



Oregon

Kate Brown, Governor



550 Capitol St. NE
Salem, OR 97301-3737
Phone: (503) 378-4040
Toll Free: 1-800-221-8035
FAX: (503) 373-7806
www.Oregon.gov/ENERGY

To: Oregon Energy Facility Siting Council

From: Kellen Tardaewether, Senior Siting Analyst

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Subject: Boardman to Hemingway Transmission Line Draft Proposed Order: County-Specific Overview and Public Participation in the EFSC Process - For the June 18, 19, 20, 26 & 27 Council Meetings.

OVERVIEW

This staff report is intended to provide Councilmembers with a background of the proposed facility, as well as an overview of the anticipated topics of interest that the public may comment on during the public hearings on the draft proposed order (DPO) for the Boardman to Hemingway Transmission Line application for site certificate. The staff report also provides a description that will be provided by staff at each hearing of the opportunities for the public to participate in the process at the hearing and comment period on the DPO.

The proposed facility is an approximately 300 mile-long 500 kilovolt (kV) electric transmission line, plus related or supporting facilities including access roads and other facility components. The transmission line would extend from a switching station proposed to be constructed near Boardman, Oregon to the existing Hemingway Substation located in Owyhee County, Idaho. The transmission line would cross five Oregon counties, Malheur, Baker, Union, Umatilla, and Morrow counties and Owyhee County in Idaho. On September 28, 2018, the Oregon Department of Energy received the complete Application for Site Certificate (ASC) for the proposed facility. On May 22, 2019 the Department issued its (DPO). Based upon its review of the application, the Department recommends the Council grant the site certificate for the proposed facility, subject to the conditions set forth in the DPO. The issuance of the DPO initiates a 62-day comment period closing on July 23, 2019.

BACKGROUND

The applicant, Idaho Power Company, must receive permitting approvals from federal land management agencies as well as the Energy Facility Siting Council (EFSC). The Council's authority extends to all land in Oregon, regardless of land ownership, except tribal reservation land. The proposed facility crosses land owned by federal government agencies, therefore the applicant was obligated to engage in the National Environmental Policy Act (NEPA) federal review process. During the Bureau of Land Management (BLM) NEPA review, the BLM explored and evaluated all reasonable alternatives based on the agency review and public feedback. The result of the assessment was the identification of the agency's preferred alternative or alternatives, that is issued in the draft and final environmental statement (DEIS and FEIS), and formalized in the agency's record of decision (ROD), issued in November 2017.

The proposed facility also crosses lands managed by the United States Navy and the United States Forest Service (USFS). The USFS issued its ROD in November 2018 and the Navy is currently conducting its NEPA review.

In comparison to the NEPA process, the EFSC standards for siting energy facilities do not require that the applicant compare alternative corridors. Nor do they allow the Council to evaluate and consider alternative routes not proposed in the application for site certificate. ORS 469.360 provides that the Council shall evaluate the application for site certificate. ORS 469.370(7) directs the Council that, at the conclusion of a contested case, the Council shall issue a final order either approving or rejecting the application for site certificate based on the EFSC standards, applicable statutes, rules and local ordinances. This is also reiterated via the EFSC General Standard of Review (OAR 345-022-000(1)(a)). Therefore, in the application, an applicant may propose any route, and alternative routes for Council's review, regardless of a federal agency's selected route issued in the ROD for the NEPA review process. The Council shall approve or reject any route, as proposed in the application, based on the applicable Council standards, statutes, rules and local ordinances.

Section II., *Procedural History*, of the DPO outlines the steps the applicant has made in the EFSC process since it submitted its Notice of Intent (NOI) to submit an application for site certificate (ASC) in 2010. Major milestones in the EFSC process are:

- Notice of Intent (NOI) – July 2010
- Project Order/ Amended Project Order – March 2012
- Preliminary Application for Site Certificate (pASC) – February 2013
- Amended Project Order – December 2014
- Amended Preliminary Application for Site Certificate (ApASC) – July 2017
- Second Amended Project Order – July 2018
- Application for Site Certificate (ASC) – September 2018
- Draft Proposed Order (DPO) – May 2019
- Public Hearings on the Draft Proposed Order – June 2019

Section III.A., *Transmission Corridor Selection*, of the DPO summarizes the siting process the applicant employed over several years and included in the ASC. The Council may hear concerns from the public and other interested parties based on the proposed location of the transmission line, multi-use areas (construction laydown yards and staging areas), other facility components, and related or supporting facilities, such as access roads. As part of the routing process, the applicant utilized areas of "opportunity" for locating the proposed facility. Siting opportunities include co-location the transmission line adjacent to another transmission lines or within the same right of way; other siting opportunities may be siting the proposed facility within designated utility corridors or adjacent to existing infrastructure such as a highway. Siting constraints include locating the proposed facility to avoid or reduce impacts to; EFSC designated Protected Areas, sensitive fish and wildlife habitat such as Washington ground squirrel and sage grouse habitat, noise sensitive properties, historic and cultural resources such as the Oregon Trail, and privately-owned agricultural lands, and other resources or issues.

