B2H RFA2 Proposed Order Requests for Contested Case

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TARDAEWETHER Kellen * ODOE

From: Kevin March <kmarch1961@gmail.com>
Sent: Saturday, July 27, 2024 2:50 PM
To: TARDAEWETHER Kellen * ODOE
Subject: Kevin March Request for RFA 2 Contested Case
Attachments: Kevin March RFA 2 Request For Contested Case .docx - Google Docs.pdf

Dear Kellen

Please see my attached Request for a Contested Case. The first letter was sent from the wrong address.

Thank You.

Kevin March

To: Kellen Tardaewether, Senior Siting Analyst
Oregon Department of Energy
550 Capitol Street NE, Salem, OR 97301
kellen.tardaewether@energy.oregon.gov

From: Kevin March
206 Main Avenue
La Grande, OR 97850
kmarch1961@gmail.com

RE: Request for a Contested Case in Idaho Power's B2H RFA2

July 27, 2024

Issue Introduction:

Headwater streams are integral to the total health of streams and rivers and the anadromous and local native fish that depend upon the habitat these streams provide. These headwater streams, including ephemeral and intermittent streams, are highly understudied and undercounted. Data supplied to Idaho Power by ODFW and data from Idaho Power's studies is incorrect and lacking. RFA2 with its more than doubling of access roads and the widening of roads on slopes could and would impact the headwaters of the various watersheds that the Route traverses. These impacts pertain to endangered and threatened species, habitat mitigation and fish passage. As a result, RFA2 does not satisfy the Application For A Site Certificate until the OARs and ORSs I bring up in this letter are satisfied, and SDAM protocols are properly implemented.

Petitioner Introduction:

I am Kevin March, a lifelong Oregonian and fisherman, with a deep passion for our native fish species. I am not a fisheries biologist, though I have spent many years learning about our native species and the habitat that is essential for their survival. I have also spent a great many hours over the last three years learning about Idaho Power's Project and the damage this could cause to these species. I have been distressed to learn of the ODFW's lack of appropriate studies, and of the inaccurate old studies of our native fish and the streams and habitat upon which they depend that ODFW provided to Idaho Power.

I wrote a letter to the EFSC expressing interest in this project (May 30, 2024). Idaho Power's response summarily rejected every one of my issues. ODOE concurred. They are both incorrect and I am asking for a contested case to show that my issue is valid. While I don't have an issue with the Project itself and understand the need for more electrical infrastructure, I want to help make sure that the Project does not further damage the habitat of our iconic and imperiled native fish species.

This will be a long letter and I apologize for that. It is also important that the entirety of my letter to EFSC be included in my asking for a contested case as a limited party. This EFSC letter is the background and data of the contested case I am asking for. I will give my follow-up and the reasoning behind my responses to Idaho Power's statements in regards to my EFSC letter here. My letter to the EFSC from 5/30/2024 follows this contested case letter.

My Response to Idaho Power's Response to My EFSC Letter

Idaho Power starts out their comments by stating that "Mr. March was a limited party to the contested case for the ASC and fully litigated issues relating to fish habitat."[1] I am perplexed as to why Idaho Power felt the need to state this. RFA2 is a new issue, and my previous contested case is irrelevant here.

As I stated in my RFA2 comments, doubling the number of access roads and increasing the size of access roads on slopes **will** impact habitat, and the native and anadromous species of fish that inhabit and use them for their life cycle. It has nothing to do with the "fully litigated issues" of the ASC. Idaho Power brings this old case and the ASC up many times in their rebuttal to my letter. Idaho Power seems to be confusing the issue here, either not understanding my letter, or intentionally trying to frame my issue as irrelevant and old. It is not and my RFA 2 issue has not been "fully litigated." It is not up to Idaho Power to frame my issue as they seem to be trying to do here.

Idaho Power states that "The proposed expanded site boundary will not impact any new landowners or result in the siting of facility components without further analysis. If the Council approves the proposed expanded site boundary in RFA 2, then if Idaho Power

[1] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2024-06-05-B2HAMD2-Idaho-Powers-RFA-2-DPO-Comment-Responses-Combined.pdf. page 38/136

proposes any additions to the micrositing area the Company will assess, in consultation with ODFW, any potential stream crossings required for the addition"[2].

I'm not quite sure what Idaho Power was responding to here either. Once again they seem to be fixated on my first contested case or else are trying to confuse and/or conflate my current issue with my old issue. Nowhere in my letter to EFSC did I talk about the impact to new land owners nor did I talk about additions to the micrositing area. I didn't even talk about "stream crossings required for the addition." What I did talk about was **the obliteration of streams that are unknown and unmapped by both Idaho Power and ODFW by an additional 500 miles of access roads and the widening of access roads within RFA2**. That is what my asking for a contested case is about.

Idaho Power states that they used the existing USGS landcover dataset from 2011[3]. What they did not address was that this data is highly inaccurate and woefully lacking. They also ignored the fact that technologies existed and exist to correctly identify ephemeral streams and to correctly identify and map these streams and habitat. This is technology that is readily available and could easily be and have been implemented by Idaho Power to address these inaccuracies in their data.

As pointed out in my letter, using old datasets for ephemeral and intermittent stream analysis will only give old data that could and would likely be incorrect. As an example, the stream located at the coordinates[4] that I identified in my letter to the EFSC as containing water plants, snails and water beetles consistent with, at minimum, an intermittent or perhaps a perennial stream designation, was identified by whomever analyzed this as nothing but dirt. This stream is not identified as a stream by the map provided by Idaho Power. As seen in my letter to the EFSC, all streams, whether ephemeral, intermittent or perennial are important in the life cycle of fish.

The Division of State Lands states this about Essential Indigenous Anadromous Salmonid Habitat (ESH) in OAR 141-085-0510: "**any adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream**" This stream fits **exactly** the definition of ESH. This ESH stream is not mapped by Idaho Power.

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[2] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2024-06-05-B2HAMD2-Idaho-Powers-RFA-2-DPO-Comment-Responses-Combined.pdf. p 40/136

[3] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2024-06-05-B2HAMD2-Idaho-Powers-RFA-2-DPO-Comment-Responses-Combined.pdf. p 38/136

[4] Coordinates 45.31061 N, 118.17275 W

Whether that incorrect analysis was done by ODFW or Idaho Power is irrelevant. The important point is that it is **wrong**. This stream has direct connectivity to a perennial stream that has had millions of dollars worth of habitat restoration projects completed by the Umatilla Tribes to improve anadromous fish habitat.

The description of these projects are: "This Rock Creek Project encompasses nearly 16 miles of fish habitat on Rock, Little Rock, Sheep, Graves, and Little Graves creeks within the UGC-2 and UGS-16 recovery plan assessment units. UGS-16 has been identified by the BiOp Expert Panel as one of the highest priority geographic units to protect and restore summer steelhead habitat. UGC-2 is identified as having high intrinsic potential for Chinook in the lower reaches of Rock Creek and low to medium intrinsic potential for Chinook within upper stream reaches.[5]"

According to Idaho Power and the ODFW, there is no stream in this location. According to Idaho Power, there is nothing here but dirt.

Idaho Power, sounding exasperated says "Fish passage issues and issues related to fish habitat were thoroughly litigated in the contested case on the ASC, and the Council concluded that the Project, taking into account mitigation and the conditions in the Site Certificate, would comply with the applicable standards. Moreover, while Idaho Power has proposed the proposed expanded site boundary for the Project, Mr. March incorrectly suggests that the footprint of the Project itself is increasing. Rather, the proposed expanded site boundary would encompass a wider area to allow greater flexibility in the location for the Project, but not to expand it in size."

Perhaps I was not clear in my letter and Idaho Power did not understand, so I'll be succinct here. The stream identified and listed above is at the bottom of a valley with rather steep west and east facing slopes which, as Idaho Power states, the lines will cross. The doubling of the number of access roads in RFA 2 **WILL** impact this stream. Because it is considered dirt, a new, or many new RFA 2 access roads can be built across it by Idaho Power, severing the stream and destroying connectivity to Sheep and Rock Creek, extremely important tributaries to the Grande Ronde River and destroying this spawning and rearing habitat for endangered and threatened Snake River salmon and steelhead.

Furthermore, the building of access roads, and the widening of access roads on the slopes above the creek in RFA 2 could and would allow sediment from the road building and the roads themselves to damage or destroy the creek. Idaho Power acknowledges

[5] https://granderonderiver.org/habitat-project/?sid=9

this when it states: "Use of existing access roads, soil disturbance adjacent to waterbodies, as well as clearing of riparian vegetation in areas where the transmission line would span waterbodies would, however, contribute to the risk of erosion and sedimentation."[6] Erosion and sedimentation is a death knell for spawning and rearing habitat and for the fish themselves.

Changes that will take place because of Idaho Power's incorrect data can and will damage other streams like this as well. It is why *Headwater streams and inland wetlands: Status and advancements of geospatial datasets and maps across the United States* states that "Headwaters and wetlands remain vulnerable to anthropogenic modification and destruction (Creed et al., 2017)" and that "In addition to supporting human uses, headwaters and wetlands provide necessary habitat for wildlife (Hagen and Sabo, 2014; Sánchez-Montoya et al., 2016) and are often hotspots for biodiversity (Ward et al., 1999; Finn et al., 2011)."[7]

ODFW fish biologist Greg Apke[8] acknowledged the importance of ephemeral streams and their habitat for juvenile fish in Cross Examination during the original ASC contested case, testifying that these streams are critical habitat for juvenile fish.Yet because Idaho Power's analysis is incorrect, these streams and others will have access roads built atop them. They will be treated as dirt, and juvenile fish will no longer be able to use these streams for rearing and survival.

The Fish Passage issues I am referring to pertain to waterways exactly like this creek and its impact from RFA 2. They are not about fish passage issues from the original ASC though ODOE did say this in the original ASC: "Note that pursuant to ORS 509.585 and OAR 635-412- 0020, fish passage is required in all waters that currently or historically contained native migratory fish. This includes waters classified as perennial, intermittent, or **ephemeral**. See RAI J11 for additional information."[9] (emphasis added). This is not a fish passage issue because of a crossing; this is a fish passage issue because of the obliteration of streams due to the increase in the number of access roads and the increase in width of roads on slopes in RFA 2.

[6] ODOE - B2HAPPDoc3-25 ASC 16A_Exhibit P1_Wildlife_ASC_Part 1_Main thru Attach P1-6 rev 2018-09-28. Pages 86 of 940
[7] https://www.sciencedirect.com/science/article/abs/pii/S0012825222003142
[8] Greg Apke (ODFW) Cross-Examination Hearing Testimony, P19 L5-11
[9] B2HAPPDoc1-16.1 ApASC Exhibit P1_Wildlife_Main thru Att P1-6 -Includes RAIs

Idaho Power says that “Idaho Power included in its analysis ephemeral and intermittent streams”[10] and “The Department of State Lands (“DSL”) wetland evaluation process utilized to prepare the application to DSL takes into account the Streamflow Duration Assessment Methods (“SDAM”) protocols.”[11] But as I showed in my DPO comment letter to the EFSC, Idaho Power did not analyze ephemeral and intermittent streams. It is unclear if they followed SDAM [12] (Streamflow Duration Assessment Method) procedures on the streams they studied, and they stated that they only followed SDAM procedures on “select streams.” I saw nowhere in the SDAM manual that the analysis of streams was only to be undertaken on “select streams.”

When these streams were studied and how they were studied is unknown. There is no clarity and no way I can see to find the SDAM datasets that prove that Idaho Power analyzed all of the streams and wetland areas using this protocol. If ODFW gave Idaho Power this data, they were wrong. What **is** known is that Idaho Power missed at least one potentially very important ESH stream that I found on my short walk.

RFA 2 could and would potentially destroy fish passage in streams like this for juvenile native and anadromous fish. If this stream is not mapped as a stream by ODFW or by Idaho Power, then it is dirt and no Rules apply. It is a fish passage issue if the fish that could and do use this stream that has direct connectivity to important perennial streams is destroyed by the proposed new access roads in RFA 2. No stream means no fish passage in this stream and no access to the habitat that this stream affords. This is in and of itself a fish passage issue. This is not the same fish passage issue that was argued in the ASC contested case.

And please understand once again that this is one stream on a small segment of the headwater streams (according to OAR 635-415-0005) of the Grande Ronde river system. This one stream is a very small part of the 5,301 miles mapped in the Upper Grande Ronde river basin in the USGS High Resolution National Hydrography Dataset that Idaho Power stated that it used as its basis for stream surveys within the Project.

If this very small portion of the headwaters of the Grande Ronde that I walked exhibited an unknown intermittent or perhaps a perennial stream, how many other unknown streams in the Grande Ronde river system could there be just like this one? And for

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[10] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2024-06-05-B2HAMD2-Idaho-Powers-RFA-2-DPO-Comment-Responses-Combined.pdf. p 40/136

[11] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2024-06-05-B2HAMD2-Idaho-Powers-RFA-2-DPO-Comment-Responses-Combined.pdf. p 39/136

[12] Please refer to pages 6-12 of my enclosed letter to EFSC for information about the Streamflow Duration Assessment Method and the lack of this data from SDAM protocols by Idaho Power.

that matter, how many other unmapped streams could there be on all of the other riverine systems that the Project crosses, all of which harbor native fish, with the Grande Ronde and Umatilla rivers supporting endangered and threatened salmon and steelhead.

This stream was unknown to Idaho Power, and unknown to ODFW; therefore this stream must be a part of the unknown streams that the Journal Of Arid Environments States[13] is part of the 900% of unmapped streams in the Grande Ronde watershed that the USGS HRNHD missed.

For Idaho Power to say "This coordinate is located underneath the transmission line and will be spanned with no ground disturbance"[14] is a ludicrous and pompous brush off. Does Idaho Power think that this stream is only located directly under the line? Is that why they stated "No construction is planned for this area, so surveys were not performed at this location"[15]. This is not how streams work. All streams, particularly streams like this with perennial aquatic life flow through and initiate in much larger areas. They are not one point beneath the lines as Idaho Power proposes here.

One would think that this is the type of stream that the ODOE was talking about when it stated "The Department has requested in previous reviews of Table PI-2 Exhibits P and Q that **ephemeral streams be surveyed during the analysis of fish habitat and fish presence**."[16] (emphasis added)

If Idaho Power hasn't followed SDAM (Stream Duration Assessment Method) procedures as they said they did, and neither they nor ODFW has mapped this stream, then Idaho Power has no idea where this stream comes from or where this stream goes; they have no idea how their access roads will impact the stream and how the roads will damage or destroy this Essential Salmonid Habitat. They also have not done the requested ODOE surveys for Exhibits P and Q if they do not have this stream mapped.

This bears repeating once again. Idaho Power has inaccurate data and has completely missed at least one stream that is extremely important to the habitat and survival of native and anadromous fish in one small section of the headwaters of the Grande

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[13] https://www.sciencedirect.com/science/article/abs/pii/S0140196316300313

[14] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2024-06-05-B2HAMD2-Idaho-Powers-RFA-2-DPO-Comment-Responses-Combined.pdf. p39/136

[15] ibid

[16] B2HAPPDoc1-16.1 ApASC Exhibit P1_Wildlife_Main thru Att P1-6 -Includes RAIs 2013-2016_2017-06-28.pdf. page 26 of 957

Ronde Watershed. They have also potentially missed many more streams that would impact other riverine systems on the 300 miles of the proposed route by the more than doubling of access roads within the site boundaries and the increasing of the width of access roads on slopes within RFA2.

- Idaho Power can not say that they will not impact other streams such as this unmapped stream in RFA 2 and the Proposed Order is insufficient if they have not studied and documented streams such as this
- Idaho Power and the Proposed Order is not in compliance with ORS 196.810 as this is a stream that is “necessary to prevent the depletion of indigenous anadromous salmonid species during their life history stages of spawning and rearing, and any adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream”
- The doubling of access roads and the increase of width of roads on slopes within RFA 2 would damage or obliterate ephemeral, intermittent and perennial streams. The purported evaluation and analysis of “select streams” does not follow the SDAM protocols and is insufficient for correct wetland and stream analysis
- Since the data of ESH streams within RFA2 and the Proposed Order are incorrect and additional streams are unmapped within the watersheds spanned by the Project, the proposed mitigation is insufficient and RFA 2 and the Proposed Order are not in compliance with OAR 635-514-0020 . The mitigation quantities and qualities needed can only be properly accounted for with accurate mapping and accurate data
- The evaluation of fish passage in the RFA2 and the Proposed Order is not sufficient to demonstrate the project complies with OAR 635-412-0020 because as stated above, the data utilized is outdated and the surveys are inaccurate.
- The evaluation of fish and wildlife habitat in the RFA2 and the Proposed Order is not sufficient to demonstrate the project complies with OAR 635-415-000 and OAR 635-415-0005 because as stated above, the data utilized is outdated and the surveys are inaccurate and incomplete.
- The evaluation of fish and wildlife species in the RFA2 and the Proposed Order is not sufficient to demonstrate the project complies with OAR 345-021-0010(1)(p) because as stated above, the data utilized is outdated and the surveys are inaccurate and incomplete..
- The evaluation of threatened and endangered fish and wildlife species in the RFA2 and the Proposed Order is not sufficient to demonstrate the project complies with OAR 345-021-0010(1)(p) because as stated above, the data utilized is outdated and the surveys are inaccurate and incomplete.

- Essential Salmonid Habitat will be damaged in the RFA2 and the Proposed Order is not sufficient to demonstrate the project complies with OAR 635-415-0005 because as stated above, the data utilized is outdated and the surveys are inaccurate.
- Idaho Power has not followed the ODOE orders and has not satisfied “Table PI-2 Exhibits P and Q that ephemeral streams be surveyed during the analysis of fish habitat and fish presence.“

This unmapped stream is, as OAR 635-415-0005 states, a part of “**Any habitat recognized as a contributor to sustaining fish and wildlife populations on a physiographic province basis over time**.”

I ask for a contested case so that I may carry my issue forward to help assure that our native and anadromous fish species and the habitat that sustains them are not degraded further by RFA 2 and that Idaho Power follows the Rules and Laws of the State of Oregon that protect these fish.

Sincerely,

/s/ Kevin March

Kevin March
206 Main Avenue
La Grande, OR 97850

kmarch1961@gmail.com
(541) 962-5726

Kevin March's Letter to the EFSC

May 30, 2024

Oregon Department of Energy
Attn: Energy Facility Siting
550 Capitol Street NE
Salem, OR 97301

Sent Via EMail: energy.siting@energy.oregon.gov

Subject: Kevin March: Comments Regarding RFA2

RE: Inaccurate and Incomplete Data for Streams in RFA2 Proposed Area

Dear Chair and Members of the Energy Facility Siting Council:

Oregon's wild fish populations are in steep decline. 2022 Snake River Basin Steelhead counts were by far the lowest ever recorded. Chinook Salmon are on the endangered species list. Chief among the many issues compounding this decrease in our native fish population is habitat loss.

Idaho Power's RFA2 with its substantial increase in access roads, the increase of site boundaries to potentially ½ mile, as well as the proposed widening of roads on slopes could and would do great harm to the uplands, and specifically to the ephemeral streams and associated wetlands of our Northeast Oregon rivers that these power lines and roads would cross and despoil.

Ephemeral streams are critical to intermittent and perennial stream health. They are important for water quality for all downstream and instream water users.. Ephemeral streams are critical components of anadromous and native local fish habitat health. Yet ephemeral streams are highly understudied and undercounted, and are not acknowledged by Idaho Power in RFA2.

Idaho Power, at best, studied and mapped a very limited number of ephemeral streams within the original ASC. RFA2, without adequate studies, would only increase the potential impact to and the potential degradation of ephemeral streams and their habitat. Idaho Power is in violation of ORSs and OARs by treating these important waters as dirt rather than the essential component of watershed and fish habitat health that they are.

The following is from a letter from former Governor Kate Brown to the EPA when proposals were floated to decrease federal protections of ephemeral streams:

“Oregon supports EPA and the Corps' inclusion of intermittent streams, however, excluding ephemeral streams from the definition of the Waters of the U.S. is a distinction without a difference. These waters are essential to protecting the overall health of a watershed including the protection of drinking water, recreation, fish, wildlife and their habitats, as well as economies dependent on those systems. Stream networks with significant ephemeral and intermittent extents are commonplace in eastern Oregon and throughout the arid West. In fact, the United States Geological Survey's National Hydrography Dataset (NHDPlusV2) categorizes over half of the waterways in Oregon as intermittent or ephemeral. Oregon is encouraged to see intermittent streams included in the proposed definition of Waters of the United States; this aspect of the definition must remain in any final rule.

