

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

<b>IN THE MATTER OF IDAHO POWER COMPANY'S PETITION FOR CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY</b>	<b>Docket: PCN 5 Opening Brief Intervenor: Stop B2H Coalition, Jim Kreider</b>
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**Date: May 15, 2023**

**Jim Kreider, Intervenor**

**On behalf of the Stop B2H Coalition**

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## 1 **Introduction**

2 Stop B2H<sup>1</sup> is a broad coalition of diverse, predominately rural people and organizations,  
3 established as a 501c3 nonprofit in 2017, that have been working to prevent the construction of  
4 this massive industrial intrusion into the lives, livelihoods, habitats, and special places in Eastern  
5 Oregon that we all cherish and wish to protect. With nearly 1,000 members, thousands more  
6 who support us from our member organizations, and years of research and docket engagements,  
7 STOP knows the B2H is unnecessary to meet the energy needs in Idaho; it is also very  
8 expensive, and it is counter to what we believe are better and more secure ways to modernize our  
9 grid infrastructure and enhance our climate resiliency, while preserving and protecting precious  
10 resources. More specifically, in the context of this case and docket PCN-5: Certificate of Public  
11 Convenience and Necessity, STOP believes that there is not a *necessity* and that there are ample  
12 alternatives to taking the (unthinkable) condemnation of private lands.

13 We have been actively engaged<sup>2</sup>--steady and professional-- in the public input and  
14 decision-making processes for the Boardman to Hemingway (B2H) Transmission project, and

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<sup>1</sup> Stop B2H, also referred to in this document as: the Stop B2H Coalition or simply, “STOP.”

<sup>2</sup> In addition to **participation** at every IRP meeting, EFSC meetings, rulemakings, OPUC and IPC energy workshops, and various public hearings (at both state agencies: ODOE and OPUC), Stop B2H Coalition members “engagement” generated substantive and substantial inputs via **verbal and written comments and testimonies**. For example: a) Unique letters and comments have been submitted along with testimony in every IPC IRP from 2017 through present day (in 2015 members were engaged but STOP was not a registered organization.) [StopB2H/102.b.] b) In ODOE/EFSC’s decision making processes nearly 1,000 public comment letters were filed by approximately 400 people opposed to the project (approx. 70 support comments, mainly from utility and electric union employees commented.) c) Over 50 East Oregonians filed to participate in the EFSC contested case process in 2020, and 31 of them engaged for the full two years through the quasi-judicial process. [generally, StopB2H/107] d) To varying degrees, STOP’s members—and member groups--have also been involved in rulemaking dockets at the OPUC and EFSC (e.g.: wildfire, protected, scenic and recreational areas, intervenor funds, CPCN, etc.) generating substantive inputs into these processes.

1 many of our individual members have been involved since the very beginning (2006). We have  
2 learned a great deal through research and participation. We know that there are better ways to  
3 reach our decarbonization and climate goals, as well as positioning ourselves for a resilient  
4 future of energy independence, without this intrusion. Unfortunately, the monopoly utilities  
5 want differently.

6 STOP and other intervenors will show through a preponderance of evidence that there is  
7 not an urgent *public necessity* in Path 14 nor in Idaho, and the *convenience* is only awarded to  
8 the utility, not the ratepayers. Idaho Power’s request/petition for a Certificate of Public  
9 Convenience and Necessity (CPCN) for the Boardman to Hemingway (B2H) transmission line,  
10 docket PCN-5, **should be denied**. Or, at a minimum, as we have testified since the onset of this  
11 docket, we urge the Commission to **postpone or cancel** this process until Idaho Power’s  
12 application is complete,<sup>3</sup> which could be at least another year<sup>4</sup>.

13 The statute outlines information that a petitioner who “proposes to construct an overhead  
14 transmission line which will necessitate a condemnation of land” must provide to the  
15 Commission:

16 **ORS 758.015 (1)** “... **a detailed description** and the purpose of the proposed  
17 transmission line, the **estimated cost**, the **route** to be followed, the **availability of**  
18 **alternate routes**, a description of **other transmission lines connecting the same areas**,  
19 and such **other information** in such form as the commission may reasonably require in  
20 determining the public convenience and necessity.” **[emphasis added.]**

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<sup>3</sup> StopB2H/100/pp. 15-17; and a consistent theme at the Public Comment Hearings (Transcripts from 11/16 and 12/5/2023).

<sup>4</sup> Per STOP’s experience and forecast, after review of IPC’s tracking sheets [IPC/Barretto/1601-1603] and StopB2H/1013, and discussions with county, state, and federal staff members, who will be involved in the: surveying, Section 106 consultations (see generally, Williams, J./100 and /200), mitigation planning (example: GEN-NC-01 Site Conditions, Final Order, EFSC 9/27/2022, pp. 40-44 (PDF 45-49); and amendment processes (StopB2H/102 – amendment request RFA1), the proposed tracking sheets are extremely optimistic.

1           Given the statute above, the application is incomplete because significant **descriptions**  
2 are missing from the application or are pending, for example, mitigation planning and tribal  
3 consultation (Sage-Grouse, noise, Section 106, others); we will address this in Section 1.  
4 Additionally, the bid/construction costs, contingency fund, and completeness of road and lands  
5 surveys are lacking and STOP believes they are not in public interest; we will address these and  
6 the budget in Section 2. When details and costs are so unknown the basic premises of “least  
7 cost-least risk” becomes an outdated analysis. In every IRP, the cost difference between B2H-  
8 portfolios and non-B2H portfolios, gets closer and closer. We will address IPC’s energy plans  
9 and **alternatives** to transmission in Section 3, in addition to **routing alternatives** that also exist  
10 in some areas. Finally, in the context of the statute, the service area **has existing transmission**  
11 **infrastructure** that could be upgraded and maintained for better security of the area. **Other**  
12 **information**, like safety is of concern, and will be addressed in Section 4. And, additional  
13 OPUC criteria are addressed in Section 5.

14           We appreciate the ALJ and the Commission’s attention in this case, as well as your  
15 patience with the Stop B2H volunteers and pro se intervenors, that are trying as best we can to  
16 share our local knowledge and concerns and our well-researched alternatives, as we represent  
17 ourselves, our neighbors, the people and wildlife, the natural resources, and cultural resources of  
18 this part of the Great State of Oregon.

19 **Section 1: The CPCN application remains incomplete.**

20 Idaho Power has a great deal of work to be done to come into compliance with permits they have  
21 acquired and the permitting processes that are still incomplete; for example: a) site certificate  
22 conditions that involve tribes, local, state and federal agencies, each addressing various levels of

1 consultation, mitigation planning, and approvals;<sup>5</sup> b) site certificate amendments that will need  
2 analysis and approval, following a similar process at ODOE/EFSC as the original site  
3 certificate<sup>6</sup>; and landowner contacts and negotiations.<sup>7</sup> Additionally, there seems to be no  
4 compliance with OAR 860-025-0030 (2)(f) which in the first sentence says, (f) A description of  
5 the parcels of land that petitioner determines it should obtain an interest in and for which  
6 condemnation is assumed to be necessary at the time of the petition, a full explanation of the  
7 intended use, and the specific necessity and convenience of each. STOP has not heard of any  
8 landowner getting this.

9 As we testified prior to the commencement of this case and in STOP's Opening  
10 Testimony, this CPCN petition continues to be premature. The company has had many delays  
11 and as we've pointed out much of their work is still incomplete. The company has again delayed  
12 the publication of the 2023 IRP because of delays and the desire to get it right. We believe that  
13 the landowners require the same courtesy that IPC should delay this CPCN and take the time to  
14 get it right. Everyone but the company knows that the B2H will not be energized within the  
15 timeframe desired.<sup>8</sup> Give the landowners the break you gave Idaho Power by suspending the  
16 docket until Idaho Power can get it all together.

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<sup>5</sup> **Ibid.**; and ODOE - Site Certificate (executed) 2022-09-27 - B2HAPPDoc32. Site Conditions pp. 20-69; StopB2H/1013; Idaho Power/400 Barretto/12 (Progress on Finalization of Mitigation Plans; there are 18 construction and mitigation plans that still need to be completed); Note: additionally, a federal "Notice to Proceed" from BLM, USFS, and presumably the US Navy.

<sup>6</sup> Stop B2H/102

<sup>7</sup> IPC/Barretto/1604.

<sup>8</sup> Staff/400 Pal/26: "Does Staff want the Commission to consider any other issues?"

A. Yes. As discussed earlier under the EFSC Order, several studies on impact and mitigation must be completed prior to the construction of the project. Idaho Power's reply testimony provides a timeline for the completion of these projects. As detailed in Exhibit Staff/500, the project is unlikely to be constructed within the Company's timeline. Additional information may be available before the record closes in this proceeding. However, based on the available information, the benefits offered by the B2H transmission line are somewhat tempered by these contingencies."

