



ENERGY FACILITY SITING COUNCIL

Energy Facility Siting Council Meeting Minutes September 27, 2022

- A. Consent Calendar (Action Item & Information Item)¹
- B. Boardman to Hemingway Transmission Line – Material Change Hearing and Public Notice of Hearing to Adopt Final Order (Action Item)²
- C. Public Comment Period (Information Item)³
- D. Perennial Wind Chaser Station – Request to Approve Decommissioning Plan and Terminate Site Certificate (Action Item)⁴
- E. Compliance Update (Information Item)⁵

The meeting materials presented to Council are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/Council-Meetings.aspx>

Call to Order: The meeting was called to order on Tuesday September 27, 2022, at 8:30 AM by Chair Grail.

Roll Call: Chair Marcy Grail, Vice-Chair Kent Howe, Council Members Hanley Jenkins, Cynthia Condon, Ann Beier and Jordan Truitt were present in person and Council Member Perry Chocktoot was present virtually.

Oregon Department of Energy representatives present were Assistant Director for Siting/Council Secretary, Todd Cornett; Senior Policy Advisor, Sarah Esterson; Operations and Policy Analyst, Wally Adams; Senior Siting Analyst, Kellen Tardaewether; Compliance Officer, Duane Kilsdonk; and Administrative Specialist, Nancy Hatch were present in person. Oregon Department of Justice Senior Assistant Attorney General Patrick Rowe, counsel to EFSC, was present in person, and Senior Assistant Attorney General Jesse Ratcliffe, counsel to EFSC on the Boardman to Hemingway Contested Case, was present virtually.

Agenda Modifications:

Review and approval of the August 29-31, 2022 Council Meeting minutes was deferred to the October 28, 2022 Council meeting because participants at that meeting were given until October 10, 2022 to review the verbatim transcript and provide any recommended scrivener error corrections.

¹ Audio/Video for Agenda Item A=00:04:02 – 2022-09-27-EFSC-Meeting-Audio

² Audio/Video for Agenda Item B=00:12:48– 2022-09-27-EFSC-Meeting-Audio

³ Audio/Video for Agenda Item C=02:53:58– 2022-09-27-EFSC-Meeting-Audio

⁴ Audio/Video for Agenda Item D=03:06:08– 2022-09-27-EFSC-Meeting-Audio

⁵ Audio/Video for Agenda Item E=03:32:46– 2022-09-27-EFSC-Meeting-Audio

- A. Consent Calendar (Action Item & Information Item)⁶** – Approval of August 2022 meeting minutes; Council Secretary Report; and other routine Council business.

Consideration of the August 29-31, 2022, Meeting Minutes - Review and approval of the August 29-31, 2022 Council Meeting minutes was deferred to the October 28, 2022 Council meeting because participants at that meeting were given until October 10, 2022 to review the verbatim transcript and provide any recommended scrivener error corrections.

Council Secretary Report – Secretary Cornett offered the following comments during his report to the Council.

Council Updates

- Legislative days for the Oregon State Legislature were held during the week of September 19th. The Senate Committee on Rules and Executive Appointments reappointed Chair Grail and Vice Chair Howe on September 23, 2022, to new terms through June 30, 2026.

Staff Updates

- **Thomas Jackson** is the new EFSC Rules Coordinator and his first day will be October 10, 2022. Tom is currently the E Discovery Coordinator at the Department of Human Services and Oregon Health Authority. In that role, he advises on E discovery of records, provides recommendations on pending records legislation, brings together stakeholders across agencies to set policy proposals, drafts security policies and processes to assist agency compliance with security protocols and more. Tom was previously a practicing attorney working on intellectual property, commercial litigation, and patent litigation. Tom has a JD from UCLA law school and a Bachelor of Science and Sociology from Brigham Young University.

Project Updates

- **Protected Area Rulemaking** was expected to be on the September Council Agenda but there were questions and issues raised related to substantive and procedural elements of the rulemaking. Staff is looking into those questions and issues to ensure we have the correct responses. We anticipate having rulemaking on the October agenda.
- **Oregon Trail Solar** submitted a request on August 31, 2022 for Amendment 1 to extend the deadline for beginning construction.
- **West End Solar** project application was determined to be complete by department staff. The proposed project is a solar PV generation facility with a generating capacity of 50 megawatts. The facility would be located within Umatilla County and is approximately a 324-acre boundary project, 2 miles southeast of Hermiston. West End Solar LLC is the applicant, which is a subsidiary of Ursus Energy Corporation. The complete application was posted to the project website and reviewing agencies memos were sent September 26, 2022. The newspaper notice will be published September 28, 2022. There will be a remote public information meeting on the

⁶ Audio/Video for Agenda Item A=00:04:02 – 2022-09-27-EFSC-Meeting-Audio

complete application scheduled for October 10, 2022, at 5:30 PM, and Council was invited to attend. There has not been much interest or concerns from the public on this project to date.

Other Updates

- On September 18, 2022, Council was sent a resolution by the Oregon Board of Agriculture, related to concerns about the cumulative impacts of energy infrastructure to highly productive agricultural lands. Jim Johnson, the Oregon Department of Agriculture's Land Use and Water Planning Coordinator, had shared the resolution. While the resolution does not name EFSC and EFSC jurisdictional projects specifically, this resolution will be particularly important if it results in any rulemaking activities by the Land Conservation and Development Commission solar siting rules which would be implemented by EFSC through its land use standard.
- During the August meeting, Secretary Cornett updated the Council on a group called Verde who is currently working with a large group of stakeholders regarding the siting of energy facilities and transmission in Oregon. The group meets remotely every Friday from 1:00 -3:00. The meetings are attended by a broad array of stakeholders. There has been a lot of sharing of information about the various groups, what they are interested in and what their concerns are. During the last meeting, a potential legislative concept or at a minimum a placeholder, was discussed and is being evaluated. The relating to clause was discussed specifically. The group is taking input on what the future concept would look like.

Future meetings

Council Members confirmed their availability for October 28, 2022 for the next EFSC meeting.

Chair Grail recused herself from any action items associated with the Boardman to Hemingway Transmission Line project. Agenda Item B was chaired by Vice Chair Howe.

Also see Attachment 1 for a verbatim transcript of Agenda Item A, completed by Naegeli Deposition and Trial Transcription.

B. Boardman to Hemingway Transmission Line – Material Change Hearing and Public Notice of Hearing to Adopt Final Order (ORS 469.370(7)) (Action Item)⁷ – Kellen Tardaewether, Oregon

Department of Energy Senior Siting Analyst & Jesse Ratcliffe, Oregon Department of Justice Senior Assistant Attorney General, Natural Resources Section, General Counsel Division.

1. **Overview of Agenda Item:** Staff provided an overview presentation of material changes to the proposed order as reflected in the draft Final Order.
2. **Material Change Hearing:** All parties and limited parties were allowed to provide oral testimony on the material changes that were identified in the draft of the Final Order.
3. **Hearing to Adopt Final Order:** Council reviewed the draft Final Order, considered the oral testimony from the Material Change Hearing, issued a final order, approving the application

⁷ Audio/Video for Agenda Item B=00:12:48– 2022-09-27-EFSC-Meeting-Audio

based upon the standards adopted under ORS 469.501 and any additional statutes, rules or local ordinances determined to be applicable to the facility by the project order, as amended. ORS 469.370 (7) and ORS 469.370 (9).

See Attachment 1 for verbatim transcript of Agenda Item B, completed by Naegeli Deposition and Trial Transcription.

- C. Public Comment Period (Information Item)⁸** – This time was reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment. Items closed for comment include the Boardman to Hemingway Transmission Line Proposed Order and Proposed Contested Case Order, the Nolin Hills Proposed Order, the Protected Areas, Scenic Resources, and Recreation Resources Standards Rulemaking and the Perennial Windchaser Station proposed final retirement plan.

The Public Comment period was opened at 11:45 am. and closed at 11:56 am. The sole commenter was Ms. Irene Gilbert.

See Attachment 1 for verbatim transcript of Agenda Item C, completed by Naegeli Deposition and Trial Transcription.

- D. Perennial Wind Chaser Station – Request to Approve Decommissioning Plan and Terminate Site Certificate (Action Item)⁹** – Sarah Esterson, ODOE Senior Policy Advisor presented the certificate holder’s proposed final retirement plan and comments received prior to the comment deadline. The Council approved the proposed final retirement plan, they also approved termination of the site certificate.

During the presentation the following discussion took place:

Vice Chair Howe questioned if the road and bridge are the only access to the site.

Ms. Esterson confirmed that it is.

Council member Beier inquired as to whether the DEQ issues have been resolved and if, under their rules, the soil stabilization requirements have been met and whether there are hazardous materials on site.

Ms. Esterson confirmed that is correct.

Council Member Jenkins added the Umatilla County Planning Director provided a written statement stating “our department finds that the existing developments on the properties, such as the access route and bridge, received proper permits from the county planning department. They are considered an accessory use to the property and will be allowed to continue use after

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project termination.” He also noted that, even though the property is in an exclusive farm use zone, it is surrounded on 3 sides by industrial land.

Vice Chair Howe added because the access road and bridge are the only access to the property and they are an asset use to the property by the county, it would be more impactful to return the site to the predevelopment condition. He expressed his approval of the retirement plan.

Chair Grail asked if Council’s responsibility (for site retirement) is to return to non-hazardous condition not to the level that the site never existed.

Ms. Esterson confirmed that is correct.

Council Member Chocktoot expressed his view that if the site was expected to be rehabbed and the applicant choose to terminate, the road and bridge should be removed.

Chair Grail clarified that applicants have met their responsibilities. The bridge and access road are useful, as noted by the county. It is EFSC’s responsibility to look at whether anything is hazardous. Applicant does not have to return to a nonexistent status.

Ms. Esterson offered, as Council Member Chocktoot mentioned, we need to look at how the site was initially certified. The termination rules require the Council to approve the retirement plan. If the plan is not exactly the same as proposed in the application phase, Council must approve any changes. As an example, if a landowner views a structure as useful to their farm operation, they can ask to leave it in place with the retirement plan. It is not unusual to evaluate leaving components in place if Council deems that appropriate.

Council member Jenkins added any activity on the property would have an access problem without the bridge and road, even if it was returned to agricultural activity. There is an irrigation ditch that must be crossed to access the nearest road to the property. He further stated it is unlikely that the property will be returned to agricultural use, more likely to be developed for industrial purposes. In that case, you will need access roads and bridge. To require the applicant to return the site to precondition (remove access road and bridge) does not make sense when it would need to be built again.

Vice Chair Howe motioned the Council to issue a final order approving the proposed Final Retirement Plan as the Final Retirement Plan and Terminating Perennial Wind Chaser Station Site Certificate as recommended by staff.

Council Member Jenkins seconded the motion.

The motion passed unanimously.

Compliance Update (Information Item)¹⁰ – Duane Kilsdonk, ODOE Compliance Officer, Sarah Esterson, ODOE Senior Policy Advisor and Wally Adams, ODOE Operations and Policy Analyst provided Council with an update on compliance program activities.

Prior to the presentation the following discussion occurred:

Secretary Cornett inquired with Council for feedback on incident reports. In the past, the reports have been included in the secretary reports. Incidents reports could be added to the agenda as a separate agenda item and the certificate holder could be given the opportunity to be present during the agenda item.

Chair Grail responded with her understanding that in the past Council has had a bi-annual compliance report presented and suggested Council have quarterly presentations.

Mr. Kilsdonk agreed adding that is exactly what he would like to see happen. Some of the wind facilities are getting older on the landscape. A quarterly plan to address with Council the issues that arise would be easy to accommodate.

Council Member Condon expressed her agreement to the quarterly plan. While some parties may want to keep certain incidences private, she stressed it's important that there is full public disclosure and transparency of any incidents.

Council Member Chocktoot suggested Council address incidents as they arise.

Chair Grail thanked Council for their input. Staff will come up with the plan and schedule to present incidents at future meetings.

During Mr. Kilsdonk' s presentation the following occurred:

Council Member Jenkins inquired about the GIS map presented. At a prior meeting, Council had discussed not adding county projects to the map.

Secretary Cornett noted while this is a great GIS map, what the department is beginning to use is the ORESA online mapping tool. On the list of updates for that tool is to add the local jurisdictional facilities.

Mr. Kilsdonk reported, according to Avangrid, due to tariffs and President Biden's executive order on solar panels, Avangrid had to cancel their order and reorder another set of solar panels. The panels are scheduled for delivery in September which moves the construction beginning dates to March 2023 for Bakeoven, Daybreak and the Sunset solar projects.

Chair Grail recapped there are valid reasons for these delays, noting Council is prepared to see more instances of the delays due to current issues.

¹⁰ Audio/Video for Agenda Item E=03:32:46– 2022-09-27-EFSC-Meeting-Audio

Secretary Cornett explained some of the issues that are causing the delays (tariff's, supply chain issues, covid etc.). There are a lot of factors which do not directly relate to ODOE and EFSC but can have an impact on projects moving forward.

Secretary Cornett commented if there are any facilities that Council would like to visit, staff can set up site visits whether sites are in construction, preconstruction or operation. It is valuable to see what sites look like on the landscape and what are the different construction cycles.

Council Member Jenkins recommended Council tour sites as it is beneficial to give Council Members another perspective.

Vice Chair Howe agreed and suggested when Council is having a meeting near a facility, there should be an opportunity for a field trip to a facility included with meeting agenda.

Secretary Cornett confirmed staff will work to create those opportunities.

Council Member Beier added getting Council out to the sites during construction and during operation is important as they are 2 different things. Council will continue to have a lot of interest from the Department of Agriculture as sites have landscape impacts. It is important for Council to have the understanding and perspective of landscape impacts. She suggested Council also attend Compliance site visits as it would be interesting to understand what Staff is looking for as an additional resource for "fine tuning" the conditions required for sites.

Secretary Cornett confirmed staff can include Council in Compliance visits as requested.

Mr. Kilsdonk commented, prior to Covid, former Council Member Barry Beyeler attended a compliance site tour of Columbia Ethanol site.

Secretary Cornett noted Council has recently gone through the significant details involved in the Boardman to Hemingway project. Mr. Kilsdonk presented slides with all the operational facilities and there are numerous site certificate conditions to be evaluated for each of those. The volumes of pre-construction and construction conditions that must be evaluated is incredible. The volume of details for individual conditional complexity multiplied by the number of new construction sites, operational facilities and infrastructure facilities is huge. The Department is trying to increase the resources associated with the compliance program as there is so much involved and it is very significant.

Council Member Condon asked if there is a difference in how long an inspection takes in terms of the size (megawatts) of a facility.

Mr. Kilsdonk responded the number of megawatts doesn't correlate with the site inspections time. The mitigation plans are the most demanding of information. The mitigation area and the revegetation follow up plans are the most time-consuming conditions. Weather can also play a part in additional time for a site inspection.

Mr. Kilsdonk further noted solar farms are getting large as are linear facilities. Inspection at the Eugene to Medford Transmission lines took 2 days to complete as there is not access to all the lines. The inspection consisted of insuring that the lines overhead were not in violation. For example, if a new building is built, a line without proper clearance would be a violation of site

conditions. The inspection also included seeing how the site is doing reducing vegetation for fire protection.

Secretary Cornett added inspections are not just regarding the conditions themselves but also the physical nature of the facility. As an example, with a transmission line 108 miles long or a dispersed wind facility with a very large site area, it is not possible to inspect every wind turbine in a site visit. A gas plant is not physically big by comparison. Solar facilities may be large but are a single footprint rather than a dispersed footprint. While inspection of solar sites will not be as easy as gas plants in term of physical size, they will be easier for onsite inspections than when a facility is dispersed across a large geographic area.

Council Member Jenkins noted inspections are driven by the conditions approved by Council that the Compliance Officer is required to evaluate as part of the annual inspection plan.

Chair Grail asked if Mr. Kilsdonk is dealing with the same people at the sites and is able to develop a relationship with them.

Mr. Kilsdonk responded usually they are present long term, but noted that while his job is not to educate rather, if there is a new manager, he will go into further detail on the site certificate conditions, why he is there and what he is looking for during the inspection.

Council Member Condon asked what is the process for an Incident Notification Response?

Mr. Kilsdonk noted the department is currently having a reporter review the investigation process.

Secretary Cornett reminded Council regarding Financial Assurance, and that Sisily Fleming, the Siting Division's Fiscal Analyst, presents an annual report to Council. One of the letters of credit issues addressed by Council is approval of credit institutions. If an applicant or certificate holder uses an alternate institution not previously approved by the Council, that institution must be approved by the Council whether it is an existing certificate holder requesting a new institution or a new application for certificate.

Council Member Condon asked if the comfort letter received in the application process is the same as the security bond?

Ms. Esterson responded that often it is the same.

DOJ Rowe confirmed. A comfort letter is from the bank saying the bank will be prepared to issue a line of credit for this project.

Secretary Cornett, noted that while the department does not have a "complaint process", the Site Inspection Request process established in rule is functionally the same thing. Requesting a site inspection is essentially informing staff that the site certificate holder is either constructing or operating outside of what they are authorized to do.

Secretary Cornett stated a site operating outside of authorization does happen occasionally but does not necessarily mean a notice of violation is issued. As Secretary to the Council, Mr. Cornett has the authority to issue a notice, but the Council has that authority as well.

While discussing process improvement, Vice Chair Howe questioned if there is an ability for the Compliance Officer to utilize an "engineer's stamp" certifying certain conditions have been met while doing a desktop audit.

Mr. Kilsdonk replied yes there is an ability to "stamp" during the design stage. It is different than on the site visits. We do utilize engineering consultant's suggestions for information to send to the certificate holder and include in reports.

Secretary Cornett added it depends on the condition. Some conditions require Staff to be on the site to validate, others may rely on consultants, while others may have a "stamped" verification. While desktop audits save time and money for the department and the certificate holder, they would only be utilized every other year. If there is a site that had previous issues with preconstruction and/or construction, we need to be on site on a regular basis. This is an example of a change in compliance policy but is specific to operational and known recent history of issues on a site.

Mr. Kilsdonk noted as the wind facilities start to age, there are new issues developing that staff has not seen prior. Staff may need to visit sites twice a year in order to stay on top of maintaining facilities.

Council member Jenkins asked if the Shepherds Flat North turbine replacement was going to be installed on site, noting they will need great big cranes to reinstall.

Mr. Kilsdonk confirmed that the turbine will be installed on site.

Council Member Condon asked how tall are the turbines?

Mr. Kilsdonk answered approximately 492 feet tall. It took the site almost a year to formulate a plan for removal of the turbine and replacement of the new turbine. They had to create a special crane man-basket to get to the top of the turbine and apply an attaching outcast for the cable. With help of a bulldozer, the tower including the blades, collapsed. The turbine fell exactly as planned and has been removed from the site.

Council Member Jenkins added the physical cranes that are used come to the site on mobile truckloads and are put together on the site. They are wider than the road therefore a road must be built and then deconstructed after. The cranes are taller than the turbines also. His assumption would be that a smaller crane will be used for the replacement of the turbine. The area for rebuilding the tower needs to be ready as the cranes are expensive to use and therefore time sensitive.

In reference to the repowering at Shepherds Flat Central, North, and South sites being potentially out of compliance with Condition 40(b) and the setback requirements, Council Member Jenkins asked if the blades were lengthened as part of the repowering.

Mr. Kilsdonk confirmed that the blades were lengthened.

Council Member Condon asked what caused the site to violate the condition and lengthened the blades?

Ms. Esterson responded demonstrating compliance with the setback was a preconstruction condition. The developer provided engineering drawings to demonstrate compliance. Staff reviewed the drawings and questioned their demonstration of compliance. After 3 months, the developer admitted there may be a problem and sent out surveyors. The tower had already been repowered. The developer reported themselves in non-compliant and removed the blades and nacells. While staff is unsure why the developers thought they had met the requirements, the staff did receive a report by the responsible party consistent with Division 29, which makes developers evaluate the significance of the violation. The developers are working with the county for solutions to the setback condition.

Vice Chair Howe inquired did the document sent by the developers initially show that they complied with the setback condition?

Ms. Esterson noted that the information sent by the developers were Alta drawings which were not the correct set of data to evaluate the question of compliance.

Council Member Jenkins confirmed EFSC authorized the repowering of the turbines. Now that developers understand that they have not met the setback requirement, are they able to repower with something less as they met the setback requirement in the original application?

Ms. Esterson confirmed that is true.

Chair Grail clarified that the facility must be consistent with the original approval, even with a new certificate holder.

Council Member Jenkins commented that Council hearing the compliance reports is beneficial as it makes it more clear what future conditions should be on site certificates.

Vice Chair Howe suggested possibly adding a condition for the certifying of "engineering stamps" for drawings submitted for rehabilitation requirements and conditions. The engineers are assuming the liability.

Ms. Esterson stated one of the things staff has been doing with the setback condition is to clarify to applicants we want maps and tabular data that shows the distances, as in what is the setback requirement, where are the nearest roads and where are the nearest residents. With a map, staff is able to "see" it, allowing additional clarity in what ODOE is verifying. Engineering surveys are tough but if the GIS layer of the setback is not included, it would not have all the information required.

Council Member Truitt asked when was a survey done and was it at the request of staff or the developer?

Ms. Esterson responded there was a surveyor on site in July 2022 to verify the setback question.

Council Member Truitt noted with that the measurements and descriptions of setback areas, it is necessary to have the proper documentation. He suggested possibly adding supporting supplemental documents such as a full survey as a requirement.

Council Member Jenkins stated that there are a lot of roads and right of ways that aren't very clear. There is a legalization process available to identify where right of ways are in relationship to built roads which can complicate the issue.

Council Member Chocktoot expressed his concern for the number of incidences occurring. He suggested Council may want to consider putting a time moratorium on turbines which would require replacement after a specified period of time/use.

Secretary Cornett asked Mr. Kilsdonk about the incident dates of the oil splatter pictures submitted by Biglow Canyon Wind Farm.

Mr. Kilsdonk responded he is still working to verify how long this oil splatter issue has been happening and the dates have been requested but have not been received yet.

Secretary Cornett added that staff does not know whether the splatter pictures are recent and whether it occurred within a short or long period of time. Staff is working to determine the correct information.

Council Member Condon asked, regarding the Golden Hills Wind Project fire, was the power line in question owned by Avangrid? And are they obligated to report the fire if it is not caused by their powerline?

