

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.

SUSAN GEER

REBUTTAL TESTIMONY

March 20, 2023

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I. Susan Geer's Rebuttal of Michael Ottenlips' Reply Testimony

Route segments in Union County

Background Information

The Blue Mountains area is known as Segment 2 in the BLM and USFS EISs. Four different routes or alternatives, plus colocation with the 230kV line, were considered at one level or another, in the federal documents. They are shown in Figure 1 (Ottenlips).

Q1. In his Reply testimony, did Mr. Ottenlips accurately summarize the Routes considered in Union County?

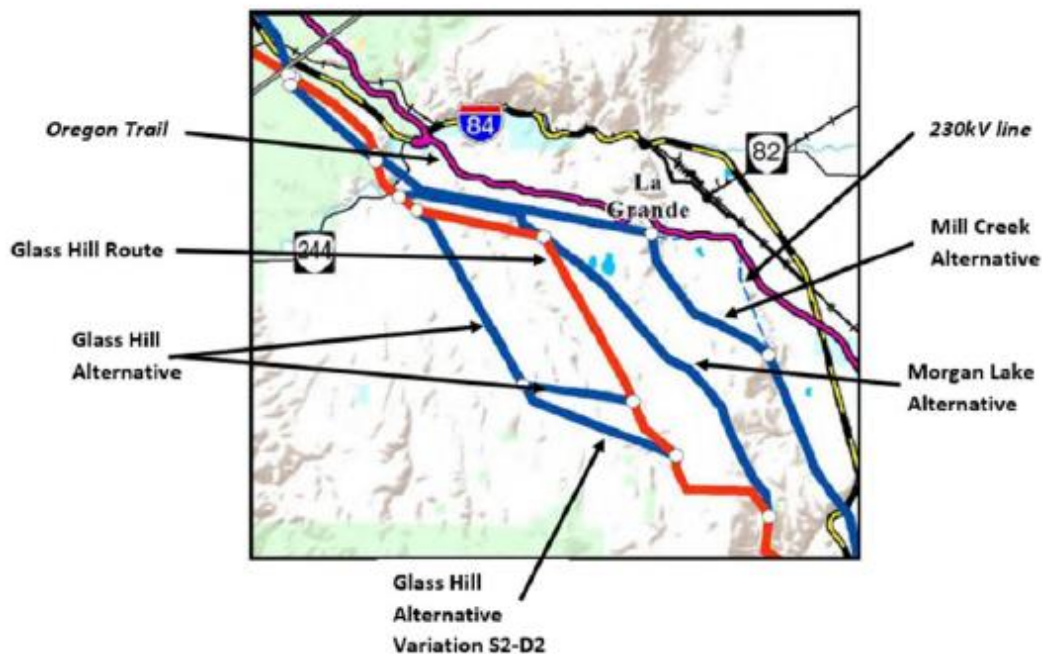
A1. No. Mr. Ottenlips provided a misleading reply. In summarizing his reply, Mr. Ottenlips says, "Idaho Power considered several potential routes through Union County for the Project, including the Mill Creek Route, the Morgan Lake Alternative, and the Glass Hill Alternative". Mr. Ottenlips failed to mention the "Proposed route", as well as variation S2-D2.

The Proposed Route was Idaho Power company's proposed route in the 2014 BLM DEIS, 2017 BLM FEIS, and 2018 USFS FEIS.

Q2. Why is this omission important?

A2. Throughout their testimonies, Mr. Ottenlips and Mr. Colburn omit mention of the "Proposed Route". They confuse the reader by newly referring to it as "Glass Hill Route". This is especially confusing because there is already a route called Glass Hill Alternative. Throughout various document related to B2H, the words "route" and "alternative" are used interchangeably. For example, in the quote from Mr. Ottenlips above, he names "Mill Creek Route", yet in his Figure 1 provided below, it is "Mill Creek Alternative".

1 Figure 1. Routes in Union County



2 Q3. Mr. Ottenlips says he performed a desktop analysis of the Mill Creek Route, the Morgan Lake
3 Alternative, and the Glass Hill Alternative. Does he give any reason for omitting the Proposed route in
4 the BLM FEIS, which he now terms Glass Hill Route?

5 A3. No, Mr. Ottenlips gives no explanation for this omission.

7 Q4. Why would Idaho Power's Proposed Route from federal agency EISs be omitted from the desktop
8 analysis and from mention?

9 A4. It appears that Idaho Power made a deal with landowner Brad Allen who proposed the Morgan Lake
10 alternative.

12 **Impacts from the Morgan Lake Alternative**

13 Background Information

14 Morgan Lake Alternative is now Idaho Power's preferred route in Union County. It is the most
15 environmentally impactful route, running within feet of Morgan Lake City Park and bisects Glass Hill
16 Natural Area. Of particular concern are two pristine wetlands on opposite ends of the route, Twin Lake
17 and Winn Meadow.

18 Q1. In Opening testimony, you express concern for Twin Lake and its surrounding wetlands. When asked
19 how Morgan Lake Alternative would impact Twin Lake, how does Mr. Ottenlips respond?

1 A1. Mr. Ottenlips states that “No. No Project component is located within Morgan Lake Park, and as a
2 result no component of the Morgan Lake Alternative will directly impact Twin Lake.” This is a mis-
3 leading response. When I visited Twin Lake in 2021 and observed survey markers presumably placed
4 there by Idaho Power/Tetra Tech, they were within the City Park boundary. Perhaps Ottenlips or the
5 survey team was confused, because there is a fence line cutting diagonally across this corner of the park
6 boundary, where it is adjacent to John Williams property. Mr. Williams can attest to the fact that in this
7 case, the fence line is not the property line. The fence line was placed up in the rocks by Mr. Williams,
8 presumably to avoid the wet hillside and allow his cattle to drink from the spring. There is an occurrence
9 of the rare plant *Trifolium douglasii*, Douglas clover. There may also be rare sedges.

10 Mr. Ottenlips uses the term “directly impact”. With his background in NEPA, we can assume he knows
11 that terminology. In NEPA, a “direct” impact is immediate. For example, bulldozing the wetland plants
12 would be a direct impact. In addition to these “direct” impacts, the proximity of the project to Twin Lake
13 wetlands would have profound indirect and cumulative impacts. The obvious indirect impacts would be
14 introduction of invasive species, disruption to the wildlife due to noise and corona, the “barrier” effect
15 wherein wildlife are hesitant to cross a de-forested area, and increased mortality to the birds and bats
16 which are found at Twin Lake in higher density than anywhere else in the surrounding area.

17 If we assume that the project boundary would instead stop at the property line, the Twin Lake wetlands
18 would still be impacted. The project would be about 125 feet from the lake itself. This southwest side
19 of the lake has a rocky rim above the lake with dense mature trees and shrubs that provide nesting
20 habitat for numerous bird species, including the bald eagle, among others. A steep slope drops to the
21 southwest, and this is where the B2H project proposes to construct. The hillside is wet, with a spring
22 emerging. It has various habitats because it is a combination of rocky spots and wet moist areas of both
23 obligate and facultative wetland plant species.

24 Wetlands are defined by the presence of wetlands plants. In the National Wetland Plant List¹, used to
25 define wetlands, obligate plants are those which always occur in wetland soils and facultative-wet plants
26 nearly always occur in wetland soils.

27 Note that Mr. Ottenlips did not survey the project area boundary adjacent to Twin Lake himself. The
28 entire basis for his assertion that the Morgan Lake alternative would not impact Twin Lakes Wetland is
29 that it would not be located within the Park boundary.

30
31 Q2. Does Mr. Ottenlips make any other statements about wildlife at Twin Lake?

32 A2. Yes. Mr. Ottenlips points out that “The site certificate for the Project requires the Company to
33 comply with specific temporal and spatial restrictions during construction which will ensure that
34 construction of the Project does not disturb nesting bald eagles”. While I am glad to hear that Idaho
35 Power does not intend to disturb nesting eagles during construction, this does nothing to alleviate the
36 increased chances for mortality with the proximity of the power line, nor the disturbance from ongoing
37 noise and corona the line would bring. Mr. Ottenlips makes mention of no other wildlife. Columbia
38 spotted frogs and sandhill cranes found there are both Oregon Sensitive species in the Oregon

¹ U.S. Army Core of Engineers. 2023 National Wetland Plant List

1 Conservation strategy, as well as being Federal Species of Concern with the USFWS. Mr. Ottenlips does
2 not mention these species at all, presumably because he did no surveys.

3
4 Q3. In addition to Twin Lake, Winn Meadow is a wet meadow of great concern. What does Mr.
5 Ottenlips say about it?

6 A3. Mr. Ottenlips surveyed the project route, which is adjacent to but not actually in “the NWI-mapped
7 wetland feature at Winn meadow”. He claims that the Project would not impact Winn meadow because
8 “no Project component is within the NWI-mapped wetland feature”.

9
10 Q4. What problems do you have with Mr. Ottenlips statement?

11 A4. First, 37-acre Winn meadows is not solely defined by the NWI-mapped feature shown in Ottenlips
12 Figure 2 on the next page. The mapped feature is approximate. Wetlands are defined by indicator
13 plants. Obligate wetlands plants extend beyond that boundary. More importantly, here again Mr.
14 Ottenlips’ answer is only true of direct impacts i.e. ground disturbance. The “improvement” of the 50-
15 year-old logging road at the headwaters of Sheep Creek/ north end of Winn meadow could well change
16 the hydrology of that area, creating serious indirect impacts; these impacts extend to introduction and
17 increased movement of invasive species along the road and into the meadow. The “improved” road
18 could attract trespass vehicles to go “mudding” in the meadow.

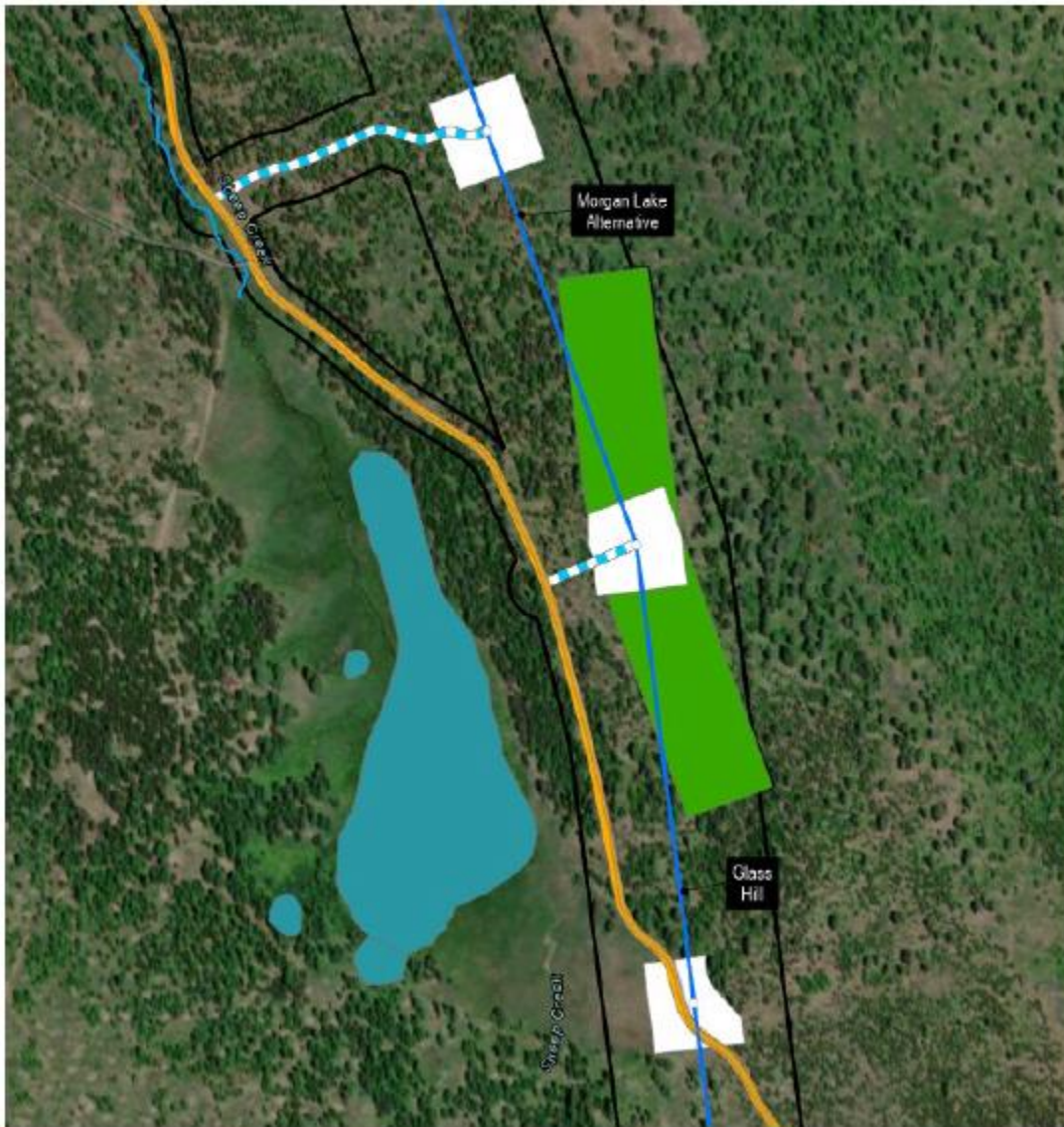
19 Glass Hill State Natural Area is part of Oregon’s Natural Areas program, The Oregon Legislature
20 established the Oregon Natural Areas Program in 1979 to protect high quality native ecosystems and
21 rare plant and animal species. Clearcutting a 250-foot-wide swath through the forest east of Winn
22 meadows and only 100 to 200 feet away would change the character of the entire area and introduce
23 numerous indirect and cumulative impacts. One is the barrier effect, prohibiting movement for wildlife
24 such as pine martens which will not cross a non-forested area. Complete and permanent elimination of
25 forest canopy would cause a shift in the plant community. Currently that area is a cool mesic forest
26 dominated by lodgepole pine and grand fir with an understory of grouse huckleberry and twinflower,
27 with an array of forest wildlife living there. It is likely such a drastic shift in conditions would promote
28 large stands of invasives.