1 **Section 2: Budget and forecasted costs are incomplete; may not be in the**  
2 **public interest.**

3 The petition, at this time, cannot comply with OAR's 860-025-0030 (2)(d)(A-F) and (e),  
4 as demonstrated below:

5 **(2)(d) An estimate of both already incurred and forecasted costs of developing the**  
6 **transmission line project, including:**

7 The development and detail of the estimate has not been as transparent as many had  
8 hoped. If the Commission is going to take people's land, please make sure all details about the  
9 B2H are known before issuing a CPCN. STOP identifies the following facts that justify not  
10 issuing a CPCN at this time due to an incomplete application.

- 11 1. Started process with an outdated Budget;
- 12 2. Degree of completion on the budget is getting better but it is not at the bid or tender  
13 stage;
- 14 3. Budget does not have a 20% contingency as recommended by the Commission;
- 15 4. The Contingency in budget spreadsheets are decreasing.

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1 **1. Started process with an outdated Budget**

2 The budget had not been updated from October 2016 until Idaho Power’s 2021 IRP<sup>9</sup> in STOP’s  
 3 DR 4.<sup>10</sup> STOP did not consider the response in DR 4, below, to be a thoughtful response.

<b>B2H IRP Estimate 2021 - Contingency Sensitivity Analysis</b>					
<b>B2H Project Costs</b>	<b>Local</b>		<b>BPA Permitting</b>		<b>Contingency</b>
	<b>Interconnects</b>	<b>Midline</b>	<b>Buyout</b>	<b>Total</b>	
\$425,244,137	\$35,313,349	\$10,295,040	\$14,367,301	\$485,219,828	0%
\$461,353,122	\$38,844,684	\$11,324,545	\$14,367,301	\$525,889,652	10%
\$497,397,801	\$42,376,019	\$12,354,049	\$14,367,301	\$566,495,170	20%
\$533,442,480	\$45,907,353	\$13,383,553	\$14,367,301	\$607,100,688	30%

4  
 5 STOP re-asked the question in DR 18 and gave examples of the budget items being sought. The  
 6 response again was less than useful. STOP’s closing comments in Idaho Power’s 2021 IRP  
 7 summarized the results of the two requests and shared the format of the 2016 budget which we  
 8 all now are using.<sup>11</sup> Plain and simple Idaho Power obscured the budget by not updating it  
 9 because Idaho Power needed it to be the least-cost budget. And without updating the budget, data  
 10 remains the same and a new least-cost portfolio does not emerge.

11 **2. Degree of completion on the budget is getting better but it is not at the bid or**  
 12 **tender stage**

13 The cost estimate class of the B2H in the company’s 2021 IRP was calculated by STOP  
 14 based on information exchanged in the 2021 IRP and the MISO Transmission Cost Estimation

<sup>9</sup> STOP B2H claims that the October 2016 budget continues to be “the budget of record.” While not altogether clear, Idaho Power assumes that STOP B2H is contending that the October 2016 cost estimate included in the 2017 IRP is the most recent estimate available. This claim is incorrect. On the contrary, as provided in Idaho Power’s response to STOP B2H’s Data Request No. 4, the Company developed in coordination with its contractor, HDR, Inc. (“HDR”) an updated B2H estimate throughout 2021 as the Term Sheet was negotiated. <https://edocs.puc.state.or.us/efdocs/HAC/lc78hac162017.pdf> pdf p 69 lines 9-15.

<sup>10</sup> <https://us.huddle.com/workspace/1103732/files/#/20973392> (Huddle access required)

<sup>11</sup> StopB2H/1014/pp. 5-8 <https://edocs.puc.state.or.us/efdocs/HAC/lc78hac17245.pdf>



1 Guide which describes it as a class 4. This represents a 1% to 15% maturity level of budget  
2 development which is the study or feasibility stage.

3 STOP discussed the cost estimation in detail in their opening comments in Idaho Power's  
4 2021 IRP-LC 78<sup>12</sup>. The company now states that it has gone from a 30%, to a 60%, and now a  
5 90% detailed design package during this docket. It is currently undergoing a constructability  
6 review. At this time we do not have a budget estimate that is at the bid or tender stage. This  
7 CPCN should not be granted until a verified estimate is in place that can be used for the rate  
8 making prudency review.

9 **3. Budget does not have a 20% contingency as recommended by the commission.**

10 Idaho Power no longer carries a 20% budget contingency for the B2H. A construction  
11 contingency refers to a designated amount of money within a construction budget that you can  
12 use to pay for unexpected costs that may occur while completing the project.<sup>13</sup> Between the July  
13 21 and July 22 budget estimates, the 20% contingency evolved to "Incl. Contingency." In the  
14 2019 IRP the commission expressed to IPC that there needed to still be a 20% contingency in the  
15 2021 IRP. In [Order 21-184 IPC's 2019 IRP](#)<sup>14</sup> in the conclusion under item 4 there is an  
16 additional recommendation. It says,

4. Conduct preliminary construction activities, acquire long-lead materials, and  
construct the B2H project. (2020-2026)

**Recommendation:** Acknowledge

**Additional Recommendations:**

- Continue to include the 20 percent cost contingency for B2H in the 2021  
IRP.

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<sup>12</sup> StopB2H/102.b.<https://edocs.puc.state.or.us/efdocs/HAC/lc78hac165938.pdf> pdf p 4-8

<sup>13</sup> <https://www.indeed.com/career-advice/career-development/construction-contingency>

<sup>14</sup> OPUC [Order 21-184 IPC's 2019 IRP https://apps.puc.state.or.us/orders/2021ords/21-184.pdf](https://apps.puc.state.or.us/orders/2021ords/21-184.pdf) p 72

1 Idaho Power states in their 2021 IRP in “Attachment 2 IRP Commitments,”<sup>15</sup> under the  
2 heading: IRP Requirement, Recommendation or Commitment, “We decline to determine that 20  
3 percent is the appropriate cost contingency for B2H, but expect Idaho Power to explain and  
4 support the cost contingency assigned to this project in the 2021 IRP.” They further state under  
5 the heading: How the Item is Addressed, “... the B2H project would have to increase  
6 significantly beyond a 30% contingency before the project would no longer be cost-effective.

7 Seems like Idaho Power ignored the recommendation and went their own way. A project  
8 of this size, in these strained economic and social times, to move forward without a well thought  
9 out contingency budget is foolish. If the Commission cannot influence the utility to carry a  
10 proper contingency this needs to be remembered when the prudence review of rate making  
11 occurs. Why walk a tightrope without a net?

12 **4. The Contingency fund in the budget spreadsheets have been decreasing.**

13 The B2H budget over the years shows a decline in the contingency fund.<sup>16</sup> The last year  
14 we have data for, December 2022, shows a contingency of 13%. Below are the contingency  
15 numbers for the timeframe November 2018 to December 2022. To calculate the Contingency  
16 Percentage from the budget the following formula was used. Contingency Percentage =  
17  $(\text{Construction \& Mitigation Contingency} * 100) / (\text{Total B2H Project Estimated Costs} -$   
18  $\text{Construction \& Mitigation Contingency}).$

19 Excerpt from: CONFIDENTIAL CPCN - SECOND SUPPLEMENTAL Staff Data Request No.  
20 64 - Attachment 1- B2H Cost Estimate Breakdown 2018 - 2022

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<sup>15</sup> StopB2H/102.b <https://edocs.puc.state.or.us/efdocs/HAA/lc78haa103337.pdf> pdf p 581

<sup>16</sup> STOP B2H/300 - Errata CONFIDENTIAL CPCN - SECOND SUPPLEMENTAL Staff Data Request No. 64 - Attachment 1- B2H Cost Estimate Breakdown 2018 - 2022

November 2018	July 2019	July 2020	July 2021	July 2022	December 2022
2019 IRP	2020 Budget Copy	2021 Budget Copy	2021 IRP Plus	*PCN 5 Estimate	*PCN 5 Update
20% Conting. Estimate	20% Conting. Estimate	20% Conting. Estimate	20% Conting. Estimate	Incl. Contingency	Incl. Contingency
21.21%	21.21%	21.21%	45.45%	45.45%	45.45%
Cost, \$	Cost, \$	Cost, \$	Cost, \$	Cost, \$	Cost, \$
18	18	17	17	13	13

STOP believes the contingency, as recommended by the Commission, should be at least 20%. In Stop B2H/303/page 1-3, “Cost Overruns in Transmission Grid Projects,” it notes that one study found that the average cost overrun for transmission grid projects is 25%.

Based on an industry cost overrun average of about 25%, the commissions desire for a 20% contingency, and the lack of a bid or tender stage estimate ready, there are still many unknown risks as laid out in the cost overruns section above.

**OAR’s 860-025-0030 (2)(d)**

- (A) Parcels of land that petitioner determines it should obtain an interest in for which condemnation is assumed to be necessary at the time of the petition;**
- (B) Other parcels of land and any interests therein acquired or to be acquired;**

There is more unknown than known regarding land parcels. Some of the unknowns are:

- The petitioner has obtained an easement option for approximately 17 percent of the private land. There are 324 parcels where condemnation may be necessary.<sup>17</sup>

The landowner list started with 422 parcels. This means that 77% of landowners have not signed an easement. To issue a CPCN with so many land parcels lined up for condemnation changes the negotiating structure of the easement giving Idaho Power the upper hand. As low ball offers are presented to the landowner and rejected Idaho Power must come back with a better counter offer. As time moves on without a CPCN the company must negotiate in good faith. If the company has the backstop of a CPCN it can say to the landowner: *take it or leave it or we will take you to court.* This would require the landowner to retain an attorney at their

<sup>17</sup> IPC/1600, Baretto/32.