Mr. Kilsdonk responded it is a requirement within the site certificate that requires all fires on the facility property, or the facility to be reported.

Council Member Beier inquired if the recycling of decommissioned components is something Council should be requiring in the decommissioning of projects?

Mr. Kilsdonk noted that currently the recycling of component is specific to Shepherds Flat and GE. GE owns the recycling facility. His understanding is the blades associated with the Shepherds Flats repowering are specific to GE's recycling facility.

Vice Chair Howe asked whether the components were being recycled into fiberglass and remolded into other products?

Mr. Kilsdonk responded his understanding is these specific blades are going to a specific facility where they are burned.

Council Member Condon questioned burning versus recycling. She asked if anyone was recycling fiberglass from turbines?

Mr. Kilsdonk explained not to his knowledge, as when fiberglass is recycled, it loses its strength. He also noted that the blades have other materials such as metal.

Secretary Cornett added the industry is looking into recycling programs though he does not know of an actual company doing the recycling of blades yet. As more facilities get repowered or decommissioned, there will be an increased supply of blades.

Council Member Condon asked if the Council plays a role in procuring budgeting and compensation with the legislature, regarding the department's new approach to Compliance.

Secretary Cornett stated the department does an annual assessment of the expected costs for projects at all facilities. What are the things we have been doing? What are the additional things we need to be doing? As with the costs associated with applications and amendments, there is a statutory requirement that all compliance costs must be reasonable, just and necessary. The Department has had 2 "placeholder" positions for the past 2 biennium's, one for a Compliance Officer and one for a senior siting analyst. 75% of the Division's work is fee driven, 80% for compliance. The Department must be able to justify that there is enough work to fund 75% (or 80% if compliance) of the compliance position. In this case, after reviewing the number of construction projects, the number of preconstruction conditions, the number of construction conditions and the number of operational conditions, the Department concluded that for the foreseeable future, we have enough work to justify an additional person. Which is why we have recently filled the Compliance officer position. The Department has put a lot of resources into Compliance recognizing the need.

Council Member Condon asked if the department feels it has the resources needed?

Secretary Cornett replied the Department is proposing in the next biennial budget to have the limited duration position continue to a full-time position. It would be difficult to add another at this time. It is difficult for the Department to be responsive to immediate circumstances with resources. With a complex budget process, we must have a plan. We are currently making many changes to the compliance program and are also assessing those changes. While the department's future needs can be hard to forecast, the Department does plan ahead in order to make legitimate arguments to justify staffing.

Council Member Beier shared her opinion that the staff is doing a great job collecting the data that will be used to justify assessments. She noted the world is changing. The increased power demand, the number of energy facilities and the repowering of turbines are examples of that. Honing in how that will affect compliance is important. The conditions Council put on the B2H Transmission Line will be a large workload for compliance. The data being collected will show why additional compliance help is important.

The September 2022 EFSC was adjourned by Chair Grail at 2:59 p.m.

Attachment 1

Verbatim transcript of Agenda Items:

A – Consent Calendar

B – Boardman to Hemingway Transmission Line Material Change Hearing and
Public Notice of Hearing to Adopt Final Order

C – Public Comment

September 28, 2022 Council Meeting

Completed by Naegeli Deposition and Trial Transcription.

FINAL 11/18/2022

2

1 ATTENDANCE
 2
 3 ENERGY FACILITY SITING COUNCIL
 4 Marcy Grail, Chair
 5 Kent Howe, Vice Chair
 6 Hanley Jenkins, II
 7 Perry Chocktoo (via WebEx)
 8 Jordan Truitt
 9 Cinidy Condon
 10 Ann Beier
 11 Todd Cornett
 12
 13 OREGON DEPARTMENT OF ENERGY
 14 Kellen Tardaewether, Senior Siting Analyst
 15 Jesse Ratcliff, Senior Assistant Attorney General
 16 (via WebEx)
 17 Patrick Rowe, Counsel
 18 Walter Adams, Operations
 19 Sarah Esterson, Analyst
 20 Nancy Hatch, Administrative Specialist
 21
 22 PUBLIC SPEAKERS
 23 Karl G. Anuta, Counsel, STOP B2H
 24 Irene Gilbert, Representative, STOP B2H
 25 Jocelyn Pease, Counsel, Idaho Power Company

4

1 MS. GRAIL: Thank you.
 2 Mr. Secretary, are there any agenda
 3 modifications?
 4 MR. CORNETT: Madam Chair, the only pseudo
 5 agenda modification is we will not be -- Council
 6 will not be voting on the August meeting minutes
 7 today. We had thought that would be the case, which
 8 is why we provided that and put it in the -- the
 9 agenda.
 10 However, the -- because it's a verbatim
 11 transcript, people were able to -- were given the
 12 opportunity to provide edits to that if that was
 13 incorrect of the verbatim transcript. And the
 14 October 10th was the date -- or sometime in early
 15 October was the date that was given to provide or
 16 submit potential updates on it.
 17 So -- so we'll bring those back to Council
 18 in -- at the October meeting.
 19 MS. GRAIL: Thank you.
 20 I have the following announcements: Please
 21 silence your cell phones. Those participating via
 22 phone or webinar, please mute your phone. And if
 23 you receive a phone call, please hang up from this
 24 call and dial back in after finishing your other
 25 call.

3

1 ENERGY FACILITY SITING COUNCIL MEETING
 2 AGENDA ITEMS A, B AND C
 3 HELD ON
 4 TUESDAY, SEPTEMBER 27, 2022
 5 8:30 A.M.
 6
 7 MS. GRAIL: Call September 27th, 2022
 8 meeting of the Energy Facility Siting Council to
 9 order.
 10 Mr. Secretary, please call the roll.
 11 MR. CORNETT: Marcy Grail?
 12 MS. GRAIL: Here.
 13 MR. CORNETT: Kent Howe?
 14 MR. HOWE: Here.
 15 MR. CORNETT: Hanley Jenkins?
 16 MR. JENKINS: Here.
 17 MR. CORNETT: Cindy Condon?
 18 MS. CONDON: Here.
 19 MR. CORNETT: Perry Chocktoot?
 20 MR. CHOCKTOOT: Here.
 21 MR. CORNETT: Ann Beier?
 22 MS. BEIER: Here.
 23 MR. CORNETT: And just for the record,
 24 Madam Chair, Councilmember Truitt will be here. So
 25 make note of that when he arrives.

5

1 For those signed on to the webinar, please
 2 do not broadcast your web cam.
 3 Reminder to Council and -- and to anyone
 4 addressing the Council to please remember to state
 5 your full name clearly, and not to use the
 6 speakerphone feature, as it will create feedback.
 7 I do want to reiterate what Wally just
 8 said, that the microphones, the (indiscernible) are
 9 very sensitive, so please restrict any sidebars and
 10 attempts at whispering because it will likely be
 11 broadcast.
 12 MR. CORNETT: Madam Chair, and then just
 13 also for those in the audience, they are very
 14 sensitive. So maybe, you know, your side
 15 conversations as well, so just a -- just a heads
 16 up.
 17 MS. GRAIL: We will remind you of that one
 18 more time. Thank you.
 19 MR. CORNETT: Sorry. Madam Chair, and one
 20 more -- I know we do this and -- and you've noted
 21 this, but we have a court reporter in -- present
 22 today, so getting verbatim transcript again. So
 23 please, a reminder, when you begin speaking, please
 24 state your name.
 25 MS. GRAIL: Thank you.

<p style="text-align: right;">6</p> <p>1 For Agenda Item B, the Material Change 2 Hearing, and Agenda Item C, Public Comment Period, 3 there are three ways to let us know you are 4 interested in providing comments to the Council. 5 For those in person, please fill out a registration 6 card, which is available on the table near the 7 entrance, and submit to Sarah Esterson. For those 8 using the WebEx, you will need to use the Raise Your 9 Hand feature. For those on the phone only, you will 10 need to press Star 3, which will alert us that you 11 wish to speak. 12 We will go over these options again during 13 those agenda items. 14 You may sign up for email notices by 15 clicking the link on the agenda or the Council web 16 page. You are also welcome to access the online 17 mapping tool and any documents by visiting our 18 website. 19 Energy Facility Siting Council meeting 20 shall be conducted in a respectful and courteous 21 manner where everyone is allowed to state their 22 positions at the appropriate times consistent with 23 Council rules and procedures. Willful accusatory, 24 offensive, insulting, threatening, insolent, or 25 slanderous comments which disrupt the Council</p>	<p style="text-align: right;">8</p> <p>1 appointments and reappointments. And the whole 2 Senate voted on those Commission appointments, 3 reappointments, on Friday, the 23rd. 4 So Chair Grail and Vice Chair Howe are 5 appointed to two terms. Their new terms are July 6 1st, 2022, through June 30th, 2026. 7 In terms of staffing, yesterday we 8 concluded the rulemaking coordinator recruitment 9 again. So our -- our new rulemaking coordinator, 10 his name is Thomas Jackman. He starts on October 11 10th. Tom is currently the eDiscovery coordinator 12 at DHS and OHA, so Department of Human Services and 13 Oregon Health Authority, where he has been for the 14 last six years. 15 In that role, he advises on eDiscovery of 16 a records request, provides Council on pending 17 records legislation, brings together stakeholders 18 across agencies to accept policy proposals, and 19 drafts security policies and processes to assist 20 agency compliance with security protocols, among 21 other things part of his responsibilities. 22 Tom was previously a practicing attorney 23 who worked on intellectual property, commercial 24 litigation, and patent litigation. He has a JD from 25 the UCLA law school and a bachelor of science in</p>
<p style="text-align: right;">7</p> <p>1 meeting are not acceptable. Pursuant to Oregon 2 Administrative Rule 345-011-0080, "Any person who 3 engages in unacceptable conduct which disrupts the 4 meeting may be expelled." 5 We are going to move -- good morning. 6 MR. TRUITT: Good morning. 7 MS. GRAIL: For the record, Councilmember 8 Truitt has arrived. 9 Our next agenda item is Agenda Item A, 10 which is the consent calendar. As previously 11 indicated, we will not be voting on the August 12 meeting minutes today. Approval of the August 29th, 13 30th, 31st, 2022 meeting minutes are being held over 14 to November to allow participants the ability to 15 recommend corrections to the verbatim, which are 16 part of those minutes. Participants have until 17 October 10th, 2022, to submit their recommended 18 corrections. 19 Next up is the Council Secretary report. 20 Mr. Secretary? 21 MR. CORNETT: Madam Chair, first, I will 22 do staff meeting Council updates. 23 Last week was the legislative days for the 24 Oregon State Legislature. And the Central Rules 25 Committee evaluated Board and Commission</p>	<p style="text-align: right;">9</p> <p>1 sociology from Brigham Young University. 2 So we are very happy to have him join our 3 team and certainly bring him into probably the 4 October Council meeting. 5 Some project updates -- first, the 6 Protected Area rulemaking. We had anticipated to 7 have that rulemaking on this Council month's agenda 8 -- this month's Council agenda, but there were 9 several questions and issues that were raised by 10 different groups related to the substance as well as 11 some of the procedural aspects. 12 And so we're still looking into those. We 13 want to make sure that we get those responses 14 correct. We anticipate having that on the October 15 agenda. Unfortunately, what it means is that, as we 16 had spent a little more time on that, that put us 17 behind on a few other rulemakings. 18 So next is the Oregon Trail solar project 19 update. So on August 31st, the Department received 20 the preliminary application for site certificate. 21 Sorry. That's -- is it Oregon Trail or Wagon Trail? 22 Oregon Trails. 23 FEMALE SPEAKER: I think -- 24 MR. CORNETT: Yeah. I got that wrong, so 25 -- so amendment number one. So Oregon Trail solar</p>

10	<p>1 amendment number one. Excuse me.</p> <p>2 So Department -- I'm going to have to go</p> <p>3 back to that one since I think I mixed and matched</p> <p>4 between Oregon Trail solar and Wagon Trail solar.</p> <p>5 So I've got the wrong information in here. My</p> <p>6 apologies for that.</p> <p>7 But that's the -- that's amendment number</p> <p>8 one, to extend the time frames, the beginning time</p> <p>9 frames for the Oregon Trail -- or Oregon Trail</p> <p>10 solar, right? Okay. So I'm going to update.</p> <p>11 I do have another update on West End</p> <p>12 Solar. So on September 19th, the Department</p> <p>13 determined that the West End Solar Energy Project</p> <p>14 application was complete. So the project is a</p> <p>15 proposed solar PE generation facility with a</p> <p>16 generating capacity of 50 megawatts. The facility</p> <p>17 would be located within an approximately 324-acre</p> <p>18 site boundary. The project is proposed in Umatilla</p> <p>19 County two miles southeast of the City of</p> <p>20 Hermiston.</p> <p>21 EE West -- EE West End Solar, LLC, is the</p> <p>22 applicant, and they are a subsidiary of Eurus Energy</p> <p>23 Corporation. The complete application was posted to</p> <p>24 the website, the project website. And the Laguni's</p> <p>25 (phonetic) memos were sent out yesterday, September</p>	12
11	<p>1 26th. Tomorrow, September 28th, the public notice</p> <p>2 and the newspaper notice will go out. And we have</p> <p>3 established a remote public information meeting on</p> <p>4 the complete application on October 10th at 5:30</p> <p>5 p.m.</p> <p>6 So it's a rather small project, and we</p> <p>7 perceived and expedited review because of the size</p> <p>8 of it. We haven't received much in the way of</p> <p>9 interest and concern. So we determined that a</p> <p>10 remote public information meeting was -- was</p> <p>11 adequate rather than in person. And so if any</p> <p>12 Councilmembers want to attend that remotely, we can</p> <p>13 send you the information on the -- that meeting for</p> <p>14 October 10th.</p> <p>15 A couple of other updates -- so on</p> <p>16 September 8th, I sent Councilmembers a resolution by</p> <p>17 the Oregon Board of Agriculture related to concerns</p> <p>18 about the cumulative impacts of energy</p> <p>19 infrastructure to highly productive agricultural</p> <p>20 plans. Jim Johnson, the Oregon Department of</p> <p>21 Agriculture's Land Use & Water Planning</p> <p>22 Coordinator, had shared the resolution with me. And</p> <p>23 so I wanted to make sure that that was sent out to</p> <p>24 Council.</p> <p>25 So while this resolution does not mean</p>	13

<p style="text-align: right;">14</p> <p>1 And then unless there are any questions by 2 Councilmembers, that concludes the Secretary. 3 MS. GRAIL: Thank you. 4 So the next agenda item is Agenda Item B. 5 And since I recuse myself -- this is Chair Grail for 6 the record -- since I recuse myself from any action 7 items associated with the Boardman to Hemingway 8 Transmission Line project, I'm going to hand over 9 the Item B to Vice Chair Howe. If it's okay, I'm 10 just going to stay here, but I will not be speaking 11 or say anything during this time. 12 Vice Chair Howe. 13 MR. HOWE: Thank you, Chair Grail. 14 We'll now begin the Boardman to Hemingway 15 Transmission Line Hearing to Adopt Final Order under 16 ORS 469.370(7), which includes a material change 17 hearing. 18 Kellen Tardaewether, Oregon Department of 19 Energy Senior Siting Analyst, and Jesse Ratcliffe, 20 Oregon Department of Justice Senior Assistant 21 Attorney General in the natural resources section 22 general counsel division, will be presenting. 23 We will first start with a project 24 overview. 25 Mr. Tardaewether?</p>	<p style="text-align: right;">16</p> <p>1 So I'm going to start off by doing a very 2 brief overview of the facility. And then I'm going 3 to pass off -- pass the ball over to Jesse, and 4 Jesse is going to go over the changes that were 5 discussed at the August meeting from the hearing 6 officer's proposed contested case order, or what we 7 were calling the PCCO, which now we've included, and 8 it's included in the draft final order as Attachment 9 6. And we're calling it now the CCO, the contested 10 case order, as amended by Council and the direction 11 that Council gave staff to reflect in that order. 12 So Jesse's going to walk through some of those 13 changes that were made in that order. 14 And then we're going to pass the ball back 15 over to me. And what I'm going to go over in my 16 presentation are the material changes that were 17 directed from Council that came out of the three-day 18 August Council meetings in La Grande. Council 19 provided direction to staff. And we went -- we went 20 through, and we reflected those, some of those 21 changes. 22 We -- Council looked at the exact 23 language. Some of the changes, Council, were kind 24 of -- Secretary Cornett captured in, like, a 25 concept. And that's what was provided in the straw</p>
<p style="text-align: right;">15</p> <p>1 MR. CORNETT: Thank you, Mr. Vice Chair. 2 Just so it is clear, Jesse is online. So 3 rather than being present today, he is online. So I 4 just wanted to make sure that nobody was sort of 5 missing the fact that he wasn't here in person. 6 And Jesse, just checking in and making 7 sure you can hear us correctly. 8 MR. RATCLIFFE: It's fine. Sorry I'm not 9 able to be here in person. I'm not feeling 10 (indiscernible) this morning. 11 MR. CORNETT: But the audio is working 12 well for you? 13 MR. RATCLIFFE: It is. 14 MR. CORNETT: It is. Okay. Thank you. 15 Ms. Tardaewether. 16 MS. TARDAEWETHER: All right. For the 17 record, Kellen Tardaewether. And so we don't have 18 our microphones, but so everything's, all right, 19 good to go. 20 All right. For the record, Kellen 21 Tardaewether, Oregon Department of Energy Senior 22 Siting Analyst. I'm going to be kicking off this 23 agenda item, which is a hearing to adopt the final 24 order. Here I have several steps that are going to 25 line out what we're going to cover today.</p>	<p style="text-align: right;">17</p> <p>1 poll. So we'll go and look at that actual language 2 today. 3 Now, when we sent and made available the 4 draft final order, we also provided a staff report, 5 which was 19 pages. A lot of that was because we 6 just actually pulled out the conditions, and some of 7 them were really quite long. However, some of those 8 long conditions maybe didn't have substantive 9 changes to them, but we pulled those out. 10 So I'm not going to be going through all 11 those conditions that had material changes in the 12 staff report in my presentation today. I really am 13 kind of -- it's very narrow to what Council talked 14 about at the August meeting. 15 But if Council wants to go to any of those 16 conditions that are listed in the staff report, we 17 can -- we can go there. And you know, it might take 18 a minute to pull that up. But we can -- we can look 19 at those. 20 As a reminder, in that staff report, there 21 are material changes to conditions. However, some 22 of the changes that we are saying are material 23 changes were actual changes to a plan and not 24 necessarily to a condition. So some of the 25 conditions, you know, just in a summary, say, hey,</p>

<p style="text-align: right;">18</p> <p>1 do this plan, submit and follow this plan. And so 2 we actually have to go through the plan because then 3 there were some changes in the actual plans. But 4 because that is a change in an action, we are 5 capturing that as a material change. 6 And then I'll also kind of talk about in 7 my presentation of what are material changes because 8 I'm sure, as -- as Council and members of the public 9 can scroll through that draft final order, you maybe 10 said, wow, there's really a lot of red lines in this 11 document. But what is actually captured as a 12 material change is very narrow in scope. 13 So in that draft final order, there were, 14 you know -- to support a material change or a change 15 in a condition or -- or some of the changes in the 16 plans, we updated findings of facts, the findings 17 and/or the facts to support that condition change, 18 particularly where it may have been conflicting some 19 of the previous information. 20 So also, going back to that staff report, 21 to note that a lot of those -- the conditions in 22 there were in the contested case order. So the 23 hearing officer -- at the very end, there was a list 24 of conditions. However, there were also conditions 25 that were in her -- in her Opinion section that kind</p>	<p style="text-align: right;">20</p> <p>1 those presentations. And then we're going -- and 2 then Council will go into its deliberation after 3 hearing the oral testimony on the material changes 4 to make its final decision. 5 So a very brief overview, this is a slide 6 we've seen before. We've come a long ways over a 7 long period of time, and we are here. And we've 8 come out of the contested case. The contested case 9 was a contested case on the proposed order, right? 10 And the result of that was the hearing officer's 11 proposed contested case order, which then we looked 12 at in August, which then all of that is reflected in 13 this draft final order. And so how we're at the 14 point where Council may make its final decision at 15 this meeting. 16 Here is a kind of more recent procedural 17 history. We've looked at this before, which leads 18 us to today. I don't really need to go through any 19 of this. We've all kind of been here for it, living 20 this reality. 21 What I wanted to make a note -- and I can 22 -- if Council has questions later on when we -- when 23 we're -- when you're getting to it -- but I just 24 wanted to make a note that, either way, whether if 25 Council approves or -- or denies the application for</p>
<p style="text-align: right;">19</p> <p>1 of gave a narrative story of, you know, how it came 2 about and who agreed and based on which testimony or 3 evidence that led to her recommendation for such 4 conditions. So some -- the conditions in the staff 5 report and in the draft final order captured those. 6 On that staff report, and when I get to 7 going through some of the material changes, just 8 because of the -- the production cycle of doing the 9 draft final order and the staff report, making them 10 available, there are a couple changes that were 11 reflected in the staff report that are not in the 12 draft final order. But I just want to make sure 13 that the -- everybody understands the draft final 14 order and not the staff report is really what we're 15 looking at today. 16 So after I do that, then we're going to 17 transition into the material change hearing. And 18 Jesse is available for Council. So if Council 19 really does have any questions for Jesse, we really 20 encourage you to ask him. 21 And then -- and then, you know, all of 22 this is the hearing to adopt the final order. So 23 during Jesse's presentation and my presentation, if 24 Council wants clarity or questions or, you know, has 25 a reason to see a change, then we can do that during</p>	<p style="text-align: right;">21</p> <p>1 site certificate today, staff still has some work to 2 do. 3 So upon Council's decision, staff, we're 4 going to go into that draft final order, and we're 5 going to accept those changes, which may reflect any 6 changes made today. Generally, when we do that, it's 7 an administrative task. But we'll get kind of some 8 wonky formatting. So we're going to have to go in 9 and, you know, move some paragraphs and maybe some 10 things underlined. So we're going to do that. 11 We would also be doing that with the 12 attachments that have some red lines in them. We 13 would be doing that in the contested case order. 14 There's also some -- because of the -- the 15 formatting, may have to like add some footnotes, et 16 cetera, in the final order. We would be updating 17 the procedural history to reflect what happened 18 today. 19 And then same thing with the site 20 certificate, so we would accept -- because right now 21 the site certificate is in red line to reflect the 22 changes and the conditions that are in the draft 23 final order. So we would accept those, clean up any 24 formatting. 25 And then the -- and in the final order, we</p>

