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April 7, 2023

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Filing Center
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Re: Docket No. PCN 5 – In the Matter of Idaho Power Company’s Petition for Certificate of Public Convenience and Necessity.

Attention Filing Center:

Attached for filing in the above-referenced docket is Idaho Power Company’s Surrebuttal Testimony of Stephen Anderson (Idaho Power/2200).

Due to the large filing size of Idaho Power’s surrebuttal testimony, Idaho Power will be filing each piece of testimony separately.

Please contact this office with any questions.

Thank you,

Suzanne Prinsen
Legal Assistant

Attachment

DOCKET PCN 5 - CERTIFICATE OF SERVICE

I hereby certify that on April 7, 2023 Idaho Power Company's Surrebuttal Testimony of Stephen Anderson was served by USPS First Class Mail and Copy Center to said person(s) at his or her last-known address(es) as indicated below:

By: USPS First Class Mail and Copy Center:

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DATED: April 7, 2023

/s/ Suzanne Prinsen

Suzanne Prinsen
Legal Assistant

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

DOCKET PCN 5

In the Matter of)
)
IDAHO POWER COMPANY'S)
)
PETITION FOR A CERTIFICATE OF)
PUBLIC CONVENIENCE AND)
NECESSITY.)
_____)

**IDAHO POWER COMPANY
SURREBUTTAL TESTIMONY
OF
STEPHEN ANDERSON**

APRIL 7, 2023

1 I. INTRODUCTION AND SUMMARY

2 **Q. Please state your name, your place of employment, your position, and how long**
3 **you have been at your current place of employment.**

4 A. My name is Stephen Anderson. I have been a Principal Archaeologist at Tetra Tech, Inc.
5 (“Tetra Tech”) for 12 years. My business address is 350 Indiana Street, Suite 500, Golden,
6 CO 80401.

7 **Q. Are you the same Stephen Anderson that previously filed Reply Testimony in this**
8 **matter?**¹

9 A. Yes.

10 **Q. What is the purpose of your Surrebuttal Testimony?**

11 A. The purpose of my Surrebuttal Testimony is to respond to the assertions and questions
12 raised by intervenor John Williams in his Rebuttal Testimony relating to historic, cultural,
13 and archaeological resources (shortened to “cultural resources” for the purpose of this
14 testimony) identified on his property. Specifically, as related to the cultural resources
15 identified on Mr. Williams’ property, I summarize the Bureau of Land Management’s
16 (“BLM”) responsibilities under Section 106 of the National Historic Preservation Act
17 (“NHPA”) and the Programmatic Agreement to make final National Register of Historic
18 Places (“NRHP”) eligibility determinations, where applicable; assess—in consultation with
19 the Oregon State Historic Preservation Office (“SHPO”) and Tribal governments—
20 potential adverse effects under 36 CFR 800 to the integrity of historic properties and
21 properties of religious and cultural significance to tribes in the Area of Potential Effects
22 (“APE”); and resolve any adverse effects in accordance with the NHPA, the Programmatic
23 Agreement, and any applicable agreements with Tribal governments.² Kirk Ranzetta will

¹ Idaho Power/800-801 (Feb. 21, 2023).

² Idaho Power/800, Anderson/4-5 (describing the analysis area under the Energy Facility Siting Council’s Historic, Cultural and Archaeological Resources Standard, and how the Direct Analysis Area and Visual Assessment Analysis Area generally equate to the APE).

1 discuss these topics in more detail in his Surrebuttal Testimony. In my Surrebuttal
2 Testimony, I also discuss the NRHP-eligibility status of cultural resources 8B2H-DM-47
3 (potential hunting blind) and 8B2H-DM-52 (potential open campsite) identified during the
4 Phase 2 surveys, the status of archaeological work on Mr. Williams' property, and whether
5 postponement of the review process for Idaho Power Company's ("Idaho Power" or the
6 "Company") Petition for a Certificate of Public Convenience and Necessity ("CPCN") for
7 the Boardman to Hemingway Transmission Line Project ("B2H" or the "Project") is
8 necessary. Finally, my testimony addresses the Confederated Tribes of the Umatilla
9 Indian Reservation's ("CTUIR") opposition to the Glass Hill Alternative route and mutual
10 agreement with Idaho Power regarding cultural resources.

