

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF OREGON  
for the  
OREGON DEPARTMENT OF ENERGY**

|                                 |   |                                |
|---------------------------------|---|--------------------------------|
| IN THE MATTER OF:               | ) | <b>SECOND ORDER ON CASE</b>    |
|                                 | ) | <b>MANAGEMENT MATTERS AND</b>  |
| <b>THE APPLICATION FOR SITE</b> | ) | <b>CONTESTED CASE SCHEDULE</b> |
| <b>CERTIFICATE FOR THE</b>      | ) |                                |
| <b>BOARDMAN TO HEMINGWAY</b>    | ) | OAH Case No. 2019-ABC-02833    |
| <b>TRANSMISSION LINE</b>        | ) |                                |

This contested case arises out of challenges to the Oregon Department of Energy’s (Department’s) Proposed Order issued July 2, 2020 recommending the Energy Facility Siting Council (Council) approve an Application for Site Certificate (ASC) submitted by Idaho Power Company (Applicant) for the proposed Boardman to Hemingway Transmission Line (proposed facility).

On January 14, 2021, the undersigned Administrative Law Judge (ALJ) issued an *Order on Case Management Matters and Contested Case Schedule (Case Management Order)*, setting out the following: the parties and limited parties; the identified issues in the contested case and parties/limited parties with standing on the issue(s); the manner for joint presentation of public issues where more than one limited party has standing; guidelines for filing and serving documents; naming conventions; the contested case process; and the contested case schedule.

This *Second Order on Case Management Matters and Contested Case Schedule (Second Case Management Order)* supplements and updates the *Case Management Order* as follows:

I. CLARIFICATION OF PROCEDURAL MATTERS

A. Form of Written Testimony – Affidavit vs. Declaration

The parties and limited parties in the contested case may submit a declaration in lieu of an affidavit, as long as the declaration is sworn, *i.e.*, made under penalty of perjury. *See, e.g.*, ORCP 1 E.

Testimony via declaration or affidavit may be presented in a narrative and/or question and answer fashion.

B. Exhibits and Attachments

**1. Documents in the B2H Project Record.**

For documents already admitted into evidence as part of the B2H Project Record,

there is no need for the party/limited party to authenticate the document and no need to attach a copy of the document, as long as the party/limited party references the document in the written testimony with the Document ID number and page number.

## 2. **New Evidence.**

For documents not previously admitted into evidence as part of the B2H Project Record, the party/limited party should attach the document to the party/limited party's written testimony, marked as an exhibit and labeled with the party/limited party's name, the subject, and the issue code and number.

Links to access proffered documents and or information will not suffice. The party/limited party should attach the document (or at a minimum, the pertinent portions of a voluminous document, to the written testimony).

### C. Other Procedural Questions/Clarifications

1. What do the parties/limited parties need to file on or before close of business (5:00 PM) on September 3, 2021? The party/limited party with the burden of proof on an identified contested case issue (*i.e.*, the party/limited party submitting written direct testimony) shall, on or before September 3, 2021, file and serve: (1) a list identifying the party/limited party's expert and lay witnesses on the identified issue(s), if any; and (2) a list of the party/limited party's exhibits for the identified issue, if any.

2. What do the parties need to file on or before close of business (5:00 PM) on September 17, 2021? The party/limited party with the burden of proof on an identified contested case issue shall file the party/limited party's written direct testimony on the identified issue. Written direct testimony includes affidavits and/or declarations of expert and lay witnesses and supporting exhibits.

3. May a party/limited party with standing on more than one issue cross-reference exhibits on their issues? For new evidence not included in the B2H Project Record, the best practice for the party/limited party submitting the evidence is to segregate the exhibit(s) by issue and appropriately label the evidence submitted on one issue from evidence submitted on different issue.

4. If a party/limited party serving a document by electronic mail receives an email "bounce back" or non-delivery message advising that the email was not delivered because a recipient's email box is full, or cannot accept large files, then the document is still considered served. However, the best practice is for the party/limited party serving the document to send a follow up email to the recipient's email address (without attachments) advising that the attempted electronic service was unsuccessful.