1 expense, try to represent themselves, or just say screw it and settle. The CPCN clearly shifts the  
2 power structure of the negotiation in Idaho Power's favor.

3 Add to this, that most landowners do not have access/copies to the surveys that were done  
4 on their property or are in the process of being done. Landowners are being forced into  
5 negotiations where the company has more data on the landowners' property than the landowner.

6 • IPC filed a Preliminary Request for Amendment 1 of Site Certificate. This is a class A  
7 Amendment to add over 1,036 acres, 45.9 miles of new road, and 7.2 miles of new  
8 transmission line miles. This is a significant change to the size of the project.

9 An amendment to a site certificate is not a short process because it is an automatic  
10 contested case at ODOE/EFSC. As of this writing ODOE has not completed their request for  
11 amendment which will be complete when the ODOE finds that the certificate holder has  
12 submitted information adequate for the Council to make findings or impose conditions on all  
13 applicable Council standards. It will then issue a Draft Proposed Order, there will be a public  
14 hearing then the process begins. In Ms. Barretto's Reply testimony<sup>18</sup> she states,

15 "The Company expects to obtain a final order for RFA1 in June 2023"

16 We are approximately 45 days from June 31, 2023 and it is literally impossible that this  
17 deadline will be met.

18 **OAR's 860-025-0030 (2)(d)**  
19 **(C) Transmission facilities, including but not limited to, poles, lines, substations,**  
20 **accessory and miscellaneous labor, plant, and equipment inclusive of any communication**  
21 **apparatus and environmental mitigations;**

22 We know there will be a second Request for Amendment of Site Certificate for the  
23 Midline Capacitor somewhere between Baker City and La Grande. We do know where it will be

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<sup>18</sup> Idaho Power/400 Barretto/21

1 or how many landowners could be affected. Given the complexity of this project and the delays  
2 experienced so far it is likely this will not be adjudicated until 2024. The company has indicated  
3 that there could be a third or fourth amendment.

### 4 **Section 3: There are feasible alternatives to the project and to the routing.**

5 Per applicable rules, Commission will consider two types of alternatives: **alternatives to**  
6 **transmission**<sup>19</sup> and **alternative routes**.<sup>20</sup> Both need consideration to determine compliance with  
7 the OARs for Siting Overhead Transmission Lines. There are also **transmission-oriented**  
8 **alternatives to the B2H project**. Those are included and addressed under 3.a. alternatives to  
9 transmission.

#### 10 **3.a. Alternatives to transmission**

11 OAR 860-025-0030(2)(n) states: “*An evaluation of available alternatives to construction*  
12 *of the transmission line, including but not limited to conservation measures, non-wires*  
13 *alternatives, and construction of one or more lower-voltage single or multi-circuit lines.*  
14 *The petitioner may make reference to relevant sections of its most recent integrated*  
15 *resource plan (IRP) filed under OAR 860-027-0400, local transmission plans, or a*  
16 *planning document substantially equivalent to an IRP;”*

17 As mentioned in our introduction above, and opening testimony,<sup>21</sup> Stop B2H Coalition  
18 has been actively engaged in suggesting feasible and climate-friendly project alternatives for  
19 years, as our mission is more than stopping construction of the line.<sup>22</sup> We have presented  
20 opening and closing comments in IRP dockets since 2015,<sup>23, 24</sup> attended all IRP meetings and  
21 IPC-led workshops since 2016. We have advocated for increased energy efficiency (EE) targets -

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<sup>19</sup> OAR 860-025-0030 (2)(n)

<sup>20</sup> OAR 860-025-0030 (2)(c)(C)

<sup>21</sup> Stop B2H/100/Kreider pp. 6-7.

<sup>22</sup> Stop B2H/100/Kreider p. 1.

<sup>23</sup> Individual members filed, as Stop B2H was not incorporated yet.

<sup>24</sup> Stop B2H/102.b./Kreider (generally).

1 - especially when **IPC’s own data demonstrated that their customers are achieving more EE**  
2 **than they projected.**<sup>25</sup> In 2017, STOP’s IRP comments included a “Citizen Portfolio”<sup>26</sup> which  
3 included alternatives for more robust demand-side management programs, enhanced partnering  
4 with industrial customers in efficiency programs as well as co-generation (CHP), aggressive roll-  
5 out of their smart grid technologies (e.g.: Advanced Metering Infrastructures) while partnering  
6 with residential (and commercial) customers (utilizing their smart meters for two way  
7 communications and conservation), securing or building more renewable generation close to  
8 load/demand and existing substations (BPA’s “non-wires” solutions<sup>27</sup>), battery storage and  
9 ancillary services (e.g.: smoothing and balancing voltage on the grid), again near substations.  
10 STOP’s years of advocacy for these types of alternatives are deeply aligned with OAR 860-025-  
11 0030(2)(n).<sup>28</sup>

12 Idaho Power has not only been deaf to these trending innovations or extremely slow to  
13 adapt to them, but they have actively worked against them. Case in point has been their attacks  
14 on roof-top solar for the past few years in Idaho<sup>29</sup> and prior to that were legal actions such as, the  
15 disruption of net metering, weakening of PURPA opportunities, reduced the role of battery  
16 storage.<sup>30</sup>

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<sup>25</sup> Stop B2H/103/Kreider pp. 17-18; Stop B2H/104/Kreider pp. 25-26.

<sup>26</sup> StopB2H/103/pp.15-31.

<sup>27</sup> Ibid. p. 22, Fn 29.

<sup>28</sup> **OAR 860-025-0035 (1)(n)** An evaluation of available **alternatives to construction of the transmission line**, including but not limited to conservation measures, non-wires alternatives, and construction of one or more lower-voltage single or multi-circuit lines. The petitioner may make reference to relevant sections of its most recent integrated resource plan (IRP) filed under OAR 860-027-0400, local transmission plans, or a planning document substantially equivalent to an IRP;

<sup>29</sup> Judicially noted- Multiple media accounts.

<sup>30</sup> StopB2H/103/pp. 23-24.

1           The company has been so fixated on the B2H that they have taken their eyes off of the  
2 rest of the region with rapid changes and trends occurring.<sup>31</sup> The Mid-C energy hub where Idaho  
3 Power is expecting to buy energy is entering a resource inadequacy<sup>32</sup>. The prices will be  
4 increasing for all regional ratepayers (not just Idaho's); and therefore, the best thing that STOP  
5 believes Idaho Power can contribute to the region would be **to create more generation** of its  
6 own to share/put on the market. (Note, there are existing transmission lines that could be  
7 upgraded if needed.) However, by focusing their attention to investing and owning a bigger  
8 transmission line, they will reap the wheeling revenues – which will certainly increase with the  
9 higher energy prices. STOP questions if this is in the “public-benefit” in other words: in best  
10 interest of the region, public and ratepayers.<sup>33</sup> It should also be noted that the Idaho PUC staff  
11 studied and concluded that building more solar in Idaho was more cost effective over the long-  
12 haul than buying on the Mid-C market<sup>34</sup> due to the low prices of solar and the market volatility  
13 and will only increase.

14           In the context of *transmission itself*, STOP has been advocating for upgrading, digitizing,  
15 and fire-hardening our three existing 230 kV lines in PATH 14 for many years<sup>35</sup> as **another**  
16 **alternative** to building *new* transmission. We believe this is in the **best interest, benefit, and**

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<sup>31</sup> Stop/102.b.: Stop B2H Coalition Opening Comments 9 LC78-Idaho Power-2021 IRP, pdf pp. 9-10.

<sup>32</sup> Judicially noted.

<sup>33</sup> **OAR 860-025-0035 (1)(n) and OAR 860-025-0035 (1)(d)** “(d) Whether petitioner has justified construction of the proposed transmission line as **in the public interest, as compared with feasible alternatives** for meeting the identified need, considering the public benefits and costs of the project, as they relate to the interests in land proposed to be condemned, petitioner's existing facilities and equipment, petitioner's Oregon customers, and other considerations that may be relevant to the public interest. Other such considerations include, but are not limited to, the benefits and costs to other Oregon utilities, their customers, and all Oregonians, the value of connections to regional and inter- regional electricity grids and to a petitioner's non-Oregon service territories, and all Oregonians;”

<sup>34</sup> StopB2H/101 pp. 10-13.

<sup>35</sup> StopB2H/102.b. - since 2015, individual IRP (LC#63) comments of STOP founders: [Regarding the transmission line – lack of upgrades and appropriate modeling](#); and every IRP since.