Headwater streams are often ephemeral. These are important for the overall function of a watershed for sediment, nutrient, and flood control, and they help maintain biological diversity, and are essential for the water quality in downstream perennial streams, which are essential for Oregon's fish and wildlife, including ecologically and economically valuable cold-water species like salmon, steelhead, and trout, as well as other native fish and wildlife. The ability of those perennial waters to function as habitat for those species throughout the year is tied to this larger stream network. For example, during summer months when stream flows are low and water temperatures are elevated, some fish species rely on localized pockets of cooler water for survival delivered by these upstream networks. Many of these "cold water refugia" exist because subsurface hydrologic connections persist even after the seasonal loss of surface connectivity. While Oregon is not suggesting that subsurface water be included in the definition of the Water of the United States, ephemeral waters feed surface and subsurface flows and contribute critical cold water flows to downstream waters.

The conclusions above are supported by a 2019 American Fisheries Society Special Report , which documents the critical roles headwater streams and wetlands, including those that are intermittent or ephemeral, play in sustaining the nation's ecosystems, imperiled species, recreational and commercial fisheries, and cultures. This report is replete with Oregon examples including the role of headwaters in the recovery and delisting of Oregon Chub and Modoc Sucker, which in 2014 and 2015, respectively, became the first and second fish species ever to be delisted from the federal Endangered Species Act due to recovery. When considered cumulatively across the drainage network, intermittent and ephemeral waters are vital for determining the quality of perennial water and, hence, the beneficial uses supported in downstream perennial reaches and the health of economies tied to these resources.

In Oregon, salmon and steelhead are a vital part of our natural heritage, culture, and economy. These iconic fish support commercial and recreational fisheries that contribute millions of dollars to the nation's economy each year. The

economic contributions of these fisheries are particularly important in many rural and coastal communities in Oregon. For example:

• Oregon's recreational salmon and steelhead fisheries provided an economic impact of $53.8 million in 2013 and $57.1 million in 2014.
• Between 2012 and 2017, commercial ocean troll and recreational ocean fisheries for salmon in Oregon provided an average annual personal income impact of over $19 million with much of that impact delivered to coastal communities.

• Even beyond salmon and steelhead, recreational fishing is an economic driver across Oregon. In 2011, the year of the most recent National Survey of Fishing, Hunting and Wildlife-Associated Recreation, 638,000 recreational anglers spent over 5.6 million days of fishing in Oregon with total fishing-related expenditures exceeding $640 million.

In addition, ephemeral waters in drier climates, such as in Eastern Oregon, vary spatially and temporally. For example, the Oregon Department of Fish and Wildlife (ODFW) conducted annual status surveys for redband trout in an eastern Oregon basin (Rock Creek) from 2007 to 2012. The interannual variability in the number of sites visited that were dry was substantial (2007 - 56% dry; 2009 - 18% dry; 2010 & 2011 - 0% dry; 2012 -75% dry). Despite this variability and the large extent of drying in some years, ODFW concluded "redband trout in this system appear to be abundant relative to other areas in the northern portion of the Great Basin."Aquatic habitat that is periodically and unpredictably dry does not necessarily cease to be important habitat for Oregon's fish and wildlife."[17]

This letter to the EPA highlights the importance of ephemeral streams and the habitat they contribute to, but there is much more.

A 1973, four year study[18] on the Rogue River by Oregon Fish and Game (now ODFW) biologist Fred Everest found that one of the most productive streams for threatened steelhead spawning was a stream that, during the study period, was dry during August through October (an ephemeral stream). He found that adult steelhead and all other native fish can spawn in the ephemeral waters, which are then used by the juveniles as rearing habitat, where they have less danger from predators. The study showed that juveniles will use the calmer waters present in the ephemeral streams during flooding events for calmer, less turbulent habitat, as well as the food and shelter from predators this habitat affords. Evers found that when these ephemeral waters seasonally decrease or become dry, the juveniles will migrate downstream to intermittent and perennial streams to continue their development.

[17] https://www.epa.gov/system/files/documents/2021-11/or_09-30-2021_508.pdf pages 12-13

[18] https://www.wildsteelheaders.org/science-friday-ephemeral-streams-provide-key-steelhead-habitat/

Idaho Power's proposed B2H route crosses numerous river watersheds including the Umatilla, Grande Ronde , Powder and Burnt River basins and uplands. A watershed, according to OAR 635-415-0005, "is composed of its streams, tributaries and associated uplands".[19] "Headwaters and wetlands represent a substantial portion of the freshwater network within watersheds. Headwaters dominate freshwater riverine systems in both density and length (Larned et al., 2010; Datry et al., 2014). For instance, in the conterminous United States (CONUS), conservative estimates indicate that headwaters constitute over 79% of the freshwater river length and drain approximately 70% of the land area (Colvin et al., 2019)." [20]

Studies have shown that ephemeral streams initiate in areas where there are 2 acres of upstream watersheds in steep areas and up to 24 acres of upstream watersheds in flat areas. Many of these ephemeral streams have connectivity to systems containing anadromous fish, and most **all** have connectivity with native fish bearing streams.

Ephemeral streams are an important part of each watershed and are a vital component of these tributaries and uplands defined by OAR (OAR 635-415-0005) and provide critical habitat for **all** native fish including Oregon's endangered and threatened salmon and steelhead.

The National Hydrography Dataset estimates that 18% of streams nationwide are ephemeral, with a much higher percentage in the arid west. 5,301 miles of streams are mapped in the Upper Grande Ronde river basin in the USGS High Resolution National Hydrography Dataset. Trout Unlimited estimates that for every mapped river mile, there are 1.5 miles of ephemeral streams which are poorly or not mapped at all. The Journal Of Arid Environments stated that "The algorithm extracted ephemeral stream lengths approximately 900% greater than those identified in the National Hydrography Dataset."[21] This is a huge amount of unmapped streams.

Clearly, the historic mapping of ephemeral streams is poor, at best. However, "While limitations in current headwater and wetland datasets exist, emerging approaches using LiDAR, other remote sensing platforms, field and remote monitoring, machine learning, and modeling can help to close gaps created by these limitations."[22] There are tools with which to map these streams and they are readily available.

The Oregon legislature, acknowledging the importance of ephemeral streams and their habitat, passed forestry laws in 2022 "...that required stream buffers for some ephemeral headwater streams. These are streams that are seasonal, or sometimes present during significant rainfall, but are dry at other times of the year. Oregon law did not previously require forest landowners to leave buffers of uncut trees around these types of streams, but protections for these streams, either in the form of no-cut buffers

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[19] OAR 635-415-0005
[20] https://www.sciencedirect.com/science/article/abs/pii/S0012825222003142
[21] https://www.sciencedirect.com/science/article/abs/pii/S0140196316300313
[22] https://www.sciencedirect.com/science/article/abs/pii/S0012825222003142

or a logging equipment limitation zone, were added because they feed into fish-bearing streams and aquatic habitats."[23]

Ephemeral streams are also important for wetland riparian areas. (9) "Riparian area" means a zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream."[24]

The Best Practices[25] for aquatic conservation have long held that overall watershed health is directly related to the fisheries the watershed supports, irregardless of whether the fish are present in all of the streams within the watershed.

ODFW's own fish passage biologist Greg Apke had this to say about ephemeral streams:

> Q. "Can very small streams and even streams that are considered ephemeral streams hold pools that could sustain steelhead smolts during dry periods?
>
> A. Yes.
>
> Q. Would you agree that the small streams can be important habitat for steelhead survival?
>
> A. Yes."[26]

Yet Idaho Power has used the Division of State Lands definition of ephemeral streams, which is that they are not streams; by this definition they are nothing more than dirt. Idaho Power identifies 0.3 acres of category 2 ephemeral stream habitat that will be disturbed, and 0 acres of category 3 ephemeral stream habitat that will be disturbed in the entire route. They identified 0 acres of ephemeral streams on the alternative route that will be disturbed.[27]

This is an absurd number. This analysis was flawed in the original ASC, but it is even more so with Idaho Power's proposed increase in the site boundaries to ½ mile and the proposed increase in the number of access roads and the size of roads constructed on slopes.

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[23] https://oregonforestlaws.org/water-and-fish
[24] 541.890 Definitions for ORS 541.890 to 541.969. As used in ORS 541.890 to 541.969
[25] Williams, J.E. , C.A. Wood, and M.P. Dombeck (editors). 1997. Watershed restoration: principles and practices.
American Fisheries Society, Bethesda, Maryland.
[26] Greg Apke (ODFW) Cross-Examination Hearing Testimony, P19 L5-11
[27] B2HAPPDoc1-16.1 ApASC Exhibit P1_Wildlife_Main thru Att P1-6 -Includes RAIs 2013-2016_2017-06-28.pdf. page 122

Idaho Power had this to say of ephemeral streams: “Based on consultation with the USACE (Turaski and Nelson 2013) and for purpose of this Project, IPC is treating ephemeral streams as WOTUS; therefore, ephemeral streams are included in the JPA for the USACE’s consideration. In contrast, as discussed above, ephemeral streams are not considered WOS subject to DSL’s jurisdiction and are not addressed in Exhibit J. “[28] Once again, the DSL definition of an ephemeral stream is that it is not a stream, it is dirt.

Oregon law says this of Upland Habitat in the Dept. of State Lands, Chapter 141 (141-085-0510): “Essential Indigenous Anadromous Salmonid Habitat (ESH)” means the streams designated pursuant to ORS 196.810 that are necessary to prevent the depletion of indigenous anadromous salmonid species during their life history stages of spawning and rearing, and any adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream.” This is exactly what ephemeral and intermittent streams are and what they offer ; “**any adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream**”.

ODOE asks of Idaho Power in regards to ephemeral streams: “The Department has requested in previous reviews of Table PI-2 Exhibits P and Q that **ephemeral streams be surveyed during the analysis of fish habitat and fish presence**.“[29] (emphasis added)

The above is very important. **ODOE asks that ephemeral streams be surveyed for fish habitat and presence**. How and what did Idaho Power do for this “analysis?”

For stream analysis/identification and to differentiate between ephemeral, intermittent, and perennial streams, Idaho Power used a system entitled Streamflow Duration Assessment Method for the Pacific Northwest (SDAM) “SDAMs are rapid field assessment methods that use hydrological, geomorphological, and/or biological indicators, observable in a single site visit, **to classify streamflow duration as perennial, intermittent, or ephemeral at the reach scale**.”[30] Yet which, **if any**, ephemeral streams were analyzed by Idaho Power is unclear.

Idaho Power says “In 2013 and 2016, individual SDAM forms were not filled out for all intermittent and perennial streams; however, the SDAM methodology (Nadeau 2011

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[28] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2018-09-28-B2H-ASC-Exhibit-J-aPart-1.pdf page j-9

[29] B2HAPPDoc1-16.1 ApASC Exhibit P1_Wildlife_Main thru Att P1-6 -Includes RAIs 2013-2016_2017-06-28.pdf. page 26 of 957

[30] https://www.epa.gov/streamflow-duration-assessment/streamflow-duration-assessment-method-pacific-northwest#what

and 2015) was used by field staff as needed for determining flow duration, and forms were filled out only at select representative streams."[31]

What does this even mean? What does Idaho Power mean by "as needed" and who determined "select representative streams"? Did Idaho Power analyze **any** ephemeral streams? For that matter, how did Idaho Power select the "representative" streams determined to be intermittent or perennial in the Application?

SDAM's manual states that "Performance of the current method does vary somewhat in different hydrological settings and at different times; for instance, it performs better during the spring for semiarid and very wet climate classes."[32]

The manual goes on to say: "The reach should first be walked to ascertain whether it is completely dry, or if areas of standing water where aquatic macroinvertebrates may collect remain."[33] Once again, it is absolutely unclear when and if IPC did any analysis of ephemeral streams on the Route, and which intermittent and perennial streams it analyzed, and if it did not follow the SDAM manual, what did it follow? And exactly when and what time of year did it do this analysis? Which streams did they "selectively" study?

In the water year 2013 while Idaho Power was doing some of these studies, NOAA said this about snowpack in Eastern Oregon "below and much below normal snowpack was observed for central and eastern Oregon."[34] In fact, Oregon was in a severe multi-year drought during this time, bringing into question the validity of "select" stream analysis for intermittent and perennial streams and wetlands, much less ephemeral streams (which flow in direct response to rainfall events) in all of the watersheds along the route.

SDAM's manual also says this about stream analysis: "As with wetland delineation, for best results we recommend that the method be applied during the growing season."[35] Once again though, the Idaho Power "analysis" was carried out during a period of drought and during the driest part of the summer for the higher terrain of the Route.

In addition, Idaho Power had this to say about surveys for wetlands: "The survey area used for wetland and waters was the analysis area. In 2011, surveys occurred from June 24 to October 7. Surveys in Oregon started in Morrow County then moved to Umatilla, Malheur, Baker, and finally Union counties. This order was used to capture the lower elevation areas in Oregon first, where wetlands would be harder to identify as the season progressed, before moving to higher elevations where wetlands would be easier to identify later in the season. Additional surveys were conducted in 2012, 2013, and

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[31] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2018-09-28-B2H-ASC-Exhibit-J-aPart-1.pdf page j-14

[32] https://www.epa.gov/system/files/documents/2022-03/sdam-pnw_nov-2015-final.pdf

[33] Ibid

[34] https://www.ncei.noaa.gov/access/monitoring/monthly-report/snow/201303

[35] https://www.epa.gov/system/files/documents/2022-03/sdam-pnw_nov-2015-final.pdf page 13

2016 in order to capture changes that were made to the Site Boundary, including the addition of alternative routes. Future survey efforts are identified in Table P1-1."[36]

So, during a multi-year drought, IPC did its wetland surveys for Union County very late in the summer, or even well into the fall as it supposedly had done for stream analysis. This is not a proper analysis. Wetlands and ephemeral and intermittent streams along with their connectivity could absolutely change character later in the season, looking dry and void of aquatic life, when earlier in the season they provided habitat and refugia to numerous native fish species.

The SDAM manual says this about "streamflow indicator assessment" which is the differentiation criteria for ephemeral, intermittent and perennial streams:

"Indicator assessment is based on direct observation and should not include predictions of what could or should be present. Disturbances and modifications to the stream should be described in the "Notes" section of the assessment form and taken into consideration when drawing conclusions from the information collected. It is also important to explain the rationale behind conclusions reached, and when necessary that rationale should be supported with photos and other documentation of the reach condition and any disturbances or modifications that were taken into consideration. Stream reaches are categorized as perennial, intermittent, or ephemeral on the basis of five indicators. To apply this method, all indicators should first be evaluated, and the field assessment form (Appendix B) completed. The indicators are then considered sequentially, similar to using a dichotomous key (see Drawing Conclusions). The answers to each step of the key determine the relevant indicator for the next step."[37]

These indicators are as follows:

1-3) The presence of certain types of macroinvertebrates
4) Wetland plants in or near streambed
5) Slope

SDAM also states that the stream is at least intermittent if not perennial when "One or more individuals of an amphibian or snake life stage (adult, juvenile, larva, or eggs) identified as obligate or facultative wet (Table 2) are present in the assessment reach."[38]

I did brief surveys of land near Morgan Lake, just west of La Grande in an area the lines and access roads will traverse. According to the landowner, Idaho Power has not been on his land to survey. To our knowledge this area has not been included in Idaho Power's "select analysis" of streamflows and SDAM has not been followed.

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[36] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/2018-09-28-B2H-ASC-Exhibit-P1-Part-1-Main-to-Attach-P1-6.pdf page P1-19

[37] https://www.epa.gov/system/files/documents/2022-03/sdam-pnw_nov-2015-final.pdf page 18/36

[38] ibid page 25/36

This is what I found (on 5/21/2024) near or at a site where a tower is slated to be constructed [39]. It is rather obviously an amphibian:



[39] Coordinates: 45.29983 N, 118.14634 W

This was found at the same location:



These photos satisfy SDAM's criteria for at least intermittent, if not perennial stream designations. They show amphibians and macroinvertebrate damselflies (Calopterygidae). Yet on Idaho Power's maps, there are no streams or wetlands of any kind shown at this location. The water from this location flows directly into Sheep Creek, a stream designated as Essential Salmonid Habitat by DSL, and a stream with resident and listed species present.

This next photo (from 5/28/2024) of a pebble snail (Pleuroceridae,) is from a nearby location [40]. Again, Idaho Power apparently has the stream that contains this designated as dirt:



[40] Coordinates 45.31061 N, 118.17275 W

I also have a video from the same day showing riffle beetles (Elmidae), water plants and water striders (Gerridae), though I was not able to embed the video in a PDF. This video is on the same day and identified by the same coordinates as the pebble snail above. I plan to submit this video as evidence during the proceedings if I am allowed a contested case. The video can be furnished with a request to kmarch1961@gmail.com

These photos and the video satisfy the criteria for this water as, at minimum, an intermittent stream according to SDAM, and potentially a perennial stream. This stream is not on Idaho Power's map. Idaho Power has not satisfied SDAM and could potentially put a road right over or through this stream because they have not followed the criteria specified in SDAM to differentiate and map the stream types.

The waters from this stream flow into Sheep Creek, just above the confluence of Sheep Creek and Rock Creek. This unmapped water is contiguous with native and anadromous fish bearing streams, and most likely support the cold water refugia and safe protective habitat most needed by juvenile fish as stated earlier in this paper.

Because they support such important anadromous fish habitat, Rock Creek and Sheep Creek (tributaries to the Grande Ronde River) have had a tremendous amount of work done for fish habitat improvement, a project called the Rock Creek Project. "This Rock Creek Project encompasses nearly 16 miles of fish habitat on Rock, Little Rock, Sheep, Graves, and Little Graves creeks within the UGC-2 and UGS-16 recovery plan assessment units. UGS-16 has been identified by the BiOp Expert Panel as one of the highest priority geographic units to protect and restore summer steelhead habitat. UGC-2 is identified as having high intrinsic potential for Chinook in the lower reaches of Rock Creek and low to medium intrinsic potential for Chinook within upper stream reaches."[41]

Again I will point out the importance of this Upland habitat for stream and fish habitat health and according to DSL, Chapter 141 (141-085-0510): "Essential Indigenous Anadromous Salmonid Habitat (ESH)" means the streams designated pursuant to ORS 196.810 that are necessary to prevent the depletion of indigenous anadromous salmonid species during their life history stages of spawning and rearing, and any adjacent off-channel rearing or high-flow refugia habitat with a permanent or seasonal surface water connection to an ESH stream."

Importantly, the Oregon Department of Energy had this to say about the route in regards to fish in the Proposed Order for the Application of Site Certificate (ASC):

"Note that pursuant to ORS 509.585 and OAR 635-412- 0020, fish passage is required in all waters that currently or historically contained native migratory fish. This potentially includes waters classified as perennial, intermittent, or **ephemeral**. See RAI J11 for

[41] https://granderonderiver.org/habitat-project/?sid=9

additional information." (emphasis added)[42] **An access road built across streams such as the one illustrated will block any and all native migratory fish passage.**

There is a serious disconnect here from the critical importance of ephemeral streams for native fish survival, the fish passage requirements, the DSL definition of ephemeral streams, and the "surveys" that Idaho Power did or did not do in "select representative" ephemeral or intermittent streams. These are antithetical and contradictory; Idaho Power's approach is absolutely not "Best Practices", and in violation of OAR 635-415-0005, OAR 635-412-0035, OAR 345-021-0010, OAR 345-021-0010(1)(p), OAR 345-021-0010(1)(q), ORS 509.585 and OAR 635-412- 0020 and ignores Essential Salmonid Habitat as defined in DSL Chapter 141 (141-085-0510).

My short analysis of a small basin on one very small upland of the 270 mile route clearly shows a lack of proper, if any analysis by Idaho Power. Ephemeral streams must be a part of the habitat described in OAR 635-415-0005 as "**Any habitat recognized as a contributor to sustaining fish and wildlife populations on a physiographic province basis over time**."

Oregon fish passage criteria for OAR 635-412-0035 are not satisfied if ephemeral streams are considered dirt and have not been analyzed. Fish passage criteria are not met if only "select" intermittent streams were studied, and are not satisfied if SDAM forms were not filled out for all intermittent and perennial streams. Fish passage OARs are not satisfied if Idaho Power can have a half mile wide corridor with which to build roads, install powerline towers, and damage habitat while severing connectivity within this extremely important habitat.