## II. REVISED LIST OF PARTIES AND LIMITED PARTIES

Since issuance of the *Case Management Order*, a number of limited parties have withdrawn from the contested case. Other limited parties were dismissed from the case based on rulings in favor of Applicant Idaho Power Company (Idaho Power) and/or the Oregon Department of Energy (Department) on motions for summary determination.

As of August 27, 2021, upon the Council's determination on interlocutory appeals, the parties/limited parties to the contested case and the issues on which the parties and limited parties are as follows:

### A. Parties

1. Applicant, standing on all issues pursuant to ORS 469.370(5).
2. The Department, standing on all issues pursuant to OAR 345-015-0080(2).

### B. Limited Parties and Issues with Standing

|                               |  |
|-------------------------------|--|
| Stop B2H Coalition            | NC-1, NC-2, NC-3, NC-4, SR-7, and SP-1                       |
| Andrew, Colin                 | R-1, R-3   |
| Andrew, Kathryn               | R-3  |
| Badger-Jones                  | PS-1   |
| Barry, Lois                   | R-2, R-4   |
| Barry, Peter                  | R-3  |
| Carbiener, Gail/OCTA          | PS-2, PS-3, RFA-1, RFA-2, SR-2                               |
| Cooper, Matt                  | NC-1, PS-4, SS-2   |
| Deschner, Whit                | SR-3   |
| Foss, Jim and Kay             | LU-4   |
| Fouty, Suzanne                | SP-1   |
| Geer, Susan                   | FW-3, FW-6   |
| Gilbert, Irene                | FW-3, FW-5, HCA-3, LU-7, LU-8, LU-11, NC-2, PS-5, R-3, RFA-1 |
| Gray, Diane                   | NC-2, NC-6   |
| Horst, Joe and Cavinato, Anna | HCA-4, NC-2, PS-6, SS-3                                      |
| Lyons, Charles                | PS-10  |
| Mammen, Dale and Virginia     | PS-6   |
| March, Anne                   | FW-7   |
| March, Kevin                  | FW-7   |
| Marlette, JoAnne              | M-6, HCA-3   |
| McAllister, Michael           | R-2  |
| Miller, Jennifer              | SR-2, PS-2, PS-3   |
| Myers, Sam                    | LU-9, NC-2   |
| Webster, Stacia               | HCA-6, SS-1, PS-10   |

|                 |       |
|-----------------|-------|
| White, Jonathan | SS-5  |
| Williams, John  | HCA-7 |
| Winters, John   | PS-4  |

### III. REVISED LIST OF IDENTIFIED ISSUES/PARTIES WITH STANDING ON ISSUE

As noted above, since issuance of the *Case Management Order*, the ALJ dismissed a number of Contested Case Issues based on the limited parties' withdrawal from the case and/or rulings on summary determination in favor of Idaho Power and/or the Department.

As of August 27, 2021, following the Council's determination on interlocutory appeals, the remaining identified issues in the contested case are as follows:

