with a penetrometer prior to and periodically following construction and compared to soils outside the ROW. Soils need to be maintained with the same level of compaction that exists outside the ROW or mitigation provided for lost crops.

20. Rutting of soil increasing soil mixing, erosion and compacting of soil,

21. Damages to vegetative cover increases likelihood of hazardous materials getting into water used.

22. Erosion of soil on adjacent farm and forest lands.

23. Will limit the area of irrigated farmland due to the requirement to keep water off the transmission lines but no mitigation is proposed or discussed regarding this impact.[211]

[211] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, pp. 22-24 of 24.

Q. Could you please comment on each of these issues and whether Idaho Power has evaluated and mitigated the impacts of each?

A. Certainly. I will address each of Ms. Gilbert's alleged impacts, which are shown in my testimony in bold. I will address each assertion in turn, however several of the assertions raise related challenges, in which case I will address them in a single response.

Q. Please address Ms. Gilbert's allegation that: "Transmission lines will require avoidance of the 20 foot gravel area around the base of the support structures."[212]

A. Ms. Gilbert appears to be arguing that Idaho Power has not provided "objective information" regarding how graveled areas around each transmission tower will impact accepted farm practices. However, it is not clear what gravel area Ms. Gilbert is discussing because she does not provide a specific citation to support her assertion. As I explained previously, Idaho Power does not plan to include a 20-foot gravel area around all support structures. That being said, Idaho Power acknowledges that the placement of the transmission towers—including the area around the base of those towers—will permanently impact the affected areas.[213] The Company understands that this may result in an increase in production costs as farmers need to divert their equipment around structures, make additional passes, take additional time to maneuver, skip acres, or retreat acres.[214] Idaho Power has sought to minimize these impacts by micrositing the Project to avoid crossing agricultural fields as much as possible and, in cases where it is necessary to cross agricultural fields, structures will be placed on the outside edges of the field or

[212] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 22 of 24.
[213] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).
[214] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).

parallel to the rows and will avoid diagonal field crossings.[215] Given Idaho Power's extensive discussion of the potential impacts resulting from permanent Project components, there is no merit to Ms. Gilbert's unsubstantiated assertion that Idaho Power has not provided "objective information" regarding this impact.

Q. Please address Ms. Gilbert's allegation that: "Interfering with the circular use of pivotal irrigation systems will result in an inefficient placement of irrigation pivots."[216]

A. Again, Ms. Gilbert appears to be arguing that Idaho Power has not provided "objective information" regarding how pivot irrigation will be impacted by the Project. And, again, in making this unsubstantiated assertion, Ms. Gilbert has ignored the substantial, detailed discussion in the Agricultural Lands Assessment and Mitigation Plan that addresses the impact of the Project on pivot irrigation. In the Agricultural Lands Assessment, Idaho Power acknowledges that pivots operate most efficiently when they complete the entire circle and continue in the same direction on a permanent basis and imbalanced application of irrigation could affect crop production.[217] For that reason, effort was put into routing the location of the transmission line to avoid irrigated areas and micrositing will be used to the maximum extent possible to minimize the interference of transmission structures on irrigation systems.[218] Moreover, to the extent the Project impacts a landowner's ability to use pivot irrigation, as described in the Mitigation Plan, Idaho Power will mitigate for that

[215] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).
[216] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 22 of 24.
[217] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).
[218] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).

impact through various measures.[219] Ms. Gilbert has not provided any specific basis to conclude that Idaho Power's analysis of this potential impact and proposed mitigation actions are insufficient.

Q. Elsewhere in her testimony, Ms. Gilbert asserts that the Project will affect irrigation systems by corroding metal pipes through electrolysis.[220] How do you respond to that assertion?

A. Idaho Power assessed potential impacts resulting from induced current in the Agricultural Lands Assessment.[221] Idaho Power will compensate landowners for any additional materials needed to properly ground or protect fences or irrigation equipment from induced voltage, as provided in any applicable easement or access agreement between Idaho Power and the landowner.[222] Ms. Gilbert has not provided any explanation as to how this is inadequate to address her concern.

Q. Relatedly, Ms. Gilbert raises a concern that agricultural landowners may have to remove fences below the Project because of induced current.[223] Has Idaho Power addressed that concern?