<p style="text-align: right;">22</p> <p>1 would be adding an appeal statement. And then those 2 documents would be needed -- needed to be routed for 3 signatures. So -- so we would be doing that, 4 hopefully, by the -- the end of this week. So just 5 so, you know, procedurally, Council understands that 6 there's still -- we still have a little bit of work 7 to do in that.</p> <p>8 Is there anything?</p> <p>9 Okay. So the proposed facility includes a 10 predominantly 500 kV transmission line. However, 11 there are some removal and rebuild of existing 12 transmission lines. I have another slide where I'm 13 going to note the alternative routes on my next one.</p> <p>14 The proposed facility also includes the 15 Longhorn Substation, communication stations. I 16 don't have a slide for the relator (phonetic) or 17 supporting facilities, but relator supporting 18 facilities include roads and -- and lots of them. 19 And then it also includes construction staging 20 areas, pulling -- and pulling and tensioning sites.</p> <p>21 In the application, the applicant is 22 requesting that the site boundary be considered a 23 micro-siting corridor. So the site boundary for the 24 500 kV transmission line is 500 feet, but the actual 25 right of way at -- at -- at the facility as</p>	<p style="text-align: right;">24</p> <p>1 and applicable laws and statutes. And the 2 preponderance of evidence, again, is more likely 3 than not that they can do so. That's a very short 4 (indiscernible), but Jesse can supplement my 5 rudimentary summary there.</p> <p>6 The outcome of Council's decision today 7 and how Council's process handles alternative 8 routes, or proposed routes, is basically an up or 9 down. Council does not have the jurisdiction to 10 propose or recommend or approve routes that are not 11 in the application.</p> <p>12 Okay. Was that -- that was -- great. 13 That's what I was going to say. Okay. So is that 14 what I was going to say? Yes.</p> <p>15 Okay. So Mr. Ratcliffe, I'm going to pass 16 it over to you, sir.</p> <p>17 MR. RATCLIFFE: Thank you, Kellen. 18 Good morning, Vice Chair Howe and members 19 of the Council. And again, I apologize for not 20 being in person today.</p> <p>21 So my piece of the presentation here 22 before we get into the material change hearing is 23 going to be fairly brief. What I'm going to be 24 talking about are changes to the contested case 25 order that resulted from our prior meeting. And</p>
<p style="text-align: right;">23</p> <p>1 constructed and operated is going to be more narrow 2 than that 500 feet. It just gives them an 3 opportunity to move the transmission line around 4 within that micro-sited corridor to minimize or 5 avoid impacts to resources that are evaluated under 6 Council standards.</p> <p>7 Here's -- I know the -- the map is -- is 8 hard to see. We've seen this slide before. But 9 without going through any painstaking detail of 10 describing these alternative routes, what staff has 11 provided and what's in that draft final order is the 12 -- the -- the Department and Council has evaluated 13 the alternative routes underneath the Council 14 standards with the proposed route.</p> <p>15 So any recommendations or site certificate 16 conditions apply to all of them unless specifically 17 identified in a condition that would only apply to 18 one of the alternative routes. And -- and the 19 example of that is underneath the -- the recreation 20 standard. There's a condition that specifically 21 applies to the Morgan Lake alternative.</p> <p>22 Also, on here, Council's tasked today with 23 approving or denying the site certificate based on 24 preponderance of evidence that the applicant has 25 demonstrated that it has met the Council standards</p>	<p style="text-align: right;">25</p> <p>1 these, though, are changes that are not material 2 changes.</p> <p>3 So Kellen talked about this a little bit. 4 But just to go over it again because this one can be 5 a little confusing is that, when we've gotten to 6 this stage in the process, the Council may be -- you 7 know, may have considered making some changes to the 8 hearing officer's proposed contested case order. 9 She has done a lot of work on this. This is a 10 lengthy order. And the Council had -- had some 11 recommended changes. Not all of those are 12 considered to be material changes.</p> <p>13 So what we're talking about here are not 14 changes in the outcome to any condition or the 15 overall recommended order. So these may be changes 16 in some reasoning, some additions of findings of 17 fact, and basically, you know, extra details as the 18 Council may have suggested is necessary. And so 19 that's what I'm going to be talking about here.</p> <p>20 So if you have any questions about these, 21 I'm happy to answer them. But otherwise I will just 22 go ahead and get into this.</p> <p>23 So we have three categories of -- 24 FEMALE SPEAKER: (Audio disruption.) 25 MS. TARDAEWETHER: Sorry?</p>

26	<p>1 (No audible response).</p> <p>2 MR. RATCLIFFE: Okay. We have three</p> <p>3 categories of changes to talk about here. The first</p> <p>4 is an additional finding of fact that was added to</p> <p>5 after Finding of Fact 68 to support the evaluation</p> <p>6 of Issue HCA-3. And this finding of fact has to do</p> <p>7 with the HPMP and just clarifying that this is going</p> <p>8 to be based on a visual assessment of historic</p> <p>9 properties that is conducted in accordance with</p> <p>10 another plan, the Visual Assessment of Historic</p> <p>11 Properties Study Plan. And that will all then be</p> <p>12 reviewed and commented on by both federal and state</p> <p>13 agencies and consulting parties through the federal</p> <p>14 process, the Section 106 process. And specifically,</p> <p>15 it's the Bureau of Land Management's programmatic</p> <p>16 agreement.</p> <p>17 And the other addition here is the -- just</p> <p>18 reflecting the Oregon-California Trails Association,</p> <p>19 which is an NGO that is concerned with Oregon Trail</p> <p>20 resources, is also a concurring party to this</p> <p>21 programmatic agreement and will be involved in the</p> <p>22 visual assessment. So that's the change there.</p> <p>23 The next change is a correction</p> <p>24 incorporating into the Opinion for Issue SS-5 simply</p> <p>25 to clarify that the extent of work conducted to date</p>	28
27	<p>1 has been done at a reconnaissance level. We talked</p> <p>2 about this briefly at the -- the last meeting.</p> <p>3 There was some ambiguity in the hearing officer's</p> <p>4 contested case -- proposed contested case orders to</p> <p>5 the level of detail of review that had been</p> <p>6 conducted. And -- and so this is just a change to</p> <p>7 reflect the record that the work is reconnaissance-</p> <p>8 level work at this point.</p> <p>9 The final step of the changes has to do</p> <p>10 with an issue that we talked about at the -- the end</p> <p>11 of the August meeting where the hearing officer had</p> <p>12 dismissed a number of conditions that had been</p> <p>13 proposed by limited parties as untimely. They had</p> <p>14 been proposed in closing briefing.</p> <p>15 Now, in -- with respect to some of these</p> <p>16 conditions, proposed conditions, the hearing officer</p> <p>17 had provided an alternate rationale as to why the</p> <p>18 conditions were not being incorporated. However,</p> <p>19 with certain of the conditions, she didn't go beyond</p> <p>20 her finding that they were untimely.</p> <p>21 So it is my recommendation that the</p> <p>22 proposed contested case order be corrected, that the</p> <p>23 untimely rationale be replaced and that the Council</p> <p>24 is -- is providing specific other rationales for --</p> <p>25 for why these conditions are not being adopted.</p>	29
26	<p>1 And the overarching reason here is simply</p> <p>2 that, you know, we've gone through -- we've done all</p> <p>3 these straw polls on the various standards. And the</p> <p>4 Council has concluded with some modifications that</p> <p>5 -- that Kellen will be talking about here shortly</p> <p>6 but has otherwise concluded that the standards have</p> <p>7 been met. And fundamentally as part of that, that</p> <p>8 means that there -- that no other conditions are</p> <p>9 required to meet the standards.</p> <p>10 So there had been a number of other</p> <p>11 conditions that had been proposed but are not</p> <p>12 necessary to meet the standard. And some additional</p> <p>13 explanation is given in some instances as you go</p> <p>14 through the issues and the specific proposed</p> <p>15 conditions in the revisions to the proposed</p> <p>16 contested case order. But that is kind of the --</p> <p>17 the overarching reason here.</p> <p>18 So those are the set of changes then that</p> <p>19 don't meet this material change threshold, but I</p> <p>20 wanted to highlight them since the Council hasn't</p> <p>21 seen them in -- down on paper yet and have an</p> <p>22 opportunity to ask any questions that you might</p> <p>23 have.</p> <p>24 MR. HOWE: Any questions for Counsel --</p> <p>25 Counsel Ratcliffe?</p>	28
27	<p>1 (No audible response).</p> <p>2 MR. HOWE: Okay. I guess we're back to</p> <p>3 Ms. Tardaewether.</p> <p>4 MS. TARDAEWETHER: All right. For the</p> <p>5 record, Kellen Tardaewether.</p> <p>6 I'm going to now walk Council through the</p> <p>7 material changes that were directed -- discussed and</p> <p>8 directed by Council at the -- the August Council</p> <p>9 meeting. I just do -- do want to note that, in the</p> <p>10 draft final order -- well, in Council's review of</p> <p>11 the proposed contested case order, proposed order,</p> <p>12 and exceptions to the proposed contested case order</p> <p>13 and responses to exceptions to the proposed</p> <p>14 contested case order. August was a big meeting.</p> <p>15 Council, also, you asked staff to include</p> <p>16 items to -- to be reflected in the draft final order</p> <p>17 that were more of a -- of a reflection or updating</p> <p>18 findings of -- of fact.</p> <p>19 One of those, just as an example, is,</p> <p>20 under the (indiscernible) standard, the discussion</p> <p>21 about the application and the proposed order relied</p> <p>22 upon the 2017 acknowledgment, Oregon Public Utility</p> <p>23 Commission -- Commission's acknowledgment of Idaho</p> <p>24 Power's IRP, or Integrated Resource Plan. And</p> <p>25 through the contested case, Idaho Power actually</p>	29

<p style="text-align: right;">30</p> <p>1 submitted the 2019 IRP and PUC's acknowledgment of 2 that. And Council asked staff to just weave in or 3 acknowledge that that had happened so that, in the 4 final order, that is reflected. 5 So that is an update -- that's an example 6 of an updated fact which does not constitute a 7 material change. Therefore, it's not in the staff 8 report, and it's not being covered today. I think 9 my presentation that I just -- as Council walked 10 through that draft final order, there -- that is 11 just one of those examples of an updated fact that 12 the -- that provided to the contested case 13 proceeding and reflected in the contested case order 14 that Council reviewed and it is amending. 15 So material changes are substantive 16 changes to conditions, or action. For instance, if 17 for some reason in August Council reversed a 18 recommendation -- I -- we don't have any examples of 19 that -- but that would be considered a material 20 change that -- that would be open for today. 21 Really, what happened from August and what's 22 reflected in the draft final order are changes to 23 conditions or, you know, a plan that a condition 24 points to. 25 So here are a couple statutes. The</p>	<p style="text-align: right;">32</p> <p>1 again, Council, if you have questions, let me know. 2 And I'm trying to make this as -- you know, 3 informative and helpful for Council. So I'm going 4 to, like, leave the PowerPoint presentation and try 5 to pull up the documents to look at particularly the 6 draft final order. But I just -- so just bear with 7 me as I kind of toggle in between these items. 8 Now, I wanted to -- this is the staff 9 report. In the staff report -- remove this. Stay 10 over here. Okay. We have this -- oh, we're not on 11 it. Oh, it's only letting me share one thing. 12 Okay. Hold on. Bear with me here. 13 Okay. In the staff report, there was this 14 change reflected in the general standard of review. 15 Is that bigger? Okay. 16 This change is not reflected. This did 17 not get carried. This was not -- this was an edit 18 that accidentally got carried over into that staff 19 report. But it is not in the draft -- I'm -- pardon 20 me as I scroll through here. 21 What's that? Number 6. 6. Okay. 22 So now here is our -- what it actually 23 looks like, which in the draft final order. And 24 this is just -- this is a mandatory condition. So 25 it -- that's-- the certificate holder shall design,</p>
<p style="text-align: right;">31</p> <p>1 statute that's ORS 469.370(7) is the governing 2 statute that really tells us what we're doing today. 3 This is this hearing to adopt a final order to which 4 we're allowing participants in the contested case 5 proceeding to comment on any of these material 6 changes. 7 So -- and this statute points us to -- so 8 "changes to the proposed order, including material 9 changes to conditions of approval resulting from the 10 Council's review." 11 The other statute I have here is 12 469.370(5)(b). This is -- this is the statute that 13 kind of provides direction of how participants may 14 enter into the contested case. However, here is -- 15 it kind of gives an insight to, again, what a 16 material change is, an action that's recommended, 17 including any recommended conditions of approval. 18 So this is the scope of what we're looing 19 at today and, really, why maybe that -- the staff 20 report was -- was wrong. It really -- some of those 21 material changes are -- are -- are pretty minor. 22 However, we did -- if there was a change to a 23 condition, we counted it as a material change. 24 I'm going to go back here. So also, in my 25 presentation, because I just want -- and -- and</p>	<p style="text-align: right;">33</p> <p>1 construct, and operate the retire -- this -- 2 retirement of the facility. And the first one here 3 is, "Substantially as described in the site 4 certificate." So there -- no change, so just 5 pointing out that there is a discrepancy in the 6 staff report there for Council. 7 On this note, this is also something, as I 8 noted, that staff does have work to do after 9 Council's decision today. One of those is -- you -- 10 completing the -- you know, accepting the changes in 11 the site certificate, but to -- what -- we also add 12 in the description of the facility in the front end 13 of the site certificate. And that description is 14 pulled from -- I don't know if you can see my mouse 15 over here. In the draft final order, we describe 16 the facility and relator our supporting facilities. 17 So all that would be pulled into that site 18 certificate. 19 So really, as this -- and the -- this 20 works with this mandatory condition because the 21 applicant certificate holder would have to 22 substantially construct and operate and retire a 23 facility and consistent with that description -- 24 pointing out the discrepancy there. 25 Okay. So in August, Council reviewed --</p>

<p style="text-align: right;">34</p> <p>1 now, this is -- it's a little bit -- it's -- in our 2 draft final order, we also give Council a summary of 3 the material changes. And that is up here. 4 Okay. So here -- so this -- this is -- 5 this is basically a summary of the staff report, but 6 this is accurate. For instance, the general 7 standard of review isn't on here. 8 So we have Section V.D. for soil 9 protection. And the -- the blasting plan, the draft 10 blasting plan, is Attachment G-5 of the final -- of 11 the draft final order. And it's imposed under soil 12 protection condition. But Council actually -- we 13 talked about the blasting plan in response to an 14 exception filed underneath the structural standard. 15 So it kind of fits in both. 16 And that's where we reflected under 17 structural, correct? The changes in the blasting 18 plan in the findings in the draft final order, we -- 19 we talked about those changes in the plan under the 20 structural standard. So this really should say Soil 21 Protection/Structural. But I'm going to go there. 22 So Council did look, and our esteemed 23 colleague, Chris Clark looked into potential 24 regulatory requirements for notice distance to 25 landowners that may be impacted or adjacent to any</p>	<p style="text-align: right;">36</p> <p>1 MS. ESTERSON: This is Sarah Esterson, for 2 the record. 3 The blasting plan doesn't have a dispute 4 as we move through the process. But I would point 5 to our compliance program internally. If an 6 individual is not satisfied with the outcome of an 7 impact, they can report to the Department or request 8 an inspection. 9 I mean, this plan -- and we talked about 10 before -- does have requirements for seismic 11 monitoring at the nearest structures in proximity to 12 blasting. So that would monitor shaking. 13 Then they also have built in here talking 14 with landowners that would have -- I think it's 15 wells, specifically. And so if those landowners are 16 interested in, like, pre-blasting testing, they can 17 work together. But I don't think that was your 18 specific question. 19 So if they're still concerned after 20 receiving a notification of either what's going to 21 happen or what happened after, I would say they're 22 going to have to contact us. 23 MR. HOWE: Okay. 24 MS. ESTERSON: But this says the 25 contractor contact information was there. It's just</p>
<p style="text-align: right;">35</p> <p>1 blasting activities. And we looked at that 2 language, but I'm just going to go to the plan now 3 and have Council look and see what -- what it ended 4 up with. This was in the section of the blasting 5 plan that already talked about notification. 6 And just does Council have -- does that 7 look okay? Does Council have any questions? 8 Okay. Yes, Councilmember Condon? 9 MR. HOWE: Councilor Condon? 10 MS. CONDON: All right. Thank you. Cindy 11 Condon, for the record. 12 I had a question -- or had a question just 13 related to -- so this talks about the construction 14 contractor. It identifies the responsibility there. 15 It wasn't clear to me what comes next. The -- if 16 the -- if the landowner said -- says I don't -- or 17 not that I don't agree, but I'm still concerned 18 about X, Y, Z. This is a requirement we discussed. 19 But it -- is there a process built in when 20 it's not just one party telling, you know -- telling 21 a landowner that there's a response to the -- that 22 the landowner has? I don't -- sometimes a dispute, 23 or I might have missed it in the -- in the other 24 labeling. But I was just curious what the -- what 25 the other side is.</p>	<p style="text-align: right;">37</p> <p>1 the plan doesn't have the process where we would 2 come in and be part of it unless they notify us. 3 Yeah. 4 MS. CONDON: Okay. Just looking for 5 clarity. But that would be my guess. Thank you. 6 MR. JENKINS: Yeah. So this is Hanley. 7 I think it was wells and springs. 8 MS. CONDON: Right. 9 MS. ESTERSON: We can go to -- I think 10 it's -- actually, they brought into the (inaudible), 11 I think. I'm just -- 12 THE REPORTER: Sorry, ma'am. I'm having a 13 little trouble hearing you. 14 MS. ESTERSON: Okay. I'll talk louder -- 15 THE REPORTER: Thank you. 16 MS. TARDAEWETHER: So there just in the 17 draft final order, this is an example of the updated 18 findings of fact right to that point to those 19 changes where I'm just looking for -- okay. So it 20 did that. I'm -- oh, and soil protection and then 21 -- right. So make that bigger. 22 So -- and this was -- this was in -- whoa, 23 whoa, whoa -- the -- the contested case order, and 24 this, you know, as -- as a summary of -- it was 25 applicant representation through the contested case</p>

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1 that was then reflected in the condition.
 2 So this also is -- is -- is interesting
 3 because in the -- the staff reports -- so this is a
 4 condition, the Soil Protection Condition 4 is a
 5 material change because of this. But then the
 6 blasting plan is a material change because of the
 7 added notification. So this is kind of a good
 8 example of, you know, this dual -- dual parts.
 9 MS. CONDON: Thank you.
 10 MS. TARDAEWETHER: Yeah.
 11 There we go. Okay. So that's our -- yes?
 12 Oh.
 13 MR. JENKINS: So I think this -- this is
 14 in the soil protection standard, and I think that
 15 addresses your concern about what if you don't
 16 agree. And so then there's the requirement to do a
 17 pre-blasting evaluation of the natural springs and
 18 wells, and then the certificate holder shall
 19 compensated the landowner for adequate repairs or
 20 replacement.
 21 MS. CONDON: For springs and wells.
 22 MR. JENKINS: Yeah.
 23 MS. CONDON: Okay.
 24 MR. JENKINS: Yeah.
 25 MS. CONDON: Thank you.