29 Mr. Ottenlips focuses only on the mapped wetland feature at Winn meadows, presumably because he is
30 only doing a desktop exercise in GIS. This focus does a great disservice to the integrity of Glass Hill State
31 Natural Area, where native plants and animals have been undisturbed for well over 20 years. As I point
32 out in my Opening Testimony, Dr. Rice acquired the property solely as a preserve for native plant
33 communities and native animals, and Winn meadow has been under conservation easement since 2001.

34
35 Q5. Mr. Ottenlips says that Idaho Power has conducted no surveys of the Glass Hill Alternative and he
36 does not mention surveys of any route other than the Morgan Lake Alternative. Instead he compares
37 Morgan Lake alternative to Glass Hill Alternative in a “desk-top analysis”, represented in his Table 1.
38 What is your opinion of this?

1 A5. Due to over 20 years of undisturbed nurturing by Dr. Rice, the quality of habitat in the Glass Hill
2 Natural Area is extremely high. It is possibly the best example of an intact montane² moist meadow in
3 eastern Oregon. Mr. Ottenlips' cursory desktop analysis has no mention of the quality of this areas
4 features.

5
Figure 2. Project Features in Proximity to Winn Meadow/NWI Delineated Wetland



6
7
8 **II. Susan Geer's Rebuttal of Mitch Colburn's Reply Testimony**

² of, relating to, growing in, or being the biogeographic zone of relatively moist cool upland slopes below timberline dominated by large coniferous trees-Merriam-Webster Dictionary 2023. <https://www.merriam-webster.com/about-us>

1
2
3
4 **UNION COUNTY SITING**
5

6 Q1 In his Reply testimony, with regards to B2H Mr. Colburn states
7 “Throughout that process Idaho Power has worked with agencies and stakeholders to route the Project
8 in a manner that minimizes impacts and takes into consideration the various constraints located
9 throughout the proposed Project area and sought to balance the myriad interests in siting
10 the Project” (Idaho Power/600 Colburn/2). Do you agree?
11

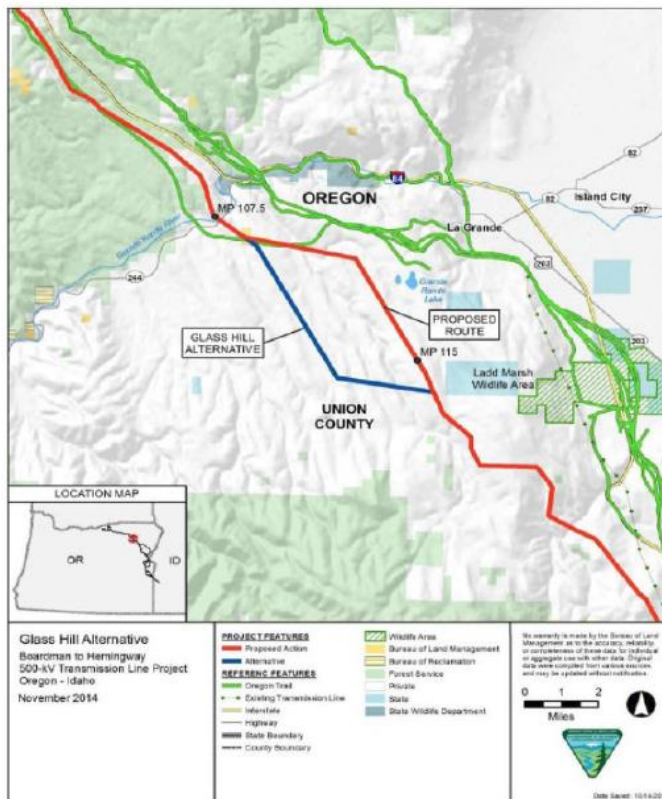
12 A1 No. Certainly, it has been a long process with myriad interests. I am most familiar with the situation
13 in Union County so that is what I can comment on. It is clear to me that regarding those routes, Idaho
14 Power put the interests of a single landowner above all else, and that in their application to EFSC, Idaho
15 Power artificially limited the routes that were under consideration to produce the outcome that would
16 most benefit that person. My expert witness Michael McAllister’s Rebuttal testimony firmly establishes
17 that.
18

19 Q2 Speaking of the NEPA process, Mr. Colburn says (Idaho Power 600/Colburn 36):
20

21 Idaho Power proposed two routes in the vicinity of La Grande: (1) a variation
22 of the Morgan Lake Alternative, which was considered the “Proposed Route” for BLM and
23 NEPA purposes; and (2) the Glass Hill Alternative. Those were the two routes considered
24 in BLM’s 2014 Draft Environmental Impact Statement (“EIS”), as shown in Figure 11,
25 below.
26

(Note: this apparently refers to Figure 4 on the next page)

Figure 4 2014 Proposed Route ("Glass Hill Route") and Glass Hill Alternative



What is your impression of this description?

A2 Mr. Colburn is inaccurately calling the Morgan Lake Alternative a "variation of the Proposed route". The name Morgan Lake Alternative had not been used yet. In fact, at that time, the Proposed Route was thought to be too close to Morgan Lake Park; the BLM points to one benefit of the Glass Hill Alternative as being further away from Morgan Lake Park than the Proposed Route.

Q3 Describing the Glass Hill Alternative, Mr. Colburn (Idaho Power 600/Colburn 38) says

Glass Hill Alternative was confronted with substantial backlash from the affected landowners and other interested parties, some of whom formed the Glass Hill Coalition specifically to challenge that route. The CTUIR also expressed disfavor for the Glass Hill Alternative due to impacts to cultural resources, stating: "The proposed route should be selected rather than the Glass Hill Alternative. Both alternatives will have impacts, but the proposed route introduces fewer new effects." Union County, on the other hand, requested that the Project be located as close to the existing 230-kV line as possible. These parties voiced their concerns in their comments on the Draft EIS

Do you agree with his description?

1 A3 No. I was not part of the Glass Hill Coalition, and it was always a big mystery who was. I do not
2 believe the Glass Hill Coalition formed specifically to challenge the Glass Hill Alternative. The landowners
3 I know on Glass Hill wanted the B2H completely off Glass Hill and nowhere near Morgan Lake. A few
4 Glass Hill landowners held a meeting on February 28, 2015 at the old bus station, to raise support for a
5 route following the existing 230kV line. **Exhibit 2** is a handout circulated at that meeting. I understand
6 there was also a petition circulated for that cause. I was not there, but my expert witness, Michael
7 McAllister attended and will address routes in a Rebuttal of Colburn. Also, it is my understanding that
8 the Union County Advisory Committee did not form until after the Draft EIS came out.

9
10
11 Q4 Mr. Colburn again calls the Proposed Route at the time of the BLM DEIS, "a variation of the Morgan
12 Lake Alternative" (Colburn 38). Why do you suppose he does?

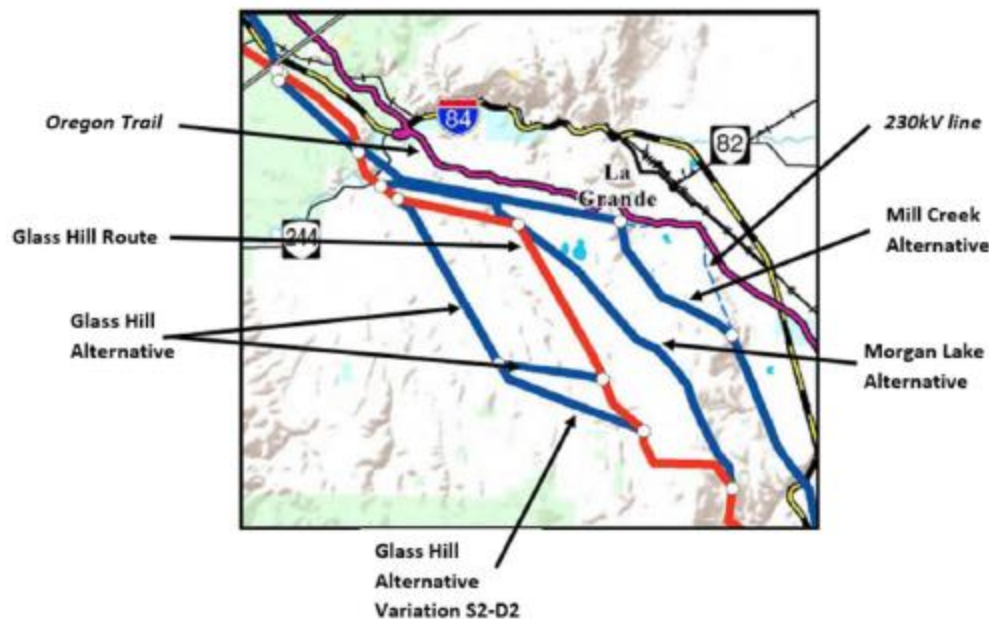
13
14 A4 It appears to be a distraction technique and obfuscation as part of Idaho Power's plan

15
16
17 Q5 Still on the same page, Mr. Colburn states, "Following the Draft EIS and prior to BLM issuing its final
18 decision, BLM released a map of the alternative routes BLM developed in response to the comments
19 received on the Draft EIS. Those new routes included the Morgan Lake Alternative and the Mill Creek
20 Alternative:"

21
22 What do you think of this statement?

23
24 A5 Mr. Colburn is wrong. The BLM did not develop either of those routes. The landowner Brad Allen
25 gave the "idea" for the Morgan Lake Alternative to Idaho Power. Union County Planner Scott Hartell,
26 urged by the County B2H Committee and under the direction of County Commissioners, came up with
27 the Mill Creek Alternative. My expert witness Michael McAllister knows more and will address this.

28
29
30 Q6 What do you think of Figure 5 from Idaho Power 600/Colburn 39 (below)?



1
2
3
4
5 A6 I find it confusing that the DEIS Proposed Route is labeled “Glass Hill Route” while there is also “Glass
6 Hill Alternative”. In the Oregon Supreme Court case, the lawyer for Idaho Power also found it confusing,
7 or perhaps was causing confusion by referring to the “Glass Hill route” when to me it was obvious that
8 she meant what is labeled in this figure as Glass Hill Alternative. If we are confused after years of
9 involvement in the process, most people are likely even more confused than we are.

10
11 Q7 Speaking of the EFSC application, Mr. Colburn (Idaho Power 600/ Colburn 40) says

12
13 Idaho Power decided not to pursue the Glass Hill Alternative based on the strong opposition of the Glass Hill
14 Coalition, the CTUIR’s preference for the “Proposed Route,” and BLM’s indication in the Draft EIS that the
15 “Proposed Route” was preferable to the Glass Hill Alternative. Instead, Idaho Power chose to pursue the
16 Morgan Lake Alternative and the Mill Creek Alternative. The Company pursued the Morgan Lake Alternative
17 because it was similar to the “Proposed Route” for which BLM had indicated a preference, while
18 minimizing impacts to one of the affected landowners.

19
20 Please comment.

21 A7 The “Glass Hill Coalition” was at one point in time (February 28, 2015) a group of people who signed
22 a petition to put the route on the existing 230 kV line. There appears to be no further action or
23 organization as a group beyond that date. My expert witness Michael McAllister has more information
24 to share on the topic. I am mystified by Idaho Power’s placing so much importance on it, given the
25 hundreds of other comments on the Draft EIS. The only legitimate reason Mr. Colburn gives for Idaho
26 Power not pursuing the Glass Hill Alternative is the CTUIR preference for the Proposed Route. “The
27 Company pursued the Morgan Lake Alternative because it was similar to the Proposed Route” is a
28 complete invention. The Morgan Lake Alternative is significantly closer to town, right up against the City

1 Park and impacting a State Natural Area beloved by many. Idaho Power thinks that is outweighed by
2 “minimizing the impacts to one affected landowner”?

3
4 Q8 Next, Mr. Colburn explains on the same page (Idaho Power 600/ Colburn 40):

5 Idaho Power ultimately chose to pursue the Morgan Lake Alternative in its Petition for a Certificate of Public
6 Convenience and Necessity based on feedback received from the local governmental entities, the City of La
7 Grande and Union County, which stated a preference for the Morgan Lake Alternative over the Mill Creek
8 Alternative due to the latter’s proximity to the city. Specifically, the La Grande City Council, which represents
9 more than 13,000 residents who are in close proximity to B2H, stated they object more to the Mill Creek
10 Alternative than the Morgan Lake Alternative.

11 What is your response?

12
13 A8 The Mill Creek Alternative is such a losing proposition, being right at the edge of town, that I find it
14 hard to believe it got as far as it did. If it had been introduced earlier in the process I believe it would
15 have been eliminated after the BLM Draft EIS. There was no real choice for local governmental entities,
16 once the reality of the Mill Creek Alternative sank in. Given only two choices, they had to say Morgan
17 Lake Alternative. However, I find it deeply disturbing that the only other choice given by Idaho Power
18 was Morgan Lake Alternative.

19 Mayor Clements (Exhibit 118 in Susan Geer’s Opening Testimony), the City Manager and City Council
20 (Exhibit 2) and ultimately the County and B2H Advisory Committee, all agreed that the Mill Creek
21 Alternative and Morgan Lake Alternative were both worse choices than either the original Idaho Power
22 Proposed Route or the Glass Hill Alternative.