#### UPDATED TABLE OF IDENTIFIED ISSUES

| Code         | Subject Matter/Issue   | Standing                          |
|--------------|--|-----------------------------------|
| <b>M</b>     | <b>Misc. Issues Under OAR 345-001-0010 – 345-021-0010(1)</b>   |                                   |
| <b>M-6</b>   | Whether the Proposed Order fails to provide for a public review of final monitoring plans, fails to provide long-term hazardous materials monitoring, and improperly allows exceptions that substantially increase the likelihood of a hazardous material spill in violation of OAR 345-021-0010(w).   | Marlette                          |
| <b>FW</b>    | <b>Fish and Wildlife Habitat – OAR 345-022-0060</b>  |                                   |
| <b>FW-3</b>  | Whether the Draft Noxious Weed Plan (Proposed Order Attachment P1-5) adequately ensures compliance with the weed control laws, ORS 569.390, ORS 569.400, and ORS 569.445.  | Gilbert, Geer                     |
| <b>FW-5</b>  | Whether Applicant should be required to mitigate impacts to riparian areas from the setback location to the outer edges of the riparian area because the riparian habitat should be rated as Category 2 at a minimum.  | Gilbert                           |
| <b>FW-6</b>  | Whether the Noxious Weed Plan provides adequate mitigation for potential loss of habitat due to noxious weeds when it appears to relieve Applicant of weed monitoring and control responsibilities after five years and allows for compensatory mitigation if weed control is unsuccessful.  | Geer                              |
| <b>FW-7</b>  | Whether Applicant's Fish Passage Plans, including 3A and 3B designs, complies with the Fish and Wildlife Habitat standard's Category 2 mitigation requirements; whether Applicant must revisit its plans because threatened Steelhead redds have been identified in the watershed.   | A. March; K. March                |
| <b>HCA</b>   | <b>Historic, Cultural, Archeological Resources – OAR 345-022-0090</b>  |                                   |
| <b>HCA-3</b> | Whether Historic, Cultural and Archeological Resources Condition 1 (HPMP) related to mitigation for crossings of Oregon Trail resources provides adequate mitigation for visual impacts and sufficient detail to allow for public participation.   | Gilbert; Marlette                 |
| <b>HCA-4</b> | Whether National Historical Oregon Trail segments with ruts located on Petitioner's property (Hawthorne Drive, La Grande) can be adequately protected from adverse impacts from proposed facility.   | Horst/Cavinato (private interest) |
| <b>HCA-6</b> | Whether, as part of the HPMP (Historic, Cultural and Archeological Resources Condition 1), Applicant should be required to have an Oregon Trail expert, recommended by OCTA and agreed to by the Field Director, added to the Cultural Resource Team and present during preconstruction surveys to adequately identify emigrant trail locations. | S. Webster                        |
| <b>HCA-7</b> | Whether Applicant adequately evaluated archeological resource "Site 6B2H-MC-10" on Mr. Williams' property, Parcel 03S37E01300.   | Williams (personal interest)      |

|              |   |  |
|--------------|---|--|
| <b>LU</b>    | <b>Land Use – OAR 345-022-0030</b>  |  |
| <b>LU-4</b>  | Adequacy of the analysis of potential impacts of transmission line interference with GPS units on irrigation system.  | Foss   |
| <b>LU-7</b>  | Whether the evaluation of proposed facility impacts to the cost of forest practices accurately determined the total acres of lost production or indirect costs.   | Gilbert  |
| <b>LU-8</b>  | The adequacy of Applicant’s evaluation of proposed facility impacts to the cost of forest management practices and whether mitigation must be provided for the entire length of the transmission line for the operational lifetime.   | Gilbert  |
| <b>LU-9</b>  | Whether Applicant adequately analyzed the risk of wildfires from operation of the proposed transmission lines, especially during “red flag” warning weather conditions, and the impact the proposed transmission lines will have on Mr. Myers’s ability to use an aerial applicator on his farmland.  | Myers (personal interest)                      |
| <b>LU-11</b> | Whether the impacts from the proposed facility on accepted farm practices and the cost of accepted farm practices have been adequately evaluated or mitigated.  | Gilbert  |
| <b>NC</b>    | <b>Noise Control Regulations</b>  |  |
| <b>NC-1</b>  | Whether the Department improperly modified/reduced the noise analysis area in Exhibit X from one mile of the proposed site boundary to ½ mile of the proposed site boundary and whether OAR 345-021-0010(1)(x)(E) requires notification to all owners of noise sensitive property within one mile of the site boundary  | Stop B2H; Cooper                               |
| <b>NC-2</b>  | Whether the Department erred in recommending that Council grant a variance/exception from the Oregon DEQ’s Noise Rules, OAR 340-035-0035, and whether the variance/exception is inconsistent with ORS 467.010.  | Stop B2H; Gilbert; Gray; Horst/Cavinato; Myers |
| <b>NC-3</b>  | Whether the methodologies used for the noise analysis to evaluate compliance with OAR 340-035-0035 were appropriate and whether the ODOE erred in approving the methodology used to evaluate compliance with OAR 340-035-0035.  | Stop B2H                                       |
| <b>NC-4</b>  | Whether the mitigation/proposed site conditions adequately protect the public health, safety and welfare.   | Stop B2H                                       |
| <b>NC-6</b>  | Whether Applicant’s methodology to assess baseline noise levels (described in the Proposed Order at pp. 635-638) reflect reasonable baseline noise estimates for residents of the Morgan Lake area.   | Gray   |
| <b>PS</b>    | <b>Public Services – OAR 345-022-0110</b>   |  |
| <b>PS-1</b>  | Traffic Safety: Whether Applicant was required to evaluate traffic safety impacts from construction-related use of Morgan Lake Road.  | Badger-Jones                                   |
| <b>PS-2</b>  | Fire Protection: Whether the site certificate should require that the public have the opportunity to review and comment on the final Wildfire Mitigation Plan; whether the Wildfire Mitigation Plan should include remote cameras to detect wildfire, safety procedures during red flag conditions, and the requirement that firefighting equipment be present on-site during construction. | Carbiener/OCTA; Miller                         |
| <b>PS-3</b>  | Fire Protection: Whether Council’s reliance on the Wildfire Mitigation Plan (Public Services Condition 7) prepared by Applicant for the Oregon Public Utility Commission (OPUC) is adequate to address wildfire response consistent with the Public Services standard.  | Carbiener/OCTA; Miller                         |
| <b>PS-4</b>  | Fire Protection: Whether Applicant adequately analyzed the risk of wildfire arising out of operation of the proposed facility and the ability of local firefighting service providers to respond to fires.  | Cooper; Winters                                |
| <b>PS-5</b>  | Fire Protection: Whether the Wildfire Mitigation Plan is adequately developed and includes sufficient detail to allow for public participation.   | Gilbert  |
| <b>PS-6</b>  | Traffic Safety: Whether Applicant adequately evaluated the potential traffic impacts and modifications needed on Hawthorne Drive and Modelaire Drive  | Horst/Cavinato; Mammen                         |