1 **convenience of the public.** The security of fire-hardening cannot be under-stated;<sup>36</sup> security and  
2 resiliency are gained by upgrading before building new. Speaking as ratepayers, taxpayers, and  
3 concerned citizens, it is prudent, in terms of common sense and fiscal responsibility, i.e.: upgrade  
4 before building new.<sup>37</sup> Given the capital investment necessary, IPC could still be granted rate  
5 recovery and a return; so, “win-win!” In addition, the current requirements in the “Inflation  
6 Reduction Act” would make these kinds of upgrades eligible; however, the B2H we have been  
7 told is likely not eligible.<sup>38</sup> Again, what investment is in the best public interest of the ratepayers  
8 of the region and can it be justified?<sup>39</sup>

9 IPC will say that upgrading, re-conductoring, and fire hardening, will cost more for their  
10 shareholders and customers. But financial costs are not the only consideration: qualitative risks  
11 and strategic investments are key elements too. For example:

- 12 • Loss of natural, cultural and historical resources, habitats, and livelihoods – and potential  
13 property losses and death<sup>40</sup>-- all must be considered in risk. It’s impossible to put a price  
14 on these resources—they are Priceless. Still, a robust qualitative risk analysis should  
15 inform.

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<sup>36</sup> StopB2H/201/pp. 31 and 89.

<sup>37</sup> StopB2H/103/p. 3: OPUC’s Prudence test. “Prudence is determined by the reasonableness of the actions ‘based on information that was available (or could reasonably have been available) at the time.’” (In re PGE, UE 102, Order No. 99-033 at 36-37.) See also In re Northwest Natural Gas, UG 132, Order No. 99-697 at 52: (“In this review, therefore, we must determine whether the NW Natural’s actions and decisions, based on what it knew or should have known at the time, were prudent in light of existing circumstances.”)

<sup>38</sup> StopB2H/1014/p. 12.

<sup>39</sup> OAR 860-025-0035 (1)(d).

<sup>40</sup> Judicially noted: Paradise, CA; Oregon’s Labor Day 2020 wildfires.



- 1       • Investment in the current infrastructure and keeping it up-to-date.<sup>41</sup> Building new *and*  
2       maintaining the current three lines for safety or upgrades, at the same time as energy  
3       prices are going up (see above, Mid-C) will unduly burden the ratepayers.
- 4       • Investment in infrastructures by digitizing and creating two-way communications. Such  
5       investments would strategically position us toward greater distributed energy resources.  
6       However, the monopoly utilities will fight these investments because it creates greater  
7       energy independence and flies in the face of their traditional business model.

8       Finally, as we consider *all the alternatives* to an overhead transmission line, STOP  
9       encourages: future-forward thinking and **innovation**. If the Commission believes the regional  
10      transmission (*over-build*) is needed, then why enable an old and outdated solution?  
11      **Undergrounding a direct current (D.C.) line** along I-84 or the UPRR right of ways is feasible,  
12      would be more protective of public health and safety<sup>42</sup>, more palatable to the public and people  
13      of the state,<sup>43</sup> offers less line loss<sup>44</sup>, and should get due consideration as an alternative before  
14      issuing a certificate that will result in the disgraceful taking of private land.

15             There only a few examples, like in Chino Hills, CA. of undergrounding a 500 kV  
16      alternating current line. Yet, there are plenty of buried D.C. lines, particularly under water, and

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<sup>41</sup> Note: In a letter from Henkels and McCoy, Inc., the BPA is upgrading and rebuilding the 45 mile Roundup-La Grande 230 kV line beginning in 2023. STOP has asked for more details, because it appears that while the BPA may be fire-hardening they are not stepping up to digitize and create two-way communications needed for greater energy independence.

<sup>42</sup> No noise impacts, wildfire risks, and more.

<sup>43</sup> Judicially noted: volume of oppositional comment through numerous administrative decision-making steps and agencies and courts, for 17 years. Also: Public Comments and Transcripts of Public Comment Hearings Fall 2022.

<sup>44</sup> 12-20%. This is one of the reasons that there will be a need for midline capacity boosting – another Amendment to the Site Certificate still to come.

1 those have been in operation worldwide for decades. More recently and closer to home,  
2 planning is already underway for the Cascade Renewable Transmission project (i.e.:  
3 transmission under the Columbia River, including some undergrounding on land).<sup>45</sup> This project  
4 is only about 100 miles; the new “SOO Green line”<sup>46</sup> in the mid-west is being built along a  
5 railroad right of way crossing multiple states for 350 miles.

6 Legally, Idaho Power will claim that this is a new issue and “not admissible.” We realize  
7 that the evaluation of these alternatives is an iterative process, more geared toward utility  
8 planning and the OPUC’s IRP arena. However, as Commission Chair Lisa Hardie penned back  
9 in 2018, in Order 18-176:

10 *“Transmission must be developed with very long lead times. Because circumstances may*  
11 *change in the future, and new information may be presented at a later date, the ultimate*  
12 *development of the B2H project is not a foregone conclusion. We agree with Staff that a*  
13 ***host of changed circumstances could require Idaho Power to reevaluate its course,***  
14 *including but not limited to significant changes in co-participant shares and*  
15 *commitments, project costs, load needs, power market liquidity and depth, and*  
16 *capabilities and costs of alternative technologies. **Idaho Power should be prepared for***  
17 ***such reevaluation and to change course** should such information or circumstances*  
18 *emerge.” (pp.10-11)*

19 STOP strongly urges the Commissioners to take a step back and re-assess the fact that  
20 while transmission may be needed in some areas of the U.S., it’s not a one size fits all.  
21 Therefore, the question needs to be continuously asked when faced with the eminent domain  
22 situation: what is really necessary? Would alternatives in distributed energy generation,  
23 conservation, and local resiliency hubs, be a better investment, while also avoiding an eminent  
24 domain situation? Would a D.C. line be safer, more secure, and better withstand test of time?

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<sup>45</sup> Judicially noted: [Cascade Renewable Transmission](#).

<sup>46</sup> SOO Green was presented in STOP’s federal case against the BLM in 2019; it may not be commonly known (judicially noted).

1 Granted, this is a CPCN docket and not an IRP or rate case, but again it begs the question: does  
2 an overhead HVAC line for 300 miles really meet the “*public convenience*” going forward?

3 **3.b. *Alternative transmission line routes.***

4 **OAR 860-025-0030 (2)(c)(C)** states: “Available alternate transmission line routes analyzed  
5 by petitioner, if any” informs the Commission about available *alternative routes* analyzed.

6 Idaho Power touts the CAP and various routes that emerged from that initial process, but these  
7 were merely scoping results from various community meetings—it wasn’t an analysis. Then,  
8 there is the controversial and continuous mantra about the early meetings and input of  
9 landowners in Union County.<sup>47</sup>

10 In comparison to other groups like the **Glass Hill Coalition**, who met a few times early  
11 on, had a petition, and then dissolved after the BLM’s FEIS; or **Stop Idaho Power**, in Malheur  
12 County, which organized and dissolved after successfully moving the project off of their  
13 agricultural land and on to the BLM’s land, STOP has primarily remained as a steady contributor  
14 to the policy debates and deliberations about distributed energy resources and transmission.

15 In this CPCN docket however, we are brought into the land use and **alternative routing**  
16 debates, because they are front and center. Therefore, we will briefly address alternative routing  
17 considerations, which other intervenors are likely covering in more depth.

18 Four counties have some kind of routing alternative that warrant further consideration by  
19 the OPUC since three of four were not evaluated under the EFSC process.<sup>48</sup>

20 **Union Co:** The EIS required by NEPA, and the state EFSC process, both included  
21 **analyses**, but they are different. The EIS looks at the “range of alternatives” whereas the EFSC

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<sup>47</sup> Geer/200/pp. 12, 20, 25, 27; and Geer/202.

<sup>48</sup> EFSC does not require or review, alternatives like OPUC rules.

1 process is standards-based, meaning ‘yes or no,’ does the developer--with mitigation--comply  
2 with minimum standards. In Union County, the four routes were not evaluated at the same time  
3 making the binary choice of a route and an alternative route not only difficult, but deceptive. For  
4 example, Idaho Power talks about the CTUIR’s preferences. During the NEPA process the tribes  
5 preferred the “Proposed Route,” locally known as the Cowboy Ridge Route (not Glass Hill),  
6 *over* the Glass Hill Alternative. **However, during the EFSC process, the choices were**  
7 **different**, and the *tribes preferred* the Mill Creek route *over* the Morgan Lake Alternative. Were  
8 the tribes ever consulted about the preference between the Glass Hill Alternative (NEPA) and the  
9 Morgan Lake Alternative (EFSC)? These were disparate processes with different routes that  
10 were not allowed to be reviewed comparatively or considered under the EFSC process. This is  
11 similar to the City of La Grande’s experience as well.<sup>49</sup>

12 ODOE/EFSC never evaluated all available alternative routes per **ORS 469.370(13)**;<sup>50</sup> and  
13 in fact, the environmentally preferred route selected by the BLM was *not allowed* to be evaluated

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<sup>49</sup> Geer 100/117 and Geer/118. See City of LG Proclamation opposing the B2H; but if built, they preferred the Morgan Lake alternative route—however—“BLM Preferred Route is a viable option that would not impact the City of La Grande” ... “If the application is not withdrawn, we request that application be revised to include the BLM Preferred Route...”