23
24 Q9 With regards to permitting from EFSC, Mr. Colburn says (Idaho Power 600/ Colburn 41), “all three
25 routes would likely be possible to construct and permissible in accordance with Oregon state law as
26 determined by EFSC. Indeed, both the Morgan Lake Alternative and the Mill Creek Alternative were
27 found to comply with EFSC standards and relevant Oregon law as detailed in the Final Order approving
28 the site certificate for B2H”.

29 What do you think of that?

30 A9 Mr. Colburn is speaking of the Mill Creek, the Morgan Lake, and the Glass Hill Alternatives, and for
31 some reason has again failed to mention the IPC Original Proposed Route (aka Glass Hill Route in IPC
32 Reply testimonies). While I disagree with the findings of the EFSC in regard to the Morgan Lake
33 alternative, I also attest that just because an Alternative is permissible under EFSC does not mean that it
34 is in the public good, and by no means is it in the greatest public good. Furthermore, the EFSC standards
35 set a low bar and do not adequately protect the natural resources of Oregon. This is especially true in
36 the case of the Morgan Lake Alternative, which is the least environmentally friendly of the four Routes
37 mentioned. It is second only to the Mill Creek Alternative in affecting the most people, due to the
38 popularity of the City Park and the use of the Natural Area by the community. Although not officially a
39 park, it is well known that Dr. Rice is generous in encouraging nature-oriented activities and allowing

1 non-motorized vehicle recreation. Dr. Rice is especially concerned with the importance of nature in
2 mental health.

3
4 Q10 What do you think of Mr Colburn's statement (Idaho Power 600/ Colburn 43-44)?:

5 In sum, there were organized landowners groups opposing the three main alternatives
6 under consideration (Mill Creek, Morgan Lake, and Glass Hill Alternative), and the local
7 government entities providing input into the process shifted their position along the way
8 as well. Another key stakeholder, the CTUIR, consistently provided comments opposing
9 the Glass Hill Alternative.

10 A10 Colburn's statement is misleading and over-simplified. It would be more accurate to say that the
11 Mill Creek and Morgan Lake Alternatives are the most unpopular, and it is easy to see why. Mill Creek
12 Alternative affects the largest number of people, while Morgan Lake affects the second largest number
13 plus is the least environmentally friendly. Glass Hill Alternative and the original Proposed Alternative
14 were of course opposed by the affected landowners. While the CTUIR preferred the Proposed route to
15 the Glass Hill Alternative, they never got a chance to weigh in on the Mill Creek or Morgan Lake
16 Alternatives. Odds are they would prefer the original Proposed route to Morgan Lake Alternative, due
17 to natural resources.

18
19 **RESPONSE TO INTERVENOR COMMENTS**

20
21 Q1, Mr. Colburn says (Idaho Power 600/Colburn 45-46) it is not possible to "perform an apples-to-apples
22 comparison" of the Glass Hill Alternative to Mill Creek or Morgan Lake Alternatives. He does not
23 mention the 2014 IPC Proposed Route (called Glass Hill Route on his map) at all. What do you think of
24 this?

25 A1 Mr. Colburn says that for the Glass Hill Alternative (and we can only presume the 2014 Proposed
26 Route in the BLM DEIS) "the analysis was only at the desktop level" compared to "field surveys...where
27 the landowners had granted Idaho Power right of way" for the Morgan Lake and Mill Creek Alternatives.

28 The "desk top analysis" Idaho Power performed on Private land is very low-level. IPC did what it took to
29 satisfy the bare minimum of the EFSC standards, and those standards set a low bar. Desk-top analysis
30 performed by the federal agencies for the EIS's was more comprehensive, even when it was done years
31 earlier.

32 Likewise, the surveys Idaho Power contracted out, at least for vegetation, were to satisfy the bare
33 minimum of EFSC standards. Much more comprehensive survey work was done for the Federal portion
34 of the B2H Project. EFSC standard only requires Applicants to survey for "Oregon T&E species" according
35 to Oregon Department of Agriculture (ODA). As I explained in my Contested case with EFSC (**Exhibit 4**)
36 the ODA list is the Federal T&E list from 1987, which has never been updated in over 35 years. Oregon

Biodiversity Information Center (ORBIC) is the entity that actively assesses rarity using a ranking system and maintains a list that is updated every 3 years. EFSC does not acknowledge the ORBIC list.

Q2 In attempting to refute assertions in your Opening Testimony, Mr. Colburn (Idaho Power 600/ Colburn 48) explains the development of the Morgan Lake Alternative, “the Morgan Lake route is a variation of the route that Idaho Power proposed in the NEPA process — which was referred to as the “Glass Hill Route” in that process. The Morgan Lake Alternative was introduced in the ASC and analyzed in the Final EIS. Contrary to Ms. Geer’s assertion, Idaho Power complied with all the notice requirements and provided all necessary copies of its amended ASC, which included the Morgan Lake Alternative”.

What is your response?

A2 Once again, Mr. Colburn is trying to confuse the issue by calling Morgan Lake Alternative a variation or the original Proposed route. While it is true the Morgan Lake alternative was “introduced in the ASC”, to say that it was actually “analyzed” in the final EIS, as compared to the other alternatives, is a stretch. The Mill Creek and Morgan Lake alternatives were introduced late in the BLM’s process. Nonetheless, the BLM recognized that these alternatives were ultimately the least popular and the Morgan Lake was least environmentally friendly, so they were not the BLM or USFS Preferred or Environmentally Preferred alternatives.

RICE GLASS HILL NATURAL AREA

Q1 In discussing Rice Glass Hill State Natural Area, Mr. Colburn (Idaho Power 600/ Colburn 75) complains, “Ms. Geer did not inform Idaho Power of the proposal to seek registration or dedication for Rice Glass Hill in the State Natural Areas Program”. Please comment.

A1 The Natural Areas Program did not have a requirement for informing Idaho Power of registration or dedication. The program maintains a database and registration list that is continually updated and available.

Q2 Regarding plant and animal species and “natural features”, Mr. Colburn states (Idaho Power 600/ Colburn 78) “ It is not clear where exactly these areas are. However, one location that was discussed in the registration and dedication processes was Winn Meadow. Ms. Geer also discusses Winn Meadow specifically in her testimony”.

A2 Mr. Colburn has not studied documents in the EFSC records, including Exhibit 111 and 109 in Susan Geer’s Opening Testimony. The Glass Hill Natural Area has elemental occurrences of several Federal Species of Concern which are concurrently State Sensitive species with ODFW and in the Oregon Conservation Strategy, as well as being List 1 species with Oregon Biodiversity Information Center (ORBIC), including Douglas clover, white-headed woodpecker, and Columbia spotted frog. We also have a new species of moth found by Dr. Karen Antell and a possible siting of a fisher, a species which has not been found in the Blue Mountains since the 1960’s. Given time to do surveys instead of working on

1 contested cases, no doubt more rare species would be found. An important part of the Natural Areas
2 program is protecting examples of priority native plant communities, and Glass Hill Natural Area has a
3 number of these plus unrecognized wetland communities which should be added to the list.

4
5 Q3 Speaking of the most pristine montane meadow in eastern Oregon, Winn meadow (Exhibit 108 in
6 Susan Geer's Opening Testimony, *Vegetation of Winn Meadow*) Mr. Colburn points out (Idaho Power
7 600/Colburn 78)," The Project is routed near Winn Meadow but no component of the Project is
8 proposed within the meadow itself. Idaho Power does not propose any construction activities within
9 Winn Meadow relating to the Project." What are your thoughts?

10 A3 Please refer to my Rebuttal of Ottenlips. Figure 3 from Ottenlips Reply testimony shows the extent
11 to which the wet meadow would be surrounded with powerline structures, clearing, tensioning areas,
12 and roads. The area occupied by disturbance would be greater than the meadow itself, and at 37 acres
13 or so, the meadow is a large one. Furthermore, as I state in my Rebuttal of Ottenlips, clear-cutting
14 would completely change the site both in visual qualities but also in removal of cover and shade for
15 plants and animals. Numerous indirect and cumulative effects would greatly impact the site and destroy
16 the qualities that make it such a rare and unique place and the largest occurrence of the rare Douglas
17 clover in the state of Oregon.

III.

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MICHAEL MCALLISTER

FOR SUSAN GEER

March 20,2023

OVERVIEW AND ROUTE SEGMENTS

From Idaho Power 600/Colburn 39:

Figure 5. Union County Routes

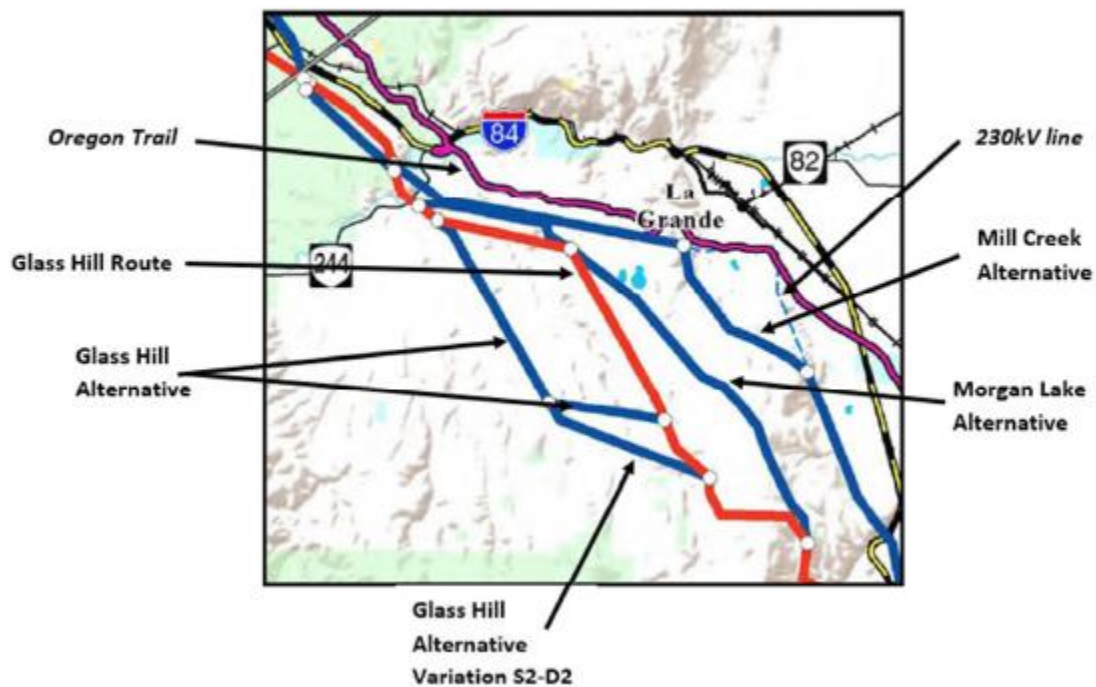


Table 1: Timeline of B2H Routes

Date	Name of Route	History
2008	Idaho Power's Original Proposed Route, newly identified as the Glass Hill Route by (Colburn) Idaho Power in 2023	Proposed by Idaho Power. This was the NEPA Agency Preferred Alternative in the DEIS (2014), analyzed by the BLM
2010	Glass Hill Alternative	Developed through Idaho Power's Public Advisory Team (PAT) process. 2017 NEPA Agency Preferred and Environmentally preferred alternative in the BLM FEIS and USFS FEIS
2/27/2015	Morgan Lake Alternative (the current B2H Proposed Route)	Proposed by Idaho Power to accommodate a single large landowner. Route not shared with other landowners, the Glass Hill Coalition, or the Union County B2H Advisory Committee until late 2015. Never fully analyzed by the BLM/NEPA review process.
2/28/2015	230 kV Route	Proposed by landowners making up the Glass Hill Coalition. The objective was to move B2H off Glass Hill entirely. Their proposal sites B2H along the existing 230kV line into La Grande where it would turn west and follow the old Oregon Trail and Gekeler Lane.
3/2016	Mill Creek Alternative	Modification of 230 kV route by Union County Planner Scott Hartell, by request of Union County Commission, so that the route could be situated outside of La Grande city limits. Subsequently, it was not supported by La Grande residents, or Union County Advisory Committee because of its impact on the local viewshed just above town. Not fully analyzed by the BLM/NEPA review process.

Q1 Let's start with some background information on the origin of the Mill Creek and Morgan Lake Alternatives found in Idaho Power Company's Application for Site Certificate (ASC). Recall the Glass Hill Coalition. Please give us a recap of the formation of that group and the first meeting.

A1 On February 28, 2015 a group of citizens met at the old bus station building in La Grande. It was rented by one landowner. Concerned citizens showed up to discuss the B2H and what they could do about it. At that meeting there was a handout, Exhibit 2, detailing the reasons the B2H should not be on Glass Hill and promoting co-location of the B2H on the existing 230kV line. A petition was circulated requesting the same thing, for the B2H to be located on the existing 230 kV transmission line route, which would have brought the B2H into town at the substation behind Oregon Department of Fish and Wildlife office, where it would turn and follow up slope paralleling south of Gekler Street. The Glass Hill Coalition was all about moving the B2H off Glass Hill entirely..

Q2 Following that 2015 meeting and that petition, was any action taken toward establishing a route on the 230 kV line?

A2 Yes. As a result of that petition, the Union County B2H Advisory Committee was established to better represent local interest in the siting of the B2H. The reality of B2H running through town was a nonstarter for the Committee. Consequently, the County Commission requested that County Planner Scott Hartell develop a routing of the 230 kV line that would situate B2H outside of town. The route was just on the edge of town. Thus, the Mill Creek Alternative was born.

Q3 The Mill Creek alternative was not in the BLM Draft EIS (2014). How did it come to be in the FEIS (2017)?

A3 At Union County's first B2H Advisory Committee meeting in December 2015 Don Gonzales of the BLM was present, and Mill Creek Alternative was ushered into the FEIS.