|              |  |   |
|--------------|--|---|
|              | (Hawthorne Loop).  |   |
| <b>PS-8</b>  | Whether Department-proposed revisions to Public Services Condition 7 are redundant with Attachment U-3 and existing condition requirements.  | Applicant   |
| <b>PS-9</b>  | Whether Department-proposed revisions to the Fire Prevention and Suppression Plan (Public Services Condition 6, Proposed Order Attachment U-3) incorrectly reference applicability to facility operations.   | Applicant   |
| <b>PS-10</b> | Whether the Draft Fire Suppression Plan (Attachment U-3) is adequate and whether local service providers would be able to respond to a facility-related fire.  | Lyons/Webster                                     |
| <b>R</b>     | <b>Recreation - OAR 345-022-0100</b>   |   |
| <b>R-1</b>   | Whether Applicant adequately evaluated the potential adverse impact of the proposed facility on recreational opportunities at Morgan Lake Park   | C. Andrew   |
| <b>R-2</b>   | Whether the visual impacts of the proposed facility structures in the viewshed of Morgan Lake Park are inconsistent with the objectives of the Morgan Lake Park Recreational Use and Development Plan and should therefore be reevaluated.   | L. Barry; McAllister                              |
| <b>R-3</b>   | Whether the mitigation proposed to minimize the visual impacts of the proposed facility structures at Morgan Lake Park (\$100,000 for recreational facility improvements) is insufficient because the park's remote areas will not benefit from the proposed mitigation.   | L. Barry; P. Barry; C. Andrew; K. Andrew; Gilbert |
| <b>R-4</b>   | Whether Applicant's visual impact assessment for Morgan Lake Park adequately evaluates visual impacts to the more than 160 acres of undeveloped park land and natural surroundings, as visual simulations were only provided for high-use areas.   | L. Barry  |
| <b>RFA</b>   | <b>Retirement and Financial Assurance - OAR 345-022-0050</b>   |   |
| <b>RFA-1</b> | Whether the \$1 bond amount adequately protects the public from facility abandonment and provides a basis for the estimated useful life of the facility.   | Carbiener/OCTA; Gilbert                           |
| <b>RFA-2</b> | Whether, in the event of retirement of the proposed transmission line, removal of concrete footings to a depth of one foot below the surface is sufficient to restore the site to a useful, nonhazardous condition.  | Carbiener/OCTA                                    |
| <b>SR</b>    | <b>Scenic Resources and Protected Areas – OAR 345-022-0080; 345-022-0040</b>   |   |
| <b>SR-2</b>  | Whether Applicant satisfied the Scenic Resources and Protected Area standards at Flagstaff Hill/ NHOTIC and whether Applicant adequately analyzed the feasibility of undergrounding the transmission line as mitigation for potential visual impacts.  | Carbiener/OCTA; Miller                            |
| <b>SR-3</b>  | Whether Applicant adequately assessed the visual impact of the proposed project in the vicinity of the NHOTIC and properly determined the impact would be “less than significant.”   | Deschner  |
| <b>SR-7</b>  | Whether the methods used to determine the extent of an adverse impact of the proposed facility on scenic resources, protected area and recreation along the Oregon Trail were flawed and developed without peer review on public input. Specifically, whether Applicant erred in applying numeric values to the adverse impact and whether Applicant used unsatisfactory measurement locations/observation points in its visual impact assessment. | Stop B2H  |
| <b>SP</b>    | <b>Soil Protection – OAR 345-022-0022</b>  |   |
| <b>SP-1</b>  | Whether the Soil Protection Standard and General Standard of Review require an evaluation of soil compaction, loss of soil structure and infiltration, and loss of stored carbon in the soil and loss of soil productivity as a result of the release of stored carbon in soils.   | Fouty; Stop B2H                                   |
| <b>SS</b>    | <b>Structural Standard – OAR 345-022-0020</b>  |   |
| <b>SS-1</b>  | Whether Design Feature 32 of the Proposed Order Attachment G-5 (Draft Framework Blasting Plan) should be a site certificate condition to ensure repair of landowner springs from damage caused by blasting.  | S. Webster (personal interest)                    |