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1 MR. HOWE: Any other comments or questions
 2 or anything this one from Council?
 3 (No audible response).
 4 MR. HOWE: Okay.
 5 MS. TARDAEWETHER: Okay.
 6 MR. HOWE: Ms. Tardaewether.
 7 MS. TARDAEWETHER: Alrighty. Moving on,
 8 Council, we took quite a bit of time looking at
 9 underneath the Retirement and Financial Assurance
 10 standard, Retirement and Financial Assurance
 11 Condition 5, which in Council's review of the draft
 12 proposed order, Council at that time wanted some, I
 13 think, the -- the ability to be able to receive
 14 updates on several items that are outlined in the
 15 condition, but -- but basically every five years. I
 16 just want to do a head nod to Max's favorite word --
 17 Max was previous senior policy advisor -- is that we
 18 got (indiscernible) into -- into a condition, which
 19 is very exciting.
 20 Okay. So now I'm going to go -- I'm going
 21 to go to the draft final order, and I'm going to
 22 find this condition here so we can just work -- look
 23 at it and see if we like it.
 24 Okay. All right. So here we have the
 25 updated findings to reflect the -- you know, that

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1 reflect the hearing officer's conclusions and also
 2 the Council -- the -- the -- the Council decision
 3 to modify this condition, which is down here. And
 4 so those are just the -- those are kind of the
 5 updated in-text findings, which also means that we
 6 kind of strike out some that maybe have been
 7 updated.
 8 Okay. So this sub A is -- I'll make that
 9 bigger -- is what -- okay. So this is one aspect of
 10 it. I just wanted to note on this because of the
 11 added lettering, we did update in this -- and was it
 12 just this condition or --
 13 (Simultaneous speaking.)
 14 MS. TARDAEWETHER: Yeah. Sorry, Kent.
 15 MR. JENKINS: You have another edit -- an
 16 edit there that you need on the last line, the red.
 17 It should be -- I think it should be "restore the
 18 site to a useful nonhazardous..." It says "retore."
 19 MS. TARDAEWETHER: So --
 20 (Simultaneous speaking.)
 21 MS. TARDAEWETHER: There we go. Okay.
 22 Okay. So then -- okay. So this is that -- the
 23 aspect of -- this is the -- basically, this is the
 24 part that gives Council ultimately authority. So at
 25 any point in time, Council can require the

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1 certificate holder to submit a bond that -- also
 2 that the Council, if desired, can request the
 3 applicant to come back and -- I'm sorry. I'm just
 4 -- it's -- I'm not -- I'm not capturing it very
 5 well.
 6 But at -- at this point, Council really
 7 retains the ultimate authority to update the bond or
 8 letter of credit at any point in time. And so if
 9 Council chose to exercise this, Council could say,
 10 you know, within two weeks, within 30 days, please
 11 come to Council and -- and provide this evidence, or
 12 we can have a discussion, et cetera. So that is
 13 this part.
 14 And I'm just going to go down here -- yes.
 15 MS. CONDON: Cindy Condon. So a question
 16 for you.
 17 What I heard you just say -- so one of the
 18 -- or and this one here, was it time certain, so
 19 that we have the right to request it, and we have
 20 the -- we're -- the right to say within 30 days?
 21 And did I understand you to say that that
 22 doesn't need to be in the condition, the time -- 30
 23 days, 60 days, whatever -- or it can be in another
 24 document?
 25 MR. CORNETT: For the record, Todd

42	<p>1 Cornett. I can respond to that.</p> <p>2 So Councilmember Condon, I think it's</p> <p>3 implicit within the language up here. Council has</p> <p>4 the authority to establish whatever time frame they</p> <p>5 want for (indiscernible) Idaho Power to submit a</p> <p>6 bond. You can certainly be more explicit if you</p> <p>7 want to, you know, unless than -- you know, if -- if</p> <p>8 you wanted changes to put some very specific</p> <p>9 guardrails.</p> <p>10 But I believe at least the Department's</p> <p>11 reading of this is you have that authority implicit</p> <p>12 within this language already. And so if you're</p> <p>13 doing that review, you come to the conclusion -- the</p> <p>14 Council comes to the conclusion that a bond or</p> <p>15 letter of credit needs to be submitted, there is</p> <p>16 justification for that. And I believe, you know,</p> <p>17 that will require a vote of the Council. And within</p> <p>18 that vote, you could establish what time frames you</p> <p>19 are interested in for that being submitted.</p> <p>20 MR. HOWE: Councilor Condon?</p> <p>21 MS. CONDON: So just to respond, so -- so</p> <p>22 the applicant, Idaho Power in this case, has some</p> <p>23 uncertainty around the beginning -- at -- at the</p> <p>24 beginning at this time as to what that time frame</p> <p>25 would be. So would their first notice be we -- we</p>	44
43	<p>1 want the security posted in this form? Or is there</p> <p>2 conversation with the applicant? You get -- I'm</p> <p>3 trying to get certainty for us and the applicant</p> <p>4 about this is what this really means.</p> <p>5 MR. CORNETT: Again for the record, Todd</p> <p>6 Cornett.</p> <p>7 The way I see this playing out is, you</p> <p>8 know, if some information comes to light that the</p> <p>9 Council is interested in, then you would say we want</p> <p>10 to evaluate whether, you know, a financial</p> <p>11 instrument is required at this point in time.</p> <p>12 Idaho Power would be required to submit</p> <p>13 information. We would evaluate that. We may rely</p> <p>14 upon, you know, a third-party contractor to help us</p> <p>15 evaluate that to understand the power context of,</p> <p>16 you know, the energy sector and, specifically,</p> <p>17 transmission lines at that time.</p> <p>18 We would come to Council with a</p> <p>19 presentation. Certainly, Idaho Power would be</p> <p>20 allowed to present at that time.</p> <p>21 Ultimately, Council would come to a</p> <p>22 conclusion: Is a financial instrument needed,</p> <p>23 required, by Council at that point in time? And you</p> <p>24 would either say yes or no. And I believe within</p> <p>25 that vote, your authority would be to, if you voted</p>	45
42	<p>1 yes, would also be to establish a time frame with --</p> <p>2 within -- within which to submit that bond or letter</p> <p>3 of credit to the Department so we have it on file.</p> <p>4 Whether it's 2 weeks or 30 days or 60</p> <p>5 days, I -- I think that probably part of that</p> <p>6 discussion -- I can certainly say I am not familiar</p> <p>7 with the -- the -- the nuances of going to a</p> <p>8 financial institution and gain, you know, a bond or</p> <p>9 letter of credit. I don't know how quickly that</p> <p>10 could happen. I think that probably part of that</p> <p>11 discussion during that Council meeting, if Council</p> <p>12 chose to require that, we'd probably want to have</p> <p>13 some input from Idaho Power to understand what the</p> <p>14 reasonableness would -- would be for that time</p> <p>15 frame. And I think you would have the ability to</p> <p>16 establish that time frame within that vote itself.</p> <p>17 MR. HOWE: Councilor Condon?</p> <p>18 MS. CONDON: Respond. So I just want -- I</p> <p>19 -- I do want to express my concern here is at the</p> <p>20 point that I -- how this plays out in my mind is</p> <p>21 that we come to that decision in an emergency, or --</p> <p>22 yeah, an emergency case that we say, okay, we need a</p> <p>23 security instrument. And if we're thinking that,</p> <p>24 others are thinking it, especially financial</p> <p>25 institutions whose job it is to assess risk.</p>	45

<p style="text-align: right;">46</p> <p>1 "Identified by"?</p> <p>2 MR. ROWE: That's it.</p> <p>3 (Simultaneous speaking.)</p> <p>4 MS. TARDAEWETHER: And then -- and just</p> <p>5 "an," right?</p> <p>6 MR. ROWE: Correct.</p> <p>7 MR. CORNETT: So again, for the record,</p> <p>8 I'm Todd Cornett.</p> <p>9 Looking at it procedurally, I'm guessing,</p> <p>10 looking for your input here, so it says it would be,</p> <p>11 you know -- this -- a straw poll at the August</p> <p>12 meeting to establish this, you know, is there a</p> <p>13 straw poll needed if the Council wants to change it</p> <p>14 at this time or just basically sort of a head</p> <p>15 nodding acknowledgment? We'll look for your</p> <p>16 direction on that.</p> <p>17 MR. RATCLIFFE: Yeah. This is Jesse</p> <p>18 Ratcliffe for the record. Just a head nod would be</p> <p>19 fine.</p> <p>20 MR. CORNETT: Okay.</p> <p>21 MR. HOWE: Okay. Any -- I'm seeing head</p> <p>22 nods all around.</p> <p>23 Okay. We've got Councilor Chocktoot.</p> <p>24 Councilor Chocktoot, I'm just wondering if you were</p> <p>25 in -- yes, I saw your thumbs up.</p>	<p style="text-align: right;">48</p> <p>1 that we have financial statements, no -- no</p> <p>2 different than any other financial. Quite frankly,</p> <p>3 in this case, we're playing a financial services</p> <p>4 provider.</p> <p>5 MR. JENKINS: So what we -- this is Hanley</p> <p>6 -- what would you propose, Cindy?</p> <p>7 MS. CONDON: That include it -- I -- I</p> <p>8 would be explicit about the financial statement is</p> <p>9 required, you know, including but not limited to a</p> <p>10 current financial statement. I -- I would prefer it</p> <p>11 to be audited, but that it be named specifically so</p> <p>12 we're looking for it and they're expecting to submit</p> <p>13 it.</p> <p>14 FEMALE SPEAKER: Including -- (inaudible).</p> <p>15 MS. CONDON: "And current financial</p> <p>16 statement."</p> <p>17 Could you make that "current" before</p> <p>18 "financial," please? Thank you.</p> <p>19 MR. HOWE: Comments?</p> <p>20 MS. CONDON: Just really quickly, so I'm</p> <p>21 -- I'm not sure the current financial statement for</p> <p>22 that five-year reporting period. It's the -- the --</p> <p>23 it's the latest financial statement within that five</p> <p>24 years, or however ...</p> <p>25 MS. TARDAEWETHER: Well, Councilmember</p>
<p style="text-align: right;">47</p> <p>1 MR. CHOCKTOOT: Yes.</p> <p>2 MR. HOWE: Okay. So we've got that</p> <p>3 unanimous.</p> <p>4 Councilor Condon?</p> <p>5 MS. CONDON: That (audio disruption) we</p> <p>6 wouldn't be getting to it. But in the -- can you go</p> <p>7 down to the language about the financial report --</p> <p>8 the five-year report?</p> <p>9 Okay. I believe we talked about this in</p> <p>10 August -- in the August meeting that it be explicit</p> <p>11 in here that in the five-year report, financial</p> <p>12 statements are required. There -- there's no</p> <p>13 language that suggests. Further down, there's --</p> <p>14 sorry. I'm trying to find it on my computer as fast</p> <p>15 as you could where we talk about what's included in</p> <p>16 the financial report.</p> <p>17 MR. HOWE: There. (Inaudible) -- but not</p> <p>18 limited to.</p> <p>19 MS. CONDON: Yeah.</p> <p>20 So the -- a financial statement is not</p> <p>21 required of them or not? You know, I'm not sure</p> <p>22 what the expertise in the Department is for</p> <p>23 analyzing financial statements. But a financial</p> <p>24 statement tells the condition of the -- of the</p> <p>25 organization. And so I would like it to be explicit</p>	<p style="text-align: right;">49</p> <p>1 Condon, yeah, that's what we were looking at. We --</p> <p>2 so I just added an "s", right, so because it's like</p> <p>3 we're trying to capture if Council decides we write</p> <p>4 this to -- in the -- the time in between the five</p> <p>5 years, if Council wants this information, the -- the</p> <p>6 certificate holder provides it, but we don't really</p> <p>7 know at what point in time -- (indiscernible).</p> <p>8 Anyways, so I think "current financial</p> <p>9 statements" --</p> <p>10 MS. CONDON: Sorry.</p> <p>11 MS. TARDAEWETHER: -- capture that --</p> <p>12 MS. CONDON: Yeah, yeah. And as long as</p> <p>13 --</p> <p>14 MR. TRUITT: Supporting financial</p> <p>15 information?</p> <p>16 MS. TARDAEWETHER: Pardon?</p> <p>17 MR. TRUITT: Supporting financial</p> <p>18 information as an alternative?</p> <p>19 MR. HOWE: So Councilor Truitt, are you</p> <p>20 just -- are you saying in a current financial state</p> <p>21 -- and current financial statements or supporting</p> <p>22 financial information?</p> <p>23 MR. TRUITT: I suppose I was just kind of</p> <p>24 lobbying that out there as -- as an alternative. I</p> <p>25 don't disagree with how it's written. It's just</p>

50	<p>1 providing another context.</p> <p>2 MS. CONDON: Cindy Condon.</p> <p>3 I -- I do think it works. I didn't catch</p> <p>4 the --</p> <p>5 MR. HOWE: Okay. So Counsel Ratcliffe,</p> <p>6 head nods again --</p> <p>7 MR. RATCLIFFE: Yeah --</p> <p>8 MR. HOWE: -- adequate?</p> <p>9 MR. RATCLIFFE: -- that's fine.</p> <p>10 MR. HOWE: I'm seeing head nods.</p> <p>11 Councilor Chocktoot?</p> <p>12 Okay. Unanimous head nods.</p> <p>13 MS. TARDAEWETHER: Thank you. Thank you.</p> <p>14 I believe that that, aside from</p> <p>15 administrative edits, is the extent.</p> <p>16 I have a question for Counselor Ratcliffe.</p> <p>17 So this condition was already on the list of -- for</p> <p>18 material changes, which parties and the applicant</p> <p>19 will have an opportunity to comment on. So then the</p> <p>20 -- the parties at the material change hearing would</p> <p>21 also be commenting on these changes that Council</p> <p>22 just directed, correct?</p> <p>23 MR. RATCLIFFE: Yes. Yes, that's correct.</p> <p>24 MS. TARDAEWETHER: Okay. Okay. Very</p> <p>25 good. Thank you.</p>	52	<p>1 condition to support this change. The Department</p> <p>2 did update those draft findings, or the findings in</p> <p>3 the -- underneath the recreation standard, to</p> <p>4 reflect that additional work that needed to be done</p> <p>5 because what was previously in the proposed order</p> <p>6 was the supplemental evaluation applicant did and</p> <p>7 the subsequent condition change from their response</p> <p>8 to the DPO comments.</p> <p>9 And now through the contested case to</p> <p>10 respond to the -- to the concerns of this -- the --</p> <p>11 this expanded area for the recreational opportunity,</p> <p>12 the applicant did this bigger evaluation. So all of</p> <p>13 those -- it -- it no longer made sense to keep kind</p> <p>14 of old findings to support an old -- an older</p> <p>15 condition for these H-frames. So now the findings</p> <p>16 are updated. Those facts are updated to support</p> <p>17 this longer H-frame span.</p> <p>18 So does Council want to go there? Or is</p> <p>19 this okay?</p> <p>20 MR. HOWE: Okay. Council, do we need to</p> <p>21 drill down anymore? Does this show that it captures</p> <p>22 the interest we had in that condition?</p> <p>23 (No audible response).</p> <p>24 MS. TARDAEWETHER: Very good.</p> <p>25 MR. HOWE: And head nods. So ...</p>
51	<p>1 All right. So moving over onto</p> <p>2 Recreation, I had kind of noted this in my</p> <p>3 introduction about conditions applying to the entire</p> <p>4 facility, including the proposed route and</p> <p>5 alternative routes unless specifically identified in</p> <p>6 a condition.</p> <p>7 So this is one of those conditions that</p> <p>8 would apply to the Morgan Lake alternative. And</p> <p>9 this is the area near Morgan Lake Park, to which was</p> <p>10 evaluated underneath the recreation standard as well</p> <p>11 as other ones. But this condition is imposed here</p> <p>12 now through the contested case proceeding to address</p> <p>13 concerns from parties about potential impacts to the</p> <p>14 recreational opportunity from not only the developed</p> <p>15 areas, but the undeveloped areas around -- within</p> <p>16 Morgan Lake Park, which includes two lakes.</p> <p>17 (Indiscernible) went and did supplement --</p> <p>18 supplemental or additional on visual impact</p> <p>19 assessments and then, through that process,</p> <p>20 represented a longer span for the shorter H-frame</p> <p>21 towers, which Council wanted, that reflected -- it</p> <p>22 -- also consistent with the contested case order.</p> <p>23 I have a snippet of the -- it's a very</p> <p>24 minor change to this condition. However, it's a</p> <p>25 pretty significant change. I can go to this</p>	53	<p>1 MS. TARDAEWETHER: All right. For this</p> <p>2 Public Services conditions, I'm going to go to the</p> <p>3 draft final order. I -- Public Services Condition 2</p> <p>4 -- I'm going to go to that one. The other one,</p> <p>5 Public Services Condition 6, was a very minor</p> <p>6 change. Council just wanted to see approved by</p> <p>7 Council in it. So we can go there, but just give me</p> <p>8 one moment to find this.</p> <p>9 One second here. Public Services</p> <p>10 Condition ...</p> <p>11 So this is in advance of the condition.</p> <p>12 This is where we update the facts to support the</p> <p>13 condition revision. Bear with me. I will find it</p> <p>14 here somewhere. Okay.</p> <p>15 So this Public Services Condition 2 is the</p> <p>16 traffic management plan and that whether the -- a</p> <p>17 plan specific for each county. And now, what we did</p> <p>18 here is that this is the hearing officer suggested</p> <p>19 this as its own new Public Services condition in the</p> <p>20 contested case order. And this, you know, through</p> <p>21 the contested case came out of an applicant</p> <p>22 representation to address concerns.</p> <p>23 So rather than adding it in as its own</p> <p>24 separate standalone condition, we added it in as one</p> <p>25 of these components of the traffic management plan</p>

<p style="text-align: right;">54</p> <p>1 that we included for each county. But this is -- 2 this is verbatim how it's reflected in the contested 3 case order. 4 MR. HOWE: Comments or questions from 5 Council? 6 (No audible response). 7 MR. HOWE: I think it looks good. 8 MS. TARDAEWETHER: Okay. All right. I'm 9 just -- I'm just going to move forward with Public 10 Services; is that okay? 11 (No audible response). 12 MS. TARDAEWETHER: All right. Now 13 everybody's favorite topic. Let's make some noise. 14 All right. We're going to go down and 15 just look at the noise control conditions. And -- 16 and pardon me as I scroll madly through here. 17 Now, I guess, as -- as we're going -- as 18 I'm getting to the conditions -- and this is just, 19 for context for Council, again, we're not 20 considering these material changes. But the noise 21 section is one of those sections where there were, 22 you know, pretty significant red lines. And -- and 23 the reason was, is that through the contested case, 24 and also for Council to keep in mind that -- that, 25 through the application process, the record is open.</p>	<p style="text-align: right;">56</p> <p>1 and this was really -- because in the order from the 2 -- the -- from the comments on the DPO, the issue of 3 this Monitoring Position 11 and whether or not it 4 was representative really was one of the primary 5 issues in the contested case to which the applicant 6 went out and did additional ambient noise monitoring 7 at three other monitoring positions. 8 But -- but, you know, well, so what the 9 proposed order reflected was asking this question of 10 whether or not MP, Monitoring Position, 11 was 11 representative. But now, so really through the 12 contested case, the findings are now reflected to 13 show that -- that there was additional monitoring 14 that -- that was conducted and that that is 15 reflected now in this section. 16 And I'm going to scroll -- scroll. It's a 17 big section, so I'm going to get us right on those 18 conditions here. 19 Okay. So we have -- so I'm on Noise 20 Control Condition 1. I know that Council went 21 through Noise Control Condition 2. We kind of went 22 through that. And we -- actually, at the August 23 meetings, we went through all of the noise 24 conditions at -- at length with the applicant and 25 representatives of STOP B2H. And this was</p>
<p style="text-align: right;">55</p> <p>1 But once the record of the hearing on the draft 2 proposed order closes, the record is closed, right? 3 And that includes comments on the DPO, applicant's 4 responses to comments, Council direction, et cetera. 5 It's closed -- closed. 6 But once the contested case opens, it 7 opens back up, and it's a filtering process of what 8 the issues are. And during the contested case 9 proceeding, the record is now open. So really, the 10 record on the application for site certificate -- 11 which reminds me I wanted to talk about records with 12 Council, but we'll get to that later because it's a 13 very exciting topic. 14 But the record on the application, the 15 decision-making record in Council's rules includes 16 the record of the proposed order, so which it 17 basically -- everything -- you know, the -- once -- 18 once the record closes, and also the record of the 19 contested case. So all of that is what we're 20 looking at there and boiling this down to for 21 Council to ask the question of whether or not the 22 preponderance of evidence has been met. 23 So under -- underneath the Noise section 24 -- and I'll just go here -- table, table, table -- 25 there's pretty significant strikeout here. So --</p>	<p style="text-align: right;">57</p> <p>1 addressing their sections, which also included 2 Council Kirk (phonetic), and we went through this 3 process of looking at potential proposed changes 4 that STOP B2H had proposed through -- through the -- 5 the proceeding. So we looked at those. 6 And would you -- I -- right. 7 So I have -- I have -- in my presentation, 8 I was going to talk about Noise Control Condition 1. 9 They're very interrelated with Condition 2. But 10 actually, Council just did directed changes to the 11 Noise Control Condition 2, which I'll go there and 12 -- but it does relate to Condition 1. So I'll go 13 down to Condition 2. 14 Oh, Councilor -- 15 MR. JENKINS: Before you go to 2. 16 MS. TARDAEWETHER: Yes. Okay. 17 MR. JENKINS: So I'm -- this is Hanley, 18 and I have a question on Noise Control Condition 1. 19 I'm working off the staff report. I'm not working 20 off of -- 21 MS. TARDAEWETHER: Okay. 22 MR. JENKINS: -- the final order. 23 So on page 11 of the staff report, it 24 identifies the changes in Noise Control Condition 1, 25 and there's changes in (a) and (b). Then go to the</p>

<p style="text-align: right;">58</p> <p>1 next page and there is number 1 (a) and (b). So 2 there's something wrong there with your -- with your 3 -- 4 MS. TARDAEWETHER: Yeah. And that was 5 just -- and that was a carryover. I do want to note 6 when we get to -- to the, yeah, the staff report. 7 But it's one of these formatting things. 8 So in the -- in the -- it is correct in 9 the draft -- 10 MR. JENKINS: Okay. So -- so my 11 substantive question is under -- on -- on page 12 on 12 a.iv. It says, "At the request of the noise 13 sensitive receptor property owner, certificate 14 holder will offer alternative mitigation 15 proposals..." 16 Is that alternative to the windows, or is 17 that in addition to the windows? I -- you know, it 18 just says "alternative," so I don't know whether 19 it's a replacement for or in addition to. 20 MS. TARDAEWETHER: It's (inaudible). 21 Just one -- one minute, Councilmember -- 22 MR. JENKINS: Sure. 23 MS. TARDAEWETHER: We will read again. 24 This was an applicant -- well, the noise conditions 25 went back and forth pretty consider -- considerably.</p>	<p style="text-align: right;">60</p> <p>1 and have their request to do so, these are some of 2 the other options that they would be -- could be 3 employed or negotiated with them to address those 4 concerns. 5 MR. JENKINS: As a replacement? So -- so 6 at the request of the NSR property owner, a 7 certificate holder will offer as an alternative to 8 -- 9 MS. BEIER: Three. 10 MR. JENKINS: -- one, two, and three 11 mitigation proposals. Yeah. 12 MR. RATCLIFFE: And Councilmember Jenkins, 13 this is Jesse Ratcliffe for the record. 14 If I may, I -- you know, I think that the 15 -- the goal here is to provide an opportunity for a 16 negotiation to attempt to resolve the issue. And so 17 I don't -- you know, this sub 4, to me, provides 18 some guideposts from the Council to Idaho Power and 19 to the NSR owners to how that might occur. 20 And so, you know, we're -- the Council 21 would be saying, well, you know, if the NSR property 22 owner isn't satisfied with the measures that are 23 listed or above, we're asking Idaho Power to go 24 ahead and -- and offer up alternatives. 25 I don't know that this, you know,</p>
<p style="text-align: right;">59</p> <p>1 MR. JENKINS: So what this section does, 2 is it sets out based upon the level of impact the 3 opportunities for resolving an impact. And in one, 4 it's between 11 and 14 decibels at sound level, and 5 you've got one option. If you're exceeding the 14, 6 then you've got another. And then if -- and then 7 there's an opportunity to negotiate between the 8 landowner and the applicant. 9 So I think what we were trying to do was 10 identify a way for there to be some negotiation, I 11 guess, and come up with other options. I don't 12 think it was in addition to. I think it was as a 13 replacement for. But that's kind of where I'm ... 14 MS. TARDAEWETHER: If I recall -- and we 15 do have the -- the transcripts from the August 16 meetings -- but if I recall, Ms. Rackner, in her 17 discussions of this -- and I think the scenario she 18 provided is say somebody had a brand -- brand-new 19 house -- 20 MR. JENKINS: Right. 21 MS. TARDAEWETHER: -- and like -- and they 22 have lovely Andersen windows, and they don't want -- 23 they don't want any windows. I think that this is 24 -- this isn't an -- intended to be an "or." If 25 somebody doesn't want the noise-attenuating windows</p>	<p style="text-align: right;">61</p> <p>1 prohibits the -- the parties from coming to a 2 resolution that includes windows and something else. 3 But I think that the idea here is just that we're -- 4 we're trying to set up a process to resolve this 5 through negotiation. 6 MR. JENKINS: Yeah. This is Hanley. I'm 7 just trying to come up with a more clear way of 8 saying that. 9 MR. HOWE: Well, maybe -- this is Kent -- 10 and maybe "including but not limited to" -- 11 MR. JENKINS: Yeah. 12 MR. HOWE: -- language. 13 MR. JENKINS: Well, it probably should say 14 that anyway because it's -- it -- it -- what we have 15 are examples. And we won't limit the examples to 16 just those. 17 MR. HOWE: And you can use "including but 18 not limited to" then -- 19 MR. JENKINS: Yeah, including -- including 20 windows. 21 Does that work, Jesse? 22 MR. RATCLIFFE: Yes. 23 MR. TRUITT: What about the inclusion of 24 reasonable -- reasonable alternative mitigation for 25 (inaudible)?</p>

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1 (Simultaneous speaking.)
 2 MR. JENKINS: Yeah.
 3 MALE SPEAKER: Yeah.
 4 MR. JENKINS: I hesitate -- I hesitate to
 5 use words that have to be defined. I just -- I
 6 guess the reason I say it is -- is each situation is
 7 unique. If it's -- if it's a brand-new house and
 8 they don't need new windows or new insulation, a
 9 reasonable alternative could be landscaping --
 10 FEMALE SPEAKER: Yeah.
 11 MR. JENKINS: -- (indiscernible) trees, et
 12 cetera. But I see what you're saying. I mean, so I
 13 want to (indiscernible). Yeah, it's -- it's
 14 negotiable. That's the -- that's the point here, is
 15 we're providing an opportunity to negotiate between
 16 the landowner and the applicant. So I think that's
 17 an important piece. Just I was -- here's where we
 18 were trying to come up with something different. So
 19 I think "including but not limited to" can resolve
 20 that whole issue.
 21 MR. HOWE: Where's the rest of the
 22 Council?
 23 FEMALE SPEAKER: Absolutely.
 24 MR. HOWE: Heads nodding.
 25 Councilor Chocktoot?