A. Yes. As stated above, Idaho Power identified potential induced current effects in the Agricultural Lands Assessment.[224] In addition to compensating landowners for any new materials needed for their fences, Idaho Power will assist landowners in determining the

[219] *See* Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921 of 10016) (detailing Idaho Power's various proposed mitigation actions for impacts to irrigation systems during construction).
[220] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 18 of 24.
[221] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 42-43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8923-24 of 10016).
[222] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8924 of 10016).
[223] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 18 of 24.
[224] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 42-43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8923-24 of 10016).

best way to safely ground their fences.[225]

Q. Please address Ms. Gilbert's allegation that: "Breaking a field up into two units as opposed to one larger one is inefficient."[226]

A. Ms. Gilbert does not identify or describe the accepted farm practice she asserts will be impacted by this allegation, nor has she provided any evidence as to how the Project will "break a field up into two units" or what "inefficiency" this "break up" will create. Nonetheless, as described in detail in the Agricultural Lands Assessment and Mitigation Plan, Idaho Power acknowledges that the placement of the Project in agricultural areas results in permanent impacts and, for that reason, the Company has attempted to avoid siting the transmission line on agricultural lands wherever practical and technically feasible.[227] As discussed above, Idaho Power has sought to minimize impacts by micrositing the Project to avoid crossing most agricultural fields and, in cases where it is necessary to cross agricultural fields, structures will be placed on the outside edges of the field or parallel to the rows and will avoid diagonal field crossings.[228]

Finally, to the extent the Project will result in impacts to accepted farm practices or the cost of those practices, Idaho Power will provide mitigation to ensure that the Project does not prevent a significant change or significant increase in cost of farm practices.

Q. Please address Ms. Gilbert's allegations that: "Limiting the use of aircraft for predator control will increase costs and require creased time to locate and address predators."; "Remote farms who use aircraft to travel for supplies are not provided

[225] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 43 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8924 of 10016).
[226] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 22 of 24.
[227] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 12 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8893 of 10016).
[228] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 25 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8906 of 10016).

a safe runway approach in the site certificate condition"; and "Risk of aerial spray activities resulting in colliding with poles or guy wires."

A. Ms. Gilbert raises three concerns relating to potential impacts to use of aircraft for farming activities.[229] In Idaho Power's Agricultural Lands Assessment, Idaho Power assessed potential impacts to the use of aircraft for farming activities and explained the actions that the Company had taken to minimize those impacts, including the decision not to use guy wires and to site the Project along the edges of fields, existing roadways, or natural boundaries, rather than through existing fields whenever feasible.[230] Additionally, large high-voltage transmission lines like the Project are easier to see and provide more clearance than smaller distribution lines, which will reduce the risk posed to aerial applicators.[231] Ms. Gilbert does not provide any explanation as to why Idaho Power's analysis of these impacts and the Company's minimization efforts are insufficient. Nonetheless, to the extent that these impacts may occur, Idaho Power will work with impacted landowners to provide mitigation to ensure that the Project does not force a significant change or significant increase in cost of farm practices.

Q. Elsewhere in her testimony, Ms. Gilbert asserts that Idaho Power must mitigate the additional costs that agricultural landowners will bear to apply pesticides through non-aerial means.[232] How do you respond to that assertion?

A. As explained above, Idaho Power took specific actions to minimize the risk to use of aircraft for agricultural purposes. Given that minimization, landowners near the Project

[229] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 22 of 24.
[230] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23-24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904-05 of 10016).
[231] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[232] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 18 of 24.

will still be able to use aircraft on much of their property. To the extent that any landowners are specifically impacted by decreased use of aircraft on their fields, Idaho Power will address that through negotiations with the landowner.

Q. Please address Ms. Gilbert's allegations that: "Soil Protection Plan fails to address erosion occurring on agricultural land outside the site boundary and will require the landowner to address erosion resulting from runoff from the transmission line which will be increased due to concrete pads and compaction of the soil along the transmission line path"; "Most farmers restrict vehicle use in fields due to the fact that it breaks through the crust on the soil and results in increased weeds and erosion. In areas like Morrow County, one of the reasons for using aerial methods of taking care of the application of chemical is the fact that using ground equipment results in large dust clouds and provides for significant amounts of wind eroded soil"; "Increases in soil erosion in the event that snow and wind breaks are removed"; "Erosion of soil on adjacent farm and forest lands"; "Reduced soil productivity"; "Soil compaction due to construction and ongoing vehicle and equipment movement along portions of the transmission line that the developer will not be providing mitigation for (only provides mitigation for bases of structures and claims that restoration of vegetation along transmission line removes the need for mitigation of other impact areas. Soils need to be tested in the right-of-way with a penetrometer prior to and periodically following construction and compared to soils outside the ROW. Soils need to be maintained with the same level of compaction that exists outside of right-of-way or mitigation provided for lost crops"; and "Rutting of soil increasing soil mixing, erosion and compacting of soil."