11 **Q. Please summarize your testimony.**

12 A. While the state and federal processes for determining eligibility for listing on the NRHP
13 and mitigation plans have not yet been finalized and are pending BLM's completion of the
14 federal Section 106 process, it is my opinion that because the Energy Facility Siting
15 Council's ("EFSC") Historic Properties Management Plan ("HPMP") and the Programmatic
16 Agreement already prescribe appropriate mitigation measures where direct impacts
17 cannot be avoided—regardless of whether the resources identified on Mr. Williams'
18 property are ultimately determined to be NRHP-eligible by SHPO and BLM—
19 postponement of the Public Utility Commission of Oregon's ("Commission") review of
20 Idaho Power's Petition for a CPCN for B2H is unnecessary.

1 **II. RESPONSES TO THE REBUTTAL TESTIMONY OF JOHN WILLIAMS**

2 **Q. Mr. Williams states that in your Reply Testimony you failed to discuss how**
3 **construction of B2H would affect the integrity of cultural resource 8B2H-DM-47**
4 **(potential hunting blind) under 36 CFR 800?³ Please respond.**

5 **A.** As I noted in my Reply Testimony, 8B2H-DM-47 (potential hunting blind) is not directly
6 (i.e., physically) impacted by the placement of the transmission line towers but it is located
7 inside the Direct Analysis Area/APE for the purpose of initially assessing potential ground
8 disturbance activities.⁴ Based on Joe Stippel's Reply Testimony, Idaho Power has agreed
9 to move the access road further away from the potential hunting blind such that the access
10 road follows directly underneath the transmission line.⁵ Depending on how far the
11 engineers are able to move the access road, 8B2H-DM-47 may ultimately fall outside the
12 Direct Analysis Area/APE.⁶

13 As Mr. Ranzetta states in his Surrebuttal Testimony,⁷ considering the proximity of
14 8B2H-DM-47 to the new access road and Structure Work Area, it is possible that the
15 integrity⁸ of 8B2H-DM-47—specifically as to the setting, feeling, and association of the
16 site—will be adversely impacted by visual elements related to B2H.⁹ However, the visual
17 impacts to 8B2H-DM-47 will be reduced consistent with Recreation Condition 1 and final

³ John C. Williams' Rebuttal Testimony and Exhibits (John C. Williams/200, Williams/4) (Mar. 20, 2023).

⁴ Idaho Power/800, Anderson/10.

⁵ Idaho Power/1500, Stippel/8 (Feb. 21, 2023).

⁶ Idaho Power/1500, Stippel/8. Note that the other potential hunting blind (6B2H-MC 10) identified on Mr. Williams property during the Phase 1 surveys, which is located 5.14 meters south outside of the Direct Analysis Area/APE's southern boundary, will also be further avoided by moving the access road. See Idaho Power/800, Anderson/6-7.

⁷ Idaho Power/2100, Ranzetta/7-8 (Apr. 7, 2023).

⁸ Determination of eligibility for listing on the NRHP is in part based on the site's "integrity," which includes several factors of consideration—the site's location, design, setting, materials, workmanship, feeling, and association. 36 CFR 60.4 ("The quality of significance in American history, architecture, archeology, engineering, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association and....").

⁹ 36 CFR 800.5(a)(2)(v) ("Adverse effects on historic properties include, but are not limited to...[i]ntroduction of visual, atmospheric or audible elements that diminish the integrity of the property's significant historic features[.]").