<sup>50</sup> **ORS 469.370(13)** which states, “For a facility that is subject to and has been or will be reviewed by a federal agency under the National Environmental Policy Act, 42 U.S.C. Section 4321, et seq., the **council shall conduct its site certificate review, to the maximum extent feasible, in a manner that is consistent with and does not duplicate the federal agency review.** Such coordination shall include, but need not be limited to:

- (a) Elimination of duplicative application, study and reporting requirements;
- (b) Council use of information generated and documents prepared for the federal agency review;
- (c) Development with the federal agency and reliance on a joint record to address applicable council standards;
- (d) Whenever feasible, joint hearings and issuance of a site certificate decision in a time frame consistent with the federal agency review; and
- (e) To the extent consistent with applicable state standards, establishment of conditions in any site certificate that are consistent with the conditions established by the federal agency.”

1 by EFSC because their rules will not allow them to review alternatives, only what the developer  
2 applied for.<sup>51</sup>

3 To avoid further redundancy, STOP incorporated Intervenor Susan Geer’s opening  
4 testimony in STOP’s opening testimony. STOP continues to stand by the Geer testimony—and  
5 rebuttal--as they explain in detail the chronology, facts and deception involved with the  
6 alternative routing selection in Union County.

7 **Morrow County:** The Wheatridge interconnection is a recently studied and permitted  
8 route that deserves analysis for co-locating or double circuiting to avoid condemning more  
9 Exclusive Farm Use (EFU) areas in Morrow County.<sup>52</sup> Since **co-locating** is often a criterion in  
10 siting decisions, it stands to reason that this alternative option must be considered to avoid overly  
11 burdening the area’s farms and natural resources with developments, in additional to  
12 condemning more property than necessary.

13 **Malheur County:** The federal energy corridors<sup>53</sup> were still under review when Idaho  
14 Power applied to EFSC for a site certificate; they are designated now—the “West Wide  
15 corridors” or “368 corridors” are intended to be used. In Malheur County, as much co-locating  
16 as possible in this corridor would better align with the communities’ Owyhee canyonlands  
17 recreation ambitions (growing tourism economy)<sup>54</sup>, as well as, additional avoidance of EFU  
18 areas.<sup>55</sup>

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<sup>51</sup> Generally, Supreme Court Case, Michael McAllister (SC S069920) 3/9/2023.

<sup>52</sup> Generally, Briefs and Testimony of Intervenors Wendy King and Sam Myers.

<sup>53</sup> Official Notice (OAR 860-001-0460): Section 368 Energy Corridor Maps (available at <https://landscape.blm.gov/geoportal/catalog/main/home.page> and <https://corridoreis.anl.gov/maps/> )

<sup>54</sup> PCN-5, Witness Testimony filed 2/6/2023, Intervenors, Timothy Proesch & Miranda Aston-Proesch Owyhee Oasis.

<sup>55</sup> Jim Foss/100 and Exhibits, filed 1/17/2023.

1           **Baker County:** Since the very early days of the project’s scoping and public processes,  
2 the county repeatedly advocated for using the central Oregon ROW from Boardman, south, and  
3 uniting with the 368 corridor to Hemingway. However, as mentioned above it was not ready for  
4 prime-time designation and siting. Hence, Baker County faced with the untenable situation  
5 which BLM remarkably recommended: to place the line in the viewshed of the National Historic  
6 Oregon Trail Interpretive Center (NHOTIC)--Baker’s destination tourism attraction.

7           STOP, the county and countless people tried to get the line buried for 1.7 miles.<sup>56</sup> But  
8 according to Idaho Power the burial of the line was an “alternative routing” and therefore they  
9 insisted that they did not apply for that route. Granted, EFSC allowed testimony and cross-  
10 examination regarding the idea and feasibility, but in the end EFSC ruled that they could not  
11 require an alternative.

#### 12   **Section 4. Protecting the Public from Danger**

13           The criteria in **OAR 860-0025-0035(1)(b)** are particularly relevant to public safety and  
14 protecting people from danger<sup>57</sup>. It states:

15           “(b) *Whether the petitioner has demonstrated that it will ensure the transmission line is*  
16 *constructed, operated, and maintained in a manner that protects the public from danger and*  
17 *conforms with applicable Commission rules, and other applicable safety standards and best*  
18 *industry practices.*”

19           Most of the developers’ attention in this case has focused on *engineering* safety,  
20 requirements and practices, but the middle of this sentence needs special attention: *protecting*

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<sup>56</sup> Initially, proposed by OCTA (Oregon California Trails Association) at 1.4 miles until IPC’s witness, Dennis Johnson went on site and determined it would be better if it were 1.7 miles for better placement for the risers to be less visible. [EFSC case 1/19/2022, cross examination hearing transcript p.8-18.] Undergrounding at NHOTIC was feasible according to Johnson.

<sup>57</sup> StopB2H/100/pp. 11-12: "Safety" means "the condition of being safe, freedom from being exposed to danger; exemption from hurt, injury, or loss." (*Pacific Power Petition for Public Convenience and Necessity*, UM 1495, Order No. 11-366 p 4 (Sept. 22, 2011)).

1 *the public from danger.* As STOP has testified in Opening and Rebuttal, STOP contends that the  
2 *dangers of wildfire and industrial noise intrusions* are seriously discounted. They need more  
3 attention (a “hard look”) and more robust protection in order to comply with this rule.

4 **4.a. Wildfire**

5 Idaho Power has not complied with the public safety conditions laid out in **OAR’S 860-**  
6 **025-0030 (2)(b), (2)(i), and 860-025-0035 (1)(b).**<sup>58</sup> The reality is: **there is no Wildfire**  
7 **Mitigation Plan for the B2H** and that is a clear violation of OPUC rules for a CPCN and  
8 Wildfire Mitigation Plans.

9 The petitioner is to have a Wildfire Mitigation Plan for the B2H per **OAR 860-300-**  
10 **0020(1)(a)(A) & (B)**<sup>59</sup> which includes areas that are subject to a heightened risk of wildfire: (A)

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<sup>58</sup> **860-025-0030 (2)(b)** *A thorough description of the information listed in subsection (c) of this rule, including but not limited to the proposed route, voltage and capacity of the line. The description must include a comprehensive narrative that provides sufficient detail to enable a full understanding of the public convenience, necessity and justification in the public interest for the proposed transmission line and the benefits to be derived therefrom, and to enable a determination of its safety and practicability under normal and emergency conditions, as well as the foreseeable or potential consequences of not building the proposed transmission line;*

**860-025-0030 (2)(i)** *A summary of petitioner's plan to ensure compliance with applicable Commission rules, including but not limited to OAR Chapter 860, Division 24, and other safety standards for the safe construction, operation and maintenance of the transmission line. **Petitioner must include a certificate executed by an authorized representative of petitioner affirming that it will adhere to the applicable Commission rules and other applicable safety standards for construction operation and maintenance of the transmission line.** The representative's certificate must be a sworn statement under ORS 162.055 attesting to the truth of the certification;*

**860-025-0035 (1)(b)** *Whether the petitioner has **demonstrated that it will ensure the transmission line is constructed, operated, and maintained in a manner that protects the public from danger and conforms with applicable Commission rules,** and other applicable safety standards and best industry practices;*

<sup>59</sup> **OAR 860-300-0020(1)(a)(A) & (B):**

*(1) Wildfire Mitigation Plans and Updates must, at a minimum, contain the following requirements as set forth in Section 3(2)(a)-(h), chapter 592, Oregon Laws 2021 and as supplemented below:*

*(a) Identified areas that are subject to a heightened risk of wildfire, including determinations for such conclusions, and are:*

*(A) Within the service territory of the Public Utility, and*

1 Within the service territory of the Public Utility, and (B) Outside the service territory of the  
2 Public Utility but within the Public Utility's right-of-way for generation and transmission assets.

3 In Idaho Power's 2022 and 2023 Wildfire Plans submitted to the OPUC in section  
4 3.2.2.1. Boardman to Hemingway Proposed Transmission Line the company says,

5 **“Idaho Power specifically considered the proposed route of the B2H 500 kV**  
6 **transmission line as part of the WMP. The proposed B2H route was included in the**  
7 **wildfire risk assessment and associated map analysis (see Figure 3).<sup>60</sup> Two locations**  
8 are identified along the route as having increased wildfire risk (YRZs), and there were no  
9 areas of higher risk (RRZs). **Although the B2H transmission line has not been**  
10 **constructed as of the publication of this 2023 WMP, Idaho Power intends this WMP**  
11 **(as it will be reviewed annually) will apply to B2H.** Additionally, Idaho Power will  
12 continue to update its fire risk mapping periodically and address the locations with  
13 elevated risk consistent with the mitigation strategy for transmission lines as described in  
14 sections 5–9 of this WMP.”<sup>61</sup> [emphasis and strike -out added.]  
15

16 In comparing the first and second set of bolded sentences (above), the wording moves  
17 from *specifically considering the proposed route of the B2H* –to-- Idaho Power *intends this*  
18 *WMP (as it will be reviewed annually) will apply to B2H.* The word “intends” speaks to a plan  
19 for some future action.<sup>62</sup> In order to receive a CPCN these actions need to be complete to ensure  
20 the safety of the public.