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1 Okay. I think we have that.
 2 Will that be enough on that, Counsel
 3 Ratcliffe?
 4 MR. RATCLIFFE: Yes.
 5 MR. HOWE: Okay. Back to you, Ms.
 6 Tardaewether.
 7 MS. TARDAEWETHER: Thank you.
 8 Noise Control Condition 2, even the -- the
 9 hearing officer noted in -- in her proposed
 10 contested case order that, because this condition
 11 really went back and forth so much, that she
 12 actually ultimately in her order kind of reflected
 13 the final changes to this condition. And then we
 14 also modified this condition in August.
 15 This is to say what -- what I did in the
 16 draft final order, I just -- rather than redline, I
 17 just totally deleted the original Noise Control
 18 Condition 2. And I just put in the one from the
 19 contested case order and then made the changes that
 20 Council talked about in August. So that said, I'm
 21 -- and I apologize again. But this was just the --
 22 the nature of -- of how it works when several people
 23 are working on something.
 24 This condition is a little bit different
 25 in the staff report than it is in the draft final

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1 order. It's -- and I'll pull up -- because it's
 2 just at the place where Council gave directions. So
 3 let me find it here. Okay.
 4 And so this is -- oh, wait. Is this --
 5 (Simultaneous speaking.)
 6 MALE SPEAKER: -- under 698 on the draft
 7 final order. Then it would be projected on the
 8 screen. It doesn't --
 9 THE REPORTER: I'm sorry, sir. Can you
 10 repeat that?
 11 MALE SPEAKER: I -- I indicated to Ms.
 12 Tardaewether that what is being projected on the
 13 screen is not what's on page 698 of the draft final
 14 order.
 15 MS. BEIER: Chairman Howe, while we're --
 16 while we're getting this posted, there is a
 17 paragraph. It's on line 699 of the final order.
 18 It's sub E, sub ii. That first sentence doesn't
 19 make any sense to me, but maybe it's a technical
 20 statement -- if it is determined the burn noise is
 21 not typical burn in period noise?
 22 MR. TRUITT: Page 706.
 23 MS. BEIER: On the -- yeah, on the
 24 computer, yeah. And it's that on paragraph sub ii,
 25 the last paragraph on 706, which it -- that sentence

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1 doesn't make any sense to me. But ...
 2 MR. HOWE: Councilor Beier, hold that
 3 thought while we finish --
 4 MS. TARDAEWETHER: Yeah. That's fine. I
 5 didn't -- I didn't catch that. So it's -- it's
 6 okay. I'm -- we're here. It's fine. That is to
 7 say, we'll just -- let's look at the -- what is in
 8 front of us.
 9 MS. BEIER: Yeah.
 10 MS. TARDAEWETHER: And this was just
 11 within our discussion of, you know, addressing the
 12 condition length of STOP B2H, and this is what we
 13 talked about in August and the straw poll.
 14 But this was the discussion of what is
 15 provided to the landowners, what is their -- right.
 16 So we wanted it to be -- we wanted them to have all
 17 of the condition language. And Council also wanted
 18 there to be an easy-to- read guidebook of what the
 19 opportunities for landowners are. And so this is
 20 staff and DOJ's Cut Act reflecting that.
 21 MR. HOWE: Comments from Council or
 22 questions?
 23 Councilor Condon, I remember that was a
 24 lot of the concerns you were having. Do they seem
 25 to capture and address what you were interested in?

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1 MS. CONDON: Thank you.
 2 Yes. When I was reading, I -- I was
 3 curious. You know, looking at it from a distance
 4 might be different than looking at a close-up as a
 5 property owner. Would the -- any comment -- there
 6 was no comment that I saw from the property owner
 7 that had issues with this. So, you know, I -- I
 8 don't know if there's any inside information on
 9 that.
 10 But if it's understandable to a property
 11 owner that, yeah, got a plan and I go with it --
 12 what my actions can be, then this is fine. It
 13 certainly speaks to the conversation last night.
 14 MR. HOWE: Any other Councilors want to go
 15 over this Condition number 2 language?
 16 MS. BEIER: Except -- this is Councilor
 17 Beier. I still don't know what sub E, sub ii --
 18 MR. HOWE: Okay. Let's --
 19 (Simultaneous speaking.)
 20 MS. TARDAEWETHER: Let's go down there.
 21 Now, on our way down, Council, I'm going to take a
 22 stop here. And again, I don't think for some reason
 23 the edit didn't get carried over into the staff
 24 report. And I apologize about that. But this was
 25 -- we did this in the draft final rule -- order,

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1 right?
 2 So this was not requiring that each of
 3 these aspects be included, but basically the
 4 examples of the items that a landowner could include
 5 in its complaint.
 6 FEMALE SPEAKER: Such as.
 7 MS. TARDAEWETHER: Such as.
 8 MR. HOWE: Yeah. Okay.
 9 (Simultaneous speaking.)
 10 MS. TARDAEWETHER: Okay. So now -- so
 11 Councilmember Beier, you were on E. What -- what E?
 12 MS. BEIER: ii.
 13 MS. TARDAEWETHER: ii?
 14 MS. BEIER: And it may refer to the "burn
 15 in period" mentioned in sub i. I just -- it feels
 16 like there's something missing in that sentence.
 17 MS. TARDAEWETHER: In ii, right?
 18 MS. BEIER: Yeah --
 19 MR. HOWE: Yeah.
 20 MS. BEIER: -- the first --
 21 MR. JENKINS: First sentence.
 22 MS. BEIER: First sentence just feels like
 23 there's something missing, like a whole ...
 24 MS. TARDAEWETHER: I -- I would say it's
 25 not typical for burn in --

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1 MR. JENKINS: Okay. So it's the -- so is
 2 your concern in the (indiscernible)?
 3 (Simultaneous speaking.)
 4 MS. BEIER: I think that's what it's
 5 referring to, but it's not clear there. So it's
 6 probably -- it's probably the "burn in period"
 7 mentioned in sub i.
 8 MR. ROWE: This is Patrick Rowe here.
 9 That -- that -- that's correct --
 10 MS. BEIER: Okay. Good.
 11 MR. ROWE: And then --
 12 MS. BEIER: It's just -- it's just putting
 13 those words together. This is like this doesn't
 14 make sense. So if the intent is to clarify things
 15 for the public, that's --
 16 MR. ROWE: If you like, you could state if
 17 it is determined that the corona noise is not
 18 typical burn in period noise referenced in sub e.i.
 19 to clarify that.
 20 MR. HOWE: Yeah.
 21 MS. BEIER: That might help for -- I --
 22 because it's a technical term I really wasn't
 23 familiar with.
 24 (Simultaneous speaking.)
 25 MS. TARDAEWETHER: Or you can put (audio

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1 disruption.)
 2 MS. BEIER: Yeah.
 3 MR. JENKINS: Surely.
 4 MS. BEIER: Yeah. Just the hyphenation.
 5 Yeah. It's just the --
 6 MR. JENKINS: So Mr. Chair, this is
 7 Hanley.
 8 I have a question about -- so it talks
 9 about an Attachment X-5 in the final order in the --
 10 and then it goes on. It says the modeling sound
 11 level increases as presented in Attachment X-4. Is
 12 that -- is that the correct cite? Or is it X-5?
 13 MR. ROWE: Can we just hit pause for one
 14 moment?
 15 MR. JENKINS: Yeah.
 16 MR. ROWE: Let me first address
 17 Councilmember --
 18 MS. BEIER: Yeah --
 19 (Simultaneous speaking.)
 20 MR. ROWE: I think it's fair, Kent, to do
 21 what you referenced, if -- if Councilmember Beier
 22 agrees --
 23 MS. BEIER: Yeah.
 24 MR. ROWE: -- and just put "burn in
 25 period" in quotes.

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1 MS. BEIER: Yes.
 2 MR. ROWE: And that will recognize the
 3 subsection --
 4 MS. BEIER: Right.
 5 MR. ROWE: -- immediately preceding.
 6 MS. BEIER: Yeah. Thank you.
 7 MR. HOWE: And I think we got head nods on
 8 that change. So okay.
 9 (Simultaneous speaking.)
 10 MR. ROWE: (Audio disruption.)
 11 FEMALE SPEAKER: (Audio disruption.)
 12 MALE SPEAKER: (Audio disruption.)
 13 MS. TARDAEWETHER: (Audio disruption.)
 14 MR. ROWE: The second --
 15 MS. TARDAEWETHER: Yeah. Should we see if
 16 there's reference to "burn in period" in -- anywhere
 17 else?
 18 MR. ROWE: There is a significant --
 19 THE REPORTER: Speak up.
 20 MS. TARDAEWETHER: Right. Like in other
 21 parts of the condition.
 22 MR. ROWE: Councilmember Beier, are you
 23 comfortable with the -- the change that's been --
 24 MS. BEIER: Yes. Thank you so much. This
 25 is just --

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1 MR. CORNETT: If -- if I may, just a
 2 reminder for everybody, we are having a verbatim
 3 transcript. So the dialogue, it's helpful. So
 4 provide correction for the record.
 5 Providing corection is helpful to make
 6 sure that we, you know, are very clear. If you can
 7 sort of limit the talking over one another and make
 8 sure that we indicate what our names are. And we
 9 don't have microphones in front of us, but I know
 10 people online can hear us very well. But in the
 11 room, please project your voices.
 12 MR. HOWE: Thank you to Secretary Cornett.
 13 So I think we're good. Councilor Beier's
 14 adjustments to the language --
 15 MS. BEIER: Yes.
 16 MR. HOWE: -- there with (indiscernible)
 17 input.
 18 MS. BEIER: Yes.
 19 MR. HOWE: And so we'll move now to
 20 Councilor Jenkins -- X-4 or X-5, a question on the
 21 lower part of ii.
 22 MR. JENKINS: Yeah. I think I answered my
 23 own question. Is it -- it's the list --- this is
 24 Hanley -- the list is the Attachment X-5, but the
 25 model sound level is -- out of order. Model sound

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1 increases as presented in Attachment X-4. So X-4
 2 must include sound level thresholds where the list
 3 is in X-5. Yes.
 4 MS. TARDAEWETHER: I'm going to go back to
 5 the condition, Councilmember Jenkins. What I have
 6 pulled up here is the Table of Contents. So X-4 is
 7 the Noise Analysis Results, and X-5 are the maps.
 8 And just quickly -- and, again, I'll go back to that
 9 condition. So these are the links to them, so these
 10 are the maps with the map set. And then, you know,
 11 I can't pull up my other tab. I can't see it.
 12 There it is.
 13 MR. JENKINS: Okay. Thank you.
 14 MS. TARDAEWETHER: Yep. And so this is
 15 the -- the results, okay? So then --
 16 MR. JENKINS: Yeah.
 17 MS. TARDAEWETHER: -- now let's go back to
 18 that, the condition itself.
 19 And I believe -- isn't X-7 the property
 20 owners? X-7 is the property owner list, correct?
 21 Yeah. Okay. Yeah.
 22 So yeah, got -- got a lot of X here. So
 23 X-7 is the -- the list of the property owners.
 24 Let's find it here. Okay. X-4 is the results, and
 25 X-5 is the map sets that one would look at with X-4

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1 to see the location of the NSRs.
 2 MR. HOWE: So Councilor Jenkins --
 3 MR. JENKINS: I'm good.
 4 MR. HOWE: You're good. Okay. So okay.
 5 Thank you.
 6 Back to you, Ms. Tardaewether.
 7 MS. TARDAEWETHER: Well, that -- that was
 8 -- that was what we talked about in -- in August.
 9 MR. HOWE: So that does all of the
 10 conditions that we discussed back in August --
 11 MS. TARDAEWETHER: Mm-hmm.
 12 MR. HOWE: -- and walked through those.
 13 Are we to the point now it's a good time
 14 to take a break?
 15 MS. TARDAEWETHER: I -- I think so. Yeah.
 16 Just I'm -- let me just close out noise again, so
 17 noise control. The -- in -- in the step that there
 18 is other noise conditions that are -- that there are
 19 material changes to that came from the contested
 20 case order. I'm not talking -- but these are what
 21 we talked about in August. Council didn't have any
 22 direction with the other conditions. However, in
 23 the material change hearing, parties are -- limited
 24 parties may -- may raise those.
 25 But yes, that concludes my portion.

<p style="text-align: right;">74</p> <p>1 MR. HOWE: Okay. Does a 10-minute break 2 sound about right for Council? 3 (No audible response). 4 MR. HOWE: Okay. We'll come back in -- at 5 10:20. 6 (WHEREUPON, a recess was taken.) 7 MR. HOWE: And -- and I'd like to call the 8 meeting back from recess and continue on. 9 Mr. -- or Counsel Ratcliffe, are you with 10 us here? 11 (No audible response). 12 MR. HOWE: We'll wait to make sure he is 13 with us. 14 Counselor Ratcliffe, did you hear me? 15 Yeah, there you are. Okay. 16 MR. RATCLIFFE: Yes. I can hear fine. 17 MR. HOWE: So there has been motions by 18 STOP B2H and Ms. Gilbert to continue the material 19 change hearing date due to inadequate time to review 20 the material changes and the draft of the final 21 order. There is also a response by Idaho Power to 22 retain today's date and a response by Ms. Gilbert to 23 Idaho Power's response. 24 There have been -- there have all been -- 25 or these have all been provided to Council last</p>	<p style="text-align: right;">76</p> <p>1 what that would be, would be a granting of -- of the 2 motion in part, denying it in part. 3 And then once those decisions are made, 4 then we can get into the material change hearing 5 itself. And -- and because these are formal 6 motions, my suggestion would be that there is a 7 formal vote on each of the motions, and then we can 8 proceed. 9 MR. HOWE: Okay. Thank you, Counsel 10 Ratcliffe. 11 Do we have a motion? 12 MR. CORNETT: Mr. Vice Chair -- just for 13 the record, Todd Cornett -- just -- just for 14 clarity, so were you saying that -- that Council 15 should vote on each of the four motions that were 16 submitted individually? Or would a consolidated 17 vote, which it kind of dealt with everything we 18 talked about be sufficient? 19 MR. RATCLIFFE: A consolidate -- yes. 20 Thank you for the clarification. A consolidated 21 motion would be acceptable. And you know -- and, 22 again, if there is any proposed changes from the 23 five-minute period that had been initially proposed, 24 then Council should reflect that in the consolidated 25 motion.</p>
<p style="text-align: right;">75</p> <p>1 Tuesday. 2 Mr. Ratcliffe, can you provide us our 3 options on those? 4 MR. RATCLIFFE: Sure. So the Council can 5 decide to grant or deny the motions that were filed. 6 You know, there were both requests for a 7 continuation of the material change hearing. There 8 were also requests for additional time to present. 9 And Councilmembers, Vice Chair Howe and I 10 had a conversation about the time limits 11 specifically for presentation. Vice Chair Howe's 12 proposal was that the parties each have 10 minutes 13 to present rather than 5 in order to, you know -- 14 because we have a lot of stuff to take care of here 15 in a relatively short period of time. 16 But I went ahead and -- and emailed the 17 parties yesterday to give them a heads up that that 18 was a potential outcome today of having a 10-minute 19 comment period instead of 5. So that is on the 20 table as well. 21 But more broadly speaking, just what the 22 Council needs to do here is decide whether or not to 23 grant the motions or not. And if what ends up 24 happening is a decision to go with a longer time 25 period for comment for each party, then technically</p>	<p style="text-align: right;">77</p> <p>1 MR. CORNETT: Mr. Vice Chair -- 2 MR. HOWE: Yeah -- 3 MR. CORNETT: Again, for the record, Todd 4 Cornett. 5 So we provided Council two options, one to 6 approve the motions and one to deny the motions. 7 But according to Jesse, it didn't include that sort 8 of 5-minute to 10-minute change. So these would 9 potentially not work. But we can tailor them as 10 necessary based on whatever deliberation and 11 ultimately where you're going with that. So ... 12 MR. HOWE: And so this is Kent. But 13 because of the nature of the, I believe, 18 changes 14 that people could comment on, it didn't make sense 15 -- or it doesn't seem that we could in a timely 16 fashion get through about how many people want to 17 comment. One person, if they had the three-minute 18 time period, or so, on each change, that could 19 almost be an hour. 20 And so I'm thinking of this being a 10- 21 minute comment time for these motions. So -- and 22 that will be their time to comment on all the 23 changes if they want to. 24 So if somebody is ready to make a motion, 25 I guess.</p>

<p style="text-align: right;">78</p> <p>1 MR. JENKINS: I'll try. So Mr. Chair, I 2 move that we deny the request for continuation, 3 continue with the material change hearing, and 4 provide those people wishing to testify 10 minutes 5 each to address those changes. 6 MR. HOWE: Is there a second? 7 MS. BEIER: This is Councilor Beier. I 8 second. 9 MR. HOWE: Okay. We had a motion and a 10 second. 11 Secretary Cornett, call a roll. 12 MR. CORNETT: Ann Beier? 13 MS. BEIER: Yes. 14 MR. CORNETT: Perry Chocktoot? 15 MR. CHOCKTOOT: Yes. 16 MR. CORNETT: Cindy Condon? 17 MS. CONDON: Yes. 18 MR. CORNETT: Hanley Jenkins? 19 MR. JENKINS: Yes. 20 MR. CORNETT: Kent Howe? 21 MR. HOWE: Yes. 22 MR. CORNETT: Jordan Truitt? 23 MR. TRUITT: Yes. 24 MR. CORNETT: Motion carried, Mr. Vice 25 Chair.</p>	<p style="text-align: right;">80</p> <p>1 -- as long as we're kind of staying within the 2 scope, I think we're good. But you know, if folks 3 are veering outside of that, then my recommendation 4 is that we, you know, ask them to kind of bring that 5 back in to discussing the specific material changes 6 before us today. 7 MR. HOWE: Okay. Thank you. 8 So we will now hold the material change 9 hearing. For those in person, please fill out a 10 registration card available on the table near the 11 entrance and submit to Sarah Esterson. For those 12 using the WebEx, you'll need to use the Raise Your 13 Hand feature. And for those on the phone only, 14 you'll need to press Star 3, which will alert us 15 that you want to speak. 16 So Mr. Secretary, is there anyone in the 17 room who would like to provide comment? 18 MR. CORNETT: Yes, Mr. Chair. We have two 19 in the room who would like to provide comment. 20 MR. ANUTA: Karl Anuta appearing for STOP 21 B2H. 22 MR. HOWE: Getting the timer going. 23 MR. CORNETT: Yes. For the record, Todd 24 Cornett. 25 For anybody who wishes to provide a</p>
<p style="text-align: right;">79</p> <p>1 MR. HOWE: So we can now hold the material 2 change hearing. 3 Counsel Ratcliffe, do I need to continue 4 on with direction on the registration card signup 5 and that kind of stuff? Or do you have some things 6 you want to say first? 7 MR. RATCLIFFE: So I guess the only thing 8 that I will say before we get started with the 9 registration cards and -- and getting people in line 10 to talk is that this part of the process is, again, 11 limited to the material changes that Ms. 12 Tardaewether presented earlier today because we have 13 reached this point in the process where we are, you 14 know, kind of narrowing down over time before 15 getting to the Council's decision on the final 16 order, you know. For example, in the exceptions 17 hearing, we were -- had narrowed down to discussing 18 the exceptions that limited parties had filed. We 19 weren't talking about the fuller suite of issues 20 that were in the contested case. Well, now, here 21 we're -- we're narrowed down just to those changes 22 to the conditions that constitute material changes. 23 So my advice to the Council is that 24 commenters here really do need to be kept to 25 comments that are on the material changes. And as</p>	<p style="text-align: right;">81</p> <p>1 comment, please ultimately submit a (indiscernible). 2 MR. HOWE: Okay. Mr. Anuta, okay. Go 3 ahead. 4 MR. ANUTA: Okay. Do you want me to -- 5 thank you. 6 Let me start by noting that I am going to 7 only be addressing the -- some specific material 8 changes. STOP is not waiving its exceptions or the 9 prior closing arguments or -- or that we made. 10 Preliminarily, we -- STOP disagrees that 11 the changes made to the rationale for rejecting the 12 conditions that the hearings officer rejected as 13 untimely, we think those should have been a material 14 change rather than an immaterial change that you did 15 not go over in detail. 16 We also disagree with the inclusion of the 17 2019 IRP that it's not material. We think that was 18 material. We argued about that in our exceptions 19 and our closing argument. 20 On the issue of Soil Protection Condition 21 4, which you were looking at earlier, there is 22 language in that blasting plan notification issue 23 that STOP -- changes there that are very problematic 24 for STOP specifically. That last sentence says, 25 "The certificate holder shall compensate the</p>