Idaho Power also does not have a list of threatened species in these intermittent and ephemeral waters to satisfy OAR 345-021-0010. It does not have a complete list because it did not study them, or if the "select representative" streams were actually studied, but during the latter part of the summer during an extended period of drought.

The rule informing the applicant what must be included in their application is covered in Division 21 of the EFSC rules. It is clear from the ASC that Idaho Power has not compiled with OAR 345-021-0010(1)(p) and (q); and moreover they continued to not include this essential information for the analysis.

"OAR 345-021-0010(1)(p) requires that Exhibit P include the following information about the fish and wildlife habitat and species, other than the species addressed in Exhibit Q, that could be affected by the Project:
(A) A description of biological and botanical surveys performed that support the information in this exhibit, including a discussion of the timing and scope of each survey.
(B) Identification of all fish and wildlife habitat in the analysis area, classified by the habitat categories as set forth in OAR 635-415-0025 and a description of the characteristics and condition of that habitat in the analysis area, including a table of the

[42] B2HAPPDoc1-16.1 ApASC Exhibit P1_Wildlife_Main thru Att P1-6 -Includes RAIs 2013-2016_2017-06-28.pdf page 2-3

areas of permanent disturbance and temporary disturbance (in acres) in each habitat category and subtype.
(C) A map showing the locations of the habitat identified in (B).
(D) Based on consultation with the Oregon Department of Fish and Wildlife (ODFW) and appropriate field study and literature review, identification of all State Sensitive Species that might be present in the analysis area and a discussion of any site-specific issues of concern to ODFW.
(E) A baseline survey of the use of habitat in the analysis area by species identified in (D) performed according to a protocol approved by the Department and ODFW.
(F) A description of the nature, extent and duration of potential adverse impacts on the habitat identified in (B) and species identified in (D) that could result from construction, operation and retirement of the proposed facility"

Idaho Power has stated that they would use "mitigation banking" to make up for the loss of habitat, but if they do not have accurate data reflecting the true amount of ephemeral and intermittent streams affected by this project, they can not possibly know how much "banking" is needed.

If ephemeral streams are not identified as habitat, the proposed mitigation is not adequate. The mitigation plan is in error because the habitat has not been fully quantified. It omits most ephemeral streams, and some intermittent streams in the habitat quantification that sustains our threatened fish and fisheries. Therefore, the metrics used for the mitigation banking are not accurate and must be reviewed and revised before approval of the site condition, with its mitigation banking, can be granted.

In conclusion, incorrect data and omissions of data in regards to ephemeral and intermittent streams are a serious issue in the RFA2. Correcting these omissions would give Idaho Power the opportunity to correct their erroneous data so that there is no destruction or damage to our native fish habitat and the species it supports.

- Ephemeral streams are a critical component of the uplands of a watershed as per OAR 635-415-0005
- Ephemeral streams are critical habitat during periods of low flow for our states indigenous fish species, whether they are endangered and threatened anadromous fish, or local native species
- Ephemeral streams, even when appearing dry, can have subsurface flows and connectivity to downstream waters, which is important in maintaining cold water refugia for our local and anadromous fish species
- Ephemeral streams are not dirt. They are a vital part of our river systems, and integral to the ecology and habitat of our watersheds
- Mapping and hydrological analysis of ephemeral streams is poor at best and non-existent at worst, and better mapping techniques are now available. Idaho Power could and should have used these techniques to better assess streams in the watersheds spanned by the Route
- Access roads, towers, and the equipment associated with their construction jn RFA2 could and would destroy many of these streams, severing connectivity to their associated perennial streams and the native fish species sustained by them

- Idaho Power's maps of streams in the small area I analyzed are inaccurate and brings into question the accuracy of stream analysis on the entire proposed route
- Idaho Power's "select" analysis of ephemeral, intermittent and perennial streams and wetlands were performed during a multi-year period of drought with many areas "studied" during the driest period of the year and does not give a true picture of morphology and habitat
- Idaho Power did not follow the guidelines within the SDAM manual, Idaho Power's reference for the study of and clarification/distinction of ephemeral streams, intermittent and perennial streams
- RAF2 will not meet the requirements set forth in ORS 509.585 and OAR 635-412- 0020 until a more complete analysis of the ephemeral streams throughout the project is undertaken
- RAF2 will not meet the requirements set forth in OAR 345-021-0010(1)(p) until a more complete analysis of the fish and habitat within ephemeral streams and their contiguity with intermittent and perennial streams is undertaken
- RAF2 will not meet the requirements set forth in OAR 635-415-000 and OAR 635-415-0005 if ephemeral stream habitat loss for the watersheds within the entire Project are not included in the proposed mitigation measures
- RAF2 will not meet the requirements set forth in OAR 635-412-0035 if access roads are built through streams prior to a Fish Passage analysis
- RAF2 will not sustain Essential Salmonid Habitat as recognized in OAR 635-415-0005

Sincerely,

/s/ Kevin March

Kevin March
206 Main Avenue
La Grande, OR 97850

kmarch1961@gmail.com
(541) 962-5726

TO: Kellen Tardaewether July 29, 2024

FROM: Irene Gilbert as an Individual and representing the Public Interest.

CONTESTED CASE REQUEST:

Re: The Council review of standards for the area added to the site boundary fails to require compliance with council rules applying to an initial site certificate. In my role as co-chair of Stop B2H and due to the fact that I was involved in the drafting of the Stop requests, I am incorporating their requests into this document.

Required Detail in this Request:

1. Petitioner's name, mailing address and email and any organizations the person represents:

   Irene Gilbert

   2310 Adams Ave.

   La Grand Oregon

   Email: ott.irene@frontier.com

2. Representing:
   a. Petitioner and the public interest

3. A short and plain statement of the issue or issues the person desires to raise or take notice of.

   The Proposed Order for Amendment 2 of the B2H Site Certificate fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2)

4. Statement of where issue was properly raised. This issue was raised in my May 30, 2024 comments entitled "Cannot expand site boundary

without full review", Items 2, Item 6, Item 8, Item 9, Item 11 included in the compiled comments received by ODOE on May 30, 2024 .

5. This request raises an issue justifying s contested case under OAR 345-027-0371(9) for the following reason:

   OAR 345-022-0000(l)(a) requires the Site Certificate to meet the standards developed under ORS 469.501.

   In order for Council to issue a site certificate which adds area to the site boundary Council must determine that the area added to the site complies with all laws ad Council standards applicable to an original site certificate application.

   The same requirements that applied to the Original Site Certificate for the B2H Transmission line must be required for the area added to the site boundary as described in the Original Site Certificate for the Boardman to Hemingway Transmission Line.

   ORS 469.401(2) requires that the council include in the site certificate conditions in the site certificate to ensure compliance with the statutes, standards and rules described in ORS 469.501 and ORD 469.503. Council must implement this statutory framework by adopting findings of fact, conclusions of law and conditions of approval concerning the facilities compliance with the EFSC Standards for Siting Facilities at OAR 345, Divisions 22, 24, 26 and 27. (Final Order on the ASC for the B2H Transmission Line 9/27/22,Page 88)

6. Name of person's attorney if any:
   a. I am a pro se for myself and the public interest and not represented by an attorney
7. I am requesting to appear as a full party to the contested case.
   a. This request is due to the fact that I am representing the public at large. The group is too large to contact each individual in the short (30 day) timeframe allowed to submit contested case requests which in itself makes it impossible to submit requests for all interests of the group impacted by the site certificate changes. I also was required to respond to two Mandamus Requests from

the Oregon Department of Energy and Energy Facility Siting Council. meet deadlines for submitting comments regarding Division 15 and Division 27 rule revisions during this timeframe, the fact that I was at an out of state location lacking internet access during over two weeks of the time, and I had an upper respiratory tract infection that required medical care for a portion of the time.

8. Negative impacts to the public as well as myself personally can occur when the area containing resources the proposed facility may effect are not evaluated or monitored. While not the only changes that do not comply with the requirements of the original site certificate, the definition of "Micrositing corridor" is found in OAR 345-001-0010(32) is significantly different than the definition for "site boundary" in OAR 345-001-0010(54). It is a change that allows impacts of the development requiring mitigation to go unidentified. Some standards that the Proposed Site Certificate fails to require for the area added to the site that were required for the initial application and are required for evaluating the site under EFSC rules due changing the evaluation area required in the site certificate conditions from "site boundary" to "micrositing area":
    a. - Standard (OAR 345-022-0020) requires specific study which characterizes the potential geological and soil hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by the construction and operation of the proposed facility.

       --PRE-SS-01: Currently requires sub surface ecological Survey within site boundary. It is changed to only include the "micrositing corridor".

Failing to complete specific study of the area required by the Council standard including the entire site boundary creates a safety risk to citizens and me personally due to proximity to unstable soil conditions within the site boundary.

3 Contested Case Request site boundary additions require full review

b. --The Fish and Wildlife Habitat Standard (OAR 345-022-0060) requires compliance with OAR 635-415-0025 which requires Habitat Categories be identified based upon a site-specific basis or a physiographic province. This requires habitat to be evaluated for the entire site boundary, not just the micrositing corridor.

A failure to evaluate habitat for the entire site can result in indirect impacts which result in the loss of habitat critical to species and create a risk of them becoming threatened or endangered. This would limit activities that can occur on the remaining habitat.

c. --Threatened and Endangered Species (OAR 345-022-0070) requires identification of species which could be impacted by the proposed development.

--PRE-FW-02: Should retain current language requiring pre-construction surveys within the site boundary.

--PRE-FW-01: Allows developer to decide whether to complete biological surveys in either the site boundary or micrositing area. Should retain current language requiring surveys in site boundary.

--CON-FW-03: Retain current language requiring identification of migratory bird nests and non-native raptor nests within site boundary.

d. --Historic, Cultural and Archaeological Resources (OAR 345-022-0090) require review of the site boundary plus 5 miles from the boundary.

The destruction or damage to Historic, Cultural and Archaeological Resources denies the public and individuals access to information and data regarding past events and how those events relate to the world today. It also denies the access to these resources as a recreational or a spiritual endeavor.

9. Others cannot represent the above interests as completely as I can. I have over a dozen years of fighting for the appropriate placement and

requirements for adding to the area of a site and other changes included in Amended site Certificates.

10. This issue raises a significant issue of fact or law that is reasonably likely to affect the council's determination that the facility meets the requirements of OAR 345-022-0000(l)(a) . Prior litigation supports this request for a contested case:

    a. (Eng v. Wallowa County 79 Or LUBA 421 (2019) A county **may not** defer a determination of compliance with applicable approval criteria to a future proceeding that does not allow for public participation merely because the deferred criteria require no interpretation or judgment.

    b. A denial of access to an agency held contested case regarding the omission of a full review of the area added to the site boundary is appealable to the Circuit Court (Friends of the Columbia Gorge v. ORS 183.335(1)

    c. (Energy Facility Siting Council 365 Or 371 states that Council lacks the authority to deny the public access to reconsideration by the Circuit Court when no opportunity is provided to access a contested case.

Site Certificate Condition required:

Prior to the start of construction outside the micrositing corridor, but within the site boundary, the developer must request an amended site certificate subject to a Type A amendment.

RULES SUPPORTING THIS CONTESTED CASE REQUEST

OAR 345-001-0010(32) . "Micrositing Area" is referred to in the EFSC rules as a "micrositing corridor". It is defined as a "continuous

area of land within which construction of facility components may occur, subject to site certificate conditions.".

OAR 345-001-0010(13) "corridor" is a "continuous area of land not more than one-half mile in width and running the entire length of a proposed transmission line or pipeline.":

OAR 345-001-0010(54) "site Boundary" is defined in as "the perimeter of the site of a proposed energy facility, its related or supporting facilities all temporary laydown and staging areas and all corridors and micrositing corridors proposed by the applicant."

The Site boundary is typically larger than the micrositing corridor and it includes the micrositing corridors.

OAR 345-001-0010 (55) "Analysis area includes all areas within the site boundary"

ORS 469.401 (2) The site certificate or amended site certificate shall contain conditions for the protection of the public health and safety, for the time for completion of construction and to ensure compliance with the standards, statutes and rules described in ORS 469.50l and ORS 469.503

REFERENCE DOCUMENTS:

Exhibit 1: Original Site Certificate for the B2H Transmission Line.

Exhibit 3: Proposed Order for Amendment 2 of the B2H Transmission line including Exhibit C Pages 29-30 Section 3.5 describing the site boundary.

Exhibit 4: Request for Amendment #2 from Idaho Power

Exhibit 5: Second Amended Project Order,

To: Kellen Tardaewether July 29, 2024

From: Irene Gilbert on behalf of the public interest and myself as well as Stop B2H

Re: Request for Contested Case Regarding A failure to require a bond amount and conditions to comply with EFSC rules including but not limited to OAR 345-027-0375, OAR 345-025-0006 and OAR 345-022-0000, OAR 345-022-0050 and OAR 345-027-0371

Required Detail in this Request:

1. Petitioner's name, mailing address and email and any organizations the person represents:

   Irene Gilbert

   2310 Adams Ave.

   La Grand Oregon

   Email: ott.irene@frontier.com

   Representing: Petitioner, public interest and Stop B2H.

2. A short and plain statement of the issue or issues the person desires to raise or take notice of.

   "Prior to the start of operation, the Site Certificate holder must provide a bond or letter of credit in an amount determined by council under OAR 345-022-0050 to be adequate **to restore the site to a useful, nonhazardous condition**." Certificate Conditions must require a bond amount that complies with the plain language and conditions of OAR 345-022-0000, OAR 345-027-0375, OAR 345-025-0006 and OAR 345-022-0050

3. Statement of where issue was properly raised. This issue was properly raised in my comments on May 30, 2024 entitled "Bond Comments B2H II", Page 1, paragraph 3.
4. This request raises an issue justifying a contested case under OAR 345-027-0371(9) for the following reason: Council is required to determine an amount for the bond or letter of credit during their evaluation of the application for amendment. The determination is required to meet the requirements of OAR 345-022-0050 establishing the amount required to restore the site.

   OAR 345-022-0000(l)(a) requires the Site Certificate to meet the standards developed under ORS 469.501. OAR, División 27 and OAR Division 25 were developed under the authority of ORS 469.501, so the references listed in this request support this request for a contested case.

   OAR 345-022-0000(2) states that a balancing determination can only be done when a proposed facility cannot meet the Council standards.

   OAR 345-022-0000(3) specifically states that the Retirement and Financial assurance standard is not subject to a balancing determination.
5. Name of person's attorney if any:
   a. I am a pro se and not represented by an attorney
6. I am requesting to appear as a full party to the contested case. This request is due to the fact that I am representing the public at large. The group is too large to contact each individual in the short (30 day) timeframe allowed to submit contested case requests which in itself makes it impossible to submit requests for all interests of the group impacted by the site certificate changes. I also was required to respond to two Mandamus Requests from the Oregon Department of Energy and

Energy Facility Siting Council plus meet deadlines for submitting comments regarding Division 15 and Division 27 rule revisions during this timeframe I was also at an out of state location lacking internet for two weeks and had an upper respiratory tract infection during the timeframe which required medical care for a portion of the time.

7. Negative impacts to the public as well as myself personally include being required to assume a portion of the costs of restoring the site if the developer fails to do so.
8. Individuals and taxpayers will be required to pay increased electric bills to do site restoration in the event the developer fails to do so or have the negative impacts continue beyond the life of the development for an indefinite period of time. Impacts to citizens include reduced quality of life, damages to wildlife and natural resources, limitations on the use of personal and public property, ongoing costs incurred by citizens including property owners, ratepayers and taxpayers having to pay for site restoration.
9. Others cannot represent the above interests as completely as I can. I have over a dozen years of fighting for the appropriate placement and requirements for construction and operation of energy developments. I am also co-chair of Stop B2H and participate in Rule Advisory Committees responsible for reviewing and recommending EFSC Siting Rules.
10. This issue raises a significant issue of fact or law that is reasonably likely to affect the council's determination that the facility meets the requirements of OAR 345-022-0000, OAR 345-022-0050 and required actions to restore the facility site. .

This issue requires changes to the Site Certificate Conditions regarding the bond amount. Condition 5 needs to be removed and the developer must be required to maintain a bond amount the council has determined is adequate **to restore the site** during the life of the development.

11. OAR 345-022-0000(1) states that the review of compliance with standards includes "standards adopted by Council pursuant to 469.501 (Energy Facility Siting Construction, Operation and Retirement Standards.")

I will submit supporting documents during the Contested Case hearing before the agency and/or the courts.

TARDAEWETHER Kellen * ODOE

From: Irene Gilbert <ott.irene@frontier.com>
Sent: Monday, July 29, 2024 1:32 PM
To: TARDAEWETHER Kellen * ODOE; TARDAEWETHER Kellen * ODOE
Subject: Road Construction Contested Case
Attachments: Contested Case Road Requirements.docx

Kellen:
Please include this contested case request in your file.
Thanks

To: Kellen Tardaewether May 30, 2024

From: Irene Gilbert on behalf of the public interest and herself as an individual

Re: Request for Contested Case Regarding the addition of Roads without requiring site certificate conditions to minimize and mitigate their impact.

Petitioner's name, mailing address and email and any organizations the person represents:

Irene Gilbert

2310 Adams Ave.

La Grand Oregon

Email: ott.irene@frontier.com

Representing: Petitioner, public interest

1. A short and plain statement of the issue or issues the person desires to raise or take notice of.
    i. The Proposed Site Certificate for Amendment II adds roads without fully evaluating the impacts they will have on resources or requiring timely and complete restoration
2. Statement of where issue was properly raised.

a. It was raised on May 30, 2024 in my comment letter entitled “Road Comments” as well as my submission entitled “Comments and Site Conditions Regarding Road Construction and Restoration”

This request raises an issue justifying s contested case for the following reason:

Roads are one of the most significant impacts on wildlife, contaminants are washed off roads and enter waterways, erosion,

3. Name of person’s attorney if any:
    a. I am a pro se for myself and the public interest and not represented by an attorney
4. I am requesting to appear as a full party to the contested case.

    This request is due to the fact that I am representing the public at large. The group is too large to contact each individual in the short (30 day) timeframe allowed to submit contested case requests which in itself makes it impossible to submit requests for all interests of the group impacted by the site certificate changes.
5. Negative impacts to the public as well as myself personally include: Reduction in quality of public and private lands, fish impacts, erosion, damaging the natural contours of land to list only a few.
6. Others cannot represent the above interests as completely as I can. I have over a dozen years of fighting for the appropriate placement and requirements for adding to the area of a site and other changes included in Amended site Certificates.

7. This issue raises a significant issue of fact or law

The addition of roads to the site of the B2H project inserts new hazards and impacts to the development requiring the scope of Council Review to address the requirements of OAR 345-027-0375(2)(c) requiring a determination that the entire facility complies with the applicable laws and council standards that protect a resource or interest that could be affected by the proposed change. The Oregon Department of Energy issued a document entitled "Version 2: July 2005 providing Guidance for Oregon Cities and Counties on Siting Energy Developments." The RFA2 B2H Draft Site Certificate needs to include site certificate conditions that will provide for this compliance. "

Rules which apply to the construction of roads include OAR 345-022-00030 Land Use Rules; ORS 345-022-0110 Public Service Condition providing that the development will not preclude the ability of public and private providers to provide storm water drainage, traffic safety, fire prevention and health care; ORS 345-022-0115 Wildfire.

Recommended Conditions to comply with the above Council Rules and consistent with the Model Ordinance for Energy Projects, Page 19 and 20:

TEMPORARY ACCESS ROAD CONDITION LANGUAGE RECOMMENDED BY ODOE IN THE EFSC MODEL ORDINANCE AND RECOMMENDED FOR INCLUSION AS A SITE CERTIFICATECONDITION

Currently the Proposed order does not require the developer to retore the natural grade of temporary access roads and includes no timeframe for starting revegetation or monitoring when the road is no longer in use.

1. “Restore the natural grade and revegetate any temporary access roads, equipment staging areas and field office sites used during construction of the energy project.” The applicant must specify a “timeline to complete this work.”

RECOMMENDED SITE CERTIFICATE CONDITION TWO

“Restoration will incorporate best management practices to control erosion and runoff from the sites and include monitoring of sites until the area is revegetated and the ground is stabilized.”