|      |  |                |
|------|--|----------------|
| SS-2 | Whether Applicant adequately analyzed the risk of flooding in areas adjacent to the proposed transmission line arising out of the construction-related blasting. Whether Applicant should be required to evaluate hydrology, including more detailed and accurate mapping of existing creeks and ditches that drain into streets and private property, and core samples of sufficient variety and depth to determine the flooding risk to neighborhoods of south and west La Grande. | Cooper         |
| SS-3 | Whether Applicant should be required to test water quality of private water wells to ensure that construction-related activities are not impacting water quality and quantity.   | Horst/Cavinato |
| SS-5 | Whether Applicant has adequately evaluated construction-related blasting in Union County, City of La Grande, under the Structural Standard. Specifically, whether Applicant should be required to conduct site-specific geotechnical surveys to characterize risks from slope instability and radon emissions.   | J. White       |

IV. CONTESTED CASE PROCESS – BURDEN OF PROOF AT HEARING, EVIDENCE AND OBJECTIONS

A. Burden of Proof/Evidence in Contested Cases

**1. ORS 183.450(2): The burden of presenting evidence to support a fact or position in a contested case rests on the proponent of the fact or position.**

Here, the Applicant had the initial burden to establish that each of the siting standards has been satisfied. In the Proposed Order, the Department found that, subject to compliance with the recommended site certificate conditions, the proposed transmission line complies with ORS 469.300 to 469.520, and the applicable siting standards. Therefore, **in this contested case, those with specific challenges to findings, conclusions and/or recommended site certificate conditions in the Department’s Proposed Order bear the burden of proof.** The party or limited party must show how the Applicant failed to meet its burden with regard to the siting standards and/or how the Department erred in its findings, conclusions and/or recommended site certificate conditions.

A party or limited party challenging a finding or conclusion in the Proposed Order must provide factual testimony or evidence to substantiate the claim asserted. Unsubstantiated factual argument(s) or legal conclusions are insufficient to demonstrate the Applicant’s failure to establish compliance with any applicable standard.

**2. Standard of Proof: Preponderance of the evidence.** *Dixon v. Board of Nursing*, 291 Or App 207 (2018); *Harris v. SAIF*, 292 Or 683, 690 (1982); *Metcalf v. AFSD*, 65 Or App 761, 765 (1983). Proof by a preponderance of the evidence means that the fact finder is persuaded that the facts asserted are more likely than not true. *Riley Hill General Contractor v. Tandy Corp.*, 303 Or 390, 402 (1987).