<p style="text-align: right;">82</p> <p>1 landowner for adequate repair or replacement if 2 damages to the flow or the quality of the natural 3 spring or well occur solely as a result of the 4 blasting." 5 We strongly recommend you remove the word 6 "solely" because it puts the landowner under 7 incredible burden. All Idaho Power has to do is 8 suggest that there might be some other reason, no 9 matter how small, that the landowner can then not 10 prove that the -- and get their repair or 11 replacement damages because the word "solely" 12 appears there. You are adding to the burden of 13 proof in a way you shouldn't there. 14 On scenic resources, the -- at page 316 of 15 the final order, which in my version is PDF page 323 16 if you're trying to follow along online, you made a 17 finding that impacts on a National Historic Oregon 18 Trail Interpretive Center, which everybody calls 19 NHOTIC, were only medium intensity. For the reasons 20 articulated in STOP's and others' closing arguments 21 and for the -- and so aptly demonstrated by Mr. 22 Williams' window view mockup that you were given at 23 your August hearing, STOP strongly disagrees that 24 the intensity finding there should only be medium. 25 We think it should be significant.</p>	<p style="text-align: right;">84</p> <p>1 are, in your final order, granting a variance. 2 We believe that you are committing a legal 3 error by doing that. You should not be granting 4 variance or exceptions. You should be holding Idaho 5 Power to the same standards as every other person, 6 which is to meet those regulations and not have 7 noise fall along the line that exceeds the criteria. 8 Idaho Power has told you before in their 9 materials that if an exception or variance is not 10 granted, they cannot build the line. That's okay. 11 That is what happens if somebody doesn't comply with 12 the law. If I want to build a house and I want to 13 put it too close to the neighbor's property and it's 14 inside the setback that the county requires, I don't 15 get to do that. 16 And so that should be the position that 17 you take with Idaho Power. You should say either 18 meet the rules or don't build the project. We 19 suggest that your findings be amended and revised to 20 state that, that they have to comply. And if they 21 can't, then they'll have to make their own financial 22 choices. 23 Finally, for the reasons that are outlined 24 in our exceptions and closing arguments, we disagree 25 with the finding on page 674 of the final order</p>
<p style="text-align: right;">83</p> <p>1 On noise control, that's going to be my 2 primary focus in your final order at -- the draft at 3 Footnote 725 on page 665, which in my version was 4 PDF 672. You reference a July 2003 DEQ internal 5 management directive. And the draft order then goes 6 on to essentially include an argument that that 7 internal management directive provides a basis for 8 this Council to make and issue exceptions and 9 variances. 10 STOP strongly disagrees. If you actually 11 go look at that internal management directive, it 12 says, "EFSC staff review applications to ensure that 13 proposed facilities meet the state noise 14 regulations." It does not say that they can -- EFSC 15 can create exceptions or grant variances. It says 16 you ensure to meet. 17 You should not be granting variances. 18 Your planning order does so in various places. That 19 authority, as we outline for you in our exceptions, 20 is reserved to the Environmental Quality Commission, 21 and it is reserved by statute. You have no 22 authority to usurp that. 23 The -- even if you have authority to 24 review for compliance with the regulations, only 25 DEQC has authority to grant a variance. And yet you</p>	<p style="text-align: right;">85</p> <p>1 where it concludes that the noise methodology used 2 for excessive noise with reasonable and appropriate 3 and valid. For the reasons we outlined, we don't 4 think it was. 5 Page 684, in note 750, you reference the 6 supplemental monitoring that was conducted. And you 7 state that it didn't invalidate mile post -- excuse 8 me -- Monitoring Point 11. We disagree. For the 9 reasons we outline in our testimony and our closing 10 arguments and our exceptions, we think Monitoring 11 Point 11 was not representative. 12 And on page 694, you reference a finding 13 that foul weather events would be infrequent. As we 14 outlined during our testimony and our closing 15 arguments and our exceptions, that is not true, in 16 our view, for Union County. The -- there will be a 17 13 percent increase that is not, in our view, 18 infrequent. 19 That's all I have in terms of my 20 presentation. As far as questions from the Council, 21 I'm happy to answer them. 22 MR. HOWE: Thank you, Mr. Anuta. 23 Are there questions from Council? 24 (No audible response). 25 MR. HOWE: It doesn't appear so.</p>

<p style="text-align: right;">86</p> <p>1 MR. ANUTA: Can I -- perhaps I could 2 reserve the rest of this time to -- for rebuttal to 3 Idaho Power because I suspect they'll have something 4 to say. 5 MR. HOWE: Okay. I think -- thank you 6 very much. 7 MR. ANUTA: Thank you. 8 MR. CORNETT: Ms. Irene Gilbert? 9 MS. GILBERT: I think you guys can read 10 faster than I can speak. So I'm providing you in 11 writing information that I'm also going to cover. 12 MALE SPEAKER: Thank you. 13 MR. CORNETT: So -- so for the record, 14 Todd Cornett. 15 I wasn't sure what was being handed out. 16 So we're not sure how appropriate it is in terms of 17 this phase of the process so (audio disruption). 18 FEMALE SPEAKER: (Audio disruption.) 19 MR. CORNETT: So I would request that 20 Council not read that yet until legal counsel has a 21 chance to take a look at it. 22 MALE SPEAKER: Okay. 23 MR. ROWE: Ms. Gilbert, do you have this 24 in a format that we could send it to Counsel 25 Ratcliffe as well?</p>	<p style="text-align: right;">88</p> <p>1 MR. RATCLIFFE: So since I don't have the 2 written document in front of me, and my recollection 3 was -- and sorry, this is Jesse Ratcliffe for the 4 purposes of the transcript. So since I don't have 5 those documents in front of me, and my recollection 6 was that the notice was -- said we were -- folks 7 were supposed to provide oral comment either, you 8 know, by filling out -- 9 MR. CORNETT: So excuse me, Jesse. 10 MR. RATCLIFFE: -- everybody showing up -- 11 MR. CORNETT: Can -- can you -- can you 12 lean a little bit in? Once you lean back, we 13 weren't -- we weren't able to hear you. 14 MR. RATCLIFFE: Sure. How's that? And 15 now I look huge, I'm sure. 16 So since my recollection is that the 17 direction to folks was to provide oral testimony, 18 whether that was through a recording or to show up 19 at the hearing or to attend the webinar and do it 20 that way, you know, and because we have limited 21 folks to 10 minutes' worth of material here, my 22 recommendation would be that we, you know, keep this 23 to an oral hearing. 24 I don't know how long Ms. Gilbert's 25 document is. I don't know if that can simply just</p>
<p style="text-align: right;">87</p> <p>1 MS. GILBERT: I can do that on my -- 2 MR. ROWE: That would be -- that would be 3 helpful. He's really the one that should be 4 advising Council on this issue since he's serving as 5 their counsel for this -- this purpose. 6 MR. CORNETT: (Audio disruption.) here. 7 We could move to the webinar in case the next person 8 that's listed on the webinar. 9 So Idaho Power (inaudible) in the room 10 will ultimately want to comment, but they're going 11 to wait until the end. 12 MR. HOWE: Okay. So Mr. Adams, is there 13 people on the webinar or on the phone that would 14 like to comment? 15 MS. GILBERT: (Audio disruption) it's a 16 big process. And they don't even -- aren't even 17 willing to participate. 18 MR. ADAMS: No, no hands raised at this 19 time. 20 MR. HOWE: Okay. And also, no phone, Star 21 3s? 22 MR. ADAMS: No. 23 MR. HOWE: Okay. 24 MALE SPEAKER: Wait for Irene. 25 MR. HOWE: Counsel Ratcliffe?</p>	<p style="text-align: right;">89</p> <p>1 be read into the record so that everyone has an 2 opportunity to hear it. You know, Idaho Power does 3 have an opportunity to comment on the other parties' 4 comments on the material changes as well. And so, 5 you know, having that in written form may make that 6 difficult for folks. 7 So that's my suggestion about how we move 8 forward. Again, I -- I haven't seen that yet. 9 MR. HOWE: It's over 20- -- this is Kent. 10 MR. JENKINS: It's 20- -- 21 or 22 pages. 11 MR. HOWE: Yeah, 21 or 22 pages. It's a 12 lot of testimony in writing. 13 MR. RATCLIFFE: Okay. Yeah. So -- so my 14 suggestion would be that we keep this to oral 15 testimony only. 16 MR. HOWE: Okay. Ms. Gilbert? 17 MS. GILBERT: Okay. 18 MR. HOWE: You've heard that we're 19 accepting oral testimony. 20 MS. GILBERT: Okay. And for the record, 21 I'm unable in ten minutes to respond to most of the 22 material changes, which I object. There is not even 23 a listing with site certificate conditions related 24 to the statutes other than those containing 25 contested case requests.</p>

<p style="text-align: right;">90</p> <p>1 Anyway, multiple site certificate 2 conditions are being denied. They were not reviewed 3 by Council. And neither of the contested cases is 4 not in and of itself, especially given the limited 5 scope of the contested cases, address the site 6 certificate conditions necessary to approve a site 7 certificate. 8 And any comments regarding my lack of 9 specificity in these comments are referenced by my 10 written material that's been previously submitted. 11 I have not been provided an opportunity to go to 12 review the bulk of the material in the proposed 13 order. I do not believe that the limitation on the 14 number of "significant changes" that were listed by 15 Oregon Department of Energy is inclusive of all the 16 significant changes which would -- should be 17 reviewed at this point. 18 I've heard -- received -- you -- you 19 received hundreds of comments from the -- regarding 20 Oregon Department of Energy and the Idaho Power 21 regarding this application in (indiscernible) that 22 ODOE is owned by Idaho Power due to the fact that 23 they're paid directly by them. And simply adding 24 additional justification to support decisions that 25 ODOE has made is not appropriate in this instance</p>	<p style="text-align: right;">92</p> <p>1 certificate absent a preponderance of evidence that 2 the (indiscernible) does meet the standard. And 3 that standard is required to be determined by the 4 Council. 5 I know that ODOE keeps referencing the 6 fact that Council referred there's no requirements 7 to ODOE. It's -- the legislature intended to allow 8 ODOE to make the eligibility decisions, which is 9 what is occurring if the final plans are not in 10 final form. When the site certificate is issued, 11 then the Council is advocating the decision-making 12 regarding the meaning of the standard, which is 13 contrary to state law. 14 The -- some of the specific arguments 15 regarding -- and, actually, a court case relating to 16 this plan issue is Goldberg (phonetic) versus 17 Deschutes County, which say -- stated that the plans 18 must be in final form, and there must be a right to 19 full public participation in those plans. 20 If you will notice, the things like with 21 historic properties where the plan is not finalized, 22 it does not include site-specific impacts or site- 23 specific mitigation. That is inconsistent with the 24 requirements of the -- the rules and the statutes. 25 And when it comes to -- anyway, the buyer</p>
<p style="text-align: right;">91</p> <p>1 and especially since Council did not review those 2 issues to determine if they are, in fact, accurate. 3 I actually question the -- how the Council 4 is reaching the (indiscernible) skills and abilities 5 to review some of these technical issues that would 6 be required to review. And that's not -- that isn't 7 any kind of divisive statement. It's just a 8 statement of fact. 9 I spent the last 12 years reviewing 10 statutes and rules. And I can tell you that I am 11 confident saying that I have a better grasp of the 12 statutes, rules, and court decisions than any of the 13 Councilmembers. Unfortunately, the only member here 14 who probably will be present when the results of 15 these decisions come to (indiscernible) will be 16 Hanley Jenkins. But the rest of you will, no doubt, 17 be gone from the Council because this is going to 18 impact many, many years of litigation. 19 In all of the instances where site 20 certificates were approved with only a draft plan, 21 that is inconsistent with the statute that requires 22 the final draft plan be included with the site 23 certificate. And any time the draft plan does not 24 fully implement the requirements of the rule, the 25 site certificate is actually authorizing the site</p>	<p style="text-align: right;">93</p> <p>1 for Public Services Condition 2 for multiple 2 instances, any instance where the final plan does 3 not show a preponderance of evidence, it shows that 4 the standard is being that the Council is delegating 5 authority illegally based on the statutes. 6 And they would have -- they would removed 7 or changed the rules that say that Council is the 8 party who must make the determination if they 9 intended Council to be able to send that to the 10 Department. 11 So with the bond, the arguments have all 12 been related to only a part of the statute or rule. 13 Idaho Power and ODOE keep talking about the fact 14 that the Council was fine that the applicant has a 15 reasonable likelihood of obtaining a bond or the 16 credit that are satisfactory to the Council. But 17 they omit the rest of the sentence, which is "to 18 restore the site to a useful, nonhazardous 19 condition." 20 So my question is: Is the Council willing 21 to swear that \$1 bond amount is an amount that you 22 believe is adequate to restore the site to a useful, 23 nonhazardous condition? Because certainly that's 24 going to be a question that you'll be -- you have to 25 answer, I guess, by court if you -- if you don't</p>

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1 change the -- the bond requirement.
 2 The -- in terms of the noise rules, the
 3 noise rules are broken down to the extent that none
 4 of the issues can be fully covered. The courts have
 5 said that, in contested cases, the -- the scope of
 6 the contested case issue cannot be so narrow that it
 7 excludes arguments related to the issue, which is
 8 what has occurred multiple times in this -- in these
 9 contested case decisions.
 10 Also, for the noise rules, this -- the
 11 statute says the environmental -- Department of
 12 Environmental Quality is required by statute to
 13 determine the equipment, the location of monitoring,
 14 methodologies, or interpretation of results. There
 15 is no documentation that the methods, location,
 16 interpretation of results that were used by Idaho
 17 Power and approved by ODOE actually are consistent
 18 with that statute.
 19 And in review of the court -- court
 20 decisions, there are multiple locations that say
 21 that no agency has the authority to interpret the
 22 rules of another agency. They are -- they are given
 23 deference when it comes to interpretation of the
 24 rules and standards, statutes (indiscernible) by
 25 that agency. And even that has some limitations on

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1 it because, for instance, the statute or rule has to
 2 be -- it has to not be clear what the statute or
 3 rule is saying. And so there are more than one
 4 reason the Oregon Department of Energy should not be
 5 recommending changes to other agency rules.
 6 Let's see. Oh, on noise, another thing is
 7 Patrick Rowe provided a document that -- from the
 8 legislature which specifically says that the noise
 9 rules do not preclude the opportunity for the public
 10 to file a civil action against people who are
 11 exposing them to -- or to excess noise.
 12 So my question is: There are going to be
 13 people among that 41 who will be, from what I can
 14 tell, who have the intent to file for damages based
 15 on noise. And the question that, hopefully, your
 16 legal counsel will answer is the: Does your
 17 authorization of an exception and to these rules
 18 mean that Idaho Power is no longer liable for the
 19 damages? Does that mean that the State of Oregon is
 20 personally -- is, as an agency, responsible for
 21 these impacts when the citizens actually do file for
 22 civil damages? So I -- I would think you would want
 23 to determine that before you allow an exception.
 24 Let's see. The other thing is, on the
 25 forest definition, I provided that we haven't seen

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1 our filing with the Oregon -- the Land Use -- LCDC,
 2 a public complaint, and requirement that LCDC deal
 3 with Union County's failure to apply the state laws
 4 regarding definition of "forest land." You'll see
 5 that as an appeal here.
 6 You -- I also am questioning because there
 7 are owners of forested land who is -- where it's
 8 being called agricultural land where mitigation is
 9 not going to be consistent with what it should be.
 10 Who will be the recipient of litigation when
 11 property owners say that, because of decisions that
 12 ODOE and EFSC made to allow the developer to call
 13 forested land agricultural land not deal with --
 14 with the rules regarding forest land --
 15 MR. HOWE: Ms. Gilbert?
 16 MS. GILBERT: Yes.
 17 MR. HOWE: Time's up.
 18 MS. GILBERT: Who's going to be sued?
 19 Someone's going to be sued.
 20 Anyway, I -- I encourage you to read my
 21 (inaudible) determination request. It's clear that
 22 most of you have relied on (inaudible) Department of
 23 Energy, have not read the actual --
 24 MR. HOWE: Thank you for your testimony.
 25 Is there --

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1 MS. GILBERT: Thank you.
 2 MR. HOWE: -- comments or questions --
 3 MS. GILBERT: Oh, yes.
 4 MR. HOWE: -- Ms. Gilbert from the
 5 Council?
 6 MS. GILBERT: I'm happy to. Yes.
 7 MR. HOWE: Councilor --
 8 MS. CONDON: Cindy Condon, for the record.
 9 A question for you with respect to your
 10 comment regarding material that Mr. Rowe provided
 11 that doesn't include --
 12 MS. GILBERT: Right.
 13 MS. CONDON: -- the 41 from -- from
 14 challenging and --
 15 MS. GILBERT: Right.
 16 MS. CONDON: It's not clear to me why you
 17 relate the State of Oregon would be the responsible
 18 party as opposed to Idaho Power.
 19 MS. GILBERT: Okay. Because the Oregon
 20 Department of Energy in the State of Oregon have --
 21 are proposing that they allow an exemption from
 22 Idaho Power meeting the requirements of the Oregon
 23 statutes and rules regarding noise generation.
 24 So if the state has allowed the -- this
 25 exception, then who would be the target of -- of

<p style="text-align: right;">98</p> <p>1 litigation, given that the legislature has said that 2 the noise rules have no impact on the fact that 3 citizens can't file a civil action when they are 4 exposed to noise above the standard? 5 So I'm -- I'm guessing that Idaho Power is 6 going to argue that ODOE is responsible for this 7 because you allowed them to do it. So why should 8 they be held accountable for the outcome? That's 9 the thinking. 10 And I would think you would want legal 11 (inaudible). 12 MS. CONDON: Thank you. 13 MS. GILBERT: Anything else? 14 MR. HOWE: Any other questions? 15 (No audible response). 16 MR. HOWE: Okay. Thank you, Ms. Gilbert. 17 So Mr. Secretary is there anyone else in 18 the room that would like to comment? 19 MR. CORNETT: Mr. Vice Chair, nobody on 20 the line or on the phone. So that leaves it to 21 Idaho Power. 22 MR. HOWE: Okay. Ms. Pease? 23 MS. PEASE: Thank you. Good morning, Vice 24 Chair Howe and Councilmembers, Secretary Cornett. 25 For the record, my name is Jocelyn Pease.</p>	<p style="text-align: right;">100</p> <p>1 And ODOE, along with the state and local reviewing 2 agencies, has spent countless hours reviewing the 3 exhibits to the allocation for site certificate and 4 participating in meetings to review (indiscernible) 5 the analysis in those exhibits and the related 6 construction and mitigation plans. 7 Ms. Gilbert had commented that some of 8 those mitigation plans are in draft form and will be 9 finalized. And that approach is consistent with the 10 Council's rules. That -- and -- and in -- in most 11 cases, the draft plan includes a process at the 12 front end for finalizing and vetting those plans 13 with the -- the -- the agencies. 14 And that's all to say that, through this 15 -- through this effort, through this years-long 16 process, ODOE and reviewing the agencies provided 17 important feedback that substantively contribute to 18 the plans that are included as the attachments to 19 the draft final order. 20 I'd also like to recognize the involvement 21 of the participants in the contested case 22 proceeding. Although the parties have objected to 23 certain elements of the proposed order, they had the 24 opportunity to voice their concerns in the contested 25 case process.</p>
<p style="text-align: right;">99</p> <p>1 I'm here today on behalf of Idaho Power Company. 2 I'd like to begin by first noting that 3 Idaho Power does not have any opposition to the 4 material changes that were included in the draft 5 final order. And we'd like to also recognize the 6 hard work that the Council, ODOE, and all of the 7 reviewing agencies have put into this project for 8 the past 10 years. 9 There's been a lot of recent focus in this 10 contested case proceeding -- sorry -- there's been a 11 lot of recent focus on the contested case proceeding 12 and the outcome of that proceeding. But I'd like to 13 also emphasize the B2H project has a long history 14 even before the contested case began. 15 Ms. Gilbert shared some comments about 16 ODOE not necessarily having technical expertise in 17 connection with all of the subject matter that the 18 application might address. But I would like to also 19 note there had been many rounds of review -- review 20 requests for additional information and 21 collaborative work with ODOE and the reviewing 22 agencies that contributed to the development 23 application for site certificate. 24 It has taken a considerable amount of time 25 and resources and hard work to get to this point.</p>	<p style="text-align: right;">101</p> <p>1 During the course of the two-year-long 2 contested case, Idaho Power voted to further analyze 3 the contested case issues raised by limited parties 4 and were warranted provided additional analysis and 5 revised condition plan language. That's just one 6 example on many. 7 For the recreational analysis, the limited 8 parties have raised concerns about potential impacts 9 -- 10 (Simultaneous speaking.) 11 MS. PEASE: -- and Morgan Lake Park. In 12 response to those concerns, Idaho Power provided a 13 supplemental analysis and, in fact, expanded its 14 proposed mitigation and -- to use the shorter H- 15 frames in that area. And the -- this change is 16 reflected in material change to Recreation Condition 17 1, and Idaho Power supports that change. 18 As shown in the staff report, there were 19 also numerous other such changes, which Idaho Power 20 also supports. As a result of this process, the 21 Council has a robust record before it on which it 22 can approve the final order and the site certificate 23 for B2H. 24 B2H project was first proposed over 10 25 years ago but is needed now more than ever. Once</p>