RECOMMENDED SITE CERTIFICATE CONDITION THREE

“Developer will construct and maintain access roads for all-weather use to assure adequate, safe and efficient emergency vehicle and maintenance vehicle access to the site. (Model Ordinance Page 20)

REASONS THIS SITE CERTIFICATE CONDITION IS NEEDED

This site certificate condition is especially necessary in Union County given concerns regarding the potential for wildfire combined with the data provided by Idaho Power in their application regarding the number of days the La Grande weather station reported that there was foul weather involving precipitation during a 4 year period. Their application states that the average for foul weather over the four year period was 22% of the time or 80 days per year. (Page 26 of Exhibit X of the application) Construction of roads to provide for all weather use will provide for the safety of users, evacuation routes as well as assuring that use does not result in significant ruts or environmental damages from unplanned vehicle intrusion outside the roadway.

TARDAEWETHER Kellen * ODOE

From: Irene Gilbert <ott.irene@frontier.com>
Sent: Monday, July 29, 2024 3:37 PM
To: TARDAEWETHER Kellen * ODOE; TARDAEWETHER Kellen * ODOE
Subject: Protected Area Impacts
Attachments: Contested Case Request Survey and Review needs site and protected areas.docx

Please add this request to your file
Thanks!!!!!

: Kellen Tardaewether July 29, 2024

From: Irene Gilbert on behalf of the public interest and myself

Re: Regarding: Comments regarding Amendment II impacts to the Ladd Marsh Wildlife Preserve, Glass Hill Preserve, federal and state mitigation sites and additional protected areas in Union County. These areas provide important and irreplaceable wildlife habitat addressed in OAR 345-022-0060 and for Threatened and Endangered species addressed in OAR 345-022-0070 and are protected areas under OAR 345-022-0110

In addition, the Proposed Order states that the developer is adding Multi-use areas but not including them in the site boundary. EFSC and ODOE are aware they cannot approve these additions unless they are included in the site boundary and evaluated under EFSC rule requirements. My comments are based upon them being included and requiring compliance with all survey and review requirements applying to a new application. If the developer does not intend to include them in the site boundary, they cannot be included in the Site Certificate.

Where Did I comment on this issue:

I made extensive comments in my submission on May30, 2024 entitled "Comments and Site Certificate Conditions Relating to Protected Areas" Much of the content of that document is included in this contested case request

Required Detail in this Request:

1 Contested Case Identificattion of Impacts to protected areas including Ladd Marsh

1. Petitioner's name, mailing address and email and any organizations the person represents:

   Irene Gilbert

   2310 Adams Ave.

   La Grand Oregon

   Email: ott.irene@frontier.com

   Representing: Petitioner, public interest and Stop B2H.

2. A short and plain statement of the issue or issues the person desires to raise or take notice of.

   "The Application and Proposed Order fail to document that all council standards have been evaluated for the area added to the site and for Site Certificate condition changes to the entire facility.

   Issues lacking documentation or a timeline for completion include: Habitat, mitigation, threatened and endangered species, bat surveys, species specific surveys for all threatened and endangered wildlife that may be present at the site.

   Name of person's attorney if any:

   a. I am a pro se and not represented by an attorney

3. I am requesting to appear as a full party to the contested case. This request is due to the fact that I am representing the public at large.
4. Negative impacts to the public as well as myself personally include Reduction in the quality of life and recreational opportunities for me

and the public at large. Reduction in the numbers of species and individuals available for viewing, or hunting, noise impacts at the protected areas and impacts on wildlife due to construction and operation activities.

5. Others cannot represent the above interests as completely as I can. I have over a dozen years of fighting for the appropriate placement and requirements for construction and operation of energy developments. I am also co-chair of Stop B2H and participate in Rule Advisory Committees responsible for reviewing and recommending EFSC Siting Rules.
6. This issue raises a significant issue of fact or law that should affect the council's determination that the facility meets the requirements of EFSC rules related to Habitat, Threatened and Endangered Species, Protected Areas to name just a few. Changes which require the OAR 345-027-0375(c) review include the addition of multi-use areas, additional access roads, and additional traffic in proximity to Ladd Marsh and other protected areas. In addition, there is a failure to survey or monitor impacts to the federal mitigation sites adjacent to the Ladd Marsh Wildlife Refuge identified as Project Number 20114 entitled "Securing Wildlife Mitigation Sites – Oregon, Ladd Marsh WMA Additions. These areas provide compensation for the Columbia River Dams targeted toward mallard, Canada goose, mink, western meadowlark, spotted sandpiper, yellow warbler, downy woodpecker and California quail. The Project also identifies the following protected and species of concern near the project sites:

Bald eagle, peregrine falcon, Bobolink, greater sandhill crane, Swainson's hawk, painted turtle, steelhead and chinook salmon. There is also an Oregon Department of Transportation Mitigation Site adjacent to the LMWA and the Glass Hill Preserve. Ladd Marsh Refuge and established mitigation areas for federal and state projects require compliance with OAR 345-022-0040, 345-022-0070, ORS 345-022-0060, ORS 345-022-0080 and OAR 345-021-0010(l)(t)(A). Idaho Power recognized in their ASC, Page T-14 that Ladd Marsh is "irreplaceable". They stated, "As explained in Attachment T-3 Table T-3-1, Ladd Marsh WA is an important opportunity because of its designation status, high level of use, rareness, and **irreplaceable character** per OAR 345-021-0010(l)(t)(A)"

The special status of the mitigation site require a full review and surveys due to the requirement that no actions occur to negatively impact mitigation site.

The Oregon Department of Fish and Wildlife has identified the Ladd Marsh Wildlife Area as an important migratory bird stopover area for passerines, waterfowl, and other waterbirds that use the Pacific Flyway. The National Audubon Society lists the Ladd marsh Wildlife Area as an Important Bird Area (IBA). IBA's include sites for breeding, wintering and/or migrating birds that provide essential habitat for one or more species of birds. The different habitats, habits, survey requirements for different bird species precludes reliance on generic surveys which fail to focus on indicators of specific species presence. The Oregon Sensitive Species List identifies 22 species of birds that occur in the Blue Mountains or Columbia Plateau Ecoregions which are crossed by the B2H transmission line which are either Sensitive or Sensitive/Critical. The protected areas in Union County provide habitat for many of these species of birds.

The developer must provide detailed pre-construction surveys of the protected areas in Union county as well as the adjacent habitat utilized by species present to establish locations and protective measures for birds, bats and other wildlife utilizing Ladd Marsh and the surrounding protected and forest areas. Noise impacts have been addressed in relation to corona noise from the transmission line impacts on citizens, however, no evaluation has occurred regarding the impacts related to the construction and use of multi-use areas in close proximity to protected areas and ongoing noise from the transmission line. Ladd Marsh is protected through OAR 635-008-0120.

Citizen impacts include noise and safety risks resulting from equipment and vehicles moving in and out of the multi-use areas and restricting citizen access to schools, work, health care facilities, as well as denying them access to recreational opportunities which currently exist for hiking, walking, biking along the roadways being inundated by heavy equipment, large vehicles, and additional traffic.

SITE CERTIFICATE CONDITIONS:

Condition One: Traffic and equipment moving from public roads or multi-use areas to locations on the site will not travel across existing roads in areas where roads are located on Ladd Marsh or Ladd Marsh Additions .

Condition Two: Developer will complete pre-construction wildlife surveys on areas within the site boundary and areas within one half mile of the site boundary including Protected Areas and adjacent land. (OAR 345-022-0040 and OAR 345-022-0060).

Condition Three: Idaho Power will develop a Monitoring Plan including ground surveys for approval of ODFW to determine impact of transmission line facility on birds. The survey area will be large enough to include most carcasses as determined by ODFW.

Condition Four: Idaho Power will assure that their activities during construction and operation of the transmission line do not damage or degrade resources protected under the Ladd Marsh Wildlife Area Management Plan dated 2018.

5 Contested Case Identificattion of Impacts to protected areas including Ladd Marsh

TARDAEWETHER Kellen * ODOE

From: sam myers (via Google Docs) <sam.myers84@gmail.com>
Sent: Monday, July 29, 2024 4:25 PM
To: TARDAEWETHER Kellen * ODOE
Subject: Sam Myers request for Contested Case B2H RFA-2.docx
Attachments: Sam Myers request for Contested Case B2H RFA-2.docx.pdf

sam myers attached a document

sam myers (sam.myers84@gmail.com) has attached the following document:

Sam Myers request for Contested Case B2H RFA-2.docx

Google LLC, 1600 Amphitheatre Parkway, Mountain View, CA 94043, USA
You have received this email because sam.myers84@gmail.com shared a document with you from Google Docs.



- This template was developed by the Oregon Department of Energy (Department) and is provided as a courtesy for persons seeking to request a contested case on a proposed amendment to a site certificate. Individuals requesting a contested case proceeding are not required to use the template, but use is recommended to ensure requests contain required information and can be efficiently reviewed by Department staff and Council.
- Please contact the Department representative, Kellen Tardaewether, to request a Word version of the template.

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
Requestor Name:	Provide Requestor first and last name.	Sam Myers
Requestor Addresses:	Provide physical mailing address and e-mail address, if available.	68453 Little Buttercreek Road Heppner, OR 97836 sam.myers84@gmail.com
Requestor Attorney:	Provide name and address of attorney, if any.	
Authorized Representative:	Provide name of any person(s) authorized by you to represent your issue(s) or confirm your intent to act as an authorized representative for the organization you intend to represent.	
Name of Any Organization Requestor Represents:	Confirm and provide the name of any organization(s) you represent in this proceeding, in addition to yourself.	
Party Status Requested (Limited or Full):	Confirm whether you are seeking to participate as a party or limited party and if as a limited party the precise area or areas in which you seek to participate.	full
If seeking to represent a personal interest:	Provide a detailed statement of your personal interest (economic or otherwise).	Farming livelihood is at risk under B2H

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
	Explain how your personal interest may be affected by the results of the proceeding.	As B2H is poorly organized and operated it puts our farming operation at 100% risk of a devastating fire consuming my livelihood.
	Provide reasons why existing parties to the proceeding cannot adequately represent the personal interest you have identified.	no one is available to hire!!!!
If seeking to represent a public interest:	Provide a detailed statement of the public interest you intend to represent.	my livelihood and those in this community are at risk of a catastrophic fire if B2H continues its poorly organized pathway, without ODOE's noticing !!
	Explain how such public interest would be impacted by the outcome of the proceeding.	fire consumes whatever is in front of it, the more fire potential is in the area, the more damage it produces!
	Provide a reference to your qualifications to represent such public interest(s).	lived here for 60 years.
	Provide reasons why existing parties to the proceeding cannot adequately represent the public interest(s) you have identified.	ODOE by its own mission statement should be representing me , but they never have helped solve any of my issues!!
Issue Information **Instructions: Provide information for Items (1) – (2) below for each issue requested for review in the proceeding.**		
Issue 1		
Issue Statement:	Provide a short and plain statement of each issue you wish to raise in a contested case, including references to any facts, analysis or recommendations presented in the Proposed Order or	ODOE has failed to adequately judge the ability of IPC to organize or construct B2HI !!

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
	Request for Amendment with which you take issue. Please reference any rules or statutes you believe are relevant to the issue(s) you are raising. Examples: Issue #1. The evaluation of XX in the [Request for Amendment and/or Proposed Order] is not sufficient to demonstrate the project complies with XX [statute and/or rule] because [briefly summarize your position]; OR Issue #1. I contend the certificate holder does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you believe certificate holder does not meet the cited standard or law]).	IPC has recently fired Tetrratec as its surrey operative, of the studies we should have seen by now, but are unverifiable, because we have not received them, even so are likely filled with mistakes !! Recent cultural studies by that same group were filled with errors. IPC has been issued many variances for standards of which it could not meet! IPC has overstated its tower engineering standard in verbal statements, which later have been recounted to convey a more minimalistic tone. This issue by itself is cause for an absolute disqualification of IPC as an applicant!! It has come to my realization that ODOE is failing its primary mission statement in order to give IPC whatever they want, in order that they continue in a corrupt and incompetent organizational approach. the size and complexity of the RFA 2, signals that the applicant has been incompetent in its ability to organize the project. At the Energy Facility Siting Council meeting on Thursday May 30., 2024 Kellen was basically unable to clarify and explain the scope and complexities for the Amendment. This verifies the problem!! It is not a normal state of affairs to have such a huge amount of unfinished engineering along with surveys and community interaction as incomplete as we experience!! What seems to be happening now is that the ODOE will not admit that it has now taken some of the responsibility for the work that IPC should be responsible for!! This transfer of work to the ODOE is not correct and reveals the incompetence of IPC.
Provide date of DPO comments where issue was previously cited:	For each issue identified in your Issue Statement(s), provide the date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	To issue a site certificate the council must find that; THE APPLICANT HAS THE EXPERTISE TO DESIGN CONSTRUCT AND OPERATE THE PROPOSED FACILITY.

Description	Explanation of Information	Requestor Information
Provide Statement of how issue raises significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards:	Statement that describes why the Council should determine that each identified issue justifies a contested case because it raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.	additional discovery is required to gather information into the totality of IPC's mistakes and exactly where the ODOE may be covering up those inadequacies or freely allowing IPC to incompletely move through a given standard protocol without proper completion of a standard, which is crucial for a safe, reliable and useful project. ODOE has abandoned it mission statement as it appears on the .gov website!! The ODOE has entertained this massive amendment that we simply do not adequately understand, at best the ADR's as explained in the amendment are now being used as a scapegoat, or a fix-all in this process. This should raise serious questions about the real use of the ADR. IPC is totally to blame for putting the unorganized project into a half-baked unintelligible amendment in order to fix all the project's unorganized problems!! It is all because IPC has no businesses seeking to operate a project of this size!! it can not even keep its own service district vegetation plan current!!!
Issue 2 **Instructions: If more than 1 issue, continue to provide responses to (1) and (2) for each additional issue requested for review in the proceeding.**		
Issue Statement:	Provide a short and plain statement of each issue you wish to raise in the contested case, including references to any facts, analysis or recommendations presented in the Proposed Order or Request for Amendment with which you take issue. Please reference any rules or statutes you believe are relevant to the issue(s) you are raising.	One of the ways that the ODOE has failed its mission is how they have made it a general view to never stand up for a contested case intervenor or someone like myself who endured the contented case process, while mostly being stonewalled by the department. subsequently failed its mission to be supportive of the public's intervention. In Sept of 2022, I traveled to LaGrande Oregon to give a 3 minute testimony to the Siting Council, I was finally called upon to give my 3 minute testimony as to my concerns about B2H. My testimony is on record and I believe it was very specific as to my concerns about fire analysis in our area. I used the National Weather Service's own data on Red Flag issuances as evidence about our high fire level and the lack of proper recognition by IPC. After I finished testifying the council had a

Description	Explanation of Information	Requestor Information
	Examples: Issue #1. The evaluation of XX in the [Request for Amendment and/or Proposed Order] is not sufficient to demonstrate the project complies with XX [statute and/or rule] because [briefly summarize your position]; OR Issue #1. I contend the certificate holder does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you believe certificate holder does not meet the cited standard or law]).	question or 2 for me and it seemed to be finished. having no idea about what was about to happen with me being gone!! It was not until a year later did I learn that the lawyer for IPC literally trashed my comments and convinced the council that I had said something entirely different. This was deeply disturbing to me and frankly calls for a Judicial Review at the minimum!! Where was any questioning from someone about what just happened in the meeting??!! Where was the Dept of Justice?? Where was the ODOE?? Why did everyone in the room let this legal manuver happen without intervening?? I had zero justice, I had my testimony slandered by some lawyer, for IPC's gain!! no one cared about my concerns, where were any credible instincts from the ODOE?? my only conclusion was that they sold out their own mission for anything helping IPC!! This is why the ODOE have failed at this process and failed their own mission statement and can not be trusted in this process. IPC AS WELL, REVEALED THAT THEY WILL RESORT TO ANY LEGAL MANEUVERING NECESSARY TO GET THE PROJECT GRANTED !!!
Provide date of DPO comments where issue was previously cited:	For each issue identified in your Issue Statement(s), provide the date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	IPC HAS USED THIS TYPE OF LEGAL MANEUVERING TO HELP SIMPLIFY THE WORKLOAD AND LESSEN THE LABOR EXPERTISE INORDER TO CONTINUE B2H. especially now in this amendment. RFA-2 is the leading example of a failed ability to move a project forward in organized fashion. IPC is shedding its responsibility to provide organizational expertise and using legal maneuvering and also colluding with ODOE to cover the disorganization
Provide Statement of how issue raises significant issue of fact or law that is reasonably likely to affect the Council's determination	Statement that describes why the Council should determine that each identified issue justifies a contested case because it raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the	ODOE has proven that they abandoned their mission to the public by allowing IPC to especially run the permitting show however they choose!! giving variances and allowing incomplete engineering references to stand until a problem surfaces in which IPC is much to incompetent to realize early on!! This lack of proper organization is problematic and is dangerous!! IPC has given itself over to poor quality control and a constant misrepresentation of the product quality!! extremely poor customer relations. The least cost mentality has

Description	Explanation of Information	Requestor Information
whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards:	change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.	made IPC the most non-negotiating applicant of its kind. I have never had a real negotiation, at best it has been a one-sided conversation about what they will do, but never listening to what we would prefer!! Council, do not grant this amendment ; RFA-2
For additional issues, please add rows, copy and fill in the information provided above under Issue 1 and 2		

TARDAEWETHER Kellen * ODOE

From: fkreider@campblackdog.org
Sent: Monday, July 29, 2024 4:39 PM
To: TARDAEWETHER Kellen * ODOE
Subject: Stop B2H Petition for Contested Case RFA2 B2H project
Attachments: 2024-07-29_Stop B2H request CC on RFA2.pdf

Kellen,

Please accept the following petition for a Contested Case on RFA2 for the Boardman to Hemingway project. If you have questions, don't hesitate to reach out.

Thank you for your consideration,

Fuji Kreider, Secretary/Treasurer
On behalf of the Stop B2H Coalition

Copy: Stop B2H Board of Directors

July 28, 2024

To: Kellen Tardaewether, Senior Siting Analyst
Oregon Department of Energy
550 Capitol Street NE, 1st Floor Salem, OR 97301
Email: kellen.tardaewether@energy.oregon.gov

From: Stop B2H Coalition
60366 Marvin Road
La Grande, Oregon 97850
fuji@stopb2h.org

RE: Petition for Contested Case regarding Request for Amendment 2 for the B2H Project

Please accept the following request for a contested case on Request for Amendment 2, Boardman to Hemingway Transmission project. We begin with the department provided template for the introductory information necessary for the request/petition. This is followed by each issue in a narrative format.

If you have any questions, please do not hesitate to reach out and contact Fuji Kreider, fuji@stopb2h.org who is our authorized representative for this request.

Thank you,

/s/ Fuji Kreider

Request for a Contested Case (B2H Project - RFA 2)
Submitted by: Stop B2H Coalition
July 29, 2024

Description	Explanation of Information	Requestor Information
Requestor Name:	Provide Requestor first and last name.	Fuji Kreider, on behalf of the Stop B2H Coalition
Requestor Addresses:	Provide physical mailing address and e-mail address, if available.	60366 Marvin Road; La Grande, Oregon 97859 fuji@stopb2h.org
Requestor Attorney:	Provide name and address of attorney, if any.	We are pro se at this point; but reserve the right to retain an attorney.
Authorized Representative:	Provide name of any person(s) authorized by you to represent your issue(s) or confirm your intent to act as an authorized representative	Reserving our right to retain an attorney, in conjunction with myself (Fuji Kreider), petitioner and Stop B2H Board member, Irene Gilbert may also represent the Stop B2H Coalition in any contested cases on STOP's behalf.

Request for a Contested Case (B2H Project - RFA 2)
Submitted by: Stop B2H Coalition
July 29, 2024

Description	Explanation of Information	Requestor Information
	for the organization you intend to represent.	
Name of Any Organization Requestor Represents:	Confirm and provide the name of any organization(s) you represent in this proceeding, in addition to yourself.	Stop B2H Coalition (aka STOP)
Party Status Requested (Limited or Full):	Confirm whether you are seeking to participate as a party or limited party and if as a limited party the precise area or areas in which you seek to participate.	The Stop B2H Coalition is a public interest nonprofit organization, 501(c)(3), representing thousands of Oregonians. Therefore, we respectfully **request to be a full party** to the case. There are multiple issues that we are contesting in the RFA2 process (see below). The overlapping nature of these issues, plus our experience in the past, makes it clear that Stop B2H Coalition should be afforded full-party status.
If seeking to represent a personal interest:	Provide a detailed statement of your personal interest (economic or otherwise).	N/A
	Explain how your personal interest may be affected by the results of the proceeding.	
	Provide reasons why existing parties to the proceeding cannot adequately represent the personal interest you have identified.	
If seeking to represent a public interest:	Provide a detailed statement of the public interest you intend to represent.	The public interest of the STOP B2H Coalition is to Protect Our Land and Preserve Our Heritage by fighting the unneeded B2H (Boardman to Hemingway) transmission line through NE Oregon, and to promote energy conservation and innovative energy developments in renewable energy, storage, and distribution.