A. Ms. Gilbert raises several unsupported assertions relating to potential impacts to soil. As an initial matter, it is not clear what Ms. Gilbert refers to regarding the "Soil Protection Plan" in her allegation No. 6. There is no "Soil Protection Plan." Ms. Gilbert may be referring to the Erosion and Sediment Control Plan,[233] but Idaho Power developed that plan to demonstrate compliance with the Soil Protection Standard,[234] and compliance with that standard is not within the scope of LU-11. Additionally, the Reclamation and Revegetation Plan also addresses potential impacts to soils.[235] Finally, Idaho Power identified erosion as a potential impact resulting from the Project and fully analyzed impacts to soil productivity in Exhibit I of the ASC.[236] Idaho Power provides substantial discussion regarding potential impacts and mitigation related to erosion, compaction, and soil productivity in the testimony of Mark Madison addressing the Soil Protection Standard.

To the extent Ms. Gilbert's statement can be construed to assert that Idaho has not adequately evaluated or mitigated for the impacts of erosion or other soil impacts on accepted farm practices on agricultural land within the Agricultural Assessment Area, in the Agricultural Lands Assessment and Mitigation Plan, Idaho Power identified the practices that the Company will put in place to prevent soil erosion and specified that the Company will implement specific construction practices to mitigate potential impacts on

[233] Proposed Order, Attachment I-3, 1200-C Permit and Draft Erosion and Sediment Control Plan (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8784 of 10016).
[234] OAR 345-022-0022 ("To issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.").
[235] Proposed Order, Attachment P1-3, Draft Reclamation and Revegetation Plan (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 9105 of 10016).
[236] ASC, Exhibit I at I-5 (ODOE - B2HAPPDoc3-16 ASC 09a_Exhibit I_Soil_ASC_Part 1 2018-09-28. Page 9 of 115).

soil productivity.[237] However, to the extent the Project will cause soil erosion that impacts a landowner's accepted agricultural practice that cannot be minimized through coordination with the landowner, the Agricultural Lands Assessment and Mitigation Plan specifically provides for mitigation for those impacts.[238]

Q. Ms. Gilbert raises a specific concern regarding erosion in Union County. What does Ms. Gilbert assert?

A. Ms. Gilbert asserts that Union County has experienced substantial flooding problems near Ladd Marsh and that the county has denied past development proposals in the area because of erosions concerns.[239] However, Ms. Gilbert does not identify any development that has previously been denied.

Q. How do you respond to Ms. Gilbert's concerns about erosion in Union County?

A. As explained above, Idaho Power has identified specific actions the Company will take to minimize and mitigate erosion impacts. If any impacted landowner has additional concerns regarding erosion, Idaho Power will address those concerns through parcel-specific mitigation.

Q. Please address Ms. Gilbert's allegation that: "Farmers will be unable to work under the transmission lines with tall equipment and will have to find ways to move equipment around the lines." [240]

A. To the extent Ms. Gilbert is asserting that Idaho Power has not provided "objective information" regarding use of tall equipment under the transmission lines, as a factual

[237] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 36, 42 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Pages 8917, 8923 of 10016).
[238] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 42 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8923 of 10016).
[239] Irene Gilbert / Petitioner Irene Gilbert's Opening Arguments (Sept. 17, 2021) / Issue LU-11, p. 19 of 24.
[240] Ms. Gilbert's list does not include an issue number 7.

matter Ms. Gilbert's allegation is incorrect. The Agricultural Lands Assessment and Mitigation Plan fully recognizes that, as a permanent impact of the Project, use of equipment taller than 15 feet will be restricted under the transmission lines.[241] However modern tractors and equipment, including combines, are less than 15 feet tall.[242] That being said, because some equipment is more than 15 feet tall, Idaho Power will provide mitigation for those permanent impacts. Ms. Gilbert has not provided any specific basis for her assertion that Idaho Power's analysis of this potential impact is inadequate.

Q. Please address Ms. Gilbert's allegation that: "Increase in fire hazard and developer has not identified methods of mitigating the costs for insurance, fire personnel and equipment."

A. As I mentioned above, Idaho Power is submitting separate testimony that addresses wildfire risks. Ms. Gilbert did not provide any specific details to support this allegation, and conjecture regarding possible economic impact regarding costs for insurance, fire personnel and equipment is beyond the scope of ORS 215.275(5) and thus beyond the requirements for evaluation and mitigation of accepted farm practices and the cost of those accepted farm practices.