<p style="text-align: right;">102</p> <p>1 operational, the project will help make the Pacific 2 Northwest and (indiscernible) west cities needs for 3 reliable, low-cost market energy purchases year- 4 round. It is expected to provide a total of 2,050 5 megawatts of bidirectional capacity. 6 It will provide many benefits, including 7 greater access to the Pacific Northwest electric 8 market, improve system reliability resiliency, 9 reduce capacity limitations on the regional 10 transmission system, (indiscernible) flexibility to 11 integrate renewable resources and more efficiently 12 implement its market tools, such as the energy and 13 balance movement. 14 Importantly, the development of the B2H 15 project will meet critical need for transmission 16 capacity in the Oregon Northwest region and will 17 help enable the State of Oregon to meet its clean 18 energy and climate goals. Among the benefits B2H 19 project will provide is the ability to integrate 20 renewable resources more efficiently. 21 Now, in -- in connection with some of the 22 comments that folks have shared today, I wanted to 23 specifically address the comments from STOP B2H 24 regarding the Soil Protection Condition 4. They're 25 asserting they had expressed concern of our use of</p>	<p style="text-align: right;">104</p> <p>1 I -- in connection with Ms. Gilbert's comments, as I 2 mentioned earlier, she expressed concerns about 3 whether there's technical expertise. And as I 4 mentioned, ODOE has also been supported by reviewing 5 agencies and consultants throughout this process. 6 And the Council should feel comfortable that there's 7 been a substantial and thorough vetting of the 8 allocation for site certificate in this case. 9 Ms. Gilbert had also expressed concern 10 about the time available to review the material 11 changes. As -- as was explained by staff and 12 Counsel Ratcliffe today, the material changes were, 13 in fact, quite discreet. And we believe that there 14 was ample time to review those -- those changes. 15 In -- in connection with Ms. Gilbert's 16 comments regarding the retirement and financial 17 assurances condition, the Council has -- has 18 revisited that condition and has -- has included 19 revised language that will provide the -- the 20 Council the opportunity that determines the risks -- 21 that there is some amount of risk. But it may 22 require the bond amount sooner than is contemplated 23 otherwise in that condition, which we believe 24 adequately addresses the concerns raised by Ms. 25 Gilbert.</p>
<p style="text-align: right;">103</p> <p>1 the word "solely" in that condition. 2 And -- and Idaho Power would be open to 3 different language, such as "caused by" so that the 4 -- the condition language is clear that the -- the 5 impacts that are claimed and for which damages may 6 be sought are in connection with the project. 7 I -- I'd say we're fine with the language 8 as it stands right now. That's our understanding of 9 how the condition would operate. But if the Council 10 are inclined to make a change, we would be 11 comfortable with changing "solely" to something like 12 "caused by" so there's still a clear (audio 13 disruption) with the project. 14 Mr. Anuta also raised a number of concerns 15 regarding the noise-related issues and regarding the 16 findings in connection with the (indiscernible). 17 And in response to those concerns, I would 18 just say these -- these issues have been addressed 19 in testimony and extensively briefed on the record 20 in this contested case. And we believe that the -- 21 the evidence in the record supports the findings 22 that are in the draft -- I'm sorry -- in the draft 23 final order. And the -- the Council can be 24 comfortable in -- in supporting the final order. 25 In connection with Ms. Gilbert's comments,</p>	<p style="text-align: right;">105</p> <p>1 With that, I would conclude my remarks. 2 And thank the Council for their engagement and 3 attention in this matter and, again, thank ODOE and 4 the reviewing agencies and stakeholders who 5 participated in this case and ask that the Council 6 approve the final order and site certificate 7 beginning today. 8 Thank you. 9 MR. HOWE: Questions from Council? 10 MR. JENKINS: Jocelyn, before you -- 11 MR. HOWE: Councilor Jenkins? 12 MR. JENKINS: Yeah. Ms. Pease, so you 13 agree that there's an opportunity to replace the 14 word "solely" in the Soil Protection Condition 15 number 4 with the words "caused by." So the 16 certificate holder shall compensate the landowner 17 for adequate repair or replacement if damages to the 18 flow or quality of the natural spring or well is 19 caused by blasting? 20 MS. PEASE: It -- 21 MR. JENKINS: Is that -- 22 MS. PEASE: Yeah -- 23 MR. JENKINS: Is that what -- 24 MS. PEASE: -- by -- by blasting in 25 connection with the project. And I think that's</p>

106	<p>1 right. I apologize. It's not a precise --</p> <p>2 MR. JENKINS: Right.</p> <p>3 MS. PEASE: -- precise --</p> <p>4 MR. JENKINS: Replacement.</p> <p>5 MS. PEASE: -- (inaudible).</p> <p>6 MR. JENKINS: Thank you.</p> <p>7 MR. HOWE: Any other questions?</p> <p>8 Councilor Condon?</p> <p>9 MS. CONDON: Question just to follow up</p> <p>10 there. So do you believe there's a significant</p> <p>11 difference between "solely" and "caused by"?</p> <p>12 MS. PEASE: I -- I understood Mr. Anuta's</p> <p>13 point to be a concern that we were shifting a burden</p> <p>14 onto the landowner, that they -- they would somehow</p> <p>15 have to prove that the only contributing factor to</p> <p>16 -- to the damages would be the blasting to the</p> <p>17 exclusion of any other factors.</p> <p>18 And I think we understand and would agree</p> <p>19 that, if there is damage that is caused by the</p> <p>20 project, and that can be shown to be caused by the</p> <p>21 project, that that would be sufficient. So I -- I</p> <p>22 do think that there is a distinction there.</p> <p>23 MS. CONDON: Okay. Thank you.</p> <p>24 I have a question just --</p> <p>25 MR. HOWE: Okay.</p>	108
107	<p>1 (No audible response).</p> <p>2 MR. HOWE: Okay. Thank you, Ms. Pease.</p> <p>3 MS. PEASE: Thank you.</p> <p>4 MR. HOWE: So that closes the hearing, the</p> <p>5 material change hearing. And so now we're at the</p> <p>6 last portion of the agenda item. And I think we're</p> <p>7 ready for Mr. -- or Counsel Ratcliffe to walk us</p> <p>8 through the hearing to adopt the final order.</p> <p>9 MR. HOWE: We can't --</p> <p>10 MR. RATCLIFFE: Sorry.</p> <p>11 MR. HOWE: Oh, there we go.</p> <p>12 MR. RATCLIFFE: I think I know better by</p> <p>13 now.</p> <p>14 So one clarification -- this is Jesse</p> <p>15 Ratcliffe, for the record -- one clarification -- so</p> <p>16 we have that -- that language changed to "is caused</p> <p>17 by." And perhaps I just wasn't hearing very well,</p> <p>18 but I just wanted to make sure that that was</p> <p>19 something that we had a head nod on that we were</p> <p>20 including in the final draft here.</p> <p>21 MR. HOWE: I don't think we formally did</p> <p>22 that. So let's see if there is head not agreement</p> <p>23 that word change from "solely" to "caused by" on</p> <p>24 Condition 4 of the Soil Protection standard.</p> <p>25 MS. GILBERT: This is a significant change</p>	109
106	<p>1 MS. CONDON: -- related to Ms. Gilbert's</p> <p>2 -- Cindy Condon, for the record -- so related to my</p> <p>3 question to Ms. Gilbert with respect to the</p> <p>4 exception in the draft --</p> <p>5 MALE SPEAKER: Right.</p> <p>6 MS. CONDON: -- right of -- of some --</p> <p>7 more than 41 to -- to sue. I'm curious what your</p> <p>8 thoughts would be with respect to any exception, and</p> <p>9 whether that really shifts the burden to the state</p> <p>10 as opposed to Idaho Power.</p> <p>11 MS. PEASE: I -- I would need to check</p> <p>12 with my team on that. And I could get back to you</p> <p>13 on a verdict there. I'm not sure that we have an</p> <p>14 official comment on that issue. I'm just, actually,</p> <p>15 going to beckon her and and get back to you.</p> <p>16 MR. HOWE: So while they're conferring,</p> <p>17 nobody's on the line. And (audio disruption) --</p> <p>18 MR. CORNETT: I think at this point --</p> <p>19 just in case.</p> <p>20 MR. HOWE: Yeah. Okay.</p> <p>21 MS. PEASE: Thank you for that break.</p> <p>22 I understand we do not have a position on</p> <p>23 that yet.</p> <p>24 MS. CONDON: Okay. Thank you.</p> <p>25 MR. HOWE: Any other questions?</p>	<p>1 we should be allowed to respond to.</p> <p>2 MR. HOWE: Any --</p> <p>3 MR. JENKINS: So this is Hanley. And I</p> <p>4 think -- is the word "is" still part of that?</p> <p>5 Natural spring --</p> <p>6 MR. RATCLIFFE: It looks like it might</p> <p>7 need to be an "are" there.</p> <p>8 MR. JENKINS: Flow or quality of the</p> <p>9 natural spring or well -- I think it should be just</p> <p>10 -- just "caused by blasting." There you go.</p> <p>11 MR. RATCLIFFE: Councilmember Jenkins, I</p> <p>12 think -- so it's -- if -- if damages to the flow or</p> <p>13 quality of the natural spring or well, and then I</p> <p>14 think that should probably be "are caused by</p> <p>15 blasting" --</p> <p>16 (Simultaneous speaking.)</p> <p>17 MR. HOWE: Councilor Beier?</p> <p>18 MS. BEIER: Thank you. This is Ann Beier,</p> <p>19 for the record.</p> <p>20 I think "caused by" is a much better term</p> <p>21 than "solely," and I think it does address the</p> <p>22 issue. It -- it does still suggest a burden on the</p> <p>23 property owner on establishing that causal</p> <p>24 relationship.</p> <p>25 That having been said, I don't have better</p>

110	<p>1 language. I think it is better than "solely." I</p> <p>2 thought about "related to," but that's kind of</p> <p>3 squishy. I think we get into squishiness. But I</p> <p>4 think "caused by" is less of a burden than "solely,"</p> <p>5 so just for the record.</p> <p>6 MR. HOWE: Okay. Do we -- Councilor</p> <p>7 Condon?</p> <p>8 MS. CONDON: Thank you. Cindy Condon, for</p> <p>9 the record.</p> <p>10 I agree with what Councilmember Beier</p> <p>11 said. It -- is it (audio disruption) that "caused"</p> <p>12 does --</p> <p>13 MS. BEIER: Yeah.</p> <p>14 MS. CONDON: It's not much different than</p> <p>15 "solely" to me. I was wondering if "impacted by" --</p> <p>16 MR. TRUITT: As a result of?</p> <p>17 MS. CONDON: I guess we -- and I -- I'm</p> <p>18 not there with blasting. But it seems to me that</p> <p>19 action by the property owner might have some cause.</p> <p>20 But if the blasting made wells collapse or -- or</p> <p>21 springs collapse, the -- the -- I mean, it seems</p> <p>22 like the applicant could say, well, it wasn't caused</p> <p>23 -- it -- it wasn't caused by us.</p> <p>24 MS. BEIER: Yeah.</p> <p>25 MS. CONDON: So ...</p>	112	
111	<p>1 process. So ...</p> <p>2 MR. JENKINS: Yeah. Does that --</p> <p>3 (Simultaneous speaking.)</p> <p>4 MS. CONDON: Yes.</p> <p>5 MR. HOWE: -- that terminology "caused</p> <p>6 by"?</p> <p>7 MS. CONDON: Yes. Thank you.</p> <p>8 MR. HOWE: Okay --</p> <p>9 MR. CORNETT: Mr. Vice Chair, just one</p> <p>10 more, so procedural -- so Jesse, this is for you.</p> <p>11 So this change was made during the material change</p> <p>12 hearing. Does this change itself constitute the</p> <p>13 material change necessitates some ability to</p> <p>14 respond? And I'll look at Jesse to answer that</p> <p>15 question.</p> <p>16 MR. RATCLIFFE: Yes. Thank you, Secretary</p> <p>17 Cornett.</p> <p>18 So I -- I admit I can't remember the</p> <p>19 terminology that was suggested by Mr. Anuta. I</p> <p>20 think if we -- if there was some difference between</p> <p>21 that and what Ms. Pease suggested, it would be fine</p> <p>22 to have Mr. Anuta just weigh in with his thoughts</p> <p>23 here. And -- and, again, if -- if this is pretty</p> <p>24 much the same language, well, then we're all fine.</p> <p>25 But if there's a difference, I think it's fine to</p>	113	
110	<p>1 MR. JENKINS: So this is Hanley. What</p> <p>2 we've done is we set up a process on where, if</p> <p>3 there's risk, there is a front-end evaluation done.</p> <p>4 That's the first part --</p> <p>5 MS. BEIER: Before and after.</p> <p>6 MR. JENKINS: You do a before assessment.</p> <p>7 MS. CONDON: Yeah.</p> <p>8 MR. JENKINS: And so the presumption here</p> <p>9 is that there has to be an after assessment after</p> <p>10 the blasting, presumably close to after the</p> <p>11 blasting. And so that's the "caused by" effect.</p> <p>12 And I don't know how, without prescribing</p> <p>13 a very elaborate process, to do that. I think a</p> <p>14 negotiation between the applicant and the landowner</p> <p>15 will evaluate whether the cause was from blasting.</p> <p>16 MR. CORNETT: Mr. Vice Chair -- for the</p> <p>17 record, Todd Cornett -- and since this is a</p> <p>18 condition of approval, is there -- if there is</p> <p>19 disagreement, that could ultimately come to the</p> <p>20 Council for your evaluation. And so evidence and</p> <p>21 facts would be presented by both the landowner and</p> <p>22 Idaho Power to ultimately. And maybe it would go to</p> <p>23 staff. Maybe we would bring it up to counsel. But</p> <p>24 ultimately, it could go to Council for your</p> <p>25 evaluation on that without describing the specific</p>	<p>1 have him give his thoughts.</p> <p>2 MR. HOWE: Mr. Anuta?</p> <p>3 MR. ANUTA: I'm happy to address that.</p> <p>4 MR. HOWE: Council, shall we limit the</p> <p>5 comments to three minutes or --</p> <p>6 MR. JENKINS: Yeah. I would suggest we</p> <p>7 limit to three minutes. I think we're being very</p> <p>8 generous here because the -- the issue is whether or</p> <p>9 not this is a material change. And the definition</p> <p>10 of "material change" is a substantive change. I'm</p> <p>11 not sure that the difference between "caused by" and</p> <p>12 "solely" is -- really is that material. But I would</p> <p>13 be happy to let Mr. Anuta --</p> <p>14 MR. HOWE: Yeah.</p> <p>15 MR. JENKINS: -- get his three minutes.</p> <p>16 MR. HOWE: Is the Council comfortable with</p> <p>17 three-minute time limit?</p> <p>18 (No audible response).</p> <p>19 MR. HOWE: Okay. Just a minute.</p> <p>20 MR. JENKINS: Perry's got his -- nodding</p> <p>21 his -- his head, too. So ...</p> <p>22 MR. HOWE: Okay. Thank you, Councilor</p> <p>23 Chocktoot.</p> <p>24 MR. ANUTA: Councilmembers, Karl Anuta</p> <p>25 representing STOP B2H.</p>	113

<p style="text-align: right;">114</p> <p>1 My suggestion had been to simply remove 2 the word "solely" so that the sentence would read 3 "will occur as a result of." This change proposed 4 by Idaho Power to "caused by," assuming that you are 5 adopting the common law definition of "caused by" to 6 mean is a significant material factor in the change, 7 then we're fine with that because it's -- it -- that 8 is a normal standard of proof in any proceeding. 9 That would be the standard you would have to apply 10 if this dispute came back before you, is the -- is 11 it a significant contributing factor. That's what 12 "cause" is usually interpreted by the courts to 13 mean. 14 So using that definition, we will be 15 acceptant of the changes that Idaho Power 16 (inaudible). 17 MR. HOWE: Thank you. 18 MS. BEIER: Thank you. Very helpful. 19 MR. HOWE: Okay. Do we need to have -- 20 MR. CORNETT: I think (audio disruption) 21 to Jesse to see if -- 22 MR. HOWE: Yeah. 23 MR. CORNETT: -- other parties are 24 accorded the same ability to respond. 25 MR. HOWE: Yeah. Counsel Ratcliffe, do we</p>	<p style="text-align: right;">116</p> <p>1 litigation issues occurring around wind farms where 2 the vibration of the wind farms is causing long-term 3 damages to wells and springs, which aren't even 4 obvious until several years down the line. 5 So I think that the -- the reference 6 regarding "caused by" needs to make it clear that 7 these impacts aren't being assessed immediately 8 after the blasting occurs, that they may occur 9 sooner or later in the process. 10 So that would be my comment regarding 11 this. Thank you. 12 MR. HOWE: Thank you. 13 Any questions? 14 MS. CONDON: Yes. 15 MR. HOWE: Question or comment? 16 MS. CONDON: So because the -- I'm Cindy 17 Condon, for the record -- because the language is 18 silent as to timing, does that not work? That -- I 19 mean, there's no time limit. 20 MS. GILBERT: Well, I think Hanley Jenkins 21 stated that the evaluation would occur shortly after 22 the blasting occurred. And if that's an 23 interpretation that can be made based on the 24 language of this, then I don't think that's an 25 appropriate interpretation. And I think it's a</p>
<p style="text-align: right;">115</p> <p>1 need Idaho Power to have an opportunity to comment 2 there? 3 MR. RATCLIFFE: So I -- I think we've, you 4 know, reached agreement on this. I don't know that 5 there's anything that we need to hear from Idaho 6 Power again. I -- you know, again, I'll leave it up 7 to the Council. It sounds like we were kind of 8 coalescing around that phrasing. I -- I think if 9 that's where we've landed, then that -- that's fine. 10 MR. HOWE: Okay. Let's do -- oh, Ms. 11 Gilbert -- 12 MS. GILBERT: This is -- 13 MR. HOWE: -- you have an opportunity -- 14 MS. GILBERT: -- a significant change I 15 would like to comment on. 16 MR. HOWE: Okay. You've got three 17 minutes. 18 Can you get the timer up? 19 Hold on for just a minute until the 20 clock's going. Okay. 21 MS. GILBERT: I agree that the change from 22 "solely" to "caused by" is an improvement. However, 23 many of the impacts that occurs as a result of 24 blasting occur many months or sometimes years down 25 the road. I know there are currently several</p>	<p style="text-align: right;">117</p> <p>1 legal standing needs to make it clear that this is 2 not an immediate impact issue. It may be a long- 3 term impact. 4 And as long as the property owner can show 5 causality, i.e., the blasting, blasting often is 6 going to disrupt the -- the -- the structure of the 7 soils. And in the long term, it may end up that 8 that -- that destruction of soil structure may 9 create a situation where wells are -- are either 10 polluted or -- or they quit working entirely. 11 I know in the Columbia Basin there are 12 lots of concerns because of the stratosphere. The 13 nature of water is you may cut through -- or there 14 may be a break between one section of water and 15 another where -- where (audio disruption) stand up 16 and dispersing, and that can occur over a long term 17 when it comes to damages to rock. 18 MS. CONDON: Thank you. 19 MR. HOWE: Any other questions of Ms. 20 Gilbert? 21 (No audible response). 22 MR. HOWE: Okay. Thank you. 23 MS. GILBERT: Mm-hmm. 24 MR. HOWE: Counsel Ratcliffe, so does that 25 change? Do we need a head nod or actual vote --</p>

<p style="text-align: right;">118</p> <p>1 polling of the Council for the changing "solely" to 2 "caused by"?</p> <p>3 MR. RATCLIFFE: I -- I think at this point 4 we're (audio disruption) just in head nods. And I 5 think we're going to move on to the -- the final 6 motions here.</p> <p>7 MR. HOWE: Council good?</p> <p>8 MALE SPEAKER: Yes.</p> <p>9 MS. CONDON: Just a --</p> <p>10 MR. HOWE: Councilor Condon?</p> <p>11 MS. CONDON: Cindy Condon. 12 Just -- just a comment, I guess, different 13 from Councilmember Jenkins that I believe because 14 the language is silent that it is open-ended. So 15 ...</p> <p>16 MS. BEIER: Yeah.</p> <p>17 MR. JENKINS: Yep.</p> <p>18 MR. HOWE: And okay. We've got head nods 19 here.</p> <p>20 Councilor Chocktoot? 21 Got a head nod there, so unanimous. 22 Counsel Ratcliffe, so I guess if you could 23 walk us through the -- the next portion of adopting 24 the final order.</p> <p>25 MR. RATCLIFFE: Sure. Okay. And so if we</p>	<p style="text-align: right;">120</p> <p>1 complies with the requirements of the Siting Council 2 statutes, what the standards adopted by the Council, 3 and with all other Oregon statutes and 4 administrative rules identified in the second 5 amended project order. And because -- again, with 6 the way this is written, because it has satisfied 7 these requirements, that a site certificate can be 8 issued.</p> <p>9 The final component here is that the Chair 10 executes the certificate authorizing the applicant 11 to construct, operate, and retire the facility 12 subject to the conditions set forth in the site 13 certificate.</p> <p>14 So that is the decision that you have 15 before you as reflected in the draft final order. 16 Again, we've made a couple of changes here based on 17 the material change hearing. Those will be 18 reflected in an updated version. And that updated 19 version will be the one that the Vice Chair in this 20 case would be executing.</p> <p>21 And so that then could be the basis of a 22 motion to approve. And you also have the -- the 23 chance at this point to have, you know, any -- any 24 further deliberation in relation to a potential 25 motion here on a final decision.</p>
<p style="text-align: right;">119</p> <p>1 have the statutes pulled up here and -- that 2 provides that -- well, where I'll start with is that 3 the language kind of halfway down the Council -- 4 whoa, okay.</p> <p>5 Thank you.</p> <p>6 So it says the Council may amend or reject 7 the proposed order, so long as the Council provides 8 public notice of its hearing, provides an 9 opportunity for the applicant and any party to 10 comment on material changes. So that's what we've 11 just done.</p> <p>12 And -- and so then that brings us now to 13 the -- the Council is to either approve or reject an 14 application for the site certificate. And now we 15 can go on to the next slide.</p> <p>16 And so what's being pulled up here is a 17 part of the draft final order. And this is the part 18 of the draft final order that is -- you know, that 19 -- the operative part in the end. So these are the 20 findings that the Council would be making there 21 referred to in administrative laws the ultimate 22 findings that are necessary to support the order.</p> <p>23 So the draft that you have before you 24 finds the preponderance of evidence on the record 25 supports that the proposed transmission line</p>	<p style="text-align: right;">121</p> <p>1 MR. HOWE: Thank you, Counsel Ratcliffe. 2 Questions of counsel? 3 Councilor Condon?</p> <p>4 MS. CONDON: Cindy Condon, for the record. 5 And Jesse, I -- I'm not sure if this is 6 appropriate right now. But I am curious if you have 7 any comments with respect to the question about 8 exemptions that we make, that the order makes or -- 9 and the liability for becoming the state's 10 responsibility as opposed to the applicant's.</p> <p>11 MR. RATCLIFFE: And -- and so this is in 12 relation to --</p> <p>13 MS. CONDON: The -- the noise --</p> <p>14 MR. RATCLIFFE: -- the varying --</p> <p>15 MS. CONDON: Oh, sorry.</p> <p>16 MR. RATCLIFFE: -- to the noise variances. 17 Yeah. So you know, I am not prepared to give legal 18 advice on that topic. You know, the -- the state's 19 position is going to be that that lies with Idaho 20 Power, but I don't have any more detailed analysis 21 to be able to provide on that one at this time.</p> <p>22 MS. CONDON: Thank you.</p> <p>23 MR. HOWE: Okay. Any other questions of 24 Counsel Ratcliffe? 25 (No audible response).</p>