Request for a Contested Case (B2H Project - RFA 2)
Submitted by: Stop B2H Coalition
July 29, 2024

Description	Explanation of Information	Requestor Information
		The lands where the B2H is being sited (5 counties) are where our members and the members of our member organizations (thousands of people) live, work, play and pray, and have invested their lives in protecting the beauty and health of our natural resources and wildlife, as well as preserving our cultural and historical heritage. Our interests and those of the public we represent, compel us to monitor and participate in all matters of this case to assure full-compliance with the law, rules and conditions. Our interests also include fair and transparent processes that do not exclude the public's democratic rights to participate. We believe that the only way to realize the "right-siting" of this project is to represent and to keep watch of the public's interests and protections mentioned above.
	Explain how such public interest would be impacted by the outcome of the proceeding.	The public interest will be best impacted by an outcome in this proceeding by 1) not building the line, 2) deploying Grid Enhancing Technologies (GET) to the existing transmission network to create the energy capacity required, and 3) "right sighting" to minimize the impact of the line. Public and private lands in eastern Oregon will be degraded by the project. We believe that with improved site conditions there is a chance of better siting and could lessen negative impacts. After a decade or two of people's commitment to pointing out the negative impacts without much change, the public deserves assurances of compliance. Our participation in the contested case increases public trust, which has diminished over the years/decades of siting the line.

Request for a Contested Case (B2H Project - RFA 2)
Submitted by: Stop B2H Coalition
July 29, 2024

Description	Explanation of Information	Requestor Information
	Provide a reference to your qualifications to represent such public interest(s).	I am a Board member and serve as an officer of the organization, specifically, the Secretary/Treasurer of the organization. Irene Gilbert is co-chair, and therefore, in my absence she is also qualified to represent STOP. The Stop B2H Coalition (STOP) is a public interest charitable nonprofit organization representing thousands of Oregonians. STOP has been involved in the BLM NEPA process on the project, the company's energy planning processes, the OPUC condemnation rulemaking in AR 626 as well as the B2H condemnation proceeding in PCN 5. Additionally STOP has participated in all phases of the B2H site certificate and amendments 1 and 2 of this proceeding at EFSC. In other words, STOP has been at this for well over a decade, in the state, federal and private sector arenas; we are qualified to participate and have gained the public's trust to be representative of their interests.
	Provide reasons why existing parties to the proceeding cannot adequately represent the public interest(s) you have identified.	As of this writing we do not know what existing parties will file for a contested case. Most of the DPO commentors are private parties and therefore have their own interests. These may be similar to STOP's interests, but we do not represent the private interests per se. We work in the public interest and represent a class of people adversely effected by this transmission line.

Issue Information
Instructions: Provide information for Items (1) – (2) below for each issue requested for review in the proceeding.

STOP is petitioning for 5 issues.

The **issue statements and supporting statements** follow each plain statement—briefly. STOP does not believe that the entire contested case needs to be presented or argued here.

The **date of DPO comments where the issue was previously cited was the same for all issues. May 30, 2024** we raised these issue in our verbal and written public comments on the draft proposed order (DPO); and we attach a link to our written comments on the last page (and here) for convenience.

Issue 1: The evaluation of RFA2 for the area added to the site boundary fails to comply with OAR 345-027-0375(2)(a) requiring the review to be consistent with requirements for the original Site Certificate.

a) As stated in the PO, Attachment 2, p.2, under OAR 345-027-0375(2)(a), "for a request for amendment proposing to add **new area** to the site boundary, Council must determine that the preponderance of evidence on the record supports a conclusion that the portion of the facility within the area added to the site by the amendment **complies with all laws and Council standards applicable to an original site certificate application**; "laws and Council standards applicable to an original site certificate application," means that the laws and Council standards that would apply to an ASC would be applied to the areas added to the site boundary, which is presented in the DPO."[1] [emphasis added]

b) Authorization to change a site boundary is not allowed under 345-027-0360(3) nor ORS 469.300(22).[2] These rules may be used to change the "Analysis Areas." Analysis areas were changed in December 2023 staff memo, 12/20/23.[3] Also per: ORS 469.330(3): "After the preapplication conference, the department shall issue a project order establishing the statutes, administrative rules, council standards, local ordinances, application requirements **and study requirements** for the site certificate application." [emphasis added.]

   These study requirements are presumed to be the new, department-approved, analysis areas. As can be seen in Table 1 in the same staff memo[4] the analysis areas go well-beyond the micro-siting areas for many resources and some extend a considerable distance from the site boundary.

c) "Evaluation of Analysis Areas" is also a requirement of OAR 345-022-0000, General Standards, which requires compliance with all rules promulgated under ORS 469.501, that would include ALL EFSC standards.

d) The December 20, 2023 staff memo, is the approval letter for the expanded study and analysis areas, which identify areas to be evaluated within and extending from the site boundary. This authorizing letter:

[1] (Proposed Order p. 375, Attachment 2, B2H AMD2 Certificate Holder and Department Responses to DPO Comments, by Commenter p 2.)
[2] Ibid p. 380 pdf (Attachment 2 p. 7)
[3] https://www.oregon.gov/energy/facilities-safety/facilities/Facilities%20library/B2HAMD2-ODOE-Letter-Approving-Analysis-Areas-for-pRFA2-OAR-345-027-0360(3)-2023-12-20.pdf "ODOE Approval of Analysis Areas for RFA2 p. 3.
[4] Ibid.

a. does not clearly state the standards, rules, or laws to legally verify staff or Council authority to make the changes.
b. does not approve the request by the applicant to expand the site boundary to ½ mile. No OAR is cited to justify the ability to and authority of staff to authorize this significant change. *Since the process is standards based a rule needs to be cited and discussion/rational given for such a request and approval;*
c. does not distinguish micrositing areas/corridors approved in the ASC and RFA1 and proposed in pRFA2 from the expanded site boundary, in the same manner allowed for many certificate holders, whereby the site boundary extends beyond areas fully evaluated for facility infrastructure siting (micrositing corridors/areas).
What does "in the same manner allowed for many certificate holders" mean? If this authoritative action was taken before, examples should be provided for the record. The letter seeks to "distinguish micrositing areas/corridors approved in the ASC and RFA1 and proposed in pRFA2 from the expanded site boundary." Where are the distinctions to help in understanding the legal history and scope of past changes comparing similarities and difference for the council to base their decisions on? Since this is an authorizing letter clarity of the complicated redefining of definitions in the letter must clearly explain and clarify the wordsmithing of these areas by the department, not the applicant as they do not have that authority. Could a council member explain this situation to the public rafter a presentation like this? See department explanations from the DPO hearing:
Here is the Video of May 30, 2024 - Energy Facility Siting Council Meeting Day 1- 1330-2100:
https://drive.google.com/file/d/1y0OnBWAWsFHv3lj1hZrAt41K7TdlUahn/view?usp=sharing And, the unedited transcript by Otter of May 30, 2024 - Energy Facility Siting Council Meeting Day 1: https://docs.google.com/document/d/1xetT-OSPT-scwL3cMDlyLjSC-GTYGRsy9MG0c3U9yGU/edit?usp=sharing
d. does not cite OAR's that authorize these actions ...
OAR 345-001-0010(1) states "Adjusted to ISO conditions" as defined in ORS 469.503 (Requirements for approval of energy facility site certificate)(2)(e). ORS 469.503(2)(e)(A-N) is about carbon dioxide emission, baseload gas plant, Carbon dioxide equivalent, Fossil-fueled power plant, etc and NOT study areas designated in OAR 345-001-0010(35). OAR 345-001-0010(35) defines a Natural gas-fired facility.

This authorization letter is not valid as it does not site the OAR's in some sections for its authority, redefines critical definition with no new definitions, and cites OAR's that have nothing to do with the authority being claimed to have to make these changes. Therefore, everything in this letter is invalid and a contest case is required to get to the bottom of what exactly is the department doing and what is the rational, departmental history and rational for similar decisions and current authority to make these decisions.

The evaluation of RFA2 is not sufficient to demonstrate the project complies with all EFSC siting standards. Specific examples of non-compliance include the following issues as well.

Issue 2: The maps provided to the public for review are out of compliance with the review standards mentioned under Issue 1: OAR 345-027-0375(2)(a) and: OAR 345-015-0190, OAR 345-027-0360 (1)(b)(C), and OAR Chapter 345, Division 21. Specifically in Division 21, OAR 345-021-0010(1)(c)(A) and (B)[5], OAR 345-001-0010(55)[6], and the Application for site certificate Exhibit C Sections 2.0 and 3.0[7]. Additionally, they are non-compliant with OAR 345-027-0360 (1)(b)(C)[8]: "the specific location of the proposed change, and **any updated maps and/or geospatial data layers relevant to the proposed change;" [emphasis added]** as well as subsection (c)[9] "References to any specific Division 21 information that may be required for the Department to make its findings." The detail and specifics within the map sets provided in the PO are inadequate, as described in detail in our DPO comments, making the evaluation of RFA2 by the department either impossible or grossly superficial, denying the public of any meaningful review and opportunity to engage with specific specificity. Hence the evaluation of RFA2 is incomplete and inadequate to meet compliance standards of review.

a) Maps are inadequate and therefore out of compliance with OAR 345, Div 21.[10] ODOE states that compliance with this Division is not required; however, the above cited rules, under Issue 1, state differently. Division 21 includes the required contents for applications. In addition, the OAR 345-015-0190 Determination of Completeness requires (within most of its sub-sections) compliance with Division 21 rules; and OAR 345-027-0360 (1)(c) requires references to Division 21.

b) Multiple and repeated requests for better maps of the RFA2 areas were requested by STOP, as described in our DPO comments, without resolution. In the past, these maps and layers were provided by staff to STOP and the public. This time we were told that they are not available or required. Idaho Power also refused to provide them.

c) "OAR 345-022-0359(1) states that, prior to submitting a preliminary request for amendment to the site certificate as described in OAR 345-027-0360, the certificate holder may request a pre-amendment conference with the Department to discuss the scope, timing, and applicable laws and Council standards associated with the request for amendment."[11] Yet, under subsection (2) "A pre-amendment conference request must be in writing and must include a description of the proposed change and, if applicable, **maps or geospatial data layers representing the location of the proposed change**." [emphasis added.] Stop B2H and other interested parties have been requesting this level of detail in the maps for RFA2 (see the DPO comments pp. 10-15). These map layers are clearly "applicable" to any evaluation, as "specific specificity" is required for a thorough review; therefore, given the rule stated above, these maps should have been requested of the developer by the department and provided to the public for this review and evaluation.

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[5] These rules require that the maps accurately represent the proposed changes within the expanded site boundary.
[6] This rule emphasizes the importance of detailed and specific maps.
[7] The provided maps lack the necessary level of detail.
[8] which mandates the inclusion of updated maps and geospatial data layers relevant to proposed changes
[9] requires references to specific Division 21 information necessary for the Department's findings
[10] See STOP's DPO comments pp. 10-15.
[11] Proposed Order, Attachment 2, B2H AMD2 Certificate Holder and Department Responses to DPO Comments, by Commenter p. 7

Issue 3: RFA2 and the PO did not evaluate the Protected Area, Glass Hill State Natural Area (SNR) as required under OAR 345-022-0040 as revised in 2022, nor did it apply the avoidance mitigation required in the standard. RFA2 is non-compliant with OAR 345-022-0040.

a) Protected Areas, specifically Glass Hill State Natural Area (SNR) has not been adequately evaluated because the department claims: that it has already been approved, that there are no components within the SNA boundary, and that it's applicability under the protected area standard has been litigated. However, as STOP commented in the DPO and as facts in the record show: a) the new analysis areas mandate that a distance of 19.75 miles from the proposed site boundary be evaluated for impacts to protected areas; b) this distance clearly encompasses the new Glass Hill SNA, which according to OAR 345-022-0040 must be avoided; c) no balancing authority is permitted under **345-022-0000**(3)(f); and d) RFA2 is noncompliant with this provision since this is a new amendment request and it must be evaluated using the laws and rules **in effect at the time the application was deemed complete**[12], which was presumably be sometime in April 2024. The protected area standard was updated/amended in 2022 (approved by Council in 2021.).

b) Things have changed and new amendments must comply: the new rules for protected areas (above); and newly identified and listed T&E plant species have become known to exist in the protected area and vicinity and must be evaluated with these new facts. Council's Scope of Review requires that the evaluation must apply the applicable laws and standards in effect on the date the application for amendment is complete. [13]

c) The PO does not evaluate this specific protected area for its values and resources, such as T&E species water resources, and other; nor is it being evaluated as a protected area (which it is!), meaning that **avoidance must occur as the new rule demands**. Rather, the PO simply states that there are no new resources within the specific footprint of the new site boundary or that it has already been litigated. This is non-compliant because it is an important protected resource, without any existing transmission line, that must be avoided. Furthermore, the resources (e.g.: wetlands and T&E plants) are still being discussed, evaluated and negotiated with land owners and managers. Therefore, the Glass Hill SNA should have special analysis of its own, and possibly its own amendment for micro-siting.

d) "Table 23: Protected Areas within Analysis Area for ASC Approved Routes, Approved Micrositing Area Additions, Proposed RFA2 Micrositing Area Additions"[14] includes legend-type footnotes on p. 156 pdf: #3 states: "Potential impacts from approved routes in *Final Order on ASC* not evaluated for protected area." (emphasis included). Therefore, IPC's response that STOP's comments were speculation is not true. Seven protected areas in the RFA2 project expansion

[12] OAR 345-022-0040(4)
[13] OAR 345-027-0375 (1), (2), and (3).
[14] DPO, pp. 148-156 of 855 – FN 3 on page 156pdf (p. 144): "Potential impacts from approved routes in *Final Order on ASC* not evaluated for protected area." [emphasis included]

have not been evaluated and deserve further analysis since they were not evaluated; and the Glass Hill SNA is one of these that has not been evaluated.

Issue 4: Council should deny the use of a Type C/ADR process for this situation (RFA2) because the proposed site boundary has not been fully evaluated per OAR 345-027-0375(2)(a), and this type of amendment process is predicated upon there being a fully reviewed site, prior to the request. The application of the ADR process/Type C Amendments[15] contemplated under RFA2 disregards any public interest by excluding the public, and their due process rights to participate.

a) Council is not protecting the public interest in applying an ADR process in the future without making additional improvements to the New General Site Conditions, GEN-GS-07:

> Proposed Order Section III.A.1.a recommends New General Standard of Review Condition 12 (GEN-GS-07), which would adopt the certificate holder representation to provide a landowner consent letter with any future ADR for changes on private property. (PO p 439, Attachment 2 p 66)

Council could remedy the public interests and authorize additional improvements to the proposed Condition GEN-GS-07. For example, an improved Notice would comply with other rules of the Council[16] and a comment period would be internally consistent with Council rules.

b) The new Site Condition proposed in the PO, GEN-GS-07 is a welcome improvement from the DPO; however, it **only protects the landowner and not the public**. STOP recommended improved site conditions in our DPO comments (pp. 7-9). We suggested that all areas outside the original site boundary comply with OAR 345-027-0357(2) and be subject to Type A Amendment process (see pp. 7-8 and Recommended Site Condition 1. (p.8 of STOP's DPO comments.)
    a. The public is not noticed in an ADR process; there is only a web posting. The public has particular interests in protected areas (e.g.: Ladd Marsh and Glass Hill), recreation areas (e.g.: Morgan Lake Park and NHOTIC), and fish and wildlife habitats (e.g.: wetlands and ephermal streams). Therefore, the public must be noticed, at a minimum, in addition to the land owners/managers.
    b. Furthermore, the public should be afforded a comment period since their interests are at stake. The ADR process is very time limited; direct and/or electronic mailings should occur, in alignment with OAR 345-015-0014 notice for contested cases and OAR 345-027-0371 (the Type A process) which all notice people in a timely manner with adequate descriptions, process steps and appeal rights. We suggested a 60-day comment period however a 30-day period would be an acceptable compromise.

[15] ADR = Amendment Determination Request and Type C amendment processes are both administratively shortened approaches which disadvantage and exclude landowners and the public. ADR = Amendment Determination Request OAR 345-027-0357; Type C Amendment = Type C Review Process for Pre-Operational Requests for Amendment OAR 345-027-0380. The PO's new Site Condition remedies the exclusion of landowners but not the public.
[16] OAR 345-027-0360 (2) and OAR 345-015-0190 (7) and (8). And, OHA notice rules in OAR 137-003-0001 and right to a hearing in ORS 183.415.

c. Simply have a "posting" as notice and no opportunity for comment, isn't fair to the public[17] and violates their rights under ORS 183.415, "persons affected by actions taken by state agencies have a right to be informed of their rights and remedies with respect to the actions."

ODOE states in numerous locations and rules that Council is not allowed to address things outside of their jurisdiction. However, STOP contends that EFSC's crucial mission revolves around overseeing the development of large energy facilities while balancing environmental protection and public safety. In other words, the Council should be looking out for the interests of Oregonians *and* our energy policy. This balancing of interests **345-022-0000**(3) must be deliberate and STOP believes that it is within Council's jurisdiction and prerogative to take necessary action to make any improvements to site conditions when they are protecting our environment and public safety.

Issue 5: RFA2 and the PO fail to comply with the Retirement and Financial Assurance Standards OAR 345-022-0050, 345-027-0375(2)(d), and the Mandatory Conditions under OAR 345-025-0006(8). The fiscal risks have changed and the duration is not for the life of the project. Retirement and Financial Assurance Standard is one of the Standards whereby the Council cannot apply its balancing determination.[18]

STOP is co-joining with individual petitioner, Irene Gilbert, on this issue. Therefore, it is our hope and intention to reduce redundancy in the case.

Attachment:

Stop B2H Coalition Comments on the Draft Proposed Order

May 30, 2024

LINK: https://odoe.powerappsportals.us/_entity/annotation/05fef388-f222-ef11-840a-001dd8029de0/7b138792-1090-45b6-9241-8f8d96d8c372?t=1722290917592

[17] ORS 183.335(l)(a) Notice Requirements which says that the notice must provide a reasonable opportunity for interested persons to be notified of agencies proposed action.

[18] OAR 345-022-0000(3)(c)

TARDAEWETHER Kellen * ODOE

From: Wendy King <wkingproshop@gmail.com>
Sent: Monday, July 29, 2024 4:54 PM
To: TARDAEWETHER Kellen * ODOE
Subject: Request for Contested Case B2H RFA-2
Attachments: Wendy request for contested case B2H RFA-2.docx.pdf

Hi Kellen,
Please see attached.
Thank you,
Wendy King

- This template was developed by the Oregon Department of Energy (Department) and is provided as a courtesy for persons seeking to request a contested case on a proposed amendment to a site certificate. Individuals requesting a contested case proceeding are not required to use the template, but use is recommended to ensure requests contain required information and can be efficiently reviewed by Department staff and Council.
- Please contact the Department representative, Kellen Tardaewether, to request a Word version of the template.

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
Requestor Name:	Provide Requestor first and last name.	Wendy King
Requestor Addresses:	Provide physical mailing address and e-mail address, if available.	2044 NW 20th Ct Redmond, OR 97756 wkingproshop@gmail.com
Requestor Attorney:	Provide name and address of attorney, if any.	
Authorized Representative:	Provide name of any person(s) authorized by you to represent your issue(s) or confirm your intent to act as an authorized representative for the organization you intend to represent.	
Name of Any Organization Requestor Represents:	Confirm and provide the name of any organization(s) you represent in this proceeding, in addition to yourself.	
Party Status Requested (Limited or Full):	Confirm whether you are seeking to participate as a party or limited party and if as a limited party the precise	Full

Description	Explanation of Information	Requestor Information
	area or areas in which you seek to participate.	
If seeking to represent a personal interest:	Provide a detailed statement of your personal interest (economic or otherwise).	Mainly personal interest for my family's farm and some public the multiple impacts of B2H amendment impacts to economic, scenic, historical preservation F & W species & habitat protection and public safety.
	Explain how your personal interest may be affected by the results of the proceeding.	All farming, residential daily living and personal recreation on my Family's farmland will experience impacts some direct, some indirect from the construction and operation of the Transmission line possible micrositing adjustments.
	Provide reasons why existing parties to the proceeding cannot adequately represent the personal interest you have identified.	There are no known existing parties in this proceeding because this is an initial request for a contested case. Our family has unique knowledge of the property and community potentially being impacted.
If seeking to represent a public interest:	Provide a detailed statement of the public interest you intend to represent.	
	Explain how such public interest would be impacted by the outcome of the proceeding.	
	Provide a reference to your qualifications to represent such public interest(s).	
	Provide reasons why existing parties to the proceeding cannot adequately represent the public interest(s) you have identified.	
Issue Information **Instructions: Provide information for Items (1) – (2) below for each issue requested for review in the proceeding.**		
Issue 1		

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
Issue Statement:	Provide a short and plain statement of each issue you wish to raise in a contested case, including references to any facts, analysis or recommendations presented in the Proposed Order or Request for Amendment with which you take issue. Please reference any rules or statutes you believe are relevant to the issue(s) you are raising. Examples: Issue #1. The evaluation of XX in the [Request for Amendment and/or Proposed Order] is not sufficient to demonstrate the project complies with XX [statute and/or rule] because [briefly summarize your position]; OR Issue #1. I contend the certificate holder does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you believe certificate holder does not meet the cited standard or law]).	The possible changes in RFA-2 will affect our Agriculture operation at Myers Farm. With possible refinement of even access roads, our historical location will be impacted by B2H construction and operational maintenance. Our scenic resource will be impacted. Please see Exhibit 3. Will RFA-2 facilitate consideration of future requests Outside EFSC jurisdiction?