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## B. Presentation of Evidence/Argument at Hearing

### 1. Written direct testimony:

The parties and limited parties shall submit direct testimony and evidence in written format, using the previously established document submission guidelines and naming conventions. Direct testimony and evidence shall be limited to the issues on which the party or limited party has standing or to site conditions proposed pursuant to OAR 345-015-0085. *See* OAR 345-015-0043 (authorizing the hearing officer to require that witness' qualifications and direct testimony be submitted in writing). All written submissions must be filed with the OAH by the established deadline with a copy served on all on the Service List.

Written testimony must reference the issue or issues to which the proffered testimony relates. Written testimony must include a statement of the witness's qualifications and copies of all documents to be included in the record.

Expert testimony must also reference the issue(s) to which the proffered testimony relates. Expert testimony must include a statement of the expert's qualifications and a list of the source material and supporting documents relied upon by the expert to establish the expert's conclusions and opinions.

**As set out in the schedule below, the deadline for submitting written direct testimony and evidence and any proposed site certificate conditions under OAR 345-015-0085 is September 17, 2021.**

### 2. Written rebuttal testimony:

The parties and limited parties shall submit rebuttal testimony and evidence and response to any proposed site certificate conditions in written format, using the previously established document submission guidelines and naming conventions. Such testimony and evidence shall indicate the issue or issues to which the proffered testimony relates, and shall be limited to rebutting the testimony and evidence provided by other parties on the issue(s) through direct testimony, or rebutting the testimony relating to a site condition proposed pursuant to OAR 345-015-0085. **The deadline for submitting written rebuttal testimony and evidence is November 12, 2021.**

### 3. Request for Cross-Examination:

Any party or limited party intending to cross-examine any witness on any issue on which the party or limited party has standing must submit the written request for cross-examination by **December 3, 2021**. The request must identify the witness or witnesses to be cross-examined, and the issue or issues to which the requested cross-examination relates.



#### 4. Status Conference:

Assuming that one or more parties or limited parties will request the opportunity to cross-examine one or more witnesses, the ALJ intends to convene a telephone status conference to address the cross-examination requests and the schedule for the cross-examination hearing. **This status conference is tentatively scheduled for Friday, December 15, 2021 at 1:00 PM, Pacific Time.**<sup>1</sup>

#### C. Standards for Evidence/Objections to Evidence in Contested Case Hearings

Pursuant to OAR 345-015-0023(5), the duties of the ALJ include: dispose of procedural matters, rule on motions, rule on offers of proof and receive evidence.

Under the Administrative Procedures Act, ORS Chapter 183, and the Model Rules of Procedure for Contested Cases, OAR Chapter 137, Division 3, for the following standards apply with regard to the ALJ's receipt of evidence and rulings on objections to proffered evidence in this contested case:

##### 1. **ORS 183.450(1):**

Irrelevant, immaterial or unduly repetitious evidence shall be excluded but erroneous rulings on evidence shall not preclude agency action on the record unless shown to have substantially prejudiced the rights of a party. All other evidence of a type commonly relied upon by reasonably prudent persons in conduct of their serious affairs shall be admissible. Agencies and hearing officers shall give effect to the rules of privilege recognized by law. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

##### 2. **OAR 137-003-0050: Evidentiary Rules**

(1) Evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible.

(2) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded, and privileges afforded by Oregon law shall be recognized by the presiding officer.

(3) All offered evidence, not objected to, will be received by the presiding officer subject to the officer's power to exclude irrelevant, immaterial, or unduly repetitious matter.

(4) Evidence objected to may be received by the presiding officer. Rulings

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<sup>1</sup> The date and time for this status conference is subject to change. The ALJ will issue written notice of the date and time of the status conference, along with the telephone number and access code for the conference prior to the scheduled date for the conference.

on its admissibility, if not made at the hearing, shall be made on the record at or before the time a final order is issued.

(5) The presiding officer shall accept an offer of proof made for excluded evidence. The offer of proof shall contain sufficient detail to allow the reviewing agency or court to determine whether the evidence was properly excluded. The presiding officer shall have discretion to decide whether the offer of proof is to be oral or written and at what stage in the proceeding it will be made. The presiding officer may place reasonable limits on the offer of proof, including the time to be devoted to an oral offer or the number of pages in a written offer.