Q4 Was the Glass Hill Coalition active in the B2H Advisory Committee? Did they support the Mill Creek Alternative once it was further developed by the County Planner?

A4 I believe landowner Brad Allen attended the Committee meeting, but there was no organized group. Once the reality of having a huge structure in the viewshed of town sank in, there was little support for Mill Creek Alternative

Q5 So you are saying the single act of the Glass Hill Coalition as a group was the 2015 petition to site the line with the 230 kV existing line?

A5 Yes.

Q6 What about the Morgan Lake Alternative? Please tell us about the chain of events that lead to Mr. Colburn's assertion that the Morgan Lake Alternative was chosen by Idaho Power because of landowner input.

A6 The Glass Hill Coalition wanted B2H off Glass Hill and on the 230-kV route. The Coalition never had an opportunity to weigh in on the Morgan Lake Alternative as it was known only by the landowner that proposed the Morgan Lake Alternative and by Idaho Power.

Q7 So "landowner input" to Idaho Power came from a single landowner?

A7 Yes. A single landowner provided the route to Idaho Power. Attachment 4 to my Expert Witness Testimony is a letter from Idaho Power thanking him for his idea.

Q8 Do you have any further comments on the Morgan Lake Alternative?

A8 Yes. This was a clear case of “bait and switch” to achieve an objective. The result of the switch is that now the B2H Proposed route (Morgan Lake) runs down the top of Glass Hill from the Ladd Canyon north to the Grand Ronde River. The Glass Hill Alternative, on the other hand, only crosses Glass Hill for a relatively short stretch, from Ladd Canyon to Rock Creek. I have only ever heard of one landowner that was in favor of the Morgan Lake Route and that is the person that developed it with Idaho Power. The development of Morgan Lake Alternative would be at the expense of nearly all identifiable resources as compared to the NEPA Glass Hill Alternative and with a greatly increased risk for wildfire.

Mr. Colburn’s statement that the Morgan Lake Alternative has better road access is not true. The Glass Hill Alternative will require less than a mile of new road, where the Morgan Lake Alternative requires many miles of new roads. The statement that the Morgan Lake Alternative is topographically less rough terrain is not true – the Morgan Lake Alternative crossing of Sheep and Rock Creeks is rougher terrain than that of the Glass Hill Alternative.

Q9 Mr. Ottenlips and Mr. Colburn both state “Idaho Power considered several potential routes through Union County for the Project, including the Mill Creek Route, the Morgan Lake Alternative, and the Glass Hill Alternative”. Do you agree?

A9 It should be recognized here that in the federal portion of the process, Idaho Power also considered their original Proposed Route as Identified in the BLM’s DEIS. In Figure 5 of Idaho Power 600/Colburn 39 (above) which is identical to Figure 1 of Idaho Power 600 Ottenlips/4, this original DEIS Proposed Route is defined in red and is labeled as the Glass Hill Route. This is noteworthy because the Reply Testimony of Colburn and Ottenlips is the first time in the life of the B2H project that this route has been labeled “the Glass Hill Route,” and this is important for clarifications to follow.

Q10 Mr. Ottenlips and Mr. Colburn both state “In Union County, Idaho Power seeks a CPCN for the Proposed Route as modified by the Morgan Lake Alternative”. What is your response?

A10 This answer puts into motion a clever deception that follows – that the Morgan Lake Alternative is merely a modification of Idaho Power’s NEPA **Proposed Route**, newly identified in these Reply Testimonies as the “**Glass Hill Route**”.

Q11 In describing the Siting review process, Mr. Colburn states, “Idaho Power’s siting and alternative route segments have been evaluated by both the BLM and EFSC in their respective permitting processes. BLM performed a comparison of alternatives as the lead agency for the federal NEPA review process. In the EFSC ASC review process, the Oregon Department of Energy (“ODOE”) and EFSC considered the alternatives proposed by Idaho Power and determined whether those alternatives would meet EFSC’s standards and comply with applicable Oregon law”. What is your reply?

A11 Mr. Colburn’s statement is deceptive because he makes it sound as if all the alternatives were considered at all stages of the process. I want to make it clear, that the BLM (EIS and FEIS) performed a comparison of only two alternatives in Union County:

1 **1)** Idaho Power's Proposed Route, now for the first time, identified in this Testimony as the Glass Hill
2 Route.

3 **2)** Glass Hill Alternative.

4 It is important that the reader be clear here that the BLM did not evaluate a "**Glass Hill Route**" per se.
5 What Mr. Colburn is referring to as the Glass Hill Route was known as Idaho Power's Proposed Route in
6 the BLM and USFS FEISs.

7
8 Q12 Mr. Colburn states that his understanding of the BLM's alternatives analysis under NEPA is that
9 they "consider the study area for the proposed action and take a "hard look" at impacts associated with
10 various alternatives. At the conclusion of the review process, the BLM makes recommendations
11 regarding the routes evaluated as part of the federal review process." Do you agree that this did
12 happen?

13 A12 No. Idaho Power made no alternatives analysis with NEPA's Glass Hill Alternative as required
14 under ORS 469.300.

15
16 Q13 Regarding the level of detail in analyses, Mr. Colburn claims that the BLM's NEPA analysis is
17 based on desktop data and therefore at a 'higher level' than the EFSC analysis where they employed a
18 "phased approach". Mr. Colburn says, "In other words, the EFSC analysis 2 is informed by more field
19 survey data than the NEPA analysis." What does this mean?

20 A13 Referring to the Testimony of Michael Ottenlips, Ottenlips/4, IPC's botanical field survey of the
21 Morgan Lake Alternative was conducted on August 16, 2022, less than one month before EFSC granted
22 Idaho Power a Site Certificate to construct. Ottenlips surveyed nothing outside of the right of way
23 corridor.

24 When compared to the EFSC analysis, the BLM/USFS NEPA analysis is far more comprehensive
25 with respect to the factors evaluated in the comparative analysis. This is reflected by Mr. Ottenlips'
26 answers regarding comparative analysis. Mr. Ottenlips' Testimony clearly defines how Idaho Power's
27 analysis is strictly limited to the definitions laid out in EFSC Siting Standards. EFSC Siting standards are
28 very weak and open to interpretation. Idaho Power's analysis is also limited to direct effects. For
29 example, Mr. Ottenlips claims that because there are no federally listed plants or animals in the 250 ft.
30 wide clear cut or adjacent access roads that would be "improved" or added, that there are no
31 detrimental effects to the Glass Hill Natural Area. This claim is preposterous.

32 Q14 Mr. Colburn claims, "Idaho Power's objectives when siting the Project were to address
33 community concerns." Do you agree?

34 A14 No. The record in Union County shows very differently. Through Idaho Power's Community
35 Advisory Process ("CAP") and their local Project Advisory Team ("PAT"), the Glass Hill Alternative was
36 developed as a lower impact alternative to Idaho Power's Proposed Route. Idaho Power subsequently
37 analyzed the Glass Hill Alternative in its siting studies. The Glass Hill Alternative was introduced into

1 BLM's NEPA analysis, and after a "hard look" at impacts associated with various alternatives, the BLM
2 found the Glass Hill Alternative to be the Agency's Environmentally Preferred Alternative.

3 Importantly, the Glass Hill Alternative was not included in Idaho Power's Application for Site Certificate.
4 This defies ORS 469.370(13): EFSC will review the Application for Site Certificate (ASC), to the maximum
5 extent feasible, in a manner that is consistent with and does not duplicate BLM's review under NEPA.

6
7 Q15 When asked if Idaho Power tried to gain community support for the B2H route, Mr. Colburn
8 says, "Idaho Power has worked hard to obtain consensus or majority landowner support for the project
9 where possible". He then goes on to say, if only landowners would agree "condemnation would not be
10 necessary." What is your reply?

11 A15 Mr. Colburn does not answer this question with respect to gaining community support for the
12 B2H. The Union County Community record shows clearly that public interest is in siting B2H on the
13 NEPA Glass Hill Alternative. The only reason there is a "preference" for Idaho Power's Morgan Lake
14 Alternative is because the people were forced into making a False Choice between Idaho Power's
15 Proposed (in the Application for Site Certificate) Mill Creek Alternative and Idaho Power's Morgan Lake
16 Alternative. Union County was denied an opportunity to show favor for the NEPA Glass Hill Alternative
17 because Idaho Power eliminated it in the Application.

18
19 Q16 With regards to "additional context he would like to provide for the commission", Mr. Colburn
20 said, "EFSC and BLM processes unfolded over more than a decade and resulted in the route proposed in
21 the CPCN." What is your response?

22 A16 This statement does not acknowledge the BLM's NEPA Glass Hill Alternative.

23
24 Q17 Mr. Colburn goes on to state, "Idaho Power acknowledges that the Project will have impacts but
25 believes that the permitted route minimizes collective impacts to lands, resources, and stakeholders."
26 Do you agree?

27 A17 The Morgan Lake Alternative does not minimize collective impacts to lands, resources, and
28 stakeholders in Union County. Such a statement could only be genuinely stated where a comparative
29 analysis of the impacts (beyond EFSC standards) is made, especially, considering the NEPA
30 Environmentally Preferred Glass Hill Alternative. Such a comparative analysis would be consistent with
31 ORS 469.370(13): EFSC will review the Application for Site Certificate (ASC), to the maximum extent
32 feasible, in a manner that is consistent with and does not duplicate BLM's review under NEPA.

33 Energy Policy ORS 469.310:

34 *"In the interest of the public health and the welfare of the people of this state, it is the declared public*
35 *policy of this state that the siting, construction, and operation of energy facilities shall be accomplished*
36 *in a manner consistent with the protection of the public health and safety and in compliance with the*
37 *energy policy and air, water, solid waste, land use and other environmental protection policies of this*
38 *state. It is, therefore, the purpose of ORS 469.300 (Definitions) to exercise the jurisdiction of the State of*

Oregon to the maximum extent permitted by the United States Constitution and to establish in cooperation with the federal government a comprehensive system for the siting, monitoring, and regulating of the location, construction, and operation of all energy facilities in this state.

An applicant for a site certificate for a facility that is or includes a transmission line or natural gas line that qualifies as an "energy facility" under ORS 469.300 is required to provide an alternatives analysis of at least two corridors, or an explanation of why alternative corridors are unlikely to better meet the applicant's needs and satisfy the council's standards in its Notice of Intent".

Whereas Idaho Power chose to apply for Site Certificate for two routes that were not reviewed under the Federal NEPA, Idaho Power has an obligation to the people of Oregon to make an alternatives analysis as a comparative to the NEPA reviewed Glass Hill Alternative.

B2H SITING HISTORY

Q1 Mr. Colburn claims, "For more than a decade the NEPA and EFSC processes have been unfolding in tandem..." and goes on to say, "Idaho Power provided more detail regarding the proposed route and alternative route segments with the benefit of field surveys where right-of-entry had been granted and where surveys had been completed." What is your reply?

A1 I point out that most of Idaho Power's field surveys were not done until after EFSC found Idaho Power's Application for Site Certificate to be "complete." Mr. Ottenlips' Testimony states that his field surveys were just recently conducted on August 16, 2022. Mr. Ottenlips' field surveys were extremely limited. They consisted of searching for noxious weeds and federally listed plant species only in the Project boundary. There was no consideration of plant community types and their relative ecological rarity or value. Mr. Ottenlips did not even look for Federal or state species of concern.

Q2 Mr. Colburn says Idaho Power provided more detail. Would you consider this an analysis?

A2 No. In fact, little was gained in terms of analysis. Without gathering further classifying the plant communities and assessing the degree of disturbance or looking for occurrences of rare species (beyond federally listed) Idaho Power's surveys do little to inform a real assessment.

Q3 You have lived in this area for nearly 40 years. As a landscape ecologist and wildlife biologist who has explored both routes, what would we find if more detailed surveys were done?

A3 If such data were available; the vegetation data would show the strong contrast in vegetation communities between Idaho Power's Morgan Lake Alternative and the NEPA Environmentally Preferred Glass Hill Alternative. It is the strong contrast in the predominance of vegetation communities, comparing these two routes, that best demonstrates the basis for Susan Geer's Testimony that the Morgan Lake Alternative is the highest impact route compared to the NEPA Glass Hill Alternative. It is

1 this strong contrast in vegetation community predominance along with soil typing that I did base my
2 Comparative Analysis upon. In my comparative analysis, I use the soil types (Soil Survey of Union County
3 Area Oregon, Soil Conservation Service) and their associated vegetation communities as a Biodiversity
4 Index. Along the Morgan Lake Alternative, the higher elevations, ash soils, moist meadows, and mixed
5 conifer forest ecotypes support much more diverse ecosystems. Whereas the Glass Hill Alternative
6 drops to lower elevations and basaltic-clay residual soils, where drier grassland ecotypes are
7 predominant. The higher elevation Morgan Lake route supports much more rich and complex
8 ecosystems than does the Glass Hill Alternative. This is well demonstrated in Figure 2. Project Features
9 in Proximity to Winn Meadow/NMI Delineated. Similarly, look at the Project Features in Proximity to
10 Twin Lake at La Grande's Morgan Lake Park. These proximities are among the most diverse ecosystems
11 along the entire B2H Corridor. The Glass Hill Alternative impacts nothing close to that of the Morgan
12 Lake Alternative.

13
14
15
16 **REBUTTAL OF RESPONSE TO INTERVENOR COMMENTS**

17 Q1 Mr. Colburn states, "the route proposed in this proceeding has been thoroughly vetted through
18 the BLM NEPA review process and the EFSC ASC review process, and Idaho Power has the authority to
19 develop the route proposed in this CPCN in each of the requested areas". Do you agree?

20 A1 No. The Morgan Lake Alternative was not vetted through the BLM NEPA review process. It was
21 mentioned but not fully analyzed.