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
Provide date of DPO comments where issue was previously cited:	For each issue identified in your Issue Statement(s), provide the date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	May 30, 2024 Written
Provide Statement of how issue raises significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards:	Statement that describes why the Council should determine that each identified issue justifies a contested case because it raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.	IPC references the OPUC conclusion of the original ASC route. This reference is not taking into consideration the RFA-2 Amended route at Ayers Canyon nor does it take into account the newly realigned and approved transmission corridor for WheatRidge East RFA-1. The Myers Family requests the newly approved amendments to the multiple facilities in Morrow County and their opportunities for B2H be referred back to OPUC to allow determination that alternate routes be revisited for better safety, feasibility and co-located financial savings. In spite of IPC reiterating the fact that this issue is outside EFSC jurisdiction, they note that an alternate proposed route through WheatRidge would impact other landowners and in particular, reference a landowner public comment in the OPUC docket 5 that was allowed to be referenced **after** the close of the record. That very comment was in fact, referring to a route that was not the final suggested alternative proposed by the Myers Family. Somehow, a public commenter has more influence of opposing a dismissed alternate route than our family opposition which will experience multiple impacts of supposed constraints for proper siting. Will the approval of the Proposed Site boundary facilitate consideration of our future request? The Myers family is willing to meet with Idaho Power for consultation of micrositing.
Issue 2 **Instructions: If more than 1 issue, continue to provide responses to (1) and (2) for each additional issue requested for review in the proceeding.**		

Request for a Contested Case (Template)

Description	Explanation of Information	Requestor Information
Issue Statement:	Provide a short and plain statement of each issue you wish to raise in the contested case, including references to any facts, analysis or recommendations presented in the Proposed Order or Request for Amendment with which you take issue. Please reference any rules or statutes you believe are relevant to the issue(s) you are raising. <u>Examples</u>: Issue #1. The evaluation of XX in the [Request for Amendment and/or Proposed Order] is not sufficient to demonstrate the project complies with XX [statute and/or rule] because [briefly summarize your position]; OR Issue #1. I contend the certificate holder does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you believe certificate holder does not meet the cited standard or law]).	Historic, Cultural and Archaeological Resources OAR • 345-022-0090 The Bartholomew-Myers Farm is a historical resource. It was adopted into the Century Farm and Ranch Program (CFR1093) and is NRHP Eligible (Criterion A). The original CFR application, completed in 2005 IPC incorrectly labeled our Farm as the CFR (Thomson Myers Farm). The farm they refer to is in Umatilla County 6.86 miles away from the proposed route. Please see Exhibit 1 While we have asked for information pertaining to our farm in the Confidential Attachment S-10 Intensive level survey- visual assessment of historic properties report in Exhibit S of the original B2H application in our RFA-2 public comment on May 30, 2024. None has been received. A second request was made through Kellen Tardaewether by phone on July 17, 2024 and clarified by phone on July 18, 2024. Ms Tardaewether confirmed by email on July 22, 2024 that she made a request for the information through Joe Stipple who in turn said they will mail it this week. None has been received as of July 26, 2024. Because Sam Myers was not given Full Party Status in the contested cases for the original B2H EFSC litigation, he was unable to participate within the Historical Resources or Scenic Resources of the EFSC Standards. Wendy Myers, family member of Myers farm, requests a contested case on the basis of these standards because they were not available for the Myers family to view and verify. Additionally, the 103 determination of Myers farm studied by Tetra Tech for WheatRidge East RFA-1, was reviewed by the Myers family and found to be incorrect and had multiple errors. If Tetra Tech was the surveyor of the scenic and historical components of B2H, we believe they are incorrect as well.
Provide date of DPO comments where	For each issue identified in your Issue Statement(s),	May 30, 2024 Written

Description	Explanation of Information	Requestor Information
issue was previously cited:	provide the date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	
Provide Statement of how issue raises significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards:	Statement that describes why the Council should determine that each identified issue justifies a contested case because it raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24.	The Council permits final siting flexibility within a micrositing corridor when a certificate holder demonstrates that requirements of all applicable standards have been satisfied by adequately evaluating the entire corridor and location of facility components anywhere within the micrositing area or corridor. Adequate evaluation of most Council standards may be met with desktop studies or a literature review; however, several Council standards require field surveys in combination with a literature review, and these include: • Fish and Wildlife Habitat (OAR 345-022-0060) • Threatened and Endangered Species (OAR 345-022-0070) • Historic, Cultural and Archaeological Resources (OAR 345-022-0090) • Oregon Removal-Fill Law (OAR 141-085-0500 through 141-085-0785; ORS 196.795 - 196.990)
Issue 3		
Issue Statement:		Our family has concerns that RFA-2 is not in compliance with the new: Wildfire Prevention and Risk Mitigation (OAR 345-022- 0115). RFA-2 Ayers Canyon Alternative goes through Butter Creek Wildland Urban Interface.
Provide date of DPO		May 30, 2024 written
Provide Statement of how issue raises significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the		In the WMP OPUC docket UM 2209 IPC consistently argues with the Independent Evaluator and results. In IPC confession, there is no consideration within the WMP for Butter Creek Wildland Urban Interface. Please see Exhibit 2 How is Wildfire Risk in Morrow County "thoroughly litigated" in the CPCN before the OPUC when the Interface was never mentioned or considered? When facts have changed or emerged that "thorough" litigation was based upon must we continue to rely on the inaccurate or absent facts and those decisions? Does the

Description	Explanation of Information	Requestor Information
amendment, meets the applicable laws and Council standards:		EFSC allow IPC to discredit the importance of the Butter Creek Wildland Urban Interface? The OPUC could not have known when they issued the CPCN that B2H would involve new land and how can a certificate apply when it wasn't based on the new amendments? I believe the RFA-2 (if approved) must be referred back to the OPUC for acceptance. New information about the data input for Fire Potential Index (Risk= Probability x Consequence) in the IPC 2024 Wildfire Mitigation Plan adds an element of consequence called, "Acres Burned." Through multiple attempts to OPUC Heide Caswell, I have yet to receive an explanation of this new added consequence. It is probable that this element is grounds for concern for agriculture croplands directly beneath the proposed and amended routes. It provides criteria for an alternate route that would be co-located with other energy facilities which would combine forces for wildfire prevention and risk mitigation. While all utility WMP's are changing to determine risk and develop mitigation, the proposed transmission line route does not truly take into consideration the increased fire risk locations because they state that they will conduct Preventive Safety Power Shutoff. If they did heed the new changes in FPI, it might warrant a relocation of the line to prevent unnecessary PSPS that will potentially adversely affect people that require electricity to sustain life and organize wildfire response. Why place a transmission line in a location that is continually "Risky?" IPC PO response: "Idaho Power strongly urges the Council to avoid any additional requirements that may potentially conflict with the OPUC-approved WMP or otherwise create confusion about which requirements should apply." IPC knows it will be more work and will additionally expose elevated fire potential. IPC will predictably request an exception but I implore the council to recognize two facts: 1) IPC is amending the original site certificate by adding alternate routes which means changes exist within the baseline and seasonal wildfire risk. 2) IPC has added changes to their WMP and must reconsider High-fire consequence areas that include timber/agriculture resources including the acreage of cropland

Description	Explanation of Information	Requestor Information
		at Myers farm in Morrow county including wildlife habitat. Finally, they must disclose their data sources and methods for risk modeling. As a matter of Law, EFSC can choose to require Idaho Power comply with it's Wildfire Prevention and Mitigation standard: because the Council is responsible for siting of Energy Facilities. They are culpable for incidents where these facilities are located in the state of Oregon and tasked to protect citizens. They must pay attention to developer plans that may unnecessarily place citizens and property in peril, especially when a developer chooses to place facilities in high risk areas and defends that placement because of less cost or ease of construction, or downplays the elevated risk because of lack of rural historical fire recordkeeping, lack of local fire load information or lack of local weather & wind history. From the standpoint of transmission route location, I ask the Council to propose a condition that Wildfire Risk studies be produced for landowner review and include an opportunity for comment & collaboration while including local fire response. Further, Idaho Power has continually defended its location of B2H in terms of wildfire prevention and risk mitigation by stating the location has been "covered." No study has ever been produced either because the information is confidential or IPC is only able to determine risk zones within their service territory. IPC customary reply is that they can't have a wildfire mitigation plan for what is not there yet (B2H Transmission Line). Further information about IPC Wildfire Mitigation Plan by the Citizens Utility Board states, "When utilities are planning to invest millions of dollars into mitigation strategies that are meant to protect electricity reliability and protect the lives of Oregonians and their homes, and the plans the utilities offer guaranteed a return on investment, we all should at a minimum demand they show their work." page 8 um2209hac329766054.pdf (state.or.us) The property owners of Myers Farm in Morrow County, Oregon request the wildfire risk analysis IPC has completed for our property, agriculture lands & community.

Exhibit 1: Myers Farm has two Century Farm and Ranch locations. Because we were unable to access the confidential Attachment S, we could not verify that IPC had information about the farm located near B2H.

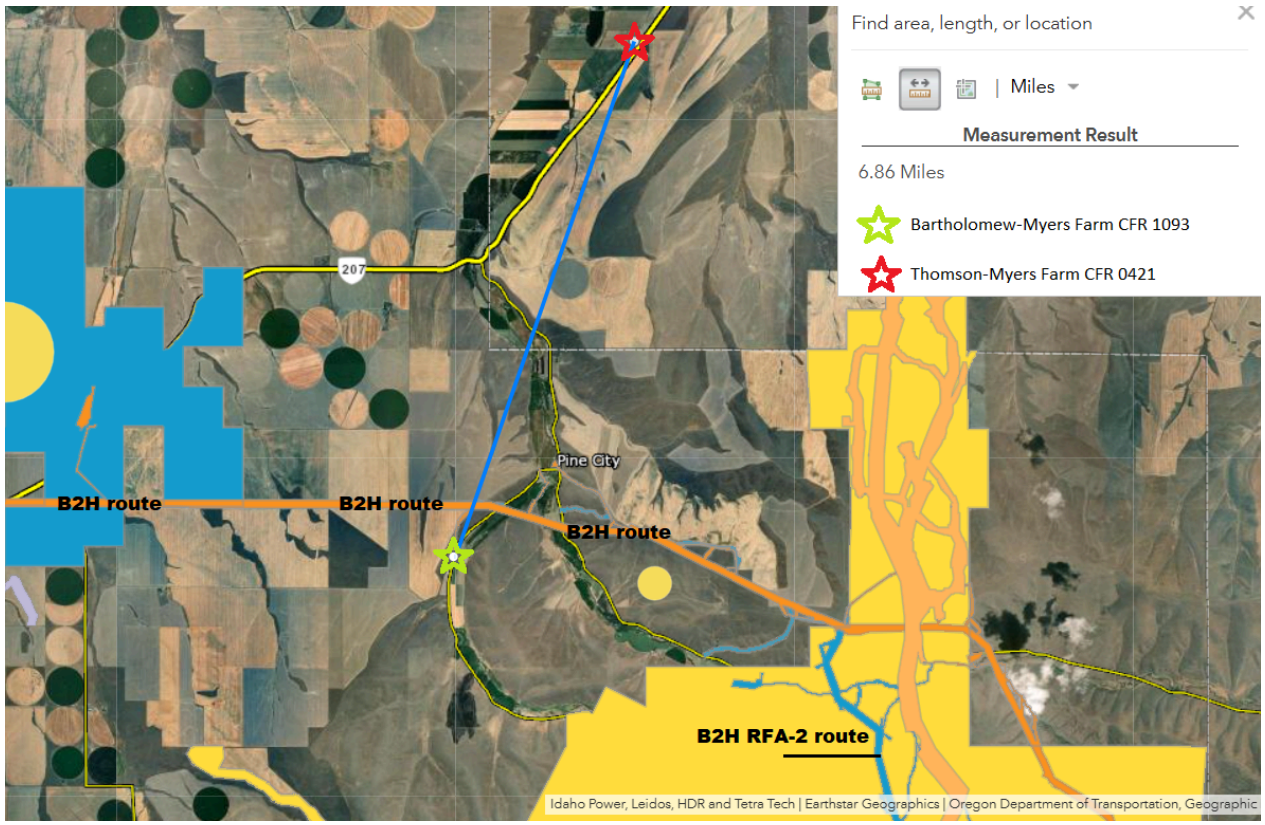


Exhibit 2: RFA-2 alternate route (light purple) travels through Butter Creek Wildland Urban Interface. If B2H co-located with WheatRidge East Transmission Corridor, it would avoid the Butter Creek WUI.

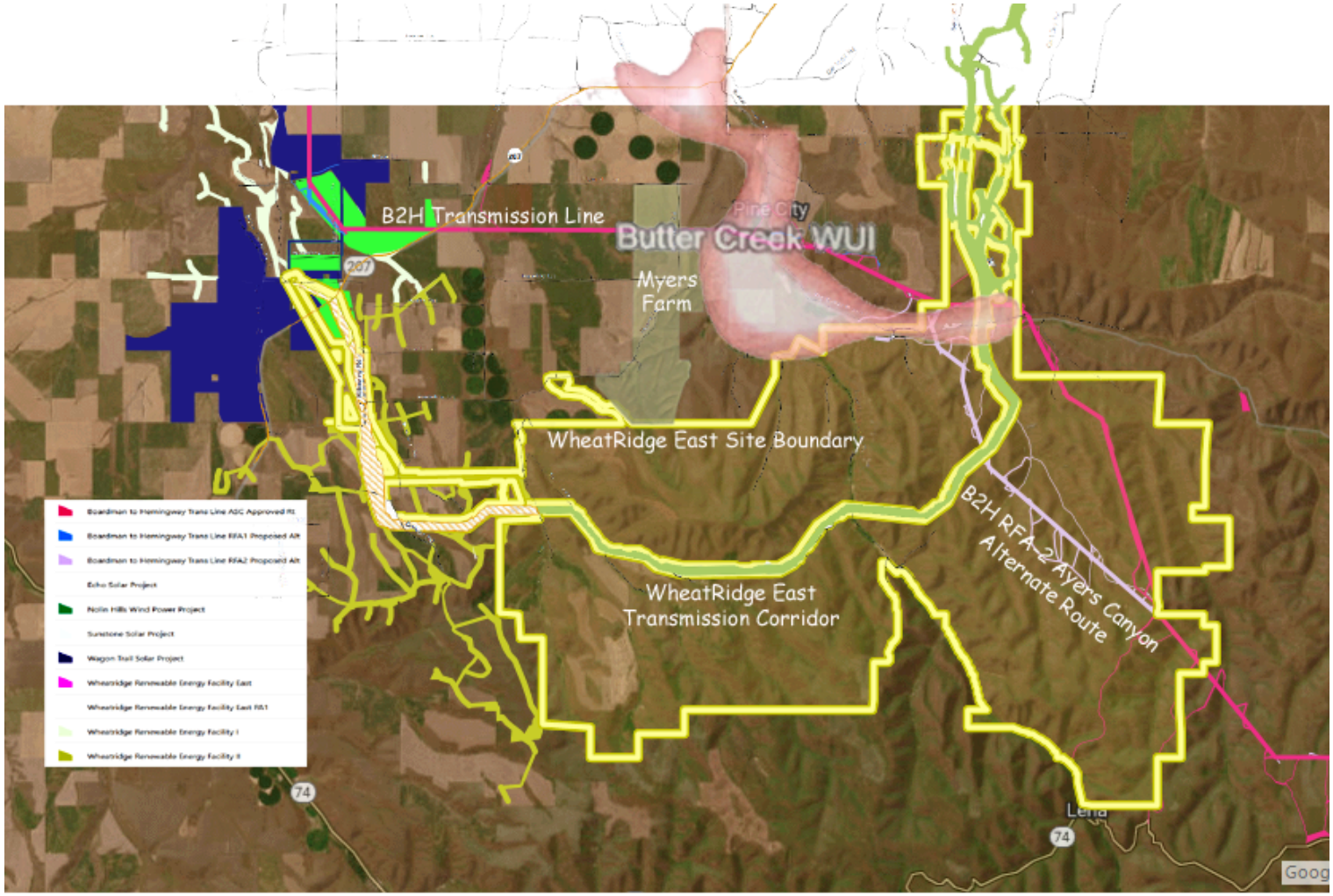


Exhibit 3: Towers over Little Butter Creek including viewshed of Myers Farm (Historical Homestead in background)



TARDAEWETHER Kellen * ODOE

From: Greg Larkin <larkingreg34@gmail.com>
Sent: Monday, July 29, 2024 4:54 PM
To: TARDAEWETHER Kellen * ODOE
Subject: Contested Case Request from Greg Larkin
Attachments: Greg Larkin Request for Contested Case July 29, 2024.odt

To: Kellen Tardaewether, Senior Siting Analyst
Oregon Department of Energy
550 Capitol Street NE, 1st Floor Salem, OR 97301

From: Greg Larkin
59655 Morgan Lake Road
La Grande, OR 97850
larkingreg34@gmail.com
541.805.1474

Re: Request for Contested Case.

Kellen,
Please add this request to your file. Please see attached. Thank you, Greg

REQUEST FOR A CONTESTED CASE-Greg Larkin

Description	Explanation of Information
Requestor Name:	Greg Larkin
Requestor Addresses:	59655 Morgan Lake Road, La Grande, OR 97850
Party Status Requested (Limited or Full):	Requesting FULL Party Status
If seeking to represent a personal interest:	**Provide a detailed statement of your personal interest:** In 2020, I was walking the proposed B2H power line with my partner who worked for the U.S. Forest Service for 13 years as a Biological Science Technician doing Botany surveys for Threatened, Endangered and Sensitive Plant Species. In 2020 she noted that there was potential habitat for the listed sensitive species, Trifolium douglasii . In 2023 she discovered several populations of T.douglassi and in 2024 there were 10 confirmed populations of T. douglassi within the proposed RAF2 boundry. Building the B2H power line would obliterate 6 populations of Douglas's clover as the populations are directly in the path of the power line and would be impacted by construction and yearly upkeep. Threatened, Endangered and Sensitive Species (OAR 345-022-0070) requires identification of species which could be impacted by the development of B2H. Not only was the T. douglassi NOT discovered by IPC's surveyors during it's abundant flowering season, it is very easy to discover forensically as it dries on the stem perfectly to be identified as T. douglassi for several months after it is senescent.

Description	Explanation of Information
	Explain how your personal interest may be affected by the results of the proceeding: It would be tragic to see several populations on my property or anywhere on the ridge where they are established disappear. This is a very unique plant in extraordinary habitat.

Issue 1

Provide date of DPO comments where issue was previously cited:	On **May 30, 2024**, I commented on the RAFA 2 DPO **in writing** & submitted it, by email, to Kellen Tardaewether, Senior Siting Analyst for ODOE.
IPC: Mr. Larkin was formally identified as a property owner of a noise sensitive receptor ("NSR") in Attachment X-7 (Owners of Noise Sensitive Properties) to Exhibit X to the Final ASC in September 2018.77 Because Noise Control Condition 1 (GEN-NC-01) identifies Mr. Larkin as a property owner of an NSR for which	1. IPC states: that Harris Miller Miller & Hanson Inc., their noise consultant, would contact me shortly/directly to discuss noise mitigation improvements that are appropriate for my property. It is July 29, 2024 and nearly a year has passed & I have received **NO COMMUNICATION** from this firm at all! 2. IPC states: that I was **mistakenly** sent the February 2024 letter to landowners within one mile of the micrositing areas that are not anticipated to exceed the ambient anti-degredation standard. IPC says they are sending a letter to Mr.