1 mitigation plans to address any unavoidable visual impacts will be determined by BLM, in
2 consultation with parties to the Programmatic Agreement, including SHPO and relevant
3 Tribal governments.¹⁰ The EFSC HPMP will incorporate the property specific mitigation
4 and monitoring measures as they are determined.¹¹

5 **Q. Mr. Williams states that the NRHP-eligibility determination for cultural resource**
6 **8B2H-DM-47 (potential hunting blind) has not been completed.¹² Is Mr. Williams**
7 **correct?**

8 A. Mr. Williams is correct. As stated in my Reply Testimony, 8B2H-DM-47 (potential hunting
9 blind) is designated as “unevaluated”.¹³ However, Idaho Power assumes that unevaluated
10 resources such as 8B2H-DM-47 are eligible for listing on the NRHP for purposes of the
11 Company’s analysis and recommended mitigation measures.¹⁴ Therefore, the fact that it
12 is unevaluated does not mean that the resource is unprotected—quite the opposite.
13 Moreover, as stated above, the BLM is the entity ultimately responsible for making a final
14 determination on NRHP eligibility for 8B2H-DM-47 as part of the federal Section 106
15 process. I anticipate that BLM’s final NRHP-eligibility determinations as part of the draft
16 HPMP will be completed sometime from May 2023 to June 2023 dependent on the BLM’s
17 availability to fully review the final pre-construction report, but should be completed by the
18 end of Summer 2023.¹⁵

19 **Q. Mr. Williams states that “a tower appears within a precontact archaeological site**
20 **[8B2H-DM-52]. It is unclear if this site will be impacted by the proposed project from**
21 **the information shared at this time.”¹⁶ Will 8B2H-DM-52 be directly impacted by**

¹⁰ Idaho Power/2100, Ranzetta/8.

¹¹ Idaho Power/2100, Ranzetta/8.

¹² John C. Williams/200, Williams/5.

¹³ Idaho Power/800, Anderson/8.

¹⁴ Idaho Power/800, Anderson/8.

¹⁵ Idaho Power/800, Anderson/8.

¹⁶ John C. Williams/200, Williams/5.

1 **B2H?**

2 A. Yes. As stated in my Reply Testimony, 8B2H-DM-52 (potential open campsite) is
3 anticipated to be directly impacted by the placement of a transmission tower.¹⁷ As
4 discussed in Mr. Stippel’s Reply Testimony, the transmission tower cannot be moved
5 outside the cultural resource polygon for this site due to separate mitigation required by
6 EFSC.¹⁸ However, both the EFSC HPMP and the Programmatic Agreement prescribe
7 data recovery as acceptable mitigation for such unavoidable impacts.¹⁹ Data recovery for
8 pre-contact and historic era archaeological resources may include surface collection or
9 in-field artifact analysis and recording; detailed surface mapping; controlled scientific
10 excavation; photo documentation; archival research; geomorphological studies; laboratory
11 analysis; and curation.²⁰ This is the mitigation I recommend for 8B2H-DM-52 where
12 avoidance is impossible, and all other mitigation measures have been exhausted (e.g.,
13 retaining tree stumps from clearcutting around the site to avoid ancillary effects from
14 erosion). Please note that in the area of the potential open campsite, Idaho Power can
15 use protective matting that will shield the ground from impacts from heavy equipment. If
16 such protective matting is used, any direct disturbance to the potential open campsite may
17 be limited to the locations of the tower foundations themselves—which are 8 feet in
18 diameter for each of the two H-frame poles.²¹

19 However, as stated above, the BLM is ultimately responsible for making final
20 determinations on NRHP eligibility for 8B2H-DM-52—which Idaho Power recommended
21 as eligible for listing on the NRHP under Criterion D (i.e., have yielded, or may be likely to

¹⁷ Idaho Power/800, Anderson/9.

¹⁸ Idaho Power/1500, Stippel/7-8; Idaho Power’s Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment 1, Site Certificate) at 781 of 10603 (Oct. 7, 2022) (Recreation Condition 1) [hereinafter, “Final Order, Attachment 1”].

¹⁹ Idaho Power’s Supplement to Petition for CPCN, Attachment 1 (Final Order, Attachment S-9, Draft Historic Properties Management Plan) at 10364-67 of 10603 (Oct. 7, 2022) [hereinafter, “Final Order, Attachment S-9”]; Idaho Power/703, Ranzetta/342 (Feb. 21, 2023) (Programmatic Agreement).