122	<p>1 MR. HOWE: Are we ready to move into 2 someone making a motion? Or do you want to have a 3 little deliberation before that's done? What is the 4 Council's pleasure on this? 5 MS. BEIER: Chair Howe? 6 MR. HOWE: Councilor Beier? 7 MS. BEIER: I would just like to thank the 8 Department first, Idaho Power for being responsive 9 to so many other concerns raised by the public. The 10 public has done 10 years of work helping to shape 11 this process. This would have been a very different 12 decision with many fewer conditions without that 13 public process and without the Department and Idaho 14 Power working together to respond. 15 I know that you can never make a decision 16 like this that makes everybody happy that addresses 17 every concern that's been raised. But for as long 18 as this process has been going on, I think there's 19 been a lot of goodwill to come up with a good 20 decision -- so just recognizing the efforts of 21 everybody -- heavy, heavy lift. 22 And then Jesse, just a quick question: To 23 make it explicit that the Council does have the 24 statutory authority to delegate to the Department 25 the review of many of these plans because there's a</p>	124	<p>1 that the motion is explicitly clear. 2 So I don't know if your motion -- I mean, 3 I -- I don't know where Council is going to go with 4 this, but we want to make sure that, you know, it's 5 explicitly clear. I'm not sure that, like, the -- 6 the proposed motions have all of that information 7 that the Council may -- so it may be worthwhile to 8 have a conversation. And if, you know, where you 9 want to go is not absolutely correct in the draft 10 motions, we can take a pause and make sure that it 11 is. 12 MR. JENKINS: Or I can -- or I can make 13 the motion and get a second. And we can amend it if 14 we need to. 15 MR. CORNETT: That works, too. 16 MR. JENKINS: Okay. 17 MR. HOWE: And the -- this is Kent. So 18 before you do that, Councilor Jenkins, I just wanted 19 to echo what Councilor Beier said as far as the 20 process up to this point of the last over a decade. 21 It had resulted in the Council listening to the -- 22 the public involvement and -- and the considerable 23 modifications and -- and to -- and conditions to the 24 proposal. That wouldn't have happened without the 25 public involvement.</p>
123	<p>1 lot of work that still has to be done by the 2 applicant and the Department, do we need to make 3 that explicit? Or is it explicit in the findings 4 already? 5 MR. RATCLIFFE: Councilmember Beier, this 6 is Jesse Ratcliffe again. 7 And I believe that there are mentions made 8 in the draft final order with respect to that 9 delegate authority. But you know, more broadly than 10 that, this is something that is reflected in the 11 statute. And so, you know, that -- that is -- as a 12 result of that, it's -- it's kind of implicit in the 13 final order, even if it's not explicitly stated 14 that, when a delegation is occurring to the agency, 15 that's it's occurring as a result of the authority 16 granted by that statute. 17 MS. BEIER: Thank you. 18 MR. JENKINS: So Mr. Vice Chair, I'm ready 19 to make a motion. 20 MR. CORNETT: If I may? 21 MR. HOWE: Secretary Cornett? 22 MR. CORNETT: Just a suggestion -- so for 23 the record, Todd Cornett -- it might be helpful to 24 have a little bit of deliberation to see where the 25 Council is going in case -- we want to make sure</p>	125	<p>1 So with that, Councilor Jenkins -- did 2 anybody else have anything they wanted to say before 3 Councilor Jenkins gets us going here? 4 (No audible response). 5 MR. HOWE: It's yours, Councilor Jenkins, 6 when you're ready. 7 MR. JENKINS: Let me try. 8 MR. HOWE: Okay. 9 MR. JENKINS: Okay. So Mr. Chair, I move 10 that the Council approve the draft final order on 11 the Boardman to Hemingway Transmission Line as the 12 final order as presented by staff and legal counsel 13 and issue a site certificate with the written 14 material changes as presented and changed today -- 15 I've got to have the language that was up there -- 16 with findings. 17 MR. JENKINS: What happened to it? 18 MR. HOWE: It's coming. 19 (Simultaneous speaking.) 20 MS. TARDAEWETHER: I think -- 21 MR. JENKINS: Can we get back to the 22 language? 23 MS. TARDAEWETHER: Yeah. Give me one 24 second. 25 FEMALE SPEAKER: The final words --</p>

126	<p>1 FEMALE SPEAKER: I know. I know. 2 MR. JENKINS: Yes. I've got it. 3 Based on the findings of fact, reasons, 4 conditions, and conclusions of law in this final 5 order, the Council concludes that the applicant has 6 satisfied the requirements for issuance of the site 7 certificate for the proposed Boardman to Hemingway 8 Transmission Line. 9 For the record, the -- the Council 10 concludes, pursuant to ORS 469.401, the Chair can 11 execute the certificate authorizing the applicant to 12 construct, operate, and retire facilities subject to 13 the conditions set forth in the site certificate. 14 MR. HOWE: Do we have a second? 15 MS. BEIER: I'll second. This is Ann 16 Beier. 17 MR. HOWE: Okay. We've got a motion and a 18 second. 19 Secretary Cornett can call roll. 20 (Simultaneous speaking.) 21 MR. HOWE: Okay. We have time for 22 deliberating -- 23 (Simultaneous speaking.) 24 MR. CORNETT: Yeah. (Indiscernible) 25 discussion. And -- and -- and -- and for the</p>	128	<p>1 specifically articulated in the motion itself? 2 Certainly, it's on the record. We -- 3 MS. BEIER: Yeah. 4 MR. CORNETT: -- are having a verbatim 5 transcript. I think it's very clear we had the 6 information on the -- on the screen show what the 7 changes were. But if the Council would be more 8 comfortable, we could make the specific into the 9 motion itself. 10 MR. HOWE: I'm seeing the Council agreeing 11 that it's okay to reference the changes made today 12 -- 13 MS. BEIER: Yeah. 14 MR. HOWE: -- as opposed to making a 15 specific -- 16 MS. BEIER: Yeah. Yes. 17 MR. HOWE: Councilor Chocktoot, do you 18 agree? 19 MR. CHOCKTOOT: Yes. Okay. 20 MR. JENKINS: So -- 21 MR. HOWE: (Inaudible) deliberations. 22 MR. JENKINS: -- my question for Jesse or 23 Patrick is, you know, I included the findings or 24 reasoning conclusions -- conditions and conclusions. 25 Is that enough to fold in the basis for the final</p>
127	<p>1 record, Todd Cornett. And I also concur. I think 2 between probably legal counsel that they're 3 comfortable with that, that it reflects everything 4 as well. 5 MR. HOWE: Yeah. Yeah. Sorry. I'm 6 jumping the gun. 7 Okay. So -- 8 MS. BEIER: Chair Howe? 9 MR. HOWE: -- let's open it up to 10 discussion or deliberation. 11 MS. BEIER: This is -- this is probably 12 the lawyer question to make sure that not only the 13 material changes, but all the editorial changes and 14 the other changes we talked about today are 15 reflected in the final order. So just I don't know 16 if we need to make that -- 17 MR. CORNETT: Vice Chair Howe? And so for 18 the record, Todd Cornett. 19 Yeah. Council -- Councilmember Beier, so 20 the motion included the material changes -- and I 21 don't have the exact language, which I will get -- 22 but -- and the changes that were made today. 23 MS. BEIER: Okay. 24 MR. CORNETT: So those are reflected. I 25 guess the question then was: Do they need to be</p>	129	<p>1 order? 2 MR. ROWE: I think you should put that 3 question to Jesse -- 4 MR. RATCLIFFE: Yeah. 5 MR. ROWE: -- since he's here to -- 6 (Simultaneous speaking.) 7 MR. ROWE: -- for Council in this 8 proceeding. 9 MR. RATCLIFFE: Yeah, yeah. So yes, I 10 believe so. So what's on the table here is 11 essentially everything that is reflected in the 12 draft final order as modified specifically today. 13 And I think we have a pretty good sense from the 14 combination of the transcript and -- and, you know, 15 notes as to what those changes are that the intent 16 of the motion is to reflect that draft final order, 17 which I walked through the ultimate findings that 18 were made there in terms of the standard statutes 19 and Council statutes and rules and other sources of 20 law, that that has been satisfied by a preponderance 21 of the evidence. 22 So as far as I'm concerned, yes, Councilor 23 Jenkins, you captured everything that you needed to. 24 MR. JENKINS: Okay. Great. 25 MR. HOWE: Any other deliberations?</p>

130	<p>1 (No audible response).</p> <p>2 MR. HOWE: With no more question, I guess,</p> <p>3 Secretary Cornett, please call the roll.</p> <p>4 MR. CORNETT: Kent Howe?</p> <p>5 MR. HOWE: Yes.</p> <p>6 MR. CORNETT: Jordan Truitt?</p> <p>7 MR. TRUITT: Yes.</p> <p>8 MR. CORNETT: Ann Beier?</p> <p>9 MS. BEIER: Yes.</p> <p>10 MR. CORNETT: Hanley Jenkins?</p> <p>11 MR. JENKINS: Yes.</p> <p>12 MR. CORNETT: Cindy Condon?</p> <p>13 MS. CONDON: Yes.</p> <p>14 MR. CORNETT: Perry Chocktoot?</p> <p>15 MR. CHOCKTOOT: Yes.</p> <p>16 MR. CORNETT: Motion carried, Mr. Vice</p> <p>17 Chair.</p> <p>18 MR. HOWE: Okay. With that, now that</p> <p>19 we've concluded the Boardman to Hemingway agenda</p> <p>20 item, I'll hand the meeting back over to Chair</p> <p>21 Grail. It's all yours.</p> <p>22 MS. GRAIL: Thank you. Wow.</p> <p>23 I suspect the time -- so it's 11:34. I</p> <p>24 would suspect folks are ready for a break at this</p> <p>25 time.</p>	132
131	<p>1 How long would you all like? Because we</p> <p>2 don't have lunch here yet. So...</p> <p>3 MR. HOWE: We could do public comment.</p> <p>4 Are we ready for lunch?</p> <p>5 MS. GRAIL: I think folks -- I see that --</p> <p>6 (Simultaneous speaking.)</p> <p>7 MR. HOWE: -- need a break.</p> <p>8 (Simultaneous speaking.)</p> <p>9 MS. GRAIL: We're going to take a 10-</p> <p>10 minute break. And so it is 11:35. If we can be</p> <p>11 back at 11:45, please.</p> <p>12 (WHEREUPON, a recess was taken.)</p> <p>13 MS. GRAIL: The time is now 11:45. This</p> <p>14 time is reserved for public comment period. This</p> <p>15 time is reserved for the public to address the</p> <p>16 Council regarding any items within Council</p> <p>17 jurisdiction that is not otherwise closed for</p> <p>18 comment.</p> <p>19 Items closed for comment include the</p> <p>20 Boardman to Hemingway Transmission Line Proposed</p> <p>21 Order, Proposed Contested Case Order; the Nolin</p> <p>22 Hills Proposed Order; the Protected Areas, Scenic</p> <p>23 Resources, and Recreation Resources Standards</p> <p>24 Rulemaking; and the Perennial Wind Chaser Station</p> <p>25 proposed retirement plan.</p>	133

<p style="text-align: right;">134</p> <p>1 state statute is the one to primarily going to be 2 (indiscernible) to the courts. 3 In order to issue a site certificate, the 4 Energy Facility Siting Council shall (indiscernible) 5 that the preponderance of evidence on the record 6 supports the following conclusions: The facility 7 complies with the applicable standards adopted by 8 the Council in ORS 469.501, so the statutes 9 requiring the file to the application to show that 10 they fully comply with the (indiscernible) of the 11 Council. 12 So in the -- another issue is I believe 13 there may be instances -- there may have been 14 instances -- where the Council has been asked to 15 approve the go-forward exception, the forest use 16 statute -- or rule. There is a court case, Juss 17 (phonetic) versus Linn County, 16 OR (indiscernible) 18 74, stated in 2009. It says, "Land cannot be 19 removed from go-forward protection absent data 20 required by 660-006- 005(2)." And it also provides 21 the statute language. 22 So in the event that you're ever asked to 23 allow -- or approve the exception to -- for -- for 24 an alternate practice, which is under Forest 25 Practices Act, I encourage you to make sure that</p>	<p style="text-align: right;">136</p> <p>1 goals are approved by LCDC. 2 So there is a statute that says you cannot 3 apply. And there are multiple court decisions that 4 say you cannot apply county rules within a year of 5 any state change in LCDC rules if those local rules 6 are not in compliance with the state statute. 7 There's also a statute, ORS 527. And I'm 8 -- I'm not meaning to -- I -- I just want you to be 9 really aware of what the actual language in these 10 statutes is because there are multiple court 11 decisions that say, number one, an agency does not 12 have the authority to interpret another agency's 13 rules or their statutes. 14 And they -- the courts have to typically 15 provide deference to an agency interpreting their 16 own rules and statutes that also, in order to do an 17 interpretation, it's required that the rule or 18 statute be unclear. And -- and you know, a recent 19 U.S. Supreme Court decision on Kaiser said -- goes 20 further and says that, in addition, any 21 interpretation cannot result in basically surprise 22 to the people who are impacted by it. 23 Like, for instance, if you -- if the 24 Council has been using a certain interpretation of 25 the rule, and then they -- they do not have the</p>
<p style="text-align: right;">135</p> <p>1 you're in compliance with that legal requirement. 2 The -- also, Oregon Department of Energy 3 rules say they shall contact agencies when there is 4 disagreement regarding the -- in -- in -- 5 disagreement regarding what the impact or the 6 application of the rules of another agency say. So 7 for example, if there are disagreements about land 8 use issues, what qualifies or doesn't qualify, the 9 appropriate procedure is for the Oregon Department 10 of Energy to contact LCDC and obtain their opinion 11 regarding whether or not a decision being 12 recommended actually is compliance -- in compliance 13 with the state land use rules. 14 And it does say that any waiver allowed by 15 Council cannot -- cannot waive a state statute. So 16 when I provide you with state statute, that is the 17 final authority. 18 Let's see. The -- there's also ORS 19 197.250, which says all comprehensive plans and the 20 land use regulations adopted by a local government 21 to carry out those comprehensive plans and all 22 plans, programs, rules or regulations affecting land 23 -- let's see -- land use adopted by a state agency 24 or special district shall be in compliance with the 25 goals which -- within one year after the date these</p>	<p style="text-align: right;">137</p> <p>1 ability to change that interpretation for one 2 development and then then change it back to another. 3 And I'm sure you can probably understand where that 4 kind of appeal (indiscernible) could occur. 5 The -- it also says in the statute -- I'm 6 just quoting some things here from my notes 7 regarding potential actions. ORS 527.722 restricts 8 local government adoption of any rules regulating 9 forest operation. This statute states local 10 governments cannot adopt any rules, regulations, or 11 ordinances or take any other actions that prohibit, 12 limit, regulate, subject to approval or in any way 13 affect forest practices on forestlands outside the 14 acknowledged urban growth boundary. 15 So for instance, Union County or any other 16 county cannot have local rules that are not 17 consistent with the state statutes. 18 I could go on with more, but I hope -- I 19 think that's probably enough for right now. And I 20 hope you will seriously consider whether or not 21 future recommendations coming from the Oregon 22 Department of Energy are consistent with the 23 statutes and rules rather than requiring the public 24 to appeal to the Oregon Supreme Court wherein 25 decisions that you make fail to comply with the</p>

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1 actual language of the statutes that they are
 2 required to apply.
 3 Thank you.
 4 MS. GRAIL: Thank you, Ms. Gilbert.
 5 Are there any other persons in the room
 6 wishing to speak?
 7 MR. CORNETT: Let me check. Nobody else
 8 in the room I see wishing to speak and no one
 9 online.
 10 MS. GRAIL: Okay. Well, last call for
 11 anyone wishing to make comments during this open
 12 public comment period.
 13 (No audible response).
 14 MS. GRAIL: Okay. We will consider the
 15 public comment period closed at 11:56.
 16 So that gets us up to --
 17 MR. CORNETT: Madam Chair --
 18 MS. GRAIL: Yes --
 19 MR. CORNETT: For the record, Todd
 20 Cornett. So we are running early on the agenda.
 21 Lunch is not here yet. So of you can take a break
 22 now, wait for lunch to come, or you can start and
 23 see if we can get through the next agenda item prior
 24 to lunch. That is Council's choice.
 25 MS. GRAIL: Councilmembers, what is your

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1 preference?
 2 MR. JENKINS: Well, at least the staff
 3 report before the next agenda item, that would be
 4 great.
 5 MR. HOWE: Yeah. I say we move on.
 6 MS. GRAIL: Okay. So then I will ask
 7 Sarah if she's okay with at least getting started.
 8 Ms. Esterson is okay with that. So we
 9 will be looking at Agenda Item D, which is the
 10 Perennial Wind Chaser Station. This is as request
 11 to approve the decommissioning plan and terminate
 12 the site certificate. This is an action item for
 13 Council. We will have the Department of Energy
 14 Senior Policy Advisor Sarah Esterson make a
 15 presentation at this time.
 16 MR. JENKINS: Mr. Chair -- Madam Chair?
 17 MS. GRAIL: Yes, sir.
 18 (Simultaneous speaking.)
 19 MR. JENKINS: Are we just still doing a
 20 transcript? Are we still doing a transcript of the
 21 meeting?
 22 MR. CORNETT: I mean, that's really on
 23 Idaho Power.
 24 So I know you were hiring the court
 25 reporter for the meeting agenda item. So whether

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1 you want to continue that or not, that's your
 2 choice. So ...
 3 FEMALE SPEAKER: For the material changes
 4 (inaudible).
 5 MALE SPEAKER: Off the record now.
 6 (WHEREUPON, the meeting was concluded at
 7 11:57 a.m.
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1 CERTIFICATE
 2
 3 I, Ryan Batterson, do hereby certify that I
 4 reported all proceedings adduced in the foregoing
 5 matter and that the foregoing transcript pages
 6 constitutes a full, true and accurate record of said
 7 proceedings to the best of my ability.
 8
 9 I further certify that I am neither related
 10 to counsel or any party to the proceedings nor have any
 11 interest in the outcome of the proceedings.
 12
 13 IN WITNESS HEREOF, I have hereunto set my hand this
 14 19th day of October, 2022.
 15
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 17
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 19 /S/ Ryan Batterson
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<p><u> </u> \$</p> <p>\$1 93:21</p> <p><u> </u> 0</p> <p>005 (2) 134:20</p> <p><u> </u> 1</p> <p>1 56:20 57:8 57:12 57:18 57:24 58:1 101:17</p> <p>1:00 12:22</p> <p>10 75:12 77:20 78:4 88:21 99:8 101:24 122:10 131:9</p> <p>10:20 74:5</p> <p>106 26:14</p> <p>10-minute 74:1 75:18 77:8</p> <p>10th 4:14 7:17 8:11 11:4 11:14</p> <p>11 56:3 56:10 57:23 59:4 85:8 85:11</p> <p>11:34 130:23</p> <p>11:35 131:10</p> <p>11:45 131:11 131:13</p> <p>11:56 138:15</p> <p>11:57 140:7</p> <p>12 58:11 91:9</p>	<p>13 85:17</p> <p>14 59:4 59:5</p> <p>16 134:17</p> <p>18 77:13</p> <p>19 17:5</p> <p>197.250 135:19</p> <p>19th 10:12</p> <p>1st 8:6</p> <p><u> </u> 2</p> <p>2 44:4 53:3 53:15 56:21 57:9 57:11 57:13 57:15 63:8 63:18 66:15 93:1</p> <p>2,050 102:4</p> <p>20 89:9 89:10</p> <p>2003 83:4</p> <p>2009 134:18</p> <p>2017 29:22</p> <p>2019 30:1 81:17</p> <p>2022 3:4 3:7 7:13 7:17 8:6</p> <p>2026 8:6</p> <p>21 89:10 89:11</p> <p>22 89:10 89:11</p> <p>23rd 8:3</p> <p>26th 11:1</p>	<p>27 3:4</p> <p>27th 3:7</p> <p>28th 11:1 13:18</p> <p>29th 7:12</p> <p><u> </u> 3</p> <p>3 6:10 80:14 132:6</p> <p>3:00 12:22</p> <p>30 41:10 41:20 41:22 44:4</p> <p>30th 7:13 8:6</p> <p>316 82:14</p> <p>31st 7:13 9:19</p> <p>323 82:15</p> <p>324-acre 10:17</p> <p>345-011-0080 7:2</p> <p>3s 87:21</p> <p><u> </u> 4</p> <p>4 38:4 60:17 81:21 102:24 105:15 108:24</p> <p>41 95:13 97:13 107:7</p> <p>469.370 (5) (b) 31:12</p> <p>469.370 (7) 14:16 31:1</p> <p>469.401</p>	<p>126:10</p> <p>469.501 134:8</p> <p>469.503 133:4 133:24</p> <p><u> </u> 5</p> <p>5 39:11 75:13 75:19</p> <p>5:30 11:4</p> <p>50 10:16</p> <p>500 22:10 22:24 22:24 23:2</p> <p>527 136:7</p> <p>527.722 137:7</p> <p>5-minute 77:8</p> <p><u> </u> 6</p> <p>6 16:9 32:21 32:21 53:5</p> <p>60 41:23 44:4</p> <p>660-006 134:20</p> <p>665 83:3</p> <p>672 83:4</p> <p>674 84:25</p> <p>68 26:5</p> <p>684 85:5</p> <p>694 85:12</p> <p>698 64:6 64:13</p> <p>699 64:17</p> <p><u> </u> 7</p> <p>70 12:23</p>
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