MALHEUR COUNTY

Facility components proposed within Malheur County include approximately 75.1 miles of 500 kV transmission line, nine multi-use areas, two light-duty fly yards, 66.9 miles of new access roads, 54.5 miles of substantially modified existing roads, pulling and tensioning sites, and three communication stations. In addition to proposed facility components, the applicant proposes a 7.4-mile alternative segment, Double Mountain alternative, and ancillary facilities including 5 miles of new access roads, 7 miles of substantially modified roads, pulling and tensioning sites, and an alternative communication station. The Double Mountain Alternative is located entirely on BLM-managed land located within the BLM-designated Double Mountain Wilderness Characteristic Unit and is proposed to avoid private property and remain on public lands.

Several siting opportunities and constraints informed the applicant's proposed locations within Malheur County. The primary siting opportunities and constraints that directed or informed the proposed facility location within Malheur County are:

- BLM designated utility corridor under BLM's Southeastern Oregon Resource Management Plan;
- Irrigated agriculture;
- Oregon Trail Birch Creek Area of Critical Environmental Concern (ACEC)*
- Oregon Trail Tub Mountain ACEC*;
- Owyhee River Below the Dam ACEC*;
- Greater sage grouse habitat;
- Noise sensitive properties;
- Wetlands and waters of the state including stream crossings.

BAKER COUNTY

Facility components proposed within Baker County include approximately 68.4 miles of 500 kV transmission line, five multi-use areas, one light-duty fly yard, 48.2 miles of new access roads, 63 miles of substantially modified existing roads, pulling and tensioning sites, and two communication stations. There are no alternative routes requested for approval in Baker County.

Several siting opportunities and constraints informed the applicant's proposed locations within Baker County. The primary siting opportunities and constraints that directed or informed the proposed facility location within Baker County are:

- Co-located adjacent to existing transmission lines;
- National Historic Oregon Trail Interpretive Center (NHOTIC)*;
- State Highway 86, a Baker County-designated scenic route;
- Oregon Trail segments including Straw Ranch 1 ACEC*;

* BLM Areas of Critical Environmental Concern are managed according to BLM management plans and designated as EFSC Protected Areas by EFSC rule OAR 345-022-0040(1)(o).

- Irrigated agriculture;
- ODFW Category 2 habitat for Big Horn Sheep
- Greater sage grouse habitat;
- Noise sensitive properties.

UNION COUNTY

Facility components proposed within Union County include approximately 39.9 miles of 500 kV transmission line, three multi-use areas, 16.6 miles of new access roads, 37.5 miles of substantially modified existing roads, and two communication stations. There is an 18.5 miles alternative 500 kV transmission line route segment, Morgan Lake Alternative, and one alternative communication station site requested for approval in Union County.

Several siting opportunities and constraints informed the applicant's proposed locations within Union County. The primary siting opportunities and constraints that directed or informed the proposed facility location within Union County are:

- Existing utility corridor within the Wallowa-Whitman National Forest (the "Power Transportation Facility Retention Corridor" including transmission lines, pipelines and railroad);
- Co-located adjacent to existing transmission lines;
- Blue Mountain Forest State Scenic Corridor*;
- Goal 4 Forest Lands;
- Relatively close proximity to City of La Grande city Limits
- ODFW managed Ladd Marsh Wildlife Management Area*;
- City of La Grande managed Morgan Lake Park;
- ODFW Category 2 habitat Big Game Winter Range (elk);
- Agricultural areas;
- Oregon Trail segments including Whiskey Creek;
- Noise sensitive properties.

UMATILLA COUNTY

Facility components proposed within Umatilla County include approximately 40.8 miles of 500 kV transmission line, seven multi-use areas, 33.8 miles of new access roads, 36.8 miles of substantially modified existing roads, 41 pulling and tensioning sites, one light-duty fly yard, and two communication station. There are no alternate routes or alternative facility components locations requested for approval in Umatilla County.