²⁰ Final Order, Attachment S-9 at 10364, Table 6-1 of 10603.

²¹ Final Order, Attachment 1 at 752 of 10603.

1 yield, information important in prehistory or history)—and property-specific mitigation
2 plans, including data recovery research design.

3 **Q. Mr. Williams states that there is archaeological analysis on his property scheduled**
4 **for 2023 that has not been completed.²² Is Mr. Williams correct?**

5 A. Additional archaeological work on Mr. Williams' property may be necessary; however, no
6 additional significant archaeological surveys are currently scheduled. Per the
7 Programmatic Agreement, the BLM is ultimately responsible for determining whether
8 Enhanced Archaeological Surveys (i.e., Subsurface Investigations) requiring permitting
9 will be necessary to determine the presence or absence of cultural resources, the site
10 boundaries in relation to the Direct Analysis Area/APE, and actual area of ground
11 disturbance to aid in developing alternative design and/or mitigation strategies.²³ The
12 BLM is currently in the process of developing the research design and sampling strategy
13 for the Subsurface Investigations in consultation with Idaho Power and other parties to the
14 Programmatic Agreement, and these research designs and strategies will be included in
15 the HPMP.²⁴ Finally, the BLM must consult with Tribal governments and parties to the
16 Programmatic Agreement regarding the potential areas proposed for this more invasive
17 testing, and whether Subsurface Investigations are necessary.²⁵

18 **Q. Would you like to correct a statement you made in your Reply Testimony with**
19 **respect to the Enhanced Archaeological Surveys?**

20 A. Yes. In the introduction to my Reply Testimony, I had mistakenly stated that Enhanced
21 Archaeological Surveys were conducted as part of the Phase 2 surveys.²⁶ To clarify, I
22 conducted shovel probing at seven locations on Mr. Williams property during the Phase 2

²² John C. Williams/200, Williams/4-5.

²³ Idaho Power/703, Ranzetta/333-34, 338.

²⁴ Idaho Power/703, Ranzetta/334.

²⁵ Idaho Power/703, Ranzetta/334.

²⁶ Idaho Power/800, Anderson/2.

1 surveys, which is less invasive than an Enhanced Archaeological Survey.²⁷

2 **Q. Mr. Williams asks when the Phase 2 surveys will be complete.²⁸ Please respond.**

3 A. I anticipate all surveys to be completed by June 30, 2023, but delays are possible.

4 **Q. In his Rebuttal Testimony, Mr. Williams argues that Idaho Power's Petition for a**
5 **CPCN is premature.²⁹ Please respond.**

6 A. As stated in my Reply Testimony, Idaho Power's Petition for a CPCN is not premature and
7 postponement of the CPCN review process is unnecessary.³⁰ With respect to the two
8 additional cultural resources identified on Mr. Williams' property, even assuming the
9 resources on Mr. Williams' property are eligible for listing on the NRHP based on the
10 completed reports and potential additional archaeological surveys, Idaho Power is
11 committed to designing B2H to avoid direct impacts to resources recommended as eligible
12 for or listed on the NRHP *where feasible*.³¹ Where all reasonable avoidance and
13 minimization measures have been implemented and a significant direct impact is still
14 considered probable for a resource, Idaho Power will likely implement data recovery as a
15 mitigation measure, which may include surface collection or in-field artifact analysis and
16 recording among other measures.³² These measures are in compliance with the
17 Programmatic Agreement and the draft EFSC HPMP.³³

18 Moreover, as stated above, the BLM is ultimately responsible for making final
19 NRHP-eligibility determinations and including property-specific mitigation plans and data
20 recovery research designs in the final BLM HPMP pursuant to the Section 106 process
21 and the Programmatic Agreement.³⁴ Following completion of BLM's Section 106 process

²⁷ Idaho Power/800, Anderson/8.

²⁸ John C. Williams/200, Williams/2.

²⁹ John C. Williams/200, Williams/4-5.