Description	Explanation of Information
it has estimated exceedances of the ambient antidegradation standard may occur **(NSR 125)**, **Idaho Power is required to contact Mr. Larkin prior to construction to develop a Noise Exceedance Mitigation Plan.**78 On **August 7, 2023**, Idaho Power sent a letter to Mr. Larkin explaining that "Idaho Power's proposed Boardman to Hemingway **transmission line project could exceed certain standards at your residence," and that Mr. Larkin is "entitled to receive noise mitigation improvements to reduce the impacts of that noise. Idaho Power's noise consultant Harris Miller Miller & Hanson Inc. (HMMH) will contact you shortly to discuss noise mitigation improvements that are appropriate for your property." Mr. Larkin was also mistakenly sent the February 2024 letter to landowners within one mile of the micrositing areas that are not anticipated to exceed the ambient antidegradation standard. Idaho Power is sending a letter to Mr. Larkin to address this inadvertent miscommunication. Additionally, after Idaho Power has made all final updates to Attachment X-7 (Owners of Noise Sensitive Properties), the Company will send out another notice per Noise Control Condition 2, GEN-NC-02(a).**	Larkin to address this inadvertent miscommunication. Again, I have received **NO COMMUNICATION** from IPC on this matter to date. 3. Department states: Department notes that in previous correspondence with Mr. Larkin, Department indicated that his residence was NSR-115, however, the NSR ID for Mr. Larkin's residence is NSR-125, as certificate holder indicates. **Another mistake.** 4. **My research on rules and statues for the State of Oregon does not provide me an OAR or ORS to hold IPC accountable with their promises to communicate or to follow the rules that apply to building 300 miles of a 5 KV power line or to account for the mistakes that they make. I'm just one person out of hundreds that are impacted by the building of the B2H project. Those that are impacted are supposed to perform, understand, and respond to their demands, and cope with the stress and heartbreak during this process of losing our land. I don't know how to fully fight on the level that IPC, ODOE, and EFSC requires. I need to be heard and expect IPC do what it's supposed to do. Follow the laws, stop bending the rules, and refuse to be corrupt just to build B2H when it negatively impacts so many land owners, public lands, and the environment and be a good steward of the land.**

Issue 2

Description	Explanation of Information
On May 30, 2024, I commented on the RAFA 2 DPO in writing & submitted it, by email, to Kellen Tardaewether, Senior Siting Analyst for ODOE.	
In reference to Larkin's comment: Also, the Monitoring Posts used for the noise studies IPC chose for residences dBas are not representative of my property or an NSR property, therefore all NSRs should get the Site Specific monitoring (as required by the DEQ manual, 340-035-0005) and it needs to be paid by the developer using an Acoustical Engineer agreeable to all parties. The evidence is such: At my residence on September 12, 2021, Kerrie Standlee , P.E., at DSA Acoustical Engineers, Inc., conducted sample noise monitoring which resulted in approximately 21 dBA. IPC performed a sample noise dBa at monitoring site MP 100 (on the windy ridge near Morgan Lake Park .8 mile from my residence) and it registered at 31dBA-- NOT representative! Standlee's was only a quick sample to meet the ALJ deadlines for testimony. (Exhibit 1). Therefore, a follow up and more accurate monitoring measurement must be taken BEFORE (not after) my negotiation on Noise mitigation.	**Issue:** IPC states in response to Stop B2H comments regarding Site Conditions Recommendation for Noise Control on same subject: Second, we also conclude that there was substantial evidence to support granting a variance. Idaho Power had requested a variance from the 'ambient antidegradation standard' in OAR 340-035-0100. Based on the noise analysis studies and weather data summarized in the final order, EFSC granted a variance to the ambient antidegradation standard for the transmission line 'at any time of day or night during foul weather events (defined as a rain rate of 0.8 to 5 millimeters per hour).' EFSC's final order first explains that 'ambient antidegradation standard exceedance[s] are predicted during foul weather conditions' and **Idaho Power 'cannot be accountable** for weather conditions that may cause audible corona noise, as the weather is a condition beyond its control.' EFSC also found that 'strict compliance with the ambient antidegradation standard in DEQ rule is inappropriate, unreasonable, or impractical because of special physical conditions and special circumstances contributed to the applicant's proposed transmission line location relating to **NSR**s [noise-sensitive receptors] that may experience noise exceedances.' **Finally, EFSC found that strict compliance with the rule 'would result in substantial curtailment or closing down (never building) the proposed transmission line and that * * * there is not another alternative facility available.'** **Also from IPC**: Due to the large number of NSRs in the analysis area, it was not feasible to conduct baseline monitoring at every NSR. Therefore, the Company's methodology involved a representative sampling approach based on acoustic groupings of NSRs. When multiple MPs were in proximity to NSRs, the Company selected the MPs with the lower ambient sound level to provide more conservative representative ambient sound

Description	Explanation of Information
	levels. **In addition, the MPs selected by the Company were generally located further from existing ambient sound sources than the NSRs, further contributing to the conservative nature of the baseline ambient sound measurements.** **Please Refer to Conditions NC-01, NC-02, and NC-03 do not mitigate adequately for protection of public health, safety and welfare of Oregonians, and therefore are noncompliant with ORS 467-.010, OAR 340-035-0005, OAR 345-035-0015, OAR 345-035-0035, ORS 469.507(2) and 469.507.**

TARDAEWETHER Kellen * ODOE

From: Susan Geer <susanmgeer@gmail.com>
Sent: Monday, July 29, 2024 4:59 PM
To: TARDAEWETHER Kellen * ODOE; TARDAEWETHER Kellen * ODOE
Subject: Susan Geer's request for contested case
Attachments: Geer Request for Contested Case RFA2.docx

Pleasefind attached

TARDAEWETHER Kellen * ODOE

From: Susan Geer <susanmgeer@gmail.com>
Sent: Monday, July 29, 2024 5:06 PM
To: TARDAEWETHER Kellen * ODOE
Subject: corrected Geer request for contested case
Attachments: Geer Request for Contested Case RFA2.docx

Attaching correct version

Susan Geer's Request for a Contested Case

Amendment 2 to the Draft Proposed Order

B2H Transmission Line

To:

Kellen Tardaewether, Senior Siting Analyst

Oregon Department of Energy

550 Capitol Street NE, Salem, OR 97301

kellen.tardaewether@energy.oregon.gov

From:

Susan Geer

906 Penn Ave.

La Grande, OR 97850

susanmgeer@gmail.com

Authorized representative for Whitetail Forest LLC and Glass Hill State Natural Area

Requesting as a limited party

July 28, 2024

Petitioner Introduction and statement of personal interest

I am a professional botanist/plant ecologist with over 30 years of experience in northeast Oregon. My personal interest in the proceeding includes being an affected landowner, as a member of Whitetail Forest LLC. Moreover, my personal interest includes the recognition and protection of the special plants and animals as well as plant communities in the Glass Hill area and at Morgan Lake City Park. I have been a Union County resident for the past 21 years and prior to that I lived in Wallowa County for 10 years. I have been familiar with the vegetation of Glass Hill and Morgan Lake area for some time, and in 2015 Dr. Joel Rice, a fellow native plant enthusiast, first spoke to me about trying to find a way to protect the native plant communities on his land on Glass Hill, forever, and how to do that. Additionally, Joel and LLC members purchased an additional 120 acres adjacent to his property, also for native plants and animals. Joel Rice had a conservation easement with Rocky Mountain Elk foundation since 2001, but it did not cover all his land. Dr. Rice's interests had evolved so that elk were not his primary focus for protection. In 2017 I contacted Oregon's Natural Areas program when I became aware natural areas could be on private land. Jimmy Kagan, Director then, advised me that an additional conservation easement was the best way to protect land and directed me to Blue Mountain Land Trust, who had just expanded their area to include Union County. We decided to pursue both options, and in 2019 Glass Hill State Natural Area was registered. Initially, contact with BMLT lead me to believe that a conservation

easement was imminent. However, they became unresponsive for a period of years. Their responsiveness was likely affected by turnover in personnel, and the prospect of B2H.

Due to professional expertise and familiarity with the area, others cannot adequately represent the personal interest I have identified.

In this request for a contested case, I re-iterate issues raised in my Comments, and respond to IPC and EFSC Comments.

Statement of public interest

As stated in my May 30, 2024 comment, approval of the Morgan Lake alternative signaled a tragedy for State Protected Areas, City Parks, and Conservation Easements, establishing a precedent of ignoring their status, downgrading their ecological integrity, and putting special status species further at risk. Morgan Lake alternative has the most forested acres of any route considered, contains more wetlands including unique wetlands and mesic grasslands, and plant community types in a Natural Area that are protected nowhere else in Oregon, and is home to several rare plant and animal species, as documented in my previous contested cases with EFSC and OPUC. Additionally, *Pyrrocoma scaberula*, a state-listed endangered species as of May 2024, occurs within the site boundary.

Introduction of Issues and response to IPC/ODOE Comments

Issue 1: RFA2 proposed changes would introduce invasive plant species and impact the hydrology of Winn Meadows, an important wetland in Glass Hill SNA, protected under OAR 345-022-0040, thereby causing significant adverse impact.

Proposed route changes in RFA2 (Baldy Alternative) would cut across the head of Winn Meadows (Appendix Figure 1), adding micrositing areas to this prisitine wet meadow in a roadless area. Major disturbance and impacts were introduced under RFA1; Appendix Figure 2 shows the transmission line and access roads in Sections 5 and 32 erroneously approved to go through Glass Hill SNA. RFA1 called these roads "existing roads". I was confused about the location of these "existing" roads when I read RFA 1, and now realize these are old logging roads which have not been used for 40 or more years. RFA 2 would expose even more of the perimeter of Glass Hill SNA to disturbance from construction and ongoing maintenance of the B2H. The cumulative impacts of the RFA 2 added to the disturbance permitted under the ASC and RFA 1 are profound.

In the Glass Hill SNA, we are finding that the wetland and riparian mapping as depicted in the GIS layer used by Idaho Power is not accurate or up to date. Most ephemeral streams were missed, and wetlands were missed or mis-categorized. At Winn Meadow, the wetland as determined by the NWI method, extends beyond the area mapped in the GIS. The inaccurate NWI layer was used by Idaho Power in the OPUC Contested case (Sur-rebuttal Testimony of Michael Ottenlips; Sur-rebuttal Testimony of Mitch Colburn, April 7, 2023) as justification for placing the transmission line and access roads within mere feet of wetland as mapped, and rare plants. Introductions of invasives and alteration of hydrology at the immediate boundary of the Protected area negatively affect the quality of the wetland, the integrity of the natural area, the special wetland plant community, and the livelihood of *Trifolium douglasii*, a Candidate for listing with Oregon's rare plant program and Federal Species of Concern (Appendix Figure 3), as well as Columbia spotted frogs living there. Under OAR 345-022-0040 the Council must find: (a)

The proposed facility will not be located within the boundaries of a protected area designated on or before the date the application for site certificate or request for amendment was determined to be complete under OAR 345-015-0190 or 345-027-0363;and (b) The design, construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to a protected area designated on or before the date the application for site certificate or request for amendment was determined to be complete under OAR 345-015-0190 or 345-027-0363.

ODOE comments from the B2H AMD2 Certificate Holder and Department Responses to DPO Comments, by Commenter (Table 2, 6-28-24) say

> Ms. Geer argues that Winn Meadows, a wetland within Glass Hill SNA, has not been properly delineated, and therefore impacts have not been properly evaluated. Ms. Geer did not provide facts to support the Department's review of the allegation – there was no mapping or data provided in the alternative of data currently on the record of this project/for areas in proximity to Glass Hill SNA.

The burden of proof for delineating a wetland should be on the Applicant, not on a Commentor or Petitioner, according to OAR 345-021-0100. Idaho Power did no more work than obtaining the NWI GIS layer. It is commonly known that wetland delineation on the generalized layer is not well-refined and sometimes incorrect.

ODOE comments, presumably with input from DSL (?) go on to say

> DSL is aware of Winn Meadows and concurs that it is a wetland; wetlands that would not be impacted by ground disturbance and that are outside of areas accessible to the developer would not be required to be delineated.

While this is interesting information, my point is entirely missed. The boundary of the wetland does not end with the boundary of Glass Hill SNA. Also, wetlands can and are affected by construction the occurs adjacent to the wetland. The DSL commentor says "a removal fill permit is required for construction of the facility and will ensure that all wetlands/WOS that could be impacted by facility construction are properly delineated (i.e., concurred with by DSL), and that all temporary and permanent impacts are mitigated and monitored." While this statement is reassuring in terms of knowing where the wetland actually ends (if DSL personnel properly identify wetland plant species), it fails to realize the entire purpose of the State Natural Area, meant to be an undisturbed, undeveloped area for the conservation and study of native plants and animals, especially those which are element occurrences and not protected in other natural areas throughout Oregon.

The IPC commentator states

> Moreover, Ms. Geer's challenge to the Council's approval of RFA 1 is untimely. The appropriate venue to seek review of alleged errors in the Final Order on RFA 1 was an appeal to the Supreme Court pursuant to ORS 469.403(3), which requires that a petition for judicial review be filed within 60 days of the Council's order.

While I realize that an appeal to the Supreme Court would be the legal remedy to "errors in the Final Order on RFA1", neither Dr. Rice or I was able to find a law firm willing to take the case. On a personal level, I had neither the time or money to spend on that remedy, and I regret that.

Issue 2: The Council should find that RFA2 would result in significant adverse impact. The Council should also recognize that RFA1 and the Morgan Lake Alternative as approved, together with RFA2 result in Cumulative Effects with significant adverse impact to Glass Hill SNA (Protected Area Standard OAR 345-022-0040). The Council should call for an Amended Route between the Baldy Alternative and Hilgard State Park.

Map 30 of Figure 8-1 2024-04-11-FIG-8-1-RFA2-RFA1-ASC-Expanded-Site-Boundary-Changes-MAPBOOK and Map 38 of 2024-04-11-FIG-4-1-RFA2-Micrositing-Additions-and-Expanded-Site-Boundary-MAPBOOK shows the proposed site boundary cutting through Glass Hill SNA in several places, fatally damaging the integrity of the natural area. Confusing additional access roads were added in RFA1. In the Winn Meadow area, "existing roads" are should on a map, yet those roads no longer exist on the ground and have not been driven in over 40 years. This should never have been allowed under the EFSCs rules for Protected Areas.

Issue 3: *Pyrrocoma scaberula* (rough goldenweed), an extremely rare plant, is now listed as Endangered under OAR 603-073-0070. The approved route should be shifted to avoid the Morgan Lake/Twin Lake area where it grows.

The largest known occurrence of the species is known from within the RFA2 expanded Site boundary in and near Morgan Lake Park (Appendix Figure 4). I submitted herbarium specimens to WSU and OSU (identity confirmed by Dr. James Mickley, Herbarium curator; it is most likely a new variety or a subspecies). I submitted siting forms to Oregon Biological Information Center for the specimens, yet much more survey is needed. It grows only in unique mesic grasslands. There were never many of this type of grassland, and fewer remain today after agriculture and development. It is likely that rough goldenweed occurs in the Morgan Lake Alternative original site boundary/micro siting area. Surveys are needed to document the extent. As of May 3, 2024, this species is listed as Endangered by the State of Oregon rare plant program. Under the EFSC standard

345-022-0070
Threatened and Endangered Species

To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:

(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction, and operation of the proposed facility, taking into account mitigation:

(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or

(b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.

The species was declared Endangered after the ASC was issued, but before final Amendments or construction. The species had been a Candidate for several years, in fact this is the first time ODA has updated the rare plant list since the start of the program in 1987. ODA rare plant program is slowly working its way through the Candidate species since the program finally got funded in 2020. Listing was not unexpected. ODA funding problems prevented the required Periodic Review of State List 345-022-0070 from being done regularly but and it has finally been listed. *Trifolium douglasii* (Douglas clover) is another rare Candidate for State listing that grows in mesic grasslands in and around Morgan Lake Park and occurrences are found along the monocline from the park south to Winn Meadow, part of Glass Hill State Natural Area. The EFSC should be pro-active in recognizing Candidate species and doing all they can to protect them.

In comments (2024-06-28-B2H-AMD2-Proposed-Order-Combined-w-Attachments) , Idaho Power says

> Ms. Geer's comments regarding the route near Morgan Lake and Twin Lake is not specific to RFA 2 because the Council has already approved the route segments for the Project located in that area, the Morgan Lake Alternative, and the Company does not seek to modify the micrositing area for the Morgan Lake Alternative.

This statement disregards IPC's request for an expanded site boundary and the potential for *Pyrrocoma scaberula* to occur there is very high.

IPC goes to say

> *Pyrrocoma scaberula* was added as an endangered species in 2024, after the Council had already approved the Morgan Lake Alternative. At the time of the Council's consideration of the ASC, Idaho Power was not required to analyze potential impacts to that plant species under the Council's T&E Species Standard because it was not listed as endangered at the time, and the fact that the Oregon Department of Agriculture ("ODAg") updated the list of endangered species after the Council issued its Final Order on the ASC does not require additional analysis of that plant species.

While this may be true in terms of timing, it is a callous disregard for one of the rarest species in our state. The fact that the ODA rare plant program went unfunded for several years and failed to update their rare plant list between inception (1987) and 2024 should be taken into consideration since earlier efforts were truncated. At the very least, a full survey for P. scaberula should be required in any likel habitat that is included in the final site boundary so that existing plants can be avoided.

ODOE comments include:

> …based on ODAg's listed plants by county documentation, Pyrrocoma scaberula (rough goldenweed) is only known to occur in Wallowa County, a county that is not impacted by B2H or the proposed RFA2 changes. Ms. Geer referred to information that would support the assertion that the newly listed plant species is or could be located in or near Morgan Lake Park, but that information was not provided. Therefore, the Department is unable to evaluate…

This ODOE comment is puzzling because it ignores the fact that I stated in my Comments that I provided location information and herbarium specimens to both OSU and WSU, and to siting forms to ORBIC. I also included a map of where I have seen it, though that is just a casual observation. Full surveys are needed. With a funded ODA rare plant program, it seems conceivable that program employees could arrange a site visit or at least hire a contractor to fully survey.

Issue 4: Mitigation called for in RFA 2 - Attachment 4 "Draft T and E Plant Mitigation Plan" is NOT a substitute for occurrences of rare plants and their unique undisturbed habitat.

This plan is all about seed banking and making plans for re-introduction. In fact, it is over half a million dollars in seed banking. As Dr. Karen Antell demonstrated in her EFSC contested case, few if any cases of successful conversion of habitat exist. Instead of spending this money on seed banking, Idaho Power should spend this money re-routing B2H away from rare plants.

Issue 5: EFSC erred in approving the Morgan Lake Alternative to go through Glass Hill SNA, and then in allowing additional access roads within Glass Hill SNA under RFA 1. The EFSC Protected Areas rule 345-022-040 before recent revision (December 2022) provided a list of Protected Areas as of 2007 (when the rule was written). The ALJ in the contested case process at the time, erred in ruling that only areas on that list would be protected, even though it was obvious that areas in certain categories which were designated after 2007 but before the new rule took effect in 2022, should be included and protected. It does not make any sense that Areas designated after 2007 would not be recognized until December 2022. I have suggested changes in the route to Joe Stippel, Site Manager of Idaho Power, but have no response. Therefore, I will be proposing an Amendment soon.

Glass Hill SNA contains plant communities not protected elsewhere in Oregon's natural areas program: In addition, the more time we have spent in the area, the more we realize how many ephemeral stream and unmapped wetlands there are. We plan to suggest new plant community categories to the Natural Areas program. The program currently does not recognize these wetland types representing the southern end of the Palouse prairie and open pine stands with inclusions of wet meadow unique to the region and found nowhere else in Oregon. The Zumwalt is more closely associated with the canyon grasslands. The Glass Hill and Morgan Lake area smaller remnant grasslands more closely aligned with the Palouse and a series of wet meadows due to the geology.

Issue 6: The Draft Proposed Order for RFA2 continues to mischaracterize the management of Glass Hill State Natural Area (SNA), a Protected Area under OAR 345-022-0040, and the managers of the Natural Area were not notified of RFA2.