Q. Please address Ms. Gilbert's allegations that: "Interference with future land uses such as construction of agricultural buildings, a second homesite (depending upon acreage.)"; "Hinderance of consolidation of farm fields"; "The creation of restrictions or elimination of the ability for the landowner to subdivide their land"; and "Reduced land value and opportunities for sale of the land for farm consolidation or as collateral

[241] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).
[242] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904 of 10016).

for obtaining working capitol."

A. Ms. Gilbert raises several concerns relating to economic impacts that may result from the Project dividing fields and reducing the value of land. However, Ms. Gilbert does not establish that "a second homesite," the "consolidation of farm fields," the subdivision of farms, or the use of farms as collateral are accepted farm practices that could be impacted by the Project. Moreover, these property-related matters and economic issues are outside the scope of EFSC's jurisdiction,[243] and therefore are not relevant to resolution of LU-11.

Q. Please address Ms. Gilbert's allegation that: "Pesticide contamination interference with future or current organic farming."

A. Similar to several of Ms. Gilbert's other assertions, it is unclear what "objective information" Ms. Gilbert alleges Idaho Power has not provided regarding this issue. As discussed above, the Agricultural Lands Assessment and Mitigation Plan includes detailed information regarding organic farming, including measures to prevent pesticide contamination.[244] Idaho Power has committed to avoiding the application of herbicides, pesticides, fertilizers, or seeds on organic farmland unless requested and approved by the landowner.[245] Additionally, no refueling, fuel or lubricant storage, or routine equipment maintenance will be allowed on organic agricultural land and equipment will be checked prior to entry to make sure that fuel, hydraulic, and lubrication systems are in good working order before working on organic agricultural land.[246] If prohibited substances are used on

[243] Proposed Order at 2 n. 5 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 9 of 10016).
[244] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 47 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8928 of 10016).
[245] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 47 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8928 of 10016).
[246] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 47 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8928 of 10016).

land adjacent to organic agricultural land, these substances will be used in such a way as to prevent them from entering organic agricultural land.[247]

Ms. Gilbert has not raised any specific challenge to Idaho Power's proposals nor explained with any specificity how these proposals are inadequate. Furthermore, to the extent the Project impacts an organic farmer's accepted farming practice, Idaho Power will provide mitigation to ensure that the Project does not force a significant change or significant increase in the cost of farm practices. For example, Idaho Power could assist the landowner in their annual inspection of organic farms by Tilth or another certifying agency.

Q. Please address Ms. Gilbert's allegation that: "Damages to vegetative cover increases likelihood of hazardous materials getting into water used."

A. It is unclear what "damages to vegetative cover" Ms. Gilbert is referencing, or what "hazardous materials" she is concerned will get "into water used." Without any explanation of the "objective information" she alleges is missing regarding this vague allegation, a specific response is not possible. Nonetheless, to the extent the Project will impact an accepted farming practice that cannot be minimized, the Agricultural Lands Assessment and Mitigation Plan provides mitigation for the affected landowner.

Q. Please address Ms. Gilbert's allegation that: "Will limit the area of irrigated farmland due to the requirement to keep water off the transmission lines but no mitigation is proposed or discussed regarding this impact."

A. Ms. Gilbert is correct that water should never be sprayed directly at the Project's

[247] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 47 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8928 of 10016).

conductors or towers.[248] However, it is unclear what "objective information" Ms. Gilbert alleges Idaho Power has not provided on this issue, because Idaho Power addressed this impact in the Agricultural Lands Assessment and Mitigation Plan and detailed the actions that Idaho Power will take to mitigate potential impacts to irrigated farmland.[249] As discussed above, to the extent the Project will impact landowner's accepted irrigation practices, Idaho Power will provide mitigation for those impacts.

Q. For the concerns that you just addressed, does Ms. Gilbert raise these concerns specific to her own property or the property of any other landowners in the Project area?

A. No. Ms. Gilbert does not indicate in her testimony that she is concerned about potential impacts to her own land or to any other specific landowners in the Project area. Accordingly, these concerns are not specific to any landowners, but are more hypothetical or theoretical in nature.

Q. Do you have any general response to Ms. Gilbert's challenges?

A. Yes. For many of the purported impacts, Ms. Gilbert merely lists the impacts without any specific explanation of the basis for her concern that the impact has not been adequately assessed. Additionally, Idaho Power addressed some of the alleged impacts in the Company's Agricultural Lands Assessment and Ms. Gilbert fails to raise any specific challenges explaining how Idaho Power's assessment of these potential impacts is inadequate.