Several siting opportunities and constraints informed the applicant's proposed locations within Umatilla County. The primary siting opportunities and constraints that directed or informed the proposed facility location within Umatilla County are:

* EFSC Protected Area.

- Blue Mountain Forest State Scenic Corridor*;
- Washington Ground Squirrel Habitat (Category 1 Habitat);
- Goal 4 Forest Lands;
- Agricultural areas;
- Confederated Tribes of the Umatilla Indian Reservation lands;
- Wetlands and waters of the state including stream crossings;
- Noise sensitive properties.

MORROW COUNTY

Facility components proposed within Morrow County include approximately 47.5 miles of 500 kV transmission line; the Longhorn Station, if not developed by BPA; five temporary multi-use areas; 37.5 miles of new access roads; 30.2 miles of substantially modified existing roads; 39 temporary pulling and tensioning sites; and, one communication station. In addition, there are two 3.7 mile transmission line segments proposed as alternatives to the proposed transmission line route along Bombing Range Road – West of Bombing Range Road alternative 1 and 2.

Several siting opportunities and constraints informed the applicant’s proposed and alternative locations within Morrow County. The primary siting opportunities and constraints that directed or informed the proposed and alternative facility locations within Morrow County are:

- Existing utility/transportation corridors;
- Existing transmission line and pipeline infrastructure;
- Naval Weapons Systems Training Facility Boardman; Boardman Research Natural Area;
- Washington Ground Squirrel Habitat (Category 1 Habitat)
- Oregon National Historic Trail/Oregon Trail segments*;
- Irrigated Agriculture;
- Wetlands and waters of the state including stream crossings;
- Noise sensitive properties.

PUBLIC PARTICIPATION IN THE EFSC PROCESS AT THE HEARINGS ON THE DRAFT PROPOSED ORDER

The issuance of the draft proposed order (DPO) initiates a comment period on the record for the proposed facility. The Council’s designated hearing officer will conduct a series of public hearings on the DPO, one in each county crossed by the proposed facility as directed in the Notice of the DPO issued on May 22, 2019 and in the June EFSC Agenda. Oral and written testimony may be provided at the public hearings. A 62 day written comment period is also now open. Written comments must be received by the Department by 5 p.m. (PDT) on July 23, 2019.

Persons commenting on the DPO during the comment timeframe are eligible to be considered for party status in the contested case proceeding. Under OAR 345-015-0220 (5)(a) and (b), a

* EFSC Protected Area.

person who intends to raise any issue that may be the basis for a contested case must raise the issue:

- in person at the hearing or in a written comment submitted to the Department of Energy before the deadline stated in the notice of the public hearing.
- with sufficient specificity to afford the Council, the Department of Energy and the applicant an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.

Looking ahead in the EFSC Process:

Following the close of the record of the public hearing and Council's review of the draft proposed order and consideration of public comments (at a future Council meeting), the Department will issue a proposed order, taking into consideration Council comments, any comments received "on the record of the public hearing" (i.e., oral testimony provided at the public hearings and written comments and applicant responses to comments received by the Department after the date of the notice of the public hearing and before the close of the public hearing written comment period), and agency consultation. Concurrent with the issuance of the proposed order, the Department will issue a notice of contested case and a public notice of the proposed order. Only those persons who comment in person or in writing on the record of the public hearing may request to participate as a party or limited party in the contested case proceeding.

At the conclusion of a contested case proceeding, the hearing officer will issue a proposed contested case order stating the hearing officer's findings of fact, conclusions of law and recommended site certificate conditions on the issues raised in the contested case. The Council may adopt, modify or reject the hearing officer's proposed contested case order. Based upon Council's direction to adopt, modify or reject the hearing officer's proposed contested case order, the findings of the hearing officer's proposed contested case order, and any modifications requested by Council, are then incorporated into the Council's final order on the ASC.

Following the contested case proceeding, the Council will issue a final order either approving or denying the ASC based upon the standards adopted under ORS 469.501, and any additional state statutes, rules, or local government regulations or ordinances determined to be applicable to the facility in the project order.¹ The Council's final order is subject to judicial review by the Oregon Supreme Court. Only a party to the contested case proceeding may request judicial review and the issues on appeal are limited to those raised by the parties to the contested case proceeding. A petition for judicial review must be filed with the Supreme Court within 60 days after the date of service of the Council's final order or within 30 days after the date of a petition for rehearing is denied or deemed denied.

¹ ORS 469.370(7).