22
23 Q2 With regards to the Siting process in Union County, Mr. Colburn says, "The Company engaged
24 with, and solicited feedback from, local communities, agencies, and stakeholders throughout the
25 decade-plus-long siting process through the CAP, BLM's NEPA process, EFSC's site certificate process,
26 and other opportunities for engagement and communication. Idaho Power considered the feedback
27 provided by local communities through those processes, along with the siting opportunities and siting
28 constraints relevant to the particular area. Idaho Power applied that approach to the route alternatives
29 in Union County as well as elsewhere along the Project." Do you agree with his description?

30 A2 No. Idaho Power's Morgan Lake Alternative was not developed through either the CAP or the
31 BLM's NEPA Process. Idaho Power did not apply the stated approach to developing the Morgan Lake
32 Alternative.

33
34 Q3 In describing where Idaho Power originally proposed routes near La Grande, Mr. Colburn says,"
35 Through the early stages of the NEPA process, and coming out of the CAP, Idaho Power proposed two
36 routes in the vicinity of La Grande: (1) a variation of the Morgan Lake Alternative, which was considered
37 the "Proposed Route" for BLM and NEPA purposes; and (2) the Glass Hill Alternative. Those were the

1 two routes considered in BLM's 2014 Draft Environmental Impact Statement ("EIS"). What do you think
2 of this description?

3 A3 Here is where the newly labeled Glass Hill Route originates. The Proposed Route in the FEIS just
4 became a variation of the Morgan Lake Alternative, and it is about to become the "Glass Hill Route." It
5 is critical that the reader understand this transformation.

6
7 Q4 In discussing the Glass Hill Alternative, Mr. Colburn claims, "The Glass Hill Alternative was
8 confronted with substantial backlash from the affected landowners and other interested parties, some
9 of whom formed the Glass Hill Coalition specifically to challenge that route. The CTUIR also expressed
10 disfavor for the Glass Hill Alternative due to impacts to cultural resources, stating: "The proposed route
11 should be selected rather than the Glass Hill Alternative. Both alternatives will have impacts, but the
12 proposed route introduces fewer new effects." Union County, on the other hand, requested that the
13 Project be located as close to the existing 230-kV line as possible. These parties voiced their concerns in
14 their comments on the Draft EIS". Do you agree with his version of events?

15 A4 No. I was a signatory to the Glass Hill Coalition. We did not organize specifically to challenge the
16 Glass Hill Alternative; we were opposed to both: Idaho Power's Proposed Route and the Glass Hill
17 Alternative. It was the Glass Hill Coalition that circulated a petition to have B2H sited along the existing
18 230-kV line. My first reply, in 2008, to the Adam Bless at Oregon Department of Energy and to Idaho
19 Power was "put the transmission line in my front yard, put it on the existing transmission line corridor."

20 Only one member of the Glass Hill Coalition knew of the Morgan Lake Alternative at the time he
21 circulated the coalition's petition to site B2H on the existing 230-kV route. Members of the Glass Hill
22 Coalition did not know about, and never had an opportunity to weigh in on IPC's new Morgan Lake
23 Alternative which is even more undesirable and high impact than the Idaho Power's original Proposed
24 Route – which Colburn has now labeled Glass Hill Route (see Figure 5. Above from Union County Routes,
25 Testimony of Mitch Colburn). Before the State Supreme Court, IPC's Council refers to the Glass Hill
26 Alternative as the "Glass Hill Route." Colburn has just deemed IPC's original Proposed Route (2007) to
27 be the Glass Hill Route.

28 Q5 How is the Glass Hill Alternative described in the BLM's FEIS?

29 A5 Citing from B2H EIS and Proposed LUP Amendments, Chapter 2-Proposed Action Alternatives,
30 page 2141:

31 "The Glass Hill Alternative was addressed in the Draft EIS. The alternative was developed in response to
32 various considerations of landowners, environmental resources, visual effects, and constructability
33 expressed during the Community Advisory Process (Idaho Power Company 2012: 10-15) and scoping for
34 the NEPA process to address concerns regarding proximity of the Applicant's Proposed Action
35 Alternative to Ladd Marsh Wildlife Area and concerns about the visibility of the transmission line from La
36 Grande in Union County".

37
38 Q6 Do you agree with the BLM's version of events?

A6 Yes.

Q7 Mr. Colburn says that the BLM responded to input about Glass Hill Alternative by identifying, “the “Proposed Route,” which was a variation of the Morgan Lake Alternative, as BLM’s preliminary agency-preferred route and preliminary environmentally preferred route.” Do you agree?

A7 No. At the time of the BLM’s Draft EIS, the Morgan Lake Alternative had not even been identified. The Morgan Lake Alternative was presented by Idaho Power in 2015, late in the Final EIS process. Therefore, Idaho Power’s Proposed Route could not be, as stated, a variation of the Morgan Lake Alternative. The inference here is that the Morgan Lake Route was seen by the BLM to be preferred over the Glass Hill Alternative. This is a deception.

Q8 Mr. Colburn goes on to give his version of events:

“Following the Draft EIS and prior to BLM issuing its final decision, BLM released a map of the alternative routes BLM developed in response to the comments received on the Draft EIS. Those new routes included the Morgan Lake Alternative and the Mill Creek Alternative:

- The Morgan Lake Alternative was developed in response to a request made by one of the affected landowners during the BLM’s process to locate the route closer to the border of their property rather than bisecting it.

- The Mill Creek Alternative was developed to locate the line closer to the existing 30 230-kV transmission line.”

What do you say about this version of events?

A8 To state that the BLM developed the Morgan Lake and Mill Creek Alternatives is also a deception. Idaho Power developed the Morgan Lake Alternative in response to one affected landowner. The Mill Creek Alternative was developed at the request of Union County B2H Advisory Committee in response to the Glass Hill Coalition request to site B2H on the existing 230-kV line. The Committee then unanimously requested that the BLM conduct a Supplemental EIS review of both the Morgan Lake Alternative, and the Mill Creek Alternative.

Q9 While the Union County Advisory Committee was petitioning the BLM, what was happening with the EFSC process? Had it started?

A9 It was at this time that Idaho Power moved to file their Application for Site Certificate with EFSC.

Q10 Were you still a supporter of the alignment with the 230kV line?

A10 No. Once that proposal was mapped, it became obvious it was too close to town and would impact too many residences and the view-shed in town.

Q11 Do you have a summary statement?

A11 Yes. At the EFSC Appeal, at the State Supreme Court, and now before the PUC Appeal, I have introduced the evidence that demonstrates that IPC's Application for Site Certificate is a categorical misrepresentation of fact with regard to the NEPA Agency Preferred Alternative. Now in Mr. Colburn's testimony, he is presenting IPC's original Proposed Route (2008) as the "Glass Hill Route." Mr. Colburn further states that this original proposed "Glass Hill Route" is a variation of their now proposed Morgan Lake Alternative. These ongoing misrepresentations go unchecked.

Note! The Glass Hill Coalition petitioned to take the B2H off Glass Hill entirely. Mr. Colburn now identifies the Glass Hill Coalition as the public involvement that they internalized as justification for their now proposed Morgan Lake Alternative, which traverses the top of Glass Hill in its entirety from the Grand Ronde River to Ladd Canyon. The Glass Hill Coalition signatories knew nothing of the Morgan Lake Alternative, as this route did not exist. IPC's proposed Morgan Lake Alternative is the highest impacting of all the routes put forward. Susan Geer again shares a record that clearly demonstrates the high-impact and the high-risk nature of the now proposed Morgan Lake Alternative which is grossly misrepresented by IPC.

The Morgan Lake Route was developed and packaged into IPC's ASC, forcing Union County into a false choice between the Mill Creek Route and IPC's Morgan Lake Alternative. Only in the face of this false choice did Union County show a preference for the Morgan Lake Alternative over the Mill Creek Route. The record before the PUC shows that the City of La Grande including the Mayor (Exhibit 118 of Susan Geer's Opening Testimony PCN 5) and the City Manager and City Council (Susan Geer's Rebuttal Testimony PCN 5 Exhibit 2) asked for the NEPA Glass Hill Alternative.

The Glass Hill Coalition wanted the B2H completely off Glass Hill (Susan Geer's Rebuttal Testimony PCN 5 Exhibit 1); the Glass Hill Coalition would have most strongly objected to the Morgan Lake Alternative. The Union County B2H Advisory Committee asked that the BLM conduct a supplemental EIS that would have resulted in a comparative analysis of the Glass Hill Alternative with the new routes in IPC's application. With respect to siting B2H through Union County, Idaho Power has demonstrated a clear and consistent pattern of deception, misrepresentation, and poor discretion.

I hereby declare that the above statements are true to the best of my knowledge and belief, and I understand that they are made for use as evidence in administrative and court proceedings and are subject to penalty for perjury.

Dated this 20 day of March, 2023.

/s/ Michael McAllister

1 Michael McAllister

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I hereby declare that the above statements are true to the best of my knowledge and belief, and I understand that they are made for use as evidence in administrative and court proceedings and are subject to penalty for perjury.

Dated this 20 day of March, 2023.

/s/ Susan Geer

Susan Geer

CERTIFICATE OF MAILING

On March 20, 2023, I certify that I filed the above Rebuttal Testimony with the Administrative Law Judge via the OPUC Filing Center, for the Docket # PCN-5.

By: U.S. Postal Service or Arrangement for hand delivery:

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

/s/ Susan Geer

Susan Geer

Intervenor, PCN-5

Exhibit 1

Glass Hill Coalition handout circulated at
February 28, 2015 public meeting

February 28, 2015

Boardman to Hemingway Transmission Line Project
P.O. Box 655
Vale, OR 97918

RE: Boardman to Hemingway Transmission Line Project Draft EIS

The following input to the draft EIS is specific to the proposed portion of the transmission line where it would cross the predominately forested lands on Glass Hill and then proceed northwest above Rock Creek in Union County, see attached 'Glass Hill Vicinity Map, March 1, 2012'.

Negative Impacts of Proposed Route Across Glass Hill

This route, including the alternate, as proposed by Idaho Power Company (IPC) will have unacceptable long term negative impacts on wildlife and their habitat; on the visual impact from the National Forest land to the south and west; and on the numerous land owners in this area which have strived to keep their properties undeveloped and that have been very successful in returning their land to the more pristine conditions that were present prior to the turn of the century homestead development and the extensive logging that took place in more recent years. The private landowner efforts have resulted in an extraordinary improvement in the areas habitat which has contributed to a substantial rebound in the wildlife population in this area.

The EIS correctly identifies that regardless of the route across Glass Hill the line would result in 'long-term high impacts' to the wildlife habitat, see page 3-288, Segment 2 - Wildlife Habitat. The EIS also properly shows that this route will go through a large portion of existing high quality elk wintering range, see map on page 3-242.

Along with this loss of habitat quality and impact to the wintering range, my calculations indicate that the proposed line route across Glass hill will go through approximately 5 miles of property that has historically been moderately to heavily forested (as identified by reviewing areas shown in green on the USGS topography map for this area) and if the 250 foot wide utility corridor is placed on this 5 mile route it will result a 151 acre loss of timber producing land which will also reduce the thermal/hiding cover for the wildlife.

In reviewing the EIS I did not find where the visual impact of the proposed line route across Glass Hill was evaluated when being viewed from people using the National Forest land to the west and south of the proposed route, from areas in the proximity of Elk Mountain, the ridges along Rock Creek and from the Beaver Creek watershed area. Given the proposed route would come across the top of Glass Hill and be on the 'skyline' for over 1 mile (reference attached 'Glass Hill Vicinity Map, March 1, 2012', at mile indicator 119 to 120), and then due to the line route proceeding along the western facing slopes and ridge lines above Rock Creek for over 6 miles (reference attached 'Glass Hill Vicinity Map, March 1, 2012', at mile indicator 113 to 119) which is predominately open landscape, it will be highly visible for these public lands when people are utilizing them to enjoy remote and undeveloped experiences, whether hunting, hiking, ATV riding, etc. In this area the line will also be in view of the numerous private land owners which have and enjoy these properties because of the remote and undeveloped character of this area.

In the visual impact section of the report it appears to only address the visual impacts of this section of the line when viewed from the developed area along the interstate, from areas around the Grande Ronde valley and from La Grande. The impact of viewing the line from the remote area will have a significantly higher negative impact as compared to being viewed from areas with numerous existing developments; ie. the freeway, existing transmission line, residences, farm and ranch buildings, communication towers, etc.

Recommended Lower Impact Route to the East of Glass Hill

To minimize the impact of the line routing across Glass Hill the line should follow the existing 230 kv transmission line along the east side of the hill from the existing proposed line route on the south side of Ladd Creek until it intersects with the existing pipeline corridor and then follow this route until it intersect with the proposed route at the route mile indicator 112 west of Morgan Lake (see this proposed route drawn in on the attached 'Glass Hill Vicinity Map, March 1, 2012').

This route would reduce the potential negative impacts through this area as a result of the following:

- Follows existing utility corridors eliminating the need to create a new corridor and thus reducing the amount of forest land and wildlife habitat impacted.
- Stays in predominately opened landscape until it turns to the west to follow the existing pipeline route where it will then follow an existing cleared route until it returns to the predominately open landscape south of Morgan Lake.
- Remains 'out of sight' of the National Forest lands as described previously thus eliminating the resulting negative visual impacts from these remote areas.
- Follows the edge of the elk wintering range as compared to going through the east quarter of the area as compared to the proposed route which will be about 5 miles away from the easterly edge, see attached Elk Habitat Map, November 2014.
- The visual impact of this new line as it follows the existing 230 kv line is minimized as the majority of the line is located against vegetated hillsides that will obscure the view of the line and the line will only be 'skylined' in two short sections where it would cross ridgelines south of La Grande.
- Prevents adding new roads and developments on the undeveloped portion of Glass Hill which would destroy the remote character of this area which will reduce land and recreational values for both the land owners and the public using adjoining lands.