RFA 1 Draft Proposed Order mischaracterized the management of Glass Hill SNA as I wrote in Comments dated September 23, 2023 (Geer Comments on RFA1). RFA 2 makes no corrections. Preliminary Request for Amendment #2 Idaho Power Company for the Boardman to Hemingway Transmission Line, Attachment 7-2, page 37 lists Blue Mountain Land Trust as the manager. RFA 1 listed it as Blue Mountain Conservancy. Neither of these organizations is the manager, nor have they ever been. Owner Joel Rice and myself manage the land, with advice and assistance from Noell Bachellor of ORPD Natural Areas Program, and specialists from ODF, NRCS, and ODFW. I was not notified of either RFA 1 or RFA 2, even

after submitting comments on RFA 1. Dr. Rice says that he was not notified either. Drafts of the 2022 Protected Areas rulemaking called for managers of Protected Areas to be notified, yet this wording was inexplicably omitted from the final version.

Almost inexplicably, ODOE states in their response to my comments

> The Department contacted Blue Mountain Land Trust requesting information about the land manager for the Glass Hill SNA, but did not receive a return phone call

This really makes the point that the person at EFSC tasked with replying to comments, has not really read the comment. Also is it too much to ask that EFSC familiarize themselves with previous contested cases in the matter of B2H? I have stated many times in multiple documents that the continued listing of Blue Mountain Land Trust is in error. The commentor goes on to mention "Blue Mountain Conservancy" which is an entirely different organization that does not offer conservation easements anymore and is mainly involved in outdoor education. The commentor did not seem to be responding to my comment but rather listing random erroneous items they dug up somewhere.

Issue 7: General Conditions under the Protected Areas Standard 345-022-0040 should apply to Glass Hill State Natural Area.

Attachment 6-1 Second Amended Site Certificate dated Sept. 22, 2023; page 32 should apply to Glass Hill SNA as well as Ladd Marsh Wildlife Area as follows:

STANDARD: PROTECTED AREA (PA) [OAR 345-022-0040]
GEN-PA-01
During design and construction of the facility, the certificate holder must:
a. Coordinate construction activities in Ladd Marsh Wildlife Area and Glass Hill SNA (Areas) with the Area managers.
b. Provide evidence to ODFW of a determination of eligibility and findings of effect pursuant to Section 106 NRHP compliance for the facility and the final HPMP for the portion of the facility that would cross the Areas subject to confidential material submission materials.
[Protected Areas Condition 1; Final Order on ASC]
GEN-PA-02
During design and construction of the facility, if the Morgan Lake alternative route is selected, the certificate holder shall ensure that facility components are not sited within the boundary of the Areas. The certificate holder shall provide to the Department a final design map for Union County demonstrating that the site boundary micrositing area and facility components are located outside of the protected area boundary.
[Protected Areas Condition 2; Final Order on ASC]

IPC's commentor points out "In the Final Order on the ASC, the Council adopted the Hearing Officer's findings that because the Rice Glass Hill State Natural Area was not registered as a Natural Area at the time of the cut off date in the then-applicable rule (May 11, 2007), Idaho Power had no obligation to evaluate the Rice Glass Hill State Natural Area as a protected area in ASC Exhibit L."

I maintain that the Hearing Officer and EFSC acceptance of her interpretation of the former rule, are both senseless and clearly biased toward the Applicant. Why would the EFC rule be designed to expire in 2007, and leave areas unprotected between then and 2022? It makes no sense, and the EFSC should re-examine it's acceptance of that ALJ's(hearing officer) ruling.

Issue 8: RFA2 Proposes changes to General Conditions (Attachment 6-1 Second Amended Site Certificate dated Sept. 22, 2023, page 61-62) under the Threatened and Endangered Species Standard OAR 345-022-0070 which are unacceptable and should be rejected by the Council.

> CON-TE-02 a. adds the words "where practical" leaving the interpretation wide open.
> CON-TE-02 b. is a new addition which allows IPC to destroy T and E plant species as long as there is "mitigation". No "mitigation" is a replacement for T and E plants.

The IPC commentor cites a revised version of CON-TE-02, which is a slight improvement over the "where practical" language initially proposed. However, to really make a difference, the developer/IPC should demonstrate that not only have they micro sited away from individual plants, but that they have avoided the habitat of the endangered plant species. In many instances the reason plant species are rare is due to limited, unique habitat that they require. In some cases, the habitat was once widespread, but now due to human incursion is fragmented and of lesser quality. It should be recognized that this is what happens in the case of powerlines and access rods: valuable habitat is fragmented and lost forever.

Issue 9: The Council should reject Site boundary expansion and ask Idaho Power to apply for further Amendments instead, if they are needed. Alternatively, expansion should be subject to landowner approval and this should be a condition of the Site Certificate.

RFA2 proposes expanding the site boundary to be ½ mile wide along the B2H transmission line and would add 101,600 additional acres not subject to survey. The expansion along the B2H line does not include expansions such as roads and facilities. If the site boundary is expanded as proposed, Idaho Power would have free-reign to micro-site within that half mile –rather than within the 500' which was approved.

Morgan Lake Park and Protected Areas should not be subject to site boundary expansion

An Amended route should be found which stays at least ¼ mile from Morgan Lake Park and Glass Hill SNA as well as other Protected Areas. Furthermore, these areas should not be subject to expansion.

Idaho Power touts the expanded site boundary idea as giving more flexibility for landowner agreements. What they do not say is our rights may be weakened further in the future.

Presumably if they want to change something again, they will NOT be required to go through the more rigorous Type A Amendment process but instead, they will only need to file an Amendment Determination Request. The Council should not allow this.

Allowing an expanded site boundary without surveys would be in violation of OAR 345-027-0375(2)(a). The Council should not allow it.

The proposed expanded site boundary in Union County especially on the area (monocline) between Winn Meadow and Morgan Lake contains many wetlands, both mapped and unmapped. There is no doubt that sandhill cranes and bald eagles' nest at Twin Lake and Columbia spotted frogs are found there within the potential expanded site boundary. Additional rare plants would include *Pyrrocoma scaberula* and *Trifolium douglasii* which grow in unique mesic grasslands, but there may be others as well. It has never been surveyed because it was outside of the site boundary in the past. This would be in violation of OAR 345-027-0375(2)(a), which states: "For a request for amendment proposing to add new area to the site boundary, the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application;" Since the wetland has never been surveyed, compliance with the Fish and Wildlife Habitat Standard (OAR 345-022-0060) cannot be determined, nor Threatened and Endangered Species (OAR 34-022-0070).

The IPC commentor states

> Contrary to Ms. Geer's assertion, Twin Lake is not within the proposed expanded site boundary. Twin Lake is within Morgan Lake Park, and Idaho Power modified the proposed expanded site boundary so that it borders but does not overlap with Morgan Lake Park.

It is a relief that the expanded site boundary is not overlapping the Park. However, as in the case of the Glass Hill SNA, activities outside of the Park boundary do affect plants and animals within the Park. Along with habitat fragmentation which is a leading reason for the decline of both rare plants and animals, direct effects would harm sandhill cranes, bald eagles, Columbia spotted frogs, and other sensitive species. They do not stop at boundaries. The impact would be especially severe for the many birds nesting at Twin/Little Morgan Lake, as has been discussed in my own and other contested cases with EFSC and OPUC.

During the Protected Areas rulemaking process, myself and others asserted that City and County Parks, as well as Conservation Easements, be given protected area status in the EFSC process. It is regrettable that EFSC did not do so.

Conclusion

RFA2 and the Proposed Order do not evaluate Glass Hill State Natural Area (SNA) as required under OAR 345-022-0040 revised in 2022. No avoidance was attempted (as required in the standard) even though the Protected Area was registered as far back as 2019. RFA2 is non-compliant with OAR 345-022-0040.

The department claims that development within the SNA has already been approved, that there are no new (RFA2) components within the SNA boundary, and that it's applicability under the protected area standard has been litigated. However, as STOP commented in the DPO and as facts in the record show: a) the new analysis areas mandate that a distance of 19.75 miles from the proposed site boundary be evaluated for protected areas; b) this distance clearly encompasses the new Glass Hill SNA, which according to OAR 345-022-0040 must be avoided; c) no balancing authority is permitted under 345-022-0000(3)(f); and d) RFA2 is noncompliant with this provision since this is a new amendment request and it

must be evaluated using the laws and rules in effect at the time the application was deemed complete in April 2024. The protected area standard was updated/amended in 2022.

It is beyond reprehensible for the State of Oregon's EFSC to willingly devalue a State Natural Area by fragmenting the habitat that supports the rare plants, animals, and plant communities that the State Natural Areas program and State Rare Plant programs were designed to protect.

Appendix: Figures 1-4

From Susan Geer's Comments RFA2

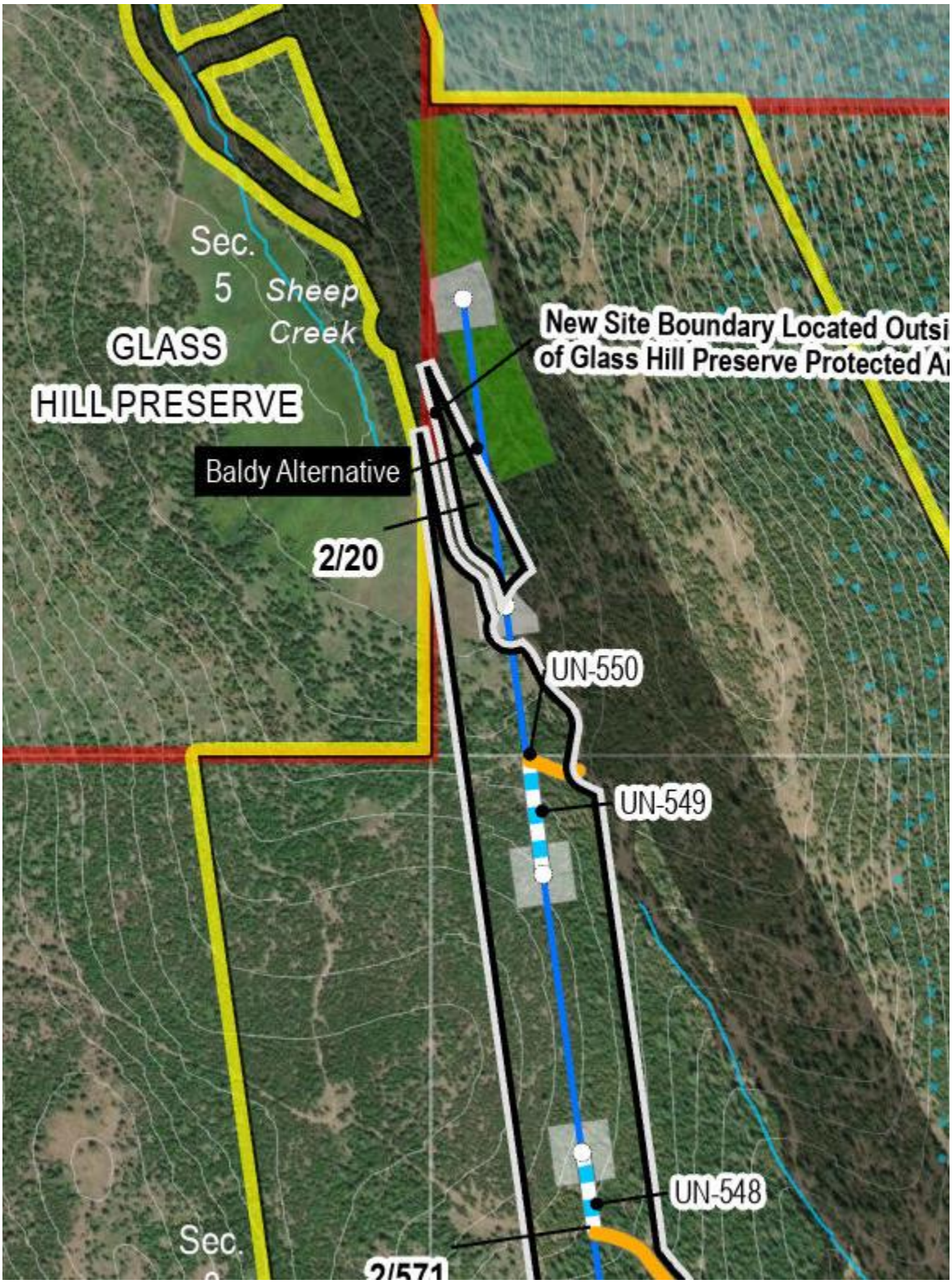


Figure 1: Close up on Map 38 from 2024-04-11-FIG-4-1-RFA2-Micrositing-Additions-and-Expanded-Site-Boundary-MAPBOOK

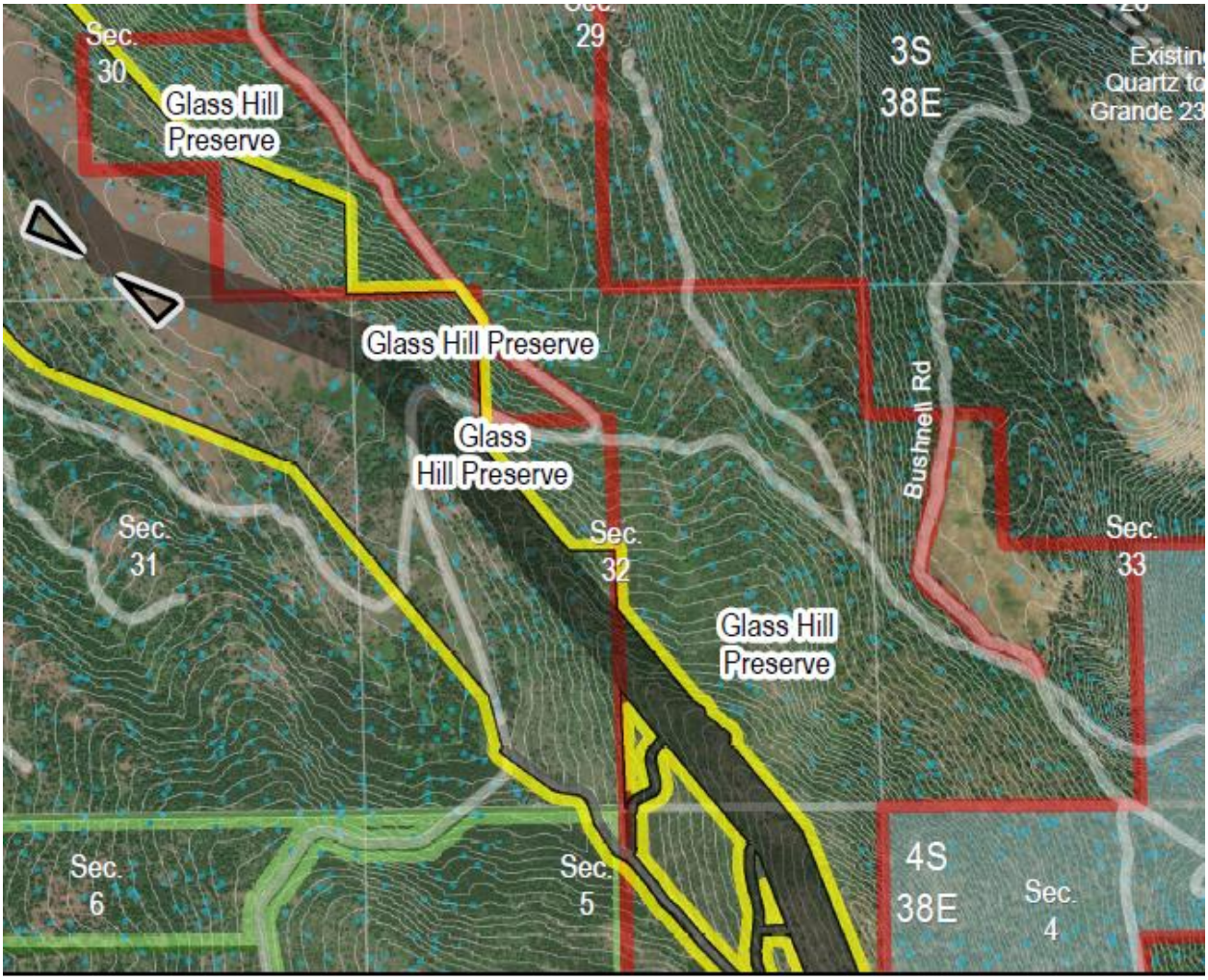


Figure 2: Close up from Figure 8-1 Map 30 of 2024-04-11-FIG-8-1-RFA2-RFA1-ASC-Expanded-Site-Boundary-Changes-MAPBOOK



Figure 3: Douglas clover at Winn Meadow

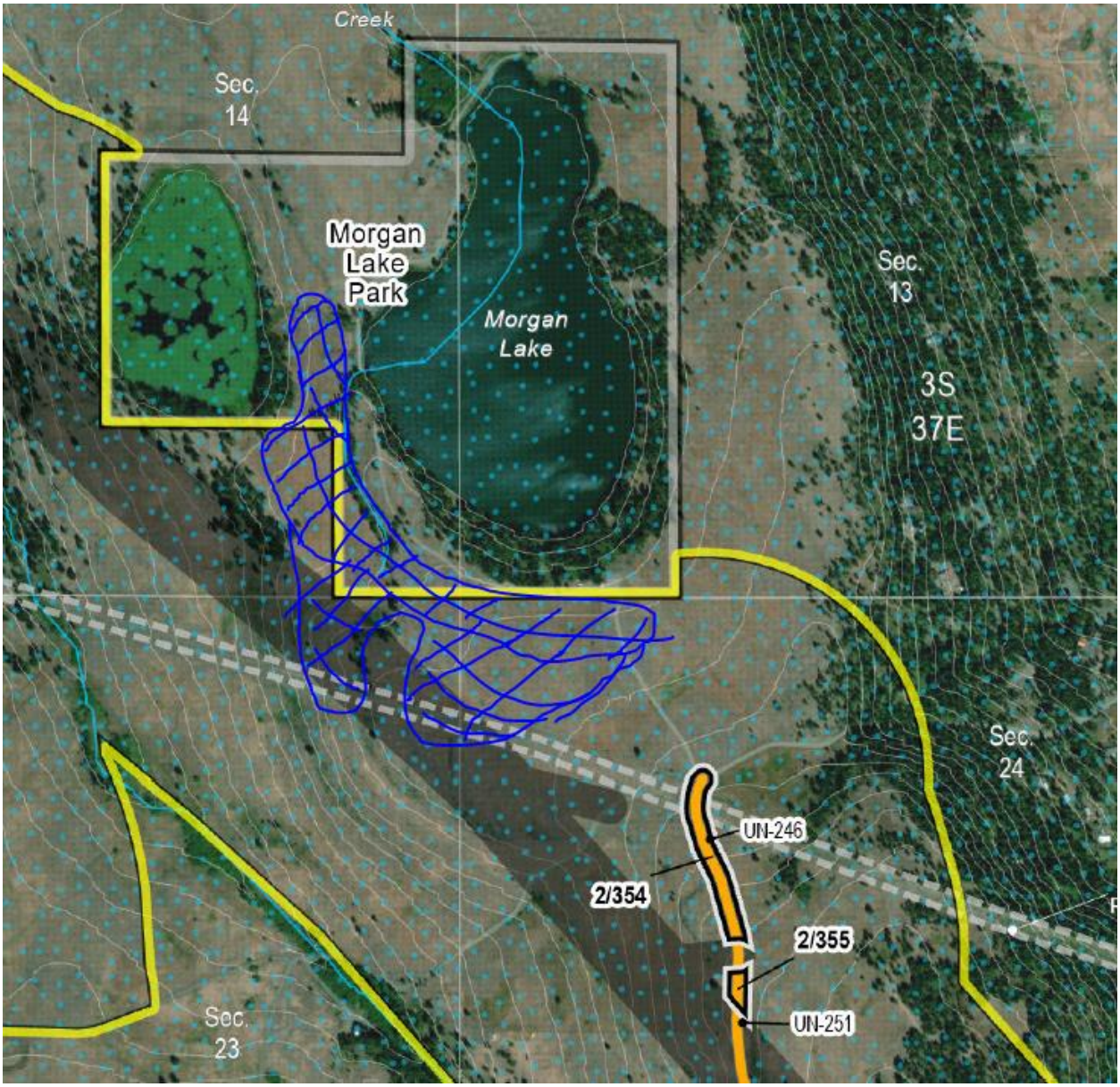


Figure 4: Blue hatched polygon is approximate area where *Pyrrocoma scaberula* is known to occur near Morgan Lake. Surveys are needed.