[248] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 28 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8909 of 10016).
[249] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 40-41 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8921-22 of 10016).

Q. Does Ms. Gilbert raise any other issues relevant to LU-11?

A. No. Ms. Gilbert's testimony does not raise any other issues that could be construed to relate to LU-11, and specifically to whether the impacts to accepted farm practices within the analysis area have been adequately evaluated and mitigated.

B. <u>Issue LU-9</u>

Q. What is LU-9?

A. LU-9 asks:

> *Whether Applicant adequately analyzed the risk of wildfires from operation of the proposed transmission lines, especially during "red flag" warning weather conditions, and the impact the proposed transmission lines will have on Mr. Myers's ability to use an aerial applicator on his farmland.*[250]

Q. Which limited party raised LU-9?

A. Sam Myers raised LU-9.[251]

Q. LU-9 includes two concerns, one relating to fire risk during red flag warnings and another relating to Mr. Myers's ability to use an airplane on his farm. Are you addressing both of the concerns that Mr. Myers raised?

A. No. I will not be addressing Mr. Myers's concern regarding Idaho Power's analysis of fire risk, because I am not an expert on fire issues. My understanding is that Idaho Power is submitting separate testimony from Christopher Lautenberger that addresses wildfire risk.

Q. Did Mr. Myers articulate how his concerns about fire risk relate to his agricultural operations?

A. Yes. Mr. Myers expressed concern about potential impacts to soils associated with wildfire, which he argues may impact crop yields.[252]

[250] Second Order on Case Management at 5 (Aug. 31, 2021).
[251] Sam Myers's Petition for Party Status at 1 (Aug. 24, 2020).
[252] Sam Myers / Direct Testimony of Sam Myers (Sept. 17, 2021) / Issue LU-9, p. 1 of 6.

Q. Do you address Mr. Myers's concern about impacts to soils?

A. No. My understanding is that Idaho Power's expert witness addressing soils impacts provides testimony responding to Mr. Myers's concern about impacts to soils.

Q. Does Mr. Myers address any other potential impacts to his agricultural operations in his direct testimony?

A. No. His testimony focuses on the risk of fire and potential impacts of fire to the soil.

Q. The issue statement for LU-9 includes "the impact the proposed transmission lines will have on Mr. Myers's ability to use an aerial applicator on his farmland." Did Mr. Myers submit direct testimony regarding the use of an aerial applicator on his farmland?

A. No, he did not.

Q. Although Mr. Myers has not described his concern in testimony, could you please provide an explanation of potential impacts to aerial application and Idaho Power's proposed mitigation for such impacts?

A. Idaho Power recognizes that the transmission lines may impact aerial chemical application.[253] Idaho Power will minimize potential impacts to aerial spraying by siting the transmission lines as much as possible along the edges of fields, existing roadways, or natural boundaries, rather than through existing fields, which will result in less risk to the applicator and more efficiency to the producer.[254] While the presence of a transmission line increases the risk to aerial applicators, the Project's large high-voltage transmission

[253] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 23-24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8904-05 of 10016).
[254] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).

lines are easier to see and provide more clearance than smaller distribution lines.[255] To further reduce risk to aerial applicators, the Project will not use tower guy wires, which is a safety advantage to aerial applicators because guy wires are difficult to see and cover a larger ground space than towers without them.[256] To the extent impacts cannot be avoided, the Agricultural Lands Assessment includes specific measures to mitigate and minimize the unavoidable impacts.[257] As discussed above, the Agricultural Mitigation Plan details the measures that Idaho Power will take to avoid, mitigate, repair and/or provide compensation for impacts on agricultural land, including impacts to a landowner's ability to utilize aerial chemical applications.

IV. CONCLUSION

Q. Has Idaho Power adequately assessed potential impacts to farmlands in accordance with Statewide Planning Goal 3?

A Yes. For the reasons discussed above, Idaho Power has demonstrated that the Project complies with all applicable statutory requirements for siting a utility facility in EFU-zoned farmlands.

Q. Does this conclude your rebuttal testimony?

A. Yes, it does.

Q. Do you declare under penalty of perjury that your rebuttal testimony is true and accurate to the best of your knowledge?

[255] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[256] Proposed Order, Attachment K-1, Agricultural Lands Assessment at 24 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8905 of 10016).
[257] *See generally* Proposed Order, Attachment K-1, Agricultural Lands Assessment, Section 7.0 (ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02. Page 8916 of 10016).

A. Yes. I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in this proceeding and is subject to penalty for perjury.

DATED this 11th day of November, 2021

Signed: 

Kurtis Funke