Idaho Power Company Reasons for not Considering this Route

Myself and others have proposed the above route to IPC on numerous occasions and as a result they provided the attached 'Feasibility of Locating the B2H Transmission Line East of Glass Hill' document presenting the following reasons for not utilizing this route:

- High visibility from travelers on a 5 mile section of I-84 and from portions of the city of La Grande;
- Concerns expressed by Union County representatives;
- Proximity to residences on Foothill Ladd Canyon Road;
- Up to 3.6 miles of landslide prone hillsides;
- Five to six miles of severe side slopes;
- Over a mile of Ladd Marsh Wildlife Management Area (LMWA) crossed; and
- Does not meet 1500 foot reliability separation criteria.

I would provide the following information in response to each of the concerns presented by IPC:

- High visibility from travelers on a 5 mile section of I-84 and from portions of the city of La Grande;
Although a valid concern the resulting negative impacts of placing the line across the undeveloped portion of Glass Hill should far outweigh the low visual impacts to travelers on a freeway and residents in the city with developments all around it.
- Concerns expressed by Union County representatives;
These concerns were never elaborated on by IPC but reasoning for routing the line across Glass Hill as compared to following the existing line should follow the same reasoning as presented above.

- Proximity to residences on Foothill Ladd Canyon Road;
Again, this is a valid concern but should not result in placing the line across the undeveloped portion of Glass Hill as compared to placing it along the existing developments in the valley.
- Up to 3.6 miles of landslide prone hillsides;
IPC did not provide the specific locations of the 'landslide prone hillsides', as a result I followed the entire length of the existing 230 kv line in this area and did not find any indication of a slide area or slides and do not think a slide has occurred in this area since my family moved to the valley which is now more than 60 years.
- Five to six miles of severe side slopes;
Yes, the hillsides above Foothill Road are somewhat steep, but they were able to install the existing 230 kv line along this hillside and if they were able to construct a transmission line to Hells Canyon Dam they should be able to construct the line along Foothill Road? Again, because it may not be 'easy' to construct should not be a reason to run it through a higher impact area.
- Over a mile of Ladd Marsh Wildlife Management Area (LMWA) crossed;
Another valid concern but placing the line across slightly over 1 mile of the wildlife area which is predominately open landscape and that already has a transmission line on it would have a significantly lower impact on wildlife than placing it across over 5 miles of undeveloped forested land with exceptional wildlife habitat. I have contacted the Oregon Department of Fish and Wildlife (ODFW) and the only concern I identified from them was associated with the line being on or close to the wetlands which could result in significant bird impacts, but placing the line off the wet lands area above Foothill Road did not cause them significant concern. I have extensive documentation confirming this and I also have documentation showing that IPC had not had any discussions with the ODFW on the line possible line location across the wildlife area until April 4, 2011 which demonstrates they only made assumptions about ODFW not wanting the line to cross the wildlife area during the scoping and proposed route development.
- Does not meet 1500 foot reliability separation criteria.
IPC was never able to provide any information that validated the separation criterion of 1500 feet and I did extensive research to try and validate it myself without success. Chapter 2 of the EIS report provides the following information starting on page 2-67:

2.4.2.1 INSTALL DOUBLE-CIRCUIT NEW TRANSMISSION LINES ON EXISTING TOWERS IN THE STUDY AREA

One of IPC's objectives in proposing the B2H Project is to improve system reliability between the Boardman and Southeastern Idaho areas. System reliability is generally improved by adding redundant transmission lines so that if one line is damaged or otherwise not in service, the other one can continue to provide service. However, locating the proposed B2H 500-kV line closer than 250 feet to other high-voltage lines would create "Adjacent Transmission Circuits" (WECC 2012). Adding Adjacent Transmission Circuits does not improve a system's reliability rating because a single event could disrupt service on both transmission lines. This alternative was considered but eliminated from detailed analysis because it is ineffective in responding to the agencies' need to respond to the SF 299 application and because it is ineffective in meeting IPC's purposes for proposing the B2H Project.

This information was not in the WECC System Performance Criteria IPC provided me per my numerous requests on the separation criteria and although I was not able to find information supporting this, if correct it would indicate that the new line could be constructed up to 250 feet from the existing line, thus invalidating the information they provided to me on this restriction.

As a result of this and because there have been numerous 500 kv transmission lines built within a few hundred feet of existing 500 kv and 230 kv lines in recent years, indicates to me that this criteria/restriction may not exist. Again, even if a separation criterion of some type does exist, this should not result in placing the line across Glass Hill and creating the higher adverse impacts.

EIS Information Correction/Clarification

It needs to be noted that the information provided in the Executive Summary on page S-7 and partially restated again in Chapter 2, Proposed Action and Alternatives, on page 2-57 on the Glass Hill Alternative is not correct, see information copied from page S-7 below:

Glass Hill Alternative

The Glass Hill Alternative was developed to address concerns about the Proposed Action's proximity to the Ladd Marsh Wildlife Management Area and visibility concerns from La Grande in Union County. The Glass Hill Alternative is approximately 7.5-miles-long located to the west of the Proposed Action on private land in Union County near La Grande, Oregon. The Glass Hill Alternative is the same length as the Proposed Action.

Neither the proposed route across Glass Hill nor the alternate route are in '...proximity to the Ladd Marsh Wildlife Management Area', nor should there be any '...visibility concerns from La Grande in Union County' as neither of these routes as proposed can be seen from La Grande. These statements would have been true had the line been routed as proposed above along the exiting 230 kv line over to the gas pipeline line route and had the proposed 'Alternate' route followed the existing proposed route across Glass Hill which is not the case. The information on the Glass Alternative needs to be corrected to identify the actual reason why it was proposed as shown.

Next, in Chapter 2, Table 2-12. Summary of Effects by Alternative on page 2-78 indicates that the Glass Hill routes would have the following Wildlife Resource impacts, 'Big game – long-term moderate impacts. Construction impacts-moderate.' Yet in Chapter 3 on page 3-288 of the EIS it states the following:

SEGMENT 2—BLUE MOUNTAINS

Wildlife Habitat

The majority of habitat that would be impacted in Segment 2 is woodland/forest habitat followed by shrubland habitat. The amount of each primary wildlife habitat type that would be disturbed within the right-of-way for the alternative in Segment 2 is compared by alternative in Table 3-43 in Vegetation Section 3.2.3.

Forests and woodlands cleared during construction would be impacted for much longer than other habitat types. This impact would displace wildlife that use forests and woodlands for many generations until vegetation can recover. In addition, due to the greater potential for edge effects where this habitat type is cleared compared to the other habitat types, forest/woodlands adjacent to cleared areas would be impacted as well. Though mature forests are rare, the impacts to this forest type, such as edge effects, would be more pronounced due to the more distinct difference between mature forest and adjacent cleared areas, and the longer recovery time of this type of habitat (several decades). Wildlife species that use this habitat type, for example northern goshawk and American three-toed woodpecker, would experience habitat loss until areas re-grow during Project operations, in this case, several decades. Removing trees would cause the loss of both present habitat (canopy cover, live trees, forest understory) and potential future habitat (snags and downed wood from dead, mature trees). Woodland/forest habitat support diverse assemblages of wildlife species, often including species that are specific to that habitat type. Because forests and woodlands support a wide range of species and are slow to regenerate, the Proposed Action and alternative in Segment 2 would result in long-term high impacts to this habitat type.

The types of direct and indirect effects that could occur to shrubland habitat are described in Segment 1. Because shrublands support a wide range of species and are slow to regenerate, the Proposed Action and alternative in Segment 2 would result in long-term high impacts to this habitat type.

The information in Table 2-12 appears to be incorrect as The information in Chapter 3 of the report properly identifies that the wildlife habitat impacts for these routes would be 'long-term high impact', not moderate as shown in the table.

Please provide this information to those responsible for ensuring this line has the lowest possible impact on the land, the wildlife, the public and the landowners.

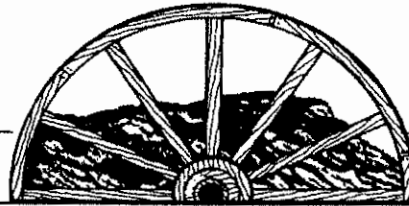
Sincerely,

Dan Turley
Matt Turley
Lloyd Royer
Brad Allen
Representing the Glass Hill Coalition
La Grande Oregon, 97850

Exhibit 2

2017 Letter from City Manager Robert Strobe
to Oregon Department of Energy

CITY OF



LA GRANDE

THE HUB OF NORTHEASTERN OREGON

MEMORANDUM

TO: Kellen Tardaewether
Oregon Department of Energy
550 Capitol St. N.E., 1st Floor
Salem, OR 97301

FROM: Robert A. Strobe, City Manager
City of La Grande, Oregon
P.O. Box 670
1000 Adams Avenue
La Grande, OR 97850
(541) 962-1309
rstroke@cityoflagrande.org

DATE: August 31, 2017

RE: City of La Grande Comments on the Amended Preliminary Application for Site Certification for the Boardman to Hemingway Transmission Line

General Comments: The La Grande City Council, in partnership with the Union County Commissioners conducted two public meetings to listen to comments from residents regarding this project as part of the review of the Amended Preliminary Application referenced above. The public sentiment expressed at those meetings was overwhelming in opposition to the Boardman to Hemingway Transmission Line. The basis for that opposition included, but was not limited to reduced property values to homes along the proposed route; view shed impacts throughout the area; environmental impacts both during construction and when the transmission line becomes operational; impacts to recreational facilities such as Morgan Lake; and a lack of public notice and involvement throughout the process. Of particular concern to the City Council was the decision by the applicant not to submit the BLM preferred route as the proposed route, or at the very least an alternative for consideration for Site Certification. Of the two routes identified in the application, the applicant selected the most impactful to the City of La Grande of those two as their proposed route.

As a general observation, the application is missing information in several areas and therefore is incomplete. These areas are identified in our review. The document also appears to be a boiler plate product that addresses general items, with no resolutions for local government regarding the negative impacts that come with it, and therefore it leaves the burden to the local government (cities and counties) to deal with. It also doesn't recognize approved master

planning studies done by local governments where the submitted site location may create conflicts within such studies. The submitted sites appear to be a "copy and paste version" for a considerable amount of the document and replicates information that doesn't apply to the area they are addressing. This document was extremely difficult to maneuver through to find information. Also, with such a major project of this nature, the limited amount of time allowed to review the information submitted was inadequate, particularly given the way the materials are organized.

★ Later in this review we touch on infrastructure impacts which are largely unknown due to the lack of specificity in the application. Based on this, we would ask that a condition of any approval include that the applicant be required to mitigate any adverse impacts to the City's infrastructure related to the project, particularly those related to the use of City roads that are not well suited for the anticipated heavy vehicle traffic.

The City of La Grande's comments are provided in part as general comments and in part using the table provided where we were able to identify specific sections of the Application that correlate to our comments. Our inability to specifically link some of our general comments to page and paragraph in the application is directly related to the short timeframe provided for our review and the manner in which the information is scattered throughout the over 17,000 pages in the document. We have done our best with the limited time and would ask that we not be penalized for the placement of our comments and that all our comments be given due consideration.

Geological Review – The south and west hills of La Grande have been classified by the adopted engineering report titled "Engineering Geology of the La Grande Area, Union County, Oregon", dated 1971, as a geological hazard area. The study addresses numerous fault lines from Sheep Creek to and through the La Grande area, which covers the area submitted for site selection. That document is attached and supports concerns for all work proposed within the submitted study area. This plan is addressed in the City of La Grande Comprehensive Plan in addressing Goal 7.

There is nothing that could be found addressing storm sewer treatment, storm water volume control for impervious areas or dust control. Waters from the south and west hills around La Grande flow directly into and through the City. La Grande has numerous inversions, creating air quality problems, and is recognized by the Department of Environmental Quality as a nonattainment city. These health and environmental hazards should have been addressed.

Exhibit T – Recreation.

View Shed Concerns of Morgan Lake Park with respect to possible impacts of B2H power line construction in close proximity to the park:

Morgan Lake Park is the City of La Grande's only campground and is heavily used by local and regional day users as well as out of state, local, and regional campers. The park is open from late April thru October and boasts an average of over 50 vehicles per day and thousands of park visitors per year. Park users currently participate in a variety of recreational activities including; camping, fishing, non-motorized boating, bird watching, wildlife viewing, star gazing, paddle boarding, swimming, and more.

There is one route to the park via Morgan Lake Road that crests at the top of the ridge where an access road enters the park. This coincidentally is the only exit to the park as well. Currently, park users experience vast views of mountain prairies and mature stands of Ponderosa Pine and Douglas Fir.

In addition to the environmental impacts Karen Antell details in her report below, the Morgan Lake alternative proposed route that travels through the park boundary, close to Little Morgan or Twin Lake would severely impact the view shed and recreational experience of park users. The first and last impression of the park would be the view of the power lines. The noise created from the lines will affect the peaceful outdoor recreation experience for all park users.

This heavily used park is a quiet sanctuary only minutes from town where thousands of local, regional, and out of state visitors come to enjoy their favorite outdoor recreational activities. The noise and the view shed and environmental impact will cripple our efforts to provide the same outdoor recreation experience for our park visitors.

Given Idaho Power elected not to include the BLM preferred route, the impacts to the City of La Grande, particularly as they relate to the view shed and recreational amenities are much more significant than they otherwise would have been. Accordingly, if the proposed and/or alternate route are approved it would be appropriate for the applicant to mitigate these adverse impacts by improving and enhancing the recreational facilities that will be degraded.