## V. UPDATED CONTESTED CASE SCHEDULE

Changes to the schedule made as a result of matters addressed in the August 26, 2021 pre-hearing conference are underlined.

|                   | <b>TESTIMONY, CROSS-EXAMINATION HEARING, AND CLOSING BRIEFS</b>  |                                       |
|-------------------|--|---------------------------------------|
| Parties           | Submit witness and exhibit lists for direct testimony  | Fri 9/3/21                            |
| Parties           | Submit direct testimony and evidence OAR 345-015-0043 and proposed site certificate conditions pursuant to OAR 345-015-0085(1) | Fri 9/17/21                           |
| <u>Parties</u>    | <u>Deadline for filing objections to direct testimony</u>  | <u>Fri 10/1/21</u>                    |
| <u>Parties</u>    | <u>Deadline for filing response to objections to direct testimony</u>  | <u>Fri 10/8/21</u>                    |
| <u>ALJ</u>        | <u>Issue rulings on objections to direct testimony</u>   | <u>Fri 10/15/21</u>                   |
| <b><u>All</u></b> | <b><u>Status Conference re: logistics for Cross-Examination Hearing</u></b>  | <b><u>Thu 11/4/21 at 1:00 pm</u></b>  |
| Parties           | Submit rebuttal testimony and evidence, and responses to proposed site certificate conditions                                  | Fri 11/12/21                          |
| <u>Parties</u>    | <u>Deadline for filing objections to rebuttal testimony</u>  | <u>Mon 11/22/21</u>                   |
| <u>Parties</u>    | <u>Deadline for filing response to objections to rebuttal testimony</u>  | <u>Fri 11/29/21</u>                   |
| <u>ALJ</u>        | <u>Issue rulings on objections to rebuttal testimony</u>   | <u>Wed 12/1/21</u>                    |
| Parties           | Submit sur-rebuttal testimony and evidence   | <u>Fri 12/3/21</u>                    |
| Parties           | Submit requests for cross-examination of witnesses   | <u>Fri 12/3/21</u>                    |
| Parties           | Submit responses to cross-examination requests   | <u>Fri 12/10/21</u>                   |
| <b>All</b>        | Status Conference re: Cross Examination Hearing schedule   | <b><u>Fri 12/15/21 at 1:00 pm</u></b> |
| ALJ               | Issues Notice of Cross-Examination Hearing and Schedule for Hearing  | <u>Fri 12/17/21</u>                   |
| Parties           | Cross-examination Hearing– (grouped by siting standard/issue – location/format, precise dates, and times to be determined)     | 1/10/22 to 1/28/22                    |
| Parties           | Submit written closing arguments   | 30 days after close of hearing record |

|                             |  |                                     |
|-----------------------------|--|-------------------------------------|
| Parties                     | Submit written response briefs                           | 30 days later                       |
| <b>CONTESTED CASE ORDER</b> |  |                                     |
| ALJ                         | Issue Proposed Contested Case Order                      | 60 days after response briefs filed |
| Parties                     | Deadline for exceptions to Proposed Contested Case Order | 30 days after PO issued             |
| Parties                     | Deadline for response to exceptions                      | 15 days later                       |

The ALJ reserves the right to adjust the Contested Case Schedule due to unforeseen or extenuating circumstances and to ensure that all parties and limited parties have a full and fair opportunity to be heard in this matter. The ALJ will notify the parties and limited parties in writing of changes or adjustments to the schedule.

#### VI. REVISED SERVICE LIST

The Service List set out below has been revised to remove the limited parties that have withdrawn and/or been dismissed from the contested case. Going forward, please use this updated Service List for any and all submissions in this case.

**So Ordered.**

Date: August 30, 2021

Alison Greene Webster  


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 Senior Administrative Law Judge  
 Office of Administrative Hearings

## CERTIFICATE OF MAILING

On August 31, 2021, I mailed the foregoing SECOND ORDER ON CASE MANAGEMENT MATTERS AND CONTESTED CASE SCHEDULE issued on this date in OAH Case No. 2019-ABC-02833.

**By: First Class Mail:**

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

**By: Electronic Mail:**

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