³⁰ Idaho Power/800, Anderson/11-12.

³¹ Final Order, Attachment S-9 at 10364 of 10603.

³² Final Order, Attachment S-9 at 10364, Table 6-1 of 10603.

³³ Final Order, Attachment S-9 at 10364-67 of 10603 (draft EFSC HPMP); Idaho Power/703, Ranzetta/342 (Programmatic Agreement).

³⁴ Idaho Power/703, Ranzetta/334-37, 342-43.

1 and finalization of the BLM HPMP, Idaho Power must ensure that the site-specific
2 mitigation plans for cultural resources identified on Mr. Williams' property in the EFSC
3 HPMP are consistent with BLM's NRHP-eligibility determinations and recommended
4 mitigation. Finally, consistent with the site certificate's Historic, Cultural and
5 Archaeological Condition 2, Idaho Power will provide and submit the final EFSC HPMP
6 and resource-specific mitigation plans to the Oregon Department of Energy ("ODOE") for
7 its review and approval, in consultation with SHPO and relevant tribes.³⁵ Accordingly,
8 prior to construction, all relevant state agencies, as well as Tribal governments, will have
9 an opportunity to review the resource-specific mitigation plans—including data recovery
10 research design, laboratory methods, and proposed disposition and curation of collected
11 materials and records if applicable—for the cultural resources identified on Mr. Williams'
12 property—which are ultimately subject to ODOE approval.

13 **Q. Mr. Williams asserts that your statement about the CTUIR's preferences concerning**
14 **the Glass Hill Alternative "makes it sound like all of the CTUIR's concerns about the**
15 **B2H route were acted on in a similar manner."³⁶ Please respond.**

16 A. While it is not exactly clear what Mr. Williams is implying by this statement, as discussed
17 in my Reply Testimony,³⁷ as well as the testimonies of Mitch Colburn,³⁸ Mr. Stippel,³⁹ and
18 Mr. Ranzetta,⁴⁰ I am aware that the CTUIR submitted a protest letter objecting to the
19 BLM's selection of the Glass Hill Alternative as BLM's preferred route, noting specifically
20 the Glass Hill Alternative's impacts on cultural resources as one of the reasons for the
21 CTUIR's objection.⁴¹ Moreover, as stated in Mr. Ranzetta's Reply Testimony,⁴² Idaho

³⁵ Final Order, Attachment 1 at 780-81 of 10603 (Historic, Cultural and Archaeological Condition 2).

³⁶ John C. Williams/200, Williams/5.

³⁷ Idaho Power/800, Anderson/12.

³⁸ Idaho Power/600, Colburn/47-49 (Feb. 21, 2023); Idaho Power/606, Colburn/2-3 (CTUIR Protest Letter).

³⁹ Idaho Power/1500, Stippel/6-7.

⁴⁰ Idaho Power/700, Ranzetta/38-40.

⁴¹ Idaho Power/606, Colburn/2-4.

⁴² Idaho Power/700, Ranzetta/10-11.

1 Power and the CTUIR came to a mutual agreement resolving all issues related to cultural
2 resources.⁴³

3 **Q. Does this conclude your Surrebuttal Testimony?**

4 A. Yes.

⁴³ Idaho Power/704, Ranzetta/2-3 (Letter from Gary Burke to ODOE (Apr. 19, 2019)) (“The CTUIR has been in discussions with Idaho Power regarding the B2H Project and we have come to a mutual agreement on the effects the B2H Project may have on historic, cultural, and archaeological resources, NHPA listed, eligible, or likely to be listed historic properties, and historic properties of religious and cultural significance to the CTUIR. The CTUIR is pleased to inform the ODOE and the federal agencies that the CTUIR’s concerns have been addressed and will be mitigated by Idaho Power pursuant to a confidential mitigation agreement between the CTUIR and Idaho Power. Therefore, the construction and operation of the proposed B2H project, taking into account mitigation, are not likely to result in significant adverse impacts to eligible or likely eligible historic properties of religious and cultural significance or resources identified by the CTUIR.”).