Assessment of the natural qualities of Morgan Lake Park with respect to possible impacts of B2H power line construction in close proximity to the park:

Dr. Karen Antell, PhD, Professor of Biology, Eastern Oregon University prepared the following summary of the ecological qualities of the Morgan Lake area and is incorporated as part of the City's review:

I have a PhD in Botany, and have been employed as Professor of Biology at Eastern Oregon University since 1987. Over the past 30 years, I have developed extensive knowledge of the biological diversity exhibited at Morgan Lake and the associated wetlands surrounding Twin Lake (a.k.a. Little or Lower Morgan Lake), with primary emphasis on vegetation, Lepidopterans (butterflies and moths), birds, and amphibians.

Introduction: Morgan Lake Park was created by the City of La Grande in 1967 and a plan was adopted as a guiding document for management of the park. The Morgan Lake Park Recreational Use and Development Plan states that "A goal of minimum development of Morgan Lake Park should be maintained to preserve the maximum of natural setting and to encourage solitude, isolation, and limited visibility of users." Additionally, the "Little Morgan Lake area" (a.k.a. Twin Lake) "should be left as a natural habitat for birds and animals with little change or interference from man's activities." The area has been managed with an emphasis on development of recreational uses such as "fishing, bird watching, nature study," and non-motorized boating. Domestic livestock are not allowed within the park.

Morgan Lake Park has existed essentially unchanged since the mid-1970s. To my knowledge, external threats to the natural and recreational values of the lake (other than wildfire) have not previously been identified, and no comprehensive biological inventories have been completed. The possibility of development of the B2H power line in close proximity to the park warrants an assessment of potential impact to the natural and recreational qualities of the area.

This report summarizes some of the unique natural qualities of Morgan and Twin Lakes that may be altered due to construction of the B2H power line in close proximity to the park.

1. Ecological Uniqueness and Importance of Morgan Lake Park

Morgan Lake and its neighboring environs constitute an area of significant geologic and biological importance. The perennial wetlands are snowmelt and spring fed with no stream-flow inlets or outlets. The presence of these wetlands on the top of the Glass Hill ridge is both unique and of enormous ecological importance. There are no other montane, ridge top wetlands of its size or ecological significance in the area.

Prior to its acquisition as a city park, a dam was constructed on the north side of Morgan Lake in order to store water for both hydropower generation and agricultural use. Consequently, what originally would have been a palustrine wetland was developed into a perennial lake, with relatively little surface fluctuation. The lakeshore edge has been altered with introduction of rock revetments in some areas. Although the ecological qualities of this lake have been altered significantly over time, the lake remains a permanent water source with aquatic insect and introduced fish populations that sustain diverse bird species that otherwise are rare on Glass Hill.

Twin Lake is located west of Morgan Lake (Fig. 1). This lower-lying area has not been dammed or physically altered. There are no stream inlets or outlets. Water levels fluctuate throughout the year, creating a variety of habitats for many different species. Soft edges harbor diverse emergent vegetation as well as submerged aquatic species. This wetland serves as a highly productive water source for amphibian reproduction and nesting waterfowl.

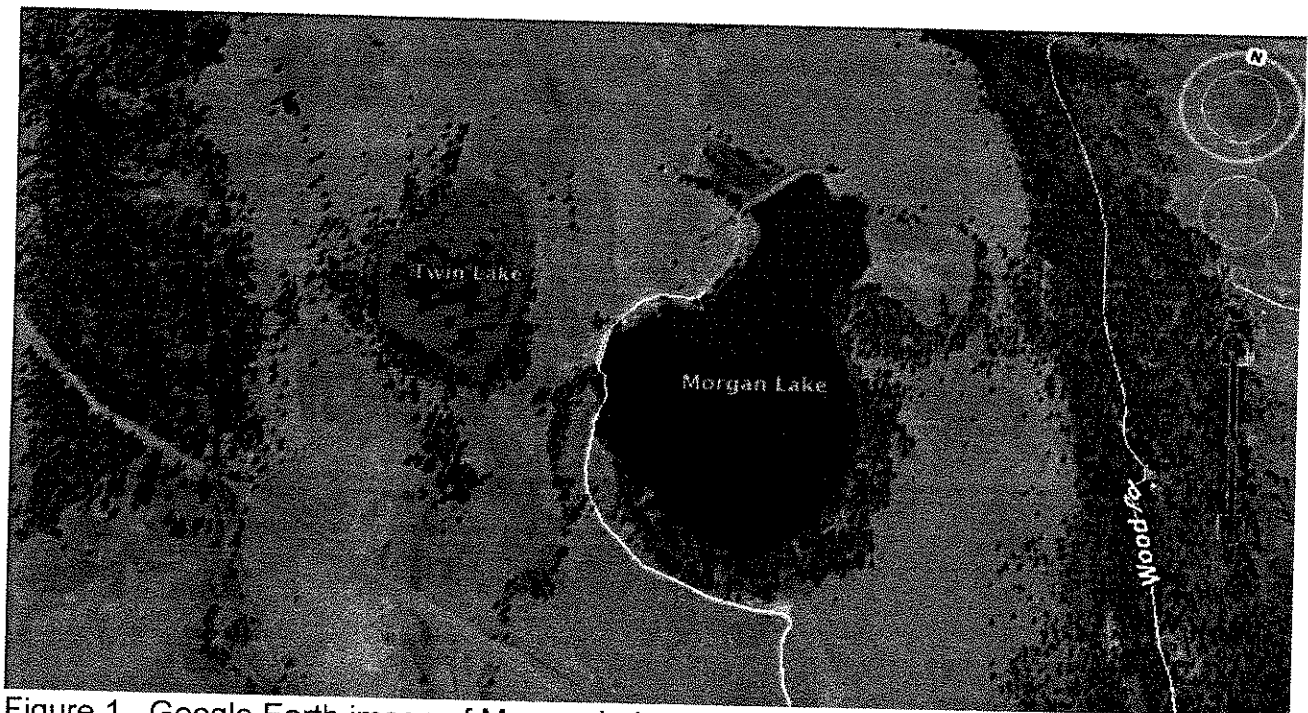


Figure 1. Google Earth image of Morgan Lake and Twin Lake, 16 August 2017.

2. Biological Diversity at Morgan Lake and Twin Lake Area

Morgan Lake Park hosts a maturing Ponderosa pine/Douglas-fir forest. Timber harvest is not prescribed in the Recreational Use and Development Plan, and tree cutting has been

limited to removal of diseased or hazard trees. No commercial logging has occurred since at least 1967. In addition to the development of this maturing forest on deeper-soiled sites, the area also hosts an outstanding diversity of understory and herbaceous vegetation. Because of exclusion of livestock since establishment of the city park, the area has been less impacted by soil disturbance and invasive weed incursion than surrounding private lands.

Twin Lake represents a rare palustrine wetland that remains in excellent condition. Virtually the entire northern half of Glass Hill is in private ownership, where most wet meadows have been highly impacted by livestock grazing. Twin Lake has not been drained or otherwise "managed", and the diverse aquatic and emergent wetland plants native to the area are still almost entirely intact.

Following is a summary of some of the most unique or ecologically significant qualities of Morgan Lake Park, emphasizing the following: forested areas; understory/herbaceous vegetation; birds; amphibians; and Lepidoterans (butterflies and moths).

Maturing Ponderosa pine/Douglas-fir forest:

The forest surrounding the lake includes a mixed stand of maturing trees and smaller diameter stock. There are scattered downed trees and snags, however campers have scavenged much of the dead wood for firewood over the years. Visitors have the opportunity to experience a forest with diverse understory, unimpacted by grazing, and that is developing mature qualities. Although many visitors may not be able to articulate that this is why they love to come to Morgan Lake, nevertheless, this small pocket of high-quality forest draws a large number of visitors throughout the year because they just "love going up there".

Because of intense commercial logging throughout much of Glass Hill, these large trees represent significant potential for wildlife use. Nesting species that require larger-diameter trees that frequently are observed at Morgan Lake include: Great Horned Owl, American Bald Eagle, and Osprey.

Other cavity nesting species typically require not only snags, but also abundant insect populations to support the high protein requirements for rearing young nestlings. Morgan Lake produces hatches of aquatic insects that sustain active breeding populations of the following species: Violet-green Swallow, Tree Swallow, Western bluebird, Mountain bluebird, several flycatcher species.

Mature conifers also provide food resources for seed eating bird species as well, including Red, and White-winged crossbills, a variety of finches, Pine siskins, Black-capped and Mountain chickadees.

Aspen, Cottonwood and Willow:

In addition to coniferous forest trees, the park also sustains a few small groves of Quaking aspen, which are otherwise rare on Glass Hill. Large, Black cottonwoods are found at the north end of the lake. These fast-growing, native trees provide nesting and roosting habitat for a wide variety of bird species. They also harbor insects that provide food to migratory and residential bird populations. Willow thickets occur around the perimeters of both Morgan Lake and Twin Lake. Their dense vegetation provides essential cover for

successful nesting of many birds, especially neo-tropical migratory species, such as warblers and Western tanagers.

Understory/Herbaceous Vegetation:

Shrub and forb species diversity at Morgan Lake Park is very high. Open, thin-soiled areas support a healthy example of Palouse Prairie type native grassland. In addition to native grasses, such as Sandberg's bluegrass and Oatgrass (*Danthonia*) species, the area hosts many flowering forbs, including Lomatium, Mariposa lily, Prairie smoke, Larkspur, and Phlox.

Forested areas are dominated by Idaho fescue, Snowberry, Mule-ears, Chokecherry, Elderberry, Ocean spray, and Wild rose. Other flowering species include Lupine, Golden pea, Goldenrod, Sugarbolls, Buttercups and sedges. Examples of birds supported by fruiting shrubs at Morgan Lake include: Black-headed grosbeak, Spotted towhee, American robin, and waxwings.

Aquatic Vegetation:

Twin Lake is notorious for its lush "forest" of native Yellow pond (water) lily. This dense vegetation provides excellent cover for a wide variety of nesting waterfowl, including ducks, geese, grebes, coots, and others. Other unusual and interesting aquatic plants that can be seen at Twin Lake (and nowhere else on Glass Hill) include Bogbean (*Menyanthes*) and Bladderwort (*Utricularia*), an insectivorous plant.

Birds:

An enormous diversity of bird species utilizes the Morgan Lake area, both for nesting and feeding. Raptors hunt the open areas, and forest dwellers occupy the timber. Waterfowl utilize both Morgan Lake (feeding) and Twin Lake (nesting). Morgan Lake is a stopover for migratory diving birds that require deeper water than is found elsewhere in the area. For example, Common loons are typically found at Morgan Lake in fall and spring, but not in other areas of Union County. Cormorants and even Great blue herons also have become a common sight around the lake.

Habitat for woodpeckers is especially important at Morgan Lake. Several species of woodpeckers that are on the ODFW Sensitive-critical species list for Oregon have been detected at the park, including Lewis' woodpecker, Pileated woodpecker, and White-headed woodpecker.

Other bird species that now are rare or extirpated from western Oregon, but persist at Morgan Lake Park, include Common nighthawks and Western meadowlarks, both of which currently are listed as sensitive species in Oregon.

Amphibians:

Native amphibian populations have been decimated throughout the Grande Ronde Valley due to a combination of habitat loss, invasive Bullfrogs and, likely the Chytrid or BT fungus. The Morgan Lake system, so far, has avoided bullfrog infestation, and still supports healthy native frog populations. Twin Lake is a critical breeding area for Pacific chorus frogs. Columbia spotted frogs (Sensitive-critical species status) have been documented at Morgan Lake, and therefore must be breeding in the area. Suitable habitat for Long-toed salamanders and Western toads (Sensitive species status) also exists.

Lepidopterans (butterflies and moths):

I have conducted nighttime surveys of moth species at Morgan Lake annually since 2014. The area hosts a surprisingly diverse and unique assemblage of species that is not replicated on other areas of Glass Hill. Many lepidopterans, especially moths, require specific host plant species in order to rear their larvae. Therefore, the high diversity of herbaceous plant species translates into a very high diversity of butterfly and moth species. After hatching, adult butterflies and some moths require nectar sources for feeding until they have reached reproductive maturity and produced eggs. The variety of flowering shrubs and herbaceous plant species at Morgan Lake provides critical feeding habitat for both larval and adult butterflies and moths, and sustains an exceptional level of species diversity. Healthy populations of Lepidopterans in turn support many species of birds and bats that feed on these insects throughout all seasons of the year.

Bats:

Although I am unaware of any bat surveys that may have been conducted in the Morgan Lake area, it is possible that some data exist. Morgan and Twin Lakes, and their surrounding forested habitat, constitute exceptionally important roosting, breeding and feeding habitat for a wide variety of bat species, some of which no doubt are listed as sensitive and/or critical species in Oregon.

Conclusions: In conclusion, Morgan Lake Park represents a unique area on the Glass Hill ridge because of a combination of several features: public ownership, no recent commercial timber harvest, no livestock grazing, and management for quiet recreation. The area currently is free from intrusion of man-made infrastructure except for limited access roads. Construction of a 500 kV power line within close proximity to the park would result in degradation of the natural qualities of the area, including wide-spread impacts to the wildlife, and plant life. In addition to the visual impact of the power lines themselves, significant impacts due to tower footprint construction, construction and maintenance of access roads, and herbicide use, could have profound impact on water quality of Twin Lake. Introduction of invasive plant species could have irreversible impact on the health and diversity of the native flora and all of the bird, insect and mammal species that depend on these resources.

Developing a well-informed understanding of the risks and possible outcomes of power line construction in the area should be a high priority for the city. No matter how well intentioned, mitigation efforts seldom replace or restore the qualities that have been lost or damaged to their previous condition. The City of La Grande is very concerned about any alteration to the sensitive, outstanding and unique qualities of Morgan Lake Park (Fig 2).