21 To further demonstrate that there is not Wildfire Plan for B2H in the 3/13/23 UM 2209  
22 Idaho Power Wildfire Workshop, IPC presented some conflicting information. In the workshop  
23 at 2:19:02 Wendy King (a petitioner in this docket) asked Jon Axtman, T&D ENGINEERING &  
24 RELIABILITY SR. MANAGER for IPC the following question:

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(B) Outside the service territory of the Public Utility but within the Public Utility's right-of-way for generation and transmission assets.

<sup>60</sup> An error in the plan, this is the wrong Figure.

<sup>61</sup> Idaho Power/1310 - Docket UM 2209, Idaho Power Company's 2023 Wildfire Mitigation Plan (Dec. 29, 2022)

<sup>62</sup> <https://www.merriam-webster.com/dictionary/intend>

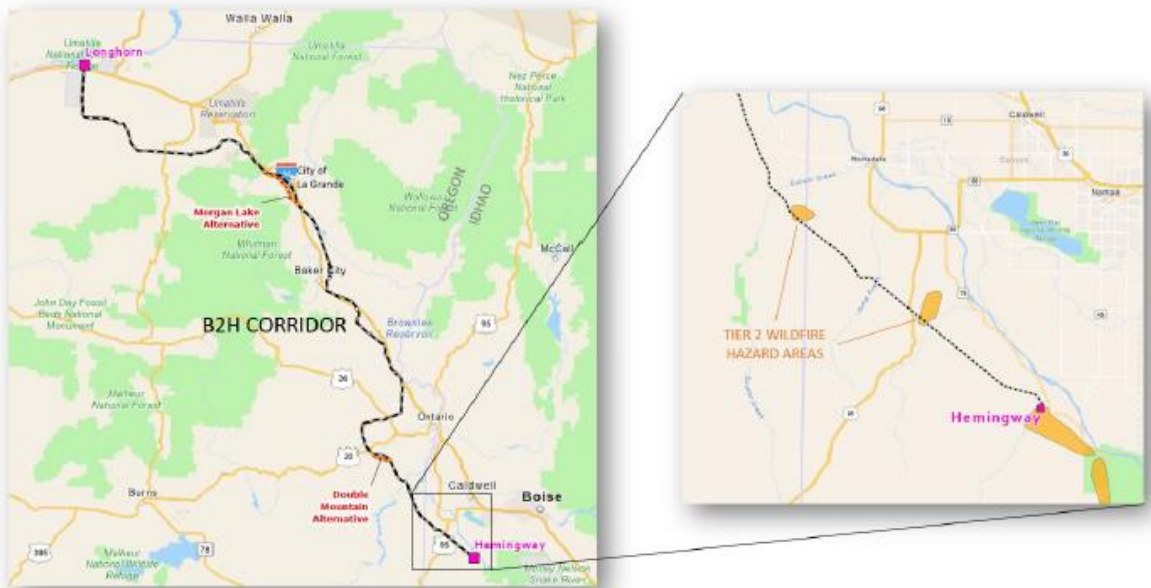


1           *“Yes. I have a question about this whole plan that you're proposing. Is this mainly*  
2 *focusing on your current customers? Or is it also focusing on the people impacted under the*  
3 *transmission line B2H.”*

4           Mr, Axtman responded: *“Right now, it's only focused on on our current customers I*  
5 *mean that B2H hasn't been constructed yet. But it is it is primarily focused on our customers that*  
6 *we have now.”*

7           A little later at 2:21:08 Alison Williams, the regulatory policy and strategy leader in  
8 Idaho Power clarified by saying, *“But just to kind of follow on on Jon's response. B2H, even*  
9 *though it is not a constructed line was included in is included in Idaho power's risk assessment.*  
10 *And so to that extent it is covered, but it we can't provide risk mitigation for facilities that don't*  
11 *exist yet.”*

12           These comments reinforce that a plan is developed for IPC’s service area but not for the  
13 B2H -- because it is not built yet. But we are told in the 2023 Wildfire Plan in section 3.2.2.1.



**Figure 12**  
B2H proposed route risk zones

1 Boardman to Hemingway Proposed Transmission Line that, “**Idaho Power specifically**  
2 **considered the proposed route of the B2H 500 kV transmission line as part of the WMP.**  
3 **The proposed B2H route was included in the wildfire risk assessment and associated map**  
4 **analysis** (see Figure 3).”

5 As one can see from the Figure above, the only risk areas identified are in Idaho Power’s  
6 service territory—not along the transmission route.<sup>63</sup> IPC has missed a number of high-risk  
7 areas along the B2H, namely in Union County<sup>64</sup> and Morrow Co.<sup>65</sup>

8 Public comments in this docket, and most of them (hundreds) in the ODOE public  
9 comments (and four contested cases) have addressed issues and concerns about wildfire.<sup>66</sup>  
10 Intervenors Myers and King have specifically addressed wildfire risks in Morrow County’s dry  
11 land farming areas in their briefs. And in Union County’s Morgan Lake area, Matt Cooper’s  
12 evidence and closings (incorporated into STOP’s Rebuttal testimony) describe history of wildfire  
13 and the influence of high winds, vegetation and topography.<sup>67</sup>

14 The State of Oregon, Union County, and the Oregon Trail Electrical Cooperative<sup>68</sup> all  
15 identify areas of high wildfire fire risk along the B2H route in Union County. Somehow IPC  
16 missed this in their *thorough* Wildfire risk analysis. This information was shared with the  
17 company during the 2022 Wildfire mitigation docket UM 2209. STOP shared two sets of  
18 comments (including email exchanges with IPC) from UM2209 with intervenors in this PCN-5

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<sup>63</sup> OAR 860-300-0020(1)(a)(A)(B): Outside the service territory of the Public Utility but within the Public Utility's right-of-way for generation and transmission assets.

<sup>64</sup> StopB2H/1011

<sup>65</sup> StopB2H/1012 Written Direct Testimony in ODOE/EFSC contested case-Myers LU-9; and the PCN-5 testimonies of King and Myers (generally).

<sup>66</sup> Judicially noted.

<sup>67</sup> StopB2H/201/ generally; and pp 76-68 and 84-85 fire history; high winds 79-84; topography 85-88; 88-90 influence of vegetation.

<sup>68</sup> “OTEC” is the local COU for Union County and half of Baker County in the B2H corridor.

1 docket.<sup>69</sup> And, the comments from 2/25/22 incorporated four additional reports.<sup>70</sup> All verifying  
2 the severe Wildfire Risk in the Morgan Lake area which is the highest Wildfire risk area in  
3 Union County. This clearly demonstrated that the company was the ONLY organization that did  
4 not see the Wildfire risk. Furthermore, they did not learn from 2022 as they submitted the exact  
5 same Wildfire Plan for B2H in 2023.

6 STOP's 4/18/22 comments<sup>71</sup> in the UM 2009 docket show STOP's dialog with the  
7 company to try and understand their modeling and how they could come up with such different  
8 results from all the other agencies.

9 After the closing of the 2022 Wildfire Planning,  
10 OTEC as a Consumer-Owned Utility, submitted their  
11 Wildfire Plan and has the Morgan Lake area in a  
12 Wildfire PSPS shutoff zone because of Wildfire Risk.  
13 The area in grey represents the PSPS shut off zone.  
14 Which is where the transmission line is proposed. In 2+  
15 years of 1:1 meetings, the company will not share its  
16 detailed models as requested in writing on numerous  
17 occasions which are documented in the records of AR



18 638 and UM 2209. This shows a true disconnect of Idaho Power's situational awareness of the  
19 area they are building the B2H through. The BLM approved route (aka NEPA route) farther to

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<sup>69</sup> StopB2H/1011

<sup>70</sup> Ibid, p. 2:

[Union County Community Wildfire Protection Plan \(8-10-05\)](#)  
[Communities at Risk and WUI Zone Priority Setting \(Chapter 7 June 2016\);](#)  
[Full Index to Union County Wildfire Protection Plan \(June 2016\)](#)  
[Greater Morgan Lake Area Fire Risk Report Wildfire Report 2-18-22](#)

<sup>71</sup> StopB2H/1011, p. 9

1 the west is in a lower fire risk area and farther away from the closest population center of La  
2 Grande.