Figure 2. Morgan Lake alternative (left) and Mill Creek alternative (right) routes near Morgan Lake Park.

Exhibit 3

Greg Larkin's Data Request Number 4:
Exhibit 401 A Sworn Statement from Irene
Gilbert dated March 3, 2023

Greg Larkin/401

Greg Larkin/1

SWORN STATEMENT OF IRENE GILBERT, MARCH 3, 2023

I am making this statement regarding Idaho Power's statements contained in their response to Staff Question 90 regarding the selection of the Morgan Lake Route and the decision not to pursue the Environmentally Preferred Route.

I was a member of the 9 person Union County B2H Advisory Committee convened by the Union County Commissioners to obtain and provide input regarding the Union County Citizen responses regarding the B2H project. Brad Allen was also a member of that committee. Brad Allen stated that his interest was in avoiding having the transmission line cross a specific ridgeline on his property called "Cowboy Ridge" due to the fact that this ridge is documented to produce between 1,000 and 1,500 elk calves each year. I had been approached by Brad Allen to assist him in protecting this resource from the B2H power line and had started researching issues such as the Indian fish restoration activities along Rock Creek to support his arguments.

During the public comments before the Citizens Advisory Committee, I do not recall any public comments that were supportive of the transmission line.

During one of the meetings, the committee was told that they were to determine which of two routes, in their opinion, would be the most preferable if the line were to be built. The county stance was to remain that the line should not be built. We were provided only the 230 route and the Mill Creek route to consider in spite of committee concern that the Glass Hill Route should also be considered. At the time, the committee was only aware of the three routes in play. I voted for the 230 route in part due to the devastating impacts the other route would have

Greg Larkin/401

Greg Larkin/2

on the elk population in Union County. Brad Allen voted for the 230 route also. It was established as the choice of the Citizens Advisory Committee between the two routes we were allowed to consider.

Later, Brad Allen shared that he had made what he called a "gentlemen's agreement" with Idaho Power to move the line just off the ridgeline onto what is being called the Morgan Lake Alternative, but which previously was referred to as the Brad Allen route in spite of my concerns that this would not remove the negative impact to this important elk calving area. Mr. Allen offered to pay me for the time I had devoted to research on his behalf. He also offered to allow me to hunt on Elk Song Ranch (Brad Allen's property at the time) as a result of my work. I refused both offers. According to Brad Allen's statements to me, the Morgan Lake route was the route Idaho Power agreed to in order to avoid him following through with his threat to spend up to 2 million dollars to fight the transmission line in the event it went across Cowboy Ridge. He stated this was his estimate of the amount that his property value would decrease if the transmission line went through the Mill Creek route and crossed Cowboy Ridge.

I swear under threat of perjury that the above comments are accurate and correct according to my recollection of the events which I have stated occurred.

Irene Gilbert

2310 Adams Ave.

La Grande, Oregon 97850

Phone: 541-805-8446

Exhibit 4

Exception to ALJ Ruling on Summary Determination and Proposed Contested Case Order Issue TE-1 Susan Geer

**BEFORE THE ENERGY FACILITIES SITING COUNCIL
for the
STATE OF OREGON**

IN THE MATTER OF:)	EXCEPTIONS TO
)	ADMINISTRATIVE LAW JUDGE
THE PROPOSED BOARDMAN TO)	WEBSTER’S RULINGS: SUMMARY
HEMINGWAY TRANSSMISSION LINE)	DETERMINATION AND
)	PROPOSED CONTESTED CASE
)	ORDER
)	
OAH Case No. 2019-ABC-02833)	BY PETITIONER SUSAN GEER
)	ISSUE TE-1
)	DATED JUNE 27, 2022

INTRODUCTION

Issue TE-1: Whether Applicant was required to have an Oregon Department of Agriculture botanist review the ASC.

Petitioner Susan Geer (Ms. Geer) disagrees with many of the factual and legal conclusions and the characterizations of the evidence that are contained in the Summary Determinations (SDs) granted to Idaho Power (IPC) and Oregon Department of Energy (ODOE) and in the Proposed Contested Case Order (PCCO). Ms. Geer presented evidence showing that many of the findings and conclusions stated in the SDs and PCCO are not accurate or legally appropriate.

Ms. Geer requests that the Energy Facility Siting Council (EFSC) deny the site certificate and reverse the PCCO. In the alternative, Ms. Geer requests to remand this issue back to ODOE for updated analysis using a current Threatened and Endangered plant list; in the alternative to using the T&E list currently recommended by the NPCP, the EFSC should use the T&E list maintained by the Oregon Biological

Information Center (ORBIC); the updated analysis would include the currently proposed routes. Ms. Geer also requests remand by EFSC to the ALJ for more evidence and a new PCCO.

Ms. Geer raises two exceptions to the ALJ Proposed Contested Case Order, as it relates to Issue TE-1.

The exceptions are addressed below, demonstrating that the facts, or reasoning/analysis or conclusion by the ALJ is incorrect. The errors are material to EFSC's decision.

EXCEPTIONS

- 1. Judge Webster (ALJ) erred in the PCCO by concluding that the consultation about Oregon's rare plants does not need to involve the Oregon Department of Agriculture's Native Plant Conservation Program.¹**

A rare plant botanist representing the State of Oregon should be called upon to review and comment on the final ASC. The proposed Routes on federal land were reviewed by USFS and BLM botanists, but the Routes on other ownerships (private, City, County) did not receive the same level of review. Please read the reasons set forth by Ms. Geer in her Responses to IPC and ODOE Motions for Summary Determination, which is hereby incorporated by reference into this filing. It is attached for EFSC's convenience (Exhibit 1).

- 2. ALJ erred in the Summary Determination by finding a 2013 comment and a 2014 meeting between ODOE and ODA's Native Plant Conservation Program botanist was sufficient consultation².**

¹ P. 28 In the Matter of Boardman to Hemmingway, OAH Case No. 2019-ABC-02833 Proposed Contested Case Order.

² P. 10 In the Matter of Boardman to Hemmingway, OAH Case No. 2019-ABC-02833 Ruling and Order on Motions for Summary Determination on Contested Case Issue TE-1.

In addressing Idaho Power's Motion for Summary Determination, the ALJ says that because Oregon Department of Agriculture (ODA) was provided copies of "the preliminary ASC (Application for Site Certificate), the amended preliminary ASC, and the completed ASC"³ and ODA botanist Rebecca Currin submitted comments in 2013, that the obligations of IPC and EFSC were met because even though no further communication occurred after 2014, ODA was "given the opportunity"⁴ to comment on rare plants. The ALJ notes her SD in the PCCO.⁵ However, the ALJ's statement and reasoning are incorrect for at least the following reasons.

First, the ALJ misstates a legal issue at page 10 of the PCCO. Although the ALJ points out that OAR 345-022-0070 begins with, "To issue a site certificate, *the Council, after consultation with appropriate state agencies*, must find that * * *" the ALJ then goes on to reason that ODOE was acting for the Council, and "the Council" met the consultation requirement by **mailing notifications** and receiving a comment in 2013. During the time when the ODA's NPCP program⁶ was essentially non-existent because it had no designated employees due to lack of funds, ODOE simply mailed notifications to ODA. Notably, they were addressed to employees who were no longer there. ODOE and the ALJ are mistaken to consider this adequate notification. The issue is not whether ODOE acting for "the Council" met some really cursory requirements, but whether the Council is fully informed of the "effects of the facility" on threatened and endangered plant species.

Second, the fact that ODOE mailed copies of the ASC to ODA and that Currin was able to provide comments in 2013 does not inform the Council, as required by ORS 469.501, of the "Effects of the

³ P. 11 In the Matter of Boardman to Hemmingway, OAH Case No. 2019-ABC-02833 Ruling and Order on Motions for Summary Determination on Contested Case Issue TE-1

⁴ Ibid

⁵ P. 28 In the Matter of Boardman to Hemmingway, OAH Case No. 2019-ABC-02833 Proposed Contested Case Order.

⁶ To be clear, the NPCP only covers rare plants.

facility, taking into account mitigation, on fish and wildlife, including threatened and endangered fish, wildlife or plant species.’ The information used by Currin in her preliminary comments was 5 years prior to the September 2018 filing of the final ASC **and prior to the time that the current routes were proposed**. ODOE made no effort to notify the ODA the current routes.

Third, ODOE was negligent in failing to aid ODA during their fiscal crisis, since the possible shortfall was known and discussed at the 2014 meeting and had direct impact on the ability of ODA to be an effective reviewing agency.

The April 2014 meeting between ODA/IPC/ODOE was clearly not meant to be a final consultation. The Amended pASC was still under development. The meeting notes show that the NPCP botanist expected further involvement on the pASC. Meeting notes¹⁷ state “ODA provides technical advice to ODOE regarding compliance with the T&E species standard. If the agency is unable to respond for the lack of resources (see slide on page 3 of the PowerPoint presentation handout), ODOE has a compensation agreement with the agency, so Rebecca’s work can be reimbursed.” Despite this, no further interaction took place. Ms. Geer has been unable to locate any evidence in the record that would indicate that ODOE attempted to actually provide funding to ODA for an adequate consultation.

Fourth, EFSC should use a current Threatened and Endangered plant list. NPCP’s recommended T & E list was ready over 5 years ago but has stagnated from lack of funds.⁸ The T&E list has not been promulgated since its original iteration was completed in 1988 even though, by law (ORS 496.176 (8)), it is to be periodically reviewed every 5 years.

⁷ P.1 Boardman to Hemingway Transmission Line Project IPC/ODA/ODOE Meeting Draft Meeting Notes
Date: Tuesday, April 22, 2014 Time: 9:00 am to 11:45 am (PST) Meeting

⁸ Federal and neighboring state agencies update lists every 3 years.

There have been attempts to fund the promulgation of the T&E list that is currently recommended by the NCPC. Native Plant Society of Oregon (NPSO) successfully petitioned the legislature to add funding to ODA's NCPC for the purposes of updating the T&E list during the 2017 budget cycle (July 1, 2017 to June 30, 2019). ODA made recommendations for updating the state list in 2018 and received (and closed) public comments in January 2019. However, the final step of rulemaking process was not completed. Lacking additional state funding, this process was again not completed under the 2019 budget cycle (July 1, 2019 to June 30, 2021).

NPSO once again successfully petitioned the legislature to add funding to ODA's NCPC for the purposes of updating the T&E list during the 2021 budget cycle. Existing work on the list now is outdated and a status reassessment of the 2017 list presumably is ongoing since funds were allotted. NPCP expects to adopt them in 2023. Oregon's updated list should be used by the Council.

ORS 469.401(2) states: "The site certificate or amended site certificate shall require both parties to abide by local ordinances and state law and the rules of the council in effect on the date *the site certificate or amended site certificate is executed*....: (Emphasis added).

Fifth, in the alternative to using the T&E list currently recommended by the NPCP, the EFSC should use the T&E list maintained by the Oregon Biological Information Center (ORBIC). ORBIC serves as a repository of information and revises rating and listing of rare plants on a 3-year cycle.

ORBIC rates rare species as Lists 1-4 with those on List 1 being the rarest species. The State of Oregon should protect all ORBIC Heritage List 1 species, defined as "taxa that are threatened with extinction or

presumed to be extinct throughout their entire range. These are the taxa most at risk and should be the highest priority for conservation action. Includes many rare Oregon endemic species”.⁹

Sixth, the NCPC recommended T&E list contains species which would be impacted by the proposed transmission line, and these species deserve protection by the State of Oregon.

Counter to the ALJ’s assertion that Ms. Geer has no material evidence¹⁰, Ms. Geer is aware of occurrences of *Trifolium douglasii* and potential occurrences of *Pyrrocoma scaberula* which would be impacted on the currently proposed B2H routes. Both species are on the recommended T&E list. A full review of the currently proposed routes, and consultation with ODA’s NCPC, using the recommended list is in order.

CONCLUSION

Notwithstanding the ALJ’s statement, Idaho Power Company is required to consult with a botanist from ODA’s NPCP under OAR 345-022-0070. Moreover, adequate notification was not given to the NPCP and as a result adequate consultation did not occur. EFSC (the Council) was not fully informed of the effects of the facility as called for in ORS 4469.501. In addition, ODOE was negligent in failing to aid ODA during their fiscal crisis, since the possible shortfall was known and discussed at the 2014 meeting and had direct impact on the ability of ODA to be an effective reviewing agency. Finally, the NPCP recommended T&E list contains species which would be impacted by the proposed transmission line, and these species deserve protection by the State of Oregon.

⁹ P. 133 Oregon Biodiversity Information Center. 2019. Rare, Threatened and Endangered Species of Oregon. Institute for Natural Resources, Portland State University, Portland, Oregon.

¹⁰ P.12 *In the Matter of Boardman to Hemmingway*, OAH Case No. 2019-ABC-02833 Ruling and Order on Motions for Summary Determination on Contested Case Issue TE-1

Ms. Geer requests that the Energy Facility Siting Council (EFSC) deny the site certificate and reverse the PCCO. In the alternative, Ms. Geer requests to remand this issue back to ODOE for updated analysis using a current Threatened and Endangered plant list; in the alternative to using the T&E list currently recommended by the NPCP, the EFSC should use the T&E list maintained by the Oregon Biological Information Center (ORBIC); the updated analysis would include the currently proposed routes. Ms. Geer also requests remand by EFSC to the ALJ for more evidence and a new PCCO.

CERTIFICATE OF MAILING

On June 27, 2022, I certify that I filed the foregoing EXCEPTIONS TO THE PROPOSED CONTESTED CASE ORDER with the Hearings Coordinator via electronic mail, and with each party entitled to service, as noted below.

/s/ Susan M. Geer
Susan M. Geer

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