3 Response testimony by Chris Lautenberger, who has not visited the area and who was  
4 also cross-examined in the EFSC case,<sup>72</sup> seems to particularly miss the points about wildfire  
5 risks associated with wind conditions. To avoid further redundancy, STOP: 1) stands by our  
6 Opening Testimony (StopB2H/100/ Kreider/Page 15, including footnotes #28 (Exhibit 1011 -  
7 Wildfire comments UM2209) and #29 (Exhibit 1012 - Sam Myers-EFSC-LU9); 2) our Rebuttal  
8 Exhibit StopB2H/201, in particular since Mr. Lautenberger’s account of his analysis of Union  
9 County wildfire risks (Idaho Power/1300/ Lautenberger/pages 51-53) essentially summarizes and  
10 makes references to the EFSC contested case; we feel that aligning these testimonies will inform  
11 the reader. Finally, STOP adopts co-intervenors, Myers and King testimony and evidence, in the  
12 context of addressing wildfire risks in Morrow Co dry farmlands.

13 In conclusion IPC must develop Wildfire Plans for its transmission lines even if they are  
14 outside of their service territory. STOP has demonstrated that IPC’s current Wildfire Plan does  
15 not detect a heightened risk Wildfire Zones with the route of the proposed B2H. The commission  
16 should not issue a CPCN until IPC has an approved Wildfire Plan for the B2H transmission line  
17 that assures greater public safety than their current plans.

18 **4.b. Noise Control**

19 The state policy established by the legislature regarding the purpose and intent of the  
20 noise control rules per ORS 467.010 states:

21 *“467.010 Legislative findings and policy. The Legislative Assembly finds that the*  
22 *increasing incidence of noise emissions in this state at unreasonable levels is as much a*  
23 *threat to the environmental quality of life in this state and the health, safety and welfare*

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<sup>72</sup> StopB2H/1011 - Cross-Examination transcript, Day 3, EFSC case, petitioner Dr. Mathew Cooper and Mr. Christopher Lautenberger1/13/2022.

1 *of the people of this state as is pollution of the air and waters of this state. To provide*  
2 *protection of the health, safety and welfare of Oregon citizens from the hazards and*  
3 *deterioration of the quality of life imposed by excessive noise emissions, it is hereby*  
4 *declared that the State of Oregon has an interest in the control of such pollution, and that*  
5 *a program of protection should be initiated. To carry out this purpose, it is desirable to*  
6 *centralize in the Environmental Quality Commission the authority to adopt reasonable*  
7 *statewide standards for noise emissions permitted within this state and to implement and*  
8 *enforce compliance with such standards.” [1971 c.452 §1]*

9 However, in this particular case, the Environmental Quality Commission (EQC) was not  
10 consulted. The Oregon Supreme Court ruled<sup>73</sup> (March 2023) that EFSC can assume the  
11 responsibilities of another state agency (i.e.: ODEQ and their commission EQC<sup>74</sup>) as a practical  
12 matter since they lost funding for implementing the state’s noise control laws and regulations.  
13 Regardless of authority, **ODOE/EFSC still must comply with the existing laws and rules** for  
14 noise control, or propose legislative changes and/or promulgate their own rules. ODOE took  
15 their eye off of this responsibility. STOP is distraught that ODOE did not insist that the  
16 developer, Idaho Power, implement noise control assessment methods per the ODEQ rules.

17 However, **OPUC is an independent evaluator** of the CPCN criteria.<sup>75</sup> STOP urges the  
18 OPUC to consider these noise control issues and protections, when assessing public health and  
19 safety. Remembering that, IPC needed to secure a variance and exemption from EFSC because  
20 the project did not meet state noise control standards and therefore the project would have been  
21 “unpermissible.”<sup>76</sup>

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<sup>73</sup> Oregon Supreme Court, 3/9/2023, SC S069919 Stop B2H Coalition vs. ODOE, EFSC, and IPC, pp. 16-19.

<sup>74</sup> ODEQ = Oregon Department of Environmental Quality. EQC = Environmental Quality Commission.

<sup>75</sup> ORS 758.015(2): “...in addition to considering facts presented at such hearing, shall make the commission’s own investigation to determine the necessity, safety, practicability and justification in the public interest...”

<sup>76</sup> StopB2H/100/p. 12, Fn18.

1 STOP addressed the greenwashing and mis-conceptions of compliance from ODEQ  
2 rules in our Rebuttal Testimony.<sup>77</sup> STOP stands by its Opening Testimony<sup>78</sup> Rebuttal Testimony  
3 and Exhibits,<sup>79</sup> and the testimonies in the EFSC contested case<sup>80</sup> that challenge IPC’s compliance  
4 with criteria for exceptions and variances, **regardless of who has the authority to approve.**

5 Corona sound cannot be mitigated at the source. Therefore, EFSC approved “site  
6 condition measures” to help with *some sound masking* for 41 NSRs.<sup>81</sup> However, if the  
7 Commission wants to better assure public health and safety, and if it is appropriate under the  
8 OPUC’s authority, the Commission could insist on some **additional safety measures** before  
9 approval of this CPCN certificate. For example:

- 10 1. **Require “site-specific monitoring”<sup>82</sup>** for baseline ambient background sound levels at  
11 any of the 41 NSRs *if they request*. This would better comply with assigning an ambient  
12 background level for that NSRs<sup>83</sup> which is important because one of the mitigation  
13 measures that IPC is offering (i.e.: windows) relies on this background measure (and  
14 predicted exceedance) to determine the strength or STC rating of sound-attenuating  
15 windows to be installed. While seemingly minor, one or two dBA can mean the

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<sup>77</sup> StopB2H/200/pp. 22-27. (greenwashing rebuttal)

<sup>78</sup> StopB2H/100/pp. 11-14. (opening testimony)

<sup>79</sup> StopB2H/200/pp.18-30 (rebuttal testimony); and these Exhibits in full: StopB2H/202; StopB2H/203; StopB2H/204.

<sup>80</sup> Stop B2H/1010 (EFSC Direct Testimony and Closing Briefs); and Stop B2H/108 (Noise Expert Reports and Letter from the last Noise Control Manager at ODEQ).

<sup>81</sup> NSR = Noise Sensitive Receptor or a noise sensitive property (OAR 340-035-0015(38), Definition: “Noise Sensitive Property” means real property normally used for sleeping, or normally used as schools, churches, hospitals or public libraries. Property used in industrial or agricultural activities is not Noise Sensitive Property unless it meets the above criteria in more than an incidental manner.”); and Noise Control Condition 1 (code: GEN-NC-01 in the Site Conditions) Final Order, EFSC 9/27/2022, pp. 40-44 (PDF 45-49).

<sup>82</sup> Per OAR 340-035-0035(3), ODEQ Noise Manual NPCS-1.

<sup>83</sup> StopB2H/200/pp.19-20; StopB2H/200/p. 29 and Fn 48.

1 difference in the receiving windows with an STC rating of 15-40 or those with an STC  
2 rating of above 40.<sup>84</sup>

- 3 2. **Expand the list of 41 NSRs** to bring a few more of them under the tent of impacted  
4 NSRs and eligible for mitigation.<sup>85</sup> In the interest of public health and safety, and per  
5 OAR 860-025-0035(1) the Commission should **veer on the side of further protection**  
6 **not less**. If an NSR is not on this list of 41 and then finds noise intrusions *after the fact*,  
7 they must follow the complaint process and prove their eligibility for mitigative  
8 measures, which is burdensome and costly.<sup>86</sup> This is not protective or fair, in particular, if  
9 the NSR is an “outlier” by one or two dBA.<sup>87</sup> It is presumed that some NSRs are  
10 “outliers” either due to: the mis-representative nature of the NSR as compared with the  
11 “monitoring positions” (MP) assigned, or the effects of averaging of data.<sup>88</sup>

12 Finally in terms of noise control, STOP would like to bring attention to two other  
13 concerns of corona noise: one is a long term concern and the other is an economic and quality of  
14 life concern, more than safety. Over the course of the EFSC contested case, Stop B2H was able to  
15 influence a number of improvements to the noise control mitigations. However, short-term

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<sup>84</sup> EFSC Site Condition: GEN-NC-01 (see Site Certificate, Attachment 1 to the Site Certificate, pp. 40-42 (pdf-45-46).

<sup>85</sup> StopB2H/200/p. 29 and *Fn 48* (“As mentioned above under “non-conservative assumptions” there are additional NSRs that are “on the margin,” +1 or 2 dBA under the allowable standard. They are currently excluded under Condition NC-1 but they may actually be an NSR. They should be able to petition for a site-specific confirmation – possibly through site specific monitoring – to see if they also qualify for mitigation.”)

<sup>86</sup> StopB2H/200/p. 29 and *Fn 48*; EFSC Site Condition: GEN-NC-02 (see Site Certificate, Attachment 1 to the Site Certificate, pp. 41-44 (pdf-46-49), Noise Control Condition 2.

<sup>87</sup> StopB2H/203-Table X-4 (see far right column NSRs on the margin of +9 or +10).

<sup>88</sup> *Ibid.*; and StopB2H/1010/p.66 (Stop Closing Argument Response Brief) and *Fn 52* at: StopB2H/1010/pp. 24-27 (STOP Closing Argument at pp.11-14); and StopB2H/1010/pp. 53-54. StopB2H/108/pp. 4-6 and 21-23 (expert testimony).

See also, StopB2H/204 (controversial MP’s in supplemental monitoring).

1 thinking was driving, **not on-going safety and mitigation for the length of the project.**<sup>89</sup> We  
2 believe that there are only minimal assurances of monitoring and protective factors for  
3 controlling corona noise **into the future**; nor are there mitigation measures projected to align and  
4 **apply new technologies** as they become available.

5 STOP believes that the Commission is also concerned about the long-term safety of the  
6 project. Of particular concern is the fact that **the line will age**. Over time, the transmission lines  
7 will sag, the finish will wear off, maintenance grease and other debris will collect,<sup>90</sup> increasing  
8 corona noise. In addition, mitigating technologies are likely to become available (over the next  
9 50-100 years). NC Condition 3 does not remedy our safety concerns for the long-haul, as its  
10 primary focus is during the construction phase.<sup>91</sup>

11 Lastly, STOP, representing thousands of East Oregonians, feels compelled to bring  
12 attention to the fact that a number of the region's recreation and tourism sites will not only be  
13 impacted by degraded viewsheds but also by corona noise.<sup>92</sup>

## 14 **Section 5: Additional OPUC Criteria**

15 Some of the key questions asked under CNCN Review Criteria<sup>93</sup> follow:

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<sup>89</sup> Stop B2H/100/Kreider/1010/ Pages 67-77 (STOP Closing Argument Response Brief, pp. 23-33).

<sup>90</sup> All conditions that increase corona noise – and that are “within the developers’ control.” (See generally: Bastasch, Golder, Kosky, and the EFSC case record.)

<sup>91</sup> Stop B2H/100/Kreider/1010/ Pages 75-77 (STOP Closing Argument Response Brief, pp. 31-33); ODOE - B2HAPPDoc2 Proposed Order on ASC and Attachments 2019-07-02 p. 656 and Final Order, p. 689.

<sup>92</sup> Example, Morgan Lake Park will experience at least 16 exceedances in day-use areas. [StopB2H/203] Other counties have recreational sites too, notably NHOTIC, Owyhee Canyon/Lake, and Oregon Trail Sites e.g.: Birch Creek. Noise exceedances and industrial sound intrusions around these recreational areas and special places, should have received careful considerations due to the economic impacts to tourism. However, in the EFSC process, IPC and ODOE only focus on the NSRs by definition (i.e.: sleeping areas) as a public health safety concern.

<sup>93</sup> OAR 860-025-0035



1           **OAR 860-025-0035 (2)** suggests the Commission give due-consideration to existing  
2 approvals by other regulatory bodies:

- 3           • EFSC has been involved because OPUC acknowledged a plan to build the B2H in an  
4           IRP; and IPC took that acknowledgement as a demonstration of need to EFSC and  
5           started the land siting process. And yet OPUC insists that its acknowledgments are  
6           part of an iterative process and are not an “approval” process or any definitive  
7           declaration of need. In addition, the fact that EFSC does not look into alternatives or  
8           costs to ratepayers, requires the OPUC to take a hard look at alternatives and costs to  
9           be certain the project is justified before land condemnation is permitted.
- 10          • Federal Land Management agencies like the BLM and USFS conducted an EIS and  
11          then determined the environmentally preferred ROW. Per this rule, the OPUC should  
12          be giving due consideration to this approval and Record of Decision. ODOE/EFSC  
13          by rule could not look at any routes, including the BLM environmentally preferred  
14          ROW. Since reviewing alternative routes is a function of this CPCN we would hope  
15          you deny this CPCN until the company can provide comparative alternative route  
16          analysis to allow the Commission to make the best-informed decision it can.

17           In terms of **OAR 860-025-0035 (1)(a)** “Whether the transmission line will meet a  
18 demonstrated need for transmission of additional capacity or improved system reliability that  
19 enables the petitioner to provide or continue to provide adequate and reliable electricity  
20 service...” staff concluded as STOP has in so many IRPs, that IPC has not justified the need for  
21 more system reliability. And in terms of additional capacity, why has the company not built-out  
22 more generation and is choosing to be dependent on imports - aka a Front Office Transactions  
23 (FOT)? This leaves the company needing about 30% of their energy from imports. We see

1 PacifiCorp doing the opposite in their IRP and in cross exam with Mr. Link. They are moving  
2 away from FOT's due to growing resource inadequacy in the surrounding markets. The original  
3 justification for the project was to close the coal plants (350 MW would be needed). Today, we  
4 are faced with the same scenario (350 MW needed) and still no coal plant closure. In fact, those  
5 units are being converted from coal to gas. So, this need no longer exists. This project is allowing  
6 the company to have its cake and eat it too! Oregonians demand better.

7 Under **OAR 860-025-0035 (1)(d)** "Whether petitioner has **justified** construction of the  
8 proposed transmission line as in the **public interest**, as compared with **feasible alternatives** for  
9 meeting the identified need..." STOP has demonstrated in the Section 3 that there are a variety  
10 and number of feasible alternatives and therefore, **a CPCN is not justified**. Additionally, costs  
11 to the ratepayers (wholesale and retail) are still budgetary estimates and there is no way to really  
12 judge the "cost-benefit" of the project.<sup>94</sup>

### 13 **Conclusion**

14 IPC will repeat its mantra about lack of energy resources to meet their needs come 2026.  
15 However, the facts are that this urgency was created, in part, by changing reserve margins: a  
16 paper exercise. We'd like to remind the Commission that in April 2022 with the  
17 acknowledgement of IPC's 2019 IRP there was a minor deficit or need of MWs by 2026; and  
18 within a couple of months of submitting their 2021 IRP, the projected deficit was suddenly over  
19 1,000MW.<sup>95</sup> These disparate amounts created even greater suspicion and ill-will between the  
20 company and the people of EO. While STOP can see that IPC is following the NW Power and

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<sup>94</sup> Per OAR 860-025-0030(2)(k).

<sup>95</sup> See also: STOP's Opening and Closing comments to the 2021 IRP - EXHIBIT Kreider/1014.

1 Conservation Council’s recommendations<sup>96</sup> for reserve margin, STOP does not believe that it  
2 was intended to be implemented immediately, rather a phased-in approach would be more  
3 prudent. Predictably, IPC wants everyone to believe it is an urgent situation.

4 This is a very serious matter that strikes at the core of rural values. All alternatives must  
5 be considered. As referenced above in OAR 860-025-0030(2)(n), an evaluation of **alternatives**  
6 **to construction of the transmission line** needs to be included in the petition for CPCN and  
7 considered by the Commission, presumably before something so impactful and invasive as land  
8 taking. STOP urges the Commission to take “hard look” before authorizing the condemnation of  
9 private lands -- for a project with alternatives. While IPC will tout the years of IRP planning and  
10 proposing of the transmission line, STOP would say that it is *just another alternative in the*  
11 *iterative process*. Or, as Commissioner Hardie said, a “*change of course*.”

12 In just a few years as demonstrated in the protracted IRP (2019) and beyond, we have  
13 seen the company start doing the “right thing” -- or what is needed – especially for the region!  
14 Most important for the region would be building more energy generation, especially in these  
15 times of resource inadequacy, rather than buying from the mid-C market. In other words:  
16 building and operating renewables in Idaho and creating so many more jobs than transmission  
17 ever could. This would also address Idaho’s proclaimed growth – head-on.

18 We know that STOP constituents, the people of Eastern Oregon, are ready for more  
19 energy independence and would prefer ratepayer investments going toward grid upgrades and  
20 more distributed energy resources (DERs), two-way communications with our smart meters, and  
21 community micro-grids. These latter investments will be expensive as well, and choices will  
22 need to be made. Stop B2H Coalition encourages the Commission to take the bold choice and

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<sup>96</sup> StopB2H/1014/p. 13.

1 support the people of Oregon and eastern Oregon by **denying this CPCN petition**. STOP also  
2 encourages the Commission to advocate and push (within your IRP Guidelines of course) for  
3 greener energy innovations as we have suggested, rather than a centralized top-down approach to  
4 the region's energy transition.

5

6 **Notice of Correction:**

7 STOP respectfully would like to correct the submission of Exhibit 102.a. which was accepted on  
8 5/12/2023; however, upon closer examination that should have been marked Exhibit 102.  
9 Exhibit 102.a. is a (preemptive) redline version of an amended Site Certificate.

10

11 **Declaration and Certificate of Mailing**

12 I hereby declare under penalty of perjury under the laws of the State of Oregon that I prepared  
13 the above Opening Brief for the PCN5 docket, and that to the best of my knowledge and belief,  
14 declare the statements, testimony and exhibits to be true and that they were made for use by the  
15 Commission as evidence in this proceeding.

16

17 Dated this twelfth (12) day of May, 2023.

18 /s/ Jim Kreider

19 **Jim Kreider**

**CERTIFICATE OF MAILING**

1 On May 12, 2023, I certify that I filed the above Opening Brief and Declaration with the  
2 Administrative Law Judge via the OPUC Filing Center, for the Docket # PCN-5; and the  
3 following by **hand-delivery**:

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

7

8

*/s/ Jim Kreider*

9

**Jim Kreider**  
**Intervenor, PCN-5**

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